



## Legislation Text

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**File #: 2015-0316, Version: 1**

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### **ARKANSAS LEGACY LLC APPEAL**

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 15-5066, FOR APPROXIMATELY 3.98 ACRES, LOCATED AT 1338 AND 1326 W. CLEVELAND STREET FROM RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE AND RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE TO DG, DOWNTOWN GENERAL SUBJECT TO A BILL OF ASSURANCE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the following described property from RMF-24, Residential Multi-family, 24 units per acre and RSF-4, Residential Single-family, 4 units per acre, to DG, Downtown General, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby accepts the Bill of Assurance from the applicant and relies upon this Bill of Assurance in making this rezoning decision. The Bill of Assurance is attached as Exhibit "C" to this ordinance.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

RECEIVED

JUL 02 2015

CITY OF FAYETTEVILLE  
CITY CLERK'S OFFICE

community.by.design



July 2, 2015  
Via Hand Delivery

Ms. Sondra Smith  
City Clerk  
City of Fayetteville  
113 West Mountain Street, Room 308  
Fayetteville, Arkansas 72701

RE: **Request for appeal to the City Council of the June 22<sup>nd</sup>, 2015 Planning Commission action to deny RZN 15-5066**

Ms. Smith

As a representative of Arkansas Legacy, LLC, owner of 4.0 acres on 3 separate parcels located at 1324, 1326, and 1338 West Cleveland Street, I respectfully request to appeal the June 22<sup>nd</sup>, 2015 Planning Commission action to deny RZN 15-5066 per UDC 155.05(A)(1)(b).

With a bill of assurance attached, the property owner feels that the proposed rezoning is compatible with the surrounding land use and is encouraged by the City of Fayetteville long range planning goals found in City Plan 2030 and the Future Land Use Plan. The proposed rezoning would give the property owner a clear and predictable path for development approval of the proposed project. All other rezoning options, including a PZD, would require variances and be less predictable.

For the following reasons the property owner feels that the proposed rezoning request was not accurately represented by the Planning Commission Memo from planning department staff to the planning commissioners, which prevented proper consideration by the full Planning Commission:

1. The opinion of planning department staff that the Downtown General Zoning District is an inappropriate designation for the property is not consistent with the policies set forth in City Plan 2030 and the Future Land Use Plan. The stated purpose of the Downtown General Zoning District in the zoning code is very consistent with the property owner's proposal and with what is encouraged for City Neighborhood Areas by the Future Land Use Plan.
  - a. **From Zoning Code** - "*Purpose. Downtown General* is a flexible zone, and it is not limited to the concentrated mix of uses found in the *Downtown Core* or *Main Street / Center*. *Downtown General* includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than *Neighborhood Conservation*. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone."
  - b. **From Future Land Use Plan for properties designated as City Neighborhood** - "City Neighborhood Areas are more densely developed than Residential Neighborhood Areas and provide a varying mix of nonresidential and residential uses."
2. The property owner's proposed bill of assurance is very clear and concise, restricting density and development on the property to residential use and building heights to less than 30 feet. Approval of the bill of assurance would not grant any kind of development approval, all development codes would still apply.
3. There were conflicting opinions between City planning department staff and the City Attorney regarding the enforceability of the proposed bill of assurance.

100 West Center Street Suite 300  
Fayetteville, AR 72701  
479.444.0095

Letter to Sondra Smith  
RE: RZN 15-5066  
July 2, 2015

4. The letter from Urban Forester was not provided to the Planning Commission. This was key since it seemed that many of the commissioners did not understand the tree preservation issues and that the Urban Forester felt like our tree preservation proposal was appropriate given the infill location.
5. The Planning Commission Memo stated that "Approval of this proposal essentially approves a tree preservation plan without final evaluation by the Urban Forester, or input by Planning Commission on a detailed tree preservation plan or site analysis". This does not seem to be accurate. All development codes would still apply to the property.
6. Lastly, at the Planning Commission meeting the Planning Commission Chair did not allow the applicant the full amount time as provided by City policy to attempt to clarify the above discrepancies.

Could you please see that the following items, as previously submitted to the planning department, are made available to the alderman for consideration. These items can be provided again upon your request but should be on file in the planning department:

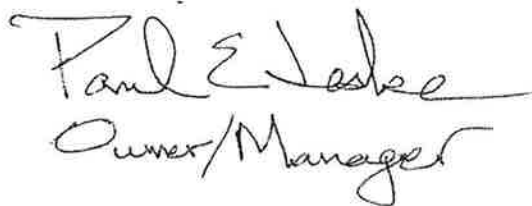
- One (1) PDF copy of a completed and signed rezoning application.
- One (1) PDF copy of Exhibit #1 – Survey Description of Property to be Rezoned.
- One (1) PDF copy of Exhibit #2 – County Parcel Map.
- One (1) PDF copy of Exhibit #3 – Written Description of Request per City of Fayetteville rezoning application.
- One (1) PDF copy of Exhibit #4 (Revised 05/31/15) – Bill of Assurance proposed with this rezoning application.
- One (1) PDF copy of Exhibit #5 (Revised 05/31/15) – Arkansas Legacy Master Plan.
- One (1) PDF copy of Exhibit #6 – Arkansas Legacy Master Plan Presentation Slides
- One (1) PDF copy of Exhibit #7 – Zoning Analysis Presentation Slides, which attempt to further illustrate the need for the request.

Please let me know if you have any questions or if you need additional information in order to process this request.

Sincerely,



Brian Teague  
Community By Design



Paul E. Jaska  
Owner/Manager

**City of Fayetteville Staff Review Form**

**2015-0316**

\_\_\_\_\_  
Legistar File ID

**7/21/2015**

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

Jeremy Pate

7/7/2015

City Planning /  
Development Services Department

\_\_\_\_\_  
**Submitted By**

\_\_\_\_\_  
**Submitted Date**

\_\_\_\_\_  
**Division / Department**

**Action Recommendation:**

RZN 15-5066: Rezone (1324 W. CLEVELAND ST./ARKANSAS LEGACY, LLC., 443): Submitted by COMMUNITY BY DESIGN for properties located at 1338 and 1326 W. CLEVELAND ST. The properties are zoned RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE and RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 3.98 acres. The request is to rezone the properties to DG, DOWNTOWN GENERAL.

**Budget Impact:**

\_\_\_\_\_  
Account Number

\_\_\_\_\_  
Fund

\_\_\_\_\_  
Project Number

\_\_\_\_\_  
Project Title

**Budgeted Item?**    NA

**Current Budget**                    \$                    -

**Funds Obligated**                    \$                    -

**Current Balance**                    \$                    -

**Does item have a cost?**    No

**Item Cost**

**Budget Adjustment Attached?**    NA

**Budget Adjustment**

**Remaining Budget**                    \$                    -

V20140710

Previous Ordinance or Resolution #    \_\_\_\_\_

Original Contract Number:    \_\_\_\_\_

Approval Date: \_\_\_\_\_

Comments:



## CITY COUNCIL AGENDA MEMO

### MEETING OF JULY 21, 2015

**TO:** Fayetteville City Council

**THRU:** Andrew Garner, City Planning Director

**FROM:** Jesse Fulcher, Senior Planner

**DATE:** July 7, 2015

**SUBJECT:** **RZN 15-5066: Rezone (1324 W. CLEVELAND ST./ARKANSAS LEGACY, LLC., 443):** Submitted by COMMUNITY BY DESIGN for properties located at 1338 and 1326 W. CLEVELAND ST. The properties are zoned RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE and RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 3.98 acres. The request is to rezone the properties to DG, DOWNTOWN GENERAL.

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### RECOMMENDATION:

The Planning Commission and staff recommend denial of an ordinance to rezone the property to DG, Downtown General. The applicant has appealed the Planning Commission's decision to the City Council.

### BACKGROUND:

The subject properties are located at the northeast corner of Cleveland Street and Razorback Road. There are two existing single-family homes that were constructed in the 1920's. The overall property contains approximately 4 acres, with approximately 0.75 acres zoned RMF-24, Residential Multi-family and 3.25 acres zoned RSF-4, Residential Single-family.

The property is surrounded by a variety of land uses and zoning designations. To the east is a fraternity house zoned RMF-24; to the north and west are single-family homes zoned RSF-4; and to the south is University of Arkansas housing zoned Institutional.

Surrounding Land Use Compatibility: The applicant has submitted a request for Downtown General, which is an inappropriate designation for this property, in staff's opinion. In order to mitigate concerns with certain land uses and building heights, the applicant has also submitted an extensive, though relatively unclear Bill of Assurance. The applicant's proposal will allow all types of residential uses, including single-family, two-family, three-family, multi-family and cottage housing, and has limited the number of units along Streets #1 and #2 to 30 units. However, there are no details on the number of units along Cleveland, nor is a maximum density stated. Further, the exact make-up of the development is unknown. The proposal may contain a variety of housing types, or provide all attached housing units and completely exclude detached single-family homes. Staff is unsure what the final development proposal will be for this property. However, given the land uses and densities permitted the proposed rezoning is incompatible with surrounding properties.

Further, the proposal is inconsistent with land use planning objectives and with basic zoning policy. Rather than creating clarity through a standard zoning district, or a comprehensive Planned Zoning District, the request attempts to modify a zoning designation that is just not appropriate for this property. The result, in staff's opinion, is a zoning and development plan that can't be accurately defined or enforced.

Land Use Plan Analysis: *City Plan 2030 Future Land Use Plan* designates this site as a City 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.

Staff supports a variety of housing types and even an increased density over the existing four units per acre allowed on this property. However, the most appropriate path for the owner to obtain development rights on this property, if the desire is to provide a variety of housing types, is to submit a Planned Zoning District (PZD) application. As described in the Unified Development Code, a PZD is "intended to permit and encourage comprehensively planned zoning and developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the concurrent processing of zoning and development."

**DISCUSSION:**

*Request:* The property owner is requesting to rezone approximately 4 acres to DG, Downtown General. The applicant has submitted a detailed Bill of Assurance that will restrict the allowable uses to single-family dwellings, two-family dwellings, three-family dwellings, multi-family dwellings, cottage housing and home occupations. In addition to the limit on land uses, the applicant has submitted a conceptual site plan (Exhibit #5) that is intended to illustrate site planning characteristics, including street alignment, tree preservation areas, building location and massing, and parking. A maximum building height of 30 feet is also provided.

**DISCUSSION:**

On June 22, 2015 the Planning Commission denied the rezoning with a vote of 9-0-0. At the meeting five members of the public spoke that live near the subject property. They were opposed to the rezoning citing concerns with the Downtown General zoning designation, tree preservation, and enforcement of the Bill of Assurance.

**BUDGET/STAFF IMPACT:**

N/A

**Attachments:**

Appeal Letter  
Resolution  
Planning Commission Staff Report



# PLANNING COMMISSION MEMO

**TO:** City of Fayetteville Planning Commission

**THRU:** Andrew Garner, Planning Director

**FROM:** Jesse Fulcher, Senior Planner

**MEETING DATE:** ~~June 22, 2015~~ Updated July 7, 2015

**SUBJECT:** **RZN 15-5066: Rezone (1324 W. CLEVELAND ST./ARKANSAS LEGACY, LLC., 443):** Submitted by COMMUNITY BY DESIGN for properties located at 1338 and 1326 W. CLEVELAND ST. The properties are zoned RMF-24, RESIDENTIAL MULTI FAMILY, 24 UNITS PER ACRE and RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 3.98 acres. The request is to rezone the properties to DG, DOWNTOWN GENERAL.

**RECOMMENDATION:**  
Staff recommends denial of **RZN 15-5066**.

**BACKGROUND:**  
The subject properties are located at the northeast corner of Cleveland Street and Razorback Road. There are two existing single-family homes that were constructed in the 1920's. The overall property contains approximately 4 acres, with approximately 0.75 acres zoned RMF-24, Residential Multi-family and 3.25 acres zoned RSF-4, Residential Single-family.

The property is surrounded by a variety of land uses and zoning designations. To the east is a fraternity house zoned RMF-24; to the north and west are single-family homes zoned RSF-4; and to the south is University of Arkansas housing zoned Institutional.

Surrounding land use and zoning is depicted on *Table 1*.

**Table 1  
Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North	Single-family/Undeveloped	RSF-4, Residential Single-Family
South	University Housing	P-1, Institutional
East	Fraternity House	RMF-24, Residential Multi-Family
West	Single-family Homes	RSF-4, Residential Single-Family

## DISCUSSION:

Request: The property owner is requesting to rezone approximately 4 acres to DG, Downtown General. The applicant has submitted a detailed Bill of Assurance that will restrict the allowable uses to single-family dwellings, two-family dwellings, three-family dwellings, multi-family dwellings, cottage housing and home occupations. In addition to the limit on land uses, the applicant has submitted a conceptual site plan (Exhibit #5) that is intended to illustrate site planning characteristics, including street alignment, tree preservation areas, building location and massing, and parking. A maximum building height of 30 feet is also provided.

Public Comment: See letters attached.

## Infrastructure:

**Streets:** The site has direct access to Cleveland Street.

**Water:** Public water is available to the site. There is a 6-inch line along Cleveland Street and a 12-inch line that runs north and south along the west property line.

**Sewer:** Public sewer is available to the site. There is an 8-inch line along Cleveland Street.

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

**Fire:** This development will be protected by Engine 2 located at 708 N. Garland Avenue. It is 1 mile from the station with an anticipated response time of 3 minutes to the beginning of the development. The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

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

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2030 Future Land Use Plan designates this site as **City 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. Nonresidential uses range in size, variety and intensity from grocery stores and offices to churches, and are typically located at corners and along connecting corridors. The street network should have a high number of intersections creating a system of small blocks with a high level of connectivity between neighborhoods. Setbacks and landscaping are urban in form with street trees typically being located within the sidewalk zone. **City Neighborhood Areas** encourage complete, compact and connected neighborhoods and are intended to serve the residents of Fayetteville, rather than a regional population. While they encourage dense development patterns, they do recognize existing conventional strip commercial developments and their potential for future redevelopment in a more efficient urban layout.*

## **Guiding Policies:**

a. Protect adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas with proper mitigation measures that address scale, massing, traffic, noise, appearance, lighting, drainage, and effects on property values.



b. Provide non-residential uses that are accessible for the convenience of individuals living in residential districts and where compatibility with existing desirable development patterns occurs.

c. Reduce the length and number of vehicle trips generated by residential development by enhancing the accessibility to these areas; encourage walkability as part of the street function.

#### FINDINGS OF THE STAFF

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

**Finding: The applicant has submitted a request for Downtown General, which is an inappropriate designation for this property, in staff's opinion as discussed below. In order to mitigate concerns with certain land uses and building heights, the applicant has also submitted an extensive, though relatively unclear Bill of Assurance. The applicant's proposal will allow all types of residential uses, including single-family, two-family, three-family, multi-family and cottage housing, and has limited the number of units along Streets #1 and #2 to 30 units. However, there are no details on the number of units along Cleveland, nor is a maximum density stated. Further, the exact make-up of the development is unknown. The proposal may contain a variety of housing types, or provide all attached housing units and completely exclude detached single-family homes.**

**The applicant has set aside areas for tree preservation as shown in the conceptual site plan. However, staff has no idea of the exact percentage proposed to be preserved, tree species, or condition of the canopy. Approval of this proposal essentially approves a tree preservation plan without final evaluation by the Urban Forester, or input by the Planning Commission on a detailed tree preservation plan and site analysis.**

**Finally, the plan lays out the internal street system, which as designed, violates the connectivity requirements of Chapter 166. Acceptance of this zoning proposal essentially grants a variance of the Access Management Ordinance without a detailed review of an actual development plan.**

**Given these facts, the proposal is not only inconsistent with land use planning objectives, but also with basic zoning policy. Rather than creating clarity through a standard zoning district, or a comprehensive Planned Zoning District, the request attempts to modify a zoning designation that is just not appropriate for this property. The result, in staff's opinion, is a zoning and development plan that can't be accurately defined or enforced.**

**The most appropriate path for the owner to obtain development rights on this property, if the desire is to provide a variety of housing types, is to submit a Planned Zoning District (PZD) application. As described in the Unified Development Code, a PZD is "intended to permit and encourage comprehensively planned zoning and developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the concurrent processing of zoning and development."**

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

**Finding:** In staff's opinion, the zoning request and accompanying Bill of Assurance are not justified at this time. The Downtown General zoning district is not an appropriate district for this property. The Bill of Assurance attempts to alleviate some concerns with this zoning district. Ultimately though, it creates a development scenario that is inconsistent with development regulations and policy, and in staff's opinion, difficult to enforce or regulate.

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

**Finding:** At this point staff can only assume the development of at least 30 residential units, however, it's likely that more are planned. Access to the site will line up with Razorback Road and allow for an appropriate and safe four-way stop condition. At an appropriate density, staff feels redevelopment of the site can occur without an appreciable increase in traffic danger or congestion.

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

**Finding:** Again, staff can only assume how many units will be built on the property if the property is rezoned. However, at only four acres, it's very unlikely that the development would undesirably increase the load on public services.

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

**Finding:** N/A

**RECOMMENDATION:**

Staff recommends denial of RZN 15-5066 based on the findings herein.

<b>PLANNING COMMISSION ACTION:</b>	Required	<u>YES</u>	
Date: <u>June 22, 2015</u>	<input type="checkbox"/> Tabled	<input type="checkbox"/> Forwarded	<input checked="" type="checkbox"/> Denied
The motion was to deny the rezoning.			
Motion: <u>Autry</u>	Second: <u>Hoskins</u>	Vote: <u>9-0-0</u>	
<b>CITY COUNCIL ACTION:</b>	Required	<u>YES</u>	
	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	
Date: <u>July 21, 2015</u>			

**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- Request Letter
- Bill of Assurance
- Fire Comments
- Public Comment
- One Mile Map
- Close Up Map
- Current Land Use Map
- Future Land Use Map

**TO:** Alison Jumper  
Park Planning Superintendent

**FROM:** Ken Eastin  
Urban Forester

**DATE:** May 22, 2015

**SUBJECT: REQUEST FOR POSITION ON TREE PRESERVATION REQUIREMENTS**

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I met Brian Teague of Community By Design and toured a site proposed for development at 1324 West Cleveland. Brian's immediate concern is determination of a target zoning request in order to best meet the intent of the proposed development. The current request submitted by the applicant is for DG-Downtown General which has less stringent tree preservation requirements, but does not particularly match the adjacent neighborhood zoning. Rather, a zoning request of PZD-Planned Zone Development has been suggested by Fayetteville Planning staff in order to allow for guideline establishment that will more closely match surrounding land use; however, tree preservation minimums for PZD zoning is much greater than that of DG. Brian has inquired if these minimums could be reduced should they pursue the PZD designation. After an overview of the initial concept plan and a visit to the site, I feel that Brian has done a very good job of integrating the proposed layout around the existing mature trees on site.

The standard minimum tree preservation in PZD zones is 25% of the site area. This is a target minimum; however, when working with tight infill projects such as this proposal, that minimum can often be difficult or impossible to achieve with a feasible development project. As you know, that is one of the reasons that other options to meet minimum canopy requirements are available rather than only preservation. These options include planting of mitigation trees or payment into the tree escrow fund. After becoming familiar with the concept plan and the site, it is obvious that the target minimum may be difficult to achieve. This memo is submitted in order to acknowledge the difficulty of developing this site as an infill project in alignment with the 2030 plan and the willingness of Urban Forestry to work with the applicant to achieve minimum canopy requirements through available mitigation options. Through the course of Development and Construction plan preparation and review, I will be working with the consultants to maximize preservation opportunities, while acknowledging that the target minimum may not be met. As you know, this is typical of Development review, particularly in these tight neighborhood infill proposals. This is in line with the intent and recommendations of the City Plan 2030 in order to encourage greater infill development. Hopefully this will be an acceptable position for the project applicants.

Please understand that this does not mean automatic approval of the project, but after reviewing the site and concept, I am comfortable working with the applicant, based on the currently proposed design, to meet minimum canopy requirements through other mitigation options other than preservation only.

EXHIBIT #3 - WRITTEN DESCRIPTION OF REQUEST PER THE CITY OF FAYETTEVILLE REZONING APPLICATION

*a. Current ownership information and any proposed or pending property sales.*

The subject properties are currently owned by Arkansas Legacy, LLC. There are no proposed or pending property sales.

*b. Reason (need) for requesting the zoning change.*

The primary reason for the zoning change request is that the existing zoning does not allow for development of the property in accordance with the City's long range planning goals.

Arkansas Legacy, LLC and the Jeske Family wish to keep the existing home at 1326 Cleveland, where they grew up, and incorporate this home into a new master plan for the property. The design of the Arkansas Legacy Master Plan was guided by the the City's long range planning goals, objectives, and principles as set forth in City Plan 2030 and the City of Fayetteville Future Land Use Plan. The master plan calls for 54 homes. This includes a range of different housing types and sizes, all designed to be at scale that is small and more neighborhood friendly. The homes are organized in a manner that keeps about 160 of an estimated 242 existing trees and which creates high-quality open spaces connected with pedestrian pathways, rear access drives, and public streets. The Bill of Assurance attached to this request ensures that any new development on this property will be in substantial accordance with this master plan.

According to City Plan 2030, the City Neighborhood Future Land Use designation attached to the property encourages denser development with a mixture of both residential and nonresidential use. The existing zoning does not allow development consistent with City Plan 2030 or the City Neighborhood Future Land Use designation. In accordance with this land use designation The Arkansas Legacy Master Plan contains a mixture of single-family detached and single-family attached unit types at varying sizes at a medium density of 13.5 dwelling units per acre. The existing RSF-4 district encourages low density development and the large lot size and street frontage requirements of this district prevent the construction of the unit types as proposed on the Arkansas Legacy Master Plan. The RMF-24 district encourages higher density, however the larger lot size and street frontage requirements prevent the subdivision and the individual selling of the homes proposed in the Arkansas Legacy Master Plan and thus encourages rentals.

Specifically the lesser street frontage, lot size, setback, and tree preservation requirements of the Downtown General Zoning District make the Arkansas Legacy Master Plan viable. The Downtown General Zoning District will allow for the highest and best use of the property in a manner consistent with the City's long range planning goals.

The Bill of Assurance attached to this request ensures that any new development on this property will be in substantial accordance with this master plan. The Bill of Assurance is proposed to alleviate concerns of neighbors and to eliminate the possibility of something not as substantially shown on the Master Plan being built on the property. During the review of this rezoning application the applicant expects to receive suggestions for specific assurances that would limit building height and density in accordance with the master plan.

A Planned Zoning District (PZD) is not a viable option for the Arkansas Legacy Master Plan due to the significantly increased tree preservation requirements, which is inconsistent with the Arkansas Legacy Master Plan.

*c. Statement of how the proposed rezoning will relate to surrounding properties in terms of land use, traffic, appearance, and signage.*

The smaller scale, more neighborhood friendly unit types proposed in the Arkansas Legacy Master Plan are compatible with and will serve as an asset to the existing neighborhood. Furthermore it will provide an appropriate transition from the less dense RSF-4 neighborhoods to the west into the more intense land uses to the south and east which contain the University of Arkansas and large areas of RMF-40 units per acre zoning.

d. *Availability of water and sewer (state size of lines).*

Water and Sewer is available. A 12" water main runs north to the south across the property along its west property line. A 6" water main runs west to east in the Cleveland Street Right of Way. An 8" sanitary sewer main also runs west to east in the Cleveland Street Right of Way.

e. *The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.*

The proposed Downtown General Zoning District with attached Bill of Assurance requiring any development on the property to be in substantial accordance with the Arkansas Legacy Master Plan is highly consistent with the City of Fayetteville Future Land Use Plan and City Plan 2030.

As mentioned previously, the City of Fayetteville Future Land Use Plan designates the property as "City Neighborhood". The written goals of this designation suggest a transition away from the lower-density, single-use neighborhoods to the west to a denser type development with a mixture of both residential and nonresidential use. The property was likely given this designation due to its close proximity to the University of Arkansas, Leverett Elementary School, and other jobs / retail that are within a short walk from the property. The locations proximity to multiple walkable amenities and the existing transit stop immediately adjacent to the property will make it possible for a built Arkansas Legacy Master Plan to meet the goals and objectives of the City Neighborhood Future Land Use designation.

In addition, The Arkansas Legacy Master Plan is in general accordance with and if built would contribute to the following planning objectives, principles, and policies of City Plan 2030:

Existing City Planning Goals

Contributions made by Arkansas Legacy Master Plan

<p><u>City Plan 2030 Goal 1</u> - We will make appropriate infill and revitalization our highest priorities.</p> <ul style="list-style-type: none"> <li>• Objective d – Promote densest development around logical future transit stops.</li> <li>• Objective g – Encourage new development that supports and complements the unique characteristics and economic values of employment clusters in and around downtown and the U of A.</li> </ul>	<p>The Arkansas Legacy Master Plan would provide housing on relatively undeveloped land. The land is immediately adjacent to the University of Arkansas and adjacent to existing homes. The development would support and complement the existing neighborhood and the housing and social needs of the area. The Master Plan encourages use of the existing transit stop. The homes would provide housing for University employees within walking distance. Children living within the master plan could easily walk to nearby Leverett Elementary.</p>
<p><u>City Plan 2030 Goal 2</u> - We will discourage suburban sprawl.</p> <ul style="list-style-type: none"> <li>• Accommodating growth in the center of the city preserves farms and forests on the edge.</li> </ul>	<p>Development of a medium density housing in this location will reduce the need for less dense development further away from the center of the City.</p>
<p><u>City Plan 2030 Goal 3</u> - We will make traditional town form the standard.</p> <ul style="list-style-type: none"> <li>• Objective a – Require new growth that results in neighborhoods, districts, and corridors that are:             <ol style="list-style-type: none"> <li>1. compact - via denser housing; meaningful open spaces &amp; preserves; small blocks</li> <li>2. complete - via varied housing; mixed uses; civic uses; jobs-housing mix in the neighborhoods</li> <li>3. connected - via street-oriented buildings; interconnected streets;</li> </ol> </li> </ul>	<p>With a variety of house sizes and designs the Arkansas Legacy Master Plan will contribute to growth that results in a neighborhood that encourages a diversity of users. With its walkable location the property lends itself to medium density housing. In addition to the already walkable location, the transit stop immediately adjacent to the property will further encourage residents to be less dependent on the car for transportation.</p> <p>Connected with tree-lined streets, sidewalks, rear access courts, and pedestrian pathways, the planned open spaces of the master plan will provide a high quality area for</p>

<p style="text-align: center;">interconnected greenways &amp; trails</p> <ul style="list-style-type: none"> <li>Objective b – Prepare a transit-worthy community: densify in highly walkable areas along logical future transit routes, and anticipate rail, street cars and other alternative transit modes.</li> <li>Objective c – Increase the viability of businesses by leveraging the economic performance of appealing environments that are mixed-use, walkable, and integrated with green space.</li> <li>Aggregate employment into mixed use centers with walkable amenities.</li> </ul>	<p>interaction between the neighbors. Front porches are planned to enhance the quality of these open spaces. The front porches will further social interaction between the neighbors and also provide “eyes on the street”. In addition, to even further enhance these open spaces, access to garages have been located to the rear of the homes and garage parking has been provided for nearly all of them.</p> <p>The planned street internal to the project will focus use and traffic to those who live in the area. This will minimize the impact of traffic to the surrounding neighborhood. The street is designed in a manner that will encourage vehicles to move slowly so pedestrians should feel safe walking.</p>
<p><u>City Plan 2030 Goal 4</u> - We will grow a livable transportation network.</p> <ul style="list-style-type: none"> <li>Objective a – Community design should precede and outrank traffic planning.</li> <li>Objective b – Make walkable, cyclist friendly road designs with slow design speeds, and block and street layouts the standard; walkability is a part of the street function.</li> <li>Objective f - Commit to evolving a rich menu of transit choices, including citywide and regional mass transit.</li> <li>Objective h - Plan employment in locations with access to walkable amenities and transit rather than in isolated locations.</li> </ul>	<p>Creating livable space within the development and minimizing the impact to the surrounding neighborhood is a primary objective built into the Master Plan. The planned street will focus use and traffic to those who live in the area. This will minimize the impact of traffic to the surrounding neighborhood. The street design encourages slow speeds by vehicles, which should encourage walking and biking. Sidewalks and greenways will further encourage use by pedestrians.</p> <p>The location of the property and the medium density design is very pedestrian friendly. The existing transit stop adjacent to the property will be an important asset for residents and offer transportation options that do not include the car.</p>
<p><u>City Plan 2030 Goal 5</u> - We will assemble an enduring green network.</p> <ul style="list-style-type: none"> <li>Objective a – Vigilantly nurture a continuum of greenspace, including riparian buffer areas, canopy restoration and protection, small neighborhood parks and squares, major parks and recreation facilities, greenways and trails, and large-scale preserves.</li> </ul>	<p>Greenways along planned pedestrian pathways will preserve many existing mature trees. The central green space/park will preserve many mature trees but will also provide space for a small neighborhood park.</p>
<p><u>City Plan 2030 Goal 6</u> - We will create opportunities for attainable housing</p> <ul style="list-style-type: none"> <li>Objective a – Increase housing choices by encouraging a mixture of housing types and sizes and dispersed throughout the city.</li> <li>Objective c – Establish partnerships with non-profit and private entities to facilitate the development of attainable workforce housing.</li> <li>Objective d - Make housing relatively more affordable by influencing cost of living items such as utilities and transportation. Complete, compact and connected neighborhoods are pedestrian-friendly and provide everyday services within walking distance, allowing residents to reduce transportation costs, which could positively affect their ability to obtain housing.</li> </ul>	<p>The Arkansas Legacy Master Plan offers a mixture of housing types and sizes that will allow residents to age in place. The goal is not to create a monoculture, but to build a range of unit types that will provide the opportunity for someone to live out their entire lives in the neighborhood.</p> <p>The master plan will create attainable housing in two ways. Since there is a range of housing types, smaller houses will be available that will be more affordable simply due to their smaller square footage. Also, housing will be inherently more affordable at this location due to its proximity to employment and retail. On average, residents of Northwest Arkansas pay more for their transportation than they do for their housing. The Arkansas Legacy Master Plan will provide the option to significantly reduce and in some cases nearly eliminate the cost of transportation.</p> <p>No similar neighborhood exists in the area immediately adjacent to the University campus.</p>

*f. Whether the proposed zoning is justified and/or needed at the time of the request.*

The proposed Downtown General Zoning District is the lesser intense of four existing zoning categories (DG, MSC, UC, and UT) that provide setback, lot size, and street frontage zoning regulations that allow the subdivision of the mixture of unit types as proposed in the Arkansas Legacy Master Plan. A PZD could provide the zoning regulations that are needed, however development regulations require increased tree preservation for PZDs, which are inconsistent with the Arkansas Legacy Master Plan. Varying from this requirement without review and consideration of detailed development plans is not allowed by the City of Fayetteville. The Arkansas Legacy Master Plan does however meet the tree preservation requirements of the Downtown General Zoning District.

If in fact the Arkansas Legacy Master Plan is highly consistent with the planning objectives, principles, and policies of the City of Fayetteville Future Land Use Plan and City Plan 2030 as previously suggested, then the proposed zoning seems justified and needed at this time.

*g. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.*

Traffic studies provided for analysis of the approved Project Cleveland (R-PZD 12-4079) showed that it would not have a significant impact to traffic on the surrounding streets and that levels of service on surrounding streets would not be significantly impacted. Separated by only 189 feet from the approved Project Cleveland PZD, The Arkansas Legacy Master Plan is proposing 54 dwelling units while the Project Cleveland PZD contained 122 dwelling units. Given its close proximity and while containing significantly less dwelling units, the Arkansas Legacy Master Plan should not have an impact on traffic conditions either. If built, the Arkansas Legacy Master Plan could potentially make conditions on Cleveland Street safer for both pedestrians and vehicles.

*h. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.*

Rezoning the property to the Downtown General Zoning District with a Bill of Assurance to develop the property in substantial accordance with the Arkansas Legacy Master Plan would not significantly increase the load to public services.

*i. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.*

If the subject property was developed under the existing zoning classification, then many of the goals, objectives, and principles of the City of Fayetteville Future Land Use Plan and City Plan 2030 could not be met. Rezoning the subject property to the Downtown General Zoning District would allow the goals, objectives, and principles of the City of Fayetteville Future Land Use Plan and City Plan 2030 to be met.



Arkansas Legacy  
Comments to Fayetteville Planning Commission  
June 22, 2015

We understand that in some ways this is a unique and in some was complex proposal. Thank you for your consideration of our proposal. We believe that creative flexibility is needed to achieve our proposed Master Plan and City Plan 2030 objectives.

One expressed concern is that this area will become like downtown. Our objective is to build a neighborhood, not a downtown area. This is shown in the Master Plan and the Bill of Assurance. We don't want a downtown area either.

Downtown General is the City's label, not ours. It is only a label and does not reflect what is in the Master Plan or our intent.

Downtown General is **the only city zoning category that allows our Master Plan to be implemented.** We want to build the project at a scale that would be acceptable to neighbors while still allowing us the density to make the project feasible. City requirements that prevent using other zoning categories include those relating to green tree retention, residence set back distances and street frontage.

The City staff and some written comments suggest that we should be using a PZD application. We carefully examined using the PZD zoning. It does not allow implementing this Master Plan, primarily due to the 25% tree retention standard. A zoning variance from the PZD standard would be required, but this variance is not assured.

The existing Master Plan design includes retention of many large trees and exceeds the 10% tree retention requirement included in Downtown General.

The City Forester has reviewed the Master Plan on site and has written a letter regarding the Master Plan that is not included in the City's package. Part of the letter states, "when working with tight infill projects such as this proposal, that minimum (25% tree retention) can often be difficult or impossible to achieve with a feasible development project." The letter also states, "This (Plan) is inline with the intent and recommendations of the City Plan 2030 in order to encourage greater infill development."

The Master Plan design is consistent with the City's long range plan and objectives (*see 'part e' of zoning application*).

The property is a transition zone from the University to the neighborhood. The Master Plan design and zoning change request are consistent with the transitional nature of the property.

Community by Design has worked with the City Attorney to create the Bill of Assurance. There is legal precedence for using a Bill of Assurance. It is clear and specific regarding proposed restrictions.

The City Planning staff is asking for specifics in our design that are not appropriate for this zoning change step in the process. Those details are normally provided with the Large Scale Development application part of the process. One example is the concern regarding the connectivity of the street. Creating a through street here will significantly increase traffic into and around the neighborhood, especially at the intersection of Razorback Road and Cleveland Street. Having this limited access street design is intended to focus traffic to only the traffic associated with the immediate neighborhood. This is a subject that would normally be addressed in the Large Scale Development application stage, not as part of a zoning change application.

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We are family members that grew up in the neighborhood, went to the local Leverett Elementary School, still have emotional connections to the neighborhood and want to complete a project that contributes to and helps to build the neighborhood community. We feel that the Master Plan achieves that objective.



June 4, 2015  
Via Hand Delivery

Mr. Andrew Garner  
Senior Planner  
City of Fayetteville  
125 West Mountain Street  
Fayetteville, Arkansas 72701

RE: **RZN – 15-5066**

Mr. Garner,

In addition to the documents submitted April 28, 2015, please find attached the following documents for consideration at the June 22, 2015 Planning Commission:

- One (1) PDF copy of Exhibit #2 – County Parcel Map.
- One (1) PDF copy of a revised Exhibit #4 – Bill of Assurance proposed with this rezoning application.
- One (1) PDF copy of a revised Exhibit #5 – Arkansas Legacy Master Plan.
- One (1) copy of a public hearing notice sent to the adjacent property owners
- One (1) copy of certificate of mailing
- One (1) copy of certificate of sign posting
- One (1) compact disc with PDF copies of the documents listed above

The revisions to Exhibit #4 and #5 are intended to make the proposed Bill of Assurance more enforceable per our meetings and conversations.

Please let me know if you have any questions or if you need additional information in order to process this request.

Sincerely,

A handwritten signature in blue ink that reads "Brian Teague". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Brian Teague  
Community By Design

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100 West Center Street Suite 300  
Fayetteville, AR 72701  
479.790.6775

**BILL OF ASSURANCE  
FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Arkansas Legacy LLC, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonable rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. Development of the property will be constructed as substantially shown on the attached Arkansas Legacy Master Plan labeled as Exhibit #5. Exhibit #5 has been included as a part of this Bill of Assurance in order to show the following site planning characteristics that are being proposed:

- a) The general horizontal alignment of the proposed new streets.
- b) The general location of the proposed tree preservation areas.
- c) The general location and massing of the proposed buildings in relation to the street.
- d) The general location of the proposed rear lanes and the concept that most of the immediate vehicular access to off-street parking is located to the rear of the buildings and generally not visible from the front of the homes or the street.

2. Development of the property will be limited to the following permitted uses as defined by the City of Fayetteville Unified Development Code: single-family dwellings, two-family dwellings, three-family dwellings, multi-family dwellings, cottage housing development, and home occupations.

3. Development of the property will be limited to no more than thirty (30) dwelling units located on or using New Streets #1 and #2 for the required street frontage. The majority of these thirty (30) dwelling units will be either attached or detached single family dwellings. Additional dwelling units will be located on or utilize West Cleveland Street for required street frontage.

**4. Development of the property will be limited to construction of new buildings that do not exceed thirty (30) feet in height, as measured from the soffit to the finished grade around the outside perimeter of the building.**

**5. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.**

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Paul E. Jeske, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

June 27 2015  
Date

Paul E. Jeske  
Printed Name

2870 Riverside Drive  
Address

Salem, OR 97306

Paul E. Jeske  
Signature

**NOTARY OATH**

STATE OF ARKANSAS }  
COUNTY OF WASHINGTON }

And now on this the 22<sup>nd</sup> day of June, ~~2009~~ <sup>2015</sup>, appeared before me, Michelle S. Sprauer, a Notary Public, and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

Michelle S. Sprauer  
NOTARY PUBLIC

My Commission Expires:

11/02/2018



Master Plan Key:

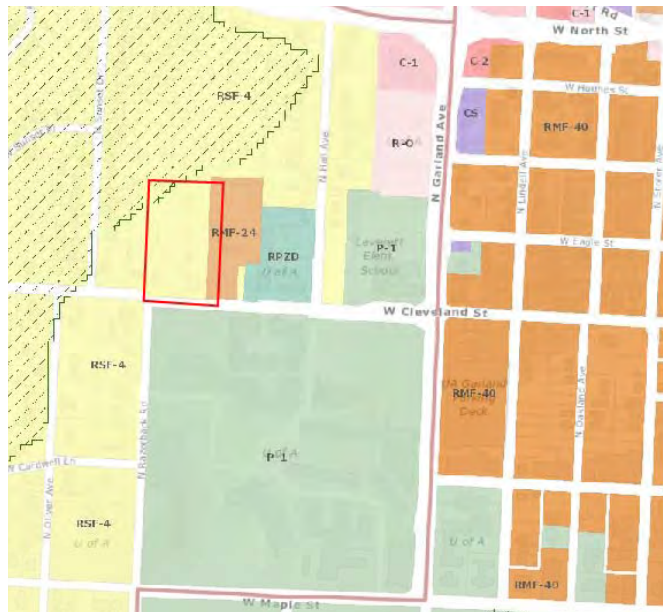
- A Existing House
- B Proposed House
- C Private Courtyards
- D Tree Preservation
- E Pedestrian Pathway
- F Central Green
- G Razorback Transit Stop



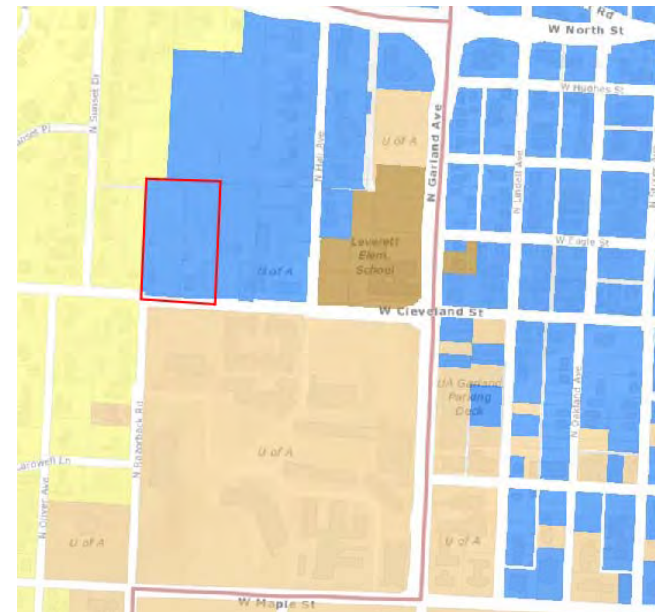
Exhibit #5 (Revision 1- 5/31/15)  
Arkansas Legacy Master Plan

**ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation**

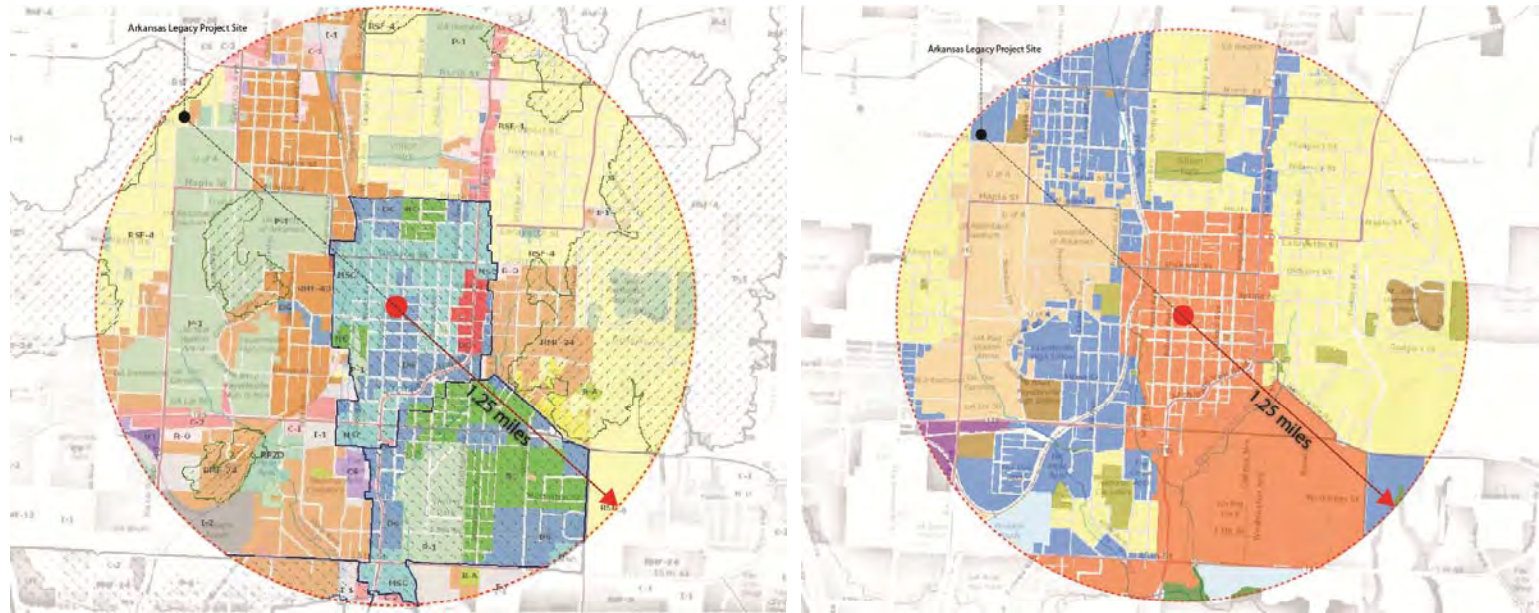
**Zoning Analysis Presentation**



**Existing Zoning Map**



**Future Land Use Map**

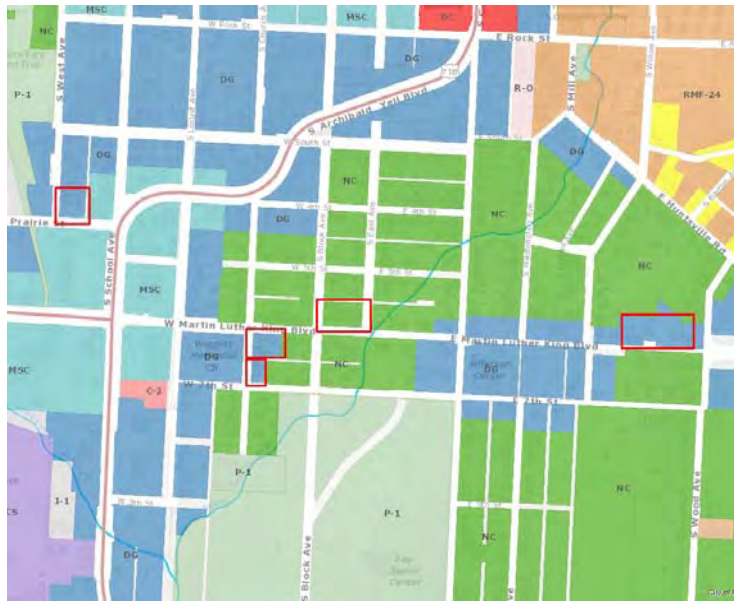
**ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation****Comparison of Existing Zoning (left) and Future Land Use Plan (right)**

The City Neighborhood designation encourages denser development with a mixture of both residential and nonresidential uses. Looking at the expanded downtown area, areas with the City Neighborhood designation primarily contain a mix of NC, DG, RMF24, RMF40, CS, C1 and C2 zoning districts. The majority of new development in these areas have been multi-family apartments



**ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation**

**Existing Smaller Scale Residential Development in City Neighborhood Areas**



The majority of new smaller-scale development in City Neighborhood areas has been along MLK in the Walker Park Neighborhood. Primarily this smaller-scale new development is in areas zoned Downtown General. At Church and MLK these new single-family homes and duplexes were built at a net density of 15 du/acre or a gross density of 10 du/acre.

**ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation**

**Existing Zoning on Arkansas Legacy Property**



**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 4	Single-family dwellings
Unit 41	Accessory dwellings

(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.	60 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	80 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.

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

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

(B) Uses.

(1) Permitted uses

Unit 1	City-wide uses by right
Unit 5	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 28	Multi-family dwellings
Unit 44	Cottage Housing Development

(C) Density.

Units per acre	24 or less
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(D) Bulk and area regulations

(1) Lot width minimum

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

(2) Lot area minimum

Manufactured home park	3 acres
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Lot within a mobile home park	4,200 sq. ft.
Townhouses	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

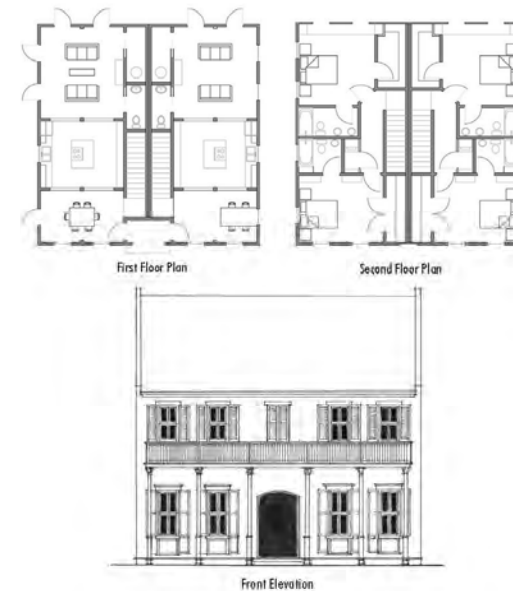
(3) Land area per dwelling unit.

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

If we are to meet the goal of medium density with a mix of unit types at a smaller, more neighborhood-friendly scale (not with apartment buildings), then the existing zoning does not work. RSF4 encourages low-density single-family homes and RMF24 encourages apartment buildings. Both require large lot sizes and large street frontages for those lots.

## ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

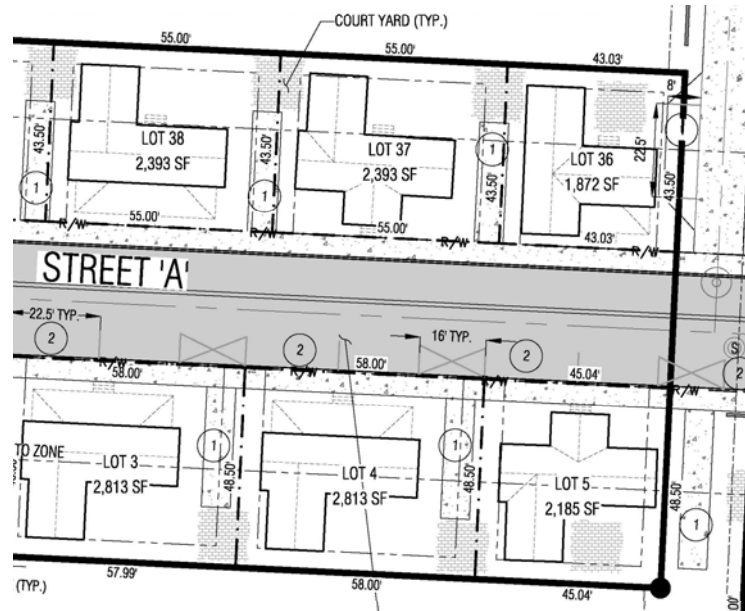
### Form-Based Districts with No Lot Size Requirements – DC, MSC, UT, DG, CS



Looking at the existing zoning categories, only the truly form-based districts allow this type of development. These districts have no lot size requirements and they only require 18 feet of street frontage in order to subdivide. In these districts we can build this two-bedroom townhome(1,296 SF) on a 1,600 SF Lot and sell it individually to a family. Outdoor amenities include front porch, private courtyard, and garage parking.

**ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation**

**Form-Based Districts with No Lot Size Requirements – DC, MSC, UT, DG, CS**



There are no lot size requirements. This four-bedroom(1,728 SF) home would fit comfortably on a 2,400 SF lot. There is room for a front porch, a back porch/patio courtyard, and one off-street parking space. Two more parking spaces would be provided on-street. A smaller two-bedroom home would fit on a lot less than 2,000 SF in size and still have adequate space for all of the same amenities.

**ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation**

**Rezoning Options - Downtown General or Community Services**

**161.26 Downtown General**

(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 24	Home occupations
Unit 26	Offices, studios, and related services
Unit 28	Multi-family dwellings
Unit 44	Cottage Housing Development

(C) Density: None

(D) Bulk and area regulations

(1) Lot width minimum:

Dwelling (all unit types)	18 ft.
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(2) Lot area minimum: None.

(E) Setback regulations:

Front	A build to zone that is located between the front property line and is set 25 ft. from the front property line
Side	None
Rear	5 ft.
Rear, from center line of an alley	12 ft.

(G) Building height regulations:

Building Height Maximum	56 ft.
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**161.19 Community Services**

(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-inside through restaurants
Unit 24	Home occupations
Unit 26	Offices, studios and related services
Unit 28	Multi-family dwellings
Unit 44	Cottage Housing Development

(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	A build to zone that is located between 10 feet and is set 25 feet from the front property line
Side and rear	None
Side or rear, when contiguous to a single-family residential district	15 feet

(F) Building Height Regulations:

Building Height Maximum	59 ft.
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**Table 1  
Minimum Canopy Requirements**

ZONING DESIGNATIONS	PERCENT MINIMUM CANOPY
R-A Residential - Agricultural (nonagricultural uses)	25%
RSP- 5, Single-family Residential - One Half Unit per Acre	25%
RSP-1, Single-family Residential - One Unit per Acre	25%
RSP-2, Single-family Residential - Two Units per Acre	20%
RSP-4, Single-family Residential - Four Units per Acre	25%
RSP-7, Single-family Residential - Seven Units per Acre	20%
RSP-8, Single-family Residential - Eight Units per Acre	20%
R-O, Residential - Office	20%
RT-12, Two and Three-family Residential	20%
RMF-6, Multi-Family Residential - Six Units per Acre	20%
RMF-12, Multi-Family Residential - Twelve Units per Acre	20%
RMF-18, Multi-Family Residential - Eighteen Units per Acre	20%
RMF-24, Multi-Family Residential - Twenty-Four Units per Acre	20%
RMF-40, Multi-Family Residential - Forty Units per Acre	20%
NIS, Neighborhood Services	20%
C-1, Neighborhood Commercial	20%
CS, Community Services	20%
C-2, Thoroughfare Commercial	15%
UT, Urban Thoroughfare	15%
C-3, Central Business Commercial	15%
DG, Downtown Core	10%
DSC, Main Street Center	10%
DG, Downtown General	10%
NC, Neighborhood Conservation	20%
I-1, Heavy Commercial and Light Industrial	15%
I-2, General Industrial	15%
I-3, Institutional	25%
PZD, Planned Zoning District (IHOQD)	25%

• Downtown General (DG) allows the smaller scale mixture of unit types at medium density as proposed in our plan.

• Community Services (CS) does the same thing but the 10' front setback and 20% tree preservation does not work.

• Neighbors Concerns include the unlimited density, the 56' bldg. height max, and nonresidential uses in DG.

• This identifies the need for a New Zoning District with similar setback, lot size, and street frontage regulations as DG - but with limited density, smaller bldg. height maximums, and minimal nonresidential uses allowed.

• As an alternative, we propose a Bill of Assurance Attached to a Downtown General Rezone that limits density, building height, and nonresidential uses.

**ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation**

**Rezoning Options - Planned Zoning District (PZD)**



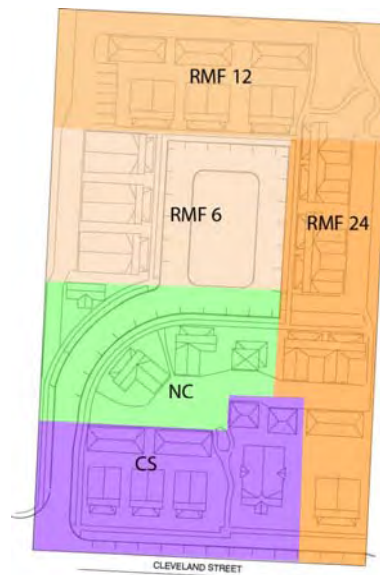
ZONING DESIGNATIONS:	PERCENT MINIMUM CANOPY
R-A, Residential - Agricultural (Nonagricultural Uses)	25%
RSF-5, Single-Family Residential - One Half Unit per Acre	25%
RSF-1, Single-family Residential - One Unit per Acre	25%
RSF-2, Single-Family Residential - Two Units per Acre	20%
RSF-4, Single-Family Residential - Four Units per Acre	25%
RSF-7, Single-family Residential - Seven Units per Acre	20%
RSF-8, Single-Family Residential - Eight Units per Acre	20%
R-O, Residential-Office	20%
RT-12, Two and Three-family Residential	20%
RMF-6, Multi-Family Residential - Six Units per Acre	20%
RMF-12, Multi-Family Residential - Twelve Units per Acre	20%
RMF-18, Multi-Family Residential - Eighteen Units per Acre	20%
RMF-24, Multi-Family Residential - Twenty-Four Units per Acre	20%
RMF-40, Multi-Family Residential - Forty Units per Acre	20%
NS, Neighborhood Services	20%
C-1, Neighborhood Commercial	20%
CS, Community Services	20%
C-2, Thoroughfare Commercial	15%
UT, Urban Thoroughfare	15%
DC, Downtown Core	10%
MSC, Main Street Center	10%
DG, Downtown General	10%
NC, Neighborhood Conservation	20%
I-1, Heavy Commercial and Light Industrial	15%
I-2, General Industrial	15%
P-1, Institutional	25%
PZD, Planned Zoning District (WHOD)	25%



The PZD option would allow us the flexibility with lot sizes and street frontages that we need, however the tree preservation requirements do not work. A variance may be possible, however this would come after the zoning is approved which is problematic.

**ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation**

**Rezoning Options - Combination of NC, RMF6, RMF12, RMF24, and CS**



Minimum Canopy Requirements

ZONING DESIGNATIONS	PERCENT MINIMUM CANOPY
R-A, Residential - Agricultural (nonagricultural uses)	25%
RSP-5, Single-family Residential – One-Half Unit per Acre	25%
RSP-1, Single-family Residential – One Unit per Acre	25%
RSP-2, Single-family Residential – Two Units per Acre	20%
RSP-4, Single-family Residential – Four Units per Acre	25%
RSP-7, Single-family Residential – Seven Units per Acre	20%
RSP-8, Single-family Residential – Eight Units per Acre	20%
R-O, Residential – Office	20%
RT-12, Two and Three-family Residential	20%
RMF-6, Multi-family Residential – Six Units per Acre	20%
RMF-12, Multi-family Residential – Twelve Units per Acre	20%
RMF-18, Multi-family Residential – Eighteen Units per Acre	20%
RMF-24, Multi-family Residential – Twenty-Four Units per Acre	20%
RMF-40, Multi-family Residential – Forty Units per Acre	20%
NS, Neighborhood Services	20%
C-1, Neighborhood Commercial	20%
CS, Community Services	20%
C-2, Thoroughfare Commercial	15%
UT, Urban Thoroughfare	15%
C-3, Central Business Commercial	15%
DC, Downtown Core	10%
MSC, Main Street Center	10%
DG, Downtown General	10%
NC, Neighborhood Conservation	20%
I-1, Heavy Commercial and Light Industrial	15%
I-2, General Industrial	15%
I-3, Institutional	25%
PZD, Planned Zoning District (HHOD)	25%

This option would include a number of different existing districts in a rezone. Due to the lot size and street frontage regulations in the multi-family districts a majority of those units could not be sold fee simple to a family and thus would encourage rentals. The 20% tree preservation requirement is also problematic.



## The City of Fayetteville Fire Department

303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

**To:** Community by Design, Jesse Fulcher  
**From:** Will Beeks, Assistant Fire Marshal  
**Date:** May 12, 2015  
**Re:** RZN 15-5066

This development will be protected by Engine 2 located at 708 N Garland. It is 1 miles from the station with an anticipated response time of 3 minutes to the beginning of the development.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

If you have any questions please feel free to contact me.

Captain Will Beeks  
Fayetteville Fire Department



# PUBLIC COMMENT

## Fulcher, Jesse

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**From:** Hamilton, George <George.Hamilton@unilever.com>  
**Sent:** Monday, June 15, 2015 12:55 PM  
**To:** Pate, Jeremy; Fulcher, Jesse  
**Subject:** Arkansas Legacy Project: submission on comments to the written packet

Dear Jeremy and Jesse

It is my understanding that you are able to submit written comments and questions to the packet for the public hearing on the above project, being held on 6/22.

As such please see the below and thank you for your consideration of our comments in this matter, it is much appreciated.

\*\*\*\*\*

I and my wife (Sara Burningham) are the owners of 1400 W Cleveland Street, the property directly adjacent to the property in question for the Arkansas Legacy Project.

As such I am writing in advance of the Public Hearing on this matter, to be held 6/22 @ 5.30pm, to express our deep concerns with the project as currently submitted.

We are not adverse to development of this site, in fact are supportive of development of this property in an appropriate fashion both for the neighborhood and this property in particular.

Our concerns are twofold:

1. The rezoning of this property as "Downtown General" is inappropriate in the sense that it is not a downtown location, will sit as an island of zoning surrounded by less dense zoning and will set a concerning precedent that seems at odds with the City 2030 plan that seeks to avoid "rapid growth (that) has led to suburban sprawl....., environmental concerns and increased traffic congestion"
2. The density of the project causes several issues with regards to Traffic and Parking. The current plans as laid out for the Arkansas Legacy project calls for 56 dwellings, but with less than 2 parking spots per property, within the development. As the stated goal is to make this a residential area for families and given the fact that stores are not walking accessible (hills, distance, variety of shops that are even remotely walk able), the likelihood of 2 or more cars per dwelling is high. The result will therefore be on street parking on Cleveland St. or the surrounding area and a significant increase in traffic. This will increase risk to pedestrians in an area that has relatively high pedestrian activity given the proximity to Leverett School and the College Halls, through:
  - a. Addition of **the sole** access road to the development next to an existing and busy 3 way intersection (Razorback Rd and Cleveland St)
  - b. Street parking blocking sight lines, which are further reduced at night through poor street lighting.

Our suggestions:

1. In order to develop this property in an appropriate fashion that fits with the existing neighborhood, existing zoning and future plans for the city AND doesn't cause a potentially dangerous traffic issue in the locality, we would recommend that
  - a. the zoning application is changed to a PZD application or one more fitting with a residential area.
  - b. that the property is developed so that parking is provided at a minimum of 2 cars per dwelling and potentially more, so that public street parking is avoided.
  - c. the access road be moved to the north of the property, via Weddington Road to relieve traffic concentration in a residential area.

The end result we hope is a development that sits well in the environment that surrounds it, as it currently stands the plans for this project do not meet this standard and require alteration.

\*\*\*\*\*

Yours Sincerely

George Hamilton  
Owner 1400 W Cleveland St, Fayetteville, AR, 72701

**Fulcher, Jesse**

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**To:** Garner, Andrew  
**Subject:** RE: Jeske

**From:** Ken Gardner [<mailto:KGardner@lmcancercenter.com>]  
**Sent:** Monday, June 08, 2015 10:14 AM  
**To:** Garner, Andrew  
**Subject:** Jeske

Andrew- Susan and I oppose the rezone request that Paul Jeske has submitted for his family's property on Cleveland. I do not believe that Downtown General is appropriate in this location and their proposed " Bill of Assurance" will not be sufficient to address traffic, storm water drainage, parking and other issues that their project will create for the area. I believe that the owners can develop this as RSF-4 or submit a PZD request. Thank you, Ken Gardner

## Fulcher, Jesse

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**From:** Beverly Schaffer <bschaffer@arkansas.net>  
**Sent:** Wednesday, June 17, 2015 2:05 PM  
**To:** Fulcher, Jesse  
**Cc:** Pate, Jeremy; Garner, Andrew  
**Subject:** Arkansas Legacy Project

Greetings Jesse,

I would like to share some thoughts about the proposed development plans of the Jeske family, referred to as the Arkansas Legacy Project. My husband, Archie, and I own the property at 1404 W. Cleveland, two doors down from the four acres that will comprise the project.

There are many things we like about the conceptual plans for this project. We appreciate the consideration of the applicant for not proposing to build another single purpose student housing project. We like the mix of housing sizes and designs. We especially are pleased with the plans to preserve the Jeske family home located on the four acres that would be developed. We are encouraged by the applicant's stated desire to build residences that, hopefully, would become owner occupied homes rather than more rentals. We don't object to a modest increase in density that will accommodate the conceptual development plans. However, we oppose the request to rezone the four acres currently zoned mostly RSF-4 to a Downtown General (DG) Zoning district.

### The Downtown Master Plan

The DG zoning district was established as a result of the 2006 Downtown Master Plan (DMP). It was intended to be a district restricted to the downtown district of Fayetteville. It would be an arbitrary and unprecedented decision to extend this zoning district to the UA campus edge area, especially within an established residential neighborhood with significant historic significance to the city. The project will encompass only four acres in the center of an almost exclusively residential neighborhood north of Cleveland Street. A downtown zoning district appears to be incompatible with the surrounding land uses.

It would be a bad precedent for the city to extend the DG zoning district to areas not contiguous with the downtown area. Once done, other developers will want the same consideration. The city would have a hard time denying these future requests, resulting in a piecemeal extension of the downtown district to isolated areas of the city to facilitate projects encompassing only a small amount of acreage. This could leave the city open to attack for "spot zoning" or, alternatively, for arbitrarily allowing the use of a downtown zoning district in one case and denying it in another.

As a practical matter, establishing a downtown district in a residential area raises the question whether the architectural and design standards applicable to a downtown district also would apply to a DG district isolated within an existing residential district. This is the kind of confusion that results when you try to put a square peg in a round hole.

The DMP established four downtown zoning districts, Downtown Core, Main Street Central, Downtown General and Neighborhood Conservation. Of these, the NC district ( according to the Unified Development Code) "has the least activity and lower density than the other zones" and "is the most purely residential zone" and it "serves to promote and protect neighborhood character". If the applicant was looking for a downtown, form based zoning district compatible with the existing land use in the area, we are puzzled as to why this option was ignored in favor of DG. In any event, NC is a downtown district and, like DG, not intended to be used outside of the downtown area.

Bill of Assurance (BOA)

The BOA offered by the applicant is not a satisfactory or workable solution to the problem of establishing a downtown district within a residential neighborhood. Although the restrictions offered would run with the land, the BOA itself is not enforceable by the city staff. It is only enforceable by the city filing a lawsuit against the developer or a future owner in the circuit court to enforce compliance. This is an undesirable position for the city to be in. City staff and financial resources would have to be regularly deployed to ensure that what ultimately is built complies with the BOA. If the project is built in phases, that burden could extend many years.

While the BOA eliminates some of the problematic permitted uses in the DG zoning district, it doesn't address the many other uses available with a conditional use permit. The BOA does not exclude these conditional uses. If requested in the future by this applicant or a future owner, and if granted, any of those uses would substantially change the character of this property.

Moreover, the BOA merely references an attachment of the conceptual drawings of the project, as currently contemplated, and promises the project ultimately built will be substantially the same. What does "substantially the same" mean? The project may change a great deal before it's built. A court would have to decide whether what eventually is built is substantially the same as what was promised. City resources should not be diverted to monitoring compliance with a BOA that attempts to construct a special zoning district to accommodate a specific project.

In short, the use of a BOA to persuade the city to rezone these four acres to DG places a continuing regulatory burden on the city that is unacceptable. This is not a wise way to establish a new category of zoning to accommodate higher density housing on the perimeter of the UA campus. If that is a desirable goal, there should be a future effort to address this broad objective in a more comprehensive and orderly fashion.

Once again, if the DG/BOA combination is accepted for this project, there will be other requests. It's a matter of concern that other investors would choose to begin buying more single family homes nearby and using them temporarily for student rentals pending similar rezoning requests. Each time this occurs there is a further erosion of the residential character of the neighborhood. Speculative investing in campus edge homes and conversion of owner occupied homes to rentals already has destabilized the sole surviving residential neighborhood on the campus edge. It would be a shame to further incentivize this activity. We need the city's help preserving the unique character of this neighborhood. It adds great value to the city and to the attractiveness of the northwestern border of the UA campus. -

## The 2030 Plan

The applicant is correct that the 2030 Plan designates the future land use area of the project as City Neighborhood, which encourages greater density and a mix of housing types. However, the guiding policies for City Neighborhood also include the following goals: "protect adjoining properties from...adverse impacts", employ "proper mitigation measures that address scale, massing, traffic, noise, appearance, lighting, drainage, and effects on property values", and "protect and restore Fayetteville's outstanding residential architecture of all periods and styles". (See the 2030 Plan)

Although the four acres that will comprise the project are within the City Neighborhood planning area, they directly adjoin an exclusively low density residential neighborhood. Because of this, the highest sensitivity should be given to those guiding principles in considering a rezoning request that would more than triple density, generate significant new traffic alongside and behind existing single family homes, add lighting and parking that potentially could create nuisances for neighbors, and would provide no buffer of any kind between these homes and probable rental properties.

While City Neighborhood encourages higher density, common sense dictates that, within an area with this designation, not all land should be developed with the same level of increased density. Rezoning requests should consider the proximity of the specific acreage in relation to an established single family home neighborhood. In this case, the project will be situated within feet of the residential neighborhoods to the north and west. We think only a modest increase in

density would be compatible with the surrounding land use. That would allow some of the land area to be used for mitigation measures to buffer the new development from the adjoining single family homes.

Unfortunately, the 2030 Plan did not specifically address future development on the campus edge, specifically as it applies to student housing. It was passed before the largely unplanned, but significant, increase in student enrollment at the UA. That increase set off a frenzy of student housing development. Regrettably, it also resulted in the conversion of many, many single family homes in our neighborhood from owner occupied homes to student rentals. Quite often, these homes have been purchased by parents of UA students who believe it is financially wiser to own a nearby home for their children and rent the extra bedrooms to their friends rather than to pay for dorm rooms and parking passes.

The point is that, as much as the applicant hopes this project will consist of owner occupied homes, the reality is that these residences will be predominantly rentals, and most likely student rentals. These kinds of residential properties present unique issues. With that reality in mind, it's imperative that this rezoning request be considered in that context so that appropriate mitigation measures are required of the applicant.

### Availability of Other Zoning Districts

There are existing residential single family home districts available to the applicant that would allow a modest increase in density. Most of this acreage is zoned RSF-4 and a small portion is RMF-24. The following districts would allow the Jeske family to develop their property to a higher density level compatible with the surrounding properties: RSF-7, RSF-8, RSF-12, RMF-6, or a Residential Planned Zoning District. Some of these districts permit two attached townhouses, others allow duplexes, some allow 2 and 3-family homes and cottage housing.

We understand that these districts are not attractive to the applicant because of the required setbacks and limitations on the percentage of building area or street frontage. But it is exactly those kinds of restrictions that prevent overbuilding on acreage located within a residential zoning district and protect the property values and quality of life of the existing homeowners.

The applicant should be required to design a development that fits within an available zoning district rather than using a downtown zoning district with a bill of assurance to create a special zoning district to fit the desired development. That's the purpose of the Residential Planned Zoning District ordinance (RPZD). If the applicant is wedded to the current conceptual design plans, it seems that an RPZD is the appropriate zoning district for the project.

### Specific Challenges of This Development

The traffic and parking issues associated with the project site are well known to both the nearby residents and to the city. Both have been the subject of considerable debate in recent years. Cleveland Street experiences heavy commuter traffic associated with the UA campus and local in/out traffic from residents. Developers may encourage walkability but development plans must embrace the reality that it will be years or decades before any meaningful level of foot traffic or mass transit replaces the daily use of automobiles, even across the street from campus.

There will be only one way in and one way out of this project. Unfortunately, that access point is directly into and out of a very busy and dangerous intersection at Razorback Road and Cleveland Street. This will be a very awkward entry/exit and it will add a significant burden to the existing traffic congestion on Cleveland Street. The applicant should be encouraged to explore connectivity to the north onto Wedington Drive. That would alleviate the pressure on Cleveland Street and allow residents an alternative, and safer, route out of the project. This issue needs to be given careful attention. Serious consideration should be given to relocation of the road in/out of the project away from Razorback Road and to the east end of the property. Traffic already stays backed-up at the three-way stop at Razorback Road.

Moreover, the new road into the project would adjoin the property of the homeowners next door on Cleveland Street and extend into the backyards of homeowners whose houses front Sunset Drive to the west. This is an unacceptable hardship for these homeowners. The applicant isn't offering any buffer or greenspace between this road and these homes. That should be required.

Given the reality that this project will most likely be lived in by UA students, the present plans offer far too few parking spaces for the residents, not to mention probable guests. More on-site parking should be required.

The applicant has complained that the other available zoning districts require too many trees. Tree preservation and adequate greenspace go hand-in-hand with creating developments compatible with nearby established neighborhoods. It should be a high priority.

The bottom line is that the applicant is trying to put too many units on this four acres. Reducing the density to no more than 10 units per acre hopefully would allow room to move the road to the opposite side of the acreage, to preserve more trees, to create a buffer between the existing single family homes, and to allow more space for adequate parking. Adding a second way in and out of the project would reduce substantially the impact of the project on existing traffic problems on Cleveland Street and especially at the Razorback Road intersection.

As presently conceived, this project doesn't adequately address the infrastructure and design challenges associated with this location. But these issues must be considered alongside the rezoning request in order to fully evaluate their impact and to require appropriate mitigation by the applicant as a part of the rezoning approval. Again, the RPZD zoning ordinance would allow all of these issues to be considered and addressed in conjunction with the rezoning.

We request that the planning commission deny the applicant's request to rezone the property to DG. That said, we would be willing to work with the applicant to find common ground on an alternative zoning district that would facilitate the existing conceptual plans, with modifications consistent with the concerns expressed by neighboring property owners.

Thank you for your consideration,

Beverly and Archie Schaffer III



**Fulcher, Jesse**

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**From:** cbduty@aol.com  
**Sent:** Monday, June 22, 2015 2:38 PM  
**To:** Fulcher, Jesse

As a 58 year resident of Sunset Drive, I am horrified to see the developer plans for the Jeske property on Cleveland Street. This will clearly have a negative impact on the living conditions of property owners here as well as reducing property values.  
Please do not vote for Downtown General rezoning!

Sincerely,  
Carolyn Banks

## Fulcher, Jesse

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**From:** Ethel C. Simpson <esimpson@uark.edu>  
**Sent:** Monday, June 22, 2015 2:20 PM  
**To:** Fulcher, Jesse  
**Subject:** Jeske development on Cleveland Street

I am a long-time resident of University Heights, at the address below. I write to ask the planners to oppose the Downtown General rezoning application. If the property were rezoned as a residential planned zoning district, I understand that the city could consider the development plans AT THE SAME TIME as the rezoning request, thus having much greater control over what ultimately is built BEFORE the rezoning is approved. Especially vital is the location of a new street in this development. It should be constructed to cause the least possible disruption to the established residential character of the adjoining property.

Thank you for your consideration.

Ethel C. Simpson

409 N. Oliver Avenue  
Fayetteville AR 72701  
(479) 442-2925

**Fulcher, Jesse**

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**From:** Amy White <moreismore84@gmail.com>  
**Sent:** Monday, June 22, 2015 3:12 PM  
**To:** Fulcher, Jesse  
**Subject:** Jeske Land

Hi,

My name is Amy White and I live at 901 N Sunset Drive. I am unable to attend tonight's meeting. I ask that you please pass my concerns along to the commissioners:

Placing a road behind the homes on the east side of Sunset will generate major noise and light pollution. The homeowners on our street are professionals who work during the day and sleep at night. Students typically do the opposite.

We already feel pressure on our street from campus traffic--this would make it worse.

The developers need to take care of ingress/egress near their own property.

Please protect our street and quality of life in our neighborhood. Please!

Thanks!

Amy White

Sent from my iPhone

June 21, 2015

Andrew Garner, City Planning director

Please forward to the Planning Commission Members for June 22nd meeting.

Re: RZN 15-5066 Rezone (1324 W. Cleveland St. / Arkansas Legacy, LLC., 443)

Dear Mr. Garner and Commission,

I am writing to express my objection to the rezoning of the property at 1324 W. Cleveland. The current zoning is appropriate for the neighborhood and should be left as is. I do not support any rezoning of this property. The location, limited access, available infrastructure (especially traffic issues) and surrounding, majority housing and the residents living in those houses clearly indicate that the property is appropriately and correctly zoned.

If the Planning Commission considers any change to the current zoning, it should be zoning that reflects a reasonable increase in density but keeps the property zoned residential. There is simply no way the location could accommodate more. Anyone that has had long term, first hand, daily experience with having to travel the Cleveland / Razorback intersection is aware of this. We are three blocks from it.

I have been a member of the Fayetteville community for forty-five years and a resident at 668 Gray Street for thirty-five years. Since purchasing the property in 1980, I've married. My wife and I raised our twenty-six year old son here. We are intimately aware of living in this area. We are members of UHNA. Please, do not bulldoze away these fantastic, family neighborhoods so close to all that is Fayetteville.

I ask you to deny any request for rezoning and development that would further erode this wonderful neighborhood. There are so many (and too many) examples around the U of A community of atrocious, strictly-for-profit, inappropriate developments leading to eventual destruction of great neighbors living in great neighborhoods.

Please. Don't let that happen to this property.

Joe Paul  
668 Gray  
Fayetteville, AR  
72701

jpaul91952@aol.com

RZN15-5066

# ARKANSAS LEGACY LLC

Current Land Use



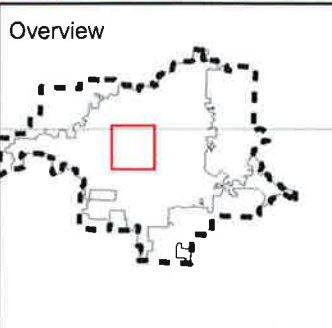
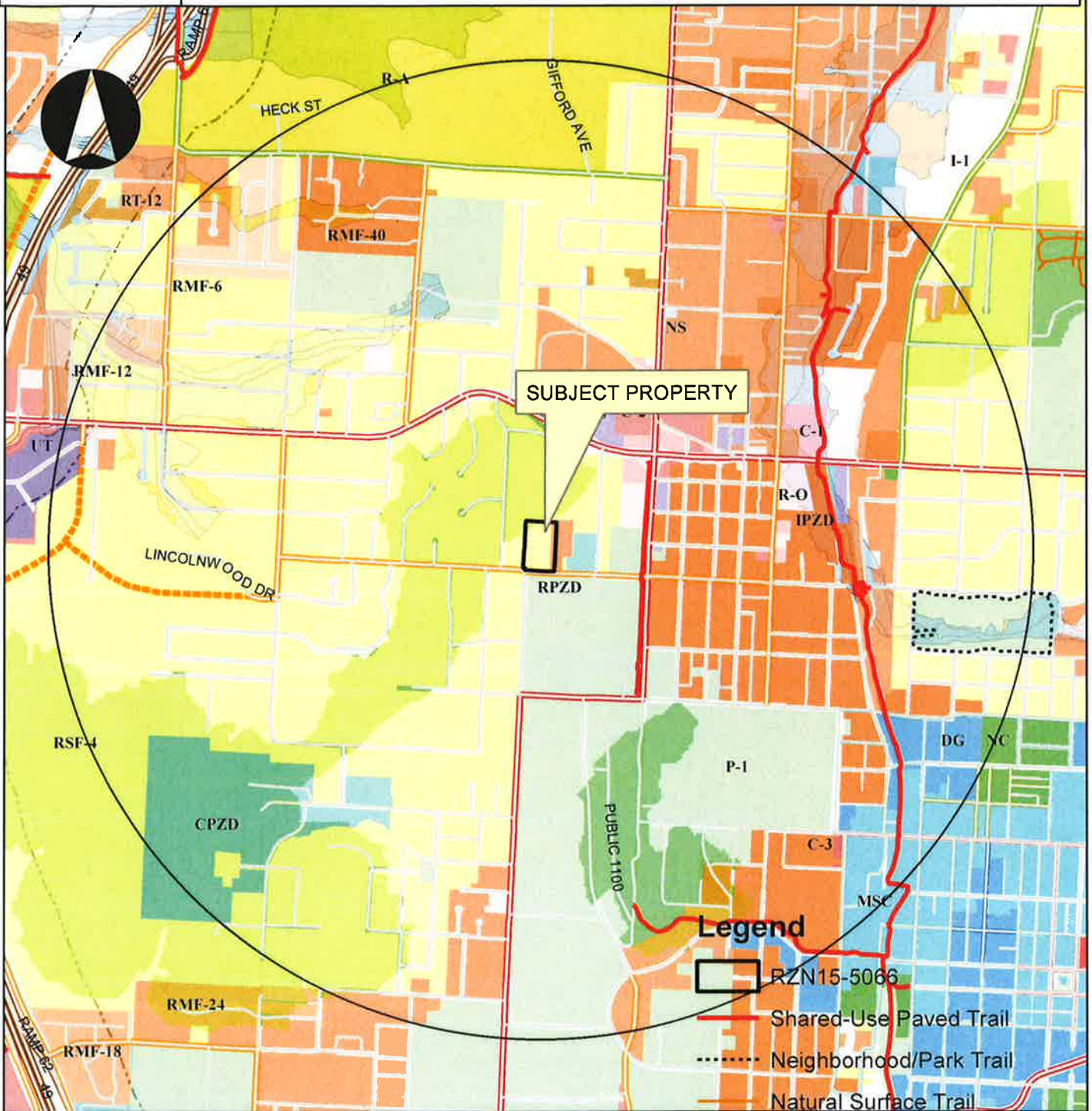
## Legend Overview

-  RZN15-5066
  -  Shared-Use Paved Trail
  -  Neighborhood/Park Trail
  -  Natural Surface Trail
  -  Fayetteville City Limits
- 0 125 250 500 750 1,000 Feet

RZN15-5066

# ARKANSAS LEGACY

One Mile View



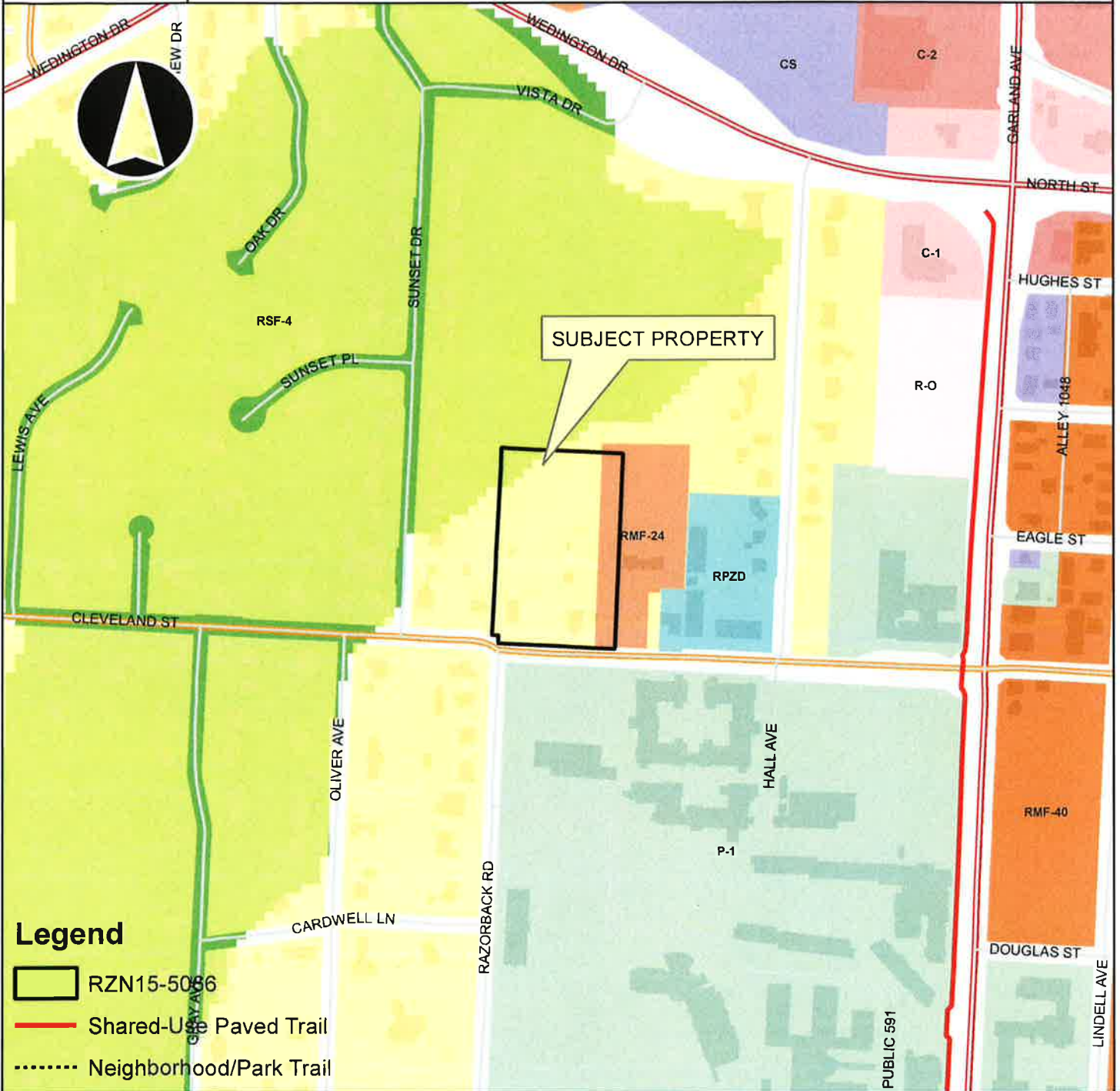
Legend	Hillside-Hilltop Overlay District
Subject Property	Design Overlay District
Boundary	Planning Area
	Fayetteville
	Shared-Use Paved Trail
	Neighborhood/Park Trail
	Natural Surface Trail

0 0.25 0.5 1 Miles

RZN15-5066

# ARKANSAS LEGACY LLC

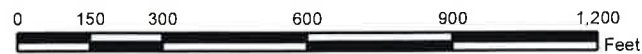
Close Up View



## Legend

- RZN15-5066
- Shared-Use Paved Trail
- Neighborhood/Park Trail

- Overview**
- Fayetteville City Limits
  - Footprints 2010
  - Hillside-Hilltop Overlay District
  - Design Overlay District
  - Planning Area



## EXHIBIT "B"

### EXHIBIT #1 - SURVEY DESCRIPTION OF PROPERTY TO BE REZONED

WASHINGTON COUNTY PARCEL: 765-02582-000

STREET ADDRESS: 1324 W CLEVELAND ST FAYETTEVILLE, AR 72701

SURVEY DESCRIPTION: A PART OF THE NE 1/4 OF THE SE 1/4 OF SECTION 8, T-16-N, R-30-W, DESCRIBED AS BEGINNING AT A POINT WHICH IS S87°11'39"E 315.00 FEET FROM THE SW CORNER OF SAID NE1/4 OF THE SE1/4, SAID POINT OF BEGINNING BEING A CHISELED "X"; THENCE N2°20'54"E 164.50 FEET TO A FOUND IRON PIPE; THENCE N86°43'35"W 61.55 FEET TO A SET IRON PIN; THENCE S2°30'33"W 165.00 FEET TO A CHISELED "X"; THENCE S87°11'39"E 62.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.23 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

WASHINGTON COUNTY PARCEL: 765-02590-000

STREET ADDRESS: 1326 W CLEVELAND ST FAYETTEVILLE, AR 72701

SURVEY DESCRIPTION: A PART OF THE NE1/4 OF THE SE1/4 OF SECTION 8, T-16-N, R-30-W DESCRIBED AS BEGINNING AT A POINT WHICH IS S87°11'39"E 165.00 FEET FROM THE SW CORNER OF SAID NE1/4 OF THE SE1/4, SAID POINT OF BEGINNING BEING A SET IRON PIN; THENCE S87°11'39"E 88.00 FEET TO A CHISELED "X"; THENCE N2°30'33"E 165.00 FEET TO A SET IRON PIN; THENCE S86°43'35"E 61.55 FEET TO A FOUND IRON PIPE; THENCE N2°34'33"E 363.50 FEET TO A FOUND IRON PIN; THENCE N86°57'10"W 149.82 FEET TO A FOUND IRON PIN; THENCE S2°31'32"W 528.63 FEET TO THE POINT OF BEGINNING, CONTAINING 1.58 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

WASHINGTON COUNTY PARCEL: 765-02588-000

STREET ADDRESS: 1338 W CLEVELAND ST FAYETTEVILLE, AR 72701

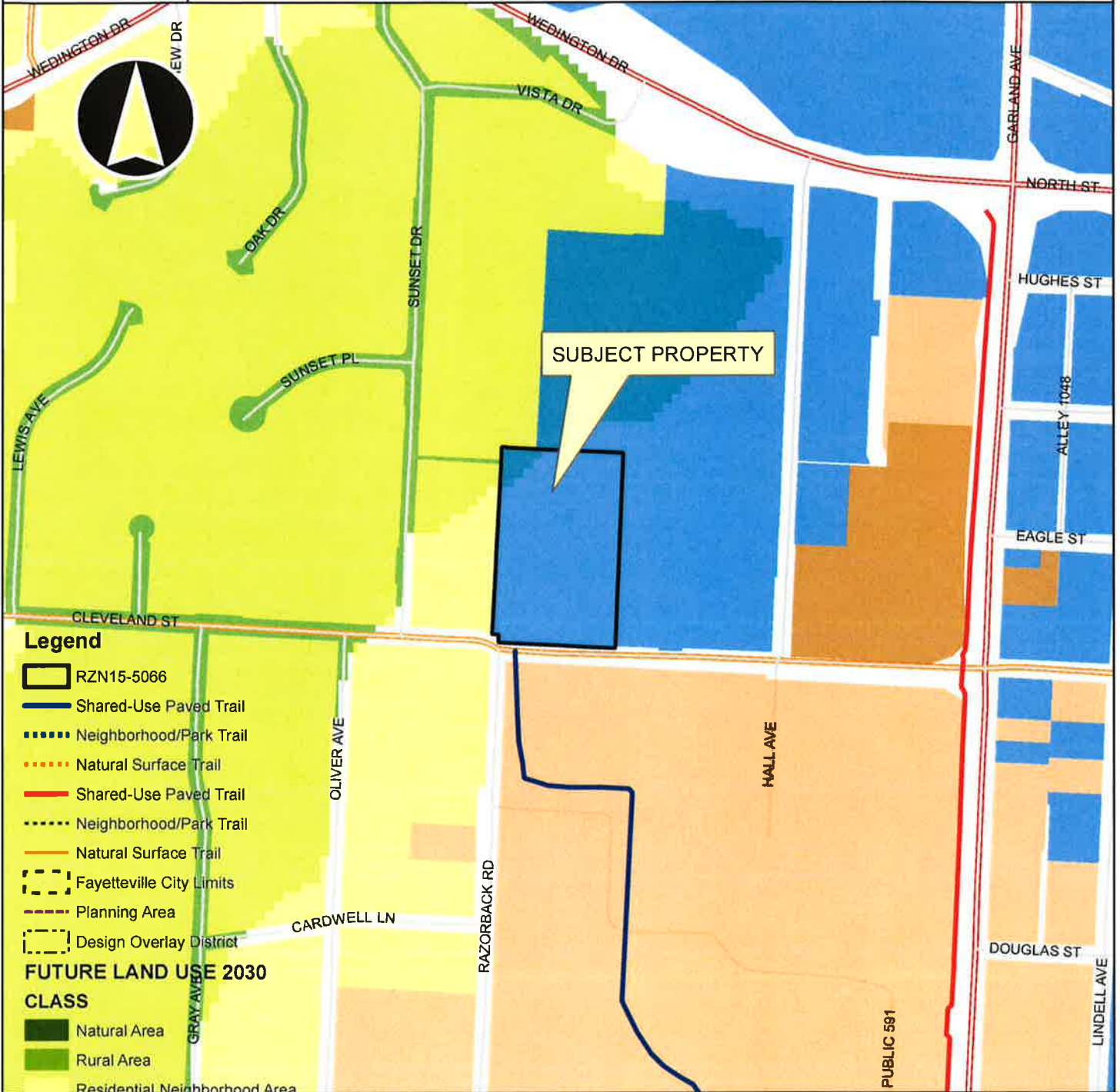
SURVEY DESCRIPTION: A PART OF THE N1/2 OF THE SE1/4 OF SECTION 8, T-16-N, R-30-W DESCRIBED AS BEGINNING AT THE SW CORNER OF THE NE1/4 OF SAID SE1/4; THENCE S87°11'39"E 165.00 FEET TO A SET IRON PIN; THENCE N2°31'32"E 528.63 FEET TO A FOUND IRON PIN; THENCE N87°22'00"W 176.44 FEET TO A SET IRON PIN WHICH IS 11.3 FEET WEST OF THE EAST LINE OF THE NW1/4 OF THE SE1/4; THENCE S3°20'55"W 279.16 FEET TO A FOUND IRON PIPE WHICH IS 15.4 FEET WEST OF THE EAST LINE OF THE NW1/4 OF THE SE1/4; THENCE S2°43'35"W 228.84 FEET TO A FOUND IRON PIN; THENCE S86°50'49"E 16.25 FEET TO A SET IRON PIN; THENCE ALONG THE WEST LINE OF SAID NE1/4 OF THE SE1/4, S2°30'33"W 20.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2.17 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.



RZN15-5066

# ARKANSAS LEGACY

Future Land Use



### Legend

- RZN15-5066
- Shared-Use Paved Trail
- Neighborhood/Park Trail
- Natural Surface Trail
- Shared-Use Paved Trail
- Neighborhood/Park Trail
- Natural Surface Trail
- Fayetteville City Limits
- Planning Area
- Design Overlay District

### 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



## Branson, Lisa

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**From:** Garner, Andrew  
**Sent:** Thursday, July 09, 2015 1:57 PM  
**To:** Smith, Sondra  
**Cc:** Branson, Lisa  
**Subject:** RE: Jeske proposals in re University Heights neighborhood

Yes, it looks like this is public comment for the Legacy Rezoning Appeal (RZN 15-5066) that is on the 07-21-15 City Council agenda.

Andrew

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**From:** Smith, Sondra  
**Sent:** Wednesday, July 08, 2015 5:58 PM  
**To:** Garner, Andrew  
**Cc:** Branson, Lisa  
**Subject:** FW: Jeske proposals in re University Heights neighborhood

Hi Andrew

Does this email go with an agenda item for the July 21, 2015 City Council meeting? Thanks

*Sondra*

*Office of the City Clerk/Treasurer*  
*Sondra E. Smith CAMC, CMC*  
*City Clerk/Treasurer*  
*113 W. Mountain Street, Suite 308*  
*Fayetteville, AR 72701*  
*(479) 575-8323*  
[ssmith@fayetteville-ar.gov](mailto:ssmith@fayetteville-ar.gov)



**From:** [cbduty@aol.com](mailto:cbduty@aol.com) [<mailto:cbduty@aol.com>]  
**Sent:** Wednesday, July 08, 2015 3:40 PM  
**To:** Smith, Sondra  
**Subject:** Jeske proposals in re University Heights neighborhood

I have lived in this neighborhood since 1958. From the beginning it was a family friendly single family residential area occupied primarily by professional people and university faculty. As the years have gone by, we in this area have seen numerous attempts by developers to "block bust" the neighborhood to allow student housing and commercial interests. The fact is, there are many historical homes in this area and it retains its nature as a single family area. We residents have had to fight off too many attempts to destroy our homes and lifestyles. I recall an attempt in 1963 to widen and extend Wedington up and over the neighborhood. That was the first attempt in my memory. Since then we saw

student housing wedged into a section of expensive homes on Lewis Street, and many attempts to convert existing homes to apartments or duplexes. None of these succeeded and as time went on the homes have been converted back into their original forms, including one Fay Jones home on Sunset now under renovation; Several developers tried to extend Razorback Road through existing backyards to connect to Wedington. Homeowners on either side resisted this incursion. The neighborhood remains beautiful, as is proven by the Fowler House being sited there. Other developers tried to cut through from the western side and found sturdy opposition. With Fayetteville almost solidly high density now, and apartments proliferating as far as the eye can see, it is good to know that one historical family neighborhood still holds its ground on University Heights. There is enough land, enough space for the apartment builders in other areas without destroying this last remaining bastion of a kinder era.

Please give consideration to other goals than developers' profits.

Sincerely,  
Carolyn Duty Banks

## EXHIBIT "C"

This was replaced in the Final Agenda packet as additional information.

EXHIBIT #4 (Revision 1 - 5/31/15)

### **BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Arkansas Legacy LLC, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonable rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. Development of the property will be constructed as substantially shown on the attached Arkansas Legacy Master Plan labeled as Exhibit #5. Exhibit #5 has been included as a part of this Bill of Assurance in order to show the following site planning characteristics that are being proposed:

- a) The general horizontal alignment of the proposed new streets.
- b) The general location of the proposed tree preservation areas.
- c) The general location and massing of the proposed buildings in relation to the street.
- d) The general location of the proposed rear lanes and the concept that most of the immediate vehicular access to off-street parking is located to the rear of the buildings and generally not visible from the front of the homes or the street.

2. Development of the property will be limited to the following permitted uses as defined by the City of Fayetteville Unified Development Code: single-family dwellings, two-family dwellings, three-family dwellings, multi-family dwellings, cottage housing development, and home occupations.

3. Development of the property will be limited to no more than thirty (30) dwelling units located on or using New Streets #1 and #2 for the required street frontage. The majority of these thirty (30) dwelling units will be either attached or detached single family dwellings. Additional dwelling units will be located on or utilize West Cleveland Street for required street frontage.

## EXHIBIT "C"

This was replaced in the Final Agenda packet as additional information.

4. Development of the property will be limited to construction of new buildings that do not exceed thirty (30) feet in height, as measured from the soffit to the finished grade around the outside perimeter of the building.

5. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

EXHIBIT "C"

This was replaced in the Final Agenda packet as additional information.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Paul E. Jeske, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

June 23 2015  
Date

Paul E. Jeske  
Printed Name

2870 Riverside Drive  
Address

Salem, OR 97306

Paul E. Jeske  
Signature

NOTARY OATH

STATE OF ARKANSAS }  
COUNTY OF WASHINGTON }

And now on this the 23<sup>rd</sup> day of June, ~~2009~~ <sup>2015</sup>, appeared before me, Michelle S. Sprauer, a Notary Public, and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

Michelle S. Sprauer  
NOTARY PUBLIC

My Commission Expires:

11/02/2018



This was replaced in the Final Agenda packet as additional information.

### EXHIBIT "C"

Master Plan Key:

- A Existing House
- B Proposed House
- C Private Courtyards
- D Tree Preservation
- E Pedestrian Pathway
- F Central Green
- G Razorback Transit Stop



Exhibit #5 (Revision 1- 5/31/15)  
Arkansas Legacy Master Plan