



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-1791

APPEAL: ADM-2024-0001: Administrative Item (2277, 2400, 2423, 2555 S. ED EDWARDS RD, 2303 S. MALLY WAGNON RD, 2433, 2479, 2748, 2552 AND 2600 S. HUNT LN/WOODRUFF, KLINE, WANG, WARDEN, DURNING, FARKAS/GREGORY, DURNING AND HAMM, 595): Submitted by RONALD WOODRUFF for properties located at 2277, 2400, 2423, 2555 S. ED EDWARDS RD, 2303 S. MALLY WAGNON RD, 2433, 2479, 2748, 2552, AND 2600 S. HUNT LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 213.3 acres. The request is to modify the Master Street Plan.

A RESOLUTION TO GRANT THE APPEAL OF THE PLANNING COMMISSION'S DENIAL OF ADM-2024-0001, AND TO AMEND THE MASTER STREET PLAN TO REMOVE AN APPROXIMATELY 1.5 MILE SECTION OF A PLANNED RESIDENTIAL LINK STREET BETWEEN SOUTH MALLY WAGNON ROAD AND SOUTH DEAD HORSE MOUNTAIN ROAD

WHEREAS, several landowners outside of the City limits but within the City's planning area petitioned to remove a 1.5 mile portion of a planned Residential Link Street in the Master Street Plan that would provide a future east/west connection from South Mally Wagnon Road to South Dead Horse Mountain Road; and

WHEREAS, on February 12, 2024, the Planning Commission denied the petition by a vote of 3-6; and

WHEREAS, the petitioners have properly appealed this denial by their letter delivered to City Clerk Treasurer Kara Paxton on February 27, 2024.

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 grants the petitioners' appeal of the Planning Commission's denial of ADM-2024-0001 and amends the Master Street Plan by removing an approximately 1.5 mile section of a planned Residential Link Street between South Mally Wagnon Road and South Dead Horse Mountain Road as shown in Exhibit A attached to this Resolution.



MEETING OF MARCH 19, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Jessica Masters, Development Review Manager

SUBJECT: **APPEAL: ADM-2024-0001: Administrative Item (2277, 2400, 2423, 2555 S. ED EDWARDS RD, 2303 S. MALLY WAGNON RD, 2433, 2479, 2748, 2552 AND 2600 S. HUNT LN/WOODRUFF, KLINE, WANG, WARDEN, DURNING, FARKAS/GREGORY, DURNING AND HAMM, 595): Submitted by RONALD WOODRUFF for properties located at 2277, 2400, 2423, 2555 S. ED EDWARDS RD, 2303 S. MALLY WAGNON RD, 2433, 2479, 2748, 2552, AND 2600 S. HUNT LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 213.3 acres. The request is to modify the Master Street Plan.**

RECOMMENDATION:

City Planning staff and the Planning Commission recommend denial of the request to amend the Master Street Plan to remove a planned street connection.

BACKGROUND:

The subject area is southeast of the Fayetteville city limits in unincorporated Washington County, within the Fayetteville Planning Area. Containing 11 parcels in total, the properties range from undeveloped to agricultural and low-density, single-family uses. The current property owners have no specific development plans, though at least one property owner intends to sell, and has expressed difficulty in completing a transaction due to the existence of a planned Master Street Plan connection on their property.

Proposal: The petitioners request to have an approximately 1.5-mile section of a planned 2.25-mile connection of the 2040 Master Street Plan removed from the subject properties. The proposed Residential Link Street would provide a future east/west connection from S. Mally Wagon Road connecting eventually to S. Dead Horse Mountain Road to the west.

Public Comment: Prior to the initial Planning Commission meeting, staff met with the petitioners and discussed the proposal. Petitioners' major concerns are reflected in the petition provided, and additional written comment provided by individuals in the group is also attached to this packet. Petitioners are primarily concerned with a perceived diminished value in their property due to the existence of this Plan, watershed and existing flooding in the area that may be exacerbated by the addition of a street and subsequent development, future constructability of the street, the protection of existing wildlife habitat, diminished privacy, and an overall negative impact to the existing quality of life. At the public hearing, the Planning Commission granted each petitioner a 3-minute speaking time as members of the public beyond the initial 10-minute allotted time for the applicant's original presentation. 12 members of the public (including the petitioners) spoke in favor of removing the Master Street Plan connection. One member of the public spoke in favor of the planned

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connection to remain in place.

DISCUSSION:

On the balance of considerations, staff does not support the applicants' request. The proposed connection has been on the Master Street Plan since 2007 (Resolution 161-07) where it was originally classified as a Collector Street for the 2025 Master Street Plan; this is the equivalent of a Neighborhood Link Street under 2040 Master Street Plan Standards. After being re-affirmed as a Collector Street in 2011 (under the 2030 Master Street Plan, Resolution 166-11), the portion in question was downgraded from a Collector Street to a Residential Link Street with the adoption of the 2040 Master Street Plan (Resolution 15-20). In 2007, the street was established after significant study, public interaction, and multiple considerations by the Planning Commission and City Council.

Master Street Plans account for a longer-term potential for the property, and are considered to be just that; a plan. The Master Street Plan is a policy document to help guide decisions regarding location, form, function, design, and classifications of streets. The Plan considers infrastructure and anticipates where new building developments might occur to plan for possible street connections and capital expenditures. Arkansas State Law establishes a 2-mile territorial jurisdiction for cities with a population between 60,000 – 150,000, under the premise that those lands may be annexed by the City in the future. Further, under that requirement as established by the State, the city Planning Commission is charged with preparing plans for that area, which includes the creation of a Master Street Plan; that plan may be adopted to designate the general location, characteristics, and functions of streets and highways to be reserved for future public acquisition. The Master Street Plan is not a formal land acquisition, an allocation of funding, or a construction document, nor does it establish a final alignment.

Given the property's current location within Washington County, and lack of immediate adjacency to the City limits, staff does not foresee any City-initiated construction of this connection and acknowledges that there do not appear to be any portions of the connection currently built or planned for construction or development. Further, any near-term development in the area would be subject to the zoning standards as established by Washington County, which require a minimum lot size of one acre and are strictly limited to either residential or agricultural uses.

That said, the alignment shown on the existing Master Street Plan currently appears to more or less align with existing slopes and contours on the site and is likely the most feasible route given the existing topography. The final alignment is ultimately determined at the time of a development, when constructability (including any necessary floodplain, wetland, or tree preservation mitigation) is taken into consideration. While also taking topographic and geographic considerations into account, redundancy in street connections is another important factor in establishing necessary future streets. With this proposed connection located just shy of one mile south of E. Huntsville Road, this location was meant to act as a secondary east/west connection to relieve any future congestion along E. Huntsville Road should the area continue to develop. With the White River to the north of E. Huntsville Road and significant topography south of the subject Master Street Plan connection, this link represents the sole, viable, planned transportation link in the area.

Prior to the preparation and adoption of the current Master Street Plan, the City conducted extensive studies as required by Ark. Code Ann. § 14-56-414. Without another more formal study for the area to re-evaluate the necessity of the proposed street, staff recommends that the street connection be maintained to protect the potential for future east/west connectivity in the area should development occur within the next 20 years.

At the February 12, 2024 Planning Commission meeting, a motion to approve the applicant's request and remove the Master Street Plan connection failed with a vote of 3-6-0; Commissioners Winston, Payne, and Holcomb were in favor of its removal; Commissioners McGetrick, Sparkman, Brink, Garlock, Madden, and

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Gulley were opposed. Conversation centered around the Commission's responsibility to create plans for the area, and that the Master Street Plan was a tool to establish what might be needed in the future. Commissioners recognized that construction on the street is not eminent and that there was not a current plan to construct the road, but they also indicated that they could not establish that it would not be a necessary connection in the future to help maintain cross-connectivity and a redundant street network in the area. They also identified that this section of the Master Street Plan had not been overlooked; after its initial adoption in 2007, the street had been downgraded in 2020 from a Collector to a Residential Link Street. Commissioners also responded to residents' concerns about future development and land preservation, and cited other mechanisms to obtain that outcome, such as the dedication of conservation easements to preserve land in perpetuity. Those who were in favor of its removal cited that there had historically been efforts to minimize development in this area and felt that the removal of the Master Street Plan was an opportunity to discourage growth. One motion was also made by Commissioner Payne and seconded by Commissioner Winston to table the item until March 11 so that a tour could be organized; this motion failed with a vote of 2-7-0. Public comment is summarized above, and written comment is included in the attached Planning Commission staff report.

Before the Planning Commission and since, Fayetteville's Legal Department issued advisory information on the City's authority to draft and maintain a Master Street Plan. In addition to contesting an assertion by applicants and their representative that the City's Master Street Plan diminishes property value, recognition is provided for the City's statutory authority to implement planning tools necessary for the "coordinated, adjusted and harmonious development of the municipality and its environs." The Legal Department memorandums are attached to this report.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: Appeal Letter (#3), Exhibit A (#4), City Attorney Memo (#5), Planning Commission Staff Report (#6)

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DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Senior Assistant City Attorney

Hannah Hungate
Assistant City Attorney

Stacy Barnes
Paralegal

TO: Mayor Jordan
City Council

CC: Chris Brown, Public Works Director
Jonathan Curth, Development Services Director

FROM: Blake Pennington, Senior Assistant City Attorney

A blue ink handwritten signature, likely belonging to Blake Pennington, written over the printed name.

DATE: February 28, 2024

RE: Master Street Plan Amendment Appeal

Summary

On February 12, 2024, the Planning Commission denied an application of several landowners outside of the city limits to remove a planned future street from the Master Street Plan. The applicants have properly appealed the denial and the appeal is set to be heard by the City Council on March 19, 2024.

The applicants have raised claims that the planned future street alignment shown in the Master Street Plan that crosses their properties diminishes the value of their land and constitutes a taking without just compensation. However, both state and federal law authorize the City to adopt plans for potential future development without those plans being considered takings. Furthermore, the Private Property Protection Act likely has no application to the adoption of the Master Street Plan's alignment of potential future streets. The City Council should feel unrestrained by the threat of litigation when making its decision in this instance. Arkansas law and our City plans provide factors that are appropriate to consider. The City Council may also consider the potential impacts of these plans on landowners.

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Background

The following background was provided by Development Review Manager Jessie Masters in her memo to the Planning Commission:

The proposed connection has been on the Master Street Plan since 2007 (Resolution 161-07) where it was originally classified as a Collector Street for the 2025 Master Street Plan; this is the equivalent of a Neighborhood Link Street under 2040 Master Street Plan Standards. After being re-affirmed as a Collector Street in 2011 (under the 2030 Master Street Plan, Resolution 166-11), the portion in question was downgraded from a Collector Street to a Residential Link Street with the adoption of the 2040 Master Street Plan (Resolution 15-20). In 2007, the street was established after significant study, public interaction, and multiple considerations by the Planning Commission and City Council.

The applicants, homeowners whose land the future potential street extension is shown as crossing, stated the basis for their request was a diminution in value of their property, watershed and flooding concerns, protection of wildlife, diminished privacy, and an overall negative impact to their existing quality of life. Staff recommended denial of the request without another more formal study to re-evaluate the need for the proposed street. The Planning Commission denied the request by a vote of 6-3.

The Law

1. Could the adoption of the Master Street Plan and the alignment of a potential future street be considered a taking?

Under existing Arkansas and federal case law spanning nearly 100 years, the adoption of a plan for a potential future road cannot be considered a taking.

Article 2, section 22 of the Arkansas Constitution provides that "the right of property is before and higher than any constitutional sanction; and private property shall not be taken, appropriated or damaged for public use, without just compensation therefor." The Arkansas Supreme Court has interpreted this provision to require compensation for a taking when a municipality acts in a manner which substantially diminishes the value of a landowner's land, and its

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actions are shown to be intentional. Robinson v. City of Ashdown, 301 Ark. 226, 783 S.W.2d 53 (1990). As explained below, however, there are limits to the types of acts that can constitute a taking.

In Danforth v. United States, 308 U.S. 271 (1939), a landowner contended that the "taking" of his property had occurred prior to the institution of condemnation proceedings, and that he was entitled to compensation from the date of the enactment of the federal Flood Control Act. His theory was that passage of the Act immediately diminished the value of the property because the Act contemplated the use of his property for a floodway easement. However, the US Supreme Court denied that the landowner was entitled to such retrospective compensation, holding that "a reduction or increase in the value of property may occur by reason of legislation for or the beginning or completion of a project. Such changes in value are incidents of ownership. They cannot be considered as a 'taking' in the constitutional sense." *Id.* at 285. "The mere enactment of legislation which authorizes condemnation of property cannot be a taking. Such legislation may be repealed or modified, or appropriations may fail." *Id.*

In Agins v. City of Tiburon, 447 U.S. 255 (1980), the US Supreme Court agreed with the California Supreme Court's holding that a municipality's good-faith planning activities through the adoption of zoning ordinances did not so burden landowners' enjoyment of their property as to constitute a taking.

Appellants also claim that the city's precondemnation activities constitute a taking. See nn. 1, 3, and 5, *supra*. The State Supreme Court correctly rejected the contention that the municipality's good-faith planning activities, which did not result in successful prosecution of an eminent domain claim, so burdened the appellants' enjoyment of their property as to constitute a taking...Even if the appellants' ability to sell their property was limited during the pendency of the condemnation proceeding, the appellants were free to sell or develop their property when the proceedings ended. Mere fluctuations in value during the process of governmental decisionmaking, absent extraordinary delay, are "incidents of ownership. They cannot be considered as a 'taking' in the constitutional sense." (citations omitted).

Id. at 263 n. 9.

National By-Products Case

In National By-Products, Inc. v. City of Little Rock, the Arkansas Supreme Court held that the Little Rock Regional Airport Commission's plan to expand a runway through property owned by National By-Products was not a taking in violation of the Fifth Amendment to the United States Constitution and Ark. Const. art. 2, § 22. 323 Ark. 619, 916 S.W. 2d 745 (1996). The Court described the claims of National By-Products, which are similar to claims the City has heard as follows:

National's competitors approached National's suppliers and informed them of newspaper articles about the proposed runway extension...According to National, prospective purchasers of National's business, once informed of the proposed airport expansion, have immediately lost interest in buying the company. Additionally, National has had extreme difficulty in retaining its management and employees.

In sum, National alleges it has suffered material harm to its operations to the extent that it has been substantially deprived of the use and enjoyment of its property. As a result of the Commission's actions, which have "effectively frozen [its] operation and have depressed land values," National claims that its property has been rendered unfit for its highest and best commercial use. National further claims that the Commission's actions have resulted in permanent and substantial interference and deprivation amounting to an actual or constructive taking in violation of the Fifth Amendment to the United States Constitution and Ark. Const. art, 2, § 22. National has asked for the fair market value of its property from the date the taking was effective.

Id. at 622-23.

The Court found that National's property continued to be used for its traditional purpose as a rendering plant and neither the City nor the Commission placed any direct restraint on that use. The Court also recognized that there was no allegation that the City or the Commission acted in bad faith in its dealings with the landowner. The Court held, therefore "it is clear that, on the facts before us, any damages sustained by National were insufficient to support an action for inverse condemnation. When viewing the allegations in the amended complaint in

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a light most favorable to National, it cannot be said that the Commission's actions constituted a taking of National's property." *Id.* at 627-28.

In reaching its decision in National By-Products, the Arkansas Supreme Court cited its previous decision in Hood v. Chadick, County Judge, 272 Ark. 444 (1981). After the Jefferson County courthouse burned in 1976, the County developed a plan to rebuild the courthouse that would have required taking a portion of adjacent property for parking and landscaping. Hood, who owned that adjacent property, sued the County seeking damages over this plan. Then the County filed its own condemnation counterclaim. The plan to rebuild the courthouse was referred to the voters and defeated in the election so the County dismissed its condemnation claim. The Arkansas Supreme Court held that the trial court properly dismissed Hood's claims concluding that, when the county did not take possession of or even enter upon Hood's property, "no damages were allowable for a mere 'threat to condemn.'" *Id.* at 447.

The Court also cited its decision in Southwestern Water Co. v. Merritt, 224 Ark. 499, 275 S.W.2d 18 (1955), in which it held that the actual taking or damage of lands for public use is what must be compensated under the state and federal constitutions, not a plan to take or damage the land. National By-Products, 323 Ark. at 626.

The Court further stated in National By-Products that its decision in Hood is "consistent with the law in several jurisdictions which adhere to the general rule that mere plotting or planning in anticipation of an improvement does not constitute a taking or damaging of the property affected where the government has not imposed a restraint on the use of the property." *Id.* (internal citations omitted).

Finally, the Arkansas Supreme Court cited Westgate Ltd. v. State, 843 S.W.2d 448 (Tex. 1992), a case out of the Texas Supreme Court, which held that public policy considerations supported its continued adherence to the general rule:

Construction of public-works projects would be severely impeded if the government could incur inverse condemnation liability merely by announcing plans to condemn property in the future. Such a rule would encourage the government to maintain the secrecy of proposed projects as long as possible, hindering public debate and increasing waste and inefficiency. After announcing a project, the government would be under pressure to acquire the needed property as quickly as possible to

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avoid or minimize liability. This likewise would limit public input, and forestall any meaningful review of the project's environmental consequences. The government would also be reluctant to publicly suggest alternative locations, for fear that it might incur inverse condemnation liability to multiple landowners arising out of a single proposed project. Failing to consider available alternatives is not only inefficient, but is at odds with proper environmental review. 843 S.W.2d 448 at 453 (citations omitted). As we recognized in *Hood*, these policy reasons might not be applicable where a condemning authority is accused of intentionally injuring a landowner. However, as conceded by counsel for National during oral argument, the Commission, through its actions, did not manifest such an intent to cause injury.

