



Legislation Text

File #: 2015-0316, Version: 1

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 22nd, 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 22nd, 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:

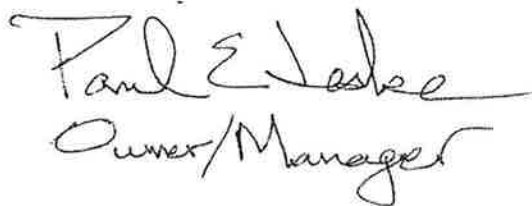
- One (1) PDF copy of a completed and signed rezoning application.
- One (1) PDF copy of Exhibit #1 – Survey Description of Property to be Rezoned.
- One (1) PDF copy of Exhibit #2 – County Parcel Map.
- One (1) PDF copy of Exhibit #3 – Written Description of Request per City of Fayetteville rezoning 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. Jaske
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.

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.

PLANNING COMMISSION ACTION:	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>	
CITY COUNCIL ACTION:	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

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"> • Objective d – Promote densest development around logical future transit stops. • 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. 	<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"> • Accommodating growth in the center of the city preserves farms and forests on the edge. 	<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"> • Objective a – Require new growth that results in neighborhoods, districts, and corridors that are: <ol style="list-style-type: none"> 1. compact - via denser housing; meaningful open spaces & preserves; small blocks 2. complete - via varied housing; mixed uses; civic uses; jobs-housing mix in the neighborhoods 3. connected - via street-oriented buildings; interconnected streets; 	<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 & trails</p> <ul style="list-style-type: none"> 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. 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. Aggregate employment into mixed use centers with walkable amenities. 	<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"> Objective a – Community design should precede and outrank traffic planning. 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. Objective f - Commit to evolving a rich menu of transit choices, including citywide and regional mass transit. Objective h - Plan employment in locations with access to walkable amenities and transit rather than in isolated locations. 	<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"> 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. 	<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"> Objective a – Increase housing choices by encouraging a mixture of housing types and sizes and dispersed throughout the city. Objective c – Establish partnerships with non-profit and private entities to facilitate the development of attainable workforce housing. 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. 	<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.

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,

Brian Teague
Community By Design

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 22nd day of June, ~~2009~~ ²⁰¹⁵, 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:

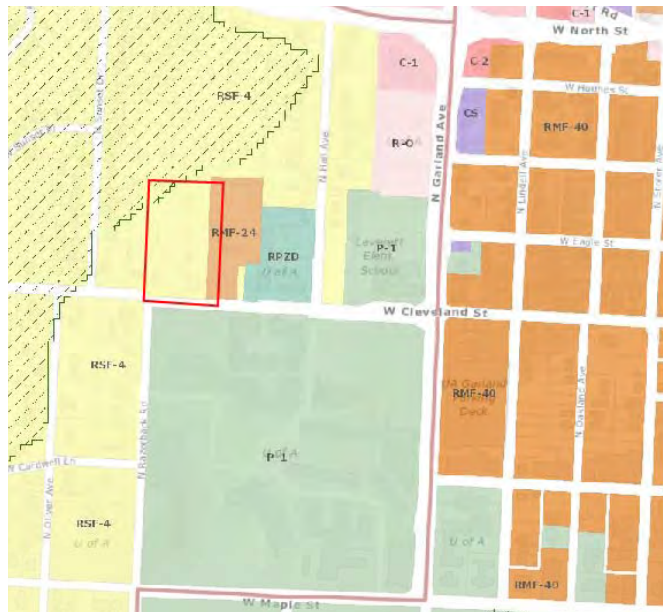
- A Existing House
- B Proposed House
- C Private Courtyards
- D Tree Preservation
- E Pedestrian Pathway
- F Central Green
- G Razorback Transit Stop



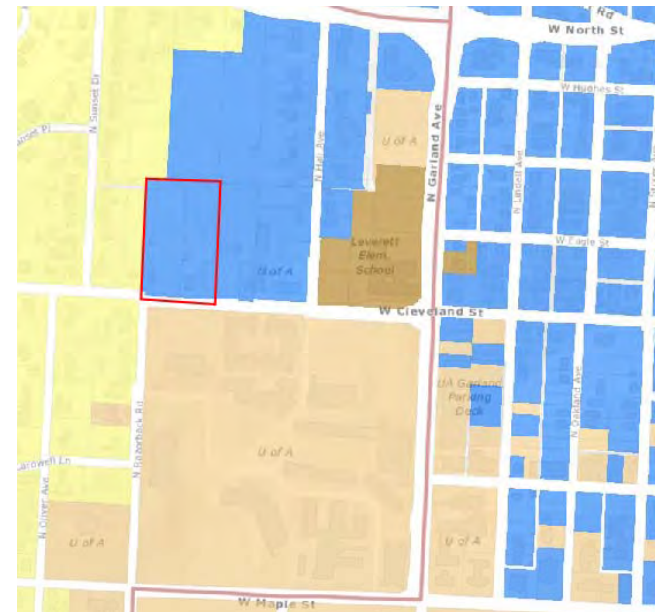
Exhibit #5 (Revision 1- 5/31/15)
Arkansas Legacy Master Plan

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

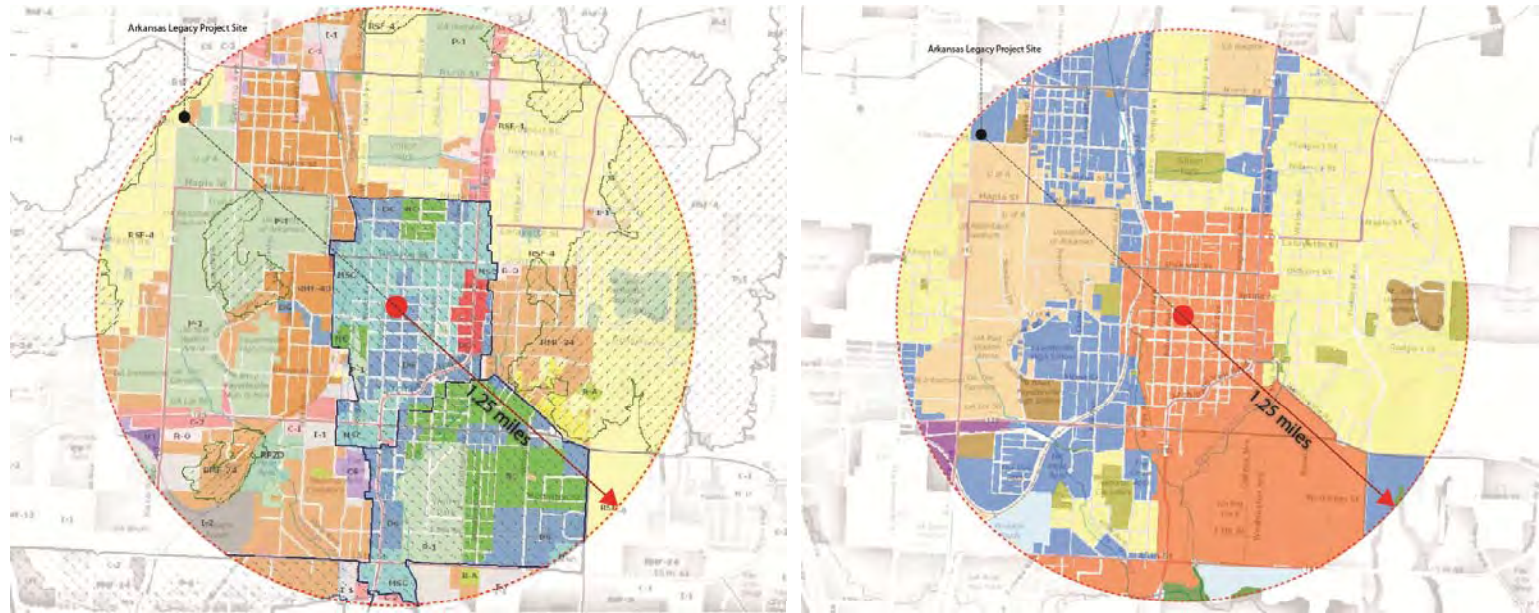
Zoning Analysis Presentation



Existing Zoning Map



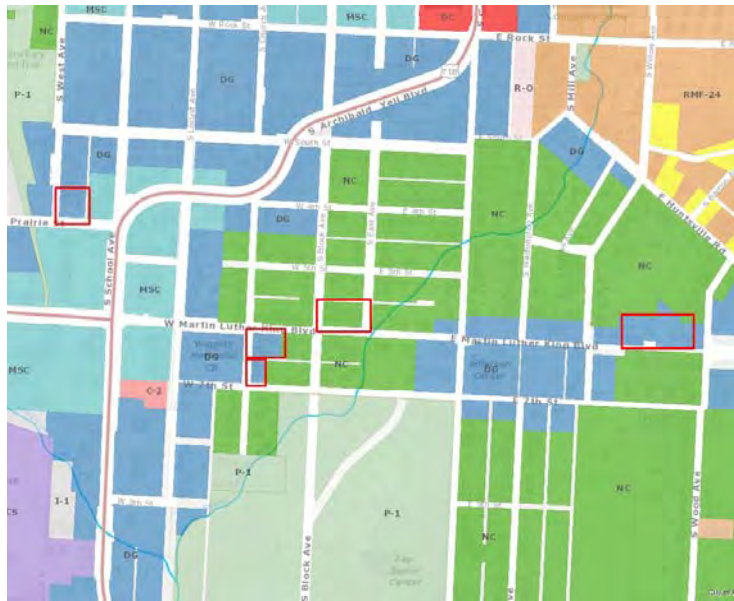
Future Land Use Map

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.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	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	80 ft.
Two-family	90 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) Lot area minimum

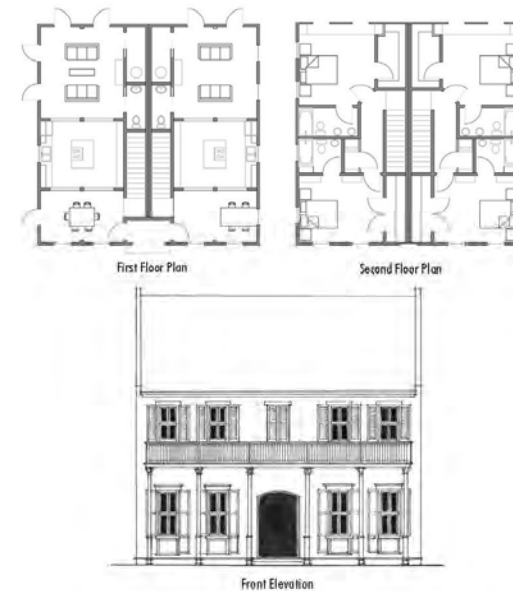
Manufactured home park	3 acres
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Lot within a mobile home park	4,200 sq. ft.
Townhouses	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 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

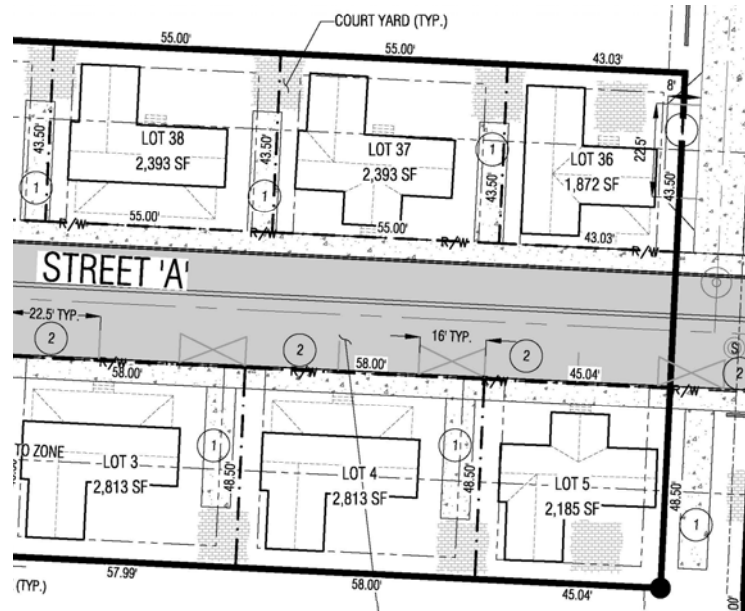
If we are to meet the goal of medium density with a mix of unit types at a smaller, more neighborhood-friendly scale (not with apartment buildings), then the existing zoning does not work. RSF4 encourages low-density single-family homes and RMF24 encourages apartment buildings. Both require large lot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

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)



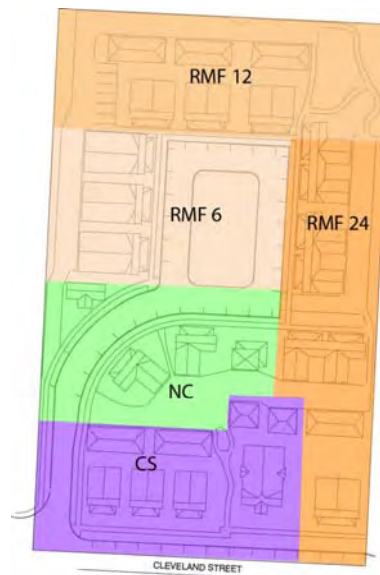
ZONING DESIGNATIONS:	PERCENT MINIMUM CANOPY
R-A, Residential - Agricultural (Nonagricultural Uses)	25%
RSF-5, Single-Family Residential - One Half Unit per Acre	25%
RSF-1, Single-Family Residential - One Unit per Acre	25%
RSF-2, Single-Family Residential - Two Units per Acre	20%
RSF-4, Single-Family 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%
MS-C, 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%
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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

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

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

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

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

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

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



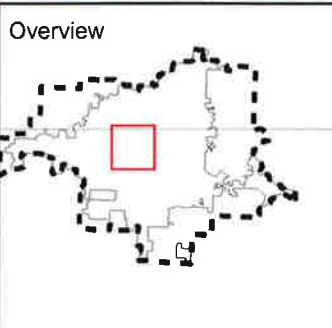
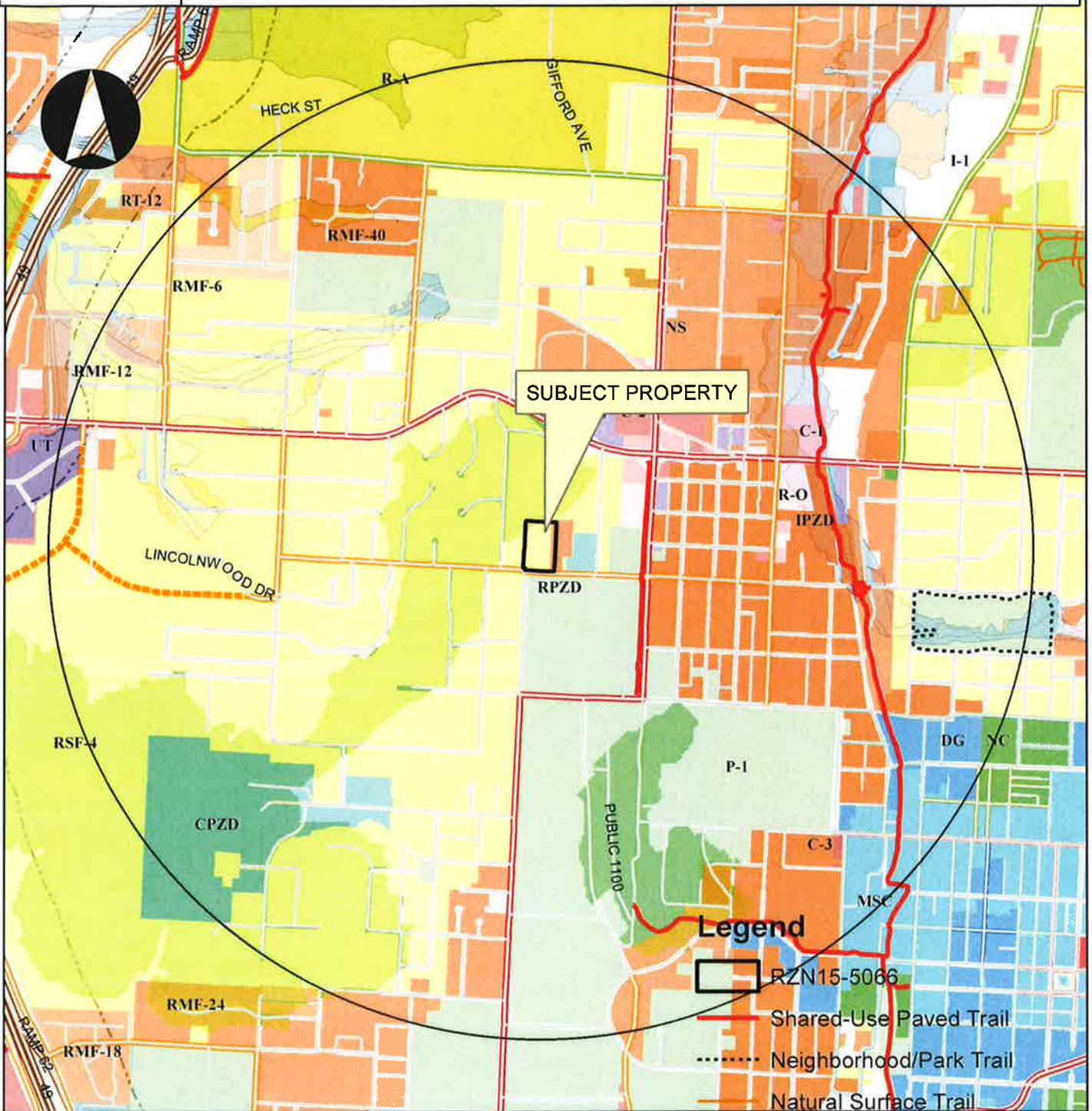
Legend Overview

-  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



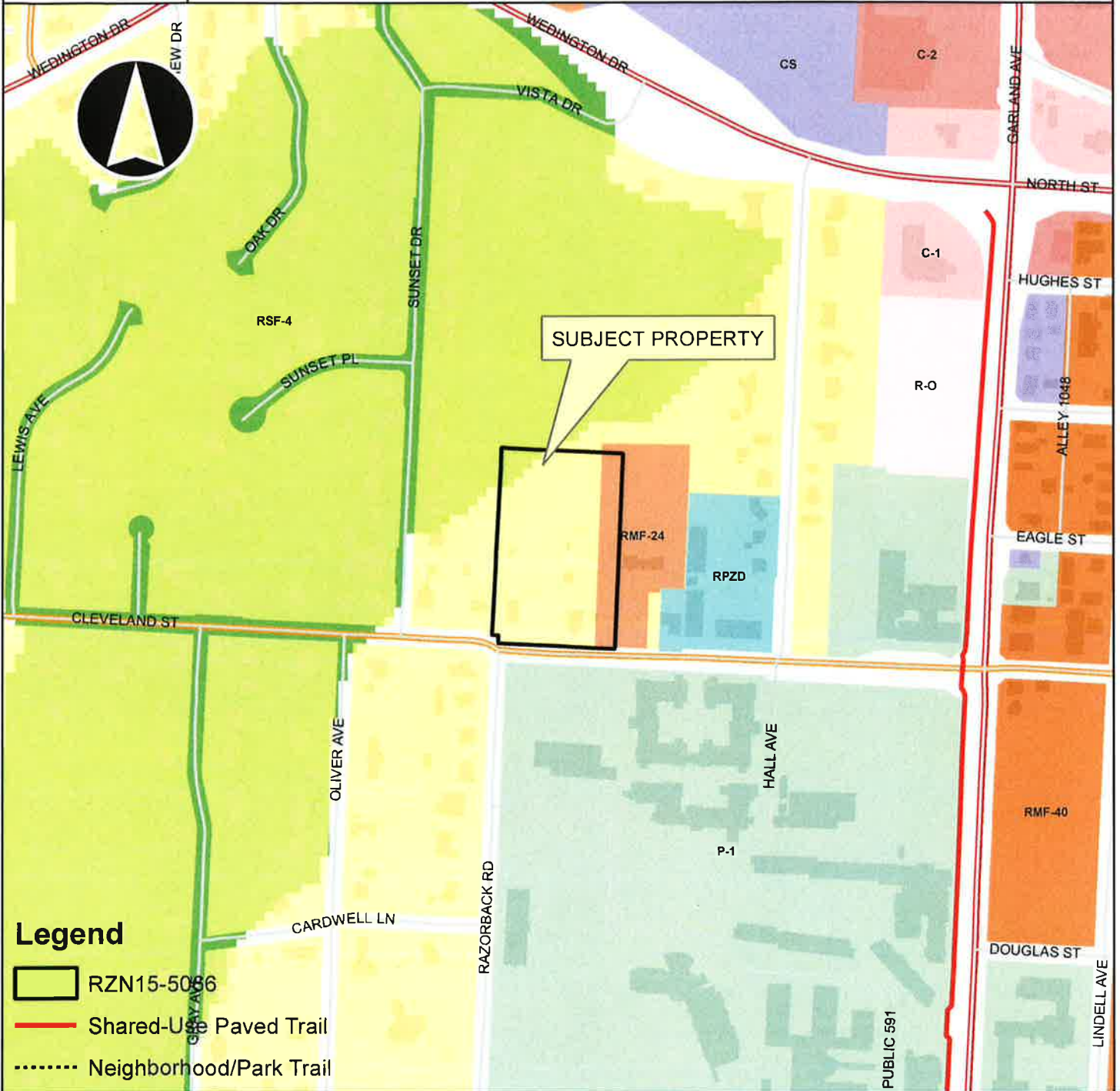
Legend	Hillside-Hilltop Overlay District
Subject Property	Design Overlay District
Boundary	Planning Area
	Fayetteville
	Shared-Use Paved Trail
	Neighborhood/Park Trail
	Natural Surface Trail

0 0.25 0.5 1 Miles

RZN15-5066

ARKANSAS LEGACY LLC

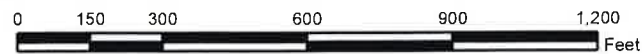
Close Up View



Legend

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

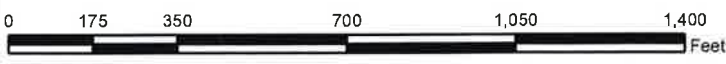
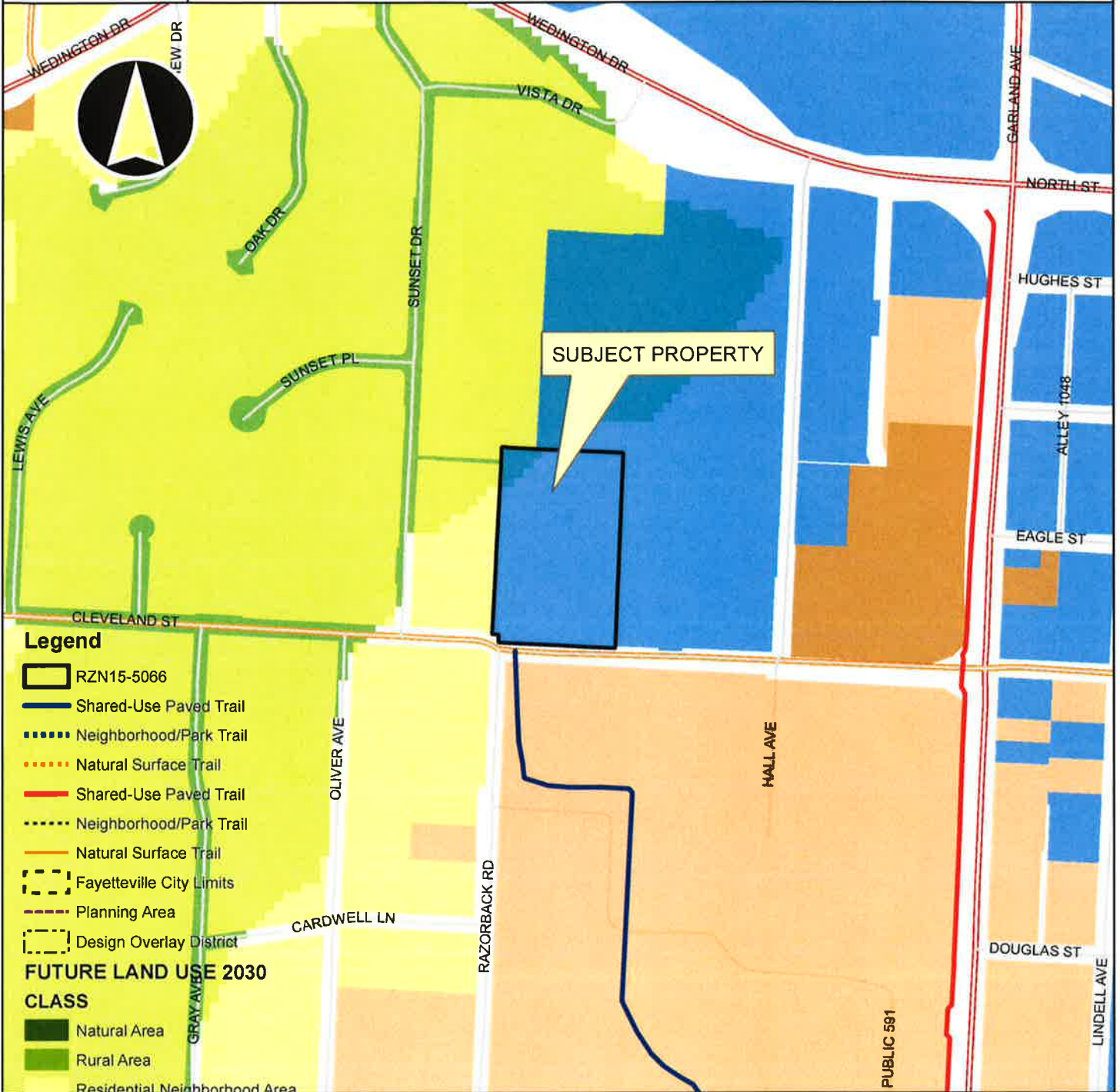
- Overview**
- Fayetteville City Limits
 - Footprints 2010
 - Hillside-Hilltop Overlay District
 - Design Overlay District
 - Planning Area



RZN15-5066

ARKANSAS LEGACY

Future Land Use



ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

Introduction to the proposed Arkansas Legacy Project



ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

Introduction –Community By Design



Brian Teague, P.E.
Principal

brian@communitybydesignllc.com



Community By Design was founded with the intent of providing the community with planning and engineering consultants who understand and encourage compact, walkable, livable neighborhoods.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

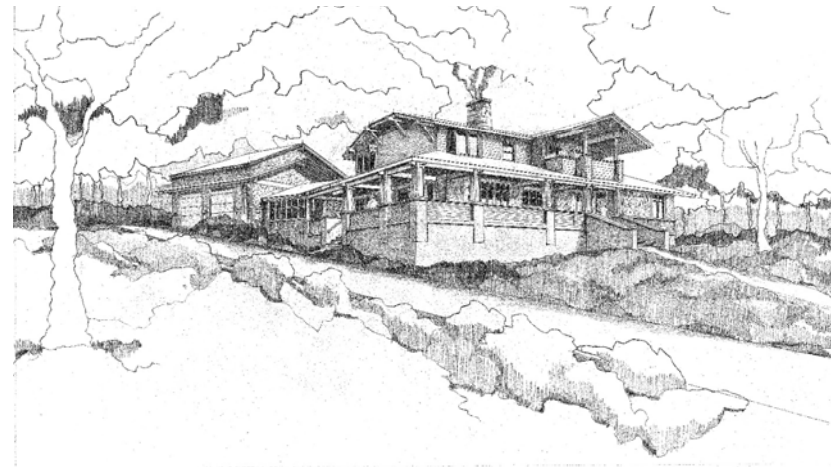
Introduction – **deMx** Architecture



Tim Maddox, AIA
Principal



Landon Foster, AIA
Project Architect



www.demxarchitecture.com

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

The Property – Four Acres Owned By The Arkansas Legacy, LLC.



The Property is located just to the northeast of the intersection of Razorback Road and West Cleveland Street.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

We are not doing this:



...or anything like it.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

We don't want this:



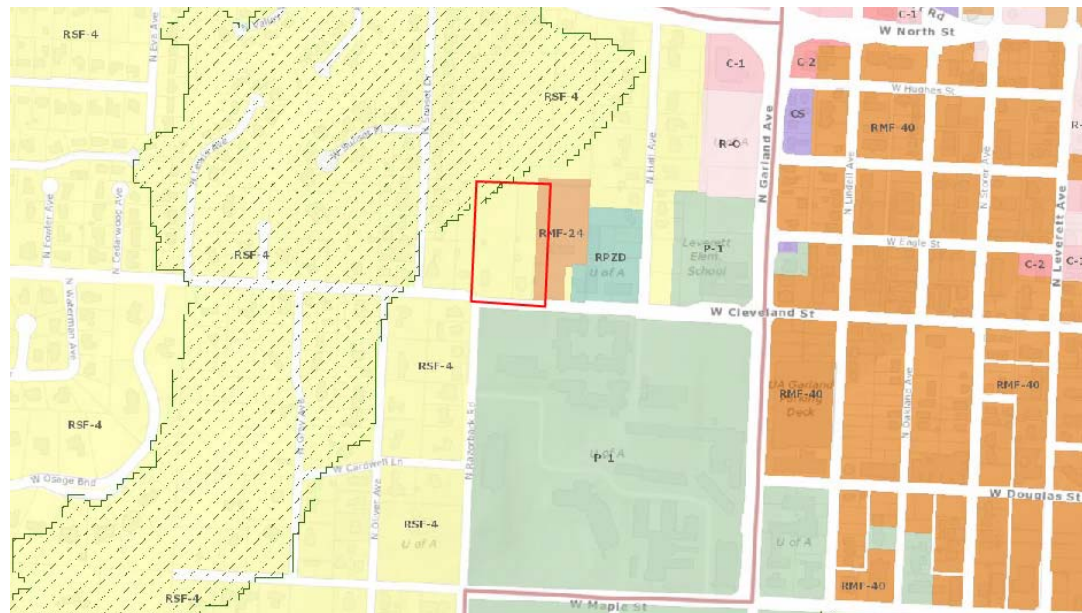
ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

Our Project Goals:

- Contribute to and build the neighborhood
- Townhouse, single family look and feel
- Manage traffic and parking
- Preserve trees and green space
- Pedestrian friendly
- Contribute to the City's goals

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

City of Fayetteville Existing Zoning Map – RSF4 and RMF 24



City of Fayetteville Zoning Code - The existing zoning attached to the property consists of a combination of *RSF4* and *RMF24*. Original ideas for development of the property revolved around 40 to 50 homes.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

City Plan 2030 Goals

Goal 1

We will make appropriate infill and revitalization our highest priorities.

Goal 2

We will discourage suburban sprawl.

Goal 3

We will make traditional town form the standard.

Goal 4

We will grow a livable transportation network.

Goal 5

We will assemble an enduring green network.

Goal 6

We will create opportunities for attainable housing.

Goal 1

- Objective d – Promote densest development around logical future transit stops
- 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

Goal 3

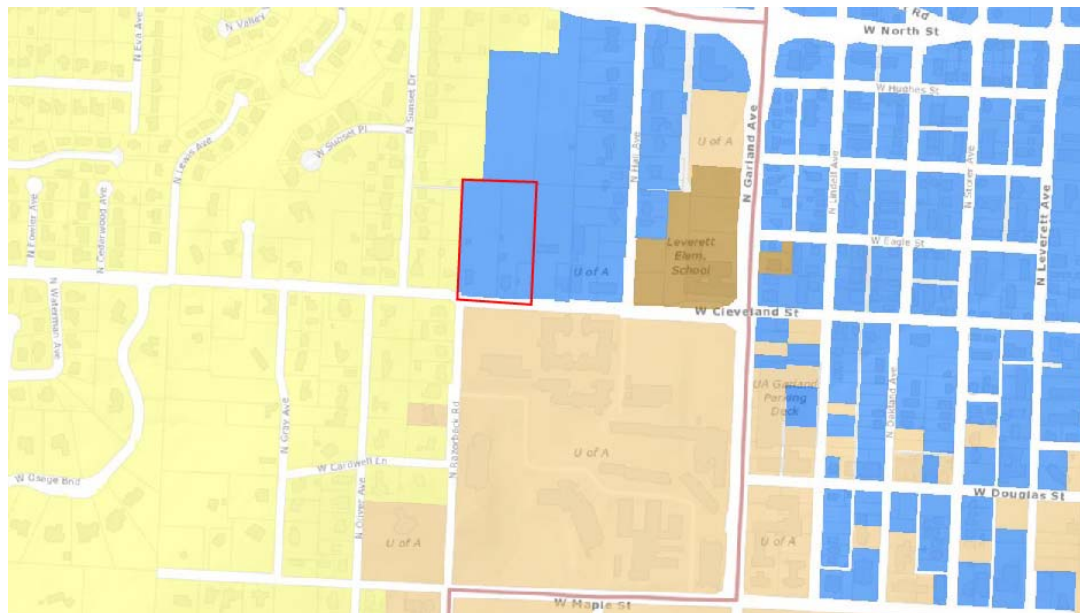
- Objective a – Require new growth that results in neighborhoods that are compact, complete, and connected via denser and varied housing
- Objective b – Prepare a transit-worthy community with density in highly walkable areas along logical future transit routes

Goal 6

- Objective a – Increase housing choices by encouraging a mixture of housing types and sizes and disperse throughout the city
- Objective c – Establish partnerships with non-profit and private entities to facilitate the development of attainable workforce housing
- Objective d – Make housing relatively more affordable by reducing cost of transportation

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

City of Fayetteville Future Land Use Plan – City Neighborhood Designation



City of Fayetteville Future Land Use Plan - The future land use plan designates the property as City Neighborhood. This designation encourages more densely developed neighborhoods with a wide spectrum of both of nonresidential and residential uses.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

A Range of Different Unit Types – Age In Place



City Plan 2030 - One of the objectives of Goal #6 is to encourage a mixture of housing types and sizes, allowing residents to age in place. Our 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.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

1/4 Mile Pedshed – Five Minute Walk



City Plan 2030-Part of Goal #6 is to make housing more affordable by reducing the cost of transportation. The University, Leverett Elementary, Harps, Wal-Mart, and restaurants are all within a five-minute walk of the property. A Razorback transit stop is located adjacent to the property making it possible to conduct daily activities with significantly reduced use of a personal car.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

Building Scale



Buildings will be at a scale that provides a neighborhood feel. This will provide a transition from the single-family neighborhood to the west to the more intense uses centered around the University. The renderings are general illustrations only. They do not necessarily reflect final design.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

Arkansas Legacy Master Plan – Approximately 54 Homes



The Arkansas Legacy Master Plan - We have been working on plans for development of the property for most of 2014. A number of different concept plans were developed before the family agreed upon the proposed master plan that contains approximately 54 Homes.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

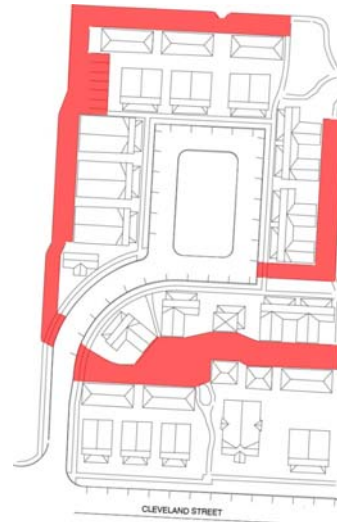
The Arkansas Legacy Master Plan – High Quality Public Spaces



The Arkansas Legacy Master Plan - Connected with streets, rear access courts, and pedestrian pathways, high-quality public and semi-public spaces have been incorporated into the master plan. Front porches are planned to enhance the quality of these spaces. This is in accordance with Goal #3 of City Plan.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

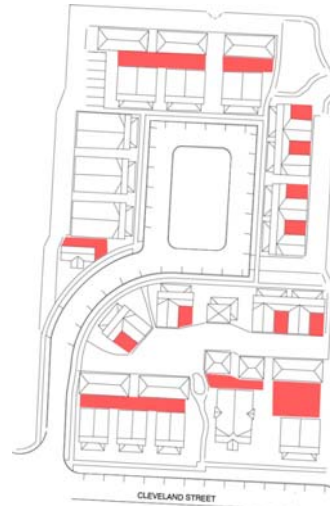
The Arkansas Legacy Master Plan – Rear Vehicular Access



The Arkansas Legacy Master Plan - In addition, to further enhance these public spaces, access to garages have been located to the rear of the homes and garage parking has been provided for nearly all of them. This is also in accordance with Goal #3 of City Plan 2030 and the Urban Residential Design Standards.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

The Arkansas Legacy Master Plan – Private Courtyards



The Arkansas Legacy Master Plan - In addition to the more public front porches planned for the homes, a more private courtyard is planned for a majority of the homes at Pecan Hill in order to expand living areas into the outdoors.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

The Arkansas Legacy Master Plan – Tree Preservation



The Arkansas Legacy Master Plan - Tree Preservation also played a major role in development of the master plan. Mature trees are preserved along an old fence line that extends through the property, trees are preserved on either side of the existing house, and also mature pecan trees in the northeast corner are preserved.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

The Project (Preliminary Design)



Potential Cleveland Street Elevation.
Preliminary Renderings by deMx Architecture.

The renderings are general illustrations only.
They do not necessarily reflect final design.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

The Project (Preliminary Design)

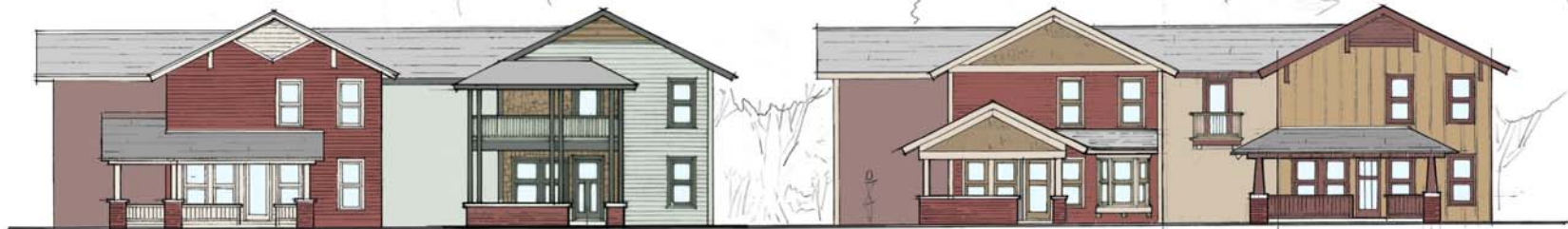


Potential North Courtyard Elevation.
Preliminary Renderings by deMx Architecture.

The renderings are general illustrations only.
They do not necessarily reflect final design.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

The Project (Preliminary Design)



Potential East Courtyard Elevation.
Preliminary Renderings by deMx Architecture.

The renderings are general illustrations only.
They do not necessarily reflect final design.

ARKANSAS LEGACY DEVELOPMENT – Community Group Presentation

The Project (Preliminary Numbers)

- Build a diverse neighborhood
 - 1 existing five bedroom home
 - Approximately 8 four bedroom homes
 - Approximately 14 three bedroom homes
 - Approximately 22 two bedroom units
 - Approximately 9 one bedroom units

- 54 potential units

Branson, Lisa

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

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



From: 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

Branson, Lisa

From: CityClerk
Sent: Tuesday, July 14, 2015 8:41 AM
To: Alan Long (Longward4@gmail.com); Pennington, Blake; citycouncil@matthewpetty.org; Marr, Don; McCoy, Dee; Eads, Gail; Roberts, Gina; Johnson, Kimberly; Williams, Kit; Branson, Lisa; Broyles, Lana; Jordan, Lioneld; Norton, Susan; Smith, Sondra; Gray, Adella; Marsh, Sarah; Kinion, Mark; Tennant, Justin; Schoppmeyer, Martin; La Tour, John; Long, Alan
Subject: FW: Arkansas Legacy Project appeal--please deliver to Mayor and Aldermen

-----Original Message-----

From: MAH [mailto:holksma@att.net]
Sent: Monday, July 13, 2015 10:17 PM
To: CityClerk
Subject: Re: Arkansas Legacy Project appeal--please deliver to Mayor and Aldermen

Mayor Jordan and City Aldermen:

I reside in the University Heights neighborhood. I am writing concerning an appeal of a planning commission denial of a proposed zoning change for the Arkansas Legacy Project on property that is two blocks from my home. I do not consider the requested Downtown General zoning at all appropriate for a residential project in a residential neighborhood zoned RSF-4. In my understanding, the bill of assurance the project designers have offered is an inadequate means to address the many issues raised by this project, and fails to compensate for the incompatibility of the zoning requested. I urge you to uphold the decision of the city planning staff and the entire planning commission and vote against this zoning change.

Thank you for your consideration of this matter.

Sincerely,

Margaret Ann Holcomb
548 N Gray Ave
Fayetteville, AR 72701
(479)442-9853

Branson, Lisa

From: Branson, Lisa
Sent: Tuesday, July 14, 2015 2:11 PM
To: 'Alan Long (Longward4@gmail.com)'; 'bpennington@fayetteville-ar.gov'; 'citycouncil@matthewpetty.org'; 'dmarr@fayetteville-ar.gov'; 'dmccoy@fayetteville-ar.gov'; 'geads@fayetteville-ar.gov'; 'groberts@fayetteville-ar.gov'; 'kjohnson@fayetteville-ar.gov'; 'kwilliams@fayetteville-ar.gov'; 'lbranson@fayetteville-ar.gov'; 'lbroyles@fayetteville-ar.gov'; 'ljordan@fayetteville-ar.gov'; Norton, Susan; 'ssmith@fayetteville-ar.gov'; 'ward1_pos1@fayetteville-ar.gov'; 'ward1_pos2@fayetteville-ar.gov'; 'ward2_pos1@fayetteville-ar.gov'; 'ward3_pos1@fayetteville-ar.gov'; 'ward3_pos2@fayetteville-ar.gov'; 'ward4_pos1@fayetteville-ar.gov'; 'ward4_pos2@fayetteville-ar.gov'
Cc: 'sara.burningham@gmail.com'
Subject: FW: Arkansas Legacy

I am writing to register our objections to the Arkansas Legacy Project's appeal of the City of Fayetteville Planning Commission's unanimous decision to deny a request to rezone the property next door to us to Downtown General.

My husband, our two young children, and I have been living at 1400 West Cleveland Street since the summer of 2013. We moved to Fayetteville from New York City and are delighted to be raising our kids in such a special place. We chose the pretty yellow house on Cleveland Street for its walkability (I work downtown); the lush green canopy afforded by its gorgeous, mature trees; and the neighborhood's family-friendly feel.

We are not opposed to any and all development on this site. We have been living next door to the Jeske's very poorly managed student house for a couple of years now, and its replacement by owner-occupied family homes is a potential improvement we would very much welcome. Luckily, there is a zoning option that can make that happen: a PZD. And this is precisely the message Arkansas Legacy has been sent from neighbors, planners, and commissioners from the very beginning of this process: Though there are elements of the conceptual plans you have offered that we like, you need to go with a PZD.

The developers, however, are unwilling to hear us. Brian Teague of Communities by Design has repeatedly said that the reason they have persisted in pushing for spot zoning to Downtown General is that they could not get assurances regarding variances on the tree preservation requirements of a PZD, and they don't want to have to pay for detailed plans if they may not get the variances they want. But allowing a Downtown General spot zoning with an attached "relatively unclear Bill of Assurance"—thus creating an island of Downtown General not contiguous with downtown and a zoning with minimal tree preservation requirements—effectively shifts the costs of developing an acceptable plan from the developers to the City of Fayetteville. Instead of investing in a rigorous planning process from their end, Arkansas Legacy is asking for the city to approve conceptual plans that outline a future development that is bound to be "substantially" the same and for the city to, therefore, bear the costs of enforcing a Bill of Assurance via lawsuit.

I can see how attractive the possibility of rezoning to Downtown General would be to developers, particularly in conjunction with a Bill of Assurance that offers such vague 'specifics' - language like "substantially" and "general" and "concept". But is it best for the city and its residents? If this precedent were set, it could very well result in the Fayetteville Planning Commission, Planning Staff,

and City Council having to devote a great deal of time to dealing with a surge in speculative spot zoning requests from developers, and neighbors and the city would find themselves bearing the burden of having to enforce Bills of Assurance.

Brian Teague emphasizes that the tripling of density that their conceptual drawings suggest is in line with the City Neighborhood designation. But City Neighborhood is not zoning. The City Plan 2030 Goal 1 calls for **appropriate** (emphasis mine) infill. The Fayetteville Planning Staff has stated that the conceptual renderings and Bill of Assurance provide no maximum density along Cleveland Street and no specifics on the units along internal streets #1 and #2. Per the staff's report: "The proposal may contain a variety of housing types, or provide all attached housing units and completely exclude single-family homes." The revised Bill of Assurance does not resolve this problem.

The trees, the great lungs of our city, are crucial to our quality of life, our enjoyment of our house, our privacy, our birds—even the fat squirrels that feast on the pecan trees my family loves so much. That said, we understand that this land is ripe for development and that some trees will have to go. But it is not good enough to say that because you can't build at the density you want to make whatever profit you have deemed desirable unless you ditch tree preservation requirements, the City has a duty to grant a zoning so incompatible with the neighborhood and unwelcomed by the neighborhood.

Preserving trees in a new development is a challenge, but when both sides are working together, it's far from impossible. The City Forester, in fact, has provided a memo that acknowledges the difficulties of achieving minimum canopy requirements in infill development like this, but that makes clear he will work with the developers through a PZD process "to achieve minimum canopy requirements through available mitigation options." Arkansas Legacy, however, continues to reject our best efforts to find a mutually satisfactory solution.

I would like to reiterate that we support and encourage sustainable growth and development for our neighborhood. We would love for more families to be able to make a home in our wonderful community—and we had high hopes that the development would take these wishes into account. But their insistence upon pursuing a Downtown General designation instead of working with the city on a PZD despite universal and unanimous opposition leaves us with little confidence in the intentions of Arkansas Legacy.

We hugely appreciate your service to the community and the time you have taken to read these concerns. We are eager to answer any questions you may have.

Yours,

Sara Burningham (& family).

Branson, Lisa

From: Vince Chadick <vchadick@bassettlawfirm.com>
Sent: Tuesday, July 21, 2015 10:56 AM
Cc: Smith, Sondra

Dear Council Members Gray, Marsh, Kinion, Petty, Tennant, Schoppmeyer, La Tour, and Long,

Thank you each for your dedicated service to our beloved Fayetteville. We citizens are grateful.

My family and I live at 681 N. Razorback Road.

As it relates to the Arkansas Legacy Project's appeal of the Planning Commission's decision to deny a re-zoning request, I support your denying the appeal and affirming the unanimous decision of the Commission (and the recommendation of City staff).

Thank you for your time and consideration. (And, please – you don't need to reply to this email. I know you're already busy!)

Best regards,

Vincent Chadick

Branson, Lisa

From: Branson, Lisa on behalf of Smith, Sondra
Sent: Tuesday, July 21, 2015 8:33 AM
To: Alan Long (Longward4@gmail.com); Pennington, Blake; citycouncil@matthewpetty.org; Marr, Don; McCoy, Dee; Eads, Gail; Roberts, Gina; Johnson, Kimberly; Williams, Kit; Branson, Lisa; Broyles, Lana; Jordan, Lioneld; Norton, Susan; Smith, Sondra; Gray, Adella; Marsh, Sarah; Kinion, Mark; Tennant, Justin; Schoppmeyer, Martin; La Tour, John; Long, Alan
Cc: Pate, Jeremy; Garner, Andrew; Fulcher, Jesse; Harrison, Rebecca
Subject: FW:

From: Rebecca Harrison [mailto:rebeccanewth@gmail.com]
Sent: Monday, July 20, 2015 8:42 PM
To: Smith, Sondra <:ssmith@fayetteville-ar.gov>
Subject:

very much want to establish that I am against the rezoning for the jeske project. I am a resident thirty years, husband the dean of libraries and I live in the historic farm house on Oliver and Cardwell. Cannot imagine more traffic on Cleveland. Rebecca Newth Harrison

Branson, Lisa

From: Branson, Lisa on behalf of Smith, Sondra
Sent: Tuesday, July 21, 2015 8:33 AM
To: Alan Long (Longward4@gmail.com); Pennington, Blake; citycouncil@matthewpetty.org; Marr, Don; McCoy, Dee; Eads, Gail; Roberts, Gina; Johnson, Kimberly; Williams, Kit; Branson, Lisa; Broyles, Lana; Jordan, Lioneld; Norton, Susan; Smith, Sondra; Gray, Adella; Marsh, Sarah; Kinion, Mark; Tennant, Justin; Schoppmeyer, Martin; La Tour, John; Long, Alan
Cc: Pate, Jeremy; Garner, Andrew; Fulcher, Jesse; teresa_turk@hotmail.com
Subject: FW: Proposed rezoning of Jeske property

From: Teresa Turk [mailto:teresa_turk@hotmail.com]
Sent: Monday, July 20, 2015 9:28 PM
To: Smith, Sondra <:ssmith@fayetteville-ar.gov>
Subject: Proposed rezoning of Jeske property

Please distribute to all the Council members.

Dear City Council Members,

My name is Teresa Turk and I live at 1408 W. Cleveland St, 3 houses west of the proposed rezoning of the Jeske property. I am against any increase in density or rezoning for the University Heights neighborhood. Allowing this area to be rezoned to Downtown General sets a very bad precedent and is completely incompatible with the existing neighborhood.

Cleveland street is already overused with too many vehicles using this street. The additional allowance of having a single entry and exit point on Cleveland for a huge development will greatly increase congestion on already overloaded and dangerous street.

Finally the property owners are not being transparent with their development plans. Without all the design plans how can anyone truly know what they will build. They could have even higher densities than what is proposed.

For all these reasons, please do not approve this rezoning proposal. It is a bad idea and bad for the neighborhood. The planning commission made the correct decision.

Thank you for your consideration,
Teresa Turk
1408 W Cleveland St.

Branson, Lisa

From: Branson, Lisa on behalf of Smith, Sondra
Sent: Tuesday, July 21, 2015 8:32 AM
To: Alan Long (Longward4@gmail.com); Pennington, Blake; citycouncil@matthewpetty.org; Marr, Don; McCoy, Dee; Eads, Gail; Roberts, Gina; Johnson, Kimberly; Williams, Kit; Branson, Lisa; Broyles, Lana; Jordan, Lioneld; Norton, Susan; Smith, Sondra; Gray, Adella; Marsh, Sarah; Kinion, Mark; Tennant, Justin; Schoppmeyer, Martin; La Tour, John; Long, Alan
Cc: Pate, Jeremy; Garner, Andrew; Fulcher, Jesse; sdh2@cox.net
Subject: FW: Arkansas legacy project

-----Original Message-----

From: Susan Hall [mailto:sdh2@cox.net]
Sent: Monday, July 20, 2015 9:56 PM
To: Smith, Sondra <ssmith@fayetteville-ar.gov>
Subject: Arkansas legacy project

Please forward this email to our mayor and aldermen.

My husband and I live on Oliver Avenue near the proposed legacy project. We would like to register our deep concern about the rezoning proposed. It would seem that one purpose of zoning is so residents can feel secure in planning and investing in a particular area. We have always been aware that the area in question would be developed eventually, but we thought the nature of the project would be determined by existing zoning. Downtown General certainly was not intended to be used in residential areas outside the core of the city.

The developers argument that they cannot make the profit they want to make if they abide by present zoning seems like a poor one to us. The reason for this zoning is to help maintain the neighborhood in the face of such encroachment. This zoning was determined calmly with due consideration for many factors. It should not be overturned to satisfy whims.

Thank you for considering the neighborhood and neighbors.

Sincerely, Susan and Orville Hall

Sent from my iPad'

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

July 21, 2015

Addendum to my letter to the Planning Commission for City Council Meeting

Council Members,

I am sending another copy of my letter for your meeting. In addition, I want to add that my position has not changed. Everything I read or hear concerning the Jeske property continues to solidify my position. The property is zoned correctly and should not be changed. The PZD zoning is a compromise I am willing to accept reluctantly. Our neighborhood surrounding the west, northwest and north of the U of A is the last neighborhood around the University campus that has not been slowly turned into massive, student housing projects. Can we not have a University community that reflects the needs of families, too?

A drive around the U of A neighborhoods and an examination of satellite images of the area reveal clearly the loss of family-planned neighborhoods. If this project is approved as anything except RSF-4, many long-term residents see that as the last sign they need to sell their homes and property to whoever is the highest bidder and regardless of what their plans may be.

Appropriate in-fill to the property is RSF-4. I have neither seen nor heard anything that convinces me otherwise. Please, reject this rezoning. There is a lot more at stake than tree canopy and how many beds could be crammed onto four acres.

Lastly, the letter by Sara Burningham is, by far, the most concise of any argument to prevent the DG rezoning. I support everything she states and the reasoning by which she arrives at her conclusions. I just don't see ANY reason to go beyond the RSF-4.

Sincerely,

Joe Paul

City Council Meeting 7/21/15

Fayetteville City Council
Comments by Paul Jeske, Arkansas Legacy LLC
July 21, 2015

Introduction

I grew up in Fayetteville and am familiar with changes in area around the University campus

Many examples of neighborhoods that no longer exist, not sustainable

Dickson Street, especially west of Duncan Street

Maple Street

Cleveland Street

Things the neighbors and I share

- Love for the City and the local neighborhood
- History with and emotional attachment to the neighborhood
 - The family lived on the property for 60 years.
- Love for the University but also 'on the front line' of interaction with the University
- Project Cleveland experience
- Several community and ward meeting discussions on this project
- Anguish and stress over this process
- Concern for future of the neighborhood
- Concern that Downtown General zoning means there will be a downtown commercial area in the neighborhood
- We do NOT want a commercial development in the neighborhood.
- *We all want a high quality, sustainable neighborhood and community!*

The best way to protect the neighborhood is to grow the neighborhood.

How we got here

- Work with engineer and architect to develop concept
 - Develop and build a sustainable neighborhood
 - Not Project Cleveland and not a parking lot
 - Recognize the unique location of the property
 - Contribute to City 2030 Goals
 - Traditional town form
- Met with City Planning staff
- Presented original concept to neighbors and asked for feedback.
 - Traffic, parking, street location
 - PZD use
- Wide review of City zone options
 - RSF Large lot and street frontage requirements
 - RMF Generally directed toward apartment and multi-family developments
 - PZD Shared planning
 - Uncertain outcome
 - Tree retention requirements not likely to be met (Urban Forester), variance required
 - Downtown General
 - Label gives impression of commercial development
 - Lot size and street frontage requirements provide more flexibility
 - Language in City code directly describes variety of family homes to be built.

When presented to neighbors, “What happens if make the zone change & then we sell the property to someone else?”

Bill of Assurance (BOA)

Intended to meet neighbor concerns

Components

- Master Plan (Dropped due to development design questions)
- Height
- Residential Use only
- Density

Meetings with City Attorney and City Planning staff

Several versions

Precedence for using BOA

In discussions with the City Attorney, I understood that he felt the BOA was enforceable. In discussions with Jeremy Pate, I understood that he feels that the current form of the BOA is understandable and enforceable. This is different from the statement in the City Planning staff to you regarding this proposal (in part based on earlier versions of the BOA).

Not normal, but legal and effective.

Appeal Concerns

- The Planning Commission did not have the full public record available for their review. The letter from the Urban Forester was omitted. It includes a key statement regarding inability to achieve PZD 25% tree canopy retention requirement.
- City Attorney stated that BOA was enforceable while Development staff said it was not.
- Inconsistent application of Downtown General zoning (Walker Park neighborhood).
- Difference of opinion regarding consistency of the request with City Long Range goals.

Downtown General appropriate at this location

- Downtown General (DG) code seems very appropriate for the intended use:

“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. . . . There is a mixture of single family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, . . .”

“City Neighborhood Areas are more densely developed than Residential Neighborhood Areas and provide a varying mix of nonresidential and residential uses.” (Emphasis added.)

- DG is being used for residential development in many parts of the City beyond the downtown core.
- There is precedence for using DG to encourage residential development, including areas away from the downtown core and the area is designated City Neighborhood in the Future Land Use Plan.
- This area is closely tied to the urban/densely populated University and commercial areas along Garland and near the Garland & Weddington intersection. Much closer to the urban & commercial areas than some areas designated as DG in SE portion of town.

Basic Government decision-making test

Legal basis for action

Rationale clearly expressed

Consistently applied

When can't meet these basic tests, then decision or action could be arbitrary and capricious.

Does the city Planning staff rationale for use of DG zoning category in many other areas of the City, but not here pass these basic tests?

Doing something differently

In discussions I understood that Jeremy Pate stated that there is not a 'form based' zoning category that allows the type of development as was originally included in our Master Plan. Current zoning tends to direct developers toward typical housing tracts or apartment developments. I acknowledge the difficulty of our application that is trying to do something different.

It is different, but

- Consistent with City Long Range Plans
- Encouraged by City Plan 2030 Goals

City Plan 2030

Our application (that included a Master Plan) identified many ways the application is meeting the stated objectives.

One – “Appropriate infill and revitalization our highest priorities.”

Two – “Discourage suburban sprawl”

Three – “Make traditional town form the standard.”

Four – “Livable transportation network”

Six – Housing - “encourage *a mixture of housing types and sizes and dispersed throughout the city.*” “. . . complete, compact and connected neighborhoods are pedestrian friendly”

With these many examples, the proposed zoning change (even without the Master Plan) STRONGLY CONTRIBUTES to the City's 2030 Goals and Objectives. This is different from the opinion expressed by the City planning staff.

Sustainability

For a sustainable community, the three basic components must be integrated and in balance;

- The economy,
- The environment, and
- Social systems

Our proposed density of 54 units is at the minimum needed to economically support the development. When compared with the density included in Project Cleveland (13.5 units/acre for our proposal versus 45 units/acre in Project Cleveland), you can see that **significant density and economic concessions have already been made.**

City regulations will ensure that environmental and safety concerns are met on the site. For this site a **10% tree canopy retention level is planned and is the level appropriate for infill and traditional town form.**

The proposed 54 dwelling units is a density that should build and maintain a community. **The proposed density and other restrictions included in the BOA recognizes its 'transitional location' and respects the adjacent residential uses.** The potential variety of unit sizes and shapes is intended to encourage a diverse mix of users, including families with children who could attend the local Leverett Elementary School.

Some Reasons to Approve the Zoning Change Request

1. The proposal provides for thoughtful growth and economic development.
2. The proposal protects quality of life concerns in the neighborhood by restricting height, use and density.
3. It provides for a walkable, sustainable neighborhood close to the University.

4. The zoning change will allow the development to contribute to City Plan 2030 goals.
5. The proposal uses an existing City code for Downtown General with all the requirements and restrictions it includes.
6. DG is appropriate for traditional, 'town form' residential development and it is already being used for residential areas in the City.
7. Language in the DG code specifically allows for a wide range of residential development.
8. Both the City Attorney and the Director of Development Services have stated that the BOA is enforceable.
9. The zoning change with BOA restrictions is consistent with the City Neighborhood designation in the City of Fayetteville Land Use Plan.
10. The zoning change with BOA restrictions allows for limited growth in a sensitive area near the University.
11. There is precedence for using the DG zone for residential development away from 'the downtown core' and for using legal documents such as BOA.
12. The restrictions in the BOA should satisfy neighborhood concerns.
13. The proposal makes a positive contribution to the community and makes the entire area a more sustainable neighborhood.
14. This proposal is significantly different from and should not be confused with Project Cleveland.
15. The proposal takes into consideration the Urban Forester's statement that PZD Green tree retention requirements are not appropriate or achievable on this site.
16. Encourages a major economic investment in the community.
17. Allows for flexibility in the zoning change process and zoning interpretation.

18. DG with the BOA allows a greater level of predictability for the owner. The project should be allowed to proceed.

Stewardship

'You don't plan a tree for yourself. You plant it for future generations.'

I feel the responsibility to be a good steward of the property and make a positive contribution to the neighborhood.

This proposal is like planting a tree. I do expect lots of work to make the neighborhood a success and help it grow. The major benefit from this new neighborhood will be for those who follow me rather than myself. This zoning change request is the beginning of our attempt to make a positive investment in and contribution to the neighborhood and the City.

The best way to protect the neighborhood is to grow the neighborhood.

Please approve our family's request to make this positive change.

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 23rd day of June, ~~2009~~ ²⁰¹⁵, 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

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 fifty-four (54) total dwelling units. No more than thirty (30) dwelling units will be located on or use New Streets #1 and #2 for the required street frontage.

This BOA has been revised.

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.

This BOA has been revised.

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

Date

Printed Name

Address

Signature

NOTARY OATH

STATE OF OREGON }
COUNTY OF MARION }

And now on this the ____ day of _____, 2015 appeared before me, _____, 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.

NOTARY PUBLIC

My Commission Expires:

Master Plan Key:

- A Existing House
- B Proposed House
- C Private Courtyards
- D Tree Preservation
- E Pedestrian Pathway

This has been revised.

- F Central Green
- G Razorback Transit Stop



Exhibit #5 (Revision 2 - 7/10/15)
Arkansas Legacy Master Plan

Arkansas Legacy
Zoning Options

Offered
7/27/15
Brian at
5:58 pm

In a continuing effort to respond to expressed concerns regarding our proposed zoning change, we are continuing to consider a variety of zoning options.

Alternatives being considered to that would remove the Downtown General zoning request (and the potential precedence it would set) include;

1. Using RMF zoning designations to create less dense development along the west boundary (near Sunset Drive) and more dense development along the east boundary (near Theta Tau). Perhaps RMF-12 along the west side, RMF-18 in the center, and retaining the existing RMF-24 on the eastern side of the property.
2. Using the Community Services zoning category for the area west of the existing RMF-24.
3. Using a Planned Zoning District (PZD) with an identified target density of 60 units for the entire parcel and a 10% tree retention standard.

And the last alternative;

4. Continuing with the original proposal for Downtown General with the attached Bill of Assurance.

To address questions regarding parking, the following standards are established in City code. Parking requirements will be addressed during the 'Large Scale Development' process.

Number of Bedrooms	Bike rack credit	Bus stop credit	Moped credit	Required Parking in draft plan	Parking spaces	Difference
132	-10%	-10%	-10%	91	113	+22

Please remember that this potential development is very expensive (up to \$1.4 million for streets and other infrastructure). A certain density is needed to make the development economically feasible.



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Jeremy Pate**, Development Services Director
Andrew Garner, City Planning Director

FROM: **Kit Williams**, City Attorney

DATE: **July 29, 2015**

RE: **Legacy Rezoning Appeal Considerations**

I have provided a discussion of **Zoning Considerations** to every member of the City Council both during your orientation for new City Council members and when a controversial or highly contested rezoning request is before the City Council for decision. Because the City Council is now facing two controversial rezoning requests: one on Highway 16 East and one on Cleveland; I thought I should provide you another copy. I request that you refer to any appropriate such consideration during your discussion to help explain your vote.

I do want to mention that the applicant for the Legacy proposed rezoning has emphasized something that I had never heard as a justification for a rezoning during my twenty years sitting as a City Council member and later as City Attorney. The applicant initially rejected presenting a PZD because of its 25% tree preservation requirement and thus requested Downtown General for its 10% tree preservation requirement. In the applicant's handout to the Ward 4 meeting of July 27, 2015, the applicant offered to use a Planned Zoning District with "a 10% tree retention standard."

Their about four acre parcel is mainly zoned RSF-4, Residential Single Family, 4 units per acre which carries a 25% tree preservation minimum. The remaining about .75 acre area is zoned RMF-24 which carries a 20% tree preservation minimum. The percent of required tree preservation for the entire parcel is about 24% as the lot is now zoned. Thus, an important reason cited by the rezoning applicant is to reduce the current tree preservation requirement of 24% to the 10% level allowed by Downtown General. This reduction in preserved trees would enable the developer to place more housing units onto this four acre parcel to generate more profit and avoid having to plant mitigation trees, preserve trees on other owned property or city parks or pay into the tree escrow fund to plant trees nearby.

I guess the applicant could claim he should be allowed to preserve fewer than 42% of the trees that his current zoning now requires in order to put his property to its "highest and best use" from a monetary viewpoint. As I have stated many times to you in my Zoning Consideration memos "The benefit to the owner of a proposed rezoning may certainly be considered, '(h)owever, we have held that **rezoning is not justified solely on the ground that it is necessary to put a particular tract to its most remunerative use.**' *Tanner v. City of Green Forest*, 302 Ark. 170, 788 S.W. 2d 727, 729 (1990). (emphasis added)." Alderman Orientation memo of December 29, 2014.

Never have I heard before from a rezoning applicant that his desire to not preserve, but to remove more trees from his property justifies a rezoning. It may be ancient history to many of our current City Council members, but a controversial decision to help a developer avoid some of the tree ordinance's tree preservation requirements was one of the most important and decisive issues in the 2000 Fayetteville Mayor's race and maybe in a City Council Member's race. This issue even motivated acts of civil disobedience to try to save trees that the soon to be defeated mayor with some City Council support allowed to be removed. The City was even sued and paid hundreds of thousands of dollars to preserve trees in another part of town as part of a settlement agreement. It is surprising to me to see this same type of issue once again being asserted by a developer.

CONCLUSION

When summarizing state law and Arkansas Supreme Court decisions, I have advised the City Council for over a dozen years that probably "the most important factor and underlying reason to have zoning in the first place is to promote COMPATIBILITY among neighboring parcels." I have also provided this summary of legally sanctioned rezoning considerations.

"SUMMARY OF CONSIDERATIONS FOR A REZONING REQUEST

Factors that may be legally considered in rezoning issues:

1. Compatibility with adjacent zones (avoiding spot zoning)
2. Public opposition that is logical and reasonable
3. Traffic (safety and congestion)
4. Safety and Fire protection
5. Good civic design and efficiency
6. Adequacy of public facilities (sewage, water, streets)
7. Noise
8. Litter
9. Decrease in value of adjoining land
10. Appropriate and best use of land
11. City's need or lack of need for more land to be zoned as requested
12. 2030 Plan objectives"

Arkansas Legacy
Zoning Options

offered
7/27/15
Brian at
5:58 pm

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Please remember that this potential development is very expensive (up to \$1.4 million for streets and other infrastructure). A certain density is needed to make the development economically feasible.

*Handed out at the City
Council Meeting 8/4/15*

CityClerk

From: brian@communitybydesignllc.com
Sent: Tuesday, August 04, 2015 1:56 PM
To: CityClerk
Subject: Arkansas Legacy Rezone

The applicant requests to table tonight's City Council Agenda Item regarding the Arkansas Legacy Rezone to the August 18th City Council meeting.

Thank you. Please let me know if you have questions or need further info.

Brian Teague
Community By Design
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 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, cottage housing development, and home occupations.
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3. 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.
4. 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.

July 20, 2015
Date

Paul E. Jeske
Printed Name

2870 Riverside Dr S
Address
Salem, OR 97306

Paul E. Jeske
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 20 day of July, ~~2009~~ ²⁰¹⁵, appeared before me, Paul Jeske, 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.

Mandi McGuire
NOTARY PUBLIC

My Commission Expires:
12/15/2020

