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
April 4, 2006

A meeting of the Fayetteville City Council will be held on April 4, 2006 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:

1. **Approval of the March 7, 2006, March 21, 2006 and the March 28, 2006 City Council meeting minutes.**

   APPROVED MARCH 7 AND 28, 2006 MINUTES. THE MINUTES FOR MARCH 21, 2006 WERE PULLED.

2. **Power Curbers, Inc.:** A resolution approving the purchase of one (1) Power Curber Model 5700 Super–B Slip Form Paving Machine from Power Curbers, Inc. in the amount of $176,500.00; and approving a budget adjustment to move the funds to Fleet Expense Account.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 60-06.

3. **Cobblestone Subdivision Park Land Dedication Waiver:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $108,780.00 cash in lieu of the required Park Land Dedication for Cobblestone Subdivision.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 61-06.

4. **Wedington Circle Park Land Dedication Waiver:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $116,328.00 cash in lieu of the required Park Land Dedication for the Wedington Circle Development.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 62-06.

5. **ADM 06-2002 Crossover Road/HWY 265 ROW Variance:** A resolution to vary the Master Street Plan's dedication requirements for Highway 265 in connection with the construction of Fire Station #5.

THIS ITEM WAS PULLED FROM THE CONSENT AGENDA FOR DISCUSSION.

6. **Off-Street Parking Development Renewal Lease Agreement:** A resolution approving renewal of the Lease Agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 63-06.

7. **Cherokee Nation Contract:** A resolution awarding a contract to the Cherokee Nation to provide the combined services of receiving, handling, hauling and disposing of municipal residential and commercial waste at the City of Fayetteville's Transfer Station.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 64-06.

DISCUSSION:

1. **ADM 06-2002 Crossover Road/HWY 265 ROW Variance:** A resolution to vary the Master Street Plan's dedication requirements for Highway 265 in connection with the construction of Fire Station #5.

THIS ITEM WAS MOVED FROM THE CONSENT AGENDA, PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 65-06.

2. **VAC 06-2005 (Alt/Herget):** An ordinance approving VAC 06-2005 submitted by Sheree Alt for property located at Lot 75 of Covington Park Subdivision; vacating a portion of the utility easement along Township Street.

THIS ITEM WAS BROUGHT ON BY ALDERMAN FERRELL AND ADDED AT THE CITY COUNCIL MEETING, PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4849.

B. UNFINISHED BUSINESS:

1. **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 and Hillside Overlay

District Best Management Practices Manual. ***This ordinance was left on the First Reading at the February 7, 2006 City Council Meeting. This ordinance was left on the Second Reading at the February 21, 2006 City Council Meeting and was Tabled to the April 4, 2006 City Council Meeting.***

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

2. **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 ordinance was Tabled at the February 21, 2006 City Council Meeting to the March 7, 2006 City Council Meeting. This ordinance was Tabled at the March 7, 2006 City Council Meeting to the March 21, 2006 City Council Meeting. This ordinance was Tabled at the March 21, 2006 City Council Meeting to the April 4, 2006 City Council Meeting.***

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

3. **R-PZD 06-1883 Abshier Heights:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1883, Abshier Heights, located south of Evelyn Hills Shopping Center on Abshier and Hillcrest, containing approximately 4.11 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 March 7, 2006 City Council meeting. This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4850.

4. **Amend § 163.14; Wireless Communication Facilities:** An ordinance to amend §163.14 Wireless Communication Facilities of the Unified Development Code. ***This ordinance was left on the First Reading at the March 7, 2006 City Council meeting. This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

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

5. **ANX 06-1935 Fletcher Williams Appeal:** An ordinance annexing that property described in Annexation Petition ANX 06-1935 (CC2005-54), for property located at 354 and 370 Double Springs Road, containing approximately 9.70 acres. ***This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4851.

6. **RZN 06-1936 Fletcher Williams Appeal:** An ordinance rezoning that property described in Rezoning Petition RZN 06-1936, for approximately 9.70 acres, located at 354 and 370 Double Springs Road, from R-A, Residential Agricultural to RMF-6 Residential Multi-Family, 6 units per acre, subject to a Bill of Assurance. ***This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4852.

C. NEW BUSINESS:

1. **RZN Abshier Heights:** An ordinance rezoning that property located west of Hillcrest Avenue, east of Evelyn Hills Shopping Center and north of Abshier Drive containing approximately 3.5 acres from C-2, thoroughfare commercial to RSF-4, Residential Single Family, 4 units per acre.

   THIS ITEM WAS TABLED INDEFINITELY.

2. **Upper White River LLC, Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Upper White River, LLC in an amount not to exceed $17,909.00 for the upsizing of approximately 1370' of 10" water main to 12" water main; and approving a contingency in the amount of $2,686.35.

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

3. **Amend Chapter 161 Zoning Regulations and Chapter 156 Variances:** An ordinance amending Chapter 161: Zoning Regulations, Unified Development Code, to provide uniform building height restrictions in Residential Single-Family Zoning Districts; and amending Chapter 156: Variances.

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

4. **Ozark Transit Authority Agreement:** An ordinance to approve an Amended Interlocal Agreement so that Lowell can join as a member of the Ozark Transit Authority.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4853.

5. **RZN 06-1949 Ellis Appeal:** An ordinance rezoning that property described in rezoning petition RZN 06-1949 for approximately 6.03 acres located at 4230 Huntsville Road, from RSF-1, Residential Single Family, 1 unit per acre and RSF-4, Residential Single Family, 4 Units per acre to RSF-7, Residential Single Family, 7 units per acre.

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

6. **Emergency and Non-Emergency Ambulance Service:** A resolution to express the City Council's intent to contract exclusively using competitive procurement methods with a single entity for the provision of all emergency medical services and ambulance services for the City of Fayetteville.

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

7. **Annexation Study Committee:** A resolution establishing an Annexation Study Committee to provide analysis and recommendations for annexation options in West Fayetteville.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 66-06.

8. **Waive § 166.17 Suspending Issuance of Permits Pending Zoning Amendments:** An ordinance to waive §166.17 Suspending Issuance of Permits Pending Zoning Amendments in relation to the proposed Divinity Condos project.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4854.

D. INFORMATIONAL:

City Council Tour: None

Meeting adjourned at 10:10 p.m.

City Council Meeting April 4, 2006

Adjourn 10:10 PM

Subject:	Roll				
Motion To:					
Motion By:					
Seconded:					
	Rhoads	✓	absent during roll call only.		
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody	✓			

8-0

Subject:	Consent			
Motion To:		approve with March 21, 2006 Minutes	pulled.	
Motion By:		Jordan		
Seconded:		Reynolds		
approved # 5 Item pulled from Consent to discuss ARM 06-2002 Crossover Road pulled March 21, 2006 Minutes	Rhoads	✓		
	Ferrell	✓		
	Lucas	✓		
	Jordan	✓		
	Reynolds	✓		
	Thiel	✓		
	Cook	✓		
	Marr	✓		
	Mayor Coody			

8-0

Res. 60-06 to 64-06

City Council Meeting April 4, 2006

Subject:		ADM- 06-2002 Crossover Road Highway 265			
Motion To:		Approve			Variance
Motion By:		Rhoads			
Seconded:		Ferrell			
This resolution was removed from the Consent Agenda for discussion	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
passed 65-06	Marr	✓			
	Mayor Coody				
		8-0			

Subject:		UAC 06-2005 (Alt/Hergot)			
Motion To:		Add to the Agenda	2nd read	3rd read	Pass
Motion By:		Marr	Ferrell	Reynolds	
Seconded:		Jordan	Rhoads	Ferrell	
This item was added to the City Council Agenda.	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Reynolds	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
passed	Cook	✓	✓	✓	✓
	Marr	✓	✓	✓	✓
4849	Mayor Coody				
		8-0	8-0	8-0	8-0

City Council Meeting April 4, 2006

Subject:		ADM 05-1841, 05-1842, 05-1879 Hillside Overlay District			
Motion To:		Table to 4/18/06			
Motion By:		Ferrell			
Seconded:		Rhoads			
B.1. Unfinished	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
Tabled to 4/18/06	Cook	✓			
	Marr	✓			
	Mayor Coody				

8-0

Subject:		RZN-06-1868 Chambers			
Motion To:		Table 4/18/06			
Motion By:		Cook			
Seconded:		Reynolds			
B.2. Unfinished	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
Tabled to 4/18/06	Cook	✓			
	Marr	✓			
	Mayor Coody				

8-0

City Council Meeting April 4, 2006

Subject:		R-PZD 06-1883 Abshier Heights			
Motion To:		3rd read	Amend to add Section 5	Amend (Bullet Point)	Pass
Motion By:		Rhoads	Marr		
Seconded:		Ferrell	Cook		
B.3. Unfinished	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	N	✓	N
	Jordan	✓	N	✓	N
	Reynolds	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
passed	Cook	✓	✓	✓	N
4850	Marr	✓	✓	✓	✓
	Mayor Coody				
		8-0	6-2	8-0	5-3

Subject:		Amend 163.14 Wireless Communications Facilities			
Motion To:		Table to 4/18/06			
Motion By:		Jordan			
Seconded:		Marr			
B.4. Unfinished	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
Tabled to 4/18/06	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody				
		8-0			

City Council Meeting April 4, 2006

Subject:		ANX-06-1935 Fletcher Williams Appeal			
Motion To:		3rd read	Pass		
Motion By:		Jordan			
Seconded:		Lucas			
B.5. Unfinished	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
Passed	Thiel	✓	✓		
	Cook	✓	N		
4851	Marr	✓	N		
	Mayor Coody				
		8-0	6-2		

Subject:		RZN 06-1936 Fletcher Williams Appeal			
Motion To:		3rd Read	Pass		
Motion By:		Jordan			
Seconded:		Lucas			
B.6. Unfinished	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
Passed	Thiel	✓	✓		
	Cook	✓	✓		
4852	Marr	✓	N		
	Mayor Coody				
		8-0	7-1		

City Council Meeting April 4, 2006

Subject:		RZN Abshier Heights			
Motion To:		Table Indef.			
Motion By:		Cook			
Seconded:		Marr			
C.1. New Business	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
Tabled Indef.	Cook	✓			
	Marr	✓			
	Mayor Coody				

8-0

Subject:		Upper White River, LLC Cost Share			
Motion To:					
Motion By:					
Seconded:					
C.2. New Business	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
Left on the First Reading	Reynolds				
	Thiel				
	Cook				
	Marr				
	Mayor Coody				

City Council Meeting April 4, 2006

Subject:		Amend Chapter 161 Zoning Regulation & Chapter 156 Variances			
Motion To:		Amend Section 2 Item			
Motion By:		Thiel			
Seconded:		Marr			
C.3. New Business	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody				

8-0

Subject:		Amend Chapter 161 Zoning Regulations & Chapter 156 Variances			
Motion To:					
Motion By:					
Seconded:					
C.3. New Business	Rhoads				
	Ferrell				
	Lucas				
Left on the First Reading	Jordan				
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Mayor Coody				

City Council Meeting April 4, 2006

Subject:		Ozark Transit Authority Agreement			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Ferrell	Reynolds		
C.4. New Business	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
Passed	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
4853	Mayor Coody				
		8-0	8-0	8-0	

Subject:		RZN 06-1949 Ellis Appeal			
Motion To:					
Motion By:					
Seconded:					
C.5. New Business	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
Left on the First Reading	Reynolds				
	Thiel				
	Cook				
	Marr				
	Mayor Coody				

City Council Meeting April 4, 2006

Subject:		Emergency & Non-Emergency Ambulance Service			
Motion To:		Motion to Approve			
Motion By:		Thiel			
Seconded:		No Second			
C.6. New Business	Rhoads				
	Ferrell	Died for			
	Lucas	Lack of			
	Jordan	a Second			
	Reynolds				
Died NO Second	Thiel				
	Cook				
	Marr				
	Mayor Coody				

Subject:		Emergency & Non-Emergency Ambulance Service			
Motion To:		Table until 4/18/06			
Motion By:		Reynolds			
Seconded:		Lucas			
C.6. New Business	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
Tabled to 4/18/06	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody				

8-0

City Council Meeting April 4, 2006

Subject:		Annexation Study Committee			
Motion To:		Amend to add a 4 week deadline		Pass	
Motion By:		Marr		Ferrell	
Seconded:		Jordan		Marr	
C.7. New Business	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
passed	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
66-06	Mayor Coody				
		8-0		8-0	

Subject:		Waive 166.17 Suspending Issuance of Permits			
Motion To:		Amend Ordinance Street name	2nd read	3rd read	Pass
Motion By:		Marr	Marr	Ferrell	
Seconded:		Jordan	Reynolds	Marr	
C.8. New Business	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	N
	Jordan	✓	✓	✓	✓
	Reynolds	✓	✓	✓	✓
passed	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Marr	✓	✓	✓	✓
4854	Mayor Coody				
		8-0	8-0	8-0	7-1

Agenda Session 3/28/06

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
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Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
April 4, 2006

A meeting of the Fayetteville City Council will be held on April 4, 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

Nominating Committee Report – Approval of Planning Commissioners

A. CONSENT:

1. **Approval of the March 7, 2006 and the March 21, 2006 City Council meeting minutes.**

2. **Power Curbers, Inc.:** A resolution approving the purchase of one (1) Power Curber Model 5700 Super–B Slip Form Paving Machine from Power Curbers, Inc. in the amount of $176,500.00; and approving a budget adjustment to move the funds to Fleet Expense Account.

3. **Cobblestone Subdivision Park Land Dedication Waiver:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $108,780.00 cash in lieu of the required Park Land Dedication for Cobblestone Subdivision.

4. **Wedington Circle Park Land Dedication Waiver:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $116,328.00 cash in lieu of the required Park Land Dedication for the Wedington Circle Development.

5. **ADM 06-2002 Crossover Road/HWY 265 ROW Variance:** A resolution to vary the Master Street Plan's dedication requirements for Highway 265 in connection with the construction of Fire Station #5.

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B. UNFINISHED BUSINESS:

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Consent 3. **Cherokee Nation Contract:** A resolution awarding a contract to the Cherokee Nation to provide the combined services of receiving, handling, hauling and disposing of municipal residential and commercial waste at the City of Fayetteville's Transfer Station.

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D. INFORMATIONAL:

City Council Tour: ~~April 3, 2006 - 4:30 PM~~ (No Tour)

Added at Agenda Session 3/28/06

C.6. Ambulance Service
C.3. Amend Chapter 161 & 156
C.7. Annexation Study Committee
C.8. Suspending Issuance of Permits.

Pre Agenda Meeting
3/22/06

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

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NB

5. **Cherokee Nation Contract Update:** A resolution awarding a contract to the Cherokee Nation to provide the combined services of receiving, handling, hauling and disposing of municipal residential and commercial waste at the City of Fayetteville's Transfer Station.

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

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B. UNFINISHED BUSINESS:

1. **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 and Hillside Overlay District Best Management Practices Manual. ***This ordinance was left on the First Reading at the February 7, 2006 City Council Meeting. This ordinance was left on the Second Reading at the February 21, 2006 City Council Meeting and was Tabled to the April 4, 2006 City Council Meeting.***

2. **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 ordinance was Tabled at the February 21, 2006 City Council Meeting to the March 7, 2006 City Council Meeting. This ordinance was Tabled at the March 7, 2006 City Council Meeting to the March 21, 2006 City Council Meeting. This ordinance was Tabled at the March 21, 2006 City Council Meeting to the April 4, 2006 City Council Meeting.***

3. **R-PZD 06-1883 Abshier Heights:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1883, Abshier Heights, located south of Evelyn Hills Shopping Center on Abshier and Hillcrest, containing approximately 4.11 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 March 7, 2006 City Council meeting. This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

4. **Amend §163.14; Wireless Communication Facilities:** An ordinance to amend §163.14 Wireless Communication Facilities of the Unified Development Code. ***This ordinance was left on the First Reading at the March 7, 2006 City Council meeting. This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

5. **ANX 06-1935 Fletcher Williams Appeal:** An ordinance annexing that property described in Annexation Petition ANX 06-1935 (CC2005-54), for property located at 354 and 370 Double Springs Road, containing approximately 9.70 acres. ***This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

6. **RZN 06-1936 Fletcher Williams Appeal:** An ordinance rezoning that property described in Rezoning Petition RZN 06-1936, for approximately 9.70 acres, located at 354 and 370 Double Springs Road, from R-A, Residential Agricultural to RMF-6 Residential Multi-Family, 6 units per acre, subject to a Bill of Assurance. ***This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

C. NEW BUSINESS:

1. **RZN Abshier Heights:** An ordinance rezoning that property located west of Hillcrest Avenue, east of Evelyn Hills Shopping Center and north of Abshier Drive containing approximately 3.5 acres from C-2, thoroughfare commercial to RSF-4, Residential Single Family, 4 units per acre.

2. **White River LLC, Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Upper White River, LLC in an amount not to exceed $17,909.00 for the upsizing of approximately 1370' of 10" water main to 12" water main; and approving a contingency in the amount of $2,686.35.

3. **RZN 06-1949 Ellis Appeal:** An ordinance rezoning that property described in rezoning petition RZN 06-1949 for approximately 6.03 acres located at 4230 Huntsville Road, from RSF-1, Residential Single Family, 1 unit per acre and RSF-4, Residential Single Family, 4 Units per acre to RSF-7, Residential Single Family, 7 units per acre.

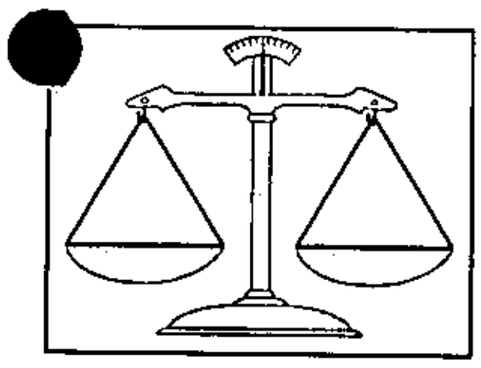
D. INFORMATIONAL:

City Council Tour: April 3, 2006 - 4:30 PM

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **April 5, 2006**

RE: **Passed Ordinances and Resolutions from City Council meeting of April 4, 2006**

1. **Power Curbers, Inc.:** Resolution approving purchase of one power curber Model 5700 Super-B Slip Form Paving Machine from Power Curbers, Inc. in amount of $176,500.00 and approving budget adjustment to move funds to Fleet Expense Account;

2. **Cobblestone Subdivision Cash In Lieu Of Park Land Dedication:** Resolution accepting Parks & Recreation Advisory Board's recommendation to accept $108,780.00 cash in lieu of required park land dedication for Cobblestone Subdivision;

3. **Wedington Circle Cash In Lieu Of Park Land Dedication:** Resolution accepting Parks & Recreation Advisory Board's recommendation to accept $116,328.00 cash in lieu of required park land dedication for Wedington Circle Development;

4. **ADM 06-2002 Crossover/Hwy. 265 ROW Variance:** Resolution varying Master Street Plan's dedication requirements for Hwy. 265 in connection with construction of Fire Station #5;

5. **Off-Street Parking Development Renewal Lease Agmt.:** Resolution approving renewal of lease agreement with Off-Street Parking Development District No. 1 for City of Fayetteville to operate certain off-street parking lots;

6. **Cherokee Nation Contract:** Resolution awarding contract to Cherokee Nation to provide combined services of receiving, handling, hauling and disposing of municipal residential and commercial waste at City of Fayetteville's Transfer Station;

7. **VAC 06-2005:** Ordinance approving VAC 06-2005 submitted by Sheree Alt for property located at Lot 75 of Covington Park Subdivision and vacating portion of utility easement along Township Street;

8. **R-PZD 06-1883:** Ordinance establishing R-PZD 06-1883, Abshier Heights, located south of Evelyn Hills Shopping Center on Abshier and Hillcrest, containing approximately 4.11 acres; amending official Zoning Map of City of Fayetteville and adopting Associated Master Development Plan;

9. **ANX 06-1935:** Ordinance annexing property described in ANX 06-1935 for property located at 354 and 370 Double Springs Road, containing approximately 9.70 acres;

10. **RZN 06-1936:** Ordinance rezoning property described in RZN 06-1936 for approximately 9.70 acres, located at 354 and 370 Double Springs Road, from R-A, Residential Agricultural to RMF-6, Residential Multi-Family, 6 Units per acre, subject to a Bill of Assurance;

11. **Ozark Transit Authority Agmt.:** Ordinance approving amended Interlocal Agreement so that Lowell can join as a member of Ozark Transit Authority;

12. **Annexation Study Committee:** Resolution establishing Annexation Study Committee to provide analysis and recommendations for annexation options in West Fayetteville;

13. **Waiver of §166.17 Suspending Issuance of Permits Pending Zoning Amendments:** Ordinance waiving §166.17 Suspending Issuance of Permits Pending Zoning Amendments in relation to proposed Divinity Condos project.

Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION
Northwest Arkansas Times
Benton County Daily Record
P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6415

AFFIDAVIT OF PUBLICATION

I, Maria Attaway, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of:

Final Agenda

Was inserted in the Regular Editions:

April 2, 2006

Publication Charge: $0.00

Subscribed and sworn to before me
This 3 day of April, 2006.

Notary Public Sharlene D. Williams
Notary Public
State of Arkansas
My Commission Expires
October 18, 2014

My Commission Expires:

****NOTE** Please do not pay from Affidavit.
Invoice will be sent.**

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CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
APRIL 4, 2006

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on April 4, 2006 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:
1. Approval of the March 7, 2006, March 21, 2006 and the March 28, 2006 City Council meeting minutes.
2. Power Curbers, Inc.: A resolution approving the purchase of one (1) Power Curber Model 5700 Super-B Slip Form Paving Machine from Power Curbers, Inc. in the amount of $176,500.00; and approving a budget adjustment to move the funds to Fleet Expense Account.
3. Cobblestone Subdivision Park Land Dedication Waiver: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $108,780.00 cash in lieu of the required Park Land Dedication for Cobblestone Subdivision.
4. Wedington Circle Park Land Dedication Waiver: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $116,328.00 cash in lieu of the required Park Land Dedication for the Wedington Circle Development.
5. ADM 06-2002 Crossover Road/HWY 265 ROW Variance: A resolution to vary the Master Street Plan's dedication requirements for Highway 265 in connection with the construction of Fire Station #5.
6. Off-Street Parking Development Renewal Lease Agreement: A resolution approving renewal of the Lease Agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots.
7. Cherokee Nation Contract: A resolution awarding a contract to the Cherokee Nation to provide the combined services of receiving, handling, hauling and disposing of municipal residential and commercial waste at the City of Fayetteville's Transfer Station.

B. UNFINISHED BUSINESS:
1. 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 and Hillside Overlay District Best Management Practices Manual. *This ordinance was left on the First Reading at the February 7, 2006 City Council Meeting. This ordinance was left on the Second Reading at the February 21, 2006 City Council Meeting and was Tabled to the April 4, 2006 City Council Meeting.*
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2. Upper White River LLC, Cost Share: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Upper White River, LLC in an amount not to exceed $17,909.00 for the upsizing of approximately 1370' of 10" water main to 12" water main; and approving a contingency in the amount of $2,686.35.
3. Amend Chapter 161 Zoning Regulations and Chapter 156 Variances: An ordinance amending Chapter 161: Zoning Regulations, Unified Development Code, to provide uniform building height restrictions in Residential Single-Family Zoning Districts; and amending Chapter 156: Variances.
4. Ozark Transit Authority Agreement: An ordinance to approve an Amended Interlocal Agreement so that Lowell can join as a member of the Ozark Transit Authority.
5. RZN 06-1949 Ellis Appeal: An ordinance rezoning that property described in rezoning petition RZN 06-1949 for approximately 6.03 acres located at 4230 Huntsville Road, from RSF-1, Residential Single Family, 1 unit per acre and RSF-4, Residential Single Family, 4 Units per acre to RSF-7, Residential Single Family, 7 units per acre.
6. Emergency and Non-Emergency Ambulance Service: A resolution to express the City Council's intent to contract exclusively using competitive procurement methods with a single entity for the provision of all emergency medical services and ambulance services for the City of Fayetteville.
7. Annexation Study Committee: A resolution establishing an Annexation Study Committee to provide analysis and recommendations for annexation options in West Fayetteville.
8. Waive §166.17 Suspending Issuance of Permits Pending Zoning Amendments: An ordinance to waive §166.17 Suspending Issuance of Permits Pending Zoning Amendments in relation to the proposed Divinity Condos project.

D. INFORMATIONAL:
City Council Tour None

RECEIVED
APR 05 2006
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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

City of Fayetteville Arkansas
City Council
Meeting Minutes
March 7, 2006

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

Mayor Coody called the meeting to order.

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

Alderman Rhoads and Alderman Marr were absent during roll call.

Pledge of Allegiance

CONSENT:

Approval of the February 21 City Council meeting minutes and February 22, 2006 Special City Council meeting minutes.

Approved

ADM 06-1937 Master Street Plan ROW Dedication Variance: A resolution to approve a variance from the Master Street Plan setback requirements of § 166.18 of the U.D.C. and dedication requirements of § 171.03 of the U.D.C.

Resolution 34-06 as Recorded in the Office of the City Clerk.

Arkansas Department of Parks and Tourism Grant: A resolution accepting an Arkansas Parks and Tourism Outdoor Recreation grant in the amount of $115,128.00 for the construction of Phase 1A of the Botanical Gardens; and approving a budget adjustment recognizing the grant revenue.

Resolution 35-06 as Recorded in the Office of the City Clerk.

Arkansas Department of Aeronautics Grant: A resolution authorizing the Fayetteville Municipal Airport staff to accept a grant in the amount of $63,289.00 from the Arkansas Department of Aeronautics to fund the T-Hangar Rewiring Project.

Resolution 36-06 as Recorded in the Office of the City Clerk.

McGoodwin, Williams and Yates, Inc. Waterline Replacement Project: A resolution approving Amendment #1 to the contract with McGoodwin, Williams & Yates, Inc. in an amount not to exceed $11,000.00 for 24" Waterline Replacement Project.

Resolution 37-06 as Recorded in the Office of the City Clerk.

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

UNFINISHED BUSINESS:

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 ordinance was left on the Second Reading at the February 21, 2006 City Council Meeting.***

Kit Williams, City Attorney asked the Mayor to make comments, because there may not be a move to actually pass it tonight. We should not put it on the third and final reading until we have it in a more complete form.

Alderman Thiel: We are still going to consider making amendments tonight?

Tim Conklin, Development Management Director gave a Power Point Presentation on why the City is looking at protecting and preserving the Hillsides Overlay District

Alderman Thiel: I just wanted the total of single family. But the table in our ordinances is just for RSF-4 isn't it?

Tim Conklin: 68.65% for the Single Family Zoning Districts. That would be RSF-1, 2, 4.

Kit Williams: I think RA is a Single Family District too.

Tim Conklin: 86.18%

Alderman Lucas: One of the first slides that you put up there, the 2000 Natural Resources, could I see that just a minute because something caught my eye, health wise.

Alderman Ferrell: If somebody is going to build a house on RA, don't they just kind of rezone the whole plot and leave the rest RA?

Kit Williams: Not necessarily, my house is on a RA and it can be single family. It requires at least 2 acres.

Alderman Lucas: Natural Resources contribute to the health; I thought that was interesting in Economic vitality in a community more than any other element. I think that is a very important sentence.

Alderman Thiel: I don't have any questions, I just wonder about our procedure, whether we are going to try to make some amendments based on last night. I mean the public may also want to address the amendments.

Kit Williams: You could consider them one at a time like at the public comment like you did last night.

Alderman Thiel: Okay and they can also comment on the overall ordinance.

Mayor Coody: Absolutely. Tim, I want to say thanks for the long time of hard work. You all have put in long hours on this issue and you have done a good job and the staff has done really well. So I want to say thanks.

Alderman Thiel: I agree with that.

Mayor Coody: Alright, did you want to discuss the amendments to the ordinance before we go forward.

Alderman Thiel: Well, I wanted to make an amendment that actually it kind of got confused. It came for staff but actually I had discussed with staff wording it for me.

Alderman Ferrell: Is this the last page?

Alderman Thiel: Right, it's the design requirements for buildings located within the Hillside Overlay District. The wording we kind of agreed on last night and this will be my motion. Well we will have to remove the part that already addresses this, but require developers of preliminary plats and large scale developments shall conduct a Geo Technical analysis of the soil and sub-soils of their property to determine whether a typical spread footing foundation is adequate, based on the type of soil present on site. If not a notation on the final plat or the easement plat shall be placed requiring that all future structures within the development have foundation plans designed, approved, and sealed by professional engineer and or architect. Unoccupied single story buildings less than 120 square feet are exempt from any foundation requirement, that's my motion. I want to clarify a little bit. Last night, we discussed how we are going to deal with individual homes, properties, lots because this just deals with large scale development. I wanted time to think about that and if we are looking at this as a protection preservation to hillsides, in

other words the storm water run-off, erosion and everything that occurs below developments. Generally a single family residence built on an existing lot, that has already be platted, generally on Mt. Sequoyah one of the platted hillsides, is not going to have that much adverse affect. I think after this Hillside Ordinance is enacted, I think that most people are going to be aware that they should check in the area that they are building and make sure that they don't need to go build on piers because of all the issues that individuals have had with houses and their homes. I think since we are looking at the health and safety of everyone around this area that probably just the larger developments that have five plus house built at least built on them, I think that it's really important that they have the right kind of foundations to reduce the storm water run-off and everything. I guess that I am saying that I don't know if we necessarily need to address the single family lots. I don't think they are as critical to the over all picture. So, that's my amendment.

Mayor Coody: Would you mind restating your amendment please.

Kit Williams: No, I have it written down.

Mayor Coody: Okay.

Alderman Thiel: It's basically what was in Kit's recommendation that came from Ron Petrie in Engineering. I did tweak it a little bit based on our discussion last night and some recommendations from an English Professor, at the University so we got the wording right grammatically, I think.

Mayor Coody: Alright, is there a second to Alderman Thiel's amendment. Going once, going twice. There is no second to your amendment Alderman Thiel. I am sorry.

Alderman Thiel moved to amend the ordinance as follows: ***Unoccupied single story buildings less than 120 square feet are exempt from any foundation requirements.*** **The motion died for lack of a second.**

Alderman Marr: May I make a comment. Because I support the amendment intention, I disagree with the comment that single family or single lots should be excluded. If that wasn't in it I would support it. The reason is that a lot of the discussion that came about on this Hillside Ordinance came about from some of these single sites that are being developed. Lightened Trail that we are using over and over and over was a single infill lot, that I do believe has had impact and could have impacted run off and things of that nature. I would support it if it was not just for the developers of preliminary plats, but it included all of those. So I am going to make the same amendment and see if I can get a second.

Kit William: Keep in mind that this is only foundations; this isn't storm water, grading or anything like that.

Alderman Marr: I understand that. But I want to make it for the exactly the same amendment but adding developers and owners of single infill lots of preliminary plats, and large scale developments and the rest of it exactly as it was stated.

Alderman Thiel: I will second that.

Alderman Lucas: Can I ask a question.

Mayor Coody: Sure.

Alderman Lucas: You are including a notation on the final plat and all that.

Alderman Marr: Yes.

Alderman Lucas. Okay.

Mayor Coody: So, let me ask you a question here.

Alderman Thiel: There won't be a final plat on a single family house.

Mayor Coody: So if an individual homeowner wants to build on his own lot and wants to put in a heavy duty pier top-of-the-line foundation, and can do it with out having it engineered, he would still have to go have it engineered and have it stamped and pay those prices to do what he would do anyway.

Alderman Marr: Yes, it would be exactly like we require a developer to do. So it would ensure that they have gone and have had a Geo Tech study and someone has determined that the soil would not support a typical spread foundation footing and if they don't then they would have to do the appropriate foundation.

Mayor Coody: Alright, we have a motion in the second is there any other discussion on this. Does anyone from the public have any comment on this item? I might ask for all the public to be concise and respectful please.

Sharon Davison, a citizen: Thank you all and thank you Alderman Thiel and I know that you have been sticking with this for almost four years and it is a long process. You scared me there I didn't want to exclude the single family homes. I appreciate everyone realizing that they do combine, they do impact, and they do impact their neighbors. Trees are great for our roots, trees are great for our visuals, and this is about structure stability of foundations and hillsides. That's our bottom line here, I will be glad when the ridge top exclusion and other issues come up later. So I applause you and thank you for doing the minimal which is the foundation and it should apply to all of those structures. Thank you.

Mayor Coody: To save a little bit of time if you would like to speak I might ask you to cue up behind the podium so we can be expedites please. How are you Tom?

Tom McKinney, son of resident of Fayetteville: On this one item I do agree with Alderman Marr that I do think that single family residences should be included in this because lets face it we are not doing small, affordable housing up on Sequoyah any more. Most of them are going to be larger structures and I think that they will impact the down hill if they are not done correctly. He went on to speak in favor of this amendment.

Mayor Coody: Does anyone have any comment on the amendment we are discussing right now?

Coleen Gastin, a citizen: I have a process question rather than a comment on this. Are any of the changes that are discussed tonight, will they be available for citizens to review in writing prior to the next time it's considered.

Mayor Coody: Yes.

Alderman Thiel: No, we are making amendments.

Mayor Coody: But still there will be time to consider all these amendments before we finally read the last…

Alderman Thiel: But we will vote for this amendment tonight?

Mayor Coody: Yes but this will be up for consideration at the next meeting because we have a lot of maps and exhibits to put together that haven't been compiled yet and the GIS Department has a lot of work to do and it is very difficult work and we don't have the exhibits ready yet. A lot of these exhibits will change based on these amendments

Coleen Gastin: Alright so this is just an attempt to put the final language out to the public for consideration when it is brought up at another City Council meeting.

Mayor Coody: Yes

Alderman Thiel: Right April 4, I believe.

Coleen Gastin: Thank you.

Mayor Coody: Any one else? Alright do we have any other amendments to discuss right now?

Alderman Ferrell: I a have a question on this one.

Mayor Coody: Yes sir.

Alderman Ferrell: What's the penalty for a single homeowner who fails to do this when they build a home? If they don't go through this, what do they face?

Kit Williams: I don't think that they could do it because they would have to get a building permit in order to build a house and they are not going to get a building permit unless they comply with all these ordinances.

Alderman Ferrell: Make's since, but in the worst case scenario if they didn't would there be civil action, criminal action, what would it be?

Kit Williams: I am not aware of any time when someone has built a building in Fayetteville without getting a building permit. I guess we will cross that bridge when we get to it. It is

feasible it could happen, but I hope not because there are many requirements we place on them besides this.

Mayor Coody: Well also, you do have to have your building permit in order to get water, gas, garbage pick-up, electricity, all hook-ed up, so that pretty much makes sure that everybody gets a building permit. Alright, any other amendments?

Alderman Thiel: Well let's vote on this amendment.

Mayor Coody: Oh, that's right. We have a motion is the second on this amendment…

Kit Williams: I am still drafting it here.

Mayor Coody: And it's an amended amendment.

Alderman Thiel: Those drafts will come in later. I mean do you want to read it again his part?

Kit Williams: Mr. Marr can read what he has.

Alderman Marr: I don't have anything written, Kit. What I am asking is that we change this language to include not just specific to developers, preliminary plats, and large scale developments but additionally, individual builders or homeowner on infill lots within the over lay.

Kit Williams: Okay. And of course we have to be very careful how we do that because, what if they build two homes, or something, or if they are building duplexes, or triplexes. We have to try and cover everything when we start drafting this.

Alderman Marr: What language do you suggest then?

Kit Williams: I have got a start but I don't have it totally done. A builder of a single family residence, duplex, or other residential, commercial, institutional structure, not within the preliminary plat or large scale development as indicated above shall have to do a Geo Technical analysis. I haven't got all that language there, but we have more language here from the building inspector. He has all future structures within the Hillside Overlay District shall be supported by foundations that are designed, approved and sealed by an Arkansas licensed architect or engineers. Developers of preliminary plats and large scale developments may conduct a Geo Technical analysis of the soil and subsoil's to determine if the soil has bearing capacity that is sufficient to allow the use of descriptive foundation requirements of a subsection 2A, subject to approval of the building official. An unoccupied, single story structures less than 120 square feet are except from the design requirement of this subsection B. Is that what you are suggesting? Would you like to explain?

Steve Cattaneo, Building Safety Director: Yes sir. That is what I would suggest. After the meeting last night, I came away with the idea that we needed to clarify that one thing that was going to be required for foundation requirements we were going to apply to all future structures in the area that we are talking about. That is what the first sentence says, if you have read it. Then it followed up with the repeat of the language that we had before and gave the opportunity

for developers to hire a Geo Technical engineer to study their site and if they can show that the soil is present there then we can at least meet the minimum requirements that we have in our city ordinance. Then they can go ahead and use those foundation systems otherwise they would have to have engineered foundations systems throughout. And then the last sentence says exclusion for an unoccupied single story, 120 square feet or less would not have to have an engineer but they would have to follow the minimum requirements of the rest of the code.

Kit Williams: So that would completely replace this other subsection B that we have here?

Steve Cattaneo: That's correct.

Mayor Coody: Regardless of what load bearing soils a person would be building on?

Steve Cattaneo: Are you talking about in the case of the single lot, Mayor?

Mayor Coody: Yes, all future structures in the Hillside Overlay District regardless of the quality of soil on which it is built.

Steve Cattaneo: That's the way it is drafted, yes sir.

Alderman Marr: It is my understanding that the prior language proposed allows someone who could show that a typical spread footing foundation was adequate, then they could build that foundation, they did not have to have it approved and sealed by a professional engineer and architect. I want to offer the exact same language not only to the development community but to the individual lot owner, builder, however we are going to state that. So I am not going to make it required regardless of the soil, I am trying to treat it exactly the same. If the development community has to do it then an infill lot has to do it.

Steve Cattaneo: Well It could be just the matter of the use of the words there. I mean to me when you talk about a Geo Technical evaluation, you are talking about an engineer. Someone is going to go out there and evaluate those soils and they are going to come up with a document that they seal and it says that these soils have this load bearing capacity. That can be done by an architect or engineer according to our ordinance and really it is equal across the board, I believe. That's my opinion. It would be that same for an individual homeowner, he would still have to hire a professional to come out to his lot and look at the soils and then tell him you can build this foundation or you need to do piers or you need to do drainage systems or whatever he recommends.

Mayor Coody: Alright, any other comments?

Alderman Lucas: One question, so if it is a development, say its a hundred homes, I hope not on a hillside, fifty homes and the developer does this study, and then he sells the lots are the individual homeowners going to have to do another study?

Steve Cattaneo: Well, if his study indicated that every lot on there, the soils on every lot he has there are capable of having a, say for instance using our minimum foundation requirements then there wouldn't be anything further required. That one voucher would be suffice.

Alderman Lucas: How will they know, will it be with the plat or how would they know?

Mayor Coody: No, What you just said doesn't square with the way I read your ordinance, because it says all future structures within the Overlay District, all future structures. So what you just said about maybe, maybe not, it doesn't work.

Steve Cattaneo: Maybe I didn't understand the question. I think the way that I understood the question Mayor, is that Alderman Lucas was asking about if a subdivider comes in and he wants to have to have his whole subdivision a soils analysis done on that and then he has a document, of course, that says that the soil baring capacity in this type of foundation system would work. In my opinion, or the way the ordinance is written that would apply to all of those lots.

Mayor Coody: Oh, that's true, I miss understood that.

Steve Cattaneo: Whichever lots are specified, some could be different than others.

Alderman Lucas: Most of them then sell those lots to other people.

Steve Cattaneo: Yes.

Alderman Lucas: So how does that go along with the lot?

Steve Cattaneo: Well, I think that if it was included in the final plat like it has been discussed before then that would be documented.

Alderman Lucas: So does this say that in here? I didn't understand that to be on here.

Alderman Thiel: No.

Mayor Coody: Yes ma'am. Alderman Lucas, were you finished? Okay, Alderman Thiel.

Alderman Thiel: I just want to say that I support the original. They are very similar, but I think some of the concerns that Alderman Lucas has brought up and my concerns, I think the original wording with inclusion of Alderman Marr's regard to the individual homes.

Alderman Jordan: It makes it clear.

Alderman Thiel: It makes it clear. I think that this wording is what I prefer. They are very similar actually but I think this keeps a requirement going that with our building officials' recommendation here I don't think that is really required. It becomes under the building officials approval and I think we felt like it was very important that it be worded basically like it is here.

Kit Williams: Let me make another stab and see if I got what you wanted to say on this Alderman Marr. Before you get to the very last sentence on B, after you have already talked about developers and requiring developers instead of just allowing them, which is what this other one said. *A builder of a single family residence, duplex or other residential, commercial or institutional structure not within a preliminary plat or large scale development that has conducted a Geo Technical analysis of the soil and subsoil's shall conduct his own Geo*

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Technical analysis of the soils and subsoil's and if necessary have the foundation plans designed, approved and sealed by a professional engineer or architect. I was kind of add-libing the last bit, I hadn't written all that out. Is that the essence that you wanted? Okay I can work on the final language and try to make it flow better but if that is your general attempt then that's what I can do.

Mayor Coody: Alright, we have a motion in the second on the amendment. Is there any other discussion on this from the Council? Shall the amendment pass?

Alderman Marr moved to amend the ordinance as follows: ***A builder of a single family residence, duplex or other residential, commercial or institutional structure not within a preliminary plat or large scale development that has conducted a Geo Technical analysis of the soil and subsoil's shall conduct his own Geo Technical analysis of the soils and subsoil's and if necessary have the foundation plans designed, approved and sealed by a professional engineer or architect.*** **Alderman Thiel seconded the motion. Upon roll call the motion passed 7-1. Alderman Thiel, Cook, Marr, Rhoads, Lucas, Jordan and Reynolds voting yes. Alderman Ferrell voting no.**

Alderman Thiel: Well I think that we should go ahead, unless some one wants to do one of these more controversial ones, I think that we should go ahead and do some of the clean up that Kit referred to at the end of his memo. Some of those were just word changes weren't they? I think any of those that are not changes to the meaning and intent of the ordinance, I would make an amendment that those changes are made.

Mayor Coody: Which ones would those be, list them specific.

Alderman Thiel: Alright, let's be specific.

Alderman Lucas: There was one about the manual being a guide.

Alderman Thiel: Alright that was a recommendation from the Ordinance Review Committee that any reference to the manual being is a guide.

Alderman Marr: Let me make a stab at it. I would like to move that we amend to make it consistently clear under the title and whereas clauses that the Hillside Best Practice Manual is used as a guide like the 2020 Plan rather than an ordinance requirement.

Alderman Ferrell: Second.

Mayor Coody: We have a motion and a second on this amendment. Is there anyone that would like to address the amendment before us right now?

Tom McKinney: Thank you Mr. Mayor. This is something that until last night, I didn't realize or I would have asked to discuss it last night at the Ordinance Review Committee meeting. Number one you all are talking about making a requirement that would cancel out number five on page four where it talked about the proposed amendment to make the City's landscape, manual and Hillside Overlay District Best Management Practices manual mandatory. Am I

saying that correctly, is that what number one is doing are you moving the Best Practices Manual from mandatory to suggestions?

Mayor Coody: A guide, yes that's true.

Tom McKinney: Okay Then I guess that and I know that I am coming in a little late on this, where is the teeth in the Overlay District if you again, suggesting people do things rather than requiring them.

Alderman Thiel: The ordinance that we are passing?

Tom McKinney: Yes.

Alderman Thiel: There are ordinances and there is also the guide, the manual. One reason we probably decided the manual, making that required is because number one, not all of the recommendations had been brought over as ordinances and incorporating them into out U.D.O properly, that had not been done. Secondly, there were some recommendations in that, that I think some of us had a little bit of concerns about. There were some designs standards I think that were suggested and recommended that I think that we need to have more discussion about whether we actually want to codify those. I think at this point the idea was to go ahead and move forward with the ordinance that the planning staff felt like were key to the Best Practices Manual, go ahead and adopt those as ordinances, and then the rest of the manual be used as a guide right now unless we see a need to start bringing more of it forward as ordinances.

Alderman Marr: The other thing to that was that the task force committee with the help of Design Workshop when they originally presented that, they told us that it was a visual guide to a hard ordinance code. Everything in that is not written in an ordinance and what we are hoping is that the individuals that are building in the Hillside Overlay would use the manual as a guide the way it was intended. If we feel that they don't or there are aspects of that guide that should be incorporated later as an ordinance, we could always bring it back and make it a mandatory tool. But today we felt like that the primary items on the set backs, the preservation, the grade and drainage, all the things that are actual ordinance items in this would be a good first step.

Tom McKinney: I understand I am just a little concerned because this city has gotten burned numerous times by folks that should have done something rather than were required to do something. Those things stay with us for a long time and it is always hard to go back and repair something that was done improperly in this kind of a situation. And again it says that these manuals are ignored then the City Council would have a good reason to go back a change them, that's very true but your stuck with the book, if it has been done incorrectly. I am not arguing for you all to change it, I guess that I am just expressing my concern and I understand it better now. I have learned in regulation that if you make things voluntarily you are really protecting the bad actors rather that protecting those who are really out there to do a good job. Again I understand that this is not your intent, but I just would like to make sure that you all remain vigilant.

Alderman Mar: Tom, the only thing that I would say to you is that I think that the committee looked at anything in the manual that we believe was primary to the protection of the Hillside's is in the ordinance.

Tom McKinney: Okay. Thank you.

Mayor Coody: There were things in the guide that are questionable whether they should be mandatory or not, which way the roof should run, what color the roof should be and things like that, for the government to dictate those things maybe overstepping governmental authority.

Tom McKinney: Thank you.

Sharon Davison: And thanks. I just wanted a clarification on that because I was a little concerned on the wording and we are talking about ordinances and Best Management Guides in the Hillside Overlay. Now are we going to get an actual ordinance out of this? I think that's why some of us are confused as are we going to get ordinances or are you just saying this one little part is what you want to be as a guide.

Alderman Thiel: Do you not have copies of this. Do you have any copies that Sharon could have? Because there is a separate ordinance section, a separate manual and then the Overlay District map.

Sharon Davidson: Would it be like, whether some one paints their house pink is what we are saying is going to be in its own subjective category.

Mayor Coody: Yes.

Sharon Davidson: So you will pass the foundation and things as ordinances under this overlay umbrella and include this Best Practices Manual. Thank you I will get a copy of that from Tim.

Mayor Coody: Does anyone else have any comment for us on this for us tonight.

Tom Terminella: I just wanted to support it being a guide rather than a mandatory tool that is implemented. I think the guide and the outline and the spirit of it is reasonable so I would support that. The other comment that I just wanted to make is can we take into consideration, if we are moving towards and collectively a 7-1 vote on the engineered footings and foundation, if everybody could please take into consideration, if we are going to amend the ordinances that deal with tree analysis, footing, structurally footing and then foundations and then Geo-Tech. If those are going to be mandatory and amended can we get the Council or collectively a quorum of understanding that the City will hire additional staff? Because based on the calculation that I am using, the Engineering Department and the folks that are in the Administrative staff are pretty overwhelmed with the issues that we have. Have we thought through who is going to administrate this? These are service companies creating these reports and providing them to the City. I am just trying to figure out where and how we are going to get the people and funding to administrate all of this.

Mayor Coody: Let me just do this one at a time. We are doing these amendments one at a time and we will discuss this.

Tom Terminella: Yes sir, but if you could just take that into consideration.

Mayor Coody: The way I understand the that Council wants to do this, let's just use the foundation right now, I don't think it would require much more staff for us to get, like when you submit your building plans, there would be a foundation plan with a stamp on it for the Building Department to just make sure that it is there. I think that wouldn't require us to any more staff to just add one page to the document to be looked at. Is that right Tim?

Tim Conklin, Planning and Program Development Director: Yes, it would be a stamped plan. We would be relying on the professional engineer's license that he has designed it, studied it, and designed it appropriately.

Alderman Marr: To make one comment on that. I don't have the exact numbers that were on the chart but there where 128 of the 3,400 permits. So I think that the number that we are talking about in terms of what we are seeing is not at the scale of our total permits.

Mayor Coody: Does that answer you question, Tom, at least on that issue.

Tom Terminella: I think so, for the most part. I just want you to be sensitive to that issue because we create all this work, somebody administratively has to review it and approve it. As far as the current issue, having that as a guide and not a mandatory document to follow ever single element in it, I would support that. Thank you.

Mayor Coody: Alright, thank you Tom. Who else would like to address us on this issue? Alright we will bring it back to the Council then. So this is just clean-up language, dose this need to be done as an amendment?

Kit Williams: Oh yes.

Mayor Coody: Alright, so you want to amend this to make that read as a guide? Alright we have a motion in the second, shall the motion pass?

Alderman Marr moved to amend the ordinance under the title and whereas clauses that the Hillside Best Practices Manual is used as a guide like the 2020 Plan rather than an ordinance requirement. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mayor Coody: What's the next one? Anyone?

Alderman Marr: I don't know if I am going to make an amendment, but I sure would like to have the entire Council debate these items. The Hillside Overlay District definition that the City Attorney offered last night, I think that the language was that, *lands located within the City that generally have slopes in excess of 15% and the adjoining land uphill from the 15% slope that contains at lease 8% of slope is shown Hillside Overlay map,* which is different than what the taskforce discussed. The taskforce discussed 15% in any land surrounded by a 15% grade which included the hilltops in the map that Tim showed in the presentation. What this would do it would take out anything less than 8% above the 15% or in essence the hilltops and the shoulders or benches that fell below 8%.

Kit Williams: It doesn't take out the shoulders but a person with a shoulder below could be topped out if they are below 8%.

Alderman Marr: Which would continue with the rest of the definition, *parcels located within the Hillside Overlay with an average slope of less than 8% maybe excepted by the owner by submitting a written request of the survey acceptable to be approved by the Engineering Division certifying that parcel has an average of less that 8%. The parcel shall then be shown on the Hillside Overlay Map as removed and exempt. None of the reduced right-of-*ways, *set-backs, lot widths or other developments by reduction of the Hillside Overlay District shall be available to an exempt parcel and the development regulations in the Hillside Overlay District would supersede the underlining zoning district.* I think that we should have discussion on that because it was an important point I think, in last nights meeting. While I am not prepared to make the amendment yet, I want to have some discussion on that because I think the City Attorney brought up some good points to consider. Kit you may want to highlight why you believe this definition should be changed for the entire Council.

Kit Williams: Well, the primary reason obviously is because I am the City Attorney and your legal advisor and we have concerns and possible litigation threats from attorneys representing various owners, builders, and developers. When looking at an ordinance, in order to try to make the ordinance the most offensable in court that I could, is that I would like to remove any of the most compelling cases that the other side could use against us. The most compelling case that I think the other side could use against us, is when someone would be trying to develop on relatively flat land and yet be held to developments standards higher than someone at the bottom of the hill developing on 14% land. So someone developing on 1% land would have to follow our hillside regulations and someone developing on 14% slope land would not. There is not very much of that land, as you saw from the map that was shown to you last night at the meeting, there is very little of this 8% land within hillsides, there are a few shoulders, portions of a few shoulders on Mt. Sequoyah and a few other places, but generally there is very little of this land. You would be removing or allowing someone to exempt a very small portion even if everybody that wanted to do it actually did it. There would be very little land on the hillside that could be exempted in this particular change of the ordinance. What you would be doing is you would be removing an arrow from the quill of the developers that would be attempting to attack this ordinance, because they are going to show the most extremes case and by this definition I think I have removed the most extreme cases. All the land that would be affected would be at lease 8% slope and if you have 8% slope surrounded by 15% slope then obviously I think I have much better argument for erosion control, for potential damage to down hill and up hill neighbors that I think the ordinance is much stronger in that case and much less susceptible to being defeated in court and frustrating for the task force and I think of the City Council. That's why I made that particular amendment, it has really very little effect on the fast majority of the hillside but it does make I think the ordinance much stronger to defend in court.

Alderman Marr: Kit, just to be clear, one foot drop over 12' of land.

Kit Williams: That would be an 8% slope, actually a bit less than that but about one foot drop in twelve foot length.

Mayor Coody: Yes ma'am.

Alderman Thiel: Last night we didn't have a map that really was very adequate showing all of this, I know that it has been frustrating to John Goddard. I guess I would be reluctant to really consider this until we did have a map. I think that he is going to find a way to develop something that we can compare with what we already have and compare it to this.

Kit Williams: It's funny, because I told him not to work to hard on it until you all decided that maybe this is what you wanted.

Alderman Thiel: Well that's fine accept until I see the map I guess I would be a little concerned about it.

Mayor Coody: Come on up, John.

Alderman Thiel: I can't adopt something that I haven seen.

John Goddard, GIS Coordinator: I have concerns about the way the hillside is now described and I think it is going to be important to get some more help with that. I have requested some help from Fred Lemp at the University of Arkansas Center for Advanced Special Technology and he is gracefully accepted to help us out with that. He came to the meeting last night and observed and listened and made some pretty valid comments about it and he shared those with me and he is more that anxious to help us, so I am happy about that. I think it is going to take a few weeks and he is going to be gone for about a week so hopefully be next Tuesday I will have a little bit more of a time frame for when we can get that done. We will work real closely with him and his staff to try to come up with something that's really dependable.

Mayor Coody: Do we have any questions for John right now?

Kit Williams: But they do need general guidelines from the Council that you are willing to consider something like this in order to put a map together, just like that put the last map together because the task force agreed on the perimeters, that's how they were able to put the map together.

Alderman Thiel: Actually, he kept putting the map together as we were discussing it. It was easier to put that map together then this is apparently.

Mayor Coody: Yes sir.

Alderman Ferrell: I had that on my list also, so basically if a developer is in a less than 8% slope and the developer requests that they pay for a survey to be done and if the certified surveyor qualifies that as less than 8% slope then they can ask for that but then they forfeit the other bonus that were built into the Overlay District program.

Kit Williams: That's correct.

Alderman Marr: So they don't get narrower streets, they don't get reduced set-backs.

Alderman Ferrell: It's something that they just have to weigh and look at but they would pay for a survey, a certified survey, is one of the things that I wanted to get at.

Mayor Coody: Alright any other comments on this one do we want to leave it as it until Mr. Goddard can come up with the maps and we will look at making amendments later once all the maps are done if you want to make amendments.

Kit Williams: I don't think that the audience...

Mayor Coody: Yeah, I am just wondering if that's the point where we are now.

Alderman Marr: I certainly think based on the information that we heard from the City Attorney last night, it something we need to look at seriously. I came into that meeting not wanting to exempt anything else, but I think that he made an argument that certainly in the worst case scenario setting could create liability for the City, and the last thing that we want to do is have an ordinance coming out of the gate that our advisor is telling us is flawed. I don't necessarily say that I like, but it's the advice that I think we need to weigh. I think they need to develop the map and we need to have the numbers so the people who want look at what that land map exempts has a number in front of them. I don't think if we are not going to act that that's any message that we don't want to see it because I would like to see.

Alderman Thiel: Well I would too. I wasn't saying that.

Alderman Marr: I just wanted to make sure of that.

Alderman Thiel: Yeah, yeah.

Mayor Coody: That's still on the table for discussion after the maps are generated.

Alderman Thiel: Right.

Mayor Coody: Alright Tom, how are you?

Tom Terminella: I respectfully disagree with a few comments that were made in the case of expanding the zone, the overlay to include 8% slope. I can only speak to the ownership that I have it basically; it's a doubling of the effect. I have a great deal of 8% slope below the 15% grade.

Kit Williams: That's not included. It has to be above the 15% grade.

Tom Terminella: Okay.

Kit Williams: It's not below.

Tom Terminella: Okay anything over 15% that happens to be 8% that falls off to zero would be now under this district.

Kit Williams: As the map is currently drawn, your hilltop is totally within the Hillside District. Do you understand that that's the way it's drawn?

Tom Terminella: I'm acknowledging that.

Kit Williams: I am not saying that you agree with that, that's the way it is drawn.

Tom Terminella: Correct.

Kit Williams: Under this definition only that part of the hillside that would remain at an 8% slope, of the hilltop, would remain within the district. The flat land on top of the hill, less than 8% slope would not be within the Hillside Overlay District. This does not change the lower boarder.

Tom Terminella: I would just respectfully ask for those maps to be generated and provided to the land owners and the citizens around the City to see what impact that has in addition to what's already been proposed and I think that it will be more than a slight adjustment personally. So I anxiously wait for somebody in the City's staff to provide my map for my acreage, so I can see how much more of an impact that it has. I respectfully ask that there be time for people to review that before this is brought forward and amended and included in this. Thank you.

Mayor Coody: Yes we will. Thank you.

Sharon Davidson: Hi folks. This is a real touchy part of it all, to me. I hear the language and discussion going about. Essentially, we are doing more than a concession here, we are giving up our first choice, we are giving up our best instincts, we are giving up a lot, because when are City Attorney advises us to make changes under a threat of litigation, we are naturally accepting his professional opinion. I can tell you in these days and time every covered later from a lawyer is essential a treat of litigation. Are we going to really decide true issues that impact us because one or two people are going to, I am sorry I am going to use the bully word in this. Two words I wanted you to consider in making these huge concessions, they are huge concessions, before I mention that let me finish this whole hillside part that I find ironic. We can cover just like a dipped ice cream cone the top of Mt. Sequoyah, the top Mt. Markham Hill; we can cover them with concrete. That will greatly impact everything. She continued to speak against the Hillside Ordinance.

Mayor Coody: Thank you for your comments. Anyone else want to address this tonight?

John Nock, a citizen and a developer: I am going to say what I said last night; I think the task force has done a commendable job bringing a very difficult discussion to the people. I would also say that there are many points that I am getting more comfortable with all the time. The power that I feel like I have is as a citizen, the opportunity to come and listen and to participate in the process. I had just a couple questions for tonight, since we are on this specific topic of hilltop, the ridgeline if you will, and having worked with Design Workshop on what will eventually be a great development on the southeast corner of Fayetteville. They gave us certain directions, I am just curious as to what they gave specifically to the task force as to the hilltops. Secondly, I believe that the hilltops are a different factor, then the sides, the sides need protection. The problems that I have heard quoted over and over again, I don't know if there has ever been clear engineering that shows what the problems are but I certainly heard that there were problems. I have not heard that our hilltops that were developed over the last 100 years did that cause disruption to the rest of the hill? Parts of campus were built on some very steep

hilltops; did we have problems with those hilltops, I am not sure? What actually has occurred that we are trying to correct, and what kind of future plans are we trying to mitigate that might be problems by an ordinance that we can live with and work with. I can see the hillsides, I can how we would want to protect that from erosion both if you are above or below the properties that are going to be affected but on the hilltop what problems have we had because I think those should be discussed. If there are real problems let's address them in the hilltop. What other issues have we discussed tonight that our consultants have addressed, sis they tell us that we should have engineered foundations because if they did, I always like to listen to the trained professionals. If the consultants have told us that we really need to consider engineered foundations then we should do it, if it is simply that one or two houses in Fayetteville or two dozen houses have had problems over the last 100 years we should consider that too. This is a real economic impact, the single family homes are not going to impact me because I am going to act as a developer and I am going to pay for those engineering studies anyway because I have a professional liability but, on an individual house perspective I am sure the citizens will want to weigh in on that as well because it is a real significant cost. On the hilltop let's look at what we have and then see what we need and then make our decision based upon that.

Mayor Coody: Thank you.

Alderman Thiel: Can I respond briefly to Mr. Nock, because he asked the question of whether or not Design Workshop had given this recommendation, they actually do. On page 9 of the Hillside Overlay District Best Management Practices Manual they refer to cost of remediation for foundation problems, post construction, they refer to a study that was based on a 2001, the geological hazards, based on a 2001 report by Professor King, published in the Journal of Arkansas Academy of Science, it describes the soils, etc. it goes on to say a Geo Technical 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 they entail a need for engineered foundations, set foundations, or other methods, or construction techniques that will ensure that structures are built in an appropriate mater. They go on and quote the report describing the various shell at this time I want to point out that the lower Fayetteville shell is located mostly on flatter and slightly sloped hillsides and covers an expansive 45.5% of the area in the Fayetteville Quadra-Angle. Some of the effects of adverse effects of building in these areas include extreme cracking in pavement, foundations, retaining walls, concrete floors, drive ways, corrosion of buried pipes, storm water run-off, run-off from heavy rainfall, seeps emerging from paved areas, seeps emerging from houses beneath, concrete seems, etc., etc. So there is an in-depth report that is from Design Workshop that was incorporated. So I think they did cover the need for that. Well you didn't say the hilltop, you said engineered foundations.

Mayor Coody: I think that he mentioned both.

Alderman Thiel: Well alright, we are still discussing that. That decision has not been made.

Mayor Coody: Anybody else want to address us on the Hilltop issue?

Don Conner, a citizen: I just would like to know what resolution you want to use on the map for the hilltop, if you want to use 20 acres or more, 10 acres or more, that was discussed last night.

Mayor Coody: That would be a technical question. John want kind of pixilation do need? The question is what kind of scale on this map that would be defining these areas, would you use 10 acre, 20 acre, 5 acre or a minimum size.

John Goddard: I was going to talk Dr. Lemp about that for this next study. When we went through the committee; we set alone a 100 foot by 100 foot area that we would study and depending on the data sets that we use, there is a data set that we use for this analysis that can go down to 25 foot, but I want to talk to Dr. Lemp about that. I think that we may come back with a totally different approach to the problem. I think we should look to him for guidance here. He has a lot of expertise in this area.

Mayor Coody: Thank you John. I don't know if that answers your question sir, but the answer is we don't quite know yet.

Tom McKinney: I have been coming to the City Board meetings since about 1975 and I want to remind not only the City Council but the citizens of Fayetteville that Fayetteville has always been a very progressive City in passing laws that protect the beauty and the since of place the City has had. That means the billboard ordinance and the sign ordinance that was challenged in court and was found to be constitutional, the Design Overlay District which was challenged in court and found to be legal, so I want to urge you all to continue on with this and not be intimidated by any legal threats. You are responsible for protecting the property rights of developers, but there is no rule or laws any where that say you protect property rights to the point to where they can make the maximum profit off of any development that they put in. One of your other jobs is to protect the property rights of those folks who already have their houses, their homes and their property. Those property values can be drastically affected by other developments that are built. I agree with Kit, we have to make sure that however the ordinance is passed it is constitutional, I think it is. I hope you protect as much of the hillsides and the hilltops as you can. I want to remind you that everything that hits the tops of those hills is going to go down hill and it will affect people down hill. A lot of the hills that we are looking at now to be developed are pretty sparsely populated. He went on to speak in favor of the Hillside Ordinance.

Mayor Coody: Tom, one thing that I would like to make clear and correct a misconception obviously, that we are afraid of law suits, we get sued regularly. What I think Kit's point is that if we are going to pass something, it needs to be defensible in court.

Tom McKinney: I agree and I said that but I want you to protect as much of the hilltops as possible and protect as many of the homeowners in Fayetteville as you can. Thank you very much.

Mayor Coody: Okay. This is going to be a huge step in the right direction. Thanks Tom. Anyone else? Going once, going twice. Alright I am going to close this to public comment. So we are going to leave this hill top discussion until we get some more defined maps.

Alderman Ferrell: Can I ask a question? I think the information that Tim gave earlier from 2002 to current we had around 128 building permit applications in what would be the Hillside Overlay? I would like to have your best gut shot feeling, just when ever you can before this next

meeting, what you might project that there might be in the next five years, how many we would have. I think that would be an interesting number.

Tim Conklin: Okay. I will try to work on that.

Alderman Marr: Alright let me throw another one on the table. Last night we had a discussion about the minimum canopy requirements and the recommendation was that rather than looking at a flat percentage in the entire overlay that we look at a consistent percentage that we add to each zoning requirement, that was changing it from a 30% for the total to adding 5% to each zoning requirement. When we look at the amount of land that is single family, 86% I think is what we heard, and the percent that is commercial which is minuscule in this, less than 5% I think it is a reasonable recommendation and consistent with the protection of treating all zoning consistently. So I am going to move that we adopt the City Attorney's recommendation.

Alderman Lucas: Second.

Mayor Coody: Which would raise them all 5%?

Alderman Marr: That's correct.

Mayor Coody: Is there a second to this motion?

Alderman Lucas: Second.

Mayor Coody: We have a motion and a second to accept Kit's recommendation on this. Is there anyone from the public that wants to comment on this particular amendment?

Tom Terminella: I just want to clarify what the amendments are incrementally, what it does to residential ground, RMF, RO, C-1, C-2, and if I could get the clarification on that that would be wonderful.

Alderman Marr: Could you put those slides up?

Alderman Thiel: Could you put those slides up as we go?

Tom Terminella: One comment Mr. Mayor and members of the Council.

Mayor Coody: Hold on Mr. Tom. Tim you know that we are looking for the one that shows the tree canopy boosting each one 5%, do you have that slide?

Alderman Thiel: So he can understand.

Mayor Coody: What happens to each zone.

Tom Terminella: The comment that I had, isn't there a federal law that developers have to adhere to post and predevelopment as far as releasing any more water, post and pre? I mean I abide by it in all our developments. This since of the top of the mountain is going to create this

issue, the developers already have to sign a final plat that they are responsible for any down stream and up stream flooding dealing with post and pre developments.

Mayor Coody: Tom, we are going to hold of on the discussion of the hilltop until we get the maps.

Tom Terminella: Yes sir, I understand, but I just wanted to make that comment because that's what we adhere to on a daily basis and that's what the civil groups have to design to, so I didn't what there to be a misperception that development could occur and have no consideration for the down stream folks. That's just not the case.

Mayor Coody: Alright thank you. Now this is the tree canopy. The question you asked about the tree canopy existing versus proposed in the ordinance, in Kit's amendment, you can see all of them go up 5%.

Alderman Theil: Right now 30% is correct.

Tim Conklin: This is what's in the current ordinance, if you amend it the C-2 would go from 15% to 20%, the RO from 20% to 25% and so on. You add five, everything in the white that exists you add 5% on top of that.

Kit Williams: And most of the property is either RMF-4 or RA which both would go to 30% just as currently the ordinance is written.

Tim Conklin: And we are doing this in the spirit of protecting tree canopy or creating preservation zones where we own the restate, we are paying taxes on it, but we are going to be limited on what we can do with 20, 25, or 30% of it based on this amendment.

Kit Williams: I think this is directed toward erosion control and stability of the soils and to protect your neighbors down stream and up stream of the hill. I think ascetic consideration might be some part of this but it is mainly for erosion control and grading and that sort of thing, that basically this whole ordinance is directed at.

Tom Terminella: So it is being upped from basically 20% to 30% across the board, 5% increments which would be 20% to 30 % collectively in those zones.

Kit Williams: We set a 15% for commercial and residential 20%.

Tom Terminella: Yes I understand that, but it is all zones and this is basically in the spirit of preservation of canopy. So if one owns an acre they can do something with sixty-six hundredths of that area because 30% of any residential zone basically 30% of that parcel is to remain undisturbed.

Kit Williams: That's correct. Right now its 25% anywhere in town, but on the Hillside it would be 30%.

Tom Terminella: Okay. Thank you.

Sharon Davison: I was going to stand down on this but point counter point I can't help it the balance has to come in. I have to say thank you all, thank you for giving us that extra five percent it will make a difference, it is sort of simple 30, 30, 30, 30 it could be fair, looks even, I understand it. I appreciate you giving us more tree coverage because again I would like to point out that even with these protections, look at the tree ordinance we had before this and what happened up on Olive. It is called Fayetteville Commons, that ride I used to live next door to when I first moved here and it was 100% tree canopy, if we could look at the slide again and see how that lot has been developed. I just didn't even know how under our previous ordinance how that could have gotten through, its amazing it was considered 100% tree canopy, now that project got through and I think a lot of Mr. Terminella's project will still get through with the 30% and I thank you for doing one more thing to help protect us all.

Mayor Coody: Thank you. Anyone else want to comment on this tonight. Going once, going twice, we closed to the public comment and come back to the City Council. We have a motion in the second on this, is there any discussion from the Council on this? Shall the motion pass?

Alderman Marr moved to amend the ordinance to increase the tree canopy an additional 5% for each zoning requirement. Alderman Lucas seconded the motion. Upon roll call the motion passed 5-3. Alderman Thiel, Marr, Rhoads, Lucas and Jordan voting yes. Alderman Cook, Ferrell and Reynolds voting no.

Kit Williams: There is one that is kind of in conjunction with that and that's the minimum disturbed land. Basically what I have done on that is stated that the minimum disturbed land will match the minimum tree canopy, before, it was matching these numbers, 30%, and what I have done on that was said that the minimum disturbed land.....

Alderman Thiel: Is that in here?

Kit Williams: Yes it is actually in the ordinance and I did mention it.

Alderman Thiel: I don't see that.

Kit Williams: Yeah if you look at the top of page five it says, the new requirements for minimum undisturbed lands in the Hillside Overlay District for large scale developments and lot developments were stated by sentence rather than by a revised table and called for matching the minimum required tree canopy of each zoning district in the Hillside Overlay District. So again this would be basically matching what the tree canopy must be and that must be the same number for minimum disturbed land.

Alderman Thiel: I didn't think it was matching, I thought it was 60% in the new ordinance?

Tim Conklin: Under the existing grading ordinance when you do a subdivision you are allowed to, if it is15 to 20%, you can only disturb 15% of the site during the subdivision. So let me state that again, that an existing ordinance, I just want to clarify that, right now you can only disturb 50% of the site to build your subdivision. What this is doing is changing this section of the ordinance to require that a certain minimum percentage of the site be left undisturbed. Staff would recommend, since the tree ordinance amendment passed that you follow the same percentages the two were tied together with regard to the 30% of the 30%, so everything in green

was what was proposed, it would change based on zoning now. So the table would look different from what is on the screen right now but it would follow the tree ordinance percentages.

Kit Williams: Basically what this has done is added something. The 40, 50, and 60% for preliminary plats will remain the same. Before that there was no regulation on large scale development or individual lots that has now been placed in and those particular percentages for large scale developments and lots would match the tree canopy requirements that you all just passed. So that has been the change, the reason the preliminary plats have such a high one is because that is not the full development, that is a placing in the infrastructure, the streets, the pipes, the sidewalks, and everything like that. So developers have no trouble meeting that requirement. What this does now though, it says developers of individual lots must have a percent of undisturbed lands, probably 30% because most of these would be residential developments and that matches the tree canopy requirements.

Alderman Thiel: This is something that we didn't discuss last night and before I can make a discussion on this I would want to analysis it a little bit better.

Kit Williams: That's the reason that I brought it up because I didn't make it clear enough when I was writing my memo to you.

Mayor Coody: So this will go along with the hilltop, something for future discussion.

Alderman Marr: I have a question on that. So assuming that we did not want it to match, I guess what is going through my head is the vote we just made and so if it the recommendation that they consistently match then I want to reconsider my last vote. If they can be different then, or we can go back to the other one at the last meeting or whatever meeting we vote on then I am open to that. I guess what I am trying to understand, is there a reason that they have to be the same.

Kit Williams: Right now of course they don't match and they won't match for a prelimanry plat because the developer would still have to have a minimum of 40, 50, or 60% undeveloped, undisturbed lands and that will not change. The new requirements is that we are now putting requirements on home builders and the home builder now must have a 30% undisturbed part or would if you adopted this, must have a 30% undisturbed land area on the lot that he is going to be building a house on. That's reduced if it commercial where the commercial builder, a large scale developer would only have to have 20% of undisturbed land as apposed to 30%. So 30% was the tree requirement for a commercial development now. The land disturbance should basically match, I think, the tree canopy.

Alderman Jordan: I am glad you clarified that.

Mayor Coody: One of the major problems that we have in developing Fayetteville is that lets just say for example someone has 100 acres and they want to develop 100 acres, we require the land developer to preserve an undisturbed percentage of the piece of land, then those lots get sold to spec. builders or somebody that's going to build customs homes. There is no requirement for them to do anything on that lot except tear it up; they can do anything they want to with it. Under this ordinance they would be required to leave 30% of those lots undisturbed, tree canopy, whatever those proportions those work out to be. But right now a lot, a spec. builder can go

flatten a lot that a developer took a lot of time and care to preserve, so when the homeowner buys the house, he will be buying a lot that was once nicely wooded, that has had every tree taken off.

Alderman Thiel: What kind of tree, are we talking minimum?

Mayor Coody: They are related.

Alderman Jordan: I understand what you are saying, in other words if you put a piece of property in 30% large scale developer would be left in tack, but if an individual bought piece of that…

Mayor Coody: It would be more than 30% in those numbers.

Alderman Jordan: But if an individual bought that then they would be able to take it down to whatever.

Kit Williams: The reason we need undisturbed land defined for individual lots is because there might be some lots without trees on them. If there are lots without trees on them and you don't have the same sort of requirement of 30% undisturbed then they could disturb that land because there is no tree canopy to save, no tree preservation area if there is no trees on the lots. This would take care of those situations where trees might not be on the lot and yet the builder would still have to preserve 30% of the lot to be undisturbed.

Alderman Jordan: No matter what?

Kit Williams: Yes.

Alderman Ferrell: So if the builder removes some of the canopy but left 30% but he did remove some of it that would be disturbed land right.

Kit Williams: Yes.

Alderman Ferrell: So he would have to go to 30% additional percent of the lot to be undisturbed, is that correct?

Kit Williams: Well he probably wouldn't be able to remove the canopy, he has to leave 30% canopy.

Alderman Ferrell: What I am saying is that he removed some trees so he has disturbed that 30% that he is leaving, is he going to have to leave an additional 30% of undisturbed?

Mayor Coody: No.

Alderman Ferrell: Okay I just wanted to make sure.

Alderman Jordan: What you are saying is basically that 30% will stay intact no matter what.

Kit Williams: If there are trees on it or not.

Mayor Coody: If it has trees on it would be part of the tree canopy if there are no trees on it, it would just be 30% undisturbed land.

Alderman Ferrell: If he got it down to 30% that would be left undisturbed.

Kit Williams: We have to protect 30%.

Mayor Coody: If you are a home builder and you buy a lot to build a house and to sell, you would leave 30% of your lot undisturbed.

Alderman Ferrell: Hopefully where the trees are.

Alderman Thiel: Are you saying this is not in the draft that we are looking at.

Kit Williams: It is in the draft.

Alderman Thiel: But you are changing the percentage?

Kit Williams: Yes and I took out the table, because I left the original table just as is for prelimanry plats, there is no change in that. I thought the table that was in there was kind of confusing I guess it wasn't confusing as this.

Alderman Thiel: No it wasn't.

Kit Williams: Instead of putting a table in I simply stated that it would be that same as all the tree preservation requirements in the Hillside Overlay District, it would match that so that we would know that there would be at least 25 to 30% depending on what kind of zone it was that would be undisturbed even if they did not have trees on their lot.

Mayor Coody: Is there a motion to approve this amendment?

Kit Williams: I think they need to think about it some.

Mayor Coody: I think so too. So, what's the next one? Is there any public comment on this amendment?

Alderman Thiel: If you understand it.

Mayor Coody: That's right there is no motion. Tom.

Tom Terminella: A 30% undisturbed canopy or 30% undisturbed lot is one in the same, so it's not 30% in addition to the 30% of the canopy. The question becomes now you can't re-force that area, you can't put irrigation in, you can't sod it, you can't improve it, you can't do anything through your entitlement, and you can't use that 30%.

Mayor Coody: Wait Tom, let me explain. The way this is set up, the way this amendment is set up, if you're a home builder and you are going to be selling this house, you would build your

home and protect 30% of land, undisturbed canopy, undisturbed soil, grass, doesn't matter what it is, when the homeowner buys the house and he gets a certificate of occupancy that lot is his or her because we don't want a homeowner having to come down to city hall to get permission to take out a dead tree, to remove one they don't like so they can plant another one or to put in irrigation or things like that if they want to. So the homeowner has all homeowner rights that they are afforded right now, it's the home builder that has to protect more of the lot then they are having to right now.

Tom Terminella: Is that not contradictory to where we are trying to go with this, if it is 30% undisturbed why should the in-user come back and be able to disturb it?

Mayor Coody: Because when they get a lot the trees are all taken off anyway. They don't have the option to preserve anything, that's the problem.

Tom Terminella: I guess that I am just grasping for an understanding, if it is 30% undisturbed area or 20 or whatever zone it is can anything be done with that ground?

Mayor Coody: Not by the builder, but by the homeowner, yes.

Alderman Jordan: Right now.

Mayor Coody: No right now the builder can do whatever he wants and the homeowner just buys it.

Tom Terminella: So the builder is going to build this house, he is going to leave the back 30% of this lot; he can't improve it at this point. The in-user comes, purchases it, they come excavate, put their pool in, do their fence and do whatever improvements in the backyard. I am just trying the find a rational of it.

Alderman Thiel: I agree with you Tom.

Mayor Coody: So the homeowner should be restricted to not be able to do. Its just a pylisofical question.

John Nock: I actually support this. Design Workshop has spent a great deal of time dealing with this on hillside and when you don't disturb that land the natural form of the hillside has already dictating what is going on. So in my opinion, I don't fully understand exactly how this ordinance is written but I think I would like to see it go all the way through to the property owner as well. My point was that I think that the intent of this is a good thing for the hillside because you can keep some undisturbed land percent appropriately in not only a large development but also in a single family home. What I understand through the dialog that we've been hearing throughout this process is a lot of the offenders, if you will of hillside erosion and other things have been the single family homes that someone comes in and clear cuts it, whether it is the builder or the property owner. So if we are going to protect that issue then we should look at how it is going to affect long term not just through to the builder or don't restrict any at all because it really won't correct the problem. I understand last night there was a discussion that most people love trees and they don't want to see the trees go away so most property owners are not going to cut down their trees, but we are really talking about something different than tree

canopy, we are talking about disturbed area. That may mean that you could have a greater impact on the hillside from the disturbed area because you could go in and do a retaining wall and not disturb a single tree and still disrupt the hillside. I think this one is a pretty good one to consider, I don't understand how it is written currently.

Kit Williams: I can read it to you and make it a little clearer. I just want to add this one sentence instead of having that table. *In the development of large scale developments and lots within the Hillside Overlay District, the minimum amount of undisturbed land shall equal the percent minimum tree canopy pursuant to table one of section 167.04 C.* So it just mirrors the tree preservation percentage.

John Nock: I think that is moving in the right direction personally.

Coleen Gastin: I was reluctant to come up on the last discussion on the tree canopy, although those who were there last night heard my opinion. I think it is better to keep a uniform percentage applied to all zoning designations, I think that is more legally defensible. If your basis for increasing the tree canopy is because you need to protect against erosion, you need those roots systems, the tree is there to help stabilize the hillside, then to me it doesn't make any difference whether it is a commercial building or a residential building, you still have you basis for that, whatever that percentage is going to be whether it is going to be 30% or something else. To me it seems that a uniform percentage is what make sense, I also think that holds for the minimum undisturbed areas.

Alderman Marr: I would like to move to reconsider the amendment on the tree canopy percentages.

Alderman Thiel: Second.

Alderman Lucas: I am just curious as to why Alderman Marr.

Alderman Marr: Because I think that the undisturbed area of the subdivision is extremely important. If you can't do a development on 70% of land and we are going to require that it has to match in all zonings then I am concerned about that. I am not sure that my position would be that same.

Mayor Coody: So you want 30% undisturbed in commercial as well as residential.

Alderman Marr: The vote may still be there but I just want to reconsider that item.

Mayor Coody: There is a motion to reconsider that vote, shall the motion to reconsider pass.

Alderman Marr moved to reconsider the amendment to increase the tree canopy an additional 5% for each zoning requirement. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Mayor Coody: So we are back to the original ordinance.

Kit Williams: No it is back on the table.

Jill Nock, a Fayetteville residence: My husband is John Nock; I would just like to respond to that comment and what that was about since my name was mentioned in this public forum. A comment was made about my husband that he finally was going to accept something, I turned my head and offered my hand in introduction, and that's how that came about. That's all I have to say. Thank you.

Mayor Coody: Thank you very much.

Alderman Lucas: Why don't we hold off on this and let Kit gives us another memo with the explanation of the two things. I would feel more comfortable with it, if we could.

Kit Williams: I would remind you also if you look at the map on what land is on the Hillside Overlay District, there is virtually no commercial property. The only commercial property that is there is at the foot of the hill. I think that it is much more defensible not to double tree requirements and undisturbed land requirements. So I would hope that you would look at the entire Hillside Ordinance and all the land that is encompassed within there and look at that and make your judgment at that point about what you want to do.

Alderman Thiel: I just want to make one comment. You are correct about the low percentage of commercial; however, there is 6% of multi-family that was the concern that was brought up last night by some people that live adjacent to the multi-family zoning. That was a 10% reduction in tree canopy from the 30% to the plus 5%. I just want to point that out. That was more of a reduction in that then it was in the single-family. So I still had reservations but I felt like it was kind of a compromise I felt like, but not if it is going to make all this other adjustments. That really concerns me, dealing with the multi-family, because if you recall this whole thing started based on a resolution to deal with the multi-family, so that is a significant part of this.

Mayor Coody: That still can be fine tuned.

Alderman Ferrell: Last night we talked a little bit about perhaps changing the way we measure the heights limits, like instances where houses are built and molded into the hillside.

Mayor Coody: You could bring it up.

Alderman Thiel: Did that get withdrawn by everybody?

Mayor Coody: The motion to reconsider passed unanimously, so that means we are back to the original set of numbers, but it is still up for debate on if it needs to be changed anymore along with the hilltop discussion and what other discussions are going to be discussed again.

Alderman Thiel: So we can table this motion

Alderman Marr: I am withdrawing my motion.

Kit Williams: Pardon, I didn't hear that.

Alderman Marr: I said that I withdrawn my motion.

Mayor Coody: To reconsider?

Alderman Marr: No, withdrawn my motion to the 5% adjustment. So we will debate it or talk about when we see the memo from the City Attorney.

Mayor Coody: So what is the next amendment for discussion.

Alderman Ferrell: I would like to know what people think.

Alderman Thiel: Well right now it's at 60' that would accommodate quite a few stories probably so that's where the ordinance is right now, 60'.

Alderman Marr: I think Alderman Ferrell was talking about the slides last night where we looked at 3-story houses built on or within the slope versus one that went 68' up from; I guess it's most adjoining property not using the terrain, the stepping building. I mean we had a discussion about historical grade measurement versus I guess the higher measurement. The Planning Staff felt strongly that we should stay with historical grade measurement. I like the idea, that we maybe look at some consideration for step building which we had not done because I do think that they were appropriate photos shown that did not create the scenario that we were trying to address with the height requirement, so I don't know how we do that. I mean we talked about in the code having the step process maybe being measured differently if you don't step or if you build directly up, but I don't know how we would do that.

Alderman Ferrell: Well, currently its 60' but the proposed amendment would make it 42', is that correct?

Alderman Thiel: No one has made that amendment.

Mayor Coody: This is the proposed amendment.

Alderman Ferrell: The one we talked about last night.

Alderman Thiel: But no one has made that amendment.

Alderman Jordan: Alderman Ferrell is fixing too.

Alderman Thiel: Okay.

Alderman Ferrell: No I am interested in maybe trying to dove tail those two things together like the consideration for a house that's built with the hillside, and our height limit.

Alderman Marr: I think last night we talked about that measurement would be higher if you measured from the historic grade and lower if you measured it from the higher point and the only reason I keep coming back to the historic grade is I think Tim and Leif felt strongly about the measurement from historic grade. So that's why I was trying to figure out if there is a way to look at the stair stepping component in the measurement.

Mayor Coody: Tim, Leif is there a chance that you all could come back, think about this and generate some ideas about how this might be resolved?

Tim Conklin: What I would suggest is that we go out and take a look at some additional structures in Fayetteville and see how they work with the terrain and measure them, that's the purpose of the three or four slides that I showed this evening, so certainly not this evening, but when we come back I can make some type of recommendation on that.

Mayor Coody: Thanks Tim. Is there anything else?

Alderman Reynolds: Last night I heard the ideas of three stories rather then height and I support that because 60' is five stories.

Mayor Coody: It depends on how tall the story is. You could have three 20' stories which is not impossible and that would be 60'.

Alderman Reynolds: It's according to where you start.

Mayor Coody: Alright, any other amendments to be discussed?

Kit Williams: Do I hear a motion to table?

Alderman Rhoads moved to table the ordinance to the April 4, 2006 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion failed 3-5. Alderman Rhoads, Ferrell and Reynolds voting yes. Alderman Thiel, Cook, Marr, Lucas and Jordan voting no.

Mayor Coody: The motion fails 5-3 so it's still open for debate.

Kit Williams: But we need to have something on the floor, some amended motion before we have comments, some motion to amend it in some way.

Mayor Coody: I would like to ask if we consider the PZD's situation.

Alderman Thiel: Okay, he was going to suggest one other thing he wanted to discuss.

Mayor Coody: What was the language on the PZD?

Kit Williams: We don't have language on the PZD that was talked about last night. We need to get a sense of the City Council before we go on.

Mayor Coody: Allowing the PZD to be an option for development.

Kit Williams: Right and so that the minimum requirements that are in place for several things would not necessarily apply to the PZD.

Mayor Coody: Sharon, would you like to address us on the PZD question?

Sharon Davison: I would like to address you on the amendment to the height. We are not just speaking about single residences in the height such as we call it the source over from the south side, whether the building is appropriate, too tall or whatever. The one structure of a single family home that changed the whole look of Mt. Sequoyah as you drive up Dickson, I call it the blue box on the hill. It is a large structure which actually when you see it, it is a different type house from all the rest on the mountain. I would hope that everyone would look at that and I would appreciate it if City staff would also measure as a comparative to this. So to close on this particular issue and height and how it relates to beyond single-family residences is parking. I understand they were able to build an underground parking deck to accommodate the height at Shuler Town, for much needed parking spaces. She went on to speak about her concerns with the height of structures and where people will park due to these high structures.

Mayor Coody: Any one else want to address us on this issue? Hello, Marsha.

Marsha Robison, a citizen: I am interested in the height issue as well. I don't know that I particularly think that you need to bring it down, but if you feel like you do, then I would like for you to consider a change in the definition of height. You have here that the building height shall be measured from the lowest point of the structure at the historic grade, after I listened to Alderman Marr last night, I would suggest that you change it to the highest point of the historic grade. That would allow for houses like this to be built. If they measured it from the highest point of the historic grade, then they could continue to stair-step down the hill like that and it wouldn't be counted against them. When you are considering the height on hillside, you are also talking about the foot print of the house. I think it is advantageous possibly on a hillside to have a structure be higher if it could take up less of a foot print because really it would be less disturbed ground.

Mayor Coody: Any other questions or comments on the heights comment? On the PZD question, unless you wanted to make an amendment for the height right now or are you going to let them come back with something?

Alderman Marr: Mayor, I think that task force and the Ordinance Review talked about the fact that PZD, Planned Zoning District ordinances should be able to be allowed within our Hillside Overlay area. So that if a developer was able to bring forward a development that, in their requests for variances, that would be against the Hillside Overlay would be weighed against the benefit of what they were offering, cluster development and things of that nature. I don't think it was our intention to ever exclude the PZD process from the Hillside Overlay, so I would support your comments.

Mayor Coody: Is that a motion to use the PZD process?

Alderman Marr: To allow the PZD in the Hillside Overlay protection.

Alderman Jordan: Second.

Alderman Rhoads: What does allow mean?

Mayor Coody: It means that a person can choose to use the PZD process.

Kit Williams: What this motion would do is say that the PZD process would not necessarily have to comply with certain requirements that are now in it, like the tree preservation, which now much have the most restricted zone. This would allow the PZD to be looked at as a whole so that when you talk about minimum land disturbance or minimum tree canopy, they would not necessarily have to meet those minimums if they were satisfactory otherwise to the City Council.

Alderman Marr: And if they are not then they would turn it down and it shouldn't be used as a way of circumventing the ordinance, but there should be some greater benefit to the PZD design.

John Nock: This is one that I think is a very good plausible design opportunity for the City to be able to review at every level process, from the staff, to the planning commission, to the City Council and multiple public opportunities to review the process. I am a big fan of the PZD, there are those that may not feel as comfortable as I do about the Planned Zone Development process. I believe ultimately it is a tool for better design for communities that are forward thinking that see the opportunities for what you do today and how it will affect you tomorrow. I appreciate this consideration I think it is a good thing for Fayetteville.

Mayor Coody: Anyone else have any comments or questions?

A citizen asks the City Council the definition of how small a PZD can be; one lot or is it restricted to 10 acres?

Mayor Coody: No, I think it can be small, isn't that right Tim.

Tim Conklin: That's correct.

Alderman Marr moved to amend the ordinance to allow the PZD process in the Hillside Overlay protection area. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Alderman Marr moved to table the ordinance until the April 4, 2006 City Council meeting. Alderman Reynolds seconded the motion. Upon roll call the motion to table passed unanimously.

This ordinance was left on the second reading and tabled to the April 4, 2006 City Council meeting.

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 ordinance was left on the Second Reading and Tabled at the February 21, 2006 City Council Meeting to the March 7, 2006 City Council Meeting.***

Alderman Marr moved to table the ordinance until the March 21, 2006 City Council meeting. Alderman Cook seconded the motion. Upon roll call the motion to table passed unanimously.

This ordinance was left on the second reading and tabled to the March 21, 2006 City Council meeting.

Continuing Education Center: Review the University's request to exercise their purchase of the Continuing Education Center. ***This item was Tabled at the February 21, 2006 City Council Meeting to the March 7, 2006 City Council Meeting.***

Mayor Coody: This is not an ordinance it's just an agreement, contract, resolution?

Kit Williams, City Attorney: This is just for discussion with the City Council to see what the City Council wants to do. They certainly have seen numerous memos on this particular issue and responses from the university also. I think there is currently an offer from the university on the table of $207,650 which was arrived at after they did further consultation with our Accounting Department about how much taxpayer money was actually used in this project that has not been refunded and now it's up to the City Council to determine what kind of response, if any they give to the university.

Mayor Coody: The University and the City have had a long and prosperous relationship and we certainly see that continuing. This has been an anomaly because of the contract that was written back thirty years ago wasn't as clear as all of us would like for it to have been. I think this latest round of agreements has been productive and if the City Council would consider it I hope that the City Council would agree to letting the university buy the building from us for $207,650 and we can put this episode behind us and we can all go back to all the hundred million things that we have to do everyday.

Alderman Marr: I'm going to recuse from this vote. I currently teach a certain Continuing Education class at the university as well as work with various departments in staffing and in consulting in my business.

Mayor Coody: Alright, anyone else?

Alderman Jordan: Yes, I must also recuse I also work at the university and I also work for the City.

Mayor Coody: You might not have a quorum here pretty soon. Anyone else?

Alderman Thiel: I'd like to.

Mayor Coody: I would encourage the City Council to accept this although you certainly can think for yourselves. Any comments on this?

Alderman Cook: Has the city reviewed their latest offer? I mean they've been running numbers we've been running numbers going back and forth where are we at on that right now?

Kit Williams: I think Marsha is here who is the head of the Accounting Department.

Mayor Coody: Is Marsha here right now? Marsha Farthing. I want you to give us a two second thumb nail sketch on how we arrived at the $207,000 that's our number isn't it?

Marsha Farthing, Accounting Manger: Yes it is. You can see from the schedule when we tried to recreate this we had to go back 25 years and go through all the trustee statements. We had all these expenses and all these revenues that we related to the project itself to the CEC building. Some of the things that were on this schedule that the university people looked at and came back to us and pointed out, especially that $600,000 interest payment, that was actually done through the bond issue instead of coming out of the tax payers money, and so that was what we excluded. There was a couple of columns that were eliminated through that because it was in the bond proceeds that it was funded and it wasn't funded with taxpayer money like the HMR tax.

Mayor Coody: One thing that I want to point out is that since the company that did a lot of the work for us the bonding company went out of business a long time ago. So all these records had to be regenerated and a lot of files have been purged so it was very difficult to get all this information and we're still not sure what line of information is missing or in there. So there's no way we can come up with a once and for all final number on this because this goes back to far and the records are incomplete.

Kit Williams: We feel like this is a pretty good number. The trustee is the one that actually is no longer in existence, and of course we had relied to some extent to the trustee's figures. Initially the Accounting Department had been giving the spread sheets both to me and to the University about the cost and expenses and revenues of this project. Initially we didn't look beyond or earlier than when the bonds were let, and that's before we examined the minutes for when the lease agreement was actually approved and at that point, then Mayor Malone who later became Senator Malone stated on the record basically that the way I read the minutes I felt that; and I gave you all a copy of them; that his indication was is that once all of the Fayetteville City taxpayer money had been returned to the City then the City would I think he even said give the CEC to the University. So I think the intent was once all the money came back to the citizens of Fayetteville for there investment into the CEC including insurance because he mentioned insurance even there in the minutes then we would then sell it at the end of the term after all the bonds had been paid off and of course all the bonds have been paid off, and we've been looking at it. Initially I didn't go back and look at the minutes of 1977, 1979 I just looked at the lease agreement and the lease agreement doesn't talk about rent or anything else like that. I don't think you're necessarily bound legally by exactly by what they intended to do back in 1979, both sides are really legally bound by the lease agreement, however I think it's fair for you to consider what the intent of the parties were back in 1979 and I think that if you do then that was their intent and this figure of $207,650 is in fact a pretty accurate figure. Marsha can back me up she had to back and do a lot of digging through the archives to try to find all these other figures, but I have good confidence in her that she has found the figures that are appropriate and should be applied to this. I think this is the most accurate figure we can probably come up with at this point and time, it is a figure that the University has agreed to, they may not be 100% sure of it either, but they've agreed that this is a satisfactory figure to them. So that is primarily I guess the offer on the table right now from the University.

Alderman Rhoads: Mayor it appears that the Council does not have to resolve nor does it have to ratify anything, but merely except and I think that I'm hearing the City Administration saying that they would like for us to except this $207,000 offer and I so move to accept.

Alderman Lucas: And I second it.

Mayor Coody: We have a motion and a second to accept this number is there any other comment from City Council?

Alderman Lucas: I'm satisfied if Kit is satisfied and if Marsha is and I certainly think that since the University is one of our biggest industries that this is something that we need to go ahead and get cleared up.

Mayor Coody: Anyone from the public have any comment on this? I'm going to close it to public comment. We have a motion and a second to except this.

Alderman Cook: I don't know if I'm completely satisfied but I'm willing to go ahead and vote. It just seems like we started at such a large number and now were down to this number. I'm looking at this spread sheet now, I didn't get a chance to look at it before this meeting, but it just seems hard to believe for me how we come from that original number down to the $200,000. I know Marsha spent a lot of time on this and I appreciate that certainly, because we've been going around and around on this but I still have some concerns with that number.

Kit Williams: Well of course the reason is that the initial number was based solely upon the lease agreement and the language in the lease agreement and the offer to purchase language within the lease agreement that talked about the cost of construction and the cost of financing would be one number and that was about $10,000,000 less than the state turn back funds which was $5,000,000 so that's where you came up with a little bit under $5,000,000. But since that point in time it's been clear that the intent of the parties from affidavits you've received from many and most of the parties that were present and from the minutes that were officially recorded back in 1977 and 1979 that the intent of the parties was different than what was recorded in their lease agreement. The lease agreement even though it might have been 48 pages long did not seem to completely capture what the parties believed were in there. I'm not telling you, you have to go with this other figure we could still say well were going to go with the contract and nothing but the contract but I think looking back over what the record is and what it was back then with our official minutes of our city I think you certainly very well could you have the statutory power and you have the right to except this offer if you see fit.

Alderman Rhoads moved to accept the amount of $207,650 from the University of Arkansas for the purchase of the Continuing Education Center. Alderman Lucas seconded the motion. Upon roll call the motion passes 5-1. Alderman Thiel, Rhoads, Ferrell, Lucas, and Reynolds voting yes. Alderman Cook voting no. Alderman Marr and Jordan recused.

Kit Williams: Mr. Mayor I also in case that motion passed I have prepared an ordinance to waive the requirements of §34.27 of the Fayetteville Code of Ordinances and to authorize the sale of the Continuing Education Center building to the University of Arkansas for $207,650. The rules would have to be suspended for you to consider this ordinance. The reason I've prepared this ordinance is that the sale even though it's related to some extent to the option to

purchase its not precisely related to the option to purchase. We have an ordinance that says how you sell city property and so I think that particular ordinance should be waived for this sale just to insure that the sale is totally within our own rules of procedure that we don't violate our rules. If this was going to be placed on the agenda then the rules would have to be suspended so it could be placed on the agenda.

Alderman Ferrell moved to suspend the rules and add the Continuing Education ordinance to the agenda. Alderman Rhoads seconded the motion. Upon roll call the motion passed 6-0. Alderman Marr and Jordan recused.

The following ordinance was added to the Agenda

Continuing Education Center Building Sale: An ordinance to waive the requirements of §34.27 of the Fayetteville Code of Ordinances and to authorize the sale of the Continuing Education Center Building to the University of Arkansas for $207,650.00

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-1. Alderman Thiel, Rhoads, Ferrell, Lucas, Reynolds voting yes. Alderman Cook voting no. Alderman Marr and Jordan recused.

Ordinance 4838 as Recorded in the Office of the City Clerk.

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 ordinance was left on the Second Reading at the February 21, 2006 City Council Meeting.***

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

City Attorney Kit Williams read the ordinance.

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

Alderman Lucas: I haven't either.

Alderman Jordan: It looks pretty good to us. We don't have a problem with it.

Tom Hennelly, H2 Engineering representing the owners of this property stated he was caught off guard last month when it was left on the second reading, and wanted to make sure there were no questions or concerns.

Alderman Jordan: Everything is everything.

Tom Hennelly: Thank you.

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

Ordinance 4839 as Recorded in the Office of the City Clerk.

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 ordinance was left on the Second Reading at the February 21, 2006 City Council Meeting.***

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: I know at the last meeting we discussed a separate piece of property about a higher density and we discussed the 2025 Plan extensively at that last meeting about trying to increase density in certain areas. Do we have any discussion as far as that on this piece of property? I know Ward 4 was against that the last time because they had not discussed that with their members and I respect that.

Alderman Jordan: We still haven't discussed that so were going to stay with RSF-4. I don't have a problem with the more dense properties but until we can talk to people at the ward level I'm just hesitant about doing that.

Mayor Coody: One thing we might start considering is when a developer brings a project through for an annexation or rezoning the conversation might happen on the front end about maybe a higher density or maybe some kind of clustering development and allowing some higher density development.

Alderman Jordan: Honestly until Dover Kohl came in and presented some of that stuff I had never considered that.

Lex Broyles, developer stated this was all done before Dover Kohl we wanted to go ahead and get it annexed and rezoned. We are considering and planning on doing a PZD and bringing something back more in line with what they had talked about.

Mayor Coody: Good. Thank you very much.

Lex Broyles: We just wanted to go ahead and get it done.

Alderman Thiel: I really like the PZD process, that way we actually see what were getting.

Mayor Coody: Yes that's a very good point.

Jeremy Pate: I would like to ask that the Council to have a policy discussion because we're basing our rezoning and annexations requests on what's currently policy and the Dover Kohl study while I think it is very positive and we will be happily recommending a lot of changes in our general plan update City Plan 2025, it's important for us to tell the citizens and developers what policies and guidelines we have in place.

Alderman Marr: I do think we need to have that policy discussion, but we're talking about very flat areas in the City. Were talking about areas were the school districts bought 110 acres and so when we talk about having land that's zoned for higher density and when we're talking eight we're talking Washington Willow, we're not talking about multi-family. Washington Willow development is some of the highest property value in the city and some of the nicest designed in the city. I think we like the PZD process because we've been burned on things before but I also believe we need to be directing where we want density because later when something comes forward after we've already zoned it RSF-4 we're going to hear we don't want it because it wasn't this level of density when we purchased the land. That's my concern about not creating these on the front end.

Alderman Jordan: I might add also that might help with attainable housing because you're putting more houses on less land so you get more bang for your buck on your acreage. That could help the housing market actually.

Alderman Thiel: It can.

Mayor Coody: It has the potential to, yes. Does anyone from the public have any comment on this rezoning?

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

Ordinance 4840 as Recorded in the Office of the City Clerk.

R-PZD 05-1636 Wellspring: 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. ***This ordinance was left on the Second Reading at the February 21, 2006 City Council Meeting.***

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas: How much park land are we getting in this?

Jeremy Pate: Approximately 19 acres is being dedicated for this development with an additional 2 acres along the creek and trail corridor that would eventually connect to Hamestring Creek.

Alderman Jordan: I thought Red Oak hooked into that also.

Alderman Lucas: No, Bryce Davis does.

Jeremy Pate: Correct Bryce Davis does connect to that part.

Alderman Jordan: So that would bring us up to about 23 acres?

Alderman Reynolds: Bryce Davis is 9.2 acres.

Jeremy Pate: Bryce Davis is 9.2 acres.

Alderman Jordan: Added to that?

Jeremy Pate: Right. So a total of 28.2 acres?

Alderman Jordan: How wide is the street going to be along Rupple?

Jeremy Pate: The developers have committed to building half of the boulevard along Rupple Road in the first phase of their development that's a 28' cross section and then half the side of the boulevard. We will discuss at the time of construction whether the City will want to go ahead and build the other half at that time or wait until some point in the future.

Alderman Jordan: And the length is?

Jeremy Pate: Approximately .7 miles.

Alderman Jordan: Three quarter's of a mile.

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

Ordinance 4841 as Recorded in the Office of the City Clerk.

DRAFT

NEW BUSINESS:

Improvement District No. 13 - Creek Meadow: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 13- Creek Meadow.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody: Anyone in the audience have any comment about this?

Jim McCord, representative for the petitioner: No comments, I would be glad to answer any questions.

Mayor Coody: Thanks Jim.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4842 as Recorded in the Office of the City Clerk.

Improvement District No. 14 - Clearwood Crossing: An ordinance to establish and layoff the Clearwood Crossing Multi-Purpose Municipal Property Owners' Improvement District No. 14 of Fayetteville, Arkansas.

City Attorney Kit Williams read the ordinance.

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.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4843 as Recorded in the Office of the City Clerk.

R-PZD 06-1883 Abshier Heights: An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1883, Abshier Heights, located south of Evelyn Hills Shopping Center on Abshier and Hillcrest, containing approximately 4.11 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

Jeremy Pate: Jeremy gave a brief description of the project. Jeremy stated that part of the reason staff recommends this project is to preserve the buffer and to allow for that to remain. Planning Commission voted 6-3 in favor of this request. Those who voted against the motion discussed concerns regarding density, traffic, water pressure, and architectural compatibility in the neighborhood. Staff recommends approval of this planned zoning district based on the findings of facts as well as the 23 conditions of approval. He went on to describe the conditions of approval.

Mayor Coody: Do we have anymore questions for Jeremy? Thank you very much.

Rob Wicks a resident of 1314 Hillcrest voiced his concerns about the rezoning and asked that this particular rezoning and development be denied. He suggested that the parcels of land in question be considered for a park or natural area and or detached single family or patio homes. He stated they will be willing to work with the City to find grants that might be able to acquire and maintain the land.

Jeff Shannon a citizen addressed the historical significance of both Fay Jones and the house. He voiced his concerns about the impact of development on the home and particularly a development with this particular density.

Rob Wicks asked those who are opposed to the development to please stand for a moment.

Mayor Coody stated that they certainly understood that there where several here that are opposed to the development.

Robert Alguire a resident of 1235 Hillcrest voiced his concerns about transition zoning and water pressure. He stated adding 30 more units on the same water line would not help with their current situation. He also stated concerns regarding traffic coming in and out of this area.

Shay Hopper a resident of 1224 North Hillcrest voiced her concerns with the price per square foot and the density of the particular proposal. She stated she participated in the City Plan 2025 exercises she stated those exercises showed infill for this area but they did not take into account

topography, eater pressure, hillsides, grades and infrastructure, all of which apply to this particular parcel. She stated the neighborhood is not opposed to appropriate infill for this piece of property.

Jimmie Beauchamp a citizen voiced her concerns about the history of the property. She also talked about the tradition of the proposed property. She stated that the setbacks for the C-2 zoning would make it very restrictive for a developer to build a commercial business on this piece of property. She also stated access would limit C-2 businesses. She stated they are willing to take a chance on this property being zoned C-2.

Jan Wicks a citizen handed out information to the Council and stated that they're not opposed to appropriate infill density of development, but in this case they feel there has to be a special consideration because of the unique situation. She also asked that this particular zoning request and development be denied.

Mayor Coody: Thank you Jan. Does anyone from the Council have a question for anyone that had a presentation tonight? Thank you for your organization and speaking to us as you have tonight.

John Williams a citizen spoke about Fay Jones and his great talent, special designs, and special quality to the architecture in Fayetteville and residential architecture. Since his home is located close to this property the City should set aside space to continue Fay Jones home as special.

Alderman Cook: I know that there was an initial traffic study done and I understand that there was an update to that traffic study, is that correct?

Tom Hennelly stated that there was an initial traffic study done and recommendations were made based on the number of units.

Alderman Cook: I'm curious about the traffic study I have to admit because that's one of the items that concerned me is the flow of traffic in and out and through that development. Also one of the things that we mentioned was water pressure and I think at some point there was a comment that with tying a loop through your development I think at some point this might actually increase the water pressure. I haven't actually looked at the distribution map to see what size lines are in there, I know there are a 6" line and an 8" line at one part, can you comment on that?

Tom Hennelly stated we're under the impression from Brent O'Neal from the Engineering Department that we're actually on the boundary between two pressure plains and that there is a distinct possibility to connect this development with a totally different pressure plain then what all this neighborhood is on, which would have obviously no affect on their water pressure flow or supply. It comes from a totally different source and different water tower. Even if that were not the case our plans would have to be reviewed just like any other development we do by Engineering. The Fire Department has done flow tests on the hydrants adjacent to this project and finds that there is adequate flow to fight fire there. He stated the development of this project will not make the neighbors water flow any worse.

Alderman Cook asked if Brent is looking at this and will we have a comment from staff on this?

Jeremy Pate: It is typically evaluated with more detail construction plans. We can probably do some kind of preliminary analysis of what will be required to connect to a different pressure plain. The Fire Department did state that they did test flows for the hydrants and they found that all the hydrants have sufficient fire flow with the exception of one.

Mayor Coody: We've heard a lot of comments tonight about the density and the multi family use. Is there any possibility at all that there might be reconsideration in design and be able to put in something a little lower density, something that might come a little closer to the neighborhood compatibility? I personally think that the City needs infill and redevelopment of our old places and this certainly is one of the areas. I don't find it to be a compliment to the good man Fay Jones was and the family. It would be nice to have something there that would be complimentary to the neighborhood. Is there a way that this could be developed in such a way to where you could accomplish your goal but come closer to the neighborhoods wishes because they have stated that they wouldn't mind seeing something like that happen.

Tom Hennelly stated it's my understanding that the neighborhoods wishes are to see a density that's more similar to what they have there already. I don't believe that with the prices on land and the requirements for infrastructure, street widening and that type of thing that the economics would allow that.

Mayor Coody: I don't think RSF-4 would be a likely candidate for that piece of property either.

Tom Hennelly stated that the residential density allowed under C-2 is much higher than what this is. He felt that this density is certainly manageable not only from a traffic stand point but in that transition zone. He stated they are as impressed with Fay Jones accomplishments and his legacy as anyone is and they do not feel like they are impacting that.

Alderman Thiel asked how RMF-24 units per acre worked in the C-2 zoning.

Jeremy Pate stated that in commercial districts we have an allowance for attached and detached residential units, one is by right and one is by conditional use. Attached residential units are allowed in the C-2 Thoroughfare Commercial District however it's an accessory use to commercial uses so it would have to be attached to those commercial uses. It would have to be less than 50% of the gross square feet of the area unless a conditional use was permitted to have more residential use on that property.

Alderman Thiel: Okay.

Alderman Marr stated that his biggest concerns with this project are the traffic congestion and the exiting going south because if you do not use the Evelyn Hills parking lot as a planned access then you are either going to use Abshier or you are going to go to the 3-way stop so you can get to the stop light on North Street. He went on to discuss his concerns on this project.

Mayor Coody alright we'll leave this on the first reading. We appreciate all of you coming out tonight and you've done a very good job presenting your case.

Robert Alguire stated according to Walter Brown with the Physical Plant who's an old historian back in the 60's there was a petition over the zoning and it got passed through the City on a referendum. Will this make a difference?

Kit Williams stated that his understanding was at one point it was zoned and then there was a referendum and the zoning was reversed by the vote of the people. If that is the case then that particular ordinance that had rezoned it certainly would be invalid at this point. It would revert back to the zoning prior to that time. That doesn't necessarily restrict the power of the City Council in the future to go ahead and rezone that property.

Mayor Coody: Thanks Robert.

Tom Hennelly said he would like to get some direction before the next meeting. He stated there maybe some things that they could supply before the next meeting. He asked Alderman Marr if an expanded traffic study would be something he would be looking for.

Alderman Marr stated that he would also like any discussion or to understand better the actual density number that you're at and if there could be any consideration for that number to be reduced.

Alderman Thiel: I agree with Don I'd like to see if you can find anyway to reduce the density. That does seem to be a major concern and I have concerns with the traffic issues.

Tim Cooper: I was going to point out that we do have the construction materials board here and we did make some changes after that meeting. So you may want take a look at that.

Mayor Coody: The roof is not reflective anymore very good.

Tim Cooper: The rest of the materials are similar. I can pull that out if you would like.

Alderman Cook: Can you do that.

Mayor Coody: Yes please.

Alderman Thiel: Very quickly, yeah.

Alderman Reynolds: Mayor my biggest problem is the health, safety and welfare of the people that live there currently.

Alderman Thiel: Won't you show them too if they can see it. It's certainly a more natural looking material.

Mayor Coody: Alright thanks Tim. Does that give you enough direction to figure out where you need to go, Alright thank you very much. We are going to leave this on the first reading tonight and we will revisit this again in two weeks. Thank you all for coming up. You did a good job presenting your case.

This ordinance was left on the first reading.

VAC 06-1914 Johnson: An ordinance approving VAC 06-1914 submitted by McGoodwin, Williams & Yates, Inc., for property located east of Rom Orchard Road, north of Old Skillern Road; vacating a 20' utility easement on the subject property, containing approximately 0.333 acres.

City Attorney Kit Williams read the ordinance

Jeremy Pate, Director of Current Planning gave a brief description of the property.

Alderman Thiel: Did I understand you correctly that the staff is recommending this vacation but this land is in the Ozark Regional Land Trust and they don't want this vacation?

Jeremy Pate: They do not want the utility easement there.

Alderman Thiel: They don't want the utility easement there but then the City is recommending that we grant this vacation for that utility easement?

Jeremy Pate: Correct, to take the utility easement off the property because they do not want that utility easement.

Alderman Thiel: Okay, so that's taking it off the property?

Jeremy Pate: Correct.

Alderman Reynolds stated that the Planning Commission voted 9-0 in favor of this.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4844 as Recorded in the Office of the City Clerk.

Central Emergency Medical Services Contract: A resolution approving renewal of the contract for Emergency Medical Transport Services with Central Emergency Medical Services

(CEMS) in the annual amount of $250,000.00 through December 31, 2008 or until the effective date of the Public Utility Model if adopted sooner.

Tony Johnson, Fire Chief gave a brief description of the contract.

Alderman Ferrell stated that it said through December 31st or until the effective date of the public utility model is adopted if sooner. He asked what effect that would have if the public utility model was adopted on this.

Tony Johnson stated that if it would be adopted it would make this contract a null and void.

Kit Williams stated that the reason for that is that the financial situation could very well change. That would be the only reason that I am aware that they would adopt the public utility model was in fact to save money for the taxpayer so the subsidy would not have to be so large. That's why we have in the contract that it terminates at that point because we would need to renegotiate at that point.

Alderman Ferrell: The other side of that would be if we did move to adopt the public utility model things would go along as they are now.

Kit Williams: Until the end of this year.

Alderman Marr asked that since the contract is a flat $250,000, not a monthly fee, if a public utility model was approved at some point in time and the contract is canceled would there be any refunded amount or prorated amount of the $250,000 that we are allocating or is it just at that point we're no longer under contract?

Kit Williams stated that these are monthly allocations of $20,833 per month and we only pay through the contract, if it's terminated then we stop payment at that point and don't pay any further.

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

Resolution No. 38-06 as Recorded in the Office of the City Clerk.

Amend §151.01; Definition of Company Flag: An ordinance to amend the Unified Development Code by amending the definition of "Company Flag" in Section 151.01.

City Attorney Kit Williams read the ordinance.

Kit Williams stated that he brought this forward because we need to tighten up the definition a little bit. The actual definition we had talked about company flags but was not as explicit and we were having some problems with individuals that were presenting wind blown signs in violation of the ordinance but attempting to call them company flags. So because of that I felt we needed to tighten this definition up.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4845 as Recorded in the Office of the City Clerk.

Project Management for Wastewater System Improvement Project: A resolution authorizing three (3) contract employee positions for project management of the Wastewater System Improvement Project; and approving said contracts as to form.

David Jurgens, Water and Wastewater Director stated that the intent is that they will provide project management for the Wastewater System Improvement Project which includes a new wastewater plant on the west side of town, approximately 30 miles of pipeline going to that plant and replacing pipeline going to the existing Noland Plant and then rehabilitation renovation of the existing Noland Plant. He stated that they feel they we can do this with these three contract employees at half the cost. He went on to describe the employees that will be working under this contract. He stated these employees are strictly under employment for this project and their contracts will expire on 365 days after the date of substantial completion of the Westside Wastewater Treatment Plant.

Alderman Thiel asked where she could find a real description of the project manager and his responsibilities.

David Jurgens stated we have three job descriptions and if you need that I can certainly get a copy of that for you. There were seven pages of employment contract for the project manager and then a two page job description attached at the back end for each position. We took existing city staff positions totaled them to match the project and actually made unique contracts for each of these three positions because some of the employment requirements would be different for each of these positions.

Alderman Ferrell: The project manager, is the buck going to stop with him?

David Jurgens: He has responsibility for the project but the Water & Wastewater Director will supervise the project manager.

Alderman Ferrell: If something were to happen that is going to change something and the Council should know about it or the Water and Sewer Committee would we be getting that from him or from you?

David Jurgens: That would be your call. Generally he would be providing the updates directly to the Water and Sewer Committee on the project unless it's routine type of stuff. It can be done either way; it kind of depends on the dynamics.

Alderman Ferrell: I guess I was thinking that we don't have Water and Sewer Committee meetings every week but we can call them. So if something popped up, he told you on an interim, would you be notifying the Water and Sewer Committee or would he?

David Jurgens: As necessary, I can certainly do that or he could do that as well. He would be an expert on the project more so than I would at that point and so he would be providing more detailed responses.

Alderman Ferrell: So he would be contacting us?

David Jurgens: He would be responding to questions as the project manager and would be providing those detailed answers. In terms of policy issues, I would be the over watch on that individual on his work.

Mayor Coody: I think what David is saying is that if you had a Water and Sewer Committee meeting then both of them could show up to answer questions, if something popped up to where David and the project manager felt like the City Council should know, you would immediately be notified of that and if it were important enough to where you would need to call a meeting they would both be there to address whatever concerns needed to be addressed.

Alderman Ferrell: Would you be the guy that contacts the Water and Sewer Committee after he talked to you.

Mayor Coody: I think the answer is yes.

Alderman Ferrell: Thank you.

Alderman Marr: Have we picked the person already for this position?

David Jurgens: No. We cannot do so until we have the authority to do so.

Alderman Thiel: Well I understand that the Water and Sewer Committee approved this.

Alderman Marr: Was it approved 4-0?

Alderman Cook: I believe it was.

Alderman Jordan: Yes.

Alderman Cook: We talked about it a couple of different times.

Alderman Thiel: So you all got to see the job descriptions?

Alderman Jordan: Yes, we did.

Alderman Marr: So these positions will go away at the end of this project?

David Jurgens: Yes sir, the positions will terminate by contract at the end of this project and these employees will not be counted as City employees. For example if a current city employee opted to take one of these positions they would no longer be accruing time as a City employee. So if we hire somebody in one of these positions and they want to then become a City employee, their clock as far as City employment would start after this is all expired.

Mayor Coody: If we had a vacancy and they were good employees.

David Jurgens: That's right, If we have a vacancy and they were worthy of the position.

Alderman Reynolds asked if the two employees were going to answer to the project manager.

David Jurgens: Yes Sir.

Alderman Reynolds: And the project manager is going to answer to you.

David Jurgens: Yes Sir.

Alderman Reynolds stated that at the Water and Sewer meetings you and he will be there to give us an update, how often?

David Jurgens: As long as we have our Water and Sewer Committee Meetings.

Mayor Coody: Or as needed.

Alderman Reynolds: I just want to make sure we have something real solid where we're going to follow this through with a hammer.

David Jurgens: Well we don't want to have meetings more often than are necessary but whenever the committee feels a meeting is necessary or whenever the staff recommends a meeting, we will both be present at that time. We will be getting from Brasfield & Gorrie starting next month a monthly handout that we will hand out at the Water and Sewer Committee meetings. So starting with next month, we will be doing that every month; you will be getting an update on that.

Alderman Marr asked what the salary or pay range was for the three jobs.

David Jurgens stated that in general the pay range is based off of the salaries of the equivalent positions for City staff. He stated that they may not be able to start the project manager like we would a normal City staff employee. We're looking for someone to run an $180,000,000 project, so we really don't want entry level. The salaries are negotiable.

DRAFT

Alderman Marr asked what range you are negotiating from.

David Jurgens: The range is the standard salary range as per the job descriptions in these staff employee positions.

Alderman Marr asked if he knew what that was.

David Jurgens stated that he did not. I think it is listed in the advertisements of the positions but I do not remember what those three are. I would expect for the project manager, somewhere in the $70,000-$80,000 price range.

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

Resolution No. 39-06 as Recorded in the Office of the City Clerk.

Amend §163.14; Wireless Communication Facilities: An ordinance to amend §163.14 Wireless Communication Facilities of the Unified Development Code.

City Attorney Kit Williams read the ordinance.

Kit Williams: I brought this forward to try to better effectuate what the City Council's decisions have been in looking at the cell tower situations. However I do want to leave this on the first reading if we can, I've received communications from Planning that there are some things that they want to have changed. There's some additions that I want to do in relation to requiring cell towers to meet the latest structural requirements and not just subsection or Regulation "F" because there's now a regulation "G" and in the future there will be further regulations that are making cell towers and their attached antenna raise safer and so I would like to have some chance to further amend this and present that to you at the next meeting.

Jeremy Pate gave a brief description of the item.

Scott Lunsford: Will we have access to these memos concerning the study of 520 N. College?

Mayor Coody: Yes. It might be easier to email it to you actually.

Scott Lunsford: That would be great. Really I have read and appreciated Kit's work on this amendment, there are just a few words that I would recommend adding to this, and I sense that because we are always talking about monopole construction that applicants are led to believe that that's the preferred construction type in replacing existing towers. I would simply add to Section "E" "3" on the existing towers probably monopole or alternative tower. I think that would broaden the scope, opening the door to more stealth like technologies and other technologies that are involved currently with self construction. I can present my evidence to you later or now, it's really only a few pages.

Mayor Coody: You might just give it to Sondra and she will make sure that all the City Council gets copies of it tomorrow.

Scott Lunsford: The other item specifically addresses some of the items that Kit mentioned that he wanted to add concerning effective ANSITIAEIA Design Standards. Thank you.

Justin Eichmann with Herrington, Miller, Neihouse, Kieklak, on behalf of Smith 2-Way Radio stated that he was glad it was going to be left on the first reading because they certainly have some concerns with it. Their concerns with this ordinance pertain with administrator application that they have pending right now. Some of the suggestions we heard from the Council were for us to look at the administration options instead of the monopole, apparently monopole is not the way that people wanted us to go. If this ordinance were to be considered tonight up or down, we would have great concerns on whether it would apply to us in our pending administrative applications. We would also have some argument to give you on fairness in this process.

He went on to ask Kit how this would apply to their application.

Alderman Ferrell: I was waiting to review what Jeremy has. I was prepared to attach an amendment to this because I think it came in good faith, but I'm holding off to see what happens.

Dave Reynolds, Smith 2-Way Radio stated that he read Jeremy's memo and agrees with most everything. He stated that he and Mr. Smith came to Jeremy in November or December of last year and said that they have these facilities and wanted to change them out, what's the best way to do it? At that time it was staffs recommendation and ours to bring forth a conditional use permit, put up a monopole and we came to this Council and you decided that wasn't a good option. We've had a Plan B option, we've been upright and honest about it and I don't want anyone to think that we are trying to sneak in or circumvent any of the rules. We came forward and asked the best way to proceed and if we had chose to we could've just proceeded with Plan B from the start and all of this would've been done and we would not have brought forward the conditional use but we wanted to do it the right way. We truly believe that we deserve a good faith grandfather-in in this case. We've also had some discussions with Cingular in ways that we can limit or reduce the size of antennas and things like that to put a cellular carrier on this tower. Since we had to reduce another 8'- 9' down in height it's not nearly as beneficial to them to use now but they say that they can still benefit from a smaller site that will handle as a micro site. If you are worried about the 10' arrays on towers and things like that, this proposal would have no arms. He went on to describe the type of antenna that would be used. He asked that there be some type of resolution on the Grandfather issue in the next couple of days because they have some timelines that they are working against and they are need to know which way to go.

Mayor Coody: I don't know that we'd be able to do that in two days.

Kit Williams: The City Council has to make all those particular decisions and they can only make them really in a public meeting like this and there is not another meeting scheduled for two weeks for them to be able to make that kind of decision.

Dave Reynolds: Okay, well that's what we wanted to say about this. Thank you.

This ordinance was left on the first reading.

CUP 06-1893 Smith 2 Way/Leverett Appeal: An appeal of the Planning Commission's decision regarding the conditional use request by Smith 2 Way Radio for property located at 1250 N. Leverett.

Jeremy Pate gave a brief description of the item along with staff's recommendations. He stated that if the City Council does consider granting the appeal that staff would recommend the conditions of approval that are in the staff report be officially made a part of that appeal.

Alderman Marr stated that one of the items that the Planning Commission threw out for denying this was they wanted the Council to look at planning sites because of the number of applications coming through the City process. He asked Jeremy what that process is and if they are setting up a committee to study future cell tower locations. How is that issue that the Planning Commission brought up, do you anticipate will be addressed, or is it for the Council to create a committee?

Jeremy Pate: It was brought up primarily because of the number of cell tower requests. First of all this is the fourth in the last sixth months, two of which are constructed now, two which have been denied or approved and then denied as in 520 N. College and this one of course that was denied and now appealed. There is one pending on Old Wire which is supposed to be on the Planning Commission March 27th. There are several others in the works from what we understand looking at projected locations. At staff level, we requested Smith 2-Way because he is the only applicant that we have seen in the last six months for cellular carrier towers to look at a potential comprehensive plan to try to establish areas where we can anticipate where towers are going to be; are they in high spots, low spots, what are the coverage concerns, what are the capacity concerns and what are these requests for and then have some further dialogue with the actual cellular carriers. To this point most of the letters and information you receive are generated for each application, it's the same concern. We're not hearing from anyone but Cingular at this point, so we want to have a sit down discussion, have David Reynolds sit down with the County Officials, Juliette with County Planning, our staff planners and several interested bodies to try and get a grasp as far as what the County would need as far as Washington County goes. We are trying to work through that. I believe Mr. Williams indicated in his letter that there might be a possibility to look for potential locations that we would set aside simply that these are areas for cell tower locations, these are the ten areas, go build those sites and that's it. That was part of the discussion that we had at the Planning Commission level. We have not set up a task force we are at staff level at this point but I think it's an idea that the Council might want to consider in lieu of these several requests that we have to a this point take one by one on their own merit.

Alderman Marr: I thought that was a good suggestion made by the Planning Commission that we should pursue doing.

Kit Williams: I think we certainly need to do it and I have been contacted by representatives of Verizon that is ready to move in now and they actually want to build a tower. I think that we need to get all the tower builders and the cell companies together with us and try to go over a fairly comprehensive plan. I know that Smith 2-Way has numerous locations picked out, they have brought some forward, and some are still pending. This is stuff that we would like to get in the front end and see if we can agree ahead of time on what would be the sites that both

companies could use and that would be satisfactory to us. We really need to get some expertise in this area and see what we can do.

Jeremy Pate: There are numerous ways to hide these antennas that would be part of the discussion, which way we would like to go.

Mayor Coody: One thing we need to seriously consider is anytime we get a chance to put a cell tower on a publicly owned piece of property, it would be good since we all have to suffer the visual impact of this that we recover some kind of financial benefit from it as well. So I like the idea of putting it on public spaces whenever we get the chance.

Alderman Cook: Jeremy hit the part of the discussion that I would like to hear. Why can we not do smaller towers, why do we have to build 150' poles throughout town? I know in urban areas they do locate smaller antennas on any structure they can find so it provides coverage. Is this the cheapest alternative to erect a 150' tower and put three carriers on it? It's frustrating to me because we are looking at quite a few towers in the future.

Jeremy Pate: In the past the taller towers were utilized to get the most coverage possible. There are still some holes and gaps probably in Fayetteville but in looking at coverage maps the coverage is pretty adequate. Capacity concerns could be helped with smaller sites and more concealed ones where you don't have to have the 150' pole just because you can't reach two different points.

Kit Williams: If we could get back to the actual appeal here for a second, when I sat at the Planning Commission meeting I was surprised that the application was turned down. The reason I was, was because what Federal Law requires. There was no one that came forward on this particular site to say that their property values were going to be lessened or their aesthetic value in what they liked was not going to be there. Unless we have some evidence tonight and we need to open it up for a hearing and hear what neighbors and other people might say, but we need to hear evidence before we turn something like this down. It could be tabled or something but we need to hear some substantial evidence to support any decision to turn the current application down.

Justin Eichmann stated that he agreed with Kit in the lack of substantial evidence and why we are here today. He stated that he was here along with some folks from Cingular, one who is Lowell Jones with the construction and real estate side and the other one Craig Conwell who is an RF Engineer. I'm not so sure that capacity isn't covered but I believe in the Federal Telecommunication Act, it refers to provision of services and we are prepared to talk about how the over capacity does affect the provision of wire to wireless services. What we have in our CP appeal is a tower that is necessary in that location in order to offer a capacity off of the arrays that currently exist on the VA Tower and the arrays that currently exist on Hotz Hall at the University of Arkansas. Those two sites at this point of time are exceeded. They have reached their capacity and as a result you have problems with the service. He went on to describe various problems with the service. He stated that that is why they are here. They have looked at other sites and were not interested. He went on to discuss some of the capacity issues.

Alderman Cook asked if we have to have one 150' tower. Can we not have two smaller towers?

Justin Eichmann: We have a necessity to get evidence into the records that we make it clear that there is not only a need here due to capacity and coverage issues but also that the location was one that was also a need but also one that was chosen wisely. We have looked at other areas and so we have to get these things before the Council and that's the reason why we are here in order to do that.

Mayor Coody asked Jeremy Pate if the staff recommendations were for a 100' tower.

Jeremy Pate: Yes.

Mayor Coody asked Alderman Cook if he was asking about 150' or 100'.

Alderman Cook stated that there is one comment in here about there may be the opportunity to erect two smaller towers as opposed to just one large tower and he wanted to know why we couldn't do two smaller towers instead of one large one.

Mayor Coody: And what would smaller be?

Craig Conwell, Cingular Wireless: The main reason for the difference between 100' and 150' site, for people like Mike who builds sites that are possible for co-location, multiple tenants, what this does it keeps you from having a bunch of small sites with one or two tenants and then thus creating visual pollution on your horizon. Where as when you only have a single tower then you can locate 5 or 6 carriers all on one site. We typically try to space the antennas about 10'-20' apart simply because the nature of RF and how it operates. The main thing is you have to separate the bands vertically or horizontally. So we could go with two small towers or we could vertically stack and put it all on one sight and create less visual pollution for your city.

Alderman Thiel: If you are splitting this into two smaller sites which you are not recommending but actually that is what we were considering looking at, how tall would they have to be to accommodate this site we are looking at?

Craig Conwell: If you had five carriers that wanted to access the site, I would recommend at least 150' because anything below 80' to the ground you start getting into the tree canopy and there's a lot more loss of signal on the mobile. We can't penetrate the pine trees that we have.

Alderman Thiel: This one is proposed to be 100' if we supported this with the condition put on it. If you had two towers the equivalent of this 100' tower how tall would they need to be, both 50'?

Craig Conwell: No what you would have to have is essentially two 100' sites because you would have a 150' site that could co-locate up to five carriers or if you went to two getting down to 80' you would be at two carriers per 100' pole.

Alderman Marr asked what the shortest tower is that would be effective for a single carrier.

Craig Conwell: That depends, how high the hill is that you're on and the terrain that is around it? If we're up on top of a tall hill where the tree canopy is at 65' we could go 15' above that as

a single carrier and be okay. But if you wanted to stack multiple carriers and not have a bunch of small poles sitting up above your tree canopy, you would want to have a single pole. I don't have a coverage problem in this area what I have is a capacity problem.

Alderman Lucas asked how many cell phone towers does a city our size need.

Craig Conwell: The only way to handle more subscribers is to have more cell sites.

Alderman Marr: If you are lowering sites in Little Rock because of coverage and we're trying to not have a bunch of 150' towers in our city, I'm trying to understand how they can do it but we can't.

Craig Conwell: The traffic in Little Rock is a little bit more distributed. There's a phenomenon that we've noticed in Fayetteville where there's high density clusters of usage. He went on to describe several sites in this area and he stated that even with all the sites they still have overflow. We are trying our best to deal with it and we want to work with you to find the best solution.

Alderman Reynolds: How many telephones can you put on one cell tower?

Craig Conwell: We have 112 voice paths available to us on a site that's fully loaded. For example the VA water tank, it has 112 voice paths available to one sector at any one time. That's 120 degrees of that water tank that is capable of holding 112 calls at one time.

Alderman Reynolds: So we're looking at a bunch of cell towers?

Craig Conwell: And to be honest with you, six months ago I came to the conclusion that we're going to start having problems getting these sites so I started looking at doing a micro cell approach where you are using the light post and I'm talking 50 sites to do that. In order to do 50 sites it's about $175,000 a site, that doesn't include the stealth thing cost which could be $50,000 to $100,000. So I'm looking at a fairly sizeable investment into doing this in order to contain my capacity, I really don't want to approach it that way because it's not a very good use of capital.

Alderman Reynolds: I know when you are on I-540 south of Wedington, there's a dead space where your phone goes dead, and over on 265 in front of the Cliff's Apartments there's a stretch there your phone will go dead. What is causing that; you don't have any cell towers in that area?

Craig Conwell Yes. He voiced his concern about the Wellspring Subdivision going in and not having enough capacity because the two sites supporting that area are already at maximum capacity.

Mayor Coody stated that we have 10,000 sites in town and we would be glad to work with you on the micro distribution, we like that idea.

Alderman Marr: On the stealth technology, we talked about something other than a graduated painted monopole, trees, flagpoles, towers, do they hurt or help other than an aesthetic perspective.

Craig Conwell: Other than an aesthetic perspective, that's the only thing that they would help. There is a little bit of inherent loss just transmitting through a material. You are talking about an appreciable amount of loss but we deal with it.

Alderman Marr: What other places do you have technology like that?

Craig Conwell: I know that there are some places over in Tulsa and I have one in Little Rock. I also have a flagpole.

Alderman Ferrell: I've seen that antenna in Little Rock, is there any downside to coming out of a structure or is just the height all you need above the canopy?

Craig Conwell stated that it depends upon the construction materials.

Alderman Marr: I think the item on the agenda is an appeal of a conditional use.

Alderman Marr moved to grant the appeal and allow the conditional use with the 12 conditions of approval as recommended by staff. Alderman Reynolds Seconded.

Alderman Marr stated that he couldn't believe that there is not a way to create multiple sites lower on the City using the structures.

Mayor Coody: Obviously the only factor there is cost.

Alderman Marr: I understand that but they're also renting these sights for $2,000, $3,000 for the carrier per month.

Mayor Coody: I think that their gain is our loss and we have to look at these towers all over town.

Kit Williams stated that this is a public hearing and we need to make sure that we allow everybody in the public to speak.

Justin Eichmann stated that one of the reasons why we come forward with a request such as this, is there is a requirement or a goal for a co-location, you have to have certain distance between them and you have to have a certain height. At Planning Commission we were willing to talk about different heights and if that's the direction this Council wants to go we would certainly like to offer another height, if 150' is not acceptable.

Mayor Coody: I don't think 150' is something the Council wants to approve tonight.

Justin Eichmann stated the other option Planning Commission considered was 120'. That would provide for an additional carrier other than Cingular and that was one that was considered before the motion was made for 100' that was subsequently denied. We would like to entertain your thoughts on that if possible.

Scott Lunsford passed out information to the Council. He stated Kit is looking for reasons to deny this appeal. He stated that he can tell that by looking at the findings from staff at the

Planning Commission hearing it is riddled with second thoughts about this tower at this location. He read Section "F" of the ordinance. He stated there may be additional findings better suited for the erection of one or more towers less in height to reduce the impact of visibility. There may be additional sites better suited for the erection of one or more towers less in height to reduce the impact in visibility. There is a larger area of industrial zoned properties located approximately ½ mile north of the subject property, there may be an opportunity to erect two smaller towers that would be well screened by buildings that have not been abandoned or are in disarray or locate a tower on an existing structure, visual impact would be great to these within the valley. What I think is happening here is that these guys own towers in certain locations and they want to put cell service on them. I'm not certain that this is necessarily the best place for a tower. Kyle, in answer to your questions about alternatives, in a statement from Senator Patrick Leahy it says "in fact we already have ways to meet the needs of telecommunication companies and communities. There are other viable alternative communication technologies to massive towers. He stated I have in the past discussed how PCS over cable and PCS over fiber technologies can provide digital cellular service using small antennas eliminating the need for large towers. These small antennas can be attached to an existing telephone pole or lamp post. Not only is this technology more esthetically pleasing but because the companies do not need to buy the land for these antennas these delivering mechanisms are cheaper as well." He went on to discuss modern technology options and stated that there were a lot of better ways to go about doing this than using this old stuff. He stated I wish the ordinance was written in such a way that it would encourage applicants to use the current technology and hide these things.

Justin Eichmann stated that there is no existing radio tower at this site, this is not a proposal to stick a cellular on a radio tower, and this would be a brand new monopole. As far as locations go in the packet the attempt to look at other locations this area is not conducive for other locations. There aren't other things out there that you can hang an array on in that particular valley. The idea is to build a new monopole to city ordinances and not to place it on an existing radio tower.

Alderman Marr asked Jeremy what tower they saw on the tour.

Jeremy Pate stated that he believed it was an existing radio tower on the site.

Dave Reynolds stated that is an existing two way radio that is there and it belongs to Johnson Heating and Air Company. That tower will be removed and this will be put in there as part of staff's recommendation. This is not a change out of that tower in any kind of way. He also stated that there is a complete list of things in that neighborhood and why they didn't go there. There was not very much information given about other places to co-locate because there are no other place to co-locate, there are no other facilities to go on. He stated that he is flabbergasted by a lot of this that we've heard here. In doing this your ordinance asked us to provide a tower that would provide co-location. In fact we have to tell you how we will provide space to co-locate to other people. If you want the 80' tower approach we'll do that, just tell us what you want.

Mayor Coody stated that was a good point. We did put this ordinance together years ago before the technology evolved so we might have to look at this ordinance and revamp that and give this other technology a chance.

Dave Reynolds stated that in the realm of towers anything below 100' is still not useful and it's certainly not useful in this terrain.

Mayor Coody stated that he appreciated his offer to work with us on building 80' towers and these other smaller units.

Dave Reynolds stated we want to do that, our business is to build towers and co-locate people on them; we can do it the way the city wants.

Alderman Cook: If we are going to vote on it I want to make sure we are talking about a 100' tower here.

Kit Williams referenced page C. 7, the recommended motion from the staff, which has 12 conditions of approval.

Alderman Marr said I do think we need a plan as far as this particular appeal. I live on the hill that will look at this and on the east side of my house is the water tower from the VA which has cell towers on it so I certainly understand the need for cell towers. This is an industrial zoned site and when we went through it yesterday it was a pitiful site. At some point we can't put everything in limbo while we wait to develop a plan. At some point the only thing I want to see in Fayetteville or I'm going to quit supporting some of these, particularly as we have the issues that Mr. Lunsford brought up, is more stealth technology, particularly when we are talking about a structure that is between neighborhoods. I am going to support this one tonight because it is in an industrial zone and because it's not 150'. I couldn't agree with Alderman Cook more that I think we need to be looking at lower towers and maybe that's rewriting our ordinance because I do think it's confusing to an applicant to ask them not to do things that are in the ordinance that we have today. I would like to see you come forward with some plans on trees and other things in our city so that we don't have these graduated painted things because I drive by the one on Zion Road every day and I hate it. Did we consider that for this site, did we consider a tree or some other stealth oriented technology for this location?

Jeremy Pate: Our findings were that with this particular site, because it is so exposed there is nothing else around it; it would be extremely hard to hide something. He went on to describe other options they discussed throughout the process. Staff anticipates this industrial zoned area is mixed use on our General 2020 Plan and I seriously doubt that it will continue as an industrial type of site in the future. You will more likely see redevelopment as we are seeing in other parts of town so there could potentially be taller buildings that could help conceal that at some point in the future and potentially even allow for the reduction of height or elimination of the tower all together.

Mayor Coody asked Jeremy if he could start putting together some programs to where we can start looking at doing business differently and start using this newer technology, smaller towers like we've been discussing tonight, we can put that as the standard?

Kt Williams asked Alderman Marr if his motion included the 12 conditions of approval as recommended by staff.

Alderman Marr: Yes, and I would actually like to add a 13th item as a conditional of approval that if a technology becomes available and this tower becomes obsolete the tower shall be dismantled.

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

Resolution No. 40-06 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 11:45 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

DRAFT

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

City of Fayetteville Arkansas
Special City Council
Meeting Minutes
March 28, 2006

A special meeting of the Fayetteville City Council was held on March 28, 2006 at 5:30 PM in Room 326 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, Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Lucas

Pledge of Allegiance

Vice Mayor Jordan: The Mayor is attending the (TED) Transportation and Economic Development Conference in Little Rock today and tomorrow. This is an international conference addressing a range of regional and national transportation issues in economic development. The conference will be attended by Governor Huckabee, several of our Federal delegation, Arkansas State Highway and Transportation representatives as well as many transportation officials from across the nation. Dan we wish you all the best.

New Business:

Nominating Committee Report – Approval of Planning Commissioners.

Alderman Cook: The Nominating Committee would like to recommend the reappointment of Jill Anthes, new appointments of Hillary Harris and Lois Bryant.