National By-Products, 323 Ark. at 627.

In adopting City Plan 2040 and the Master Street Plan, the City undertook an intensive, data-driven study with a significant amount of public input as well as review by and input from staff, the Planning Commission, and the City Council before those plans were adopted. It simply cannot be said that the City acted in bad faith. Even if the Master Street Plan alignment could somehow be considered a “threat to condemn” at some point in the future, the Hood and Southwestern Water cases establish that a plan or threat to condemn at some point in the future does not constitute a taking of or damage to the property subject to the plan.

2. Is there a potential claim under the Private Property Protection Act for Master Street Plan alignment?

No, the Private Property Protection Act (“PPPA”), Ark. Code Ann. § 18-15-1701, *et seq.* does not provide property owners with any remedy to seek damages against the City for diminished value in this case.

The PPPA provides that if a landowner can establish that a regulatory program implemented by a governmental unit has permanently reduced the fair market value of property by at least 20% then the governmental unit may either pay compensation for the reduction in fair market value or invalidate all or part of the regulatory program. The law contains several requirements and exemptions, some of which are relevant to the claims made by the applicants seeking a change to the Master Street Plan.

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First, to assert a taking, the regulatory program must have been implemented at the time the owner acquired title or after April 2, 2015, whichever is later. Ark. Code Ann. § 18-15-1703(a)(3). In this case, the segment of street being challenged has been in the Master Street Plan since 2007, when the City Council approved Resolution 161-07, which is well before the date provided in the PPPA.

Second, even if the Court used the 2020 adoption of the Master Street Plan, which contained the same alignment as the 2007 plan, the PPPA exempts “the discontinuance or modification of a program, rule, or regulation that provides a unilateral expectation that does not rise to the level of a recognized interest in private real property.” Because the Master Street Plan does not give the City any recognized interest in private real property, the claim would not stand.

However, even if a court somehow determined the PPPA applies and that the adoption of the Master Street Plan diminished the value of their land by more than 20%, the City would have the option to remove that portion from the Master Street Plan in lieu of payment of damages.

3. What standards can the City Council consider for an application to amend the Master Street Plan?

Ark. Code Ann. § 14-56-403 includes several factors that can be considered when making and amending comprehensive plans like our Master Street Plan. I am attaching the memo I sent to the Planning Commission about the factors in state law. Staff will provide additional information about the decision to include this in our Master Street Plan as part of City Plan 2040 and the reasons for their recommendation to retain it.

Conclusion

An applicant’s threat of litigation over an inverse condemnation or other claim should not deter the City Council from exercising its authority under Ark. Code Ann. § 14-56-502 to “adopt and enforce plans for the coordinated, adjusted and harmonious development of the municipality and its environs.” Landowners who have an unwanted potential future street identified in the Master Street Plan on their property have no valid claim that the plan is a taking and, therefore, are not entitled to compensation from the City. The only remedy available, which is what these applicants are doing, is to request that the City Council remove the unwanted portion of street from the Master Street Plan.



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Stacy Barnes
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TO: **Planning Commission**

CC: **Jessie Masters**, Development Review Manager

FROM: **Blake Pennington**, Senior Assistant City Attorney

DATE: **February 7, 2024**

RE: **Master Street Plan Amendments**

An application to remove a planned future street outside of the city limits but within the City's planning area from the Master Street Plan will be considered by the Planning Commission on Monday, February 11. The applicants may attempt to raise claims about diminished property values, uncompensated takings, or inverse condemnation. These are not issues that are relevant to the Planning Commission's decision about whether to recommend to the City Council that the Master Street Plan should be amended.

Ark. Code Ann. § 14-56-402 authorizes the City to "adopt and enforce plans for the coordinated, adjusted and harmonious development of the municipality and its environs." Ark. Code Ann. § 14-56-403 explains the purposes of these plans:

- (a) The plans of the municipality shall be prepared in order to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens.
- (b) The plans may provide, among other things, for:
 - (1) Efficiency and economy in the process of development;
 - (2) The appropriate and best use of land;
 - (3) Convenience of traffic and circulation of people and goods;
 - (4) Safety from fire and other dangers;
 - (5) Adequate light and air in the use and occupancy of buildings;

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- (6) Healthful and convenient distribution of population;
- (7) Good civic design and arrangement;
- (8) Adequate public utilities and facilities; and
- (9) Wise and efficient expenditure of funds.

Among the powers and duties of the Planning Commission is the creation of a planning area map and also “plans for all, or any portion of, the area encompassed by the map” which may include “a master street plan[.]” Ark. Code Ann. § 14-56-412. Ark. Code Ann. § 14-56-414 provides further guidance about the development of plans, including the requirement that “suitable studies” be undertaken related to the plans to be prepared. Staff can verify that extensive studies were done prior to the adoption of the current Master Street Plan and significant changes may require further study.

Furthermore, Ark. Code Ann. § 14-56-413 grants jurisdiction to the City over a number of matters, including development, within an extended territorial jurisdiction. We generally refer to this as the City’s planning area. This falls squarely within what is referred to as the City’s “environs” in Ark. Code Ann. § 14-56-402 cited above. Therefore, the City’s also has the authority to adopt and enforce plans, including a master street plan, for the “coordinated, adjusted and harmonious development” of lands within its territorial jurisdiction for those purposes listed above.

A number of state and federal cases significantly undermine any legal claims a landowner might try to bring against the City for alleged diminution of value or uncompensated taking. I will not go into those here because I don’t want to distract the Planning Commission from the relevant considerations. Suffice it to say that landowners who have an unwanted potential future street identified in the Master Street Plan on their property have no valid claim that the plan is a taking and are not entitled to compensation from the City. The only remedy available is to request that the City Council remove the unwanted portion of potential future street from the Master Street Plan.

Conclusion

When making your decision on the applicant’s proposal to remove this portion of potential future street from the Master Street Plan, you should consider the purposes listed above as well as the goals and guiding policies of the Master Street Plan itself, which is covered very well in the staff report.



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: February 12, 2024 **Updated with results from February 12, 2024 PC Meeting**

SUBJECT: **ADM-2024-0001: Administrative Item (2277, 2400, 2423, 2550 S. ED EDWARDS RD, 2303 S. MALLY WAGNON RD, 2433, 2479, 2748, 2552 AND 2600 S. HUNT LN/WOODRUFF, KLINE, WANG, WARDEN, DURNING, FARKAS/GREGORY, DURNING AND HAMM, 595):** Submitted by RONALD WOODRUFF for properties located at 2277, 2400, 2423, 2550 S. ED EDWARDS RD, 2303 S. MALLY WAGNON RD, 2433, 2479, 2748, 2552, AND 2600 S. HUNT LN. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 213.3 acres. The request is to modify the Master Street Plan. The request is to modify the Master Street Plan.

RECOMMENDATION:
Staff recommends denial of **ADM-2024-0001**.

RECOMMENDED MOTION:
"I move to deny **ADM-2024-0001**."

BACKGROUND:
The subject area is southeast of the City limits in Washington County, within the Fayetteville Planning Area. Containing 11 parcels in total, the properties range from undeveloped, agricultural, and low-density, single family uses. The current property owners have no specific development plans, though at least one property owner intends to sell, and has expressed difficulty in completing a transaction due to the existence of a planned Master Street Plan connection on his property. The surrounding land use and zoning is depicted on *Table 1*.

**Table 1:
Surrounding Land Use and Zoning**

Direction	Land Use	Zoning
North	Rural Residential	Washington County; Ag/SF Res I Unit per Acre
South	Rural Residential	Washington County; Ag/SF Res I Unit per Acre
West	Rural Residential	Washington County; Ag/SF Res I Unit per Acre
East	Rural Residential	Washington County; Ag/SF Res I Unit per Acre

Proposal: The petitioners request to have an approximately 1.5-mile section of a planned 2.25-mile connection of the 2040 Master Street Plan removed from the subject properties. The proposed Residential Link Street would provide a future east/west connection from S. Mally Waggon Road connecting eventually to S. Dead Horse Mountain Road to the west.

DISCUSSION:

On the balance of considerations, staff does not support the applicants' request. The proposed connection has been on the Master Street Plan since 2007 (Resolution 161-07) where it was originally classified as a Collector Street for the 2025 Master Street Plan; this is the equivalent of a Neighborhood Link Street under 2040 Master Street Plan Standards. After being re-affirmed as a Collector Street in 2011 (under the 2030 Master Street Plan, Resolution 166-11), the portion in question was downgraded from a Collector Street to a Residential Link Street with the adoption of the 2040 Master Street Plan (Resolution 15-20). In 2007, the street was established after significant study, public interaction, and multiple considerations by the Planning Commission and City Council.

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Given the property's current location within Washington County, and lack of immediate adjacency to the City limits, staff does not foresee any City-initiated construction of this connection and acknowledges that there do not appear to be any portions of the connection currently built or planned for construction or development. Further, any near-term development in the area would be subject to the zoning standards as established by Washington County, which require a minimum lot size of one acre and are strictly limited to either residential or agricultural uses.

That said, the alignment shown on the existing Master Street Plan currently appears to more or less align with existing slopes and contours on the site and is likely the most feasible route given the existing topography. The final alignment is ultimately determined at the time of a development, when constructability (including any necessary floodplain, wetland, or tree preservation mitigation) is taken into consideration. While also taking topographic and geographic considerations into account, redundancy in street connections is another important factor in establishing necessary future streets. With this proposed connection located just shy of one mile south of E. Huntsville Road, this location was meant to act as a secondary east/west connection to relieve any future congestion along E. Huntsville Road should the area continue to develop. With the White River to the north of E. Huntsville Road and significant topography south of the subject Master Street Plan connection, this link represents the sole, viable, planned transportation link in the area.

Prior to the preparation and adoption of the current Master Street Plan, the City conducted extensive studies as required by Ark. Code Ann. § 14-56-414. Without another more formal study for the area to re-evaluate the necessity of the proposed street, staff recommends that the street connection be maintained to protect the potential for future east/west connectivity in the area should development occur within the next 20 years.

Public Comment. Staff has met with the petitioners and discussed the proposal. Petitioners' major concerns are reflected in the petition provided, and additional written comment provided by

individuals in the group is also attached to this packet. Petitioners are primarily concerned with a perceived diminished value in their property due to the existence of this Plan, watershed and existing flooding in the area that may be exacerbated by the addition of a street and subsequent development, future constructability of the street, the protection of existing wildlife habitat, diminished privacy, and an overall negative impact to the existing quality of life.

RECOMMENDATION: Staff recommends denial of ADM-2024-0001; if the Planning Commission votes to forward the item to City Council with a recommendation of approval, staff recommends the following conditions.

1. Approval of the removal of this segment of the Master Street Plan connection does not reflect approval of any associated lot split or other planned development; any planned developments must be submitted according to the allowances in relevant City code.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 12, 2024</u>	<input type="checkbox"/> Tabled	<input type="checkbox"/> Approved	<input checked="" type="checkbox"/> Denied
Motion:	MOTION #1: BRINK	MOTION #2: PAYNE	MOTION #3: GARLOCK
Second:	GULLEY	WINSTON	SPARKMAN
Vote:	To extend speaking time of applicants (motion withdrawn)	TABLE TO MARCH 11 2-7-0 (McGetrick, Sparkman, Brink, Garlock, Madden, Gulley, Holcomb opposed)	APPROVE 3-6-0 (McGetrick, Sparkman, Brink, Garlock, Madden, Gulley opposed)

BUDGET/STAFF IMPACT:

None

Attachments:

- City Attorney Memo
- Engineering Memo
- Applicant Request Letter
- 2007 Master Street Plan Exhibit
- 2030 Master Street Plan Exhibit
- 2040 Master Street Plan Exhibit
- Additional Petitioner Comment
- Current Land Use Map



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Senior Assistant City Attorney

Hannah Hungate
Assistant City Attorney

Stacy Barnes
Paralegal

TO: Planning Commission

CC: Jessie Masters, Development Review Manager

FROM: Blake Pennington, Senior Assistant City Attorney

DATE: February 7, 2024

RE: Master Street Plan Amendments

An application to remove a planned future street outside of the city limits but within the City’s planning area from the Master Street Plan will be considered by the Planning Commission on Monday, February 11. The applicants may attempt to raise claims about diminished property values, uncompensated takings, or inverse condemnation. These are not issues that are relevant to the Planning Commission’s decision about whether to recommend to the City Council that the Master Street Plan should be amended.

Ark. Code Ann. § 14-56-402 authorizes the City to “adopt and enforce plans for the coordinated, adjusted and harmonious development of the municipality and its environs.” Ark. Code Ann. § 14-56-403 explains the purposes of these plans:

- (a) The plans of the municipality shall be prepared in order to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens.
- (b) The plans may provide, among other things, for:
 - (1) Efficiency and economy in the process of development;
 - (2) The appropriate and best use of land;
 - (3) Convenience of traffic and circulation of people and goods;
 - (4) Safety from fire and other dangers;
 - (5) Adequate light and air in the use and occupancy of buildings;

Master Street Plan Amendments

- (6) Healthful and convenient distribution of population;
- (7) Good civic design and arrangement;
- (8) Adequate public utilities and facilities; and
- (9) Wise and efficient expenditure of funds.

Among the powers and duties of the Planning Commission is the creation of a planning area map and also “plans for all, or any portion of, the area encompassed by the map” which may include “a master street plan[].” Ark. Code Ann. § 14-56-412. Ark. Code Ann. § 14-56-414 provides further guidance about the development of plans, including the requirement that “suitable studies” be undertaken related to the plans to be prepared. Staff can verify that extensive studies were done prior to the adoption of the current Master Street Plan and significant changes may require further study.

Furthermore, Ark. Code Ann. § 14-56-413 grants jurisdiction to the City over a number of matters, including development, within an extended territorial jurisdiction. We generally refer to this as the City’s planning area. This falls squarely within what is referred to as the City’s “environs” in Ark. Code Ann. § 14-56-402 cited above. Therefore, the City’s also has the authority to adopt and enforce plans, including a master street plan, for the “coordinated, adjusted and harmonious development” of lands within its territorial jurisdiction for those purposes listed above.

A number of state and federal cases significantly undermine any legal claims a landowner might try to bring against the City for alleged diminution of value or uncompensated taking. I will not go into those here because I don’t want to distract the Planning Commission from the relevant considerations. Suffice it to say that landowners who have an unwanted potential future street identified in the Master Street Plan on their property have no valid claim that the plan is a taking and are not entitled to compensation from the City. The only remedy available is to request that the City Council remove the unwanted portion of potential future street from the Master Street Plan.

Conclusion

When making your decision on the applicant’s proposal to remove this portion of potential future street from the Master Street Plan, you should consider the purposes listed above as well as the goals and guiding policies of the Master Street Plan itself, which is covered very well in the staff report.



TO: Jessie Masters, Development Review Manager

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: February 9, 2024

SUBJECT: **Planning Commission Engineering Comments for
ADM-2024-0001 Master Street Plan Amendment**

Engineering Recommendation:

Engineering recommends denial of the applicant's request to remove a future master street plan connection. The East/West connectivity this proposed connection will provide will be an important part of the future street network. There appears to be topographic challenges associated with the current alignment. If the street connection is desired to be shifted, an alignment study would have to be completed to determine the most practical alignment.

December 27, 2023

Chairman
City of Fayetteville Planning Commission

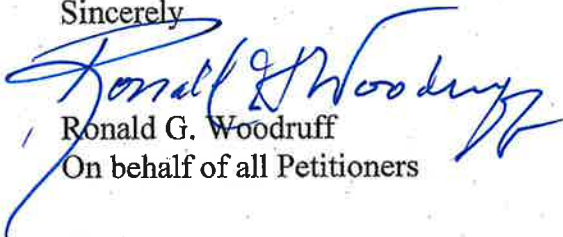
Re: Petition to Remove Cloud Upon Title

Dear Chairman:

1. Payment of \$100.00 application fee to be delivered to Planning Commission Office.
2. Full legal descriptions and parcel numbers for all directly affected lands is attached to the Petition marked as Exhibits A - G.
3. Attached to this letter is a Petition that sets forth the request and underlying explanation of hardships placed on each described property. This variance has unique criteria to be addressed and considered by the Planning Commission.
4. Petitioners do not believe notification surrounding property owners is required.
5. Site plan is set out in maps displayed in CITY PLAN 2040. Copies of the maps are attached to the Petition marked Exhibit H.

Petitioners offer constitutional basis and practical reasons for granting our Petition to have the "Residential Link Street" removed from City Plan 2040.

