

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
February 9th, 2022**

Registration Link: https://us06web.zoom.us/webinar/register/WN_StsWP27_QyWEXwoPlnF4lg

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

- 1. Benton County Courthouse – Monument Sign** **Variance***
215 E Central Ave ([VAR22-0001](#))
 - Sign Design Variance

IV. New Business

- 1. Vaughn Elementary – Monument Sign** **Variance***
5301 SW Barron Rd ([VAR22-0002](#))
 - Sign Design Variance
- 2. Murtha Remodel – Front Porch Addition** **Variance***
710 NW 5th St ([VAR22-0003](#))
 - Front Setback Variance
- 3. Coffelt Townhomes – Appeal of Staff Interpretation** **Variance***
407 SE B St ([VAR22-0004](#))
 - Front Setback Variance
- 4. Sun Group Townhomes – Utility Box Location** **Variance***
504 SW B Street ([VAR22-0005](#))
 - Rear Setback Variance

Board of Adjustment
Minutes
January 26th, 2021

Meeting called to order by Mr. Rogers - Chairman

Present: Joe Haynie, Sam Pearson, BJ Phillips, Dean Kruithof, Rick Rogers
Absent: N/A
Staff: Beth Johnson, Luke Aitken

Election of Officers

Mr. Rogers opens nominations for Chairman. Mr. Rogers is nominated to serve as Chairman, Mr. Haynie moves to close the nominations for Chairman.

Mr. Rogers opens nominations for Co-Chairman. Mr. Kruithof is nominated to serve as Co-Chairman, Mr. Rogers moves to close the nominations for Co-Chairman.

Mr. Rogers opens nominations for Secretary, Mr. Pearson is nominated to serve as Secretary, Mr. Rogers moves to close the nominations for Secretary.

A vote is held to approve the election of officers as follows:

Chairman – Rick Rogers, Co-Chairman – Dean Kruithof, Secretary – Sam Pearson

Approved 5-0

Motion by Mr. Pearson, seconded by Mr. Haynie to approve the minutes of January 12th, 2021 as written.

Approved 5-0

Old Business

Item #1

Table at the Station – Monument Sign, 409 SE 6th Street, VAR21-0042

Luke Aitken reads the staff report.

Opened Public Hearing

Closed Pubic Hearing

Ken Booth, representing the applicant, speaks on the hardship facing his applicant. Ken states due to the size and shape of the older building they are operating in, there are no other options for larger signage besides a monument sign detached from the structure.

Carl Garret, the applicant and business owner is present.

There is discussion amongst Board members, the applicant, and staff.

Approved 5-0

Item #2

Benton County Courthouse – Monument Sign, Variance, 215 E Central Ave, VAR22-0001

Luke Aitken reads the staff report.

Opened Public Hearing

Closed Public Hearing

A request made by the applicant via email to table the item until the next meeting is read onto the record.

There is discussion amongst Board members and staff, regarding the size and location of the monument sign.

Tabled 5-0

Motion by Mr. Rogers, seconded by Mr. Haynie to adjourn the meeting.

Meeting adjourned

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

Luke Aitken

BOARD OF ADJUSTMENT STAFF REPORT



Benton County Courthouse

215 E Central Ave

BOA Date: 2/9/2022

Reviewer: Luke Aitken, Planning Tech

Project Number	VAR22-0001
Applicant / Current Owner	Best Sign Group
Site Area	+/- .62 acres
Current Zoning	DC, Downtown Core
Variance Request	Zoning Code Article 801.15(a)

Property Description

This property is located at 215 E Central Ave. It is currently zoned DC, Downtown Core.

Regulation

According to Zoning Code Article 801.15, Signs Allowed with a Sign Permit, Freestanding monument type signs are not allowed in Downtown Zoning Districts and signs 32 square feet or smaller must be setback a minimum of five feet from all property lines.

Variance Request

The applicant requests a variance to permit a monument sign to be built in front of the Benton County Courthouse. This sign would be located along E Central Ave, near the intersection of NE A St and E Central Ave.

Background

According to the applicant's narrative, they wish to construct a 4.5' tall, 43.80 square foot monument sign on the Southeast portion of the property, located at the newly remodeled entrance for the Benton County Judicial Center. The applicant states this sign will serve as wayfinding to the main entrance to the building where security checks will occur. The applicant's narrative states this sign location has the best proximity to available parking and easy access to the new cross walk designed to provide safety to pedestrians.

The applicant also claims that current landscaping, both mature and newly planned, will obscure the available wall space and visibility of any signage from the street as they grow. The applicant states the proposed sign location will direct traffic patterns away from the A St entrance and identify the Central St entrance as the main entrance. Additionally, the proposed sign would be designed to provide a similar look and feel to the buildings aesthetics and maintain consistency in design.

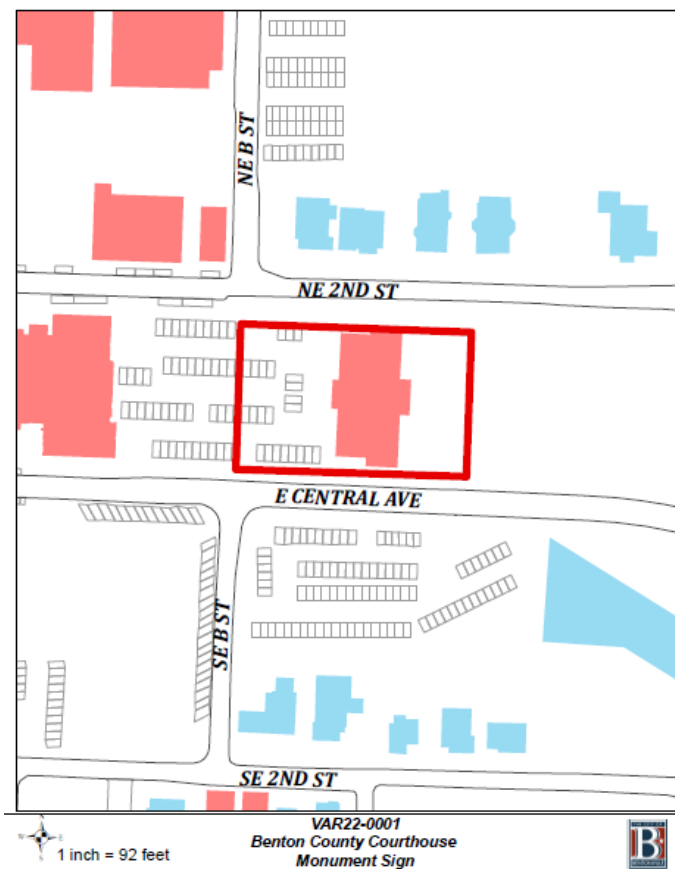
Public Comment

Staff has **NOT** received public comment regarding this request at the time of writing this staff report.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout, as provided by the applicant and approved by the Board of Adjustment.
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.

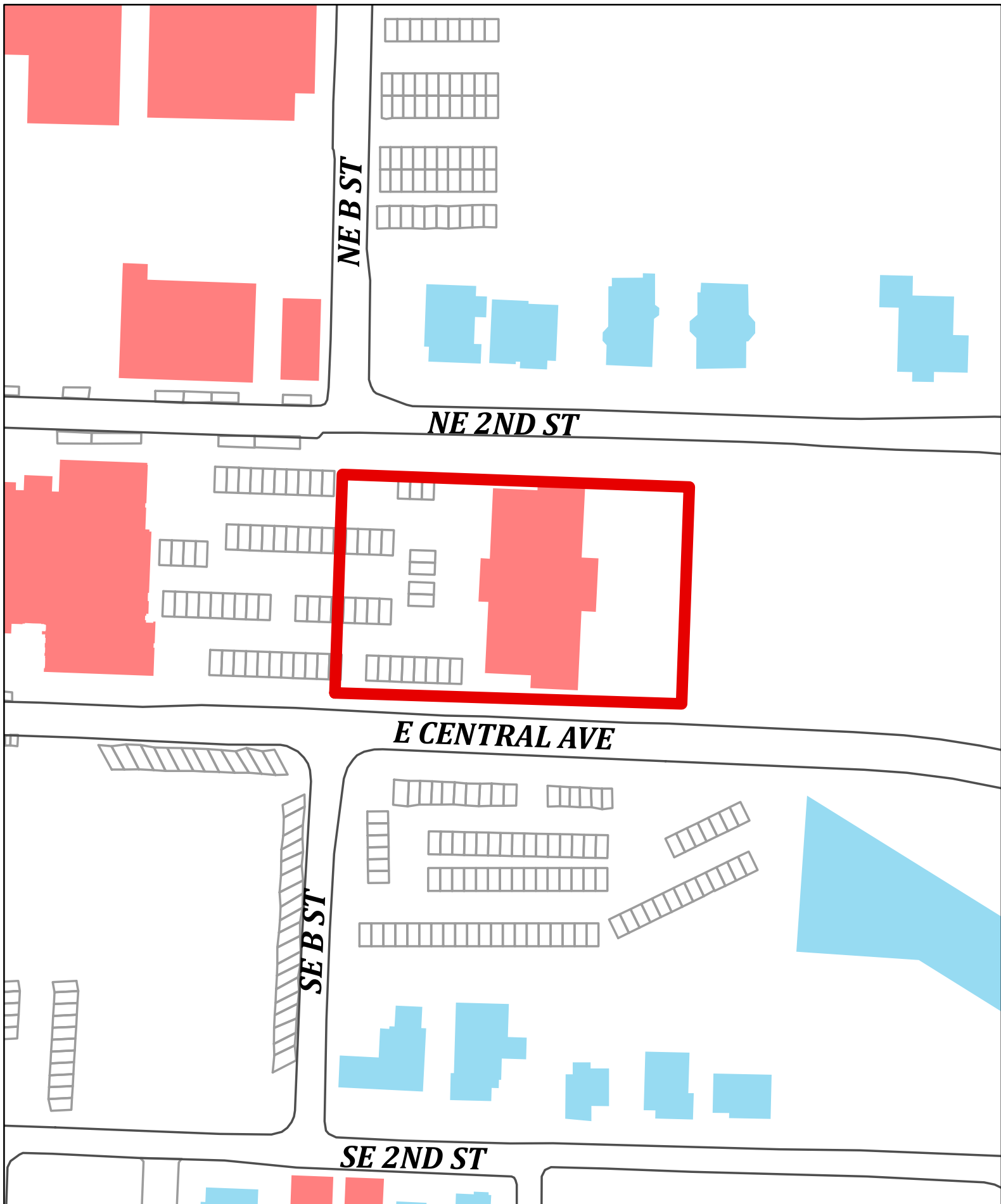
(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(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.

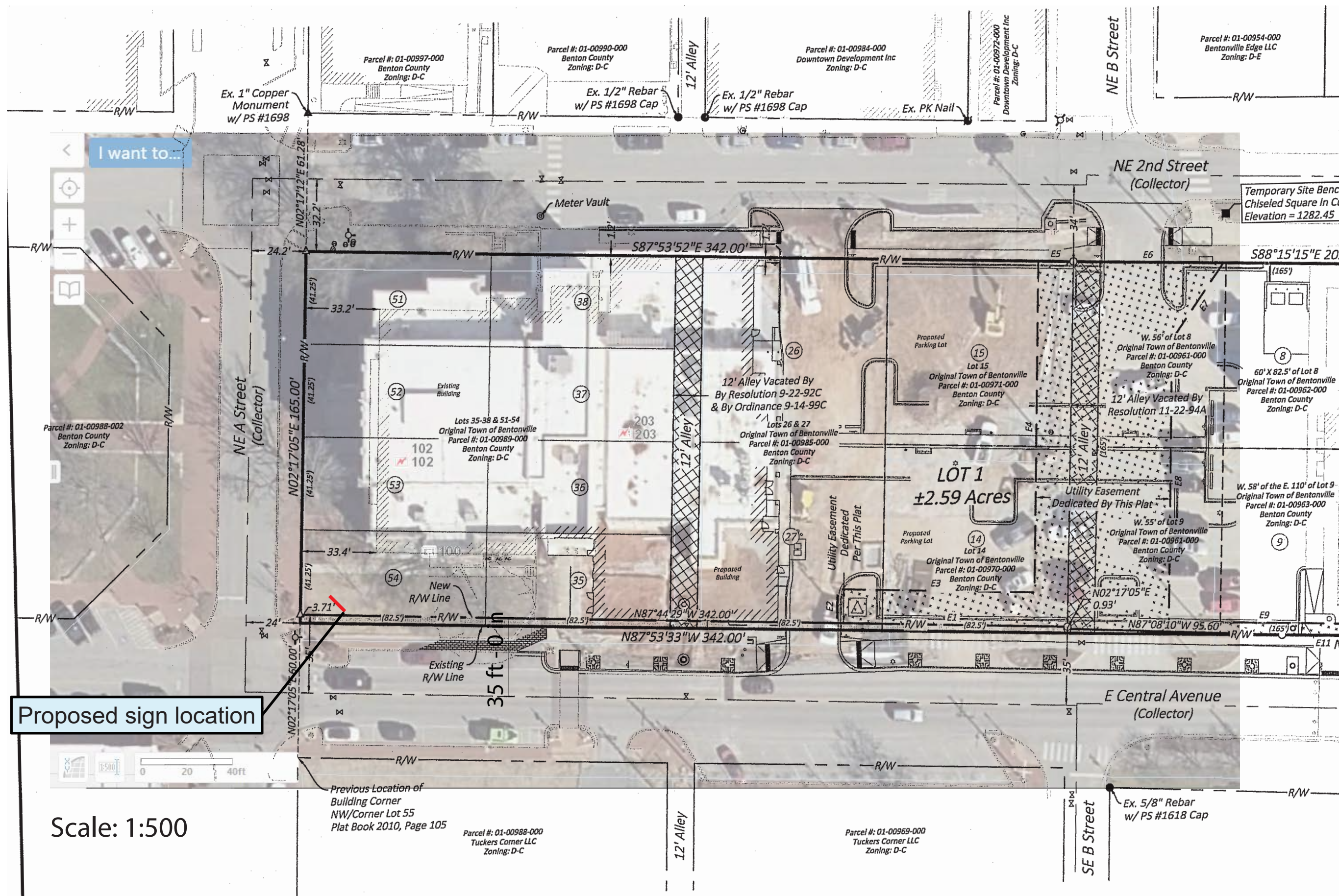
(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.



1 inch = 92 feet

VAR22-0001
Benton County Courthouse
Monument Sign





Scale: 1:500

Property Owner Consent Form

City of Bentonville Planning Department

305 SW A Street

Bentonville, AR 72712

479-271-3122

I, Bryan Beeson am the legal owner of the
(Owner's name, printed)

property located at 215 E Central, identified as Parcel
(Address or Street Name)

Identification Number 01-00950-000, located in
(Parcel ID)

Benton County, Arkansas.

I certify that I am the owner of the property above and that I have read the application and consent to its filing.

Bryan Beeson 12/28/21
(Property Owner Signature) *(Date)*

****If one property has multiple owners, a separate signed Property Owner Consent Form is required for each owner.**

Filed 27th day of June 1837. Recorded 1st day of August 1837.

Jno. B. Dickson Clerk and Exofficio
Recorder.

.....

Know all men by these presents that we Gideon G. Pace, Samuel Burks, Philip Duneho, Samuel P. Woods and William H. Woods are held and firmly bound unto James S. Conway Governor of the State of Arkansas & his successors in office in the Sum of Five thousand Dollars of good and lawful money of the United States the payment of which well and truly to be made we bind ourselves our Heirs Executors & Administrators jointly & severly by these presents sealed with our seals & dated this 10th day of March A. D. 1837.

The condition of the above obligation is such that whereas the above Gideon G. Pace has been duly elected & commissioned Sheriff of the County of Benton. Now if the said Gideon G. Pace shall well & truly execute all precepts which shall come to his hands & make due return of the same & shall collect & pay over to the proper persons all money by him collected and shall assess & collect all Tax & pay over the same & do & perform all other things required of him by Law to do as Sheriff of said County then the above obligation to be void & of no effect otherwise to remain in full force & virtue. the date above written.

Filed 10th March 1837

Gideon G. Pace (L.S.)
Samuel Burks (L.S.)
Philip Duneho (L.S.)
Sam'l P. Woods (L.S.)
Wm. H. Woods (L.S.)

Recorded the 1st day of August A. D. 1837

Jno. B. Dickson

Clerk & Exofficio Recorder.

.....

We the undersigned Commissioners Elected under an act of the General Assembly of the State of Arkansas. After haveing been duly qualified and giving the notice required by Law and haveing duly examined the various Situations donations & conveniences, beg leave to report that they have selected a site (to wit) The south half of the south east quar of section thirty in Township No. twenty Range thirty West of the 5th principal maredian as presenting to your commissioners duly considering its situation the donations offered and its Ellegibility for a county seat more advantages & conveniences than any other situation which was presented for the consideration of your commissioners they have after selecting the same in accordance with the powers vested in them as commissioners proceeded to lay off a Town thereon haveing a square and makeing 136 lots and have named & called said

Town Bentonville all of which is respectfully submitted to the Court.
Filed the 7th Nov. A. D. 1837

Robert Cowe
Robert Wear
Thomas Swag

A. D. 1837

Robert Cowen
Robert Weaver
Thomas Swaggerty

Recorded the 16th day of December A. D. 1837
Jno. B. Dickson

Clerk & Exofficio Recorder.

Recorded
 We Samuel Whitehead and Martha Whitehead his wife have this day bargained and sold
 & do hereby transfer & convey to Singleton Lankston & his heirs for the consider-
 ation of two hundred Dollars to us in hand paid A tract of Land in the State of
 Arkansas County of Benton containing Eighty acres be the same more or less Bounded
 as follows (to wit) (the east half of the North east quarter of Section No. thirty-
 one in Township No. Twenty North of Range No. thirty West, to have & to hold the same
 to the said Singleton Lankston his Heirs & assigns forever, we do covenant to the
 said Singleton Lankston that we are lawfully seized of Said Land have a good right
 to convey it & that the same is unincumbered. We do further covenant & bind our-
 selves our Heirs & Representatives to warrant & forever defend the title to the said
 Land & every part thereof to the said Singleton Langston his Heirs & assigns against
 the lawful claim of all persons whatever in testimony whereof we have hereunto set
 our hands & affixed our Seals this 27th day of February One thousand eight hundred
 & thirty eight.

Signed sealed & delivered
in the presence of us

His
Samuel X Whitehead
mark

(L.S.)

Attest: Gideon G. Pace

Martha Whitehead

(L. S)

Joseph Dickson

State of Arkansas

County of Benton

SS

Be it remembered that on the 12th day of May one thousand eight hundred & thirty eight before me Jno. B. Dickson Clerk of the Circuit Court of Benton County Samuel Whitehead & his wife Martha Whitehead severly acknowledged the foregoing Indenture to be their act & deed & the lands & premises therein mentioned their Heirs Executors & assigns forever. She the said Martha haveing been by me first made acquainted with the contents thereof & by me particularly examined seperate & apart from her said Husband whether she executed the same Voluntarily & without compulsion or undue influence of her said Husband acknowledged that she assigned the same



December 28, 2021

Attn: Board of Adjustment Members,

Best Sign Group was contracted by Benton County to manufacture and install their signage located at 215 E Central. The area where we are requesting the sign be located is at the newly remodeled entrance for the Judicial Center.

This will serve as the main entrance to the building for security check as well it has the best proximity to available parking and easy access to the new cross walk designed to provide safety to pedestrians.

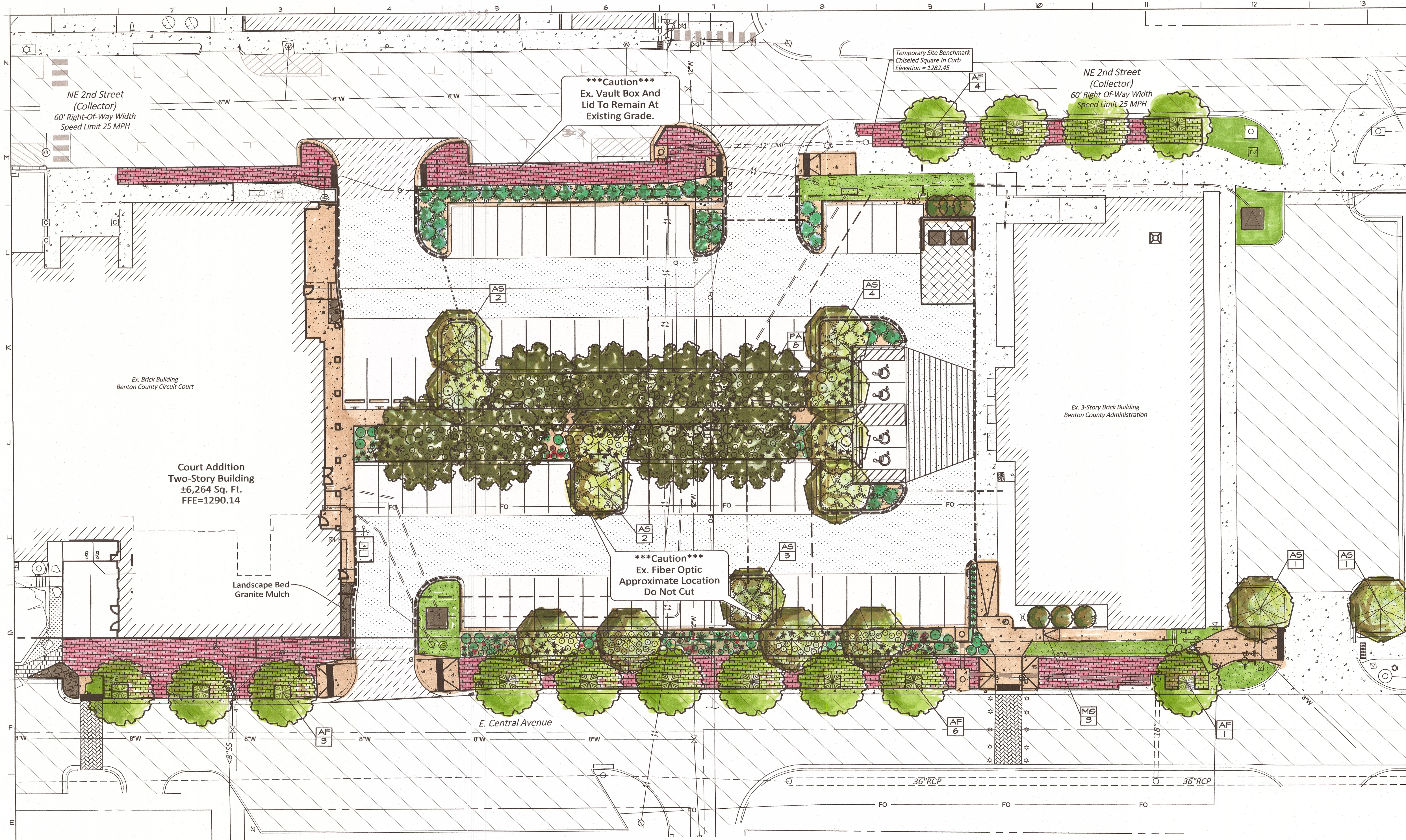
Another concern is the current landscaping both mature and newly planned will obscure the available wall space and visibility of any signage from the street particularly as they grow.

The client's goal is to direct traffic patterns away from the A St entrance and identify the Central St entrance as the main entrance. Additionally, the proposed sign would be designed to provide a similar look and feel to the buildings aesthetics and maintain consistency.

The property Landlord / Owner has given permission to install this sign on the grassy knoll at the SW corner of the entrance. Providing that it does not exceed the maximum square footage allowed by the City.

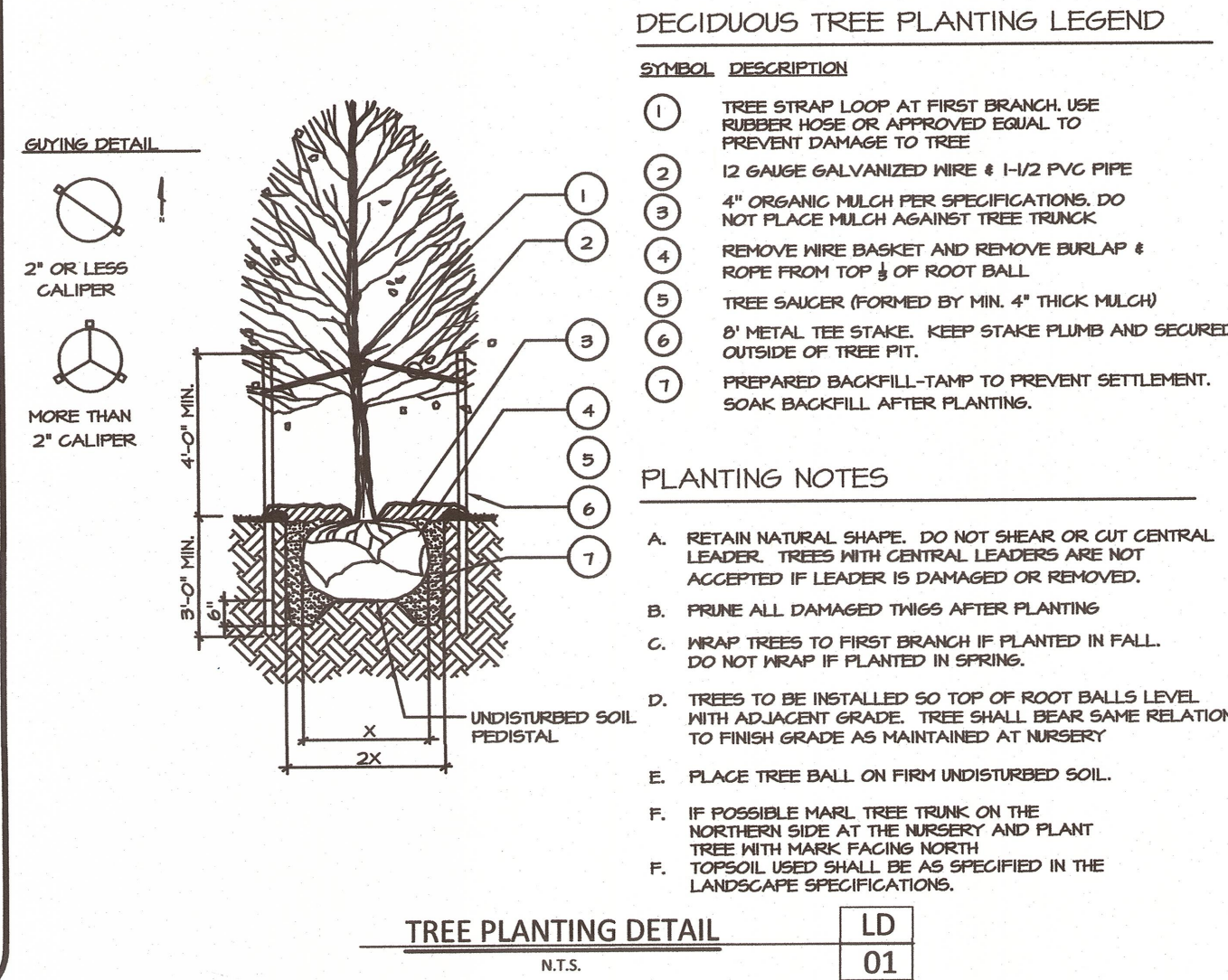
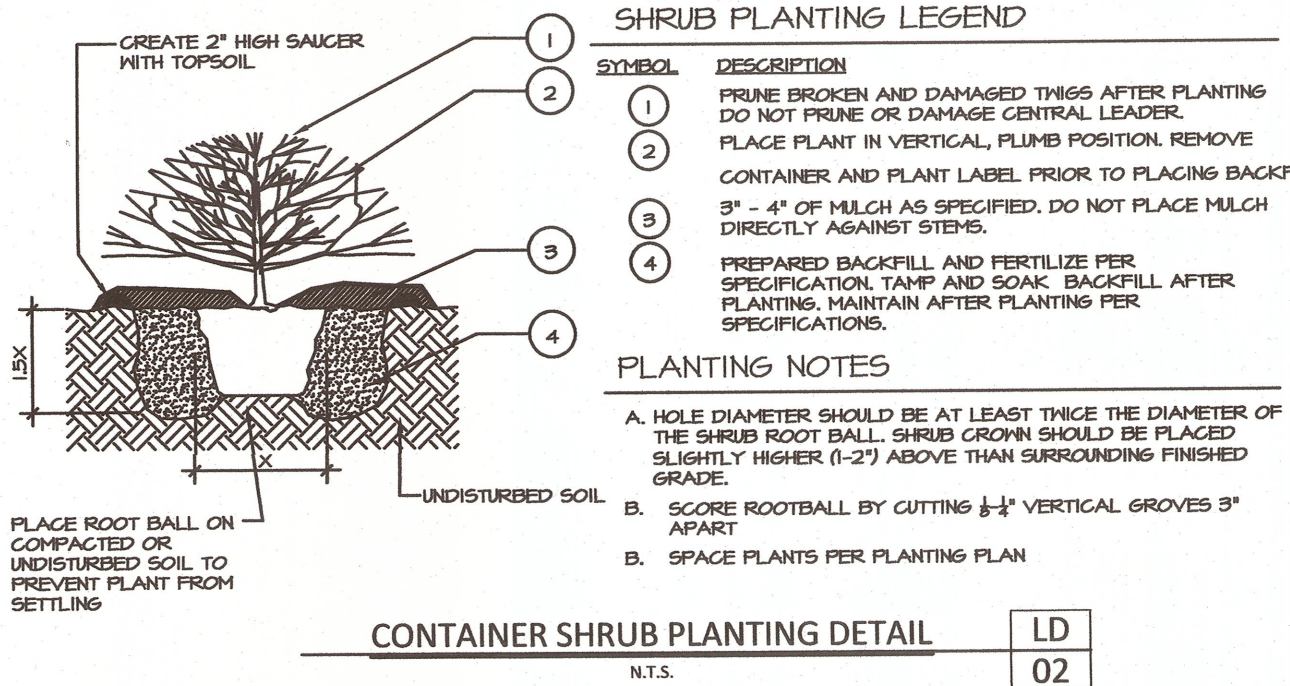
Considering it is a public facility and proper entrance identification is critical for the public we respectfully request that the Board grant permission to Benton County to install there sign as requested.

Sincerely Submitted... Best Sign Group

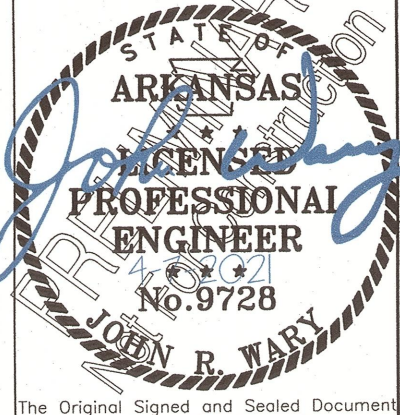
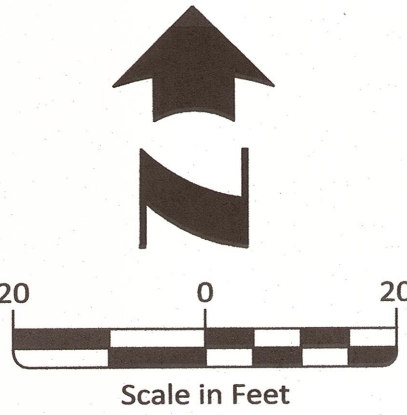


- Landscape Plan General Notes:**
- The Contractor Shall Furnish All Labor, Materials, Tools, Equipment, And Related Items Required For The Complete Installation Of Landscape.
 - All Plant Material Shall Be Nursery Grown. Plant Material Sizes And Grading Shall Comply With The Latest Edition Of American Standards For Nursery Stock, Published By The American Nursery And Landscape Association.
 - All Plant Material Shall Be Healthy And Free From All Visible Signs Of Disease Or Pest Infestation.
 - Contractor Shall Ascertain Location Of All Utilities Prior To Excavation. Prior To Commencing With Any Work, Contact The State One-call.
 - No Changes To Approved Plant Schedule (If Any) Will Be Allowed Without The Approval Of The City Of Bentonville And The Owner's Representative.
 - The Contractor Shall Provide A Two Year Minimum Warranty For All Proposed Plant Materials And Installation From The Date Of Acceptance, Or As Required By The City Of Bentonville.
 - The Contractor Shall Spoil Any Excess Topsoil Located On The Site That Is Not Required To Perform Landscape Operations. If Sufficient Topsoil Is Not Present On Site, The Contractor Shall Import Topsoil To The Site In Order To Complete The Landscape Operations.
 - In All Planting Beds, Sod Shall Be Removed Entirely And Soil Shall Be Amended With 12 Inches Of Topsoil And A Minimum Of 6 Inches Of Compost Tilled Into The Beds.
 - Hardwood Mulch And Weed Barrier Fabric, Shall Be Applied To All Planting Beds Shown On This Plan.
 - All Trees Shall Be Installed, Mulched, Guyed, And Staked Per The Details. All Shrubs Shall Be Mulched Per The Details.
 - Irrigation System Shall Be Designed By Others. Irrigation System Shall Be Underground Sprinkler System Or Drip Irrigation System. The System Shall Be Protected By An RP Type Backflow Preventor. Backflow Prevention Assemblies Installed Outdoor Shall Be Protected By An Enclosure Which Complies With The Standards And Specifications Set Forth By The American Society Of Sanitary Engineering (ASSE) Code 1060.
 - New Irrigation System Shall Connect To Existing Irrigation System And Controllers At Administration Building. Irrigation Contractor Shall Verify Existing System Will Support New System. Coordinate Existing System Connection Location With Owner.
 - Proposed Trees Shall Be Placed A Minimum Distance Of 10' From Fire Hydrants, 20' From Overhead Utility Lines, And 5' From Any Public Underground Utility.
 - Contractor Shall Replace All Dead, Diseased, And Damaged Trees On Site. Coordinate with the Landscape Architect.
 - Once Installed, Landscaping Shall Be Maintained In Healthy Living Condition And All Plant Material That Dies Shall Be Replaced. (Sec. 1400.5C-10)
 - Trees Shall Not Be Topped At Any Time And Proper Tree Pruning Techniques As Established By The Latest Addition Of ANSI A300 'Standards For Tree Care' Shall Be Utilized For Maintenance purposes. (Sec. 1400.5. C-11)
 - Healthy Trees Shall Not Be Removed At Any Time And Proper Tree Pruning Techniques As Established By The Latest Addition Of ANSI A300 'Standards For Tree Care' Shall Be Utilized For Maintenance purposes. (Sec. 1400.5. C-12)
 - Living Materials, Such As Lawn, Grass Or Herbaceous Groundcovers Like Juniper Or Liriope, Etc., Shall Cover A Minimum Of Eighty Percent (80%) Of The Planting Islands. One Hundred Percent (100%) Of Living Material Is Strongly Encouraged. (Sec. 1400.6.A-8 & 1400.8.G-7)
 - Where potential Utility Conflicts With Landscaping, Utility Locations Shall Be Field Verified.
 - All Trees Planted In The Right-Of-Way Shall Be 4" Caliper And The Lowest Limb Shall Be 60" Or Higher From Final Grade At Time Of Planting.
 - Trees Must Be Planted A Minimum Of 5' From All Public Utilities.

PLANT SCHEDULE					
Key	COMMON NAME	Botanical Name	Size	Spacing	Quantity
PA	LITTLE GEM MAGNOLIA	Magnolia grandiflora 'Little Gem'	8' B&B	As Shown	6
PA	LONDON PLANETREE	Platanus x hispanica	2-1/2" Cal. B&B	As Shown	8
AF	AUTUMN BLAZE MAPLE	Acer x freemanii	2-1/2" Cal. B&B	As Shown	14
AS	SUGAR MAPLE	Acer saccharum	2-1/2" Cal. B&B	As Shown	15



LEGEND			
Ex. Boundary Line	Ex. Water Meter	Proposed Type "A" Curb & Gutter	Proposed Sewer Manhole
Ex. Adjacent Boundary Line	Ex. Fire Hydrant	Proposed Fire Lane Striping on Curb	Proposed Clean-Out
Ex. Right of Way Line	Ex. Water Valve	Proposed Concrete Sidewalk	Proposed Double Clean-Out
Ex. Road Centerline	Ex. Irrigation Control Valve	Proposed Handicap Ramp, Type "A" W/ Truncated Domes	Proposed Curb Inlet
Ex. Handrail	Ex. Fire Department Connection	Proposed Handicap Ramp, Type "B" W/ Truncated Domes	Proposed Sign
Ex. Asphalt	Ex. Sewer Manhole	Proposed Light Duty Asphalt	Assessable Handicap Parking
Ex. Concrete	Ex. Sewer Clean-Out	Proposed Concrete	Proposed Bollard
Ex. Brick Paving	Ex. Gas Meter	Proposed Medium Duty Asphalt	Proposed Relocated Light Pole
Ex. Landscaping	Ex. Telephone Pedestal	Proposed Concrete Drive Apron Per City Of Bentonville Design Standards	Proposed Tree Grate
Ex. Landscaping Gravel	Ex. Fiber Optic Pedestal	Proposed Heavy Duty Concrete Dumpster Pad	Proposed Patio Bench (Victor Stanley, Inc. Classic Series CR-138 6' Bench Black - Or Approved Equal)
Ex. Water Line	Ex. Electric Vault	Proposed 1" Service Line	Proposed Building
Ex. Water Service Line	Ex. Power Pole w/ Guy Wire	Proposed 6" Conduit	Proposed Major Contour
Ex. Sanitary Sewer Line	Ex. Light Pole	Proposed 4" Irrigation Sleeve	Proposed Minor Contour
Ex. Sanitary Sewer Service Line	Ex. Sign	Proposed Gas Line	
Ex. Gas Line	Ex. Traffic Signal Box	Proposed Underground Electric Line	
Ex. Fiber Optic Line	Ex. Air Conditioner	Proposed Storm Drain Pipe	
Ex. Overhead Electric Line	Ex. Tree	Proposed Roof Drain Pipe	
Ex. Storm Drain Pipe	Ex. Building		
Ex. French Drain			
Ex. Contours			



Hight Jackson
ASSOCIATES
5201 W Village Parkway, Suite 3001 Rogers, Arkansas 72758 | (479) 464-4965 | www.hjarch.com

AN ADDITION AND RENOVATION FOR
BENTON COUNTY COURTS
Bentonville, AR

LANDSCAPE PLAN
LSD20-0055



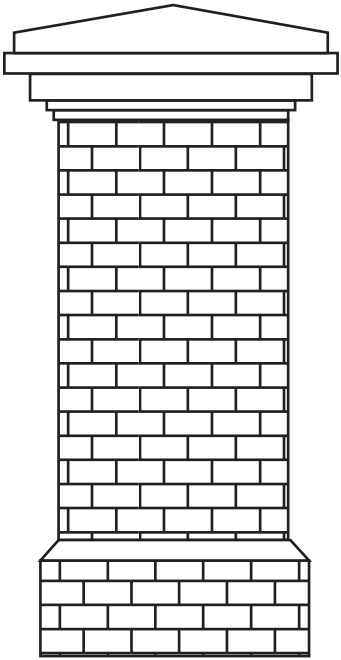
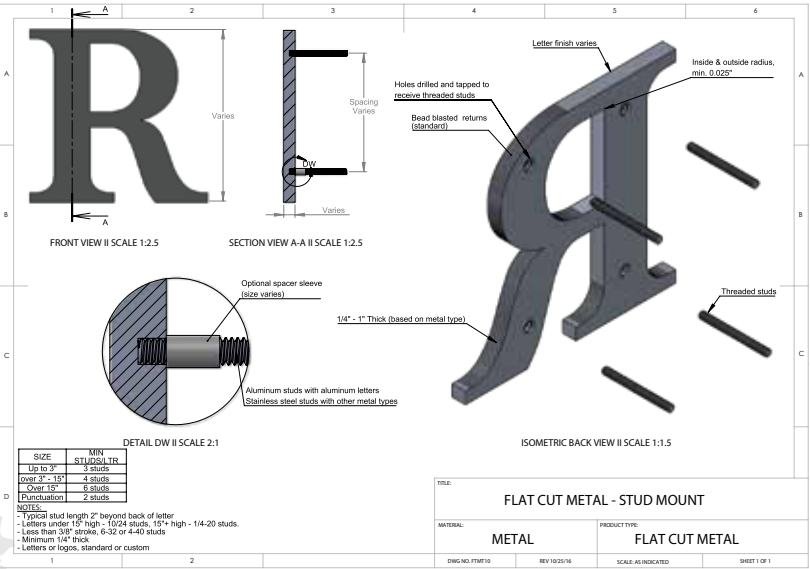
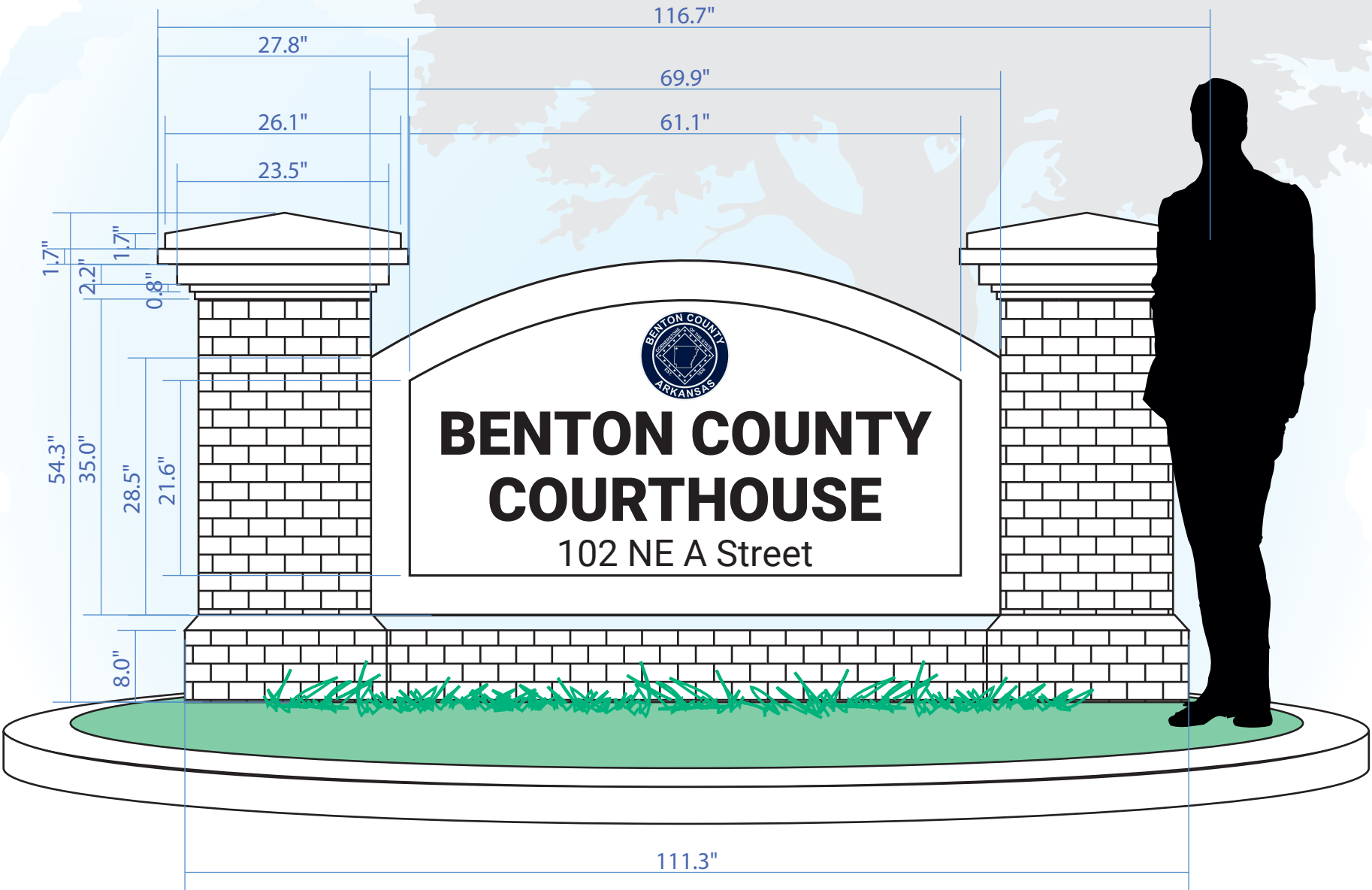
2407 SE COTTONWOOD STREET • BENTONVILLE, AR 72712 • 479.273.2209 • MORRISONSHIPLEY.COM

SHEET
C7.0

COPYRIGHT 2020
THESE DRAWINGS AND SPECIFICATIONS ARE
THE EXCLUSIVE PROPERTY OF
MORRISON SHIPLEY ASSOCIATES
USE OR REPRODUCTION IS PROHIBITED
WITHOUT WRITTEN CONSENT

A

MONUMENT SIGN
Flat cut metal letters, stud mount
Color: TBD
Qty: 2 sets



SIDE VIEW

**BEST
SIGN
GROUP** Get Noticed.

CLIENT

BEST SIGN GROUP

LOCATION

2860 W WALNUT
ROGERS AR
72756

DATE

00/00/00

REP

JSW

ART

JSW

REVISIONS

8/18 - n/a

All drawings presented here are exclusive property of Best Sign Group. This artwork is a representation of sign(s) to be considered for manufacturing by Best Sign Group, and no other sign manufacturer, unless otherwise noted and agreed to. Drawings contained herein are not to be exhibited to others, outside of included parties and employees.

customer is responsible for contracting work
for the custom brick/concrete monument structure (optional)

Scale: 3/4"=1'

BOARD OF ADJUSTMENT STAFF REPORT



Vaughn Elementary

5301 SW Barron Road

BOA Date: 2/9/2022

Reviewer: Luke Aitken, Planning Tech

Project Number	VAR22-0002
Applicant / Current Owner	Janet Schwanhausser – Bentonville Schools
Site Area	+/- 30 acres
Current Zoning	A-1, Agricultural
Variance Request	<i>Zoning Code Article 801, Section 801.15, Signs Allowed with a Sign Permit, section a, Height and Area Regulations</i>

Property Description

This property is located at 5301 SW Barron Road. It is currently zoned A-1, Agricultural.

Regulation

According to Zoning Code Article 801, Section 801.15, Signs Allowed with a Sign Permit, section a, Height and Area Regulations, the maximum sign area for free standing signs in areas zoned A-1, shall be 32 square feet.

Variance Request

The applicant is requesting a variance of 35 square feet, from the allowed sign size, of 32 square feet, to accommodate a larger monument sign near the entry way to their school. The applicant states that this increase in size would help to maintain consistency with other school signage located within the Bentonville School District. According to the applicant's narrative, the most recent schools built within Bentonville city limits were Osage Creek Elementary and Creekside Middle School. Both schools were approved to construct 67 square foot monument signs, similar in design to the proposed sign for Vaughn Elementary.

Background

According to the applicant's narrative, they wish to install a 67 square foot monument sign near the West entrance of the school. The applicant states that if they construct a 32 square foot monument sign, as is currently allowed, their sign design would not be consistent with that of other schools in the district.

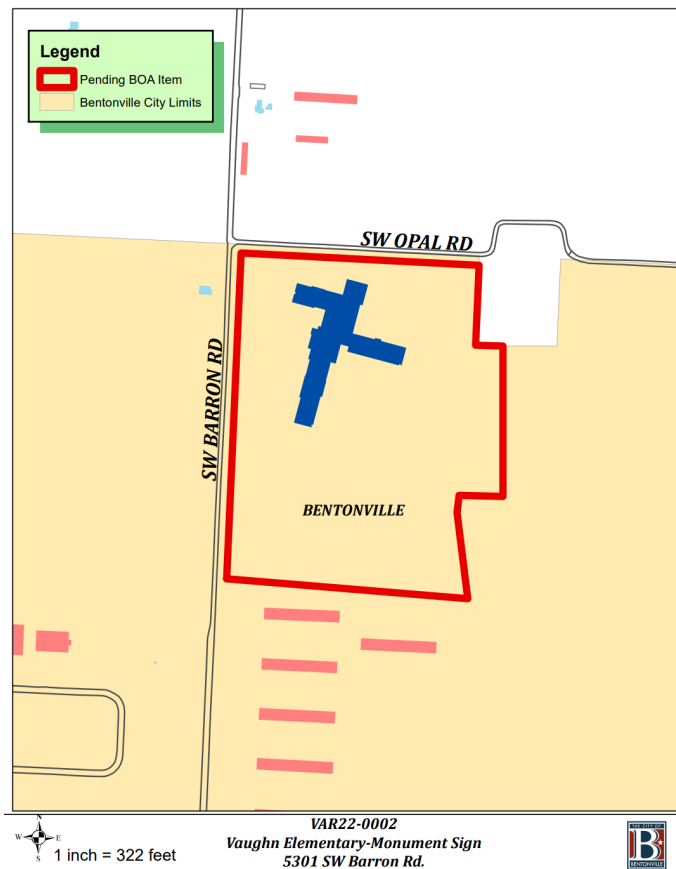
Public Comment

Staff has **NOT** received public comment regarding this request at the time of writing this staff report.

Conditions of Approval

If approved, the following conditions shall apply:

1. The approved variance shall be for the proposed layout, as provided by the applicant and approved by the Board of Adjustment.
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.

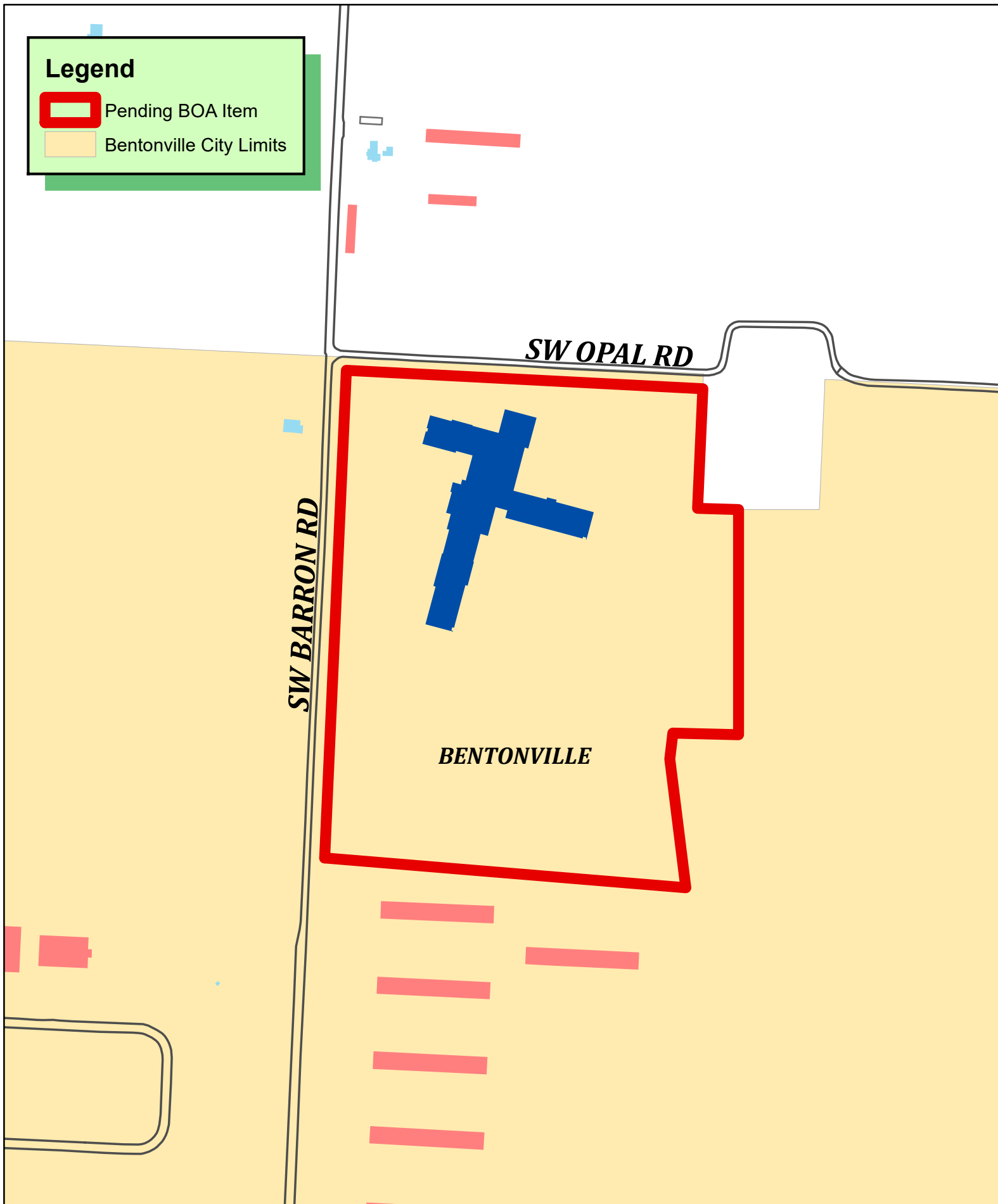
Legend



Pending BOA Item



Bentonville City Limits



1 inch = 322 feet

VAR22-0002

***Vaughn Elementary-Monument Sign
5301 SW Barron Rd.***



Property Owner Consent Form

City of Bentonville Planning Department

305 SW A Street

Bentonville, AR 72712

479-271-3122

I, Janet Schwanhausser, Bentonville Schools am the legal owner of the
(Owner's name, printed)

property located at 5301 SW Barron Road, identified as Parcel
(Address or Street Name)

Identification Number 01-18080-000, located in
(Parcel ID)

Benton County, Arkansas.

I certify that I am the owner of the property above and that I have read the application and consent to its filing.

Janet Schwanhausser
(Property Owner Signature)

01-21-2022
(Date)

****If one property has multiple owners, a separate signed Property Owner Consent Form is required for each owner.**

THIS INSTRUMENT PREPARED BY AND
AFTER RECORDING TO BE RETURNED TO:

Katie M. Papasan, Attorney
Papasan Law Firm, PLLC
1450 E. Zion Road, Suite 7
Fayetteville, AR 72703
(479) 935-4177

SPECIAL WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS:

That **HIGHLAND, LLC**, an Arkansas limited liability company ("**Grantor**"), in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration in hand paid by **BENTONVILLE SCHOOL DISTRICT NO. 6 OF BENTON COUNTY, ARKANSAS** a public school district established and existing under the Constitution and laws of the State of Arkansas ("**Grantee**"), and other good and valuable consideration to Grantor duly paid, the receipt whereof is hereby acknowledged, does hereby grant, sell, bargain, and convey unto Grantee, and to Grantee's successors and assigns forever, all Grantor's interest in, under and to, the following described real estate, situated in the County of Benton, State of Arkansas, to-wit (collectively, "**Property**"):

See **Exhibit A** attached

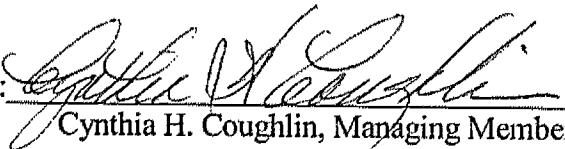
TO HAVE AND TO HOLD the same unto the said Grantee, and unto Grantee's successors and assigns forever, with all hereditaments and appurtenances thereunto belonging; *provided, however,* the Property is conveyed by Grantor subject to all easements and encumbrances affecting the Property filed in the real estate records of Benton County, Arkansas as shown on **Exhibit B** attached (the "**Permitted Encumbrances**").

Grantor hereby covenants with Grantee that it will forever warrant and defend the title to the Property against all lawful claims whatsoever arising by, through or under Grantee, but none other, subject to the Permitted Encumbrances.

IN WITNESS WHEREOF, the said Grantor has hereunto set her hand the day and year above written.

GRANTOR:

HIGHLAND, LLC, an Arkansas limited liability company

By: 
Cynthia H. Coughlin, Managing Member

STATE OF ARKANSAS)
) ss: **ACKNOWLEDGMENT**
 COUNTY OF BENTON)

On this day personally appeared before the undersigned, a Notary Public within and for the County and State aforesaid, duly qualified, commissioned and acting, the within named **CYNTHIA H. COUGHLIN**, to me personally well known, who stated that she is the duly authorized Managing Member of **HIGHLAND, LLC**, an Arkansas limited liability company, and that she had so signed, executed and delivered said foregoing instrument on behalf of said company for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 28th day of June, 2017.

My Commission Expires:

2/15/24


 Notary Public

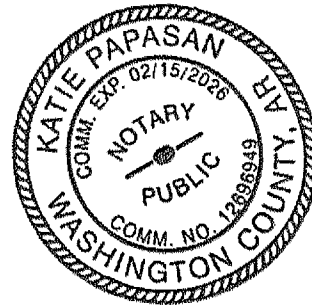


Exhibit A**LEGAL DESCRIPTION**

Part of the W1/2 of the SW1/4 of Section 16, Township 19 North, Range 31 West, Benton County, Arkansas being more particularly described as follows: Commencing at an existing iron pin marking the Northwest Corner of the NW1/4 of the SW1/4, thence along the North line of said Forty, S87°08'12"E 992.57 feet, thence leaving said North line, S02°28'59"W 36.87 feet to a set rebar with cap in a fence and the Point of Beginning, thence along said fence line the following bearings and distances: continuing S02°28'59"W 317.20 feet to a fence corner, S88°28'18"E 108.54 feet to a set rebar with cap, thence leaving said fence line, South 597.40 feet to a set rebar with cap, thence N88°28'18"W 174.44 feet to a set rebar with cap, thence S06°18'38"W 69.64 feet to a set rebar with cap, thence S07°03'42"E 343.35 feet to a set rebar with cap, thence N85°17'14"W 965.07 feet to a set rebar with cap, thence N02°33'31"E 451.24 feet to a set rebar with cap, thence N03°02'30"E 369.99 feet to a set rebar with cap, thence N02°10'49"E 472.64 feet to a set rebar with cap, thence S86°55'55"E 622.85 feet to a set rebar with cap, thence S87°11'56"E 327.54 feet to the Point of Beginning containing 30.00 acres, more or less, and subject to any Easements of Record. Also being known as Lot 1, Opal Subdivision, Bentonville, Arkansas, as shown on the Plat filed for record in Plat Book 2017 at Page 462, Records of Benton County, Arkansas.

Also subject to and having rights to a 20.00 foot Public Utility Easement, as shown on Plat filed for record in Plat Book 2017 at Page 462, Records of Benton County, Arkansas, and being more particularly described as follows: Beginning at set rebar with cap marking the Northwest corner of the above-described tract, thence S86°55'55"E 622.85 feet to a set rebar with cap, thence S87°11'56"E 327.54 feet to a set rebar with cap in a fence line, thence along said fence line the following bearings and distances: S02°28'59"W 317.20 feet to a fence corner, S88°28'18"E 108.54 feet, thence leaving said fence line, South 20.01 feet, thence N88°28'18"W 129.41 feet, thence N02°28'59"E 317.65 feet, thence N87°11'56"W 307.70 feet, thence N86°55'55"W 622.59 feet, thence N02°10'49"E 20.00 feet to the Point of Beginning.

Exhibit B**PERMITTED ENCUMBRANCES**

1. Taxes for the year 2017, and subsequent years which are not yet due and payable. Taxes for the year 2016 and prior years are paid.
2. Reservations, Restrictions, Easements, Dedications, Rights of Way and Setback lines as set out and/or shown on Plat filed for record in Plat Book 2003 at page 741, of the Records of Benton County, Arkansas, as setout and/or shown on ALTA/NSPS Survey dated June 12, 2017, by Ricky W. Hill, RPLS #1443, State of Arkansas, of Satterfield Land Surveyors P.A., and designated as Job No. 42,169B
3. Transmission Line Easement in favor of the Carroll Electric Cooperative Corporation, dated April 29, 1997 and filed for record June 3, 1997, as Land Document No. 97 045253, among the land records of Benton County, Arkansas, and being the same as a One Hundred (100) Foot Transmission Line Easement along the South side of the insured premises as shown on ALTA/NSPS Survey dated June 12, 2017, by Ricky W. Hill, RPLS #1443, State of Arkansas, of Satterfield Land Surveyors P.A., and designated as Job No. 42,169B.
4. Utility Easement and Right of Way Grant in favor of the City of Bentonville, Arkansas, dated August 12, 2004 and filed for record August 18, 2004, in Book 2004 at page 38322, among the land records of Benton County, Arkansas and being the same as a Twenty (20) Foot Waterline Easement along the West side of the insured premises as shown on ALTA/NSPS Survey dated June 12, 2017, by Ricky W. Hill, RPLS #1443, State of Arkansas, of Satterfield Land Surveyors P.A., and designated as Job No. 42,169B.
5. Matters as set forth on the Plat of Opal Subdivision, filed for record in Plat Book 2017 at Page _____, of the Records of Benton County, Arkansas, including but not limited to Reservations, Restrictions, Easements, Dedications, Rights of Way and Setback lines.
6. Twenty (20) Foot Public Utility Easement along the North and Northeast area of the insured premises as shown on ALTA/NSPS Survey dated June 12, 2017, by Ricky W. Hill, RPLS #1443, State of Arkansas, of Satterfield Land Surveyors P.A., and designated as Job No. 42,169B.
7. Variation of fence line and property line as shown on ALTA/NSPS Survey dated June 12, 2017, by Ricky W. Hill, RPLS #1443, State of Arkansas, of Satterfield Land Surveyors P.A., and designated as Job No. 42,169B.



STATE OF ARKANSAS
DEPARTMENT OF FINANCE AND ADMINISTRATION
MISCELLANEOUS TAX SECTION
P.O. BOX 896, LITTLE ROCK, AR 72203-0896

Affidavit of Compliance



File Number: 17-1320

Grantee: BENTONVILLE SCHOOL DISTRICT NO. 6 OF BENTON COUNTY,
Mailing Address: ARKANSAS
500 TIGER BLVD.
BENTONVILLE AR 727120000

Grantor: HIGHLAND, LLC, AN ARKANSAS LIMITED LIABILITY COMPANY
Mailing Address: P.O. BOX 129
CENTERTON AR 727190000

Property Purchase Price: \$990,000.00
Tax Amount: \$0.00
County: BENTON
Date Issued: 06/29/2017
Affidavit ID: 1658097664

The grantee/grantor claims the following exemption to the Real Estate Transfer Tax:

A transfer to or from the United States, the State of Arkansas, or any of the instrumentalities, agencies, or political subdivisions of the United States or the State of Arkansas.

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

Grantee or Agent Name (printed): City Title! Closing, LLC as Grantee's Agent
Grantee or Agent Name (signature): Christina J. W. **Date:** 6/29/17
Address: 500 Tiger Blvd.
City/State/Zip: Bentonville, AR 72712

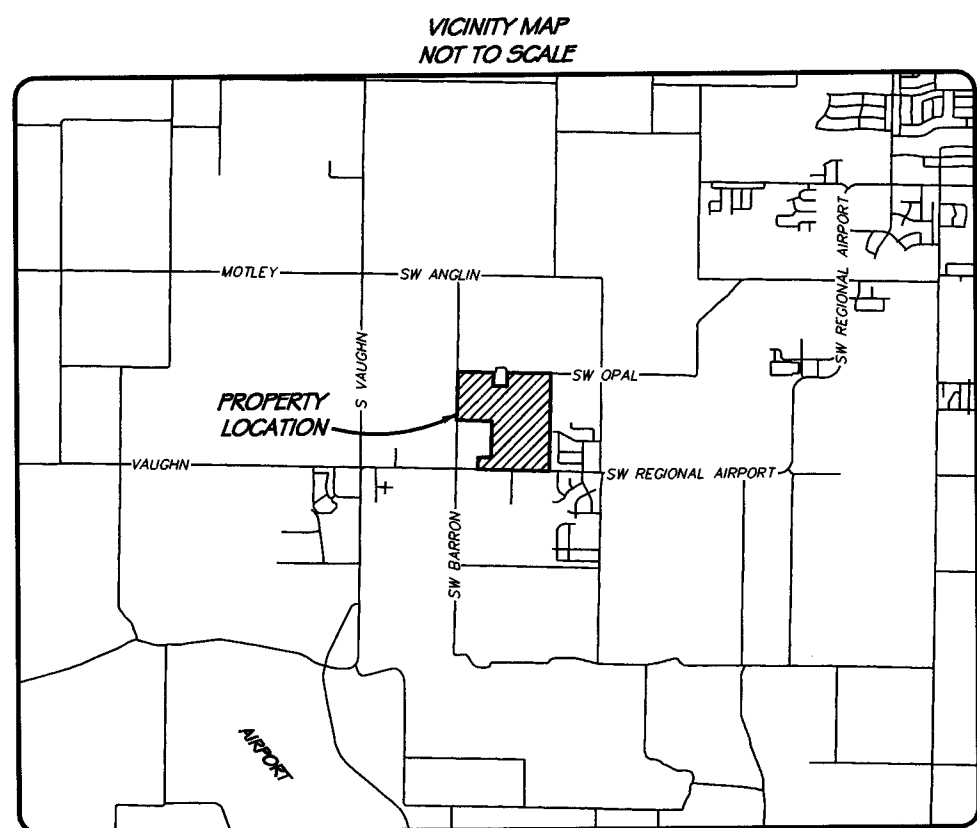
Tran: 433633
Total Fees: \$35.00

Benton County, AR
I certify that this instrument was Electronically filed
on 06/29/2017 10:16:33AM
in DEED Book 2017 Pages 39481 - 39486
Brenda DeShields-Circuit Clerk



LOT SPLIT CREATING LOTS 1 & 2 OF OPAL SUBDIVISION

BEING A LOT SPLIT OF LEE HARRIS FARMS -
TRACT 14A, BEING A PART OF THE SOUTHWEST
QUARTER AND PART OF THE SOUTHWEST
QUARTER OF THE SOUTHEAST QUARTER OF
SECTION 16, TOWNSHIP 19 NORTH, RANGE 31
WEST, BENTONVILLE, BENTON COUNTY, ARKANSAS



NO WARRANTY DEED FOR THIS LAND

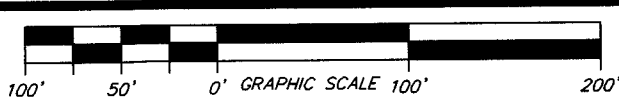
SURVEYOR'S NOTE: This property does not lie within the 100-Year Flood Zone, according to the Flood Map for Benton County, Arkansas Community Panel No. 05007C0235K Dated: June 5, 2012.

SURVEYOR'S NOTE: This survey was conducted under the supervision of Clovis W. Satterfield, No. 0147, or Ricky Hill, No. 1443, Satterfield Land Surveyors, P.A., Certificate of Authorization No. 718. Satterfield Land Surveyors, P.A., 1-(479)-632-3565 Hwy. 71 North, P.O. Box 640, Alma, AR 72921

SURVEYOR'S NOTE: All building, surface and subsurface, improvements on and adjacent to the site are not necessarily shown. The location and/or existence of utility service lines to the property surveyed are unknown and are not shown. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts which an accurate and current title search may disclose.

Satterfield Land Surveyors P.A., Copyright 2017

This plat is copyright material and is provided solely for the use of the person(s) named on this plat and may not be used or distributed to any other person(s) or company for their benefit. No license has been created, expressed or implied to copy the survey without the written consent of Satterfield Land Surveyors, P.A.. No one including the person(s) named, may reproduce this plat. Only authentic copies that appear with the surveyor's seal in red may be used. Any copies used without this red seal are considered unauthorized copies and are considered a copyright infringement. After filing with State Surveyor's office, survey becomes public record.



REFERENCE DEED

SURVEY REFERENCES

1 - ALAN REID & ASSOCIATES - #02435 - 12/15/2002

2 - ARKANSAS CONSULTANTS, INC. - #72-050 - 3/16/1972

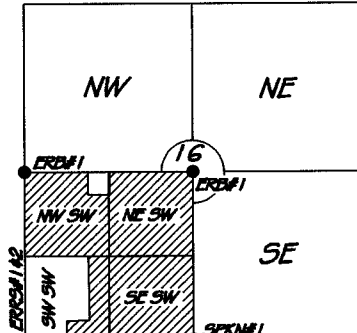
BASIS OF BEARING

ARKANSAS STATE PLANE COORDINATES GRID NORTH

REVISIONS

VICINITY MAP

T-19-N R-31-W



SURVEYOR'S DISCLAIMER AND STATEMENT OF USE

This survey was conducted by the written or verbal authorization of the person named as the buyer and/or Use by as shown on this plat. No one has the authority to use the data or legal description from this survey except those named or their agents and the survey is only certified to the date shown on this plat. This plat is protected by copyright and any person other than those named using or relying upon this plat will be held responsible. Satterfield Land Surveyors, P.A. will not be responsible or have any liability to any other person or company who uses this plat without written authorization. After filing with State Surveyor's office, survey becomes public record.

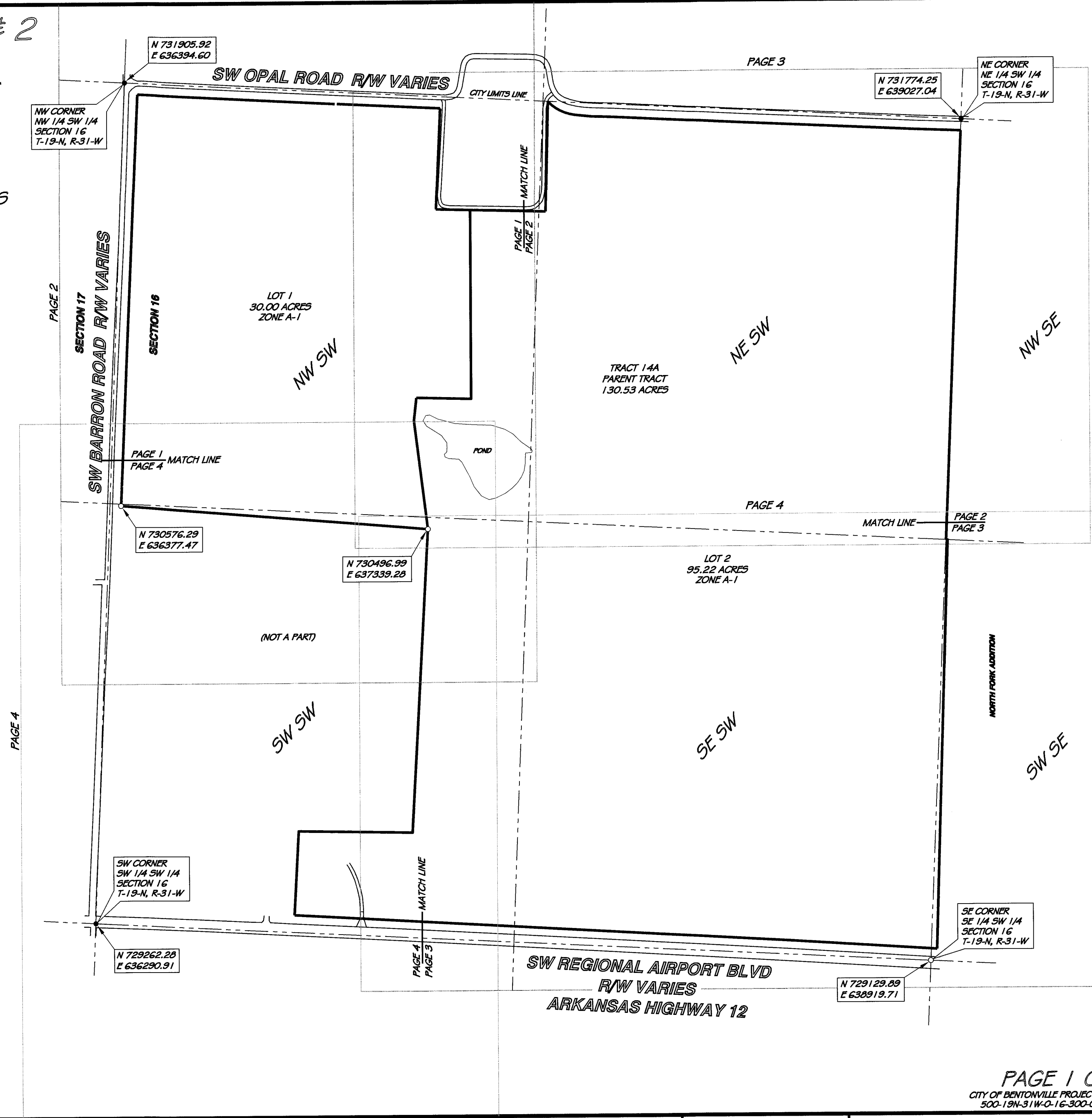
Ricky Hill
5-3-17

CONTACT: HIGHLAND LLC
P.O. BOX 129
CENTERTON, AR 72719
PHONE: (479) 640-7059

DRAWN BY: M.D.L.
SCALE: 1"=100'
DATE: 2-9-17
JOB NO. 42,169

Satterfield Land Surveyors P.A.
REG. ARK. & OKLA.
1928 HWY. 71 NORTH, ALMA, ARK. - PHONE No. (479) 632-3565
FAX (479) 632-5002 - WEBSITE: <http://www.slsurveying.com>

Brenda DeShields-Circuit Clerk
Benton County, AR
Book/Pg: 2017/462
Term/Cashier: CASH2/Laura L. Two
05/02/2017 3:00:16PM
Tran: 430103
Total Fees: \$40.00
Book 2017 Page 462
Recorded in the Above
PLAT Book & Page
05/02/2017





NARRATIVE

To Whom it May Concern:

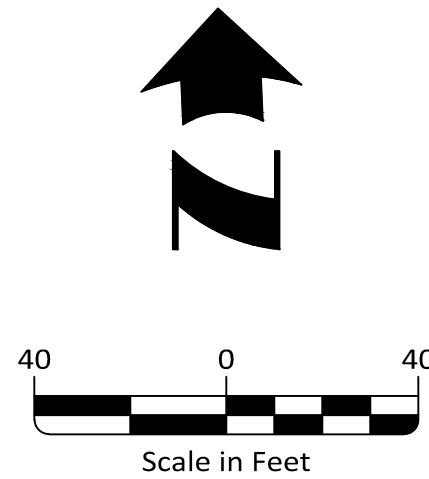
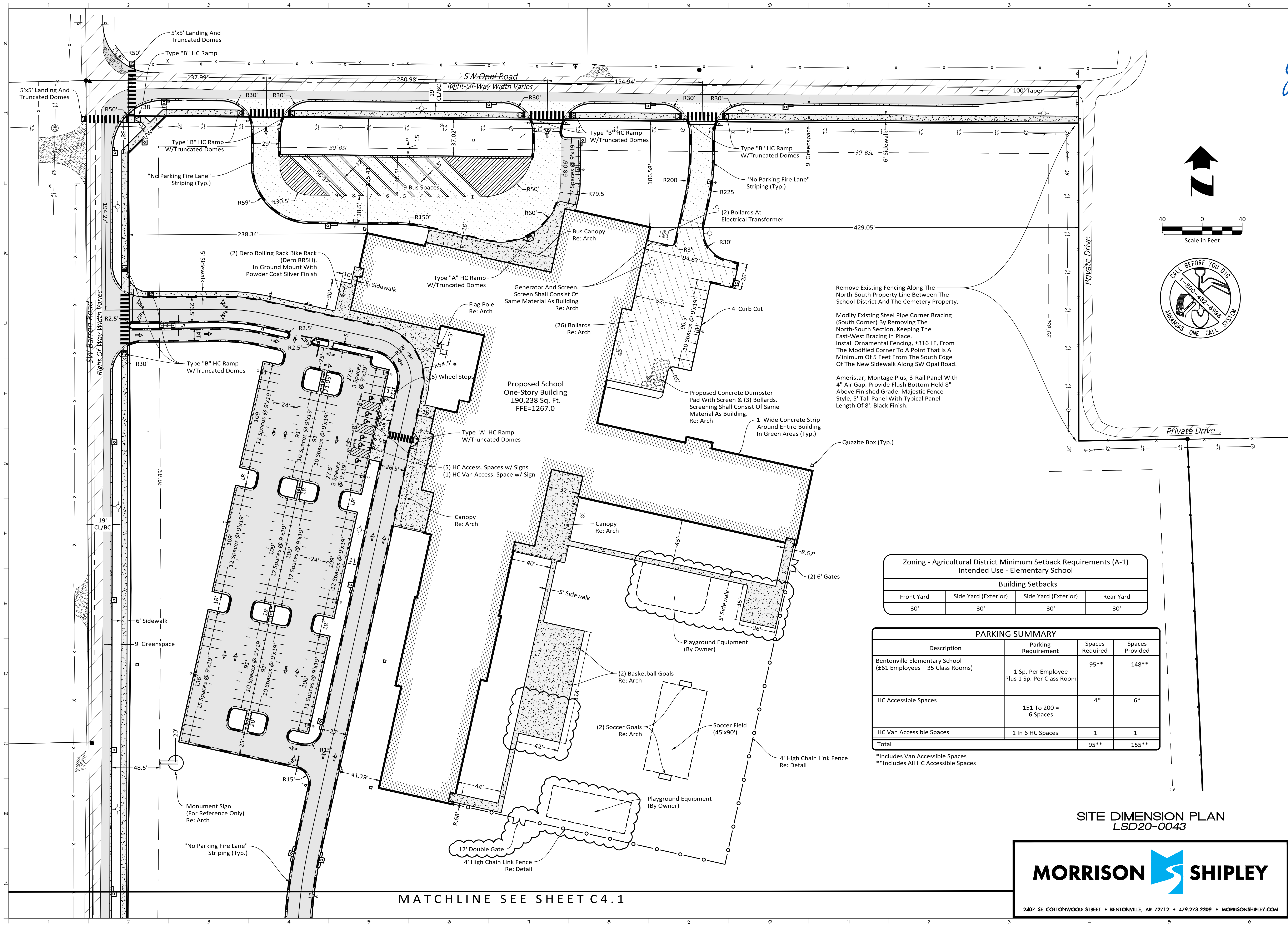
We are requesting that the size of our free-standing monument sign located at Vaughn Elementary in the Bentonville School District be increased from **32 sq. ft.** to **67 sq. ft.** Currently, this address is zoned for A1 Architectural being the reason for this sign size requirement.

We are requesting this increase to stay consistent with other school signage located within the Bentonville School District. The most recent schools built within Bentonville city limits were Osage Creek Elementary and Creekside Middle School. Both monument signs were approved to be 67 sq. ft. in size. I have attached shop drawings for the above referenced schools in addition to Vaughn Elementary for reference. Other more recent builds are Evening Star Elementary and Grimsley Junior High also having a 67 sq. ft. monument sign, although, these schools are not in the city limits of Bentonville.

We appreciate your time concerning our request for variance.

Respectfully,

Jeff Baxter
Flintco, LLC



Remove Existing Fencing Along The North-South Property Line Between The School District And The Cemetery Property.

Modify Existing Steel Pipe Corner Bracing (South Corner) By Removing The North-South Section, Keeping The East-West Bracing In Place.

Install Ornamental Fencing, ±316 LF, From The Modified Corner To A Point That Is A Minimum Of 5 Feet From The South Edge Of The New Sidewalk Along SW Opal Road.

Ameristar, Montage Plus, 3-Rail Panel With 4" Air Gap. Provide Flush Bottom Held 8" Above Finished Grade. Majestic Fence Style, 5' Tall Panel With Typical Panel Length Of 8'. Black Finish.

Zoning - Agricultural District Minimum Setback Requirements (A-1)			
Intended Use - Elementary School			
Building Setbacks			
Front Yard	Side Yard (Exterior)	Side Yard (Exterior)	Rear Yard
30'	30'	30'	30'

PARKING SUMMARY			
Description	Parking Requirement	Spaces Required	Spaces Provided
Bentonville Elementary School (±61 Employees + 35 Class Rooms)	1 Sp. Per Employee Plus 1 Sp. Per Class Room	95**	148**
HC Accessible Spaces	151 To 200 = 6 Spaces	4*	6*
HC Van Accessible Spaces	1 In 6 HC Spaces	1	1
Total		95**	155**

*Includes Van Accessible Spaces
**Includes All HC Accessible Spaces

SITE DIMENSION PLAN
LSD20-0043

MORRISON SHIPLEY

2407 SE COTTONWOOD STREET • BENTONVILLE, AR 72712 • 479.273.2209 • MORRISONSHIPLEY.COM

STATE OF ARKANSAS
LICENSED PROFESSIONAL ENGINEER
No. 9728
JOHN R. WARY

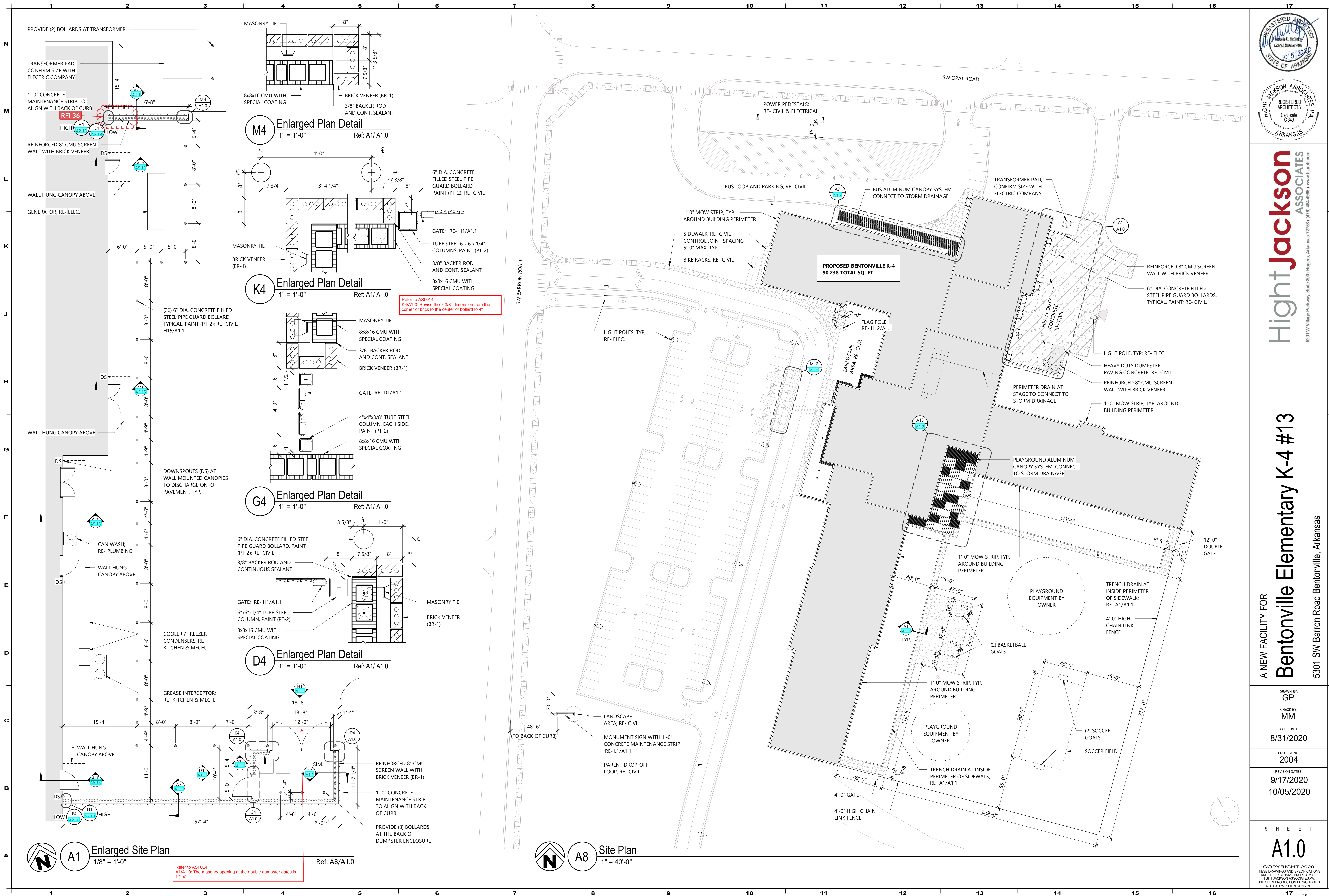
The Original Signed and Sealed Document is on file at the Office of Record

Hight Jackson ASSOCIATES
5201 W Village Parkway, Suite 300 • Rogers, Arkansas 72758 | (479) 464-4965 | www.hjarch.com

NEW FACILITY FOR
Bentonville Elementary K-4 #13
5301 SW Barron Rd, Bentonville, AR 72713

DRAWN BY:
TJL/TBL
CHECK BY:
LMG
ISSUE DATE:
08/31/2020
PROJECT NO.
2004
REVISION DATES:
09/01/2021
09/30/2021

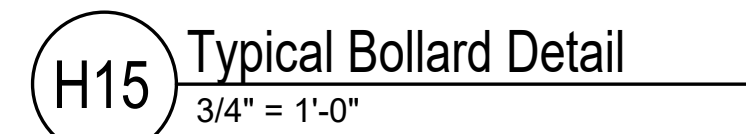
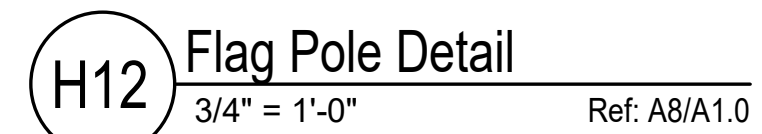
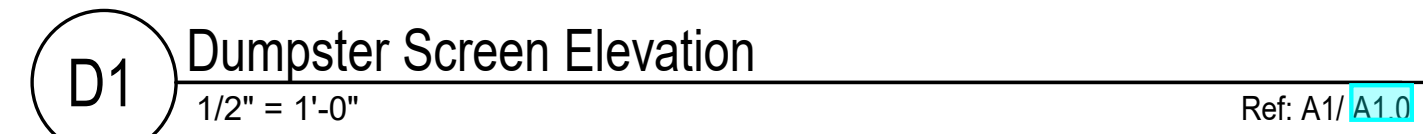
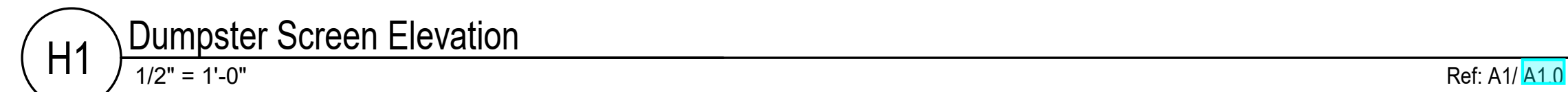
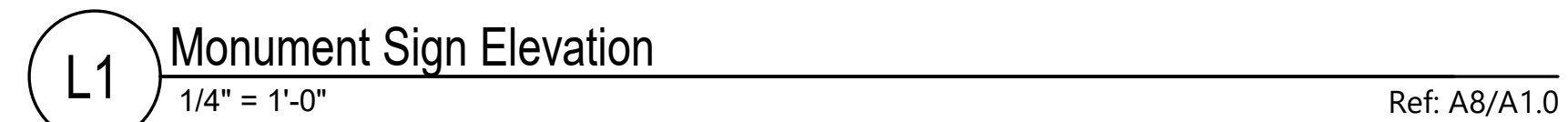
SHEET
C4.0
COPYRIGHT 2020
THESE DRAWINGS AND SPECIFICATIONS ARE THE EXCLUSIVE PROPERTY OF HIGHT JACKSON ASSOCIATES P.A. USE OR REPRODUCTION IS PROHIBITED WITHOUT WRITTEN CONSENT



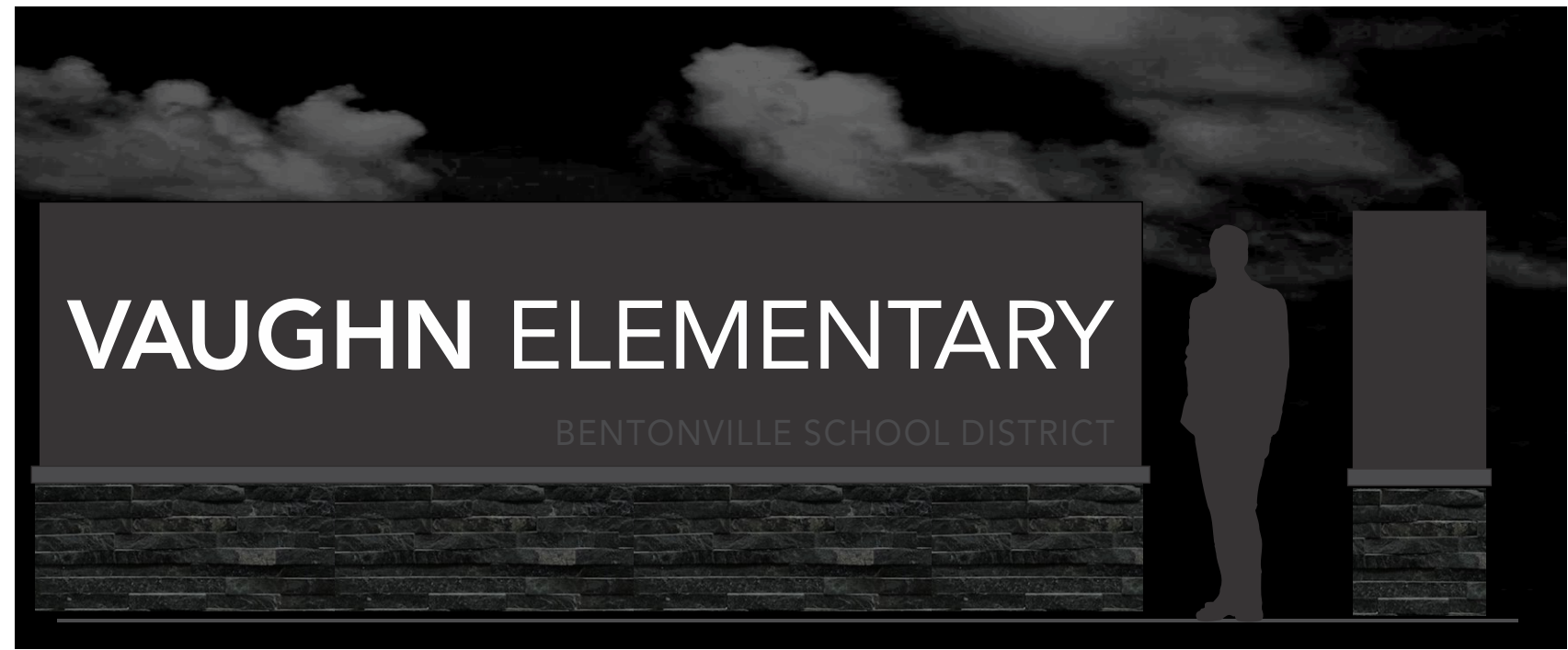
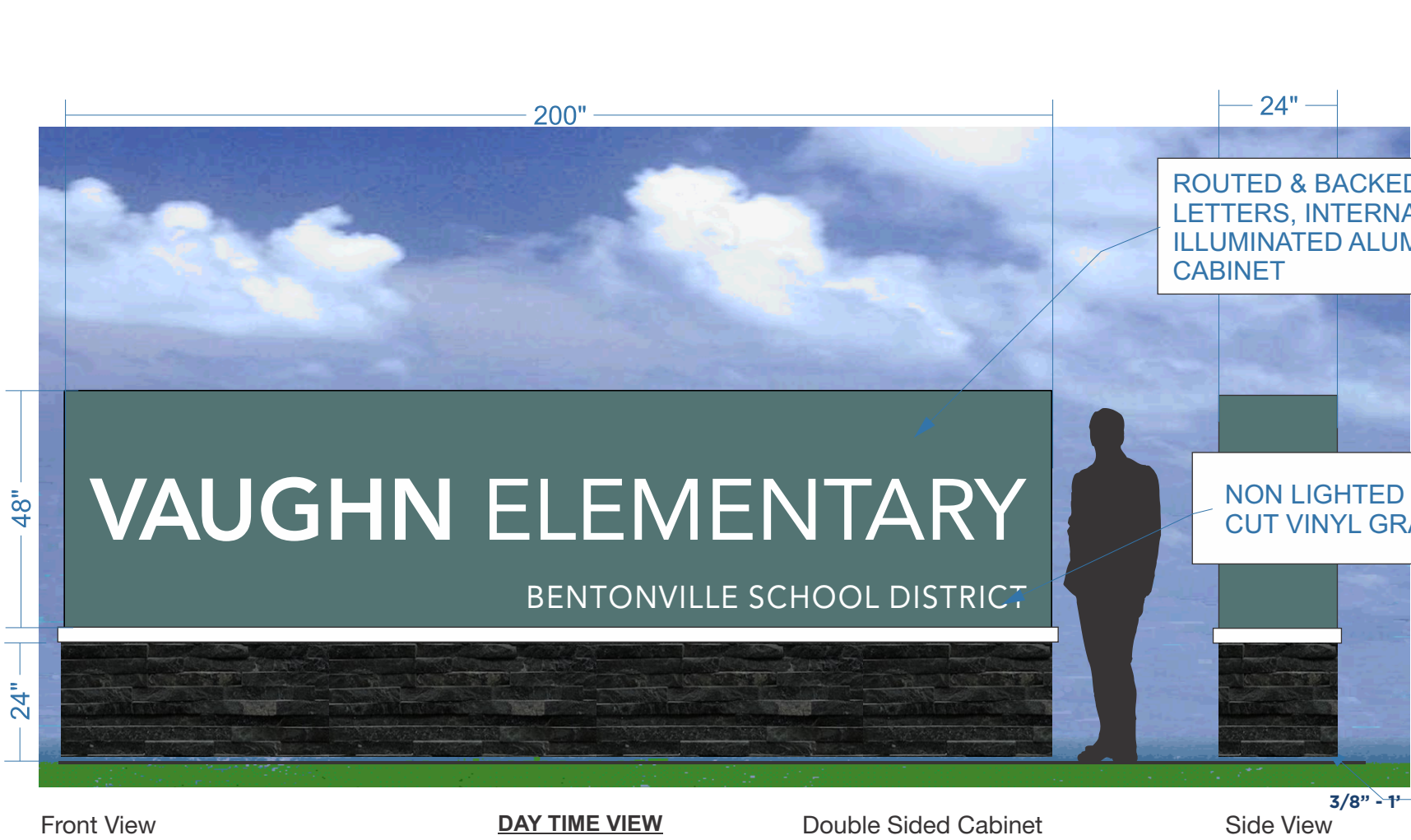
Hight Jackson
ASSOCIATES
P.A.
5201 W Village Parkway, Suite 300 | Rogers, Arkansas 72758 | (479) 464-4855 | www.hjarch.com

A NEW FACILITY FOR
Bentonville Elementary K-4 #13
5301 SW Barron Road Bentonville, Arkansas

DRAWN BY: GP	PROJECT NO: 2004
CHECK BY: MM	REVISION DATES 9/17/2020 10/05/2020
ISSUE DATE 8/31/2020	
SHEET A1.0	
COPYRIGHT 2020 THESE DRAWINGS AND SPECIFICATIONS ARE THE EXCLUSIVE PROPERTY OF HIGHT JACKSON ASSOCIATES P.A. USE OR REPRODUCTION IS PROHIBITED WITHOUT WRITTEN CONSENT	



PROJECT: ROUTED & BACKED



ARCHITECT TO CONFIRM

ILLUMINATED
ROUTED AND BACKED
DOUBLE SIDED

ALUMINUM CONSTRUCTION
SIGN CABINET TO BE PAINTED TO
MATCH PPG Uc95344
DURANAR HEMLOCK GREEN

VAUGH ELEMENTARY
LETTERING TO BE ROUTED OUT
FROM ALUMINUM FACE

BENTONVILLE SCHOOL DISTRICT
TO BE NON LIGHTED, CUT WHITE VINYL
APPLIED TO CABINET FACE

LETTERING TO BE WHITE

BASE PROVIDED BY OTHERS

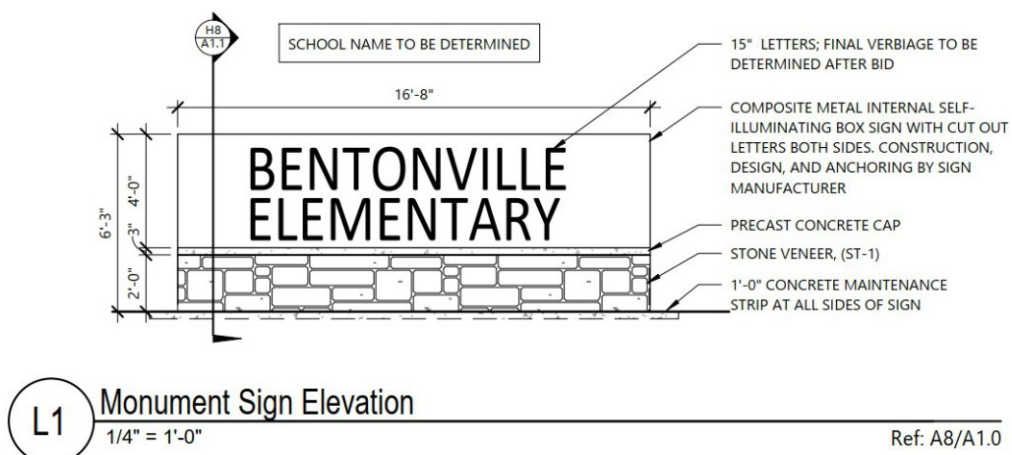
ANCHOR BOLTS THROUGH PRECAST TOP
INTO CMU CENTER FILLED WITH CONCRETE

REDHEAD EXPANSION ANCHORS
MINIMUM 8" LENGTH

ELECTRICAL RUNS TO
SITE TO BE PROVIDED
BY OTHERS

BRICK/STONE VENEER
& BASE PROVIDED BY OTHERS

PLEASE CONFIRM THAT THE
BENTONVILLE SCHOOL DISTRICT
LETTERS ARE NOT TO BE LIGHTED



CLIENT

BEST SIGN GROUP

LOCATION

2860 W. WALNUT
ROGERS, AR

DATE

00/00/2020

REP

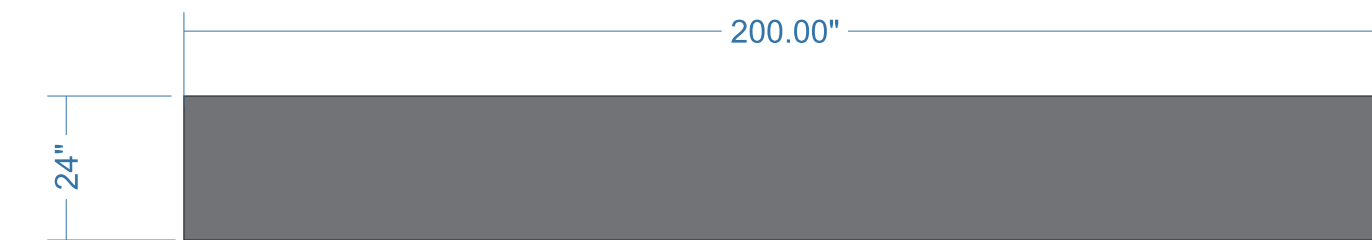
ADP

ART

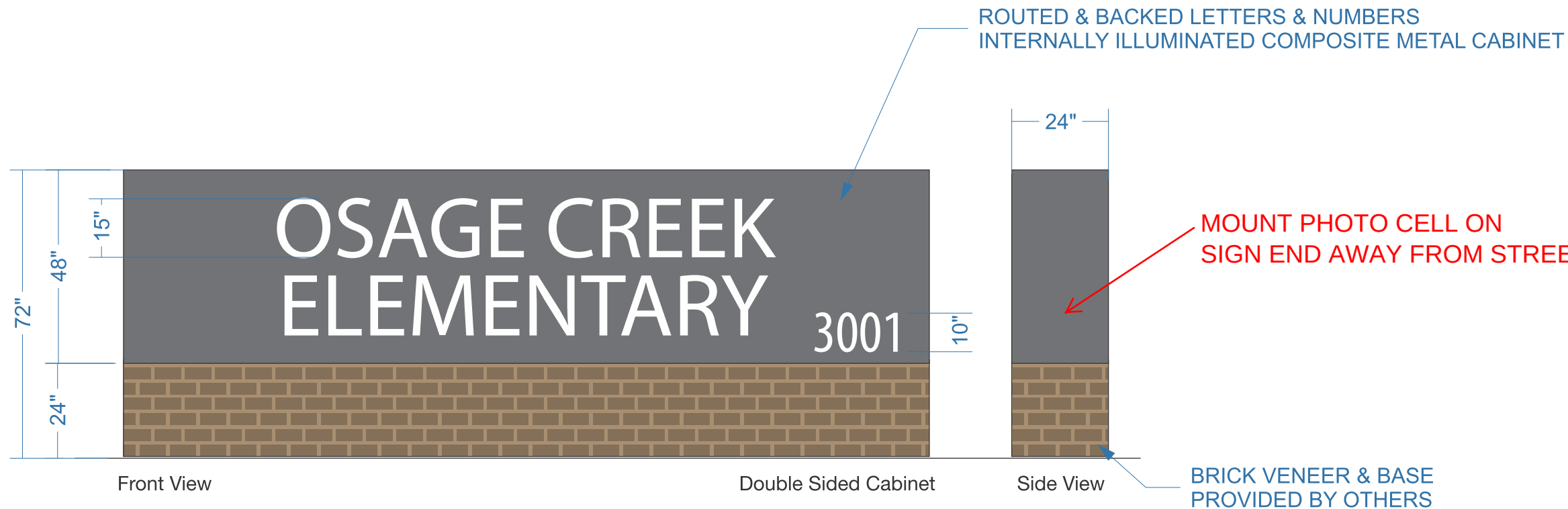
ADP

REVISIONS

All drawings presented here are exclusive property of Best Sign Group. This artwork is a representation of sign(s) to be considered for manufacturing by Best Sign Group, and no other sign manufacturer, unless otherwise noted and agreed to. Drawings contained herein are not to be exhibited to others, outside of included parties and employees.



Top View



Front View

Double Sided Cabinet

Side View

A MONUMENT SIGN: ROUTED & BACKED ALUMINUM CABINET 3/8" - 1'

NEW LIGHTED DOUBLE FACED MONUMENT
ROUTED & BACKED LETTERS AND NUMBERS
INTERNALLY ILLUMINATED COMPOSITE METAL CABINET
UL LISTED WITH DHO LAMPS & HO BALLAST

FIELD VERIFY SIZE OF BRICK BASE PRIOR
TO FABRICATION OF MONUMENT SIGN TO
COORDIANTE SIZE OF CABINET

SCALE

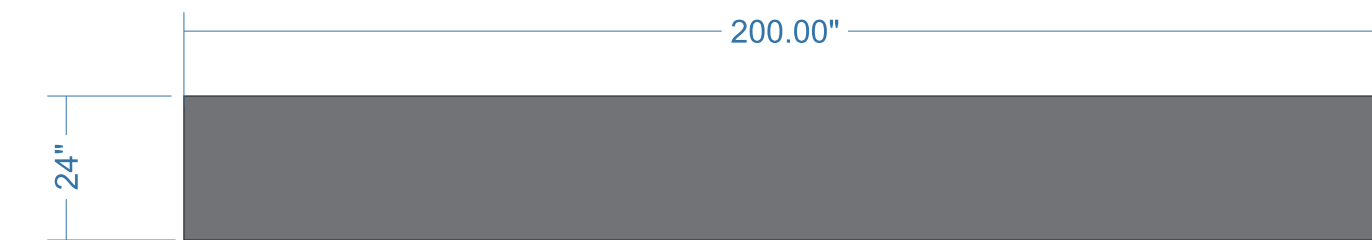
LOCATION

DATE

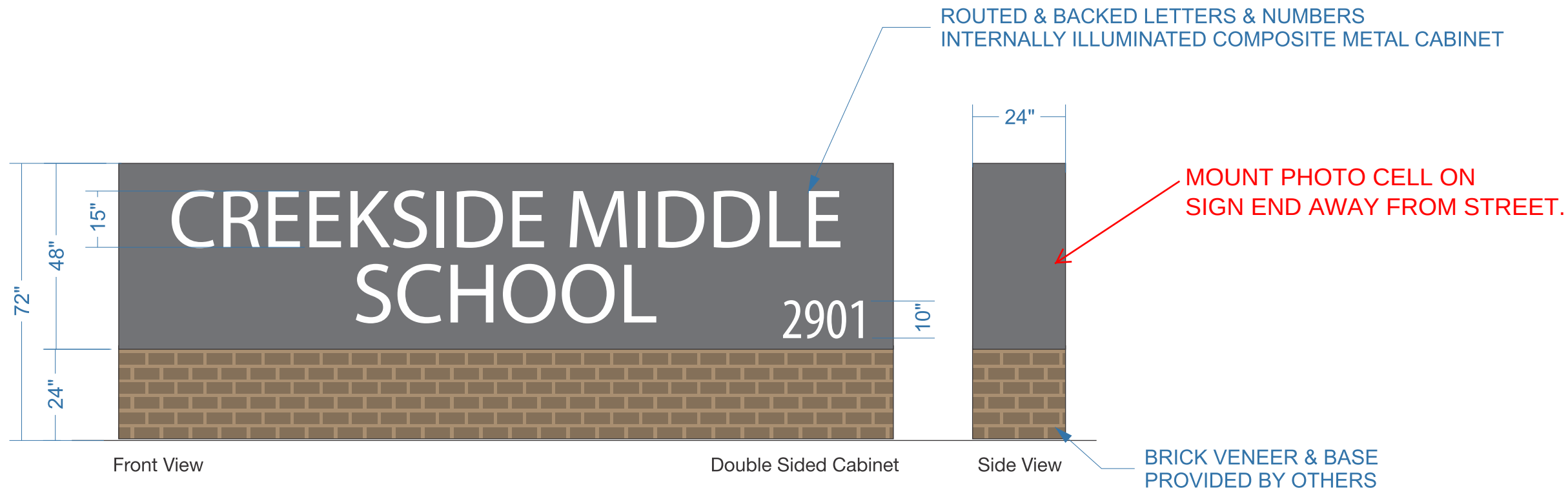
INFO

This drawing is the property of Best Sign Group, LLC. All rights to its use of reproduction are reserved by Best Sign Group, LLC.





Top View



Front View

Double Sided Cabinet

Side View

A MONUMENT SIGN: ROUTED & BACKED ALUMINUM CABINET 3/8" - 1'

NEW LIGHTED DOUBLE FACED MONUMENT
ROUTED & BACKED LETTERS AND NUMBERS
INTERNALLY ILLUMINATED COMPOSITE METAL CABINET
UL LISTED WITH DHO LAMPS & HO BALLAST

FIELD VERIFY SIZE OF BRICK BASE PRIOR
TO FABRICATION OF MONUMENT SIGN TO
COORDIANTE SIZE OF CABINET

SCALE

LOCATION

DATE

INFO

This drawing is the property of Best Sign Group, LLC. All rights to its use of reproduction are reserved by Best Sign Group, LLC.



BOARD OF ADJUSTMENT STAFF REPORT



Murtha

710 NW 5th Street

BOA Date: 2/9/2022

Reviewer: Luke Aitken, Planning Technician

Project Number	VAR22-0003
Applicant / Current Owner	John & Amanda Murtha
Site Area	+/- 0.22acres
Current Zoning	R-1, Single Family Residential
Variance Request	Zoning Code Article: Section 401.06(b)(2)

Property Description

This property is located at 710 NW 5th Street and is currently zoned R-1, Single Family Residential.

Regulation

According to Zoning Code Article Section 401.06(b)(2) Minimum Setback Standards, the minimum front setback required is 20' from the property line that the structure faces.

Variance Request

The applicant is requesting a variance of 6 feet from the 20 foot front setback required by code, to allow for a new covered porch to be constructed 14 feet from the current front property line.

Background

The applicant states that the 700 block of NW 5th Street is currently designated as a Collector Street according to the City of Bentonville Master Street Plan 2020. The Planning Commission approved amendments to the Master Street Plan at their 12-7-21 meeting which "removed the NW 5th Street Connection on the Master Street Plan" and reclassified NW 5th Street (West of the Bella Vista Rd junction) back to a Local Street.

According to the applicant's narrative, they are not currently afforded the same right as their surrounding neighbors with Local Street right of way requirements, as Collector Streets require a greater amount of right of way to be dedicated (65 feet as opposed to 50). They are requesting a variance of front setback requirements in order to begin construction on their 6' front porch, more in line with the setback and street standards of their surrounding property owners.

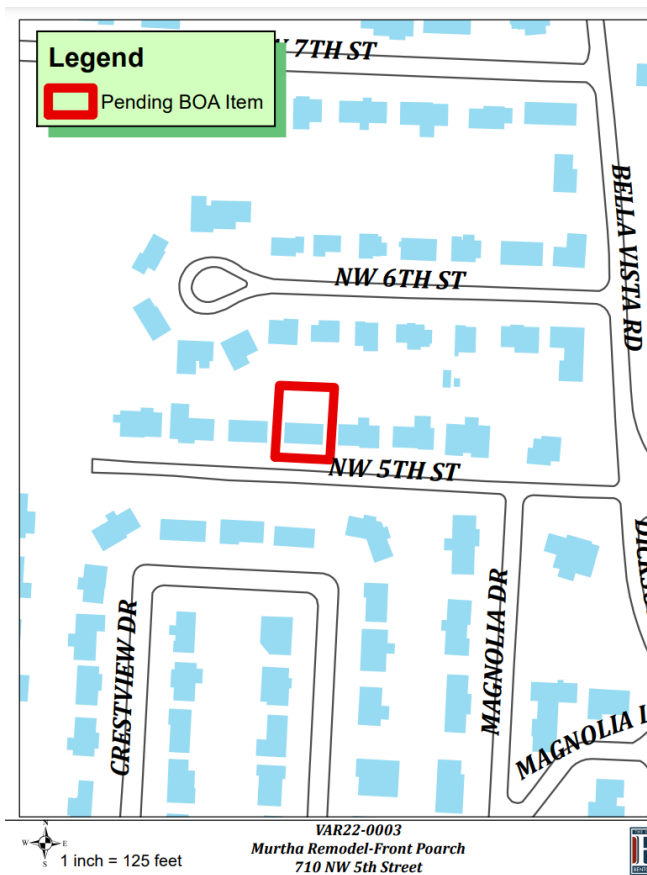
Public Comment

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, as provided by the applicant within this application.
2. The applicant must obtain a building permit prior to construction of the covered drive through.



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.

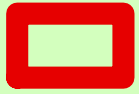
(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(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.

Legend



Pending BOA Item

NW 7TH ST

NW 6TH ST

NW 5TH ST

BELLA VISTA RD

DICKSON

MAGNOLIA LN

MAGNOLIA DR

CRESTVIEW DR



1 inch = 125 feet

VAR22-0003

Murtha Remodel-Front Poarch
710 NW 5th Street



Property Owner Consent Form

City of Bentonville Planning Department

305 SW A Street

Bentonville, AR 72712

479-271-3122

I, JOHN P. MURTHA am the legal owner of the
(Owner's name, printed)

property located at 710 NW 5TH STREET, identified as Parcel
(Address or Street Name)

Identification Number 01 - 02000 - 000, located in
(Parcel ID)

Benton County, Arkansas.

I certify that I am the owner of the property above and that I have read the application and consent to its filing.

John P Murtha 1/22/2022
(Property Owner Signature) (Date)

****If one property has multiple owners, a separate signed Property Owner Consent Form is required for each owner.**

Property Owner Consent Form

City of Bentonville Planning Department

305 SW A Street

Bentonville, AR 72712

479-271-3122

I, Amanda E. Murtha am the legal owner of the
(Owner's name, printed)

property located at 710 NW 5th St., identified as Parcel
(Address or Street Name)

Identification Number 01-02000-000, located in
(Parcel ID)

Benton County, Arkansas.

I certify that I am the owner of the property above and that I have read the application and consent to its filing.

Amanda Murtha 1/22/22
(Property Owner Signature) (Date)

****If one property has multiple owners, a separate signed Property Owner Consent Form is required for each owner.**

SURVEYOR NOTES:

1. PARENT DEED FILED IN BOOK L2021 AT PAGE 04993.
2. PROPERTY IS COUNTY TAX PARCEL #01-02000-000.
3. THE PLANNED ZONING FOR THE PROPERTY IS LOW DENSITY SINGLE FAMILY RESIDENTIAL (R-1). SETBACKS SHALL BE PER THE CURRENT ZONING DISTRICT AS STATED IN THE MOST RECENT CITY OF BENTONVILLE ZONING CODE. FOR MORE INFO VISIT WWW.BENTONVILLEPLANNING.COM OR CALL THE PLANNING DEPARTMENT @ 479-271-3122.
4. OUR LIMITED RESEARCH COULD NOT FIND ANY EXISTING EASEMENTS ON THE PARENT TRACT, A MORE INDEPTH SEARCH IS NEEDED TO VERIFY.
5. WORK IN THE RIGHT OF WAY TO BE REVIEWED AND APPROVED BY THE CITY ENGINEER.

CITY REQUIRED NOTES:

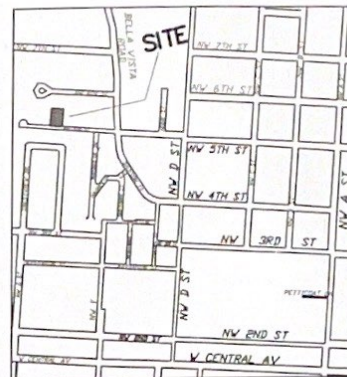
1. SIDEWALKS SHALL BE THE RESPONSIBILITY OF THE BUILDER / OWNER AT THE TIME OF BUILDING PERMIT ISSUANCE.
2. OWNER / DEVELOPER SHALL COORDINATE WITH ALL LOCAL UTILITIES TO INSURE THAT EACH LOT HAS WATER, SEWER AND ELECTRIC SERVICE.
3. THERE MAY NOT BE FENCES OR ANY OTHER STRUCTURES BUILT IN ANY DRAINAGE EASEMENTS.
4. BEFORE ANY WORK IN THE RIGHT-OF-WAY COMMENCES, CONTRACTOR AND OR OWNER IS TO OBTAIN RIGHT-OF-WAY PERMIT FROM THE CITY OF BENTONVILLE TRANSPORTATION DEPARTMENT.
5. ALL STRUCTURES MUST MAINTAIN MINIMUM OF 20' CLEARANCES FROM ALL ELECTRIC LINES.

01-03693-000
SMITH, ALEXANDRA F & LEE M
17732 HIGHLAND RD
BOX G136
BATON ROUGE, LA 70810

01-03692-000
CARLISLE, JORDAN TYLER &
GADBERY, KATHRYN ANNE
713 NW 6TH ST
BENTONVILLE, AR 72712



SCALE 1"=30'



CERTIFICATE OF OWNERSHIP

WE, THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, AND 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.

DATE OF EXECUTION _____

SIGNED: _____

SIGNED: _____

NAME AND ADDRESS: _____

PRINT NAME: _____

SOURCE OF TITLE: D.R. _____

PAGE: _____

STATE OF ARKANSAS)

COUNTY OF BENTON)

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____ 2021.

NOTARY PUBLIC SIGNATURE _____

CERTIFICATE OF APPROVAL

PURSUANT TO THE BENTONVILLE LAND DEVELOPMENT CODE REGULATIONS AND ALL OTHER CONDITIONS AND APPROVAL HAVING BEEN COMPLETED, THIS DOCUMENT IS HEREBY ACCEPTED. THIS CERTIFICATE IS HEREBY EXECUTED UNDER THE AUTHORITY OF THE SAID RULES AND REGULATIONS.

DATE OF EXECUTION: _____

SIGNED: _____

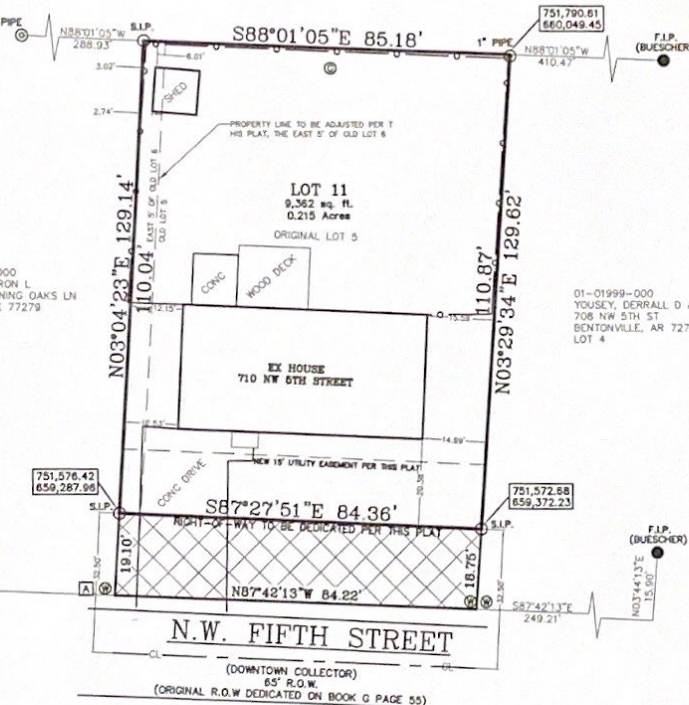
MAYOR

CITY CLERK

PLANNING COMMISSION CHAIRMAN

01-0201-000
KELL, SHARON L
8323 TWINNING OAKS LN
SPRING, TX 77279
LOT 5

01-01999-000
YOUSSEY, DERRALL D & JUDY L
708 NW 5TH ST
BENTONVILLE, AR 72712-4603
LOT 4



LEGEND

- S.I.P. SET IRON PIN
- F.I.P. FOUND IRON PIN
- ⊙ PIPE FOUND PIPE
- CL — PROPERTY LINE
- CL — CENTERLINE
- □ — FENCE
- — — — — ADJ. PROPERTY LINE
- — — — — NEW UTILITY EASEMENT
- ▤ AREA DEDICATED BY PLAT
- ⊕ EX. POWER POLE
- ⊗ EX. SEWER MANHOLE
- ⊙ EX. WATER VALVE
- ⊙ EX. GAS METER
- ⊙ EX. WATER METER
- ⊙ EX. AIR CONDITIONING
- ⊙ EX. AT&T VALVE

PROPERTY DESCRIPTION (PARENT)

LOT 5 AND THE EAST 5 FEET OF LOT 6 DEAN MAXWELL FIRST SUBDIVISION, BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN IN PLAT RECORD "G" AT PAGE 55.

PROPERTY DESCRIPTION LOT 11

LOT 11, DEAN MAXWELL FIRST SUBDIVISION TO THE CITY OF BENTONVILLE, FORMERLY KNOWN AS LOT 5 AND THE EAST 5 FEET OF LOT 6 DEAN MAXWELL FIRST SUBDIVISION, FURTHER DESCRIBED AS BEGINNING AT THE NORTHEAST (NE) CORNER OF LOT 5 (FOUND PIPE), THENCE SOUTH 03°29'34" WEST 110.88 FEET TO A SET IRON PIN; THENCE NORTH 87°27'37" WEST 84.36 FEET TO A SET IRON PIN; THENCE NORTH 03°04'23" EAST 110.04 FEET TO A SET IRON PIN; THENCE SOUTH 88°01'05" EAST 85.18 FEET TO THE POINT OF BEGINNING, CONTAINING 0.215 ACRES MORE OR LESS.

BASIS OF BEARING IS TIED INTO CITY OF BENTONVILLE MONUMENTATION (1 & 38).



CERTIFICATE OF ACCURACY

I, DAVID B. PLATZ, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE BY ME AND BOUNDARY MARKERS AND LOT CORNERS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, TYPE AND MATERIAL ARE CORRECTLY SHOWN AND ALL MINIMUM REQUIREMENTS OF THE ARKANSAS MINIMUM STANDARDS FOR LAND SURVEYORS HAVE BEEN MET.

DATE OF EXECUTION: 9/7/21

SIGNED: David B. Platz

REGISTERED LAND SURVEYOR
NO. 1553
STATE OF ARKANSAS

FLOOD CERTIFICATION

THIS PROPERTY DOES NOT LIE IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FEMA PANEL #05007C0090 J, DATED SEPTEMBER 28, 2007.

LOT SPLIT CREATING LOT 11, DEAN MAXWELL FIRST ADDITION		REVISIONS		
OWNER CONTACT INFO:		No.:	BY:	DATE:
MURTHA, JOHN PATRICK III & AMANDA ELLIS		#1	CITY	8/23/21
710 NW 5TH ST				
BENTONVILLE, AR 72712				
275-7989 OR 366-7989	DAVID B. PLATZ LAND SURVEYOR	DRAWN BY:	DATE:	
		DP/ZS	7/30/21	
		CHECKED BY:	JOB No.:	
			2021363	
		SCALE:	SHEET:	
		1"=30'	1	

1/22/2022

**710 NW 5th Street
Bentonville, AR 72712
Amanda & John Murtha**

Memorandum for: City of Bentonville - Planning Commission & Board of Adjustments

The 700 block of NW 5th Street is currently zoned as a “Collector Street” according to the City of Bentonville Master Street Plan 2020. Pending approval of the amendments proposed by City Engineering and Transportation at the 12/7/21 Planning Committee, the city plans to “remove the NW 5th Street Connection on the Master Street Plan” and rezone NW 5th Street (West of the Bella Vista Rd junction) back to a “Local Street”.

Our family currently lives at 710 NW 5th St, and we were recently approved to begin a remodel/expansion of our home. Due to the nature of our remodel, our family was required to re-survey and re-plot our house with current “Collector Street” Setbacks and Right of Way.

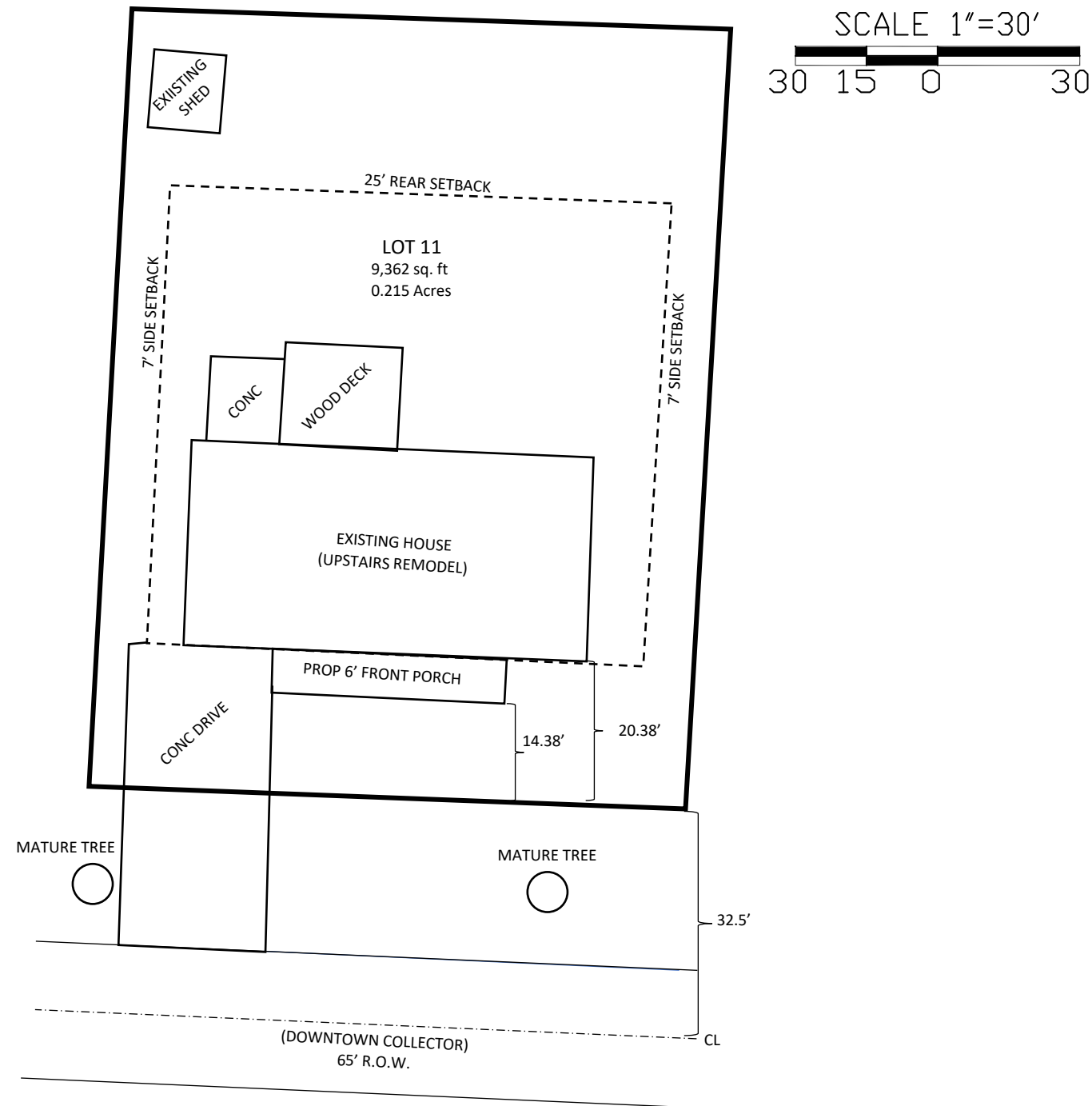
Our family faces a hardship as we are not currently afforded the same right as our surrounding neighbors who remain zoned with “Local Street” setback requirements. While we await the approval of the Master Street Plan amendment, we are requesting a 6-foot variance to our Front Setback to allow for the addition of a 6ft front porch. The current heated footprint of our house will not change with the remodel.

Please see attached renderings and documentation. Thank you for your time and consideration.

Sincerely,
John Murtha
214-683-6803



710 NW 5th Street Site Plan





Master Street Plan Update

PC Date: 12/7/2021

Dennis Birge, PE, Transportation Director

Type	Amendment
Plan Impacted	Master Street Plan

Background

The Bentonville Master Street Plan, consisting of the Master Street Plan Map and Typical Cross Sections, was adopted on January 21, 2021 with Resolution No. 1-12-21B. Staff has since revised one of the typical cross sections and prepared additional materials for the plan.

Relationship to the Community Plan

Staff and consultants referenced and used the recommendations and policies suggested in Chapter 7 Transportation and Mobility of the Bentonville Community Plan as well as the Bicycle and Pedestrian Master Plan to update the Master Street Plan. Most of the potential projects identified include improving pedestrian and bicycle facilities that will meet the goal of increasing access to active transportation infrastructure. The Community Plan states that the key is to focus on improving the transportation network already in place. Most of the projects in the Master Street Plan are improvements to existing roadways and includes very few new roadway construction projects, except those needed to complete gaps in existing facilities.

Proposed Changes

The amendment includes the following revisions and additions to the Master Street Plan adopted on January 21, 2021:

- Remove the NW 5th Street connection on the Master Street Plan Map. (Pg. 6 and 62)
- Revise typical cross section for Downtown Local to allow for a 5' or 8' sidewalk option. (Pg. 20)
- Add a list of potential transportation projects. (Pg. 21-25)
- Add summary sheets for potential transportation projects. (Pg. 26-58)
- Add a summary of amendments to the 2008 Master Street Plan. (Pg. 60-61)
- Add the Bentonville Local Transit Plan. (Pg. 63-73)

Recommendation

Staff recommends approval of the amendments to the Master Street Plan.

RESOLUTION NO. _____

A RESOLUTION AMENDING THE MASTER STREET PLAN OF THE CITY OF BENTONVILLE, ARKANSAS ADOPTED BY RESOLUTION NO. 1-12-21B ON JANUARY 21, 2021, PURSUANT TO ARKANSAS CODE ANNOTATED §14-56-414.

WHEREAS, the Master Street Plan, consisting of the Master Street Plan Map and Typical Cross Sections, was adopted on January 21, 2021 with Resolution No. 1-12-21B; and,

WHEREAS, staff has revised the typical cross section for a Downtown Local; ~~removed the extension of NW 5th St.~~; added a list of potential transportation projects with project summary sheets, and included the Bentonville Local Transit Plan; and,

WHEREAS, a public hearing was held at Planning Commission on December 7, 2021 to provide the public with the opportunity to view and comment on the plan; and,

WHEREAS, Planning Commission recommended approval of the amended Master Street Plan on December 7, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BENTONVILLE, ARKANSAS:

Section 1: That the Master Street Plan of the City of Bentonville, Arkansas should be and is hereby amended by replacing the Master Street Plan Map and Downtown Local Street Section with the following *Attachment A: Master Street Plan Amendments* by the Planning Commission and City Council pursuant to Ark. Code Ann. 14-56-414, an electronic copy and paper copy of which are on file with the City Clerk, is hereby referred to, adopted and made a part hereof as through it were copied herein fully.

Section 2: That the Master Street Plan of the City of Bentonville, Arkansas should be and is hereby amended by adding ~~Downtown Local street section~~ a list of potential transportation projects, summary sheets for potential transportation projects, a summary of amendments from the 2008 Master Street Plan and the Bentonville Local Transit Plan with the following *Attachment B: Master Street Plan Additions*, by the Planning Commission and City Council pursuant to Ark. Code Ann. 14-56-414, an electronic copy and paper copy of which are on file with the City Clerk, is hereby referred to, adopted and made a part hereof as through it were copied herein fully.

Section 3: That a copy of this resolution shall be filed with the City Clerk and the County Recorder.

Section 4. That this resolution shall be in full force and effect from and after the date of its passage.

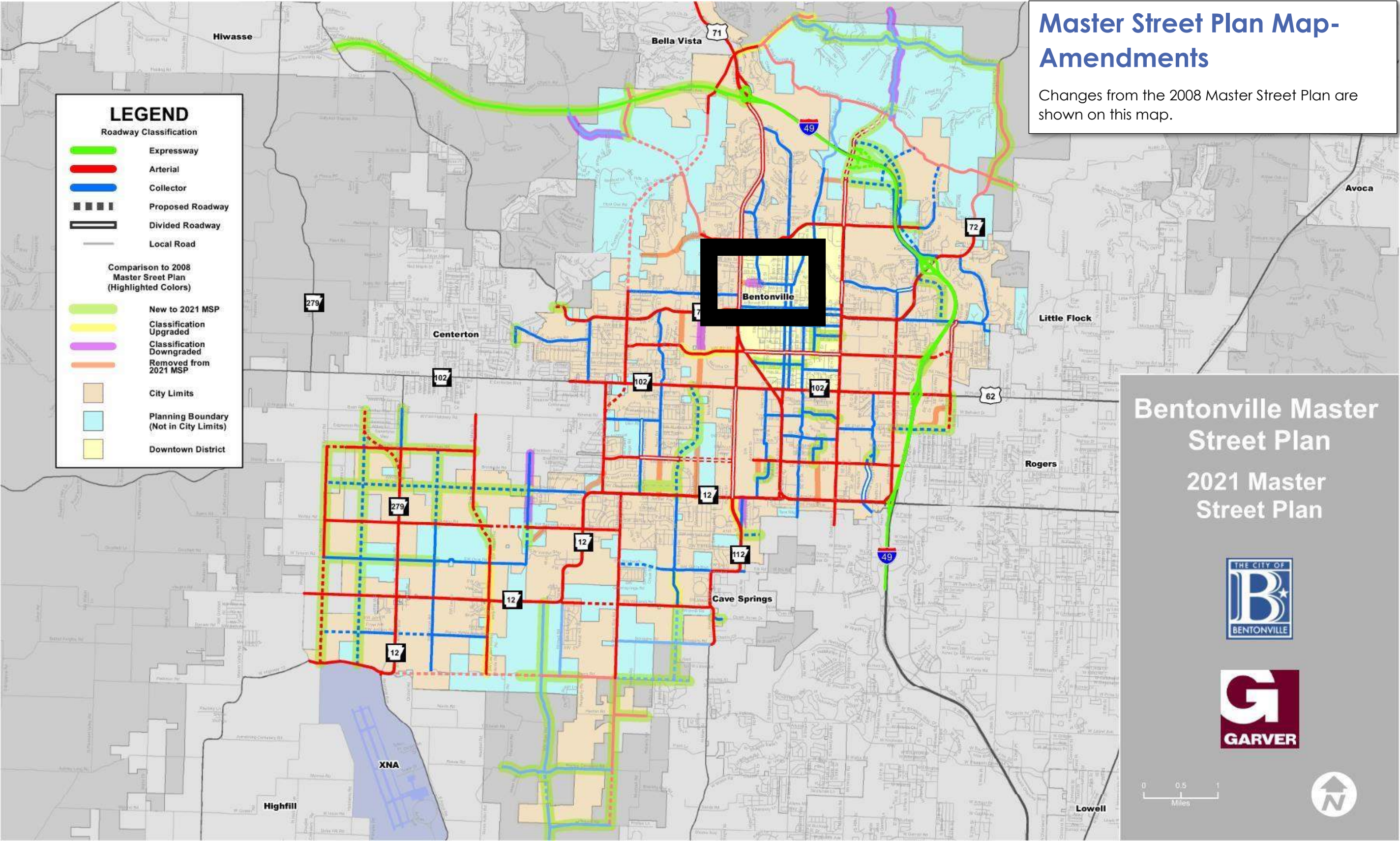
PASSED and APPROVED this ____ day of _____, 2021.

APPROVED

ATTEST:

City Clerk

Stephanie Orman, Mayor



BOARD OF ADJUSTMENT STAFF REPORT



Coffelt Townhomes

410 SE C Street & 407 SE B Street

BOA Date: 2/9/2022

Reviewer: Luke Aitken, Planning Technician

Project Number	VAR22-0004
Applicant / Current Owner	JNJB LLC
Site Area	+/- 0.56 acres
Current Zoning	DN-2, Downtown Medium-Density Residential
Variance Request	Zoning Code Article: Section 401.06(b)(2)

According to Zoning Code Article Section 401.06(b)(2) Minimum Setback Standards, the minimum front setback required in DN-2 Zones is 12 feet minimum and 25 feet maximum from the property line that the structure faces.

Variance Request

The applicant is requesting an appeal to staff interpretation of the application of front yard setbacks, to allow the construction of walk up stairs within the front setbacks for two new townhomes near downtown Bentonville.

Background

The applicant states that in reviewing the proposed townhouse development, it has been the staff's interpretation that the definition of "structure" includes anything with a foundation. This strict interpretation would therefore preclude any stairs up to an entrance porch from being placed within the front yard despite their having a separate foundation from that of the actual structure.

According to the applicant's narrative, this interpretation does not follow the historic pattern found in Bentonville. They state that the front yard building lines found on existing streets show setbacks and alignments with regard to exterior walls, covered porches, and roofs. That is consistent with the definitions of buildings and structures within the zoning code. The applicant claims that exterior walls, covered porches, and roofs are all considered "supporting or sheltering any use or occupancy" whereas a set of steps up to a porch is not part of a shelter, but instead, a transition element allowing a person to get up on to a raised porch or floor of the structure.

The applicant concluded that interpretation of the word "structure" and how it relates to what is allowed in the front yard setback by the staff creates a hardship with regard to improving the urban fabric of the street. They state that without the ability to locate the entrance steps within the front yard, there is not adequate space to create structures facing both streets.

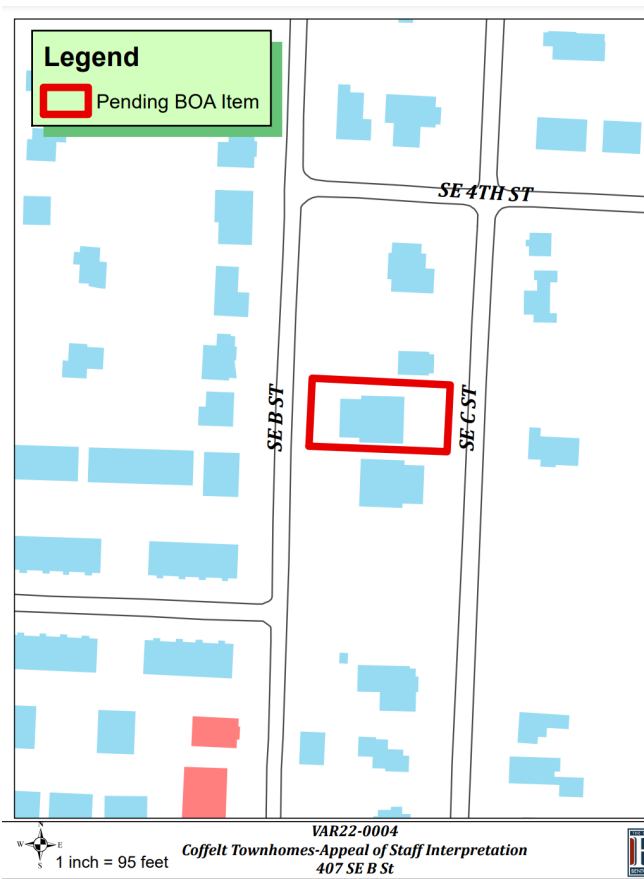
Public Comment

Staff has **NOT** received a 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, as provided by the applicant within this application.
2. The applicant must receive Large Scale Development approval.
3. The applicant must obtain a building permit before construction begins on the development.



Property Description

These properties are located at 410 SE C Street & 407 SE B Street and are currently zoned DN-2, Downtown Medium-Density Residential.

Regulation

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.

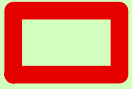
(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(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.

Legend

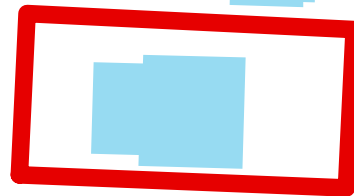


Pending BOA Item

SE 4TH ST

SE B ST

SE C ST



1 inch = 95 feet

VAR22-0004

Coffelt Townhomes-Appeal of Staff Interpretation

407 SE B St



Property Owner Consent Form

City of Bentonville Planning Department

305 SW A Street

Bentonville, AR 72712

479-271-3122

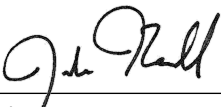
I, JBJN, LLC am the legal owner of the
(Owner's name, printed)

property located at 410 SE C & 407 SE B Street , identified as Parcel
(Address or Street Name)

Identification Number 01-03540-000 , located in
(Parcel ID)

Benton County, Arkansas.

I certify that I am the owner of the property above and that I have read the application and consent to its filing.

  1/20/2022
(Property Owner Signature) *(Date)*

****If one property has multiple owners, a separate signed Property Owner Consent Form is required for each owner.**

Property Owner Consent Form

City of Bentonville Planning Department

305 SW A Street

Bentonville, AR 72712

479-271-3122

I, JBJN, LLC am the legal owner of the
(Owner's name, printed)

property located at 410 SE C & 407 SE B Street , identified as Parcel
(Address or Street Name)

Identification Number 01-03540-000 , located in
(Parcel ID)

Benton County, Arkansas.

I certify that I am the owner of the property above and that I have read the application and consent to its filing.


John Dexter (Jan 20, 2022 15:49 CST)

(Property Owner Signature)

Jan 20, 2022

(Date)

****If one property has multiple owners, a separate signed Property Owner Consent Form is required for each owner.**

Prepared by:
Joshua B. Hite, Attorney
Hite Law Firm, PLLC
5431 Pinnacle Pointe Dr., Ste. 105
Rogers, AR 72758

GENERAL WARRANTY DEED

File No. 21-6103

KNOW ALL BY THESE PRESENTS:

That, **Terry D. Coffelt and Hannah Taylor Gibby, Trustees of the Hannah Taylor Carr Exempt Trust c/u The Coffelt Family Trust dated June 30, 2008**, hereinafter called Grantor, for and in consideration of the sum of One and No/100-----Dollars---(\$1.00) and other good and valuable consideration in hand paid by **JNJB, LLC an Arkansas limited liability company**, hereinafter called Grantee, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto said Grantee and unto Grantee's successors and assigns, forever, the following described land, situated and being in the County of Benton, State of Arkansas, to-wit (the "Property"):

Lots 5, 6, and 7, Block "A" Orchard Addition to the City of Bentonville, Benton County, Arkansas. Also being one and the same as Tract 1 and Tract 2, on Lot Split Plat, filed for record in Plat Book 22 at Page 235, records of Benton County, Arkansas.
Subject to easements, covenants, restrictions, reservations and rights of way of record.
Subject to all prior mineral reservations and oil and gas leases.

TO HAVE AND TO HOLD the same unto said Grantee and unto the successors and assigns of Grantee, forever, with all appurtenances thereunto belonging. And Grantor hereby covenants with said Grantee that Grantor will forever warrant and defend the title to the Property against all claims whatsoever.

[Signature Pages Follow]

WITNESS our hands and seals on this 8 day of October, 2021.

GRANTOR:

**Hannah Taylor Carr Exempt Trust c/u The Coffelt
Family Trust dated June 30, 2008**

By: Terry D. Coffelt Trustee
Terry D. Coffelt, Trustee

By: Hannah Taylor Gibby Trustee
Hannah Taylor Gibby, Trustee

ACKNOWLEDGMENT

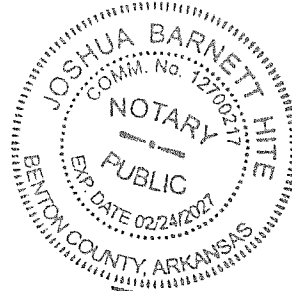
STATE OF AKANSAS)
) SS
COUNTY OF Benton)

On this day before the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named **Terry D. Coffelt and Hannah Taylor Gibby**, to me personally known (or satisfactorily proven), who stated that they were the **Trustees** of the **Hannah Taylor Carr Exempt Trust c/u The Coffelt Family Trust dated June 30, 2008**, and stated that they were duly authorized in such capacity to execute the foregoing instrument for and in the name and behalf of said trust and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

In Testimony Whereof, I have hereunto set my hand and official seal this 8 day of October, 2021.

JTB
Notary Public

My Commission Expires: 2/24/27





STATE OF ARKANSAS
DEPARTMENT OF FINANCE AND ADMINISTRATION
MISCELLANEOUS TAX SECTION
P.O. BOX 896, LITTLE ROCK, AR 72203-0896

Real Estate Transfer Tax Stamp

Proof of Tax Paid



File Number: 21-6103

Grantee: JNJB, LLC
Mailing Address: 224 SE 2ND ST STE 100
BENTONVILLE AR 727120000

Grantor: HANNAH TAYLOR CARR EXEMPT TRUST C/U THE COFFELT FAMILY
Mailing Address: TRUST DATED JUNE 30, 2008
250 N. WATER TOWER RD.
BENTONVILLE AR 727120000

Property Purchase Price: \$1,545,000.00
Tax Amount: \$5,098.50
County: BENTON
Date Issued: 10/08/2021
Stamp ID: 1919117312

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

Grantee or Agent Name (printed):  citytitle^{llc}, as agent for Grantee
& closing

Grantee or Agent Name (signature): 479-935-4177 *James* Date: 10/8/21

Address: _____

City/State/Zip: _____

January 24, 2022

Board of Adjustments
305 SW A Street
Bentonville, AR

Project Name: Coffelt Townhouses
407 SE B street and 410 SE C street
Parcel #: 01-03540-000

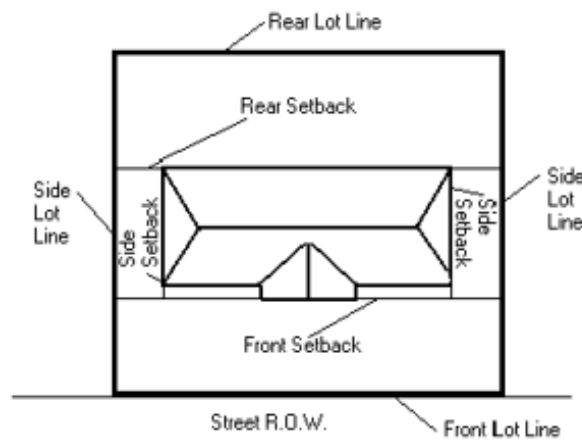
Board of Adjustments Variance Request – Narrative Letter

Newell Development is focused on building accessible urban infill projects including apartments, townhomes and detached single family homes throughout the Downtown Neighborhood Districts. Projects are intended to offer more varied and attainable living options in the downtown area while also updating the aesthetic in downtown neighborhoods.

In regard to the recent conceptual review from the city planning staff for 407 SE B street and 410 SE C street in the DN-2 zoning district, we submit the following appeal to staff interpretation of the application of front yard setbacks.

Section 201.02 Definitions:

1. *Building*: Any structure used or intended for supporting or sheltering any use or occupancy.
2. *Building Line*: A line usually fixed parallel to a lot line, beyond which a building cannot extend under the terms of the Zoning Ordinance. It is equivalent to the setback or yard line.
3. *Setback*: The required distance between every structure and any lot line on the lot on which it is located.



4. *Yard*: A required open area at grade between a building setback line and a public right-of-way, access easement or property line, unoccupied and unobstructed by

Michael Byrd, AIA CSI

Tyler Stephens, AIA

any portion of a **structure** from the ground upward, except where otherwise specifically allowed in this code.

Background:

There are several purposes for setbacks in any zoning code. They include the regulation of items such as density, open space, and general street consistency. With regards to front yard setbacks, this concept of street consistency also serves to regulate the intended perception of scale along any street. In most cases, the closer to a town center a property is, the more density is allowed and therefore less of a front street setback is required. This is true of the Bentonville zoning code for the most part. However, within the code, there is not a precise front street setback in most zones, but rather, a range in which a building must fall. In the DN-2 zone, for instance, front yard setbacks for townhouses must be within 12' min and 25' max from the front property line.

This "building line" serves to ensure that structures do not crowd the public right of way. Front yards are used to provide some visual relief to the street, often containing landscaping or other features within the front yard, but not part of public property. These features serve to transition from the public right of way to the building façade both for visual and circulatory aspects of the property. Regarding circulation, these items include, but are not limited to, driveways, sidewalks and steps, entrance posts, fencing, entrance pillars, trellises, and porch stairs. None of these are part of the building structure itself, but many have independent foundations for their own purposes.

Staff Interpretation:

In reviewing the proposed townhouse development, it has been the staff's interpretation that the definition of "structure" includes anything with a foundation. This strict interpretation would therefore preclude any stairs up to an entrance porch from being placed within the front yard despite their having a separate foundation from that of the actual structure.

This interpretation does not follow the historic pattern found in Bentonville. The front yard building lines found on existing streets show setbacks and alignments with regard to exterior walls, covered porches and roofs. That is consistent with the definitions of *buildings* and *structures* within the zoning code. These are all used for "supporting or sheltering any use or occupancy". A set of steps up to a porch is not part of that shelter. It is simply another transition element allowing a person to get up on to a raised porch or floor of the structure.

Conclusion:

The blocks between SE B and SE C streets are unusual in that they are only one lot deep, creating two street frontages both on SE B and SE C. This lot specifically has a third frontage that faces the multi-use trail. Our intent with this development is to preserve a good street façade by designing in a way that structures face both streets and the trail. While the existing structures on this lot attempted that by mirroring each other east and west, most existing structures have simply faced one street and turned their back to the other.

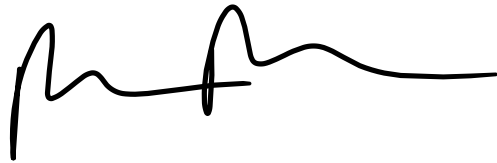
The interpretation of the word "structure" and how it relates to what is allowed in the front yard setback by the staff creates a hardship with regard to improving the urban fabric of the street. Without the ability to locate the entrance steps within the front yard, there is not adequate space to create structures facing both streets. The front setbacks would simply be too large.

Given the historic precedent of how front steps have been placed in front yards, we are requesting a variance to the staff interpretation of "structure" to exclude stairs, in turn allowing for steps to be placed in the front setback as a "transition" to the "structure" rather than being considered part of "structure".

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tyler Stephens", with a stylized, flowing script.

Tyler Stephens, AIA
Principal
OREN Architecture, Inc.

A handwritten signature in black ink, appearing to read "Mitch Moore", with a stylized, flowing script.

Mitch Moore
COO
Newell Development

BOARD OF ADJUSTMENT STAFF REPORT



Sun Group Townhomes

504 SW B Street

BOA Date: 2/9/2022

Reviewer: Luke Aitken, Planning Technician

Project Number	VAR22-0005
Applicant / Current Owner	Homex International LLC.
Site Area	+/- 0.25 acres
Current Zoning	DE, Downtown Edge
Variance Request	Zoning Code Article: Section 401.06(b)(2)

Property Description

This property is located at 504 SW B Street and is currently zoned DE, Downtown Edge.

Regulation

According to Zoning Code Article Section 401.06(b)(2) Minimum Setback Standards, the minimum rear setback required is 12' from the rear property line.

Variance Request

The applicant is requesting a variance of 12 feet, from the 12 foot rear setback required by code, to allow a 0-foot setback along the western property line for seven new townhomes to be built on their property without having to relocate a Bentonville Utility electric box.

Background

The applicant states that a Bentonville Utility electric box is located within the southeast corner of their lot which requires a 15-foot buffer from any structures, affecting the available buildable area on the property. Moving this electric box would be extremely challenging, expensive, and is not recommended by City staff. According to the applicant's narrative, the placement of this electric box leaves them with very few viable options for a development project on this property, which is zoned and intended for high-density usage.

Because of the effect this electric box has on the site plan of the development the applicant has requested a setback variance instead of attempting to rezone the property to DC, Downtown Core which would allow a 0 foot rear setback. City staff has noted that historically there has not been Planning Commission support for any DC zoning on the west side of B St.

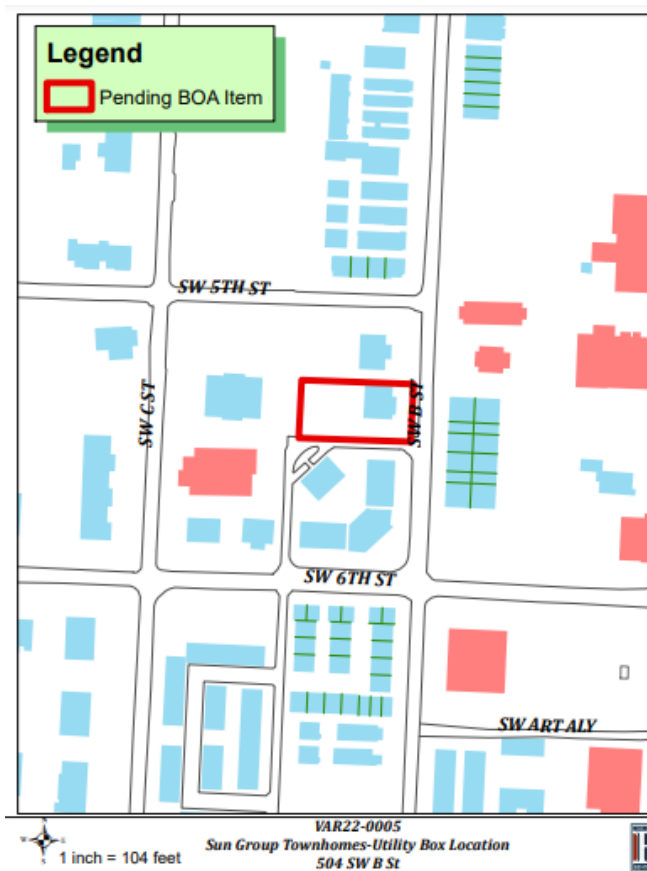
Public Comment

Staff has **NOT** received any 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, as provided by the applicant within this application.
2. The applicant must obtain Large Scale Development approval before building permitting.
3. The applicant must obtain a building permit before 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.

Legend



Pending BOA Item

SW 5TH ST

SW C ST

SW B ST

SW 6TH ST

SW ART ALY



1 inch = 104 feet

VAR22-0005

Sun Group Townhomes-Utility Box Location

504 SW B St



Property Owner Consent Form

City of Bentonville Planning Department

305 SW A Street

Bentonville, AR 72712

479-271-3122

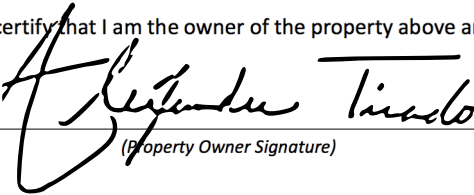
Alexandra Tirado, sole member of Homex International LLC ,
I, _____ am the legal owner of the
(Owner's name, printed)

property located at **504 SW B St, Bentonville AR 72712**, identified as Parcel
(Address or Street Name)

Identification Number **01-02414-000**, located in
(Parcel ID)

Benton County, Arkansas.

I certify that I am the owner of the property above and that I have read the application and consent to its filing.



(Property Owner Signature)

January 24, 2022

(Date)

****If one property has multiple owners, a separate signed Property Owner Consent Form is required for each owner.**

Prepared by:
Joshua B. Hite, Attorney
Hite Law Firm, PLLC
5431 Pinnacle Pointe Dr., Ste. 105
Rogers, AR 72758

GENERAL WARRANTY DEED

File No. 21-2981

KNOW ALL BY THESE PRESENTS:

That we, **Ricky L. Burnette, a single person**, hereinafter collectively called Grantor, for and in consideration of the sum of One and No/100-----Dollars---(\$1.00) and other good and valuable consideration in hand paid by **Homex International LLC, an Arkansas limited liability company**, hereinafter called Grantee, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto said Grantee and unto Grantee's successors and assigns, forever, the following described land, situated and being in the County of Benton, State of Arkansas, to-wit:

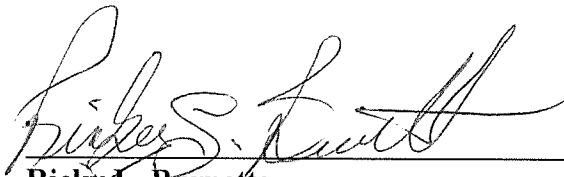
Lot 5 and the South 1/2 of Lot 4, Block 2, Dunn and Davis Addition to the City of Bentonville, Benton County, Arkansas, as shown in Plat Record "B" at page 117.

Subject to all easements, covenants, conditions, restrictions, reservations and rights of way of record. Subject to all prior mineral reservations and oil and gas leases.

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

[Signature Page Follows]

EXECUTED and DELIVERED to be effective as of the 6 day of July, 2021.


Ricky L. Burnette

ACKNOWLEDGMENT

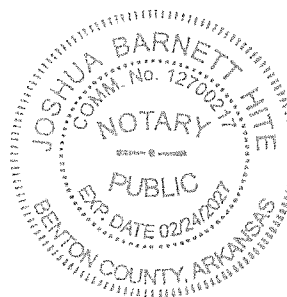
STATE OF ARKANSAS)
) SS
COUNTY OF Benton)

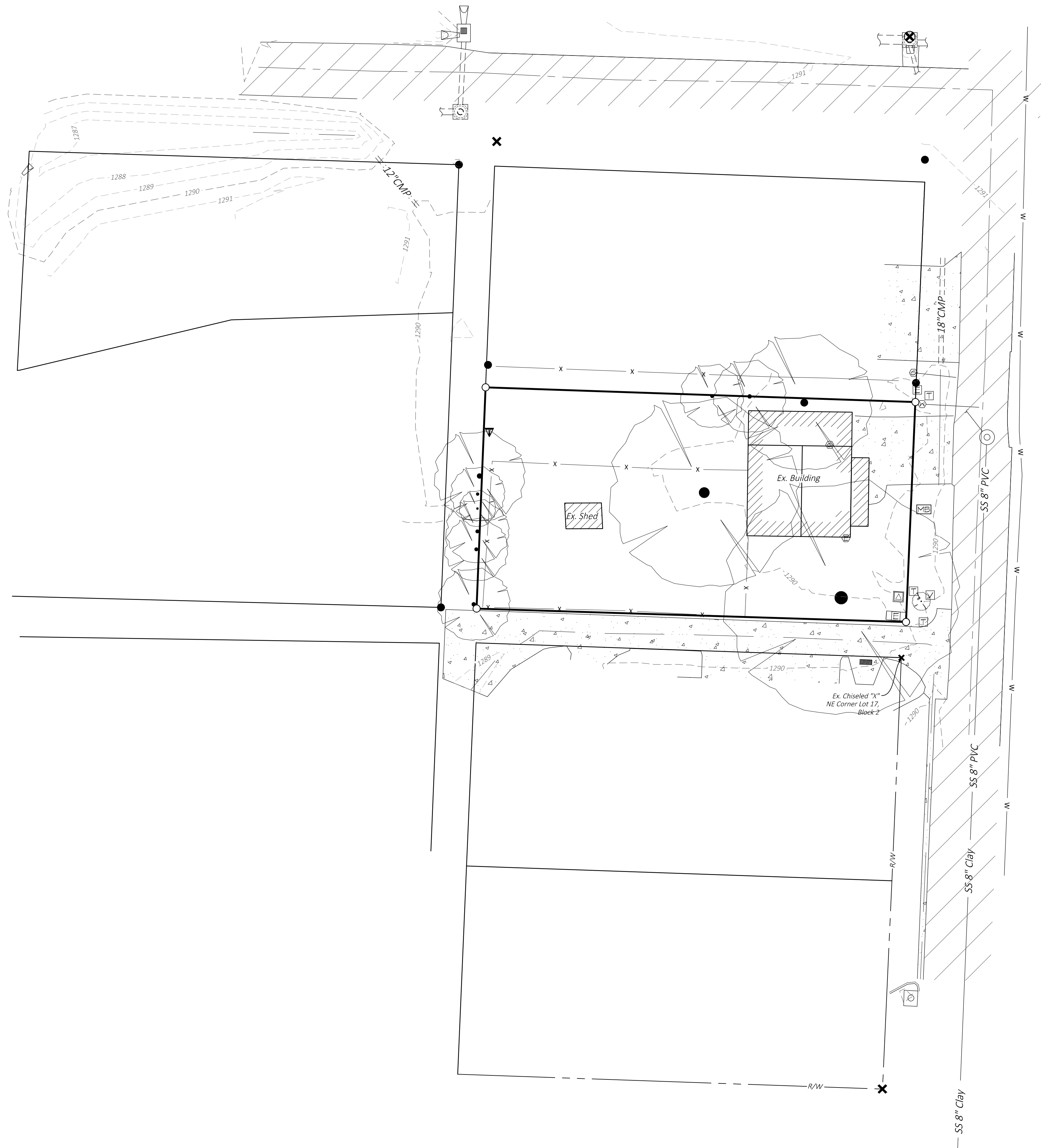
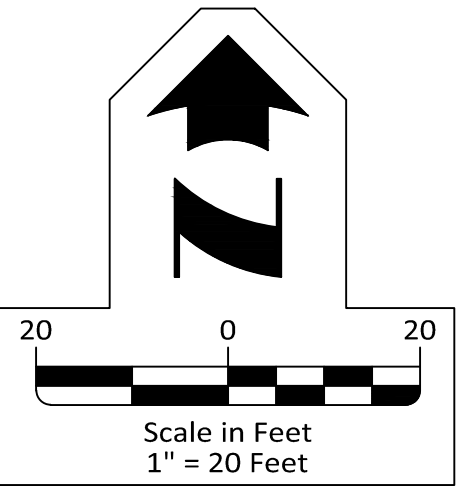
On this day before the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for the said County and State, appeared in person the within named **Ricky L. Burnette**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and acknowledged that he had executed the same for the consideration, uses and purposes therein set forth.

In Testimony Whereof, I have hereunto set my hand and official seal this 6 day of July, 2021.


Notary Public

My Commission Expires: 2/24/27





Dear Board of Adjustments Committee,

Request:

We are requesting for a single variance on the rear of the property, 504 SW B St. We ask that a variance request be approved to allow for a 0' rear setback line, which is the DC zoning standard for rear setbacks. The property is currently zoned as Downtown Edge, which requires a 12' rear setback if adjacent to a residential property.

Hardship:

This variance request stems from the hardship of the location of the Bentonville Utility electric box that is positioned on the southeast corner, within the property line. In our prior concept meeting for this project, it was brought to our attention that moving this electric box is extremely challenging and not recommended. Furthermore, initial quotes we have received to relocate the transformer are upwards of \$250,000 plus any costs from complications that could arise if residents who depend on that box for electricity are impacted. This is a severe hardship and expense that a project and property this small in size realistically cannot support.

The placement of this electricity box leaves us with very little viable options for a development project on this property, which is zoned and intended for high-density usage. We ask for approval of the seven townhome unit plan in order to maintain a viable development project, as our original proposed density plan/buildable area has been impacted and reduced by the presence of the electric box and the 15' radius distance that the building footprint is required to maintain.

Future Land Use & Neighboring Property Consideration:

The future land use of this property is Downtown Commercial. We initially requested that our zoning be changed to DC to achieve the 0' rear setback standards that the project needs. The planning department noted that historically it has not supported any DC zoning on the west Side of B St. We respect this guidance and agree that the project does not need to completely change its zoning to DC to achieve its goal of attaining a single 0' setback on the rear side of the property.

Our research of B St has shown that properties on B St with a Future Land Usage of Downtown Commercial were approved for the DC Zoning. We ask that our future land usage be taken into consideration for this variance request. It seems that our request for this setback variance, which is being requested due to a hardship, would be aligned with the future land usage of this property, and is also in alignment with the surrounding neighbors on the street that are zoned DC.

Thank you for your understanding and consideration of this hardship.

Sincerely,

Alexandra Tirado

S2/3 Lot 2
Parcel #: 01-02413-000
City of Bentonville
SW 5th ST

Lot 16
Parcel #: 01-02415-000
Larson Family Trust-Brian L
& Patricia K
503 SW C ST

12' Alley

Lot 20
Parcel #: 01-02418-001
King, Kriston C & Maud E
505 SW C ST

Lot 19
Parcel #: 01-02412-000
Woodell, Brandon & Jennifer Misty
500 SW B ST

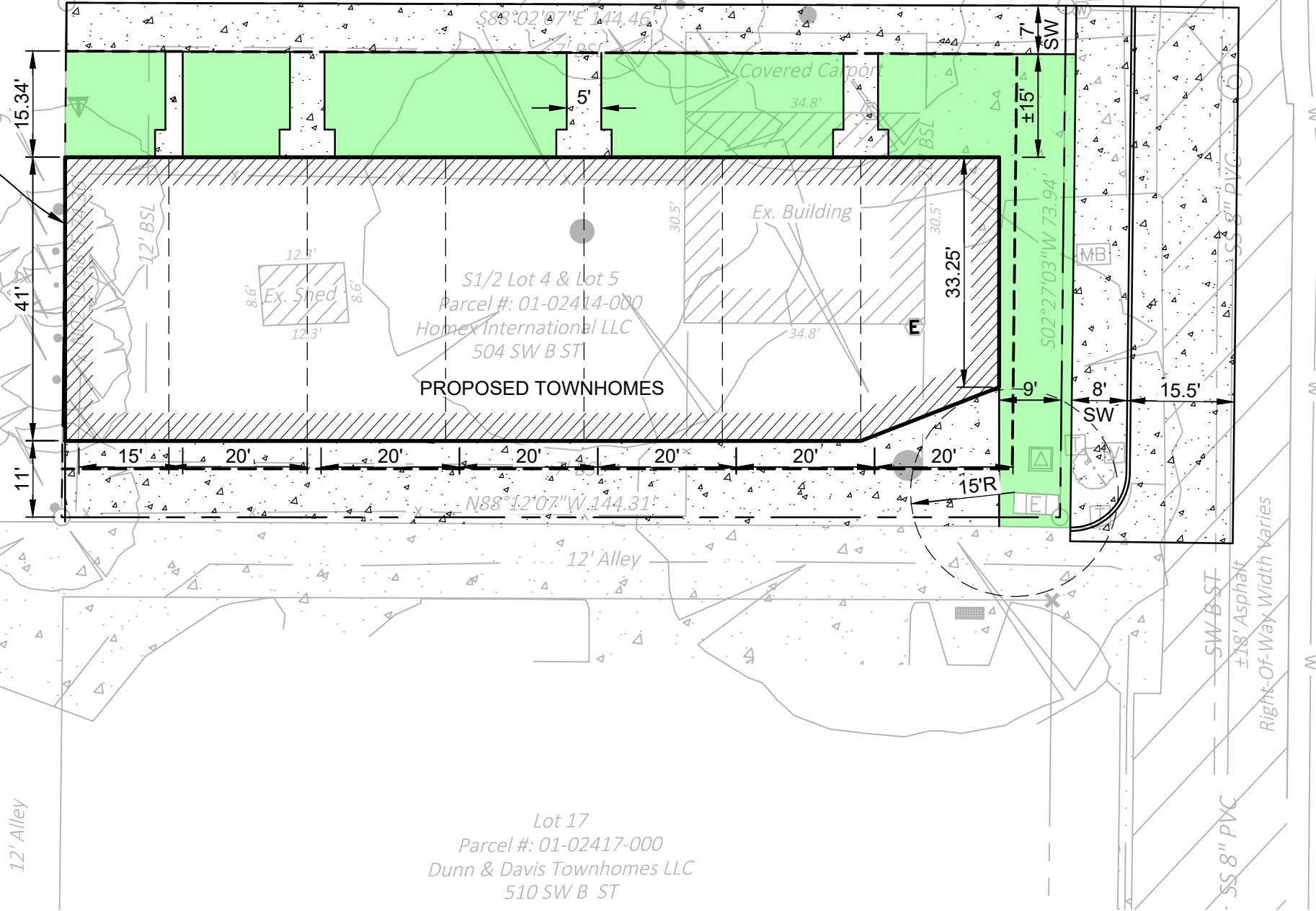
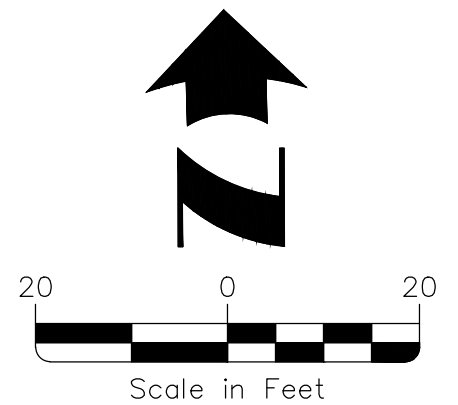
S1/2 Lot 4 & Lot 5
Parcel #: 01-02414-000
Homex International LLC
504 SW B ST

Lot 17
Parcel #: 01-02417-000
Dunn & Davis Townhomes LLC
510 SW B ST

PROPOSED 0' REAR SETBACK

12' Alley

12' Alley



Drawn By:	RBA
Approved By:	JRF
Date:	1.10.2022
Project No.:	BFS-01

Vertical Scale:	-
Horizontal Scale:	1
Plotting Scale:	1"=20'
Drawing Name:	Concept

Sungroup Townhomes

Bentonville, Benton County, Arkansas

CONCEPT A
Townhome Layout

Issued for Review - 1.24.2022

Sheet No.:

1

1