Alderman Cook moved to approve the Nominating Committee report. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Alderman Rhoads thanked Alderman Cook for giving him a little more time to check into a few things. He apologized for any inconvenience to the Planning Commission or to anyone in the City.

Meeting adjourned at 5:50 p.m.

_____

Dan Coody, Mayor

_____

Sondra Smith, City Clerk/Treasurer

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
April 4, 2006

A meeting of the Fayetteville City Council will be held on April 4, 2006 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

A. CONSENT:

1. **Approval of the March 7, 2006, March 21, 2006 and the March 28, 2006 City Council meeting minutes.**

2. **Power Curbers, Inc.:** A resolution approving the purchase of one (1) Power Curber Model 5700 Super–B Slip Form Paving Machine from Power Curbers, Inc. in the amount of $176,500.00; and approving a budget adjustment to move the funds to Fleet Expense Account.

3. **Cobblestone Subdivision Park Land Dedication Waiver:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $108,780.00 cash in lieu of the required Park Land Dedication for Cobblestone Subdivision.

4. **Wedington Circle Park Land Dedication Waiver:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $116,328.00 cash in lieu of the required Park Land Dedication for the Wedington Circle Development.

5. **ADM 06-2002 Crossover Road/HWY 265 ROW Variance:** A resolution to vary the Master Street Plan's dedication requirements for Highway 265 in connection with the construction of Fire Station #5.

6. **Off-Street Parking Development Renewal Lease Agreement:** A resolution approving renewal of the Lease Agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots.

7. **Cherokee Nation Contract:** A resolution awarding a contract to the Cherokee Nation to provide the combined services of receiving, handling, hauling and disposing of municipal residential and commercial waste at the City of Fayetteville's Transfer Station.

B. UNFINISHED BUSINESS:

1. **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 and Hillside Overlay District Best Management Practices Manual. ***This ordinance was left on the First Reading at the February 7, 2006 City Council Meeting. This ordinance was left on the Second Reading at the February 21, 2006 City Council Meeting and was Tabled to the April 4, 2006 City Council Meeting.***

2. **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 ordinance was Tabled at the February 21, 2006 City Council Meeting to the March 7, 2006 City Council Meeting. This ordinance was Tabled at the March 7, 2006 City Council Meeting to the March 21, 2006 City Council Meeting. This ordinance was Tabled at the March 21, 2006 City Council Meeting to the April 4, 2006 City Council Meeting.***

3. **R-PZD 06-1883 Abshier Heights:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1883, Abshier Heights, located south of Evelyn Hills Shopping Center on Abshier and Hillcrest, containing approximately 4.11 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 March 7, 2006 City Council meeting. This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

4. **Amend §163.14; Wireless Communication Facilities:** An ordinance to amend §163.14 Wireless Communication Facilities of the Unified Development Code. ***This ordinance was left on the First Reading at the March 7, 2006 City Council meeting. This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

5. **ANX 06-1935 Fletcher Williams Appeal:** An ordinance annexing that property described in Annexation Petition ANX 06-1935 (CC2005-54), for property located at 354 and 370 Double Springs Road, containing approximately 9.70 acres. ***This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

6. **RZN 06-1936 Fletcher Williams Appeal:** An ordinance rezoning that property described in Rezoning Petition RZN 06-1936, for approximately 9.70 acres, located at 354 and 370 Double Springs Road, from R-A, Residential Agricultural to RMF-6 Residential Multi-Family, 6 units per acre, subject to a Bill of Assurance. ***This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

C. NEW BUSINESS:

1. **RZN Abshier Heights:** An ordinance rezoning that property located west of Hillcrest Avenue, east of Evelyn Hills Shopping Center and north of Abshier Drive containing approximately 3.5 acres from C-2, thoroughfare commercial to RSF-4, Residential Single Family, 4 units per acre.

2. **Upper White River LLC, Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Upper White River, LLC in an amount not to exceed $17,909.00 for the upsizing of approximately 1370' of 10" water main to 12" water main; and approving a contingency in the amount of $2,686.35.

3. **Amend Chapter 161 Zoning Regulations and Chapter 156 Variances:** An ordinance amending Chapter 161: Zoning Regulations, Unified Development Code, to provide uniform building height restrictions in Residential Single-Family Zoning Districts; and amending Chapter 156: Variances.

4. **Ozark Transit Authority Agreement:** An ordinance to approve an Amended Interlocal Agreement so that Lowell can join as a member of the Ozark Transit Authority.

5. **RZN 06-1949 Ellis Appeal:** An ordinance rezoning that property described in rezoning petition RZN 06-1949 for approximately 6.03 acres located at 4230 Huntsville Road, from RSF-1, Residential Single Family, 1 unit per acre and RSF-4, Residential Single Family, 4 Units per acre to RSF-7, Residential Single Family, 7 units per acre.

6. **Emergency and Non-Emergency Ambulance Service:** A resolution to express the City Council's intent to contract exclusively using competitive procurement methods with a single entity for the provision of all emergency medical services and ambulance services for the City of Fayetteville.

7. **Annexation Study Committee:** A resolution establishing an Annexation Study Committee to provide analysis and recommendations for annexation options in West Fayetteville.

8. **Waive §166.17 Suspending Issuance of Permits Pending Zoning Amendments:** An ordinance to waive §166.17 Suspending Issuance of Permits Pending Zoning Amendments in relation to the proposed Divinity Condos project.

D. INFORMATIONAL:

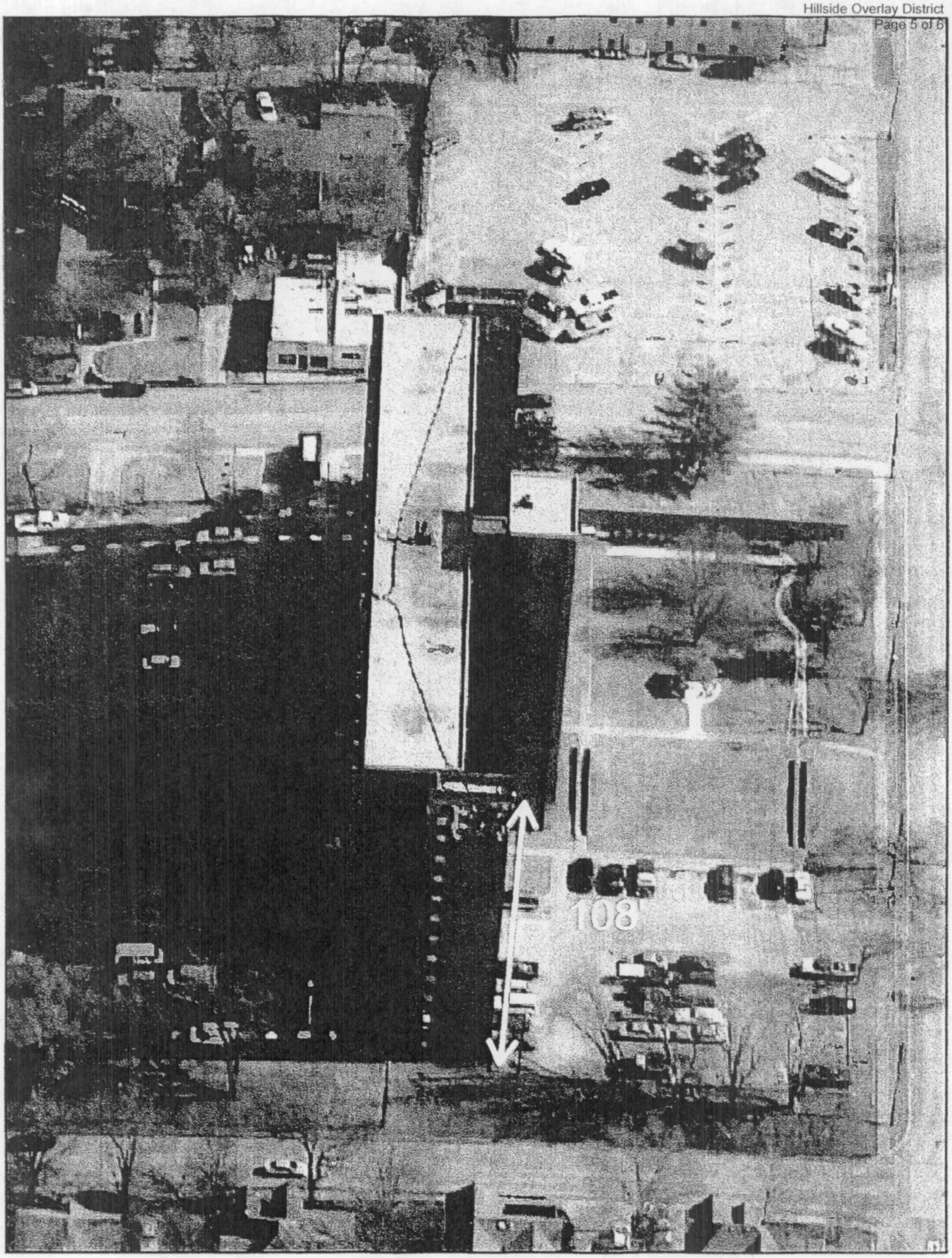
City Council Tour: None

Agenda Session 3/28/06 B.1. Hillside Overlay District

130
26'

70'

26'
102'


108

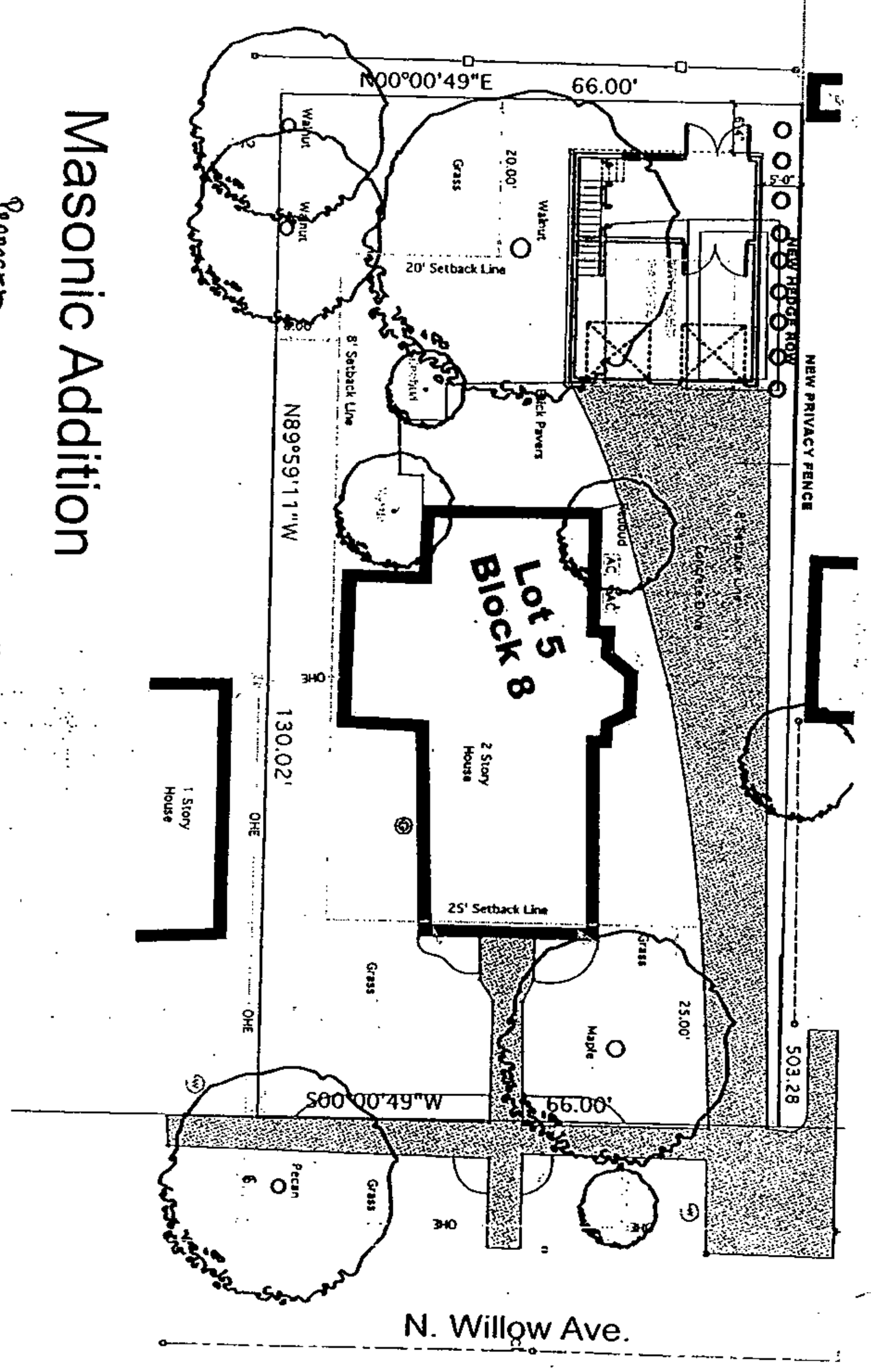
Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

NORTH

PROPOSED SITE PLAN
SCALE: 1"=20'
01.16.06

A0.1

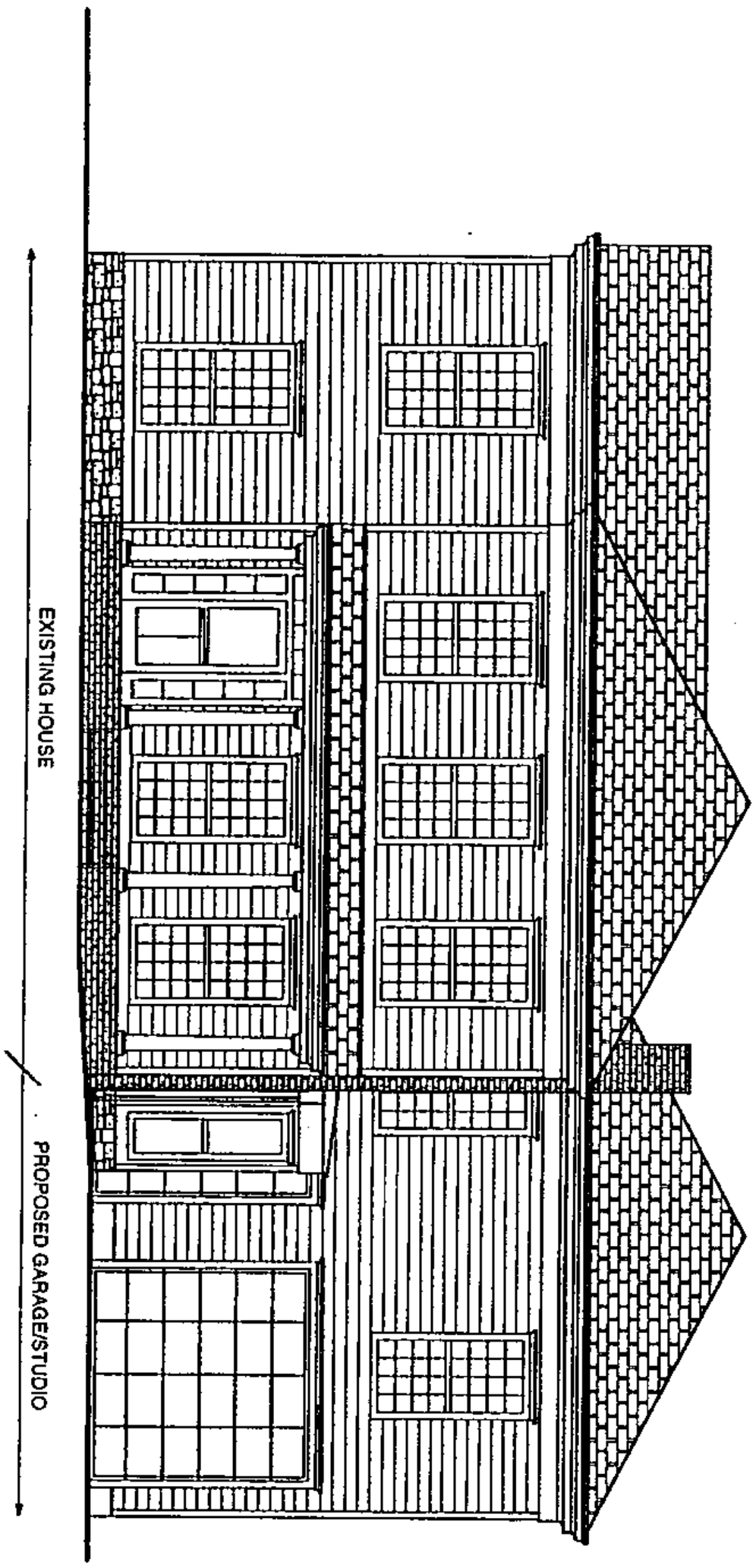
Julie Chambers:Users:julie:Desktop:Chambers.lbk 1/17/06



Proposed Addition

***Site plan with proposed detached garage and associated second dwelling unit**

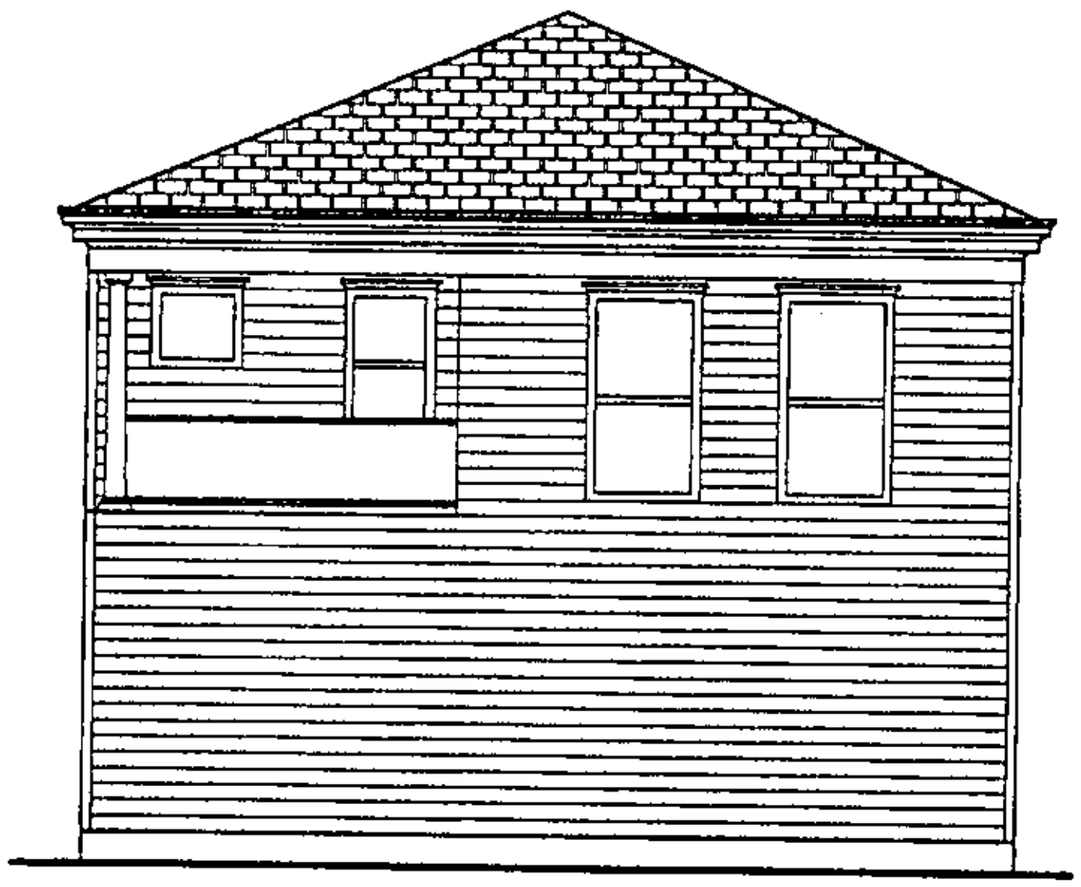
Daysha Swain 3/28/06 B.2. Chambers Option 1



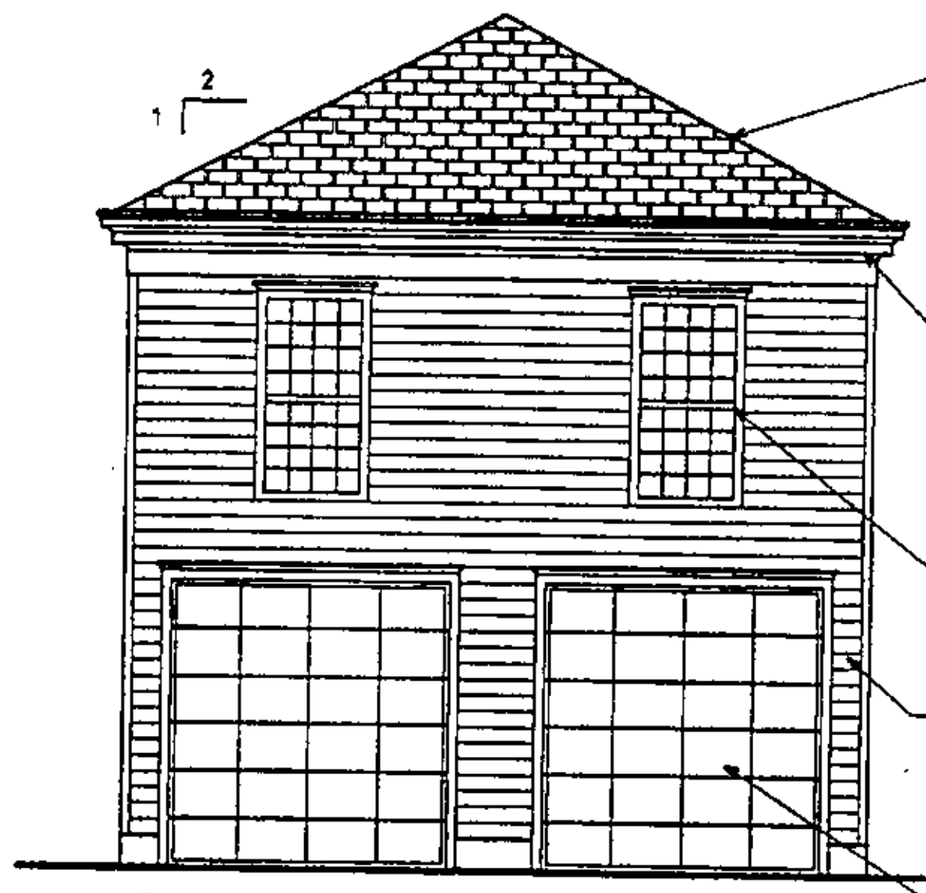
1 PROPOSED EAST ELEVATION
1/8" = 1'-0"

Julie Chambers:Users:julie:Desktop:Conditional use:Chambers.lbk 1/18/06

Matthew and Julie Chambers 347 N. Willow Avenue Fayetteville, Arkansas	PROPOSED ELEVATIONS 01.16.06	A1.2



1 SOUTH ELEVATION
1/8" = 1'-0"



2 EAST ELEVATION
1/8" = 1'-0"

ASPHALT SHINGLES TO MATCH EXISTING HOUSE

+/- 18'-6" AFF
TO MATCH EXISTING HOUSE

WHITE SOFFIT, TRIM, AND GUTTER TO MATCH EXISTING HOUSE (ONCE REPAIRS ON EXISTING HOUSE ARE COMPLETED)

3'-0" X 6'-0" WHITE ALUM. CLAD WOOD WINDOWS TO MATCH EXISTING HOUSE

WOOD OR CEMENT BOARD LAP SIDING PAINTED GRAY TO MATCH EXISTING HOUSE

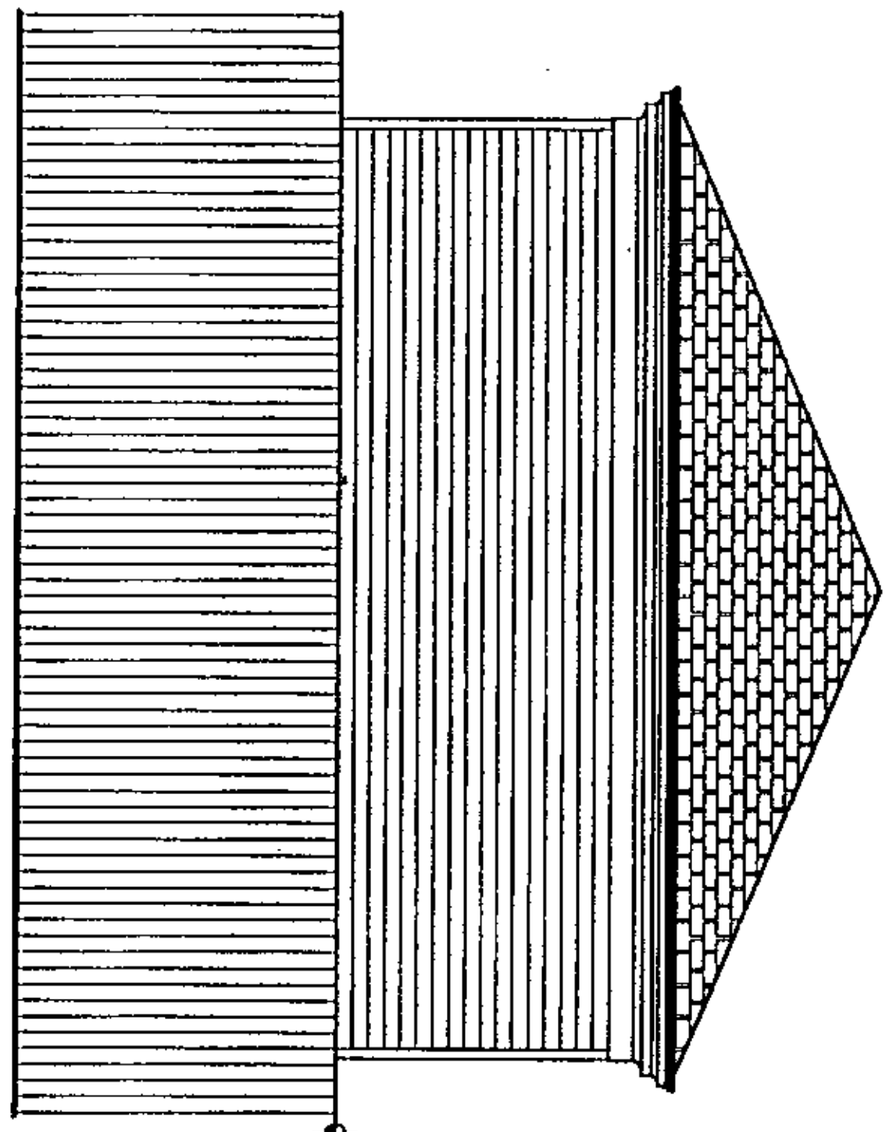
WHITE PAINTED CARRIAGE-HOUSE TYPE GARAGE DOORS

A1.0

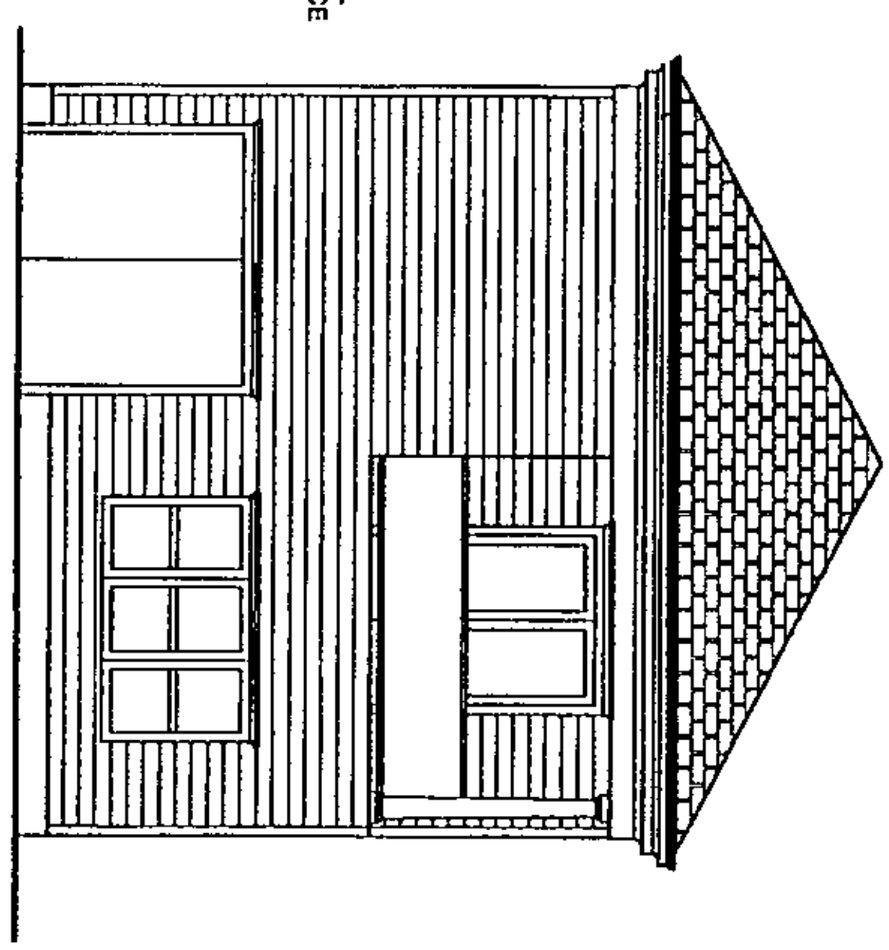
PROPOSED ELEVATIONS
01.16.06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

Julie Chambers:Users:julie:Desktop:Chambers.dx 1/17/06



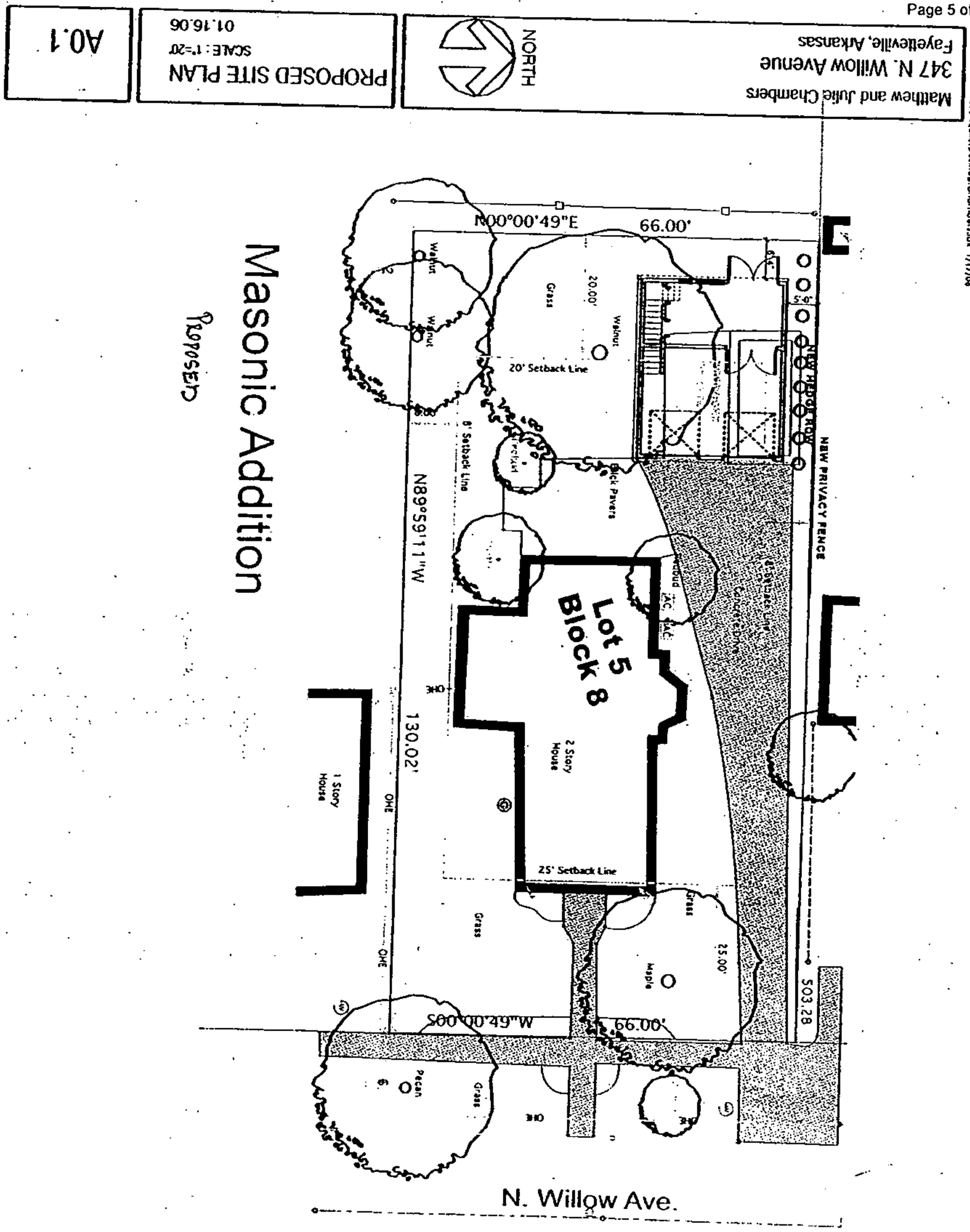
1 NORTH ELEVATION
1/8" = 1'-0"



2 WEST ELEVATION
1/8" = 1'-0"

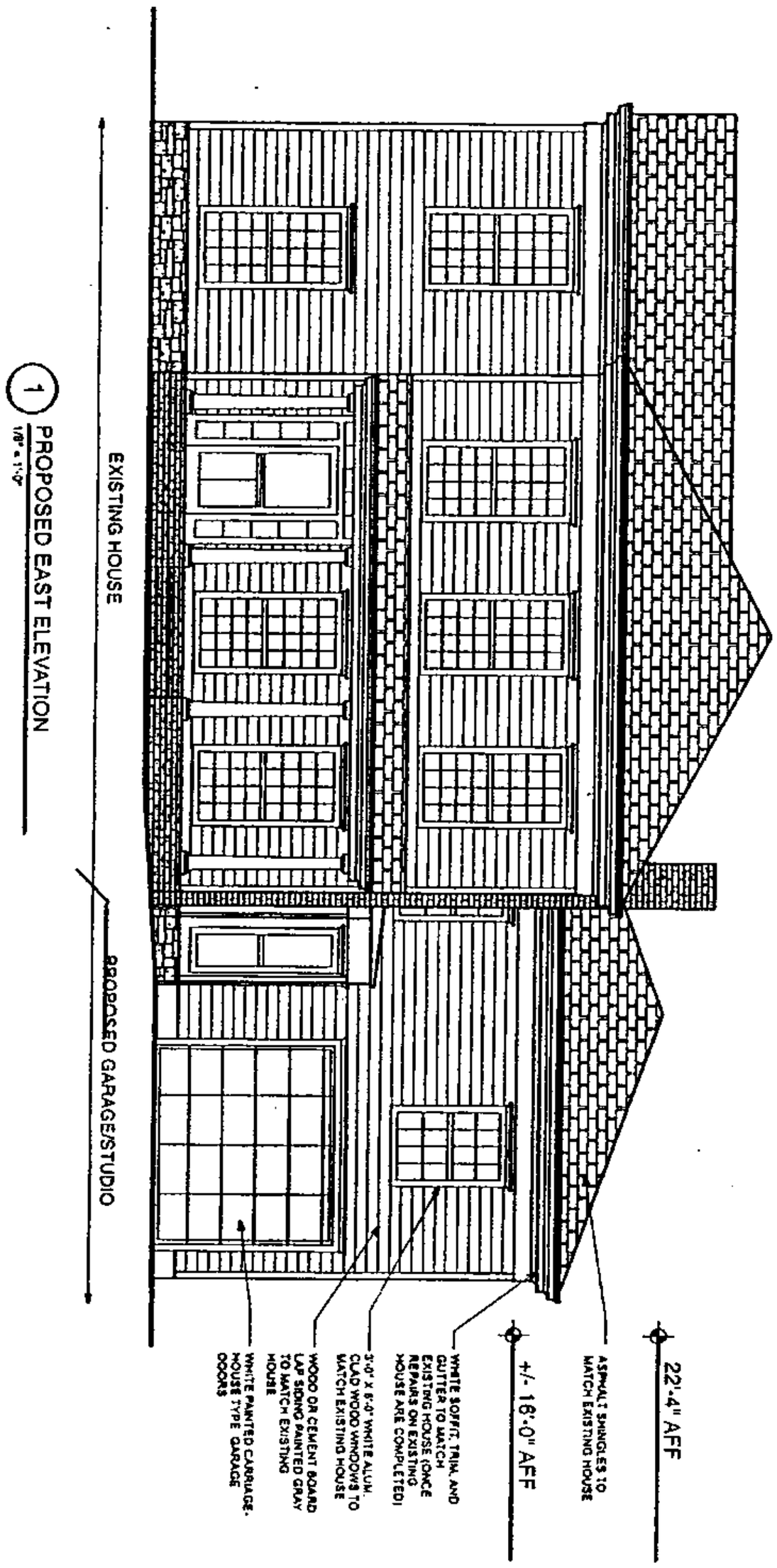
Julie Chambers:Users:julie:Desktop:Chambers.tbk 1/17/06

Matthew and Julie Chambers 347 N. Willow Avenue Fayetteville, Arkansas	PROPOSED ELEVATIONS 01.16.06	A1.1



***Site plan with proposed detached garage and associated second dwelling unit**

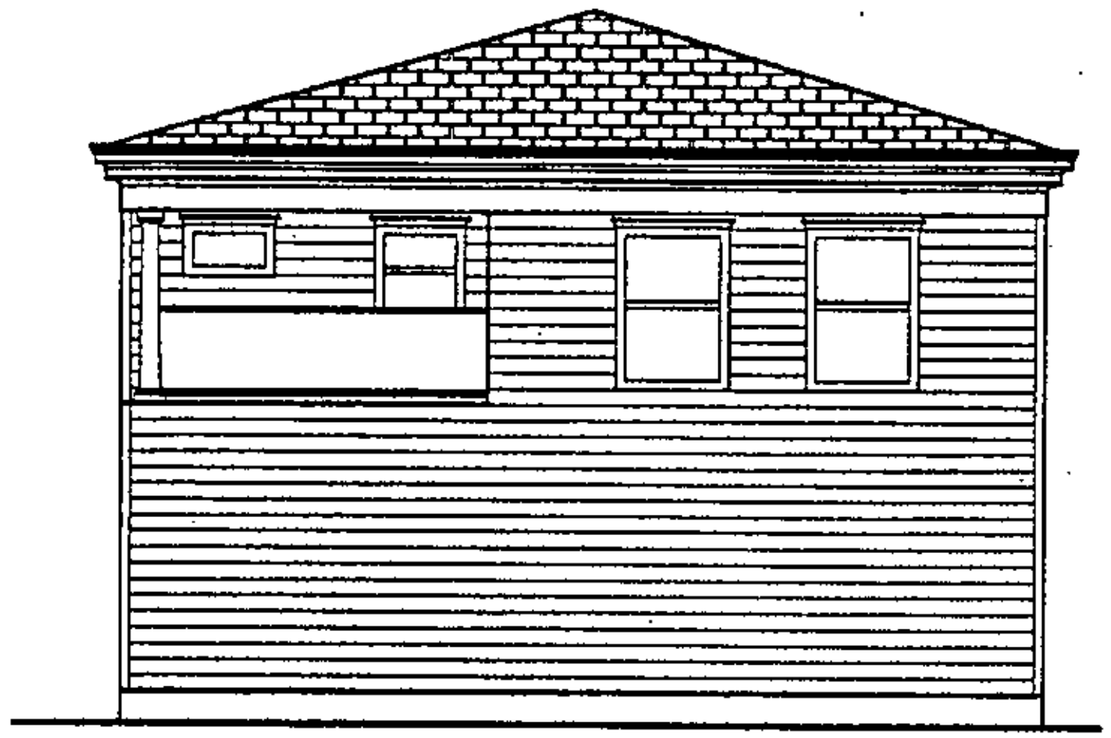
B3 Chambers Option 3 3/28/06 Agenda Session



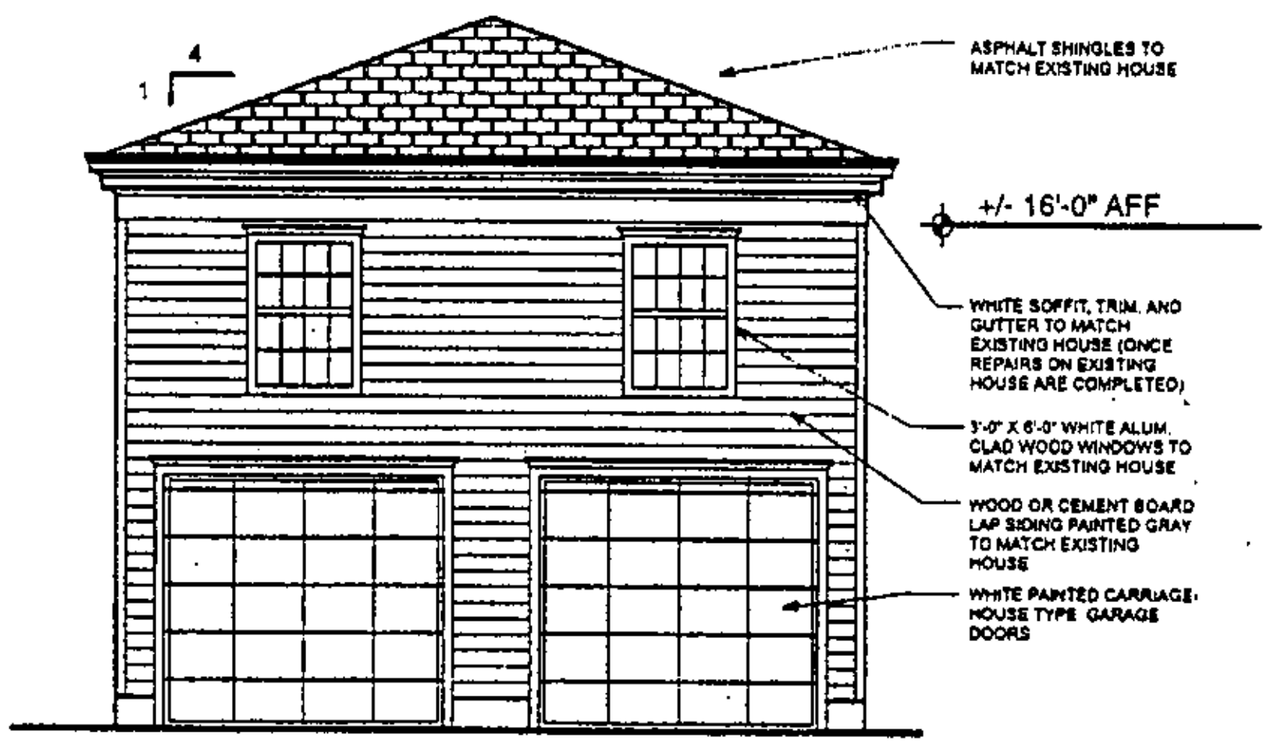
1 PROPOSED EAST ELEVATION
1/8" = 1'-0"

Julie Chambers:Users:julie:Desktop:Conditional use:Chambers.dwg 3/28/06

Matthew and Julie Chambers 347 N. Willow Avenue Fayetteville, Arkansas	PROPOSED ELEVATIONS 2 03.28.06	A1.2



1 SOUTH ELEVATION
1/8" = 1'-0"



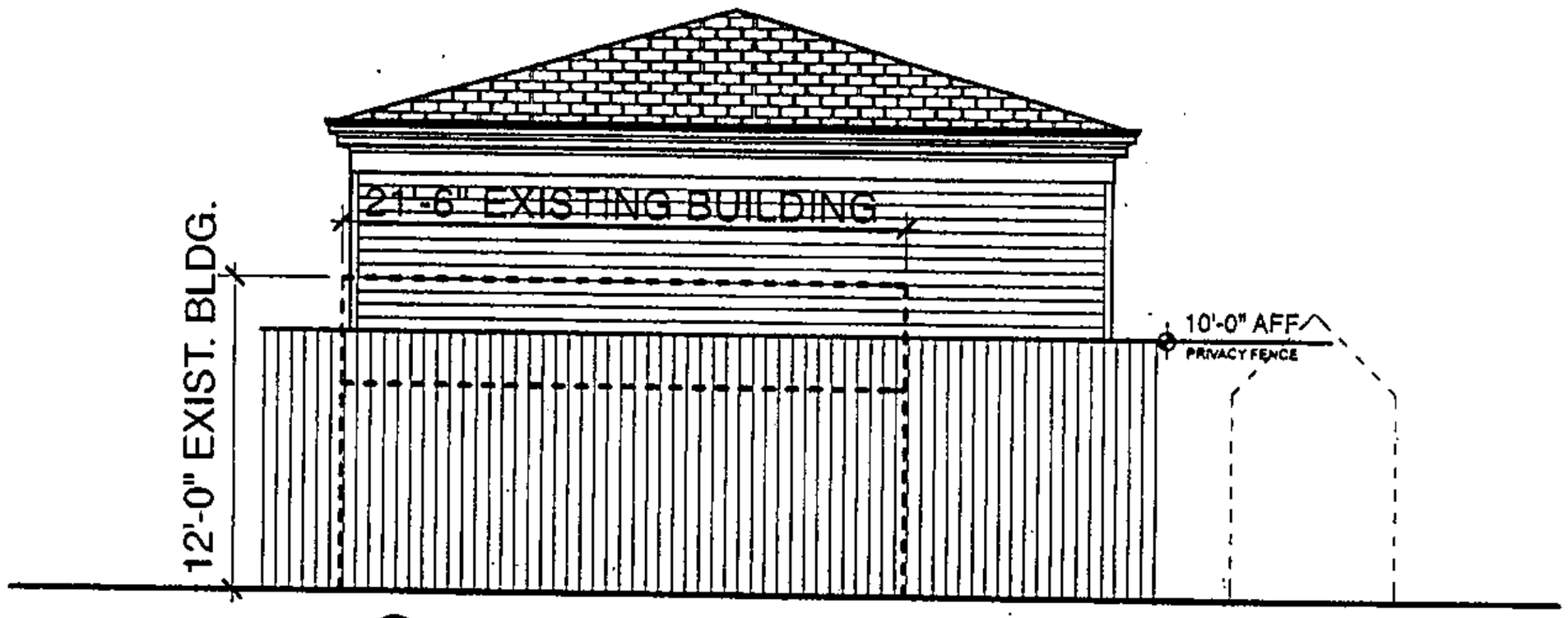
2 EAST ELEVATION
1/8" = 1'-0"

A1.1

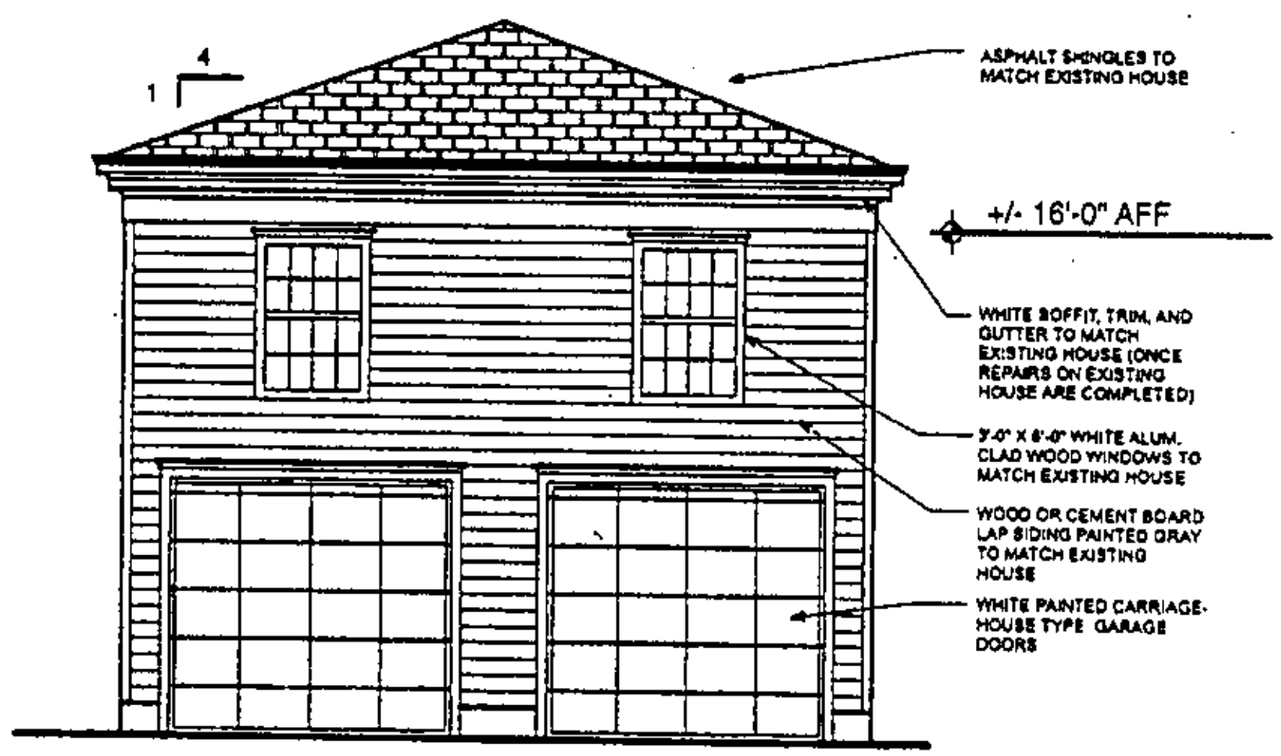
PROPOSED ELEVATIONS 2
03.28.06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

Julie Chambers:Users:julie:Desktop:Conditional use:Chambers.bk 3/28/06



1 NORTH ELEVATION
1/8" = 1'-0"



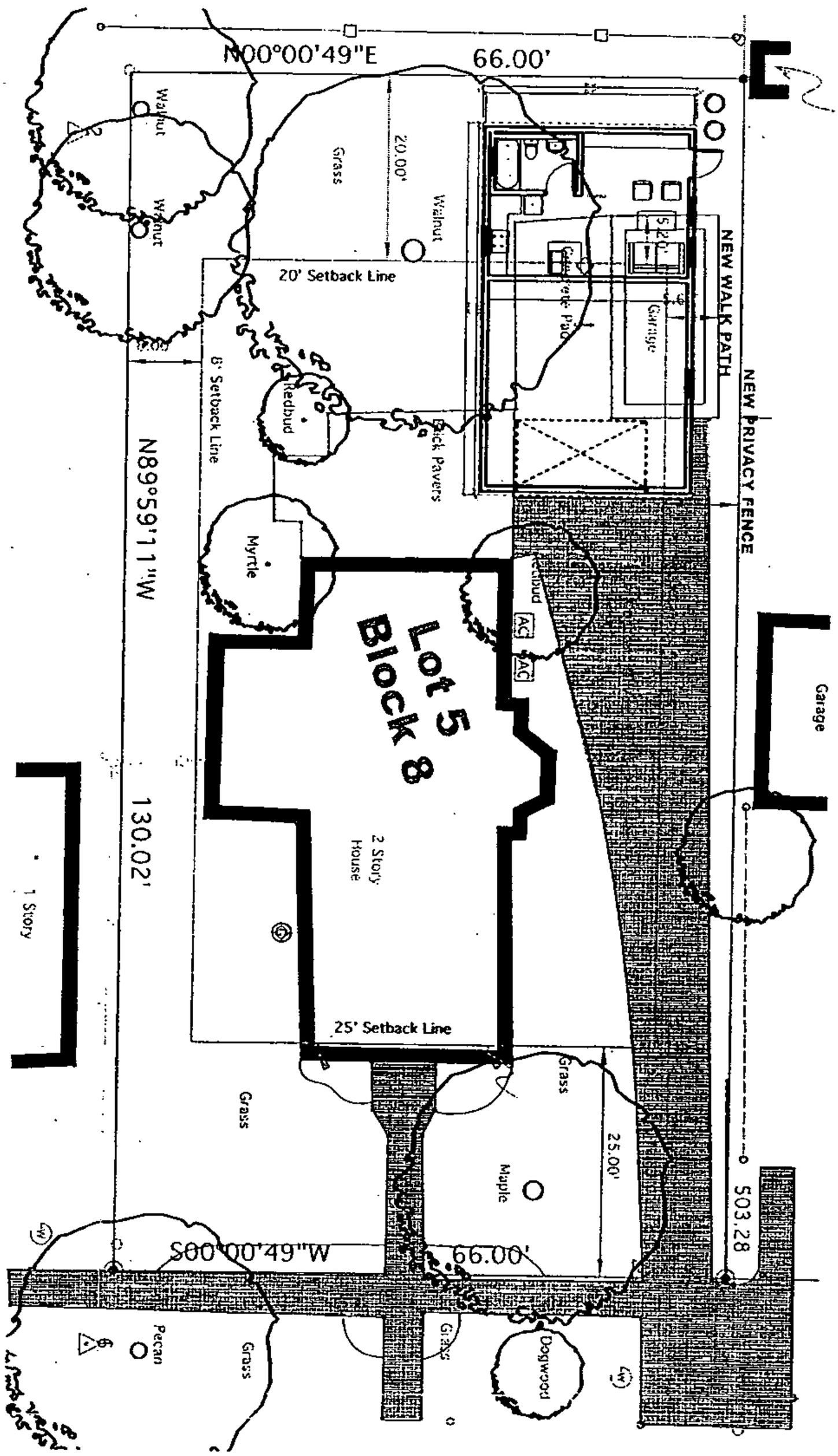
2 EAST ELEVATION
1/8" = 1'-0"

A1.0

PROPOSED ELEVATIONS 2
03.28.06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

Julie Chambers:Users:Julie:Desktop:Conditional use:Chambers.lbx 3/28/06



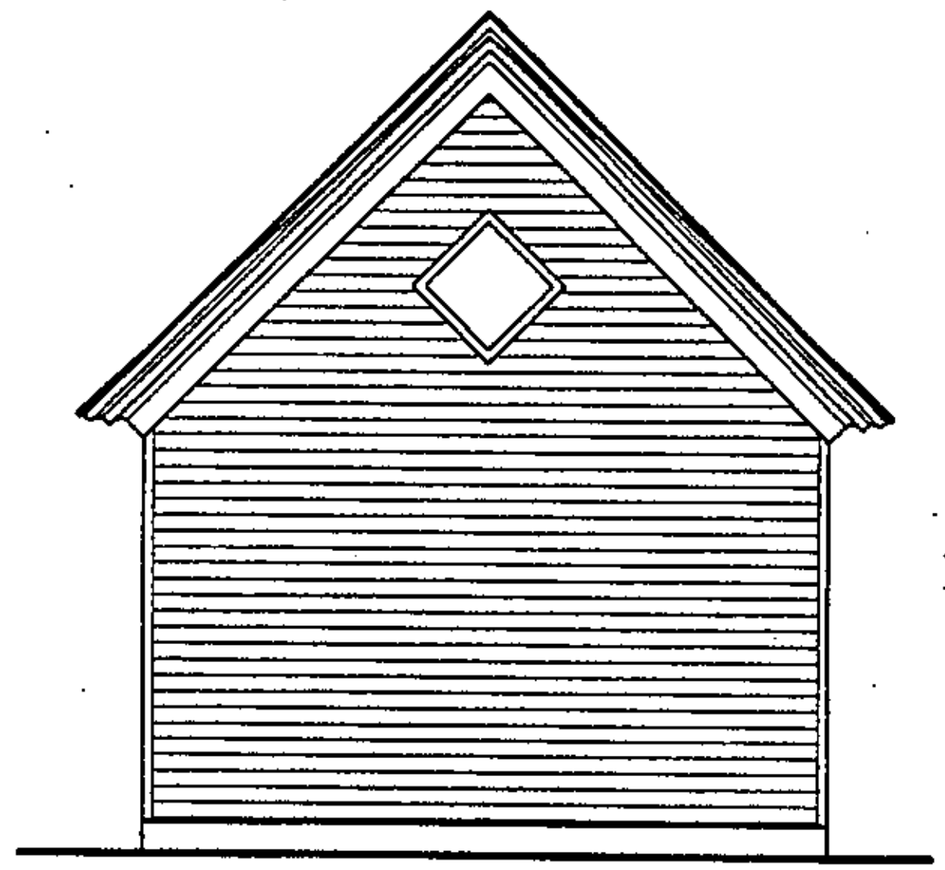
Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

PROPOSED SITE PLAN-3
SCALE : 1"=20'
03.28.06

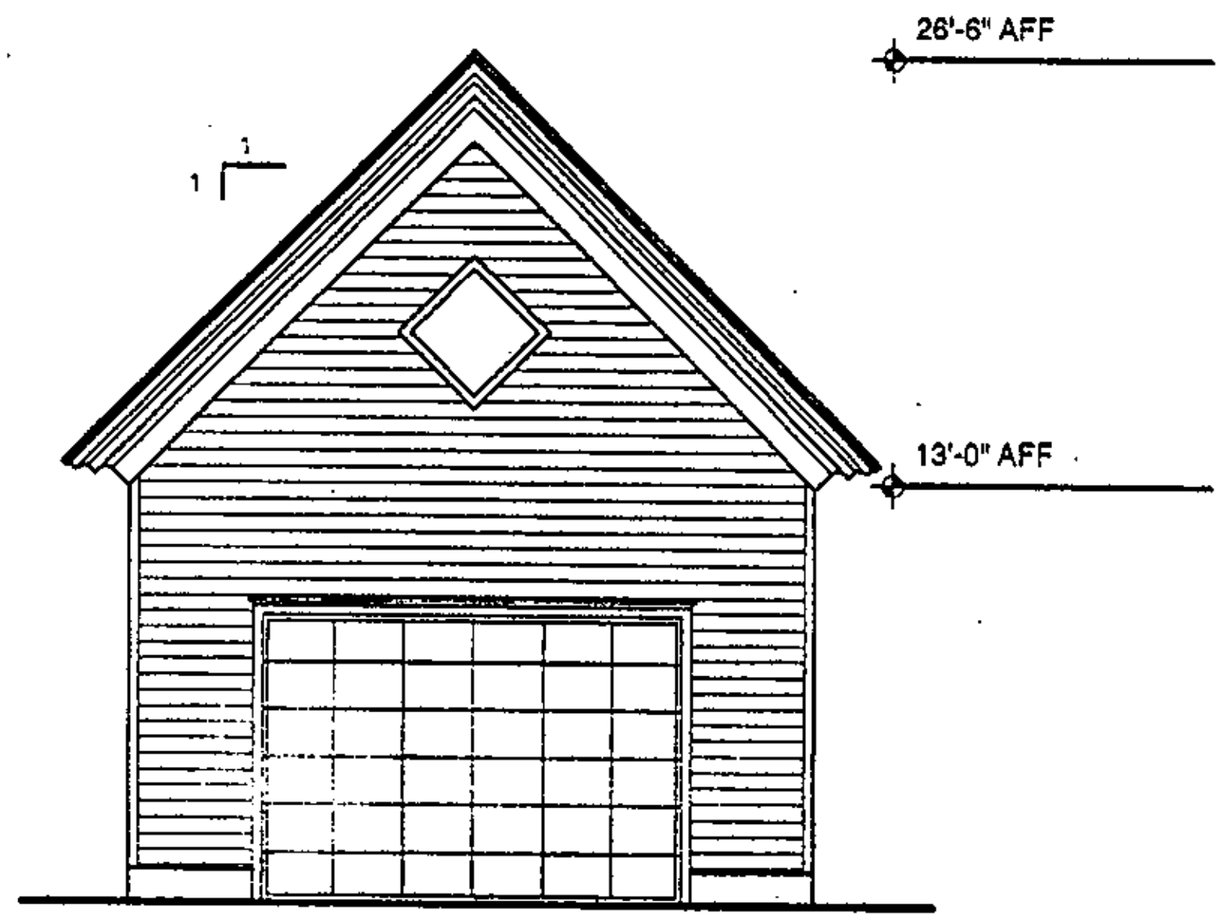
A0.1

Julie Chambers:Users:julie:Desktop:Conditional use:Chambers.tbk 3/28/06

B.2. Chambers Option 3 3/28/06 Regular Session



1 WEST ELEVATION
1/8" = 1'-0"



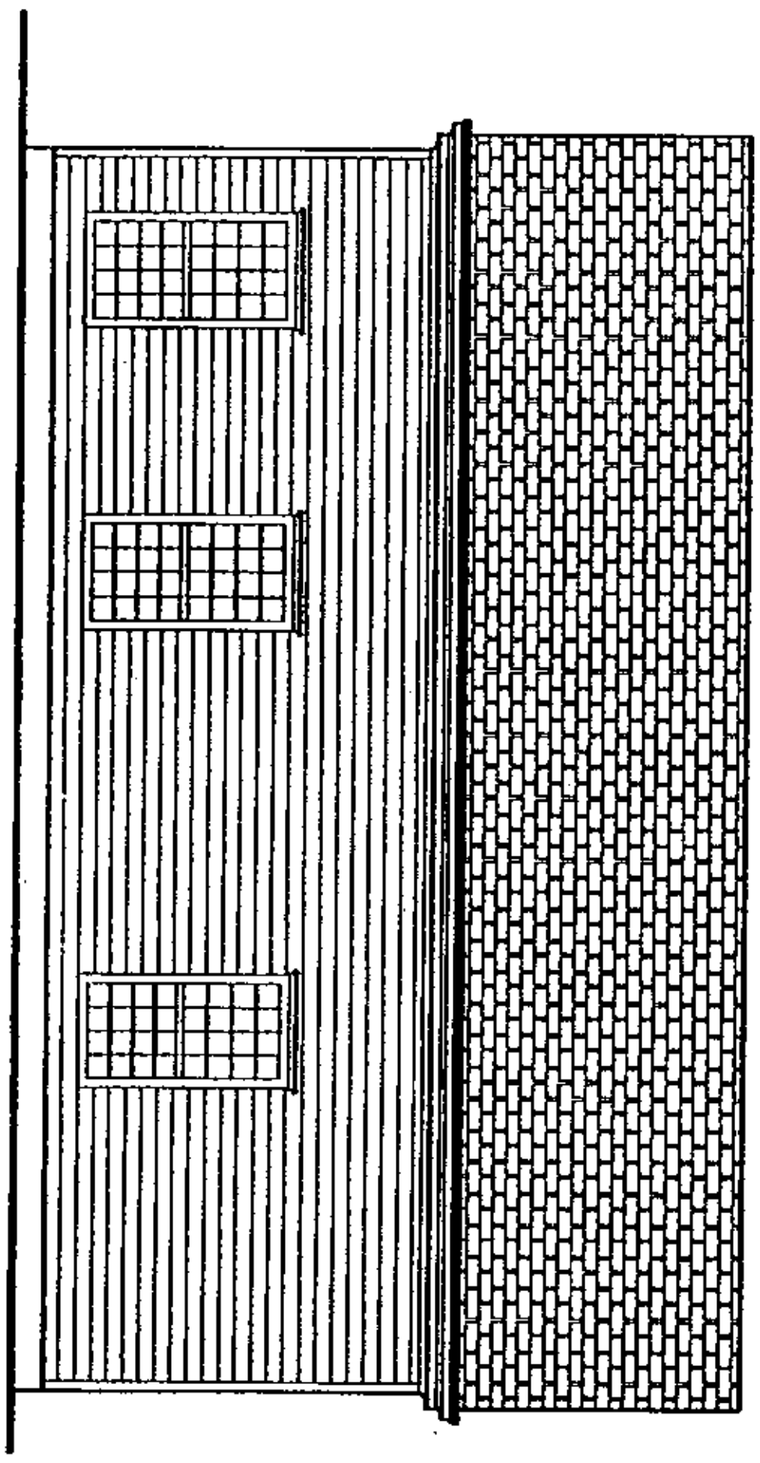
2 EAST ELEVATION
1/8" = 1'-0"

A1.1

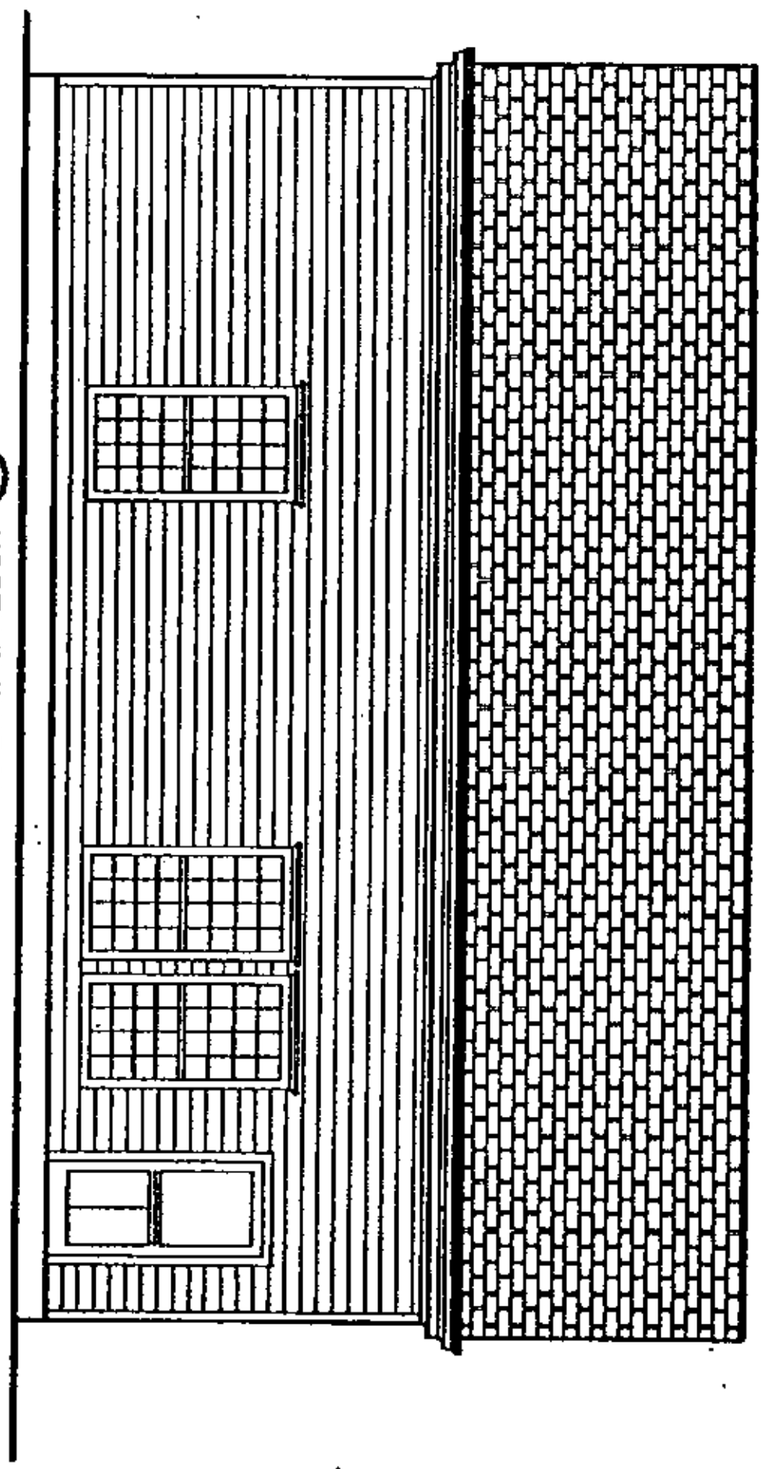
PROPOSED
ELEVATIONS 3
03.28.06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

Julie Chambers:Users:julie:Desktop:Conditional use:Chambers.tbk 3/28/06



2 SOUTH ELEVATION
1/8" = 1'-0"



1 NORTH ELEVATION
1/8" = 1'-0"

Julie Chambers:Users:julie:Desktop:Conditional use:Chambers.tbk 3/28/06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

PROPOSED
ELEVATIONS 3
03.28.06

A1.0

Added at
Agenda Session
3/28/06
C. 3.

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF APRIL 4, 2006

FROM:
ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:
An Ordinance Amending Chapter 161: Zoning Regulations, Unified Development Code, To Provide Uniform Building Height Restrictions In Residential Single-Family Zoning Districts; And Amending Chapter 156: Variances

APPROVED FOR AGENDA:

Brenda Thiel — 3/28/06
Brenda Thiel — Date
Alderman

D. P. Whit — 3/28/2006
David Whitaker — Date
Assistant City Attorney (as to form)

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 161: ZONING REGULATIONS, UNIFIED DEVELOPMENT CODE, TO PROVIDE UNIFORM BUILDING HEIGHT RESTRICTIONS IN RESIDENTIAL SINGLE-FAMILY ZONING DISTRICTS; AND AMENDING CHAPTER 156: VARIANCES.

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

Section 1. That §§ 161.04 through 161.08 subsections (F), Height Regulations are hereby repealed, and the following is inserted in their stead:

(F) *Height.* Structures in this District are limited to a building height of 45 feet as measured from the lowest point of the structure at the historic grade. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

Section 2. That § 156.02 (B) is hereby amended by inserting the following:

(5) *Building height variance in residential single-family zoning districts.*

(a) The Planning Commission shall have the authority to grant a variance to allow a proposed structure to exceed a height of 45 feet in Residential Single-Family Zoning Districts in those instances where, owing to special conditions and circumstances, literal enforcement of the building height restrictions would result in unnecessary hardship.

(b) The Planning Commission may prescribe appropriate conditions and safeguards to ensure any variance will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED: **DRAFT**

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Added at Agenda Session 3/28/06. C.6.

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

4/4/2006
City Council Meeting Date

Dan Coody		Mayor
Submitted By	Division	Department

Action Required:

Resolution Approving Implementation of a Process Establishing an Ambulance Service Public Utility and Soliciting Proposals for Exclusive Emergency and Non-Emergency Ambulance Service

	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Department Director	Date
City Attorney	3-28-06 Date
Finance and Internal Service Director	3-28-06 Date
Mayor	3/28/06 Date

Received in City Clerk's Office ENTERED 3-28-06

Received in Mayor's Office ENTERED 3/28/06

Comments:

Fayetteville
ARKANSAS

To: City Council

From: Dan Coody, Mayor

Date: March 24, 2006

RE: Emergency Ambulance Service

Attached is a memo from the Washington County Administration expressing their very real concern for the availability of an economically sustainable emergency ambulance service for Fayetteville and Washington County.

My primary concern is that this vital service is available, with an acceptable response time, for the residents of Fayetteville.

The issue of current concern to the Washington County Administration is the pending expansion of a major national ambulance service provider within the County. This service provider will only handle non-emergency transfers. This provider will influence the non-emergency transfer market, reducing the non-emergency transfers available to the current emergency service provider and therefore their ability to financially sustain emergency operations.

The consequence of this loss of market share will have a potentially serious affect upon CEMS's ability to remain financially viable.

The loss of financial viability will result in one of two scenarios; no emergency ambulance service or more City/County money to fund the cash shortage of the emergency service provider.

The City of Fayetteville paid CEMS $156,000 in 2004, $250,000 in 2005, and has budgeted $300,000 for 2006 for services. This is an increase of almost 200% in 2 years. The $300,000 budgeted for 2006 will not be sufficient to sustain the service even if there is only a marginal expense/revenue impact due to the loss of a portion of the non-emergency transfer market.

There are limited options available to the local governments. These are:

1. Do nothing. Wait and see what happens to the current emergency provider and be prepared to fund an annual cash shortfall. Additional funding will probably be necessary this year and certainly in future years. This funding can not be withheld without the prospect of significant consequences.
2. Immediately begin the process of soliciting proposals for an exclusive franchise for emergency and non-emergency ambulance services to be operational by January 1, 2007. The most apparent mechanism to accomplish this exclusive franchise is through the Public Utility Model (PUM). Additional funding may be necessary for CEMS emergency services for 2006.

The Washington County Administration has suggested waiting until January 1, 2008 to implement an exclusive franchise. I suggest that this can be accomplished by January 1 2007.

There are multiple service providers interested in our market. We should proactively begin a process to minimize the public investment that must be made in emergency ambulance services and find the best provider available.

Certainly there will be issues in who pays as we create the PUM. The level of service provided to the rural areas, the City of Fayetteville, and the other towns and cities within the county will be one determinate of the cost to each entity and will likely be a source of concern for all parties. However, we can solve these issues.

The question is, are we to be proactive and solve the problem before a crisis emerges or will we wait until limitations on service delivery jeopardizes the safety of our citizens?

I suggest that we proactively begin the process of finding the best service provider possible and implement an exclusive franchise for all ambulance services through the public utility model to be operational by 1-1-2007.

Date: March 23, 2006

To: Mayor Dan Coody

From: John Gibson
Hugh Earnest

Subject: Provision of County Wide Ambulance Service

Background

As you well know, both the city and county have, for more than a year, been pursuing a long term solution that will insure the continued availability of high performance emergency and non emergency ambulance service for the majority of this wonderful county. The creation of a not for profit entity, Central Emergency Management Service (CEMS) in 1980 was the result of dedicated individuals in the county and city working together to create a service provider that has to this day provided a good to excellent level of service to a large service area in Washington County.

In 2005, both the city and county, recognizing that the rapid growth in this area was causing service delivery problems for CEMS, commissioned a study by a nationally recognized consultant that validated the position that the next logical step for the region would be the creation of a Quasi-Governmental Public Utility Model (PUM) for the express purpose of operating an ambulance system. There was a general consensus that while the system was not broken, logic dictated that we should implement improvements prior to any serious problems with the system. While the study suggested that the current system could be folded into the yet to be created PUM, it has been decided that the interests of the region would be best served by opening the service to other companies through the use of a carefully crafted Request for Proposal (RFP). All parties recognize that the participation of the city of Fayetteville, as the largest user of ambulance service, in the PUM is crucial to its success.

Current Situation/Discussion

Over the past several months, several entities have been engaged in the preliminary discussions that are necessary as we move toward the creation of the new governing entity. What has changed in the past several weeks is the fact that the largest for profit provider of ambulance service in the country American Medical Response (AMR) is moving into this region. (AMR, a part of Onex Corporation from Canada, operates in over 250 locations and has 17,000 employees. It was purchased from Laidlaw of Canada in 2005. Its headquarters are in Greenwood Village, Colorado.) We have discovered from other parties that it is their intent to focus initially on non-emergency service in both Benton and Washington counties. While it is their absolute right, under current local and state regulations, to establish a presence whenever and wherever they wish, it is also true that such an action will cause immediate revenue problems to CEMS in Fayetteville and Washington county if, as we suspect, the company focuses on securing a significant percentage of the non-emergency operations.

We have included as an attachment, a summary of revenues and expenses for CEMS for 2005. It shows essentially a break-even operation with a small loss of less than $5,000. Also included is a bar graph showing the number of emergency and non-emergency operations since 2003. It is significant that the number of non-emergency operations is trending downward. Last year, CEMS in its non-emergency component, netted $426,000 for 1076 billable transfers. Any reduction in this number in 2006 will adversely impact the ability of this non-profit to operate absent the infusion of additional operational monies from the two entities currently providing subsidies.

On March 21st the CEMS board held its annual meeting. While there was no formal vote taken, the board recognizes that the decision on how best to meet our future needs for high performance ambulance service can be addressed in a satisfactory fashion by crafting a Request for Proposal RFP that will be placed on the street. We have been given every indication that there are a number of national and regional providers that will be interested in responding. One of the entities that will be responding will be CEMS.

Recommendation

It is crucial that this region retain a viable, fiscally solvent entity that will continue to provide emergency response capability in this area as we all move forward to set up the PUM and craft the RFP. What we recommend in the interim to insure that a viable service remains in place is the passage of an emergency ordinance establishing exclusivity for emergency and non-emergency service in the CEMS service area in Fayetteville, AR. This emergency ordinance would be in effect thru January 1, 2008. In addition, the ordinance would mandate that an RFP would be sent out in May or June of 2007 with a clear understanding that an award to a service provider would be made with the implementation date to be January 2008.

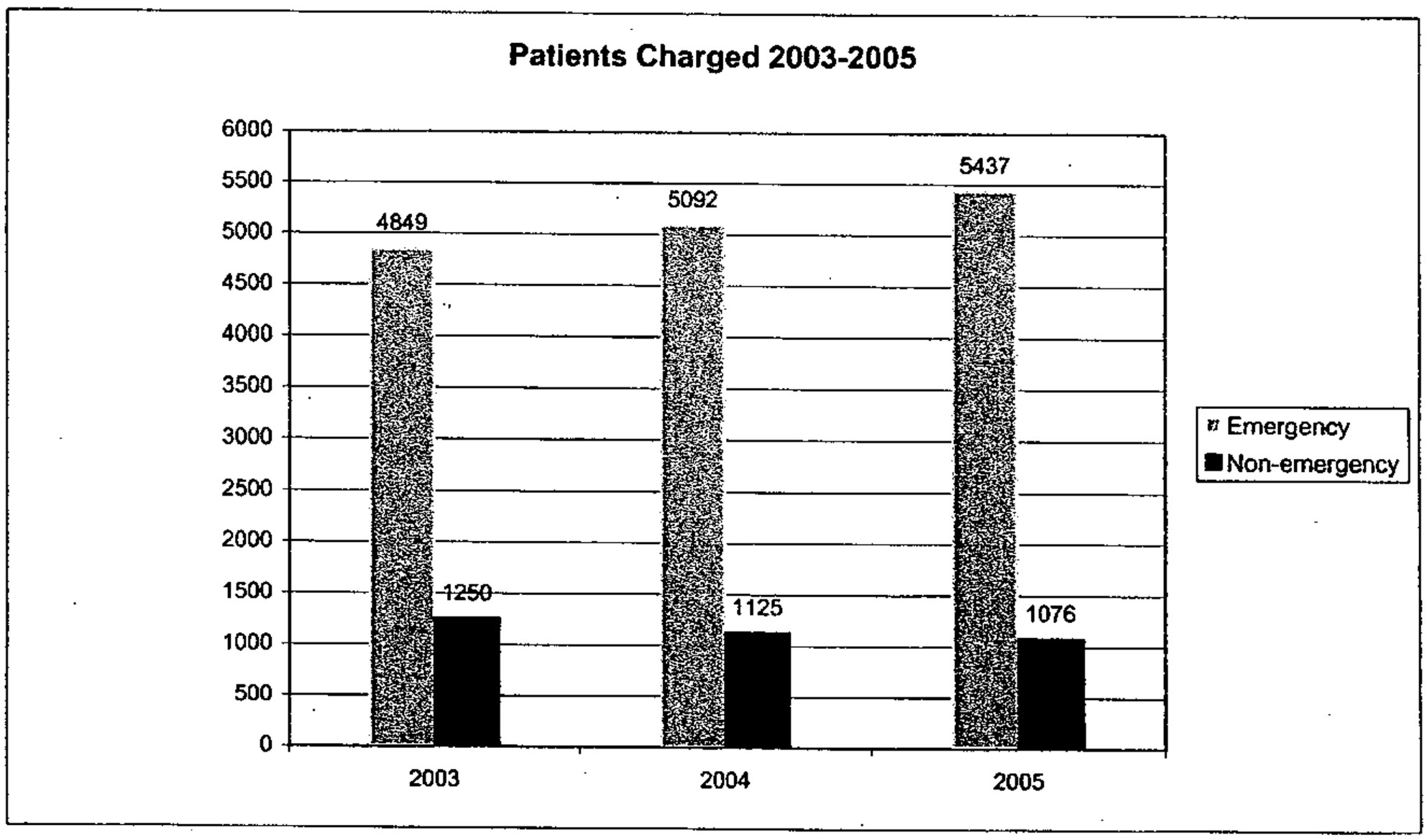
As we stated earlier, CMS expects to compete along with a number of private and public for-profit entities within the RFP process.

We believe that this option best preserves and protects from a public policy perspective a health and safety issue of paramount importance to all residents of this great county.

CENTRAL EMERGENCY MEDICAL SERVICE, INC.
STATEMENTS OF ACTIVITIES
FOR THE YEARS ENDED DECEMBER 31, 2005 AND 2004

	2005	2004
Revenue and Support		
Revenue:		
Patient Fees	$ 4,733,460	$ 4,112,479
VA Charges	378,130	432,720
Wheelchair Charges	117,713	187,222
Less: Medicaid/Medicare Writedowns	(1,290,793)	(1,129,391)
Net Patient Revenue	3,938,510	3,603,030
911 Reimbursements	73,016	69,749
PAMP - Net	833	11,841
Bad Debt Recoveries	32,361	34,241
Standby Fees	95,735	96,730
Miscellaneous Income	62,240	39,863
Total Revenue	4,202,695	3,855,454
Support:		
City of Fayetteville	250,001	156,000
Washington County EMS Assistance	495,973	340,643
Washington County Dispatch Assistance	148,133	136,856
Donations	-	25
Grant	66,297	4,332
Total Support	960,404	637,856
Total Revenue and Support	5,163,099	4,493,310
Expenses		
Administrative	350,221	326,942
Program	4,814,843	4,192,993
Total Expenses	5,165,064	4,519,935
Revenue and Support under Expenses	(1,965)	(26,625)
Other Income (Expense)		
Interest Expense	(8,342)	(6,300)
Interest Income	141	351
Gain (Loss) on Disposal of Assets	5,495	(31,246)
Total Other Income (Expense)	(2,706)	(37,195)
Decrease in Unrestricted Net Assets	(4,671)	(63,820)
Net Assets, Beginning of Year	2,134,113	2,197,933
Net Assets, End of Year	$ 2,129,442	$ 2,134,113

See Notes to Financial Statements.


Patients Charged 2003-2005
6000
5500
5000
4500
4000
3500
3000
2500
2000
1500
1000
500
0
4849
1250
5092
1125
5437
1076
2003
2004
2005
Emergency
Non-emergency

RESOLUTION NO. _____

A RESOLUTION TO EXPRESS THE CITY COUNCIL'S INTENT TO CONTRACT EXCLUSIVELY USING COMPETITIVE PROCUREMENT METHODS WITH A SINGLE ENTITY FOR THE PROVISION OF ALL EMERGENCY MEDICAL SERVICES AND AMBULANCE SERVICES FOR THE CITY OF FAYETTEVILLE

WHEREAS, A.C.A. §14-226-101, et. seq. grants cities the right to contract exclusively with a single provider of ambulance services selected by competitive procurement procedures; and

WHEREAS, the City of Fayetteville can reduce its taxpayer costs by granting an exclusive franchise within Fayetteville for all emergency and non-emergency ambulance services for its citizens.

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 expresses its intent to use the provisions of A.C.A. §14-266-101, et. seq. to competitively select an ambulance services provider and grant such provider an exclusive franchise within Fayetteville to provide all emergency and non-emergency ambulance services as allowed by state law.

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED:

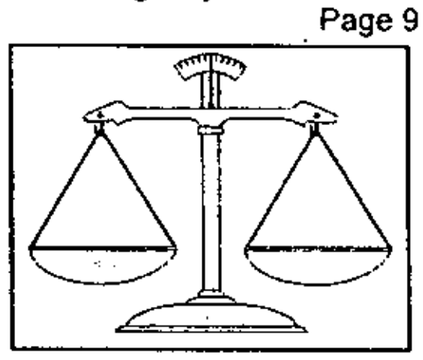
By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS



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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: Kit Williams, Fayetteville City Attorney
FROM: David J. Whitaker, Assistant City Attorney
DATE: March 16, 2006
RE: Constitutionality of "Public-Utility Model" for Ambulance Service

You have asked me to research whether the City of Fayetteville has the authority to adopt a "public-utility model" for emergency and non-emergency ambulance services without running afoul of the U.S. Constitution. For the reasons set forth below, I conclude that the answer is "yes."

In Gold Cross Ambulance and Transfer v. City of Kansas City, 705 F.2d 1005 (8th Cir. 1983) cert. denied, 471 U.S. 1003 (1985); the U.S. Circuit Court of Appeals upheld an almost identical plan adopted by Kansas City against both anti-trust and constitutional challenges brought by two private ambulance services. The Court stated that the city had acted in accordance with the state legislature's express authorization and "intent to displace competition in the ambulance industry." Id. at 1013.

As to the constitutional challenges, the Gold Cross court affirmed the District Court's grant of summary judgment in favor of all defendants, stating that "We agree with the court below that the challenged ordinance is designed to promote the public health, safety and welfare; and that it does not infringe on any fundamental constitutional right. ***There is no absolute right to contract free of state regulation under the police power.*** Id. at 1015. (emphasis added).

Arkansas too, has adopted a statute authorizing cities to regulate emergency and non-emergency ambulance services. A.C.A. §14-266-101 et seq. (West 2004). The legislation includes detailed and express legislative

determinations supporting municipal regulation of such services, including: "that emergency medical services and ambulance operations, when subjected to competitive practices of multiple companies simultaneously serving the same city, operate under precarious financial conditions and that this type of competition is harmful to the health, safety, and welfare of residents of the state." A.C.A. § 14-266-102(b)(1).

While the legislature granted cities "the right and power to contract exclusively or otherwise," for both emergency and non-emergency ambulance services, it also made it quite clear that cities must adhere to "competitive procurement methods" in order to allow "periodic competition among companies" providing such services. Id.

Based on the Eighth Circuit's holding in Gold Cross, it is my conclusion that so long as the City of Fayetteville enacts its "public-utility model" for ambulance service in strict accordance with the requirements of A.C.A. §14-266-101 et seq., the ordinance in question should survive constitutional challenge.

CHAPTER 266

MUNICIPAL AMBULANCE LICENSING

Section

14–266–101. Short title.
14–266–102. General Assembly; determinations and intentions.
14–266–103. Definitions.
14–266–104. Interpretation and applicability of provisions.
14–266–105. Powers generally.
14–266–106. EMS Board; powers and duties.
14–266–107. Powers of certain cities; franchise.
14–266–108. Financing; service charges and bonds.
14–266–109. Rules and regulations.
14–266–110. Expiration of permit; consequence.

§ 14–266–101. Short title

This chapter shall be known as the "Municipal Ambulance Licensing Act."

Acts of 1981 (Ex. Sess.), Act 23, § 1.

Formerly A.S.A. 1947, § 19–5901.

Library References

Automobiles ⟹65 to 108.
Westlaw Key Number Search: 48AkIII(B).

C.J.S. Motor Vehicles §§ 5, 36 to 37, 105 to 113, 156, 158, 161, 171 to 214, 216 to 220, 222 to 242, 244 to 249, 252 to 255, 1296.

§ 14–266–102. General Assembly; determinations and intentions

(a)(1) It is legislatively determined that it may be desirable for cities of the first class and second class within this state to be authorized and empowered to own, operate, permit, control, manage, franchise, license, and regulate emergency medical services, emergency medical technicians, emergency and non-emergency ambulances, ambulance companies, their relative properties, facilities, equipment, personnel, and any and all aspects attendant to providing emergency medical services and ambulance operations as the cities may deem proper to provide for the health, safety, and welfare of their citizens.

(2) In addition, it is legislatively determined that, in order to accomplish the purposes enumerated in this chapter, it may also be necessary for the cities, in addition to all other powers granted in this chapter, to enact and establish standards, rules, and regulations that are equal to, or greater than, the minimum standards, rules, and regulations established by the state, pursuant to §§ 20–13–201 — 20–13–209 and 20–13–211, concerning emergency medical services, emergency medical technicians, ambulances, ambulance companies, their relative properties, facilities, equipment, personnel, and any and all aspects attendant to providing emergency medical services and ambulance operations within the boundaries of their respective cities.

(3) Further, it is the legislative intent that the standards, rules, and regulations shall not be less than those established by the state.

(b)(1) It is further legislatively determined that emergency medical services and ambulance operations, when subjected to competitive practices of multiple companies simultaneously serving the same city, operate under precarious financial conditions and that this type of competition is harmful to the health, safety, and welfare of residents of the state.

(2) However, it is also legislatively determined that periodic competition among companies for the right to provide ambulance services offers a safe and effective means of encouraging fair and equitable private-sector participation.

(3) Therefore, in order to ensure the availability of state-of-the-art advanced life-support systems and ambulance systems, the General Assembly specifically delegates and grants to cities of the first class and second class the right and power to contract exclusively or otherwise, using competitive procurement methods, for the provision of emergency medical services and ambulance services for the city and to provide continuing supervision of those services.

(c) The General Assembly has determined that this chapter grants cities of the first class and second class broad authority regarding emergency and nonemergency medical services. The General Assembly has further determined that cities of the first class and second class should be allowed to enter into agreements with other cities within the county where they are located or with the county wherein they are located regarding emergency and nonemergency medical services. Therefore, cities of the first class and second class may enter into interlocal agreements with other cities located within the county wherein the city of the first class or second class is located, or with the county wherein the city of the first class or second class is located, and thereby exercise as a cooperative governmental unit all power granted to the city of the first class or second class by this chapter.

Acts of 1981 (Ex. Sess.), Act 23, § 2; Acts of 1987, Act 407, § 3; Acts of 1989, Act 196, § 1.

Formerly A.S.A. 1947, § 19–5902.

Library References

Automobiles ⇐71.
Westlaw Key Number Search: 48Ak71.
C.J.S. Motor Vehicles § 173.

§ 14–266–103. Definitions

As used in this chapter, unless the context otherwise requires:

(1) "Emergency medical services" means the transportation and emergency medical technician care provided the critically ill or injured prior to arrival at a medical facility by a certified emergency medical technician (EMT) and within a medical facility subject to the individual approval of the medical staff and governing board of that facility.

(2) "Nonemergency ambulance services" means the transport in a motor vehicle to or from medical facilities including, but not limited to, hospitals,

nursing homes, physicians' offices, and other health care facilities of persons who are infirm or injured and who are transported in a reclining position; however, not-for-hire on a fee-for-service basis transportation furnished by licensed hospitals and licensed nursing homes to their own admitted patients or residents and individual not-for-hire transportation shall be excluded.

Acts of 1981 (Ex. Sess.), Act 23, § 3.

Formerly A.S.A. 1947, § 19–5903.

Cross References

Property, medical, nursing, hospital, and ambulance service lien act, ambulance service provider defined, see § 18–46–102.

§ 14–266–104. Interpretation and applicability of provisions

(a) Nothing in this chapter shall apply to nonprofit or hospital-based ambulance services operated on November 1, 1981, by a nonprofit organization or an Arkansas hospital licensed by the Department of Health.

(b) Nothing in this chapter shall be construed as expanding the authority of emergency medical technicians or other ambulance personnel beyond the authority existing under applicable Arkansas law.

(c) Nothing in this chapter shall be construed to give cities the power to regulate, in any way, regional or state emergency medical service communication facilities.

Acts of 1981 (Ex. Sess.), Act 23, § 3.

Formerly A.S.A. 1947, § 19–5903.

Library References

Automobiles ⟹77.
Westlaw Key Number Search: 48Ak77.
C.J.S. Motor Vehicles §§ 174, 179 to 183.

§ 14–266–105. Powers generally

(a) Cities of the first class and second class are authorized:

(1) To enact and establish standards, rules, and regulations which are equal to or greater than those established by the state concerning emergency medical services, as defined in this chapter, and emergency medical technicians, emergency and nonemergency ambulances, and ambulance companies, as defined under §§ 20–13–201 — 20–13–209 and 20–13–211; however, the standards, rules, and regulations shall not be less than those established by this state;

(2) To establish, own, operate, regulate, control, manage, permit, franchise, license, and contract with, exclusively or otherwise, emergency medical services, ambulances, ambulance companies, and their relative properties, facilities, equipment, personnel, and any and all aspects attendant to emergency medical services and ambulance operations, whether municipally owned or otherwise, including, but not limited to, rates, fees, charges, or

other assessments as the cities consider proper to provide for the health, safety, and welfare of their citizens;

(3) To establish an Emergency Medical Health Care Facilities Board, hereinafter called "Emergency Medical Services Board" or "EMS Board", under §§ 14-137-101 — 14-137-123, and to exercise all the powers conferred in this chapter and the power conferred under §§ 14-137-101 — 14-137-123, either alone or in conjunction with the EMS Board;

(4) To provide emergency medical services to its residents and to the residents of the county, surrounding counties, and municipalities within those counties, but only if the governing bodies of the counties and municipalities request and authorize the service under §§ 14-14-101, 14-14-103 — 14-14-110 or §§ 25-20-101 — 25-20-108;

(5) To regulate all intracity patient transports and intercity and intracounty patient transports originating from within the regulating city. However, this chapter shall not restrict or allow local regulation of not-for-hire on a fee-for-service basis transportation, any intercounty patient transports, or intercity patient transports to or from medical facilities within the regulating city originating from anywhere outside the regulating city.

(b)(1) A city regulating ambulance companies which contracts with private ambulance companies under this chapter shall permit those companies to offer ambulance services outside its boundaries.

(2) A city regulating ambulance services, which municipally owns or operates those services, shall provide ambulance services to those surrounding areas whose governing bodies request and authorize those services but only if mutually agreeable contracts can be reached to provide those services.

(3) All direct and indirect costs of extending those services shall be borne entirely by patient user fees or subsidies provided by the patient, municipality, or county to whom those services are rendered.

(4) In no event shall the city extending ambulance services beyond its boundaries be required in any manner to subsidize or otherwise extend financial support to render those services.

(c) The city shall have the same authority to regulate nonemergency ambulance services.

Acts of 1981 (Ex. Sess.), Act 23, § 3; Acts of 1989, Act 196, § 2.

Formerly A.S.A. 1947, § 19-5903.

Library References

Automobiles ⟹71, 72.
Westlaw Key Number Searches: 48Ak71; 48Ak72.

C.J.S. Motor Vehicles § 173.

§ 14-266-106. EMS Board; powers and duties

(a) In addition to the powers granted pursuant to §§ 14-137-101 — 14-137-123, the EMS Board, unless limited by the governing body of the city, shall have unlimited authority, by negotiation or by bidding, to own, acquire, lease, construct, contract, operate, manage, improve, extend, maintain, control,

Added at Agenda Session 3/28/06
C.7.

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

4/4/2006
City Council Meeting Date

Dan Coody		Mayor
Submitted By	Division	Department

Action Required:

Resolution Establishing an Annexation Study Committee to Review Annexation Options for West Fayetteville

	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Department Director	Date
City Attorney	3/28/06 Date
Finance and Internal Service Director	3/28/06 Date
Mayor	3/28/06 Date

Received in City Clerk's Office
ENTERED 3-28-06

Received in Mayor's Office

Comments:

Fayetteville
ARKANSAS

To: City Council

From: Dan Coody, Mayor

Date: March 24, 2006

RE: Resolution Establishing an Annexation Study Committee to Review Annexation Options for West Fayetteville

As the City Council is aware, our neighboring community to the west has been discussing annexation of a significant amount of land immediately west of the Fayetteville corporate boundary. In the published discussions of this annexation, the Farmington corporate limits would extend to Highway 16. If this were to occur, the City of Fayetteville would essentially become land-locked between Highway 62 and Highway 16.

There are potential implications if the City of Fayetteville were to become restricted in its ability to continue to grow and annex in this corridor.

I am proposing that the Study Committee, comprised of one City Council representative, the Director of Operations, the City Engineer, the Water/Waste Water Director, and the Director of Long-Range Planning, would report to the full Council within 4-weeks with an analysis and recommendation regarding any actions that the City of Fayetteville should undertake.

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING AN ANNEXATION STUDY COMMITTEE TO PROVIDE ANALYSIS AND RECOMMENDATIONS FOR ANNEXATION OPTIONS IN WEST FAYETTEVILLE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby establishes an Annexation Study Committee to provide analysis and recommendations for annexation options in West Fayetteville.

Section 2. That the Annexation Study Committee shall consist of the Director of Operations, the City Engineer, the Water/Wastewater Director, the Planning and Development Director and one (1) Alderman, who shall serve as the Committee Chair.

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

Added at
Agenda Session
3/28/06
C.8

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF APRIL 4, 2006

FROM:
ALDERMAN DON MARR and **ALDERMAN BOBBY FERRELL**

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:
An Ordinance To Waive §166.17 **Suspending Issuance Of Permits Pending Zoning Amendments** In Relation To The Proposed Divinity Condos Project

APPROVED FOR AGENDA:

Don Marr
Alderman
Date

Bobby Ferrell
Alderman
3-27-06
Date

Kit Williams
City Attorney (as to form)
3-23-06
Date

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE §166.17 **SUSPENDING ISSUANCE OF PERMITS PENDING ZONING AMENDMENTS** IN RELATION TO THE PROPOSED DIVINITY CONDOS PROJECT

WHEREAS, §166.17 **SUSPENDING ISSUANCE OF PERMITS PENDING ZONING AMENDMENTS** prohibits issuance of a "permit for the erection of any building or structure, or permit for the conduct of any use" for 90 days following submission of the zoning amendment to the Zoning and Development Administrator; and

WHEREAS, the City Council believes waiver of this 90 day delay period is in the public interest during the consideration of the Large Scale Development process of the Divinity Condos project (corner of Dickson and Block); and

WHEREAS, the City Council does not, by passage of this waiver of §166.17, indicate its support, approval, opposition or rejection of this project.

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 waives the provisions of §166.17 of the Unified Development Code so that the normal consideration and permitting process may move forward for the Divinity Condos project located on the block between Locust and Block Avenues at Dickson Street without any 90 day delay period.

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody
Kit Williams, City Attorney

FROM: Tim Conklin, Planning and Development Management Director

DATE: March 13, 2006

These are the dates for the following actions regarding the Downtown Code and related development:

Planning Commission Consideration of the Code:	February 27, 2006
Lofts at Underwood Submittal:	October 20, 2005
Divinity Condos	March 2, 2006

Building permits issued on the basis of plans and applications approved by the Zoning and Development Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.

(Code 1965, App. A., Art. 9(5); Ord. No. 1747, 6-29-70; Code 1991, §160.194; Ord. No. 4100, §2 (Ex. A), 6-16-98)

166.17 Suspending Issuance Of Permits Pending Zoning Amendments

(A) No permit for the erection of any building or structure, or permit for the conduct of any use, shall be issued for a period of not more than 90 days after the question of a zoning amendment, so as to prohibit the use or building contemplated in the area concerned, has been referred to the Planning Commission.

(B) For the purpose of this section an amendment has been referred to the Planning Commission when a rezoning petition or official request for rezoning study is filed with the Zoning and Development Administrator. Provided that if final action by the City Council is not taken on the question within three months of the time the matter is so referred, the permit shall be issued if all other requirements are met. If within such three-month period the governing body of the municipality shall pass an ordinance amending zoning, Chapters 160 through 165, so as to prohibit such building, structure, or use, no such permit shall be issued.

(C) However, nothing contained in this section shall prohibit the issuance of a building permit, or permit for the conduct of any use, if an application for said permit together with all fees required and complete set of plans demonstrating complete or substantially complete compliance with all building and zoning requirements is filed with the Zoning and Development Administrator prior to the reference to the Planning Commission.

(Code 1965, App. A., Art. 9(7); Ord. No. 1747, 6-29-70; Ord. No. 1918, 5-15-73; Code 1991, §160.196; Ord. No. 4100, §2 (Ex. A), 6-16-98)

166.18 Master Street Plan Setbacks

The city shall require the applicant/developer to establish a right-of-way setback line based on the right-of-way requirements for streets and highways designated by the Master Street Plan. Such setback line shall be considered the property line for such purpose of satisfying the requirements of the UDO. All building setbacks, required landscaping, parking lots, display areas, storage areas and other improvements and uses shall be located outside of such established setback area. The required width of setbacks, landscaped areas, buffers, and all other setback requirements shall be dimensioned from the established right-of-way setback line. The establishment of any new structure or other improvements within the right-of-way setback is prohibited.

166.19 Expiration Of Previously Approved Plans And Permits

All approved large scale developments, planned zoning districts, conditional uses, and lot splits approved prior to July 1, 2002, which have not received all required permits to begin construction, have not begun construction, have not been established, or in the case of lot splits, have not been recorded within twelve (12) months from the date of the passage of this ordinance, shall be required to comply with all current ordinances. The Zoning and Development Administrator is authorized to approve minor plat modifications and/or design changes necessitated by compliance with this section.

166.20 Expiration Of Approved Plans And Permits

(A) *Applicability.* The provisions of this section apply to all of the following plans and permits:

(1) Preliminary plats;

(2) Planned zoning district developments;

(3) Conditional uses;

(4) Large-scale developments;

(5) Lot splits;

(6) Physical alteration of land permits;

(7) Storm water, drainage, and erosion control permits;

(8) Tree preservation plans;

(9) Sign permits; and,

(10) Floodplain development permits.

(B) *One-year time limit.*

(1) *Tasks to be completed.* All of the above-enumerated plans and permits are conditioned upon the applicant accomplishing the following tasks within one (1) year from the date of approval:

(a) For any renovation or new construction, receive a building permit; and/or,
(b) For a lot split, record a deed or survey at the Washington County Circuit Clerk's

Handed out at the City Council Meeting 4/4/06

C.8. New Business
Waive 166.17 Suspending Issuance of Permits

COLENE M. GASTON
GASTON LAW OFFICE, PLLC

240 N. BLOCK AVENUE, SUITE 302
POST OFFICE BOX 609
FAYETTEVILLE, ARKANSAS 72702

PHONE 479.521.3148
FAX 479.521.1356
CGASTON@GASTON-LAW.COM

April 4, 2006
Delivered by Hand

Fayetteville City Council
113 West Mountain Street
Fayetteville, AR 72701

Re: Building Heights

Dear Members of the City Council:

This is simply to express my support for City planning and restrictions that ensure that development in our downtown area remains compatible with the area's existing character. This probably means that there should be height limits in certain areas and that very tall buildings are not appropriate. The devil, of course, is in the details and I appreciate your efforts as you work through this important issue.

Sincerely,

Colene Gaston

Colene Gaston

Handed out at the City Council meeting 4/4/06

C.8.

Waive 166.17

Suspending Issuance of Permits

List of those concerned about preserving Dickson Street and views of Old Main.

1. Nancy Allen
2. Nate Allen
3. Brenda Kincaid
4. Rhea Shelton Rooke-Ley
5. Susan Lesh Chadick
6. Sammy Long Kopelman
7. Ralph H. Nesson
8. Ann Ferrell Wilson
9. Aubrey Shepherd
10. Kimberly Mulre
11. Art Hobson
12. Ann Fairchild
13. Jan McClurg
14. Marie Riley
15. Jimmye Deffebaugh Whitfield

16. William H. Whitfield

17. Barbara Rankin

18. Tommy Rankin

19. Ron F. Rockwell

20. Jim Jackson

21. Joann C. Kvamme

22. Cookie Shelton Redfern

23. Sarah Myers

24. Bill Halter

25. Rick Belt

26. Cindy Greene

27. Major (Ret.) John David Swaim

28. Beverley Ann Swaim

29. Linda Ralston

30. Katherine Adam

31. Alyson Low

32. Robert Cross

33. Jim Williams

34. Barbara Williams

35. Scott McCarty

36. Jack C. Lyons

37. Claudette Cardwell

38. Roy Reed

39. Diane Breazeale

40. Dorothy G. Neely

41. Pat Trimble Patterson

42. Cindy Kalke

43. Dick Bennett

44. Victoria Bryan

45. Margaret Robinson Barron

46. Merlee Harrison

47. Whitney Halladay Whitelaw

48. Sarah E. Lewis

49. Fran Alexander

50. Dede Muhler

51. Holly Bryan

52. Joe C. Neil

53. Colleen Taylor

54. Connie Porter

55. Don White

56. Sudie Henderson

57. Bob Emenegger

58. Leslie Harvey

59. Bob Riggs

60. Jeannie Riggs

61. Edward Hejtmanek

62. Ethel C. Simpson

63. Pamela Jansma

64. Suzanne Parnell

65. Raina L. Smith

66. Scott O'Leary-Kelly

67. Ann Adams Eddy

68. Miller Williams

69. Jordan Williams

70. Janet Tucker

71. Pat Storey

72. Patricia Mikkelson

73. Denele Campbell

74. Lib Horn

75. Karon Reese

76. Barbara G. Taylor

77. James R. Jackson

78. Tim Kring

79. Ken Eastin

80. Terry Eastin

81. Janet Roessler

82. Rick Roessler

83. Nancy Speer

84. Mina Marsh

85. Cathy Bass

86. Jeff Erf

87. Nancy Owens

88. Joyce Richards

89. Deborah Vyron

90. Stephen Vallus

91. Al Vick

92. Ellen Compton

93. Heather Daniel-Blake

94. Janet Ousterhout

95. Beth Lowrey

96. Larry Horn

97. Rebecca Wasson

98. Cathy Hooper

99. Bobbie N. Templeton

100. Susan Dulan Hall

101. Missy Leflar

102. Lisa Olinger

103. Katie Mihalebich

104. Nan Lawer

105. Dorothy Neely

106. Nel Janzen

107. Martha McBride

108. Dr. M.J. Stephenson

109. Ruth Collier

110. Denise Wholey

111. Kathy Thompson

112. Don Deweese

113. Ronald Eddy

114. Jim Bemis

115. Kathy McGuire-Bouwman

116. Kym Allen

117. Alice Beetz

118. James Alexander
119. Jim Wisman
120. Clare Wisman
121. David K. Allen
122. Solomon Jones
123. Jay Burk
124. Liz Molesso
125. Sharon Echels
126. John Echels
127. Irene Pritchard
128 Cara Morrison
129. Virginia Reed
130. McCoy Reed
131. Allison Thompson
132. Margie Farber
133. Paul Doug Smith
134. Martha Sutherland
135. Jay Hale
136. Clay Bass
137. Arden Kate

139. Jan Judy
140. Bruce Welsh
141. Martha Sutherland
142. Colene Gaston
143. Cy Sutherland
144. Charles Richardson
145. Anne Murphy
146. Jo Bennett
147. Diane Carroll
148. Scott Carroll
149. Camille D. Blankinship
150. Clare Beardon Connally
151. Janet Richardson
152. Tim Moloosa
153. Sylvia Danford
154. Walt Danford
155. Bob Hoff
156 DONALD CONNER
157 PAMELA POWELL
158 MARCIA ROBSON
159 Joe Robson
160 Ken Kramme

161 Colleen M. Pancake

162 Shaye David Hopper

163 Natalie Pomeroy

164 Hugh Kincaid

165 Jon L. Wicks

166 Ellen Bernardy

167 Claudette Hammond

168 Claudette Lunsford

169 Scott Lunsford

170 Emily Gregg Pritchard-Brown

171 Kelly Pritchard-Brown

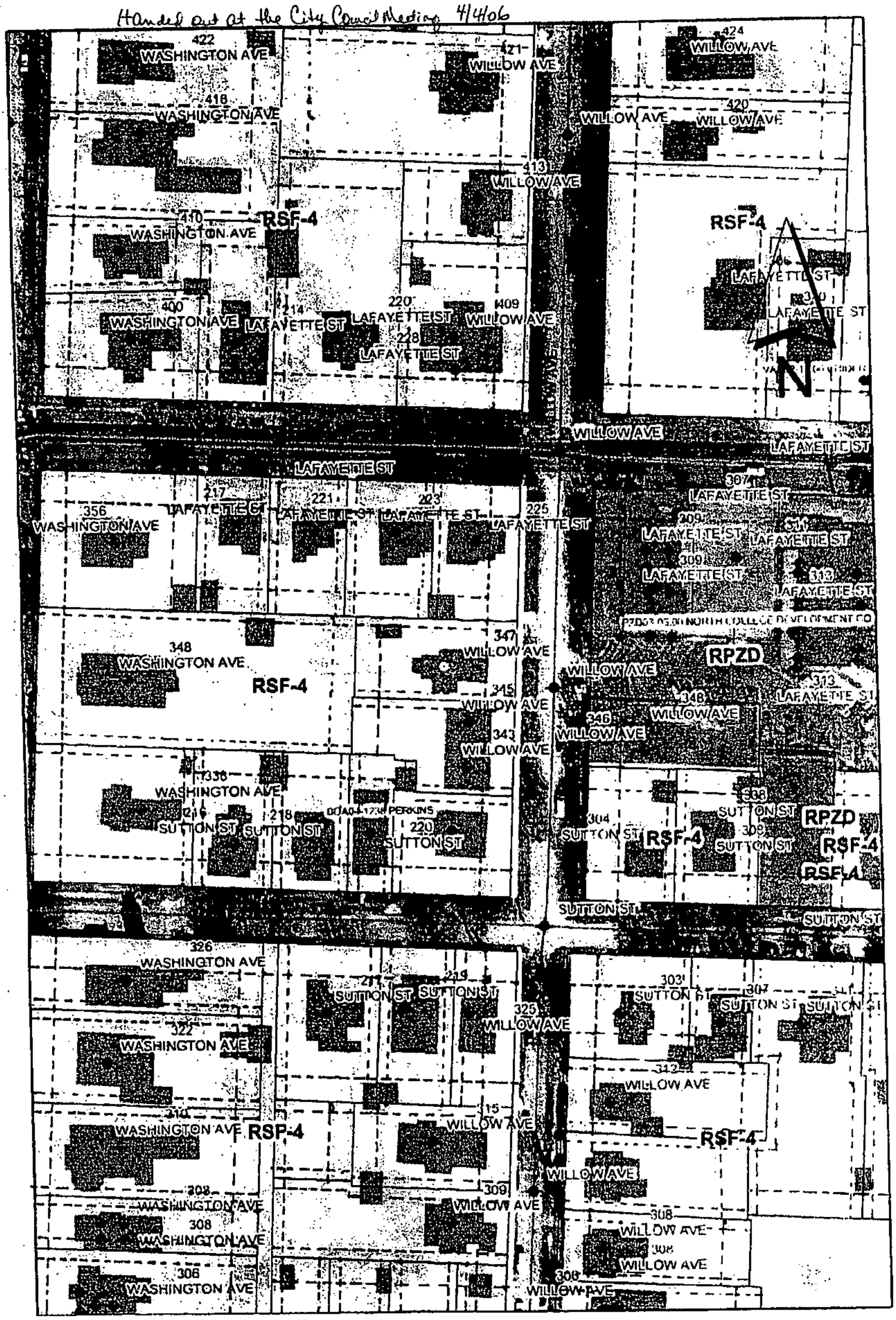
172 Val Walker Pritchard

173 Bob Siggafoos

174 Katherine Siggafoos

RZN-061868 Chambers

Handed out at the City Council Meeting 4/4/06



Held Out at City Council Meeting 4/4/06

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

4 ~~18~~-Apr-06
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

VAC 06-2005: (Alt/Herget, 295): Submitted by Sheree Alt for property located at lot 75 of Covington Park Subdivision. The property is zoned RSF-4, Residential Single Family, 4 units per acre. The request is to vacate a portion of the utility easement along Township Street.

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 — Date: 3-30-06

City Attorney — Date: 3-30-06

Finance and Internal Service Director — Date: 3-31-06

Mayor — Date:

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 3/30/06 LB

Received in Mayor's Office ENTERED 3/30/06

Comments:

City Council Meeting of April 18, 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: March 29, 2006

Subject: Easement Vacation for Lot 75 Covington Park Subdivision (VAC 06-2005)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of a 25' general utility easement along Township Street.

BACKGROUND

Background: The subject property is located within Covington Park Subdivision on E. Township St., east of Crossover Rd. There is an existing 25' building setback and utility easement running east and west along Township St.

The easement encroachment was discovered after a survey of the property was completed for a pending sale of the property. The applicant has also requested a setback variance from the Board of Adjustment for the setback encroachment. The general utility easement along Township Street has water and sewer lines located adjacent to the right-of-way.

The request is to vacate approximately 27.8 sq. ft. of the southern portion of the utility easement.

DISCUSSION

Notification was provided to all appropriate utility representatives and adjoining property owners. This item was heard on consent at the regular Planning Commission on March 27, 2006. The Planning Commission voted 9-0-0 to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

This item will be walked on by Bobby Ferrell tonight.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 06-2005 SUBMITTED BY SHEREE ALT FOR PROPERTY LOCATED AT LOT 75 OF COVINGTON PARK SUBDIVISION; VACATING A PORTION OF THE UTILITY EASEMENT ALONG TOWNSHIP STREET.

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 utility easement along Township Street 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 utility easement:

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

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.

PASSED and **APPROVED** this___day of____, 2006.

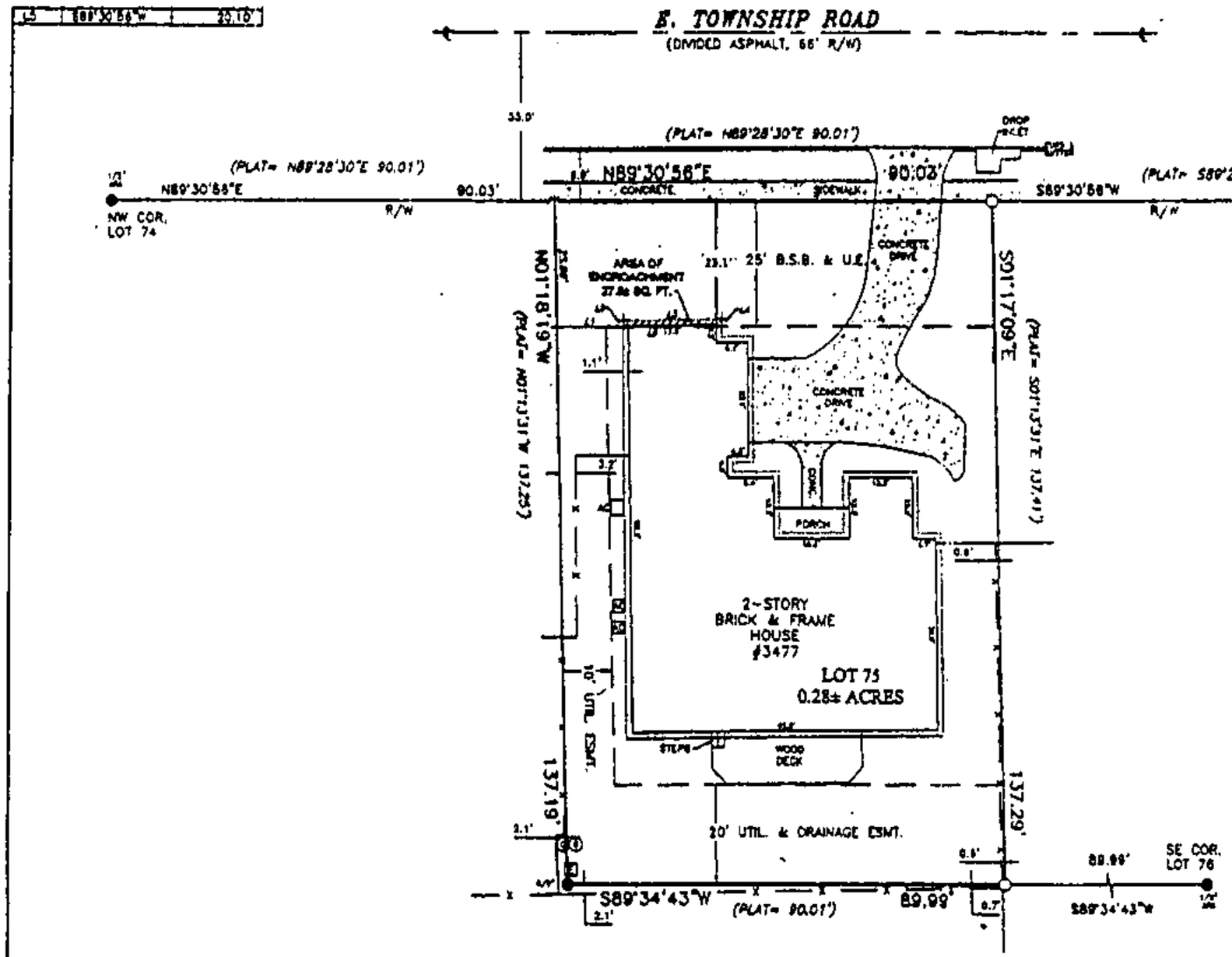
APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:
By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
VAC 06-2005

APART OF LOT NUMBERED SEVENTY-FIVE (75) OF COVINGTON PARK, PHASE I, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 16 AT PAGE 37 AND RE-RECORDED IN PLAT BOOK 16 AT PAGE 49, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AT FOLLOW: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT SEVENTY-FIVE (75), SAID POINT BEING A CHISELED MARK IN A CONCRETE SIDEWALK; THENCE S01°18'19"E ALONG THE WEST LINE OF SAID LOT SEVENTY-FIVE (75) 25.00 FEET TO A POINT ON THE BUILDING SETBACK LINE; THENCE N89°30'56"E 13.47 FEET ALONG SAID BUILDING SETBACK LINE TO WEST ROOF OVERHANG OF AN EXISTING HOUSE; THENCE N00°47'17"W 1.28 FEET TO THE INTERSWECTION OF THE WEST AND NORTH ROOF OVERHANGS; THENCE N88°57'23"E 20.09 FEET ALONG SAID ROOF OVERHANG TO A POINT ON THE BUILDING SETBACK LINE; THENCE S89°30'56"W 20.10 FEET TO THE POINT OF BEGINNING, CONTAINING 27.8 SQAURE FEET, MORE OR LESS.



LOT 75 COVINGTON PARK, PHASE I, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 18 AT PAGE 37, AND RE-RECORDED IN PLAT BOOK 18 AT PAGE 49 PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS.

REGISTERED
STATE OF ARKANSAS
NO. 1005
SIGNATURE
G. ALAN REID
PROFESSIONAL LAND SURVEYOR

PLAT NOTES:

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE:

EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDES THE SEAL AND SIGNATURE OF THE SURVEYOR.

THIS SURVEY MEETS OR EXCEEDS THE CURRENT "ARKANSAS MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS AND PLATS".

DECLARATION IS MADE TO THE ORIGINAL PURCHASER OF THE SURVEY. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY.

SURVEYOR CERTIFICATE:
I HEREBY CERTIFY, THAT THIS PLAT IS A TRUE AND ACCURATE REPRESENTATION OF A SURVEY PERFORMED UNDER MY SUPERVISION IN ACCORDANCE WITH THE MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS AND PLATS IN THE STATE OF ARKANSAS.

ALAN REID
PROFESSIONAL SURVEYOR
ARKANSAS REGISTRATION 1005

BUYER:
PETER & BARBARA LEER

SELLER:
WALTER & ANNE HERGET

ADDRESS:
3477 E. TOWNSHIP ROAD
FAYETTEVILLE, ARKANSAS

—X—	FENCE LINE
↑	CHISELED "CROWS FOOT"
Ⓖ	GAS METER
○	SET 1/2" IRON REBAR
●	EXISTING IRON PIN
+	COMPUTED CORNER
Ⓔ	ELECTRIC BOX

0' 20' 40' 60'

Alan Reid & Associates 118 South College Avenue Fayetteville, Arkansas 72701 (479) 444-8784	DATE: 01/18/08	REVISED:	PROJECT NO. 08083
	SCALE: 1"=20'	DRAWN BY: JCC	
	BASSETT MIX		

Exhibit "B"

Fayetteville
ARKANSAS

PC Meeting of March 27, 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, Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate., Director of Current Planning
DATE: March 20, 2006

VAC 06-2005: Vacation (Alt/Herget, pp 295) was submitted by Sheree Alt for property located at Lot 75 of Covington Park Subdivision. The property is zoned RSF-4. The request is to vacate a portion of the utility easement along Township St.

Findings:
Property description: The subject property is located within Covington Park Subdivision on E. Township St., east of Crossover Rd. There is an existing 25' building setback and utility easement running east and west along Township St.

Background: The easement encroachment was discovered after a survey of the property was completed for a pending sale of the property. The applicant has also requested a setback variance from the Board of Adjustment for the setback encroachment. The general utility easement along Township Street has water and sewer lines located adjacent to the right-of-way.

Request: The request is to vacate approximately 27.8 sq. ft. of the southern portion of the utility easement.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES	RESPONSE
Ozarks Electric	No Objections.
Cox Communications	No Objections.
AEP/SWEPCO	No Objections.
SW Bell	No Objections.
Arkansas Western Gas	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. Adjacent property owners had no objections to the proposed vacation.

Recommendation: Staff recommends approval of the proposed utility easement vacation **06-2005.**

Conditions of Approval:

1. Only the portion of the easement in which the structure is located shall be vacated by this request. The remaining easement shall continue for public utility use. Any relocation of existing utilities shall be at the owner/developer's expense.

PLANNING COMMISSION ACTION: __yes__ **Required**
__yes__ **Approved** _____ **Denied**

Date: **March 27, 2006**

Vote:9-0-0

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

CITY COUNCIL ACTION: __yes__ **Required**
_____ **Approved** _____ **Denied**

Date: _____

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)

PETITION TO VACATE AN EASEMENT LOCATED IN LOT 75 COVINGTON PARK PHASE 1, FAYETTEVILLE, ARKANSAS 72703

TO: The City of Fayetteville Planning Commission and The Fayetteville City Council

We, the undersigned, being all of the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated. Lying in Lot 75 of the Covington Park Phase 1 Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

SEE ATTACHED LEGAL DESCRIPTION AND SURVEY

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 15th day of February, 2006.

Sheree M. Alt on behalf of Walter E. Herget, Owner

Sheree M. Alt

Alexander Merry-Ship & Alt
Real Estate Group, Inc.
Real Estate Sales, Development
and Property Management

Richard Alexander, President
Rob Merry-Ship, Sr. Vice President

Sheree Alt, Sr. Vice President, Principal Broker
Jennifer Ellison, Business Manager

February 22, 2006

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

To Whom It May Concern:

On behalf of my client, Walter E. Herget, I am submitting a petition to vacate an easement located in Lot 75 of Covington Park subdivision in Fayetteville. Upon procuring a buyer for Mr. Herget's property, a survey was done that revealed an encroachment containing 27.8 square feet into the 25 foot utility easement on the front of the property. I am hereby requesting a utility easement vacation for the property described by the attached legal description and survey.

Respectfully,

Sheree Alt

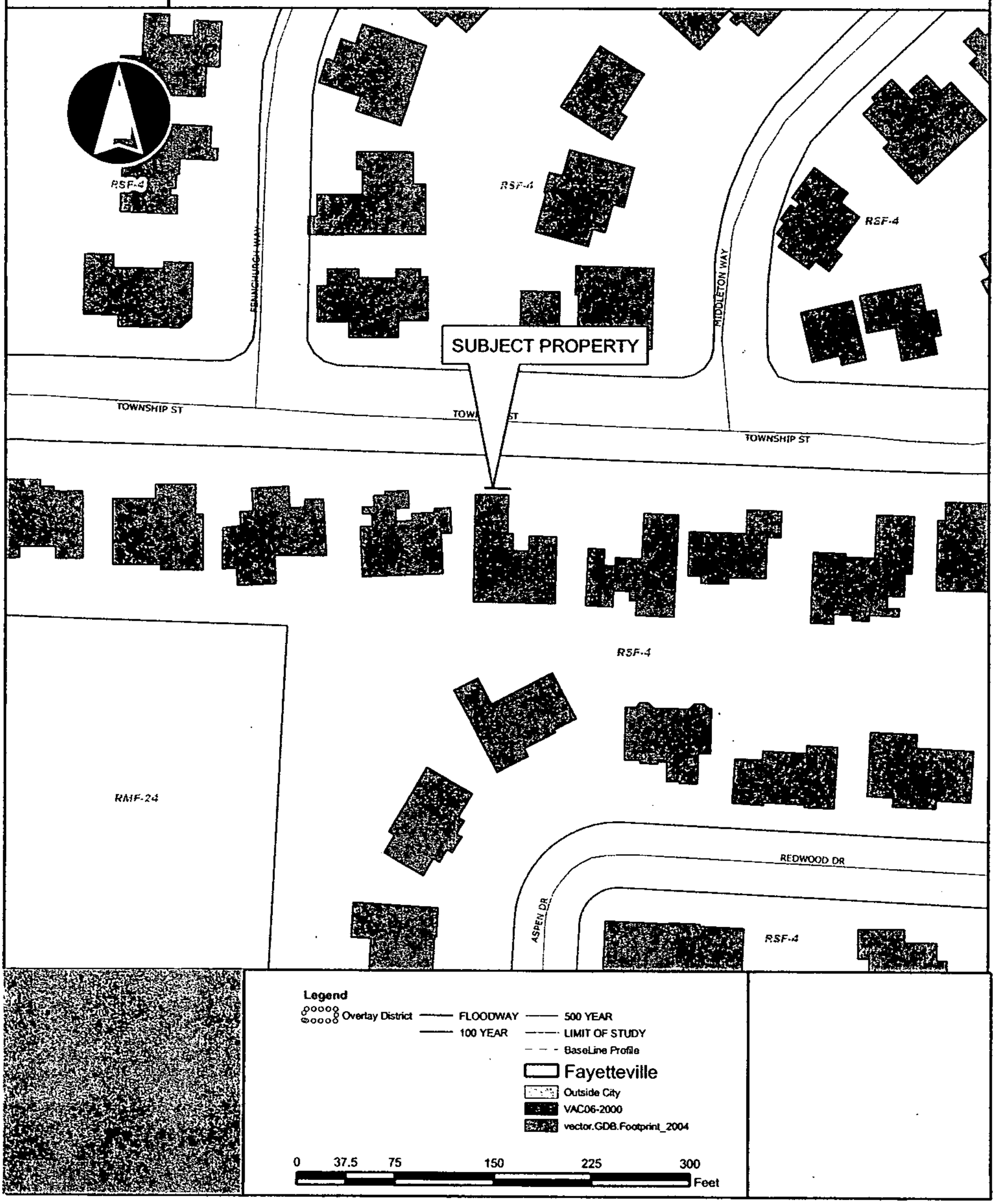
Sheree Alt, Principal Broker
AMA Real Estate Group, Inc.

11 N. West Ave. Fayetteville, AR 72701 Phone 479.443.1313 Fax 479.521.1889

VAC06-2000

Close Up View

ALT/GERGET

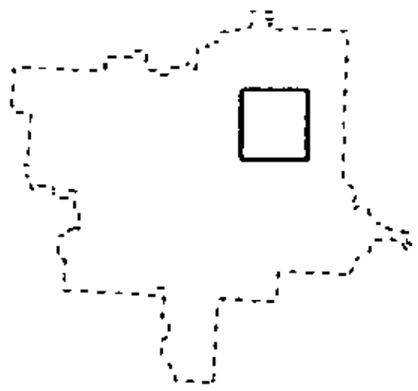


VAC06-2000

One Mile View

ALT/GERGET

Overview



Legend

Subject Property

VAC06-2000

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

Fayetteville
ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8268

PLANNING DIVISION CORRESPONDENCE

March 28, 2006

Sheree Alt
Eric Herget
11 N. West Avenue
Fayetteville AR 72701

RE: VAC 06-2005

Dear Ms. Alt:

I am pleased to inform you that your request for a Vacation for property located at 3477 E. Township was approved by the Fayetteville Planning Commission at the March 27, 2006 meeting with certain conditions. The staff report listing the conditions is attached to the Agenda Request for City Council.

If I may be of further assistance, please do not hesitate to contact me.

Cindy Monreal
Senior Secretary

Fayetteville
ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8268

PLANNING DIVISION CORRESPONDENCE

April 4, 2006

Sheree Alt
11 N. West Ave
Fayetteville, Ar 72703

RE: BOA 06-2023 pp 295

Sheree Alt:

I am pleased to inform you that your request for a variance for property located at 3477 East Township was approved by the Fayetteville Board of Adjustment at the April 3, 2006 meeting with certain conditions.

If I may be of further assistance, please do not hesitate to contact me.

Cindy Monreal
Senior Secretary

Fayetteville
ARKANSAS

BOA Meeting of April 3, 2006

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

THE CITY OF FAYETTEVILLE, ARKANSAS

BOARD OF ADJUSTMENT CORRESPONDENCE

TO:	Fayetteville Board of Adjustment
FROM:	Jesse Fulcher, Current Planner
THRU:	Jeremy Pate, Director of Current Planning
DATE:	March 27, 2006

BOA 06-2024 (ALT/HERGET, 295): Submitted by SHEREE ALT for property located at 3477 E. TOWNSHIP. The property is zoned RSF-4, SINGLE FAMILY – 4 UNITS PER ACRE and contains 0.28 acres. The request is for a 23' front setback (a 2' variance.)

Property Owner: WALTER & LOU ANNE HERGET Planner: JESSE FULCHER

RECOMMENDATION:

Staff recommends approval of the requested front setback variance as shown on the attached drawing with the following conditions:

1. **Future alterations or additions to the existing structure shall meet required building setback regulations, unless otherwise approved by the Board of Adjustments. Furthermore, alterations or additions shall not further encroach into the utility easement without first vacating all or part of said easement.**

2. **All required permits shall be granted prior to any construction or repair of the existing structures.**

Additional Conditions/Comments: _____

_____

_____

The "CONDITIONS OF APPROVAL" listed in this report are accepted in total without exception by the entity requesting approval of this variance.

Name: _____ **Date:** _____

K:\Reports\2006\BOA Reports\04-03-06\BOA 06-200 (Herget_Alt).doc

the home is outside of the building setback/utility easement. However, the builder did not take the roof overhang into consideration. Consequently the home encroaches into the front building setback and utility easement.

The approved building permit site plan specifies a 25' building setback along the north property line and is attached to this report. Staff does not support building new structures in building setbacks and violating a signed building permit as occurred with this project. Since the foundation was constructed outside of the setback/easement, the inspector correctly approved the foundation permit. It wasn't until after the home was completed and a survey conducted, that any encroachment was discovered. Given that the house has been completed and due to the precedent for the City recommending approval in these instances, staff is recommending approval of the requested variance. Should the variance not be granted, the north portion of the roof overhang would have to be removed.

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.

Finding: **Literal interpretation of zoning regulations would deprive the applicant of rights that are commonly enjoyed by other properties in the same district. If the variance is not granted, the current owner will have difficulty selling the property, because the owner must disclose the findings of the provided survey.**

3. **Resulting Actions**. That the special conditions and circumstances do not result from the actions of the applicant.

Finding: **Special conditions or circumstances are the result of the actions of applicant miscalculating the setback distance during construction. The site plan submitted for a building permit shows the location of the home meeting all setback requirements.**

4. **No Special Privileges.** That granting the variance requested will not confer on the applicant any special privilege that is denied by Zoning, Chapters 160-165, to other lands, structures, or buildings in the same district.

Finding: **Granting the requested front setback variances will not confer special privileges on the applicant due to the special conditions that resulted in the setback violation.**

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.

Fayetteville Unified Development Code Section 161.07
District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

O.K.

DEPARTMENTAL CORRESPONDENCE

TO: Sondra Smith, City Clerk

FROM: Frank Johnson, Chief of Police

DATE: February 15, 2006

RE: Request for Council Tours at Police Department

The Police Department is requesting a Council Tour on March 6th and March 20th, 2006. On March 6th we would like to present the Council with our 2006 Goals and Objectives, Strategic Plans and Management Agenda. We would also like to demonstrate our current space needs by giving the members a tour of the building. During the March 20th tour, we would like to give council members a chance to ride along with an officer while answering calls for service in their respective wards. This will give Council Members a first hand perspective on the types of calls for service in their wards as well as the impact of annexation and rezoning as it relates to increased service delivery area and an increased number of calls for police service.

If you don't want this on the agenda, you need to let Sondra know.

LB

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
April 4, 2006

A meeting of the Fayetteville City Council will be held on April 4, 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

Nominating Committee Report – Approval of Planning Commissioners

A. CONSENT:

1. **Approval of the March 7, 2006 and the March 21, 2006 City Council meeting minutes.**

2. **Power Curbers, Inc.:** A resolution approving the purchase of one (1) Power Curber Model 5700 Super–B Slip Form Paving Machine from Power Curbers, Inc. in the amount of $176,500.00; and approving a budget adjustment to move the funds to Fleet Expense Account.

3. **Cobblestone Subdivision Park Land Dedication Waiver:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $108,780.00 cash in lieu of the required Park Land Dedication for Cobblestone Subdivision.

4. **Wedington Circle Park Land Dedication Waiver:** A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $116,328.00 cash in lieu of the required Park Land Dedication for the Wedington Circle Development.

5. **ADM 06-2002 Crossover Road/HWY 265 ROW Variance:** A resolution to vary the Master Street Plan's dedication requirements for Highway 265 in connection with the construction of Fire Station #5.

6. **Off-Street Parking Development Renewal Lease Agreement:** A resolution approving renewal of the Lease Agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots.

B. UNFINISHED BUSINESS:

1. **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 and Hillside Overlay District Best Management Practices Manual. ***This ordinance was left on the First Reading at the February 7, 2006 City Council Meeting. This ordinance was left on the Second Reading at the February 21, 2006 City Council Meeting and was Tabled to the April 4, 2006 City Council Meeting.***

2. **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 ordinance was Tabled at the February 21, 2006 City Council Meeting to the March 7, 2006 City Council Meeting. This ordinance was Tabled at the March 7, 2006 City Council Meeting to the March 21, 2006 City Council Meeting. This ordinance was Tabled at the March 21, 2006 City Council Meeting to the April 4, 2006 City Council Meeting.***

3. **R-PZD 06-1883 Abshier Heights:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1883, Abshier Heights, located south of Evelyn Hills Shopping Center on Abshier and Hillcrest, containing approximately 4.11 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 March 7, 2006 City Council meeting. This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

4. **Amend §163.14; Wireless Communication Facilities:** An ordinance to amend §163.14 Wireless Communication Facilities of the Unified Development Code. ***This ordinance was left on the First Reading at the March 7, 2006 City Council meeting. This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

5. **ANX 06-1935 Fletcher Williams Appeal:** An ordinance annexing that property described in Annexation Petition ANX 06-1935 (CC2005-54), for property located at 354 and 370 Double Springs Road, containing approximately 9.70 acres. ***This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

6. **RZN 06-1936 Fletcher Williams Appeal:** An ordinance rezoning that property described in Rezoning Petition RZN 06-1936, for approximately 9.70 acres, located at 354 and 370 Double Springs Road, from R-A, Residential Agricultural to RMF-6 Residential Multi-Family, 6 units per acre, subject to a Bill of Assurance. ***This ordinance was left on the Second Reading at the March 21, 2006 City Council meeting.***

C. NEW BUSINESS:

1. **RZN Abshier Heights:** An ordinance rezoning that property located west of Hillcrest Avenue, east of Evelyn Hills Shopping Center and north of Abshier Drive containing approximately 3.5 acres from C-2, thoroughfare commercial to RSF-4, Residential Single Family, 4 units per acre.

2. **Upper White River LLC, Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with Upper White River, LLC in an amount not to exceed $17,909.00 for the upsizing of approximately 1370' of 10" water main to 12" water main; and approving a contingency in the amount of $2,686.35.

3. **Cherokee Nation Contract:** A resolution awarding a contract to the Cherokee Nation to provide the combined services of receiving, handling, hauling and disposing of municipal residential and commercial waste at the City of Fayetteville's Transfer Station.

4. **Ozark Transit Authority Agreement:** An ordinance to approve an Amended Interlocal Agreement so that Lowell can join as a member of the Ozark Transit Authority.

5. **RZN 06-1949 Ellis Appeal:** An ordinance rezoning that property described in rezoning petition RZN 06-1949 for approximately 6.03 acres located at 4230 Huntsville Road, from RSF-1, Residential Single Family, 1 unit per acre and RSF-4, Residential Single Family, 4 Units per acre to RSF-7, Residential Single Family, 7 units per acre.

D. INFORMATIONAL:

City Council Tour: April 3, 2006 - 4:30 PM

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

4-Apr-06
City Council Meeting Date

David Bragg	Fleet Operations	Operations
Submitted By	Division	Department

Action Required:

A resolution awarding bid #06-30 to Power Curbers, Inc for the purchase of one Power Curber Model 5700 Super-B slip form paving machine in the amount of $176,500 and approval of a budget adjustment to move the funds to Fleet Expense account.

$176,500.00	$ 195,000.00	Trimmer/slip form paver & Curb Mach.
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ -	Vehicles and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02077	$ 195,000.00	Shop Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — Date 3-17-06

Previous Ordinance or Resolution # n/a
Original Contract Date: n/a
Original Contract Number: n/a

City Attorney — Date 3/20/06

Received in City Clerk's Office ENTERED 3/17/06

Mayor — Date 3/22/06

Received in Mayor's Office ENTERED 3/24/06

Comments:

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: March 17, 2006

Subject: Slip Form Paver Purchase

RECOMMENDATION: That City Council approve the purchase of one Power Curber Model 5700 Super-B slip form paving machine in the amount of $176,500.00, and approve a Budget Adjustment to move the funds to the Fleet expense account.

BACKGROUND: Bid #06-30 was opened on March 14, 2006 for a power slip form paving machine for use by the Transportation Division. Four bid responses were received. A detailed tabulation sheet is attached.

The lowest bid of $176,500.00 from Power Curbers, Inc. of Salisbury, NC meets all specifications.

I recommend acceptance of the lowest bid from Power Curbers, Inc in the amount of $176,500.00.

This is a new piece of equipment budgeted in the 2006 CIP that will allow Transportation crews to pour concrete curbs, sidewalks, and other concrete structures without the necessity of building and removing concrete forms.

Funds were budgeted in the 2006 Capital Improvements Special Project #06004. The Budget Adjustment moves the funds to Fleet Expense account. The unit will be purchased from Fleet account 9700.1920.5802.00, Construction equipment project #02077.

This purchase was approved by the Equipment Committee at a special meeting on March 16, 2006.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) POWER CURBER MODEL 5700 SUPER-B SLIP FORM PAVING MACHINE FROM POWER CURBERS, INC. IN THE AMOUNT OF $176,500.00; AND APPROVING A BUDGET ADJUSTMENT TO MOVE THE FUNDS TO FLEET EXPENSE ACCOUNT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) Power Curber Model 5700 Super-B Slip Form Paving Machine from Power Curbers, Inc. in the amount of $176,500.00.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment to move the funds to Fleet Expense account.

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department:	Operations	Date Requested	Adjustment Number
2006	Division:	Fleet Operations	4/4/2006	
	Program:	Capital Expenditures		

Project or Item Requested:

$176,700 is requested in the Transfer to Shop account of Capital Improvements, Project #06004.

$176,700 is requested in the Fleet Operations Capital Expense Account, Vehicles and Equipment, Construction Equipment, Project #02077

Project or Item Deleted:

$176,700 in Transportation's Capital Improvements Project #06004.

$176,700 in the Transfer from Capital Improvements account of the Construction Equipment project.

Justification of this Increase:

Funding is needed for the purchase of the trimmer slip form curb machine for Transportation. This unit was approved in the 2006 CIP budget. Purchase price is $176,500 plus $200 for beacons and City logos.

Justification of this Decrease:

Project budget in Transportation's Capital Improvements, funds are being moved withing categories.

