

Note – Some of the members of the Board of Adjustment, as well as City staff members, may attend this meeting virtually. For public health reasons, those who attend in person should consider personal hygiene, the use of facial coverings, and social distancing.



**BOARD OF ADJUSTMENT
AGENDA
June 9, 2021**

Registration Link: https://us02web.zoom.us/webinar/register/WN_voM4OXokSVWxvMVo2IV9DA

- I. Call to Order**
- II. Approval of Minutes**
- III. Old Business**

- 1. Wal-Mart Real Estate Business Trust** **Variance***
406 S Walton Boulevard ([VAR20-0031](#))
 - Sign Regulations

IV. New Business

- 1. Lefors Addition** **Variance***
604 NW 2nd ([VAR21-0013](#))
 - Street Frontage

**Denotes public hearing*

Board of Adjustment
Minutes
May 26, 2021

Meeting called to order by Ruston Chrisco, Chairman.

Present: Joe Haynie, Jan Holland, Rick Rogers, Rustin Chrisco, and Sam Pearson
Staff: Tyler Overstreet, Elizabeth Johnson, Ellen Norvell, Peter Farmer

Motion by Mr. Haynie, seconded by Mr. Chrisco to approve the minutes of May 26, 2021 as written
Approved 5-0

Old Business

Item #1

Wal-Mart Real Estate Business Trust, 406 S Walton Boulevard, VAR20-0031

Elizabeth Johnson reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Terry Booth, the applicant, speaks on the reason for the request via Zoom.

There is discussion amongst Board members and staff.

Mr. Rogers recused from the vote.

Mr. Rogers motioned to table the item

Tabled 4-0

New Business

Item #2

Luis Flores, 5 Burnett Circle, VAR21-0010

Elizabeth Johnson reads the staff report.

Opened public hearing

No public comments

Closed public hearing

Ryan Flores, the applicant's son, speaks on the reason for the request via Zoom.

There is discussion amongst Board members and staff. Board members and staff recommend structure must be detached from the house to get approval. Tabled until verification that the permit has been addressed.

Tabled 5-0

Item #3

Table at the Station, VAR21-0012

Elizabeth Johnson reads the staff report.

Opened public hearing

No public comments

Closed public hearing

The applicant, Tim Sorey speaks on the reason for the variance.

There is discussion amongst Board members and staff.

Approved 5-0

Motion by Mr. Chrisco to adjourn the meeting.

Meeting adjourned

*A copy of this recording can be obtained from the Bentonville Planning Department.

Christian Togmus

BOARD OF ADJUSTMENT STAFF REPORT



Wal-Mart Real Estate Business Trust

406 S Walton Boulevard

BOA Date: 6/9/2021

Reviewer: Elizabeth Johnson, Senior Planner, AICP

Project Number	VAR20-0031
Applicant / Current Owner	Wal-Mart Real Estate Business Trust
Site Area	N/A
Current Zoning	C-2, General Commercial
Variance Request	Zoning Code Article 801.12

Property Description

This property is located at 406 S Walton Boulevard and is home to Walmart Store #100. It is currently zoned C-2, General Commercial.

Regulation

According to Zoning Code Article 801.12, General regulations, section h, Nonconforming signs, subsection 4, a nonconforming sign shall be removed or brought into compliance if the development on the site on which the sign is located requires large scale development approval.

Variance Request

The applicant is requesting to allow the existing nonconforming pole sign to remain as is.

Background

On December 1, 2020, Planning Commission approved a large scale development for an expansion to Walmart's pick-up area. This large scale development necessitates bringing the existing pole sign into compliance with the city's sign code. Currently, pole signs are prohibited.

According to the applicant's narrative, the location of the existing sign in relation to Peel Mansion would cause significant view obstructions if it were to be brought into compliance. The applicant states that any reduction in height would cause the sign to be further obscured from the mature trees, landscaping, and dense vegetation on the Peel Mansion site.

The applicant states that the sign has been in its current location since 1992 and only a portion of Walmart Store 100 is being expanded.

This request was first tabled by the Board of Adjustment on December 9, 2020. Since that time, the applicant has submitted four images showing the two different types of signs at a 100-foot and 209-foot distance to further explain their variance request.

The request was tabled for a second time by the Board of Adjustment on May 12, 2021.

The request was tabled for a third time at the request of the applicant on May 26, 2021.

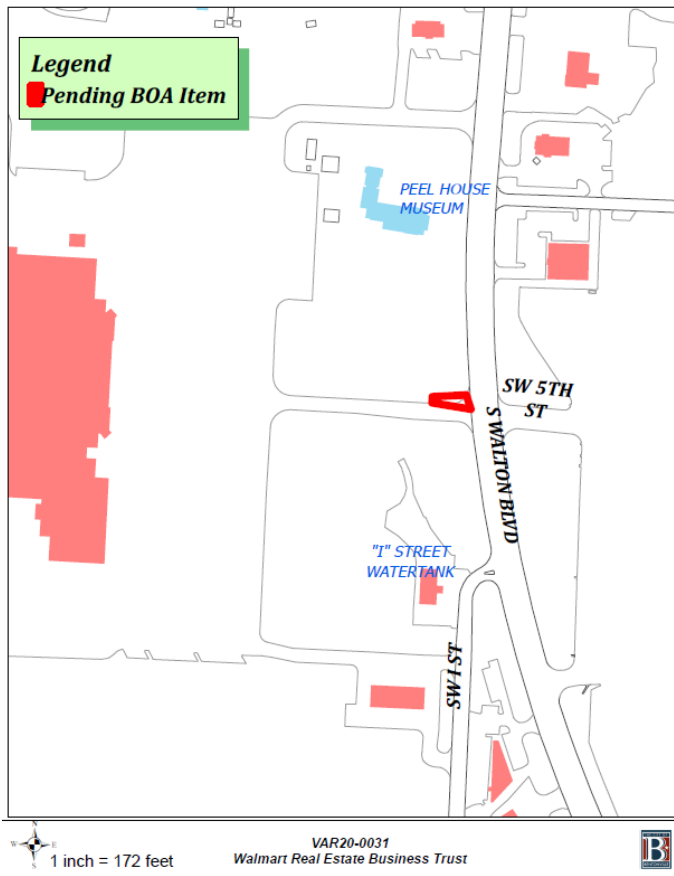
Public Comment

Staff has **NOT** received public comment regarding this request.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed sign height, location, and materials as provided by the applicant within the application.
2. The applicant shall be required to obtain an approved sign permit prior to construction.



BOARD OF ADJUSTMENT STAFF REPORT

Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

November 12, 2020

VIA ELECTRONIC MAIL
planning@bentonvillear.com

Board of Adjustments
City of Bentonville
305 SW A Street
Bentonville, AR 72712

Re: Variance Request – Bentonville Sign Ordinance – Walmart Store #100,
Bentonville, Arkansas

To Whom it May Concern:

On behalf of Wal-Mart Real Estate Business Trust (“Walmart”) this letter is provided as a formal request for a variance regarding certain signage on Walmart’s property located at 406 S. Walton Blvd, Bentonville, AR 72712, Parcel Number 01-01133-000 (“Store #100”). As required, please find attached a General Warranty Deed for the real property on which Store #100 is located and a signed acknowledgment from Walmart.

As a result of Walmart’s proposed improvements to a portion of Store #100, the Planning Department for the City of Bentonville (“City”) has noted that the current pole sign located on Store #100 is non-conforming and must be brought into compliance pursuant to Section 801.12(h) of the Bentonville Sign Ordinance (“Sign Ordinance”), unless a variance is obtained to allow Walmart to retain such pole sign as currently exists. Pictures of the pole sign on Store #100 are depicted on Exhibit A attached hereto.

Walmart respectfully requests a variance to allow the existing non-conforming pole sign to remain non-conforming in connection with the planned improvements to a portion of Store #100. According to the City, the pole sign violates the specifications for freestanding signs stated in Section 801.15 of the Sign Ordinance; however, the Board of Adjustments may grant a variance for the pole sign pursuant to Section 301.10 of the Bentonville Zoning Code.

In consideration of Walmart’s variance request, Walmart provides the following justifications of special conditions and circumstances for consideration pursuant to Section 301.10:

- Special conditions and circumstance affecting Store #100 arise due to the current location of the Peel Mansion Museum & Heritage Gardens (“Peel Mansion”) in relation to Store

#100 and S. Walton Boulevard. In particular, the Peel Mansion is located at 400 S Walton Boulevard, which is situated directly in front of Store #100 and between Store #100 and S. Walton Boulevard. Conforming the existing pole sign to the Sign Ordinance would require such sign to be reduced in height, among other requirements. The Peel Mansion property contains certain improvements, numerous mature trees and other landscaping, as well as dense vegetation, which obscures Store #100, including a portion of the current pole sign, from S. Walton Boulevard. As shown in Exhibit A, any reduction in the height of the pole sign would further obscure the sign from S. Walton Boulevard due to the improvements, trees and vegetation of the Peel Mansion. The location of Store #100 behind the Peel Mansion and the existence of their improvements, trees and vegetation creates a special condition which is unique to Store #100 and not applicable to any other lands in the same district.

- In the event the pole sign is brought into conformity with the Sign Ordinance, Walmart would be deprived of rights commonly enjoyed by other properties along S. Walton Boulevard. A conforming sign would be materially obscured by the improvements, trees and vegetation of the Peel Mansion. As pictured on Exhibit B, similar properties including those operated by Arvest Bank, Panda Express and McDonalds possess non-conforming pole signs that are not at risk of being obscured by improvements, trees and vegetation of neighboring properties. A literal interpretation of the Sign Ordinance requiring Walmart to conform the pole sign would deprive Walmart from enjoying the reasonable advertising and marketing rights enjoyed by other nearby properties.
- The circumstances surrounding a conforming sign being further obscured is not the result of any action by Walmart, but rather the result of improvements, trees and vegetation of the Peel Mansion, which Walmart does not control.
- Due to the above special conditions and circumstances, granting Walmart the requested variance for the current pole sign is the minimum variance that will make possible the reasonable use of the pole sign for its intended purpose, and any reduction in height or required conformity of the pole sign to the Sign Ordinance would prevent the reasonable use of displaying visible signage on S. Walton Boulevard for Store #100.
- The pole sign has existed in its current location on Store #100 without controversy since 1992, has not been injurious to the neighborhood or otherwise determinantal to the public welfare, and, but for the planned improvements to only a portion of Store #100, such pole sign would be allowed to remain in harmony with the general purpose and intent of the Bentonville Zoning Code. Granting of a variance would be consistent with the non-controversial and harmonious existence of the pole sign since originally installed in 1992.

KUTAKROCK

Board of Adjustments
November 12, 2020
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For the above reasons, Walmart respectfully requests the Board of Adjustments approve a variance allowing the pole sign to remain in connection with the planned improvements to a portion of Store #100.

Walmart would like to thank the Board of Adjustments for taking the time to consider this variance request, and should you have any questions, comments or need additional information, please contact me at your convenience.

Sincerely,



Terry W. Pool

cc: Camille Steadman Thompson, Staff Attorney, City of Bentonville
(via electronic mail: cthompson@bentonvillear.com)

Attachments

TWP/hdp

KUTAKROCK

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EXHIBIT A



KUTAKROCK

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EXHIBIT A

[continued]



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EXHIBIT B



KUTAKROCK

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EXHIBIT B

[continued]



From: Shawki Al-Madhoun [<mailto:Shawki.Al-Madhoun@walmart.com>]
Sent: Wednesday, March 31, 2021 4:06 PM
To: Elizabeth Johnson <elizabethj@bentonvillear.com>
Subject: Walmart store 100- Pylon Sign at northern entrance on S Walton Blvd.

Good afternoon Elizabeth,

To follow up on our discussion concerning our existing pylon sign on S Walton Blvd. please find attached two visualization exhibits prepared by Harrison French & Associates (HFA). Details as follows:

1. WM 100 North Entrance Existing Sign 209 ft: presents actual street view of existing pylon sign for south bound traffic
2. WM 100 North Entrance Monument Sign 209 ft: presents actual street view of alternate monument sign per latest code requirements.

The following is the guidance I provided HFA for preparing these exhibits:

Follows are general comments based on AASHTO 2001 policy on geometric design of highways and streets:

1. Posted speed on Walton Blvd in vicinity of store 100 is 40 miles per hour.
2. Braking distance required at 40 mph = 153.6 feet
3. Stopping sight distance for vehicle travelling south bound to make right turn is 305 feet.
4. Each set will involve site view measured from center of unsignalized entrance drive near pylon sign.

Since drivers will not come to a complete stop to make right turn at entrance, then, I suggest using the average of 2 and 3 above or a sight distance of 209 feet.

I appreciate your review and comments.

Please call at your convenience if you need additional information or have any questions.

Thanks,

Shawki Al-Madhoun, PE, **Senior Civil Engineering Manager**

Phone 479.204.2051 , Cell 479.876.3344, Fax 479.277.1014

shawki.al-madhoun@walmart.com

2608 SE J Street

Bentonville, AR 72716



DIESEL

Peel Mansion
Museum →
Walmart
Home Office ↑

US-71 BUS



DIESEL

S Walton Blvd

Walmart

WALMART
WALMART
WALMART

F150



DIESEL

Walmart

Peel Mansion
Museum →
Walmart
Home Office ↑

US-71 BUS





DIESEL

Walmart

S Walton Blvd

F150

BOARD OF ADJUSTMENT STAFF REPORT



Lefors Addition

604 NW 2nd Street

BOA Date: 6/9/2021

Reviewer: Baylea Birchfield, Planning Tech

Project Number	VAR21-0013
Applicant / Current Owner	Mark Melton Construction, Inc.
Site Area	+/- 0.22 acres
Current Zoning	R-1, Single Family Residential
Variance Request	Article 401.7 Residential District Regulations

Property Description

This lot is located at 604 NW 2nd Street. It is currently zoned R-1, Single-Family Residential.

Regulation

According to Zoning Code Article 401.07, Residential Districts Regulations, section b, residential district lot and area standards, subsection 1, Standards, states that the minimum lot width for the R-1 zoning district is 60 feet.

Variance Request

The applicant is requesting a variance to reduce the lot and area standards.

Background

The applicant is in the process of applying for a Property Line Adjustment for the subject property (PLA21-0019). According to the applicant's narrative, although the property has had the same legal for the last 37+ years, due to the Ordinance passed in 2007, they need to apply for a re-plat in order to be granted a building permit.

Upon review of the re-plat, planning noticed the property has a lot width of only 58.38 feet. According to the applicant's narrative, the literal interpretation of the 60 foot lot width would deprive the applicant of rights enjoyed by other properties in the same district.

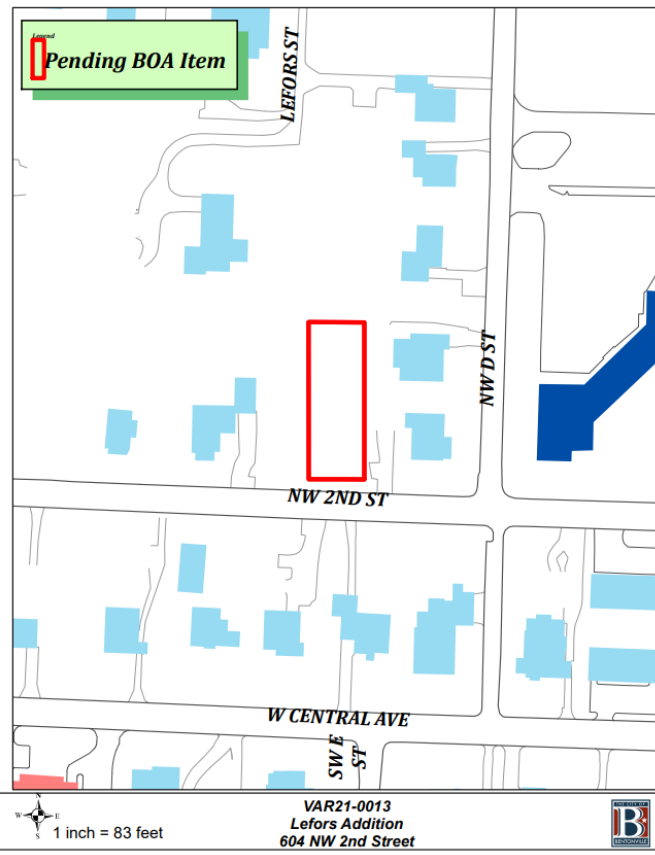
Public Comment

Staff has **NOT** received public comment regarding this request.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout and setbacks, as provided by the applicant within this application.
2. The applicant shall be required to obtain an approved building permit for the structure.





Alan Reid
& ASSOCIATES
PROFESSIONAL
LAND
SURVEYORS

May 23, 2021

City of Bentonville
Community Development / Planning Commission
305 SW A Street
Bentonville, Arkansas 72712

Re: Variance- 604 NW 2nd Street, Bentonville, Arkansas
(Corresponding with Re-plat – City of Bentonville PLA21-0019)

Dear Planning Commission,

On behalf of my client Mark Melton Construction, Inc., Mark Melton, I am submitting for your review, a variance request addressing the minimum required street frontage for a re-plat already under your review (PLA21-0019.) The subject property is parcel 01-03211-000 (.22 acres). The property is located at: 604 NW 2nd Street, Bentonville, Arkansas.

Although the property has had the same legal for the last 37+ years, due to a City of Bentonville Ordinance passed in 2007, we are now required to apply for a re-plat in order to be granted a building permit. Upon going through the re-plat process, planning staff review comments informed the applicant that the property did not meet the required street frontage. The property currently and historically (37+ years) has had fifty-eight (58) feet of street frontage. The minimum lot width for R-1 zoning, which is the zoning category in which this property is located, is sixty (60) feet. We are asking for a variance of this regulation. This literal interpretation of the street frontage requirement would deprive the applicant of rights enjoyed by other properties in the same district. The legal description has been the same for the past 37+ years and the 2007 ordinance, requiring the re-plat and subsequent street variance request to develop his property, is a hardship. I respectfully request a variance of the minimum street frontage requirement.

If you have any questions, please feel free to call me at my office.

Best regards,

Alan Reid
Professional Land Surveyor
Arkansas Registration 1005
479.444.8784

01-03179-000
JEFF S & ABBY D ENGLAND
205 NW D ST,
BENTONVILLE, AR 72712
ZONED R-1

WE THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, SUBDIVIDED AND DO HEREBY LAY OFF, PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS, ALLEYS, DRIVES, EASEMENTS, ETC. AS SHOWN ON SAID PLAT.

PAGE_____

SIGNED: _____
CITY CLERK, CITY OF BENTONVILLE

STATE OF ARKANSAS

SUBJECT TO EASEMENTS, RIGHTS-OF-WAY, AND PROTECTIVE COVENANTS OF RECORD, IF ANY. SUBJECT TO ALL PRIOR MINERAL RESERVATIONS AND OIL AND GAS LEASES.

0 30 60 90

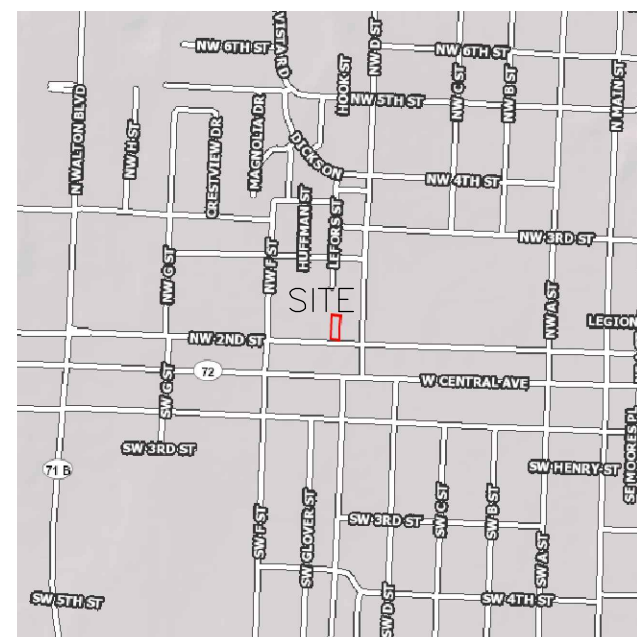
1" = 30'

	AC UNIT		FIBER OPTICS SIGN		SANITARY SEWER MANHOLE
	BACKFLOW VALVE		FIRE HYDRANT		SATELLITE DISH
	BOLLARD POST		FIRE SPRINKLER		SEPTIC TANK LID
	BUGGY AXLE		FLAG POLE		SET ALUMINUM MONUMENT
	CABLE BOX		GAS LINE SIGN		SET COTTON SPINDLE
	CABLE TV PEDESTAL		GAS METER		SET STAKE ON LINE
	CHISLED 'X'		GAS STUB		SET 1/2" IRON REBAR
	COMPUTED POINT		GAS REGULATOR		STATE MONUMENT
	CONC. MONUMENT		GENERATOR		STONE MONUMENT
	C.O.E. MONUMENT		GROUND LIGHT		STORM DRAIN MANHOLE
	DOWN GUY		IRRIG. CONTROL VALVE		STREET SIGN
	DRAIN GRATE		JUNCTION BOX		T-POST
	ELECTRIC BOX		LAMP POST		TELEPHONE BOX
	ELECTRIC METER		MAIL BOX		TELEPHONE PEDESTAL
	ELECTRIC PEDESTAL		PARKING SIGN		TEMPORARY BENCHMARK
	EXIST. ALUM. CAPPED MON.		PAY PHONE		TRAFFIC SIGNAL BOX
	EXIST. COTTON SPINDLE		POWER POLE		TRANSFORMER BOX
	EXISTING IRON PIPE		PROPANE TANK		TREE
	EXISTING IRON REBAR		RAILROAD SPIKE		WATER LINE SIGN
	EXISTING NAIL		READING		WATER METER
	FENCE POST		RIGHT OF WAY MONUMENT		WATER SPIGOT
	EXIST. IRON IN CONCRETE		SANITARY SEWER CLEANOUT		WATER VALVE
	CENTERLINE ROAD		EASEMENT LINE		
	RIGHT-OF-WAY LINE		BUILDING SETBACK LINE		
	BARBED-WIRE FENCE		OVERHEAD ELECTRIC LINE		
	CHAIN-LINKED FENCE		UNDERGROUND ELECTRIC LINE		
	PRIVACY FENCE		GAS LINE		
	WIRE FENCE		SANITARY SEWER LINE		
	MAJOR CONTOUR INTERVAL		STORM SEWER LINE		
	MINOR CONTOUR INTERVAL		TELEPHONE LINE		
	BUILDING LINE		WATER LINE		
	FIBER-OPTICS LINE		PROPERTY LINE		
	DITCH/WATER LINE				

THERE MAY NOT BE FENCES OR ANY OTHER STRUCTURES BUILT IN ANY DRAINAGE EASEMENTS.

LINE	BEARING	DISTANCE
L1	N89°42'28"W	58.00'

ZONING: (R-1) SINGLE FAMILY
RESIDENTIAL



VICINITY MAP

PLA21-0019

SHEET 1 OF 1	JOB NO. 21076	REVIEWS			ARA 118 S. COLLEGE AVENUE FAYETTEVILLE, ARKANSAS 72701 479.444.8784 1.888.549.8784 arasurveying@abeglobal.net	Alan Reid ASSOCIATES PROFESSIONAL LAND SURVEYORS BOUNDARY TOPO	DRAFTSMAN	DF
		DATE	DESCRIPTION	BY			DATE	04/23/2021
							CHECKED	—
							SCALE	1" = 30'
							SHEET SIZE	18"x 24"
MARK MELTON CONSTRUCTION, INC. 604 NW 2ND STREET BENTONVILLE, ARKANSAS								
PROPERTY LINE ADJUSTMENT— BENTONVILLE, AR.								