

City Council Agenda Items
and
Contracts, Leases or Agreements

6/5/2012

City Council Meeting Date
Agenda Items Only

Andrew Garner

Planning

Development Services

Submitted By

Division

Department

Action Required:

RZN 12-4108: (4847 W. WEDINGTON DR./BANK OF WYNNE, 438): Submitted by BATES AND ASSOCIATES for property located at 4847 WEST WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (R-PZD 07-2576 WOODSTOCK) and contains approximately 31.68 acres. The request is to rezone the subject property to CS, COMMUNITY SERVICES AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE.

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

Budgeted Item

Budget Adjustment Attached

James C. Pate
Department Director 05.17.2012
Date

Previous Ordinance or Resolution # _____

[Signature]
City Attorney 5-18-2012
Date

Original Contract Date: _____

Original Contract Number: _____

Marsla Hertweck
Finance and Internal Services Director 5/18/12
Date

05-17-12 P04:45 RCVD
Received in City Clerk's Office
Kim G.

[Signature]
Chief of Staff 5/18/12
Date

Received in Mayor's Office
ENTERED
5/18/12
[Signature]

[Signature]
Mayor 5/21/12
Date

Comments:

Left on the Second Reading at the 6/19/12 CC Mtg.
Left on the First Reading at the 6/5/12 CC mtg

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director 

From: Andrew Garner, Senior Planner

Date: May 17, 2012

Subject: RZN 12-4108 (Bank of Wynne Rezone/Woodstock PZD Revocation)

RECOMMENDATION

Planning Commission and staff recommend approval of an ordinance to revoke the expired Woodstock Planning Zoning District and rezone the property from R-PZD 07-2576 Woodstock to R-A, Residential Agricultural, the zoning that was in place prior to the R-PZD.

BACKGROUND

The subject property contains 31.68 acres located on the south side of Wedington Drive (State Highway 16) between 46th Street and Broyles Avenue. The site is zoned R-PZD 07-2576, and generally flat hay pasture with trees along the fence rows. The property is generally undeveloped except for two residences, one in the northwest corner and the other in the southeast corner of the site. On October 2, 2007 the City Council approved the Woodstock Planned Zoning District on the subject property (R-PZD 07-2576). The property was originally zoned R-A, Residential Agricultural. The R-PZD zoning permitted a total of 382 dwellings and 100,390 square feet of non-residential square feet. Construction permits for the project were never obtained and the R-PZD approval has expired. Within the past year, the Future Land Use Plan designation on this site changed, scaling back the City Neighborhood Area on this site from the entire Wedington Drive street frontage to the northwest corner of the site.

If an approved PZD expires the property does not automatically revert back to the original zoning. The property is unable to be developed or subdivided until the old PZD zoning is revoked and a new, valid zoning district is assigned. In an effort to establish a valid zoning district on the subject property the property owner, the Bank of Wynne, has requested a rezoning. Their request is to rezone 9.08 acres to CS, Community Services and 22.60 acres to RSF-4, Residential Single Family Four Units Per Acre. The areas of the site for the proposed rezoning are depicted on the attached survey provided by the applicant.

Staff recommends denial of applicant's proposal finding that the rezoning request is not consistent with the City Plan 2030 Future Land Use designation of this site. The Future Land Use Plan Designates a majority of this site as Residential Neighborhood, and confines the City Neighborhood designation in the northwest portion of the site around the intersection of Broyles and Wedington. The applicant proposes to rezone their entire frontage along Wedington (about 820 feet of street frontage, 300 feet deep, 9.08 acres) to Community Services. In addition, the proposal to rezone 22.60 acres of undeveloped pasture to RSF-4 on the edge of the developed area of the City could encourage a sprawling development pattern in conflict with the primary goals of City Plan 2030: *Goal 2: We will discourage suburban sprawl, and Goal 3: We will make traditional town form the standard.* This is discussed in more detail in the findings throughout the staff report.

DISCUSSION

Prior to the May 14, 2012 Planning Commission meeting, the City Attorney advised staff and the Planning Commission that if they did not recommend in favor of the applicant's proposed zoning request that they should recommend some zoning district. On May 14, 2012 the Planning Commission made a recommendation to forward the rezoning request to the City Council with a recommendation for the property to revert back to the zoning that was in place prior to the PZD, which was R-A, Residential Agricultural. The motion passed with a 7-1-0 vote (Commissioner Hoskins voted 'no').

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REVOKING R-PZD 07-2576 (WOODSTOCK) AND REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4108, FOR APPROXIMATELY 31.68 ACRES, LOCATED AT 4847 WEST WEDINGTON DRIVE FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT 07-2576, TO R-A, RESIDENTIAL AGRICULTURAL.

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

Section 1: That a portion of the property as described herein zoned R-PZD 07-2576 (Woodstock) is hereby revoked because the developer failed to obtain development permits in accordance with the approved phased development schedule.

Section 2: That the zone classification of the following described property is hereby changed as follows:

From R-PZD, Residential Planned Zoning District 07-2576 to R-A, Residential Agricultural, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 2 above.

PASSED and **APPROVED** this day of , 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

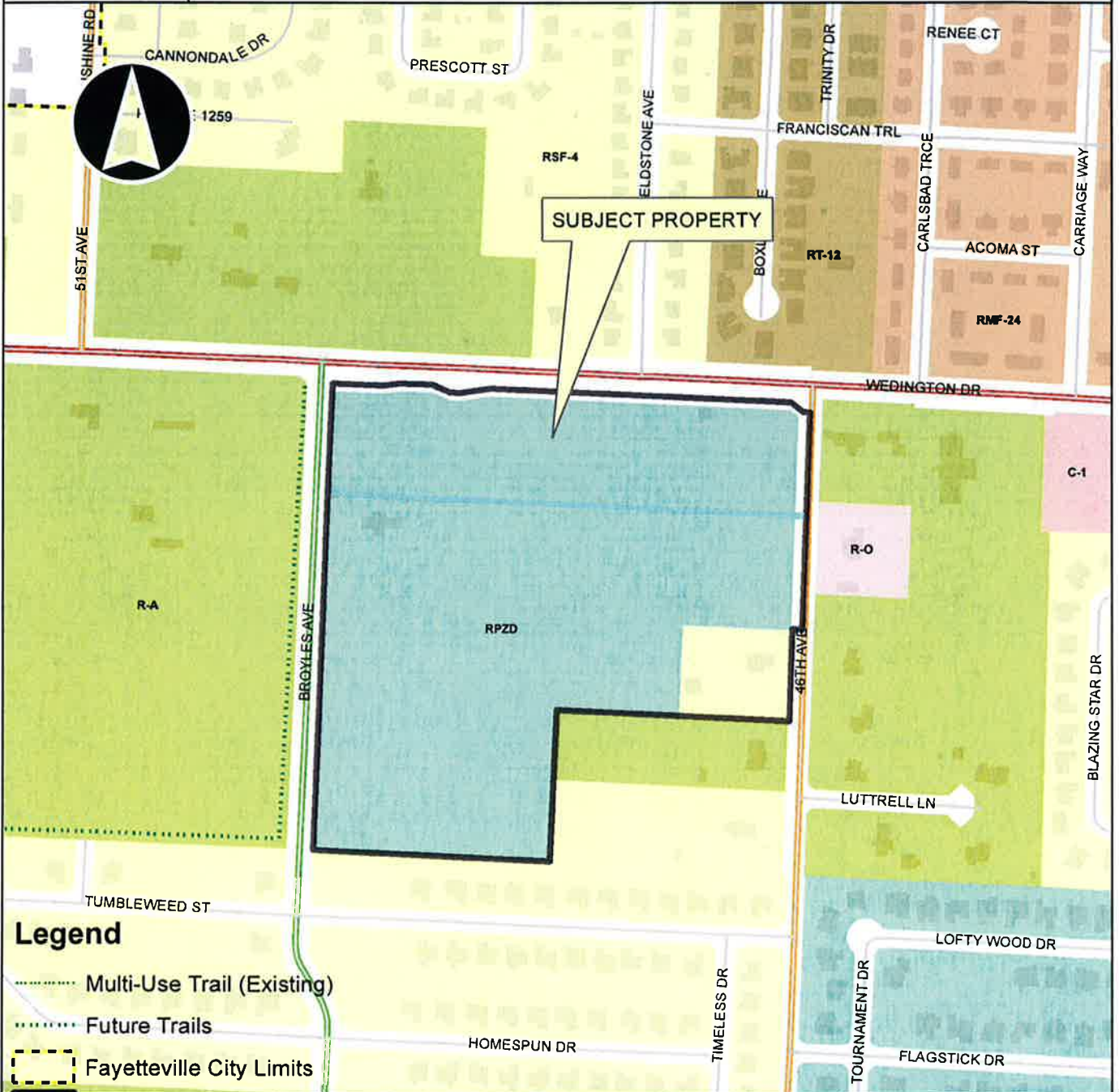
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN12-4108

BANK OF WYNNE

Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview

RZN12-4108

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

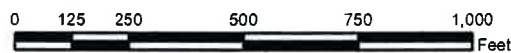


EXHIBIT "B"
RZN 12-4108

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N02°21'23"E 966.66' FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°21'25"E 300.00' TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY #16, THENCE ALONG SAID SOUTH RIGHT-OF-WAY THE FOLLOWING: S87°33'20"E 139.56' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N83°32'33"E 44.48' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S88°03'22"E 88.17' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S67°34'26"E 53.20' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°16'19"E 27.89' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N81°59'46"E 81.42' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°20'54"E 819.70' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S51°36'34"E 42.96' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S86°09'07"E 18.27', THENCE LEAVING SAID SOUTH RIGHT-OF-WAY S02°12'08"W 280.19', THENCE N87°20'54"W 1303.10' TO THE POINT OF BEGINNING, CONTAINING 9.08 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°21'25"E 966.66', THENCE S87°20'54"E 1303.10', THENCE S02°12'08"W 309.20', THENCE N87°14'57"W 26.21' TO THE WEST RIGHT-OF-WAY OF N. 46TH AVENUE, THENCE ALONG SAID WEST RIGHT-OF-WAY S02°08'46"W 249.44', THENCE LEAVING SAID WEST RIGHT-OF-WAY N87°14'45"W 634.58' TO AN EXISTING REBAR, THENCE S02°30'10"W 410.73' TO AN EXISTING REBAR, THENCE N87°12'44"W 643.04' TO THE POINT OF BEGINNING, CONTAINING 22.60 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Planning Commissioners

CC: Jeremy Pate, Development Services Director
Andrew Garner, Senior Current Planner

FROM: Kit Williams, City Attorney

A handwritten signature in black ink, appearing to read "Kit Williams", with a long horizontal flourish extending to the right.

DATE: May 11, 2012

RE: Expired PZD's must be rezoned upon owner's request

When a PZD has expired, the property owner loses **all** development rights on his property until it is rezoned. Almost all of a property's real worth and value is in its development rights. This loss of all of a property's development rights would constitute a government taking of the property requiring our taxpayers to pay the reasonable value of the property (very large amount of money) except the property owner must first "exhaust his remedies" by asking for a rezoning.

As long as the rezoning is granted by the City Council, no regulatory taking has occurred. However, if the property owner's request to rezone the property out of its "zombie" status (unusable and undevelopable) is just denied and the property is not rezoned into some developable zoning district, the property owner would probably have a textbook case of inverse condemnation or regulatory taking. **This must not be allowed to occur.**

Because the new owner of the property zoned for the now defunct Woodstock PZD has requested rezoning, the Planning Commission should recommend what you believe is appropriate zoning. If you get stuck on how it should be zoned now, please just recommend that the City Council rezone it back to the zoning it had prior to the approval of the PZD. **The City Council MUST rezone this property either to its prior zoning district or to the zoning district or districts that would conform to state law purposes and the 2030 Long Range Plan.** Just denying the property owner's requested rezoning is a recipe for disaster and must not happen.

When the Planning Commission is considering whether or not to recommend approval of a rezoning request, the City Planning Division presents useful information from various city departments that cover issues included with the City's 2030 Long Range

Plan. This document was the result of many public hearings and much input from citizens, staff, commissioners and council members. However, “A land use plan is meant to be just that – a plan. It is not legally binding on the city.” Taylor v. City of Little Rock, 583 S.W. 2d 72, 73 (1979).

State Statutes authorize cities to prepare zoning and development plans and list nine purposes or goals that these plans may promote:

- “ 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;
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.”

A.C.A. §14-56-403 (b).

The appellate courts of Arkansas have recognized and approved many different factors that a Planning Commission can consider when a proposed rezoning is contested.

1. **Public Opposition**

“Opposition by a large majority of the citizens in the neighborhood”
Thomas Petroleum v. West Helena (1992).

“The Opinion of local residents, when it reflects logical and reasonable concerns”

City of Lowell v. M & N Mobile Home Park (1996).

“Some of the residents (of the area) objected”
Tanner v. City of Green Forest (1990).