Sincerely



Ronald G. Woodruff
On behalf of all Petitioners

cc:

Allan and Velva L. Kline
Kevin and Lucia Wang
Steve and Candy Warden
Jerry and Shirley Durning
Richard Farkas and Carol Gregory
David Hamm

PETITION TO REMOVE A CLOUD UPON TITLE ON
 CERTAIN LANDS WITHIN WASHINGTON COUNTY, ARKANSAS
 SITUATED OUTSIDE THE INCORPORATED CITY LIMITS OF
 FAYETTEVILLE, ARKANSAS

Ronald G. and Marsha C. Woodruff, Trustees
 Ronald G. And Marsha C. Woodruff Family Trust

Allan and Velva L. Kline, Husband and Wife

Kevin and Lucia Wang, Husband and Wife

Steve and Candy Warden, Husband and Wife

Jerry and Shirley Durning, Trustees
 The Jerry and Shirley Durning Revocable Trust

Richard Farkas and Carol Gregory, Husband and Wife

David Hamm, Manager
 Hamm Land and Cattle, LLC

PETITIONERS

VS

City of Fayetteville, Washington County, Arkansas

RESPONDENT

PETITION

Comes now each and all Petitioners named above and for their Petition addressed to the City of Fayetteville (hereinafter "The City") state:

1. Petitioners each own and hold title to parcels of real property situated outside of the corporate city limits of The City. . . Documentary proof and copies of public records reflecting the ownership of each Petitioner is attached and marked as exhibit as follows:

Petitioner	Exhibit	Parcel
Woodruff Trust	A	001-10982-000 and 001-10980-000

Kline	B	001-10990-000
Wang	C	001-10991-003
Warden Trust	D	001-10991-000
Durning Trust	E	001-11032-000, 001-11030-000, 001-11029-000
Farkas/Gregory	F	001-11031-000, 001-11031-001
Hamm LLC	G	001-11028-000, 001-11028-001

2. The City adopted and has implemented "City Plan 2040" which includes designation of a "Residential Link Street" that consists of a 52 foot future right of way across and through the lands owned by Petitioners. A copy of a map of lands included in "City Plan 2040" that displays the location of the designated "Residential Link Street" is attached and marked as Exhibit H.

3. The placement of the "Residential Link Street" across and through the lands of Petitioners places a cloud upon the title requiring disclosure by Petitioner to prospective buyers who may be interested in purchasing the real property. The existence of such an encumbrance upon the title to the land clearly diminishes the value of the land and constitutes a "taking" and damage to the value of the property. For example: See copy of letter request given the City Planning Commission by Kevin Wang marked Exhibit I.

4. The burden and cloud placed upon Petitioners' land by "The City" violates the Fifth Amendment of the United States Constitution. That amendment includes a clause known as the "Taking Clause". It states that private property shall not be taken for public use, without just compensation. This clause stands for the principle that the government should not single out isolated individuals (such as the Petitioners in this case) to bear excessive burdens, even in support of an important public good. When this happens, the remedy is the payment of "just compensation", which The City has failed to recognize and provide in "City Plan 2040".

5. Closer to home, Article 2 Section 22 of the Arkansas Constitution states: "The right of property is before and higher than any constitutional sanction; and private property shall not be

taken, appropriated or damaged for public use, without compensation therefor.” Petitioners submit that the actions of The City complained of herein constitutes a taking, appropriation, and damage to Petitioners’ property, in violation of rights granted by the state constitution.

6. The Due Process Clause of both the Fifth and Fourteenth Amendment to the United States Constitution prohibits the deprivation of life, liberty, or PROPERTY [emphasis added] by the federal and state governments without due process of law. Prior to the passage of “City Plan 2040”, Petitioners were given no notice or opportunity to offer defense to the taking of their property. The failure of due process deprived Petitioners (and others similarly situated) the right of a fundamental fairness as granted by law.

7. Petitioners recognize that in 2020, Arkansas enacted a public law setting “territorial jurisdiction” for municipal governments to use for planning purposes. That distance is limited to an area of two (2) miles beyond the corporate city limits. Petitioners’ lands do fall within the permitted area. However, the grant of “territorial jurisdiction” does not permit violation of state and federal constitutional protection by taking of property without just compensation.

8. The actual physical taking (i.e. possession) of Petitioners’ real property, which is situated in a rural setting, will result in a loss of privacy, quality of life, and the quiet enjoyment of home and property, all of which devalues the property. In some cases, parcels of land will be separated into two sections divided by the roadway again see Wang’s request (Exhibit I)

9. Many other reasons (practical, financial, and environmental) exist to support the removal of the “Residential Link Street” from City Plan 2040, including but not limited to the following:

- A. This proposed street crosses a major gas pipeline;
- B. This proposed street crosses an existing Ozark Electric high voltage transmission

power line;

C. This proposed street cuts through existing buildings and within a few feet of at least one current residential dwelling and perhaps others;

D. Two spring fed ponds and a third pond is directly in the path of this proposed street;

E. There are gas wells situated on some of these properties that are functioning and serving two homes;

F. One property is in use as an operating cattle operation;

G. There are reports of existing Indian mounds located on one parcel;

H. Important prairie land (Drake's Prairie) will be disturbed by this proposed street;

I. The runoff of water from the mountain to the south (Bear Mountain) is considerable and the interruption of the existing creek and other flow ditches will likely cause significant flooding of homes on some of Petitioners' land as well as that of homeowners residing within the subdivision of The City at lower elevations;

J. Neighbors living in close proximity to Petitioners' land will experience deterioration of their rural tranquil existence by the locating of this proposed street;

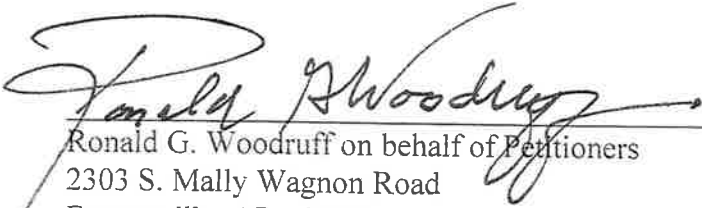
K. Destruction of wildlife habitat will be a direct result of such a construction project;
and

L. Existing connecting area roadways provide the City better alternatives to serve future needs of the City.

FOR THE REASONS STATED, Petitioners respectfully petition the CITY OF FAYETTEVILLE to amend City Plan 2040 by removing and deleting the designation of the "Residential Link Street" that runs from Dead Horse Mountain Road east to Mally Wagnon Road across Petitioners' land.

A list of contact information for each petitioner is attached marked Exhibit J.

Submitted by:



Ronald G. Woodruff on behalf of Petitioners
2303 S. Mally Wagon Road
Fayetteville, AR 72701
ronwoodruff40@gmail.com
(479)841-8790
Date: December 20, 2023

EXHIBIT “A”

Woodruff

QUITCLAIM DEED



Doc ID: 017609720001 Type: REL
Kind: QUITCLAIM DEED
Recorded: 08/25/2017 at 02:33:12 PM
Fee Amt: \$15.00 Page 1 of 1
Washington County, AR
Kyle Sylvester Circuit Clerk

File **2017-00026345**

KNOW ALL MEN BY THESE PRESENTS:

THAT we, **Ronald G. Woodruff and Marsha C. Woodruff**, Husband and Wife, hereinafter called Grantors for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to me in hand paid by:

Ronald G. Woodruff and Marsha C. Woodruff as Trustees of **"THE RONALD G. AND MARSHA C. WOODRUFF FAMILY TRUST,"** hereinafter called Grantees, do hereby grant, bargain, sell, and quitclaim unto the said Grantees and Grantees' assigns, the following described land situate in Washington County, State of Arkansas, to Wit:

Part of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of Section Twenty-nine (29), Township Sixteen (16) North, Range Twenty-nine (29) West of the 5th P.M. described as follows, to-wit: Beginning at the Southeast corner of said forty acre tract, and running thence North 500.01 feet, thence West 555 feet, thence South 500.01 feet, thence East 555 feet to the point of beginning, containing 6.37 acres, more or less.

Subject to any easements and/or right-of-ways of record.

Note: This transfer is made for the purpose of family estate planning and no consideration is exchanged.

To have and to hold the said lands and appurtenances thereunto belonging unto the said Grantees and Grantees' assigns, forever.

And we, the Grantors, hereby release and relinquish unto the Grantees our homestead in and to said lands.

Witness our hand and seal on this 7th day of July, 2017.

Prepared By:

WOODRUFF LAW FIRM
Ronald G. Woodruff
P.O. Box 1866
Fayetteville, AR 72702
(479) 444-8444

Ronald G. Woodruff
Ronald G. Woodruff
Marsha C. Woodruff
Marsha C. Woodruff

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON)

On this the 7th day of July, 2017, before me a notary public personally appeared **Ronald G. Woodruff and Marsha C. Woodruff**, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument and acknowledge that they had executed the same for the purposes therein set forth.

My Commission Expires:



Marsha Payne
Notary Public

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

Ronald G. Woodruff
Grantee, Ronald G. Woodruff as Trustee
Of the Ronald G. and Marsha C. Woodruff Family Trust

Mail taxes to: Ronald and Marsha Woodruff, P. O. Box 1866, Fayetteville, AR 72702

EXHIBIT “B”

Kline

WARRANTY DEED

with relinquishment of dower and homestead

KNOW ALL MEN BY THESE PRESENTS:

That we, C. A. Hughes, Jr, and Mary L. Hughes,
husband & wife

for and in consideration of the sum of One Dollar (\$1.00) and other
good and valuable considerations
to us in hand paid by Allan S. Kline and
Velva L. Kline

do hereby grant, bargain and sell unto the said Allan S. Kline and
Velva L. Kline, husband & wife, and their

heirs and assigns, the following described land, situate in:
Washington County, State of Arkansas, to-wit:

A part of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of
Section Twenty-nine (29), Township Sixteen (16) North of Range Twenty-nine
(29) West, Described as follows, to-wit: Beginning at the Southwest corner
of said forty acre tract, and running thence East 765 feet, thence North
500 feet, thence West 765 feet, thence South 500 feet to the point of
beginning and containing 8.78 acres, more or less.

FILED FOR RECORD
1980 SEP -9 PM 2:54
WASHINGTON COUNTY, ARK.
ALMA KOLLMEYER
CIRCUIT CLERK
Do not write in this space

ARIZONA DOCUMENTARY \$33.00
0137269

ARIZONA DOCUMENTARY \$2.00
0464312

At Hughes Sep 6 09

APPROVED FOR RECORDATION
FAYETTEVILLE PLANNING
ADMINISTRATOR

SIGNED B. J. [Signature] DATE 9-8-80

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said
Allan S. Kline and Velva L. Kline, husband & wife, and their
heirs and assigns, forever. And We, the said C. A. Hughes, Jr. and Mary L. Hughes,
husband & wife

hereby covenant that we are lawfully seized of said land and premises; that the same is unincumbered, and we will
forever warrant and defend the title to the said lands against all legal claims whatever.
And I, the said Mary L. Hughes, wife of C. A. Hughes, Jr.

in consideration of said sum of money, do hereby release and relinquish unto the said Allan S. Kline and
Velva L. Kline
all my interest, right, title and dower and convey my homestead in and to said lands.
WITNESS our hands and seals on this 5th day of September 1980

[Signature] (Seal)
Mary L. Hughes (Seal)

(Seal)

ACKNOWLEDGMENT

1023 715

STATE OF ARKANSAS

County of Washington } ss.

BE IT REMEMBERED, That on this day came before the undersigned, a Notary Public
within and for the County aforesaid, duly commissioned and act-
ing, C. A. Hughes, Jr. and Mary L. Hughes, husband & wife
to me well known as the Grantors in the foregoing Deed, and stated that they
had executed the same for the consideration and purposes therein mentioned and set forth.

Witness my hand and seal as such Notary Public this 5th day of
September 1980.

My Commission expires
July 9, 1983

[Signature] Planning Commission
February 12, 2024

EXHIBIT “C”
Wang

File# 2022-00033692

Please Return To:

Lenders Title Company
3761 N Mall Avenue, Suite 1
Fayetteville AR, 72703
Phone: 479-444-3333
Fax: 479-443-4256

File Number: 22-067213-500

This deed form prepared under the supervision of
J. Mark Spradley, Attorney at Law
1501 N. University, Suite 155
Little Rock, AR 72202

Transactional data completed by Lenders Title Company

Warranty Deed - Unmarried (Letter).rtf

FOR RECORDER'S USE ONLY

WARRANTY DEED
(UNMARRIED PERSON)

KNOW ALL MEN BY THESE PRESENTS:

That, Sharon Buss-Rosso (erroneously shown of record as Sharron Buss-Russo), an unmarried person, Grantor, for and in consideration of the sum of ~~TEN AND 00/100~~ DOLLARS (\$10.00)---and other good and valuable consideration in hand paid by Kevin Wang and Lucia Wang, a married couple, Grantee(s), the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantee(s), and unto their heirs and assigns forever, the following lands lying in the County of Washington and the State of Arkansas to-wit:

A part of the NW1/4 of the NW1/4 of Section 29, Township 16 North, Range 29 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows: to-wit: Beginning at a set #4 rebar on the West line of said NW1/4 NW1/4, which is S01°40'39"W 925.64 feet from an existing cotton picker spindle in the top of a railroad tie fence corner post marking the NW corner of said NW1/4 NW1/4 and running thence leaving said West line, S88°14'04"E 1318.43 feet to the East line of said NW1/4 NW1/4, thence along said East line, S01°34'50"W 398.27 feet to a set #4 rebar marking the SE corner of said NW1/4 NW1/4, thence along the South line of said NW1/4 NW1/4, N88°16'11"W 1319.10 feet to an existing 2" pipe marking the SW corner of said NW1/4 NW1/4, thence along the West line of said NW1/4 NW1/4, N01°40'39"E 399.02 feet, to the Point of Beginning, containing 12.07 acres, more or less, also known as adjusted Tract B.

Subject to any recorded: assessments, building lines, easements, mineral reservations and/or conveyances, and restrictions, if any.

TO HAVE AND TO HOLD the above described lands unto the Grantee(s) and their heirs and assigns forever, with all tenements, appurtenances, and hereditaments thereunto belonging.

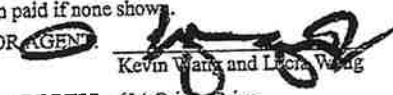
And I hereby covenant with the Grantee(s) that I will forever warrant and defend the title to the above described lands against all claims whatsoever.

13


WITNESS my hand and seal on this **13**th day of October, 2022.

I certify under penalty of false swearing that documentary stamps or a documentary symbol in the legally correct amount has been placed on this instrument. Exempt or no consideration paid if none shown.

GRANTEE OR AGENT:


Kevin Wang and Leora Wang

GRANTEE'S ADDRESS: 614 Oriole Drive
Springdale, AR 72762


Sharon Buss-Rosso (aka erroneously shown of record as Sharron Buss-Russo)

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) SS.
COUNTY OF WASHINGTON)

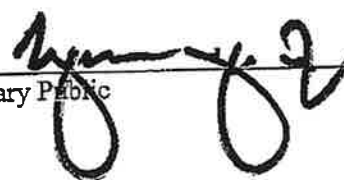
BE IT REMEMBERED, that on this day came before me, the undersigned, a notary public within and for the County and State aforesaid, duly commissioned and acting, **Sharon Buss-Rosso (aka erroneously shown of record as Sharron Buss-Russo)**, an unmarried person, to me well known as (or satisfactorily proven to be) the person whose name is subscribed to the foregoing instrument and acknowledged that she had executed the same for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this **13**th day of October, 2022.



My commission Expires:

2-9-2025



Notary Public

EXHIBIT “D”

Warden

1916099-131

Type: REAL ESTATE
Kind: WARRANTY DEED
Recorded: 1/7/2020 8:55:23 AM
Fee Amt: \$30.00 Page 1 of 4
Washington County, AR
Kyle Sylvester Circuit Clerk

File# 2020-00000533

After recording please return to:
Waco Title Company
2592 S. 48th St.
Springdale, AR 72762

**WARRANTY DEED
(LLC)**

File #: 1916099-131

KNOW ALL MEN BY THESE PRESENTS:

That, **Eagle Holdings, LLC**, an Arkansas limited liability company, hereinafter called GRANTOR(S), for and in consideration of the sum of ---ONE AND 00/100--- DOLLAR---(\$1.00)---and other good and valuable consideration, in hand paid by **Steve Warden and Candy Lynne Warden, husband and wife**, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto **Steve Warden and Candy Lynne Warden, husband and wife**, hereinafter called GRANTEE(S), and unto his heirs and assigns forever, the following described lands lying in **Washington County, Arkansas** to-wit:

SEE ATTACHED EXHIBIT "A"

TO HAVE AND TO HOLD the same unto the said Grantee(s) and unto his heirs and assigns forever, with all appurtenances thereunto belonging. And the Grantor(s) hereby covenants with said Grantee(s) that it will forever warrant and defend the title to the said lands against all claims whatsoever.

Prepared under the supervision of
Brian Blackman, Attorney
2592 S. 48th St.
Springdale, AR. 72762

IN TESTIMONY WHEREOF, the name of the grantor and its seal are hereunto affixed by its duly authorized Member(s)/Manager(s), this 3 day of Jan, 2020.

I certify under penalty of false swearing that documentary stamps or a documentary symbol in the legally correct amount has been placed on this instrument.

GRANTEE OR AGENT:

[Signature]

Eagle Holdings, LLC

By: KSDA, Inc., Member

GRANTEE'S ADDRESS:

3784 E. Spyglass H. 11 Dr.
Fayetteville, AR
72701

By: [Signature]
Keith Marrs, President

ACKNOWLEDGMENT

STATE OF AR)
COUNTY OF Washington) SS.