Revenue is being recognized due to a transfer from Capital Improvements for the purchase of the new equipment.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Transfer to Shop	4470	9470	7602	70	176,700	06004	1
Vehicles and equipment	9700	1920	5802	00	176,700	02077	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	4470	9470	5802	00	176,700	06004	1
Trans from Cap Improv	9700	0970	6602	47	176,700	02077	1

Approval Signatures

Requested By	Date
Budget Manager	3/17/06 Date
Department Director	3-17-06 Date
Finance & Internal Services Director	3-21-06 Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

Fayetteville
ARKANSAS

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville, AR 72701

Equipment Committee Correspondence

TO: **City of Fayetteville, Equipment Committee**
Robert Reynolds, Chairman **Don Marr**
Bobby Ferrell **Lioneld Jordan**

FROM: **David Bragg, Fleet Operations Supt**

DATE: **March 16, 2006**

SUBJECT: Award of Equipment Bid

Bid #06-30 was opened on March 14, 2006 for one Power Slipform Paver for use by Transportation Division. Four bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Power Curbers, Inc. meets all specifications including delivery within 90 days.

I recommend acceptance of the bid from Power Curbers, Inc. in the amount of $176,500.00 and request that Equipment Committee members approve the purchase as soon as possible to expedite delivery of this machine to be used for summer construction projects.

Capital funds of $195,000 were budgeted in 2006 for purchase of this machine as well as necessary fleet operation and replacement funds.

Cc:
Gary Dumas

APPROVED
3/16/06
3 FOR
1 ABSENT (MARR)
DRB

BID: 06-30
DATE: 3/14/06
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Fayetteville
ARKANSAS

Bid 06-30, Power Slipform Paver

	BIDDER	Manufacturer	Model	Unit Price	Total
1	**Clark Machinery Company**				
	Item 1	Gomaco	GT-3600	$201,985.00	$201,985.00
	Item 2	Gomaco	Sectional Sidewalk Mold	$8,475.00	$8,475.00
	Total Bid Price				**$210,460.00**
2	**Hertz Equipment Rental Corporation**				**No Bid**
3	**Power Curbers Inc.**				
	Item 1	Power Curbers, Inc.	2006 5700-Super-B	$167,750.00	$167,750.00
	Item 2	Power Curbers, Inc.	6' Sidewalk Mold w/ 5'&4' Blockouts	$8,750.00	$8,750.00
	Total Bid Price				**$176,500.00**
4	**Scott Construction Equipment**				**No Bid**

***NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.**

CERTIFIED: _____ _____ _____

P. VICE PURCH MGR **WITNESS** **DATE**

City Of Fayetteville

(Not a Purchase Order)

Requisition No.	
Date:	3/17/2006
P.O Number	
Expected Delivery Date:	

Vendor #	Vendor Name: POWER CURBERS, INC	Mail Yes:__ No:_XX_	
Address:	Fob Point:	Taxable Yes:_XX_ No:____	
City:	State:	Zip Code	Ship to code: 050
Divison Head Approval:	Quotes Attached Yes:____ No:____		
Requester MARGARET HATTABAUGH	Requester's Employee # 2256	Extension: 495	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2006 MODEL 5700 SUPER-B SLIP	1	EA	$167,750.00	$167,750.00	9700.1920.5802.00	02077		
2	FORM TRIMMER CURB MACHINE		EA		$0.00				
3	WITH 6' SIDEWALK MOLD AND FIVE	1	EA	$8,750.00	$8,750.00	9700.1920.5802.00	02077		
4	FOOT AND 4 FOOT BLOCKOUTS		EA		$0.00				
5	TO BE UNIT #9086, FA #709086		EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal: _____ 176,500.00

Tax: EXEMPT

Total: _____ 176,500.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

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

April 4th
City Council Meeting Date

Alison Jumper	Parks and Recreation	Operations
Submitted By	Division	Department

Action Required:

Approval of a resolution to approve the Parks and Recreation Advisory Board's recommendation of accepting money in lieu to meet the requirements of the Park Land Dedication Ordinance for Cobblestone Crossing.

	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director	3-16-06 Date	Previous Ordinance or Resolution #
		Original Contract Date:
City Attorney	3/16/06 Date	Original Contract Number:
Finance and Internal Service Director	3-17-06 Date	Received in City Clerk's Office ENTERED 3/16/06
Mayor	3/16/06 Date	Received in Mayor's Office ENTERED 3/16/06

Comments:

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Mayor Dan Coody and City Council Members

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Parks and Recreation Director C.E.

From: Alison Jumper, Park Planner

Date: March 13, 2006

Subject: Park Land Dedication Waiver for Cobblestone Subdivision

BACKGROUND

The Cobblestone Subdivision development is located east of Salem Road, northwest of Razorback Golf Course, and south of W. Salem Road. The owner is SCM, L.L.C. and Jorgensen and Associates is the engineer. The development contains 196 single-family units on 60.28 acres. The requirement for park land is 4.7 acres and money in lieu is $108,780. Gary Hampton Softball Complex and Clabber Creek trail corridor are within a half mile service area of this development.

The Park Land Dedication Ordinance states if a major development is over 40 acres or 100 units, the requirement is land.

> ▪..*However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study.*▪ (Unified Development Ordinance No. 166.03K)

The development was presented to the Parks and Recreation Advisory Board on January 9, 2006.

DISCUSSION

The Parks and Recreation Master Plan recommends providing park land within a half mile of every residence. Gary Hampton Softball Complex as well as the trail corridor along Clabber

Creek and playground at Holcomb Elementary are all within a half mile distance of this development.

RECOMMENDATION

The Parks and Recreation Staff and PRAB recommend accepting money in lieu of land in the amount of $108,780 for the Park Land Dedication requirement for Cobblestone Subdivision. This decision is based upon the proximity to Gary Hampton Softball Complex and Clabber Creek trail corridor. If you have any questions, please call me at 444-3469.

Attachments:

Cobblestone Subdivision site map
Park Location Map
PRAB January 9, 2006 Meeting Minutes

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE PARKS AND RECREATION ADVISORY BOARD'S RECOMMENDATION TO ACCEPT $108,780.00 CASH IN LIEU OF THE REQUIRED PARK LAND DEDICATION FOR COBBLESTONE SUBDIVISION.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts the Parks and Recreation Advisory Board's recommendation to accept $108,780.00 cash in lieu of the required Park Land Dedication for Cobblestone Subdivision.

PASSED and **APPROVED** this 4th day of April, 2006.

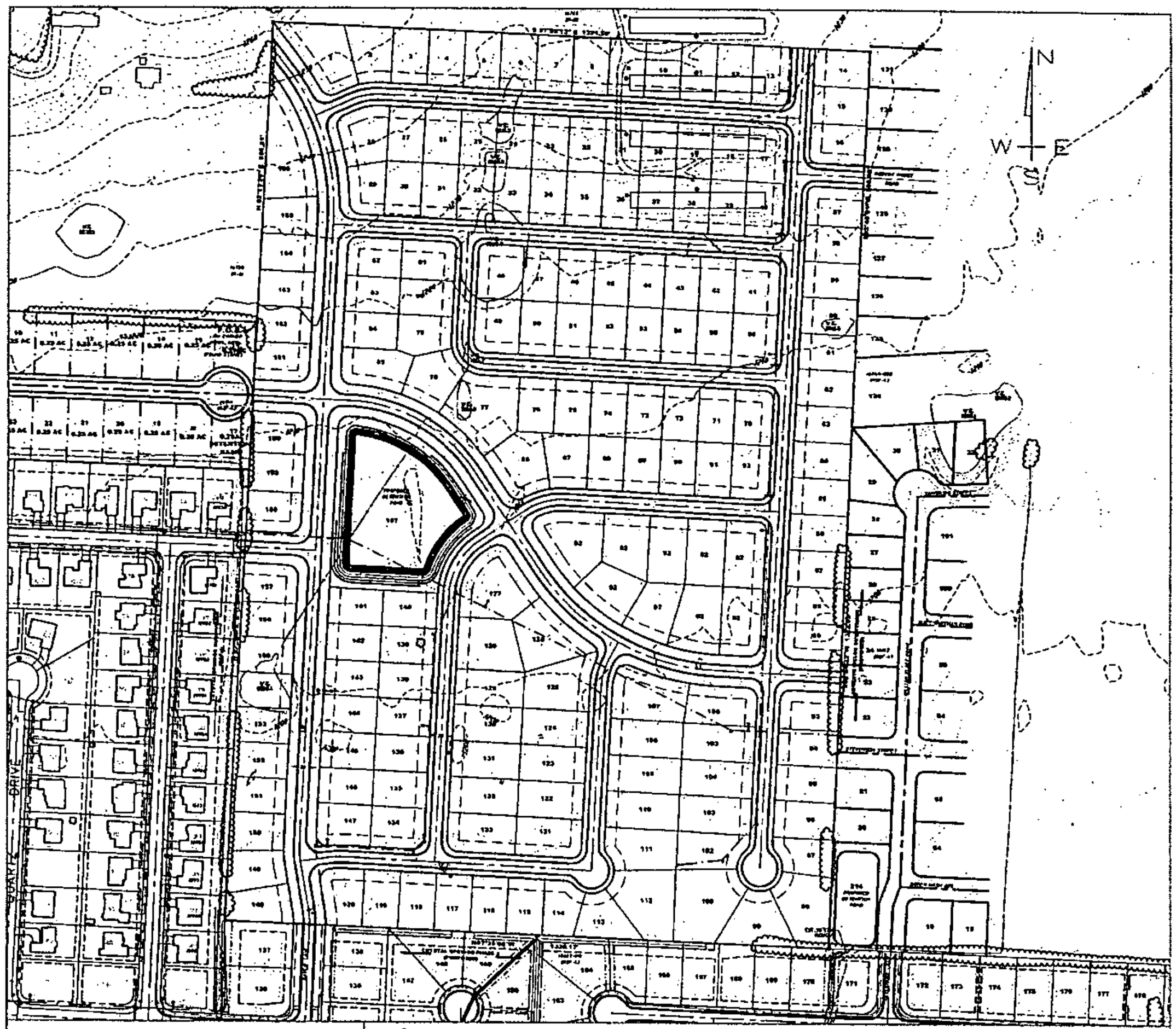
APPROVED:

By _____
DAN COODY, Mayor

ATTEST:

By _____
SONDRA SMITH, City Clerk

DRAFT



JORGENSEN & ASSOCIATES

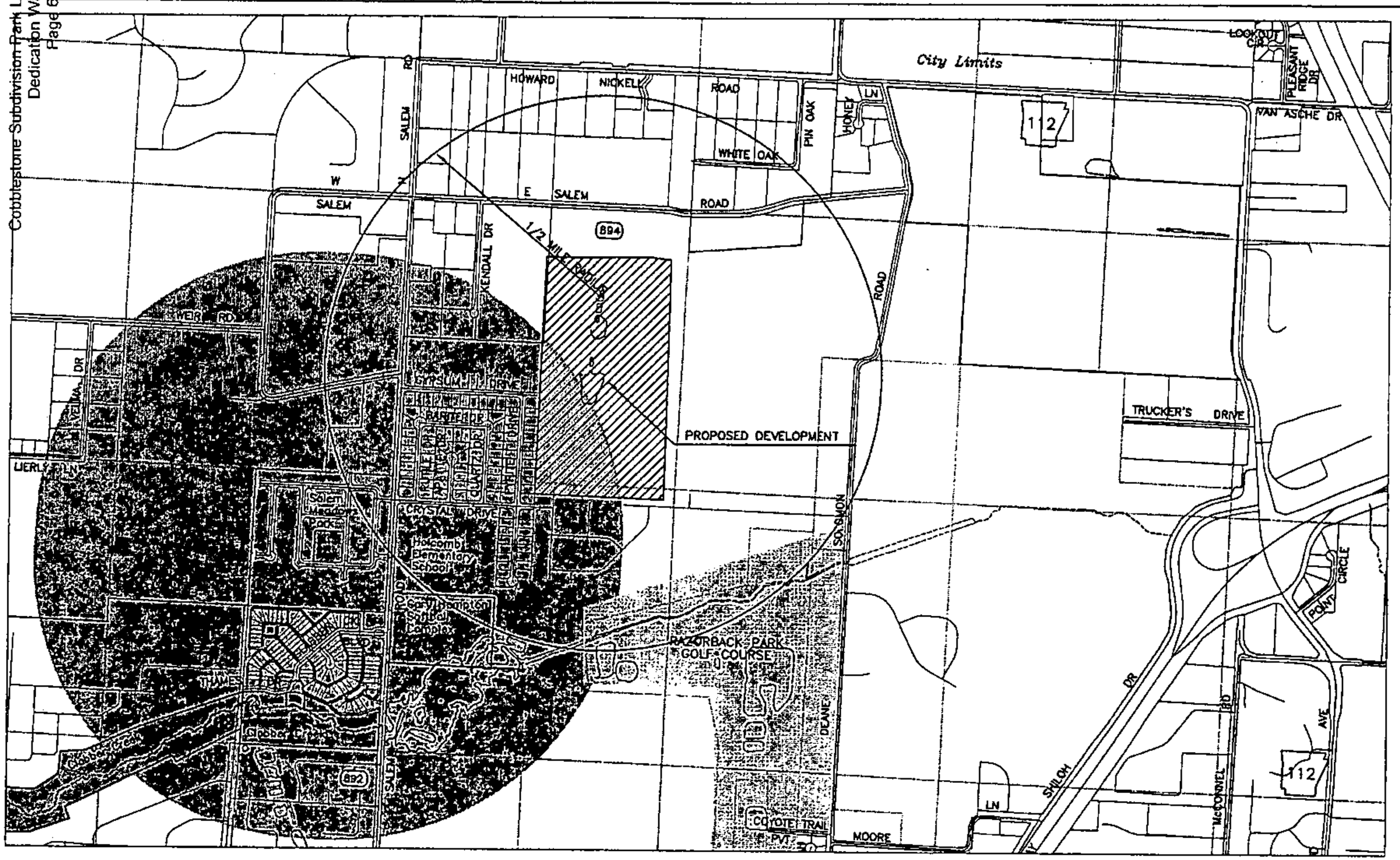
CIVIL ENGINEERS • SURVEYORS

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

SCALE: NTS	DATE REVISED	CHECKED BY:	DRAWN BY: BEJ
DATE: 11/01/05		CBB	J:\SUBD\2005030

CONCEPT PLAT FOR

CHARLIE SLOAN

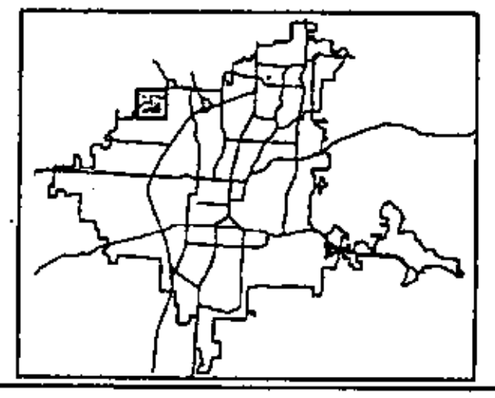


Cobblestone

0 800 1600 2400

Legend

- Existing Park Land
- Community Park Service Area
- Neighborhood Park Service Area
- Mini Park Service Area



PROXIMITY MAP

Cobblestone

Sloan Properties

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes January 9, 2006

Opening:
The regular meeting of the Parks and Recreation Advisory Board was called to order by Jerry Bailey at 5:32 P.M. on January 9, 2006 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present:
Parks and Recreation Advisory Board members Bailey, Harrison, Langsner, Davidson, Davis, Bitler, Burke & Colwell; Park Staff Edmonston, Mihalevich, Jumper, Coles, Wright, Martin and audience were in attendance.

1. Park Land Dedication: Matt Mihalevich, Park Planner

Development Name:	Sloan Properties
Engineer:	Jorgensen & Associates
Owner:	Sloan Properties
Location:	South of E. Salem Road between Deane Soloman and Salem Road, just east of the Crystal Springs Development
Park District:	NW
Units:	166 Single Family units
Total Acres:	60.45 acres
Land Dedication Requirement:	3.98
Money in Lieu Requirement:	$92,130
Existing Parks:	Gary Hampton Softball Complex
Developer's Request:	Money-in-lieu
Staff Recommendation:	Money-in-lieu
Developer's Comments:	None
Justification:	Gary Hampton Softball Complex is within a ½ mile service area of this project as well as the play equipment at Holcomb Elementary. Additionally Salem Meadows park land and Clabber Creek Trail are in close proximity. Staff is researching opportunities for potential park land expansion of the previous project at Park West to serve the residents in this area.

PRAB Motion: Langsner moved to accept Staff recommendation of Money-in-lieu. Davis seconded the motion and approval was unanimous with Bailey, Langsner, Harrison, Davidson, Davis, Bitler, Burke, and Colwell voting yes.

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

April 4th
City Council Meeting Date

Alison Jumper	Parks and Recreation	Operations
Submitted By	Division	Department

Action Required:

Approval of a resolution to approve the Parks and Recreation Advisory Board's recommendation of accepting money in lieu to meet the requirements of the Park Land Dedication Ordinance for Wedington Circle.

	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director	3-16-06 Date	Previous Ordinance or Resolution #
		Original Contract Date:
City Attorney	3/16/06 Date	Original Contract Number:
Finance and Internal Service Director	3/17/06 Date	Received in City Clerk's Office ENTERED 3-16-06
Mayor	3/20/06 Date	Received in Mayor's Office ENTERED 3/16/06

SIGN HERE

Comments:

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Mayor Dan Coody and City Council Members

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Parks and Recreation Director CE

From: Alison Jumper, Park Planner

Date: March 13, 2006

Subject: Park Land Dedication Waiver for Wedington Circle

BACKGROUND

The Wedington Circle development is located on the northwest corner of Garland Avenue and Hwy. 16. The owner is Mansfield House, L.L.C. and the architecture firm is Rob Sharp Architects, Inc. The development contains 296 multi-family units on 6.13 acres. The requirement for park land is 5.03 acres and money in lieu is $116,328. Asbell school is located within a half mile service area of this development.

The Park Land Dedication Ordinance states if a major development is over 40 acres or 100 units, the requirement is land.

> ▪..*However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study.*• (Unified Development Ordinance No. 166.03K)

The development was presented to the Parks and Recreation Advisory Board on August 1, 2005.

DISCUSSION

The Parks and Recreation Master Plan recommends providing park land within a half mile of every residence. Asbell school playground is within a half mile distance of this development and will provide recreational opportunity for this development. Additionally, the developer is providing a play area for the residents of this development.

RECOMMENDATION

The Parks and Recreation Staff and PRAB recommend money in lieu of land in the amount of $116,328 for the Park Land Dedication requirement. This decision is based upon the proximity to Asbell School Park and the site constraints of the project. If you have any questions, please call me at 444-3469.

Attachments:

Wedington Circle Concept Plan
Park Location Map
PRAB August 1, 2005 Meeting Minutes

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE PARKS AND RECREATION ADVISORY BOARD'S RECOMMENDATION TO ACCEPT $116,328.00 CASH IN LIEU OF THE REQUIRED PARK LAND DEDICATION FOR THE WEDINGTON CIRCLE DEVELOPMENT.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts the Parks and Recreation Advisory Board's recommendation to accept $116,328.00 cash in lieu of the required Park Land Dedication for the Wedington Circle Development.

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED:

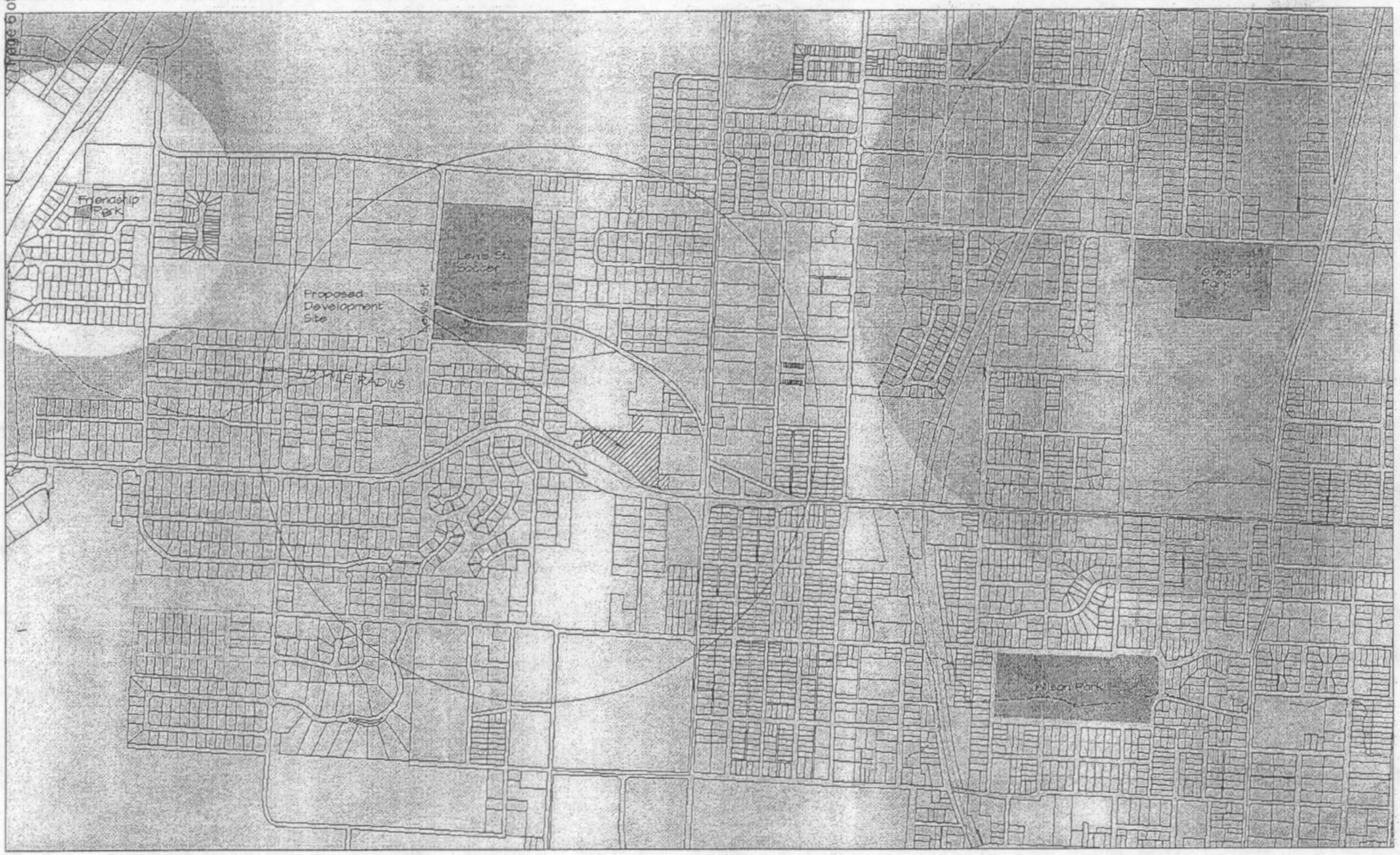
By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

WEDINGTON CIRCLE R-PZD 05-1770

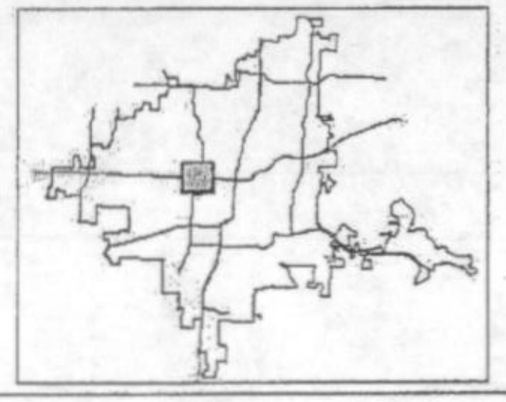


Wedington Circle

0 800 1600 2400

Legend

- Existing Park Land
- Community Park Service Area
- Neighborhood Park Service Area
- Mini Park Service Area



PROXIMITY MAP

Wedington Circle

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes August 1, 2005

Opening:
The regular meeting of the Parks and Recreation Advisory Board was called to order by Mike Hill at 5:30 P.M. on August 1, 2005 in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present:
Parks and Recreation Advisory Board members Hill, Bailey, Harrison, Langsner, Marley, Davidson, Mauritson, Pawlik-Holmes and Park Staff Edmonston, Wright, Coles, Jumper, Whillock and Audience.

1. **Approval of July 11, 2005 regular meeting Minutes**

   MOTION:

   Langsner moved to approve the Parks and Recreation Advisory Board July 1, 2005 meeting minutes. Bailey seconded the motion.

   The motion was approved 7-0-0 with Hill, Bailey, Harrison, Langsner, Marley, Davidson and Mauritson voting 'yes' and Pawlik-Holmes absent for the vote.

2. **Park Land Dedication: Alison Jumper, Park Planner**

Development Name:	Wedington Circle
Architect:	Rob Sharp Architects
Owner:	Mansfield House, LLC
Location:	West of Harps on Garland, North of Wedington Dr.
Park District:	NW
Units:	12 Single Family, 284 Multi-family
Total Acres:	6.13
Land Dedication Requirement:	5.116 acres
Money in Lieu Requirement:	$118,272
Existing Parks:	Asbell School Park
Developer's Request:	Money in lieu
Staff Recommendation:	Money in lieu

Justification: Asbell School Park is within a half mile service area of this development. Given its proximity to Asbell as well as Lewis Soccer Complex and the playground at Leverett Elementary School, this development will have adequate access to

recreation. Additionally, the developer is proposing a pool, workout room, and soft surface walking trail and playground within the tree preservation area.

Mauritson asked to see a view of the elevation for the proposed development.

Kristen Knight representing Robert Sharp Architect, displayed the elevation for the Board to see.

PRAB Motion: Bailey moved to accept staff recommendation of money in lieu. Mauritson seconded the motion.

The motion was approved 7-0-0 with Hill, Mauritson, Bailey, Langsner, Davidson, Harrison and Marley voting 'yes' and Pawlik-Holmes absent for the vote.

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

4-Apr-06
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

ADM 06-2002 (Crossover Road/HWY 265 ROW Variance): Approval of a variance from the Master Street Plan right-of-way for Crossover Road (State Highway 265) in the manner indicated to allow for the construction of Fayetteville Fire Station #5 as proposed.

N/A	N/A	
Cost of this request	Category/Project Budget	Program Category / Project Name
N/A	N/A	
Account Number	$ -	
	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director — 3-16-06 Date

City Attorney — 3-20-06

Finance and Internal Service Director — 3-21-06 Date

Mayor — 3/22/06 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — ENTERED 3/17-06

Received in Mayor's Office — ENTERED 3/20/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: March 15, 2006

Subject: Master Street Plan Right-of-Way Dedication Variance (ADM 06-2002)

RECOMMENDATION

Planning Staff recommends approval of a Master Street Plan variance to vary the Master Street Plan right-of-way dedication requirements for Crossover Road (HWY 265) to allow for the construction of Fayetteville Fire Station #5. The required right-of-way dedication of 55' from centerline shall be dedicated in all locations along the frontage of the subject property, except in those locations where a full dedication would result in the proposed structure encroaching into the required 25' building setback.

BACKGROUND

The Arkansas Highway and Transportation Department (AHTD) is designing for the future expansion of Crossover Road and is currently planning to acquire additional right-of-way along the east side of the existing street section. The highway expansion has been designed to accommodate existing utility infrastructure along the west side of Crossover Road. These include an existing high-pressure gas main along the front of the subject property and a sewer lift station to the north of the subject property. Staff finds that a variance of the Master Street Plan right-of-way in this location maintains the integrity and purpose of the Master Street Plan, and allows for the proposed expansion of HWY 265. Additionally, there are several hardships that are unique to this property, including an existing high pressure gas main along HWY 265, floodway and floodplain associated with a tributary of Mud Creek and a sewer force main on the west border of the property. If the City Council chooses not to allow for a reduced dedication in this area, the building will likely have to be redesigned to accommodate this requirement.

On March 16, the Subdivision Committee forwarded the proposed large scale development for Fire Station #5 to the Planning Commission, who will review the item and the associated Conditional Use request on March 27, 2006.

DISCUSSION

The Street Committee voted 3-0-0 in favor of this request on March 16, 2006.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION TO VARY THE MASTER STREET PLAN'S DEDICATION REQUIREMENTS FOR HIGHWAY 265 IN CONNECTION WITH THE CONSTRUCTION OF FIRE STATION #5

WHEREAS, it would be an undue hardship upon the City to dedicate the full right of way pursuant to the Master Street Plan for Highway 265 in conjunction with the construction of Fire Station #5 because of the existing site conditions (sanitary sewer easements, gas easements, existing street rights of way, floodway and floodplain).

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 finds that pursuant to U.D.C. §171.03 (A) (1) the right of way dedication requirements of the Master Street Plan shall be varied to avoid undue hardship so that the twenty-five foot building setback requirements for Fire Station #5 shall not be a part of the additional right of way to be dedicated.

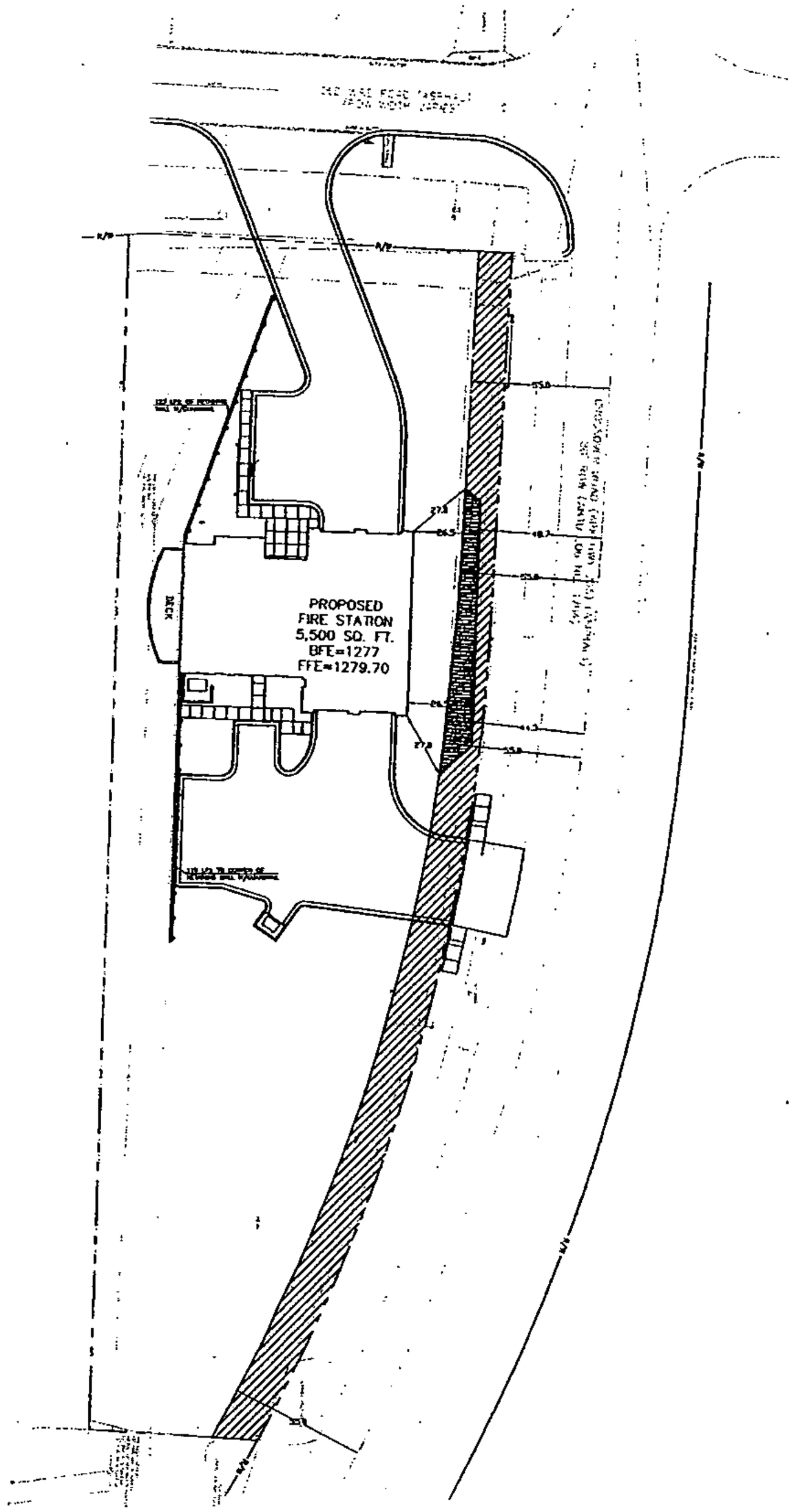
PASSED and **APPROVED** this 21st day of March, 2006.

APPROVED: ATTEST:

By: _____ By: _____

DAN COODY, Mayor **SONDRA SMITH**, City Clerk

FIRE STATION - R.O.W. EXHIBIT



MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

To: The City of Fayetteville – Planning Staff
From: McClelland Consulting Engineers
Date: March 15, 2006

Subject: **Fire Station # 5**
Agenda Request

Currently under review by City Planning are the Large Scale Development Plans for Fire Station Number 5 located upon the southwest corner of Crossover Road (Arkansas Hwy 265) and Old Wire Road. This 1.56 acre parcel of land is currently known as Routh Park and is owned by the City of Fayetteville, Arkansas.

Per the Master Street Plan, 110 feet of total right-of-way (55 feet from centerline) is required along Crossover Avenue (Hwy 265). Due to the nature of the existing site (existing sanitary sewer easements to the west and both existing gas and street easements to the east), additional right-of-way requirements would cause the proposed fire station building to be in violation of the building setback regulations.

AHTD is currently planning to obtain additional right-of-way for the eventual build-out of Crossover by obtaining land to the east of the current road section due to land west of the road containing such obstacles as city park land, a large, operational sanitary sewer pump station, and a high-pressure gas main.

In subsequent discussions with the Fire Department, City of Fayetteville Planning and Engineering Staff, WD&D Architects, and McClelland Engineering it was determined that due to the fact that the current highway improvement plans are still in the preliminary stages, it is unlikely that a concluding answer regarding the future right-of-way from AHTD would be received – and therefore it would be unlikely that a waiver from the requirements of the Master Street Plan could be fully granted.

In order to proceed through the planning process, it was determined that a proper compromise may be to dedicate all the required right-of-way wherever possible upon the property and requesting a variance from the Master Street Plan requirements in the area that would be within the 25 foot setback around the proposed building. Attached is an exhibit that illustrates the proposed right-of-way dedication for the fire station.

Please contact me at any time to discuss any questions or concerns that you may have,

Sincerely,

Michael G. Morgan
McClelland Consulting Engineers
479.443.2377
Mmorgan@McClelland-engrs.com

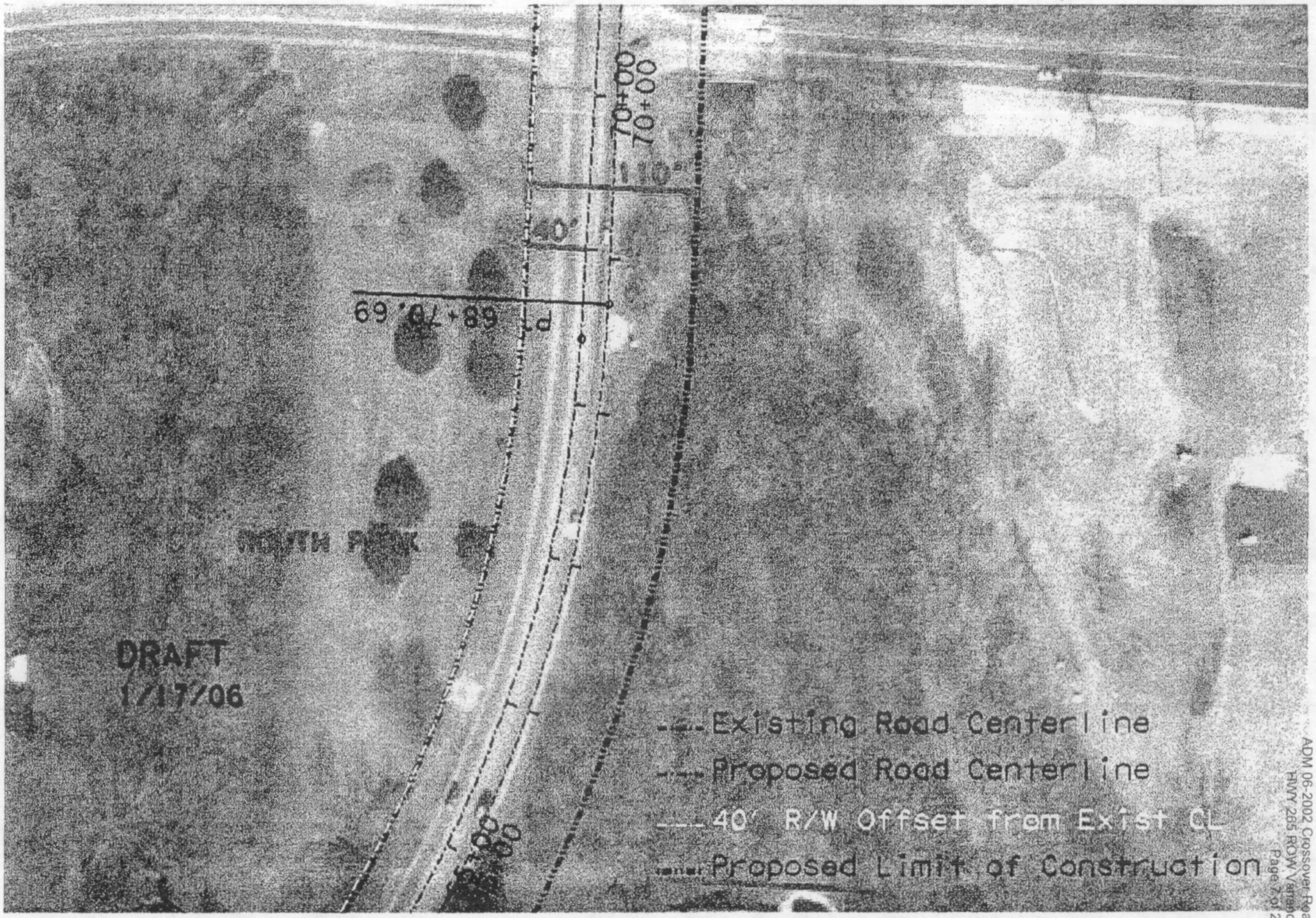
Scott,

Attached is an aerial image of the conceptual plans for 265 at this time. One of AHTD's priorities on this project is avoidance of historic and park properties, including the Routh Park, which I understand is the future fire station. You'll note on this image that the conceptual design calls for the existing right of way line along the Routh Park (40' offset from the centerline) to be maintained. (i.e. for roadway widening to not occur beyond the existing right of way; although easements could be needed during construction).
The shift in the alignment in this area causes the new roadway section to be very near the creek on the east side. We are currently working on measures to take to minimize the impacts.
Please note that this plan is very conceptual and has not been cleared environmentally. It is, however, how we are proposing to proceed. Environmental clearance is the next step, which will then be followed by design.

Please let me know if you have any questions.

Tammy Wisco

Tammy L. Wisco, P.E.
Parsons Brinckerhoff
One Riverwalk Place
700 N. St. Mary's Street, Suite 1230
San Antonio, TX 78205
210.865.7736


70+00
70+00
110°
40°
PT 68+70.69
SOUTH FORK
DRAFT
1/17/06
Existing Road Centerline
Proposed Road Centerline
40' R/W Offset from Exist CL
Proposed Limit of Construction

Mike G. Morgan

From: James F. Koch [James_Koch@SWN.COM]
Sent: Wednesday, March 08, 2006 4:43 PM
To: Mike G. Morgan
Subject: RE: Fayetteville - Fire Station Number 5

Mike,

Because our utility easement has "prior right" easement of 50 feet - 25 feet each side of the gas main, and no severe interference is apparent in your proposed grading plan, we do not take exception to the proposed Fire Station depicted in your drawing file.

However, please know that we do request that the original conditions of this easement be honored. These conditions include no structures to be placed within the easement.

Even though the right of way dedication will overlap our easement, the prior right scenario will govern should repairs etc. need to take place regarding our gas main.

Please do not hesitate to contact me for additional information.

James F. Koch, P.E., C.P.E.S.C.
Senior Engineer
Arkansas Western Gas Company
1001 Sain Street / P.O. Box 13288
Fayetteville, AR 72703-1002

Direct: 479.582.8267
Cell: 479.530.7372
Fax: 479.521.5455

-----Original Message-----
From: Mike G. Morgan [mailto:mmorgan@mcclelland-engrs.com]
Sent: Wednesday, March 08, 2006 3:59 PM
To: James F. Koch
Cc: 'James Koch'; 'Christopher Suneson'
Subject: Fayetteville - Fire Station Number 5

James,

McClelland Consulting Engineers is currently has civil plans under review with the City of Fayetteville, AR. For approx. 1.46 acres of land located at the southwest corner of Crossover Ave and Old Wire Rd (currently known as Routh Park) - See attached site and grading plans (.pdf).

During technical plat review, Arkansas Western Gas representative Bill Brandt indicated that there was a 10" high pressure gas main and associated easement running parallel to the eastern boundary of this site.

Per the requirements of the City of Fayetteville's Master Streets Plan, a 110' ROW is to exist upon Crossover Avenue (55' from centerline) - this additional ROW would require the relocation of the existing 10" line - we would like the gas company's opinion on this improvement.

Please let me know if you have any questions/concerns, or need any additional information.

Thanks,

Michael G. Morgan
Project Manager
McClelland Consulting Engineers, Inc.
P.O. Box 1229 / 1810 North College Avenue Fayetteville, AR 72702
(479) 443-2377 office
(479) 530-4393 cell

Fayetteville
ARKANSAS

SC Meeting of March 16, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Subdivision Committee Members
FROM: Jesse Fulcher, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: March 10, 2006

LSD 06-1962: Large Scale Development (FIRE STATION #5, 255): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at the SW CORNER OF CROSSOVER AND OLD WIRE RD. The property is zoned RSF-4, Residential Single Family and contains approximately 1.46 acres. The request is for a 5,500 sq. ft. fire station.

Planner: Jesse Fulcher

Findings:

Property: The subject property contains approximately 1.46 acres and is located at the southwest corner of Crossover Rd. (Hwy 265) and Old Wire Rd. The property is zoned RSF-4, Residential Single Family and is currently an undeveloped city park.

Proposal: The City of Fayetteville is proposing to construct a new fire station on the southwest corner of Crossover Rd. (HWY 265) and Old Wire Rd. The station is proposed to contain approximately 5,500 sq. ft. of total area. Access is from Old Wire Rd. and Crossover Rd.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Undeveloped/Sewer Lift Station	RSF-4
South	Single Family Structures	RSF-4
East	Undeveloped/Single Family Structures	RSF-4
West	Single Family Structure	RSF-4

Right-of-way Dedication: Right-of-way dedication is required for Old Wire Rd. (Minor Arterial-45' from centerline) and Crossover Rd. (Principal Arterial-55' from centerline).

The Arkansas Highway and Transportation Department is designing the expansion of HWY 265, so that the improvements will be on the east side of the existing road. Expanding HWY 265 to the west is problematic since there is an existing high pressure gas line along the front of the subject property and a sewer lift station to the north of the subject property. Sufficient right-of-way exists for Old Wire Rd. to meet the minimum requirements of the Master Street Plan.

The Fayetteville Street Committee and the City Council will review the request for a lesser dedication of right-of-way for HWY 265 on March 16, 2006 and April 4, 2006 respectively.

Water/Sewer: Water and sewer will be extended to the site to serve the proposed development.

Tree Preservation: Existing Canopy: 9.3%
Preserved Canopy: 1.9%
Required Canopy: 9.3%
Mitigation: Required; 11 trees

Site Coverage: The plat indicates 67% pervious surface in compliance with this requirement.

Recommendation: Staff recommends forwarding **LSD 06-1962** to the Planning Commission with the following conditions:

Conditions of Approval:

1. Subdivision Committee determination of Commercial Design Standards. *Staff finds that the proposed elevations largely meet commercial design standards. However, staff recommends additional articulation of the east façade and that discussed revisions to this façade be presented to the Planning Commission.*

2. Right-of-way dedication along Crossover Rd. (HWY 265) at 55' from centerline by warranty deed. *The applicant has submitted a request for a lesser dedication of right-of-way. Based on information provided by the expansion plans for HWY 265, existing constraints including floodway, a sewer force main, high pressure gas main and the existing lift station to the north, the combination of which creates a unique hardship on this property.* If the request is denied, the proposed location of the building will not meet the required front setback from the Crossover Road right-of-way. Consequently, the applicant will have to request a setback variance from the Board of Adjustment, or relocate/redesign the structure.

3. The large scale development shall be subject to approval of a Conditional Use request for a Public Protection and Utility Facility (Use Unit 3) by the Planning Commission.

4. The Large Scale Development shall comply with the Lighting Ordinance. Any new lighting and any lighting that is replaced due to construction shall meet the requirements of Chapter 176. A lighting plan and cut-off sheets for all exterior lighting, including lighting on the structure, shall be submitted for compliance with the City of Fayetteville lighting ordinance prior to building permits.

5. A proposed overhead deck is indicated on the west side of the structure, overhanging an existing sewer easement and trail corridor. Approval by the Water and Wastewater Superintendent and the Trails Coordinator is required prior to construction.

6. Mitigation will be required on this site. This is equivalent to 11 (2) inch caliper trees, $2,500.00 deposited into the Tree Escrow Account, or a combination of both. The developer has proposed to do on-site planting.

7. Any proposed communications tower for the fire station shall be permitted according to Chapter 163.14. Should the fire station be exempted by the Zoning and Development Administrator pursuant to 163.14 (E)(4), a Conditional Use shall not be required.

8. Street lights shall be installed along the public right-of-way with a maximum spacing of 300'. If there are existing street lights on either side of the street along the frontage of this property, then additional street lights shall not be required.

9. The proposed trail-head parking and associated curb cut is not be constructed and should be removed from revised plans.

10. Trees are required to be planted every 30 linear feet along the right-of-way, where existing canopy is not currently located. Mitigation trees shall not be planted in-lieu of required landscape trees. Shrubs shall be located along all parking areas and drives, 50% of which are required to be evergreen.

Standard conditions of approval:

11. 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).

12. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement.

13. Trash enclosures shall be screened with access not visible from the street. The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building. A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit. Any additional dumpsters located on site shall be screened from the right-of-way.

14. 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.

15. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.

16. Large scale development shall be valid for one calendar year.

17. Prior to the issuance of a building permit the following is required:

    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection

measures prior to any land disturbance.

c. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
d. Project Disk with all final revisions
e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Additional conditions:

Subdivision Committee Action: ☐ Approval √ Forwarded to P.C. ☐ Tabled

Meeting Date: **March 16, 2006**

Motion: Graves
Second: Lack
Vote: 3-0-0

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

Subdivision Committee Meeting
March 16, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: Fayetteville Subdivision Committee

From: Jesse Fulcher, Current Planner

Date: March 14, 2006

ITEM #: LSD 06-1962 (Fire Station #5)

Applicable Requirements:

X	Off Street Parking
X	Commercial Design Standards
X	Buffers and Screening
	I-540 Design Overlay

Plan Checklist:

Y = submitted by applicant
N = requested by city
NA = not applicable

Preliminary Submittal	Final Submittal	
		Off-Street Parking and Loading
Y		**wheel stops / curbs**
N		**irrigation**
N		**edged landscape beds indicated**
Y		**species of plant material identified**
Y		**size of plant material at time of installation indicated**
Y		**interior landscaping** *narrow tree lawn (8' min. width, 17' min. length / 1 tree per 15 spaces)* *tree island (10' min. width / 1 tree per 12 spaces)*
Y		**perimeter landscaping** *side and rear property lines (5' landscaped)* *adjacent to street R.O.W (15' greenspace exclusive for landscaping / 1 street tree every 30 L.F., a continuous planting of shrubs and ground cover - 50% evergreen)*
N		**soil amendments** *notes include that soil is amended and sod removed*
Y		**mulching** *notes indicate mulching around trees and within landscape beds.*

Subdivision Committee Meeting
March 16, 2006

N		**planting details according to Fayetteville's Landscape Manual**
Preliminary Submittal	**Final Submittal**	**Commercial Design Standards**
Y		**greenspace adjacent to street R.O.W. (15' wide)**
Y		**street trees planted every 30' L.F. along R.O.W.**
NA		**outdoor storage screened with landscaping**
		Buffer Strips and Screening
NA		**landscaped area (12' min.)**
NA		**fence required**
NA		**outdoor storage screened with landscaping**
NA		**non-residential landscape screen when adjacent to residential zones**
NA		**landscape requirement for setback reduction**
		Overlay District Requirements
NA		**greenspace adjacent to street R.O.W. (25' wide)**
NA		**street trees planted every 30'L.F. along R.O.W.**
NA		**25% of total site area left in greenspace (80% landscaped)**
NA		**parking lots and outdoor storage screened with landscaping**

Recommendation: Approval of the landscape plan associated with LSD 06-1962 with the following conditions.

Conditions of Approval:

1. Revise landscaping plan details. This information can be obtained in the City of Fayetteville Landscape Manual.

Fayetteville
ARKANSAS

SC Meeting of March 16, 2006

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

THE CITY OF FAYETTEVILLE, ARKANSAS

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Subdivision Committee

From: Sarah K. Patterson, Urban Forester

Date: March 13, 2006

ITEM # LSD 06-1962: Large Scale Development (Fire Station #5)

Requirements Submitted:

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

Canopy Measurements:

Total Site Area	
acres	1.46
square feet	63,597.6
Existing Tree Canopy	
acres	0.14
square feet	5,929
percent of site area	9.32%
Existing Tree Canopy Preserved	
acres	0.03
square feet	1,189
percent of total site area	1.87%
Percent Minimum Canopy Required	9.32%

FINDINGS:

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

- **This site is very narrow with a sanitary sewer easement down one side and a gas easement down the other. Many trees are found on this site**

but most are found within the right of way and gas easement along the east property line.

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 on this site.**

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.

- **Canopy removed should not affect the adjacent property owners.**

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.

- **Size and shape of the lot does reduce flexibility of design. Working around the existing utility easement and coordinating curb cuts also hinders this 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 these trees is fair to good.**

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

- **An extensive amount of grading will have to occur on this site. The trees within the gas easement along the front will remain but are not calculated as preserved.**

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

- **Only two of the trees on the site will be preserved. These are located at the southern end of the property where a proposed trail head is located. The trees along highway 265 will remain but are found within an existing gas and overhead electric easement.**

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

- **Roads and utilities have been designed to minimize impact on the existing topography.**

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 on the site to replace the 4,740 feet of**

canopy removed. These mitigation trees will be extremely beneficial to this area.

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 submitted Tree Preservation Plan with the following Conditions of Approval.**

Conditions of Approval:

1. **Identify on-site areas for delivery and storage of construction materials, on-site parking, cement truck wash-out, and soil stockpiles.**
2. **Please revise the Tree Preservation Plan to have all canopy calculations including total site SF, SF of canopy, SF of preserved canopy and all corresponding percentages.**
3. **Please revise the mitigation calculations and Landscape plan to depict 11 mitigation trees.**
4. **Mitigation will be required in the amount of 11(2) inch caliper large species trees. The project is proposing on-site mitigation in coordination with the construction of a trail head and parking lot on the south end of the property.**
5. **A 3-year maintenance and monitoring bond will be required in the amount of $2750. This shall be deposited with the City of Fayetteville in the form of a letter of credit, bond, or check before Final Certificate of Occupancy.**

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3416

ENGINEERING DIVISION CORRESPONDENCE

To: McClelland Consulting Engineers

From: Matt Mihalevich, Trails Coordinator

Date: March 15, 2006

Subject: Subdivision Committee Comments

ITEM #: LSD 06-1962: Large Scale Development (Fire Station #5)

TRAIL COMMENTS

4. As identified on the Fayetteville Alternative Transportation and Trails Master Plan, A 10 to 12' wide multi-use trail is planned along the existing 25' sewer easement along the west side of the property. The trail will connect southwest to Gulley Park and north to Mud Creek Trail. For increased safety, the trail will cross Old Wire Road at the stop light and will have a pedestrian button.

5. The proposed deck on the fire station should be designed so it does not have support columns in the way of the future trail. To insure safe passage for trail users, the deck posts should be placed a minimum of 18' from the west property line.

6. A trail head and parking lot is planned for the south portion of the property. Parks staff has created a conceptual layout for the parking lot and this design is attached for planning approval.

4. Please notify Trails Coordinator of any changes to the trail or trail head parking lot.

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

To: The City of Fayetteville – Planning Staff

From: McClelland Consulting Engineers

Date: February 16, 2006

Subject: **Fire Station # 5**
Large Scale Development Application
Conditional Use Application

Submitted for your review are the Large Scale Development Plans for Fire Station Number 5 located upon the southwest corner of Crossover Road (Arkansas Hwy 265) and Old Wire Road. This 1.56 acre parcel of land is currently known as Routh Park and is owned by the City of Fayetteville, Arkansas.

Being a parcel of land owned by the City of Fayetteville, both the Large Scale Development and Conditional Use Applications have been forwarded to the office of the mayor for signature. Further, we request that fees be waived for this development project.

Proposed is a 5,500 square foot fire station facility with associated parking, utilities, landscaping, and greenspace. This land us currently within the 100 year floodplain and will require substantial amounts of fill material to raise the finished floor elevation a minimum of two feet above the base flood elevation. The City of Fayetteville Parks Department has expressed interest in developing a portion of the future Multi-Use Trail System in this area - a potential layout of a future 'Trail Head' has been illustrated upon the site plan.

We look forward to working with the City of Fayetteville to ensure the health, safety, and welfare of its citizens with the development of both Fire Station #5 and the associated section of Multi-Use Trail

Please contact me at any time to discuss any questions or concerns that you may have,

Sincerely,

Mike Morgan
McClelland Consulting Engineers
479.443.2377
Mmorgan@McClelland-engrs.com

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

Date: March 8, 2006

Re: Proposed Large Scale Development
Fire Station No. 5
Crossover Avenue + Old Wire Road (Routh Park)

McClelland Consulting Engineers, INC. is proud to present our civil site plans for the proposed Fayetteville Fire Station Number 5. The proposed fire station is a stand alone, two story facility (approx 5,500SF) that will face Crossover Avenue. The lot is currently zoned RSF-4 and is not subject to the additional requirements of the Design Overlay District.

Currently, plans are being reviewed by the City of Fayetteville Planning and Engineering Staff. The next scheduled meeting will be for the Subdivision Committee to be held on March 16th at 9:00 am and then to the full Planning Commission on January March 27th. If you have any questions or concerns please contact the City of Fayetteville (479)575.8267 or myself at McClelland Consulting Engineers (479)443.2377.

Sincerely,

Michael G. Morgan
McClelland Consulting Engineers

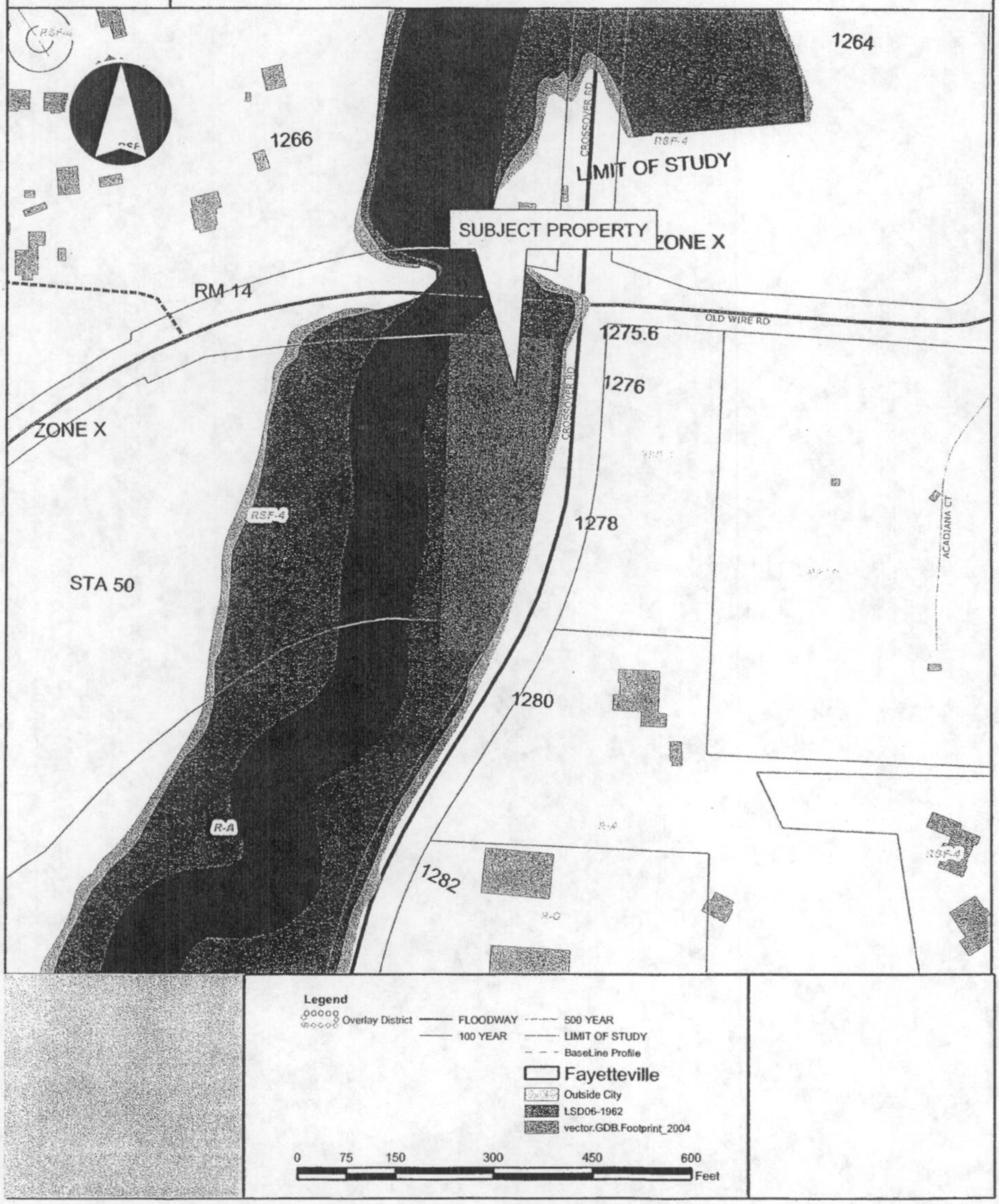
enc.

DRAFT
1/17/06
NORTH FORK
PT. 68+70.69
40'
110'
70+00
70+00
Existing Road Centerline
Proposed Road Centerline
40' R/W Offset from Exist CL
Proposed Limit of Construction

LSD06-1962

Close Up View

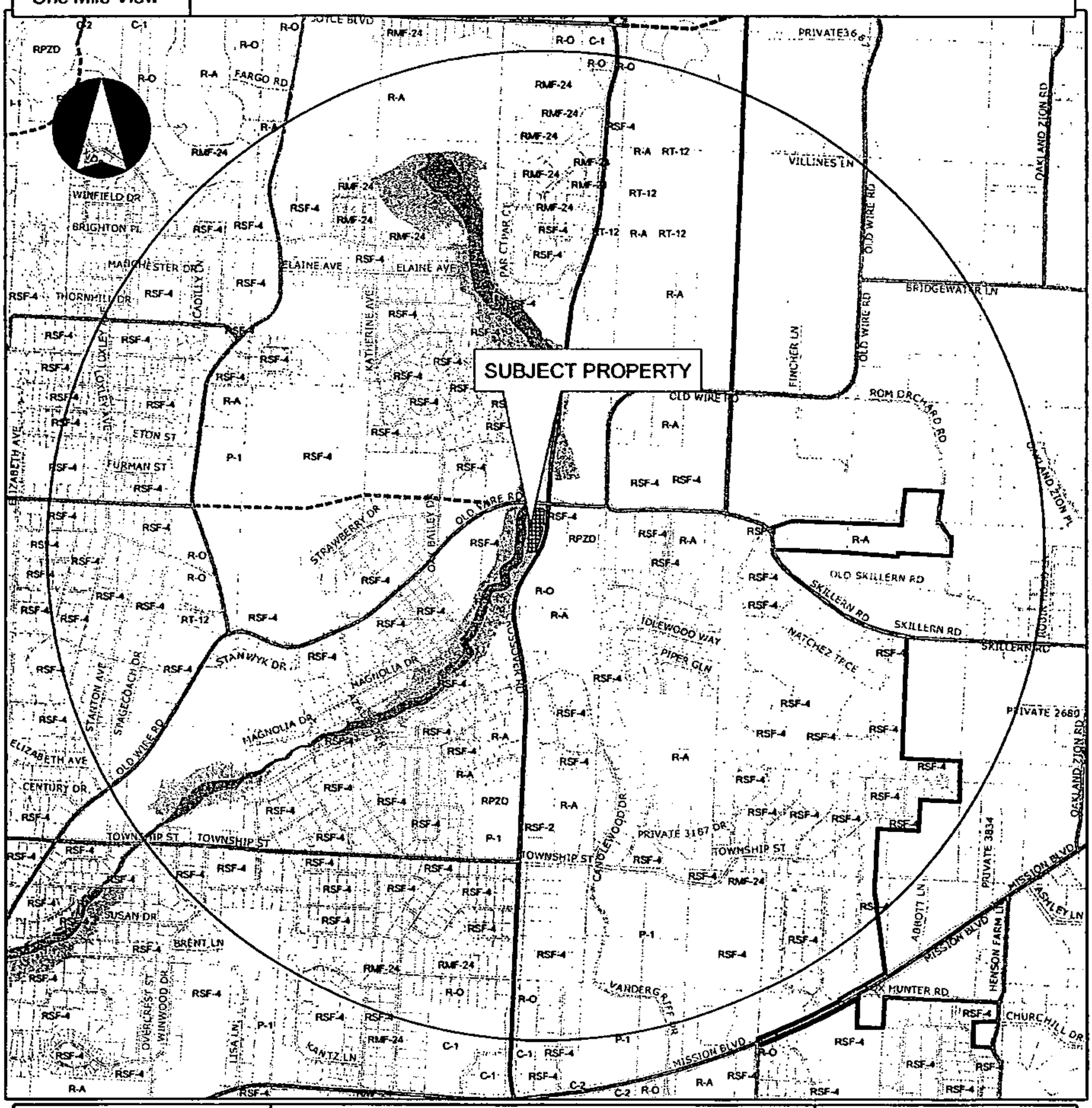
FIRE STATION #5



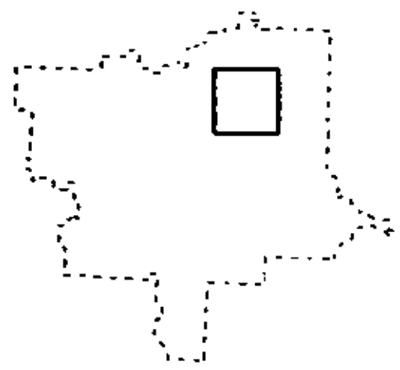
LSD06-1962

One Mile View

FIRE STATION #5



Overview



Legend

Subject Property

LSD06-1962

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

April 4, 2006
City Council Meeting Date

Sharon Jenkins	Parking Management Division	Operations Department
Submitted By	Division	Department

Action Required:

Approval of Lease Agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain leased premises as revenue producing off-street parking lots. This Agreement is a continuation of previous Agreements that have been ongoing since March, 1990.

$0.00		
Cost of this request	Category/Project Budget	Program Category / Project Name
		Off-Street Parking
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	Off-Street Parking
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director — 3-16-06 Date

City Attorney — 3/20/06

Finance and Internal Service Director — 3-21-06 Date

Mayor — 3/22/06 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office
ENTERED 3-16-06

Received in Mayor's Office
ENTERED 3/20/06

SIGN HERE

Comments:

CONTRACT REVIEW MEMO

TO: Mayor Dan Coody

THRU: Gary Dumas, Director of Operations

FROM: Sharon Jenkins, Parking Manager SJ

DATE: March 16, 2006

SUBJECT: Renewal of Lease Agreement with Off-Street Parking Development District No. 1

RECOMMENDATION

Staff recommends renewing the Lease Agreement with the Off-Street Parking Development District No. 1. The term of this Agreement will be for one (1) year with an automatic annual renewal for up to two (2) additional years.

BACKGROUND

The City entered into the original Lease Agreement with the Off-Street Parking Development District No. 1 in March, 1990. The term of the lease ran for a period of ten years and was renewed in March 2000 for another five years. In April 2005, the Agreement was renewed again for one year.

The Agreement provides for the City to lease the 4 parking lots owned by the District and operate them as revenue producing off-street parking lots. The City equips the premises with parking meters and/or access control devices, collects parking revenues through parking programs and meter revenues, and provides parking enforcement for the leased premises. The City then pays to the District the net operating revenues derived from the leased premises ("net operating revenues" are the gross revenues less all costs of equipping, maintaining, and operating the leased premises by the City.

BUDGET IMPACT

The revenues collected and retained by the City for operating costs help to offset existing expenses already incurred by the City for the management of downtown parking. For the year 2005, a total of $13,339 was received from this source to offset employee salaries. Actual costs for equipment and supplies are offset directly from this source.

RESOLUTION NO. _____

A RESOLUTION APPROVING RENEWAL OF THE LEASE AGREEMENT WITH OFF-STREET PARKING DEVELOPMENT DISTRICT NO. 1 FOR THE CITY OF FAYETTEVILLE TO OPERATE CERTAIN OFF-STREET PARKING LOTS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves renewal of the Lease Agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots. A copy of the Lease Agreement marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

LEASE AGREEMENT

This lease Agreement executed this _____ day of April, 2006, by and between OFF-STREET PARKING DEVELOPMENT DISTRICT NO. 1 of the City of Fayetteville, Arkansas (hereinafter referred to as "OSPDD"), and the CITY OF FAYETTEVILLE, Arkansas (hereinafter referred to as "the City").

In consideration of the mutual covenants contained herein, the parties hereby agree as follows:

1. OSPDD hereby leases to the City, and the City hereby leases from OSPDD, the real property described in Exhibit A, attached hereto and made a part hereof.

2. The term of this Lease shall be for a period of one (1) year, with an automatic annual renewal for up to two (2) additional years, commencing on the date of execution hereof.

3. The City hereby agrees that during the term of this Lease, or any extension thereof, the City shall operate the leased premises as revenue producing off-street parking lots; the City agrees to equip the leased premises with parking meters or parking gates; the City agrees to collect the revenues from the parking meters or parking gates located on the leased premises; and the City agrees to police the lease premises to insure that motorists parking thereon are paying required usage fees as are now, or as may hereafter, be established by the City.

4. The City agrees to pay over to OSPDD during the term of this Lease, or any extension thereof, the net operating revenues derived from the leased premises. The term "net operating revenues" shall mean gross revenues less all costs of equipping, maintaining, and operating the lease premises as off-street parking lots. Said revenues shall be paid to OSPDD quarterly.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the date first above written.

OFF-STREET PARKING DEVELOPMENT DISTRICT NO. 1 OF THE CITY OF FAYETTEVILLE, ARKANSAS

By: Lamar Pettus, Chairman
Lamar Pettus, Chairman of the Board of Improvement

_____

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT A

Lots 1 and 2 in Block 13;
Lots 7, 8, 9, and 10 in Block 17;
Lots 1 and part of lot 2 in Block 25;
Lots 8, 9, 14 and 15 in Block 30

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

7-Feb-06
City Council Meeting Date

Leif Olson	Planning	Operations
Submitted By	Division	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 1-11-06

City Attorney — Date 1-20-06

Finance and Internal Service Director — Date 1-23-06

Mayor — Date 1/27/06

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 1-20-06

Received in Mayor's Office ENTERED 1/23/06

Comments:

Tabled to April 4, 2006 meeting
Left on the second reading 2/21/06
Left on the first reading 2/7/06

City Council Meeting of February 7, 2006
Agenda Item Number

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 mad 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.**

~~**(c) *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.*

~~**(c) *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 Chapter170 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.

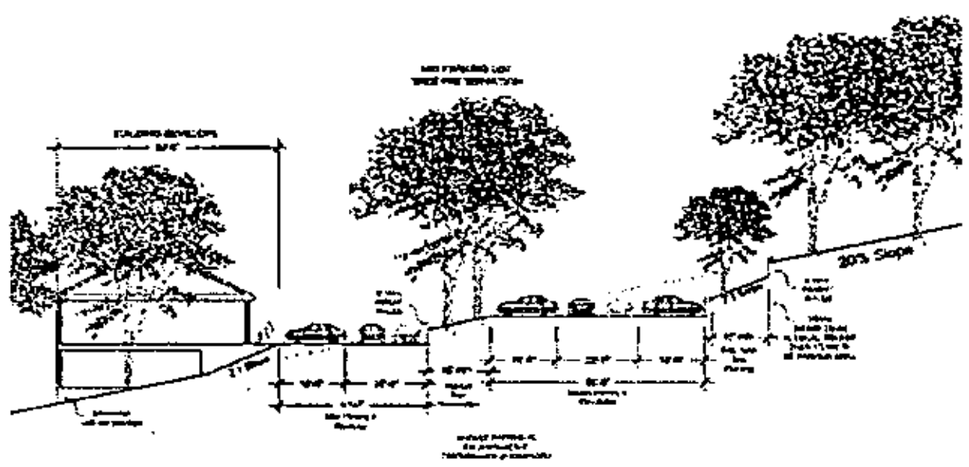
EXHIBIT "F"

To be inserted in Chapter172: 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:

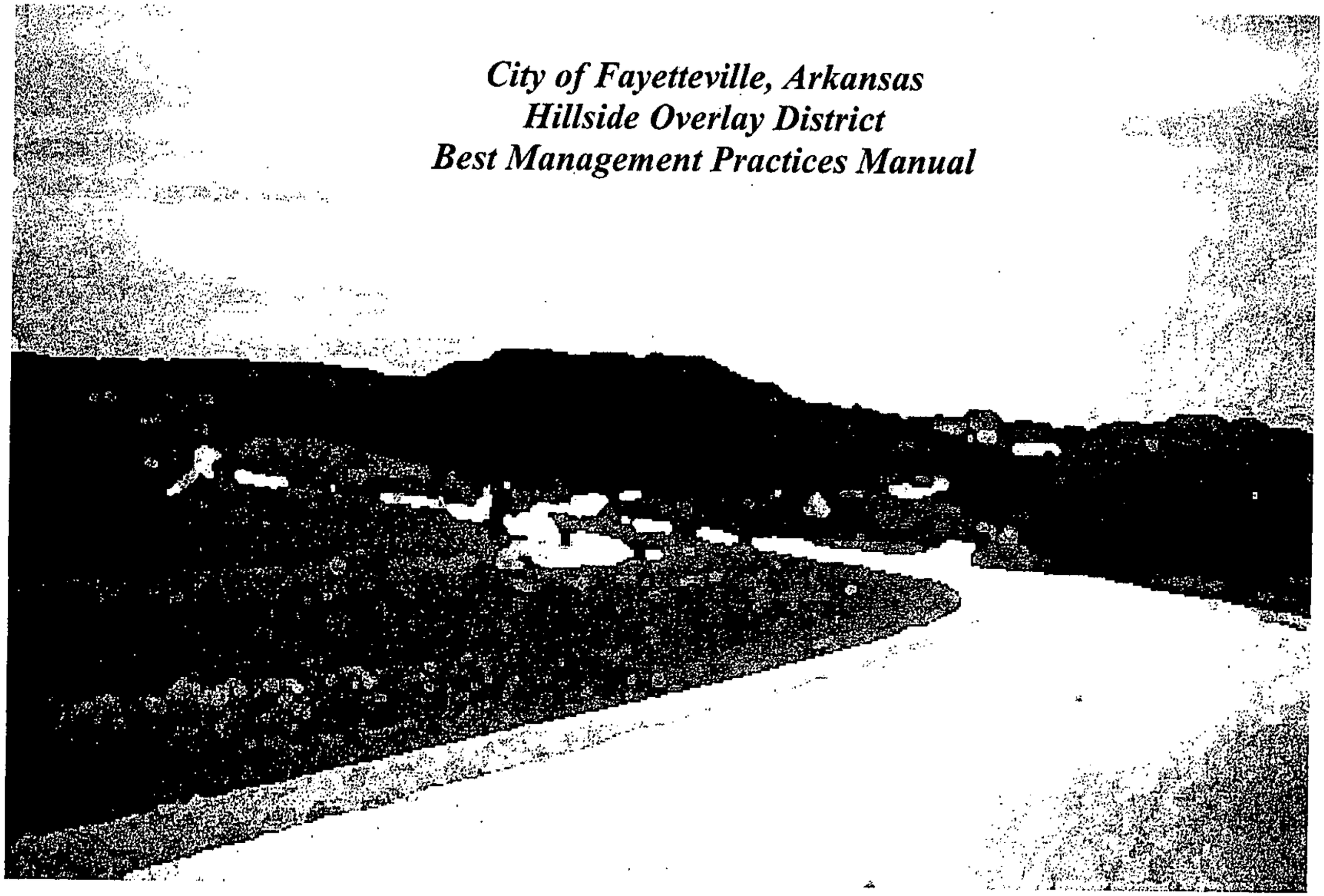
(2) *Footings and Foundations.*
Building, structures, and parts thereof shall be designed and constructed in accordance with strength design, load and resistance factor design, allowable stress design, empirical design, or conventional construction methods, as permitted by the applicable material chapters 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 8/31/06

Fayetteville
ARKANSAS

Hillside Overlay District Best Management Practices Manual

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I. Background and Introduction

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

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

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

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

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

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

II. Concerns Expressed During Public Input Sessions

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

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

1. Identify issues and concerns based on the current and future development of Fayetteville's hillsides.

2. Confirm the existing environmental, development, zoning and regulatory conditions.

3. Discuss best practices of development seen in the City or region.

4. Discuss the visual preference for hillside areas in and around Fayetteville.

5. Gain feedback regarding current development trends and best current practices.

6. Find common ground between all parties.

7. Discuss the proposed Unified Development Code revisions.

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

1. Confirming the project approach.

2. Reviewing the information gathered in the first work sessions.

3. Developing a process for establishing recommendations.

4. Reviewing the existing codes regarding development.

5. Drafting Best Practices guidelines to be used in the manual.

6. Reviewing recommended changes to the development code.

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

Density:

- Infill of inconsistent housing types / increased density in established neighborhoods
- Do not use downzoning as a tool for preserving trees

Storm water / Infrastructure:

- Drainage ditch design, adequate capacity, and proper location
- Need additional storm water regulations along with better enforcement
- Inadequate or outdated infrastructure in older neighborhoods
- Utility companies to allow for design flexibility

Tree Preservation:

- Preserve the natural character of the hillsides

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

Views of the Hillsides:

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

Development / Planning Practices:

- When development happens, do it correctly. Do not sacrifice quality – good development sells
- Do not stifle creativity or require a homogenous product
- Create the opportunity for development flexibility and diversity of product type

Ordinance / Implementation:

- Ordinances should be implemented on a lot by lot basis
- New or revised ordinances should be clear and not over burdening
- Hilltops should be included in the hillside ordinance study
- Hilltops may need separate design criteria to be effective
- Ordinance and regulatory restrictions and processes should be placed on individual lot developments of less than one acre

Geologic Study / Conditions

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

Tree Function

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

III. Existing Conditions

- **Regulatory Codes:**

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

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

Where do the existing codes fall short?

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

What are the loop holes in the current regulatory codes?

- New development less than one acre in size is generally exempt from many development requirements
- Tree preservation is not required on single lot development
- Tree preservation is required of the developer at the time of platting; however, lot owners and builders may remove preserved tree canopy from their individual lots

Code Revision Process:

The process outlined below illustrates the steps taken by the City, the Hillside Task Force and Design Workshop to specifically revise the current codes.

1. Review the existing conditions and define the Hillside Overlay District Map.
2. Test and review the current development codes to determine the loopholes in the current codes:
   - Zoning
   - Grading
   - Tree Preservation
   - Erosion and Sediment Control
   - Parking
3. Amend the current Unified Development Ordinance Codes to be more conducive to hillside development.
4. Create a Hillside Overlay District Best Management Practices Manual.

- **Zoning:**

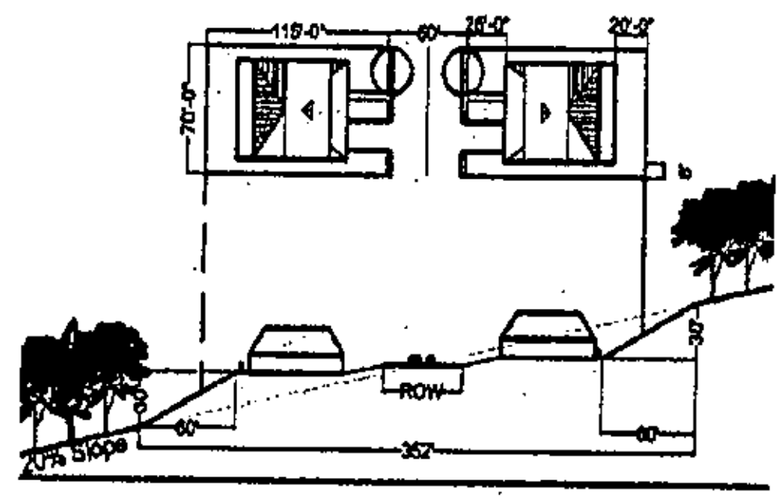
To examine existing zoning codes, Design Workshop created plans and sections illustrating minimum allowable lot size, maximum allowable building footprint, and front, side, and rear setbacks. The analysis revealed that existing lot conditions do not promote sound development practices with respect to preserving tree canopy, preventing erosion, and protecting views both to and from the hillsides. The existing setbacks contribute to excessive land disturbance. Grading for roads and right-of-way coupled with large front building setbacks creates additional potential for land disturbance.

The following illustrations summarize each of the major zoning classifications found on Fayetteville's hillsides. These studies depict the pattern of development per the current zoning regulations, in plan view and cross-section, illustrating the potential impact when applying the current development codes to lands on an average 20% slope. Also summarized is a diagram

illustrating the maximum allowable density on one acre of land.

Existing RSF-4 Single Family

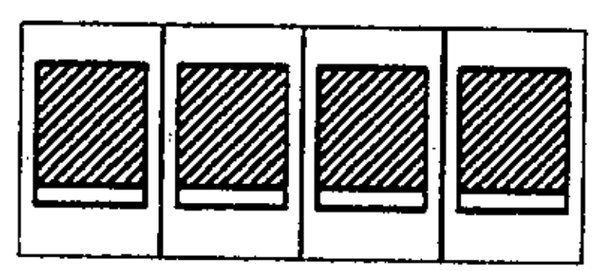
RSF 4 SINGLE FAMILY



EACH LOT = 8,050 SQ FT (70 WIDTH X 115 LENGTH)
SETBACKS:
FRONT 25
BACK 20
SIDE 8
BUILDING FOOTPRINT (ACCORDING TO SETBACKS) = 3,780 SQ FT (54 WIDTH x 70 LENGTH).

ZONING ONLY ALLOWS FOR 40% COVERAGE (8,050 X .4) = MAX 3,220 SQ FT FOOTPRINT (60 WIDTH x 54 LENGTH).

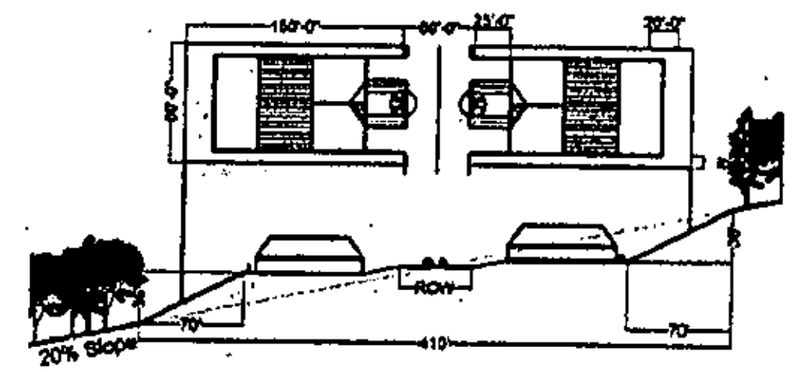
THIS DIFFERENCE CREATES A 560 SQ FT POTENTIAL DEVELOPMENT ZONE WHICH IS FRONT BACK/FLEXIBLE.



1 Acre

Existing RSF-4 Two Family

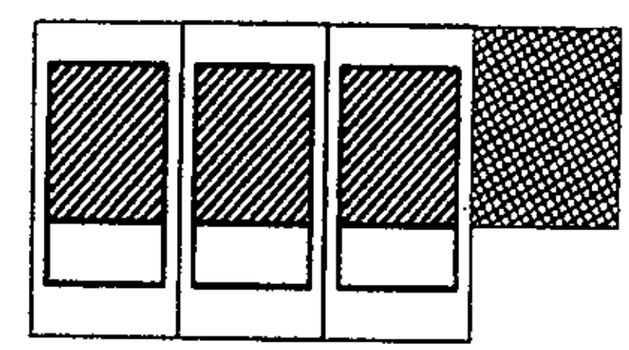
RSF4 TWO FAMILY



EACH LOT = 12,000 SQ FT (80 WIDTH X 150 LENGTH)
SETBACKS:
FRONT 25
BACK 20
SIDE 8
BUILDING FOOTPRINT (ACCORDING TO SETBACKS) = 6,720 SQ FT (64 WIDTH X 105 LENGTH).

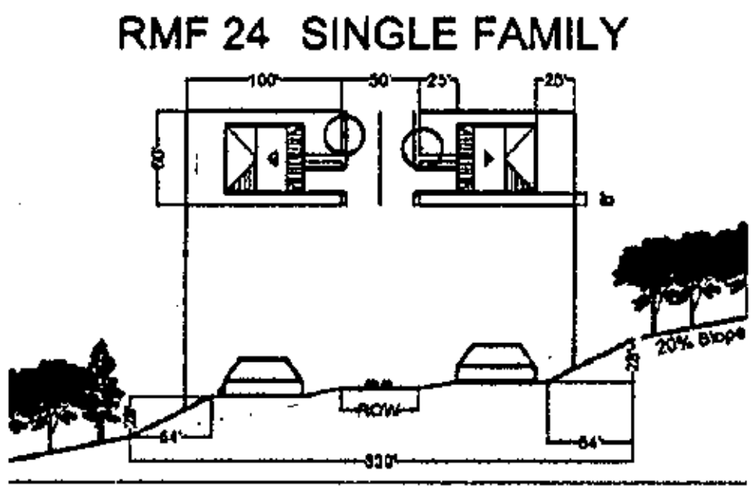
ZONING ONLY ALLOWS FOR A 40% COVERAGE (12,000 X .4) = MAX 4,800 SQ FT FOOTPRINT (64 WIDTH X 75 LENGTH).

THIS DIFFERENCE CREATES A 1,920 SQ FT POTENTIAL DEVELOPMENT ZONE WHICH IS FRONT BACK/FLEXIBLE.

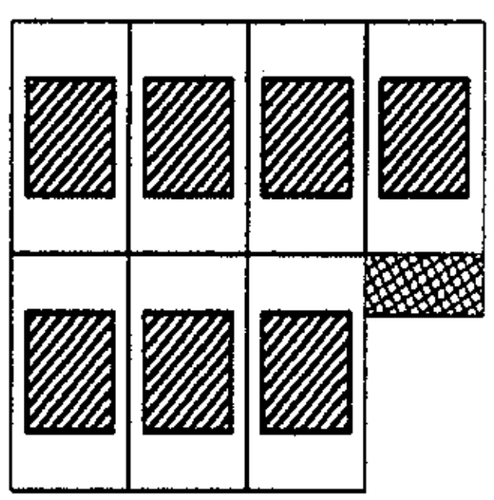


1 Acre

Existing RMF-24 Single Family

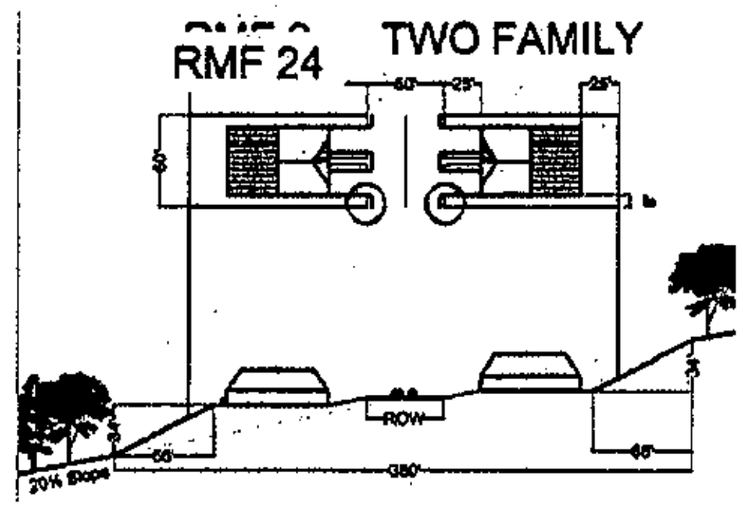


MIN EACH LOT = 6,000 SQ FT (60 WIDTH X 100 LENGTH)
SETBACKS:
FRONT 25
BACK 25
SIDE 8
HOUSE SIZE = 2,200 SQ FT HOUSE SIZE
SETBACKS INCREASE WHEN HEIGHT EXCEEDS 20 FT

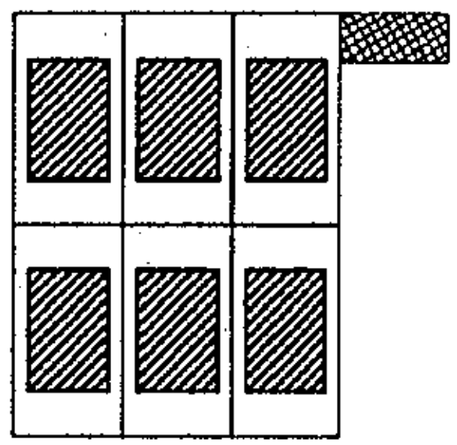


1 Acre

Existing RMF-24 Two Family

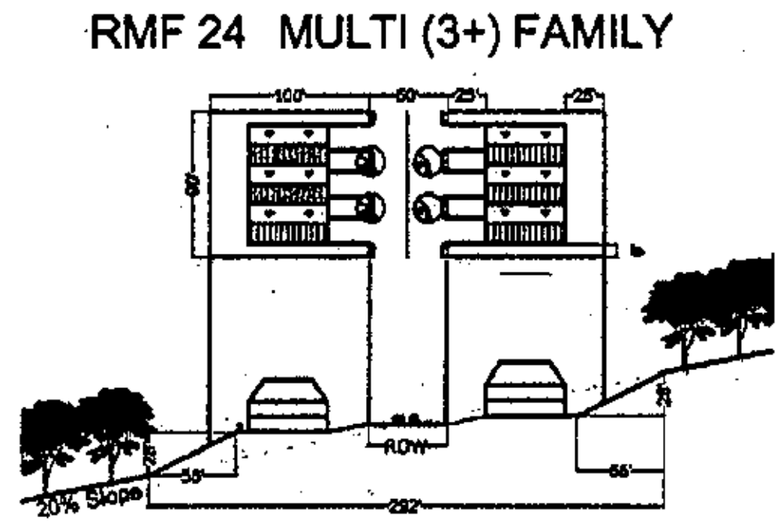


MIN EACH LOT = 7,000 SQ FT (60 WIDTH X 116 LENGTH)
SETBACKS:
FRONT 25
BACK 25
SIDE 8
HOUSE SIZE = 2,934 SQ FT HOUSE SIZE
SETBACKS INCREASE WHEN HEIGHT EXCEEDS 20 FT

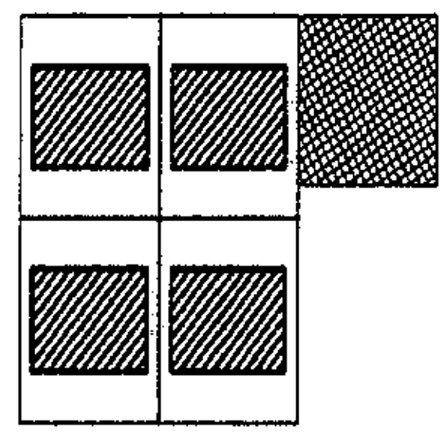


1 Acre

Existing RMF – 24 3+ Family



MIN EACH LOT = 9,000 SQ FT (90 WIDTH X 100 LENGTH)
SETBACKS:
FRONT 25
BACK 25
SIDE 8
HOUSE SIZE = 3,700 SQ FT HOUSE SIZE
SETBACKS INCREASE WHEN HEIGHT EXCEEDS 20 FT

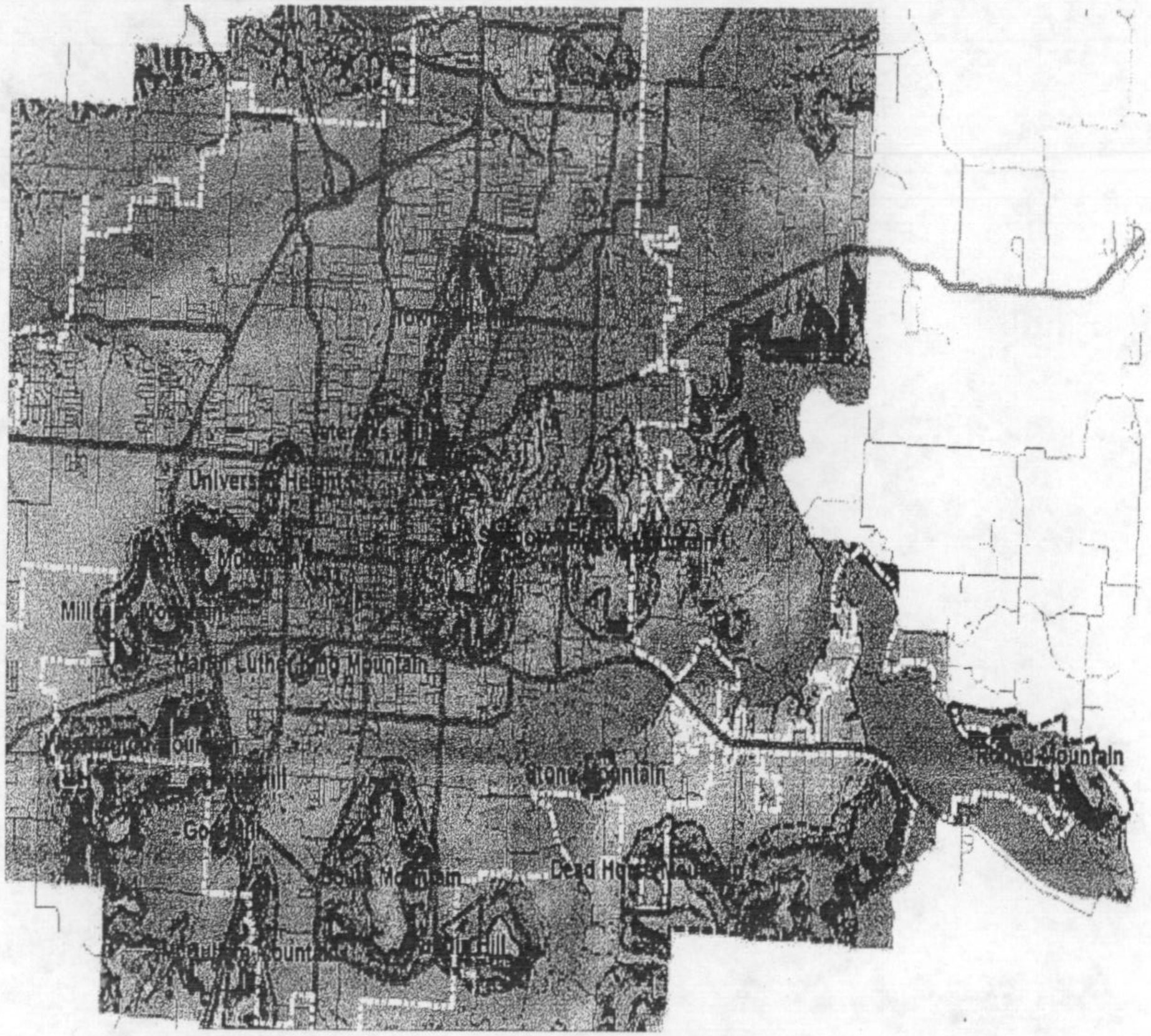


1 Acre

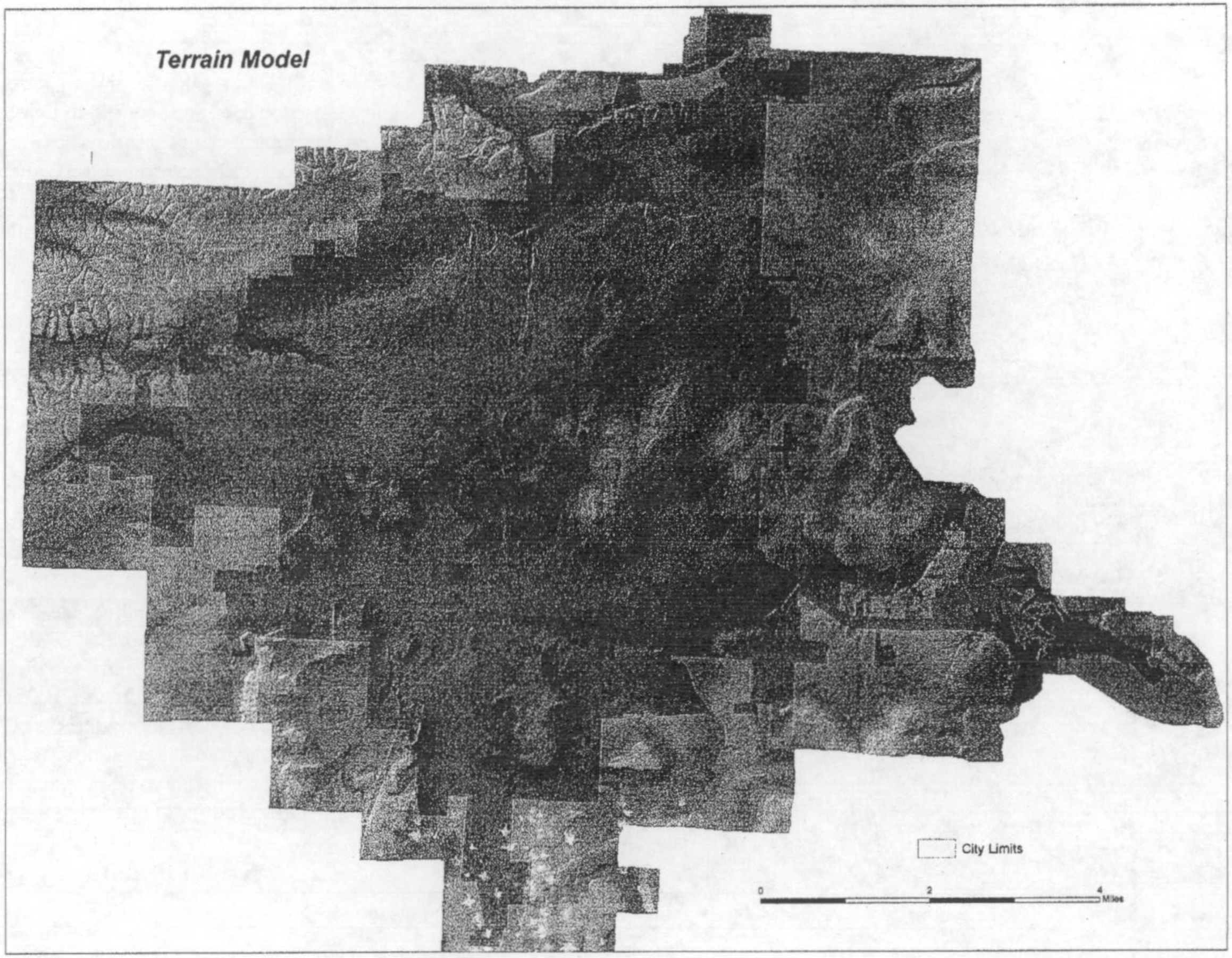
- **Existing Slopes:**

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).

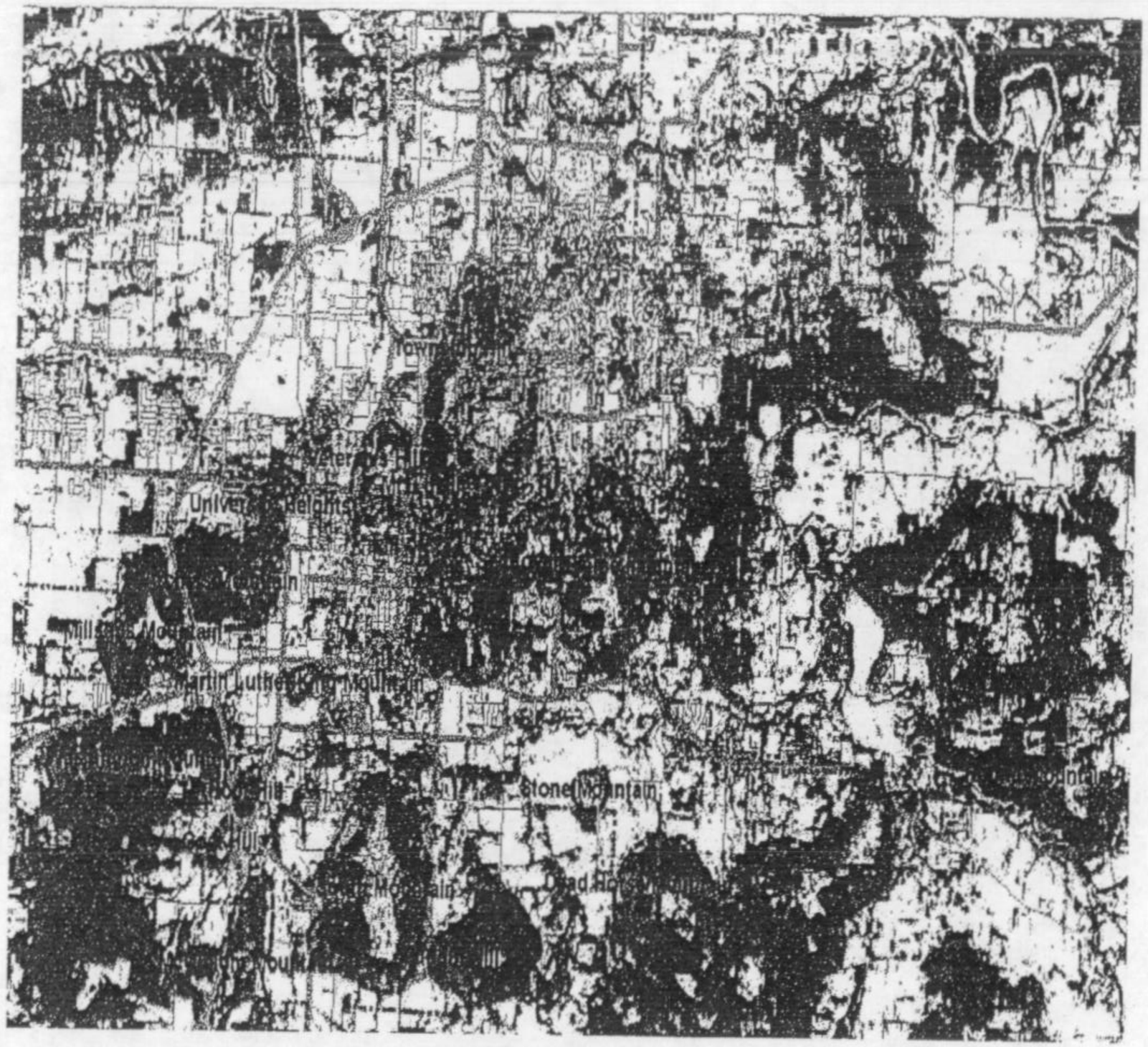
Individual lot owners in the Hillside Overlay District are required to have a footing and foundation plan designed by an Arkansas registered engineer. An engineered solution utilizing proper methods and techniques for mitigating hazardous soils is the property owners' best insurance against future foundation 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

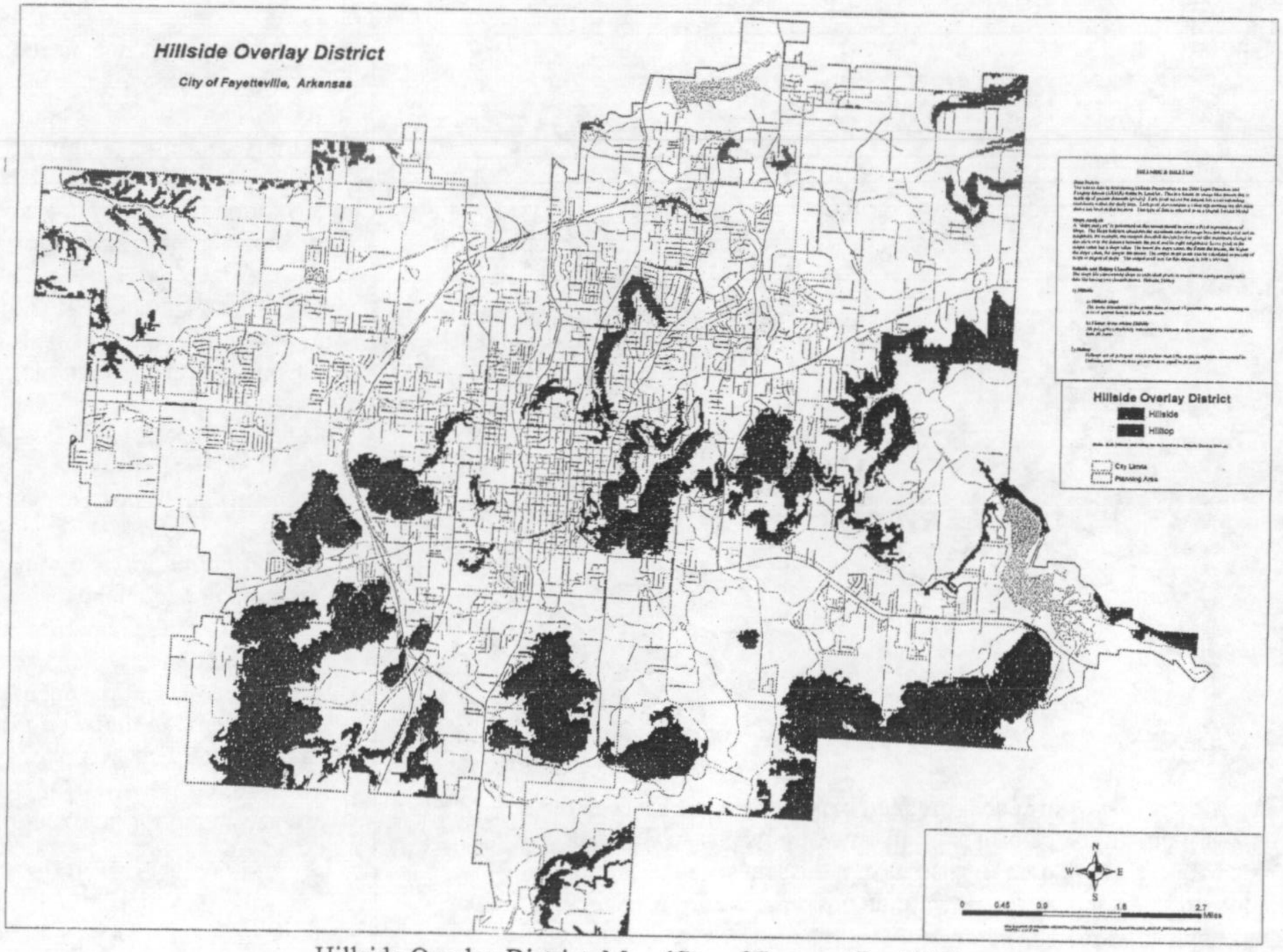
A. Subdivision Development

- **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.



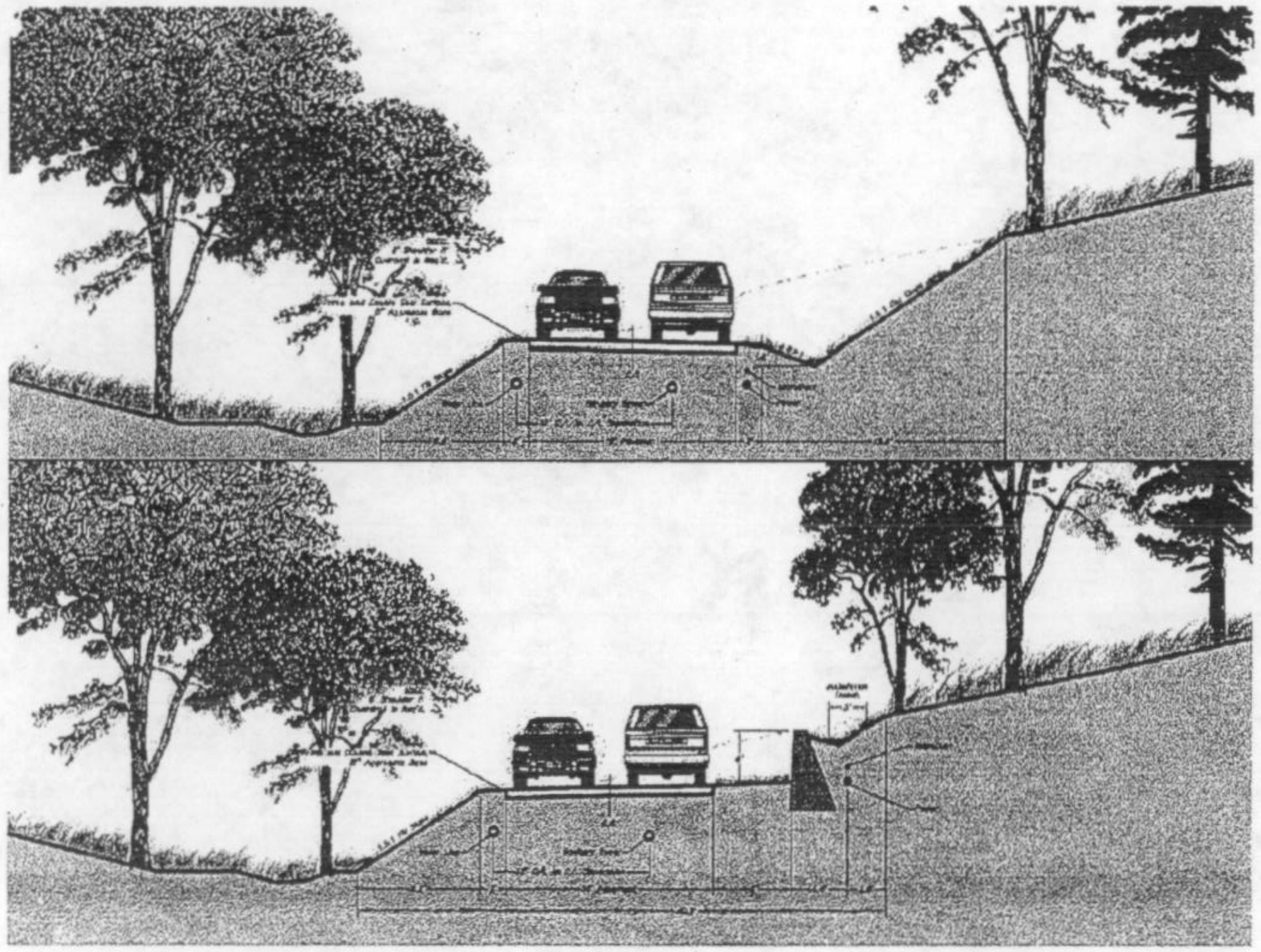
Hillside Overlay District Map *{City of Fayetteville. 2005}*

- **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.

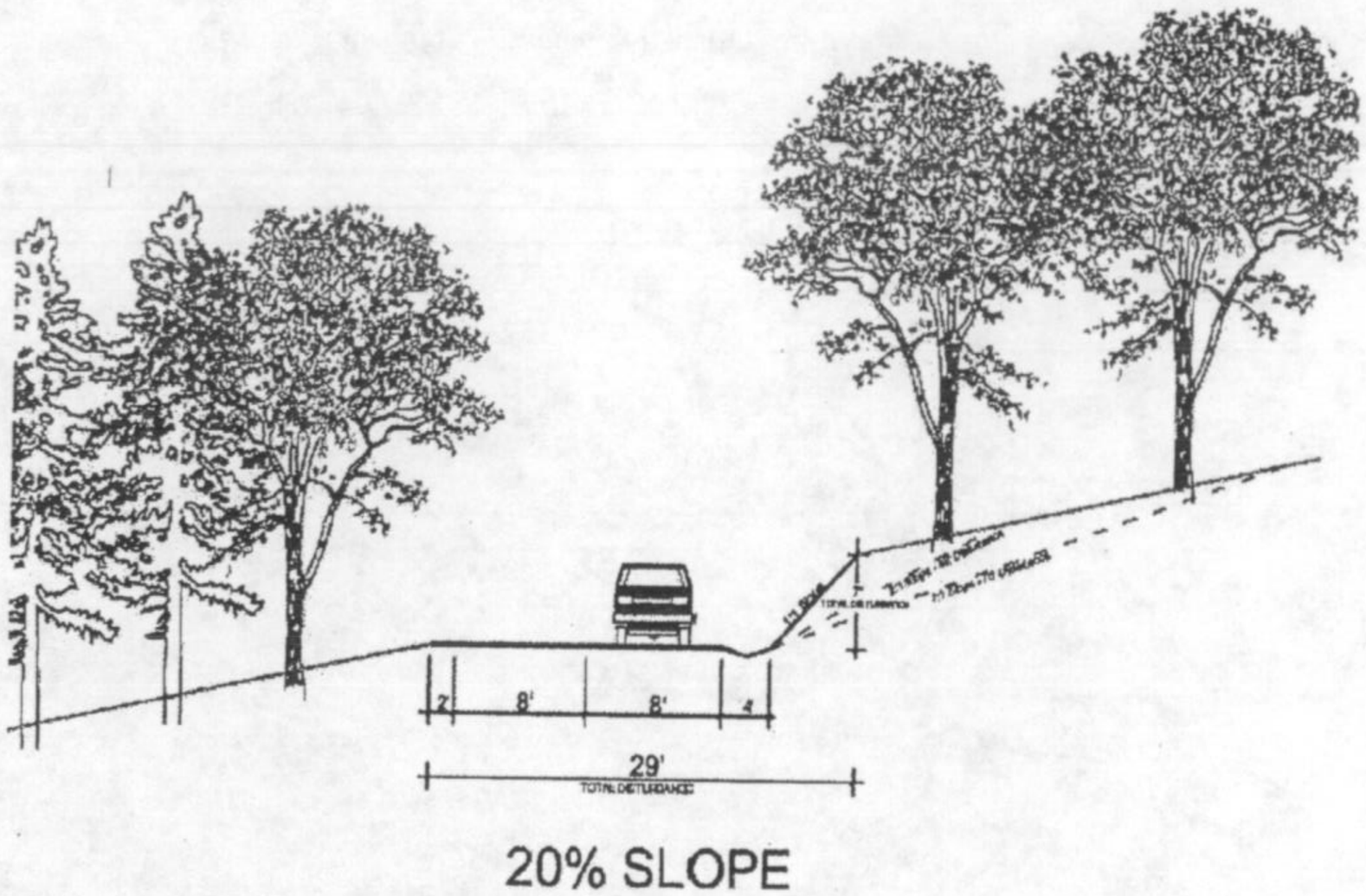


Illustration of a 1:1 tieback slope greatly reducing the amount of disturbance.

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.

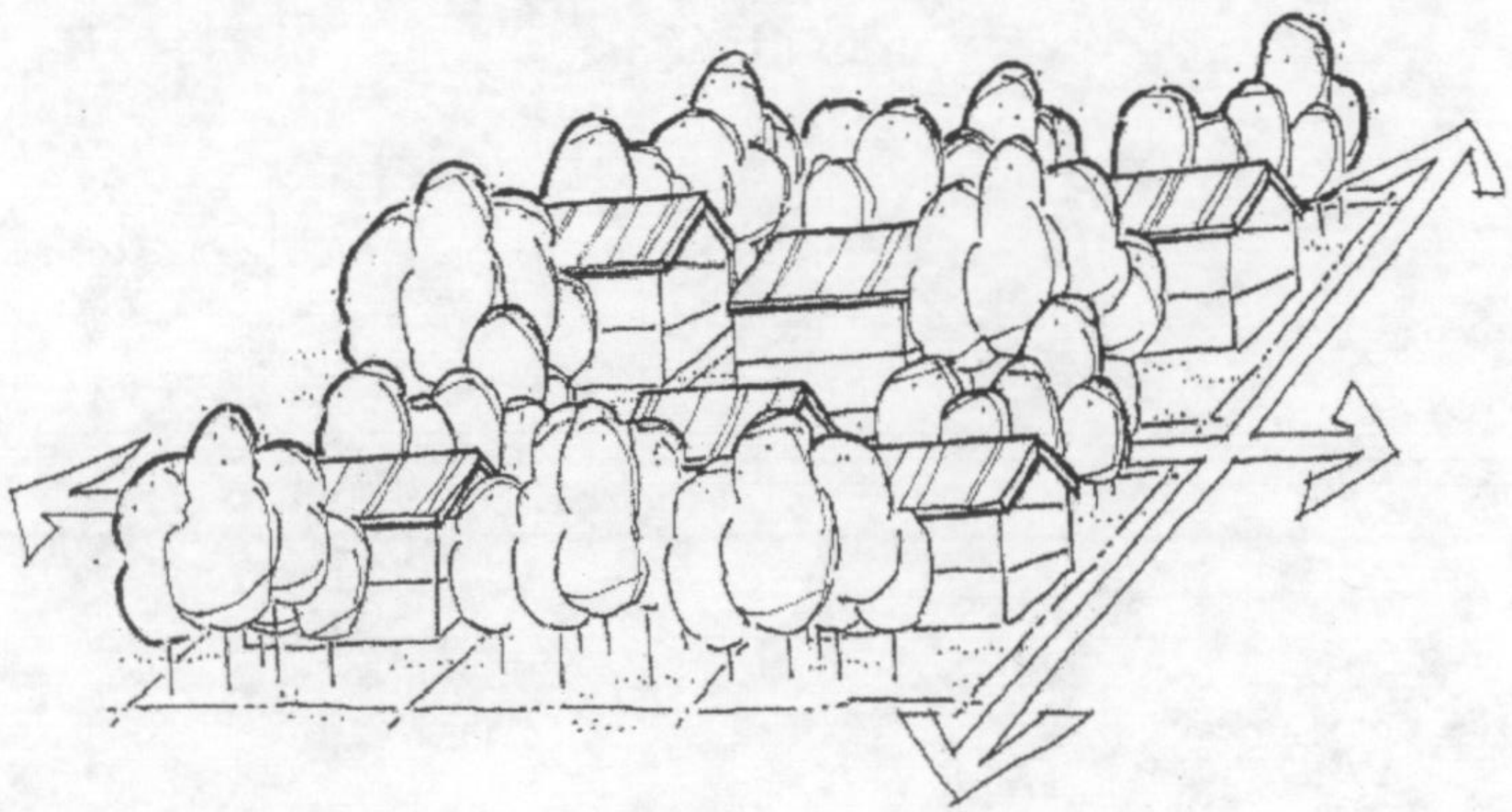


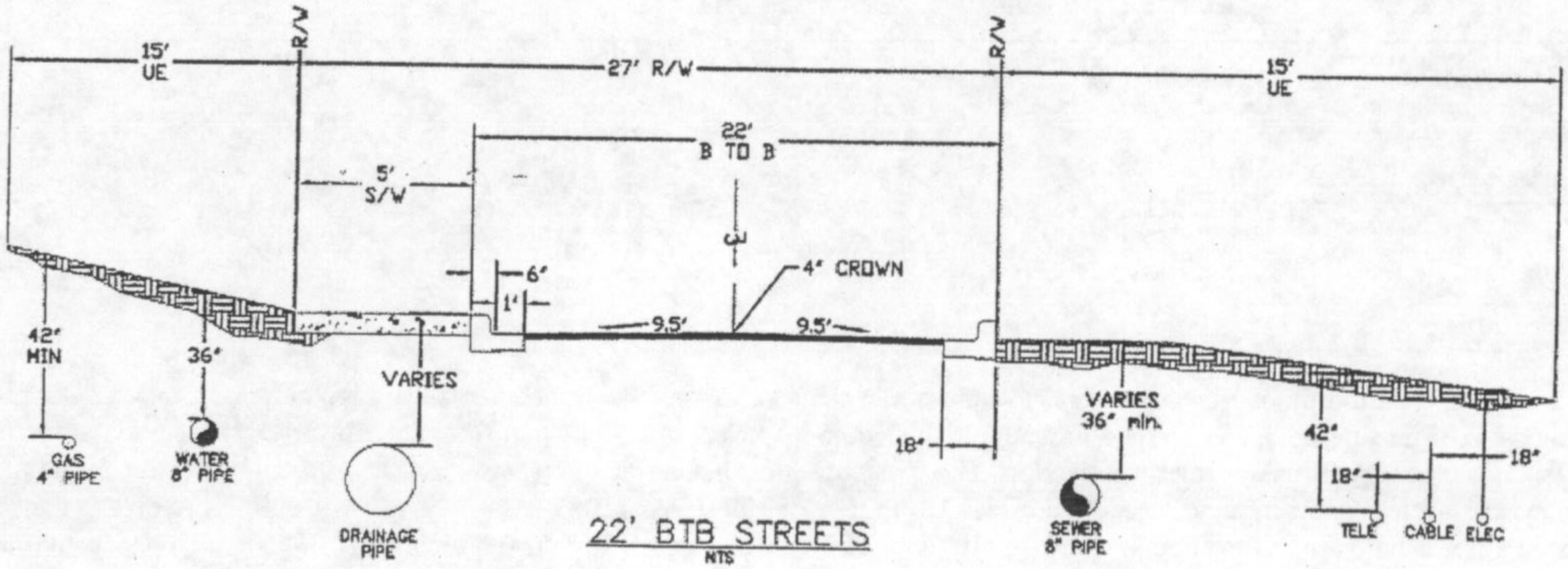
Diagram Illustrating Community Pattern *{City of Fayetteville 2005}*

- **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.

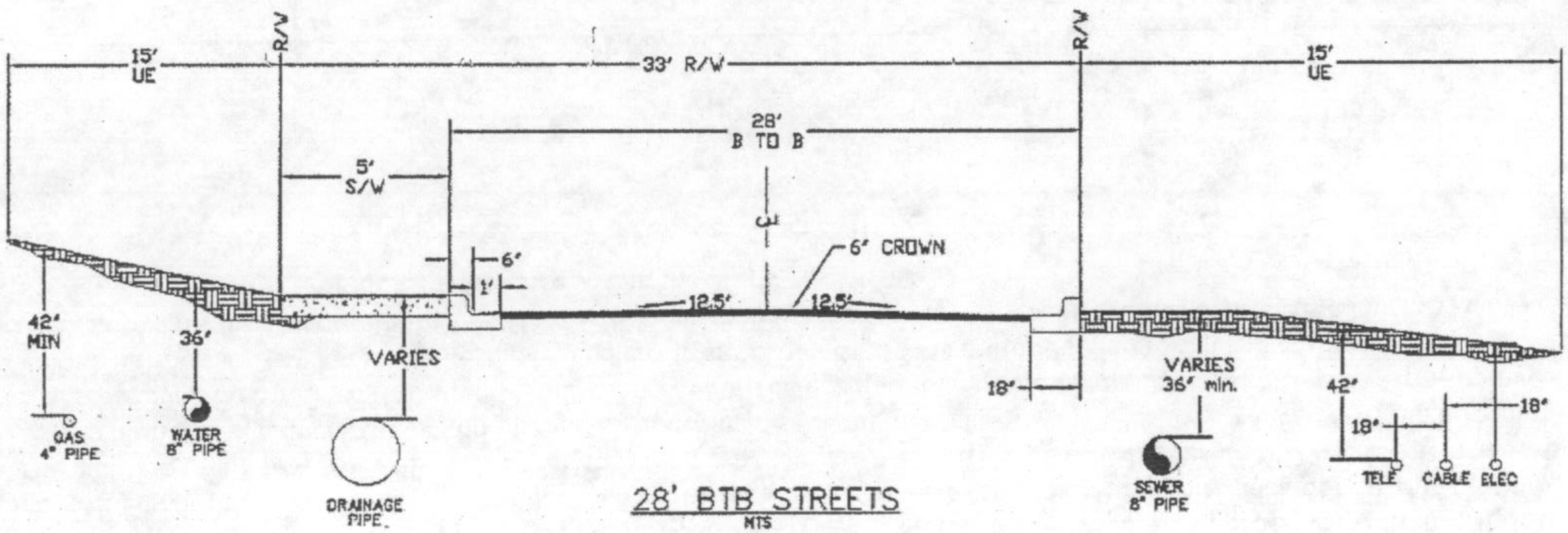
A variety of appropriate street cross sections should be allowed within the Hillside Overlay District with approval of the Planning Commission. Developers and engineers are encouraged to design street cross sections that shall minimize land disturbance while providing adequate vehicular access.

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 slide 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.



22' BTB STREETS
NTS

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 slide 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.

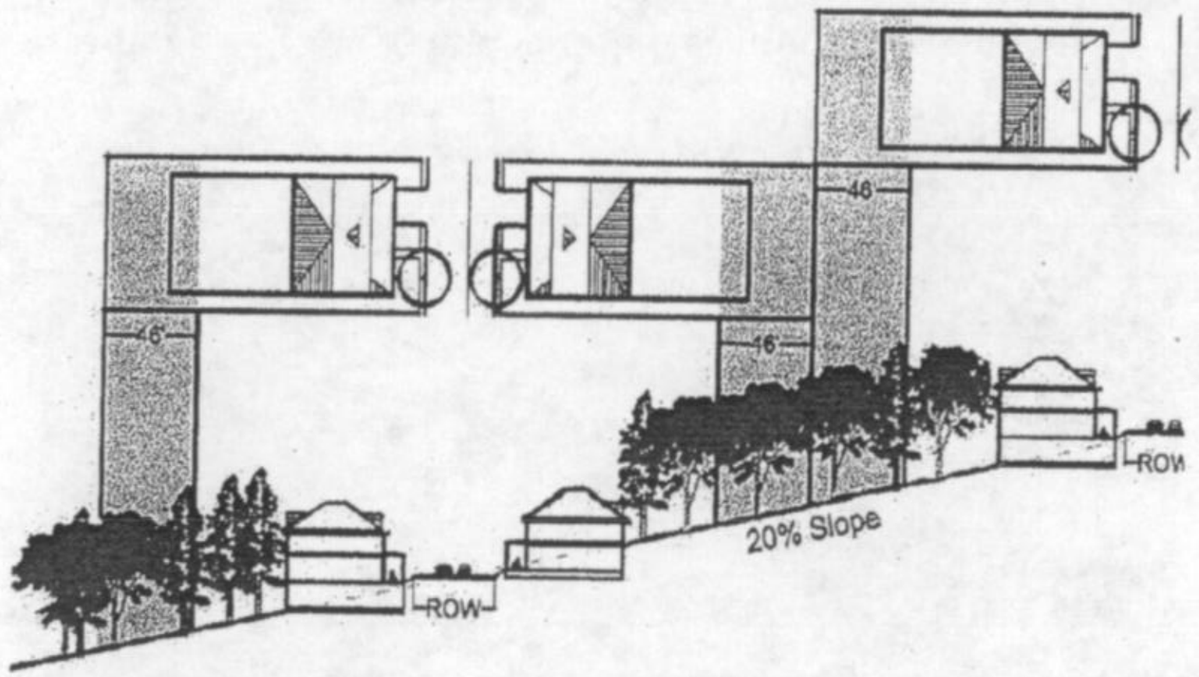


28' BTB STREETS
NTS

- **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 view-shed.

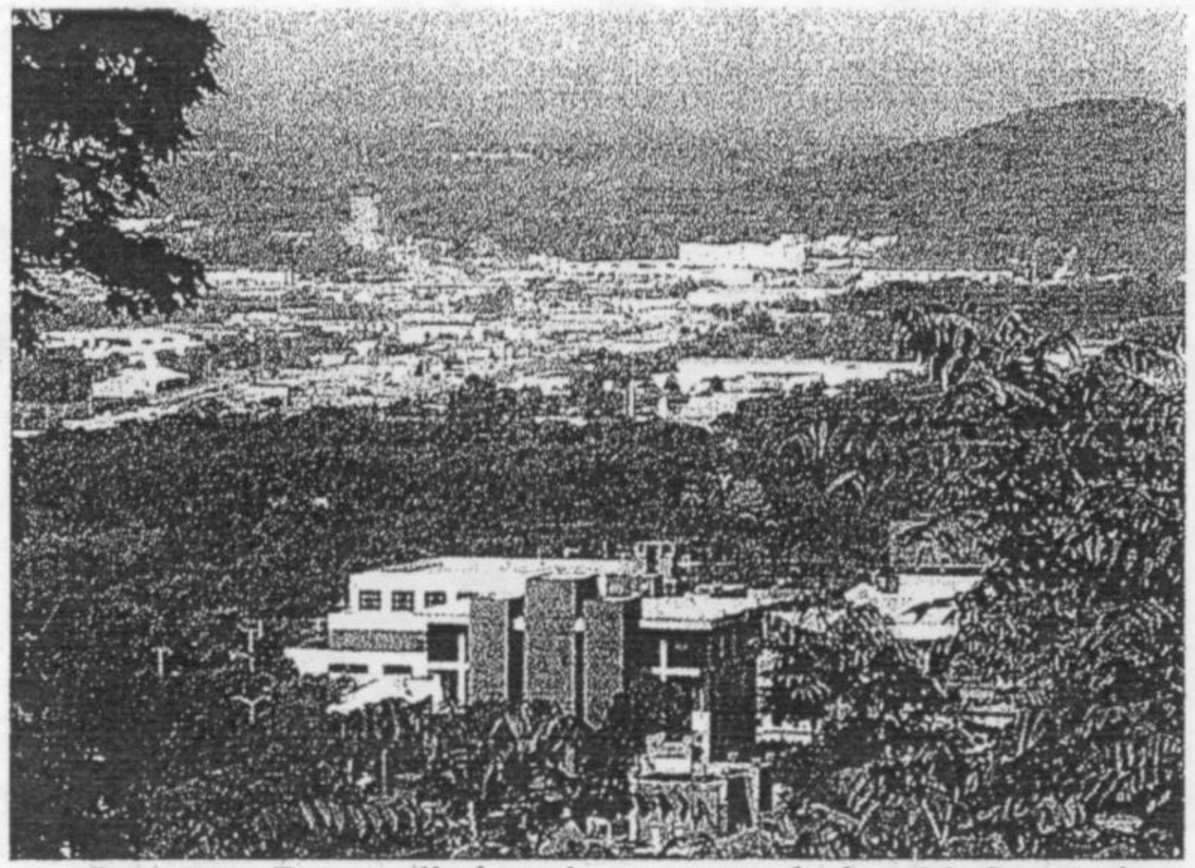


- Locate tree preservation in areas on ridgelines to preserve ridge profiles and screen hilltop development.

Ridgeline Tree Canopy

- Distribute tree preservation and undisturbed area throughout the entire community not just in un-developable or unseen areas.

- Allow selective thinning to enhance view potential.

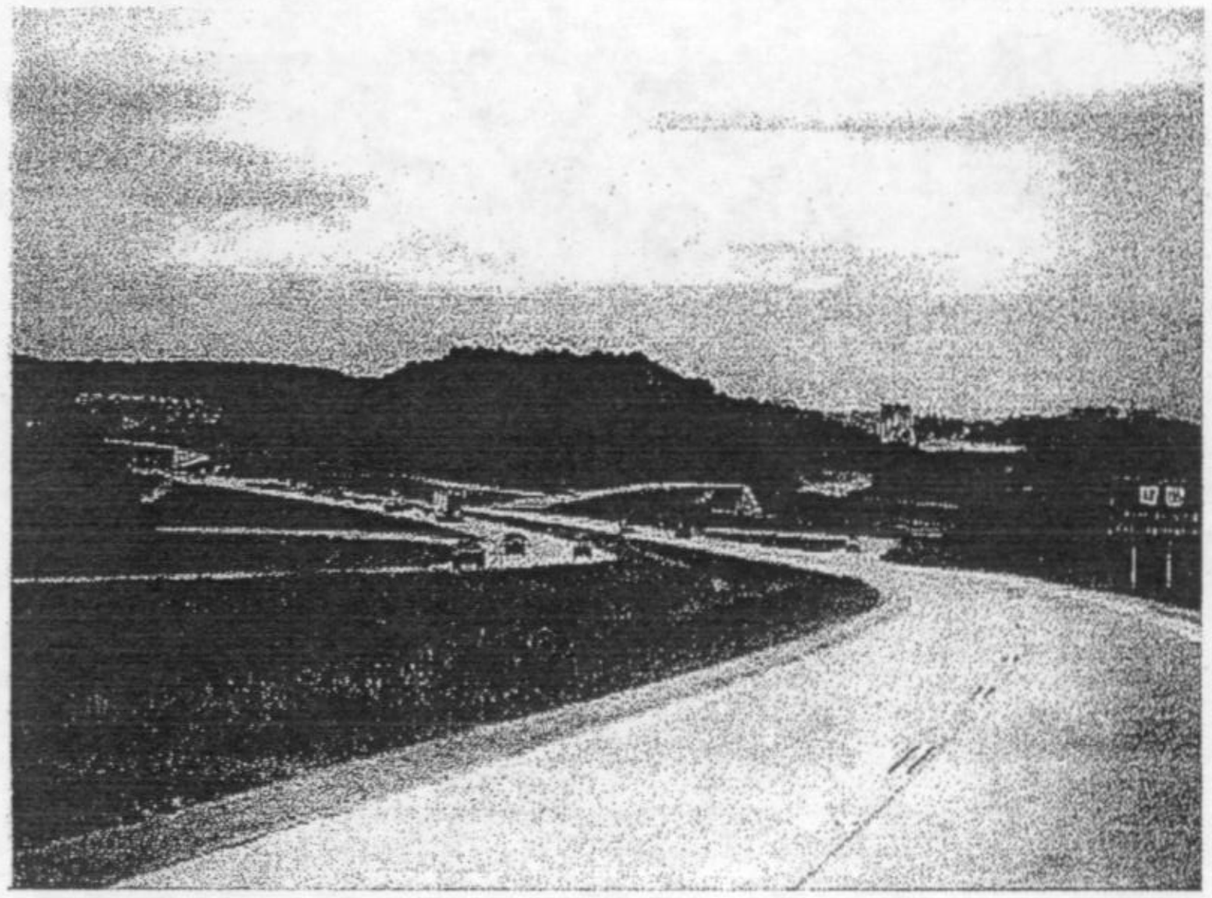


Downtown Fayetteville from the scenic overlook on Mt. Sequoyah.

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:

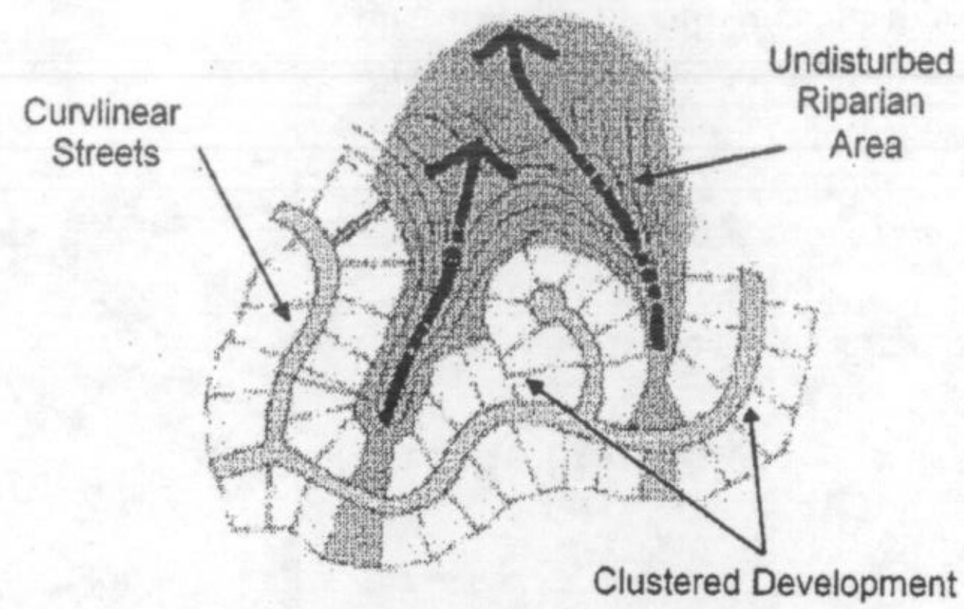
- Developers who request development rights vested through the Planned Zoning District ordinance are encouraged to use the Hillside Best Management Practices Manual in order to guide their development.

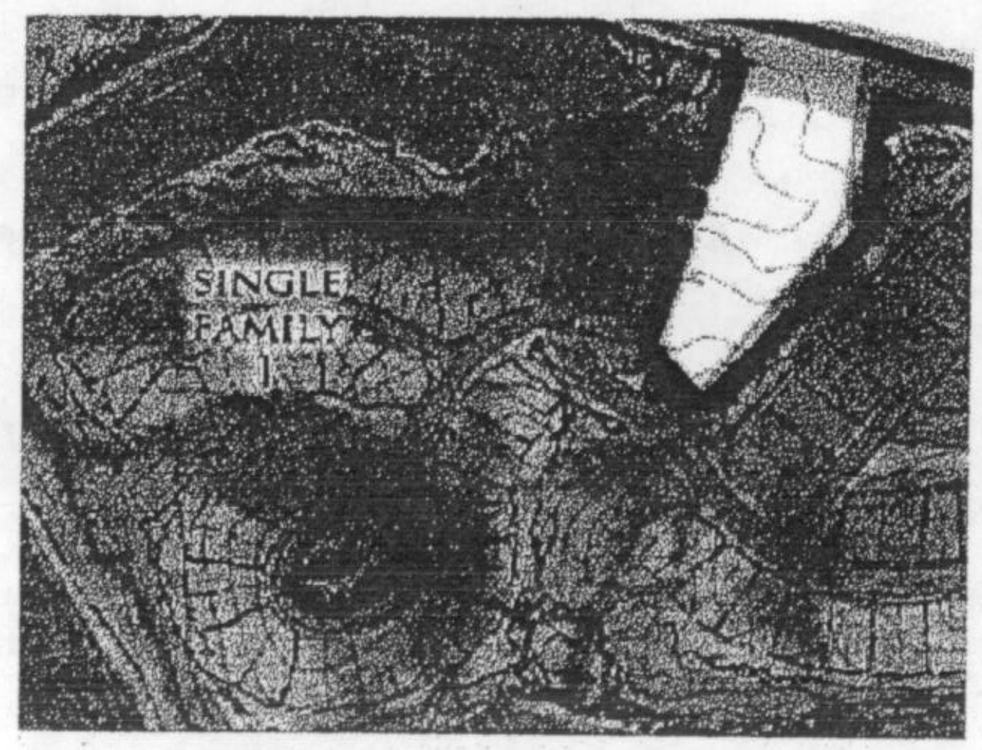
- Encourage development to occur in areas and on lands with less slope.

- 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.

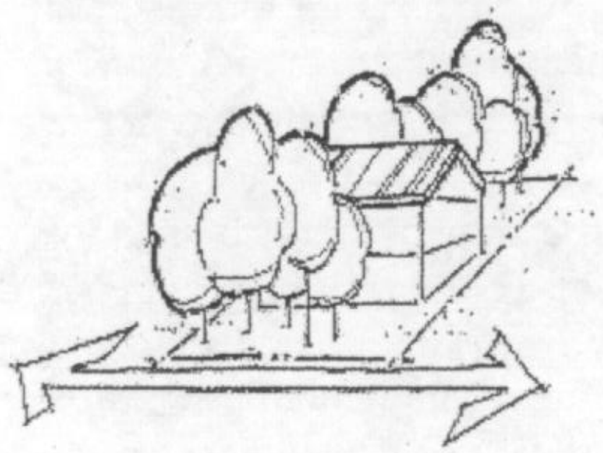




- **Lot Frontage and Orientation:**

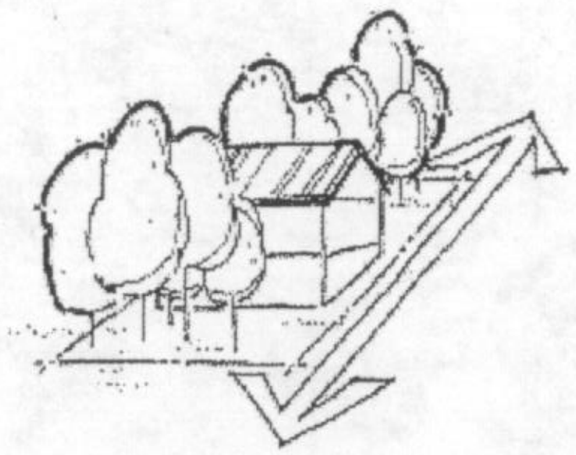
In order to accommodate hillside development and still retain the existing zoning and density, the zoning code will be amended in regards to lot width requirements. The study of the existing zoning code concluded the following:

- 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.



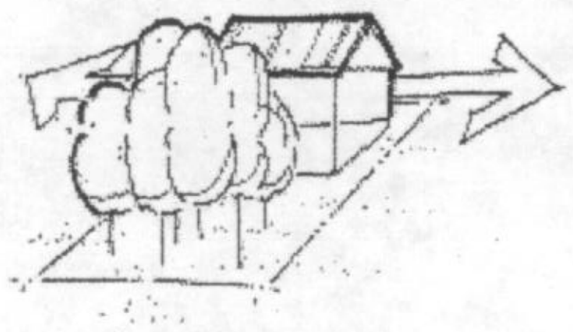
Narrowed Frontage Increased Depth

- Allow deeper side of lots to run perpendicular to grade regardless of street orientation.