2. **Traffic**

“Increased traffic on limited roads”
City of Lowell v. M & N Mobile Home Park (1996).

“Increased risk of traffic accidents”
Thomas Petroleum v. West Helena (1992).

3. **Noise**
City of Lowell v. M & N Mobile Home Park (1996).
4. **Decreased value of adjoining land**
City of Lowell v. M & N Mobile Home Park (1996).
5. **Potential for criminal activity**
Thomas Petroleum v. West Helena (1992).
6. **Increased litter**
Thomas Petroleum v. West Helena (1992).
7. **Strain on Sewage service**
Tanner v. City of Green Forest (1990).
8. **Spot zoning**
“The need to maintain consistent zoning area, and not to set a precedent of spot zoning (T)he property was entirely surrounded by a residential area, and that the residents objected “ Thomas Petroleum v. West Helena, 310 Ark. 682, 839 S.W. 2d 523, 525 (1992).

“Spot zoning has been defined by several authorities. It has been said that:

‘ Spot zoning, by definition, is invalid because it amounts to an arbitrary, capricious and unreasonable treatment of a limited area within a particular district. As such, it departs from the comprehensive treatment or privileges not in harmony with the other use classifications in the area and without any apparent circumstances which call for different treatment. Spot zoning almost invariably involves a single parcel or at least a limited area.’ R. Wright and S. Webber, *Land Use* (1978).” Riddell v. City of Brinkley, 612 S.W. 2d 116, 117 (1981).

“(S)pot zoning includes zoning one lot in a manner entirely different from the surrounding area “ Smith v. City of Little Rock, 279 Ark. 4, 648 S.W. 2d 454, 457 (1983).

However, the most recent case I could find referring to “spot zoning” {Camden Community Development Corp. v. Sutton, 339 Ark. 368, 5 S.W. 3rd 439, 443 (1999)} cast doubt on Professor Wright’s quoted statement that “Spot zoning, by definition, is invalid”

Finally, a proponent of a rezoning will often argue that he or she is entitled to a rezoning in order to put the property to its “**highest and best use**” from a monetary viewpoint. The benefit to the owner of a proposed rezoning may certainly be considered, “(h)owever, we have held that **rezoning is not justified solely on the ground that it is necessary to put a particular tract to its most remunerative use.**” Tanner v. City of Green Forest, 302 Ark. 170, 788 S.W. 2d 727, 729 (1990). (emphasis added).

CONCLUSION/SUMMARY

Factors that may be considered in rezoning issues:

1. 2030 Plan objectives
2. Public opposition that is logical and reasonable
3. Traffic
4. Safety and Fire protection
5. Good civic design and efficiency
6. Adequacy of public facilities (sewage, water)
7. Noise
8. Litter
9. Decrease in value of adjoining land
10. Appropriate and best use of land
11. Compatibility with adjacent zones (spot zoning)



PC Meeting of May 14, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
 FROM: Andrew Garner, Senior Planner
 THRU: Jeremy Pate, Development Services Director
 DATE: ~~May 8, 2012~~ *Updated May 16, 2012*

RZN 12-4108: Rezone (4847 W. WEDINGTON DR./BANK OF WYNNE, 438): Submitted by BATES AND ASSOCIATES for property located at 4847 WEST WEDINGTON DRIVE. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (R-PZD 07-2576 WOODSTOCK) and RSF-4 and contains approximately 31.68 acres. The request is to rezone the property to CS, COMMUNITY SERVICES and RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE. Planner: Andrew Garner

BACKGROUND:

The subject property consists of approximately 31.68 acres located on the south side of Wedington Drive (State Highway 16) between 46th Street and Broyles Avenue. The site is zoned R-PZD 07-2576 (Woodstock) and RSF-4, and is generally flat hay pasture with trees along the fence rows. The property is generally undeveloped except for two residences, one in the northwest corner and the other in the southeast corner of the site. The surrounding zoning and land use are listed in *Table 1*.

**Table 1
 Surrounding Land Use/Zoning**

Direction from Site	Land Use	Zoning
North	Single family residences; Ozark Electric facility, Duplexes	R-A; RSF-4; RT-12
South	Single family residences	RSF-4; R-A
East	Single family residences	R-A
West	Pasture	R-A

History: On October 2, 2007 the City Council approved the Woodstock Planned Zoning District on the subject property (R-PZD 07-2551). The property was originally zoned R-A, Residential Agricultural. The R-PZD zoning permitted a total of 382 dwellings and 100,390 square feet of non-residential square feet. Construction permits for the project were never obtained and the R-PZD approval has expired. Within the past year, the Future Land Use Plan designation on this site changed, scaling back the City Neighborhood Area on this site from the entire Wedington Drive street frontage to the northwest corner of the site.

PZD Revocation: If an approved PZD expires the property does not automatically revert back to the
 G:\ETC\Development Services Review\2011\Development Review\11-3807 RZN SW Corner of Razorback Rd_15th St (Champion Club Condo's)\03
 Planning Commission\05-09-2011\Comments and Redlines

original zoning. The property is unable to be developed or subdivided until the old PZD zoning is revoked and a new, valid zoning district is assigned.

Proposal: The property owner, the First National Bank of Wynne, proposes to rezone 9.08 acres from R-PZD 07-2576 Woodstock to CS, Community Services and 22.60 acres from R-PZD 07-2576 Woodstock to RSF-4, Residential Single Family Four Units Per Acre. The areas of the site for the proposed rezoning are depicted on the attached survey provided by the applicant.

Public Comment: Staff has not received public comment on this request.

RECOMMENDATION:

Staff recommends denial of **RZN 12-4108 (Woodstock)** finding that the proposed rezoning request is not consistent with the City Plan 2030 Future Land Use designation of this site. The Future Land Use Plan Designates a majority of this site as Residential Neighborhood, and confines the City Neighborhood designation in the northwest portion of the site around the intersection of Broyles and Wedington. The applicant proposes to rezone their entire frontage along Wedington (about 820 feet of street frontage, 300 feet deep, 9.08 acres) to Community Services. In addition, the proposal to rezone 22.60 acres of undeveloped pasture on the edge of the developed area of the City could encourage a sprawling development pattern in conflict with the primary goals of City Plan 2030: *Goal 2: We will discourage suburban sprawl, and Goal 3: We will make traditional town form the standard.* This is discussed in more detail in the findings throughout the staff report.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>May 14, 2012</u>	<input type="checkbox"/> Tabled	<input checked="" type="checkbox"/> Forwarded	<input type="checkbox"/> Denied
Motion: <u>Chesser</u>	Second: <u>Bunch</u>	Vote: <u>7-1-0 (Hoskins voted 'no')</u>	
Notes: <u>Forwarded with a recommendation to have the property revert back to the zoning in place prior to the R-PZD, which was R-A, Residential Agricultural.</u>			
CITY COUNCIL ACTION:		Required <u>YES</u>	
		<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Date:			

CITY PLAN 2030 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates the northwest portion of this site near the intersection of Wedington Road and Broyles Avenue as **City Neighborhood Area** and a majority of the site, including about half of the site's frontage on Wedington as a **Residential Neighborhood Area**.*

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multifamily. Non residential uses range in size, variety and intensity from grocery stores and offices to churches, and are typically located at corners and along connecting corridors...Setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone.

Residential Neighborhood Areas are primarily residential in nature and support a variety of housing types of appropriate scale and context, including single family multifamily and row-houses...It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhood, such as retail and offices, on corners and along connecting corridors.

INFRASTRUCTURE:

Streets: The site has access to Wedington Drive, Broyles Avenue, and 46th Street. Wedington Drive has been recently improved to a five-lane state highway with a 10-foot wide asphalt trail adjacent to this site. Broyles Avenue is an improved two-lane Minor Arterial roadway with a turn lane at Wedington, and 46th Street is an unimproved Collector street adjacent to the eastern boundary of the property. Street improvements would be evaluated at the time of development.

Water: Public water is available to the property. There is an 18-inch water main on the south side of Wedington, a 12-inch water main on the east side of Broyles and an 8-inch water main on the west side of 46th Street. Public water main improvements may need to be extended through the property to provide domestic and fire flow for any proposed development.

Sewer: Sanitary sewer is available adjacent to the site. There is a 6-inch main on the east side of 46th Street. Public sewer main improvements may need to be extended through the property at the time of development. The capacity of the existing main will need to be evaluated to ensure adequate capacity.

Drainage: Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain and the Streamside Protection Zones.

Police: Staff did not receive objections from the Police Department to this rezoning.

Fire: The subject property is located 1 mile from the Station No. 7 located at 835 Ruppel Road with an expected response time of 2.25 minutes. No adverse impacts on call volume or response time are anticipated.

FINDINGS OF THE STAFF

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

Finding: Staff finds the proposal not consistent with the land use planning objectives, principles and policies. About half of this site's street frontage is designated as Residential Neighborhood Area and is proposed to be rezoned to CS, Community Services. The City's Future Land Use Plan intends more intense and dense uses along this stretch of Wedington to be concentrated around the node of the Broyles Avenue/Wedington Drive intersection, not along the entire 800-foot street frontage of this site. The applicant's proposal is not consistent with the Future Land Use Plan designation. This proposal extends the potential for non-residential, commercial, and multi-family uses along the entire property frontage at a depth of approximately 300 feet deep. This shape of the boundary appears to encourage a highway commercial strip center pattern which is not consistent with the City's land use planning objectives. With the recent adoption of City Plan 2030 less than a year ago, there was discussion and a modification to the Future Land Use Plan map to reduce the area of this particular site that was classified as City Neighborhood area. The boundary of City Neighborhood area on City Plan extends down Broyles Avenue approximately 700 feet to encourage the more intense and dense uses to allow for the potential of a square-back street and a more traditional neighborhood commercial pattern instead of a commercial strip center pattern. The proposed rezoning would allow commercial and multi-family dwellings along the entire Wedington frontage rather than limit these more intense uses in a compact pattern at the busier corner location. This is not consistent with the Guiding Policies for City Neighborhood Areas. The intent is not to have one continuous strip of commercial development along arterials/highways, but rather to have defined nodes primarily at corner locations, and transition in the land use transect along the corridor consistent with City Plan Goal 3 to "...make traditional town form the standard." Additionally, the proposal to rezone 22.60 acres of undeveloped pasture on the edge of the developed area of the City to RSF-4 could encourage a sprawling development pattern in conflict with some of the primary goals of City Plan 2030:

Goal 2: We will discourage suburban sprawl

Goal 3: We will make traditional town form the standard

The RSF-4 development pattern is a suburban zoning district (not traditional) that generally yields a gross density of approximately 2.5 units per acre. This is not consistent with the intent of Residential Neighborhood Areas to have a variety of housing types. Further, the RSF-4 adjacent to CS is a rather abrupt

transition of land uses that may result in some compatibility issues as the property develops in the future. Staff feels that this rezoning proposal is not consistent with the overriding land use plan of the City or the Future Land Use Plan and recommends denial of the request.

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

Finding: The proposed zoning is needed at this time as the existing R-PZD zoning has expired and the property is unable to be developed in any manner, including minor applications such as a lot split or single family residence, until the expired PZD zoning is revoked and a new zoning district is assigned.

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

Finding: The proposed rezone would not appreciably increase traffic over the existing R-PZD zoning that permitted up to 382 residences and 100,390 square feet of non-commercial space. However the R-PZD has fully expired and cannot be developed. The proposed zoning would certainly increase traffic over that existing on the largely undeveloped property. However, given this site's location at the intersection of a Principal Arterial roadway (Wedington) and a Minor Arterial (Broyles Avenue) at the site's northwest corner; the street infrastructure can safely accommodate increased traffic with street improvements required at the time of development. It should be noted that a traffic signal is anticipated at the intersection of Broyles/Wedington, and a condition of approval for the Woodstock R-PZD was payment of an assessment towards the installation of that signal. 46th Avenue is located along the site's eastern frontage is a Collector Street.

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

Finding: Increased load on public services were taken into consideration and recommendations from the Engineering, Fire, and Police Departments and are included in this report. The proposed zoning change to Community Services and RSF-4 should not have an adverse impact on public services with improvements required for development.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: Not applicable. Staff recommends denial of the request.

PROPOSED ZONING

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

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

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cottage Housing Development

(C) *Density.*

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

(D) *Bulk and area regulations.*

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

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	15 ft.

(F) *Building height regulations.*

Building Height Maximum	45 ft.
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Height regulations. Structures in this District are limited to a building height of 45 feet. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses, (ord. # 4858).

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

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08; Ord. 5224, 3-3-09; Ord. 5312, 4-20-10; Ord. 5462, 12-6-11)

161.19 Community Services

(A) *Purpose.* The *Community Services* district is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas and is intended to provide for adaptable mixed use centers located along commercial corridors that connect denser development nodes. There is a mixture of residential and commercial uses in a traditional urban form with buildings addressing the street. For the purposes of Chapter 96: Noise Control, the Community Services district is a commercial zone. The intent of this zoning district is to provide standards that enable development to be approved administratively.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 13	Eating places
Unit 15	Neighborhood Shopping goods
Unit 18	Gasoline service stations and drive-in/drive through restaurants
Unit 24	Home occupations
Unit 25	Offices, studios and related services
Unit 26	Multi-family dwellings
Unit 44	Cottage Housing Development

Note: Any combination of above uses is permitted upon any lot within this zone. Conditional uses shall need approval when combined with pre-approved uses.

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 14	Hotel, motel and amusement services
Unit 16	Shopping goods
Unit 17	Transportation, trades and services
Unit 19	Commercial recreation, small sites

Unit 28	Center for collecting recyclable materials
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communication facilities*
Unit 40	Sidewalk Cafes
Unit 42	Clean technologies

(C) *Density. None*

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Dwelling	18 ft.
All others	None

(2) *Lot area minimum. None*

(E) *Setback regulations.*

Front:	The principal façade of a building shall be built within a build-to zone that is located between 10 feet and a line 25 feet from the front property line.
Side and rear:	None
Side or rear, when contiguous to a residential district:	15 feet

(F) *Height regulations.* Maximum height is 4 stories or 56 feet which ever is less.

(G) *Minimum buildable street frontage.* 65% of the lot width.

(Ord. 5312, 4-20-10; Ord. 5339, 8-3-10; Ord. 5462, 12-6-11)

166.06 Planned Zoning District (PZD)

(L) Revocation.

- (1) Causes for revocation as enforcement action. The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
 - (a) Building permit. If no building permit has been issued within the time allowed.
 - (b) Phased development schedule. If the applicant does not adhere to the phased master development plan schedule as stated in the approved development plan.
 - (c) Open space and recreational facilities. If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff may report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) Procedures. Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) Effect. In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

Date 4/24/12

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

Dear Director Pate,

This document is in response to the request comments on proposed RZN 12-4108 (4847 W. Wedington Drive / Bank of Wynne, 438) submitted by Bates and Associates for property located at 4847 W. Wedington Drive.

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

Sincerely,

Captain William Brown
Fayetteville Police Department



Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Suite 3/ Fayetteville, AR 72703

PH: 479-442-9350 * FAX: 479-521-9350

www.nwabatesinc.com

April 25, 2012

Planning Commission
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: First National Bank of Wynne Wedington Property Rezoning

Dear Commissioners,

This letter is to fulfill the requirements of item 5 on the rezoning application. We are proposing to rezone the property from RPZD to CS and RSF-4.

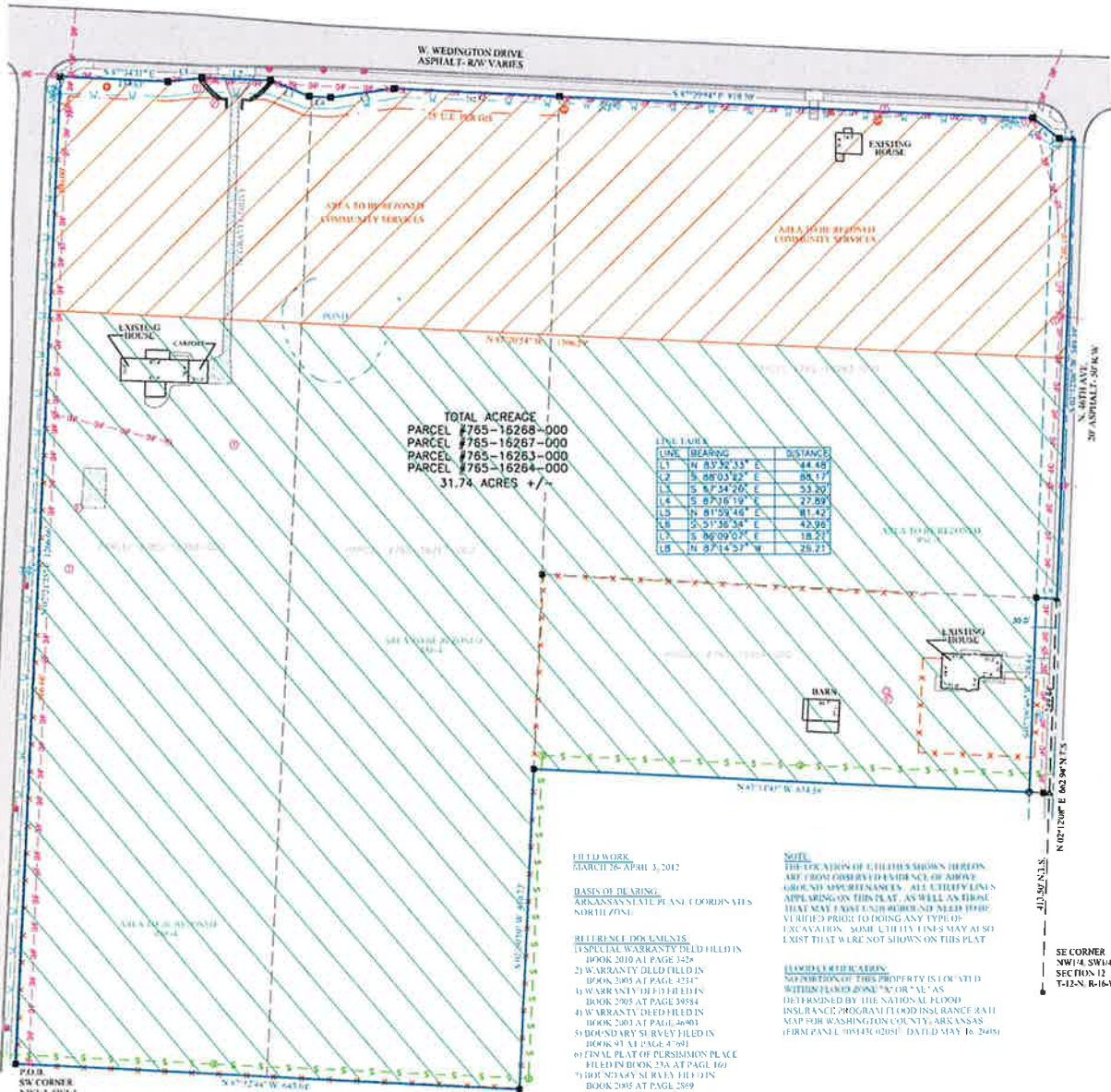
- a. Current property owner: First National Bank of Wynne.; there are no pending sales.
- b. The zoning change is needed in order to bring the property that fronts Wedington Drive to a more conforming use than what the residential zoning allows. The zoning change is needed on the back portion in order to replace the expired RPZD with a more conforming RSF-4 zoning.
- c. With both commercial and residential development expanding to the West along Wedington, this property should conform with surrounding properties in terms of land use, traffic, appearance, and signage.
- d. A 30" sewer main is located West of the property. An 18" water main is located on the site along the north, as well as a 12" water main along Broyles Ave., and an 8" main along 46th Ave.
- e. This property conforms with the City's future land use plan for this area.
- f. The zoning change is needed in order to update the expired RPZD and get the property out of "Zoning Limbo."
- g. The rezoning from RPZD to CS and RSF-4 will increase traffic but with Broyles Ave. on the West and N. 46th Ave. in the East, access management will decrease the potential for danger and congestion.
- h. The proposed commercial zoning will reduce the population density should decrease the load on public services. The proposed residential zoning will conform with all neighboring properties and should not cause an undesirable increase the load on public services.
- i. Since the current RPZD zoning has expired, it is not possible for the new owner to use the existing property. Due to the location and nature of construction along Wedington, Community Services and RSF-4 zoning appears to be a more appropriate use for the site.

If you have any questions or require additional information, please feel free to call.

Sincerely,

Bates & Associates, Inc.

REZONING EXHIBIT



FIELD WORK
 MARCH 26-APRIL 3, 2012

BASIS OF BEARING:
 ARKANSAS STATE PLANT COORDINATES NORTH ZONE

- REFERENCE DOCUMENTS:**
- 1) SPECIAL WARRANTY DEED FILED IN BOOK 2003 AT PAGE 3429
 - 2) WARRANTY DEED FILED IN BOOK 2005 AT PAGE 4234
 - 3) WARRANTY DEED FILED IN BOOK 2005 AT PAGE 3984
 - 4) WARRANTY DEED FILED IN BOOK 2003 AT PAGE 4690
 - 5) BOUNDARY SURVEY FILED IN BOOK 93 AT PAGE 4799
 - 6) FINAL PLAT OF PURSIMUM PLACE FILED IN BOOK 23A AT PAGE 169
 - 7) BOUNDARY SURVEY FILED IN BOOK 2005 AT PAGE 2559
 - 8) BOUNDARY SURVEY FILED IN BOOK 2003 AT PAGE 6448

NOTE:
 THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPEARANCES. ALL UTILITY LINES APPEARING ON THIS PLAN, AS WELL AS THOSE THAT MAY EXIST UNOBSERVED, NEED TO BE VERIFIED PRIOR TO DOING ANY TYPE OF EXCAVATION. SOME UTILITY LINES MAY ALSO EXIST THAT WERE NOT SHOWN ON THIS PLAT.

FLOOD HAZARD ZONING:
 NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AL" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM (FLOOD INSURANCE RATE) MAP FOR WASHINGTON COUNTY, ARKANSAS (FORM PANEL 081410208) DATED MAY 16, 2009.

PROPERTY CURRENTLY ZONED:
 RP2D



SURVEY DESCRIPTIONS:

PORTION TO BE REZONED COMMUNITY SERVICE:
 A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS N22°12'37" E 968.68 FEET FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°27'27" E 300.00 FEET TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 416; THENCE ALONG SAID SOUTH RIGHT-OF-WAY THE FOLLOWING: S87°12'04" E 139.50 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S61°29'14" E 44.49 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S88°02'24" E 84.17 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S67°14'26" E 53.20 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S87°03'02" E 27.69 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S87°59'06" E 81.42 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S87°20'54" E 43.99 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S86°09'07" E 18.51 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S87°14'57" W 28.23 FEET TO THE POINT OF BEGINNING, CONTAINING 0.06 ACRES, MORE OR LESS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

PORTION TO BE REZONED R2D:
 A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS N22°12'37" E 968.68 FEET FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°27'27" E 300.00 FEET TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY 416; THENCE ALONG SAID SOUTH RIGHT-OF-WAY THE FOLLOWING: S87°12'04" E 139.50 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S61°29'14" E 44.49 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S88°02'24" E 84.17 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S67°14'26" E 53.20 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S87°03'02" E 27.69 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S87°59'06" E 81.42 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S87°20'54" E 43.99 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S86°09'07" E 18.51 FEET TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT; THENCE S87°14'57" W 28.23 FEET TO AN EXISTING REBAR; THENCE S87°12'44" W 643.04 FEET TO THE POINT OF BEGINNING, CONTAINING 22.68 ACRES, MORE OR LESS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

STATE RECORDING NUMBER:
 2012-018-111412-348-7-1042

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS 3RD DAY OF APRIL, 2012.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

VICINITY MAP

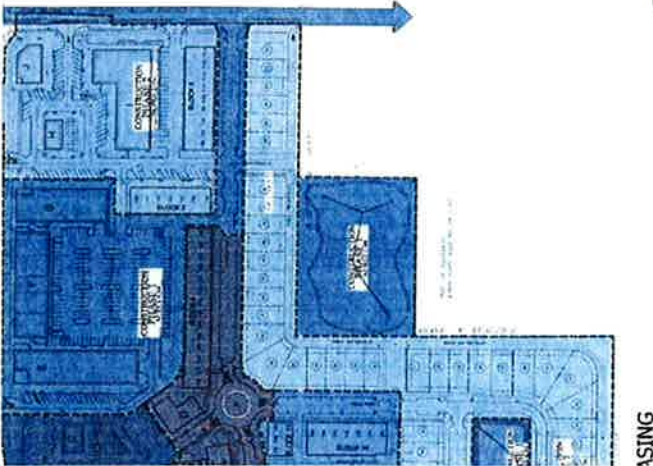


VICINITY MAP NOT TO SCALE

PROJECT AND DESIGN BY LINDSEY & ASSOCIATES FIRST NATIONAL BANK OF WYNNE ADDRESS: CITY OF FAIRBURN WASHINGTON COUNTY, ARKANSAS DATE: 4/3/12 SCALE: 1"=100' DRAWN BY: [Signature] CHECKED BY: [Signature] DATE: 4/3/12		Exhibit Map 	LEGEND: THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING		RECORDING NUMBER DATE

**Existing Zoning (Expired)
Woodstock R-PZD 07-2576
pg. 1 of 5**

PHASE 4: Permits will be pulled within four years of approval. Construction will be completed within five and one half years of approval.
 PHASE 5: Permits will be pulled within five years of approval. Construction will be completed within six and one half years of approval.
 PHASE 6: Permits will be pulled within six years of approval. Construction will be completed within seven and one half years of approval.
 PHASE 7: Permits will be pulled within seven years of approval. Construction will be completed within eight years of approval.



