

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
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
December 4, 2007**

A meeting of the Fayetteville City Council will be held on December 4, 2007 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

Mayor's Announcements, Proclamations and Recognitions:

Fayetteville Bulldog Day Resolution

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 201-07.

Presentations, Reports and Discussion Items:

Walton Arts Center Report – Terri Trotter

Agenda Additions:

A. Consent:

1. Approval of the November 6, 2007 City Council meeting minutes. **APPROVED.**

2. **Bid # 07-68 Downing Sales and Service:** A resolution awarding Bid # 07-68 to Downing Sales and Service for the purchase of one (1) front load refuse truck in the amount of \$220,045.00 for use by the Solid Waste Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 202-07.

3. **Landers Ford of Benton:** A resolution approving the purchase of seven (7) Ford Crown Victoria Police Interceptors from Landers Ford of Benton through the State Vehicle Purchase Contract in the amount of \$151,430.60.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 203-07.

4. **McClelland Consulting Engineers, Inc. Task Order # 3:** A resolution approving Task Order # 3 with McClelland Consulting Engineers, Inc. in the amount of \$183,700.00 for planning tasks associated with the Runway 16 Safety Area Improvements at Drake Field; and approving a budget adjustment in the amount of \$183,700.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 204-07.

5. **State Tax Back Incentive Program:** A resolution certifying local government endorsement of business to participate in the tax back program (the Consolidated Incentive Act of 2003, Section 15-4-2706 (D)).

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 205-07.

6. **Rules of Order and Procedure:** A resolution to amend the Rules of Order and Procedure of the Fayetteville Mayor/City Council to reschedule City Council meetings which fall on a holiday.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 206-07.

7. **Carter & Burgess, Inc. Amendment No. 1:** A resolution approving Contract Amendment No. 1 to the engineering contract with Carter & Burgess, Inc. in the amount of \$57,900.00 for additional engineering studies for the Lake Wilson Spillway Repair Project; and approving a budget adjustment to recognize the reimbursement from FEMA.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 207-07.

8. **Zion Road Properties, LLC:** A resolution to approve a settlement with Zion Road Properties, LLC in the amount of \$42,030.00 for right-of-way and easements; and establishing Zion Road Properties, LLC's maximum assessment for off-site improvements.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 208-07.

B. Unfinished Business:

- 1. Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting.*

THIS ITEM WAS TABLED TO THE DECEMBER 18, 2007 CITY COUNCIL MEETING.

C. New Business:

- 1. Bid # 07-69 Downing Sales and Service:** A resolution awarding Bid # 07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division.

THIS ITEM WAS TABLED TO THE DECEMBER 18, 2007 CITY COUNCIL MEETING.

- 2. Operations Management International, Inc. Amendment No. 15:** A resolution approving Contract Amendment No. 15, which extends for one year the contract with Operations Management International (OMI) in the amount of \$6,797,685.28 for the operation, maintenance and management of Fayetteville wastewater treatment facilities for 2008; and approving a 5% contingency in the amount of \$340,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 209-07.

- 3. RZN 07-2781 Dandy:** An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located ¼ mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre.

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

- 4. RZN 07-2782 Sweetser:** An ordinance rezoning that property described in rezoning petition RZN 07-2782, for approximately 0.95 acres, located at 2220 E. Huntsville from RSF-4, Residential Single Family, 4 units per acre, to R-O, Residential Office.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5085.

- 5. VAC 07-2758 Bittle:** An ordinance approving VAC 07-2758 submitted by Alan Reid for property located at 2455 East Gentle Oaks Lane to vacate portions of the utility easements on the subject property, a total of 148 square feet.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5086.

6. **VAC 07-2761 Roetzel:** An ordinance approving VAC 07-2761 submitted by Mike and Julie Roetzel for property located at 1626 East Cypress, Lot 46 of Charleston Place Subdivision to vacate a portion of a utility easement on the subject property, a total of 0.09 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5087.

7. **Amend Chapter 174 Signs:** An ordinance to amend § 174.10 (H) Monument Signs to reduce the side setback requirement from 25 feet to 10 feet in non-residential districts.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5088.

8. **ADM 07-2837: City Owned Park Lands:** An ordinance to recognize City owned park lands located in Washington County as being included in the Fayetteville City Limits in accordance with Arkansas State Statue 14-40-204.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5089

Announcements:

City Council Tour: December 3, 2007 – Lake Wilson

Adjournment: Meeting adjourned at 7:15 p.m.

Adjourn 7:15 PM

Subject: Roll					
Motion To:					
Motion By:					
Seconded:					
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	Absent			
	Lucas	✓			
	Mayor Coody	Absent			

Subject: Jayetteville Bulldog Day Resolution					
Motion To:		Add to Agenda	Pass		
Motion By:		Cook	Allen		
Seconded:		Allen	Lucas		
Passed Res. 201-07	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	Absent during the vote	✓		
	Ferrell	Absent			
	Lucas	✓	✓		
	Mayor Coody				

City Council Meeting December 4, 2007

Subject: Consent					
Motion To:		Approve			
Motion By:		Lucas			
Seconded:		Thiel			
<u>Passed</u> Res 202-07 to 208-07	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	Absent			
	Lucas	✓			
	Mayor Coody				

7-0

Subject: Proposed 2008 Annual Budget & Work Program					
Motion To:		Table to Dec. 18, 2007			
Motion By:					
Seconded:					
B.I. Tabled to Dec. 18, 2007	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	Absent			
	Lucas	✓			
	Mayor Coody				

City Council Meeting December 4, 2007

Subject: Bid # 07-69 Downing Sales & Service					
Motion To:		Table to	12-18-07		
Motion By:		Rhoads			
Seconded:		Lucas			
C. 1, New Business Tabled to 12-18-07	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	Absent			
	Lucas	✓			
	Mayor Coody				

Subject: Operations Management International, Inc.					
Motion To:		Approve			Amendment #
Motion By:		Cook			15
Seconded:		Thiel			
C. 2, New Business Passed 209-07	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	Absent			
	Lucas	✓			
	Mayor Coody				

City Council Meeting December 4, 2007

Subject: RZN 07-2781 Dandy					
Motion To:		2nd read			
Motion By:		Cook			
Seconded:		Gray			
C. 3, New Business Left on the Second Reading	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	absent			
	Lucas	✓			
	Mayor Coody				

7-0

Subject: RZN 07-2782 Sweetser					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Thiel		
Seconded:		Gray	Gray		
C. 4, New Business Passed 5085	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	absent	absent	absent	
	Lucas	✓	✓	✓	
	Mayor Coody				

7-0

7-0

7-0

City Council Meeting December 4, 2007

Subject: VAC 07-2758 Bittle					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Rhoads	Rhoads		
Seconded:		Lucas	Lucas		
C.5 New Business <u>passed</u> 5086	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	absent	absent	absent	
	Lucas	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

Subject: VAC 07-2761 Roetzzel					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Cook		
Seconded:		Thiel	Gray		
C.6, New Business <u>passed</u> 5087	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	absent	absent	absent	
	Lucas	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

City Council Meeting December 4, 2007

Subject: Amend Chapter 174 Signs					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Lucas		
Seconded:		Cook	Allen		
C. 7. New Business <u>Passed</u> 5088	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	absent	absent	absent	
	Lucas	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

Subject: ADM 07-2837: City Owned Park Lands					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Thiel		
Seconded:		Gray	Gray		
C. 8. New Business <u>Passed</u> 5089	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	absent	absent	absent	
	Lucas	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

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Mayor's Announcements, Proclamations and Recognitions:

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Announcements:

City Council Tour: December 3, 2007 – Lake Wilson

Adjournment:

Aldermen

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Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
November 6, 2007**

A meeting of the Fayetteville City Council was held on November 6, 2007 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 Gray, Thiel, Cook, Allen, Rhoads, Ferrell, Jordan, Lucas, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor Coody welcomed the Spring International foreign students to the meeting. He asked them to stand and be recognized.

Presentations, Reports and Discussion Items:

Natural Heritage Association Presentation

Mayor Coody: Pete Heinzelman is here who is the President of the Fayetteville Natural Heritage Association. We have a conservation easement for some land, the Brooks Hummel Property, to ensure the Brooks Hummel Nature Preserve will remain forever predominantly in its present condition as a nature park preserving a natural habitat as much as possible.

Pete Heinzelman, President of the Fayetteville Natural Heritage Association thanked the Council for having the vision to save some of the natural areas in Fayetteville. He gave a description of the Brooks Hummel property. He presented the city with a check for the commitment that a lot of the citizens made to save this piece of property in the amount of \$160,000. He stated we are very happy to present this. This is not the complete amount actually, its \$179,500, and the rest will be given to the city in the near future. This money came from

about 170 donors. They all felt like this was important for the City of Fayetteville. We are pleased to present it. Thank you very much!

Mayor Coody: The Fayetteville Natural Heritage Association has done an amazing job for this community, with this additional property and your involvement and your private sector fundraising which has been second to none in town. We really appreciate everything you and the entire organization has done for our community. The taxpayers have been very supportive of this idea and you have really come across with your private efforts to make this a good partnership for the City of Fayetteville. On behalf of the City of Fayetteville we want to say thanks to you and everyone in FNHA for all the hard work that you have done.

Pete Heinzelman: Thank you very much. I just want to say that the activities of the Fayetteville Natural Heritage Association are a large group of people acting together. That is why we have been able to do what we have done. The board of this organization has done incredible things and I think it's good for Fayetteville and I hope to continue on.

Mayor's Announcements, Proclamations and Recognitions:

Citizen's Police Academy Graduates

Shannon Gabbard, Police Sergeant: We have some very good people that we want to present to you tonight that are excellent examples of what makes Fayetteville so unique. I would like to acknowledge them tonight for their 12 weeks of hard work. The Fourth Citizen Police Academy graduates are:

Chaney Youngblood, Missy Shanklin, Alicia Silvestri, Karen Gresham, Michelle Raine, John Ogden, John Warren, Will Harris, Joan Hogan, and Don Calhoun.

We would like to thank them for their time and effort.

Mayor Coody: I hope you got a chance first hand to see how professional our Police Department is in Fayetteville. We have the best Police Department of any where around. The community oriented policing program is a good way for our Police Department to do outreach so when the neighbors and community folks get involved we have a better community for it. It's a good relationship between our Police Department and citizens.

Consent:

Approval of the September 18, October 2 and October 16, 2007 City Council meeting minutes.

The minutes were approved.

Steele Crossing Investments III, LLC: A resolution accepting a donation from Steele Crossing Investments III, LLC of approximately 17.9 acres of real property on behalf of the people of the City of Fayetteville, Arkansas for the purpose of connecting Scull Creek Trail with Mud Creek Trail.

Resolution 187-07 as Recorded in the office of the City Clerk.

Zion Road Improvements: A resolution approving a construction contract with Ames Construction Solutions, LLC in the amount of \$1,453,095.55 for improvements to Zion Road from College Avenue to Vantage Drive; and approving a five percent (5%) project contingency in the amount of \$72,654.45.

Resolution 188-07 as Recorded in the office of the City Clerk.

Sales and Use Tax CIP Bonds Series 2007: A resolution approving a budget adjustment to appropriate the proceeds of the Sales and Use Tax Capital Improvement Bonds, Series 2007 in the amount of \$14,257,819.00 for the Wastewater System Improvement Project.

Resolution 189-07 as Recorded in the office of the City Clerk.

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

Unfinished Business:

VAC 07-2722 (Menninger): An ordinance approving VAC 07-2722 submitted by Alan Reid for property located at 301 South West Avenue to vacate three rights-of-way: the alley along the west side of the property, a portion of West Avenue along the east side of the property and the full width of the un-constructed extension of South Street on the north side of the subject property, a total of 0.30 acres. *This ordinance was Left on the Third Reading and Tabled at the October 16, 2007 City Council meeting to the November 6, 2007 City Council meeting.*

Jeremy Pate, Director of Current Planning: At the last City Council meeting there was some confusion with regard to the legal descriptions and the exhibits. We presented in your final agenda packet the new exhibits and legal descriptions. I would ask the Council to please amend this ordinance and approve the new Exhibit A and B. He stated staff did meet with the applicant and everyone is on the same page now.

Alderman Thiel moved to amend the ordinance and include the new Exhibit A and B. **Alderman Cook** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent during the vote.

Alderman Lucas: I 'm usually not in favor of vacating things but especially this one, it really bothers me that we are vacating an east and west connection. I am not in favor of it.

Alderman Thiel: I have not heard any concerns with this. I generally share Alderman Lucas's sentiments about vacating property, particularly streets, but in this case we are gaining half of that which will go toward the library park.

Alderman Jordan: So you all don't have a problem with it?

Alderman Gray: No.

Alderman Thiel: No, I don't.

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

Ordinance 5072 as Recorded in the Office of the City Clerk

New Business:

ADM 07-2762, Amend Chapter 161: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Section 161.26, District P-1 Institutional to add Use Unit 5, Government Facilities, as a permitted use in the P-1 Zoning District.

City Attorney Kit Williams read the ordinance.

Tim Conklin, Planning and Development Management Director: Staff is recommending that we add Use Unit 5 to the P-1 Institutional Zoning District. The next item on your agenda is a rezoning for six of the seven Fire Stations to P-1. This would allow the Fire Station use to be a use by right within the P-1 Institutional District. Staff is basically trying to clean the code up to allow institutional use in a natural zoning district.

Alderman Cook 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 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 5073 as Recorded in the Office of the City Clerk.

RZN 07-2708 (City of Fayetteville Fire Stations): An ordinance rezoning those properties described in rezoning petition RZN 07-2708, for approximately 8.11 acres, located at various locations from various zoning districts to P-1, Institutional.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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 5074 as Recorded in the Office of the City Clerk.

C-PZD 07-2726 (The Sunshine House Daycare): An ordinance establishing a Commercial Planned Zoning District titled C-PZD 07-2726 The Sunshine House, located at 2460 North Old Wire Road, containing approximately 1.95 acres; amending the official zoning map of the city of Fayetteville; and adopting the associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff is recommending approval of this project and the Planning Commission recommended approval with a 6-0 vote. He stated staff is recommending 17 conditions and we feel like this will be a welcomed addition to this neighborhood.

Alderman Ferrell 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 Ferrell: I received one call from a citizen that lived on Township and they wanted to know if they had to go any higher than 40 would it require a revisit and I visited with Jeremy and they were fine with that.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5075 as Recorded in the Office of the City Clerk.

VAC 07-2733 (Physician's Surgery Center): An ordinance approving VAC 07-2733 submitted by CEI Engineering Associates, Inc. for property located at 3873 North Parkview Drive to vacate portions of a utility and a drainage easement on the subject property, a total of 0.06 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff recommended approval as did the Planning Commission with a vote of 6-0.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5076 as Recorded in the Office of the City Clerk.

Broyles Commercial Funding, LLC Bid Waiver: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Broyles Commercial Funding, LLC in the amount of \$36,422.00 for the upsizing of approximately 752' of 8" water main to 12" water main.

City Attorney Kit Williams read the ordinance.

Ron Petrie, City Engineer: There is a 105 lot subdivision that has been approved at the corner of Salem Rd. and Weir Rd. The developer will be installing a water line along Weir Rd. and at this point we are requesting that that waterline be upgraded from an 8" to a 12".

Alderman Cook: I am not a big fan of pushing development on the edge of town but we have an opportunity to upsize a line that fits our water master plan and we can cost share the developer, I think it is a good thing.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5077 as Recorded in the Office of the City Clerk.

Phillip/Martin Development Partners, LLC Bid Waiver: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Phillip/Martin Development Partners, LLC in the amount of \$48,886.20 for the widening of Zion Road; and approving a budget adjustment in the amount of \$53,123.72.

City Attorney Kit Williams read the ordinance.

Ron Petrie: This is a 67 lot subdivision that was approved on the south side of Zion Road just to the east of Old Missouri Road. This would leave a gap of approximately 180 feet that we are requesting to go ahead and get those improvements at this time and have full street improvements from Old Missouri Road to Highway 265.

Alderman Jordan: This went to Street Committee last night and it went unanimously with two other aldermen there.

Alderman Cook: I would like to give staff kudos because the money for this they derived from other projects. I appreciate that.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5078 as Recorded in the Office of the City Clerk.

Township Heights Subdivision Appeal: An appeal of the Planning Commission's decision to deny PPL 07-2679, Township Heights.

Jeremy Pate gave the staff report and a detailed description of the appeal. He stated this particular plat was denied with a 5-1 vote. Planning staff did recommend approval of this request. There are HHOD requirements at the time of development of each single family lot. That is a very important point that I wanted to bring to everyone's attention.

The main issue of the Planning Commission was traffic danger on Township Street. A traffic study was discussed at the meeting but was not requested by the Planning Commission in order to make their decision. Staff did review traffic on Township during the development review process. We have a 40 day development review process from the time an applicant submits their project to the time it gets to the Planning Commission. We reviewed site distance specifically on Township because in many places on Township that is an issue. In this particular case it well exceeds the requirements for site distance for the posted speed limit which is 25 mph in this area.

Jeremy described the traffic count that was conducted. He stated if you take the percentage of the existing traffic and the proposed traffic that is less than two percent of the overall traffic. Combining that with no real site distance issues staff did not feel like this was going to create or compound a dangerous traffic condition which is one of the reasons the Planning Commission cited for denial of this project. He read the definition of a dangerous traffic condition from the Unified Development Code. He presented the Police Department's records of accident reports in that area. He stated they did not feel that based on six accident reports within the last year and a half this contributed to a dangerous traffic condition.

Those are the findings that we based our recommendation on for approval of this project. The Planning Commission obviously disagreed and the applicant did appeal to you as Council within the time limit allowed by Code. Staff believes this project meets or exceeds all requirements that the City Council has imposed for a single family development in the Hillside Hilltop Overlay District in zone RSF-4. The Planning Commission and City Council should approve projects that meet all the Code requirements that are set out. The question is not whether the Planning Commission or City Council thinks the development is the right development, if it meets the standards it should be approved. In our opinion in our review it did meet all the standards.

Alderman Lucas: This is a collector street?

Jeremy Pate: Township is a collector street.

Alderman Lucas: What is the number of trips that are allowed on a collector street?

Ron Petrie: The Master Street Plan calls out 6,000 vehicles per day is a design. It doesn't say capacity.

Alderman Lucas: Is it capacity for collector?

Ron Petrie: No, that is not a capacity, what that is saying is you should look at reclassifying the street if you are over 6,000 vehicles per day, that is not the capacity of a two lane street. It is an individual basis in order to make a determination on capacity. A rough number for this street is more like 18,000 vehicles per day but we don't have that calculation.

Alderman Ferrell: I think I read somewhere where typical collector streets were designed to carry 4,000 to 6,000 per day.

Ron Petrie: That is what I was referring to. That is the way it is stated in the Master Street Plan. That is just a name, collector street; it is not a capacity of an actual street.

Alderman Ferrell: Is there linkage between the design of the street and what the average collector would carry when they build that street?

Ron Petrie: There is certainly a linkage but it is two separate things. A capacity is just like a pipe. You can design that pipe for a certain number of citizens to use it but the reality is many more can use it if you increase the pressure on the pipe and the same situation with the road. Capacity defined by the Federal guidelines is really what they call a level of service "E." That is basically where there are no gaps in the system and you have very long traffic delays and unstable operation conditions. What we are talking about here is level service "C" and "D"

during the peak hours so two hours a day. When it is not in those two hours it drops off dramatically.

Alderman Ferrell: You did say in considering a pipe if it did increase the pressure in the pipe.

Ron Petrie: That is correct.

Alderman Cook: In Ward 2 we have some local streets that carry four times the capacity that they are rated at so I agree with what Ron says in that just because it has a name on it doesn't mean that is the number of cars it carries.

Ann Henry, a citizen expressed her concerns about the traffic and other projects in the area that will contribute to the traffic. I think the RSF-1 to RSF-4; the RSF-4 is the maximum. I think you do have the ability with the Hillside Ordinance to look at what we are doing with perceived and uncontrolled growth to compound problems.

Steve Drazsnzak, resident of 1323 E. Township spoke against the project. He expressed his concerns about the traffic.

Anna Mullis, a resident of 2420 N. Common voiced her concern about the problem with water in the area. She said they have eight inch water pipes in that area and she has no water pressure at her home. We have some water line issues. I would hope that if this does go through that someone would look at the capacity of the water lines. She also expressed her concerns about how long it takes her son to get to his high school.

Robert Ginnaven: I am representing several of the neighbors in the surrounding area that are in opposition to Township Heights. I sent an email to the Council members today and I do not know if everyone got it. I have copies of some brief prepared comments along with a memo from City Attorney Kit Williams that I would like to pass out that I think is relevant to your consideration of these issues this evening. City Attorney Kit Williams has offered his opinion that the Planning Commission make refuse to approve a large scale development or preliminary plat for any one of six reasons. I think two of those reasons are relevant. In his opinion the City Attorney stated the City Council may legislatively down zone undeveloped property to prevent incompatible developments. I think the traffic can be a legal basis for denial of the project. On behalf of the neighbors I would like to ask the Council to consider the possibility of a down zone.

He explained the down zoning process. He voiced his concern on the capacity of the street, the sidewalks and his concern about this becoming another dead end development. It is obvious to the Planning Commission that a tipping point has been reached on Township and this is just pushing it over the edge. On behalf of those neighbors I would respectfully request that you use your legal authority and down zone the property or deny the development out right as a result of the compounding or creation of a dangerous traffic condition.

City Attorney Kit Williams: Mayor, before there is further public comment I think I need to probably explain. I call your attention to page four of the memo that he handed out. I agree that you have the power to legislatively down zone property without the consent of the owner as long as substantial value remains. The next paragraph talks a little bit differently than what was presented to you. Let me quote that "However, timing is vital and controlling. Just as the

developer of the Divinity Hotel and Condos did not have to comply with the new height limitations imposed after he applied for an LSD, nor would any newly added consideration of financial benefit be allowed to be considered in the approval process, **no attempted change in zoning can be instigated by the City once the LSD or Preliminary Plat has been approved.**" This memo back in February was after something had already been approved. My opinion was once you've got it into the system it's a little bit late to change the rules of the game. I continued and said "we can not change the rules of the approval process once an applicant has begun the process and certainly not after a Large Scale Development has been approved by the Planning Commission." I would be concerned if we attempted at this time, with an applicant having gone through everything in the Planning process to then say we are changing the rules and we are going to down zone your property. I am not sure what would happen, but it would make me extremely nervous as your City Attorney if we did that.

Richard Osborne: I am associated with Robert Ginnaven and we represent several of the neighbors including Kaywood Company LLC that owns on the north end and the east and west side of the north end of this proposed development. The developer did not contact Kaywood Company to see if those roads could be extended to the north. He pointed out on the plat what he was referring to.

Doug Graue, resident of 1208 Township spoke against the development. He expressed his concern about the traffic issues and the traffic study that was conducted. He said the traffic situation truly is bad. He stated this will make a bad situation much worse. He also voiced his concerns about the tree preservation in the development and how many of those trees will be saved.

Morriss Henry, a resident of Common Drive: Last month US News and World Report listed Fayetteville in the top ten of the country as places to live. That did not happen over night. People like you over the years have been working very hard to make Fayetteville that way. The report also pointed into the fact that the median home price is \$163,000. What we have here is affordable. Affordable housing is all around us, we have all prices where we live.

He stated there is no place for kids to hit a ball or do anything except sit in the house and watch television or get out in the street. He said this is a traffic hazard not by numbers but by the way it is designed. He referenced the definition of a dangerous traffic condition from the Unified Development Code and he stated even if you put sidewalks in here the kids are going to be in the street and it's a real hazard.

Bob O'Connell, a resident of 2800 N. Sherwood Lane: I live in a planned unit development called West Wind. In our covenants it states "in the event said private roads should ever connect to city streets they must be brought to then current minimum city street standards at the expense of the property owners. Will the City enforce that covenant on us or do we have to worry about it because I have about 23 neighbors that might be down here if they knew they were at a financial risk on this matter.

Mayor Coody: I would have to defer to our City Attorney on this question.

City Attorney Kit Williams: I would probably punt it back to the City Council and say that basically if the city has any enforcement rights on that, which I am not sure if we do, we are probably not a party to restrictive covenants unless we are expressly made a party. I have not

read them so I don't know. Normally restrictive covenants are solely between the property owners. Sometimes the City does have enforcement rights when there is a detention pond or something like that and they guarantee to continue and if they don't then we can come in and fix it and assess the property owners. I have not read these restrictive covenants so I don't know. I will also say that even if the city had the right, it would be a right that would be exercised by the City Council saying we do want those streets brought up to city standards because we want them dedicated to the city and made public streets. It's very possible that the city will say we don't want to maintain those and we don't want to go forward with that and we will let you keep your streets as long as you maintain them. I don't know what the City Council will want to do, that would be up to them if we do have enforcement rights.

Bob O'Connell: So the answer is maybe?

City Attorney Kit Williams: Without reading the restrictive covenants and without knowing what the City Council wants I can't give you a definite answer.

Bob O'Connell: I will lend these to you Kit. You may not be able to read them tonight but for future reference.

City Attorney Kit Williams: I will be happy to see them and I would like to read them but even after that it would probably still be up to the City Council to make a policy decision of what they would want to do in that particular case. Do they want to accept these streets and accept a forever maintenance on these streets or not. That would still be up to the City Council to make that decision.

Bob O'Connell: I guess the answer is maybe or we don't know yet but I think that should be a registered concern from my property owner's association because we would be concerned if we are going to be out that expense sometime in the future.

He voiced his concerns on the traffic in that area. He stated traffic volume is the key here. He described the dangers of the traffic volume. He asked the City Engineer if 12,000 vehicles per day on a collector street that is designed for 4,000 to 6,000 or whatever the design criteria is, what makes a city street dangerous in his opinion as City Engineer. What makes Township between College and Old Wire dangerous in your opinion?

Mayor Coody: Ron, do you have an answer for Mr. O'Connell by any chance?

Ron Petrie: No I don't. You have to look at these on a case by case basis. Will 200 vehicles per day increased on that street, which is shown as a level of service C and D and has very few accidents, will that compound a dangerous traffic scenario. It's very hard to say yes and that we will not develop anything more on this street because of that. There is no definitive answer that I can give you. I have looked at this scenario and made that determination for this scenario only.

Bob O'Connell went on to speak on tree preservation. He stated you can't build a \$250,000 house and put in the ditches for electricity, water, gas and sewer and save 30% of the trees which is the requirement according to code on 1/5 of an acre. He asked can that really be done. He stated if I understand by your ordinances, if they can't be followed then you have to vote it down.

Mayor Coody: We would have to have our Urban Forrester here. Logic would dictate that obviously if they are putting five houses per acre on there then a lot of the trees would come down.

Carolyn Krodell, a resident of Common Drive: We have a granddaughter that is with us everyday and I am very concerned about the traffic as it is, much less if you add more cars.

Aubrey Shepherd, a citizen: This is an extremely dangerous street and it has way too much traffic. I doubt that the people here could have appealed this is that right? It has to be appealed by the developer by being denied.

City Attorney Kit Williams: The developer has a right to appeal. A single Council member can appeal an approval of a preliminary plat or a large scale development.

Aubrey Shepherd: That's good to hear. I wish someday that appeals would be possible by just the average person who is involved in it and has strong reasons to appeal.

He voiced his concern about the storm water in that area. It is time for us to look at requiring rain gardens as soon as possible. This kind of development needs to keep its water where it falls. It is your responsibility if this thing has problems later. I am grateful that you guys are listening and if I had the chance to vote I would be voting to negotiate the density a little bit and hold it back and try to see if things can be made more satisfactory before this project is passed.

Diane Moore, a resident of Common Drive: My biggest concern about this is traffic and my other concern is 21 Units and a detention pond of mosquito breeding types of things three doors up from me. We have not had a chance to see what this development is going to be. I find it very disappointing to take down trees. That is one of the things that attracted us to Fayetteville. My fear is that we are going to start this concrete jungle here and I am not going to want to retire here or have my grandchildren out in my front yard playing.

Bob Estes, Attorney: I represent Mr. and Ms. Davidson who appealed from the August 27, 2007 decision of your Planning Commission to deny this Preliminary Plat known as Township Heights. The Subdivision Committee found in favor of the proposed project and forwarded it to the Planning Commission for approval. Each planner on your staff who has reviewed this proposed project recommends approval. The property is zoned RSF-4 and has been zoned that since 1970 before the homes on Common were built. The project meets or exceeds all the requirements of RSF-4. This is a use by right, there is no request before you to downzone; you may not change the rules at this stage of the planning process. Each and every requirement that you have set forth in the Hillside, Hilltop Overlay District ordinance have been met with this project. Your Hillside, Hilltop Overlay District ordinance and the Best Management Practices Manual encourage and support this type of development. Many of the practices and encouragements that are contained in your Best Management Practices Manual have been utilized. Street cross sections and utility easements have been narrowed to reduce tree removal and grading. This is a case study of correct and proper hillside, hilltop overlay district development in full and complete compliance with your ordinance. Each and every criteria has been met and in most cases has been exceeded.

With regard to drainage the post development flows are less than pre development flows. There is no discharge and runoff to adjoining property owners is significantly reduced from the pre

development runoff. Surface runoff to adjacent property owners has been reduced by 70%. With the infrastructure built, runoff is diverted from the property into the storm water system. The detention pond will provide 25% greater storage for a 100 year flood than required below existing grade. The detention pond is positive drainage with a dry channel. The detention pond is on the down hill side of the adjoining property owner who spoke in opposition to this project.

All city street standards are met. Minimum site distance on Township is exceeded five times. There is no site distance issue in this project. The traffic level of all service on Township remains the same. At peak am and pm service times the vehicle capacity ratio is raised by less than 2%. Three separate independent traffic engineers have determined that there is no evidence that an unsafe traffic event exists or will occur. It is your Planning staff's opinion that no danger will be created or compounded by this development. To deny this development you must make an objective finding that an unsafe traffic event exists and this finding would be in opposition to your staff finding and in opposition to three independent traffic engineers.

The density proposed for this project is 3.77 acres per unit, less land than permitted density as a use by right. This development should not be confused with other developments on Township. You Hillside, Hilltop Overlay District ordinance requires that a 30% tree canopy be preserved. This development is preserving 55% of the tree canopy. No mitigation is proposed or required to meet this 55%. In accordance with your Hilltop, Hillside Overlay District ordinance, each home that is built on each lot will require a site and grading plan that must be approved by your City Engineer using substantially the same and identical Hillside, Hilltop, Overlay District criteria that is to be applied to the entire property. The ordinance requires that individual lot owners preserve 30% of the tree canopy.

The proposed project meets all life safety requirements. Your staff's findings are that this development exceeds or meets all requirements you have imposed for a single family development in RSF-4 in Hillside, Hilltop Overlay District. If a proposed development meets or exceeds your ordinance requirements then you must approve. I have been doing this for over 30 years and I have never seen a more compliant application that meets or exceeds the ordinance requirements. Mr. and Ms. Davidson ask that you vote in accordance with your ordinances.

Alderman Rhoads: Mr. Estes, have the Davidson's met with the neighbors?

Bob Estes: Yes they have.

Alderman Rhoads: As a result of that meeting did any negotiations come up and if so what were the nature of those negotiations?

Randy Davidson, the petitioner: We have had a couple of meetings, one directly and one through a representative of the neighbors. At the initial meeting we showed them the layout of the subdivision and said this is what we want to do and we intend on going to the Planning Commission. There was no agreement made at all. This is what we want to do in compliance with the ordinance and codes and that was not what they wanted us to do. We recently had an offer made to basically bale us out of the project on what I paid for the property and what my expense is to date which is not what I want to do. I want to develop the project.

Alderman Rhoads: Have you had any discussions on reducing the density?

Randy Davidson: There was a proposal to go back to ten lots but with the plan we have it's not feasible to do it economically.

Alderman Rhoads: That was not your proposal then that was a proposal to you?

Randy Davidson: Yes, a proposal to me that we are not interested in.

Alderman Rhoads: If this Council denies your appeal what is your intention?

Randy Davidson: I will discuss the options with my attorney. He could speak to that better than I could.

Alderman Rhoads: Would you mind if I asked him what your options were?

Randy Davidson: No.

Bob Estes: In response to the issue of density, this property is zoned RSF-4 and it has been since 1970. The proposal is to develop it at 3.77 units per acre. RSF-4 is a use as a matter of right. In response to your question I will consult with my client and advise them based upon the law and the facts and we will act accordingly.

Alderman Rhoads: Can you tell us if you have been doing this for 30 years what are their options? Can they sue the city?

Bob Estes: They may appeal to the Washington County Circuit Court, a Court of General Trial Jurisdiction of the Fourth Judicial District.

Kelly Davidson, the petitioner: If we did ten lots on that subdivision we would have over \$110,000 in each lot personally and we couldn't market houses. If we personally had \$110,000 to each of those ten lots think of what you would have to build there to recoup your cost and make a profit on it. It is just not feasible. The problem with Fayetteville is that common homes in that area are too expensive and we need more homes in the \$250,000 range.

Tom Hennelly with H2 Engineering: The detention pond is not a concrete bottom pond; we are required to put a concrete trickle channel down the center of that to accommodate the low flows when people are washing their cars or light rains, that type of thing to keep the bottom of the pond dry so that they don't breed mosquitos. The pond will also be graded along the bottom so that it has positive flow to the outfall so that it's not flat and no standing water is left in the pond. We don't do our calculations on the number of trees being preserved; we do our calculations on the percentage of square footage of the sight that is being preserved. While one tree may provide 1,500 square feet of canopy, if you remove that it's a certain percentage and not a number of trees.

As far as traffic is concerned we had Carter Burgess Engineering out of Little Rock conduct a traffic study and assess the numbers that they had and compare them to what the city had and we found them remarkably similar. At the worst time this road is at a level of service "D" in the am period for two hours. The construction of this development would only change that less than 2%. It's a fraction of an impact on the overall traffic situation on Township. From an engineering standpoint even though the ordinance refers to capacity or volume of traffic on the

road, the safety issues come into play when you talk about drivers reaction times because normally that is what contributes to a traffic accident. The volume on a multi-lane road would have a significant impact but on a two lane road it is much less though because you don't have that lane changing maneuver that drivers are trying to do when they have cars traveling parallel with them. On a two lane road I would suggest that the volume of traffic on the road has a much diminished impact on the level of safety on that road. He continued to speak on the safety of the road, the speed limit and what is considered in the calculations.

At the Planning Commission there was some discussion about the increase in the drainage. When we met with the neighbors one of their major concerns was drainage and the things they've have to do to manage this surface run-off with French drains and area drains in their yard to try and accommodate what was coming off that hill. That is going to be reduced.

The Davidson's have to do some off-site drainage improvements as well to accommodate this because there is no storm drainage that exists along Township which came as a complete surprise to me when we started doing some of the due diligence on the project. The nearest curb inlets are down at the Old Wire intersection and so all the run-off from the pond will be put in a pipe, routed down Common Drive to the existing inlet that is at Common Drive. That surface run-off is going to be eliminated from all those downhill neighbors.

Mayor Coody: On your drawing there it looks like the detention pond is on the southeastern corner of the property is that right?

Tom Hennelly: The way you are looking at that plat north is to the left side of the page. So it is at the very center of the southern part of the property in between the out parcel that is at the southeast corner. That is an out parcel that was separated from the property at some point when the lot split was done.

Mayor Coody: So looking at the lay of land it looks like on the west side of the street I can see how you would shunt the water down the street to your detention pond but on the lots on the east side of the street it looks like the water would have to run up hill to get to the detention pond.

Tom Hennelly: That's in fact correct. Right now there are eleven acres of watershed draining onto the residents on Common Drive. The introduction of that street eliminates eight of those acres and the three acres remaining are the lots on the east side of the street.

Doug Graue: He said my house is uphill and it's down hill from that detention pond. Also they keep harping on the 3.77, how do you get 3.77 per acre when they are .19 acre parcels.

Mayor Coody: I think they are looking at the total.

Doug Graue: It's the aggregate of the whole area. The reality is each of the lots are only .19 acres. If you make each of the land owners that are going to buy those properties keep 30% of the trees; there are only eight of those properties that you can build houses on.

Robert Ginnaven: I just wanted to address a comment that Mr. Estes made in regards to the issue of the potential of a lawsuit. Mr. Estes is correct and the staff is correct that in all regards it appears that this development meets all the criteria. The fact is that you have the authority to deny this development merely on the issue of whether or not it creates or compounds a

dangerous traffic condition. There is no clear answer, this is subjective. The issue of whether or not this creates or compounds a dangerous traffic condition is for you to decide based upon the evidence that has been presented to you much as the evidence would be presented to a jury. If you make a decision to deny this project on those grounds and a jury likewise would make a similar decision in a courtroom, there is no downside. There is no more risk of the city losing this lawsuit with you making a decision similar to what a jury would do when faced with the exact same facts. I think that there is sufficient evidence for you to deny this purely on the issue of traffic.

Bob Estes: Mr. and Ms. Davidson have the burden of going forward here before you and after the remarks of my colleague Mr. Ginnaven I would like to yield my time to Mr. Williams and he can make whatever comments he feels are appropriate in response to Mr. Ginnaven's remarks.

City Attorney Kit Williams: I have good news and bad news for you. The good news is I agree with virtually everything that Mr. Estes said and the Supreme Court has said. This is a quote from the Arkansas Supreme Court in my memo on page two "when a subdivision ordinance specifies minimum standards to which a preliminary plat must conform, it is arbitrary as a matter of law to deny approval of a plat that meets those standards." So it's correct, you have those six considerations that you can look at to approve or reject this particular request for a preliminary plat. However, I have heard something tonight that has kind of made me think a little bit that I hadn't really thought about before and that is the comments about the trees and the preservation of the trees. I realize that this is a developer coming in. He is not the homebuilder and he is going to save more trees and more tree canopy than we require. So normally that is fine, that is all he has to do, and he is not building the homes. What concerns me as the City Attorney is that if we approve this number of small lots; less than 1/5 of an acre for each lot, there very well may be lots in there that have trees such that it's not developable. If a lot is not developable we might have to buy it because it's our regulation saying that lot is not developable. So what I would like to see is for our Tree and Landscape Administrator to take a look at the trees that are going to be preserved and look at this plat that is being offered to us, this preliminary plat, and see if whether or not we are getting ourselves in a fix if we allow so many lots to be built on such small land. There are several lots in there that maybe they can't be built on and that could then in fact cause us to buy those lots basically because they would be unbuildable lots because of our regulation. I am sorry I didn't conceive of this earlier when this was being presented by staff but I am somewhat concerned about that and I think that we might need more information before we are ready to go forward with this and make a final decision.

Jeremy Pate: We have had this discussion before and with the Hillside Overlay District requirements, the tree preservation for subdivisions is for tree preservation for that subdivision only. With the initial tree preservation ordinance there was a requirement to actually permanently preserve trees on lots that did not make it through in the final ordinance so that is not a part of our ordinance currently. What we do have in our ordinance however is two sections that regard land disturbance on each individual lot. So let's say the applicant proposes a 90% preservation on the property, they can build a road and preserve 90% of the trees, after the final plat is signed, they are relieved of that responsibility, that responsibility is no longer in the developer's hands. Each individual lot is now up to the homeowner to propose a grading plan and a tree preservation plan along with their building permit and receive approval. There are two criteria that they have to meet for undisturbed property on those individual lots; one in RSF-4 is that 30% canopy that I mentioned. Secondly in our grading ordinance there is a statement that says lots within the Hillside Overlay District "the amount of undisturbed land shall equal the

percent minimum tree canopy pursuant to our tree preservation ordinance" meaning that's 30%. So 30% of the lot has to be maintained undisturbed entirely. That can be the same area as the canopy or there can be more canopy elsewhere on the lot that is also undisturbed. That is just the minimum standard. In addition to that in RSF-4 requirements there is only a 40% allowance for buildings on a property. So you've got 30% minimum undisturbed, 40% that you can build on, there is very little more that can be actually disturbed on this property, however 40% of that lot can be built upon. The tree preservation requirements that are applicable for the subdivision currently as we reviewed them are very clear in our ordinance. After the final plat has been signed, and the Urban Forester is required to sign that final plat, the preservation of those trees the developer is relieved of that. The developer can't come in and then remove them that is also addressed in our code after the final plat is signed, but each homebuilder or developer of each lot then has to comply with our individual lot requirements. We have had this very detailed discussion before. I am not the Urban Forester and I would be happy to ask the Urban Forester to come but I have had this discussion about three or four times with her along with our Assistant City Attorney and how this is applied through the Hillside Overlay District ordinance. So hopefully that will clear up some of those questions.

City Attorney Kit Williams: I can say I am still concerned. I realize the developer is relieved of his responsibility once he has completed the infrastructure construction and has preserved the trees. It's no longer the developer's requirement to in fact preserve the trees that is up to the home owner's. What concerns me is that because these lots are so small and there are setbacks that must be met within these particular lots so there is really a lot of limited space where someone can put a house. If it happened to be that the existing tree canopy on that lot was right in the middle then how are you going to preserve 30% if your only tree on this small lot is right in the middle of the lot. That is what has me concerned. The fact that these lots are so small and so that means that the homebuilders will have very limited ability to move the houses around on them. I still am concerned about that even though I realize it's not normally the developer's requirement. I don't want to see us get painted into a corner where we have approved lots that in fact according to our ordinance cannot be built on.

Tom Hennelly: The developer is in fact intending on building the homes on these lots and he understands the inherent risk that goes along with developing property that if the floor plan he has doesn't work on that lot then he needs to find a different floor plan. As well as the undisturbed area for the lot will still be required under the Hillside Overlay District. If the canopy wound up being directly in the center of the lot can in fact be mitigated for. They are still required on the 40% undisturbed area. That is a requirement that he is putting on himself.

Bob Estes: When you approve this preliminary plat which I ask you to do you are not granting a property right to build a house.

Alderman Ferrell: I have received numerous communicates from people, emails and telephone calls. The main theme of all the citizens that I talked to, their number one concern was safety on that street and the amount of traffic. If we are putting 12,000 on a collector street today and that is probably the amount for an arterial, then I think there is a problem with safety and the amount of traffic that is going through there. For that reason I will not support the appeal.

Alderman Allen: I would like to ask a question of my fellow Council members or staff. About six months ago we sat in this same room and approved Ruskin Heights. It was filled with neighbors who were opposed to the project. It empties onto a very busy highway, onto Mission

and this Council voted in favor unanimously of that project which was enormously dense. I would like to know how this is different.

Alderman Thiel: I eventually did support that project even though I was sympathetic with the neighbors. I appreciated their concerns and this is the exact same reason I am going to support this project because the Planning staff recommended it. It met all the guidelines that we have set forth in our 2025 Plan. I could not believe that the Planning Commission turned down this project when they so highly supported Ruskin Heights which is much denser and I think there are much more concerns on Mission than there are on Township. Density is actually even less than what is even permitted by right. I agree with Nancy. I would like some explanations.

Alderman Allen: The concern about affordable housing, I don't think anyone could presume a \$500,000 house to be in the affordable housing bracket. I am very sympathetic with the neighbors and some of these neighbors are people that I know. I would not want to have the trees taken down and I know you don't. I think if we are ever going to listen to staff and think that they have any brains at all and I believe they do, then here's a place where we have to see that every single thing complies. There is just not anything that they are proposing to do that doesn't go with the City of Fayetteville's guidelines which makes it very difficult to vote in any way other than with the opinion of staff.

Alderman Ferrell: The question was asked a moment ago when you talked about Ruskin Heights, there were two additional factors, signalization and a turning lane. So I think those were significant factors of consideration.

Alderman Thiel: But they are not doing those with the project. It comes during the phases and with approval from the state.

Alderman Rhoads: I travel Township up to four times a day sometimes in the middle of this busy time. I know a good number of these neighbors and hold some of them very near and dear as friends or as people I respect in this community very much. Unfortunately I didn't run for office to be a good friend, I ran for office to do what I think is best for the City of Fayetteville. I believe that this project meets all the requirements. I also believe that it does not greatly add to the traffic situation. I agree there is a traffic situation there but from a standpoint of a safety situation, it's burdensome but I do not feel unsafe. I wish there were more sidewalks and I wish folks could walk up and down to Gulley Park but I don't necessarily think that is the responsibility of the petitioner. I will vote to support this appeal.

Alderman Jordan: I agree with the comments that have been made about Ruskin Heights. We approved Woodstock which was basically right in the middle of a neighborhood. I don't think the traffic is an issue with less than 2% of the development. I think it meets all our ordinances and our 2025 Plan and it is a use by right. I will support the appeal.

Alderman Gray: I have a different perspective in that I lived one block off of Township for over 12 years and came and went at the peak times of day and never once did I feel that my safety was in danger. I visited with some of my neighbors in that area who continued to support this development and they feel the same way I do about Township. We have several places in Fayetteville that are hard to get out on. I certainly do listen sympathetically to all the neighbors and I wish we could please all the people all the time. I will be supporting this project simply because our staff has said that it meets all the requirements.

Alderman Lucas: I agree with what has been said. I have friends that live in that neighborhood too. The density is within the 3.77. I don't see a traffic danger. I trust our staff and they recommend this. I like to protect the neighborhoods. I don't see this as being a real heavily dense, it's RSF-4 and I don't see them asking for RSF-8 or anything like that. I think it is compatible with the neighborhood surrounding it. We encourage this type of development all over. I will support this.

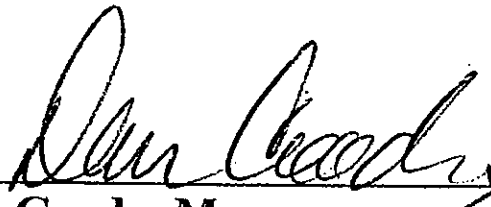
Alderman Cook: On a personal level I am not a big fan of this type of development but as a city official looking at our ordinances that we have all debated over the years, we put those rules in place to allow us some comfort level when we see development such as this on hillsides specifically. We put those in place so that we can preserve the trees, we will add another level of review from staff as each one of those individual lots come forward. I feel like we have tried to take caution in that. I agree with Robert's comment about the sidewalk. I don't know how many times I have heard from the people that live over there how badly we need a sidewalk on Township. I agree with that but that is not specifically tied to this project. I don't feel like there is a traffic danger there either. There are traffic issues but there is not a danger. While I don't like the development per say I think it meets everything that we have laid out as a Council since I have been here and I would find it hard to vote against it.

City Attorney Kit Williams: We need a motion to grant the appeal and to approve the preliminary plat with the conditions that were stated by staff when they made their presentation to the Planning Commission.

Alderman Rhoads moved to grant the appeal and approve the preliminary plat with the conditions that were stated by staff when they made their presentation to the Planning Commission. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-1. Alderman Ferrell voting no.

Resolution 190-07 as Recorded in the Office of the City Clerk

Meeting adjourned at 8:25 PM



Dan Coody, Mayor

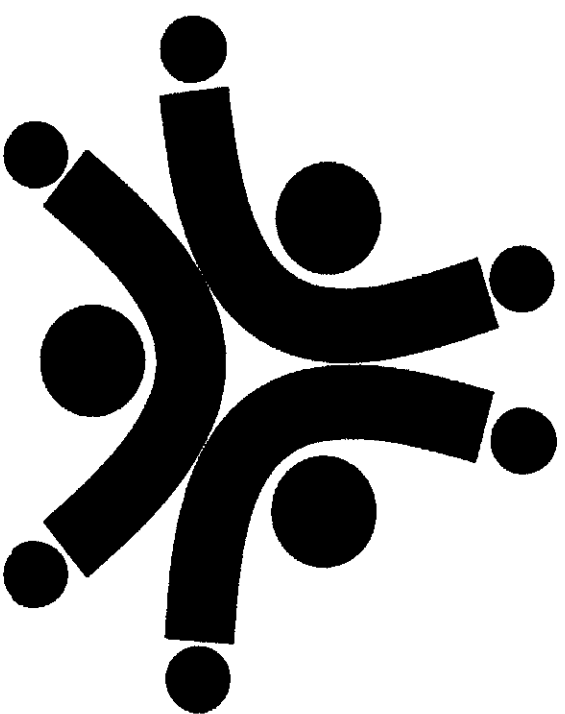


Sondra E. Smith, City Clerk/Treasurer

*Agenda Session Presentation
Agenda Session on 11/27/07*

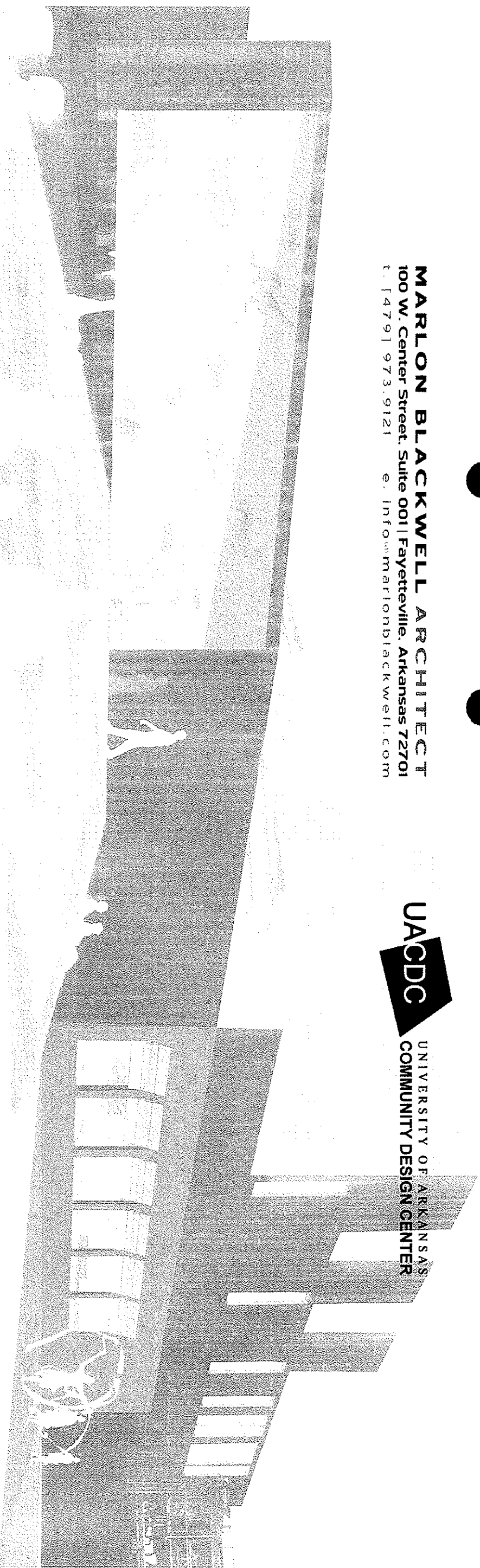
*12/14/07 City Council
Tentative Agenda*

Tyson Complex Proposal

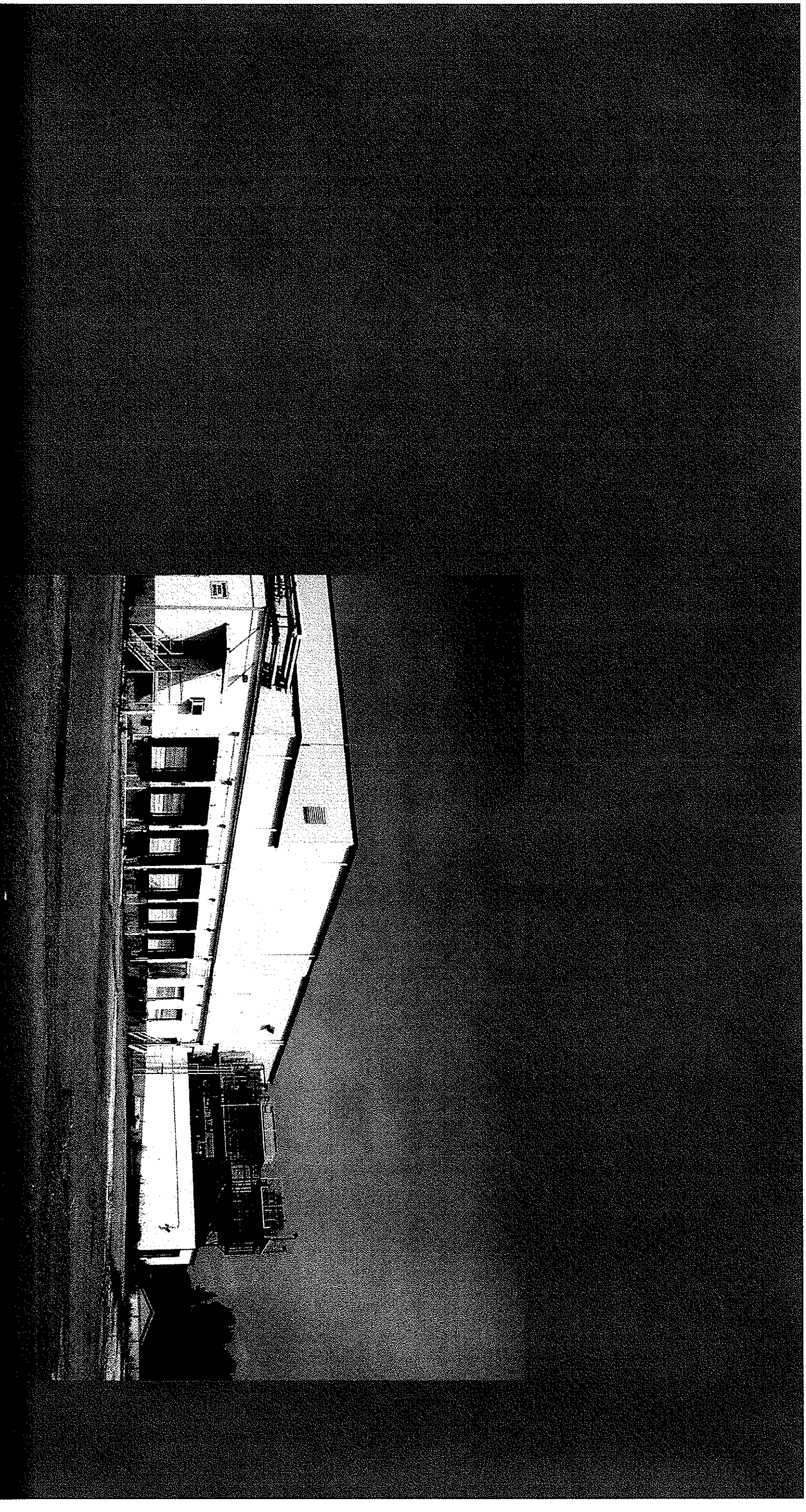


northwest
arkansas
community
creative
center

MARLON BLACKWELL ARCHITECT
100 W. Center Street, Suite 001 | Fayetteville, Arkansas 72701
t. [479] 973.9121 e. info@marlonblackwell.com



Fayetteville City Council Meeting
November 27, 2007

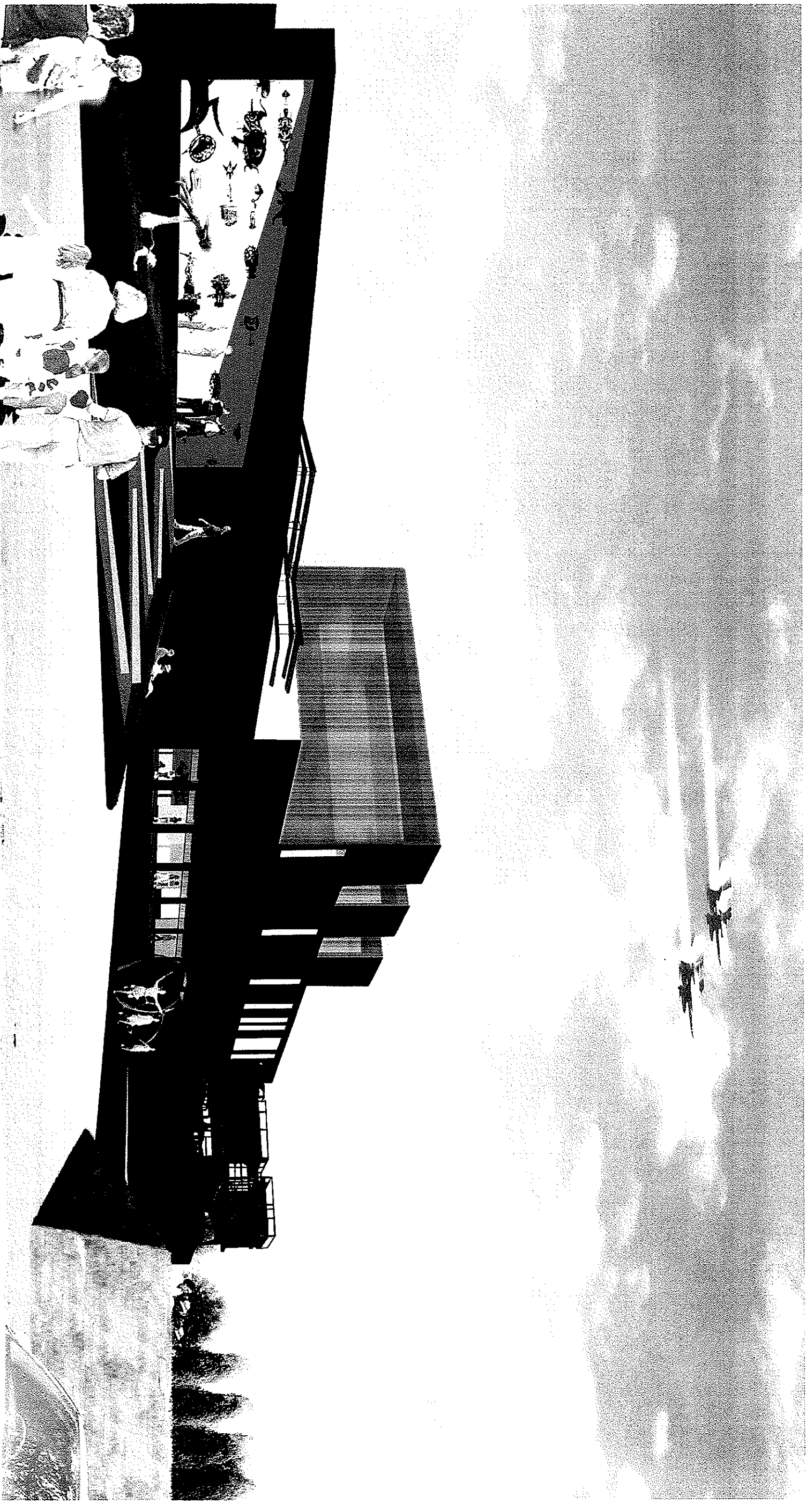


Existing Facility

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NWA Community Creative Center

UACDC UNIVERSITY OF ARKANSAS
COMMUNITY DESIGN CENTER



Proposed Renovation

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NWA Community Creative Center

UACDC

UNIVERSITY OF ARKANSAS
COMMUNITY DESIGN CENTER

Northwest Arkansas Community Creative Center

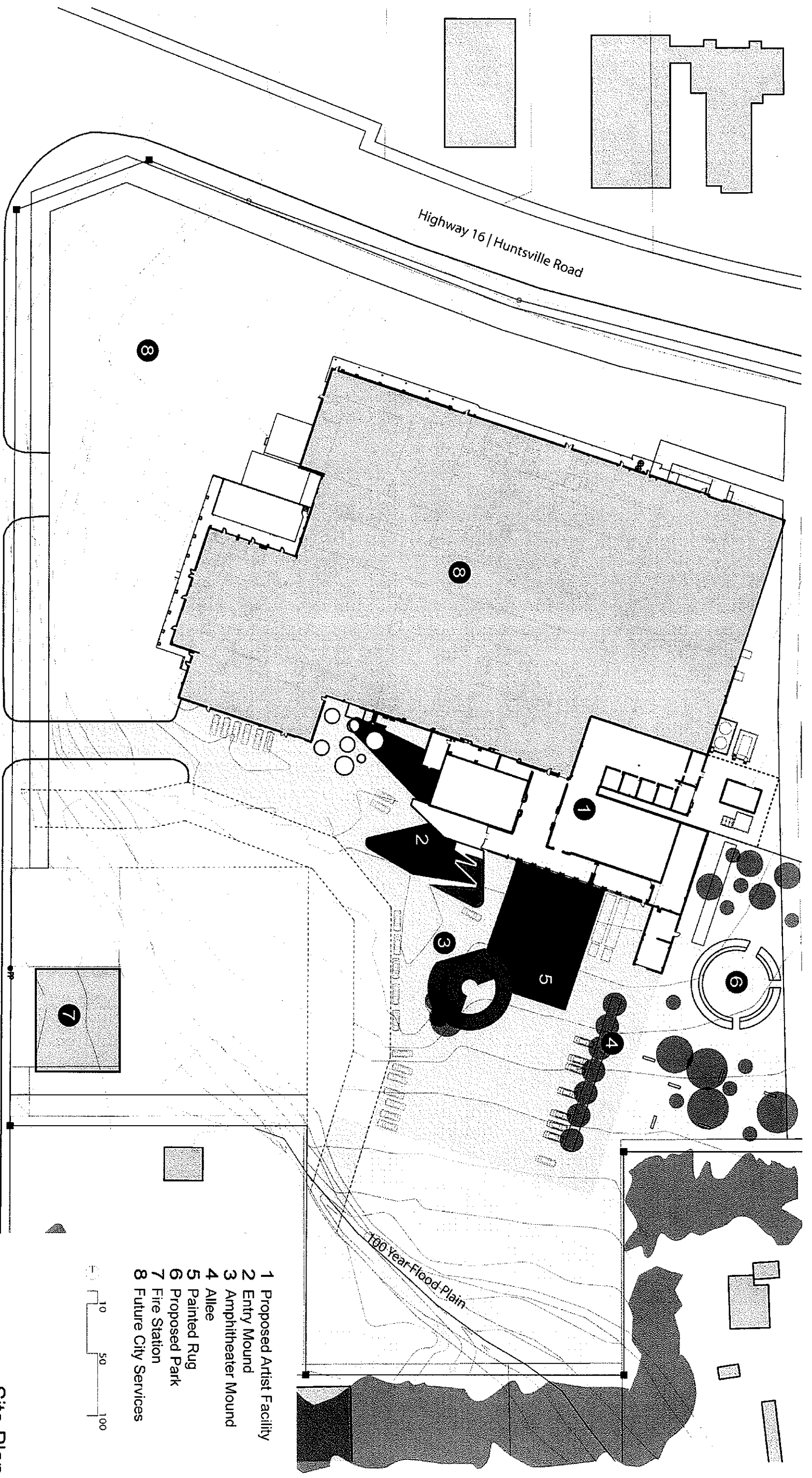


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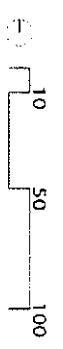
NWA Community Creative Center

UACDC

UNIVERSITY OF ARKANSAS
COMMUNITY DESIGN CENTER



- 1 Proposed Artist Facility
- 2 Entry Mound
- 3 Amphitheater Mound
- 4 Allee
- 5 Painted Rug
- 6 Proposed Park
- 7 Fire Station
- 8 Future City Services

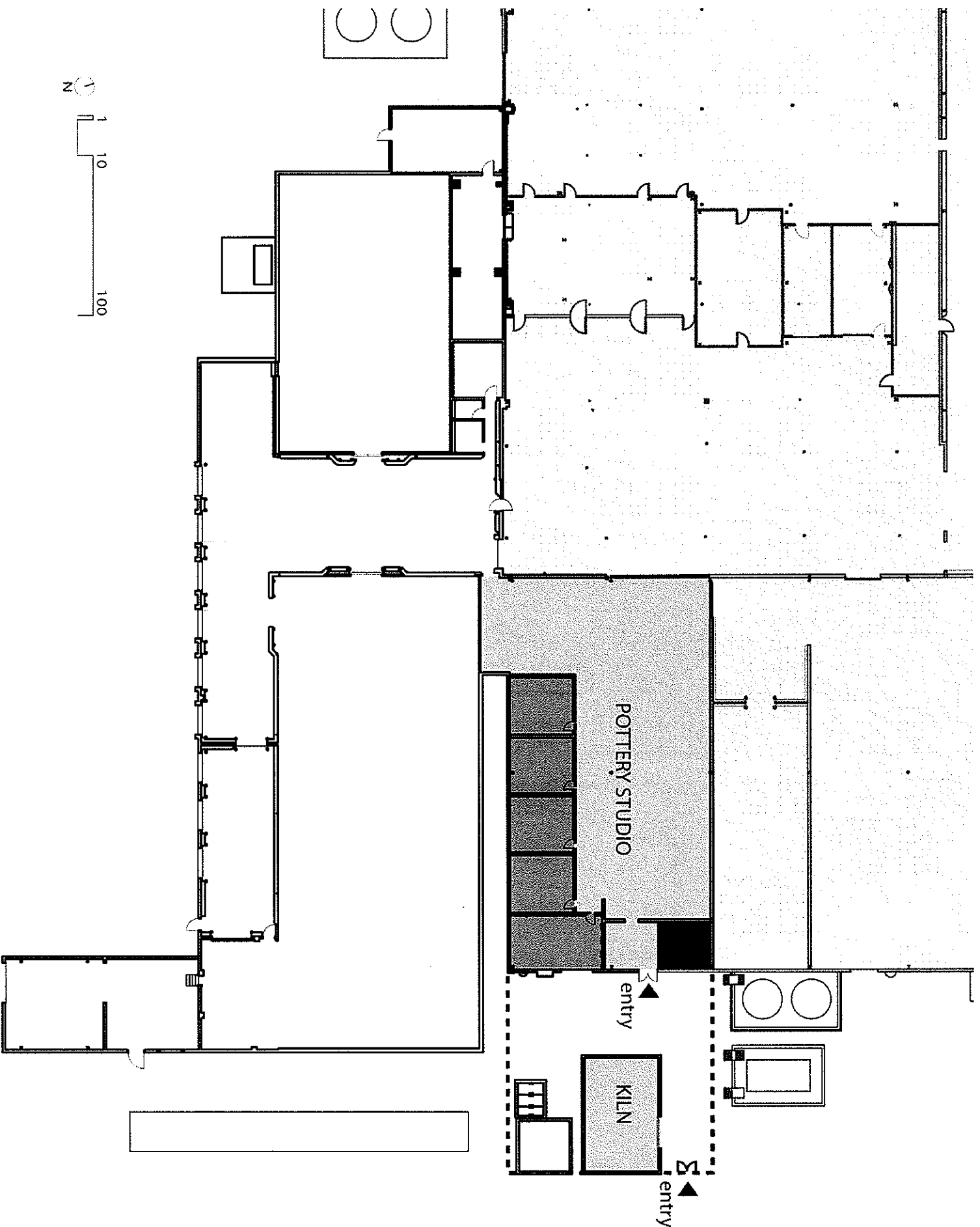


Site Plan

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NWA Community Creative Center

UACDC
UNIVERSITY OF ARKANSAS
COMMUNITY DESIGN CENTER



PHASE 1

5975 SF

POTTERY

4200 SF

SERVICES

165 SF

PRIVATE STUDIOS

1610 SF

FLEX SPACE | GALLERY

MULTI-USE

THEATER

METAL + WOOD SHOP

NEW WALLS

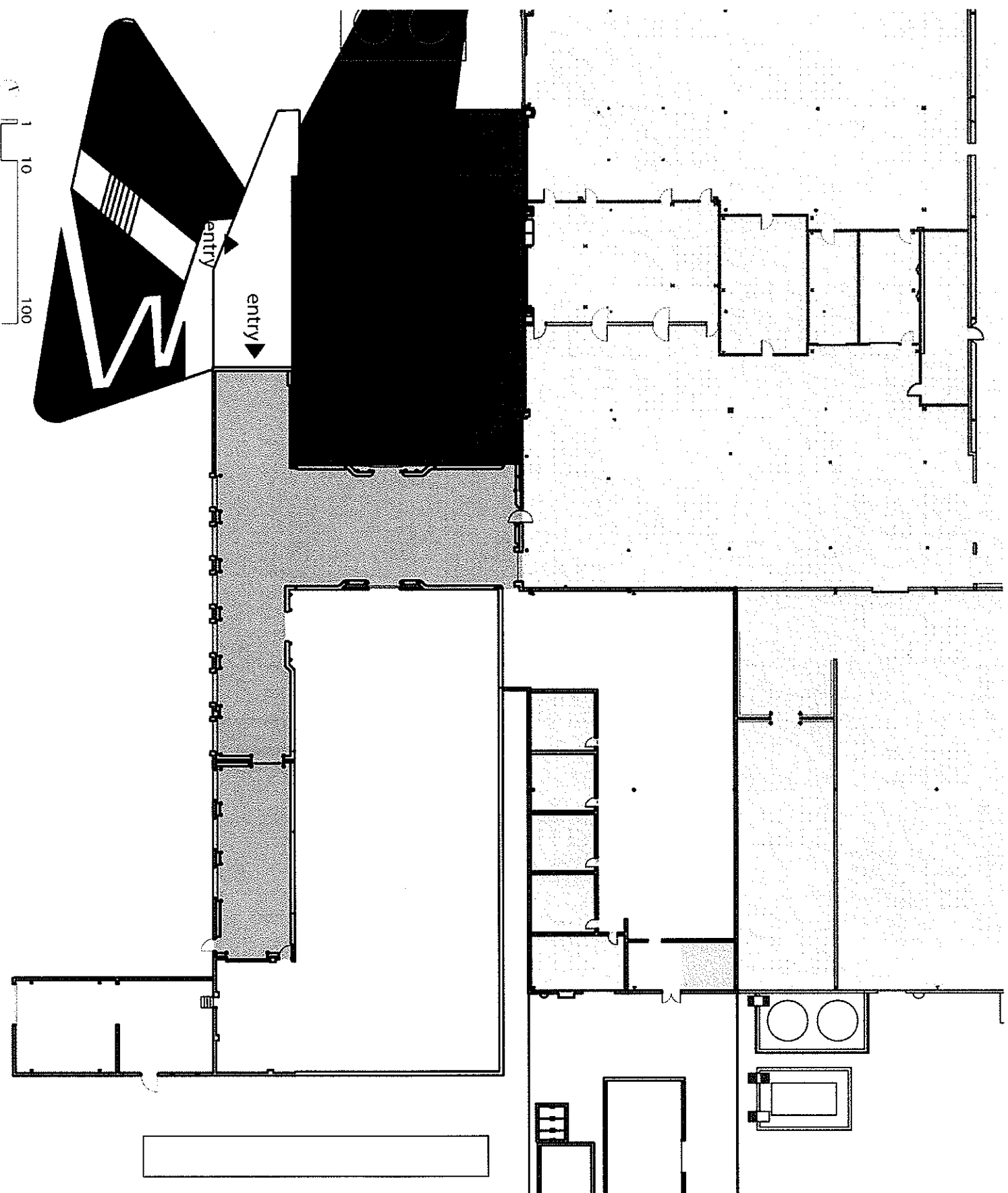
1. Close off access to adjacent spaces.
2. Fence pottery kiln for security.
3. Remove existing fence.
4. Add public entry.
5. Re-use existing offices as private studios.
6. Install services, mechanical, and electrical.

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t: [479] 973.9121 e: info@marlonblackwell.com

NWA Community Creative Center

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UNIVERSITY OF ARKANSAS
COMMUNITY DESIGN CENTER



PHASE 2

16284 SF

POTTERY

4200 SF

SERVICES

1593 SF

PRIVATE STUDIOS

1430 SF

FLEX SPACE | GALLERY

4537 SF

MULTI-USE

4524 SF

THEATER

METAL + WOOD SHOP

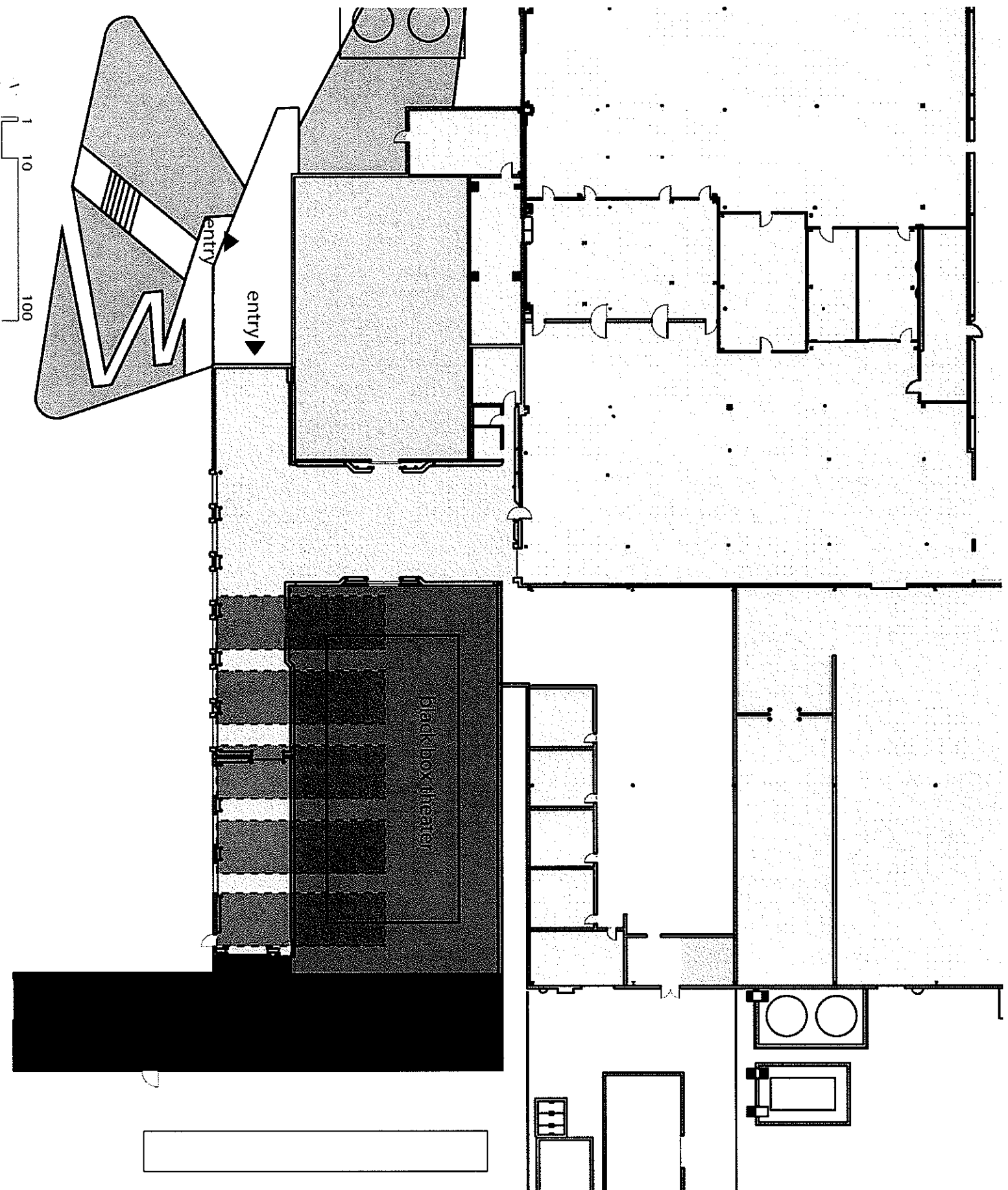
NEW WALLS

1. Upgrade services.
2. Upgrade dock doors.
3. Install entry mound and move public access.
4. Add landscape.
5. Paint exterior.

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NWA Community Creative Center

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COMMUNITY DESIGN CENTER



PHASE 3

28025 SF

POTTERY	4200 SF
SERVICES	1593 SF
PRIVATE STUDIOS	5096 SF
FLEX SPACE GALLERY	4537 SF
MULTI-USE	4524 SF
THEATER	5053 SF
METAL + WOOD SHOP	3022 SF
NEW WALLS	

1. Add black box theater.
2. Add private studios.
3. Construct amphitheater.
4. Install mechanical and electrical.

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NWA Community Creative Center

UACDC UNIVERSITY OF ARKANSAS
 COMMUNITY DESIGN CENTER

Proposal Key Highlights

- Self-Sustained
 - Donations
 - Grants
 - Revenue
 - Classes/Workshops
 - Rental/Lease
 - Production
- Growth Driver
 - Economic
 - Cultural & Educational

Supporters & Sponsors

Art Expo

Bryan Gott

Botanical Garden

Arkansas Arts Council

Keltner & Associates Walton Arts Center

Billy J. Martin & Jeane S. Martin Foundation

Marlon Blackwell Architect

UA Ceramics Department

Theater Squared

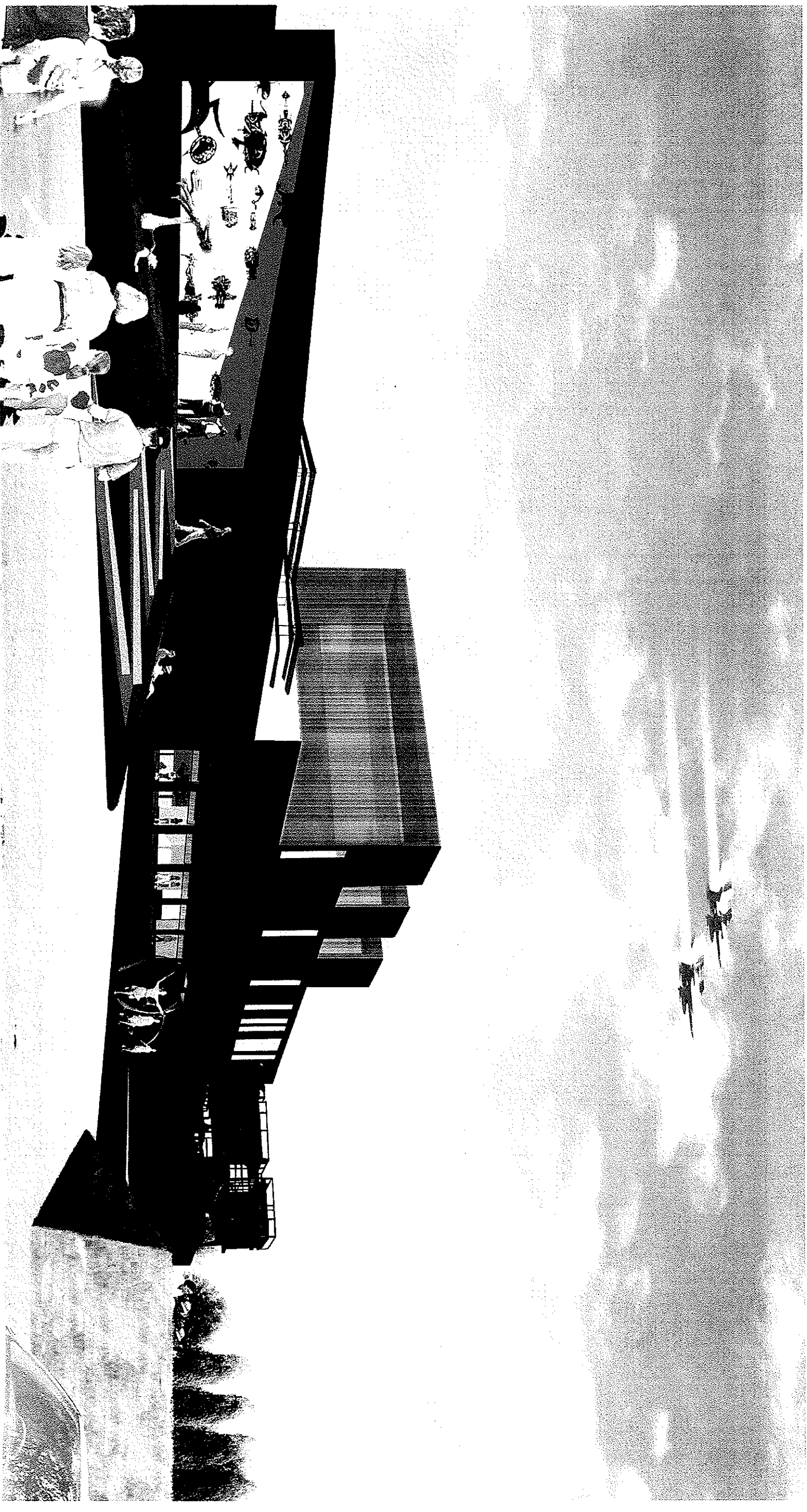
University of Arkansas

Community Design Center

Artists of Northwest Arkansas

Happy Hollow Jim Blair

School



Proposed Renovation

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NWA Community Creative Center

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UNIVERSITY OF ARKANSAS
COMMUNITY DESIGN CENTER

A. 8. Carter & Burgess, Inc. Amendment #1
12/4/07 Agenda





Agenda Session 11/27/07

Color copies only.

Black & white copies are in the agenda

CITY COUNCIL MAPS

December 04, 2007

**Dandy Rezoning
Sweetser Rezoning
Bittle Vacation
Roetzel Vacation**

THE UNIVERSITY OF CHICAGO

LIBRARY

1100 EAST 58TH STREET

CHICAGO, ILL. 60637

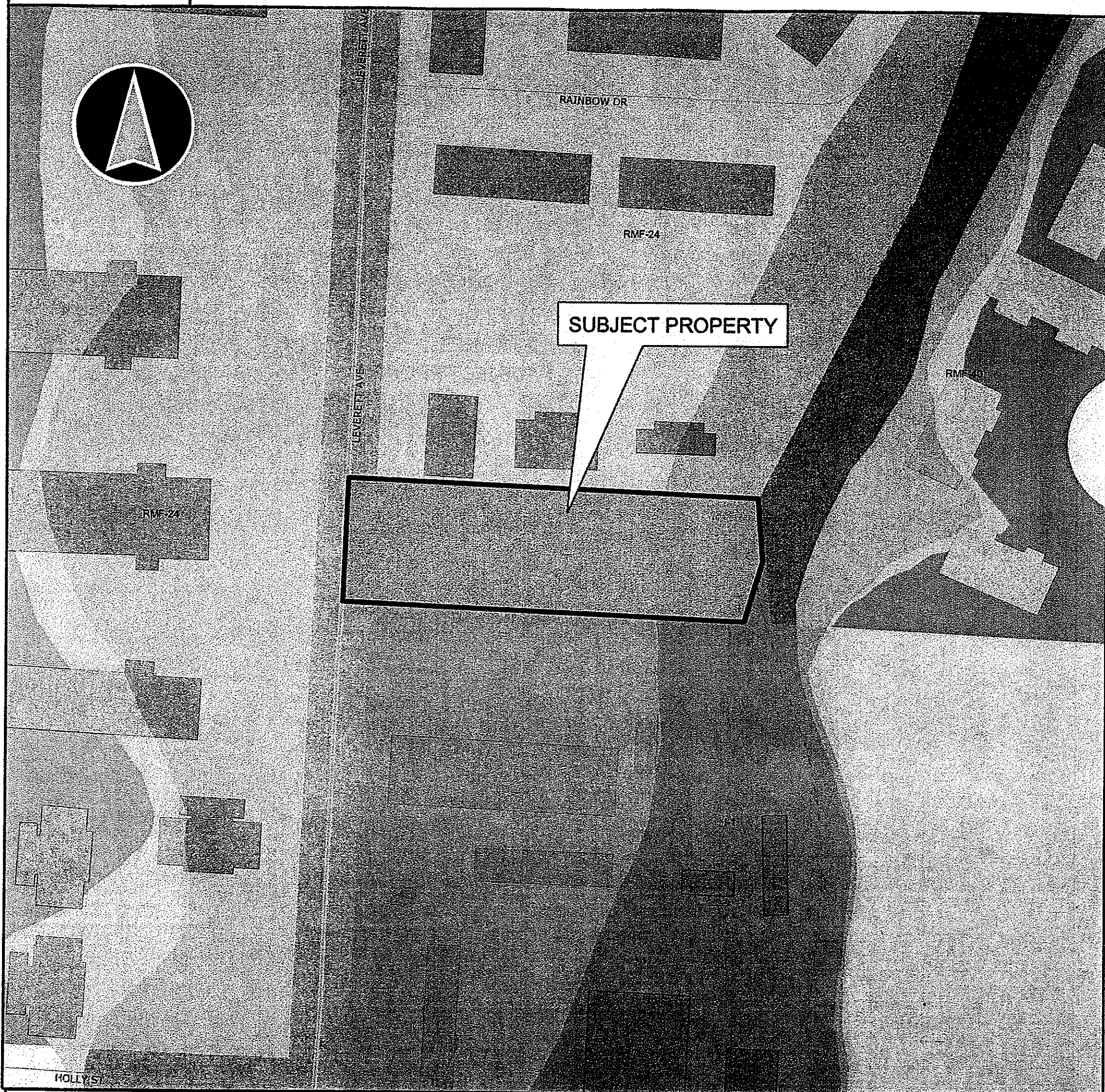
TEL: 773-936-5000

FAX: 773-936-5001

RZN07-2781

Close Up View

DANDY/LEVERETT&NORTH



Overview



0 37.5 75 150 225 300 Feet

One Mile View



Subject Property

 Planning Area☐ Outside City

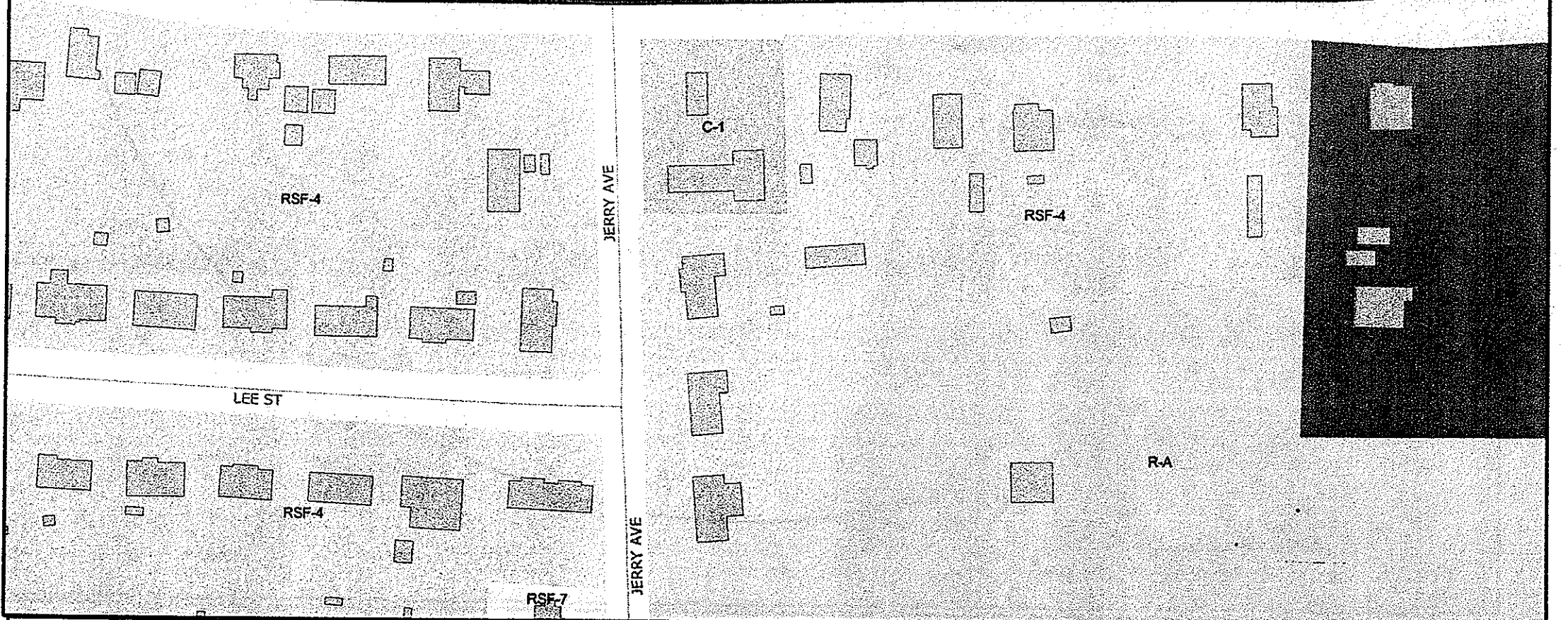
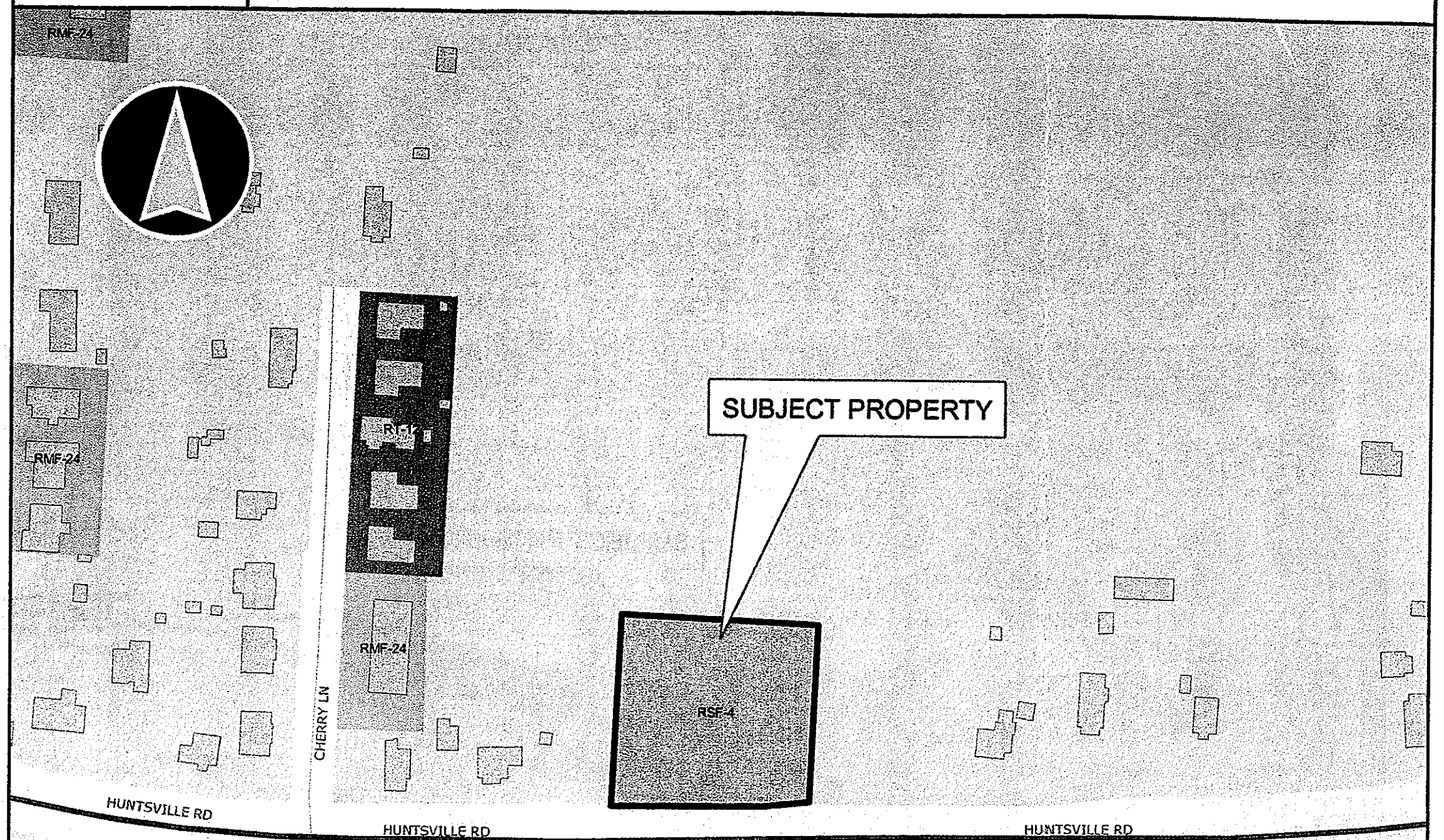
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

RZN07-2782

Close Up View

SWEETSER



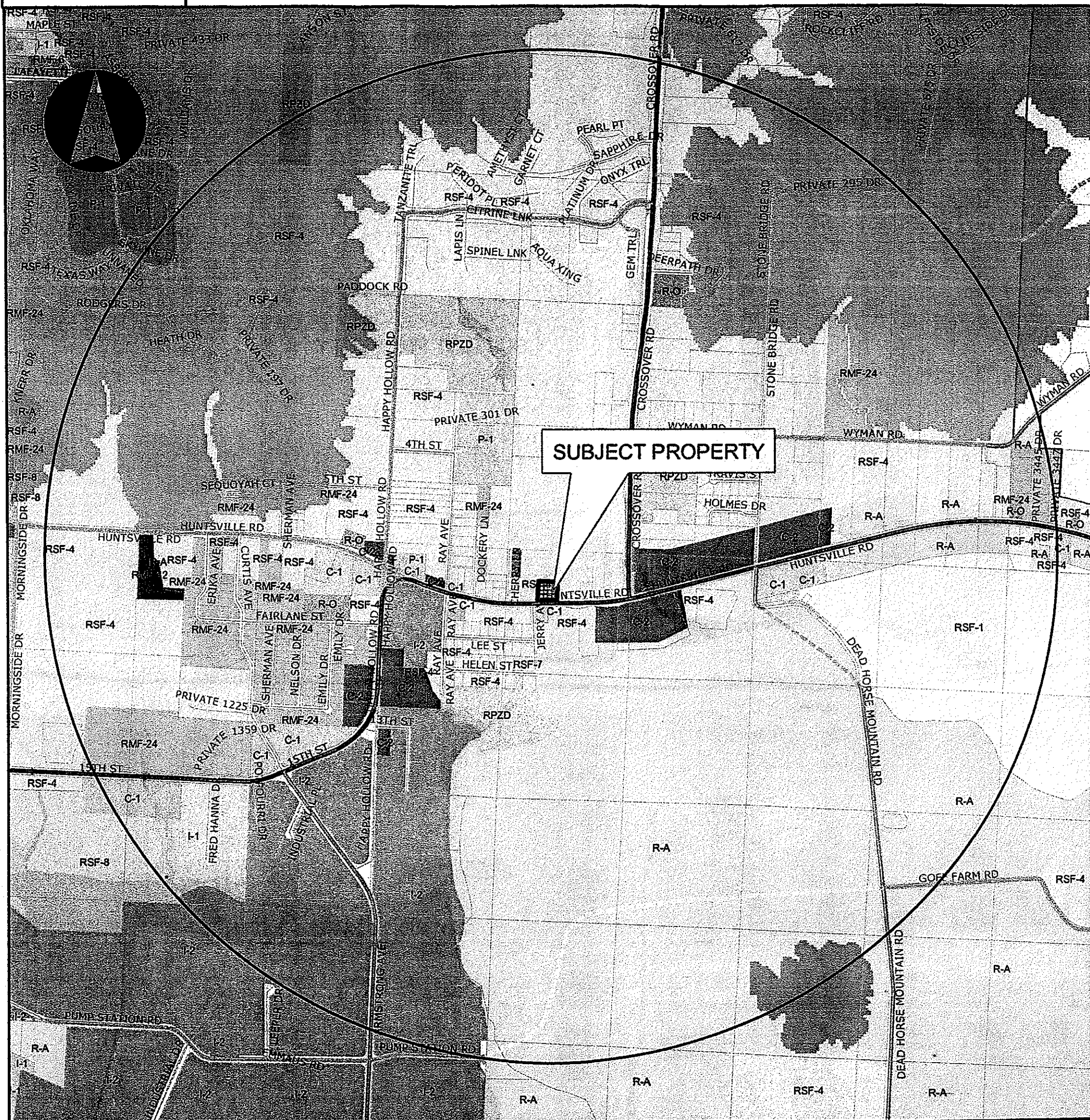
Overview



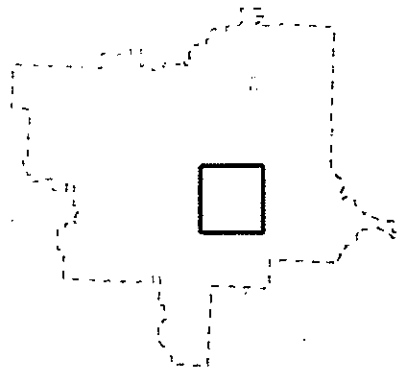
RZN07-2782

One Mile View

SWEETSER



Overview



Legend

Subject Property

RZN07-2782

Boundary

Planning Area

Overlay District

Outside City

Legend

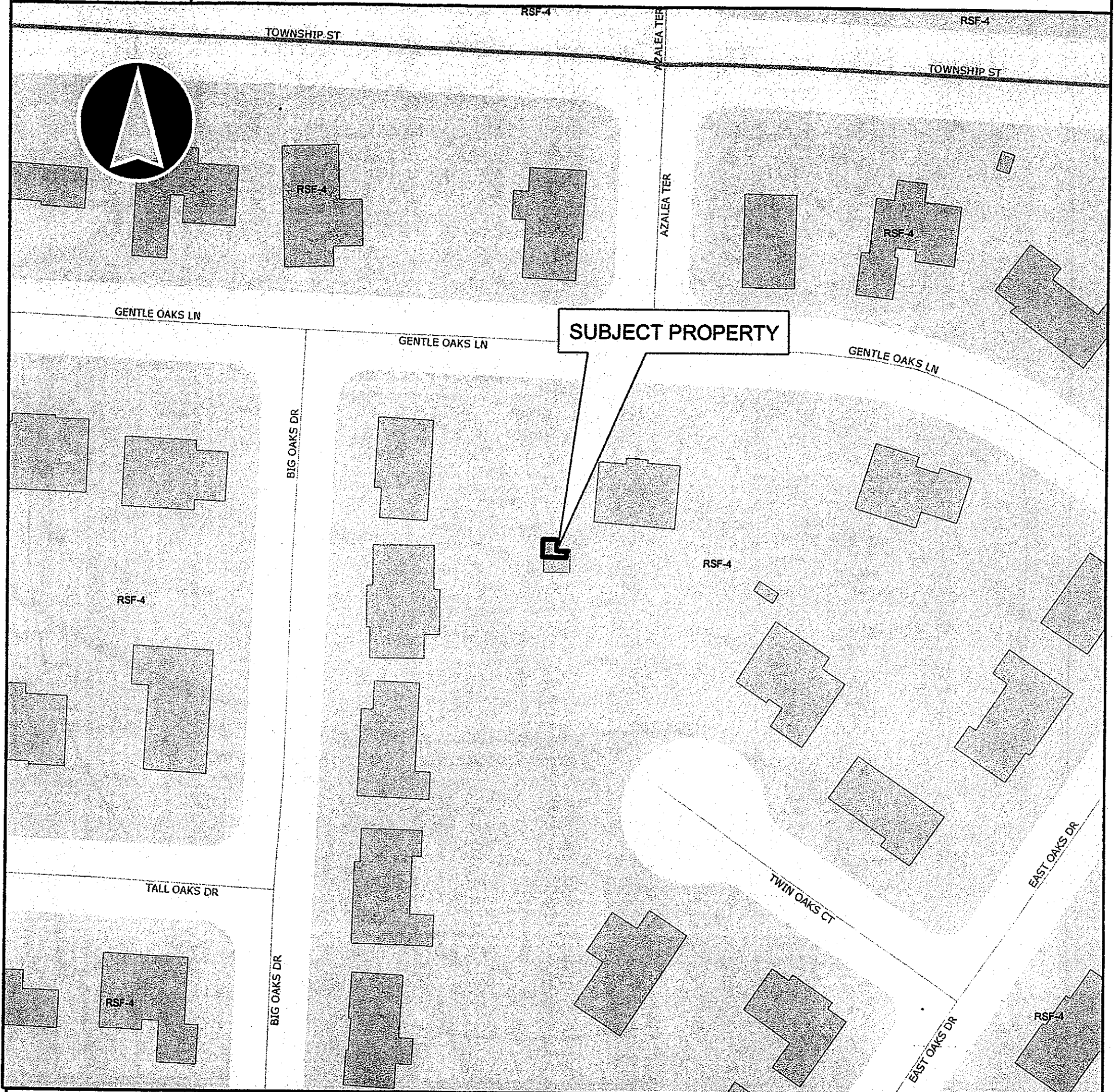
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

VAC07-2758

Close Up View

BITTLE



Overview

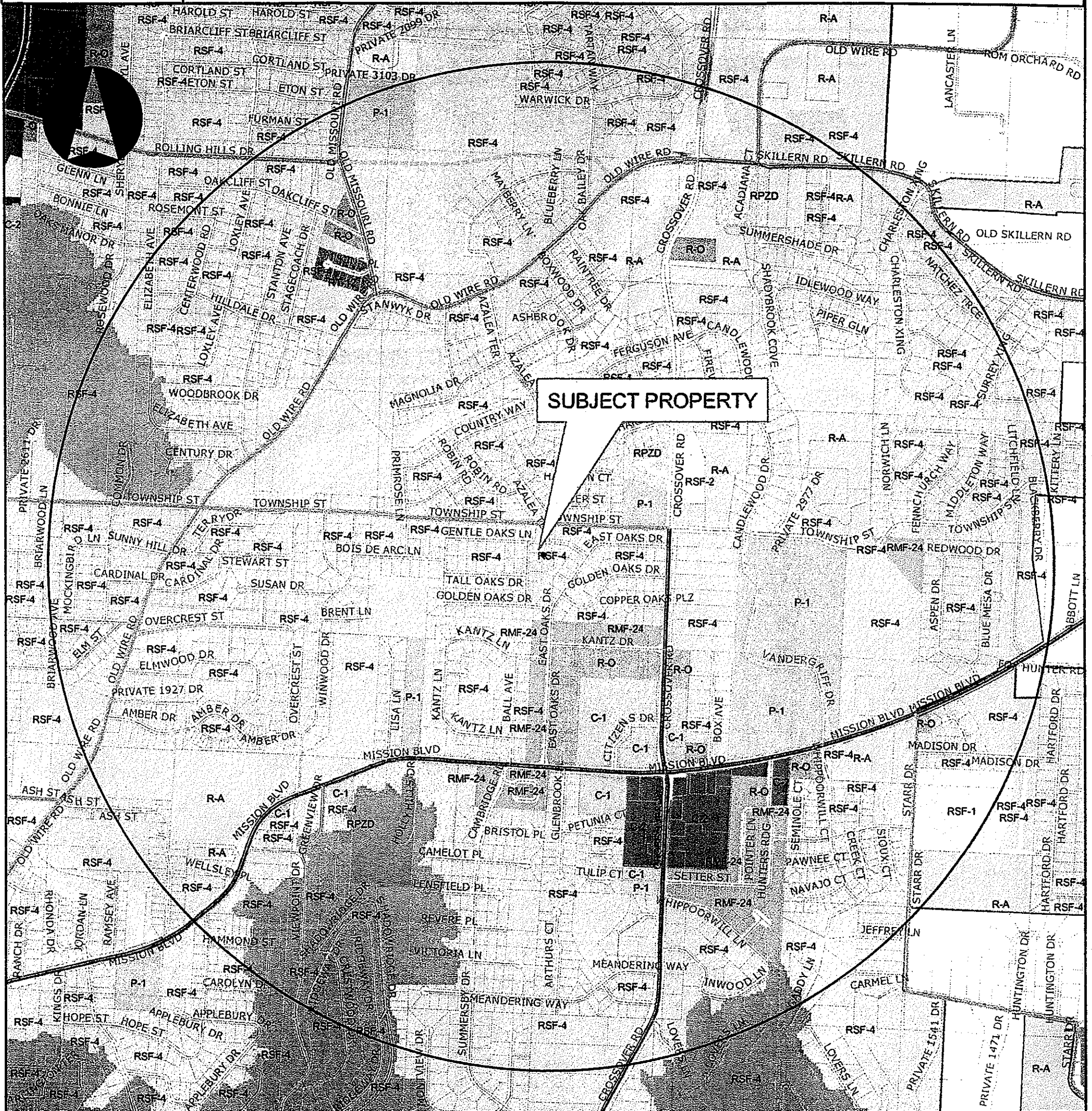


0 37.5 75 150 225 300 Feet

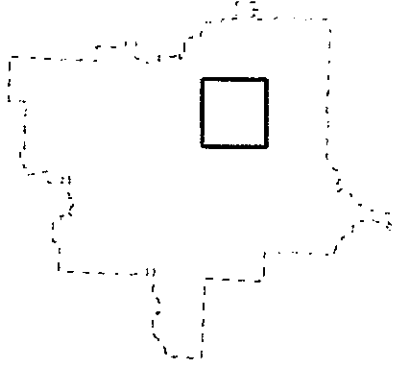
VAC07-2758

One Mile View

BITTLE



Overview



Legend

Subject Property

VAC07-2758

Boundary

Planning Area

Overlay District

Outside City

Legend

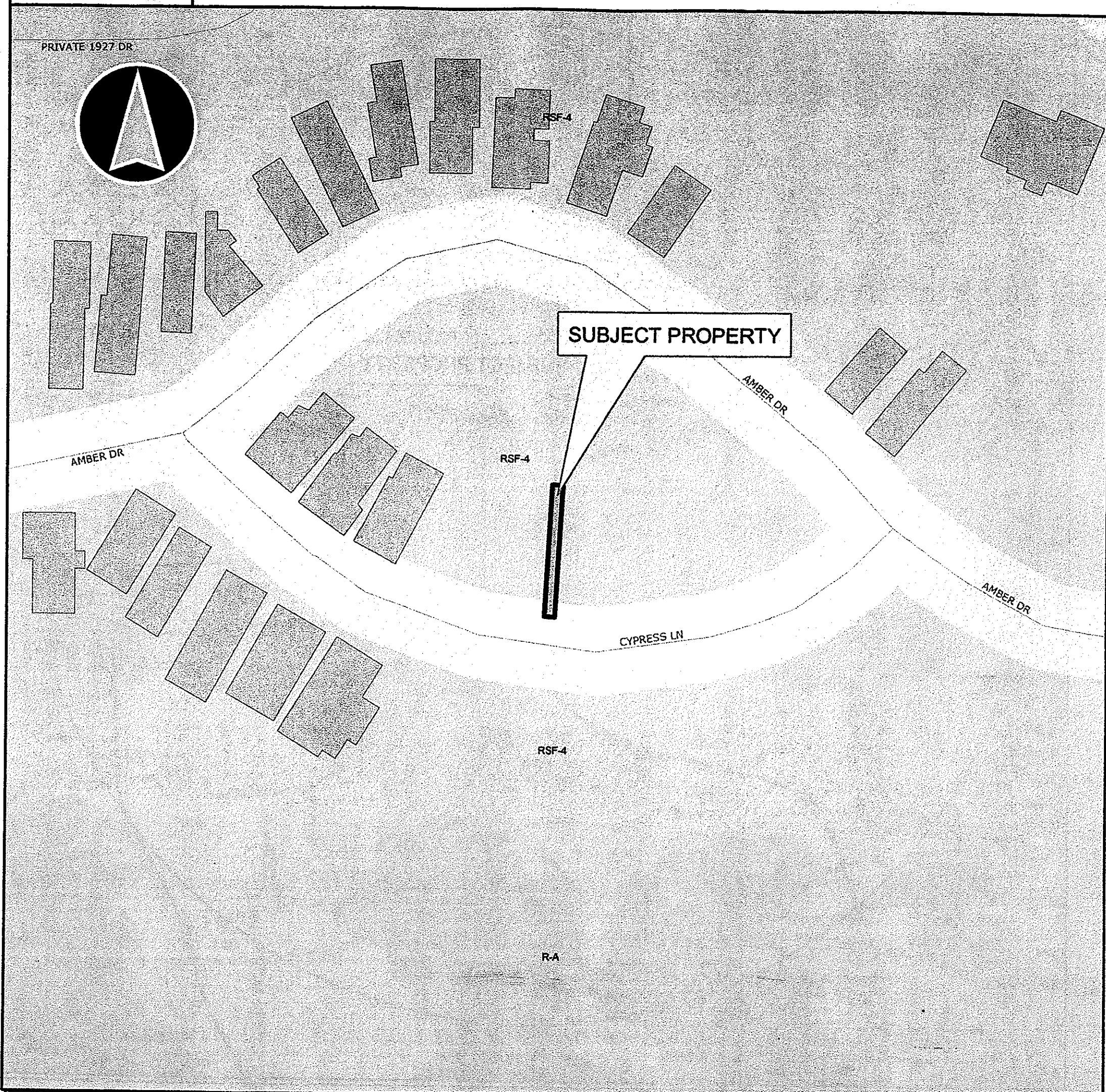
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

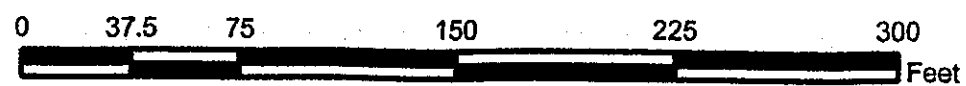
VAC07-2761

Close Up View

ROETZEL



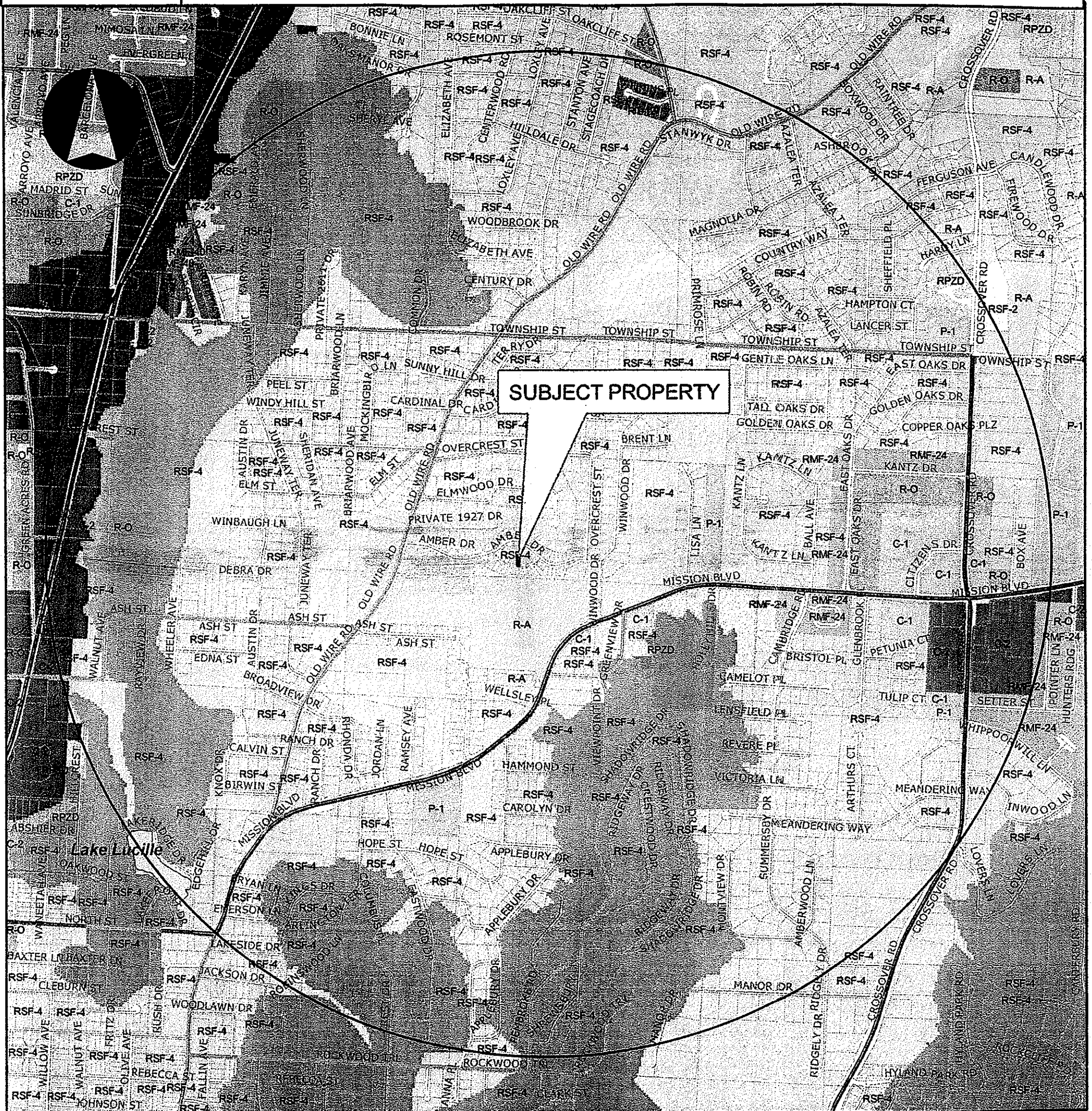
Overview



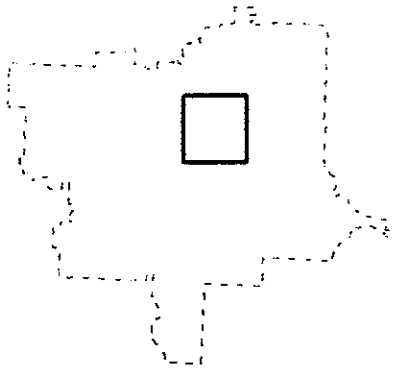
VAC07-2761

One Mile View

ROETZEL



Overview



Legend

Subject Property

VAC07-2761

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
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
December 4, 2007**

A meeting of the Fayetteville City Council will be held on December 4, 2007 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

Agenda Session Presentations:

1. Northwest Arkansas Community Creative Center
2. 2008 Budget Outside Agencies Presentations - **Following Agenda Session.**

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

1. Walton Arts Center Report – Terri Trotter

A. Consent:

1. Approval of the November 6 and November 20, 2007 City Council meeting minutes.

2. **Bid # 07-68 Downing Sales and Service:** A resolution awarding Bid # 07-68 to Downing Sales and Service for the purchase of one (1) front load refuse truck in the amount of \$220,045.00 for use by the Solid Waste Division.
3. **Bid # 07-69 Downing Sales and Service:** A resolution awarding Bid # 07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division.
4. **Landers Ford of Benton:** A resolution approving the purchase of seven (7) Ford Crown Victoria Police Interceptors from Landers Ford of Benton through the State Vehicle Purchase Contract in the amount of \$151,430.60.
5. **McClelland Consulting Engineers, Inc. Task Order # 3:** A resolution approving Task Order # 3 with McClelland Consulting Engineers, Inc. in the amount of \$183,700.00 for planning tasks associated with the Runway 16 Safety Area Improvements at Drake Field; and approving a budget adjustment in the amount of \$183,700.00.
6. **State Tax Back Incentive Program:** A resolution certifying local government endorsement of business to participate in the tax back program (the Consolidated Incentive Act of 2003, Section 15-4-2706 (D)).
7. **Rules of Order and Procedure:** A resolution to amend the Rules of Order and Procedure of the Fayetteville Mayor/City Council to reschedule City Council meetings which fall on a holiday.
8. **Carter & Burgess, Inc. Amendment No. 1:** A resolution approving Contract Amendment No. 1 to the engineering contract with Carter & Burgess, Inc. in the amount of \$57,900.00 for additional engineering studies for the Lake Wilson Spillway Repair Project; and approving a budget adjustment to recognize the reimbursement from FEMA.
9. **Operations Management International, Inc. Amendment No. 15:** A resolution approving Contract Amendment No. 15, which extends for one year the contract with Operations Management International (OMI) in the amount of \$6,797,685.28 for the operation, maintenance and management of Fayetteville wastewater treatment facilities for 2008; and approving a 5% contingency in the amount of \$340,000.00.
10. **Zion Road Properties, LLC:** A resolution to approve a settlement with Zion Road Properties, LLC in the amount of \$42,030.00 for right-of-way and easements; and establishing Zion Road Properties, LLC's maximum assessment for off-site improvements.

B. Unfinished Business:

1. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. ***This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting.***

C. New Business:

- 1. RZN 07-2781 Dandy:** An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located ¼ mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre.
- 2. RZN 07-2782 Sweetser:** An ordinance rezoning that property described in rezoning petition RZN 07-2782, for approximately 0.95 acres, located at 2220 E. Huntsville from RSF-4, Residential Single Family, 4 units per acre, to R-O, Residential Office.
- 3. VAC 07-2758 Bittle:** An ordinance approving VAC 07-2758 submitted by Alan Reid for property located at 2455 East Gentle Oaks Lane to vacate portions of the utility easements on the subject property, a total of 148 square feet.
- 4. VAC 07-2761 Roetzel:** An ordinance approving VAC 07-2761 submitted by Mike and Julie Roetzel for property located at 1626 East Cypress, Lot 46 of Charleston Place Subdivision to vacate a portion of a utility easement on the subject property, a total of 0.09 acres.
- 5. Amend Chapter 174 Signs:** An ordinance to amend § 174.10 (H) Monument Signs to reduce the side setback requirement from 25 feet to 10 feet in non-residential districts.
- 6. Deloris Mae Tuck Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Deloris Mae Tuck.
- 7. Gary Combs, LLC Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Gary Combs, LLC.
- 8. ADM 07-2837: City Owned Park Lands:** An ordinance to recognize City owned park lands located in Washington County as being included in the Fayetteville City Limits in accordance with Arkansas State Statue 14-40-204.

Agenda Additions:

Announcements:

- 1. City Council Tour: December 3, 2007**

Adjournment:

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 2
Bid # 07-68 Downing Sales and Service
Page 1 of 6

4-Dec-07
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-68 to Downing Sales and Service in the amount of \$220,045.00 for the purchase of one front load refuse truck for use by Solid Waste Division. Cost of this request includes \$100 for logos, numbers, and prepping for service.

\$220,145.00 Cost of this request	\$ 490,601.00 Category/Project Budget	Fleet-Solid Waste Expansions Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 29,655.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
06015.1 Project Number	\$ 460,946.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

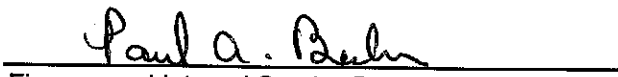
 11.16.07
Department Director Date

Previous Ordinance or Resolution # _____

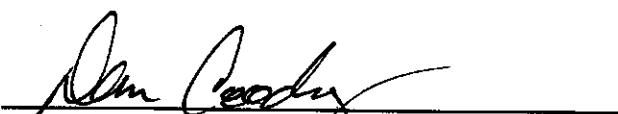
Original Contract Date: _____

 11/19/07
City Attorney Date

Original Contract Number: _____

 11-19-07
Finance and Internal Service Director Date

Received in City Clerk's Office


 11/19/07
Mayor Date

Received in Mayor's Office


Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425



A. 2
nd Service
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL
THRU: GARY DUMAS, DIRECTOR OF OPERATIONS
FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT *DB*
DATE: NOVEMBER 15, 2007
SUBJECT: Purchase of one Front Load Refuse truck

RECOMMENDATION: That City Council approve the purchase of one Front Load Refuse truck for solid Waste Division in the amount of \$220,045.00.

BACKGROUND: Bid #07-68 was opened on October 12, 2007 for one front load refuse truck for assignment to the Solid Waste Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Downing Sales & Service meets all specifications.

I recommend acceptance of the bid from Downing Sales & Service in the amount of \$220,045.00.

This purchase was approved at the August Equipment Committee meeting to utilize existing budgeted funds for the purchase of an additional front load commercial refuse truck in lieu of two different expansion units budgeted for 2007.

Funds are available for this purchase in the Fleet – Solid Waste Expansions #06015.1.

The Equipment Committee approved the purchase of this unit from bid #07-68 at the meeting of November 13, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-68 TO DOWNING SALES AND SERVICE FOR THE PURCHASE OF ONE (1) FRONT LOAD REFUSE TRUCK IN THE AMOUNT OF \$220,045.00 FOR USE BY THE SOLID WASTE DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-68 to Downing Sales and Service for the purchase of one (1) front load refuse truck in the amount of \$220,045.00 for use by the Solid Waste Division.

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 2
Bid # 07-68 Downing Sales and Service
Page 4 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 5, 2007

SUBJECT: Award of Bid 07-68

Bid #07-68 was opened on October 12, 2007 for one front load refuse truck for assignment to the Solid Waste Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Downing Sales & Service meets all specifications.

I recommend acceptance of the bid from Downing Sales & Service in the amount of \$220,045.00.

This purchase was approved at the August Equipment Committee meeting to utilize existing budgeted funds for the purchase of an additional front load commercial refuse truck in lieu of two different expansion units budgeted for 2007.

Funds are available for this purchase in the Fleet Replacement Special Project 02082 – Sanitation Equipment

Cc:
Gary Dumas

APPROVED
11/13/07
2RB

BID: 07-68
 10/12/2007
 2:00 PM
 CITY OF FAYETTEVILLE

Bid 07-68, Front Load Refuse Truck



BIDDER		Manufacturer	Model	Model Price
1	Downing Sales & Service, Inc. #1	Autocar Kann	WX64 (2008) Route King	\$132,983.00 \$101,425.00 \$234,408.00
2	Downing Sales & Service, Inc. #2	Autocar Scranton Mfg.	WX64 (2008) New Way Mammoth	\$132,983.00 \$87,062.00 \$220,045.00
3	Scruggs Equipment Company	Autocar E-Z Pack	2008 WX64 FLL010J40SE	Included Included \$226,684.00

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED: P. Vice
 P. VICE PURCH MGR
 WITNESS: A. Brown
 DATE: 10/16/07

City Of Fayetteville

(Not a Purchase Order)

Vendor #

3842

Vendor Name:

DOWNING SALES AND SERVICE

Requisition No.

Date:

11/15/2007

Expected Delivery Date:

Address:

Fob Point:

Mail Yes: No: XX

City:

State:

Zip Code

Ship to code:

Taxable Yes: XX No:

Requester

Barbara Olsen

Requester's Employee #

Extension:

Quotes Attached Yes: No:

Item Description

Quantity

Unit of Issue

Unit Cost

Extended Cost

Account Numbers

Project/Subproject #

Inventory #

Fixed Asset #

1 2008 AUTOCAR WX64 WITH NEW

1

EA

\$220,045.00

\$220,045.00

9700.1920.5602.00

.06015.1

2 WAY MAMMOTH BODY PER

EA

\$0.00

3 BID 07-68. TO BE UNIT #493,

EA

\$0.00

4 FIXED ASSET #700493

EA

\$0.00

5 EA

\$0.00

6 EA

\$0.00

7 EA

\$0.00

8 EA

\$0.00

9 EA

\$0.00

10 EA

\$0.00

Shipping/Handling

Lot

\$0.00

Special Instructions:

Subtotal: 220,045.00

Tax: EXEMPT

Total: 220,045.00

Approvals:

Mayor:

Department Director:

Purchasing Manager:

Finance & Internal Services Director:

Budget Manager:

IT Manager:

Dispatch Manager:

Utilities Manager:

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

4-Dec-07
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-69 to Downing Sales and Service in the amount of \$163,101.00 for the purchase of one recycle truck for use by Solid Waste Division. Cost of this request includes \$100 for logos, radio antenna, and prepping for service.

\$163,201.00 Cost of this request	\$ 490,601.00 Category/Project Budget	Fleet-Solid Waste Expansions Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 249,800.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
06015.1 Project Number	\$ 240,801.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

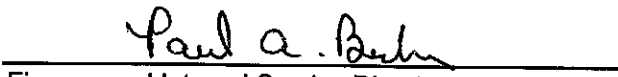

Department Director 11.16.07
Date

Previous Ordinance or Resolution # _____

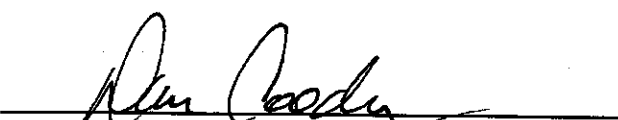
Original Contract Date: _____


City Attorney 11/19/07
Date

Original Contract Number: _____


Finance and Internal Service Director 11-19-07
Date

Received in City Clerk's Office
ENTERED 11/16/07


Mayor 11/19/07
Date

Received in Mayor's Office
ENTERED 11/19/07

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425



A. 3
nd Service
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT *2/10/08*

DATE: NOVEMBER 15, 2007

SUBJECT: Purchase of one Recycle Truck

RECOMMENDATION: That City Council approve the purchase of one Recycle truck for Solid Waste Division in the amount of \$163,101.00.

BACKGROUND: Bid #07-69 was opened on October 12, 2007 for one recycle truck for assignment to the Solid Waste Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Truck Centers of Arkansas provides a right side behind the cab vertical exhaust in lieu of the specified left side vertical exhaust mounted beside the cab. This change necessitates moving the recycle body farther back increasing overall length and places the hot exhaust pipe dangerously close to the operator's work area.

The second lowest bid from Diamond International Trucks meets all specifications, however it provides an early production 2007 exhaust particulate regeneration system that is unproven in house to house refuse service.

The third lowest bid from Downing Sales & Service meets all specifications. This bid provides a chassis of the same make, model, and engine as six most recent recycle fleet units. This chassis was produced prior to the 2007 exhaust particulate regeneration requirement.

After thorough review, Solid Waste and Fleet staff agree that where possible maintaining consistent design, make, and model within this portion of the fleet is in the best interest of the City of Fayetteville.

I recommend acceptance of the bid from Downing Sales & Service in the amount of \$163,101.00.

This purchase is an expansion unit approved in the 2007 budget process.

Funds are available for this purchase in the Fleet – Solid Waste Expansions #06015.1.

The Equipment Committee approved the purchase of this unit from bid #07-69 at the meeting of November 13, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-69 TO DOWNING SALES AND SERVICE FOR THE PURCHASE OF ONE (1) RECYCLE TRUCK IN THE AMOUNT OF \$163,101.00 FOR USE BY THE SOLID WASTE DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division.

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 3
Bid # 07-69 Downing Sales and Service
Page 4 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 6, 2007

SUBJECT: Award of Bid 07-69

Bid #07-69 was opened on October 12, 2007 for one recycle truck for assignment to the Solid Waste Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Truck Centers of Arkansas provides a right side behind the cab vertical exhaust in lieu of the specified left side vertical exhaust mounted beside the cab. This change necessitates moving the recycle body farther back increasing overall length and places the hot exhaust pipe dangerously close to the operator's work area.

The second lowest bid from Diamond International Trucks meets all specifications, however it provides an early production 2007 exhaust particulate regeneration system that is unproven in house to house refuse service.

The third lowest bid from Downing Sales & Service meets all specifications. This bid provides a chassis of the same make, model, and engine as six most recent recycle fleet units. This chassis was produced prior to the 2007 exhaust particulate regeneration requirement.

After thorough review, Solid Waste and Fleet staff agree that where possible maintaining consistent design, make, and model within this portion of the fleet is in the best interest of the City of Fayetteville.

I recommend acceptance of the bid from Downing Sales & Service in the amount of \$163,101.00.

This purchase is an expansion unit approved in the 2007 budget.

Funds are available for this purchase in the Fleet Replacement Special Project 02082 – Sanitation Equipment

Cc:
Gary Dumas

APPROVED
3 FOR
1 AGAINST - FERRELL
11/13/2007
JRB

BID: 07-69
10/12/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-69, Recycle Truck

BIDDER		Manufacturer	Model	Total Bid Price
1	Diamond International Trucks, Inc.	International Kann	4400 Versa Haul	\$70,041.00 \$87,780.00 \$157,821.00
2	Downing Sales & Service, Inc.	Freightliner Kann	M2 (2007 model year) Versa Haul	\$75,321.00 \$87,780.00 \$163,101.00
3	Truck Centers of Arkansas	Freightliner Kann	M2 Versa Haul	\$69,561.00 \$87,780.00 \$157,341.00

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED: P. Vice
 P. VICE PURCH MGR
 WITNESS: [Signature]
 DATE: 10/15/07

City Of Fayetteville

(Not a Purchase Order)

Requisition No. _____ Date: **11/15/2007**
 P.O Number _____ Expected Delivery Date: _____

Vendor # **3842** Vendor Name: **DOWNING SALES AND SERVICE**

Address: _____ Fob Point: _____

City: _____ State: _____ Zip Code _____ Ship to code: _____

Requester **Barbara Olsen** Requester's Employee # **1940** Extension: **485**

Mail Yes: ☒ No: ☐
 Taxable Yes: ☒ No: ☐
 Division Head Approval **2/4/08** Quotes Attached Yes: ☐ No: ☐

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2007 FREIGHTLINER M2 WITH	1	EA	\$163,101.00	\$163,101.00	9700.1920.5802.00	.06015.1		
2	KANN VERSA HAUL RECYCLE BODY		EA		\$0.00				
3	BID 07-69. TO BE UNIT #494,		EA		\$0.00				
4	FIXED ASSET #700494		EA		\$0.00				
5			EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
	Shipping/Handling		Lot		\$0.00				
Special Instructions:									

Subtotal: **163,101.00**
 Tax: **EXEMPT**
 Total: **163,101.00**

Approvals:
 Mayor: _____ Department Director: _____ Purchasing Manager: _____
 Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____
 Dispatch Manager: _____ Utilities Manager: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

4-Dec-07
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution approving the purchase of seven Ford Police Interceptors from Landers Ford of Benton, AR at the State vehicle purchase contract price of \$151,429.60.

\$151,430.00 Cost of this request	\$ 474,231.00 Category/Project Budget	Fleet-Police/Passenger Vehicles Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 174,614.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02081.1 Project Number	\$ 299,617.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐


Department Director 11.16.07
Date

Previous Ordinance or Resolution # _____

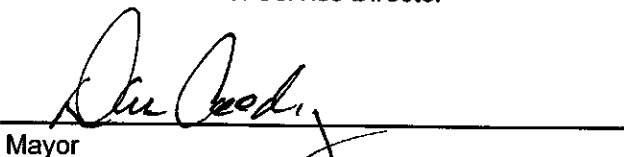
Original Contract Date: _____

Original Contract Number: _____


City Attorney 11/19/07
Date


Finance and Internal Service Director 11-19-07
Date

Received in City Clerk's Office
ENTERED 11/19/07


Mayor 11/19/07
Date

Received in Mayor's Office
ENTERED 11/19/07
PR

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425



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of Benton
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT *2013*

DATE: NOVEMBER 15, 2007

SUBJECT: Purchase of seven Police Interceptors

RECOMMENDATION: That City Council approve the purchase of seven replacement Police Patrol sedans in the amount of \$151,429.50 for use by the Police Department

BACKGROUND: Purchase of 7 replacement police patrol sedans was approved in the 2007 budget. Analysis of projected mileage data and wreck history confirms the need for 7 replacement units within the current 2008 model year.

Vehicles meeting City of Fayetteville specifications are available through the State vehicle purchase contract from Landers Ford of Benton, AR at a cost of \$21,632.80.

I recommend purchase of 7 Ford Police Interceptor sedans from Landers Ford in the amount of \$151,429.60.

Funds for this purchase are available in the 2007 CIP budget, Project 02081 – Police/Passenger Vehicles.

This purchase was approved by the Equipment Committee at the meeting of November 13, 2007.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF SEVEN (7) FORD CROWN VICTORIA POLICE INTERCEPTORS FROM LANDERS FORD OF BENTON THROUGH THE STATE VEHICLE PURCHASE CONTRACT IN THE AMOUNT OF \$151,430.60.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of seven (7) Ford Crown Victoria Police Interceptors from Landers Ford of Benton through the State Vehicle Purchase Contract in the amount of \$151,430.60.

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



FLEET OPERATIONS

1525 S. Happy Hollow Road

Fayetteville, AR 72701

A. 4
Landers Ford of Benton
Page 4 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: November 6, 2007

SUBJECT: Purchase of Ford Police Interceptors from State Contract

Purchase of 7 replacement police patrol sedans was approved in the 2007 budget. Analysis of projected mileage data and wreck history confirms the need for 7 replacement units within the current 2008 model year.

Vehicles meeting City of Fayetteville specifications are available through the State vehicle purchase contract from Landers Ford of Benton, AR at a cost of \$21,632.80.

I recommend purchase of 7 Ford Police Interceptor sedans from Landers Ford in the amount of \$151,429.60.

Funds for this purchase are available in the 2007 CIP budget, Project 02081 – Police/Passenger Vehicles.

Cc:
Gary Dumas

↑

APPROVED

11/13/2007

2RB

City Of Fayetteville

(Not a Purchase Order)

Vendor #

7582

Vendor Name:
LANDER'S FORD

Requisition No.

Date:

11/15/2007

P.O Number

Expected Delivery Date:

Address:

Fob Point:

Mail
Yes: XX No: XX

City:

State:

Zip Code

Ship to code:

Division Head Approval
Yes: XX No: XX

Quotes Attached
Yes: XX No: XX

Requester

Barbara Olsen

Requester's Employee #

1940

Extension:

485

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2008 FORD POLICE CROWN	7	EA	\$21,632.80	\$151,429.60	9700.1920.5802.00	02081.1		
2	INTERCEPTORS FROM STATE		EA		\$0.00				
3	VEHICLE CONTRACT, TO BE UNITS:		EA		\$0.00				
4	#1181, FIXED ASSET #701181		EA		\$0.00				
5	#1182, FIXED ASSET #701182		EA		\$0.00				
6	#1183, FIXED ASSET #701183		EA		\$0.00				
7	#1184, FIXED ASSET #701184		EA		\$0.00				
8	#1185, FIXED ASSET #701185		EA		\$0.00				
9	#1186, FIXED ASSET #701186		EA		\$0.00				
10	#1187, FIXED ASSET #701187		EA		\$0.00				
	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: 151,429.60

Tax: EXEMPT

Total: 151,429.60

Approvals:

Mayor: _____ Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

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

A. 5
McClelland Consulting Engineers, Inc.
Task Order #3
Page 1 of 10

12/4/2007

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Action Required: Approve Task Order #3 with McClelland Consulting Engineers, Inc. Contact: Wayne Jones, P.E., PO Box 1229, Fayetteville AR 72702-1229, 479-443-2377, Fax 479-443-9241, in the amount of \$183,700 for planning tasks associated with the Runway 16 Safety Area Improvements project. Approve a Budget Adjustment.

\$ 183,700.00

Cost of this request

\$ -

Budget

Correct RW16 RSA

Program Category / Project Name

5550.3960.5314.00

Account Number

\$ -

Funds Used to Date

Avi/ED Imp

Program / Project Category Name

New Project

Project Number

\$ -

Remaining Balance

Airport

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

[Signature]
Department Director

11/16/07
Date

Previous Ordinance or Resolution # 97-06, 100-07

Original Contract Date: 06/06/06

[Signature]
City Attorney

11/19/07
Date

Original Contract Number: 917

Paul A. Berlin
Finance and Internal Service Director

11-19-07
Date

Received in City Clerk's Office

ENTERED
11/16/07

[Signature]
Mayor

11/19/07
Date

Received in Mayor's Office

ENTERED
11/19/07

Comments: The project will be funded with DOT/FAA Airport Improvement Program and Arkansas Department of Aeronautics grant funding.

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: November 16, 2007

SUBJECT: Approval of Task Order #3, Runway 16 Safety Area Improvements, with McClelland Consulting Engineers for Preliminary/Final Design, preliminary cost estimates and bidding services, and coordination with Federal and State Agencies associated with the North End Runway Safety Area Improvement Project at Fayetteville Municipal Airport, Drake Field and Approval of application and receipt of FAA Airport Improvement Program Arkansas Department of Aeronautics Grants to fund the project.

RECOMMENDATION: Approve Task Order #3 in the amount of \$183,700.00 and application and receipt of FAA and State Grants to fund the North End Runway 16 Safety Area Improvement Project.

BACKGROUND: During the Airport Master Planning process, it was determined by the Airport Board that an additional 1000 feet of runway would be necessary in the next 5 to 10 years. During research it was determined that the FAA requires there to be no safety area deficiencies at the airport prior to any project to improve the landing area. Thus, the board directed staff and the Master Plan Consultant, Barnard Dunkelberg, to research the potential for bringing the North End Runway 16 Safety Area up to FAA standards. The project was then developed to realign Hwy 71 outside the Runway 16 Safety Area and grade the area to RSA standards. The improved RSA has additional benefit to allow lower minimum descent altitudes for the instrument approaches from the North and the potential for new instrument approached with vertical guidance.

DISCUSSION: This project will encompass three years of FAA funding and support. The first project was to perform an Obstruction Survey. This project was fully funded by the FAA from special project funds transferred to the State of Arkansas for Obstruction Surveys. This Task Order #3 will continue the project by initiating the planning and engineering work to determine alignment and elevation of the highway, property that must be acquired to complete the project and will initiate the Environmental investigation in preparation for an Environment Assessment and coordinate with State and Federal agencies to get the project approved.

BUDGET IMPACT: This Task Order #3 will be funded by the FAA Airport Improvement Program and the Arkansas Aeronautics State Airport Aid grant programs.

Attachments: Staff Review Form
Task Order #3 with MCE

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

RESOLUTION NO. _____

A RESOLUTION APPROVING TASK ORDER #3 WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$183,700.00 FOR PLANNING TASKS ASSOCIATED WITH THE RUNWAY 16 SAFETY AREA IMPROVEMENTS AT DRAKE FIELD; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$183,700.00.

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 Task Order #3 with McClelland Consulting Engineers, Inc. in the amount of \$183,700.00 for planning tasks associated with the Runway 16 Safety Area Improvements at Drake Field.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of \$183,700.00.

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

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

A. 5
McClelland Consulting Engineers, Inc.
Task Order #3
Page 4 of 10

Budget Year 2007	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 12/4/2007	Adjustment Number
--------------------------------	--	--	-------------------

Project or Item Added/Increased: \$183,700 in the Professional Services account	Project or Item Deleted/Reduced: Increase Use of Fund Balance revenue account \$183,700
--	--

Justification of this Increase: Will provide for survey, geotechnical investigation, planning, design, and bidding services for a project to correct the Runway 16 Safety Area deficiency.	Justification of this Decrease: Use of the airport's fund balance will be offset by future grant revenues from the DOT/FAA and Arkansas Department of Aeronautics. The project is 100% reimbursable under current grant programs.
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Professional services	5550 3960 5314 00	183,700	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Use of fund balance	5550 0955 4999 99	183,700	

Approval Signatures 11/16/07 Date 11/16/07 Date 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
--	---

**TASK ORDER NO. 3
RUNWAY 16 SAFETY AREA IMPROVEMENTS**

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Task Order is written pursuant to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, executed on June 6, 2006, as amended. The referenced basic agreement pertains to proposed improvements to Drake Field, Fayetteville's Municipal Airport. This Task Order entered into and executed on the date indicated below the signature block, by and between the City of Fayetteville and McClelland Consulting Engineers (MCE) sets forth the project description, project schedule, and engineering fees related to the Runway 16 Safety Area Improvements, Drake Field.

SECTION I - PROJECT DESCRIPTION

The project is to consist of the Runway 16 Safety Area Improvements, including relocation of US Hwy 71 from the safety area, relocation of the northern portion of Ernest Lancaster Drive from the safety area, the removal of the existing roadways and regrading of the Runway 16 Safety Area. The services to be performed include: Surveying; Preliminary Design; Preliminary Cost Estimates; Detailed Design; and review with State or Federal Agencies.

SECTION II - PROJECT SCHEDULE

From the time the City of Fayetteville issues the Notice To Proceed (NTP), McClelland Consulting Engineers, Inc. will endeavor to execute the project within the following time periods:

<u>Task</u>	<u>Completion After NTP</u>
A. Topographic Survey:	20 calendar days
B. Boundary Surveys (Property Acquisition)	90 calendar days
C. Alignment Study:	90 calendar days
D. Geotechnical Investigation:	120 calendar days
E. Preliminary Design & Cost Estimates:	160 calendar days
F. Final Design:	385 calendar days
G. Advertise for Bids:	420 calendar days

SECTION III - SCOPE OF SERVICES

McClelland Consulting Engineers, Inc. shall, generally, provide those services listed in the basic agreement which are applicable to this specific Task Order. Specifically, the project is likely to include:

- A. Topographic Surveying for the Runway 16 Safety Area Improvements
- B. Boundary Surveys for the 3 parcels to be acquired.
- C. Alignment Study for Hwy 71 and Lancaster Drive relocation.
- D. Geotechnical Investigation.
- E. Performing preliminary engineering design services for the Runway 16 Safety Area Improvements; formulating preliminary construction cost estimates, and meeting with the City to discuss the project.
- F. Performing the detailed design of the Runway 16 Safety Area Improvements.
- G. Assist the City of Fayetteville advertising for competitive bids and recommending the award of a construction contract.

SECTION IV - FEES AND PAYMENTS

The following fees are to be paid to McClelland Consulting Engineers, Inc. as compensation for his services:

A. Topographic Survey:	a lump sum of	\$ <u>8,850.</u>
B. Boundary Surveys:	a lump sum of	\$ <u>10,500.</u>
C. Alignment Study:	a lump sum of	\$ <u>25,000.</u>
D. Geotechnical Investigation:	a lump sum of	\$ <u>4,550.</u>
E. Preliminary Engineering Design & Cost Estimates:	a lump sum of	\$ <u>45,000.</u>
F. Detailed Plans & Specs:	a lump sum of	\$ <u>84,000.</u>
G. Bidding Service:	a lump sum of	\$ <u>5,800.</u>

Appendix A presents hourly rates for personnel anticipated to be assigned to this project by McClelland Consulting Engineers, Inc.

SECTION V - BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT FOR ENGINEERING SERVICES shall remain in full force as originally approved and executed.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be duly executed as of the date and year first herein written.

FOR THE CITY OF FAYETTEVILLE:

By: _____
Mayor

Attest: _____

Date: _____

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: John C. Quinn
President

Attest: R. W. Ayres, Jr.
Vice President

Date: 11-16-07

APPENDIX A

Hourly Rates for Personnel Drake Field, Fayetteville Municipal Airport

<u>CATEGORY</u>	<u>BILLABLE HOURLY RATE RANGE</u>
Principal Engineer	\$ 150.00
Sr. Project Manager	\$ 137.00
Project Manager	\$ 130.00
Project Engineer II	\$ 105.00
Project Engineer I Design Engineer	\$ 85.00
Landscape Architect	\$ 90.00
Engineering Technician III	\$ 80.00
Engineering Technician II	\$ 65.00
Engineering Technician I	\$ 50.00
Construction Observer III	\$ 84.00
Construction Observer II	\$ 65.00
Construction Observer I	\$ 47.00
Chief Draftsman	\$ 68.00
Draftsman II	\$ 55.00
Draftsman I	\$ 50.00
Computer Technician	\$ 75.00
Survey Technician	\$ 75.00
Registered Land Surveyor	\$ 94.00
2-Man or Robotic Survey	\$ 140.00
Party Chief	\$ 65.00
Soils Lab Supervisor	\$ 55.00
Soils Lab Technician II	\$ 42.00
Soils Lab Technician I	\$ 37.00
Clerk/Typist	\$ 48.00
Mileage	\$ 0.50

* Subject to Annual Adjustment Mid-Year.

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

12/4/2007
City Council Meeting Date

Ray M. Boudreaux
Submitted By

Aviation & Economic Development
Division

General Government
Department

Action Required:

Action Required: Approve Local Government Endorsement of Casestack, Incorporated, to participate in the State Tax Back incentive program.

\$ _____ Cost of this request	_____	_____
_____	\$ _____ Funds Used to Date	_____
_____	_____	_____
_____	\$ _____ Remaining Balance	_____
_____	_____	_____
_____	_____	_____

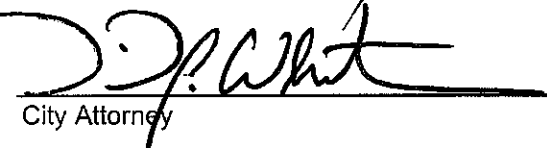
Budgeted Item ☐

Budget Adjustment Attached ☐

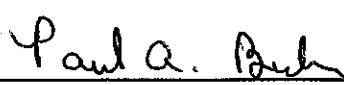

Department Director 11/16/07
Date

Previous Ordinance or Resolution # _____

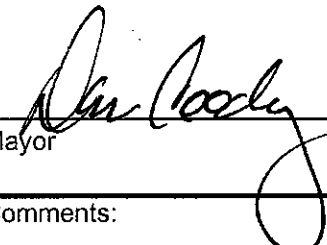
Original Contract Date: _____


City Attorney 11/19/07
Date

Original Contract Number: _____


Finance and Internal Service Director 11-19-07
Date

Received in City Clerk's Office



Mayor 4/19/07
Date

Received in Mayor's Office


Comments: _____

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: November 15, 2007

SUBJECT: Approval of Tax Back application from Casestack Incorporated for business startup in Fayetteville at 1165 E. Joyce Blvd. Signature of the Mayor and Clerk.

RECOMMENDATION: Approve resolution certifying Casestack, Incorporated to participate in the Tax Back Program. The Arkansas Tax Back program refunds sales and use taxes to the business for building materials and taxable equipment connected with the eligible project.

BACKGROUND: Casestack President and CEO, Dan Sanker recently relocated to Fayetteville with the prime purpose of opening a Casestack Regional Headquarters. They have leased office space at the Joyce Blvd location and plan on hiring 10 people to start.

DISCUSSION: Casestack, Incorporated is a logistics company handling goods from source to market all over the United States.

BUDGET IMPACT: None.

Attachments: Staff Review Form
Tax Back Resolution

RESOLUTION No. _____

**A RESOLUTION CERTIFYING LOCAL GOVERNMENT ENDORSEMENT
OF BUSINESS TO PARTICIPATE IN THE TAX BACK PROGRAM (THE
CONSOLIDATED INCENTIVE ACT OF 2003, SECTION 15-4-2706(D)).**

WHEREAS, the local government must endorse a business to participate in the Tax Back Program and benefit from the refunds/tax credits as provided in the Consolidated Incentive Act of 2003, Section 15-4-2706(d); and

WHEREAS, the local government must authorize the refund of local sales and use tax as provided in the Consolidated Incentive Act of 2003; and

WHEREAS, said endorsement must be made on specific form available from the Arkansas Department of Economic Development; and

WHEREAS, Casestack, Inc., located at 1165 E. Joyce Boulevard, Fayetteville, Arkansas has sought to participate in the program and more specifically has requested benefits accruing from startup of the 1165 E. Joyce Boulevard office complex; and

WHEREAS, Casestack, Inc. has agreed to furnish the local government all necessary information for compliance.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby endorses Casestack, Inc. for benefits from the refunds/tax credits as provided in the Consolidated Incentive Act of 2003, Section 15-4-2706(d).

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Department of Finance and Administration to refund local sales and use taxes to Casestack, Inc.

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

City Council Agenda Items
and
Contracts, Leases or Agreements

12/4/2007

City Council Meeting Date
Agenda Items Only

Sondra E. Smith

Submitted By

City Clerk

Division

City Clerk

Department

Action Required:

Change City Council Rules of Order and Procedure. City Council meetings that fall on a holiday according to the Rules of Order and Procedure shall be scheduled on a Wednesday. This change will allow for the meeting to be rescheduled to Thursday immediately following the holiday.

N/A

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

\$

Account Number

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Sondra E. Smith
Department Director

11/14/07
Date

Previous Ordinance or Resolution #

K. A. Smith
City Attorney

11/14/07
Date

Original Contract Date:

Original Contract Number:

Paul A. Beech
Finance and Internal Service Director

11-14-07
Date

Received in City
Clerk's Office

ENTERED

11/14/07

Dan Coody
Mayor

Date

Received in
Mayor's Office

ENTERED

11/14/07

Comments:



City Council Meeting Date: **December 4, 2007**

The City of Fayetteville, Arkansas

City Council Agenda Memo

To: **Mayor and Members of the City Council**

Thru: **Sondra Smith, City Clerk/Treasurer**

Date: **November 14, 2007**

Subject: **Rules of Order and Procedure**

Recommendation:

We are requesting that the City Council adopt a resolution changing the Rules of Order and Procedure of the Fayetteville Mayor/City Council. This resolution would allow for City Council meetings, that need to be rescheduled due to a holiday, be rescheduled to Thursday immediately following the holiday.

Background:

We normally reschedule City Council meetings to Thursday following a holiday. The current Rules of Order and Procedure state they shall be rescheduled to Wednesday.

Budget Impact:

None

RESOLUTION NO. _____

**A RESOLUTION TO AMEND THE RULES OF ORDER
AND PROCEDURE OF THE FAYETTEVILLE MAYOR/
CITY COUNCIL TO RESCHEDULE CITY COUNCIL
MEETINGS WHICH FALL ON A HOLIDAY**

WHEREAS, Paragraph A. **City Council Meetings**, section 1. **Regular Meetings** state:
"When a holiday occurs on any such Tuesday, the regular meeting shall be held on the following
Wednesday at the same hour unless otherwise provided by motion"; and

WHEREAS, only January 1st, July 4th and Christmas are holidays which could fall on a
regular Tuesday City Council meeting night; and

WHEREAS, it is preferable to reschedule a City Council meeting normally scheduled
for January 1st, July 4th and Christmas to Thursday as opposed to Wednesday.

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

Section 1: The City Council of the City of Fayetteville, Arkansas hereby amends the
Rules of Order and Procedure of the Fayetteville Mayor and City Council Rule A. 1. **Regular
Meetings** by replacing "Wednesday" in the second sentence with "Thursday".

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

RULES OF ORDER AND PROCEDURE FAYETTEVILLE MAYOR/CITY COUNCIL

Adopted March 4, 2003
Amended February 3, 2004

A. CITY COUNCIL MEETINGS

1. Regular Meetings

The City Council shall meet in regular session on the first and third Tuesday of each month at 6:00 P.M. When a holiday occurs on any such Tuesday, the regular meeting shall be held on the following Wednesday at the same hour unless otherwise provided for by motion. The regular meeting time may be rescheduled by the City Council in special circumstances, but when so done the change must be made far enough in advance to allow normal public notification.

2. Location

The place of City Council meetings shall be in the City Council Chambers in the City Administration Building unless another place has been previously set by the City Council.

3. Special Meetings

Special meetings may be called by three or more Aldermen or by the Mayor. Notification of a special meeting, including specific items to be considered, shall be at least two hours prior to the meeting. Such notification shall be by personal service to each member or by telephone, specifying time and place of meeting.

4. Executive Session

An executive session may be requested by any member of the City Council or the Mayor. A majority vote by the City Council is required to convene in executive session. Executive sessions will be permitted only for the purpose of considering the employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee.

5. Quorum

A majority of the City Council shall be necessary to constitute a quorum to do business. The concurring vote of a majority of those attending a meeting shall be sufficient to pass procedural motions except a Motion to Suspend the Rules which requires six affirmative votes. Ordinances and Resolutions require five affirmative votes to pass.

6. Public Notification and Participation

The City will, if necessary, go further than legally required in order to inform citizens of the items to be considered by the City Council. The means used will include advertisements in a local newspaper, special notice to citizens who have shown a direct

City of Fayetteville 2008 City Council Schedule

Request Deadline	Agenda Session	Council Tour	Council Meeting
December 14, 2007	December 27, 2007 *	December 31, 2007	January 3, 2008 *
December 28, 2007	January 8, 2008	January 14, 2008	January 15, 2008
January 18, 2008	January 29, 2008	February 4, 2008	February 5, 2008
February 1, 2008	February 12, 2008	Holiday	February 19, 2008
February 15, 2008	February 26, 2008	March 3, 2008	March 4, 2008
February 29, 2008	March 11, 2008	March 17, 2008	March 18, 2008
March 14, 2008	March 25, 2008	March 31, 2008	April 1, 2008
March 28, 2008	April 8, 2008	April 14, 2008	April 15, 2008
April 18, 2008	April 29, 2008	May 5, 2008	May 6, 2008
May 2, 2008	May 13, 2008	May 19, 2008	May 20, 2008
May 16, 2008	May 27, 2008	June 2, 2008	June 3, 2008
May 30, 2008	June 10, 2008	June 16, 2008	June 17, 2008
June 13, 2008	June 24, 2008	June 30, 2008	July 1, 2008
June 27, 2008	July 8, 2008	July 14, 2008	July 15, 2008
July 18, 2008	July 29, 2008	August 4, 2008	August 5, 2008
August 1, 2008	August 12, 2008	August 18, 2008	August 19, 2008
August 15, 2008	August 26, 2008	Holiday	September 2, 2008
August 29, 2008	September 9, 2008	September 15, 2008	September 16, 2008
September 19, 2008	September 30, 2008	October 6, 2008	October 7, 2008
October 3, 2008	October 14, 2008	October 20, 2008	October 21, 2008
October 17, 2008	October 28, 2008	November 3, 2008	November 4, 2008
October 31, 2008	November 13, 2008 *	November 17, 2008	November 18, 2008
November 14, 2008	November 25, 2008	December 1, 2008	December 2, 2008
November 26, 2008 *	December 9, 2008	December 15, 2008	December 16, 2008
December 19, 2008	December 30, 2008	January 5, 2009	January 6, 2009
City Clerk's Office	Room 326	Mayor's Office	Room 219
4:00 PM	4:30 PM	4:30 PM	6:00 PM
Staff	Public	Public	Public

* Meeting date rescheduled due to a Holiday

September 5, 2007

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

A. 8
Carter & Burgess, Inc.
Amendment No. 1
Page 1 of 16

12/4/2007

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

A resolution to approve Amendment No. 1 to the Engineering Contract with Carter & Burgess, Inc. in the amount of \$57,900 for additional engineering studies necessary for the Lake Wilson Spillway repair project and approval of a budget adjustment to recognize the reimbursement of funds.

\$ 57,900.00

Cost of this request

\$ 68,290.00

Category / Project Budget

Lake Wilson Spillway Repair

Program Category / Project Name

4270.9270.5314.00

Account Number

\$ 60,980.00

Funds Used to Date

Flood Damage Repair

Program / Project Category Name

04030

Project Number

\$ 7,310.00

Remaining Balance

Replacement

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒

[Signature]
Department Director

11.16.07
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

[Signature]
City Attorney

11/19/07
Date

Paul A. Bush
Finance and Internal Service Director

11-19-07
Date

Received in City Clerk's Office



[Signature]
Mayor

11/19/07
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RSP*

Date: November 16, 2007

Subject: A resolution approving Contract Amendment No. 1 with Carter & Burgess, Inc. in an amount not to exceed \$57,900 for engineering services associated with the rehabilitation of the Wilson Lake spillway.

RECOMMENDATION:

Staff recommends approval of Contract Amendment No. 1 to the contract with Carter & Burgess, Inc. for professional engineering services associated with the Wilson Lake spillway rehabilitation.

BACKGROUND:

In 2004, severe storms and flooding caused damage throughout the City. This resulted in the City hiring Terracon, Inc. to perform a preliminary analysis for Lake Fayetteville, Lake Sequoyah, and Lake Wilson and other areas within the City to determine the extent of this damage. The findings in this report state that only superficial damages were observed for both Lake Fayetteville and Lake Sequoyah. However, the partial collapse of a portion of the Lake Wilson spillway was identified which would require correction to prevent future damage.

The City applied for and received disaster relief funds from FEMA in order to "bring the dam structure back to its original structural integrity and comply with the historical preservation requirements and to bring it back to its original aesthetic appearance." In order to proceed with this project, the City hired Carter & Burgess in 2005 to perform the preliminary engineering for the project which consisted of providing preliminary plans and cost estimates to perform the repair.

DISCUSSION:

During the preliminary engineering stage of the project, Carter & Burgess informed the City that the work to be performed on the spillway will be required to be permitted through the Arkansas Natural Resources Commission (formerly Arkansas Soil & Water) and that the work should conform to the "Rules Governing Design and Operation of Dams" as administered by the ANRC.

These rules specify certain design criteria that is based on the size of the lake, height of the dam, and the hazard classification of the facility. There are three hazard

classifications: low, significant, and high. The classification is determined by the potential loss of human life and the potential economic loss in case of a dam failure. Depending on these factors, a requirement of the spillway size is given in the regulations that range from 0.25 to 0.75 of the Probable Maximum Flood (PMF) which equates to approximately a 500 year flood event.

At this time, Lake Wilson is currently not permitted by the ANRC and this classification is unknown. If the spillway is required to be built at even a 0.25 PMF, the existing structure could not be replaced in the original configuration as required by FEMA. However, there is an allowance that states: *The minimum hydrologic criteria may be reduced if properly prepared dam breach analyses show that dam failure during the SDF (spillway dam failure) would cause an increase in flood level of one foot or less at, and downstream of, the first habitable structure or financially significant development.*

Therefore, at this time we are requesting an Amendment to the Carter & Burgess contract to perform this classification and dam breach analysis in order to determine if this criteria can be met and if the spillway can be rebuilt in the original configuration.

The contract amount will not exceed \$57,900. Payment will be made to Carter & Burgess based on their hourly rates for the hours spent on the project.

BUDGET IMPACT:

According to the July 3, 2007 letter from the Arkansas Department of Emergency Management, the Dam Breach Analysis is an eligible expense for reimbursement.

RESOLUTION NO. _____

A RESOLUTION APPROVING CONTRACT AMENDMENT NO. 1 TO THE ENGINEERING CONTRACT WITH CARTER & BURGESS, INC. IN THE AMOUNT OF \$57,900.00 FOR ADDITIONAL ENGINEERING STUDIES FOR THE LAKE WILSON SPILLWAY REPAIR PROJECT; AND APPROVING A BUDGET ADJUSTMENT TO RECOGNIZE THE REIMBURSEMENT FROM FEMA.

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 Amendment No. 1 to the Engineering Contract with Carter & Burgess Inc. in the amount of \$57,900.00 for additional engineering studies for the Lake Wilson Spillway Repair Project. A copy of Amendment No. 1, 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 to recognize the reimbursement from FEMA.

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

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

A. 8
Carter & Burgess, Inc.
Amendment No. 1
Page 5 of 16

Budget Year 2007	Department: Replacement Fund Expense Division: Program:	Date Requested 11/16/2007	Adjustment Number
-------------------------	---	----------------------------------	-------------------

Project or Item Added/Increased: \$57,900 recognized in the project to be reimbursed by FEMA in the future.	Project or Item Deleted/Reduced: None. To recognize \$57,900 in cost reimbursement revenue from FEMA.
--	--

Justification of this Increase: Additional Engineering necessary to meet State regulations regarding dam safety.	Justification of this Decrease:
---	---------------------------------

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	4270	9270	5314	00	57,900	04030	1

Decrease Expense Budget (Increase Revenue Budget)

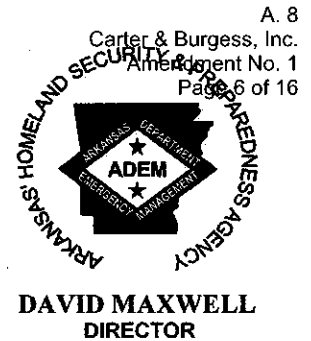
Account Name	Account Number				Amount	Project Number	
Federal grants-Capital	4270	0927	4309	00	57,900	04030	1

Approval Signatures		Budget Office Use Only	
 Requested By	11/16/07 Date	Type:	A B C <u>D</u> E
 Budget Manager	11-19-07 Date	Posted to General Ledger	Initial Date
Department Director	Date	Posted to Project Accounting	Initial Date
Finance & Internal Services Director	Date	Entered in Category Log	Initial Date
Mayor	Date		



MIKE BEEBE
GOVERNOR

**STATE OF ARKANSAS
DEPARTMENT OF EMERGENCY MANAGEMENT**



July 3, 2007

RECEIVED
JUL 06 2007
ENGINEERING DIV.

Mr. Ronald Petrie, P.E.
City Engineer
113 W. Mountain Street
Fayetteville, AR 72701

**RE: Project Worksheet (PW) 388
FEMA 1516-DR-AR
PA ID # 143-23290-00**

Dear Mr. Petrie:

This letter is in response to your request for an extension of time to complete the Lake Wilson Dam Repairs. As the grantee, the Arkansas Department of Emergency Management can approve an extension to a maximum of 30 months beyond the initial (18 months) time allowed. Your request for an extension has been approved through May 7, 2008. Any additional extension request beyond this date would need to be approved by this office and FEMA.

The Dam Breach Analysis is an eligible expense if required to rebuild the dam to its pre-disaster condition. If for any reason, changes to the original scope of work or additional funding (Cost Overrun) are discovered, you must notify this office in writing and gain approval prior to any work being started. All cost overruns must be associated with an approved scope of work.

We encourage you to complete this project as soon as possible. Please continue with the submittal of quarterly progress reports and send copies of all engineering studies and contracts. If you have any questions or need further assistance please contact the Scott Bass by emailing Scott.Bass@adem.state.ar.us or by calling 501-683-6700.

Sincerely,

Richard G. Griffin
State Coordinating Officer

RGG:sb

**AMENDMENT TO AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES
CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS**

CONTRACT AMENDMENT NO. 1

Wilson Lake Spillway Bridge Project

This Contract Amendment No. 1, dated _____, 2007 shall amend the original contract between the CITY OF FAYETTEVILLE, ARKANSAS and CARTER & BURGESS, INC. (C&B) dated November 15, 2005 for professional engineering services in connection with the Wilson Lake Spillway Bridge Project (the "Project").

Previously authorized work revealed that completion of the original Scope of Services will not adequately address City responsibilities and conformance to published standards. By adoption of this amendment by the City, work described in Paragraph 2.2.1 of the original Contract will be considered to be complete. Because of the noted inadequacy of the original scope of services, Carter & Burgess has been directed by the City of Fayetteville, Arkansas to assess the City's responsibilities as a dam owner and perform a Dam Breach Analysis of Wilson Lake Dam. The purpose of this analysis is generally defined as follows:

1. Determine the dam hazard classification;
2. Determine the extent and limits of flooding caused by a failure of the dam;
3. Determine if a reduced spillway design flood is allowable.

This Contract Amendment No. 1 thereby adds professional engineering and surveying services to continue the assessment of the City's responsibilities as the Owner-of Wilson Lake Dam and a perform a Dam Breach Analysis of Wilson Lake Dam, as described herein.

Except as described herein, the terms of the original Contract shall remain in full force and effect. The contract is hereby modified as follows:

SECTION 2 -BASIC SERVICES OF CARTER & BURGESS, INC

The following Sections shall be inserted into the original contract.

2.1 General

2.1.1.1-B The Scope of Services to be furnished by C&B during the Assessment of the City's Responsibilities and Performance of Dam Breach Analysis Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.2 Conceptual Layout and Report Phase

2.2.1-B The Assessment of the City's Responsibilities and Performance of Dam Breach Analysis Phase will consist of data acquisition and assessment, hydrologic modeling and analysis of results, and preparation of a summary report. A more detailed description is included in Appendix A.

SECTION 5 – PERIOD OF SERVICE

5.3 Schedule of Services - The Engineer will begin work within 10 working days of receiving the Notice to Proceed from the City. Except for delays beyond the control of the Engineer, such as delays in receipt of requested information or delays in reviews, the final report will be submitted to the City within 120 calendar days of beginning the work.

SECTION 6 - PAYMENTS TO CARTER & BURGESS, INC.

6.1 Compensation

6.1.1-B Assessment of the City's Responsibilities and Performance of Dam Breach Analysis Phase

For the Assessment of the City's Responsibilities and Performance of Dam Breach Analysis Phase described herein, CITY OF FAYETTEVILLE shall pay C&B for the time spent on the

project at the rates shown in Appendix B for each classification of C&B's personnel. In addition, reimbursable expenses, including but not limited to printing, courier service, reproduction, and travel will be billed. The total amount paid to C&B under this agreement for this phase is estimated to be \$57,900.00. The original Contract amount was \$19,995.00 of which \$13,156.83 has been billed. Utilizing unbilled portions of the original Contract this amendment increases the total Contract amount to \$71,056.83. For informational purposes, a breakdown of C&B's estimated costs is included in Appendix C. The rates as shown in Attachment B will be increased annually with the first increase effective on or about January 1, 2009.

SECTION 7 –GENERAL CONSIDERATIONS

7.14 Notices

The address for Carter & Burgess, Inc. will be changed as follows:

Carter & Burgess' address:

Carter & Burgess, Inc.
3729 N. Crossover Road, Suite 111
Fayetteville, AR 72703

INTESTIMONY OF WHICH, this instrument has been executed on behalf of CARTER & BURGESS, INC. and has been executed on behalf of the CITY OF FAYETTEVILLE, in three (3) counterparts, each of equal force, on the day and year first above written.

CITY OF FAYETTEVILLE

CARTER & BURGESS, INC.

By: _____

By: _____

James Arbuckle

Title: _____

Title: _____

Vice President

ATTEST: _____

ATTEST: _____

**APPENDIX A
SCOPE OF SERVICES
Amendment No. 1**

Assessment of the City's Responsibilities and Performance of Dam Breach Analysis Phase

2.2 Conceptual Layout and Report Phase

2.2.2 Assessment of the City's Responsibilities and the Dam Breach Analysis Phase

Scope of Services

The Basic Services are defined as follows:

1. Data Acquisition and Initial Project Correspondence

- Attend startup meeting with City;
- Acquire the Effective Hydraulic Model from the City (HEC-2) for the West Fork of the White River and Tributaries;
- Acquire FEMA hydrologic model (HEC-HMS) from City;
- Convert the Effective HEC-2 hydraulic model to HEC-RAS to produce a Duplicate Effective hydraulic model;
- Coordinate with Arkansas Natural Resource Commission to determine ultimate submittal requirements.

2. Assessment of City of Fayetteville's Dam Maintenance Performance

- Assess City's responsibilities in relation to requirements of the State of Arkansas Regulations, Title VII - Rules Governing Design and Operation of Dams (Restated October, 1993)

3. Hydrologic Modeling

- Update and revise previously developed HEC-HMS hydrologic model;
- Perform QA/QC of updated and revised hydrologic model.

4. Preliminary Analysis

- Perform a preliminary Dam Breach Analysis, based on City-provided topographic data and Duplicate Effective Hydraulic Model (HEC-RAS), to determine the anticipated Breach Inundation Limits;
- Perform QA/QC of preliminary Dam Breach Analysis;

- Using City-provided aerial photos, identify all habitable structures downstream of the Wilson Lake Dam and on the West Fork of the White River that are within or adjacent to the preliminary Breach Inundation Limits.

5. Final Analysis

- Perform topographic survey of downstream side of dam embankment, channel downstream of the emergency spillway to tie-in to the existing natural channel, and related areas;
- Perform Final Dam Breach Analyses to determine the dam hazard classification, required spillway profile and width, and incremental damage assessments to study the viability of reducing the spillway design flood (SDF). Multiple storm durations will be modeled to determine the critical duration;
- Perform QA/QC of Final Dam Breach Analysis;
- Using City-provided topographic maps determine state plane coordinates of all habitable structures within the Final Breach Inundation Limits;
- Survey finished floor elevations and roadway elevations to determine which habitable structures and roadways within final Breach Inundation Limits are flooded by a Dam Breach (up to 10 structures).

6. Report

Produce a Report which summarizes the findings including:

- An assessment of the City's conformance to the State of Arkansas Dam Regulations;
- General guidance on City implementation of state-mandated maintenance requirements and procedures;
- Suggested schedule for and recommendations for a regular inspection program;
- Detailed report of Hydrologic and Hydraulic modeling results;
- Map showing the existing FEMA 100-year Floodplain and Final Breach Inundation Limits;
- Discussion of the data, calculation methods, and results of evaluations;
- Summary of the Incremental Damage Assessments;
- Summary of the Dam Hazard Classification;
- Recommendations concerning how to proceed with project.

Meet with the City to submit and discuss the Summary Report.

CORRESPONDENCE

- The City of Fayetteville's representative shall be Ron Petrie, PE, unless written notice is provided to C&B designating a new representative.
- The Carter and Burgess representative shall be Jerry Morrow, PE, unless written notice is provided to the City of Fayetteville designating a new representative.

DESIGN CRITERIA

- All vertical and horizontal data will correspond to that included in City-provided topographic mapping;
- Hydrologic conditions upstream of the dam will determine the spillway design flood, as defined by the State of Arkansas Regulations, Title VII - Rules Governing Design and Operation of Dams (Restated October, 1993);
- The rainfall depths for the probable maximum flood will be taken from Hydrometeorological Report No. 51 for a 10 mi² drainage basin. Aerial reductions will not be applied, as the Wilson Lake drainage basin is less than 10 mi² (actual basin area is approximately 2.5 mi²);
- All channels downstream of the dam will be considered to be experiencing a 100-year event during the dam breach modeling, this should provide conservative flooding limits;
- Flows and water surface elevations at the West Fork of the White River will be taken from the current Flood Insurance Study produced by FEMA;
- The downstream extent of the Breach Inundation Limit will extend from the Wilson Lake Dam to where the high water surface resulting from the dam breach is within 2-feet of the 100-year FEMA water surface elevation.

INFORMATION TO BE PROVIDED BY THE CITY OF FAYETTEVILLE

The City shall provide all known data regarding the project to the Engineer. This shall include but not be limited to:

- Any available record drawings for existing utilities located within the limits of the project, including, but not limited to electrical, water, sanitary sewer, telephone, cable, and storm drainage facilities;

- Effective FEMA Hydraulic Model for the West Fork of the White River;
- FEMA, or City-provided, hydrologic model for the West Fork of the White River;
- Aerial topography at 2-foot contour intervals;
- Listing of datum utilized in the aerial topography;
- Aerial photos suitable for identifying structures;
- Other relevant information requested by the Engineer necessary for the performance of the agreed-upon services.

ADDITIONAL SERVICES

Additional services, in addition to those listed in the original Contract, shall consist of, but not be limited to, the following items:

- Additional hydrologic or hydraulic modeling after completion of previously defined tasks;
- Revisions to reports after submittal to the City;
- Certification of finished floor elevations.

The City of Fayetteville shall approve all changes to the contract and authorize all additional services.

EXCLUDED SERVICES

The following services, in addition to those listed in the original Contract, are specifically excluded from this proposal, but may be added at the City's request as Additional Services:

- Development of anticipated construction costs;
- Design and development of construction plans and specifications;
- Study or design of elements outside of the project scope;
- Development of, submission of, or correspondence relating to a CLOMR/LOMR with FEMA;
- Subsurface Geotechnical Investigations (soil borings and/or formal report);
- Comprehensive scour analysis.

SUBMITTALS

- One paper copy of the Summary Report;
- One set of electronic copies of hydrological and hydraulic models.

APPENDIX B
RATE SCHEDULE
Amendment No. 1

Assessment of the City's Responsibilities and Performance of Dam Breach Analysis Phase

Description	PCL	Rate
ASSOCIATE PRINCIPAL	A360	\$175.00
UNIT MANAGER	U110	\$155.00
SR. PROJECT MANAGER	S560	\$142.00
SR. TRAFFIC ENGINEER	S635	\$135.00
SR. STRUCTURAL ENGINEER	S600	\$135.00
SR. PROJECT ENGINEER	S555	\$130.00
SR. ROADWAY ENGINEER	S585	\$130.00
PROJECT ENGINEER	P450	\$120.00
SENIOR CIVIL ENGINEER	S250	\$110.00
SR. PROJECT COORDINATOR	S552	\$100.00
CIVIL ENGINEER	C310	\$90.00
CIVIL - EI	C322	\$85.00
CIVIL DRAFTER	C275	\$75.00
SR. CADD/DESIGNER	S638	\$75.00
PROJECT COORDINATOR	P400	\$95.00
SENIOR TECHNICIAN	S630	\$90.00
TECHNICIAN I	T160	\$69.00
TECHNICIAN II	T170	\$43.00
ADMINISTRATIVE ASSISTANT	A140	\$50.00
ADMINISTRATIVE SUPPORT	A170	\$42.00
2 MAN SURVEY CREW	S790	\$116.00
SURVEY CREW 1 MAN GPS MAN	S795	\$105.00
SURVEY DRAFTER	S820	\$45.00
SENIOR SURVEYOR	S384	\$125.00
SURVEYOR	S852	\$79.00
SENIOR CONSTR ENGINEER	S290	\$80.00
CONSTRUCTION INSPECTOR	C510	\$70.00
CONSTRUCTION OBSERVER	C540	\$60.00
ENV. MANAGER	E425	\$105.00
ENV. SPECIALIST	E410	\$100.00
ENV. SCIENTIST	E390	\$95.00
BIOLOGIST	B120	\$90.00
ENV. INSPECTOR	E380	\$85.00
STRUCTURAL ENGINEER I	S681	\$97.50
STRUCTURAL ENGINEER II	S682	\$87.50

APPENDIX C
ESTIMATE OF COST PER TASK
Amendment No. 1

Assessment of the City's Responsibilities and Performance of Dam Breach Analysis Phase

Task 1 - Data Acquisition and Initial Project Correspondence -	\$7,838
Task 2 - Assessment of City of Fayetteville's Dam Maintenance Performance -	\$6,320
Task 3 - Hydrologic Modeling -	\$4,368
Task 4 - Preliminary Analysis -	\$7,072
Task 5 - Final Analysis -	\$19,276
Task 6 - Summary Report -	\$12,380
<u>Direct Cost -</u>	<u>\$646</u>
TOTAL - AMENDMENT NO. 1	\$57,900

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

A. 9
Operations Management International, Inc
Amendment No. 15
Page 1 of 18

4-Dec-07

City Council Meeting Date

David Jurgens

Submitted By

Wastewater Treatment

Division

Water/Wastewater

Department

Action Required:

Approval of Amendment Number 15 with Operations Management International, Inc. for operation, maintenance and management of wastewater treatment facilities and activities for 2008, in the amount of \$6,797,685.28, approval a 5% contingency of \$340,000, and approval of a one year extension of the contract to 2009.

\$7,137,685.28

Cost of this request

5400.5100.5328.00

Account Number

Project Number

\$ 7,137,685.28

Category/Project Budget

\$ -

Funds Used to Date

\$ 7,137,685.28

Remaining Balance

Water/Wastewater

Program Category / Project Name

Wastewater Treatment

Program / Project Category Name

Water and Sewer

Fund Name

Budgeted Item

☒ XX

Budget Adjustment Attached

Previous Ordinance or Resolution # 94-94

Original Contract Date: August, 1994

Original Contract Number: 412

Department Director

Date

City Attorney

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

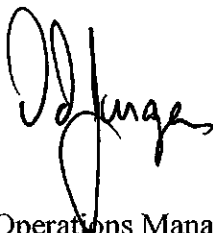
Received in Mayor's Office

Comments:

City Council Meeting of December 4, 2007

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: David Jurgens, Water/Wastewater Director 

Date: November 6, 2007

Subject: Approval of Amendment Number 15 with Operations Management International, Inc. for operation, maintenance and management of wastewater treatment facilities for 2008

RECOMMENDATION

Fayetteville City Administration recommends approval of Amendment Number 15 with Operations Management International, Inc. (OMI) for operation, maintenance and management of wastewater treatment facilities for 2008, in the amount of \$6,797,685.28, approval of a 5% contingency of \$340,000 and approval of a one year extension of the contract to 2009.

BACKGROUND

The City of Fayetteville's first private operating contract commenced in 1987 with this year marking 21 years of services from OMI. In May 2003, Fayetteville City Council approved Amendment No. 9 extending this agreement through December 31, 2008.

The scope of services provided by OMI include: (1) operate and maintain the Noland Wastewater Treatment Plant (WWTP); (2) operate and maintain the West Side WWTP; (3) operate and maintain 45 wastewater pump stations; (4) administer the City's NPDES discharge permits; (5) manage the City's sludge disposal program; (6) manage the City's industrial pretreatment program; (7) support the SCADA (supervisory control and data acquisition system) network that monitors water and wastewater facilities; (8) pursue operation economies, efficiencies, and permit compliance; and (8) participate in the construction of the Wastewater System Improvement Project (WSIP).

To encourage cost saving operations, the contract contains an incentive provision whereby budget underruns are distributed 87.5% to the City and 12.5% to OMI.

DISCUSSION

Operating expenses for 2008 contain a \$693,237 increase from 2007 due primarily to the operation of the West Side WWTP, scheduled to begin receiving wastewater flow in May, 2008. This increase is lower than anticipated due to the detailed analysis of expected treatment costs, and OMI's completion of several capital projects in 2007. A detailed breakdown of cost, with comparisons to 2007, is in Appendix J of the amendment.

The West Side WWTP construction and system-wide tie-over operations will not be completed until mid-2009. Staff thus recommends the OMI contract be extended for one year, to December 31, 2009. Given the complexities of this transition and startup, it will not be in the City's best interests to be completing construction, starting operations, tying over the collection system, and simultaneously soliciting proposals for a new operating firm. Additionally, the scope of work for wastewater operations at both WWTPs can be much better defined after a full year's operation is completed under the new configuration. This is the final extension allowed by the original agreement; new proposals **must** be solicited in 2009 for operations in 2010.

With the uncertainties associated with startup of the West Side WWTP, staff recommends a 5% contingency to cover unanticipated operations and maintenance items that may arise.

Tie-over activities, which includes work at over 12 lift stations, is expected to be executed by OMI under a separate letter agreement in early 2009 when the scope of work can be fully defined.

BUDGET IMPACT

The 2008 cost of \$6,797,685.28 and \$340,000 contingency are included in the proposed 2008 Budget; authorization of Amendment No. 15 will be contingent upon the budget approval.

RESOLUTION NO. _____

A RESOLUTION APPROVING CONTRACT AMENDMENT NO. 15, WHICH EXTENDS FOR ONE YEAR THE CONTRACT WITH OPERATIONS MANAGEMENT INTERNATIONAL (OMI) IN THE AMOUNT OF \$6,797,685.28 FOR THE OPERATION, MAINTENANCE AND MANAGEMENT OF FAYETTEVILLE WASTEWATER TREATMENT FACILITIES FOR 2008; AND APPROVING A 5% CONTINGENCY IN THE AMOUNT OF \$340,000.00.

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 Contract Amendment No. 15, which extends for one year the contract with Operations Management International (OMI) in the amount of \$6,797,685.28 for the operation, maintenance and management of Fayetteville Wastewater Treatment facilities for 2008. A copy of Amendment No. 15, 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 5% contingency in the amount of \$340,000.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to sign Amendment No. 15 to the contract with OMI, contingent upon final approval of the FY2008 Budget.

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

AMENDMENT NO. 15
TO
AGREEMENT FOR OPERATIONS, MAINTENANCE AND MANAGEMENT SERVICES
FOR THE CITY OF FAYETTEVILLE, ARKANSAS WASTEWATER TREATMENT PLANTS

THIS AMENDMENT NO. 15 to the Agreement for Operations, Maintenance and Management Services for the City of Fayetteville, Arkansas Wastewater Treatment Plant dated September 1, 1994 (the "Agreement"), made effective on the 1st day of January, 2008, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 (hereinafter the "City") and Operations Management International, Inc., with offices at 9193 S. Jamaica Street, Suite 400, Englewood, Colorado 80112 (hereinafter "OMI") is made and entered into for purposes of amending certain provisions of the Agreement, to prevent the facilities covered by the Agreement from being deemed to be used in the trade or business of OMI pursuant to Section 141 (b) of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, the City and OMI agree to amend the Agreement as follows:

1. Article 4.1 is hereby deleted in its entirety and replaced with the following Article 4.1:
 - 4.1 For services rendered during calendar year 2008 the City of Fayetteville shall pay to OMI the actual cost of services performed plus an annualized management fee of One Hundred Eighteen Thousand Seven Hundred Fifty Dollars and Fifty Three Cents (\$118,750.53). Said fee and estimated cost (base fee) shall be paid in twelve (12) equal monthly installments. The management fee for subsequent years will be determined proportional to the increase in estimated cost.
2. Article 4.3 is hereby deleted in its entirety and replaced with the following Article 4.3:
 - 4.3 OMI estimates the cost for services for calendar year 2008 shall be Six Million Seven Hundred Ninety Seven Thousand Six Hundred Eighty Five Dollars and Twenty Eight Cents (\$6,797,685.28). Details of said cost are shown in Appendix J. The base fee shall be negotiated each year in September for the upcoming calendar year. Should the City and OMI fail to agree, the base fee will be determined by the application of the base fee adjustment formula shown in Appendix F. Upon each contract year renegotiation, OMI shall continue to invoice City of Fayetteville at the previous amount until the new contract year price is agreed upon. Upon written notice agreement between the parties as to the new contract year base fee, OMI shall issue an invoice retroactively adjusting the previous base fee amount. Should the actual expenditures exceed estimated expenditures by more than Twenty Thousand Dollars (\$20,000), in any year of this Agreement, specific approval will be obtained from the City prior to OMI incurring additional costs.
3. Article 4.8 is hereby deleted in its entirety and replaced with the following Article 4.8:
 - 4.8 OMI agrees to incur up to One Hundred Nine Thousand Five Hundred Forty Two Dollars and Ninety Cents (\$109,542.90) per year in lift station odor control direct expenses, including costs for necessary chemicals, pumps, tanks, related equipment and such outside services as needed. These expenses will not include labor and benefits for OMI personnel. OMI will rebate to the City of Fayetteville the entire amount that actual lift station odor control expenses are less than One Hundred Nine Thousand Five Hundred Forty Two

Dollars and Ninety Cents (\$109,542.90) in any year of this Agreement.

4. Article 7.1 is hereby deleted in its entirety and replaced with the following Article 7.1:

7.1 This initial term of this Agreement shall be five (5) years and four (4) months commencing on September 1, 1994 and ending on December 31, 1999, followed by two (2) successive five (5) year options, each renewable at the sole discretion of the Owner. This initial term provided for fifteen (15) years of contract service, of which the City has opted to use fourteen (14), with the current agreement set to expire at the end of the calendar year 2008. The City of Fayetteville is amending its second extension option for a period of one additional year with the new ending date for the contract period to be December 31, 2009. All contract periods and renewals are subject to and contingent upon yearly budget approval by the Owner.

5. Appendices B, C, D, E, J, and K are hereby deleted in their entirety and replaced with the attached Appendices B, C, D, E, J, and K.

This Amendment No. 15, together with the Agreement, constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated all other terms and conditions of the Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

The Parties, intending to be legally bound, indicate their approval of the Amendment by their signatures below.

**OPERATIONS MANAGEMENT
INTERNATIONAL, INC.**

CITY OF FAYETTEVILLE

Roger B. Quayle
Senior Vice President
Date: _____

Dan Coody
Mayor
Date: _____

ATTEST:

Sondra Smith
City Clerk
Date: _____

Appendix B

LOCATION OF PROJECT

B.1 OMI agrees to provide the services necessary for the management, operation and maintenance of the following:

- a) All equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Noland Wastewater Treatment Plant located at:

1400 North Fox Hunter Road
Fayetteville, Arkansas

- b) Upon the beginning of operations, all equipment, vehicles, grounds and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's West Side Wastewater Treatment Plant located at:

5 N. North Broyles Road
Fayetteville, Arkansas

- c) All equipment, grounds, and facilities now existing within the present property boundaries of pump stations described as follows:

WW1	978 E. Zion Rd (Zion)
WW2	4938 Mission Blvd (Timbercrest)
WW3	2805 N. Salem Rd (Crystal Springs)
WW4	691 W. Poplar (Poplar)
WW5	3896 N. Gregg Ave (Gregg)
WW6	3021 N. Old Wire Rd (Old Wire)
WW7	2034 N. County Road 877 (Hamestring) Relocating to 2065 N. Sunshine Rd
WW8	729 W. North St (North St.)
WW9	1336 N. Porter Rd (Porter Rd)
WW10	716 Futrall Dr (Futrall)
WW11	4412 W. 6 th St (Farmington East)
WW12	398 N. Double Springs Rd (Farmington) Relocating to 571 N. Double Springs Rd
WW13	878 S. Stonebridge Rd (Stonebridge)
WW14	1820 S. Armstrong (Industrial Park)
WW15	203 E. 29 th Circle (Country Club)
WW16	3917 S. McCollum Rd (Airport North)
WW18	202 N. Sandy (Greenland)
WW19	988 S. Mally Wagnon Rd (Mally Wagnon) Relocating to 930 S. Mally Wagnon Rd
WW20	3212 N. Highway 112 (Trucker's Dive)
WW21	1720 S. Armstrong (Happy Hollow)
WW22	630 N. Double Springs Rd (Owl Creek)
WW23	440 E. Fairway Ln (Masters Addition - Country Club 2)
WW24	4071 S. McCollum Rd (Airport East)
WW25	551 W. Aster Ave (Willow West - Farmington)
WW26	74 S. Kestrel (Sequoyah Preserve)
WW27	1031 River Meadows Dr (Stonebridge Meadow)

WW28	1603 Plantation Avenue (Heritage Village)
WW29	390 N. Cato Springs (Bohannon - Greenland)
WW30	2324 Ruppel Rd (Holt Middle School)
WW32	478 N. Durango Place (Silverthorne)
WW33	4644 N. Crossover Rd (Stonewood - Copper Creek)
WW34	4572 S. School (Airport South)
WW35	3083 W. 6 th Street (Lowe's)
WW36	1642 N. Willowbrook Dr (Skyler Place)
WW37	3848 W. Edgewater Dr (Clabber Creek)
WW38	3710 E. Zion Rd (Copper Creek II)
WW39	2392 N. Kenswick Avenue (Crofton Manner)
WW40	1811 S. Cherry Hills Dr (Stone Bridge Meadow II)
WW41	1608 S. Springlake Dr (Crescent Lake)
WW42	2588 N. Firefly Catch Dr (Clabber Creek III)
WW43	308 S. Ray Ave (Timber Trails)
WW44	(Legacy Pointe Phase 4)
WW45	(Timberlake Office Park)
WW46	(Stonebridge Meadows Phase V)
WW47	(Embry Acres)

- d) All equipment, grounds, and facilities now existing within the present property boundaries of or being used to operate the City of Fayetteville's Land Application Site located east of the Noland wastewater treatment facility across the White River.
- e) All equipment, grounds, and facilities associated with or being used to complete routine O&M activities for the City of Fayetteville's Mitigated Wetlands Site now existing within the present property boundaries located north of the West Side Wastewater Treatment Plant. This excludes specialized contract maintenance activities such as compliance monitoring, burning, herbicide application, etc.
- f) The potable water SCADA system at the following locations:

W1	215 W. 24 th Street (Country Club)	Pump Station
W2	844 N. Crossover Road (Hyland Park)	Pump Station
W4	1016 E. Ash Street (Ash)	Pump Station
W5	707 E. Rodgers Drive (Rodgers)	Pump Station
W6	456 E. Baxter Lane (Baxter)	Ground Storage Tanks (2)
W7	707 E. Rodgers Drive (Rodgers)	Ground Storage Tanks (2)
W8	113 N. Sang (Markham)	Elevated Storage Tank
W9	1170 E. South Skyline (Mt. Sequoyah)	Elevated Storage Tank
W10	1044 E. Township Road (Township)	Elevated Storage Tank
W11	3280 W. Judge Cummins Rd (Kessler)	Elevated Storage Tanks (2)
W12	7001 E. Mission Highway 45	Pressure-Reducing Valve
W13	1589 Fire Tower Road (Goshen)	Ground Storage Tank
		Pump Station
W14	17301 Lake Sequoyah Road (Round Mtn)	Pump Station
W15	14360 Round Mtn Community Church Road # 55 (Round Mtn)	Stand Pipe
W16	22032 Tower Road County Rd # 4343 (Benson Mtn)	Stand Pipe
W17	3265 N. Gulley Road	Elevated Storage Tank
W18	3788 N. Gulley Road	Pump Station

W19	2099 Woodcliff Rd, Springdale (Surge Tank)	Stand Pipe
W20	1490 Sunrise Mountain Rd	Pump Station
W21	2210 N. Old Wire Rd (Overcrest)	Valve
W22	2880 N. Old Missouri Rd	Flow Meter
W23	3385 N. Par Ct (Birdie)	Valve
W24	3023 E. Joyce Blvd	Valve
W25	Ozarks Regional Transit (Hwy 412)	Pressure Sustaining Valve
W26	Township Tank Weather Station	Weather Station
	2435 S. Industrial Dr.	Water & Sewer Ops Center
	12141 Ed Edwards Road	Mt. Robinson Tower Site

Appendix C

NPDES PERMIT AND PROJECT CHARACTERISTICS

- C.1 OMI will operate the Paul R. Noland Wastewater Treatment Plant and the West Side Wastewater Treatment Plant so that effluent will meet the requirements of NPDES permit numbers AR0020010 and AR0050288, respectively. OMI shall be responsible for meeting the effluent quality requirements of Fayetteville's NPDES permits unless one or more of the following occurs; (1) the plant influent does not contain adequate nutrients to support operation of the treatment plant's biological processes and/or contains biological toxic substances which cannot be removed by the existing processes and facilities; (2) the maximum monthly flow does not exceed 16.9 MGD for the Noland WWTP or 17.8 MGD for the West Side WWTP; (3) the annual flow, influent BOD₅, and/or suspended solids exceeds the plant design parameters which are:

Annual Average	Paul R. Noland WWTP	West Side WWTP	Unit
Influent Flow	11.2	10.0	million gallons per day (mgd)
Influent BOD	26,370	14,595	pounds per day
Influent TSS	20,620	14,595	pounds per day
Influent TKN	960	2,919	pounds per day
Influent Phosphorus	680	584	pounds per day

The above characteristics are the plant designed annual averages. Any change of ten percent (10%) or more in any of these characteristics, based upon a twelve (12) month moving average, will constitute a change in scope.

- C.2 In the event any one of the plant influent characteristics, suspended solids, BOD₅, and/or flow, exceeds the parameters listed above, OMI shall return the plant effluent to the characteristics required by the NPDES permit in accordance with the following schedule after plant influent characteristics return to within design parameters.

<u>Characteristics Exceeding Listed Parameters By</u>	<u>Recovery Period Maximum</u>
10% or less	5 days
Above 10% Less than 20%	10 days
20% and Above	30 days

Notwithstanding the above schedule if the failure to meet effluent quality limitations is caused by the presence of biological toxic substances or the lack of adequate nutrients in the influent, then OMI will have a thirty (30) day recovery period after the influent is free from said substances or contains adequate nutrients.

- C.3 OMI shall not be responsible for fines or legal action as a result of discharge violations within the period that influent exceeds design parameters, does not contain adequate nutrients, contains biologically toxic substances (that exceed process inhibiting levels or creates concentrations exceeding application or discharge limitations), and the subsequent recovery period.

Appendix D

INDUSTRIAL WASTE DISCHARGES AND MONITORING PROGRAM

D.1

- a) Conduct a survey of the industrial user base 1 time per 3 years. Update, as required, the list of significant industrial users (SIUs) as described in Appendix D according to the definition of SIU in 40 CFR 403 or the definition in the approved pretreatment program (Program), whichever is more stringent.
- b) Carry out inspection, surveillance, and monitoring procedures to determine if the SIUs are in compliance with the Pretreatment Standards and the approved Program. Each SIU shall be sampled and inspected at the frequency established in 40 CFR 403 or the approved Program, whichever is more stringent. Maintain adequate records to meet or exceed Federal and State requirements.
- c) Maintain the laboratory analysis program for each SIU as described in Appendix D. Results of all industrial sampling and testing shall be reported to the City of Fayetteville, as required, in a timely manner.
- d) Implement the approved industrial permitting system. Prepare for renewal all necessary industrial user control mechanisms within 45 days of the expiration date or within 180 days after the industry has been determined to be an SIU.
- e) Prepare notices of violation for non-compliance with 40 CFR 403 or the approved Program, whichever is more stringent, and initiate other enforcement actions by notifying the City of Fayetteville of the appropriate enforcement action according to the approved enforcement response plan.
- f) Prepare for submission to the Approval Authority (EPA and/or the appropriate State agency) an annual report describing the Program activities over the previous Program year in accordance with 40 CFR 403 or the approved Program, whichever is more stringent. Assist the City of Fayetteville with annual public notice of dischargers in significant noncompliance as required by 40 CFR 403.
- g) Advise the City of Fayetteville of changes in federal and State Pretreatment Standards and regulations and how the changes affect the local Program. Request approval from the City of Fayetteville and the Approval Authority prior to implementing significant changes to the approved Program in accordance with 40 CFR 403.
- h) Local limits evaluation, if requested, may be provided as an out of scope service. The costs of such evaluation will be determined and negotiated at the time of the request.

D.2 Industrial Waste Dischargers and Monitoring Program

Industry	Parameters Analyzed
Ayrshire Electronics, LLC 1101 S. Beechwood Fayetteville, AR 72701 Mr. Tim Pearce 442-5356 ext. 2113	Cadmium, chromium, copper, lead, nickel, silver, zinc
Custom Powder Coating Services, Inc. 1629 W. Farmington St. Fayetteville, AR 72701 251-0500	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Danaher Tool Group/K-D Tools 2900 City Lake Road Fayetteville, AR 72701 Mr. Dwight Canfield 442-7779 ext. 207	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Elkhart Products Corporation PO Box 1129 Fayetteville, AR 72702 Mr. Jerry Whiteside 443-2367 ext. 1724	Chromium, copper, lead, nickel, zinc, oil & grease
Hiland Dairy Company PO Box 3478 Fayetteville, AR 72702 Mr. Dale Schoen 521-1707	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease
Marshalltown Tools 2200 Industrial Drive Fayetteville, AR 72701 Mr. Robert O'Connell 521-4306 ext. 150	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Pinnacle Foods Corporation PO Box G Fayetteville, AR 72702 Mr. Patrick Abshier 443-3451 ext. 216	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease
Superior Industries International, Inc. 1901 Borick Drive Fayetteville, AR 72701 Mr. Garnett Wise 443-7870 ext. 6331	Cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide
Tyson Foods, Inc. 2615 S. School Fayetteville, AR 72701 Mr. Richard Stockton 521-0677 ext. 420	Biochemical oxygen demand, total suspended solids, phosphorus, pH, oil & grease

Appendix E

VEHICLE AND MOBILE EQUIPMENT DESCRIPTION

Unit #	Unit Description	Year
82	Sykes 6" Pump/Trailer	1995
266	GMC V-Jimmy	1995
320	Ford F-350 SD 4X4 Utility, Crew Cab w/crane	1999
324	Ford F-350 SD 4X4 Utility, Reg. cab w/crane	1999
325	Ford F-350 4 X 4, Reg. cab	2000
339	Ford F-350 4 X 4, Flatbed	2002
551	Ford 3930 Gen Purpose Tractor, 2X4	1995
556	Ford/New Holland 8160 Tractor w/Loader	1997
564	Ford/New Holland 8160 Tractor w/Loader	1999
566	Ford/New Holland LS55 Lawn Tractor	1999
570	New Holland 8670 Tractor, 145 hp, 4X4	2000
581	Ford/New Holland TS100A Tractor w/NH 52# Frontend Loader	2004
582	New Holland 1412 Discbine Mower Conditioner	2004
583	New Holland 740 Round Baler	2004
588	New Holland B940A Large Square Baler	2005
589	New Holland 1412 Discbine Mower Conditioner	2005
644	New Holland 575E Backhoe/Loader	2000
706	IHC S-1900 T/A Dump	1985
712	Ford F800 (Gooseneck) Tractor	1983
734	Freight Liner 112 Conv Tractor	1996
751	Sterling LT9500 Truck	2006
806	Case 1150G Bulldozer, 119 hp	1995
900	Generator	1987
910	Trailer, 16 Ft. N/C	1987
927	Parker, 24' Gooseneck Trailer	1991
959	Bush Hog 2620 Rot. Cutter	1995
966	P.J. Trailer, 18 Ft.	1996
969	LO-Boy, 25T-36FT Trailer	1996
988	Hesston 3982 Wheel Rake	1998
989	M & W DF-12 Wheel Rake	1998
1092	Ford Explorer	2002
2004	Ford Ranger, 4X4	1997
2007	Ford Ranger, 4X4	1997

Appendix E

VEHICLE AND MOBILE EQUIPMENT DESCRIPTION (CONTINUED)

2089	Chevy Silverado, 4X4, Reg. Cab	2006
2090	Chevy Silverado, 4X4, Reg. Cab	2006
2103	Ford 150, 1/2 Ton, 4WD, Ext. Cab	2006
5001	John Deere 6615 Tractor	2007
5002	John Deere 6615 Tractor	2007
9021	Volvo Penta 400 KW - Trailer Mounted Diesel Generator @ LS#8	2001
9024	Hesston GEHL WR-522 Wheel Rake	2001
9025	Volvo Penta 400 KW - Trailer Mounted Diesel Generator @ LS#9	2001
9031	E-Z-GO ST-350 Utility Vehicle	2001
9034	Yale 5000# Fork Lift, Solid Tires	2002
9037	E-Z-GO ST-480 Workhorse Utility Vehicle	2002
9083	28 yd, 38' End Dump Trailer, Tandem Axle	1999
9088	Lufkin ULD-38 Trailer	2006
20374	Kenworth T-800 Tractor	1999
22246	Kenworth T-800 Tractor	1999
39605	Kenworth Tractor	2000
	New Holland 740 Round Baler	2007
	New Holland 1412 Discbine	2006
	Portable Generator for LS	2005
	Lufkin ULD-38 Trailer	2004
	Lufkin ULD-38 Trailer	2004
	Lufkin ULD-38 Trailer	2004

Appendix J

COST DETAIL

The annualized estimated costs for calendar year 2008 are as follows:

	<i>Current 2007</i>	<i>Proposed 2008</i>
Direct Labor & Benefits	\$ 2,180,396	\$ 2,556,326
Labor Markup @ 15%	\$ 327,059	\$ 383,449
Electricity	\$ 697,000	\$ 865,615
Other Direct Costs	\$ 1,927,478	\$ 2,461,348
Other Direct Costs Markup @ 10%	\$ 192,748	\$ 246,135
<i>Subtotal</i>	\$ 5,324,681	\$ 6,512,872
Fixed Fee	\$ 105,511	\$ 118,751
Lift Station Odor Control	\$ 153,978	\$ 109,543
Capital Item Amortization	\$ 119,712	\$ 56,520
<i>Total Estimated O&M Budget</i>	\$ 5,703,882	\$ 6,797,685
Odor Control System Rehabilitation	\$ 118,742	-
Bar Screen Relocation	\$ 39,422	-
Aerator Rehabilitation	\$ 183,085	-
HMI Integration for West Side WWTP	\$ 59,316	-
<i>Total Estimated Annualized Budget</i>	\$ 6,104,448	\$ 6,797,685
<i>Net Increase from 2007 to 2008</i>		\$ 693,237

The following are some of the major reasons for cost changes:

1. The scope of work is expanded to include the operations startup of the new West Side Wastewater Treatment Plant (WWTP), the operations and maintenance of the new facility, and limited routine maintenance of the wetland at the West Side WWTP. This minimal cost increase is made possible by heavily leveraging OMI's experience and expertise in the wastewater treatment industry and through significant job sharing within the OMI and CH2M HILL network.

2. Electrical budget has been increased by twenty four percent (24%) to allow for the electrical usage for the West Side WWTP and a reduction in the electrical consumption from the Noland WWTP.
3. Reduction in lift station odor costs are expected as a result of the reduction in overall force main detention related to the shorter pumping distances to the new West Side WWTP
4. Reduction in Capital Item Amortization. In June 2008, the City will complete the payment of the OMI financed purchase of the sludge handling equipment; which includes a 2-meter Andritz Belt Filter Press and three tractor-trailer combinations. OMI purchased the equipment in 2003 as the City was required to begin hauling sludge to land fills rather than continuing land application.
5. Completion of the four supplemental capital improvement projects related to the ongoing Wastewater System Improvement Project (WSIP) that were included in the 2007 budget.

The following table delineates the cost centers contained in the above-annualized estimated costs:

Category Description	Wastewater Division Administration & SCADA	Noland WWTP O&M (incl. land application site)	West Side WWTP O&M (incl. wetlands mitigation site)	Lab & Industrial Pretreatment Program	Lift Station Maintenance
Direct Labor	470,960	810,149	770,699	227,802	276,717
Labor Markup, 15%	70,644	121,522	115,605	34,170	41,508
Electricity		534,103	331,512		
Direct Expense	338,775	1,284,095	630,774	84,419	123,285
Expense Markup, 10%	33,878	128,409	63,077	8,442	12,329
Capital Item Amortization		56,520			
Lift Station Odor Control					109,543
Fixed Fee	118,751				
Totals	\$ 1,033,007	\$ 2,934,798	\$ 1,911,667	\$ 354,833	\$ 563,381
Grand Total					\$6,797,685

Appendix K

WSIP CUTOVER/DEMOLITION PLANNING AND IMPLEMENTATION

The ongoing Wastewater System Improvement Project (WSIP) will require significant modification of a number of existing sewer lines and lift stations. This will include fully decommissioning several lift stations after rerouting the flow to the new West Side WWTP, and salvaging any remaining useful equipment. Several other stations will require modification and/or rehabilitation to enable them to function properly under the new flow management and treatment scenario. The precise scope of this work has not yet been determined and will be defined by the City's WSIP team. Performing the actual work required can be most efficiently and cost-effectively performed by existing wastewater treatment plant and lift station personnel over a relatively long time frame. The work will begin at the same time the new West Side WWTP is placed in service in May of 2008 but will likely not be completed until sometime in early 2009. As this project will be very closely intertwined with ongoing operation and maintenance of the overall sewer lift station/collection system, the new West Side WWTP and the existing Noland WWTP, and due to the time involved, it is understood that the City's intention is to sign an out-of-scope letter agreement with CH2M HILL OMI to perform this work when the full scope has been identified. This agreement should be in place in early 2008 but must in any case be executed before the startup of the West Side WWTP.

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

12/4/2006
City Council Meeting Date

Ron Petrie Engineering Operations
Submitted By Division Department

Action Required:

A resolution to approve a settlement with Zion Road Properties, LLC in the amount of \$42,030 for right of way and easements on Zion Road, and to establish the maximum assessment due from Zion Road Properties for off-site street improvements at \$42,030.

\$ 42,030.00	\$ 24,496,473.00	Zion Road (College to Vantage)
Cost of this request	Category / Project Budget	Program Category / Project Name
4520.9520.5809.00	\$ 2,082,457.43	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
06035.1830	\$ 22,414,015.57	2006A Sales Tax Construction
Project Number	Remaining Balance	Fund Name

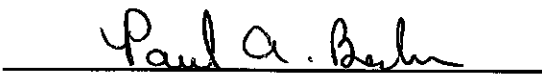
Budgeted Item ☒ Budget Adjustment Attached ☐

 11-16-07
Department Director Date

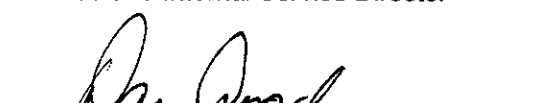
Previous Ordinance or Resolution # _____

 11/19/07
City Attorney Date

Original Contract Date: _____

 11-19-07
Finance and Internal Service Director Date

Original Contract Number: _____

 11/19/07
Mayor 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: Ron Petrie, City Engineer 

Date: November 15, 2007

Subject: A resolution to approve a settlement with Zion Road Properties, LLC in the amount of \$42,030 for right of way and easements on Zion Road, and to establish the maximum assessment due from Zion Road Properties for off-site street improvements at \$42,030.

RECOMMENDATION:

Staff recommends approval of a settlement with Zion Road Properties, LLC in the amount of \$42,030, for right of way and easements and to establish the maximum assessment due from Zion Road Properties for off-site street improvements at \$42,030.

BACKGROUND:

The Zion Road Project is one of the projects to be constructed under the Transportation Bond Program. The project consists of widening approximately 2400 feet of Zion Road to 3 lanes from College Avenue to just east of Vantage Drive, installation of an underground storm drainage system, and construction of 6 foot sidewalks on both sides of the roadway, as approved by the City Council and Street Committee.

During the process of right of way and easement acquisition on the project, Zion Road Properties, LLC purchased two properties along Zion Road with the stated intention of developing the property. City staff then submitted an offer to Zion Road Properties for easements and right of way necessary across their property based on the appraised value. Zion Road Properties has since agreed to accept the City's offer of \$42,030 for easements and right of way, with the understanding that they will in turn repay this same amount to the City if their development is approved prior to the completion of the Zion Road project. In addition, the Zion Road Properties, LLC has requested an assurance that there will be no additional offsite street assessments for the work associated with the Zion Road project.

DISCUSSION:

Staff has reviewed this proposal and has determined that it is fair to both the City and the property owner. Therefore, acceptance of this settlement is recommended.

A copy of a memo from the City Attorney regarding this issue is attached along with correspondence from Zion Road Properties indicating their willingness to accept the settlement terms.

It should be noted that if the Planning Commission determines that additional improvements beyond the scope of the Zion Road Improvement Project are required due to the impacts of development by Zion Road Properties, LLC, the cost of such improvements will be the responsibility of Zion Road Properties, LLC.

BUDGET IMPACT:

This payment will be funded with a portion of the 2006 Transportation Bond Issue proceeds. \$2,540,000 has been budgeted for the Zion Road Improvements Project.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A SETTLEMENT WITH ZION ROAD PROPERTIES, LLC IN THE AMOUNT OF \$42,030.00 FOR RIGHT-OF-WAY AND EASEMENTS; AND ESTABLISHING ZION ROAD PROPERTIES, LLC'S MAXIMUM ASSESSMENT FOR OFF-SITE IMPROVEMENTS.

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 settlement with Zion Road Properties, LLC in the amount of \$42,030.00 for right-of-way and easements.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby establishes the maximum assessment for off-site improvements required of Zion Road Properties, LLC at not more than \$42,030.00.

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Ron Petrie**, City Engineer

CC: **Jeremy Pate**, Director of Current Planning

FROM: **Kit Williams**, City Attorney

DATE: **November 9, 2007**

RE: **Assessments for new development when street is being widened by the City**

As you know §171.03 **Street Improvements** require developers with development "along any street which is not constructed according to the city's existing standards ... (to) dedicate sufficient right-of-way ... (and) install street paving, curbs, gutters and sidewalks"

If the City desires to begin widening construction along Zion Road prior to a landowner along Zion Road beginning its development, that landowner would not initially have to dedicate right-of-way nor pave, curb, and gutter Zion Road where it abuts the property. (See also §166.03 **Required On-Site Improvements – Subdivision In City Limits (C) Streets**)

However, if the landowner becomes a developer and proceeds to begin the development process while Zion is being improved, any money paid by the City to the developer to purchase right-of-way (which should now be legally dedicated as a condition for approval) should be refunded to the City. Otherwise, the City would be paying for street right-of-way it would legally be entitled to through mandatory dedication procedures.

In this particular instance, I would agree that the City should not seek further reimbursement for its paving, curb and gutter construction costs even though these might have at least partially be required of the developer through Fayetteville Code §166.03 (C) (D) and (E) and §171.03 (A) (2).

Therefore, I would recommend a compromise position for the City to seek and accept only repayment of the money spent by the City for right-of-way dedication, but not to seek reimbursement for paving, curb and gutter construction costs.

You and Jeremy Pate are the designated administrators and interpreters of the Unified Development Code, so you are free to arrive at your own interpretation and position regardless of my opinions.

Zion Road Properties, LLC
2397 Green Acres Road
Fayetteville, Arkansas 72703

Mr. Ron Petrie – City Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Dear Mr. Petrie:

We are in receipt of offers from the city of Fayetteville to purchase; tract no. n-4, tract no. n-5, & tract no. n-6 lands from us in order to widen Zion Road. We have reviewed the offered purchase price and we are willing to accept this offer as long as the city agrees that there will be no future assessments charged to our PZD in excess of the offered price.

We appreciate your willingness to work with us on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger A. Boskus, II". The signature is stylized with a large initial 'R' and a distinct 'H' at the end.

Roger A. Boskus, II
Zion Road Properties, LLC

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

B. 1
Proposed 2008 Annual
Budget & Work Program
Page 1 of 4

11/20/2007

City Council Meeting Date

Kevin Springer
Submitted By

Budget & Research
Division

Finance & Internal Services
Department

Action Required:

Approve a resolution adopting the Proposed 2008 Annual Budget & Work Program.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

11-7-07
Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

11/07/2007
Date

Original Contract Number:

Finance Director

11-7-07
Date

Received in City Clerk's Office

ENTERED
11/7/07

Mayor

11/2/07
Date

Received in Mayor's Office

Comments:

Tabled to Dec. 4, 2007 11/20/07

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

FROM: Paul A. Becker, Finance Director *PAB.*
Kevin Springer, Budget Manager

DATE: November 7, 2007

SUBJECT: **Proposed 2008 Annual Budget & Work Program**

Recommendation:

Consider the Proposed 2008 Annual Budget & Work Program for adoption by the December 18, 2007 City Council meeting.

Discussion:

The Proposed 2008 Annual Budget & Work Program will be distributed to City Council on Tuesday, November 13, 2007. Listed below is a schedule of hearing dates for the Proposed 2008 Annual Budget & Work Program.

Date	Budget Meeting/ Location
Tuesday, November 13, 2007	<i>Distribution of the Proposed 2008 Budget City Council Agenda Session, Room 326</i>
Tuesday, November 20, 2007	City Council Meeting <i>Room 219</i>
Tuesday, November 27, 2007	Outside Agency Presentations (agenda session) <i>Room 326</i>
Tuesday, December 4, 2007	City Council Meeting <i>Room 219</i>
Tuesday, December 18, 2007	City Council Meeting <i>Room 219</i>

If you have any questions concerning the Proposed 2008 Annual Budget & Work Program, please feel free to contact either Paul A. Becker at 575-8330 or Kevin Springer at 575-8226. Thank you for your attention to this matter.

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE 2008 ANNUAL BUDGET AND
WORK PROGRAM AS APPROVED AND AMENDED.**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby adopts the 2008 Annual Budget & Work Program as approved and amended. A copy of the Amended Budget, marked Exhibit "A" is attached hereto and made a part hereof.

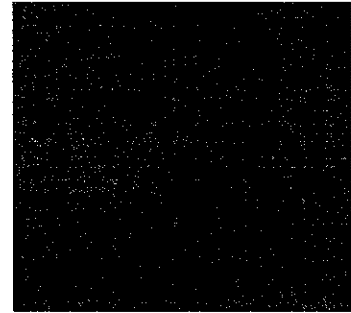
PASSED and APPROVED this 20th day of November, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

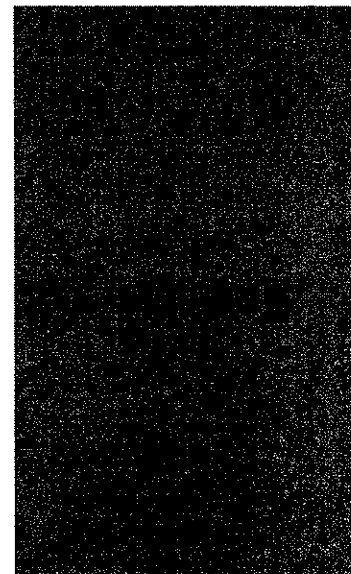


2008



City of Fayetteville, Arkansas

**Proposed
Annual Budget
& Work Program**



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

C. 1
RZN 07-2781 Dandy
Page 1 of 20

4-Dec-07

City Council Meeting Date

Jeremy Pate *X*
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 07-2781: Dandy, 405: Submitted by H2 Engineering, Inc. for property located 1/4 mile north of North Street on the east side of Leverett. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 0.55 acres. The request is to rezone the property to RMF-24, Residential Multi-Family, 24 units per acre.

Action Required:

n/a

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

Remaining Balance

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

11.16.07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney

11-16-07
Date

Received in City Clerk's Office

ENTERED
11/16/07

Paul A. Bahr
Finance and Internal Service Director

11-16-07
Date

Received in Mayor's Office

ENTERED
11/16/07

[Signature]
Mayor

11/19/07
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: November 15, 2007

Subject: Rezoning for Dandy 1368 N. Leverett (RZN 07-2781)

RECOMMENDATION

Planning staff and the Planning Commission recommended to approve rezoning the subject property from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-family, 24-units per acre for approximately 0.55 acres located at 1368 N. Leverett Ave.

BACKGROUND

The property is located at 1368 N. Leverett, north of North Street. There is an existing residential structure on the property. Property to the north, east, and west consists of multi-family developments.

DISCUSSION

This item was heard at the regular Planning Commission meeting on November 13, 2007. The Planning Commission voted 9-0-0 to recommend forwarding this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 07-2781, FOR APPROXIMATELY 0.55 ACRES, LOCATED ¼ MILE NORTH OF NORTH STREET ON THE EAST SIDE OF LEVERETT FROM I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL, TO RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE.

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

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

From I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-Family, 24 units per acre, as shown on Exhibits "A" and "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 , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

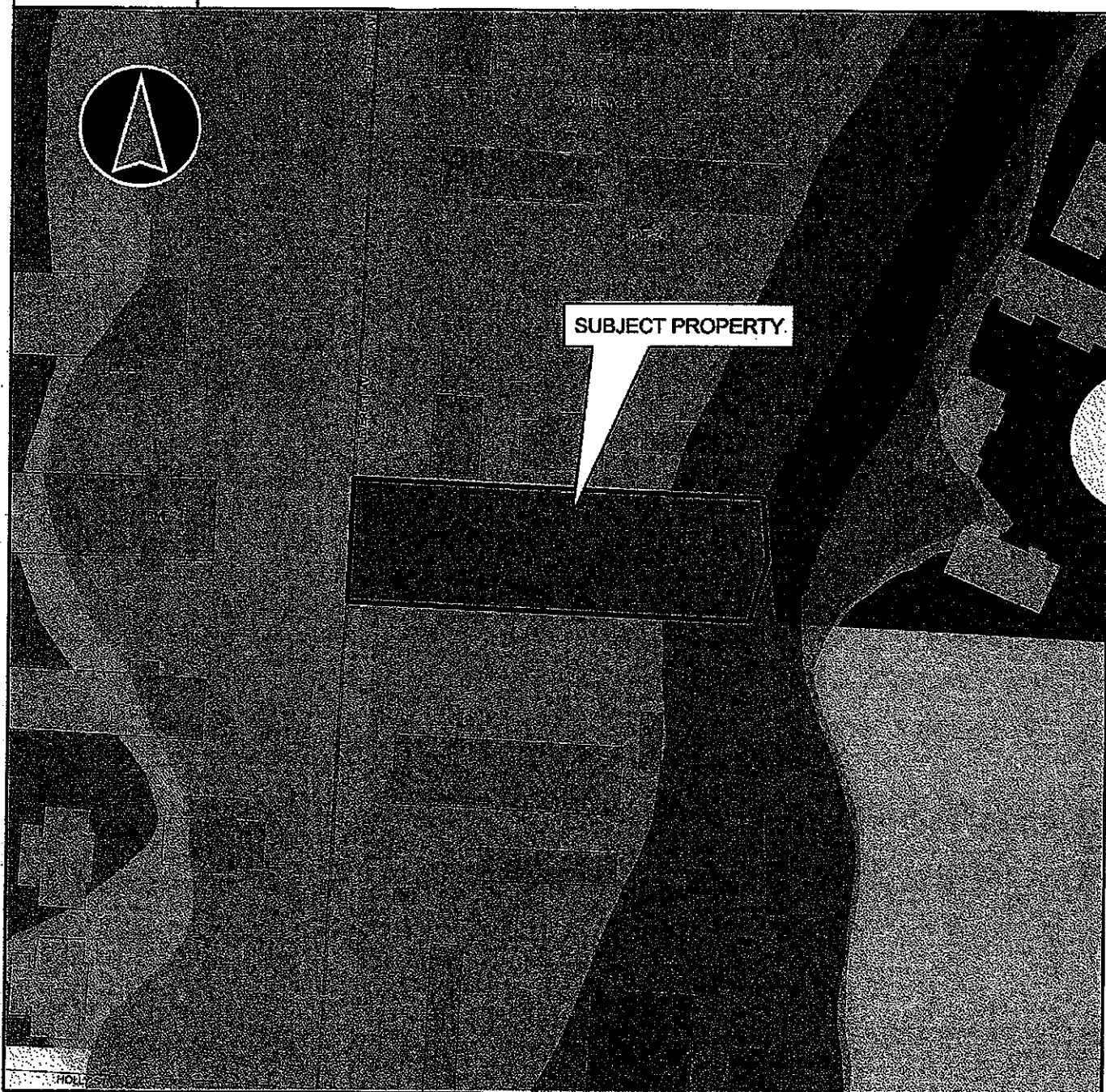
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN07-2781

DANDY/LEVERETT&NORTH

Close Up View



Overview



0 37.5 75 150 225 300 Feet

EXHIBIT "B"
RZN 07-2781

PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND MAG NAIL BEING THE NORTHWEST CORNER OF THE ABOVE SAID SOUTHEAST QUARTER; THENCE S02°32'46"W, ALONG THE WEST LINE OF THE ABOVE SAID SOUTHEAST QUARTER, A DISTANCE OF 222.63 FEET TO THE TRUE POINT OF BEGINNING; THENCE S87°26'23"E, LEAVING THE ABOVE SAID WEST LINE, A DISTANCE OF 279.49 FEET; THENCE S04°35'57"E, A DISTANCE OF 42.74 FEET; THENCE S16°29'37"W, A DISTANCE OF 43.59 FEET; THENCE N87°26'23"W, A DISTANCE OF 274.30 FEET TO A POINT ON THE ABOVE SAID WEST LINE; THENCE N02°32'46"E, ALONG THE ABOVE SAID WEST LINE, A DISTANCE OF 84.72 FEET TO THE POINT OF BEGINNING AND CONTAINING 23,793 SQUARE FEET OR 0.55 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT-OF-WAY OF LEVERETT AVENUE ON THE WEST LINE.



PC Meeting of November 13, 2007

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: ~~November 6, 2007~~ Updated November 14, 2007

RZN 07-2781: Rezoning (DANDY, 405): Submitted by H2 ENGINEERING, INC. for property located at 1/4 MILE N OF NORTH ST ON THE E SIDE OF LEVERETT. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUST and contains approximately 0.55 acres. The request is to rezone the subject property to RMF-24, Residential Multi-family, 24 units per acre.

Planner: Jesse Fulcher

RECOMMENDATION:

Staff recommends approval of the requested rezoning to RMF-24, Residential Office, based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Forward to City Council (recommend approval)	☐ Denied
Date: <u>November 13, 2007</u>			
Motion: <u>Graves</u>			
Second: <u>Ostner</u>			
Vote: <u>9-0-0</u>			
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>December 04, 2007 (1st reading if recommended)</u>			

BACKGROUND:

Property description: The subject property contains approximately 0.55 acres and is zoned I-1, Heavy Commercial/Light Industrial. The property is located at 1368 N. Leverett, north of North Street. There is an existing residential structure on the property. Property to the north, east, and west consists of multi-family developments.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North and East	Multi-family dwellings	RMF-24, Residential Multi-family
West	Multi-family dwellings	RMF-40, Residential Multi-family
South	Industrial	I-1, Heavy Commercial/Light Industrial

Proposal: The applicant proposes a rezoning of the subject property to allow for the development of multi-family dwelling units.

Request: The request is to rezone the subject property from I-1, Heavy Commercial/Light Industrial to RMF-24, Residential Multi-family, 24-units per acre.

INFRASTRUCTURE:

Streets: The site has access to Leverett Avenue, a Collector Street, which is currently an improved two-lane road. Street improvements to Leverett Avenue will be evaluated at the time of development.

Water: A 6" waterline is located adjacent to the property, along Leverett Ave. Water may need to be extended through the site at the time of development.

Sewer: There is an 8" main along Leverett Ave. Sewer service may need to be extended through the site at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Fire: The subject property is located approximately 0.7 miles from Fire Station #2 at 708 N. Garland. Response time to the property is approximately 2.5 minutes, which is acceptable, and above the City's goal of having the first unit on the scene within 6 minutes, 90% of the time, and the City's goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. There should be no adverse effects on call volume.

Police: It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density or create an undesirable increase in the load on police services. The rezoning **will not** create an appreciable increase in traffic danger and congestion.

LAND USE PLAN: The Future Land Use Plan adopted as part of the City Plan 2025 designates this site **City Neighborhood Area**. Rezoning this property to RMF-24 would be consistent with the future land use plan designation of the property for residential development. The proposed RMF-24 zoning would be compatible with the adjacent RMF-24 and RMF-40 zoning to the north, west and west.

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 RMF-24 zoning for multi-family residential use is compatible with adjacent and nearby multi-family residential land uses. Developments in the vicinity are predominantly multi-family with the exception of industrial and commercial uses south and along North Street. The proposed rezoning is consistent with the future land use designation for residential use.

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

Finding: The proposed zoning is justified in order to allow for a residential development that will be consistent with City land use objectives and policies. Additionally, the property owner is currently redeveloping the property to the north (LSD 07-2457 Leverett Commons). Preliminary plans indicate that two of the units on the north property will be rotated to allow access from the subject property. Rezoning the property to a multi-family zoning district will allow for coordinated development of each property.

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

Finding: There is an existing multi-family structure on the property. However, it is anticipated that the number of units proposed will cause a slight increase in the amount of vehicles trips generated. The relatively small size of the development (0.51 acres) should not appreciably increase traffic danger or congestion.

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 rezoning will increase population density over the existing nonconforming land use. The proposed zoning would allow for a maximum of 12 multi-family units, as opposed to no residential uses permitted in the I-1 zoning district. However, this increase in residences is consistent with land use, zoning, and development patterns in the immediate vicinity.

Increased load on public services was taken into consideration and

recommendations from Engineering, Fire, and Police Departments are included in this report. Significant adverse impacts to public services would not result with the incorporation of standard improvements as part of the development.

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

Finding: N/A

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.24 District I-1, Heavy Commercial And Light Industrial

(A) *Purpose.* The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The Light Industrial District is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 6	Agriculture
Unit 12	Offices, studios and related facilities
Unit 13	Eating places
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 25	Professional offices
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front, when adjoining A or R districts	50 ft.
Front, when adjoining C, I, or P districts	25 ft.

Side, when adjoining A or R districts	50 ft.
Side, when adjoining C, I, or P districts	10 ft.
Rear, when adjoining C, I, or P districts	10 ft.

(F) *Height regulations.* There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(VIII); Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79; Ord. No. 1747, 6-29-70; Code 1991, §160.039; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4992, 3-06-07; Ord. 5028, 6-19-07)

161.14 District RMF-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 24
----------------	---------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres

Professional offices	1 acres
----------------------	---------

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
No bedroom	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two bedroom	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	25 ft.
HOD Single Family Front	HOD Single Family Side	HOD Single Family Rear
15 ft.	8 ft.	15 ft.
HOD Two Family Front	HOD Two Family Side	HOD Two Family Rear
15 ft.	8 ft.	15 ft.
HOD Multi Family Front	HOD Multi Family Side	HOD Multi Family Rear
15 ft.	8 ft.	15 ft.

Cross reference(s)--Variance, Ch. 156.

(F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07)



October 3, 2007

City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701

RE: LEVERETT COMMONS II PROPERTY REZONING - INFORMATION

Staff,

On behalf of our client, CNS, Inc., we are submitting a rezoning request, for parcel number 765-14013-000. The property is located ¼ mile north of the intersection of Leverett Ave. and North Street on the east side of Leverett and is currently zoned I-1. The request is to rezone the entire property to RMF-24 in anticipation of a Large Scale Development submittal consisting of 8 - 3 bedroom townhomes.

The property is currently owned by CNS, Inc. and no property sales are currently pending. The property to the east is zoned RMF-40, to the west is zoned RMF-24, to the South is zoned I-1, and to the north is zoned RMF-24. This development is very similar in design and density as the property to the north and less dense than the RMF-40 to the east. Overall, it will be compatible with the surrounding developments, and similar in appearance, signage and traffic generation. According to the Fayetteville GIS records, water is available via a 6" line on the west side of Leverett Ave. Sanitary sewer is available via an 8" line in the center of Leverett Ave.

Respectfully,

A handwritten signature in black ink, appearing to read 'T. Hennelly', with a stylized flourish at the end.

Thomas A. Hennelly, P.E.
President



October 3, 2007

City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701

RE: LEVERETT COMMONS II - PROPERTY REZONING - DESCRIPTION

Staff,

On behalf of our client, CNS, Inc., we are submitting a rezoning request, for parcel number 765-14013-000. The property is located ¼ mile north of the intersection of Leverett Ave. and North Street on the east side of Leverett and is currently zoned I-1. The request is to rezone the entire property to RMF-24 in anticipation of a Large Scale Development submittal consisting of 8 - 3 bedroom townhomes.

With the current zoning of I-1, this property does not comply with the future land use plans of the City. This area is dedicated as city neighborhood. The zoning is needed at this time, as stated earlier, in anticipation of the submittal of a large scale development. The addition of 8 units will not, in our opinion, appreciably increase the traffic danger or congestion. While the requested zoning will alter the population density of the area, it will not have a significant impact on City services or infrastructure. We feel that the current I-1 zoning is inappropriate for this predominantly residential area.

Respectfully,

A handwritten signature in black ink, appearing to read 'T. Hennelly', with a stylized flourish at the end.

Thomas A. Hennelly, P.E.
President

Date 11/6/2007

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 re-zoning **RZN (DANDY, 555)**: Submitted by **H2 Engineering** for property **located at 1368 N. Leverett**, would substantially alter the population density and thereby undesirably increase the load on public services and create an undesirable increase in traffic danger and congestion. **The property is zoned I-1 and contains approximately 0.55 acres. The request is to re-zone the subject property to RMF-24.**

It is the opinion of the Fayetteville Police Department that this re-zoning will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. The re-zoning will not create an appreciable increase in traffic danger or congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: October 24, 2007
Re: October 24, 2007 Zoning Review

RZN – Dandy – H2 Engineering

These .55 acres are covered by Engine 2 located at 708 N Garland.

It is .7 miles from the station with an anticipated response time of 2.5 minutes.

The Fire Department anticipates 10(6 EMS and 4 Fire/Other) calls for service once this development is completed and all units are occupied.

This development should not affect our response times or calls for service.

RZN 07-2782 (Sweetser)

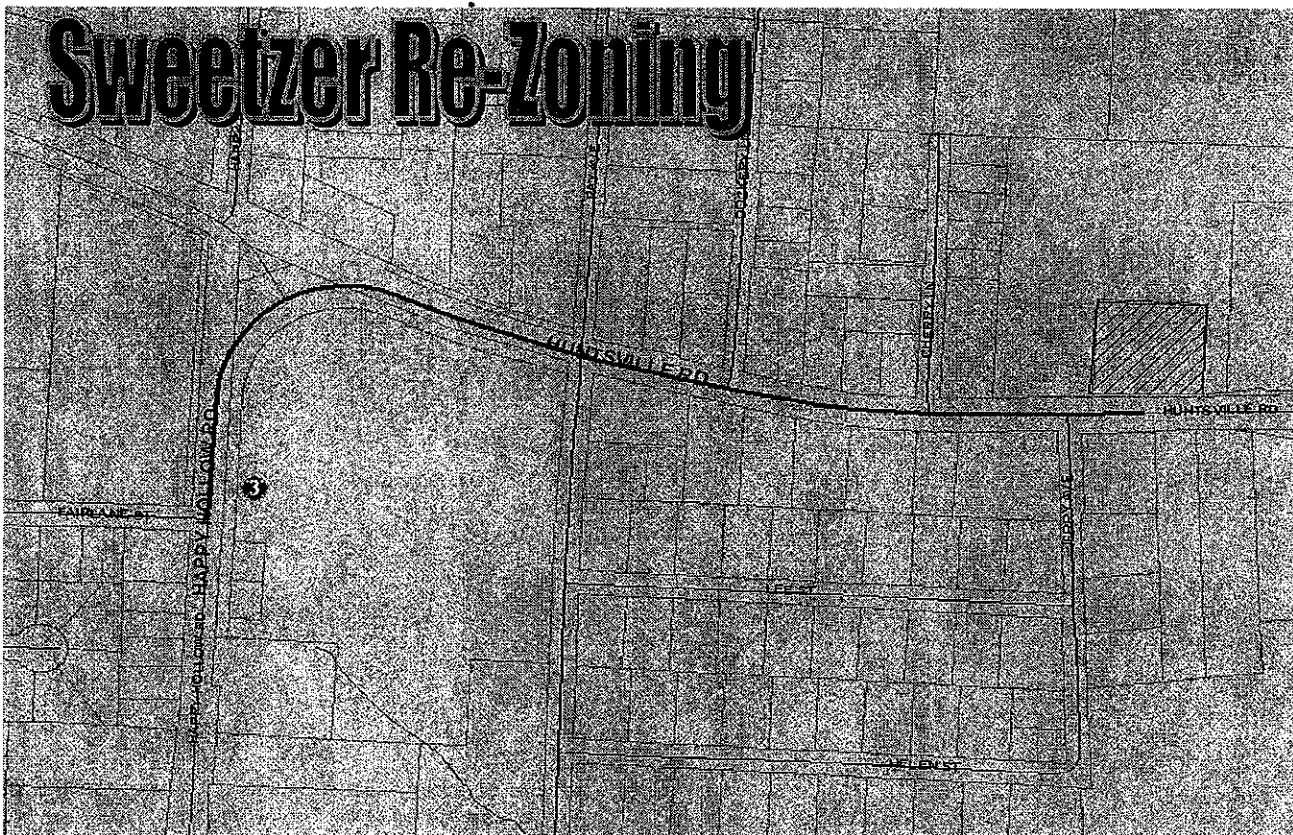
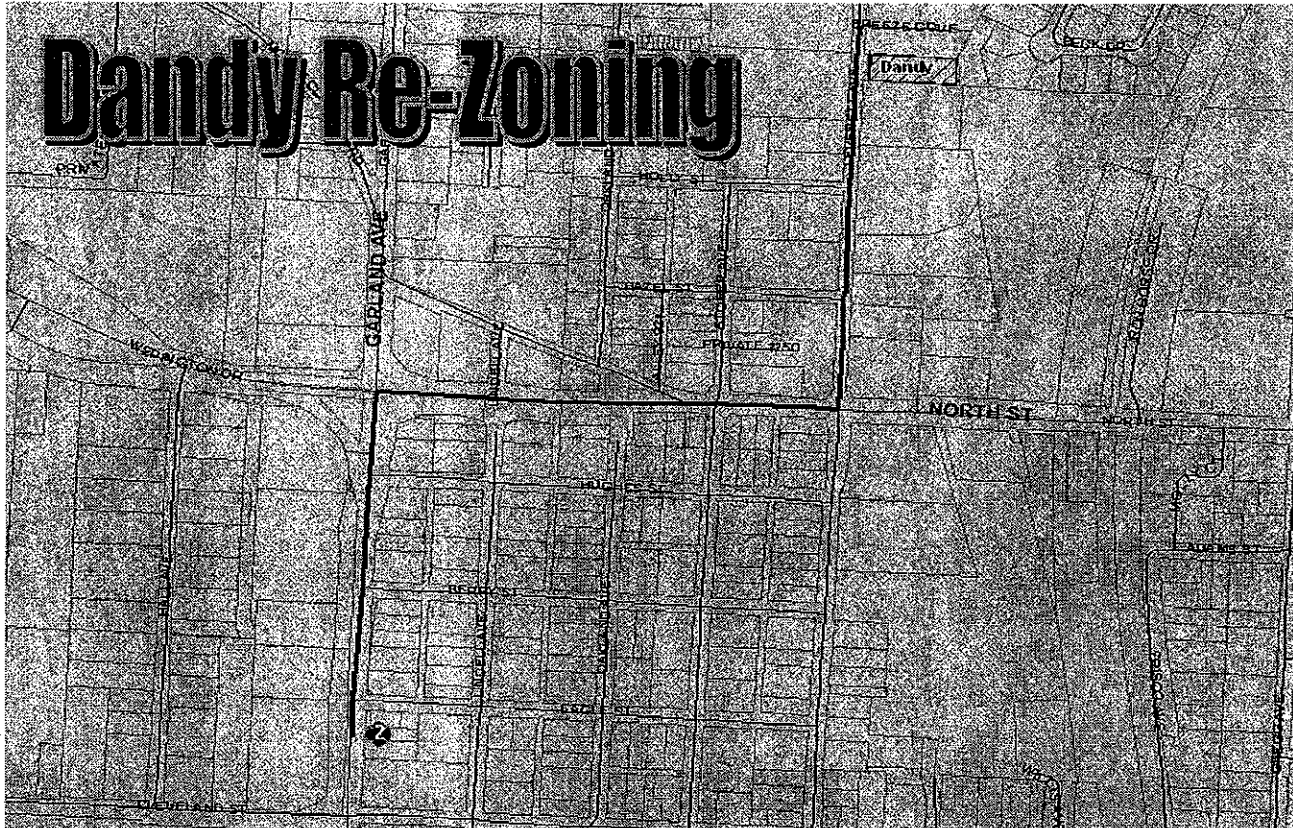
These .95 acres are covered by Ladder 3 located at the corner of Happy Hollow and E. Huntsville.

It is .6 miles from the station with an anticipated response time of 2 minutes.

With the maximum units allowed under the R-0 zoning, the Fire Department anticipates 12 (7 EMS and 5 Fire/Other) calls for service after the development is completed and all units are filled. We do not anticipate any effects on our response times or calls for service with this development.

If you have any questions concerning these comments please don't hesitate to call me

**Captain Dale Riggins
Fayetteville Fire Department**



RZN 00-000: Rezoning (Landy, 555): Submitted by H2 Engineering for property located at 1368 N LEVERETT. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL and contains approximately 0.55 acres. The request is to rezone the property to RMF-24, RESIDENTIAL MULTI FAMILY-24 UNITS/ACRE.

Public water is located adjacent to the site. There is a 6" waterline along Leverett. Water service may need to be extended through the property at the time of development.

Sanitary sewer is available to the site. There is an 8" sewer main along Leverett. Sewer service may need to be extended through the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Leverett Avenue. Leverett is currently an improved two lane paved roadway. Street improvements will be evaluated with the proposed development.

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

R-PZD 07-2763: Residential Planned Zoning District (Skate Place II, 366): Submitted by H2 ENGINEERING, INC. for property located at 646 W. SYCAMORE STREET. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL and contains approximately 1.08 acres. The request is for Zoning, Land Use, and Development review of a Residential Planned Zoning District of 3 buildings with 5 units each for a total of 15 units and associated parking.

Public water is located adjacent to the site. There is a 6" waterline along Chestnut and an 8" main along Sycamore.. Water service may need to be extended through the property at the time of development.

Sanitary sewer is available to the site. There is an 8" sewer main along both Sycamore and Chestnut. Sewer service may need to be extended through the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Sycamore Street and Chestnut Avenue. Sycamore is currently an improved four lane paved roadway. Chestnut is a newly constructed two lane roadway.

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

RZN 07-2782: (SWEETSER, 566): Submitted by DAVE JORGENSEN for property located at 2220 E. HUNTSVILLE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.95 acres. The request is to rezone the subject property to R-O, Residential Office.

Public water is located adjacent to the site. There is a 12" waterline along Hunstville Road.. Water service may need to be extended through the property at the time of development.

Sanitary sewer is available to the site. There is a 6" sewer main along Hunstville Road. Sewer service may need to be extended through the property at the time of development. Improvements

RZN07-2781

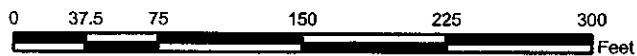
Close Up View

DANDY/LEVERETT&NORTH



SUBJECT PROPERTY

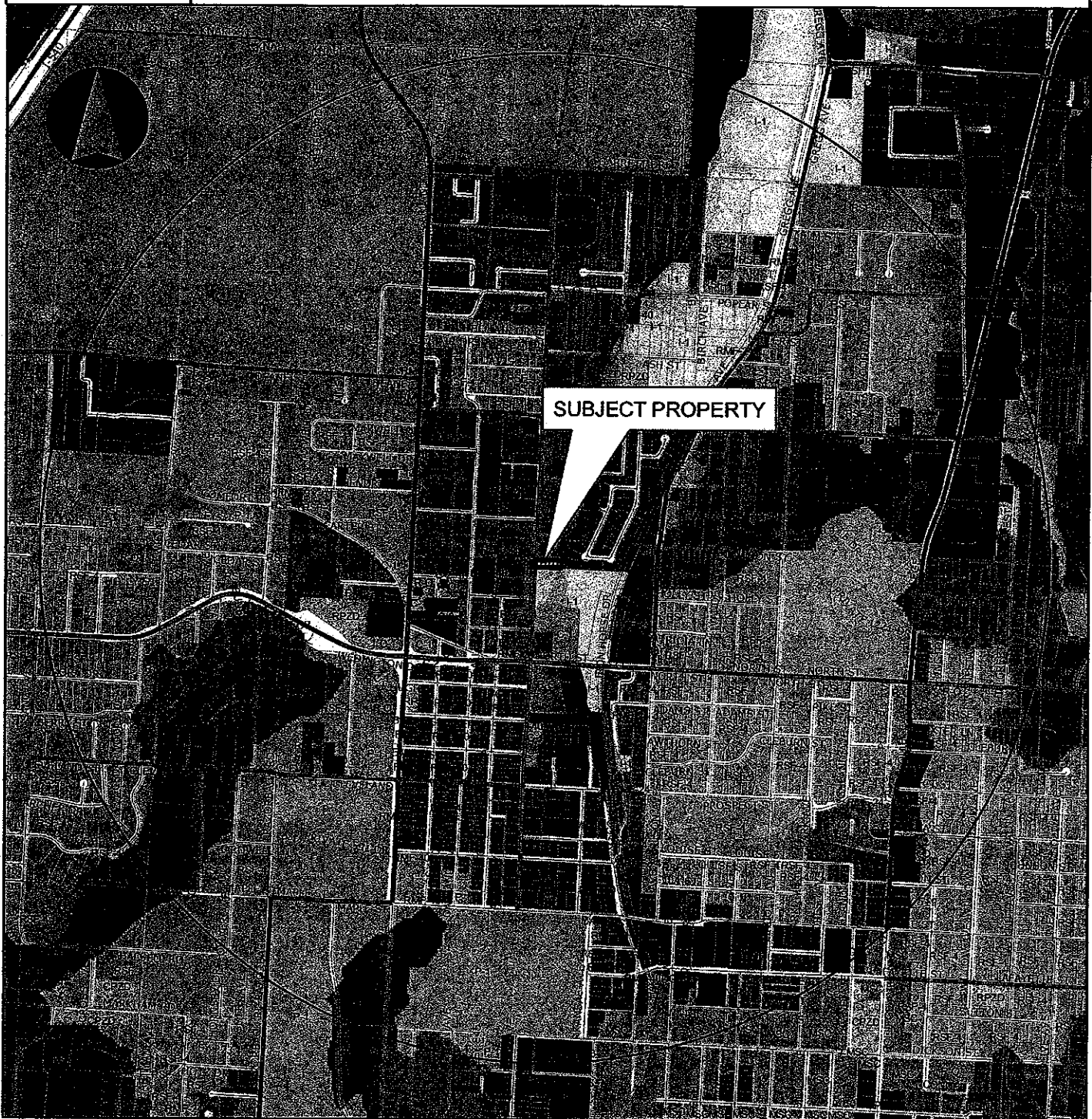
Overview



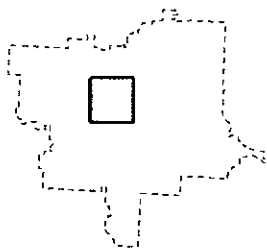
RZN07-2781

One Mile View

DANDY/LEVERETT&NORTH



Overview



Legend

Subject Property

RZN07-2781

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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

C. 2
RZN 07-2782 Sweetser
Page 1 of 20

4-Dec-07

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 07-2782: Sweetser, 566: Submitted by Dave Jorgensen for property located at 2220 East Huntsville. The property is zoned RSF-4, Residential Single-Family, 4 units per acre and contains approximately 0.95 acres. The request is to rezone the property to R-O, Residential Office.

Action Required:	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] 11-16-07
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 11-16-07
City Attorney

Original Contract Number: n/a

Paul A. Berlin 11-16-07
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
11/16/07

[Signature] 11/19/07
Mayor Date

Received in Mayor's Office
ENTERED
11/16/07

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: November 15, 2007

Subject: Rezoning for Sweetser 2220 East Huntsville Road (RZN 07-2782)

RECOMMENDATION

Planning staff and the Planning Commission recommended to approve rezoning the subject property from RSF-4, Residential Single Family Four Units Per Acre to R-O, Residential Office for approximately 0.95 acres located at 2220 East Huntsville Road.

BACKGROUND

The property is located on the north side of Huntsville Road, and contains one non-residential building and associated accessory structures on one parcel. The structure was built in 1945 according to tax records and was utilized for Mhoon Beef Corporation, Inc. as a slaughtering house. Most recently the property was utilized for a landscaping business. The property is bordered by Huntsville Road on the south (a Principal Arterial on the Master Street Plan). The property is surrounded by a gas station to the south, and either single-family residential or undeveloped property to the north, east, and west.

DISCUSSION

This item was heard at the regular Planning Commission meeting on November 13, 2007. The Planning Commission voted 9-0-0 to recommend forwarding this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 07-2782, FOR APPROXIMATELY 0.95 ACRES, LOCATED AT 2220 E. HUNTSVILLE FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE, TO R-O, RESIDENTIAL OFFICE.

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

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

From RSF-4, Residential Single-Family, 4 units per acre to R-O, Residential Office, as shown on Exhibits "A" and "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 , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

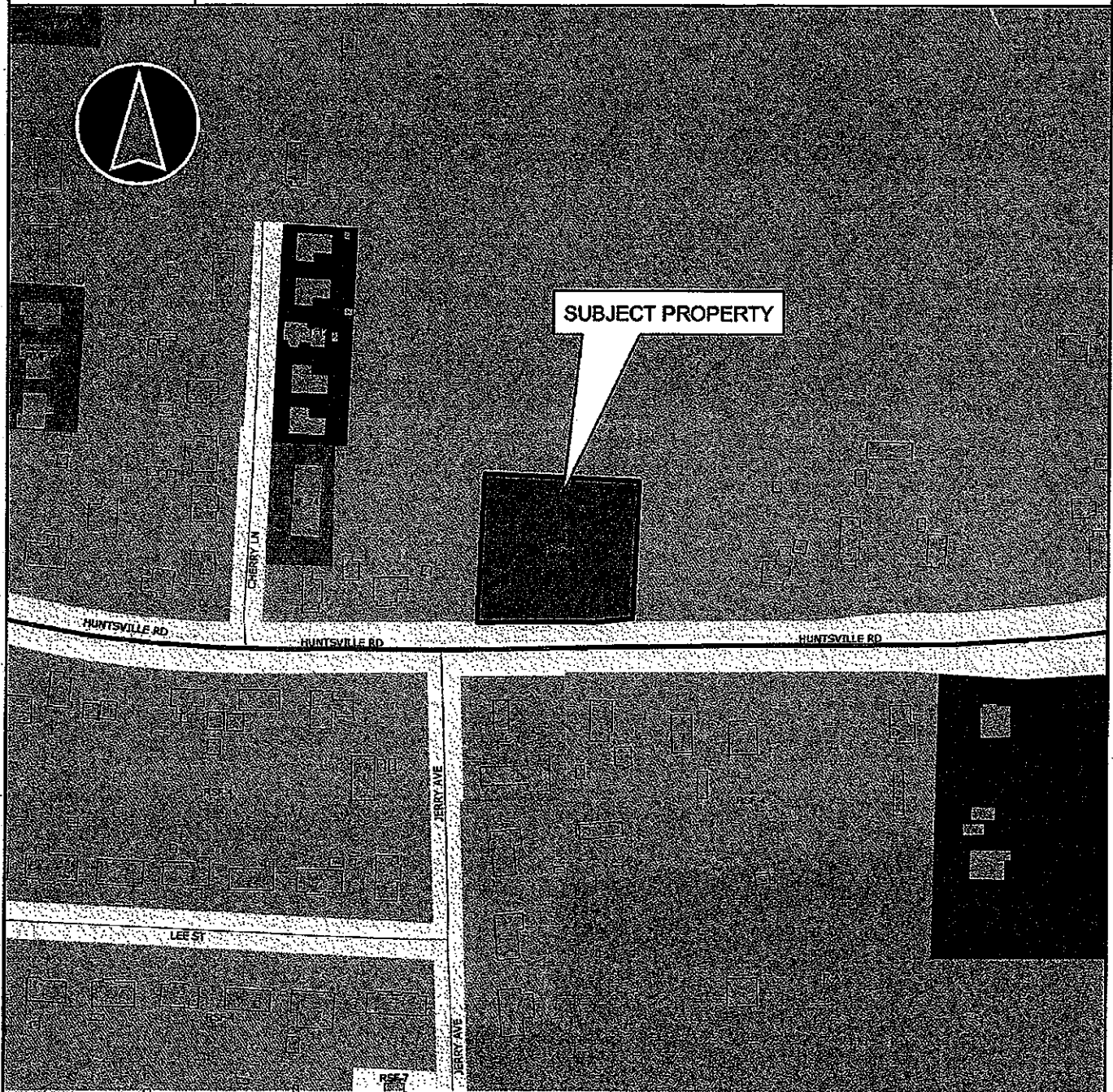
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN07-2782

Close Up View

SWEETSER



Overview



0 75 150 300 450 600 Feet

EXHIBIT "B"
RZN 07-2782

PART OF THE NW1/4 OF THE NE ¼ OF SECTION 23, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID NW ¼, NE 1/4 THENCE SOUTH 326.29 FEET, THENCE S89°58'29"E 334.58 FEET TO THE P.O.B., THENCE S89°58'29"E 209.65 FEET, THENCE S00°05'02"E 187.85 FEET, THENCE S81°43'43"W 49.51 FEET, THENCE S86°56'15"W 161.64 FEET, THENCE N00°08'04"E 203.70 FEET TO THE P.O.B.; CONTAINING 0.95 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.



PC Meeting of November 13, 2007

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: ~~November 6, 2007~~ Updated November 15, 2007

RZN 07-2782: (SWEETSER, 566): Submitted by DAVE JORGENSEN for property located at 2220 E. HUNTSVILLE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.95 acres. The request is to rezone the subject property to R-O, Residential Office.

Property Owner: BILL SWEETSER
Planner: ANDREW GARNER

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
☐ Approved	☒ Forwarded	☐ Denied	
Motion: <u>Graves</u>	Second: <u>Ostner</u>	Vote: <u>9-0-0</u>	
CITY COUNCIL ACTION:			
Required	<u>YES</u>		
☐ Approved		☐ Denied	
Date: <u>December 4, 2007 (1st reading if recommended)</u>			

BACKGROUND:

Property Description: The property contains 0.95 acres located at 2220 East Huntsville Road, between Happy Hollow and Crossover Roads, north of Jerry Avenue. The property contains one non-residential building and associated accessory structures. The structure was built in 1945 according to tax records and was utilized for Mhoon Beef Corporation, Inc. as a slaughtering house. Most recently the property was utilized for a landscaping business (Plants, Ponds and Perfection), but has been vacant for several months. The property is zoned RSF-4 and bordered by Huntsville Road/State Highway 16 on the south, currently a Principal Arterial on the Master Street Plan. Surrounding land use and zoning is depicted in *Table 1*.

TABLE 1
SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North and East	Undeveloped	RSF-4
South	Conoco Gas Station; Single-Family residential	C-1; RSF-4
West	Single-family residential	RSF-4

Proposal: The applicant proposes to rezone the property from RSF-4 to R-O. The applicant would like to rezone the property so that it may be leased to potential tenants that may be interested in residential office space.

Recommendation: Staff recommends approval of the rezoning based on findings stated herein. The proposed zoning would be compatible with adjacent zoning, existing and approved development, and the future land use plan to reduce the length and number of vehicle trips generated by residential development and to provide non-residential uses where compatible.

Public Comment: Staff has not received public comment.

INFRASTRUCTURE:

Streets: The site has access to Huntsville Road. Huntsville is currently a two lane paved state highway. Street improvements will be evaluated with the proposed development.

Water: Public water is located adjacent to the site. There is a 12" waterline along Huntsville Road. Water service may need to be extended through the property at the time of development.

Sewer: Sanitary sewer is available to the site. There is a 6" sewer main along Huntsville Road. Sewer service may need to be extended through the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

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

Fire: These 0.95 acres are covered by Ladder 3 at Happy Hollow Road and East Huntsville Road. It is 0.6 miles from the station with an expected response time of two minutes. The Fire Department does not figure calls for service on properties being re-zoned to R-O, Residential Office, but typically this type of development **will not** increase call volumes or response times.

Police: No comment.

CITY PLAN 2025 FUTURE LAND USE PLAN: *The City Plan 2025 Future Land Use Plan designates this site as City Neighborhood Area. Staff finds that the R-O, Residential Office zoning is appropriate at this location and would result in potential uses that are needed in this area to support the existing and recent residential growth in east Fayetteville. With the incorporation of standard City ordinance requirements for development of non-residential uses adjacent to residential uses, the R-O zoning would be compatible with the adjacent single family residence and commercial uses along this State Highway and would help provide needed services for residents in east Fayetteville.*

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 property is designated as City Neighborhood Area in the City Plan 2025 Future Land Use Plan. The proposed R-O zoning is consistent with the City's land use planning objectives, principles and policies to encourage compatible and livable neighborhoods indicated by the City Neighborhood Area designation, especially providing non-residential uses that are accessible for individuals living in residential districts, and to reduce the number and length of vehicle trips generated by residential development. Although this area along Huntsville Road is not pedestrian-friendly, the proposed R-O zoning would provide the opportunity for employment and business out of this existing non-residential property in southeast Fayetteville, with the potential for improvements along adjacent streets. There are a large number of residences in the area immediately surrounding the proposed rezoning and further east along Huntsville Road. The majority of commercial and business centers that serve this residential development are west of the proposed property, further into central Fayetteville and beyond. This forces people to drive further into Fayetteville to have their non-residential needs met; thus increasing traffic volumes on Huntsville Road and the supporting street system. The R-O zoning would reduce the length and possibly the number of vehicle trips by allowing some non-residential services to be met at this property, without having to continue driving into central Fayetteville.

The surrounding property to the north and east is undeveloped, the property to the south is a gas station, and the property to the west is single family residential. The subject property has been non-residential since it was developed for a slaughter house in approximately 1945, when the property was in the county and surrounding area and roadways were undeveloped. The surrounding land to the west, east, and south has developed for commercial and residential use around the subject property over the past several decades. Staff finds that the location of this property on a State Highway, across the street

from a commercially-zoned gas station, is an appropriate location for the proposed R-O zoning and associated non-residential uses that would be of service to the surrounding residents and travelers on Huntsville Road. With standard City ordinance requirements for buffers and screening, the R-O zoning would be a compatible zoning district with the surrounding residential, undeveloped, and commercial properties.

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

Finding: Staff finds the proposed zoning is justified and needed. As stated in Finding No. 1, there is a lack of non-residential uses and zonings in this area of east Fayetteville, and a large number of residents and residential lots for future population increase.

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

Finding: It is expected that a rezoning from RSF-4 to R-O would create an increase in traffic compared with that allowed under the existing zoning. However, the property is in direct proximity to a Principal Arterial (Huntsville Road/State Highway 16 East), which provides the only east-west connection in this area of Fayetteville. Staff finds that the proposed zoning would not create or appreciably increase traffic danger and congestion. However, staff will review access to the property with the proposed future use and with redevelopment, which will likely result in the elimination of one of the curb cuts to Huntsville Road, depending on the development.

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 R-O zoning would increase the potential population density from 3.8 units to 22.8 units on the 0.95-acre tract, if it could be developed for its maximum density allowed in the R-O district. However staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property.

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;

This parcel has been developed and utilized for non-residential use since 1954, however as the zoning is now RSF-4 and the non-residential use has been discontinued, the property may only be utilized as allowed under the current RSF-4 zoning. It may be feasible to re-develop the property for residential use similar to other property in the vicinity. However, this parcel is a relatively large, historically non-residential property with frontage on a State Highway and it is a logical assumption that the non-residential uses continue in this area of this City.

- 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:

Not applicable. Staff recommends in favor of the requested zoning.

Fayetteville Unified Development Code

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

FRONT	SIDE	REAR
25 ft.	8 ft.	20 ft.
HOD Front	HOD Side	HOD Rear

15 ft.	5 ft.	15 ft.
--------	-------	--------

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

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06)

Fayetteville Unified Development Code

161.16 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Offices, studios and related services
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Bulk and area regulations.*

(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments:	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(D) *Density.*

Units per acre	4 to 24
----------------	---------

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside Overlay District	8 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside Overlay District	15 ft.

(F) *Height regulations.* There shall be no maximum height limits in R-O Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code No. 1965, App. A, Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4726, 7-19-05; Ord. 4943, 11-07-06)



Fayetteville Fire Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: November 6, 2007
Re: October 24, 2007 Zoning Review

RZN - Dandy - H2 Engineering

These .55 acres are covered by Engine 2 located at 708 N Garland.

It is .7 miles from the station with an anticipated response time of 2.5 minutes.

The Fire Department anticipates 10(6 EMS and 4 Fire/Other) calls for service once this development is completed and all units are occupied.

This development should not affect our response times or calls for service.

RZN 07-2782 (Sweetser)

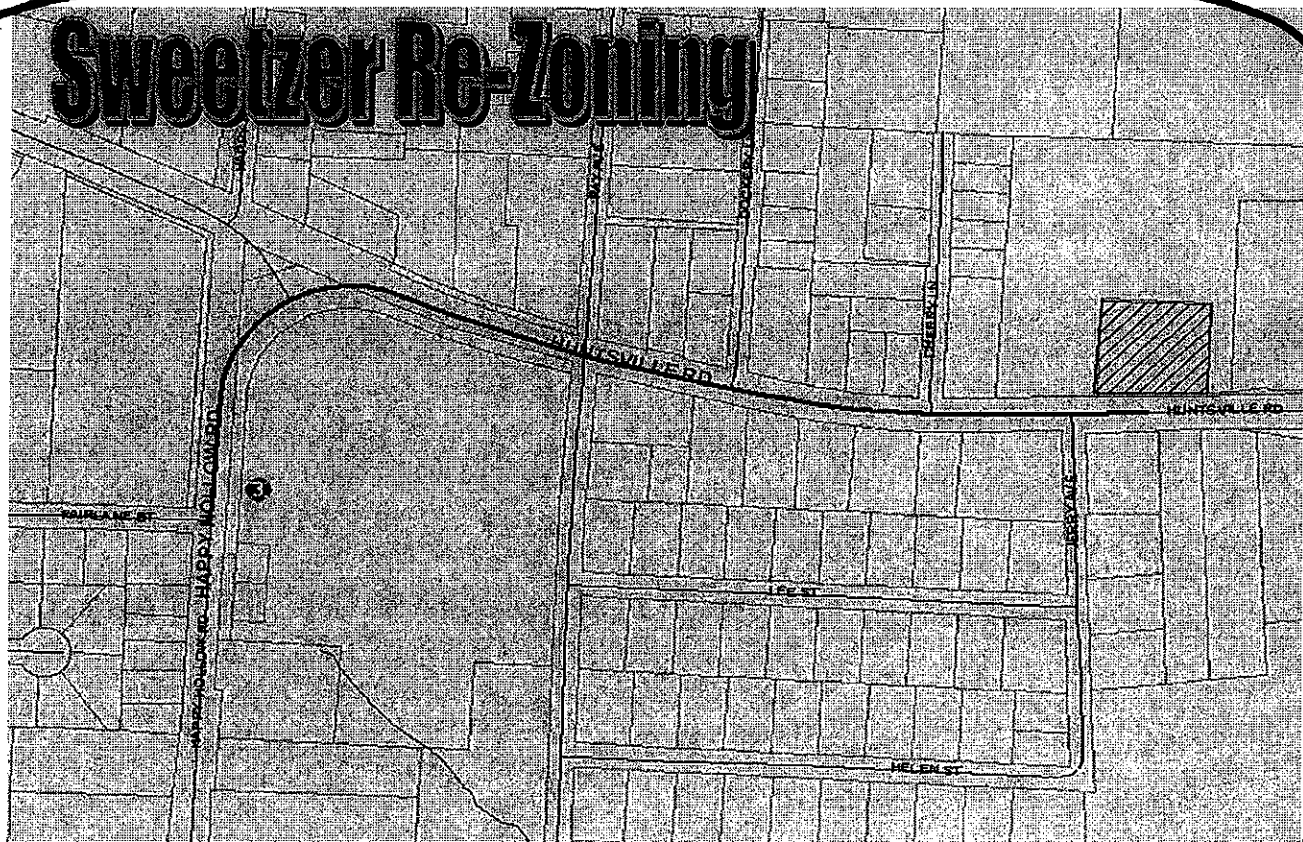
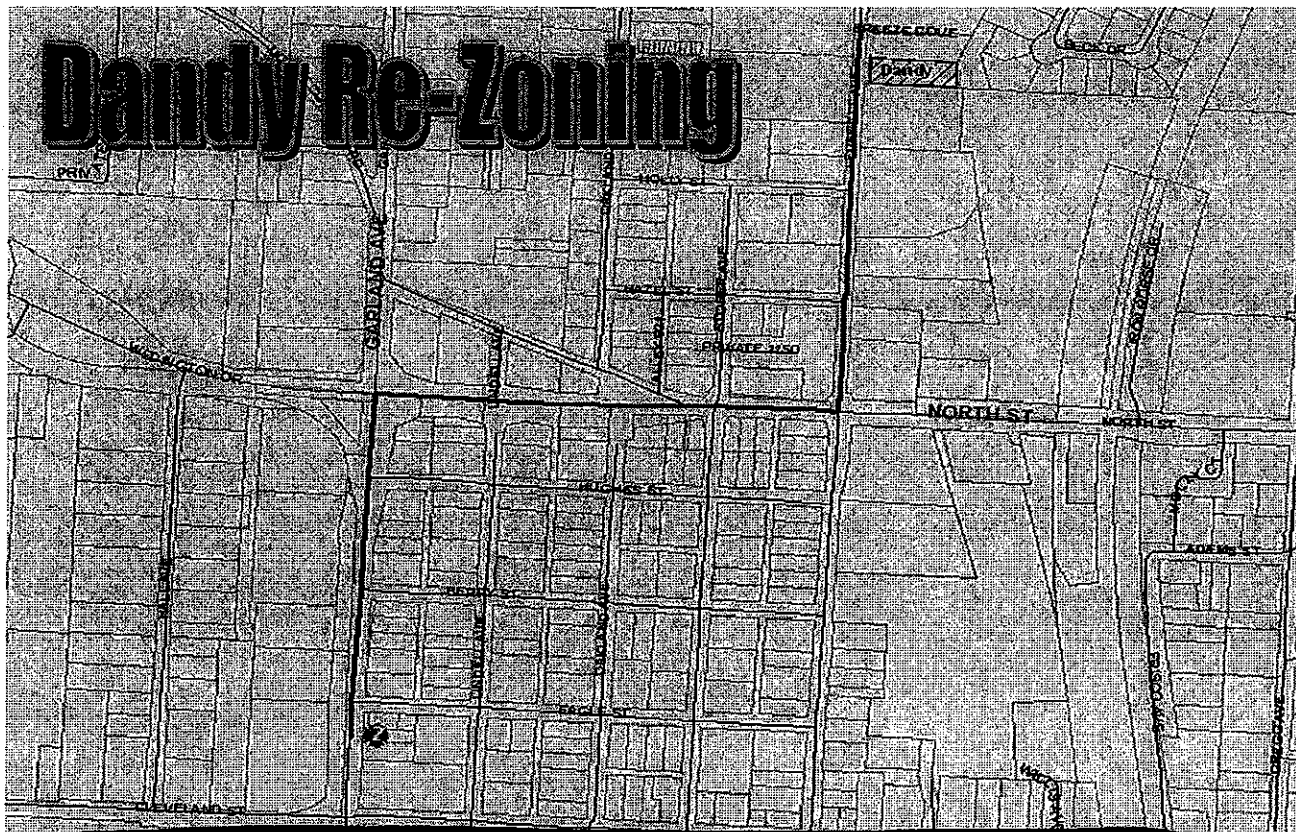
These .95 acres are covered by Ladder 3 located at the corner of Happy Hollow and E. Huntsville.

It is .6 miles from the station with an anticipated response time of 2 minutes.

With the maximum units allowed under the R-0 zoning, the Fire Department anticipates 12 (7 EMS and 5 Fire/Other) calls for service after the development is completed and all units are filled. We do not anticipate any effects on our response times or calls for service with this development.

If you have any questions concerning these comments please don't hesitate to call me

**Captain Dale Riggins
Fayetteville Fire Department**



Date 11/6/2007

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

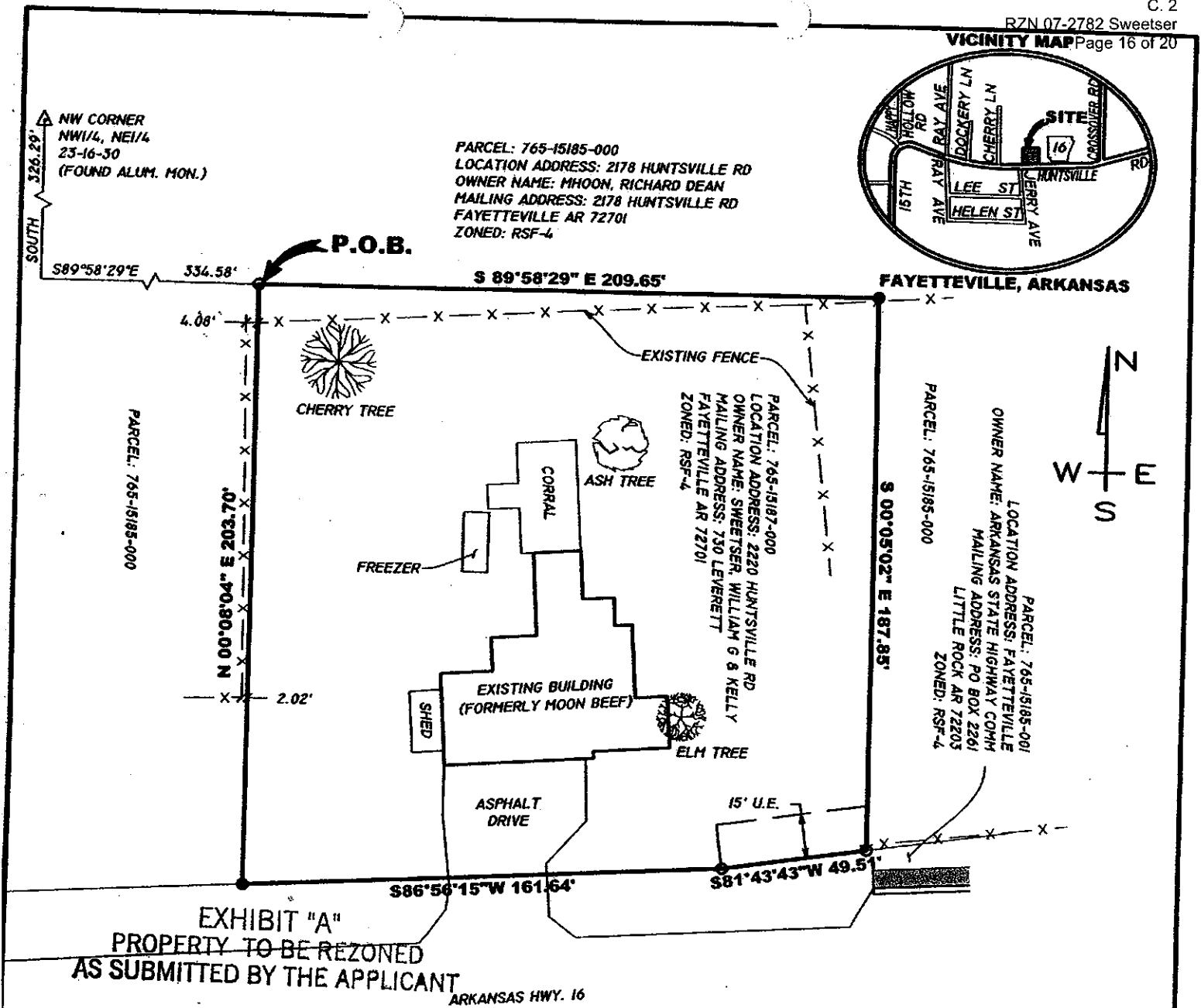
Dear Director Pate,

This document is in response to the request for a determination of whether the proposed re-zoning **RZN 07-2783: (SWEETSER, 566)**: Submitted by **Dave Jorgensen** for property located at **2220 E. Huntsville Road** 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 zoned RSF-4 and contains approximately 0.95 acres. The request is to rezone the subject property to R-O.**

It is the opinion of the Fayetteville Police Department that this re-zoning will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. The re-zoning **will not** create an appreciable increase in traffic danger or congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



Applicant's Signature

PARCEL: 765-15192-000
LOCATION ADDRESS: 2229 E HUNTSVILLE RD
OWNER NAME: PETROMARK, INC. AN ARKANSAS CORP.
MAILING ADDRESS: PO BOX 1697
HARRISON AR 72601
ZONED: C-1

PARCEL: 765-15180-000
LOCATION ADDRESS: 2255 E HUNTSVILLE RD
OWNER NAME: MAYO, VICTORIA G. TTEE VICTORIA G. MAYO REVOCABLE TRUST
MAILING ADDRESS: 1937 HUNT LN
FAYETTEVILLE AR 72701
ZONED: RSF-4

PARCEL: 765-15200-000
LOCATION ADDRESS: 2301 E HUNTSVILLE RD
OWNER NAME: OSBORN, CARL MELVIN & NORMA JEAN
MAILING ADDRESS: 3048 N STRAWBERRY DR
FAYETTEVILLE AR 72703-6613
ZONED: RSF-4

LEGAL DESCRIPTION:

PART OF THE NW1/4 OF THE NE1/4 OF SECTION 23, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID NW1/4, NE1/4 THENCE SOUTH 326.29 FEET, THENCE S89°58'29"E 334.58 FEET TO THE P.O.B., THENCE S89°58'29"E 209.65 FEET, THENCE S00°05'02"E 187.85 FEET, THENCE S81°43'43"W 49.51 FEET, THENCE S86°56'15"W 161.64 FEET, THENCE N00°08'04"E 203.70 FEET TO THE P.O.B.; CONTAINING 0.95 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

22067-2782
First Sub.
OK
10/15/2007
TS

THIS IS TO CERTIFY THAT THE ABOVE SURVEY WAS PERFORMED UNDER MY SUPERVISION AND ALL CORNERS WERE SET AS SHOWN ON THE PLAT AND TO THE BEST OF MY KNOWLEDGE ARE CORRECT.

DAVID L. JORGENSEN, ARLS 1118

DATE



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

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

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

9/18/07

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Attn: Planning Department
Re: Rezoning of property on East Huntsville Street

Attached herewith please find the application and documents for a rezoning request on the above referenced property.

The current zone is RSF-4 and the owner would like to rezone to R-0.

Property to the West is residential; to the North and East is zoned residential but is a field; to the South is C-1 and is a gas station.

There is existing water (8") and sewer (6") on the North side of Huntsville Street.

The current owner is Bill Sweetser and he would like to rezone the property so that he can lease the property to potential tenants who may be interested in residential office space. The current zoning does not allow this.

With the growth to the East and the amount of traffic on East Huntsville we believe that R-0 zoning is reasonable.

Please call concerning and questions you may have.

Thank you.

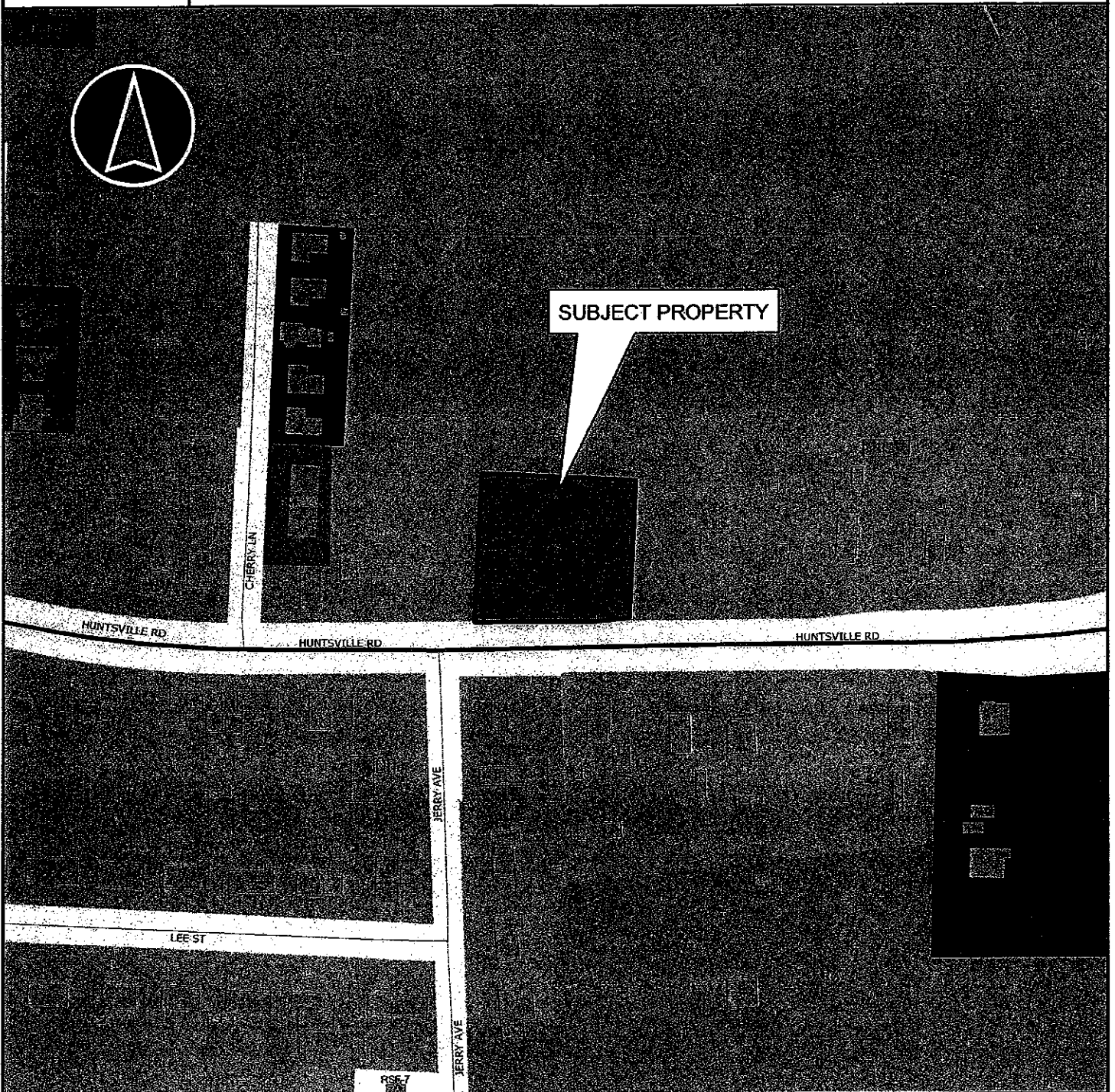
Sincerely,

David L. Jorgensen, P.E.

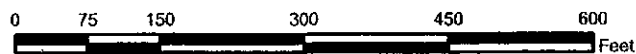
RZN07-2782

SWEETSER

Close Up View



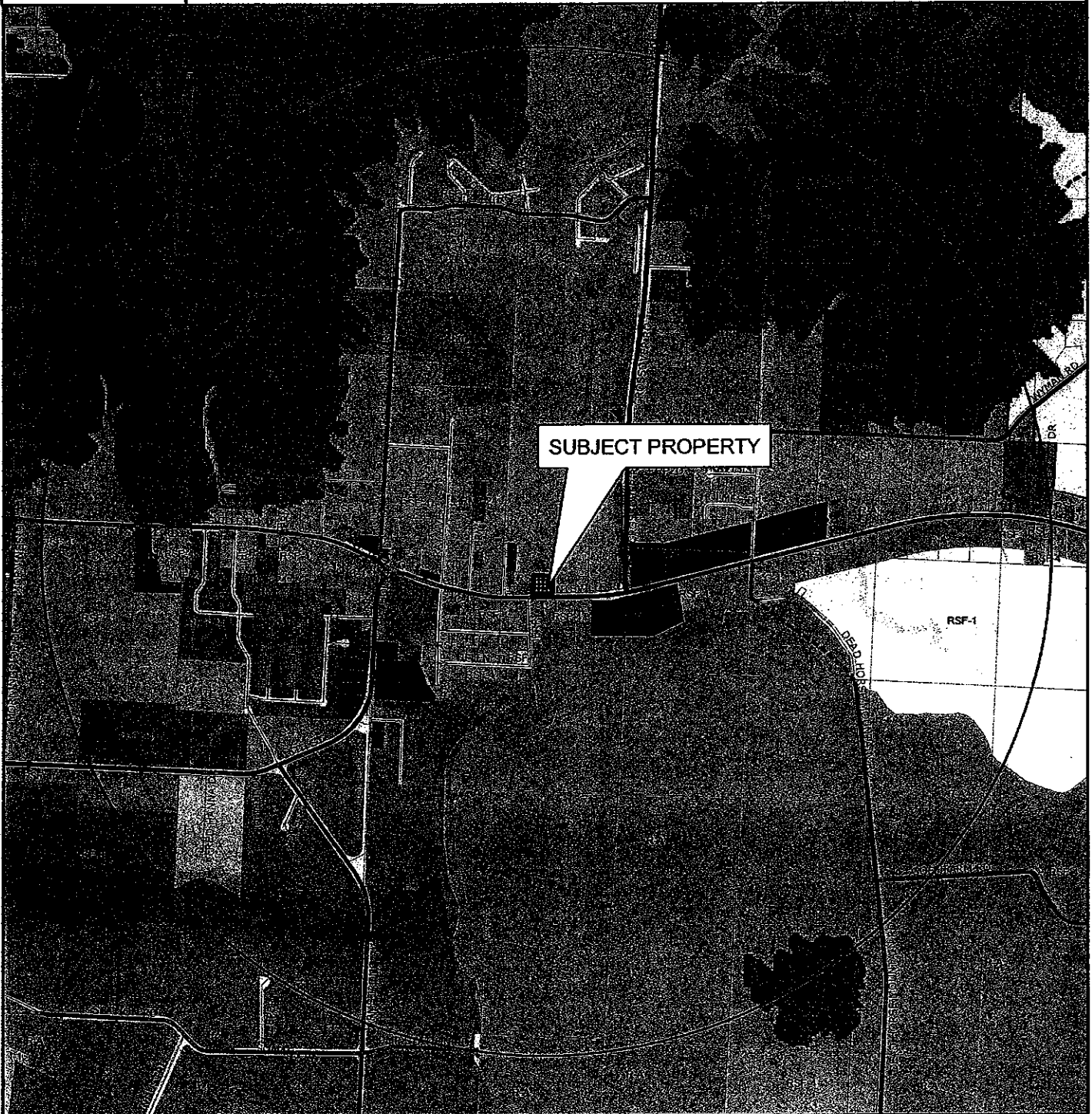
Overview



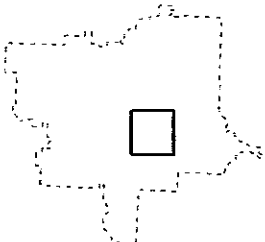
RZN07-2782

One Mile View

SWEETSER



Overview



Legend

Subject Property

RZN07-2782

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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

4-Dec-07
City Council Meeting Date

Jeremy Pate 
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 07-2758: (Bittle, 332): Submitted by Alan Reid for property located at 2455 East Gentle Oaks Lane. The request is to vacate 148 square feet of the utility easements on the subject property.

\$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

☐



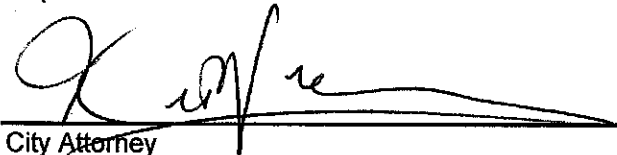
Department Director

11.16.07

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a



City Attorney

11-16-07

Original Contract Number: n/a


Paul A. Buh

Finance and Internal Service Director

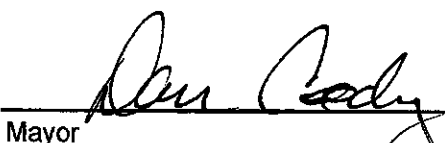
11-16-07

Date

Received in City Clerk's Office

ENTERED

11/16/07


Alan Cook

Mayor

11/19/07

Date

Received in Mayor's Office

ENTERED

11/16/07

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: November 15, 2007

Subject: Easement Vacation for Bittle (VAC 07-2758)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating 148 square feet of the utility easements that are located on the subject property.

BACKGROUND

The project site is located at 2455 Gentle Oaks Lane at Lot 8 in the East Oaks Subdivision south of Township Street. There are utility easements traversing the western and southern property lines of the property. The applicant built their home in 1984, and in 1992 decided to construct a garden shed adjacent to the residence. According to the applicant they were told that the area proposed for the shed was in a utility easement, however, since there were no known utility lines in the area the shed would be allowed as long as it was a portable building, allowing it to be easily removed in event a utility line needed to be repaired or replaced. The building was completed in 1992. There are no utilities located within the easements underneath the shed, the area requested to be vacated (approximately 148 square feet).

The deck off the rear of the house was built over an existing sewer line and associated easement. The applicant has confirmed with the City Water and Sewer Division that the sewer line is in need of repair. The applicant has agreed to repair and relocate the sewer line around the deck. However the applicant is not requesting that the easements under the deck be vacated at this time.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City with no objections to the requested easement vacation. This item was heard at the regular Planning Commission meeting on November 13, 2007 and forwarded by vote of 9-0-0 on the consent agenda to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2758 SUBMITTED BY ALAN REID FOR PROPERTY LOCATED AT 2455 EAST GENTLE OAKS LANE TO VACATE PORTIONS OF THE UTILITY EASEMENTS ON THE SUBJECT PROPERTY, A TOTAL OF 148 SQUARE FEET.

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 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 "B" 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 "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

CONSIDERED DRAWN
5000 ARKANSHIRE CR. APT. 33
SPRINGDALE, AR. 72764

EXHIBIT "A"

(ASPHALT, 50' R/W)

GENTLE OAKS LANE

C. 3
APPROVED BY
JAMES & MARY WIL
2386 N. AZALEA TR
FAYETTEVILLE, AR.

↑
N
1"=30'

LOT 4
BLOCK 10

765-04939-000
ROBERT & TRACI FARRAH
2394 N. BIG OAKS DR.
FAYETTEVILLE, AR. 72703

RSF-4

(SEE DETAIL)
WOODEN GARDEN
SHED
POINT NOT SET
LANDS ON SSMH

765-04940-000
JONATHAN PERRY
CYNTHIA PATTON
2372 N. BIG OAKS DR.
FAYETTEVILLE, AR. 72703

LOT 5
BLOCK 10

WOODEN GARDEN
SHED

147.6± SQ. FT.

765-04
BRANDY & PETER ESTES, III
2350 N. BIG OAKS DR.
FAYETTEVILLE, AR. 72703

DETAIL OF
AREA TO BE VACATED

P.O.B.
ESMT. VAC.

LINE	BEARING	DISTANCE
L1	S00°49'22"E	4.38'
L2	S89°21'15"W	16.23'
L3	N00°49'22"W	12.16'
L4	N89°21'15"E	9.86'
L5	S00°16'59"E	7.74'
L6	N89°43'01"E	6.45'

L=89.70
R=50.00'
CH=S46°09'05"W 78.

ORIGIN.
BLO
0.30±
13,000.0

ADJUST
BLO
0.39±
17,193.1

LOT
BLOCK

765-04937-000
LARRY BITTLE, 1TEE
LARRY BITTLE REV.
2455 GENTLE OAKS
FAYETTEVILLE, AR. 7.

RSF-4

40.00'
N89°43'01"E

UTILITY EASEMENT
TO BE DEDICATED
BY THIS PLAT

N89°36'49"E

ADJUSTED LINE

20' B.S.B.

OT 2
IES
2. FT.

76
LA
24
FA

EXHIBIT "B"
VAC 07-2758

A PART OF LOT NUMBERED THREE (3), BLOCK TEN (10) OF EAST OAKS ADDITION, PHASE II, IN THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:" COMMENCING AT THE NORTHEAST CORNER OF SAID LOT THREE (3), SAID POINT BEING A SET ½" IRON REBAR; THENCE S00°16'59"E 117.50 FEET ALONG THE EAST LINE OF SAID LOT THREE(3) TO THE NORTH LINE OF AN EXISTING UTILITY EASEMENT; THENCE S89°43'01"W 78.55 FEET ALONG THE NORTH LINE OF SAID EASEMENT TO THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST WALL OF AN EXISTING STORAGE SHED; THENCE S00°49'22"E 4.38 FEET TO THE SOUTHEAST CORNER OF SAID SHED; THENCE S89°21'15"W 16.23 FEET TO THE SOUTHWEST CORNER OF SAID SHED; THENCE N00°49'22"W 12.16 FEET TO THE NORTHWEST CORNER OF SAID SHED; THENCE N89°21'15"E 9.86 FEET ALONG THE NORTH WALL OF SAID SHED TO A POINT ON THE EAST LINE OF AN EXISTING UTILITY EASEMENT; THENCE S00°16'59"E 7.74 FEET ALONG THE EAST LINE OF SAID EASEMENT TO A POINT ON THE NORTH LINE OF AN EXISTING UTILITY EASEMENT; THENCE N89°43'01"E 6.45 FEET TO THE POINT OF BEGINNING, CONTAINING 147.6 SQUARE FEET, MORE OR LESS.



PC Meeting of November 13, 2007

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: ~~November 7, 2007~~ *Updated November 15, 2007*

VAC 07-2758: (BITTLE, 332): Submitted by ALAN REID for property located at 2455 E. GENTLE OAKS LANE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.73 acres. The request is to vacate a portion of a utility easement.

Property Owner: Larry Bittle
Planner: Andrew Garner

Background/Property: The project site is located at 2455 Gentle Oaks Lane at Lot 8 in the East Oaks Subdivision south of Township Street. There are utility easements traversing the western and southern property lines of the property. The applicant built their home in 1984, and in 1992 decided to construct a garden shed adjacent to the residence. According to the applicant they were told that the area proposed for the shed was in a utility easement, however, since there were no known utility lines in the area the shed would be allowed as long as it was a portable building, allowing it to be easily removed in event a utility line needed to be repaired or replaced. The building was completed in 1992. There are no utilities located within the easements underneath the shed, the area requested to be vacated (approximately 148 square feet).

The deck off the rear of the house was built over an existing sewer line and associated easement. However the applicant is not requesting that the easements under the deck be vacated.

Request: The applicant requests to vacate 148 square feet of the utility easements that are located in the southwest corner of the subject property, under the existing garden shed. The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

RESPONSE

Cox Communications	No Objections
AEP/SWEPCO	No Objections
Arkansas Western Gas	No Objections
AT&T/ Southwestern Bell Telephone	No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

The current deck built over the sewer main must be moved from the sewer main easement. *See attached memo.*

Engineering

No Objections

Solid Waste

No Objections

Transportation

No Objections

Findings: Staff finds that vacating the requested portion of easement would not adversely affect access to the utilities serving the property or any other adjacent property. The Fayetteville Water and Sewer Division has stated no objection to the requested vacation, subject to the condition that the existing deck on the property be removed from a portion of the utility easement being vacated. Conversations with this division prior to publishing of this report indicated that the sewer line had been televised and is in danger of collapse. The property owner has been contacted and discussions are underway regarding the potential relocation of the sewer line by the property owner. It should be noted that structures, including decks, are not permitted to be constructed within utility easements for this reason. A utility company retains the right to remove any structure to maintain its respective utility line, without replacing the structure. Should the commission desire a resolution in this seemingly separate issue, staff would recommend tabling this item, unless an update has been provided by the Planning Commission meeting.

Public Comment: Staff has not received public opposition to this vacation request.

Recommendation: Staff recommends forwarding to the City Council with a recommendation of approval to vacate the utility easement VAC 07-2758 with no conditions.

PLANNING COMMISSION ACTION: yes Required

Recommendation to be: ☒ Forwarded for approval ☐ Denied ☐ Tabled

Motion: Trumbo

Second: Graves

Vote: 9-0-0

Date: November 13, 2007

Comments: 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

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: '07

UTILITY COMPANY: CITY OF FAYETTEVILLE W&S

APPLICANT NAME: Bittle

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:

The current deck is built over the Sewer main. The deck
must be moved from the Sewer main easement

[Signature] 8-2-07
Signature of Utility Company Representative

Operations Manager Water + Sewer
Title

City of Fayetteville, Arkansas
Planning Department
Fayetteville, Arkansas 72701

Ladies and Gentlemen:

In the process of preparing necessary paperwork and securing a complete survey of our property located at 2455 East Gentle Oaks Lane, 72703, for the purpose of obtaining a lot line adjustment between the lot where our home sets and the lot that we own directly south of us, we learned that a variance request would also be needed.

After building and completing our home in 1984, we decided to construct a garden storage building adjacent to our home in 1992. We were then told that the area in which we wanted to place the structure was in a utility easement; however, we could go ahead with our plans since no known utility lines were in that specific location and we would need to make it a portable building. The building was completed in 1992 to the exact specifications of our home to be aesthetically compatible. We are enclosing pictures showing the structure today from the front and from the rear with the attached potting area.

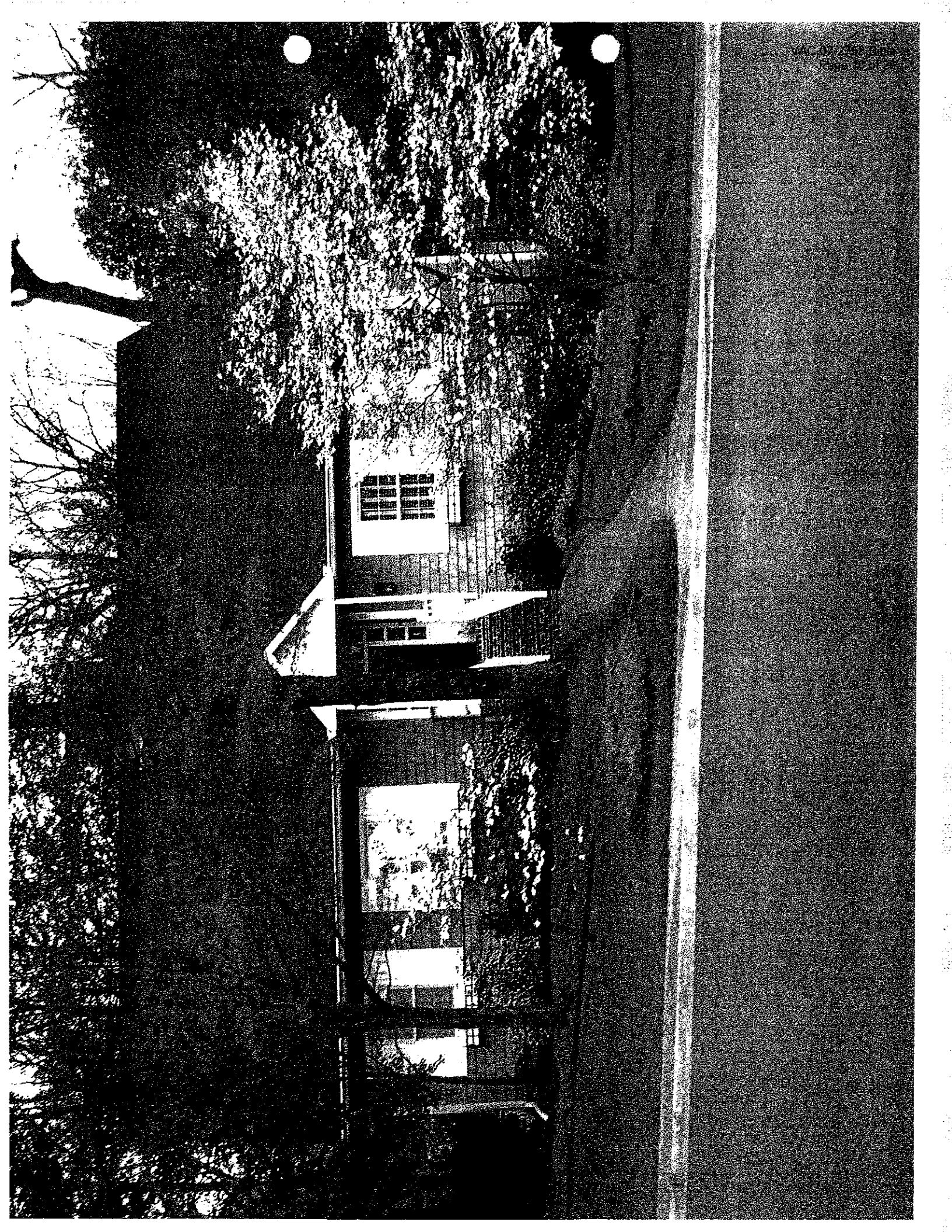
We are requesting a variance to allow this building to remain in its current location. In order to move this building, we would have to remove four mature hardwood trees and a mature climbing rose. The involved trees are as follows: 1. 26" in diameter and 30+ feet in height; 2. 22" in diameter and 30+ feet in height; 3. 24" in diameter and 50+ feet in height; 4. 39" in diameter and 50+ feet in height. The original information we received that no utility lines were involved is apparently the case since no utility company has ever approached us about any difficulty or interference in the past 15 years even though there have been various utility upgrades in our neighborhood during this time.

The structure is 16 feet and 3 inches in width and 12 feet and 3 inches in depth with a four foot overhang on the rear. As you can see, we took extreme care to make it attractive and have always maintained it in the same way we do our home. We are proud of Fayetteville's attention to trees and align ourselves with that principle. Our home is surrounded by many mature trees that we feel add a great deal to the setting and the neighborhood.

Thank you in advance for your consideration of this matter.

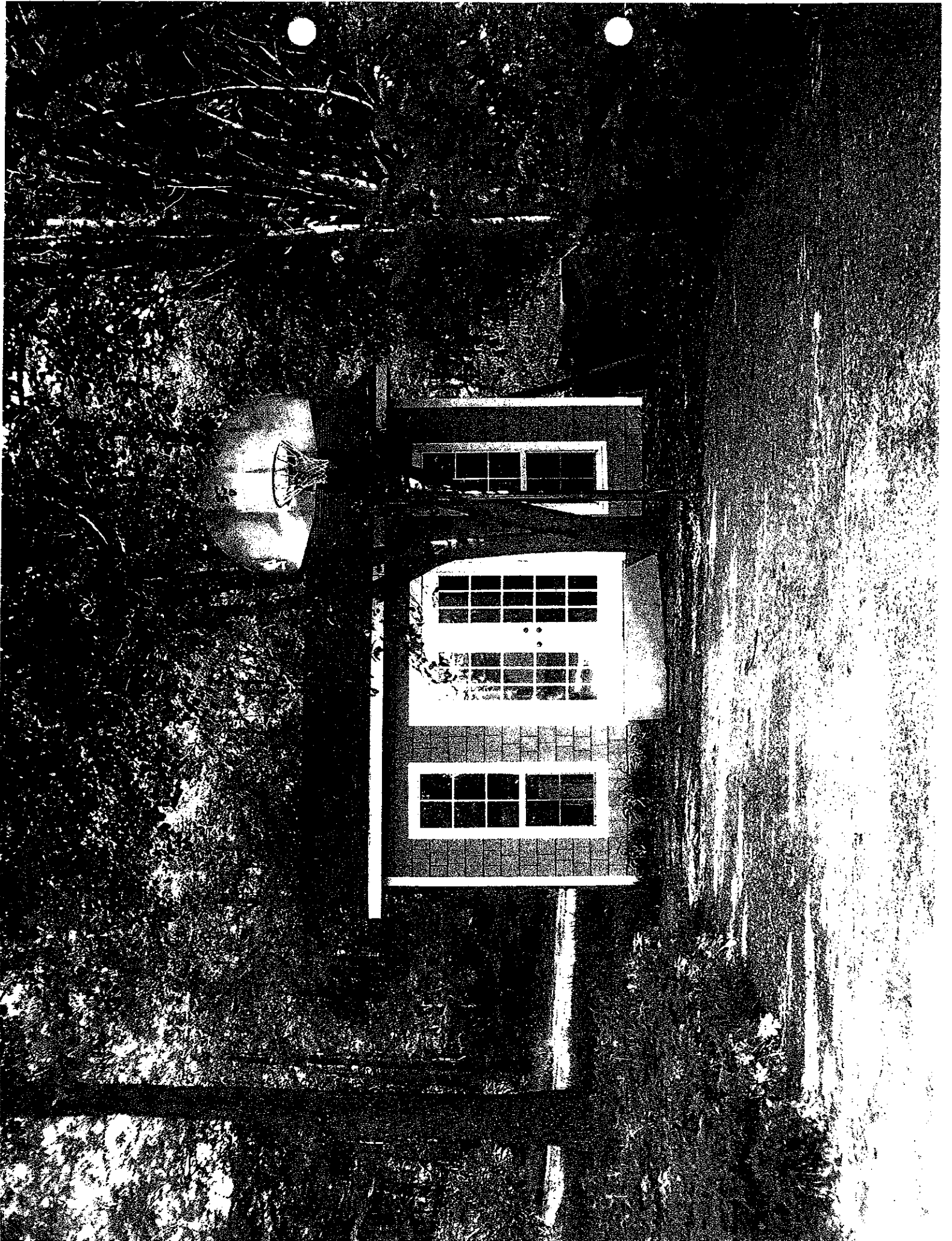
Sincerely,

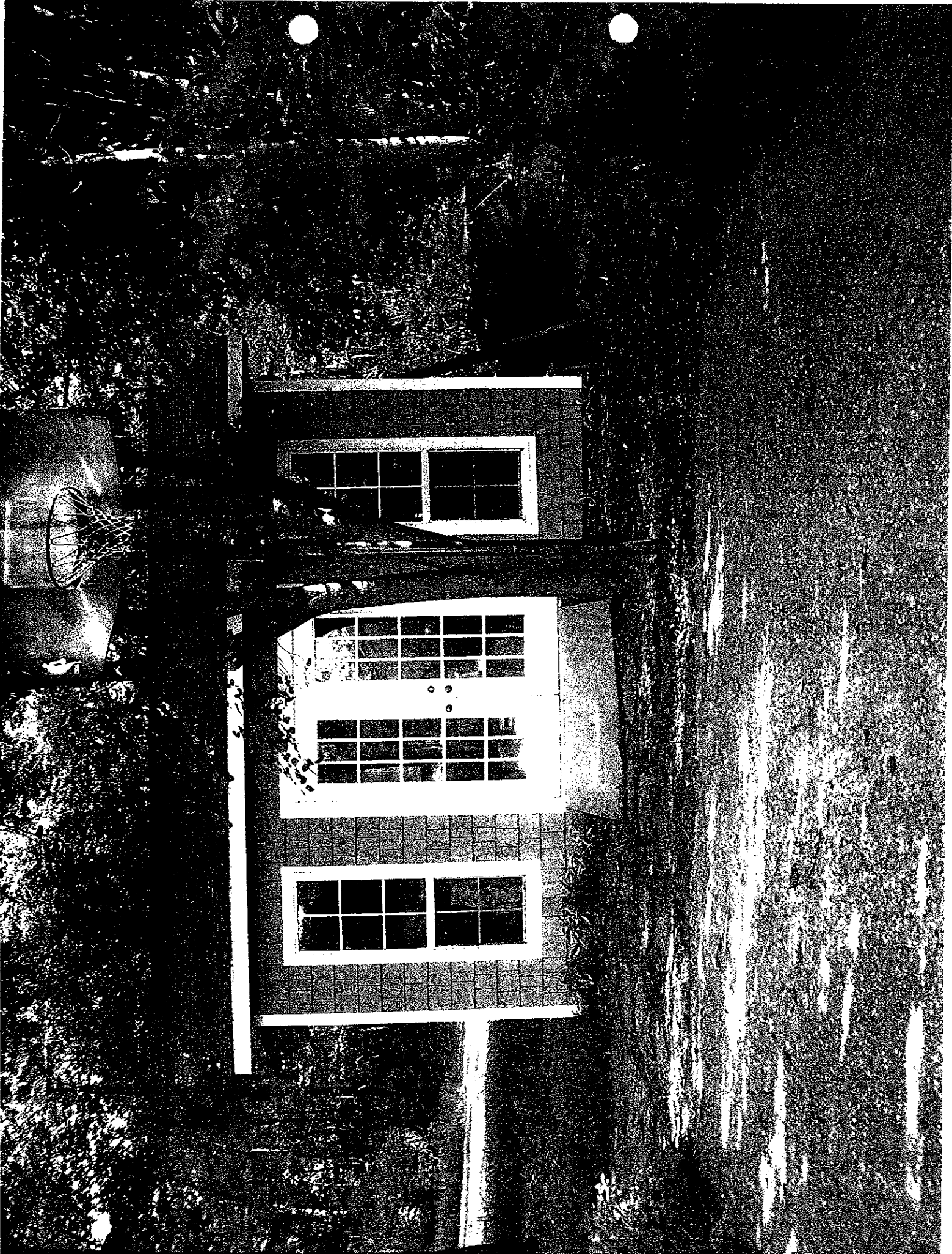

Larry and Nancy Bittle



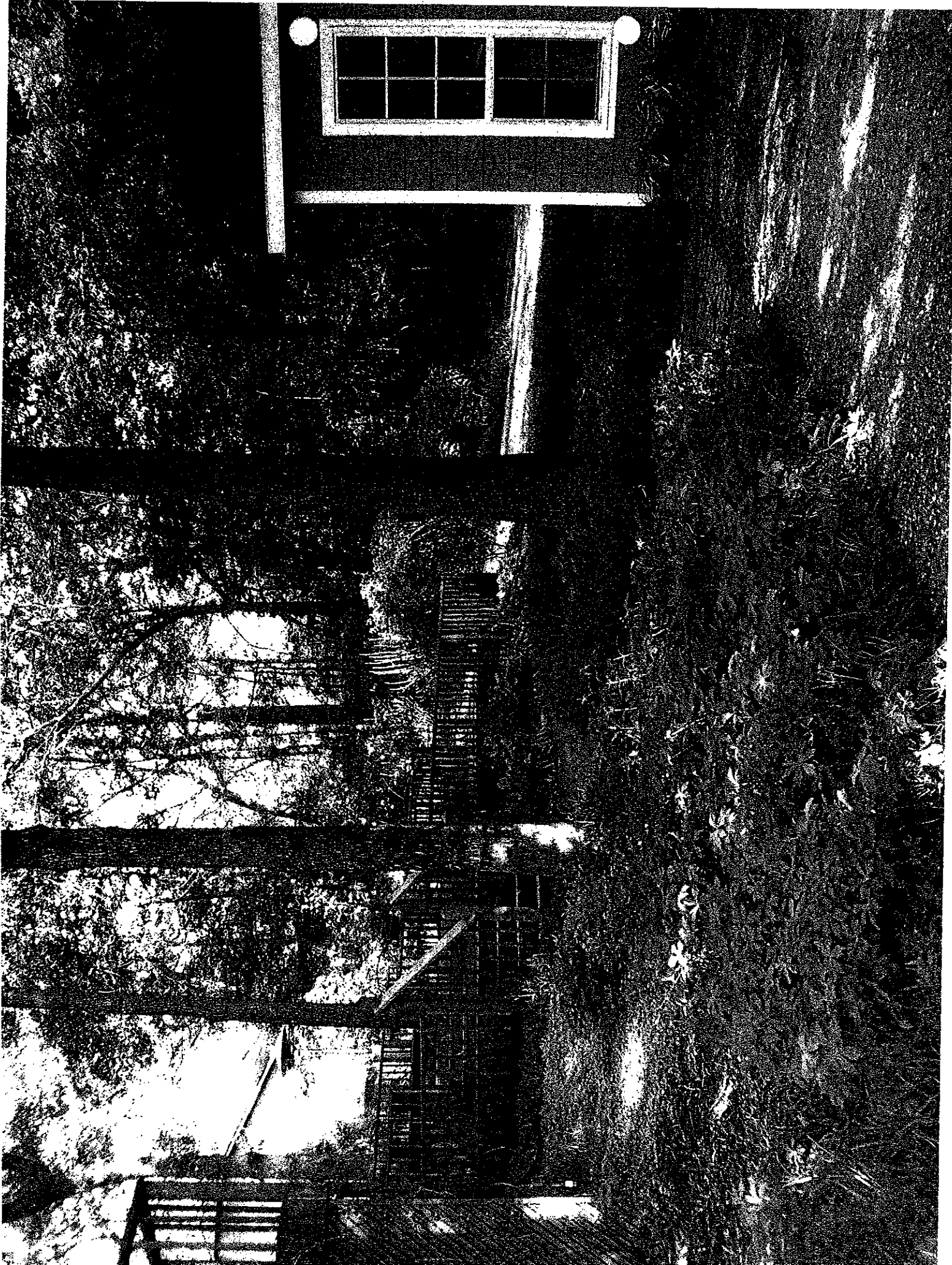


PAGE 1

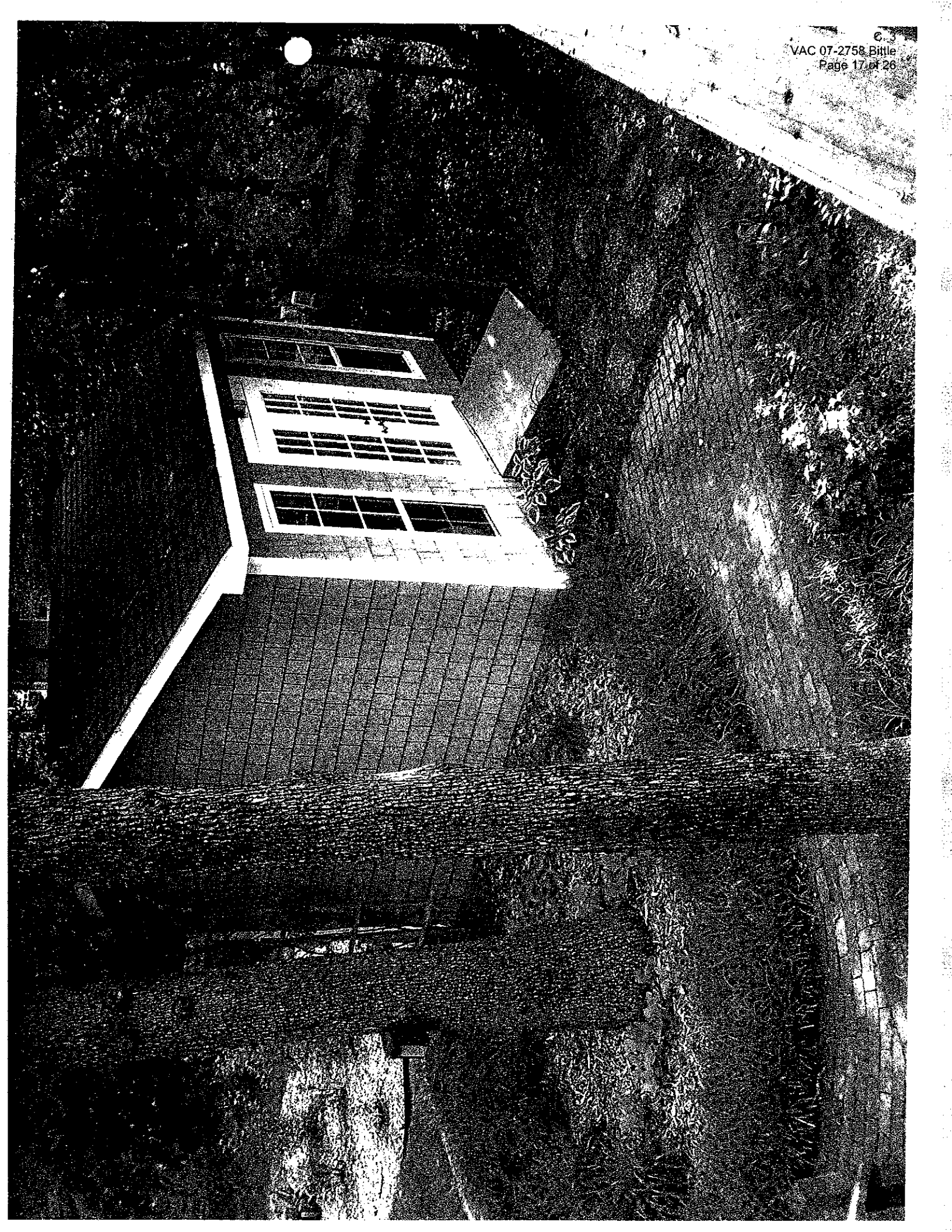


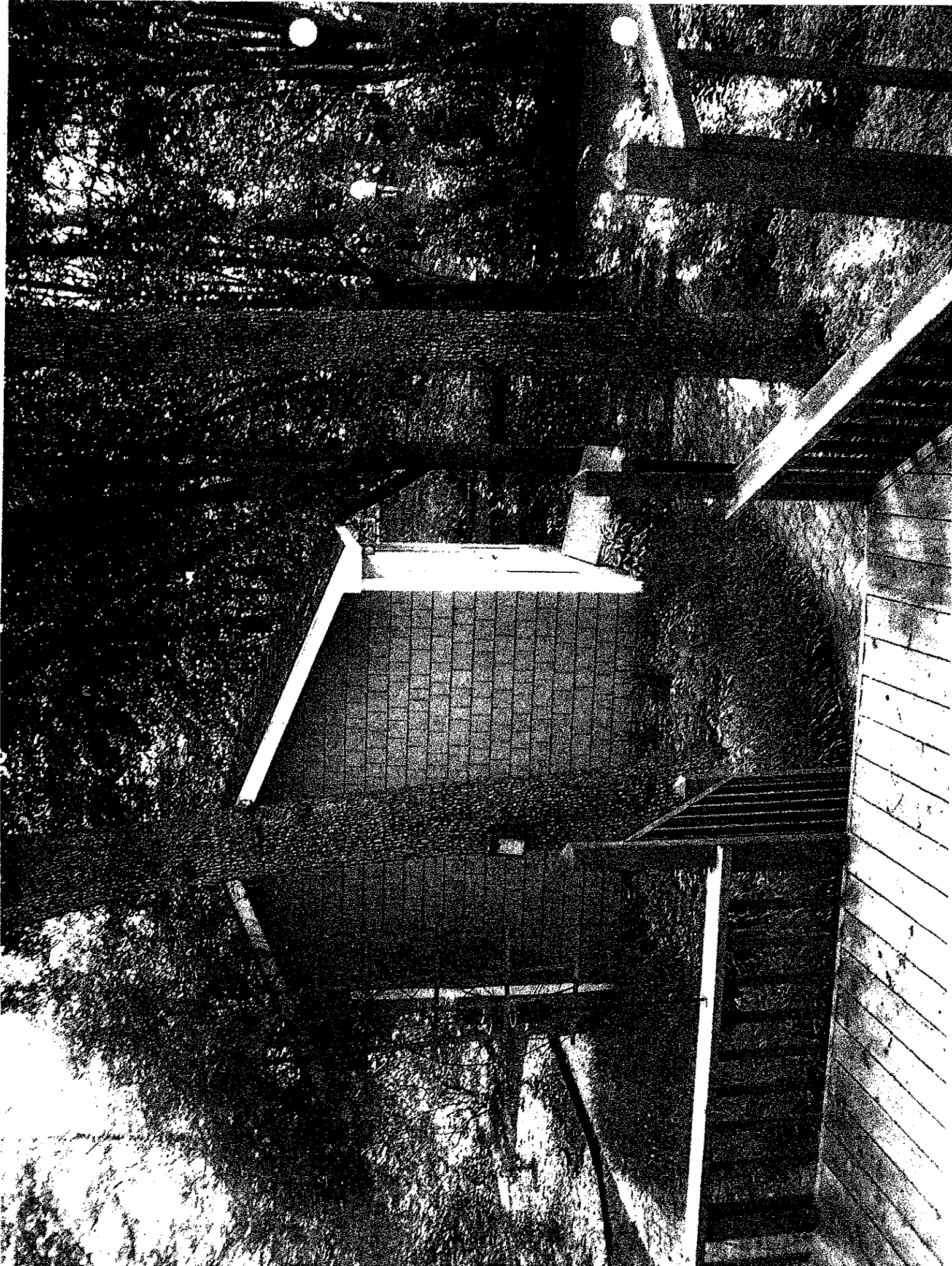


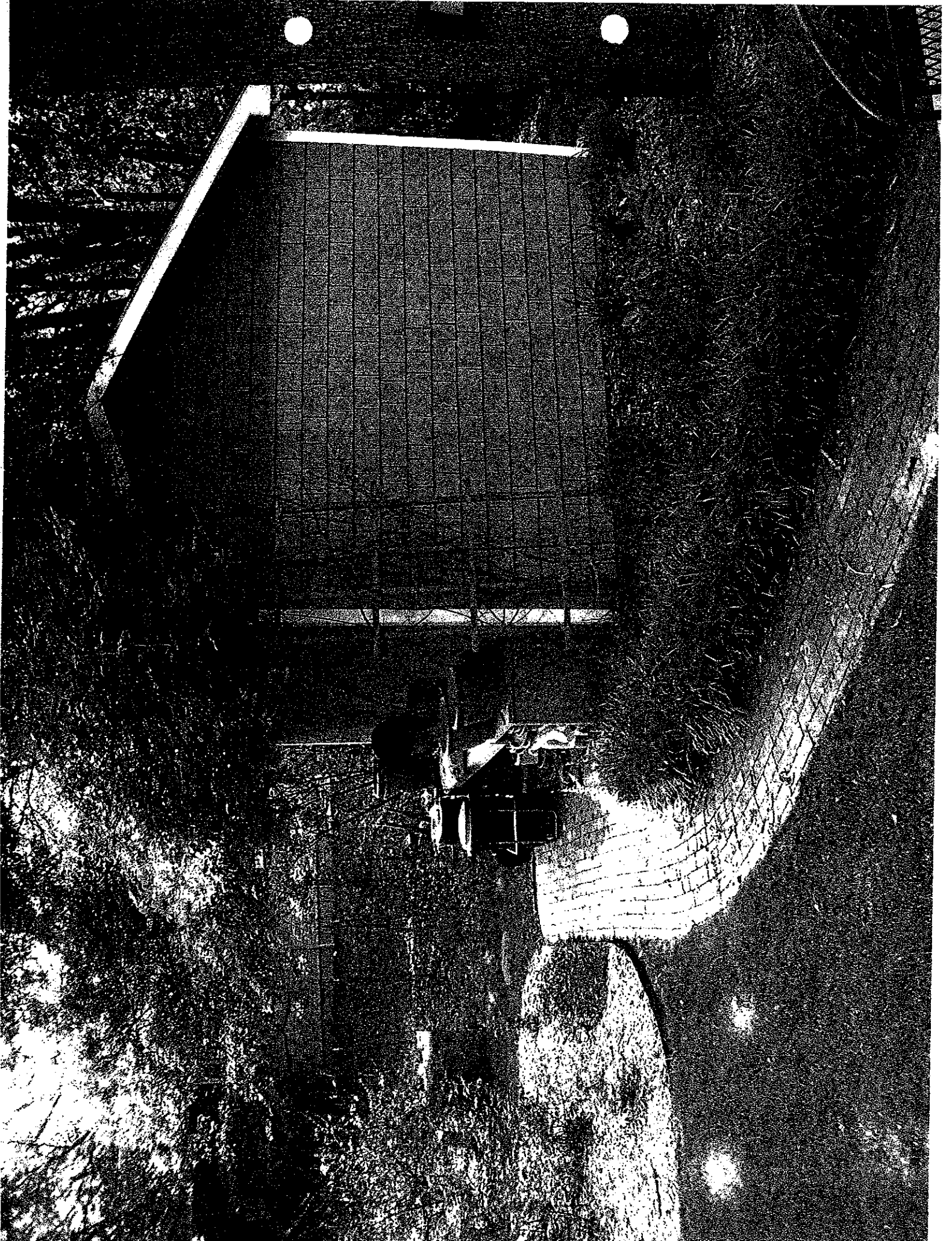


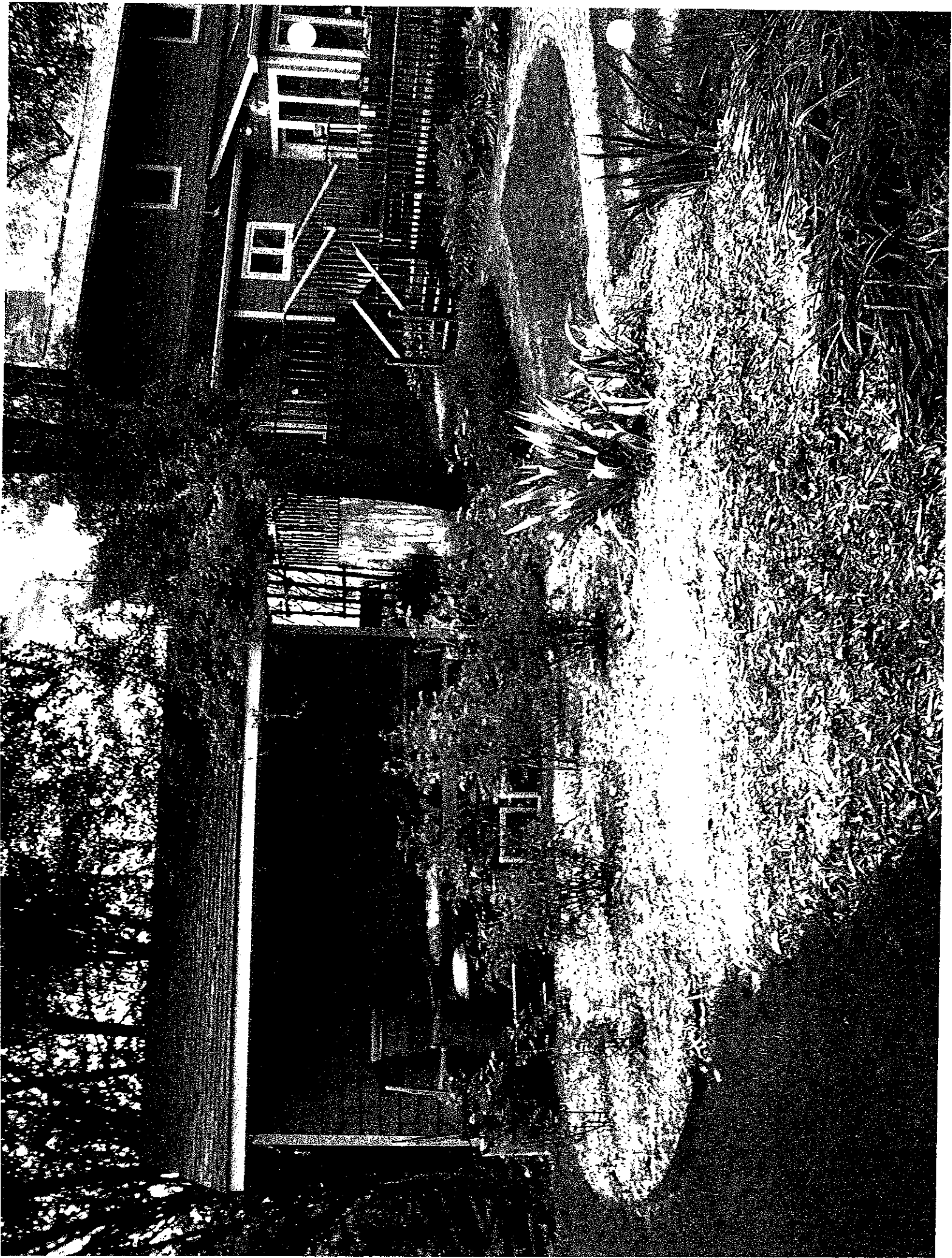


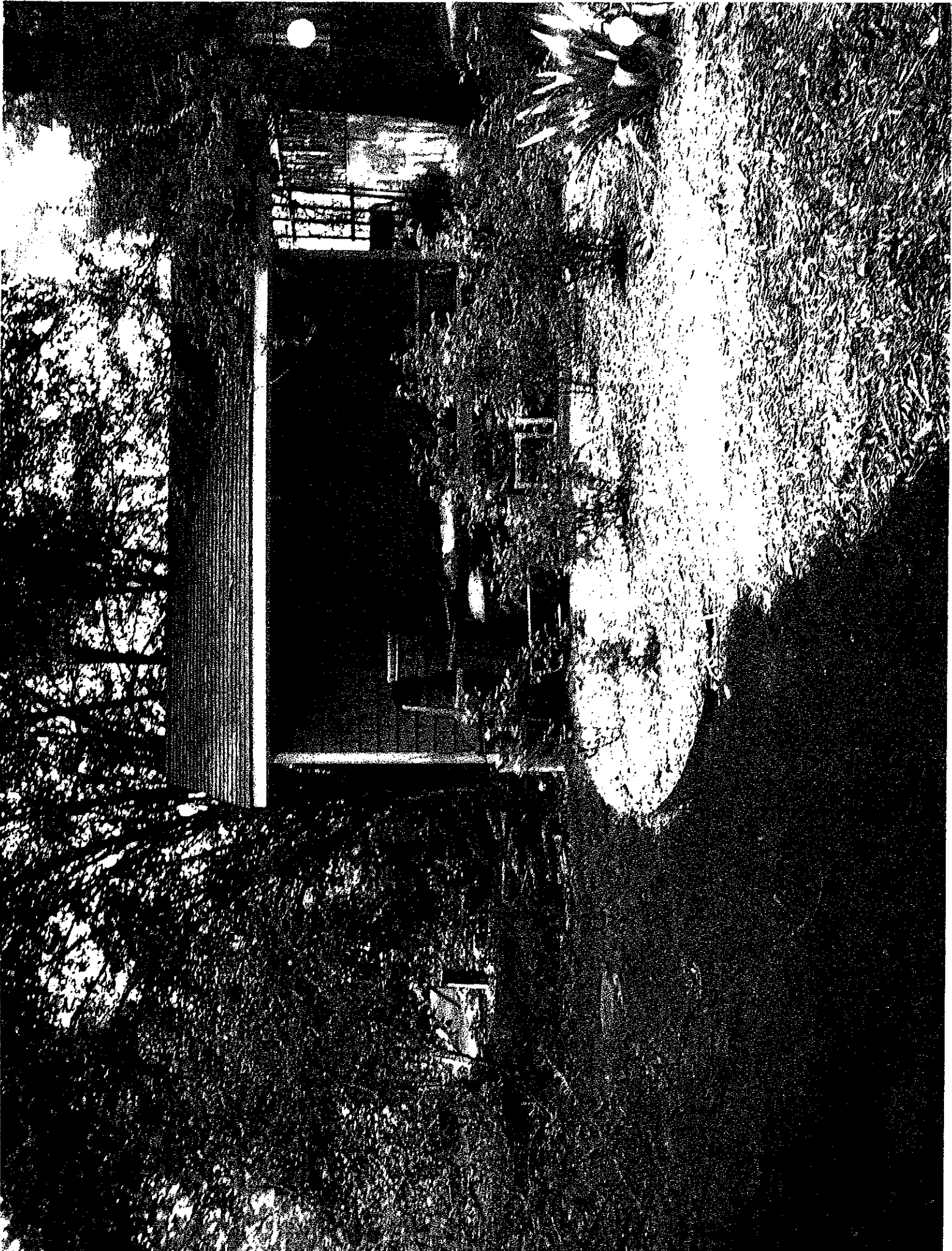




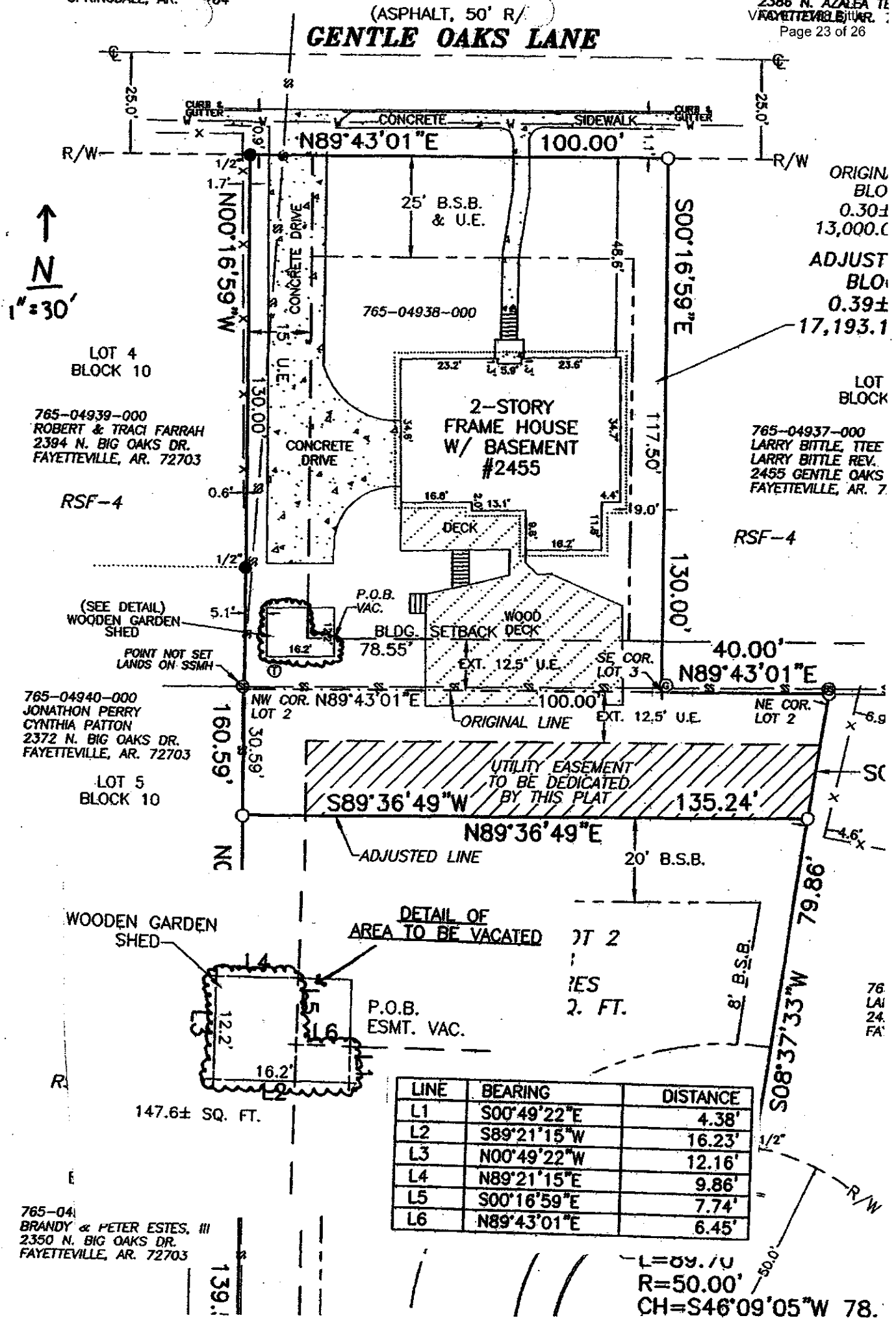








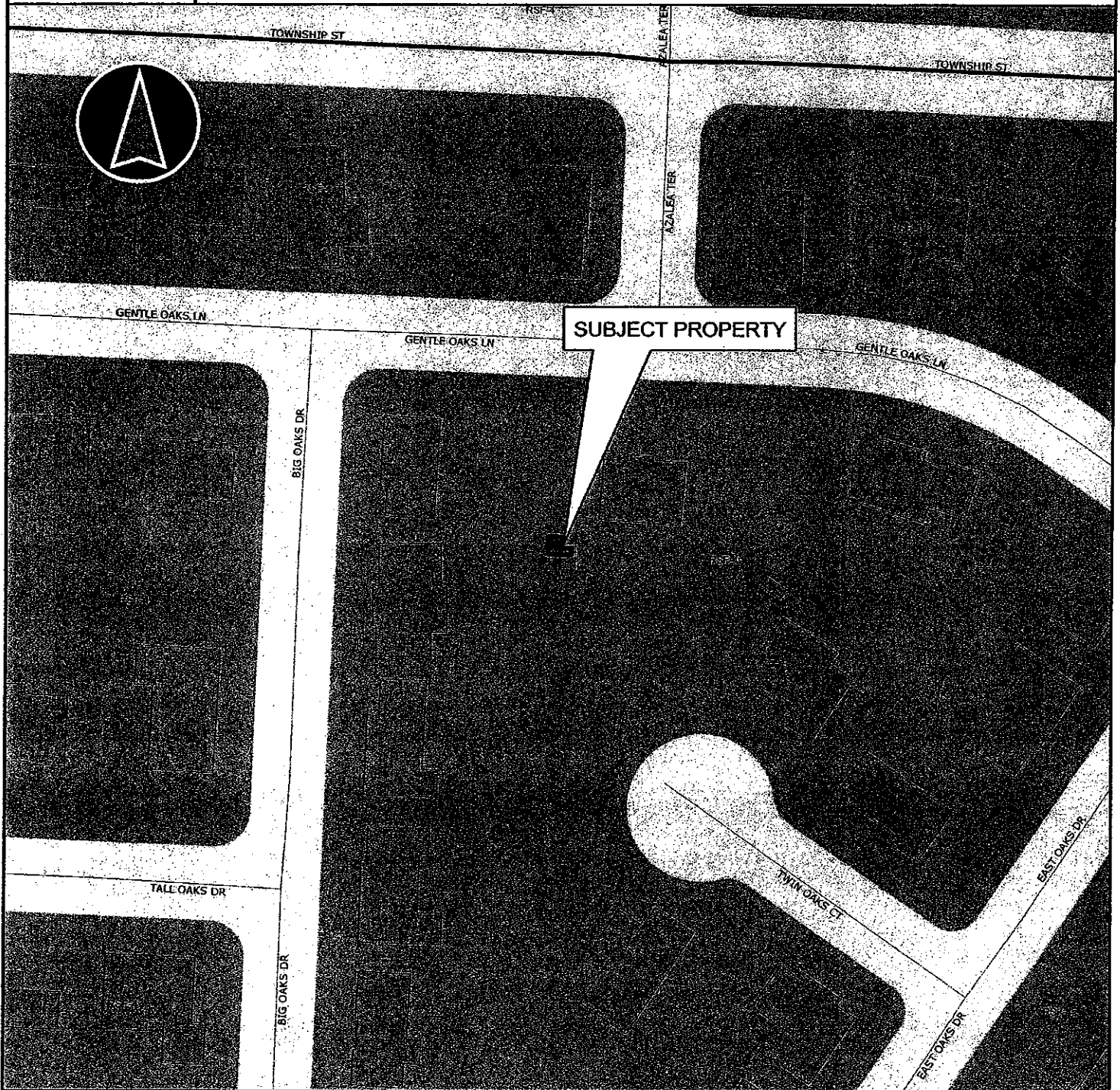




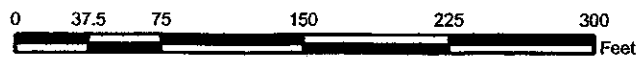
VAC07-2758

BITTLE

Close Up View



Overview



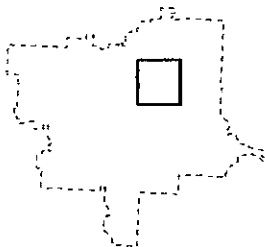
VAC07-2758

One Mile View

BITTLE



Overview



Legend

Subject Property

VAC07-2758

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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

4-Dec-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 07-2761: (Roetzel, 370): Submitted by Mike and Julie Roetzel for property located at 1626 East Cypress, Lot 46 of Charleston Place Subdivision. The request is to vacate portion of a utility easement on the subject property.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 11-16-07
Department Director Date

Previous Ordinance or Resolution # n/a

[Signature] 11-16-07
City Attorney Date

Original Contract Date: n/a

Original Contract Number: n/a

Paul A. Butler 11-16-07
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
11/16/07

[Signature] 11/12/07
Mayor Date

Received in Mayor's Office
ENTERED
11/12/07

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: November 15, 2007

Subject: Easement Vacation for Roetzel (VAC 07-2761)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating 3 feet (219 sq. ft.) of the utility easement along the west side of the subject property.

BACKGROUND

The subject property is located east of Old Wire Road and directly north of the cemetery on Mission Boulevard and was created with approximately 49.59 feet of frontage. It is one of the 51 lots of Charleston Place, a Planned Unit Development approved in 1999, which allowed for smaller lots than permitted by the underlying zoning regulations. Currently, lot 46 (1626 E. Cypress) is approximately 0.09 acres, of which more than 25% is within a utility easement along the north, west, and south property lines. A majority of the surrounding lots contain more area and fewer utilities easements.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City with no objections to the requested easement vacation, provided it is only the 3 feet as described. This item was heard at the regular Planning Commission meeting on November 13, 2007 and forwarded by vote of 8-0-1 on the consent agenda to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2761 SUBMITTED BY MIKE AND JULIE ROETZEL FOR PROPERTY LOCATED AT 1626 EAST CYPRESS, LOT 46 OF CHARLESTON PLACE SUBDIVISION TO VACATE A PORTION OF A UTILITY EASEMENT ON THE SUBJECT PROPERTY, A TOTAL OF 0.09 ACRES.

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 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 "B" 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 "A" 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 as follows, and shall not be in effect until all conditions are met.

1. No portion of the front or back utility easements shall be vacated.

PASSED and APPROVED this day of , 2007.

APPROVED:

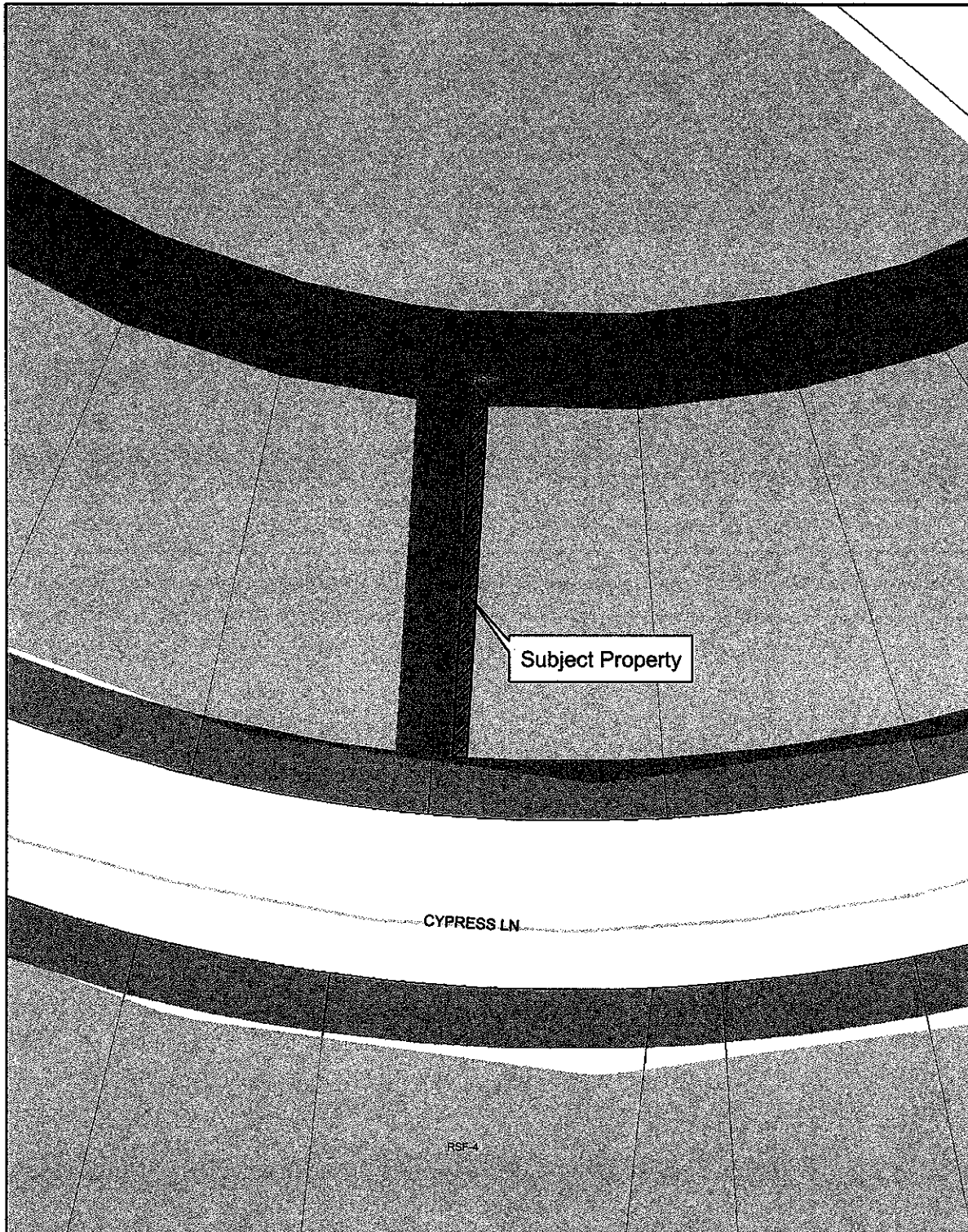
ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

VAC 07-2761 (ROETZEL)



Legend



EASEMENT



Wash Co Parcels (Fayetteville)

EXHIBIT "B"
VAC 07-2761

A PART OF LOT 46, CHARLESTON PLACE, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD 16 AT PAGE 36, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: BEGINNING AT A POINT WHICH IS N88°36'31"E 4.5' FROM THE NORTHWEST CORNER OF SAID LOT 46 AND RUNNING THENCE S00°50'36"W 90.32', THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 330.42' AND A CHORD BEARING AND DISTANCE OF S88°32'38"E 3.00', THENCE N00°50'36"E 90.47', THENCE S88°36'31"W 3.00' TO THE POINT OF BEGINNING.



PC Meeting of November 13, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 2, 2007 Updated November 14, 2007

VAC 07-2761: (ROETZEL, 370): Submitted by MIKE AND JULIE ROETZEL for property located at 1626 E. CYPRESS, LOT 46 OF CHARLESTON PLACE SUBDIVISION. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.09 acres. The request is to vacate a portion of a utility easement.

Planner: Dara Sanders

Findings:

Property Description and Background: The subject property is located east of Old Wire Road and directly north of the cemetery on Mission Boulevard and was created with approximately 49.59 feet of frontage. It is one of the 51 lots of Charleston Place, a Planned Unit Development approved in 1999, which allowed for smaller lots than permitted by the underlying zoning regulations. Currently, lot 46 (1626 E. Cypress) is approximately 0.09 acres, of which more than 25% is within a utility easement along the north, west, and south property lines. A majority of the surrounding lots contain more area and fewer utilities easements.

Request: The applicant is requesting to vacate 3 feet (a total of 219 square feet) of a utility easement along the west side of the property, in order to provide sufficient space to build a single-family dwelling on a lot with a width that ranges from approximately 37.68' to 49.59'. 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 objection to vacate 3' of the
utility easement along western

portion of Lot 46.

Arkansas Western Gas

No Objections

AT&T Arkansas

No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections

Transportation

No Objections

Solid Waste

No Objections

Public Comment: One objection to the project has been received. Please see the attached request. The objection is not from an immediately adjacent property owner, and the vacation will have no detrimental impact for access or services for this property owner.

Recommendation: Staff recommends forwarding VAC 07-2761 to the City Council with a recommendation of approval to vacate 3' of the utility easement as noted herein with the following Condition of Approval:

1. No portion of the front or back utility easements shall be vacated.

CITY COUNCIL ACTION: Required
PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: November 13, 2007

Motion: Trumbo

Second: Graves

Vote: 8-0-1

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

Date

NOTIFICATION OF EASEMENT TO BE VACATED

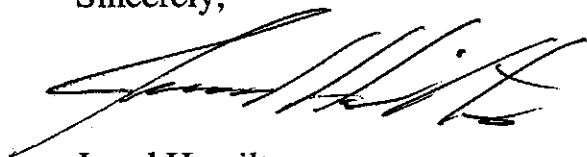
TO: Owners of property adjacent to Lot 46 in Charleston Place Subdivision,
Fayetteville, Arkansas.

Home Owners Association,

I, Jerod Hamilton, am requesting to vacate all or a portion of the utility easement stated in the legal description for Lot 46, Charleston Place, Fayetteville, Arkansas, 72703, as shown on Plat Record 16 at page 36.

Due to size limits and set backs on the lots in this subdivision, it will be difficult to build a house with the entire utility easement intact. All surrounding properties, excluding our lot, are developed with utilities currently in place. Utility companies have reviewed and surveyed this property and all have agreed to release all or a portion of this easement. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerod Hamilton", written over a horizontal line.

Jerod Hamilton

PETITION TO VACATE

**PETITION TO VACATE AN EASEMENT LOCATED IN LOT 46 OF CHARLESTON PLACE
SUBDIVISION, CITY OF FAYETTEVILLE, ARKANSAS**

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lot 46 of Charleston Place Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate and easement which is described as follows:

A part of lot 46, Charleston Place, Fayetteville, Washington County, Arkansas, as shown on plat record 16 at page 36.

That the abutting real estate affected by said abandonment of the alley are Lot 47 of Charleston Place Subdivision, Common Area of Charleston Place Subdivision, Lot 45 of Charleston Place Subdivision, PT Lot 11 of Charleston Place Subdivision and Lot 12 & PT Lot 11 of Charleston Place Subdivision, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by that abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 4th day of September, 2007.

Mike Roetzel
Printed Name

Mike Roetzel
Signature

Julie Roetzel
Printed Name

Julie Roetzel
Signature



CONCURRENCE TO CLOSE A PORTION OF A DEDICATED UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS that Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, hereby concurs in the closing of the following dedicated public easement, to-wit:

A part of Lot 46, Charleston Place, Fayetteville, Washington County, Arkansas, as shown on Plat Record 16 at Page 36, being more particularly described as follows, to-wit: Beginning at the northwest corner of said Lot 46 and running thence S00° 50'36" W 90.05'; thence along a curve to the left having a radius of 330.42' and a chord bearing and distance of S88°09'13"E 7.50'; thence N00°50'36"E 90.47'; thence S88°36'31"W 7.51' to the point of beginning.

Signed and executed this 10th day of May, 2007.

By: _____

F. Jean Davis
F. Jean Davis

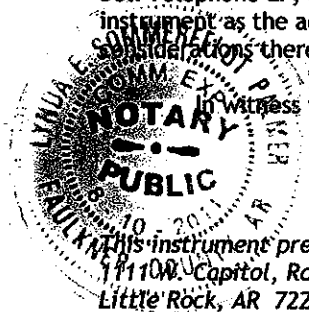
Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF PULASKI

On this the 10th day of May, 2007, before me, the undersigned authority, duly commissioned and qualified in and for the state and county set forth above, personally came and appeared F. Jean Davis, who, after being duly sworn, declared that he is the Director-Engineering/Construction for Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, and that he executed the foregoing instrument as the act and deed of said company of his own free will and for the purposes and considerations therein expressed and with due authority.

In witness whereof I hereunto set my hand and official seal.



This instrument prepared by AT&T
1110 W. Capitol, Room 941
Little Rock, AR 72201 (501-373-5255)

Lynda E. Sommerfeldt Palmer
Lynda E. Sommerfeldt Palmer
Notary Public in & for Faulkner Co., AR
My commission expires August 10, 2011



Lynda Palmer
Manager-Engineering (ROW)
Right-of-Way & Joint Use Poles

AT&T Arkansas
1111 West Capitol
Room 941
Little Rock, AR 72201

C. 4
VAC 07-2761 Roetzel
T: 501.373.5288 Page 11 of 26
F: 501.373.0229
lynda.palmer@att.com

May 10, 2007

Jerod Hamilton
2391 Water Oak
Fayetteville, AR 72704

Dear Mr. Hamilton:

RE: Easement vacation – 46 Charleston Place - Fayetteville

Please find enclosed AT&T's concurrence in your request to the above mentioned easement vacation.

This concurrence must be recorded at the Washington County Courthouse in the office of the circuit clerk to be complete and legal. I would appreciate you returning a copy of the document to me at the above address for my files.

If you have any questions or comments, please call me at 501-373-5255.

Sincerely,

attachments

UTILITY APPROVAL FORM FOR RIGHT-OF-WAY, ALLEY AND UTILITY EASEMENT VACATIONS

DATE: 05/10/07

UTILITY COMPANY: Southwestern Bell Telephone d.b.a. AT&T Arkansas

REQUESTED VACATION:

UTILITY EASEMENT

I have been notified of the petition to vacate the following right-of-way.

Described as follows:

A part of Lot 46, Charleston Place, Fayetteville, Washington County, Arkansas, as shown on Plat Record 16 at Page 36, being more particularly described as follows, to-wit: Beginning at the northwest corner of said Lot 46 and running thence S00° 50'36" W 90.05'; thence along a curve to the left having a radius of 330.42' and a chord bearing and distance of S88°09'13"E 7.50'; thence N00°50'36"E 90.47'; thence S88°36'31"W 7.51' to the point of beginning.

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 Washington County courthouse in order for this release to be complete and legal.

Signature of AT&T Company Representative:


Lynnda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)

**SOUTHWESTERN
ELECTRIC
POWER**

Fayetteville District Operations Center

101 W. Township ♦ Fayetteville, AR 72703

Fax

To: JEROD HAMILTON From: JIM SARGENT
Fax: 820-5860 Pages: 3
Phone: _____ Date: 5/22/07
Re: UTILITY EASEMENT - LOT 46 CHARLESTON PLACE

Comments:

RELEASE 3' OF UTILITY EASEMENT
PLEASE CALL ME AT (479) 973-2332 IF YOU
HAVE ANY QUESTIONS

Phone: (479) 973-2300

Fax: (479) 973-2326

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 5/14/2007UTILITY COMPANY: AEP/SWEP COAPPLICANT 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.)

RETAIN 4.5' EASEMENT ALONG WEST PROPERTY LINE
OF LOT 40 IN CHARLESTON PLACE SUBDIVISION

- No objections provided the following conditions are met:

Jim Sargent

Signature of Utility Company Representative

ENGINEER I

Title



**Arkansas Western Gas
Company**

A subsidiary of Southwestern Energy Company

**UTILITY APPROVAL FORM FOR RIGHT-OF-WAY,
ALLEY, AND UTILITY EASEMENT VACATIONS**

DATE: Friday, May 25, 2007

UTILITY COMPANY: Arkansas Western Gas Company

APPLICANT NAME: Cara Roetzel

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 alleys 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 partially vacate the following Utility Easement
(Please see list above)

Description described as follows:

Vacate 7.5 feet of utility easement along western portion of Lot 46 in Charleston Place Subdivision, Fayetteville, Washington County, Arkansas, as shown on plat record 16 at page 36.

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacates described above.
- ☐ No objections to the vacates described above, provided following described easements are retained. Please state the location, dimensions, and purpose below.

Signature of Utility Company Representative

Fayetteville Assistant Operating Manager

Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 4/27/07

UTILITY COMPANY: Ozarks Electric

APPLICANT NAME: Cara Roetzel

APPLICANT PHONE: (479) 502-0688

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**)

** Lot 46, Charleston Place, Fayetteville, Ar, Washington Co.

(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] OZARKS Electric
Signature of Utility Company Representative

Lead staking Tech
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 4/27/07

UTILITY COMPANY: Water & Sewer

APPLICANT NAME: Cara Roetzel APPLICANT PHONE: 479-502-0688

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**)

** Lot 46, Charleston Place, Fayetteville, Ar, Washington County
(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.)

Easement in front of Lot 46 is to be retained, Easement on
West Side of Property can be Vacated

- ☐ No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

Water & Sewer Ops Mgr
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 4/27/07

UTILITY COMPANY: Solid Waste

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**)

** Lot 46, Charleston Place, Fayetteville, Washington County, Ar

(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:

Brian Pugh
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 4/27/07

UTILITY COMPANY: Transportation

APPLICANT NAME: Cara Roetzel

REQUESTED VACATION (applicant must check all that apply): APPLICANT PHONE: 479-502-0688



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)**

** Lot 46, Charleston Place, Fayetteville, Ar, Washington Co.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:



No objections to the vacation(s) described above. West side of Lot 46 (7.5')

• 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:

Pam A. Sullivan 4/30/07

Signature of Utility Company Representative

Transportation Supt
Title
Operations Department
Transportation Division
City of Fayetteville

575 8227

2907-05-01 10:26

4798720174

P 5/5 C.4
VAC 07-2761 Roetzel
Page 21 of 26

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 5-1-07UTILITY COMPANY: Cox CommunicationsAPPLICANT NAME: Cara Roetzel APPLICANT PHONE: 479-502-0688
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**)

** Lot 46, Charleston Place, Fayetteville, Ar, Washington Co.
(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above. For Lot 46
- ☐ 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:

Michael Smithers
Signature of Utility Company RepresentativeSurveyor
Title

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT- OF- WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 8/9/2007
Address / location of vacation: Lot 46, Charleston Place, Fayetteville, Ar.
Adjacent property address: 1639 E. Cypress Lane, Fay., Ar. 72703
Lot: 11 Block: _____ Subdivision: Charleston Place

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

7.5 ft. utility easement, a part of Lot 46, Charleston Place, Fayetteville,
(*Include legal description and graphic representation of what is being vacated*)
Washington County, Arkansas, as shown on Plat Record 16 at page 36.

ADJACENT PROPERTY OWNERS COMMENTS:

- ☐ I have been notified of the requested vacation and decline to comment.
- ☒ I do not object to the vacation described above.
- ☐ I do object to the requested vacation because:

Jane Lawrence

Name of Adjacent Property Owner (*printed*)

Jane Lawrence

Signature of Adjacent Property Owner

Verod Hamilton

Applicant Name

From: Jan Gambill
To: Sanders, Dara
Date: 10/30/2007 2:49 PM
Subject: Fwd: Roetzel

fyi and the file.

Jan Gambill
Senior Planning Clerk
City of Fayetteville
Planning Division
125 W. Mountain Street
Fayetteville AR 72701
479-575-8263
jgambill@ci.fay.ar.us

>>> "Fred Wizer" <fwizer@biobased.net> 10/30/2007 1:14 pm >>>
Regarding Lot 46, 1622 East Cypress and request to vacate, or adjust
utility easements. Susan and Fred Wizer owners of 1647 Cypress are
against this request and ask that Planning Commission deny any and all
requests.

Regards,

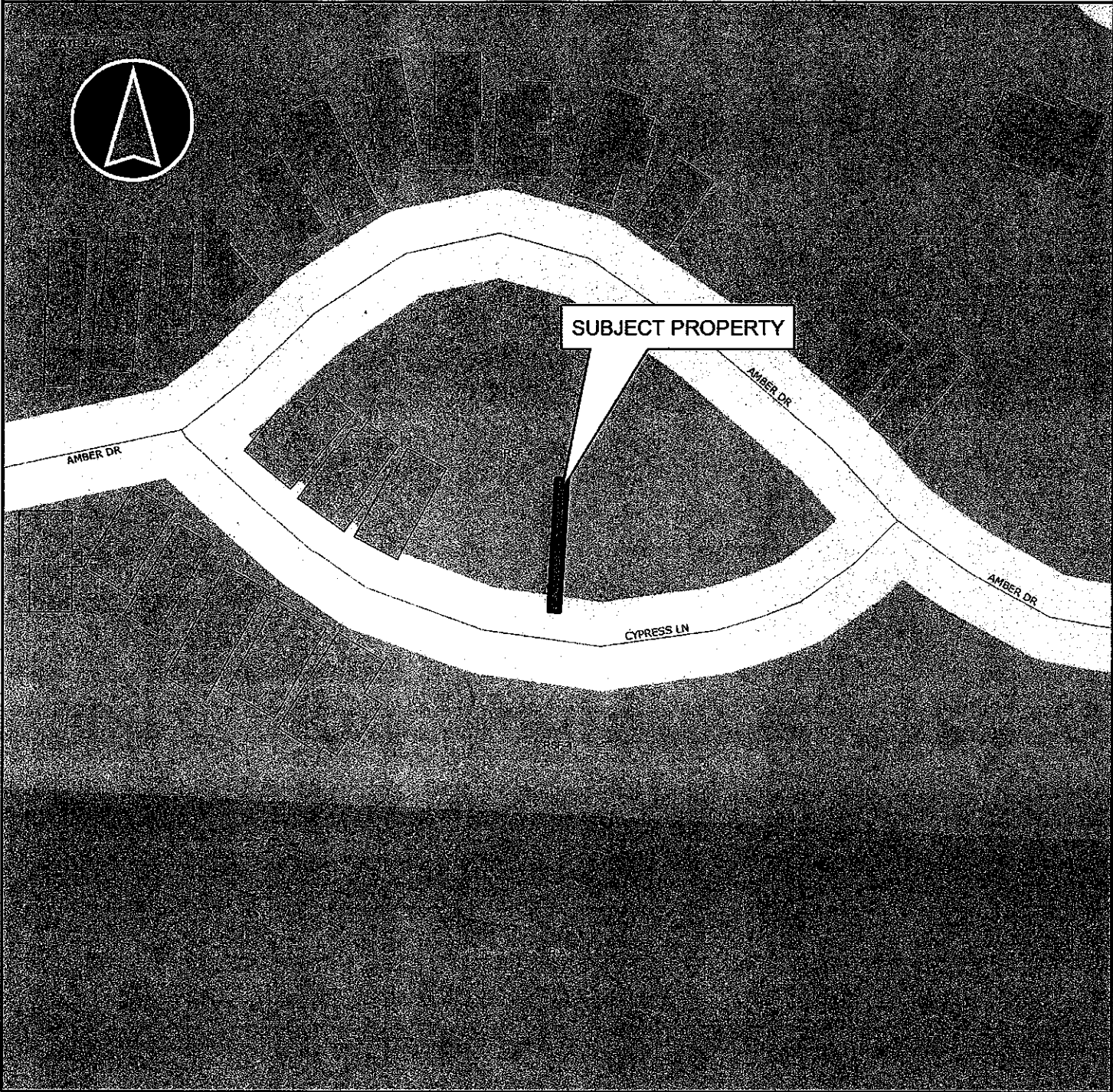
Fred E. Wizer

479-466-1768

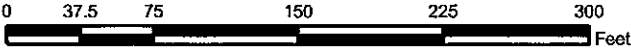
VAC07-2761

Close Up View

ROETZEL



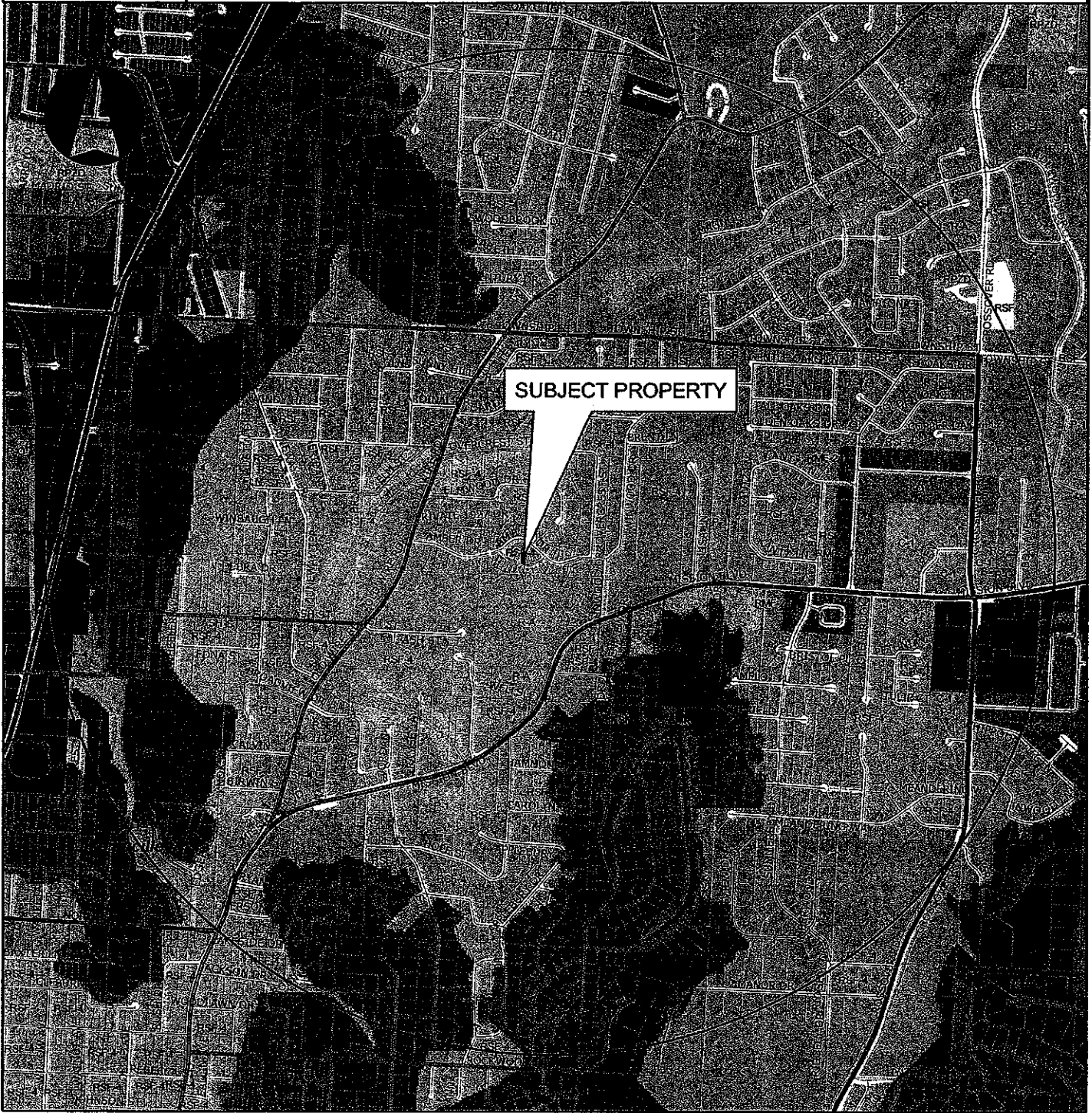
Overview



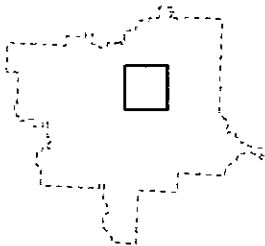
VAC07-2761

ROETZEL

One Mile View



Overview



Legend

Subject Property

 VAC07-2761

Boundary

 Planning Area

 Overlay District

 Outside City

Legend

 Hillside-Hilltop Overlay District

0 0.25 0.5 1
 Miles

AGENDA REQUEST

FOR: COUNCIL MEETING OF DECEMBER 4, 2007

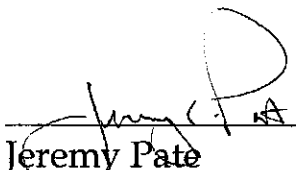
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

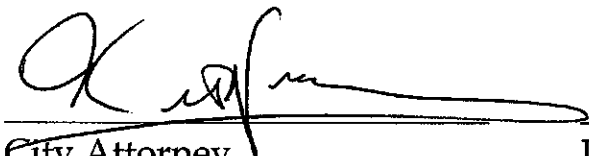
An Ordinance To Amend §174.10 (H) *Monument Signs* To Reduce The Side Setback Requirement From 25 Feet To 10 Feet In Non-Residential Districts

APPROVED FOR AGENDA:

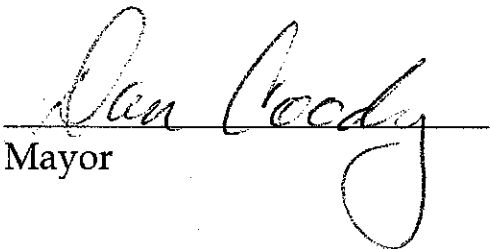


Jeremy Pate 10.20.07
Date

Department Director Date



City Attorney Nov 20, 07
Date



Mayor 11/20/07
Date



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor
City Council

CC: **Jeremy Pate**, Director of Current Planning
Jesse Fulcher, City Planner

FROM: **Kit Williams**, City Attorney

DATE: **November 20, 2007**

RE: **Amendment to §174.10 Monument Signs**

The developers of Market Express pointed out a problem with the desired location of the monument sign for the new Market Express located by the new Malco Theater. The 25 foot side setback from an adjoining property line (Malco) would force Market Express's monument sign down a slope reducing its visibility and attractiveness. We were assured that Malco would consent to the sign being closer to their property line (which is the driveway into its parking lot).

We considered suggesting a change in the variance procedure to allow reducing the side setback to 10 feet with written consent of the adjoining property owner. However, Jeremy suggested that we should simply reduce the side setback requirement in non-residential zones to ten feet while keeping it 25 feet from any residential property line. Therefore, I redrafted §174.10 (H) *Monument signs* to allow this lessened side setback in non-residential situations.

This change will be helpful within our downtown area where occasionally commercial lots have less than a 50 foot frontage which would currently prohibit any monument signs. Because monument signs cannot be higher than six feet nor larger than 75 square feet, we believed a reduced ten foot setback would not infringe on an adjoining commercial property owner. With a ten foot setback requirement, adjoining signs would be **at least** twenty feet apart.

The developers of Market Place Express will ask that this minor change to the Sign Ordinance be passed quickly so that this last second issue can be resolved prior to their planned grand opening of December 10th. I have attached the current §174.10 (H) code section as well as the proposed amended version in the ordinance.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §174.10 (H) MONUMENT
SIGNS TO REDUCE THE SIDE SETBACK REQUIREMENT
FROM 25 FEET TO 10 FEET IN NON-RESIDENTIAL DISTRICTS

WHEREAS, requiring a monument sign to be set back 25 feet from an adjoining commercial district lot causes hardship for owners of narrow commercial lots and in other unusual situations; and

WHEREAS, a 10 foot side setback of a monument sign which can be no more than six feet high should not be a detriment for an adjoining non-residential lot.

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

Section 1: The City Council of the City of Fayetteville, Arkansas hereby repeals §174.10 (H) in its entirety and enacts the following as a replacement of §174.10 (H):

"(H) *Monument signs.* A monument sign shall be set back a minimum of 10 feet from the street right-of-way, 10 feet from adjoining non-residential property and 25 feet from adjoining residential property, and may be substituted for a free standing sign permitted by §174.10, providing the display surface area meets the following:

"(1) *Neighborhood conservation and RSF Districts.*
Prohibited on individual lots.

"(2) *Other residential districts.* The display surface shall not exceed 16 square feet.

"(3) *R-A and P Districts.* The display surface area shall not exceed 32 square feet.

"(4) *C and I Districts*. The display surface area shall not exceed 75 square feet."

PASSED and **APPROVED** this 4th day of December, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Fayetteville Code of Ordinances

be increased two (2) square feet for each one (1) foot the sign is setback from street right-of-way beyond 15 feet, provided further, the maximum display surface area for a sign which is setback from street right-of-way 40 feet or more shall be 75 square feet.

(b) *Setback from right-of-way.* Setback shall be a minimum of 15 feet from street right-of-way.

(c) *Setback from adjoining property.* Setback shall be a minimum of 25 feet from the boundary of any adjoining property.

(3) *Joint identification sign.* The display surface area of joint identification signs may be increased to one square foot per 500 square feet of gross leaseable building area over 37,500 square feet located, as approved by the Planning Division, at no more than two (2) remote entrance locations. The permit applicant shall provide a recorded legal document as approved by the Planning Division indicating ownership and responsibility for maintenance of sign and subject to the following:

(a) *R Districts.* Prohibited.

(b) *R-O District.* Monument sign permitted with a maximum display surface area of 32 square feet.

(c) *C and I Districts.* Display surface shall not exceed 300 square feet.

(d) *Size limitation for freestanding sign if business displayed on joint identification sign.* If a business name or logo is placed upon a joint identification sign, that business's freestanding sign may not exceed 32 square feet.

(E) *I Districts.*

(1) *Number of signs.* Only one on-site freestanding sign shall be permitted on a lot, at a shopping center, or at a mall; provided only one on-site freestanding sign shall be permitted for any business operating on two or more adjoining lots.

(2) *Freestanding signs.* Freestanding signs shall be subject to the following:

(a) *Display surface area.* Display surface area shall not exceed 10 square feet; provided, the display surface area may be increased two square feet for each

one foot the sign is setback from street right-of-way beyond 15 feet; provided further, the maximum display surface area for a sign which setback from street right-of-way 40 feet or more shall be 75 square feet.

(b) *Setback from right-of-way.* Setback shall be a minimum of 15 feet from street right-of-way.

(c) *Setback from Adjoining property.* Setback shall be a minimum of 25 feet from the boundary of any adjoining property.

(F) *P Districts.* One Freestanding sign or bulletin board may be erected.

(G) *Area signs.*

(1) *Size/location.* The size and location of the fence, wall, or other structure which will contain the area identification sign must be approved by the Planning Division, who will approve such structure upon the criterion of traffic safety sight lines.

(a) Areas with more than one entrance may not have a sign at more than two locations.

(b) An area sign with display on one side located on each side of an entrance street may be substituted for a single sign with display on both sides.

(2) *Display surface area.*

(a) *A, P, R, and R-O Districts.* Display area shall not exceed 32 square feet.

(b) *C and I Districts.* Display area shall not exceed 75 square feet.

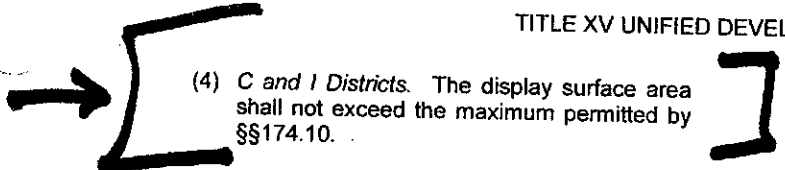
(H) *Monument signs.* A monument sign shall be set back a minimum of 10 feet from the street right-of-way, 25 feet from adjoining property, and may be substituted for a freestanding sign permitted by §174.10., provided the display surface area meets the following:

(1) *Neighborhood Conservation and RSF Districts.* Prohibited on individual lots.

(2) *Other residential districts.* The display surface shall not exceed 16 square feet.

(3) *R-A and P Districts.* The display surface area shall not exceed 32 square feet.

TITLE XV UNIFIED DEVELOPMENT CODE

- 
- (4) *C and I Districts.* The display surface area shall not exceed the maximum permitted by §§174.10.

(Code 1965, §17B-9; Ord. No. 1893, 12-19-72; Ord. No. 3008, 5-1-84; Ord. No. 3029, 8-21-84; Ord. No. 3294, 9-15-87; Code 1991, §158.47; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4226, 2-15-00; Ord. 4972, 1-16-07)

174.11 Projecting Signs

- (A) *Sidewalks.* It shall be unlawful to erect any projecting sign that projects from the wall of a building upon which it is erected a distance of more than two-thirds of the width of the sidewalk (in those instances where there is a sidewalk next to the building) or within two feet of street right-of-way (in those instances where there is no sidewalk next to the building); provided, no projecting sign shall project more than six (6) feet from the wall of the building upon which it is erected.
- (B) *Location.* Projecting signs shall be located on the vertical surface of a building and shall not be higher than the eave or rafter line, whichever is higher. Projecting signs shall clear grade level below the sign by a minimum of eight (8) feet.
- (C) *Display surface area.* The display surface area of a projecting sign shall not exceed 16 square feet. Only one (1) projecting sign per business shall be permitted and a projecting sign shall not be permitted on property which has a freestanding sign.
- (D) *Off-site.* Off-site projecting signs shall be prohibited in all zoning districts.
- (E) *On-site.* On-site projecting signs shall be prohibited in R-A, RSF, RT, RO and Neighborhood Conservation zoning districts.

(Code 1965, §17B-10; Ord. No. 1893, 12-19-72; Ord. No. 2255, 7-20-76; Code 1991, §158.48; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4972, 1-16-07)

174.12 Wall Signs

- (A) *Projection.*
- (1) *General.* Wall signs shall not project more than 18 inches from the surface upon which they are mounted.
- (2) *Mansard roof.* The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

- (B) *Number of signs.*

- (1) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.

- (2) *Multiple tenants.* Where a building houses more than one business, each business shall be entitled to one wall sign on the front façade near the primary entrance to that business. If the business occupies a corner space, the business is also entitled to a wall sign on the side exterior wall adjoining its rented space and on the rear exterior wall if its interior rented space adjoins the rear exterior wall.

- (C) *Display surface area.*

- (1) *Single tenant.* The display surface area shall not exceed 20% of the first 1000 square feet of wall area and 5% of any additional wall area.

- (2) *Multiple tenants.* Where a building houses more than one business, the display surface area of each tenant's one allowable wall sign shall not exceed 150 square feet. Furthermore, the display surface area for all wall signs on any one wall may not exceed 20% of the total wall area.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in residential zoning districts.* In RMF and R-O zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces shall not exceed 16 square feet.

(Code 1965, §17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, §158.49; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4226, 2-15-00; Ord. No. 4500, 7-01-03; Ord. 4972, 1-16-07)

Cross reference(s)--Boards and Commissions, Ch. 33; General Provisions, Ch. 150; Definitions, Ch. 151; Enforcement, Ch. 153; Appeals, Ch. 155; Variances, Ch. 156; Fees, Ch. 159.

174.13-174.99 Reserved

C. 6
Deloris Mae Tuck Condemnation
Page 1 of 6

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

Dec 4, 2007
City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Imprv Project
Division

Water/Wastewater
Department

Action Required:

Approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Deloris Mae Tuck and located at Parcel Nos. 001-10661-000 and 001-10647-000, located within NW-SW 18-16-29.

Location 4 on attached list and map.

\$ 2,488

Cost of this request

\$ 99,153,095.00

Category/Project Budget

Wastewater System Imp Project

Program Category / Project Name

4520-9520-5810.00

Account Number

\$ 89,391,891.66

Funds Used to Date

Water and Wastewater

Program / Project Category Name

02133.0305

Project Number

\$ 9,761,203.34

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item

☒ XX

Budget Adjustment Attached

Previous Ordinance or Resolution #

[Signature]
Department Director

11/07/07
Date

Original Contract Date:

[Signature]
City Attorney

10/15/2007

Original Contract Number:

Paul A. Babin
Finance and Internal Service Director

10-15-2007
Date

Received in City Clerk's Office

ENTERED
10/12/07

[Signature]
Mayor

10/15/07
Date

Received in Mayor's Office

ENTERED
10/15/07

Comments:

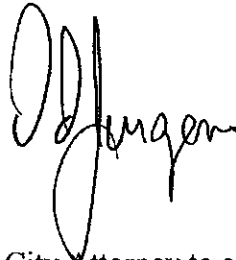
City Council Meeting of November 6, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Water and Sewer Committee

From: David Jurgens, Water & Wastewater Director



Date: October 5, 2007

Subject: Approval of four resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of four related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the new sewer lines EL-1 and 2 that will carry wastewater flows to the Noland Wastewater Treatment Plant. Fifty-three tracts were required for pipelines EL-1 and 2; 44 have been acquired. Of the nine remaining, we have verbal agreement on one, and believe two more will be completed within the next two weeks. These are not on the proposed condemnation list. The owners of the remaining six tracts (four owners) have all been contacted via mail, telephone, and/or in person, and are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on November 6, 2007. They are identified in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate, or simply refuse to communicate with the City. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the twelve months prior to the original offer being made. Given that we are only obtaining an easement, in all of these cases adjacent to the existing easement for the existing 36" sewer main, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, other utilities, and significantly exceeds that which the City has paid in the past for water/sewer easements. The City generally offered 25% of full fee simple. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Counter offers have included negotiated agreements pertaining to land restoration, sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Costs for the easements and fees are included within the WSIP budget.

Attachments: List of Potential Condemnations
Location Map

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY DELORIS MAE TUCK.**

WHEREAS, the City of Fayetteville and Deloris Mae Tuck have been unable to agree on a fair price for the property owned by Deloris Mae Tuck that is needed for permanent utility and temporary construction easements across Parcel Nos.001-10661-000 and 001-10647-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on the sewer lines that will carry wastewater flows to the Noland Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel Nos.001-10661-000 and 001-10647-000 and owned by Deloris Mae Tuck, that is needed for permanent utility and temporary construction easements, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 6th day of November, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

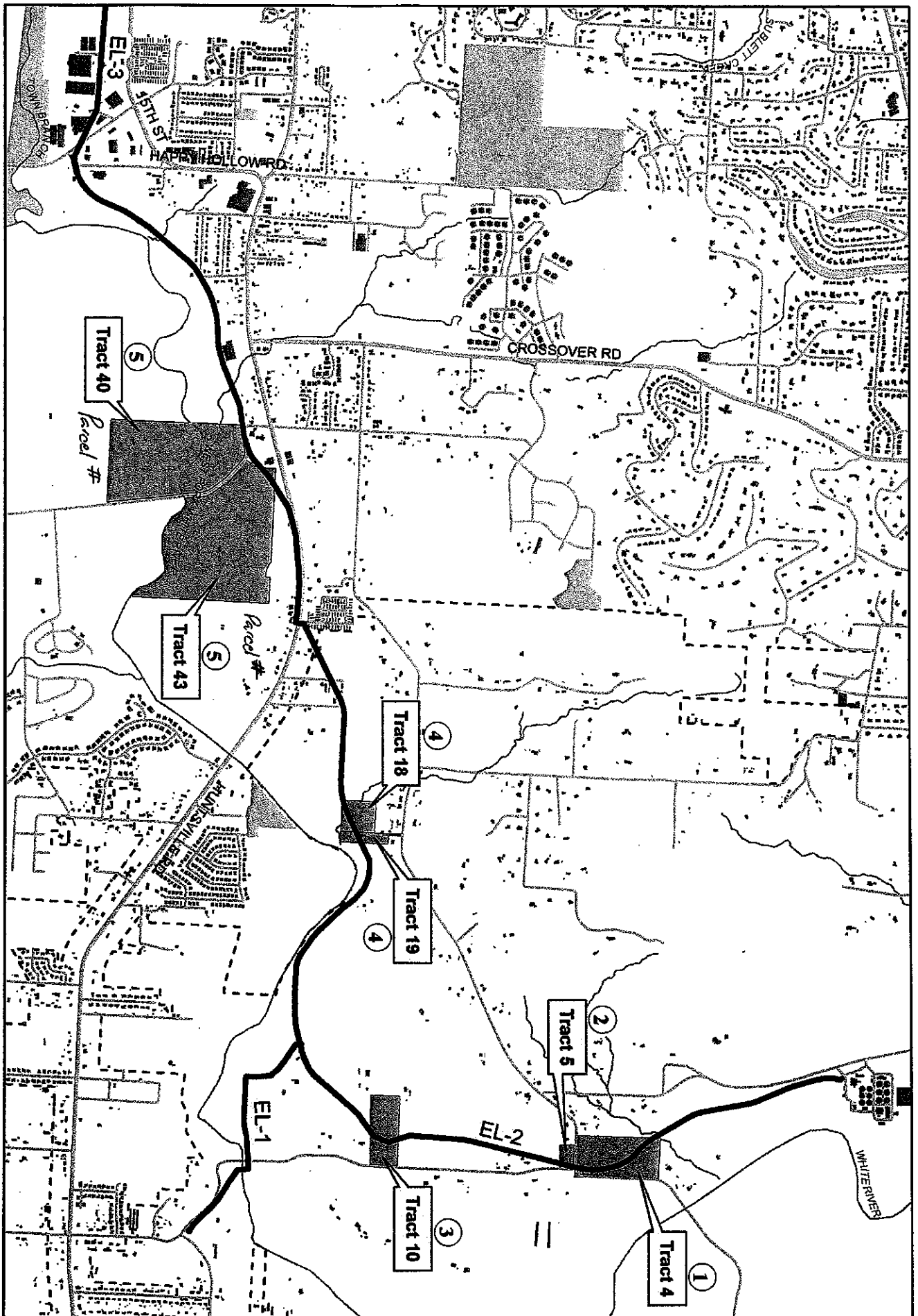
WSIP East Lines 1 and 2 Easement Condemnation List

C. 6
Deloris Mae Tuck Condemnation
Page 4 of 6

Map Reference	Description
1.	Easement Acquired.
2.	EL2 – Tract 5 Owner: James A. Cole and Linda L. Cole Permanent and Temporary Construction Easements across: Parcel No. 126-10003-000, Located within Lot C of Jim Blackston Subd. Offer Amount: \$2,520 (PUE: \$1,800 for 2,546 sq. ft.; TCE: \$720 for 10,605 sq. ft.)
3.	EL2 – Tract 10 Owner: Kathy Denise Ferguson Permanent and Temporary Construction Easements across: Parcel No. 001-10602-000, Located within NW-SW 17-16-29. Offer Amount: No compensation offered. House located on our existing easement. (Proposed PUE: 20,719 sq. ft.; Proposed TCE: 38,303 sq. ft.)
4.	EL2 – Tracts 18 & 19 Owner: Deloris Mae Tuck, Survivor of Franklin L. Tuck, Deceased Permanent and Temporary Construction Easements across: Parcel Nos. 001-10661-000 and 001-10647-000, Located within NW-SW 18-16-29 Offer Amount: Tract 18 -- \$728 (PUE: \$364 for 990 sq. ft.; TCE: \$364 for 9,898 sq. ft) Tract 19 -- \$1,760 (PUE: \$962 for 2,620 sq. ft.; TCE: \$798 for 21,700 sq. ft.)
5.	EL2 – Tract 40 & 43 Owner: Gary Combs, Tract 40. Gary Combs, LLC, Tract 43. Permanent and Temporary Construction Easements across: Parcel Nos. 765-15268-101 and 765-24107-000, located within the N½ 24-16-30, also Known as Anderson Farm Plat AND Pt Section 23-16-30 Offer Amount: Tract 40 -- \$625 (PUE: \$300 for 2,577 sq. ft.; TCE: \$325 for 28,180 sq. ft) Tract 43 -- \$700 (TCE ONLY 61,486 sq. ft)



EL-2 Condemnation Reference Map



Delores Mae Tuck, Surviving Spouse of Franklin Lee Tuck
EL7 – Tracts 18 and 19
CASE HISTORY

January 18, 2005	Offer packet mailed by Ed Connell, containing letter, easement document, and drawings. For Tract 18 the total offer amount was \$728 for 0.02 acre of perm ease (\$364) and 0.23 acre of tce (\$364). For Tract 19 the total offer amount was \$1,760 for 0.06 acre of perm ease (\$962) and 0.50 acre of tce (\$798). Fee simple was offered for the perm easement and 10% rental for the tce, based on "comparable area land sales, valued at \$16,000/acre" per Ed Connell.
January, 2005	Ed spoke with Mr. Tuck's brother, Isaac (Tract 17) and he indicated the family was not happy with the value given these tracts.
February 15, 2005	Received appraisal of Isaac Tuck's tract by Mark Risk, the Real Estate Consultants. Land Value of \$12,000/acre.
October 16, 2006	New offer packet mailed (HJ), containing letter, ease doc, and drawings. Same offer amount due to the fact that the appraisal for the adjoining tract came in lower than the original offer made by Mr. Connell. Explained this in letter to Tuck
April 9, 2007	Reminder letter mailed
April 16, 2007	Received letter from Tuck's atty (Keyes) stating that no additional easement is desired on this property by Tuck. Spoke with Ron P. and Jill and determined that it is possible to work on these 2 tracts in only a tce. Called Keyes and informed him of this revelation.
May 25, 2007	Received letter from Keyes with counter offer of \$7000 for p.e. and tce but wants easement revised to not allow full access to both tracts...since there is an existing 50 easement across these tracts, full access already exists.
May 29, 2007	Revised our offer to meet Cole's appraised value of \$30,000/ac. New packet mailed and total offer for both tracts: Tract 18 -- \$1290 (\$600 for p.e. and \$690 for tce). Tract 19 -- \$3300 (1800 for p.e. and \$1500 for tce). Total offer \$4590.00
July 20, 2007	Letter accepting our offer of \$4590 for the easement on condition that we limit ingress and egress onto her property to a specific area...like an access easement to our w/s easement. Discussed with DJ and Lynn Hyke via email and as of July 25, no determination had been made as to location of access easement and no further response has been received
September 28, 2007	Letter mailed notifying of impending condemnation and encouraging negotiations prior to Council

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

C. 7
Gary Combs, LLC Condemnation
Page 1 of 6

Dec 4, 2007
City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Imprv Project
Division

Water/Wastewater
Department

Action Required:

Approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Gary Combs, LLC and located at Parcel Nos. 765-24107-000 and 765-15267-000, located within the N½ 24-16-30, also known as Anderson Farm Plat AND Pt Section 23-16-30
Location 5 on attached list and map.

\$ 1,325
Cost of this request

\$ 99,153,095.00
Category/Project Budget

Wastewater System Imp Project
Program Category / Project Name

4520-9520-5810.00
Account Number

\$ 89,391,891.66
Funds Used to Date

Water and Wastewater
Program / Project Category Name

02133.0305
Project Number

\$ 9,761,203.34
Remaining Balance

Water/Sewer
Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☐

[Signature]
Department Director

110207
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

[Signature]
City Attorney

10/15/2007

Original Contract Number: _____

Paul A. Berlin
Finance and Internal Service Director

10-15-07
Date

Received in City Clerk's Office

ENTERED
10/15/07

[Signature]
Mayor

10/15/07
Date

Received in Mayor's Office

ENTERED
10/15/07

Comments:

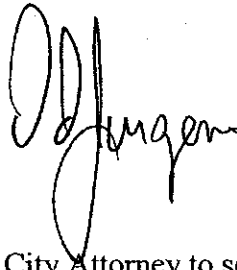
City Council Meeting of November 6, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Water and Sewer Committee

From: David Jurgens, Water & Wastewater Director



Date: October 5, 2007

Subject: Approval of four resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed herein.

RECOMMENDATION

Fayetteville City Administration recommends approval of four related resolutions authorizing the City Attorney to seek condemnation and possession of certain lands owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the new sewer lines EL-1 and 2 that will carry wastewater flows to the Noland Wastewater Treatment Plant. Fifty-three tracts were required for pipelines EL-1 and 2; 44 have been acquired. Of the nine remaining, we have verbal agreement on one, and believe two more will be completed within the next two weeks. These are not on the proposed condemnation list. The owners of the remaining six tracts (four owners) have all been contacted via mail, telephone, and/or in person, and are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process on November 6, 2007. They are identified in the attached recommended condemnation list.

DISCUSSION

The remaining land owners generally want to be paid more money than staff feels is reasonable and appropriate, or simply refuse to communicate with the City. The City is paying full fee simple prices for all easements for the WSIP, based on appraisals conducted within the twelve months prior to the original offer being made. Given that we are only obtaining an easement, in all of these cases adjacent to the existing easement for the existing 36" sewer main, and the owner still owns the land, paying more than this is not reasonable. Full fee simple is significantly greater than the easement payment offers made by the Highway Department, other utilities, and significantly exceeds that which the City has paid in the past for water/sewer easements. The City generally offered 25% of full fee simple. Counter offers have been made in several cases; owners have either not responded or refused the counter offer. Counter offers have included negotiated agreements pertaining to land restoration, sequencing and timing of work, etc. At this point, there can be no deviations on the selected route.

BUDGET IMPACT

Costs for the easements and fees are included within the WSIP budget.

Attachments: List of Potential Condemnations
Location Map

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY GARY COMBS, LLC.**

WHEREAS, the City of Fayetteville and Gary Combs, LLC have been unable to agree on a fair price for the property owned by Gary Combs, LLC that is needed for permanent utility and temporary construction easements across Parcel Nos. 765-24107-000 and 765-15267-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin work on the sewer lines that will carry wastewater flows to the Noland Wastewater Treatment Plant.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court ordered possession of property located on Parcel Nos. 765-24107-000 and 765-15267-000 and owned by Gary Combs, LLC, that is needed for permanent utility and temporary construction easements, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 6th day of November, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

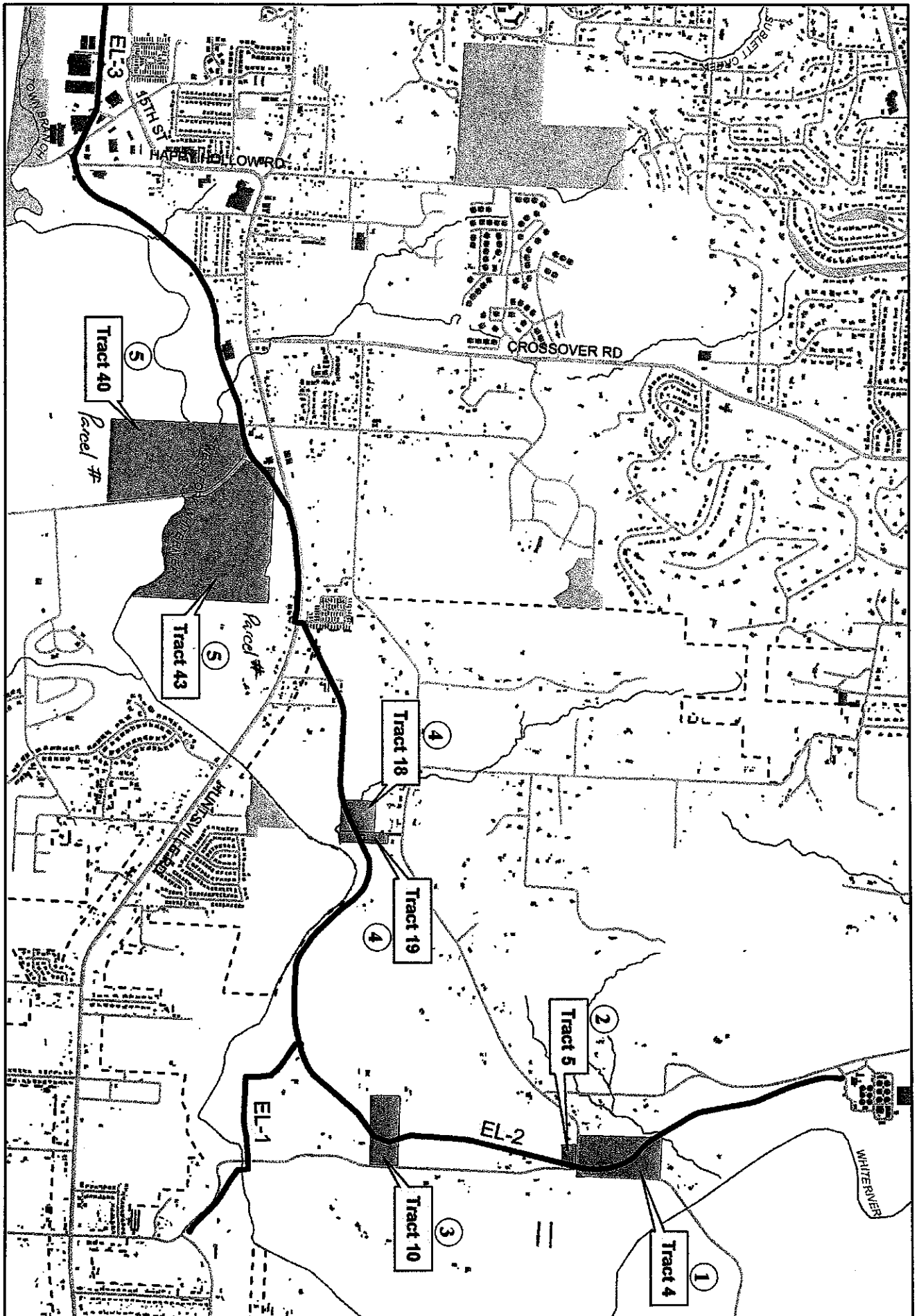
WSIP East Lines 1 and 2 Easement Condemnation List

C. 7
Gary Combs, LLC Condemnation
Page 4 of 6

Map Reference	Description
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3.	EL2 – Tract 10 Owner: Kathy Denise Ferguson Permanent and Temporary Construction Easements across: Parcel No. 001-10602-000, Located within NW-SW 17-16-29. Offer Amount: No compensation offered. House located on our existing easement. (Proposed PUE: 20,719 sq. ft.; Proposed TCE: 38,303 sq. ft.)
4.	EL2 – Tracts 18 & 19 Owner: Deloris Mae Tuck, Survivor of Franklin L. Tuck, Deceased Permanent and Temporary Construction Easements across: Parcel Nos. 001-10661-000 and 001-10647-000, Located within NW-SW 18-16-29 Offer Amount: Tract 18 -- \$728 (PUE: \$364 for 990 sq. ft.; TCE: \$364 for 9,898 sq. ft) Tract 19 -- \$1,760 (PUE: \$962 for 2,620 sq. ft.; TCE: \$798 for 21,700 sq. ft.)
5.	EL2 – Tract 40 & 43 Owner: Gary Combs, Tract 40. Gary Combs, LLC, Tract 43. Permanent and Temporary Construction Easements across: Parcel Nos. 765-15268-101 and 765-24107-000, located within the N½ 24-16-30, also Known as Anderson Farm Plat AND Pt Section 23-16-30 Offer Amount: Tract 40 -- \$625 (PUE: \$300 for 2,577 sq. ft.; TCE: \$325 for 28,180 sq. ft) Tract 43 -- \$700 (TCE ONLY 61,486 sq. ft)



EL-2 Condemnation Reference Map



Gary Combs/Gary Combs, LLC
EL7 – Tracts 40 & Tract 43
CASE HISTORY

Feb. 4, 2005 Date of Appraisal by Mark Risk, the Real Estate Consultants. Land Value of \$5,000/acre (tract 40). This value used for both tracts.

Dec. 8, 2006 Offer packet mailed containing letter, easement document, and drawings. Total offer for Tract 40 was \$625.00 for 0.06 acre of perm ease (\$300) and 0.65 acre of temp ease (\$325). Total offer for Tract 43 was \$700 for 1.41 acre of temp ease. only. (Full fee simple offered for perm ease and 10% rental for temp ease. as based on appraisal amount.

March 20, 2007 Jill and I met with Bruce Johnson and Gary Combs regarding another project and I discussed this project with him. He told me he had received the packet and had turned it over to his attorney. He said that we weren't getting anything else from him if Jurgens had anything to do with the project.

April 9, 2007 Follow-up letter mailed

April 26, 2007 Kern faxed a copy of the follow-up letter to Michelle, Gary's Assistant, at Gary's office.

July 12, 2007 Gary and I met onsite; Concerns: Tract 40— Has one place to build on this tract, our proposed line will go through this building site. (there is an existing 36" line there now – not a good argument). Tract 41 – Same argument – obstruction of building site on this tract also. Concerned about elevation of line at road crossing. Wants Pipe fencing repaired and/or replaced. Provided labor for all the asphalt work on Dead Horse Mountain Road overlay. Wants tax credit for this labor. Paved 2.2 miles

July 23, 2007 Discussed Gary's concerns with DJ—have him get proof time, labor costs, etc for tax credit to me and we'll see if we can get something. Called and talked to Gary. He'll get those papers to me.

 Gary was in the process of purchasing the property on the corner of Dead Horse and 16 at the time that we met. He did not mention this in our meeting. Soon after I called him for the above mentioned paperwork I overheard that he was filling in the pond on the property formerly known as the Animal Hospital. This was being done without permits. Our Engineer, Matt Casey, and Code Enforcement officers placed a Stop Work Order on Gary's job on this site. He will no longer return my phone calls.

No response

September 28, 2007 Letter mailed notifying of impending condemnation and encouraging negotiations prior to Council

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

4-Dec-07
City Council Meeting Date

Tim Conklin *f.c.*
Submitted By

Planning
Division

Operations
Department

Ordinance

Action Required:

ADM 07-2837: A resolution recognizing that Lake Wilson and Trammel Park are annexed into the City of Fayetteville per Arkansas State Law sub-statute 14-40-204, assigning these newly annexed lands to Ward 1 and Zoning said lands RA: Agricultural.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 11.16.07
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 11-20-07
City Attorney Date

Original Contract Number: n/a

Paul a. Bush 11-20-07
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 11/16/07

[Signature] 11/20/07
Mayor Date

Received in Mayor's Office
ENTERED 11/20/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: November 15, 2007

Subject: Resolution annexing Lake Wilson and Trammel Park into the City pursuant to State Statute 14-40-204. (ADM 07-2837)

RECOMMENDATION

Planning Staff recommends approving a resolution recognizing the annexation of Lake Wilson and Trammel Park into the City of Fayetteville pursuant to State Statute 14-40-204, assigning these newly annexed lands to Ward 1 and zoning said lands RA: Agricultural.

BACKGROUND

Arkansas State Statute sub-section 14-40-204 states, "From and after the passage of this subsection, all city-owned parks and city-owned airports in cities of populations between forty thousand (40,000) and eighty thousand (80,000) in counties whose population is one hundred forty thousand (140,000) or over are annexed to the cities owning the parks and airports". The City of Fayetteville owns two such properties located in Washington County, Trammel Park and Lake Wilson. This resolution will recognize that these properties are annexed into the City, assign them to Ward 1 and zone them agricultural.

BUDGET IMPACT

None.

ORDINANCE NO. _____

**AN ORDINANCE TO RECOGNIZE CITY OWNED PARK LANDS
LOCATED IN WASHINGTON COUNTY AS BEING INCLUDED
IN THE FAYETTEVILLE CITY LIMITS IN ACCORDANCE WITH
ARKANSAS STATE STATUE 14-40-204.**

WHEREAS, Arkansas State Law Subsection 14-40-204 (a) (1) Annexation of city-owned parks and airports states, "From and after the passage of this subsection, all city-owned parks and city-owned airports in cities of populations between forty thousand (40,000) and eighty thousand (80,000) in counties whose population is one hundred forty thousand (140,000) or over are annexed to the cities owning the parks and airports."; and

WHEREAS, the City of Fayetteville owns Lake Wilson and Trammel Park which are located in Washington County.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an ordinance to recognize Trammel Park as officially being annexed into the City of Fayetteville, the legal description to such property and map being attached hereto as Exhibit A.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a ordinance to recognize Lake Wilson as officially being annexed into the City of Fayetteville, the legal description to such property and map being attached hereto as Exhibit B.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby assigns these newly annexed lands to Ward 1.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby zones these newly annexed lands RA: Agricultural.

PASSED and **APPROVED** this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"
ADM 07-2385

TRAMMEL PARK (AKA RED WOLF PARK)

DEED 1

A PART OF THE FR. SW ¼ OF THE SW ¼ OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 29 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST LINE OF THE SW ¼ OF THE SW ¼ OF SAID SECTION 6 THAT IS N0°13'51"E 876.0 FEET FROM THE SOUTHWEST CORNER OF SAID 40 ACRE TRACT; RUNNING THENCE N0°13'51"E 155.2 FEET TO THE CENTERLINE OF FOX HUNTER ROAD; THENCE SOUTHEASTERLY ALONG SAID CENTERLINE THE FOLLOWING: N88°16'E 19.6 FEET, S77°10'40"E 109.95 FEET, S61°45'20"E 49.31 FEET; THENCE LEAVING SAID CENTERLINE AND RUNNING S7°28'E 109.0 FEET ALONG THE WEST LINE OF A 25 FOOT WIDE ACCESS ROAD, THENCE LEAVING SAID WEST LINE WEST 185.03 FEET TO THE POINT OF BEGINNING, CONTAINING 0.57 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

SUBJECT TO THE FOX HUNTER ROAD RIGHT-OF-WAY ALONG THE NORTH LINE AND ANY OTHER EASEMENT AND/OR RIGHT-OF-WAY OF RECORD.

DEED 2

A PART OF THE SW ¼ OF THE SW ¼ OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 29 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS LOCATED AT A POINT EAST 533.8 FEET AND NORTH 671.7 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 6; RUNNING THENCE N1°56'12"W 22.5 FEET TO THE SOUTH RIGHT-OF-WAY OF FOX HUNTER ROAD; RUNNING THENCE EASTERLY ALONG SAID SOUTH RIGHT-OF-WAY THE FOLLOWING N87°39'31"E 150.5 FEET S77°35'28"E 102.7 FEET; THENCE LEAVING SAID RIGHT-OF-WAY S1°56'E 62.12 FEET; THENCE N76°59'W 38.46 FEET; THENCE N74°41'W 24.85 FEET; THENCE N66°50'30"W 24.94 FEET; THENCE N69°18'W 74.71 FEET; THENCE N82°49'W 22.5 FEET; THENCE N86°39'W 26.3 FEET; THENCE S89°41'29"W 49.16 FEET TO THE POINT OF BEGINNING, CONTAINING 0.244 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

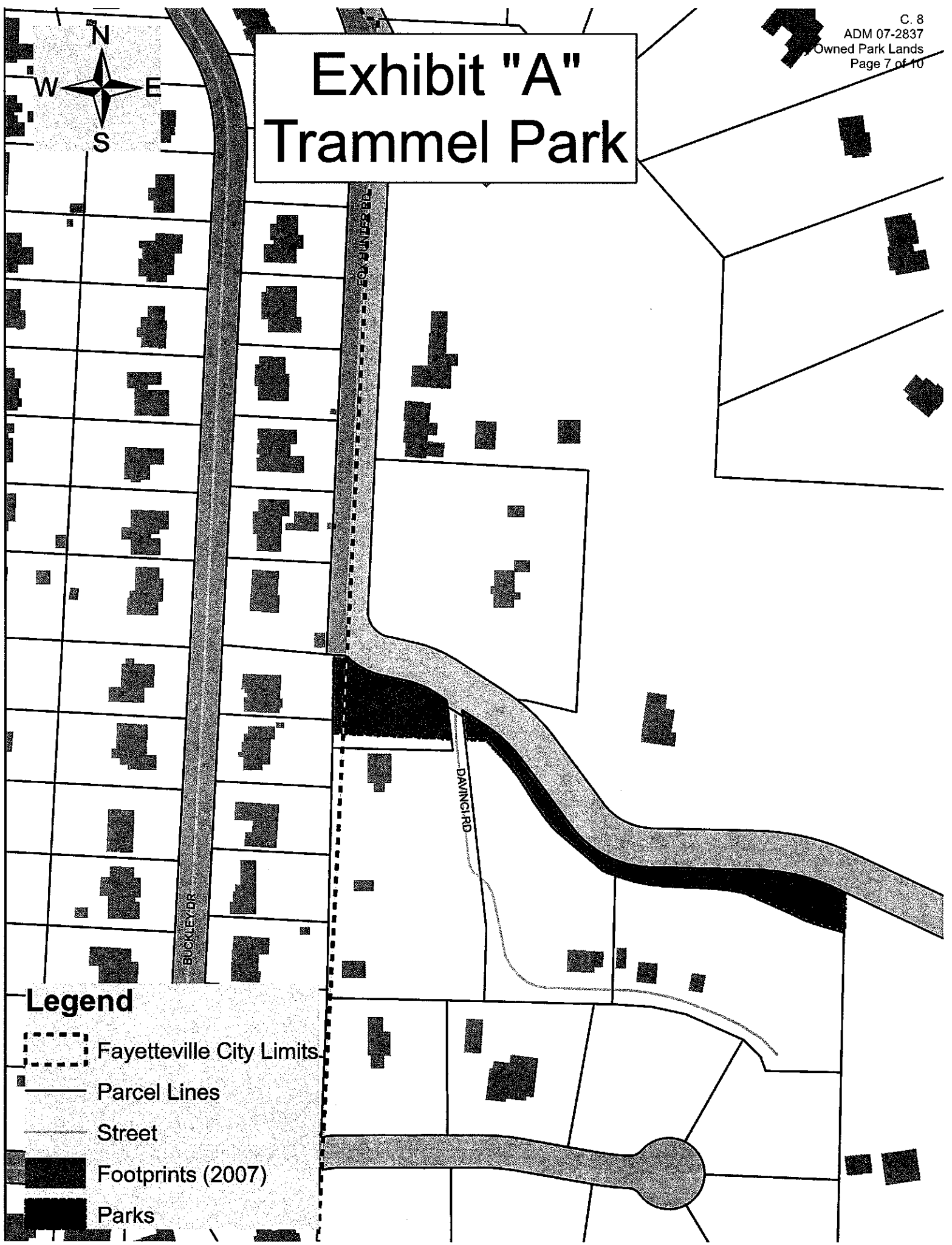
DEED 3

A PART OF THE SW ¼ OF THE SW ¼ OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 29 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED ON THE CENTERLINE OF FOX HUNTER ROAD THAT IS NORTH 954.27 FEET AND EAST 178.18 FEET FROM THE SOUTHWEST CORNER OF THE SW ¼ OF THE SW ¼ OF SAID SECTION 6; RUNNING THENCE SOUTHEASTERLY ALONG THE CENTERLINE OF SAID FOX HUNTER ROAD THE FOLLOWING: THENCE S63°39'49"E 88.1 FEET; S44°20'29"E 249.52 FEET; THENCE LEAVING SAID CENTERLINE S1°54'29"E 29.52 FEET TO THE SOUTH RIGHT-OF-WAY OF FOX HUNTER ROAD; THENCE EASTERLY ALONG SAID SOUTH RIGHT-OF-WAY THE FOLLOWING: S71°42'29"E 48.8 FEET; N87°39'31"E 54.2 FEET THENCE LEAVING SAID SOUTH RIGHT-OF-WAY S1°56'12"E 22.5 FEET; THENCE S89°39'W 24.2 FEET; THENCE N88°27'35"W 25.1 FEET; THENCE 81°18'W 25.4 FEET; THENCE N75°52'W 24.7 FEET; THENCE N72°58'W 25.1 FEET; THENCE N52°27'52"W 98.62 FEET; THENCE N42°44'W 25.3 FEET; THENCE N37°30'W 24.9 FEET; THENCE N34°11'W 25.1 FEET; THENCE N36°16'W 25.1 FEET; THENCE N41°22'W 24.6 FEET; THENCE N44°55'W 25.1 FEET; THENCE N46°28'W 24.6 FEET; THENCE S86°09'W 29.8 FEET TO THE EAST LINE OF A 25 FOOT WIDE

ACCESS ROAD; THENCE N9°22'29"W 75.22 FEET ALONG THE EAST LINE OF SAID ACCESS ROAD TO THE POINT OF BEGINNING, CONTAINING 0.459 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

Exhibit "A" Trammel Park



Legend

- Fayetteville City Limits
- Parcel Lines
- Street
- Footprints (2007)
- Parks

EXHIBIT "B"
ADM 07-2385

LAKE WILSON

DEED 1 (BOARD OF IMPROVEMENT OF WATER IMPT. DIST. NO. 1)

THEN NORTH-EAST QUARTER OF THE SOUTH-WEST QUARTER OF SECTION TWO (2), IN TOWNSHIP FIFTEEN (15), NORTH OF RANGE THIRTY (30) WEST, OF THE 5TH P.M. CONTAINING FORTY (40) ACRES.

DEED 2 (WATER IMPROVEMENT DISTRICT NO. 1)

THE NORTH-WEST QUARTER OF THE NORTH-EAST QUARTER OF SECTION ELEVEN (11), TOWNSHIP FIFTEEN (15), NORTH OF RANGE THIRTY (30) WEST, OF THE 5TH PRINCIPAL MERIDIAN, CONTAINING FORTY (40) ACRES.

DEED 3 (BOARD OF IMPROVEMENT OF WATER IMPT. DIST. NO. 1)

THE SOUTH-EAST QUARTER OF THE SOUTH-WEST QUARTER OF SECTION TWO (2), IN TOWNSHIP FIFTEEN (15), NORTH, OF RANGE THIRTY (30) WEST, OF THE 5TH PRINCIPAL MERIDIAN, CONTAINING FORTY (40) ACRES.

DEED 4 (BOARD OF IMPROVEMENT OF WATER IMPT. DIST. NO. 1)

NORTHEAST ¼ OF NORTHWEST ¼ OF SECTION ELEVEN (11), TOWNSHIP FIFTEEN (15), NORTH RANGE THIRTY (30) WEST.

DEED 5 (CITY WATER PLANT OF THE CITY OF FAYETTEVILLE, ARK.)

THE SOUTH HALF (S1/2) OF THE SOUTH EAST QUARTER (SE ¼) OF SECTION TWO (2) IN TOWNSHIP FIFTEEN (15) NORTH, RANGE THIRTY (30) WEST OF THE 5TH P.M. CONTAINING EIGHTY (80) ACRES, MORE OR LESS.

DEED 6 (BOARD OF IMPROVEMENT OF WATER IMPT. DIST. NO. 1)

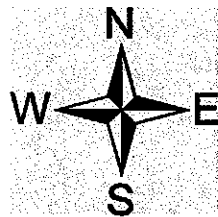
S ½ SE	2 (SECTION)	15N (TOWNSHIP)	30W (RANGE)	80.0 ACRES
SE NE	11 (SECTION)	15N (TOWNSHIP)	30W (RANGE)	40.0 ACRES

DEED 7 (WATER IMPROVEMENT DISTRICT NO. 1)

THE NORTH EAST QUARTER (NE ¼) OF THE NORTH EAST QUARTER (NE ¼) OF SECTION ELEVEN (11) IN TOWNSHIP FIFTEEN (15) NORTH, RANGE THIRTY (30) WEST OF THE 5TH P.M., CONTAINING FORTY (40) ACRES, MORE OR LESS.

Exhibit "B"

Lake Wilson



Legend

-  Fayetteville City Limits
-  Parcel Lines
-  Street
-  Footprints (2007)
-  Parks

Agenda Session

11/27/07

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
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
December 4, 2007**

A meeting of the Fayetteville City Council will be held on December 4, 2007 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

Agenda Session Presentations:

1. Northwest Arkansas Community Creative Center
2. 2008 Budget Outside Agencies Presentations - **Following Agenda Session.**

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

1. Walton Arts Center Report – Terri Trotter

A. Consent:

1. Approval of the November 6 and November 20, 2007 City Council meeting minutes.

2. **Bid # 07-68 Downing Sales and Service:** A resolution awarding Bid # 07-68 to Downing Sales and Service for the purchase of one (1) front load refuse truck in the amount of \$220,045.00 for use by the Solid Waste Division.

3. **Bid # 07-69 Downing Sales and Service:** A resolution awarding Bid # 07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division.

4. **Landers Ford of Benton:** A resolution approving the purchase of seven (7) Ford Crown Victoria Police Interceptors from Landers Ford of Benton through the State Vehicle Purchase Contract in the amount of \$151,430.60.

5. **McClelland Consulting Engineers, Inc. Task Order # 3:** A resolution approving Task Order # 3 with McClelland Consulting Engineers, Inc. in the amount of \$183,700.00 for planning tasks associated with the Runway 16 Safety Area Improvements at Drake Field; and approving a budget adjustment in the amount of \$183,700.00.

6. **State Tax Back Incentive Program:** A resolution certifying local government endorsement of business to participate in the tax back program (the Consolidated Incentive Act of 2003, Section 15-4-2706 (D)).

7. **Rules of Order and Procedure:** A resolution to amend the Rules of Order and Procedure of the Fayetteville Mayor/City Council to reschedule City Council meetings which fall on a holiday.

8. **Carter & Burgess, Inc. Amendment No. 1:** A resolution approving Contract Amendment No. 1 to the engineering contract with Carter & Burgess, Inc. in the amount of \$57,900.00 for additional engineering studies for the Lake Wilson Spillway Repair Project; and approving a budget adjustment to recognize the reimbursement from FEMA.

9. **Operations Management International, Inc. Amendment No. 15:** A resolution approving Contract Amendment No. 15, which extends for one year the contract with Operations Management International (OMI) in the amount of \$6,797,685.28 for the operation, maintenance and management of Fayetteville wastewater treatment facilities for 2008; and approving a 5% contingency in the amount of \$340,000.00.

10. **Zion Road Properties, LLC:** A resolution to approve a settlement with Zion Road Properties, LLC in the amount of \$42,030.00 for right-of-way and easements; and establishing Zion Road Properties, LLC's maximum assessment for off-site improvements.

B. Unfinished Business:

1. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting.*

C. New Business:

- ✓ 1. **RZN 07-2781 Dandy:** An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located ¼ mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre.
- ✓ 2. **RZN 07-2782 Sweetser:** An ordinance rezoning that property described in rezoning petition RZN 07-2782, for approximately 0.95 acres, located at 2220 E. Huntsville from RSF-4, Residential Single Family, 4 units per acre, to R-O, Residential Office.
- ✓ 3. **VAC 07-2758 Bittle:** An ordinance approving VAC 07-2758 submitted by Alan Reid for property located at 2455 East Gentle Oaks Lane to vacate portions of the utility easements on the subject property, a total of 148 square feet.
- ✓ 4. **VAC 07-2761 Roetzel:** An ordinance approving VAC 07-2761 submitted by Mike and Julie Roetzel for property located at 1626 East Cypress, Lot 46 of Charleston Place Subdivision to vacate a portion of a utility easement on the subject property, a total of 0.09 acres.
- ✓ 5. **Amend Chapter 174 Signs:** An ordinance to amend § 174.10 (H) Monument Signs to reduce the side setback requirement from 25 feet to 10 feet in non-residential districts.

Move to the next agenda (6) **Deloris Mae Tuck Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Deloris Mae Tuck.

Move to the next agenda (7) **Gary Combs, LLC Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Gary Combs, LLC.

8. **ADM 07-2837: City Owned Park Lands:** An ordinance to recognize City owned park lands located in Washington County as being included in the Fayetteville City Limits in accordance with Arkansas State Statue 14-40-204.

Start at the Beginning.
Agenda Additions:

Dec. 4, 2007 - Fayetteville Bulldog day.

Announcements:

1. **City Council Tour: December 3, 2007**

- Lake Wilson

Adjournment:

Pre Agenda Meeting

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
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- Nov. 6, 2007*
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1. V
- 2.

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7. **Gary Combs, LLC Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Gary Combs, LLC.
8. **ADM 07-2837: Tim Conklin** - Add Description

Agenda Additions:

Announcements:

1. **City Council Tour: December 3, 2007**

Adjournment:

1. The first part of the paper is devoted to a general discussion of the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β .

2. In the second part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

3. In the third part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

4. In the fourth part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

5. In the fifth part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

6. In the sixth part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

7. In the seventh part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

8. In the eighth part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

9. In the ninth part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

10. In the tenth part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

11. In the eleventh part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

12. In the twelfth part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

13. In the thirteenth part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

14. In the fourteenth part, the problem of the existence of solutions of the system of equations (1) and (2) for arbitrary values of the parameters α and β is solved.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal line extending to the right.

DATE: **December 5, 2007**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of December 4, 2007**

1. **Bid #07-68 Downing Sales & Service:** A resolution awarding Bid #07-68 to Downing Sales & Service for the purchase of one front load refuse truck in the amount of \$220,045.00 for use by the Solid Waste Division;
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10. **ADM 07-2837:** An ordinance to recognize City owned park lands located in Washington as being included in the Fayetteville City Limits in accordance with Arkansas State Statute 14-40-204.

From: Terri Trotter <TTrotter@waltonartscenter.org>
To: Sondra Smith <:ssmith@ci.fayetteville.ar.us>
CC: Dan Coody <mayor@ci.fayetteville.ar.us>
Date: 10/25/2007 3:15 PM
Subject: RE: Report to Council

Hi Sondra,

I can't make either of those January dates as I'm out of town for both. The 3rd is tough with the holiday week and several of our staff will be in New York on the 15th because of an annual arts conference that we attend. I can try to find someone else who can present if you prefer, or, at your request, we could also push back even later. Just let me know.

Terri

-----Original Message-----

From: Sondra Smith [mailto:ssmith@ci.fayetteville.ar.us]
Sent: Wednesday, October 24, 2007 4:28 PM
To: Terri Trotter
Cc: Dan Coody
Subject: Re: Report to Council

Hi Terri

I just talked to the Mayor and he will be gone for both meetings in December and he would like to be at the meeting when you give your report. Can you check your schedule for January and see if you can make the January 3 or January 15, 2008 meetings. If you can't we will go ahead and leave it on December 4. Thanks!

Sondra E. Smith, CAMC CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> Terri Trotter <TTrotter@waltonartscenter.org> 10/24/2007 4:16 PM >>>
Hi Sondra,

I'd like to get Walton Arts Center on the Dec. 4 Council Agenda for a brief update on what is happening at the Center.

Thanks!

Terri

Terri M. Trotter
Vice President, External Affairs
Walton Arts Center
PO Box 3547
Fayetteville, AR 72703
479-571-2739
479-443-6361 (fax)
www.waltonartscenter.org<<http://www.waltonartscenter.org/>>

Walton Arts Center...Life is Sweet!

From: Terri Trotter-Wright <terri-doug@sbcglobal.net>
To: <:ssmith@ci.fayetteville.ar.us>
Date: 10/29/2007 3:21 PM
Subject: Walton Arts Center council report

Hi Sondra,

I got your message. Unfortunately, I must have written your phone number down incorrectly because I keep getting a fax when I dial!

Anyway, our Walton Arts Center e-mail is down for some reason and we can't receive messages - which is not good! Hopefully it will be back up soon, but in the meantime, this one works!

I got your message about Dec. 4 for the council presentation. Will we be near the top of the agenda? Board member Curt Rom, our President, Anita Scism, and I will be there. What other information do you need from me?

Terri Trotter
Walton Arts Center
571-2739

From: Sondra Smith
To: Branson, Lisa
Date: 11/7/2007 2:09 PM
Subject: Fwd: RE: Meeting request
Attachments: Sondra Smith.vcf

Sondra E. Smith, CAMC CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> "Daymara Baker" <DBaker@freshepress.com> 11/7/2007 2:02 PM >>>

Hi again! This is to confirm that we'd like to be included in the 11/27 agenda. Presentors: Daymara Baker from NWA CCC & a representative from the U of A Community Design Center from an architectural stand point. Please confirm if we need to send presentation prior to meeting and if there are any other approve requirements that we need to deliver at this meeting. Thanks so much Sondra!

-----Original Message-----

From: Sondra Smith [<mailto:ssmith@ci.fayetteville.ar.us>]
Sent: Wednesday, November 07, 2007 11:30 AM
To: Daymara Baker
Cc: Lana Broyles
Subject: RE: Meeting request

Hi Daymara!

I talked to the Mayor and he wants you to give a presentation at Agenda Session before we present the Council with a lease agreement to approve. Can someone be at the Agenda Session on November 13 or November 27. The meeting is at 4:30 PM in Room 326 at the City Administration Building. Please let me know which date and who will be making the presentation. Thanks!

Sondra E. Smith, CAMC CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> "Daymara Baker" <DBaker@freshepress.com> 11/7/2007 7:40 AM >>>

Hi Sondra! Below are the answers to your questions. I'll be traveling on business all next week but I'll always have access to my emails and cell (404-978-3228) in case that somebody needs to get a hold of me. Thanks for replying so quickly!

-----Original Message-----

From: Sondra Smith [<mailto:ssmith@ci.fayetteville.ar.us>]
Sent: Tuesday, November 06, 2007 7:45 PM

To: Daymara Baker
Cc: Lana Broyles
Subject: Re: Meeting request

Thanks for your email. I need to know the subject of your request. What are you wanting to go before the City Council. It is my understanding it may be a lease of City property.

What company or person is wanting to lease the property? - Northwest Arkansas Community Creative Center, NWA CCC

What city property? Tyson Complex, also known as Mexican Original Building, at the intersection of Happy Hollow & Hwy 16

How much space is needed? 28,025 SF. The proposal is being designed in Phases: 5,975 SF Phase I; 16,284 Phase II and final Phase III for an overall building space footage of 28,025 SF (this footage doesn't not include outdoor area)

How long are you wanting to lease the property for? Per our conversation with City Attorney Kit Williams, the lease could be drafted in phases, such as 25 years with sublease periods of 5, 10 & 10 years. NWA CCC with the first right to renew for 25 years.

Please provide as much information as possible so we can get your request to the correct person to process.

I appreciate your help!

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

>>> "Daymara Baker" <DBaker@freshexpress.com> 11/06/07 1:29 PM >>>

Sandra, this is to follow up our conversation today to request a meeting with the City Council. Mayor Coody confirmed that he needs you to work with him to get his approval. Please let me know if you'll need anything else to set this meeting up. Thanks!

Daymara Baker
Fresh Express Consumer Branding & Marketing
479-527-6870
404-978-3228 (cell)
Fresh Express. Experience the Freshness
> www.freshexpress.com
>
>

Fresh Express. Where Fresh Comes First. Celebrating 80 years as a leader in fresh foods, Fresh Express is recognized for its excellence in food safety and as the creator of the ready-to-enjoy packaged salad category. For recipes and latest news, visit www.freshexpress.com. A Chiquita Brands International, Inc. company (NYSE: CQB).

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From: Kevin Springer
To: Branson, Lisa
Date: 11/19/2007 9:23 AM
Subject: 2008 Budget Outside Agencies Presentations

Lisa,

We have the following meeting that is part of the 2008 Budget discussion item on the agenda but I guess we should display it separately.

2008 Budget Outside Agencies Presentations
Tuesday, November 27th, (Following Agenda Session) - Room 326

Please let me know if you have any questions.

Thanks,
Kevin

Kevin Springer
Budget Director

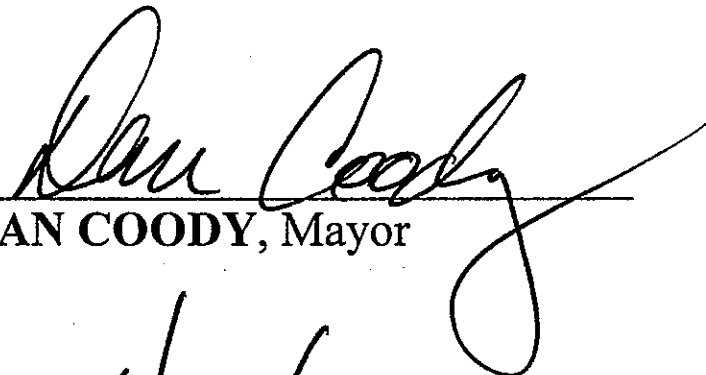
City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8226
(479) 575-8273 - Fax
kspringer@ci.fayetteville.ar.us



THE CITY OF FAYETTEVILLE, ARKANSAS

AUTHORIZATION FOR MAYOR'S SIGNATURE

I, Mayor Dan Coody, authorize my signature stamp to be used during my absence from the City of Fayetteville in December 2007. My signature stamp may be used for ordinances and resolutions properly passed by the Fayetteville City Council, contracts properly approved by City Council resolutions, grant applications and approvals and other documents deemed necessary and appropriate by the unanimous agreement of the City Clerk, City Attorney and Director of Operations.

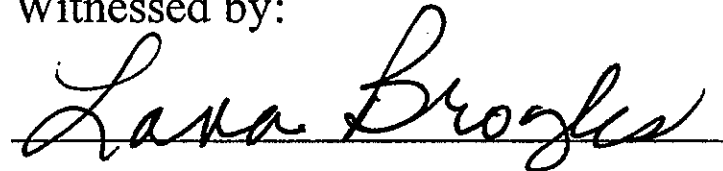


DAN COODY, Mayor

11/20/07

Date

Witnessed by:



11-20-07

Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record

P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6415

AFFIDAVIT OF PUBLICATION

I, Kate MacNaughton, do solemnly swear that I am the 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

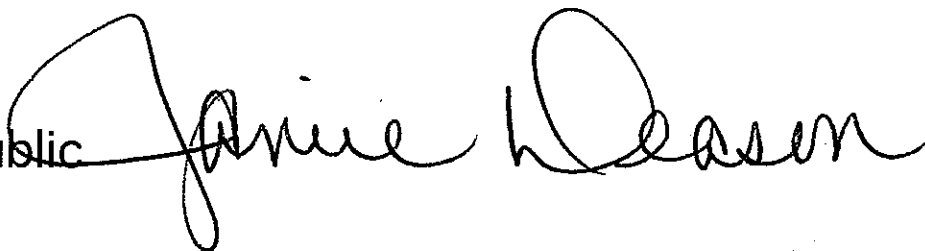
City of Fayetteville: Final Agenda

Was inserted in the Regular Editions on:
December 2, 2007

Publication Charge: \$174.06

Subscribed and sworn to before me
This ^{3rd} day of ~~December~~, 2007.

Notary Public



My Commission Expires: 11/15/14

Janice Deason
Notary Public, State of Arkansas
Washington County
My Commission Expires 11/15/14

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

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DEC 03 2007

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Monday, December 3, 2007

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
DECEMBER 4, 2007**

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on December 4, 2007 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

Mayor's Announcements, Proclamations and Recognitions:
Fayetteville Bulldog Day Resolution

Presentations, Reports and Discussion Items:
Walton Arts Center Report - Terri Trotter

Agenda Additions:

A. Consent:

1. Approval of the November 6, 2007 City Council meeting minutes.
2. **Bid # 07-68 Downing Sales and Service:** A resolution awarding Bid # 07-68 to Downing Sales and Service for the purchase of one (1) front load refuse truck in the amount of \$220,045.00 for use by the Solid Waste Division.
3. **Landers Ford of Benton:** A resolution approving the purchase of seven (7) Ford Crown Victoria Police Interceptors from Landers Ford of Benton through the State Vehicle Purchase Contract in the amount of \$151,430.60.
4. **McClelland Consulting Engineers, Inc. Task Order # 3:** A resolution approving Task Order # 3 with McClelland Consulting Engineers, Inc. in the amount of \$183,700.00 for planning tasks associated with the Runway 16 Safety Area Improvements at Drake Field; and approving a budget adjustment in the amount of \$183,700.00.
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8. **Zion Road Properties, LLC:** A resolution to approve a settlement with Zion Road Properties, LLC in the amount of \$42,030.00 for right-of-way and easements; and establishing Zion Road Properties, LLC's maximum assessment for off-site improvements.

B. Unfinished Business:

1. **Proposed 2008 Annual Budget & Work Program:** A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting.

C. New Business:

1. **Bid # 07-69 Downing Sales and Service:** A resolution awarding Bid # 07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division.
2. **Operations Management International, Inc. Amendment No. 15:** A resolution approving Contract Amendment No. 15, which extends for one year the contract with Operations Management International (OMI) in the amount of \$6,797,685.28 for the operation, maintenance and management of Fayetteville wastewater treatment facilities for 2008; and approving a 5% contingency in the amount of \$340,000.00.
3. **RZN 07-2781 Dandy:** An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located 1/4 mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre.
4. **RZN 07-2782 Sweetser:** An ordinance rezoning that property described in rezoning petition RZN 07-2782, for approximately 0.95 acres, located at 2220 E. Huntsville from RSF-4, Residential Single Family, 4 units per acre, to R-O, Residential Office.
5. **VAC 07-2758 Bittle:** An ordinance approving VAC 07-2758 submitted by Alan Reid for property located at 2455 East Gentle Oaks Lane to vacate portions of the utility easements on the subject property, a total of 148 square feet.
6. **VAC 07-2761 Roetzeli:** An ordinance approving VAC 07-2761 submitted by Mike and Julie Roetzeli for property located at 1626 East Cypress, Lot 46 of Charleston Place Subdivision to vacate a portion of a utility easement on the subject property, a total of 0.09 acres.
7. **Amend Chapter 174 Signs:** An ordinance to amend § 174.10 (H) Monument Signs to reduce the side setback requirement from 25 feet to 10 feet in non-residential districts.
8. **ADM 07-2837: City Owned Park Lands:** An ordinance to recognize City owned park lands located in Washington County as being included in the Fayetteville City Limits in accordance with Arkansas State Statue 14-40-204.

Announcements:

City Council Tour: December 3, 2007 - Lake Wilson

Adjournment:

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CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE