

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
July 18, 2006**

A meeting of the Fayetteville City Council will be held on July 18, 2006 at 6:00 PM 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 June 27, 2006 Special City Council meeting minutes and the July 6, 2006 City Council meeting minutes.**

APPROVED.

2. **Planning Commissioner's Compensation:** A resolution approving a Budget Adjustment in the amount of \$21,800.00 for Salaries and Wages expense related to the compensation of Planning Commissioners.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 124-06.

B. UNFINISHED BUSINESS:

1. **Raze and Removal at 95 Cleburn Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas. *This item was Tabled at the July 6, 2006 City Council Meeting to the July 18, 2006 City Council Meeting.*

THIS ITEM WAS TABLED TO THE SEPTEMBER 5, 2006 CITY COUNCIL MEETING.

C. NEW BUSINESS:

1. **Improvement District No. 16 – Wellspring:** An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District No. 16 – Wellspring.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4897.

2. **ANX 06-2129 McDonald:** An ordinance annexing that property described in annexation petition ANX 06-2129 (CC2005-27, CC2006-7, and CC2006-8), for property located south of Huntsville Road (HWY 16), west of Roberts Road, containing approximately 14.21 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4898.

3. **ANX 06-2125 Dunnerstock/Foster:** An ordinance annexing that property described in annexation petition ANX 06-2125 (CC2006-5), for property located at the north end of 59th Avenue, off Wedington Drive, containing approximately 60.20 acres.

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

4. **RZN 06-2126 Dunnerstock/Foster:** An ordinance rezoning that property described in rezoning petition RZN 06-2126, from approximately 60.20 acres, located north of Wedington Drive, at the end of 59th, for R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 units per acre.

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

5. **VAC 06-2123 Launder:** An ordinance approving VAC 06-2123 submitted by John Launder for property located at 1025 Company, vacating 0.06 acre portion of the utility easement located within the subject property.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4899.

6. **VAC 06-2068 Bio-Based/City of Fayetteville:** An ordinance approving VAC 06-2068 submitted by the City of Fayetteville for property located at 1475 Cato Springs Road, vacating un-constructed right-of-way within the subject property in association with an approved large scale development for Bio-Based.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4900.

7. **Amend Chapter 34, Cost Share Exemptions:** An ordinance amending Chapter 34, Article II of the Code of Fayetteville, to exempt Cost Share agreements for Infrastructure Improvements from the requirements of §34.23.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4901

8. **Duncan Associates Water and Sewer Impact Fees Phase 2:** A resolution approving the first contract amendment with Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington, and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries; and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 125-06.

- 9. Brasfield & Gorrie, LLC:** A resolution approving a construction contract with Brasfield & Gorrie, LLC in the amount of \$6,130,000.00 to construct the Hamestring Sewer Lift Station, WL-6; approving a four percent (4%) contingency in the amount of \$245,000.00; and approving a budget adjustment in the amount of \$5,100,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 126-06.

- 10. Amend §166.05 of the UDO - Large Scale Development:** An ordinance to amend §166.05 Large Scale Development of the Unified Development Code by adding Subsection (7) (e) to allow consideration of a Development's Economic Benefit.

THIS ITEM WAS TABLED INDEFINITELY.

D. INFORMATIONAL:

City Council Tour: NONE

Meeting adjourned at 6:40 p.m.

Subject: Roll					
Motion To:					
Motion By:					
Seconded:					
Alderman Reynolds was absent until 6:10 PM	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody	✓			

7-0

Subject: Consent					
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Marr			
Passed Res. 124-06	Lucas	✓			
	Jordan	✓			
	Reynolds	absent during the roll			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

7-0

Subject: <i>Raze & Removal at 95 Cleburn Street</i>					
Motion To:		<i>Table to</i>			
		<i>Sept. 5, 2006</i>			
Motion By:		<i>Marr</i>			
Seconded:		<i>Thiel</i>			
<i>B.I. Table to 1st Meeting in Sept. Sept. 5, 2006</i>	Lucas	✓			
	Jordan	✓			
	Reynolds	<i>Absent</i>			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

Subject: <i>Amend 166.05 of the UDD - Large Scale Dev.</i>					
Motion To:		<i>Table Indef.</i>			
Motion By:		<i>Ferrell</i>			
Seconded:		<i>Marr</i>			
<i>Tabled Indefinitely C.I.D New Business</i>	Lucas	✓			
	Jordan	✓			
	Reynolds	<i>absent</i>			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

Subject: Improvement District #16 Well Spring					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
C.1. New Business <u>Passed</u> 4897	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	absent during vote	absent during vote	absent during vote	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

7-0

7-0

7-0

Subject: ANX 06-2129 McDonald.					
Motion To:		Amend Section 1-map.	2nd read	3rd read	Pass
Motion By:		Thiel	Reynolds	Reynolds	
Seconded:		Ferrell	Thiel	Thiel	
C.2. New Business <u>Passed</u> 4898	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Reynolds	abstain	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	N
	Marr	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Mayor Coody				

7-0

8-0

8-0

7-1

Subject: <i>ANX - 06-2125 Dunmorestock / Foster</i>					
Motion To:		<i>2nd read</i>			
Motion By:		<i>Jordan</i>			
Seconded:		<i>Lucas</i>			
<i>C.3. New Business Left on the Second Reading</i>	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

Subject: <i>RZN 06-2126 Dunmorestock / Foster</i>					
Motion To:		<i>2nd read</i>			
Motion By:		<i>Jordan</i>			
Seconded:		<i>Lucas</i>			
<i>C.4. New Business Left on the Second Reading</i>	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	<i>Absent during vote</i>			
	Mayor Coody				

7-0

Subject: <i>VAC 06-2123 Laundry</i>					
Motion To:		<i>2nd read</i>	<i>3rd read</i>	<i>Pass</i>	
Motion By:		<i>Thiel</i>	<i>Thiel</i>		
Seconded:		<i>Reynolds</i>	<i>Reynolds</i>		
<i>C.5. New Business passed 4899</i>	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject: <i>VAC 06-2068 Bio-Based/City of Fayetteville</i>					
Motion To:		<i>2nd read</i>			
Motion By:		<i>Jordan</i>			
Seconded:		<i>Lucas</i>			
<i>C.6. New Business Motion to reconsider and Passed See last page of roll call.</i>	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

4900

Subject: Amend Chapter 34, Cost Share Exemptions					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Jordan		
Seconded:		Jordan	Marr		
C. 7. New Business <u>Passed</u> 4901	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject: Duncan Associates Water & Sewer Impact					
Motion To:		Approve			Fees Phase
Motion By:		Jordan			2
Seconded:		Reynolds			
C. 8. New Business <u>Passed</u> 125-06	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

Subject: <i>Brasfield & Corrie, LLC.</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Cook</i>			
Seconded:		<i>Reynolds</i>			
<i>C.9. New Business passed 126-06</i>	Lucas	<i>✓</i>			
	Jordan	<i>✓</i>			
	Reynolds	<i>✓</i>			
	Thiel	<i>✓</i>			
	Cook	<i>✓</i>			
	Marr	<i>✓</i>			
	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Mayor Coody				

Subject: <i>Vac 06-2008 Bio-Based / City of Fayetteville</i>					
Motion To:		<i>Reconsider #6 HAC 2008</i>	<i>3rd read</i>		
Motion By:		<i>Reynolds</i>	<i>Jordan</i>		
Seconded:		<i>Ferrell</i>	<i>Marr</i>		
<i>C.6. New Business Passed 4900</i>	Lucas	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Jordan	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Reynolds	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Thiel	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Cook	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Marr	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Rhoads	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Ferrell	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Coody				

8-0

8-0

8-0

● Agenda Session 7/11/06 ●

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
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
July 18, 2006**

A meeting of the Fayetteville City Council will be held on July 18, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

~~Progress Report on Phase I of the Classification and Compensation System Project Job Description Development given by Johanson Group. Agenda Session Only~~

A. CONSENT:

1. **Approval of the June 27, 2006 Special City Council meeting minutes and the July 6, 2006 City Council meeting minutes.**
2. **Planning Commissioner's Compensation:** A resolution approving a Budget Adjustment in the amount of \$21,800.00 for Salaries and Wages expense related to the compensation of Planning Commissioners.

B. UNFINISHED BUSINESS:

1. **To be determined at the July 6, 2006 City Council Meeting:** All Unfinished Business items from the July 6, 2006 City Council Meeting will be added to the Final Agenda.

C. NEW BUSINESS:

- ✓ 1. **ANX 06-2129 McDonald:** An ordinance annexing that property described in annexation petition ANX 06-2129 (CC2005-27, CC2006-7, and CC2006-8), for property located south of Huntsville Road (HWY 16), west of Roberts Road, containing approximately 14.21 acres.
- ✓ 2. **ANX 06-2125 Dunnerstock/Foster:** An ordinance annexing that property described in annexation petition ANX 06-2125 (CC2006-5), for property located at the north end of 59th Avenue, off Wedington Drive, containing approximately 60.20 acres.
- ✓ 3. **RZN 06-2126 Dunnerstock/Foster:** An ordinance rezoning that property described in rezoning petition RZN 06-2126, for approximately 60.20 acres, located north of Wedington Drive, at the end of 59th, for R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 units per acre.
- ✓ 4. **VAC 06-2123 Launder:** An ordinance approving VAC 06-2123 submitted by John Launder for property located at 1025 Company, vacating 0.06 acre portion of the utility easement located within the subject property.
- ✓ 5. **VAC 06-2068 Bio-Based/City of Fayetteville:** An ordinance approving VAC 06-2068 submitted by the City of Fayetteville for property located at 1475 Cato Springs Road, vacating un-constructed right-of-way within the subject property in association with an approved large scale development for Bio-Based.
- ✓ 6. **Amend Chapter 34, Cost Share Exemptions:** An ordinance amending Chapter 34, Article II of the Code of Fayetteville, to exempt Cost Share agreements for Infrastructure Improvements from the requirements of §34.23.
- ✓ 7. **Duncan Associates Water and Sewer Impact Fees Phase 2:** A resolution approving the first contract amendment with Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington, and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries; and approving a budget adjustment.
- ✓ 8. **Brasfield & Gorrie, LLC:** A resolution approving a construction contract with Brasfield & Gorrie, LLC in the amount of \$6,130,000.00 to construct the Hamestring Sewer Lift Station, WL-6; approving a four percent (4%) contingency in the amount of \$245,000.00; and approving a budget adjustment in the amount of \$5,100,000.00.

D. INFORMATIONAL:

City Council Tour: July 17, 2006 - 4:30 PM

NB
#10

Add: Amend 166.05 of the UDO - Large Scale Dev.

NB
#1

Add: Improvement District #16

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
July 18, 2006**

A meeting of the Fayetteville City Council will be held on July 18, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Progress Report on Phase I of the Classification and Compensation System Project Job Description Development given by Johanson Group. – Agenda Session Only

A. CONSENT:

- 1. Approval of the June 27, 2006 Special City Council meeting minutes and the July 6, 2006 City Council meeting minutes.**
- 2. Planning Commission's Compensation:** A resolution approving a Budget Adjustment in the amount of \$21,800.00 for Salaries and Wages expense related to the compensation of Planning Commissioners.

B. UNFINISHED BUSINESS:

1. - insert a note stating- unfinished business not yet determined, will be added to the final agenda

C. NEW BUSINESS:

- 1. ANX 06-2129 McDonald:** An ordinance annexing that property described in annexation petition ANX 06-2129 (CC2005-27, CC2006-7, and CC2006-8), for property located south of Huntsville Road (HWY 16), west of Roberts Road, containing approximately 14.21 acres.

2. **ANX 06-2125 Dunnerstock/Foster:** An ordinance annexing that property described in annexation petition ANX 06-2125 (CC2006-5), for property located at the north end of 59th Avenue, off Wedington Drive, containing approximately 60.20 acres.
3. **RZN 06-2126 Dunnerstock/Foster:** An ordinance rezoning that property described in rezoning petition RZN 06-2126, for approximately 60.20 acres, located north of Wedington Drive, at the end of 59th, for R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 units per acre.
4. **VAC 06-2123 Launder:** An ordinance approving VAC 06-2123 submitted by John Launder for property located at 1025 Company, vacating 0.06 acre portion of the utility easement located within the subject property.
5. **VAC 06-2068 Bio-Based/City of Fayetteville:** An ordinance approving VAC 06-2068 submitted by the City of Fayetteville for property located at 1475 Cato Springs Road, vacating un-constructed right-of-way within the subject property in association with an approved large scale development for Bio-Based.
6. **Amend Chapter 34, Cost Share Exemptions:** An ordinance amending Chapter 34, Article II of the Code of Fayetteville, to exempt Cost Share agreements for Infrastructure Improvements from the requirements of §34.23.
7. **Duncan Associates Water and Sewer Impact Fees Phase 2:** A resolution approving the first contract amendment with Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington, and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries; and approving a budget adjustment.
8. **Brasfield & Gorrie, LLC:** A resolution approving a construction contract with Brasfield & Gorrie, LLC in the amount of \$6,130,000.00 to construct the Hamestring Sewer Lift Station, WL-6; approving a four percent (4%) contingency in the amount of \$245,000.00; and approving a budget adjustment in the amount of \$5,100,000.00.

Call Judy about decimals

D. INFORMATIONAL:

City Council Tour: July 17, 2006 - 4:30 PM

July 18, 2006
Agenda

From: Michele Bechhold
To: Wood, Amber
Date: 5/5/06 5:23PM
Subject: Information Item for Agenda Session

For each Agenda Session starting with May 9 and ending with July 11 I need an informational item to be on the agenda.

Johanson Group: Progress Report on Phase I of the Classification and Compensation System Project - Job Description Development

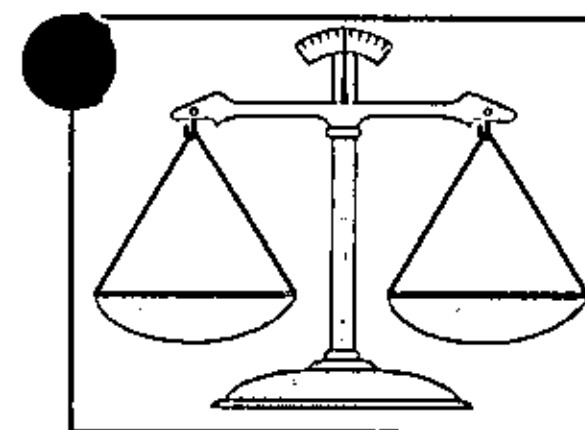
I know the 5-9 Tentative Agenda is already out, but they will still need to make a report on Tuesday. Sondra said that she would tell the Mayor this.

Thanks for your help
Michele

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**

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

DATE: **July 19, 2006**

RE: **Passed Ordinances and Resolutions from City Council meeting
of July 18, 2006**

1. **Planning Commissioner's Compensation:** Resolution approving budget adjustment in amount of \$21,800.00 for salaries and wages expense related to the compensation of Planning Commissioners;
2. **Improvement District No. 16 – Wellspring:** Ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 16 – Wellspring;
3. **ANX 06-2129:** Ordinance annexing property described in ANX 06-2129 (CC2005-27, CC2006-7, and CC2006-8) for property located south of Huntsville Road (Hwy. 16), west of Roberts Road, containing approximately 14.21 acres;
4. **VAC 06-2123:** Ordinance approving VAC 06-2123 submitted by John Launder for property located at 1025 Company, vacating 0.06 acre portion of utility easement located within subject property;
5. **VAC 06-2068:** Ordinance approving VAC 06-2028 submitted by City of Fayetteville for property located at 1475 Cato Springs Road, vacating unconstructed rights-of-way within the subject property in association with an approved Large Scale Development for Bio-Based;
7. **Chapter 34 Amendment – Cost Share Exemptions:** Ordinance amending Chapter 34. Article II of the code of Fayetteville, to exempt cost share agreements for infrastructure improvements from the requirements of §34.23;

8. Duncan Associates Water & Sewer Impact Fees Phase 2: Resolution approving first contract amendment w/Duncan Assoc. in amount of \$110,000.00 to update existing water and wastewater impact fees, to calculate fees for collection system, negotiate contracts w/cities of Elkins, Farmington and Greenland to pay for and provide potential water and wastewater impact fees within their corporate boundaries; approving budget adjustment and limiting City of Fayetteville's expenditures to an amount not to exceed \$55,000.00;

9. Brasfield & Gorrie, LLC: Resolution approving construction contract w/Brasfield & Gorrie, LLC in amount of \$6,130,000.00 to construct Hamestring sewer lift station, WL-6; approving 4% contingency in amount of \$245,000.00; and approving budget adjustment in amount of \$5,100,000.00.

Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

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

RECEIVED

JUL 19 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

AFFIDAVIT OF PUBLICATION

I, Elizabeth Wax, 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:

July 17, 2006

Publication Charge: \$183.96

Subscribed and sworn to before me
This 17 day of July, 2006.

Notary Public

My Commission Expires:

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

FINAL AGENDA CITY OF FAYETTEVILLE ARKANSAS CITY COUNCIL MEETING JULY 18, 2006

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on July 18, 2006 at 6:00 PM 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 June 27, 2006 Special City Council meeting minutes and the July 6, 2006 City Council meeting minutes.
2. Planning Commissioner's Compensation: A resolution approving a Budget Adjustment in the amount of \$21,800.00 for Salaries and Wages expense related to the compensation of Planning Commissioners.

B. UNFINISHED BUSINESS:

1. Raze and Removal at 95 Cleburn Street: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas. This item was Tabled at the July 6, 2006 City Council Meeting to the July 18, 2006 City Council Meeting.

C. NEW BUSINESS:

1. Improvement District No. 16 - Wellspring: An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District No. 16 - Wellspring.
2. ANX 06-2129 McDonald: An ordinance annexing that property described in annexation petition ANX 06-2129 (CC2005-27, CC2006-7, and CC2006-8), for property located south of Huntsville Road (HWY 16), west of Roberts Road, containing approximately 14.21 acres.
3. ANX 06-2125 Dunnerstock/Foster: An ordinance annexing that property described in annexation petition ANX 06-2125 (CC2006-5), for property located at the north end of 59th Avenue, off Wedington Drive, containing approximately 60.20 acres.
4. RZN 06-2126 Dunnerstock/Foster: An ordinance rezoning that property described in rezoning petition RZN 06-2126, for approximately 60.20 acres, located north of Wedington Drive, at the end of 59th, for R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 units per acre.
5. VAC 06-2123 Launder: An ordinance approving VAC 06-2123 submitted by John Launder for property located at 1025 Company, vacating 0.06 acre portion of the utility easement located within the subject property.
6. VAC 06-2068 Bio-Based/City of Fayetteville: An ordinance approving VAC 06-2068 submitted by the City of Fayetteville for property located at 1475 Cato Springs Road, vacating unconstructed right-of-way within the subject property in association with an approved large scale development for Bio-Based.
7. Amend Chapter 34, Cost Share Exemptions: An ordinance amending Chapter 34, Article II of the Code of Fayetteville, to exempt Cost Share agreements for Infrastructure Improvements from the requirements of §34.23.
8. Duncan Associates Water and Sewer Impact Fees Phase 2: A resolution approving the first contract amendment with Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington, and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries; and approving a budget adjustment.
9. Brasfield & Gorrie, LLC: A resolution approving a construction contract with Brasfield & Gorrie, LLC in the amount of \$6,130,000.00 to construct the Hamestrung Sewer Lift Station, WL-8; approving a four percent (4%) contingency in the amount of \$245,000.00; and approving a budget adjustment in the amount of \$5,100,000.00.
10. Amend §168.05 of the UDO - Large Scale Development: An ordinance to amend §168.05 Large Scale Development of the Unified Development Code by adding Subsection (7) (e) to allow consideration of a Development's Economic Benefit.

D. INFORMATIONAL:
City Council Tour NONE

Aldermen

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

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville Arkansas
Special City Council
Meeting Minutes
June 27, 2006**

A Special Meeting of the Fayetteville City Council was held on June 27, 2006 at 6:00 PM in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

ABSENT: Alderman Reynolds, Marr and Rhoads

Pledge of Allegiance

New Business:

Compensation & Classification Phase II Contract Approval: A resolution approving a contract in the amount of \$38,608.00 with Management Advisory Group for consulting services for Phase II of the Compensation and Classification System Project; and approving a budget adjustment in the amount of \$38,608.00.

Michele Bechhold, Interim Human Resource Director: As you heard at Agenda Session, Phase I will be completed on June 30, 2006. All the job descriptions will be delivered to the City by the Johanson Group. Phase II of the project is going to include the consultant to facilitate with the City Council and senior management to develop a city wide compensation philosophy, to actually take all of those job descriptions and grade them utilizing the consultant's job evaluation methodology, conduct wage and benefit market surveys and provide implementation cost reports to the city as well as options on other implementations if necessary for financial reasons. The RFP was advertised on June 6, 2006 and closed on June 20, 2006, six proposals were received. The Selection Committee chose to interview three of those firms, Johanson Group, Management Advisory, and the Waters Consulting Group. The Selection Committee felt that all the proposals

were excellent proposals. The firms demonstrated a very good grasp of the city's scope of the project but in the end the Selection Committee chose to award the contract to Management Advisory Group. It was a unanimous decision. Some of the reasons that the committee held up for that choice included their extremely strong knowledge of municipal pay plans and the depth of the project team. We wanted to make sure that there were senior consultants on the project from beginning to end because we do have a tight time frame. Management Advisory Group met that criteria, all the project consultants are Senior Project Consultants. Also there is software that they will provide to us as part of the package price, it provides the ability for financial analysis, it is very flexible and is much more capable of utilizing different scenarios than other project software that we saw. The initial price that was submitted by Management Advisory Group was actually the low bid at \$32,343.00 as you will notice your agenda item is actually for \$38,608.00, we did that to include some additional onsite consulting. We wanted to have some employee orientation meetings at the beginning of the project to make sure that we are communicating through out the project to the employees, let them know what the project is about, what their role is and expectations, as well as provide onsite consulting. If there are any issues that arise then we need to have the consultant here to address those issues so that is an addition four and one half days to the contract.

Mayor Coody: Thank you. Any questions for Michele on this?

Alderman Lucas: This is a very tight time line because they are going to come back one week before we work on budgets right?

Michele Bechhold: Yes.

Alderman Lucas: Is it too tight a time line? Is there anything that will hold this up that you can think of that might make them not be able to hit that deadline?

Michele Bechhold: The project consultant, Management Advisory Group, understands the time frame and has committed to be able to deliver the project within that time frame. They did express that it means that each time they present the city with something we will need to make a decision and move forward. So it's just a partnership on each side, the city and the consulting firm to make sure we are considering everything and moving forward without any stumbles.

Gary Dumas, Director of Operations: One of the things that they stressed some of those decisions will be made by administration and some such as the compensation philosophy will involve the council. All of the decisions have to be made in a fairly timely manner so that the whole project can move forward very quickly. Just like with the Johanson Group there will be an update from the consultant at every Agenda Session.

Alderman Ferrell: Alderman Marr has put in a great deal of time on this. One of the things that he stressed was the unusual candor displayed by this team. I think you guys shared that these people meant what they said and they were going to do exactly what they said they were going to do.

Alderman Ferrell moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the motion passed 5-0. Alderman Reynolds, Marr, and Rhoads were absent.

Resolution 115-06 as Recorded in the Office of the City Clerk.

Alderman Ferrell: I know we have miles to go on this but I would just like to say Michele, Susan and everybody that's been involved on this has taken a lot of time and I thank you for the job you're doing.

Meeting Adjourned at 6:05 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

Aldermen

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

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council
Meeting Minutes
July 6, 2006**

A meeting of the Fayetteville City Council was held on July 6, 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, City Mayor Dan Coody, Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

CONSENT:

Approval of the June 20, 2006 City Council meeting minutes.

Approved

Park Land Dedication for Mountain Ranch Phase One: A resolution approving the Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and trail construction services valued at approximately \$63,547.50 in lieu of the required Park Land Dedication for Mountain Ranch Development Phase One.

Resolution 116-06 as Recorded in the Office of the City Clerk.

ADM 06-2152 Wellspring Ruppel MSP Amendment: A resolution to approve ADM 06-2152 amending the Master Street Plan, realigning Ruppel Road, a Principal Arterial, along the Wellspring PZD boundary north to Mount Comfort Road as described and depicted in the attached maps.

Resolution 117-06 as Recorded in the Office of the City Clerk.

State and Tribal Assistance Grant (STAG): A resolution authorizing the Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) from the U.S. Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as the City's authorized representative in all matters relating to the procurement and administration of said grant; and approving a budget adjustment recognizing \$477,900.00 in grant revenues.

Resolution 118-06 as Recorded in the Office of the City Clerk.

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

UNFINISHED BUSINESS:

Duncan Associates Water & Wastewater Impact Fee Update: A resolution accepting a proposal from Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. *This item was Tabled at the June 20, 2006 City Council Meeting to the July 6, 2006 City Council Meeting.*

Alderman Ferrell: Our maximum exposure is \$55,000 out of the \$110,000?

Gary Dumas: That is correct.

Alderman Cook: Tim had talked about talking to the other Mayors and he was going to give us an update on what the status was of the other cities as far as the contract was concerned.

Gary Dumas: I don't know what the status with Farmington is but Elkins did call today and they are supposed to be discussing it tonight.

Alderman Thiel: It was my understanding we were going to table this for another two weeks.

Mayor Coody: Not to my knowledge.

Gary Dumas: We have a maximum exposure; if the other communities do not sign the agreement then we will not do that work. It would be appropriate to go ahead and approve it with the stipulation that if we do not get signed agreements in from Elkins, Farmington and Greenland then we will not be responsible for it.

Alderman Ferrell moved to amend the resolution to read a not to exceed amount of \$55,000. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

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

Resolution 119-06 as Recorded in the Office of the City Clerk.

PUBLIC HEARINGS:

Raze and Removal at 95 Cleburn Street: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas.

Paul Mortenson, representing the owners: We would request this to be tabled to the next meeting as we will have everything resolved by next Wednesday. We have already applied for the permits but there has been some other issues with the easements and coordinating with utility department heads and that has all been resolved and it is my understanding through the owners that we should have everything set to go by next Wednesday.

Alderman Jordan moved to table the resolution to the July 18, 2006 City Council meeting. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent during the vote.

This resolution was tabled to the July 18, 2006 City Council meeting.

Raze and Removal at 107 East 7th Street: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by James L. Ledbetter and Suzette L. Maestri located at 107 East 7th Street in the City of Fayetteville, Arkansas.

Suzette Maestri, the owner of the property: I do not disagree that it does need to come down and it is in very poor shape. What I would request is time to do that. There are some things that are of value to me and I would like to request three months to remove them.

Yolanda Fields, Community Resources and Code Compliance Director: It would be 60 days before we begin work, we would notify you before we actually went out there so if it took an extra week or so we could still work with you.

Suzette Maestri: In that time I could pull out the things that I want to pull out but I can't pull everything out and have it down in 60 days. If I can have another 30 days to actually get it down I could have it down.

Mayor Coody: What we would like to do if it is okay with the City Council, we might go ahead and either approve this or table it for a couple of weeks. If Yolanda is willing to work with you on this and you could expedite what you need to do to where we can take care of this problem we would appreciate it.

Alderman Reynolds: I would like to put a time table on this, no more than 90 days.

Mayor Coody: If we were to approve this raze and removal with the stipulation that you take 90 days.

Alderman Lucas: It would be down.

Yolanda Fields: That would give us the flexibility if there were an issue then we could move in immediately without having to come back to Council.

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

Resolution 120-06 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Davis Business Planning: An ordinance to waive competitive bidding procedures and approve a contract with Davis Business Planning in the amount of \$60,100.00; and a budget adjustment of \$45,100.00.

Mayor Coody: I would like to visit with Mr. Davis about rewording Task Order #2 just to do it on an as needed basis. How procedurally can we move forward with this?

Kit Williams: The City Council can approve this contract. You are the sole person that has the power for the City to sign contracts so that you would be able to sign what you are in agreement with. As long as you don't exceed the authority the City Council has given you, you can sign another one as long as it is not greater than what is awarded. Other than that I don't know how we would change this ordinance because this ordinance speaks of the total amount and not the three different tasks.

Mayor Coody: Steve, you will be able to work with us on this to where we can get what we need and we can still do it on an as needed basis.

Steve Davis with Davis Business Planning: The blanket contract that authorizes the city to contract for services with me doesn't really have any money attached to it. It's the individual task orders that have the money attached to it. The task order that I am most concerned about is the one that is for the District Court software. It's the one on the shortest time frame. If that is Task Order #1 then yes I am fine with it and yes I will work with the City on Task Order #2 if it's the water and sewer rate work.

Kit Williams: What I might suggest that in the title and in the body instead of saying that you approve a contract in the amount of \$60,100.00, you place not to exceed \$60,100.00 to make it clear that it will probably be less than that.

Alderman Cook moved to amend the ordinance to read a not to exceed amount of \$60,100.00. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Lucas: It talks about travel and food, is that going to be above the \$60,100.00 and what kind of travel is involved in the court software.

Kit Williams: I can tell you it will not be above that, this is a contract not to exceed \$60,100.00 so it will not exceed that amount.

Alderman Jordan 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 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 unanimously.

Ordinance 4893 as Recorded in the Office of the City Clerk.

ANX 06-2020 Hays: An ordinance annexing that property described in annexation petition ANX 06-2020 (CC2006-2) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 7.5 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate passed out a color map and gave a brief description of the item.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas: This is a piece of property these people have been working on and they worked to get this other piece so that there wouldn't be an island. It is right in line with the rest of the property and it's surrounded by the city.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Cook voting no.

Ordinance 4894 as Recorded in the Office of the City Clerk.

RZN 06-2021 Hays: An ordinance rezoning that property described in rezoning petition RZN 06-2021, for approximately 7.5 acres, located east of Double Springs Road, north of Dot Tipton Road, from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4895 as Recorded in the Office of the City Clerk.

ANX 06-2127 Williams: An ordinance annexing that property described in annexation petition ANX 06-2127 (CC2006-10) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 1.0 acres.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman 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 7-1. Alderman Cook voting no.

Ordinance 4896 as Recorded in the Office of the City Clerk.

Bossler Contracting, Inc. Contract – Fire Station # 5: A resolution approving a construction contract with Bossler Contracting, Inc. in the amount of \$1,466,000.00 for construction of Fire Station # 5; and approving a project contingency in the amount of \$117,280.00.

Alderman Ferrell: We are glad to have it in Ward 3.

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

Resolution 121-06 as Recorded in the Office of the City Clerk.

LSD 06-1997 Divinity Hotel Planning Commission's Appeal: An appeal of the Planning Commission's decision regarding the denial of a large scale development for the Divinity Hotel on Dickson Street as submitted by The Barber Group.

Jeremy Pate: As the City Council is aware the Planning Commission denied a LSD of the Divinity Hotel and Condos on June 26th with a vote of 5-4. Subject to our Unified Development Code the applicant and property owners were allowed to appeal that decision and has done so to the City Council for consideration tonight. Staff did recommend approval of the LSD subject to the conditions as noted in the staff report.

Jeremy went on to give a description of the item. He stated in our opinion we are being consistent in our recommendation with regard to mass and requiring developers to reduce the scale and mass to be more compatible and more transitional on Dickson Street. He pointed out the six components of project denial listed within the Unified Development Code.

Mayor Coody: Jeremy, did you want to visit with us about what can be considered here as far as the economics go, I wanted to hear your opinion on that.

Jeremy Pate: As stated in the City Attorney's memo it is my opinion that the economic considerations while they can be discussed should not be a basis for a Planning Commission or City Council decision of a LSD. Our Unified Development Code does not provide criteria that states that an economic analysis should be made for each and every project.

Alderman Thiel: The City Attorney sent us a memo that I would like for him to discuss briefly about the economic vitality.

Kit Williams: As I stated in my first memo to you, Aldermen may express purposes of the commercial design and development standard section when discussing the compatibility and transition issues. However I do agree with Jeremy, the decision needs to be made primarily on is it compatible and does it provide a transition, those are the factors that you should consider. I did send a quote case to you from the Supreme Court that says that you don't have to have zoning regulations but once you have them you must follow them until you appeal them or amend them. I will point out that Jeremy is officially charged in the Unified Development Code as the administrator and interpreter of this chapter so I would defer to his interpretation that you need to stick to the issues of compatibility and transition which was the argument before the Planning Commission.

Paula Melody, a citizen, spoke about the project and did not voice whether or not she was in favor or against the project.

Jeff Williams, a citizen, spoke in favor of the project and felt that it would be good for the future of Fayetteville.

Ryan Oyoungian, a citizen, spoke on the compatibility of the project and stated that this building was important to Dickson Street and the future of Fayetteville. He stated that he was in favor of this project.

Jeff Cumming, a citizen, spoke in favor of the project and stated that there is no doubt that this hotel is compatible.

Cyrus Young a citizen spoke against the project and stated that it was not compatible with its surroundings.

Dot Neely, a citizen, stated that we are not being progressive in how we develop. She provided the City Council with a petition with 597 signatures requesting the City Council to deny approval of the project.

Allyson Twiggs, Director of the Fayetteville Convention and Visitors Bureau, stated that they needed more hotel rooms in the downtown area and she went on to speak in favor of the project.

Kinley Johnson, a citizen, stated that he supported the project 100% and he encouraged the City Council to vote in favor of the project.

Howard Hamilton, a citizen and Fayetteville School Board member, briefly discussed how important this project is to the schools. He requested that the City Council approve the project.

Cathy Foraker, Fayetteville Chamber of Commerce Board President, stated that the board's resolution in support of this project had unanimous support.

Scott Bowman, a business owner, spoke in favor of the project and stated that he supported it.

Ken Stout, a citizen, spoke against the project and stated that the project was attractive but inappropriate.

Nate Allen, a citizen, stated the Planning Commission was correct and this project is incompatible for the area for Dickson Street. I do not think it is going to benefit our city.

Jim Hatfield, a citizen, spoke in favor of the project and stated that he did not see any reason to not vote for this project.

Bill Ramsey with the Chamber of Commerce spoke in favor of the project and stated that the City Council's decision will affect the future of Fayetteville.

Lane Davis, a citizen, spoke in favor of the project and stated that this was an incredible opportunity for Fayetteville.

Dallas Breed, the owner of an audio visual rental production company in Fayetteville, voiced his support for the project.

Valerie Williams, a citizen, spoke in favor of the project and asked the City Council to vote yes to the project.

Michael Del Pozzo, a citizen, spoke in favor of the project and encouraged the City Council to vote for the project.

Sara Leshner, a business owner, stated that the project was compatible with the vision for Dickson Street and Downtown.

Joanne Koamme, a citizen, passed out information to the City Council and asked that the Barber Group keep the project in line with everything around it and to not make the project so massive and out of place.

Matthew Griffith, a citizen, spoke in favor of the project.

Hank Broyles, a citizen, spoke in favor of the project.

Edward Hejtmanic, a citizen, spoke against the project and asked the City Council to vote against it.

Sharon Davison, a citizen, spoke against the project.

Eric Lloy, a citizen, spoke in favor of the project.

Chaim Goodman Strauss, a citizen, spoke on the project and did not state whether or not he was in favor or against the project.

Lynn Scott, a citizen, spoke against the project and stated that she would like to see the small town height building maintained in the City of Fayetteville.

Rebecca LaTonnnette, a citizen, spoke in favor of the project and stated that there was a need for a nice hotel in that area.

Dr. Viva Pesarre, a citizen, spoke in favor of the project and stated that a hotel on Dickson Street is a great idea.

Helena Gadison, a resident of Springdale, spoke in favor of the project and she stated that she hoped there would be no negative force that would prevent change from happening in Fayetteville.

Fran Alexander, a citizen, spoke against the project and stated that we need to respect the laws that are in the books.

Jordan Garner, a citizen, spoke in favor of the project and stated that to have a successful community we need to take these kinds of risks.

Dave Westendorf, a citizen, spoke against the project being placed on Dickson Street and suggested that it be placed somewhere else in Fayetteville.

Ramsey Ball, a citizen, spoke in favor of the project and stated that Dickson Street was the perfect place for this type of project.

Victoria Sowder, a citizen, spoke in favor of the property and she encouraged the City Council to seize this opportunity and build a new landmark.

Steve Rust, a citizen, spoke in favor of the project and stated that this project is in the right place.

Jesse Barr, a Winslow resident, spoke on the project and did not state whether he was for or against the project.

Nancy Allen, a citizen, stated that she could not find a way that one can justify that the Divinity Project is transitional or compatible. She stated that it would be a detriment to the character of our city in this location however it is compatible in other areas in Fayetteville. She asked the City Council to turn the project down.

Louis Martinez, a citizen, spoke in favor of the project and stated that he wholeheartedly supported it.

Bruce Walker, a citizen, spoke in favor of the project but stated he would like to see the building shrink a little bit in size.

J. B. Hays, a citizen, spoke in favor of the project and stated we need to look at the developers rights too.

Scott Lunsford, a citizen, spoke against the project and stated that the City should buy the property back and put green space there and build a pavilion and make it a gathering place for Fayetteville.

Troy Sloan, a citizen, spoke in favor of the project and encouraged the City Council to vote in favor of it.

Marion Kunettco, a citizen, spoke against the project and stated that the hotel was much too large for the property.

Brandon Barber, Chairman and CEO of Barber Group and the Developer of the Divinity Project: I have spent several hours on Dickson Street, more than I want to admit and I still go there often because it's a rare creation of a place that combines entertainment and night life with culture and a relaxed attitude with no place to stay. I respect how sensitive and protective the citizens of Fayetteville are toward this street. We want to keep Fayetteville funky, eclectic, diverse, charming and unique. The greatest attribute of this building is the way it would enhance the value of that ownership and the way in which it will make Dickson Street more valuable to all of us.

He went on to point out the benefits of this project such as money for the schools, the creation of new jobs, and HMR tax revenue. He stated we have been asked to appeal to you tonight in the spirit of two subjective words: compatibility and transition. If an 18 story is compatible with one to two story buildings a few blocks away then how can a nine story building not be compatible? I ask that you follow the ordinance and that you heed the advice of your Zoning and Development Administrator who has confirmed and recommended that Divinity is not only compatible to it's surroundings, but it also transitions on all sides of the buildings.

He went on to describe the changes that they have made to this project at Planning's request throughout this process in order to gain staff approval. He described the layout of the hotel and what it had to offer. He stated I am hopeful that you will make the right decision not only for the future of Dickson Street but also for the future of Fayetteville.

Eddie Abyta with HES Architects: My role tonight is to give you our vision of how the Divinity project fits into Dickson Street and the context that surrounds it from transition and compatibility points of view as they relate to scale, building character and building use.

We are not here to propose a building that would be changing the character and the spirit of this place. We are here to propose a building that would add to the character, eclectic qualities and pedestrian experience of this place and to add to the spirit of Dickson Street and Fayetteville as a whole. This is a remarkable site in how it interacts with such a remarkable place. It's unfortunate that it hasn't really contributed to the life of Dickson Street. Today if you look at it, it's a parking lot that abuts the sidewalk that runs along Dickson Street. We have a great opportunity to change that and bring something that's really a part of this overall character.

He went on to give a slide presentation which addressed four topics: The issue of scale in relation to Dickson and it's surrounding context, the building scale in relation to the pedestrians, the functions of the building itself and how they have organized those functions to interface with Dickson in a positive manner, and the architectural response to the design guidelines which have been formulated as part of the development code.

He stated we have tried to be very responsible from a design point of view although there is a lot of controversy about that with regards to designing within the spirit of the urban design guidelines. Yes, we have presented four elevations every time we have come in front of the Planning Commission and in front of you, the comment that we have never shown the south and east elevation is incorrect. There is a lot of interpretation of what the standards are and how you can be creative and use what they are trying to guide you to.

Tom Hennelly with H-2 Engineering stated I just want to take a second to cover some of the other concerns that the Planning Commission had with the layout. One of them was the traffic issue particularly as it pertains to Block Street and the drop off area for the hotel. We have provided a drop off zone area for 14 vehicles to stack in there. The issue was brought up about 15 feet of fall that occurs across the Dickson Street elevation and what that does to the height of the building. The actual height of the building remains the same. Less than 2% of the square footage is above 8 stories; a very small portion of this building is at the 9th story, at the highest point. I just wanted to clarify some of the other concerns that the Planning Commission had.

Alderman Ferrell: Some of my thoughts have been covered but I want to go through them. This project has been approved by the City Planning staff as meeting the Unified Development Code, Jeremy and his staff are very thorough as they always have been. The city has spent hundreds of thousands of dollars to hire consultants on planning that have said infill and go vertical. I believe citizens spoke loud and clear when they were there. This project and its developers have been very flexible and tenacious to try and reach common ground on this contract. This building will be a destination. I think people will come to this building and I think they will also go up and down Dickson Street and the square and other places.

Alderman Ferrell moved to approve the appeal and the resolution. Alderman Reynolds seconded the motion.

City Attorney Kit Williams read the resolution.

Kit Williams: By listing the ones that were physically approved does not mean that all the conditions of approval will be granted. The reason we had to do that is because the Planning Commission didn't approve anything and so if this body chooses to approve this we need to have all those conditions of approval stated. I should note this resolution requires five affirmative votes to pass. If it receives less than that then the appeal will not be granted so that is the issue before the City Council.

Alderman Cook: Everyone of us up here will make this decision and we will base it on what we think is right and we all have different opinions on what we think is right on this project. For anyone out there to say that to vote for or against is stupid, uninformed or wrong to me that is wrong. I think we all are well informed on this topic especially after the months of debate we've had. Frankly it's a diversity of those opinions that makes Fayetteville what it is. Downtown Dickson to me is the historic core of our city and to me I think that should be preserved. I don't have anything against this building itself. I think it could be built anywhere in town and frankly it could be built in other areas of downtown and it would be compatible with the surrounding properties. This city has supported many projects in the downtown area that aren't low slung and urban sprawl as some people have suggested as some people are promoting if we vote against it. I appreciate staff's work on this. I don't have any problems with their final recommendation in fact I am encouraged that they worked so hard with the developers to try to come up with a solution. I do think that we should weigh the decision made by the Planning Commission heavily because they certainly represent the people of this city as well as we do. Economic development is not just a hotel or condominium project, there are many aspects of economic development and just whether we approve or disapprove this project doesn't mean we are against economic development in the city.

Alderman Reynolds: Since 1966 I've been at Dickson and West Street in business one way or the other and I've watched a lot of businesses come and go in the last five years even as recent as last year. I can't wait until both of these hotels are built to get more walking traffic in the Dickson Street and downtown area to give our merchants a shot in the arm so we can see them try and make it and be successful. That is the reason I am going to support it, for the walking traffic.

Alderman Rhoads: I don't disagree with Kit Williams in regard to the fact that we can't talk about economics and so I will truly not consider that. Although I think that the law defies logic and will see to it that, as a matter of fact I have already signed something a few minutes ago that will get that changed if we can vote for that at our next meeting or the meeting after that. I am very appreciative of the debate and the work that staff has done and the attitude of the developers as well as the opponents. This has been a very good Fayetteville debate. We are at a stage where we need to be agents of change. Diversity is one of the keystones of Fayetteville. The fact that this building looks a little bit different and the fact that the architect is from Dallas and makes it look a little bit different is not a bad thing. I think it's a good thing and I see Fayetteville as sort of a hot bed of architecture. I know this building could be built elsewhere in Fayetteville but right now it is before us on Dickson Street and that's the opportunity that we have. We have the ability to once again enhance Dickson Street, enhance one of our crown

jewels, link the street to the square and give us the opportunity to have walkability, fewer parking lots, and I think it's a great opportunity. This is far more beneficial to the City of Fayetteville and to Dickson Street and the downtown area and I believe that there is opportunity to create specific book ends that will add to the process and more growth and progress and Dickson Street will still be funky but it will be different and better. I would encourage my fellow Council members to vote for it.

Alderman Lucas: I have been a strong supporter of Dickson Street. Its changes and improvements I was all for. I have lived here a long time and I've seen what Dickson Street was when I was a child. I like the fact that Dickson Street is thriving. I think it is very important to the City of Fayetteville. I'm not afraid of change or development but I think it needs to come in the right area. I appreciate what all of you have said. I think we have to go by the laws that we have and the ordinances that we have. I want to mention traffic. I know that the traffic study says everything is okay but we are looking at an intersection, the configuration of which is already a problem. This project will cause us to remove islands that we have on Dickson Street to slow the traffic down. We are giving curb waivers on this project which also concerns me. It seems to me this building is out of portion to the narrow streets that are on three sides. We are possibly going to create a safety hazard there with the traffic. As far as compatibility and transition to bordering neighbors I think we should consider the height, form and scale. We should not overwhelm existing city structures. We have homes off Dickson Street and they are important to Fayetteville also. I don't think we should forget that and this does not seem compatible with that area. There are separate entrances and so we are creating a gated community and we have an ordinance against gated communities. This is not consistent with the vision the citizens have. I can certainly understand the economics of this project. We can grow Fayetteville and still maintain its historic beauty and charm. This is not compatible with the area or the people's vision so I can not support it.

Alderman Jordan: This is a tough situation because I think this is a very good project and a very nice looking building. I appreciate the work the staff and Planning Commission has done on this project. I had more contacts against this project than for the project. I believe the Dover Kohl recommendation was no building over six stories high in the downtown area. I supported that ordinance and I still support that. I have concerns about the traffic issue. Our Planning Commission voted against this project and I do support the Planning Commission. I feel the downtown area is the hub of this city and I feel like Dickson Street is the hub of the downtown area. I fear if we change the character of Dickson Street that possibly we change the character of this city. I think this is a very nice project but does it fit and I don't think it does. I think it is the wrong building, at the wrong place, at the wrong time and I can not support it.

Alderman Thiel: There have been some excellent points made by the public and by members of the City Council. Everyone has given a lot of thought to this. I really respect the strong feelings the public has about this. Ward I residents seem to be pretty much split. Opponents of this project are concerned that it is not compatible with the neighboring structures. No building is going to be compatible in an older setting like this. The Walton Arts Center was not compatible with the way that Dickson looked when it was built. The Blair Library is not compatible and is certainly out of scale with the small cottage homes that surround it. I think we have accepted other contemporary projects. I think the architect in Fayetteville is eclectic. I am concerned about the vitality and viability of Dickson Street and the downtown area. This city and community has made a major financial investment in that area. Moving this building elsewhere would not help the walk ability that we are seeking. I had someone email me that they would

like to keep Fayetteville a small city with views of hills, trees, walking and biking trails, that all comes at a cost which will not continue if we stagnate. I think this is a good project and I regret not supporting a lot of people that I respect.

Alderman Marr: This is probably the most difficult decision that I have had put in front of me. It is not difficult for me personally, it is difficult when I listen to really good friends and when I see people I work with in the business community speaking and people that I know absolutely love our town. There are things that make me not want to support something, I am not a person that responds well to everything is going north. I want to be unique and the people that I talk to in my Ward that do not want this project worry about losing the diverse Fayetteville. Every time that we talk about development in this kind of scale in this area I think people worry about are we going to become any town USA. I was on the Planning Commission when the Three Sisters Building was approved and people speaking against that building and the height of that building and yet today it is used as kind of the size that we like. I also remember the fight about the Walton Arts Center and that it was going to destroy Fayetteville. I don't think it has done that. I went to a lot of Downtown Master Plan meetings and I struggle with how you say that you do not want urban sprawl and how do you not want to do those things and not put things down here that drive that density. I think a lot of people in my Ward will die if I vote for this, most of the time we are all on the same side. I don't think that the viability of Dickson Street is dependent on one building, if it is we have a big problem. I do not think this is incompatible. There are some things I think are okay to change and I don't think they are going to destroy the town. I hear your arguments, I think what is so tough is that I am so close to people on this Council that have spoken against this project. I can not get in my head that I am going to go to citizens and ask them to vote for trails, roads and sewer and I am going to turn down a \$70 million investment in our city. I also can not reconcile that the town is going to fall a part with this development. We have to create an environment that welcomes everybody. I feel like this is going to be okay. My biggest fear if we decide to support an item like this is the next person that stands in front of me pointing to the precedence of you did this. How I would deal with that is what are we doing to make sure we do not have an entire street of this, I think the ordinance of height is one, I think our market is not going to allow every six story building to be built, I think there are things we can do with inclusionary housing in downtown, I think there are things that can be done to make sure that we have what we want. That is why I am leaning to support this.

Mayor Coody: The fabric of this community is very strong, stronger than any one building. I appreciate everyone's involvement and I appreciate the City Council's time and effort on this and the staff as well.

Upon roll call the motion passed 5-3. Alderman Rhoads, Ferrell, Reynolds, Thiel and Marr voting yes. Alderman Lucas, Jordan and Cook voting no.

Resolution 122-06 as Recorded in the Office of the City Clerk

Meeting Adjourned at 10:20 PM

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
July 18, 2006**

A meeting of the Fayetteville City Council will be held on July 18, 2006 at 6:00 PM 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 June 27, 2006 Special City Council meeting minutes and the July 6, 2006 City Council meeting minutes.**
- 2. Planning Commissioner's Compensation:** A resolution approving a Budget Adjustment in the amount of \$21,800.00 for Salaries and Wages expense related to the compensation of Planning Commissioners.

B. UNFINISHED BUSINESS:

- 1. Raze and Removal at 95 Cleburn Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas. *This item was Tabled at the July 6, 2006 City Council Meeting to the July 18, 2006 City Council Meeting.*

C. NEW BUSINESS:

- 1. Improvement District No. 16 – Wellspring:** An ordinance to Establish and Lay Off Fayetteville Municipal Property Owners' Improvement District No. 16 – Wellspring.

2. **ANX 06-2129 McDonald:** An ordinance annexing that property described in annexation petition ANX 06-2129 (CC2005-27, CC2006-7, and CC2006-8), for property located south of Huntsville Road (HWY 16), west of Roberts Road, containing approximately 14.21 acres.
3. **ANX 06-2125 Dunnerstock/Foster:** An ordinance annexing that property described in annexation petition ANX 06-2125 (CC2006-5), for property located at the north end of 59th Avenue, off Wedington Drive, containing approximately 60.20 acres.
4. **RZN 06-2126 Dunnerstock/Foster:** An ordinance rezoning that property described in rezoning petition RZN 06-2126, for approximately 60.20 acres, located north of Wedington Drive, at the end of 59th, for R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 units per acre.
5. **VAC 06-2123 Launder:** An ordinance approving VAC 06-2123 submitted by John Launder for property located at 1025 Company, vacating 0.06 acre portion of the utility easement located within the subject property.
6. **VAC 06-2068 Bio-Based/City of Fayetteville:** An ordinance approving VAC 06-2068 submitted by the City of Fayetteville for property located at 1475 Cato Springs Road, vacating un-constructed right-of-way within the subject property in association with an approved large scale development for Bio-Based.
7. **Amend Chapter 34, Cost Share Exemptions:** An ordinance amending Chapter 34, Article II of the Code of Fayetteville, to exempt Cost Share agreements for Infrastructure Improvements from the requirements of §34.23.
8. **Duncan Associates Water and Sewer Impact Fees Phase 2:** A resolution approving the first contract amendment with Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington, and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries; and approving a budget adjustment.
9. **Brasfield & Gorrie, LLC:** A resolution approving a construction contract with Brasfield & Gorrie, LLC in the amount of \$6,130,000.00 to construct the Hamstring Sewer Lift Station, WL-6; approving a four percent (4%) contingency in the amount of \$245,000.00; and approving a budget adjustment in the amount of \$5,100,000.00.
10. **Amend §166.05 of the UDO - Large Scale Development:** An ordinance to amend §166.05 Large Scale Development of the Unified Development Code by adding Subsection (7) (e) to allow consideration of a Development's Economic Benefit.

D. INFORMATIONAL:

City Council Tour: NONE

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
City Council
Meeting Minutes
July 6, 2006**

A meeting of the Fayetteville City Council was held on July 6, 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, City Mayor Dan Coody, Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

CONSENT:

Approval of the June 20, 2006 City Council meeting minutes.

Approved

Park Land Dedication for Mountain Ranch Phase One: A resolution approving the Parks and Recreation Advisory Board's recommendation to accept approximately .78 acres and trail construction services valued at approximately \$63,547.50 in lieu of the required Park Land Dedication for Mountain Ranch Development Phase One.

Resolution 116-06 as Recorded in the Office of the City Clerk.

ADM 06-2152 Wellspring Ruppel MSP Amendment: A resolution to approve ADM 06-2152 amending the Master Street Plan, realigning Ruppel Road, a Principal Arterial, along the Wellspring PZD boundary north to Mount Comfort Road as described and depicted in the attached maps.

Resolution 117-06 as Recorded in the Office of the City Clerk.

State and Tribal Assistance Grant (STAG): A resolution authorizing the Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) from the U.S. Environmental Protection Agency for sanitary sewer system improvements; designating the Mayor as the City's authorized representative in all matters relating to the procurement and administration of said grant; and approving a budget adjustment recognizing \$477,900.00 in grant revenues.

Resolution 118-06 as Recorded in the Office of the City Clerk.

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

UNFINISHED BUSINESS:

Duncan Associates Water & Wastewater Impact Fee Update: A resolution accepting a proposal from Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. *This item was Tabled at the June 20, 2006 City Council Meeting to the July 6, 2006 City Council Meeting.*

Alderman Ferrell: Our maximum exposure is \$55,000 out of the \$110,000?

Gary Dumas: That is correct.

Alderman Cook: Tim had talked about talking to the other Mayors and he was going to give us an update on what the status was of the other cities as far as the contract was concerned.

Gary Dumas: I don't know what the status with Farmington is but Elkins did call today and they are supposed to be discussing it tonight.

Alderman Thiel: It was my understanding we were going to table this for another two weeks.

Mayor Coody: Not to my knowledge.

Gary Dumas: We have a maximum exposure; if the other communities do not sign the agreement then we will not do that work. It would be appropriate to go ahead and approve it with the stipulation that if we do not get signed agreements in from Elkins, Farmington and Greenland then we will not be responsible for it.

Alderman Ferrell moved to amend the resolution to read a not to exceed amount of \$55,000. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

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

Resolution 119-06 as Recorded in the Office of the City Clerk.

PUBLIC HEARINGS:

Raze and Removal at 95 Cleburn Street: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Beacon Flats, LLC located at 95 Cleburn Street in the City of Fayetteville, Arkansas.

Paul Mortenson, representing the owners: We would request this to be tabled to the next meeting as we will have everything resolved by next Wednesday. We have already applied for the permits but there has been some other issues with the easements and coordinating with utility department heads and that has all been resolved and it is my understanding through the owners that we should have everything set to go by next Wednesday.

Alderman Jordan moved to table the resolution to the July 18, 2006 City Council meeting. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent during the vote.

This resolution was tabled to the July 18, 2006 City Council meeting.

Raze and Removal at 107 East 7th Street: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by James L. Ledbetter and Suzette L. Maestri located at 107 East 7th Street in the City of Fayetteville, Arkansas.

Suzette Maestri, the owner of the property: I do not disagree that it does need to come down and it is in very poor shape. What I would request is time to do that. There are some things that are of value to me and I would like to request three months to remove them.

Yolanda Fields, Community Resources and Code Compliance Director: It would be 60 days before we begin work, we would notify you before we actually went out there so if it took an extra week or so we could still work with you.

Suzette Maestri: In that time I could pull out the things that I want to pull out but I can't pull everything out and have it down in 60 days. If I can have another 30 days to actually get it down I could have it down.

Mayor Coody: What we would like to do if it is okay with the City Council, we might go ahead and either approve this or table it for a couple of weeks. If Yolanda is willing to work with you on this and you could expedite what you need to do to where we can take care of this problem we would appreciate it.

Alderman Reynolds: I would like to put a time table on this, no more than 90 days.

Mayor Coody: If we were to approve this raze and removal with the stipulation that you take 90 days.

Alderman Lucas: It would be down.

Yolanda Fields: That would give us the flexibility if there were an issue then we could move in immediately without having to come back to Council.

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

Resolution 120-06 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Davis Business Planning: An ordinance to waive competitive bidding procedures and approve a contract with Davis Business Planning in the amount of \$60,100.00; and a budget adjustment of \$45,100.00.

Mayor Coody: I would like to visit with Mr. Davis about rewording Task Order #2 just to do it on an as needed basis. How procedurally can we move forward with this?

Kit Williams: The City Council can approve this contract. You are the sole person that has the power for the City to sign contracts so that you would be able to sign what you are in agreement with. As long as you don't exceed the authority the City Council has given you, you can sign another one as long as it is not greater than what is awarded. Other than that I don't know how we would change this ordinance because this ordinance speaks of the total amount and not the three different tasks.

Mayor Coody: Steve, you will be able to work with us on this to where we can get what we need and we can still do it on an as needed basis.

Steve Davis with Davis Business Planning: The blanket contract that authorizes the city to contract for services with me doesn't really have any money attached to it. It's the individual task orders that have the money attached to it. The task order that I am most concerned about is the one that is for the District Court software. It's the one on the shortest time frame. If that is Task Order #1 then yes I am fine with it and yes I will work with the City on Task Order #2 if it's the water and sewer rate work.

Kit Williams: What I might suggest that in the title and in the body instead of saying that you approve a contract in the amount of \$60,100.00, you place not to exceed \$60,100.00 to make it clear that it will probably be less than that.

Alderman Cook moved to amend the ordinance to read a not to exceed amount of \$60,100.00. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Lucas: It talks about travel and food, is that going to be above the \$60,100.00 and what kind of travel is involved in the court software.

Kit Williams: I can tell you it will not be above that, this is a contract not to exceed \$60,100.00 so it will not exceed that amount.

Alderman Jordan 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 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 unanimously.

Ordinance 4893 as Recorded in the Office of the City Clerk.

ANX 06-2020 Hays: An ordinance annexing that property described in annexation petition ANX 06-2020 (CC2006-2) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 7.5 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate passed out a color map and gave a brief description of the item.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas: This is a piece of property these people have been working on and they worked to get this other piece so that there wouldn't be an island. It is right in line with the rest of the property and it's surrounded by the city.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Cook voting no.

Ordinance 4894 as Recorded in the Office of the City Clerk.

RZN 06-2021 Hays: An ordinance rezoning that property described in rezoning petition RZN 06-2021, for approximately 7.5 acres, located east of Double Springs Road, north of Dot Tipton Road, from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4895 as Recorded in the Office of the City Clerk.

ANX 06-2127 Williams: An ordinance annexing that property described in annexation petition ANX 06-2127 (CC2006-10) for property located east of Double Springs Road, north of Dot Tipton Road, containing approximately 1.0 acres.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman 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 7-1. Alderman Cook voting no.

Ordinance 4896 as Recorded in the Office of the City Clerk.

Bossler Contracting, Inc. Contract – Fire Station # 5: A resolution approving a construction contract with Bossler Contracting, Inc. in the amount of \$1,466,000.00 for construction of Fire Station # 5; and approving a project contingency in the amount of \$117,280.00.

Alderman Ferrell: We are glad to have it in Ward 3.

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

Resolution 121-06 as Recorded in the Office of the City Clerk.

LSD 06-1997 Divinity Hotel Planning Commission's Appeal: An appeal of the Planning Commission's decision regarding the denial of a large scale development for the Divinity Hotel on Dickson Street as submitted by The Barber Group.

Jeremy Pate: As the City Council is aware the Planning Commission denied a LSD of the Divinity Hotel and Condos on June 26th with a vote of 5-4. Subject to our Unified Development Code the applicant and property owners were allowed to appeal that decision and has done so to the City Council for consideration tonight. Staff did recommend approval of the LSD subject to the conditions as noted in the staff report.

Jeremy went on to give a description of the item. He stated in our opinion we are being consistent in our recommendation with regard to mass and requiring developers to reduce the scale and mass to be more compatible and more transitional on Dickson Street. He pointed out the six components of project denial listed within the Unified Development Code.

Mayor Coody: Jeremy, did you want to visit with us about what can be considered here as far as the economics go, I wanted to hear your opinion on that.

Jeremy Pate: As stated in the City Attorney's memo it is my opinion that the economic considerations while they can be discussed should not be a basis for a Planning Commission or City Council decision of a LSD. Our Unified Development Code does not provide criteria that states that an economic analysis should be made for each and every project.

Alderman Thiel: The City Attorney sent us a memo that I would like for him to discuss briefly about the economic vitality.

Kit Williams: As I stated in my first memo to you, Aldermen may express purposes of the commercial design and development standard section when discussing the compatibility and transition issues. However I do agree with Jeremy, the decision needs to be made primarily on is it compatible and does it provide a transition, those are the factors that you should consider. I did send a quote case to you from the Supreme Court that says that you don't have to have zoning regulations but once you have them you must follow them until you appeal them or amend them. I will point out that Jeremy is officially charged in the Unified Development Code as the administrator and interpreter of this chapter so I would defer to his interpretation that you need to stick to the issues of compatibility and transition which was the argument before the Planning Commission.

Paula Melody, a citizen, spoke about the project and did not voice whether or not she was in favor or against the project.

Jeff Williams, a citizen, spoke in favor of the project and felt that it would be good for the future of Fayetteville.

Ryan Oyoungian, a citizen, spoke on the compatibility of the project and stated that this building was important to Dickson Street and the future of Fayetteville. He stated that he was in favor of this project.

Jeff Cumming, a citizen, spoke in favor of the project and stated that there is no doubt that this hotel is compatible.

Cyrus Young a citizen spoke against the project and stated that it was not compatible with its surroundings.

Dot Neely, a citizen, stated that we are not being progressive in how we develop. She provided the City Council with a petition with 597 signatures requesting the City Council to deny approval of the project.

Allyson Twiggs, Director of the Fayetteville Convention and Visitors Bureau, stated that they needed more hotel rooms in the downtown area and she went on to speak in favor of the project.

Kinley Johnson, a citizen, stated that he supported the project 100% and he encouraged the City Council to vote in favor of the project.

Howard Hamilton, a citizen and Fayetteville School Board member, briefly discussed how important this project is to the schools. He requested that the City Council approve the project.

Cathy Foraker, Fayetteville Chamber of Commerce Board President, stated that the board's resolution in support of this project had unanimous support.

Scott Bowman, a business owner, spoke in favor of the project and stated that he supported it.

Ken Stout, a citizen, spoke against the project and stated that the project was attractive but inappropriate.

Nate Allen, a citizen, stated the Planning Commission was correct and this project is incompatible for the area for Dickson Street. I do not think it is going to benefit our city.

Jim Hatfield, a citizen, spoke in favor of the project and stated that he did not see any reason to not vote for this project.

Bill Ramsey with the Chamber of Commerce spoke in favor of the project and stated that the City Council's decision will affect the future of Fayetteville.

Lane Davis, a citizen, spoke in favor of the project and stated that this was an incredible opportunity for Fayetteville.

Dallas Breed, the owner of an audio visual rental production company in Fayetteville, voiced his support for the project.

Valerie Williams, a citizen, spoke in favor of the project and asked the City Council to vote yes to the project.

Michael Del Pozzo, a citizen, spoke in favor of the project and encouraged the City Council to vote for the project.

Sara Leshner, a business owner, stated that the project was compatible with the vision for Dickson Street and Downtown.

Joanne Koamme, a citizen, passed out information to the City Council and asked that the Barber Group keep the project in line with everything around it and to not make the project so massive and out of place.

Matthew Griffith, a citizen, spoke in favor of the project.

Hank Broyles, a citizen, spoke in favor of the project.

Edward Hejtmanic, a citizen, spoke against the project and asked the City Council to vote against it.

Sharon Davison, a citizen, spoke against the project.

Eric Lloy, a citizen, spoke in favor of the project.

Chaim Goodman Strauss, a citizen, spoke on the project and did not state whether or not he was in favor or against the project.

Lynn Scott, a citizen, spoke against the project and stated that she would like to see the small town height building maintained in the City of Fayetteville.

Rebecca LaTonnelle, a citizen, spoke in favor of the project and stated that there was a need for a nice hotel in that area.

Dr. Viva Pesarre, a citizen, spoke in favor of the project and stated that a hotel on Dickson Street is a great idea.

Helena Gadison, a resident of Springdale, spoke in favor of the project and she stated that she hoped there would be no negative force that would prevent change from happening in Fayetteville.

Fran Alexander, a citizen, spoke against the project and stated that we need to respect the laws that are in the books.

Jordan Garner, a citizen, spoke in favor of the project and stated that to have a successful community we need to take these kinds of risks.

Dave Westendorf, a citizen, spoke against the project being placed on Dickson Street and suggested that it be placed somewhere else in Fayetteville.

Ramsey Ball, a citizen, spoke in favor of the project and stated that Dickson Street was the perfect place for this type of project.

Victoria Sowder, a citizen, spoke in favor of the property and she encouraged the City Council to seize this opportunity and build a new landmark.

Steve Rust, a citizen, spoke in favor of the project and stated that this project is in the right place.

Jesse Barr, a Winslow resident, spoke on the project and did not state whether he was for or against the project.

Nancy Allen, a citizen, stated that she could not find a way that one can justify that the Divinity Project is transitional or compatible. She stated that it would be a detriment to the character of our city in this location however it is compatible in other areas in Fayetteville. She asked the City Council to turn the project down.

Louis Martinez, a citizen, spoke in favor of the project and stated that he wholeheartedly supported it.

Bruce Walker, a citizen, spoke in favor of the project but stated he would like to see the building shrink a little bit in size.

J. B. Hays, a citizen, spoke in favor of the project and stated we need to look at the developers rights too.

Scott Lunsford, a citizen, spoke against the project and stated that the City should buy the property back and put green space there and build a pavilion and make it a gathering place for Fayetteville.

Troy Sloan, a citizen, spoke in favor of the project and encouraged the City Council to vote in favor of it.

Marion Kunettco, a citizen, spoke against the project and stated that the hotel was much too large for the property.

Brandon Barber, Chairman and CEO of Barber Group and the Developer of the Divinity Project: I have spent several hours on Dickson Street, more than I want to admit and I still go there often because it's a rare creation of a place that combines entertainment and night life with culture and a relaxed attitude with no place to stay. I respect how sensitive and protective the citizens of Fayetteville are toward this street. We want to keep Fayetteville funky, eclectic, diverse, charming and unique. The greatest attribute of this building is the way it would enhance the value of that ownership and the way in which it will make Dickson Street more valuable to all of us.

He went on to point out the benefits of this project such as money for the schools, the creation of new jobs, and HMR tax revenue. He stated we have been asked to appeal to you tonight in the spirit of two subjective words: compatibility and transition. If an 18 story is compatible with one to two story buildings a few blocks away then how can a nine story building not be compatible? I ask that you follow the ordinance and that you heed the advice of your Zoning and Development Administrator who has confirmed and recommended that Divinity is not only compatible to it's surroundings, but it also transitions on all sides of the buildings.

He went on to describe the changes that they have made to this project at Planning's request throughout this process in order to gain staff approval. He described the layout of the hotel and what it had to offer. He stated I am hopeful that you will make the right decision not only for the future of Dickson Street but also for the future of Fayetteville.

Eddie Abyta with HES Architects: My role tonight is to give you our vision of how the Divinity project fits into Dickson Street and the context that surrounds it from transition and compatibility points of view as they relate to scale, building character and building use.

We are not here to propose a building that would be changing the character and the spirit of this place. We are here to propose a building that would add to the character, eclectic qualities and pedestrian experience of this place and to add to the spirit of Dickson Street and Fayetteville as a whole. This is a remarkable site in how it interacts with such a remarkable place. It's unfortunate that it hasn't really contributed to the life of Dickson Street. Today if you look at it, it's a parking lot that abuts the sidewalk that runs along Dickson Street. We have a great opportunity to change that and bring something that's really a part of this overall character.

He went on to give a slide presentation which addressed four topics: The issue of scale in relation to Dickson and it's surrounding context, the building scale in relation to the pedestrians, the functions of the building itself and how they have organized those functions to interface with Dickson in a positive manner, and the architectural response to the design guidelines which have been formulated as part of the development code.

He stated we have tried to be very responsible from a design point of view although there is a lot of controversy about that with regards to designing within the spirit of the urban design guidelines. Yes, we have presented four elevations every time we have come in front of the Planning Commission and in front of you, the comment that we have never shown the south and east elevation is incorrect. There is a lot of interpretation of what the standards are and how you can be creative and use what they are trying to guide you to.

Tom Hennelly with H-2 Engineering stated I just want to take a second to cover some of the other concerns that the Planning Commission had with the layout. One of them was the traffic issue particularly as it pertains to Block Street and the drop off area for the hotel. We have provided a drop off zone area for 14 vehicles to stack in there. The issue was brought up about 15 feet of fall that occurs across the Dickson Street elevation and what that does to the height of the building. The actual height of the building remains the same. Less than 2% of the square footage is above 8 stories; a very small portion of this building is at the 9th story, at the highest point. I just wanted to clarify some of the other concerns that the Planning Commission had.

Alderman Ferrell: Some of my thoughts have been covered but I want to go through them. This project has been approved by the City Planning staff as meeting the Unified Development Code, Jeremy and his staff are very thorough as they always have been. The city has spent hundreds of thousands of dollars to hire consultants on planning that have said infill and go vertical. I believe citizens spoke loud and clear when they were there. This project and its developers have been very flexible and tenacious to try and reach common ground on this contract. This building will be a destination. I think people will come to this building and I think they will also go up and down Dickson Street and the square and other places.

Alderman Ferrell moved to approve the appeal and the resolution. Alderman Reynolds seconded the motion.

City Attorney Kit Williams read the resolution.

Kit Williams: By listing the ones that were physically approved does not mean that all the conditions of approval will be granted. The reason we had to do that is because the Planning Commission didn't approve anything and so if this body chooses to approve this we need to have all those conditions of approval stated. I should note this resolution requires five affirmative votes to pass. If it receives less than that then the appeal will not be granted so that is the issue before the City Council.

Alderman Cook: Everyone of us up here will make this decision and we will base it on what we think is right and we all have different opinions on what we think is right on this project. For anyone out there to say that to vote for or against is stupid, uninformed or wrong to me that is wrong. I think we all are well informed on this topic especially after the months of debate we've had. Frankly it's a diversity of those opinions that makes Fayetteville what it is. Downtown Dickson to me is the historic core of our city and to me I think that should be preserved. I don't have anything against this building itself. I think it could be built anywhere in town and frankly it could be built in other areas of downtown and it would be compatible with the surrounding properties. This city has supported many projects in the downtown area that aren't low slung and urban sprawl as some people have suggested as some people are promoting if we vote against it. I appreciate staff's work on this. I don't have any problems with their final recommendation in fact I am encouraged that they worked so hard with the developers to try to come up with a solution. I do think that we should weigh the decision made by the Planning Commission heavily because they certainly represent the people of this city as well as we do. Economic development is not just a hotel or condominium project, there are many aspects of economic development and just whether we approve or disapprove this project doesn't mean we are against economic development in the city.

Alderman Reynolds: Since 1966 I've been at Dickson and West Street in business one way or the other and I've watched a lot of businesses come and go in the last five years even as recent as last year. I can't wait until both of these hotels are built to get more walking traffic in the Dickson Street and downtown area to give our merchants a shot in the arm so we can see them try and make it and be successful. That is the reason I am going to support it, for the walking traffic.

Alderman Rhoads: I don't disagree with Kit Williams in regard to the fact that we can't talk about economics and so I will truly not consider that. Although I think that the law defies logic and will see to it that, as a matter of fact I have already signed something a few minutes ago that will get that changed if we can vote for that at our next meeting or the meeting after that. I am very appreciative of the debate and the work that staff has done and the attitude of the developers as well as the opponents. This has been a very good Fayetteville debate. We are at a stage where we need to be agents of change. Diversity is one of the keystones of Fayetteville. The fact that this building looks a little bit different and the fact that the architect is from Dallas and makes it look a little bit different is not a bad thing. I think it's a good thing and I see Fayetteville as sort of a hot bit of architecture. I know this building could be built elsewhere in Fayetteville but right now it is before us on Dickson Street and that's the opportunity that we have. We have the ability to once again enhance Dickson Street, enhance one of our crown

jewels, link the street to the square and give us the opportunity to have walk ability, fewer parking lots, and I think it's a great opportunity. This is far more beneficial to the City of Fayetteville and to Dickson Street and the downtown area and I believe that there is opportunity to create specific book ends that will add to the process and more growth and progress and Dickson Street will still be funky but it will be different and better. I would encourage my fellow Council members to vote for it.

Alderman Lucas: I have been a strong supporter of Dickson Street. Its changes and improvements I was all for. I have lived here a long time and I've seen what Dickson Street was when I was a child. I like the fact that Dickson Street is thriving. I think it is very important to the City of Fayetteville. I'm not afraid of change or development but I think it needs to come in the right area. I appreciate what all of you have said. I think we have to go by the laws that we have and the ordinances that we have. I want to mention traffic. I know that the traffic study says everything is okay but we are looking at an intersection, the configuration of which is already a problem. This project will cause us to remove islands that we have on Dickson Street to slow the traffic down. We are giving curb waivers on this project which also concerns me. It seems to me this building is out of portion to the narrow streets that are on three sides. We are possibly going to create a safety hazard there with the traffic. As far as compatibility and transition to bordering neighbors I think we should consider the height, form and scale. We should not overwhelm existing city structures. We have homes off Dickson Street and they are important to Fayetteville also. I don't think we should forget that and this does not seem compatible with that area. There are separate entrances and so we are creating a gated community and we have an ordinance against gated communities. This is not consistent with the vision the citizens have. I can certainly understand the economics of this project. We can grow Fayetteville and still maintain its historic beauty and charm. This is not compatible with the area or the people's vision so I can not support it.

Alderman Jordan: This is a tough situation because I think this is a very good project and a very nice looking building. I appreciate the work the staff and Planning Commission has done on this project. I had more contacts against this project than for the project. I believe the Dover Kohl recommendation was no building over six stories high in the downtown area. I supported that ordinance and I still support that. I have concerns about the traffic issue. Our Planning Commission voted against this project and I do support the Planning Commission. I feel the downtown area is the hub of this city and I feel like Dickson Street is the hub of the downtown area. I fear if we change the character of Dickson Street that possibly we change the character of this city. I think this is a very nice project but does it fit and I don't think it does. I think it is the wrong building, at the wrong place, at the wrong time and I can not support it.

Alderman Thiel: There have been some excellent points made by the public and by members of the City Council. Everyone has given a lot of thought to this. I really respect the strong feelings the public has about this. Ward I residents seem to be pretty much split. Opponents of this project are concerned that it is not compatible with the neighboring structures. No building is going to be compatible in an older setting like this. The Walton Arts Center was not compatible with the way that Dickson looked when it was built. The Blair Library is not compatible and is certainly out of scale with the small cottage homes that surround it. I think we have accepted other contemporary projects. I think the architect in Fayetteville is eclectic. I am concerned about the vitality and viability of Dickson Street and the downtown area. This city and community has made a major financial investment in that area. Moving this building elsewhere would not help the walk ability that we are seeking. I had someone email me that they would

like to keep Fayetteville a small city with views of hills, trees, walking and biking trails, that all comes at a cost which will not continue if we stagnate. I think this is a good project and I regret not supporting a lot of people that I respect.

Alderman Marr: This is probably the most difficult decision that I have had put in front of me. It is not difficult for me personally, it is difficult when I listen to really good friends and when I see people I work with in the business community speaking and people that I know absolutely love our town. There are things that make me not want to support something, I am not a person that responds well to everything is going north. I want to be unique and the people that I talk to in my Ward that do not want this project worry about losing the diverse Fayetteville. Every time that we talk about development in this kind of scale in this area I think people worry about are we going to become any town USA. I was on the Planning Commission when the Three Sisters Building was approved and people speaking against that building and the height of that building and yet today it is used as kind of the size that we like. I also remember the fight about the Walton Arts Center and that it was going to destroy Fayetteville. I don't think it has done that. I went to a lot of Downtown Master Plan meetings and I struggle with how you say that you do not want urban sprawl and how do you not want to do those things and not put things down here that drive that density. I think a lot of people in my Ward will die if I vote for this, most of the time we are all on the same side. I don't think that the viability of Dickson Street is dependent on one building, if it is we have a big problem. I do not think this is incompatible. There are some things I think are okay to change and I don't think they are going to destroy the town. I hear your arguments, I think what is so tough is that I am so close to people on this Council that have spoken against this project. I can not get in my head that I am going to go to citizens and ask them to vote for trails, roads and sewer and I am going to turn down a \$70 million investment in our city. I also can not reconcile that the town is going to fall a part with this development. We have to create an environment that welcomes everybody. I feel like this is going to be okay. My biggest fear if we decide to support an item like this is the next person that stands in front of me pointing to the precedence of you did this. How I would deal with that is what are we doing to make sure we do not have an entire street of this, I think the ordinance of height is one, I think our market is not going to allow every six story building to be built, I think there are things we can do with inclusionary housing in downtown, I think there are things that can be done to make sure that we have what we want. That is why I am leaning to support this.

Mayor Coody: The fabric of this community is very strong, stronger than any one building. I appreciate everyone's involvement and I appreciate the City Council's time and effort on this and the staff as well.

Upon roll call the motion passed 5-3. Alderman Rhoads, Ferrell, Reynolds, Thiel and Marr voting yes. Alderman Lucas, Jordan and Cook voting no.

Resolution 122-06 as Recorded in the Office of the City Clerk

Meeting Adjourned at 10:20 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

B. 1
Raze and Removal at
95 Cleburn Street
Page 1 of 14

6-Jul-06

City Council Meeting Date

Yolanda Fields

Submitted By

Com Res & Code Comp

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the dilapidated structure located at 95 Cleburn Street, Fayetteville, AR 72701

\$4,000.00

Cost of this request

\$25,000

Category/Project Budget

1010 6420 5315 00

Account Number

\$10,500.00

Funds Used to Date

Contract Services

Program / Project Category Name

\$14,500.00

Remaining Balance

General Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Department Director

Date

6-15-06

City Attorney

Date

6/16/06

Finance and Internal Service Director

Date

6/19/06

Mayor

Date

6/14/06

Received in City Clerk's Office

ENTERED

6-15-06

Received in Mayor's Office

ENTERED

6/16/06

BREP

Staff recommends Raze and Removal of structure

Tabled to 7/18/06 meeting

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations 
From: Yolanda Fields, CRCC Director
Date: June 14, 2006
Subject: Raze & Removal of structure on 95 Cleburn Street

RECOMMENDATION

Staff recommends a resolution to order the raze and removal of the structure.

BACKGROUND

Service Request #34396, Case #4601: Code Compliance responded to a complaint concerning the structure located at 95 Cleburn Street, recognized on Washington County records as 867 N College Ave. The structure appeared to possibly be in violation of Ordinance 173.08, Unsafe Buildings. The Building Safety Division Director inspected the property and determined that the structure was in violation of Ordinance 173.08, Unsafe Buildings.

An Unsafe Buildings Notice of Violation was sent by Certified Mail to the property owner on April 17, 2006. The property owner signed the Certified Mail receipt on April 18, 2006. By ordinance, the owner were given until May 18, 2006 to acquire a building permit or to demolish and remove the structure.

DISCUSSION

This parcel contains a partially razed structure. There is not a current building permit issued on this structure.

BUDGET IMPACT

Contracting the raze and removal of the property would cost approximately \$4,000.00. The cost would be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

RESOLUTION NO. _____

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY BEACON FLATS, LLC LOCATED AT 95 CLEBURN STREET IN THE CITY OF FAYETTEVILLE, ARKANSAS

WHEREAS, Beacon Flats, LLC is the record owner of the real property situated at 95 Cleburn Street, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-03828-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, Beacon Flats, LLC, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1: That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, Beacon Flats, LLC is hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That, if Beacon Flats, LLC does not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

PASSED and APPROVED this 6th day of July, 2006.

ATTEST:

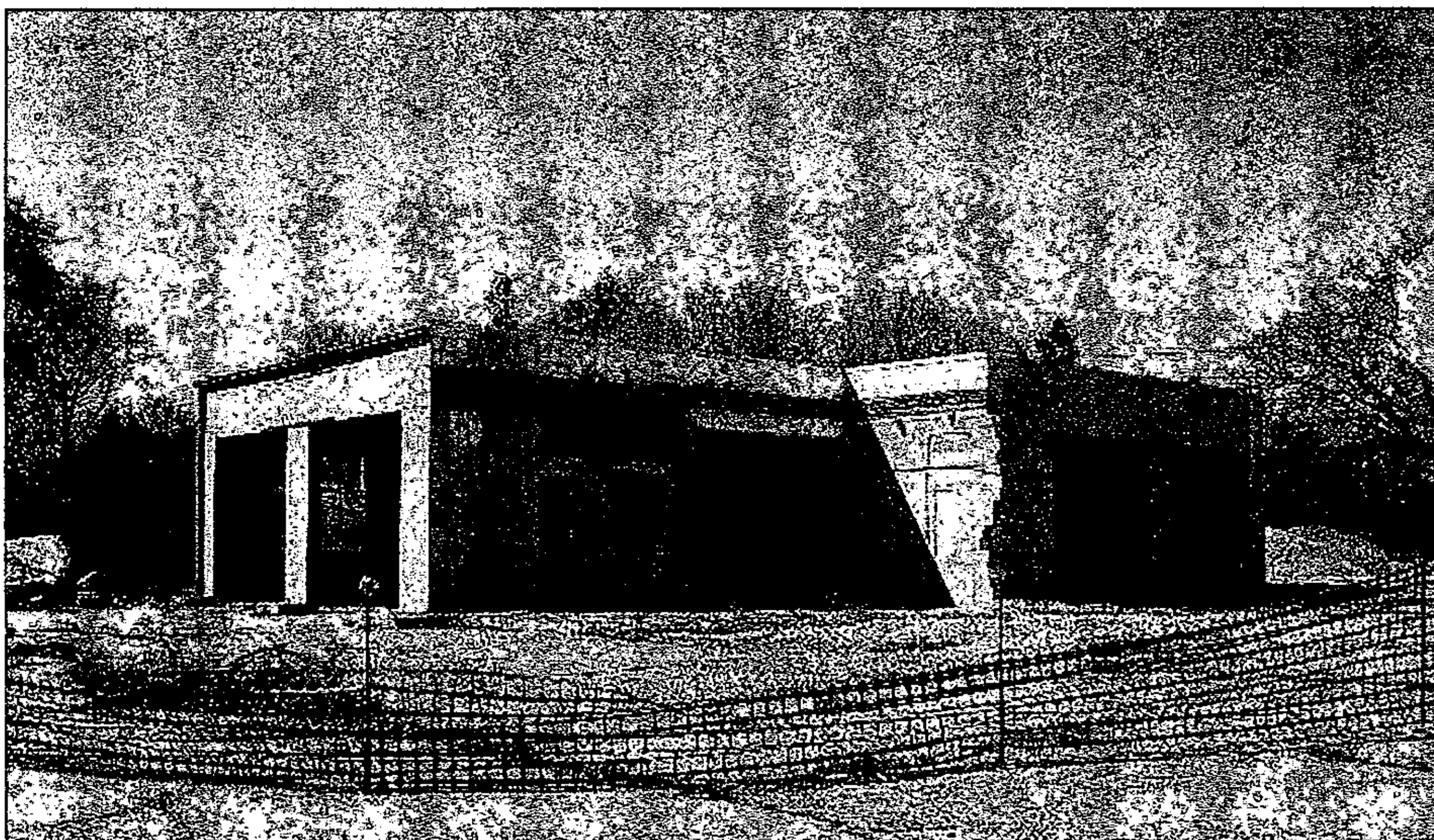
By: SONDRA SMITH City Clerk

APPROVED

By: DAN COODY, Mayor



95 E. Cleburn St. 6-13-06





95 E. Cleburn St. 6-13-06





Community Resources and Code Compliance
Unsafe Building Violation Determination

Address / Location: 95 Cleburn St.

WC Parcel # 765-03828-000

I have determined that the structure above has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

I recommend the raze and removal of the structure.

 **Building Safety Division Director**

I have determined that the structure above is not in violation of Ordinance 173.08 of the Fayetteville Code Of Ordinances.

Building Safety Division Director

PLEASE RETURN THIS FORM TO CRCC

Date Sent:

3/27/06

Date Received:

4/3/86

CRCC Division Director



City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

B. 1
Raze and Removal at
95 Cleburn Street
Page 7 of 14

May 24, 2006

Beacon Flats, LLC
c/o Carlen Hooker
397 W Poplar St. Suite 5
Fayetteville, AR 72701

RE: Enforcement of Ordinance 173.08
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 95 Cleburn St. (Parcel #765-03828-000), should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on July 6, 2006 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Ball". The signature is stylized with a large, looped "C" and "B".

Chad Ball
Code Compliance Administrator

Cc: file

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <i>Sandy Mayo</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: Beacon Flats, LLC c/o: Carlen Hooker 397 W. Poplar St. Suite 5 Fayetteville, AR 72701		B. Received by (Printed Name) <i>S. Mayo</i> C. Date of Delivery <i>5-25-06</i>	
2. Article Number (Transfer from service label) 7004 2510 0000 8363 4148		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
PS Form 3811, February 2004		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
Domestic Return Receipt AB		4. Restricted Delivery? (Extra Fee) ☐ Yes	
102595-02-M-1540			

7004 2510 0000 8363 4148

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	5.24.06
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Postmark Here

Sent To *Beacon Flats, LLC*
 Street, Apt. No., or PO Box No. *c/o Carlen Hooker*
 City, State, ZIP+4 *Not to*

PS Form 3800, June 2002 See Reverse for Instructions

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



B. 1
Raze and Removal at
95 Cleburn Street
Office of Code Compliance Page 9 of 14
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

April 17, 2006

Owner BEACON FLATS, LLC.
C/O: CARLEN HOOKER
397 W. POPLAR ST. STE: 5
FAYETTEVILLE, AR 72701

RE: Property @ 95 E. CLEBURN ST.
FAYETTEVILLE, AR
WC Parcel # 765-03828-000

Case # 4601

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at (479)575-8232.

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

SUZANNE BUTLER
Code Compliance Officer

Cc: file

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <i>Sondy Mayo</i> ☒ Agent ☐ Addressee B. Received by (Printed Name) <i>S Mayo</i> C. Date of Delivery <i>4/18</i> D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
1. Article Addressed to: Beacon Flats, LLC. c/o: Carlen Hooker 397 W. Poplar St. Ste:5 Fayetteville, AR 72701		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
2. Article Number (Transfer from service label) 7004 2510 0000 8363 3547		4. Restricted Delivery? (Extra Fee) ☐ Yes	
PS Form 3811, February 2004 Domestic Return Receipt <i>4601</i> <i>83</i> 102595-02-M-1540			

7004 2510 0000 8363 3547

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	4-17-06 Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To <i>Beacon Flats</i> Street, Apt. No., or PO Box No. <i>c/o Carlen Hooker</i> City, State, ZIP+4	
PS Form 3800, June 2002 See Reverse for Instructions	

Parcel Number: 765-03828-000 Prev. Parcel Number: 137566-000-00 Type: CI
 Location: 867 N COLLEGE AVE
 Owner Name: BEACON FLATS,LLC
 Mailing Address: 329 W. POPLAR FAYETTEVILLE AR 72701
 Lot: Block: S-T-R: 09-16-30
 Addition: CITY PARK ADD-A.L.TRENTS REV
 School District: FAYETTEVILLE SCH, FAY Tax District: 011
 City: FAYETTEVILLE
 Legal: LOT 1 EXCEPT EAST 4 FT. BLOCK 12
 Current Year A79 Credit Status: N
 Last Appraised: 2005

	Appraised Value	Taxable Value
Land	52,500	10,500
Improvement	20,650	4,130
Total	73,150	14,630

Tax History										
Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit	A79 Status	Net Total Tax	Total Tax Paid	Payment Status
2005	14,630	\$771.00	\$0.00	\$0.00	\$0.00		N	\$771.00	\$0.00	
2004	15,470	\$802.27	\$0.00	\$0.00	\$0.00			\$802.27	\$802.27	PAID
2003	15,420	\$816.64	\$0.00	\$0.00	\$0.00			\$816.64	\$816.64	PAID
2002	16,164	\$839.88	\$0.00	\$0.00	\$0.00			\$839.88	\$839.88	PAID
2001	14,817	\$769.89	\$0.00	\$0.00	\$0.00			\$769.89	\$769.89	PAID
2000	13,470	\$707.18	\$0.00	\$0.00	\$0.00			\$707.18	\$707.18	PAID
1999	13,470	\$689.66	\$0.00	\$0.00	\$0.00			\$689.66	\$689.66	PAID
1998	13,470	\$691.01	\$0.00	\$0.00	\$0.00			\$691.01	\$691.01	PAID
1997	13,470	\$691.01	\$0.00	\$0.00	\$0.00			\$691.01	\$691.01	PAID
1996	13,470	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID
1995	13,470	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID

Available Tax Payment Receipt(s)								
Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2004	4584	4/6/2005	\$802.27	\$0.00	\$0.00	\$0.00	\$0.00	\$802.27
2003	70088	9/20/2004	\$816.64	\$0.00	\$0.00	\$0.00	\$0.00	\$816.64
2002	78416	9/24/2003	\$839.88	\$0.00	\$0.00	\$0.00	\$0.00	\$839.88
2001	66364	9/25/2002	\$769.89	\$0.00	\$0.00	\$0.00	\$0.00	\$769.89
2000	11243	9/18/2001	\$707.18	\$0.00	\$0.00	\$0.00	\$0.00	\$707.18
1999	5299	8/22/2000	\$689.66	\$0.00	\$0.00	\$0.00	\$0.00	\$689.66
1998	10782	7/26/1999	\$691.01	\$0.00	\$0.00	\$0.00	\$0.00	\$691.01

Deed History							
Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
2/8/2005	2005	6186	BEACON FLATS,LLC		WD	297,000	980.10
LMB FOR 2005: 0.02A TO #03829-002 CITY OF FAYETTEVILLE SN 2005-6186 WD \$980.1 REV(297M)							
1/19/1998	98	5589	NICKELL, J.C. JR TTEE TRUST;	NICKELL, ALMA L. TTEE TRUST	WD	0	0.00
LRR 98-5589 WD NO REV TO TRUSTS 1/2 INT EACH TRUST							

Real Estate Parcel Information

Page 2 of 2

2/20/1996 96 13711 NICKELL, J.C., JR.
NO REV

QC 0 0.00

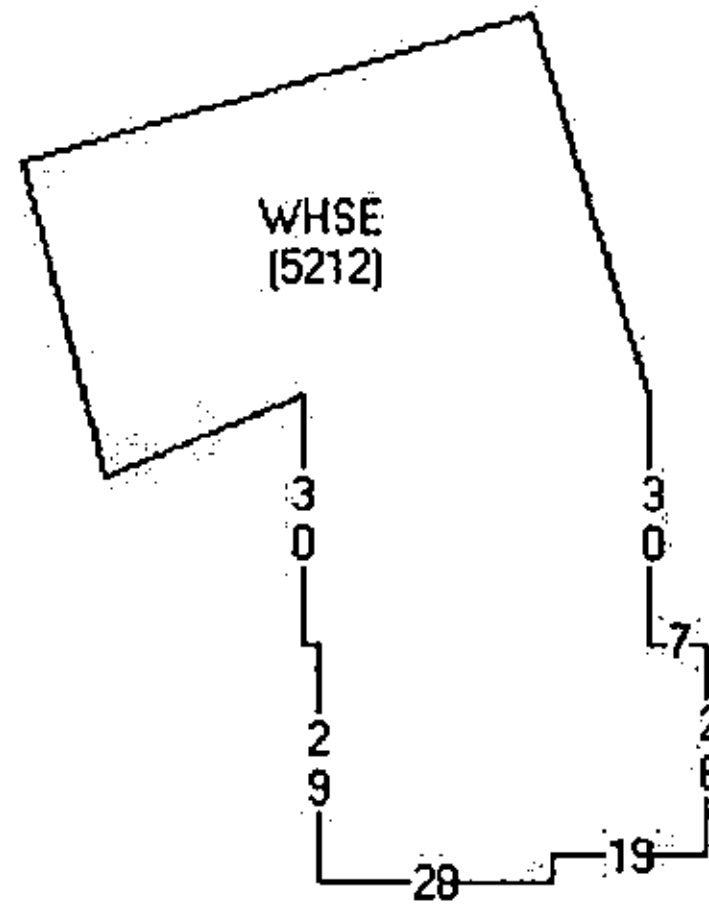
Raze and Removal at
95 Cleburn Street
Page 12 of 14

1/1/1985 823 955 NICKELL, J.C. JR. &
LORNA JEAN

WD 0 0.00

Structure Number	Business Name	Year Constructed	Heated Area
1	Nicks Auto Lube Repair & Ser.	1953	5212
Grade	Condition	Story Height	Year Remodeled
			4

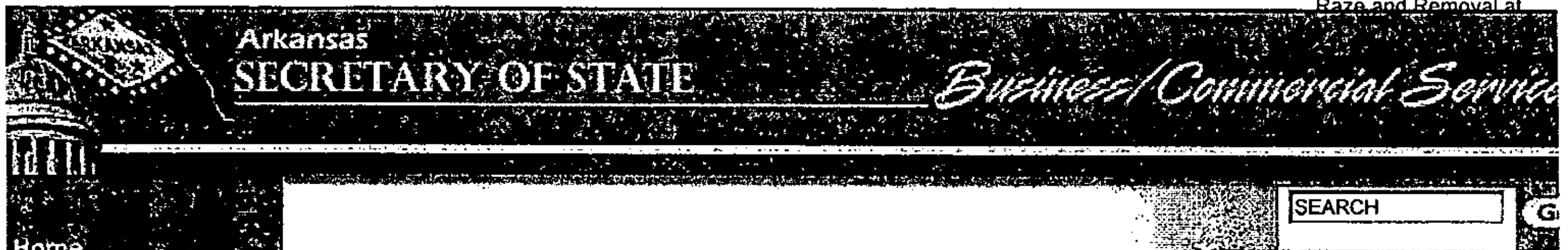
Sketch:



Out Buildings and Yard Improvements

Qty	Description	Size	Quality
1	CANOPIES	580	
1	LIFT, FRAME		
2	LIGHTING		
1	PAVING	3700	
1	SIGNS, PLASTIC ILLUM.	36	
3	SIGN POSTS OR POLES	6x20	

[Next Item](#) |
 [Previous Item](#) |
 [Ledger Card](#) |
 [Prev. Ledger Card](#) |
 [Parcel Map](#) |
 [Return to Search Results](#) |
 [Modify Search](#) |
 [New Search](#)



Home
About the Office
Elections
Business /
Commercial Services
Capitol Grounds
News
Educational Materials
Tours



State Capitol, Rm 256
Little Rock, AR 72201
501-682-1010
[Email](#)



Search Incorporations, Cooperatives, Banks and Insurance Companies

Corporation Name	BEACON FLATS, LLC
Fictitious Names	N/A
Filing #	800050860
Filing Type	Limited Liability Company
Filed under Act	Domestic LLC; 1003 of 1993
Status	Good Standing
Principal Address	
Reg. Agent	CARLEN HOOKER
Agent Address	397 W. POPLAR SUITE 5 FAYETTEVILLE, AR 72701
Date Filed	01/27/2005
Officers	CARLEN HOOKER , Incorporator/Organizer
Foreign Name	N/A
Foreign Address	
State of Origin	N/A

[Purchase a Certificate of Good Standing
for this Entity](#)

[Pay Franchise Tax for this corporation](#)

Use your browser's back button to return to the Search Results

[Begin New Search](#)

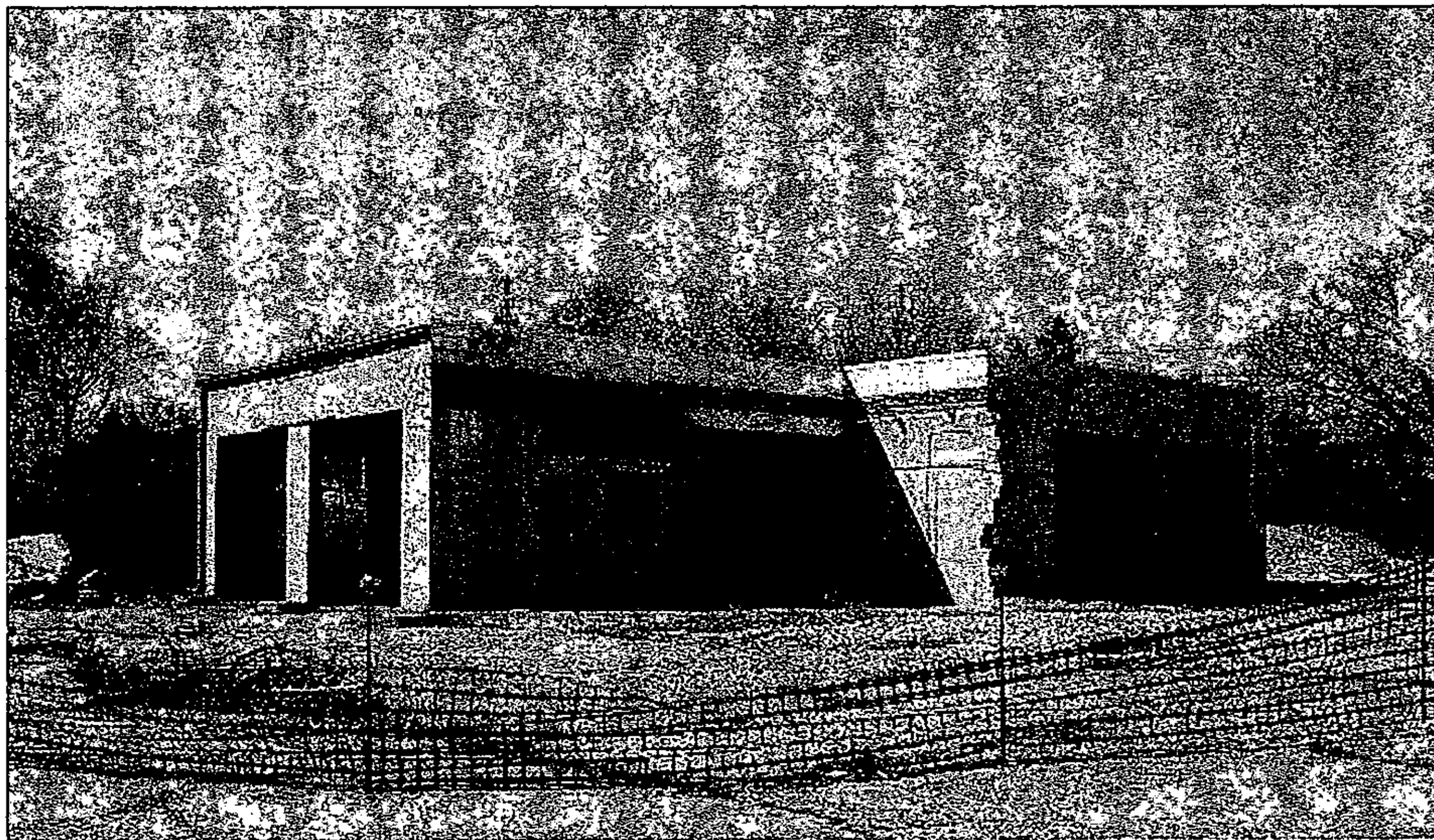
Raze & Removal
at 95 Cleburn Street

C.I. Public Hearing 7/6/06

B. 1
Raze and Removal at
95 E. Cleburn St.
4



95 E. Cleburn St. 6-13-06



Added at Agenda Session

7/11/06

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

July 18, 2006

City Council Meeting Date

Sondra Smith

Submitted By

City Clerk

Division

City Clerk

Department

Action Required:

An ordinance to establish Fayetteville Municipal Property Owners' Improvement District No. 16 - Wellspring. This petition is being filed under the Arkansas Municipal Property Owners' Improvement District law. Arkansas Code Ann. Sec. 14-94-101 et seq. The petition is being filed by James N. McCord. on behalf of the Improvement District.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

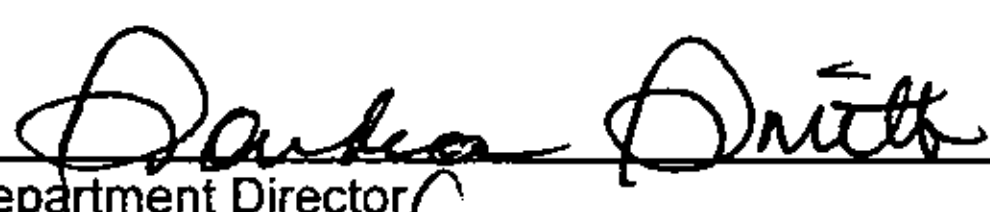
Fund Name

Budgeted Item

N/A

Budget Adjustment Attached

N/A

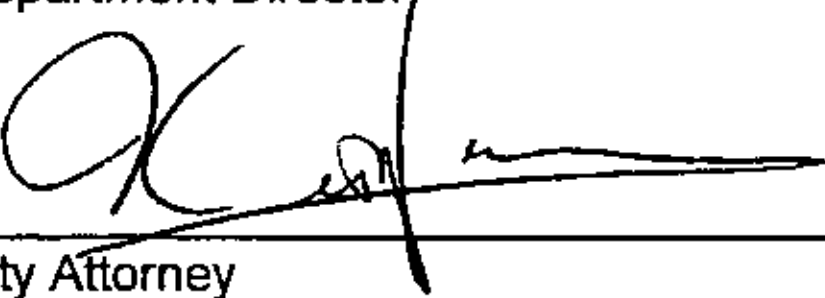

Department Director

7/7/06
Date

Previous Ordinance or Resolution #

Original Contract Date:

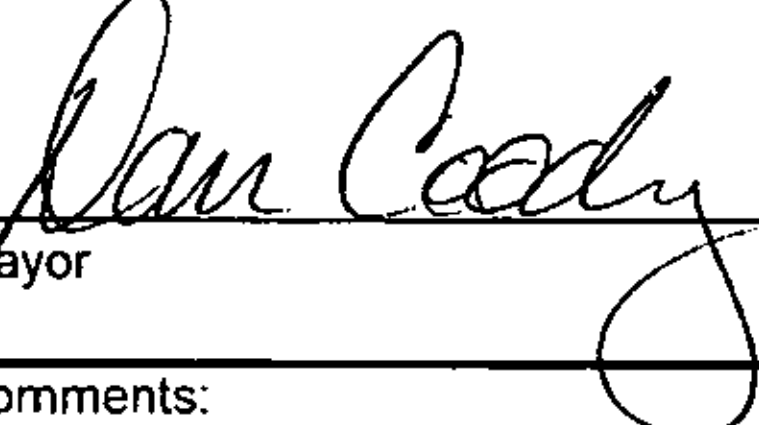
Original Contract Number:


City Attorney

7-10-06
Date


Finance and Internal Service Director

7/10/06
Date


Mayor

7/10/06
Date

Received in City Clerk's Office

ENTERED
7/7/06

Received in Mayor's Office

ENTERED
7/10/06

Comments:

JAMES N. McCORD
Attorney at Law
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMILE (479) 695-1135
jimmccordlaw@alltel.net

July 11, 2006

Sondra Smith
Fayetteville City Clerk
City Administration Building
113 W. Mountain
Fayetteville, AR 727-1

VIA HAND DELIVERY

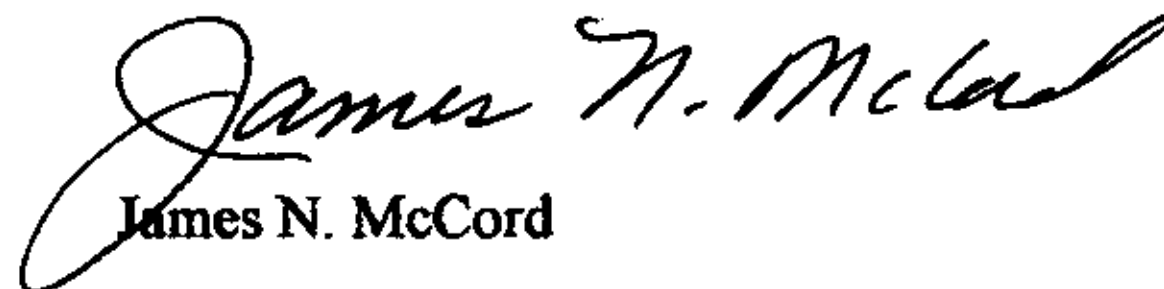
Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. 10- Wellspring

Dear Ms. Smith:

On September 15, 2005, I filed in your office a Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 10- Wellspring, along with supporting documents. I am counsel to the petitioners. The petition and supporting documents were withdrawn by my letter to you dated September 23, 2005. On July 7, 2006, I filed a new Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 10- Wellspring and supporting documents. You have advised me that the number for the improvement district should now be "16", instead of "10". We have agreed that I will change, by hand notation, the number on the Petition and Abstractor's Certificate filed in your office.

Thank you for your assistance.

Sincerely,


James N. McCord

pc: Brandon Barber
Kit Williams, City Attorney

RECEIVED

JUL 11 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

JAMES N. McCORD
Attorney at Law
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMILE (479) 695-1135
jimmccordlaw@alltel.net

July 7, 2006

Sondra Smith
Fayetteville City Clerk
City Administration Building
113 West Mountain Street
Fayetteville, AR 72701

VIA HAND DELIVERY

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. ~~16~~- Wellspring

Dear Ms. Smith:

Enclosed for filing in the office of the Fayetteville City Clerk are three executed counterparts of a Petition to Form Fayetteville Municipal Property Owners' Improvement District No. ~~16~~- Wellspring. Please file mark each Petition, retain one for the City's permanent file, one for presentation to the Mayor, and return the other counterpart to me. The Petition is being filed under the Arkansas Municipal Property Owners' Improvement District law, Ark. Code Ann. Sec. 14-94-101 et seq.

. Ark. Code Ann. Sec. 14-94-106 provides:

- (a)(1) Upon the filing of the petition with the clerk, it shall be the duty of the clerk to present the petition to the mayor.
- (2) The mayor shall thereupon set a date and time not later than fifteen (15) days after the date of the presentation of the petition to the mayor, for a hearing before the governing body for consideration of the petition.
- (b)(1) At the hearing, it shall be the duty of the governing body to hear the petition and to ascertain whether those signing the petition constitute all the owners of the real property to be located in the district.

RECEIVED

JUL 07 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

- (2) If the governing body determines that all the owners of the real to be located in the district have petitioned for the improvements, it shall be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners named in the petition.

* * *

- (c) The ordinance establishing the district shall be published within thirty (30) days after its adoption by one (1) insertion in some newspaper of general circulation in the municipality in which the district lies.

Enclosed is a form the Mayor may use to give the City Council notice of the date and time of the hearing on the Petition. Also enclosed is an executed Abstractor's Certificate certifying that the improvement district petition is signed by the owners of the record title to all the real property described in the Petition. I have drafted and enclose an ordinance which would establish the district and name the commissioners.

Formation of a municipal property owners' improvement district is merely a financing alternative for the cost of subdivision infrastructure. The improvement district issues special assessment bonds, bond proceeds are used to construct or purchase the improvements, the district levies an annual tax on each lot in the district to pay debt service on the bonds, the annual taxes are collected by the county tax collector and paid to the bond trustee, and the trustee makes debt service payments to the bondholders. The developer must comply with all city development ordinances.

Wellspring subdivision is proposed for 152.23 acres located on the east side of Ruppel Road north of Wedington Drive.

Should there be any questions, please contact me.

Sincerely,


James N. McCord

pc: Kit Williams, City Attorney

TO: Fayetteville City Council
FROM: Mayor Dan Coody
DATE: July ____, 2006
RE: Petition to Form Fayetteville Municipal Property Owners'
Improvement District No. 16 – Wellspring

Pursuant to Ark. Code Ann. Sec. 14-94-106(a)(2), I hereby set Tuesday, July, 18, 2006, at 6:00 p.m. as the date and time for a hearing before the Fayetteville City Council for consideration of the Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 16 – Wellspring.

Ark. Code Ann. Sec. 14-94-106(b)(1) provides that, at the hearing, it shall be the duty of the governing body to hear the petition and to ascertain whether those signing the petition constitute all the owners of the real property to be located in the district. Ark. code Ann. §14-94-106(b)(2)(A) provides that if the governing body determines that all the owners of the real property to be located in the district have petitioned for the improvements, it shall be its duty by ordinance to establish and layoff the district as defined in the petition and to appoint the commissioners named in the petition.

cc: Kit Williams, City Attorney
James N. McCord

ORDINANCE NO. _____

**AN ORDINANCE TO ESTABLISH AND LAY OFF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 16 – WELLSPRING**

WHEREAS, a Petition to form Fayetteville Municipal Property Owners' Improvement District No. 16 – Wellspring has been filed with the Fayetteville City Clerk; and

WHEREAS, the City Clerk has presented said petition to the Mayor; and

WHEREAS, the Mayor has set July 18, 2006, at 6:00 p.m. as the date and time for a hearing before the Fayetteville City Council for consideration of said petition; and

WHEREAS, the Fayetteville City Council has determined from the petition and an abstractor's certificate of property ownership that those signing the petition constitute all the owners of the real property to be located in the district; and

WHEREAS, the Arkansas Municipal Property Owners' Improvement District Law provides at Ark. Code Ann. §14-94-106(b)(2) that if the governing body determines that all the owners of the record title to the real property to be located in the district have petitioned for the improvements, it shall then be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners named in the petition.

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

Section 1: That the real property described in Exhibit "A" attached hereto and made a part hereof is hereby established and laid off as Fayetteville Municipal Property Owners' Improvement District No. 16 – Wellspring for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

Section 2: The following three individuals are hereby appointed as commissioners of said improvement district: Brandon Barber, Seth Kaffka and Brandon Rains.

Section 3: The name of said improvement district shall be Fayetteville Municipal Property Owners' Improvement District No. 16 – Wellspring.

Section 4: The district shall not cease to exist upon the acquiring, constructing or completion of the improvements, but it shall continue to exist for the purpose of preserving, maintaining, and operating the improvements, replacing equipment, paying salaries to employees, and performing any other functions or services authorized in Ark. Code Ann., Title 14, Chapter 94.

PASSED and APPROVED this 1st day of August, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

**Fayetteville Municipal Property Owners'
Improvement District No. 16 – Wellspring**

Exhibit A

SURVEY DESCRIPTION:

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND A PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND A PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, ALL IN WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S87°42'05"E 617.60' AND N03°03'08"E 102.59' FROM THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7 AND RUNNING THENCE S87°03'27"E 93.41' TO A SET IRON PIN, THENCE N02°40'05"E 1716.06' TO A FOUND IRON PIN, THENCE N02°40'00"E 2143.06' TO A FOUND IRON PIN, THENCE N87°46'42"W 715.35' TO A FOUND IRON PIN, LOCATED AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 7, THENCE N02°27'56"E 46.74' TO A FOUND IRON PIN, LOCATED AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 1, THENCE N86°58'50"W 751.69' TO THE CENTERLINE OF RUPPLE ROAD, THENCE ALONG SAID CENTERLINE S20°20'50"W 44.46'; S14°10'34"W 65.18'; S09°16'42"W 44.03'; S06°40'25"W 54.50'; S05°18'51"W 54.60'; S04°54'39"W 54.72'; S04°57'12"W 59.85'; S07°17'28"W 55.76'; S13°38'10"W 52.31'; S23°24'21"W 49.39'; S32°18'04"W 47.75'; S36°38'10"W 37.75'; S40°31'21"W 59.19'; S44°51'16"W 60.06'; S46°48'24"W 67.32'; S44°39'19"W 56.83'; S39°09'37"W 55.03'; S30°55'13"W 66.99'; S24°56'32"W 57.82'; S22°38'12"W 58.87'; S22°23'40"W 54.61'; S22°23'30"W 58.25'; S23°21'56"W 55.44'; S27°27'36"W 58.17'; S31°39'13"W 58.36'; S31°28'21"W 57.48'; S21°21'38"W 54.39'; S09°23'27"W 60.29'; S02°47'11"W 51.61'; S01°55'43"W 51.38'; S02°08'41"W 57.15'; S02°26'03"W 49.97'; S02°30'26"W 51.03'; S02°49'34"W 51.91'; S02°57'05"W 54.52'; S02°54'57"W 52.46'; S02°50'56"W 55.16'; S02°43'15"W 48.89'; S02°33'25"W 54.35'; S02°31'07"W 51.57'; S02°25'23"W 56.41'; S02°19'43"W 50.93'; S02°27'09"W 38.77'; S02°34'15"W 44.03'; S03°12'55"W 52.16'; S02°57'10"W 49.78'; S02°33'54"W 51.59'; S02°57'20"W 63.38'; S03°10'04"W 52.97'; S02°59'07"W 52.35'; S02°31'09"W 51.19'; S03°12'19"W 54.91'; S02°13'15"W 33.15'; S02°14'57"W 49.48'; S02°42'49"W 48.61'; S02°37'18"W 50.94'; S02°42'26"W 49.47'; S02°18'12"W 48.56'; S02°45'16"W 52.85'; S02°38'45"W 52.94'; S02°54'55"W 41.80'; S02°54'55"W 360.64'; THENCE LEAVING SAID CENTERLINE S87°30'27"E 629.81' TO A CORNER POST, THENCE S03°09'47"W 7.60' TO A SET IRON PIN, THENCE S86°50'13"E 1088.84'; THENCE S03°03'08"W 434.54'; THENCE ALONG SAID RIGHT-OF-WAY S87°02'59"E 209.22' TO THE POINT OF BEGINNING, CONTAINING 152.23 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

NOTICE

YOUR SIGNATURE HEREON SHOWS THAT YOU FAVOR THE ESTABLISHMENT OF AN IMPROVEMENT DISTRICT. IF THE DISTRICT IS FORMED, YOU MAY BE CHARGED FOR THE COSTS OF THE IMPROVEMENTS.

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 16- WELLSRING

For their petition to form Fayetteville Municipal Property Owners' Improvement District No. 10- Wellspring, the undersigned petitioners state:

1. Petitioners are the record title owners to all of the real property described in Exhibit "A" attached hereto and made a part hereof as reflected by the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington, County Arkansas. All of said property is located within the corporate limits of the City of Fayetteville, Arkansas.

2. Petitioners desire that the real property described in Exhibit "A" attached hereto and made a part hereof be established and laid off into a municipal property owners' improvement district pursuant to Ark. Code Ann. Sec. 14-94-101 et seq. for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electric and

RECEIVED

JUL 07 2005

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

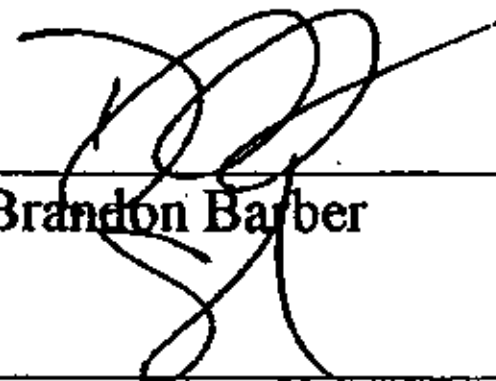
3. Petitioners desire that the district shall not cease to exist upon the acquiring, constructing or completion of the improvements, but it shall continue to exist for the purpose of preserving, maintaining, and operating the improvements, replacing equipment, paying salaries to employees, and performing any other functions or services authorized in Ark. Code Ann., Title 14, Chapter 94.

4. Petitioners name the following three individuals who own real property in the district to be appointed as commissioners of the district: Brandon Barber, Seth Kaffka and Brandon Rains.

5. Petitioners propose that the name of the district be Fayetteville Municipal Property Owners' Improvement District No. ~~16~~ Wellspring.

WHEREFORE, the undersigned Petitioners hereby petition the City Council of Fayetteville Arkansas to adopt an ordinance establishing and laying off the real property described in Exhibit "A" attached hereto and made a part hereof into Fayetteville Municipal Property Owners' Improvement District No. ~~16~~ Wellspring for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electricity and telephone distribution systems, sanitary sewers, streets including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

DATED this 30th day of June, 2006.



Brandon Barber

Seth Kaffka



Brandon Rains

CB Ventures, LLC
An Arkansas limited liability company

By: 

Brandon Barber, authorized member

**Fayetteville Municipal Property Owners'
Improvement District No. 16- Wellspring**

Exhibit - A

SURVEY DESCRIPTION:

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND A PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND A PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, ALL IN WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S87°42'05"E 617.60' AND N03°03'08"E 102.59' FROM THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7 AND RUNNING THENCE S87°03'27"E 93.41' TO A SET IRON PIN, THENCE N02°40'05"E 1716.06' TO A FOUND IRON PIN, THENCE N02°40'00"E 2143.06' TO A FOUND IRON PIN, THENCE N87°46'42"W 715.35' TO A FOUND IRON PIN, LOCATED AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 7, THENCE N02°27'56"E 46.74' TO A FOUND IRON PIN, LOCATED AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 1, THENCE N86°58'50"W 751.69' TO THE CENTERLINE OF RUPPLE ROAD, THENCE ALONG SAID CENTERLINE S20°20'50"W 44.46', S14°10'34"W 65.18', S09°16'42"W 44.03', S06°40'25"W 54.50', S05°18'51"W 54.60', S04°54'39"W 54.72', S04°57'12"W 59.85', S07°17'28"W 55.76', S13°38'10"W 52.31', S23°24'21"W 49.39', S32°18'04"W 47.75', S36°38'10"W 37.75', S40°31'21"W 59.19', S44°51'16"W 60.06', S46°48'24"W 67.32', S44°39'19"W 56.83', S39°09'37"W 55.03', S30°55'13"W 66.99', S24°56'32"W 57.82', S22°38'12"W 58.87', S22°23'40"W 54.61', S22°23'30"W 58.25', S23°21'56"W 55.44', S27°27'36"W 58.17', S31°39'13"W 58.36', S31°28'21"W 57.48', S21°21'38"W 54.39', S09°23'27"W 60.29', S02°47'11"W 51.61', S01°55'43"W 51.38', S02°08'41"W 57.15', S02°26'03"W 49.97', S02°30'26"W 51.03', S02°49'34"W 51.91', S02°57'05"W 54.52', S02°54'57"W 52.46', S02°50'56"W 55.16', S02°43'15"W 48.89', S02°33'25"W 54.35', S02°31'07"W 51.57', S02°25'23"W 56.41', S02°19'43"W 50.93', S02°27'09"W 38.77', S02°34'15"W 44.03', S03°12'55"W 52.16', S02°57'10"W 49.78', S02°33'54"W 51.59', S02°57'20"W 63.38', S03°10'04"W 52.97', S02°59'07"W 52.35', S02°31'09"W 51.19', S03°12'19"W 54.91', S02°13'15"W 33.15', S02°14'57"W 49.48', S02°42'49"W 48.61', S02°37'18"W 50.94', S02°42'26"W 49.47', S02°18'12"W 48.56', S02°45'16"W 52.85', S02°38'45"W 52.94', S02°54'55"W 41.80', S02°54'55"W 360.64', THENCE LEAVING SAID CENTERLINE S87°30'27"E 629.81' TO A CORNER POST, THENCE S03°09'47"W 7.60' TO A SET IRON PIN, THENCE S86°50'13"E 1088.84', THENCE S03°03'08"W 434.54', THENCE ALONG SAID RIGHT-OF-WAY S87°02'59"E 209.22' TO THE POINT OF BEGINNING, CONTAINING 152.23 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 16- WELLSPRING**

ABSTRACTER'S CERTIFICATE OF PROPERTY OWNERSHIP

Blue Star Title of Arkansas, Inc. hereby certifies that the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, reflect that the following are the owners of the record title to all of the real property described in Exhibit "A" to the Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 16 – Wellspring, a copy of which Exhibit "A" is attached hereto and made a part hereof:

CB Ventures, LLC, Brandon Barber, Seth Kaffka and Brandon Rains

DATED this 7th day of July, 2006.

Blue Star Title of Arkansas, Inc.

By: Nancy K. Wilson
AUTHORIZED REPRESENTATIVE

RECEIVED

JUL 07 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**Fayetteville Municipal Property Owners'
Improvement District No. 16- Wellspring**

Exhibit - A

SURVEY DESCRIPTION:

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND A PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND A PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, ALL IN WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S87°42'05"E 617.60' AND N03°03'08"E 102.59' FROM THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7 AND RUNNING THENCE S87°03'27"E 93.41' TO A SET IRON PIN, THENCE N02°40'05"E 1716.06' TO A FOUND IRON PIN, THENCE N02°40'00"E 2143.06' TO A FOUND IRON PIN, THENCE N87°46'42"W 715.35' TO A FOUND IRON PIN, LOCATED AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 7, THENCE N02°27'56"E 46.74' TO A FOUND IRON PIN, LOCATED AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 1, THENCE N86°58'50"W 751.69' TO THE CENTERLINE OF RUPPLE ROAD, THENCE ALONG SAID CENTERLINE S20°20'50"W 44.46', S14°10'34"W 65.18', S09°16'42"W 44.03', S06°40'25"W 54.50', S05°18'51"W 54.60', S04°54'39"W 54.72', S04°57'12"W 59.85', S07°17'28"W 55.76', S13°38'10"W 52.31', S23°24'21"W 49.39', S32°18'04"W 47.75', S36°38'10"W 37.75', S40°31'21"W 59.19', S44°51'16"W 60.06', S46°48'24"W 67.32', S44°39'19"W 56.83', S39°09'37"W 55.03', S30°55'13"W 66.99', S24°56'32"W 57.82', S22°38'12"W 58.87', S22°23'40"W 54.61', S22°23'30"W 58.25', S23°21'56"W 55.44', S27°27'36"W 58.17', S31°39'13"W 58.36', S31°28'21"W 57.48', S21°21'38"W 54.39', S09°23'27"W 60.29', S02°47'11"W 51.61', S01°55'43"W 51.38', S02°08'41"W 57.15', S02°26'03"W 49.97', S02°30'26"W 51.03', S02°49'34"W 51.91', S02°57'05"W 54.52', S02°54'57"W 52.46', S02°50'56"W 55.16', S02°43'15"W 48.89', S02°33'25"W 54.35', S02°31'07"W 51.57', S02°25'23"W 56.41', S02°19'43"W 50.93', S02°27'09"W 38.77', S02°34'15"W 44.03', S03°12'55"W 52.16', S02°57'10"W 49.78', S02°33'54"W 51.59', S02°57'20"W 63.38', S03°10'04"W 52.97', S02°59'07"W 52.35', S02°31'09"W 51.19', S03°12'19"W 54.91', S02°13'15"W 33.15', S02°14'57"W 49.48', S02°42'49"W 48.61', S02°37'18"W 50.94', S02°42'26"W 49.47', S02°18'12"W 48.56', S02°45'16"W 52.85', S02°38'45"W 52.94', S02°54'55"W 41.80', S02°54'55"W 360.64', THENCE LEAVING SAID CENTERLINE S87°30'27"E 629.81' TO A CORNER POST, THENCE S03°09'47"W 7.60' TO A SET IRON PIN, THENCE S86°50'13"E 1088.84', THENCE S03°03'08"W 434.54', THENCE ALONG SAID RIGHT-OF-WAY S87°02'59"E 209.22' TO THE POINT OF BEGINNING, CONTAINING 152.23 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

From: "Jim McCord" <jimmccordlaw@alltel.net>
To: <lljordan7@hotmail.com>
Date: 7/12/06 11:39AM
Subject: Dunnerstock Annexation/Rezoning to RSF-4 (60.2 acres at end of 59th Ave. north of Wedington Drive)

Lioneld,

This morning I confirmed with the office of the Resident Engineer for the Arkansas Department of Highways and Transportation that the Highway Department has executed a contract for a project to widen Wedington Drive (Arkansas Highway 16) to 4 lanes, plus a turn lane, from Meadowlands to Double Springs Road. I was advised that utility relocation work has begun and that the projected completion date of the widening project is May 1, 2008.

Jim

James N. McCord

Attorney at Law

11 N. West Ave., Suite #202

Fayetteville, AR 72701

Telephone (479) 695-1134

Facsimile (479) 695-1135

jimmccordlaw@alltel.net

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

Agenda Session
7/11/06 New Resolution

RESOLUTION NO. _____

A RESOLUTION APPROVING THE FIRST CONTRACT AMENDMENT WITH DUNCAN ASSOCIATES IN THE AMOUNT OF \$110,000.00 TO UPDATE THE EXISTING WATER AND WASTEWATER IMPACT FEES, TO CALCULATE FEES FOR THE COLLECTION SYSTEM, AND NEGOTIATE CONTRACTS WITH THE CITIES OF ELKINS, FARMINGTON AND GREENLAND TO PAY FOR AND PROVIDE POTENTIAL WATER AND WASTEWATER IMPACT FEES WITHIN THEIR CORPORATE BOUNDARIES; APPROVING A BUDGET ADJUSTMENT AND LIMITING THE CITY OF FAYETTEVILLE'S EXPENDITURES TO AN AMOUNT NOT TO EXCEED \$55,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the First Contract Amendment with Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. A copy of the First Contract Amendment, marked Exhibit "A" with its attached exhibits, is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$110,000.00.

Section 3. That the City of Fayetteville, Arkansas shall not expend more than \$55,000.00 for its share of costs for this project.

PASSED and APPROVED this 18th day of July, 2006.

ATTEST:

By:

SONDRA SMITH City Clerk

By:

DAN COODY, Mayor

ALDERMAN AGENDA REQUEST FORM

Added at Agenda Session

7/11/06

C. 10
Amend 166.05 of the UDO -
Large Scale Development
Page 1 of 4

FOR: COUNCIL MEETING OF JULY 18, 2006

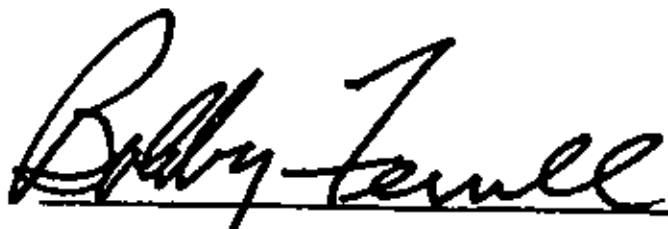
FROM:

ALDERMAN BOBBY FERRELL, ALDERMAN ROBERT REYNOLDS,
ALDERMAN ROBERT RHOADS and ALDERMAN DON MARR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §166.05 Large Scale Development Of The Unified Development Code By
Adding Subsection (7)(e) To Allow Consideration Of A Development's Economic Benefit

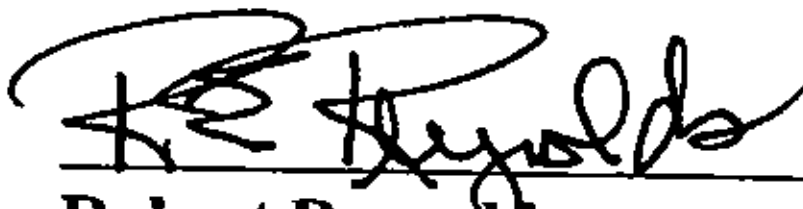
APPROVED FOR AGENDA:



Bobby Ferrell
Alderman

7-06-06

Date



Robert Reynolds
Alderman

7-06-06

Date



Robert Rhoads
Alderman

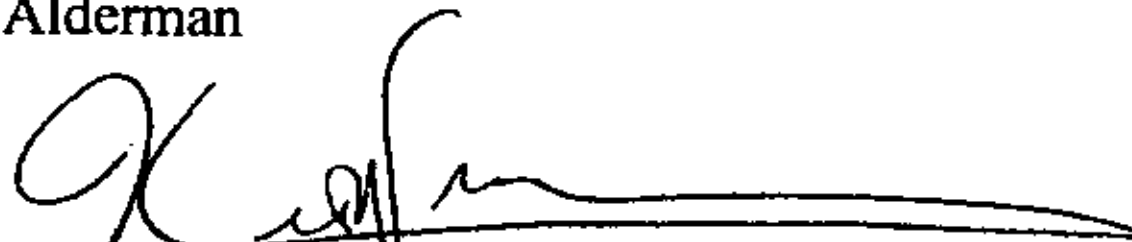
7/6/06

Date



Don Marr
Alderman

Date



Kit Williams
City Attorney (as to form)

July 6, 2006

Date

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §166.05 *LARGE SCALE DEVELOPMENT* OF THE UNIFIED DEVELOPMENT CODE BY ADDING SUBSECTION (7)(e) TO ALLOW CONSIDERATION OF A DEVELOPMENT'S ECONOMIC BENEFIT

WHEREAS, the Planning Commission (and on appeal, the City Council) should be able to consider a proposed development's economic benefit when determining whether to approve a Large Scale Development or Preliminary Plat.

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 enacts a new subsection (7)(e) of §166.05 of the Unified Development Code to read as follows:

"§166.05 (7)(e). The Subdivision Committee or Planning Commission may consider the proposed development's economic benefit to the City of Fayetteville and its citizens when determining the compliance of this development to all sections of this Chapter including §166.14 *Commercial Design Standards* as well as §161.24 *Design Overlay District* and §161.25 *Planned Zoning District*. A major economic benefit of a proposed development to the City and citizens of Fayetteville may justify a deviation from strict compliance with development regulations and also may be considered in determining whether a formal variance should be granted pursuant to **Chapter 156: Variances.**"

PASSED and APPROVED this 18th day of July, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

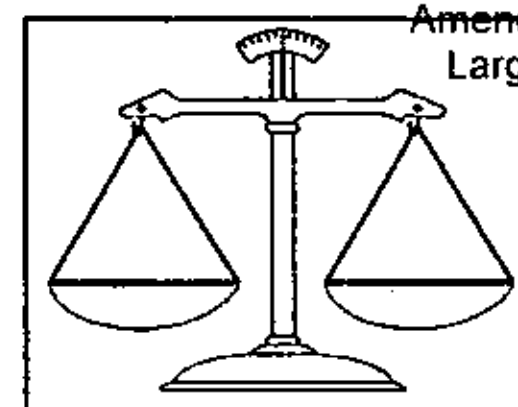
By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

C. 10
Amend 166.05 of the UDO -
Large Scale Development
Page 3 of 4

TO: **Dan Coody, Mayor**
City Council
Jeremy Pate, Director of Current Planning

FROM: **Kit Williams, City Attorney**

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

DATE: **July 7, 2006**

RE: **Ordinance to allow consideration of economic benefit for approval of Large Scale Development, Preliminary Plat and Planned Zoning District**

Alderman Ferrell asked me to draft a proposed amendment to the U.D.C. to allow consideration of a project's economic benefit as part of the approval process. I did so on June 14th. Last night Aldermen Ferrell, Reynolds, Rhoads and Marr signed the Agenda Request for this proposed ordinance which will be placed on the Agenda for your meeting of July 18, 2006. I have attached this short ordinance to this memo.

As you can see in the proposal, consideration of a proposed development economic benefit to the City and our citizens is **permissive**, not mandatory. If it is considered by the Planning Commission and the determined to be a "major economic benefit", it would "justify a deviation from strict compliance with development regulations (including Commercial Design Standards)" It could also be considered if a formal variance is requested through Chapter 156: **Variances**.

I do not envision this ordinance, if adopted, to require economic benefit analysis for most projects which should continue to meet our existing requirements. I did realize that some franchise restaurants and stores might attempt to use this ordinance to request deviations from our Commercial

Design Standards so their projects can more closely resemble their corporate approved designs, logos, colors, etc. That is why I drafted this to require a **"major economic benefit"** which a large development like Divinity could meet, but which a proposed chain restaurant would not likely be able to attain.

If the City Council wishes to extend this economic benefit analysis to smaller development projects, you should amend this proposal to remove **"major"** from the last sentence of the ordinance.

To avoid unnecessarily increasing the work and documentation required by our Planning Staff, I would assume that **no economic analysis would be undertaken or included in their recommendation to the Planning Commission unless the developer requests such economic analysis and presents a reasonable economic analysis from a reputable source showing a likelihood that such economic benefit would be "major."**

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
July 18, 2006**

A meeting of the Fayetteville City Council will be held on July 18, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Progress Report on Phase I of the Classification and Compensation System Project Job Description Development given by Johanson Group. – Agenda Session Only

A. CONSENT:

- 1. Approval of the June 27, 2006 Special City Council meeting minutes and the July 6, 2006 City Council meeting minutes.**
- 2. Planning Commissioner's Compensation:** A resolution approving a Budget Adjustment in the amount of \$21,800.00 for Salaries and Wages expense related to the compensation of Planning Commissioners.

B. UNFINISHED BUSINESS:

- 1. To be determined at the July 6, 2006 City Council Meeting:** All Unfinished Business items from the July 6, 2006 City Council Meeting will be added to the Final Agenda.

C. NEW BUSINESS:

1. **ANX 06-2129 McDonald:** An ordinance annexing that property described in annexation petition ANX 06-2129 (CC2005-27, CC2006-7, and CC2006-8), for property located south of Huntsville Road (HWY 16), west of Roberts Road, containing approximately 14.21 acres.
2. **ANX 06-2125 Dunnerstock/Foster:** An ordinance annexing that property described in annexation petition ANX 06-2125 (CC2006-5), for property located at the north end of 59th Avenue, off Wedington Drive, containing approximately 60.20 acres.
3. **RZN 06-2126 Dunnerstock/Foster:** An ordinance rezoning that property described in rezoning petition RZN 06-2126, for approximately 60.20 acres, located north of Wedington Drive, at the end of 59th, for R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 units per acre.
4. **VAC 06-2123 Launder:** An ordinance approving VAC 06-2123 submitted by John Launder for property located at 1025 Company, vacating 0.06 acre portion of the utility easement located within the subject property.
5. **VAC 06-2068 Bio-Based/City of Fayetteville:** An ordinance approving VAC 06-2068 submitted by the City of Fayetteville for property located at 1475 Cato Springs Road, vacating un-constructed right-of-way within the subject property in association with an approved large scale development for Bio-Based.
6. **Amend Chapter 34, Cost Share Exemptions:** An ordinance amending Chapter 34, Article II of the Code of Fayetteville, to exempt Cost Share agreements for Infrastructure Improvements from the requirements of §34.23.
7. **Duncan Associates Water and Sewer Impact Fees Phase 2:** A resolution approving the first contract amendment with Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington, and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries; and approving a budget adjustment.
8. **Brasfield & Gorrie, LLC:** A resolution approving a construction contract with Brasfield & Gorrie, LLC in the amount of \$6,130,000.00 to construct the Hamstring Sewer Lift Station, WL-6; approving a four percent (4%) contingency in the amount of \$245,000.00; and approving a budget adjustment in the amount of \$5,100,000.00.

D. INFORMATIONAL:

City Council Tour: July 17, 2006 - 4:30 PM

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

18-Jul-06

City Council Meeting Date

Kevin Springer
Submitted By

Budget & Research
Division

Finance & Internal Services
Department

Action Required:

Approval of a budget adjustment for \$21,800 for Salaries & Wages expense related to the compensation of the Planning Commissioners.

\$21,800.00	\$ -	Personnel
Cost of this request	Category/Project Budget (2005)	Program Category / Project Name
1010.6305.51XX.XX	\$ -	Planning Commissioner
Account Number	Funds Used to Date	Program / Project Category Name
	\$ -	General
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

X

Staff recommends approval of the budget adjustment.

Previous Ordinance or Resolution # 4892

Marsha Fackler
Department Director

6/26/06
Date

Original Contract Date:

Original Contract Number:

D. J. Whit
City Attorney

6/27/06
Date

Received in City Clerk's Office

ENTERED

6/26/06

Received in Mayor's Office

ENTERED

6/27/06

Mayor

6/27/06
Date

Comments:



DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Fayetteville City Council

THRU: Marsha Farthing, Interim Finance & Internal Services Director

FROM: Kevin Springer, Budget Manager *JS*

DATE: June 20, 2006

SUBJECT: **Budget Adjustment Request – Planning Commissioner's Compensation**

Recommendation:

Staff recommends that City Council approve a budget adjustment for \$21,800 for Salaries & Wages expense related to the compensation of the Planning Commissioners.

Background & Discussion:

City Council approved Ordinance 4892 on June 20, 2006 which amends Fayetteville Code §33.108 Compensation as follows:

“The members of the Planning Commission shall receive \$375.00 per month during their service on the Planning Commission.”

City staff is recommending that the budget adjustment be approved in the amount of \$21,800. The funding is required to budget for the Salaries and FICA expense related to the approval of Ordinance 4892 which will pay nine (9) commissioners at \$375.00/month for a total of six (6) months.

Budget Impact:

The funding for the commissioner pay will come from the General Fund Use of Fund Balance. The 2007 impact will be \$43,600 for compensation expense.

Conclusion:

If approved, the \$21,800 will be added to the Salaries & Wages accounts for the Planning Commission Program. The funds are needed to comply with Ordinance 4892.

If you have any questions concerning this agenda request please contact either myself at 575-8226 or Marsha Farthing at 575-8281.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT
IN THE AMOUNT OF \$21,800.00 FOR SALARIES AND
WAGES EXPENSE RELATED TO THE COMPENSATION
OF PLANNING COMMISSIONERS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby
approves a Budget Adjustment in the amount of \$21,800.00 for Salaries and Wages
expense related to the compensation of Planning Commissioners.

PASSED and APPROVED this 18th day of July, 2006.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 2
Planning Commissioner's Compensation
Page 4 of 6

Budget Year 2006	Department: Operations Division: Planning Program: Planning Commission	Date Requested 6/21/2006	Adjustment Number
-------------------------	--	---------------------------------	-------------------

Project or Item Added/Increased:
\$20,250 is requested in the Salaries & Wages account and \$1,550 is requested in the FICA Taxes account.

Project or Item Deleted/Reduced:
\$21,800 from the Use of Fund Balance account.

Justification of this Increase:
Fayetteville Planning Commissioners will receive \$375 per month for their services.

Justification of this Decrease:
Sufficient fund balance remains to comply with City policies.

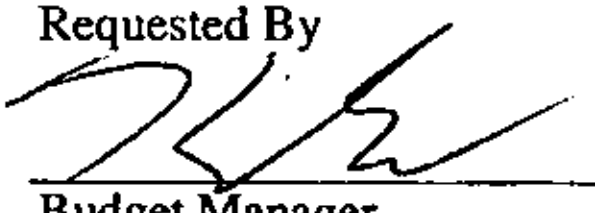
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number
Salaries and wages	1010	6305	5100	00	20,250	
FICA taxes	1010	6305	5105	00	1,550	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Use of fund balance	1010	0001	4999	99	21,800	

Approval Signatures

Requested By	Date
	6-26-06
Budget Manager	Date
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval

Initial Date

Posted to General Ledger

Initial Date

Posted to Project Accounting

Initial Date

Entered in Category Log

Initial Date

ORDINANCE NO. 4892

**AN ORDINANCE TO AMEND § 33.108 COMPENSATION
OF ARTICLE VII PLANNING COMMISSION OF THE
FAYETTEVILLE CODE TO PROVIDE THAT PLANNING
COMMISSIONERS SHALL BE COMPENSATED**

WHEREAS, Arkansas law provides that municipal planning commissioners shall be entitled to receive compensation if so authorized by ordinance; and

WHEREAS, the Planning Commissioners devote many hours weekly in their statutory duty to help plan our rapid development during Subdivision Committee meetings, Agenda meeting, regular Planning Commission meetings and special Planning Commission meetings (Downtown Code, Hillside Task Force, 2025 Plan, etc.); and

WHEREAS, it is right and proper that these appointed commissioners receive some compensation for all the valuable and necessary work that they perform for the City.

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 repeals § 33.108 Compensation in its entirety and enacts a replacement §33.108 as follows:

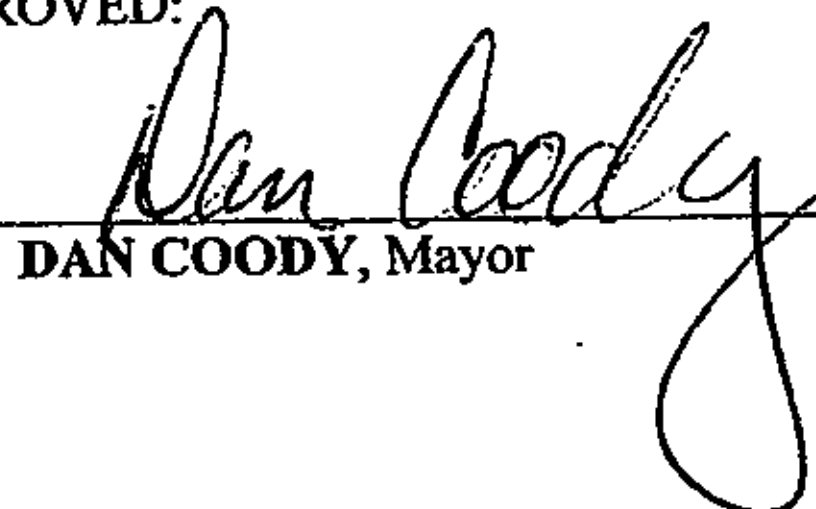
"§ 33.108 Compensation

"The members of the Planning Commission shall receive \$375.00 per month during their service on the Planning Commission."

PASSED and APPROVED this 20th day of June, 2006.

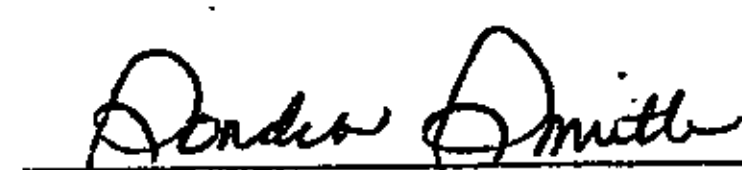
APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk



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

18-Jul-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 06-2129: (McDONALD, 569): Submitted by H2 Engineering, Inc. for property located south of Huntsville Road (Hwy 16), west of Roberts Road. The property is in the Planning Area and contains approximately 14.21 acres. The request is to annex the subject property into the City of Fayetteville.

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

☐

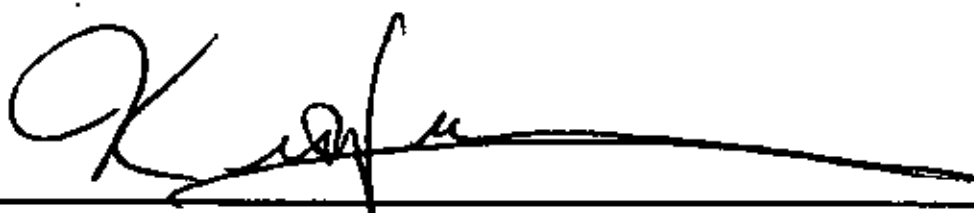

Department Director

6-30-06
Date

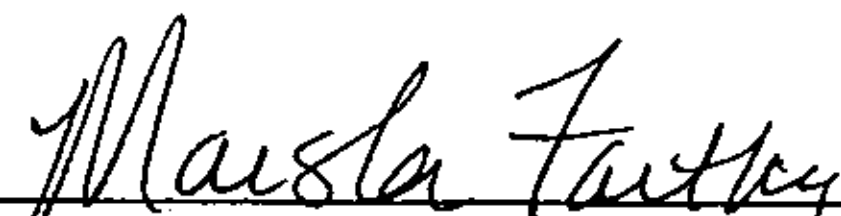
Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

6-30-06


Finance and Internal Service Director

6/30/06
Date


Mayor

7/5/06
Date

Received in City Clerk's Office


Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JCP*

Date: June 27, 2006

Subject: Annexation for McDonald (ANX 06-2129)

RECOMMENDATION

The Planning Commission recommended approval of the subject annexation request for approximately 14.2 acres of property located south of Huntsville Road (Hwy 16), west of Roberts Road.

BACKGROUND

The subject property contains several parcels consisting of 14.2 acres. The properties are owned by five different parties. Mr. McDonald, one of the property owners and developer of Bridgedale Subdivision Phase I, is the applicant for this request. The subject property is located south of Huntsville Road and west of Roberts Road. Stonebridge Meadows Subdivision Phase I is located adjacent to the southwest, Bridgedale Subdivision Phase I abuts the property to the south. A small portion of the southern boundary of the property is adjacent to the Planning Area. The use of the unincorporated property adjacent to the subject property is the detention area for Bridgedale Subdivision.

On November 28, 2005, the Planning Commission tabled an annexation request for approximately 7.4 acres of property which was a part of the 14.2 acres now requested to be annexed into the City of Fayetteville. Staff found that the former annexation request would not create an acceptable annexation boundary, resulting in two islands of unincorporated property. Staff recommended that the applicant pursue annexation of the property that would incorporate the property within the two islands in an effort to address and better comply with the City's annexation policies. The applicant has resubmitted the annexation request with a total 14.2 acres, creating no islands of unincorporated property.

Staff recommends approval of the requested annexation. The annexation of this property will "fill-in" an area of property already surrounded by the city limits and create a more appropriate city boundary.

DISCUSSION

This item was heard at the regular Planning Commission on June 26, 2006. The Planning Commission voted 8-0-0 to recommend approval of this annexation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT
PROPERTY DESCRIBED IN ANNEXATION
PETITION ANX 06-2129 (CC2005-27, CC2006-7,
AND CC2006-8), FOR PROPERTY LOCATED
SOUTH OF HUNTSVILLE ROAD (HWY 16),
WEST OF ROBERTS ROAD, CONTAINING
APPROXIMATELY 14.21 ACRES.

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

Section 1: That the City Council hereby confirms the annexation to the City of
Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part
hereof.

Section 2: That the official map of the City of Fayetteville, Arkansas, is hereby amended
to reflect the change provided in Section 1 above.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby
amended to assign the zoning designation of R-A, Residential Agricultural to the subject
property.

Section 4: That the above-described property is hereby assigned to Ward No. One.

PASSED and APPROVED this ____ day of ____, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ANX 06-2129
(Page 1 of 2)

ANNEXATION DESCRIPTION (PARCEL: 765-13094) (MCDONALD, LLC-OWNER)

A PART OF THE WEST HALF (W ½) OF THE FRACTIONAL NW ¼ OF SECTION 19, T-16-N, R-29-W OF THE 5TH PRINCIPAL MERIDIAN, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER (SWC) OF SAID SECTION 19, AND CONTINUING THENCE ALONG A COMMON LINE BETWEEN RANGE 29 WEST AND RANGE 30 WEST N02°46'52"E 3400.63 FEET TO THE EAST COMMON CORNER OF LOTS 48 AND 49 OF STONEBRIDGE MEADOWS SUBDIVISION, SAID POINT BEING ON SAID COMMON RANGE LINE AND CONTINUING THENCE S86°58'54"E 230.93 FEET; THENCE N02°35'19"E 816.30 FEET TO THE EXISTING CITY LIMITS; THENCE ALONG SAID CITY LIMITS S54°05'56"E 323.93 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON SAID CITY LIMITS BOUNDARY; THENCE ALONG SAID BOUNDARY S54°05'56"E 112.25 FEET; THENCE LEAVING SAID CITY LIMITS S02°53'32"W 130.07 FEET; THENCE N86°55'03"W 89.49 FEET; THENCE N01°29'59"E 190.98 FEET TO THE POINT OF BEGINNING, CONTAINING 0.337 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

ANNEXATION DESCRIPTION (PARCEL: 001-10691) (MCDONALD, LLC-OWNER)

A PART OF THE WEST HALF (W ½) OF THE FRACTIONAL NW ¼ OF SECTION 19, T-16-N, R-29-W OF THE 5TH PRINCIPAL MERIDIAN, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER (SWC) OF SAID SECTION 19, AND CONTINUING THENCE ALONG A COMMON LINE BETWEEN RANGE 29 WEST AND RANGE 30 WEST N02°46'52"E 3400.63 FEET TO THE EAST COMMON CORNER OF LOTS 48 AND 49 OF STONEBRIDGE MEADOWS SUBDIVISION, SAID POINT BEING ON SAID COMMON RANGE LINE AND CONTINUING THENCE S86°58'54"E 230.93 FEET TO THE POINT OF BEGINNING SAID POINT BEING ON THE NORTHERN CITY LIMITS BOUNDARY OF STONEBRIDGE MEADOWS SUBDIVISION; THENCE N02°35'19"E 816.30 FEET TO THE EXISTING CITY LIMITS; THENCE ALONG SAID CITY LIMITS S54°05'56"E 323.93 FEET; THENCE LEAVING SAID CITY LIMITS S01°29'59"W 190.98 FEET; THENCE S86°55'03"E 239.51 FEET; THENCE S02°49'37"W 446.94 FEET; THENCE N87°15'25"W 477.72 FEET TO THE NORTHEAST CORNER OF STONEBRIDGE MEADOWS; THENCE N86°58'54"W 34.25 FEET TO THE POINT OF BEGINNING, CONTAINING 7.020 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

EXHIBIT "A"
ANX 06-2129
(Page 2 of 2)

ANNEXATION DESCRIPTION (PARCEL: 001-10690-000) (MCDONALD, LLC-OWNER):
PART OF THE WEST HALF OF THE FRACTIONAL NORTHWEST QUARTER OF SECTION 19, T-16-N, R-29-W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 19, AND RUNNING THENCE N02°46'52"E 3400.63 FEET ALONG THE RANGE LINE BETWEEN RANGE 29 AND 30 WEST TO THE EAST COMMON CORNER OF LOTS 48 AND 49 OF STONE BRIDGE MEADOWS SUBDIVISION PHASE I, SAID POINT BEING THE TRUE POINT OF BEGINNING AND RUNNING THENCE N02°39'38"E 857.69 FEET TO THE RIGHT OF WAY LINE OF RIVER MEADOWS DRIVE, THENCE ALONG SAID RIGHT OF WAY N24°21'56"E 92.75 FEET TO THE FAYETTEVILLE CITY LIMITS LINE, THENCE LEAVING SAID RIGHT OF WAY AND RUNNING ALONG SAID CITY LIMITS LINE S54°05'56"E 233.87 FEET, THENCE LEAVING SAID CITY LIMITS LINE S02°35'19"W 816.30 FEET, THENCE N87°10'57"W 230.93 FEET TO THE POINT OF BEGINNING CONTAINING 4.67 ACRES, MORE OR LESS. SUBJECT TO RIGHT OF WAY ALONG RIVER MEADOWS DRIVE.

ANNEXATION DESCRIPTION (PARCELS: 765-13098, 765-13090, 765-13097, 001-10692, 001-10700) (ALVA MITCHELL, HERMAN BURRIS, DORIS ROBERTS, ELDON ROBERTS - OWNERS):

PART OF THE FRACTIONAL NORTHWEST QUARTER OF SECTION 19, T-16-N, R-29-W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT: COMMENCING AT THE NORTHEAST CORNER OF THE SW ¼ OF THE NW ¼ OF SAID SECTION 19, AND RUNNING THENCE S02°43'50"W 277.98 FEET ALONG THE FORTY LINE TO THE TRUE POINT OF BEGINNING AND RUNNING THENCE S02°10'45"W 159.03 FEET, THENCE N87°16'10"W 317.59 FEET, THENCE N02°54'51"E 331.00 FEET, THENCE N86°30'09"W 150.56 FEET, THENCE N02°53'32"E 130.07 FEET, THENCE S54°05'56"E 555.74 FEET TO THE POINT OF BEGINNING CONTAINING 2.18 ACRES, MORE OR LESS. SUBJECT TO RIGHT OF WAY ALONG ROBERTS ROAD.



PC Meeting of June 26, 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: June 21, 2006

ANX 06-2129: (MCDONALD, 569): Submitted by H2 ENGINEERING, INC. for property located S OF HUNTSVILLE RD., BETWEEN RIVER MEADOWS AND ROBERTS ROAD. The property is in the Planning Area and contains approximately 14.21 acres. The request is to annex the subject property into the City of Fayetteville.
Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the annexation of 14.21 acres into the City of Fayetteville.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date: <u>June 26, 2006</u>	Motion: <u>Graves</u> Second: <u>Harris</u> Vote: <u>8-0-0</u>		
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date: <u>July 18, 2006 (1st reading if recommended)</u>			

BACKGROUND:

On November 28, 2005, the Planning Commission tabled an annexation request for 7.36 acres of property which was a part of the 14.21 acres now requested to be annexed into the City of Fayetteville. Staff found that the former annexation request would not create an acceptable annexation boundary, resulting in two islands of unincorporated property. Staff recommended that the applicant pursue annexation of the property that would incorporate the property within the two islands in an effort to address and better comply with the City's annexation policies. The applicant has resubmitted the annexation request with a total 14.21 acres, creating no islands of unincorporated property.

Property Description: The subject property contains several parcels consisting of 14.21 acres. The properties are owned by five different parties. Mr. McDonald, one of the property owners and developer of Bridgedale Subdivision Phase I, is the applicant for this request. The subject property is located south of Huntsville Road and west of Roberts Road. Stonebridge Meadows Subdivision Phase I is located adjacent to the southwest, Bridgedale Subdivision Phase I abuts the property to the

south. A small portion of the southern boundary of the property is adjacent to the Planning Area. The use of the unincorporated property adjacent to the subject property is the detention area for Bridgedale Subdivision. This lot was not annexed into the City in conjunction with the adjacent property now developed for lots within Bridgedale because it would have created an island of unincorporated property, the same property now requested to be annexed.

Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Rural residential	RSF-4, Residential Single Family
South	Bridgedale/Stonebridge Subdivisions Detention Lot for Bridgedale Subdivision	RSF-4, Residential Single Family Planning Area
East	Rural residential	RSF-4, Residential Single Family
West	Stonebridge Subdivision Phase I	RSF-4, Residential Single Family

Proposal: The applicant proposes annexation of 14.21 acres into the City of Fayetteville. The applicant does not request a rezoning of the property at this time.

Public Comment: Staff has received no written public comment concerning the requested annexation.

INFRASTRUCTURE:

Streets: The site has access to Roberts Road and River Meadows. Roberts Road is an unimproved two-lane paved roadway at this property. River Meadows is an improved two lane roadway. Onsite and offsite improvements that may be required shall be evaluated by staff as development occurs.

Adjacent Master Street Plan Streets

Direction from Site	Street Name	Master Street Plan Classification
South	Pinnacle Dr.	Residential Street
East	Roberts Rd.	Collector Street
West	River Meadows	Local Street

Water: Public water is adjacent to the site. There is an 8" waterline along River Meadows and a 6" main along Roberts Road. Improvements to the water system may be required dependent upon the demand placed by the future development. Water service will need to be extended within the property at the time of development.

Sewer: Sanitary sewer is available on the site. There is an 8" sewer line located in the adjacent subdivision to the west. There is also a 6" sewer main to the east on Roberts Road. Improvements to the sewer system may be required dependent upon the demand placed by the development. Sewer service will need to be within the property at the time of development.

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire: These 14.21 acres are covered by Engine 5 at 833 N Crossover. The property is 2.8 miles from the station with a projected response time of 6 minutes to this development. After Station 3 is built, on the corner of E Huntsville and Happy Hollow, the distance to the development will be reduced to 1.8 miles with an anticipated response time of 3.75 minutes. Measured hydrant flow in the area is 1510 gallons/minute. We do not figure projected calls for service on properties that are being annexed.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services.

LAND USE PLAN: General Plan 2020 identifies the portion of this property within the Planning Area as **Residential**.

FINDINGS:

**11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES**

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property will neither create a peninsula or an island of property within the County. The addition of this property to the city will create an acceptable city boundary that will "fill in" an area currently surrounded by city limits. Staff finds that the proposed annexation satisfactorily meets the requirements in the annexation guideline policy.

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 on all property lines with the exception of 200' along the southern boundary.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area does not consist of defined subdivisions or neighborhoods. Portions of property are the rear yards of single family dwellings and other parcels are vacant fields. Future development plans may include the extension of the subdivision to the south.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels, not natural corridors.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of 6 minutes for fire protection from Fire Station #5 and 3.75 minutes from the future Fire Station #3. The property has access to an 8" water main to the south. The line was stubbed out from the adjacent subdivision. An extension of the water main will be required to provide water supply and fire protection within any development on this property.

The site currently has access to an 8" sewer main on the south side of this property that was stubbed out from the adjacent subdivision. Sewer will need to be extended within the development.

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property consists of cleared pasture land with some scattered single family residences and accessory structures. No information has been presented to designate the subject property environmentally sensitive. Incorporation of this property would allow for the requirement of parks, open space and tree preservation.

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: Water and sewer lines are accessible. The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Fire service may also be provided to the site.

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police service will be required to be provided to this area with the same level of response and service as other properties in this area, if annexed in the City of Fayetteville. This area currently lies within areas already being served.

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: Water, sewer, fire and police protection are currently provided to developed areas to the north and south.

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Annexation and future development of this property will result in an increased demand on the existing infrastructure systems. Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should development occur on the subject property.

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 have not requested rezoning to a designation other than R-A at this time.

11.6.p An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed at this time. At the time the applicant desires to develop the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.

11.6.r Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: Upon staff's recommendation, the applicant has obtain support from adjacent property owners in order to provide annexation of a larger, more orderly parcel of land that conforms to the annexation policy adopted by the City Council.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 14.21 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.

June 19, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation **ANX 06-2129: (MCDONALD/BRIDGEDALE II, 569)**: Submitted by H2 ENGINEERING, INC. for property located at SOUTH OF HUNTSVILLE RD., BETWEEN RIVER MEADOWS AND ROBERTS RD would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property is in the planning area and contains approximately 14.21 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

Captain William Brown
Fayetteville Police Department



June 12, 2006

City of Fayetteville
Attn: Jeremy Pate
113 West Mountain Street
Fayetteville, AR 72701

RE: McDonald Rezoning Request

Jeremy,

Please consider this correspondence as an official request to cancel our rezoning request for the McDonald property south of Highway 16 and east of the Stonebridge Meadows phase 1 entrance. The owner, Mr. McDonald, would like to continue with the annexation of this property with the understanding that upon annexation the property will automatically be zoned R-A. Another application for rezoning will be submitted at a later date. Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Hennelly', is written over a horizontal line.

Thomas A. Hennelly
President
H2 Engineering, Inc.

Cc: Jan Gambil

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. 2005-27

PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

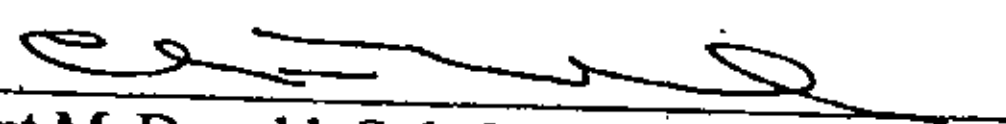
Come now the petitioner, McDonald, LLC, an Arkansas limited liability company (the "Petitioner") to annex certain property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. as follows:

1. That Petitioner owns the real property described on the two Plat Maps, Exhibit "A", attached hereto and made a part hereof (the "Real Property"), and the Real Property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas, and is within the City of Fayetteville, School District.
2. That Petitioner names Melvin Milholland, Clint McDonald, and James Atwood, Attorney at Law, P.A. as the persons authorized to act on their behalf with respect to this petition.
3. That the Petitioner desires that the Real Property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the property into the City of Fayetteville.
4. That a true and correct presentation of the Real Property and how it is contiguous to the City of Fayetteville, Arkansas is shown on the two Plat Maps, Exhibit "A", attached hereto.
5. That the Petitioner herein desires that the Real Property become part of the City of

Fayetteville, Washington County, Arkansas, and Petitioner states that it will do any and all legal acts necessary to accomplish the objective set forth herein.

THEREFORE, Petitioner respectfully prays that this Court set a hearing, and after notice of such hearing, that the County Judge sign an Order annexing the above described Real Property into the City of Fayetteville, Washington County, Arkansas, and to order such other relief as is appropriate under applicable law.

Respectfully executed this 27 day of July, 2005.


Clint McDonald, Sole Member of
McDonald, LLC

IN THE COUNTY COURT OF WASHINGTON COUNTY
FILED

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

2005 SEP 13 PM 12 59
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
NO. 2005-275 WASHINGTON CO. ARK.

ORDER OF ANNEXATION

Now on this 12th day of September, 2005, this cause comes on to be heard, the Petitioner, McDonald, LLC, an Arkansas limited liability company (the "Petitioner"), who is represented by the Engineer of Record, Melvin Milholland, Clint McDonald, and James E Atwood, Attorney at Law, P.A., after announcing the hearing of the cause and there being no protests or objections, whereupon, the matter is submitted to the Court upon the Petition filed herein, and the oral and documentary evidence having been adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on the 28th day of July, 2005 at which time this Court fixed the 12th day of September, 2005, at 10:00 a.m., as the date and time of hearing for said cause, and that a full notice of this hearing was given as required by law and the proof of publication of said notice is now on file with the County Clerk of this Court and the Court has jurisdiction of this cause.
2. The Court is satisfied that the allegations of the Petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed; that the property owners have freehold interests in the property hereinafter described in the Petition and constitute the real owners of the area affected.
3. The land proposed to be annexed to the City of Fayetteville, Washington County,

Arkansas, in this cause is described on "Exhibit A" attached hereto.

4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Acct. No. 1 of the Acts of the Legislature of 1875 of the State of Arkansas, and all Acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1953, as codified in *Ark. Code Ann.* § 14-40-601, et seq., and this Order shall be duly recorded by the County Clerk of Washington County.

IT IS SO ORDERED this 12th day of Sept, 2005.

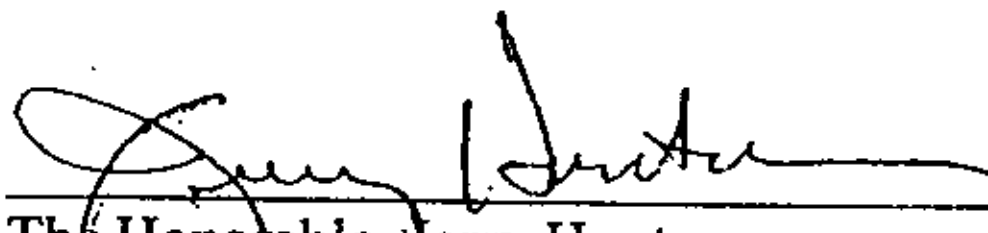
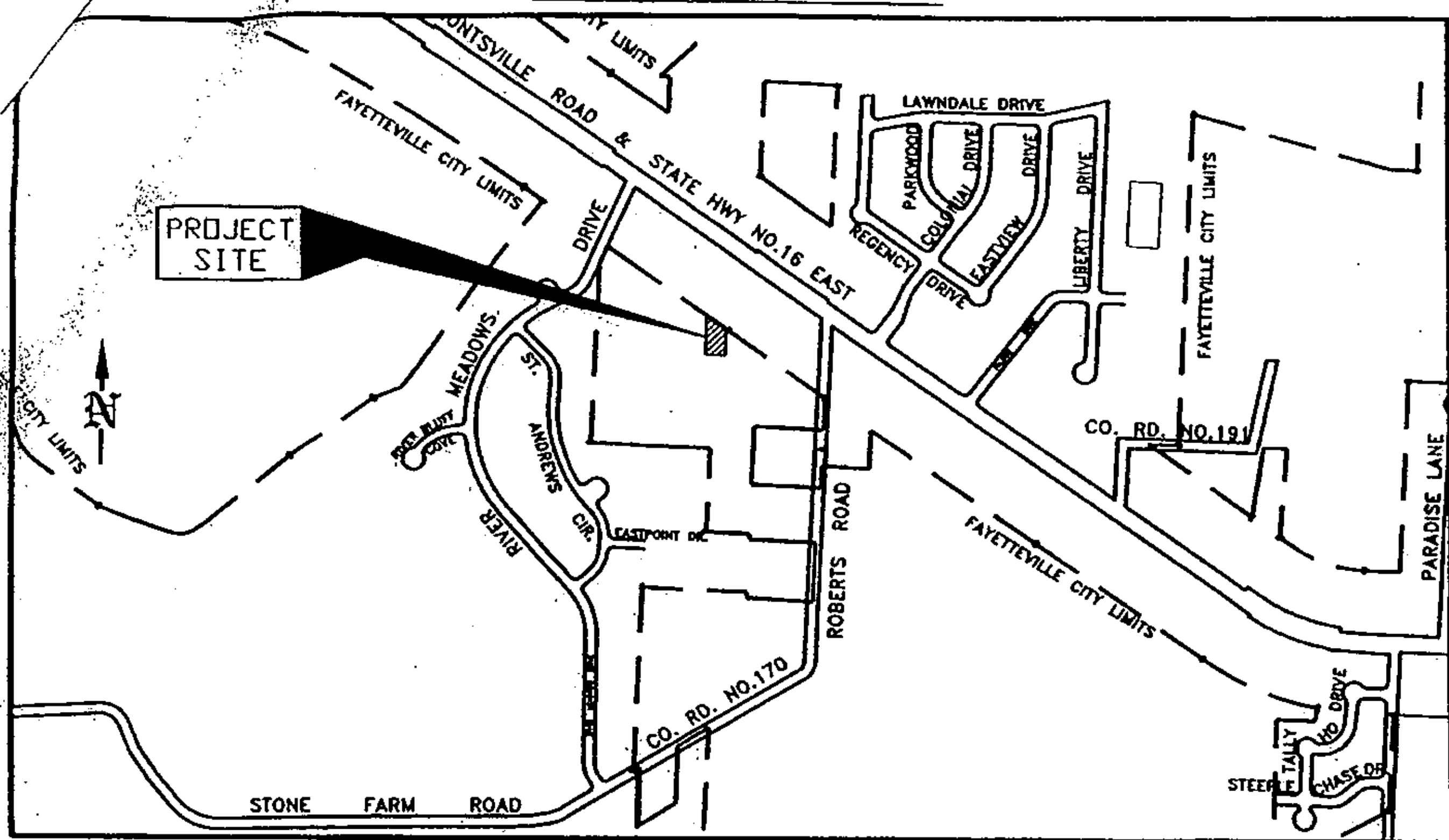

The Honorable Jerry Hunton
Washington County Judge

EXHIBIT "A"



VICINITY MAP

E-746

ANNEXATION DESCRIPTION (PARCEL:765-13094) (MCDONALD, LLC-OWNER):

A PART OF THE WEST HALF ($W\frac{1}{2}$) OF THE FRACTIONAL $NW\frac{1}{4}$ OF SECTION 19, T-16-N, R-29-W OF THE 5TH PRINCIPAL MERIDIAN, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER (SWC) OF SAID SECTION 19, AND CONTINUING THENCE ALONG A COMMON LINE BETWEEN RANGE 29 WEST AND RANGE 30 WEST $N02^{\circ}46'52"E$ 3400.63 FEET TO THE EAST COMMON CORNER OF LOTS 48 AND 49 OF STONE BRIDGE MEADOWS SUBDIVISION, SAID POINT BEING ON SAID COMMON RANGE LINE AND CONTINUING THENCE $S86^{\circ}58'54"E$ 230.93 FEET; THENCE $N02^{\circ}35'19"E$ 816.30 FEET TO THE EXISTING CITY LIMITS; THENCE ALONG SAID CITY LIMITS $S54^{\circ}05'56"E$ 323.93 FEET TO THE POINT OF BEGINNING SAID POINT BEING ON SAID CITY LIMITS BOUNDARY;

THENCE ALONG SAID BOUNDARY $S54^{\circ}05'56"E$ 112.25 FEET;
THENCE LEAVING SAID CITY LIMITS $S02^{\circ}53'32"W$ 130.07 FEET;
THENCE $N86^{\circ}55'03"W$ 89.49 FEET;

THENCE $N01^{\circ}29'59"E$ 190.98 FEET TO THE POINT OF BEGINNING, CONTAINING 0.337 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

0.337

DATE: 07-27-05



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Asst Chief Bud Thompson
From: Captain Dale Riggins
Date: June 21, 2006
Re: June 19, 2006 Zoning Review – Fire Department Comments

ANX06-2129 (McDonald)

These 14.21 acres are covered by Engine 5 at 833 N Crossover.
The property is 2.8 miles from the station with a projected response time of 6 minutes to this development. After Station 3 is built, on the corner of E Huntsville and Happy Hollow, the distance to the development will be reduced to 1.8 miles with an anticipated response time of 3.75 minutes.
Measured hydrant flow in the area is 1510 gallons/minute.
We do not figure projected calls for service on properties that are being annexed.

Please feel free to contact me if you have any questions

Dale Riggins
IT/Planning
Fayetteville Fire Department

McDonald ANX06-2129 Station 3



McDonald

ANX06-2129

Station 5





City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

May 18, 2006

Attn: Planning Department

Re: McDonald Annexation

On behalf of my client, Mr. Clint McDonald, and others listed please consider this correspondence an official request to annex the property described in this package.

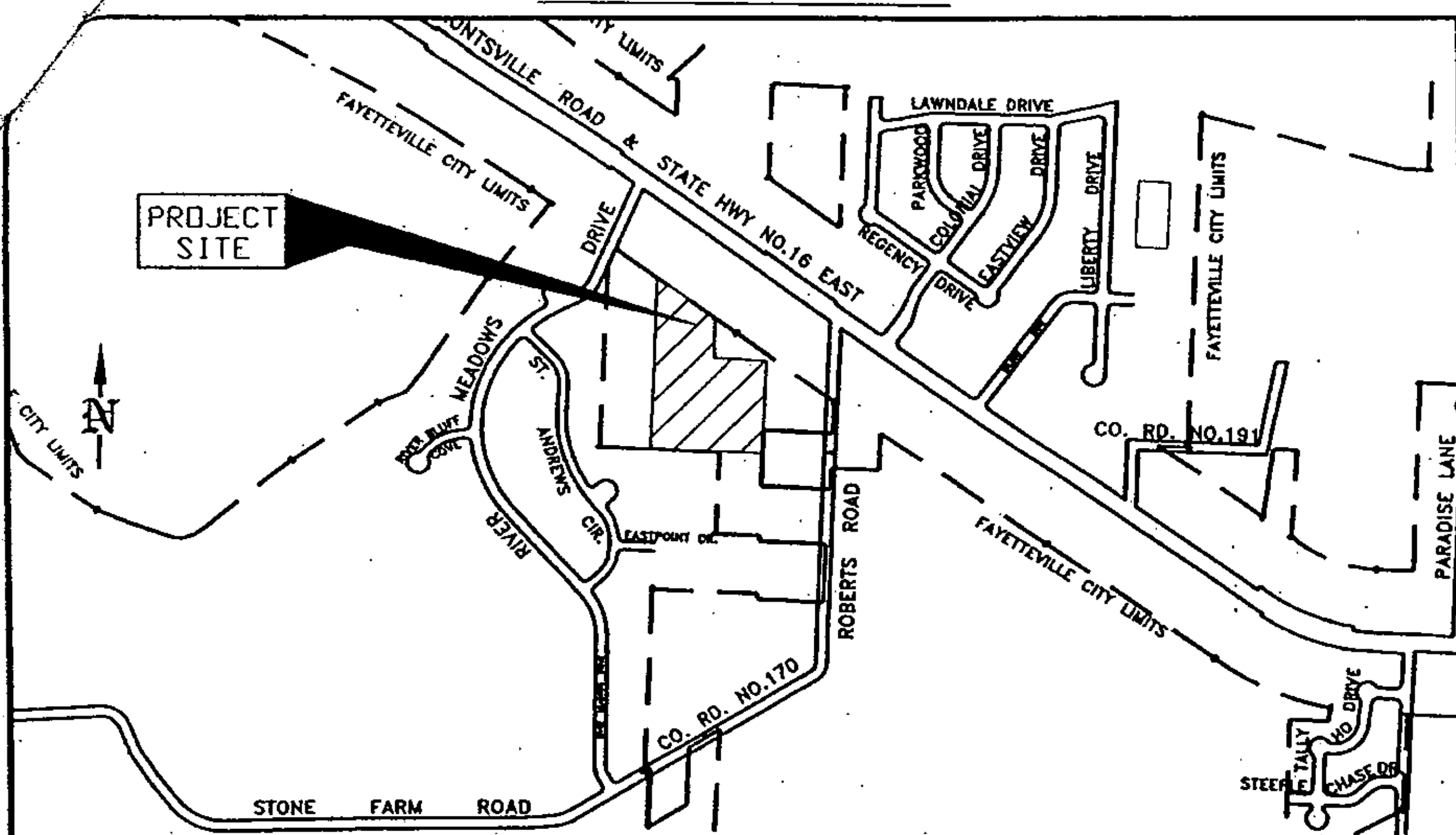
The property has been de-annexed from the County and all documentation required is attached to this letter. Please contact me for any questions concerning this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Glenn Carter', is written over the typed name.

Glenn Carter, PE, PLS
H2 Engineering, Inc.

EXHIBIT "A"



VICINITY MAP

E-746

ANNEXATION DESCRIPTION (PARCEL: 001-10691)(MCDONALD, LLC-OWNER):

A PART OF THE WEST HALF ($W\frac{1}{2}$) OF THE FRACTIONAL $NW\frac{1}{4}$ OF SECTION 19, T-16-N, R-29-W OF THE 5TH PRINCIPAL MERIDIAN, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER (SWC) OF SAID SECTION 19, AND CONTINUING THENCE ALONG A COMMON LINE BETWEEN RANGE 29 WEST AND RANGE 30 WEST $N02^{\circ}46'52"E$ 3400.63 FEET TO THE EAST COMMON CORNER OF LOTS 48 AND 49 OF STONE BRIDGE MEADOWS SUBDIVISION, SAID POINT BEING ON SAID COMMON RANGE LINE AND CONTINUING THENCE $S86^{\circ}58'54"E$ 230.93 FEET TO THE POINT OF BEGINNING SAID POINT BEING ON THE NORTHERN CITY LIMITS BOUNDARY OF STONEBRIDGE MEADOWS SUBDIVISION;
THENCE $N02^{\circ}35'19"E$ 816.30 FEET TO THE EXISTING CITY LIMITS;
THENCE ALONG SAID CITY LIMITS $S54^{\circ}05'56"E$ 323.93 FEET;
THENCE LEAVING SAID CITY LIMITS $S01^{\circ}29'59"W$ 190.98 FEET;
THENCE $S86^{\circ}55'03"E$ 239.51 FEET;
THENCE $S02^{\circ}49'37"W$ 446.94 FEET;
THENCE $N87^{\circ}15'25"W$ 477.72 FEET TO THE NORTHEAST CORNER OF STONE BRIDGE MEADOWS;
THENCE $N86^{\circ}58'54"W$ 34.25 FEET TO THE POINT OF BEGINNING, CONTAINING 7.020 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

7.020

DATE: 07-27-05

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. CL 2006 7

CLERK OF COURT
WASHINGTON CO. ARK.

2006 MAR 23 PM 3:27

FILED

PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

Come now the petitioners (the "Petitioners"), whose names are set forth in Exhibit B to this petition with such exhibit and attachments thereto incorporated into and a part of this petition, to annex certain property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. states as follows:

1. That Petitioners collectively own the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof (the "Real Property"), and the Real Property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas, and is within the City of Fayetteville, School District. The portion of the Real Property set forth in Exhibit A owned by each individual petitioner is set forth in Exhibit B to this petition.
2. That Petitioners name Clint McDonald and James Atwood, Attorney at Law, P.A. as the persons authorized to act on their behalf with respect to this petition.
3. That the Petitioners desire that the Real Property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the property into the City of Fayetteville.
4. That 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. That the Petitioners herein desire that the Real Property become part of the City of Fayetteville, Washington County, Arkansas, and Petitioners state that they will do any and all legal acts necessary to accomplish the objective set forth herein.

THEREFORE, Petitioners respectfully pray 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 23rd day of March, 2006.

Each of the Petitioners has executed this document in Exhibit B to this petition.

IN THE COUNTY COURT OF WASHINGTON COUNTY

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

NO. 2006-7

ORDER OF ANNEXATION

RECEIVED
CLERK
WASHINGTON CO. ARK.

2006 MAY 10 AM 10:17

FILED

Now on this 10th day of May, 2006, this cause comes on to be heard, the Petitioners, Wade Eugene Winn, Anna Pauline Winn, and McDonald, LLC, an Arkansas limited liability company (the "Petitioners"), who are represented by Clint McDonald and James E Atwood, Attorney at Law, P.A., after announcing the hearing of the cause and there being no protests or objections, whereupon, the matter is submitted to the Court upon the Petition filed herein, and the oral and documentary evidence having been adduced, the Court being well and sufficiently advised finds:

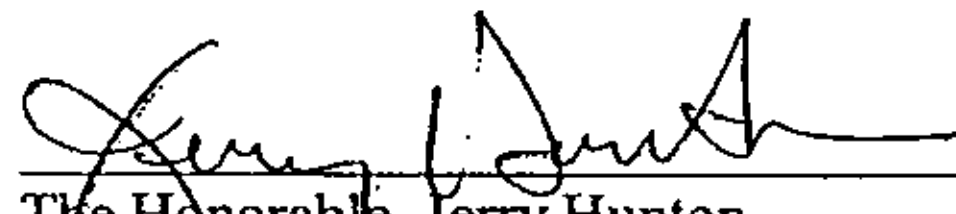
1. The Petition in this cause was filed on the 23rd day of March, 2006 at which time this Court fixed the 10th day of May, 2006, at 10:00 a.m., as the date and time of hearing for said cause, and that a full notice of this hearing was given as required by law and the proof of publication of said notice is now on file with the County Clerk of this Court and the Court has jurisdiction of this cause.
2. The Court is satisfied that the allegations of the Petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed; that the property owners have freehold interests in the property hereinafter described in the Petition and constitute the real owners of the area affected.
3. The land proposed to be annexed to the City of Fayetteville, Washington County,

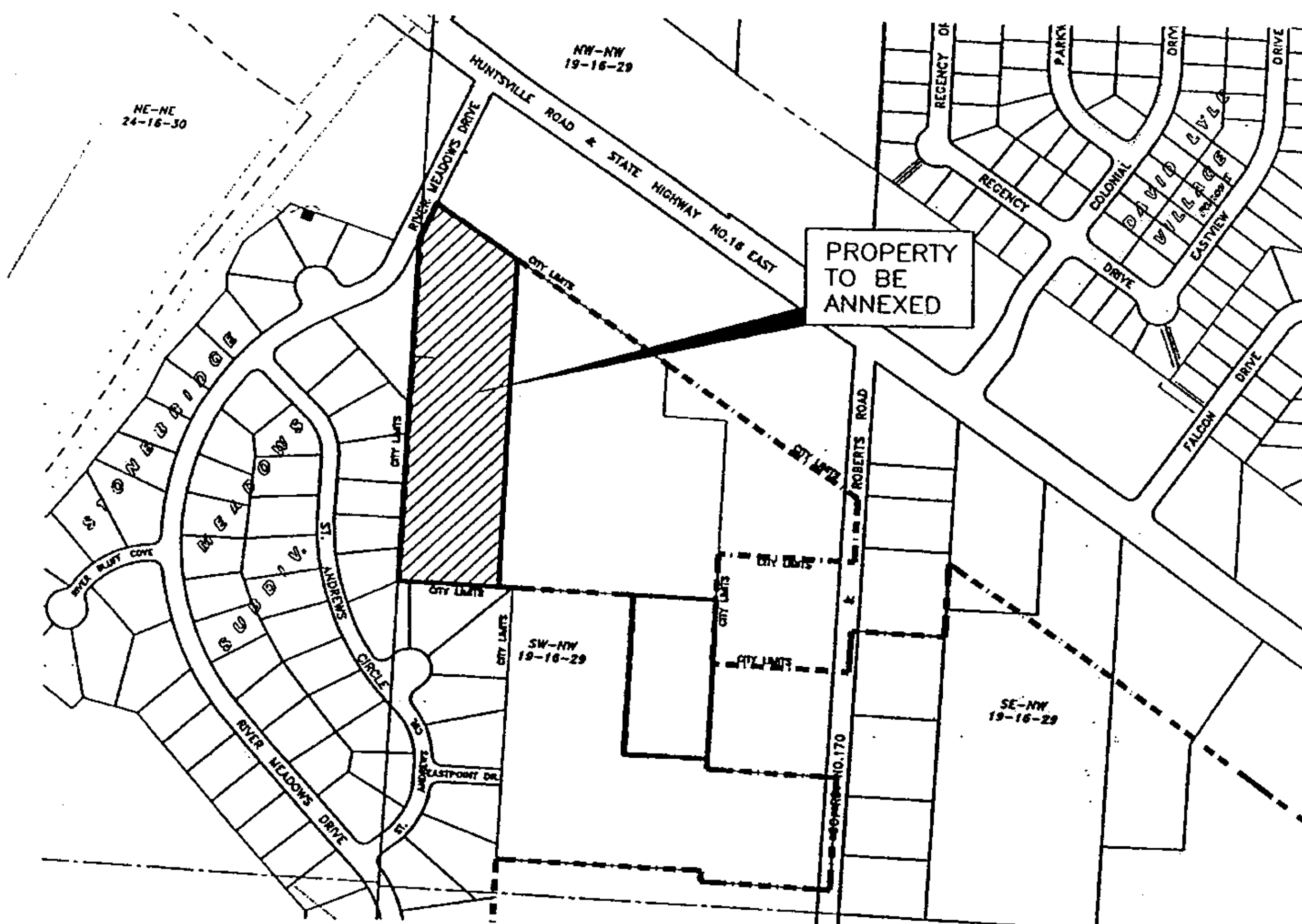
Arkansas, in this cause is described on "Exhibit A" attached hereto.

4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Acct. No. 1 of the Acts of the Legislature of 1875 of the State of Arkansas, and all Acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1953, as codified in *Ark. Code Ann.* § 14-40-601, et seq., and this Order shall be duly recorded by the County Clerk of Washington County, Arkansas.

IT IS SO ORDERED this 10th day of May, 2006.


The Honorable Jerry Hunton
Washington County Judge



VICINITY MAP



SCALE:
1"=400'

ANNEXATION DESCRIPTION (PARCEL 001-10690-000) (MCDONALD, LLC-OWNER):

PART OF THE WEST HALF OF THE FRACTIONAL NORTHWEST QUARTER OF SECTION 19, T-16-N, R-29-W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 19, AND RUNNING THENCE $N02^{\circ}46'52"E$ 3400.63 FEET ALONG THE RANGE LINE BETWEEN RANGE 29 AND 30 WEST TO THE EAST COMMON CORNER OF LOTS 48 AND 49 OF STONE BRIDGE MEADOWS SUBDIVISION PHASE I, SAID POINT BEING THE TRUE POINT OF BEGINNING AND RUNNING THENCE $N02^{\circ}39'38"E$ 857.69 FEET TO THE RIGHT OF WAY LINE OF RIVER MEADOWS DRIVE, THENCE ALONG SAID RIGHT OF WAY $N24^{\circ}21'56"E$ 92.75 FEET TO THE FAYETTEVILLE CITY LIMITS LINE, THENCE LEAVING SAID RIGHT OF WAY AND RUNNING ALONG SAID CITY LIMITS LINE $S54^{\circ}05'56"E$ 233.87 FEET, THENCE LEAVING SAID CITY LIMITS LINE $S02^{\circ}35'19"W$ 816.30 FEET, THENCE $N87^{\circ}10'57"W$ 230.93 FEET TO THE POINT OF BEGINNING CONTAINING 4.67 ACRES MORE OR LESS.
SUBJECT TO RIGHT OF WAY ALONG RIVER MEADOWS DRIVE.

FILED
2006 MAR 23 PM 3:29
CLERK OF COURT
WASHINGTON CO. ARK.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF THE PETITION OF CERTAIN
PROPERTY TO THE CITY OF FAYETTEVILLE,
WASHINGTON COUNTY, ARKANSAS

NO. CC 2006-8

PETITION TO ANNEX TERRITORY TO
THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS

Come now the petitioners (the "Petitioners"), whose names are set forth in Exhibit B to this petition with such exhibit and attachments thereto incorporated into and a part of this petition, to annex certain property into the City of Fayetteville, Washington, County, Arkansas, pursuant to A.C.A. Section 14-40-601, et. Seq. states as follows:

1. That Petitioners collectively own the real property described on the Plat Map, Exhibit "A", attached hereto and made a part hereof (the "Real Property"), and the Real Property is situated in Washington County, Arkansas, and is contiguous with the City of Fayetteville, Arkansas, and is within the City of Fayetteville, School District.
2. That Petitioners name Clint McDonald and James Atwood, Attorney at Law, P.A. as the persons authorized to act on their behalf with respect to this petition.
3. That the Petitioners desire that the Real Property become part of the City of Fayetteville, Arkansas, and petitions the County Judge for annexation of the property into the City of Fayetteville.
4. That 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. That the Petitioners herein desire that the Real Property become part of the City of Fayetteville, Washington County, Arkansas, and Petitioners state that they will do

any and all legal acts necessary to accomplish the objective set forth herein.

THEREFORE, Petitioners respectfully pray 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 23 day of March, 2006.

Each of the Petitioners has executed this document in Exhibit B to this petition.

IN THE COUNTY COURT OF WASHINGTON COUNTY

IN THE MATTER OF:
ANNEXATION OF CERTAIN LANDS TO THE
CITY OF FAYETTEVILLE, ARKANSAS

NO. 2006-8

ORDER OF ANNEXATION

Now on this 10th day of May, 2006, this cause comes on to be heard, the Petitioners, Doris Faye Roberts, as the Trustee of the Doris Faye Roberts Trust, U/D dated 10-16-98; Roger D. Mitchell, Executor of the Estate of Wynona E. Mitchell, Surviving Spouse of Alava H. Mitchell; Herman Eugene Burris; Bernice Burris; Eldon Russell Roberts; and Carolyn Roberts (the "Petitioners"), who are represented by Clint McDonald and James E Atwood, Attorney at Law, P.A., after announcing the hearing of the cause and there being no protests or objections, whereupon, the matter is submitted to the Court upon the Petition filed herein, and the oral and documentary evidence having been adduced, the Court being well and sufficiently advised finds:

1. The Petition in this cause was filed on the 23rd day of March, 2006 at which time this Court fixed the 10th day of May, 2006, at 10:15 a.m., as the date and time of hearing for said cause, and that a full notice of this hearing was given as required by law and the proof of publication of said notice is now on file with the County Clerk of this Court and the Court has jurisdiction of this cause.
2. The Court is satisfied that the allegations of the Petition are sustained by the proof, that the limits of the territory to be annexed have been properly filed; that the property owners have freehold interests in the property hereinafter described in the

Petition and constitute the real owners of the area affected.

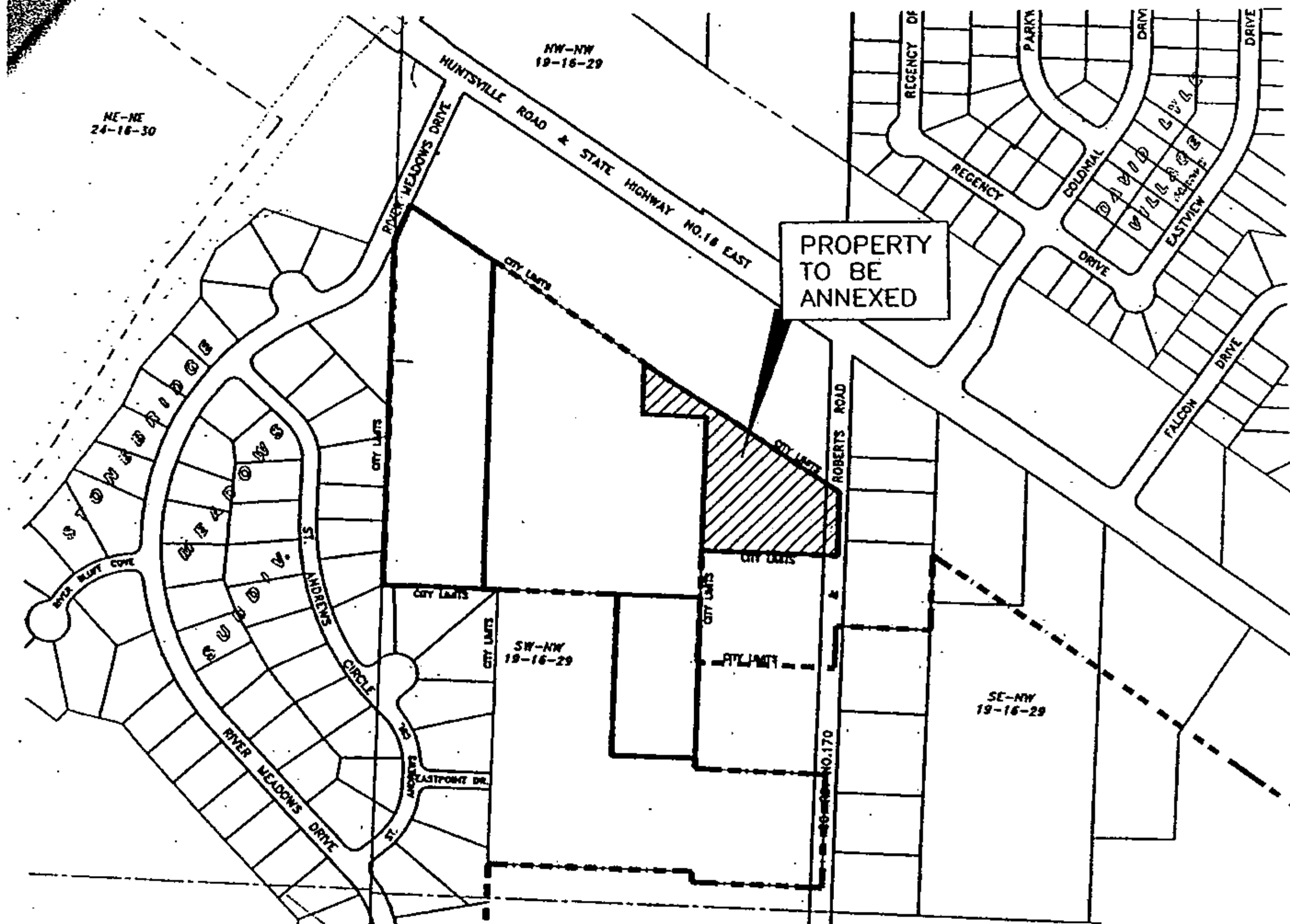
3. The land proposed to be annexed to the City of Fayetteville, Washington County, Arkansas, in this cause is described on "Exhibit A" attached hereto.
4. The area is not unusually large and it is contiguous and adjacent to and adjoins the present corporate limits of the City of Fayetteville, and it is adapted for urban purposes and this territory should be annexed to and made a part of the City of Fayetteville, Arkansas.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED that the aforesaid real estate situated in Washington County, Arkansas, is hereby annexed to and made a part of the City of Fayetteville, Arkansas, in accordance with Acct. No. 1 of the Acts of the Legislature of 1875 of the State of Arkansas, and all Acts amendatory thereto, particularly including Act 142 of the Acts of Arkansas for the year 1953, as codified in *Ark. Code Ann.* § 14-40-601, et seq., and this Order shall be duly recorded by the County Clerk of Washington County, Arkansas.

IT IS SO ORDERED this 10th day of May, 2006.



The Honorable Jerry Huntton
Washington County Judge



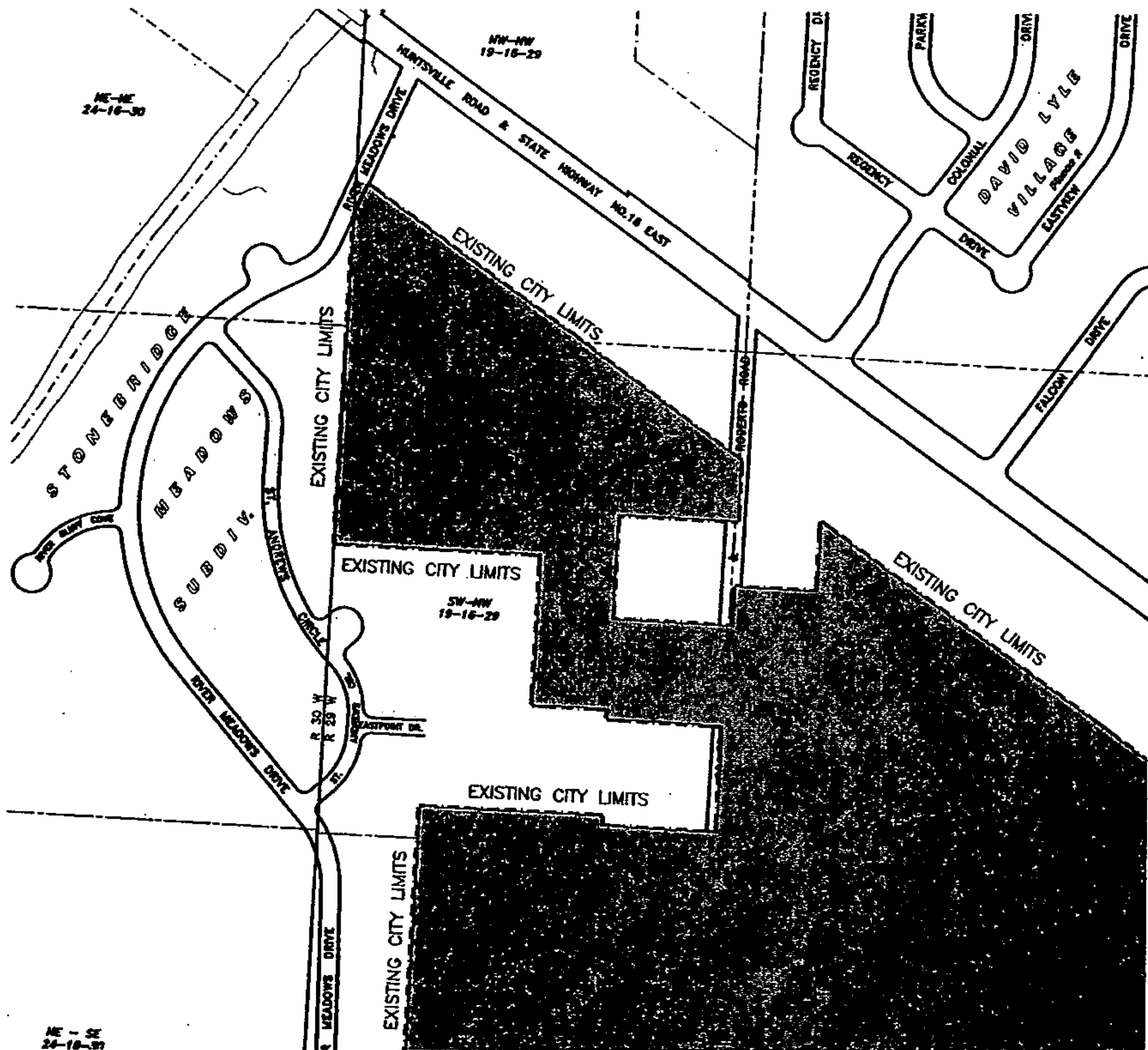
VICINITY MAP

OWNERS:

ALVA MITCHELL 765-13098-000; 765-13090-000
HERMAN BURRIS 765-13097-000
DORIS ROBERTS 001-10692-000
ELDON ROBERTS 001-10700-000

ANNEXATION DESCRIPTION

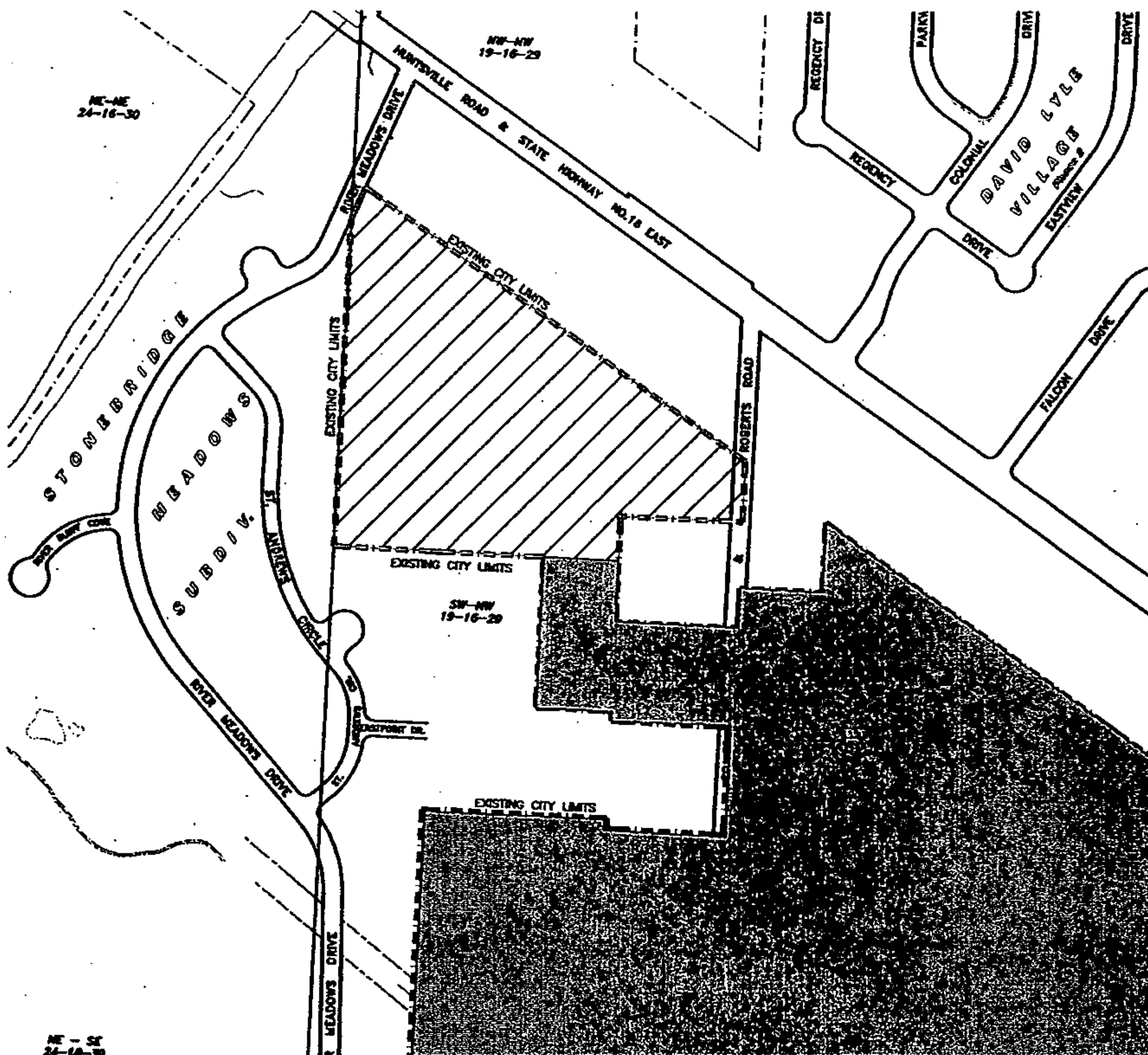
PART OF THE FRACTIONAL NORTHWEST QUARTER OF SECTION 19, T-16-N, R-29-W OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT: COMMENCING AT THE NORTHEAST CORNER OF THE SW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SAID SECTION 19, AND RUNNING THENCE S02°43'50"W 277.98 FEET ALONG THE FORTY LINE TO THE TRUE POINT OF BEGINNING AND RUNNING THENCE S02°10'45"W 159.03 FEET, THENCE N87°16'10"W 317.59 FEET, THENCE N02°54'51"E 331.00 FEET, THENCE N86°30'09"W 150.56 FEET, THENCE N02°53'32"E 130.07 FEET, THENCE S54°05'56"E 555.74 FEET TO THE POINT OF BEGINNING CONTAINING 2.18 ACRES MORE OR LESS. SUBJECT TO RIGHT OF WAY ALONG ROBERTS ROAD.



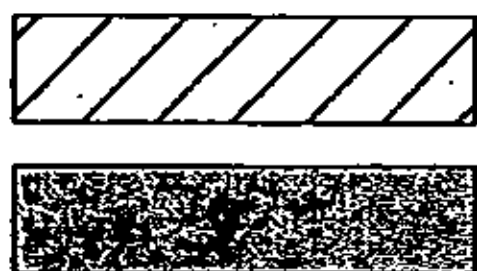
VICINITY MAP



WASHINGTON COUNTY



VICINITY MAP



PROPOSED
ANNEXATION

COUNTY PROPERTY

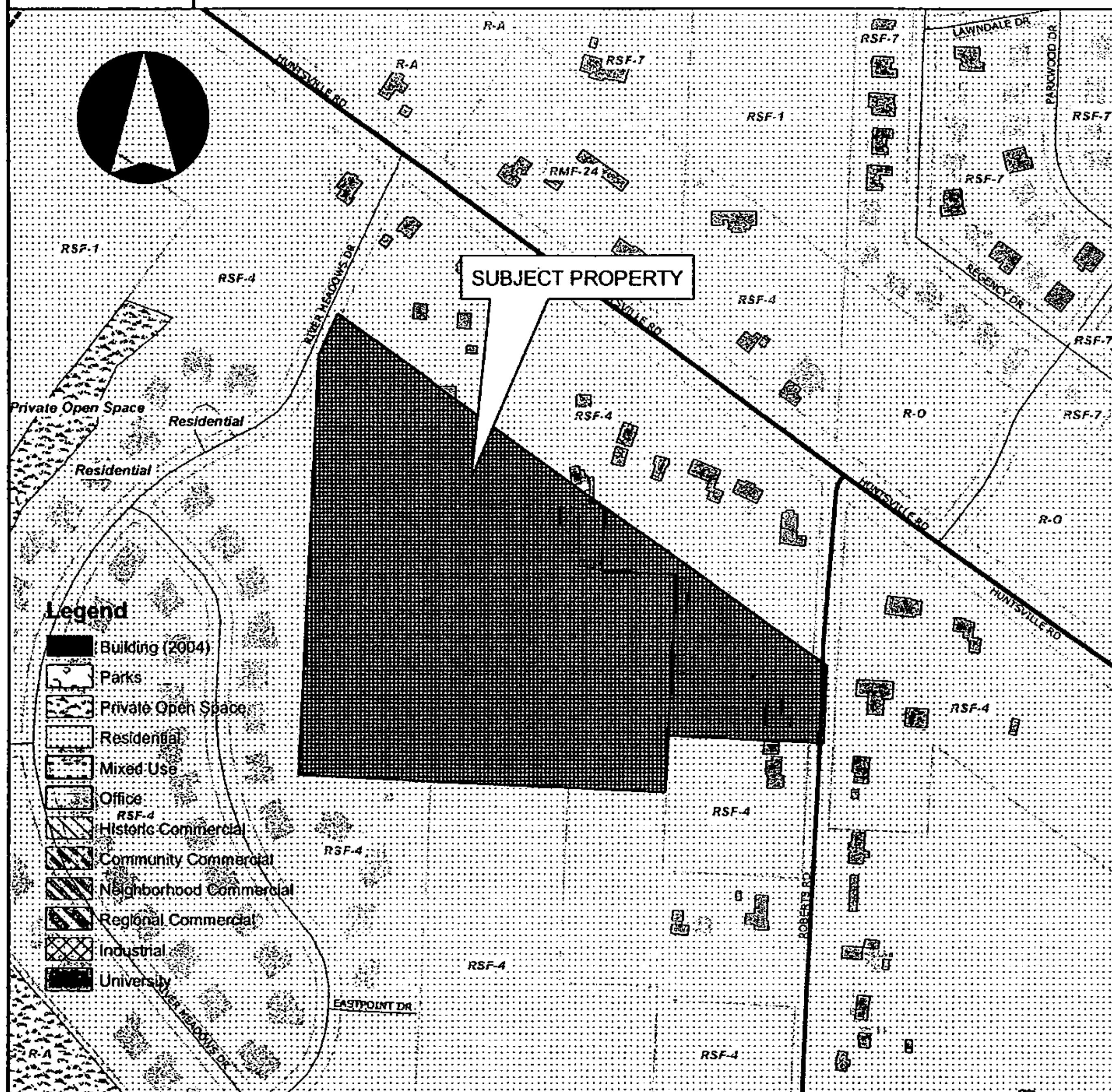


SCALE:
1"=400'

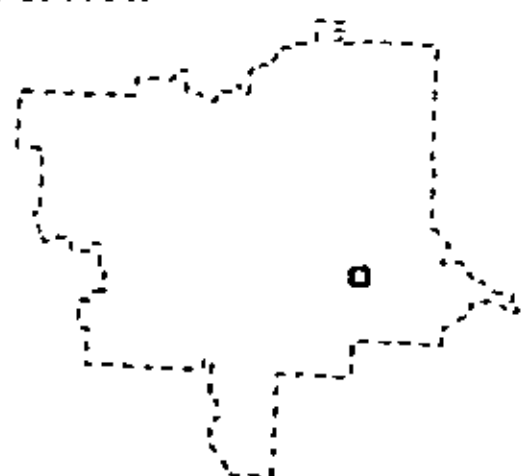
ANX06-2129

Future Land Use

MCDONALD/BRIDGEDALE II



Overview



Legend

Subject Property

ANX06-2129

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

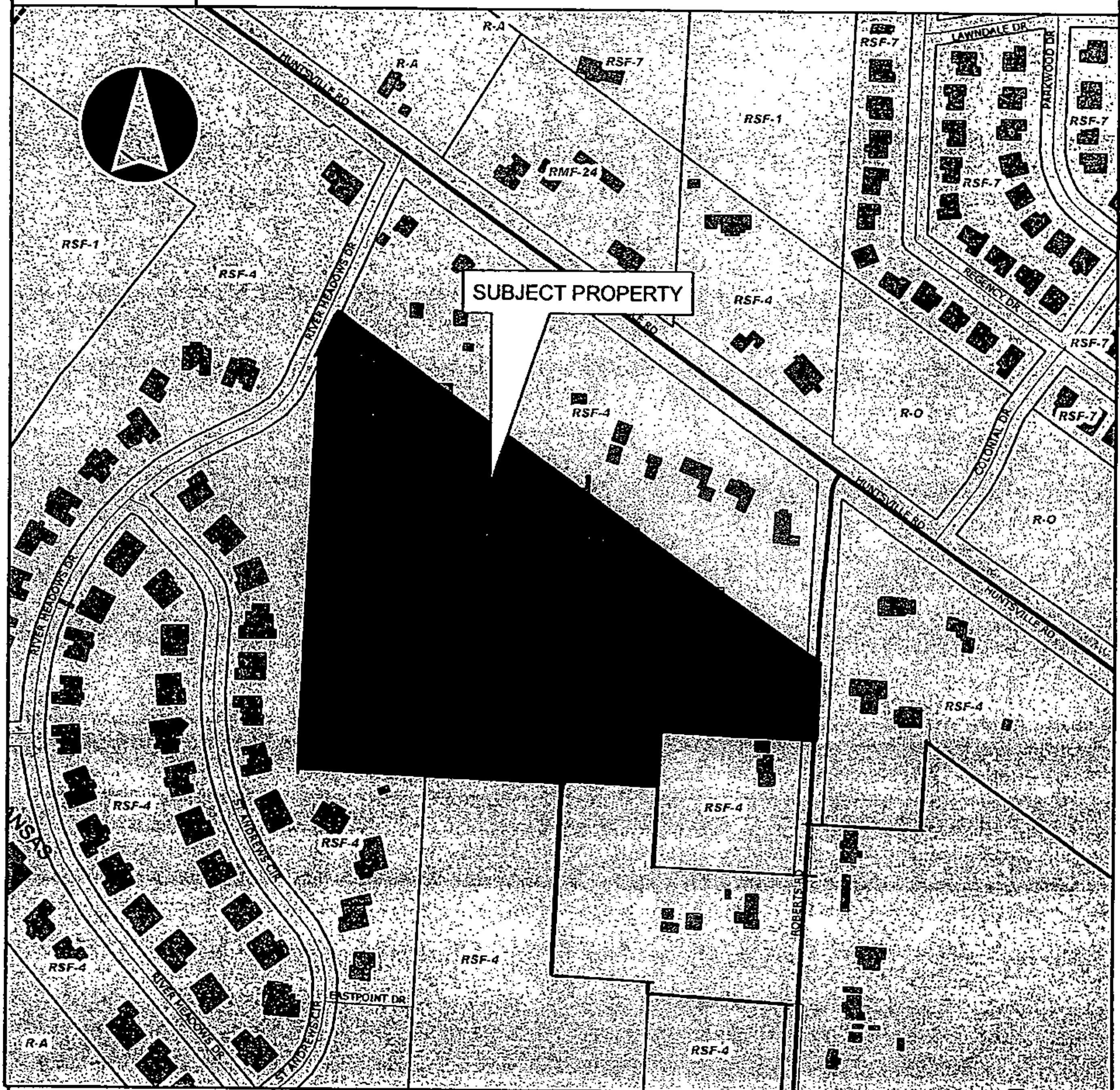
Legend

0 125 250 500 750 1,000 Feet

ANX06-2129

Close Up View

MCDONALD/BRIDGEDALE II



Overview

Legend

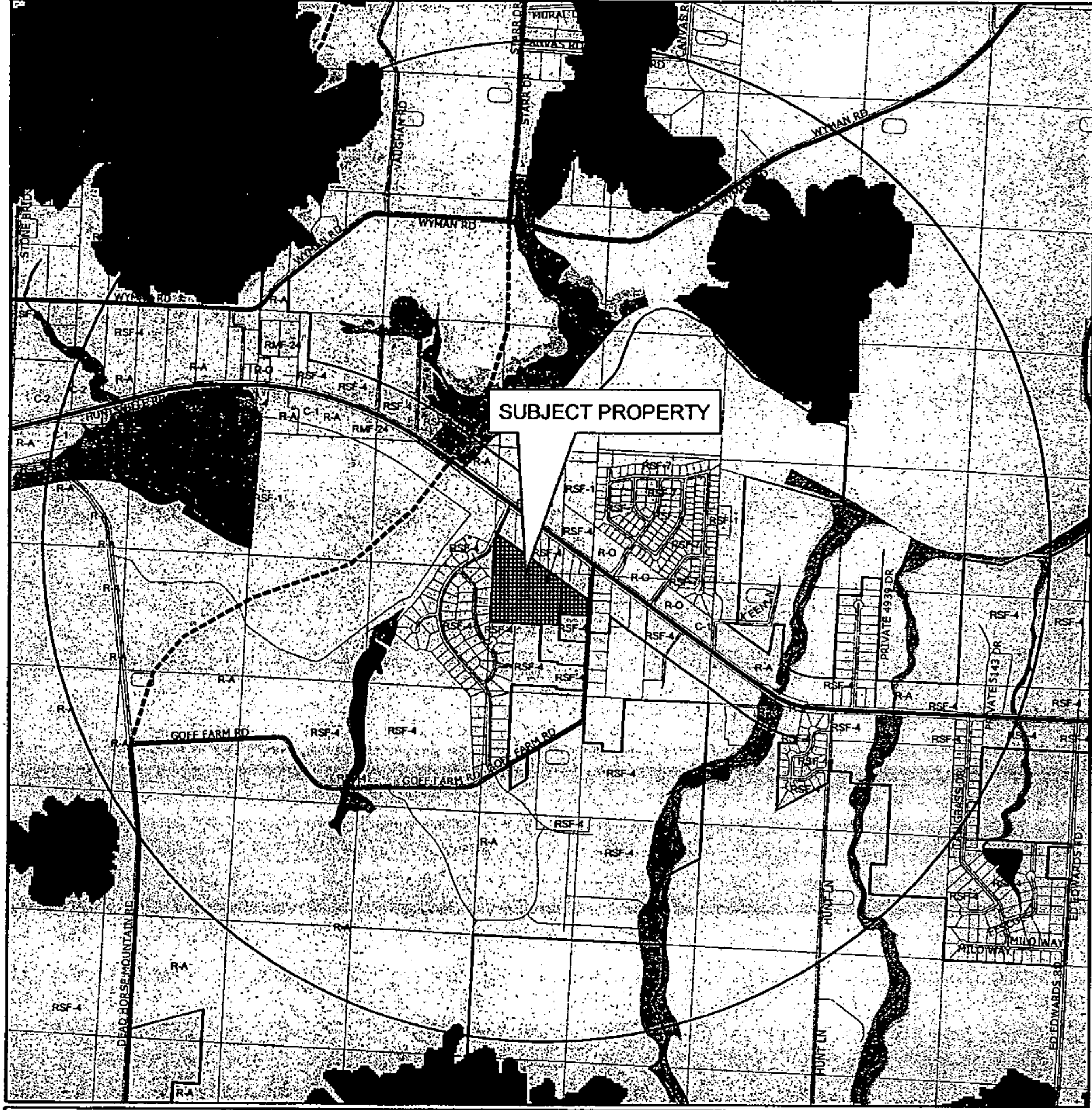
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- ANX06-2129
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District



ANX06-2129

One Mile View

MCDONALD/BRIDGEDALE II



Overview

Legend

Subject Property

ANX06-2129

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.125 0.25 0.5 0.75 1

Miles

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

C. 2
ANX 06-2125 Dunnerstock/Foster
Page 1 of 26

18-Jul-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 06-2125 (Dunnerstock/Foster, 397): Submitted by James McCord for property located at north end of 59th Avenue, off Wedington Drive. The property is in the Planning Area and contains approximately 60.20 acres. The request is to annex the subject property into the City of Fayetteville.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

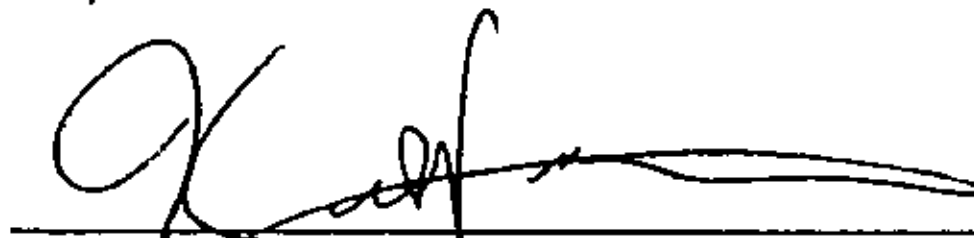

Department Director

6-30-06
Date

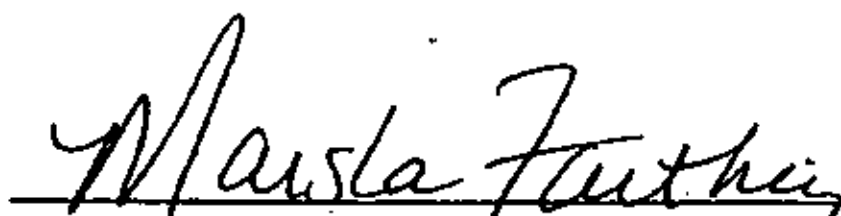
Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

6-30-06
Date


Finance and Internal Service Director

7/3/06
Date

Received in City Clerk's Office

ENTERED

6/30/06

Received in Mayor's Office

ENTERED

6/30/06


Mayor

7/5/06
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ✕

Date: June 29, 2006

Subject: Annexation for Dunnerstock/Foster (ANX 06-2125)

RECOMMENDATION

The Planning Commission recommended approval of the subject annexation request for approximately 60.20 acres of property located at 59th Avenue, north of Wedington.

BACKGROUND

The subject property contains approximately 60.20 acres and is located north of Wedington Drive. The Master Street Plan designates 59th Avenue as a collector street, which if constructed, would traverse north through the subject property. The Heritage Village Subdivision is located adjacent to the east property line, with an existing stub-out that intersects the subject property. The property to the west is largely undeveloped with large lot single-family homes and farmland.

DISCUSSION

This item was heard at the regular Planning Commission on June 26, 2006. The Planning Commission voted 6-2-0 to recommend approval of this annexation request to the City Council, with Commissioners Ostner and Anthes voting no.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ANNEXING THAT
PROPERTY DESCRIBED IN ANNEXATION
PETITION ANX 06-2125 (CC2006-5), FOR
PROPERTY LOCATED AT THE NORTH END
OF 59TH AVENUE, OFF WEDINGTON DRIVE,
CONTAINING APPROXIMATELY 60.20
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" and map labeled Exhibit "B" 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:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ANX 06-2125

ALL OF THE NW ¼ OF THE NW ¼ AND PART OF THE SW ¼ OF THE NW ¼ OF SECTION 11, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NE CORNER OF SAID NW ¼, NW ¼ THENCE S00°58'01"W 1994.84 FEET, THENCE N89°05'25"W 1321.29 FEET; THENCE N01°03'51"E 1979.92 FEET; THENCE S89°44'21"E 1318.03 FEET TO THE P.O.B.; CONTAINING 60.21 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

EXHIBIT "B"

C. 2
ANX 06-2125 Dunnerstock/Foster
Page 5 of 26

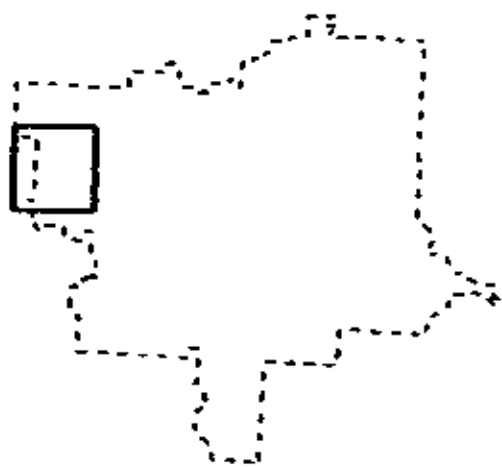
ANX06-2125

One Mile View

DUNNERSTOCK/FOSTER



Overview



Legend

Subject Property

ANX06-2125

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.125 0.25

0.5

0.75

1

Miles



PC Meeting of June 26, 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: June 20, 2006

ANX 06-2125: (DUNNERSTOCK/FOSTER, 397): Submitted by JAMES MCCORD for property located at N END OF 59TH AVENUE, OFF WEDINGTON DRIVE. The property is in the Planning Area and contains approximately 60.20 acres. The request is to annex the subject property into the City of Fayetteville.

Planner: Jesse Fulcher

RECOMMENDATION:

Staff recommends approval of the requested annexation based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Forwarded	☐ Denied
Date: <u>June 26, 2006</u>			
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date: <u>July 18, 2006 (1st reading/recommended)</u>			

BACKGROUND:

Property description & Proposal: The subject property contains approximately 60.20 acres and is located north of Wedington Drive. The Master Street Plan designates 59th Avenue as a collector street, which if constructed, would traverse north through the subject property. The Heritage Village Subdivision is located adjacent to the east property line, with an existing stub-out that intersects the subject property. The property to the west is largely undeveloped with large lot single-family homes and farmland.

Recommendation: Staff recommends approval of the proposed annexation. The subject property is adjacent to the City limits, and anticipated development of the property as proposed by the owner will be consistent and compatible to surrounding subdivisions should the property be annexed into the City of Fayetteville. Furthermore, the annexation proposed creates a logical and reasonable city limit boundary in this location.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single family homes on large lots	Planning Area
South	Single family homes on large lots	R-A, Residential Agriculture
East	Heritage Village Subdivision	RT-12, Residential Two and Three Family
West	Single family homes on large lots	Planning Area

INFRASTRUCTURE:

Streets: The site has access to Wedington Drive, Fountain Street and 59th Avenue. 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.

Water: Public water is near to the site. A study of the water system shall be conducted by the developer. Substantial improvements to the water system may be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Sewer: Sanitary sewer is near to the site. Substantial improvements to the sewer system may be required which includes off-site improvements. This development will be within the sewer assessment area. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire:

- ♦ The 60.20 acres are covered by Engine 7 located at 835 Ruppel Road.
- ♦ It is 1.8 miles from the station with an expected response time of 4 minutes.
- ♦ The Fire Department anticipates 55 (33 EMS – 22 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
- ♦ There are no recorded measured hydrant flows for this area.
- ♦ 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: Annexation of the property will not create an island of unincorporated property or a peninsula. The subject property is adjacent to an existing peninsula, however annexing the property will not extend the existing peninsula. Rather, the boundary created is an acceptable and logical extension of the city limits in this area.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the south and east.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area is currently vacant at this time and is located west of an existing residential subdivision. The property does not consist of defined subdivisions or neighborhoods; however, once annexed into the city, the applicant intends to process a preliminary plat to approve subdivision of this property. Access to this property will be available from Wedington Drive to the south and from Fountain Street to the east, from Heritage Village Subdivision. Annexation of the property to allow for Planning Commission review of development in accordance with City standards is recommended.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: The proposed city boundary, should the subject property be annexed, does not follow natural corridors. However, the subject property, if annexed would create a continuous horizontal boundary along the north property line of the Heritage Village Subdivision.

11.6.e Timing of services within annexation areas should be considered.

Finding: Current conditions result in a response time of 4 minutes for fire protection from Fire Station #7. Extension of water and sewer lines shall occur at the time of development.

ENVIRONMENTALLY SENSITIVE AREAS

- 11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property is mainly cleared pasture land, however there are some large forested areas and several ponds. Additionally, the northeast portion of the property is located in the Hillside/Hilltop Overlay District. At the time of development, the proposal will be reviewed under all applicable City codes, including the Hillside/Hilltop Overlay District requirements.

EMERGENCY AND PUBLIC SERVICES

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: The police department reports that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police service shall be provided to this area with the same level of response and service as other developments in this area.

- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

- 11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: Water, fire and police protection are currently provided in the surrounding areas.

- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Improvements to the surrounding street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property. Water and sewer extensions to this property and street improvements will be reviewed at the time of development.

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owners request for annexation and request to rezone this property RSF-4, Residential single family - 4 units/acre. This zoning designation is compatible with the Residential classification of the adjacent area on the City's adopted Future Land Use Plan. Staff finds that this zoning designation is compatible with that of the property being developed to the south.

11.6.p An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property.

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed. However, the applicant has included a conceptual drawing of a residential subdivision on the subject property.

11.6.r Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: The subject annexation is for approximately 60.20 acres, which is contiguous to property within the city limits on both the south and east sides. There is an existing street stub-out from the adjacent Heritage Village Subdivision, which would be extended through the subject property should development occur. Additionally, the Master Street Plan indicates the extension of 59th Avenue from its current location, north through the subject property. The extension of 59th Avenue shall be reviewed at the time of a development proposal.

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 60.20 acres.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Asst Chief Bud Thompson
From: Captain Dale Riggins
Date: June 20, 2006
Re: June 19, 2006 Zoning Review – Fire Department Comments

ANX06-2125 (Dunnerstock/Foster)
RZN06-2126

These 60.2 acres are covered by Engine 7 located at 835 N Ruppel Road. It is 1.8 miles from the station with an expected response time of 4 minutes. Fire Department anticipates 55 (33 EMS – 22 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. There are no recorded measured hydrant flows for this area. 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.

ANX06-2127 (Williams)

This 1.0 acre is covered by Engine 7 located at 835 N Ruppel Road. The property is 2.4 miles from the station with an expected response time of 5.5 minutes. Measured hydrant flow in the area is 1465 gallons/minute. We do not figure projected calls for service on properties that are being annexed.

ANX06-2129 (McDonald/Bridgedale II,)

These 14.21 acres are covered by Engine 5 at 833 N Crossover. The property is 2.8 miles from the station with a projected response time of 6 minutes to this development. After Station 3 is built, on the corner of E Huntsville and Happy Hollow, the distance to the development will be reduced to 1.8 miles with an anticipated response time of 3.75 minutes. Measured hydrant flow in the area is 1510 gallons/minute. We do not figure projected calls for service on properties that are being annexed.

Please feel free to contact me if you have any questions

Dale Riggins
IT/Planning
Fayetteville Fire Department



June 19, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 06-2125(DUNNERSTOCK/FOSTER, 397): submitted by JAMES MCCORD for property located at NORTH END OF 59TH AVENUE OFF OF WEDINGTON DRIVE would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. This property is in the planning area and contains approximately 60.2 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

In reference to RZN 06-2126 (DUNNERSTOCK/FOSTER, 397): submitted by JAMES MCCORD for property located at the NORTH END OF 59TH AVENUE OFF OF WEDINGTON DRIVE. The property is in the planning area and contains approximately 60.2 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, four units per acres.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

No. CC-2006-5

IN RE: ANNEXATION PETITION OF DUNNERSTOCK DEVELOPMENT, INC.;
JANITA F. MOORE, TRUSTEE OF THE JANITA F. MOORE REVOCABLE
TRUST u/t/d JUNE 30, 1997; AND, DENNIS W. NAPIER AND GAY LYNN
NAPIER AS CO-TRUSTEES OF THE DENNIS AND GAY LYNN NAPIER
FAMILY REVOCABLE TRUST, u/a/d NOVEMBER 5, 1999

PETITION TO ANNEX PROPERTY TO CITY OF FAYETTEVILLE

For their Annexation Petition, the undersigned Petitioners state:

1. Petitioners are the owners of a majority of the real property located in Washington County, Arkansas, described in Exhibit "A" attached hereto. Said property is contiguous to and adjoining the City of Fayetteville, Arkansas.
2. Petitioners name James N. McCord, attorney at law, as the person authorized to act on behalf of Petitioners in this annexation proceeding. James N. McCord can be contacted at 11 N. West Ave, Suite 202, Fayetteville, AR 72701; telephone (479) 695-1134; Fax (479) 695-1135.
3. Attached hereto as Exhibit "B" is an accurate map of the real property described in Exhibit "A" attached hereto.

WHEREFORE, the undersigned Petitioners pray that the Washington County Court enter an order granting this Petition and annexing the territory described in Exhibit "A" attached hereto to the City of Fayetteville, Arkansas.

PETITIONERS

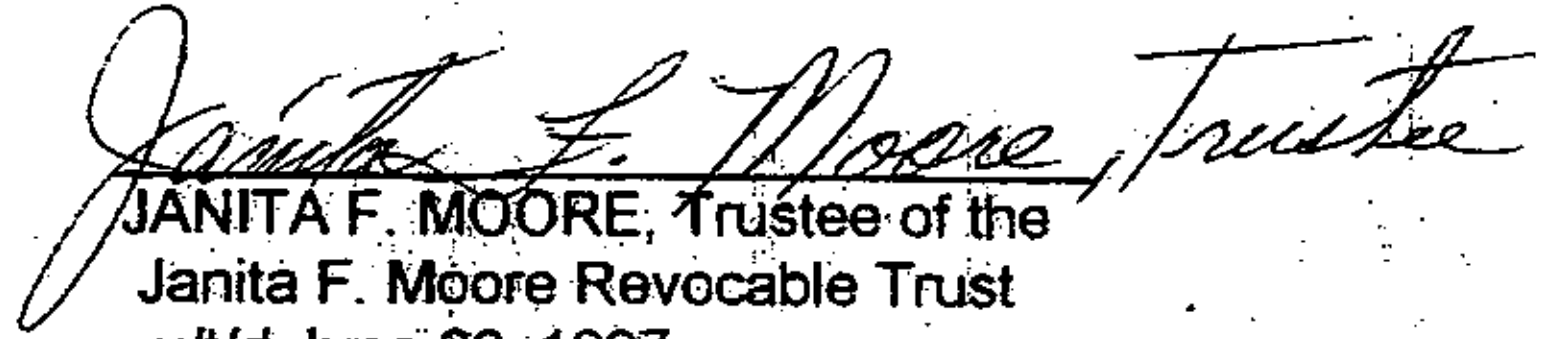
Dunnerstock Development, Inc.
An Arkansas corporation

By: 

Mark B. Foster, President

FILED
2006 MAR -8 AM 11:33
KATHLEEN G. HITCHCOCK
CLERK OF COURT
WASHINGTON CO. ARK.

Signature page for Annexation Petition of Dunnerstock Development, Inc., et al.


JANITA F. MOORE, Trustee of the
Janita F. Moore Revocable Trust
u/t/d June 30, 1997

Signature page for Annexation Petition of Dunnerstock Development, Inc., et al.

Dennis W. Napier

Dennis W. Napier, Co-Trustee of
the Dennis and Gay Lynn Napier
Family Revocable Trust, u/a/d
November 5, 1999

Gay Lynn Napier

Gay Lynn Napier, Co-Trustee of
The Dennis and Gay Lynn Napier
Family Revocable Trust, u/a/d
November 5, 1999

IN THE COUNTY COURT OF WASHINGTON COUNTY ARKANSAS

No. CC- 2006-5

IN RE: PETITION OF DUNNERSTOCK DEVELOPMENT, INC.; JANITA F. MOORE, TRUSTEE OF THE JANITA F. MOORE REVOCABLE TRUST, u/t/d JUNE 30, 1997; AND, DENNIS W. NAPIER AND GAY LYNN NAPIER AS CO-TRUSTEES OF THE DENNIS AND GAY LYNN NAPIER FAMILY REVOCABLE TRUST, u/a/d NOVEMBER 5, 1999 TO ANNEX PROPERTY TO CITY OF FAYETTEVILLE

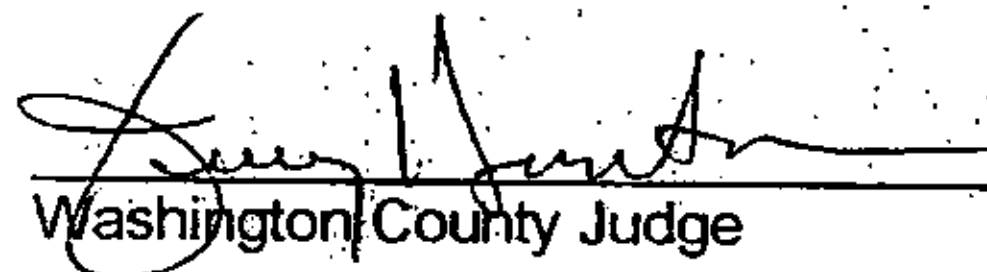
ORDER OF ANNEXATION

On this 11th day of April, 2006, comes on for hearing before the Washington County Court the Petition to Annex Property to City of Fayetteville filed by Dunnerstock, Inc., Janita F. Moore, Trustee of the Janita F. Moore Revocable Trust u/t/d June 30, 1997, and Dennis W. Napier and Gay Lynn Napier as Co-Trustees of the Dennis and Gay Lynn Napier Family Revocable Trust, u/a/d November 5, 1999. From a review of the case file and the proof, the Court finds:

1. The allegations of the Petition to Annex Property to City of Fayetteville are sustained by the proof;
2. The requirements for signatures under Ark. Code Ann. Sec. 14-40-601 have been complied with;
3. The limits of the territory to be annexed have been accurately described and an accurate map thereof made and filed; and,
4. The prayer of the petitioners is right and proper.

IT IS, THEREFORE, ORDERED that the Petition to Annex Property to City of Fayetteville filed herein is hereby granted and the territory described in Exhibit "A" attached hereto is hereby annexed to the City of Fayetteville, Arkansas.

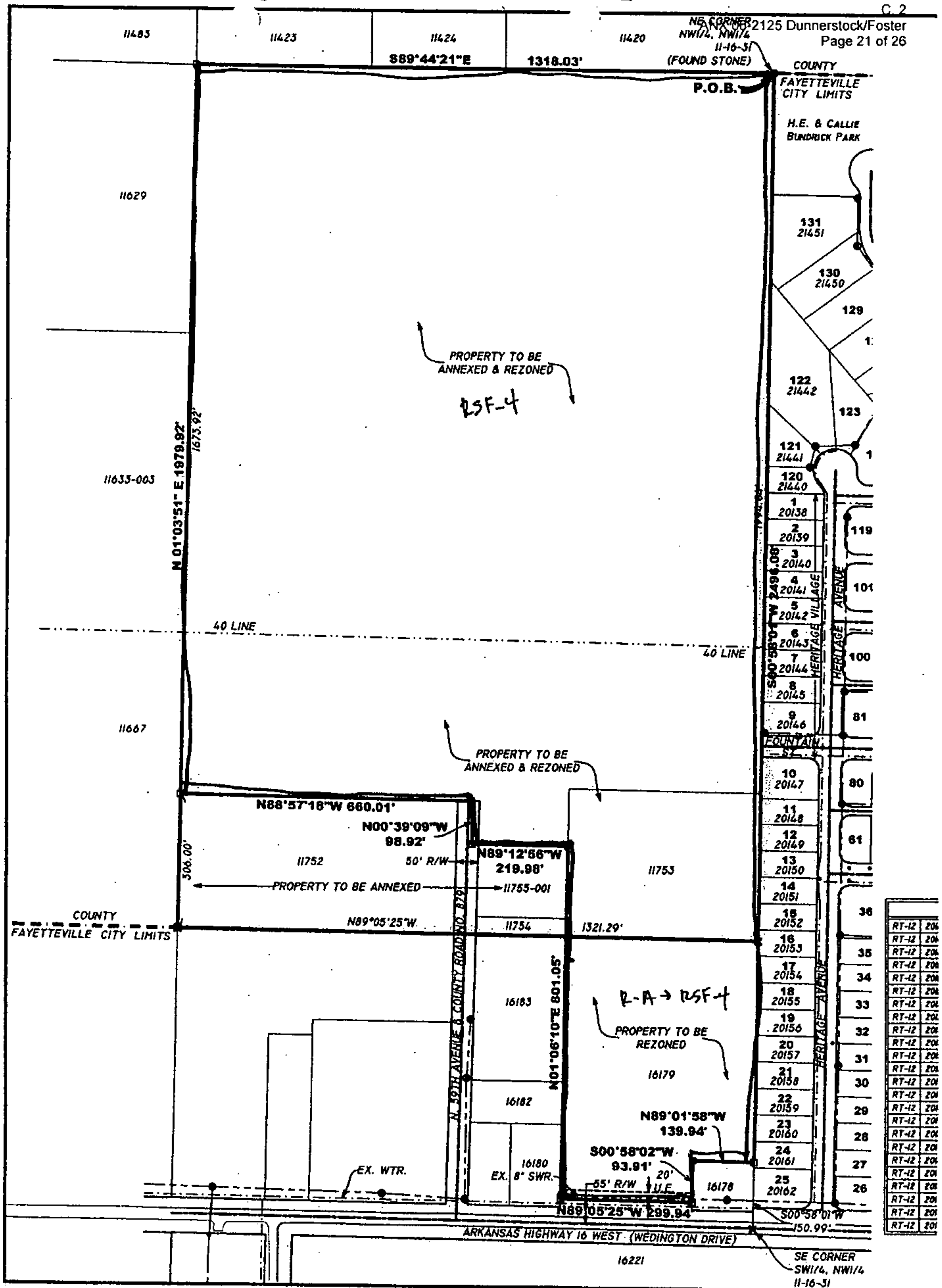
ENTERED this 11th day of April, 2006.

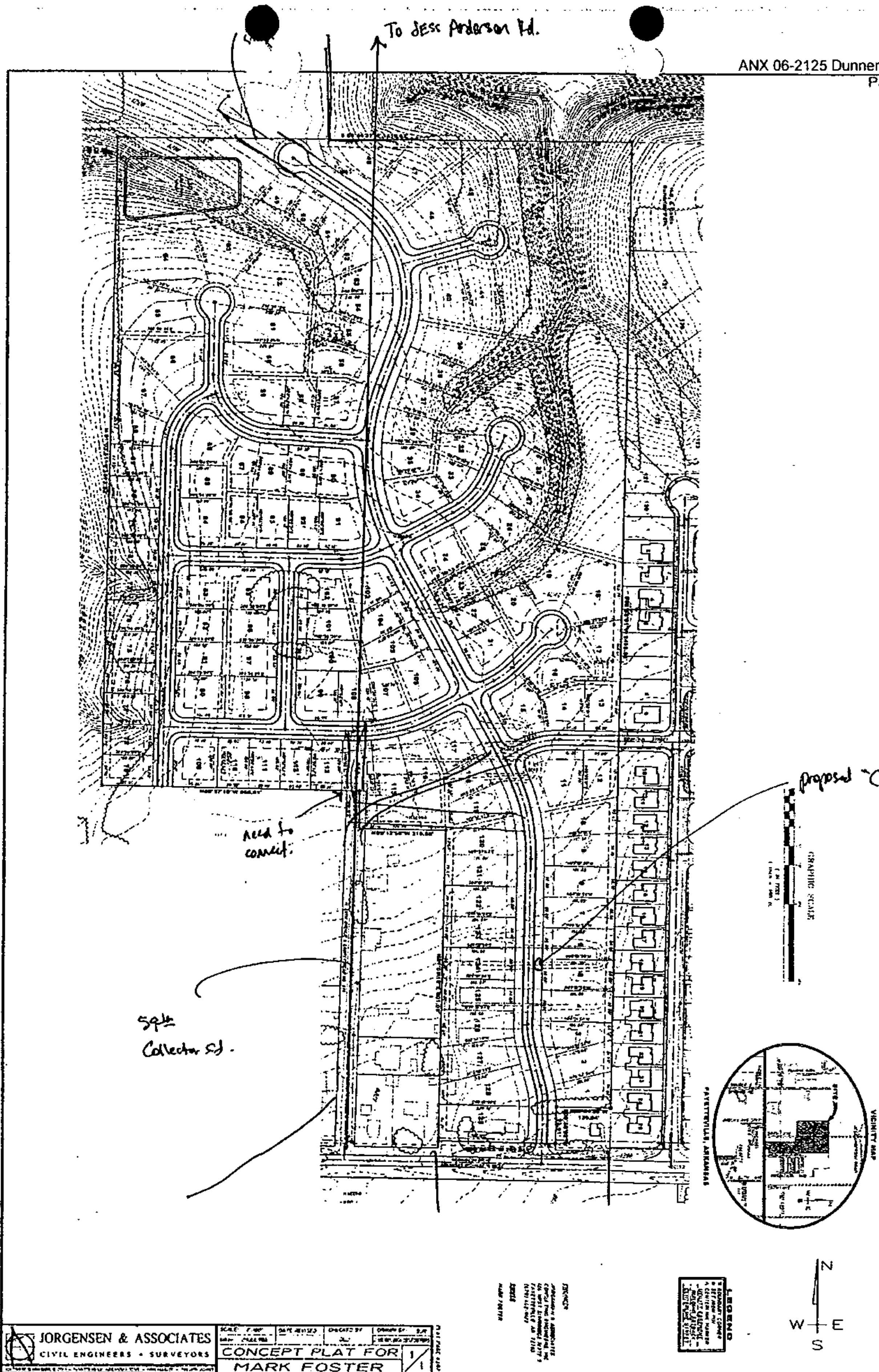

Washington County Judge

Ex. A for
Order of Conveyance
John

LEGAL DESCRIPTION: (PROPERTY TO BE ANNEXED)

ALL OF THE NW1/4 OF THE NW1/4 AND PART OF THE SW1/4 OF THE NW1/4 OF SECTION 11, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NE CORNER OF SAID NW1/4, NW1/4 THENCE S00°58'01"W 1994.84 FEET, THENCE N89°05'25"W 1321.29 FEET; THENCE N01°03'51"E 1979.92 FEET, THENCE S89°44'21"E 1318.03 FEET TO THE P.O.B.; CONTAINING 60.21 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.





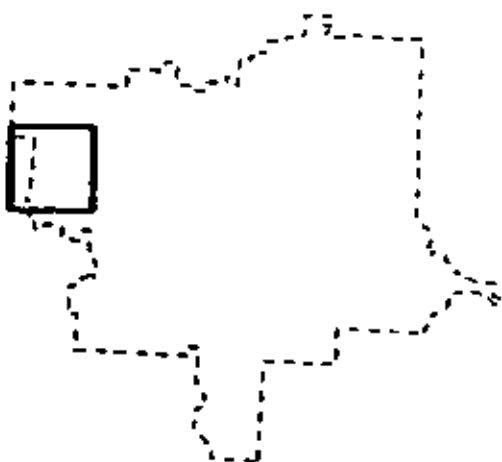
ANX06-2125

One Mile View

DUNNERSTOCK/FOSTER



Overview



Legend

Subject Property

ANX06-2125

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.125 0.25

0.5

0.75

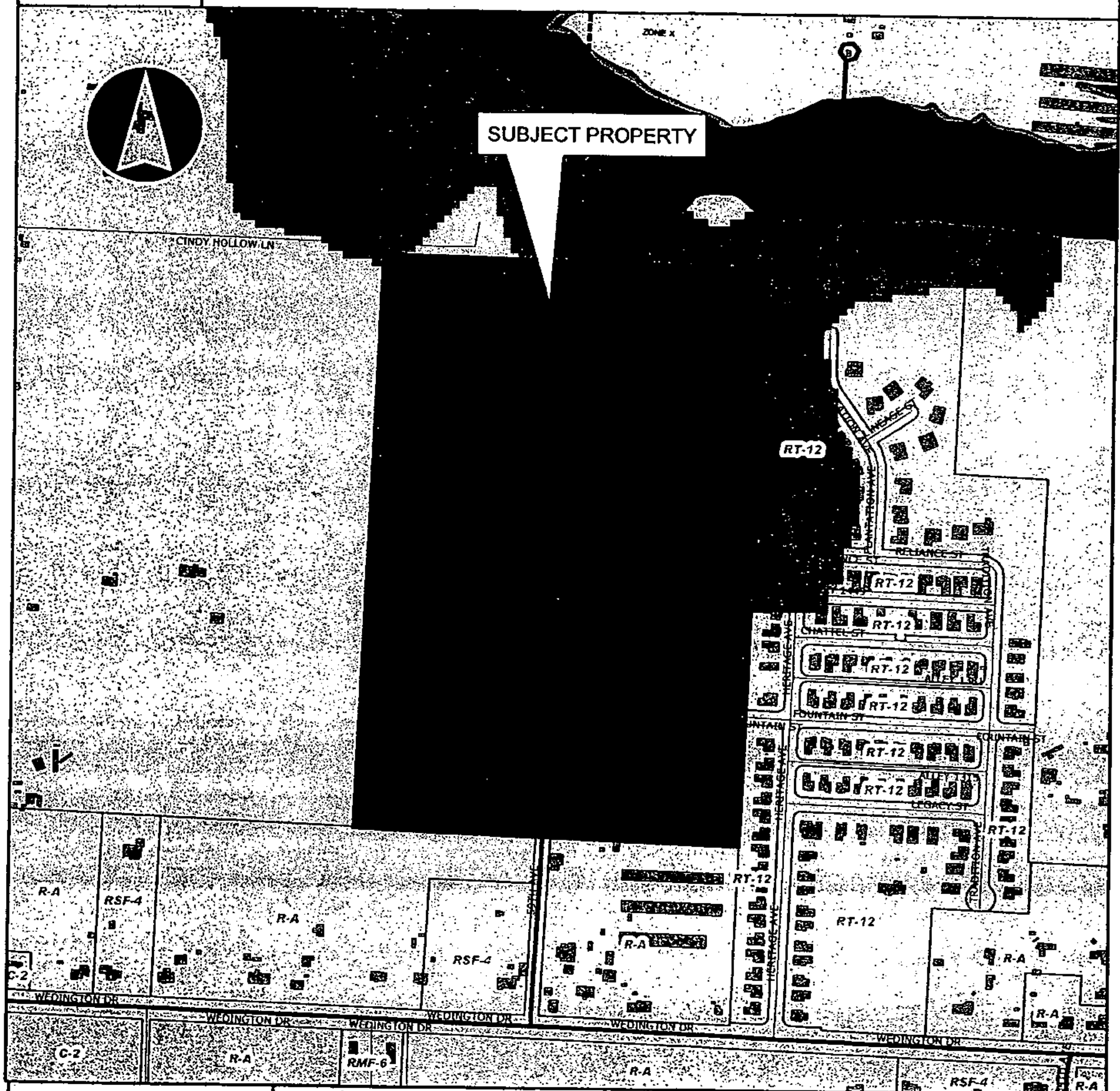
1

Miles

ANX06-2125

Close Up View

DUNNERSTOCK/FOSTER



Overview

Legend

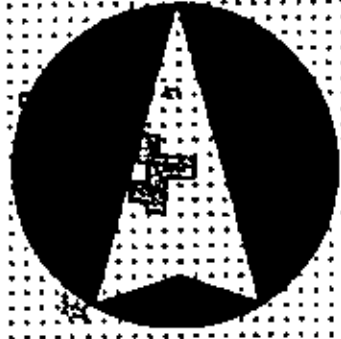
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Hillside-Hilltop Overlay District
- - - BaseLine Profile
- Fayetteville
- ▨ Outside City
- ANX06-2125
- vector.GDB.Footprint_2004

0 175 350 700 1,050 1,400
Feet

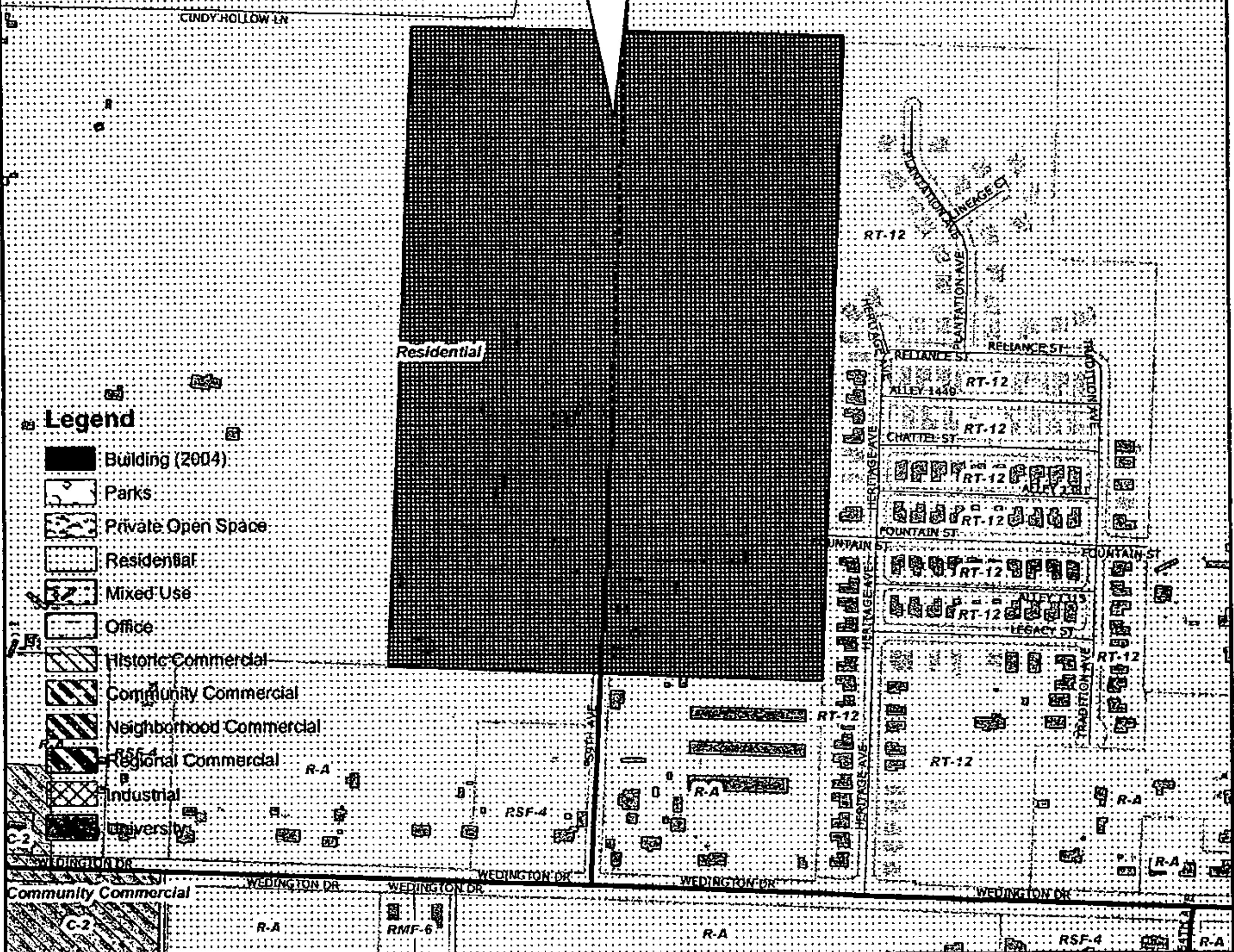
ANX06-2125

Future Land Use

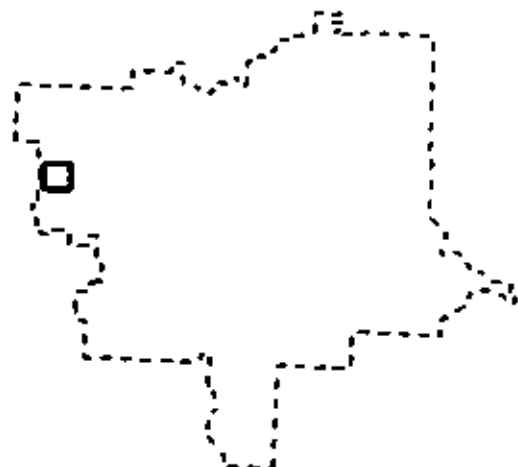
DUNNERSTOCK/FOSTER



SUBJECT PROPERTY



Overview



Legend

Subject Property

ANX06-2125

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend

0 175 350 700 1,050 1,400 Feet

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

18-Jul-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2126 (Dunnerstock/Foster, 397): Submitted by James McCord for property located north of Wedington Drive, at the end of 59th Avenue. The property is in the Planning Area contains approximately 60.20 acres. The request is to rezone the subject property to RSF-4, Residential Single-Family, 4 units per acre.

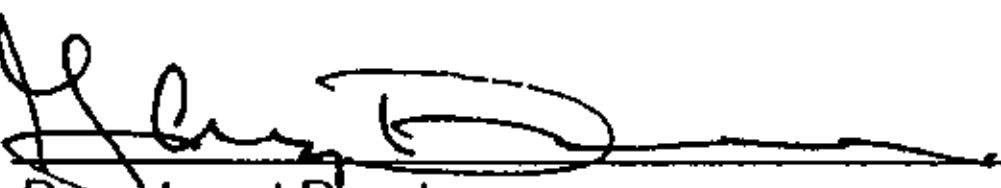
\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

6-30-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

6-30-06
Date

Original Contract Number: n/a


Finance and Internal Service Director

7/3/06
Date

Received in City Clerk's Office

ENTERED

6/30/06


Mayor

7/3/06
Date

Received in Mayor's Office

ENTERED

6/30/06

Comments:

City Council Meeting of July 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: June 29, 2006

Subject: Rezoning for Dunnerstock/Foster (RZN 06-2126)

RECOMMENDATION

The Planning Commission recommended approval of the subject rezoning request from R-A to RSF-4 on approximately 60.20 acres of property located at 59th Avenue, north of Wedington.

BACKGROUND

The subject property contains approximately 60.20 acres and is located north of Wedington Drive. The Master Street Plan designates 59th Avenue as a collector street, which if constructed, would traverse north through the subject property. The Heritage Village Subdivision is located adjacent to the east property line, with an existing stub-out that intersects the subject property. The property to the west is largely undeveloped with large lot single-family homes and farmland.

DISCUSSION

This item was heard at the regular Planning Commission on June 26, 2006. The Planning Commission voted 7-1-0 to recommend approval of this rezoning request to the City Council, with Commissioner Ostner voting no.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT
PROPERTY DESCRIBED IN REZONING
PETITION RZN 06-2126, FOR
APPROXIMATELY 60.20 ACRES, LOCATED
NORTH OF WEDINGTON DRIVE, AT THE END
OF 59TH, FROM R-A, RESIDENTIAL
AGRICULTURAL TO RSF-4, RESIDENTIAL
SINGLE-FAMILY, 4 UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is hereby
changed as follows:

From R-A, Residential-Agricultural to RSF-4,
Residential Single-Family, 4 units per acre, as
shown on Exhibit "A" and map labeled 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: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2126

ALL OF THE NW ¼ OF THE NW ¼ AND PART OF THE SW ¼ OF THE NW ¼ OF SECTION 11, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE NE CORNER OF SAID NW ¼, NW ¼ THENCE S00°58'01"W 2496.08 FEET, THENCE N89°01'58"W 139.94 FEET, THENCE S00°58'02"W 93.91 FEET, THENCE N89°05'25"W 299.94 FEET, THENCE N01°06'10"E 801.05 FEET, THENCE N89°12'56"W 219.98 FEET, THENCE N00°39'09"W 98.92 FEET, THENCE N88°57'18"W 660.01 FEET, THENCE N01°03'51"E 1673.92 FEET, THENCE S89°44'21"E 1318.03 FEET TO THE P.O.B.; CONTAINING 60.22 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

EXHIBIT "B"

C. 3
RZN 06-2126 Dunnerstock/Foster
Page 5 of 22

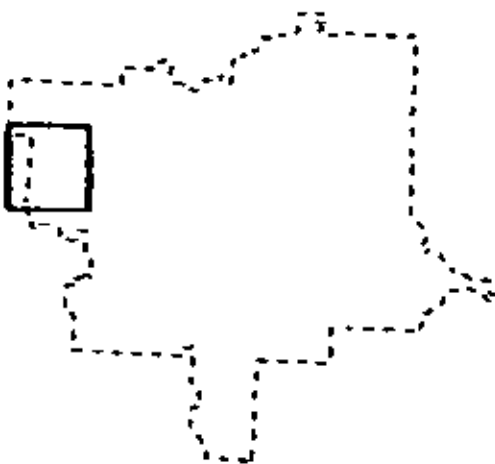
RZN06-2126

One Mile View

DUNNERSTOCK/FOSTER



Overview



Legend

Subject Property

RZN06-2126

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.125 0.25

0.5

0.75

1

Miles



PC Meeting of June 26, 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: June 20, 2006

RZN 06-2126: (DUNNERSTOCK/FOSTER, 397): Submitted by JAMES MCCORD for property located at N OF WEDINGTON DRIVE, AT THE END OF 59TH. The property is in the Planning Area and contains approximately 60.20 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Planner: Jesse Fulcher

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	Required	☒ YES	☐ NO
	Forwarded	☒	☐ Denied
Date: <u>June 26, 2006</u>			
CITY COUNCIL ACTION:	Required	☒ YES	☐ NO
	Approved	☒	☐ Denied
Date: <u>July 18, 2006 (1st reading if recommended)</u>			

BACKGROUND:

Property description & Proposal: The subject property contains approximately 60.20 acres and is located north of Wedington Drive. The Master Street Plan designates 59th Avenue as a collector street, which if constructed, would traverse north through the subject property. The Heritage Village Subdivision is located adjacent to the east property line, with an existing stub-out that intersects the subject property. The property to the west is largely undeveloped with large lot single-family homes and farmland.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would request to rezone the 60.20 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 06-2125, is an accompanying item to this rezoning request.

Recommendation: Staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family homes on large lots	Planning Area
South	Single family homes on large lots	R-A, Residential Agriculture
East	Heritage Village Subdivision	RT-12, Residential Two and Three Family
West	Single family homes on large lots	Planning Area

INFRASTRUCTURE:

Streets: The site has access to Wedington Drive, Fountain Street and 59th Avenue. 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.

Water: Public water is near to the site. A study of the water system shall be conducted by the developer. Substantial improvements to the water system may be required which includes off-site improvements. An evaluation will be made by staff at the time of preliminary plat or large scale development.

Sewer: Sanitary sewer is near to the site. Substantial improvements to the sewer system may be required which includes off-site improvements. This development will be within the sewer assessment area. An evaluation will be made by staff at the time of preliminary plat or large scale development. A study of the downstream system shall be conducted by the developer.

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire:

- The 60.20 acres are covered by Engine 7 located at 835 Ruppel Road.
- It is 1.8 miles from the station with an expected response time of 4 minutes.
- The Fire Department anticipates 55 (33 EMS -- 22 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
- There are no recorded measured hydrant flows for this area.
- 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 rezoning will not substantially alter the population density and thereby undesirably increase the load

on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 designates this site **Residential**. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed RSF-4 zoning for a Single family residential use is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential use, which is compatible with the proposed RSF-4 zoning.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A subdivision with density compatible to those surrounding subdivisions within the City could not be developed as it is currently zoned. A higher density than the R-A zoning district is appropriate in this area, and would provide compatibility with adjoining developments that are zoned RSF-4, R-A and RT-12.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will provide additional traffic on all adjacent streets. Wedington Drive, a Principal Arterial on the MSP adjoins the southern boundary of the property. 59th Avenue would be extended to the north with development and Fountain Street to the east would be extended to serve future development. These existing street connections and the ability for 59th Avenue, which could eventually connect to Jess Anderson Road (a collector street), will aid in the movement of traffic generated by this subdivision. Additional stub-outs shall be provided with development of the subject property, which will allow traffic to disperse in an efficient manner and lessen any negative affects from the addition of vehicular traffic in this area. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the area.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and

sewer facilities.

Finding: The proposed zoning would increase population density. Under an R-A, Residential Agricultural designation, the 60.20-acre tract would allow for a maximum of 30 dwelling unit (1 unit / 2 acres). With the proposed RSF-4 designation, 240 dwelling units would be permitted in this area. Rezoning the property increases the possible number of residential units and population than that which would be allowed in the R-A zoning district, but is consistent with land use, zoning, and development patterns in the immediate vicinity.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Asst Chief Bud Thompson
From: Captain Dale Riggins
Date: June 20, 2006
Re: June 19, 2006 Zoning Review – Fire Department Comments

ANX06-2125 (Dunnerstock/Foster)
RZN06-2126

These 60.2 acres are covered by Engine 7 located at 835 N Ruppel Road. It is 1.8 miles from the station with an expected response time of 4 minutes. Fire Department anticipates 55 (33 EMS – 22 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. There are no recorded measured hydrant flows for this area. 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.

ANX06-2127 (Williams)

This 1.0 acre is covered by Engine 7 located at 835 N Ruppel Road. The property is 2.4 miles from the station with an expected response time of 5.5 minutes. Measured hydrant flow in the area is 1465 gallons/minute. We do not figure projected calls for service on properties that are being annexed.

ANX06-2129 (McDonald/Bridgedale II,)

These 14.21 acres are covered by Engine 5 at 833 N Crossover. The property is 2.8 miles from the station with a projected response time of 6 minutes to this development. After Station 3 is built, on the corner of E Huntsville and Happy Hollow, the distance to the development will be reduced to 1.8 miles with an anticipated response time of 3.75 minutes. Measured hydrant flow in the area is 1510 gallons/minute. We do not figure projected calls for service on properties that are being annexed.

Please feel free to contact me if you have any questions

Dale Riggins
IT/Planning
Fayetteville Fire Department



June 19, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 06-2125(DUNNERSTOCK/FOSTER, 397): submitted by JAMES MCCORD for property located at NORTH END OF 59TH AVENUE OFF OF WEDINGTON DRIVE would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. This property is in the planning area and contains approximately 60.2 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

In reference to RZN 06-2126 (DUNNERSTOCK/FOSTER, 397): submitted by JAMES MCCORD for property located at the NORTH END OF 59TH AVENUE OFF OF WEDINGTON DRIVE. The property is in the planning area and contains approximately 60.2 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, four units per acres.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density or create an undesirable increase the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

**APPLICATION FOR REZONING FROM R-A TO RSF-4
FILED BY
DUNNERSTOCK DEVELOPMENT, INC.**

6. Description of Rezoning Request

- (a) Current ownership and any proposed or pending sales:
Dunnerstock Development, Inc.
There are no proposed or pending sales.

- (b) Reason (need) for requesting zoning change:
To develop a single-family residential subdivision.

- (c) How the property will relate to surrounding properties:

Land use- RSF-4 zoning will be compatible with the land use of the surrounding properties. To the east is an existing residential subdivision (Heritage Village) zoned RT-12; to the south are single family homes; and, to the north and west is vacant property in Washington County.

Traffic- Ingress and egress is available from 59th Avenue at the south property line to Wedington Drive and from the stub out of Fountain Street in Heritage Subdivision (Fountain Street intersects Heritage Avenue to the east and Heritage Avenue runs south to Wedington Drive).

Appearance- The proposed single-family residential subdivision will be compatible in appearance with the surrounding properties which are single family homes to the east and south; the properties to the west and north are vacant.

Signage- Any signage will comply with the Fayetteville sign ordinance.

- (d) Availability of water and sewer lines:

Water lines- An 8" water line is located at the east boundary line of the property where Fountain Street stubs out in Heritage Village subdivision;

Sewer lines- An 8" sewer line is located at the east boundary line of the property where Fountain Street stubs out in Heritage Village subdivision; a 6" sewer line is located along 59th Avenue south of the property.

7. Statement in Support of Rezoning Application

- (a) RSF-4 zoning is consistent with land use planning objectives, principles and policies and with land use and zoning plans, since (1) the City's Future Land Use Plan recommends residential use for the property, (2) RSF-4 zoning is

less dense than the RT-12 zoning for Heritage Village subdivision adjoining the property to the east and (3) the existing zoning and land use to the south is residential (RSF-4 and R-A) with single family homes.

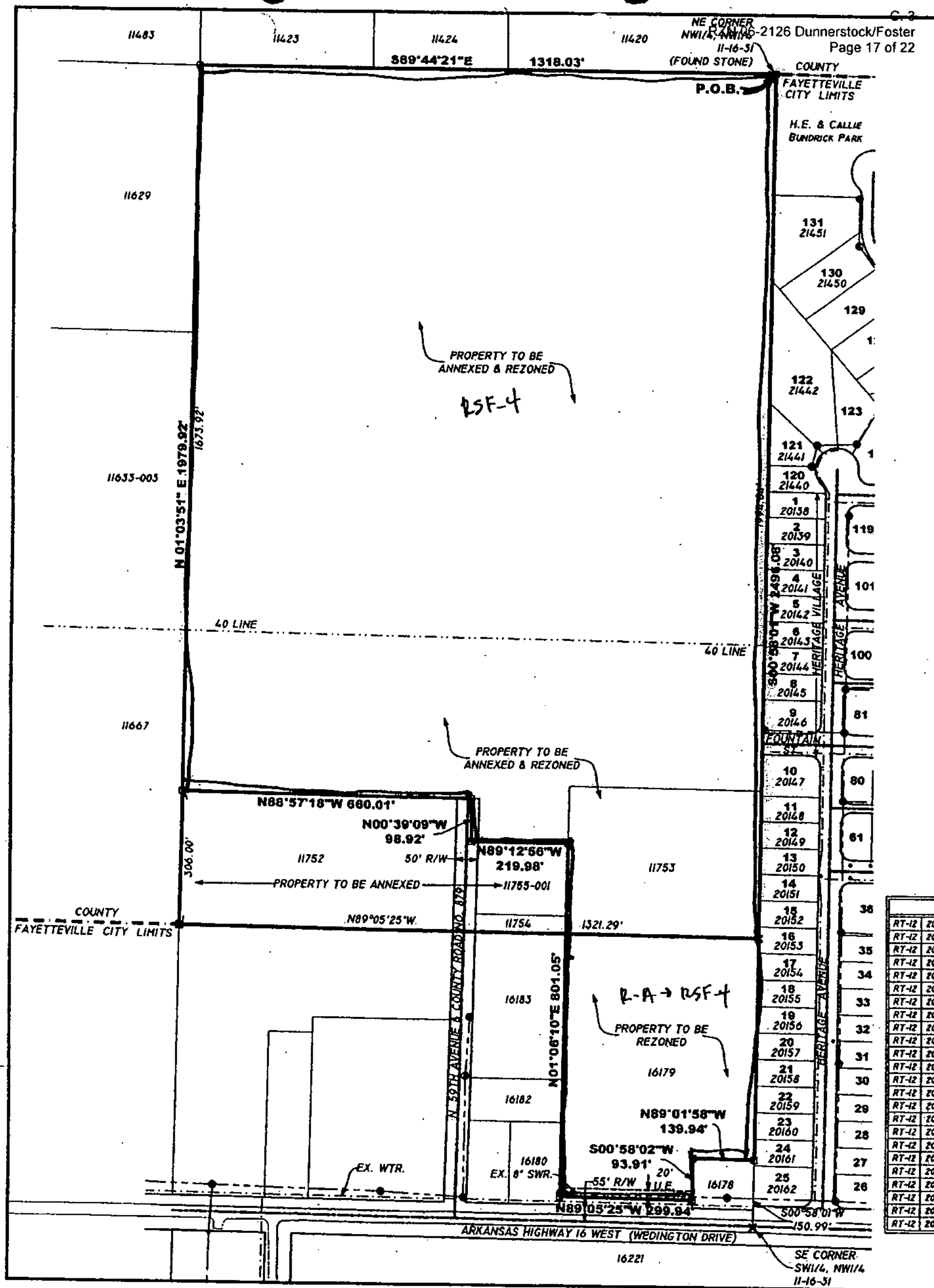
- (b) RSF-4 zoning is justified (needed) to authorize the development of a low density residential subdivision with affordable lots to meet a housing demand in the area. The lots are expected to be priced at approximately \$40,000 each and are expected to have dimensions of approximately 70' X 110'.
- (c) RSF-4 zoning will not create or appreciably increase traffic danger and congestion; applicant has been advised by the Fayetteville Engineering Department that the Arkansas Department of Highways and Transportation has a contract a project to widen Wedington Drive (Highway 16) to 4 lanes, plus a turn lane, from Meadowlands to Double Springs Road. The Fayetteville Master Street Plan designates 59th Avenue as a "Collector" (70' right-of-way and 36' pavement, back-of-curb to back-of-curb, required).
- (d) RSF-4 will not alter the population density or undesirably increase the load on public services, including schools, water and sewer facilities; a maximum of 240 single family lots would be permitted on the 60.22 acres, but, because of the land to be used for required streets and utilities, the actual number of lots will likely be approximately 3 lots per acre (200 lots) which are likely developed in phases of 100 each over a two year period.
- (e) It would be impractical to use the land for any of the uses permitted under R-A zoning. Agricultural uses are not compatible with the existing residential homes to the east and south of the property. A residential subdivision with affordable lots could not be developed if the property is zoned R-A, because R-A zoning requires a 2 acre minimum lot size.

LEGAL DESCRIPTION: (PROPERTY TO BE ANNEXED)

All of the NW1/4 of the NW1/4 and part of the SW1/4 of the NW1/4 of Section 11, T16N, R31W in Washington County, Arkansas and being described as follows:
Beginning at the NE Corner of said NW1/4, NW1/4 thence S00°58'01"W 1994.84 feet, thence N89°05'25"W 1321.29 feet, thence N01°03'51"E 1979.92 feet, thence S89°44'21"E 1318.03 feet to the P.O.B.; Containing 60.21 acres more or less subject to easements and Right of Way of record.

LEGAL DESCRIPTION: (PROPERTY TO BE REZONED)

All of the NW1/4 of the NW1/4 and part of the SW1/4 of the NW1/4 of Section 11, T16N, R31W in Washington County, Arkansas and being described as follows:
Beginning at the NE Corner of said NW1/4, NW1/4 thence S00°58'01"W 2496.08 feet, thence N89°01'58"W 139.94 feet, thence S00°58'02"W 93.91 feet, thence N89°05'25"W 299.94 feet, thence N01°06'10"E 801.05 feet, thence N89°12'56"W 219.98 feet, thence N00°39'09"W 98.92 feet, thence N88°57'18"W 660.01 feet, thence N01°03'51"E 1673.92 feet, thence S89°44'21"E 1318.03 feet to the P.O.B.; Containing 60.22 acres more or less subject to easements and Right of Way of record.



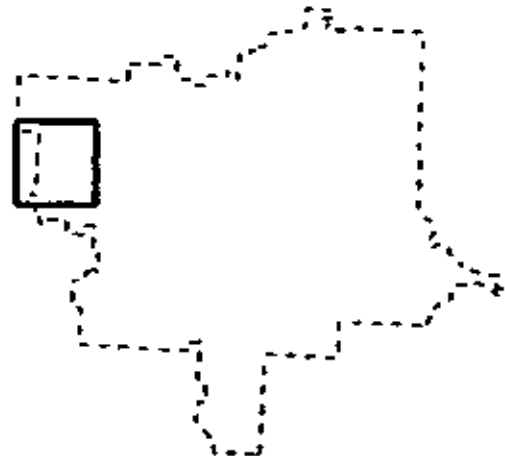
RZN06-2126

One Mile View

DUNNERSTOCK/FOSTER



Overview



Legend

Subject Property

RZN06-2126

Boundary

Planning Area

Overlay District

Outside City

Legend

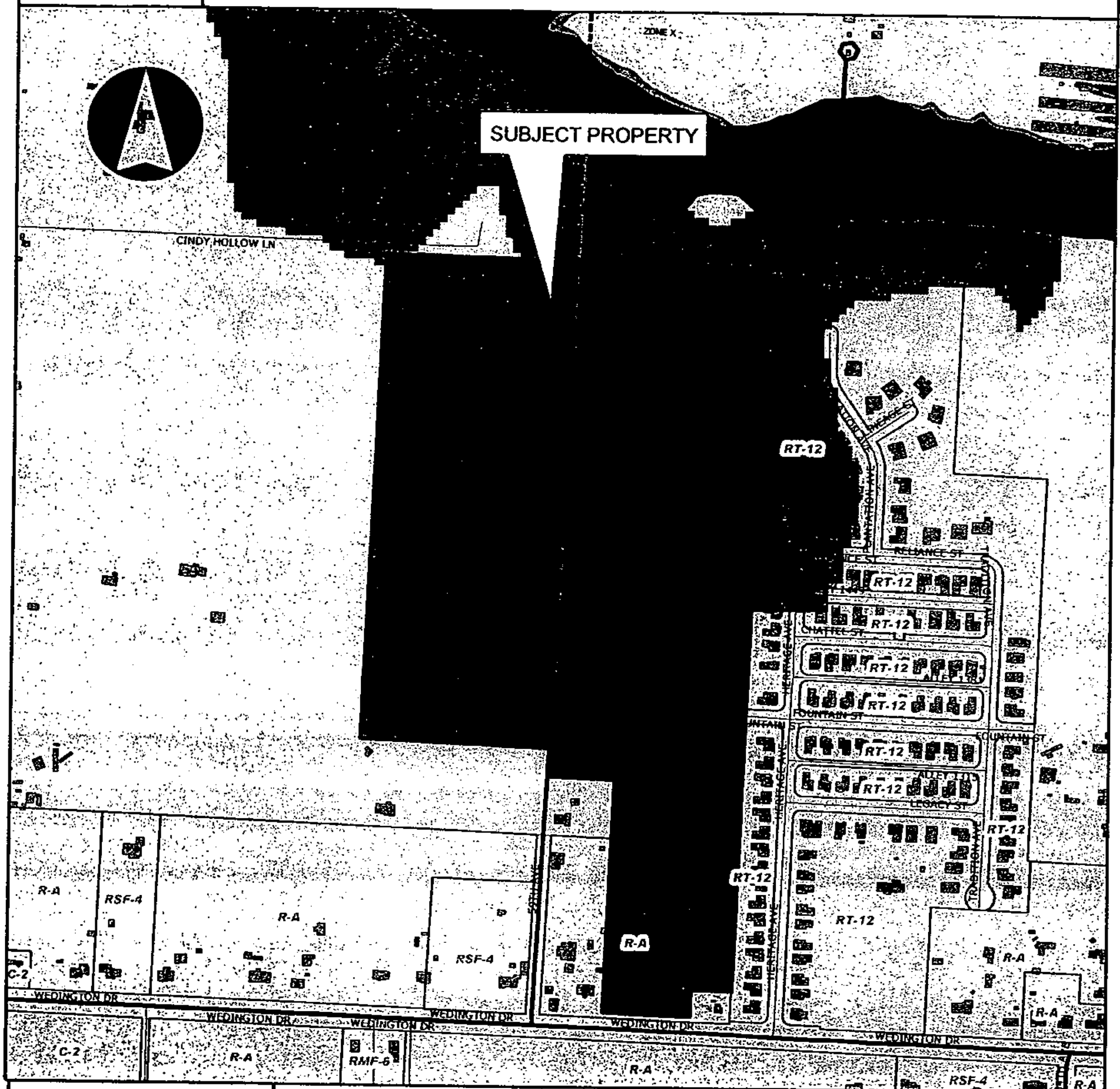
Hillside-Hilltop Overlay District

0 0.125 0.25 0.5 0.75 1 Miles

RZN06-2126

Close Up View

DUNNERSTOCK/FOSTER



Overview

Legend

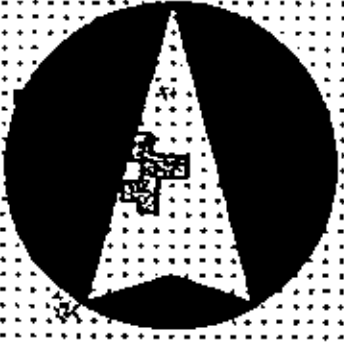
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Hillside-Hilltop Overlay District
- - - BaseLine Profile
- Fayetteville
- Outside City
- RZN06-2126
- vector.GDB.Footprint_2004

0 175 350 700 1,050 1,400 Feet

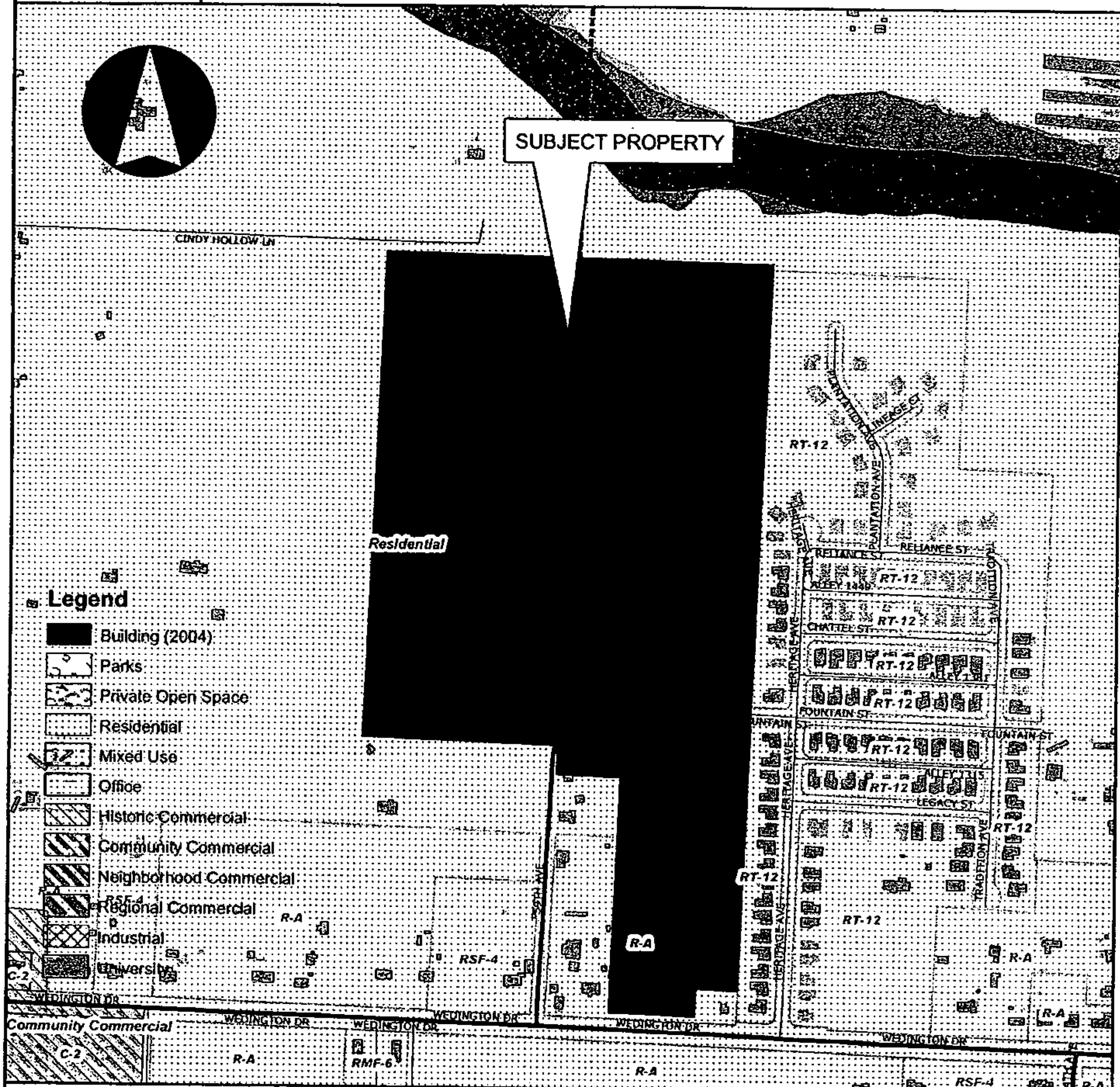
RZN06-2126

Future Land Use

DUNNERSTOCK/FOSTER



SUBJECT PROPERTY



Overview



Legend

Subject Property

RZN06-2126

Streets

Existing
Planned

Boundary

Planning Area
Overlay District
Outside City

Legend

0 175 350 700 1,050 1,400
Feet

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

18-Jul-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 06-2123: (Launder, 447): Submitted by John Launder for property located at 1025 Company. The property is zoned RSF-4, Residential Single-Family, 4 units per acre. The request is to vacate a utility easement located within the subject property.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 7-1-06
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature] 6-30-06
City Attorney

Received in City Clerk's Office

[Signature] 7/3/06
Finance and Internal Service Director Date

Received in Mayor's Office

[Signature] 7/5/06
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ⁸

Date: June 27, 2006

Subject: Easement Vacation for Launder (VAC 06-2123)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a 20' utility easement (approximately 0.06 acres) located at 1025 Company Street, as depicted herein.

BACKGROUND

The subject property is an existing 20-foot utility easement (0.06 acres) traversing north-south along the eastern property line of a single-family lot located at 1025 Company Street. This property is identified as Lot 13 in Mountain View Addition on Mount Sequoyah. This easement is not being used by any the utility providers.

The requested easement vacation is due to a proposed addition to the existing house on the property, which will encroach into the existing easement. As a condition of approval, the property owners shall dedicate a new 10-foot sewer easement provided on the north property line of this lot, starting at the west end of Company Street right-of-way and running west to the western property line, as approved by the City Water/Wastewater Director.

DISCUSSION

Notification was provided to all appropriate utility representatives and adjoining property owners; there were no objections to this request. The Planning Commission voted 9-0-0 on its consent agenda to forward this item to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

**AN ORDINANCE APPROVING VAC 06-2123 SUBMITTED
BY JOHN LAUNDER FOR PROPERTY LOCATED AT 1025 COMPANY,
VACATING 0.06 ACRE PORTION OF THE UTILITY EASEMENT LOCATED
WITHIN THE SUBJECT PROPERTY.**

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted utility easement is not required for corporate purposes.

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

Section 1: That the City 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

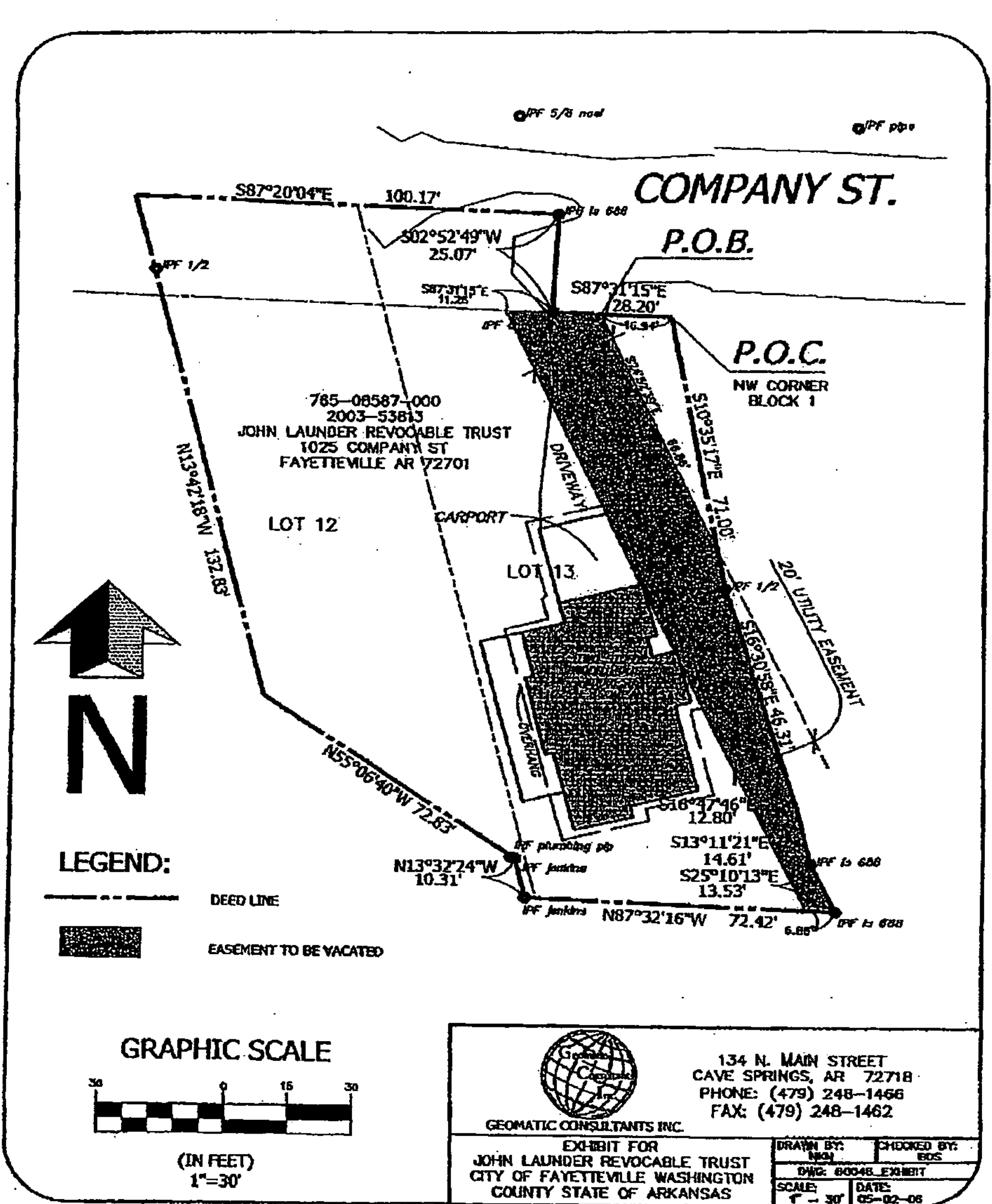
EXHIBIT "A"
VAC 06-2123

**DESCRIPTION OF PROPOSED EASEMENT VACATION
PART OF PARCEL 765-08587-000**

A 20 FOOT WIDE UTILITY EASEMENT, BEING PART OF VACATED READ STREET IN THE MOUNTAIN VIEW ADDITION TO THE CITY OF FAYETTEVILLE, BEING A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF BLOCK 1 IN SAID MOUNTAIN VIEW ADDITION AS DESCRIBED IN A WARRANTY DEED RECORDED AS DOCUMENT NUMBER 2003 53813; THENCE ALONG THE SOUTH RIGHT-OF-WAY LINE OF COMPANY STREET N87°31'15"W 16.94 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY LINE S24°52'39"E 66.86 FEET; THENCE S10°35'17"E 10.04 FEET TO A FOUND IRON PIN; THENCE S16°30'58"E 46.31 FEET; THENCE S16°47'46"E 12.80 FEET; THENCE S13°11'21"E 14.61 FEET TO A FOUND IRON PIN; THENCE S25°10'13"E 13.53 FEET TO A FOUND IRON PIN; THENCE N87°32'16"W 6.86 FEET; THENCE N24°52'39"W 170.11 FEET; THENCE S87°31'15"E 22.52 FEET TO THE POINT OF BEGINNING, CONTAINING 2,577 SQUARE FEET MORE OR LESS.

EXHIBIT "B"





PC Meeting of June 26, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~June 5, 2006~~ Updated June 27, 2006

VAC 06-2123: (LAUNDER, 447): Submitted by JOHN LAUNDER for property located at 1025 COMPANY. The property is a 20-foot utility easement located at 1025 Company Street and is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE. The request is to vacate the utility easement (0.06 acres) on the subject property.

Property Owner: JOHN LAUNDER
Planner: ANDREW GARNER

Findings:

Property Description and Background: The subject property is an existing 20-foot utility easement (0.06 acres) traversing north-south along the eastern property line of a single-family lot located at 1025 Company Street. This property is identified as Lot 13 in Mountain View Addition on Mount Sequoyah. This easement is not being used by any the utility providers.

Request: The applicant's request is to vacate the 20' utility easement in order to construct an addition to their existing home. The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

RESPONSE

Ozarks Electric	No Objections
Cox Communications	No Objections
Southwestern Electric Power Company	No Objections
Arkansas Western Gas	No Objections
Southwestern Bell Telephone	No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No objections provided a new easement is provided.

Transportation

No Objections

Solid Waste

No Objections

Engineering

No Objections

Public Comment: Staff has not received any written or verbal public comment.

Recommendation: Vacating the utility easement in question without provision of another utility easement along the northern portion of this lot could prevent necessary sewer main extensions. However, the applicant has indicated that they will provide a new 10' utility easement traversing east-west along their northern property line as requested by the City's Water and Wastewater Director. Staff finds that this new easement would provide adequate easement for future main extensions. All of the utility companies have approved the easement vacation. Staff recommends approval of the proposed utility easement vacation VAC 06-2123 with the following conditions:

Conditions of Approval:

1. A new public 10-foot sewer easement shall be provided on the south side of the north property line of this lot, starting at the west end of the Company Street right-of-way and running west to the western property line, as approved by the City Water/Wastewater Director. The existing utility easement shall not be vacated or obstructed by new construction until the new easement is in place and accepted by the City of Fayetteville.
2. Any relocation of existing utilities shall be at the owner/developer's expense.

PLANNING COMMISSION ACTION:

Recommendation to be: yes Required X Approved Denied

Motion: Clark

Second: Ostner

Vote: 9-0-0

Date: June 26, 2006

Comments: (approved on consent agenda)

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 _____

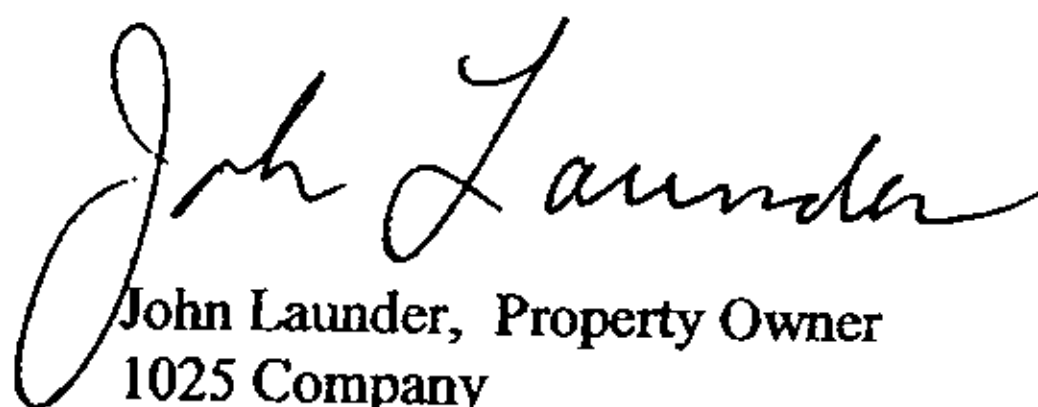
Date _____

Request to Vacate Utility Easement Crossing 1025 Company

I will be getting married this fall. In order to accommodate my expanded family, I am removing my existing carport and replacing it with an enclosed two-car garage with a room above it.

In order to add on to my existing house, I needed the appropriate permit. In going through the permit process, it was noted by planning, that although a street easement (Read Street), was abandoned by ordinance in 1955, the utility easement was not. The house was permitted and built in 1987. The easement is not shown on existing plats of the property. Only due to the GIS technology, was the easement discovered.

Thus, in order to complete my remodel, I need to have the utility easement vacated.


John Launder, Property Owner
1025 Company

UTILITY APPROVAL FORM FOR RIGHT-OF-WAY, ALLEY
AND UTILITY EASEMENT VACATIONS

DATE: 05/15/06

UTILITY COMPANY: Southwestern Bell Telephone d.b.a. AT&T Arkansas

REQUESTED VACATION:

Street

☒ Utility Easement

Street and all the utility easements located within the vacated street

Right-of-Way for alley or street

Right-of-Way for alley or streets and all utility easements located within the vacated right-of-way

Alley

Alley and all utility easements located within the vacated alley

I have been notified of the petition to vacate the following right-of-way.

Described as follows:

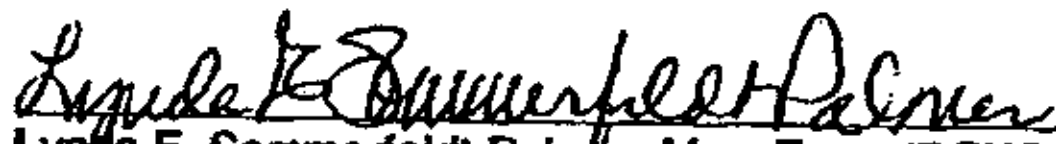
A twenty foot (20') wide utility easement being part of vacated Read Street in the Mountain View Addition of the City of Fayetteville, being a part of the SW ¼ of the SE ¼ of Section 10, Township 16 North, Range 30 West, Washington County, Arkansas and being more particularly described as follows: Commencing at the northwest corner of Block 1 in said Mountain View Addition as described in a warranty deed recorded as document number 2003 53813; thence along the south right-of-way line of Company Street 87°31'15"W 16.94 feet to the point of beginning; thence departing said south right-of-way line 24°52'39"E 66.86 feet; thence S 10°35'17"E 10.04 feet to a found iron pin; thence S 16°30'58"E 46.31 feet; thence S16°47'46"E 12.80 feet; thence S13°11'21"E 14.61 feet to a found iron pin; thence S25°10'13" E 13.53 feet to a found iron pin; thence N87°32'16"W 6.86 feet; thence N24°52'39" W 170.11 feet; thence S87°31'15"E 22.52 feet to the point of beginning, containing 2,577 square feet, more or less.

UTILITY COMPANY COMMENTS:

No objections to the vacation described above.

Signature of this form does not constitute a release of easement. The attached Concurrence must be recorded at the Benton County courthouse in order for this release to be complete and legal.

Signature of AT&T Company Representative:


Lynda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)

May. 10. 2006 7:35AM FAY CUST SVC

No. 0107 P. 2

C. 4
VAC 06-2123 Launder
Page 10 of 22

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 5-9-06

UTILITY COMPANY: SW EPCO

APPLICANT NAME: _____ APPLICANT PHONE: _____
REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** 1025 Company St, Fayetteville AR see Exhibit "A"

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

Kenny Sullivan

Signature of Utility Company Representative

SW EPCO R-O-W agent

Title

05/04/2006 08:14 4798720174
May 03 09:44p Sunrise Custom Homes

COX CONSTRUCTION
200 210 3100

C. 4
VAC 06-2123 Launder
Page 11 of 22

PAGE 02/04
P.2

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 5-3-06

UTILITY COMPANY: Cox COMMUNICATIONS

APPLICANT NAME: _____ APPLICANT PHONE: _____

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

1025 COMPANY ST.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easement:: are retained.
(State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

PROJECT COORDINATOR
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 5-10-06

UTILITY COMPANY: ARKANSAS WESTERN GAS

APPLICANT NAME: _____ APPLICANT PHONE: _____

REQUESTED VACATION (applicant must check all that apply):

☒ Utility Easement

☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

☐ Alley

☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** 1025 Company St. Fayetteville, AR (See Attached Description)
(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

☒ No objections to the vacation(s) described above.

☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

☐ No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

N.W. Regional Manager
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE:

5/4/06

UTILITY COMPANY:

Transportation Division City of Fayetteville

APPLICANT NAME:

Sunrise Custom Homes

APPLICANT PHONE:

479 925 4359REQUESTED VACATION (applicant must check all that apply):☒

Utility Easement

☐

Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

☐

Alley

☐

Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** 1025 Company St.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

☒

No objections to the vacation(s) described above.

☐No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)☐

No objections provided the following conditions are met:

Ray Indhu 5/4/06

Signature of Utility Company Representative

Transportation Supt.
Title Transportation Division
Operations Department
City of Fayetteville
PH 575-8228

May 05 06 05:45p

Sunrise Custom Homes

253 276 9783

p.4

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 5/8/06

UTILITY COMPANY: City of Fayetteville, Solid Waste & Recycling Div.

APPLICANT NAME: _____ APPLICANT PHONE: _____

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

[Signature]

Signature of Utility Company Representative

Commercial Solid Waste Rep.

Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 24 MAY 2006

UTILITY COMPANY: FAYETTEVILLE WATER & WASTEWATER

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address: 1025 Company, North-south easement
on east side of property.

(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Requested easement can be vacated but the City must be
granted a 10' easement on the north property line, extending
from the end of Company Street west to the west property
line. See attached memo dated MAY 24, 2006, subj. Easement
Vacation Request, 1025 Company.

[Signature]
Signature of Utility Company Representative

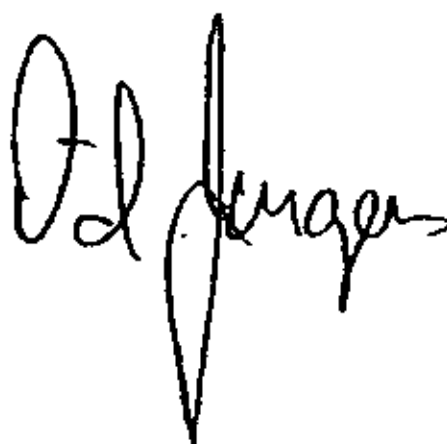
WATER & WASTEWATER DIRECTOR
Title

Fayetteville

ARKANSAS

WATER AND WASTEWATER DEPARTMENT DEPARTMENTAL CORRESPONDENCE

TO: Jan Gambill, Planning

FROM: David Jurgens, Water & Wastewater Director 

DATE: May 24, 2006

SUBJECT: Easement Vacation Request, 1025 Company

I concur with the easement vacation along the east side of and in the vicinity of 1025 Company with the following comment and requirement.

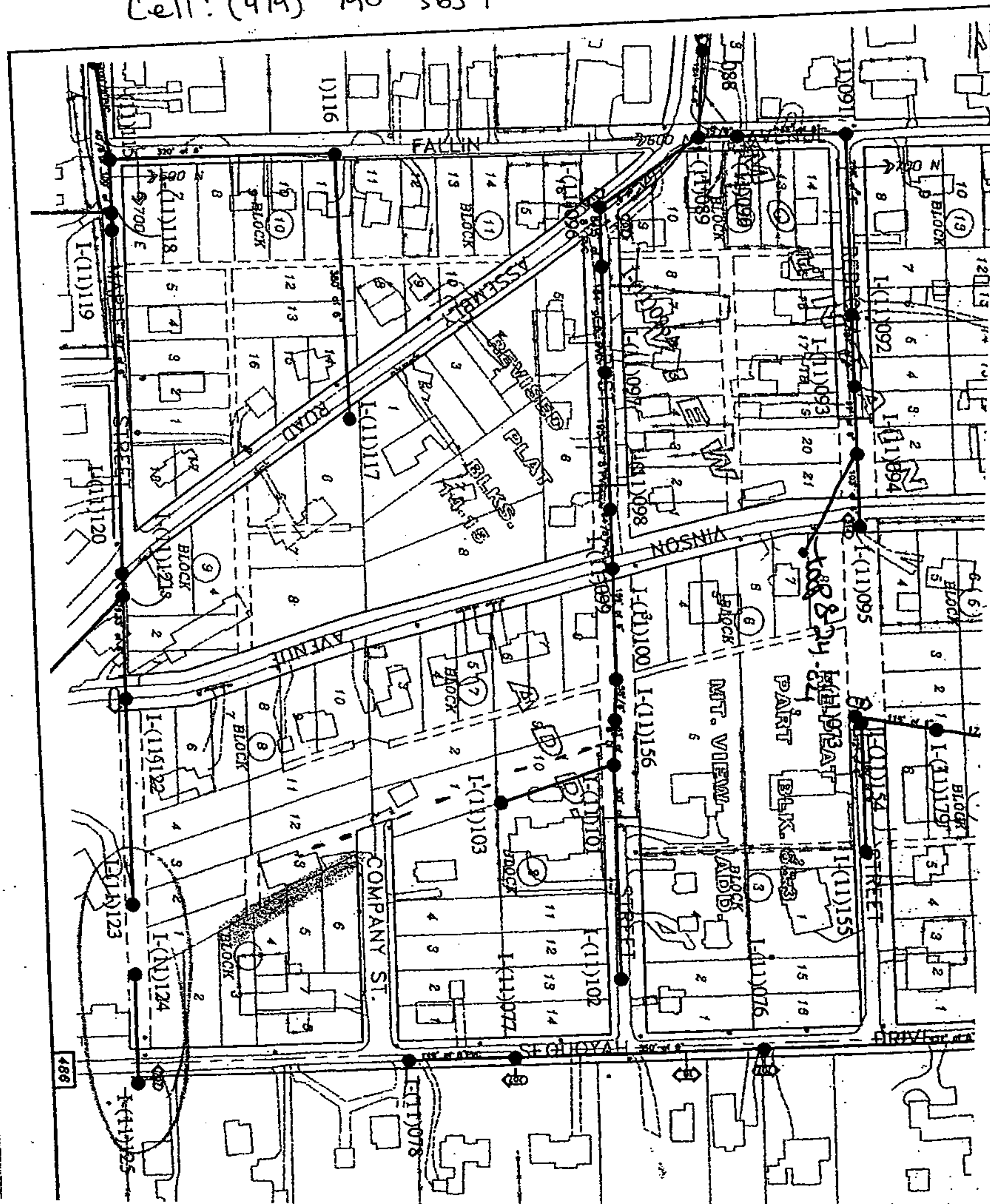
In order to allow for a future main extensions, we require a 10 foot easement on the south side of the north property line of this lot running starting at the west end of the Company Street right of way and running west to the western property line.

The sewer service line for the house at 1025 Company trespasses across one or more other lots before it reaches a City main. There are no sewer mains that adjoin the lot. A likely path for a main to get to this lot is along the easement of which part is being vacated. Alternatively, given the slopes in the area, it is entirely possible that a future main could run from Vinson up to and through the Company Street right of way to Sequoyay Drive. This is the basis for the easement being required to be dedicated.

The north-south easement on the east side of the lot can be vacated simultaneous with the east-west easement on the north side of the lot being granted.

Cc: Engineering
Water/Sewer Operations

John (owner)
Cell: (479) 790-3659



p.2 C. 4
VAC 06-2123 Launder
Page 17 of 22

05-02-'06 10:18 FROM-

T-821 P003

F-170

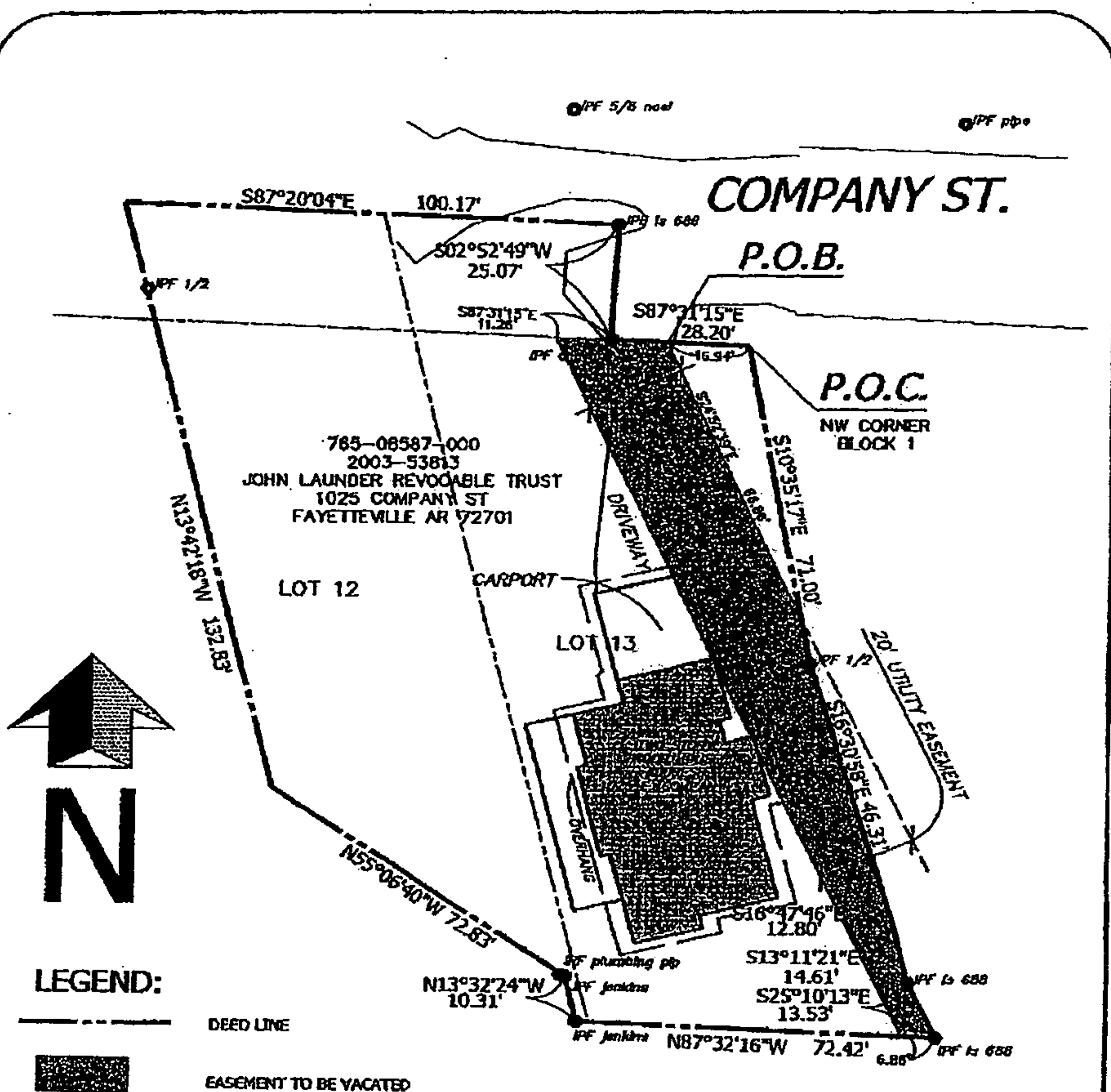
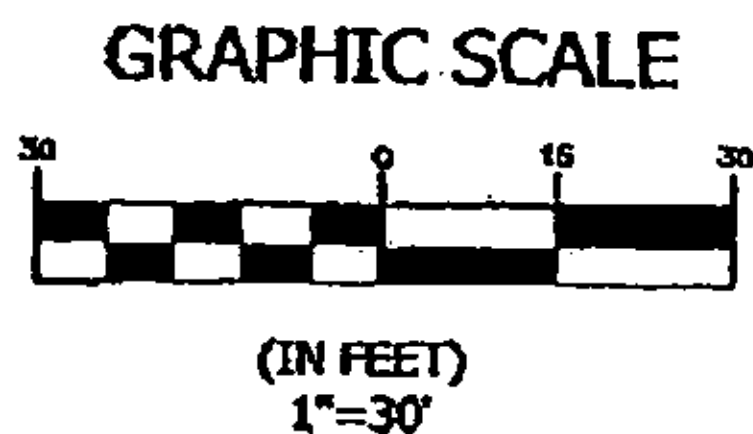


EXHIBIT "A"



GEOMATIC CONSULTANTS INC.

134 N. MAIN STREET
CAVE SPRINGS, AR 72718
PHONE: (479) 248-1466
FAX: (479) 248-1462

EXHIBIT FOR
JOHN LAUNDER REVOCABLE TRUST
CITY OF FAYETTEVILLE WASHINGTON
COUNTY STATE OF ARKANSAS

DRYING BY: IRON	CHECKED BY: BOS
DWC: 60048 EXHIBIT	
SCALE: 1 - 30	DATE: 05-02-06

Fax from: Sunrise Custom Homes, LLC
9136 Hilton Place
Rogers, AR 72756
Fax: 253-276-9783
Phone: 479-925-4359
Cell: 479-236-5015
Email: Al@SunriseCustomHomes.com

Date: 5/2/2006 3:14 PM

Fax to: 479 684 4730

Attention: Melanie

Number of pages including cover: (3)

Notes: Melanie,

Here is the legal description and exhibit to vacate the easement at 1025 Company Street.

I have called Arkansas one call and several locates have already been done. (Locate # 060424-0196)

You can contact me at 236-5015

Thank you,

Al Rahm





VAC06-2123

Close Up View

LAUNDER



SUBJECT PROPERTY

RSF-4

RSF-4

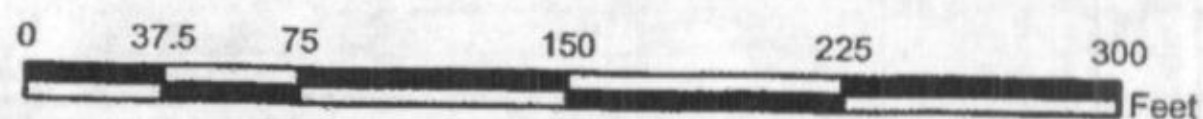
RSF-4

RSF-4

Overview

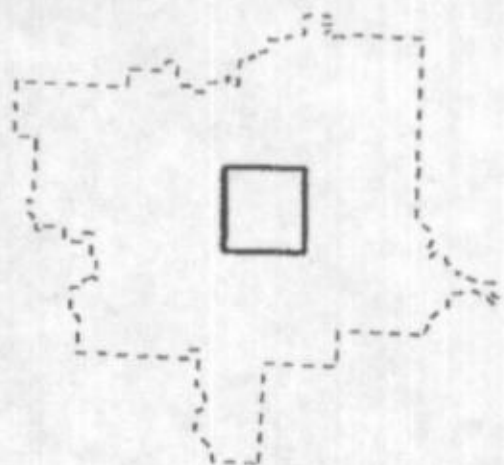
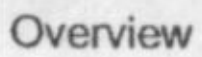
Legend

- | | | | |
|-----------|-----------------------------------|------------------|------------|
| ○ ○ ○ ○ ○ | Overlay District | — FLOODWAY | — 500 YEAR |
| — | 100 YEAR | — LIMIT OF STUDY | |
| - - - | BaseLine Profile | | |
| □ | Fayetteville | | |
| □ | Outside City | | |
| ■ | VAC06-2123 | | |
| ■ | vector.GDB.Footprint_2004 | | |
| ■ | Hillside-Hilltop Overlay District | | |

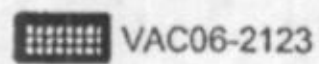


One Mile View

SUBJECT PROPERTY



Subject Property



 Planning Area
 Overlay District
 Outside City

Hillside-Hilltop Overlay District

0 0.125 0.25 0.5 0.75 1 Miles

Miles

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

18-Jul-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 06-2068: (Bio-Based/City of Fayetteville, 638): Submitted by the City of Fayetteville for property located at 1475 Cato Springs Road. The property is zoned I-1, Heavy Commercial/Light Industrial. The request is to vacate un-constructed rights-of-ways within the subject property in association with an approved Large Scale Development.

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

6/30/06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

6/30/06
Date

Original Contract Number: n/a


Finance and Internal Service Director

7/3/06
Date

Received in City Clerk's Office




Mayor

7/5/06
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: June 27, 2006

Subject: Easement Vacation for Bio-Based (VAC 06-2068)

RECOMMENDATION

Planning Staff recommends approval of an ordinance to vacate un-constructed rights-of-way within the subject property in association with an approved large scale development, as depicted herein.

BACKGROUND

The subject property is located at the southeast corner of Cato Springs Road and Razorback Road. The rights-of-way, which are approximately 30' wide, were platted as part of the Broad Acres Subdivision. The property has multiple structures on-site which formerly housed the City's Water and Sewer Operations Center. The first phase of a multi-phased project was approved by the Subdivision Committee on June 15, 2006. The approved development consists of a 28,000 square foot building with professional office and laboratory space, as well as associated parking.

DISCUSSION

Notification was provided to all appropriate utility representatives and adjoining property owners; there were no objections to this request. The Planning Commission voted 9-0-0 on its consent agenda to forward this item to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

**AN ORDINANCE APPROVING VAC 06-2068 SUBMITTED
BY THE CITY OF FAYETTEVILLE FOR PROPERTY LOCATED AT 1475
CATO SPRINGS ROAD, VACATING UN-CONSTRUCTED RIGHTS-OF-WAY
WITHIN THE SUBJECT PROPERTY IN ASSOCIATION WITH AN APPROVED
LARGE SCALE DEVELOPMENT FOR BIO-BASED.**

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 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 right-of-way.

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto labeled Exhibit "B" and Conditions of Approval labeled Exhibit "C" will 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 also shown on Exhibit "C" attached 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 06-2068

PAGE 1 OF 2

A PART OF THE NORTHWEST QUARTER (NW¼) OF THE NORTHEAST QUARTER (NE¼) AND A PART OF THE NORTHEAST QUARTER (NE¼) OF THE NORTHEAST QUARTER (NE¼) OF SECTION TWENTY-NINE (29), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE NORTHEAST (NE) CORNER OF SAID SECTION, THENCE NORTH 87° 03' 36" WEST 1476.34 FEET TO A POINT; THENCE SOUTH 02° 56' 24" WEST 55.14 FEET TO THE EXISTING SOUTH RIGHT-OF-WAY OF CATO SPRINGS ROAD AND THE POINT OF BEGINNING; THENCE SOUTH 07° 33' 30" EAST 423.08 FEET TO A FOUND PIPE; THENCE NORTH 78° 02' 38" EAST 150.63 FEET (150.5 FEET DEED 617-267) TO THE WEST RIGHT-OF-WAY OF THE ARKANSAS AND MISSOURI RAILROAD; THENCE ALONG SAID RAILROAD RIGHT-OF-WAY SOUTH 08° 06' 42" EAST 895.07 FEET (897.2 FEET DEED 617-297); THENCE LEAVING SAID RAILROAD RIGHT-OF-WAY NORTH 87° 24' 01" WEST 539.31 FEET (538 FEET DEED 617-297) TO A FOUND 2" DIAMETER IRON PIPE; THENCE NORTH 02° 39' 58" EAST 566.08 FEET (573.6 FEET DEED 617-297) TO A FOUND 2" DIAMETER IRON PIPE IN CONCRETE; THENCE NORTH 87° 24' 01" WEST 383.53 FEET TO A POINT; THENCE NORTH 02° 37' 42" EAST 192.00 FEET TO A POINT; THENCE NORTH 87° 24' 01" WEST 210.74 FEET TO THE EAST RIGHT-OF-WAY OF STATE HIGHWAY NO. 265 AS DESCRIBED IN INSTRUMENT NO. 95034367 FILED WITH THE CIRCUIT CLERK OF SAID COUNTY; THENCE ALONG SAID EAST RIGHT-OF-WAY OF HIGHWAY NO. 265 THE FOLLOWING COURSES: THENCE NORTH 08° 46' 53" EAST 64.31 FEET TO A POINT; THENCE NORTH 17° 19' 40" EAST 92.37 FEET TO A POINT; THENCE NORTH 17° 54' 15" EAST 56.42 FEET TO A POINT; THENCE NORTH 18° 58' 50" EAST 48.95 FEET TO A POINT; THENCE NORTH 20° 28' 50" EAST 97.90 FEET TO A POINT; THENCE NORTH 21° 56' 30" EAST 45.16 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT WITH A RADIUS BEARING SOUTH 46° 13' 48" EAST 293.25 FEET AND A LONG CHORD BEARING NORTH 68° 17' 44" EAST 243.66 FEET, THE SAID BEGINNING OF CURVE BEING THE TRANSITION POINT FROM THE EAST RIGHT-OF-WAY OF STATE HIGHWAY NO. 265 TO THE SOUTH RIGHT-OF-WAY OF CATO SPRINGS ROAD; THENCE ALONG SAID CURVE AND SOUTH RIGHT-OF-WAY AN ARC LENGTH OF 251.05 FEET TO FOUND CONCRETE RIGHT-OF-WAY MARKER; THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY OF CATO SPRINGS ROAD THE FOLLOWING COURSES, SOUTH 87° 10' 44" EAST 71.57 FEET TO A FOUND CONCRETE RIGHT-OF-WAY MARKER; THENCE NORTH 02° 49' 16" EAST 10.00 FEET TO A POINT; THENCE SOUTH 87° 20' 19" EAST 348.44 FEET TO THE POINT OF BEGINNING AND CONTAINING 18.38 ACRES, MORE OR LESS.

LESS AND EXCEPT THAT PORTION FOR STREET DEDICATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: A PART OF THE NORTHWEST QUARTER (NW¼) OF THE NORTHEAST QUARTER (NE¼) AND A PART OF THE NORTHEAST QUARTER (NE¼) OF THE NORTHEAST QUARTER (NE¼) OF SECTION TWENTY-NINE (29), TOWNSHIP SIXTEEN (16) NORTH, RANGE

EXHIBIT "A"
VAC 06-2068

PAGE 2 OF 2

THIRTY (30) WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: TO-WIT: COMMENCING AT THE NORTHEAST (NE) CORNER OF SAID SECTION, THENCE NORTH $87^{\circ} 03' 36''$ WEST 1476.36 FEET TO A POINT; THENCE SOUTH $02^{\circ} 56' 24''$ WEST 55.14 FEET TO THE EXISTING SOUTH RIGHT-OF-WAY OF CATO SPRINGS ROAD AND THE POINT OF BEGINNING; THENCE SOUTH $07^{\circ} 33' 30''$ EAST 13.46 FEET TO A POINT; THENCE NORTH $87^{\circ} 59' 10''$ WEST 350.90 FEET TO A POINT; THENCE NORTH $87^{\circ} 44' 29''$ WEST 71.57 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT WITH A CENTRAL ANGLE OF $49^{\circ} 03' 05''$ AND A RADIUS OF 285.33 FEET; THENCE ALONG SAID CURVE AN ARC LENGTH OF 244.27 FEET TO A POINT; THENCE NORTH $46^{\circ} 13' 48''$ WEST 7.92 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT WITH A RADIUS BEARING SOUTH $46^{\circ} 13' 48''$ EAST 293.25 FEET AND A LONG CHORD BEARING NORTH $68^{\circ} 17' 44''$ EAST 243.66 FEET, THE SAID BEGINNING OF CURVE BEING THE TRANSITION POINT FROM THE EAST RIGHT-OF-WAY OF STATE HIGHWAY NO. 265 TO THE SOUTH RIGHT-OF-WAY OF CATO SPRINGS ROAD; THENCE ALONG SAID CURVE AND SOUTH RIGHT-OF-WAY AN ARC LENGTH OF 251.05 TO A FOUND CONCRETE RIGHT-OF-WAY MARKER; THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY OF CATO SPRINGS ROAD THE FOLLOWING COURSES: SOUTH $87^{\circ} 10' 44''$ EAST 71.57 FEET TO A FOUND CONCRETE RIGHT-OF-WAY MARKER; THENCE NORTH $02^{\circ} 49' 16''$ EAST 10.00 FEET TO A POINT; THENCE SOUTH $87^{\circ} 20' 19''$ EAST 348.44 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.18 ACRES, MORE OR LESS.

THE ABOVE DESCRIBED PROPERTY HAVING BEEN SURVEYED BY DARYL V. DOYAL, BEING RECORDED IN DEED REF. 2006-00012549 ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

Exhibit "B"

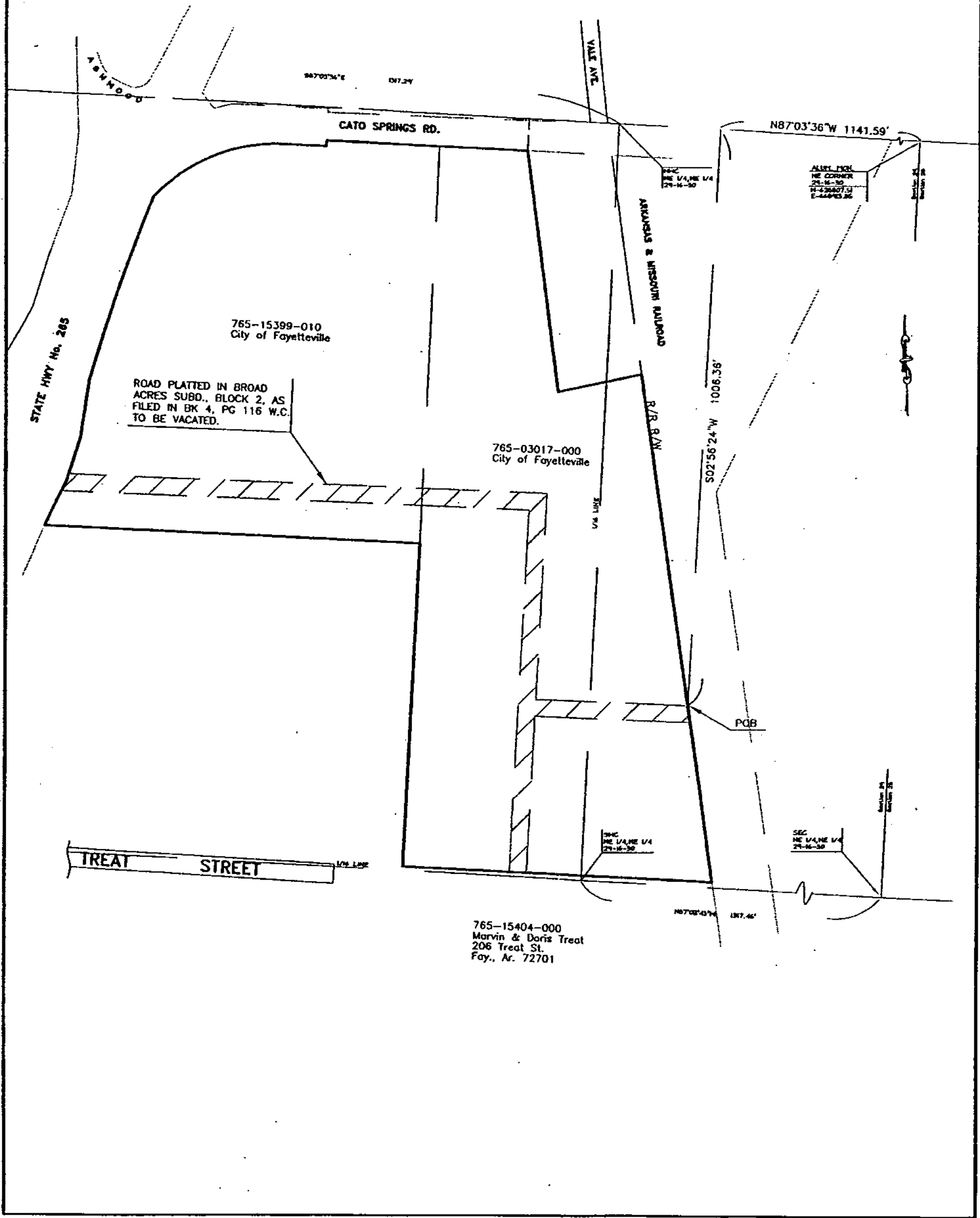


EXHIBIT "C"
CONDITIONS OF APPROVAL

1. If any utility work is performed as part of the development and any of these lines changed, abandoned, or rerouted, then easement requirements would change accordingly, as they would for any development. Easements shall be dedicated by easement plat.
 - a. The north-south 12" waterline requires a 25' wide easement centered on the pipe.
 - b. The 6" waterline running west from the 12", between the two buildings requires a 20' easement centered on the pipe and extending 10' past the end of the pipe. This requirement also applies to the 6" line running north from the westbound 6" line.
 - c. The 24" waterline running east-west parallel to the south property line requires a 50' easement centered on the pipe. Much of this easement is in the 1475 Cato Springs lot.
 - d. The north-south sewer line running down the driveway needs to have a 20' wide easement centered on the pipe. This easement must be extended to the south property line.
 - e. All other water and sewer mains on the lot must have a 20' wide easement centered on the pipes. These easement shall extend 10' beyond the end of the line at dead end manholes or dead ends of pipes.
 - f. There needs to be an easement extended southwest from the dead end manhole on the west end of the east-west sewer line. This easement should be situated such that the house on the southwest lot can have a main run to it from the manhole. If the house area is split off as a separate lot, there must be a sewer main that runs to it. Currently, the service line from the house ties to the dead end manhole and can be identified by the cleanouts located every 100'. This service no longer meets requirements if the house becomes part of a separate lot. The new main need not follow the path of the existing sewer line (which is a service, as the house is on the same platted lot as the two brick buildings). It simply needs to tie to the service at the property line.
 - g. The adequacy of the water and sewer systems must be evaluated for any new development. All sewer services must be placed, as they do not meet current plumbing codes. Water service lines on both sides of the meter loop may need to be replaced; they are also required to meet current plumbing codes.
2. Any relocation of existing utilities shall be at the owner/developer's expense.
3. All conditions of approval from the approved large scale development shall remain in effect unless otherwise modified by the Planning Commission and/or City Council.



PC Meeting of June 26, 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
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: June 21, 2006

VAC 06-2068: (BIO-BASED/CITY OF FAYETTEVILLE, 638): Submitted by CITY OF FAYETTEVILLE for property located at 1475 CATO SPRINGS RD. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL and contains approximately 1.19 acres. The request is to vacate un-constructed rights-of-way within the subject property in association with the approved Large Scale Development.

Property Owner: City of Fayetteville

Planner: Andrew Garner

Findings:

Property Description and Background: The subject property is located at the southeast corner of Cato Springs Road and Razorback Road. The property has multiple structures on-site which formerly housed the City's Water and Sewer Operations Center. The first phase of a multi-phased project was approved by the Subdivision Committee on June 15, 2006. The approved development consists of a 28,000 square foot building with professional office and laboratory space, as well as associated parking.

Request: The applicant's request is to vacate un-constructed rights-of-way within the subject property in association with the approved Large Scale Development. The rights-of-way, which are approximately 30' wide, were platted as part of the Broad Acres Subdivision.

The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

RESPONSE

Ozarks Electric

No Objections

Cox Communications

No Objections

Southwestern Electric Power Company

No Objections

Arkansas Western Gas No Objections

Southwestern Bell Telephone No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer No Objections.

Transportation No Objections

Solid Waste No Objections

Engineering No Objections

Public Comment: Staff has not received any written or verbal public comment.

Recommendation: Staff recommends approval of VAC 06-2068 with the following conditions:

Conditions of Approval:

1. If any utility work is performed as part of the development and any of these lines changed, abandoned, or rerouted, then easement requirements would change accordingly, as they would for any development. Easements shall be dedicated by easement plat.
 - a. The north-south 12" waterline requires a 25' wide easement centered on the pipe.
 - b. The 6" waterline running west from the 12", between the two buildings requires a 20' easement centered on the pipe and extending 10' past the end of the pipe. This requirement also applies to the 6" line running north from the westbound 6" line.
 - c. The 24" waterline running east-west parallel to the south property line requires a 50' easement centered on the pipe. Much of this easement is in the 1475 Cato Springs lot.
 - d. The north-south sewer line running down the driveway needs to have a 20' wide easement centered on the pipe. This easement must be extended to the south property line.
 - e. All other water and sewer mains on the lot must have a 20' wide easement centered on the pipes. These easement shall extend 10' beyond the end of the line at dead end manholes or dead ends of pipes.
 - f. There needs to be an easement extended southwest from the dead end manhole on the west end of the east-west sewer line. This easement should be situated such that the house on the southwest lot can have a main run to it from the manhole. If the house area is split off as a separate lot, there must be a sewer main that runs to it. Currently, the service line from the house ties to the dead end manhole and can be identified by the cleanouts located

every 100'. This service no longer meets requirements if the house becomes part of a separate lot. The new main need not follow the path of the existing sewer line (which is a service, as the house is on the same platted lot as the two brick buildings). It simply needs to tie to the service at the property line.

- g. The adequacy of the water and sewer systems must be evaluated for any new development. All sewer services must be placed, as they do not meet current plumbing codes. Water service lines on both sides of the meter loop may need to be replaced; they are also required to meet current plumbing codes.
- 2. Any relocation of existing utilities shall be at the owner/developer's expense.
 - 3. All conditions of approval from the approved large scale development shall remain in effect unless otherwise modified by the Planning Commission and/or City Council.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: June 26, 2006

Motion: Clark

Second: Ostner

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

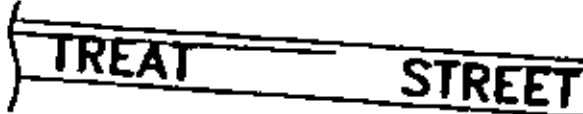
Date

STREET VACATION DESCRIPTION

A part of the North half (N 1/2) of the Northeast Quarter (NE ¼) of Section Twenty-Nine (29), Township Sixteen (16) North, Range Thirty (30) West, Washington County, Arkansas and being a part of the Broad Acres Subdivision, Block Two (2), dated August 07, 1926 and recorded in Deed Book 4 Page 116 with the circuit clerk of said county and being more particularly described as follows, to wit:

Commencing at the Northeast (NE) corner of said section;
Thence North 87°03'36" West 1141.59 feet to a point;
Thence South 02°56'24" West 1006.36 feet to the North right-of-way of an unnamed street and the West right-of-way of the Arkansas and Missouri Railroad, said intersection being **THE POINT OF BEGINNING**;

Thence along said railroad right-of-way South 08°06'42" East 30.49 feet to a point;
Thence leaving said railroad right-of-way North 87°50'34" West 272.24 feet to a point;
Thence South 02°48'29" West 272.82 feet to the south line of said Block Two (2);
Thence North 87°24'01" West 30.00 feet to a point;
Thence leaving said south line North 02°48'29" East 633.59 feet to a point;
Thence North 87°50'34" West 812.02 feet to the west right-of-way of Arkansas State Highway No. 265;
Thence along said west right-of-way North 26°18'36" East 21.01 feet to a point;
Thence continuing along said west right-of-way North 17°18'43" 11.22 feet to a point;
Thence leaving said west right-of-way South 87°50'34" East 830.83 feet to a point;
Thence South 02°48'29" West 361.00 feet to a point;
Thence South 87°50'34" East 266.46 feet to the POINT OF BEGINNING and containing 1.198 acres more or less.





WATER AND WASTEWATER DIVISION
DEPARTMENTAL CORRESPONDENCE

To: City Planning

Thru: Engineering

From: David Jurgens, Water and Wastewater Director

Date: May 15, 2006

Subject: Easement/Right of Way Vacation Request, 1475 Cato Springs Road (Old Water/Sewer Operations Center)

The attached request to vacate the rights-of-way at 1475 Cato Springs Road, the old Water/Sewer Operations Center, are approved as of when the conditions listed below are met. If the conditions listed below are not all met, then the vacation cannot be approved. Because the site belonged to Water and Sewer, easements for the existing water and sewer lines were not required and were not correct. Before any land rights are lost on the site, all land requirements should be met. If any utility work is performed as part of the development, and any of these lines changed, abandoned, or rerouted, then easement requirements would change as they would for any development.

Conditions:

1. The north-south 12" water line requires a 25 foot wide easement centered on the pipe.
2. The 6" water line running west from the 12", between the two buildings, requires a 20' easement centered on the pipe and extending 10' past the end of the pipe. This requirement also applies to the 6" line running north from the westbound 6" line.
3. The 24" water line running east-west parallel to the south property line requires a 50' easement centered on the pipe. Much of this easement is in the 1475 Cato Springs lot.
4. The north-south sewer line running down the driveway needs to have a 20' wide easement centered on the pipe. This easement must be extended to the south property line.
5. All other water and sewer mains on the lot must have a 20 foot wide easement centered on the pipes. These easements shall extend 10 feet beyond the end of the line at dead end manholes or dead ends of pipes.
6. There needs to be an easement extended southwest from the dead end manhole on the west end of the east-west sewer line. This easement should be situated such that the house on the southwest lot can have a main run to it from the manhole. If the house area is split off as a separate lot, there must be a sewer main that runs to it. Currently, the service line from the house ties to the dead end manhole and can be identified by the cleanouts located every 100 feet. This

service no longer meets requirements if the house becomes part of a separate lot. The new main need not follow the path of the existing sewer line (which is a service, as the house is on the same platted lot as the two brick buildings), it simply needs to tie to the service at the property line.

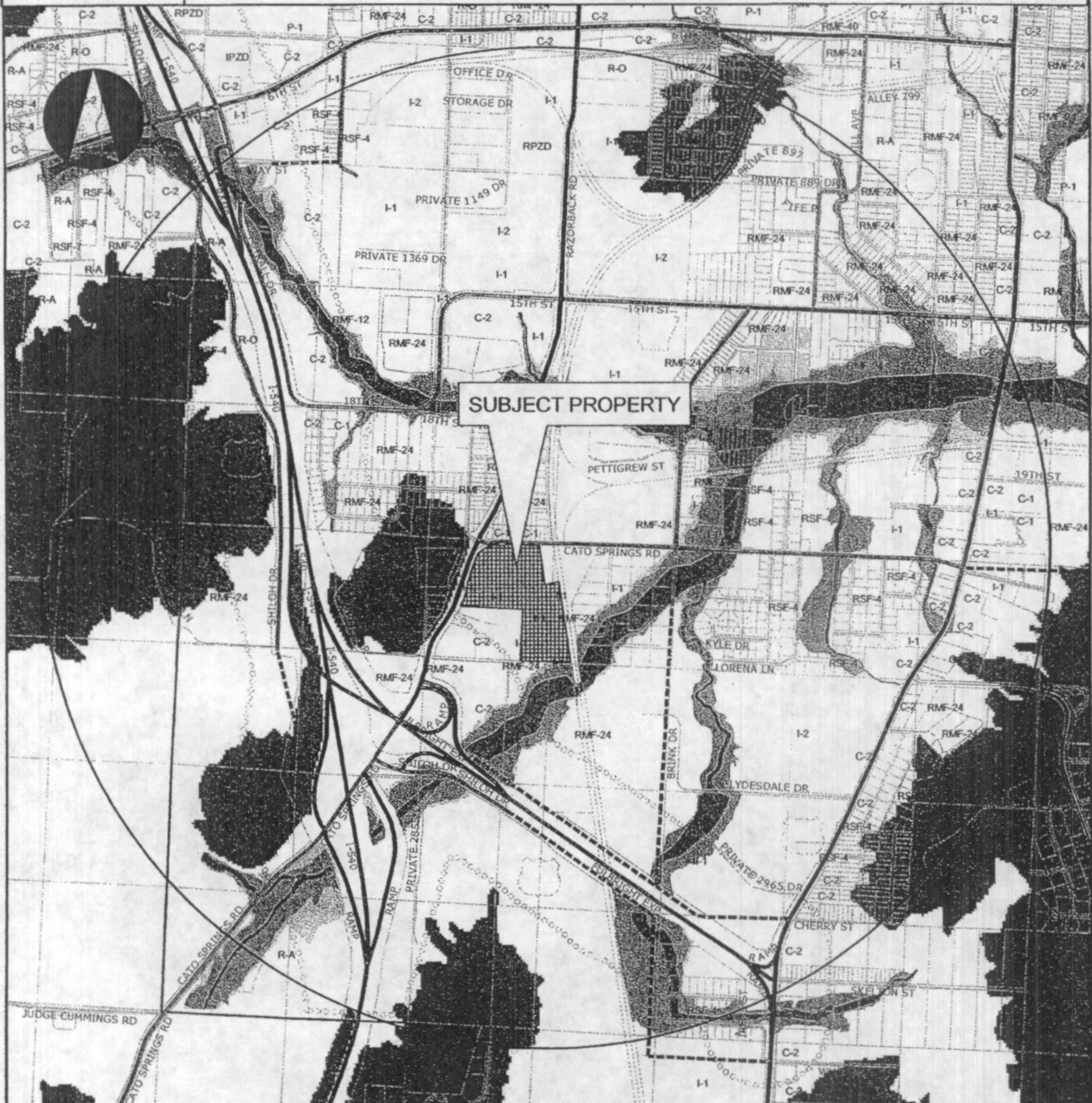
7. The adequacy of the water and sewer systems must be evaluated for any new development. All sewer services must be replaced, as they do not meet current plumbing code. Water service lines on both sides of the meter loop may need to be replaced; they are also required to meet current plumbing codes.

8. Any utility work performed under contract shall go through the standard review, approval, and inspection process administered by the City Engineer's office.

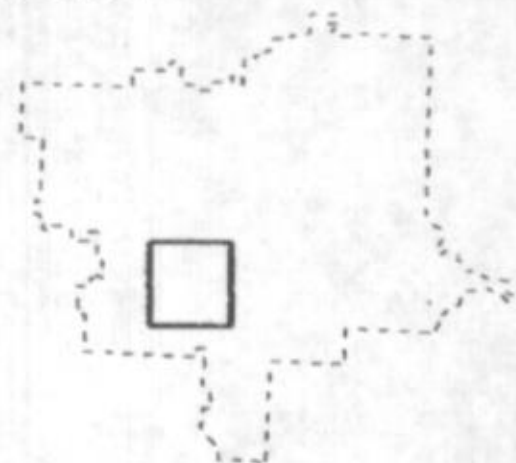
LSD06-2105

One Mile View

BIO-BASED



Overview



Legend

Subject Property
 LSD06-2105

Boundary

Planning Area
 Overlay District
 Outside City

Legend

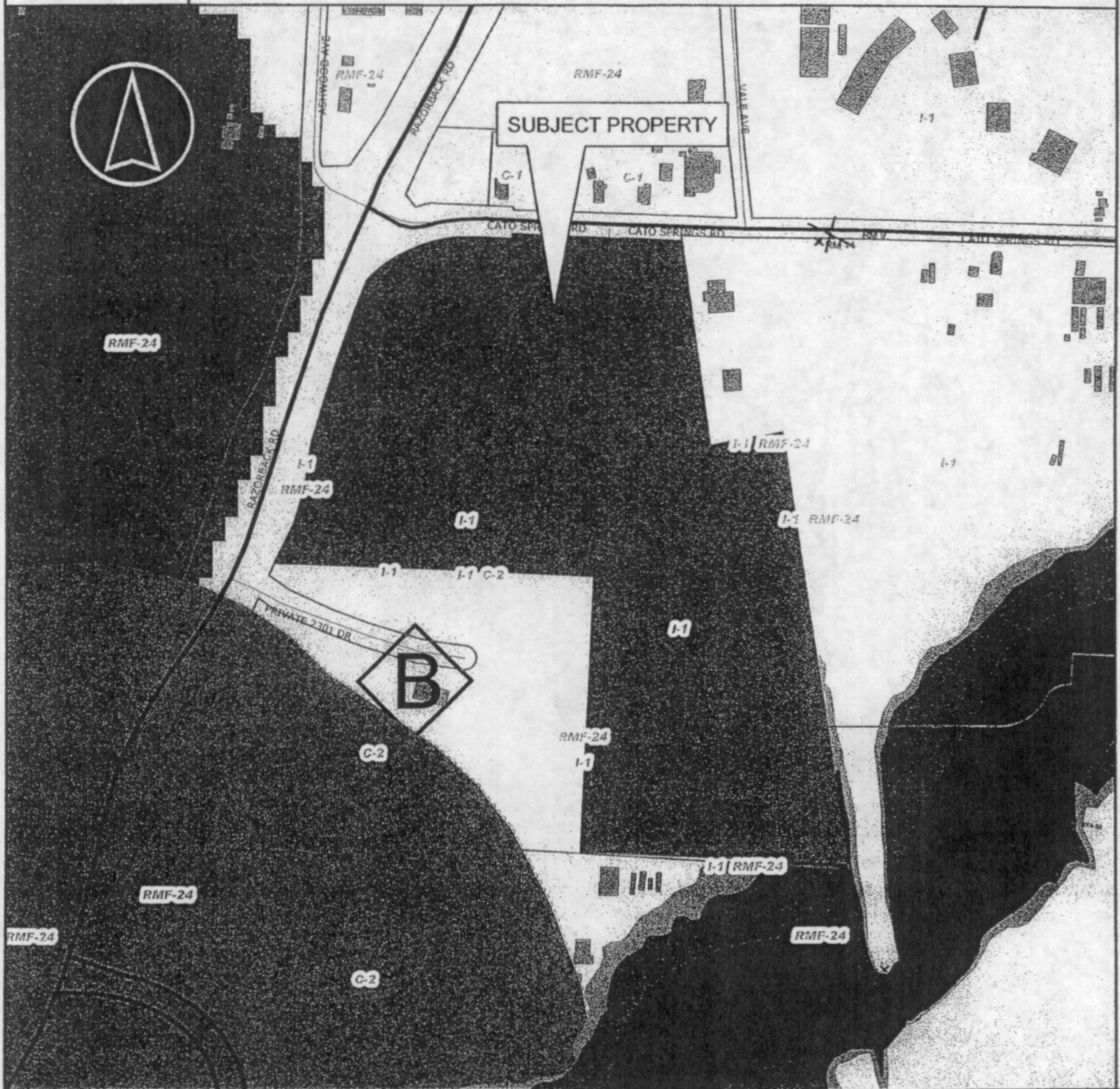
Hillside-Hilltop Overlay District

0 0.125 0.25 0.5 0.75 1 Miles

LSD06-2105

Close Up View

BIO-BASED



Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- LSD06-2105
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 125 250 500 750 1,000 Feet

CITY ATTORNEY AGENDA REQUEST

C. 6
Amend Chapter 34
Cost Share Exemptions
Page 1 of 4

FOR: COUNCIL MEETING OF JULY 18, 2006

FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance Amending Chapter 34, Article II Of The Code Of Fayetteville, To Exempt Cost Share Agreements For Infrastructure Improvements From The Requirements of §34.23

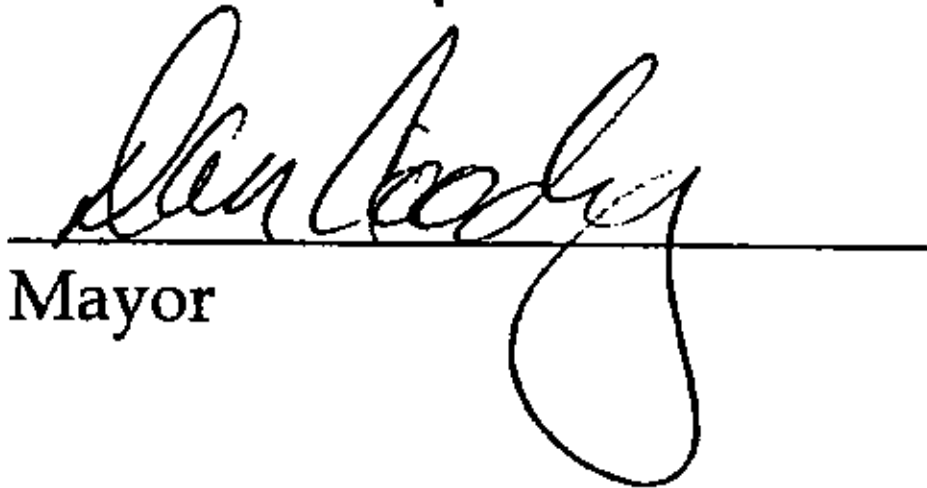
APPROVED FOR AGENDA:



6-27-06

City Attorney

Date



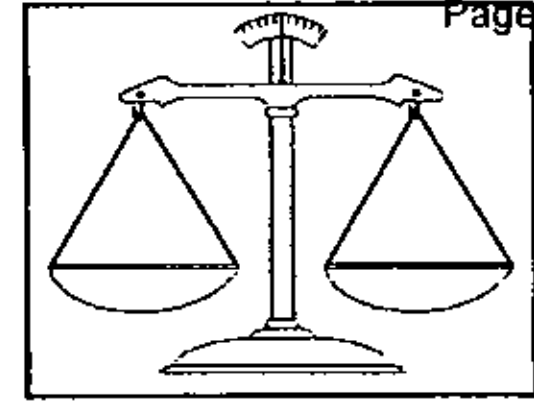
Mayor

6/27/06
Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 6
Amend Chapter 34
Cost Share Exemptions
Page 2 of 4



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

LEGAL DEPARTMENT

TO: City Council
FROM: David J. Whitaker, Assistant City Attorney 
DATE: June 27, 2006
RE: Ordinance to Exempt Cost-shares for Infrastructure Improvements

I have attached the proposed amendments to §34.23 to allow the City to enter into cost-share agreements with developers and other governmental units to achieve needed infrastructure improvements, without the necessity of seeking Bid Waivers. Mr. Williams has discussed this with you previously.

We also took the opportunity to reorganize the Code Section for greater clarity. Other than the addition of the language contained in subsection (B), however, no other changes were made to the remaining language contained in §34.23.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 34, ARTICLE II OF THE CODE OF FAYETTEVILLE, TO EXEMPT COST SHARE AGREEMENTS FOR INFRASTRUCTURE IMPROVEMENTS FROM THE REQUIREMENTS OF §34.23.

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

Section 1. That Section §34.23 is hereby repealed and the following is inserted in its stead:

§34.23 Purchases And Contracts Not In Excess Of \$20,000.00

- (A) All such purchases not in excess of \$20,000.00 shall be made by the mayor, or his duly authorized representative, after the securing and recording of quotation bids therefor; provided, quotation bids need not be secured for purchases under \$1,000.00.
- (B) Cost-share agreements with developers or governmental entities for the improvement of City infrastructure are expressly exempt from the requirements of this section. The City Council shall signify its approval of cost-share agreements by Resolution.
- (C) Contracts not in excess of \$20,000.00 shall be made and entered into by the mayor. The mayor shall have the authority to approve contract change orders up to the contingency amount, if any, as set forth in any approved contract even though such contingency amount may exceed \$20,000.00.
- (D) The hiring or engagement of professional services shall be conducted according to a professional hiring policy approved by the City Council.

PASSED and APPROVED this 18th day of July, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

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

7/18/2006

City Council Meeting Date

Tim Conklin

Submitted By

Operations

Division

Planning and Development Mgmt.

Department

Action Required:

Approval of the first contract amendment and budget adjustment for phase 2 with Duncan Associates in the amount of \$110,000 (\$55,000 Fayetteville's Share) to update the existing water and sewer impact fees, calculate fees for the collection system, and negotiate contracts with Elkins, Farmington, and Greenland to reimburse Fayetteville for the remaining costs (\$55,000) to calculate impact fees within their corporate boundaries.

\$ 110,000.00

Cost of this request

\$ 12,300.00

Category / Project Budget

Program Category / Project Name

5400-1840-5314-00

Account Number

\$ 12,300.00

Funds Used to Date

Program / Project Category Name

05054-1

Project Number

\$ -

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

X

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Department Director

Date

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

Received in Mayor's Office

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody
Fayetteville City Council
THROUGH: Gary Dumas, Operations Director
Marsha Farthing, Interim Finance and Internal Services Director
FROM: Tim Conklin, Planning and Development Management Director
DATE: June 28, 2006
SUBJECT: Approval of the first contract amendment and budget adjustment for phase 2 with Duncan Associates in the amount of \$110,000 (\$55,000 Fayetteville's Share) to update the existing water and sewer impact fees, calculate fees for the collection system, and negotiate contracts with Elkins, Farmington, and Greenland to reimburse Fayetteville for the remaining costs (\$55,000) to calculate impact fees within their corporate boundaries.

RECOMMENDATION

Staff recommends approval of the first contract amendment and budget adjustment for phase 2 with Duncan Associates in the amount of \$110,000 (\$55,000 Fayetteville's Share) to update the existing water and sewer impact fees, calculate fees for the collection system, and negotiate contracts with Elkins, Farmington, and Greenland to reimburse Fayetteville for the remaining costs (\$55,000) to calculate impact fees within their corporate boundaries.

BACKGROUND

The City of Fayetteville approved a bid waiver ordinance on October 18, 2005 to hire Duncan Associates to complete Phase 1 of the contract in the amount of \$12,300. Phase 1 included the development of the scope of work and contract to update the existing fees to include the wastewater interceptor and collection system. The current fees are based on the historical and estimated costs for the water transmission, storage, and distribution system and the estimated costs for the planned 10 million gallons per day wastewater treatment plant capacity improvements. The current wastewater fee did not include the proposed capacity improvements to the collection system and associated lift stations.

Staff is recommending updating the existing 2002 calculated water and wastewater impact fees to: 1) reflect current construction costs; 2) calculate impact fees for new capacity created as part of the wastewater collection system; and 3) calculate specific impact fees for outside jurisdictions served by the Fayetteville system.

The contract states "Fayetteville will be billed for analyses for Farmington, Greenland and Elkins only if the consultant is directed to proceed, before commencement of the Fayetteville analysis. The City of Fayetteville will be responsible for payment of the total amounts shown for Fayetteville and any participating client cities."

Staff has contacted Farmington, Greenland, and Elkins and is anticipating that each of the cities will make a decision whether or not to participate in this contract by the end of July 2006.

BUDGET IMPACT

The update to the existing impact fees and adding in the collection system will allow new development to pay its proportionate share of infrastructure capacity costs based on current construction costs, including the collection.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE FIRST CONTRACT AMENDMENT WITH DUNCAN ASSOCIATES IN THE AMOUNT OF \$110,000.00 TO UPDATE THE EXISTING WATER AND WASTEWATER IMPACT FEES, TO CALCULATE FEES FOR THE COLLECTION SYSTEM, AND NEGOTIATE CONTRACTS WITH THE CITIES OF ELKINS, FARMINGTON AND GREENLAND TO PAY FOR AND PROVIDE POTENTIAL WATER AND WASTEWATER IMPACT FEES WITHIN THEIR CORPORATE BOUNDARIES; AND APPROVING A BUDGET ADJUSTMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the First Contract Amendment with Duncan Associates in the amount of \$110,000.00 to update the existing Water and Wastewater Impact Fees, to calculate fees for the collection system, and negotiate contracts with the cities of Elkins, Farmington and Greenland to pay for and provide potential Water and Wastewater Impact Fees within their corporate boundaries. A copy of the First Contract Amendment, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$110,000.00.

PASSED and APPROVED this 18th day of July, 2006.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH City Clerk

**City of Fayetteville, Arkansas
Budget Adjustment Form**

C. 7
Duncan Associates Water and Sewer
Impact Fee Phase 2
Page 5 of 20
Adjustment Number

Budget Year 2006	Department: Operations Division: Meter Operations Program: Meter Capital	Date Requested 6/20/2006
-------------------------	--	---------------------------------

Project or Item Added/Increased: \$55,000 is requested in the Professional Services account of the Impact Fee Update - Water/Wastewater capital project.	Project or Item Deleted/Reduced: \$55,000 is proposed from the Contract Services (reimbursement) account in the Impact Fee Update - Water/Wastewater capital project. None. The use of \$55,000 from the Use of Fund Balance in the Water & Sewer Fund is proposed.
--	--

Justification of this Increase: Funding is for a Water/Wastewater Impact Fee Update for the Cities of Fayetteville, Farmington, Elkins, and Greenland.	Justification of this Decrease: \$55,000 is the cost share portion coming from the other cities. The remaining \$55,000 is the portion to be paid by the City of Fayetteville. Sufficient funding remains to comply with City policy.
--	--

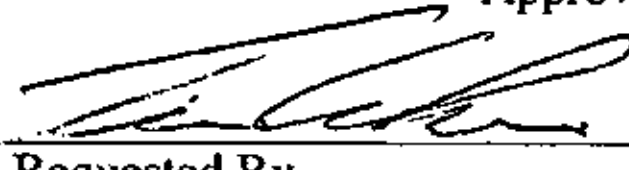
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	5400	1840	5314	00	110,000	05054	1

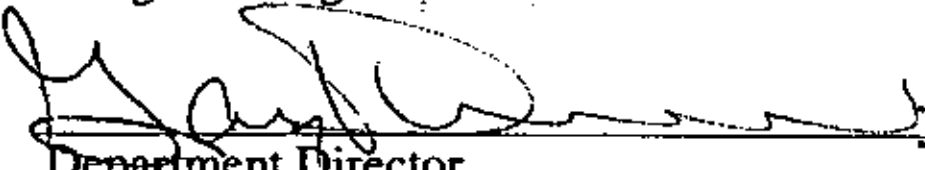
Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	5400	0940	4999	99	55,000		
Contract serv (reimb)	5400	0940	6490	00	55,000	05054	1

Approval Signatures


 Requested By _____ Date 6-15-06

Budget Manager _____ Date _____


 Department Director _____ Date 6-16-06

Finance & Internal Services Director _____ Date _____

Mayor _____ Date _____

Budget Office Use Only

Type: A B C D E

Posted to General Ledger

Initial _____ Date _____

Posted to Project Accounting

Initial _____ Date _____

Entered in Category Log

Initial _____ Date _____

HERE SIGN

AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2006, by and between the **CITY OF FAYETTEVILLE**, and the **CITY OF ELKINS, ARKANSAS**, to reimburse the City of Fayetteville for the City of Elkins's portion of the cost to have Duncan Associates to conduct Impact Fee studies within its corporate boundaries.

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

Article I

The City of Fayetteville agrees to pay Duncan Associates to conduct Impact Fee analyses within the corporate boundaries of the City of Elkins, as set forth in the Scope of Services, marked Exhibit "A" attached hereto and made a part hereof.

Article II

The City of Elkins agrees to pay the sum of \$25,000.00 to the City of Fayetteville as reimbursement of its portion of the cost to conduct the Impact Fee analyses.

Article III

Neither City may assign any of its rights or delegate any of its obligations under this Agreement, without the express written consent of the other.

Article IV

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

Article V

Each paragraph of this Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

Article VI

The City of Elkins shall hold harmless the City of Fayetteville from any and all claims or liabilities arising from the performance of this Agreement, provided that nothing in this Agreement shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville or the City of Elkins under the Constitution and Statutes of the State of Arkansas.

Article VII

It is agreed that the failure of any party to invoke any of the available remedies under this Agreement or under law in the event of one or more breaches or defaults by any party under the Agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

Article VIII

This Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this Agreement shall be valid unless made in writing and signed by the duly authorized agents of the parties, after an affirmative vote of a majority of each city's governing body.

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

CITY OF FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

ATTEST:

SONDRA SMITH, City Clerk

CITY OF ELKINS, ARKANSAS

JACK LADYMAN, Mayor

ATTEST:

PEGGY BARTON, City Clerk

**FIRST AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
CITY OF FAYETTEVILLE AND DUNCAN ASSOCIATES**

This Professional Services Agreement is made by and between the City of Fayetteville, a political subdivision of the State of Arkansas (City) and James Duncan and Associates, Inc., a professional corporation doing business as Duncan Associates located in Austin, Texas.

WHEREAS, City previously entered into a professional service agreement with Duncan Associates to perform the first phase of services relating to the development of water and wastewater impact fees.

WHEREAS, City desires to amend that professional services agreement to add the second phase of services relating to the development of water and wastewater impact fees.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter provided, City and Duncan Associates agree as follows.

- 1. Scope of Agreement.** Duncan Associate's relationship to City shall be that of independent contractor; at all times this relationship shall be governed by and be in strict compliance with the terms of this Professional Services Agreement.
- 2. Professional Services.** Duncan Associates shall furnish services to City as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference. Changes to the scope of services due to this amendment are indicated by underlining for added text and strike-out for deleted text.
- 3. Deliverables and Schedule.** Duncan Associates shall begin its services promptly after receipt of an executed copy of this Agreement and will complete the services and deliverables pursuant to the schedule as set forth in Exhibit "B." Times for performance shall be extended for periods of delay resulting from circumstances over which Duncan Associates has no control. Changes to the schedule due to this amendment are indicated by underlining for added text and strike-out for deleted text.
- 4. Compensation and Hourly Rates.** For services provided by Duncan Associates as described in Exhibit "A," City shall compensate Duncan Associates monthly based upon the percent completion of individual tasks and in accordance with the fee schedule outlined in Exhibit "C." Payment of each such invoice shall be due to Duncan Associates within thirty (30) days of receipt by City. Changes to the consultant's compensation due to this amendment are indicated by underlining for added text and strike-out for deleted text.

5. Subcontracting. Duncan Associates may subcontract some work on this project to Rosenthal & Associates, Inc.. Any other subcontractor relationships must first be approved by the City.

6. Conflict of Interest. Duncan Associates agrees that it has no interest and shall acquire no interest, direct or indirect, that would conflict in any manner with the performance of the services hereunder. Duncan Associates further agrees that, in the performance of this Agreement, no person having any such interest shall be employed.

7. Termination. The obligation to provide further services under this Agreement may be terminated by either party upon written notice to the other party. In the event of any termination, Duncan Associates will be paid for all services rendered to date of such termination.

8. Ownership of Documents. All documents prepared in the performance of this Agreement shall be delivered to City and become the property of the City before final payment is made to Duncan Associates.

9. Amendments. No amendments or modifications of this Agreement shall be valid unless in writing and signed by each of the parties to the Agreement.

10. Venue. The laws of the State of Arkansas shall govern the construction and interpretation of this agreement.

11. Severability. Any provision in this Agreement that is prohibited or unenforceable under state or federal law shall be ineffective to the extent of such prohibitions or unenforceability, without invalidating the remaining provisions hereof. Also, the non enforcement of any provision by either party to this Agreement shall not constitute a waiver of that provision nor shall it effect the enforceability of that provision or the remainder of this Agreement.

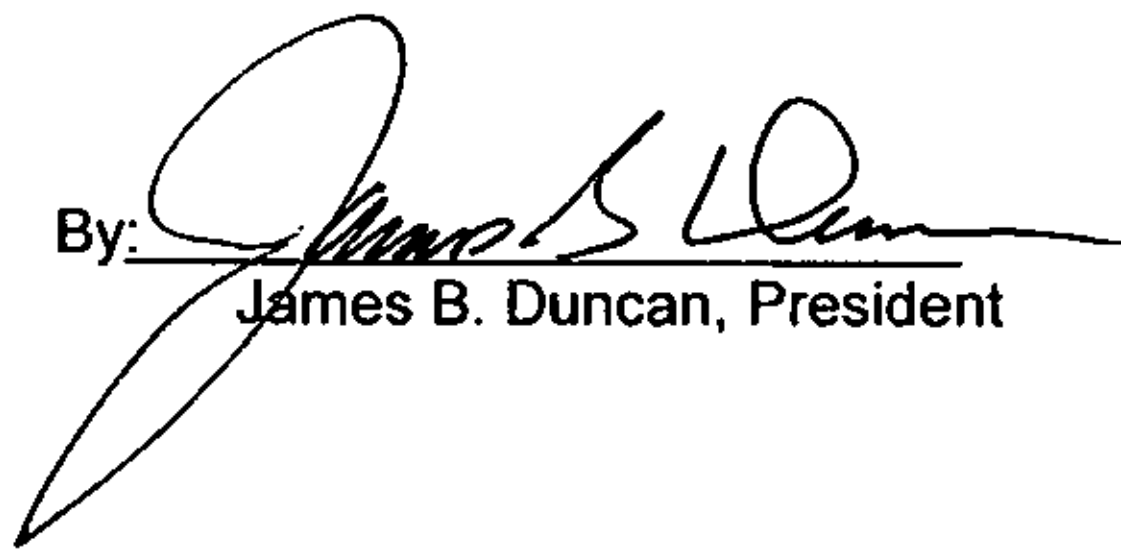
12. Freedom of Information Act. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, Duncan Associates will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25 19 101 et.seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

13. Changes in Scope or Price. Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

IN WITNESS WHEREOF, City and Consultant have caused this instrument to be signed
by their respective duly authorized officers.

EXECUTED on this, the 2nd day of June, 2005.

JAMES DUNCAN AND ASSOCIATES, INC.

By: 

James B. Duncan, President

EXECUTED on this, the _____ day of _____, 2005, by City of Fayetteville.

CITY OF FAYETTEVILLE, A Municipal Corporation

By: _____

Dan Coody, Mayor

Witness: _____

Sondra Smith

Fayetteville City Clerk

EXHIBIT "A"

SCOPE OF SERVICES

Project Understanding and Approach

The purpose of this project is to assist the City of Fayetteville in updating its existing water and wastewater impact fees. The update will bring the fees in line with current costs and ensure that they comply with the requirements of the Arkansas Development Impact Fees Act.

It is assumed that the City has or will prepare a list of capital improvement needs and cost estimates for the water and wastewater systems. No engineering work is included as part of this proposal.

The project will be divided into two phases. Phase I will consist of a feasibility analysis to determine how to proceed with the actual preparation of the study. Phase II will consist of the preparation of the study and attendance at public meetings.

The update study for wastewater will be expanded to include the cost of the collection system. Separate wastewater impact fees will be developed for new customers in Farmington, Greenland and Elkins, provided this is determined to be feasible in Phase 1.

Project Understanding and Approach (Phase 2)

Fayetteville's water and wastewater system provides service to a number of other jurisdictions. The water system is the most regional—with the exception of the City of Elkins, which owns the distribution system within its city limits, the City owns all of the facilities that serve its water customers, and bills individual customers directly. Out-of-city retail water customers include Johnson, Goshen, Farmington, Greenland and parts of unincorporated Washington County.

The wastewater system is less of an integrated regional system. Goshen does not participate in the City's wastewater system, and Farmington, Greenland and Elkins own the sewer collection systems within their city limits.

<u>Jurisdiction</u>	<u>Water System Ownership</u>	<u>Sewer System Ownership</u>	<u>Billing</u>
<u>Fayetteville</u>	<u>Fayetteville</u>	<u>Fayetteville</u>	<u>Fayetteville - Individual Customers</u>
<u>Johnson</u>	<u>Fayetteville</u>	<u>Fayetteville</u>	<u>Fayetteville - Individual Customers</u>
<u>Washington Co. (parts)</u>	<u>Fayetteville</u>	<u>Fayetteville</u>	<u>Fayetteville - Individual Customers</u>
<u>Goshen</u>	<u>Fayetteville</u>	<u>N/A</u>	<u>Fayetteville - Individual Customers</u>
<u>Farmington</u>	<u>Fayetteville</u>	<u>Farmington</u>	<u>Fayetteville - Individual Customers</u>
<u>Greenland</u>	<u>Fayetteville</u>	<u>Greenland</u>	<u>Fayetteville - Individual Customers</u>
<u>Elkins</u>	<u>Elkins</u>	<u>Elkins</u>	<u>Elkins (Wholesale Customer)</u>

This project will produce potentially four (4) impact fee reports – Fayetteville (water and wastewater), Elkins (water and wastewater), Farmington (wastewater) and Greenland (wastewater). Analyses for Farmington, Greenland and Elkins will be undertaken if the consultant is directed to proceed, before commencement of the Fayetteville analysis. Each impact fee will be calculated based on projected future demand, and the cost of planned future capital facilities attributable to that demand (an "improvements based" fee). As appropriate each fee will also include the value of current excess capacity, calculated based on acquisition cost (a "recoupment fee").

Water Impact Fees

Fayetteville

This fee will include water supply, transmission, storage and distribution facilities and parts of facilities (existing and planned future) attributable specifically to demand within Fayetteville. The fee will be assessed within Fayetteville.

Elkins

This fee will include local (in-town) transmission, storage and distribution system facilities and parts of facilities (existing and planned future) attributable specifically to demand within Elkins. This fee will be assessed within Elkins.

Wastewater

Fayetteville

This fee will include (existing and planned future) treatment plant, interceptors, lift stations, and collection system facilities, or parts of facilities, along with piping required to divert existing flows to the new plant, as is specifically attributable to demand within Fayetteville. The fee will be assessed within Fayetteville

Elkins

This fee will include local (in-town) transmission and collection system facilities and parts of facilities (existing and planned future) attributable to demand within Elkins. This fee will be assessed within Elkins.

Farmington

This fee will include local (in-town) transmission and collection system facilities and parts of facilities (existing and planned future) attributable to demand within Farmington. This fee will be assessed within Farmington.

Greenland

This fee will include local (in-town) transmission and collection system facilities and parts of facilities (existing and planned future) attributable to demand within Greenland. This fee will be assessed within Greenland.

Methodology Notes

Fees will include service area specific revenue credits (debt, grants and sales tax contributions, for example) and deficiency correction credits, as may be applicable.

For the client communities (Elkins, Farmington and Greenland), and in the interest of cost savings, the analytical process will be coordinated by Fayetteville – i.e., data acquisition, communications, distribution of work product and compilation of comments, and all other interchange with client communities will be accomplished by Fayetteville staff. In support of a cost-efficient approach, we have also not scheduled meetings with, or presentations for, client communities. Instead we welcome their attendance at meetings scheduled with Fayetteville. With respect to impact fee reports for client communities, we will produce one draft report and, based on comments, a revised final report.

The analyses will require land use inventories and projections for each of six service areas¹ (by impact fee property type) projected based on the same time frame for all service areas, and matching the capital improvement plan (CIP) time frame, which will be provided by Fayetteville.

Each of the impact fees (as above) will require information to support analysis of current deficiencies and debt, for impact fee credits. This information will be provided by Fayetteville. (Some or all of the information is likely to be on-hand, given the need for periodic demand planning.)

¹ Water – Fayetteville retail and Elkins service areas. Wastewater – Fayetteville retail, Elkins, Farmington, and Greenland service areas. Property types include Single Family (dwelling unit), Multi Family (dwelling unit), Hotel (rooms), Retail, Office, Industrial, and Institutional/Other (1,000 square feet)

The treatment component of the wastewater fee will include the value of plant capacity (new and existing, and capacity that will be made available by implementation of the new plant) and will be calculated based on an undifferentiated average cost per service unit (same cost per demand unit throughout the service area). The City proposes that treatment capacity be defined to include both plants and "appurtenances" - i.e., the existing and new plant, and that part of existing and planned transmission facilities needed to integrate the elements of the treatment system.

The supply component of the water fee will include the value of current excess capacity and planned new capacity (as derived from the facility master plan) and will be calculated based on an undifferentiated average cost per service unit (same cost per demand unit throughout the service area).

Allocation of the beneficial use of wastewater and water facilities by service area – e.g. defining the share and quantifying the value of CIP costs uniquely attributable to each service area – will be based on analysis provided by Fayetteville.

Credits for sales tax contributions (as may be attributable to each service area) will be defined by consultant based on analysis to quantify the share of tax revenue attributable to each service area. This share analysis will be provided by Fayetteville. Likewise, analysis to quantify and value current deficiencies by service area will be provided by Fayetteville. The value of potential debt service credits will be quantified by consultant, based on debt information provided by Fayetteville.

Cost for future facilities will be based on existing facility plans, updated as may be appropriate, by staff estimates.

Design years for wastewater plant and underground are different. The plant design year is about 2020. Wastewater transmission/collection design year, after completion of projects in the current master plan, is thought to be build-out. This may require analysis to realign and match the planning periods – for example, by quantifying additional plant capacity needed between 2020 and build-out. Analysis to define and value new capacity will be provided by Fayetteville.

It is our understanding that, for the wastewater system, stranded transmission and collection system costs attributable to current service provision in Farmington will be recovered by means of separate agreement with Farmington users. Analysis of stranded costs is not included as part of this project.

Each fee will be calculated based on number of (single family equivalent) demand units, and projected land use by property type, which will be provided by Fayetteville. This will be the basis for calculation of future service demand, and the amount of each impact fee.

GIS support for production of maps, and other analysis as may be appropriate, will be provided by the City.

This project does not include revisions to the City's impact fee ordinance, which will be handled by the City Attorney. Participating client communities will be provided with a sample impact fee ordinance.

PHASE I: FEASIBILITY ANALYSIS

The primary purpose of this phase, in addition to initial data gathering, is to determine whether and how separate wastewater impact fees could be calculated for Farmington, Greenland and Elkins, and whether and how separate water impact fees could be calculated for Elkins. If determined to be feasible, each alternative will be priced individually.

Task 1.1: Project Organization

Immediately upon contract execution, the Consultant will meet with key members of City staff to gather available information related to the project; identify major technical and policy issues involved; coordinate staff and consultant responsibilities; and refine the project schedule. It is anticipated that this meeting will be attended by Clancy Mullen of Duncan Associates and Bob Rosenthal of Rosenthal & Associates. City staff attendees should include representatives from water and wastewater, engineering, planning, finance and law. A major area of discussion should be whether and how fees for wastewater could be calculated to determine separate fees for new customers in Farmington, Greenland and Elkins, and whether and how fees for water could be calculated to determine separate fees for new customers in Elkins.

The City should provide the Consultant, without charge, copies of all relevant plans, studies and documents needed to perform the scope of work. These may include, but are not limited to:

- ☐ master plans for water and wastewater
- ☐ capital improvement plans for water and wastewater
- ☐ maps of service area boundaries, showing wholesale and retail areas
- ☐ current and historical data (last five years) on number of customers and consumption by meter size and customer class
- ☐ most recent annual budget and comprehensive financial report
- ☐ debt payment schedules for outstanding water/wastewater bond issues
- ☐ prospectus from most recent water/wastewater bond issues
- ☐ data on existing and projected land use and serviced population within the service areas

At the conclusion of the task, the Consultant will prepare a memorandum summarizing the organizational framework for the project and listing additional data needs. The memorandum will be delivered within two weeks of the organizational meeting.

Deliverable: Project Organization Meeting
Project Organization Memorandum

Task 1.2: Directions for Phase II

This task will entail the preparation of a detailed scope of services and budget for Phase II. It will require review of the available data gathered in Task 1.1, and coordination with City staff via email and telephone.

Deliverable: Draft Contract Amendment for Phase II

PHASE II: IMPLEMENTATION

The second phase entails the preparation of the impact fee study and attendance at public meetings for review and adoption of the revised impact fee ordinance.

Task 2.1: Draft Impact Fee Study

City staff or a consulting engineering firm will prepare the list of water and wastewater capital improvements required to accommodate anticipated growth. In this task, the Consultant will prepare the initial draft of the water and wastewater impact fee study. The report will describe the methodology and formula used to calculate the fees, document all data sources and assumptions, and include a fee schedule that represents the fees that could be charged. At least one full working draft will be delivered to City staff for review and comment prior to delivery of the draft study.

Deliverable: Draft Impact Fee Study

Task 2.2: Final Impact Fee Study

Following review and comment on the draft study by City staff and/or an advisory committee, the Consultant will make appropriate revisions and provide the final draft.

Deliverable: Final Impact Fee Study

Task 2.3: Public Meetings

The Consultant will ~~attend up to two meetings in~~ make up to three person-days of travel to Fayetteville to ~~present the impact fee study to~~ meet with staff, the City Council and/or other review bodies. Additional participation in ~~adoption~~ meetings may be provided on a

time-plus-expense or flat rate basis.

Deliverables: ~~Two (2)~~ Three (3) Person-Trips

EXHIBIT "B" PROJECT SCHEDULE

The project schedule outlined in the scope of services is summarized in the following flowchart. As shown below, the project could be completed in seven and one-half months.

Tasks	Months from Project Start							
	1	2	3	4	5	6	7	8
1.1: Project Organization	X							
1.2: Directions for Phase II								
2.1: Draft Impact Fee Study								
2.2: Final Impact Fee Study								
2.3: Public Meetings			X				X	X

x = meeting/presentation

EXHIBIT "C" COST PROPOSAL

The total cost of the professional services described in this proposal for Phase I is \$12,300. This lump-sum budget includes all direct and indirect expenses incurred by the consultant team in performing the services. The breakdown of project cost by task is presented below. ~~The cost of Phase II will be determined in Phase I.~~ The City will be billed monthly based on percent completion of individual tasks.

Task	Cost
1.1: Project Organization	\$5,820
1.2: Directions for Phase II	\$6,480
Total, Phase I	\$12,300

Total fee for professional services included in the scope of services for Phase II is \$110,000. The City will be billed monthly for percent completion of each task. Cost includes all direct and indirect expenses incurred by Consultants in performing the services, including travel expenses. Additional services beyond those in the scope of services may be negotiated separately or billed on a time plus expenses basis. Fayetteville will be billed for analyses for Farmington, Greenland and Elkins only if the consultant is directed to proceed, before commencement of the Fayetteville analysis. The City of Fayetteville will be responsible for payment of the total amounts shown for Fayetteville and any participating client cities.

<u>Task</u>	<u>Fayetteville</u>	<u>Elkins</u>	<u>Farmington</u>	<u>Greenland</u>	<u>Total</u>
<u>2.1: Draft Impact Fee Study</u>	<u>\$43,105</u>	<u>\$21,473</u>	<u>\$12,884</u>	<u>\$12,884</u>	<u>\$90,346</u>
<u>2.2: Final Impact Fee Study</u>	<u>\$7,095</u>	<u>\$3,527</u>	<u>\$2,116</u>	<u>\$2,116</u>	<u>\$14,854</u>
<u>2.3: Meetings (3 person- days)</u>	<u>\$4,800</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$4,800</u>
<u>Total</u>	<u>\$55,000</u>	<u>\$25,000</u>	<u>\$15,000</u>	<u>\$15,000</u>	<u>\$110,000</u>

Additional services beyond those included in the scope of services may be provided at the following standard hourly rates: James B. Duncan, FAICP—\$175; Clancy Mullen—\$135, Eric Damian Kelly, Esq., FAICP—\$200, Robert Rosenthal—\$120, support planning staff—\$95. Direct expenses will be limited to travel costs (airfare, hotel, rental car, parking and meals) and direct mail costs. Additional trips may be provided on a time-plus-direct expense basis, or on a flat rate of \$2,000 per person-day.

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

18-Jul-06
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

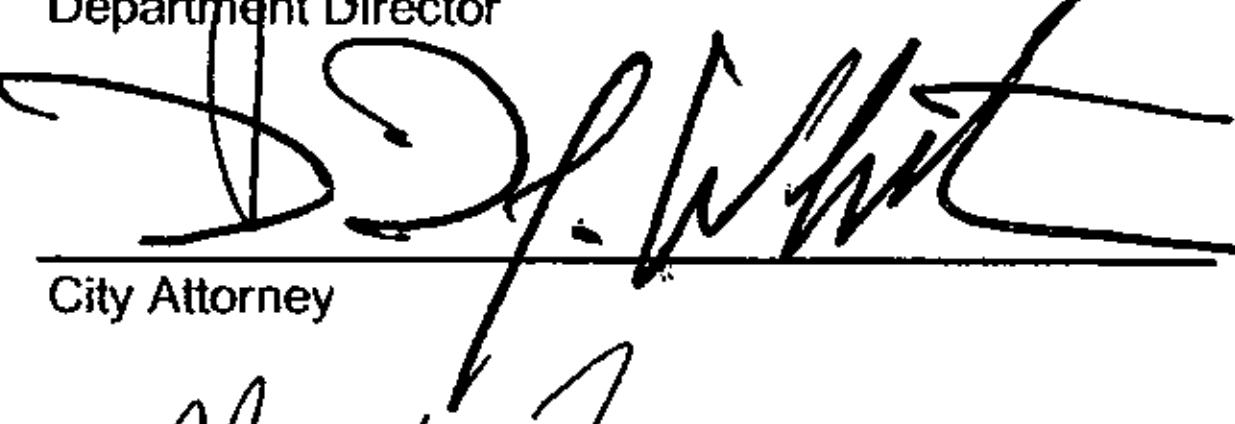
Action Required:

Approval of a construction contract with Brasfield & Gorrie, LLC., in the amount of \$6,130,000.00, for construction of the Hamestring Sewer Lift Station, WL-6, approve a 4% contingency of \$245,000.00, and approve a budget adjustment.

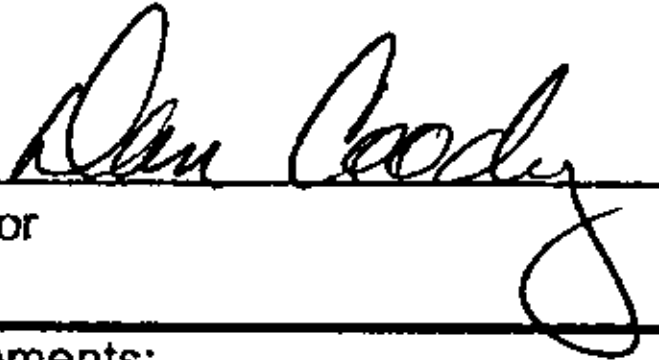
\$6,375,000.00	\$ 109,663,682.00	Wastewater System Imp Project
Cost of this request	Category/Project Budget	Program Category / Project Name
4480-9480-5315.00	\$ 101,506,497.20	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133.0362	\$ 8,157,184.80	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☒


Department Director 30 Jun 06
Date


City Attorney 6/30/06
Date


Finance and Internal Service Director 7/3/06
Date


Mayor 7/5/06
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office


Received in Mayor's Office


Comments:

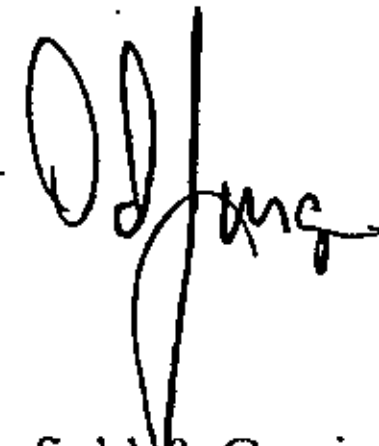
City Council Meeting of July 18, 2006

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director



Date: 30 June, 2006

Subject: Approval of a construction contract with Brasfield & Gorrie, LLC., in the amount of \$6,130,000.00, for construction of the Hamestring Sewer Lift Station, WL-6, approve a 4% contingency of \$245,000.00, and approve a budget adjustment.

RECOMMENDATION

City Administration recommend approval of a construction contract with Brasfield & Gorrie, LLC., in the amount of \$6,130,000.00, for construction of the Hamestring Sewer Lift Station, WL-6, approve a 4% contingency of \$245,000.00, and approve a budget adjustment.

BACKGROUND

The City received three bids for this project, as follows:

Brasfield & Gorrie	\$ 6,130,000.00 (low bid)
Crossland Heavy	6,218,820.00
Van Horn Const	6,171,415.00
Engineer's Estimate	\$ 6,200,000.00

The project entails building a 36 million gallon per day sewer lift station containing seven 350 horsepower pumps, including associated site work, and odor control. The lift station pumps water through the 24" and 30" sewer force mains (currently under construction) to the West Side Wastewater Treatment Plant. The lift station is where 51st Street crosses Hamestring Creek.

DISCUSSION

The bid has been reviewed by RJN Group, the Engineer; their letter recommending award is attached. The Arkansas Natural Resources Commission will complete their review prior to contract award.

Brasfield Gorrie is currently building the West Side WWTP, and is ranked number 29 in the Engineering News Record listing of the top 400 contractors in the country.

BUDGET IMPACT

Funds are available in the wastewater fund balance Fiscal Year 2006 budget. A budget adjustment is attached. These system revenues have been identified to cover Wastewater System Improvements Project costs in order to reduce the amount required to be borrowed.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONSTRUCTION CONTRACT WITH BRASFIELD & GORRIE, LLC IN THE AMOUNT OF \$6,130,000.00 TO CONSTRUCT THE HAMESTRING SEWER LIFT STATION, WL-6; APPROVING A FOUR PERCENT (4%) CONTINGENCY IN THE AMOUNT OF \$245,000.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$5,100,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a Construction Contract with Brasfield & Gorrie, LLC in the amount of \$6,130,000.00 to construct the Hamestring Sewer Lift Station, WL-6. A copy of the Contract, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a four percent (4%) contingency in the amount of \$245,000.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$5,100,000.00.

PASSED and APPROVED this 18th day of June, 2006

APPROVED:

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

City Of Fayetteville

(Not a Purchase Order)

Vendor #: _____ Vendor Name: <u>Brasfield & Gorrie, LLC</u>				Requestion No.: _____ Date: <u>6/30/2006</u>	
				P.O Number: _____ Expected Delivery Date: _____	
Address: <u>729 South 30th Street</u>				Fob Point: <u>Fayetteville</u>	
City: <u>Birmingham</u> State: <u>AL</u>				Zip Code: <u>35233</u> Ship to: _____	
Requester: <u>David Jurgens</u>				Requester's Employee # <u>490</u> Extension: <u>230</u>	
Account Numbers <u>4480-9480-5315-00</u>				Project/Subproject # <u>02133-0362</u>	
Inventory # _____ Fixed Asset # _____				Inventory # _____ Fixed Asset # _____	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	WSIP, WL-6, Hamestring Station	1	EA	\$6,130,000.00	\$6,130,000.00	4480-9480-5315-00	02133-0362		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
	Shipping/Handling		Lot		\$0.00				
Special Instructions: _____									
Subtotal: <u>\$6,130,000.00</u>									
Tax: <u>\$0.00</u>									
Total: <u>\$6,130,000.00</u>									

Approvals:

Mayor: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Department Director: _____

Budget Manager: _____

Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

Other: _____



Excellence through Ownership

June 30, 2006

Mr. Dave Jurgens, P.E.
City of Fayetteville
Director Water and Wastewater
113 West Mountain Street
Fayetteville, AR 72701

Subject: Fayetteville Westside Wastewater Improvements - WL-6
RJN#18187500

Dear Mr. Jurgens:

RJN has reviewed and processed the Contractor Bids for the above referenced project. All bids are correct as submitted by each contractor. Brasfield & Gorrie is certified to be the low bidder with a total bid amount of six million one hundred thirty thousand dollars and zero cents (\$ 6,130,000).

RJN is in the process of checking references supplied by Brasfield & Gorrie and expects that, based on their performance on the Fayetteville Westside Treatment Plant Project and the previous reference checks by the City, Brasfield & Gorrie will be found to be a qualified contractor.

Contingent upon the final reference checks, RJN recommends that the contract for WL-6 in the amount of \$ 6,130,000 be awarded to the low bidder, Brasfield & Gorrie. Attached is the summary of the lump sum bids received.

Should you have any further questions, please call me at (972) 437-4300.

RJN Group, Inc.

Hugh M. Kelso
Vice President

xc: file

10:30 AM

[illegible]

DOCUMENT 00500 – AGREEMENT

**BETWEEN THE CITY OF FAYETTEVILLE AND (CONTRACTOR
COMPLETE NAME)**

Project Name: Wastewater System Improvement Project
Contract Name: Hamestring Lift Station
Contract No.: WL-6
RLF Project No.: CS-0500803-03

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2006 by and between City of Fayetteville (hereinafter called Owner) and (CONTRACTOR COMPLETE NAME) (hereinafter called (CONTRACTOR COMPLETE NAME)).

ARTICLE 1 - WORK

1.01 (CONTRACTOR COMPLETE NAME) shall complete all Work as specified or indicated in the Contract Documents. The Work under this Contract is generally described as follows:

Construction Hamestring Lift Station including related appurtenances and site work. The wet well/dry well lift station shall contain seven 350-HP horizontal end-suction centrifugal pumps. Other station features include dry well ventilation, wet well odor control, and an electrical control building. Piping work includes pump suction and discharge piping, potable water service piping, connections to approaching 24- and 48-inch gravity sewers, and 24- and 30-inch discharge force mains. The project is located on the west side of Fayetteville northwest of the existing Hamestring Lift Station, across Sunshine Road (Route 877).

1.02 The Contract for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

The City of Fayetteville, Arkansas is undertaking a project to redirect sewer flows from portions of the City in the Illinois River drainage basin to a new wastewater treatment plant on the west side of the City and upgrade sewers in the City which are in the White River drainage basin and upgrade the existing wastewater treatment plant on the east side of the City. The project is known as the Wastewater System

DOCUMENT 00500 – AGREEMENT (continued)

Improvement Project and includes, but may not be limited to, four areas of improvements as follows:

1. Westside Wastewater Treatment Plant.
2. Westside Collection System Improvements.
3. Paul R. Noland Wastewater Treatment Plant Improvements.
4. Eastside Collection System Improvements.

ARTICLE 2 - ENGINEER

- 2.01 The Contract has been designed by RJN GROUP, INC. RJN GROUP, INC. assumes all duties and responsibilities, and has the rights and authority assigned to RJN GROUP, INC. in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

3.01 **TIME OF THE ESSENCE:**

- A. All time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 **DATES FOR SUBSTANTIAL COMPLETION AND FINAL PAYMENT:**

- A. The Work will be Substantially Completed within 470 calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS, and completed and ready for final payment in accordance with the GENERAL CONDITIONS within 500 calendar days after the date when the Contract Times commence to run.
1. Substantially Complete by date stated above shall be defined as the completion of all major work items as required for a fully operational system, including the installation of seven horizontal, two sumps and all valves. All piping work is to be installed and tested. All concrete

DOCUMENT 00500 – AGREEMENT (continued)

and general site work is complete and all ventilation and odor control is complete. The control building is to be complete, and all electric and potable water facilities shall be in place and operational.

3.03 LIQUIDATED DAMAGES:

- A. THE CITY OF FAYETTEVILLE and (CONTRACTOR COMPLETE NAME) recognize that time is of the essence of this Agreement and that THE CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by THE CITY OF FAYETTEVILLE if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, THE CITY OF FAYETTEVILLE and (CONTRACTOR COMPLETE NAME) agree that as liquidated damages for delay (but not as a penalty) (CONTRACTOR COMPLETE NAME) shall pay THE CITY OF FAYETTEVILLE Five Thousand Dollars (\$5,000.00) for each calendar day that expires after the time specified above in Paragraph 3.02 for Substantial Completion until the Work is Substantially Complete. After Substantial Completion, if (CONTRACTOR COMPLETE NAME) shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 3.02 for completion and readiness for final payment or any proper extension thereof granted by THE CITY OF FAYETTEVILLE, (CONTRACTOR COMPLETE NAME) shall pay THE CITY OF FAYETTEVILLE One Thousand Dollars (\$1,000.00) for each calendar day that expires after the time specified for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

- 4.01 The CITY OF FAYETTEVILLE agrees to pay, and (CONTRACTOR COMPLETE NAME) agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the prices bid in the Proposal which is hereto

DOCUMENT 00500 – AGREEMENT (continued)

attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.

- 4.02 As provided in the General Conditions estimated quantities are not guaranteed, and measurements and determinations of actual quantities and classifications are to be made by RJN GROUP, INC. as provided in the General Conditions.
- 4.03 THE CITY OF FAYETTEVILLE shall pay (CONTRACTOR COMPLETE NAME) for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs below:
- A. For all Work, at the prices stated in (CONTRACTOR COMPLETE NAME)'s Bid, attached hereto as an Exhibit.
- 4.04 Changes, modifications or amendments in scope, price or fees to this contract shall not be allowed without a formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, costs, fees, or delivery schedule.

ARTICLE 5 - PAYMENT PROCEDURES

5.01 **SUBMITTAL AND PROCESSING OF PAYMENTS:**

- A. (CONTRACTOR COMPLETE NAME) shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by THE CITY OF FAYETTEVILLE as provided in the GENERAL CONDITIONS.

5.02 **PROGRESS PAYMENTS, RETAINAGE:**

- A. THE CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of (CONTRACTOR COMPLETE NAME)'s Applications for Payment as recommended by RJN GROUP, INC. on or about the 20th day of each month during construction. All such payments will be measured by the schedule of values established in the

DOCUMENT 00500 – AGREEMENT (continued)

GENERAL CONDITIONS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as RJN GROUP, INC. shall determine, or THE CITY OF FAYETTEVILLE may withhold, in accordance with the GENERAL CONDITIONS.
 - a. 90% of Work Completed (with the balance being retainage). If Work has been 50% completed as determined by RJN GROUP, INC. and if the character and progress of the Work have been satisfactory to THE CITY OF FAYETTEVILLE and RJN GROUP, INC., THE CITY OF FAYETTEVILLE on recommendation of RJN GROUP, INC. may determine that as long as the character and progress of the Work subsequently remain satisfactory to them a 5 percent retainage will be withheld on the remaining progress payments prior to Substantial Completion; and
 - b. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to THE CITY OF FAYETTEVILLE as provided in the GENERAL CONDITIONS.
2. Upon Substantial Completion, THE CITY OF FAYETTEVILLE shall pay an amount sufficient to increase total payments to (CONTRACTOR COMPLETE NAME) to 95% of the Contract Price (with the balance being retainage), less such amounts as RJN GROUP, INC. shall determine, or THE CITY OF FAYETTEVILLE may withhold, in accordance with the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

5.03 FINAL PAYMENT:

- A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, THE CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by RJN GROUP, INC. and as provided in the GENERAL CONDITIONS.

ARTICLE 6 - (CONTRACTOR COMPLETE NAME)'S REPRESENTATIONS

6.01 In order to induce THE CITY OF FAYETTEVILLE to enter into this Agreement, (CONTRACTOR COMPLETE NAME) makes the following representations:

- A. (CONTRACTOR COMPLETE NAME) has examined and carefully studied the Contract Documents including the Addenda and other related data identified in the Bid Documents.
- B. (CONTRACTOR COMPLETE NAME) has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. (CONTRACTOR COMPLETE NAME) is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. (CONTRACTOR COMPLETE NAME) has carefully studied all:
 - (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and
 - (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. (CONTRACTOR COMPLETE NAME) acknowledges that THE CITY OF FAYETTEVILLE and RJN GROUP, INC. do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the

DOCUMENT 00500 – AGREEMENT (continued)

Contract Documents with respect to Underground Facilities at or contiguous to the Site.

- E. (CONTRACTOR COMPLETE NAME) has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, and furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by (CONTRACTOR COMPLETE NAME) and safety precautions and programs incident thereto.
- F. (CONTRACTOR COMPLETE NAME) does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. (CONTRACTOR COMPLETE NAME) is aware of the general nature of work to be performed by THE CITY OF FAYETTEVILLE and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. (CONTRACTOR COMPLETE NAME) has correlated the information known to (CONTRACTOR COMPLETE NAME), information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. (CONTRACTOR COMPLETE NAME) has given RJN GROUP, INC. written notice of all conflicts, errors, ambiguities, or discrepancies that (CONTRACTOR COMPLETE NAME) has discovered in the Contract Documents and the written resolution thereof by RJN GROUP, INC. is acceptable to (CONTRACTOR COMPLETE NAME).

DOCUMENT 00500 – AGREEMENT (continued)

- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 CONTENTS:

- A. The Contract Documents which comprise the entire Agreement between THE CITY OF FAYETTEVILLE and (CONTRACTOR COMPLETE NAME) concerning the Work consist of the following and may only be amended, modified, or supplemented as provided in the GENERAL CONDITIONS:

1. This Agreement.
2. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed.
 - b. (CONTRACTOR COMPLETE NAME)'s Bid.
 - c. Documentation submitted by (CONTRACTOR COMPLETE NAME) prior to Notice of Award.
 - d. (CONTRACTOR COMPLETE NAME)'s Act of Assurance Form.
3. Performance, Payment, and other Bonds.
4. General Conditions.
5. MBE / WBE Compliance Evaluation Form.
6. Supplementary Conditions.
7. Labor-Related Regulations.

DOCUMENT 00500 – AGREEMENT (continued)

8. Specifications consisting of divisions and sections as listed in table of contents of Project Manual.
9. Drawings consisting of a cover sheet and sheets as listed in the table of contents thereof, with each sheet bearing the following general title:

Hamestring Lift Station, WL-6
10. Addenda number one.
11. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

ARTICLE 8 - MISCELLANEOUS

8.01 TERMS:

- A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

8.02 ASSIGNMENT OF CONTRACT:

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

DOCUMENT 00500 – AGREEMENT (continued)

8.03 SUCCESSORS AND ASSIGNS:

- A. THE CITY OF FAYETTEVILLE and (CONTRACTOR COMPLETE NAME) each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

8.04 SEVERABILITY:

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon THE CITY OF FAYETTEVILLE and (CONTRACTOR COMPLETE NAME), who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

8.05 OTHER PROVISIONS: Not Applicable.

8.06 CONTROLLING LAW

- A. This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

8.07 ARKANSAS OF INFORMATION ACT

- A. City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, (CONTRACTOR COMPLETE NAME) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

DOCUMENT 00500 – AGREEMENT (continued)

IN WITNESS WHEREOF, THE CITY OF FAYETTEVILLE and (CONTRACTOR COMPLETE NAME) have signed this Agreement in quadruplicate. One counterpart each has been delivered to THE CITY OF FAYETTEVILLE, (CONTRACTOR COMPLETE NAME), and RJN GROUP, INC. All portions of the Contract Documents have been signed, initialed, or identified by THE CITY OF FAYETTEVILLE and (CONTRACTOR COMPLETE NAME)

This Agreement will be effective on _____, 2006, which is the Effective Date of the Agreement.

(CONTRACTOR COMPLETE NAME)

City of Fayetteville

Fayetteville, Arkansas

By: _____

By: _____

Title: _____

Title: Mayor

(SEAL)

(SEAL)

Attest _____

Attest _____

Address for giving notices

Address for giving notices

License No. _____

(If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement)

Agent for Service of process

(If (CONTRACTOR COMPLETE NAME) is a corporation, attach evidence of authority to sign.)

Approved As to Form:

By: _____

Attorney For: City of Fayetteville

END OF DOCUMENT 00500

**City of Fayetteville, Arkansas
Budget Adjustment Form**

C. 8
Brasfield & Gorrie, LLC
Page 18 of 18

Budget Year	Department: Water/Wastewater	Date Requested	Adjustment Number
2006	Division: Water/Wastewater	6/30/2006	
	Program: WSIP, WL-6 Hamestring Sta.		

Project or Item Added/Increased:

\$5,100,000 is requested in the Wastewater System Improvements Project account to cover project costs for the Hamestring Lift Station construction (WL-6) and project costs prior to the next bond issue.

Project or Item Deleted/Reduced:

Fund balance.

Justification of this Increase:

These system revenues have been identified to cover Wastewater System Improvements Project costs in order to reduce the amount required to be borrowed.

Justification of this Decrease:

Sufficient funds remain within Fund Balance to meet City policies.

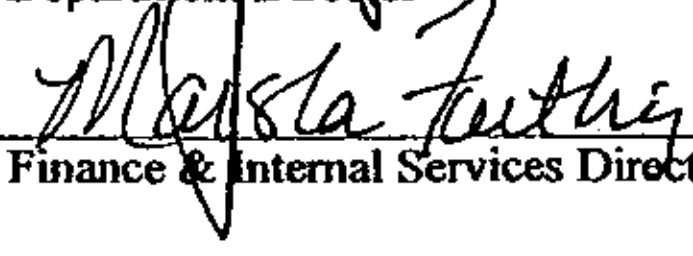
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Contract services	4480	9480	5315	00	5,100,000	02133	0362

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	5400	0940	4999	99	5,100,000	02133	0362

Approval Signatures

Requested By	Date
	
Budget Manager	Date
	30 Jun 06
Department Director	Date
	6/30/06
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type:	A	B	C	D	E
Date of Approval					
	Initial	Date			
Posted to General Ledger	Initial	Date			
Posted to Project Accounting	Initial	Date			
Entered in Category Log	Initial	Date			