On this day before the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named **Keith Marrs** to me personally known or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who stated that he/she is the **President of KSDA, Inc.**, the authorized Member(s)/Manager(s) of **Eagle Holdings, LLC**, an Arkansas limited liability company, and is duly authorized in his/her capacity to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that he/she had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 3 day of Jan, 2020.

[Signature]
Notary Public

My commission expires:

6/13/23

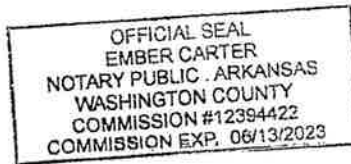


EXHIBIT "A"

A part of the SW 1/4 of the NW 1/4 of Section 29, Township 16 North, Range 29 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at a set #4 rebar on the South of the NW 1/4 NW 1/4 which is S 01°40'39" W 1324.66 feet and S 88°16'01" E 53.92 feet from an existing cotton picker spindle in the top of a railroad tie fence corner post marking the NW Corner of the NW 1/4 NW 1/4 and running thence leaving said South line S 88°16'01" E 1241.85 feet to the centerline of Ed Edwards Road; thence along said centerline the following: S 03°00'55" W 14.63 feet; S 04°46'36" W 80.80 feet; S 07°10'08" W 61.49 feet; S 12°53'19" W 59.62 feet, along a curve to the right having a radius of 495.12 feet for a chord bearing and distance of S 14°58'48" W 4.97 feet, along a curve to the right having a radius of 495.12 feet for a chord bearing and distance of S 19°09'46" W 67.27 feet, along a curve to the right having a radius of 495.12 feet for a chord bearing and distance of S 23°38'36" W 10.12 feet; S 26°32'07" W 87.19 feet; S 33°58'45" W 124.76 feet; S 39°18'22" W 96.86 feet; S 42°49'30" W 91.27 feet; S 45°35'44" W 56.94 feet; thence leaving said road centerline N 52°48'13" W 1145.69 feet to the Point of Beginning, containing 10.36 acres, more or less.

AND: A part of the SW 1/4 of the NW 1/4 of Section 29, Township 16 North, Range 29 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at an existing 2" pipe marking the NW Corner of said SW 1/4 NW 1/4 which is S 01°40'39" W 1324.66 feet from an existing cotton picker spindle in the top of a railroad tie fence corner post marking the NW Corner of the NW 1/4 NW 1/4 of said Section 29 and running thence along the North line of the SW 1/4 NW 1/4 S 88°16'01" E 53.92 feet to a set #4 rebar; thence leaving said North line S 52°48'13" E 1145.69 feet to the centerline of Ed Edwards Road; thence along said road centerline the following: S 45°35'44" W 34.67 feet; S 45°15'07" W 129.58 feet; S 31°36'29" W 38.66 feet; thence leaving said road centerline N 88°24'39" W 849.40 feet to the west line of said SW 1/4 NW 1/4; thence along said West line N 01°22'18" E 819.35 feet, to the Point of Beginning containing 11.12 acres, more or less.


LESS AND EXCEPT: A part of the SW 1/4 of the NW 1/4 of Section 29, Township 16 North, Range 29 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at a set #4 rebar on the West line of said SW 1/4 of the NW 1/4 which is N 01°22'18" E 500.00 feet from an existing aluminum monument (PLS #1532) marking the SW corner of said SW 1/4 of the NW 1/4 and running thence along the West line of said SW 1/4 of the NW 1/4, N 01°22'18" E 160.00 feet; thence leaving said West line, S 89°20'35" E 7.22 feet to an existing fence line; thence along said fence line, S 01°48'39" E 41.62 feet; thence continuing along said fence line, S 01°43'52" W 118.56 feet; thence leaving said fence line, N 88°24'39" W 8.79 feet to the Point of Beginning, containing 0.03 acres, more or less.

Subject to easements, rights-of-way, and protective covenants of record, if any.
Subject to all prior mineral reservations and oil and gas leases.

EXHIBIT “E”

Durning

THIS INSTRUMENT WAS PREPARED BY:
MITCHELL, WILLIAMS, SELIG,
GATES & WOODYARD, P.L.L.C.
ATTORNEYS AT LAW
425 WEST CAPITOL, SUITE 1800
LITTLE ROCK, ARKANSAS 72201-3525


Doc ID: 018629110002 Type: REL
Kind: WARRANTY DEED
Recorded: 06/10/2019 at 01:15:18 PM
Fee Amt: \$20.00 Page 1 of 2
Washington County, AR
Kyle Sylvester Circuit Clerk
File 2019-00016610

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WE, **Jerry R. Durning** and **Shirley M. Durning**, husband and wife, GRANTORS, for and in consideration of the sum of Ten and No/100 dollars (\$10.00) and other valuable consideration, in hand paid by **Jerry R. Durning** and **Shirley M. Durning, Trustees of The Jerry and Shirley Durning Revocable Trust** u/a/d November 13, 2006, GRANTEES, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said Grantees, and unto their successors and assigns forever, all of the Grantors' right, title and interest in and to the following lands lying in Washington County, Arkansas:

Part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 30 in Township 16 North of Range 29 West, described as follows: Beginning at the Southeast corner of said 20 acre tract, and running thence North 420 feet; thence West 420 feet; thence South 420 feet; thence East 420 feet to the point of beginning, containing 4 acres, more or less.

Also a 20 foot easement along the South line of the said North half of the Southeast Quarter of the Northeast Quarter for roadway purposes, beginning at the West line of the above described four acre tract and running West to the West line of said 20 acre tract.

Subject to all liens and encumbrances of record.

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

And we hereby covenant with the said Grantees that we will forever warrant and defend the title to the said lands against all lawful claims or encumbrances whatever.

And we, for and in consideration of the said sum of money, do hereby release and relinquish unto the said Grantees, and unto their successors and assigns, all of our right and possibility of dower, curtesy and homestead in and to the said lands.

WITNESS our hands on this 4th day of June, 2019.

Jerry R. Durning
Jerry R. Durning

Shirley M. Durning
Shirley M. Durning

STATE OF ARKANSAS)
) ss.
COUNTY OF Washington)

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned and acting, came **Jerry R. Durning** and **Shirley M. Durning**, to me well known as the Grantors in the foregoing deed, and stated that they had executed the same for the consideration, uses and purposes therein mentioned and set forth.

And Grantors declared that they had, of their own free wills, executed said instrument and signed and sealed the relinquishment of dower, curtesy and homestead therein for the consideration and purposes therein contained and set forth, without compulsion or undue influence of the other.

WITNESS my hand and official seal this 4th day of June, 2019.

Mary Barnard
Notary Public

My Commission Expires:

08/10/2025
(SEAL)



I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument. Exempt or no consideration paid if none shown.

Jerry R. Durning
Grantee or Grantee's Agent

Grantee's address: 2600 Hunt Lane
Fayetteville, AR 72701

THIS INSTRUMENT WAS PREPARED BY:
MITCHELL, WILLIAMS, SELIG,
GATES & WOODYARD, P.L.L.C.
ATTORNEYS AT LAW
425 WEST CAPITOL, SUITE 1800
LITTLE ROCK, ARKANSAS 72201-3525

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS:

THAT I, **Shirley M. Durning**, a married, GRANTOR, for and in consideration of the sum of Ten and No/100 dollars (\$10.00) and other valuable consideration, in hand paid by **Jerry R. Durning** and **Shirley M. Durning**, Trustees of the Jerry and Shirley Durning Revocable Trust, GRANTEES, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said Grantees, and unto their successors and assigns forever, all of the Grantor's right, title and interest in and to the following lands lying in Washington County, Arkansas:

A part of the North Half (N ½) of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section Thirty (30) in Township Sixteen (16) North, Range Twenty-Nine (29) West of the 5th P.M., being more particularly described as follows, to-wit: Commencing at the Southeast corner of said twenty (20) acre tract; thence North four hundred and twenty (420) feet for a point of beginning; thence West four hundred and twenty (420) feet; thence South three hundred and ninety-five feet; thence West nine hundred (900) feet to the West line of said twenty (20) acre tract; thence North along the West line of said twenty (20) acre tract to a point which is three hundred seventy-two and seventy-two hundredths (372.72) feet South of the Northwest corner of said twenty (20) acre tract; thence East one hundred and ninety-four (194) feet; thence North one hundred and sixty-four (164) feet; thence East one hundred and nineteen and five hundredths (119.05) feet; thence North two hundred and eight and seventy-two hundredths (208.72) feet to the North line of said twenty (20) acre tract; thence East along the North line of said twenty (20) acre tract to the Northeast corner of said twenty (20) acre tract; thence South along the East line of said twenty (20) acre tract to the point of beginning, containing in all 12.79 acres, more or less, subject to the following:

1. A blanket right-of-way grant to the Arkansas Western Gas Company, dated June 27, 1950 and recorded in Deed Record Book 428 at Page 192.

2. A blanket right-of-way grant to Ozarks Electric Cooperative Corporation filed for record July 9, 1976 and recorded in Deed Record Book 909 at Page 828 thereof.
3. An Oil and Gas Lease dated November 18, 1985 to Dunsmoor Oil & Gas Properties, and subsequently assigned to Ross Explorations, Inc., and thereafter to War Eagle Oil & Gas Company.
4. The right-of-way of an existing paved county road (commonly known as Hunt Lane along the western boundary of said twenty (20) acre tract).

This conveyance is subject to the life estate of Clarence H. Eans and Pauline Eans, reserved in a Warranty Deed recorded on December 10, 1987 in Book 1987, Page 822, in the real estate records of Washington County, Arkansas.

Subject to all liens and encumbrances of record.

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

And I hereby covenant with the said Grantees that I will forever warrant and defend the title to the said lands against all lawful claims or encumbrances whatever.

And Grantor and **Jerry R. Durning**, her husband, for and in consideration of the said sum of money, do hereby release and relinquish unto the said Grantees, and unto their successors and assigns, all of our right and possibility of dower, curtesy and homestead in and to the said lands.

WITNESS our hands on this 25 day of MAY, ²⁰⁰⁷~~2006~~.

Shirley M. Durning
Shirley M. Durning

Jerry R. Durning
Jerry R. Durning

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON

ACKNOWLEDGMENT

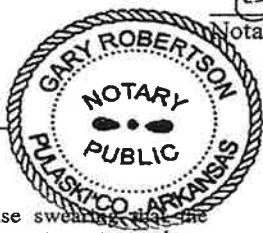
On this day, before me, the undersigned, a Notary Public, duly commissioned and acting, came **Shirley M. Durning**, to me well known as the Grantor in the foregoing deed, and **Jerry R. Durning**, her husband, and stated that they had executed the same for the consideration, uses and purposes therein mentioned and set forth.

And Grantor and **Jerry R. Durning**, her husband, declared that they had, of their own free wills, executed said instrument and signed and sealed the relinquishment of dower, curtesy and homestead therein for the consideration and purposes therein contained and set forth, without compulsion or undue influence of the other.

WITNESS my hand and official seal this 25 day of May, 2007.

Gary Robertson
Notary Public

My Commission Expires:
8-1-2010
(SEAL)



I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument. Exempt or no consideration paid if none shown.

Shirley M. Durning Jerry R. Durning
Grantee or Grantee's Agent

Grantee's address: 2550 HUNT LN
FAYETTEVILLE, AR
72701

1006903.1

EXHIBIT “F”

Farkas/Gregory



Doc ID: 017748870002 Type: REL
 Kind: QUITCLAIM DEED
 Recorded: 11/21/2017 at 04:16:04 PM
 Fee Amt: \$20.00 Page 1 of 2
 Washington County, AR
 Kyle Sylvester Circuit Clerk

**QUITCLAIM DEED
 (MARRIED PERSON)**

File **2017-00035493**


KNOW ALL MEN BY THESE PRESENTS:

THAT I, Richard Bruce Farkas, Grantor, a married person, for and in consideration of the sum of Ten Dollars (\$10.00), paid by Carol Lynn Gregory, my wife, Grantee, the receipt of which is hereby acknowledged, do hereby grant, convey and quitclaim unto Richard Bruce Farkas and Carol Lynn Gregory, Husband and Wife Grantees, and unto Grantees' successors and assigns forever, all of my right, title, interest, equity and estate in and to the following lands lying in the County of Washington, State of Arkansas:

Part of the South Half (S/2) of the Southeast Quarter (SE/4) of the Northeast Quarter (NE/4) of Section 30, Township 16 North, Range 29 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest corner of said S/2 of the SE/4 of the NE/4, thence South 00°00'41" West 347.16 feet; thence South 79°42'25" East 433.66 feet to the Point of Beginning; thence South 79°42'25" East 907.92 feet to the East line of said S/2 of the SE/4 of the NE/4; thence North 00°00'49" East 584.10 feet along said East line; thence North 89°52'46" West 817.03 feet along the north line of said S/2 of the SE/4 of the NE/4; thence South 10°13'38" West 430.43 feet to the Point of beginning, containing 9.96 acres, more or less, and subject to any easements of record or not of record. And an easement over and across the following described lands, to-wit: Part of the S/2 of the SE/4 of the NE/4 of Section 30, Township 16 North, Range 29 West, Washington County, Arkansas; being more particularly described as follows: Commencing at the NW corner of said S/2 of the SE/4 of the NE/4, thence S01°00'41" W 347.16 feet, thence S 79°42'25" E 433.66 feet to the point of beginning, thence N10°13'38" E 60.00 feet, thence N 79°42'25" W 444.47 feet, thence S0°00'41" W 60.98 feet, thence S79°42'25" E 433.66 feet to the point of beginning.

To have and to hold the same unto the said Grantees, and unto Grantees' successors and assigns forever, with all tenements, appurtenances and hereditaments thereunto belonging.

WITNESS my hand and seal this 20th day of November, 2017.


 Richard Bruce Farkas, Grantor

ACKNOWLEDGMENT

STATE OF ARKANSAS

§
 §

COUNTY OF WASHINGTON §

On this 20 day of November, 2017, the above signatory, Richard Bruce Farkas, (known to or satisfactorily proven to me to be the same) personally appeared before me, a duly commissioned Notary Public, and personally executed this writing before me, acknowledging that he freely did same for the purposes stated in this writing.

My commission expires:
11-20-2024

Kenneth Wayne Carter
Notary Public

KENNETH WAYNE CARTER
Notary Public - Arkansas
Washington County
Commission # 12401519
Commission EXP. 11/20/2024

After recording please return to:
Waco Title Company
6815 Isaac's Orchard Rd, Ste D
Springdale, AR 72762

File# 2017-00002726

**WARRANTY DEED
(TRUSTEE)**

File #: 1613190-103

KNOW ALL MEN BY THESE PRESENTS:

That, **Victoria G. Mayo, Trustee of the Victoria G. Mayo Revocable Trust u/t/d October 1, 2001**, hereinafter called GRANTOR, for and in consideration of the sum of ---ONE AND 00/100--- DOLLARS---(\$1.00)---and other good and valuable consideration in hand paid by **Richard B. Farkas and Carol L. Gregory, husband and wife**, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto **Richard B. Farkas and Carol L. Gregory, husband and wife**, hereinafter called GRANTEE(S), and unto their heirs and assigns forever, the following lands lying in **Washington County, Arkansas** to-wit:

Part of the South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 30, Township 16 North, Range 29 West, Washington County, Arkansas being more particularly described as follows: **Beginning at the Northwest corner of said South 1/2 of the Southeast 1/4 of the Northeast 1/4, thence South 00° 00' 41" West 347.16 feet, thence South 80° 41' 34" East 433.72 feet, thence North 10° 13' 38" East 422.97 feet, thence North 89° 52' 46" West 503.04 feet to the point of beginning, containing 4.11 acres more or less, and subject to the Right-of-Way of Washington County Road 169 along the West side of the property and a 60 foot wide easement for ingress and egress along and parallel to the South line of the property.**

**Subject to easements, rights-of-way, and protective covenants of record, if any.
Subject to all prior mineral reservations and oil and gas leases.**

TO HAVE AND TO HOLD the same unto the said Grantee(s) and unto their heirs and assigns forever, with all appurtenances thereunto belonging. And the Grantor hereby covenant with said Grantee(s) that the Grantor will forever warrant and defend the title to the said lands against all claims whatsoever.

Prepared under the supervision of
Brian Blackman, Attorney
6815 Isaac's Orchard Road
Springdale, AR. 72762

Waco 1613190-103

WITNESS my hand and seal on this 20 day of January, 2017.

I certify under penalty of false swearing that documentary stamps or a documentary symbol in the legally correct amount has been placed on this instrument.

The Victoria G. Mayo Revocable Trust
u/t/d October 1, 2001

GRANTEE OR AGENT: Richard B. Farkas & Carol L. Gregory

GRANTEE'S ADDRESS: 2748 S. Hunt Lane
Fayetteville, AR 72701

Victoria G. Mayo
By: Victoria G. Mayo, Trustee

ACKNOWLEDGMENT

STATE OF Arkansas)
COUNTY OF Washington) SS.

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, and appeared in person the within named **Victoria G. Mayo, Trustee of the Victoria G. Mayo Revocable Trust u/t/d October 1, 2001**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, and stated that she was duly authorized in such capacity to execute the foregoing Warranty Deed by Trustee for and in the name and behalf of said Trust, and further stated and acknowledged that she had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 20th day of January, 2017.

[Signature]
Notary Public

My commission expires:
9-22-21



EXHIBIT “G”

Hamm

File# 2019-00011242

QUITCLAIM DEED

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WE, Debbie Jean Boyce, David Doayne Hamm, and Sandra Jeanne Hamm also known as Sandra Hamm Martini, hereafter Grantor whether one or more, for and in consideration of the sum of Ten and no/100 dollars (\$10.00) and other good and valuable consideration, in hand paid by Hamm Land & Cattle LLC, an Arkansas limited liability company, Grantee, the receipt of which is hereby acknowledged, do hereby grant, bargain, convey, and quitclaim unto the said Grantee, and unto Grantee's successors and assigns forever, all of Grantor's interest in and to the following lands, located in Washington County, Arkansas to-wit:

The fractional Northwest Quarter of the Northwest Quarter (Frl. NW ¼ of the NW ¼) and the West Half (W ½) of the Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼); and the Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼); and the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼); and 19 rods of equal and uniform width off the North side of the Fractional Southwest Quarter of the Northwest Quarter (Frl. SW ¼ of NW ¼); all in Section Thirty (30) in Township Sixteen (16) North of Range Twenty-nine (29) West, and containing in all 149.97 acres, more or less.

(Legal description provided to Scrivener by Grantor.)

TO HAVE AND TO HOLD the same unto the said Grantee and unto Grantee's successors and assigns forever with all appurtenances thereunto belonging.

**This instrument prepared by:
Coleman Taylor PLLC
Attorney at Law
P.O. Box 6068
Fayetteville, AR 72703**


David Doyne Hamm

ACKNOWLEDGMENT

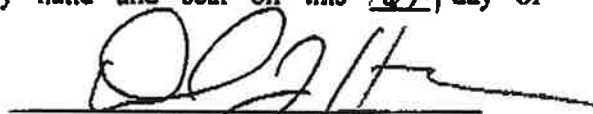
OFFICIAL SEAL
DAVID J HARRELSON
NOTARY PUBLIC - ARKANSAS
WASHINGTON COUNTY
COMMISSION #12386786
COMMISSION EXP. 04/15/2022

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this day before the undersigned, a notary public, duly qualified and acting in and for the county and state aforesaid, personally appeared David Doyne Hamm, to me well known to be the person whose name appears as Grantor in the foregoing instrument, and stated that he had executed the same for the consideration, uses, and purposes therein stated.

In witness whereof, I hereunto set my hand and seal on this 16th day of April 2019.


Notary Public

My commission expires: 04/15/2022
(Seal)


Sandra Jeanne Hamm, also known as
Sandra Hamm Martini


ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this day before the undersigned, a notary public, duly qualified and acting in and for the county and state aforesaid, personally appeared Sandra Jeanne Hamm also known as Sandra Hamm Martini, to me well known to be the person whose name appears as Grantor in the foregoing instrument, and stated that she had executed the same for the consideration, uses, and purposes therein stated.

In witness whereof, I hereunto set my hand and seal on this 19th day of April 2019.


Notary Public

My commission expires: 6-30-2028
(Seal)

I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument. (NO TAX DUE).

BARRI TULGETSKE
Notary Public-Arkansas
Washington County
My Commission Expires 06-30-2028
Commission # 12704546


Grantee or Grantee's Agent
Grantee's Mailing Address:
2395 S. Hunt Lane
Fayetteville, AR 72701

WITNESS our hands and seals this 15 day of APRIL 2019.

Debbie Jean Boyce
Debbie Jean Boyce

ACKNOWLEDGMENT

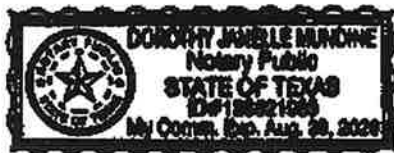
STATE OF TEXAS
COUNTY OF BEXAR

On this day before the undersigned, a notary public, duly qualified and acting in and for the county and state aforesaid, personally appeared Debbie Jean Boyce, to me well known to be the person whose name appears as Grantor in the foregoing instrument, and stated that she had executed the same for the consideration, uses, and purposes therein stated.

In witness whereof, I hereunto set my hand and seal on this 15 day of APRIL 2019.

Dorothy Janelle Mundine
Notary Public

My commission expires: AUGUST 30, 2020
(Seal)



Washington County, AR
I certify this instrument was filed on
4/23/2019 10:23:18 AM
and recorded in REAL ESTATE

File# 2019-00011242
Kyle Sylvester - Circuit Clerk

Kyle Sylvester

File# 2023-00010239

QUITCLAIM DEED (LLC)

KNOW ALL PERSONS BY THESE PRESENTS:

THAT Hamm Land & Cattle LLC, an Arkansas limited liability company, Grantor, for and in consideration of the sum of ten and no/100 dollars (\$10.00) and other good and valuable consideration, in hand paid by David D. Hamm, Trustee, **David D. Hamm Revocable Trust Under Declaration Dated April 19, 2018**, Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, convey, and quitclaim unto the said Grantee, and unto Grantee's heirs, successors and assigns forever, all of Grantor's interest in and to the following lands, located in Washington County, Arkansas, to-wit:

Part of the Southwest Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section Thirty (30), Township Sixteen (16) North, Range Twenty-Nine (29) West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at the Southeast corner of said 40-acre tract, said point being in Hunt Lane; thence along said Lane North, 296.18 feet; thence leaving said Lane West, 441.21 feet; thence South, 296.18 feet; East, 441.21 feet to the point of beginning and containing 3 acres, more or less and subject to that portion which lies in Hunt Lane on the East side.

TO HAVE AND TO HOLD the same unto the said Grantee and unto Grantee's heirs, successors and assigns forever with all appurtenances thereunto belonging.

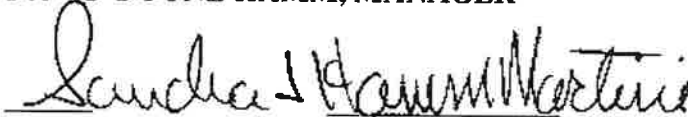
This instrument prepared by

Coleman Taylor PLLC
Attorney at Law
P O Box 8068
Fayetteville AR 72703

WITNESS our hands and seals on this 26 day of Apr., 2023.

Hamm Land & Cattle LLC


DAVID DOYNE HAMM, MANAGER


SANDRA J. HAMM MARTINI,
MANAGER

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

In said County and State, on this day, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named **David Doyme Hamm and Sandra J. Hamm Martini**, to me personally known (or satisfactorily proven), who stated that they are the **Managers of Hamm Land & Cattle LLC, an Arkansas limited liability company**, and are duly authorized in their capacities to execute and deliver the foregoing instrument for and in the name and behalf of said Grantor, and further stated and acknowledged that he has so signed, executed, and delivered said instrument in the capacity and for the consideration, uses, and purposes therein mentioned and set forth.

In witness whereof, I hereunto set my hand and seal on this 26 day of Apr., 2023.

My commission expires: 12/30/31
(Seal)

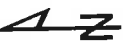


I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument. (NO TAX DUE).

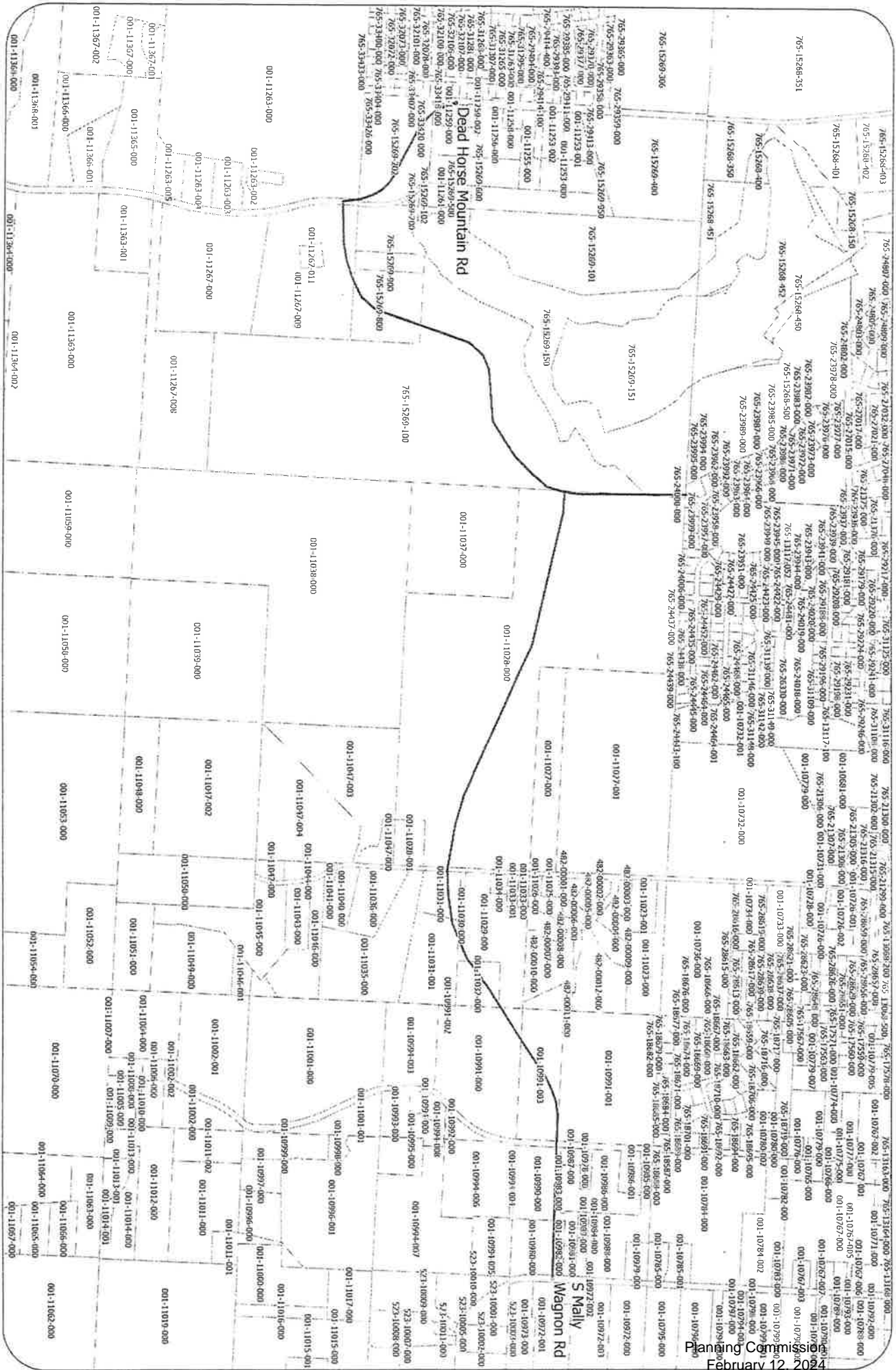

Grantee or Grantee's Agent
Grantee's Mailing Address:
2395 S. Hunt Lane
Fayetteville, AR 72701

EXHIBIT “H”

Maps



County Disclaimer: These maps were created by Washington County using data created or acquired by its Assessor's office, Dept. of Emergency Management, and Road Department and in accordance with Arkansas Code 15-21-502 (2) (B), which states: "The digital cadastre manages and provides access to cadastral information. Digital cadastre does not represent legal property boundary descriptions, nor is it suitable for boundary determination of the individual parcels included in the cadastre," and Arkansas Code 15-21-502 (6) which indicates that "Digital cadastre means the storage and manipulation of computerized representations of parcel maps and linked databases." These maps have been developed from the best available sources. No guarantee or accuracy is granted, nor is any responsibility for reliance thereon assumed. In no event shall Washington County be liable for direct, indirect, incidental, consequential or special damages of any kind, including, but not limited to, loss of anticipated profits or benefits arising out of use or reliance on the maps. The parcel lines shown are considered a graphical representation of the actual boundaries. Washington County is in no way responsible for or liable for any misrepresentation or re-use of these maps. Distribution of these maps are intended for informational purposes and should not be considered authoritative for engineering, legal and other site-specific uses.



County Disclaimer: These maps were created by Washington County using data created or acquired by its Assessor's office, Dept. of Emergency Management, and Road Department and in accordance with Arkansas Code 15-21-502 (2) (b), which states "The digital cadastral managers and provides access to cadastral information. Digital cadastral does not represent legal property boundary descriptions, nor is it suitable for boundary determination of the individual parcels included in the cadastral, and Arkansas Code 15-21-502 (b) which indicates that "Digital cadastral" means the storage and manipulation of computerized representations of parcel maps and linked databases." These maps have been developed from the best available sources. No guarantee of accuracy is granted, nor is any responsibility for reliance thereon assumed. In no event shall Washington County be liable for direct, indirect, incidental, consequential or special damages of any kind, including, but not limited to, loss of anticipated profits or benefits arising out of use of or reliance on the maps. The parcel lines shown are considered a graphical representation of the actual boundaries. Washington County is in no way responsible for or liable for any misrepresentation or re-use of these maps. Distribution of these maps are intended for informational purposes and should not be considered authoritative for engineering, legal and other site-specific uses.

Planning Commission
February 12, 2024

EXHIBIT “I”

Wang Request to City

To whom it may concern:

I am writing to you to request the review and removal or modification of a future residential link that passes through a parcel of land that I currently own and am attempting to sell. Please reference the attached survey (uploaded as supplemental information) for parcel ID 001-10991-103, address listed as 2277 Ed Edwards Rd, Fayetteville, AR 72701. The survey shows the future residential link in "Tract B", which is the parcel of land I own.

From reviewing the "City Plan 2040" document, the "Residential Link Street" design of 52' of right of way access would affect the majority of any construction plans for this piece of land (home construction, neighborhood development). There have already been several potential buyers that have brought this issue up and wanted additional guarantees from my end to state that a road would not be built, which of course I am unable to provide.

While I understand this residential link has no immediate dates of construction, in my request I would like to understand any available options that could lead to removing this link from the master road plan. Or alternatively, any possible modifications to this residential link that would improve my chances to sell this property and reassure any future owners that their designs for the land will not be impacted.

Thank you for your time and considering this request,

Kevin Wang

515-556-2433

wangkisu@gmail.com

Supplemental Information for amendment ADM-2023-0041

Primary request is for the removal of the residential link that goes through parcel listed in ADM-2023-0041. However, if removal is not able to be approved, **Exhibit B** shows a proposed alternate route of the residential link compared with how it is currently laid out on the parcel (**Exhibit A**). In addition, a request for the design of the residential link to be the “Alternative Residential Link Street (Local)” design, (pg. 143, City Plan 2040 document) instead of the “Residential Link Street (Local)” design (pg. 142, City Plan 2040 document).

If that alternative route is not possible, I am open to other alternative routes that will help minimize the residential link getting in the way of future construction on the property (home, septic fields, farm use, etc.). This would still help alleviate potential buyer concerns if/when this residential link is to be built.

Exhibit C shows the contingency requested from a potential buyer requesting the sale be dependent on removing the proposed road from the 2040 Master Street Plan. Realtor clarified the “feasibility study” being their attempt to propose an amendment to the city. Similar requests have been brought up by potential buyers asking for documentation stating that the residential link will not be built in the future, which is not feasible.

This is mainly to show the added difficulty in selling this property due to the concerns of this residential link.

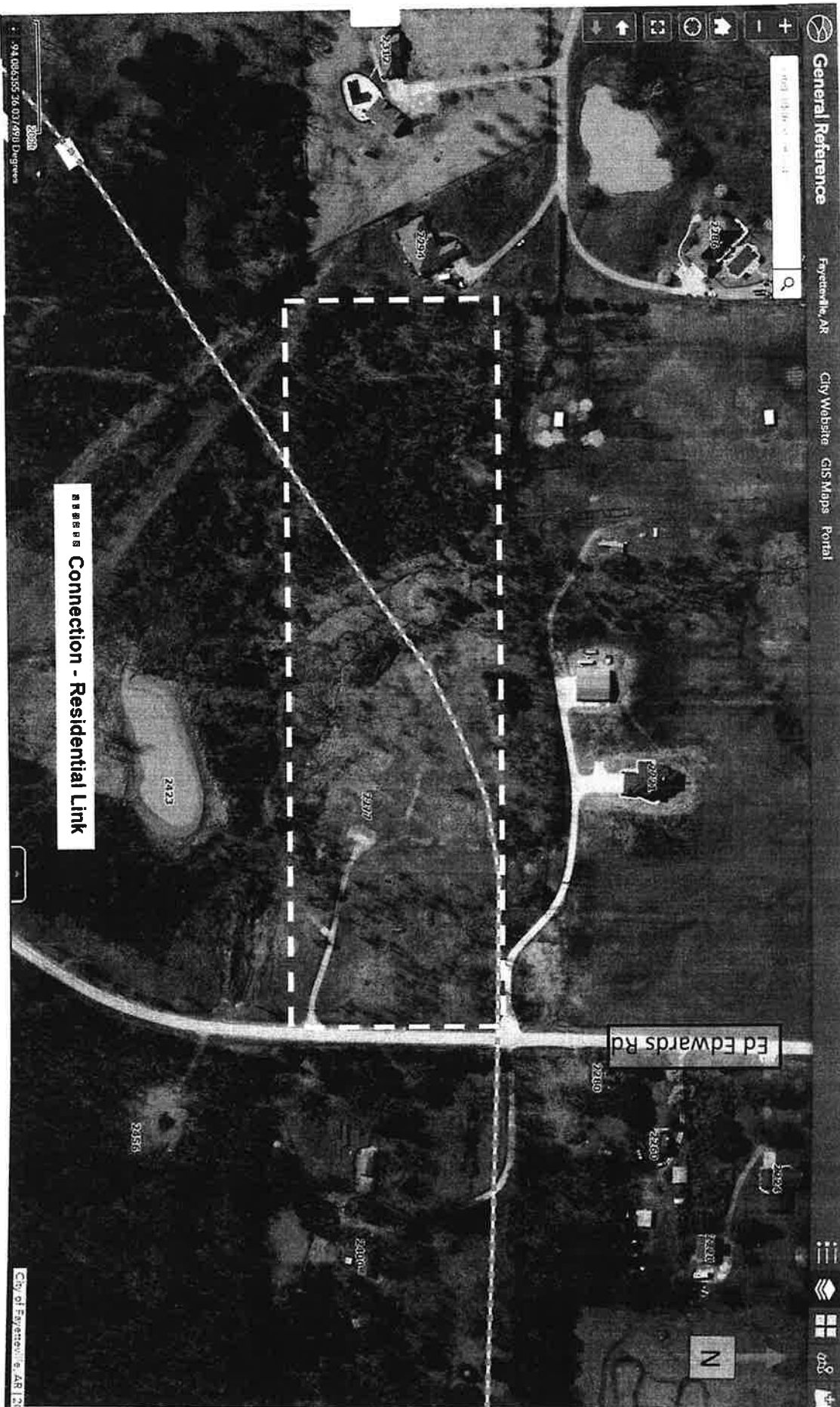


Exhibit A

Screenshot from GIS map with layer showing the existing City Plan 2040 Master Street Plan at 2277 S Ed Edwards Rd

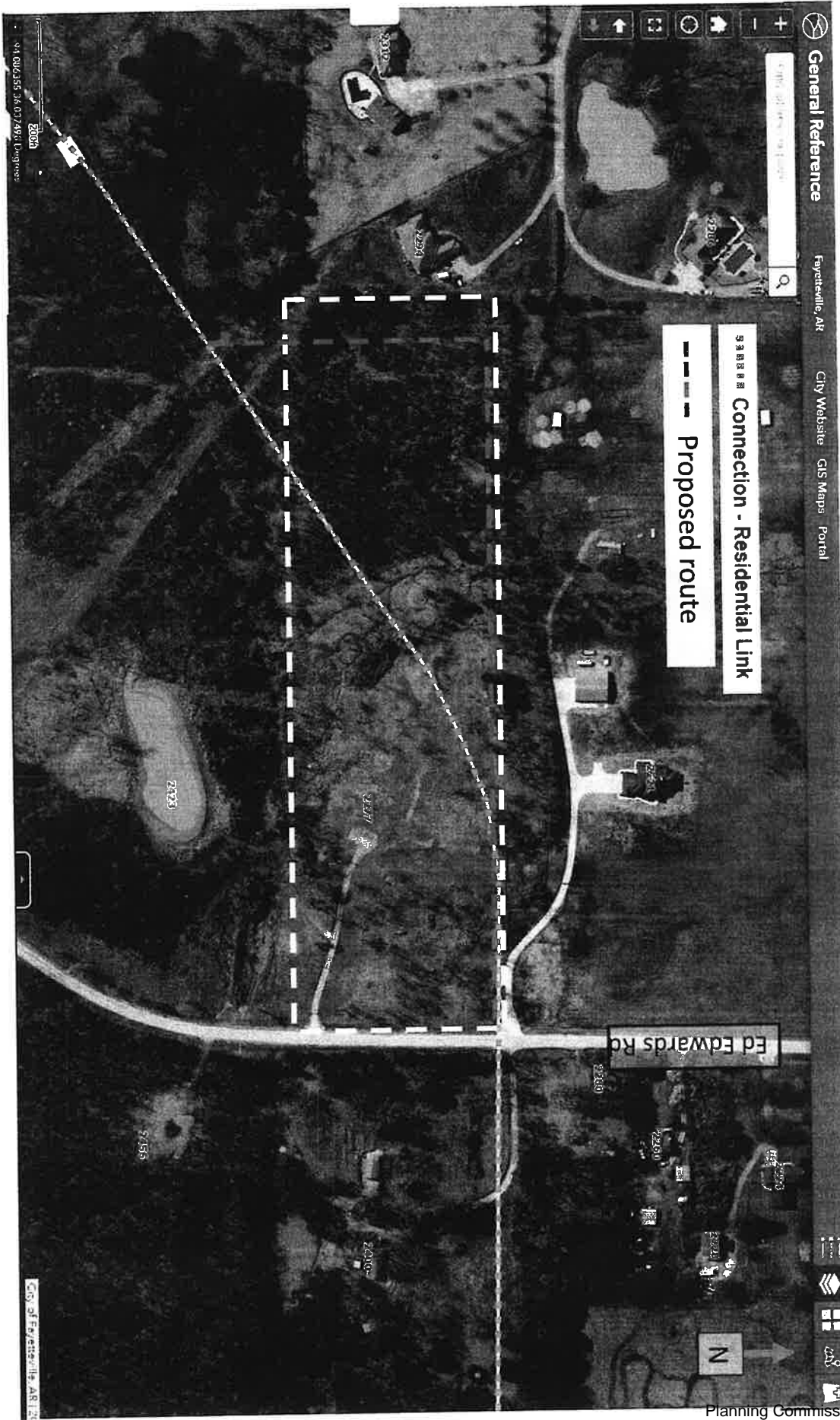


Exhibit B

Proposed re-route of Residential Link if not able to be removed from the Master Street Plan

Exhibit C

Example of recent offer from potential buyer adding in a contingency concerning the residential link

Real Estate Contract (Lots and Acreage)
Page 7 of 11

Copyright 2021 Arkansas REALTORS' Association

Form Serial Number: 033653-300769-3607917

17. OTHER CONTINGENCY:

A. No Other Contingency (Except for those conditions listed elsewhere in this Real Estate Contract.) It is understood and agreed that Seller has the right to enter into subordinate Real Estate Contracts and other Real Estate Contracts shall not affect this Real Estate Contract.

B. This Real Estate Contract is contingent upon:
OBTAINING SATISFACTORY RESULTS OF A FEASIBILITY STUDY, IN BUYER'S SOLE DISCRETION, WITHIN 122 DAYS AFTER ACCEPTANCE

on or before (month) September (day) 5 (year) 2023

During the term of this Real Estate Contract (Select one):

(i) **Binding with Escape Clause:** Seller has the right to continue to show the Property and solicit and enter into another Real Estate Contract on this Property. However, all Real Estate Contracts shall be subject to termination of this Real Estate Contract. Should Seller elect to provide written notice of an additional Real Estate Contract being accepted by Seller, Seller shall utilize the Seller's Contingency Notice Addendum (the "Notice") and Buyer shall have _____ hours to remove this contingency. Buyer shall be deemed in receipt of the Notice upon the earlier of (a) actual receipt of the Notice or (b) two (2) business days after Seller or Listing Firm deposits the Notice in the United States mail, certified for delivery to Buyer at _____ with sufficient postage to ensure delivery. Removal of this contingency shall occur only by delivery of the Notice, in a manner ensuring actual receipt, to Seller or Listing Firm. Time is of the essence. In the event Buyer removes this contingency and does not perform on this Real Estate Contract for any reason concerning this contingency, Seller may assert all legal or equitable rights that may exist as a result of Buyer breaching this Real Estate Contract. Alternatively, Seller, at his sole and exclusive option may retain the Earnest Money, as liquidated damages. If this contingency is removed, a Closing date shall be agreed upon by the parties. If a Closing date is not agreed upon, Closing shall occur _____ calendar days from removal. Should Buyer not remove this contingency as specified, then this Real Estate Contract shall be terminated with Buyer and Seller both agreeing to sign a Termination of Contract Addendum with Buyer to recover Earnest Money. All time constraints in this Real Estate Contract referred to in Paragraphs 6, 10, 11, 19, and 21B refer to the time Buyer removes the contingency.

(ii) **Binding without Escape Clause:** It is understood and agreed Seller has the right to enter into subordinate Real Estate Contracts, and other Real Estate Contracts shall not affect this Real Estate Contract.

Page 7 of 11

Notarized by _____
Notary Public in and for the State of Arkansas
Notary Signature: _____

CORRECTED SURVEY: CORRECTED THE LEGAL DESCRIPTION FOR ADJUSTED TRACT "D" AS PER THE APPROVED FILED PROPERTY LINE ADJUSTMENT RECORDED IN 2018-00022446

- ADJUSTED PROPERTY LINES:**
- 1) TRACT 1711 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 2) TRACT 1712 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 3) TRACT 1713 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 4) TRACT 1714 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 5) TRACT 1715 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 6) TRACT 1716 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 7) TRACT 1717 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 8) TRACT 1718 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 9) TRACT 1719 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 10) TRACT 1720 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 11) TRACT 1721 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 12) TRACT 1722 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 13) TRACT 1723 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 14) TRACT 1724 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 15) TRACT 1725 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 16) TRACT 1726 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 17) TRACT 1727 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 18) TRACT 1728 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 19) TRACT 1729 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS
 - 20) TRACT 1730 IN TOWNSHIP 12N, RANGE 15E, SECTION 10, ARKANSAS COUNTY, ARKANSAS

SURVEYOR'S NOTES:

THIS IS A TRACT (RECT) SURVEY OF A PARCEL OF LAND AS PER DEED BOOK 12, PAGE 1878 ON FILE IN THE COURTHOUSE OF WASHINGTON COUNTY, ARKANSAS.

LAST DATE SURVEYED: MARCH 30, 2018

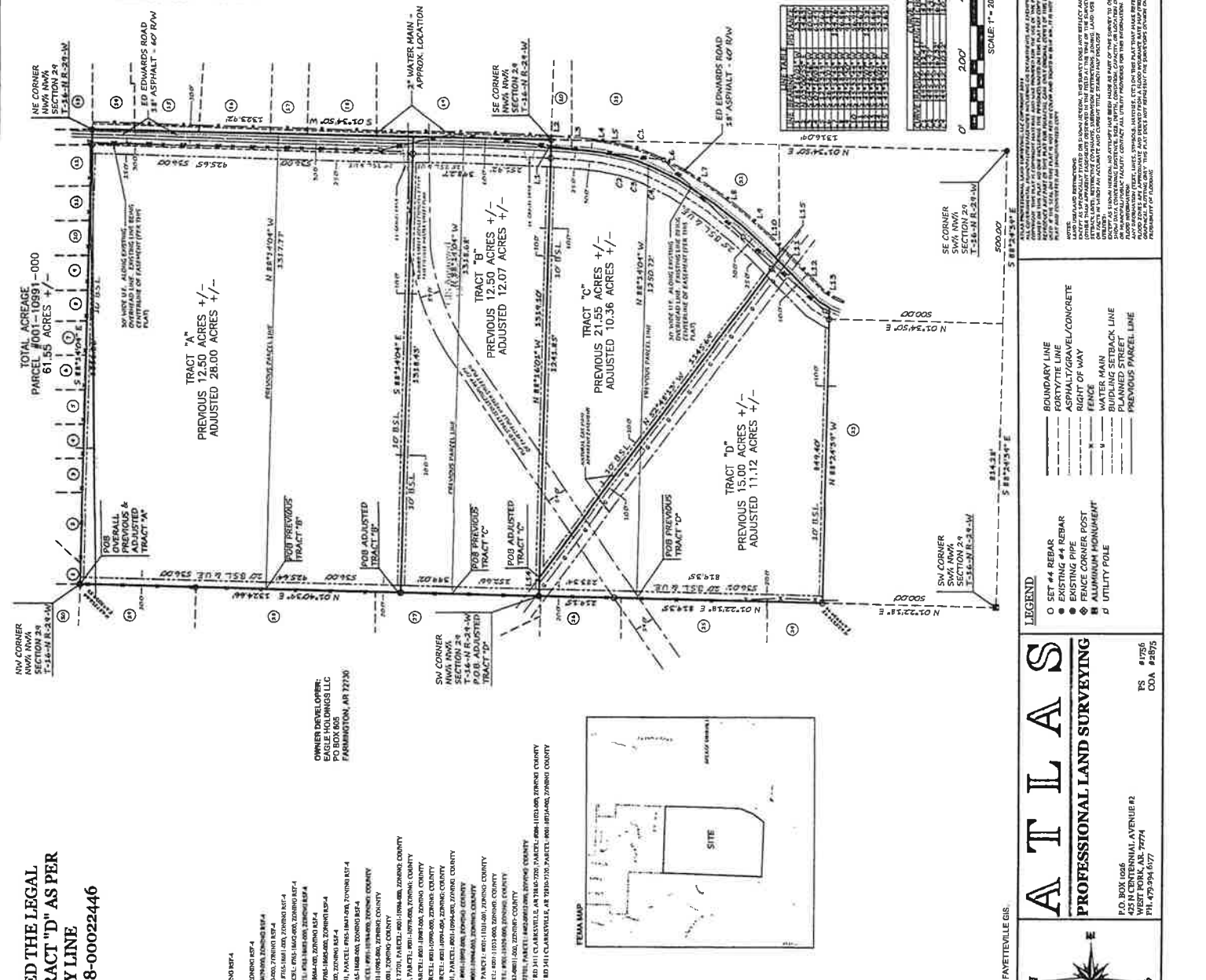
NAME OF SURVEYOR: GPS OBSERVATION - GEODETIC NORTH

REFERENCE DOCUMENTS:

- 1) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 2) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 3) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 4) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 5) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 6) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 7) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 8) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 9) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 10) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 11) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 12) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414
- 13) PLAT OF SURVEY FILED IN BOOK 2098 AT PAGE 6414

OWNER DEVELOPER:
 FARMINGTON, AR 72730

OWNER DEVELOPER:
 FARMINGTON, AR 72730



ATILAS
 PROFESSIONAL LAND SURVEYING

100 BOX 1026
 WEST FORK, AR 72774
 PH: 479-934-6777

ISS #256
 COA #2875

LEGEND:

- SET #4 REBAR
- EXISTING PIPE
- ⊙ FENCE CORNER POST
- ALUMINUM FINISHMENT
- UTILITY POLE

BOUNDARY LINE:
 - - - - - PORTVILLE LINE
 - - - - - BEL/CONCRETE
 - - - - - RIGHT OF WAY
 - - - - - FENCE
 - - - - - WATER MAIN
 - - - - - BUILDING SETBACK LINE
 - - - - - PLANNED STREET
 - - - - - PREVIOUS PARCEL LINE

EXHIBIT “J”

Contact Information for Petitioners

Ronald G. and Marsha C. Woodruff
ronwoodruff40@gmail.com
2303 S. Mally Wagnon Road
Fayetteville, AR 72701
(479)841-8790

Allan and Velva L. Kline
vkline2@icloud.com
2400 S. Ed Edwards Road
Fayetteville, Arkansas 72701
(479)521-5922

Kevin and Lucia Wang
wangkisu@gmail.com
2277 S. Ed Edwards Road (physical address)
Fayetteville, AR 72701
614 Oriole Drive
Springdale, AR 72762 (mailing address)
(515)556-2433

Steve and Candy Warden
sleej32@hotmail.com
2555 S. Ed Edwards Road
Fayetteville, AR 72701 (physical address)
P. O. Box 11130
Fayetteville, AR 72703 (mailing address)
(479)684-1807

Jerry and Shirley Durning
eansduring@aol.com
2600 S. Hunt Lane
Fayetteville, AR 72701
(479)442-6367

Richard Farkas and Carol Gregory
clgpa27@gmail.com
2748 S. Hunt Lane,
Fayetteville, AR 72701
(479)530-3456

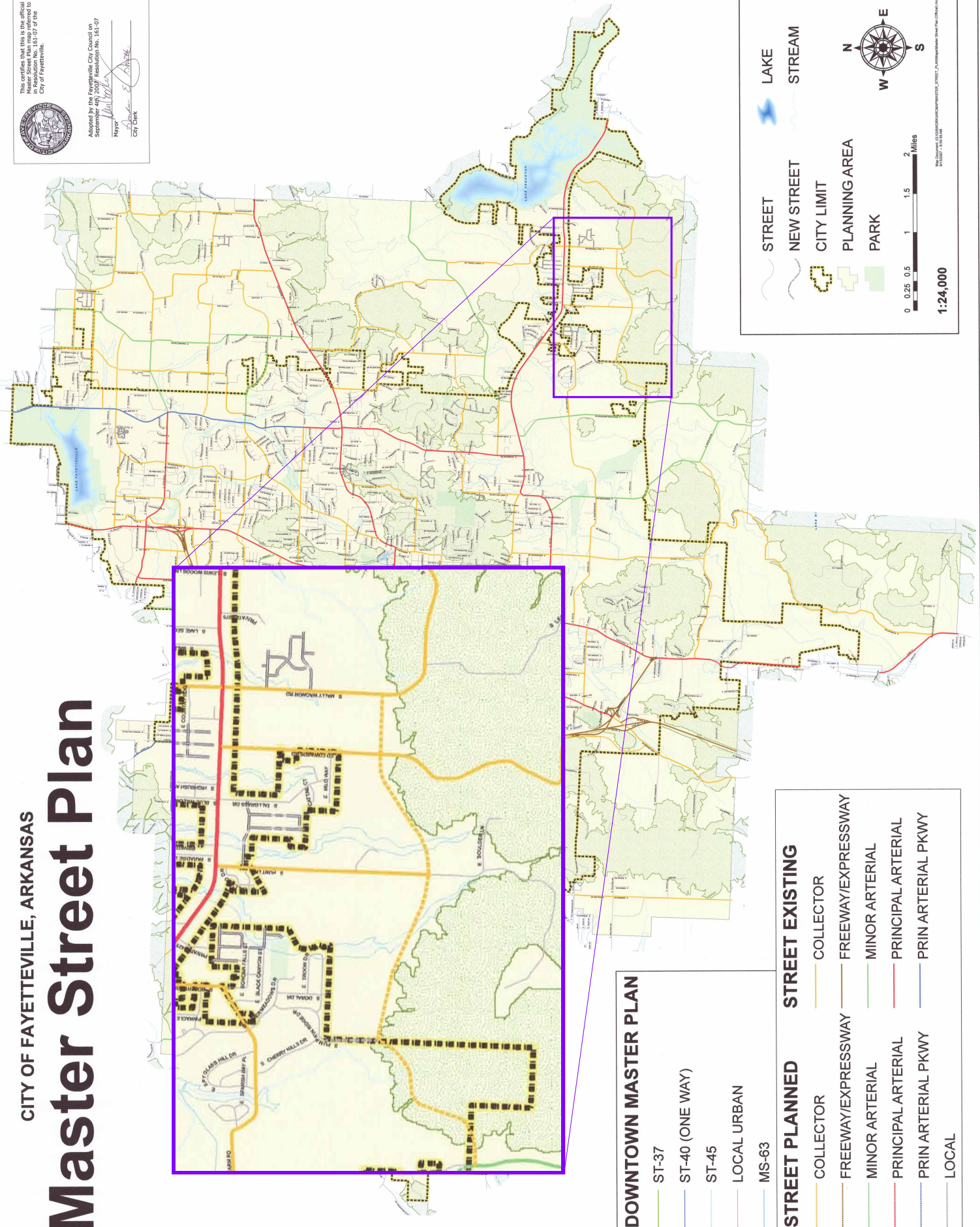
David Hamm
4218dhamm@gmail.com
2433 S. Hunt Lane
Fayetteville, AR 72701 (physical address)
2395 S. Hunt Lane
Fayetteville, AR 72701 (mailing address)
(479)841-1905

Master Street Plan

This certifies that this is the official Master Street Plan that was referred to in Ordinance No. 2024-001 of the City of Fayetteville.

Adopted by the Fayetteville City Council on September 4th, 2024 (Resolution No. 15.07)

Mayor *[Signature]*
City Clerk *[Signature]*



DOWNTOWN MASTER PLAN

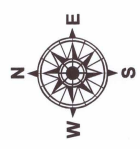
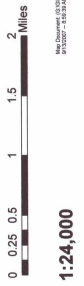
- ST-37
- ST-40 (ONE WAY)
- ST-45
- LOCAL URBAN
- MS-63

STREET PLANNED

- COLLECTOR
- FREEWAY/EXPRESSWAY
- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- PRIN ARTERIAL PKWY
- LOCAL

STREET EXISTING

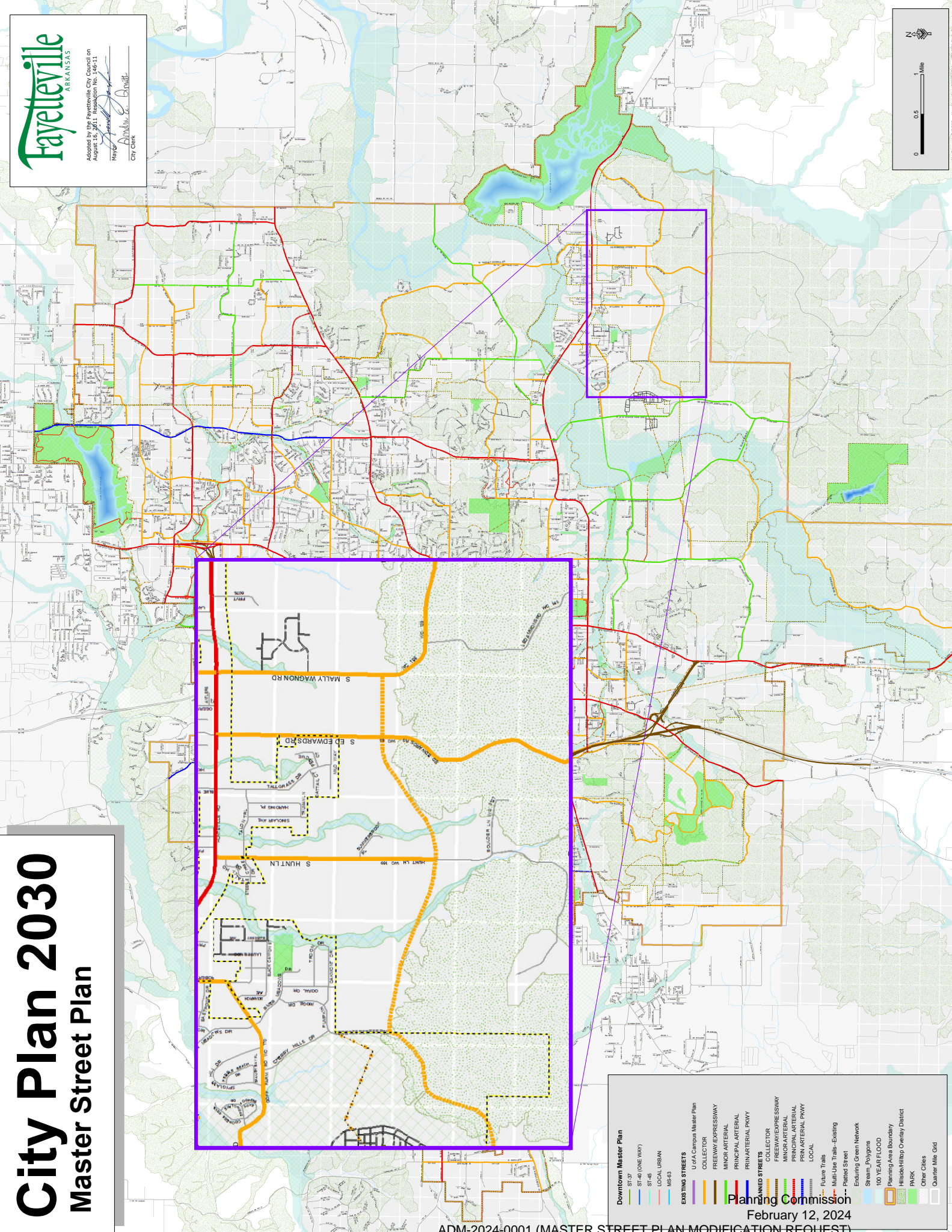
- COLLECTOR
- FREEWAY/EXPRESSWAY
- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- PRIN ARTERIAL PKWY



1:24,000

City Plan 2030

Master Street Plan



Downtown Master Plan

- ST-32
- ST-42 (ONE WAY)
- LOCAL URBAN
- MS-30

EXISTING STREETS

- U of A Campus Master Plan
- COLLECTOR
- FREEWAY/EXPRESSWAY
- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- PRIN ARTERIAL PKWY
- PRIN ARTERIAL PKWY


UNID STREETS

- COLLECTOR
- FREEWAY/EXPRESSWAY
- MINOR ARTERIAL
- PRINCIPAL ARTERIAL
- PRIN ARTERIAL PKWY
- LOCAL

Planning Commission

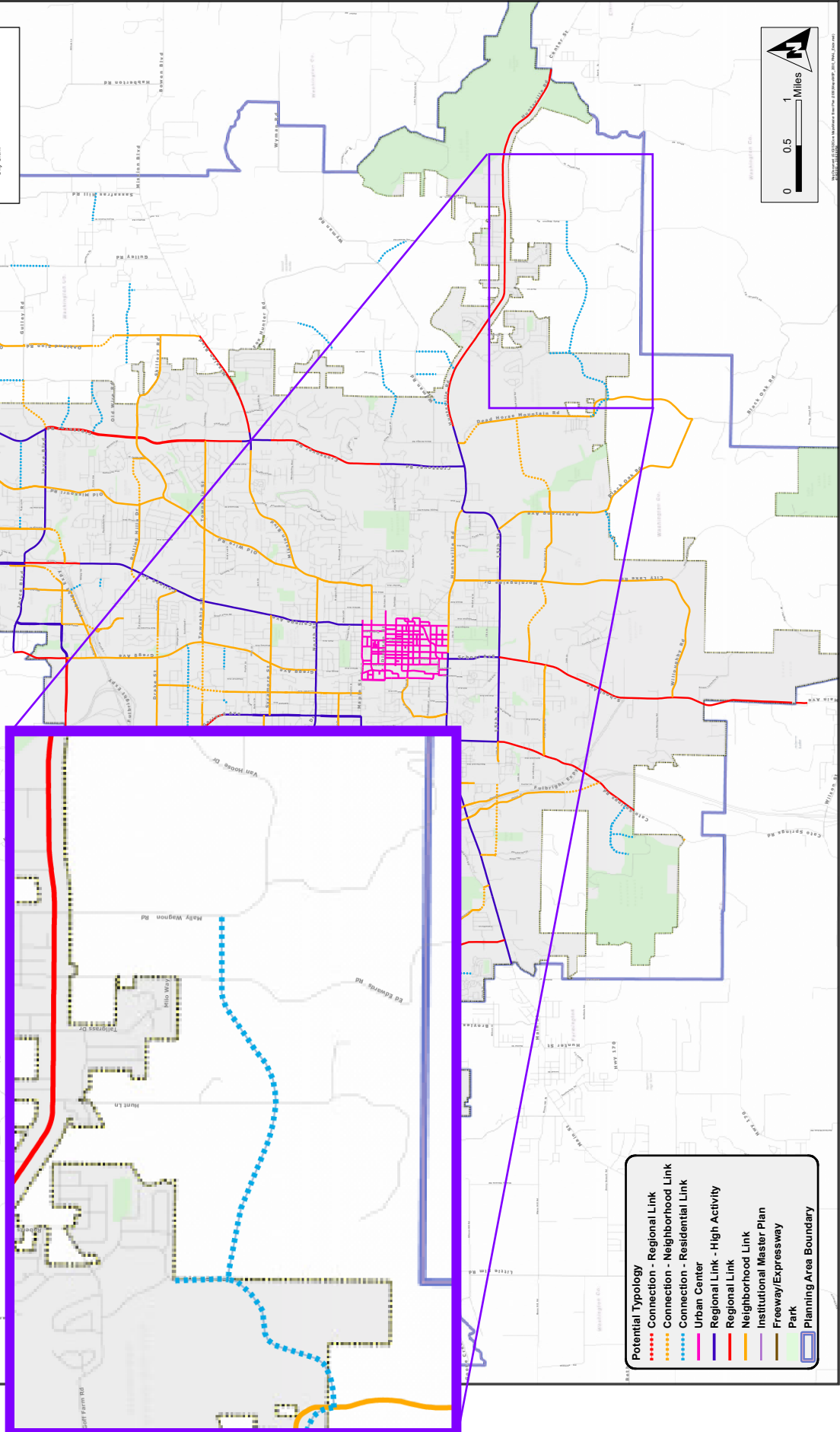
- Future Trails
- Multi-Use Trails—Existing
- Paved Street
- Enduring Green Network
- Stream Polygons
- 100 YEAR FLOOD
- Planning Area Boundary
- Slack Hilltop Overlay District
- PARK
- Other Cities
- Quarter Mile Grid

City Plan 2040 Master Street Plan



Adopted by the Fayetteville City Council on
January 17th, 2020. Resolution No. 14840

Mayor _____
City Clerk _____



- Potential Typology**
- Connection - Regional Link
 - Connection - Neighborhood Link
 - Connection - Residential Link
 - Urban Center
 - Regional Link - High Activity
 - Regional Link
 - Neighborhood Link
 - Institutional Master Plan
 - Freeway/Expressway
 - Park
 - Planning Area Boundary



Figure 12.7 - Master Street Plan Map

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

From: Carol Gregory <clgpa27@gmail.com>
Sent: Wednesday, February 7, 2024 10:07 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>; RONALD G. Woodruff <ronwoodruff40@gmail.com>; .Jerry and Shirley Durning <eansdurning@aol.com>; David Hamm <4218dhamm@gmail.com>; Kevin and Lucia Wang <wangkisu@gmail.com>; Steve Warden <sleej32@hotmail.com>; Velva Kline <vkline2@icloud.com>
Subject: Re: Master Street Plan - Resolutions

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.

Good Morning Jessie,
Thank you again for taking the time to listen to the Petitioner's concerns at our Monday meeting. I have attached a letter to the Planning Commissioners that I wish to have included in the agenda package. I am concerned about the extreme limitation on the Petitioner's speaking times and am asking in my letter that consideration be given to expanding the time to 3 minutes each so that Petitioners are afforded at least the same amount of time as the general public. It would be helpful for us to know just how much time will be given to us to speak before we arrive on Monday the 12th of February, so that we can adequately prepare. If that issue could be resolved at the agenda session and the results conveyed to us, we would appreciate that very much.

Sincerely,
Carol Gregory

*Carol Gregory
Attorney at Law
2748 S Hunt Lane
Fayetteville, AR 72701
(479)530-3456
clgpa27@gmail.com*

February 6, 2024

RE: Proposed Residential Link Street from Dead Horse Mountain Road to
Mally Wagnon Road

Fayetteville City Planning Commissioners:

My name is Carol Gregory. I've lived at 2748 S Hunt Lane for the past 27 years with my husband Richard Farkas. I am a licensed attorney who practiced mostly real estate law for a number of years.

I had planned to make these remarks in person on Monday night. However, since I've been informed by staff that I will have either 30 seconds or one and a half minutes of speaking time (10 minutes divided by 7 or 13 petitioners depending upon whether families or individuals are counted), I decided that writing was in order. I respectfully request that

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

speaking time for at least one Petitioner per household be extended to 3 minutes each, so that Petitioners are accorded the same amount of time as the public at large. It seems only fair.

I only very recently learned that this proposed residential link street would traverse my 14 acre sanctuary, where I care for 2 rescued elderly dwarf Shetland therapy ponies and an elderly mini donkey named Buster. As a result of my care for these animals, I am able to supply something that I call “magic pony poo” (compost) to 15 back-yard gardeners in the community. The proposed link street would cut through my property, place my animals in jeopardy, reduce my acreage and limit my ability to access the portion of land which would be on the other side of the street from my home.

One of my chief concerns about this proposed project is the effect that it would have on a major watershed. There are two creeks and three ponds located on my property. One of the ponds is spring fed. One of the creeks is the watershed for much of the Bear Mountain range and it is located only a few feet from my house. It is a wet weather creek, but there are times of the year when massive amounts of water flow off the mountain range, down the creek behind my house, into our ponds and on downstream. Both creeks feed ponds that hold large amounts of water from the watershed. The proposed street would cross both of those creeks, as well as destroy two of our ponds, including the one that is spring fed. The proposed road construction would obstruct the flow of water coming through the creeks and ponds, unless massive infrastructure is built to handle the full amount of the flow. I am reasonably certain that our house will flood if this project is constructed. In fact, just a few years ago, my garage and hay barn were placed within a revised flood plain, and my house sits on the edge of that flood plain. The main reason that I am here is to put the city on notice that my home will flood if it goes through with this project, and mine will not be the only one that will be adversely affected. I understand that city engineers believe that this is not an issue, because they can engineer around any problem, but there are people all over town who have experienced otherwise, including people very near me in Stone Bridge Subdivision whose houses flooded because the city used undersized culverts in that project. In just the last couple of weeks, I've heard from a steady stream of citizens who have experienced significant flooding and erosion as a result of city interference with their land.

In addition, I wish to persuade you that there is no need for this project. There are currently existing streets adequate to accommodate traffic well into the future. It's my understanding that further widening of Hwy 16 is to take place later this year and eventually will be 4 lane all the way to Elkins. Right now, there are ample connections between Hunt Lane and Ed Edwards Road. Talon, Tallgrass and Milo already serve as connector streets between Hunt Lane and Ed Edwards Road. These alternative routes have the benefit of avoiding the necessity of eminent domain, the costs of new street construction, moving utilities, contending with high voltage transmission lines owned by Ozarks Electric, and a major gas line as well. Furthermore, the existing streets go through residential neighborhoods and would not affect the Bear Mountain watershed, spring-fed

ponds, ongoing agriculture enterprises, and a trail system that I've spent years building on my property. The 2040 Plan specifically states that the taking of agriculture land and springs should be avoided, because of the need to maintain both in our environment. The US Constitution (Article XIV) requires that a citizen may not be deprived of property without due process of law, which is notification and an opportunity to be heard. Amendment V of the US Constitution states that private property shall not be taken for public use, without just compensation. It is my considered belief that if governmental entities were to give more deference to, and consideration of, this most basic land rights proposition, our nation's political climate would improve tremendously. In this case specifically, with no notice to my husband and me (or the other petitioners) whatsoever, and no opportunity to be heard, the city's act of placing a line on a map (the proposed road), or failing to remove that line, has reduced the fair market value of our property, places a cloud on our title, and affects our ability to sell should we need to do so in the future. All of this is done with no feasibility studies, no allocation of funds for the project, no condemnation proceedings and no payment to my husband and me for the diminished fair market value and inability to market and sell our land. We are not guessing about this. We have the current example of our fellow petitioners, Kevin Wang and his wife, who have had 3 separate contracts for the sale of their land, all with a contingency requiring the removal of the proposed roadway from their parcel. Now that we know that the city proposes this residential link street on our land we are obligated to disclose that to any potential buyer. The Arkansas Real Estate Disclosure form would require the disclosure, and any current survey will reveal the planned street. This disclosure puts the world on notice that our land is likely to be the subject of future eminent domain litigation, significantly reducing the pool of buyers, because of the associated costs, unknown outcome, and time involved.