AERIAL VIEW OF THE WOODSTOCK COMMUNITY

DEVELOPMENT PHASING

in seven phases to span over the next eight years.
 It will be pulled within one year of city council approval.
 Construction will be completed within two and one half years of approval.
 Construction will be completed within three and one half years of approval.
 Construction will be completed within three and one half years of approval.
 Construction will be completed within three and one half years of approval.

Woodstock Community

7

PZD-Large Scale Development
PZD-Master Development Plan

PLANNING AREA 1 - MIXED USE DEVELOPMENT

Description

These mixed-use planning areas are designed to create small scale commercial frontages with loft style spaces over the first floor of retail. While most buildings will be 4 stories, a select few will be 5 stories in order to enhance architectural character. Storefront character will create a main street pedestrian-friendly environment. These buildings are comprised of wide sidewalks in front to help separate the pedestrian from the street thoroughfare. The five large buildings have been carefully arranged around the perimeter of the block to create strong street edges and to conceal the interior parking. Retail, local service, cultural business, restaurants, and office suites are placed on the ground floor fronting onto the quieter streets. The upper floors are designed for attainable residential apartments/condos. Street facing facades help frame the street.

At least 75% of the front edge of the lot will have a building, and 60% of this required building frontage must be at the "build to line". Several mixed-use buildings will have urban loft - like apartments in the upper floors.

A. Permitted Uses

- Unit 1 City wide uses by right
- Unit 5 Government facilities
- Unit 12 Offices, studios and related services
- Unit 13 Eating places
- Unit 15 Neighborhood shopping goods
- Unit 16 Shopping goods
- Unit 17 Trades and Services
- Unit 19 Commercial recreation, small sites
- Unit 24 Home occupation
- Unit 25 Professional offices
- Unit 34 Liquor store
- Unit 26 Multi family dwellings

B. Conditional Uses

- Unit 2 City-wide uses by conditional use permit
- Unit 4 Cultural and recreational facilities
- Unit 14 Hotel, motel, amusement facilities
- Unit 17 Trades and services
- Unit 29 Dance halls
- Unit 35 Outdoor music establishments

Unit 40 Sidewalk Cafes

C. Residential density/Non-residential Intensity
 Acreage 10.37

Residential Density 184
 Dwelling units 17.74
 Density (units/acre)

Non-residential Intensity 98,747 sq.ft.
 Sq.ft. of Non-residential Intensity (sq.ft./acre) 9,522.4sq.ft./acre

D. Lot Width Minimum
 Not Applicable

E. Lot Area Minimum
 Not Applicable

F. Land Area per Dwelling Unit
 No Bedroom 670 Sq. Ft. minimum
 One Bedroom 850 Sq. Ft. minimum
 Two or more bedroom 1000 Sq. Ft. minimum

G. Setback Requirements

Front - from Right of Way 5 ft.
 Wedington - from City Right of Way 14 ft.
 Broyles Ave - from City Right of Way 30 ft.
 49th Ave - from City Right of Way 20 ft.
 Rear - 4 ft.
 Side - 5 ft.

Encroachments Into Setbacks

There will be no encroachments into right-of-ways. Covered entries, stairs, stoops bay windows etc. are allowed up to 8' within setbacks. At the second and fourth level of buildings, encroachments in the form of balconies and bay windows are encouraged, but shall not exceed 6' into the setback. Encroachments will comply with all applicable City Building Codes.

H. Height Regulations

Shall not exceed four stories except on facades with underground parking garage entrances. Building height on the northern half of buildings B, E, and G and the east half of building I shall not exceed 50' and three floors. The remaining halves of these

buildings shall not exceed 62' in height or four floors. Buildings F shall not exceed three stories or 50'.

I. Building Area
 Shall not exceed 90% of Planning Area

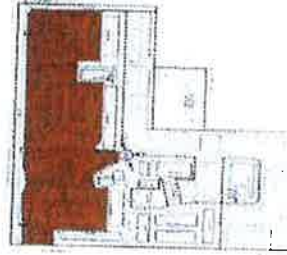
J. Landscaping
 Landscaping as indicated on the Master Development Plan and Landscaping Plan is required as part of this PZD.

K. Parking
 In accordance with the Unified Development Code

L. Architectural Design Standards
 Architectural Design Standards - Material to be brick, stucco masonry, siding, wood trim shingles, aluminum clad window systems (see typical elevation). Dwellings shall not turn a rear facades to a public street and shall utilize articulation including windows, entries/doors, etc. to front public streets. Structures shall be constructed consistent with the architectural elevations presented in the PZD booklet.

M. Signage
 In accordance with the Unified Development Code Commercial design standards.

Part of Phase 1, 2, & 3



Woodstock Community

PZD-Large Scale Development
 PZD-Master Development Plan

PLANNING AREA 2 - TOWNHOUSES

Description

The building prototype in PA2 is designed to accommodate people who wish to own single family residential, attached townhouses. This type of townhouse is ideal for promoting a mix of residents of diverse ages and economic situations. Townhouses will be a minimum of 18 feet wide with varying depths. The preferred setback for the units from the right of way line will be 5 feet with some variance allowed, though all areas within the front setback, regardless of size, will feature a small entry space treated with a combination of low shrubs, groundcover and pavers.

Porches, stoops, balconies, bay windows, chimneys and stairs may encroach into the front setback to a maximum distance of three feet. These encroachments, combined with facades of two to three stories in height, will create an intimate sense of outdoor space. Parking for the residents is located at the rear of the buildings in alley-loaded garages, while visitors and guests will be allowed to park on-street in front of the units.

A. Permitted Uses

- Unit 1: City wide uses by night
- Unit 26: Multi family dwellings

B. Conditional Uses

- Unit 15: Neighborhood shopping goods
- Unit 24: Home occupations
- Unit 25: Professional offices
- Unit 40: Sidewalk cafes

C. Residential Density

- Acreege 7.56 ac.
- Dwelling units 104
- Density 13.76 units/ac.

D. Lot Width Minimum

- Multi Family 20'

E. Lot Area Minimum
900 sq.ft.

F. Land Area per Dwelling
One Bedroom 800 sq.ft.
Two Bedroom 1,000 sq.ft.
Three or more Bedroom 1,000 sq.ft.

G. Setback Requirements

- Front -
 - Broyles Ave. 5 ft.
 - 49th Ave 30 ft.
 - Townhouse blocks 11 through 14 20 ft.
 - Due to alley condition and site constraints 0 ft.
- Side - 0 ft.
- Rear - 0 ft.

Encroachments

No encroachments will be allowed into right-of-ways. Encroachments such as porches, covered entries, balconies, stairs, stoops bay windows etc. are allowed up to 6' within setbacks when setbacks are greater than 15'.
 (Note: All Encroachments will comply with all applicable City Building Codes).

H. Height Regulation

Shall not exceed 45 Ft.

I. Building Area

None

J. Landscaping

Landscaping as indicated on the Landscaping Plan is required as part of this PZD.

K. Parking

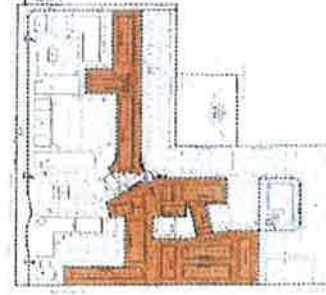
Parking for residents shall be located off alleys in two-car garages. Visitor parking shall be located on streets or in lots. Off-street parking may be located in shared parking districts. On-Street parking is permitted on most public streets. The number of parking spaces provided in this planning area will comply with city code.

L. Architectural Design Standards
 Architectural Design Standards - Material to be brick, stucco masonry, siding, wood trim shingles, aluminum clad window systems (See typical elevation). Dwellings shall not turn a rear facades to a public street and shall utilize articulation including windows, entries/doors, etc. to front, public streets. Structures shall be constructed consistent with the architectural elevations and concepts presented in the PZD booklet.

M. Signage

In accordance with the Unified Development Code for multi family residential areas.

Part of Phase 2, 4, 5, and 6



Woodstock Community

PZD-Large Scale Development
 PZD-Master Development Plan

PLANNING AREA 3 - SINGLE FAMILY

Single Family 22.5 ft



In accordance with the Unified Development Code for single family residential areas.



Description

This planning area is designed to promote a charming streetscape scene and provide easy, walkable access to enjoying the nearby community building, greenspace, and nearby offices and commercial center. Medium-sized, single-family lots will be 40 x 90 feet on average. Garages will be serviced from alley ways with allowances for zero lot line garages, while on-street parking is provided on public streets for residents' visitors. These homes will face directly onto public streets with rear alley access.

This planning area is designed to promote a charming streetscape scene and provide easy, walkable access to enjoying the nearby community building, greenspace, commercial center, greenspace, and offices. Medium-sized, single-family lots will be 40 x 90 feet on average. On-street parking is provided on public streets for residents' visitors. A build to line will be established in the covenants for this neighborhood so homes will have similar distances from the right-of-way, creating an intimate sense of outdoor space along the community's sidewalks. An urban residential character will thus be created, serving to tie the neighborhood together as a pedestrian friendly space.

A. Permitted Uses

Unit 1: City wide uses by right
 Unit 8: Single-family dwellings

B. Conditional Uses

Unit 2: City-wide uses by conditional use permit
 Unit 24: Home occupations
 Detached Second Dwelling Units

C. Residential Density

Acres 8.36 ac.
 Lots 54
 Density 6.46 units/ac.

D. Lot Width Minimum

E. Lot Area Minimum

Single Family 3000 sq.ft.

F. Land Area per Dwelling

Single Family 3000 sq.ft.

G. Setback Requirements

Front - 10 ft.
 Broyles Ave. - 30 ft.
 49th Ave. - 15 ft.
 Side - 0 ft.
 Lot 7 - 8 ft.
 Rear - 0 ft.

H. Height Regulation

Shall not exceed 40 Ft.

I. Building Area

Shall not exceed 80%

J. Landscaping

In accordance with the Fayetteville Landscape Ordinance. Landscaping as indicated on the Master Development Plan and Landscaping Plan is required as part of this PZD

K. Parking

Will be in accordance with the Unified Development Code

L. Architectural Design Standards

Architectural Design Standards - Material to be brick, stucco masonry, siding, wood trim shingles, aluminum clad window systems (see typical elevation). Dwellings shall not turn a rear facades to a public street and shall utilize articulation including windows, entries/doors, etc. to front, public streets. Structures shall be constructed consistent with the architectural elevations and concepts presented in the PZD booklet.

M. Signage

Woodstock Community

PZD-Large Scale Development
 PZD-Master Development Plan

PLANNING AREA 4 - CIVIC BUILDING AND WOODSTOCK PARK

Description	F. Land Area per Dwelling N/A G. Setback Requirements Front - 5 ft	H. Height Regulation Shall not exceed 35 Ft	I. Building Area N/A	J. Landscaping In accord with the Fayetteville Landscape Ordinance. Landscaping as indicated on the Master Development Plan and Landscaping Plan is required as part of this PZD	K. Parking Parking will be located on streets, and in accord with the Unified Development Code	L. Architectural Design Standards Architectural Design Standards - Material to be brick, stucco masonry, siding, wood trim shingles, aluminum clad window systems. Structure shall not turn a rear facades to a public street and shall utilize articulation including windows, entries/doors, etc. with the architectural elevations and concepts presented in the PZD booklet.	M. Signage In accordance with the Unified Development Code for single family residential areas.
<p>The Civic Building encourages a sense of belonging among residents of the neighborhood. Sighted to be a focal anchor for the community, with cultural and recreational facilities, offices, and possibly, a post office and swimming pool. Possible occupants include the office of the Property Owners Association (POA), for Woodstock Community.</p> <p>Integral to the Civic Building, the Woodstock Park area provides flexibility for outdoor recreation, gatherings, block parties and neighborhood events. The park greens, gazebos and civic building allow neighbors to interact on a day to day basis. Woodstock park is planned to serve as a focal point of the neighborhood, as opposed to simply being space that's left over once the buildings are finished.</p>							
<p>A. Permitted Uses Unit 12 Offices, studios and related offices Unit 19 Commercial recreation, small sites</p> <p>B. Conditional Uses Unit 2 City-wide uses by conditional use permit Unit 4 Cultural and recreational facility Unit 13 Eating Place</p>							
<p>C. Non-residential Intensity Acreage 3.34 Non-residential Area 1650 sqft. Intensity 494.01 sqft./acre</p>							
<p>D. Lot Width Minimum N/A.</p>							
<p>E. Lot Area Minimum N/A</p>							
							
							
							
							

Woodstock Community

PZD-Large Scale Development
PZD-Master Development Plan

RZN12-4108

BANK OF WYNNE

Current Land Use



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview

RZN12-4108

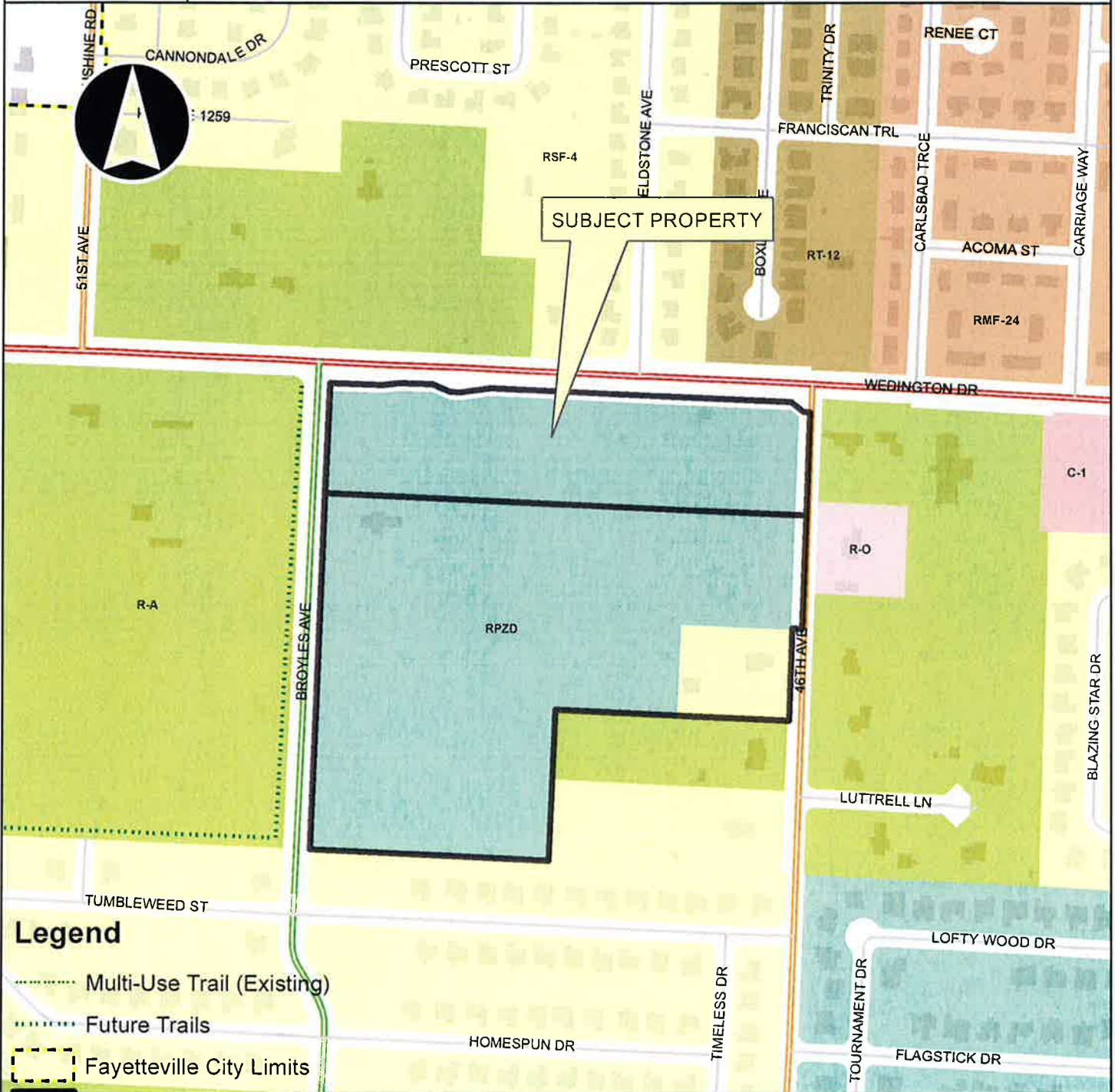
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



RZN12-4108

BANK OF WYNNE

Close Up View

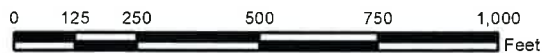


Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview RZN12-4108

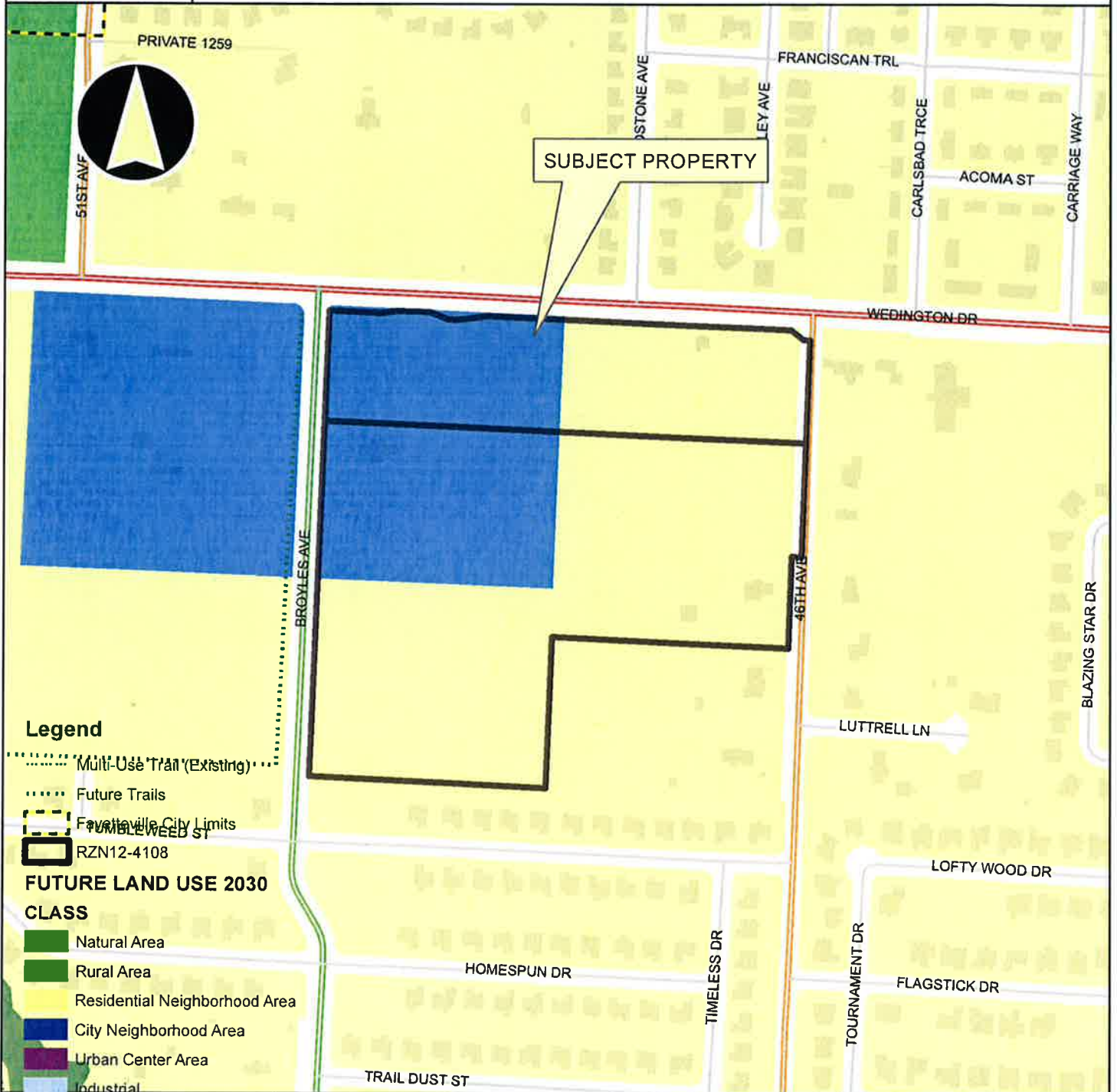
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



RZN12-4108

BANK OF WYNNE

Future Land Use



Legend

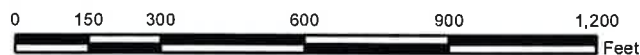
- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits
- RZN12-4108

FUTURE LAND USE 2030

CLASS

- Natural Area
- Rural Area
- Residential Neighborhood Area
- City Neighborhood Area
- Urban Center Area
- Industrial

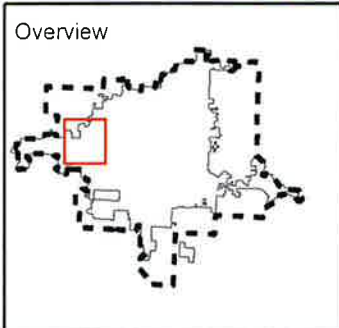
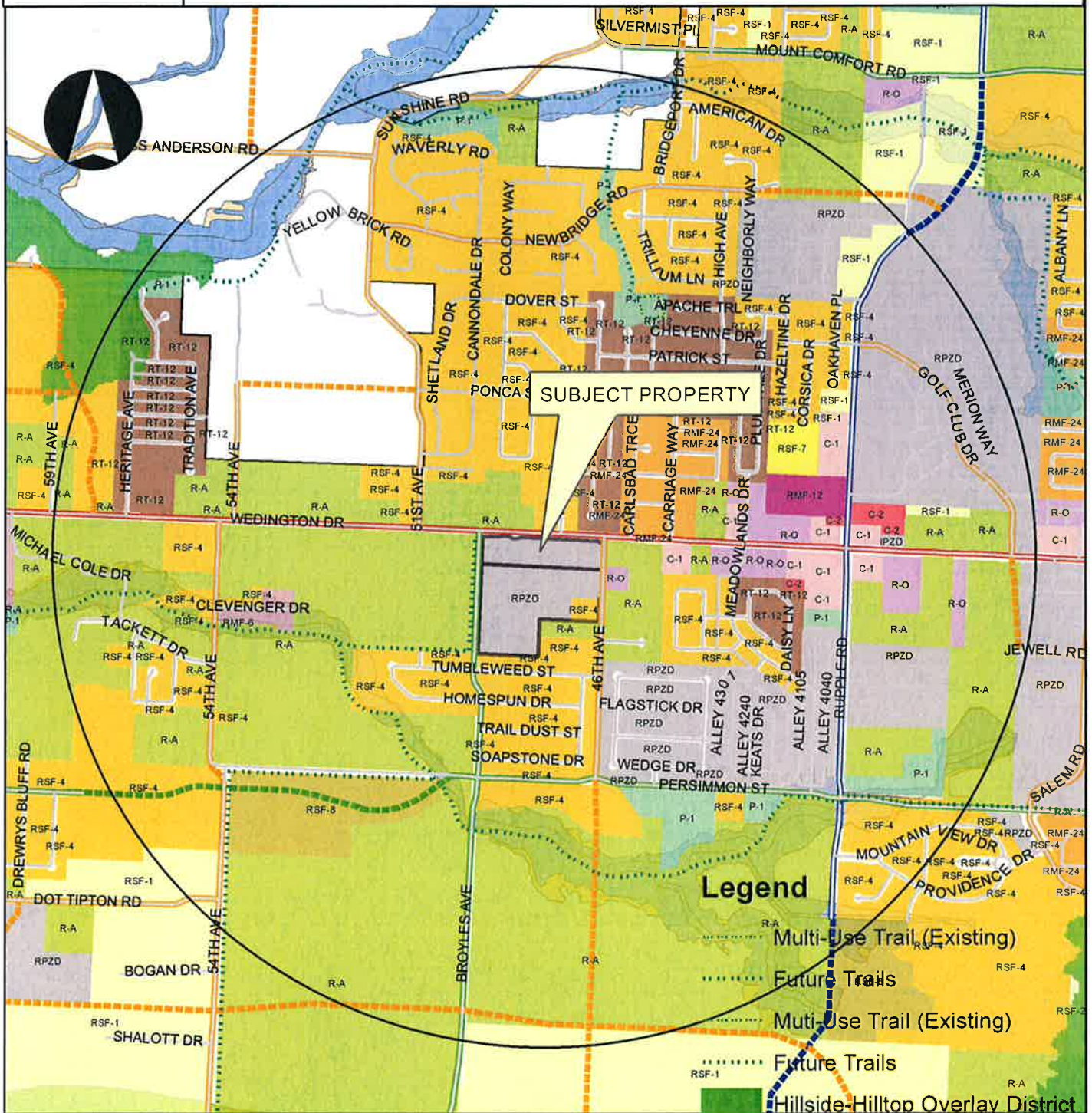
- Complete Neighborhood Plan
- Civic and Private Open Space/Parks
- Civic Institutional
- Non-Municipal Government
- ROW
- Design Overlay District
- Design Overlay District
- Planning Area



RZN12-4108

BANK OF WYNNE

One Mile View



Legend

- Subject Property
- RZN12-4108
- Boundary
- Design Overlay District
- Planning Area
- Fayetteville
- RZN12-4108
- Design Overlay District
- Planning Area
- Fayetteville

0 0.25 0.5 1 Miles



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

**TO: Mayor Jordan
City Council**

CC: Jeremy Pate, Development Services Director

FROM: Kit Williams, City Attorney

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

DATE: May 30, 2012

**RE: Woodstock Rezoning and Cleveland Street Project PZD
Zoning and Planned Zoning District considerations**

I have been providing Aldermen the legal factors they can consider when determining whether or not to approve a PZD or zoning request for over a decade. When the City Council first began considering whether or not to approve a PZD, I provided the attached memo on May 22, 2003. It is still correct today. Please especially read the section entitled "Voting" to ensure that I can effectively defend any decision the City Council will make.