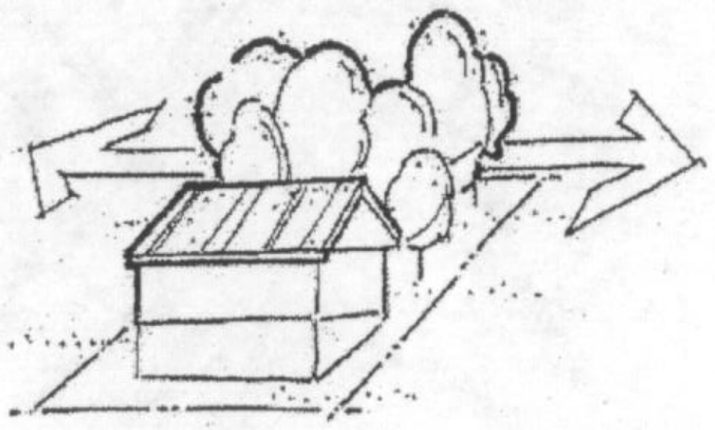
Lot Orientation with the Grade

- 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:**

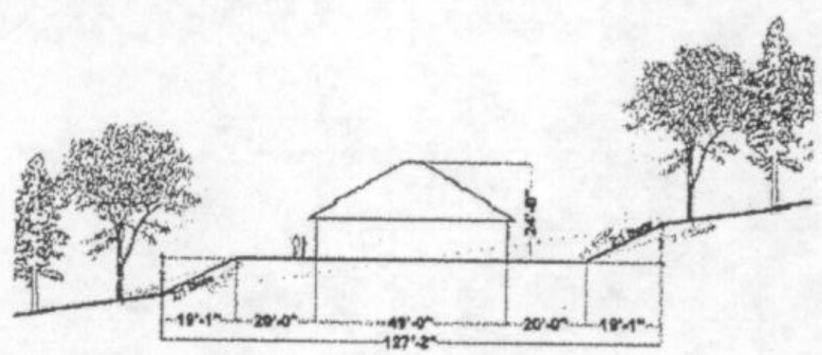
Due to the unique constraints of constructing homes on hillsides, a great deal of site planning should be conducted prior to construction. Ultimately, it is the goal of this overlay district to minimize the amount of disturbance on hillsides; property owners should be encouraged to choose appropriate 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.

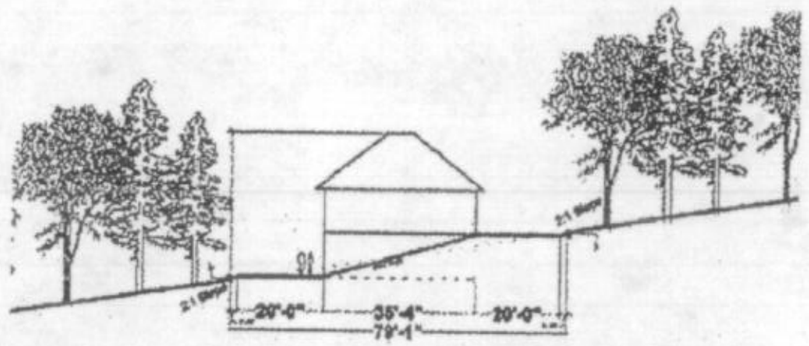
- **Home Placement and Building Setbacks:**

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.



127 feet of Disturbance

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.

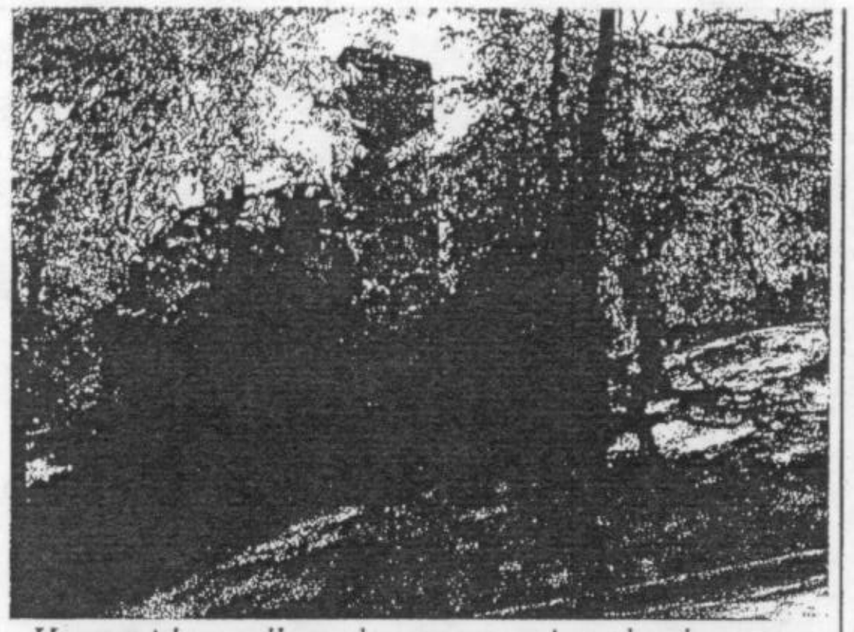


79 feet of Disturbance

Down-slope Home Placement:

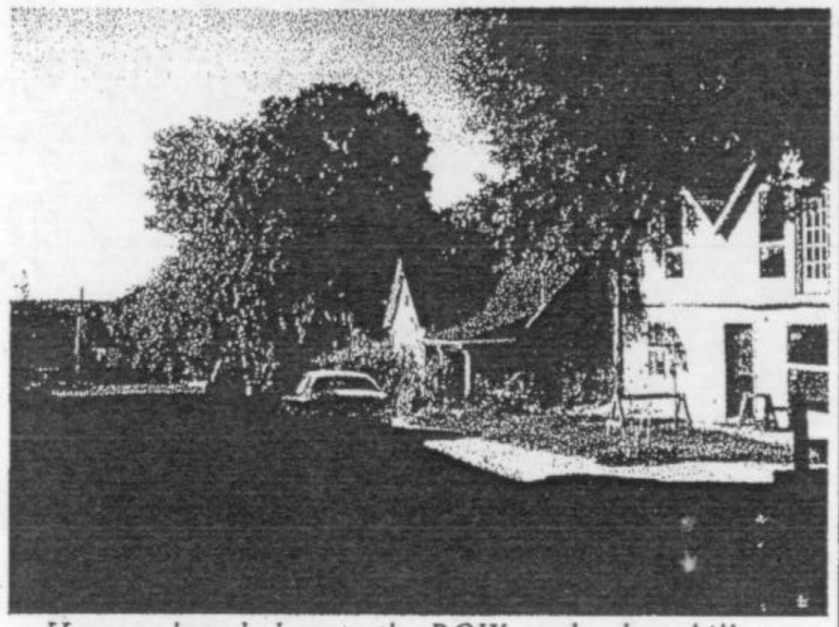
Fayetteville has numerous examples of residential hillside development that uses appropriate construction methods to take up grade or minimize the impact of residences on the down-slope side of the street.

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.

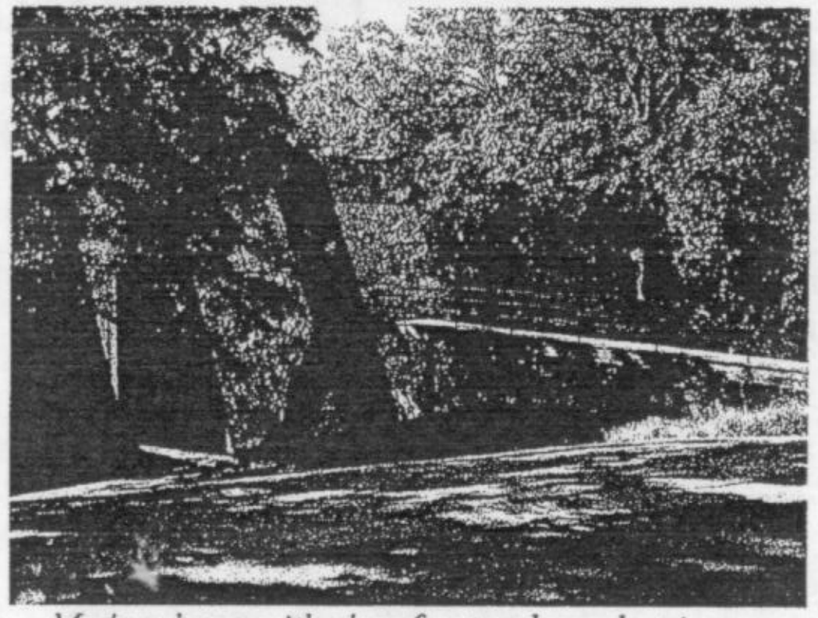
Fayetteville also has many examples of downslope homes placed close to the street in order to minimize the amount of grading needed for home placement.



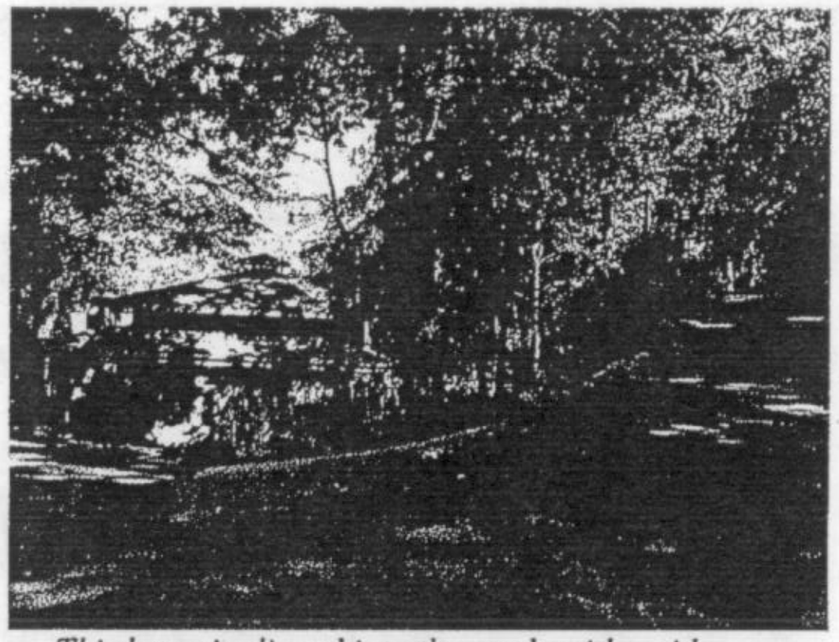
Homes placed close to the ROW on the downhill slope.

Home set-back minimally, with on street parking.

There is a rich complexity of architectural styles evident in the existing Mt. Sequoyah neighborhoods.

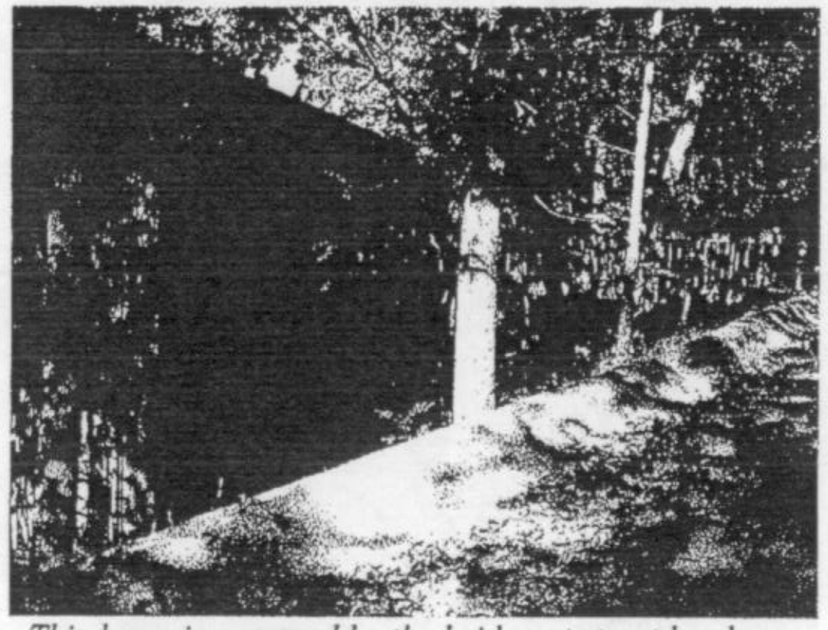


Modern home with glass front and a pedestrian bridge access to the street.



This home is slipped into the grade with a side driveway below street elevation.

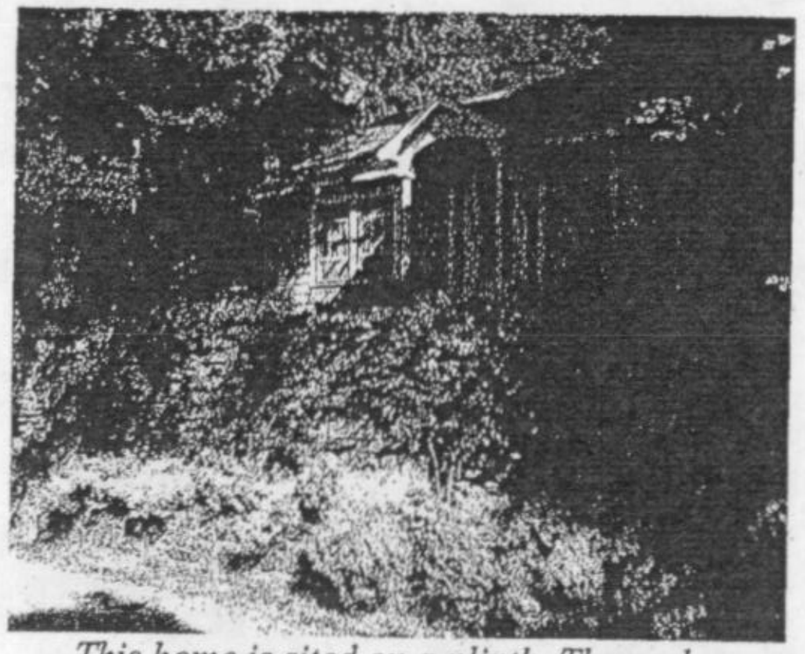
The preservation of tree canopy is evident in the existing Mt. Sequoyah neighborhoods.



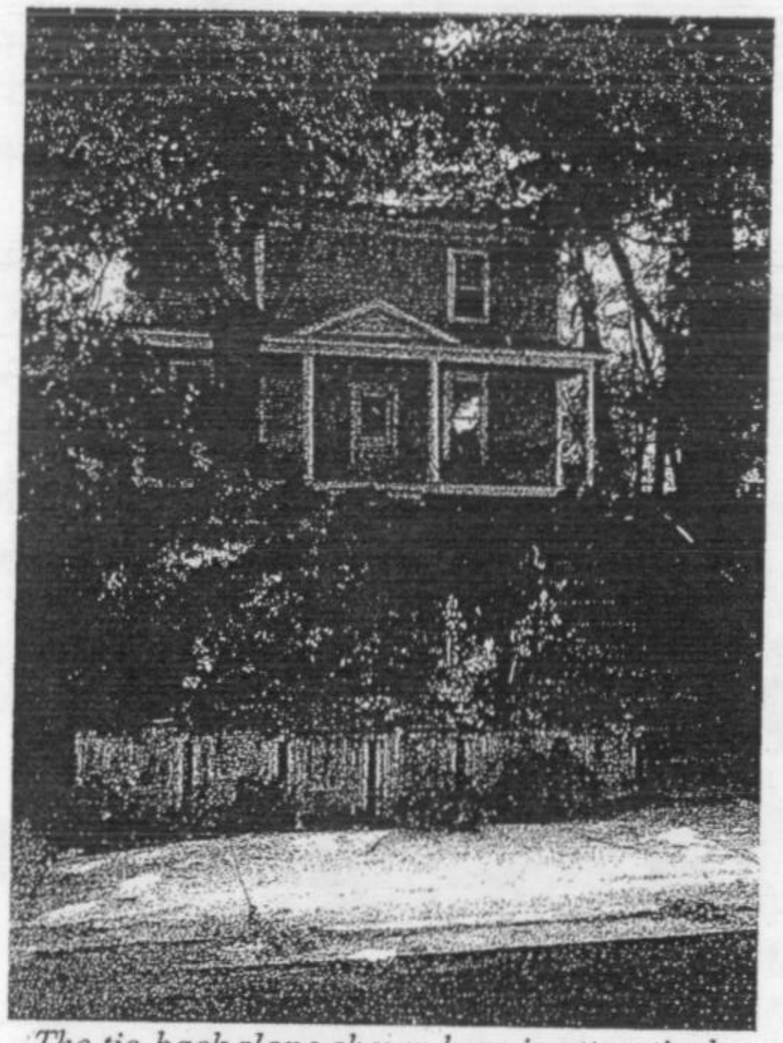
This home is accessed by the bridge at street level. Tree canopy preservation is abundant.

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.

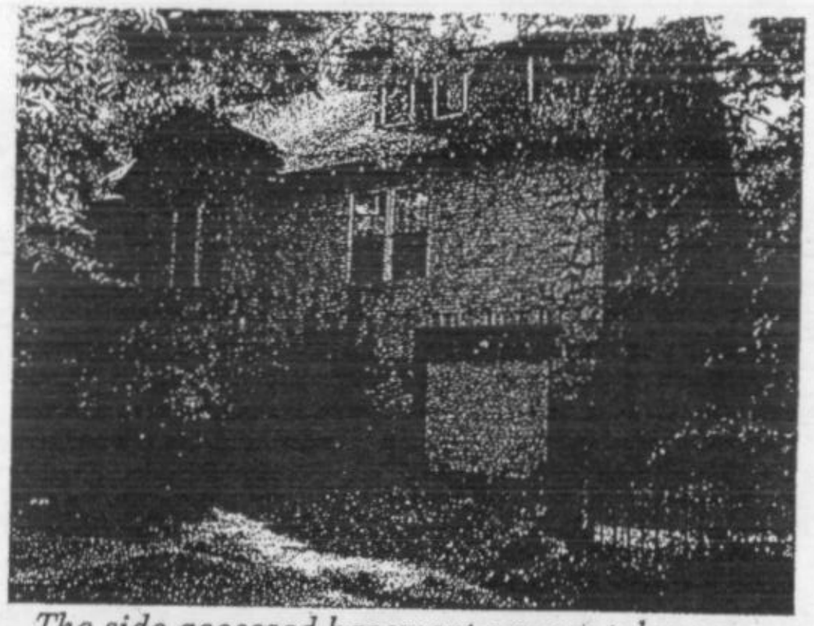


This home is sited on a plinth. The rock retaining wall here in front takes up about 6 feet of grade at the street.



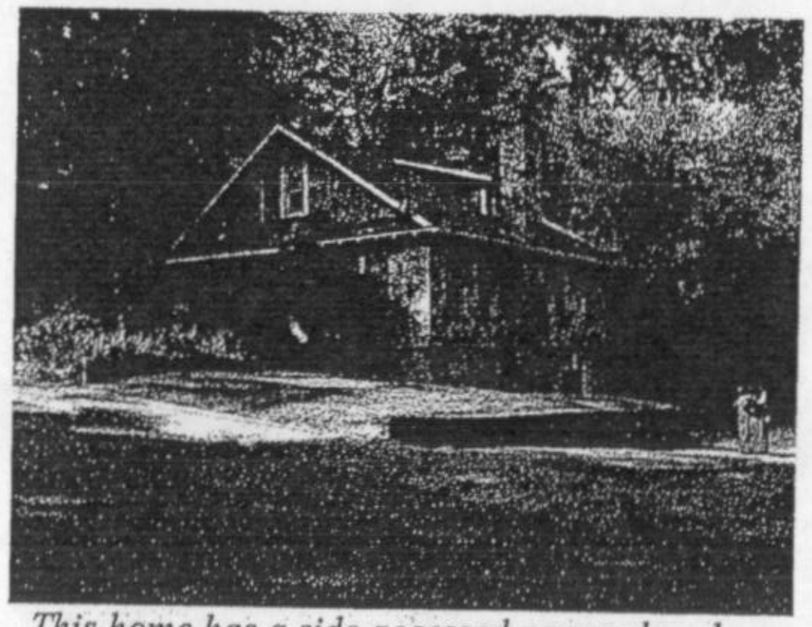
The tie-back slope shown here is attractively landscaped at the sidewalk.

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.

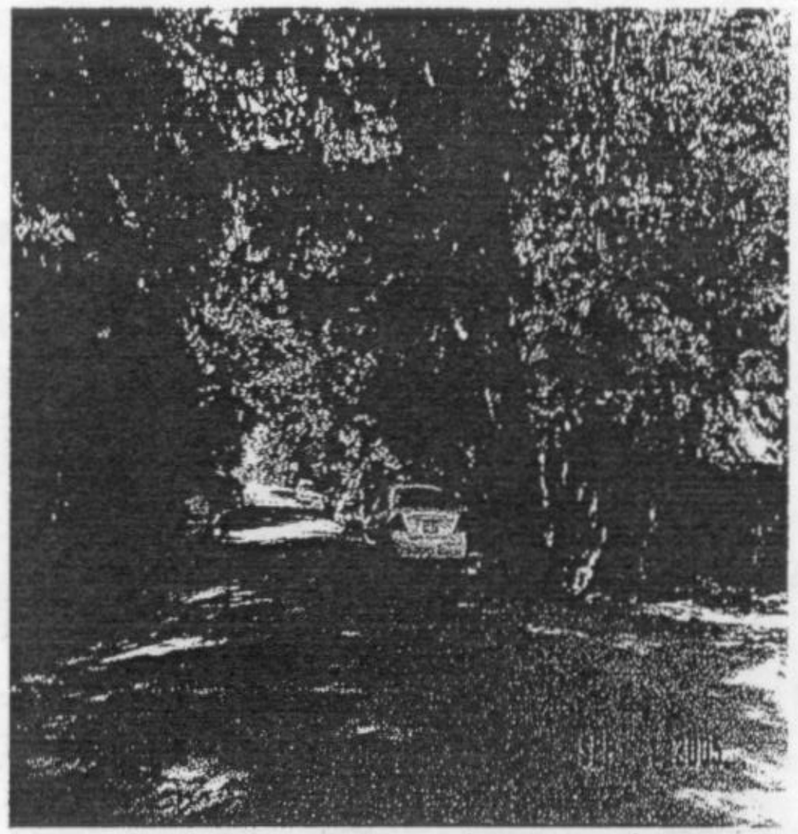


The side accessed basement garage takes up grade and hides the car storage downstairs.

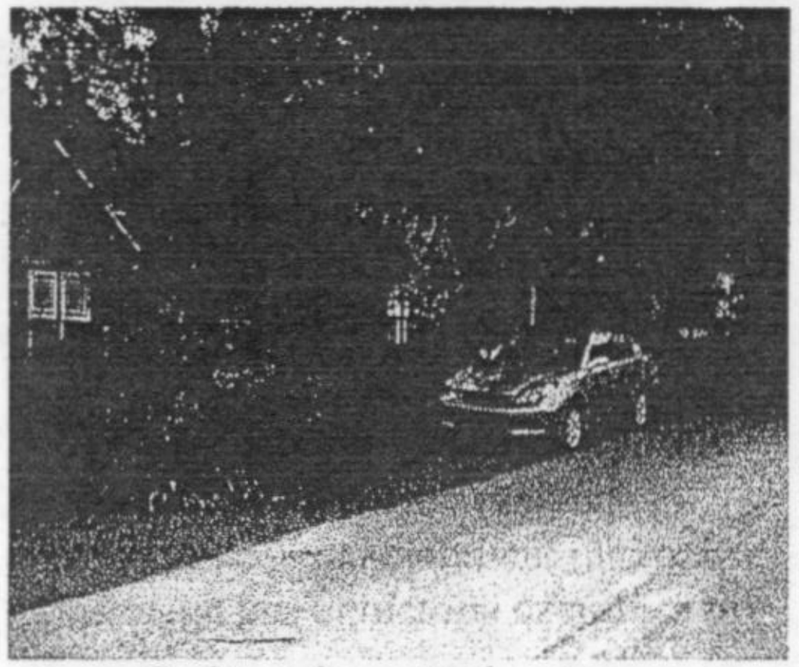
Both of these photos illustrate the functionality of placing the garage in the basement or foundation of the home.



This home has a side accessed garage barely visible from the street.

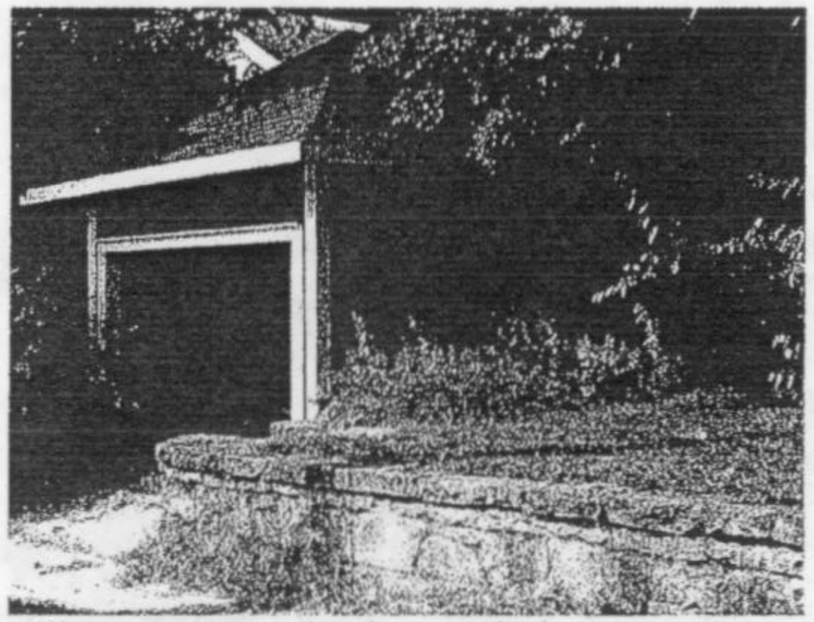


Parking on-street and staggered.



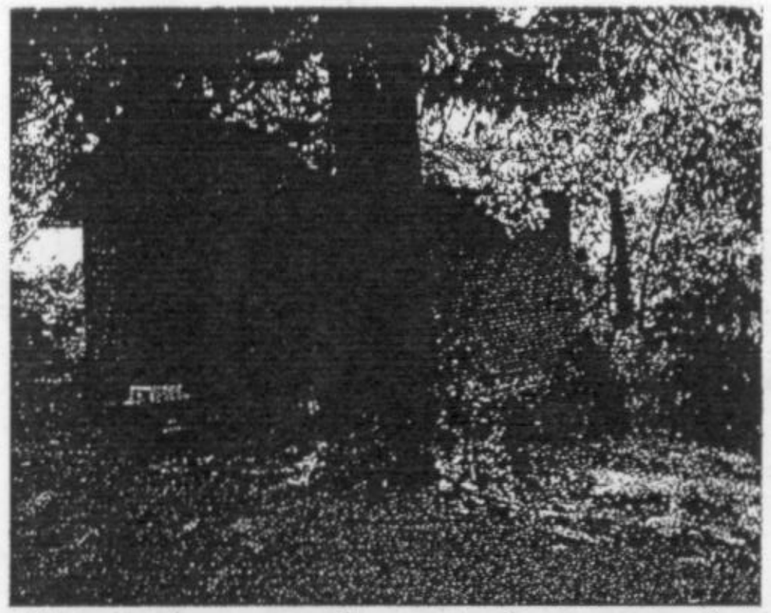
Parking adjacent to the street.

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.

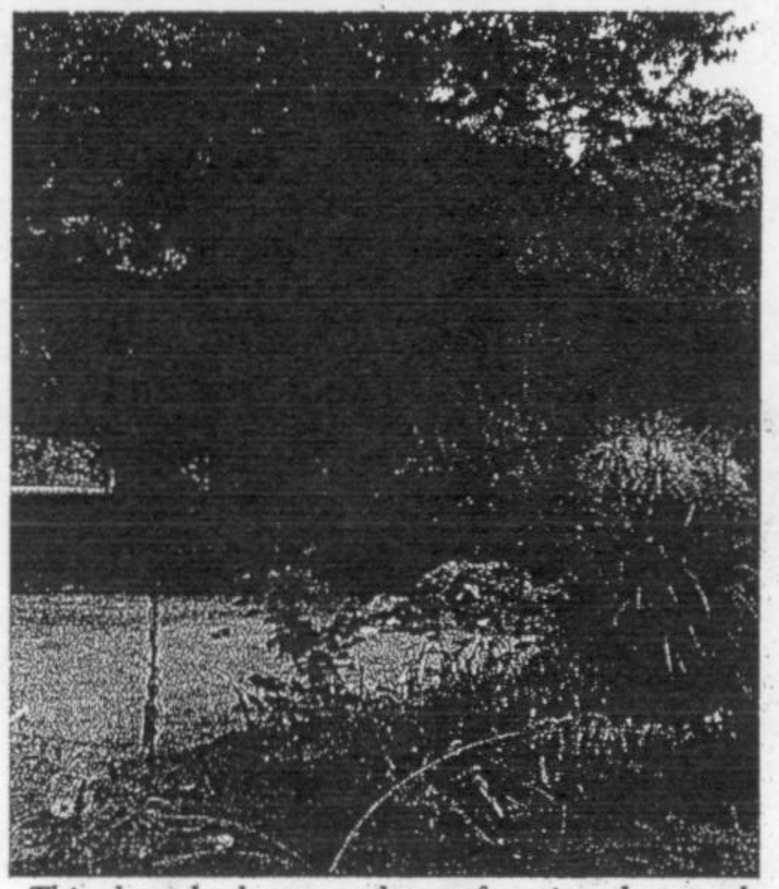


Garage cut into the slope at the street grade.

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.



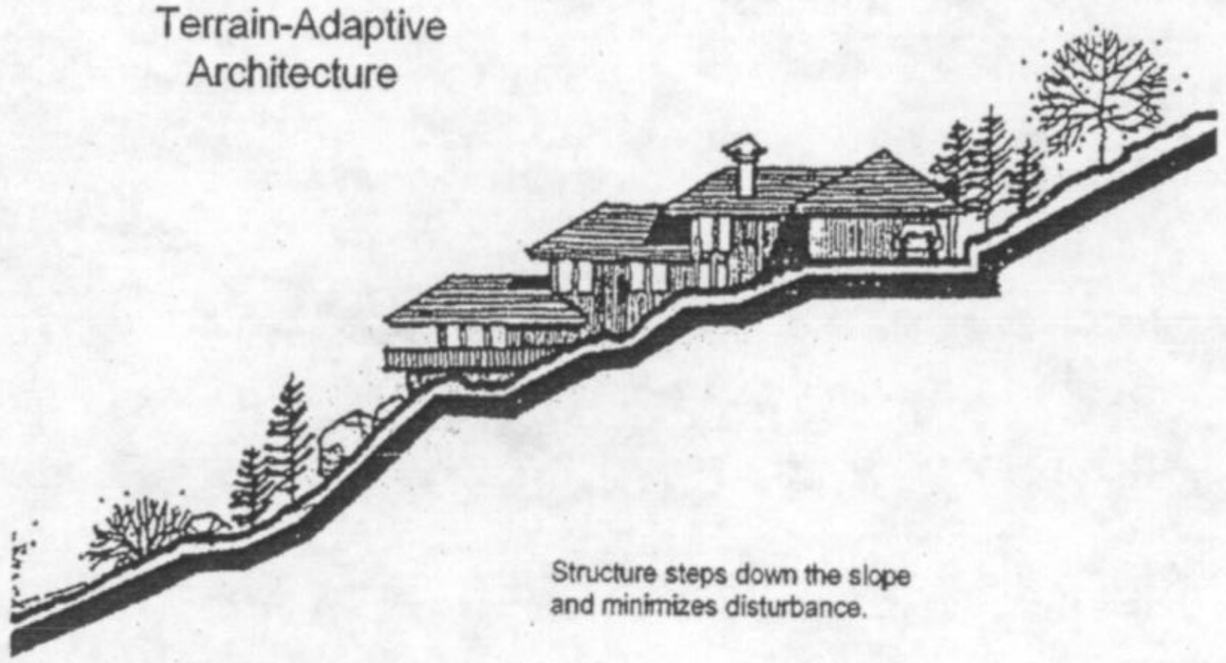
Detached garage adjacent to the street on the down-slope side.



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

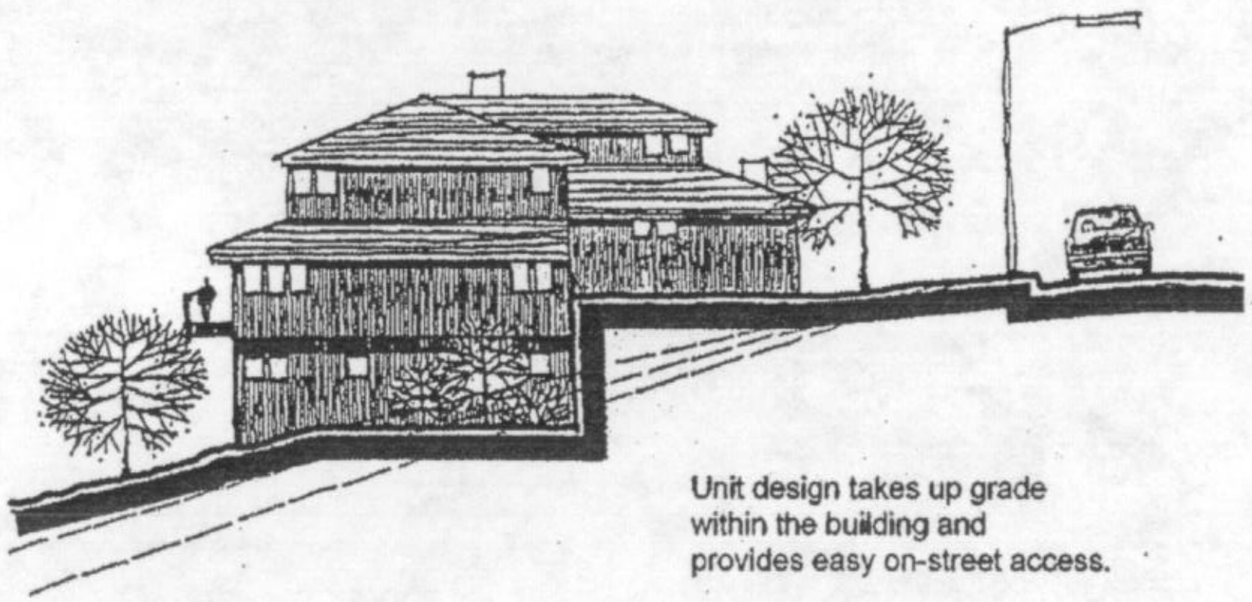


Brandes and Luzier. Devleoping Difficult Sites: Solutions for Developers and Builders. 1991

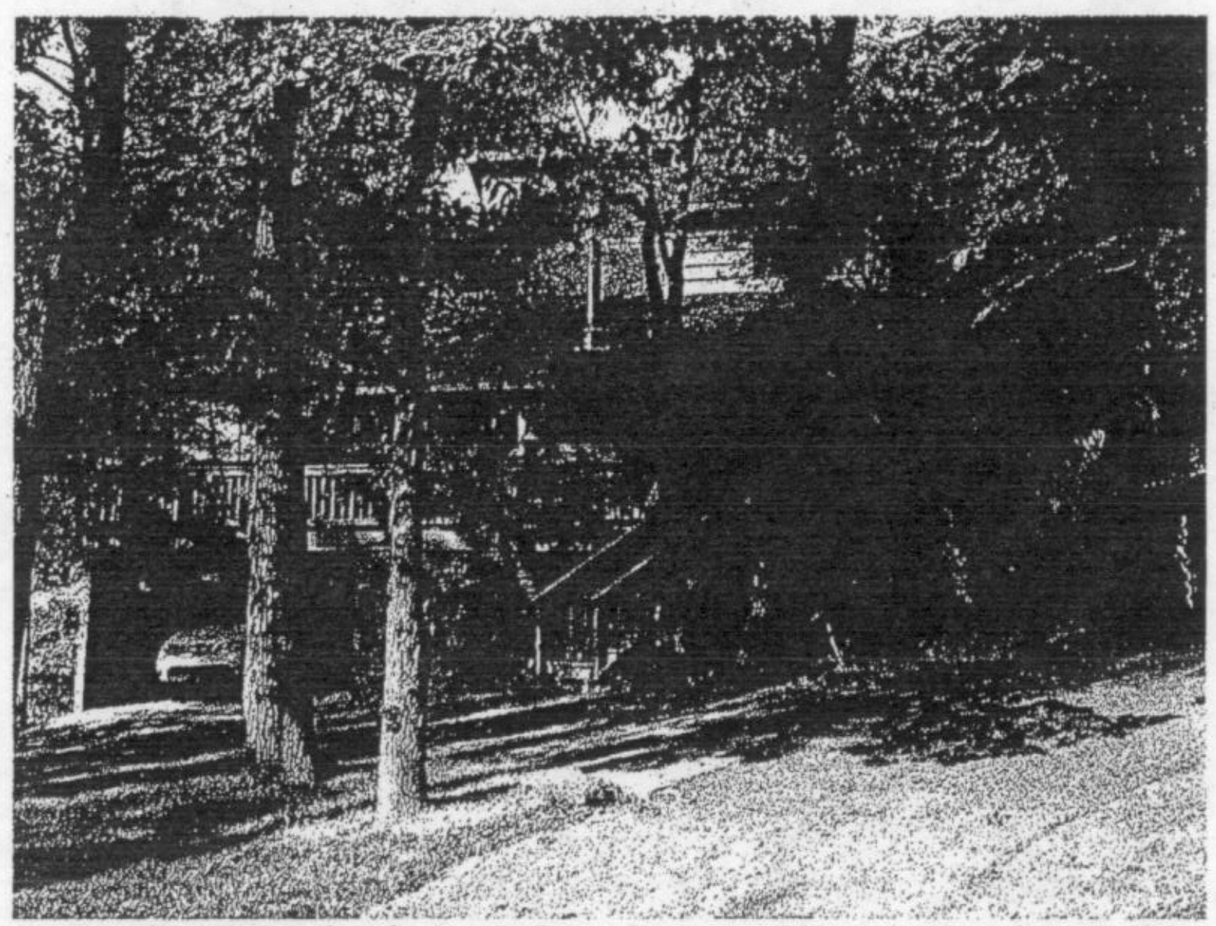
This home steps down the slope and utilizes a detached carport that minimizes disturbance.

Home placement on the down-slope side of the street can be achieved with minimal site disturbance by taking up the grade with the structure. Reduced front building setbacks also reduce disturbance by permitting the home to be placed close to the street.

Coss Section of a
Downhill Home



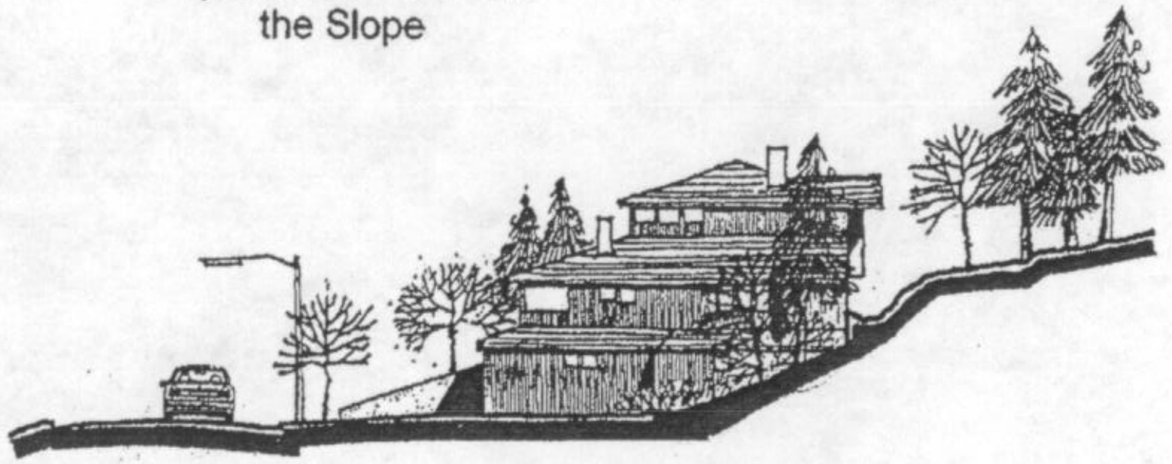
Brandes and Luzler. Developing Difficult Sites: Solutions for Developers and Builders. 1991



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.

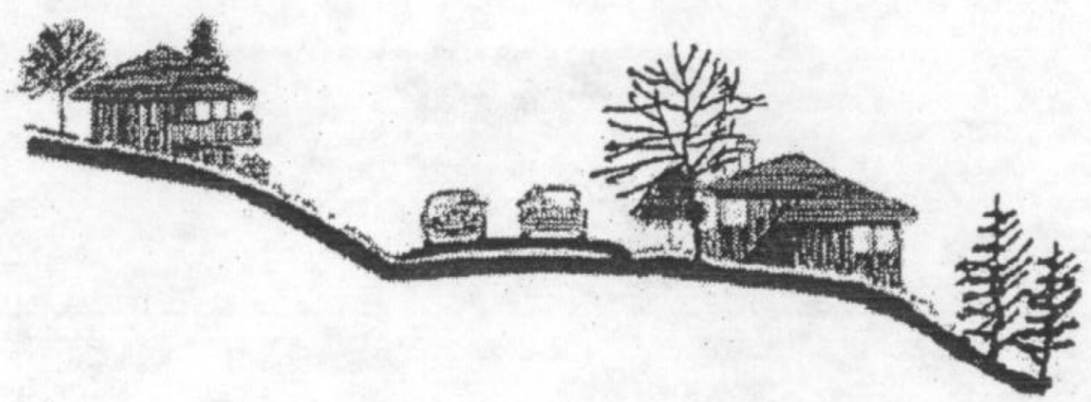
Cross Section of an Uphill Home Cut into the Slope

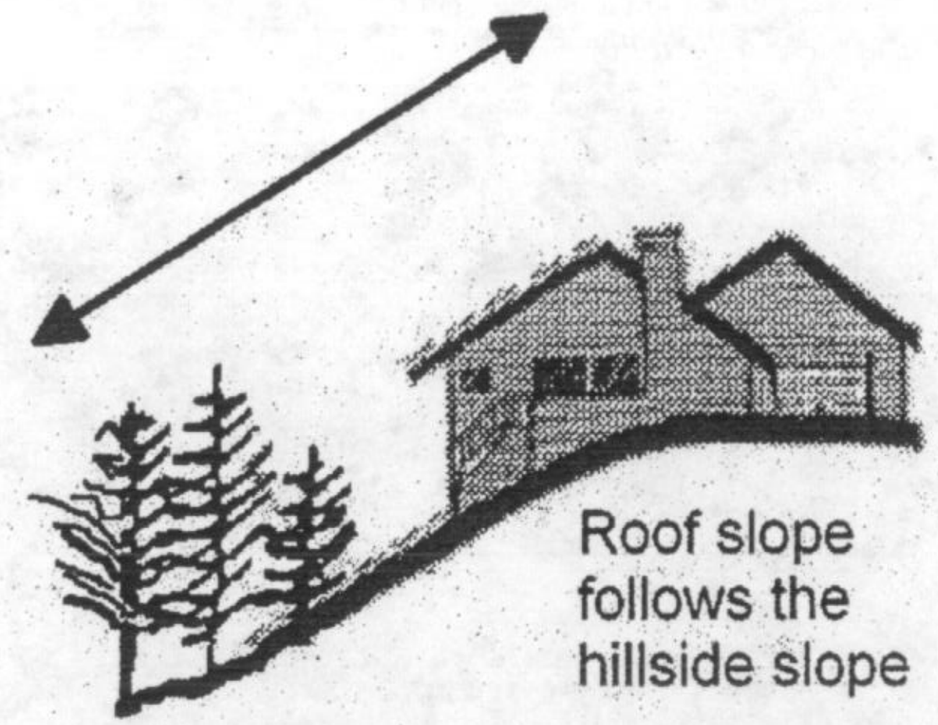


Brandes and Luzier. Developing Difficult Sites: Solutions for Developers and Builders. 1991

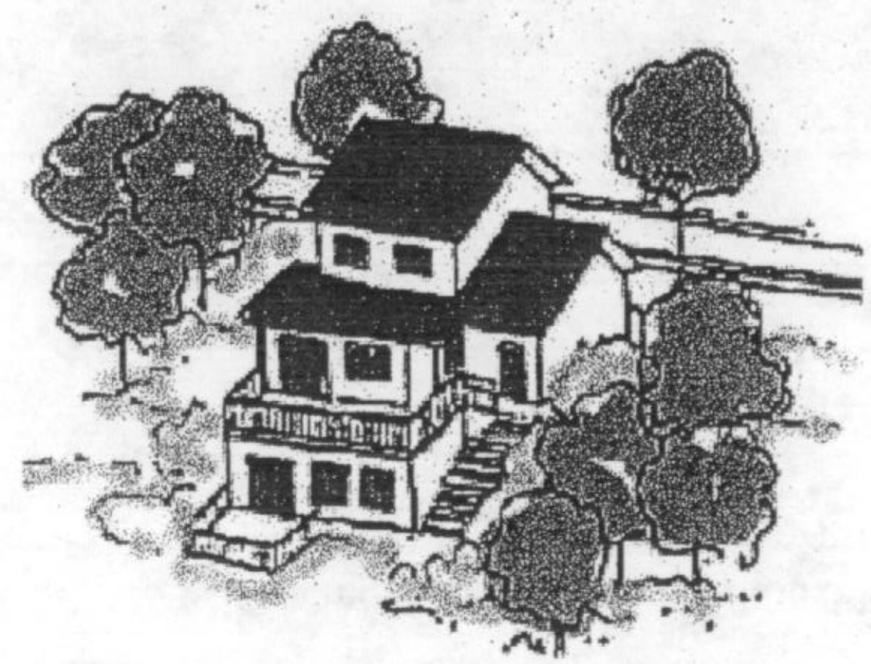
This home takes up the grade in the foundation by cutting into the slope. Note the side loaded garages located under the second story of this home.

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.





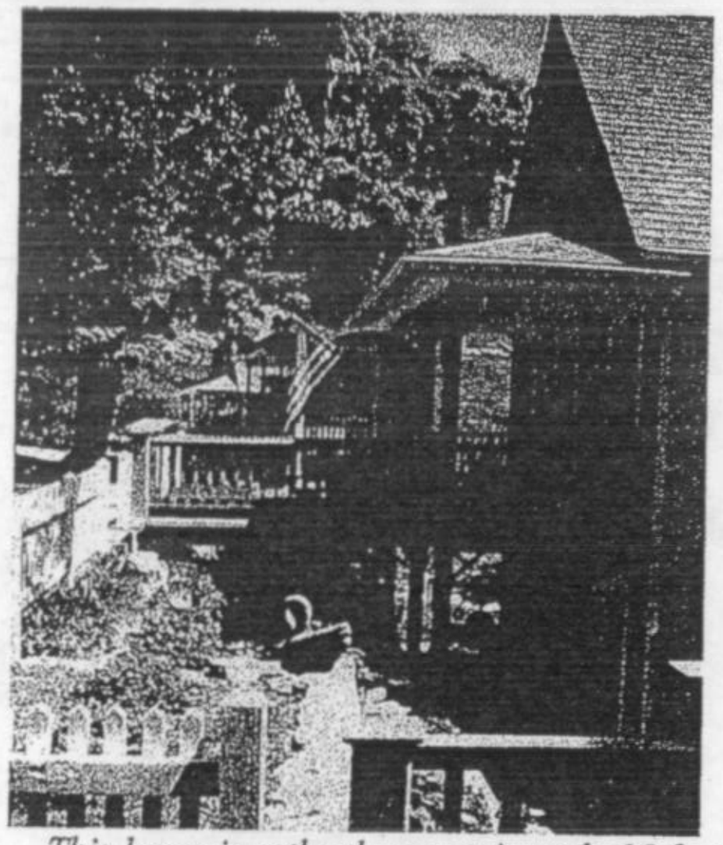
Home site placement should also take into consideration the orientation of the slope of the roof of the home. Generally, the slope of the roof should go with the direction of the hillside slope. This minimizes the visibility of the structure from below, and with natural colored roofing materials it can 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.

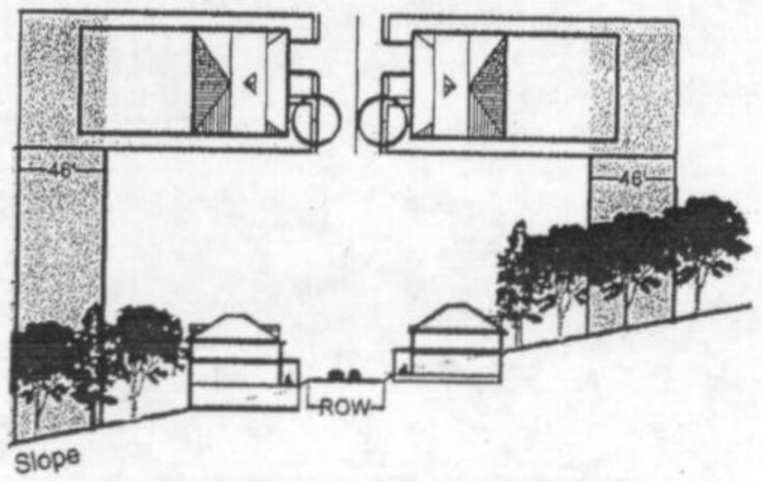


This home is setback approximately 15 feet from the back of curb.

- **Tree Preservation:**

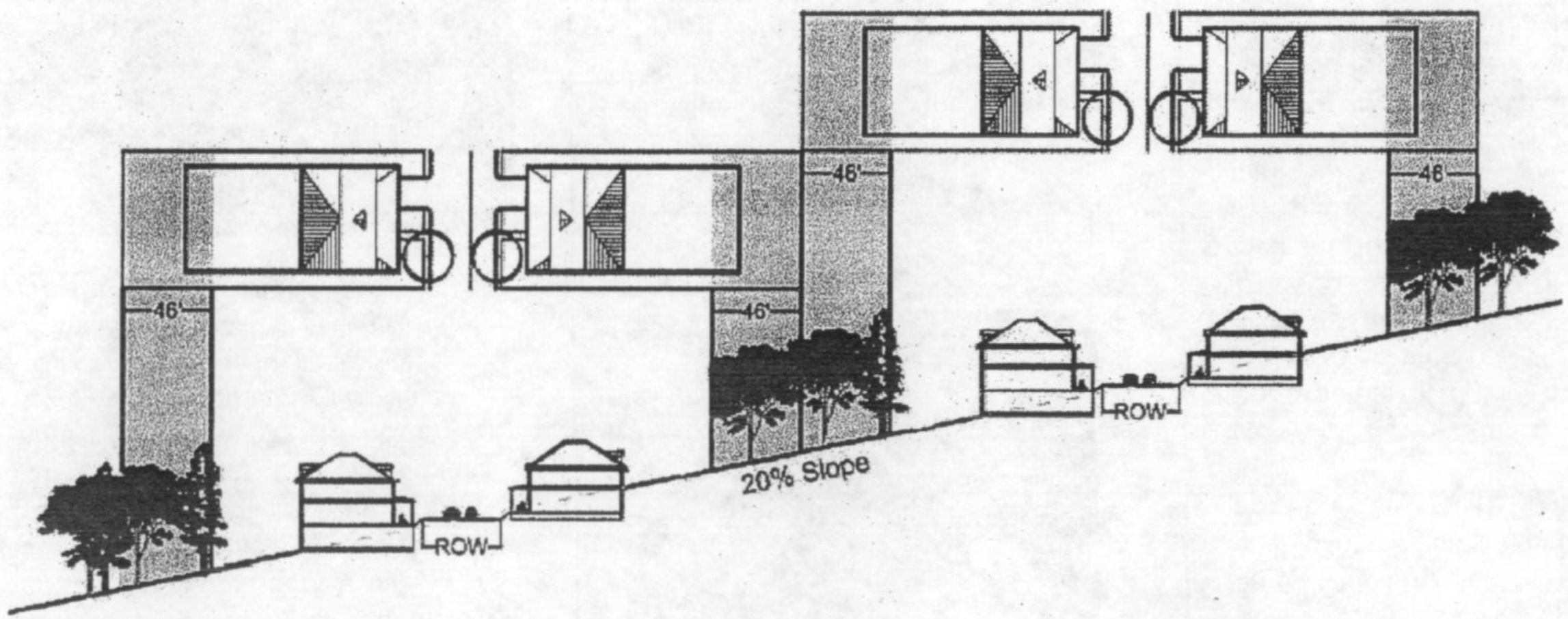
All land located within the Hillside Overlay District is required to meet the provisions of the Tree Preservation Ordinance regardless of lot size. At the time of development, a tree preservation plan must be submitted and meet the approval of the Landscape Administrator. Lots in the Hillside Overlay 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.

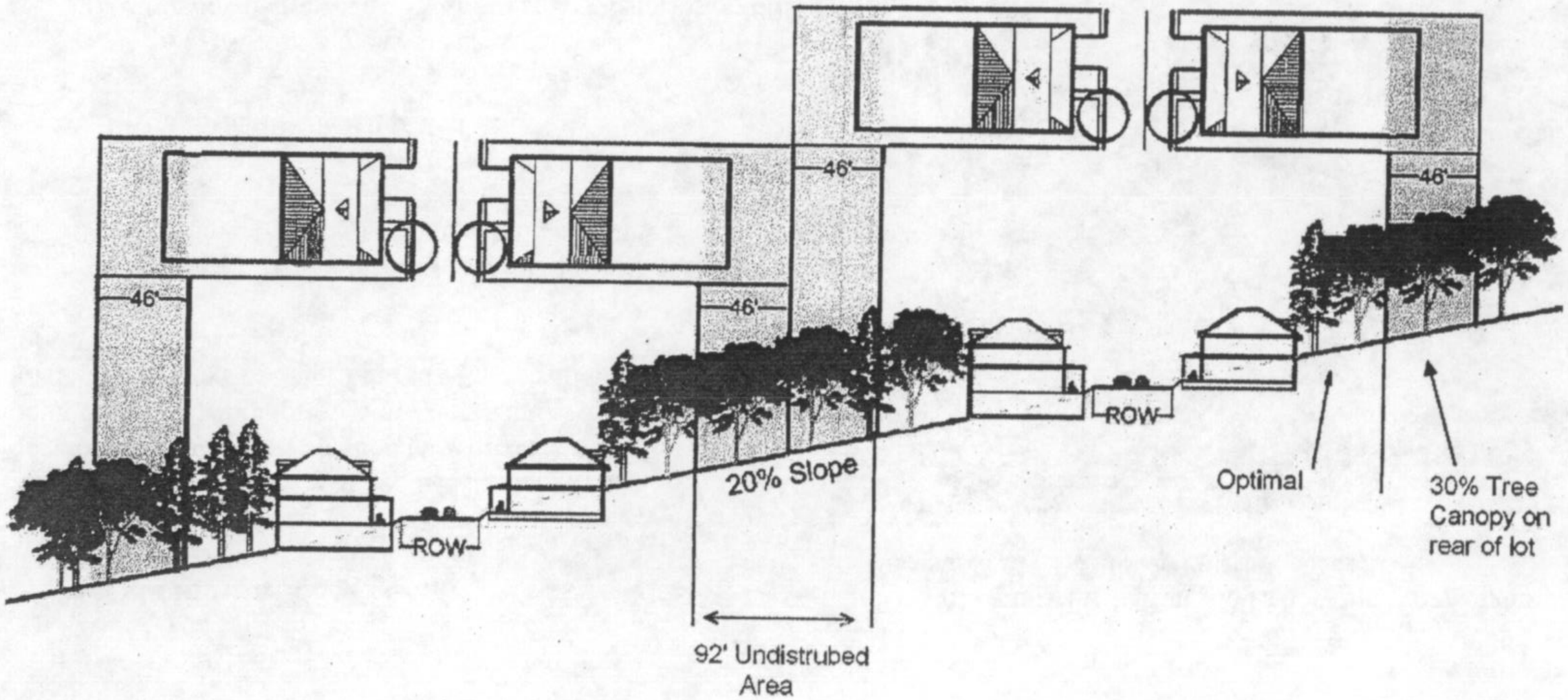


The Tree Preservation Area is shown above highlighted in green (46').

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.

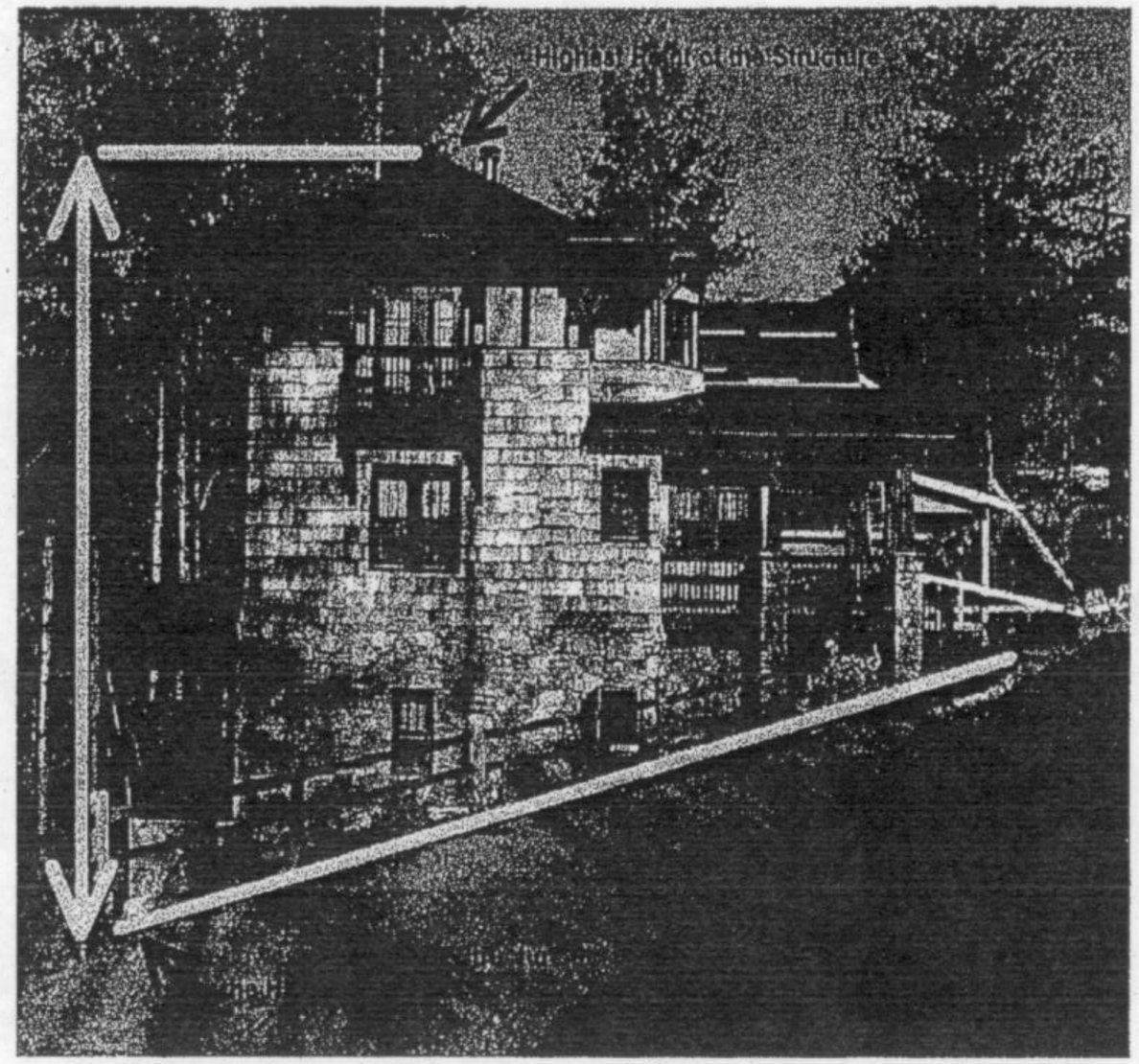


- **Measuring Building Height:**

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.



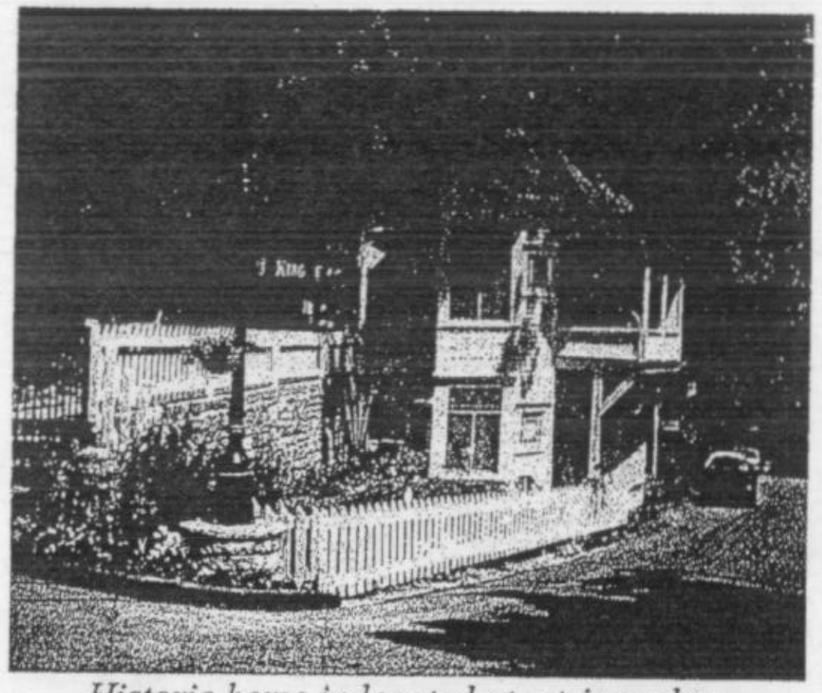
Building height shall be measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure. If the structure is located on a graded pad then the height of the building is measured from the historic grade.

- **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.

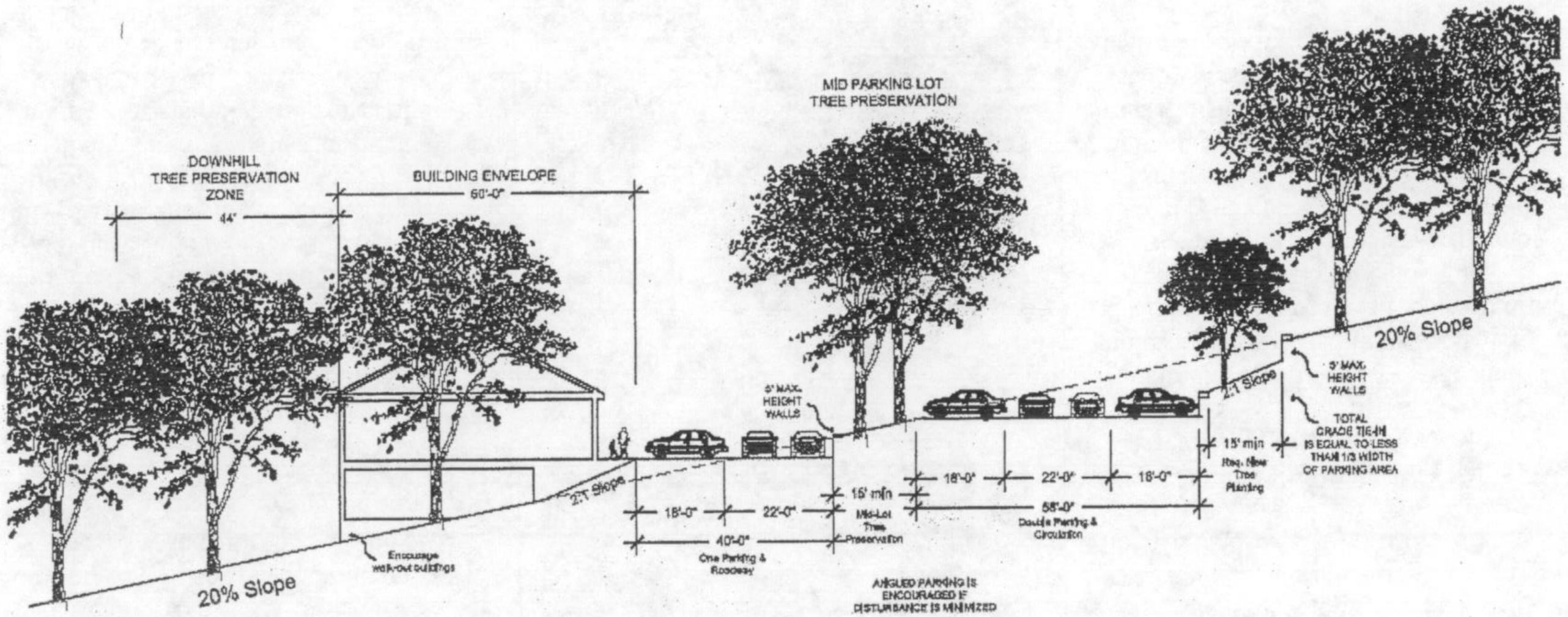
- **Off-Street Parking:**

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.



Cross section illustrating multi-family and commercial parking lot, street, and structure layout to minimize disturbance and tree canopy removal.

- **Physical Alteration of Land – Grading Ordinance:**

  - **Grading Recommendations:**

Single-family and two-family lots within the Hillside Overlay District will be required to obtain a grading permit. All new development, regardless of size shall comply with the grading ordinance. If a parcel of land is bisected by the Hillside Overlay District boundary line, only those areas that fall within the Hillside Overlay District will be required to comply.

Site plan approval is required for any development located within the Hillside Overlay District prior to any development activity.

Builders are allowed to file jointly on contiguous parcels or subdivisions as long as erosion control and protective measures are in place until project completion.

A minimum of 25% of the slope tie-backs for roads and residential lots shall be re-vegetated pursuant to the landscape manual.

- **Erosion Control Methods and Green Storm-water Alternatives:**

  - **Reducing storm-water runoff during construction:**

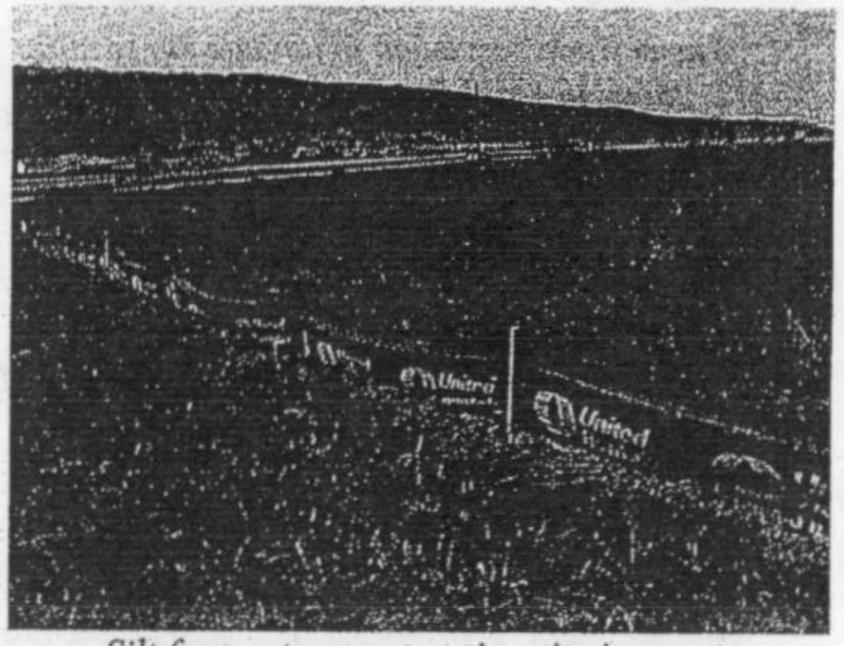
A substantial amount of storm-water erosion occurs during the construction phase. At a minimum all new development projects in the Hillside Overlay District shall follow the following guidelines:

1. Minimize exposure to denuded soil from rain water and snow melt by establishing vegetation as soon as possible.

2. Sediment collection devices such as basins, inlet filters, and perimeter silt fences shall be used to minimize soil erosion.

3. The retention of vegetative buffers adjacent to environmentally sensitive areas or stream corridors is encouraged.

4. Equipment and hazardous materials shall be stored correctly to prevent contamination from leakages.



Silt fence at a construction site in Fayetteville.

  - **Reducing Storm-Water Runoff after Construction:**

Site planning considerations prior to development can greatly reduce the amount of storm-water problems post-

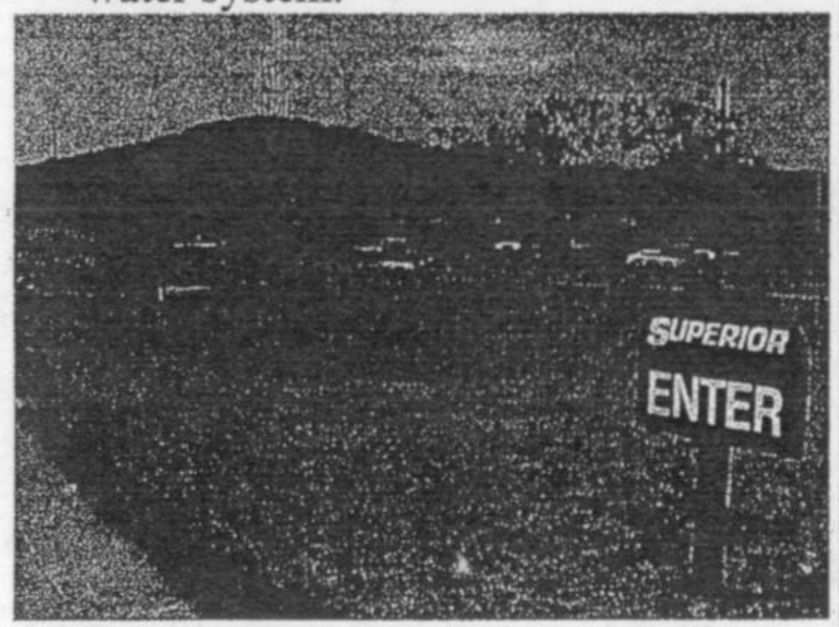
development. The following guidelines encourage storm-water best practices:

1. Reduce impervious surfaces that prevent rain water from soaking into the ground.

2. Retain the natural landscape in order to soak up, store, and evaporate storm water.

3. Detain and infiltrate storm water to allow it to soak into the ground or release more slowly into the storm water systems.

4. Remove the pollutants before they have a chance to enter the storm water system.



Storm water detention basin in Fayetteville.

- **Green Storm Water Alternatives:**

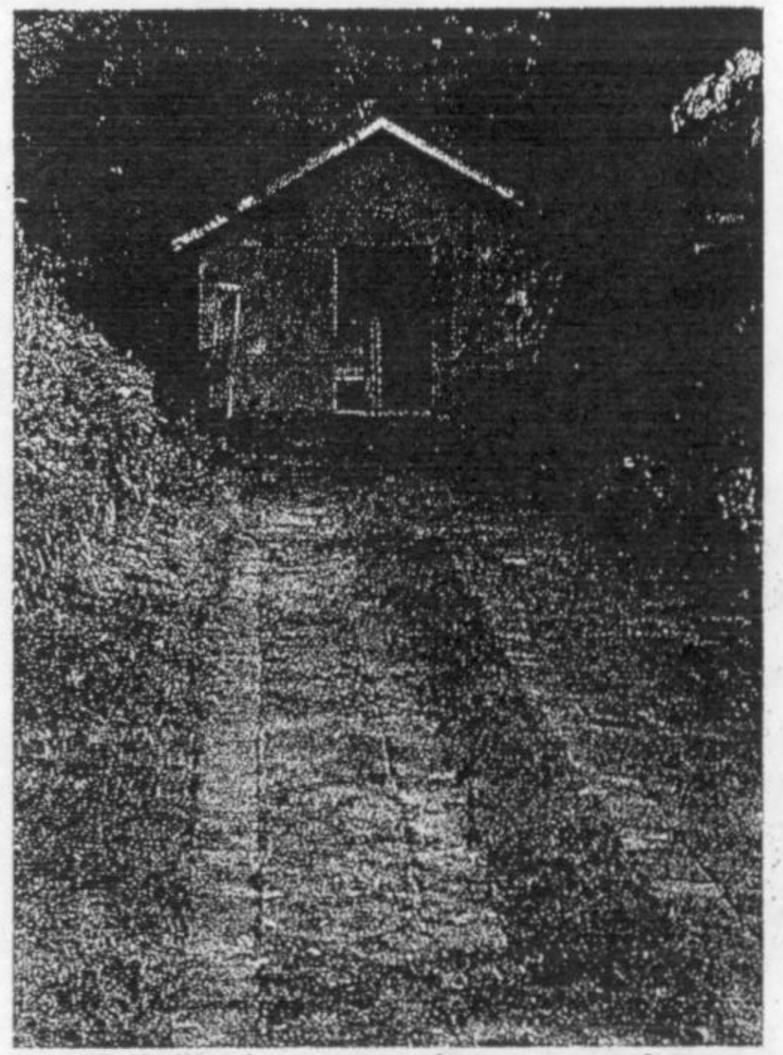
Green storm water alternatives are designed to utilize best management practices that **avoid**:

1. Increasing runoff volume and speed which may lead to flooding and erosion.

2. Decreasing the ability of water to recharge into the ground.

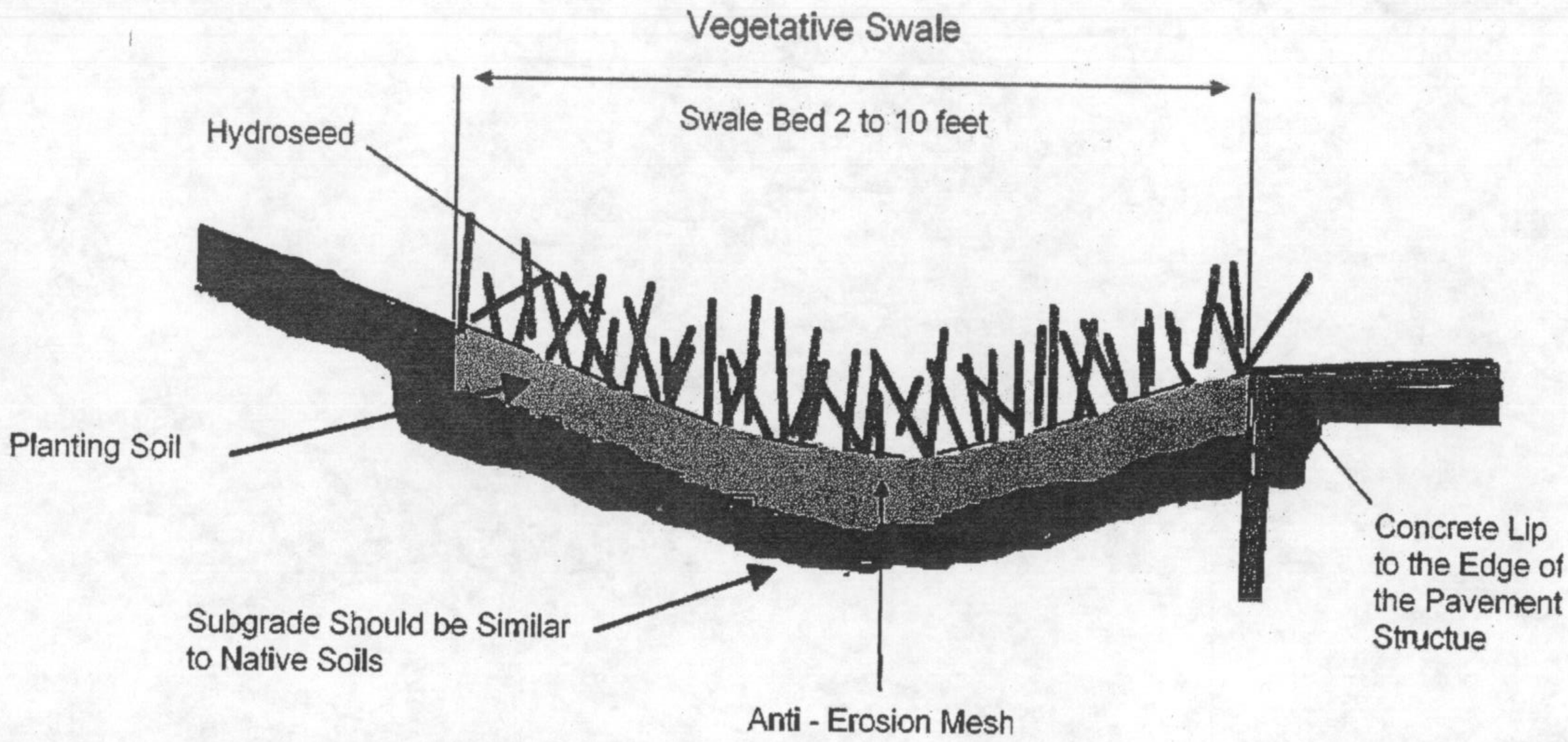
3. Increasing storm water runoff temperatures through the overuse of impervious surfaces.

4. Increasing the amounts of pollutants from motor oil, fertilizers and pesticides, and sediments entering natural water systems.


This split driveway with a grass median reduces the amount of impervious pavement surface.

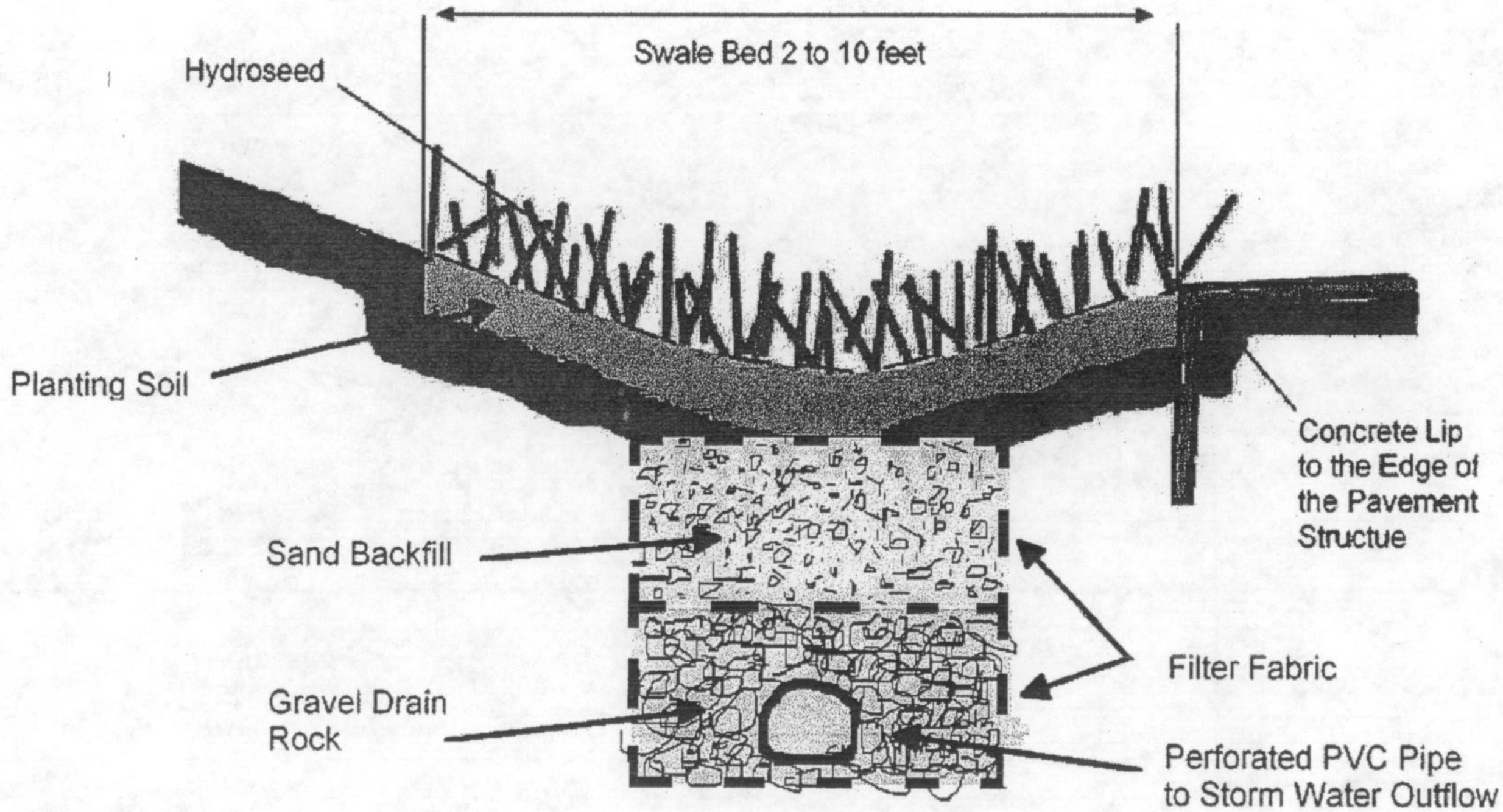
The following site design options provide alternatives to conventional storm water practices. Best management practices that detain, retain, and filter runoff before it enters the natural water system are the following:

1. Direct rooftop runoff to bio-retention areas, vegetative swales, soakage trenches, dry wells, and French drains for dispersal.

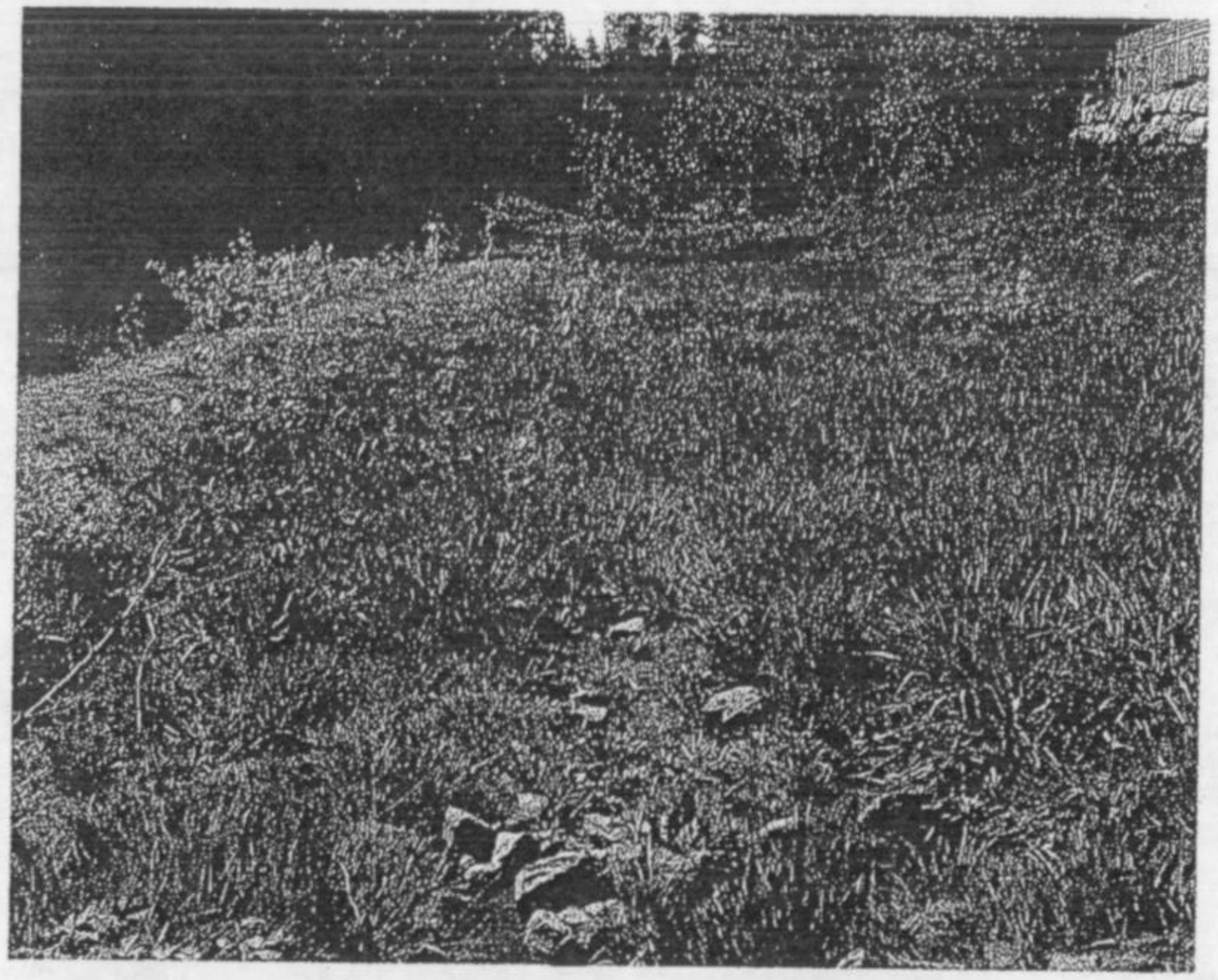


Vegetative swale with eventual ground infiltration of storm water.

Vegetative Swale with Filtration and Outflow



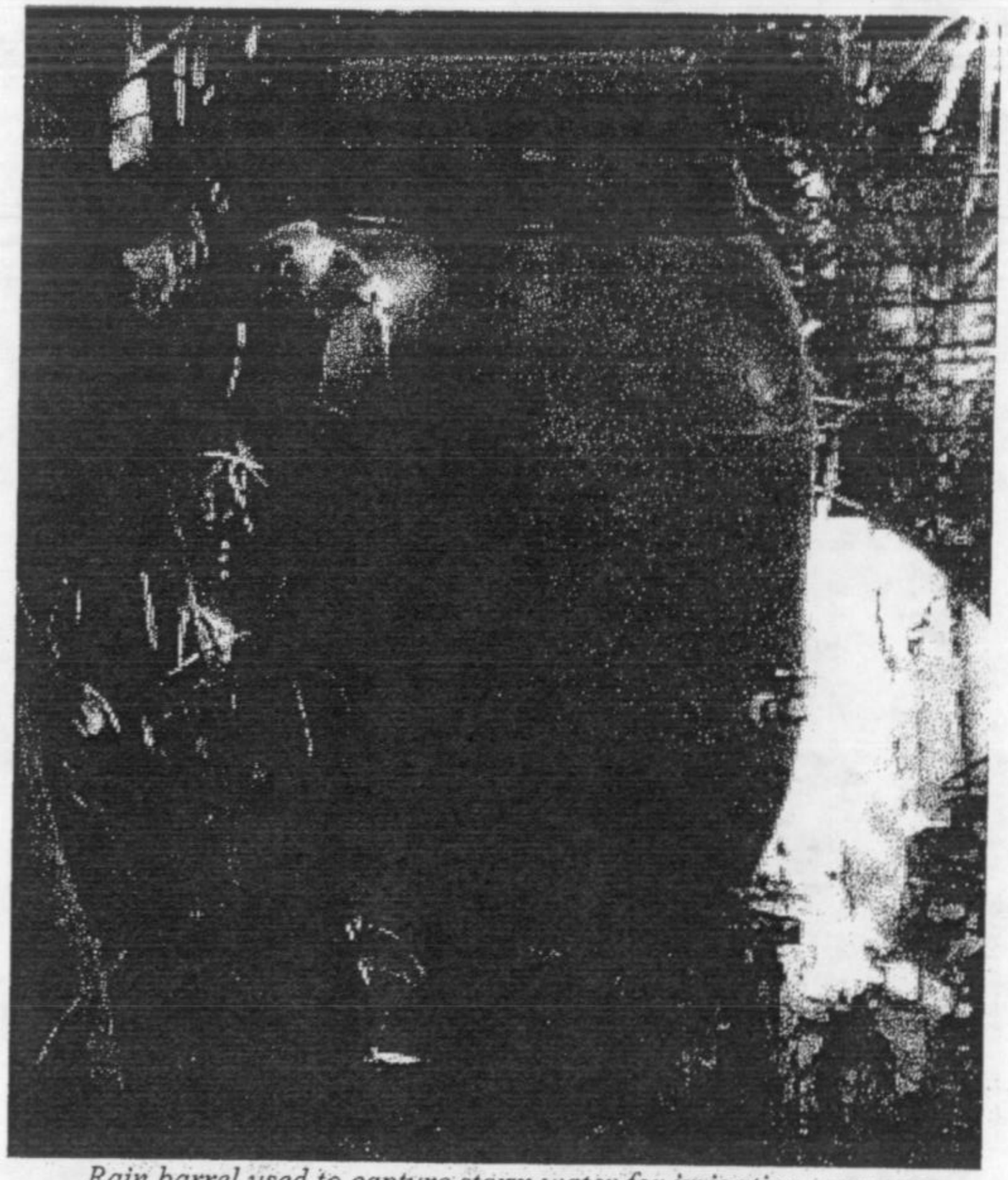
Vegetative swale with a sand filtration layer to designed to capture pollutants from storm water before being drained off-site.



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.

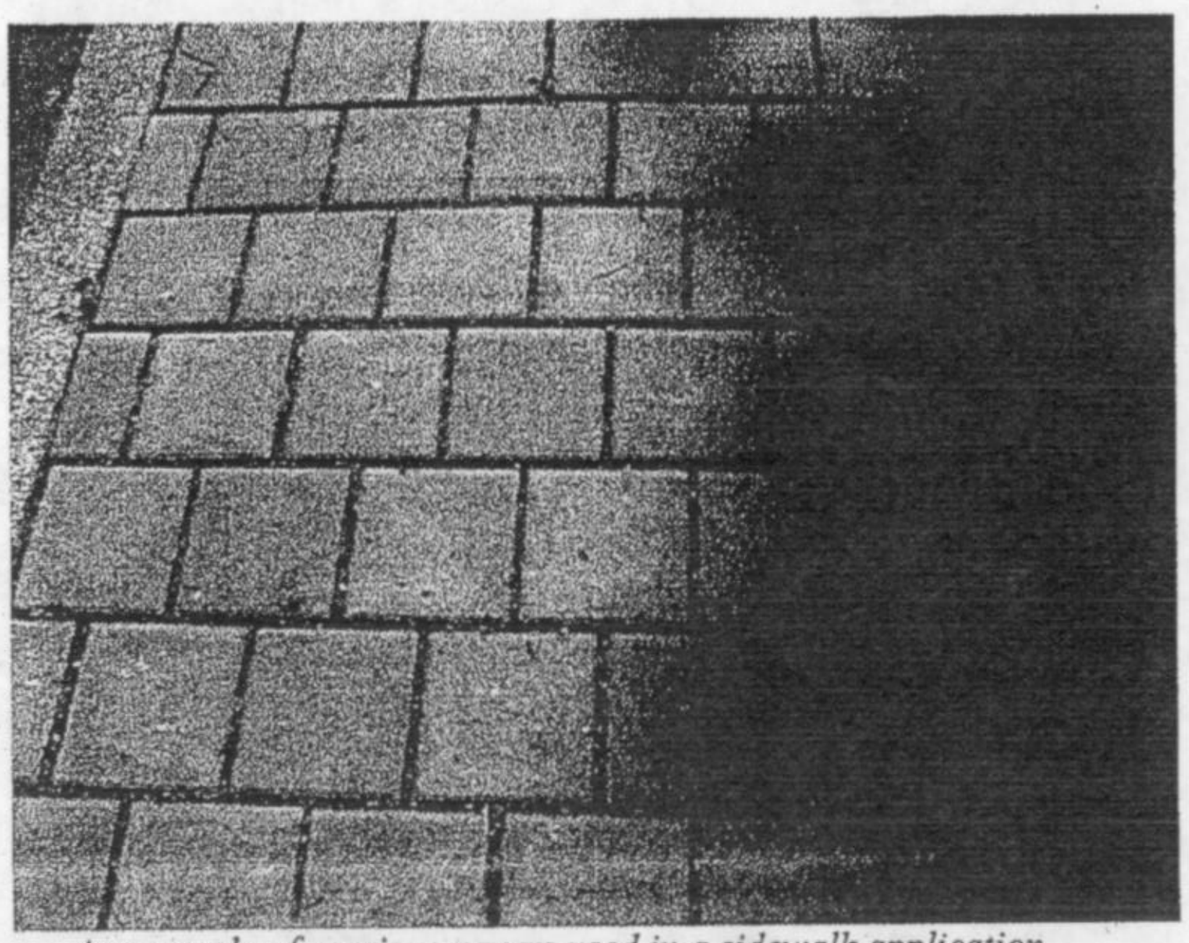


Rain barrel used to capture storm water for irrigation purposes.

3. Utilize subsurface infiltration practices such as sand filters and vegetated infiltration basins to retain and filter storm water runoff.

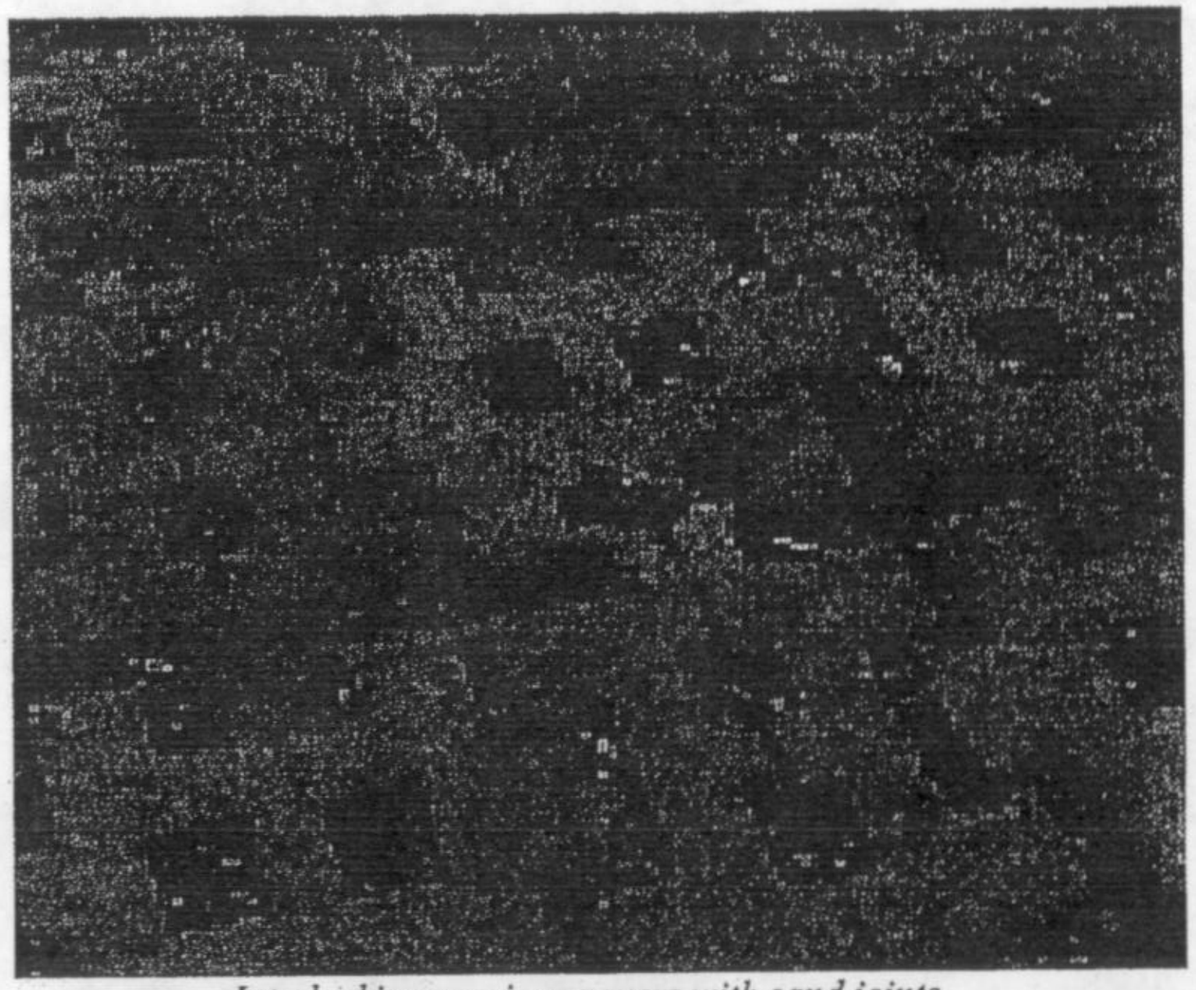
4. Provide storm water treatment in parking lots by using bio-retention areas and filter strips or bio-swales.

5. Encourage the use of pervious pavers for driveways and patios.



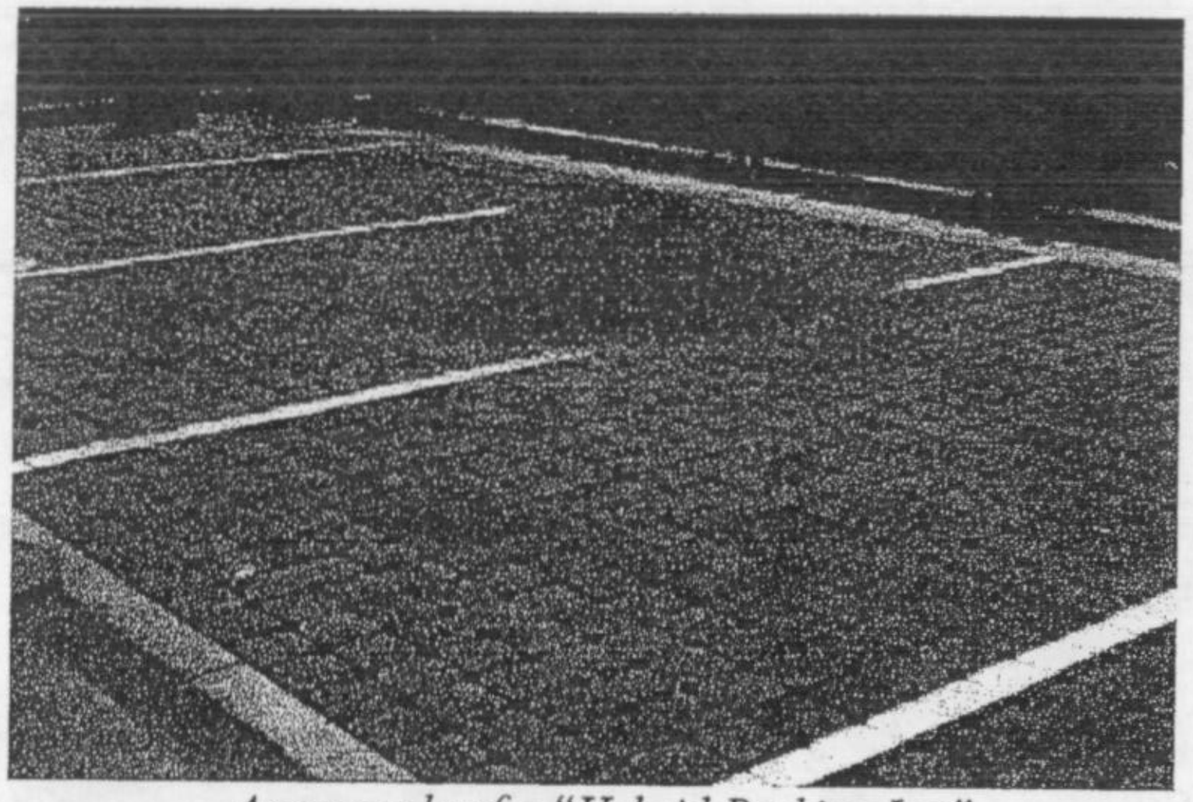
An example of pervious pavers used in a sidewalk application.

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".

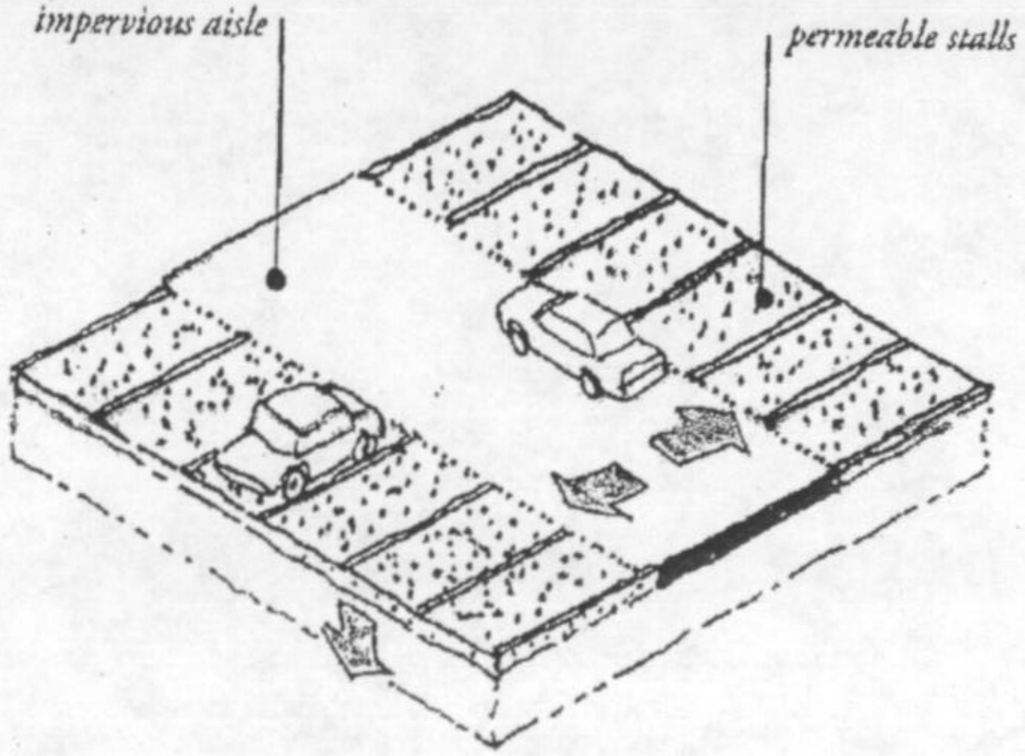


Diagram of a "Hybrid Parking Lot".

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

Hillside Ordinance
2/7/06

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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 JP	Planning	Operations
Submitted By	Division	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 — Date 1-19-06

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney — 1-20-06

Received in City Clerk's Office ENTERED 1-19-06

Finance and Internal Service Director — Date 1-23-06

Received in Mayor's Office ENTERED 1/23/06

Mayor — Date 3/21/06 Left on the second reading and Tabled to April 4, 2006 meeting

Comments:

Tabled to March 21, 2006 meeting
Tabled to March 7, 2006 meeting
Left on the second hearing 2/7/06

City Council Meeting of February 7, 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: 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

DRAFT

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**	**YES**	
	√Forwarded		**☐ Denied**
Date: January 9, 2006	**Motion:**	**Clark**	
	Second:	**Meyers**	
	Vote:	**7-0-0**	
CITY COUNCIL ACTION:	**Required**	**YES**	
	☐ Approved		**☐ Denied**
Date: February 7, 2006 (1st reading if recommended)			

BACKGROUND:

Property description: The subject property is located 347 N. Willow Ave., south of Lafayette St.

Surrounding properties are zoned RSF-4, Residential Single Family and RPZD, Residential Planned Zoning District (Lafayette Lofts). The 0.20-acre tract contains an existing nonconforming home and accessory structure that were constructed in the 1910's.

Proposal: The applicant has requested the rezoning to bring the property into compliance without utilizing the variance procedure. The RSF-8 zoning district was adopted by the City Council to allow for existing platted lots that are non-conforming in regards to lot width, lot area, building setbacks, etc. to become conforming, specifically for the historic residential platted areas of the City. This application fits this purpose appropriately (see attached zoning criteria charts).

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single Family Home	RSF-4, Residential Single Family
South	Single Family Home	RSF-4, Residential Single Family
East	Condominiums	RPZD, Residential Planned Zoning District (Lafayette Lofts)
West	Single family homes	RSF-4, Residential Single Family

INFRASTRUCTURE:

Streets: The property has frontage along Willow Ave. Further evaluation will be conducted by staff at the time of construction plan submittal for any required improvements.

Water: Public water is adjacent to the site. There is a 6" waterline that runs along Willow St. An evaluation will need to be made at the time of plan submittal of any improvements to the water system that may be required.

Sewer: Sanitary sewer is adjacent to the site. There is a 6" sewer line that runs along Willow St. An evaluation will need to be made at the time of plan submittal of any improvements to the sewer system that may be required.

Fire: The subject property is served by Engine 1 and Ladder 1 at 303 W. Center. It is 0.8 miles from the station with an expected response time of 4 minutes. With such a small parcel the anticipated calls for services was figured at 0. There should be not adverse effects on the call volume or response time to this development.

Police: It is the opinion of the Fayetteville Police Department that this rezoning request **will have a negligible impact** on both the population density and the traffic congestion for that area.

LAND USE PLAN: The Future Land Use Plan designates this site for Residential. Rezoning this property to RSF-8 is consistent with the land use plan and consistent with historic platted residential areas of the City.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans. The RSF-8 zoning district was created as an alternative solution to variances for existing nonconforming lots within historic areas of the City.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning is justified and needed in order to bring an existing nonconforming lot and structure into compliance, rather than applying for multiple variances.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The rezoning would not allow for any additional dwelling units on the subject property, therefore the rezoning would not create or increase traffic danger and congestion.**

Police – It is the opinion of the Fayetteville Police Department that this rezoning request **will have a negligible impact** on both the population density and the traffic congestion for that area.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed zoning would not alter the population density in the area. Public service providers have responded accordingly:**

Police – **It is the opinion of the Fayetteville Police Department that this rezoning request will have a negligible impact on both the population density and the traffic congestion for that area.**

Fire – **The subject property is located 0.8 miles from the Fire Station #1 on Center**

St. Fire response time is approximately 4 minutes. There should be no adverse affects on the call volume or response time.

Engineering - **The property is currently served by a 6" water line on the west side of N. Willow Ave.**

The site is currently served by an 6" sewer main on N. Willow Ave.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.26 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right	Conditional Use
Single-family dwelling units per acre	8 or less	--
Two-family dwelling units per acre	--	8

(D) *Bulk and area regulations.*

(1) Lot width minimum.

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) Lot area minimum.

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(3) Land area per dwelling unit.

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building height maximum	45 ft.

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

WALES (ANX 06-1867)

Public water is adjacent to the site. There is a 6" waterline that runs along the west and east sides of the property.

Sanitary sewer is adjacent to the site. There is an 8" sewer line that runs along the west and north sides of the property.

The site currently has frontage on Buckley Drive and Fox Hunter Road.

CHAMBERS (RZN 06-1868)

Public water is adjacent to the site. There is a 6" waterline that runs along Willow Street. An evaluation will need to be made at the time of plan submittal of any improvements to the water system that may be required.

Sanitary sewer is adjacent to the site. There is a 6" sewer line that runs along Willow Street. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

The site will have access to Willow Street. Further evaluation will be conducted by staff at the time of construction plan submittal for any required improvements.

Runoff from most of the site flows overland to the south. Standard improvements and requirements for drainage will be required for the development.

NOCK/BROYLES (ANX 06-1853, RZN 06-1854)

Public water is near to the site. Substantial improvements to the water system will be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Sanitary sewer is not near to the site. Substantial improvements to the sewer system will be required which includes off-site improvements. This development will be within the sewer assessment area. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

The site has access to Weir, Howard Nickel, and Salem Road. Improvements will be required to surrounding streets which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Runoff from most of the site flows overland to the south. Standard improvements and requirements for drainage will be required for the development.

PADDOCK ROAD PZD (PZD 05-1735)

There is currently a 2" waterline running along Happy Hollow Road. An 8" public water main has been approved to extend near to the site with the Timber Trials 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,

Captain William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
[redacted] 100-A WEST ROCK STREET
FAYETTEVILLE, ARKANSAS [redacted] 72701

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
[redacted]
PHONE: 479-587-3555 FAX: 479-587-3522

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. Rupple 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 Rupple.
It is 3.4 miles from the station with an anticipated response time of 8.75 minutes. This long response time is due to Rupple 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.

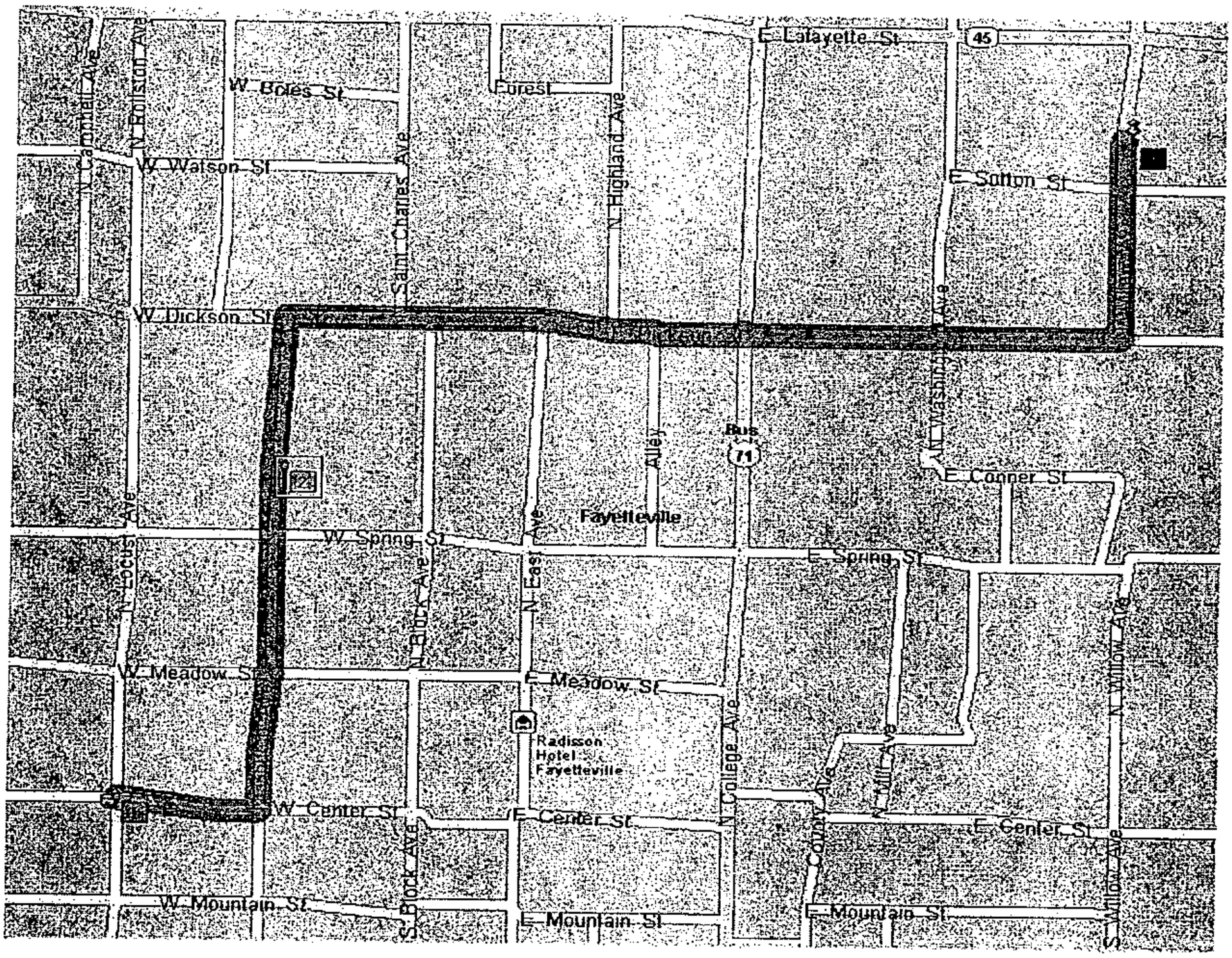
R-PZD-1619 (Westbrook Village, 284)
This 1.42 acre is covered by Engine 7 at 835 N Rupple Rd.
It is 2.2 miles from the station with an anticipated response time of 6 minutes. The Fire Department anticipates 2 (1 EMS – 1 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
Measure hydrant flows in this area is 1500 gallons/minute.
There should be no adverse effects on our call volume or response time to this development.

If you have any questions or need additional information don't hesitate to call me at x365

Dale Riggins
Fayetteville Fire Department

Chambers
RZN06-1868

1.8 Miles from Station 1
4 Minute Response Time



Planning Commission
City of Fayetteville, Arkansas

Dear Commissioners et al;

Enclosed are materials required for a rezoning application to our property, as requested by city planners in response to our request described herein. Below we will detail requirements number 6 and 7, as described in the rezoning application materials.

#6.

a. Matthew and Julie Chambers own the property in question with financing through Countrywide home loans. There are no plans to sell, lease, or otherwise transfer any portion of ownership or rights of this property.
b. We are requesting this rezone at the request of the City of Fayetteville Planning department as a means to adjust currently zoned setback allotments to those more applicable to other historical properties in Fayetteville and to allow for the reconstruction of the dilapidated garage structure on the property, currently in disrepair.
c. The property will change little with regard to the surrounding area and neighboring properties. The current garage structure, in such condition when we purchased the property, is in disrepair and is an eyesore to the neighborhood and safety hazard to this family and our neighbors. The new, intended garage would occupy the same space as the current structure and protrude further south and west so as to accommodate two modern automobiles and storage space. The second floor of this proposed structure is intended to become a detached living space for our relatives who currently reside with us in the property's main house many days each week.

   This new living structure will be a small, one bedroom apartment capable of subsistence from the property's current utilities systems. We have contracted a licensed and bonded construction contractor to ensure this condition. Furthermore, the addition of one covered parking space on the property will actually alleviate the curb parking dilemma that has developed on Willow Avenue over the past year.

   Since taking ownership of this property, we have strived at great expense and personal toil to return this historic home from virtual condemnation to that befitting its beautiful surroundings. This accompanying structure is designed by an AIA licensed architect and will be built to seamlessly accentuate the historical motif and unique design set forth in the property's main home, build by James Volney "Vol" Walker for his sister in approximately 1870. Restoration of the main home has been painstaking, and we intend this accompanying structure to be much more of a compliment to this historic home than the current 'shed', which is a shame to the neighborhood.

There will be no effect upon street or pedestrian traffic, or will there be any signage involved with this rezoning request.

d. The property is served by a 6" water line and a 6" sewage return.

#7.

a. The proposed zoning of R-8 is consistent with the City's plan for historic properties. Ours appears to be a perfect consideration for this new zoning request, as the original building and accompanying structures cross existing zone easements on west, north, and east sides. This new zoning will allow for the more dense population common to the older, historic areas of Fayetteville.
b. This zoning is needed, as the garage structure to be rebuilt is in a state of failure. The roof on the south side of this existing garage is peeling back at the eaves at every rainfall. Ancient termite damage and neglect have corroded the walls so that they cannot even deter a soft wind. The building is structurally unsound and should be replaced. A new garage structure should logically exist in the same place, as the property's driveway extends along the north side of property from Willow Ave. to this point. There is no other safe place for a garage on the property.
c. This zoning request will have no increased effect on traffic. In fact, it will create the removal of one parked car from Willow Avenue.
d. The new zoning of this property will not affect population density. The intending building will replace an existing structure. If conditional use is granted, the occupant of the efficiency apartment will be Dr. Carl Chambers for three nights per week, a Veterans Administration physician who currently sleeps in the home's second bedroom. This room will soon become our newborn's room as soon as we are able to move her grandfather to a more suitable location.
e. The current zoning does not allow for the construction of a garage in its existing location on-site. Because of the small lot size, proximity to neighboring homes, footprint of the property's main home, and location of the property's driveway; there is no other reasonable location for a garage structure. Without a new zoning classification, we are not able to replace the current dangerous and unusable garage.

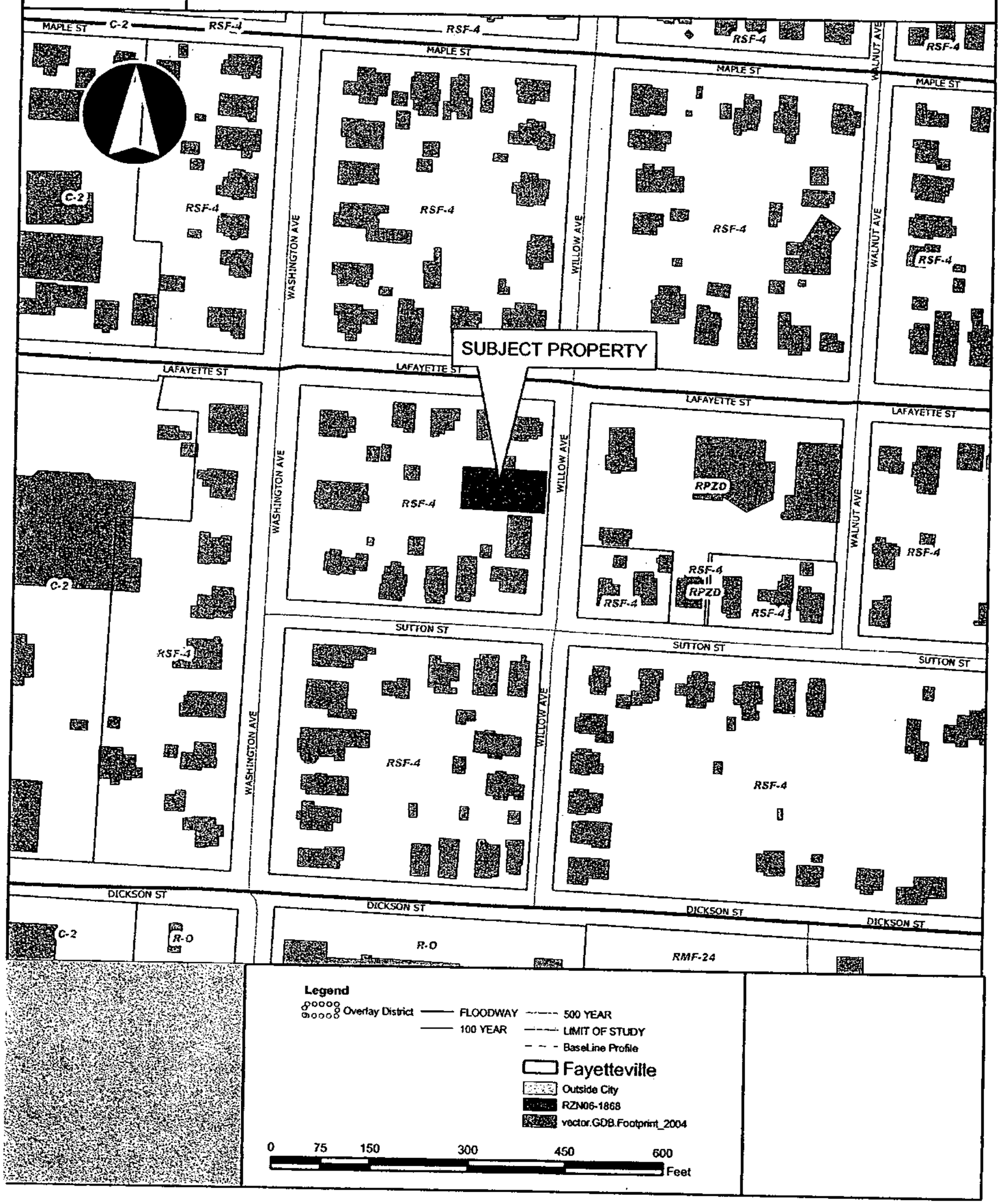
Sincerely,

Matthew Chambers & Julie Chambers

RZN06-1868

Close Up View

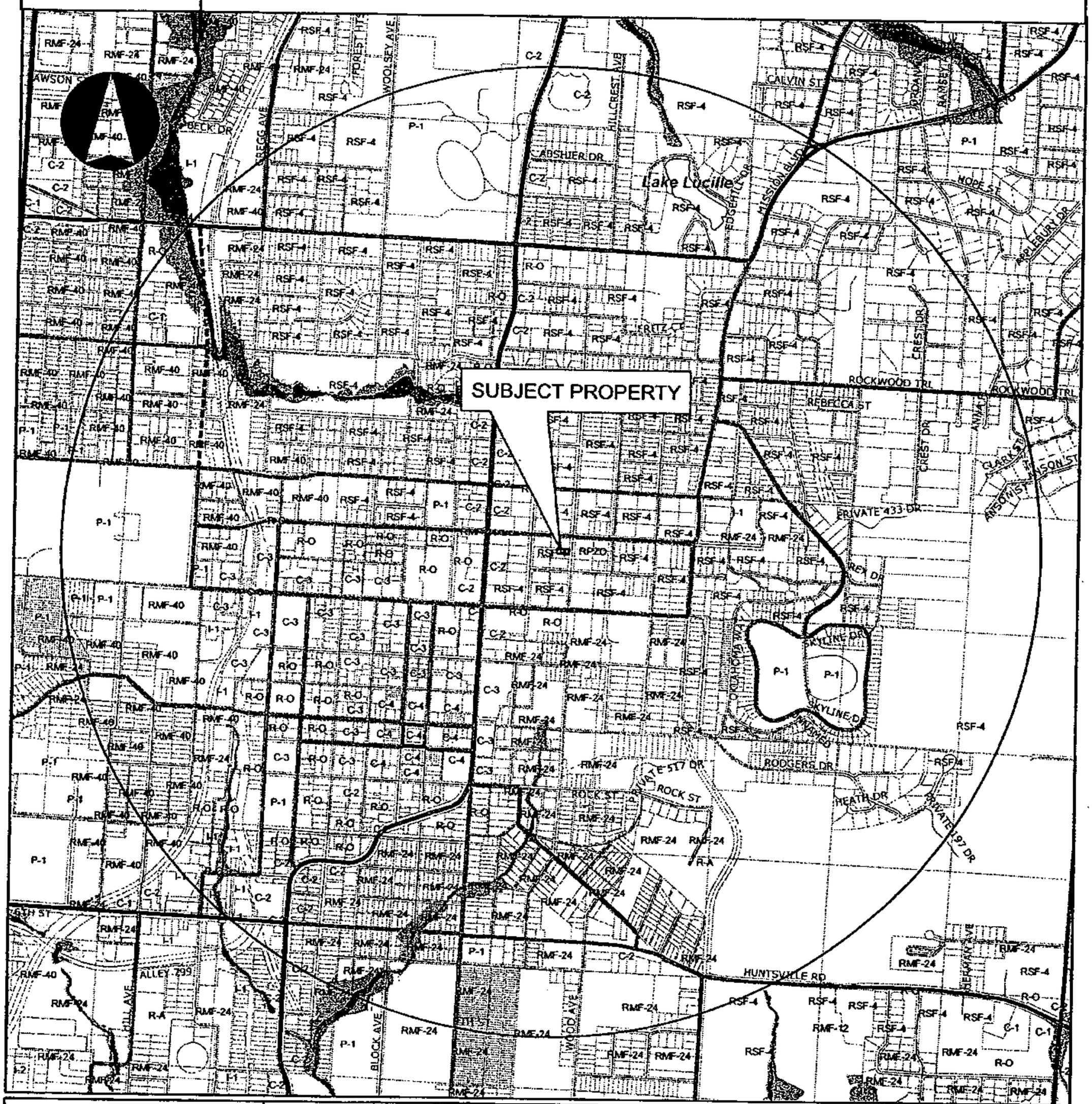
CHAMBERS



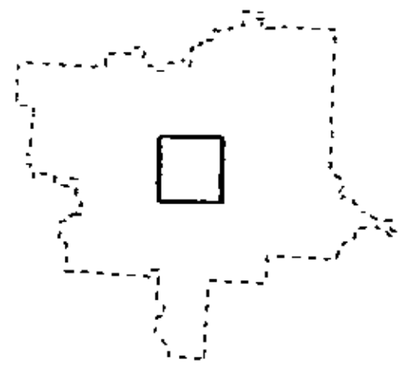
RZN06-1868

One Mile View

CHAMBERS



Overview



Legend

Subject Property

RZN06-1868

Boundary

Planning Area

Overlay District

Outside City

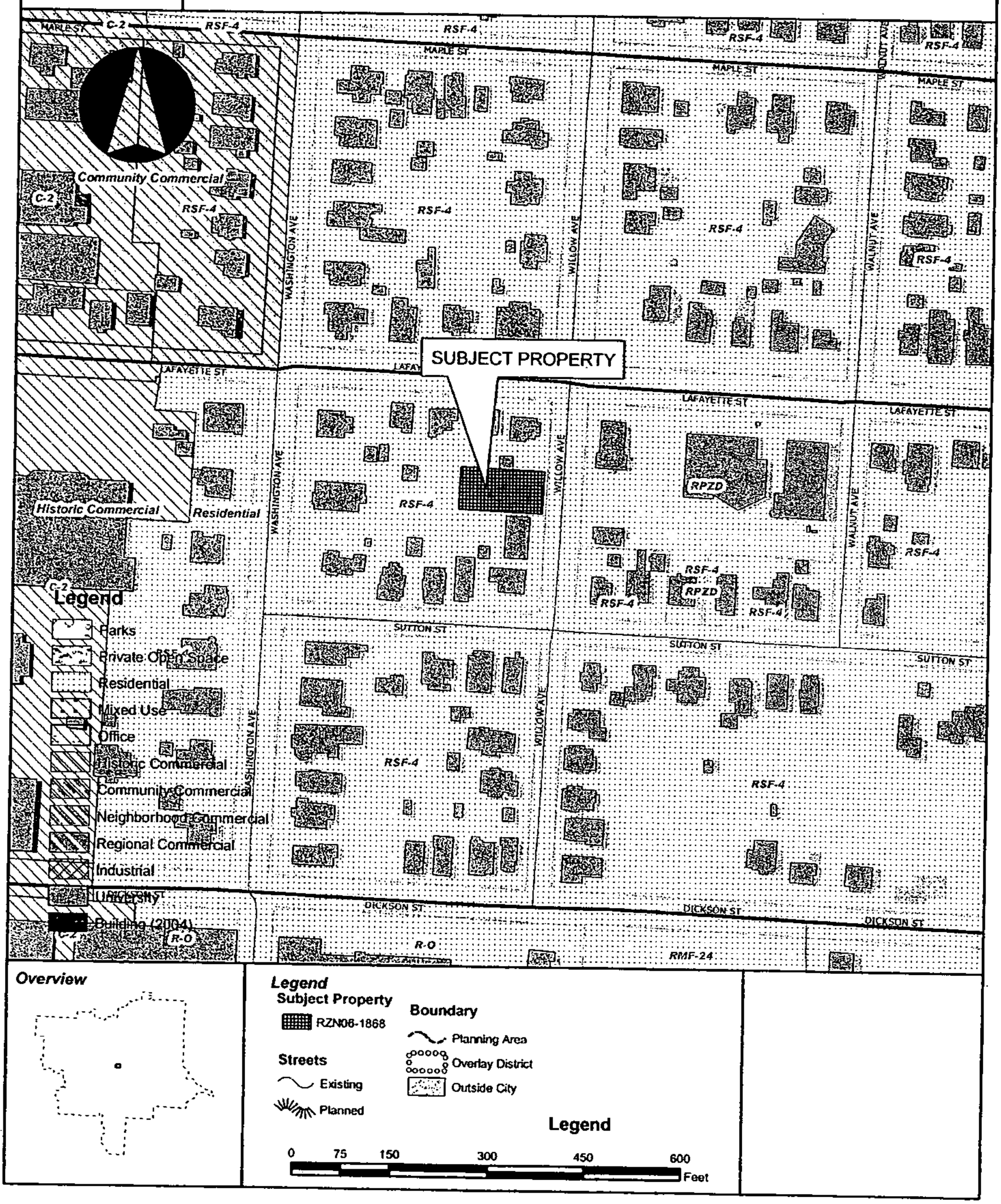
Legend

0 0.125 0.25 0.5 0.75 1 Miles

RZN06-1868

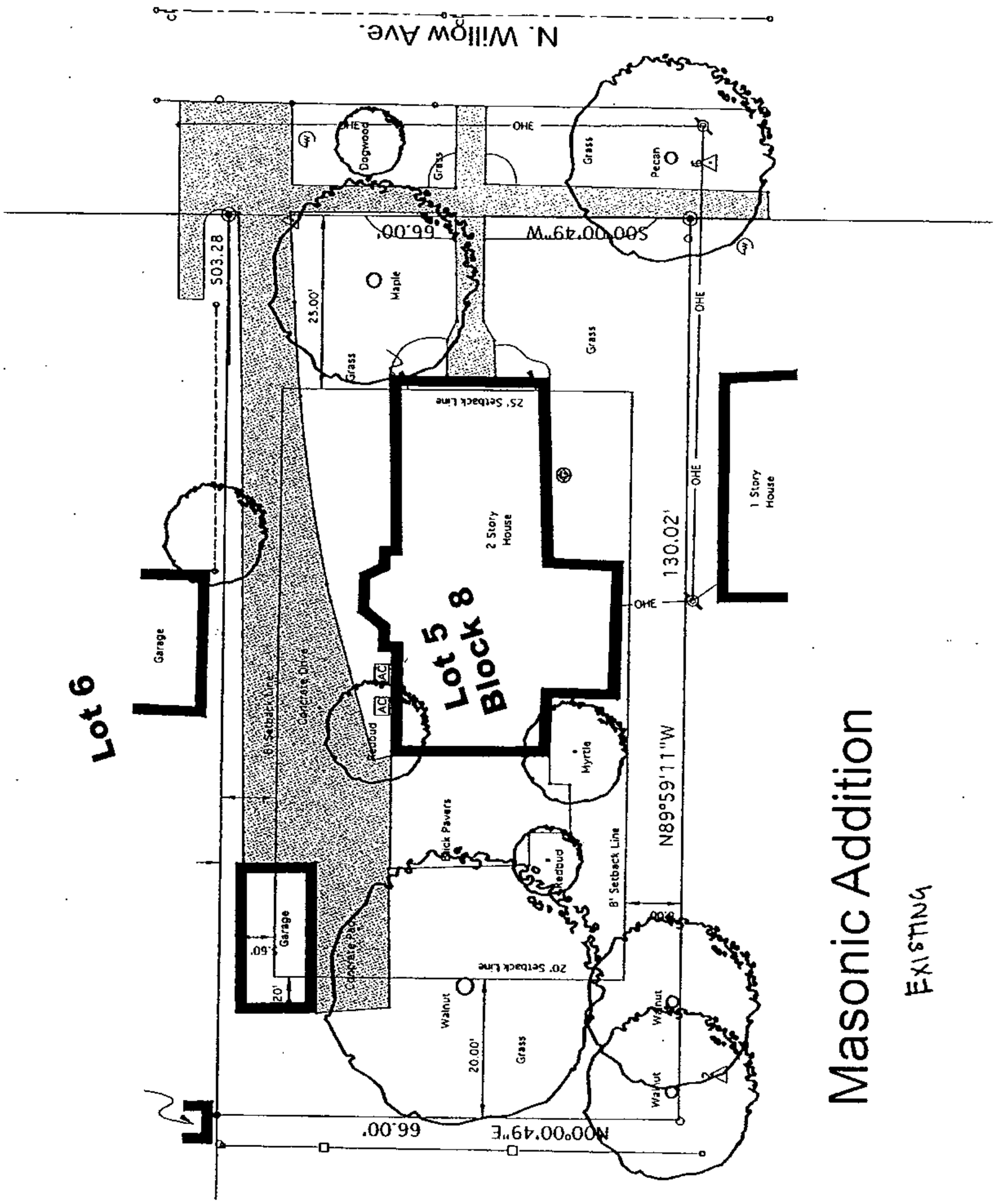
Future Land Use

CHAMBERS



SITE PLANS
RZN 06-1868

*Site plan with existing garage



Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

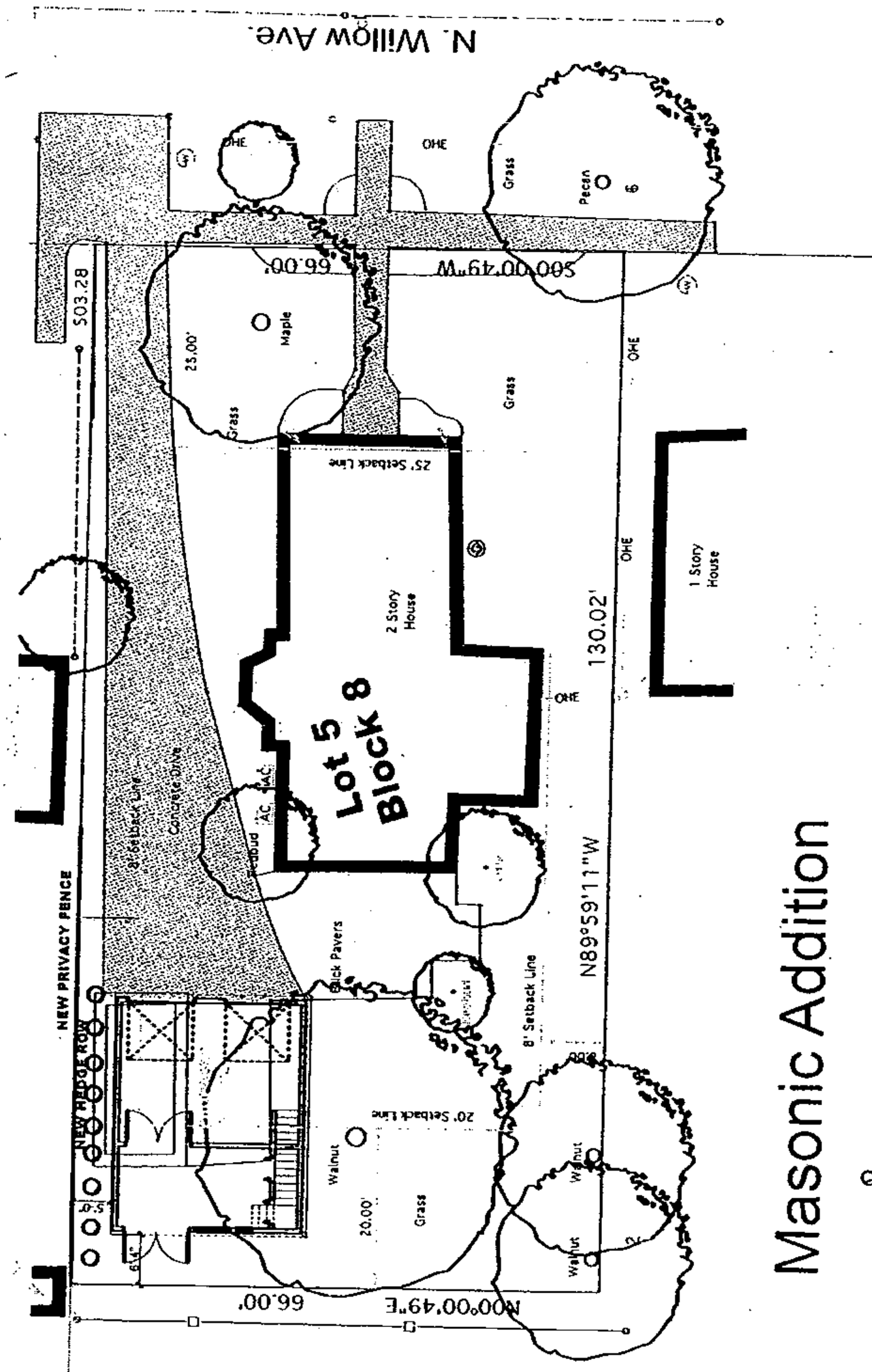
NORTH

EXISTING SITE PLAN
SCALE : 1"=20'
01.16.06

A0.0

Julie Chambers:Users:julie:Desktop:Chambers.dbk 1/17/06

***Site plan with proposed detached garage and associated second dwelling unit**



Masonic Addition

Proposed

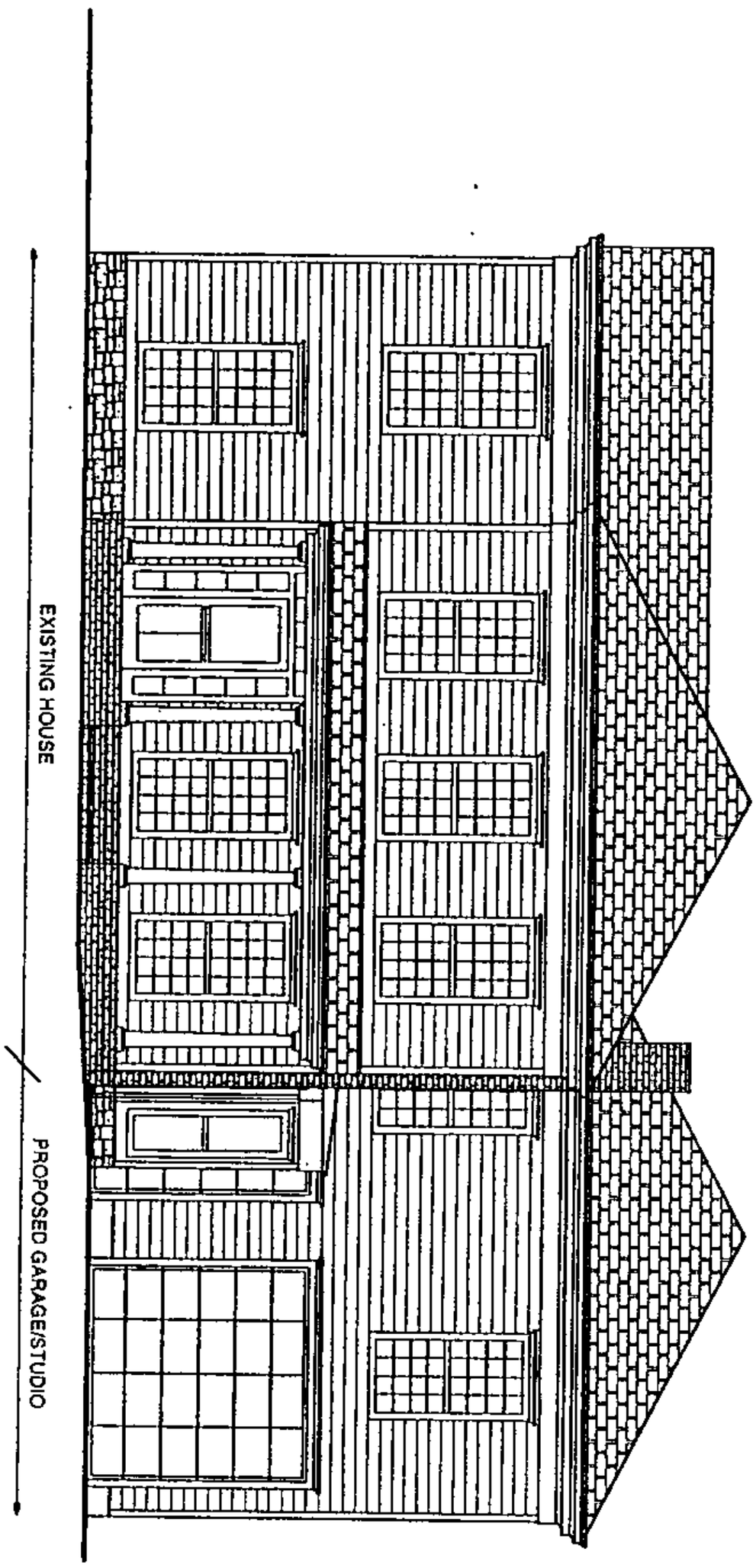
Julie Chambers:Users:julie:Desktop:Chambers.lbk 1/17/06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

NORTH

PROPOSED SITE PLAN
SCALE: 1"=20'
01.16.06

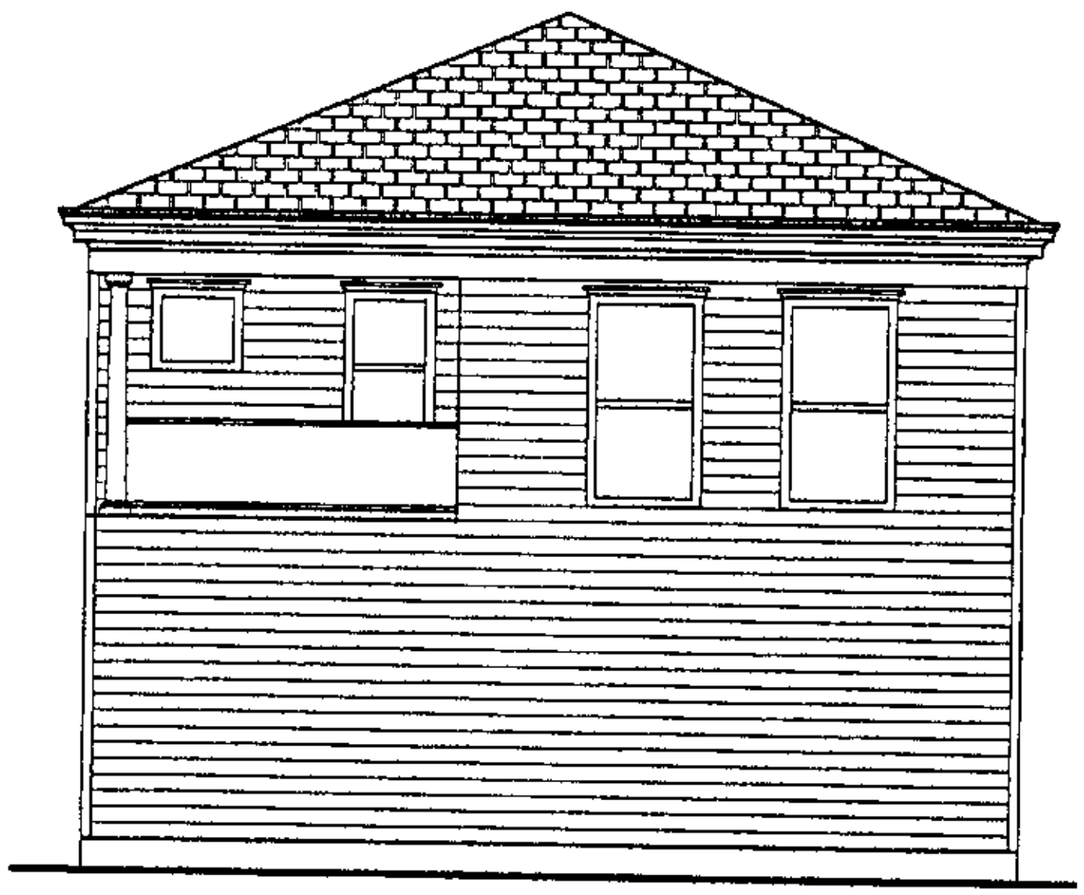
A0.1



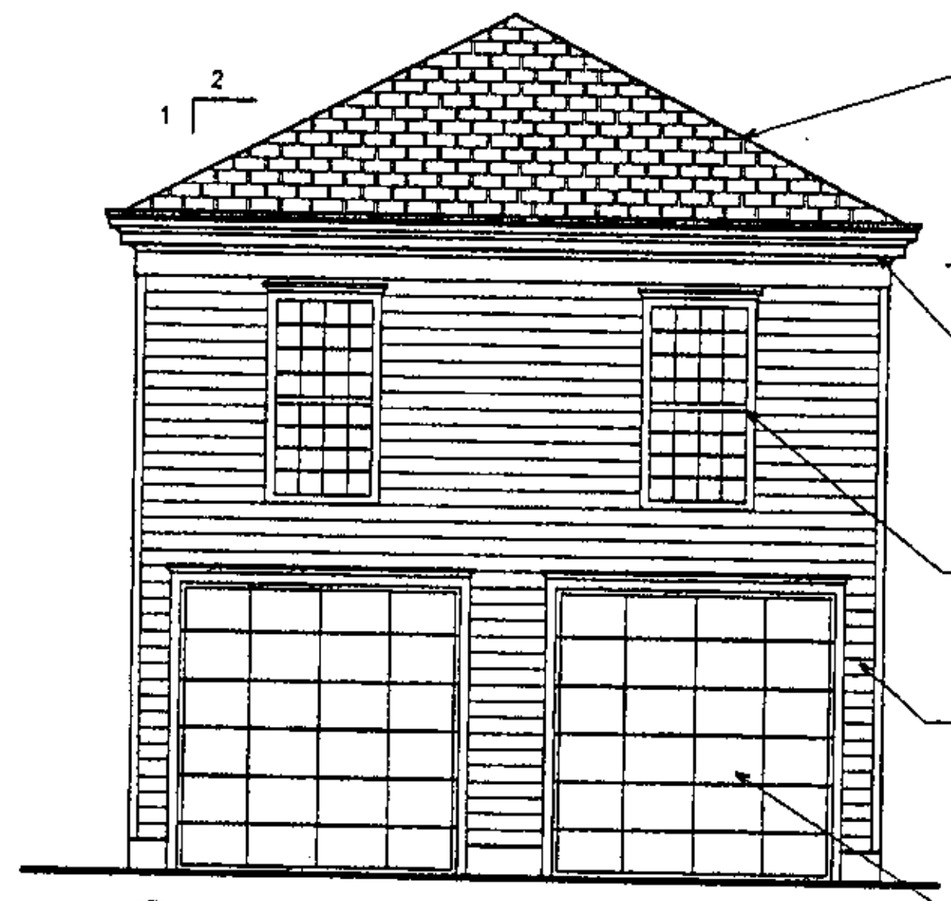
1 PROPOSED EAST ELEVATION
1/8" = 1'-0"

Julie Chambers:Users:julie:Desktop:Conditional use:Chambers.tbk 1/16/06

Matthew and Julie Chambers 347 N. Willow Avenue Fayetteville, Arkansas	PROPOSED ELEVATIONS 01.16.06	A1.2



1 SOUTH ELEVATION
1/8" = 1'-0"



2 EAST ELEVATION
1/8" = 1'-0"

ASPHALT SHINGLES TO MATCH EXISTING HOUSE

+/- 18'-6" AFF
TO MATCH EXISTING HOUSE

WHITE SOFFIT, TRIM, AND GUTTER TO MATCH EXISTING HOUSE (ONCE REPAIRS ON EXISTING HOUSE ARE COMPLETED)

3'-0" X 6'-0" WHITE ALUM. CLAD WOOD WINDOWS TO MATCH EXISTING HOUSE

WOOD OR CEMENT BOARD LAP SIDING PAINTED GRAY TO MATCH EXISTING HOUSE

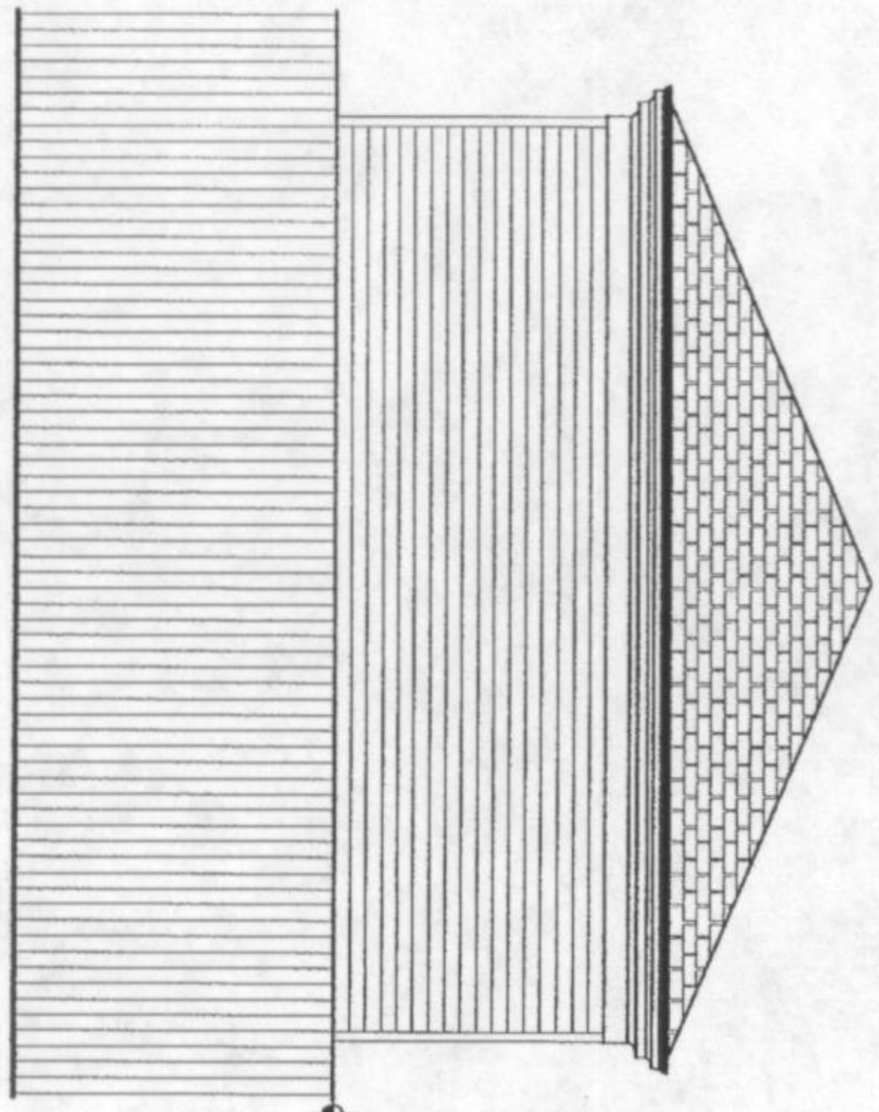
WHITE PAINTED CARRIAGE-HOUSE TYPE GARAGE DOORS

A1.0

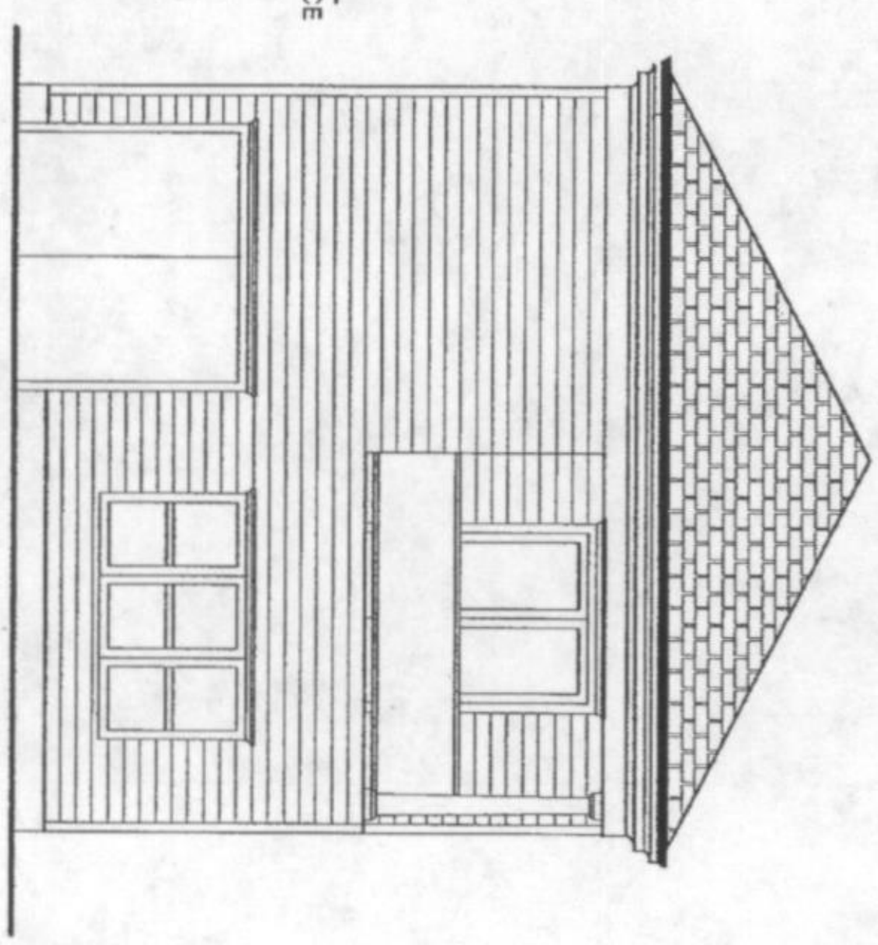
PROPOSED ELEVATIONS
01.16.06

Matthew and Julie Chambers
347 N. Willow Avenue
Fayetteville, Arkansas

Julie Chambers:Users:julie:Desktop:chambers.pk 1/17/06



1 NORTH ELEVATION
1/8" = 1'-0"



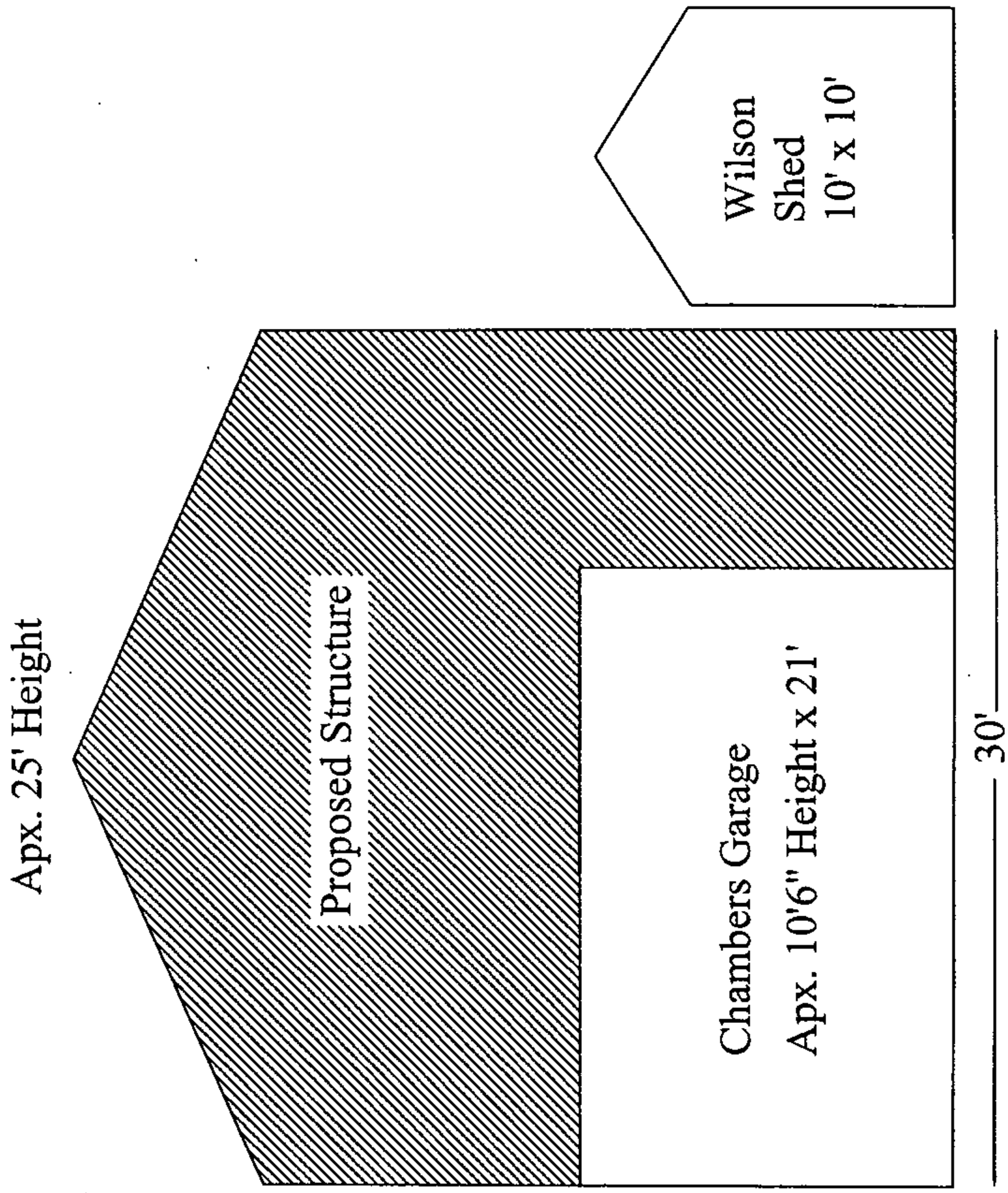
2 WEST ELEVATION
1/8" = 1'-0"

Julie Chambers:Users:julie:Desktop:Chambers.lbk 1/17/06

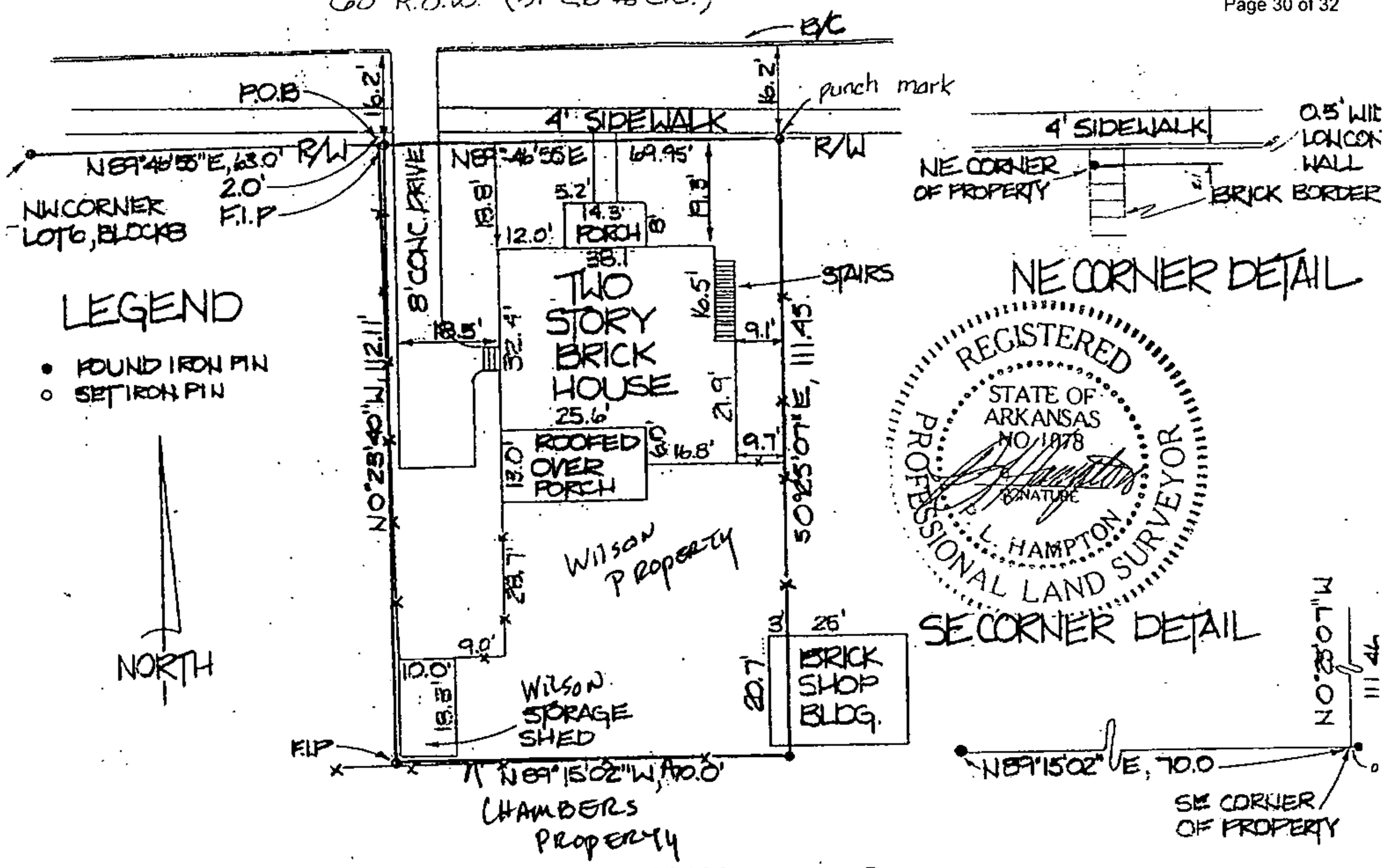
Matthew and Julie Chambers 347 N. Willow Avenue Fayetteville, Arkansas	PROPOSED ELEVATIONS 01.16.06	A1.1

JAN 18 2006

2/21/06 RZN 06-1868 Chambers



Looking South from Wilson Property



LOT SURVEY for:
William Keith Woodley &
Carrie V. Wilson Woodley
223 E. Lafayette Street
Fayetteville, Arkansas

W.O. 89400
FB. 210
pg. 2

By:
Engineering Services, Inc.
1207 S. Old Missouri Road
Springdale, Ar. 72764

SURVEY DESCRIPTION:

Part of Lot Six (6) in Block Eight (8) of the Masonic Addition to the City of Fayetteville, Arkansas, and being more particularly described as follows: Beginning at a found iron pin which is North 89°46'55" East 63.0 feet from the Northwest corner of said lot; thence North 89°46'55" East 69.95 feet; thence South 0°40'32" East 111.45 feet; thence South 89°15'02" West 70.0 feet; thence North 0°23'40" West 112.11 feet to the POINT OF BEGINNING.

SURVEYOR'S CERTIFICATION:
I hereby certify that to the best of my professional knowledge and belief the plat shown hereon reflects the results of a survey completed under my supervision on October 11, 1989. This survey is for the sole use of the parties stated hereon.

P.L. Hampton, R.L.S. No.1078, Arkansas

SURVEYOR'S NOTES:
(1) This property is not within Flood Zones A or B on the Federal Emergency Management Agency Flood Insurance Rate Map dated September 29, 1989.
(2) Any utility lines which may have been installed by previously granted rights-of-way or easements blanketing this property do not touch or cross this property except as shown hereon or except within the right-of-way and easement lines shown hereon.

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

Feb. 21, 06

To whom it may concern;

We really oppose the building of this tall structure in the back yard of Mr. & Mrs Chompers. 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

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

7-Mar-06
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

R-PZD 06-1883: (Abshier Heights, 407): Submitted by H2 Engineering for property located south of Evelyn Hills Shopping Center on Abshier and Hillcrest. The property is zoned C-2, Thoroughfare Commercial, and contains approximately 4.11 acres. The request is for a Residential Planned Zoning District with 30 multi-family 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 — Date 2·15·06

City Attorney — Date 2·16·06

Finance and Internal Service Director — Date

Mayor — Date 2/21/06

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 2-16-06

Received in Mayor's Office
ENTERED 2/16/06

Comments:

Left on the second reading 3/21/06
Left on first reading March 7, 2006

City Council Meeting of March 7, 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 Abshier Heights (R-PZD 06-1883)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Abshier Heights, based on the Master Development Plan, development standards and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 4.11 acres located at Abshier Drive and Hillcrest Avenue. The 8-building proposal includes 30 residential units, consisting of 22 multi-family units and 8 two-family units. The 8 two-family units will be located in the northern 4 buildings along Hillcrest and the 22 multi-family units will be located in the remaining 4 buildings, three facing greenspace off of Abshier and one on Hillcrest. The overall density is 7.3 units per acre.

BACKGROUND

The property consists of a total of 4.11 acres occupying land with frontage on Abshier Drive and Hillcrest Avenue. Both parcels are undeveloped and are zoned C-2, Thoroughfare Commercial. It is surrounded by single-family homes on the south/east and the Evelyn Hills Shopping Center to the North/west.

The applicant is attempting to create a transition between the commercial shopping center to the north/west and the single-family neighborhood to the south/east. The Planned Zoning District contains one (1) Planning Area. The Planning Area has its own specific density (maximum number of dwellings units allowed), and established bulk and area criteria, setbacks, height, etc. The information is provided both in a booklet form, which describes the intent of the Planning Area along with a drawing of the overall Planning Area boundaries and by way of the larger plat, which gives more engineered information. The applicant requests approval of both the zoning, given the proposed Master Development Plan, statement of commitments, and development standards and approval of the large scale development which would allow the immediate review of construction plans. Proposed setbacks are not close to the street; rather they allow for the development of the flat parts of the site, while preserving the slope and trees along the street.

DISCUSSION

The Planning Commission voted 6-3-0 in favor of this request on February 13, 2006, with Commissioners Myers, Allen and Clark voting no. Those who voted against the motion discussed their concerns regarding the proposal, including density, traffic, water pressure, and architectural compatibility. 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 06-1883, ABSHIER HEIGHTS, LOCATED SOUTH OF EVELYN HILLS SHOPPING CENTER ON ABSHIER AND HILLCREST, CONTAINING APPROXIMATELY 4.11 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 C-2, Thoroughfare Commercial, to R-PZD 06-1883 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 7th day of March, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 06-1883

TRACT A:
PART OF THE NW ¼ OF THE NW ¼ OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SE CORNER OF THE NW ¼ OF THE NW ¼, SAID POINT BEING A FOUND 1" PIPE; THENCE N87°12'10"W 352.90 FEET; THENCE N02°59'53"E 25.00 FEET TO THE POINT OF BEGINNING; THENCE N02°58'47"E 635.03 FEET TO A CHISLED "X"; THENCE S87°00'06"E 149.72 FEET TO A FOUND IRON PIN IN THE WEST RIGHT-OF-WAY LINE OF HILLCREST AVENUE; THENCE ALONG SAID RIGHT-OF-WAY S02°57'25"W 634.95 FEET TO A FOUND PK NAIL IN THE APPROXIMATE CENTER LINE OF WOODCREST DRIVE NOW VACATED BY THE CITY OF FAYETTEVILLE BY ORDINANCE #1205; THENCE ALONG SAID CENTERLINE N87°02'16"W 149.97 FEET TO THE POINT OF BEGINNING, CONTAINING 2.187 ACRES, MORE OR LESS, AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.

TRACT B:
PART OF THE SW ¼ OF THE NW ¼ OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SW ¼ OF THE NW 1/4; THENCE N87°12'10"W 203.60 FEET; THENCE S02°58'05"W 30.14 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A FOUND IRON PIN IN THE WEST RIGHT OF WAY OF HILLCREST AVENUE; THENCE ALONG SAID RIGHT OF WAY S02°58'12"W 313.56 FEET TO A FOUND IRON PIN IN THE NORTH RIGHT-OF-WAY LINE OF ABSHIER DRIVE; THENCE ALONG SAID RIGHT-OF-WAY LINE N86°36'30"W 537.42 FEET TO A FOUND IRON PIN; THENCE LEAVING SAID RIGHT-OF-WAY N63°01'26"E 620.21 FEET TO THE POINT OF BEGINNING, CONTAINING 1.935 ACRES MORE OR LESS, AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.

Fayetteville
ARKANSAS

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:	Planning Commission
FROM:	Jesse Fulcher, Current Planner
	Brent O'Neal, Staff Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~February 8, 2006~~ **Updated February 14, 2006 for City Council**

R-PZD 06-1883: Planned Zoning District (ABSHIER HEIGHTS, 407): Submitted by H2 ENGINEERING for property located at S OF EVELYN HILLS SHOPPING CENTER ON ABSHIER AND HILLCREST. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 4.11 acres. The request is for a Residential Planned Zoning District with 30 multi-family dwelling units.

Property Owner: SMITH 2-WAY RADIO
Planner: JESSE FULCHER

Findings:
Property Description: This site is located north of Abshier Drive and west of Hillcrest Avenue, directly behind the Evelyn Hills Shopping Center.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Evelyn Hills Shopping Center	C-2
South	Single Family Neighborhood	RSF-4
East	Single Family Neighborhood	RSF-4
West	Evelyn Hills Shopping Center	C-2

Background: Research conducted by staff indicates in 1960 when the Evelyn Hills Shopping Center was rezoned, that a 150' strip was left zoned residential to serve as a buffer strip. In 1962 the City Council approved rezoning of the western 130' of the 150' tract, partly because the owners offered to place a restrictive covenant on the property that limited development on the 20' residual strip along Hillcrest Ave. It should be noted that all structures and land disturbances associated with the proposed structures is further than 20' from Hillcrest Avenue (approximately 45' from the curb). Street improvements to Hillcrest will require construction in this area. However, later in 1962 the rezoning was rescinded after an election was called by referendum. Any covenants that were in place with the rezoning were most likely invalidated when the rezoning was rescinded.

It appears that in 1967 a second request was made to rezone the property to C-2. The request was denied, but was later appealed to the Board of Directors, who then approved the requested rezoning to C-2.

In 1991 a rezoning was requested to rezone the property from C-2 to R-1.5 to allow for the construction of duplexes, which was withdrawn. Pertinent information on the zoning history of this property has been included.

Subdivision Committee Comments: The Subdivision Committee voted 2-1-0 to forward the item to the Planning Commission. A consensus was not reached on the findings. Numerous adjacent property owners attended the meeting with several concerns regarding the proposed project. These concerns included traffic, density, compatibility, trash, aesthetics, drainage and the E. Fay Jones property which is near the site. Included in the staff report are letters from adjacent property owners.

Planning Commission Comments: The Planning Commission voted 6-3-0 to forward the item to the City Council. There was considerable public comment regarding traffic, density, water pressure, architectural compatibility and the E. Fay Jones property. Some of the Planning Commissioners shared some of the same concerns as the neighbors. In addition, the Planning Commissioners had added concerns and questions for staff to address prior to City Council, including Fire Department access, parallel parking on Hillcrest Avenue, water pressure, pedestrian bridges, trash service and building materials.

Proposal: The applicant requests a rezoning, Master Development Plan and Large Scale Development approval for a multi-family development on the property. The 8-building proposal includes 30 residential units, consisting of 22 multi-family units and 8 two-family units. The 8 two-family units will be located in the northern 4 buildings along Hillcrest and the 22 multi-family units will be located in the remaining 4 buildings, three facing greenspace off of Abshier and one on Hillcrest. The overall density is 7.3 units per acre.

The applicant is attempting to create a transition between the commercial shopping center to the north/west and the single-family neighborhood to the south/east. The Planned Zoning District contains one (1) Planning Area. The Planning Area has its own specific density (maximum number of dwellings units allowed), and established bulk and area criteria, setbacks, height, etc. The information is provided both in a booklet form, which describes the intent of the Planning Area along with a drawing of the overall Planning Area boundaries and by way of the larger plat, which gives more engineered information. The applicant requests approval of both the zoning, given the proposed Master Development Plan, statement of commitments, and development standards and approval of the large scale development which would allow the immediate review of construction plans. Proposed setbacks are not close to the street; rather they allow for the development of the flat parts of the site, while preserving the slope and trees along the street.

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

The following bulk and area regulations are proposed by the applicant:
(A) *Proposed Uses.*

Permitted uses

Use Unit 1	City-wide uses by right
Use Unit 2	City-wide uses by conditional use permit
Use Unit 9	Two-family dwellings
Use Unit 26	Multi-family dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 24	Home Occupations

(B) *Density.*

Units per acre	7.3

(C) *Bulk and area regulations.*

Lot minimum width	N/A - Condo units and duplexes
Lot area minimum	N/A
Land area per dwelling unit	5,000 sq. ft.

(E) *Setback requirements.*

Front Building Setbacks: 25'.

Rear Building Setback: 15'

Side Building Setback: 8'

(F) *Height.* 35' maximum height

(G) *Building area.* 16.8% of site.

Water: Public water is adjacent to the site. A study of the water system shall be conducted by the developer as directed by the Engineering Division. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended within the property at the time of development connecting within the proposed development.

Sewer: Sanitary sewer is currently available to the site. There is a 6" sewer line that runs along Hillcrest Avenue and a 6" sewer line along Abshier Drive, west of the site. 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 within the property at the time of development connecting within the proposed development.

Adjacent Master Street Plan Streets:
East: Hillcrest Ave. (Local Street)
South: Abshier Road (Local Street)

Traffic: Access to the site is provided by way of two private drives from surrounding streets, which will supplement two existing access drives into the Evelyn Hills Shopping Center. The two existing access drives are located behind the shopping center, both of which are accessed from Hillcrest Ave. A private drive will be allowed access from Abshier Dr. and will traverse through the southern tract and intersect with the existing drive into the shopping center. A second private drive will traverse north across the northern tract and connect the two existing access drives. A traffic study was not recommended for the proposed development. However, further evaluation will be conducted by staff at the time of construction plan submittal for any required improvements.

Street Improvements: Staff recommends the following improvements:

- Improve Abshier Drive to include a 14' wide street section from centerline with curb, gutter, storm drains and 6-foot sidewalk. Street improvements shall extend to College Avenue.
- Improve Hillcrest Avenue to include a 14' wide street section from centerline with curb, gutter, storm drains and a 6-foot sidewalk.

**Staff recommends that the location of the sidewalks on both Abshier Drive and Hillcrest Avenue be determined by the Sidewalk Coordinator and Urban Forester at the time of development so that existing canopy along the right-of-way can be preserved.*

Tree Preservation: The two sections of property have very different topographies. The triangle shaped, southern tract is very sloped from Abshier Drive down to the proposed building locations, while the building location is very flat. Most of the tract is covered in small saplings and underbrush, with some larger significant trees. This tract contains the trees that will be removed in order to construct a detention pond. The rectangle shaped, northern tract has only a slight slope from Hillcrest Avenue to the proposed building locations. Many mature trees exist on this tract, but are within an existing easement. However, these trees should not be affected by this development.

The applicants have designed the layout of the driveways and buildings so that they are located on the flat portions of the property, while staying away from the outer boundaries of the property. After removal of the tree canopy for the detention pond, the canopy will fall to 17.0% canopy coverage, from 17.9% existing canopy coverage.

Parks: On November 7, 2005 the Parks Recreation Advisory Board recommended accepting money in lieu in the amount of $13,086 for 22 multi-family homes and 8 single-family homes. These amounts may need to be adjusted if the two-family homes are left on the same lot and not utilized as single-family attached homes.

Public Comment: Staff has received several comments, letters and e-mails from adjacent property owners. Any additional written comments from adjacent property owners will be included in the Planning Commission packet.

Recommendation: Staff recommends forwarding a recommendation of approval of the Residential Planned Zoning District for Abshier Heights (R-PZD 06-1883) to the City Council, with the following conditions:

Conditions to Approval:

1. Planning Commission determination of street improvements, to include the following:
   a. Installation of a 14' wide street from centerline of Abshier Dr., including 14' pavement, curb, gutter, storm drains, and a 6' sidewalk. Street improvements shall extend off-site to include the intersection of Abshier Drive and College Avenue.
   b. Installation of a 14' wide street from centerline of Hillcrest Ave., including 14' pavement, curb, gutter, storm drains, and a 6' sidewalk.
   c. Right-of-way to meet Master Street Plan requirements shall be dedicated prior to building permit.
   d. Egress from the proposed drive onto Abshier Drive shall be signed/marked to allow a right out only.

   **Staff recommends that the location of the sidewalks be determined by the Sidewalk Coordinator and Urban Forester at the time of development so that existing canopy along the right-of-way can be preserved.*

   THE PLANNING COMMISSION FOUND IN FAVOR OF THE PROPOSED STREET IMPROVEMENTS, INCLUDING THE LOCATION OF SIDEWALKS TO BE DETERMINED BY THE SIDEWALK COORDINATOR AND THE URBAN FORESTER.

2. 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.

3. Structures shall be constructed as presented in the PZD, meeting the architectural design standards established herein.

4. Parks fees in the amount of **$13,086** for 8 single-family units and 22 multi-family units shall be paid prior to issuance of building permits, or as constructed to meet the parkland dedication fee-in-lieu requirements.

5. If street lights do not exist, they shall be installed with a maximum separation of 300 feet along Abshier Drive and Hillcrest Avenue.

6. The applicant shall submit 15 sets of the plats, project booklets, and elevations along with any other correspondence and information the applicant would request the City Council to review. Please submit half-size drawings for City Council review.

7. Coordination with the Solid Waste Division for centralized trash pick-up. *THE SOLID WASTE DIVISION HAS REQUESTED THAT TWO DUMPSTER PADS BE LOCATED ON THE SITE. IF PLANNING STAFF FINDS THAT THERE IS NOT SUFFICIENT*

ROOM FOR LOCATING A DUMPSTER PAD, OR THAT REQUIRING DUMPSTERS WOULD RESULT IN THE REMOVAL OF EXISTING TREE CANOPY, THE SOLID WASTE DIVISION WILL ALLOW INDIVIDUAL CARTS.

8. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all permits necessary for development with a one (1) year extension available.

9. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.

10. Prior to City Council consideration, the applicant shall modify the project booklet and Site Plans to reflect any recommended revisions from the Planning Commission.

11. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks.

12. Access easement agreements for the driveways located off-site, shall be provided on the easement plat and filed of record prior to building permit.

13. Manufacturer's cut-sheets shall be required for any outdoor lighting, prior to building permit.

14. Trees are required to be planted every 30 linear feet along the right-of-way, where existing canopy is not currently located. Trees should also be planted every 12 parking spaces. Include these revisions prior to City Council.

15. If after construction, open areas exist along the right-of-way, trees shall be planted within the open areas, to provide a continuous buffer along the right-of-way between the PZD and the existing neighborhood.

16. Two bicycle racks are required and shall be shown on the site plan and legend with revisions prior to City Council.

Standard Conditions of Approval:

17. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

18. Prior to building permit, a cost estimate for all required public improvements are required to be submitted to Planning Staff for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the

materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

19. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development. This shall be reflected in the booklets and on the plats.

20. 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).

21. 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.

22. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

23. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    b. Separate easement plat for this project that shall include the tree preservation area.
    c. Project Disk with all final revisions
    d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Building Permit.

Planning Commission Action: Required YES
√ Forward ☐ Denied ☐ Tabled

Meeting Date: **February 13, 2006**

Motion: Vaught
Second: Graves
Vote: 6-3-0 Commissioners Clark, Myers and Allen voted no.

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 _____

CITY COUNCIL ACTION: Required YES

City Council Action: ☐ Approved ☐ Denied ☐ Tabled
Motion: _____
Second: _____
Vote: _____
Meeting Date: March 7, 2006

Comments: _____

Findings associated with MDP R-PZD 06-1883

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 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 single-purpose development while minimizing disruption of the existing natural features, including tree canopy and topography. The General Plan 2020 designates this area as Regional Commercial; however, it is more appropriate to provide a residential transition between a commercial shopping center and an adjoining single-family neighborhood, than permitting the expansion of the regional shopping center, or other similar uses that would not be compatible with the adjacent single-family homes.

(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. 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. If required, improvements shall be made to the water and sewer system, as well as improvements to Abshier Dr. and Hillcrest Ave. 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 single purpose residential use. Staff finds the proposed use to be appropriate in this transitional area. Additionally, the proposed development utilizes the natural features of the site, including topography and tree canopy, to minimize the visual changes to surrounding properties. As noted in the General Plan 2020 and as practiced in many areas of the City, transitions in land use between high intensity commercial uses and low intensity single-family uses are often times medium density multi-family residential uses, which is proposed with this project, at 7.3 dwelling units per acre.

(5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is a remnant tract that was not developed when Evelyn Hills Shopping Center was constructed. Areas near the corner of Abshier Drive and Hillcrest Avenue have significant slope, but should incur minimal grading during development. The sites where building pads and parking is located is very flat and conducive to the proposed development. Most of the existing tree canopy is located along both street frontages and should be preserved during construction. Approximately 17% of the existing 17.9% tree canopy will be preserved with the development of this site. This will require 6 mitigation trees, in addition to trees along the right-of-way and in the parking areas.

(6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: It is expected that the addition of 30 residential dwelling units will increase the amount of traffic on Abshier Drive and Hillcrest Avenue. However, two (2) access points with options for the direction of travel are available. The developer will be expected to make significant improvements to Abshier Drive and Hillcrest Avenue in order to provide adequate traffic safety. These improvements include a 14' wide street section from centerline with curb, gutter, and storm drains along the projects frontage on Abshier Drive and Hillcrest Avenue. A 6-foot sidewalk is required to be installed along the property's

frontage, however the location of the sidewalk will be evaluated by the Sidewalk Coordinator and Urban Forester to ensure that existing tree canopy is preserved. Improvements need to extend beyond the frontage of the subject property to the intersection of College Avenue and Abshier Drive, 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 project 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 residential use is a significant change from the existing C-2, Thoroughfare Commercial zoning, 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. The density and maximum dwelling units have been addressed for the planning area; a greater percentage of open space will be retained in comparison to the requirements under the C-2 zoning district. Traffic movement is achieved via public and private streets, with

access onto North Street and College Avenue. The proposed development will work with the natural features and topography of the property and place an emphasis on tree preservation, 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. The developer shall be required to plant addition trees every 30 linear feet along the right-of-way where existing trees do not fulfill this requirement.

(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: A traffic study was not required with this proposed development. Ingress and egress to the project will be provided from Abshier Drive, Hillcrest Avenue and through

existing access points through the Evelyn Hills Shopping Center.

(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: The applicants have proposed additional parking to allow for guests to park within the development. 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 will retain approximately 94% of the existing tree canopy on the property, for a total of 17.0% of the site area. Additional trees will be planted along the right-of-way, which should provide for a significant natural buffer from the existing neighborhood. Open spaces are indicated to be preserved along the rights-of-way.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks will be evaluated by the Sidewalk Coordinator and Urban Forester at the time of development to ensure that existing tree canopy is preserved.

(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. A study of the water system shall be conducted by the developer as directed by the Engineering Division. Substantial improvements to the water system may be required which includes other off-site improvements.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code. 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.

(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. 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: N/A

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: Staff recommends approval of the Tree Preservation Plan. Six (2) inch caliper trees will be required for 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: The applicant has proposed design standards for residential structures.

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property. However, the buildings have been located, so that in most areas the rooftops and backs of the buildings will not be clearly visible from the residential neighborhood; rather the natural buffer and proposed buildings will screen the commercial area to the west.

(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 many of the above

criteria, as indicated by the transition from commercial to condominium to single family detached; the minimal disruption of existing natural features and amenities; utilization of the site special features, such as geographic location, topography, size and shape; 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 06-1883, with one (1) unique Planning Area. 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 proposal is single-use residential development, which is more

appropriate for a PZD application than a general residential rezone. The requested R-PZD provides an effective transition between two different land uses and activities on abutting parcels. Improvements to infrastructure will be required in order to provide adequate traffic safety. By clustering more densely, the natural features of the site and existing tree canopy can be preserved.

(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 proposed PZD proposed is entirely residential in use.

<u>*Required Findings for Rezoning Request.</u>

RECOMMENDATION: Staff recommends approval of the rezoning request from C-2, Thoroughfare Commercial, to MDP R-PZD 06-1883, 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 many of these goals, and creates an internal transition between 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 those uses allowed within the C-2, Thoroughfare Commercial zoning district. The C-2 zoning district does allow for attached and detached residential dwellings as accessory uses. The density limitations are governed by Chapter 161.13 (C), RMF-24, Residential Multi-Family, 24 Units per Acre.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning will certainly result in an increase in vehicle trips, due to the change in use from vacant property to 30 dwelling units. It is necessary that street improvements occur as a result, to be installed with development of the project. With the improvements other users of Abshier Drive and Hillcrest Avenue will likely benefit as well, due to the fact that at this time there is no curb, gutter, storm drains, or sidewalks. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area. Fire Station #1 at 303 W. Center expects a response time of 5.5 minutes with an anticipated 7 calls for service per year once the development is completed and maximum build-out has occurred.**

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.**

Engineering: **Public water is adjacent to the site. A study of the water system shall be conducted by the developer as directed by the Engineering Division. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended within the property at the time of**

development connecting within the proposed development.

Sanitary sewer is currently available to the site. There is a 6" sewer line that runs along Hillcrest Avenue and a 6" sewer line along Abshier Drive, west of the site. 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 within the property at the time of development connecting within the proposed development.

Police: **It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.**

Fire: **The subject property is located approximately 1.7 miles from the Fire Station No. 1. Response time to the property is 5.5 minutes.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

Fayetteville
ARKANSAS

PC Meeting of February 13, 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: February 8, 2006

ITEM #: R-PZD 06-1883: Planned Zoning District (Abshier Heights)

Requirements Submitted:

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

Canopy Measurements:

Total Site Area	
acres	4.11
square feet	179,032
Existing Tree Canopy	
acres	
square feet	32.085
percent of site area	17.9%
Existing Tree Canopy Preserved	
acres	
square feet	30.355
percent of total site area	17%
Percent Minimum Canopy Required	**17.9%**

FINDINGS:

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

- **This site currently has about 17.9% canopy cover. The area is very sloped and covered mostly with brushy vegetation. Several**

significant trees exist most being oak and pine.

Whether the design incorporates the required tree preservation priorities

- **This design takes into consideration the tree preservation priorities and only reduces the canopy slightly**

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

- **Little tree canopy would be removed with this development. The removal of the brushy vegetation on the site will create some environmental degradation due to the slope of the land.**

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.

- **The property is adjacent to the back of a large shopping center and two public roads. Properties across these streets should be minimally affected by the removal of tree 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, shape, and topography of this lot greatly affects the design.**

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

- **The trees were inventoried by a certified arborist whom found most to be in poor to fair condition.**

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

- **Several utility easements exist on this property. The proposed utilities will utilize the parking area and avoid most trees.**

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

- **The trees proposed for removal are found within the detention area and in a proposed drive. Additional canopy could be affected by the replacement or maintenance along Hillcrest Ave but these utilities already exist.**

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

- **The roads and utilities are designed as best possible for this space.**

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 to replace 1,730 square feet of removed canopy.**

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

- **This project is proposed as a Residential Planned Zoning District.**

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

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following conditions.**

Conditions:

1. **Six (2) inch caliper trees will be required for mitigation. These trees will need to be planted and bonded in the amount of $1,500 before signature of Final Plat. This bond is for a 3-year maintenance and monitoring period. At the end of these 3 years the Urban Forester will inspect these trees for health. If 90% are healthy the bond is returned in full.**

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: January 31, 2006

SUBJECT: Parks & Recreation Subdivision Committee Comments

****

Meeting Date: February 2, 2006
Item: PZD 06-1883 Abshire Heights
Park District: NE
Zoned: PZD
Billing Name & Address: D & P Chance Properties

	Land Dedication Requirement	***Money in Lieu***
Single Family	____ @ .024 acre per unit = _____ acres	8 @ $555 per unit = $ 4,440
Multi Family	_____ @ .017 acre per unit = _____ acres	22 @ $393 per unit = $ 8,646
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ $555 per unit = $_____
Lot Split		_____ @ $555 per unit = $_____

COMMENTS:

- PRAB voted to accept money in lieu of land for the park land dedication requirements of this development on November 7, 2005 due to its proximity to Gregory Park.
- Fees are assessed in the amount of $13,086 for 22 multi-family homes and 8 single family homes.
- Fees are due before signing final plat.

From: Travis Dotson
To: Fulcher, Jesse
Date: 2/1/06 4:58PM
Subject: Subdivision Committee Meeting for Thursday, February 2, 2006

Jesse,

Abshier Heights will be required to have a centralized location for a trash dumpster to service trash needs for this multi - unit dwelling.

Thanks
Travis Dotson

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 Planned Zoning District **R-PZD 06-1883 (Abshier Heights, 407)** submitted by H2 Engineering, INC for property located S of Evelyn Hills Shopping Center on Abshier and Hillcrest 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,

Captain William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
[redacted] 100-A WEST ROCK STREET
FAYETTEVILLE, ARKANSAS [redacted] 72701

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
[redacted]
PHONE: 479-587-3555 FAX: 479-587-3522

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

R-PZD06-1884 (Westside Village Condos, 439)

These 21.91 acres is covered by Engine 7 at 835 Rupple Road.
It is 0.1 mile from the station with an expected response time of 1 minute (Development is right across the street from the station).
The Fire Department anticipates 83 (50 EMS – 33 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 1590 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.
There should be no adverse effects on our call volume or response time to this development.

MDP R-PZD 06-1881 (Skyview Heights, 291)

These 12.85 acres is covered by Engine 4 at 3385 N Plainview.
It is 1.4 miles from the station with an expected response time of 4 minutes.
The Fire Department anticipates 5 (3 EMS – 2 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 1361 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.
There should be no adverse effects on our call volume or response time to this development.

R-PZD 06-1883 (Abshier Heights, 407)

These 4.11 acres is covered by Engine 1 and Ladder 1 at 303 W Center.
It is 1.7 miles from the station with an expected response time of 5.5 minutes.
The Fire Department anticipates 7 (4 EMS – 3 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
Our only concern is the hydrant at Hillcrest and Oakwood which flows less than 400 gallon/minute. The other hydrants surrounding this development have adequate flows.
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.
There should be no adverse effects on our call volume or response time to this development.

ANX 06-1895 (Broyles, 245)
RZN 06-1896 (Broyles, 245)

These 2.8 acres is covered by Engine 7 at 835 Rupple 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 Rupple 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.

RZN 06-1891 (Shewmaker, 365)

These 1.91 acres is covered by Engine 2 at 700 N Garland.
It is 1.2 miles from the station with an expected response time of 3.75 minutes.
The Fire Department anticipates 5 (3 EMS – 2 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 1565 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. There should be no adverse effects on our call volume or response time to this development.

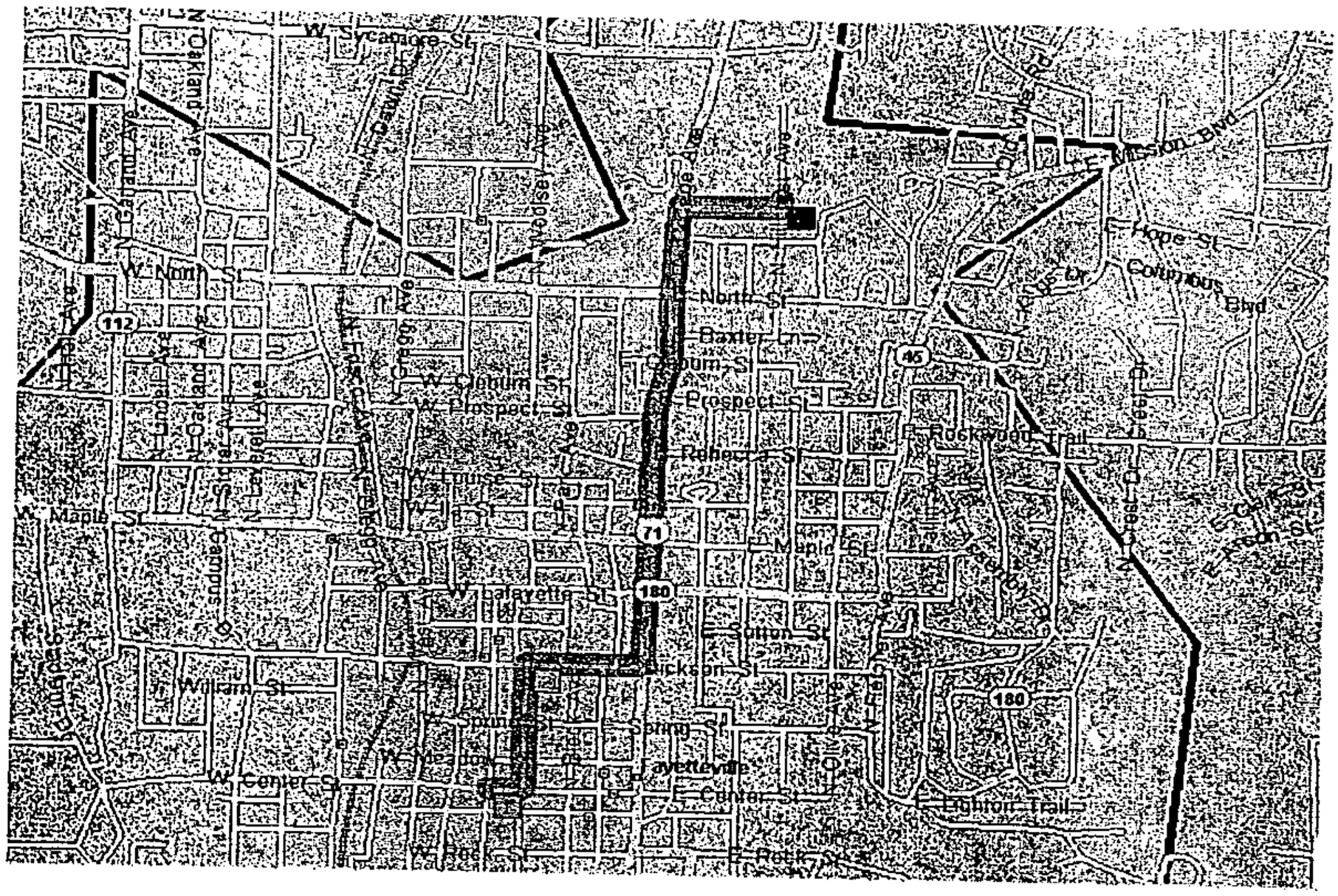
If you have any questions or need additional information don't hesitate to call me at x365

Dale Riggins

Abshier Heights

1.7 Mile Response

5.5 Minute Response Time



Blue Line indicates 6 minute Response Time

WESTSIDE VILLAGE CONDOS (R-PZD 06-1884)

Public water is adjacent to the site. There is a 12" waterline that runs along Rupple Road. 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 within the property at the time of development connecting within the proposed development.

Sanitary sewer is not adjacent to the site. There is an 8" sewer line near the property. A study of the downstream system shall be conducted by the developer. Sewer service will need to be extended within the property at the time of development connecting within the proposed development.

The site currently has frontage on Rupple Road.

Standard improvements and requirements for drainage will be required for the development.

SKYVIEW HEIGHTS (MDP R-PZD 06-1881)

Public water is not adjacent to the site. A study of the water system shall be conducted by the developer as directed by the Engineering Division. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended within the property at the time of development connecting within the proposed development.

Sanitary sewer is currently available to the site. There is an 8" sewer line that enters the property from the west. A study of the downstream system shall be conducted by the developer. Sewer service will need to be extended within the property at the time of development connecting within the proposed development

The site will have access to College Avenue by a private 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 west. Standard improvements and requirements for drainage will be required for the development.

ABSHIER HEIGHTS (R-PZD 06-1883)

Public water is adjacent to the site. A study of the water system shall be conducted by the developer as directed by the Engineering Division. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended within the property at the time of development connecting within the proposed development.

Sanitary sewer is currently available to the site. There is a 6" sewer line that runs along Hillcrest Avenue, and a 6" sewer line along Abshire Drive, west of the site. 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 within the property at the time of development connecting within the proposed development

The site will have access to Hillcrest and Abshire. 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 west. Standard improvements and requirements for drainage will be required for the development.

BROYLES (RZN 06-1896 and ANX 06-1859)

December 13, 2005

Sarah Patterson
Landscape Coordinator
City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701

Re: ABSHIER HEIGHTS
TREE PRESERVATION ANALYSIS

Dear Sarah,

We are submitting a preliminary plat for a PZD called Abshier Heights. This project is located in Fayetteville, just behind Evelyn Hills shopping center in the northwest corner of Abshier Drive and Hillcrest Avenue. We will be proposing four duplex units, and 22 town homes for a total of 30 units.

This site is broken up into two pieces of land; one triangular piece to the South, and one rectangular piece to the North. The triangular piece to the south is mainly covered in small saplings, cedars and brush. There are some larger significant trees located on this parcel. This parcel also contains the trees we will have to remove in order to construct a detention pond. These are tree numbers 67-78. Tree number 69 will also be removed; however, it is already dead.

Most of the trees for this project are located on the North rectangular piece are along Hillcrest Avenue. These trees are run along an existing easement line; however, none of these trees should be affected by this development. The majority of the trees in this area are pine, oak, and cedar. There are also other species of trees located on the property that can be found in the tree table on the Tree Preservation Plan.

The layout of the driveways and building units were placed so that we could utilize the flat portion of property we had, while staying away from the trees on the outer boundaries. The existing canopy is 17.9% covered. After removal of the trees for the detention pond, we will have 17.0% canopy cover. We will make up for this in mitigation trees native to the area which include pine trees and oak trees. This development should not entail a significant change to the existing trees in this area. We hope to preserve the beauty of the existing canopy on this site to the best of our ability. Please feel free to call if you have any questions or comments.

Sincerely,

Michelle Montes

Michelle Montes, E.I.
H2 Engineering, Inc.

RECEIVED
DEC 15 2005
CITY OF FAYETTEVILLE
PLANNING DIVISION

Planning Commission Meeting – February 13, 2006

Introduction –
Rob Wicks, University of Arkansas Communication Professor.
-Briefly highlight strong neighborhood opposition
-Ask neighbors opposed to rise
-Briefly note agreed upon speakers for brevity

- 1:00 to 2:00 minutes

Legal Issues –
Rebecca Haas, Attorney.
-Legal issues and threats as a consequence of zoning, tree ordinance, planning, zoning, etc.

- 2:00 to 3:00 minutes

Architectural Issues–
Kim Sexton, UA Architecture Professor.
Issues of forcing dumpsters and dwellings to co-exist and the misleadingideas of the space conveyed by the architectural renderings distributed by Cooper architects.

- 2:00 to 3:00 minutes.

Engineering Issues–
Shay Hopper, Woodland Jr. High Journalism Teacher.
Summary of research conducted by Emeritus Professor of Civil Engineering, Robert Alguire and other sources.
Water pressure and sewerage issues, drainage, topography, issues from the Alguire report, addendum and other points.

- 5:00 to 7:00 minutes

Historical Issues –
Gus Jones, Resident since 1956, Green space agreement, architectural and historical significance.

- 3:00 minutes or time as needed.

Conclusion –
Jan Wicks, UA Journalism Professor – summary report.

- 1:00 to 2:00 minutes

Total anticipated presentation time is 14 to 20 minutes

Finally, we ask that all appropriate documents be entered into the record.

309 Abshier Road
Fayetteville, AR 72703
1 February 2006

Office of City Planning
The City of Fayetteville, Arkansas
113 West Mountain
Fayetteville, Arkansas, 72701

City of Fayetteville Planning and Zoning Committees:

My husband and I live across the street from the newly planned development by Cooper Architects at the corner of Hillcrest and Abshier. We have resided at this address for nearly four years. We have three concerns regarding the proposed project: 1). traffic in the area, 2). density of the proposed development, 3). neighborhood continuity or aesthetics.

Abshier Road is currently very narrow, barely allowing two cars to pass one another. The traffic on Abshier is relatively heavy for such a narrow street, being used not only by those living in the neighborhood, but also those avoiding the North Street and College Avenue intersection. Many drivers exceed the speed limit, thus endangering those who are walking their dogs or exercising. Additionally, near the intersection of Abshier Road and College Avenue, those exiting the Rick's Bakery Parking lot at odd viewing angles compound the traffic problem. The limited widening of Abshier Road on the south side of the development will lessen the problem only marginally. However, with thirty proposed units in the development, projecting two cars per residences (or three vehicles, if units are rented), there will be an increase of 60 to 90 vehicles. Thinking that the units will be inhabited by professional people traveling to and from their residence two times a day will increase the traffic on Abshier and Hillcrest by 120 to 180 trips daily. If new residents park on the street, Hillcrest would not allow comfortable passage of two cars, and Abshier would not allow passage of two cars at all. This development is only two miles from the University of Arkansas; It is reasonable to think that students will also inhabit the units. Should this occur, the traffic would increase even more. The related concerns of street widening, parking, and traffic issues need to be resolved further prior to starting construction approval of the development plan.

The second concern is directed at neighborhood density. One of the appealing qualities of this neighborhood is its relative closeness to commercial areas and University of Arkansas while still maintaining a single-family dwelling atmosphere. Frequently, commercial areas such as Evelyn Hills Shopping Center have a buffer zone between themselves and single detached housing. The proposed development could offer such a transition area if the proposed units were all two-story town houses or condominiums. The comparatively quiet nature of the existing neighborhood suggests that two-level units would be more in keeping with the surroundings (all one or one-and-a-half stories) and would modestly lessen the apparent traffic concerns.

The third area of concern is continuity of the neighborhood design and aesthetic. Many of the homes bordering on the proposed development are ranch style or mid-century contemporary. Also included in our neighborhood is the home of Fay Jones. A

nationally celebrated architect, the proposed facades do not integrate themselves into the character already established by Mr. Jones' and the surrounding homes. Diversity keeps a neighborhood interesting when applied with sensitivity. However, the proportion and balance of the proposed buildings, the design of the exaggerated fenestration, and the bunker-like appearance of the buildings are offensive interruptions. The proposed development could and should, become an area of visual interest and emphasis for the neighborhood by investing more attention to the design of the exterior of the buildings.

We are pleased to see this area of the neighborhood being developed as a residential buffer to a more commercial area. While we would prefer a city park dedicated to one of its more famous citizens, Fay Jones, this end-use also fits into our neighborhood. However, resolution of traffic, density, and design factors needs to occur before approving the project.

Respectfully,

Nancy G. Miller

William J. Miller

Shay & David Hopper
1224 N. Hillcrest
Planning Commission Comments 2-13-06 (updated 2-13-06)
R-PZD 06-1883: Planned Zoning District (ABSHIER HEIGHTS, 407)

Commissioners – Thank you for taking the time to listen to our concerns. Certainly, my neighbors and I are not development or planning experts, but we have all made attempts to research this situation thoroughly in hopes of presenting a clear and valid view of our concerns.

In as concise a manner as possible, I will address 11 specific issues that the neighborhood has researched and discussed and then briefly review 4 –5 specific points which Robert T. Alguire, UA Professor emeritus of Civil Engineering; PhD, Univ. of Oklahoma, 1235 N. Hillcrest, asked be brought to your attention, as he could not be here this evening.

1. **Water Pressure** – or extreme lack thereof. On pages 2, 6 & 7 (of original H2/ D & P Chance proposal), the developer states: " A 6 inch sanitary sewer line as well as an 8" water line are located to the east along Hillcrest Avenue. A 6" waterline tees off the existing 8" water line and turns down the access road in to Evelyn Hills. We will **tie our waterline** into the 6" waterline and loop it to the north, **tying in to** the 8" waterline along Hillcrest Avenue." (pg. 2) … "a 6 inch water line is located [on] site which we propose to connect to, as well as an 8" to loop the system." (pg. 7)

For years, water pressure in the neighborhood has been notoriously poor. Many of the residents have had City water department experts review their individual water situations (as have we) and report that nothing can be done unless the entire grid, one of the older grids in the city, can be re-built/re-configured. Obviously, a "connection" of this nature, with 30 new families taxing the already poor water flow, would be a disaster. Will diminished water pressure be an issue if there is a fire?

2. **Neighborhood continuity** - the architecture/style of the proposed units do not complete the neighborhood and they are multi-family as opposed to single family, detached traditional (from my understanding, neighborhood continuity is an issue in the City Plan 2025). This development is not a true or appropriate extension of our neighborhood. This is a "trashcan vs. trash dumpster" situation - it is not a good fit - urban vs. historic/traditional.

3. The **proposed development density is not compatible with our neighborhood**. We do support appropriate infill development, as opposed to sprawl, but the neighbors' hope for a design that supports neighborhood continuity, and the architect's renderings of this project presented to the neighborhood do not.

9. During the 2-2-06 City of Fayetteville Subdivision Cmte meeting, a Commissioner (Osmer) suggested that the architecture firm continue to meet with/communicate with neighbors as this process moved forward. **We, as neighbors, have not been invited or afforded any additional opportunities to communicate with developers or architects since the initial 1-26-06 meeting held at Cooper Architecture firm.**

10. Market saturation – as most citizens are aware, the Fayetteville market currently appears to have a "glut" of condos on the market. Many of these empty condos are in the high-end price rage as is being "proposed" for this development. We are concerned about guaranteed market value of these condos, as we are concerned about the properties sitting empty and being subject to vandalism or other hazardous scenarios such as fire and miscellaneous crime.

11. Historical relevance – Certainly the issue of the E. Fay Jones home has been, and will be addressed by my neighbors, and as an Arkansas History teacher, I certainly support and reaffirm those comments. On an additional historical note, there was a proposal similar in nature to the current proposal that was denied for many of the same issues we have discussed this evening. We have copies of those minutes available.

12. Due to the **steep slope and grade of the land, will a retaining wall (s) need to be developed?** Will it be a repeat of the King's Drive situation – costly to the City?

13. Review of Alguire Comments

Thank you for your time and attention. We very much appreciate your consideration.

Robert T. and Mary S. Alguire
1235 N. Hillcrest Ave.
Fayetteville, AR 72703
(479) 521-1728

TO: PLANNING COMMISION
SUBDIVISION COMMITTEE

REF: R-PZD 06-1883: Planned Zoning District (ABSHIER HEIGHTS, 407)

First and foremost, we would like to express our strong opposition to this proposed Residential Planned Zoning District. It would forever change the low density R-1 nature of our neighborhood. This change would violate the basic rule of zoning that requires a transition from industrial, commercial and high density residential to a neighborhood such as ours. When this shopping center was first planned and developed, the only possible use of this land was a green space. The strips of land are too narrow to allow for any kind of transition to take place. Thirty Residential "condos" in such a tight area, without any green space or any of the amenities usually associated with units of this nature, i.e. swimming pool or recreation facilities or PA requirements, can not be considered an adequate transition.

There are many other reasons that this property should not be used for anything but geenspace and I will try to explain as many as I can.

1. The area in general is not suited for development. It is surrounded by extremely steep slopes due to the step excavation that was done to build the Mall. Slopes of this nature are generally not stable in this area to any kind of load bearing construction or utilization. This will greatly be compounded by the presence of springs in the area. The low muddy area that was created by the four wheelers who love to drive through it, contained water during the whole of this last long dry period. This means there is a water table which is fed by these springs close to the surface in the area where they want to locate the three story units. The combination of this soil and saturated water conditions under the traffic and overburden created by the three story units, will lead to settling of the units causing cracking and misalignments in doors and windows. There will also be an overall settling of the whole area. This water so close to the surface will also cause excess moisture to be immediately under the units floors, These conditions do not reflect good building practices associated with these so called "High Quality Condos".

2. An inspection of Abshier Road will show the longitudinal cracking, especially near the side where the steep slopes drop down into this property, that there is

already some slope instability associated with this property. This condition has come about due to the current traffic that will only greatly increase with the doubling of the density of our neighborhood. This slope will have to be stabilized with retaining walls if traffic increases. It will also require wider streets and sidewalks, because there is no place to walk on Abshier except in the street.

3. Traffic is another one of the concerns of our neighborhood. There is already far too much traffic on Abshier St. and Hillcrest Ave. due to the mall and the congestion at College Ave. and North St. intersection. A great number of people use these streets to bypass this intersection and to shortcut into the back of the mall. The addition of these units will greatly aggravate this situation. The roads in this area are not constructed to handle any more traffic. Nobody in our area park in the street because of the danger associated with the steep grades, narrow streets, excessive speeds and amount of traffic.

4. Another problem associated with the increase in traffic is the steepness of the grades on Hillcrest Ave. and especially the access this developer wants to provide to the narrow and extremely steep access road into the back of the mall. This road is in such poor condition that it will have to be rebuilt to a substandard design because of the extreme grade and the unsafe geometrics of entering the narrow travel way between the mall buildings. The connection of the condo access roadways to a road that is this steep is against all design standards for geometrics and safety. There will be serious sight distance problems associated with these intersections. Slope transition and stopping capabilities are also seriously degraded on this type of incline. If it is raining, snowing or icing then this will become extremely dangerous. When we have winter weather, these conditions on Hillcrest Ave. will be seriously degraded. Vehicles without snow tires and four wheel drive generally cannot make it up the hill. Even four wheel drive vehicles have slid off the road into the property under question when going downhill on ice covered roads. The access road going into the mall is the steepest section of this proposal and if a vehicle going down this slope loses control of his vehicle, the mall building will be in the direct path.

5. The neighborhood is also concerned that the increased traffic will cause the need for putting in curbs and sidewalks as well as widening the road. It would also probably require that a stronger pavement design be put in to handle the increased traffic. This will create some major problems with access driveways, street drainage including into yards, trees, retaining walls and the Fay Jones monument. There would also be a need for a structural retaining wall, with barrier curb and sidewalks, to be built adjacent to Abshier St. and Hillcrest Ave. and the proposed property in order to protect the road, pedestrians and traffic. We feel that any cost incurred by any of these requirements and solutions should be the developers sole responsibilities.

6. Another MAJOR engineering problem is water supply. For years the residents have complained to the city about extremely low water pressure and flow. The

city has come out to the residences to investigate the problem. They have told the people that there is nothing that they can do about it, and we have to live with the problem since we live at the top of hill at the upper end of the supply line. If this is correct, than adding thirty residences to the lower end of this supply line will be disastrous to the residences of this neighborhood. This would mean that the city willinginly entered into an arrangement with a developer that deprived the current residences of an adequate water supply as well as fire protection; this would be a liability I do not think the city should even contemplate.

7. The other areas of concern are quite adequately addressed by the letter from Rob and Jan Wicks. I see no need to repeat them here, other than to say that we whole heartedly agree. I would also like to say that we also are highly skeptical of the developers claims that these are high quality and luxury condos.

Robert T Alguire

Mary S. Alguire

Robert T. and Mary S. Alguire
1235 N. Hillcrest Ave.
Fayetteville, AR 72703
(479) 521-1728

ADDENDUM TO PARAGRAPH 4:

The Grade on Hillcrest Ave. is nearly level from North St. to Oakwood St, and then changes to 10% from there to below Abshier St., where it increases to 12 %. This is a fairly steep condition for a residential street. Most vehicles can handle this grade with moderate downshifting in fair road conditions. The problem with safety becomes pronounced in inclement weather, especially in freezing conditions. The critical point in grades under these conditions occurs when a vehicle cannot hold a stopped position. As one approaches this condition, a vehicle will experience a loss in braking ability and an increase in stopping distance. This condition can be as little as 5% on glazed ice to around 10 to 20% on snow packed roads.

This will explain my primary concern about the planned access roads of the condos with the back entrance into the Mall area. This is an extremely steep grade of around 20+ %. This does not look complicated on the planned view shown on their drawings, but in the geometrics of accomplishing this safely, it is not possible. They are trying to join a level road to one that has a very steep grade. This is normally done by providing a level area in the grade at the intersection. This is not possible here because there is no room in the grade for it. That means that each condo road will have to be rotated about its center line to match the grade of the mall access road. This is where the safety issues become acute.

Cars exiting the condo areas will have to stop at the intersection before entering the road. If ice is on the road, they will begin sliding down the hill sideways out of control. If a car tries to enter the condo areas going down this grade, the driver cannot retain control of the vehicle and make the turn. If two vehicles are trying this at the same time, there will be a collision. The drop-off on the North side of this road caused by the retaining walls can add significant danger to this condition. In any of these conditions braking will be minimal, if it even exists.

To: Mr. Jesse Fulcher
From: Dr. Robert and Dr. Jan Wicks, N. 1314 Hillcrest Avenue
Mrs. Gus Jones, N. 1330 Hillcrest Avenue
Dr. Linda Coon and Mr. Eric Coon, 1336 N. Hillcrest
Mr. Boyd and Ms. Trisha Logan, 1426 N. Hillcrest
Dr. Robert Alguire and Ms. Mary Alguire, 1235 N. Hillcrest Avenue
Mr. Jeff Jackson, 1414 N. Hillcrest Avenue
(Additional names will be added upon signature)

Date: January 31, 2006
Re.: Abshier Heights

We object to the Abshier Heights project for the following reasons:

The Fayetteville Planning Commission has confronted requests on this land parcel in the past. The most recent occasion was July 22, 1991, when the Commission voted 7-0-1 to deny conditional use for the purpose of constructing duplexes. We believe that the Commission made the correct decision in 1991 and should deny a rezoning request once again. We will now summarize both the old and new reasons we believe this request should be denied.

1. The late Mr. Fay Jones and Mrs. Gus Jones told me on numerous occasions that the original plans for rezoning the area that is now occupied by Evelyn Hills was granted on the condition that the area abutting Abshier Drive and Hillcrest Avenue will remain buffer or green space in perpetuity. Gus Jones reiterated this recently (within the past three weeks).

2. The minutes from the June 1991 Planning Commission Meeting contain the following regarding a plan to build duplexes on the property in 1991 (http://nw-ar.com/minutes/1991/fpc062491.html).

   "E. Fay Jones, 1330 Hillcrest, stated construction of the duplexes would change the environment of the neighborhood which had always been single-family homes. He also mentioned an increase in traffic. He requested the conditional use be denied." As an internationally renowned and honored architect, his perspective is valuable in this matter.

3. The proposed project would abut the Jones home which was listed on the National Register of Historic Places on April 28, 2000. As the first Fay Jones residential design to be constructed in 1956, the Jones home is a national and local treasure. The home features a tall lighted entry sculpture designed by Fay Jones. Additional development and traffic would compromise the integrity of this historic landmark.

4. The minutes from the June 1991 Planning Commission meeting contain the following regarding a plan to build duplexes on the property in 1991 (http://nw-ar.com/minutes/1991/fpc062491.html). "Mr. Dick Oliver, 1440 Hillcrest,

appeared before the Commission and stated that, when he purchased his property in 1972, the realtor had told him the subject property was to be used as greenspace, providing a buffer between the residential area and the shopping center. He explained the company that purchased the shopping center had not purchased the subject tract of land because it was greenspace. He also pointed out that any construction would have to destroy some of the trees. He stated the noise from the shopping center was a problem, even with the trees. He further stated there would be no view for any building constructed on the subject property. He mentioned additional traffic, impassibility when ice was on the roadway, and noise as some of his concerns should duplexes be constructed. He suggested the Planning Commission should make the area a permanent greenspace."

5. Dr. Oliver told me in a conversation that the property is currently zoned as it is because residents convinced planners in 1991 that residential development runs counter to the original objectives of the property.

6. The proposed plan is not consistent with Fayetteville development. The density is too great to provide comfortable housing. Thus, the property will quickly become littered with excessive cars and eyesores that will change the nature of the neighborhood.

   The proposed project is also unsightly and will do little to enhance the quality of life in the neighborhood. Cooper Architects and H2 Engineering report that the units will be sold for approximately $200 a square foot. This means the average unit (1,750 square feet) would be sold for $350,000. Neighbors are skeptical that buyers would be willing to pay this much for a property that offers no amenities such as a swimming pool, clubhouse, exercise facility or even any green space.

   Furthermore, the front of the units will face the rear end of the aging Evelyn Hills Shopping Center and the garbage dumpsters that are used by merchants. The back of the units on the southern side that constitute more than half of the development will likely face a concrete retaining wall according to project planners. With a frontal view of an aging shopping mall and garbage dumpsters and a rear view of a concrete retaining wall, we are not convinced that these will be "upscale condominiums" as described by project planners on January 26, 2006.

7. The development as planned does not provide a reasonable transition between C-2 and R-1 properties. Under R-1 zoning, the property can accommodate up to eight lots. We believe that this should be the maximum allowed if rezoning should occur. This means, up to eight single homes.

8. Water pressure at present is inadequate to serve the current homeowners. All shower fixtures in the Wicks home have been replaced and the plumbing checked. City engineers have examined the problem and have reported that nothing can be done to improve the situation. An additional 30 units will produce major problems that will require the city to install additional water capacity.

In addition, the city might be unable to adequately respond to or protect the neighborhood from a fire. This is especially troubling given that the historic Fay Jones Home is immediately behind the proposed project.

9. The southwest corner of the proposed development is perpetually wet due to underground caves and springs. During the recent drought, the pools remained. This suggests that development would only aggravate the problem or contribute to current drainage problems in the area.

10. It appears likely that many large trees on Abshier Drive will have to be removed in violation of the Fayetteville tree ordinance to accommodate widening of the street. Widening Hillcrest Avenue and Abshier Drive threatens the aesthetic integrity of the Jones residence and sculpture that is on the National Register.

11. The Tree Protection and Preservation Ordinance Requirements and Procedures state that ordinance requirements apply to "All developments involving the disturbance of existing soil around trees including...All residential construction with 3 units or more" (from the City of Fayetteville Landscape Manual p. 28). Tree preservation high priorities include canopied slopes, and significant trees, while mid-level priorities include use buffers (p. 29). The statement of purpose and list of objectives and principles (p. 25) include:

    - To preserve existing tree canopy.
    - To moderate the harmful effects of sun, wind and temperature changes.
    - To reduce stormwater runoff and the potential damage it may create.
    - To stabilize soil and prevent erosion.
    - To screen incompatible land uses.
    - To protect and enhance property values.

    The greenspace behind Evelyn Hills was originally conceived to screen the neighborhood from the shopping center. This screen was to protect and enhance property values of these residences, a purpose still accepted as important by the City of Fayetteville in its tree ordinance. Thus an important criterion for denying a similar development in 1991 on the property is still recognized and followed in at least one City ordinance.

    The trees in the greenspace protect the neighborhood from strong winds that blow in off the plains. The area is a hill abutting lower ground to the West. Thus the existing trees moderate the harmful effects of wind and sun thereby protecting and enhancing property values, all priorities still accepted by the City in its ordinance. These protective trees also help to protect the historic Fay Jones residence from weather damage.

    The trees in the greenspace help to reduce runoff and prevent erosion in an area that is quite steep. Preventing this development will meet all these tree preservation priorities, as well as preserve existing tree canopy. Finally, it will

"preserve and enhance the natural beauty of Fayetteville," especially one of its most important historical residences and surrounding neighborhood.

12. The access road off Hillcrest Drive is too steep to conform to city standards.

13. Ice problems often make both Abshier Drive and Hillcrest Ave impassible in the winter. Additional traffic will produce more accidents in a neighborhood that has no sidewalks leading to potential injuries of pedestrians and drivers.

For all of these reasons, we request that the Fayetteville Planning Commission to deny the rezoning request.

Sources:

http://nw-ar.com/minutes/1991/fpc072291.html
http://nw-ar.com/minutes/1991/fpc062491.html
Discussions with Fay and Gus Jones
Discussions with Dick Oliver

ADJOINING PROPERTY OWNERS NOTIFICATION

OF UPCOMING PUBLIC HEARING

Today's Date: January 23, 2006 **Project Name:** Abshire Heights

APPLICANT / REPRESENTATIVE CONTACT INFO:

H2 Engineering, Inc.
479-582-4234

Subdivision Committee Meeting*: Thursday, February 2, 2006 8:30am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting*: Monday, February 13,2006 5:30pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION: This is a proposed residential planned zoning district (PZD) project located along Abshier Drive & Hillcrest Avenue just east of Evelyn Hills Shopping Center.

Adjoining Property Address and Parcel Number(s): 765-14127-000 & 765-05203-001

** Please call the City of Fayetteville Planning Office at 575-8263 to verify this meeting's date and time.*

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

Project Name: Abshire Heights

✓ 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: — see attached document

Lynda L. Gow
Name of Property Owner (printed)

Signature of Property Owner

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JAN 30 2006
CITY OF FAYETTEVILLE
PLANNING DIVISION

3 Objections to the Proposed Plan for Abshier Heights

- In a neighborhood already plagued by low water pressure, the plan to add 30, multi-housing units is very problematic and threatens the welfare of the entire district.

- The plan to widen Hillcrest (a 'back road' when compared to its neighboring and burgeoning North Street) is knotty. First and foremost, it would damage the architectural integrity of a house currently listed on the National Park Service's National Register of Historic Residences—the Fay Jones residence on Hillcrest. Secondly, all the houses on Hillcrest and Abshier would be negatively transformed by this proposed road-widening. It strikes us as odd indeed that Hillcrest (a 'back road') would be widened before North (a bustling avenue).

- Finally, the developer in the plan as circulated has not done a traffic study. It is the case that the planners envision 'little or no impact' on traffic in the neighborhood. Their traffic forecasting—based on no empirical data—cannot be correct. 30, multi-unit homes (each with potentially 1.5 cars) would metamorphose a quiet neighborhood—one with some traffic prompted by Evelyn Hills Shopping Center—into a new 'North Street'. There is no reason to justify such a radical transformation of the urban landscape in the vicinity of Hillcrest and Abshier.

Eric N. Coon

Eric N. Coon

Lynda L. Coon

Lynda L. Coon

Residents of:
1336 N. Hillcrest
Fayetteville, AR 72703

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RECEIVED
JAN 30 2006
CITY OF FAYETTEVILLE
PLANNING DIVISION

Project Name: Abshire Heights

✓ 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:
Traffic, condition of Road, steep Grade, Hydrology, springs in the area Zoning Transition between C2 and Low density R1 should not be Condominiums. Original C2 zoning of Evelyn Hills originally designated this Area a buffer zone, low water pressure, Area not suited for 200 to 300 thousand dollar Condo's as developer claims etc

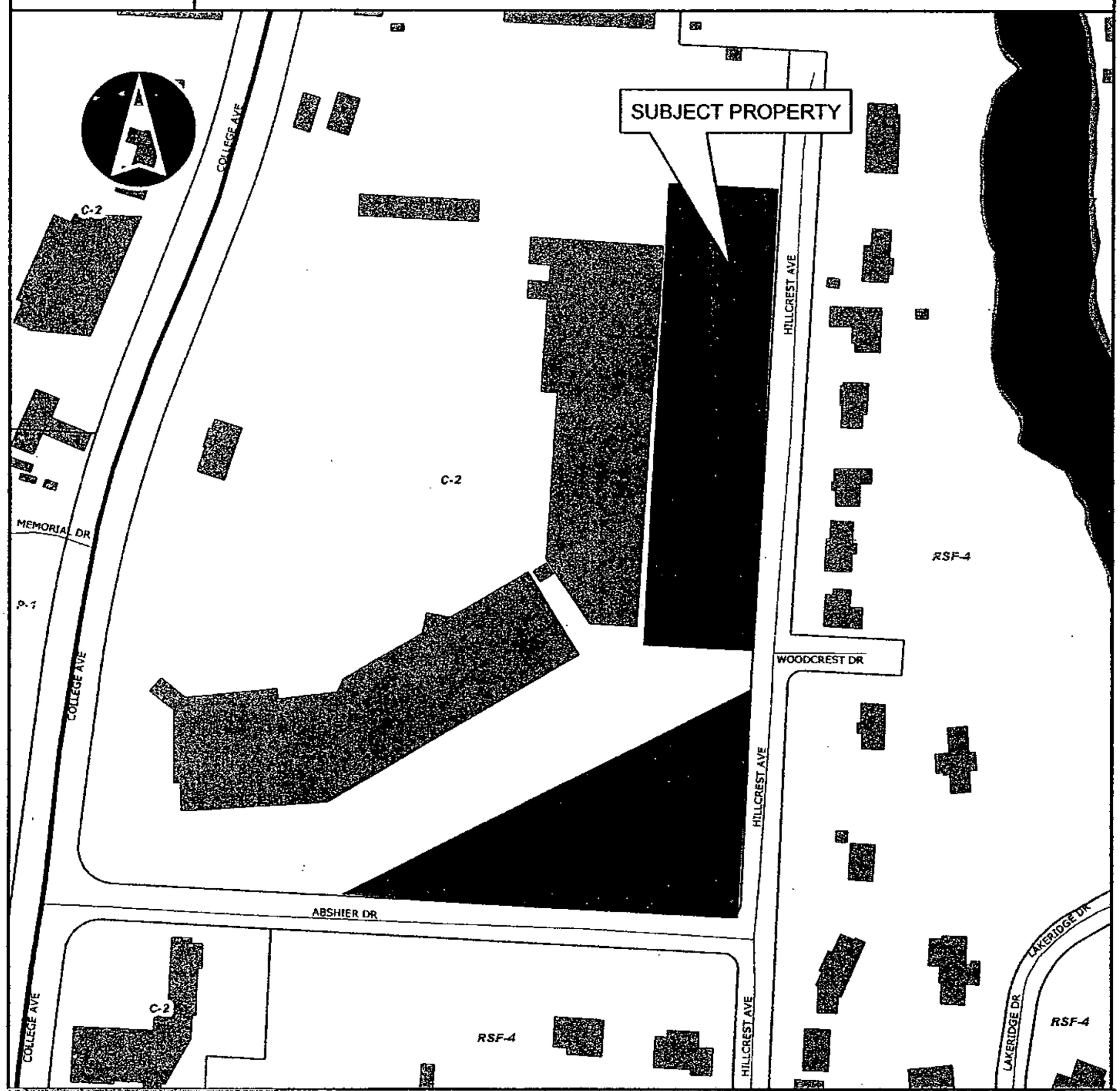
Name of Property Owner (printed)

Signature of Property Owner

RPZD06-1883

Close Up View

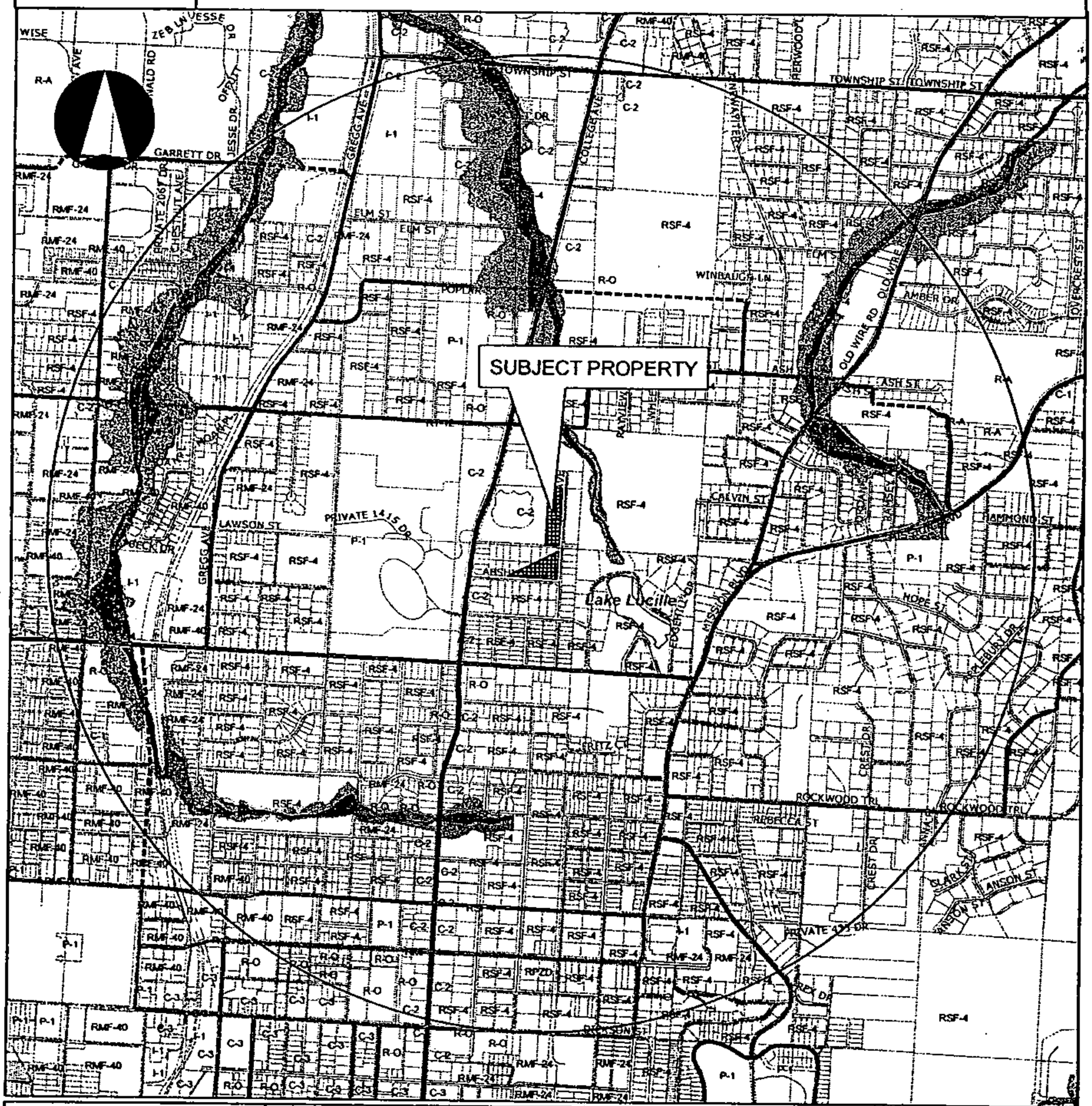
ABSHIER HEIGHTS



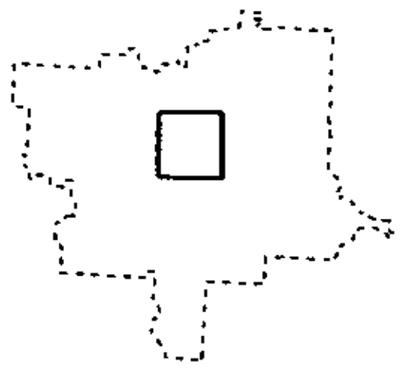
RPZD06-1883

One Mile View

ABSHIER HEIGHTS



Overview



Legend

Subject Property

RPZD06-1883

Boundary

Planning Area

Overlay District

Outside City

Legend

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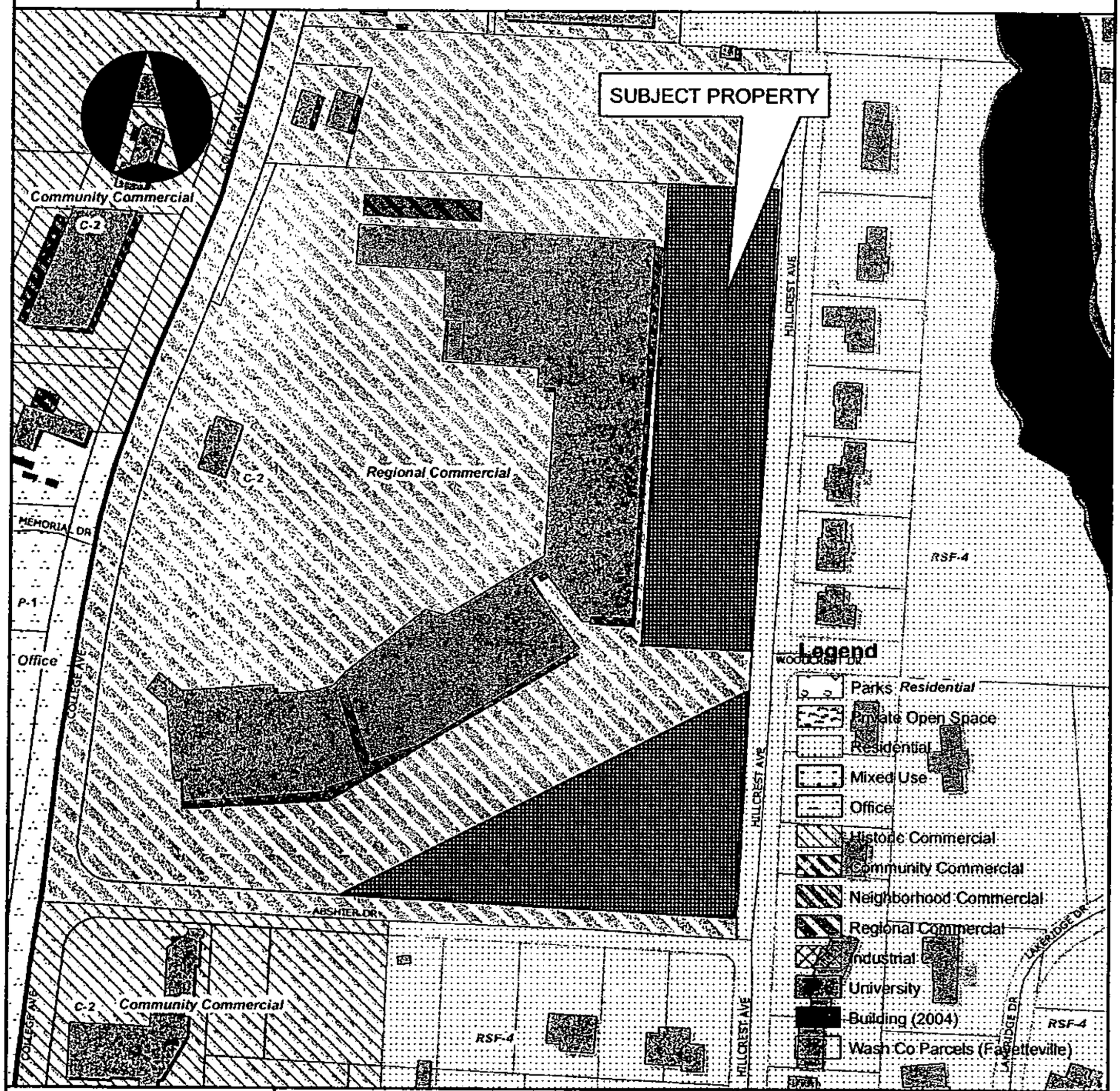
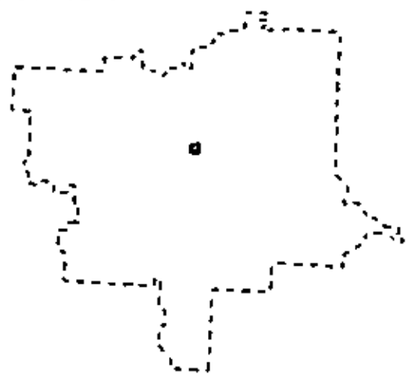
RPZD06-1883

Future Land Use

ABSHIER HEIGHTS



Overview



Legend

Subject Property

RPZD06-1883

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend

0 75 150 300 450 600 Feet

From: Jeremy Pate
To: Smith, Sondra
Date: 2/21/06 8:04AM
Subject: Re: Fwd: Appeal of R-PZD 06-1883: Planned Zoning District (ABSHIER HEIGHTS, 407)

Sondra,
A couple of things on this item:
1) A PZD can't be appealed to the City Council by a neighborhood; and
2) There is no appeal, since the Planning Commission forwarded it to the City Council with a recommendation for approval. With that recommendation, it automatically goes to the City Council. Were it denied, the owner of record or a City Council member could appeal that decision. All of the backup information should be on the agenda with our agenda request submittal.

Please let me know if you need anything more!

Thanks,
Jeremy

>>> Sondra Smith 02/17/06 1:43 PM >>>
Jeremy I have received the attached appeal. It looks like you have submitted an Agenda Item for the March 7, 2006 City Council meeting regarding Abshier Heights. Do we need to leave it on the agenda and place the appeal before it or do we need to leave the PZD off the agenda. I will also need any backup regarding the appeal. Thanks!

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: rwicks <rwicks@uark.edu>
To: <ssmith@ci.fayetteville.ar.us>
Date: 2/17/06 12:15PM
Subject: Appeal of R-PZD 06-1883: Planned Zoning District (ABSHIER HEIGHTS, 407)

Dear Ms. Smith,

As per our conversation of this morning, residents of the Hillcrest Avenue and Abshier Road are planning to appeal a decision made Monday, February 13, 2006 by the Fayetteville Planning Commission to approve R-PZD 06-1883: Planned Zoning District (ABSHIER HEIGHTS, 407). As we discussed, this item has been forwarded to you.

Our appeal will be based on a number of issues ranging from infrastructure, restrictive covenants, historic preservation, safety and neighborhood compatibility to name a few. The documents we deliver next week will include a detailed engineering report prepared by an emeritus professor of civil engineering along with a report on the legal aspects of this parcel as they pertain to restrictive covenants. We are also preparing a report on the historic preservation aspects of this parcel. Also, as one of our neighbors helping to develop these materials apparently was hospitalized earlier this week, and another is out of town, we need additional time to handle the appeal. However, we assure you the full appeal will be submitted next week.

With so many issues to confront, residents of our community believe that it would be in the best interest of the City Council to consider the appeal on March 7, 2006 and move the agenda item regarding R-PZD 06-1883: Planned Zoning District (ABSHIER HEIGHTS, 407) to the following city council meeting on March 21, 2006

Respectfully submitted on February 17, 2006.

By Robert H. Wicks and Jan L. Wicks on behalf of themselves and residents of Hillcrest Avenue and Abshier Road.

****
Rob Wicks
Associate Professor
Department of Communication
Kimpel Hall 417
University of Arkansas
Fayetteville, AR 72701

Office: 479-575-5958
FAX: 479-575-6734
****

CC: boydlogan <boydlogan@gmail.com>, decovision <decovision@msn.com>, dgay <dgay@uark.edu>, dhopster <dhopster@hotmail.com>, <i_markum@yahoo.com>, <jcbchivas@arkansas.net>, jjackson <jjackson@nwacc.edu>, jwicks <jwicks@uark.edu>, <ksexton@uark.edu>, llcoon <llcoon@uark.edu>, ngmiller <ngmille@uark.edu>, <rebeccahaas@sbcglobal.net>, rta <rta@engr.uark.edu>, rwicks <rwicks@uark.edu>, shayhopper <shayhopper@hotmail.com>, shopper <shopper@fayar.net>

RECEIVED
FEB 17 2006
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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Respectfully submitted on February 17, 2006.

By Robert H. Wicks and Jan L. Wicks on behalf of themselves and residents of Hillcrest Avenue and Abshier Road.

RECEIVED
FEB 17 2006
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

RECEIVED
FEB 17 2006
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

From: rwicks <rwicks@uark.edu>
To: ssmith <ssmith@ci.fayetteville.ar.us>
Date: 2/17/06 4:03PM
Subject: Appeal of R-PZD 06-1883: Planned Zoning District (ABSHIER HEIGHTS, 407)

Attachment enclosed:

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****
Rob Wicks
Associate Professor
Department of Communication
Kimpel Hall 417
University of Arkansas
Fayetteville, AR 72701

Office: 479-575-5958
FAX: 479-575-6734
****

****
Rob Wicks
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Department of Communication
Kimpel Hall 417
University of Arkansas
Fayetteville, AR 72701

Office: 479-575-5958
FAX: 479-575-6734
****

CC: <rwicks@uark.edu>

To: Mayor Dan Coody
Mr. Robert Reynolds
Ms. Brenda Thiel
Mr. Kyle B. Cook
Mr. Don Marr
Mr. Robert K. Rhoads
Mr. Bobby Ferrell
Ms. Shirley Lucas
Mr. Lioneld Jordan

Copy Ms. Sondra Smith

From: Mr. Robert and Mrs. Jan Wicks, 1314 N. Hillcrest Avenue
Mrs. Gus Jones, 1330 N. Hillcrest Avenue
Ms. Linda Coon and Mr. Eric Coon, 1336 N. Hillcrest Avenue
Mr. Boyd and Ms. Trisha Logan, 1426 N. Hillcrest Avenue
Mr. Robert Alguire and Ms. Mary Alguire, 1235 N. Hillcrest Avenue
Mr. William and Ms. Nancy Miller, 309 E. Abshier Drive
Mr. David and Ms. Shay Hopper, 1224 N. Hillcrest Avenue
Mr. Jeffrey Jackson, 1414 N. [illegible]llcrest Avenue
Ms. Rebecca Hass, 1440 N. [illegible] Avenue
Mr. Jed and Ms. Irene M[illegible] Hillcrest Avenue
Mr. David Beauchamp [illegible] Beauchamp, 1516 N. Hillcrest Avenue

Abshier Heights

Date: February 27, 2006

Jan Wicks
W 575-6304
h 521-2319

RE: R-PZD 06-1883 [illegible] 407)

for March 7, 2006 Agenda

General Statement

The neigh[illegible] ng and unified opposition to the proposed Pla[illegible]

The pr[illegible] wellings on two public residential streets w[illegible] hier Road. It compresses 30 units into a very small c[illegible] oks the roof and dumpsters of Evelyn Hills. It presents sign[illegible] Abshier empties onto 71-B at a hilly location with a limited line of sigh[illegible] North Street at a blind stop sign that motorists often ignore. North is often th[illegible] closed during inclement weather. Vehicles regularly are stuck or slide off the ro[illegible] neighborhood and around the shopping center. These dangerous intersections are only exa[illegible] ated by the additional traffic during all times of the day and night from the proposed PZD. It violates restrictive covenants, adds stress to infrastructure including water pressure and other public facilities and services. The proposed PZD will endanger and significantly degrade the environment and aesthetics of the historic E. Fay Jones residence, the only one of its kind in the world. Thus we ask that the development be denied and the parcels of land in question retain their current zoning status.

RECEIVED
FEB 27 2006
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Planning Commission Member Candy Clark, who lived in this neighborhood for about five years, voted against approving the PZD because of how dangerous Hillcrest and Abshier streets are, the lack of honoring the covenant, the lack of compatibility with the neighborhood, the excessive density of the PZD, lack of honoring the covenants, etc. Clark noted the lack of a sufficient transition between the shopping center and existing residences, remarking "You can stand on the front porches and spit on Evelyn Hills...as long as you can stand in a house and see the commercial, I'm not sure that is real transitional." (A complete copy of her comments can be found in the minutes of the February 2, 2006 Subdivision Subcommittee meeting. Excerpts are included at the end of this appeal.)

(Copies of items referenced in this document including the Restrictive Covenants regarding the property from 1962; the Planning Commission Meeting minutes of June 24, 1991; the Planning Commission Meeting minutes of July 22, 1991; and the Bill of Assurance from 1991 are attached to this document.)

Rationales

Our objections include but are not limited to the following rationales listed herein. We have based these objections on the Unified Development Code (UDC).

Rationale 1: Creating and Compounding Dangerous Traffic Conditions

Section 7-d (CDD 166:18-19): A development may be denied or refused because of a dangerous traffic condition, "in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern."

Page CD 166:26: Traffic Circulation (including but not limited to):
(a) The adequacy of both the internal and external street systems shall be reviewed in light of projected future traffic volumes.
(b) The traffic circulation system shall be comprised of a hierarchical scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

Access to the neighborhood is limited and unsafe even without the addition of a minimum of 60 vehicles. The proposed PZD will only add to an existing traffic pattern that is already dangerous due to volume, topography and nature. The only neighborhood public ingress and egress are Hillcrest Avenue and Abshier Road. Both are already dangerous intersections with limited sight lines on or near steep slopes. Abshier empties onto 71-B, the most dangerous road in Fayetteville, at a heavily-traveled hilly location between Rick's Bakery and the Evelyn Hills Shopping Center light. Abshier Road is often impassible and always slick during periods of heavy rain, snow and ice. The steep grade at the western end of Abshier Road can lead motorists to slide onto 71B making this one of the most dangerous intersections in Fayetteville. Even during clear weather, the intersection remains dangerous because traffic coming from the south on 71B comes over a hill at high speeds that is very close to the intersection. The posted speed is 40 miles per hour, but many (if not most) motorists exceed this speed. The location between heavy traffic in and out of Evelyn Hills, and more importantly to and from Rick's Bakery at that corner, compounds the problem.

In addition motorists use Hillcrest Avenue and Abshier Road to circumvent the traffic light at the corner of North Street and 71B. The addition of 30 units with a minimum of 60 more vehicles in a small area accessed through limited and dangerous intersections will produce an even more dangerous traffic situation. These problems will be further exacerbated by residents or visitors to the proposed development who may park on Hillcrest or Abshier.

Leaving the neighborhood by way of Hillcrest Avenue onto North Street is equally dangerous. Motorists driving east on North Street from Mission Boulevard climb a steep hill that ends at Hillcrest Avenue before continuing downhill to 71B. This is a "blind" stop sign where motorists on Hillcrest cannot see down the hill toward Mission. Motorists coming up Mission cannot see Hillcrest until they are virtually at the intersection. Motorists routinely ignore the stop sign on North Street at Hillcrest Avenue. Motorists on Hillcrest turning either east or west onto North Street are often forced to accelerate to avoid the westbound traffic on North Street. Furthermore, motorists traveling east on North Street and turning north on Hillcrest Avenue must yield to motorists from North Street and Hillcrest Avenue. This intersection presents a confusing dilemma for motorists. The combination of a stop sign on North Street that is often ignored and confusion among motorists as to who has the right of way poses a significant danger. Again, this dangerous condition worsens during inclement weather. North Street is one of the locations in the city closed first during inclement weather. One must expect that access is unavailable at this ingress/egress at times.

The developers are counting Evelyn Hills as an ingress/egress for the development. One must question whether there is sufficient ingress/egress in the area in the first place if the developers must use a shopping center for this purpose. One must also question whether it is appropriate to use private roads as primary ingress/egress.

The proposed primary ingress/egress through private property is a narrow and extremely steep road into the back of the shopping center. There will be serious sight distance problems here as well because motorists are looking down into the shopping center a short distance to a curve that goes under the arch there. Motorists looking up to Hillcrest have a short sight distance as well. Again, these problems are exacerbated during slick or impassable conditions due to rain, snow and/or ice.

In addition, this primary entrance and exit to the proposed PZD is onto a private, narrow road under an arch between the two halves of the shopping center. Between the two halves is a pedestrian crosswalk with a stop sign that is largely ignored. The private access roads also have significant truck traffic making deliveries to and from businesses in Evelyn Hills. Delivery trucks often come barreling up and down Hillcrest and Abshier. Trucks get stuck on the access roads during inclement weather, as happened during the snowstorm in February 2006. One must therefore expect that access will be unavailable at times.

There are serious questions of access for emergency and fire vehicles even without the proposed development. The increased traffic in this small area used frequently by trucks of all sizes and types will only exacerbate the dangerous traffic conditions including steep grades, limited access at already dangerous intersections, and impassability during inclement weather, heavy truck traffic, etc. The additional traffic from the proposed PZD only compounds the existing serious traffic and safety concerns.

Rationale 2: Historical Precedents Dictate Turning Down Duplexes and Similar Developments Abutting Evelyn Hills and the Neighborhood

Historical precedents since the construction of Evelyn Hills turned down developments for the same reasons raised now. The property has not changed, "improved" or overcome any of the reasons for which development was denied in 1991. The difference now is that the reasons have only worsened over time.

The Fayetteville Planning Commission voted 7-0-1 on July 22, 1991 to deny a conditional use for constructing duplexes. Mr. Dick Oliver appeared before the Commission in June 1991 and stated that the property was to be used as a green space to provide a buffer between the residential neighborhood and Evelyn Hills. He explained the company that purchased the shopping center had not purchased the subject tract of land because it was green space. He stated the noise from the shopping center was a problem, there would be no view for any building constructed there, and the impassability and danger due to the slopes was contrary to development. Residents convinced planers in 1991 that development runs counter to the original objectives of the property.

At the June 1991 meeting, E. Fay Jones, 1330 Hillcrest, stated construction of the duplexes would change the environment of the neighborhood which had always been single-family homes. He requested the conditional use e denied. As an internationally renowned and honored architect, his perspective is valuable. Mr. and Mrs. Jones have noted repeatedly that the original plans for rezoning the area for Evelyn Hills was granted on the condition that the area abutting Abshier Drive and Hillcrest Avenue will remain buffer or green space in perpetuity. The neighborhood submitted copies of covenants to the Planning Commission in support.

The abutting property owners and neighborhood object strongly to and are unified in opposition to this development for the same reasons a similar development was turned down in 1991. It is incompatible with the neighborhood and hampers the health, safety, amenity and welfare of the community.

Rationale 3: Issues of Public Services and Facilities and Site Unsuitability for the Large-Scale Project Proposed

From Section 166.05 Large Scale Development (LSD) CD 166-18:
Section 7-b: "The developer may be required to install off-site improvements, where the need for such improvements is created in whole or in part by the proposed large scale development or preliminary plat. For purposes of this section, any off-site improvements shall mean all or any part of, a street, surface drainage system, water system, or sanitary sewer system, which is to be installed on property located outside the proposed large scale development or preliminary plat."

Section 7-c: "Any required off-site improvements shall be installed according to city standards. The developer shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the large scale development or preliminary plat."

166.06 Planned Zoning District (PZD) Section E - Approval or Rejection Criteria for Planned Zoning Districts, including but not limited to: "(2) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services."

166.06 Planned Zoning District (PZD) E - Approval or Rejection Criteria (CD 166:21)
"Whether the subject land is suitable for the intended use and is compatible with the natural environment."

166.14 Commercial Design and Development Standards (A) Purposes
(including but not limited to)
(2) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, and drainage.
(6) To preserve property values of surrounding property.

166.14 Commercial Design and Development Standards (A) Purposes
(2) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, and drainage.

The Planning Commission erred in approving this development because it has not even been adequately considered whether the general impact of the rezoning would adversely impact the provision of public facilities and services to the neighborhood. The neighborhood and abutting property owners are very concerned about the effect on water and sewer pressure, capacity and/or infrastructure from the proposed development. For example, the Fayetteville Fire Department expressed concern that the fire hydrant at Hillcrest Avenue and Oakwood Drive flows at less than 400 gallons per minute. The developers indicated they would tie into the existing 6" sanitary sewer line in two places. The developers note a 6" waterline tees off of the existing 8" water line and turns down the access road into Evelyn Hills. They state they will tie their waterline into the 6" waterline and loop it to the north, tying into the 8" waterline along Hillcrest Avenue.

City water department employees and experts have stated to various neighborhood residents that nothing can be done to improve existing pressure without rebuilding the grid, which is one of the oldest in the city. During the Planning Commission meeting one of its members noted that there was no guarantee the residents would have sufficient water pressure after the development was complete. There are no explicit requirements in the PZD about the type and nature of water pressure, sewer pressure, etc., guaranteed to neighborhood residents if the development were completed. The effect of such problems on the neighborhood was not fully considered. This development will degrade the neighborhood as people will not buy property where they cannot get adequate water pressure, public facilities and/or services. And it would mean the city has willingly entered into an arrangement with a developer that deprived the existing residences of an adequate water supply and other public facilities and services.

In addition there has been discussion of retaining walls or other aspects of the development relating to the topography and steep slopes in the area. The area is surrounded by extremely steep slopes due to the step excavation done to build Evelyn Hills. Slopes of this nature are generally unstable and problematic for load bearing construction or utilization. This is compounded by the presence of springs in the area. The area contained water during the whole dry period over the last year suggesting a water table close to the surface in the area of heaviest proposed density. The combination of the soil and saturated water conditions under the traffic and overburden created by these units will lead to settling, causing cracks and misalignments in doors and windows.

The presence of springs and soil moisture was documented by previous construction in the area. The Jones Residence on 1330 Hillcrest Avenue was redesigned during construction due to the discovery of a spring on its site. The Jones papers indicate springs were found when Evelyn Hills was constructed. Apparently there have been problems with soil moisture recently in the USA Drug construction at Evelyn Hills as well.

Abshier Road already has longitudinal cracking, especially near the side where the steep slopes drop down onto the property, showing there is already some slope instability. Retaining walls will be needed to stabilize the area. Widening Abshier as proposed, 14 feet from center in, would require a retaining wall that could reach about 30 feet tall at certain parts of the streets. This is similar to and in close proximity of the Kings Drive area that is collapsing. Given the existing instability, it appears the city could have a reoccurrence of the crumbling and infrastructure problems found on nearby Kings Drive.

Rationale 4: Covenants and Bills of Assurance Regarding the Property

150.07 Conflicts (CD 150:3): "UDC/private agreements: The UDC is not intended to abrogate any private agreements, deed restrictions, covenants, easements, or other private agreements on the use of land."

166 Section 7-d (CDD 166:18-19): "The Subdivision Committee or Planning Commission may refuse to approve a large scale development or preliminary plat for any of the following reasons" (with reasons i through vi).

i. The preliminary plat or development plan is not submitted in accordance with the requirements of this chapter.

ii. The proposed development would violate a city ordinance, a state statute, or a federal statute.

166.06 Planned Zoning District (PZD) Section E - Approval or Rejection Criteria for Planned Zoning Districts, including but not limited to: "(2) Whether the application is in compliance with all applicable statutory provisions"

166.06 Planned Zoning District (PZD) E - Approval or Rejection Criteria (CD 166:21) "Whether any other recognized zoning consideration would be violated in this PZD."

Copies of covenants and Bills of Assurances were provided to the Planning Commission at the February 13 meeting. They also were discussed at the preceding Subcommittee Meeting of the Planning Commission. The developer's preliminary plat or development plan given to neighborhood residents claimed, "There are no covenants, trust or Homeowner Associations associated with this project." (Found on page 7 of the Abshier Heights Master Development Plan provided to abutting property owners.)

<u>Rationale 5</u>: The rezoning to allow the proposed development is inconsistent with and does not follow the General Plan 2020 Future Land Use Plan.

The Planning Commission Staff Report to the City Council states "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."

At the initial Subcommittee Meeting members of the neighborhood noted that approximately seven single-family houses would be the appropriate infill for this site if developed. The General Plan itself notes that this site is designated as a Residential Area. The Planning Commission varies this future land use. We submit that the Planning Commission did not follow the General Plan 2020 Future Land Use Plan and this development should be rejected. In essence, the neighborhood is asking the City to adhere to its own plan.

At present Fayetteville is in the process of developing a new City 2025 Plan. At the City 2025 Plan meetings residents were told to "ignore topography, infrastructure and compatibility" when they placed dots on a city map to suggest where appropriate infill might be developed. Residents (including members of our neighborhood) who took part in these planning sessions were specifically directed to ignore all important considerations that are considered when making development decisions. Therefore the City 2025 Plan is not applicable to this development and neighborhood because the serious concerns regarding topography, safety, incompatibility of the proposed development, etc., were not considered. The City 2025 Plan has not been finalized or officially adopted. In addition, the proposed development is not consistent with the principles of the City 2025 Plan to foster compatible and appropriate infill.

<u>Rationale 6</u>: The rezoning to allow the proposed development is incompatible with the neighborhood and runs counter to historical covenants and precedents.

166.06 Planned Zoning District (PZD) E - Approval or Rejection Criteria (CD 166:21)
"Whether the subject land is suitable for the intended use and is compatible with the natural environment."

166.14 Commercial Design and Development Standards (A) Purposes
(2) To address environmental concerns which include, but are not limited to, soil erosion, vegetation preservation, and drainage.
(6) To preserve property values of surrounding property.

166.06 Planned Zoning District (PZD) E - Approval or Rejection Criteria (CD 166:21)
"Whether the subject land is suitable for the intended use and is compatible with the natural environment."

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Strong and unified opposition to the development from the neighborhood and abutting property owners was voiced at all previous public meetings. The opposition includes objections regarding compatibility, an inadequate transition, and a lack of green space or buffer as intended and required by the original covenants. Again, these are some of the reasons a similar development was denied in 1991.

On page CDD 166:25 it is noted that "Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood" and "The Planning Commission shall determine that the specific development features...shall be combined in such a way as to further the health, safety, amenity and welfare of the community." As the abutting property owners and neighborhood object strongly to this development, it is argued that the Planning Commission did not take the welfare of the community into account when making this decision.

The proposed PZD is incompatible because it is an inappropriate transition between Evelyn Hills and the existing neighborhood. First, the green space behind Evelyn Hills was originally conceived to screen the neighborhood from the shopping center, two incompatible land uses. This screen was to protect and enhance these residences and the neighborhood, a purpose still accepted as important by the City of Fayetteville in its Unified Development Code and tree ordinance. Thus an important criterion for denying a similar development in 1991 on the property is still recognized and followed in current City ordinances.

Second, the density of this development is an inappropriate transition between the shopping center and neighborhood. The strips of land are too narrow for an adequate transition. Thirty town homes and duplexes packed in such a tight area without the typical amenities of "luxury condos" (such as a swimming pool, recreation facilities, covenants or agreements for maintaining the buildings and grounds, adequate green space, etc.) are not an adequate transition.

Third, the quality of the proposed town homes and duplexes are incompatible and are not an appropriate transition. Initially the neighbors were told the units will be sold for approximately $200 per square foot at a meeting hosted by Cooper Architects on January 26, 2006. In the Planning Commission meeting the developers indicated an estimate of $125 per square feet. A 1,750 unit would sell for $350,000 based on the $200 estimate or $218,750 based on the $125 estimate. Will families seeking quality residences realistically pay these amounts for dwellings overlooking the roof of Evelyn Hills?

These units also overlook the dumpsters on the access road behind Evelyn Hills, which have an unpleasant odor at various times of the year and attract pests. The development abuts dumpsters from Evelyn Hills on one side and may face dumpsters or trash areas provided for this development on the other. The owners and/or their representatives asked for a variance regarding trash storage and collection which appears to acknowledge yet exacerbate this problem. In addition the proposed private road overlooks the back of a mattress store and Rick's Bakery where it empties onto Abshier Road. Details including the size and nature of the sign and the location of mailboxes or where mail would be delivered are omitted from the master development plan given to the neighbors. It is unclear whether these are 3-bedroom units, which would dictate planning for 90 additional vehicles in the area or one per bedroom.

Assume the units do not sell, or do not sell at the proposed prices. Presumably each unit would require 3 to 4 renters to meet mortgage and upkeep costs. This compounds the aforementioned traffic, safety and infrastructure issues. Units also may sit vacant and be targets for vandalism, crime or become eyesores. If there are no condominium agreements or covenants for maintaining the property and grounds these problems could quickly worsen.

It is reasonable to note that potential buyers who intend to live in the units will not desire to have trash receptacles on both sides of their residence or overlook the unattractive roof or back sides of aging shopping centers. Condos in the old St. Joseph buildings on Lafayette Street and the Oak Park Condos on Sycamore Street behind the old Long John Silver's restaurant remain empty. This suggests the market for this type of unit is already saturated. This development is not the appropriate type or character of residential development for the area and is inconsistent with the existing neighborhood. It is not an appropriate transition between Evelyn Hills, the neighborhood, and the historic Jones residence across the street.

The Restrictive Covenants from 1962 and the 1991 Planning Commission decision to deny a similar development provide intent and historical precedents that the area remain green space. This screen was to protect and enhance the neighborhood and these residences, a purpose still accepted as important by the City of Fayetteville in its Unified Development Code and tree ordinance. The Master Plan designates this area to be a residential area. Therefore the Planning Commission decision violates both the precedents and intent regarding the property and neighborhood.

The neighbors have suggested appropriate development might include seven single-family homes if the site allows. Most appropriate is leaving the property as a green space as it was originally intended. Neighbors regularly see deer, foxes and other wildlife on the property, which is especially a delight for the neighborhood children. The existing green space has added to the natural and intimate character of the neighborhood and fits the architectural and landscape vision of E. Fay Jones and his historic residence across the street.

Finally, residents would be interested in working with the City of Fayetteville to acquire private, federal, state or other financial resources or grants to improve the site to be designated as the E. Fay Jones Park or Natural Preserve. We have researched the E. Fay Jones archives and papers in the Special Collections at Mullins Library. Renderings of possible uses of that space by Jones himself are available in that collection.

Rationale 7: Consideration and Protection of Historically and Culturally Significant Residence or Structure Abutting the Development.

166.06 Planned Zoning District (PZD): "Master development plans may include more restrictive regulations than that which is included in other sections of the UDC, but standards shall not be established that fall below these minimum standards."

166.06 Planned Zoning District (PZD) E - Approval or Rejection Criteria (CD 166:21)
"Whether any other recognized zoning consideration would be violated in this PZD."

166.14 Commercial Design and Development Standards (A) Purposes
(3) To protect and preserve the scenic resources distributed throughout the city which have contributed greatly to its economic development, by attracting tourists, permanent part-time residents, new industries and cultural facilities.

166.14 Commercial Design and Development Standards (A) Purposes
(6) To preserve property values of surrounding property.

In addition to the numerous reasons for denying this proposed PZD, the neighborhood and abutting property owners strongly object to it because it violates the privileged space surrounding the E. Fay Jones residence. According to Mrs. Gus Jones it was the first residence Jones designed and built after he became a registered architect. The residence is a cultural and architectural landmark designed by Jones himself in 1956 and listed on the National Register of Historic Places in 2000. E. Fay Jones, a native of Arkansas and full-time resident of Fayetteville, was among only a handful of distinguished architects worldwide to be awarded the American Institute of Architect's (AIA) Gold Medal.

A good part of the cultural heritage of Fayetteville--and tourism revenue--rests on the fact that Fayetteville was Jones' chosen home. He graced the city and surrounding communities with architectural treasures recognized worldwide. While Eureka Springs has Thorncrown Chapel, Fayetteville has the distinct privilege of being home to the E. Fay Jones residence, one of his first and formative designs and his own home. Thus, approving this project compromises the city's future heritage tourism revenue.

Widening Hillcrest to accommodate the development would dramatically affect the Jones home site landscape. The landscape's relationship to the approach and entry to the home was always a primary concern to Jones – a signature concern, in fact. Any change to the street would dramatically damage this critical relationship, thus doing severe damage to the overall design, the landscape, and the sculpture. In terms of motorist safety, widening Hillcrest Avenue in front of the Jones residence will certainly make it more likely that someone could crash into the sculpture or stone landscaping, especially during slick or icy conditions.

More important, the proposed development disrespects Jones' legacy in the eyes of neighborhood residents, city residents, and the architectural community worldwide. Few distinguished architects would support a development such as this across the street from their own residences, but the space around Jones' distinguished house merits very special, sensitive, and thoughtful consideration. It does not require professional training in architecture to understand that the delicate balance struck between nature and architecture is Jones' most significant contribution to 20th-century architecture. Anyone with access to the internet quickly learns that Jones' unique appreciation of the site and environment demanded that nature, light, and air be invited to penetrate the building, reinvigorating the inhabitants. The density of the proposed development is most particularly an affront to this exquisite statement of Jones' Ozark style. Because the density of the proposed project is so high, some of the planned units would stand very close to the Jones residence. Others will disturb the peaceful environs through untold and uncalculated traffic volume, and noise and air pollution from 30 units wedged behind Evelyn Hills Shopping Center and Hillcrest Avenue.

Mr. Jones himself was instrumental in establishing the original covenants for the property behind Evelyn Hills and opposing the development that was declined in 1991. Keeping the property in its natural state or as a green space maintains the intent and vision of this noted international architect for the area for future generations and visitors. Thus the significance and nature of his work, as well as his personal views of what is appropriate for the property, oppose the proposed development.

It appeared some members of the Planning Commission did not seem to fully appreciate that the architectural and personal legacy of E. Fay Jones and his historic residence at 1330 Hillcrest have global significance. According to the National Register of Historic Places: "The E. Fay and Gus Jones House is exceptionally significant because with this house Jones expressed the guiding principles of his personal organic design philosophy, including sensitivity to natural setting, honest use of materials, and an appreciation for the interplay of light and space. The construction of this house jump-started Jones' career." Some members seemed not to understand how dependent Jones' designs are on their landscape and surroundings for their architectural resonance. Hence, even if the building itself is not physically damaged by the oversized development, it will, in effect and in fact, be ruined for future generations.

The global significance of his work was very recently reaffirmed when Mrs. Gus Jones accepted the AIA Twenty-five Year Award for Thorncrown Chapel just two days before the Planning Commission voted to approve the Abshier Heights project. The award is given to one building annually for the architectural design that has stood the test of time for 25 years. Mrs. Jones accepted the award in honor of her husband on February 11, 2006, in Washington, D. C. Significantly, the AIA release stated: "Five million people have visited Thorncrown Chapel since it opened in 1980...During certain times of the year, the chapel draws more than 2,000 people per day, and Sunday services draw 300 people...This indicates the popularity and enduring appeal of Jones's work...Jones passed away on August 31, 2004, at his home in Fayetteville, Ark., at the age of 83...He will always be recognized as the man who built Thorncrown Chapel, and remembered as one of the leading architects of the 20th century."
(See http://www.aia.org/release_122005_25yrThrncrown).

Clearly, E. Fay Jones continues to bring much national and international attention to Fayetteville, a community he called home for many, many years. Thus, for the Planning Commission to approve the proposed Abshier Heights development simply on the grounds that there was no legal reason not to build in front of Jones' residence inadvertently disrespects Jones' legacy and compromises the present and future cultural heritage of the city. The UDC itself states it is important to preserve and protect Fayetteville's scenic resources. Consequently there are grounds upon which the Planning Commission should have denied this development. We ask you to deny this development and protect one of Fayetteville's most important scenic, cultural and historic resources.

ADDENDUM: We concur with the comments of Planning Commissioner Member Candy Clark, a former resident of this neighborhood, made at the February 2, 2006 Subdivision Committee meeting.

Clark: I cannot support this project as it currently is – can't do it for several reasons.

- First of all, I'm very confused about the issue of the buffer. I've grown up hearing about it. If 1,000 people changed their mind, the neighborhood has been left out and I'm not sure why we honor other promises to neighbors that I can't find in stone anywhere, just a verbal promise, but not these neighbors.
- Secondly, I think the density is by far too much – 7.3 units in this area are totally out of character with the neighborhood. It is a very nice neighborhood, spread out, larger homes. It dovetails into my third concern which is traffic.

- Abshier and Hillcrest are horribly maintained streets, local streets – no curb, no gutter and they don't go anywhere. Abshier goes to College, that is one of the most deadly intersections trying to pull out from the Rick's Bakery. Hillcrest goes to North Street to a stop sign that I never could figure out when I lived there. Who has the right-of-way? You pray and go. It doesn't go anywhere to the north. I think if you add this much density to those streets, it is going to compound a horrific problem. A lot of people walk in that area because they go down to the pond in the other development. It is a very, very communal area. It doesn't have sidewalks now and the only place you can walk is in the street. And to add this much density there is just a terrible mistake.
- Finally, I think the slope off of Abshier is very steep and I'm going to go review that. I don't know that there is a lot of greenery on that slope either. It's pretty darn severe and that concerns me. I do think this could develop but I think it could develop into single-family homes on larger lots. I would support that. But I cannot support it with the current 7.3 units that are proposed. I think you are going to be making it a horrific traffic situation. I don't think Hillcrest is ever going to go to the north. If you look at the pictures, it kind of stops. As long as you are funneling traffic out into North Street or to College, it is just going to compound a bad situation. And that access [to Hillcrest from behind Evelyn Hills] that we are talking about, come on. That is ill maintained concrete that is riddled with potholes most of the time. I don't know who is in charge of it, but don't call it an access to me unless you are going to go in and gut it, pave it and do what you need to do to it and at that point it is still a significant slope. That was my favorite cut through to get home and I lost a muffler there one time. You kind of compounded this, too, Tim, by saying they can't sell that property behind Evelyn Hills. I wonder if that is tied up in the covenants buffer thing. Right now there are too many unknowns to me and the density is way too high and the bad traffic situation will be compounded…
- I don't think it is compatible with the neighborhood at all with that density. I think it could develop beautifully but not like that.
- Transitional is a little bit more than 50'. You can stand on the front porches and spit on Evelyn Hills. That's not a big transition at all. To me, if it was bigger, if you were talking about on the other side of the street maybe, that could be transitional. To me that is a transitional zone. I don't know if there is a definition for it – it has to be "X" number of square feet, but as long as you can stand in a house and see the commercial, I'm not sure that is real transitional.

City Council Meeting – March 7, 2006 – Abshier Heights

Speakers

1. **Rob Wicks – resident, 1314 Hillcrest Avenue. Overview of the objections to R-PZD 06-1883 Abshier Heights.**

2. **Professor Jeff Shannon, dean, School of Architecture, University of Arkansas. Architectural significance of E. Fay Jones Home.**

3. **Robert Alguire – resident, 1235 Hillcrest Avenue. Professor Emeritus, Civil Engineering, University of Arkansas. Safety and infrastructure concerns.**

4. **Shay Hopper – resident, 1224 Hillcrest Avenue. Development and the 2025 plan.**

5. **Jimmie Beauchamp – resident, 1516 Hillcrest Avenue. History and tradition.**

6. **Jan Wicks – resident, 1314 Hillcrest Avenue. The E. Fay Jones legacy and future considerations.**

JOHN G. WILLIAMS, FAIA, Emeritus Professor of Architecture, University of Arkansas
Doctor of Arts and Humane Letters, University of Arkansas

March 3, 2006

Dear Mayor Coody and Members of the City Council:

This letter is written for your consideration regarding the need to protect the area near the residence of the late Fay Jones and Mrs. Fay Jones.

I am including a paragraph from a letter I wrote to the Chairperson and Members of the Planning Commission and Staff of Fayetteville, Arkansas, dated October 9, 1995. I believe this paragraph (5) continues to be relevant to the City of Fayetteville today, especially to the need to protect certain special areas of the city as the one near the Fay Jones residence.

"5. Finally--and a question that many of us see as very important to most of the residents of Fayetteville--Many of us have chosen to move to Fayetteville and continue to live here because we deeply value and appreciate the quality of life the city and the area provide."

"There are many special, tangible elements such as social, economic, educational, and recreational advantages, but the very special quality of life in Fayetteville is largely a combination of both tangible and intangible elements."

"One of the intangible elements is the visual beauty of the city, its neighborhoods and the natural beauty of its setting. Many of us believe that this quality is perhaps Fayetteville's most valuable asset. Many of us have an uneasy concern that this valuable asset is being threatened and destroyed."

The area around the Fay Jones residence is an important example of our city's beauty that must be protected because it is an integral part of the home's setting. The Jones home is a nationally recognized residence of unique architectural value in a natural setting revealing the visual beauty of Fayetteville that no other residence reveals in the same way. If this area is not protected in its natural state, which represents Fay Jones' vision for the area, we have destroyed this valuable asset forever.

Also included are paragraphs from the Foreword to The Curious and the Beautiful: A Memoir-History of the Architecture Program at the University of Arkansas, published in 1984, which point out an important contribution to the quality of the architectural design that became especially identified with Fayetteville.

Emeritus Architect ▪ Landscape Architect ▪ Consultant, Campus Planning & Energy Conservation in Design
140 North Sang Avenue ▪ Fayetteville, Arkansas 72701 ▪ (479) 442-4317

"... John [Williams] and his faculty began and sustained architectural education in Arkansas---forthright friendliness; unassuming, almost naïve trust in unpretentious work and honest of purpose; and easygoing humor...In several visits to the school in Fayetteville over the years, I have found reassuring evidence that wholesomeness combined with a desire for and support of extraordinary design talent have been and remain the hallmark of the school. The sustaining presence of John Williams and Fay Jones, the heritage of Ed Stone, and the influx and outflow of talented faculty and students have left an indelible impression on the community, state, and region."

The Foreword by A. Richard Williams, professor emeritus of architecture at the University of Illinois and an author and lecturer on architecture concludes by reiterating the important legacy of Fay Jones, Edward Stone and those of us involved in establishing the University of Arkansas School of Architecture:

"I believe that Professor John Williams's story of the school's beginnings, struggles, accomplishments, and aspirations is more than a conscientious record of historical facts, though these have great value to the community. It is also of wide significance in the national perspective of architectural education, as future scholars, educators and practitioners look for those unique places in America where the integrity of architecture as one of the highest values in the lives of free men has been understood and quietly practiced."

I concur with Mr. Richard Williams that the significance and influence of the residential designs of Fay Jones are an important part of our city's history. As I expressed on page 38, "After building several houses for Fay, some of these builders were sought out to build other Jones-like houses, and Fay's designs came to have a noticeable influence on residential architecture in Fayetteville and the surrounding area." Frank Lloyd Wright himself recognized the importance of the Fay Jones residence in his lecture at the University of Arkansas on April 15, 1958.

The Fay Jones residence is indeed one of those unique places in America where the integrity of architectural design in a place of natural beauty is exhibited. The area surrounding the residence is integral to the invaluable architectural vision of Fay Jones. If we allow any development in the area, we are destroying an irreplaceable example of the highest architectural value and integrity that is unique to Fayetteville. In essence, we destroy the foremost historic example of that intangible visual beauty and charm that defines us as Fayetteville.

Thanks,

John Williams

John Williams

Original Message From Roy Reed <royreed@pgtc.com>

March 6-7, 2006

Fay Jones and I sat at his dining room table on 65 Monday mornings and tape-recorded his thoughts and memories for the Arkansas Center for Oral and Visual History. Those interviews are being compressed into a book for the University of Arkansas Press. One of the emphatic themes running through his recollections is his insistence that environment matters. A building that violates the nature of its site is an affront to the environment, he said over and over. The land south of Evelyn Hills was left wild to serve as a buffer between the commercial and residential districts. More than once, Fay sat at the table and mused over the importance of keeping that land in its natural state. He was a modest man. He would never try to persuade the city to build a park and name it for him. But there is no doubt in my mind that he would applaud turning the land into a park. He would probably say, "Just name it John Doe Park." I think the city can do better than that. Here's a Fayetteville citizen who ranks in the world's memory with the likes of J. W. Fulbright and Edward Durrell Stone. Naming a park for him would be entirely appropriate. And what better place for the park than across the street from his house?

Roy

ABSHIER HEIGHTS

MASTER DEVELOPMENT PLAN

(R-PZD 05-036)

H2
ENGINEERING, INC.

Developer: D&P Chance Properties, LLC
598 Randall Wobbee Lane
Springdale, AR 72764

Representative: H2 Engineering
2758 Millennium Dr., Suite 1
Fayetteville, AR 72703

Summary

Abshier Heights is a Proposed Residential PZD located along Abshier Drive and Hillcrest Avenue just East of Evelyn Hills Shopping Center. We are proposing 30 residential units, consisting of 22 multi-family units and 8 two family units. The property is currently zoned C-2, with C-2 zoning to the West and North and RSF-4 to the East and South. We feel that the proposed PZD is a perfect fit between these two zonings. The property is presently owned by Smith Two-Way Radio. The Developer, D & P Chance Properties, LLC will be purchasing this property contingent on the approval of this project.

General Project Concept

- Street and Lot Layout – This PZD consists of 8 single buildings with parking as required by the Unified Development Code.
- Site Plan – See Master Development Plan Sheet
- Buffer Areas – There is a natural buffer of existing pine and oak trees along every edge of this property.
- Tree Preservation Areas – There are no large open areas that could serve as one large tree preservation area. However, most of the existing canopy should not be affected by this development. We have an existing canopy of 17.9% and we will only reduce this amount by 0.9%. The only trees taken out will be trees to construct the detention pond near the middle portion of the property. Mitigation trees will be planted in the detention ponds, and landscape trees will be planted along the drive to further increase the beauty of the existing tree canopy.
- Storm Water Detention Areas and Drainage – Runoff on this site will be diverted to one of three detention ponds planned. There was no area large enough to detain water for the entire site; therefore three smaller ponds were created to better catch runoff and detain it. Discharge runoff from the ponds will flow into existing storm sewers on the South part of the property, and into an existing swale to the North of the property.
- Undisturbed Natural Areas – Most of the area behind the proposed buildings will be undisturbed in order to keep the existing canopy. Some disturbance in these areas may be required for grading purposes.
- Existing and Proposed Utility Connections and Extensions – A 6" sanitary sewer line as well as an 6" water line are located to the east along Hillcrest Avenue. A 6" waterline tees off of the existing 6" water line and turns down the access road into Evelyn Hills. We will tie our waterline into the 6" waterline and loop it to the North, tying into the 6" waterline along Hillcrest Avenue. Our sanitary sewer will tie into the existing 6" sanitary sewer line in two places.
- Development and Architectural Design Standards – The condos and duplexes on this project have a modern and contemporary feel. They were designed to fit the site with their large window views and inset balconies. The buildings will be built so that in most areas, the rooftops and backs of the buildings will not be seen through the existing tree canopy, as well as the extensive change in grade from the existing street

down to the bottom of the property. These buildings were not built as a rental property, but instead as condos that will be individually sold.

- Building Elevations –Building Elevations are attached.

Proposed Development Phasing and Time Frame
This project consists of 1 phase. This zoning approval is intended to allow construction anytime within 3 years of approval. However, construction is anticipated to occur from May, 2006 – January, 2007.

Proposed Planning Areas with Proposed Zoning and Development Standards
This project has only 1 planning area which consists of 30 residential units. There will be 22 multi-family units and 8 two family units.

Permitted uses will be City-wide Uses by right (Use Unit 1), two family dwelling (Use Unit 9), home occupation (Use Unit 24), and multi-family dwellings (Use Unit 26).

Conditional uses will be city-wide uses by conditional use (Use Unit 2).

The residential unit density will be 7.3 units or less per acre. Front setbacks will be a minimum of 25 feet, side setbacks will be a minimum of 8 feet, and rear setbacks will be a minimum of 15 feet. Height restrictions in this project are set at 35 feet.

Materials proposed for the building are brick, hardi-board siding (to be painted), metal roofing, and wrought iron railings.

Analysis of the Site Characteristics
No environmentally hazardous, sensitive, or natural resource areas have been found on this site.

Recreational Facilities
There is an existing park, Gregory Park, ¼ of a mile to the north and west of this site. Also, Wilson Park and Clarence Craft Park are about a half of a mile away. No park areas are proposed for this site, however close access to one is available.

Reason for Zoning Change Request
A request for a zoning change is being made on this piece of property because we feel that multi-family will be a good transition between C-2 and RSF-4. We find that placing these residences here will help to create more revenue for the adjacent business owners in the area as well. This zoning should also create less traffic in the area if the increase in traffic is homeowners instead of a constant stream of customers to a C-2 business that could be placed here with the current zoning. The town homes and duplexes that will be built here have

been designed by the architect to fit the natural slope and grade of the land and be nearly invisible to the nearby neighborhood. The colors and materials used will also blend in with the surrounding canopy.

Comparison of the Proposed Master Development Plan to the Current Zoning District Requirements

Description	Current Zoning (C-2) Requirements	Proposed Zoning (R-PZD) Requirements
Permitted Use Units Allowed	Use Unit 1 - City-wide Uses by right Use Unit 4 - Cultural and recreational facilities Use Unit 12 - Offices, studios and related services Use Unit 13 - Eating Places Use Unit 14 - Hotel, motel, and amusement facilities Use Unit 15 - Neighborhood shopping goods Use Unit 16 - Shopping goods Use Unit 17 - Trades and services Use Unit 18 - Gasoline service stations & drive-in restaurants Use Unit 19 - Commercial recreation, small sites Use Unit 20 - Commercial recreation, large sites Use Unit 33 - Adult live entertainment club or bar Use Unit 34 - Liquor store	Use Unit 1 - City-wide Uses by right Use Unit 9 - Two family dwellings Use Unit 26 - Multi-family dwellings
Conditional Uses	Use Unit 2 - City-wide uses by cond. Use permit Use Unit 3 - Public protection and utility fac. Use Unit 21 - Warehousing and wholesale Use Unit 28 - Center for collecting recyclable materials Use Unit 32 - Sexually oriented business Use Unit 35 - Outdoor music establishments Use Unit 36 - Wireless comm. facilities	Use Unit 2 - City-wide uses by cond. use permit Use Unit 24 - Home occupation

Description	Current Zoning (C-2) Requirements	Proposed Zoning (R-PZD) Requirements
Front Setback	50 Ft.	25 Ft.
Side Setbacks	None	8 Ft.
Rear Setbacks	20 Ft.	15 Ft.
Maximum Height	75 Ft.	35 Ft.
Density - Units per Acre	RMF-24 (24 units/acre)	7.3 (max)
Land Area per Dwelling Unit	N/A	5,663 SF (max)
Site Coverage (% covered by bldg)	60%	17.0%

Note: The existing zoning of this property is C-2.

Relationship to the Existing and Adjacent Land Uses
This property is currently zoned C-2 and backs up to an RSF-4 neighborhood. With C-2 to the North and West and RSF-4 to the South and East, we feel that this multi-family development would be a great transition between the two zonings. Rezoning this property would create the opportunity to have less traffic because any use under a C-2 zoning would entail a constant stream of customer, employee, and any other traffic in and out of the business located on the site. With a residential zoning, the only traffic would be from homeowners and would likely be morning and afternoon traffic, which would be consistent with the RSF-4 neighborhood adjacent to the site. The appearance of these buildings would also be appropriate for the area because they were designed with the land so that they will not even be seen from most points along the adjacent roads.

Compliance with Fayetteville General Plan 2020
This development does comply with the Fayetteville General Plan 2020.

Traffic Study
No traffic study has yet been performed for this project due to the small amount of impact this project will have on the existing roads.

Impacts on City Services
There are no significant impacts to city services associated with this project.

Statement of Commitments

Dedication and On or Off-site Improvements
There is 50 feet of right-of-way existing along Abshier Drive as well as Hillcrest Avenue which meets the master street plan requirement, therefore, no right-of-way will need to be dedicated by this plat. Offsite improvements will be required in order to widen Abshier Drive and Hillcrest Avenue, 14 feet from the centerline. Both streets are currently an

average of 20 feet wide. The north side of Abshire Drive will be widened from College Avenue east to the intersection with Hillcrest Avenue. The west side of Hillcrest Avenue will be widened from the intersection with Abshire Drive north to the northern boundary of the project.

Natural Resources and Environmental Sensitive Areas
There are areas that indicate springs located near the North West boundary line of the southern portion of our property. Because of this, we will use methods of construction that will take this into account such as curtain walls and french drains.

Project Phasing Restrictions
The phases and estimated completion dates have been established as presented previously herein the master plan for the project. As phasing has been identified, described and approved as part of the PZD master development plan, process phasing may vary from the requirements of Chapter 166 of the UDC with regard to expiration of permits and plans.

Fire Protection
Abshier Heights will be served by the Fayetteville Fire Department number 5 on Crossover Road.

Other Commitments Imposed by the City
There are currently no other commitments imposed by the City.

Parks, Trails and Open Space Commitments
Tree preservation and protection will be implemented in accordance with the City of Fayetteville code of Ordinances Title XV Unified Development Code: Chapter 167 Tree Preservation & Protection. Landscaping within Abshier Heights will be designed in accordance to the City of Fayetteville Landscape Manual which sets forth the standards and specifications for Tree Preservation, Protection and Landscaping.

Building Elevations
Building Elevations are attached.

Development Standards, Conditions and Review Guidelines

Screening and Landscaping
The screening and landscaping will be provided as set forth in Section 166.09 Buffer Strips and Screening. We will be planting trees every 8 spaces as shown on the grading and tree preservation plan. We are also planting trees on the northern section of the property, however they are being planted opposite the parking area in order to keep them out of the proposed utility easement. Other shrubs and plants shall be planted in greenspace areas between buildings.

Traffic and Circulation
Design of the traffic and circulation on the project will be in accordance with Section 166 of the Unified Development Code. There are several access points to the property. Both parts of the site will have at least two access points with several options for direction of travel after exiting the site.

Parking Standards
The parking lot has been designed and in accordance with the standards found in Section 172 of the Unified Development Code, with the exception of the number of parking spaces. With the multi-family residential nature of this development, we felt the need to adjust the number of parking spaces. Tenants of the proposed units may utilize the garages for storage, forcing them to use the driveway for parking. Because of this, every unit's driveway will be used. If anyone in the development has guests over, there will be no place for them to park. We feel that adding parallel parking will relieve this situation. Therefore, we are proposing 42 spaces for garage parking, 42 spaces for driveway parking, and 38 parallel spaces.

Perimeter Treatment
No perimeter treatment is planned.

Sidewalks
Sidewalks will be designed and constructed in accordance with the Master Street Plan and Section 171 of the Unified Development Code.

Street Lights
Street lights will be designed and constructed in accordance with the Unified Development Code.

Water
Water lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. A 6" water line is located site which we propose to connect to, as well as an 8" to loop the system.

Sewer
Sewer lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. A 6" sanitary sewer line is located to the east of the property along Hillcrest Avenue that we propose to connect to.

Streets and Drainage
Streets and drainage will be designed and constructed in accordance with the Unified Development Code and the Master Street Plan.

Construction of Nonresidential Facilities
There will be no nonresidential facilities on the property.

Tree Preservation
Tree preservation and protection will be implemented in accordance with Section 167 of the Unified Development Code. The existing canopy is 17.9% tree covered, we are reducing this number to 17%. This requires 6 mitigation trees to be planted. These trees will be located in proposed detention areas in order to provide tree canopy in these areas.

Architectural Design Standards
Materials proposed for the building are brick, hardi-board siding (to be painted), metal roofing, wrought iron railings, and glu-lam balconies. No vinyl siding will be permitted.

Signage
All signage on the project shall be permitted in accordance with R-O district criteria as set forth by Chapter 174 of the Unified Development Code. An entrance sign is proposed.

View Protection
Because of the steep grade of the property and existing tree canopy, buildings may not even be seen from the adjacent roads. In addition, an existing tree canopy should remain along Hillcrest and Abshier. The only trees removed from this area are for a detention pond. Mitigation trees will be planted in this pond after construction to put back the existing canopy that was removed.

Revocations
The developer understands causes for revocation and will take all measures necessary to avoid revocation.

Covenants, Trusts, and Homeowner Associations
There are no covenants, trusts or Homeowner Associations associated with this project.

The site will have access from four different entry points. The first entry point is on Abshier, the second is from Hillcrest and the third and fourth entry points are from the Evelyn Hills Shopping Center.

U.S. 71B is west of the development and serves as a major north/south arterial in the state highway system carrying approximately 31,000 Average Annual Daily Traffic (AADT).

EXISTING PEAK HOUR TRAFFIC

24 Hour traffic counts were taken on College Avenue, Abshier, Hillcrest and North Street. Turning movement counts were conducted at Abshier & College, Abshier & Hillcrest, Hillcrest & Evenlyn Hill South Driveway and Hillcrest & North. Table 1 shows a summary of the 24 hour traffic counts and Figure 2 shows the turning movements for the PM peak hour at each intersection.

TABLE 1
SUMMARY OF 24 COUNT VOLUMES

Location	College Ave.		Abshier		Hillcrest				North St.	
Description	At Abshier		Bwtn. College/Hillcrest		N. of Abshier		S. of Abshier		At Hillcrest	
Time	NB	SB	EB	WB	NB	SB	NB	SB	EB	WB
1100	863	844	8	6	15	12	31	16	108	191
1200	1120	997	4	6	18	19	17	19	162	209
1300	1193	1164	10	6	18	28	23	32	163	201
1400	1039	1105	7	7	17	19	18	33	185	171
1500	1045	1068	11	5	27	30	27	35	193	190
1600	1193	1138	23	16	30	25	38	42	226	231
1700	1183	1246	28	2	28	38	21	58	314	216
1800	1216	1365	31	19	23	35	26	57	337	237
1900	849	985	7	1	23	41	23	49	254	232
2000	629	687	5	0	8	16	8	22	155	132
2100	591	633	3	6	7	16	11	19	129	162
2200	321	432	0	0	6	7	8	7	87	118
2300	203	278	1	0	2	2	2	3	58	64
2400	158	165	2	0	0	1	0	2	34	30
100	92	67	0	0	1	2	0	2	21	5
200	79	50	0	0	0	0	0	0	17	12
300	53	44	0	0	0	0	0	0	13	12
400	40	43	1	1	0	1	0	2	10	5
500	37	42	0	1	2	1	4	1	13	17
600	112	124	0	6	8	1	10	0	9	39
700	255	298	7	20	9	5	20	6	50	115
800	729	890	11	27	18	7	34	18	150	342
900	774	780	12	19	17	9	31	16	140	270
1000	738	692	4	7	24	13	32	14	115	209
24 Hour Totals	14512	15137	175	155	301	328	384	453	2943	3410

SITE ACCESS STUDY – ABSHIER HEIGHTS

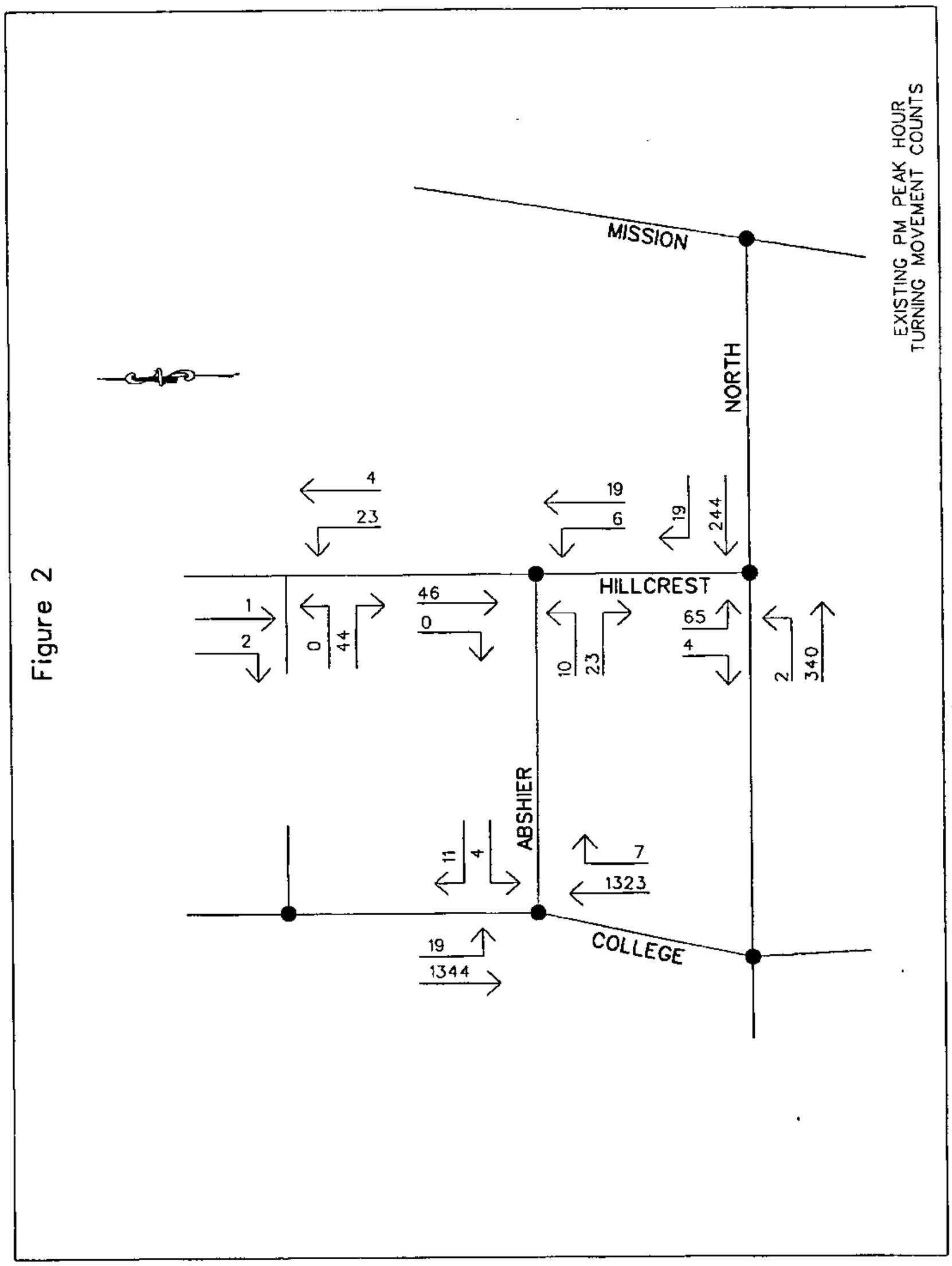


Figure 2

Peak Hour Traffic. The peak hour analyzed for this study is the PM Peak. The Saturday Peak is higher for the shopping centers, but should not add additional traffic along Abshier and Hillcrest in the study area.

Average Daily Traffic (ADT). The ADT analyzed for this study is the 24 hour two-way traffic volumes from the traffic counts taken on College, Abshier, Hillcrest and North. The City of Fayetteville Traffic and Transportation Study (CFTTS) defines Abshier Road and Hillcrest Avenue as Local Streets. The study also sets up guidelines for traffic volumes of

- Residential Street carry less than 300 vehicles per day and
- Local Streets carry less than 2000 vehicles per day.

The 24 hour traffic counts fall within the guidelines of local streets and are at or below the threshold for residential streets.

Intersection Level of Service. Level of Service (LOS) is a qualitative measure describing operational conditions within a traffic stream, based on service measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, and convenience as defined by the Highway Capacity Manual. The LOS for a stop controlled intersection is determined by the computed or measured control delay and is defined for each minor movement. LOS is not defined for the intersection as a whole. LOS Criteria are defined in Table 3.

TABLE 2
LEVEL OF SERVICE CRITERIA - UNSIGNALIZED

LOS	Avg. Control Delay (s/veh)
A	0-10
B	>10-15
C	>15-25
D	>25-35
E	>35-50
F	>50

The intersections of Abshier & Hillcrest, Abshier & College, South Drive & Hillcrest and North & Hillcrest were analyzed to determine the existing LOS using the Highway Capacity Software (HCS). The results of the analysis are summarized in Table 3. Due to the high volume of traffic along College Avenue, westbound traffic on Abshier is at a LOS of D for the analysis period.

The intersection of North and Hillcrest has some geometric issues. The intersection is just north of the crest of a vertical curve limiting the stopping sight distance for westbound traffic. Currently the intersection operates with eastbound having right-of-way and westbound and southbound traffic are stop sign controlled. The HCS results do not consider the stop control for the westbound traffic.

TABLE 3
Existing Level of Service

***PM* Peak Hour**

HCS	Abshier & Hillcrest		Abshier & College		S. Drive & Hillcrest		North & Hillcrest	
Movement	EBL & R	NBL	SBL	WBL & R	NBL	EBL & R	EBL	SBL & R
Lane LOS	A	A	B	D	A	A	A	B
Control Delay	8.8	7.3	11.3	32.7	7.3	8.5	7.8	13.6
Approach LOS	A			D		A		B

OFF-SITE FUTURE DEVELOPMENT PEAK HOUR TRAFFIC

The study area is developed with commercial and residential development. The undeveloped area is Abshier Heights. No off-site future development traffic was looked at for this study. The Master Street plan for the City of Fayetteville shown in the CFTTS does not show either Abshier or Hillcrest moving up in classification. The zoning maps for the City of Fayetteville do not show any zoning differing from what is now outside of the Abshier Heights Development.

SITE DEVELOPMENT PEAK HOUR TRAFFIC

Abshier Heights is a high-quality condo development with 30 units. Using ITE's Trip Generation Rates, the traffic was developed. Table 4 shows the land use type, 24 hour two way volume and PM peak hour entering and exiting volumes. Pass-By trips and internal trip capture were not used with this development. All trips for the development will be new trips. Figure 3 shows the layout and distribution of the different land uses by percentages and corresponding traffic volumes to be added to the existing traffic volumes.

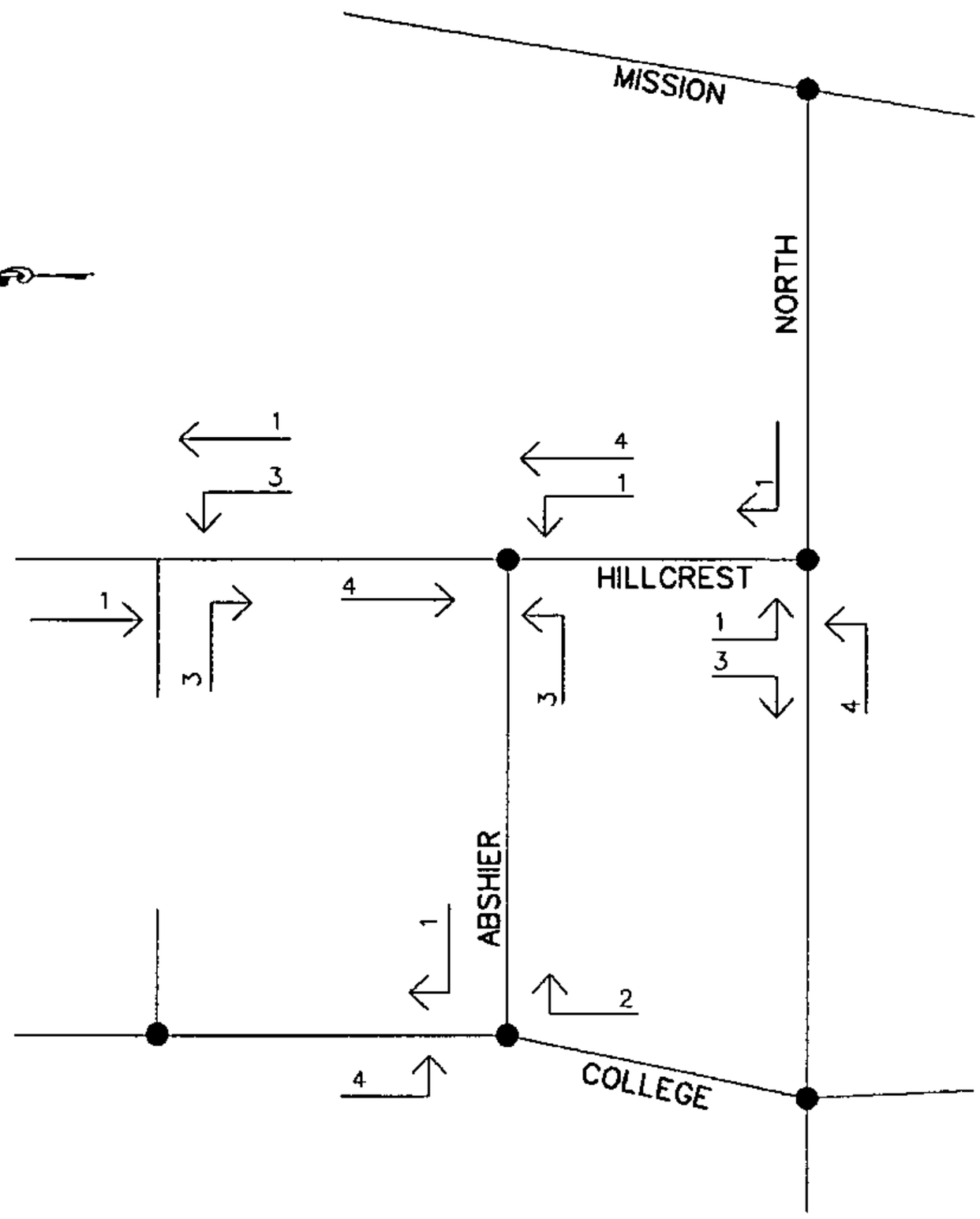
TABLE 4
Summary of Trip Generation for Abshier Heights

Land Use	Size	Units	24 Hr 2-Way Vol.	PM Pk Hour	
				Enter	Exit
High-Quality Condos	30	Dwellings	176	11	5
		Totals	176	11	5

Land Use	Size	Units	Saturday			Sunday		
			24 Hr 2-Way Vol.	Peak Hour		24 Hr 2-Way Vol.	Peak Hour	
				Enter	Exit		Enter	Exit
High-Quality Condos	30	Dwellings	170	8	7	145	7	7
		Totals	170	8	7	145	7	7

Note: A zero indicates no data available.

Figure 3



EXISTING PEAK HOUR TRAFFIC WITH DEVELOPED SITE

The combination of existing traffic with the proposed traffic from the development is shown in Figure 4. The results of the intersection analysis from HCS are summarized in Table 5.

TABLE 5

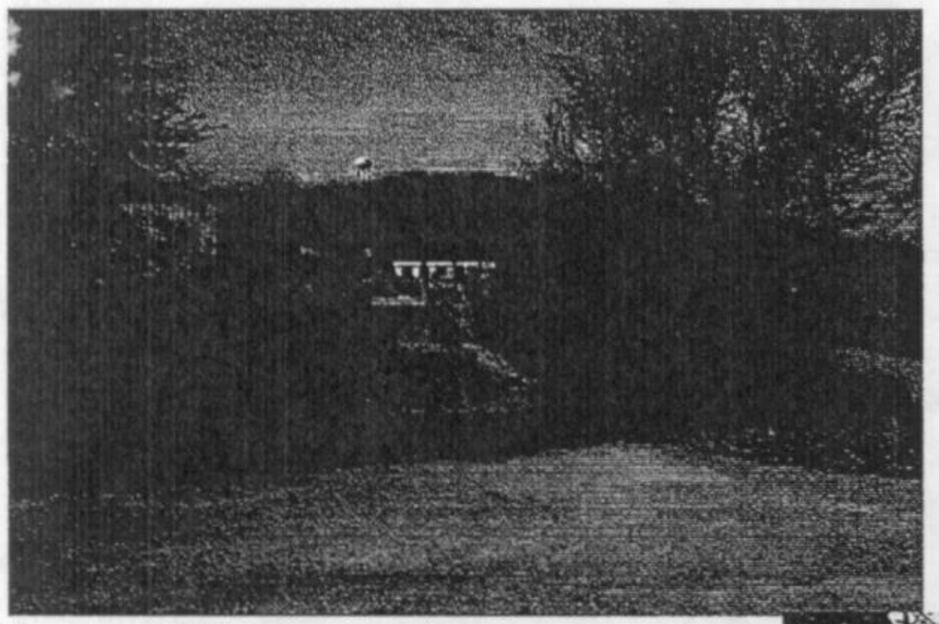
Existing with Proposed Level of Service

***PM* Peak Hour**

HCS	Abshier & Hillcrest		Abshier & College		S. Drive & Hillcrest		North & Hillcrest	
Movement	EBL & R	NBL	SBL	WBL & R	NBL	EBL & R	EBL	SBL & R
Lane LOS	A	A	B	D	A	A	A	B
Control Delay	8.9	7.3	11.3	31.3	7.3	8.5	7.8	13.8
Approach LOS	A			D		A		B

The impacts of the development on the intersections of Abshier & Hillcrest, Abshier & College, South Drive & Hillcrest and North & Hillcrest are negligible. More traffic will use the intersections; however the overall traffic volumes and the development traffic volumes are small enough to keep the delays low and allow the intersection to operate at a LOS of A.

SITE TOPOGRAPHY REGARDING ACCESS



The topography of the site slopes from Abshier and Hillcrest down to the Evelyn Hills Shopping Center.

Existing Slopes. Hillcrest slopes up from north to south with an average grade of 5% from the north end to Woodcrest and 10.8% from Woodcrest to Abshier. Abshier slopes up from US 71B to Hillcrest with an average slope of 5.2%.

Proposed Drives and Improvements. The access drives into the Evelyn Hills Shopping Center having maximum slopes of 14.85% on the southern drive and 13.20% on the northern drive. The north drive within the development has a maximum proposed slope of 5.38% and the south drive within the development has a maximum proposed slope of 5.43%.

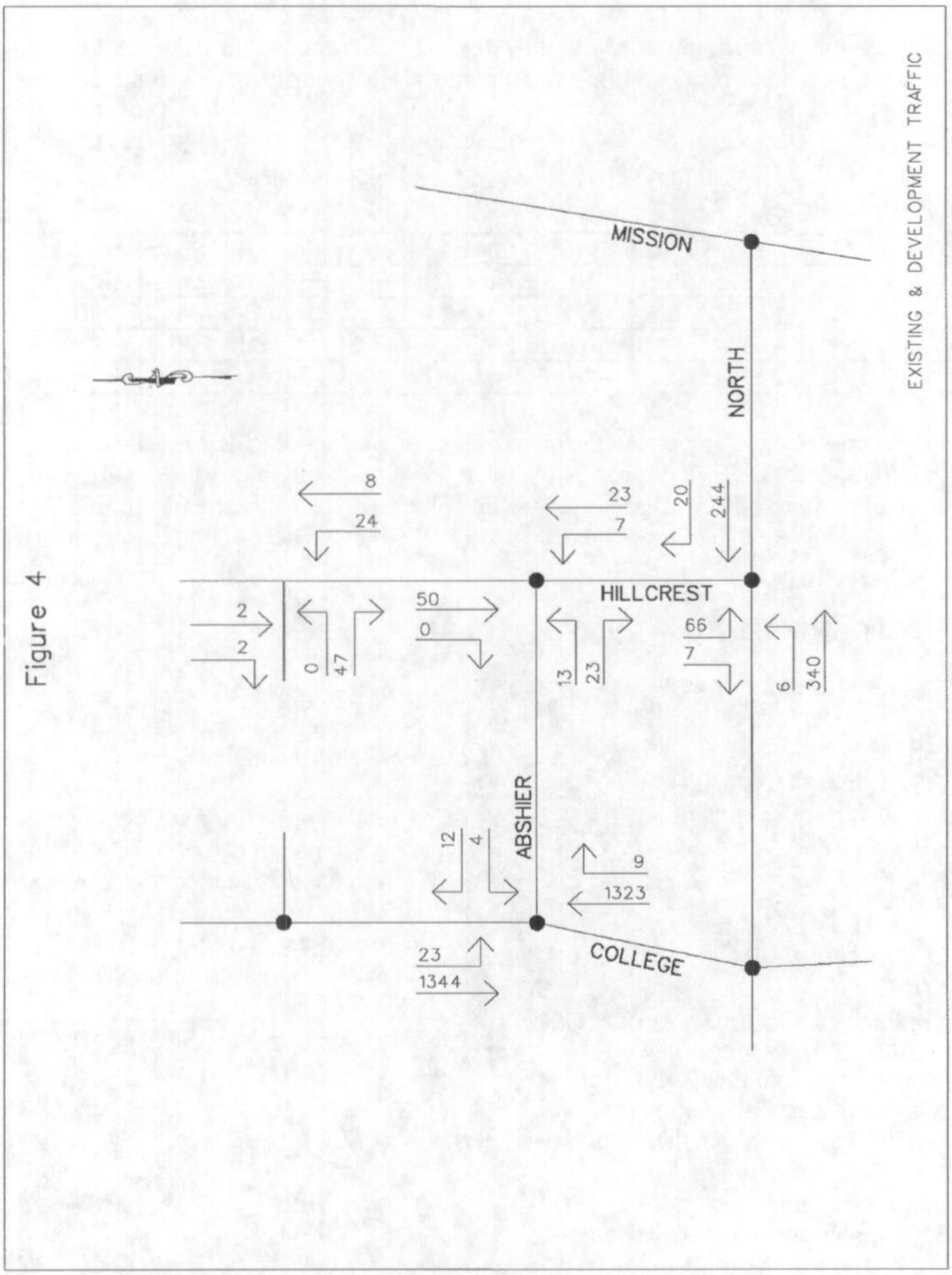


Figure 4

RECOMMENDATIONS

Site access during inclement weather should be accomplished using the interior drives of the development and Abshier Drive if trips have to be made. The proposed grading within the site will allow a safer route for accessing the existing residences on Hillcrest north of Abshier than before the development.

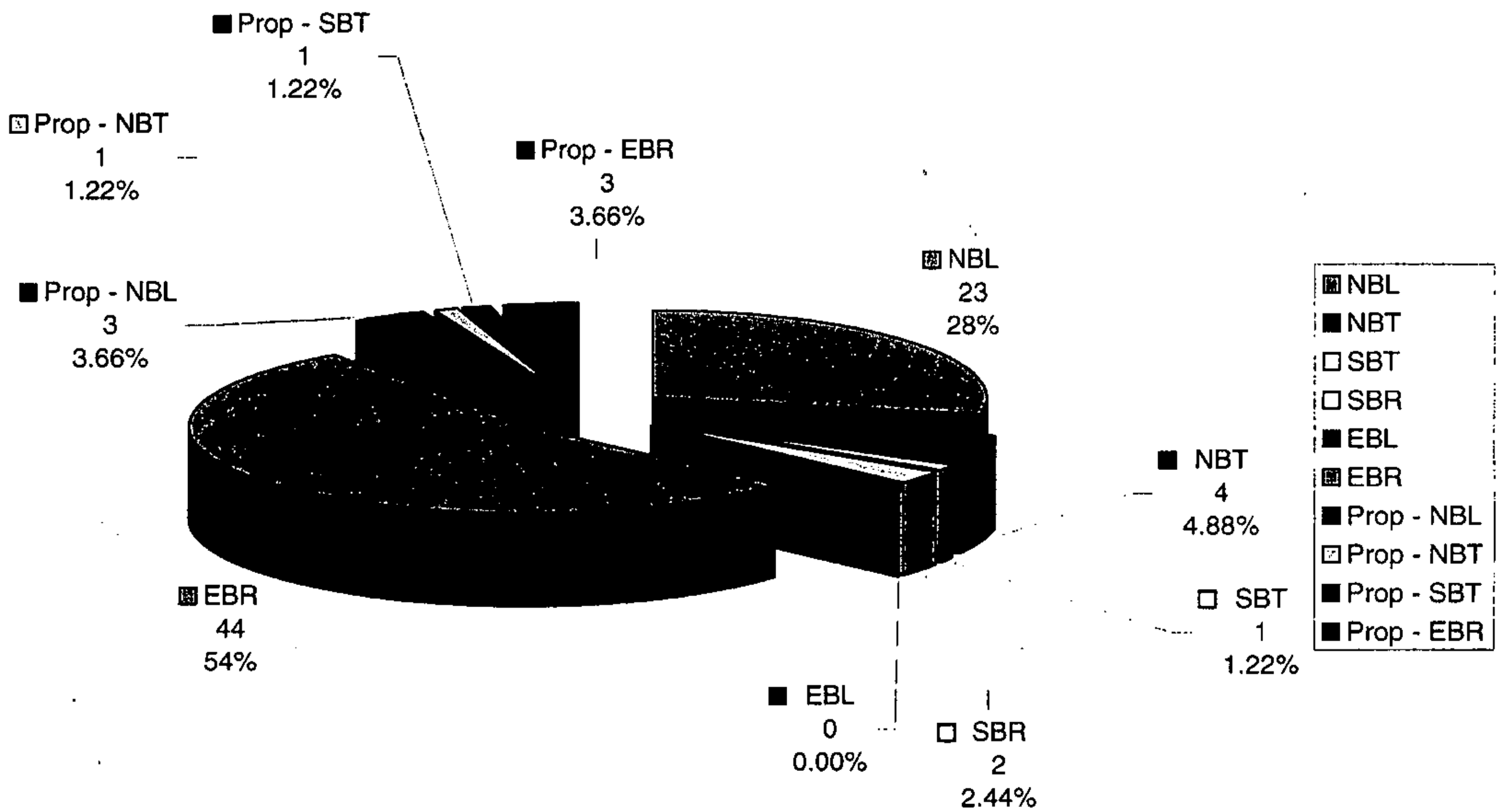
No improvements are recommended along Abshier, Hillcrest or at the intersections of Abshier & Hillcrest, Abshier & College, Hillcrest & South Drive and Hillcrest & North for traffic operations. The traffic generated by the development has insignificant impacts to the existing roadways and intersections. However, both streets are substandard according to the City of Fayetteville's Traffic and Transportation Study with a narrow cross section and open ditches. Therefore, it is recommended the development improve Abshier and Hillcrest along the street frontage of the property for the north half and west half respectively of the existing streets.

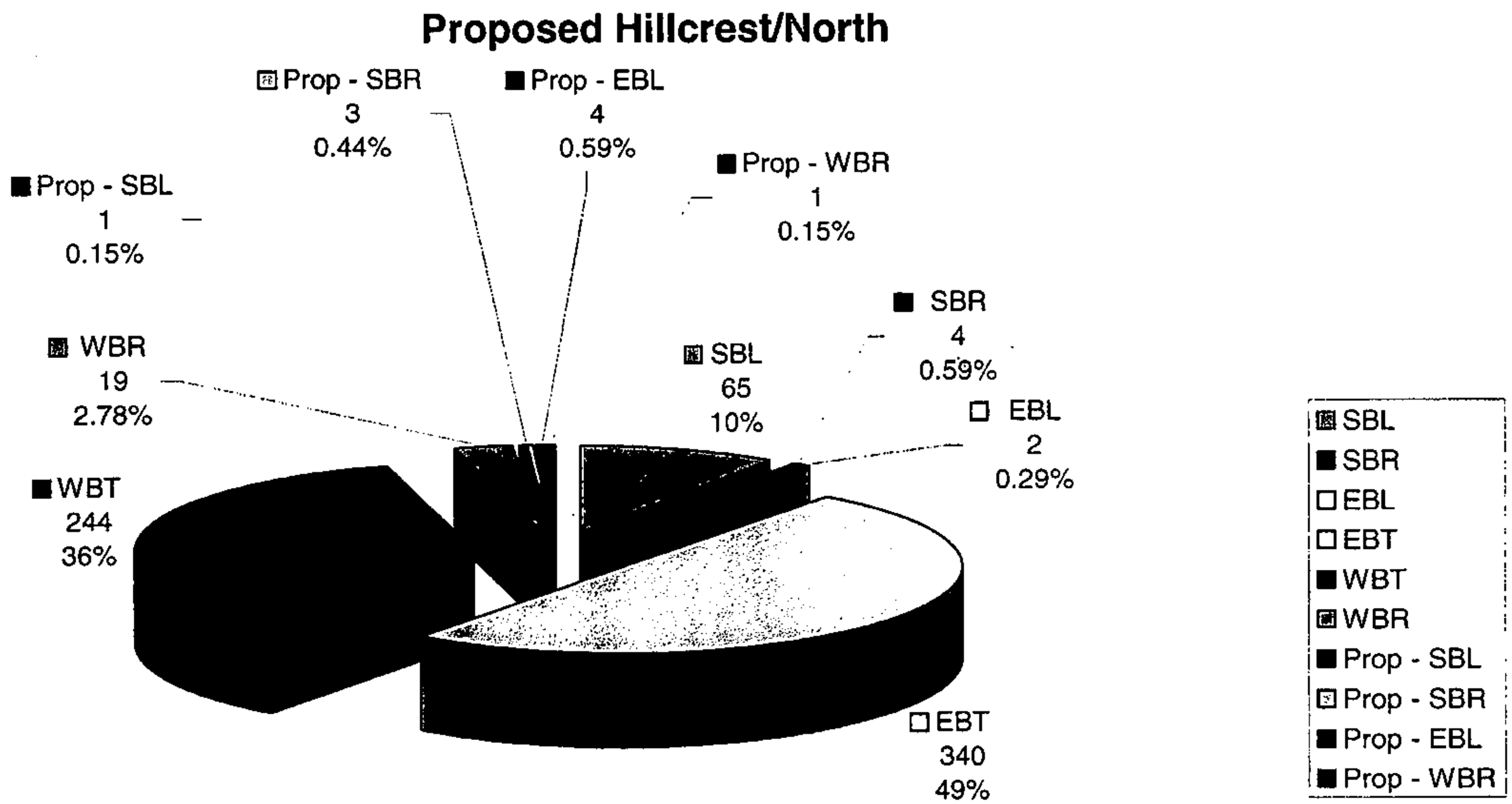
SITE ACCESS STUDY – ABSHIER HEIGHTS

SUMMARY OF STUDY

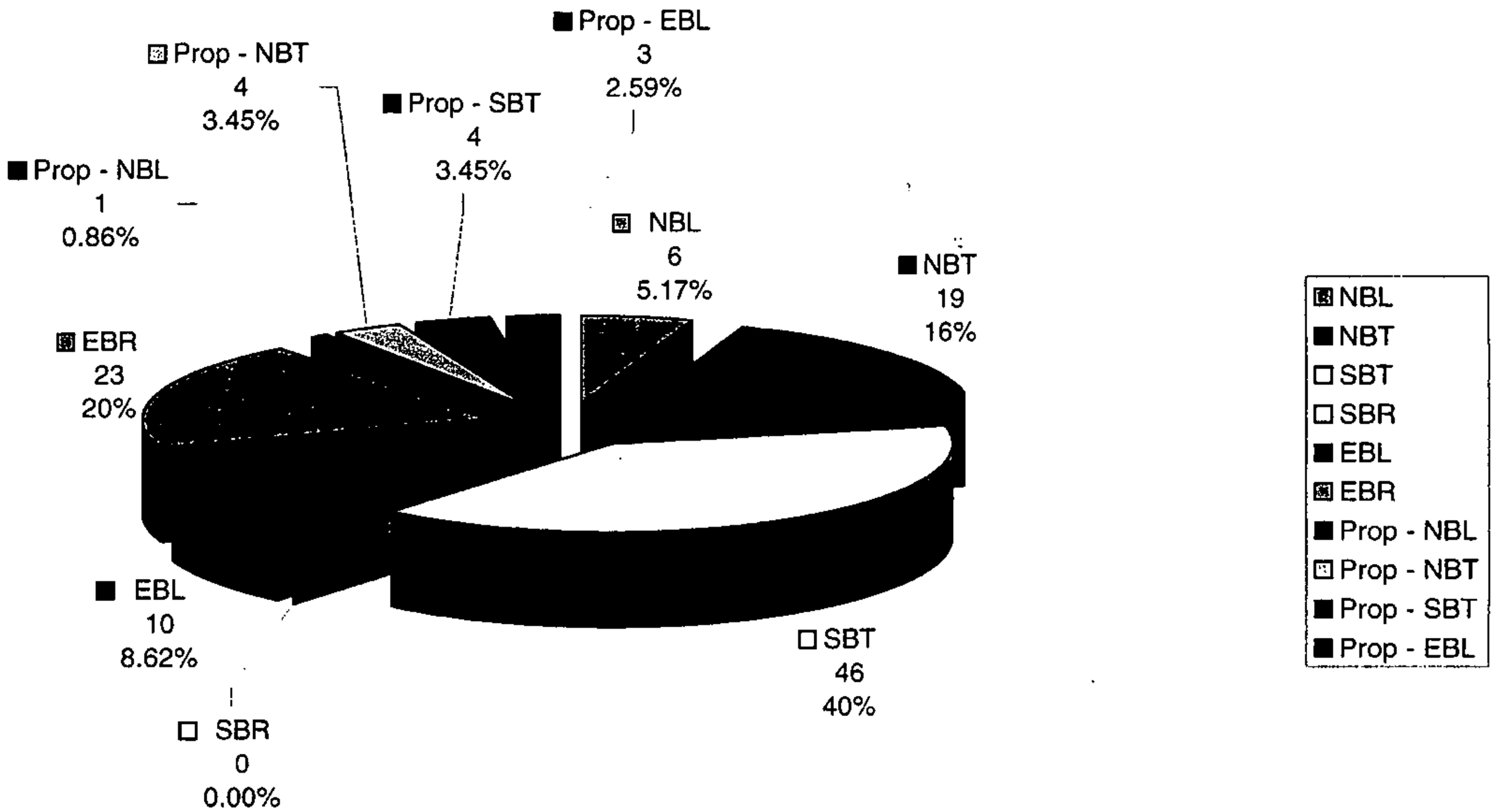
- Development – 24 High Quality Condominiums (Study analyzes 30 Condos)
- The Level of Service (LOS) remains the same for existing and proposed
- Abshier – 24 hour traffic volume – 330
- Hillcrest (north of Abshier) – 24 hour traffic volume – 629
- Hillcrest (south of Abshier) – 24 hour traffic volume – 837
- North – 24 hour traffic volume – 6353
- College Ave. – 24 hour traffic volume – 29649
- Development – 24 hour traffic volume – 176 (ITE Trip Generation Handbook)

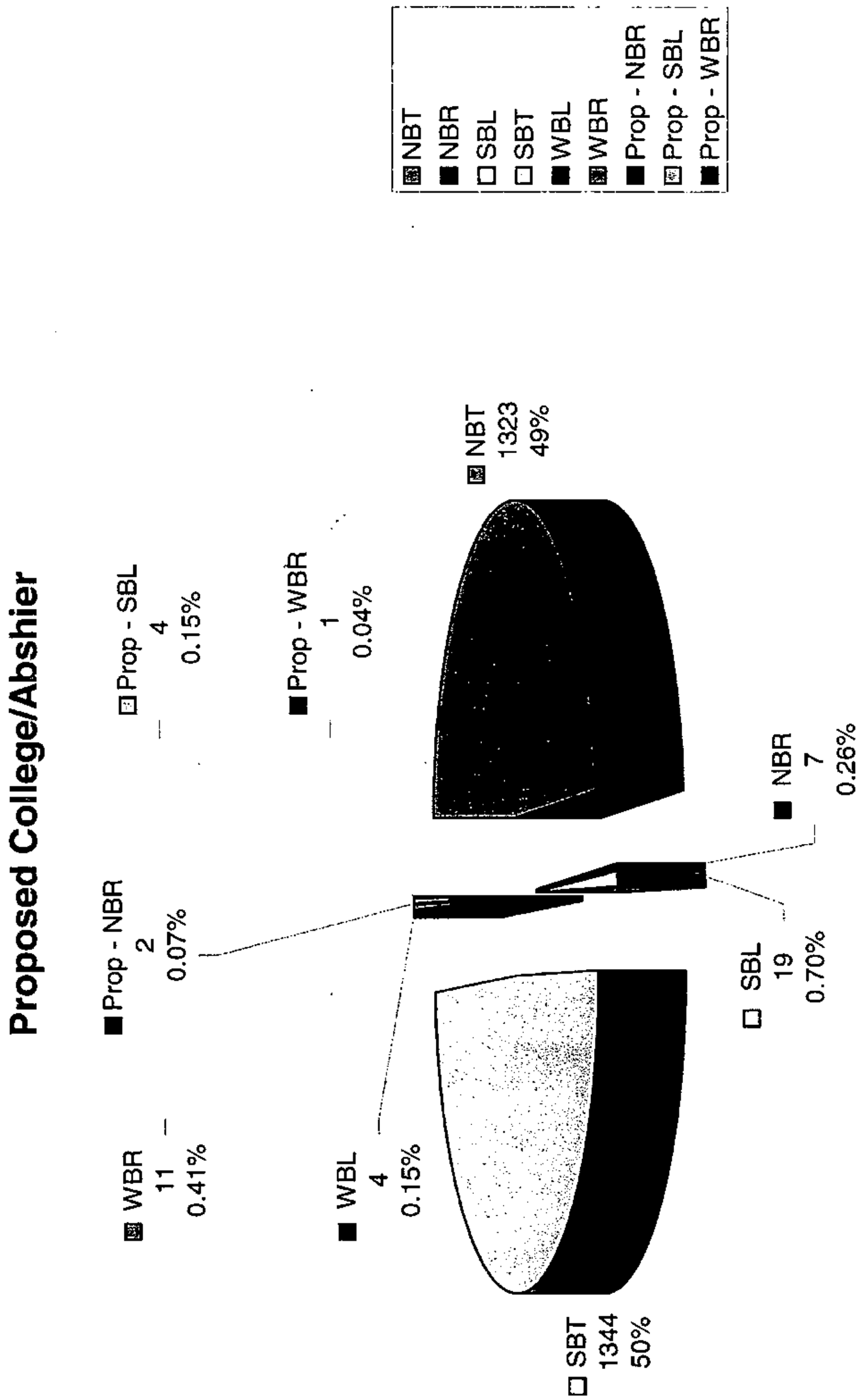
Proposed Hillcrest/South Driveway



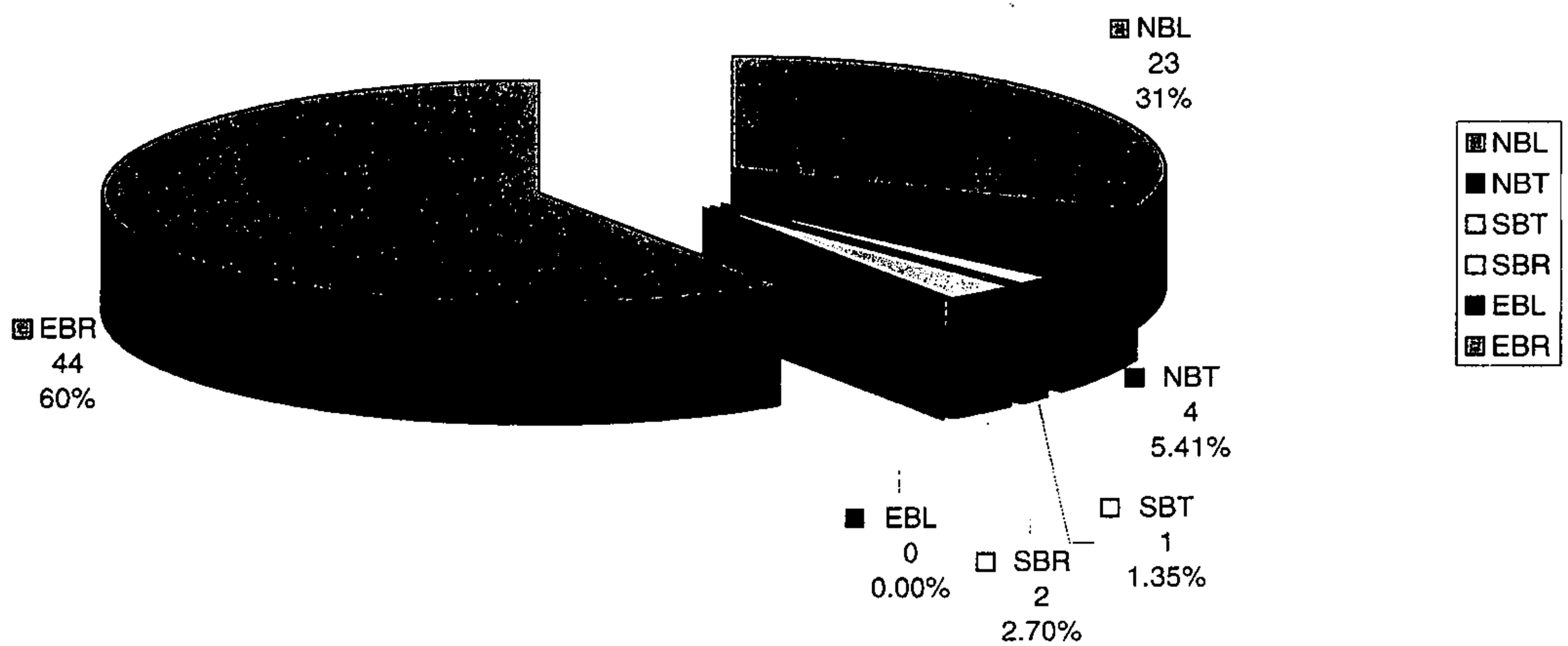

Proposed Hillcrest/North
Prop - SBR
3
0.44%
Prop - EBL
4
0.59%
Prop - WBR
1
0.15%
Prop - SBL
1
0.15%
SBR
4
0.59%
WBR
19
2.78%
SBL
65
10%
EBL
2
0.29%
WBT
244
36%
EBT
340
49%
SBL
SBR
EBL
EBT
WBT
WBR
Prop - SBL
Prop - SBR
Prop - EBL
Prop - WBR

Proposed Hillcrest/Abshier

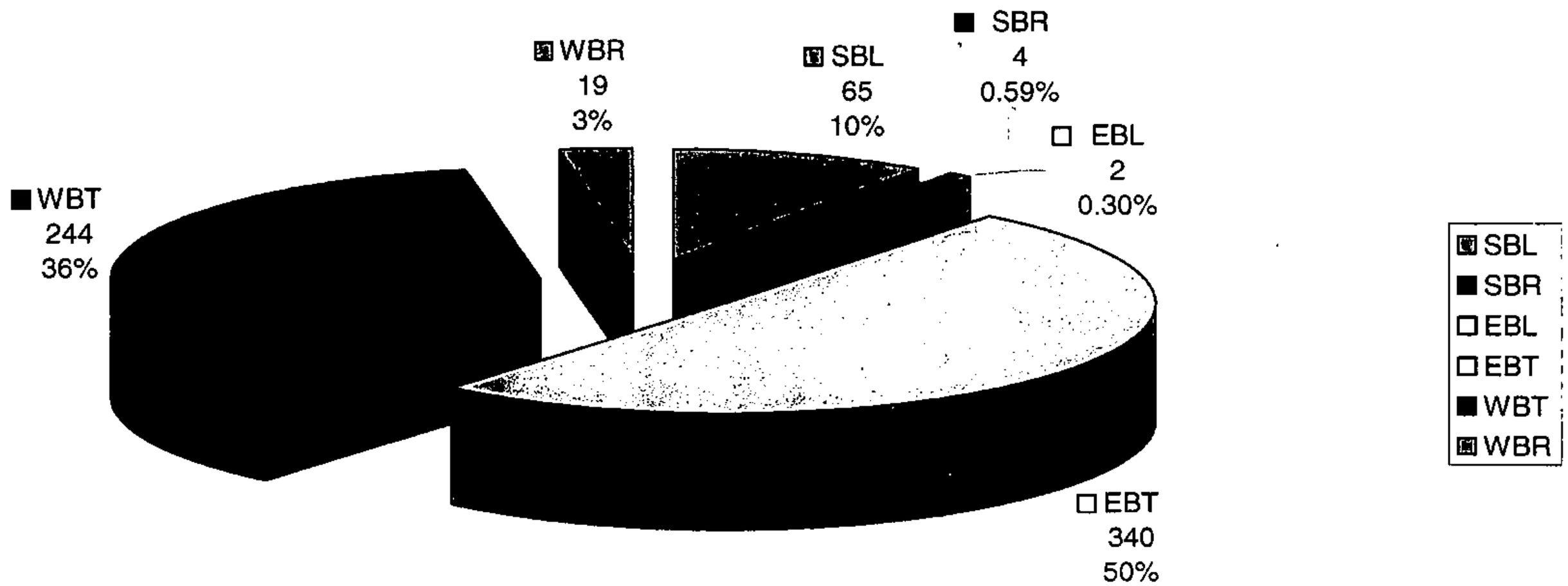



Proposed College/Abshier
NBT
NBR
SBL
SBT
WBL
WBR
Prop - NBR
Prop - SBL
Prop - WBR
Prop - SBL
4
0.15%
Prop - WBR
1
0.04%
NBT
1323
49%
Prop - NBR
2
0.07%
NBR
7
0.26%
SBL
19
0.70%
WBR
11
0.41%
WBL
4
0.15%
SBT
1344
50%

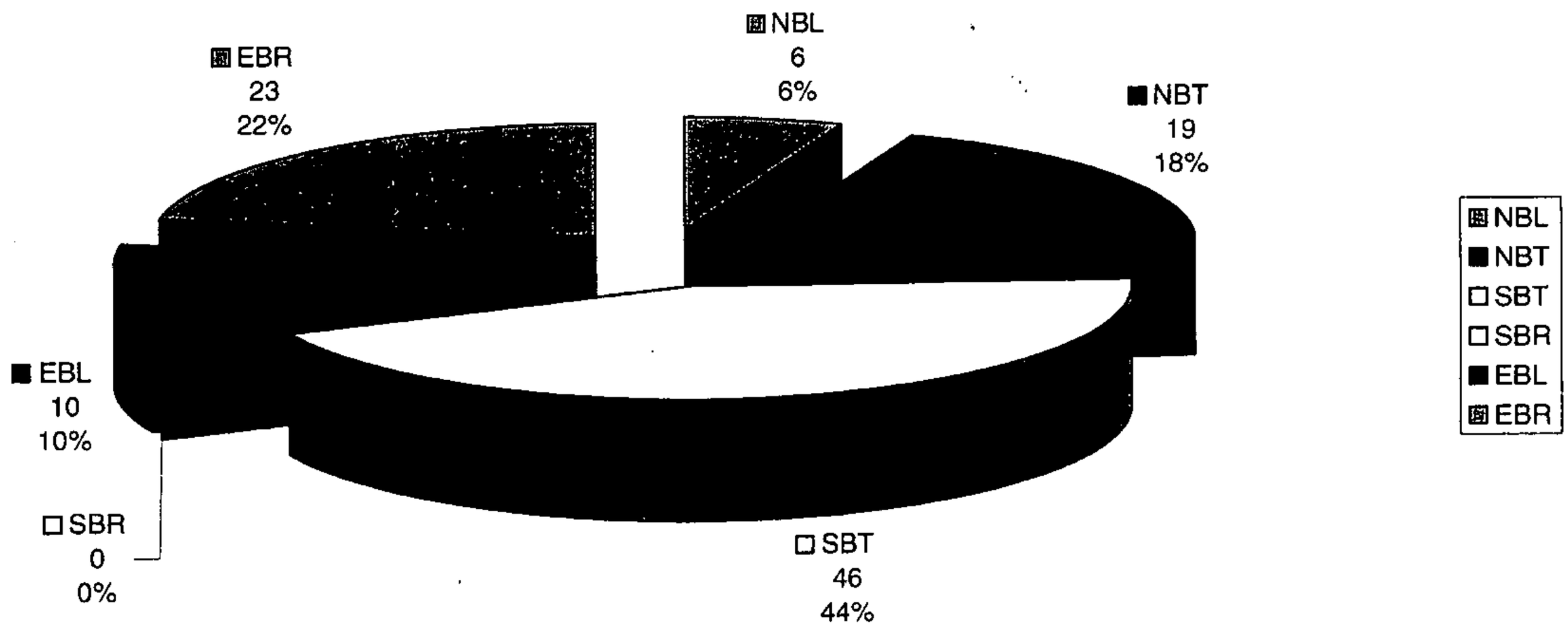
Existing - Hillcrest/South Drive



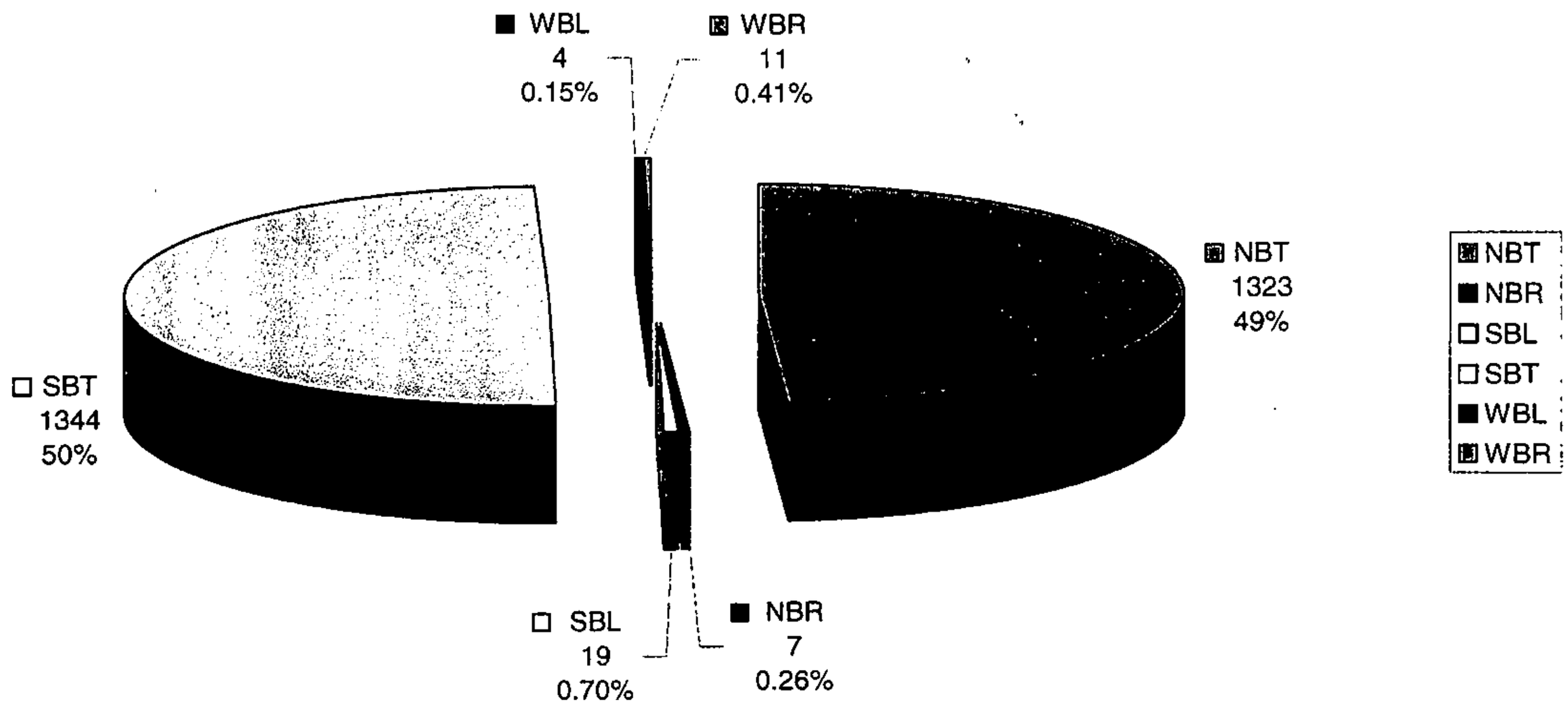
Existing - Hillcrest/North



Existing - Hillcrest/Abshier



Existing - College/Abshier



ZONING CHRONOLOGY OF 150 FOOT WIDE STRIP, BOUNDING THE WESTERN EDGE OF HILLCREST AVENUE RUNNING NORTH FROM ITS INTERSECTION WITH ABSHIER

(Based on documentation provided by Fayetteville Planning Staff)

6/27/62: T. I. Abshier and Evelyn Hills, Inc., petition Planning Commission , City Board, and Mayor to re-zone approximately 3 ½ acres on West side of Hillcrest drive from R-1A to C-2. The strip is 150 feet wide along Hillcrest and runs 1,030 feet northward from Hillcrest's intersection with Abshier. Proposes a protective covenant that no commercial building will be constructed on the East 75 feet which would extend above street level of Hillcrest avenue. **Exhibit 1**

7/5/62: Public notice to all persons concerned of public hearing by Planning Commission to reconsider Abshier petition for re-zoning, date of hearing 7/24/62 **Exhibit 2**

7/23/62 Objections filed to proposed re-zoning **Exhibit 3**

7/24/62: Public hearing, Planning Commission certifies to City Board recommendation that re-zoning occur except for east 20 feet thereof as buffer and on condition that petitioner's restrictive covenants dated 8/11/62, with revisions suggested by planning commission, be filed. **Exhibits 4 and 5**

8/27/62 Ordinance 1314 passed re-zoning west 130 feet to C-2 and requiring certain other requirements in Restrictive covenants to be filed in favor of and enforceable by neighbors **Exhibits 4 and 5**

8/31/62: date of Restrictive Covenants which were filed of record by Evelyn Hills Shopping Center, Inc. and Mr. and Mrs. T.I. Abshier on 9/18/62 at Vol 580, p214 : Recites 130 feet converted to C-2, and "if it is re-zoned" to benefit owners along Hillcrest, no commercial building which extends above Hillcrest Street level shall be placed on 80 feet west of 20 foot buffer, egress is limited to present driveway; nothing built w/in 20 feet of Hillcrest, and within 12 months after passage of re-zoning ordinance, 6 foot high fence built along west 20 feet and area shall be beautified. Covenants run with the land for 20 years after recorded, extended automatically for 5 year period unless all neighbors agree to change. Inure to benefit of any person on Hillcrest Avenue. **Exhibit 6**

11/26/62: drawing of area, w/ handwritten notes "Special election on Ordinance no 1314: For 471, against, 682, The ordinance was defeated by 212 votes. City Council minutes of 11/26/62, Book "G" Page 177, Referendum petition. " Also noted Planning Commission administrative sheet showing history of progress of Ordinance 1314 through Planning Commission and City board, "3/1/91, according to my research, the re-zoning was brought to public vote by referendum, the re-zoning was overturn. BB" **Exhibit 7 and 8**

8/15/67 Minutes of Planning Commission meeting, attorney E.J. Ball petitions in behalf of owners that the property west of Hillcrest be re-zoned for R-1A to C-2. Lewis Jones represented

41 opponents. The minutes note the prior 1962 Planning Commission and City Board action and that, "this issue was presented for public vote later that year and the voters decided the property should be left as a residential zone." The matter was not voted on for lack of a quorum, and was scheduled for action on 8/22/67. **Exhibit 9**

8/22/67 Minutes of a Planning Commission meeting, request to re-zone this same property from R-1 to C-2 unanimously denied. **Exhibit 10**

10/17/67 Letter from City manager to attorney Lewis Jones, who represented the Hillcrest Street neighbors, noting that appeal of the Planning Commission decision on re-zoning this property to the City Board has been is scheduled for rehearing on 11/6/67. **Exhibit 11**

11/67 City Board rehears the appeal, recommends the applicant work out a compromise with neighborhood, table then matter for 120 days, referring it to the Planing Commission. **(City zoning history memo)**

2/68 Planning Commission indefinitely tables the re-zoning petition, never acted upon it. **(City zoning history memo)**

6/70 City wide re-zoning confirms that this strip remains R-1. **(City zoning history memo, also Exhibit 12 -June 1970 official zoning map, and Exhibit 13- crayon map used by zoning office)**

11/27/72: plat map reflecting "Appeal 72-40 Osage Oil and Transportation 1600 N. College Board of Adjustment 11/27/72", shows that all property between Evelyn Hills and Hillcrest is R-1. **Exhibit 14**

6/24/91 Planning Commission minutes, request by Charles Sloan for conditional use for duplexes within R-1 on West side of Hillcrest. Sloan had contract to purchase contingent upon approval of conditional use. Motion tabled. **Exhibit 15**

722/91 Planning Commission minutes, motion to deny Sloan motion for conditional use of duplexes within R-1 denied by 7-1 vote. **Exhibit 16**

1970-1999 A review of all actions since 1970 requesting re-zoning within one mile of this site shows that on 19 separate occasions, occurring almost every other year, the planning staff shows this property as R-1 **Exhibit 17 - list of zoning matters, and Exhibits 18 and 19, - exemplar maps for planning appllications dated 7/18/88 and 6/18/90**

1999 The first, and only time, that the planning staff has not been consistent in holding all property from the western edge of Hillcrest, to the eastern edge of the Evelyn Hills shopping center was not all R-1, was on a 1999 application by Weingarten, then owner or manager of Evelyn Hills, for parking expansion. The "One Mile Diameter" map prepared by the planning department shows that the R-1 zoning continues west from Hillcrest to a point approximately

halfway between Hillcrest Avenue, and the Evelyn Hills building lines. The "Close Up" map prepared by the planning department does not even show any line of separation between the R-1 running west from Hillcrest Street and the C-2 of the shopping center proper. Thus, even those documents are confusing and ambiguous, and certainly no basis for re- zoning this area from R-1 to C-2 **Exhibits 20 and 21**

7/15/03 For reasons completely unknown to the Fayetteville City Board or to the Mayor, or to the Planning Commission, or to any of the City Planning staff, when the City adopted the new Zoning Map effective 7/15/013, it showed, for the first time in Fayetteville City Planning history, this 1030 X 150 foot strip of space as C-2. There was no public notice, no public hearings, no discussions, no chance for the neighbors to be heard, and in fact, no awareness on this Board's part, much less the neighborhood, that the City had re-zoned property which had been successfully defended as R-1 3 different times over 40 years: successfully defended at the Planning Board, at the City Board, and when those failed, by public referendum. **Exhibit 22**

Now it is proposed that an unknown drafter's mistake resolve the issue.

R.W.

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: File
FROM: Jeremy Pate, Director of Current Planning
DATE: February 10, 2006

Planning Staff has researched Planning Commission meeting minutes, rezoning files and City Clerk records of City Council/Board of Directors meeting minutes and ordinances in an attempt to locate the ordinance that zoned the approximately 150' strip of property between Evelyn Hills Shopping Center and Hillcrest Avenue, in conjunction with the Abshier Heights Planned Zoning District Proposal. The following represent the best timeline that we have been able to establish:

Zoning History – Evelyn Hills / Abshier Heights PZD

• 1960	Evelyn Hills rezoned to C-2 (excluding 150' strip adjacent to Hillcrest)
• August, 1962	City Council approved rezoning to C-2 with restrictive covenants (Ordinance 1314)
• November, 1962	Referendum vote (election) defeated Ordinance 1314, 682 to 471. Property remains zoned R1-A.
• August, 1967	Planning Commission recommends denial of rezoning to C-2
• September, 1967	Applicant appealed to Board of Directors
• October, 1967	Board of Directors review of appeal, applicant not present; no action taken
• November, 1967	Board of Directors rehear appeal, recommend applicant work out compromise with neighborhood; tabled 120 days, referred to Planning Commission
• February, 1968	Planning Commission table indefinitely the rezoning consideration
• June, 1970	City-wide rezoning affirmed C-2 zoning for Evelyn Hills; Zoning exhibit excludes the 150' wide portion adjacent to Hillcrest
• July, 1991	Request to rezone property from C-2 to R-1.5 withdrawn; Conditional Use to allow duplexes on the property (noted as being zoned R-1) denied
• 1991-1999	Projects in area reviewed for zoning maps; all reference R-1, until 1999, when the property is indicated as zoned C-2 on the 1-mile maps associated with a parking lot expansion for Weingarten (Evelyn Hills)

- June, 2003 — Unified Development Code adopted through Ordinance No. 4489, codified through Ordinance 4789; Ordinance # 4503 city-wide rezoning; property zoned C-2 to Hillcrest, as noted in the official Zoning Map of the City of Fayetteville

To date, staff has been unable to locate a formal action by the Planning Commission or the Board of Directors regarding any request on the property after its indefinite tabling in February, 1968 and the city-wide rezoning in 1970. Furthermore, the 1970 city-wide rezoning indicates that the subject property was not zoned C-2; rather, it remained at that time R-1 (see attached). The city-wide rezoning in 2003, however, as officially adopted by the City Council, indicates the property as zoned C-2, therefore staff is processing this project as being zoned C-2 currently.

EXHIBIT

Inspector's office
June 27, 1962.
P.D.P.

PETITION TO THE FAYETTEVILLE CITY PLANNING COMMISSION, THE MAYOR AND THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

Comes now, T. I. Abshier, an individual, and EVELYN HILLS SHOPPING CENTER, INC., a corporation, and for cause state:

I

That they are the owners and in possession of the following described real estate situated in Fayetteville, Washington County, Arkansas, to-wit:

> A strip of land one hundred fifty (150) feet deep located on and abutting the West boundary of Hillcrest Avenue, beginning at Abshier Drive, and running, thence North three hundred seventy (370) feet.
>
> A strip of land one hundred fifty (150) feet deep located on and abutting the West boundary of Hillcrest Avenue, beginning three hundred seventy (370) feet North of Abshier Drive, and running, thence North six hundred sixty (660) feet.
>
> Exhibit A attached hereto is a plat of the area which discloses the area to be rezoned.

The aforesaid real estate is presently zoned as R-1A Residential District.

Petitioners propose to construct a parking lot on the aforesaid real estate for the use and benefit of EVELYN HILLS SHOPPING CENTER, INC. which shopping center adjoins said real estate on the west, but before Petitioners can procure authorization to construct said parking lot it will be necessary to have said premises rezoned to C-2 Commercial District.

It is to the best interest of the City of Fayetteville and the people therein that the above described real estate to be rezoned from R-1A Residential District to C-2 Commercial District.

The rezoning of the aforesaid real estate will not unreasonably conflict with the surrounding land uses since the entire area west of the aforesaid real estate to the United States Highway No. 71 is C-2

Commercial District and comprises the main area of the Evelyn Hills Shopping Center which is located in a valley with all buildings being below the existing Hillcrest Avenue street level, and the entire area to the East of Hillcrest Avenue and the aforesaid real estate is zoned as R-1A Residential District situated directly on the top of the high hill overlooking the Evelyn Hills Shopping Center. The residents in the area to the east of the aforesaid real estate will receive additional protection by placing of record a protective covenant that no commercial building will be constructed upon the East 75 feet of said area which extends above the street level of Hillcrest Avenue as it now exists.

WHEREFORE, premises considered, petitioners pray that the Fayetteville City Planning Commission fix a time and place for a public hearing setting forth a time, place and purpose thereof to be published in the Northwest Arkansas Times more than fifteen (15) days prior to said public hearing, and that the Fayetteville City Planning Commission recommend to the City Council of the City of Fayetteville that said City Council pass an Ordinance rezong the above described premises from R-1A Residential District to C-2 Commercial District.

Respectfully submitted,

T. I. Abshier and
EVELYN HILLS SHOPPING CENTER, INC.

By: E J Ball
E. J. Ball, Their Attorney

N O T I C E

PUBLIC NOTICE IS HEREBY GIVEN TO ALL PERSONS CONCERNED OF A PUBLIC HEARING TO BE HELD BY THE FAYETTEVILLE PLANNING COMMISSION.

DATE: TUESDAY, JULY 24, 1962
TIME: 3:30 P. M.
PLACE: CITY COUNCIL ROOM, CITY ADMINISTRATION BUILDING, FAYETTEVILLE, ARKANSAS

PURPOSE OF HEARING AND LOCATION OF PROPERTY:

TO CONSIDER THE REZONING OF THAT PORTION OF REAL ESTATE FIRST HEREINAFTER DESCRIBED AND TO REZONE FROM "R-1A SINGLE FAMILY RESIDENTIAL DISTRICT" TO "C-2 THOROUGHFARE COMMERCIAL DISTRICT" THE FOLLOWING DESCRIBED REAL ESTATE, TO-WIT:

A STRIP OF LAND ONE HUNDRED FIFTY (150) FEET DEEP LOCATED ON AND ABUTTING THE WEST BOUNDARY OF HILLCREST AVENUE, BEGINNING AT ABSHIER DRIVE, AND RUNNING, THENCE NORTH THREE HUNDRED SEVENTY (370) FEET.

A STRIP OF LAND ONE HUNDRED FIFTY (150) FEED DEEP LOCATED ON AND ABUTTING THE WEST BOARDARY OF HILLCREST AVENUE, BEGINNING THREE HUNDRED SEVENTY (370) FEET NORTH OF ABSHIER DRIVE, AND RUNNING, THENCE NORTH SIX HUNDRED ~~NINEY~~ (660) FEET.

THE REZONING OF AFORESAID REAL ESTATE WILL NOT UNREASONABLY CONFLICT WITH THE SURROUNDING LAND USES SINCE THE ENTIRE AREA WEST OF THE AFORESAID REAL ESTATE TO THE UNITED STATES HIGHWAY NO. 71 IS C-2 COMMERCIAL DISTRICT AND COMPRISES THE MAIN AREA OF THE EVELYN HILLS SHOPPING CENTER WHICH IS LOCATED IN A VALLEY WITH ALL BUILDINGS BEING BELOW THE EXISTING HILLCREST AVENUE STREET LEVEL, AND THE ENTIRE AREA TO THE EAST OF HILLCREST AVENUE AND THE AFORESAID REAL ESTATE IS ZONED AS R-1A RESIDENTIAL DISTRICT SITUATED DIRECTLY ON THE TOP OF THE HIGH HILL OVERLOOKING THE EVELYN HILLS SHOPPING CENTER. THE RESIDENTS IN THE AREA TO THE EAST OF THE AFORESAID REAL ESTATE WILL RECEIVE ADDITIONAL PROTECTION BY PLACING OF RECORD A PROTECTIVE COVENANT THAT NO COMMERCIAL BUILDING WILL BE CONSTRUCTED UPON THE EAST 75 FEET OF SAID AREA WHICH EXTENDS ABOVE THE STREET LEVEL OF HILLCREST AVENUE AS IT NOW EXISTS.

A COPY OF THE PETITIONS FOR AMENDMENT, THE FAYETTEVILLE ZONING ORDINANCE AND ZONING DISTRICT MAP, AND THE ARKANSAS PLANNING ACT 186 OF 1957 ARE AVAILABLE FOR PUBLIC INSPECTION IN THE OFFICE OF THE CITY BUILDING INSPECTOR IN THE CITY ADMINISTRATION BUILDING.

DATED THIS 5 DAY OF July, 1962.

FAYETTEVILLE PLANNING COMMISSION

Suzanne Lighton
SUZANNE LIGHTON, SECRETARY

EXHIBIT
2

Published 11-7-11/60

Filed in City Inspector's Office on July 23, 1962

TO THE MAYOR, THE CITY COUNCIL, AND THE PLANNING COMMISSION

OF THE CITY OF FAYETTEVILLE, ARKANSAS

Comes now the undersigned petitioners and respectfully petition the Planning Commission to recommend to the City Council and the City Council to disapprove the petition filed on the 27th day of June, 1962, by T. I. Abshier and the Evelyn Hills Shopping Center, Inc. for the rezoning from R-1A residential district to

EXHIBIT
3

Minutes from 1962 zoning to C-2

The City Council of Fayetteville, Arkansas, met in regular session on Monday, August 27, 1962, at 7:30 P.M.
Present: Mayor Guy E. Brown, City Clerk George J. Davis, City Controller Albert J. Jones, City Attorney Bass Trumbo, City Engineer W. C. Smith, Chief of Police Hollis Spencer, Fire Chief Burl Skelton, and Aldermen: Heflin, Christie, Standley, Wheeler, Thomas, Burgin, Faucette, and Short.
Absent: None.

The minutes of the regular meeting on Monday, August 13, 1962, and of the special meeting on Tuesday, August 21, 1962, a copy of these having been mailed to each of the Aldermen prior to this meeting, were approved as written.

Rezoning of property near Evelyn Hills Shopping Center.

A large group of property owners appeared before the Council protesting the rezoning of a strip of land 150 feet deep located on and abutting the West boundary of Hillcrest Avenue, beginning at Abshier Drive, and running, thence North 370 feet; a strip of land 150 feet deep located on and abutting the West boundary of Hillcrest Avenue, beginning 370 feet North of Abshier Drive, and running, thence North 660 feet from R-1A Residential District to C-2 Commercial District.
This is located near the Evelyn Hills Shopping Center and was discussed at the last regular meeting of the Council on Monday, August 13, 1962.

Ordinance No. 1314.

After a long discussion, the City Attorney introduced a proposed ordinance entitled, "AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1239, PASSED AND APPROVED JUNE 13, 1960, AND REVISED ZONING DISTRICT MAP OF FAYETTEVILLE, ARKANSAS, APPROVED MAY 28, 1962, TO REZONE CERTAIN REAL ESTATE FROM R-1A SINGLE FAMILY RESIDENTIAL DISTRICT TO C-2 THOROUGHFARE COMMERCIAL DISTRICT".
Alderman Burgin moved to place the proposed ordinance on the first reading.
The motion was seconded by Alderman Heflin and passed unanimously, whereupon the City Attorney read the ordinance in its entirety for the first time.
Alderman Wheeler moved that the proposed zoning ordinance be amended to require Evelyn Hills Shopping Center, Inc., to construct and maintain a six foot fence between the one hundred thirty foot strip of land on the West and the twenty foot strip of land on the East, of the property in question.
The motion was seconded by Alderman Heflin and upon roll call the following vote was recorded, "Aye" Heflin, Standley, Wheeler, Thomas, and Faucette.
"Nay" Christie, Burgin, and Short.
There being five "Ayes" and only three "Nays", the Mayor declared the motion passed.
The City Attorney recommended that this requirement be added to the restrictive covenants previously executed by Evelyn Hills Shopping Center, Inc., in order that the covenant could be recorded in the Circuit Clerk's Office with the Deed Records of the County thereby causing it to have the legal effects desired.
The City Attorney suggested that the Council could vote on the ordinance in its original form provided the Mayor would not sign and approve the ordinance, nor have it published, until the above mentioned condition was fulfilled.
Alderman Burgin then moved that the ordinance pass. The motion was seconded by Alderman Christie and upon roll call the following vote was recorded, "Aye" Heflin, Christie, Standley, Wheeler, Thomas, Burgin, and Short. "Nay" Faucette.
There being seven "Ayes" and one "Nay", the ordinance failed to pass on one reading for lack of a unanimous vote.
Alderman Burgin then moved that the rule be suspended and the ordinance placed on the second reading.
The motion was seconded by Alderman Heflin and upon roll call the following vote was recorded, "Aye" Heflin, Christie, Standley, Wheeler, Thomas, Burgin, and Short. "Nay" Faucette.
There being seven "Ayes" and only one "Nay", the Mayor declared the motion passed.
The ordinance was then read for the second time.
Alderman Burgin then moved that the rule be further suspended and that the ordinance be placed on the third and final reading.
The motion was seconded by Alderman Christie and upon roll call the following vote was recorded, "Aye" Heflin, Christie, Standley, Wheeler, Thomas, Burgin, and Short. "Nay" Faucette.
There being seven "Ayes" and only one "Nay", the Mayor declared the motion passed.
The ordinance was then read for the third and last time.
The Mayor then declared the ordinance open for discussion. There being no further discussion, the Mayor asked the question, "Shall the Ordinance pass"?
Upon roll call the following vote was recorded, "Aye" Heflin, Christie, Standley, Wheeler, Thomas, Burgin, and Short. "Nay" Faucette.
There being seven "Ayes" and only one "Nay", the Mayor declared the Ordinance passed.

ORDINANCE NO. 1314

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1239, PASSED AND APPROVED JUNE 13, 1960, AND REVISED ZONING DISTRICT MAP OF FAYETTEVILLE, ARKANSAS, APPROVED MAY 28, 1962, TO REZONE CERTAIN REAL ESTATE FROM R-1A SINGLE FAMILY RESIDENTIAL DISTRICT TO C-2 THOROUGHFARE COMMERCIAL DISTRICT.

WHEREAS, a public hearing was held before the Planning Commission of the City of Fayetteville, Arkansas, on July 24, 1962, on the petition of Evelyn Hills Shopping Center, Inc., a corporation, and T. I. Abshier and Grace E. Abshier, his wife, requesting that said Planning Commission recommend to the City Council of the City of Fayetteville, Arkansas, that said City Council enact an ordinance rezoning the property described as follows, to-wit:

> A strip of land 150 feet deep located on and abutting the West boundary of Hillcrest Avenue, beginning at Abshier Drive, and running, thence North 370 feet; a strip of land 150 feet deep located on and abutting the West boundary of Hillcrest Avenue, beginning 370 feet North of Abshier Drive, and running, thence North 660 feet,

from R-1A Single Family Residential District to C-2 Thoroughfare Commercial District, and

WHEREAS, notice of said public hearing, setting forth the date, time, place and purposes of hearing, and location of property was published in the Northwest Arkansas Times, a newspaper of general circulation in said City more than 15 days prior to said public hearing, and

WHEREAS, following said public hearing, said Planning Commission certified to the City Council of the City of Fayetteville, Arkansas, its recommendation that an ordinance be adopted rezoning the west 130 feet of the above-described property from R-1A Single Family Residential District to C-2 Thoroughfare Commercial District, and that the east 20 feet thereof remain zoned R-1A Residential District as a bufferzone between the C-2 Thoroughfare Commercial District and the existing R-1A Single Family Residential District east of the above-mentioned 150 foot strip; the recommendation from the Planning Commission having been made on condition that the Evelyn Hills Shopping Center, Inc., and T. I. Abshier and Grace E. Abshier, his wife, file for record their restrictive covenants dated August 11, 1962, affecting the property, which covenants incorporate revisions suggested by the Planning Commission.

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

EXHIBIT 4

Section 1. That the west 130 feet strip of the above-mentioned property be rezoned from R-1A Single Family Residential District to C-2 Thoroughfare Commercial District.

Section 2. That all ordinances or parts of ordinances in conflict herewith are hereby repealed, and this ordinance shall be in full force and effect from and after its passage, approval, and publication.

PASSED AND APPROVED THIS 27th day of August, 1962.

ATTEST: George J. Davis
GEORGE J. DAVIS, CITY CLERK

APPROVED: G. E. Brown
GUY E. BROWN, MAYOR

No action on Appeal from the Board of Adjustment.

The City Attorney reported that, in his opinion, the Council could take no action on an appeal from the Board of Adjustment but any appeal would have to be made to a Court of Record.
This was in reference to the rezoning of certain property on Highway No. 62 West by Ted Williams and on rezoning certain property on East 6th Street to permit the Church of Christ (COLORED) to use a building located at 331 East 6th Street for Church Services.

Plat for Elmwood Addition accepted.

The Building Inspector presented a Final Plat for a subdivision by Pat Watkins to be known as Elmwood Addition to the City of Fayetteville, Arkansas, which had been approved by the Planning Commission.
After a brief discussion, Alderman Short moved that the plat be accepted and filed.
The motion was seconded by Alderman Wheeler and passed unanimously.
The City Clerk then read a proposed ordinance entitled, "AN ORDINANCE TO ACCEPT AND CONFIRM THE DEDICATION OF ALL STREETS, ALLEYS, AND EASEMENTS IN ELMWOOD ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS".
Alderman Wheeler moved that the Ordinance be passed.
The motion was seconded by Alderman Short and passed unanimously, whereupon the Mayor declared the Ordinance passed.

Ordinance No. 1315

ORDINANCE NO. 1315

AN ORDINANCE TO ACCEPT AND CONFIRM THE DEDICATION OF ALL STREETS, ALLEYS, AND EASEMENTS IN ELMWOOD ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, there has been duly presented to the City Council of the City of Fayetteville, Arkansas, a plat dated August, 1962, known as the Elmwood Addition to the City of Fayetteville, Arkansas, and being a part of the West Half (W 1/2) of the West Half (W 1/2) of Section 2 and part of the East Half (E 1/2) of Section 3, Township 16 North, Range 30 West, located in Washington County, Arkansas, by which the owners of the platted real estate have dedicated for the public use the streets, alleys and easements shown upon said plat, and

WHEREAS, the City Planning Commission of the City of Fayetteville, Arkansas, has recommended the acceptance of said plat.

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

SECTION 1. That the City of Fayetteville, Arkansas, hereby accepts and confirms the dedication of all streets, alleys, and easements dedicated in Elmwood Addition to the City of Fayetteville, Arkansas, and hereby declares said streets, alleys and easements, to be public streets, alleys, and easements, and the said City Council hereby assumes the care, control, and jurisdiction of the same.

SECTION 2. That this Ordinance shall take effect and be in force and effect from and after its passage, approval, and publication.

DATED THIS 27th day of August, 1962.

ATTEST: George J. Davis
GEORGE J. DAVIS, CITY CLERK

APPROVED: G. E. Brown
GUY E. BROWN, MAYOR

Authorize Subdivider's Contract Elmwood Addition

Alderman Wheeler moved that the Mayor and/or City Clerk be and he is hereby authorized to execute a Subdivider's Contract with the owner, Pat Watkins, of the Elmwood Addition and that the City Clerk be further authorized to cause the Subdivider's Contract to be recorded in the Circuit Clerk's Office of Washington County, Arkansas, with the Deed Records of the County.
The motion was seconded by Alderman Burgin and passed unanimously.

Fiscal Agent bids.

Alderman Short reported that it would be necessary to employ a Fiscal Agent for the City for the proposed Bond Issue which the City was contemplating for a new Police Station,&Fire Stations and that the City Controller had contacted several companies who had sent representatives to this meeting.
Alderman Short suggested that the agents be interviewed, one at a time to make their offers, and the Company and bids are as follows:

	Cost
Hill, Crawford, and Langford Waldorf & Lindsay	90 cents per $1000.00 bond and the City pay all other expenses.
Raucher, Pierce, Fenner, & Beane	$5.50 per $1000.00 bond and pay all expenses.
T. J. Raney & Sons, Inc.	$0.35 per $1000.00 bond and the City pay all expenses or $4.50 " " " " pay all expenses.
Dabbs Sullivan, & Co. (This offer was later reduced to $7.00 per $1000.00 bond)	1% of bond issue and pay all expenses and he explained that 1/2 mill would be sufficient taxation to vote extra, provided the City would refund the original 1959 Library & Airport Bonds, as the interest rate would be much lower.
Villareal & Co.	$3.50 per $1000.00 bond and pay all expenses.

Fiscal Agent employed.

After a long discussion, Alderman Faucette moved to employ Dabbs Sullivan, & Co. as the City's Fiscal Agent for the Bond Issue at a cost not to exceed 1% of the total bond issue with Dabbs Sullivan, & Co. paying all necessary expenses pertaining thereto provided they will include in their contract a guarantee to reduce the interest rate below the present rate and that the Mayor and City Clerk be and they are hereby authorized to execute a contract under these conditions.
The motion was seconded by Alderman Heflin and passed unanimously.

(See Page 161)

Section 2. A copy of the ordinance duly certified by the City Clerk shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3. This Ordinance shall take effect and be in force from and after its passage, approval, and publication.

PASSED AND APPROVED THIS 22nd day of October, 1962.

ATTEST: George J. Davis
GEORGE J. DAVIS, CITY CLERK

APPROVED: G. E. Brown
GUY E. BROWN, MAYOR

Resolution 16-62

Special Election for Referendum.

The City Attorney read a proposed resolution for a special election on a Referendum vote on City Ordinance No. 1314.
Alderman Burgin moved that the resolution be adopted and that the date of the special election be on Tuesday, November 20, 1962.
The motion was seconded by Alderman Thomas and upon roll call the following vote was recorded, "Aye" Heflin, Christie, Standley, Wheeler, Thomas, Burgin, and Faucette.
"Nay" Short.
There being seven "Ayes" and only one "Nay", the Mayor declared the Resolution adopted.

RESOLUTION 16-62

WHEREAS, on the 20th day of September, 1962, there was filed with the City Clerk of the City of Fayetteville, Arkansas, a petition requesting a referendum election on Ordinance No. 1314 of the City of Fayetteville, Arkansas; said ordinance having been passed by the City Council of the City of Fayetteville Arkansas, on the 27th day of August, 1962, and

WHEREAS, said petitions have been certified to the City Council by the City Clerk as containing the requisite number of signatures to call for a referendum election pursuant to the Constitution of the Stat of Arkansas, and

WHEREAS, the City published its notice setting a date for a special meeting of the City Council on t 10th day of October, 1962, to determine the sufficiency of said petitions, pursuant to the Constitution o the State of Arkansas, and Ordinance Number 588 of the City of Fayetteville, Arkansas, and

WHEREAS, at the special council meeting held on the 10th day of October, 1962, the Council determine that the petitions are in the proper order and contain the signatures of more than 15% of the number of persons voting for the office of Mayor in the last general election held for said office in the City of Fayetteville, Arkansas, and

WHEREAS, the Constitution of the State of Arkansas, requires that an election be held referring to a vote of the people, whether or not said Ordinance Number 1314 shall pass, and Ordinance Number 588 requiring that a special election be called by the City under these circumstances.

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

SECTION 1. That the petitions filed with the City of Fayetteville, Arkansas, for a referendum electi be and the same are hereby found to be in substantial compliance with the Constitution of the State of Arkansas, and the laws of the City of Fayetteville, Arkansas, and are found to contain sufficient number of signatures of qualified electors in the City of Fayetteville, Arkansas, to mandate a special election.

SECTION 2. That a special election be and the same is hereby called to ascertain whether or not Ordinance No. 1314 shall be affirmed or repealed. That said special election shall be held on the 20th da of November, 1962. (Tuesday)

SECTION 3. That the City Clerk of the City of Fayetteville, Arkansas, is hereby directed to certify to the County of Washington election board, the following proposed ballot form for the said referendum election, to-wit:

AN ORDINANCE TO REZONE CERTAIN REAL ESTATE ADJOINING THE EVELYN HILLS SHOPPING CENTER, FROM R-1A SINGLE FAMILY RESIDENTIAL DISTRICT TO C-3 THOROUGHFARE COMMERCIAL DISTRICT.

ORDINANCE NO. 1314

For Ordinance No. 1314 ..... ☐

Against Ordinance No. 1314 ..... ☐

PASSED AND APPROVED THIS 22nd day of October, 1962.

ATTEST: George J. Davis
GEORGE J. DAVIS, CITY CLERK

APPROVED: G. E. Brown
GUY E. BROWN, MAYOR

TAX Levy for 1962.

Alderman Short reported that it was necessary that the 1962 Property Tax Levy be made at this time in order to clarify the proposed bond program.
Alderman Short then moved that the tax levy for 1962 be and the same is hereby set at 14 mills and that the distribution of the 14 mill levy be made at the first regular council meeting following the general election on Tuesday, November 6, 1962.
The motion was seconded by Alderman Faucette and passed unanimously.

Letters read from the power companies read.

The City Clerk read two letters, one from the Ozarks Electric Corporation and one from the Southwestern Electric Power Co. offering to purchase approximately 3½ miles of power line running from the City Limits to Lake Sequoyah and owned by the City of Fayetteville.
No action was taken at this time.

Ordinance to rename street left on first reading.

The City Attorney introduced and, at the request of the Council, read a proposed ordinance entitled, "AN ORDINANCE CHANGING THE NAME OF A STREET WITHIN THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, ARKANSAS".
No further action was taken and the ordinance was left on the first reading.

Authorize Mayor to execute assignment of lease on Parking Lot.

Alderman Thomas moved that the Mayor be and he is hereby authorized and directed to execute an assignment of a lease on an off-street parking lot known as the Lewis-Brown Parking Lot or Parking Lot No. 7.
The motion was seconded by Alderman Wheeler and passed unanimously.

City Housing property sold (East of Hiway 71)

Alderman Burgin reported that bids had been received and opened for the City Housing Project Building located at the Southeast corner of the intersection of South Street and Church Avenue and lying west of Highway No. 71 Bypass.
He reported that only two bids were received which were by Wade Fincher & Chester House for $7,050.00 and one by Bert Rogers for $6151.00 and that the Building Committee recommended the acceptance of the bid by Fincher & House.
Alderman Burgin then moved to accept the high bid of Wade Fincher and Chester House and sell the property for $7,050.00 and that the Mayor and City Clerk be and they are hereby authorized to execute the necessary papers to complete the sale.
The motion was seconded by Alderman Christie and passed unanimously.

Alderman Burgin excused.

Alderman Burgin was excused at this time.

Authorize City Eng. to procure bids for welding machine.

Alderman Wheeler reported that the City Engineer had requested that the City purchase a welding machine which was badly needed by the Water & Sewer Department.
After a brief discussion, Alderman Wheeler moved that the City Engineer procure bids on a gasoline driven 600 Ampere Welding Machine mounted on a four wheel trailer with the necessary accessories to use for welding or thawing underground water mains.
The motion was seconded by Alderman Thomas and passed unanimously.

Tax Distribution for 1962.

Alderman Short reported that the Finance Committee had recommended that the Tax Distribution for the year of 1962 be as follows:

Identification	Mills
General Government	5.00
General Obligation Bonds	4.00
Fire Protection	3.7
Police Pension Fund	0.5
Fire Pension Fund	0.5
Park Maintenance Fund	0.3
Total Mills	14.0

Alderman Short then moved to adopt the recommendation of the Finance Committee and allocate the Tax Levy for the year of 1962 as outlined above making a total of 14 mills.
The motion was seconded by Alderman Thomas and passed unanimously.

City Clerk read results of Special Election on Ordinance No. 1314

The City Clerk read the Certification from the Board of Election Commissioners on the Special Election held in Fayetteville on November 20, 1962, on Ordinance No. 1314 of the Fayetteville Ordinances which was "AN ORDINANCE TO REZONE CERTAIN REAL ESTATE ADJOINING THE EVELYN HILLS SHOPPING CENTER, FROM R-1A SINGLE FAMILY RESIDENTIAL DISTRICT TO C-2 THOROUGHFARE COMMERCIAL DISTRICT".
The results were:

FOR ORDINANCE NO. 1314	471
AGAINST ORDINANCE NO. 1314	682

Therefore the Ordinance was defeated by 211 votes.

Donate $650. for Xmas Decorations.

Alderman Wheeler moved to donate the sum of $650.00 to the Chamber of Commerce for Christmas Decorations as was done in the year of 1961.
The motion was seconded by Alderman Thomas and passed unanimously.

Purchase of new uniforms for Police Dept.

Alderman Faucette reported that the Police Committee and the Chief of Police had recommended a different type of uniform for the City Police and that the City purchase one complete uniform for each patrolman which would cost the City a total sum of approximately $2,700.00.
After a long discussion, Alderman Faucette moved to accept the recommendation of the Police Committee and the Chief of Police and purchase one complete uniform (new) for each policeman and that each policeman would hereafter purchase his uniforms through the Police Department.
The motion was seconded by Alderman Wheeler and passed unanimously.

Borrow $25,000. Inter-Departmental for Public Works Fund.

Alderman Short moved to increase the appropriation for the Public Work Fund by $25,000.00 and he further moved that an Inter-Departmental Transfer of $25,000.00 be made from the General Fund to the Public Works Fund with the stipulation that this amount be repaid from collection of Street Department Revenues.
The motion was seconded by Alderman Heflin and passed unanimously.

There being no further business, Alderman Wheeler moved to adjourn. The motion was seconded by Alderman Thomas and passed unanimously, whereupon the Mayor declared the meeting adjourned.

ATTEST: George J. Davis
GEORGE J. DAVIS, CITY CLERK

APPROVED: Guy E. Brown
GUY E. BROWN, MAYOR

ORDINANCE NO. 1314

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1239, PASSED AND APPROVED JUNE 13, 1960, AND REVISED ZONING DISTRICT MAP OF FAYETTEVILLE, ARKANSAS, APPROVED MAY 28, 1962, TO REZONE CERTAIN REAL ESTATE FROM R-1A SINGLE FAMILY RESIDENTIAL DISTRICT TO C-2 THOROUGHFARE COMMERCIAL DISTRICT.

WHEREAS, a public hearing was held before the Planning Commission of the City of Fayetteville, Arkansas, on July 24, 1962, on the petition of Evelyn Hills Shopping Center, Inc., a corporation, and T. I. Abshier and Grace E. Abshier, his wife, requesting that said Planning Commission recommend to the City Council of the City of Fayetteville, Arkansas, that said City Council enact an ordinance rezoning the property described as follows, to-wit:

A strip of land 150 feet deep, located on and abutting the West boundary of Hillcrest Avenue, beginning at Abshier Drive, and running thence North 370 feet; a strip of land 150 feet deep, located on and abutting the West boundary of Hillcrest Avenue, beginning 370 feet North of Abshier Drive, and running thence North 660 feet.

from R-1A Single Family Residential District to C-2 Thoroughfare Commercial District, and

WHEREAS, notice of said public hearing, setting forth the date, time, place, and purposes of hearing, and location of property was published in the Northwest Arkansas Times, a newspaper of general circulation in said City more than 15 days prior to said public hearing, and

WHEREAS, following said public hearing, said Planning Commission certified to the City Council of the City of Fayetteville, its recommendation that an ordinance be adopted rezoning the west 130 feet of the above-described property from R-1A Single Family Residential District to C-2 Thoroughfare Commercial District, and that the east 20 feet thereof remain zoned R-1A Residential District as a buffer zone between the C-2 Thoroughfare Commercial District, and the existing R-1A Single Family Reisdential District east of the above-mentioned 150 foot strip; the recommendation from the Planning Commission having been made on condition that the Evelyn Hills Shopping Center, Inc., and T. I. Abshier and Grace E. Abshier, his wife, file for record their restrictive covenants, dated August 11, 1962, affecting the property, which covenants incorporate revisions suggested by the Planning Commission.

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

SECTION 1. That the west 130 foot strip of the above-described property be rezoned from R-1A Single Family Residential District to C-2 Thoroughfare Commercial District.

SECTION 2. That all ordinances or parts of ordinances in conflict herewith are hereby repealed, and this Ordinance shall be in full force and effect from and after its passage, approval, and publication.

PASSED AND APPROVED THIS 27th day of August, 1962.

APPROVED:

GUY E. BROWN, MAYOR

ATTEST:

GEORGE J. DAVIS, CITY CLERK

EXHIBIT
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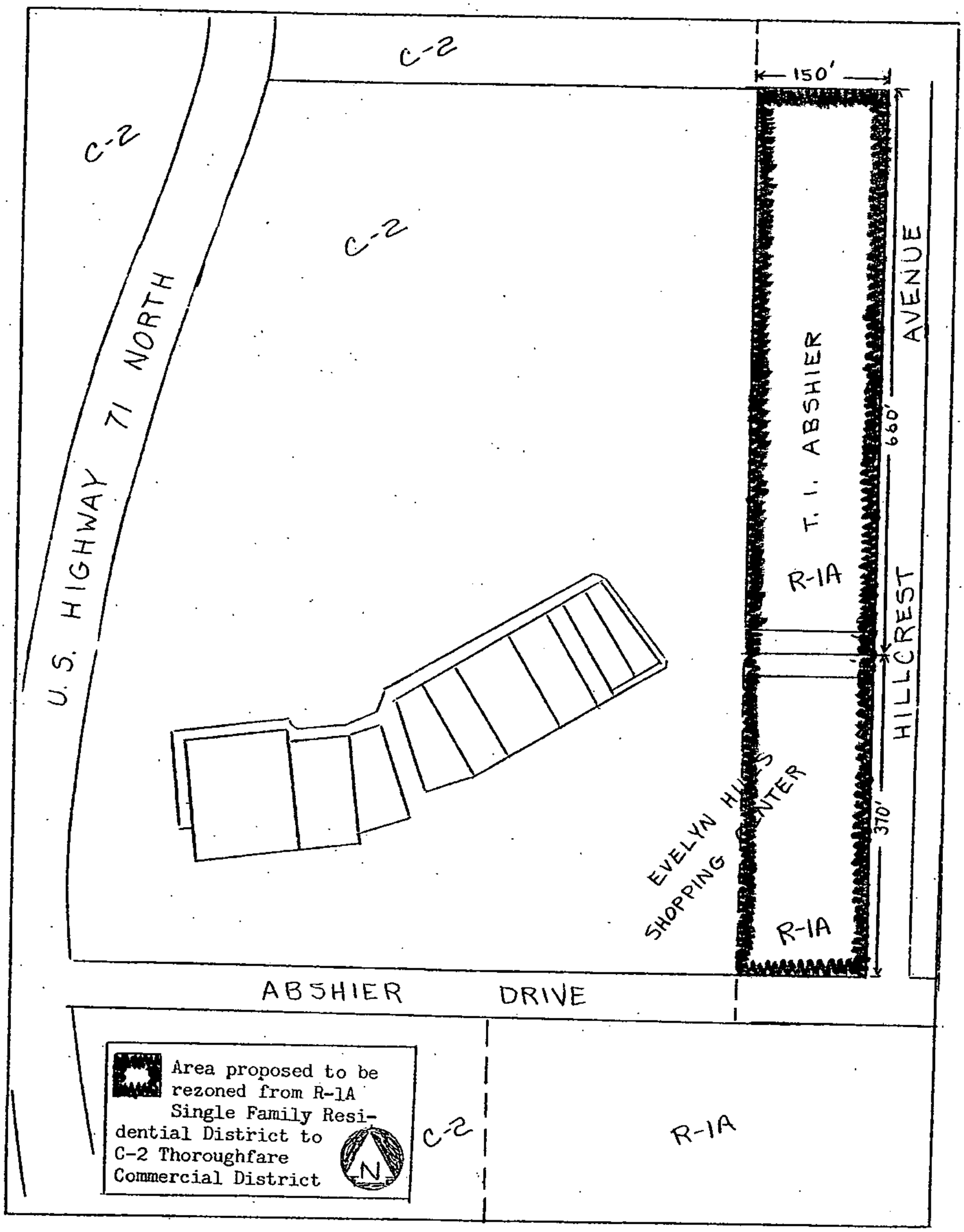
C-2
C-2
C-2
150'
U.S. HIGHWAY 71 NORTH
T. I. ABSHIER
AVENUE
660'
R-1A
HILLCREST
370'
EVELYN HILLS SHOPPING CENTER
R-1A
ABSHIER DRIVE
Area proposed to be rezoned from R-1A Single Family Residential District to C-2 Thoroughfare Commercial District
N
C-2
R-1A

ORDINANCE NO. 1314

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1239, PASSED AND APPROVED JUNE 13, 1960, AND REVISED ZONING DISTRICT MAP OF FAYETTEVILLE, ARKANSAS, APPROVED MAY 28, 1962, TO REZONE CERTAIN REAL ESTATE FROM R-1A SINGLE FAMILY RESIDENTIAL DISTRICT TO C-2 THOROUGHFARE COMMERCIAL DISTRICT.

WHEREAS, a public hearing was held before the Planning Commission of the City of Fayetteville, Arkansas, on July 24, 1962, on the petition of Evelyn Hills Shopping Center, Inc., a corporation, and T. I. Abshier and Grace E. Abshier, his wife, requesting that said Planning Commission recommend to the City Council of the City of Fayetteville, Arkansas, that said City Council enact an ordinance rezoning the property described as follows, to-wit:

A strip of land 150 feet deep, located on and abutting the West boundary of Hillcrest Avenue, beginning at Abshier Drive, and running thence North 370 feet; a strip of land 150 feet deep, located on and abutting the West boundary of Hillcrest Avenue, beginning 370 feet North of Abshier Drive, and running thence North 660 feet.

from R-1A Single Family Residential District to C-2 Thoroughfare Commercial District, and

WHEREAS, notice of said public hearing, setting forth the date, time, place, and purposes of hearing, and location of property was published in the Northwest Arkansas Times, a newspaper of general circulation in said City more than 15 days prior to said public hearing, and

WHEREAS, following said public hearing, said Planning Commission certified to the City Council of the City of Fayetteville, its recommendation that an ordinance be adopted rezoning the west 130 feet of the above-described property from R-1A Single Family Residential District to C-2 Thoroughfare Commercial District, and that the east 20 feet thereof remain zoned R-1A Residential District as a buffer zone between the C-2 Thoroughfare Commercial District, and the existing R-1A Single Family Reisdential District east of the above-mentioned 150 foot strip; the recommendation from the Planning Commission having been made on condition that the Evelyn Hills Shopping Center, Inc., and T. I. Abshier and Grace E. Abshier, his wife, file for record their restrictive covenants, dated August 11, 1962, affecting the property, which covenants incorporate revisions suggested by the Planning Commission.

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

SECTION 1. That the west 130 foot strip of the above-described property be rezoned from R-1A Single Family Residential District to C-2 Thoroughfare Commercial District.

SECTION 2. That all ordinances or parts of ordinances in conflict herewith are hereby repealed, and this Ordinance shall be in full force and effect from and after its passage, approval, and publication.

PASSED AND APPROVED THIS 27th day of August, 1962.

APPROVED:

GUY E. BROWN, MAYOR

ATTEST:

GEORGE J. DAVIS, CITY CLERK

Sherry Thomas
City Clerk
3rd Floor

RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, EVELYN HILLS SHOPPING CENTER, INC., a corporation and T.I. Abshier and Grace E. Abshier, husband and wife (hereinafter called OWNERS), are the record owners of the following described real estate situated in Fayetteville, Washington County, Arkansas, to-wit:

A parcel of land lying in the NW¼ Section 10, Township 16, North Range 30 West, within the corporate limits of the City of Fayetteville, and more particularly described as follows: Beginning at a point which is S 89 deg. 30" W 184.35 feet from the NE corner of said S½ NW¼ NW¼ of Section 10, thence South 660 feet, thence South 0 degrees 08' W 370.0 feet; thence S 89 deg. 55' 30" W 916.5 feet to the East right of way of U.S. Hwy. No. 71; thence Northeasterly along said right of way more or less 1034.5 feet to an iron pin which is S. 89 degrees 55' 30" W 734 feet from the point of beginning; thence N. 89 degrees 55' 30" E. 734 feet to the point of beginning, containing 20.2 acres, more or less.

WHEREAS, the aforesaid real estate abuts the West boundary of Hillcrest Avenue, Fayetteville, Arkansas, beginning at the North boundary line of Abshier Drive in the City of Fayetteville, Arkansas, and continuing North for a distanc of 1,030 feet; and:

WHEREAS, the OWNERS filed a petition with the Planning Commission of Fayetteville, Arkansas, seeking to re-zone from R-1A Residential District to C-2 Commercial District the following described premises, situated in Fayetteville, Washington County, Arkansas, to-wit:

A Strip of land 150 feet deep located on and abutting the West boundary of Hillcrest Avenue, beginning at Abshier Drive, and running, thence North 370 feet; a strip of land 150 feet deep located on and abutting the West boundary of Hillcrest Avenue, beginning 370 feet North of Abshier Drive, and running thence North 660 feet, and

as a result of which the Planning Commission has recommended that the West 130 feet thereof be rezoned to C-2 Commercial District, and that the East 20 feet thereof remain zoned R-1A Residential District as a buffer zone between

EXHIBIT
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the C-2 area and the Residential District East of the 150 foot strip of land; and,

WHEREAS THE EVELYN HILLS SHOPPING CENTER, INC., is now developing theEvelyn Hills Shopping Center on a part of the real estate first hereinabove described and desires to include said 150 foot East-West strip of real estate in the Shopping Center area; and,

WHEREAS, the OWNERS have agreed with the planning Commission, the Fayettevil City Council and the owners of the real estate abutting the East boundary of Hillcrest Avenue, Fayetteville, Arkansas, that they will place of record the restrictive covenants set out below if the West 130 feet of said 150 foot strip of real estate is re-zoned from R-1A Residential District to C-2 Commercial District with the East 20 feet of said 150 foot strip to remain zoned R-1A Residential District as a buffer zone; and,

WHEREAS, the restrictive covenants set out below shall benefit the owners of the real estate situated in Fayetteville, Arkansas, which abuts on the East boundary of Hillcrest Avenue in said City and which is located due East of the 1,030 feet of real estate first described hereinabove; now,

THEREFORE, in consideration of the premises set out herein and for the purposes hereinabove mentioned, the said Evelyn Hills Shopping Center, Inc., and T.I. Abshier and Grace E. Abshier, husband and wife, hereby covenant:

1. That no commercial building which extends above thestreet level of Hillcrest Avenue as it now exists shall be constructed of placed upon a strip of land 80 feet by 1,030 feet which strip of land lies 20 feet West of Hillcrest Avenue and abuts the North boundary of Abshier Drive, Fayetteville, Arkansas, which strip of land is described as follows:

A parcel of land lying in the NW¼ of Section 10, Township 16 North Range 30 West, more particularly described as follows: Beginning at a point which is South 89 degrees 55' 30" West 204 feet from the Northeast corner of the S½ NW¼ NW¼ of Section 10, thence South 660 feet, thence South 0degrees 08' West 370 feet, thence South 89 degrees 55' 30" West 80 feet thence North 1,030 feet, more or less, to a point 80 feet due West of the beginning point, thence East 80 feet to the place of beginning.

2. That no means of ingress or egress to and from the aforesaid real estate described in paragraph 1 hereinabove from Hillcrest Avenue, Fayetteville, Arkansas shall be permitted to exist, except that the present means of ingress and egress to and from said real estate from the said Hillcrest Avenue Fayette-

ville, Arkansas, located about 350 feet North of Abshier Drive, Fayetteville, Arkansas, and the North 50 feet of the real estate described in paragraph 1 hereinabove shall constitute and continue to be the means of ingress and egress to and from said real estate described in paragraph 1 hereinabove from Hillcrest Avenue Fayetteville, Arkansas .

3. That no building, parking lot or any structure of any kind except retaining walls and railings shall be placed upon said real estate described in paragraph 1 hereinabove nearer than 20 feet to the present West boundary line of Hillcrest Avenue, Fayetteville, Arkansas.

4. That the base of any motor vehicle parking lot placed and/or maintained upon the real estate described in paragraph 1 hereinabove shall be at least 8 feet below the present street level of Hillcrest Avenue, Fayetteville, Arkansas, except that this covenant shall not apply to the North 100 feet of said strip of land.

5. Within 12 months from the date of the passage of an ordinance re-zoning the aforesaid 130 feet strip of land to C-2 Commercial District, and subject to the provisions of paragraph 2 hereinabove, Evelyn Hills, Shopping Center, Inc. shall construct a fence along the West bounday of the aforesaid 20 foot strip of land which remains R-1A Residential District, which fence shall be at least six feet in height.

6. That within 12 months from the date of the passage of an ordinance re-zoning said 130 foot strip of land to C-2 Commercial District , the Evelyn Hills Shopping Center, Inc., shall landscape and beautify the 20 foot strip lying immediately east of said 130 foot strip (which 20 foot strip also lies immediately west of Hill crest Avenue), which is the strip retained in R-1A Re sidential District as a buffer zone. That this beautification shall include the planting and permanent maintenance at grass and shrubs. That if this beautification is not done and maintained by the Evelyn Hills Shopping Center, Inc., the City of Fayetteville may do the beautification and maintenance at the expense of the Evelyn Hills Shopping Center.

7. These covenants shall run with the land and shall be binding on all parties and all persons claiming under Evelyn Hills Shopping Center, Inc. and T.I. Abshier and Grace E. Abshier, husband and wife, for a period of twenty (20) years from the date that these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of five (5)

years unless an instrument signed by owners of a majority of the separate tracts of property fronting on both the East and West side of Hillcrest Avenue, Fayetteville, Arkansas, for the 1,030 feet as set out in the legal description hereinabove, releasing said covenants, or any part thereof, is placed of record.

8. These covenants shall inure to the benefit of any persona owning any of the real estate which abuts the East and West boundary lines of Hillcrest Avenue for the distance of 1,030 feet as set out in the legal descriptionhere inabove, and any such property owner is hereby granted the authority to enforce such covenants.

In Witness Whereof, the parties hereto have hereunto caused this instrument to be executed on this 31 day of August, 1962.

EVELYN HILLS SHOPPING CENTER, INC.
BY John D. Askew, President

ATTEST: John Maguire, Secretary

T.I. Abshier
Grace E. Abshier

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

On this 31 day of August, 1962, before the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said county and state, appeared in person the within named John D. Askew and John Maguire to me personally known, who stated that they were the President and Secretary of Evelyn Hills Shopping Center, Inc., a corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for this consideration, uses and purposes therein mentioned and set forth.

In Testimony Whereof, I have hereunto set my hand and official seal this 31 day of August, 1962.

Jane R. Horne, Notary Public.

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

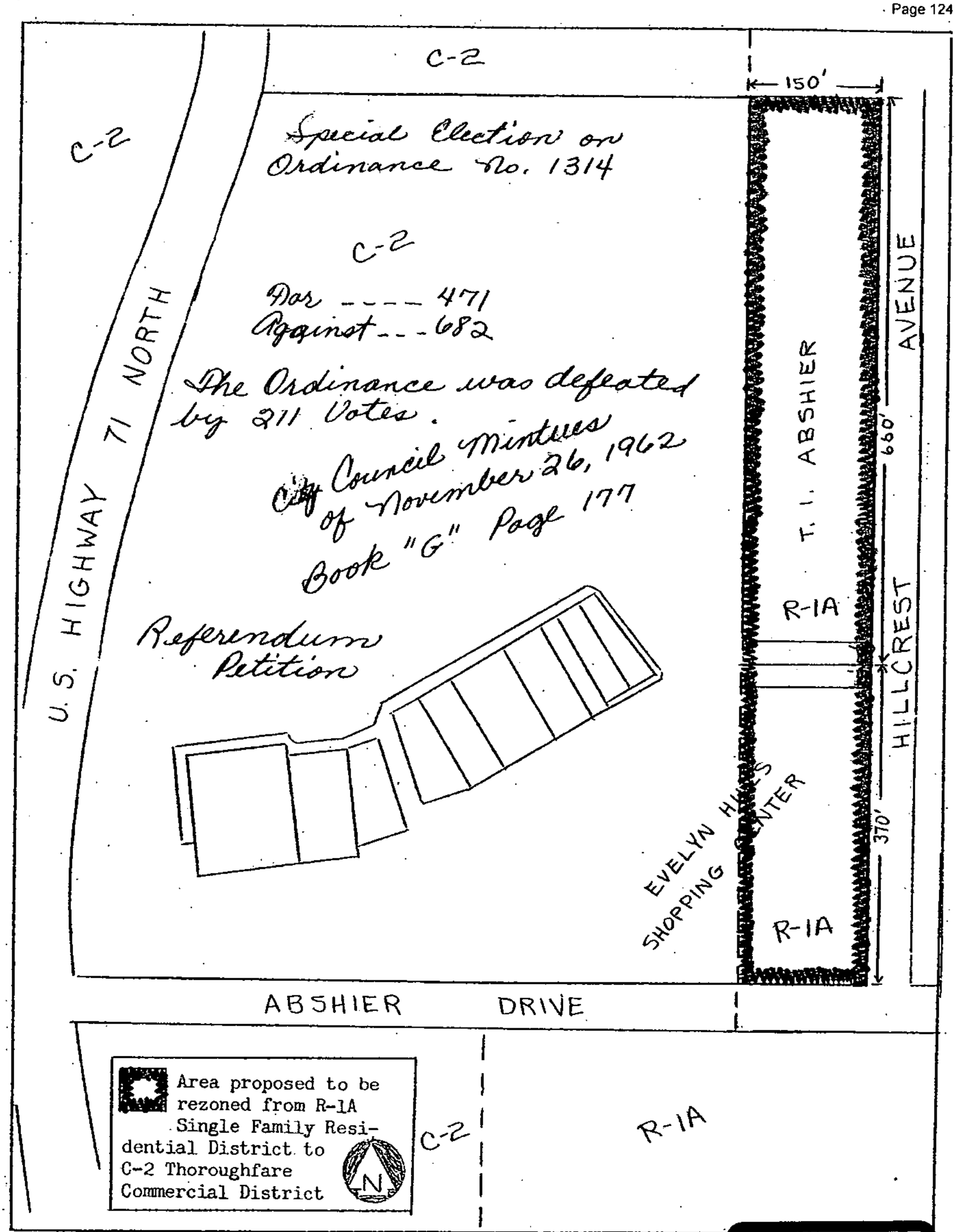
Be it remembered that on this day came before me the undersigned, a Notary

Public, within and for the county aforesaid, duly commissioned, and acting, T.I. Abshier and Grace E. Abshier, husband and wife, to me well known as parties in the foregoing covenants, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

Witness my hand and seal as such Notary Public this 31 day of August, 1962.

Jane R. Horne, Notary Public.

Filed for Record Sept. 18, 1962 10:06 A.M. Recorded in Volume 580 page 214


C-2
150'
C-2
Special Election on
Ordinance No. 1314
C-2
Pro ---- 471
Against --- 682
The Ordinance was defeated
by 211 Votes.
City Council Minutes
of November 26, 1962
Book "G" Page 177
Referendum
Petition
U.S. HIGHWAY 71 NORTH
T. I. ABSHIER AVENUE
660'
R-1A
HILLCREST
370'
EVELYN HUGHES
SHOPPING CENTER
R-1A
ABSHIER DRIVE
Area proposed to be
rezoned from R-1A
Single Family Resi-
dential District to
C-2 Thoroughfare
Commercial District
N
C-2
R-1A

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PLANNING COMMISSION

Amendment to Zoning Map or Regulations

PETITIONER T. I. Abshier and EVELYN HILLS SHOPPING CENTER, INC.

DATE June 27, 1962 FEE PAID $25.00 CASHIER B-9192

X PROPERTY DESCRIPTION

A strip of land 150 feet deep located on and abutting the west boundary of Hillcrest Avenue, beginning at Abshier Drive, and running, thence North 370 feet.

A strip of land 150 feet deep located on and abutting the West boundary of Hillcrest Avenue, beginning 370 feet North of Abshier Drive, and running, thence North 660 feet.

X SKETCH OF PROPERTY ATTACHED

PROPOSED ZONING CHANGE FROM R-1A Single Family Residential District

TO C-2 Thoroughfare Commercial District

REASON FOR REQUEST

DATE OF PUBLIC HEARING Tuesday, July 24, 1962, 3:30 P.M.

PLANNING COMMISSION ACTION

CITY COUNCIL ACTION

ORDINANCE NO. 1314 PASSED AND APPROVED August 27, 1962

(X) PETITION

(X) SIGN NOTICE

( ) NEWSPAPER NOTICE

( ) RESOLUTION

(X) ORDINANCE

(X) OTHER INFORMATION

3/1/01 According to my research, this rezoning was brought to a public vote by referendum. The rezoning was overturned. BB

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Donette Thompson
Secretary

MINUTES OF A CITY PLANNING COMMISSION MEETING

The City Planning Commission met in a regular meeting at 4:00 P.M., Tuesday, August 15, 1967, in the City Directors Room of the City Administration Building.

Members present: Ernest Jacks, Allen Gilbert, James Mashburn, Roy Clinton, and Henry Shreve.

Members absent: Clark McClinton, Suzanne Lighton, Wade Fincher, and Byron Boyd.

Others present: Jim Vizzier, Harold Lieberenz, John Maguire, E.J. Ball, Lewis Jones, Bass Trumbo, Mr. and Mrs. Donald Bunting, Mr. Austin Parish, Clay Yoe, Mr. Harold E. Duggar, Vine Blumenberg, and twenty four interested parties.

The meeting was called to order by Acting Chairman, Ernest Jacks.

The first petition on the agenda was that of Evelyn Hills Shopping Center, Incorporated.

Mr. E.J. Ball represented the petitioner who is asking that the property, located west of and adjoining Hillcrest Avenue situated in the unplatted portion of Evelyn Hills Addition to the City of Fayetteville, be rezoned from R-1A, Single Family Residential District, to C-2, Thoroughfare Commercial District.

Mr. Ball explained that the intended use of the property, if the rezoning is approved, is parking space for customers and tenants of the shopping center. Mr. Ball pointed out that the area would be landscaped and largely blacktopped. In his opinion the equities would require that the commission approve this rezoning.

Mr. Lewis Jones represented the opponents and presented a petition signed by 41 persons protesting any rezoning of this property.

Mr. Jones pointed out that this case actually started in 1960, when rezoning was proposed for the area in question along with the property now occupied by the shopping center. A public hearing was held and the rezoning was approved with the exception of the 150' strip now in question. This area was left as a buffer zone between the commercial and residential districts.

In 1962, T.I. Abshier and Evelyn Hills Shopping Center, Inc., again asked for rezoning of the 150' strip. The Planning Commission and the City Council approved rezoning to a commercial district 130' of the property leaving the remaining 20' strip residential to serve as a buffer zone, however, this issue was presented for public vote later that year and the voters decided the property should be left as a residential zone.

Under the City Ordinance a petition for rezoning which has not been approved may be resubmitted after one year if the conditions or circumstances have changed.

The proponents changed the surface of said property, grading it and

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spreading gravel on it making it unuseable for residential property and at some later date used it for parking.

The circumstances have changed, but only to the effect the need is greater for the buffer zone to be held. The residents of the area feel it would be detrimental to the residential district if this rezoning were approved. The history of this property would militate most strongly that this is not good planning.

Mr. Jones asked that Dr. Mashburn refrain from voting on the petition as he had previously expressed his preference for this property to be rezoned for commercial use.

Mr. Walter Brown spoke in behalf of Mrs. Richart who owns the property at 1516 Hillcrest. Mrs. Richart was unable to attend the hearing. Mr. Brown said that the property owners on Hillcrest had constantly been harrassed by trucks, and on occassion elephants, parked on the residential property in question. This use of the lot had been protested to the City Manager and the City Building Inspector. Mr. Brown said nothing has been done to landscape or beautify the property and the residents of the area have been told that the City cannot force the owners of shopping centers to landscape. A rezoning to commercial use would further detract from the desireability of the neighborhood.

Phylis Johnson spoke in behalf of Mr. J. Glenn Mitchell who resides at 1314 Hillcrest, she expressed the opinion that if the property were rezoned for commercial use, the petitioner could build a laundry or some other commercial building on the lot.

Mr. Jacks, Acting Chairman, asked if anyone else desired to be heard against the petition. There were none.

Mr. E.J. Ball presented his rebuttal by saying, in effect, that Evelyn Hills Shopping Center, Inc., had purchased this property after the first rezoning in 1960 had been approved and that he had no knowledge of any agreements which might have been made by the former owners.

Any agreement made to keep the buffer zone was a verbal agreement and would not be legally binding.

He pointed out that at the time the shopping cneter was built there were not any commercial buildings on the east or west side of highway 71 in this vicinity. Since that time all of this property has been commercially developed.

The building permit for the residence at 1516 Hillcrest was obtained May 25, 1962, which was after the shopping center was built. The large residence at 1440 Hillcrest has about 6 students living it it.

Mr. Ball pointed out that the petitioners have not broken the law, have never sanctioned parking in the area in question and have taken action to correct the situation when it has been brought to their attention.

Those present had nothing further to add; therefore the Acting Chairman closed the discussion of the rezoning petition filed by Evelyn Hills Shopping Center, Inc.

(3)

Public hearing on the petition of Mr. and Mrs. Donald Bunting was next.

Mr. Bass Trumbo represented the petitioners who are asking for rezoning from R-3, Multi-family Residential District to R-4, Multi-family Residential and Dormitory District, of Lot 1, in Block 7 of I.W. Duncan's Addition to the City of Fayetteville.

Mr. Trumbo explained that Mr. Bunting is planning to construct multi--family apartments on the property in question. He pointed out that there are only slight differences in the two zones but with the R-4 classification Mr. Bunting will be able to construct two (2) more units than would be permitted in the R-3 zone. The property immediatly north of Center Street has units similar to those Mr. Bunting desires to erect.

Mr. Jack Krie - 3 South Duncan - explained that he was not objecting to the rezoning but was unfamiliar with the ordinances and was interested in whether this rezoning would effect the parking regulations.

Mr. Lieberenz explained the parking regulations are the same for both of the zones.

Mr. Jacks asked if anyone else desired to be heard on the petition.

The next petition to be heard was that of Mr. Vine Blumenberg who is asking for rezoning from R-2, Two Family Residential District, to R-3, Multi-family Residential District, of the property located on the west side of Leverett Street with the north property line on Lawson Street.

Mr. Blumenberg said he was asking for the property to be rezoned for apartments. He pointed out the zoning of property to the south is I-1A, Light Industrial and feels apartments would be more desireable in this neighborhood than industry.

Mr. Jacks asked abouth the location, in relation to Mr. Blumenberg's property, of the apartments which are presently being built on Leverett Street.

Mr. Blumenberg answered that this is in the first block south of his property.

Mr. Jacks asked if there were opponents who wished to speak.

Mr. James Mitchell - 910 Lawson - said he was opposed to R-3, he feels R-2 is a satisfactory zoning for this neighborhood. He is opposed to apartments of the sixe that would probably be erected on this property if the rezoning is approved.

Margaret Thurman - 1500 North Oakland - pointed out the rejection, by the Planning Commission, of the rezoning request for property adjacent to that of Mr. Blumenberg. She said the property owners in this neighborhood are for the most part elderly people who appreciste the peace and quiet of the neighborhood.

Mr. Blumenberg replied that the petition for rezoning which was turned down was on a small lot and was rejected because it was considered spot zoning.

Mr. and Mrs. Clay Yoe's petition was next on the agenda, the have requested rezoning from O-1, Open Land District, to C-2, Thonough-fare Commercial District, of property located on the southeast corner of Highway 45 and Highway 265.

Mr. Yoe explained that he had purchased this property 13 years ago with commercial use in mind. The area in question is at the intersection of two state highways and is well located to serve as a shopping area for this part of the city.

Mr. Yoe presented a statement from Mr. Richard Walden, who owns property to the south, to the effect that he has no objections to the rezoning.

Mr. Yoe said he had, with the help of the Federal Government, built this highway (#265) and plans are to continue it north to Springdale to intersect with Highway 264.

Mr. Roy Clinton asked the total area of the property in question.

Mr. Yoe replied that there is approximately 44 acres, and expressed the belief that commercial use of this property would enhance the value of the surrounding area.

There were no opponents present.

The next petition on the agenda was that of Mr. and Mrs. J. Austin Parish who have requested the rezoning from R-2, Two family Residential, to C-1, Neighborhood Commercial District, of one lot 80' x 150' located on the east side of State Highway 112 and being the first property north of the entrance drive to Oak Plaza Shopping Center.

Mr. Parish said the lot in question faces onto the presently zoned C-1 area of the shopping cneter. He explained that the intended use of the lot is for a movie theater. His plans are to ask for permission from the Board of Adjustment to erect a movie theater in the C-1, Neighborhood Commercial Zone. He also explained that the title to the property is vested in Oak Plaza Enterprises, Inc. which he and Mrs. Parish own.

There were no opponents to this petition present at the hearing.

Mr. Harold E. Duggar's petition for rezoning of property located on the east side of Green Acres Road between Gibson's Discount Center and Poplar Street was next on the agenda.

Mr. Duggar explained that the property is owned by his mother, Mrs. Frona Duggar, the areas north, south and east are zoned commercial. The property in question is the only area on the east side of Green Acres Road not already zoned C-2.

There were no opponents to the petition.

Dr. Mashburn was called out of the meeting on an emergency, there no

longer being a quorum present the meeting was adjourned by Acting Chairman, Ernest Jacks. A special meeting will be held August 22, 1967, to act on the petitions heard in todays meeting.

Respectfully submitted,

_____
Secretary

Approved:

_____
Chairman

Date:

_____

MINUTES OF THE PLANNING COMMISSION MEETING

The Planning Commission met in a special meeting Tuesday, August 22, 1967 at 4:00 P.M., in the Directors Room of the City Administration Building, Fayetteville, Arkansas.

Members Present: Roy Clinton, Ernest Jacks, Byron Boyd, Henry Shreve and James Mashburn.

Members Absent: Allen Gilbert, Clark McClinton, Suzanne Lighton, and Wade Fincher.

Others Present: Jim Vizzier, Harold Lieberenz, and 12 interested persons.

The meeting was called to order by Acting Chairman, Ernest Jacks. The Acting Chairman said the purpose of the special meeting was to act on the six petitions for rezoning for which public hearing was held on August 15, approve minutes of meetings of July 11 and August 15 and consider the preliminary plat of Harris Addition subdivision.

The petition of Evelyn Hills Shopping Center, Inc., was first on the agenda.

Mr. Jacks asked for discussion on this petition.

Roy Clinton, Planning Commission member asked Mr. Lewis Jones, attorney for the opponents of this petition, if any attempts at arbitration had been made between the opponents and proponents to perhaps divide the 150' strip of property in question to provide parking space for the shopping center and leave a buffer zone between the commercial and residential properties.

Mr. Lewis Jones said it would not be ethical for the opponents to comment on this since the proponents were not present, but that any attempts which may have been made in this behalf had been unsuccessful.

James Mashburn, Planning Commission member said he would abstain from voting on the petition as he had previously stated that he would like for the property to be rezoned for commercial use. He expressed the opinion that commercial use would be better than having smaller, less desireable residences constructed on the property.

On motion by Henry Shreve, seconded by Roy Clinton, the Planning Commission unanimously voted to deny the petition of Evelyn Hills Shopping Center Inc. for rezoning from R-1A, Single Family Residential District, to C-2, Thoroughfare Commercial District, property described as:

> A part of the South half of the Northwest Quarter of the Northwest Quarter of Section ten (10) in Township sixteen (16) North of Range thirty (30) West, described as follows: Beginning at a point three hundred fifty two and nine-tenths (352.9) feet West and twenty-five (25) feet North of the Southeast corner of said twenty acre tract, and running, thence North six hundred thirty-five (635) feet; thence East one hundred fifty (150) feet, more or less to the West side of the extension of Walnut Avenue in the City

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of Fayetteville, thence South six hundred thirty five (635) feet; thence West one hundred fifty (150) feet to the place of beginning, containing two and nineteen hundredths (2.19) acres, more or less. Situated in the unplatted portion of Evelyn Hills Addition to the City of Fayetteville.

****

RESOLUTION PC 20-67

WHEREAS, a public hearing was held by the City Planning Commission, Tuesday, August 15, 1967 fifteen (15) days after a sign was erected on the property and after a notice was published in the Northwest Arkansas Times,a newspaper of general circulation; and

WHEREAS, after the public hearing, a quorum for the Planning Commission was present and the Planning Commission voted to make a recommendation to the Board of Directors on the petition of Evelyn Hills Shopping Center, Inc., for rezoning;

NOW THEREFORE, BE IT RECOMMENDED BY THE CITY PLANNING COMMISSION TO THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS.

SECTION 1. That the petition requesting the rezoning of property described as follows from R-1A, Single Family Residential District, to C-2, Thoroughfare Commercial District, be denied.

A part of the South half of the Northwest quarter of the Northwest quarter of Section ten (10) in Township Sixteen (16) North of Range Thirty (30) West, described as follows: Beginning at a point three hundred fifty two and nine-tenths (352.9) feet west and twenty-five (25) feet North of the Southeast corner of said twenty acre tract, and running, thence North six hundred thirty five (635) feet; thence East one hundred fifty (150) feet more or less to the West side of the extension of Walnut Avenue in the City of Fayetteville, thence South six hundred thirty five (635) feet; thence West one hundred fifty (150) feet to the place of beginning, containing two and nineteen hundredths (2.19) acres, more or less, situated in the unplatted portion of Evelyn Hills Addition to the City of Fayetteville.

SECTION 2. That the rezoning of the above described real estate would not presently be desireable.

PASSED AND APPROVED this 22nd day of August, 1967.

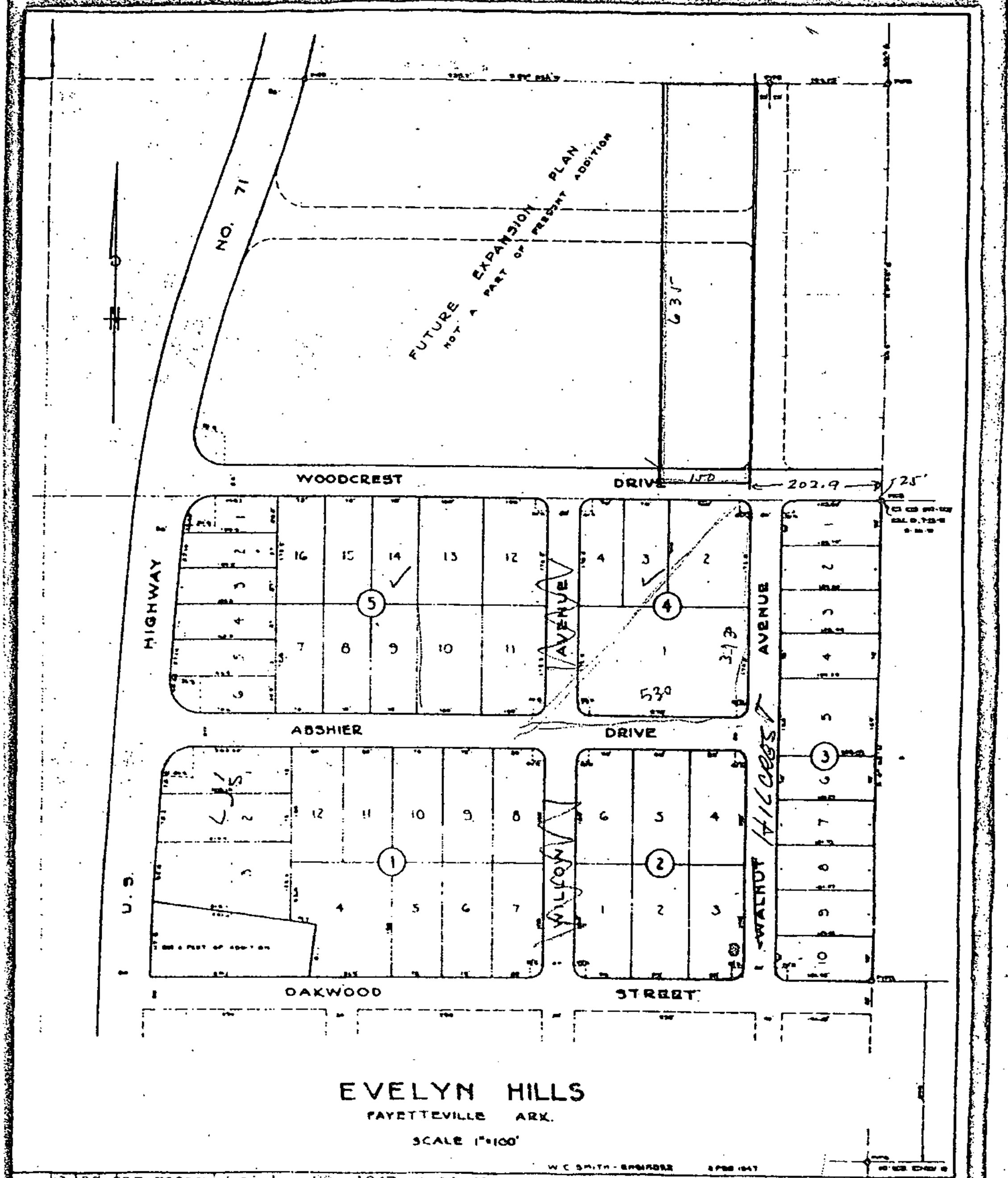
ATTEST: APPROVED:

ERNEST JACKS, SECRETARY CLARK McCLINTON, CHAIRMAN

****

The petition of Donald and Norma Bunting was next.

After discussion, James Mashburn moved that the Planning Commission recommend to the Board of Directors the rezoning from R-3, Multi-family Residential District, to R-4, Multi-family Residential and Dormitory District, property described as:



Filed for record October 29, 1947 at 11:43 A.M. Recorded in Plat Book 2 Page 61

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CITY OF FAYETTEVILLE

October 17, 1967

COPY

Mr. Lewis Jones
Attorney at Law
13 1/2 East Center
Fayetteville, Arkansas

Re: Evelyn Hills Shopping Center, Inc.
Appeal of Planning Commission
Decision to Board of Directors

Dear Mr. Jones:

The above referenced matter has been scheduled for rehearing at the regular meeting of the City Board of Directors on Monday, November 6, 1967 beginning at 7:30 p.m. This decision for rehearing was made due to the proponents not being contacted as to the original hearing on October 2, 1967.

Very truly yours,

Gerald G. Fox
City Manager

GGF:jm

cc Planning Administrator

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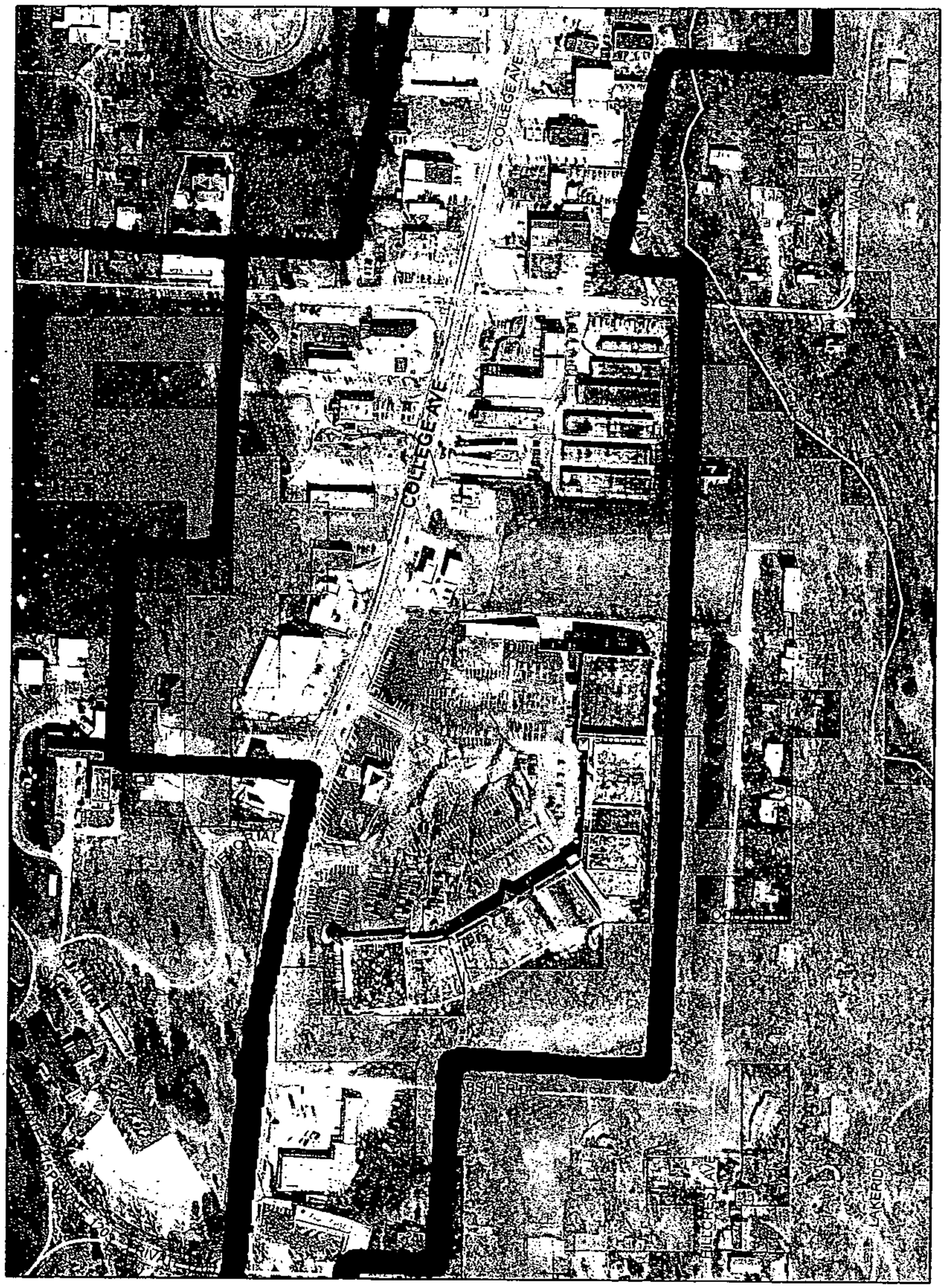
• June 1970 Zoning Map / Code Adoption.

