

City of Fayetteville Staff Review Form

2019-0898

Legistar File ID

12/17/2019

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Peter Nierengarten

12/10/2019

SUSTAINABILITY/RESILIENCE (631)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends adopting a resolution authorizing Mayor Jordan to sign a letter of intent with Sage Partners on behalf of the Bank of Fayetteville, Farmers and Merchants and to sign a letter of intent with Sage Partners on behalf of Fayetteville Depot, LLC (Greg House) for the purchase of property for the construction of a new parking structure on the Depot Lot to replace the parking spaces on the West Ave Lot in preparation for the construction of the Civic Plaza as part of the Cultural Arts Corridor Project.

Budget Impact:

Account Number

Fund

Cultural Art Corridor Bond - Replacement Parking

Project Number

Project Title

Budgeted Item? NA

Current Budget

Funds Obligated

Current Balance

Does item have a cost? NA

Item Cost

Budget Adjustment Attached? No

Budget Adjustment

Remaining Budget

V20180321

Purchase Order Number:

Previous Ordinance or Resolution # Res. 250-18 & Ord. 6126

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



MEETING OF DECEMBER 17, 2019

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

FROM: Peter Nierengarten, Environmental Director

CC: Susan Norton, Communications Director
Justin Clay, Parking Manager
Wade Abernathy, Facilities Management Director

DATE: December 10, 2019

SUBJECT: **Resolution authorizing Mayor Jordan to sign letters of intent for the purchase of property on the Depot Lot for replacement parking**

RECOMMENDATION:

Staff recommends adopting a resolution authorizing Mayor Jordan to sign a letter of intent with Sage Partners on behalf of the Bank of Fayetteville, Farmers and Merchants and to sign a letter of intent with Sage Partners on behalf of Fayetteville Depot, LLC (Greg House) for the purchase of property for the construction of a new parking structure on the Depot Lot to replace the parking spaces on the West Ave Lot in preparation for the construction of the Civic Plaza as part of the Cultural Arts Corridor Project.

BACKGROUND:

The Cultural Arts Corridor is a 2017 Walton Family Foundation Design Excellence Program green space award winning project in Downtown Fayetteville that is being designed with the primary goals of:

- Increasing public access and strengthen the surrounding neighborhood,
- Leveraging the connected trail network,
- Demonstrating a commitment to sustainability, and
- Embodying an innovative spirit, encouraging visitors and residents to engage with the space in new ways.

The corridor was established to link existing art institutions, the Walton Arts Center, Theatre Squared, Community Creative Center with the Fayetteville Public Library and the University of Arkansas – School of Art. The project has three primary elements:

- Scope Area A contains the Fay Jones Woods, the Razorback Regional Greenway, and street improvements along West Ave.,
- Scope Area B contains the West Ave. Civic Space and street improvements to the adjacent West Ave. and Dickson St., and
- Construction of replacement parking.

The City will begin construction on the improvements in Scope Area A in the summer of 2020. Construction of the design elements for Scope Area B are envisioned to begin in 2022.

On December 18, 2018, City Council passed resolution 250-18 supporting \$10M from the Cultural Arts Corridor Bond being spent on replacement parking for the parking spaces in the West Ave. Parking Lot at Dickson St. and West Ave. where the Civic Plaza is to be built. Then on Tuesday, April 9, 2019, the Citizens of Fayetteville voted yes on question 8 in the Bond that authorized \$31,685,000 for Arts Corridor Bond Improvement. Specifically question 8 stated that prior to the removal or loss of twenty-five (25) or more public parking spaces from the West Ave. Parking Lot related to the Cultural Arts Corridor, the City must replace the 290 lost parking spaces within 1000 feet of the Walton Arts Center's west public entrance.

Additionally, on March 12, 2019, City staff and Garver Engineering provided an analysis of several locations within 1000 feet of the Walton Arts Center's west public entrance that would be suitable for replacement parking. That analysis identified three locations that met bond criteria:

- Depot Lot – NW Corner of Dickson St. and West Ave.
- East Lot – Located on the east side of School Ave between Dickson St. and Spring St.
- Nadine Baum Studios Site – Located on the west side of West Ave between Spring Street and Meadow St.

Depot Lot – The Depot Lot currently has multiple uses including 170 reserved and paid surface parking spaces and several buildings/businesses: the historic Fayetteville Train Depot occupied by Chipotle, the Freight Building occupied by the Arsaga's Depot, and the Train Bank occupied by the Bank of Fayetteville. It is bounded by the Razorback Greenway and Arkansas/Missouri Railroad on the West, the Lafayette Street Bridge and private property to the north, West Ave on the east and Dickson Street on the south.

East Lot – The East Lot is currently a 59-space surface parking lot owned by the City of Fayetteville. The lot is comprised of 2 parcels that total 0.8 acres bounded by Shipley Alley and residential houses on the east, residential houses and the Highroller Bike Shop on the south, School Ave on the West and Kingfish Bar on the north.

Nadine Baum Studio Site – The Nadine Baum Studio site at 505 W. Spring St. is occupied by a 25-space parking lot and a 20,000 sq ft building that are leased to the Walton Arts Center through August 13, 2039. The building was constructed in the 1980 as a distribution warehouse for McBride Distributing Company. More recently the building has been converted into theatre space and artist studio and clay making space. The Community Creative Center sub-leases and occupies the studio space while the University of Arkansas Theatre Department leases and utilizes the theatre space. Until the opening of their new theatre building across West Ave. earlier in 2019, Nadine Baum Studio was the original home of Theatre Squared. The site is bounded by the Razorback Greenway and Reindl Properties to the west, Meadow St. to the south, West Ave to the east and Spring St. to the north.

DISCUSSION:

After completion of the initial analysis, staff began further assessment of the feasibility of the three locations by evaluating them against stakeholder input, required bond language criteria, the City's expressed priorities in the [Downtown Fayetteville Master Plan](#) and City Plan.

Site Ownership:

- The 2.4-acre Depot Lot is comprised of 3 parcels with 1.6 acres owned by the Fayetteville Depot, LLC and 0.8 acres owned by the bank of Fayetteville. Both entities have provided letters of intent to the sell portions of their property to the City of Fayetteville for a combined \$350,000 plus a land swap for approximately 0.2 acres on the north end of the Civic Plaza across West Ave.
- The East Lot is wholly owned by the City of Fayetteville.
- The Nadine Baum Studio site is a 1.4-acre parcel owned jointly by the City of Fayetteville and the University of Arkansas and leased to the Walton Arts Center. The University of Arkansas has indicated on multiple occasions that they are not interested in redeveloping this property into a parking deck. According to an October 25, 2019 memo from Fayetteville City Attorney, Kit Williams, "Nothing can be done with the Nadine Baum property without the agreement of both the University of Arkansas and the city of Fayetteville." The memo further states that "...the City has no legal power or authority to do anything with the Nadine Baum Center property unless we obtain approval by the University of Arkansas."

Net Parking Gain:

- The Depot Lot is currently a surface parking lot with privately managed parking spaces. Proposed parking deck footprints would impact 60 existing parking spaces; therefore 350 replacement spaces would need to be constructed to replace the net parking loss.
- The East Lot is currently a surface parking lot with 35 parking spaces leased to the Walton Arts Center and 24 publicly available spaces, therefore 349 replacement spaces would need to be constructed to replace the net parking loss.
- The Nadine Baum Studio site currently has a 25 parking spaces that are included with the site lease to the Walton Arts Center, therefore 315 replacement spaces would need to be constructed to replace the net parking loss.

Construction Access and Impact to Existing Businesses and Residents:

- The 2.4-acre Depot Lot has several nearby businesses including the Bank of Fayetteville, Scarpino's and Arsaga's Depot. Staging and construction of a parking structure on this lot would impact adjacent businesses but could be completed with limited disturbance. The large asphalt parking area north of the proposed structured parking location could easily serve as the staging and laydown space for materials used in the construction of a new parking deck.

- The East Lot has several nearby businesses including Highroller Cyclery and Kingfish Bar. Additionally, there are six residential properties directly across the 15' alley from the lot – several of these residential properties' front doors face the lot. Construction of a parking structure on this site would have limited impact on nearby businesses and residents and would almost certainly have a lasting long-term impact on the residential properties that would face the structure. Because the entire site would be developed for the parking structure, staging and laydown space on this tightly confined lot would be difficult.
- Construction of replacement parking on the Nadine Baum Lot could not be completed without the removal and replacement of the 20,000 square foot Nadine Baum Studio Building. This would force the relocation of the Community Creative Center and University of Arkansas Theatre Department who currently sub-lease the building from the Walton Arts Center. As mentioned, the current lease with the Walton Arts Center runs through August 13, 2039. Staging and laydown space would easily be available on the lot.

Distance to the Walton Arts Center and distribution parking:

- The West Ave. pedestrian exit from a parking structure on the Depot Lot would have direct line of site and access to the Walton Art Center's main entrance at West & Dickson with an approximate walking distance of 400 ft. Additionally, since the City does not maintain any other parking structures north of Dickson St. or within a 5-minute walk of this location, structured parking on the Depot Lot would not only serve the Walton Arts Center but also many of the businesses along West Ave. and Dickson St.
- The School Ave. pedestrian exit from a parking structure on the East Lot would not have direct line of sight access to any of the Walton Arts Center's public entrances, with an approximate walking distance to the Walton Art Center's entrance at West & Dickson of 550 ft. The City currently operates the Spring St. Parking Deck directly across the street from the East Lot. Utilization of that deck has grown steadily since construction in 2015, but the deck has only reached capacity twelve (12) times for events during 2019, suggesting that additional structured parking in this location may not be the ideal location to match parking demand. Furthermore, locating two parking decks across the street from each other along School Ave. is not likely to help further the goals of the Downtown Master Plan.
- The West Ave. pedestrian exit of a parking structure on the Nadine Baum Lot would have direct line of site access to the Walton Art's Centers entrance on West Ave with an approximate walking distance of 730 ft. The nearest structured parking to this location is the City's Spring Street parking deck, located a 3-minute walk away.

Additional Development Potential:

- The large paved surface parking lot that encompasses much of the Depot Lot represents a large development opportunity in the heart of the Entertainment District. The size of

the three parcels comprising the Depot Lot is 2.4 acres, of that acreage approximately 0.7 acres of privately-owned property would have highest redevelopment potential after construction of structured parking. This corner of Dickson St. and West Ave. has the potential for a multi-story mixed-use structure that would screen the parking deck from the street and provide commercial and/or residential intensity and density with significant potential for property and sales tax revenue generation. The redevelopment of this surface parking lot with structured parking and a mixed-use liner or corner anchor building furthers several Downtown Master Plan and City Plan goals.

- Structured parking on the East Lot would utilize the entire 0.8-acre lot owned by the City for a singular use. A liner building along the S. School Ave. façade would have limited depth (15-20 feet) and therefore may also have restricted appeal as commercial, office or residential space and have limited property and sales tax revenue generation potential. If this liner space were built by the City, it would be restricted to municipal uses. Redevelopment potential may exist on the 0.4 acres of privately owned property south of the City's property, but due to the proximity of the existing Spring Street Parking deck to these parcels (across the street), it could reasonably be argued that this development potential exists today and would not be significantly enhanced due to the construction of additional structured parking on the East Lot. If this location is not selected for the new parking deck it should be evaluated for other redevelopment as it has high potential for alignment with the Downtown Master Plan and City Plan as a future mixed-use multi-story structure either publicly or privately funded and developed.
- Construction of replacement parking on the 1.4-acre Nadine Baum Lot would leave approximately 0.5 acres of publicly owned land with high redevelopment, property tax generation and sales tax generation potential. The triangular shape of this parcel and the adjacent Razorback Regional Greenway provides some design challenges in order to maximize the land area potential for the site. If this location is not selected for the new parking deck it should be evaluated for other opportunities as it will have very high redevelopment potential after completion of the adjacent Civic Plaza.

Vehicular Entrance/Exit Locations:

Multiple stakeholders and the City's Parking Division have expressed the need for the replacement parking structure to have more than one vehicular entry/exit location specifically for the efficient exiting of vehicles after downtown events.

- Replacement parking on the Depot lot would allow for direct entry/exit access onto West Ave at Watson St. Additionally, the Administration has negotiated a second entry/exit via an access easement further north on West Ave.
- The East Lot would allow for direct entry/exit access onto School Ave. north of the current exit/entrance to the Spring Street Parking Deck. With improvements to Shipley Alley, a second entry/exit is likely possible but would be restricted to one-way access to Spring St. due to only having 15' of right of way. Furthermore, the proximity of the deck entry/exit access to the existing Spring St. Parking Deck may create event exit traffic congestion issues along School Ave. and Spring St.

- Depending on the replacement parking orientation on the Nadine Baum Lot, multiple entry/exits on to Spring, Meadow and West Ave are possible.

Deck Const Cost (incl. design, prop & easement acquisition and other costs)

- Depot Lot – The cost estimate for the design and construction of a 350-space parking deck on the Depot Lot (including \$350,000 for land acquisition) is \$9.877M.
- East Lot – The cost estimate for the design and construction of a 349-space parking deck on the East Lot (including \$150,000 for skyway crossing over School Ave.) is \$9.883M. The cost of construction for this option is slightly higher than the Depot Lot due to the greater material excavation necessary (and additional rock excavation contingency) on the sloping site.
- Nadine Baum – The cost estimate for the design and construction of a 312-space parking deck plus the Nadine Baum Studio building replacement is \$17.825M. It should be noted that this replacement cost includes \$9M for the replacement of the 20,000 sq ft Nadine Baum building, using average design and construction cost of \$450/sq ft. This number was calculated with input from planners and construction managers at the City, University of Arkansas and Walton Arts Center. When added to the cost of the parking structure, replacement of the Nadine Baum Studio building significantly exceeds the \$10M in the CAC Bond allocated to replacement parking.

Summary & Recommendation:

Based on the cost to replace the Nadine Baum Studio building and the lack of University of Arkansas interest in redeveloping the site, Mayor Jordan and Staff recommend eliminating Nadine Baum as an option for replacement parking.

The Depot Lot and the East Lot on School Ave. both appear to be workable options for the replacement parking deck. Based on the discussion above and the scoring in the Replacement Parking Deck Decision Matrix, the Mayor and Administration recommend the Depot Lot as the preferred and most viable option for replacement parking.

Beyond the categories in the scoring matrix, the Depot Lot offers additional flexibility and space to evaluate parking deck options with flat floor plates – this may make the deck more suitable for future adaptive reuse. Also, the Letter of Intent from Fayetteville Depot, LLC requests conveyance of 15 ft of property for 3-story liner building space between the new parking structure and West Ave. Fayetteville's Downtown Design Overlay District will require the construction of a liner building space or other pedestrian scale architectural treatments and/or green screen between the parking deck and West Ave. Construction of this liner building space by Fayetteville Depot, LLC instead of the City has the benefit of allowing more flexible use of this space (bond requirements would only allow municipal use of the liner building space if built by the City), increasing sales tax generation, improving the pedestrian experience along West Ave. and reducing the City's cost for construction of the parking deck.

Discussions with the Fayetteville Depot, LLC and the Bank of Fayetteville have resulted in both entities providing letters of intent to the sell approximately 0.3 acres (each) of their property to the City of Fayetteville in exchange for 0.2 acres on the north end of the Civic Plaza plus a combined \$350,000 (\$250,000 to the Fayetteville Depot, LLC and \$100,000 to the Bank of Fayetteville). The letters of intent also provide for:

- Design and use restrictions for the 3-story building on the north end of the Civic Plaza (including: active ground floor uses, sustainability practices & low impact development)
- Construction requirements for the 3-story building on the north end of the civic plaza – Developer must pay of all normal side development/utility costs and must complete building construction prior to or by the time of the Plaza opening
- An approximately 0.2-acre access easement for a second parking garage exit further north onto West Ave.
- An approximately 0.2-acre temporary construction easement to allow for staging and access to the deck during construction
- Protection and access to the Freight Building currently occupied by Arsaga's Depot during parking deck construction
- The ability for adjoining development on the Depot Lot to fund the design and construction of additional floors for the parking deck

This resolution would authorize Mayor Jordan to sign both letters of intent, which would enable staff to begin working with consultants, contractors and both property owners to develop the preliminary parking deck design. That design would guide the actual land purchase from both property owners – this purchase would be brought back to City Council for final authorization in 2020.

If City Council chooses not to support this resolution, then the Administration will move forward with the design of replacement parking on the East Lot on School Ave. It should be noted that the current budget for this option does not allow for buried parking, therefore a parking deck at this location would be a 4-level above ground structure.

BUDGET/STAFF IMPACT:

Funding for replacement parking will come from the \$10M allocated in the Cultural Arts Corridor Bond. Funding for the construction of Phase 1 of the Cultural Arts Corridor Bond including replacement parking, the Fay Jones Woods, the Razorback Regional Greenway, and street improvements along West Ave. was authorized by City Council on May 28, 2019. Those bonds totaling \$20.0M for Phase 1 of the Cultural Arts Corridor were sold on August 15, 2019 with at least 85% of funds required to be spend within 3 years.

Attachments:

Replacement Parking Deck Decision Matrix

Sage Partners Cover Letter from Sterling Hamilton

Letter of Intent – Sage Partners on behalf of Fayetteville Depot, LLC (Greg House)

Letter of Intent – Sage Partners on behalf of the Bank of Fayetteville, Farmers and Merchants

City Attorney Memo on Nadine Baum

CAC Parking Deck Site Evaluations Report from Garver Engineering, LLC

Replacement Parking Deck Decision Matrix			
	Depot Lot (partial site)	East Lot (Partial Site)	Nadine Baum Studio Site
Site Ownership	Private	City	City/University
Parking Spaces Constructed (net parking gain)	350 (290)	349 (290)	312 (290)
Construction Access	Layout space available on site	Very tight/difficult	Layout space available on site
Impact to buildings/businesses	BoF, Arsaga's, Scarpino's impacted by construction	Highroller Bikeshop, Kingfish and nearby homes impacted by construction	Nadine Baum Studio removal
Dist and line of site to West WAC Entrance	Yes - 400'	No - 550'	Yes - 730'
Distribution of Parking	Not near another City Deck	Across the Street from Spring St. Deck	Not near another City Deck
Additional Development Potential	YES	Small liner building space along School Ave.	YES
Entrance/Exit Locations	Two on West Ave.	Alley and School Ave near Spring Deck	West & Meadow & Spring
Deck Const Cost (incl. design, prop & easement acquisition and other costs)	\$ 9,877,000	\$ 9,883,000	\$ 17,825,000

November 25, 2019

Mayor Lioneld Jordan

Sage Partners on behalf of Fayetteville Depot, LLC (Greg House)

Via Electronic Mail

Dear Mayor Jordan:

I would like to thank everyone at the city involved in this negotiation for their patience and wisdom. It is evident that the city staff, the mayor and our elected officials care for our community and its future.

I am attaching this cover letter to the enclosed LOI in order to add some color and clarification to the discussion around the City's acquisition of the Depot Site for the parking deck.

I would like to clarify a few points around the transaction:

1. Size of property
2. Value of property
3. Value of property in relation to land swap
4. Other benefits of the transaction which are not stated in the LOI

The size of the property for Fayetteville Depot, LLC as it relates to the parking deck will have a footprint of approximately .3 - .4 acres. The total affected property from our agreement will be closer to 1 acre of property. Included in this 1 acre of property will be the remainder of the northern property which will be encumbered with an access easement for the parking deck and will also include the preservation of the existing depot building. I believe that through this negotiation, we should be talking about the total affected property rather than just the property to be conveyed to the city.

The \$250,000 payment is a number that I derived from what I assessed were Fayetteville Depot, LLC's needs as they related to lost income and incidentals due to the transaction. While I believe that the parking deck and the land swap represent adequate value for the transaction in question, I believe that the \$250,000 one-time payment will fill the gap in lost income while the parking deck and any other development occur at the site. Based on my analysis, even with the cash payment, Fayetteville Depot will still see a loss on its current income statement based on the construction schedule Fayetteville Depot, LLC estimates for the construction of the Cultural Arts Corridor and Civic Plaza.

I hope we can have a short discussion on value without getting into the weeds. I would like to own and defend the terms of the LOI as my influence has been strong throughout the negotiation and I have pride of both ownership and fairness in all my business dealings. My resume of valuation and financial analysis is deep and includes negotiations between public institutions, municipalities, private equity funds, fortune 100 corporations and most everything in between. I am not saying this to tout my resume and experience but to underpin the experience behind the LOI we are presenting with this letter.

I would like to make three points as they relate to the value of the Depot property. These points are simple competitive pricing, lost development rights and city encumbrance.

A simple competitive comparison on \$250,000 for the encumbrance of approximately 1 acre of land at the depot would lend itself to showing that the proposed terms, from a cash perspective, is a very small portion of the overall value of this property.

Collier Diversification Specialties, LLC sold approximately 1.4 acres of land at 151 W. Dickson street to 151 Dickson Development LLC in June of 2017 for \$4.4 million dollars. This transaction represented approximately \$3.1 million per acre in value for contiguous property on Dickson Street. Fayetteville Depot,

LLC is asking for \$250,000 for the sale of ~0.4 acres with approximately 1 acre of developable land encumbered by the parking deck. This essentially represents \$250,000 for use of an acre of prime property in downtown Fayetteville. While the \$250,000 in question is in addition to the parking deck and a land swap, it is only a small addition when considering overall value of the property.

Fayetteville Depot, LLC is also in possession of an offer to purchase the Depot property for a value of \$6,000,000. Fayetteville Depot, LLC has determined that, while this offer is a good offer, Fayetteville Depot would prefer to engage with the City for the betterment of the cultural arts corridor and to further the goals of the City. I think it is wise to note that the development of the deck, the land swap and the small cash consideration of the LOI represent more risk for Fayetteville Depot, LLC than does a simple sale or contribution which does not involve the City.

Risk is the element of the transaction that should be addressed in relationship to the north parcel of the Civic Plaza. This land swap does represent significant value for Fayetteville Depot, LLC but it also represents development and market risk. The City has stated in its response to the original LOI that it wants to control some of the development features on the Civic Plaza parcel. Fayetteville Depot, LLC understands the city's desire for such control but also understands that there is risk in having the city determine tenant uses, parking allocation, design features and the type of sustainable construction. Fayetteville Depot, LLC is willing to take on some of these risks but the .2 acres of the north end of the Civic Plaza is not necessarily comparable in value to the unencumbered parcel currently owned by Fayetteville Depot, LLC. The risk that the cash flow of the Civic Plaza property suffers from external requirements is very high and, in fact, almost assured. While no development perfectly matches the market in demand, cost and highest and best use, the property in question will almost certainly not match highest and best use or cost for highest and best use due to the restrictions already placed on it through the LOI process. Fayetteville Depot is willing to accept these value reductions but would like to acknowledge them in this letter to further justify its requests, specifically the cash consideration, in its original offer to the City.

Finally, I would like to take off my broker/valuation/finance hat and address what this transaction means to the citizens of Fayetteville (myself included). Three virtues are represented in this transaction that may not be apparent on its face. These virtues are design/sustainability, historic preservation, and, most importantly, true community building.

By working with Fayetteville Depot, LLC, the entire design of the Cultural Arts Corridor and Civic Plaza can be realized all the way to Watson Street. Fayetteville Depot, LLC will work to develop the north end of the Civic Plaza as well as the remainder of the Depot lot in order to honor the design concepts and uses which the city has worked so hard to bring forward. Fayetteville Depot, LLC will have the opportunity to design a much more robust development on the depot lot as a result of this transaction, activating the space, creating more retail and pedestrian opportunities and attracting world class tenants to strengthen our downtown. As a member of the committee to pass the transportation bond, I believe in the mayor's vision to bring something forward that will show the rest of the country why Fayetteville is high on the lists of best places to live. Having continuity in design on adjacent property should be a top priority for all of us.

For the purposes of preservation, this agreement will be the only guaranteed opportunity to preserve an historic structure now standing on the property currently owned by Fayetteville Depot, LLC. Preservation sacrifices future development potential in the form of income generating square footage on the ground where the current single-story building stands and I believe that this sacrifice should be taken into account when considering the value that Fayetteville Depot is accepting for its property. Concurrently, if the property goes to market, without the safeguards enshrined in this LOI and the subsequent contract, there will be no guarantee that the future owner will agree to preserve any existing structures other than what is required by law. I believe in consensus and I believe that we can find the right way to do this as a community. I have worked very hard to realize this throughout this negotiation as has everyone involved.

This brings me to the final benefit of this transaction: community building. We, the citizens of Fayetteville, can demonstrate that we can, as a community, come together and sacrifice some of our individual ideologies to create what is best for all of us. Your vision, Mayor Jordan, of the Cultural Arts corridor will not just be a beautiful civic space but a testament to the elusive word "community", which we have so much of in Fayetteville. I think most people are like me in that we are proud to be a part a tolerant and progressive city, but also one that can come together to accomplish the higher virtues of that community, intangible but



Northwest Arkansas
5100 W. JB Hunt Drive
Suite 800
Rogers, AR 72758
479-845-3000 Office

apparent when they are revealed. This project is a true testament to the tolerance and self-sacrifice that is required to achieve the values that truly reflect the culture of Fayetteville.

Highest Regards,

A handwritten signature in black ink, reading "Sterling Hamilton", written in a cursive style.

Sterling Hamilton
Sage Partners

November 26, 2019

Mayor Lioneld Jordan

Sage Partners on behalf of Fayetteville Depot, LLC (Greg House)

Via Electronic Mail

Dear Mayor Jordan:

The following is a Letter of Intent for an offer to sell the below-referenced property under the following terms and conditions:

Location:	Fayetteville Depot 550 W Dickson Street (Exhibit Attached)
Seller:	Fayetteville Depot, LLC
Buyer:	City of Fayetteville
Sale Price	\$250,000 plus exchange of the 0.2 acre northern parcel of the Civic Plaza (currently West Ave Parking Lot) -city to provide survey.
Terms:	LOI will be good for 60 days Due Diligence for buyer and seller to discuss terms of a purchase and sale. Buyer and/or Seller may, at any time, cancel the LOI. Closing will occur when plans, engineering and permitting are in place. Lot split may occur, if necessary, before closing with mutual agreement by the parties to the transaction.

The approximate size and scope of the Depot parcel in consideration is 0.3 acres south of an extension of the north line of Watson St ROW, a 0.2 acre access easement to allow for a second parking garage exit and a 0.2 acre temporary construction easement. Final size and scope will be determined by schematic plans and engineering through whatever entity the City of Fayetteville determines will handle the development or predevelopment process.

The City agrees to convey liner building space, back to Fayetteville Depot upon completion of the deck. Fayetteville Depot agrees to develop liner buildings, where space is available, to city development standards and in compliance with current or future zoning restrictions per the city of Fayetteville UDC.

The City of Fayetteville will work in good faith with Fayetteville Depot, LLC in order to determine the final size and scope of the exchange property at the north end of the Civic Plaza (West Ave Parking Lot). The building's uses and design should embrace the design intention and support the types of activities envisioned to activate the adjoining Civic Plaza throughout the day. The building shall be a maximum of 3 stories and shall comply with all the requirements of the underlying Main Street Center Zoning District and the Downtown Design Overlay District. It shall have active ground floor uses (restaurant, café, art gallery, retail shopping, etc.). While LEED Certification is not required,

the building shall incorporate sustainable products, practices and programs into the building's design, construction and operation. Specifically, the building's stormwater management shall employ low impact development that is complimentary to the adjoining Civic Plaza. . The City shall be allowed transparency and access to communication around the selection of the any developer be it Fayetteville Depot or any other entity selected by the property owner. All normal site development and utility connection cost shall be borne by the selected building developer and/or the Fayetteville Depot, LLC. The building is to be built in conjunction with the construction of the adjoining Civic Plaza and shall be completed prior to or by the time of the Plaza opening.

Fayetteville Depot, LLC will work with the City of Fayetteville to ensure the protection of and access to the Freight building occupied by the Arsaga's Depot during the parking deck construction.

The City of Fayetteville will build, a parking deck upon the subject property at 550 W Dickson. The parking deck will consist of no less than 290 spaces plus as many spaces as can be built with \$10 M in funds from the Cultural Arts Corridor Bond.

The City further agrees that any spaces above the 290 required parking spaces from the bond issue will be available in some capacity for use by any future tenants, so long as the method of use complies with the bond requirements. Future tenants would include any tenants in the liner buildings around the deck or any future tenants from any other development on the original Fayetteville Depot, LLC parcel.

Should additional development on the adjoining parcels owned by Fayetteville Depot LLC or the Bank of Fayetteville/Farmers and Merchants Bank warrant additional parking demand beyond City constructed spaces, the City will work with Fayetteville Depot LLC to allow private equity funding to be contributed for additional design and construction necessary for additional foundational support, structure, floors and any other reasonable additional elements to the City's parking deck. Cost allocation shall be determined by the City's design engineering firm. The allocation of those City controlled and private equity-controlled spaces shall be documented prior to the new deck being placed in service.

This LOI will be dependent on a successful execution of the use of a portion of the property currently owned, but not occupied, by the Bank of Fayetteville/Farmers and Merchants Bank.

Due Diligence

Due Diligence shall mean any negotiations or necessary events which will lead to a purchase and sale contract. This due diligence period will include the successful pursuit of a contribution or sale of the land owned by Farmers and Merchants Bank. Any item not listed here which buyer needs to address shall not be excluded from this non-binding letter of intent.



**CUSHMAN &
WAKEFIELD**



Northwest Arkansas
5100 W. JB Hunt Drive
Suite 800
Rogers, AR 72758
479-845-3000 Office

Non-Binding Agreement:

This proposal is not intended as, and does not constitute, a binding agreement by any party, nor an agreement by any party to enter into a binding agreement but is merely intended to specify some of the proposed terms and conditions of the transaction contemplated herein. Neither party may claim any legal rights against the other by reason of the signing of this letter or by taking any action in reliance thereon. Each party hereto fully understands that no party shall have any legal obligations to the other, or with respect to the proposed transaction, unless and until all of the terms and conditions of the proposed transaction have been negotiated, agreed to by all parties and set forth in a definitive agreement which has been signed and delivered by all parties. The only legal obligations, which any party shall have, shall be those contained in such signed and delivered definitive agreement referred to above.

If you have any questions, please call us to discuss at (479) 802-0028. We would appreciate your response as soon as possible. We look forward to receiving your response.

Regards,

Sterling Hamilton
Sage Partners

Agreed:

Mayor Lioneld Jordan, City of Fayetteville Arkansas - Buyer

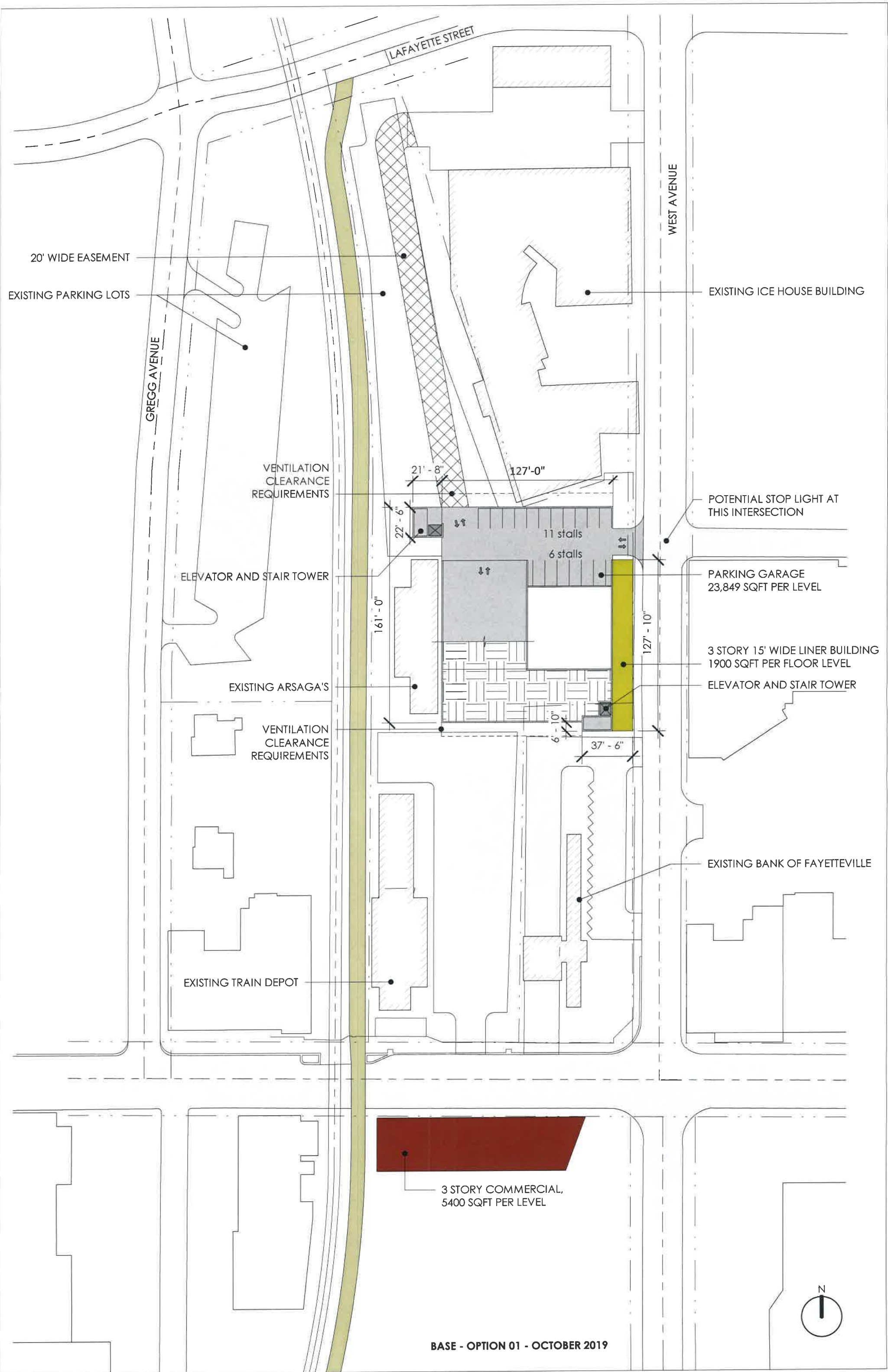
Agreed:

Greg House – Fayetteville Depot, LLC - Seller



Northwest Arkansas
5100 W. JB Hunt Drive
Suite 800
Rogers, AR 72758
479-845-3000 Office

EXHIBIT A
(For reference and concept only)



BASE - OPTION 01 - OCTOBER 2019



Northwest Arkansas
5100 W. JB Hunt Drive
Suite 800
Rogers, AR 72758
479-845-3000 Office

*BH

~~September 4, 2019~~ November 26, 2019

Mayor Lionel Jordan

Sage Partners on behalf of Bank of Fayetteville, Farmers and Merchants

Via Electronic Mail

Dear Mayor Jordan:

The following is a Letter of Intent for an offer to sell the below-referenced property under the following terms and conditions:

Location: 542 W Dickson - Northern Portion of Bank W Dickson Street - ~.33 Acres (Exhibit Attached)

Seller: Farmers and Merchants Bank

Buyer: City of Fayetteville or Special Purpose Entity

Sale Price \$100,000 plus the guarantee of parking deck construction. Parking deck construction will be assumed to add long term value to the remainder of the bank's corner parcel. This price is roughly equivalent to the per land square foot price being proposed by the adjacent property owner, Fayetteville Depot, LLC.

Terms:

LOI will be good for 60 days Due Diligence for buyer and seller to discuss terms of a purchase and sale. Buyer and/or Seller may, at any time, cancel the LOI. Closing will occur when plans, engineering and permitting are in place. Lot split may occur, if necessary, before closing with mutual agreement by the parties to the transaction.

The exact size and scope of the Bank of Fayetteville parcel in consideration will be determined by schematic plans and engineering through whatever entity the City of Fayetteville determines will handle the development or predevelopment process.

The City of Fayetteville will build, to the capacity it is able, a parking deck upon the subject property at 542 W Dickson, south of the intersection of W. Watson Street and West Avenue. The parking deck will consist of no less than 292 spaces plus as many spaces as can be built with funds from the Transportation Bond or any budget number above the bond the City might deem fit.

This LOI will be dependent on a successful negotiation for the use of a portion of the property currently owned, but not occupied, by the Bank of Fayetteville/Farmers and Merchants Bank.

Due Diligence

Due Diligence shall mean any negotiations or necessary events which will lead to a purchase and sale contract. This due diligence period will include the successful pursuit of a contribution or sale of the land owned by Farmers and Merchants Bank. Any item not listed here which buyer needs to address shall not be excluded from this non-



Northwest Arkansas
5100 W. JB Hunt Drive
Suite 800
Rogers, AR 72758
479-845-3000 Office

binding letter of intent.

Non-Binding Agreement:

This proposal is not intended as, and does not constitute, a binding agreement by any party, nor an agreement by any party to enter into a binding agreement but is merely intended to specify some of the proposed terms and conditions of the transaction contemplated herein. Neither party may claim any legal rights against the other by reason of the signing of this letter or by taking any action in reliance thereon. Each party hereto fully understands that no party shall have any legal obligations to the other, or with respect to the proposed transaction, unless and until all of the terms and conditions of the proposed transaction have been negotiated, agreed to by all parties and set forth in a definitive agreement which has been signed and delivered by all parties. The only legal obligations, which any party shall have, shall be those contained in such signed and delivered definitive agreement referred to above.

If you have any questions, please call us to discuss at (479) 802-0028. We would appreciate your response as soon as possible. We look forward to receiving your response.

Regards,

Sterling Hamilton
Sage Partners

Agreed:

Mayor Lioneld Jordan, City of Fayetteville Arkansas - Buyer

Agreed:

Gary Hudson - Farmers and Merchants Bank - Seller 9-10-19



**CUSHMAN &
WAKEFIELD**



sage
PARTNERS

Northwest Arkansas
5100 W. JB Hunt Drive
Suite 800
Rogers, AR 72758
479-845-3000 Office

EXHIBIT A
(For reference and concept only)





OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Don Marr**, Chief of Staff
Paul Becker, Finance Director
Susan Norton, Communications Director
Peter Nierengarten, Sustainability Director

FROM: **Kit Williams**, City Attorney

DATE: **October 25, 2019**

RE: **Nadine Baum Property**

In April of 1994, McBride Distributing Company deeded its former beer distributing location encompassing about 1.34 acres to the Walton Arts Center Council, Inc. (Deed attached) This is the Nadine Baum Center property. In June of 2001, the Walton Arts Center Council, Inc., deeded this same parcel to the Board of Trustees of the University of Arkansas and the City of Fayetteville. (Deed attached) Therefore the University and City of Fayetteville jointly own this 1.34 acres.

Nothing can be done with the Nadine Baum property without the agreement of both the University and the City of Fayetteville. The University and City jointly leased the Nadine Baum Center property to the Walton Arts Center Council, Inc. by a similar long term lease as we did for the Walton Arts Center itself. We have no legal right to unilaterally cancel such lease of the Nadine Baum Center.

Most importantly, the City has no legal power or authority to do anything with the Nadine Baum Center property unless we obtain approval by the University of Arkansas. Mayor Jordan has explicitly informed me that the University's Chancellor has unequivocally rejected any use of the property for a city parking deck. The City cannot attempt a condemnation against the University of Arkansas which cannot even be sued in Arkansas Courts because of its constitutional immunity.

"The State of Arkansas shall never be made defendant in any of her courts."
Arkansas Constitution, Article 5, Section 20.

The Arkansas Supreme Court has held that the above doctrine of constitutional sovereign immunity bars any claim or litigation against the University of Arkansas and its Board of Trustees. *University of Arkansas for Medical Sciences v. Adams*, 354 Ark. 21, 117 S.W. 3d (2003). This, of course, means **the City of Fayetteville has zero legal power to force the University of Arkansas to do anything regarding the Nadine Baum Center property.**

Therefore, the Nadine Baum Center cannot be an optional site for the replacement parking deck. It is simply beyond the City's power to locate a parking deck or do anything on this property without the University's agreement which has been repeatedly rejected.

WARRANTY DEED

(CORPORATION)

KNOW ALL MEN BY THESE PRESENTS:

McBride Distributing Co., Inc., aka McBride
That Distributing Co.
a corporation organized under and by virtue of the laws of the State

of Arkansas, hereinafter called Grantor, by its
President and Secretary, duly authorized by proper resolution of its
Board of Directors, for and in consideration of the sum of One Dollar
(\$1.00) and other good and valuable consideration in hand paid by

The Walton Art Center Council, Inc., a not-for-profit
corporation

hereinafter called Grantee, does hereby grant, bargain and sell unto
the said Grantee and Grantee's heirs and assigns, the following
described land situate in

WASHINGTON

County, State of Arkansas, to-wit:

A part of Block 8 of the original town (now City) of Fayetteville,
Arkansas, being more particularly described as follows: Beginning at the
Northeast corner of Block 8, thence North 87 degrees 50 minutes West 90.82
feet to the East railroad right of way, thence South 29 degrees 34 minutes
West 215.87 feet, thence South 27 degrees 34 minutes West 43.4 feet, thence
South 22 degrees 28 minutes West 62.9 feet, thence South 18 degrees 24
minutes West 42.4 feet along the East right of way, thence South 88 degrees
57 minutes East 254.70 feet, thence North 325.85 feet to the point of
beginning, containing 1.34 acres, more or less.

I certify under penalty of false
swearing that at least the legally
correct amount of documentary stamps
have been placed on this instrument.

Grantee Agent
Address Burton

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's
heirs and assigns, forever. And said corporation hereby covenants with the said Grantee that it is lawfully seized of said
land and premises, that the same is unincumbered, and that it will forever warrant and defend the title to the said lands
against all legal claims whatever.

IN TESTIMONY WHEREOF, the name of the Grantor is hereunto affixed by its President and its seal is affixed by its
Secretary, this 12th day of April, 1994.

(Seal)

THIS INSTRUMENT PREPARED BY:
BAC

McBride Distributing Co., Inc.
Name of Corporation

By Robert O. McBride President

By Angela C. Ryan Secretary

ACKNOWLEDGMENT

State of Arkansas ss.
County of Washington

On this the 12 day of April, 1994 before me, a Notary public,

qualified and acting, within and for the said County and State, appeared in person the within named Robert O. McBride
and Angela Ryan to me personally known, who stated that they were the President and Secretary

of the McBride Distributing Co., Inc., a corporation,
and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf
of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for
the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 12 day of April, 1994.

My Commission Expires
OFFICIAL SEAL
WINFIELD S. RHONSON, JR.
NOTARY PUBLIC - ARKANSAS
WASHINGTON COUNTY

Notary Public

94022052

WARRANTY DEED
(Corporation)

FILED FOR RECORD
01 JUN 29 AM 8 14
WASHINGTON CO AR
B. STAMPS

KNOW ALL MEN BY THESE PRESENTS:

That the Walton Arts Center Council, Inc., Grantor, an Arkansas non-profit corporation, by its President and Secretary duly authorized so to act by proper resolution of the said Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, paid by Board of Trustees of the University of Arkansas and the City of Fayetteville, Arkansas, Grantees, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the said Grantees, and unto their successors and assigns forever, the following described land situated in the County of Washington, State of Arkansas, to-wit:

A part of Block 8 of the original town (now City) of Fayetteville, Arkansas, being more particularly described as follows: Beginning at the Northeast corner of Block 8, thence North 87 degrees 50 minutes West 90.82 feet to the East railroad right of way, thence South 29 degrees 34 minutes West 215.87 feet, thence South 27 degrees 34 minutes West 43.4 feet, thence South 22 degrees 28 minutes West 62.9 feet, thence South 18 degrees 24 minutes West 42.4 feet along the East right of way, thence South 88 degrees 57 minutes East 254.70 feet, thence North 325.85 feet to the point of beginning, containing 1.34 acres, more or less.

TO HAVE AND TO HOLD the same unto the said Grantees and unto their successors and assigns forever, with all tenements, appurtenances and hereditaments thereunto belonging.

And Grantor hereby covenants with the said Grantees that it will forever warrant and defend the title to said lands against all lawful claims whatsoever.

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument.

Grantee

Address

ADMN 310

Enclave 116

AR 72701

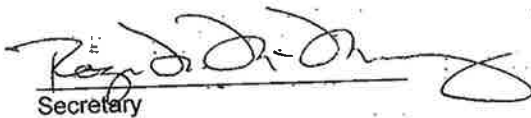
2001076325

IN WITNESS WHEREOF, the name of the Grantor is hereunto affixed by its
President and Secretary this 19th day of June, 2001.



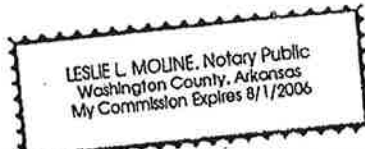
President
Walton Arts Center Council, Inc.

Attest:


Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON)



On this 19th day of June, 2001, before me a Notary Public, duly commissioned, qualified and acting, within and for said County and State, personally appeared Reed Greenwood and Roger McMenamy, to me personally well known, who stated that they are the President and Secretary of the Walton Arts Center Council, Inc. and are duly authorized in that capacity to execute the foregoing instrument for and in the same name and on behalf of said Council.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 19th day of June, 2001.

Leslie L. Moline
Notary Public

My Commission Expires:

8/1/2006

This instrument prepared by:
Fred H. Harrison
General Counsel
University of Arkansas
2404 North University Avenue
Little Rock, AR 72207-3608



TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

CC: Peter Nierengarten, Sustainability Director

FROM: Justin Clay, Parking Manager

DATE: March 12, 2019

SUBJECT: **Cultural Arts Corridor Parking Deck Site Evaluations Report from Garver Engineering, LLC**

Enclosed please find the final report prepared by Garver Engineering, LLC (Garver) pursuant to City Council Resolution 276-18 which authorized funding for a preliminary site analysis to determine the most viable locations for new parking structure(s) to replace lost parking resulting from the potential construction of the Civic Plaza portion of the Cultural Arts Corridor.

BACKGROUND:

Question 8 of the upcoming sales tax bond election scheduled for April 9, 2019, addresses the construction of a Cultural Arts Corridor. One key design element of the Cultural Arts Corridor is the transformation of the West Avenue parking lot into a public Civic Plaza in the heart of the Fayetteville entertainment district. The City is committed to providing parking to support the Walton Arts Center, TheatreSquared, and other downtown establishments while creating a walkable environment for today and into the future. If this question is approved by voters, Mayor Jordan has committed that new parking be in place prior to any Cultural Arts Corridor related construction work on the West Avenue parking lot. City Council further affirmed this commitment on December 18, 2018 by adopting Resolution 250-18, which committed up to \$10M from the Cultural Arts Corridor sales tax bond question to replacement parking within reasonable proximity to the Walton Arts Center.

To determine the most viable locations for new parking and the number of parking spaces each location is likely to provide, a contract with Garver was approved on December 18, 2018. Their analysis evaluated possible parking configurations, feasible number of spaces, liner space capabilities, and other site details for locations within the Entertainment District. Garver has reviewed the available contour information for each site, determined the buildable area for each site based on boundaries, easements, and building setbacks, and provided a two-dimensional layout of the parking footprint with approximate number of spaces for a typical level. The enclosed report is provided to guide further decision-making on the location(s) for new parking.

DISCUSSION:

As outlined in the enclosed report, Garver evaluated eight (8) parking scenarios within the Entertainment District and has determined three (3) locations to be the most viable options to replace the West Avenue parking lot spaces. As noted in Section 5.0 on page 18 of the report, the Site Evaluation Matrix shows the three (3) viable locations to be:

- Option 1 – “Depot Lot – Partial Site” (NW corner of West/Dickson intersection)
- Option 4 – “East Lot – Partial Site” (NE corner of Spring/School intersection)
- Option 5 – “Nadine Baum Studios Site” (NW corner of Meadow/West intersection)

Each of these options are consistent with Mayor Jordan’s commitment to replace parking within reasonable proximity of the Walton Arts Center and each location falls well within the requisite 1,000 feet of the Walton Arts Center’s west public entrance. Each option is unique and presents opportunities for various partnerships and development projects to be more fully explored. This report has achieved the objective of determining the viability for constructing parking at various locations. While it is imprudent at this time to commit further resources until Question 8 is decided by the voters, staff does recommend beginning a dialogue with stakeholders associated with each of the viable properties.

Notably, alternative locations at Hillcrest Towers and City Parking Lot #55 were also considered but initial evaluations uncovered numerous challenges for the sites which prohibited further consideration. These challenges are noted more fully within Section 4.0 of the report.

Additionally, the City also worked with Nabholz, the Construction Manager on the Cultural Arts Corridor Project, to evaluate the feasibility and cost of buried parking under the proposed Civic Plaza at West & Dickson. As outlined in the attached letter and cost estimate from Nabholz, the cost to install 300 below grade parking spaces under the civic space would cost \$19.5 – 21.5M (not including design costs). Nabholz noted anticipated rock excavation, the presence of groundwater and underground storm drainage reroutes as issues that would likely contribute to a cost of nearly \$70,000 per parking space. For comparison purposes we estimate \$28,000 per space to construct above grade replacement structured parking.

Recommendation:

Due to the high cost of buried parking under the Civic Plaza and the viability of the three above grade parking locations identified in the Garver report, staff recommends continued negotiation and analysis on the three identified sites to determine the most feasible and cost-effective location for replacement parking.

Attachments:

Cultural Arts Corridor Parking Deck Site Evaluations Report from Garver
Fayetteville CAC Civic Space Underground Parking Garage Letter and Estimate



CITY OF
FAYETTEVILLE
ARKANSAS

Cultural Arts Corridor Parking Deck Site Evaluations

Prepared For:
City of Fayetteville, Arkansas

March 8, 2019



Table of Contents

Table of Contents	1
List of Figures	1
List of Appendices	2
1.0 Background.....	3
1.1 Prior Studies.....	3
2.0 Introduction	3
2.1 Project Description.....	3
2.2 Desired Objectives.....	3
2.3 Site Evaluation Criteria	3
3.0 Site Description Narratives.....	4
3.1 Option 1 – Depot Lot – Partial Site	5
3.2 Option 2 – Depot Lot – Full Site.....	7
3.3 Option 3 – East Lot – Full Site	9
3.4 Option 4 – East Lot – Partial Site.....	11
3.5 Option 5 – Nadine Baum Studios Site.....	13
4.0 Other Sites Evaluated	15
4.1 Hillcrest Tower Site	15
4.2 City of Fayetteville Lot 55 Site	16
4.3 Nadine Baum Studios Site Alternate Concept.....	17
5.0 Site Evaluation Matrix	18

List of Figures

Figure 1 - Vicinity Map.....	4
Figure 2 - Option 1 Depot Lot - Partial Site	5
Figure 3 - Option 2 Depot Lot - Full Site	7

Figure 4 - Option 3 East Lot - Full Site	9
Figure 5 - Option 4 East Lot - Partial Site	11
Figure 6 - Option 5 Nadine Baum Studios Site	13
Figure 7 - Hillcrest Tower Site	15
Figure 8 - City of Fayetteville Lot 55	16
Figure 9 - Nadine Baum Studios Site Alternate Concept	17

List of Appendices

Appendix A	Drawings:
	A1 and A2 – Option 1 Depot Lot – Partial Site Layout
	A3 and A4 – Option 2 Depot Lot – Full Site Layout
	A5 and A6 – Option 3 East Lot – Full Site Layout
	A7 and A8 – Option 4 East Lot – Partial Site Layout
	A9 and A10 – Option 5 Nadine Baum Studios Site Layout

1.0 Background

1.1 Prior Studies

The Downtown Master Plan was adopted by the City Council in April 2004 for the Downtown / Dickson Street area. In August 2005 the City and the University of Arkansas hired Martin Alexiou Bryson (MAB) to study parking in the Downtown / Dickson Street area. The study concluded that a 1,200 space parking deck was required based on the assumption that certain planned developments would occur, including the expansion of the Walton Arts Center.

Garver completed a parking deck study in November 2012 for a parking deck to serve the Entertainment District / Dickson Street area in conjunction with the Walton Arts Center Expansion. Out of four sites studied by Garver the current Spring Street Parking Deck site was recommended and a 236-space parking deck was built and was completed in October 2015.

Nelson / Nygaard, in 2016 as a part of a comprehensive Mobility Plan, completed a dedicated Parking study of the Entertainment District and Downtown area. The study offered parking management strategies and recommendations through its evaluation of parking utilization, demand for parking, and pricing for on and off-peak times. The study also examined how close certain amenities were to available parking.

Nelson / Nygaard also completed the Fayetteville Mobility Study in March 2018. The Mobility Study outlined the long-term strategy for multimodal mobility within the City.

2.0 Introduction

2.1 Project Description

This project includes the evaluation of up to five (5) potential sites within the Fayetteville Entertainment District to determine the number of parking spaces that can feasibly be contained in a future parking deck for each site. This report does not include any cost analyses of the potential parking decks.

2.2 Desired Objectives

- Provide a net-gain of a minimum of 290 parking spaces.
- Parking spaces are located within 1,000-ft. of the WAC's nearest public entrance.
- A parking deck that will meet or exceed City regulations and planning requirements.
- Inclusion of Liner buildings.
- Potential for additional development.

2.3 Site Evaluation Criteria

The following criteria, in no particular order of priority, are used in this report to evaluate each site.

- Deck Total Parking Spaces
- Existing Parking Spaces On-Site Lost
- Net Gain of Parking Spaces
- Number of Parking Deck Levels Required to Meet Objectives
- Existing Property Ownership of Site
- Total Square Footage Area of Liner Buildings
- Walking Distance from Deck Entrance to Nearest WAC Entrance
- Parking to Be Located Within 1,000-ft. Radius of the Nearest WAC Entrance
- Existing Structures On-Site Required to Be Demolished or Relocated
- Additional Development Potential Remaining on the Site

3.0 Site Description Narratives

On January 8, 2019, Garver met with City Staff from Sustainability, Parking, and Facility Management to discuss the locations that would be evaluated for the feasibility of a parking deck. The locations chosen to be evaluated were the East Lot, Depot Lot, the Nadine Baum Studios Site, and the Hillcrest Tower Site. One alternate location was discussed at the City Public Parking Lot 55. In a subsequent meeting on February 7, 2019 with City Staff, Garver presented early concept sketches. After discussion of each site and the alternate site, a joint decision was made to further evaluate the East Lot, Depot Lot and the Nadine Baum Studios Site, including one additional variation for the Depot Lot and East Lot. A joint decision was also made to not further evaluate the Hillcrest Tower Site and City Public Parking Lot 55. More discussion on each site is included on the following pages.

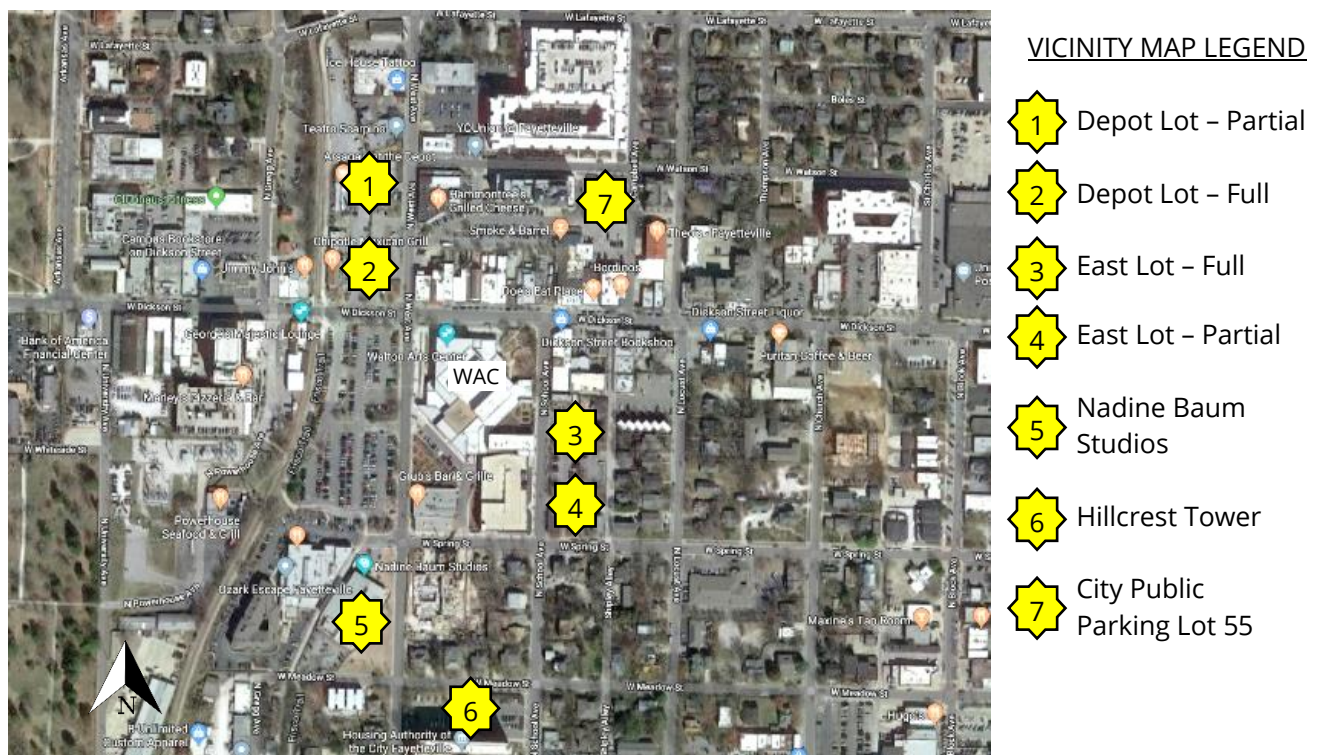


Figure 1 - Vicinity Map

3.1 Option 1 – Depot Lot – Partial Site

This site is located at the NW corner of the West Avenue and Dickson Street Intersection and is situated on the northern half of the site as shown in Figure 2 below and in full detail in Figures A1 - A2 in Appendix A.

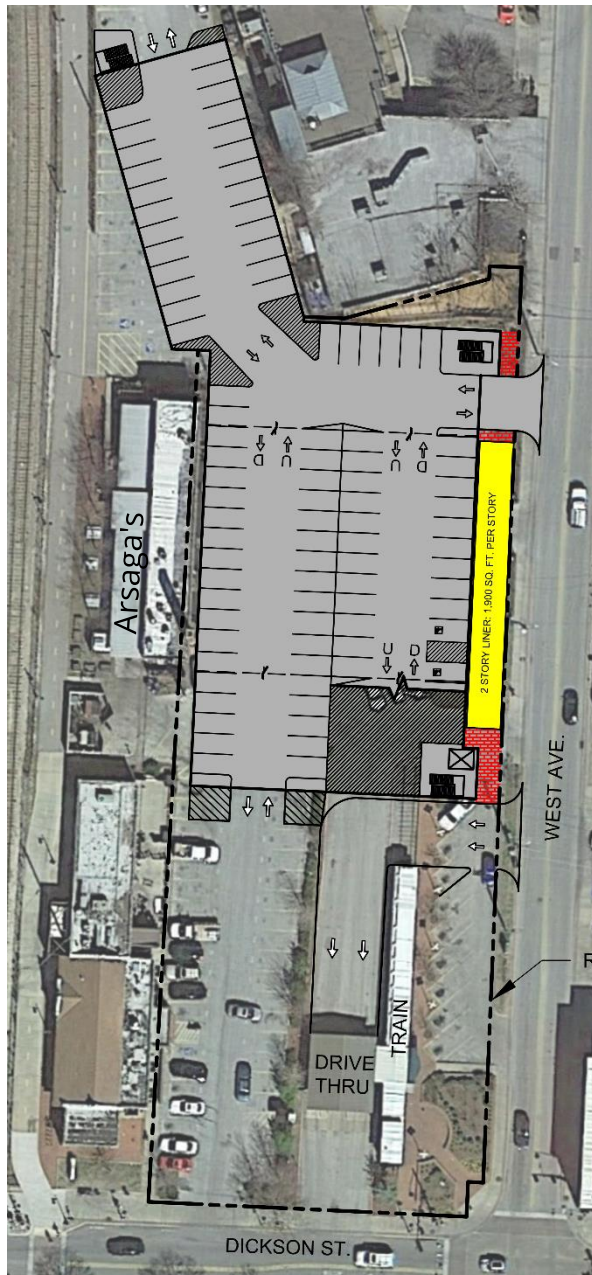


Figure 2 - Option 1 Depot Lot - Partial Site

The site is currently used as a parking area for Arsaga's Coffee Shop, Chipotle Mexican Grill, the Rendezvous Hookah Lounge, and the Bank of Fayetteville (Train). The topography of the site slopes gently up from Dickson Street to the north with about 4-ft. of elevation gain from the southwest parking deck entrance to the northeast parking deck entrance. The property is privately owned.

The proposed layout of the parking deck in Option 1 is in a north-side orientation with vehicular entrances from West Avenue at the northeast corner of the deck and from Dickson Street through the existing surface parking lot at the southwest corner of the deck. The eastern and western bay of the parking deck will contain ramp up/down as identified by the U and D arrows. Pedestrian entrances are located on West Avenue at the northeast and southeast corners of the deck.

A 2- story 3,800 square foot liner building measuring 15-ft. deep is located along the West Avenue façade of the deck. The liner building is proposed to be an independent structure to the parking deck. To gain additional parking spaces the deck includes an off-shoot flat deck structure in the northwest corner. Access to the existing surface parking spaces northwest of the parking deck is maintained through the ground floor level. Option 1 displaces 105 existing on-site spaces, which requires a 4-1/2 level deck consisting of a total parking space count of 434, to achieve a net gain of 329 parking spaces.

Advantages of Option 1:

- South end of lot remains open for potential future development.
- No existing structures within the footprint of the deck are required to be removed or relocated.
- Option 1 is in close proximity walking distance to the west entrance to the WAC.

Disadvantages of Option 1:

- Existing location of dumpster between existing buildings to the west of the parking deck is blocked by the parking deck and will require relocation to an accessible location.
- The property is privately owned.
- Number of levels is 4-1/2, which places the top of the deck above existing adjacent structures.
- Visibility of Arsaga's Coffee Shop is limited.
- Off-shoot parking deck area in the northwest area of the lot has dead-end traffic circulation pattern, decreasing parking efficiency.
- Parking for the Bank of Fayetteville (Train) is impacted requiring reconfiguration of the entrance drive.

3.2 Option 2 – Depot Lot – Full Site

This site is located at the NW corner of the West Avenue and Dickson Street Intersection and is situated on the entire site as shown in Figure 3 on the following page and in full detail in Figures A3 – A4 in Appendix A.

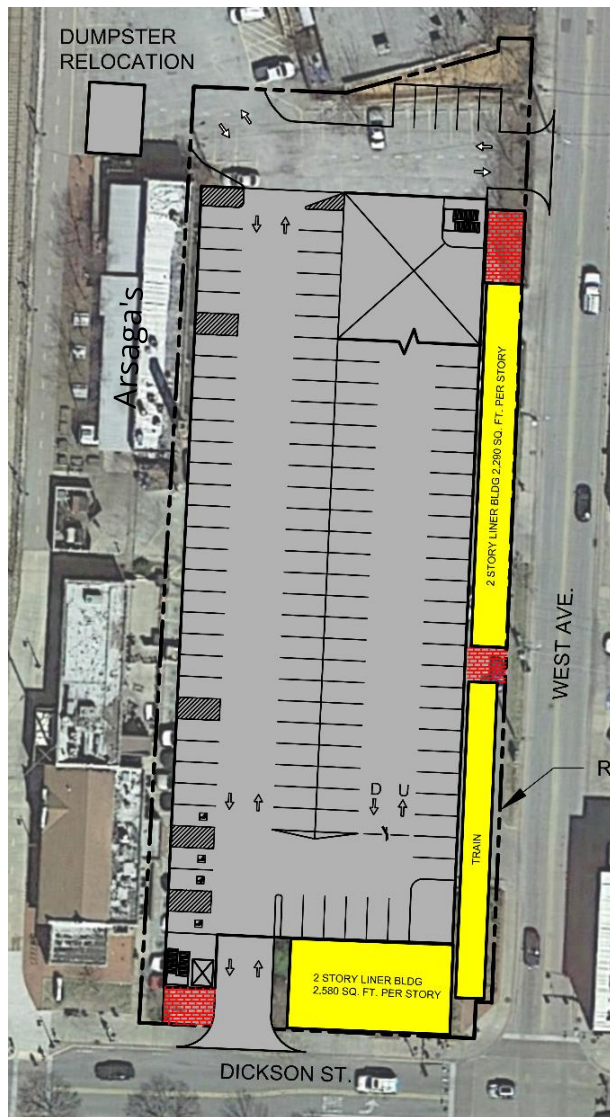


Figure 3 - Option 2 Depot Lot - Full Site

The site is currently used as a parking area for Arsaga's Coffee Shop, Chipotle Mexican Grill, the Rendezvous Hookah Lounge, and the Bank of Fayetteville (Train). The topography of the site slopes gently up from Dickson Street to the north with an elevation difference of approximately 6-ft. from one parking deck entrance to another. The property is privately owned.

The proposed layout of the parking deck in Option 2 is in a north-side orientation with vehicular entrances from West Avenue to the northwest ground entrance to the parking deck and from Dickson Street at the southwest corner of the deck. The western bay of the parking deck will follow existing grade and remain flat on the upper levels. The eastern bay of the parking deck will contain a ramp up/down as identified by the U and D arrows. Pedestrian entrances are located on West Avenue at the northeast corner and on Dickson street at the southeast corners of the deck. Pedestrian access to the adjacent commercial businesses is available through the parking deck at ground level.

An independent 2-story 4,580 square foot liner building measuring 15-ft. deep is located along the northernmost area of the West Avenue façade. The existing on-site train is proposed to be relocated as a liner building to the southernmost area of the West Avenue façade. An independent 2-story 5,160 square foot prominent liner building is proposed along Dickson Street. Option 2 displaces 113 existing on-site spaces, which requires a 3-1/2 level deck consisting of a total parking space count of 436, to achieve a net gain of 318 parking spaces.

Advantages of Option 2:

- Deck provides a significant amount of liner building space, including 2-story retail potential along Dickson Street, that is compatible with surroundings. The large presence of multi-story liner buildings help screen the deck from Dickson Street and West Avenue.
- Number of levels is 3-1/2, which blends well with its surroundings.
- Option 2 is in close proximity walking distance to the west entrance to the WAC.

Disadvantages of Option 2:

- Existing location of dumpster between existing buildings to the west of parking deck is blocked by the parking deck and will require relocation to an accessible location as shown.
- The existing Train Bank will be required to be relocated and the existing drive thru removed.
- The property is privately owned.
- Visibility of Arsaga's Coffee Shop, Chipotle Mexican Grill, and Rendezvous Hookah Lounge is limited.

3.3 Option 3 – East Lot – Full Site

This site is located at the NE corner of Spring Street and School Avenue Intersection and is situated on the entire site as shown in Figure 4 below and in full detail in Figures A5 – A6 in Appendix A.

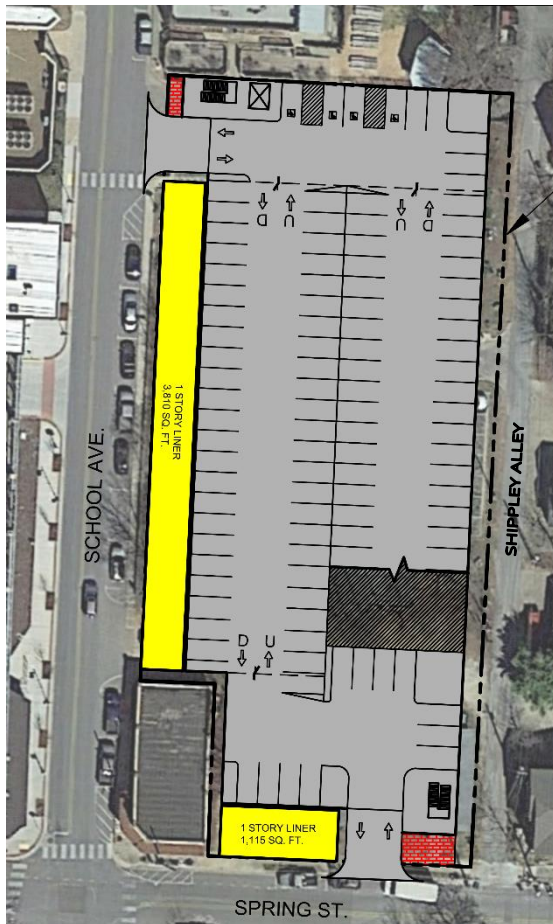


Figure 4 - Option 3 East Lot - Full Site

The site is comprised of a City owned and operated surface parking lot to the north and two privately owned residential structures on the south. The site's topography slopes up quickly from Spring Street to the north until about mid-way through the site and then slopes down gently to the north. This variation in existing topography allows for entrances into multiple levels of the deck.

The proposed layout of the deck in Option 3 is in a north-south orientation with vehicular entrances from Spring Street on the south and from School Avenue in the northwest corner of the deck. The deck contains internal ramps on the eastern and western sides as identified by the U and D arrows. Pedestrian entrances are located at the southeast corner of the deck off Spring Street and at the northwest corner off School Avenue.

Two independent liner buildings are located adjacent to this parking deck – A 1-story 15-ft deep liner building on Spring Street with 1,115 square feet, and a 1-story 22-ft. liner on School Avenue with 3,810 square feet. The existing structure at the northeast corner of Spring Street and School Avenue is currently operating as a Bike Shop and functions as a liner building. Option 3 displaces 59 existing on-site spaces, which requires a 3-1/2 level deck consisting of a total parking space count of 390, to achieve a net gain of 331 parking spaces.

Advantages of Option 3:

- Number of levels is 3-1/2, which is compatible with its surroundings along School Avenue.
- Liner building space is provided along School Avenue and Spring Street.
- Existing bike shop on the corner is retained, which serves as a liner building.
- The parking deck takes advantage of the existing East Lot terrain offering entrances onto different levels.

Disadvantages of Option 3:

- Two existing residential structures on the south end of the site east of the bike shop will be required to be removed.
- All of the property is owned by the City except for the residential lots along Spring Street frontage.
- Option 3 has the furthest walking distance to the nearest WAC entrance as compared to the other locations.
- Residential structures are located along the east side of Shipley Alley.

3.4 Option 4 – East Lot – Partial Site

This site is located at the NE corner of Spring Street and School Avenue and occupies the northern portion of the site as shown in Figure 5 below and in full detail in Figures A7 – A8 in Appendix A.

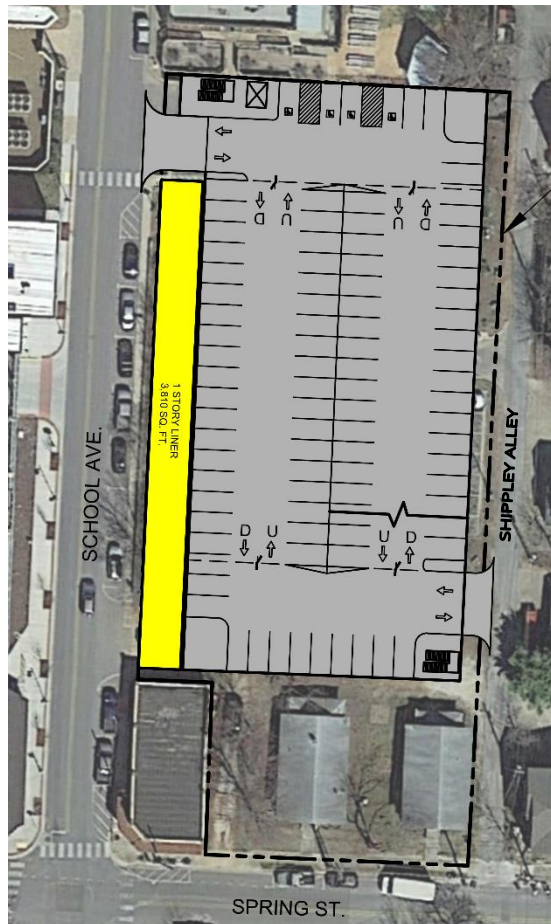


Figure 5 - Option 4 East Lot - Partial Site

As with Option 3, the site is currently used as a City owned and operated surface parking lot. The site's topography slopes up quickly from Spring Street to the north until about mid-way through the site and then slopes down gently to the north. This variation in existing topography allows for entrances into multiple levels of the deck.

The proposed layout of the deck in Option 4 is in a north-south orientation with vehicular entrances from Shipley Alley on the southeast corner and from School Avenue in the northwest corner of the deck. The deck contains internal ramps on the eastern and western sides as identified by the U and D arrows. Pedestrian entrances are located at the southeast corner of the deck off Shipley Alley and at the northwest corner off School Avenue.

One 1-story 15-ft deep liner building with 1,115 square feet is located along School Avenue. The existing residential structures and bike shop on the south end of the site would remain as liner buildings, but could also be reconfigured or replaced with new complimentary development on the privately owned property. Option 4 displaces 59 existing on-site spaces, which requires a 4-level deck consisting of a total parking space count of 389, to achieve a net gain of 330 parking spaces.

Advantages of Option 4:

- Existing bike shop on the corner is retained which serves as a liner building.
- The parking deck takes advantage of the existing East Lot terrain offering entrances onto different levels.
- Two existing residential structures on the south end of the site east of the bike shop remain.
- The property is owned by the City.

Disadvantages of Option 4:

- The parking deck will be 4 levels in order to meet parking space objectives.
- Option 4 is the furthest walking distance from the nearest WAC entrance as compared to the other locations.
- Residential structures are located along the east of Shipley Alley.
- Entrance/Exit on east side is onto one-lane alley.

3.5 Option 5 – Nadine Baum Studios Site

This site is located at the NW corner of the Meadow Street and West Avenue Intersection and is bounded by Spring Street on the north. The parking deck occupies the south end of the site as shown in Figure 6 below and in full detail in Figures A9 – A10 in Appendix A.

The site is currently jointly owned by the City and the University of Arkansas. The Walton Arts Center (WAC) operates a Community Creative Center in a portion of the existing 20,000 square foot Baum Studios structure. TheatreSquared occupies the remainder of the existing structure and performs shows in a 175-seat studio type theater. As of this report TheatreSquared is in the process of constructing a new facility located east across West Avenue at the southeast corner of Spring Street and West Avenue, opening later this year.

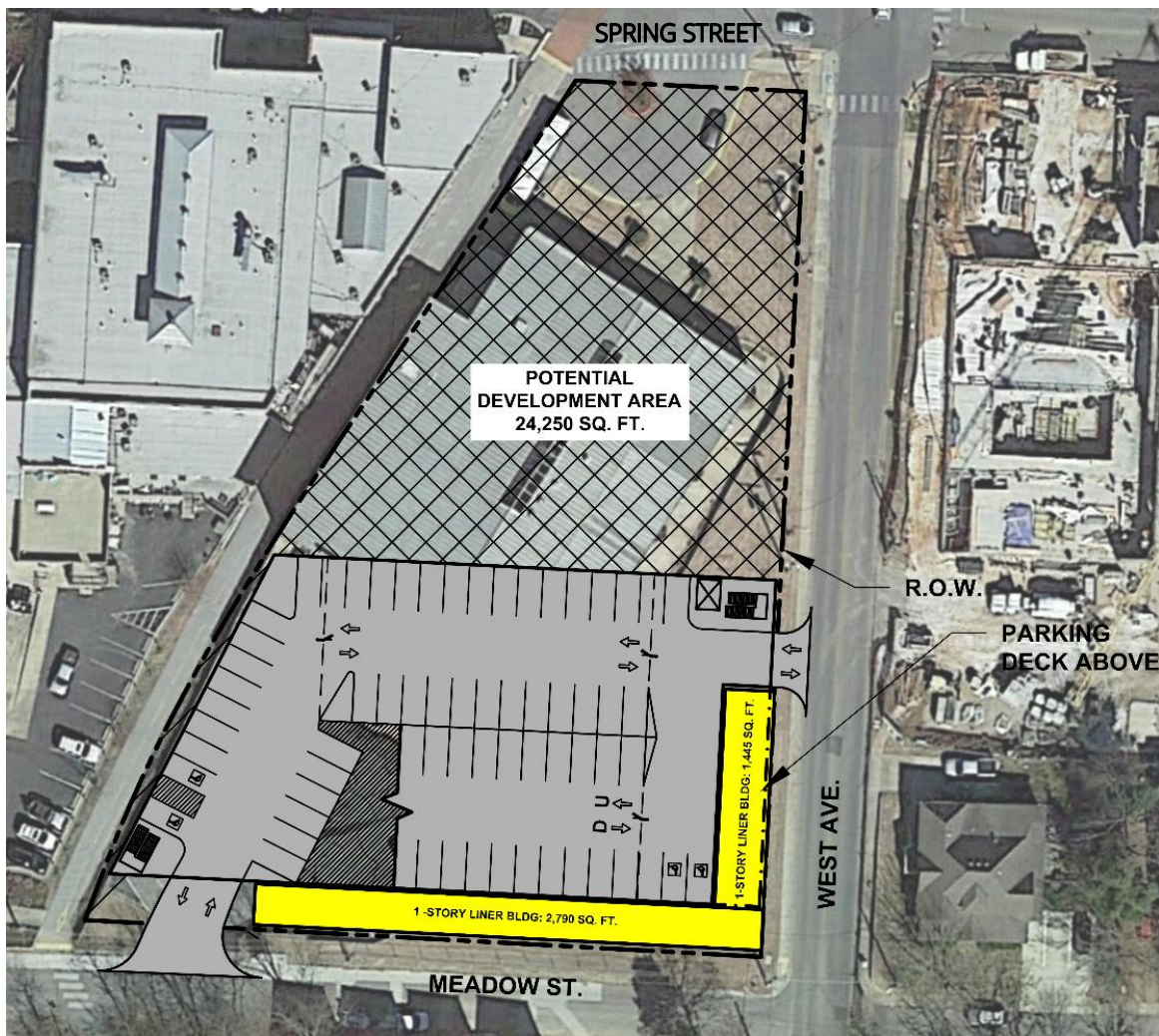


Figure 6 - Option 5 Nadine Baum Studios Site

The site's topography variation of 6 to 10-ft. allows for multi-level entrances from the southwest corner from Meadow Street and the northeast corner from West Avenue. The parking deck is oriented east to west along the southern portion of the site. The deck contains internal ramps on the north and south sides as identified by the U and D arrows. Pedestrian entrances are located at the southwest corner of the deck off Meadow Street and at the northeast corner off West Avenue.

One independent 1-story, 15-ft. deep, 2,790 square foot liner building is located along Meadow Street. A 1-story, 15-ft. deep, 1,490 square foot liner building is situated inside the deck and is located along West Avenue. The northern portion of the site remains open for future potential development. Option 5 displaces 22 existing on-site spaces, which requires a 4-1/2 level deck consisting of a total parking space count of 338, to achieve a net gain of 316 parking spaces.

Advantages of Option 5:

- The parking deck takes advantage of the existing terrain offering entrances onto different levels.
- The property is jointly owned by the City and the University of Arkansas.
- Liner building space is provided along Meadow Street and West Avenue.
- Large potential development site on north end of lot.
- Existing on-site loss of parking spaces is minimal.

Disadvantages of Option 5:

- The parking deck will be 4-1/2 levels in order to meet parking space objectives.
- Removal of the existing 20,000 square foot Baum Studios structure.
- Non-traditional layout of parking deck levels, decreasing efficiency of traffic circulation.

4.0 Other Sites Evaluated

4.1 Hillcrest Tower Site

The north side of Hillcrest Tower was initially examined as a possible location for a parking deck as shown below in Figure 7 below.

Numerous challenges were identified for this site which prohibited further consideration:

- Obstruction of views for residents.
- Location of the loading area dock on the north side of the tower. Additional vertical clearance would be required to be provided from Meadow Street for large delivery trucks to access the loading dock thru the parking deck.
- The recently installed cooling tower equipment for Hillcrest Towers is located adjacent to the loading area in the area labeled "Existing Facilities." All levels of the deck would have to be constructed around the existing cooling tower due to the high cost of relocation of the equipment.
- Liner Buildings could not be placed along Meadow Street due to the terrain and the size of the site between the tower and Meadow Street.



Figure 7 - Hillcrest Tower Site

4.2 City of Fayetteville Lot 55 Site

The existing City of Fayetteville owned Parking Lot No. 55 at the southwest corner of W. Watson Street and Campbell Ave. Intersection adjacent to the Legacy Building was initially evaluated as an alternative location for a parking deck as shown in Figure 8 below.

Numerous challenges were identified for this site which prohibited further consideration:

- Removal of existing structures on the southwest corner of the site.
- Two large trash compactors, located on the northwest corner of the site, would be required to be relocated. These trash compactors serve the Legacy Building and businesses on the north side of Dickson Street from West Avenue to Campbell Avenue.
- Liner Buildings could not be placed along W. Watson Street and Campbell Avenue due to the terrain and the size of the site.
- The existing traffic circulation from the parking lot in front of the Legacy Building to Campbell and Watson would be interrupted.



Figure 8 - City of Fayetteville Lot 55

4.3 Nadine Baum Studios Site Alternate Concept

For the Nadine Baum Studios Site an alternate concept was initially evaluated. This alternate would position the parking deck to parallel the Razorback Greenway and provide 2-story liner buildings along West Avenue and a 1-story liner along Meadow Street. The total square footage of liner buildings as shown below in Figure 9 is equal to 35,340 S.F., resulting in a Net Gain of 15,340 S.F. after accounting for removal of the existing 20,000 S.F. building. This layout required a 4-level 362-space parking deck to offset an on-site loss of 22 spaces, to achieve a net gain of 340 spaces. This layout was superseded with Option 5 due to its more efficient use of space on the site resulting in the large potential development site on the north side of the site.

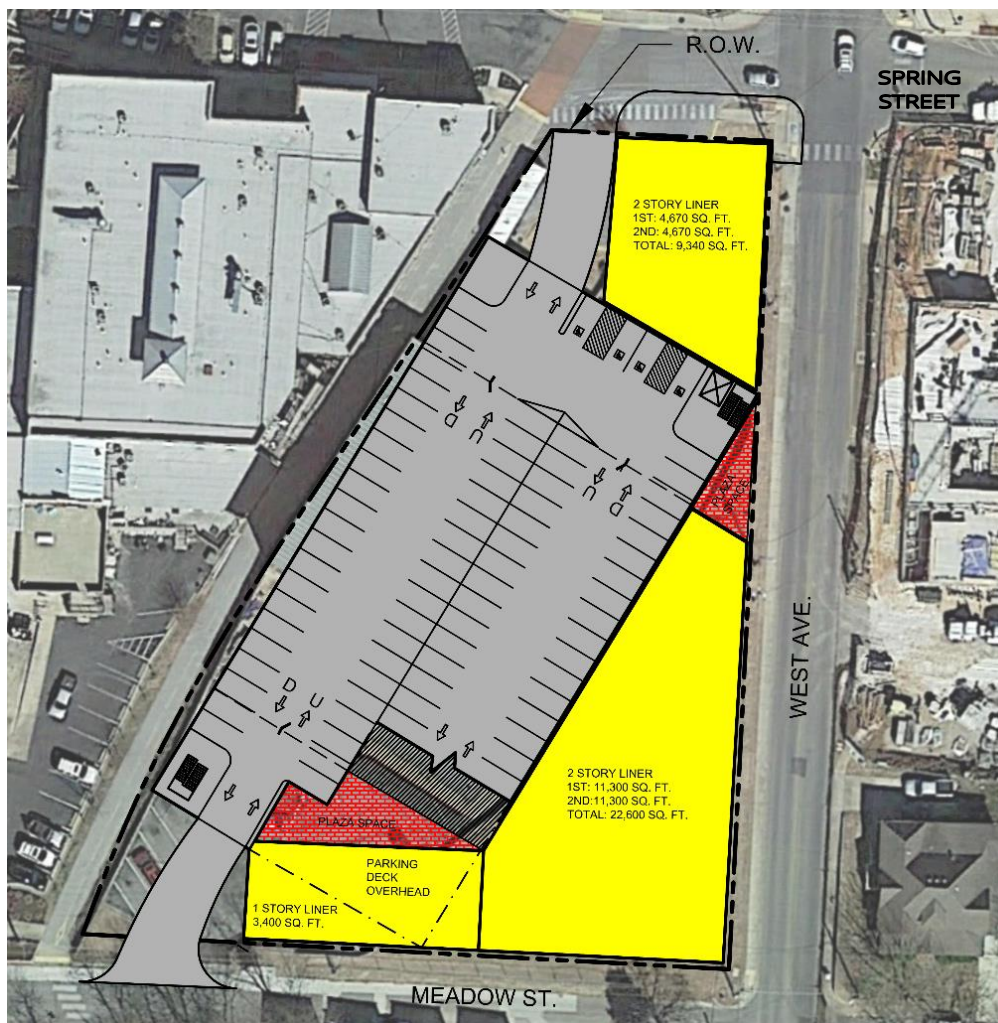




Figure 9 - Nadine Baum Studios Site Alternate Concept

5.0 Site Evaluation Matrix

The evaluation criteria bring the potential decision-making factors together for a comprehensive comparison and are presented in matrix form below:

Site Evaluation Matrix

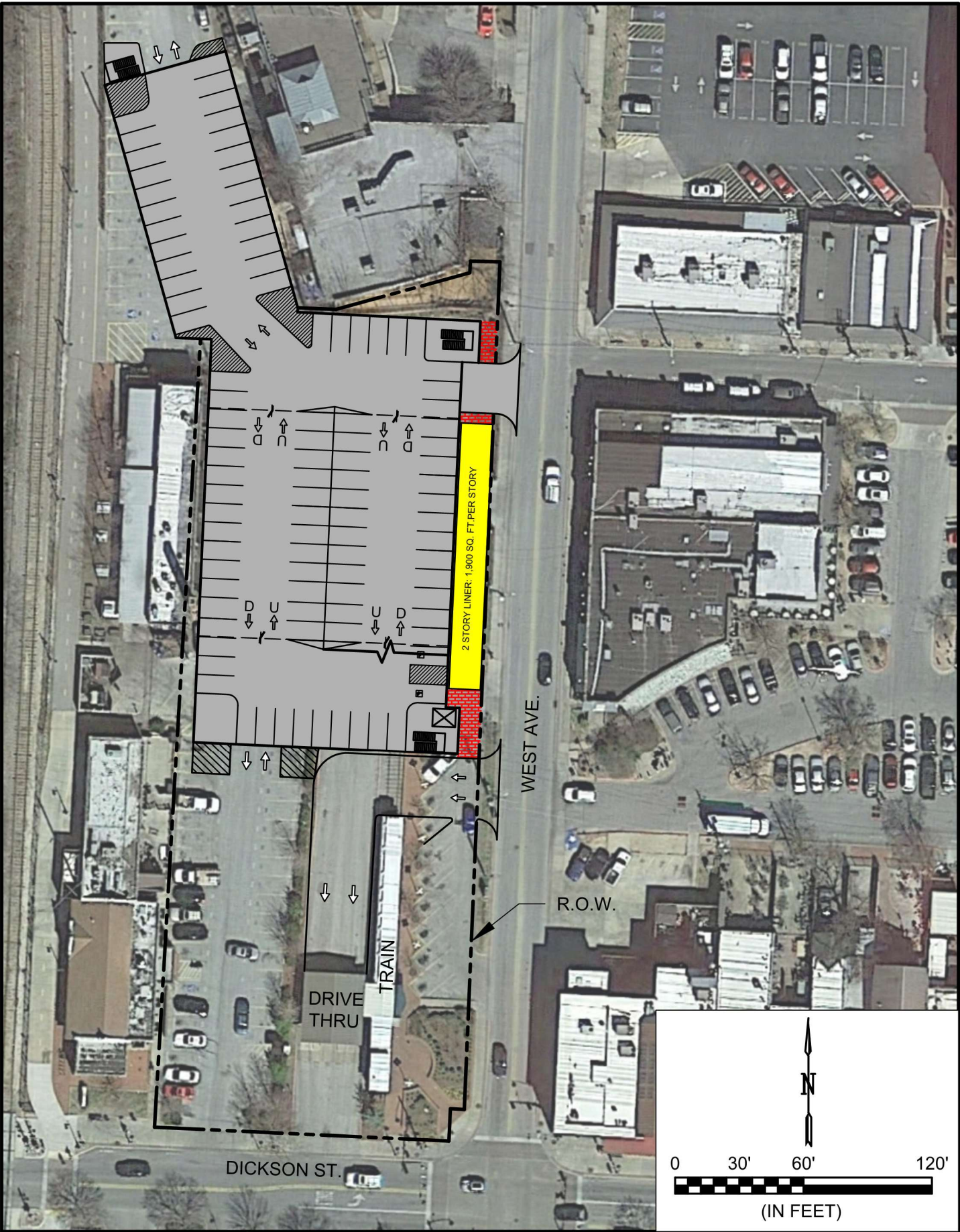
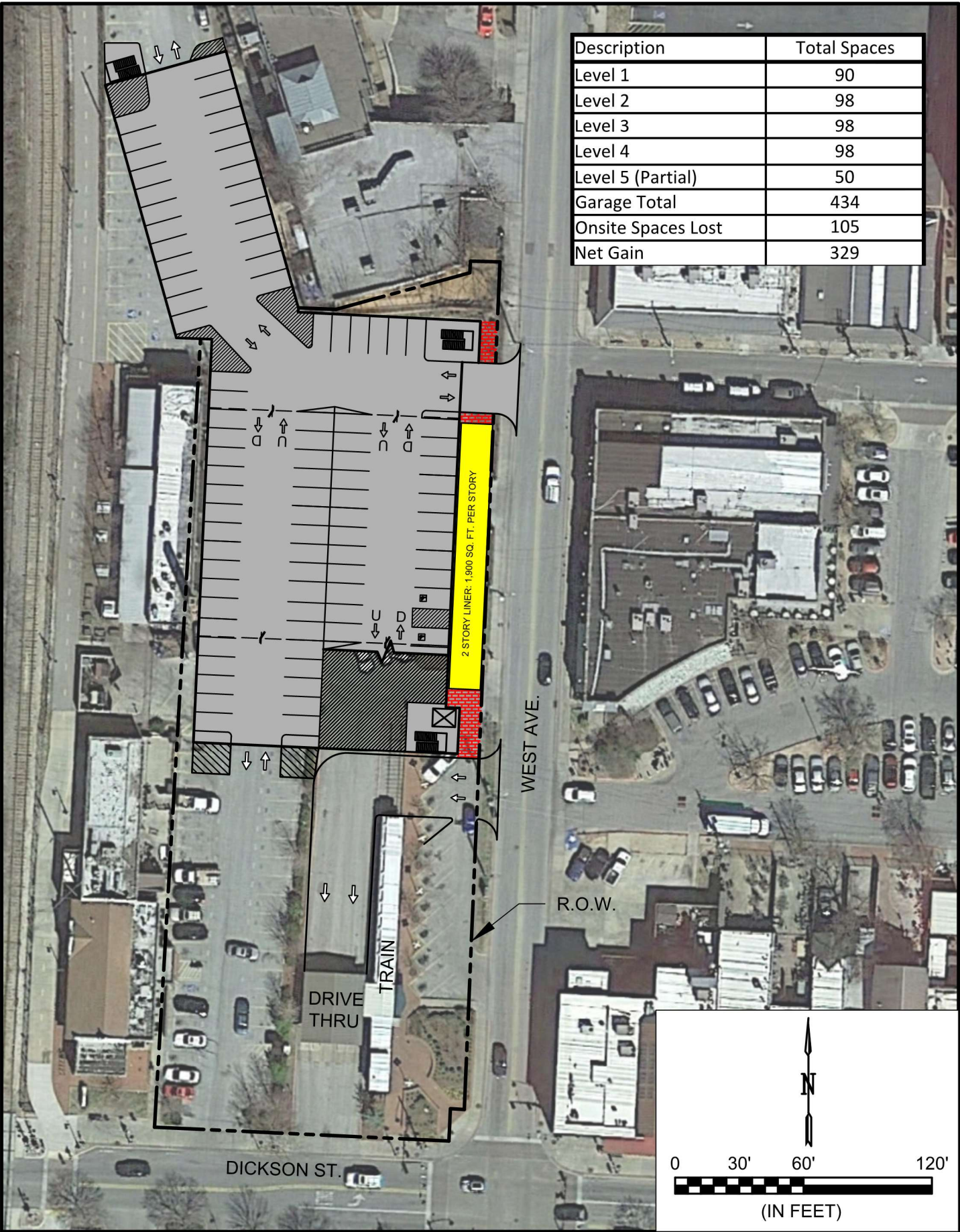
Cultural Arts Corridor Parking Deck Site Selection Study

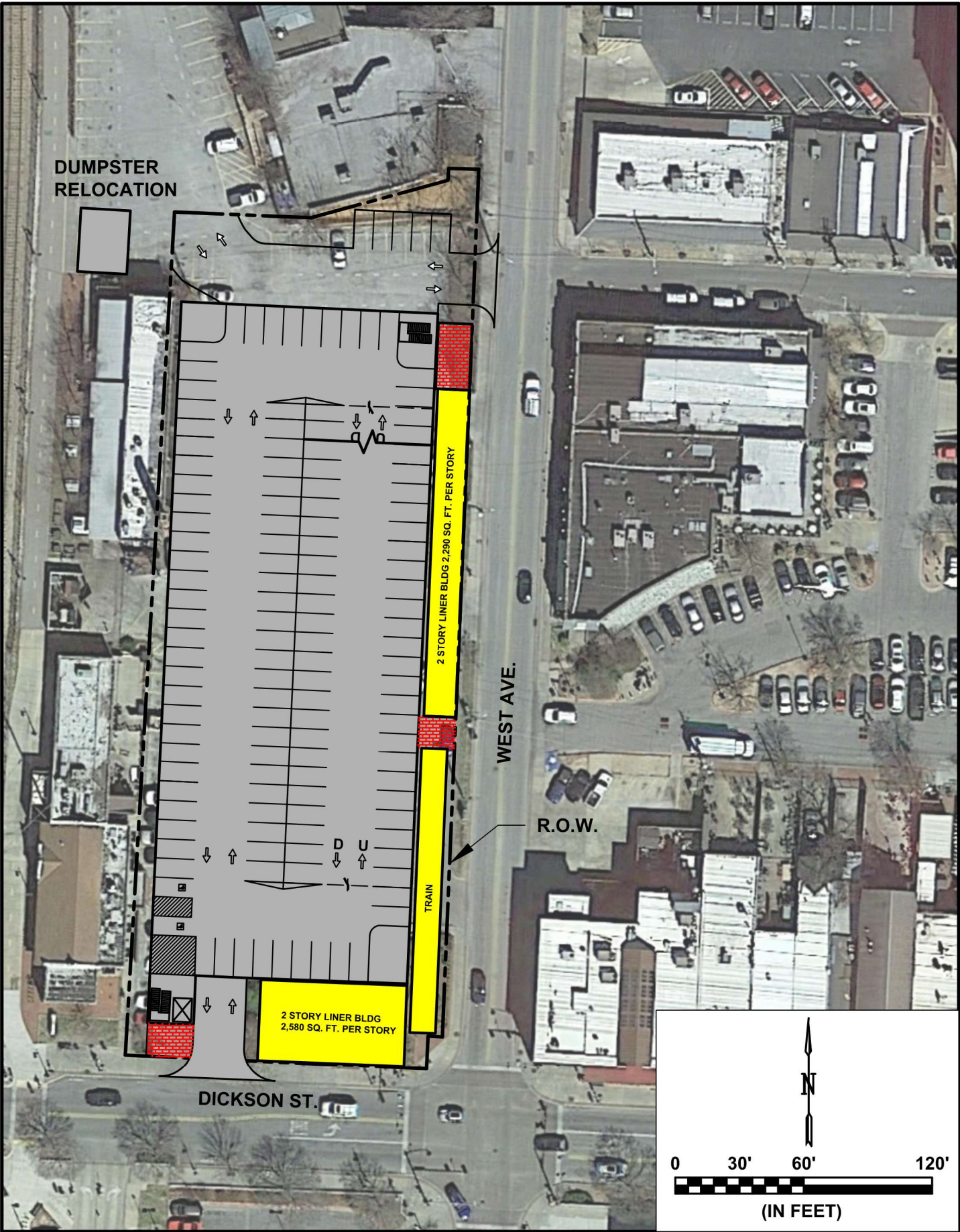
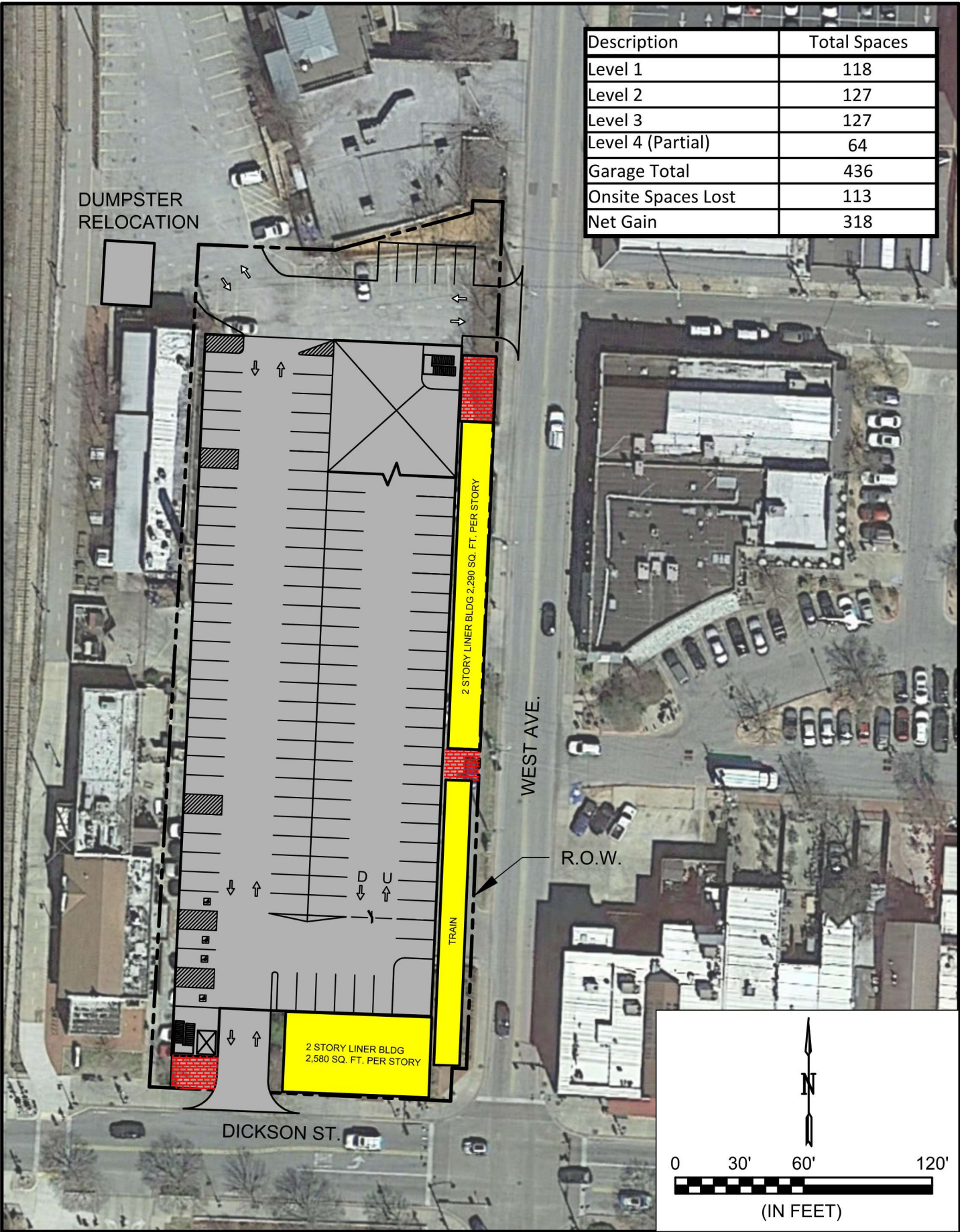
Criteria:	Option 1 - "Depot Lot - Partial Site"	Option 2 - "Depot Lot - Full Site"	Option 3 - "East Lot - Full Site"	Option 4 - "East Lot - Partial Site"	Option 5 - "Nadine Baum Studios Site"
Deck Total Spaces:	434	436	390	389	338
Existing Spaces On-Site Lost:	105	113	59	59	22
Net Gain of Spaces:	329	318	331	330	316
Number of Levels:	4 1/2	3 1/2	3 1/2	4	4 1/2
Existing Property Owner:	Private	Private	City / Private	City	City / U of A
Total S.F. of Liner Buildings:	3,800 S.F.	9,740 S.F.+ Train	4,925 S.F. + Bike Shop	3,810 S.F.	4,235 S.F.
Walking Distance from Deck Entrance to West WAC Entrance:	516-ft.	441-ft.	605-ft.	605-ft.	700-ft.
Meets the Within 1,000-ft. Radius of WAC Nearest Entrance Criteria:	✓	✓	✓	✓	✓
Existing Structures On-Site: (Yes/No) & (Demo or Relocate)	No	Yes - Relocate Train as Liner, Demo Bank Drive Thru	Yes - Demo 2 Residential Structures	No	Yes- Demo Existing 20,000 SF Structure
Additional Development Potential (S.F.)	26,900 S.F.	---	---	Possible But Privately Owned	24,250 S.F.
Summary:  Green - Meets or Exceeds Criteria /Definitive Site Advantage  Yellow - Meets Criteria  Red - Unsatisfactory Condition	5 4 1	4 3 3	3 5 2	4 6	6 3 1
Preferred Option	✓			✓	✓

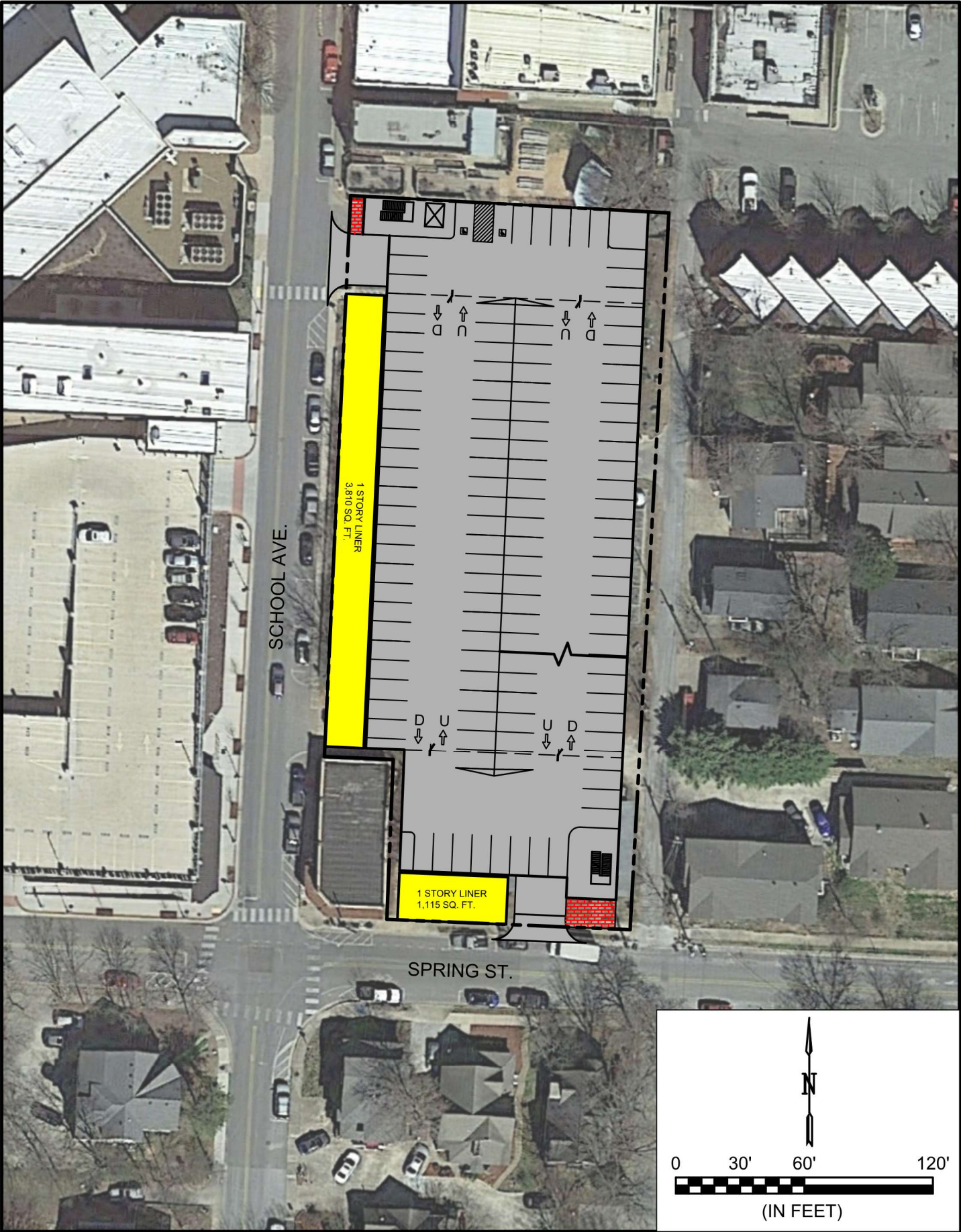
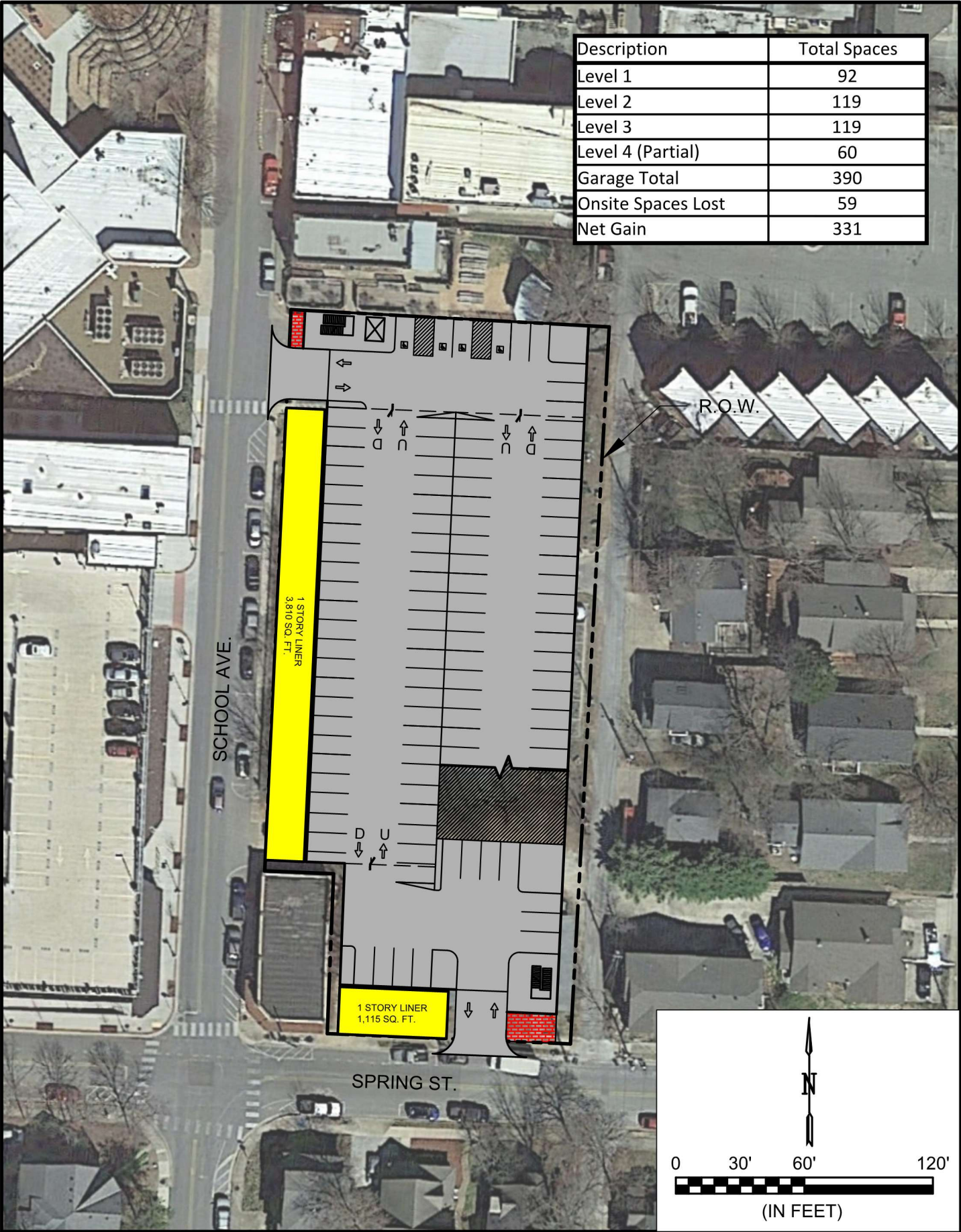
Note: All proposed parking deck options comply with the City's Height and Zoning Regulations for the Downtown Overlay Planning District.

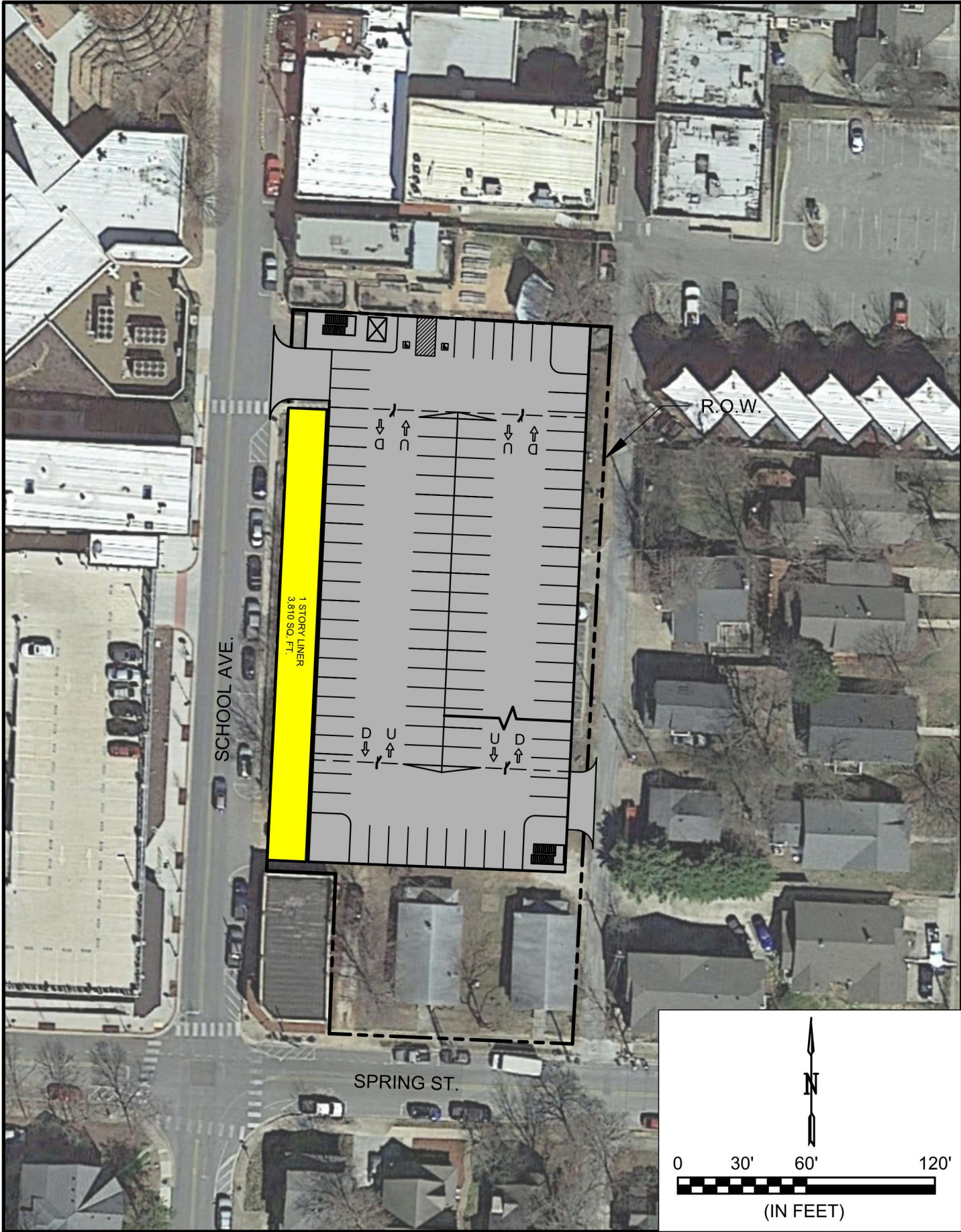
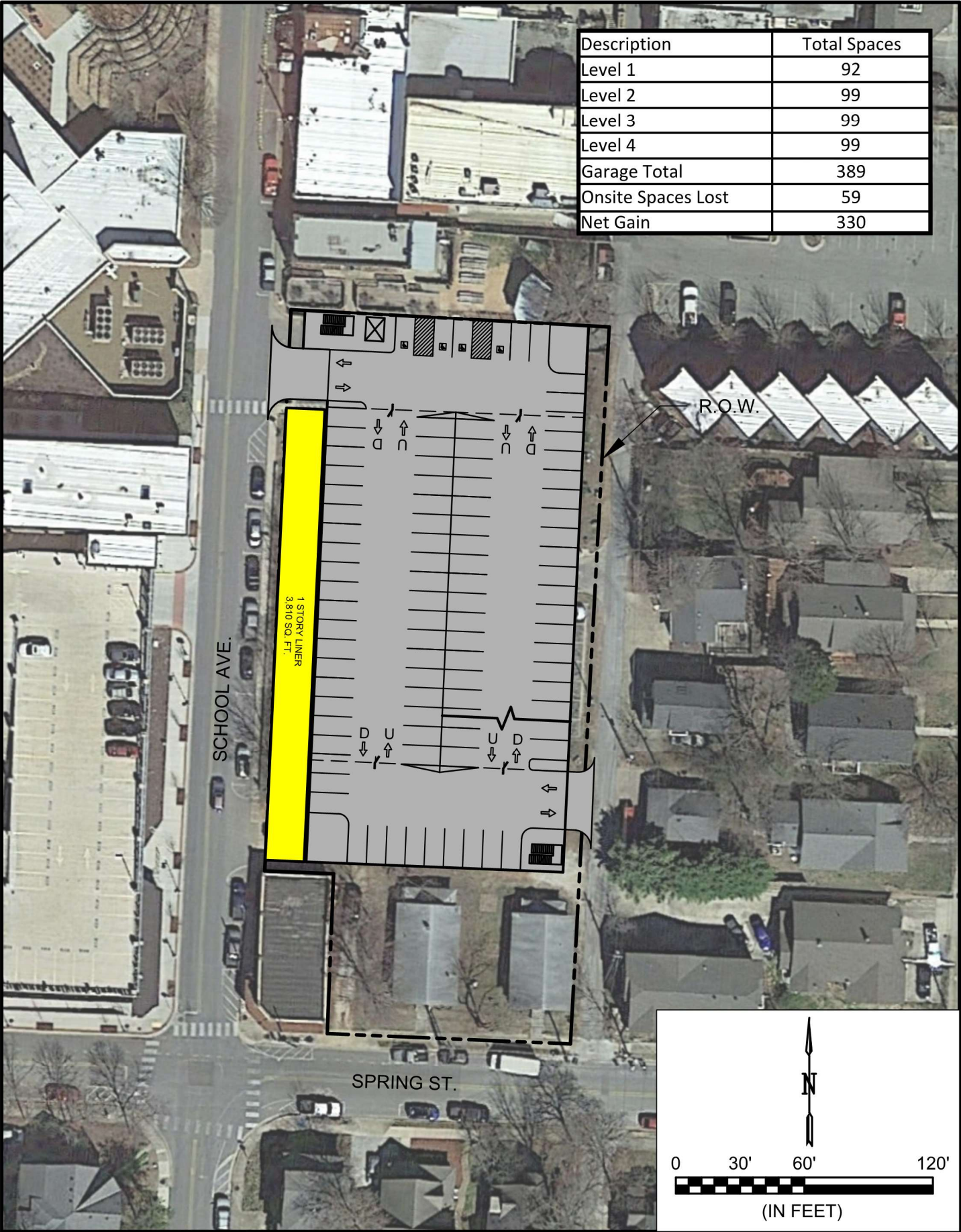
APPENDIX A

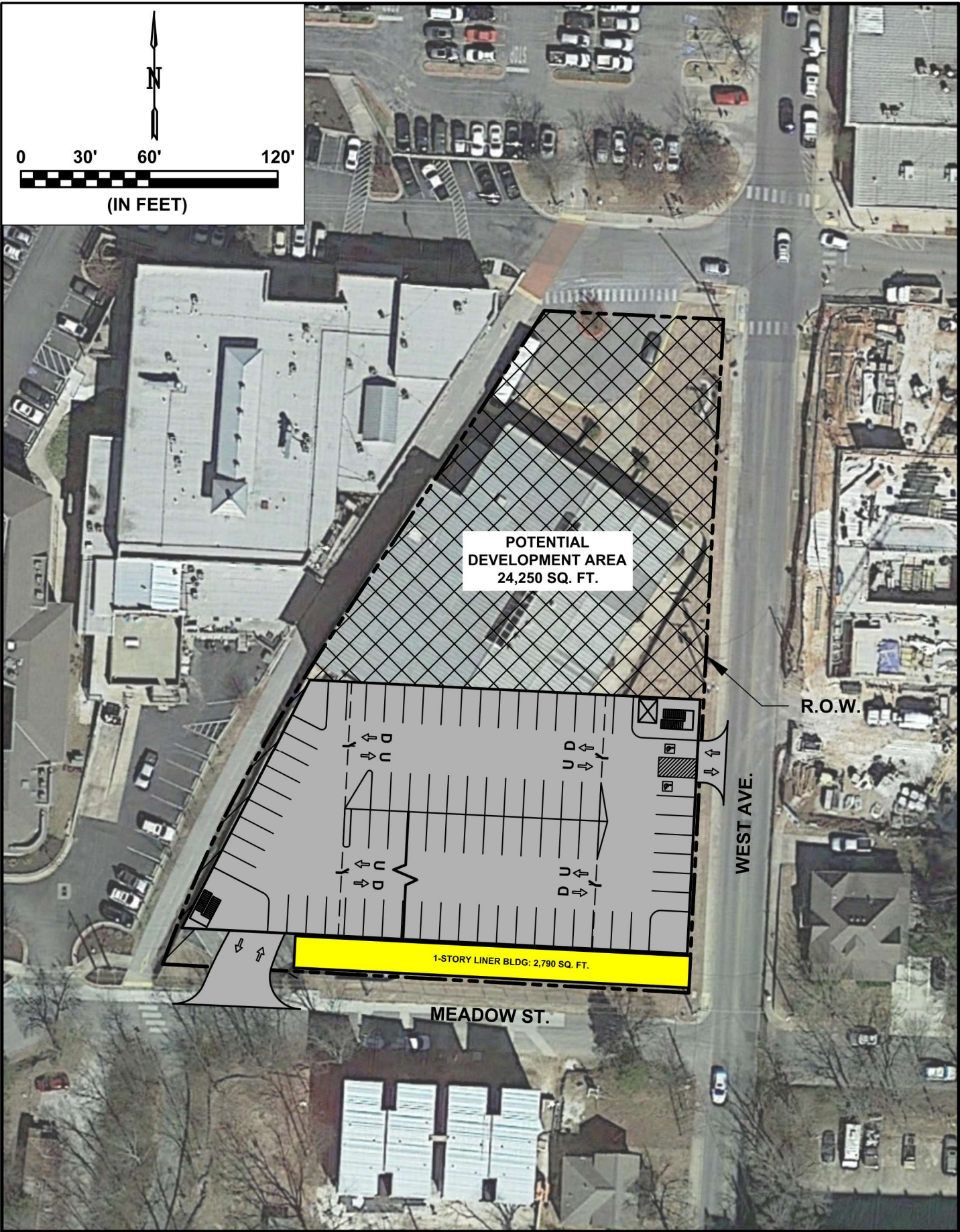
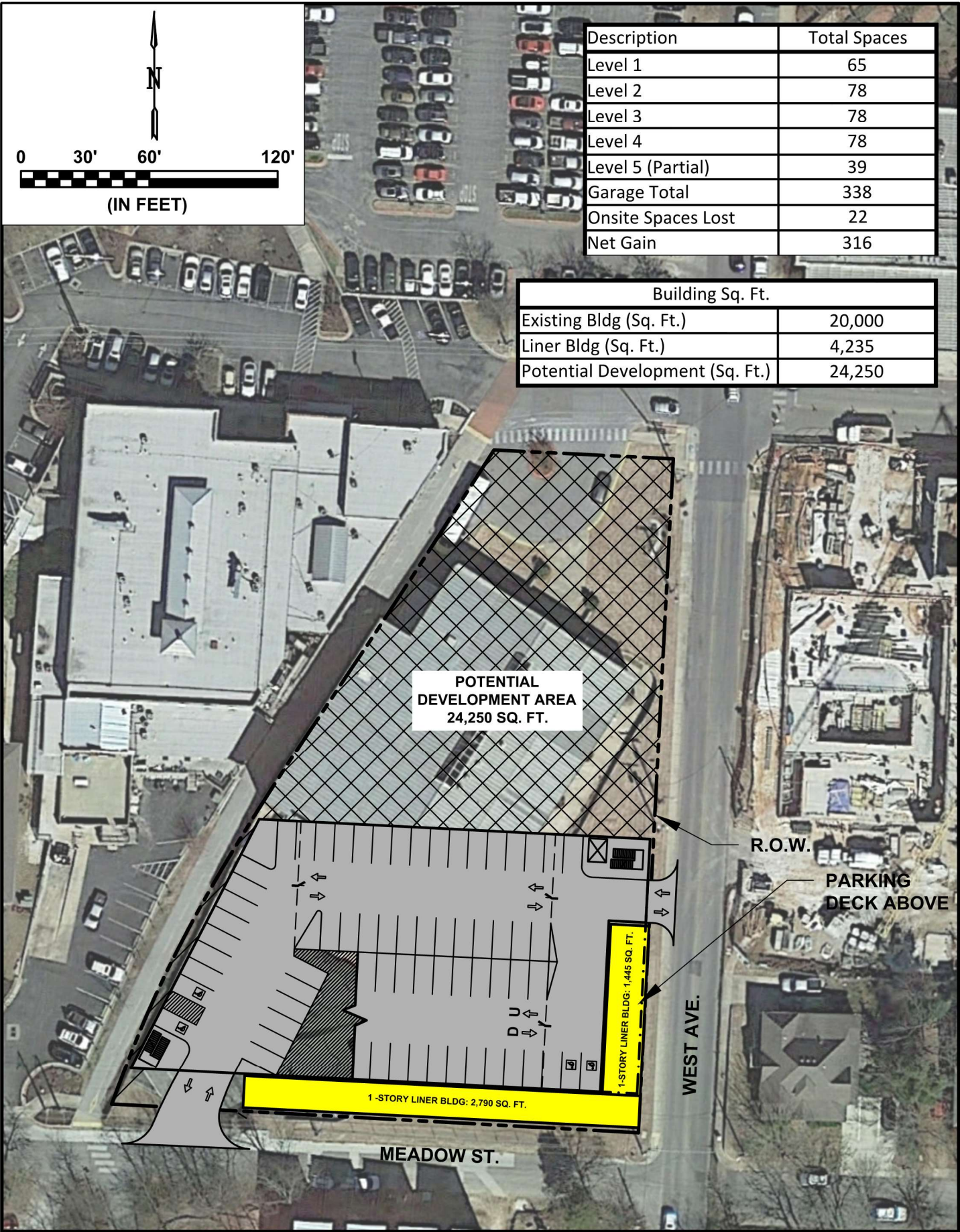
Drawings















February 7, 2019

Mr. Peter Nierengarten
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Fayetteville Cultural Arts Corridor
Civic Space Underground Parking Garage Study

Thank you for the opportunity to provide a rough order of magnitude of this parking option. Nabholz has evaluated the costs that would be incurred to provide an underground parking garage below the proposed civic space at the existing Walton Arts Center parking lot. Pricing has been based on providing a one level, 300 stall, below grade parking garage with the civic space to be constructed atop the parking structure. It is anticipated that an approximate range of \$19,500,000 - \$21,500,000 can be expected to construct the parking structure.

The following items should be noted:

1. No design documents have been provided for this pricing exercise.
2. Pricing does not include design costs.
3. Extensive re-routing of existing storm sewer infrastructure will be required.
4. A previous assessment of the site provided by Garver dated 11/16/2012 has identified the presence of anticipated rock excavation as well as the presence of groundwater.
5. The presence of an existing spring as well as the previously discovered groundwater will require a dewatering pumping system.
6. Rock excavation has been anticipated for roughly 1/3 of the overall excavation due to the findings in the previous Garver site assessment. The amount of rock excavation is based on the limited information provided. A more thorough subsurface investigation would need to be performed to verify the rock excavation needed.
7. This scope of work has been priced as a stand-alone project above and beyond the established pricing for the Civic Space scope of work for the Cultural Arts Corridor. As such, the pricing includes fee, general conditions and general requirements, as well as appropriate contingencies.

We greatly appreciate the opportunity to assist in this evaluation and ask that you do not hesitate to contact us should you have any questions or comments.

Sincerely,

James Monhollon
Nabholz Construction Services



Cost Opinion
PROJECT NAME FCAC Civic Space Parking Garage Study
PROJECT LOCATION Fayetteville, AR
REVIEW DATE 2/7/2019
ESTIMATED DURATION 11 mo

Job Phase	Nabholz	Description	Takeoff Quantity	Grand Total
1	01	Building Costs		
2	03-0010	Parking Structure		
3		Parking Structure Allowance	300.00 still	12,195,197
		03-0010 Parking Structure	300.00 still	12,195,197
4	31-0000	Earthwork and Site Prep		
5		Structured Soil	879.00 cu yd	107,196
6		Select Fill	9,110.00 cu yd	129,615
7		Relocate Box Culverts	700.00 ln ft	853,664
8		De-watering Allowance	1.00 lsum	101,627
9		Rock Excavation Allowance	22,223.00 cu yd	2,258,449
		31-0000 Earthwork and Site Prep	300.00 still	3,450,550
		01 Building Costs	300.00 still	15,645,746
10	02	General Conditions		
11	01-2410	General Conditions		
12		General Conditions	11.00 mnth	662,486
		01-2410 General Conditions	300.00 still	662,486
		02 General Conditions	300.00 still	662,486

Estimate Totals

Description	Amount	Totals	Hours	Rate
Cost of Work	16,308,232	16,308,232		
Building Permit NIC				
Building Permit NIC		16,308,232		
General Liability	171,333			
Builder's Risk	22,173			
Performance Payment Bond	93,823			
Insurance & Bonds	287,329	16,595,561		
Inflation Contingency	1,161,689			7.000 %
Estimate Contingency	887,863			5.000 %
Construction Contingency	403,138			2.000 %
Contingency	2,452,690	19,048,251		
Construction Manager Fee	1,108,628			5.500 %
Contractors Fee	1,108,628	20,156,879		
Total		20,156,879		

PROJECT CONFIDENTIAL

Property of Nabholz Construction Corporation Not for Duplication or Distribution

This document includes data that is deemed trade secret or proprietary to Nabholz and prepared in conjunction with the Project. This document is shared with the Project team solely for use on this Project consistent with the responsibilities of the Project team. The Recipients shall not duplicate, use, or disclose, in whole or in part, to any person, entity, or party outside the Project team without Nabholz' prior written authorization.

RECEIVED

DEC 16 2019

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

For: Mayor Lioneld Jordan and the Fayetteville, AR City Council

From: Jerry B. Hogan, 1984 N. East Oaks Dr. #2, Fayetteville, AR, 479-521-5314, jbhogan22@hotmail.com

Topic: Proposed Parking Garage Near Historic Frisco Depot, 550 W. Dickson St.

Summary: Historic information about the Frisco Depot

The historic Frisco Depot on W. Dickson Street was built in 1897 and remodeled in 1925 (I believe it has had a refurbishing again sometime in the last 5-10 years). It is unique in that it was done in the Mission Revival/Pueblo Revival Style which is rare in our area.

The Frisco Depot was approved and listed on the National Register of Historic Places on December 8, 1988. Attached to this note are five pages from the NRHP listing which give greater detail about the depot.

This packet is for historic information purposes.

Thank you.

Jerry B. Hogan

United States Department of the Interior
National Park ServiceNational Register of Historic Places
Registration Form

This form is for use in nominating or requesting determinations of eligibility for individual properties or districts. See instructions in *Guidelines for Completing National Register Forms* (National Register Bulletin 16). Complete each item by marking "x" in the appropriate box or by entering the requested information. If an item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, styles, materials, and areas of significance, enter only the categories and subcategories listed in the instructions. For additional space use continuation sheets (Form 10-900a). Type all entries.

1. Name of Property

historic name Frisco Depotother names/site number Fayetteville Depot

2. Location

street & number 550 West Dickson Street☐ not for publicationcity, town Fayetteville☐ vicinitystate Arkansascode 05county Washingtoncode 143zip code 72701

3. Classification

Ownership of Property

☒ private☐ public-local☐ public-State☐ public-Federal

Category of Property

☒ building(s)☐ district☐ site☐ structure☐ object

Number of Resources within Property

Contributing

1

Noncontributing

 buildings sites structures objects1 Total

Name of related multiple property listing:

N/ANumber of contributing resources previously
listed in the National Register N/A

4. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act of 1966, as amended, I hereby certify that this
☒ nomination ☐ request for determination of eligibility meets the documentation standards for registering properties in the
National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60.
In my opinion, the property ☐ meets ☐ does not meet the National Register criteria. ☐ See continuation sheet.



Signature of certifying official

Arkansas Historic Preservation Program

State or Federal agency and bureau

Date

11-2-88

In my opinion, the property ☐ meets ☐ does not meet the National Register criteria. ☐ See continuation sheet.

N/A

Signature of commenting or other official

Date

State or Federal agency and bureau

5. National Park Service Certification

I, hereby, certify that this property is:

☐ entered in the National Register.☐ See continuation sheet.☐ determined eligible for the National
Register. ☐ See continuation sheet.☐ determined not eligible for the
National Register.☐ removed from the National Register.☐ other, (explain:) _____

Signature of the Keeper

Date of Action

6. Function or Use

Historic Functions (enter categories from instructions)

Transportation: rail-related

Current Functions (enter categories from instructions)

Vacant/not in use

7. Description

Architectural Classification

(enter categories from instructions)

Mission/Spanish Colonial Revival

Materials (enter categories from instructions)

foundation concrete

walls brick

stucco

roof ceramic tile

other

Describe present and historic physical appearance.

SUMMARY

The Frisco Line Station, built in 1897, and remodeled in 1925, is located on Fayetteville's Dickson Street. This area serves as a link between the University of Arkansas to the west and the central business district to the east, and as such was the center of traffic in the pre-automobile era. The building is simple in plan but unusual in style, as it is one of the only Mission Revival/Pueblo Revival-style buildings in the area.

ELABORATION

The Fayetteville Depot is a long, one-story rectangular building in the Mission Revival/Pueblo Revival style. In plan, there is a hierarchy of function along a north-south axis parallel with the railroad line. At the south end is a porte-cochere (covered porch), giving access to the passenger area. The north end of the building is the freight zone. The west side of the building lies along the actual railroad line and represents the embarkation zone.

The building is of stuccoed brick. Upper portions of the exterior are painted a neutral tan with a wainscot of exposed brick from the brick paving surface to a height of 3'6". Above the brick are simple, unadorned flat surfaces, with the exception of ornamental projecting roof beams, or "vigas", and a single row of soldiered brick above each of the double-hung, wood sash windows.

The roof over the passenger area is a red, Spanish-tiled gable roof with mission-style, finial-topped campanille gable ends. Roofs of the porte-cochere and freight areas are flat, surfaced with tar and gravel built-up roofing.

On the west facade, the conical-roofed ticket office "tower" of the original station has been replaced by a tiled roof dormer and facade which echoes the north and south gable ends.

The interior of the passenger area features the waiting room for whites at the south end, separated from the "colored" waiting area at the north end by the ticket office. A narrow hall runs along the east side of the ticket office and connects the two waiting areas. Auxillary rooms (offices, rest rooms) are located along the east side of the waiting rooms and corridor.

8. Statement of Significance

Certifying official has considered the significance of this property in relation to other properties:

☐ nationally ☐ statewide ☐ locally

Applicable National Register Criteria ☒ A ☐ B ☒ C ☐ D

Criteria Considerations (Exceptions) ☐ A ☐ B ☐ C ☐ D ☐ E ☐ F ☐ G

Areas of Significance (enter categories from instructions)

Transportation

Architecture

Period of Significance

1925

Significant Dates

1925

Cultural Affiliation

N/A

Significant Person

N/A

Architect/Builder

State significance of property, and justify criteria, criteria considerations, and areas and periods of significance noted above.

SUMMARY

The Frisco Depot in Fayetteville is significant in the area of transportation because it represents the heyday of rail traffic in this university town. Architecturally, the depot is significant as a rare example in the state of a pure Mission/Spanish Colonial Revival Style building used in the context of quasi-official, corporate architecture. The depot was a focal point for the community, and it symbolizes the economic and cultural development of Northwest Arkansas during the 1920's.

ELABORATION

The first passenger train arrived at Fayetteville on July 4, 1882. Its arrival marked an end to geographical isolation of the Ozark region of Northwest Arkansas. The city of Fayetteville, the largest and most affluent population center in the region and location of the University of Arkansas since 1871, had outbid other towns for the railroad by raising \$8,000 for promotion and another \$2,500 for the construction of a depot. The first depot had burned in 1897, and the present structure was built soon after on the same site.

The depot was totally remodeled and enlarged in 1925, as a result of pressure on the Frisco Line from the Fayetteville City Council. At the height of its use, the station handled six passenger trains a day. The old station was considered inadequate, old-fashioned, and ugly by the day's standards. Construction of the new station paralleled an unprecedented program of expansion at the University of Arkansas at Fayetteville; it was needed to handle the influx of new students and increasing use of the facilities by the general population. A larger railroad depot serving Fayetteville was seen as needed by the local government to keep pace with the growth of both the city and the University.

☒ See continuation sheet

**United States Department of the Interior
National Park Service**

**National Register of Historic Places
Continuation Sheet**

Section number 8 Page 1

The resulting expansion of the railroad depot was less than the City Council hoped for, however. A forty percent drop in passenger ticket sales in 1925, due to an increase in automobile travel, forced the Frisco line to cut back on the planned square footage of the expansion. After World War II, the advent of air travel and paved highways in Northwest Arkansas caused a drastic decline in railroad travel. The last passenger train left Fayetteville on September 18, 1965.

Architecturally, the Frisco depot's Spanish Colonial Revival design is unique for a Fayetteville commercial building. The style was one adopted by the railroad during the post World War I years as a vehicle for promoting travel to California, where Spanish Colonial Revival was enjoying great popularity and with which buildings of that general appearance were associated in the minds of the average American. Frisco used the style as an unofficial trademark for new depots during this period, so it was logically chosen for the remodelling of the Fayetteville facility in 1925.

The Fayetteville Depot, abandoned today, once served as an important metaphor of community, formed around the common interest of travel and transportation. Today, it serves as an important visual focal point along Dickson Street, one of Fayetteville's busiest thoroughfares. Dickson Street serves and has served as an axial link between the University and the central business district of the city. In the spring of 1987, the property catercornered to the depot was proposed as the site of the planned Fayetteville performing arts center, and the depot itself is the target for renovation by local business interests.

The Frisco Depot in Fayetteville is being nominated under Criterion A for its representation of the railroad as a significant facet of the city's transportation history. (Although rail traffic continued to be important through the World War II years, its major significance pre-dates that era.) The depot is also being nominated under Criterion C as an unaltered example of the Spanish Colonial Revival style.

9. Major Bibliographical References

Weitz, Karen, California's Mission Revival, Hennesy and Ingalls, Inc., Los Angeles, 1984.

13 March 1925, "Fayetteville Democrat", 'Let's Take What Depots We Can Get', p.1.

25 May 1925, *ibid.*, 'Frisco Railroad to Resubmit Depot Plans', p.1.

27 May 1925, *ibid.*, 'Frisco Ready to Begin Work', p.1.

8 June 1925, *ibid.*, 'Frisco's Plans for Station Endorsed...', p.1.

26 August 1925, *ibid.*, 'Freight Station Contract Let...', p.1.

11 March 1925, *ibid.*, 'Frisco to Let Bids...', p.1.

9 June 1925, "Fayetteville Democrat", 'City Accepts Frisco Plan...', p.1.

2 September 1925, *ibid.*, 'New Passenger Station Plans...', p.1.

☒ See continuation sheet

Previous documentation on file (NPS): N/A

☐ preliminary determination of individual listing (36 CFR 67)
has been requested

☐ previously listed in the National Register

☐ previously determined eligible by the National Register

☐ designated a National Historic Landmark

☐ recorded by Historic American Buildings

Survey # _____

☐ recorded by Historic American Engineering

Record # _____

Primary location of additional data:

☒ State historic preservation office

☐ Other State agency

☐ Federal agency

☐ Local government

☐ University

☐ Other

Specify repository: _____

10. Geographical Data

Acreage of property Less than 1

UTM References

A 15 3951000 3991770
Zone Easting Northing

C _____

B _____
Zone Easting Northing

D _____

☐ See continuation sheet

Verbal Boundary Description Beginning at the intersection of the sidewalk on the northern side of Dickson Street with a perpendicular line bordering the western elevation of the building, proceed northerly along said line to intersection with perpendicular line bordering the northern elevation of the building, thence proceed easterly along

☒ See continuation sheet

Boundary Justification These boundaries include all of the property historically associated with this building's function as a local railroad transportation center.

☐ See continuation sheet

11. Form Prepared By

name/title Walter Unglaub, edited by Arkansas Historic Preservation Program Staff

organization Architectural Resource Consultants

date _____

street & number 122 West Meadow Street, #1

telephone (501) 443-6704

city or town Fayetteville

state Arkansas

zip code 72702

RECEIVED

DEC 16 2019

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

For: Mayor Lioneld Jordan and the Fayetteville, AR City Council

From: Jerry B. Hogan, 1984 N. East Oaks Dr. #2, Fayetteville, AR, 479-521-5314, jbhogan22@hotmail.com

Topic: Proposed Parking Garage Near Historic Frisco Depot, 550 W. Dickson St.

Summary: Historic information about the Frisco Depot

The historic Frisco Depot on W. Dickson Street was built in 1897 and remodeled in 1925 (I believe it has had a refurbishing again sometime in the last 5-10 years). It is unique in that it was done in the Mission Revival/Pueblo Revival Style which is rare in our area.

The Frisco Depot was approved and listed on the National Register of Historic Places on December 8, 1988. Attached to this note are five pages from the NRHP listing which give greater detail about the depot.

This packet is for historic information purposes.

Thank you.

Jerry B. Hogan

United States Department of the Interior
National Park ServiceNational Register of Historic Places
Registration Form

This form is for use in nominating or requesting determinations of eligibility for individual properties or districts. See instructions in *Guidelines for Completing National Register Forms* (National Register Bulletin 16). Complete each item by marking "x" in the appropriate box or by entering the requested information. If an item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, styles, materials, and areas of significance, enter only the categories and subcategories listed in the instructions. For additional space use continuation sheets (Form 10-900a). Type all entries.

1. Name of Property

historic name Frisco Depotother names/site number Fayetteville Depot

2. Location

street & number 550 West Dickson Street☐ not for publicationcity, town Fayetteville☐ vicinitystate Arkansascode 05county Washingtoncode 143zip code 72701

3. Classification

Ownership of Property

☒ private☐ public-local☐ public-State☐ public-Federal

Category of Property

☒ building(s)☐ district☐ site☐ structure☐ object

Number of Resources within Property

Contributing

1

Noncontributing

 buildings sites structures objects1 Total

Name of related multiple property listing:

N/ANumber of contributing resources previously
listed in the National Register N/A

4. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act of 1966, as amended, I hereby certify that this
☒ nomination ☐ request for determination of eligibility meets the documentation standards for registering properties in the
National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60.
In my opinion, the property ☐ meets ☐ does not meet the National Register criteria. ☐ See continuation sheet.



Signature of certifying official

Arkansas Historic Preservation Program

State or Federal agency and bureau

Date

11-2-88

In my opinion, the property ☐ meets ☐ does not meet the National Register criteria. ☐ See continuation sheet.

N/A

Signature of commenting or other official

Date

State or Federal agency and bureau

5. National Park Service Certification

I, hereby, certify that this property is:

☐ entered in the National Register.☐ See continuation sheet.☐ determined eligible for the National
Register. ☐ See continuation sheet.☐ determined not eligible for the
National Register.☐ removed from the National Register.☐ other, (explain:) _____

Signature of the Keeper

Date of Action

6. Function or Use

Historic Functions (enter categories from instructions)

Transportation: rail-related

Current Functions (enter categories from instructions)

Vacant/not in use

7. Description

Architectural Classification

(enter categories from instructions)

Mission/Spanish Colonial Revival

Materials (enter categories from instructions)

foundation concrete

walls brick

stucco

roof ceramic tile

other

Describe present and historic physical appearance.

SUMMARY

The Frisco Line Station, built in 1897, and remodeled in 1925, is located on Fayetteville's Dickson Street. This area serves as a link between the University of Arkansas to the west and the central business district to the east, and as such was the center of traffic in the pre-automobile era. The building is simple in plan but unusual in style, as it is one of the only Mission Revival/Pueblo Revival-style buildings in the area.

ELABORATION

The Fayetteville Depot is a long, one-story rectangular building in the Mission Revival/Pueblo Revival style. In plan, there is a hierarchy of function along a north-south axis parallel with the railroad line. At the south end is a porte-cochere (covered porch), giving access to the passenger area. The north end of the building is the freight zone. The west side of the building lies along the actual railroad line and represents the embarkation zone.

The building is of stuccoed brick. Upper portions of the exterior are painted a neutral tan with a wainscot of exposed brick from the brick paving surface to a height of 3'6". Above the brick are simple, unadorned flat surfaces, with the exception of ornamental projecting roof beams, or "vigas", and a single row of soldiered brick above each of the double-hung, wood sash windows.

The roof over the passenger area is a red, Spanish-tiled gable roof with mission-style, finial-topped campanille gable ends. Roofs of the porte-cochere and freight areas are flat, surfaced with tar and gravel built-up roofing.

On the west facade, the conical-roofed ticket office "tower" of the original station has been replaced by a tiled roof dormer and facade which echoes the north and south gable ends.

The interior of the passenger area features the waiting room for whites at the south end, separated from the "colored" waiting area at the north end by the ticket office. A narrow hall runs along the east side of the ticket office and connects the two waiting areas. Auxillary rooms (offices, rest rooms) are located along the east side of the waiting rooms and corridor.

8. Statement of Significance

Certifying official has considered the significance of this property in relation to other properties:

☐ nationally ☐ statewide ☐ locally

Applicable National Register Criteria ☒ A ☐ B ☒ C ☐ D

Criteria Considerations (Exceptions) ☐ A ☐ B ☐ C ☐ D ☐ E ☐ F ☐ G

Areas of Significance (enter categories from instructions)

Transportation

Architecture

Period of Significance

1925

Significant Dates

1925

Cultural Affiliation

N/A

Significant Person

N/A

Architect/Builder

State significance of property, and justify criteria, criteria considerations, and areas and periods of significance noted above.

SUMMARY

The Frisco Depot in Fayetteville is significant in the area of transportation because it represents the heyday of rail traffic in this university town. Architecturally, the depot is significant as a rare example in the state of a pure Mission/Spanish Colonial Revival Style building used in the context of quasi-official, corporate architecture. The depot was a focal point for the community, and it symbolizes the economic and cultural development of Northwest Arkansas during the 1920's.

ELABORATION

The first passenger train arrived at Fayetteville on July 4, 1882. Its arrival marked an end to geographical isolation of the Ozark region of Northwest Arkansas. The city of Fayetteville, the largest and most affluent population center in the region and location of the University of Arkansas since 1871, had outbid other towns for the railroad by raising \$8,000 for promotion and another \$2,500 for the construction of a depot. The first depot had burned in 1897, and the present structure was built soon after on the same site.

The depot was totally remodeled and enlarged in 1925, as a result of pressure on the Frisco Line from the Fayetteville City Council. At the height of its use, the station handled six passenger trains a day. The old station was considered inadequate, old-fashioned, and ugly by the day's standards. Construction of the new station paralleled an unprecedented program of expansion at the University of Arkansas at Fayetteville; it was needed to handle the influx of new students and increasing use of the facilities by the general population. A larger railroad depot serving Fayetteville was seen as needed by the local government to keep pace with the growth of both the city and the University.

☒ See continuation sheet

**United States Department of the Interior
National Park Service**

**National Register of Historic Places
Continuation Sheet**

Section number 8 Page 1

The resulting expansion of the railroad depot was less than the City Council hoped for, however. A forty percent drop in passenger ticket sales in 1925, due to an increase in automobile travel, forced the Frisco line to cut back on the planned square footage of the expansion. After World War II, the advent of air travel and paved highways in Northwest Arkansas caused a drastic decline in railroad travel. The last passenger train left Fayetteville on September 18, 1965.

Architecturally, the Frisco depot's Spanish Colonial Revival design is unique for a Fayetteville commercial building. The style was one adopted by the railroad during the post World War I years as a vehicle for promoting travel to California, where Spanish Colonial Revival was enjoying great popularity and with which buildings of that general appearance were associated in the minds of the average American. Frisco used the style as an unofficial trademark for new depots during this period, so it was logically chosen for the remodelling of the Fayetteville facility in 1925.

The Fayetteville Depot, abandoned today, once served as an important metaphor of community, formed around the common interest of travel and transportation. Today, it serves as an important visual focal point along Dickson Street, one of Fayetteville's busiest thoroughfares. Dickson Street serves and has served as an axial link between the University and the central business district of the city. In the spring of 1987, the property catercornered to the depot was proposed as the site of the planned Fayetteville performing arts center, and the depot itself is the target for renovation by local business interests.

The Frisco Depot in Fayetteville is being nominated under Criterion A for its representation of the railroad as a significant facet of the city's transportation history. (Although rail traffic continued to be important through the World War II years, its major significance pre-dates that era.) The depot is also being nominated under Criterion C as an unaltered example of the Spanish Colonial Revival style.

9. Major Bibliographical References

Weitz, Karen, California's Mission Revival, Hennesy and Ingalls, Inc., Los Angeles, 1984.

13 March 1925, "Fayetteville Democrat", 'Let's Take What Depots We Can Get', p.1.

25 May 1925, *ibid.*, 'Frisco Railroad to Resubmit Depot Plans', p.1.

27 May 1925, *ibid.*, 'Frisco Ready to Begin Work', p.1.

8 June 1925, *ibid.*, 'Frisco's Plans for Station Endorsed...', p.1.

26 August 1925, *ibid.*, 'Freight Station Contract Let...', p.1.

11 March 1925, *ibid.*, 'Frisco to Let Bids...', p.1.

9 June 1925, "Fayetteville Democrat", 'City Accepts Frisco Plan...', p.1.

2 September 1925, *ibid.*, 'New Passenger Station Plans...', p.1.

☒ See continuation sheet

Previous documentation on file (NPS): N/A

☐ preliminary determination of individual listing (36 CFR 67)
has been requested

☐ previously listed in the National Register

☐ previously determined eligible by the National Register

☐ designated a National Historic Landmark

☐ recorded by Historic American Buildings

Survey # _____

☐ recorded by Historic American Engineering

Record # _____

Primary location of additional data:

☒ State historic preservation office

☐ Other State agency

☐ Federal agency

☐ Local government

☐ University

☐ Other

Specify repository: _____

10. Geographical Data

Acreage of property Less than 1

UTM References

A 15 3951000 3991770
Zone Easting Northing

C _____

B _____
Zone Easting Northing

D _____

☐ See continuation sheet

Verbal Boundary Description Beginning at the intersection of the sidewalk on the northern side of Dickson Street with a perpendicular line bordering the western elevation of the building, proceed northerly along said line to intersection with perpendicular line bordering the northern elevation of the building, thence proceed easterly along

☒ See continuation sheet

Boundary Justification These boundaries include all of the property historically associated with this building's function as a local railroad transportation center.

☐ See continuation sheet

11. Form Prepared By

name/title Walter Unglaub, edited by Arkansas Historic Preservation Program Staff

organization Architectural Resource Consultants

date _____

street & number 122 West Meadow Street, #1

telephone (501) 443-6704

city or town Fayetteville

state Arkansas zip code 72702



Mayor Jordan and City Council Members -

Fifteen years ago, when John Lewis offered me the opportunity to purchase the former Fayetteville Train Depot site, he did so because he knew of my interest in and proven record of Historical Preservation. The Depot and adjacent buildings had fallen into an extreme state of disrepair. None of the buildings had been used since 1964. The surrounding acreage was essentially an abandoned rail yard. We completely renovated the buildings and revitalized the property. We pulled up rail lines, paved the entire unimproved portion of the ground and established paid parking as an interim plan.

The long-term plan was to construct a large mixed-use facility utilizing the then existing zoning entitlement of 12 stories for a significant portion of the project. The severe recession of 2008 interfered with our plans.

The building which Arsaga's at the Depot occupies was initially slated for demolition to accommodate the large infill development. The lease agreement with the Arsagas (see attached) contemplated this possibility and includes buyout provisions if this eventuality occurred. Please note that there are no restrictions on our ability to develop any of the remainder of the property. The Arsagas have known, from day one of our relationship, that the Depot site was slated for a large development project that could occur at any time.

When Mayor Jordan approached me about the possibility of replacing the current Walton Arts Center parking spaces by building a deck on a portion of our property, we began discussing options with the Arsagas. We anticipated the probable need for the area their business occupies and the impact construction of a large parking structure would have on their business. In an effort to reach an amicable agreement we offered to literally move the existing structure to the south side of Dickson so that Arsaga's business could be part of the Cultural Arts Center Park. That offer was rejected. We have since offered a plan to retain the existing structure, as is, after the completion of the parking deck. And, we offered to compensate the Arsagas for any lost profits incurred during construction. This offer has been rejected.

During the examination of the Depot site as an alternative for replacement parking there has been much discussion regarding the issue of whether we might develop the site regardless. As stated earlier, this has always been our plan but it is distinctly possible that if our property alone is developed to its maximum capacity, by whomever, the historic structures could very well be demolished.

The fact the Bank of Fayetteville has so graciously agreed to participate in the planning of replacement parking for the Cultural Arts District has opened up the possibility of a combining our parcels in a fashion that would preserve these historic structures while simultaneously developing a central piece of downtown property to its highest and best use. To that end, we are attempting to formulate a plan that enables us to save all of the current Depot structures which can be approached via a north/south pedestrian corridor. (See plan attached) To be successful we will need the cooperation and participation of both the City and Bank of Fayetteville. It should be noted that in my almost 40 years of development in Fayetteville I have renovated over 30 structures downtown without tearing down a single building (with the exception of one dilapidated home off south College). In addition to the historic Depot structures some of these buildings include The Bakery Building on Dickson (Wasabi and Farrell's), The Dickson Street Inn, The Laundry Building (Hammontrees), 330 West (Z330), numerous office buildings on Spring and Center Streets and The Three Sisters.

My interest in the proposed "public/private" venture currently before you is also motivated by my belief that construction of a public deck on a portion of our site will act as a catalyst for this much grander infill mixed use project. The commitment to a deck would help jump start this process. As part of this development it is my intention to attract a high-end boutique hotel chain as an anchor to the project. We envision shops, restaurants, office space and perhaps an entertainment venue. We do not plan on building condominiums as their use is often sporadic. The goal is to bring a variety of patrons to the entertainment district making it more vibrant, while preserving the historic nature of the site.

Respectfully,



Greg House
January 14, 2020

217 N East Ave Fayetteville AR 72701

COMMERCIAL
LEASE CONTRACT

Date: August 4, 2011

IT IS UNDERSTOOD, COVENANTED AND AGREED that in consideration of the promises contained herein, the rent herein reserved, and of the covenants herein contained by said Lessee to be performed, the Lessor hereby leases to the Lessee, and the Lessee hereby agrees to lease from the Lessor the building at: 548 West Dickson St., Fayetteville, AR 72701, which is approximately 2400 sq ft, hereafter the Leased Premises, according to the following terms and conditions:

1. **PARTIES:** This Lease is between Arsaga's, Inc., (Lessee), and Houses Incorporated, agent for owner, with offices at 217 North East Avenue, Fayetteville, AR 72701 (Lessor).
2. **LEASE TERM:** The Initial term of the Lease shall be 5 Years and shall begin on February 1, 2012, and shall end on January 31, 2017 or upon opening of Lessee's business whichever first occurs.
3. **RENT:** Lessee will pay as rent \$186,000 for the Initial term, payable in installments of \$3,100 per month. The monthly rent shall be payable, without demand, at Lessor's office at 217 North East Avenue, Fayetteville, AR 72701, on or before the first (1st) day of each month. If all rent is not paid on or before the fifth (5th) of the month, Lessee agrees to pay a late charge of 5% of amount due plus \$50 per day thereafter until paid. Rent unpaid after the seventh (7th) day of the month is delinquent and will authorize all remedies in the Lease. Lessee agrees to pay a \$25 charge per check for any returned checks.
4. **OPTION TO RENEW:** Provided that this Lease is then in full force and effect and has not been terminated by Lessor or Lessee, Lessee shall have the option to renew this Lease for three additional periods of sixty (60) months each ("First, Second, & Third Renewal Terms" respectively). The renewal options granted to Lessee hereunder are exercisable only upon written notice given to Lessor no later than one hundred twenty (120) days prior to the expiration of the Previous Term. Lessor agrees to provide Lessee notice of the impending 120 day option election deadline not less than 60 days ahead of said deadline. CPI, as stated herein, shall be defined as the Consumer Price Index for all Urban Consumers for the U.S. City Average for all Items. Any CPI Rate increase to be capped at 3% per annum.

The First Renewal Term shall commence upon the expiration of the Initial Term. Rent for the First Renewal Term shall be the cumulative increase in the CPI from the first month of the Initial Term to the end of such term or \$3565 per month, whichever is least (for example, if the CPI for the 5 years of the Initial Term only increased by 2% per year then the rent for the First Renewal Term would start at \$3410 per month reflecting the cumulative CPI increase for the period for 10%).

In the event that Lessee timely elects to renew the Lease for a Second or Third Renewal Term pursuant to the foregoing for each renewal term, Lessee and Lessor agree to negotiate a new Base Rent at then current fair market rental rates. If Lessor and Lessee are unable to agree on the current market rental rate, the Lessee may terminate this Lease. If Lessee does not exercise its right of termination, the issue of the current fair market rental rate shall be referred to two (2) independent third party appraisers, one appointed by each party and then those appraisers shall appoint a third appraiser also qualified in the field of commercial real estate rental rates. These three (3) appraisals shall then be averaged together and the resulting amount shall be deemed the Base Rent. Base Rent for years 3 and 4 of the Second or Third Renewal Term shall be adjusted at the beginning of year 3 of the current Renewal Term by a percentage equal to any cumulative percentage increase in the CPI for years 1 and 2 of the current Renewal Term. Rent for the final year of the operative Renewal Term shall be adjusted by any cumulative increase in the CPI for years 3 and 4 of the operative renewal term.

Lessee's option for a Second or Third Renewal Term is subject to Lessor's Future Development Plans for the Leased Premises. If, during the Second or Third Renewal Term, Lessor develops and implements a plan that will alter the Leased Premises in a fashion deemed to effect Lessee's use, in Lessee's sole discretion, Lessee shall be permitted to terminate its agreement upon 90 days written notice to Lessor. Lessor must provide one year notice of its intent to alter the Leased Premises. Lessee shall have the 1st Right of Refusal to lease space of a comparable size in any Future Development of the Depot site.

If, during the Second Renewal Term, Lessee so chooses to terminate this lease due to Lessor's alteration of the Leased Premises, Lessor agrees to buyout Lessee's rights during the Second Renewal Term according a sliding scale as determined by the date the aforementioned alteration begins. The buyout amount starts at \$60,000.00 if lessor exercises its right at the end of the First Renewal Term and the buyout amount declines by \$1000/month for the remainder of the Second Renewal Term.

5. **SECURITY DEPOSIT:** Lessee will deposit with Lessor the sum of \$3,000. Said deposit shall be held by Lessor as security for the faithful performance by Lessee of all the terms, covenants, and conditions of this Lease. If at any time during or after the term of this Lease, any of the rent or other moneys due hereunder shall be overdue and unpaid, or any other sum payable to Lessee to Lessor

hereunder shall be overdue and unpaid, Lessor may, at the option of Lessor (but Lessor shall not be required to), appropriate and apply any portion of said deposit to said sums. Lessor and Lessee acknowledge and agree that the aforementioned deposit and rights of Lessor to appropriate same are not Lessor's sole remedy against Lessee for the performance of Lessee's obligation hereunder. Such remedy and the remedies set forth in the remainder of this paragraph shall not be deemed to be the exclusive remedies for Lessee's breach of this Lease but shall be in addition to all other remedies available at law or equity to Lessor. Should Lessee comply with all of the terms, covenants and conditions and promptly pay all of the rental herein provided as due, and all other sums payable to Lessee to Lessor hereunder, the said deposit shall be returned in full to Lessee at the end of the term of this Lease.

6. **MAINTENANCE BY LESSEE AND/OR LESSOR:** Lessee shall make and pay for all cleaning and maintenance of the interior area of the Leased Premises, including equipment therein with exception of that stated below, interior and exterior window cleaning. The following maintenance, replacement or repair shall also be the Lessor's responsibility:

- a. All maintenance, replacement and repair to the roof, outer walls exclusive of plate glass, and structural portion of the buildings which shall be necessary to maintain the building in a safe, dry and tenantable condition; and,
- b. All maintenance of the heating, ventilation and air-condition system; and,
- c. All grounds and parking lot maintenance.

7. **REAL ESTATE TAXES, INSURANCE AND OTHER ASSESSMENTS:** Lessor will pay all real estate taxes and property damage insurance, and other assessments which are assessed or imposed upon the Leased Premises or any part thereof, and due and/or payable during the term of this Lease.

8. **INSURANCE:** Lessee and/or its permitted assigns under this agreement shall procure and maintain at all times during the Term, at its sole expense, a policy or policies of comprehensive general business insurance, public liability insurance, liquor liability (DRAM) if applicable to Lessee's and/or assign's use and fire, extended coverage property damage insurance naming both Lessor and Lessee as insured and which will indemnify Lessor and Lessee against liability for loss, damage, or injury to property or person. Such insurance shall be in an amount of at least \$1,000,000 for general business, public liability and liquor liability, and \$500,000 per occurrence of damage to property or person. All insurance shall be procured from insurance companies authorized to do business in Arkansas and approved by Lessor, such approval shall not be unreasonably withheld. Lessee shall, within three (3) business days of the delivery of notice that the space is ready for occupancy, and thereafter upon request, provide Lessor with proof of its or assignee's procurement or maintenance of any insurance. Each such insurance policy shall not be cancelable without 10 days prior written notice to Lessor. If Lessee fails to procure or maintain any insurance required hereunder, Lessor may procure or maintain reasonable insurance and charge Lessee with the actual expense thereof with interest at the highest lawful rate.

9. **UTILITIES:** Lessee shall be solely responsible for and promptly pay all its utilities, including its prorata share for trash dumpster service based on total sq footage of use.

10. **OCCUPANTS:** The premises will be occupied by Lessee and/or such officers, directors, agents, employees, guests, invitees or customers of Lessee as would be normal in the ordinary course of Lessee's business. No other occupants are permitted. It is agreed that breach of this section constitutes a default, which cannot be cured, and at the option of the Lessor, will provide cause for immediate termination of the tenancy. Whether or not the Lessor makes the election to terminate the tenancy, Lessee and/or his co-obligors or successors, agree to pay as liquidated damages an amount equal to 1/10th of the monthly rental rate then in effect, per person, per day, for each day Lessee is in violation of the sub-section. Said liquidated damages shall be in addition to any other remedies Lessor may have at law or equity, or pursuant to this Lease Agreement.

11. **PURPOSE:** Said premises shall be used and occupied by Lessee for the operation of a restaurant and bar and for no other purpose or purposes without written consent of Lessor, such consent not to be unreasonably withheld.

12. **PROPER USE OF PREMISES:** Lessee shall not perform any acts or carry on any practice which may injure the building or be a nuisance or menace to others, and shall keep the Premises under its control, clean and free from rubbish and dirt of all kinds. Lessee agrees to use diligence in keeping trash and litter picked up in the area around the premises, to keep Premises clear and free from rodents, bugs and vermin, and to bear the expense of general extermination. The Lessee shall not use or permit the use of any portion of said Premises for sleeping apartments, lodging room, or for any immoral or unlawful purpose or purposes.

If Lessee fails to maintain the Premises in a neat, clean and orderly manner, Lessor may give Lessee written notice to do so, stating with particularity the deficiencies, and if Lessee fails or refuses to remedy the situation set forth in the written notice for a period of ten (10) days, Lessor may have such deficiencies corrected at the expense of the Lessee.

13. ENVIRONMENTAL REPRESENTATIONS, WARRANTIES AND COVENANTS:

a. During the term of this Lease, Lessee shall:

(1) not knowingly store, dispose of, release, or allow the disposal of release of any Hazardous Materials on the Premises (except in compliance with all laws, ordinances, and regulations pertaining thereto);

(2) neither directly nor indirectly transport or arrange for the transport of any Hazardous Materials on or from the Premises (except in compliance with all laws, ordinances, and regulations pertaining thereto);

(3) if during the term of this Agreement, any release or disposal of Hazardous Materials shall occur on the Premises in violation of law, Lessee shall cause the prompt containment and removal of such Hazardous Materials and remediation of the Premises in full compliance with all Environmental Laws and other applicable laws and regulations.

b. Lessee covenants and agrees promptly to provide Lessor with written notice: (i) upon Lessee's obtaining knowledge of any violation of any Environmental Law regarding the Premises or Lessee's operations; (ii) upon Lessee's obtaining knowledge of any potential or known release or disposal, or threat of release or disposal, of any Hazardous Materials at, from, or into the Premises which it reports in writing or is reportable by it in writing to any governmental authority or which could affect the value of the Premises; (iii) upon Lessee's receipt of any notice of violation of any Environmental Laws or of any release or disposal or threatened release of disposal of Hazardous Materials, including a notice or claim of liability or potential responsibility from any third party (including without limitation any federal, state or local governmental officials) and including notice of any formal inquiry, proceeding, demand, investigation or other action with regard to (A) Lessee's or any person's operation of the Premises, (B) contamination on, from or into the Premises, or (C) investigation or remediation of offsite locations at which Lessee or its predecessors are alleged to have directly or indirectly Disposed of Hazardous Materials; or (D) upon Lessee's obtaining knowledge that any expense or loss has been incurred by such governmental authority in connection with the assessment, containment, removal or remediation of any Hazardous Materials with respect to which Lessee may be liable or for which a lien may be imposed on the Premises.

c. Lessee covenants and agrees that it shall pay, indemnify and hold harmless the Indemnified Parties (as defined herein) for, from and against, and shall promptly reimburse the Indemnified Parties for, any and all claims, damages, liabilities, losses, costs and expenses (including reasonable attorneys' and consultant fees and expenses, investigation and laboratory fees, removal, remedial response and corrective action costs, and amounts paid in settlement) incurred, paid or sustained by the Indemnified Parties as a result of or relating to (i) any release or disposal or threatened release or disposal of Hazardous Materials on the Premises arising during the Term of the Agreement or from Lessee's use or occupancy of the Premises, (ii) any violation of any Environmental Laws with respect to conditions at the Premises or the operations conducted thereon arising during the Term of this Agreement or from Lessee's use or occupancy of the Premises, or (iii) the investigation of remediation of offsite locations at which Lessee is alleged to have directly or indirectly Disposed of Hazardous Materials. This indemnity shall survive the expiration or other termination of this Agreement. As used herein, the term "indemnified Parties" shall mean Lessor, its successors, assigns, officers, directors, agents and representatives.

d. The term "release" shall have the meaning specified in CERCLA; provided, in the event CERCLA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply as of the effective date of such amendment and provided further, to the extent that the laws of the State of Arkansas establish a meaning for "release" that is broader than specified in CERCLA, such broader meaning shall apply. The term "disposal" or "disposed" shall have the meaning specified in RCRA and regulations promulgated thereunder; provided, in the event RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply as of the effective date of such amendment and provided further, to the extent that state law establishes a meaning for "disposal" that is broader than specified in RCRA, such broader meaning shall apply.

14. SUBLETTING, ASSIGNMENT: The Leased Premises may not be sublet nor can Lessee assign this Lease without the prior written consent of Lessor, which Lessor will not unreasonably withhold.

15. SIGNS, AWNINGS, CANOPIES, FIXTURES, ALTERATIONS: Lessee may, at its sole cost and expense, make such non-structural alterations, additions or changes, in and to the Leased Premises as it may desire provided, however, Lessee shall first obtain Lessor's prior written consent for any such non-structural alterations, additions or changes. Lessee shall not make or cause to be made any alterations, additions or improvements or install or cause to be installed any exterior trade fixture, exterior signs, exterior lighting, plumbing fixtures, shades or awnings or make any other changes to the exterior without first obtaining Lessor's written approval and consent. Lessee may make no alterations, additions or changes which, in the opinion of Lessor or its engineers, affect the structural integrity or historical or architectural character of the Leased Premises without Lessor's prior written consent. Lessee shall present to Lessor Plans and Specifications for any work proposed by Lessee at the time approval is sought and Lessor shall not unreasonably withhold such consent.

16. ALTERATIONS, ADDITIONS & EXTENSIONS TO THE BUILDING, COMMON AREAS, OR THE LEASED PREMISES: Lessor hereby expressly reserves the right to make any alterations, additions, or extensions to the building, the premises, and/or common areas, including the parking area that Lessor deems necessary or reasonable in Lessor's sole discretion during the Lease Term. Lessor cannot reasonably interfere with Lessee's enjoyment without consent.

17. **LESSOR ALTERATIONS:** Lessor hereby reserves the right to alter Premises as may be required by any governmental authority or as may be required to reserve, maintain, and/or protect the building or Premises, provided that such alterations shall not interfere with the operation of Lessee's business or in the usefulness of the Premises to Lessee for the herein stated purposes.

18. **OWNERSHIP OF IMPROVEMENTS:** All alterations, additions and improvements which may be made by either of the above parties hereto upon the Premises and which in any manner are permanently attached to the floors, wall or ceilings, shall be considered the property of the Lessor and shall remain with the surrendered Premises as a part thereof without disturbance, molestation or injury at the termination of this Lease.

19. **SECURITY AGREEMENT:** Any rents or other monies due the Lessor by the Lessee that are not paid when due shall bear interest at the rate of ten percent (10%) per annum until paid.

Pursuant to the Arkansas Uniform Commercial Code (Ark. Stat. 85-9-101ff), the Lessee hereby grants to the Lessor a security interest in all goods, wares, merchandise, furniture and equipment in which the Lessee has an interest and placed in or on said Premises to secure rents, other monies and interest due or to become due to the Lessor under this Lease.

It is understood between the parties that such security interest, as it pertains to items of inventory only, shall not be enforceable unless Lessee is in default of its obligations under this Lease and until said items are in possession of Lessor.

Lessor agrees to subordinate its security interest herein to Lessee's purchase money lender.

20. **CONDITION OF PREMISES ON MOVING IN AND MOVING OUT:** Upon taking possession Lessee accepts the premises fixtures, and/or appliances as is, except for conditions materially affecting health or safety of ordinary persons. Lessor makes no implied warranties. Within 1 week after move-in, Lessee shall note any defects or damages in the premises by notifying the Lessor in writing; otherwise, everything will be deemed to be in clean and good condition.

21. **SUBORDINATION:** This lease is subject to all present or future mortgages, deeds of trust or liens, affecting the demised premises and Lessee hereby appoints the Lessor as Lessee's Attorney-in-Fact to execute and deliver any and all necessary documents to subordinate this lease to any present or future mortgages or deeds of trust affecting the demised premises. The Lessor acts as Lessee's Attorney-in-Fact and Fiduciary and will preserve the Lessee's interest in this leasehold and right of occupancy among other rights, in all such mortgages, deeds, trusts, or liens.

22. **CONDEMNATION:** In the event the demised premises, or any part thereof, are taken by condemnation by the United States, the State of Arkansas, or any other governmental agency or authority in such a fashion that Lessee cannot use the premises for its intended purposes, this lease can be terminated at the option of the Lessor or Lessee. If part of the property is condemned, the Lessee may elect to continue under the lease and shall be entitled to equitable abatement of rent. The Lessee shall be entitled to any condemnation award allocable to improvements that the Lessee made to the property.

23. **LIABILITY:** Lessor will not be liable to Lessee, Lessee's agents, employees, guests, invites, customers, or other occupants for any damage or loss to person, entity, or property caused by other persons, including theft, burglary, assault, vandalism, or other crimes. Lessor will not be liable to Lessee, or any of Lessee's agents, employees, guests, invites, customers, or other occupants for personal injury or for damage to or loss of their personal property from fire, flood, water leaks, rain, hail, ice, snow, smoke, lightning, wind, explosions, interruption of utilities or other occurrences unless such injury, loss or damage is caused by negligence of Lessor. Lessor will furnish locks and latches as required by statute. Except as required by statute, Lessor will furnish no additional extra locks and latches, security guards or patrols, security lighting, security gates or fences, or other forms of security. Lessee agrees to exercise due care for the safety and security of Lessee and all persons in Lessee's premises. Lessee is urged to keep doors and windows locked at all times; window screens and screen doors are not to be considered as secure windows and doors, but are furnished for ventilation purposes only. Lessee acknowledges that any security measures provided should not and will not be treated by Lessee as a guarantee against crime, but are provided for the purpose of protecting the physical property of the Lessor and not to guarantee safety of the Lessee. If Lessee is in need of security services, Lessee should contact local law enforcement and/or other private security companies. If Lessor's employees or sub-contractors are requested to render services not contemplated in this Lease, Lessee agrees to hold Lessor harmless from all liability regarding same. It is expressly understood and agreed by the Lessee that if the Lessor shall furnish any automobile parking space, elevators or other "common areas," or any other facilities outside of the premises herein expressly demised to the Lessee same shall be deemed to be gratuitously furnished by the Lessor and that if any person shall use the same, he or she does so at his or her own risk and upon the express understanding and stipulation that the Lessor shall not be liable for any loss of property through theft, casualty, or otherwise, or for any damage or injury whatever any to person or property unless such injury, loss or damage is caused by negligence of Lessor.

24. **REPAIRS AND MALFUNCTION:** Lessee agrees to request all repairs and services in writing to Lessor's designated representative except in an emergency when telephone calls will be accepted. Lessor shall have the right to temporarily turn off equipment and interrupt utilities to avoid damage to property or to perform repairs or maintenance, which require such interruption. In case of malfunction of utilities or damage by fire, water or similar cause, Lessee SHALL NOTIFY LESSOR OR LESSOR'S REPRESENTATIVE IMMEDIATELY. Lessor shall act with diligence in making repairs; and the lease shall continue and the rent shall not abate during such periods unless malfunctions or damages unreasonably restrict Lessee from performing usual daily work. If fire or catastrophe damages in the premises are substantial in the reasonable judgment of Lessor, Lessor may terminate this Lease within a reasonable time by giving written notice to Lessee. If the Lease is so terminated, rent shall be prorated and the balance refunded along with all deposits, less lawful deductions.

25. **REIMBURSEMENTS:** Lessee shall promptly reimburse Lessor for any loss, property damage, or cost of repairs of service caused in the premises or community by negligence or improper use by Lessee or Lessee's agents, employees, invites, customers, or other occupants. Lessor will not be liable for and Lessee shall pay for the following if it occurs during the lease term or renewal period: (a) damage to doors, windows, or screens unless due to negligence of Lessor, (b) repair costs and damages from plumbing stoppages in lines exclusively serving Lessee's premises and (c) damages from windows or doors left open; Lessor's failure or delay in demanding rent, damage reimbursement, late-payment charges, returned check charges, or other sums due by Lessee shall not be deemed a waiver, and Lessor may require payment of same at any time, including deduction from security deposit. Lessor may require advance payment for repairs for which Lessee is liable.

26. **LESSEE INDEMNIFICATION OF LESSOR:** Lessee will indemnify, defend and save harmless Lessor from and against any and all loss, cost, claims, damages, actions, liability and/or expense in connection with loss of life, personal injury and/or damages to property, tangible or intangible, including the Leased Premises, and any personal property brought onto the Leased Premises arising from or out of any occurrence in, upon or at the Leased Premises, or the occupancy or use by Lessee of the Leased Premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, Lessee's agents, employees, invites, guests, contractors, sub-leases, concessionaires or customers unless such is caused by negligence of Lessor. In the event Lessor shall, without fault on its part, be made a party to any litigation commenced by or against Lessee, then Lessee shall indemnify, defend and hold Lessor harmless and shall pay all reasonable costs, reasonable expenses and reasonable attorney's fees that may be incurred or paid by Lessor in enforcing the covenants and agreements in this Lease.

27. **HOLD-OVER:** If Lessee holds over without Lessors written permission and fails to move out on or before the exact date required under this Agreement (i.e., the end of the lease term or the end of the month of any renewal or extension term, as set forth in the written notice of termination), Lessee shall be liable to pay double rents for the hold-over period and to indemnify Lessor and/or prospective Lessees for damages incurred, including lost rentals and lodging expenses. Holdover rents shall be immediately due on a daily basis and shall be deemed delinquent without notice or demand.

28. **LESSOR'S COVENANT OF QUIET ENJOYMENT:** Upon payment by the Lessee of the rents herein provided, and upon the observance and performance of all the covenants, terms and conditions on Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under the Lessor, subject to the terms and conditions of this Lease. However, any repairs or maintenance that are performed, should be performed by the mutual consent of Lessor and Lessee at a time and in a manner which are calculated in exercise of good faith and reasonable business practice to minimize any disruption of Lessee's business.

29. **RIGHT OF ENTRY:** If Lessee or Lessee's employee is present, then repairmen, servicemen or Lessor's representatives may enter the premises during reasonable times for reasonable business purposes. If no one is in the premises, then repairmen, servicemen, Lessor or Lessor's representative may enter at reasonable times by duplicate or master key for the following purposes: responding to Lessee's requests to make repairs; estimating repair or refurbishing costs; emergency safety or fire inspections; avoiding property damage; exercising contractual rights; removing or re-keying authorized locks or latches. Lessor may enter with 24 hour notice for purpose of placing "For Lease" signs on premises or showing the premises to prospective Lessees, (up to 120 days prior to end of lease term, or once notice to vacate has been given), or to allow access to government inspectors, fire marshals, lenders, appraisers, prospective purchasers or insurance agents.

31. **DEFAULT BY LESSEE:** Any one or more of the following events shall constitute an "Event of Default":

a. The filing of a petition proposing the adjudication of Lessee or any guarantor of Lessee's obligations hereunder as a bankrupt or insolvent or the reorganization of the Lessee or any such guarantor or an arrangement by Lessee or any such guarantor with its creditors, whether pursuant to the Federal Bankruptcy Act or any similar federal or state proceeding, unless such petition is filed by a party other than Lessee or any such guarantor and said petition is withdrawn or dismissed within sixty (60) days after the date of its filing; or,

b. The appointment of a receiver or trustee for the business or property of Lessee or any such guarantor, unless such appointment shall be vacated within sixty (60) days of its entry; or,

- c. The making by Lessee or any such guarantor of an assignment for the benefit of its creditors; or,
- d. The failure of Lessee to pay any item of rent, or rent is not paid within seven (7) days after notice of default is received by Lessee, or other sum of money within ten (10) days after notice of default is received by Lessee; or,
- e. Vacating or removing property from the Leased Premises other than in the normal course of business; or,
- f. Failure by Lessee in the performance or observance of any covenant or agreement of this Lease (other than a failure involving the payment of money), which failure is not cured within thirty (30) days of receipt by Lessee of notice of default or,
- g. Violation by Lessee of any applicable Federal, state or local laws as same pertain to this Lease; or,
- h. Lessee abandons the Premises for more than thirty (30) continuous days.

32. **REMEDIES IN EVENT OF DEFAULT:** Upon the occurrence and continuance of an Event of Default, Lessor may, without notice to Lessee (except where notice is expressly required by law), do any one or more of the following:

- a. Perform, on behalf and at the expense of Lessee, any obligation of Lessee under this Lease which Lessee has failed to perform, the cost of which performance by Lessor, together with interest thereon at the highest rate permitted by law from the date of such expenditure, shall be deemed additional rental hereunder and shall be payable by Lessee to Lessor upon demand;
- b. Elect to terminate this Lease and the tenancy created hereby by giving notice of such election to Lessee, and may reenter the Leased Premises, without the necessity of legal proceedings, and may remove Lessee and all other persons (if Lessee is still in possession) and property from the Premises, and may store such property in a public warehouse or elsewhere at the cost of and in the account of Lessee without resort to legal process and without Lessor being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby;
- c. Lessor may declare immediately due and payable the balance of any rent, Operating Costs and other charges that may otherwise be due and payable over the remainder of the term;
- d. Exercise any other legal or equitable right or remedy it may have; and,
- e. Lessor may report unpaid rents or unpaid damages to local credit agencies for recordation in Lessee's credit record.

Notwithstanding the provisions of clause (b) above and regardless of whether an Event of Default shall have occurred, Lessor may exercise the remedy described in clause (b) without notice to Lessee if Lessor, in its good faith judgment, believes it would be injured by failure to take rapid action or if the unperformed obligation of Lessee constitutes an emergency. Any costs and expenses incurred by Lessor (including, without limitation attorney's fees) in enforcing any of its rights or remedies under this Lease shall be deemed to be additional rental hereunder and shall be repaid to Lessor by Lessee upon demand. Any notice required herein will be deemed delivered if left with the Lessor or Lessor's guarantor or if left or posted at a conspicuous place at the Leased Premises.

33. **LEGAL EXPENSES:** In case suit shall be brought for recovery of possession of the Leased Premises, for the recovery of rent or any other amount due hereunder, or because of the breach of any other covenant herein contained on the part of Lessee to be kept or performed, and a breach shall be established, Lessee shall pay to Lessor all expenses therefor, including Lessor's reasonable attorney's fees. Should a breach be established as to an obligation due by Lessor, then Lessor shall pay all expenses therefor, including Lessee's attorney's fees.

34. **SURRENDER OF PREMISES:** At the expiration of the tenancy hereby created, Lessee shall surrender the Leased Premises in the same condition as the Leased Premises were in upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and shall surrender all keys for the Leased Premises to Lessor at the place then fixed for the payment of rent, and shall inform Lessor of all combinations on locks, safes, and vaults, if any, in the Leased Premises. Lessee shall remove all its trade fixtures, before surrendering the Leased Premises as foresaid, and shall repair any damage to the Leased Premises caused thereby.

35. **WAIVER:** The waiver by Lessor of any breach of any term, covenant or condition herein contained shall not be deemed to be a continuing waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any prior breach by Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of Lessor's knowledge of such prior breach at the time of acceptance of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by Lessor, unless such waiver be in writing by Lessor.

36. **COPIES:** This lease has been executed in multiple copies, one for Lessee and one or more for Lessor.

37. **ADDENDUMS:** Any and all addendums attached hereto shall become a part of this lease and shall be considered incorporated herein by reference as if set forth word for word.

38. **AGENCY:** Lessee is aware that Lessor's agent is a licensed attorney and/or Real Estate Broker and/or Real Estate Sales Agent. Lessor's agent represents Lessor only.

39. **SPECIAL CONDITIONS:**

- 1) Lessee shall be responsible for installing its own signage, however signage must be approved by Lessor;
- 2) Parking Lot is paid parking operated by Fayetteville Depot, LLC and will be inaccessible during the Bikes Blues & BBQ Festival;
- 3) Lessee may have immediate possession of lease premises upon execution of this lease;
- 4) Lessor will remove all material and debris from around the rented premises, under the decks and all furniture and equipment from the interior within 2 weeks of execution of this lease;
- 5) A container may be placed at the NW corner of the premises in non-revenue space during construction; and,
- 6) For the first 18 months of this lease, Lessee shall have the right to 8 parking spaces free of charge until 6pm seven days a week and shall have the right to lease up to four employee parking spaces from 6:00pm until 10:00pm at \$45.00/month/ space or until 2:00pm at \$55.00/month/space. Lessee shall be responsible for signage and policing these spaces, and;
- 7.) This lease is contingent upon Lessee obtaining satisfactory financing within 30 days of execution.

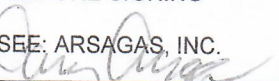
IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed in person thereunto duly authorized and their respective seals to be hereunto affixed, the day and year first hereinabove written.

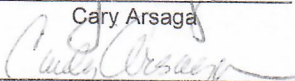
THIS IS A BINDING LEGAL DOCUMENT - READ CAREFULLY BEFORE SIGNING

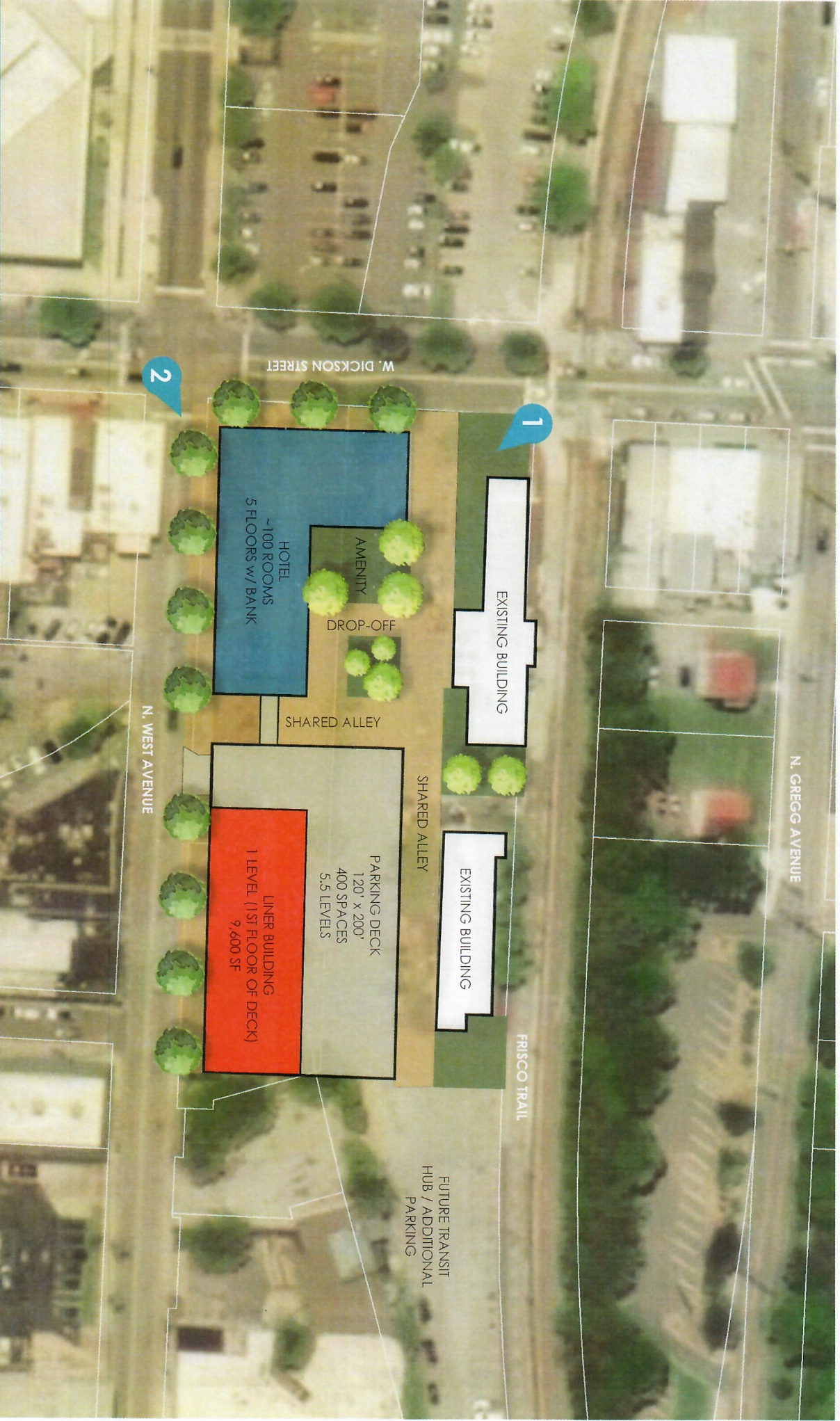
LESSOR: HOUSES INCORPORATED

By:  for
Gregory T. House, President

LESSEE: ARSAGAS, INC.

BY: 
Cary Arsaga

By: 
Cindy Arsaga



DEPOT LOT DEVELOPMENT

SITE PLAN - SCALE: 1" = 50'

2019.12.17

TSW

PLANNING
ARCHITECTURE
LANDSCAPE ARCHITECTURE



DEPOT LOT DEVELOPMENT | PERSPECTIVE 1

2019.12.17 TSW

PLANNING
ARCHITECT
LANDSCAPE ARCHITECT



DEPOT LOT DEVELOPMENT | PERSPECTIVE 2

2019.12.17 TSW

PLANNING
ARCHITECT
LANDSCAPE ARCHITECT



Northwest Arkansas
5100 W. JB Hunt Drive
Suite 800
Rogers, AR 72758
479-845-3000 Office

January 14, 2020

Mayor Lioneld Jordan

Sage Partners on behalf of Fayetteville Depot, LLC (Greg House)

Via Electronic Mail

Dear Mayor Jordan:

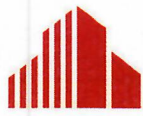
The following is a Letter of Intent for an offer to sell the below-referenced property under the following terms and conditions:

Location:	Fayetteville Depot 550 W Dickson Street (Exhibit Attached)
Seller:	Fayetteville Depot, LLC
Buyer:	City of Fayetteville
Sale Price	\$250,000 plus exchange of the 0.2 acre northern parcel of the Civic Plaza (currently West Ave Parking Lot) -city to provide survey.
Terms:	LOI will be good for 60 days Due Diligence for buyer and seller to discuss terms of a purchase and sale. Buyer and/or Seller may, at any time, cancel the LOI. Closing will occur when plans, engineering and permitting are in place. Lot split may occur, if necessary, before closing with mutual agreement by the parties to the transaction.

The approximate size and scope of the Depot parcel in consideration is 0.3 acres south of an extension of the north line of Watson St ROW. Fayetteville Depot will also work with the city to guarantee two points of access (Ingress/Egress) to the parking deck via an easement (~0.2 Acres). Determination of these access points will occur through design and engineering.

The City agrees that liner building space, will be available to Fayetteville Depot upon completion of the deck. Fayetteville Depot agrees to develop liner buildings, where space is available, to city development standards and in compliance with current or future zoning restrictions per the city of Fayetteville UDC. Liner Building will also include approximately 2,000 leasable square feet for Fayetteville Police Department at then current market rent.

The City of Fayetteville will work in good faith with Fayetteville Depot, LLC in order to determine the final size and scope of the exchange property at the north end of the Civic Plaza (West Ave Parking Lot). The building's uses and design should embrace the design intention and support the types of activities envisioned to activate the adjoining Civic Plaza throughout the day. The building shall be no more than 3 stories and shall comply with all the requirements of the underlying Main Street Center Zoning District and the Downtown Design Overlay District. It shall have active ground floor uses (restaurant, café, art



gallery, retail shopping, etc.). While LEED Certification is not required, the building shall incorporate sustainable products, practices and programs into the building's design, construction and operation. Specifically, the building's stormwater management shall employ low impact development that is complimentary to the adjoining Civic Plaza.

The City shall be allowed transparency and access to communication around the selection of the any developer be it Fayetteville Depot or any other entity selected by the property owner. All normal site development and utility connection cost shall be borne by the selected building developer and/or the Fayetteville Depot, LLC. The building is to be built in conjunction with the construction of the adjoining Civic Plaza and shall be completed prior to or by the time of the Plaza opening.

Fayetteville Depot, LLC will work with the City of Fayetteville to ensure the long-term protection of, and access to, the Freight building occupied by the Arsaga's Depot and the historic train depot during the parking deck construction. This protection/preservation will be agreed to through a legal instrument recommended by both Bond Counsel and the City Attorney's Office. The City and Fayetteville Depot further agree that negotiations between Arsaga's at The Depot (Cary and Cindy Arsaga) will be complete before the city moves to approve contracts to purchase Fayetteville Depot, LLC's property. Negotiations between Arsaga's and the Depot are ongoing and, until such time as a lease amendment or other legal document are signed and/or recorded by both the Arsagas and Fayetteville Depot, LLC, the city will not move forward with contracts or construction.

The City of Fayetteville will build, a parking deck upon the subject property at 550 W Dickson. The parking deck will consist of no less than 290 spaces plus as many spaces as can be built with \$10 M in funds from the Cultural Arts Corridor Bond.

The City further agrees that any spaces above the 290 required parking spaces from the bond issue will be available in some capacity for use by any future tenants, so long as the method of use complies with the bond requirements. Future tenants would include any tenants in the liner buildings around the deck or any future tenants from any other development on the original Fayetteville Depot, LLC parcel.

Should additional development on the adjoining parcels owned by Fayetteville Depot LLC or the Bank of Fayetteville/Farmers and Merchants Bank warrant additional parking or commercial development demand beyond City constructed spaces, the City will work with Fayetteville Depot LLC to allow private funding to be contributed for additional design and construction necessary for additional foundational support, structure, floors and any other reasonable additional elements to the City's parking deck. Cost allocation shall be determined by the City's design engineering firm. The allocation of those City controlled and private equity-controlled spaces shall be documented prior to the new deck being placed in service.

This LOI will be dependent on a successful execution of the use of a portion of the property currently owned, but not occupied, by the Bank of Fayetteville/Farmers and Merchants Bank.

Due Diligence

Due Diligence shall mean any negotiations or necessary events which will lead to a purchase and sale contract. This due diligence period will include the successful pursuit of a contribution or sale of the land owned by Farmers and Merchants Bank. Any item not listed here which buyer needs to address shall not be excluded from this non-binding letter of intent.

Non-Binding Agreement:

This proposal is not intended as, and does not constitute, a binding agreement by any party, nor an agreement by any party to enter into a binding agreement but is merely intended to specify some of the proposed terms and conditions of the transaction contemplated herein. Neither party may claim any legal rights against the other by reason of the signing of this letter or by taking any action in reliance thereon. Each party hereto fully understands that no party shall have any legal obligations to the other, or with respect to the proposed transaction, unless and until all of the terms and conditions of the proposed transaction have been negotiated, agreed to by all parties and set forth in a definitive agreement which has been signed and delivered by all parties. The only legal obligations, which any party shall have, shall be those contained in such signed and delivered definitive agreement referred to above.

If you have any questions, please call us to discuss at (479) 802-0028. We would appreciate your response as soon as possible. We look forward to receiving your response.

Regards,



Sterling Hamilton
Sage Partners

Agreed:

Mayor Lioneld Jordan, City of Fayetteville Arkansas - Buyer

Agreed:



Greg House – Fayetteville Depot, LLC - Seller

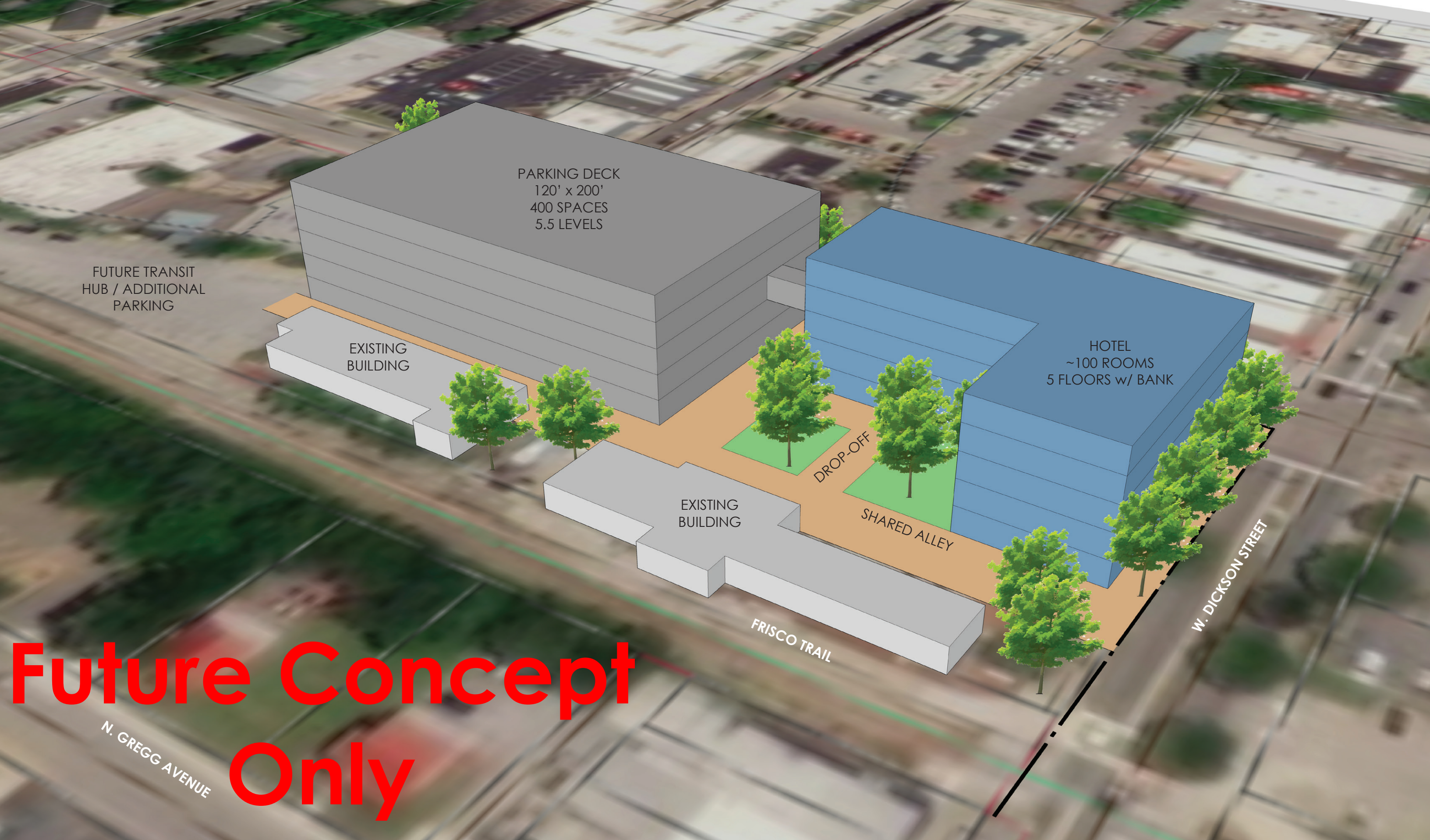


Northwest Arkansas
5100 W. JB Hunt Drive
Suite 800
Rogers, AR 72758
479-845-3000 Office

EXHIBIT A
(For reference and concept only)

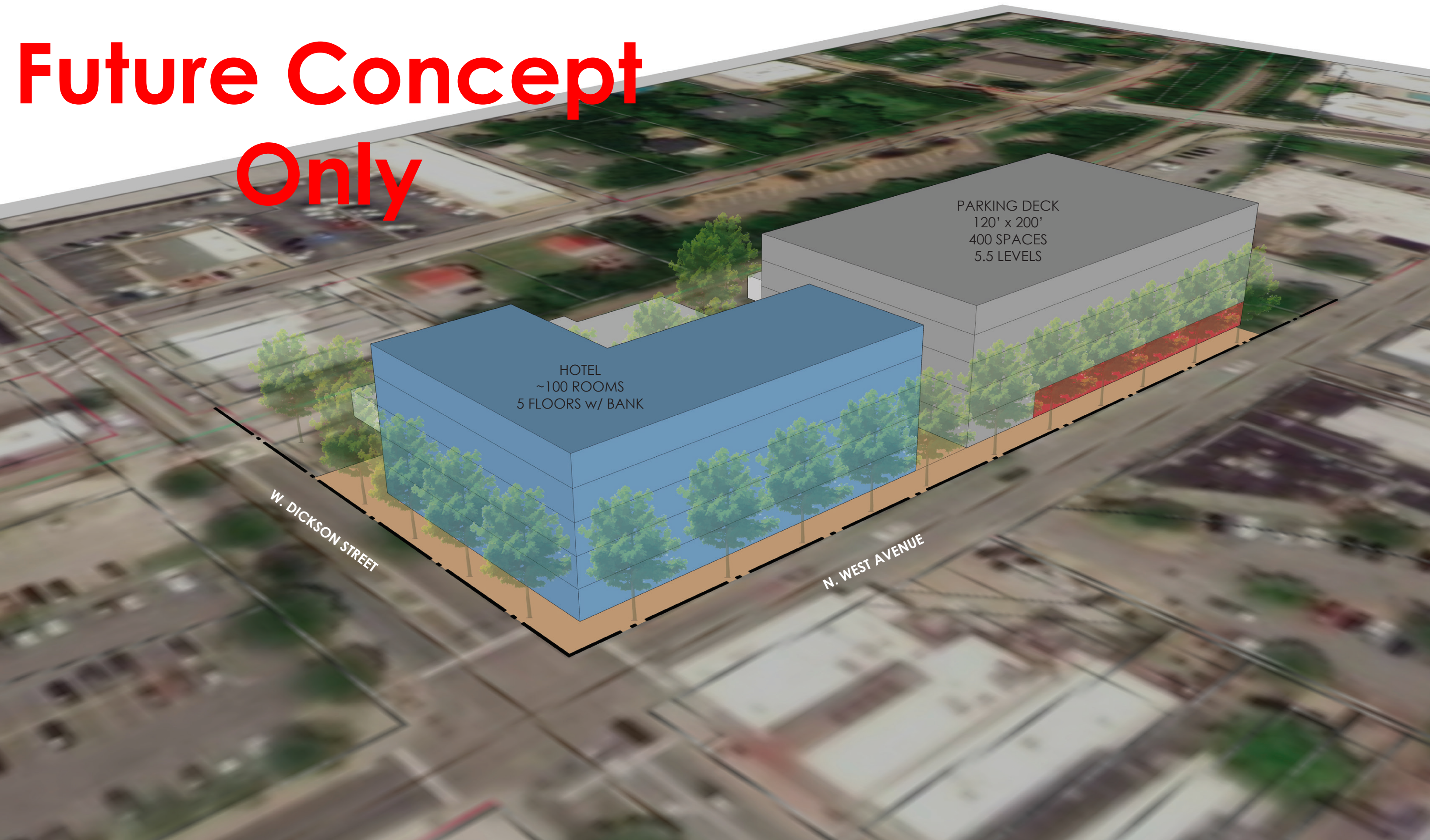
Future Concept Only





Future Concept
Only

Future Concept Only



CityClerk

From: CHERI COLEY <dckcoley@sbcglobal.net>
Sent: Monday, January 13, 2020 7:34 AM
To: CityClerk
Subject: NO to the Depot

Categories: Forwarded

Good morning! I live in Ward 4, West Fayetteville. Please pass my thoughts to my city council rep. NO, this idea of a parking deck next to the depot is stupid and reckless. Please keep working on a better solution.

Thanks

Cheri Coley

4828 West New Bridge Rd

Fayetteville

CityClerk

From: Kathy Stevens <arkansassunrise@gmail.com>
Sent: Monday, January 13, 2020 7:55 AM
To: CityClerk
Subject: old train station on Dickson

Categories: Forwarded

Ward Two --Please do not destroy this landmark of Fayetteville. Please.....you are ruining our town, and not for the better of the people. More like pocket books.

I beg you to leave the train depot alone.

Sincerely,
Kathryn Stevens
Registered voter
Fayetteville Arkansas

CityClerk

From: Liz Lester <bluegreen999@yahoo.com>
Sent: Monday, January 13, 2020 9:40 AM
To: CityClerk
Subject: Parking deck location

Categories: Forwarded

Please vote NO to put the parking deck at the train bank location.

Liz Lester
3052 N. Hughmount
Fayetteville AR

[Sent from Yahoo Mail for iPad](#)

CityClerk

From: Nita Proffitt <redmom123@gmail.com>
Sent: Monday, January 13, 2020 8:26 PM
To: CityClerk
Subject: Depot

Categories: Forwarded

Please vote no next week.
Nita Proffitt
Sent from my iPhone

CityClerk

From: Janet Bowlin Lancaster <janet.bowlin@gmail.com>
Sent: Monday, January 13, 2020 9:05 PM
To: CityClerk
Subject: Depot/garage vote

Categories: Forwarded

Please preserve Fayetteville history. Vote no to depot Janet Bowlin Ward 4

Sent from my iPhone