When the land now zoned PZD (Woodstock) was presented to the Planning Commission, I gave them the attached memo of May 11, 2012, stating that the property owner had the legal right to have his property zoned away from the defunct PZD into a developable zone. The City Council needs to rezone this property to the best possible zoning district or districts after considering all of the relevant factors.

You can weigh many factors to determine what is the best zoning district or districts for this property. You should certainly consider the 2030 Plan, but it is only one of many factors to consider when determining the proper zoning. It is also proper to consider the desires of the property owner, the appropriate and best use of the property, traffic issues, good civil design and arrangement and the other factors detailed in my May 11th memo. All of these factors are proper considerations both for the Cleveland Street Apartment Project PZD and the defunct Woodstock PZD property whose new owner requests rezoning into various

zoning districts: Community Services, Neighborhood Services, Neighborhood Conservation, Resident Single Family, 4 units per acre and Residential Multi-Family, 24 units per acre.

CONCLUSION

If any Alderman desires to vote against a proposed rezoning or PZD approval, please explain your opposition based upon one or more of the factors approved by the Supreme Court:

1. 2030 Plan objectives
2. Public opposition that is logical and reasonable
3. Traffic
4. Safety and Fire protection
5. Good civic design and efficiency
6. Adequacy of public facilities (sewage, water)
7. Noise
8. Litter
9. Decrease in value of adjoining land
10. Appropriate and best use of land
11. Compatibility with adjacent zones (spot zoning)



Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: Planning Commissioners

CC: Jeremy Pate, Development Services Director
Andrew Garner, Senior Current Planner

FROM: Kit Williams, City Attorney

A handwritten signature in black ink, appearing to read "Kit Williams", with a long horizontal flourish extending to the right.

DATE: May 11, 2012

RE: Expired PZD's must be rezoned upon owner's request

When a PZD has expired, the property owner loses **all** development rights on his property until it is rezoned. Almost all of a property's real worth and value is in its development rights. This loss of all of a property's development rights would constitute a government taking of the property requiring our taxpayers to pay the reasonable value of the property (very large amount of money) except the property owner must first "exhaust his remedies" by asking for a rezoning.

As long as the rezoning is granted by the City Council, no regulatory taking has occurred. However, if the property owner's request to rezone the property out of its "zombie" status (unusable and undevelopable) is just denied and the property is not rezoned into some developable zoning district, the property owner would probably have a textbook case of inverse condemnation or regulatory taking. **This must not be allowed to occur.**

Because the new owner of the property zoned for the now defunct Woodstock PZD has requested rezoning, the Planning Commission should recommend what you believe is appropriate zoning. If you get stuck on how it should be zoned now, please just recommend that the City Council rezone it back to the zoning it had prior to the approval of the PZD. **The City Council MUST rezone this property either to its prior zoning district or to the zoning district or districts that would conform to state law purposes and the 2030 Long Range Plan.** Just denying the property owner's requested rezoning is a recipe for disaster and must not happen.

When the Planning Commission is considering whether or not to recommend approval of a rezoning request, the City Planning Division presents useful information from various city departments that cover issues included with the City's 2030 Long Range

Plan. This document was the result of many public hearings and much input from citizens, staff, commissioners and council members. However, “A land use plan is meant to be just that – a plan. It is not legally binding on the city.” Taylor v. City of Little Rock, 583 S.W. 2d 72, 73 (1979).

State Statutes authorize cities to prepare zoning and development plans and list nine purposes or goals that these plans may promote:

- “ 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;
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.”

A.C.A. §14-56-403 (b).

The appellate courts of Arkansas have recognized and approved many different factors that a Planning Commission can consider when a proposed rezoning is contested.

1. **Public Opposition**

“Opposition by a large majority of the citizens in the neighborhood”
Thomas Petroleum v. West Helena (1992).

“The Opinion of local residents, **when it reflects logical and reasonable concerns**”

City of Lowell v. M & N Mobile Home Park (1996).

“Some of the residents (of the area) objected”
Tanner v. City of Green Forest (1990).

2. **Traffic**

“Increased traffic on limited roads”
City of Lowell v. M & N Mobile Home Park (1996).

“Increased risk of traffic accidents”
Thomas Petroleum v. West Helena (1992).

3. **Noise**
City of Lowell v. M & N Mobile Home Park (1996).
4. **Decreased value of adjoining land**
City of Lowell v. M & N Mobile Home Park (1996).
5. **Potential for criminal activity**
Thomas Petroleum v. West Helena (1992).
6. **Increased litter**
Thomas Petroleum v. West Helena (1992).
7. **Strain on Sewage service**
Tanner v. City of Green Forest (1990).
8. **Spot zoning**
“The need to maintain consistent zoning area, and not to set a precedent of spot zoning (T)he property was entirely surrounded by a residential area, and that the residents objected “ Thomas Petroleum v. West Helena, 310 Ark. 682, 839 S.W. 2d 523, 525 (1992).

“Spot zoning has been defined by several authorities. It has been said that:

‘ Spot zoning, by definition, is invalid because it amounts to an arbitrary, capricious and unreasonable treatment of a limited area within a particular district. As such, it departs from the comprehensive treatment or privileges not in harmony with the other use classifications in the area and without any apparent circumstances which call for different treatment. Spot zoning almost invariably involves a single parcel or at least a limited area.’ R. Wright and S. Webber, Land Use (1978).” Riddell v. City of Brinkley, 612 S.W. 2d 116, 117 (1981).

“(S)pot zoning includes zoning one lot in a manner entirely different from the surrounding area “ Smith v. City of Little Rock, 279 Ark. 4, 648 S.W. 2d 454, 457 (1983).

However, the most recent case I could find referring to “spot zoning” {Camden Community Development Corp. v. Sutton, 339 Ark. 368, 5 S.W. 3rd 439, 443 (1999)} cast doubt on Professor Wright’s quoted statement that “Spot zoning, by definition, is invalid”

Finally, a proponent of a rezoning will often argue that he or she is entitled to a rezoning in order to put the property to its “**highest and best use**” from a monetary viewpoint. The benefit to the owner of a proposed rezoning may certainly be considered, “(h)owever, we have held that **rezoning is not justified solely on the ground that it is necessary to put a particular tract to its most remunerative use.**” Tanner v. City of Green Forest, 302 Ark. 170, 788 S.W. 2d 727, 729 (1990). (emphasis added).

CONCLUSION/SUMMARY

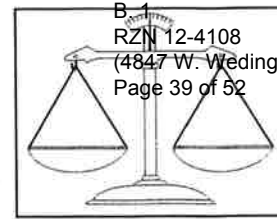
Factors that may be considered in rezoning issues:

1. 2030 Plan objectives
2. Public opposition that is logical and reasonable
3. Traffic
4. Safety and Fire protection
5. Good civic design and efficiency
6. Adequacy of public facilities (sewage, water)
7. Noise
8. Litter
9. Decrease in value of adjoining land
10. Appropriate and best use of land
11. Compatibility with adjacent zones (spot zoning)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council

FROM: **Kit Williams**, City Attorney

DATE: **May 22, 2003**

RE: **City Council Considerations for Planned Zoning Districts (PZD's)**

Since you are now considering a PZD for Lowe's and will consider the St. Joseph property for a Planned Zoning District at your next meeting, I thought you might like a short summary of issues that are appropriate for your consideration of these requests.

A Planned Zoning District includes approval of both a zoning change and a large-scale development. Thus, all zoning considerations as well as considerations relevant to LSD approval are relevant. You legally have much more discretion for the zoning part of the PZD decision. Therefore, my recommendation is that if you do not believe a Planned Zoning District should be passed, you should refer primarily to problems with changing the zoning rather than problems in the Large Scale Development when explaining why you are voting against any Planned Zoning District.

ZONING CONSIDERATIONS

1. 20/20 Plan objectives
2. Public opposition that is logical and reasonable
3. Traffic
4. Safety and Fire protection
5. Good civic design and efficiency
6. Adequacy of public facilities (sewage, water)
7. Noise
8. Litter
9. Decrease in value of adjoining land
10. Appropriate and best use of land
11. Compatibility with adjacent zones (spot zoning)

“Spot Zoning” has been recognized by state courts as a violation of a city’s comprehensive zoning plan.

“The need to maintain consistent zoning area, and not to set a precedent of spot zoning (T)he property was entirely surrounded by a residential area, and that the residents objected ” Thomas Petroleum v. West Helena, 310 Ark. 682, 839 S.W. 2d 523, 525 (1992).

“Spot zoning” has been defined by several authorities. It has been said that:

“ ‘ Spot zoning’, by definition, is invalid because it amounts to an arbitrary, capricious and unreasonable treatment of a limited area within a particular district. As such, it departs from the comprehensive treatment or privileges not in harmony with the other

use classifications in the area and without any apparent circumstances which call for different treatment. Spot zoning almost invariably involves a single parcel or at least a limited area." R. Wright and S. Webber, *Land Use* (1978)." Riddell v. City of Brinkley, 612 S.W. 2d 116, 117 (1981).

"(S)pot zoning includes zoning one lot in a manner entirely different from the surrounding area "Smith v. City of Little Rock, 279 Ark. 4, 648 S.W. 2d 454, 457 (1983).

"Highest and best use."

A proponent of a rezoning will often argue that he or she is entitled to a rezoning in order to put the property to its **"highest and best use"** from a monetary viewpoint. The benefit to the owner of a proposed rezoning may certainly be considered, "(h)owever, we have held that **rezoning is not justified solely on the ground that it is necessary to put a particular tract to its most remunerative use.**" Tanner v. City of Green Forest, 302 Ark. 170, 788 S.W. 2d 727, 729 (1990). (emphasis added).

LARGE SCALE DEVELOPMENT CONSIDERATIONS

In the second part of your decision, you have less discretion. As long as the developer has complied with our development ordinances (you should rely upon our city staff for this analysis), the remaining issue would be whether this proposed development would **compound a dangerous traffic condition**. That does not mean only whether more traffic will result from a development (which would almost always be the case), but whether the existing and proposed transportation infrastructure serving the new development can handle the anticipated increased flow without causing or compounding a dangerous traffic condition.

“For the purpose of this section, a ‘dangerous’ traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.” §166.05 7. d. (4) Unified Development Code.

In that context, if you determine that parking from the proposed development would regularly and significantly overflow onto nearby, narrow streets, you might conclude that this creates or compounds a dangerous traffic condition.

Traffic is also a factor to be considered in the rezoning segment of your decision (where you have greater discretion). At least two recent Arkansas Supreme Court cases relied on traffic issues to sustain a rejection of rezoning.

“Increased traffic on limited roads”

City of Lowell v. M & N Mobile Home Park (1996).

“Increased risk of traffic accidents”

Thomas Petroleum v. West Helena (1992).

VOTING

When you state your reasons to vote for or against these PZDs and any other potentially controversial rezonings or PZDs, please refer to some of the eleven factors recognized by our Supreme court to be relevant to zoning considerations.

Do not refer to things you have no control over such as the current zoning of the property when explaining any vote against the PZD.

Keep in mind that most developmental issues such as compliance with the Commercial Design Standards, Tree Ordinance, Parking Lot Landscaping Ordinance, Sign Ordinance, drainage and grading regulations, etc. have already been carefully considered and approved by our Planning and Engineering Departments and Planning Commission. Your job under the PZD Ordinance is not to go back to square one to re-examine everything as a second Planning Commission.

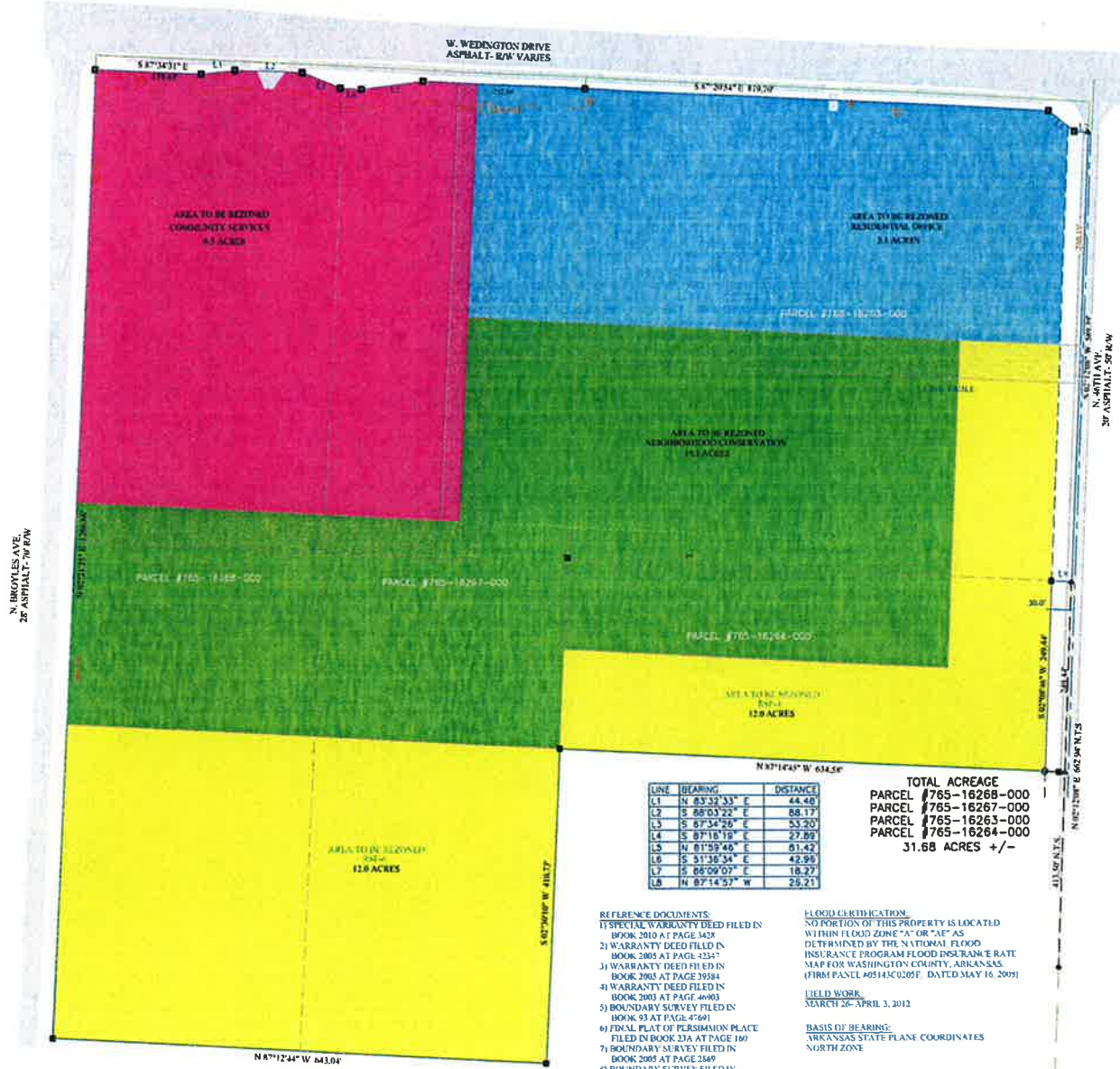
However, I believe you have the power to agree to changes in the Large Scale Development or Preliminary Plat contrary to the precise approval of the Planning Commission. You have these rights now on appeal from Planning Commission decisions on LSDs and Preliminary Plats. I believe the City Council may judiciously approve changes (if consistent with our ordinances). Most changes should also be acceptable to the developer/proponent. Changes unacceptable to the developer equate with a rejection of the project and should be supported by reasons sufficient to reject the whole PZD (without the changes).

Please feel free to call upon me at the meeting prior to moving to accept or reject the PZD request to clarify any factors or issues presented in this memo.

Handed out at Agenda Session 6-12-12

RZN 12-4108 (4847 W. Wedington Dr.) Bank of Wynne

REZONING EXHIBIT



LINE	BEARING	DISTANCE
L1	N 83°32'33" E	44.40
L2	S 66°03'22" E	68.17
L3	S 67°34'26" E	53.20
L4	S 87°18'18" E	27.89
L5	N 81°59'40" E	61.42
L6	S 31°38'54" E	42.90
L7	S 66°09'07" E	18.27
L8	N 87°14'57" W	26.21

TOTAL ACREAGE
 PARCEL #765-18268-000
 PARCEL #765-18267-000
 PARCEL #765-18263-000
 PARCEL #765-18264-000
31.68 ACRES +/-

- REFERENCE DOCUMENTS:**
- 1) SPECIAL WARRANTY DEED FILED IN BOOK 2003 AT PAGE 1423
 - 2) WARRANTY DEED FILED IN BOOK 2003 AT PAGE 12347
 - 3) WARRANTY DEED FILED IN BOOK 2003 AT PAGE 39584
 - 4) WARRANTY DEED FILED IN BOOK 2003 AT PAGE 46903
 - 5) BOUNDARY SURVEY FILED IN BOOK 93 AT PAGE 47691
 - 6) FINAL PLAN OF PERSIMMON PLACE FILED IN BOOK 224 AT PAGE 189
 - 7) BOUNDARY SURVEY FILED IN BOOK 2003 AT PAGE 2369
 - 8) BOUNDARY SURVEY FILED IN BOOK 2003 AT PAGE 64845

FLOOD CERTIFICATION:
 NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS (FIRM/PANEL 40514C0205F, DATED MAY 16, 2009)

FIELD WORK:
 MARCH 26-APRIL 3, 2012

BASIS OF BEARING:
 ARKANSAS STATE PLANE COORDINATES NORTH ZONE

PROPERTY CURRENTLY ZONED: RZD



SURVEY DESCRIPTIONS:

NORTON TO BE REZONED COMMUNITY SERVICE:
 A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: TO-WIT: BEGINNING AT A POINT WHICH IS 44°22'23"E 966.60' FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE S02°22'22"E 30.07' TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY #16; THENCE ALONG SAID SOUTH RIGHT-OF-WAY THE FOLLOWING: S57°32'07" E 139.56' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N31°22'33" E 44.48' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S85°02'23" E 85.17' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S67°42'56" E 33.20' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S47°16'09" E 23.86' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N45°59'40" E 61.42' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°20'54" E 819.26' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S51°36'34" E 42.90' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S66°09'07" E 18.27', THENCE LEAVING SAID SOUTH RIGHT-OF-WAY, S02°12'06" W 280.19', THENCE N61°30'54" W 120.11' TO THE POINT OF BEGINNING, CONTAINING 9.88 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

NORTON TO BE REZONED AGRICULTURE:
 A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: TO-WIT: BEGINNING AT A POINT WHICH IS 44°22'23"E 966.60' FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE S02°22'22"E 30.07' TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY #16; THENCE ALONG SAID SOUTH RIGHT-OF-WAY THE FOLLOWING: S57°32'07" E 139.56' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N31°22'33" E 44.48' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S85°02'23" E 85.17' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S67°42'56" E 33.20' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S47°16'09" E 23.86' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N45°59'40" E 61.42' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°20'54" E 819.26' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S51°36'34" E 42.90' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S66°09'07" E 18.27', THENCE LEAVING SAID SOUTH RIGHT-OF-WAY, S02°12'06" W 280.19', THENCE N61°30'54" W 120.11' TO THE POINT OF BEGINNING, CONTAINING 22.60 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

STATE RECORDING NUMBER:
 500-108-11W-012-340-21641

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS 28th DAY OF APRIL, 2012.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAN MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.



<p>FOR USE AND BENEFIT OF: LINDSEY & ASSOCIATES FIRST NATIONAL BANK OF WYNNIE</p>	<p>Bates & Associates, Inc. Civil Engineering & Land Surveying</p>	<p>Location Map</p>	<p>LEGEND: DASHED STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.</p>	



THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

www.accessfayetteville.org

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

From: Jeremy Pate, Development Services Director JP

Date: 19 June 2012

Subject: Rezoning for Bank of Wynne/Wedington Property

Attached you will find a letter of request, ordinance, exhibit and legal descriptions reflecting the amended request for RZN 12-4108, Bank of Wynne rezoning. This request differs from the original application, in which the applicants requested Community Services and RSF-4, and also differs from the Planning Commission's recommendation after considering the original request. The Planning Commission did not support the applicant's original request and recommended the property be rezoned to R-A, Residential Agricultural.

The attached is for your consideration. You may return this item directly to the Planning Commission for further consideration, delay a decision on the new application to a future date, or approve/deny the request.

ORDINANCE NO.

AN ORDINANCE REVOKING R-PZD 07-2576 (WOODSTOCK) AND REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 12-4108, FOR APPROXIMATELY 31.68 ACRES, LOCATED AT 4847 WEST WEDINGTON DRIVE FROM R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT 07-2576, TO CS, COMMUNITY SERVICES; R-O, RESIDENTIAL OFFICE; NC, NEIGHBORHOOD CONSERVATION; AND RSF-4, RESIDENTIAL SINGLE FAMILY FOUR UNITS PER ACRE.

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

Section 1: That a portion of the property as described herein zoned R-PZD 07-2576 (Woodstock) is hereby revoked because the developer failed to obtain development permits in accordance with the approved phased development schedule.

Section 2: That the zone classification of the following described property is hereby changed as follows:

From R-PZD, Residential Planned Zoning District 07-2576 to CS, Community Services; R-O, Residential Office; NC, Neighborhood Conservation; and RSF-4, Residential Single Family Four Units Per Acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 2 above.

PASSED and APPROVED this day of , 2012.

APPROVED:

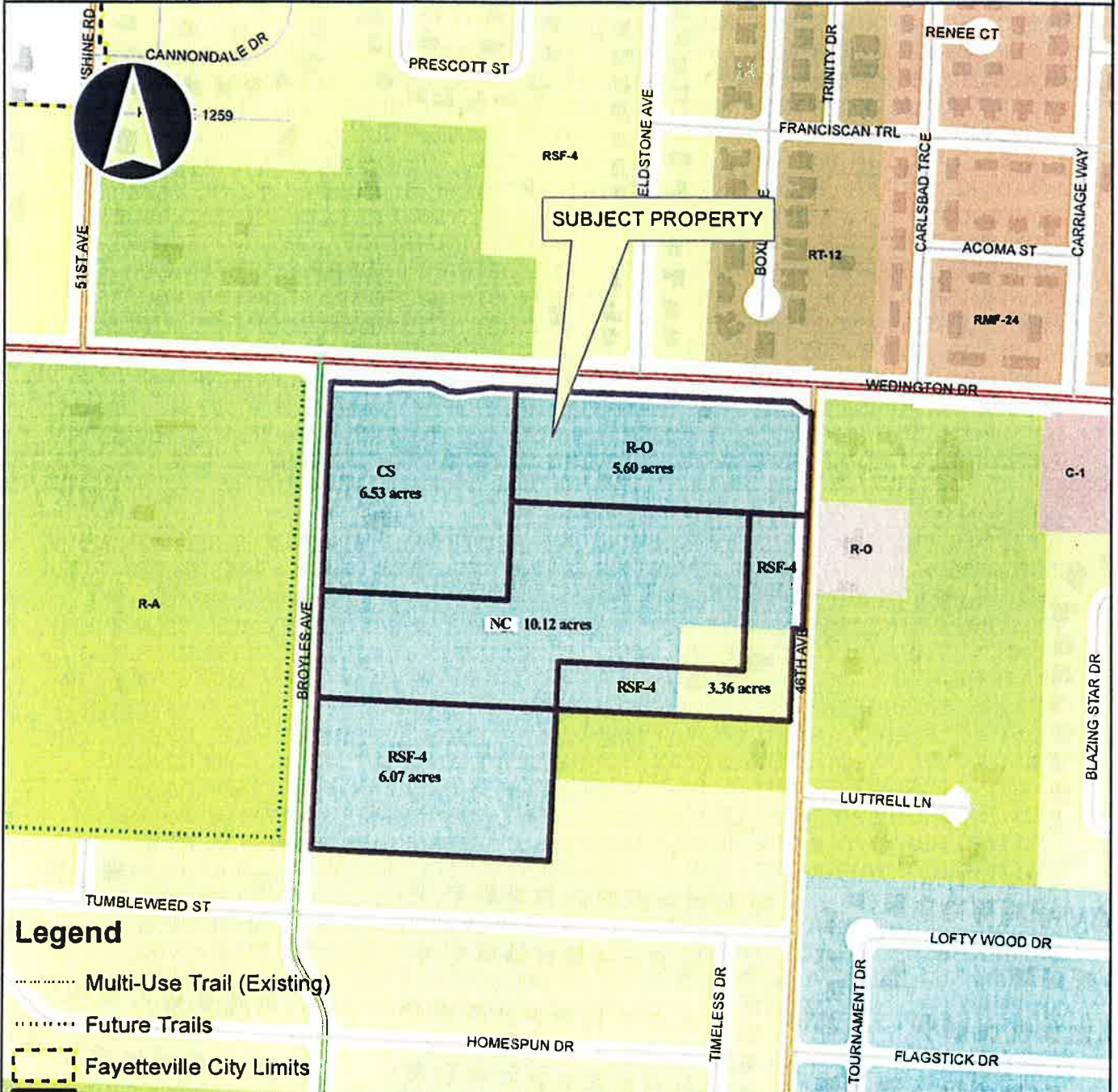
ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"

RZN12-4108 **BANK OF WYNNE**
 Close Up View



Legend

- Multi-Use Trail (Existing)
- Future Trails
- Fayetteville City Limits

Overview RZN12-4108

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area

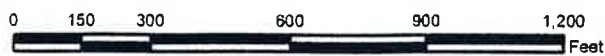


EXHIBIT "B"
RZN 12-4108

PORTION TO BE REZONED COMMUNITY SERVICE:

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N02°21'23"E 700.36' FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°21'25"E 566.29' TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY #16, THENCE ALONG SAID SOUTH RIGHT-OF-WAY S87°33'20"E 139.56' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N83°32'33"E 44.48' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S88°03'22"E 88.17' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S67°34'26"E 53.20' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°16'19"E 27.89' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N81°59'46"E 81.42' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°20'54"E 70.36' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE LEAVING SAID SOUTH RIGHT-OF-WAY S02°21'25"W 572.84', THENCE N87°14'45"W 500.01' TO THE POINT OF BEGINNING, CONTAINING 6.53 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

PORTION TO BE REZONED RESIDENTIAL OFFICE:

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°21'23"E 1266.66' TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY #16, THENCE ALONG SAID SOUTH RIGHT-OF-WAY S87°33'20"E 139.56' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N83°32'33"E 44.48' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S88°03'22"E 88.17' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S67°34'26"E 53.20' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°16'19"E 27.89' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE N81°59'46"E 81.42' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°20'54"E 70.36' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT AT THE TRUE POINT OF BEGINNING, THENCE S87°20'54"E 749.33' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S51°36'34"E 42.96' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S86°09'07"E 18.27', THENCE S02°12'08"W 280.19', THENCE N87°20'54"W 803.09', THENCE N02°21'25"E 305.66' TO THE POINT OF BEGINNING, CONTAINING 5.60 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

PORTION TO BE REZONED NEIGHBORHOOD CONSERVATION:

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N02°21'23"E 410.36' FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°21'25"E 290.01', THENCE S87°14'45"E 500.01', THENCE N02°21'25"E 267.19', THENCE S87°20'54"E 646.58', THENCE S02°08'46"W 428.36', THENCE N87°14'45"W 503.76', THENCE S02°30'10"W 130.00', THENCE N87°14'45"W 644.08' TO THE POINT OF BEGINNING, CONTAINING 10.12 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

Ord. Pg. 3

PORTION TO BE REZONED RSF-4:

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N02°21'23"E 410.36', AND S87°14'45"E 644.08' FROM AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°30'10"E 130.00', THENCE S87°14'45"E 503.76', THENCE N02°08'46"E 428.36', THENCE S87°20'54"E 156.52', THENCE S02°12'08"W 309.20', THENCE N87°14'57"W 26.21', THENCE S02°08'46"W 249.44', THENCE N87°14'45"W 634.58' TO THE POINT OF BEGINNING, CONTAINING 3.36 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

PORTION TO BE REZONED RSF-4:

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT AN EXISTING REBAR MARKING THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE N02°21'25"E 410.36', THENCE S87°14'45"E 644.08', THENCE S02°30'10"W 410.73', THENCE N87°12'44"W 643.04' TO THE POINT OF BEGINNING, CONTAINING 6.07 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



Bates & Associates, Inc.

Civil Engineering & Surveying

91 W. Colt Square Suite 3/ Fayetteville, AR 72703

PH: 479-442-9350 * FAX: 479-521-9350

www.nwabatesinc.com

June 18, 2012

Planning Commission
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: First National Bank of Wynne Wedington Property Rezoning

Dear Commissioners,

This letter is to fulfill the requirements of item 5 on the rezoning application. We are proposing to rezone the property from RPZD to CS,RO, NC and RSF-4.

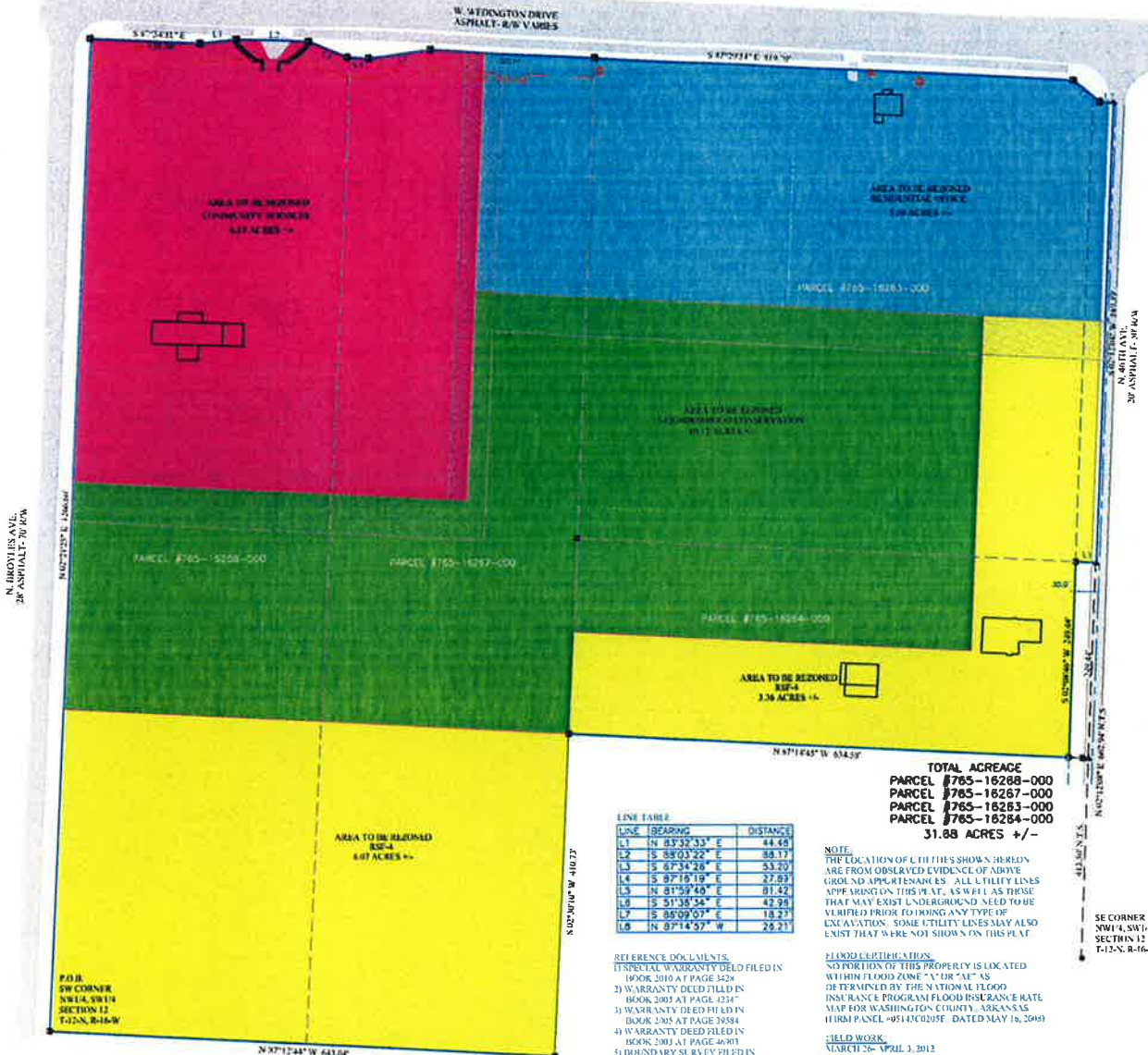
- a. Current property owner: First National Bank of Wynne.; there are no pending sales.
- b. The zoning change is needed in order to bring the property to a more conforming use than what the residential zoning allows. The zoning change is needed in order to replace the expired RPZD with a more conforming zoning.
- c. With both commercial and residential development expanding to the West along Wedington, this property should conform with surrounding properties in terms of land use, traffic, appearance, and signage.
- d. A 30" sewer main is located West of the property. An 18" water main is located on the site along the north, as well as a 12" water main along Broyles Ave., and an 8" main along 46th Ave.
- e. This property conforms with the City's future land use plan for this area.
- f. The zoning change is needed in order to update the expired RPZD and get the property out of "Zoning Limbo."
- g. The rezoning from RPZD to CS, RO, NC and RSF-4 will increase traffic but with Broyles Ave. on the West and N. 46th Ave. in the East, access management will decrease the potential for danger and congestion.
- h. The proposed commercial zoning will reduce the population density should decrease the load on public services. The proposed residential zoning will conform with all neighboring properties and should not cause an undesirable increase the load on public services.
- i. Since the current RPZD zoning has expired, it is not possible for the new owner to use the existing property. Due to the location and nature of construction along Wedington, Community Services and RSF-4 zoning appears to be a more appropriate use for the site.

If you have any questions or require additional information, please feel free to call.

Sincerely,

Bates & Associates, Inc.

REZONING EXHIBIT



LINE TABLE

LINE	BEARING	DISTANCE
L1	N 83°32'33" E	44.46
L2	S 89°03'22" E	38.17
L3	S 67°34'26" E	53.20
L4	S 87°10'19" E	27.83
L5	N 81°59'40" E	81.42
L6	S 51°58'54" E	42.98
L7	S 85°09'57" E	18.23
L8	N 87°14'57" W	26.21

TOTAL ACRES
 PARCEL #765-16288-000
 PARCEL #765-16267-000
 PARCEL #765-16263-000
 PARCEL #765-16264-000
31.88 ACRES +/-

NOTE:
 THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES. ALL UTILITY LINES APPEARING ON THIS PLAT, AS WELL AS THOSE THAT MAY EXIST UNDERGROUND, NEED TO BE VERIFIED PRIOR TO DRIVING ANY TYPE OF EXCAVATION. SOME UTILITY LINES MAY ALSO EXIST THAT WERE NOT SHOWN ON THIS PLAT.

- REFERENCE DOCUMENTS:**
- 1) SPECIAL WARRANTY DEED FILED IN BOOK 2010 AT PAGE 3428
 - 2) WARRANTY DEED FILED IN BOOK 2001 AT PAGE 1234
 - 3) WARRANTY DEED FILED IN BOOK 2005 AT PAGE 3484
 - 4) WARRANTY DEED FILED IN BOOK 2003 AT PAGE 4690
 - 5) BOUNDARY SURVEY FILED IN BOOK 93 AT PAGE 4790
 - 6) FINAL PLAT OF PERSIMMON PLATE FILED IN BOOK 23A AT PAGE 100
 - 7) BOUNDARY SURVEY FILED IN BOOK 2005 AT PAGE 2699
 - 8) BOUNDARY SURVEY FILED IN BOOK 2003 AT PAGE 6448

FLOOD CERTIFICATION:
 NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS (FORM PARCEL #05143205E, DATED MAY 18, 2009)

FIELD WORK:
 MARCH 26 - APRIL 3, 2012

BASIS OF BEARING:
 ARKANSAS STATE PLANE COORDINATES NORTH ZONE



PORTION TO BE REZONED COMMUNITY SERVICES:
 A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 3 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS 802'21"21" 00'39" FROM AN EXISTING PERMANENTLY MARKED CORNER OF SAID TRACT AND RUNNING THENCE S07°22'57" E 766.297(31) FT. TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S19°24'15" E 41.15' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S01°12'26" E 41.29' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S71°03'23" E 12.37' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S01°29'31" E 42.12' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°09'27" E 29.36' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE EAST ALONG SAID HIGHWAY RIGHT-OF-WAY MONUMENT, CONTAINING 6.3 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

PORTION TO BE REZONED RESIDENTIAL:
 A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 3 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT AN EXISTING PERMANENTLY MARKED CORNER OF SAID TRACT AND RUNNING THENCE S07°22'57" E 766.297(31) FT. TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S19°24'15" E 41.15' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S01°12'26" E 41.29' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S71°03'23" E 12.37' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S01°29'31" E 42.12' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE S87°09'27" E 29.36' TO AN EXISTING HIGHWAY RIGHT-OF-WAY MONUMENT, THENCE EAST ALONG SAID HIGHWAY RIGHT-OF-WAY MONUMENT, CONTAINING 6.3 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

PORTION TO BE REZONED RESIDENTIAL:
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PORTION TO BE REZONED RESIDENTIAL:
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I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS 3RD DAY OF APRIL, 2012.



IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR, THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.



PREPARED AND SUBMITTED BY:
 LINDSEY & ASSOCIATES
 FIRST NATIONAL BANK OF WYNNE

ENGINEER:
Bates & Associates, Inc.
 Civil Engineering & Land Surveying

DATE: 4/3/12
SCALE: 1" = 100'
LOCATION: SECTION 12, TOWNSHIP 16 NORTH, RANGE 3 WEST
REVISIONS:

NO.	DATE	DESCRIPTION
1	4/3/12	INITIAL DRAFT
2	4/3/12	REVISED BY

LEGEND:
 THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING.

RECORDING NUMBER/DATE:

