

March 5, 2020

VIA US MAIL & E-MAIL cityclerk@fayetteville-ar.gov

Kara Paxton, City Clerk
City of Fayetteville
113 W. Mountain Street, Rm. 308
Fayetteville, Arkansas 72701

Re: ANX-20-6995 & RZN-20-6996 Appeal Request

Dear Ms. Paxton:

The above referenced annexation and rezoning requests were heard before the Planning Commission on February 24th 2020. The Planning Commission voted to neither recommend the annexation nor the rezoning; therefore I write you this letter on behalf of the Petitioners to formally appeal that decision and ask that the appeal of both the annexation and rezoning be put on the next appropriate City Council Agenda.

I thank you for your consideration concerning this request and if this letter is lacking anything to be officially considered a formal request please let me know immediately. The applicants will submit their reasons why they believe the City Council should approve the annexation and rezoning when these two (2) requests are placed on the agenda. I thank you in advance.

Sincerely yours,



Robert K. Rhoads

RKR:slt

Cc: Johnthan Curth
Blake Pennington

4401338.1:005377:00001



MEETING OF MAY 19, 2020

TO: Mayor; Fayetteville City Council

THRU: Susan Norton, Chief of Staff
Garner Stoll, Development Services Director

FROM: Jonathan Curth, Development Review Manager

DATE: May 1, 2020

SUBJECT: **ANX 20-6995: Annexation (HUGHMOUNT RD. NORTH OF MT. COMFORT/HUGHMOUNT ANNEX, 282):** Submitted by HALL ESTILL ATTORNEYS, INC. for properties located along HUGHMOUNT RD. NORTH OF MT. COMFORT. The properties are in the FAYETTEVILLE PLANNING AREA and contain approximately 152.00 acres. The request is to annex the properties into the City of Fayetteville.

RECOMMENDATION:

The City Planning staff recommend approval of a request to annex the subject property as described and shown in the attached Exhibits 'A' and 'B', excluding parcel #001-16799-000, described by the applicant as "Hughmount North". The Planning Commission denied the proposal and the applicant has appealed the decision to City Council.

BACKGROUND:

The subject property is northwest of Fayetteville in unincorporated Washington County. The overall property includes numerous parcels on both the east and west sides of Hughmount Road, between Weir and Mount Comfort Roads. The property is generally level, sloping gradually downward towards the Clabber Creek corridor to the south. Although significant areas of the property remain largely undeveloped, approximately 54 acres was platted as the Hughmount Village subdivision.

In 2012, City Council approved Resolution 183-12 allowing the extension of Fayetteville's sewerage system to the Hughmount Village subdivision. Subsequently, in 2013 City Council approved Resolution 144-13 amending the previous agreement to ensure the property's development subject to the requirements of Fayetteville's Unified Development Code, including tree preservation, drainage, building permitting, and other associated fees and dedications. A clause within the resolution required developers or owners to seek annexation when legally possible. Annexation was not legal in 2013 due to the lack of contiguous boundaries between Hughmount Village and incorporated Fayetteville. Staff evaluation indicates that development requirements have been met.

Request: The request is to annex the subject property in to the City of Fayetteville. The applicant has stated that the annexation is needed to comply with the terms of Resolution 17-14 as it relates

to Hughmount Village and as approved by City Council in January of 2014. As noted above, the terms of this resolution dictate that the residents of Hughmount Village are to seek annexation in to the City of Fayetteville when the annexation of intervening properties makes this feasible. This is occurring with the current application where the approximately 56.25 acres of Hughmount Village would be annexed with 95.75 additional acres intended to remain undeveloped or as future phases of the subdivision.

Land Use Plan Analysis: City Plan 2040's Future Land Use Map designates the properties within the proposed annexation as Natural Area, Rural Residential Area, and Residential Neighborhood Area. Natural Areas are intended for minimal to no development and property designated as Rural Residential are to remain large-lot residential, agricultural, or conservation subdivision in land use. On the other hand, Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single-family, multi-family, and rowhouses. Development is encouraged to be highly-connected, with compact blocks, grid street pattern and reduced setbacks. Low-intensity non-residential uses are encouraged at appropriate locations, such as on corners and connecting corridors.

In addition to the Future Land Use Plan, City Plan 2040 sets forth several guiding policies to consider an annexation proposal. These include the potential impacts on Fayetteville's boundaries, services, infrastructure, intergovernmental relations, property administration, and existing environmentally sensitive areas. Staff finds that the request is compatible with many of these policies, including that the proposed annexation will include environmentally-sensitive areas along Clabber Creek, and somewhat reduce an existing 'peninsula' of land that is adjacent to incorporated Fayetteville. Additionally, under the City Council's agreement with the subdivision, City water and sewer currently serve a large portion of this area and are available for those properties proposed for annexation but not covered by the 2014 resolution.

At the same time, other policies are not observed, among them the inability of the Fire Department to currently offer adequate response time and the potential need for upgrading infrastructure should the property develop at suburban or urban densities. While this will be lessened with construction of the proposed station at Deane and Porter, response times will still be less than recommended. Currently, the subdivision and neighboring unincorporated properties are served by the Wheeler Volunteer Fire District but the City of Fayetteville provides automatic response. In areas immediately adjacent to Fayetteville, an automatic response agreement often means that the Fayetteville Fire Department is the de facto first responder. Additionally, the portion of the property described as "Hughmount North" represents a conflict with the goal to reduce peninsulas, creating a finger of land that will be surrounded by unincorporated Washington County on three sides.

On the balance of issues, staff finds that the proposal is generally consistent with existing plans and policies.

DISCUSSION:

On February 24, 2020, the Planning Commission denied the proposal by a vote of 7-1-0. Commissioner Brown did not support denial. Public comment was made from several nearby residents and a Housing Authority representative. Nearby residents were in favor of the

annexation request, but opposed to the concurrently-submitted rezoning, citing concerns about excess density, increased traffic, and potentially inadequate infrastructure. The Housing Authority representative supported the request, but at a higher density than currently present in adjacent incorporated areas, and with the potential benefit of added sales tax revenue from online purchases.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Exhibit A
- Exhibit B
- Fire Department Memo
- Resolution 144-13
- Planning Commission Staff Report

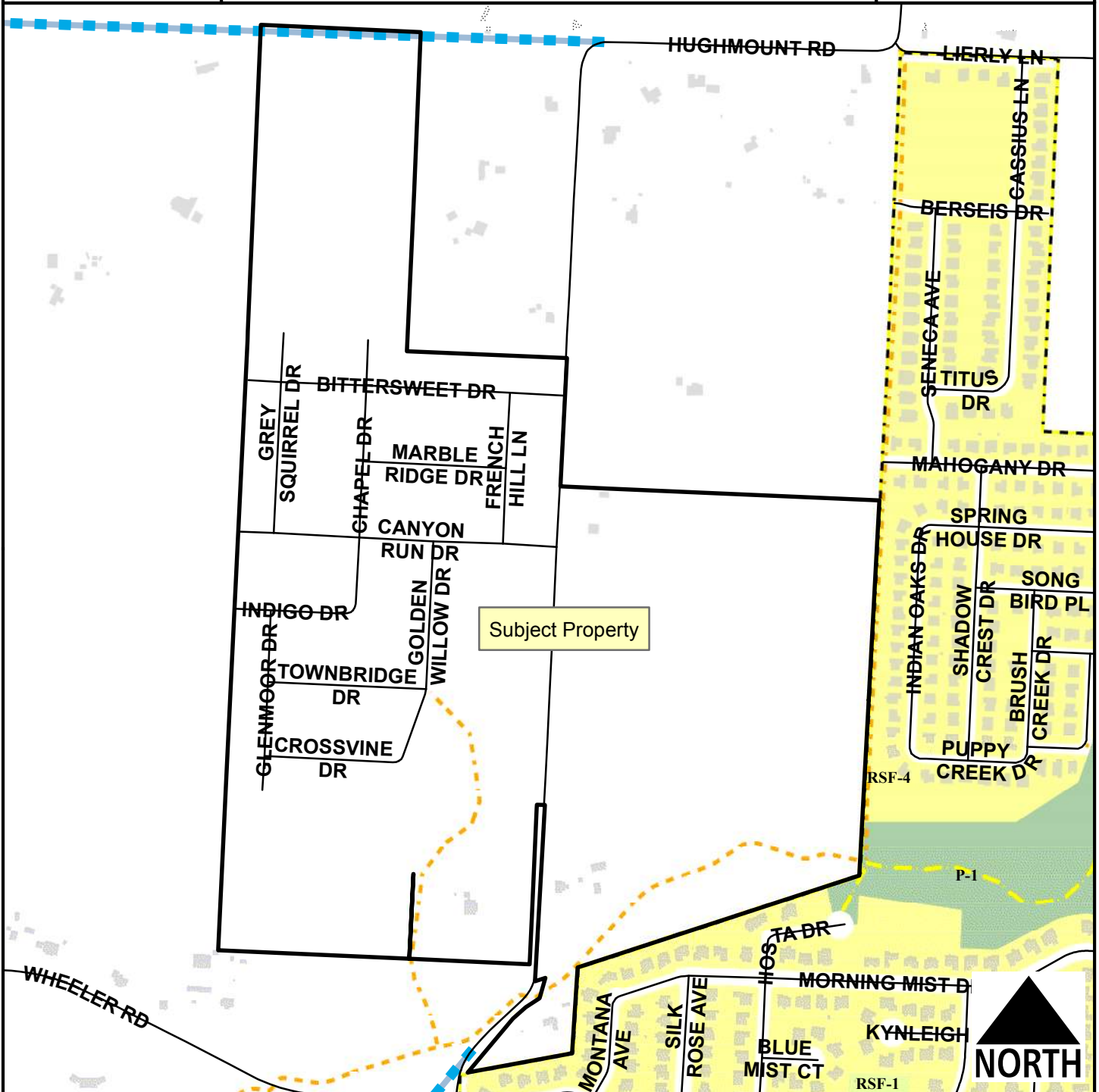
ANX20-6995

HUGHMOUNT RD AREA

20-6995

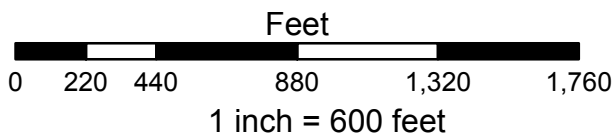
Close Up View

EXHIBIT 'A'



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- RSF-1
- RSF-4
- P-1

LEGAL DESCRIPTION – HUGHMOUNT NORTH:

A part of the W1/2 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NW Corner of said SW1/4, SW1/4, thence N02°45'51"E 1,317.63 feet, thence N02°25'58"E 37.66 feet to the POINT OF BEGINNING; thence continue Northerly N02°25'58"E 1,266.65 feet, thence S87°24'26"E 659.72 feet, thence S02°22'02"W 658.76 feet, thence S02°33'39"W 658.76 feet, thence N87°34'04"W 138.59 feet, thence N02°36'40"E 40.32 feet, thence N87°34'04"W 349.42 feet, thence N02°36'40"E 12.40 feet, thence N87°34'04"W 171.15 feet to the POINT OF BEGINNING, containing 19.44 acres, more or less, subject to easements and right of ways of record.

LEGAL DESCRIPTION: SLAPE PROPERTY:

A part of the NE1/4 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said NE1/4, SW1/4, thence S03°06'00"W 1,021.81 feet, thence N87°31'12"W 989.27 feet to the POINT OF BEGINNING, thence S02°48'49"W 159.46 feet, thence N87°30'13"W 325.83 feet, thence N02°54'04"E 159.37 feet, thence S87°31'12"E 325.59 feet to the POINT OF BEGINNING, Containing 1.19 acres, more or less, subject to easements and right of ways of record.

LEGAL DESCRIPTION: KILGORE SURVEY:

A part of the Fr. NW1/4 of Section 1, T16N, R31W and a part of the SE1/4 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the SW Corner of the NE1/4, Fr. NW1/4, thence N03°00'49"E 802.33 feet, thence N86°59'11"W 257.27 feet to the POINT OF BEGINNING, thence N40°05'31"E 289.73 feet, thence N47°49'16"E 70.86 feet, thence N57°19'59"E 67.83 feet, thence N15°48'39"E 86.91 feet, thence N71°55'45"E 140.86 feet, thence S03°47'29"W 354.75 feet, thence S79°34'28"W 437.56 feet to the POINT OF BEGINNING, Containing 2.07 acres, more or less, subject to easements and right of ways of record.

HUGHMOUNT VILLAGE (PER FILE 0024-00000056):

A PART OF THE W1/2 OF THE SW1/4 OF SECTION 31, T17N, R30W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT A FOUND IRON PIN AT THE NW CORNER OF THE SW1/4 OF THE SW1/4 OF SECTION 31, T17N, R30W, THENCE N02°45'51"E 1317.63 FEET, THENCE N02°25'58"E 37.66 FEET, THENCE S87°34'04"E 171.15 FEET, THENCE S02°36'40"W 12.40 FEET, THENCE S87°34'04"E 349.42 FEET, THENCE S02°36'40"W 40.32 FEET, THENCE S87°34'04"E 798.45 FEET TO A POINT ON HUGHMOUNT ROAD, THENCE ALONG SAID ROAD S02°54'04"W 1308.53 FEET, THENCE CONTINUING ALONG ROAD S02°36'40"W 537.12 FEET, THENCE LEAVING HUGHMOUNT ROAD N87°18'47"W 1317.23 FEET, THENCE N02°45'51"E 537.22 FEET TO THE POINT OF BEGINNING, CONTAINING 56.25 ACRES, MORE OR LESS.

LEGAL DESCRIPTION - HUGHMOUNT VILLAGE R-A:

A PART OF THE W1/2 OF THE SW1/4 OF SECTION 31, T17N, R30W IN WASHINGTON COUNTY, ARKANSAS, AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID SW1/4, SW1/4, THENCE S02°45'51"W 537.22 FEET, THENCE S87°18'47"E 474.94 FEET TO THE POINT OF BEGINNING, THENCE N02°36'40"E 124.61 FEET, THENCE S87°21'30"E 232.89 FEET TO A POINT OF CURVE TO THE LEFT 45.54 FEET, SAID CURVE HAVING A RADIUS OF 36.00 FEET AND A CHORD BEARING AND DISTANCE OF N56°23'55"E 42.57 FEET, THENCE N20°09'20"E 291.34 FEET TO A POINT OF CURVE TO THE LEFT 16.84 FEET, SAID CURVE HAVING A RADIUS OF 55.00 FEET AND A CHORD BEARING AND DISTANCE OF N11°23'00"E 16.78 FEET, THENCE N02°36'40"E 562.73 FEET TO A POINT OF CURVE TO THE RIGHT 45.55 FEET, SAID CURVE HAVING A RADIUS OF 29.00 FEET AND A CHORD BEARING AND DISTANCE OF N47°36'39"E 41.01 FEET, THENCE S87°23'21"E 458.20 FEET, THENCE S02°54'04"W 499.73 FEET, THENCE S02°36'40"W 537.12 FEET, THENCE N87°18'47"W 842.29 FEET TO THE POINT OF BEGINNING, CONTAINING 12.92 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RIGHT OF WAYS OF RECORD.

LEGAL DESCRIPTION - HUGHMOUNT VILLAGE RSF-8:

A PART OF THE W1/2 OF THE SW1/4 OF SECTION 31, T17N, R30W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT A FOUND IRON PIN AT THE NW CORNER OF THE SW1/4 OF SECTION 31, T17N, R30W, THENCE N02°45'51"E 1,317.63 FEET, THENCE N02°25'58"E 37.66 FEET, THENCE S87°34'04"E 171.15 FEET, THENCE S02°35'52"W 12.40 FEET, THENCE S87°34'02"E 349.42 FEET, THENCE S02°36'25"W 40.32 FEET, THENCE S87°34'03"E 798.45 FEET, THENCE S02°54'04"W 808.80 FEET, THENCE N87°23'21"W 458.20 FEET TO A POINT OF CURVE TO THE LEFT 45.55 FEET, SAID CURVE HAVING A RADIUS OF 29.00 FEET AND A CHORD BEARING AND DISTANCE OF S47°36'39"W 41.01 FEET, THENCE S02°36'40"W 562.73 FEET TO A POINT OF CURVE TO THE RIGHT 16.84 FEET, SAID CURVE HAVING A RADIUS OF 55.00 FEET AND A CHORD BEARING AND DISTANCE OF S11°23'00"W 16.78 FEET, THENCE S20°09'20"W 291.34 FEET TO A POINT OF CURVE TO THE RIGHT 45.54 FEET, SAID CURVE HAVING A RADIUS OF 36.00 FEET AND A CHORD BEARING AND DISTANCE OF S56°23'55"W 42.57 FEET, THENCE N87°21'30"W 232.89 FEET, THENCE S02°36'40"W 124.61 FEET, THENCE N87°18'47"W 474.94 FEET, THENCE N02°45'51"E 537.21 FEET TO THE POINT OF BEGINNING, CONTAINING 43.33 ACRES, MORE OR LESS, SUBJECT TO EASEMENTS AND RIGHT OF WAYS OF RECORD.

LEGAL DESCRIPTION – HUGHMOUNT SOUTH:

A part of the SW1/4 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NW Corner of said SW1/4, thence S02°46'50"W 1,854.85 feet to the POINT OF BEGINNING, thence S87°18'47"E 1,283.73 feet, thence S02°38'17"W 657.71 feet, thence N87°24'55"W 1,285.37 feet, thence N02°46'50"E 660.00 feet to the POINT OF BEGINNING:

Containing 19.43 acres more or less subject to easements and right of way of record.

LEGAL DESCRIPTION: RSF-8 REZONE:

A part of the SW1/4 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NW Corner of said SW1/4, SW1/4, thence S02°46'50"W 1,854.85 feet to the POINT OF BEGINNING, thence S87°18'47"E 1,006.16 feet, thence S02°41'13"W 188.50 feet, thence S37°18'06"W 145.81 feet, thence N87°18'47"W 135.00 feet, thence S02°41'13"W 350.09 feet, thence N87°24'55"W 789.42 feet, thence N02°46'50"E 660.00 feet to the POINT OF BEGINNING, Containing 13.37 acres, more or less, subject to easements and right of ways of record.

LEGAL DESCRIPTION: R-A REZONING:

A part of the SW1/4 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NW Corner of said SW1/4, SW1/4, thence S02°46'50"W 1,854.85 feet, thence S87°18'47"E 1,006.16 feet to the POINT OF BEGINNING; thence S87°18'47"E 277.57 feet, thence S02°38'17"W 14.24 feet, thence S40°38'46"W 297.78 feet, thence S52°50'36"W 206.87 feet, thence S04°30'46"W 135.59 feet, thence S54°33'45"E 60.42 feet, thence S88°37'37"E 213.21 feet, thence N26°35'47"E 64.92 feet, thence N74°30'14"E 59.39 feet, thence S02°38'17"W 190.71 feet, thence N87°24'55"W 495.95 feet, thence N02°41'13"E 350.09 feet, thence S87°18'47"E 135.00 feet, thence N37°18'06"E 145.81 feet, thence N02°41'13"E 188.50 feet to the POINT OF BEGINNING, Containing 3.58 acres, more or less, subject to easements and right of ways of record.

LEGAL DESCRIPTION: NS-G REZONING:

A part of the SW1/4 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NW Corner of said SW1/4, SW1/4, thence S02°46'50"W 1,854.85 feet, thence S87°18'47"E 1,283.73 feet, thence S02°38'17"W 14.24 feet to the POINT OF BEGINNING; thence S02°38'17"W 452.76 feet, thence S74°30'14"W 59.39 feet, thence S26°35'47"W 64.92 feet, thence N88°37'37"W 213.21 feet, thence N54°33'45"W 60.42 feet, thence N04°30'46"E 135.59 feet, thence N52°50'36"E 206.87 feet, thence N40°38'46"E 297.78 feet to the POINT OF BEGINNING, Containing 2.48 acres, more or less, subject to easements and right of ways of record.

LEGAL DESCRIPTION – HUGHMOUNT EAST:

A part of the E1/2 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said NE1/4, SW1/4, thence S03°06'00"W 528.00 feet to the POINT OF BEGINNING; thence S03°06'00"W 823.65 feet, thence N87°31'05"W 1,313.49 feet, thence N02°49'40"E 170.42 feet, thence S87°30'13"E 325.83 feet, thence N02°48'49"E 159.46 feet, thence N87°31'12"W 325.58 feet, thence N02°54'04"E 495.00 feet, thence

S87°28'03"E 1,316.56 feet to the POINT OF BEGINNING, Containing 23.69 acres, more or less, subject to easements and right of ways of record.

LEGAL DESCRIPTION: NC ZONE:

A part of the NE1/4 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said NE1/4, SW1/4, thence S03°06'00"W 528.00 feet, thence N87°28'03"W 1,125.87 feet to the POINT OF BEGINNING, thence S02°31'57"W 494.81 feet, thence N87°31'12"W 193.87 feet, thence N02°54'04"E 495.00 feet, thence S87°28'03"E 190.69 feet to the POINT OF BEGINNING, Containing 2.18 acres, more or less, subject to easements and right of ways of record.

ALSO:

A part of the E1/2 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said NE1/4, SW1/4, thence S03°06'00"W 1,351.65 feet, thence N87°31'05"W 161.91 feet to the POINT OF BEGINNING; thence N87°31'05"W 1,151.58 feet, thence N02°49'40"E 170.42 feet, thence S87°30'13"E 325.83 feet, thence N02°43'00"E 106.15 feet, thence S87°28'03"E 824.53 feet, thence S02°31'57"W 275.75 feet to the POINT OF BEGINNING, Containing 6.50 acres, more or less, subject to easements and right of ways of record.

LEGAL DESCRIPTION: RSF-8 ZONE:

A part of the E1/2 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said NE1/4, SW1/4, thence S03°06'00"W 528.00 feet to the POINT OF BEGINNING; thence cS03°06'00"W 823.65 feet, thence N87°31'05"W 161.91 feet, thence N02°31'57"E 275.75 feet, thence N87°28'03"W 824.53 feet, thence N03°00'23"E 53.31 feet, thence N87°31'12"W 131.71 feet, thence N02°31'57"E 494.81 feet, thence S87°28'03"E 1,125.87 feet to the POINT OF BEGINNING, Containing 15.00 acres, more or less, subject to easements and right of ways of record.

LEGAL DESCRIPTION - HEYLIGER:

A part of the SE1/4 of the SW1/4 of Section 31, T17N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the NE Corner of said SE1/4, SW1/4, thence S03°06'00"W 38.24 feet to the POINT OF BEGINNING; thence S03°06'00"W 725.10 feet, thence S71°56'45"W 1,406.67 feet, thence N03°00'49"E 1,218.57 feet, thence S87°31'05"E 1,313.80 feet to the POINT OF BEGINNING, Containing 29.29 acres, more or less, subject to easements and right of ways of record.



To: Garner Stoll

CC: Fire Chief Brad Hardin

From: Battalion Chief Jeremy Ashley, Fire Marshal

Date: March 19, 2020

Subject: Addendum to RZN 20-6996:

In a rezone letter dated February 11, 2020 the Fire Marshals Office submitted to Jonathan Curth a detailed explanation of our current and future response times to the address listed on the rezone request (see page 2). This property is currently outside the limits of the City of Fayetteville. The primary fire and EMS response is currently the Wheeler Fire Department which is located approximately 3.2 miles away. I am unable to give a response time for the Wheeler Fire Department as they are another jurisdiction.

The property off Hughmont is in the area covered by an automatic aid agreement with the Wheeler Fire Department. Per the agreement if there is a reported structure fire in this area the Wheeler Fire Department is dispatched as well as the Fayetteville Fire Department. The Fayetteville Fire Department will respond with two (2) fire companies and one (1) command unit to assist Wheeler. This is a reduction of fire companies that are dispatched within the city limits of Fayetteville. Within Fayetteville five (5) fire companies and one (1) command unit is on the initial dispatch of a structure fire. EMS or any other emergency calls in this area will only get the response of the Wheeler Fire Department.



To: Jonathan Curth, Planner

CC: Battalion Chief Jeremy Ashley, Fire Marshal

From: Captain Nathan Wood, Deputy Fire Marshal

Date: February 11, 2020

Subject: RZN 20-6996: Rezone (Hughmount RD. North of MT. Comfort/Hughmount Rezone, 282):

Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

Station 7, located at 835 N Ruple, protects this site. The property is located approximately 2.8 miles from the fire station with an anticipated drive time of approximately 7 minutes using existing streets. The anticipated response time would be approximately 9.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

In the future, a new fire station located near the intersection of W. Dean St. and N. Porter Rd. will service this property. The property is located approximately 2.5 miles from the fire station with an anticipated drive time of approximately 5 minutes using existing streets. The anticipated response time would be approximately 7.2 minutes.

RESOLUTION NO. 144-13

A RESOLUTION TO AMEND RESOLUTION NO. 183-12 WHICH APPROVED A CONTRACT TO ALLOW ACCESS TO CITY OF FAYETTEVILLE SEWERAGE SYSTEM IN ORDER TO APPROVE AN AMENDED AGREEMENT

WHEREAS, on September 4, 2012, the Fayetteville City Council approved Resolution No. 183-12 which allowed the Hughmont Village Developers access to the City Sewerage System if they fulfilled the terms of the Contract To Allow Access To City Sewerage System; and

WHEREAS, the Contract To Allow Access To The City Sewerage System required: "All street frontage, density, lot area requirements, etc. (be the same) as if their property was zoned Residential Single Family, four units per acre;" and

WHEREAS, the Washington County Conditional Use Permit granted to Hughmont Village was incompatible with RSF-4 zoning; and

WHEREAS, the streets, drainage, sidewalks, water and sewer mains need be built to satisfy both Fayetteville and Washington County standards and the streets and drainage structures need to be dedicated to Washington County all as approved by the Fayetteville Planning Commission.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Resolution No. 183-12 to cancel the existing Contract To Allow Access To City of Fayetteville Sewerage System signed on September 7, 2012 and replace it with the Agreement To Allow Access To City Sewerage System and To Impose Development Requirements, attached as Exhibit A.

Section 2: The City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign this Agreement.

PASSED and APPROVED this 18th day of June 2013.

APPROVED:

ATTEST:

By:


LIONEL JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer



*Emailed to City Council
6-11-13*

AGENDA REQUEST

*Added at
Agenda Session
6-11-13*

FOR: COUNCIL MEETING OF June 18, 2013


FROM:


ALDERMAN ADELLA GRAY

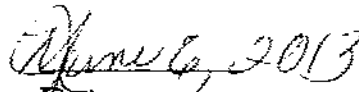
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

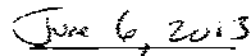
A Resolution to amend Resolution No. 183-12 which approved a contract to allow access to City of Fayetteville Sewerage System in order to approve an Amended Agreement

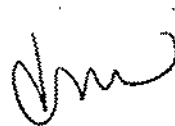
APPROVED FOR AGENDA:


Alderman Adella Gray


City Attorney Kit Williams


Date


Date



RESOLUTION NO. _____

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WHEREAS, the Contract To Allow Access To The City Sewerage System required: "All street frontage, density, lot area requirements, etc. (be the same) as if their property was zoned Residential Single Family, four units per acre;" and

WHEREAS, the Washington County Conditional Use Permit granted to Hughmount Village was incompatible with RSF-4 zoning; and

WHEREAS, the streets, drainage, sidewalks, water and sewer mains need be built to satisfy both Fayetteville and Washington County standards and the streets and drainage structures need to be dedicated to Washington County all as approved by the Fayetteville Planning Commission.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Resolution No. 183-12 to cancel the existing Contract To Allow Access To City of Fayetteville Sewerage System signed on September 7, 2012 and replace it with the Agreement To Allow Access To City Sewerage System and To Impose Development Requirements, attached as Exhibit A.

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PASSED and APPROVED this 18th day of June 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

AGREEMENT TO ALLOW ACCESS TO CITY SEWERAGE SYSTEM AND TO IMPOSE DEVELOPMENT REQUIREMENTS

WHEREAS, the developers/owners of Hughmount Village, whose project is close to, but outside the Fayetteville city limits, desire to be allowed to connect to and use the City of Fayetteville sewerage system's wastewater facilities for their proposed residential development; and

WHEREAS, the City of Fayetteville does not wish to grant owners/developers of Hughmount Village (or any similarly situated development) any advantage over owners/developers who will build and develop property within the City of Fayetteville; and

WHEREAS, on September 4, 2012, the City Council of the City of Fayetteville passed Resolution NO. 183-12 permitting such access, but the terms of the Contract were incompatible with the Conditional Use Permit issued for this development by Washington County so that a replacement Agreement is needed; and

WHEREAS, the City of Fayetteville is willing to allow developers/owners of Hughmount Village to connect to and utilize the City's wastewater treatment facilities only upon the developers/owners' express agreement to develop their residential project pursuant to all City of Fayetteville requirements for inside the city residential projects including:

- (1) All street frontage, density, lot area requirements, etc. as granted by the Conditional Use Permit approved by the Washington County Planning Board; Project #2011-103
- (2) Apply for and successfully complete the full preliminary plat/final plat process including payment of all appropriate fees.
- (3) Comply with all grading, stormwater, tree preservation and other development requirements as if this development was occurring within the City of Fayetteville.
- (4) Pay for all normal permits and application fees at the normal time including preliminary/final plat, building fees for each structure, and water, sewer, police, and fire impact fees.
- (5) To satisfy normal parkland dedication requirements, the City of Fayetteville Parks Board approved the dedication of 3.169 acres of land within Common Property 9 at their September 10, 2012 meeting. The exact limits of the park land dedication will be located west of the tree


preservation area and will be determined at the Final Plat after drainage and utility improvements are constructed. In addition, the Developer shall dedicate a trail easement sufficient to connect from the crosswalk at Common Property 8 at Cotton Willow Drive to the southern border of the property to meet a possible trail extension from the south from the Clabber Creek Trail. This trail and parkland shall remain the developer's or Property Owners Association's duty to maintain in good condition (which duty shall be in an irrevocable restrictive covenant in each property's deed until and unless this entire parcel has been annexed into the City of Fayetteville).

- (6) Construct all infrastructure; streets, drainage, sidewalks, water and sewer mains to City of Fayetteville and Washington County standards as previously approved by the Fayetteville Planning Commission on March 25, 2013 (PPL 13-4304) and by the Washington County Planning Board on May 2, 2013 (Proj.#2013-024). Water and sewer infrastructure is to be dedicated to the City of Fayetteville, street and drainage infrastructure is to be dedicated to Washington County.

HUGHMOUNT VILLAGE OWNERS/DEVELOPERS, in consideration of being allowed to utilize the City of Fayetteville sewerage system and wastewater facilities for their proposed development, do hereby agree to all terms and conditions stated above and promise to develop their property in full compliance with all requirements of the Unified Development Code as if their development was inside the city limits.

Further developers/owners of Hughmount Village pledge and promise to seek immediate annexation into the City of Fayetteville as soon as it becomes legally possible and to place this requirement within the covenants and deeds for each property within its development. **In agreement with all the terms, conditions, pledges and promises above, the City of Fayetteville and the owners/developers of Hughmount Village sign below.**


**HUGHMOUNT VILLAGE
DEVELOPERS/OWNERS**

By: 
Phil Phillips

Title: Owner

Date Signed: 6/6/13

**CITY OF FAYETTEVILLE,
ARKANSAS**

By: 
Lioneld Jordan, Mayor

Attest: 
Sondra E. Smith, City Clerk

Date Signed: 6/24/13



RESOLUTION NO. 183-12

A RESOLUTION TO APPROVE THE CONTRACT WITH HUGHMOUNT VILLAGE DEVELOPERS TO ALLOW THE EXTENSION OF THE CITY'S SEWERAGE SYSTEM BEYOND THE CITY LIMITS TO THE PROPOSED HUGHMOUNT VILLAGE DEVELOPMENT

WHEREAS, §51.113 **Sewer Service and Extension Policy** states that "the city's sewerage system shall not be extended outside the city's corporate limits except on the express approval of the City Council," and;

WHEREAS, the City Council does not wish to grant the owners/developers of Hughmount Village which is slightly outside the city limits any advantage over owners/developers who will build and develop property within the City of Fayetteville; and

WHEREAS, only if the owners/developers of Hughmount Village will contractually agree to develop its property pursuant to all development criteria required of persons who develop within the City of Fayetteville {including preliminary and final plat process, approval and payment of appropriate fees, building permit fees, all impact fees (fire, police, water, sewer, parkland), tree preservation requirements, drainage requirements, infrastructure improvement and dedication to the City of Fayetteville, etc.} will the City permit the owners/developers of Hughmount Village to utilize the City of Fayetteville sewerage system and its wastewater collection and treatment facilities; and

WHEREAS, because by signing the contract (attached as Exhibit A) the owners/developers of Hughmount Village have agreed to all such terms stated above, the City Council approves the extension of city sewerage system to Hughmount Village by allowing its developers to construct the necessary sewer mains from the appropriate city sewer main to its property and approves the Contract.

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

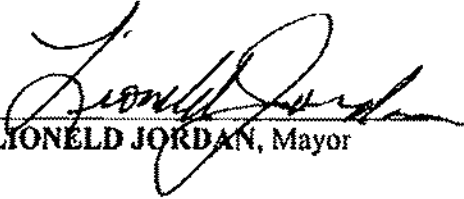
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the Contract to Allow Access to the City of Fayetteville Sewerage System, authorizes Mayor Jordan to sign such contract, and agrees to allow the developers of Hughmount Village access to the City's sewerage system and wastewater treatment facilities pursuant to the Contract. Attached as Exhibit B is the legal description for Hughmount Village Development for which access to the City's wastewater treatment facilities is being granted.

PASSED and **APPROVED** this 4th day of September, 2012.

APPROVED:

ATTEST:

By:


LIONELD JORDAN, Mayor

By:


SONDRA E. SMITH, City Clerk/Treasurer



Handed out at the City Council
Meeting 09-04-12



Departmental Correspondence



www.accessfayetteville.org

**LEGAL
DEPARTMENT**

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Mayor Jordan
City Council

FROM: Kit Williams, City Attorney

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

DATE: September 4, 2012

RE: Contract to allow access to City of Fayetteville Sewerage System

Attached please find a copy of the signed Contract. This contract would require the developer/owner of the proposed Hughmount Village to develop and pay the appropriate fees as any developer would if building within Fayetteville.

The developer desires to dedicate his proposed linear park (with a trail) to meet his parkland dedication requirement. Pursuant to the U.D.C. as long as the proffered land "is suitable for park purposes, the proposed dedication shall be accepted." §166.04 (B) (3) (1) (ii) d. The developer will be required to plant trees and build a trail to city standards running through his dedicated lots and provide easement access if a trail is extended from the Clabber Creek trail. All maintenance of the parkland shall be the property owners association's responsibility until and unless Hughmount Village is annexed into Fayetteville.

EXHIBIT "A"

CONTRACT TO ALLOW ACCESS TO CITY OF FAYETTEVILLE SEWERAGE SYSTEM

WHEREAS, the developers/owners of Hughmount Village, whose project is close to, but outside the Fayetteville city limits, desire to be allowed to connect to and use the City of Fayetteville sewerage system's wastewater facilities for their proposed residential development; and

WHEREAS, the City of Fayetteville does not wish to grant owners/developers of Hughmount Village (or any similarly situated development) any advantage over owners/developers who will build and develop property within the City of Fayetteville; and

WHEREAS, the City of Fayetteville is willing to allow developers/owners of Hughmount Village to connect to and utilize the City's wastewater treatment facilities only upon the developers/owners' express agreement to develop their residential project pursuant to all City of Fayetteville requirements for inside the city residential projects including:

- (1) All street frontage, density, lot area requirements, etc. as if their property was zoned Residential Single Family, four units per acre.
- (2) Apply for and successfully complete the full preliminary plat/final plat process including payment of all appropriate fees.
- (3) Comply with all grading, stormwater, tree preservation and other development requirements as if this development was occurring within the City of Fayetteville.
- (4) Pay for all normal permits and application fees at the normal time including preliminary/final plat, building fees for each structure, and water, sewer, police, and fire impact fees.
- (5) To satisfy normal parkland dedication requirements, dedicate to the City of Fayetteville upon plat approval Common Property Lots 4, 5, 6, 7 & 8 (3.86 acres) as parkland; and upon or prior to the sale of 30% of the building lots, plant trees basically as shown the plat and construct trails over such lots to City of Fayetteville standards basically as shown on Exhibit 1 (proposed plat of Hughmount Village). Dedicate a trail easement sufficient to connect from the trail at the crosswalk of Cottonwillow Drive to the southern border of the property to meet a possible trail extension from the south from the Clabber Creek Trail. This trail and parkland shall remain the developer's or Property Owners

Association's duty to maintain in good condition (which duty shall be in an irrevocable restrictive covenant in each property's deed until and unless this entire parcel has been annexed into the City of Fayetteville).

- (6) Construct all infrastructure; streets, sidewalks, water and sewer mains to City of Fayetteville standards and dedicate to the City of Fayetteville (streets may be jointly dedicated to City and County). HUGHMOUNT VILLAGE OWNERS/DEVELOPERS in consideration of being allowed to utilize the City of Fayetteville sewerage system and wastewater facilities for their proposed development do hereby agree to all terms and conditions stated above and promise to develop their property in full compliance with all requirements of the Unified Development Code as if their development was inside the city limits and zoned RSF-4.

Further developers/owners of Hughmount Village pledge and promise to seek immediate annexation into the City of Fayetteville as soon as it becomes legally possible and to place this requirement within the covenants and deeds for each property within its development.

In agreement with all the terms, conditions, pledges and promises above, the City of Fayetteville and the owners/developers of Hughmount Village sign below.

**HUGHMOUNT VILLAGE
DEVELOPERS/OWNERS**

By: *Phil Phillips*
Phil Phillips

Title: owner

Witness: *Kim J. Hesse*

Name: Kim J. Hesse

Date Signed: September 4, 2012

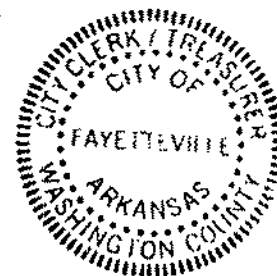
**CITY OF FAYETTEVILLE,
ARKANSAS**

By: *Lionel Jordan*
Lionel Jordan, Mayor

Attest:

By: *Sondra E. Smith*
Sondra E. Smith, City Clerk

Date Signed: 9-07-12





TO: Fayetteville Planning Commission

FROM: Jonathan Curth, Development Review Manager

MEETING DATE: February 24, 2020 (**Updated with Planning Commission Results**)

SUBJECT: **ANX 20-6995: Annexation (HUGHMOUNT RD. NORTH OF MT. COMFORT/HUGHMOUNT ANNEX, 282):** Submitted by HALL ESTILL ATTORNEYS, INC. for properties located along HUGHMOUNT RD. NORTH OF MT. COMFORT. The properties are in the FAYETTEVILLE PLANNING AREA and contain approximately 152.00 acres. The request is to annex the properties into the City of Fayetteville

RECOMMENDATION:

Staff recommends forwarding **ANX 20-6995** to the City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **ANX 20-6995** to the City Council with a recommendation of approval."

BACKGROUND:

The subject property is northwest of Fayetteville in unincorporated Washington County. The overall property includes numerous parcels on both the east and west sides of Hughmount Road, between Weir and Mount Comfort Roads. The property is generally level, sloping gradually downward towards the Clabber Creek corridor to the south. Although large areas of the property remain largely undeveloped, approximately 54 acres was platted as the Hughmount Village subdivision. In 2012, City Council approved Resolution 183-12 allowing the extension of Fayetteville's sewerage system to the subdivision. In exchange, the property was developed subject to the requirements of the Fayetteville's Unified Development Code, including tree preservation, drainage, building permitting, and other associated fees and dedications. This resolution was amended in 2014 under Resolution 17-14 to address development modifications. Among the changes to the agreement, the homeowners of Hughmount Village are to petition for annexation when legally possible. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	AG/SF Res 1 (Unincorporated Washington County)
South	Undeveloped/Large Lot Residential; Single-family Residential	AG/SF Res 1 (Unincorporated Washington County); RSF-4, Residential Single-family, 4 Units per Acre
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Undeveloped/Large Lot Residential	AG/SF Res 1 (Unincorporated Washington County)

Request: The request is to annex the subject property in to the City of Fayetteville. The applicant has stated that the annexation is needed to comply with the terms of Resolution 17-14 as it relates to Hughmount Village and as approved by City Council in January of 2014. Additional properties

are intended to remain undeveloped or as future phases of the subdivision.

Public Comment: Staff has received public inquiries regarding this request and its associated rezoning (RZN 20-6996), but no statements of support or opposition.

INFRASTRUCTURE:

Streets: The subject properties have direct access to Hughmount Road. Per the 2040 Master Street Plan, Hughmount Road is not designated and would generally be considered a Residential Link. Properties proposed for annexation to the north and south of Hughmount village have access to public streets built in association with Hughmount Village. These were required to meet Fayetteville's block length and connectivity requirements, and were stubbed out for future connectivity. Any drainage or street improvements required would be determined at the time of development proposal.

Water: Public water is available to the subject property. An existing, looped 6-inch water main provides service along Hughmount Road while 8-inch mains are installed throughout Hughmount village. Mains within Hughmount Village are stubbed out at five locations to facilitate future service.

Sewer: Sanitary Sewer is available to portions of the subject property. An existing 8-inch sanitary sewer main serves the Hughmount Village subdivision. Mains within Hughmount Village are stubbed out at five locations to facilitate future service. Future development in this area will require sewer capacity analysis as this line may not be adequate to support additional impact.

Drainage: No portion of the site lies within the Hilltop-Hillside Overlay District. Given the presence of Clabber Creek and an unnamed tributary along the southern portion of the subject property, FEMA-designated floodplains, streamside protection zones, and hydric soils are all present.

Fire: The property will be protected by Station 7, located at 835 North Ruppel Road, which is approximately 2.8 miles from the subject property. The anticipated response time would be approximately nine minutes. This is outside the response time goal of six minutes for an engine and eight minutes for a ladder truck.

Of note, a new fire station is proposed near the intersection of Deane Street and Porter Road which would serve the subject property. The response time from the new station would be approximately seven minutes. This is outside the response time goal of six minutes for an engine, but within the response time goal of eight minutes for a ladder truck.

Police: The Police Department did not express any concerns with this request.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the properties within the proposed rezone as **Residential Neighborhood Area**. Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single-family, multi-family, and rowhouses. Development is encouraged to be highly-connected, with compact blocks, grid street pattern and reduced

setbacks. Low-intensity non-residential uses are encouraged at appropriate locations, such as on corners and connecting corridors.

FINDINGS OF THE STAFF

CITY PLAN 2040 (Res. 35-20)

12.3 Annexation Guiding Policies

Boundaries

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

Finding: **Although the larger portion of the proposed annexation will ‘square-off’ a city boundary, the northernmost extent of the subject property will create a peninsula of incorporated land within unincorporated Washington County. Staff recommends removal or denial of this portion of the request, described as Hughmont North, or consideration of additional areas of annexation along Hughmont Road to provide a logical boundary.**

12.3.5.b The proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: **The proposed annexation area is adjacent and contiguous to Fayetteville’s City Limits in west Fayetteville.**

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

Finding: **The proposed annexation includes the entirety of Hughmont Village, the only subdivision in the area of interest.**

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

Finding: **The proposed annexation boundaries follow the property lines of several properties and encompass both the east and west sides of Hughmont Road. To the south and west, the annexation boundary aligns with existing, incorporated land and platted subdivisions. To the west and north it abuts unincorporated land.**

12.3.5.e The provision of services should be concurrent with development.

Finding: **The property is adjacent to City water but outside current acceptable response times of the Fayetteville Fire Department. While portions of the property currently have access to sanitary sewer, others will require extension. Further, per comments from the Engineering Division, additional connections to existing sanitary sewer mains will necessitate evaluation for capacity.**

ENVIRONMENTALLY SENSITIVE AREAS

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

Finding: With the exception of Hughmount Village, large areas of the property are undeveloped except for open space and agricultural uses. Otherwise, significant areas of the property are located within the floodplain of Clabber Creek and an unnamed tributary. Annexing the property would subject it to Fayetteville's higher standard of development criteria, including streamside protection zones and tree preservation. Additionally, these riparian areas are identified as within the Enduring Green Network.

EMERGENCY AND PUBLIC SERVICES

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

Finding: **Fire:** The Fayetteville Fire Department response time to this location is approximately nine minutes from the current closest station (835 N. Ruppel Road). The Fire Department response time goal is six minutes for an engine and eight minutes for a ladder truck. Construction of a proposed new station at Deane and Porter will reduce response times to within acceptable limits for a ladder truck, but outside acceptable limits for an engine.

Police: To date, the Fayetteville Police Department has not expressed any concerns with this request.

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

Finding: The subject property would receive the same services, including trash service, police protection, fire protection, sewer, water, recycling and yard waste pick-up, and zoning protection as nearby property within the City. That being stated, development may necessitate extension or upgrading of existing sanitary service, and fire department response times to the area are currently below goals.

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

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

INFRASTRUCTURE AND UTILITIES

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

Finding: Although not the primary responder, fire protection is currently provided under the City's automatic response agreements with outlying areas. The overall property currently has access to City water and portions have access

to sanitary sewer, but sanitary sewer extensions and possibly upgrades will be required to serve the entirety of the property.

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

Finding: Engineering: Although existing utilities are located along Hughmount Road and within the Hughmount Village subdivision, Engineering staff advises that sanitary sewer capacity may be inadequate. Additionally, some properties will require sanitary sewer extension before connection.

Planning: The proposed annexation will not immediately lead to increased density on the subject property or increased traffic congestion in the area. If developed under the zoning requirements of the concurrently-requested R-A, RSF-1, RSF-8, NC, and NS-G zoning districts there will be an increase in both density and traffic. Given proximity to Mount Comfort Road, a Regional Link, Planning staff does not anticipate an immediate increase in traffic from this site will pose a hazard, but future developments may be responsible for street, bridge, or intersection improvements.

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

Finding: Not applicable; the proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

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

Finding: Not applicable; the extent of the proposed rezoning is not within or adjacent to the planning areas of other municipalities in Washington County. Additionally, the property would not require access through other jurisdictions nor would it be served by their services.

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

Finding: Not applicable; The subject property and all of those around it are served by either Fayetteville water, sewer, or both. Those currently not served by Fayetteville water and sewer utilize water wells or septic systems.

ADMINISTRATION OF ANNEXATIONS

12.3.5.o Develop a land use plan for annexation initiated by the City.

Finding: Not applicable; this annexation is not City-initiated. However, the property is included within the City's Future Land Use Map. The map was recently

amended and adopted with City Plan 2040, and expanded the amount of land northwest of Fayetteville that is designated as Residential Neighborhood Area.

12.3.5.p Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. However, the applicant has submitted a concurrent request to rezone portions of the area under consideration for single-family development and nonresidential use (see attached exhibit). The request is to rezone approximately 47.86 acres to R-A, Residential Agricultural, 1.19 acres to RSF-1, Residential Single-family, 1 Unit per Acre, 8.68 acres to NC, Neighborhood Conservation, 2.48 acres to NS-G, Neighborhood Services, General, and the remaining balance of approximately 91.79 acres to RSF-8, Residential Single-family, 8 Units per Acre.

12.3.5.q An annexation study should be completed on all annexation proposals.

Finding: Planning staff has engaged with the Engineering Division along with the Water and Sewer, Fire, and Police Departments to review the proposed annexation. The request was studied to determine if facilities or services are available or needed in association with this request. Responses are included throughout this report.

12.3.5.r Development proposals require a separate review from the annexation proposals.

Finding: Future development of the subject property will be required to go through the development review process.

12.3.5.s Residents should be fully informed of annexation activities.

Finding: Per §157.03 of the Unified Development Code, property owners and residents within 200 feet of the subject property are notified. Additionally, a legal advertisement has been submitted with the local newspaper prior to the Planning Commission meeting for which this item is scheduled.

12.3.5.t Encourage larger annexations to create acceptable boundaries.

Finding: Staff finds that this request is of a moderate size, totaling approximately 152 acres. While the request would annex Hughmount Village as required by the 2014 resolution that granted sanitary sewer service to the subdivision, portions of the overall annexation would create a peninsula that may compromise City Plan 2040's policy to avoid creating irregular boundaries that may adversely affect development patterns or provision of services.

12.3.5.u Conduct a fiscal impact assessment on large annexations.

Finding: Given the moderate size of the proposed rezoning, a fiscal impact assessment was not conducted for the requested annexation. However, it should be noted that annexing land toward the northwestern extent of the City and developing it can pose financial challenges for the City to maintain

public infrastructure in a fiscally sustainable manner. The proposal to rezone the property in a manner that promotes lower densities may exacerbate this.

RECOMMENDATION: Planning staff recommends forwarding ANX 20-6995 to the City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required YES

Date: February 24, 2020 ☐ Tabled ☐ Forwarded ☒ Denied

Motion: Paxton

Second: Canada

Vote: 7-1-0, Brown voted 'no'

BUDGET/STAFF IMPACT:

None

Attachments:

- City Plan 2040, Section 12.3: Annexation
- Request letter
- Order of Annexation
- Annexation Exhibit
- Rezoning Exhibit
- City Services Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

12.3 Annexation

Annexation is the inclusion of previously unincorporated lands within the City limits. Annexation has benefits to the residents of the annexed area as well as to the City. The residents gain access to urban services, such as enhanced police and fire protection and have a voice in city government. The City gains the ability to control development and extend boundaries in a logical manner.

The purpose of this planning element is to take a more active approach toward annexations by identifying potential annexations areas and establishing annexation policies. The annexation policies will guide evaluation of future annexation proposals. The policies are designed to ensure that public services, infrastructure, and utility extension is properly addressed in order to manage growth. The potential annexation areas may become part of the City when these annexation policies are met.

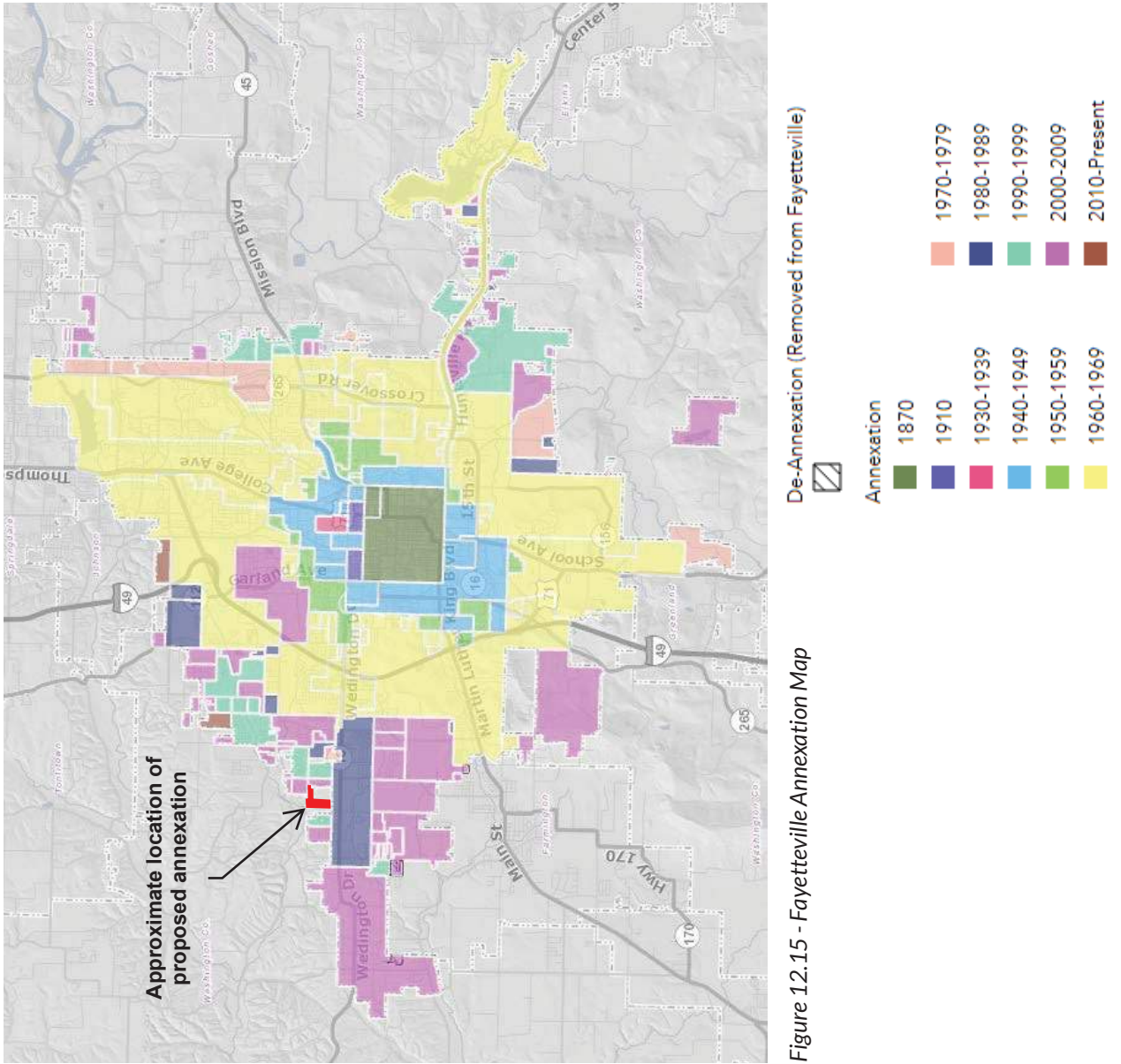


Figure 12.15 - Fayetteville Annexation Map



Annexation History and Trends

The original town was incorporated in 1870 with approximately 1,100 acres. Since incorporation, the City has made almost 200 annexations, totaling over 34,000 acres. Annexation activity was relatively slow until the 1940's, when over 2,500 acres were annexed within 19 annexations. During the 1950's, almost the same number of annexations took place, however, the total land area annexed was significantly smaller than in the 1940's. By the 1960's, annexation activity increased dramatically, with 42 annexations bringing over 18,000 acres into the city limits. Annexation numbers dropped in 1970 and stayed steady until the 1990's, when the number of annexations tripled from the 1980's. By 2000, the City contained 45 square miles and by 2018 the City contained approximately 55 square miles.

One indicator of the amount of developable land within the City is the number of people per acre. Prior to 1940 there were approximately 5.6 persons per acre. This era represents the time when Fayetteville was still relatively small and consisted primarily of what we would now consider the downtown and surrounding neighborhoods. By 1970, after numerous large annexations in the 1960's, the persons per acre had been reduced to 1.3. The City's population continued to increase dramatically through the 2000's when we maintained just over 2 people per acre from 2000-2010. An annexation referendum in October of 2006 for a large area along Wedington Drive on the west side of town brought in an additional 1,400 acres of low density land for eventual development.

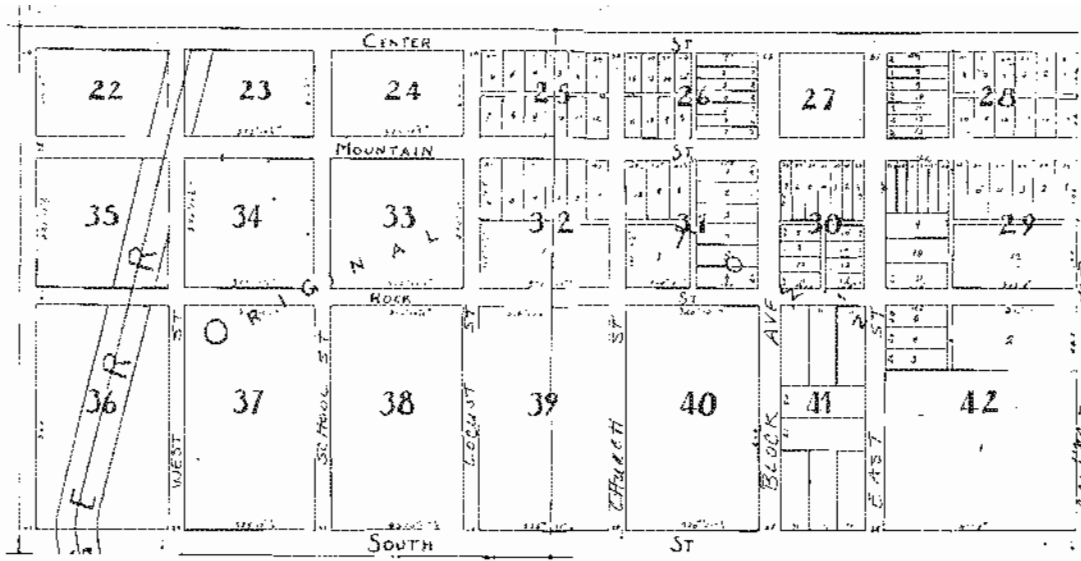


Figure 12.16 - Fayetteville Town Plat



State Statutes on Annexation

Title 14, Chapter 40 of the state statute discusses annexation. Annexations can be initiated by a municipality or by property owners.

A municipality can annex contiguous lands, lands surrounded by the municipality, unincorporated area that is completely bounded by two or more municipalities. If the municipality has the greater distance of city limits adjoining the area, and land contiguous and in adjacent counties to annex any contiguous lands, the governing body must adopt an ordinance, passed by two-thirds of the governing body and hold an election of the people. Those lands must meet one of the following criteria:

- Platted and held for sale or use as municipal lots;
- Whether platted or not, if the lands are held to be sold as suburban property;
- When the lands furnish the abode for a densely settled community or represent the actual growth of the municipality beyond its legal boundary;
- When the lands are needed for any proper municipal purposes such as for the extension of needed police regulation; or
- When they are valuable by reason of their adaptability for prospective municipal uses.

Contiguous lands must not be annexed if they meet either of the following criteria:

- Have a fair market value at the time of adoption of the ordinance of lands used only for agricultural or horticultural purposes and the highest and best use of the land is for agricultural or horticultural purposes; or
- Are lands upon which a new community is to be constructed with funds guaranteed in whole or in part by the federal government under Title IV of the Housing and Urban Development Act of 1968 or under Title VII of the Housing and Urban Development Act of 1970.

To annex land surrounded by a municipality, the governing body can propose an ordinance to annex the property. Again, the lands must meet the criteria listed above. A public hearing must be held within 60 days of the proposed ordinance, A majority of the governing body must approve the annexation for it to become effective.



Figure 12.17 - Great Seal of the State of Arkansas



Property owners in areas contiguous and adjacent to the municipality may request annexation. They can apply with a petition of the majority of land owners in the area, if the majority of the total number of owners own more than one-half of the acreage affected.

Potential Annexation Areas

The potential annexation areas should be identified by the City using the following criteria:

- Areas that are already urban in character.
- Areas that can be developed at urban densities.
- Immediate areas are those that are peninsulas or islands, where municipal services have already been extended.
- Vacant lands that are subject to development pressure.
- Areas where urban services are already provided.
- Areas where urban services are needed.

Annexation Guiding Policies

Boundaries

- Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- Proposed annexation area must be adjacent, or contiguous, to city limits.
- Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- Boundaries for annexed areas should follow natural corridors.
- The provision of services should be concurrent with development.

Environmentally Sensitive Areas

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

Emergency and Public Services

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



Infrastructure and Utilities

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

Intergovernmental Relations

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

Administration of Annexations

- Develop a land use plan for annexation initiated by the City.
- Designate zoning districts for property during the annexation process.
- An annexation study should be completed on all annexation proposals.
- Development proposals require a separate review from the annexation proposals.
- Residents should be fully informed of annexation activities.
- Encourage larger annexations to create acceptable boundaries.
- Conduct a fiscal impact assessment on large annexations.



**Request
Letter****PETITIONER'S STATEMENT**

The Petitioner has reviewed the Annexation section of the City Plan 2030 and unequivocally submits that this annexation meets the City's guidelines, policies, rules and regulations as laid out in section 12.3 of said Plan. Specifically this annexation will not just meet but will help promote the City's annexation policies in that it will not create an island as the annexation is adjacent to the existing city limits. No subdivision will be divided. The city already provides water and sewer to a good portion of this property to be annexed and other public services certainly can be provided efficiently in the newly annexed area. Further, Resolution No. 17-14 passed by the City of Fayetteville January 7, 2014 in which Fayetteville allowed Hughmount developers access to the city's sewer and water (specifically see Exhibit A to that resolution signed by the Hughmount developers and the City of Fayetteville) states "Further developers/owners of the Hughmount Village pledge and promise to seek immediate annexation into the City of Fayetteville as soon as it becomes legally possible..." The significance of this Resolution is that it has always been the city's intent to annex the Hughmount Village Subdivision. A good portion of the rest of the property to be annexed will be subsequent phases of the same subdivision. Further, the Petitioner is filing simultaneous with this annexation petition a Petition to Zone the annexed property into five (5) zoning classifications.

ANX 20-6995
**Order of
Annexation**

FILED

2019 SEP 27 AM 9:25

LETTY LE GALLEN
CO. & PROBATE CLERK
WASHINGTON CO. AR

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

**IN THE MATTER OF ANNEXING
TO THE CITY OF FAYETTEVILLE,
ARKANSAS, CERTAIN CONTIGUOUS
LAND TO THE CITY OF
FAYETTEVILLE, ARKANSAS**

CC 2019-14

ORDER OF ANNEXATION

NOW on this 26th day of September, 2019, comes on for consideration before this Court, the matter of annexation of certain contiguous lands to the city of Fayetteville, Arkansas. Said land is described in "Exhibit A" attached hereto and incorporated by reference.

From the evidence presented by the Petitioner through its attorney, Robert K. Rhoads, the Court finds as follows:

1. The Petitioner has petitioned this Court to annex the above described property into the City of Fayetteville, Washington County, Arkansas, and have published notice of this hearing as required by law.
2. All the lands proposed to be annexed into Fayetteville, Washington County, Arkansas, are contiguous to property already situated in Fayetteville, Washington County, Arkansas.
3. The property which is legally described in the petition has been accurately described, an accurate map thereof has been made and filed, and the prayer of the Petitioner is right and proper.
4. The Petitioner has satisfied the requirement for signatures under A.C.A. § 14-40-601 by presenting the Court with 89 signatures out of the 138 real estate owners within the land proposed to be annexed. The 89 signatures constitutes a majority of the real estate owners, as required by A.C.A. § 14-40-601.
5. This Court therefore determines that an Order of Annexation is proper.

IT IS THEREFORE, CONSIDERED, ORDERED AND DECREED that the above described tracts of land be, and hereby are, annexed to and made part of the City of Fayetteville, Washington County, Arkansas, subject to the approval of the City Council of the City of Fayetteville, Arkansas.

IT IS SO ORDERED.



HONORABLE JOSEPH K. WOOD
COUNTY JUDGE

Prepared by:

Brian R. Lester
Washington County Attorney
280 North College Ave., Suite 500
Fayetteville, AR 72701
t/(479) 973-8415
f/(479) 444-1889
blester@co.washington.ar.us

Parcel 001-16806-000
Homestead AB, LLC
659 Randall Wobbe Road
Springdale, AR 72764

WD 2011-29675 Property 3

Part of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 31, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at a point 528.00 feet South of the NE corner of said 40 acre tract, and running thence S 89 degrees 45'00" W 1320.00 feet; thence South 495.00 feet; thence N 89 degrees 45'00" E, 1316.81 feet; thence N 00 degrees 22'00" E 495.00 feet to the Point of Beginning, containing 14.98 acres, more or less.

Parcel 001-16794-000
Homestead AB, LLC
659 Randall Wobbe Road
Springdale, AR 72764

WD 2011-29675 Property 7

A part of the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 31, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Commencing at a found pin for the NE corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 31, T-17-N, R-30-W; thence S 03 degrees 06'20" W, 1022.25 feet to a found iron pin for the Point of Beginning; thence S 03 degrees 16'51" W 330.06 feet to a found iron pin; thence N 87 degrees 30'14" W 1312.80 feet to a set iron pin; thence N 02 degrees 52'05" W (E), 170.41 feet to a set iron pin; thence (S) 87 degrees 30'29" E, 326.20 feet to a set iron pin; thence N 02 degrees 52'05" E, 159.53 feet to a set iron pin, thence S 87 degrees 30'29" E, 988.98 feet to the Point of Beginning, containing 8.76 acres, more or less.

Parcel 001-16808-000
Heyliger Family Trust
2462 N. Hughmount Road
Fayetteville, AR 72704

WD 2017-19425

Part of the Southeast Quarter of the Southwest Quarter of Section Thirty-one (31), Township Seventeen (17) North, Range Thirty (30) West, more particularly described as follows, to-wit: From the Northeast corner of the Southeast Quarter of the Southwest Quarter, Section 31, Township 17 North, Range 30 West, proceed South 00 degrees 39 minutes 43 seconds West 725.1 feet or to a point which is 1316.76 feet East and North 0 degrees 57 minutes 0 seconds East 1677.40 feet from the Southwest corner of the Northeast Quarter of the Fractional Northwest Quarter of Section 1, Township 16 North of Range 31 West, thence South 69 degrees 48 minutes 24 seconds West 1360.43 feet or to the West line of said Southeast Quarter of the Southwest Quarter of said Section 31, Township 17 North, Range 30



West; thence North along the West line of said 40 acre tract to the Northwest corner thereof; thence North 89 degrees 58 minutes 21seconds East 1319.47 feet to the point of beginning.

Parcel 001-11382-001 & 001-16809-201
Darrell Scott & Norma Kilgore
2360 N. Hughmount Road
Fayetteville, AR 72704

WD 2007-26765

A part of the fractional Northwest Quarter (NW ¼) of Section 1, Township 16 North, Range 31 West and a part of the South One Half (S ½) of Section 31, Township 17 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, and being more particularly described as follows, to-wit: Beginning at a point that is North 806.54 feet and West 237.95 feet from the Southwest corner of the Northeast Quarter (NE ¼) of the fractional Northwest Quarter (NW ¼) of said Section 1, Township 16 North, Range 31 West; thence N 37 degrees 58'10" E, 289.73 feet; thence N 45 degrees 41'55" E, 70.6 feet; thence N 55 degrees 12'38" E, 67.83 feet; thence N 13 degrees 41'18" E 86.91 feet; thence N 69 degrees 48'24" E, 140.86 feet; thence S 1 degree 40'08" W, 354.75 feet; thence S 77 degrees 27'11" W, 437.56 feet to the point of beginning and containing 2 acres, more or less.

Parcel 001-16807-002 & 001-16807-003
Homestead AB, LLC
659 Randall Wobbe Road
Springdale, AR 72764

WD 2011-29675 Property 6

A part of the SW ¼ of the SW ¼ of Section 31, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at a point which is S 00 degrees 10 minutes 42 seconds W, 1854.85 feet from the NE corner of the SE ¼ of Section 36, T-17-N, R-31-W, Washington County, Arkansas, and running thence S 89 degrees 53 minutes 56 seconds E, 1283.73 feet; thence S 00 degrees 02 minutes 09 seconds West 658.54 feet; thence N 89 degrees 57 minutes 37 seconds W, 1285.37 feet; thence N 00 degrees 10 minutes 42 seconds E, 660.00 feet to the Point of Beginning, containing 19.41 acres, more or less.

Parcel Nos. 256-00001-000 through 256-00129-000

Lots 1 through 128, inclusive, and Common Property Lots CP1 through CP9, inclusive, of Hughmount Village, as per plat of said Subdivision in Plat Book 24 at Page 56 and Plat Book 24 at Page 60 on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

Parcel 001-16799-000
Hughmount Village, LLC
2600 Charis Lane
Springdale, AR 72764

WD 2015-2401

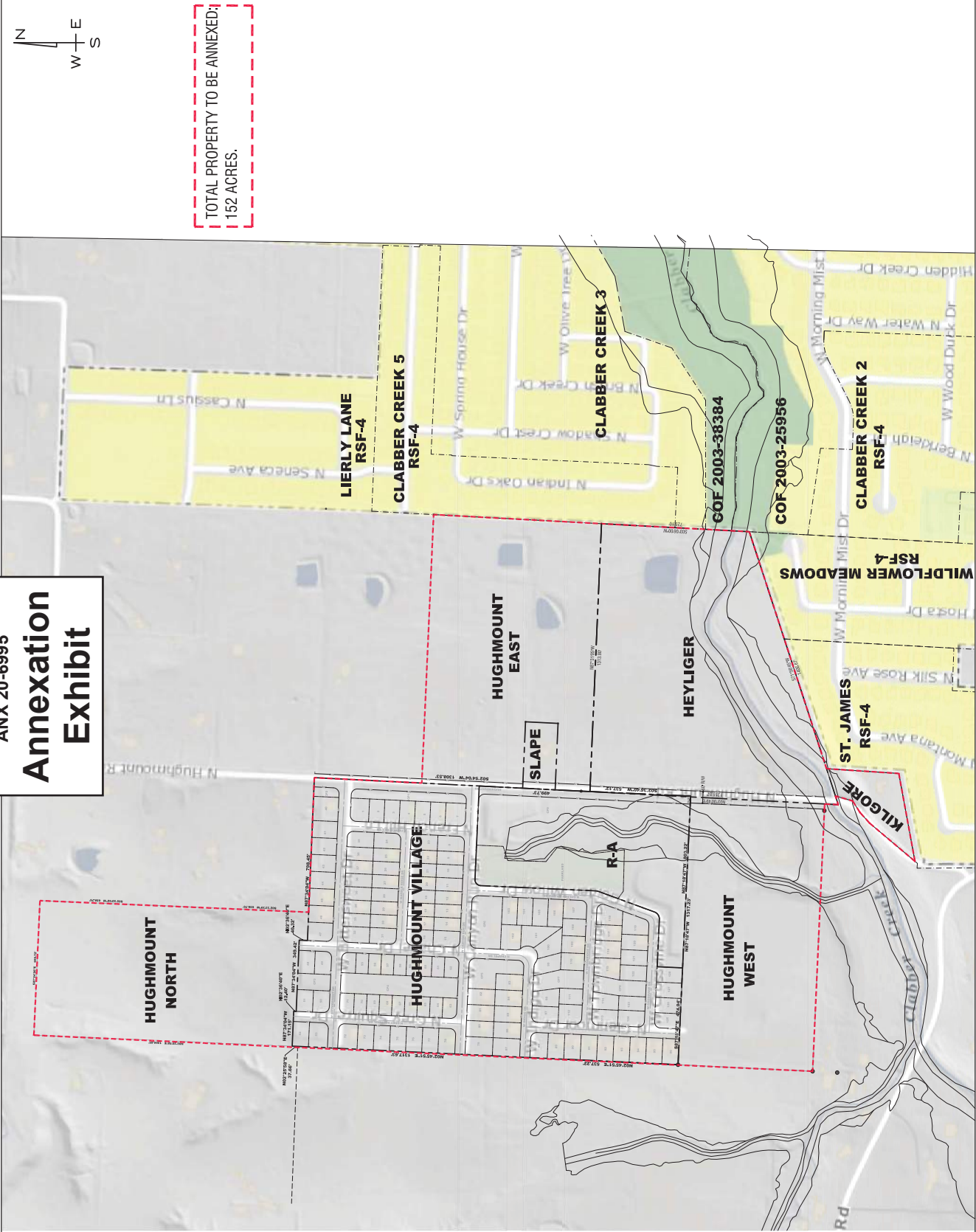
A part of the W ½ of the SW ¼ of Section 31, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as commencing from a found iron pin at the NW corner of the SW ¼ of the SW ¼ of Section 31, T-17-N, R-30-W, thence North 02°45'51" East - 1,317.63 feet, thence North 02°25'58" - 37.66 feet to the Point of Beginning of adjusted Tract B, thence North 02°25'58" East 1266.65 feet; thence South 87°24'26" East 659.72 feet, thence South 02°22'02" West 658.76 feet, thence South 02°33'39" West - 658.76, thence North 87°34'04" West 138.59 feet, thence North 02°36'40" East 40.32 feet, thence North 87°34'04" West 349.42 feet, thence North 02°36'40" East 12.40 feet, thence North 87°34'04" West 171.15 feet to the Point of Beginning of Adjusted Tract B, containing 19.44 acres, more or less.

Parcel 001-16794-001
Michael L. Slape
2634 N. Hughmount Road
Fayetteville, AR 72704

WD 2007-20755

A part of the E ½ of the SW ¼ of Section 31, T-17-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Commencing at a found iron pin for the NE corner of the NE ¼ of the SW ¼ of said Section 31, T-17-N, R-30-W; thence S 03°06'20" W, 1022.25 feet to a found iron pin; thence N 87°30'29" W, 988.98 feet to a set iron pin for the point of beginning; thence S 02°52'05" W, 159.53 feet to a set iron pin; thence N 87°30'29" W, 326.20 feet to a set iron pin; thence N 02°52'05" E, 159.53 feet to a set iron pin; thence S 87°30'29" E, 326.20 feet to the point of beginning, containing 1.19 acres, more or less.

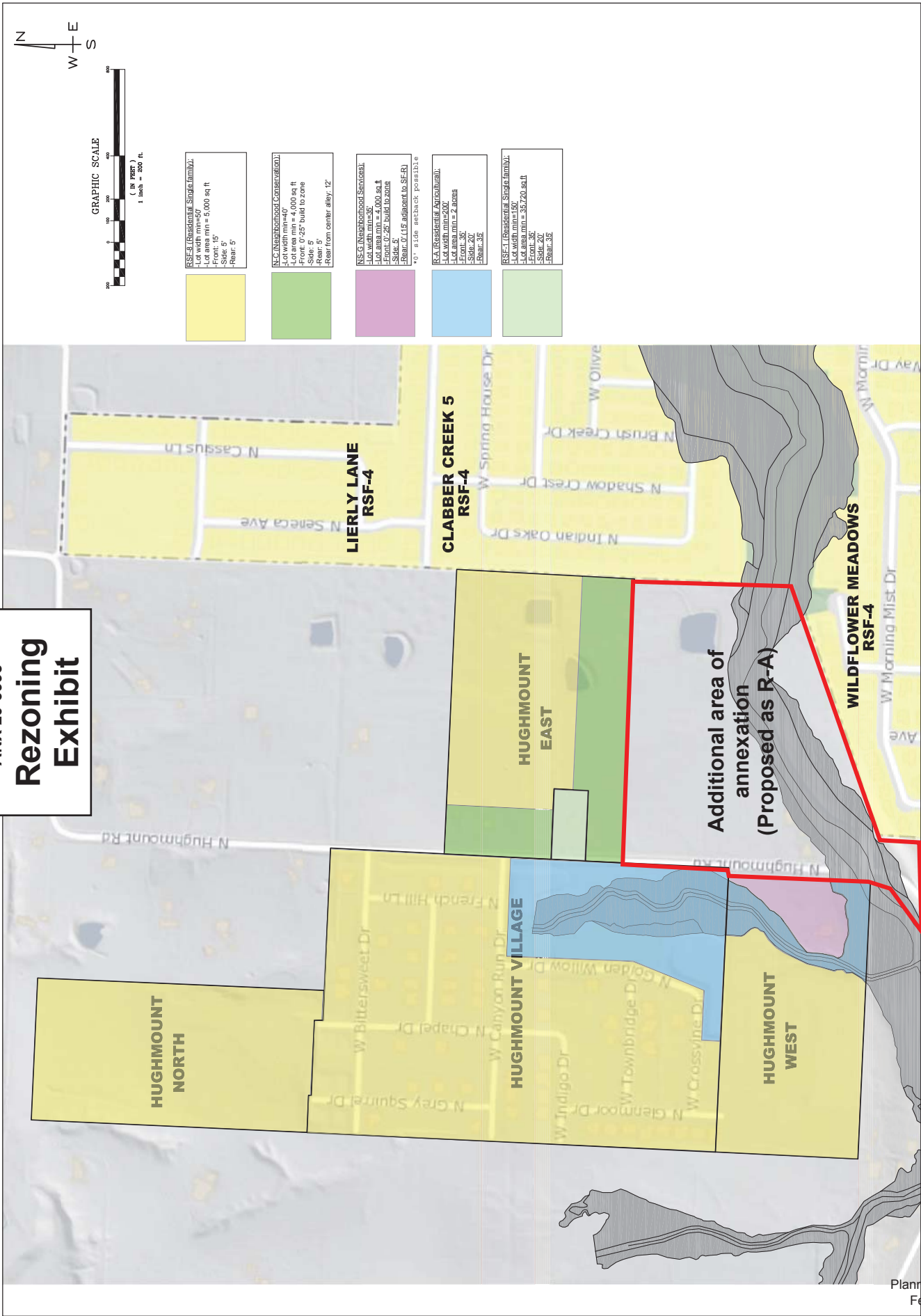
ANX 20-6995
**Annexation
 Exhibit**



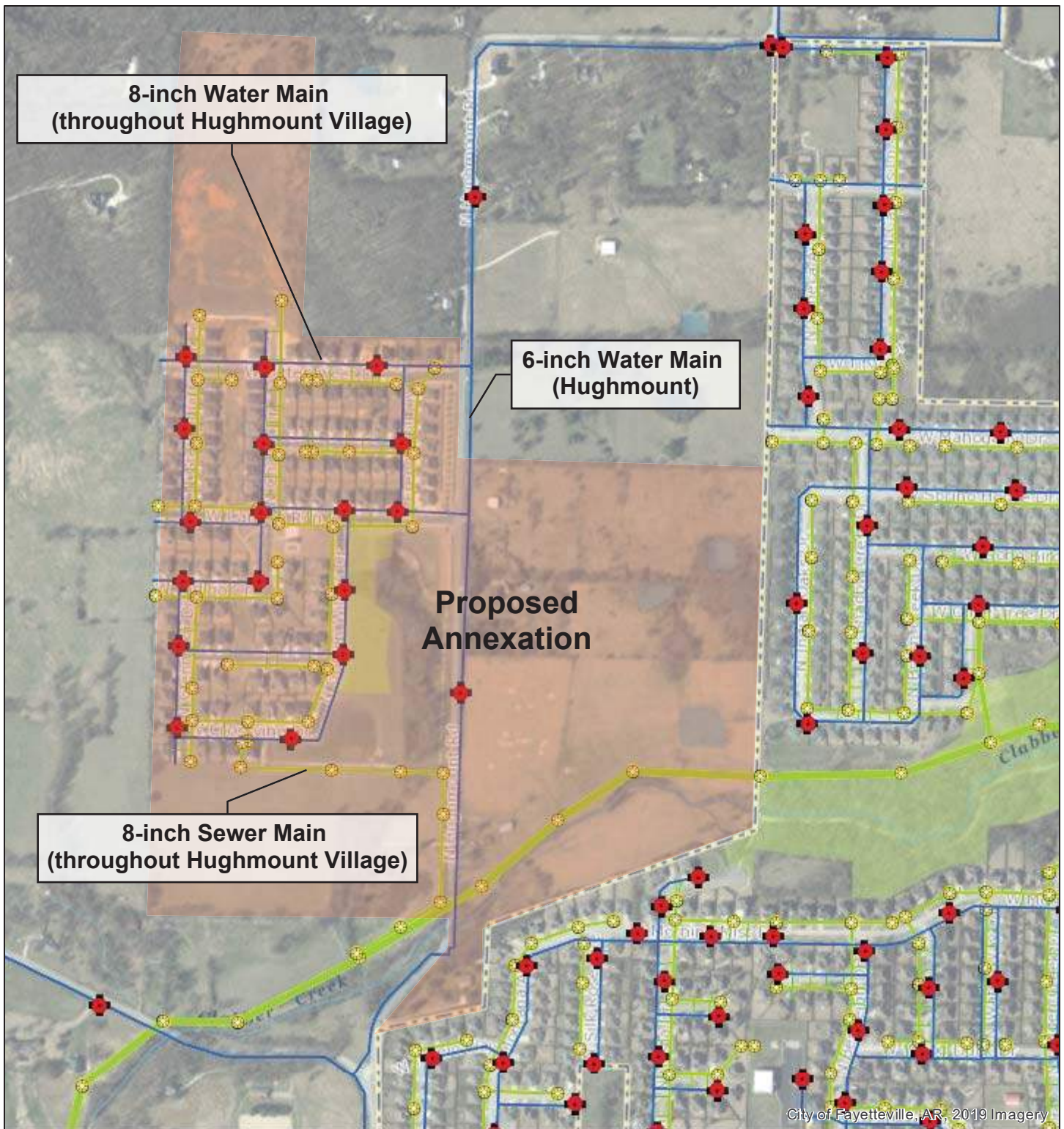
TOTAL PROPERTY TO BE ANNEXED;
 152 ACRES.

<p>JORGENSEN + ASSOCIATES Civil Engineering - Land Surveying 204 W. Salisbury Drive, Suite 5 Fayetteville, AR 72703 Phone: 479.442.9277 Fax: 479.442.9273 Email: info@jorgensenassoc.com Established 1985</p>	<p>LEGEND</p> <ul style="list-style-type: none"> PROPOSED PROPERTY EXISTING PROPERTY SET BACK P.M. & CAP POWER POLE EXISTING WATER MAIN EXISTING SEWER MAIN EXISTING FIRE HYDRANT STREET LIGHT EXISTING P. SEWER LINE PROPOSED P. SEWER LINE EXISTING WATER LINE PROPOSED P. WATER LINE CENTRALINE STREET BUILDING FOOTPRINT UTILITY EASEMENT UTILITY RIGHT-OF-WAY UTILITY CROSSING EXISTING CONTOUR FINISHED CONTOUR 	<p>PROJECT TITLE: HUGHMOUNT</p>	<p>PROJECT LOCATION: FAYETTEVILLE, AR</p>
		<p>REVISIONS</p>	<p>DATE: 1.6.2020 PROJECT: 20-6995 PROJECT: 20-6995 PROJECT: 20-6995 PROJECT: 20-6995 PROJECT: 20-6995</p>
<p>SHEET TITLE: ANNEXATION EXHIBIT</p>		<p>SHEET NUMBER: 1</p>	

ANX 20-6995 Rezoning Exhibit

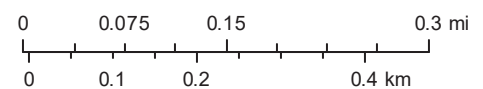
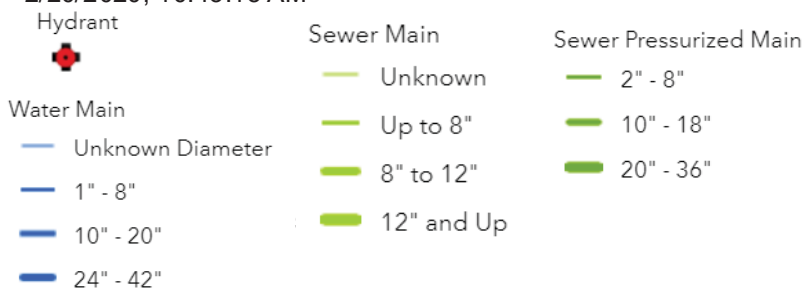


Fayetteville, AR



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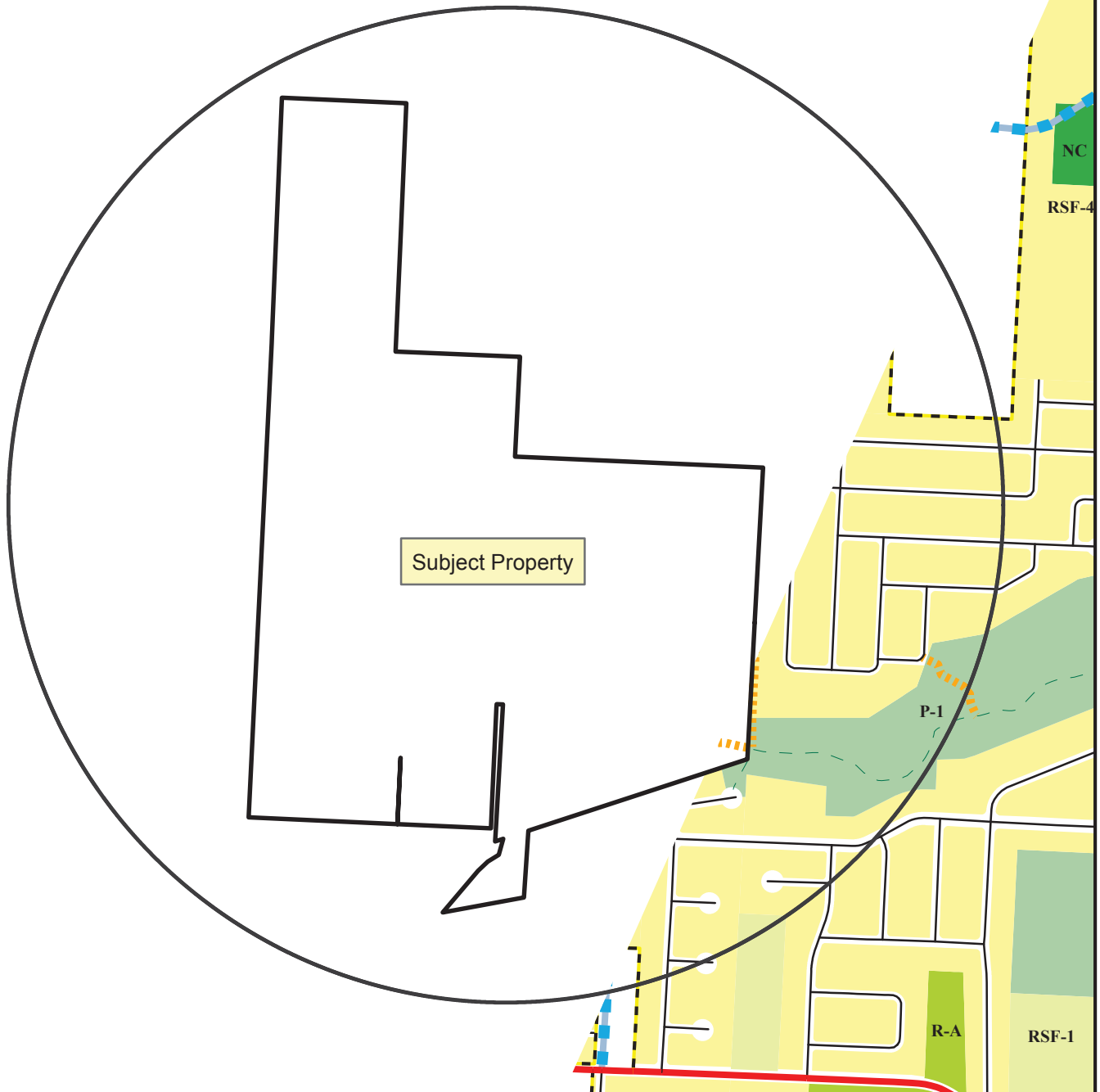
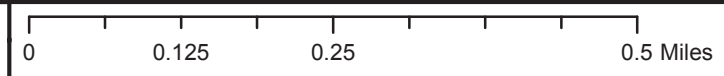


The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville Geographic Information System and the public agencies it serves. Any use of the data by anyone other than the City of Fayetteville is at the sole risk of the user; and by acceptance of this data, the user does hereby agree to indemnify the City of Fayetteville and hold the City of Fayetteville harmless from and without liability for any claims, actions, cost for damages of any nature, including the city's cost of defense, asserted by user or by another arising from the use of this data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or statement herein shall be construed to waive that tort immunity set forth under Arkansas law.

ANX20-6995

HUGHMOUNT RD AREA

One Mile View



Legend



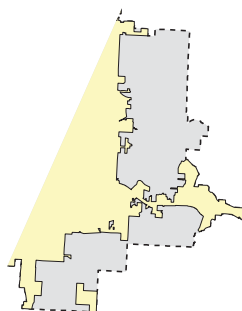
Fayetteville City Limits

Shared Use Paved Trail

Trail (Proposed)

Planning Area

Fayetteville City Limits



Zoning	
RESIDENTIAL SINGLE-FAMILY	
NS-G	General Industrial
RI-U	EXTRACTION
RI-12	E-1
NS-L	COMMERCIAL
Residential-Agricultural	Residential-Office
RSF-5	C-1
RSF-1	C-2
RSF-2	C-3
RSF-4	
RSF-7	
RSF-8	
RSF-18	
RESIDENTIAL MULTI-FAMILY	
RMF-6	
RMF-12	
RMF-18	
RMF-24	
RMF-40	
INDUSTRIAL	
I-1 Heavy Commercial and Light Industrial	
I-2 General Industrial	
FORM BASED DISTRICTS	
Downtown Core	
Urban Thoroughfare	
Main Street Center	
Downtown General	
Community Services	
Neighborhood Services	
Neighborhood Conservation	
PLANNED ZONING DISTRICTS	
Commercial, Industrial, Residential	
INSTITUTIONAL	
P-1	

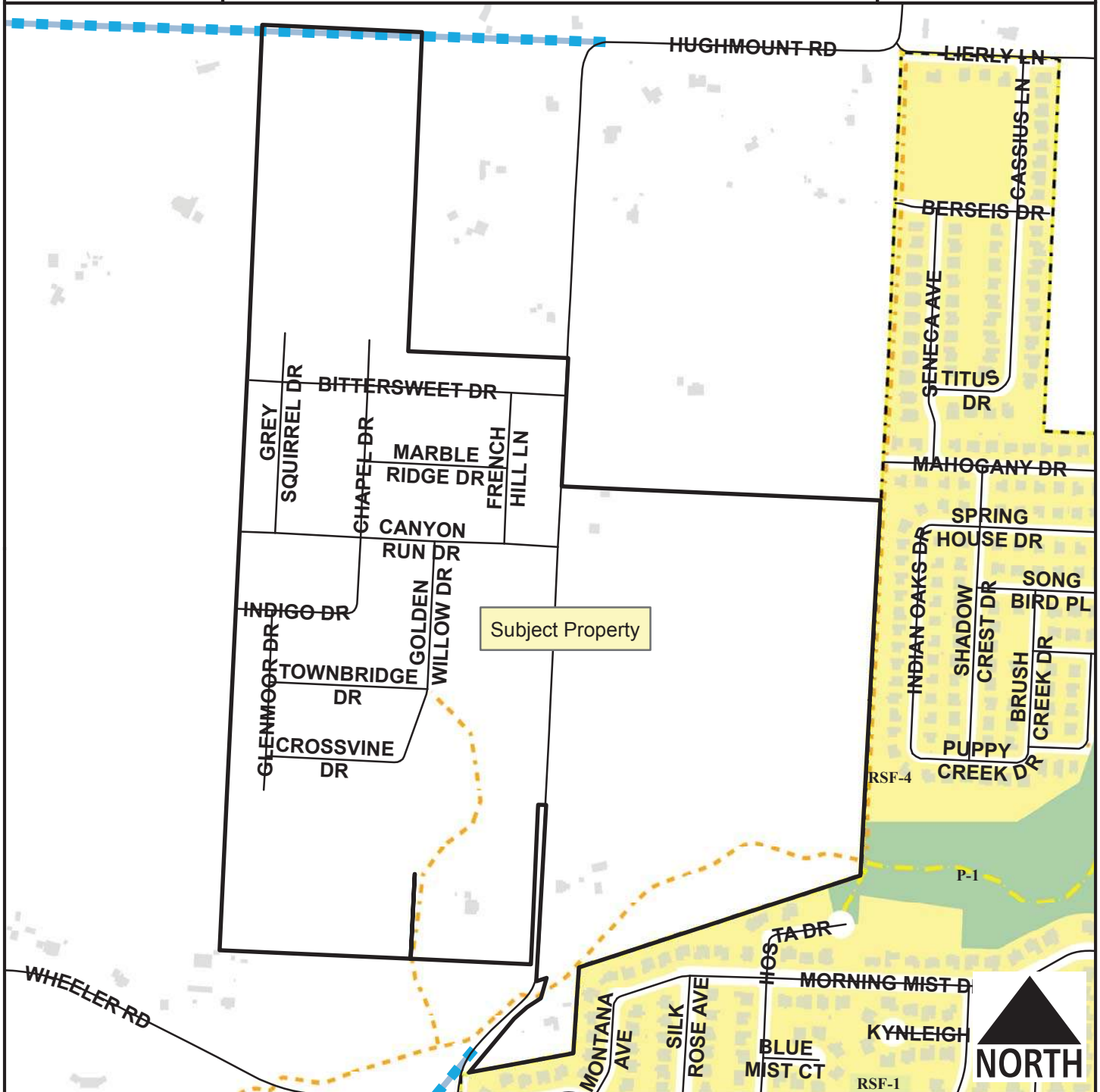
Planning Commission

February 24, 2020

Agenda Item 8

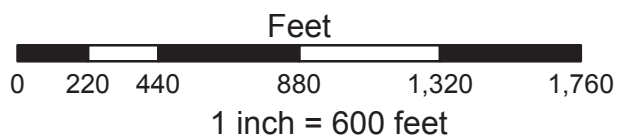
20-6995 (Hughmount Annex)

Page 22 of 25



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- RSF-1
- RSF-4
- P-1



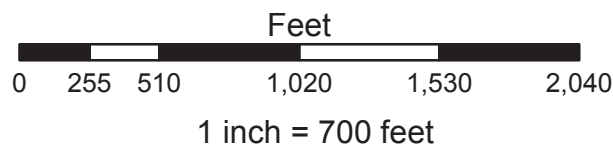
ANX20-6995

Current Land Use

HUGHMOUNT RD AREA



- Shared Use Paved Trail
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



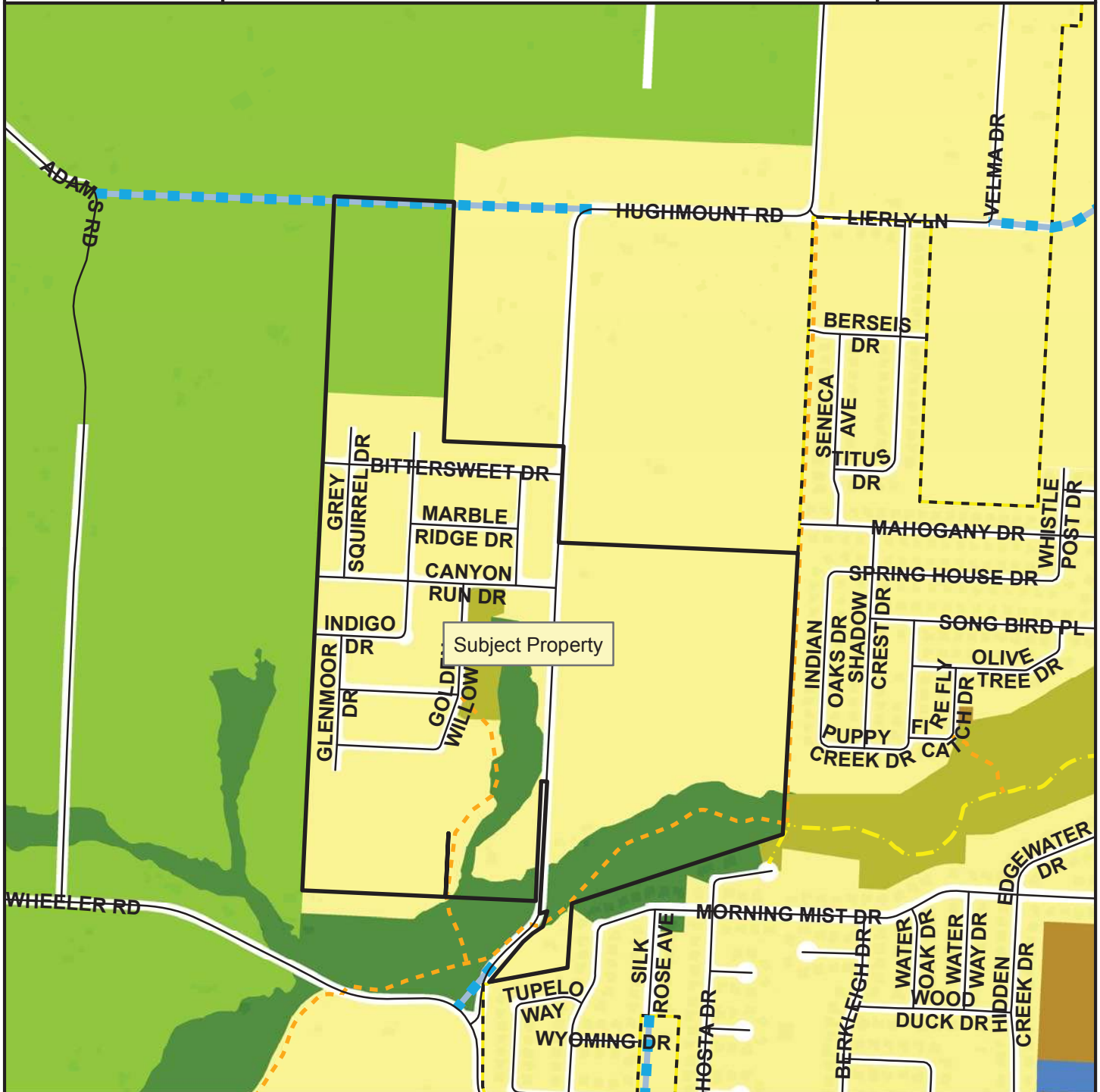
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

ANX20-6995

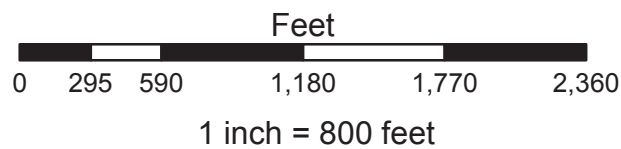
Future Land Use

HUGHMOUNT RD. AREA



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint





Robert K. Rhoads
75 N. East Avenue, Suite 500
Fayetteville, AR 72701-5388
Direct Dial: (479) 973-5202
Facsimile: (479) 973-0520
rrhoads@hallestill.com

May 11, 2020

VIA E-MAIL

Garner Stoll
125 W Mountain
Fayetteville, AR 72701
gstoll@fayetteville-ar.gov

Re: HUGHMOUNT ANX AND RZN

Dear Garner:

Pursuant to our prior conversations on the above referenced annexation and rezoning, I write this letter in hopes that the City's Planning Department will support both the annexation (in its entirety) and rezoning.

BACKGROUND: the subject property of this annexation and rezoning was primarily owned by Ms. Johnelle Hunt and Phil Phillips, when around 2008, the City of Fayetteville inadvertently put sewer lines across the property without the owner's knowledge and without any sort of easement. As a result of that innocent mistake the City agreed to supply water and sewer to the property, see attached Exhibit A, the agreement and accompanying resolutions. As part of this agreement the City wanted the Hughmount Subdivision to be annexed into the City "as soon as legally possible". See Resolution No.17-14, Exhibit A. During the course of developing the subdivision the owners employed Rob Sharp, architect, and attached is a rendering from his file from the summer of 2009 showing a land plat of the subdivision (Exhibit B). Note, this plat shows several phases of Hughmount Village as it was the expressed intent of the owners to have water and sewer supplied by the City for all of Hughmount no matter which phase they developed first and accordingly all phases annexed too, no matter if a peninsula was created. For economic and other practical considerations only the middle phase has been developed so far. During discussions with the City, both the owners and Mr. Sharp made clear, and, the City agreed, that water and sewer would be supplied to all phases of Hughmount Subdivision and it was the understanding of the parties then when the City Council voted and the Mayor signed the contract and the resolution that the entire subdivision (all phases) would be annexed into the City in part because the City did not want to have package or S.T.E.P. waste systems on any of this subject property. Therefore the City required Hughmount Village to be developed by City standards even though it wasn't yet in the City. As to date, the phase which was done first has been built out 100% and the owners now want to do the other phases which would include what is called Hughmount North on Exhibit C.

REASONS TO ANNEX THE ENTIRE SUBJECT PROPERTY: Again, the first phase of Hughmount Village, that is currently 100% developed, has truly been built to the City's standards, as a quick drive through it will show. The Developers, at their cost, also improved the intersection of Hughmount Road and Mount Comfort and improved Hughmount Road to City standards, by adding two feet to each side and paving it. Further, the City issued and the owners paid approximately One Hundred Twenty Thousand Dollars (\$120,000) for building and sewer permits. Developers of the existing Hughmount Village also met all other requirements such as but not limited to, planting approximately 333 trees (plus two tree bonds of \$138,375 and \$48,000), putting in trail sub-structure, dedicating park land, and etc.

Regarding Hughmount North, it was to be the next phase and as stated before, was always part of the Hughmount Village Subdivision and was always meant to be serviced with water and sewer and be part of the annexation. As evidence of this you will note that the City has physically built and stubbed out two man holes on Hughmount North, which further shows the City's intent of bringing into the City this subject property including the North. That prior City Council's commitment to annex all of the subject property and the owners' reliance on it far outweigh the issue of creating a peninsula. Also note on Exhibit C about five (5) blocks east, the City already has an existing peninsula (and another one just a block further east) which could over time through future annexations connect to Hughmount North. Further, at the top of Hughmount North is where the City plans to have an east to west street allowing for better traffic flow and less traffic on Mount Comfort Road, which the developer of Hughmount North will keep in mind as he plans the northern boundary. See Exhibit D outlining the City's present and future street plans.

Please see Exhibit E that show the existing Clabber Creek Greenway and Trail System and the future trail system that would go into and be part of this annexation thereby allowing the City to achieve its objective of preserving greenways whenever and wherever possible (the Enduring Green Network).

The City would also have the following advantages by passing this entire annexation: increased sales tax revenue, increased attainable housing, library millage, impact fees, etc. Note, that if any of this subject property develops under a county standards at some point the City will annex it in, and when that happens, since it is already developed, there would be no collection of impact fees. Further, by annexing now the City can make sure the developments are done up to the City's grading, storm water management, tree preservation, building inspection, energy conservation, quality construction standards, and etc. standards.

As noted in Exhibit C the subject property, if rezoned as requested by the owners, would be six (6) different categories: Neighborhood Conservation; there is one area, RSF 1, for the Slape property that is currently in existence; RSF-4; Neighborhood Services along Hughmount Road

Garner Stoll
May 11, 2020
Page 3

would by definition provide services to the annexed property; and lastly the Residential Agriculture would help the City in their City Plan 2040 goals and Enduring Green Network goals.

For all the above reasons the petitioners respectfully request the Planning Department to support this entire annexation and rezoning. If I have misstated anything or if there are any questions please contact me as soon as possible so when we go to the City Council at least from a factual standpoint we are all on the same page. I look forward to working with you as always.

Sincerely,

A handwritten signature in black ink, appearing to read 'RKR', followed by a long horizontal line extending to the right.

Robert K. Rhoads

RKR:slt
cc: Mayor
Kit Williams kwilliams@fayetteville-ar.gov
Clients

4454861.1:005377:00001

Ex A

RESOLUTION NO. 17-14

A RESOLUTION TO AMEND RESOLUTION NO. 144-13 WHICH HAD APPROVED AN AMENDED AGREEMENT WITH THE HUGHMOUNT DEVELOPERS TO ALLOW ACCESS TO CITY OF FAYETTEVILLE SEWERAGE SYSTEM IN ORDER TO APPROVE A SECOND AMENDED AGREEMENT

WHEREAS, on September 4, 2012, the Fayetteville City Council approved Resolution No. 183-12 which allowed the Hughmount Village Developers access to the City Sewerage System if they fulfilled the terms of the Contract To Allow Access To City Sewerage System; and

WHEREAS, the Contract To Allow Access To The City Sewerage System required: "All street frontage, density, lot area requirements, etc. (be the same) as if their property was zoned Residential Single Family, four units per acre;" and

WHEREAS, the Washington County Conditional Use Permit granted to Hughmount Village was incompatible with RSF-4 zoning; and

WHEREAS, the streets, drainage, sidewalks, water and sewer mains need be built to satisfy both Fayetteville and Washington County standards and the streets and drainage structures need to be dedicated to Washington County all as approved by the Fayetteville Planning Commission; and

WHEREAS, the developer needs to remove the alleys from his plat in order to sell the affected house lots, and the Washington County Planning Board has approved this new plat entitled Project #2013-155.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Resolution No. 144-13 to cancel the existing Amended Contract To Allow Access To City of Fayetteville Sewerage System which was approved by Resolution NO. 144-13 on June 18, 2013, and replace it with the Second Amended Agreement To Allow Access To City Sewerage System and To Impose Development Requirements, attached as Exhibit A.

Section 2: The City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign this Agreement.

PASSED and APPROVED this 7th day of January, 2014.

APPROVED:

ATTEST:

By: 
LIONELD JORDAN, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer



EXHIBIT "A"

SECOND AMENDMENT TO AGREEMENT TO ALLOW ACCESS TO CITY SEWERAGE SYSTEM AND TO IMPOSE DEVELOPMENT REQUIREMENTS

WHEREAS, the developers/owners of Hughmount Village, whose project is close to, but outside the Fayetteville city limits, desire to be allowed to connect to and use the City of Fayetteville sewerage system's wastewater facilities for their proposed residential development; and

WHEREAS, the City of Fayetteville does not wish to grant owners/developers of Hughmount Village (or any similarly situated development) any advantage over owners/developers who will build and develop property within the City of Fayetteville; and

WHEREAS, on September 4, 2012, the City Council of the City of Fayetteville passed Resolution NO. 183-12 permitting such access, but the terms of the Contract were incompatible with the Conditional Use Permit issued for this development by Washington County so that an Amended Agreement was needed and approved by Resolution NO. 144-13 on June 18, 2013; and

WHEREAS, the Developer now needs to remove the alleys from his development to be able to sell his lots and so slightly redesigned his plat which was approved by the Washington County Planning Board which granted a new Conditional Use for Project #2013-155, and

WHEREAS, the City of Fayetteville is willing to allow developers/owners of Hughmount Village to connect to and utilize the City's wastewater treatment facilities only upon the developers/owners' express agreement to develop their residential project pursuant to all City of Fayetteville requirements for inside the city residential projects including:

- (1) All street frontage, density, lot area requirements, etc. as granted by the Conditional Use Permit approved by the Washington County Planning Board for Project #2013-155.
- (2) Apply for and successfully complete the full preliminary plat/final plat process including payment of all appropriate fees.
- (3) Comply with all grading, stormwater, tree preservation and other development requirements as if this development was occurring within the City of Fayetteville.
- (4) Pay for all normal permits and application fees at the normal time including preliminary/final plat, building fees for each structure, and water, sewer, police, and fire impact fees.
- (5) To satisfy normal parkland dedication requirements, the City of Fayetteville Parks Board approved the dedication of 3.169 acres of land within Common Property 9 at their September 10, 2012 meeting. The exact limits of the park land dedication will be located west of the tree preservation area and will be determined at the Final Plat after drainage and utility improvements are constructed. In addition, the Developer shall dedicate a trail easement

sufficient to connect from the crosswalk at Common Property 8 at Cotton Willow Drive to the southern border of the property to meet a possible trail extension from the south from the Clabber Creek Trail. This trail and parkland shall remain the developer's or Property Owners Association's duty to maintain in good condition (which duty shall be in an irrevocable restrictive covenant in each property's deed until and unless this entire parcel has been annexed into the City of Fayetteville).

- (6) Construct all infrastructure (except alleys which are no longer required to be constructed in Project #2013-155): streets, drainage, sidewalks, water and sewer mains to City of Fayetteville and Washington County standards as previously approved by the Fayetteville Planning Commission on March 25, 2013 (PPL 13-4304) and by the Washington County Planning Board on May 2, 2013 (Project #2013-024) and recently amended by the Washington County Planning Board to Project #2013-155. Water and sewer infrastructure is to be dedicated to the City of Fayetteville, street and drainage infrastructure is to be dedicated to Washington County.

HUGHMOUNT VILLAGE OWNERS/DEVELOPERS, in consideration of being allowed to utilize the City of Fayetteville sewerage system and wastewater facilities for their proposed development, do hereby agree to all terms and conditions stated above and promise to develop their property in full compliance with all requirements of the Unified Development Code as if their development was inside the city limits.

Further developers/owners of Hughmount Village pledge and promise to seek immediate annexation into the City of Fayetteville as soon as it becomes legally possible and to place this requirement within the covenants and deeds for each property within its development. In agreement with all the terms, conditions, pledges and promises above, the City of Fayetteville and the owners/developers of Hughmount Village sign below.

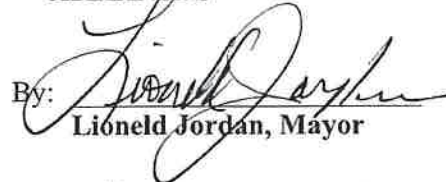
**HUGHMOUNT VILLAGE
DEVELOPERS/OWNERS**


By: 
Phil Phillips

Title: Clerk

Date Signed: 12-27-13

**CITY OF FAYETTEVILLE,
ARKANSAS**

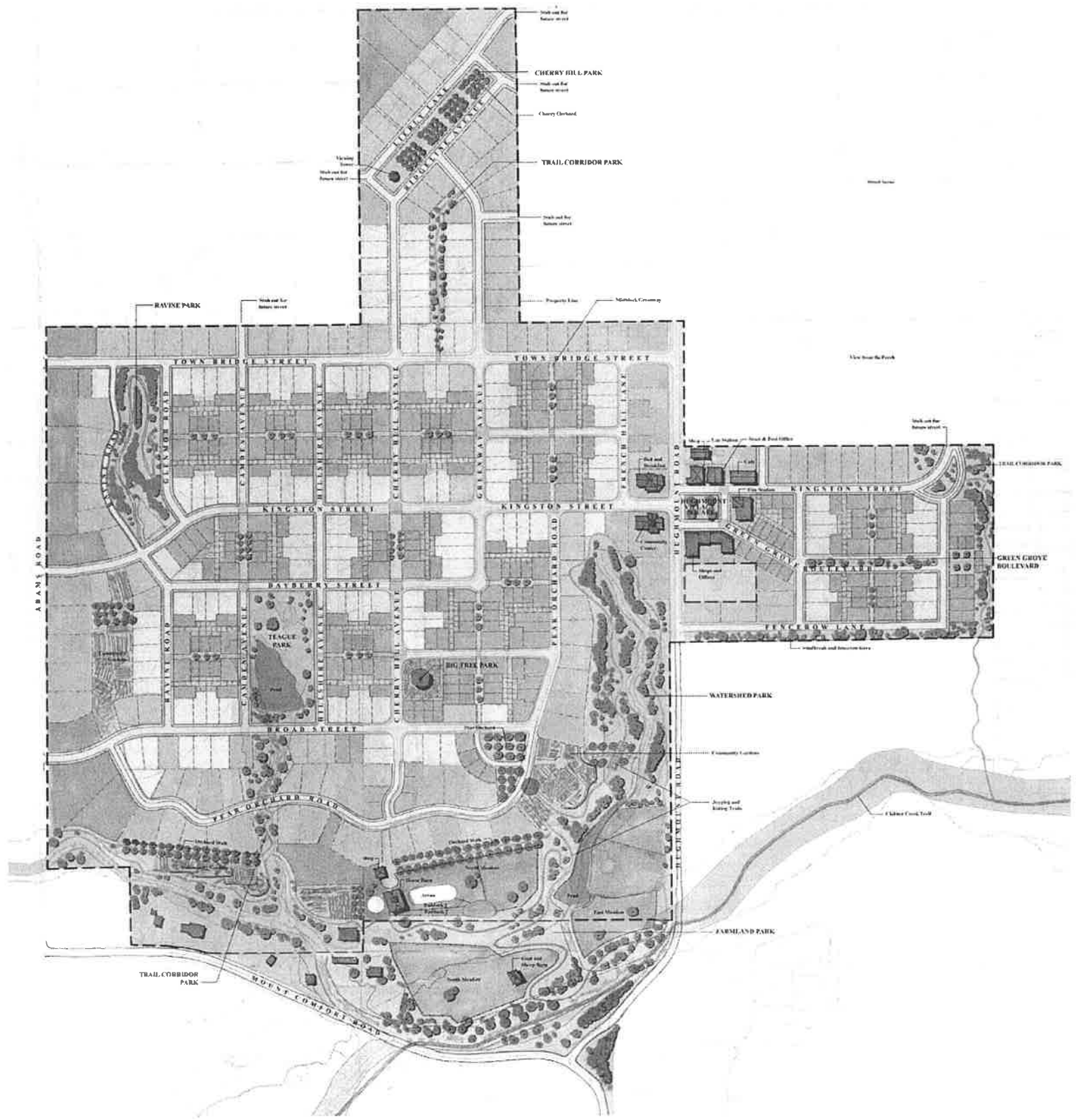
By: 
Lioneld Jordan, Mayor

Attest: 
Sondra E. Smith, City Clerk

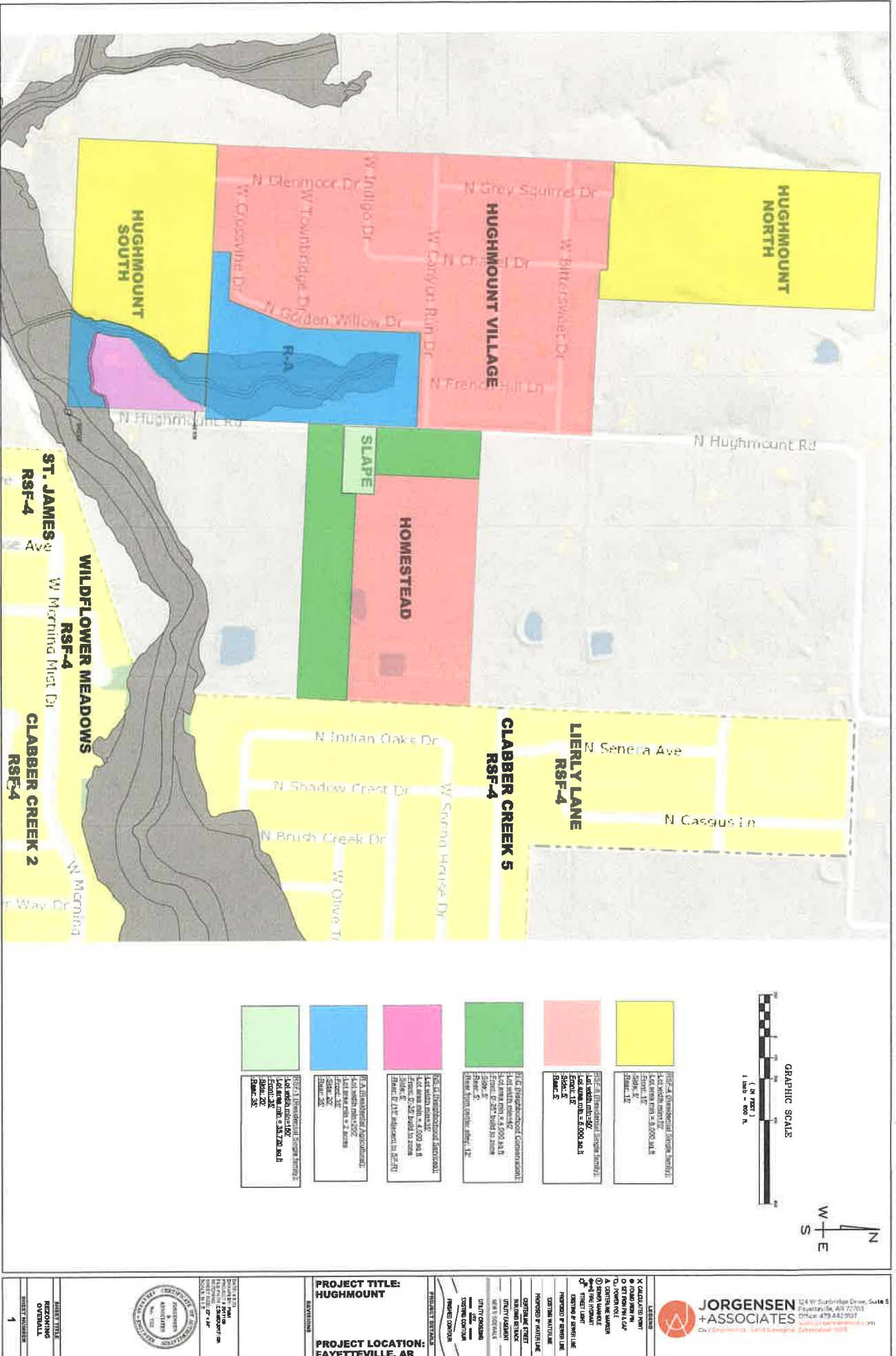
Date Signed: 01-09-14

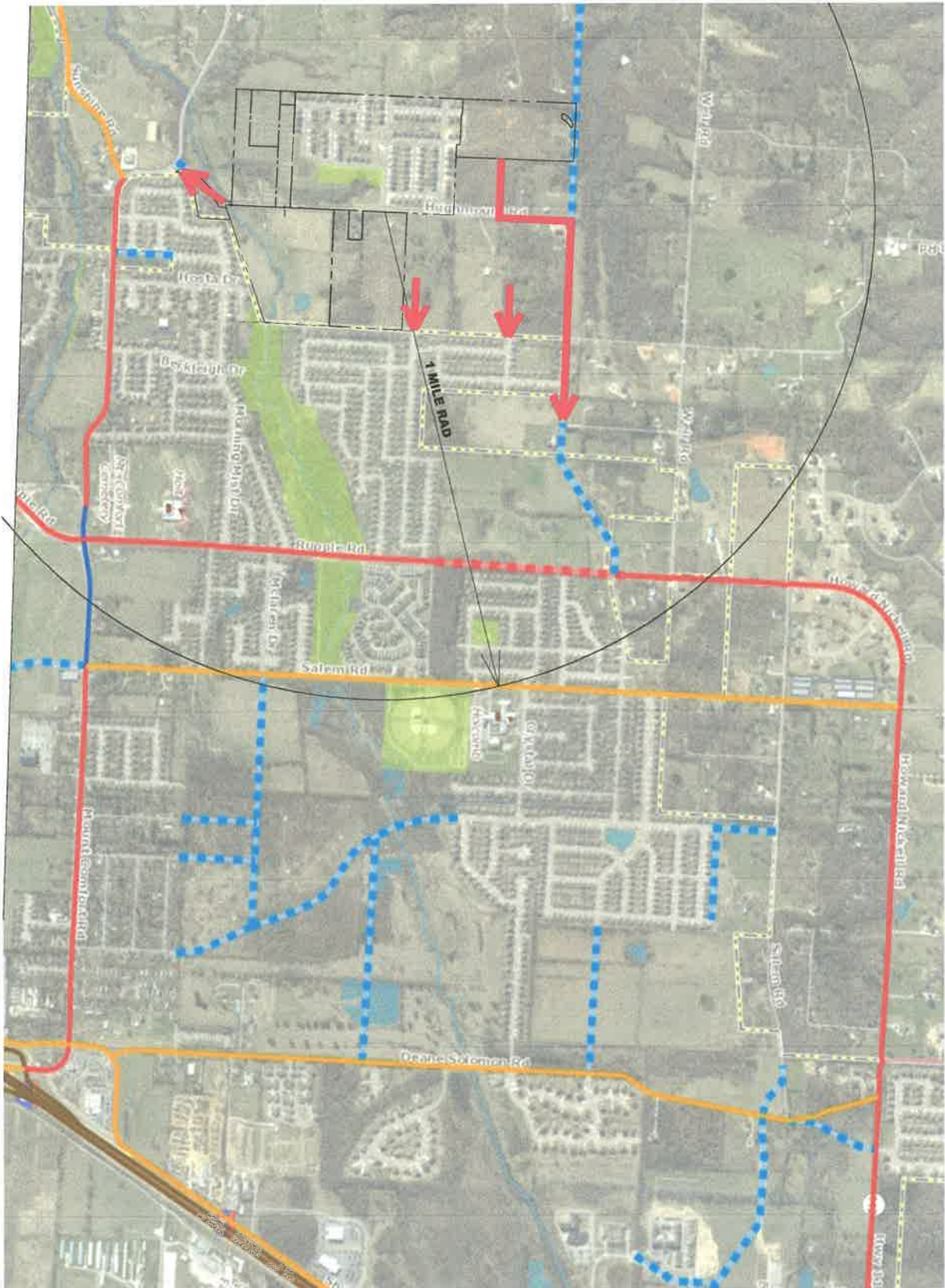


Ex B



spring/summer '09
US Resolution '14





PROJECT LOCATION
FAYETTEVILLE, AR

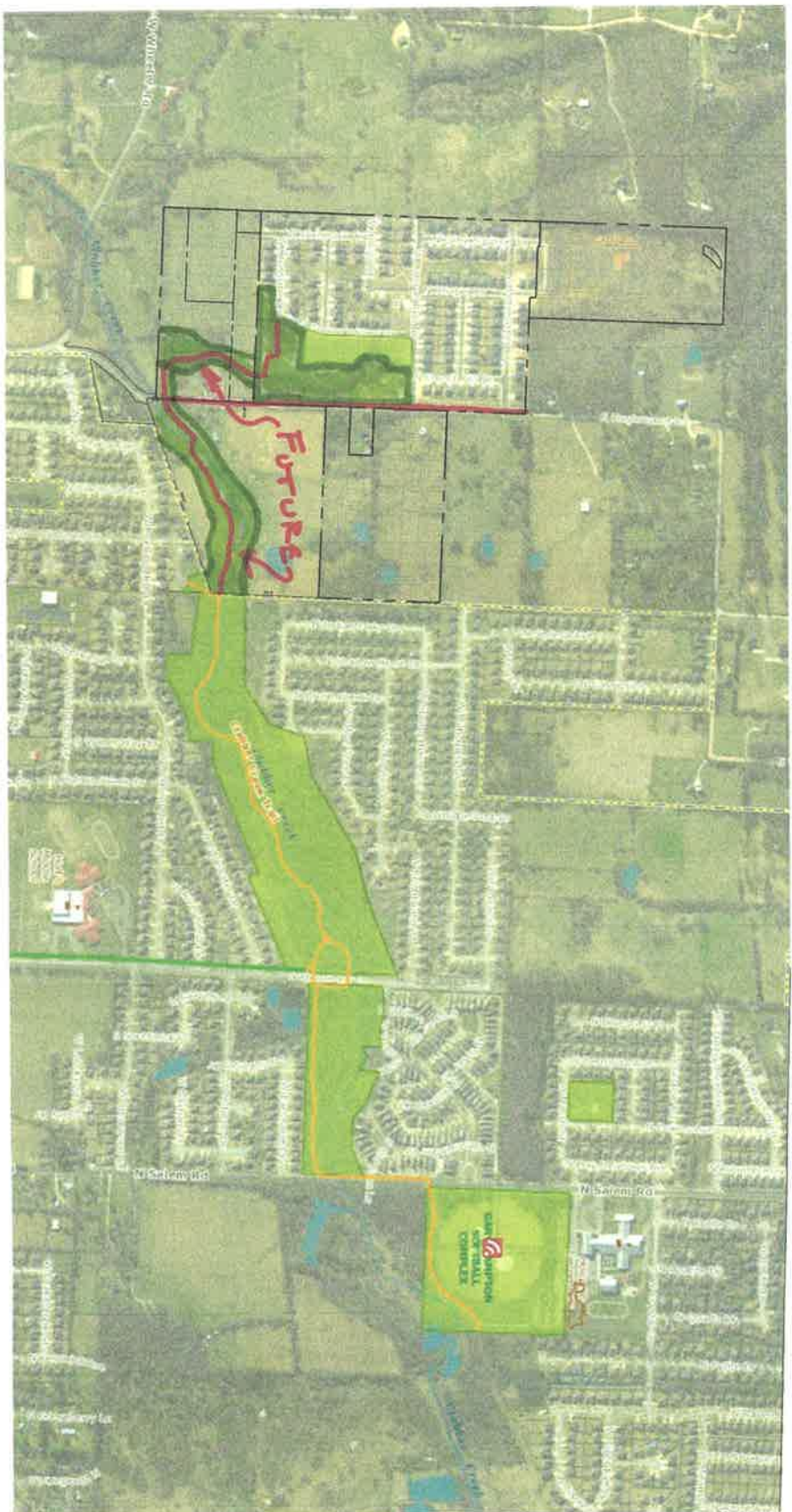
SHEET TITLE
CONNECTIVITY
EXHIBIT



JORGENSEN
+ASSOCIATES

224 W. Sunnyside Drive Suite 3
Fayetteville, AR 72703
Office: 479-442-3127
www.fayettevilleareaairport.com
Fayetteville and NCE

GREEN NETWORK & TRAILS





JORGENSEN + ASSOCIATES
Civil Engineering, Surveying, Planning, Architecture

224 W. Lexington Drive, Suite 500
Fayetteville, AR 72703
Phone: 479.463.3127
www.jorgensenandassociates.com

PROJECT TITLE:
HUGHMOUNT

PROJECT LOCATION:
FAYETTEVILLE, AR

PROJECT DETAILS:

- DESIGNER: JORGENSEN + ASSOCIATES
- CLIENT: HUGHMOUNT DEVELOPMENT, LLC
- DATE: 10/2014
- SCALE: AS SHOWN
- STATUS: PRELIMINARY

DESIGNER'S CERTIFICATE OF REGISTRATION

STATE OF ARKANSAS
JORGENSEN + ASSOCIATES, INC.
No. 122

DATE: 10/2014
PROJECT: HUGHMOUNT
SHEET NO. 277-1

SHEET TITLE:
CONNECTIVITY
DESIGN

SHEET NUMBER:
1



MEETING OF JUNE 2, 2020 ANX-20-6995

TO: Mayor and City Council

THRU: Susan Norton, Chief of Staff

FROM: Garner Stoll, Development Services Director

DATE: May 29, 2020

SUBJECT: Anticipated fiscal impact of Hughmount Annexation

INTRODUCTION:

During the discussion regarding the Hughmount annexation request on May, 19, 2020, Council Member Petty inquired about the anticipated revenue this area might generate versus the additional anticipated costs for serving the area. This analysis is sometime called a “fiscal impact” or a “cost/benefit” analysis. The numbers in the attached spreadsheets roughly simulate a one-time look at what a fiscal impact model might produce. Fiscal impact models are dependent not only on the actual numbers but also the underlying assumptions driving the model. Those assumptions are listed as footnotes on the attached spreadsheets.

BACKGROUND:

The attached spreadsheets were created by our GIS Department and the numbers were generated with the assistance of our Police and Fire Chiefs, Parks and Recreation Department, Engineering Division, and our Economic Vitality Director.

As indicated on the spreadsheets, development in Fayetteville generates both one-time revenue and continuing annual revenue.

ONE TIME REVENUE:

The primary condition of the agreement to provide utility service to the existing Hughmount Village was to pay all fees and meet all conditions as if the development was already part of the incorporated city of Fayetteville. Therefore, the existing 131 homes have already paid fire, police, water, and sewer impact fees. While these fees do not represent revenue dependent on annexation they are relevant to the policy discussion as impact fees are primarily intended to off-set capital costs associated with growth.

Fire impact fees already paid	\$19,800
Police impact fees already paid	\$21,384
Water and Sewer Impact fees already paid	\$243,276
Total fees already paid	\$284,460

Assuming typical development generated in Fayetteville under the requested zoning districts, the undeveloped portions of the annexation request would generate the following additional one-time revenue:

Additional fire Impact fees	\$28,500
Additional police impact fees	\$30,780
Additional Water and Sewer impact fees	\$350,170
Park in-lieu fees	\$206,910
 Total additional one-time impact fees	 \$616,360

Annual Revenue:

Additional annual revenue consists of property taxes (real and personal) internet sales taxes, State sales tax turnback revenue, and CDBG Block Grant:

Annexed as proposed	Build-out	Total
\$64,828 (taxes)	\$99,393	\$164,221
\$21,627 (State turnback)	\$31,023	\$52,650
\$2,670 (CDBG)	\$3,830	\$6,500
 Total revenue: \$89,125	 \$134,246	 \$223,371

Annual Costs:

Annexed as proposed	Build-out	Total
\$75,365	\$104,281	\$179,646

SUMMARY:

Without counting additional State and Federal revenue the annual revenue compared to the annual costs anticipates a minor deficit and with counting the state turnback and CDBG funds annual revenue modestly exceeds annual costs. Assuming an increasing percentage of internet sales tax revenue increases rapidly (see attached memo from Devon Howland). This calculation also does not assume any sales taxes from the areas that are proposed to be zoned Neighborhood Services Limited.

The other critical policy assumption regards the status of the one-time impact fees. While the intent of impact fees is to require growth to not create capital deficits, in this instance, these create surpluses due to existence of surplus capacity available to serve this area. For example, there is a 40" sewer line with ample existing capacity to serve this area. The Parks Department

does not anticipate adding additional parkland and the park fee-in-lieu could be used to upgrade the park facilities and benefit the larger area.

Finally, more than 60% of Fayetteville's general fund budget comes from sales tax. The location of households with disposable income within Fayetteville's trade area will generate more sales tax than similar housing located in competing markets such as Farmington, Johnson, Springdale or unincorporated Washington County.

Municipal Notes

From the ARKANSAS MUNICIPAL LEAGUE

2nd & Willow • P.O. Box 38 • North Little Rock, AR 72115 • (501) 374-3484

August 29, 2019

**TO: OFFICERS, EXECUTIVE COMMITTEE, ADVISORY COUNCILS,
MAYORS, CITY ADMINISTRATORS, CITY MANAGERS, CITY
CLERKS, RECORDERS, TREASURERS AND FINANCE DIRECTORS**

FROM: MARK R. HAYES, EXECUTIVE DIRECTOR 

SUBJECT: 2020 BUDGET INFORMATION

The new League governing bodies, which were elected at the Convention or appointed by Mayor Harold Perrin, League President, met in Jonesboro last week. Several items considered will affect your budget preparations for 2020.

League Service Charge. The Executive Committee retained the current service charge formula. The base charge is \$40 plus 35¢ per capita with 7¢ per capita credits, determined on October 1st, for participation in each of the following programs:

- Municipal Legal Defense Program
- Municipal Health Benefit Program
- Municipal League Workers' Compensation Program
- Municipal Vehicle Program
- Municipal Property Program

Also continued by the Executive Committee was inclusion of membership in the National League of Cities for all our members.

Municipal Legal Defense Program. The Steering Committee and Board of Trustees for the Municipal Legal Defense Program retained the current service charge formula for 2020. The 2020 charges range from \$1.25 to \$7.00 per capita depending upon your municipality's loss experience. The optional drug and alcohol testing program for **non**-Commercial Drivers License (CDL) employees will continue to be available and can be implemented by increasing your MLDP charge by 20¢ per capita. This program is underutilized and can save your city or town money and liability.

Municipal Health Benefit Program. The Board of Trustees made some minor changes which will be effective January 1st. The 2020 Bylaws will be accessible online at <https://www.arml.org/services/mhbp/>. A Health-Workers' Compensation Seminar will be held in North Little Rock on November 13, 2019. If you are not currently participating in the MHBP and would like to receive a proposal for comparative purposes, please advise.

Municipal League Workers' Compensation Program. The Board of Trustees adopted the same rates as the Arkansas Workers' Compensation Commission for 2020 with the application of state mandated experience modifications (NCCI). They approved a 2% front-end discount for participating members with a cumulative loss ratio of 100% or less. They also approved a 1% discount for reporting estimated payroll timely. A Health-Workers' Compensation Seminar will be held on November 13, 2019 in North Little Rock.

Municipal Vehicle Program. The Committee and Board of Trustees for the Municipal Vehicle Program approved amendments to the Program Bylaws and retained the current rates for 2020. The updated Bylaws will be accessible online at <https://www.arml.org/services/benefit-programs/>.

Municipal Property Program. The Committee and Board of Trustees for the Municipal Property Program approved amendments to the Program Bylaws. The Committee also approved a 5% increase in rates effective 12-1-19 and optional deductible buy-downs for entities in Class 1 and Class 2. The updated Bylaws will be accessible online at <https://www.arml.org/services/benefit-programs/>.

Turnback Estimates. Estimates for general turnback are as follows. The street turnback estimate includes proceeds from the highway ½ cent sales tax¹ and the severance tax.

		<u>2020 (same as 2019)</u>
Street Turnback	\$65.50 per capita	\$65.50 per capita
General Turnback	<u>\$15.50</u> per capita	<u>\$15.50</u> per capita
Total Turnback	\$81.00 per capita	\$81.00 per capita

APERS. For those municipalities participating in the Arkansas Public Employees Retirement System (APERS), the employer contribution will remain at 15.32% for 2020 and the employee rate will stay at 5%.

We hope this information will be of assistance to you as you begin your budget preparations for 2020.

¹ Please recall this ½ cent sales tax is finite and will no longer be collected as of June 1, 2023. A replacement ½ cent will be on the general election ballot in November 2020. Without the passage of the new ½ cent your street funding will dramatically plummet.

	Already Paid	Annexed as Proposed
Park Fees In-Lieu **1	0	0
Fire Impact Fees **2	\$19,800	0
Police Impact Fees **3	\$21,384	0
Water & Sewer Impact Fees **4	\$243,276	0

****1** The existing Hughmount Village subdivision has already dedicated sufficient parkland, therefore all additional development is e

****2** The existing development has already paid impact fees for fire protection, therefore all additional development is e

****3** The existing development has already paid impact fees for police protection, therefore all additional development i:

****4** The existing development has already paid impact fees for water and sewer service, therefore all additional develop

Added By	Projected Buildout	Total After Buildout
	\$206,910	\$206,910
	\$28,500	\$28,500
	\$30,780	\$30,780
	\$350,170	\$350,170

Development is expected to generate fees in-lieu at \$1,089 per single family household

Development is expected to generate fees in the amount of \$150 per single family household (per Municode chapter 159.04)

Development is expected to generate fees in the amount of \$162 per single family household (per Municode chapter 159.03)

Development is expected to generate fees in the amount of \$1,843 per single family household (per City of Fayetteville Water & Sewer Department)

parent)

Fire Protection **1

Police Protection **2

Park Maintenance **3

Street Maintenance **4

****1 Estimates per Fayetteville Fire Department**

****2 Estimates per Fayetteville Police Department**

****3 Estimates per Fayetteville Parks and Recreation Department**

****4 Estimates per Fayetteville Engineering Division**

Annexed as Proposed

Added By Projected Buildout

\$439
\$32,926
\$8,000
\$34,000

\$5,050
\$47,231
\$0
\$52,000

Total After Buildout

\$5,489

\$80,157

\$8,000

\$86,000



TO: Susan Norton, Chief of Staff
Paul Becker, Chief Financial Officer

CC: Chung Tan, Business Development Manager

FROM: Devin Howland, Director of Economic Vitality

DATE: May 27, 2020

SUBJECT: **March 2020 Sales Tax Analysis Report**

DISCUSSION:

Taxable sales totaled 192,834,866 for the month of March (up ½ of a percent). Rebates did return in the education sector for the first time in several months (-\$2.3 million worth). Retail trade witnessed the only notable growth, up 8% or an increase of \$8.8 million in sales. Retail sales totaled \$115 million.

Retail trades growth stemmed from grocery stores (up 22% for an increase of \$2.1 million in sales) and online shopping (up 132% for an increase of \$4.7M- the largest increase in this category we have seen) and General Merchandise stores such as Wal-Mart (up 22% or \$7.5 million in sales).

INTERNET SALES TAX:

Without internet sales, the City would have been down 2.1% overall. Internet sales totaled \$8.4 million:

Online Shopping	Mar-19	Mar-20	% Change	Value Change
Online Shopping	\$ 3,624,759.00	\$ 8,421,388.00	132%	\$ 4,796,629.00

ACCOMODATION AND FOOD:

As expected, this sector was hit extremely hard in March. Overall, accommodation and food took a loss of 26% in sales, down \$7.8 million compared to March in 2019. Hotels witnessed the largest percentage impact, down 56% or a decrease of \$2.8 million in sales. Restaurants and drinking establishments were also hit hard.

RETAIL TRADE:

Department stores were down 70% for a reduction of \$3.2 million in sales. Grocery stores were up 22% for an increase of \$2.1 million in sales. General Merchandise stores such as Wal-Mart and Target were up 22% as well, for an increase of \$7.5 million. General merchandise totaled \$41.5 million in sales (nearly meeting December sales levels for this sector. All non-essential shopping was impacted

A line by line review of the charts below reveals even more insights.

TOTAL NAICS SALES	Mar-19	Mar-20	% Change
	192,051,162	192,834,866	0.4%
11 - Agriculture, Forestry, Fishing and Hunting	190,943	245,228	28%
22 - Utilities	8,971,300	7,926,050	-12%
23 - Construction	-1,232,329	917,061	-174%
31 - Manufacturing	8,132,792	7,825,412	-4%
42 - Wholesale Trade	12,858,603	14,136,379	10%
44 - Retail Trade	107,081,956	115,973,782	8%
48 - Transportation and Warehousing	276,359	-154,735	-156%
51 - Information	7,341,067	6,324,724	-14%
52 - Finance and Insurance	158,113	225,117	42%
53 - Real Estate and Rental and Leasing	4,463,088	3,894,204	-13%
54 - Professional, Scientific, and Technical Services	1,067,025	890,257	-17%
56 - Administrative, Support, Waste Management, and Remediation Services	3,511,908	\$4,285,153	22%
61 - Educational Services	-1,047,800	-2,257,702	115%
62 - Health Care and Social Assistance	-413,575	243,272	-159%
71 - Arts, Entertainment, and Recreation	1,488,231	1,289,363	-13%
72 - Accommodation and Food Services	30,669,011	22,812,240	-26%
81 - Other Services (except Public Administration)	6,159,718	6,954,321	13%
92 - Public Administration		-123,057	
21 - Mining and Gas Extraction			
99 - Other	2,370,297	1,421,350	-40%

Accommodation and Food (72)	Mar-19	Mar-20	% Change
72 - Accommodation and Food Services	\$30,669,011	\$22,812,240	-26%
7211 - Traveler Accommodation (USA/CAN/MEX)	\$5,023,838	\$2,206,774	-56%
7221 - Full-Service Restaurants	\$14,881,580	\$11,154,219	-25%
7222 - Limited-Service Eating Places	\$3,241,704	\$2,083,179	-36%
7223 - Special Food Services (USA/CAN/MEX)	\$1,119,362	\$744,579	-33%
7224 - Drinking Places (Alcoholic Beverages) (USA/CAN/MEX)	\$791,556	\$697,315	-12%
7225 - Restaurants and Other Eating Places (USA/CAN/MEX)	\$5,610,971	\$5,926,176	6%

	Mar-19	Mar-20	% Change
Retail Trade	\$107,081,956	\$115,973,782	8%
Automobile Dealers	\$1,944,102	\$2,298,929	18%
Automotive Parts; Accessories; and Tire Stores	\$2,656,567	\$2,388,510	-10%
Beer; Wine; and Liquor Stores	\$2,353,473	\$2,705,351	15%
Book Stores and News Dealers	\$137,738	\$353,087	156%
Building Material and Supplies Dealers	\$13,748,258	\$14,941,551	9%
Clothing Stores	\$6,542,679	\$3,667,957	-44%
Department Stores	\$4,683,197	\$1,422,400	-70%
Direct Selling Establishments	\$505,500	\$401,765	-21%
Electronic Shopping and Mail-Order Houses	\$3,624,759	\$8,421,388	132%
Electronics and Appliance Stores	\$7,130,508	\$6,085,302	-15%
Florists	\$204,553	\$180,033	-12%
Furniture Stores	\$1,233,394	\$1,625,847	32%
Gasoline Stations	\$1,403,850	\$1,506,750	7%
Grocery Stores	\$9,420,777	\$11,505,778	22%
Health and Personal Care Stores	\$3,180,388	\$2,917,366	-8%
Home Furnishings Stores	\$1,886,689	\$1,906,418	1%
Jewelry; Luggage; and Leather Goods Stores	\$638,942	\$426,312	-33%
Lawn and Garden Equipment and Supplies Stores	\$131,702	\$206,389	57%
Office Supplies; Stationery; and Gift Stores	\$1,695,465	\$1,155,431	-32%
Other General Merchandise Stores	\$33,949,224	\$41,507,947	22%
Other Miscellaneous Store Retailers	\$2,223,238	\$3,874,150	74%
Other Motor Vehicle Dealers	\$109,432	\$136,027	24%
Shoe Stores	\$1,882,314	\$1,003,144	-47%
Specialty Food Stores	\$852,996	\$902,918	6%
Sporting Goods; Hobby; and Musical Instrument Stores	\$4,344,316	\$3,886,208	-11%
Used Merchandise Stores	\$588,932	\$534,029	-9%
Vending Machine Operators	\$8,968	\$12,800	43%

INTERNET SALES

	Already Paid	Annexed as Proposed
Estimated Annual Benefits		\$64,828
Estimated Annual Costs		\$75,365
Annual Benefit/Cost Ratio		0.86
Estimated One-Time Benefits	\$284,460	\$0

****1 Assuming that all undeveloped land is developed in a similar fassion to the existing Hughmount Village Subdivision**

Added By Projected Buildout **1	Total After Buildout
\$99,393	\$164,221
\$104,281	\$179,646
0.95	0.91
\$266,190	\$266,190

Estimated Population **1

Estimated Households **1

Real and Personal Property Tax Revenue **2

Internet Sales Tax Revenue **3

**1 Estimated population = Residential Addresses x 2.02 (per occupied resi

**2 The total estimated property tax revenue to the city from the annexation

For parcels with the homestead credit applied:

$((\text{Total Assessed Value} * 0.2) - 375 + (\text{Personal Property} * 0.2)) * ((6.8 + 0.88$

For parcels without the homestead credit applied:

$((\text{Total Assessed Value} + \text{Personal Property}) * 0.2) * (6.8 + 0.88) / 1000$

The 6.8 constant used represents the city property tax millage.

The 0.88 constant used represents the city road property tax millage.

The 375 is the homestead credit.

The 0.2 is the 20% of the assessed value on which taxes are paid.

**3 Assuming \$3,000 in taxable internet sales for each household each year

Annexed as Proposed

Added By Projected Buildout

267	383
132	190
\$56,908	\$87,993
\$7,920	\$11,400

dence-Census)

is estimated to be \$56,480.19, as determined by the following formulas for the parcels to be annexed:

3) / 1000)

, per City of Fayetteville Economic Vitality Director; the city captures 2% of these sales in tax revenue

Total After Buildout

650

322

\$144,901

\$19,320

Fire Protection **1

Police Protection **2

Park Maintenance **3

Street Maintenance **4

****1 Estimates per Fayetteville Fire Department**

****2 Estimates per Fayetteville Police Department**

****3 Estimates per Fayetteville Parks and Recreation Department**

****4 Estimates per Fayetteville Engineering Division**

Annexed as Proposed

Added By Projected Buildout

\$439
\$32,926
\$8,000
\$34,000

\$5,050
\$47,231
\$0
\$52,000

Total After Buildout

\$5,489

\$80,157

\$8,000

\$86,000



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: Susan Norton, Chief of Staff
Garner Stoll, Development Services Director

FROM: Kit Williams, City Attorney

DATE: June 3, 2020

RE: Can a City choose to annex only a portion of the territory within the County Judge's "Order granting the petition and annexing the territory?"

I am now confronted with an issue about an annexation that I have never heard about before, nor which I can find an Arkansas Supreme Court decision or Arkansas Attorney General Opinion discussing. Fayetteville's Planning Department would appear to prefer granting annexation of only a portion of the property in annexation petition granted by the Washington County Judge. Planning has pointed out that the northernmost portion of the land proposed to be annexed by its owners forms a type of peninsula that is not generally desired. Regardless of any policy concerns or arguments, the question is: Can the City Council legally amend the annexation ordinance to exclude the "northern peninsula" and grant annexation to the remainder?

My first inclination would be to say "Yes." The City Council has tremendous discretion whether or not to agree to a voluntary, owner-requested annexation approved by the County Judge. Why should this discretion not extend to accepting only what the City desires, but not a portion of what has been offered that we do not want? This issue is also not directly answered by the statutes. However, there are several parts of these annexation statutes that point to the lack of this discretionary authority.

Right at the start of the **Annexation, Consolidation and Detachment By Municipalities** Chapter, the Legislature states: "Before an entity undertakes an

annexation..., the entity shall coordinate with the Arkansas Geographic Information Systems Office for preparation of **legal descriptions and digital mapping for the relevant annexation**" A.C.A. §14-40-101 (emphasis added). If the City Council attempts to change the territory to be annexed after it has already been approved by the County Judge, we certainly would not be in compliance with the "before" requirement.

Then when we look at the Subchapter 6 – **Annexation Proceedings By Adjoining Landowners** which is how this annexation petition and ordinance is being presented to you, we see in A.C.A. §14-40-603 **Order for annexation** the following:

"(I)f the court shall be satisfied that the limits of **the territory to be annexed have been accurately described and an accurate map thereof made** and filed, and that the prayer of the petitioner is right and proper, then the court shall enter its order granting the petition and annexing **the territory.**" (emphasis added)

Then in A.C.A. §14-40-609 **Annexation by 100% petition – Definition**, that after the County Judge was granted the landowners' petition, the Judge will "forward the petition and order to the contiguous city..." The statute then makes it clear what the city can then do.

"By ordinance or resolution, the city or town may grant the petition and accept **the property** for annexation to the city or town.

(B) The city or town is not required to grant the petition and accept **the property** petitioned to be annexed.

(2) The ordinance or resolution shall contain an **accurate description of the property to be annexed.**" (emphasis added).

The statutes' many references to "the property" as opposed to "a portion of the property" or "property agreeable to the City Council", etc. appear to me to refer to the exact property originally requested for annexation by its owners and granted for annexation by the County Judge. The City Council has great discretion to decide whether or not Council Members believe it is in the best interest of Fayetteville to annex the proposed property. However, **my legal advice is that this must be an all or nothing decision. The City Council may not opt to annex only a portion of the property granted annexation rights by the County Judge and petitioned by its owners.**

CityClerk

From: CityClerk
Sent: Tuesday, June 2, 2020 2:57 PM
To: bbolinger@fayetteville-ar.gov; bpennington@fayetteville-ar.gov; cityclerk@fayetteville-ar.gov; citycouncil@matthewpetty.org; geads@fayetteville-ar.gov; groberts@fayetteville-ar.gov; jbatker@fayetteville-ar.gov; kjohnson@fayetteville-ar.gov; krogers@fayetteville-ar.gov; kwilliams@fayetteville-ar.gov; lbranson@fayetteville-ar.gov; ljordan@fayetteville-ar.gov; Mathis, Jeana; Paxton, Kara; pmulford@fayetteville-ar.gov; snorton@fayetteville-ar.gov; Thurber, Lisa; ward1_pos1@fayetteville-ar.gov; ward1_pos2@fayetteville-ar.gov; ward2_pos1@fayetteville-ar.gov; ward3_pos1@fayetteville-ar.gov; ward3_pos2@fayetteville-ar.gov; ward4_pos1@fayetteville-ar.gov; ward4_pos2@fayetteville-ar.gov
Cc: Stoll, Garner; Curth, Jonathan
Subject: FW: Concern with Hughmount Area Annexation Request

Good afternoon,

Please see the public comment below that I received today. This is in regards to the Hughmount items at Council tonight. I have responded to the resident but it is my understanding that the Clerk's Office will distribute the item to Council and/or Garner will verbalize the concerns during staff's presentation.

Thanks,

Jonathan Curth, AICP
Development Review Manager
City Planning Division
City of Fayetteville, Arkansas
jcurth@fayetteville-ar.gov
479.575.8308

[Website](#) | [Facebook](#) | [Twitter](#) | [Youtube](#)

From: Albert Cheng [<mailto:albert.acl@gmail.com>]
Sent: Tuesday, June 02, 2020 10:42 AM
To: Curth, Jonathan <jcurth@fayetteville-ar.gov>
Subject: Concern with Hughmount Area Annexation Request

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jonathan,

My name is Albert Cheng and I'm a resident in Hughmount Village. A neighbor directed me to you to submit input on the request to annex the area around Hughmount Road as the City Council hears the proposal.

You have perhaps already heard this concern, but I would like to go on record as well. I'm mostly concerned whether our current road infrastructure can support a lot more residents. I'm happy to welcome more folks into the neighborhood, but I worry about the impact of increasing traffic. In particular, the intersection where Hughmount Road meets Mt. Comfort/Wheeler Road already has a dangerous bend. I understand that some

improvements have been made there but I am unsure if they are sufficient to accommodate a lot more development at the moment. It seems much more needs to be done or at least considered -- not just at that intersection but all around -- before moving forward.

Thanks for listening and for your service,
Albert