02-00-06



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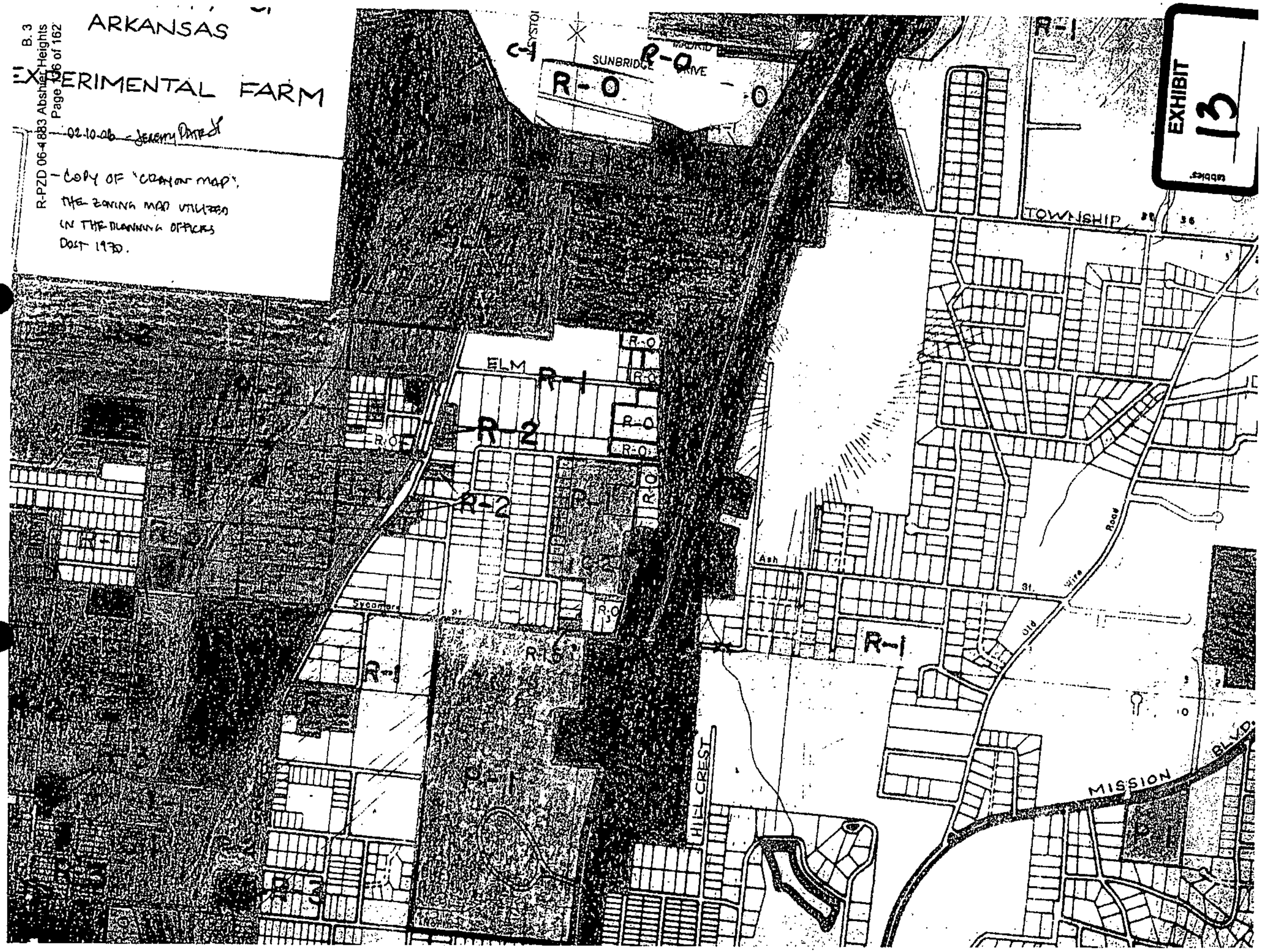
ARKANSAS

EXPERIMENTAL FARM

02-10-06 - Jeremy Pate

- COPY OF "CRAYON MAP".
THE ZONING MAP UTILIZED
IN THE PLANNING OFFICES
POST 1970.



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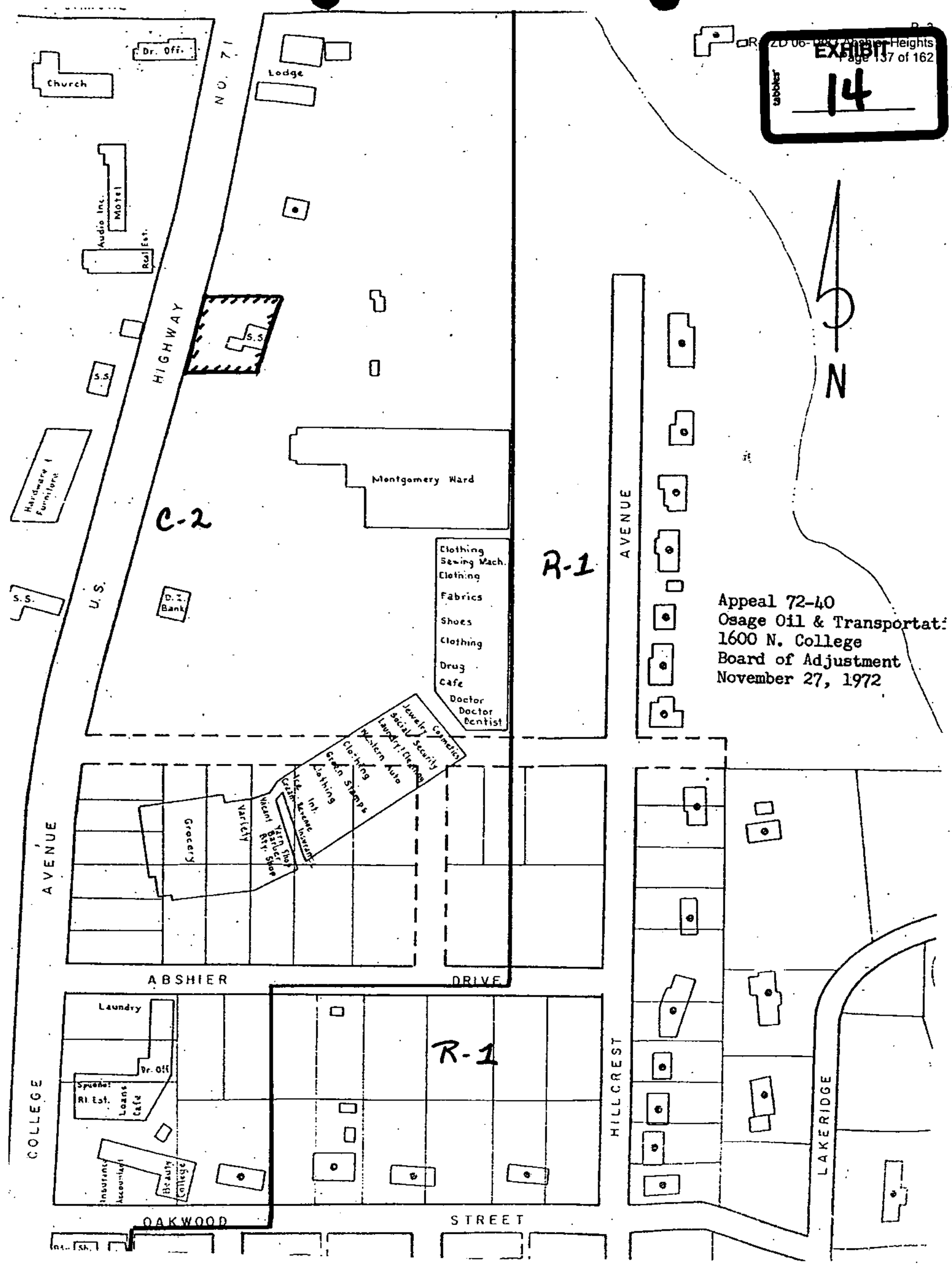

Appeal 72-40
Osage Oil & Transportat:
1600 N. College
Board of Adjustment
November 27, 1972

Mr. Tarvin stated he really would not think a double driveway would cause that much drainage problem.

Ms. Britton stated she did not believe there was enough room on the site for a double driveway, that the entire parking lot would have to access the street.

Mr. Perry stated the parking lot would not be a big one, he would only need space for five cars.

MOTION

Mr. Springborn stated he believed the downside risk and effect on the neighborhood was too great. He moved the rezoning be denied.

Ms. Britton seconded the motion.

The motion passed 8-0-0.

CONDITIONAL USE CU91-14 - DUPLEXES
CHARLES SLOAN - W OF HILLCREST, N OF ABSHIER DR.

The fifth item on the agenda was a conditional use request for duplexes in an R-1 area submitted by Charles Sloan for property located on the west side of Hillcrest Avenue, north of Abshier Drive.

Mr. Merrell explained the subject property was a narrow strip (146' x 660') behind Evelyn Hills. He pointed out the property had a long and controversial history. He stated previous owners had attempted to rezone the tract to commercial several times. In 1962 the property was successfully rezoned; however, a year later the issue was presented for public vote, and voters decided the property should be left as a residential zone. He explained some of the neighbors contended that the property was designated greenspace, but staff had been unable to locate any such agreements or other legal documents to that effect. Mr. Merrell explained that Askew Enterprises recently sold Evelyn Hills Shopping Center and now had a contract to sell the subject tract to Charles Sloan contingent upon the conditional use.

Mr. Merrell stated Mr. Sloan had originally requested a rezoning to construct seven duplexes however staff had pointed out to him he could construct the duplexes in R-1 with a conditional use. He further explained Mr. Sloan proposed to retain all the trees along Hillcrest and construct a private drive along the west property line for access. He stated Mr. Sloan proposed to develop with the lay of the land, excavating only where necessary to drop the building height so as not to infringe upon his neighbors' views.

Mr. Merrell pointed out there were five possible uses of the subject property: (1) apartments, (2) offices, (3) single family residential, (4) greenspace, and (5) duplexes. He stated that, considering the established, high-quality surrounding residential properties, offices and apartments did not appear to be a desirable development course. He pointed out that considering the domineering presence of Evelyn Hills to the east, single family residential did not appear to be feasible. He further explained that the subject property did not offer much that would merit its purchase for a public park and, further, Mr. Askew could not be required to retain the property as private greenspace. He pointed out the only other development route was duplexes.

Mr. Merrell explained staff was only recommending this item be considered for approval provided that Mr. Sloan assure that every tree along Hillcrest Avenue be preserved, that there be no access through the trees, and that whatever access drive was constructed be constructed on the west side of the property. He stated

Mr. Merrell explained that the R-O zoning allowed five different use units by right including single and two family dwellings, Use Unit 12 and Use Unit 25 which defined offices, studios and professional offices. Mr. Merrell then read those items under both use unit 12 and 25.

Mr. Merrell suggested one possible way this matter could be resolved would to have Mr. Taylor offer a Bill of Assurance that would guarantee that he would only use the property for an office. He stated this was a very close call for the Planning Commission with K-Mart and the fire station in the immediate vicinity.

Mr. Springborn expressed concern regarding the entire commercial strip to the south. He explained that, while there was nothing of a commercial nature to the north, granting of the rezoning request would open the door to the growth of the commercial strip.

In response to a question from Mr. Allred regarding the effect widening Stubblefield would have on the area, Mr. Merrell stated he did not know if the Traffic Division had done any projections regarding increase in traffic. He further stated he believed it would have a relatively insignificant impact in this area.

Mr. Hanna explained there were covenants in the subdivision prohibiting rezoning. He stated he believed they owed it to the residents of the subdivision to uphold the covenants. He further stated granting the rezoning would encroach on the integrity of the neighborhood; that unless the entire block, rather than one lot, was to be rezoned, it was truly spot zoning.

Mr. Tarvin stated that, while he did in part agree with Mr. Hanna, the property in the area was rental property, and he believed the rezoning would help the area. He pointed out the property was across the street from commercial property, it was adjacent to other commercially zoned property, there was no buffer between the R-1 and commercial property. He stated that an office, built to look like a house with protective covenants, could make the property look better in the future. He further explained that a business such as the one proposed would probably be quieter than a residence. He further stated he would not consider rezoning beyond this property but, in this instance, the property could be considered a buffer between the R-1 and C-2.

Ms. Jackman asked, if in the future someone else should purchase the property, whether more parking spaces might be required.

Mr. Merrell explained that once the property was rezoned to R-O it would remain R-O and there was the possibility that additional parking would be required, depending upon the type of business that owned the property. He stated all of the parking would be off-street parking.

Mr. Tarvin stated they had granted conditional zoning before. He suggested rezoning the property with the condition that, should the applicant sell the property, it would revert to R-1.

Ms. Britton expressed concern regarding the drainage in the area. She pointed out there were ditches down both perimeters of the property that handle the stormwater drainage at this time. She questioned disposition of that water should the property be graded and a parking lot constructed.

Mr. Allred asked if there was data available concerning when to start replacing rental property in order to keep the area from "bottoming out".

Mr. Merrell stated he did not believe there was a rule of thumb. He further stated he believed this area was still highly residential.

staff believed the duplexes would be a buffer between the single family dwellings and the shopping center.

Mr. Hanna stated that, since the property was zoned R-1, one of the alternatives would be dividing the tract into 8 or 9 lots, with 8 or 9 driveways exiting onto Hillcrest and removing of several of the trees.

Mr. Merrell agreed that, should the property be divided into separate lots they would probably lose a number of trees along Hillcrest.

Mr. Tarvin stated the garages could come in from the back of the house.

Mr. Allred asked if the subject property had been previously dedicated as a greenspace, why it would not have been zoned P-1 at that time.

Mr. Merrell explained staff could find no records relating to the area being designated a greenspace.

Mr. Harry Gray, representing Charles Sloan, explained this was a unique piece of property and the terrain did limit development. He further explained the property had been rezoned in 1962 with covenants attached to the rezoning.

Mr. Merrell explained staff had found information regarding the property being zoned C-2 but the rezoning was rescinded by referendum.

Ms. Britton asked if the developer was proposing a single, common drive for the consideration of the property owners. She explained she saw that as a problem.

Mr. Gray explained that at this point they were just asking for the conditional use and would have to come back on the actual construction of the duplexes. He further stated they did propose to have a private drive at the rear of the property and would not have access to Hillcrest. He explained they did not want to remove any of the trees along Hillcrest. He stated they were willing to sign a Bill of Assurance that there would be no existing trees removed.

Mr. Springborn asked if there was room for more than a 12 foot one-way street.

Mr. Allred stated subdivision committee could require no on-street parking if this item were approved.

Ms. Donna Copeland, 1502 N. Hillcrest, appeared before the Commission and gave some history of the property. She explained that, at the time Evelyn Hills Shopping Center was built, a promise was made to plant a barrier of trees between the houses and shopping center and never to build on the land between Evelyn Hills and Hillcrest. She asked the Commission to consider the impact the conditional use would make on the neighborhood. Ms. Copeland stated that when Mr. Abshier dedicated the street to the city, he included the possibility of a reverter. If it ceased to be used for a street, the land would revert to the abutting landowners. She explained that not all of the strip of land was used for a street, and the adjoining property owners had taken care of the street right-of-way on both sides. She further stated many of the property owners had purchased their homes along Hillcrest, because it was a dead-end street without a lot of traffic or noise.

Ms. Copeland explained that citizens relied on the city to control growth not developers. She stated, if the city planned properly, zoning would stabilize property values and there would be some predictability about what location could be used for what purpose. She further pointed out, if the conditional use was granted, there would be 14 residences across the street from six single family homes. The new residences would be approximately 1,300 square feet as opposed

to 2,600 square foot homes currently existing. She pointed out there would be an increase in traffic, noise and reduced safety. She also suggested there may be a problem with the drainage in the area if the subject tract was built over. She requested the conditional use be denied. She presented a petition protesting the conditional use with approximately 40 signatures.

Mr. Paul Bailey, 1532 Hillcrest, appeared before the Commission and stated he believed the subject property was too small to construct 7 duplexes. He further stated he thought it would be a very poor place to live. He pointed out that in the winter when the weather was bad the road would be impassible. He suggested the residents could join together to keep the property mowed.

E. Fay Jones, 1330 Hillcrest, stated construction of the duplexes would change the environment of the neighborhood which had always been single-family homes. He also mentioned an increase in traffic. He requested the conditional use be denied.

Mr. Dick Oliver, 1440 Hillcrest, appeared before the Commission and stated that, when he purchased his property in 1972, the realtor had told him the subject property was to be used as greenspace, providing a buffer between the residential area and the shopping center. He explained the company that purchased the shopping center had not purchased the subject tract of land because it was greenspace. He also pointed out that any construction would have to destroy some of the trees. He stated the noise from the shopping center was a problem, even with the trees. He further stated there would be no view for any building constructed on the subject property. He mentioned additional traffic, impassibility when ice was on the roadway, and noise as some of his concerns should duplexes be constructed. He suggested the Planning Commission should make the area a permanent greenspace.

Ms. Trina Oliver, 1440 Hillcrest, appeared before the Commission, and strongly urged the Commission to not approve the conditional use. She stated the property had always be intended for and used as a greenspace.

Mr. Gray explained, when the property had been rezoned in 1962, there had been restrictive covenants, but after the referendum revoked the zoning, all restrictive covenants were voided.

Mr. Allred asked if there was room for 8 or 9 lots should the property develop as single family homes.

Mr. Gray stated they would be able to get 8 lots under R-1 zoning.

Mr. Harold Copeland, 1502 Hillcrest, appeared before the Commission and stated they had chosen the property because it was single-family residences. He further stated the realtor had assured them that, should the subject property ever be developed, it too would be single-family residences.

Mr. Gerald Davis, 1516 Hillcrest, appeared before the Commission and expressed his concern over the proposed conditional use.

Mr. Allred stated he would be in favor of tabling this item to allow everyone to diligently search for any documentation regarding the greenspace. He explained that unless documentation could be found, the property was zoned R-1 with no restrictions.

MOTION

Ms. Britton moved to table the item for further research.

Mr. Hanna seconded the motion.

The motion and second were amended to table the item until the second meeting in July.

The motion passed 8-0-0.

Mr. Allred suggested the property owners get with the staff and work together to search for any documentation. He explained that a verbal contract regarding real estate was non-binding. He stated he wanted to see something in writing, if anything existed.

PRELIMINARY PLAT - TIMBER CREST SUBDIVISION
MEL MILHOLLAND, N OF MISSION BLVD., E OF CROSSOVER RD

The sixth item on the agenda was a preliminary plat for Timber Crest Subdivision submitted by Mel Milholland on behalf of Mike Pennington. The property is located on the north side of Mission Blvd., east of Crossover Road. The property is zoned R-1, Low Density Residential and contains 27.52 acres with 58 lots.

Mr. Bunn had left the meeting and, therefore, Mr. Merrell gave the Engineer's report. He explained the property was annexed into the city and rezoned from A-1 to R-1 approximately two weeks earlier by the Board of Directors. He stated the development consists of 58 lots located on 27.5 acres. He stated that water and sewer were available to the site. He further stated there had been some question as to whether the sewer would have to be provided by a pump station or by gravity. The preliminary plat indicated the construction of a pump station; however, it has not been shown that a gravity sewer was impractical.

Mr. Milholland reminded the Commission that at the last meeting they had questioned stormwater drainage runoff and deposits of slit during construction. He explained he had talked with Don Bunn regarding the storm drainage. Mr. Bunn felt the proposed drainage plan was adequate. He stated they would be willing to install catch ponds for the silt if that was the Commission's desire.

At Ms. Britton's request, Mr. Milholland explained the highway department had come up with a design for discharge of stormwater. He explained the design would slow the water down but still drain by placing concrete blocks in the apron. He explained this would slow the water down and make a wider path with less velocity.

Ms. Britton asked if Mr. Milholland would be giving a bill of assurance that he would build the silt ponds to contain the silt during construction.

Mr. Milholland stated he would.

Mr. Tarvin stated they could not contain silt during construction. When it rains, muddy water would wash silt out. He stated he believed the Commission needed to be careful that they did not impose any conditions that were out of the ordinary with development in the city.

Mr. Cleghorn asked if Mr. Bunn had felt the catch ponds were necessary.

Mr. Milholland stated they had not discussed them.

Mr. Merrell pointed out the excavation and grading ordinance would become effective in the middle of July and this development would have to abide by the ordinance. He further stated he would like to see an effort made to reduce and control silt, but he agreed with Mr. Tarvin silt could not be totally contained.

Mr. Milholland explained he would be making an effort to reduce the silt, but he never intended to give the impression that there would not be muddy water.

Mr. Springborn stated he would not personally require a bill of assurance, but he would be happy with the assurance they had received from Mr. Milholland. He explained at the last meeting he had not felt the problem had been addressed but now he felt it had been.

Mr. Tarvin asked what was different about this subdivision that warranted them taking this type of stand that they had not done in the past.

Mr. Merrell explained that he believed there was concern regarding this property because it bordered a stream and needed to be handled carefully. He pointed out the land was relatively level. He stated the Planning Commission always needed to be careful to not single out anyone.

Mr. Mike Pennington, the developer of the property, stated it was his intent to develop the property so as to please the City of Fayetteville. He stated he believed the Commission's questions were valid.

MOTION

Mr. Springborn moved to approve the plat subject to plat review comments and Commission comments.

Mr. Hanna seconded the motion.

In response to a question from Mr. Tarvin, it was determined that the preliminary plat was being approved with Mr. Milholland making an effort to stabilize the silt by constructing catch ponds during construction of the subdivision.

The motion passed 8-0-0.

PRELIMINARY PLAT - WEDINGTON HEIGHTS ADDITION, PHASE I, II, III & IV
MARK MARQUESS FOR BMP DEVELOPMENT - W OF SALEM RD., N OF WEDINGTON DR.

The seventh item on the agenda was a preliminary plat for Wedington Heights Addition, Phases I, II, III, and IV submitted by Mark Marquess for BMP Development and represented by Harry Gray. The property is located west of Salem Road, north of Wedington Drive. The property is zoned R-1.5, Moderate Density Residential and contains 34 acres with 151 lots.

Mr. Merrell stated a portion of this property would be developed for affordable housing. He explained the development consisted of four phases with a total of 151 lots on approximately 34 acres. He pointed out that Perry Franklin of the Traffic Department had expressed some concern about the additional traffic that would be generated at Highway 16 due to the development; however, any new development would generate additional traffic.

Mr. Merrell stated both water and sewer are readily available to the site and the general drainage plan appears to be control drainage. He stated Mr. Bunn recommended approval subject to the plat review comments; submittal of approval of detailed plans and specifications for water, sewer, streets, and drainage; the tying of Anne Street through to an existing street in Giles Addition with the construction of any phase after Phase I; the platting of a 50 foot right-of-way for future street construction north from the intersection of "E" Street and "H" Street; construction of sidewalks per city ordinance; and payment of parks fees per city ordinance.

**MINUTES OF A MEETING OF THE
FAYETTEVILLE CITY PLANNING COMMISSION**

A meeting of the Fayetteville Planning Commission was held on Monday, July 22, 1991 in the Board of Directors Room on the second floor of the City Administration Building, 113 West Mountain Street, Fayetteville, Arkansas.

MEMBERS PRESENT: Jack Cleghorn, Fred Hanna, J. E. Springborn, Jerry Allred, Joe Tarvin, Mark Robertson, Charles Nickle, and Jett Cato

MEMBERS ABSENT: Jana Lynn Britton

OTHERS PRESENT: Becky Bryant, Don Bunn, Sharon Langley, members of the press and others

MINUTES

The minutes of the July 9, 1991 meeting were approved as distributed.

CONDITIONAL USE CU91-14
CHARLIE SLOAN - W SIDE OF HILLCREST, N OF ABSHIER

The second item on the agenda was a request for a conditional use in order to construct duplexes in R-1, Low Density Residential submitted by Charlie Sloan and represented by Harry Gray. The property is located on the west side of Hillcrest Avenue, north of Abshier Drive.

Becky Bryant reminded the Commission that, at the June 24, 1991 meeting, this item had been tabled in order to allow staff to further investigation the allegations that the subject 2.2 acres had been designated greenspace. She stated that previously the Abshiers had offered to place restrictive covenants on the property in exchange for C-2 zoning. The covenants were executed and filed. She explained the rezoning had been brought to a public vote and citizens had voted down the rezoning. She further explained that revoking the zoning had the legal effect of also revoking the covenants. She stated she had discussed this matter with the Assistant City Attorney who agreed the covenants were no longer binding nor valid.

Ms. Bryant further pointed out the original covenants had only affected the east 20 feet of the property. She stated the City had a 30 foot easement along the east property line so there would be no building in that area anyway. She further stated Mr. Sloan was willing to give a Bill of Assurance for tree protection along the street. She explained staff believed this was a high quality development which would not significantly impact the neighborhood.

Ms. Bryant suggested the Commission could apply conditions on the development. She pointed out that, should the conditional use be denied, Mr. Sloan or any other party could remove the trees on Hillcrest and construct a single family affordable housing project over which the city would have little control. She stated the only solid legal ground on which the Planning Commission could deny the conditional use was by finding that the request was incompatible with adjacent properties. She explained, however, that one of the planning principles used to encourage buffering of single family residential from commercial was the use of an intermediate type of zoning.

Ms. Bryant stated Commissioner Britton had raised a question about access to the property. She stated both drives on the north and south ends were included in the legal description of the property which Mr. Sloan hoped to purchase. She stated, if the conditional use were granted, the development would then go

EXHIBIT
tabbies
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through the large scale development process. She suggested any further concerns about access be addressed at that time.

In response to a question from Mr. Tarvin, Ms. Bryant explained the property could be used for an affordable housing development without rezoning. She stated the Commission had some control over the property with a conditional use but, without a conditional use, the Commission had very little control.

Mr. Tarvin asked if they could add a provision to the conditional use a provision denying parking and access by pedestrians along Hillcrest.

Ms. Bryant stated the Commission could impose any reasonable condition as long as the condition was not arbitrary or capricious.

In response to a question from Mr. Hanna, Ms. Bryant stated a 30-foot easement along Hillcrest had been executed by the developer. She explained nothing could be built in the easement but an easement did not restrict the developer from clearing the area.

In response to a question from Mr. Tarvin, Mr. Gray explained that, should the property be developed as single family homes, he believed the property would be split into eight lots all fronting on Hillcrest with drives onto Hillcrest. He further explained it would be much more difficult to develop single family homes with private drives. He stated the terrain dictated the type of construction.

Mr. Tarvin asked if the difference was because the duplexes would all be owned by one person.

Mr. Gray stated the current plan was that Mr. Sloan would own all of them. He stated eventually they could be sold. He explained there would be covenants set up to cover the private drive.

Mr. Tarvin asked if the covenants could not be set up for private homes.

Mr. Gray explained they could but, due to the terrain, he did not see the development being a quality single family development. He stated covenants were normally tied to property owners associations which cover the maintenance of the drives, etc. He further stated he could see some problems with covenants on single family development on this property.

In response to a question from Mr. Allred, Mr. Gray explained the duplexes would face Hillcrest shielding the parked cars from view. He further explained the apartment plan was for two-story duplexes with the lower floor being below the level of Hillcrest and the upper floor extending slightly above it. He stated the plan was to construct a wooden bridge to extend from Hillcrest to the upper level of the duplexes in order to provide pedestrian access.

Dick Oliver, 1440 Hillcrest, appeared before the Commission and spoke in opposition to the conditional use. He explained the construction of duplexes would triple the number of people and traffic; that the residents of the duplex and visitors to the duplexes would park on Hillcrest; there was only 120 feet of flat land on the subject property which made it undesirable to build on; the trees and shrubbery provided a buffer between Hillcrest and the shopping center; water pressure was already poor in the area, additional residences would cause more water problems; and the duplexes would lower property values in the neighborhood. He stated they had a nice quiet neighborhood and the residents believed it should be left as R-1 with no conditional use.

Mr. Tarvin asked if Mr. Oliver had his choice to leave the zoning R-1 without the conditional use and have it constructed into single family houses facing onto

Hillcrest and possibly removing some of the trees versus the duplexes which would he prefer.

Mr. Oliver stated he had seen in the newspaper that the property was going to be rezoned R-1.5 for low rent housing. He explained that, if the property were developed as single family housing similar to those already in the neighborhood, he would not be opposed.

In response to a question from Mr. Allred, Ms. Bryant stated there was not an application to rezone this property to R-1.5.

Mr. Tarvin explained that the property could be developed into single family housing without the lot size and house size being comparable to those existing in the neighborhood. He asked Mr. Oliver his preference between R-1 with a conditional use for duplexes with protective restrictions regarding the trees and parking versus R-1 single family with 70 foot frontages.

Mr. Allred explained that should the conditional use be granted the Planning Commission would have some control, but if the conditional use were denied, they would have no control over any single family development.

Mr. Oliver stated he would prefer the property remaining as it was, but since that was not possible, he would opt for the conditional use for duplexes with the conditions that all of the trees remain as a buffer and that there was no access to Hillcrest from the duplex.

Mr. Allred pointed out the duplexes were to be large and rather expensive, designed toward executive-type families which would be compatible with the neighborhood. He further pointed out, should the property be developed as affordable housing, the residents might not blend into the neighborhood. He explained that would have more of a negative social impact.

Mr. Paul Bailey, a resident of the area, appeared before the Commission and asked where the development would get its water. He explained there was only a 4-inch line serving the neighborhood. He stated the city had recently put in an 8-inch line in the area and he wanted to be sure the new development would tap off the 8-inch line.

Mr. Bunn stated he had not seen a proposal but would have to make sure the elevations were such that the development could use the 8-inch line. He explained the 8-inch line was on a main pressure plain and the 4-inch line was on a high pressure plain.

Mr. Gray pointed out that should the conditional use be granted, the developer would still have to present a large scale development plat or subdivision plat which would cover water, streets, sewers, etc. He explained the residents would be notified of the hearing at that time.

Mr. Bailey stated he believed the property should be developed in congruence with existing properties. He stated he wanted to be sure if the duplexes were built that there would be no access on Hillcrest.

Mr. Cato asked Mr. Bailey, if the property were to be developed as proposed into seven duplexes accessing a private road on the west side of the property and preserving the trees versus developing the property into seven or eight lots with probable access onto Hillcrest, which he would prefer.

Mr. Bailey stated he would prefer no ingress or egress onto Hillcrest nor any trees or bushes destroyed on Hillcrest.

Mr. Allred asked the residents in the audience if they preferred the duplexes with the requirement that the trees be preserved and no access to Hillcrest. It appeared the majority of the residents preferred the duplexes with those conditions.

Mr. Allred explained that the Commission was trying to determine what was best for the neighborhood. He agreed that the most ideal use for the neighborhood was to leave it like it was. He explained they did not have that type of control so they were trying to determine what the next best alternative.

Ms. Dawn Copeland, 1502 Hillcrest, appeared before the Commission and stated she was not in favor of the duplexes, that she would prefer single family housing. She questioned the size of the tract, stating she did not believe it was a large enough tract to construct seven or eight houses.

She stated she had reviewed the city ordinance covering conditional use applications, Section 160.195. She explained the Planning Commission would not grant a conditional use unless certain requirements were met, including making written findings certifying compliance with eight areas of concern.

Ms. Copeland stated the first two concerns were ingress and egress to the property and off-street parking. She showed the Commission a drawing of the area pointing out the subject property in comparison to the surrounding property. She explained there was a private driveway coming out of Evelyn Hills Shopping Center leading into a narrow alley with a retaining wall. She further explained the developer was proposing to put a driveway at the top of the retaining wall, which would have to go north (she stated the street would not be wide enough to go both ways), and then feed back into Hillcrest to go south. She stated this area would not be conductive to good traffic flow. She further stated there was the possibility of a fire hazard since the fire trucks would have difficulty in negotiating the street. She also pointed out the trash collectors would also have difficulty in negotiating the street for pickup.

Ms. Copeland stated another concern was location and availability of utilities. She explained the water pressure diminished as it went downhill. She stated the residents had been told the new 8-inch line was strictly for the purposes of fire hydrants and would not have any residential service. She pointed out the existing gas line along the tree line.

She explained the builder had offered to buffer the area by leaving the trees on the west side of Hillcrest but there would be no yard or open space since it would be filled with buildings. She further stated that by filling the area with buildings, it would create drainage problems with runoff going into the back of the shops in Evelyn Hills.

Mr. Allred explained the drainage would be addressed in the large scale development and the city engineer would be looking at the plan.

Ms. Copeland stated she was confused because they were telling her this was just proposals that the developer was making and that it had to go before another board to decide on the streets, gutters, etc. She stated the ordinance read "...Before any conditional use shall be issued the Planning Commission shall make written findings, certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and engagement has been made concerning the following..."

Mr. Allred explained the Planning Commission delegated their authority to the planning office and city engineering staff. He further explained there were other ordinances requiring that any development had to have the city engineer's approval.

Ms. Bryant concurred with Ms. Copeland that the Planning Commission should make findings or reference staff findings.

Ms. Copeland stated other concerns were the signs they would have on the duplexes and security lighting which would add to the glare. She stated the final consideration was the compatibility and harmony with adjacent property. She pointed out this was a density problem, that building duplexes would result in too many people being crammed into too small an area in a quiet neighborhood composed of single family dwellings.

Ms. Copeland stated she did not think preserving the trees would make up for building duplexes. She asked the Commission to deny the conditional use.

Mr. Springborn pointed out, should the subject property be subdivided into minimum size city lots, the new property owners would have the same rights as the existing property owners and their driveways could also enter from Hillcrest.

Ms. Copeland stated she understood that.

Mr. Nickle pointed out neither the easements nor the setbacks entered into the calculation of the lot size.

In response to a question from Mr. Tarvin, Mr. Gray explained the west edge of driveway would be thirty feet east of the retaining wall. He stated the depth of the lot, from the retaining wall to the right-of-way of Hillcrest was 146 feet.

Mr. Gray stated the proposal was that the duplex would be approximately 40 feet in width.

Ms. Trena Oliver appeared before the Commission and stated it bothered her that they were trying to put too many people in a small area. She stated she was in favor of single family housing with only 7 or 8 families.

In response to a question from Mr. Tarvin regarding access to Hillcrest, Mr. Gray explained he had not looked at access to Hillcrest from a single family standpoint.

Mr. Cleghorn stated he did not see a need for a change when the neighborhood had existed for many years and the change was for a business venture.

Mr. Nickle agreed with Mr. Cleghorn. He stated he did not feel access was sufficient - that a one-way street 12 feet wide, going across 600 feet, was not in the best interest of the city. He further stated he was opposed to the conditional use.

MOTION

Mr. Springborn stated he normally voted in favor of the neighborhood, even though as a Commissioner he felt like as far as the city was concerned, that the application was a good one. He moved to deny the application.

Mr. Cleghorn seconded the motion.

The motion passed 7-0-1 with Commissioners Cleghorn, Hanna, Springborn, Allred, Tarvin, Cato and Nickle voting "yes" and Commissioner Robertson voting "no".

LARGE SCALE DEVELOPMENT - THE SPORTS PARK
RICK COLLINS - S OF WEDINGTON DR., W OF BETTY JO DR.

The third item on the agenda was a request for a large scale development for The Sports Park submitted by Rick Collins for property located on the south side of Wedington Drive, west of Betty Jo Drive. The property is zoned A-1, Agricultural.

Mr. Don Bunn, City Engineer, explained the large scale development consisted of a recreational area on 76.35 acres. Activities include a golf driving range, batting cages, putting green, and pro shop. He explained future phases would include a restaurant, a retail garden shop, and a par three golf course. He stated there were no significant problems identified at the Plat Review meeting or the Subdivision Committee meeting. He stated there was some discussion about the drainage plans and it had been suggested at the subdivision committee meeting that the drainage plan be available for the planning commission. He explained there was also a question about the location of an easement where there were several large trees. He recommended the large scale development be approved subject to plat review and subdivision committee comments; approval of drainage plans by the City Engineer; resolution of the location of the 15 foot utility easement; construction of a sidewalk along Wedington Drive; and conformance with the terms of the conditional use granted earlier by the Planning Commission.

MOTION

Mr. Tarvin moved to accept the Large Scale Development of The Sports Park subject to staff comments, plat review and subdivision committee comments.

Mr. Hanna seconded the motion.

The motion carried 8-0-0.

WAVIER OF SUBDIVISION REGULATIONS - LOT SPLIT #1
BERT RAKES - N OF DICKSON ST., E OF WEST AVE.

The fourth item on the agenda was a request by Bert Rakes, City of Fayetteville Land Agent, on behalf of Robert Lewis and Nancy Witt Lewis for a lot split on property located north of Dickson Street and east of West Avenue. The property is zoned C-3, Central Business Commercial.

Commissioner Robertson stated he would be abstaining from discussion and voting on this item since Mr. and Mrs. Lewis were his clients.

Mr. Rakes explained the subject property was a portion of the Walton Arts Center parking and, to fulfill their obligation, the city had to furnish parking spaces. He further explained this property contained 1.41 acres, extending from West Avenue to Campbell. He stated the split was in order to allow Jose's Restaurant to retain their parking. He further stated the City would be buying 0.79 acres.

MOTION

Mr. Hanna moved to grant the lot split as requested.

Mr. Springborn seconded the motion.

The motion passed 7-1-0 with Mr. Robertson abstaining.

Review of files in Plat Page #407 - Have (1 mile zoning maps)

1970's	1980's	1990's
1972 - (R-1)	1980 (R-1)	1990 (R-1)
1975 - (R-1)	1983 (R-1)	1990 (R-1)
1976 - (R-1)	1983 (R-1)	1992 (R-1)
1976 - (R-1)	1983 (R-1)	1993 (R-1)
1979 - (R-1)	1984 (R-1)	1999 (C-2)
1979 - (R-1)	1988 (R-1)	
	1988 (R-1)	
	1989 (R-1)	
	1989 (R-1)	

EXHIBIT
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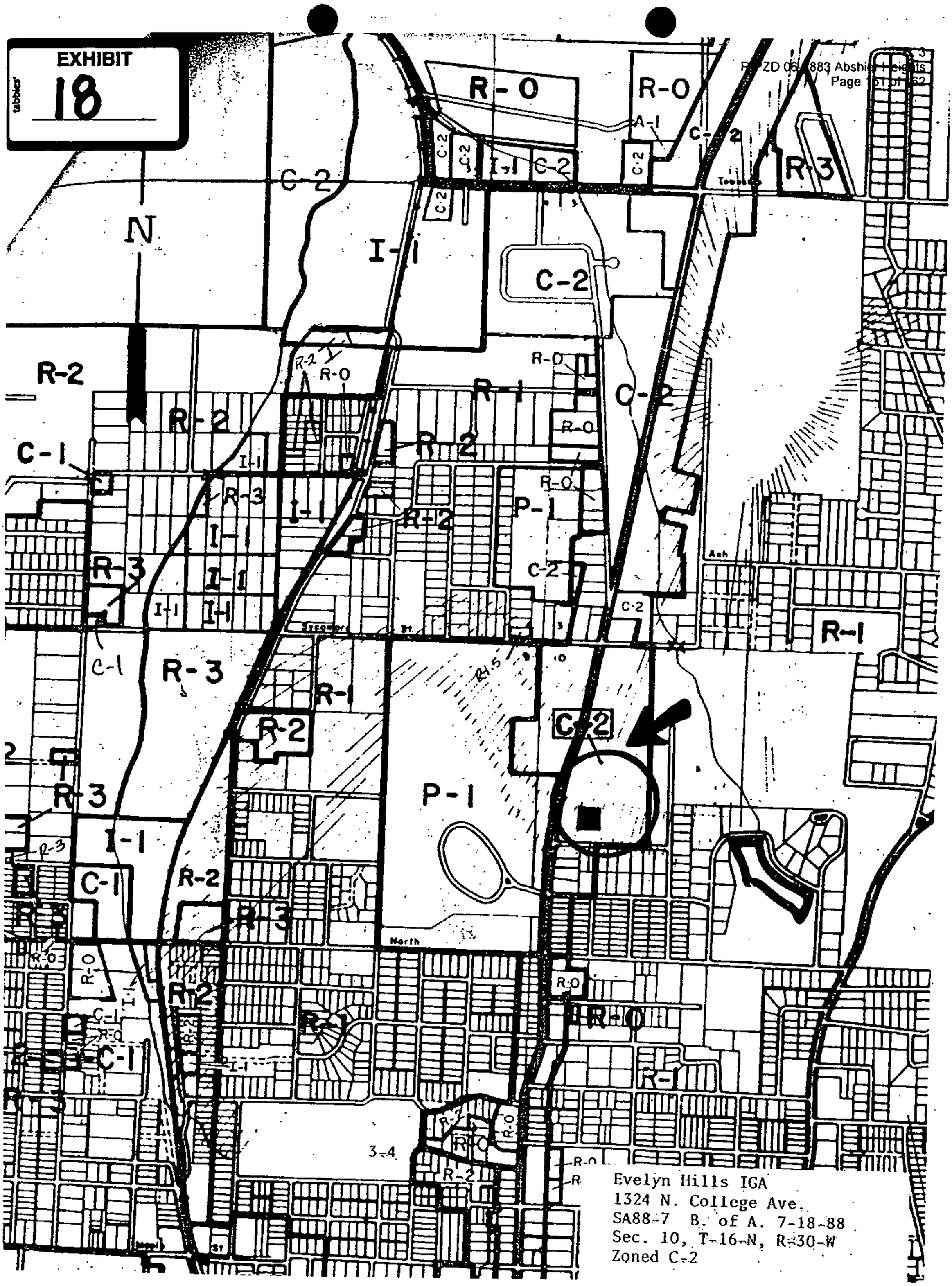
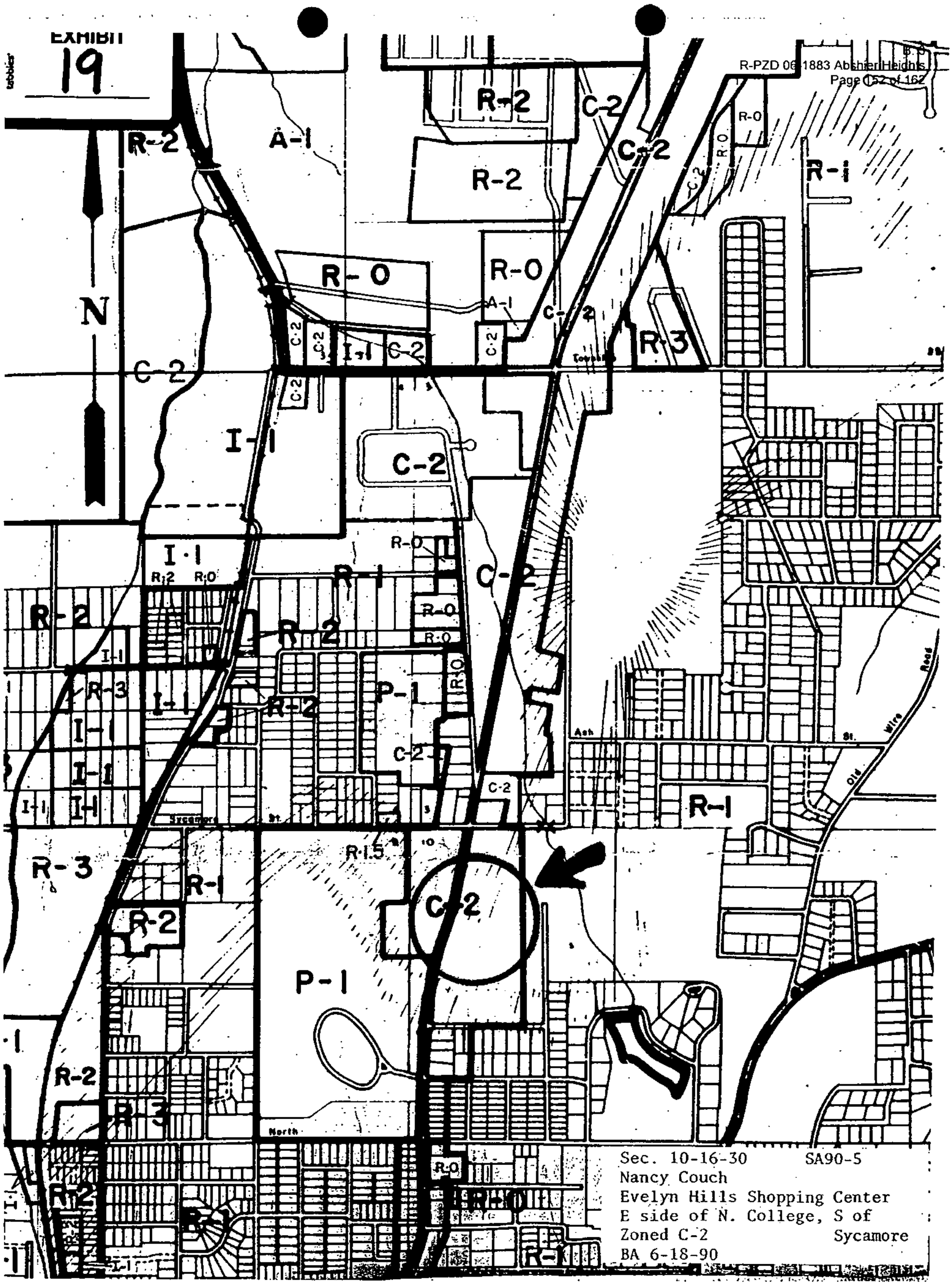


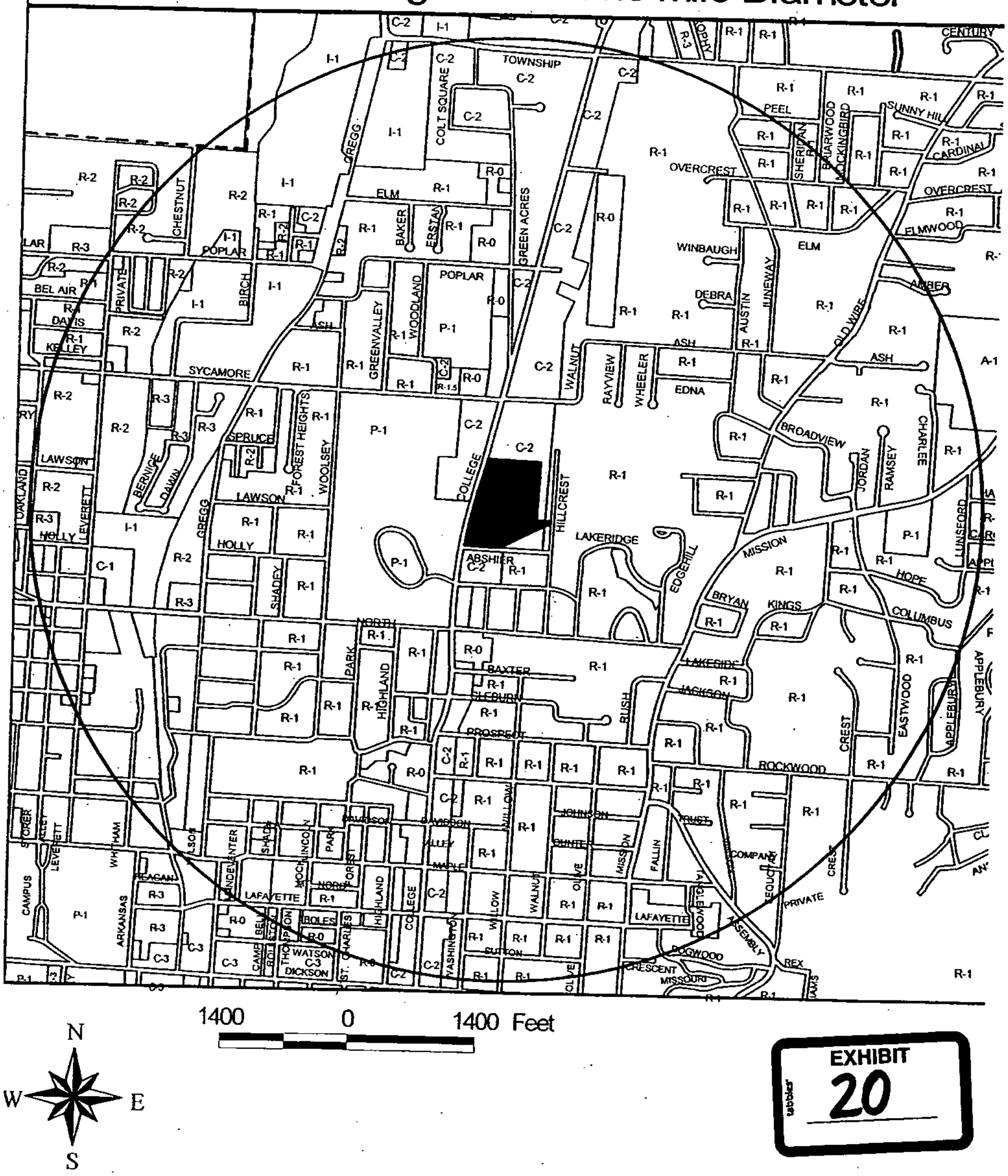
EXHIBIT
18
N
R-O
R-O
A-1
C-2
R-3
C-2
I-1
C-2
C-2
I-1
C-2
R-2
R-O
R-1
C-2
R-2
C-1
I-1
R-3
I-1
R-2
P-1
R-3
I-1
C-2
C-1
R-3
R-1
C-2
P-1
R-3
I-1
C-1
R-2
R-3
North
R-O
R-O
R-1
3-4
R-2
Evelyn Hills IGA
1324 N. College Ave.
SA88-7 B. of A. 7-18-88
Sec. 10, T-16-N, R-30-W
Zoned C-2

EXHIBIT 19

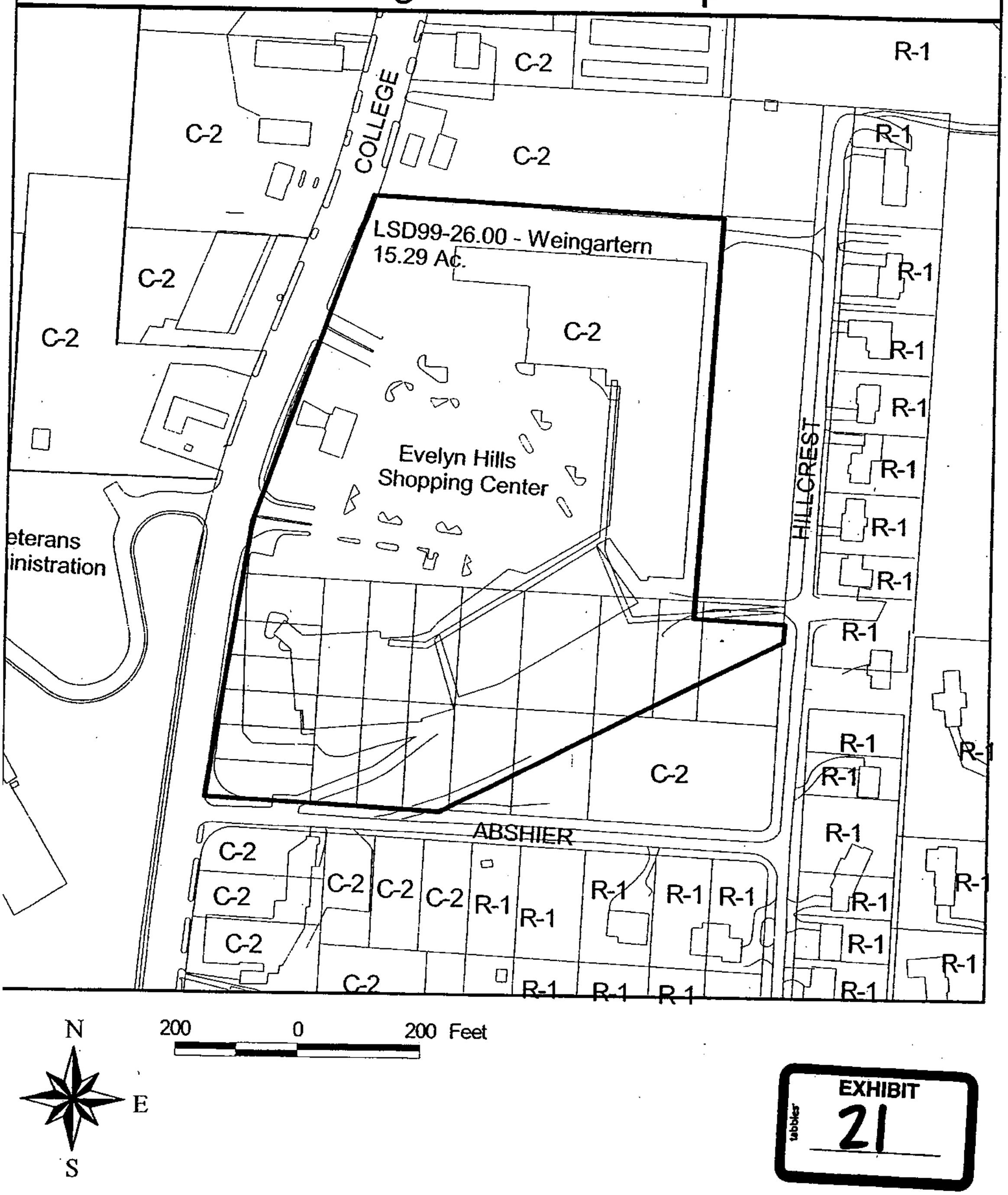


Sec. 10-16-30 SA90-5
Nancy Couch
Evelyn Hills Shopping Center
E side of N. College, S of Sycamore
Zoned C-2
BA 6-18-90

LSD99-26.00 - Weingartern - One Mile Diameter



LSD99-26.00 - Weingartern - Close Up



EXHIBIT
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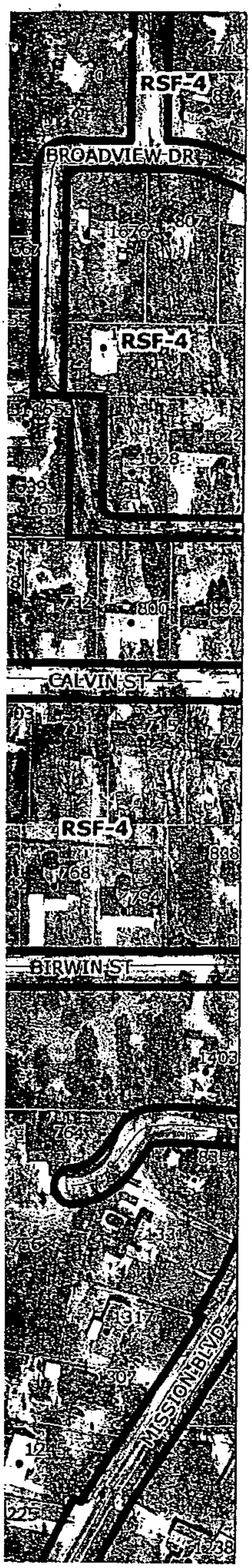


City of Fayetteville, Arkansas Zoning Map
Official Atlas Sheet

This is to certify that this is the official zoning map refered to in Section 1 of Ordinance # 4503 of the City of Fayetteville.

Adopted by the Fayetteville City Council
Ordinance # 4503 Date: 7-15-03

Dan Coody
Mayor

Sandra Smith
City Clerk

Legend

- - - - - Design Overlay District Boundary

★ Bill of Assurance

Zoning

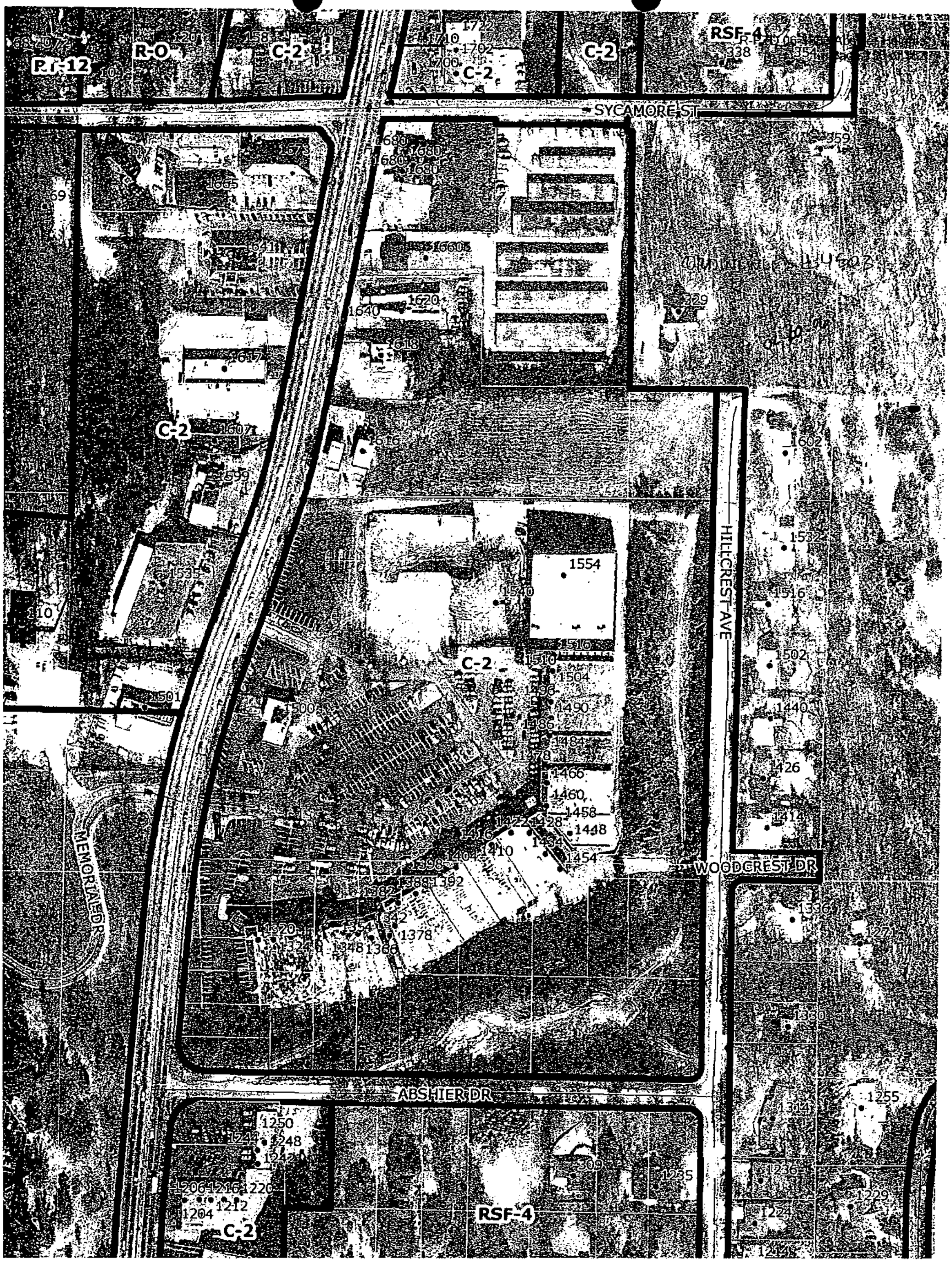
1" represents 200'

1:2,400

N
W E
S

	367	329 368	330 369

EXHIBIT
22


PD-12
R-O
C-2
C-2
C-2
RSF-4
SYCAMORE ST
C-2
C-2
HILLCREST AVE
MEMORIAL DR
WOODCREST DR
ABSHIER DR
RSF-4
C-2

CHAPTER 160: ZONING DISTRICTS

160.01 Establishment Of Districts

The following zoning districts are hereby established:

ZONING DISTRICTS

R-A	Residential - Agricultural
RSF-.5	Residential Single-family – One Half Unit per Acre
RSF-1	Residential Single-family – One Unit per Acre
RSF-2	Residential Single-family – Two Units per Acre
RSF-4	Residential Single-family – Four Units per Acre
RSF-7	Residential Single-family – Seven Units per Acre
RT-12	Residential Two and Three-family
RMF-6	Residential Multi-family – Six Units per Acre
RMF-12	Residential Multi-family – Twelve Units per Acre
RMF-18	Residential Multi-family – Eighteen Units per Acre
RMF-24	Residential Multi-family – Twenty-Four Units per Acre
RMF-40	Residential Multi-family – Forty Units per Acre
R-O	Residential-Office
C-1	Neighborhood Commercial
C-2	Thoroughfare Commercial
C-3	Central Business Commercial
C-4	Downtown
I-1	Heavy Commercial and Light Industrial
I-2	General Industrial
P-1	Institutional
E-1	Extraction
DOD	Design Overlay District
R-PZD	Residential Planned Zoning District
C-PZD	Commercial Planned Zoning District
I-PZD	Industrial Planned Zoning District

(Code 1965, App. A., Art. 5; Ord. No. 1747, 6-29-70; Ord. No. 3115, 9-3-85; Ord. No. 3128, 10-1-85; Code 1991, §§160.015, 160.048; Ord. No. 3792, §1, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4325, 7-3-01)

160.02 Official Zoning Map

(A) *Map.* The city is hereby divided into zones, or districts, as shown on the official zoning map, which together with all explanatory matter whereon, is hereby adopted by reference and declared to be a part of this chapter.

(B) *Signature/seal.* The official zoning map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the city under the following words:

"This is to certify that this is the Official Zoning Map referred to in Section 1. of Ordinance No. _____of the City of Fayetteville," together with the date of the adoption of the ordinance.

(C) *Location.* The official zoning map shall be located in the office of City Planning. A conformed copy of the official zoning map shall be located in the office of the City Clerk.

(D) *Changes.*

(1) *Entry on map.* If in accordance with the provisions of the state law, changes are made in the district boundaries or other matter portrayed on the official zoning map such changes shall be entered on the official zoning map as promptly as is possible after the amendment has been approved by the City Council, with an entry on the official zoning map as follows:

"Amended to ____ by Ordinance No. _____."

(2) *Effective date.* Amendments to this ordinance which involve matters portrayed on the official zoning map shall be effective upon the passage, approval, and publication of the amended ordinance.

(3) *Changes/unauthorized.* No changes of any nature shall be made in the official zoning map or matter shown except in conformity with the procedures set forth in this chapter.

(E) *Damaged/destroyed.* In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such corrections shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the city under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. _____ of the City of Fayetteville."

(F) *Preservation.* Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

(Code 1965, App. A., Art. 1; Ord. No. 1765, 10-19-70; Code 1991, §160.018; Ord. No. 4100, §2, (Ex. A), 6-16-98)

Cross reference(s)--Enforcement. Ch. 153.

R. W.

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: File
FROM: Jeremy Pate, Director of Current Planning
DATE: February 10, 2006

Planning Staff has researched Planning Commission meeting minutes, rezoning files and City Clerk records of City Council/Board of Directors meeting minutes and ordinances in an attempt to locate the ordinance that zoned the approximately 150' strip of property between Evelyn Hills Shopping Center and Hillcrest Avenue, in conjunction with the Abshier Heights Planned Zoning District Proposal. The following represent the best timeline that we have been able to establish:

Zoning History – Evelyn Hills/Abshier Heights PZD

- 1960 — Evelyn Hills rezoned to C-2 (excluding 150' strip adjacent to Hillcrest)
- August, 1962 — City Council approved rezoning to C-2 with restrictive covenants (Ordinance 1314)
- November, 1962 — Referendum vote (election) defeated Ordinance 1314, 682 to 471. Property remains zoned R1-A.
- August, 1967 — Planning Commission recommends denial of rezoning to C-2
- September, 1967 — Applicant appealed to Board of Directors
- October, 1967 — Board of Directors review of appeal, applicant not present; no action taken
- November, 1967 — Board of Directors rehear appeal, recommend applicant work out compromise with neighborhood; tabled 120 days, referred to Planning Commission
- February, 1968 — Planning Commission table indefinitely the rezoning consideration
- June, 1970 — City-wide rezoning affirmed C-2 zoning for Evelyn Hills; Zoning exhibit excludes the 150' wide portion adjacent to Hillcrest
- July, 1991 — Request to rezone property from C-2 to R-1.5 withdrawn; Conditional Use to allow duplexes on the property (noted as being zoned R-1) denied
- 1991-1999 — Projects in area reviewed for zoning maps; all reference R-1, until 1999, when the property is indicated as zoned C-2 on the 1-mile maps associated with a parking lot expansion for Weingarten (Evelyn Hills)

- June, 2003 — Unified Development Code adopted through Ordinance No. 4489, codified through Ordinance 4789; Ordinance # 4503 city-wide rezoning; property zoned C-2 to Hillcrest, as noted in the official Zoning Map of the City of Fayetteville

To date, staff has been unable to locate a formal action by the Planning Commission or the Board of Directors regarding any request on the property after its indefinite tabling in February, 1968 and the city-wide rezoning in 1970. Furthermore, the 1970 city-wide rezoning indicates that the subject property was not zoned C-2; rather, it remained at that time R-1 (see attached). The city-wide rezoning in 2003, however, as officially adopted by the City Council, indicates the property as zoned C-2, therefore staff is processing this project as being zoned C-2 currently.

Askew Enterprises
Hillcrest Avenue

BILL OF ASSURANCE

This declaration of a Bill of Assurance made this 19th day of February, 1991, by the undersigned, owners of the following real estate described in Exhibit "A" attached hereto and made a part hereof located in the City of Fayetteville, Washington County, Arkansas.

WHEREAS, the aforesaid owners of the real property described in said Exhibit "A" have secured from the Fayetteville Board of Directors a temporary waiver of the requirement prescribed by § 18-31 of the Fayetteville Code of Ordinances to install a sidewalk across said real property; and

WHEREAS, the owners are desirous of making a declaration of the same in the form of this Bill of Assurance with the intention of guaranteeing the preservation of certain values and amenities in the community and to bind the owners and the owners' successors and assigns and the real estate described in Exhibit "A" and its subsequent owners with the obligations and restrictions hereinafter set forth for all present and future development and use of said property.

NOW, THEREFORE, the owners declare that the above described real property shall be held, developed, transferred, sold, conveyed and occupied subject to the covenants and restrictions herein set forth:

FILED FOR RECORD
'91 FEB 26 PM 2 07
WASHINGTON CO AR
A. [illegible] MEYER

I.

Upon receipt of written notice from the City of Fayetteville, owners shall construct to City Specifications and at owners' expense, a sidewalk across the entire EAST side of the above described property. The exact location of said sidewalk shall be specified by the City. Should owners fail to properly construct said sidewalk within ~~30~~ 90 days from receipt of said written notice, the City shall have the right to construct the sidewalk and charge the cost thereof to owners. Said cost shall constitute a lien on the property described in Exhibit "A", and the City shall have the right of foreclosure by public sale without the necessity of court proceedings.

WITNESS our hands this 19th day of February, 1991.

Tom B. Askew Jr.
*Successor In Interest To Askew Enterprises, Inc.

Michael D. [illegible]
w/ Valid Power of Attorney 3/4/90

*Askew Enterprises, Inc. Liquidated on 12-31-90

BK 1404 PAGE 282

Fayetteville City Clerk
Provided by COURTHOUSEDATA your key to public records 24/7 www.courthousedata.com

STATE OF ARKANSAS)
) ss
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public, duly qualified, commissioned and acting within and for the aforesaid County and State, appeared in person the within named Michael D. Flynn and _____, to me well known, ~~who stated that they were the President and Secretary of~~ He is _____, ~~a corporation, and were~~ duly authorized to execute the foregoing instrument, ~~for and in the name and behalf of said corporation,~~ and further stated and acknowledged that ~~they~~ he had so signed, executed and delivered said intrument for the consideration, uses and purposes herein mentioned and set forth.

WITNESS my hand and seal as such Notary Public on this 19th day of FEBRUARY, 1991.

NOTARY PUBLIC
WASHINGTON COUNTY

My Commission Expires:
Nov. 2000

Nancy O. Oneal
Notary Public

BOOK 1404 PAGE 283

Provided by COURTHOUSEDATA your key to public records 24/7 www.courthousedata.com

Exhibit "A":

LEGAL DESCRIPTION OF PIECE SPLIT OFF: Part of the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4) of Section 10, Township 16 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at a point that is S 88°15'49" W, 204.05 feet and N 0°46'36" W, 50 feet from the Southeast Corner of said Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4), said point being on the west right-of-way of Hillcrest Avenue; thence along said right-of-way, N 0°46'36" W, 610 feet; thence leaving said right-of-way, S 89°08'54" W, 146 feet; thence S 0°46'36" E, 610 feet; thence N 89°08'54" E, 146 feet to the point of beginning, containing 2.04 acres, more or less.

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CITY ATTORNEY AGENDA REQUEST

FOR: COUNCIL MEETING OF MARCH 7, 2006

FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §163.14 **Wireless Communication Facilities** Of The Unified Development Code

APPROVED FOR AGENDA:

City Attorney — Date: 2-14-06

Mayor — Date: 2/16/06

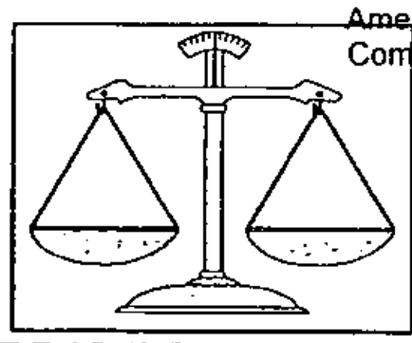
Sus 2/21/06

Left on the second reading 3/21/06
Left on first reading 3/7/06

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council

CC: **Jeremy Pate**, Director of Current Planning

FROM: **Kit Williams**, City Attorney

DATE: **February 14, 2006**

RE: **Clarification of Cell Tower Ordinance**

The Exemption section of the Cell Tower Ordinance needs to be clarified to ensure existing towers with slender antennas are not replaced administratively with a cell tower containing a ten foot cell antenna array.

This problem surfaced after the City Council voted to deny a conditional use for a cell tower near the Washington-Willow Historic District. A news story indicated that the existing data transfer tower/antenna might be able to be replaced administratively with a cell tower. Since this would obviously frustrate the will of the City Council, I drafted the amended language to make it crystal clear that a tower/antenna could not be altered to become a cell tower without going through the conditional use process. I also removed the right to increase a tower's height by twenty feet. Ultimate tower height is usually an important issue that should be decided by the Planning Commission rather than being administratively granted.

The City needs to come up with a comprehensive cell tower location plan **in conjunction with the cell phone companies**. Such a plan should designate whatever new sites the City believes should be allowed for cell towers within Fayetteville and limit cell towers to these co-location sites. Any such plan could obviously be changed in the future, but this location plan should limit some of our recent problems. Such a plan could even remove the conditional use requirement for cell towers to be located in these "pre-approved" locations.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §163.14 **WIRELESS COMMUNICATION FACILITIES** OF THE UNIFIED DEVELOPMENT CODE

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 repeals §163.14 subsection (E) (3) in its entirety and enacts a replacement subsection (E) (3) as shown below:

"*(E) (3) Existing towers.*

"(a) All existing towers may be replaced with a monopole tower of the same height and usage as currently exists. Existing towers that do not have cell antennas or arrays may not add such capability without securing a conditional use.

"(b) All replacement towers shall comply with §163.14 (A) and (B).

"(c) An applicant for a replacement tower must secure a demolition permit for the existing tower prior to receiving a building permit for the replacement tower. The tower being replaced must be demolished within 90 days of the date the building permit is issued.

"(d) Antennas may be replaced by similar antennas at the same height and for the same usage as the antennas being replaced."

PASSED and **APPROVED** this 7th day of March, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

March 1, 2006

City of Fayetteville-City Clerk's Office
113 W. Mountain St.
Fayetteville, AR. 72701

RE:ANX 06-1935
RZN 06-1936

This is to notify you of my intention to **Appeal** the denial by the City of Fayetteville Planning Commission on Monday, February 27, 2006, on the above mentioned items.

We would like to have these properties rezoned and annexed to build housing for Fayetteville. It is our understanding that the property south of subject property, owned by the Hays family, will be asking to be rezoned and/or annexed also. We feel like this would be a good housing project for Fayetteville.

Sincerely,

Fletcher Williams

Fletcher Williams

RECEIVED
MAR 02 2006
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Left on the second reading 3/21/06

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: February 28, 2006

Subject: Annexation for Fletcher Williams (ANX 06-1935)

RECOMMENDATION

The Planning Commission recommended denial of the subject annexation request for approximately 9.70 acres of property located east of Double Springs Road, south of Persimmon Street. The incorporation of the property would create an island of county property. Planning Staff originally recommended approval of the requested annexation.

BACKGROUND

The subject property contains approximately 9.70 acres and is located on Double Springs Road, south of Persimmon Street. The property is bordered on two sides by property in the city limits, with Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. Two intervening properties lie between the subject property and the city limits to the north (Legacy Point Phase 1). Annexation of the 9.70 acres will create an island of approximately 6.30 acres.

The applicant requests annexation of 9.70 acres into the city limits to allow for residential development of greater density than would be possible otherwise, by utilizing the amenities, such as sanitary sewer, provided when annexing into the city. The applicant has submitted a rezoning request with the annexation petition to rezone the property from R-A to RMF-6, with a Bill of Assurance, should the annexation be approved.

DISCUSSION

This item was heard at the regular Planning Commission on February 27, 2006. The Planning Commission voted 2-4-0 to recommend approval of this annexation request to the City Council, with Commissioner Ostner, Allen, Anthes, and Myres voting no. Therefore, the motion failed, and the application for annexation into the City of Fayetteville was denied.

Those who voted against the motion discussed their concerns regarding a 6 minute emergency response time, that the adjacent property owner to the north had not been informed of the annexation request by the applicant, and the piecemeal annexation would create an island of unincorporated property.

Planning Staff had recommended approval of the incorporation of this property into the City of Fayetteville. This is the second annexation request processed in recent years that would create an island of unincorporated property. There are two property owners to the north of the property within the Planning Area. Staff met several months ago with the future landowner of the new storage business who expressed his desire to remain within the county in order to utilize his business. Mini-storage is allowed in the I-1 zoning districts. Staff also discussed the potential for multi-family uses on the property; however, the concepts presented at that time could not be approved through our development review process within the county. Several properties south of the property have expressed a desire to annex into the City, though at this time the Planning Division has not received applications for annexation. Staff has repeatedly encouraged the applicant to submit a request for annexation simultaneously with the adjacent property owners to the south so that a larger, more comprehensive land area can be reviewed for incorporation into the city. It was the applicant's wish to proceed forward with the annexation request at this time to establish the development rights on the property as soon as possible and subsequently proceed with preliminary plat approval.

While atypical to recommend an annexation that creates an island, staff finds the applicant has made every attempt to annex this property while complying with city policies. Weighing the potential benefits and costs of creating the island of unincorporated property, staff finds this request meets with the majority of the city's guiding policies, will not further extend the city's incorporated limits, and recommends approval. Staff also continues to recommend that a comprehensive annexation request in this area be submitted, as there is an obvious desire by multiple property owners to be annexed into the City.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 06-1935 (CC2005-54), FOR PROPERTY LOCATED AT 354 AND 370 DOUBLE SPRINGS ROAD, CONTAINING APPROXIMATELY 9.70 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 06-1936

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

PC Meeting of February 27, 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:	February 21, 2006

ANX 06-1935: (FLETCHER WILLIAMS, 474): Submitted by RANDY RITCHEY STEADFAST, INC. for property located at 370 DOUBLE SPRINGS RD. The property is in the Planning Area and contains approximately 9.70 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.

PLANNING COMMISSION ACTION: **Required** **YES**
Ø Approved **○ Denied**
Date: February 27, 2006 Motion: Trumbo Vote: 2-4-0 w/ Allen, Anthes, Second: Clark Ostner and Myres voting no.

CITY COUNCIL ACTION: **Required** **YES**
○ Approved **○ Denied**
Date: March 21, 2006 (1st reading if recommended)

BACKGROUND:
Property description: The subject property contains approximately 9.70 acres and is located on Double Springs Road, south of Persimmon Street. The property is bordered on two sides by property in the city limits, with Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. Two intervening properties lie between the subject property and the city limits to the north (Legacy Point Phase 1). Annexation of the 9.70 acres will create an island of approximately 6.30 acres.

Proposal: The applicant requests annexation of 9.70 acres into the city limits to allow for residential development of greater density than would be possible otherwise, by utilizing the amenities provided when annexing into the city (i.e. sewer). The applicant has submitted a rezoning request with the annexation petition to rezone the property from R-A to RMF-6, with a Bill of Assurance, should the annexation be approved.

Recommendation: Staff recommends approval of the proposed annexation. Should the annexation request be approved, future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Storage Units & 2 Single family homes Single family homes	Planning Area RSF-4 & RMF-6 (Legacy Pt. Ph. 1)
South	Rural Single family homes	Planning Area
East	Vacant (under construction)	RSF-4
West	Silverthorne Subdivision	RSF-4

INFRASTRUCTURE:

Streets: The site has access to Double Springs Road. Improvements will be required to Double Springs Road which may include off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development. Dedication of right-of-way per the Master Street Plan is required.

Adjacent Streets:

North: Persimmon Street (Collector)
South: Dot Tipton Road (Collector)
West: Double Springs Road (Minor Arterial)

Water: Public water is adjacent to the site. There is an 8" water line that that runs along Double Springs Road. 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 located near 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. 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 9.70 acres are covered by Engine 7 located at 835 Rupple Road. It is 3 miles from the station with an expected response time of 6 minutes to the entrance of this development. The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. Measured Hydrant Flow in this area is 1465 gallons per 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. There should be no adverse effects on our call volume or response time to this development.

Police: It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services 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: **The requested annexation will create an island of unincorporated property. The property is surrounded by the city limits to the east and west, and the prospective buyer of the property desires to develop the property under City regulations with the ability to access sewer. The two adjacent property owners to the south (Williams and Hays) have expressed interest in annexing into the city. Hays has submitted a Petition to Annex to the County, and according to the applicant Mr. Williams is in the process of submitting a Petition to the County.**

There are two property owners to the north of the property within the Planning Area. The immediate property owner to the north is unwilling to annex into the city due to the potential regulations which would be placed on the property and the effect they would have on the land owner's storage business. Staff has met with the landowner of the new storage business who has expressed his desire to remain within the county in order to utilize his business. Mini-storage is allowed in the I-1 zoning districts. While atypical to recommend an annexation that creates an island, staff finds the applicant has made every attempt to annex this property while complying with city policies.

The applicant has met with the City Council members for Ward 4 to discuss the possibility of extending sewer outside the city limits to serve a development on this property. Public services are available to the properties adjacent to the subject property; therefore, the annexation of this property will not create an unnecessary load of calls or extension of service area on emergency services and public facilities.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: **The proposed annexation area is adjacent to the city limits along its east and west boundaries. The request does not extend the city limit boundary further south than the current limits reach.**

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: **This area does not divide neighborhoods.**

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: **The proposed boundaries follow existing property lines.**

11.6.e Timing of services within annexation areas should be considered.

Finding: **Current conditions result in a response time of 6 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 with a few trees surrounding the two existing single-family dwellings and a pond. 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 this area. The property is adjacent to city limits, to which utilities and other public service providers already respond.**

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. As it exists currently, annexation of the property would not require the upgrading of utilities, unless and until additional development that increases the demand on public services is proposed.**

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: **The proposed annexation is not part of a phased annexation initiated by the City.**

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: **N/A**

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: **N/A**

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: **Annexations are automatically zoned R-A, Residential Agricultural. The property owners are requesting a rezoning of RMF-6 to allow for two-family townhome and single-family development similar to the development within the RMF-6 portion of Legacy Point Phase 1.**

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: **The applicant submitted a preliminary plat application several months ago to the Planning Division with the intent to utilize city sewer service. Staff informed the applicant that to receive sewer services he must either receive City Council approval to extend sewer to a property within the Planning Area or be annexed into the city. Any request to develop or subdivide this property requires staff review and approval by the Planning Commission.**

11.6.r Residents should be fully informed of annexation activities.

Finding: **Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled. Additionally, the applicant stated that he had a meeting with several adjacent property owners several weeks prior to the scheduled Planning Commission meeting.**

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: **The annexation of this property will begin to incorporate portions of county property located between the city limits. The request does not extend the city limit boundary further south than the current limits reach. Staff has repeatedly encouraged the applicant to submit a request for annexation simultaneously with the adjacent property owners to the south so that a larger, more comprehensive land area can be reviewed for incorporation into the city. It was the applicant's wish to proceed forward with the annexation request at this time to establish the development rights on the property as soon as possible and subsequently proceed with preliminary plat approval.**

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: **No fiscal impact assessment was conducted for this annexation of 9.70 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.

Date: 1/3/2006

From: Clyde Randall
GIS Office
444-3431

PLAT REVIEW CHECKLIST:

Re: Anx06-1935

Hansen Number: 1935

Comments: Legal OK. Will create an island in the city limits and a strip of road unannexed.

Items Needed (if checked):

1._____Each plat shall have 2 points on the boundary described in State Plane Coordinates, Arkansas North Zone, North American Datum 1983 (NAD 83).

2._____Written legal descriptions that read clockwise, including area in square feet or acres. This shall be provided on the plat. (Note: If the project covers more than one tract, the legal for each individual tract and a **total** tract description must be provided.)

3._____Boundary survey of the property shown on the plat. The surveyor shall seal, sign and date the survey. The survey shall be tied to State Plane Coordinates (see item #1).

4._____Point-of-Beginning from a permanent well-defined reference point. This POB shall be clearly labeled on the drawing.

5._____Curve data for any street or line which forms a project boundary (preferably radius, length of curve, chord distance and bearing).

Note: Items are taken from application and code requirements.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS POLICE DEPARTMENT

February 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 and rezoning ANX & RZN **06-1935 (Fletcher Williams, 474)** submitted by Randy Ritchey Steadfast, Inc for property located at 370 Double Springs Rd. would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this 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,

Captain William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
100-A WEST ROCK STREET
FAYETTEVILLE, ARKANSAS 72701

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
PHONE: 479.587.3555 FAX: 479.587.3522

Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher

Thru: Chief Tony Johnson

From: Captain Dale Riggins

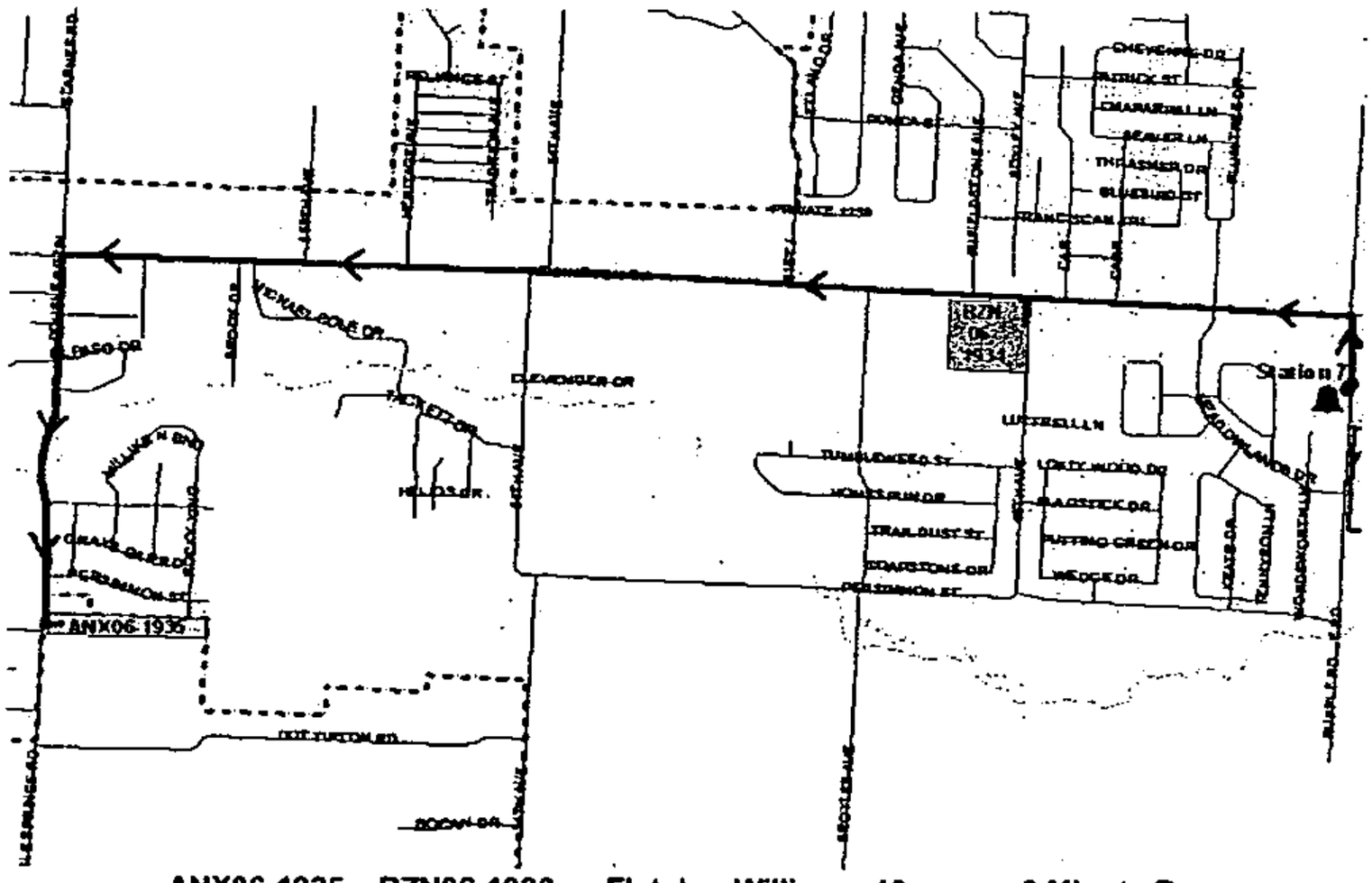
Date: February 21, 2006

Re: February 16, 2006 Zoning Review – Fire Department Comments

ANX 06-1935 (Fletcher Williams, 474)
RZN 06-1936 (Fletcher Williams, 474)
These 10 acres are covered by Engine 7 located at 835 Rupple Road.
It is 3 miles from the station with an expected response time of 6 minutes to the entrance of this development.
The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
Measured Hydrant Flow in this area is 1465 gallons per 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.
There should be no adverse effects on our call volume or response time to this development.

If you have any questions, please feel free to call or email me

Dale Riggins
Captain
Fayetteville Fire Department



ANX06-1935 RZN06-1936 Fletcher Williams 10 acres 6 Minute Response
RZN06-1934 Broyles Commercial 10.06 Acres 2.25 Minute Response

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

2005 DEC 19 PM 3:50
FILED
CIRCUIT COURT & COUNTY CLERK
WASHINGTON CO. AR

NO. CC2005-54

PETITION TO ANNEX TERRITORY TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

The Petitioners, FLETCHER R. + IMOGENE WILLIAMS hereby submit their 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 Petitions own 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.

2. The Petitioners name RANDY RITCHEY as persons authorized to act on their behalf with respect to this Petition.

3. The Petitioners desire 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 Petitioners herein desire that the Real Property become part of the City of Fayetteville, Washington, County, Arkansas, and the Petitioners state that they will do any and all legal acts necessary to accomplish the objective set forth herein.

THEREFORE, Petitioner respectfully prays that this Court set a hearing, and after notice of such hearing, that the County Judge sign an Order annexing the above described real property into the City of Fayetteville, Washington County, Arkansas, and to order such other relief as is appropriate under applicable law.

Respectfully submitted this 19th day of DECEMBER, 2005.

x Fletcher R. Williams
FLETCHER R. WILLIAMS

Imogene Williams
IMOGENE WILLIAMS

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the State and County aforesaid, duly commissioned and acting,

WITNESS my hand and seal this 19 day of Dec, 2005.

Beverly S. Borum
NOTARY PUBLIC

OFFICIAL SEAL
BEVERLY S. BORUM
NOTARY PUBLIC - ARKANSAS
WASHINGTON COUNTY
COMMISSION EXP. 04/15/2012

My Commission Expires:

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

FLETCHER R. AND IMOGENE WILLIAMS
PETITIONERS:

FILED
2006 JAN 18 AM 10:01
COUNTY CLERK & RECORDER
WASHINGTON CO. AR

NO. CC 2005-54

ORDER OF ANNEXATION

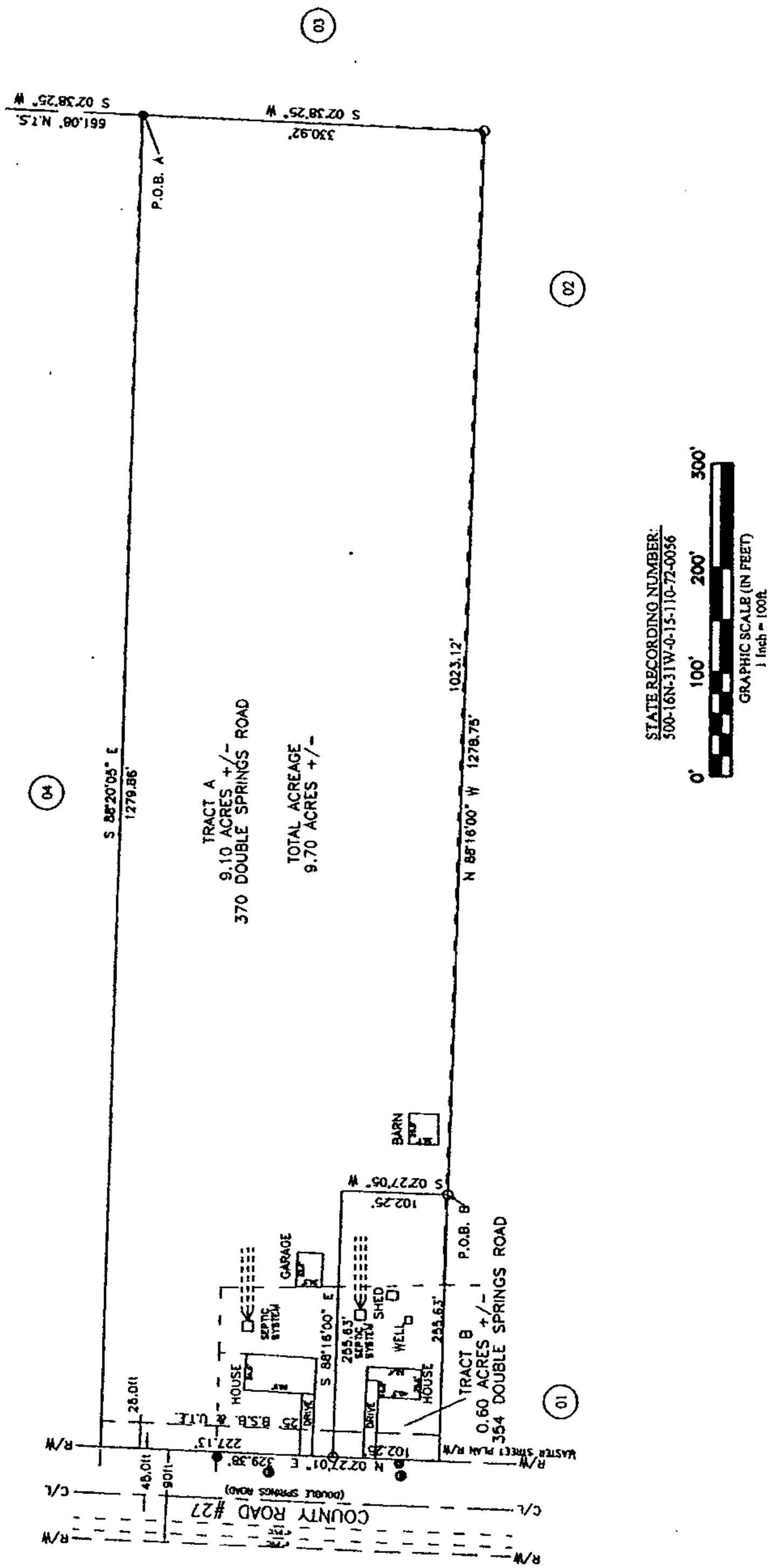
On this 18th DAY of JANUARY, 2006, comes on to be heard the petition of the owner of the following described property in Washington County for its annexation to the City of Fayetteville, Arkansas:

(See Exhibit "A" Enclosure)

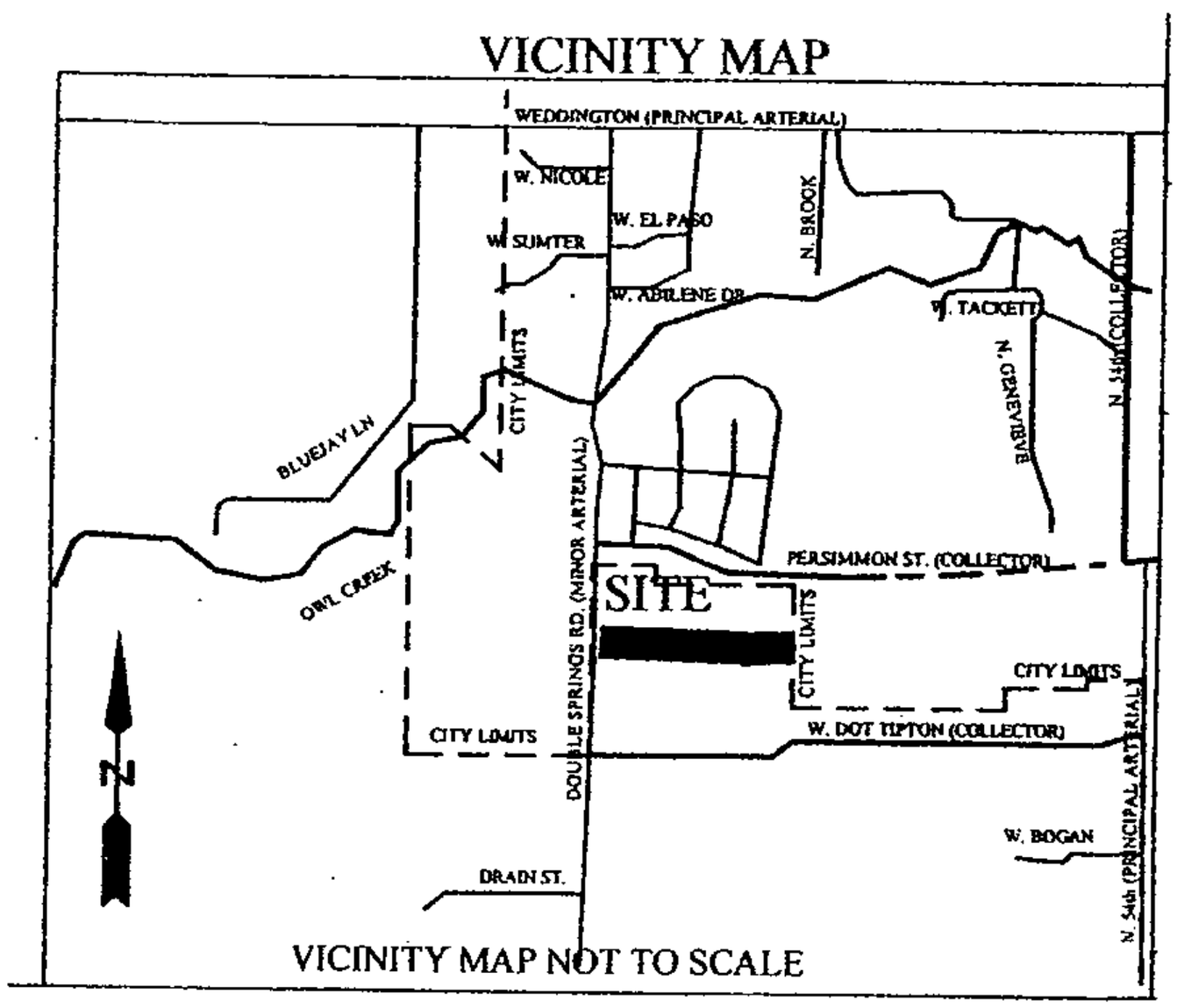
and it appearing to the court that notice of this hearing has been given for three consecutive weeks by publication in the Morning News, a newspaper of general circulation in the County, as provided by law; that the territory proposed to be annexed is accurately described in said petition and the plat attached hereto is declared to be the plat of said property and said property should be annexed to the City of Fayetteville, Washington County, Arkansas, as prayed.

NOW THEREFORE, IT IS BY THE COURT CONSIDERED AND ORDERED that the territory hereinabove described be and is hereby annexed to the City of Fayetteville, Washington County, Arkansas, and that the petitioners pay the cost of this proceeding and that the plat attached hereto is declared to be the plat of the property annexed.

COUNTY JUDGE


03
02
01
04
P.O.B. A
661.08' N.T.S.
S 02°38'25" W
330.92'
S 02°38'25" W
S 88°20'05" E
1279.86'
TRACT A
9.10 ACRES +/-
370 DOUBLE SPRINGS ROAD
TOTAL ACREAGE
9.70 ACRES +/-
1023.12'
N 88°16'00" W 1278.75'
STATE RECORDING NUMBER:
500-16N-31W-0-15-110-72-0056
0'
100'
200'
300'
GRAPHIC SCALE (IN FEET)
1 Inch = 100ft.
BARN
S 02°27'05" W
102.25'
P.O.B. B
GARAGE
SEPTIC SYSTEM
S 88°16'00" E
255.63'
SEPTIC SYSTEM
SHED
WELL
255.63'
TRACT B
0.60 ACRES +/-
354 DOUBLE SPRINGS ROAD
HOUSE
HOUSE
DRIVE
DRIVE
25' B.S.B. & U.T.E.
28.0ft
227.13'
329.38'
N 02°27'01" E
102.25'
MASTER STREET PLAN R/W
R/W
R/W
C/L
48.0ft
100ft
(DOUBLE SPRINGS ROAD)
COUNTY ROAD #27
C/L
R/W
R/W

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.



Copy: Hays Property.
South of Williams' property

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. CC2006-2

FILED
2006 JAN 25 PM 2:02
WASHINGTON CO. & PROBATE CLERK
WASHINGTON CO. ARK

PETITION TO ANNEX TERRITORY TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

The Petitioners, Lloyd and Joan Hays Revocable Trust, Joan C. Hays, Trustee, hereby submit their 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 Petitions own 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.

2. The Petitioners name David W. Hays and Karen S. Hays as persons authorized to act on their behalf with respect to this Petition.

3. The Petitioners desire 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 Petitioners herein desire that the Real Property become part of the City of Fayetteville, Washington, County, Arkansas, and the Petitioners state that they 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.

Joan C Hays

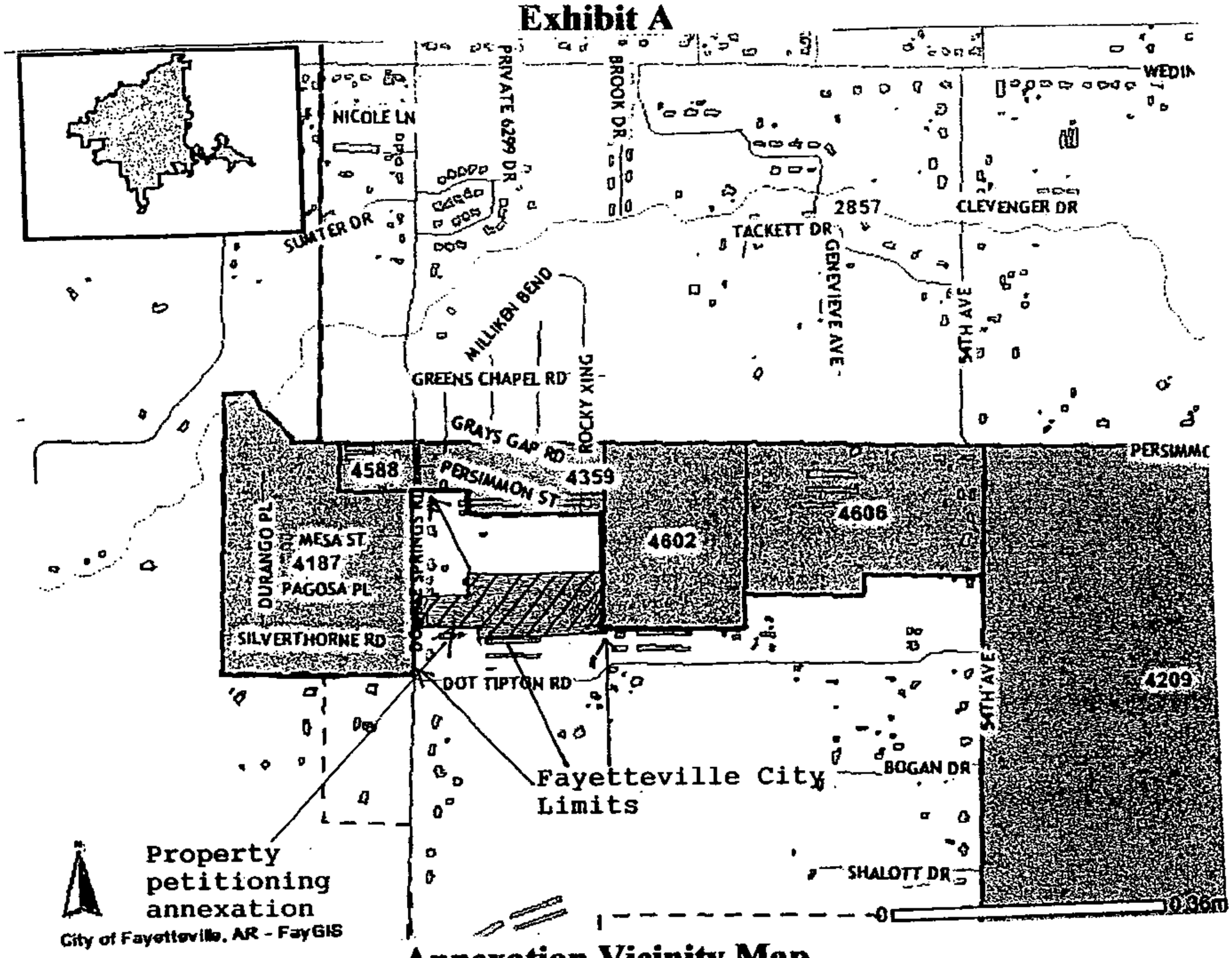
Lloyd & Joan Hays Revocable Trust
Joan C. Hays, Trustee

SUBSCRIBED AND SWORN TO before me, a Notary Public, on this the 25th day of January, 2006.

My Commission Expires:
5/18/2015

OFFICIAL SEAL
TYLER HEATH BENSON
NOTARY PUBLIC . ARKANSAS
WASHINGTON COUNTY
COMMISSION EXP. 05/18/2015

Exhibit A



Annexation Vicinity Map

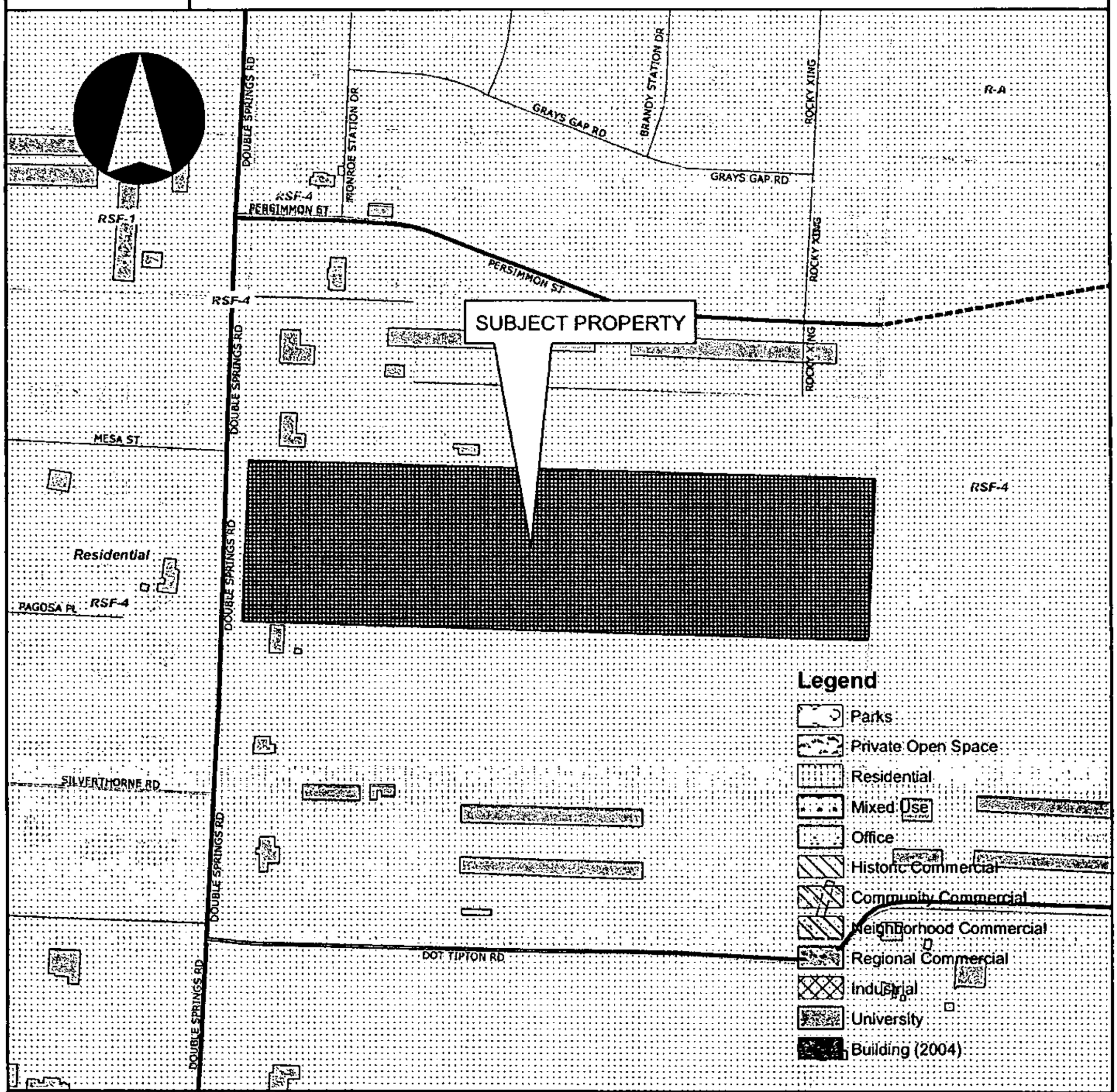
Annexation Description:

The South Half (S ½) of the South Half (S ½) of the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of Section 15, in Township 16 North of Range 31 West of the Fifth Principal Meridian, and containing Ten (10) acres, more or less. LESS AND EXCEPT the following one (1) acre tract, described as beginning at the Northwest corner of said ten (10) acre tract, and running thence East 622.3 feet, thence South 70 feet, thence West 622.3 feet, thence North 70 feet to the place of beginning, and EXCEPT the following one and one-half (1 ½) acre tract, described as commencing at the Southwest corner of said ten (10) acre tract, thence North 135 feet, thence East 484 feet, thence South 135 feet, thence West 484 feet to the point of beginning, and leaving seven and one-half (7 ½) acres, more or less.

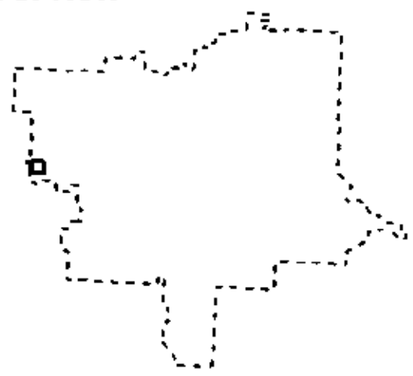
ANX06-1935

FLETCHER WILLIAMS

Future Land Use



Overview



Legend

Subject Property

ANX06-1935

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

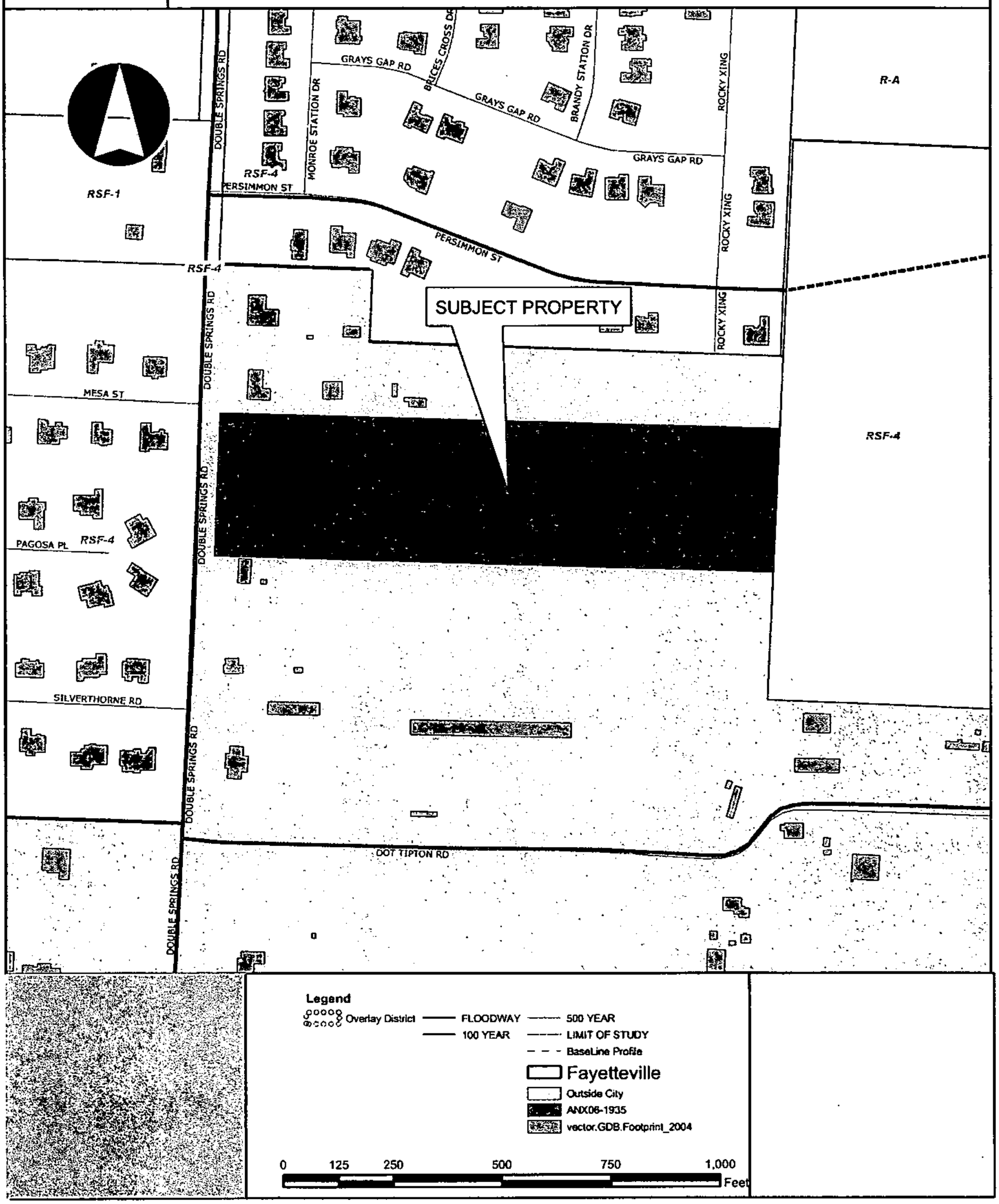
Legend

0 100 200 400 600 800 Feet

ANX06-1935

Close Up View

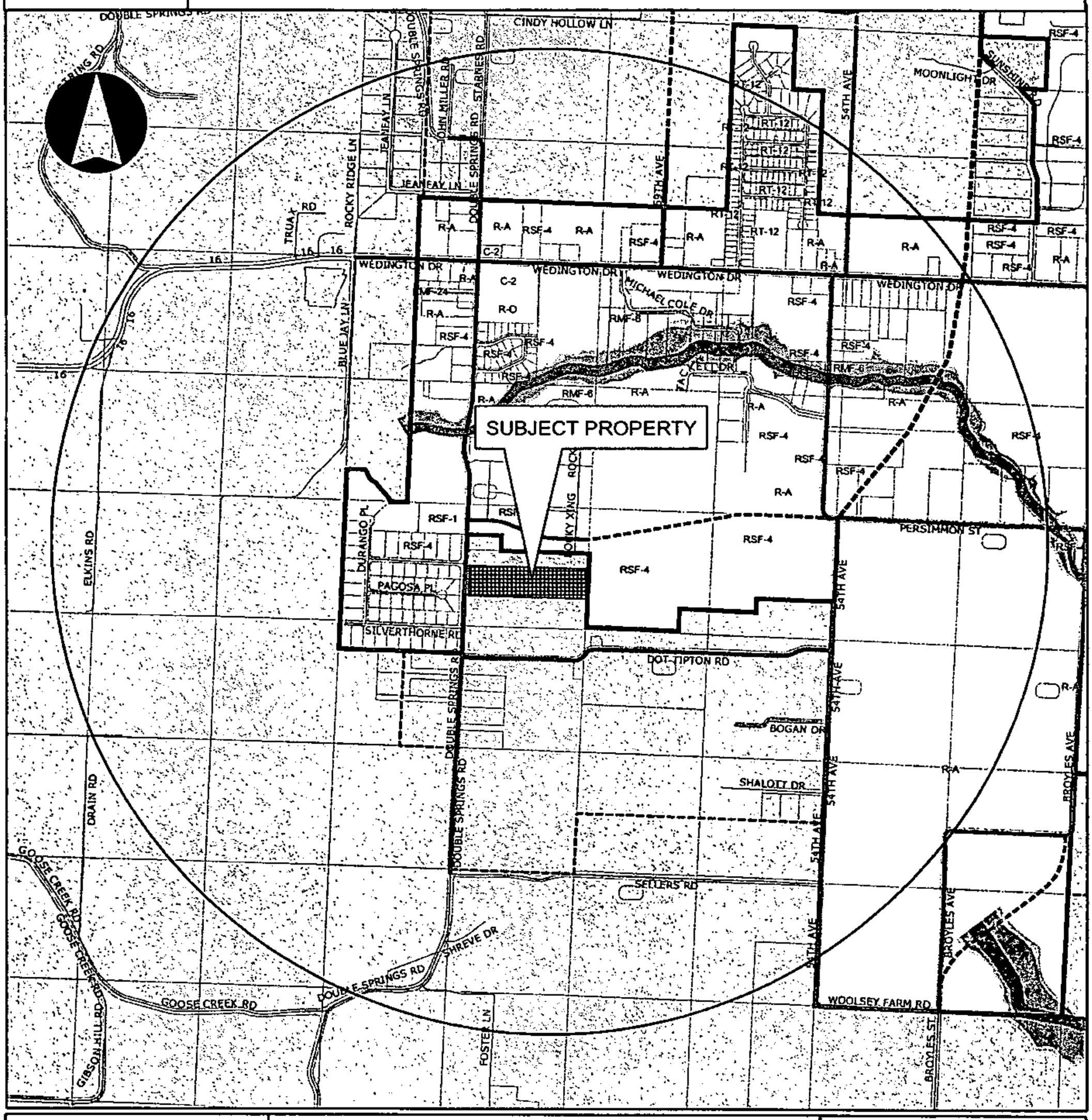
FLETCHER WILLIAMS



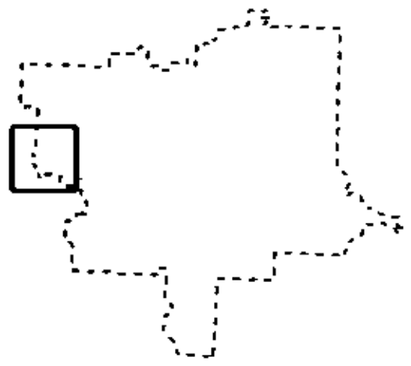
ANX06-1935

One Mile View

FLETCHER WILLIAMS



Overview



Legend

Subject Property

ANX06-1935

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

MEMORANDUM TO CITY COUNCIL MEMBERS

RE: Fletcher Williams Annexation Request
From: Rundy Ritchey, P.E.

03/12/06

Dear Council Member:

This memo is to provide all information possible for use in your decision regarding the annexation of Mr. William's property. I will list below several items that I believe will be helpful to you in your decision.

- A neighborhood meeting was held, all neighbors were notified and all but 2 attended. At that meeting we presented the concept plan, presented photos of actual houses that represent the type and style of homes planned for the development and took comments and questions from the neighbors. All neighbors in attendance were in favor of the development.
- City planning staff is in support of the annexation.
- Our plan provides consistent adjacent land uses to match existing developments where applicable. We are providing single family property adjacent to the existing single family subdivision to the East (Legacy Point) and on the West (across Double Springs Road).
- The property owner to the south (Hayes) is currently in Washington County but is currently in the annexation process. Another property owner to the south (Michael Williams) is also in Fayetteville Planning Division and petitioning for City annexation. With these 2 additional properties, we are part of an approximate 20 acre annexation request.
- The property immediately north of us is owned by L&L construction, and they are currently developing the property as a mini storage facility. This development would not be allowed in this location if the property was within the City's jurisdiction, so this property owner is not currently willing to annex. City Planning staff have discussed with them about annexation and they are not willing at this time. However, they have stated they would consider annexation after they have completed the construction of the mini storage facility.
- Although this annexation does create an island, we have made all attempts to eliminate this situation. City planners have attempted to work with the property owner to the north and encourage them to annex, but due to the nature of their development they are not willing to at this time. We feel confident that as soon as they are finished with the construction of the mini storage facility they will also be willing to annex.
- This property is located in a sewer assessment area and the proposed development would be a source of significant sewer assessment fees for the City's use.

March 1, 2006

City of Fayetteville-City Clerk's Office
113 W. Mountain St.
Fayetteville, AR. 72701

RE:ANX 06-1935
RZN 06-1936

This is to notify you of my intention to **Appeal** the denial by the City of Fayetteville Planning Commission on Monday, February 27, 2006, on the above mentioned items.

We would like to have these properties rezoned and annexed to build housing for Fayetteville. It is our understanding that the property south of subject property, owned by the Hays family, will be asking to be rezoned and/or annexed also. We feel like this would be a good housing project for Fayetteville.

Sincerely,

Fletcher Williams

Fletcher Williams

RECEIVED
MAR 02 2006
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Left on the second reading 3/21/06

City Council Meeting of March 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 28, 2006

Subject: Rezoning for Fletcher Williams (RZN 06-1936)

RECOMMENDATION

The Planning Commission recommended denial of the subject rezoning request from R-A to RMF-6 on approximately 9.70 acres of property located east of Double Springs Road, south of Persimmon Street. The applicant had submitted a Bill of Assurance limiting the type of development and maximum number of units allowed on the property. Planning Staff originally recommended approval of the requested rezoning to RMF-6 with the associated Bill of Assurance.

BACKGROUND

The subject property contains approximately 9.70 acres and is located on Double Springs Road, south of Persimmon Street. The property is bordered on two sides by property zoned RSF-4, with Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. Two intervening properties lie between the subject property and the city limits to the north (Legacy Point Phase 1). Initially, these properties were developed for single-family use. In recent months, the adjacent owner north of the property has begun to develop a storage unit business on his property. Legacy Point Phase 1 is zoned both RSF-4 and RMF-6. The 2002 rezoning of 8.74 acres within Legacy Point, in close proximity to the current request, was the first property to be zoned RMF-6 within the City of Fayetteville, with a unanimous vote by the Planning Commission and a majority vote by City Council.

The applicant requests rezoning of 9.70 acres to allow for a two-family townhome and single-family development. The prospective buyer of the property developed several properties within the RMF-6 portion of Legacy Point and would like to duplicate this development on the subject property. The property owner has submitted a Bill of Assurance that limits the development of the property to a maximum 24 two-family townhomes and a minimum 3 single-family lots, with a maximum 54 dwelling units; a maximum 58 units is permitted at 6 units/acre. Additionally, the Bill of Assurance guarantees that single-family dwellings will be located adjacent to the existing RSF-4 zoning districts, that is along the east and west property lines (see attachment).

DISCUSSION

This item was heard at the regular Planning Commission on February 27, 2006. The Planning Commission voted 4-2-0 to recommend approval of this rezoning request to the City Council, with Commissioner Ostner and Anthes voting no. Therefore, the motion failed due to lack of five affirmative votes, and the application for rezoning into the City of Fayetteville was denied.

Those who voted against the motion discussed their concerns regarding zoning only a small parcel without understanding how adjacent properties, currently without zoning, will develop in the future.

Staff recommends approval of the proposed rezoning with the Bill of Assurance. The property is located adjacent to a Minor Arterial street and two nearby Collector streets; therefore, adjacent infrastructure, once improved to Master Street Plan standards, will be able to accommodate a greater traffic volume. Additionally, this property is in close proximity to other property zoned RMF-6.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-1936, FOR APPROXIMATELY 9.70 ACRES, LOCATED AT 354 AND 370 DOUBLE SPRINGS ROAD, FROM R-A, RESIDENTIAL AGRICULTURAL TO RMF-6, RESIDENTIAL MULTI-FAMILY, 6 UNITS PER ACRE, SUBJECT TO A BILL OF ASSURANCE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RMF-6, Residential Multi-Family, 6 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.

Section 3: That the subject property will be subject to a Bill of Assurance attached hereto and made a part hereof as Exhibit "B" limiting the type and location of dwelling units on the property.

PASSED and **APPROVED** this___day of ___, 2006.

APPROVED: ATTEST:

By: _____ By: _____

DAN COODY, Mayor **SONDRA SMITH**, City Clerk

EXHIBIT "A"
RZN 06-1936

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

EXHIBIT "B"
RZN 06-1936

BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Fletcher Williams and Imogene Williams, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/ Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to the following: The petitioners assure the City the property will be developed as a residential subdivision, zoned RMF-6 (with approved re-zoning application) and will consist of a combination of single family lots and two-unit townhome lots. The subdivision as a whole will meet of exceed the requirements of RMF-6 zoning. The subdivision will contain between 20 to 24 zero-lot-line townhome structures (2 units each) and between 3 to 6 single family dwellings. The maximum total number of structures will be between 26 to 30 structures totaling 46 to 53 dwelling units. The maximum number of units allowed by RMF-6 for this parcel would be 58. Single family units will be placed adjacent to existing single family developments so as to maintain consistent usage across property lines.

2. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Fletcher R Williams, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

Fletcher R. Williams
Printed Name

2/15/06
Date

Fletcher R Williams
Signature

370 Double Springs Rd
Address

Imogene Williams
Printed Name

Fay AR 72704

Imogene Williams
Signature

NOTARY OATH

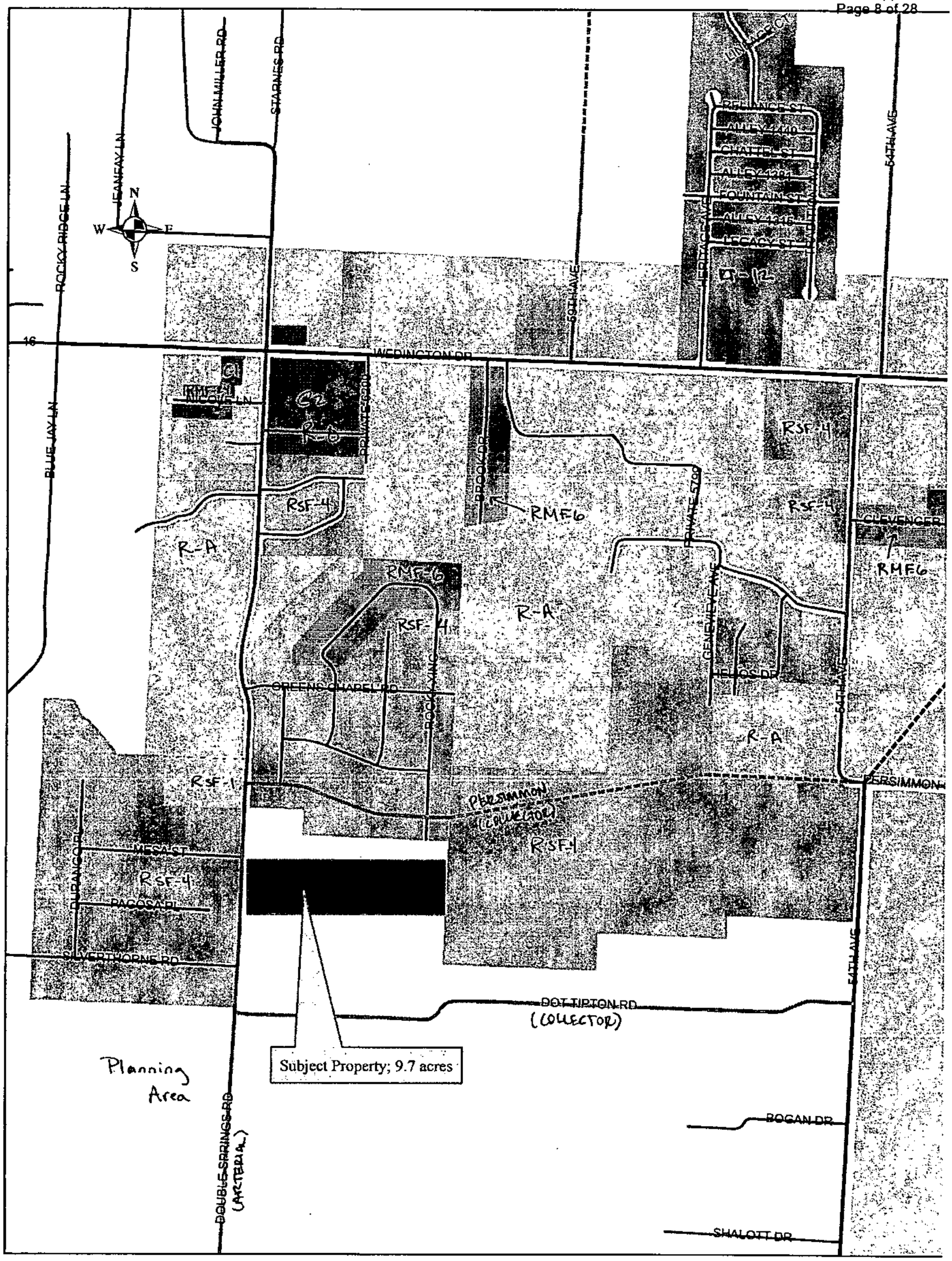
STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 15 day of February, 2006 appeared before me, Fletcher Williams / Imogene Williams and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

Carolyn Boone
NOTARY PUBLIC

CAROLYN BOONE
COMM. EXP.
NOTARY
PUBLIC
06-15-2014
WASHINGOTN COUNTY, AR

My Commission Expires:
June 15, 2014


N
S
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JEANEAY LN
JOHN MILLER RD
STARNES RD
ROCKY RIDGE LN
BLUE JAY LN
WEDINGTON DR
NICOLE LN
RMF-6
RSF-4
R-A
RMF-6
RSF-4
R-A
RMF-6
RSF-4
R-A
RSF-4
CLEVENGER
RMF-6
R-A
RSF-1
PERSIMMON
(COLLECTOR)
RSF-4
MESA ST
RSF-4
PACOSA PL
DURANGO PL
SILVERTHORNE RD
DOT TIPTON RD
(COLLECTOR)
Subject Property; 9.7 acres
Planning Area
DOUBLE SPRINGS RD
(ARTERIAL)
BOGAN DR
SHALOTT DR
54TH AVE
RELIANCE ST
ALLEY 4340
CHATTEL ST
ALLEY 4381
FOUNTAIN ST
ALLEY 4346
LEGACY ST
TERRACE AVE
LINEAGE CT

Fayetteville
ARKANSAS

PC Meeting of February 27, 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: February 21, 2006

RZN 06-1936: (FLETCHER WILLIAMS, 474): Submitted by RANDY RITCHEY STEADFAST, INC. for property located at 370 DOUBLE SPRINGS RD. The property is zoned R-A, Residential Agricultural, and contains approximately 9.70 acres. The request is to rezone the subject property to RMF-6, Residential Multi-family, 6 units per acre.

Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested rezoning from R-A to RMF-6 with the Bill of Assurance submitted by the applicant.

PLANNING COMMISSION ACTION: **Required** **YES**
○ **Forwarded** ✓ **Denied**
Date: February 27, 2006 Motion to recommend approval if ANX 06-1955 is approved by Allen. Second: Myres Vote: 4-2-0 w/ Anthes + Ostner voting no. Motion fails for lack of 5 affirmative votes.
CITY COUNCIL ACTION: **Required** **YES**
○ **Approved** ○ **Denied**
Date: March 21, 2006 (1st reading if recommended)

Comments: _____

BACKGROUND:

Property description: The subject property contains approximately 9.70 acres and is located on Double Springs Road, south of Persimmon Street. The property is bordered on two sides by property zoned RSF-4, with Silverthorne Subdivision to the west and Legacy Point Phase 4

(under construction) to the east. Two intervening properties lie between the subject property and the city limits to the north (Legacy Point Phase 1). Initially, these properties were developed for single-family use. In recent months, the adjacent owner north of the property has begun to develop a storage unit business on his property. Legacy Point Phase 1 is zoned both RSF-4 and RMF-6. The 2002 rezoning of 8.74 acres within Legacy Point, in close proximity to the current request, was the first property to be zoned RMF-6 within the City of Fayetteville, with a unanimous vote by the Planning Commission and a majority vote by City Council.

Proposal: The applicant requests rezoning of 9.70 acres to allow for a two-family townhome and single-family development. The prospective buyer of the property developed several properties within the RMF-6 portion of Legacy Point and would like to duplicate this development on the subject property (see photos within packet). The property owner has submitted a Bill of Assurance that limits the development of the property to a maximum 24 two-family townhomes and a minimum 3 single-family lots, with a maximum 54 dwelling units; a maximum 58 units is permitted at 6 units/acre. Additionally, the Bill of Assurance guarantees that single-family dwellings will be located adjacent to the existing RSF-4 zoning districts, that is along the east and west property lines (see attachment).

Recommendation: Staff recommends approval of the proposed rezoning with the Bill of Assurance. The development of property at 6 units per acre with single-family lots adjacent to properties zoned RSF-4 will allow for transitional housing and a density of residences similar to nearby developments.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Storage Units & 2 Single family homes Single family homes	Planning Area RSF-4 & RMF-6 (Legacy Pt. Ph. 1)
South	Rural Single family homes	Planning Area
East	Vacant (under construction)	RSF-4
West	Silverthorne Subdivision	RSF-4

INFRASTRUCTURE:

Streets: The site has access to Double Springs Road. Improvements will be required to Double Springs Road which may include off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development. Dedication of right-of-way per the Master Street Plan is required.

Adjacent Streets:

North: Persimmon Street (Collector)
South: Dot Tipton Road (Collector)
West: Double Springs Road (Minor Arterial)

Water: Public water is adjacent to the site. There is an 8" water line that that runs along Double Springs Road. 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 located near 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. 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 9.70 acres are covered by Engine 7 located at 835 Rupple Road. It is 3 miles from the station with an expected response time of 6 minutes to the entrance of this development. The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. Measured Hydrant Flow in this area is 1465 gallons per 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. There should be no adverse effects on our call volume or response time to this development.

Police: It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 designates the site as Residential. Rezoning this property to RMF-6 with the proposed Bill of Assurance is compatible with the single-family and townhomes uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning is generally consistent with current land use planning objectives and policies for Residential Use in the area as indicated on the Future Land Use plan. The first rezoning of property to RMF-6 occurred**

within the subdivision north of the subject property. The increase in density and type of development is compatible to the surrounding developments within the city. Additionally, the applicant proposes to develop single-family lots adjacent to the existing RSF-4 property (Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east).

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **For the property to develop in a manner consistent with adjacent properties, a zoning that would allow density greater than 1 unit per 2 acres (R-A) is required. The RSF-4 zoning is the most common in this area, though nearby property is zoned RMF-6 and property zoned R-O near the corner of Wedington Drive and Double Springs Rd is developed as a duplex subdivision. The applicant proposes an RMF-6 zoning with the intent to develop the property for two-family townhomes and some single-family dwellings. Staff finds that a zoning greater than R-A is justified in this area and an RMF-6 zoning with development subject to the proposed Bill of Assurance will be compatible with the surrounding developments.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **It is expected that a rezoning from R-A to RMF-6 would create an increase in traffic compared with that allowed under the existing zoning. The property is situated near two Collector streets and adjacent to a Minor Arterial street. The existing infrastructure will be able to accommodate a 9.70 acre development of 6 units per acre (a maximum 58 units; 580 vehicle trips per day).**

Police: **It is the opinion of the Fayetteville Police department that an appreciable increase in traffic danger and congestion would not be created by this rezoning.**

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 will increase population density from the zoning currently in place. The 9.70 acre tract under an R-A zoning designation would allow for a maximum 4 single family residential dwelling units. With the proposed RMF-6 designation, a maximum 58 single family dwelling units would be permitted. Staff finds that increasing the density limitations to 6 units per acre would alter the population density in the immediate vicinity, though not to the degree that it**

undesirably increases the load on public services.

Increased load on public services was taken into consideration for the recommendations from Engineering, Police and Fire Department that 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**

161.10 District Rmf-6, Residential Multi-Family – Six Units Per Acre

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	4 to 6

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

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

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

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

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS POLICE DEPARTMENT

February 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 and rezoning ANX & RZN **06-1935 (Fletcher Williams, 474)** submitted by Randy Ritchey Steadfast, Inc for property located at 370 Double Springs Rd. would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this 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,

Captain William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
100-A WEST ROCK STREET
FAYETTEVILLE, ARKANSAS 72701

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
PHONE: 479.587.3555 FAX: 479.587.3522

Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher

Thru: Chief Tony Johnson

From: Captain Dale Riggins

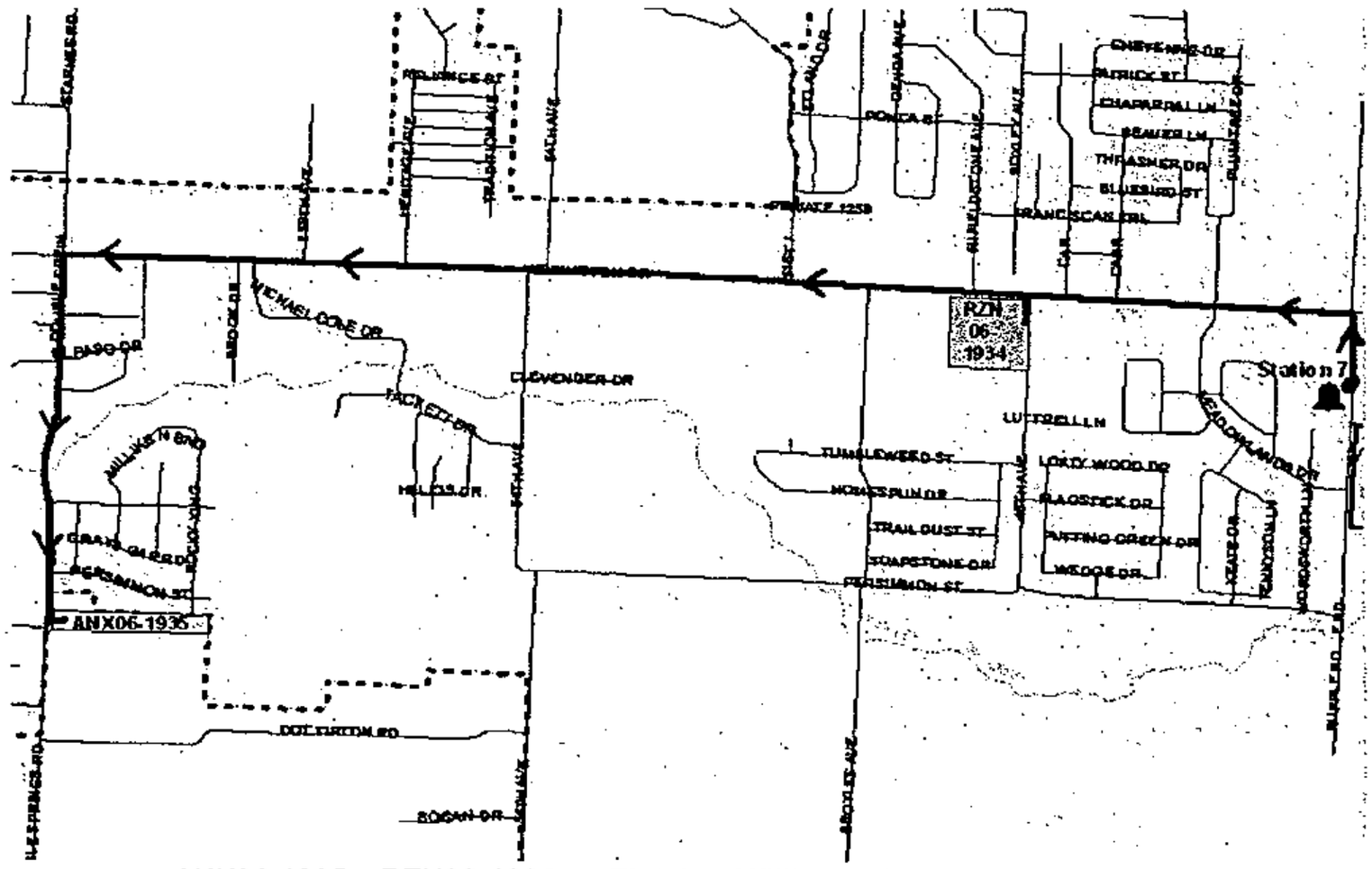
Date: February 21, 2006

Re: February 16, 2006 Zoning Review – Fire Department Comments

ANX 06-1935 (Fletcher Williams, 474)
RZN 06-1936 (Fletcher Williams, 474)
These 10 acres are covered by Engine 7 located at 835 Rupple Road.
It is 3 miles from the station with an expected response time of 6 minutes to the entrance of this development.
The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
Measured Hydrant Flow in this area is 1465 gallons per 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.
There should be no adverse effects on our call volume or response time to this development.

If you have any questions, please feel free to call or email me

Dale Riggins
Captain
Fayetteville Fire Department



ANX06-1935 RZN06-1936 Fletcher Williams 10 acres 6 Minute Response
RZN06-1934 Broyles Commercial 10.06 Acres 2.25 Minute Response

REQUEST FOR REZONING

1/19/06

To whom it may concern,

Please accept this request for annexation and re-zoning of property situated adjacent to the City of Fayetteville. The property is located at 370 Double Springs Road in Fayetteville, AR 72704 and is owned by Fletcher and Imogene Williams. The property contains 9.70 acres and is contiguous with the City of Fayetteville on 2 sides. Mr. and Mrs. Williams wish to sell their property to Olika Investments, who then intends to develop a residential subdivision on the site.

The annexation and rezoning are requested so that the property can be used according to the RMF-6 zoning to accommodate the construction of townhomes.

The use of the property for townhome construction will be consistent with nearby developments as Legacy point contains a section of townhomes. The current conceptual plan proposes the construction of 26 townhomes, which is a total of 52 living units. We believe this development will not generate enough increased traffic to significantly impact the current traffic patterns. The type and style of construction and entry signage will closely match the existing construction in Legacy Point.

Water is available from an existing 8" water main both on the West and East sides of the property. Sewer is available from an existing 8" gravity main on the West side and a 4" pressure main on the East side.

PLEASE NOTE THAT ALL ADJOINING PROPERTY OWNERS EXCEPT ONE ARE ALSO PETITIONING FOR ANNEXATION.

REQUEST FOR REZONING

1/19/06

To whom it may concern,

Please accept this request for annexation and re-zoning of property situated adjacent to the City of Fayetteville. The property is located at 370 Double Springs Road in Fayetteville, AR 72704 and is owned by Fletcher and Imogene Williams. The property contains 9.70 acres and is contiguous with the City of Fayetteville on 2 sides. Mr. and Mrs. Williams wish to sell their property to Olika Investments, who then intends to develop a residential subdivision on the site.

The annexation and rezoning are requested so that the property can be used according to the RMF-6 zoning to accommodate the construction of town homes.

The use of the property for town home construction will be consistent with nearby developments as Legacy point contains a section of town homes. The current conceptual plan proposes the construction of 46 to 53 living units. We believe this development will not generate enough increased traffic to significantly impact the current traffic patterns. The type and style of construction and entry signage will closely match the existing construction in Legacy Point.

Water is available from an existing 8" water main both on the West and East sides of the property. Sewer is available from an existing 8" gravity main on the West side and a 4" pressure main on the East side.

The proposed RMF-6 zoning is consistent with current land use planning ordinances and is consistent with current surrounding land use.

The re-zoning is needed because the assigned RA zoning does not allow construction of residential subdivisions as proposed for the property.

While the zoning would allow a maximum of 58 units, we are submitting a Bill of Assurance stating we will not build more than a maximum of 53 units. This is a density of 5 units per acre. We do not believe this subdivision will significantly impact the traffic danger or congestion.

While any development will certainly affect the public services, this development is small in scale and should not add significant strain to the existing public services.

The assigned zoning of RA is impractical for developing the property as a subdivision.

BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Fletcher Williams and Imogene Williams, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/ Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to the following: The petitioners assure the City the property will be developed as a residential subdivision, zoned RMF-6 (with approved re-zoning application) and will consist of a combination of single family lots and two-unit townhome lots. The subdivision as a whole will meet of exceed the requirements of RMF-6 zoning. The subdivision will contain between 20 to 24 zero-lot-line townhome structures (2 units each) and between 3 to 6 single family dwellings. The maximum total number of structures will be between 26 to 30 structures totaling 46 to 53 dwelling units. The maximum number of units allowed by RMF-6 for this parcel would be 58. Single family units will be placed adjacent to existing single family developments so as to maintain consistent usage across property lines.

2. Petitioner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Fletcher R Williams, as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

Fletcher R. Williams
Printed Name

2/15/06
Date

Fletcher R Williams
Signature

370 Double Springs Rd
Address

Imogene Williams
Printed Name

Fay AR 72704

Imogene Williams
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 15 day of February, 2006 appeared before me, Fletcher Williams / Imogene Williams and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

Carolyn Boone
NOTARY PUBLIC

My Commission Expires
June 15, 2014

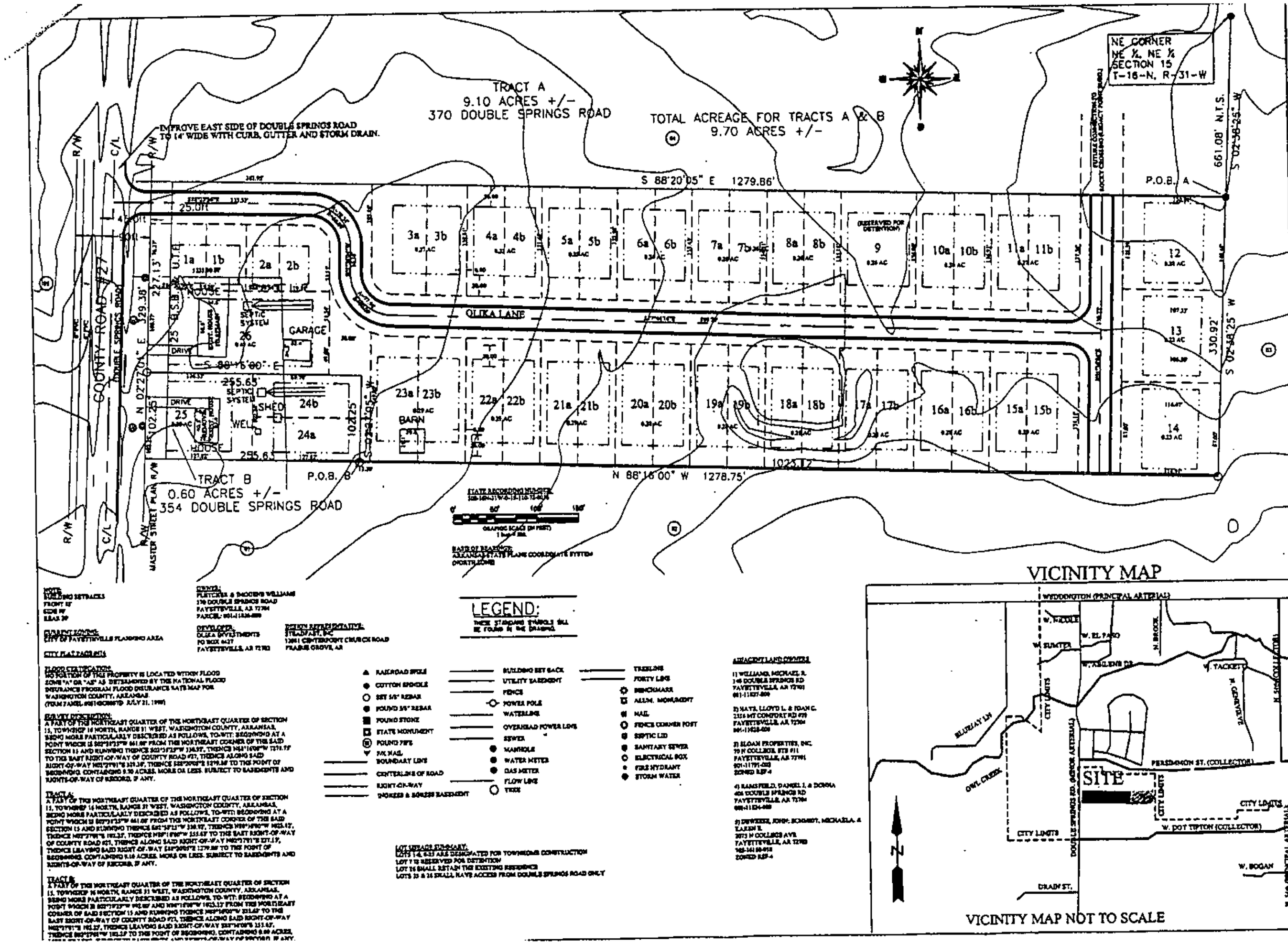
CAROLYN BOONE
COMM. EXP.
NOTARY
PUBLIC
08-15-2014
WASHINGOTN COUNTY, AR

SURVEY DESCRIPTION:

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

PROJECT SUMMARY

Emerald Point subdivision will consist of a combination of single family and 2-unit townhomes. Fletcher Williams' existing single-family home will stay in place fronting Double Springs Road on lot 26. The existing single family home immediately south of Fletcher's home will be demolished and lot 25 will be designated as a single family lot. Lots 12,13,14 (which are adjacent to a single family section of Legacy Pointe subdivision) are also designated as single family lots. Lot 9 is reserved for a detention pond, and all remaining lots are designated for use as 2-unit townhome dwellings. All lots exceed the minimum size requirements as set forth in the City of Fayetteville design criteria.



NOTE:
BUILDING SETBACKS
FRONT 35'
SIDE 10'
REAR 20'

CURRENT ZONING:
CITY OF FAYETTEVILLE PLANNING AREA

CITY PLAT EASEMENTS

FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS
(FIRM PANEL #0614C0065D JULY 21, 1998)

SURVEY DESCRIPTION:
A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N84°16'00"W 1278.75' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 329.38', THENCE S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.70 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

TRACT A:
A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 661.08' FROM THE NORTHEAST CORNER OF THE SAID SECTION 15 AND RUNNING THENCE S02°38'25"W 330.92', THENCE N88°16'00"W 1025.12', THENCE N02°27'01"E 102.25', THENCE N88°16'00"W 255.65' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY N02°27'01"E 227.13', THENCE LEAVING SAID RIGHT-OF-WAY S88°20'05"E 1279.86' TO THE POINT OF BEGINNING. CONTAINING 9.10 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

TRACT B:
A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S02°38'25"W 992.80' AND N88°16'00"W 1025.12' FROM THE NORTHEAST CORNER OF SAID SECTION 15 AND RUNNING THENCE N02°27'01"E 255.65' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE ALONG SAID RIGHT-OF-WAY S88°16'00"W 255.65' TO THE EAST RIGHT-OF-WAY OF COUNTY ROAD #27, THENCE LEAVING SAID RIGHT-OF-WAY N02°27'01"E 102.25', THENCE S88°16'00"E 1278.75' TO THE POINT OF BEGINNING. CONTAINING 0.60 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

OWNER:
FLETCHER & DOCENA WILLIAMS
370 DOUBLE SPRINGS ROAD
FAYETTEVILLE, AR 72704
PARCEL: 001-11826-000

DEVELOPER:
OLIKA INVESTMENTS
PO BOX 6427
FAYETTEVILLE, AR 72703

DESIGN REPRESENTATIVE:
STEADFAST, INC
13061 CENTERPOINT CHURCH ROAD
PRAIRIE GROVE, AR

LEGEND:
THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.

- RAILROAD SPIKE
- COTTON SPINDLE
- SET 1/2" REBAR
- FOUND 1/2" REBAR
- FOUND STONE
- STATE MONUMENT
- FOUND PIPE
- 7/8 NAIL
- BOUNDARY LINE
- CENTERLINE OF ROAD
- RIGHT-OF-WAY
- DRAINAGE & SEWER EASEMENT
- BUILDING SET BACK
- UTILITY EASEMENT
- FENCE
- POWER POLE
- WATERLINE
- OVERHEAD POWER LINE
- SEWER
- MANHOLE
- WATER METER
- GAS METER
- FLOW LINE
- TREE
- TREELINE
- FORTY LINE
- BENCHMARK
- ALUM. MONUMENT
- NAIL
- FENCE CORNER POST
- SEPTIC LID
- SANITARY SEWER
- ELECTRICAL BOX
- FIRE HYDRANT
- STORM WATER

ADJACENT LAND OWNERS:
1) WILLIAMS, MICHAEL R.
348 DOUBLE SPRINGS RD
FAYETTEVILLE, AR 72703
001-11827-000
2) HAYS, LLOYD L. & JOAN C.
2326 MT COMFORT RD #79
FAYETTEVILLE, AR 72704
001-11828-000
3) SLOAN PROPERTIES, INC.
79 N COLLEGE, STE #11
FAYETTEVILLE, AR 72701
001-11791-000
ZONED RSF-4
4) RANSFIELD, DANIEL J. & DONNA
406 DOUBLE SPRINGS RD
FAYETTEVILLE, AR 72704
001-11824-000
5) DRWEKER, JOHN; SCHMIDT, MICHAELA. & KAREN E.
2073 N COLLEGE AVE
FAYETTEVILLE, AR 72703
765-341-00-018
ZONED RSF-4

LOT USAGE SUMMARY:
LOTS 1-4, 6-13 ARE DESIGNATED FOR TOWNHOME CONSTRUCTION
LOT 9 IS RESERVED FOR DETENTION
LOT 14 SHALL RETAIN THE EXISTING RESIDENCE
LOTS 13 & 14 SHALL HAVE ACCESS FROM DOUBLE SPRINGS ROAD ONLY

VICINITY MAP

VICINITY MAP NOT TO SCALE

NO.	DATE	DESCRIPTION OF REVISION OR ISSUE	BY	APPD

STEADFAST, INC
Ready, Reliable, Assurance
Civil, Structural and Land Development Services
1834 W. Arrowhead St. Fayetteville, AR 72701
(479) 527-9166 mitchey@cox.net

EMERALD POINT SUBDIVISION
PRELIMINARY PLAT

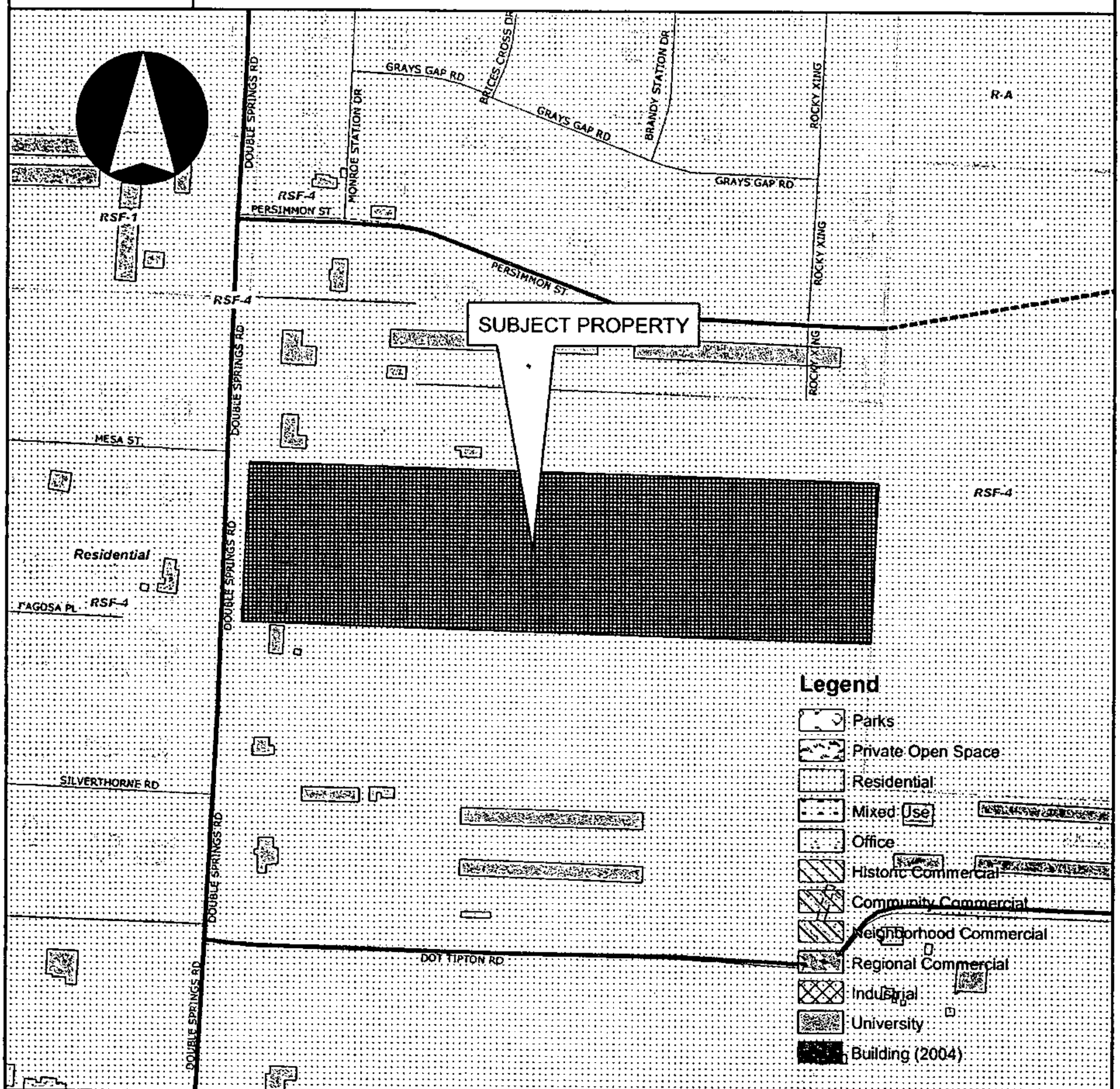
DESIGNED BY	RLR
DRAWN BY	RLR
APPROVED BY	RLR
DATE	10/06/05
SCALE	AS NOTED
PROJECT NUMBER	20050023
SHEET	1
REV	

Draft / Preliminary Subdivision Drawing

RZN06-1936

FLETCHER WILLIAMS

Future Land Use



Overview

Legend

Subject Property

RZN06-1936

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

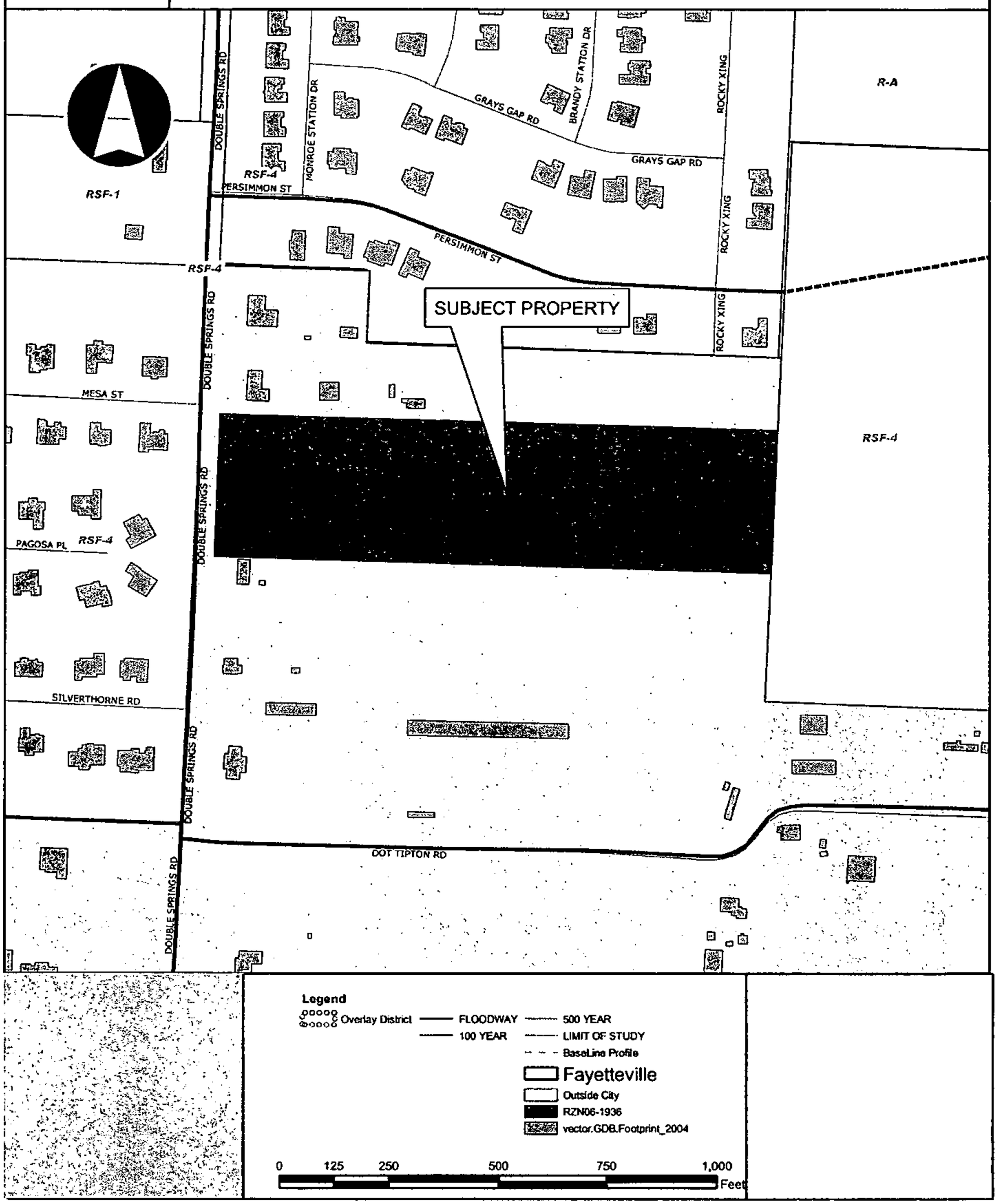
Legend

0 100 200 400 600 800 Feet

RZN06-1936

Close Up View

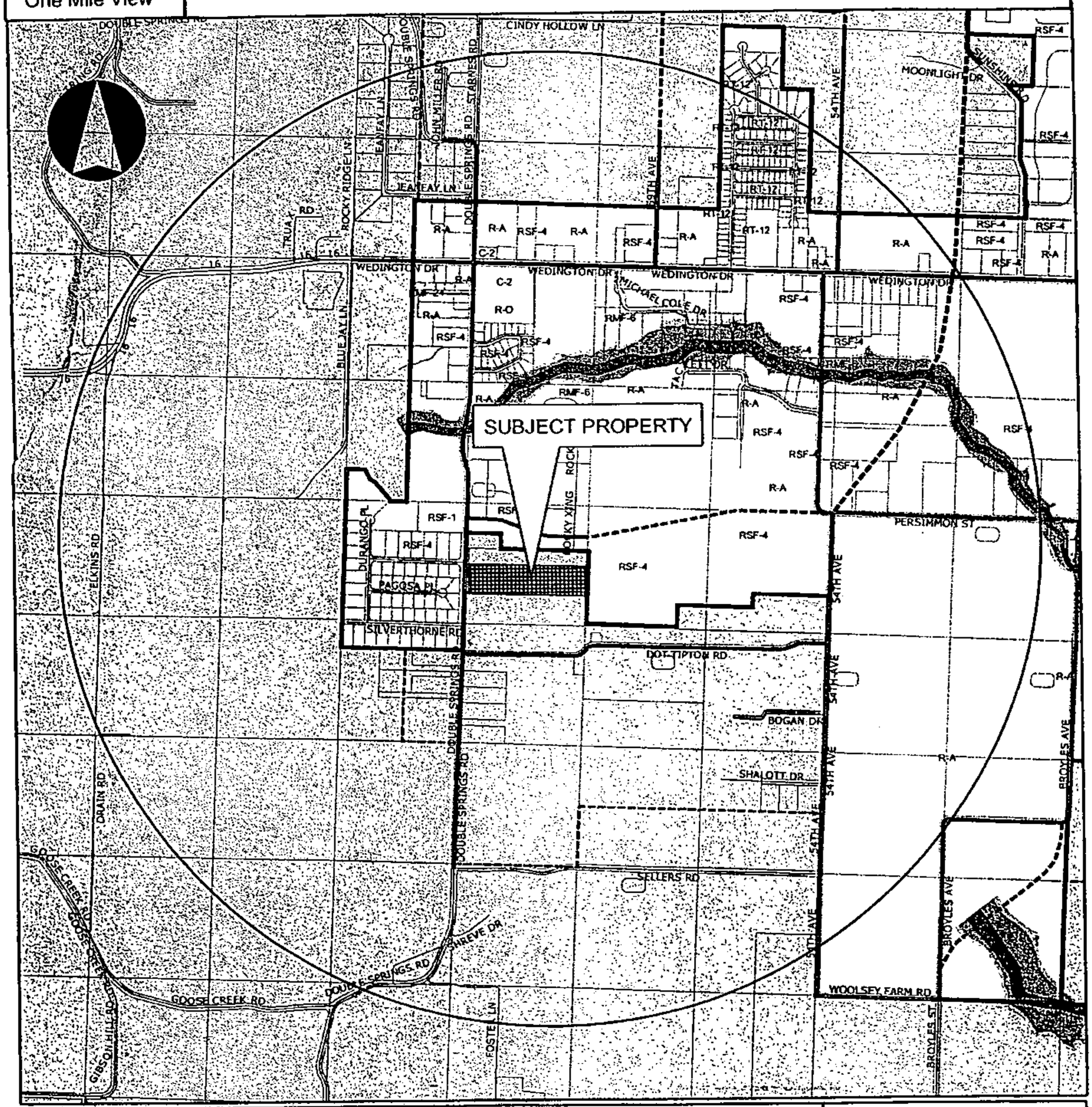
FLETCHER WILLIAMS



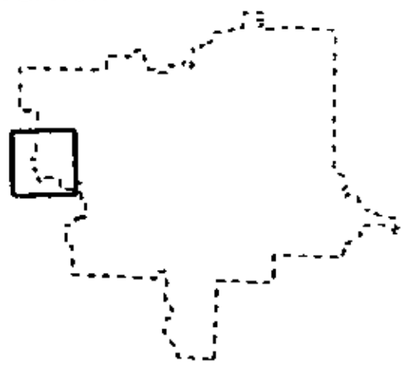
RZN06-1936

One Mile View

FLETCHER WILLIAMS



Overview



Legend

Subject Property

RZN06-1936

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF MARCH 21, 2006

FROM: ALDERMAN KYLE COOK

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance Rezoning That Property Located West Of Hillcrest Avenue, East of Evelyn Hills Shopping Center And North Of Abshier Drive Containing Approximately 3.5 acres from C-2, Thoroughfare Commercial To RSF-4, Residential Single Family, 4 Units Per Acre

APPROVED FOR AGENDA:

Kyle Cook
Alderman

3/21/06
Date

Kit Williams
City Attorney (as to form)

3-20-06
Date

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY LOCATED WEST OF HILLCREST AVENUE, EAST OF EVELYN HILLS SHOPPING CENTER AND NORTH OF ABSHIER DRIVE CONTAINING APPROXIMATELY 3.5 ACRES FROM C-2, THOROUGHFARE COMMERCIAL 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 C-2, Thoroughfare Commercial to RSF-4, Residential Single Family, 4 units per acre, as shown on Exhibit "A" and Exhibit "B" 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: ATTEST:

By: _____ By: _____

DAN COODY, Mayor **SONDRA SMITH**, City Clerk

EXHIBIT "A"

PART OF THE NW¼ OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS WEST 204 FEET FROM THE NORTHEAST CORNER OF THE S½ NW¼ NW¼ OF SAID SECTION 10, SAID POINT BEING ON THE WEST RIGHT-OF-WAY OF HILLCREST AVENUE; THENCE WITH SAID WEST RIGHT-OF-WAY, SOUTH 1030 FEET, MORE OR LESS TO A POINT ON THE NORTH RIGHT-OF-WAY OF ABSHIER DRIVE; THENCE WITH SAID NORTH RIGHT-OF-WAY, WEST 150 FEET; THENCE NORTH 1030 FEET; THENCE EAST 150 FEET TO THE POINT OF BEGINNING, CONTAINING 3.55 ACRES, MORE OR LESS.

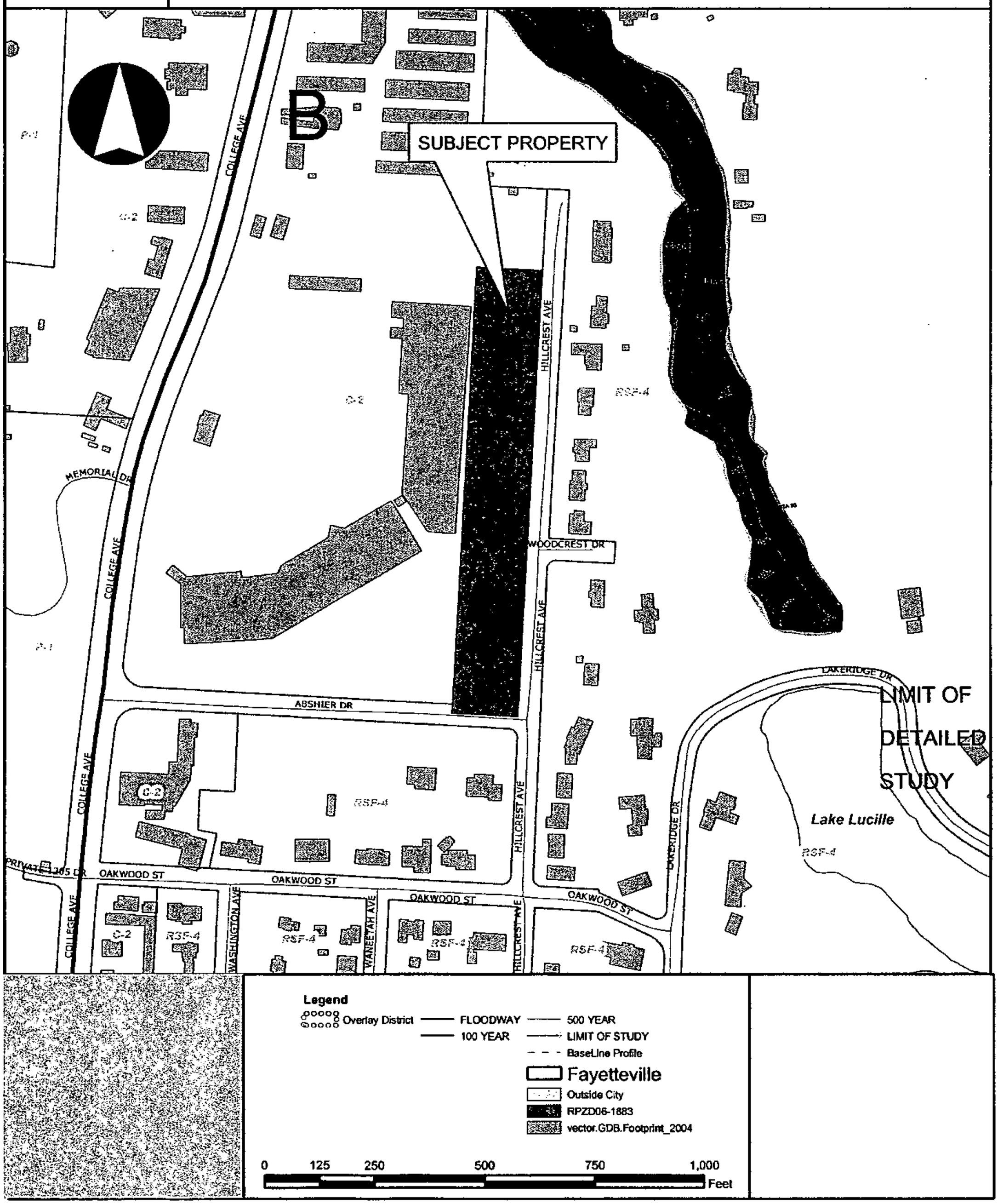
DRAFT

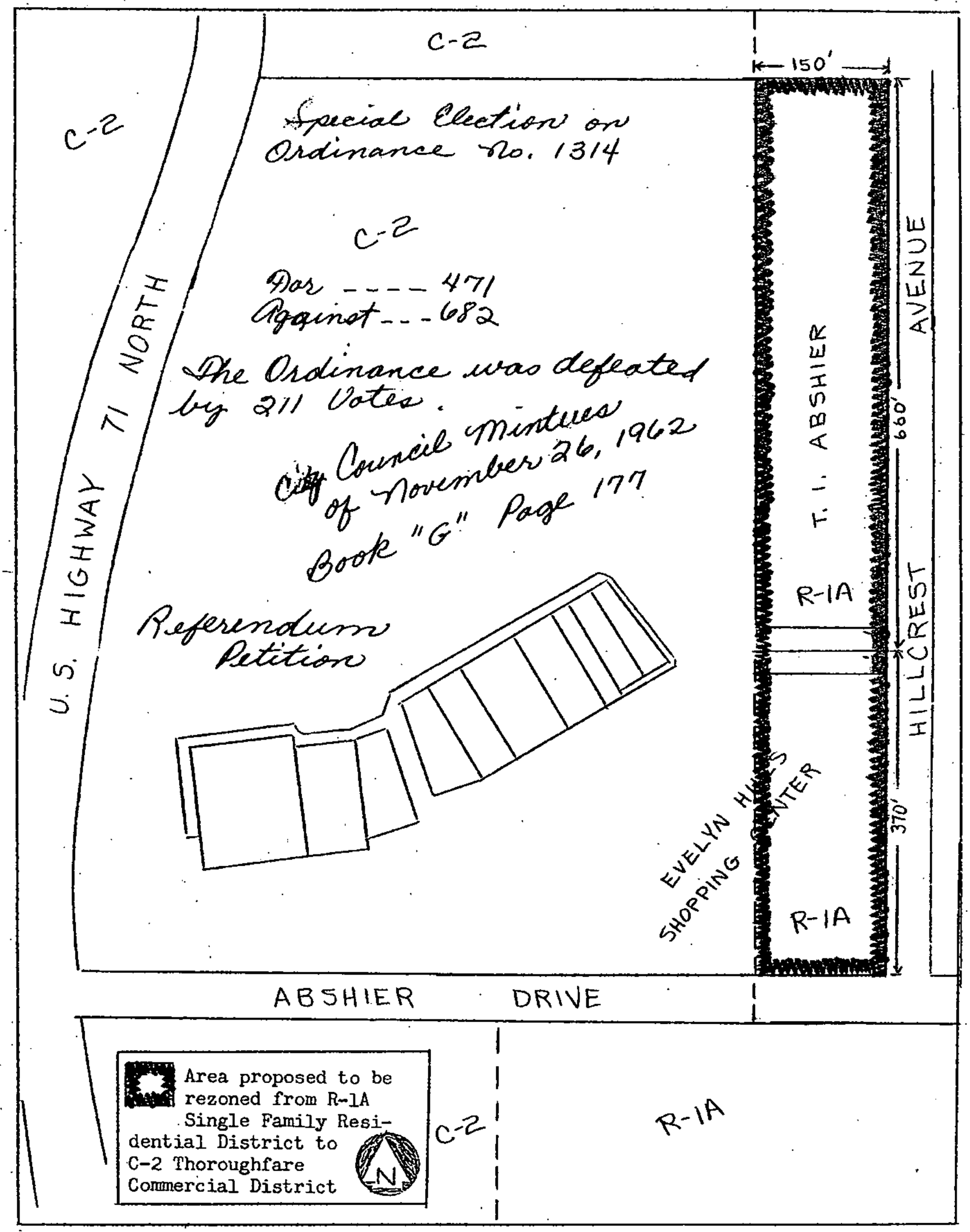
EXHIBIT "B"

RPZD06-1883

Close Up View

ABSHIER HEIGHTS RSF-4




C-2
150'
C-2
Special Election on
Ordinance No. 1314
C-2
For ---- 471
Against --- 682
The Ordinance was defeated
by 211 Votes.
City Council Minutes
of November 26, 1962
Book "G" Page 177
Referendum
Petition
U. S. HIGHWAY 71 NORTH
T. I. ABSHIER AVENUE
660'
R-1A
HILLCREST
EVELYN HILLS
SHOPPING CENTER
370'
R-1A
ABSHIER DRIVE
Area proposed to be
rezoned from R-1A
Single Family Resi-
dential District to
C-2 Thoroughfare
Commercial District
N
C-2
R-1A

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

4/4/2006
City Council Meeting Date

Brent K. O'Neal	Engineering	Operations
Submitted By	Division	Department

Action Required:

Approval of a cost-share and bid waiver for Oxford Bend Estates Cost Share in the amount of $17,909.00 with a contingency of $2,686.35 with Upper White River LLC for the upsizing of approximately 1,370 feet of 10" water main to a 12" water main.

$ 20,595.35	$ 130,798.00	Water and Sewer Cost Sharing
Cost of this request	Category / Project Budget	Program Category / Project Name
5400.5600.5808.00	$ -	Water & Sewer Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02067	$ 130,798.00	Water and Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — Date: 3-14-06

City Attorney — Date: 3/14/06

Finance and Internal Service Director — Date: 3/15/06

Mayor — Date: 3/15/06

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 3/13/06

Received in Mayor's Office ENTERED 3/14/06

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin

From: Ron Petrie, City Engineer RSP

Date: March 13, 2006

Subject: Proposed Oxford Bend Estates Cost Share in the amount of $17,909.00 with a contingency of $2,686.35 with Upper White River LLC, for the upsizing of approximately 1,370 feet of 10" water main to a 12" water main.

RECOMMENDATION

Staff recommends that the City cost-share with Upper White River LLC, the developer, to upsize approximately 1,370 feet of 10" water main to a 12" main. By participating in the construction of these improvements, the City will be continuing a 12" grid in the waterline distribution system in this area.

BACKGROUND

The developer is planning a residential development along the west side of Habberton Road. As a part of this future development, the developer is required to construct a water main extension to provide service and fire protection to the site.

DISCUSSION

The developer has requested approval of an extension of a water main along Habberton Road across the frontage of the residential development. The developer has selected a contractor (see attached construction bid) and would like for them to install this water main. This area is identified on the Water Master plan as a corridor for a portion of a 12" grid along Habberton Road. It would benefit the City to cost-share with the developer for the construction of this portion of the planned grid.

Construction estimates have been provided to the City for these improvements by Upper White River LLC as follows:

Developer's Share	**$ 134,137.10**
City's Share (Difference in Costruction Bid)	**$ 17,909.00**
15% Contingency(City's Share)	**$ 2,686.35**
Total	**$ 154,732.45**

BUDGET IMPACT

The funds for this water line distribution project will come from the Water and Sewer Fund. Currently there is $130,798.00 available in the Water and Sewer Cost Share account.

The final costs to the City will be based upon actual costs as documented by Upper White River 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 WITH UPPER WHITE RIVER, LLC IN AN AMOUNT NOT TO EXCEED $17,909.00 FOR THE UPSIZING OF APPROXIMATELY 1370′ OF 10″ WATER MAIN TO 12″ WATER MAIN; AND APPROVING A CONTINGENCY IN THE AMOUNT OF $2,686.35.

WHEREAS, the City of Fayetteville's Water Master Plan calls for a portion of the 12″ Water Main Grid to run along Habberton Road across the frontage of the residential development that Upper White River, LLC is currently developing; and,

WHEREAS, entering into a cost-share agreement with Upper White River, LLC 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 Upper White River, LLC in an amount not to exceed $17,909.00 for the upsizing of approximately 1370′ of 10″ water main to 12″ water main.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a contingency in the amount of $2,686.35.

PASSED AND APPROVED this 4th day of April, 2006.

APPROVED: ATTEST:

By: _____ By: _____

DAN COODY, Mayor **SONDRA SMITH**, City Clerk

DRAFT

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____, by and between the City of Fayetteville, Arkansas and Upper White River, LLC, Witnesseth:

WHEREAS, Upper White River, LLC, is proposing a development along the west side of Habberton Road, north of Highway 45; and

WHEREAS, The developer will be extending an 10" main adjacent to the project site to provide service and fire protection to the development; and

WHEREAS, it will benefit the City of Fayetteville to upgrade this 10" 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 Upper White River, LLC, 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 Habberton Road.

   B. Pay a maximum-not-to-exceed cost of $20,595.35 for the afore mentioned water main construction as was provided by Upper White River, LLC, 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 Upper White River, LLC, 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 Upper White River, LLC, within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.

2. Upper White River, LLC, 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.

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 Upper White River, LLC, 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 $20,595.35 for the water main upgrade.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

By:_____
DAN COODY, Mayor

Upper White River, LLC,

By:_____

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

April 4th, 2006
City Council Meeting Date

Brian Pugh	Solid Waste and Recycling	Operations
Submitted By	Division	Department

Action Required:

Staff requests awarding a contract to the Cherokee Nation for the combined services of receiving, handling, hauling and disposing of municipal, residential and commercial waste at the City of Fayetteville's Transfer Station.

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 — 3-17-06 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

City Attorney — 3/20/06

Received in City Clerk's Office

Finance and Internal Service Director — 3/21/06 Date

Received in Mayor's Office

ENTERED 3/20/06

Mayor — 3/22/06 Date

Comments:

City Council Agenda Item

To: Mayor and City Council

From: Gary Dumas

Date: March 15, 2006

Subject: Transfer Station Contract Update

Recommendation: Staff requests awarding a contract to the Cherokee Nation for the combined services of receiving, handling, hauling and disposing of municipal, residential and commercial waste at the City of Fayetteville's Transfer Station.

Background: The current contract with Waste Management for the operation of the transfer station including the services mentioned above is set to expire on September 26, 2006. The City solicited bids for these services with bid #06-08 and opened sealed bids on February 10th, 2006. Only one contractor, The Cherokee Nation, placed a bid.

Discussion: The Cherokee Nation operates a federally regulated Subtitle D landfill near Stillwell, Oklahoma. The landfill has been operated by the Nation for over 20 years. Currently the Boston Mountain Solid Waste District, the City of Lincoln, the City of Prairie Grove, the City of Tahlequah, the City of Stillwell, and the Delaware County Solid Waste Authority primarily uses this landfill for their disposal needs. The landfill is under new management and is permitted, licensed and compliant with all federal regulations regarding environmentally sound landfills.

The contract will allow the City to dump class 4 material (construction and non putrescible waste) on the tipping floor at the Transfer Station, saving the Division valuable haul time by not taking the material to the class 4 landfill at Tontitown. This will be a significant savings to the Division especially with the growth currently being experience in the drop box program.

The contract stipulates that the rate for the services provided in the contract will be paid in the sum of $24.47 per ton and is inclusive of all present applicable government fees and licenses, surcharges, taxes, materials, overhead, profit, insurance and equipment. The fee will not be adjusted for 3 years from the start of operation but shall be subject to fuel surcharges as needed and agreed upon under the terms of the contract.

The current rate for the services rendered through Waste Management is $30.58 per ton or approximately $1,480,072 annually. The new contract will represent a savings of $6.11 per ton or approximately $295,724 in annual costs. These numbers are based on the estimation of 48,400 tons per year handled through the transfer station. The annual value of the contract to Cherokee Nation is approximately $1,184,348.

Budget Impact: The impact will be beneficial to the City with the reduction of disposal costs budgeted to the Commercial, Residential and Drop Box programs. These accounts; 5500.5010.5316.00 - Commercial, 5500.5020.5316.00 – Residential, and 5500.5030.5316.00 – Drop Box will be positively affected.

RESOLUTION NO. _____

A RESOLUTION AWARDING A CONTRACT TO THE CHEROKEE NATION TO PROVIDE THE COMBINED SERVICES OF RECEIVING, HANDLING, HAULING AND DISPOSING OF MUNICIPAL RESIDENTIAL AND COMMERCIAL WASTE AT THE CITY OF FAYETTEVILLE'S TRANSFER STATION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards a contract to the Cherokee Nation to provide the combined services of receiving, handling, hauling and disposing of municipal residential and commercial waste at the City of Fayetteville's Transfer Station. A copy of the contract, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

AGREEMENT TO TRANSPORT AND DISPOSE OF MUNICIPAL SOLID WASTE AND FOR OPERATION OF TRANSFER STATION

This agreement is made and entered into this _____, day of _____, 2006, by and between the City of Fayetteville, Arkansas and The Cherokee Nation.

Terms and Conditions

WITNESSETH: In consideration of the terms and conditions set forth below, which constitute good and enforceable consideration, it is agreed:

1. TERM OF AGREEMENT: Performance of this agreement shall begin on September 26, 2006. The initial term of the Contract shall be five years from the date above. The City shall have the option to renew this agreement for three additional five year terms, subject to mutual renegotiation of terms. The City shall provide the Cherokee Nation written notice of its intent to renew at least ninety days prior to the expiration of the current Contract. The Contract and any renewal of same, shall be subject to annual approval of the budget by the Fayetteville City Council.

2. SCOPE OF SERVICE: Cherokee Nation shall be responsible for the performance of all services reasonably necessary to provide for the proper disposal of the residential and commercial waste generated within the City. Goods and services to be provided by The Cherokee Nation under the terms of this agreement shall include but not be limited to the following:

(a) Operating supplies including fuel;

(b) Operating equipment. Any front-end loader buckets shall be equipped with attached brushes or sweeps to prevent metal-to-concrete floor contact during any tipping floor loading operations. Truck scales and other permanent fixtures of the building and grounds will be provided and maintained by the City;

(c) Scale house attendant services;

(d) Tipping floor supervision and load spotting services;

(e) Equipment maintenance services for all Cherokee Nation equipment;

(f) Regular housekeeping and cleaning services for the Transfer Station, the scale house, and for the portion of the ground occupied by Transfer Station operations and equipment;

(g) Operators for waste handling equipment including loading and compaction equipment;

(h) Documentation of inbound and outbound tonnages of solid waste;

(i) Regular billing statements to all Transfer Station customers;

(j) General administrative oversight and supervision; and

(k) Preparation of regular, required reports to all applicable government agencies, as well as a quarterly summary report to the City; and

(l) For any and all waste hauling services, whether hauling to, or from the City's Transfer Station, and whether performed by The Cherokee Nation, or by a contractor employed by the Nation for these purposes, no additional taxes or assessments will be imposed by the City of Fayetteville on those activities, so long as they are related to the operation of the City's Transfer Station and the appropriate royalty per ton is paid to the City of Fayetteville as described below.

3. FEES: For its services to be performed hereunder, Cherokee Nation shall be entitled to receive payment from the City of Fayetteville of the following fees: For the combined services of receiving, handling, hauling and disposing of the solid waste delivered to the transfer Station by the City of Fayetteville, the sum of $24.47 per ton based upon incoming weight delivered to the Transfer Station. Cherokee Nation shall be entitled to charge a reasonable fee for all other solid waste delivered to the transfer Station from sources other than the City of Fayetteville, for which the Cherokee Nation shall pay to the City of Fayetteville a host fee of $3.50 per ton based upon incoming weight delivered to the Transfer Station.

The fee shall be inclusive of all present applicable government fees and licenses, surcharges, taxes, materials, overhead, profit, insurance and equipment. The Cherokee Nation fee will not be adjusted for (3) years from the start of operation, currently anticipated to be September 26, 2006, but such fees shall be subject to fuel surcharges as may be needed from time to time, to accommodate increased costs above the initial benchmark cost of: $2.2382 per gallon for road diesel; $1.8177 per gallon for high sulfer off-road diesel as determined by the most recent acquisitions by Cherokee Nation's contract operator of the Cherokee Nation Sanitary Landfill. The fuel surcharge, when applicable, will increase the initial fee per ton as referenced above. No fuel surcharge shall be authorized hereunder until the combined average daily benchmark cost for road diesel and off-road diesel is, for the most recent billing month, greater than 10% of the initial benchmark. For each 10% increment the initial fee per ton may be additionally adjusted.

On September 26, 2009, the Cherokee Nation fee may be adjusted by using the difference in the CPI from September of the prior year and the CPI for August of 2009, as determined by use of the United States Department of Labor index for goods and services. That index is found at: hhtp://data.bls.gov/cgi-bin/surveymost?su. Cherokee Nation shall bill the City on a monthly basis for its services hereunder, itemizing such bills to show the tonnage and resulting fee. Bills shall be paid within thirty (30) days of presentation. Cherokee Nation shall account and pay to the City the City's host fee as previously described in this section above within thirty (30) days of Cherokee Nation's receipt thereof. Cherokee Nation shall keep accurate records which shall be made available to the City during regular business hours during the term of this Contract, and for no less than three years after the termination thereof, in the event there is a need for either party to justify all fees and payments.

The fees to be charged to an outside hauler bringing waste to the transfer station will not be controlled or disclosed by the terms of this Agreement, but such rate will always be reasonable, when compared to the surrounding market prices. This rate may be adjusted from time to time at the discretion of the Nation, but at no time shall the rate charged to outside haulers be less than the rate charged to the City of Fayetteville. For purposes of this Agreement, the term outside hauler includes any and all wastes not hauled to the Transfer Station by the City of Fayetteville.

4. SECURING FOR PERFORMANCE: Cherokee Nation has provided a performance bond issued by a corporate surety which is satisfactory to the City and authorized to do business in the State of Arkansas in the amount of two million dollars ($2,000,000.00) to secure faithful performance of this Contract, but shall be authorized, at the election of Cherokee Nation, to replace the performance bond with a letter of credit from an accredited state or national bank in the sum of Five Hundred Thousand Dollars ($500,000.00). The security shall remain in full force and effect during the term of this Contract and all costs of same shall be the responsibility of Cherokee Nation.

5. QUANTITIES: The City makes no warranties as to the quantities of solid waste available for transfer and disposal. The City, during the term of this contract shall deliver to Cherokee Nation the City's Transfer Station all of the municipal, residential and commercial solid waste streams collected by the City, except recyclable waste recycled as such.

6. DISPOSAL SITES: Cherokee Nation shall dispose of all waste tendered it in disposal sites that are properly permitted and operating in accordance with all applicable State and Federal laws and regulations. Cherokee Nation shall at all times have a commitment for adequate landfill air space adequate to meet the projected needs of the waste to be disposed of hereunder during the term of the Contract. Prior to any change by Cherokee Nation of the disposal site, Cherokee Nation shall provide documentation to the City that such site meets specifications hereunder.

7. CHEROKEE NATION'S EQUIPMENT: Cherokee Nation warrants that all transport tractors, trailers and equipment used in the operation of the Transfer Station and the transport of accepted solid waste, will be maintained in a mechanically sound, clean and painted manner at all times, and that Cherokee Nation shall have sufficient spare equipment available to ensure daily loading, transport and disposal of all waste received pursuant to this Contract. All equipment shall be painted uniformly with respect to Cherokee Nation or its chosen contractor. Transport trailers shall be marked with the name and telephone number of Cherokee Nation or its contractor, on each side of the vehicle.

8. REPRESENTATION, WARRANTIES AND COVENANTS OF THE CITY: The City represents, covenants and warrants:

(a) That the City's Transfer Station, at the time it is tendered to Cherokee Nation for operation, shall be properly and fully permitted as a solid waste transfer station by all applicable governmental authorities, and shall be designed, constructed and operable, within industry standards, as a transfer station;

(b) That in its delivery of waste to the City's Transfer Station, the City, its customers, agents and employees shall obey all reasonably adopted rules and regulations that may be posted from time to time by Cherokee Nation for the proper, efficient and safe operation of the facility, and shall exercise reasonable prudence and care in disposing of waste at the facility.

(c) That the City will provide access by Cherokee Nation to the Transfer Station at least one (1) week in advance of the commencement of these services for the purpose of set up and testing of communication and software systems necessary for the use of Cherokee Nation in the proper and efficient performance of this Agreement in the operation of said facility.

9. DEFAULT AND TERMINATION: Upon the breach of either party to this Contract of any of its material terms and conditions, and delivery of written notice to the breaching party of said breach and demand for cure, the breaching party shall fully cure said breach within sixty (60) days. Failure to so cure shall entitle the party providing said notice to declare a default and terminate the Contract, which termination must be set forth in writing and delivered to the defaulting party.

10. GENERAL SPECIFICATIONS: The terms and conditions of this Contract include each and every general specification set forth hereinafter.

11. EXCUSED PERFORMANCE: Neither party hereto shall be liable for its failure to perform hereunder due to contingencies beyond its reasonable control, including, but not limited to strikes, riots, fires, acts of God, and act of Federal and State governments, governmental agencies or Courts.

12. ADMINISTRATIVE PROVISIONS: This agreement constitutes the entire agreement between the parties and there are no representations, warranties, promises, covenants, agreements or contracts except as set forth herein. This agreement may not be amended except as set forth in writing and signed by authorized representatives for both parties. This agreement shall be construed under the laws of the State of Arkansas, and shall inure to the benefit of the parties hereto, their successors, assigns and representatives. This agreement may be assigned by either party only with the prior written consent of the other party, which consent shall not be unreasonably withheld. The persons signing on behalf of the respective parties hereto warrant that they have full and proper authority to execute this agreement on behalf of the parties so represented.

IN WITNESS WHEREOF, the parties hereto have caused their signatures to be set by their authorized representative effective the date set for herein above.

CHEROKEE NATION

Witness: _____

CITY OF FAYETTEVILLE

_____
DAN COODY, Mayor

ATTEST: _____
Sondra Smith, City Clerk

CITY OF FAYETTEVILLE

113 W. Mountain St.
Fayetteville, AR 72701

INVITATION TO BID
BID # 06-08
Solid Waste Transfer and Disposal

BID #: 06-08

DATE ISSUED: January 19, 2006

DATE & TIME OF OPENING: February 10, 2006 at 2:00 PM

BUYER: Andrea Foren, Room 306 ~ (479) 575-8220

F.O.B. Fayetteville, AR

INVITATION TO BID CITY OF FAYETTEVILLE, ARKANSAS

BID DOCUMENTS

FOR

TRANSPORT AND DISPOSAL OF SOLID WASTE
PROVISION OF TRANSFER STATION/RECYCLING CENTER
OPERATION OF TRANSFER STATION

BID 06-08, "SOLID WASTE TRANSFER AND DISPOSAL"

INVITATION TO BID

For Transport and Disposal of Solid Waste
Provision of Transfer Station/Recycling Center
Operation of Transfer Station

CITY OF FAYETTEVILLE, ARKANSAS

The City of Fayetteville (City) has one facility that contains both the Fayetteville Transfer Station and the Fayetteville Recycling Center (Fayetteville Transfer Station/Recycling Center). The Transfer portion of this facility utilizes loose-fill technology and is capable of satisfying the present and future solid waste disposal needs of the City. Design is expandable to allow the Fayetteville Transfer Station to serve Washington County as necessary.

Sealed Bids are invited and will be received by the City of Fayetteville for one or all of the following:

Option A: Disposal of all solid waste received at the Fayetteville Transfer Station.

Option B: The daily transport of all solid waste received at the Fayetteville Transfer Station.

Option C: The daily transport and disposal of all solid waste received at the Fayetteville Transfer Station.

Option D: The operation of the Transfer Station and the offer of a host fee to the City.

Bids must be made on the enclosed Bid Forms in accordance with Instructions to Bidders described herein and as furnished by the Purchasing Department, City Administration Building, Fayetteville Arkansas.

The defined terms appearing in the General Specifications apply to all Invitation to Bid Documents. Copies of Forms are attached hereto.

Bids must be delivered to the City Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas 72701 on or before **February 10, 2006 at 2:00 pm, local time**. The envelope containing the Bid must be sealed and plainly marked "**BID 06-08, SOLID WASTE TRANSFER AND DISPOSAL**".

Bids will be publicly opened and read at that time in the offices of the Purchasing Department or a room to be designated and announced at the time of opening. The successful Bidder will be awarded the Contract through an Ordinance of the City

approving and adopting the Contract Documents, providing for its enforcement and penalties as provided by law.

A Bid bond or certified check must accompany the Bid in accordance with the Instructions to Bidders.

The City reserves the right to reject any or all Bids, to waive irregularities and/or informalities in any Bid, and to make an award in any manner, consistent with law, deemed in the best interest of the City.

There will be a pre-bid conference on January 27, 2006, 1:30 p.m. at the Solid Waste & Recycling Division, 1560 South Happy Hollow Road, Fayetteville, Arkansas.

INSTRUCTIONS FOR BIDDERS

1. TERM OF AGREEMENT

The agreement is to take effect and continue and remain in full force and effect for a period of five (5) years, and such period shall commence on September 27, 2006. The City shall have the option to renew said agreement for three (3) successive five (5) year terms. The option to renew can be made effective by written notification from the City to the Contractor, ninety (90) days prior to the expiration of the previous contract period. Contract will be subject to the annual approval of the budget by the Fayetteville City Council.

2. PREPARATION OF THE BID

Bids shall be made on the Bidders Bid Form attached hereto and as described herein, and shall give the amount of bids for services provided in figures, and must be signed by the Bidder. If price already entered by the Bidder on the Bid Form is to be altered, it shall be crossed out with ink and the new unit price entered above or below it, and initialed by the Bidder in ink. Each Bid, together with appropriate attachments, must be submitted in a sealed envelope bearing on the outside the name of the Bidder, address, and plainly marked "**BID 06-08, SOLID WASTE TRANSFER AND DISPOSAL**". If forwarding by mail, the sealed envelope containing the Bid must be enclosed in another envelope addressed as specified in the Bid. The City may consider as irregular any Bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all Bids.

Any Bid received after the time and date specified above shall not be opened and will not be considered.

3. BID SECURITY AND EVIDENCE OF INSURANCE

Each Bid must be accompanied by a bond, a certified check drawn on a state or national bank, or an irrevocable bank letter of credit in an amount equal to Fifty Thousand Dollars ($50,000) as a guarantee on the part of the Bidder that it will, if called upon to do so, accept and enter into a Contract with the City to do the work covered by such Bid and at the unit price stated therein and to furnish a corporate

surety for its faithful and entire fulfillment. Checks and bonds will be returned promptly after the City and the selected Bidder have executed the Contract, or if no Bidder's Bid has been selected within ninety (90) days after the date of the opening of Bids, upon demand of Bidder at any time thereafter, so long as it has not been notified of the acceptance of its Bid.

4. LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT
The contract shall be deemed as having been awarded when formal notice of award shall have been mailed by the City to the successful Bidder..

The Bidder, upon notice of intent to seek award by the project manager will be required to execute three (3) copies of the Contract and to furnish Insurance certificates, as required. In case of the Bidder's refusal or failure to do so within ten (10) days after its receipt of formal notice of rights and interests in the award, Bidder's Bid security may be declared forfeited to the City as liquidated damages and the award may then be made to the next best qualified Bidder or the work re-advertised for Bids as the City may elect.

5. SECURITY FOR PERFORMANCE
The Bid shall be accompanied by a letter from a corporate surety satisfactory to the City stating that the Performance Bond(s) will be furnished by it to the person submitting the Bid in the event it is the successful Bidder. Such letter is to be signed by an authorized representative of the surety together with a certified and effectively dated copy of the power of attorney attached thereto.

The successful Bidder will be required to furnish a performance bond as security for the faithful performance of the Contract. Said performance bond must be in the amount indicated in Section 12.0 of the Specifications and Conditions. Premium for the bonds described above shall be paid by the Bidder. A certificate from the surety showing that the bond premiums are paid in full shall accompany the bond.

The surety on the bond shall be a duly authorized corporate surety company authorized to do business in the State of Arkansas.

6. POWER OF ATTORNEY
Attorneys-in-fact who sign bonds must file with each bond a certified and effectively dated copy of their power of attorney.

7. SCOPE OF SERVICE
The Bidder shall, as listed in the Bid form, bid on any or all of Options A, B, C or D, listed below. The Transfer portion of the Fayetteville Transfer Station/Recycling Center utilizes loose-fill technology. Bids to operate the Transfer Station will require Bidder to: supply all equipment, labor, supervision and any necessary supplies; be responsible for Transfer Station equipment maintenance; perform the day-to-day loading of solid waste; and document all inbound/outbound tonnages. Operation of the Recycling Center portion of the facility is not included in any Bid Option. All

reference made to solid waste available for transport and disposal is the solid waste received at the Transfer Station portion of the Fayetteville Transfer Station/Recycling Center.

Option A: Disposal of all solid waste received at the Fayetteville Transfer Station. *(Bidders who are bidding on both the transport and disposal of all solid waste accepted at the Transfer Station should bid on Options C)*

Option B: The daily transport of all solid waste received at the Fayetteville Transfer Station. *(Bidders who are bidding on both the transport and disposal of all solid waste received at the Transfer Station should bid on Option C)*

Option C: The daily transport and disposal of all solid waste received at the Fayetteville Transfer Station.

Option D: The operation of the Transfer Station and the offer of a host fee to the City.

8. CONDITIONS

The failure or omission of any Bidder to receive or examine any form, instrument, addendum, or other document, or to acquaint itself with all existing conditions, shall in no way relieve it of any obligations with respect to Bidder's Bid. The City shall make all such documents available to the Bidders and will provide opportunity for site inspection.

The Bidder shall make its own determination as to conditions and shall assume all risk and responsibility and complete the work in and under conditions it may encounter or create, without extra costs to the City. The Bidder's attention is directed to the fact that all applicable State and Federal Laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the work to be performed shall apply to all Bids throughout, and they will be deemed included in the Bid as though written in full in the Bid.

9. ADDENDA AND EXPLANATIONS

Explanations desired by prospective Bidder shall be requested of the City in writing and if explanations are necessary, a reply shall be made in the form of an Addendum, a copy which will be forwarded to each Bidder. Every request for such explanation shall be in writing addressed to Purchasing Agent, City of Fayetteville. Any verbal statements regarding same by any person prior to the award, shall be unauthorized and not binding.

Addenda issued to Bidders prior to date of receipt of Bids shall become part of the Contract Documents, and all Bids shall include the work described in the Addenda.

No inquiry received within seven (7) days of the date fixed for the submission and opening of Bids will be given consideration.

All such interpretations and any supplemental instructions will be in the form of written Addenda, which, if issued, shall be posted on the City's Website at www.accessfayetteville.org, "Bids & Mailing Lists", "Solid Waste Equipment & Services." All bidders should sign up to the mailing list "03. Transport & Disposal of Solid Waste and/or Operation of Transfer Station." Signed copies of the addenda must be submitted with copies of each Bid. They must be signed by a person authorized to legally represent the company as indicated in Section 10.

10. NAME, ADDRESS AND LEGAL STATUS OF THE BIDDER

The Bid must be properly signed in ink and the address of the Bidder given. The legal status of the Bidder, whether corporation, partnership, or individual shall be stated in the Bid.

A corporation shall execute the Bid by its duly authorized officers in accordance with its corporate by-laws and shall list the state in which it is incorporated. A partnership Bidder shall give full names of all partners. Partnership and individual Bidders will be required to state in the Bid the names of all persons interested therein.

The place of residence of each Bidder, or the office address in the case of a firm or company, with county, state, and telephone number, must be given after his signature.

If the Bidder is a joint venture consisting of a combination of any or all of the above entities, each joint venture shall execute the Bid.

Anyone signing a Bid as an agent of another or others must submit with his Bid, legal evidence of his authority to do so.

11. COMPETENCY OF BIDDER

The opening and reading of the Bid shall not be construed as an acceptance of the Bidder as a qualified responsible Bidder from its knowledge of the Bidder's qualifications or from other sources.

The City shall require submission, with the Bid, of the following supporting data regarding the qualifications of the Bidder in order to determine whether it is a qualified, responsible Bidder. The Bidder will be required to furnish the following information:

(a) An itemized list of the Bidder's equipment available for use on this Contract or show list of proposed equipment with proof of financial strength to procure equipment upon contract award.
(b) A copy of the latest available certified financial statement of the Bidder (or its parent corporation if individual subsidiary or division financial statements are not prepared and generally available) certified by a firm of independent certified public accountants.
(c) Evidence that the Bidder is in good standing under the laws of the State of Arkansas, and, in the case of corporations organized under the laws of any other

state, evidence that the Bidder is licensed to do business and in good standing under the laws of the State of Arkansas or a sworn statement that it will take all necessary action to become so licensed.

(d) Evidence, in form and substance satisfactory to the City, that Bidder (or Bidder's subsidiary or affiliate) has been in existence as a going concern in excess of five years and possesses not less than three years actual operating experience as a going concern in solid waste transport, disposal and transfer station operation if said operation is included in bidder's Bid.

(e) Evidence in form and substance satisfactory to the City, that the landfill or disposal site shall have a life at least as long as the Contract length and that said disposal site meets the requirements of EPA Subtitle "D" and assurance from disposal site owner that any further state and Federal requirements will be met through the length of the contract. Disposal sites other than a landfill shall submit a copy of their permit for operation.

(f) A list of all professional personnel employed that will be responsible for community relations of the Bidder for this job.

(g) A copy of Bidder's Environmental Policy Statement.

(h) Evidence that the Bidder is in good standing with regard to any current agreements or contracts with the City of Fayetteville. Past delinquent accounts, failure to pay in a timely manner, inability to verify pay requests or payments, or a history of slow or late payments to the City will disqualify the Bidder. Any of these factors individually or collectively or other evidence of lack of adequate and responsible management or financial control may disqualify the Bidder.

In the event that the City shall require additional certified supporting data regarding the qualifications of the Bidder in order to determine whether he is a qualified responsible Bidder, the Bidder may be required to furnish any or all of the following information sworn to under oath:

(a) Evidence that the Bidder is capable of commencing performance as required in the Contract Documents on September 27, 2006.

(b) Evidence, in form and substance satisfactory to the City, that Bidder possesses as a going concern the managerial and financial capacities to perform all phases of the work called for in the Contract Documents.

(c) Evidence, in form and substance satisfactory to the City, that Bidder's experience in transfer station operations comparable to that of the City. and/or that the Bidder's experience in the transport and disposal of solid waste derives from the transport and disposal of solid waste tonnages comparable to the tonnages generated in the City's service area;

(d) Such additional information that will satisfy the City that the Bidder is adequately prepared to fulfill the contract.

12. DISQUALIFICATION OF BIDDERS

Any one or more of the following causes, among others, may be considered sufficient for the disqualification of a Bidder and the rejection of its Bid:

(a) Evidence of collusion among Bidders.

(b) Lack of competency as revealed by either financial statements, experience or equipment statements as submitted or other factors.
(c) Lack of responsibility as shown by past work, judged from the standpoint of workmanship or litigation filed on behalf of or against the proposed Bidder, number of contract compliance letters and/or follow-up correspondence required necessary to achieve conformity with past or current contractual relationships with the City of Fayetteville, or lack of environmental stewardship as evidenced by past practices
(d) Default on a previous contract for failure to perform.

13. BASIS OF BID
Bids will be accepted for Options A, B, C and D. All bids contained in said Bid Options of the operation of the Transfer Station and/or transport and disposal of solid waste delivered thereto, will be on a cost per ton basis. Bid options of the transportation only will be a cost per ton/mile.

14. BID AWARD
The City will award the bid based on the bid that it deems to be in the best interest of the City of Fayetteville. The City will also use the demonstrated competence, responsibility, and qualification of the Bidder when evaluating each bid.

15. QUANTITIES
Current annual tonnage hauled from the transfer station is approximately 46,000 per year.

16. IRREGULARITIES
The City reserves the right to reject any or all Bids, and to waive defects or irregularities in a Bid. In particular, any alteration, erasure, or interlineations of the Contract Documents and of the Bid shall render the accompanying Bid irregular and subject to (but not requiring) rejection by the City.

17. DISPOSAL
The Bidder shall indicate on the Bid the name and location of the Disposal Site(s) which the Bidder intends to use to perform the Contract. Further, the Bidder shall provide evidence satisfactory to the City that the Bidder, if awarded the Contract, will have the right to use said Disposal Site(s) under and for the duration of the Contract, but in any case, not less than ten (10) years. The Bidder will provide evidence satisfactory to the City, that assures the City of Fayetteville will have convenient, long-term disposal that will comply with EPA Regulations, Subtitle "D," and any future subtitles or regulations required of said site.

18. BILLING AND FRANCHISE
As a condition of all Bid Options, the City will act as the billing and collection agent.

19. CONTRACTORS EQUIPMENT

Contractor will guarantee to the City that Contractor's transport tractors, trailers and any other equipment used in the operation of the Transfer Station and/or in the transport of accepted solid waste, will be maintained in a mechanically sound, clean and painted manner at all times. There will be sufficient spare equipment available to insure daily loading transport, and disposal of all waste received at said Transfer Station within the allotted time frame. All equipment provided by the Contractor will be painted uniformly. Additionally, transport tractors will be marked with the name and telephone number of the Contractor on each side of the vehicle. A listing of said equipment shall be included with Bidder's Bid.

20. EXCEPTIONS

The Bidder must include in his Bid all exceptions and or amendments he proposes.

21. LEGAL ISSUES DISCLOSURE STATEMENT

The nature and disposition of any current legal proceedings, or legal proceedings within the last five (5) years, that involves or has involved the individual, partnership, or corporation, herein described as the Bidder, or parent organization, subsidiary, or affiliate of the parent organization, must be included in the Bid.

22. PRE-BID CONFERENCE

There will be a Pre-Bid Conference for all Bidders at the Solid Waste & Recycling Division, 1560 South Happy Hollow Road, Fayetteville, January 27, 2006, 1:30 p.m. The City will answer any questions and update all Bidders.

SPECIFICATIONS & CONDITIONS

1.0 DEFINITIONS
- 1.01 SOLID WASTE ACCEPTED; SOLID WASTE; MUNICIPAL SOLID WASTE
- 1.02 CITY
- 1.03 CONTRACTOR
- 1.04 DISPOSAL SITE
- 1.05 HAZARDOUS WASTE
- 1.06 NON-ACCEPTABLE WASTE
- 1.07 CONSTRUCTION DEBRIS
- 1.08 BULKY WASTE
- 1.09 SUPER BULKY WASTE
- 1.10 TRANSFER STATION
- 1.11 STABLE MATTER
- 1.12 OFFAL WASTE
- 1.13 YARD WASTE
- 1.14 SUBCONTRACTOR
- 1.15 TIPPING FEE
- 1.16 HOST FEE

2.0 SCOPE OF WORK
3.0 TRANSPORT AND DISPOSAL
4.0 TRANSFER OPERATION
- 4.01 HOURS
- 4.02 HOLIDAYS
- 4.03 EQUIPMENT/MANPOWER
- 4.04 RESPONSE TIME

5.0 COMPLIANCE WITH LAWS
6.0 EFFECTIVE DATE
7.0 NONDISCRIMINATION
8.0 INDEMNITY
9.0 LICENSES AND TAXES
10.0 TERM
11.0 INSURANCE
12.0 PERFORMANCE BOND
13.0 OWNERSHIP OF SOLID WASTE

1.0 DEFINITIONS

1.01 SOLID WASTE ACCEPTED:
SOLID WASTE:
MUNICIPAL SOLID WASTE:

Waste that will be received at the Fayetteville Transfer Station such as all normal and usual household and institutional waste products with insufficient liquid content to be free-flowing, industrial, commercial, agricultural, governmental, and community operations. Acceptable solid waste will usually be a mixture of putrescible, non-putrescible, combustible, non-combustible wastes, such as organic waste from food preparation or consumption, wrapping and packing materials, paper, paper products, metal, glass, and plastic containers, and other items which require proper storage and prompt transportation and disposal to prevent environmental pollution adverse to public health and construction and demolition wastes, furniture and other bulky wastes that are not normally collected with other household or commercial waste. Solid waste does not include sewage, sludge, material used to fill land in accordance with construction codes, rocks, mining residue, slag, yard waste, offal waste, super bulky wastes, stable matter, medical, infectious, or any hazardous waste or waste required to be manifested for transport or disposal.

1.02 CITY:
City of Fayetteville, Arkansas

1.03 CONTRACTOR:
The person, corporation, or partnership that will perform work or services for the City, under contract.

1.04 DISPOSAL SITE:
A REFUSE DEPOSITORY INCLUDING BUT NOT LIMITED TO SANITARY LANDFILLS AND APPROVED INCINERATORS. Any disposal site shall be properly licensed, permitted in accordance with Federal Sub-Title "D" Standards, and approved by all governmental bodies and agencies having jurisdiction.

1.05 HAZARDOUS WASTE:
Waste, in any amount, when defined, characterized, or designated as hazardous by the United States Environmental Protection Agency or appropriate State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law. For purposes of the Contract, the term Hazardous Waste shall also include motor oil, gasoline, and paint.

1.06 NON-ACCEPTABLE WASTE:
Waste that will not be accepted at the Fayetteville Transfer Station include sewage, sludge, other free-flowing liquid waste, material used to fill land in accordance with construction codes, rocks, mining residue, slag, yard waste, offal waste, dead animals, stable matter, super bulky wastes, medical, infectious, or any hazardous waste or waste required to be manifested for transport or disposal.

1.07 CONSTRUCTION DEBRIS:
Trash resulting from the construction, remodeling, or demolition of a residence or business, either by the resident or owner, or by contracted professionals.

1.08 BULKY WASTE:
Appliances, large furniture items, and like products.

1.09 SUPER BULKY WASTE:
Solid Waste in excess of 1,000 lbs., and or 8 feet in length.

1.10 TRANSFER STATION:
A site at which solid waste is assembled and temporarily deposited after collection and from which it is transported to a different location for processing and/or disposal. The Transfer portion of the Fayetteville Transfer Station/Recycling Center.

1.11 STABLE MATTER;
The body waste of animal and fowl, or waste food products from all barns, stables, corrals, or pens used for stabling, caging or penning of animals or fowl.

1.12 OFFAL WASTE:
Waste animal (land or marine) matter from commercial and industrial establishments such as butcher shops, slaughter houses, food processing and packing plants, rendering plants and fertilizer plants.

1.13 YARD WASTE:
Leaves, grass clippings, hedge trimmings, tree trimmings, tree trunks, shrubbery, brush, or other plant materials.

1.14 SUBCONTRACTOR:
Person or persons who are performing any part of the scope of work other than the Contractor.

1.15 TIPPING FEE:
The fee that will be charged for waste disposed of at the Fayetteville Transfer Station.

1.16 HOST FEE:
The fee that will be paid to the City for all waste from sources other than City of Fayetteville collection vehicles or residents.

2.0 SCOPE OF WORK:
The work to be performed shall consist of items contained in the Bidder's Bid, including all the supervision, materials, equipment, labor, and all other items necessary to provide said services in accordance with the Bidder's Bid.

3.0 TRANSPORT AND DISPOSAL:

All solid waste transported shall be so contained, tied, or enclosed, that leaking, spilling or blowing of waste is prevented. All solid waste received at the Fayetteville Transfer Station will be transported to a permitted and approved Disposal Site within twenty-four (24) hours after receipt of said solid waste. The Transfer Station operator, whether a successful bidder or the City, shall be responsible to load transport trailers with solid waste payload weights no greater than that required to reach gross vehicle weight limitations set by law. However, in the interest of efficiency, the operator is responsible to load solid waste in such a way that a standard "walking floor" trailer with a capacity of 115 cubic yards will contain a minimum of 20 tons of solid waste.

4.0 TRANSFER OPERATION:

4.01 HOURS:

Transfer Station will be open for operation Monday through Saturday. Hours of operation shall be mutually agreed upon by the City and Contractor; exceptions to established hours shall be effected only upon the mutual agreement of the City and Contractor, or when Contractor reasonably determines that an exception is necessary in order to complete the loading, transporting, and disposing of received solid waste within the required twenty-four (24) hour time frame.

4.02 HOLIDAYS:

Transfer Station shall only close on Thanksgiving Day, Christmas Day & New Years Day.

4.03 EQUIPMENT/MANPOWER:

The Contractor shall provide an adequate number of vehicles, trailers, loaders, and back-up equipment, maintained in good physical condition and working order, all labor, supervision, and necessary supplies to insure the daily, systematic, and orderly performance of all services specified in the Contract, within the required time frame.

4.04 RESPONSE TIME:

The Contractor shall be capable of responding to the City in a reasonable amount of time. Reasonable time shall be defined by the City in contract documents. For the duration of the Contract, the suitability of the qualified responsible person in charge, chosen by the Contractor, will be determined by the City.

5.0 COMPLIANCE WITH LAWS:

The contractor shall conduct operations under this Contract in compliance with all applicable laws; provided, however, that the General Specifications shall govern the obligations of the City on the subject.

6.0 EFFECTIVE DATE:

The Contract shall be effective upon the execution of the Contract and performance of such Contract shall begin on a mutually agreed upon date contained therein.

7.0 NONDISCRIMINATION:

The Contractor shall not discriminate against any person because of race, sex, age, creed, color, religion, or national origin.

8.0 INDEMNITY

The Contractor will indemnify and hold harmless the City, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorney's fees to the extent of the Contractor, its officers, agents, servants, and employees in the performance of this Contract; provided, however, that the Contractor shall not be liable for any suits, actions, legal proceedings, claims, demand, damages, costs, expenses, and attorney's fees arising out of the award of this Contract or a willful or negligent act or omission of the City, its officers, agents, servants and employees.

9.0 LICENSES AND TAXES:

The contractor shall obtain all licenses and permits, other than licenses and permits supplied by the City and promptly pay any and all taxes required by the City.

10.0 TERM:

The contract shall be for a five (5) year period beginning upon the mutually agreed date as contained within the Contract and ending five (5) years thereafter. The City has the option to offer three (3) successive five (5) year extensions to the Contract. Extensions can be made effective by providing written notification to the Contractor not less than ninety (90) days before the end of a contract period. Contract will be subject to the annual approval of the budget by the Fayetteville City Council.

11.0 INSURANCE:

The Contractor shall at all times during the Contract maintain in full force and effect Employer's Liability, Workman's Compensation, Public Liability and Property Damage insurance, including contractual liability coverage for the provisions of Section 8.0 of the General Specifications. All insurance shall be by insurers and for policy limits acceptable to the City and before commencement of work hereunder the Contractor agrees to furnish the City certificates of insurance or other evidence satisfactory to the City to the effect that such Insurance has been procured and is in force. The certificate shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for which this certificate is executed and are in force at this time. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days prior written notice will be given the certified holder".

For the purpose of the Contract, the Contractor shall carry the following types of insurance in at least the limits specified below:

COVERAGE	LIMITS OF LIABILITY
Workmen's Compensation	Statutory
Employer's Liability	$500,000

Bodily Injury Liability	$500,000 each occurrence
Except Automobile	$1,000,000 aggregate
Automobile Bodily Injury	$500,000 each person
Liability	$1,000,000 each occurrence
Automobile Property Damage	$500,000 each occurrence
Liability	$500,000 each occurrence
Environmental impairment	$1,000,000 each occurrence
Liability	$3,000,000 aggregate
Owner's Protective Liability	$2,000,000

To the extent permitted by law, all or any part of any required insurance coverage may be provided under a plan or plans of self-insurance. The coverage may be provided by the Contractor's parent corporation.

12.0 PERFORMANCE BOND:
The Contractor responsible for the transportation and disposal of solid waste received at the Fayetteville Transfer Station will be required to furnish a corporate surety bond as security for the performance of said portion of the Contract. Said surety bond must be in the amount of $2,000,000.

The Contractor responsible for the operation of the Fayetteville Transfer Station will be required to furnish a corporate surety bond as security for the performance of said portion of the Contract. Said surety bond must be in the amount of $500,000.

The premium for the bond(s) described above shall be paid by the Contractor. A certificate from the surety showing that the bond premium(s) is/are paid in full shall accompany the bond.

The surety on the bond shall be from a corporate surety company duly authorized to do business in the State of Arkansas. Bonds must be written by an "A" rated bonding company.

13.0 OWNERSHIP OF SOLID WASTE:
Title to solid waste that the Contractor has agreed to transport to an approved Disposal Site, shall pass to the Contractor when placed in Contractor's Transfer Station floor (Bid D) or in the Contractor's Trailer (Bid A or B or C).

BID GUIDELINES
BIDDER'S FORM

FOR

TRANSPORT AND DISPOSAL OF SOLID WASTE
PROVISION OF FAYETTEVILLE TRANSFER STATION/RECYCLING CENTER
OPERATION OF TRANSFER STATION

TO: The Mayor and City Council of the City of Fayetteville.

BID OF: Cherokee Nation
(an individual, a partnership, a corporation duly organized under the laws of the State of Arkansas)

The undersigned having carefully read and considered the terms and conditions of the Contract Documents for Transport and Disposal of Solid Waste, Provision of, and/or Operation of the Fayetteville Transfer Station for the City of Fayetteville, does hereby offer to perform such services on behalf of the City, of the type and quality and in the manner described, and subject to and in accordance with the terms and conditions set forth in the Contract Documents as the rates hereinafter set forth on the bid form.

Option A: Disposal of all solid waste received at the Fayetteville Transfer Station. *(Bidders who are bidding on both the transport and disposal of all solid waste accepted at the Transfer Station should bid on Options C)*

Option B: The daily transport of all solid waste received at the Fayetteville Transfer Station. *(Bidders who are bidding on both the transport and disposal of all solid waste received at the Transfer Station should bid on Option C)*

Option C: The daily transport and disposal of all solid waste received at the Fayetteville Transfer Station.

Option D: The operation of the Transfer Station and the offer of a host fee to the City.

BID FORM

OPTION (A)	Disposal	$	Per Ton
OPTION (B)	Transport	$	Per Ton
OPTION (C)	Transport	$ 5.50	Per Ton
	Disposal	$ 13.97	Per Ton
		Total $19.47	Per Ton
OPTION (D)	Operation of Transfer Station	$ 3.50	Per Ton
	Host Fee to City	$ 3.50	Per Ton
		Total $ 22.97	Per Ton

DATE 2-10-06

BIDDER AND TITLE Anna Knight, Acting Group Leader

SIGNATURE A Knight

ADDRESS PO Box 809, Tahlequah, OK 74465

TELEPHONE 918-453-5000

Attach all addenda, answers, additions, deletions, modifications, and statements to this specification here. This attachment will become part of the Bid and Bid Document.

CHEROKEE NATION
P.O. Box 948
Tahlequah, OK 74465-0948
918-453-5000

Chad "Corntassel" Smith
Principal Chief

Joe Grayson
Deputy Principal Chief

February 10, 2006

TO: Mayor and City Council
Fayetteville, AR

RE: City of Fayetteville Bid #06-08, Solid Waste Transfer and Disposal

The Cherokee Nation is pleased to submit the attached bid and supporting documents to the City of Fayetteville for transportation and disposal of solid waste and operation of the City's transfer station. The Cherokee Nation has existed since time immemorial as a nation and entered its first treaties with Europeans in the early 1700's. As the Cherokee Nation moves towards greater economic self-sufficiency, new and expanded business opportunities are utilized to accomplish the goals set by the Tribal administration. Through new and expanded business ventures, the Cherokee Nation promotes self-reliance and self-sufficiency for itself, its communities, and its members.

The Cherokee Nation has operated a landfill for over twenty years and its own solid waste collection system for over twenty years as well. The Cherokee Nation Sanitary Landfill will be utilized for the disposal aspect of the contract. The staff at the Cherokee Nation Landfill has numerous years of experience in solid waste and holds national certifications for landfill and transfer station management. Cherokee Nation Environmental Programs also has numerous individuals with experience and expertise in solid waste management, regulation, and monitoring. The Cherokee Nation also has on staff expertise in trucking, delivery, construction, and numerous other activities.

The Cherokee Nation will continue to be a leader and innovator in environmental issues. Thank you for your consideration. We look forward to a mutually beneficial relationship with the City of Fayetteville.

Sincerely,

Anna Knight
Acting Group Leader
CN Commerce Group

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

4/18/2006
City Council Meeting Date

Susan Thomas	Mayor	Mayor
Submitted By		Department

Action Required:

Ordinance approving Interlocal Agreement Providing for the Addition of the City of Lowell, Arkansas as a Member of the Ozark Transit Authority.

	$ -	
Cost of this request	Category / Project Budget	Program Category / Project Name
	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director	3/22/06 Date	Previous Ordinance or Resolution #
		Original Contract Date:
City Attorney	3/22/06 Date	Original Contract Number:
Finance and Internal Service Director	3/22/06 Date	Received in City Clerk's Office
Mayor	Date	Received in Mayor's Office

Comments:

JERRY HUNTON
County Judge

280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

RECEIVED
MAR 15 2006
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

March 13, 2006

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

RE: Ozark Transit Authority Amended Agreement

Dear Mayor:

At the March 9th meeting, the Washington County Quorum Court approved Ordinance No. 2006-15 approving An Interlocal Agreement Providing for the Addition of the City of Lowell, Arkansas, as a Member of the Ozark Transit Authority.

A copy of this ordinance is enclosed for your information along with two copies of the amended interlocal agreement. One copy of the agreement is for you to keep, and the other copy is to be returned to me along with a copy of your governmental entity's ordinance approving the agreement. I will send you a copy of the agreement with all signatures once it is complete.

Please don't hesitate to contact me if you have any questions.

Sincerely,

Karen

Karen M. Beeks
Quorum Court Coordinator/Reporter
County Judge's Office

/kb

Encls. (3)

Telephone: 479 / 444-1700 • FAX: 479 / 444-1889

ORDINANCE NO. _____

AN ORDINANCE TO APPROVE AN AMENDED INTERLOCAL AGREEMENT SO THAT LOWELL CAN JOIN AS A MEMBER OF THE OZARK TRANSIT AUTHORITY

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 approves the attached Amended Interlocal Agreement Providing For The Addition Of The City Of Lowell, Arkansas, As A Member Of The Ozark Transit Authority and authorizes Mayor Coody to execute this agreement.

PASSED and **APPROVED** this 7th day of March, 2006.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

AN AMENDED INTERLOCAL AGREEMENT PROVIDING FOR THE ADDITION OF THE CITY OF LOWELL, ARKANSAS, AS A MEMBER OF THE OZARK TRANSIT AUTHORITY

WHEREAS, the Ozark Transit Authority is currently made up of the counties of Washington, Benton, Madison, and Carroll and the cities of Fayetteville, Springdale, Bentonville, and Rogers; and,

WHEREAS, the City of Lowell, Arkansas, desires to become a participating member of said Authority.

NOW, THEREFORE, IT IS AGREED:

ARTICLE 1. The City of Lowell, Arkansas, is admitted as a member of the Ozark Transit Authority.

ARTICLE 2. The mayor or his designee, as authorized by the bylaws of the Authority, shall be a member of the Board of Directors.

ARTICLE 3. None of the entities herein may be financially or otherwise obligated except upon specific approval of its governing body.

ARTICLE 4. All other aspects of the previous interlocal agreement remain in full force and effect unless some specifically stated otherwise herein.

Amended Interlocal Agreement
Adding The City Of Lowell, Arkansas
Page 2

CITY OF FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

DATE

FILED
2006 MAR 13 PM 3: 23
WASHINGTON CO. ARK

ORDINANCE NO. 2006-15

BE IT ORDAINED BY THE QUORUM COURT OF THE COUNTY OF WASHINGTON, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE AMENDING ORDINANCE NO. 2002-19, AUTHORIZING THE ADDITION OF THE CITY OF LOWELL, ARKANSAS AS A MEMBER OF THE OZARK TRANSIT AUTHORITY.

WHEREAS, pursuant to Ordinance No. 2002-19 the Quorum Court authorized the County Judge to sign an Interlocal Agreement making Washington County a part of the Ozark Transit Authority along with the counties of Madison, Benton and Carroll and the Cities of Fayetteville, Springdale, Bentonville, and Rogers; and,

WHEREAS, the City of Lowell desires to become a participating member of said Authority; and,

WHEREAS, A.C.A.14-334-103 mandates that before the City of Lowell can participate in the Authority, it must enter into an Interlocal Agreement with the other participating entities.

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF WASHINGTON COUNTY, ARKANSAS:

ARTICLE 1. The County Judge is authorized to sign an Interlocal Agreement with the City of Lowell and the other participating entities making the City of Lowell a member of the Authority.

ARTICLE 2. As stated in the previous ordinance and interlocal agreement no participating entity may be financially or otherwise obligated except upon specific approval of it's respective governing bodies.

ARTICLE 3. The Amended Interlocal Agreement is attached hereto and incorporated herein as if set out word for word and the County Judge is authorized to sign such.

Jerry Hunton — 3.13.06
JERRY HUNTON, County Judge — DATE

Karen Combs Pritchard
KAREN COMBS PRITCHARD, County Clerk

Sponsor: Butch Pond
Date of Passage: March 9, 2006
Votes For: 12 Votes Against: 0
Abstention: 0 Absent: 1

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: March 16, 2006

Subject: Rezoning for Ellis (RZN 06-1949)

RECOMMENDATION

The Planning Commission recommended denial of the subject rezoning request from RSF-1 and RSF-4 to RSF-7 on approximately 6.03 acres located north of Huntsville Road, west of David Lyle Subdivision. Planning Staff originally recommended approval of the requested rezoning to RSF-7.

BACKGROUND

The subject property contains approximately 6 acres and is located on Huntsville Road, a Principal Arterial. The property is delineated by Bayyari Park to the north and the Riverhills Subdivision, zoned R-O and developed with 2.60 units per acre, and David Lyle Subdivision, zoned RSF-7 and developed with 3.98 units per acre, to the east. Properties to the west and south are developed for large single-family lots.

In 1995, the property to the east and north was annexed into the city and zoned R-A, RSF-7, and R-O. Property to the west of the subject property was annexed into the city in 1998 and was zoned RSF-7 to allow the development of small single-family lots. The annexation of these surrounding properties created an island of unincorporated property that was eventually annexed and zoned RSF-1 in August of 2004. The unique zoning of the subject property and the surrounding properties is a result of the piecemeal annexation and rezoning into the City of Fayetteville; nevertheless, all properties have developed for single-family use, with a majority of these lots conforming to the RSF-7 zoning district bulk and area regulations.

The applicant requests rezoning of approximately 6 acres from RSF-1 and RSF-4 to the RSF-7 zoning district. The applicants desire this zoning district to develop a residential subdivision meeting the criteria set forth in the RSF-7 zoning district.

DISCUSSION

This item was heard at the regular Planning Commission on March 13, 2006. The Planning Commission voted 3-5-0 to forward the rezoning request with a recommendation for an RSF-4 zoning district, with Commissioners Anthes, Graves,

Lack, Vaught and Ostner voting no. In response to the failed motion, the Planning Commission unanimously agreed to reconsider the rezoning request. A motion was made to forward the rezoning request as presented by the applicant, to a zoning of RSF-7, but failed with a 4-4-0 vote, with Commissioners Clark, Myres, Anthes and Allen voting no. Therefore, the motion failed due to lack of five affirmative votes, and the application for rezoning to RSF-7 was denied. The applicant has submitted an appeal of the Planning Commission action within the required time period.

Those who voted against the motion discussed their concerns regarding compatibility with the adjacent developments. The Planning Commission requested that the applicant meet with adjoining neighbors, several of whom were present and voiced concern and questions regarding zoning in the area, prior to City Council consideration of the rezoning request.

Staff recommends approval of the proposed rezoning. The property is located adjacent to a Principal Arterial street and a city park, amenities desirable adjacent to residential development. Additionally, this property is located adjacent to other developments and properties zoned RSF-7.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-1949 FOR APPROXIMATELY 6.03 ACRES LOCATED AT 4230 HUNTSVILLE ROAD, FROM RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE AND RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO RSF-7, RESIDENTIAL SINGLE FAMILY, 7 UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

> From RSF-1, Residential Single Family, 1 unit per acre and RSF-4, Residential Single Family, 4 units per acre to RSF-7, Residential Single Family, 7 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: ATTEST:

By: _____ By: _____

DAN COODY, Mayor **SONDRA SMITH**, City Clerk

EXHIBIT "A"
RZN 06-1949

A PART OF THE FRL NW ¼ OF THE FRL NW ¼ OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 29 WEST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A 1/2" REBAR LOCATED AT A POINT THAT IS S02°42'13"W 113.52 FEET FROM THE NORTHEAST CORNER OF THE FRL NW ¼ OF THE FRL NW ¼ OF SAID SECTION 19, AND RUNNING THENCE S0°32'43"W 42.89 FEET TO A 1/2" REBAR LOCATED AT THE NORTHWEST CORNER OF THE DAVID LYLE VILLAGE SUBDIVISION PHASE II; THENCE SOUTHERLY ALONG THE WEST LINE OF SAID SUBDIVISION THE FOLLOWING: S1°56'27"W 101.11 FEET, S2°19'50"W 74.99, S2°04'03"W 75.02, S3°17'13"W 74.99, S2°09'16"W 75.00, S2°11'10"W 75.01, S2°31'09"W 75.16, S2°59'55"W 77.95, S53°45'33"E 2.81 FEET TO A 1/2" REBAR LOCATED AT THE NORTHWEST CORNER OF THE RIVER HILLS SUBDIVISION; THENCE S3°08'13"W 82.64 FEET ALONG THE WEST OF LINE OF SAID SUBDIVISION TO A 1/2" REBAR; THENCE LEAVING SAID WEST LINE AND RUNNING N87°22'46"W 254.04 FEET TO A 1/2" REBAR; THENCE S4°56'26"W 104.98 FEET TO A 1/2" REBAR; THENCE N53°41'50"W 95.27 TO A 1/2" REBAR; THENCE N2°12'48"E 807.90 FEET TO A 1/2" REBAR; THENCE S87°27'20"E 337.93 FEET TO THE POINT OF BEGINNING, CONTAINING 6.03 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, WASHINGTON COUNTY ARKANSAS.

SUBJECT TO THE 50 FOOT WIDE ARKANSAS WESTERN GAS TRANSMISSION LINE EASEMENT RUNNING SOUTHEASTERLY THROUGH THE SOUTH SIDE, THE 15 FOOT WIDE CITY OF FAYETTEVILLE SEWER LINE EASEMENT RUNNING SOUTHEASTERLY THROUGH THE SOUTH SIDE AND EASTERLY THROUGH THE NORTH SIDE, THE ARKANSAS STATE HWY NO. 16 RIGHT-OF-WAY ALONG THE SOUTH LINE, AND ANY OTHER EASEMENTS AND OR RIGHT-OF-WAYS OF RECORD.

17th March, 2006

To: Sondra E. Smith, City Clerk/ Treasurer

Re: Planning Commission Agenda: RZN – 06-1949 (Ellis, 569), 13th March, 2006

The purpose of this letter is to appeal the decision made by the City Planning Commission to refuse recommendation for rezoning the property from RSF-1 and RSF-4 to RSF-7. Below, I have outlined our reasons for requesting this change and also addressed some of the concerns of the neighborhood residents who spoke at the meeting:

- Our intentions for this project are for 18 lots only. Enclosed with this letter is a copy of the subdivision plat we are intending to submit to the Planning Department.
- The reason we are requesting an RSF-7 classification is so we can put in lots with a 60' road frontage. RSF-4 does not allow this. We require this width lot so we can develop more lots, and thus sell them at a lower price.
- From the outset, we have designed this project for the construction of new single-family affordable housing of less than 2000 sq ft. We strongly feel there is an overabundance of new homes being built in the 2000+ sq ft range, whereas those who cannot afford such a home are being forced to move out of Fayetteville. (At the time of writing, there are only 6 new homes for sale in Fayetteville priced $180k or less – source: Multi-List System.)
- Much of the opposition to the rezoning from local residents was in the belief we were planning on putting up to 42 lots on the property (6 acres x 7 units per acre). In the weeks between the Planning Commission and the City Council meetings, we will be making every effort to inform the neighbors of our intentions.
- We feel it is grossly unfair for our application to be refused since the property is surrounded on both sides by RSF-7 and RMF-24 zonings. Enclosed with this letter is a diagram of the adjacent neighborhood zoning classifications.
- One commissioner expressed her reservations for the project due to worries about the increase in traffic along Hwy 16. For 18 additional lots, the expected increase in local traffic would be a maximum of 36 vehicles per each rush hour period. We believe this number is not grounds for refusing the rezoning request.
- In addition to the above, such grounds for refusal represent a moratorium on any new projects which would increase traffic along Hwy 16. The City has not passed any such motion.
- Prior to the Planning Commission meeting, complete approval for the rezoning request had been made by the Fayetteville's Planning Dept. staff, Police Chief, Fire Chief and the Parks and Recreation Advisory Board. All approvals were submitted without any stipulations or reservations whatsoever. These approvals are all submitted with this letter. We are also intending to donate 0.41 acres to the City as part of this project as an addition to Bayyari park.

We would like to resubmit our rezoning application for the City Council meeting scheduled for 4/4/2006.

We appreciate your assistance in this matter and are willing to provide any additional material which will aid the Council in their decision.

Regards.

Scott Ellis

Aaron Crawley

Fayetteville
ARKANSAS

PC Meeting of March 13, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: March 7, 2006

RZN 06-1949: Rezoning (ELLIS, 569): Submitted by SCOTT ELLIS for property located at 4230 HUNTSVILLE ROAD. The property is zoned RSF-1, SINGLE FAMILY - 1 UNIT/ACRE and RSF-4, RESIDENTIAL SINGLE FAMILY – 4 UNITS PER ACRE and contains approximately 6.03 acres. The request is to rezone the subject property to RSF-7, Residential single family, 7 units per acre.

Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested rezoning from R-A to RSF-7 based on the findings herein.

PLANNING COMMISSION ACTION: Required YES
Date: March 13, 2006 ○ Forwarded ○ Denied

CITY COUNCIL ACTION: Required YES
Date: April 04, 2006 (1st reading if recommended) ○ Approved ○ Denied

Comments:

_____

_____

_____

BACKGROUND:

Property description: The subject property contains approximately 6 acres and is located on Huntsville Road, a Principal Arterial. The property is delineated by Bayyari Park to the north and the Riverhill and David Lyle Subdivisions to the east. Properties to the west and south are developed for large single-family lots.

Background: In the 1960s, the City of Fayetteville annexed a strip of property on either side of Huntsville Road to access Lake Sequoyah, a principal water source for the City. The annexation of this corridor included many portions of property instead of the entire portion. Over time, owners of property both within the Planning Area and City have requested annexation and rezoning. In 1995, the property to the east and north was annexed into the city and zoned R-A, RSF-7, and R-O. Property to the west of the subject property was annexed into the city in 1998. The portion that was originally annexed into the city in the 1960s was zoned RMF-24. The portion of property annexed in 1998 was zoned RSF-7 to allow the development of small single-family lots. The annexation of these surrounding properties created an island of unincorporated property that was eventually annexed and zoned RSF-1 in August of 2004. The unique zoning of the subject property and the surrounding properties is a result of the piecemeal annexation and rezoning into the City of Fayetteville; nevertheless, all properties have developed for single-family use, with a majority of these lots conforming to the RSF-7 zoning district bulk and area regulations.

Proposal: The applicant requests rezoning of approximately 6 acres from RSF-1 and RSF-4 to the RSF-7 zoning district. The applicants desire this zoning district to develop a residential subdivision similar in character to the adjacent David Lyle Subdivision, meeting the criteria set forth in the RSF-7 zoning district.

Recommendation: Staff recommends approval of the proposed rezoning. The development of the property for single family residential use at 7 units per acre is comparable to the surrounding properties and developments. Furthermore, it will allow the growth of the city adjacent to park amenities.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	City Parkland	R-A
South	Single family homes	RSF-4 & Planning Area
East	Single Family Residential	RSF-7 & R-O
West	Single family home	RSF-7 & RMF-24

INFRASTRUCTURE:

Streets: The site currently has frontage on Huntville Road. Further evaluation will be conducted by staff for any required improvements. Standard improvements are: dedication of right-of-way per the Master Street Plan, widening of pavement, curb and gutter, storm drainage, and sidewalks.

<u>Adjacent Streets:</u>

South: Huntsville Road (Principal Arterial)

Water: Public water is adjacent to the site. There is an 8" waterline that runs along Huntville Road, and a 6" main in the development to the east. A study of the water system shall be conducted by the developer as directed by the Engineering Division. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended within the property at the time of development connecting within the proposed development.

Sewer: Sanitary sewer is available to the site. A study of the downstream system shall be conducted by the developer. Sewer service will need to be extended 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 approximately 6.03 acres are covered by Engine 5 located at 833 N Crossover. It is 3 miles from the station with an expected response time of 5.25 minutes. When the new Station #3 opens the travel distance will be reduced to 2.5 miles with a response time of 4.25 minutes.

The Fire Department anticipates 10 (6 EMS – 4 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 1515 gallons per 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. There should be no adverse effects on our call volume or response time to this development.

Police: It is the opinion of the Fayetteville Police Department that the proposed 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 the site as Residential. Rezoning this property to RSF-7 is compatible with the single-family use in the surrounding area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning is consistent with current land use planning objectives and policies for Residential Use in the area as indicated on the Future Land Use plan. The requested zoning is slightly greater density that the typical RSF-4 zoning district which has been utilized for development**

south of Huntsville and north of Huntsville, east of the subject property. However, rezoning the property to RSF-7 is compatible with the immediately surrounding property, also zoned RSF-7. As encouraged in General Plan 2020, this new residential area is located in an area accessible to roadways and community amenities, with Huntsville Road located to the south and Bayyari Park adjacent to the north.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **For the property to develop in a manner consistent with adjacent properties, a zoning that would allow density greater than 1 unit per acre and 4 units per acre is required. Additionally, the split zoning presents a challenge in a development of a subdivision with continuity. The RSF-7 zoning is the most common in this area, and the dense development can be served by the Principal Arterial and Collector streets to the south. Staff finds that a zoning greater than RSF-1 and RSF-4 is justified in this area and will be compatible with the surrounding developments.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **It is expected that a rezoning from RSF-4 and RSF-1 to RSF-7 would create an increase in traffic compared with that allowed under the existing zoning. The property is configured such that only approximately 100' is adjacent to Huntsville Road, from which a public street connection can be made. Ideally, staff would recommend connectivity through other subdivisions to limit the number of street connections onto Huntsville Road; however, no connectivity to this property was provided when David Lyle Subdivision and Riverhills Subdivisions were approved for development. Staff will evaluate the condition of Huntsville Road at the time of development, recommending street improvements adjacent to the subject property and off-site improvements, if, based on rough proportionality test, they are deemed appropriate. Staff will also evaluate any potential for connecting to surrounding properties. The development of 6 acres at RSF-7 will result in a maximum 42 dwelling units and 420 vehicle trips per day.**

Police: **It is the opinion of the Fayetteville Police department that an appreciable increase in traffic danger and congestion would not be created by this rezoning.**

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 will increase population density from the zoning currently in place. The 6 acre tract under an RSF-4 (1.6 acres) and RSF-1 (4.4 acres) zoning designation would allow for a maximum 10 single-family residential dwelling units. With the proposed RSF-7 designation, a maximum 42 single-family dwelling units would be permitted. Staff finds that increasing the density limitations to 7 units per acre would alter the population density in the immediate vicinity, though not to the degree that it undesirably increases the load on public services.**

Increased load on public services was taken into consideration for the recommendations from Engineering, Police and Fire Department that 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**

161.08 District Rsf-7, Residential Single-Family – Seven Units Per Acre

(A) *Purpose.* The RSF-7 Residential District is designed to permit and encourage the development of detached dwellings in suitable environments.

(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	7 or less	8.5
Two-family dwelling units per acre	--	Option: 15% of the lot, maximum

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	60 ft.
Two-family	60 ft.
Townhouse, no more than two attached	30 ft.

(2) *Lot area minimum.*

Single-family	6,000 sq. ft.
Two-family	6,000 sq. ft.
Townhouse, no more than two attached	3,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	6,000 sq. ft.
Two-family	3,000 sq. ft.
Townhouse, no more than two attached	3,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height regulations.*

Building height maximum	30 ft.

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area.

Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher

Thru: Chief Tony Johnson

From: Captain Dale Riggins

Date: March 7, 2006

Re: March 6, 2006 Zoning Review – Fire Department Comments

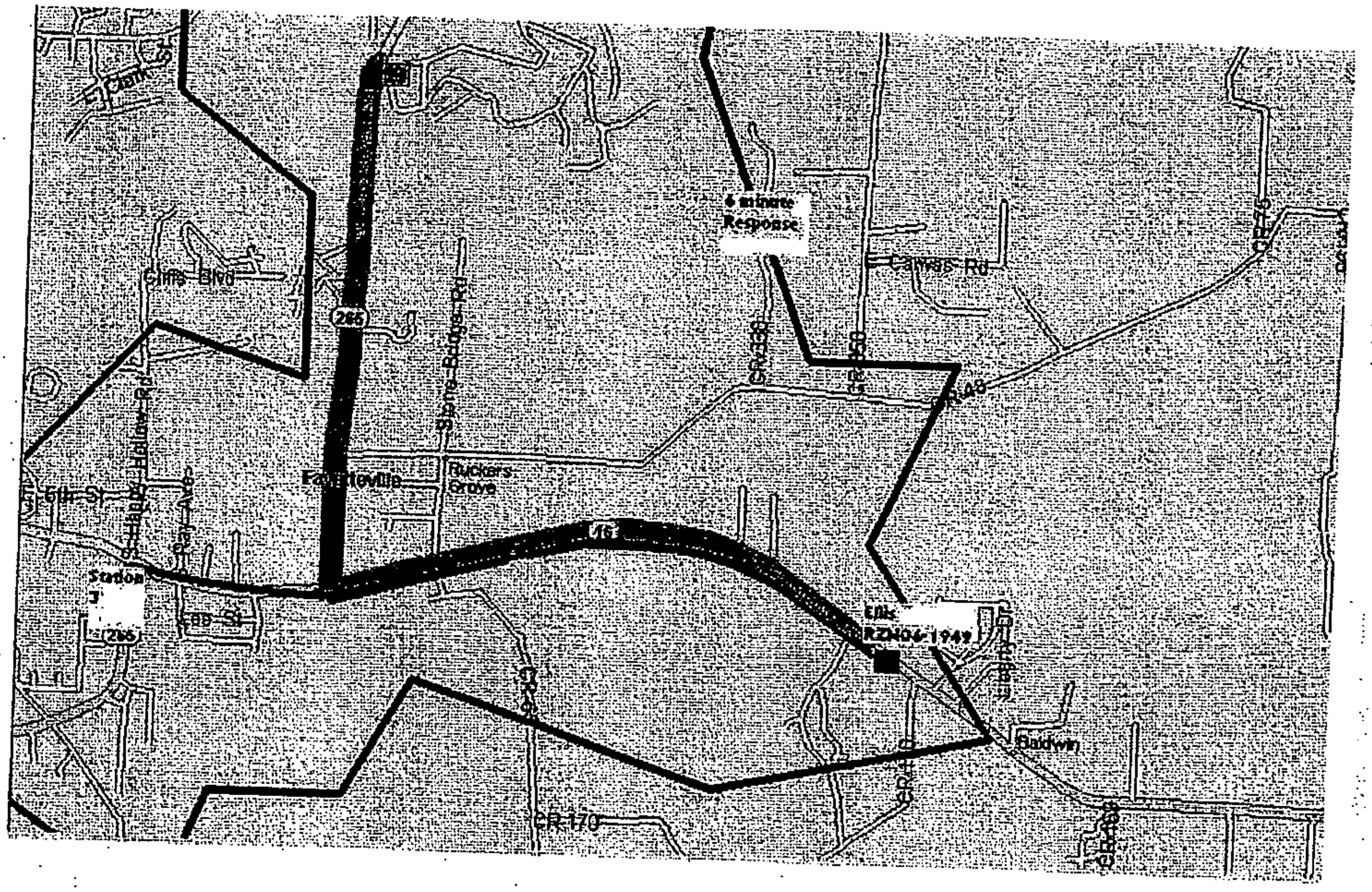
RZN06-1949 (Ellis, 569)
These approximately 6.03 acres are covered by Engine 5 located at 833 N Crossover. It is 3 miles from the station with an expected response time of 5.25 minutes. When the new Station #3 opens the travel distance will be reduced to 2.5 miles with a response time of 4.25 minutes.
The Fire Department anticipates 10 (6 EMS – 4 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 1515 gallons per 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.
There should be no adverse effects on our call volume or response time to this development.

If you have any questions please feel free to call or email me.

Sincerely

Dale Riggins

Dale Riggins
Fayetteville Fire Department


6 minute
Response
Cairns Rd
Cairns Blvd
265
Stone Bridge Rd
Fayetteville
Buckers
Grove
6th St
Hollow Rd
Station
8th St
265
Ellis
RZN06-1949
Baldwin
CR 170

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

March 6, 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 Rezoning **RZN 06-1949 (Ellis, 569)** submitted by Scott Ellis for property located at 14230 Huntsville Rd. would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this 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,

Captain William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
100-A WEST ROCK STREET
FAYETTEVILLE, ARKANSAS 72701

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
PHONE: 479.587.3555 FAX: 479.587.3522

Applicant's Statement Regarding Reasons for Rezoning

We, Scott Ellis and Aaron Crawley, are the property owners and request the change in rezoning for the following reasons:

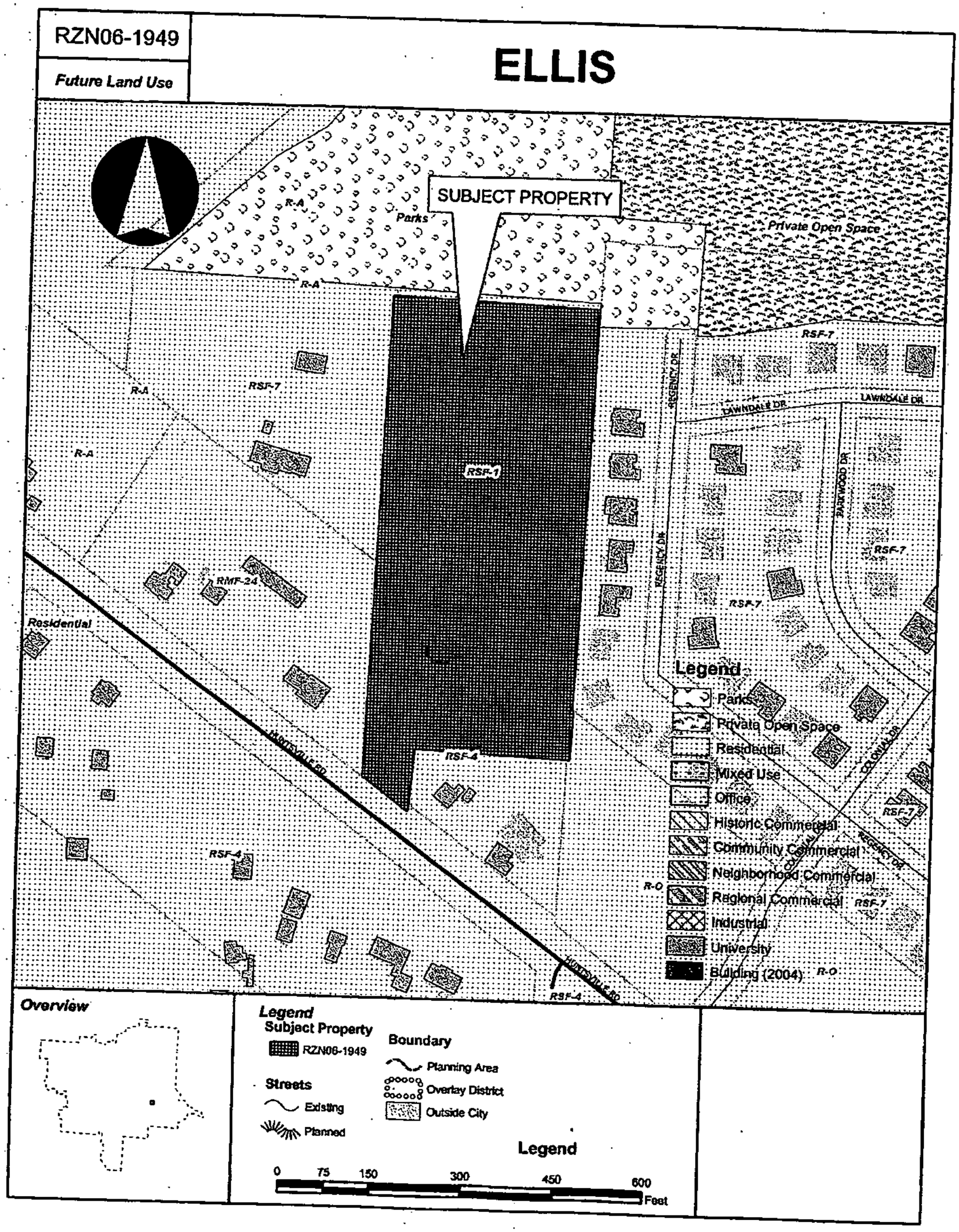
As owners and developers, we would like to pursue the possibility of improving the property into a single-family neighborhood consisting of affordable housing, contiguous with the surrounding neighborhoods. The home situated on the property at present has been sold "to-be-moved" and will leave the acreage as a flat, clear and ideal piece of land for development considering its location and shape. The property is surrounded by RSF-7 zoning to the east and west (including the David Lyle Subdivision), and RMF-24 zoning to the southwest. All homes constructed are expected to be similar in size and appearance to the adjacent properties, with little or no negative effect on public services or traffic congestion due to the relatively small size of the property (approximately 18 lots).

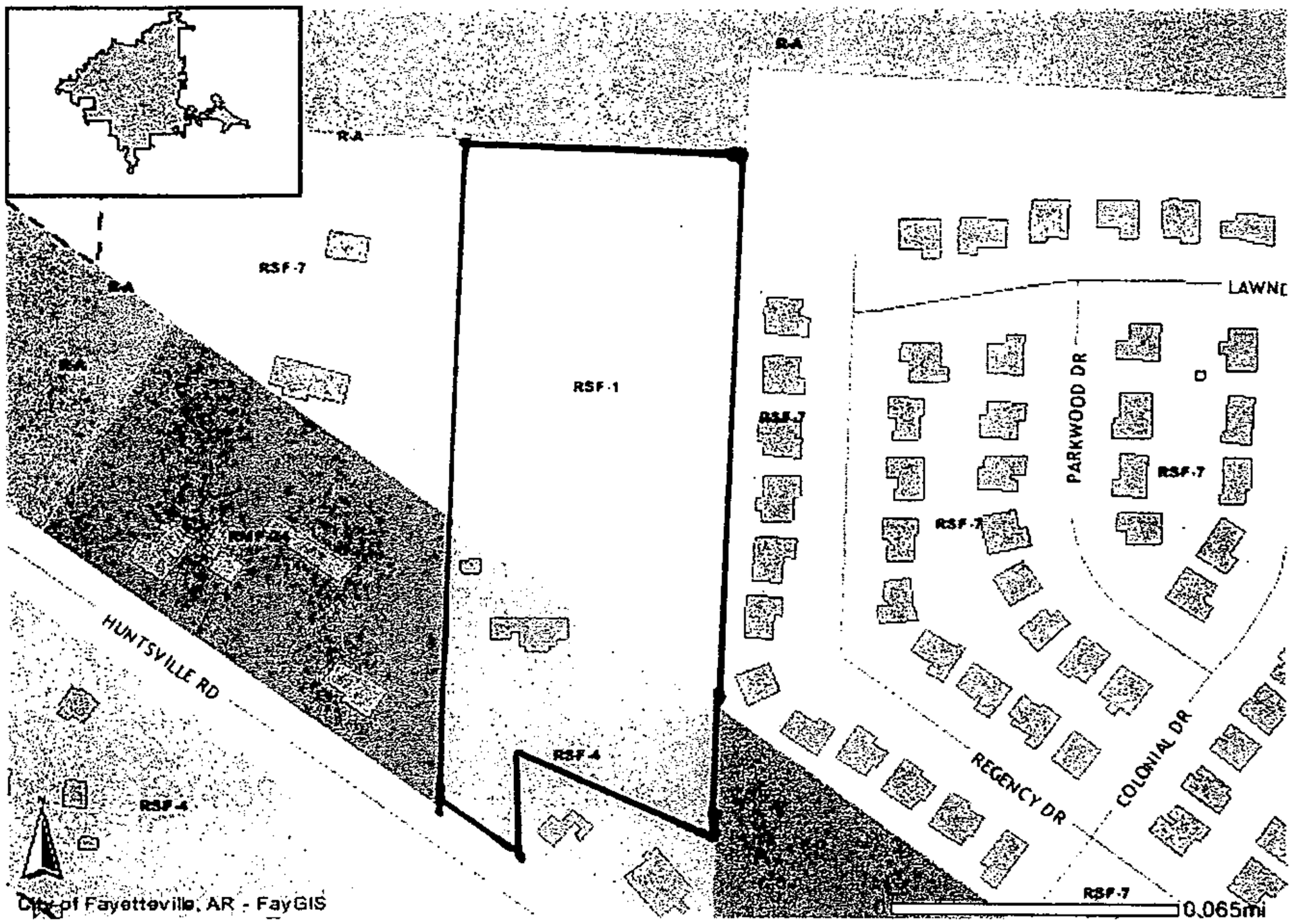
Development of the land is made possible by the accessibility of all necessary utilities being found either on, or nearby, the land. An 8" sewer line runs along the north, west and south edges of the property, while an 8" water line is situated along the course of Hwy 16, being the southern edge. Additionally, there is a 50' gas easement traversing the property from east-to-west.

Our intentions for this six acres is to fully develop the land into approximately 18 lots for the construction of affordable housing for current, and future residents of Fayetteville. Present market conditions are such that, while the recent record-low interest rates have made larger homes more affordable for the average family, the increase in interest rates has highlighted the lack of new construction in the $150-200,000 price range. At present, the property is zoned RSF-4 and RSF-1. For us to be able to keep the lot-prices at an affordable level, we need the land to be rezoned to RSF-7. Our engineers are ready to submit to the Planning Department and we request this change to be made as soon as possible.

Scott Ellis

Aaron Crawley


RZN06-1949
Future Land Use
ELLIS
SUBJECT PROPERTY
Parks
Private Open Space
R-A
RSF-7
RSF-1
RSF-4
RMF-24
Residential
R-O
REGENCY DR
LAWNDALE DR
PARKWOOD DR
HUNTSVILLE RD
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
RZN06-1949
Boundary
Planning Area
Overlay District
Outside City
Streets
Existing
Planned
Legend
0 75 150 300 450 600
Feet


R-A
RSF-7
RSF-1
RSF-4
HUNTSVILLE RD
LAWNC
PARKWOOD DR
REGENCY DR
COLONIAL DR
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City of Fayetteville, AR - FayGIS

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes March 6, 2006

Opening:
At 5:00 P.M. the Board members along with Parks Staff toured three properties subject to consideration during the Board meeting. On arrival at City Hall the regular meeting of the Parks and Recreation Advisory Board was called to order by Chairman Wade Colwell at 6:30 P.M. on March 6, 2006 in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present:
Parks and Recreation Advisory Board members Bailey, Langsner, Davidson, Davis, Bitler, Burke & Colwell; Park Staff Coles, Jumper, Wright, Whillock, Edmonston, Trails Coordinator, Mihalevich, and audience were in attendance.

1. Park Land Dedication: **Alison Jumper, Park Planner**

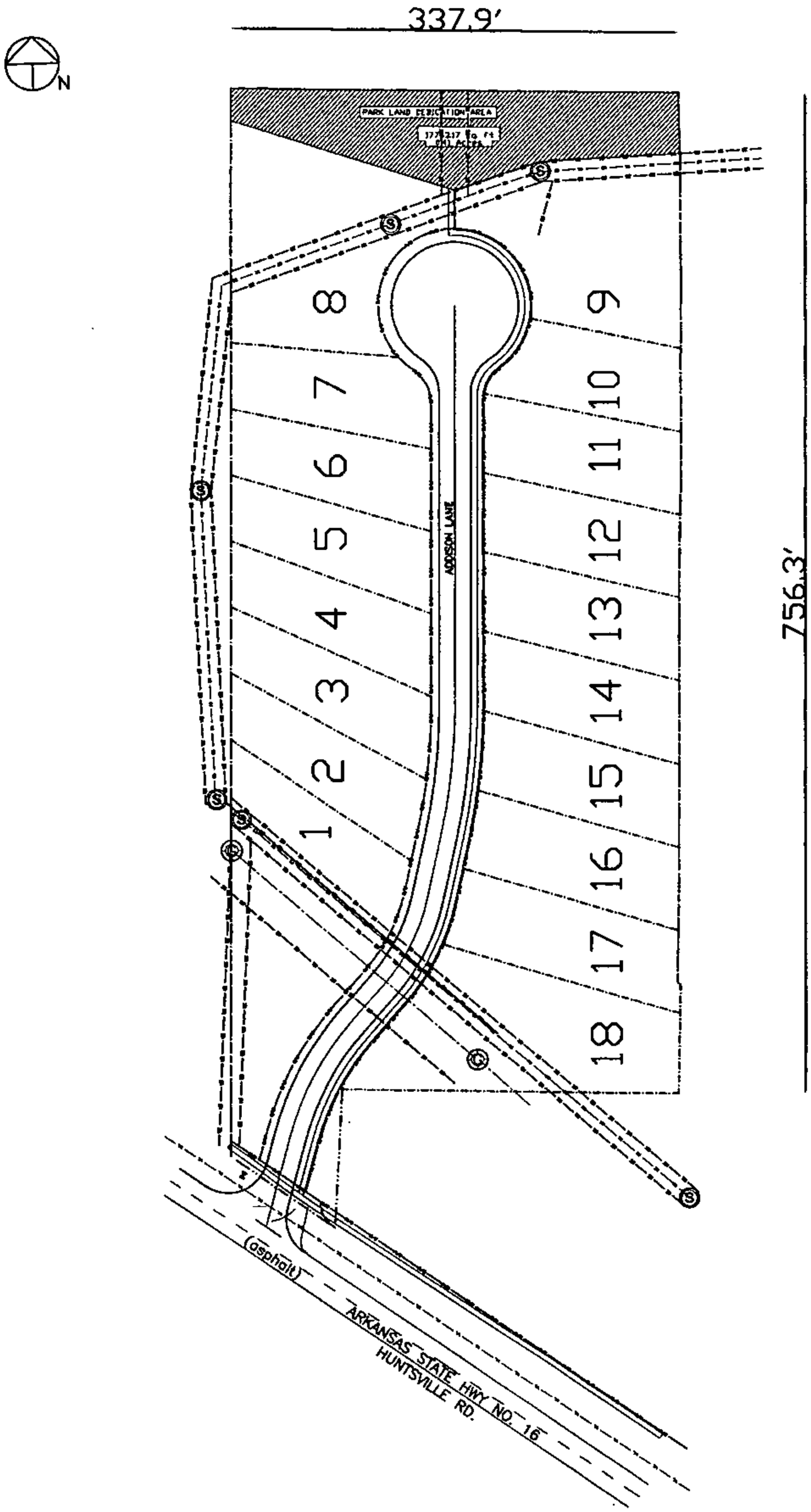
Development Name:	Addison Acres
Engineer:	HGM Consulting, Inc.
Owner:	Aaron Crawley and Scott Ellis
Location:	North of Huntsville Road (Hwy 16 east) between River Meadows Drive and Roberts Road
Park District:	SE
Units:	16 Single Family (one existing)
Total Acres:	6.03 acres
Land Dedication Requirement:	.384 acres
Money in Lieu Requirement:	$8,880
Existing Parks:	Bayyari Park
Developer's Request:	.41 acres of Land adjoining Bayyari Park. Developer would construct an accessible sidewalk from the proposed sidewalk at the cult-de-sac to the existing sidewalk leading to the Bayyari Park playground. Developer requests to bank the remaining .026 acres for future development in the southeast quadrant.
Staff Recommendation:	Staff agrees with developers request to contribute .41 acres to increase the size of Bayyari Park from 7 acres to 7.41 acres. Staff also agrees for the developer to construct a sidewalk to

Justification:

connect the proposed development with the existing sidewalk that leads to Bayyari Park playground. In exchange for the sidewalk construction, a drainage easement will be allowed within the dedicated park land. The location of the drainage easement and outflow structure shall be approved by parks staff.
By accepting the additional land at Bayyari, the new residents will be connected with a sidewalk to the existing park facilities. The .41 acres of additional land is heavily wooded and will provide a nice addition to Bayyari Park.

Colwell asked if the development would have a detention pond and Jumper replied that there would not be a retention pond.

PRAB Motion: Davis moved to accept Staff recommendation to accept developer's request as stated above, Bailey seconded the motion and the Board approved unanimously.


337.9'
N
PARK LAND DEDICATION AREA
1
2
3
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11
12
13
14
15
16
17
18
ADDISON LANE
756.3'
(asphalt)
ARKANSAS STATE HWY. NO. 16
HUNTSVILLE RD.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: GIS
FROM: Jan Gambill, Senior Planning Clerk
DATE:
SUBJECT: Legal check for planning project

Project Name: RZN06-1949 Ellis
Parcel: 765-24042-1308 > 000
Return by: 2-17-06

Plat Page#: 569
Section: 19
Township: 16
Range: 29

Current Zoning: RSF-1, RSF-4
Proposed Zoning: RSF-7

Submittal: (1st) 2nd 3rd

Closure error / comments:

Parcel closes, survey descriptron is missing a second "Fr NW 1/4" call. As written the parcel comes in the NE 1/4 NW 1/4, not the NW 1/4 NW 1/4 of 19.

Has the applicant been contacted with requested revisions: YES NO

Checked by: TJ

Date shape file was created: 2/21/2006

YAHOO! MAIL

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Survey Description:

A part of the Frl NW ¼ of the Frl NW ¼ of Section 19, Township 16 North, Range 29 West and being more particularly described as follows:

Beginning at a 1/2" rebar located at a point that is S02°42'13"W 113.52 feet from the Northeast Corner of the Frl NW ¼ of said Section 19, and running thence S0°32'43"W 42.89 feet to a 1/2" rebar located at the Northwest Corner of the David Lyle Village Subdivision Phase II; thence Southerly along the West line of said subdivision the following: S1°56'27"W 101.11 feet, S2°19'50"W 74.99, S2°04'03"W 75.02, S3°17'13"W 74.99, S2°09'16"W 75.00, S2°11'10"W 75.01, S2°31'09"W 75.16, S2°59'55"W 77.95, S53°45'33"E 2.81 feet to a 1/2" rebar located at the Northwest Corner of the River Hills Subdivision; thence S3°08'13"W 82.64 feet along the West of line of said Subdivision to a 1/2" rebar; thence leaving said West line and running N87°22'46"W 254.04 feet to a 1/2" rebar; thence S4°56'26"W 104.98 feet to a 1/2" rebar located on the North Right-of-Way line of Arkansas State Highway No. 16; thence N53°41'50"W 95.27 along said Right-of-Way to a 1/2" rebar; thence leaving said Right-of-Way and running N2°12'48"E 807.90 feet to a 1/2" rebar; thence S87°27'20"E 337.93 feet to the Point of Beginning, containing 6.03 acres, more or less, City of Fayetteville, Washington County Arkansas.

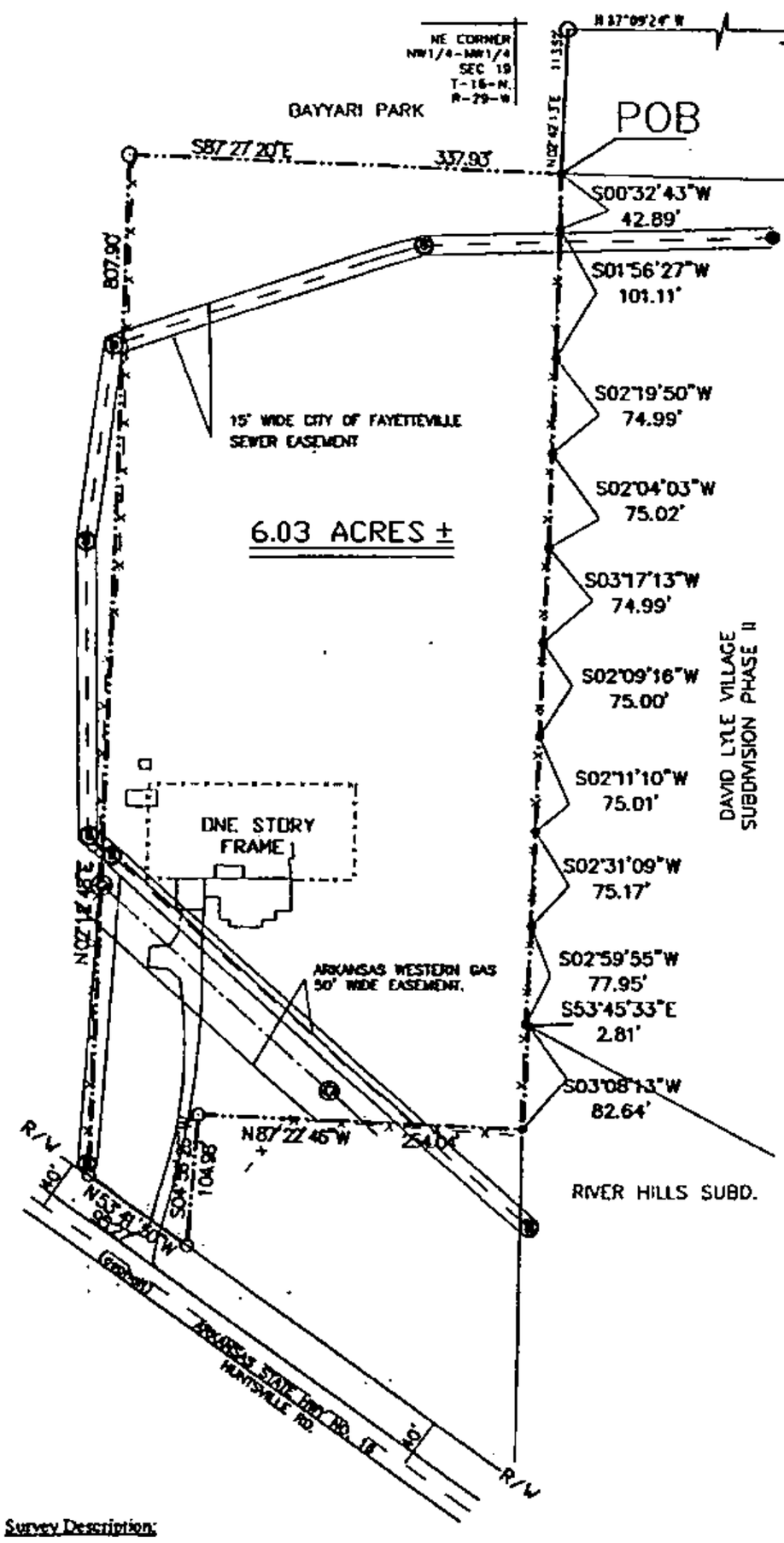
Subject to the 50 foot wide Arkansas Western Gas transmission line easement running Southeasterly through the South side, the 15 foot wide City of Fayetteville sewer line easement running Southeasterly through the South side and Easterly through the North side and any other easements and or Right-of-Ways of record.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

Applicant's Signature

First submittal as:
RZN06-1949
Parcel closes
2/21/2006
TJ

PLAT OF SURVEY
FOR
HGM CONSULTING



LEGEND

- ● FOUND IRON PIN
- ○ SET IRON PIN
- SEWER MANHOLE
- GAS METER
- — X — FENCE LINE
- ——— BOUNDARY LINE

SURVEYOR'S CERTIFICATION: I hearby certify that I have surveyed the herein described tract and that the property lines and corner monuments are, to the best of my knowledge and ability, correctly established as shown. Also, any easements and/or encroachments revealed by said survey are shown hereon.

WILLIAM C. JENKINS PLS NO. 688

BASIS FOR BEARINGS: Geodetic North, Arkansas State Plane Grid, Navcom Navigational System

FLOOD CERTIFICATION: The herein described tract is in a non-flooded area and not within the 100 year flood plain. Per FEMA Map No. 05143E0115E dated 12/20/2000.

PLAT CODE: 500-16N-29W-0-19-440-72-0688

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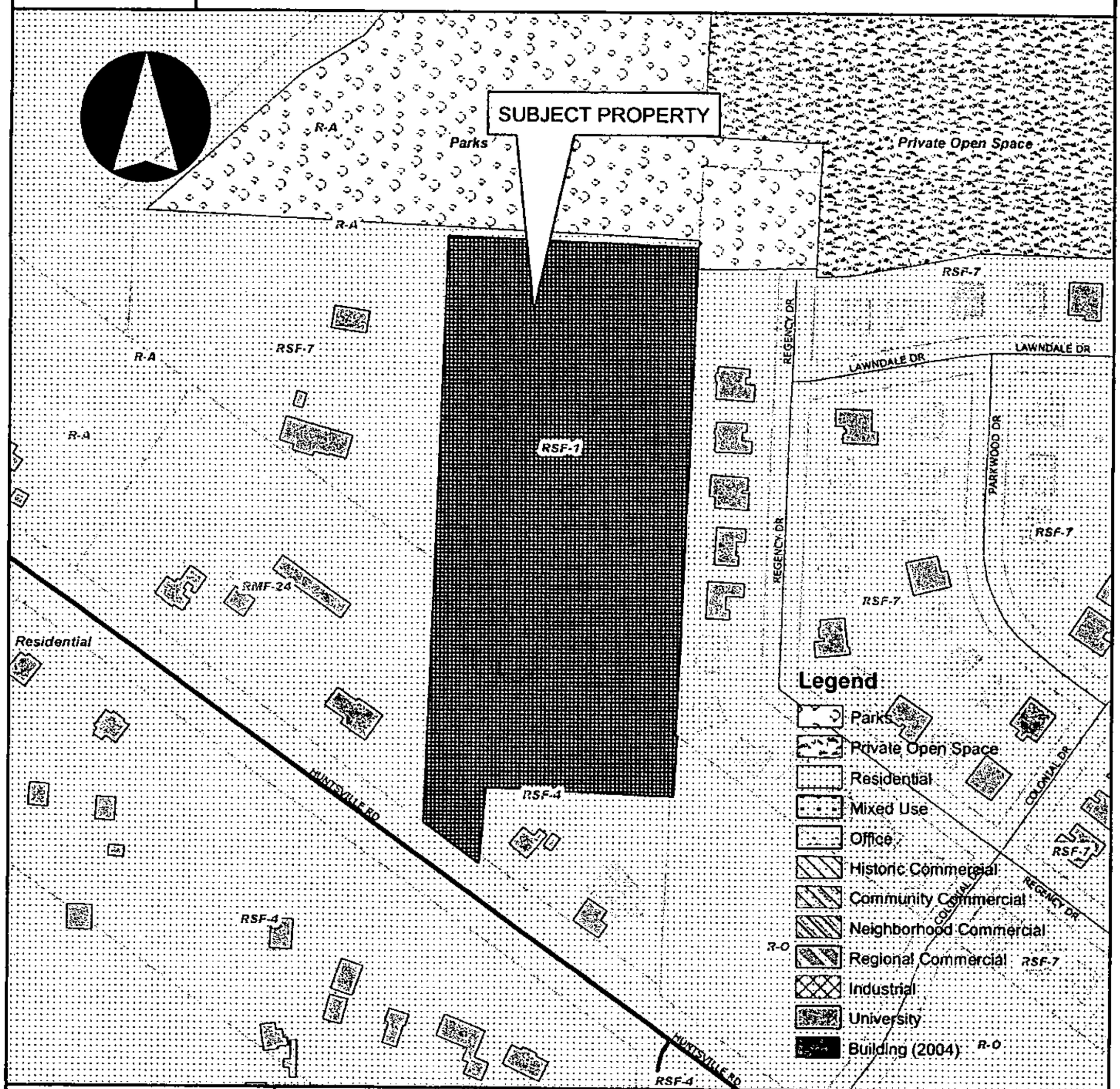
0' 150' 300' 450'

JENKINS SURVEYING, INC.	
DRAWN BY: DWJ	SCALE: 1"=150'
DATE: 1/31/06	JOB NO. 06-33

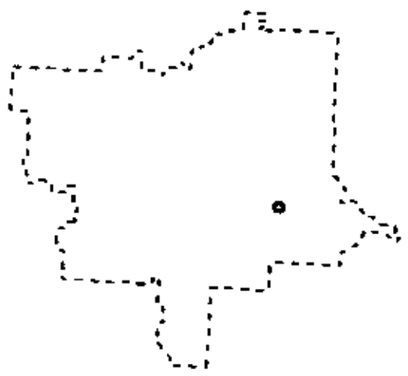
RZN06-1949

Future Land Use

ELLIS



Overview



Legend

Subject Property

RZN06-1949

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

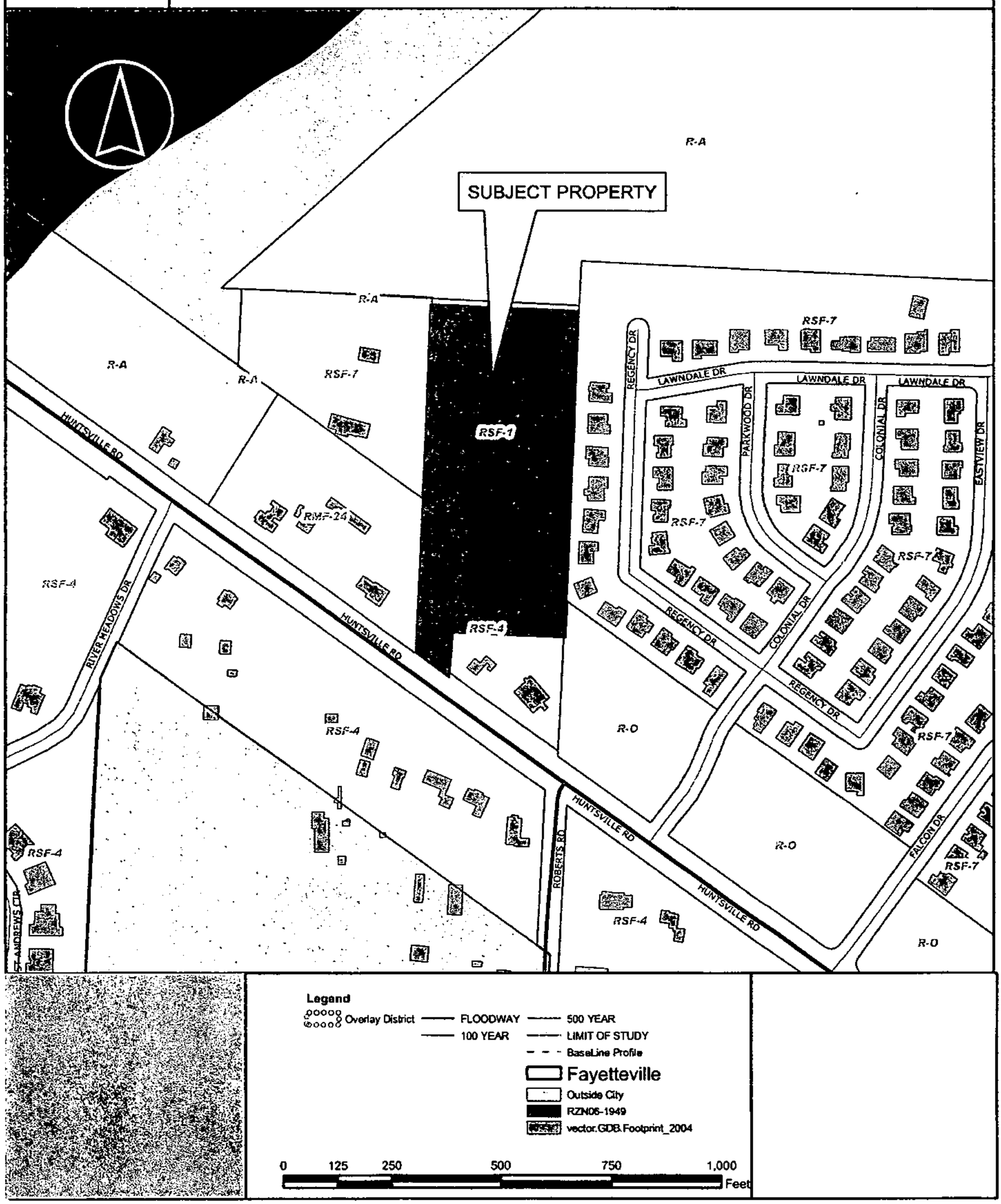
Legend

0 75 150 300 450 600 Feet

RZN06-1949

Close Up View

ELLIS

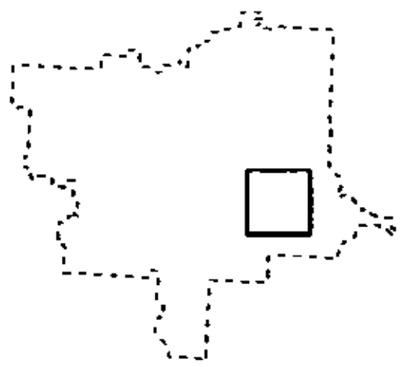


RZN06-1949

One Mile View

ELLIS

Overview



Legend

Subject Property

RZN06-1949

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25 0.5 0.75 1 Miles