Finally, I would also like you to understand who we the petitioners are in this case. Most of us are elderly people with health issues who value our quiet rural surroundings. My husband and I are both cancer survivors. The city's taking of our land has a detrimental effect on our health causing many of us to experience a great deal of stress at a time in our lives when that is the last thing in the world that we need. Some of us have respiratory health issues which will be exacerbated by the traffic related ozone and other pollutants that will collect in the bowl of Bear Mountain, if this project occurs.

Some of my neighbors have spent their entire lives on the land that they call home and have been entrusted by their ancestors, now long gone, to care for, protect, and preserve the land for future generations. I am asking that you please, for a moment put yourselves in our shoes and understand that we are already experiencing an unconstitutional taking of our most significant investment. Even before the official eminent domain proceeding occurs, our property has been placed in limbo while we wait for the city to decide whether it really will take, by way of eminent domain, and destroy our land. Meanwhile, we are unable to make decisions about our property and have to seriously consider whether we should be spending time and money maintaining and improving the home that we love

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

knowing that the city proposes to destroy it in the future. Please release us from this nightmare and vacate this proposed link street.

Your consideration of these matters is appreciated.

Sincerely,
Carol Gregory

From: RONALD G. Woodruff <ronwoodruff40@gmail.com>
Sent: Wednesday, February 7, 2024 10:50 AM
To: Masters, Jessica <jmasters@fayetteville-ar.gov>
Cc: Carol Gregory <clgpa27@gmail.com>; Steve Warden <sleej32@hotmail.com>; Velva Kline <vkline2@icloud.com>; Jerry and Shirley Durning <eansdurning@aol.com>; Kevin and Lucia Wang <wangkisu@gmail.com>; David Hamm <4218dhamm@gmail.com>
Subject: ADM 2024-0001

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.

Ms. Masters: Please past this message on to the Commission at their Agenda meeting today.

To the Planning Commission: Please take note that there are 7 individual property owners/applicants who have joined in this Petition. We could have sent seven proposals, but as a matter of economy of time and effort for the parties (owners and commissioners), we elected to bring our claims all together as one Petition. It would be appreciated if the commission would grant each owner the amount of time normally given to each applicant to present their position on points of interest and concern to your group.

Ron Woodruff
Petitioner/Property Owner/Applicant

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

From: Steve Warden <sleej32@hotmail.com>

Sent: Wednesday, February 7, 2024 1:56 PM

To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Carol Gregory <clgpa27@gmail.com>; RONALD G. Woodruff <ronwoodruff40@gmail.com>; .Jerry and Shirley Durning <eansdurning@aol.com>; David Hamm <4218dhamm@gmail.com>; Kevin and Lucia Wang <wangkisu@gmail.com>; Velva Kline <vkline2@icloud.com>

Subject: Re: Master Street Plan - Resolutions

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Jessica I appreciate you taking time to read our emails. I am not writing a long formal letter because Carol has already done a great job doing that. I am one of the petitioners so I know you feel bombarded by all our correspondence but if the planning commission follows through with only allowing 10 minutes between the 7 families that are on this petition to have input verbally then correspondence is our best option. I know these planning commission meetings can be long and often confrontational but that is not what I am a petitioner want for our group. Having been in many of meetings and speaking on occasion I know that the City want to provide infrastructure for future development to be mostly paid for by developers. Many connecting street are already constructed between Ed Edwards and Hunt Lane. There is one path from Hunt lane that would be much shorter to reach Roberts Road witch already tied into Dead Horse Mountain Road which by the way s turns into Stonebridge Rd. Which at this time is the only stop light between Crossover Road and HWY 74 in Elkins on Hwy 16. So no matter how you try and connect streets you are going to create a traffic nightmare beyond belief for Dead Horse Mountain Road. That road is already too small and too many hidden driveway and one the slippery

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From: Steve Warden <sleej32@hotmail.com>

Sent: Wednesday, February 7, 2024 2:10 PM

To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Carol Gregory <clgpa27@gmail.com>; RONALD G. Woodruff <ronwoodruff40@gmail.com>; .Jerry and Shirley Durning <eansdurning@aol.com>; David Hamm <4218dhamm@gmail.com>; Kevin and Lucia Wang <wangkisu@gmail.com>; Velva Kline <vkline2@icloud.com>

Subject: Re: Master Street Plan - Resolutions

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.

Most slippery s curves in the City. This is Steve Warden and I live at 2555 Ed Edwards Road. I have been here 4 years. I own nearly 30 acres but the bottom 21 are both effectively separated from me being able to utilize them past the proposed road. I have 5 Grandchildren that I intend to teach to hunt and fish on my property. The elevation changes on my property means that it could never be a subdivision. Not to mention I have a Home

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

with over 4,200 square ft at the top of that 21 acres with what I believe to be one of the best views in the area and I have spent a fortune creating this view. I am constantly fighting watershed on the gas line right of way that 1,300 feet long 60' wide in a grade probably 20% or better. The proposed road is quite possibly the worst place it could have ever been drawn. Please help us get it removed and let developers add roads as they are needed in the future when you can follow a correct path of notifications and public input each time a development tries to happen because I know one has already failed on Dead Horse Mountain road recently. Thanks, Steve Warden 479-684-1807

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From: eansdurning@aol.com <eansdurning@aol.com>

Sent: Wednesday, February 7, 2024 2:47 PM

To: Masters, Jessica <jmasters@fayetteville-ar.gov>; Carol Gregory <clgpa27@gmail.com>; RONALD G. Woodruff <ronwoodruff40@gmail.com>; Velva Kline <vkline2@icloud.com>; Kevin and Lucia Wang <wangkisu@gmail.com>; Steve Warden <sleej32@hotmail.com>; cigpa27@gmail.com

Subject: petition concerning connector street

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.

Hello, all,

I have written and rewritten so many times and lost so much sleep since this came to light in October, 2023. Having lived on Hunt Lane since 1946, I have a very strong attachment. Only child and with my one and only husband since 1969, we feel that we could lose our paradise. The line heads up our driveway, over my cherished creek, and dead on wipes out our two big Amco buildings and possibly our home, established in 1978. Eight model T and model A cars built by Bill Durning, surround Jerry in his man cave and refuge he visits most evenings. There are old-growth trees and dogwoods and redbuds in the path of the road. Our usually gentle creek will be eroded and our fields will be even more swampy. Birds and wildlife will lose cover and arable land destroyed forever. Those who make the decision must at least walk the path, hear the frogs and see what is at stake. Hunt Lane is special. My surviving childhood friends, neighbors and cousins have stayed or returned to live out their days here.

ADDITIONAL PETITIONER COMMENT
ADM-2024-0001

From: Ronald Woodruff <ronwoodruff40@gmail.com>
Sent: Wednesday, February 7, 2024 4:23 PM
To: eansdurning@aol.com
Cc: Carol Gregory <clgpa27@gmail.com>; Masters, Jessica <jmasters@fayetteville-ar.gov>; Kevin and Lucia Wang <wangkisu@gmail.com>; Steve Warden <sleej32@hotmail.com>; Velva Kline <vkline2@icloud.com>; cigpa27@gmail.com
Subject: Re: petition concerning connector street

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Hope you will be able to pass your passion for this property on to the commission. Ron Woodruff

On Wed, Feb 7, 2024 at 2:49 PM . <eansdurning@aol.com> wrote:
Hello, all,

I have written and rewritten so many times and lost so much sleep since this came to light in October, 2023. Having lived on Hunt Lane since 1946, I have a very strong attachment. Only child and with my one and only husband since 1969, we feel that we could lose our paradise. The line heads up our driveway, over my cherished creek, and dead on wipes out our two big Amco buildings and possibly our home, established in 1978. Eight model T and model A cars built by Bill Durning, surround Jerry in his man cave and refuge he visits most evenings. There are old-growth trees and dogwoods and redbuds in the path of the road. Our usually gentle creek will be eroded and our fields will be even more swampy. Birds and wildlife will lose cover and arable land destroyed forever. Those who make the decision must at least walk the path, hear the frogs and see what is at stake. Hunt Lane is special. My surviving childhood friends, neighbors and cousins have stayed or returned to live out their days here.

From: wangkisu@gmail.com <wangkisu@gmail.com>
Sent: Wednesday, February 7, 2024 4:56 PM
To: RONALD G. Woodruff <ronwoodruff40@gmail.com>
Cc: Masters, Jessica <jmasters@fayetteville-ar.gov>; Carol Gregory <clgpa27@gmail.com>; Steve Warden <sleej32@hotmail.com>; Velva Kline <vkline2@icloud.com>; .Jerry and Shirley Durning <eansdurning@aol.com>; David Hamm <4218dhamm@gmail.com>
Subject: Re: ADM 2024-0001

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Hi Jessie,
In addition to the letters my fellow petitioners have sent, please include my attached letter for the commission.
Thank you
-Kevin

Kevin & Lucia Wang
Owners of 2277 Ed Edwards Rd, Fayetteville, AR 72701
515-556-2433
wangkisu@gmail.com

To the Fayetteville City Planning Commissioners:

I am writing this letter on behalf of myself and my wife, Lucia Wang, to explain and provide additional background information in the request to remove the “Residential Link” as referenced in our joint petition with my fellow neighbors.

We purchased this land back in October 2022 with the intention to build a forever home and made many land improvements (clearing/mulching) and started to finalize house plans. However due to personal and work related reasons, we had to put the property for sale in March of 2023, otherwise we found the area to have all the items we wanted in our forever home (privacy, natural scenery, beautiful landscape).

Since putting the property for sale, we’ve endured the following hardships:

- Land is priced within the comparable market analysis review (done by Luis Martinez with eXp Realty in Northwest Arkansas)
- The “Residential Link” in question shows up on my Survey (performed by Atlas Professional Land Surveying)
- I average several calls a month with potential buyers, who are unfamiliar with the “Master Street Plan” and bring up assumptions that the road is already budgeted to be built.
- I have a premade message that I send to each potential buyer, that explains what the Master Street Plan is and I use the same details that the city staff has explained to us petitioners in what this “residential link” is (not budgeted, no full approvals yet to proceed, but the intention is that it will get built if the plan is followed through). I also include contact information to the city staff to ask them directly if any questions.
- Most do not have follow up with questions after my explanation and do not reply with further interest.
- The few that are interested in purchasing my land and have submitted contractual offers include in their contingencies section, concerns relating to this “Residential Link” and specifically call it out in their real estate contract. Examples below of three offers we received:
 - Buyers requiring a “guaranteed letter” from the City stating this road won’t be built.
 - Offer from 9/1/23 - An additional 122 days to do their own petition to the city for the road’s removal, before closing date
 - Offer on 9/30/23 – A “due diligence” period of 90 days with right to withdraw if unable to receive approval from City
 - In addition to being unable to agree to the contingencies above due to the process required to review the status of this “Residential Link”, **all offers have come at a very reduced price below the market analysis price, which we will not agree to.**

- We are not intending to profit from the sale of this land, but we are not willing to take such an extreme loss that is being caused by this “residential link”
- For the contracted offers that did not have contingencies, the price offered was at an even lower price below market value

The petitioners recently had a meeting with the city staff, which I do appreciate their time in hearing our concerns. I await to review more information that calls out specifically, what data/facts was done to draw this “residential link” as it exists on the master street plan. I understand the benefits and importance of having a Master Street Plan, however I am asking the members of the planning commission to review the “residential link” in our petition and to look at the surrounding area in terms of topography, feasibility, constructability, and overall cost versus other more relevant road improvements that are needed. If this “residential link” is needed to support future growth, then all I ask is for the specific and measurable facts and data that justifies it.

While my wife and I have not owned our land for very long, it’s been very touching to meet so many of our neighbors who grew up on their land and expect to see their children to do the same. I just ask the amount of due diligence that was put into this “residential link” to be drawn the way it is, is shared with us so that we can understand the effort that was put into this road and see if that matches all the time, energy, and stress that this “line” on a map has clouded over us. But I also ask that you review that information and hopefully make the right decision in terms of the question “is this specific road” really needed?

Thank you for your time and consideration,

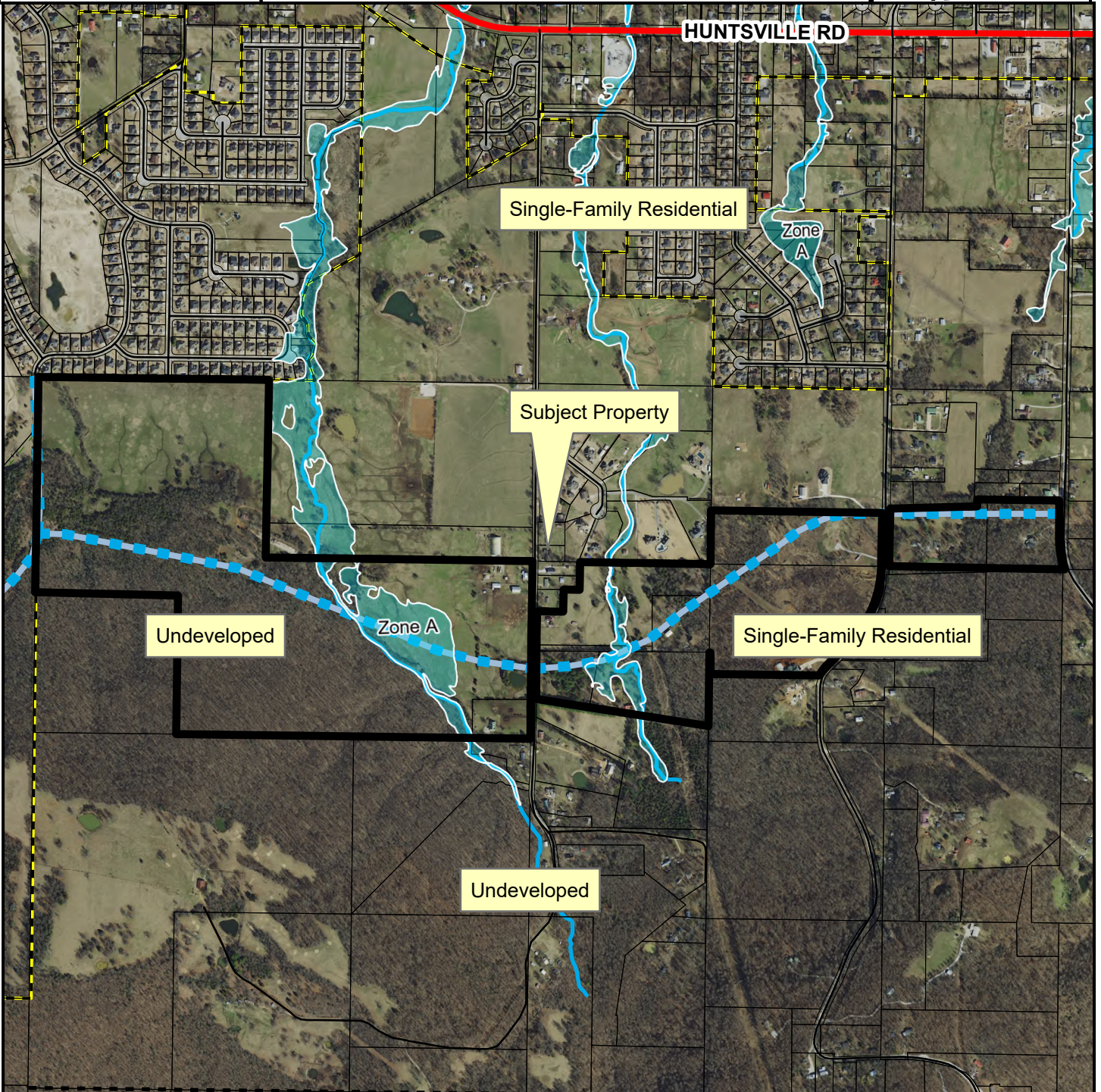
Kevin Wang

ADM-2024-0001

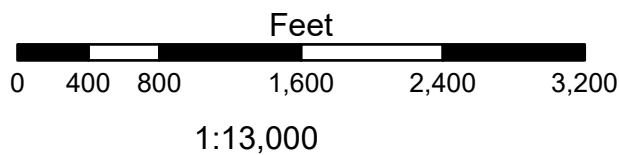
2277, 2400, 2423, 2550 S. ED
EDWARDS RD, 2303 S. MALLY



Current Land Use



- Regional Link
- Unclassified
- Residential Link
- - - Planned Residential Link
- - - Trail (Proposed)
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway