



BENTONVILLE CITY COUNCIL AGENDA

**Regular City Council Meeting
Community Development
Planning Commission Meeting Room**

**Tuesday, March 27, 2018 6:00 p.m.
305 SW "A" Street**

**Public Comments on Tonight's Agenda Items (Limited Public Forum)
Questions, Comments and Discussion from City Council Members on Tonight's Agenda
Call to Order
Pledge of Allegiance
Moment of Silence – For our Military Forces
Roll Call
Approval of Minutes: March 13, 2018**

AGENDA

1. Request that the City Council adopt a formal resolution to recognize, commend and congratulate K-9 Officer J.R. Cooper's retirement. This resolution recognizes more than 20 years of law enforcement service, including more than 5 years of decorated service with the Bentonville Police Department. This resolution also wishes J.R. Cooper much health, happiness, and continued success in all of his future endeavors. See attached resolution. **(Pages 5-6)**
2. Request that the City Council recognize the retirement of Police Department K-9 Nico, and authorize the ownership of the K-9 to be transferred to his handler, also soon to retire K-9 Officer J.R. Cooper. Due to his age, K-9 Nico's retirement is in the best interests of the animal and all involved parties. Upon retirement, J.R. Cooper would assume complete responsibility for the K-9. **(Pages 7-9)**
3. Planning:
- 3a. **Lot Split: Lots 18-23, Block 1 of T.J. Holland's Subdivision, Bern's Capital, LLC, 401 SW B Street, D-E, Downtown Edge.**

(Pages 14-15)

The Planning Commission voted 6-0, recommending approval.

The applicant has submitted a lot split for an approximately .2 acre area, splitting Lot 15, Block 1 of T.J. Holland's Subdivision, and creating Lots 18-23, Block 1 of T.J. Holland's Subdivision. Lot lines are created on the common walls of an existing townhouse development. A 6-foot utility easement will be dedicated per this plat. All public infrastructure and improvements were provided with the Pharm Townhomes Large Scale Development.

- 3b. **Property Line Adjustment: Lot 11 of Deming's Addition, Gandy, 204 NW 4th Street, R-1, Single Family Residential.**

(Pages 16-17)

The Planning Commission voted 6-0, recommending approval.

The applicant has submitted a property line adjustment to remove the common lot line between Lots 6 & 7, Block 4 of Deming's Addition to create Lot 11 (+/- 0.42 acres) of Deming's Addition. Right-of-way will be dedicated per this plat along NW 4th Street. 20' utility easements will be dedicated per this plat along all property lines.

- 3c. **Property Line Adjustment: Lot 1 of Bentonville Downs Subdivision, Rader, 905 SE 5th Street, R-1, Single Family Residential.**

(Pages 18-19)

The Planning Commission voted 6-0, recommending approval.

The applicant has submitted a property line adjustment that will create Lot 1 (+/- .25 acres) of Bentonville Downs Subdivision. Right-of-way will be dedicated per this plat along SE 5th Street. Multiple utility easements of varying widths will be dedicated per this plat.

- 3d. **Property Line Adjustment: Lots 181-183 of Stone Meadow Addition, ELB Land Holdings, LLC, 1904 SW Riverstone Road, R-1, Single Family Residential & R-2, Duplex and Patio Home Residential.**

(Pages 20-21)

The Planning Commission voted 6-0, recommending approval.

Property Line adjustment adjusting the depth of Lots 277 & 278 of Stone Meadows Addition, creating new lots 281 thru 283 of Stone Meadow Addition. 10' utility easements will be dedicated per this plat along the rear of new lots 281 & 282.

- 3e. **Property Line Adjustment: Lots 13-16 of Gilmore's Addition, Roth Family, Inc., 502 & 506 SW D Street, D-E, Downtown Edge.**

(Pages 22-23)

The Planning Commission voted 6-0, recommending approval.

A Property Line Adjustment of Lots 2, 4, 6, & 8, Block 7 of Gilmore's Addition, creating new Lots 13 thru 16. Lot 13, a corner lot, is .24 acres in size, while lots 14 thru 16 are .19 acres in size. Right-of-way will be dedicated per this plat along SW 5th Street. A 15' utility easement along the northern property line and a 20' utility easement along the eastern property line will be dedicated per this plat.

- 3f. **Rezoning: Bentonville Housing, LLC, Southeast 3rd Street & Southeast D Street, From R-1, Single Family Residential to DN-3, Downtown High-Density Residential.**

(Pages 24-29)

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Downtown High-Density Residential (D-HDR). The DN-3, Downtown High Density Residential zoning is an appropriate zoning district for this designation.

- 3g. **Rezoning: Bentonville Housing, LLC, 501 SE 3rd Street, From R-1, Single Family Residential to DN-3, Downtown High-Density Residential.**

(Pages 30-36)

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Downtown High-Density Residential (D-HDR). The DN-3, Downtown High Density Residential zoning is an appropriate zoning district for this designation.

- 3h. **Rezoning: Bentonville Housing LLC, 608 SE 3rd Street, From I-2, Heavy Industrial to DN-4, Downtown Mixed-Use Residential.**

(Pages 37-39)

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Downtown Mixed-Use Residential (DMUR). The DN-4, Downtown Mixed-Use Residential zoning is an appropriate zoning district for this designation.

- 3i. **Rezoning: Bentonville Housing, LLC, 401 SE D Street, From R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential.**

(Pages 40-42)

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Downtown Mixed-Use Residential (DMUR). The DN-4, Downtown Mixed-Use Residential zoning is an appropriate zoning district for this designation.

- 3j. **Rezoning: Atkins, Northwest 2nd Street, From R-1, Single Family Residential to DN-1, Downtown Low-Density Residential.**

(Pages 43-45)

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Downtown Low-Density Residential (D-LDR). The DN-1, Downtown Low-Density Residential zoning is an appropriate zoning district for this designation.

- 3k. **Ordinance: Zoning Ordinance Amendments.**

(Pages 46-116)

The Planning Commission voted 6-0, recommending approval.

From time to time, staff reviews the existing zoning code for clarification, corrections, or updates to meet current conditions. The following outline is a summary of the key issues identified with the current zoning code and the proposed changes to address the issue. Staff requests approval of the proposed ordinance to amend Chapter 14 Zoning Code.

4. This item asks for the consideration of Council to add one additional police officer position to our current staff of 76 sworn officers. At their March 12, 2018 meeting, the Bentonville Board of Education voted to approve an additional School Resource Officer (SRO) for the school district. The approval of this additional officer position would fulfill this request and allow the placement of one SRO at each of the three Jr. High Schools. Currently, one of our 4 SRO's divides time between two Jr. High School locations. The additional SRO would go into service for the 2018-2019 school year. This timing would necessitate the need to conduct additional hiring as soon as possible to backfill for the officer that will be selected for this position. If additional hiring is accomplished by June of this year, the 2018 cost to the city would be approximately \$33,662.00 for pay and benefits. This amount represents the estimated six month pay and benefit cost for an experienced Police Officer II. In accordance with the existing SRO agreement with Bentonville Schools, the city would be reimbursed for the actual costs associated with the actual assigned SRO, including the related vehicle insurance and depreciation costs. A police vehicle that is already in the city's possession can be utilized, without modification, as a vehicle for this new SRO. This vehicle is available as a result of items that were previously funded by a 2012 federal grant being released to sponsoring jurisdictions. This will eliminate any need to accompany this request with an additional police vehicle request at this time. See attached letter of request from the school district. **(Pages 117-119)**
5. Council approval of Mayor McCaslin's recommendation to reappoint Kimberly Seay to the Library Advisory Board. (Term expires on December 31, 2021) **(Pages 120-122)**
6. Council approval of Mayor McCaslin's recommendation to appoint Melissa Godoy to the Library Advisory Board. (Term expires on December 31, 2020) **(Pages 123-126)**
7. Council approval of bid number 18-009, in the amount of \$22,640.00, for canopies to cover bleachers at nine baseball/softball fields in Memorial Park. **(Pages 127-129)**
8. The Street Department is asking for Council's approval to award bid #IFB-18_008 to Riggs Cat in the amount of \$196,510.89 which includes sales tax. This is for a 2018 excavator that was approved in the 2018 budget. Please see attached bid, memo, and bid tab. **(Pages 130-143)**
9. Staff requests City Council approval of a waiver of competitive bidding requirement for the materials needed to add protected left turn signals to the intersection of South Walton and SE 28th Street. These components are sole source items provided by Temple. None of the items being purchased are more than \$20,000.00 individually. Cost of this request is \$48,146.18 including tax and freight and will come from the Bond account. **(Pages 144-156)**
10. Fire Department Staff is submitting a request from Whittington Holdings for half of the road construction cost that accesses Station #7 property. Whittington Holdings has invoiced the City for half the cost. However, because it was not completed within the one year as set forth in the real estate agreement, payment requires Council approval. **(Pages 157-173)**
11. Electric Department recommends a budget adjustment in the amount of \$12,000.00 to purchase updated SAG-10 software. **(Pages 174-176)**



CHECK ALL THAT APPLY		
	Bid Award	Bid #
	Budget Adjustment	
	Change Order	
	Informational	
	Ordinance	
x	Resolution	
	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

March 27, 2018

Submitted by:

Jon Simpson

Department

Police

Phone

271-3172

ACTION REQUIRED:

Request that the City Council adopt a formal resolution to recognize, commend and congratulate K9 Officer JR Cooper's retirement. This resolution recognizes more than 20 years of law enforcement service, including more than 5 years of decorated service with the Bentonville Police Department. This resolution also wishes JR Cooper much health, happiness, and continued success in all of his future endeavors. See attached resolution.

COST TO CITY:

Cost of this Request: \$0

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

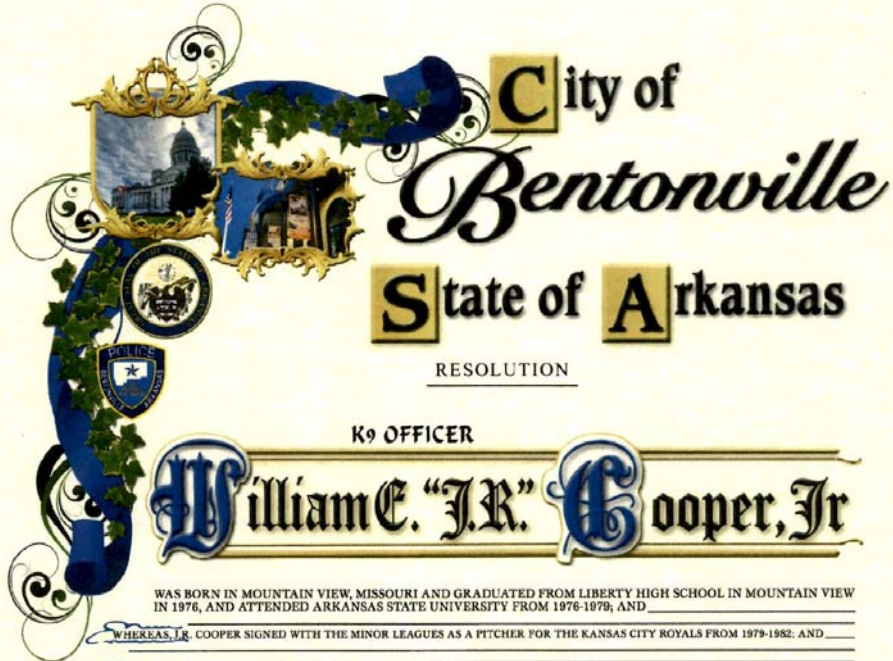
117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE





WAS BORN IN MOUNTAIN VIEW, MISSOURI AND GRADUATED FROM LIBERTY HIGH SCHOOL IN MOUNTAIN VIEW IN 1976, AND ATTENDED ARKANSAS STATE UNIVERSITY FROM 1976-1979, AND

WHEREAS, J.R. COOPER SIGNED WITH THE MINOR LEAGUES AS A PITCHER FOR THE KANSAS CITY ROYALS FROM 1979-1982, AND

WHEREAS, J.R. COOPER BEGAN HIS CAREER IN LAW ENFORCEMENT ON APRIL 1, 1991 WITH THE BENTON COUNTY SHERIFF'S OFFICE ULTIMATELY SERVING AS A DETENTION DEPUTY, PATROL DEPUTY, AND NARCOTICS INVESTIGATOR; AND

WHEREAS, J.R. COOPER IN 1995 JOINED THE LITTLE FLOCK POLICE DEPARTMENT AND SERVED THIS AGENCY AS ONE OF THE FIRST K9 OFFICERS IN BENTON COUNTY ASSISTING NUMEROUS OTHER AGENCIES, INCLUDING THE BENTONVILLE POLICE DEPARTMENT, IN COUNTLESS DRUG RELATED INVESTIGATIONS; AND

WHEREAS, J.R. COOPER FROM 1999 TO 2002 SERVED AS PATROL OFFICER WITH SEVERAL AREA LAW ENFORCEMENT AGENCIES, INCLUDING THE PEA RIDGE POLICE DEPARTMENT AND THE LOWELL POLICE DEPARTMENT, BEFORE SPENDING A NUMBER OF YEARS IN THE PRIVATE SECURITY INDUSTRY; AND

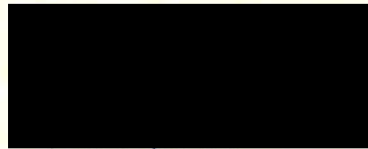
WHEREAS, J.R. COOPER, AFTER A DEPARTURE OF MORE THAN 10 YEARS, RETURNED TO HIS CAREER IN LAW ENFORCEMENT ON FEBRUARY 4, 2013 AS A PATROL OFFICER WITH THE BENTONVILLE POLICE DEPARTMENT, AND REGAINED HIS CERTIFICATION WITH THE COMMISSION OF LAW ENFORCEMENT STANDARDS AND TRAINING BY CHALLENGING THE STATE OF ARKANSAS, COMPLETING A TESTING PROCEDURE, AND ACHIEVING ONE OF THE HIGHEST SCORES EVER RECORDED ON THIS TEST; AND

WHEREAS, J.R. COOPER ON NOVEMBER 18, 2013, CONTINUED HIS CAREER AT THE BENTONVILLE POLICE DEPARTMENT BY JOINING THE OPERATIONS DIVISION AS A K9 OFFICER, AND IN THIS CAPACITY WITH HIS K9 PARTNER NICO, COMPLETED NUMEROUS INVESTIGATIONS AND ARRESTS, OFFERED SUPPORT AND BACK UP FOR HIS FELLOW OFFICERS, AND ONCE AGAIN PROVIDED POLICE K9 SERVICES AND SPECIALIZED TRAINING ASSISTANCE FOR ALL OF BENTON COUNTY, MAKING THE CITY OF BENTONVILLE AND OUR COMMUNITY A BETTER AND SAFER PLACE TO LIVE; AND

WHEREAS, J.R. COOPER HAS FAITHFULLY SERVED IN THE OPERATIONS DIVISION OF THE BENTONVILLE POLICE DEPARTMENT AS A K9 OFFICER, CONTINUING HIS LONG STANDING REPUTATION OF EXPERTISE AS BOTH A LAW ENFORCEMENT OFFICER AND POLICE K9 HANDLER AND TRAINER, UNTIL HIS RETIREMENT; AND

NOW THEREFORE, BE IT RESOLVED THAT BY THE ADOPTION OF THIS RESOLUTION, THE CITY COUNCIL OF BENTONVILLE, HEREBY COMMENTS AND CONGRATULATES WILLIAM E. "J.R." COOPER, JR FOR HIS 20 YEARS OF DEDICATED LAW ENFORCEMENT SERVICE, TO INCLUDE HIS 5 YEARS OF SERVICE TO THE BENTONVILLE POLICE DEPARTMENT AND THE CITIZENS OF BENTONVILLE, AND WISHES HIM AND HIS PARTNER K9 NICO, HEALTH, HAPPINESS, AND CONTINUED SUCCESS IN ALL HIS FUTURE ENDEAVORS.

GIVEN THIS 27th day of March, 2018, in Bentonville, in the Great State of Arkansas, in the United States of America.



Linda Spence, City Clerk



CHECK ALL THAT APPLY		
	Bid Award	Bid #
	Budget Adjustment	
	Change Order	
	Informational	
	Ordinance	
x	Resolution	
	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

March 27, 2018

Submitted by: Jon Simpson

Department: Police

Phone: 271-3172

ACTION REQUIRED:

Request that the City Council recognize the retirement of Police Department K-9 Nico, and authorize the ownership of the K-9 to be transferred to his handler, also soon to retire K9 Officer JR Cooper. Due to his age, K9 Nico's retirement is in the best interests of the animal and all involved parties. Upon retirement, JR Cooper would assume complete responsibility for the K9.

COST TO CITY:

Cost of this Request: \$0

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE





**CITY of
BENTONVILLE
POLICE
DEPARTMENT**

908 S. E. 14th Street
Bentonville, Arkansas 72712
(479) 271-3173

Jon Simpson
Chief of Police

March 12, 2018

Chief Simpson,

As you are aware, I will be retiring from the Bentonville Police Department on March 30, 2018. I would first like to thank the police department for providing me the opportunity to work at the police department in the K-9 division. I have truly enjoyed my service.

K-9 Nico has been my partner for the last 5 years and has really become a member of my family. Thanks to K-9 Nico, the City of Bentonville is a better place to live. K-9 Nico has been used in over 100 drug arrests. I am proud to say K-9 Nico's ability has never been questioned in court.

K-9 Nico is almost 9 years old and has recently had some medical issues. I am requesting to obtain ownership of police K-9 Nico after his retirement. I understand if he is retired to my ownership, I assume all care including food, shelter, medical care and all other liabilities that may be incurred.

Thank you for your consideration of my request.



Officer J.R. Cooper 931

RESOLUTION NO. _____

**A RESOLUTION RECOGNIZING THE RETIREMENT OF
POLICE K-9 NICO AND AUTHORIZING THE K-9 TO BE
TRANSFERRED TO HIS HANDLER.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE
CITY OF BENTONVILLE, ARKANSAS.**

Section 1: That the Police K-9 known as “Nico” is hereby retired from service and deemed surplus, and the City is authorized to transfer the K-9 to his handler, Officer J.R. Cooper.

Section 2: This resolution shall be in full force and effect from and after the date of its passage.

PASSED and APPROVED this ____ day of _____, 2018.

APPROVED:

MAYOR

ATTEST:

CITY CLERK



City Council Agenda Items

For City Council Meeting of March 27, 2018

From the March 20, 2018 Planning Commission Meeting

Lot Split: Lots 18-23, Block 1 of T.J. Holland's Subdivision, Bern's Capital, LLC, 401 SW B Street, D-E, Downtown Edge.

The Planning Commission voted 6-0, recommending approval.

The applicant has submitted a lot split for an approximately .2 acre area, splitting Lot 15, Block 1 of T.J. Holland's Subdivision, and creating Lots 18-23, Block 1 of T.J. Holland's Subdivision. Lot lines are created on the common walls of an existing townhouse development. A 6-foot utility easement will be dedicated per this plat. All public infrastructure and improvements were provided with the Pharm Townhomes Large Scale Development.

Property Line Adjustment: Lot 11 of Deming's Addition, Gandy , 204 NW 4th Street, R-1, Single Family Residential.

The Planning Commission voted 6-0, recommending approval.

The applicant has submitted a property line adjustment to remove the common lot line between Lots 6 & 7, Block 4 of Deming's Addition to create Lot 11 (+/- 0.42 acres) of Deming's Addition. Right-of-way will be dedicated per this plat along NW 4th Street. 20' utility easements will be dedicated per this plat along all property lines.

Property Line Adjustment: Lot 1 of Bentonville Downs Subdivision, Rader, 905 SE 5th Street, R-1, Single Family Residential.

The Planning Commission voted 6-0, recommending approval.

The applicant has submitted a property line adjustment that will create Lot 1 (+/- .25 acres) of Bentonville Downs Subdivision. Right-of-way will be dedicated per this plat along SE 5th Street. Multiple utility easements of varying widths will be dedicated per this plat.

Property Line Adjustment: Lots 181-183 of Stone Meadow Addition, ELB Land Holdings, LLC , 1904 SW Riverstone Road, R-1, Single Family Residential & R-2, Duplex and Patio Home Residential.

The Planning Commission voted 6-0, recommending approval.

Property Line adjustment adjusting the depth of Lots 277 & 278 of Stone Meadows Addition, creating new lots 281 thru 283 of Stone Meadow Addition. 10' utility easements will be dedicated per this plat along the rear of new lots 281 & 282.

Property Line Adjustment: Lots 13-16 of Gilmore's Addition, Roth Family, Inc., 502 & 506 SW D Street, D-E, Downtown Edge.

The Planning Commission voted 6-0, recommending approval.

A Property Line Adjustment of Lots 2, 4, 6, & 8, Block 7 of Gilmore's Addition, creating new Lots 13 thru 16. Lot 13, a corner lot, is .24 acres in size, while lots 14 thru 16 are .19 acres in size. Right-of-way will be dedicated per this plat along SW 5th Street. A 15' utility easement along the northern property line and a 20' utility easement along the eastern property line will be dedicated per this plat.

Rezoning: Bentonville Housing, LLC, Southeast 3rd Street & Southeast D Street, From R-1, Single Family Residential to DN-3, Downtown High-Density Residential.

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Downtown High-Density Residential (D-HDR). The DN-3, Downtown High Density Residential zoning is an appropriate zoning district for this designation.

Rezoning: Bentonville Housing, LLC, 501 SE 3rd Street, From R-1, Single Family Residential to DN-3, Downtown High-Density Residential.

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Downtown High-Density Residential (D-HDR). The DN-3, Downtown High Density Residential zoning is an appropriate zoning district for this designation.

Rezoning: Bentonville Housing LLC, 608 SE 3rd Street, From I-2, Heavy Industrial to DN-4, Downtown Mixed-Use Residential.

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Downtown Mixed Use Residential (DMUR). The DN-4, Downtown Mixed-Use Residential zoning is an appropriate zoning district for this designation.

Rezoning: Bentonville Housing, LLC, 401 SE D Street, From R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential.

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Downtown Mixed Use Residential (DMUR). The DN-4, Downtown Mixed-Use Residential zoning is an appropriate zoning district for this designation.

Rezoning: Atkins, Northwest 2nd Street, From R-1, Single Family Residential to DN-1, Downtown Low-Density Residential.

The Planning Commission voted 6-0, recommending approval.

The Future Land Use Plan depicts this property as Downtown Low-Density Residential (D-LDR). The DN-1, Downtown Low-Density Residential zoning is an appropriate zoning district for this designation.

Ordinance: Zoning Ordinance Amendments.

The Planning Commission voted 6-0, recommending approval.

From time to time, staff reviews the existing zoning code for clarification, corrections, or updates to meet current conditions. The following outline is a summary of the key issues identified with the current zoning code and the proposed changes to address the issue. Staff requests approval of the proposed ordinance to amend Chapter 14 Zoning Code.



Consent Agenda Items

For Planning Commission meeting of March 20, 2018

Reviewer: Tyler Overstreet, Planner

- ❖ At the Technical Review meeting held on March 13, 2018 the Planning Commission requested these items be placed on the Consent agenda. The descriptions below shall serve as the staff report for each of the consent agenda items.

Lot Split: Lots 18-23, Block 1, T.J. Holland's Subdivision, Berns Capital, LLC, 401 SW B Street, D-E, Downtown Edge, (LS18-0011)

The applicant has submitted a lot split for an approximately .2 acre area, splitting Lot 15, Block 1 of T.J. Holland's Subdivision, and creating Lots 18-23, Block 1 of T.J. Holland's Subdivision. Lot lines are created on the common walls of an existing townhouse development. The plat dedicates a six feet utility easement. All public infrastructure and improvements were provided with the Pharm Townhomes Large Scale Development (LSD15-00032) *(Please click on this link to access the vicinity map for this item: <http://geo.bentonvillear.com/mgweb/PZpending/>)*

Property Line Adjustment: Lot 11 Demings Addition, Gandy, 204 NW 4th Street, R-1, Single-Family Residential, (PLA18-0007)

The applicant has submitted a property line adjustment to remove the common lot line between Lots 6 & 7, Block 4 of Demings Addition to create Lot 11 (+/- 0.42 acres) of Demings Addition. The plat dedicates right-of-way along NW 4th Street and a 20 ft. utility easement along all property lines. *(Please click on this link to access the vicinity map for this item: <http://geo.bentonvillear.com/mgweb/PZpending/>)*

Property Line Adjustment: Lot 1 Bentonville Downs Subdivision, Rader, 905 SE 5th Street, R-1, Single-Family Residential, (PLA18-0006)

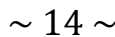
The applicant has submitted a property line adjustment that will create Lot 1 (+/- .25 acres) of Bentonville Downs Subdivision. The plat dedicates right-of-way along SE 5th Street and multiple utility easements of varying widths. *(Please click on this link to access the vicinity map for this item: <http://geo.bentonvillear.com/mgweb/PZpending/>)*

Property Line Adjustment: Lots 281-283 Stone Meadows Addition, ELB Land Holdings, LLC, 1904 SW Riverstone Road, R-1, Single-Family Residential & R-2, Duplex and Patio Home Residential, (PLA18-0008)

The applicant has submitted a property line adjustment adjusting the depth of Lots 277 & 278 of Stone Meadows Addition, creating new lots 281 through 283 of Stone Meadows Addition. The plat dedicates a 10 ft. utility easement along the rear of new lots 281 & 282. *(Please click on this link to access the vicinity map for this item: <http://geo.bentonvillear.com/mgweb/PZpending/>)*

Property Line Adjustment: Lots 13-16 Gilmore's Addition, Roth Family, Inc., 502 & 506 SW D Street, D-E, Downtown Edge (PLA18-0010)

The applicant has submitted a property line adjustment of Lots 2, 4, 6, & 8, Block 7 of Gilmore's Addition, creating new Lots 13 through 16. Lot 13, a corner lot, is .24 acres in size, while lots 14 thru 16 are .19 acres in size. The plat dedicates right-of-way along SW 5th Street, a 15 ft. utility easement along the northern property line, and a 20 ft. utility easement along the eastern property line. *(Please click on this link to access the vicinity map for this item: <http://geo.bentonvillear.com/mgweb/PZpending/>)*



ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A LOT SPLIT OF LOTS 18-23, BLOCK 1 OF
T.J. HOLLAND'S SUBDIVISION TO THE CITY OF BENTONVILLE,
ARKANSAS.**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the lot split of Lots 18-23, Block 1 of T.J. Holland's Subdivision, Benton County, Arkansas, was submitted to the Bentonville Planning Commission on March 20, 2018; and,

WHEREAS, said lot split is attached hereto as Exhibit "A"; and,

WHEREAS, the Bentonville Planning Commission considered said lot split on the date stated, and at other times, and voted to recommend the approval of said lot split to the City Council; and,

WHEREAS, the lot split of real property as described herein has been submitted to the City Council of the City of Bentonville and, after consideration and deliberation, said Council is of the opinion that said lot split should be approved.

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

Section 1: That the lot split of Lots 18-23, Block 1 of T.J. Holland's Subdivision to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

Section 2: That the Mayor and City Clerk be and are hereby authorized and directed to evidence the acceptance of said lot split by certifying said acceptance on the approved lot split.

PASSED AND APPROVED this _____ day of _____, 2018.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

PAUL, 01-52173-0000
GANNY, DAVID H & JENNIFER
197 LAKE CLAZZETH DR
CENTREVILLE MA 02533-3820

DATE	REVISION



BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS
524 W. SYCAMORE ST., SUITE 4
FAYETTEVILLE, ARKANSAS 72763
OFFICE: 479.445.4506
FAX: 479.352.0883
www.blewinc.com
Certified of Affiliation No. 1534

DATE OF BIRTH	J.C. - 290917	ARMY MEDICAL	G.A.C.	DEPT OF DEFENSE	D.D.A.
CITY & STATE	BENTON COUNTY, ARKANSAS	PULL LUNAR			
SACCHINO:	18-349				
304 NW 4TH STREET, BENTONVILLE, AR					
BENTONVILLE, ARKANSAS					

LOT COMBINATION
for
DAVID & JENNIFER GANDY

CITY OF BENTONVILLE PROJECT #PLA18-0007

ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOT 11
OF DEMING'S ADDITION TO THE CITY OF BENTONVILLE, ARKANSAS.**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment of Lot 11 of Deming's Addition of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on March 20, 2018; and,

WHEREAS, said property line adjustment is attached hereto as Exhibit "A"; and,

WHEREAS, the Bentonville Planning Commission considered said property line adjustment on the date stated and at other times, and voted to recommend the approval of said property line adjustment to the City Council; and,

WHEREAS, the property line adjustment of real property as described herein has been submitted to the City Council for the City of Bentonville, and after consideration and deliberation, said Council is of the opinion that said property line adjustment should be approved.

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

Section 1: That the property line adjustment of Lot 11 of Deming's Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

Section 2: That the Mayor and City Clerk be and are hereby authorized and directed to evidence the acceptance of said property line adjustment by certifying said acceptance on the approved property line adjustment.

PASSED AND APPROVED this _____ day of _____, 2018.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOT 1
OF BENTONVILLE DOWNS SUBDIVISION TO THE CITY OF
BENTONVILLE, ARKANSAS.**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment of Lot 1 of Bentonville Downs Subdivision of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on March 20, 2018; and,

WHEREAS, said property line adjustment is attached hereto as Exhibit "A"; and,

WHEREAS, the Bentonville Planning Commission considered said property line adjustment on the date stated and at other times, and voted to recommend the approval of said property line adjustment to the City Council; and,

WHEREAS, the property line adjustment of real property as described herein has been submitted to the City Council for the City of Bentonville, and after consideration and deliberation, said Council is of the opinion that said property line adjustment should be approved.

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

Section 1: That the property line adjustment of Lot 1 of Bentonville Downs Subdivision to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

Section 2: That the Mayor and City Clerk be and are hereby authorized and directed to evidence the acceptance of said property line adjustment by certifying said acceptance on the approved property line adjustment.

PASSED AND APPROVED this _____ day of _____, 2018.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOTS
181-183 OF STONE MEADOW ADDITION TO THE CITY OF BENTONVILLE,
ARKANSAS.**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment of Lots 181-183 of Stone Meadow Addition of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on March 20, 2018; and,

WHEREAS, said property line adjustment is attached hereto as Exhibit "A"; and,

WHEREAS, the Bentonville Planning Commission considered said property line adjustment on the date stated and at other times, and voted to recommend the approval of said property line adjustment to the City Council; and,

WHEREAS, the property line adjustment of real property as described herein has been submitted to the City Council for the City of Bentonville, and after consideration and deliberation, said Council is of the opinion that said property line adjustment should be approved.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF
BENTONVILLE, ARKANSAS:**

Section 1: That the property line adjustment of Lots 181-183 of Stone Meadow Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

Section 2: That the Mayor and City Clerk be and are hereby authorized and directed to evidence the acceptance of said property line adjustment by certifying said acceptance on the approved property line adjustment.

PASSED AND APPROVED this _____ day of _____, 2018.

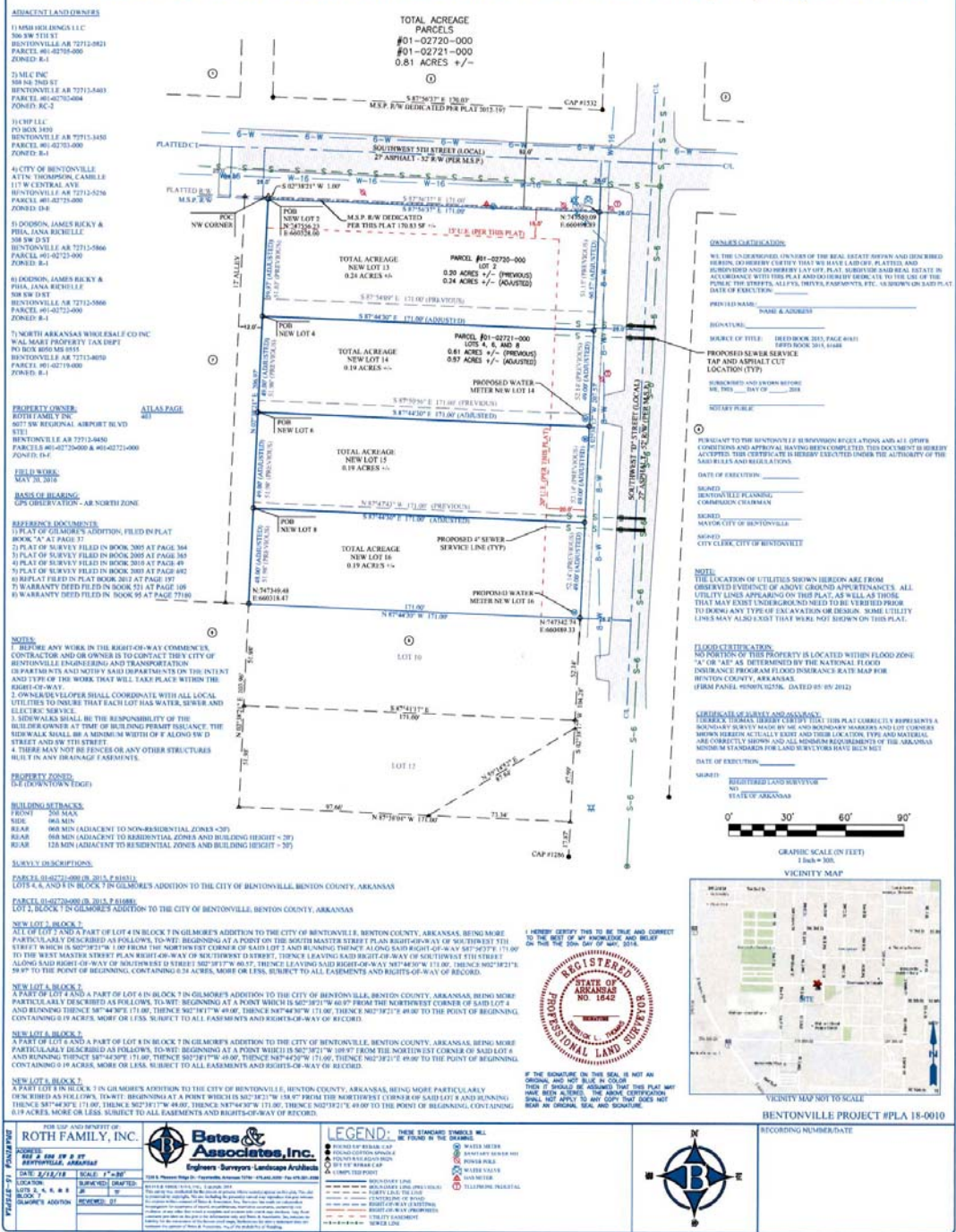
APPROVED:

ATTEST:

MAYOR

CITY CLERK

PROPERTY LINE ADJUSTMENT OF LOTS 2, 4, 6, AND 8 IN BLOCK 7 GILMORE'S ADDITION CREATING NEW LOTS 13, 14, 15, AND 16.



ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A PROPERTY LINE ADJUSTMENT OF LOTS
13-16 OF GILMORE'S ADDITION TO THE CITY OF BENTONVILLE,
ARKANSAS.**

WHEREAS, pursuant to the provisions of Title 15 of the Bentonville Municipal Code, the property line adjustment of Lots 13-16 of Gilmore's Addition of the City of Bentonville, Benton County, Arkansas was submitted to the Bentonville Planning Commission on March 20, 2018; and,

WHEREAS, said property line adjustment is attached hereto as Exhibit "A"; and,

WHEREAS, the Bentonville Planning Commission considered said property line adjustment on the date stated and at other times, and voted to recommend the approval of said property line adjustment to the City Council; and,

WHEREAS, the property line adjustment of real property as described herein has been submitted to the City Council for the City of Bentonville, and after consideration and deliberation, said Council is of the opinion that said property line adjustment should be approved.

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

Section 1: That the property line adjustment of Lots 13-16 of Gilmore's Addition to the City of Bentonville, Arkansas, should be and the same is hereby accepted and approved for all purposes.

Section 2: That the Mayor and City Clerk be and are hereby authorized and directed to evidence the acceptance of said property line adjustment by certifying said acceptance on the approved property line adjustment.

PASSED AND APPROVED this _____ day of _____, 2018.

APPROVED:

ATTEST:

MAYOR

CITY CLERK

REZONING STAFF REPORT



Bentonville Housing, LLC

SE 3rd Street & SE D Street

PC Date: 3/20/2018

Reviewer: Tyler Overstreet, Planner

Project Number	RZ18-0006
Applicant / Current Owner	Bentonville Housing, LLC PO Box 1860 Bentonville, AR 72712
Site Area	+/- .7 acres
Current Zoning	R-1, Single Family Residential
Requested Zoning	DN-3, Downtown High Density Residential
Future Land Use Map Designation	Downtown High-Density Residential (D-HDR)

Property Description

This approximately .7 acre tract is currently a parking lot located at the corner of SE 3rd Street and SE D Street. Adjacent zonings are R-1 to the north, south, and west and I-2 to the east.

Projected Traffic Impact

The proposed zoning designation does not have the potential to adversely impact traffic in the area. The existing street network will be able to handle any increase in traffic to the area.

Relationship to the General Plan

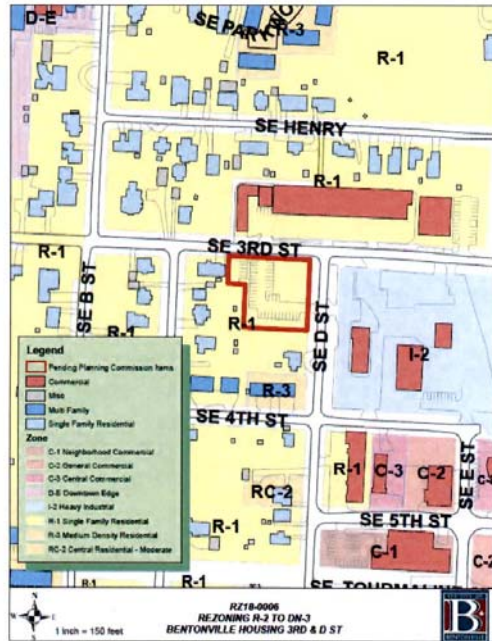
The Future Land Use Plan depicts this property as Downtown High-Density Residential (D-HDR). The DN-3, Downtown High Density Residential zoning is an appropriate zoning district for this designation.

<http://geo.bentonvillear.com/mgweb/PZpending/>

Conclusion

The DN-3, Downtown High Density Residential is an appropriate zoning district for the Downtown High-Density Residential (D-HDR) land use designation and is compatible with existing and adjacent uses.

Location Map



Bentonville Housing, LLC

700 SE 5th Street Suite 1 | Bentonville AR 72712 | 479.268.4157

February 12, 2018

City of Bentonville Planning Department
305 SW A Street
Bentonville, AR 72712

RE: Rezoning Request for NE Corner of 3rd and D Street Narrative

Parcels 01-01168-000, 01-01169-000, 01-01170-000, 01-01171-000, 01-01172-000, 01-01167-000 are currently zoned R-1. The proposed zoning request from the current R-1, Single Family Residential, to DN-3, Downtown High Density, will allow for an increased neighborhood density. This zoning change will allow for a multi-family apartment building adjacent to the bike trails and the downtown commercial areas. The property will relate to the surrounding properties with use and scale. Below are responses to topics related to use, traffic, signage and appearance.

Use:	The new structures on the site will be for residential use.
Traffic:	The traffic on SE 3 rd and SE D Street are very light at these parcels and are a few blocks from several north/south and east/west arteries.
Signage:	Any building signage will be submitted to the City for review and approval.
Appearance:	The proposed structures will follow the City's design standards.
Utilities:	There are existing 4" water lines and sewer running the entire north and east sides of the properties.

NOTICE OF INTENT TO REZONE

Bentonville Housing LLC

has requested the Bentonville Planning Commission to set a public hearing date to consider rezoning the following property from

R-2, Duplex and Patio Home



to

DN-3, Downtown High-density Residential



The legal description of the property is as follows:

See attached

The common description of the property is: NE Corner of 3rd and D Street

Proposed land use: Mixed Use / Residential

The public hearing will be held March 20th, 2018 at 5:00 p.m. It will be held at 305 S.W. "A" Street.

This notification is in response to the requirement that all property owners within 200 feet of said property must be notified. If you wish to express any comments about the requested rezoning, you may respond by the following methods:

1. Attend the public hearing and express your views.
2. Express your opinion in writing to the Planning Commission. You may mail this or and deliver it to the City of Bentonville Planning Department, 305 S.W. A Street, Bentonville, AR 72712.
3. Use the bottom of this form to express your opinion by checking the appropriate box. (This may also be delivered or mailed to the above address.).

For more information, you may call the Planning Department at (479) 271-3122.

I/we have received notice of the public hearing for the rezoning of the above described property and:

☐ I / we have no objections to the rezoning.

☒ I / we object to the rezoning because:

The community can not handle the traffic & we already have a problem with parking in the Downtown area. Bad for the people who live here. We should not be pushed to live next to cheap apartments. We would like to keep the area nice.

Signature and Physical Address

Signature and Physical Address

NOTICE OF INTENT TO REZONE

Bentonville Housing LLC

has requested the Bentonville Planning Commission to set a public hearing date to consider rezoning the following property from

R-2, Duplex and Patio Home



to

DN-3, Downtown High-density Residential



The legal description of the property is as follows:

See attached

The common description of the property is: NE Corner of 3rd and D Street

Proposed land use: Mixed Use / Residential

The public hearing will be held March 20th 2018 at 5:00 p.m. It will be held at 305 S.W. "A" Street.

This notification is in response to the requirement that all property owners within 200 feet of said property must be notified. If you wish to express any comments about the requested rezoning, you may respond by the following methods:

1. Attend the public hearing and express your views.
2. Express your opinion in writing to the Planning Commission. You may mail this or and deliver it to the City of Bentonville Planning Department, 305 S.W. A Street, Bentonville, AR 72712.
3. Use the bottom of this form to express your opinion by checking the appropriate box. (This may also be delivered or mailed to the above address.).

For more information, you may call the Planning Department at (479) 271-3122.

I/we have received notice of the public hearing for the rezoning of the above described property and:

☐ I / we have no objections to the rezoning.

☒ I / we object to the rezoning because:

The community can not handle the TRAFFIC & we already have a problem with parking in the DOWNTOWN AREA. Bad for the people who live here. We should not be pushed to live next to cheap APARTMENTS. We would like to keep the area nice.

Signature and Physical Address

Signature and Physical Address

ORDINANCE NO. _____

AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF R-1, SINGLE FAMILY RESIDENTIAL TO DN-3, DOWNTOWN HIGH DENSITY RESIDENTIAL.

WHEREAS, Bentonville Housing, LLC duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of R-1, Single Family Residential to DN-3, Downtown High Density Residential to be used in accordance with city zoning laws and state laws, which property is described as follows:

THE NORTH 70 FEET OF LOT 4, BLOCK 2, ARMSTRONG ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD B AT PAGE 98. LESS AND EXCEPT THE WEST 7 FEET OF LOT 4, BLOCK 2, ARMSTRONG ADDITION. AND LOT 5, BLOCK 2 AND THE NORTH 8 FEET OF AN ALLEY LYING SOUTH OF LOT 5, BLOCK 2, ARMSTRONG ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD B AT PAGE 98. AND LOT 6, BLOCK 2, ARMSTRONG ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD B AT PAGE 98. LESS AND EXCEPT THE SOUTH 55 FEET THEREOF. AND LOT 7, BLOCK 2, ARMSTRONG ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD B AT PAGE 98. LESS AND EXCEPT THE SOUTH 86 FEET THEREOF. AND PART OF LOT 7, BLOCK 2, ARMSTRONG ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 55 FEET NORTH OF THE SE CORNER OF SAID LOT 5, RUN THENCE NORTH 31 FEET, THENCE WEST 55.5 FEET, THENCE SOUTH 31 FEET, THENCE EAST 55.5 FEET TO THE PLACE OF BEGINNING. AND THE SOUTH 55 FEET OF LOTS 6 AND 7, BLOCK 2, ARMSTRONG ADDITION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD B AT PAGE 98.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held March 20, 2018 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Benton County Daily Record for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted to recommend to the City Council that the petition be approved and that said property be rezoned from its present classification of R-1, Single Family Residential to DN-3, Downtown High Density Residential.

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

Section 1: That the above described real property is hereby changed from its present zoning classification of R-1, Single Family Residential to DN-3, Downtown High Density Residential to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this _____ day of _____, 2018.

APPROVED:

ATTEST:

MAYOR

CITY CLERK

501 SE 3rd Street

PC Date: 3/20/2018

Reviewer: Tyler Overstreet, Planner

Project Number	RZ18-0007
Applicant / Current Owner	Bentonville Housing, LLC PO Box 1860 Bentonville, AR 72712
Site Area	+/- 2.29 acres
Current Zoning	R-1, Single Family Residential
Requested Zoning	DN-3, Downtown High Density Residential
Future Land Use Map Designation	Downtown High-Density Residential (D-HDR)

This approximately 2.29 acre tract is the former Bentonville Water Utilities building, located at 501 SE 3rd Street. Adjacent zonings are R-1 to the north, east, and west and I-2 to the south.

The proposed zoning designation does not have the potential to adversely impact traffic in the area. The existing street network will be able to handle any increase in traffic to the area.

The Future Land Use Plan depicts this property as Downtown High-Density Residential (D-HDR). The DN-3, Downtown High Density Residential zoning is an appropriate zoning district for this designation.

The DN-3, Downtown High Density Residential is an appropriate zoning district for the Downtown High-Density Residential (D-HDR) land use designation and is compatible with existing and adjacent uses.

<http://geo.bentonvillear.com/mgweb/PZpending/>

[illegible]

Bentonville Housing, LLC

700 SE 5th Street Suite 1 | Bentonville AR 72712 | 479.268.4157

February 12, 2018

City of Bentonville Planning Department
305 SW A Street
Bentonville, AR 72712

RE: Rezoning Request for 501 SE 3rd Street Narrative

Parcel 01-05137-000 located at 501 SE 3rd Street is currently zoned R-1. The proposed zoning request from the current R-1, Single Family Residential, to DN-3, Downtown High Density, will allow for an increased neighborhood density. This zoning change will allow for a multi-family apartment building adjacent to the bike trails and the downtown commercial areas. The property will relate to the surrounding properties with use and scale. Below are responses to topics related to use, traffic, signage and appearance.

Use: The new structures on the site will be for residential use.
Traffic: The traffic on SE 3rd Street is very light at this parcel and is a few blocks from several north/south and east/west arteries.
Signage: Any building signage will be submitted to the City for review and approval.
Appearance: The proposed structures will follow the City's design standards.
Utilities: There are existing 4" water lines and sewer running the entire south side of the property and at the midpoint of the property on the north side.

NOTICE OF INTENT TO REZONE

Bentonville Housing LLC.

has requested the Bentonville Planning Commission to set a public hearing date to consider rezoning the following property from

R-2, Duplex and Patio Home



to

DN-3, Downtown High-density Residential



The legal description of the property is as follows:

Lot 2, Bentonville Municipal Addition To The City Of Bentonville,
Benton County, Arkansas, As Shown On Plat Record 2013 At
Pages 353 And 354.

The common description of the property is: 501 SE 3rd Street

Proposed land use: Mixed Use / Residential

The public hearing will be held March 20th 2018 at 5:00 p.m. It will be held at 305 S.W. "A" Street.

This notification is in response to the requirement that all property owners within 200 feet of said property must be notified. If you wish to express any comments about the requested rezoning, you may respond by the following methods:

1. Attend the public hearing and express your views.
2. Express your opinion in writing to the Planning Commission. You may mail this or and deliver it to the City of Bentonville Planning Department, 305 S.W. A Street, Bentonville, AR 72712.
3. Use the bottom of this form to express your opinion by checking the appropriate box. (This may also be delivered or mailed to the above address.).

For more information, you may call the Planning Department at (479) 271-3122.

I/we have received notice of the public hearing for the rezoning of the above described property and:

☐ I / we have no objections to the rezoning.

☒ I / we object to the rezoning because:

NEW APARTMENTS ARE ALREADY BEING BUILT. WE ALREADY HAVE
TO MANY PLACES FOR SALE IN THE AREA. THIS WOULD INCREASE
TRAFFIC WE CANNOT HANDLE. BUT FOR OVERALL PROPERTY VALUE

Signature and Physical Address

NOTICE OF INTENT TO REZONE

Bentonville Housing LLC.

has requested the Bentonville Planning Commission to set a public hearing date to consider rezoning the following property from

R-2, Duplex and Patio Home



to

DN-3, Downtown High-density Residential



The legal description of the property is as follows:

Lot 2, Bentonville Municipal Addition To The City Of Bentonville,
Benton County, Arkansas, As Shown On Plat Record 2013 At
Pages 353 And 354.

The common description of the property is: 501 SE 3rd Street

Proposed land use: Mixed Use / Residential

The public hearing will be held March 20th 2018 at 5:00 p.m. It will be held at 305 S.W. "A" Street.

This notification is in response to the requirement that all property owners within 200 feet of said property must be notified. If you wish to express any comments about the requested rezoning, you may respond by the following methods:

1. Attend the public hearing and express your views.
2. Express your opinion in writing to the Planning Commission. You may mail this or and deliver it to the City of Bentonville Planning Department, 305 S.W. A Street, Bentonville, AR 72712.
3. Use the bottom of this form to express your opinion by checking the appropriate box. (This may also be delivered or mailed to the above address.).

For more information, you may call the Planning Department at (479) 271-3122.

I/we have received notice of the public hearing for the rezoning of the above described property and:

☐ I / we have no objections to the rezoning.

☒ I / we object to the rezoning because:

*New Apartments are already being built. We already have
TO many Places for sale in the area. This would INCREASE
TRAFFIC we cannot handle. Bad for overall property value*

Signature and Physical Address

NOTICE OF INTENT TO REZONE

Bentonville Housing LLC.

has requested the Bentonville Planning Commission to set a public hearing date to consider rezoning the following property from

R-2, Duplex and Patio Home



to

DN-3, Downtown High-density Residential



The legal description of the property is as follows:

Lot 2, Bentonville Municipal Addition To The City Of Bentonville,
Benton County, Arkansas, As Shown On Plat Record 2013 At
Pages 353 And 354.

The common description of the property is: 501 SE 3rd Street

Proposed land use: Mixed Use / Residential

The public hearing will be held March 20th 2018 at 5:00 p.m. It will be held at 305 S.W. "A" Street.

This notification is in response to the requirement that all property owners within 200 feet of said property must be notified. If you wish to express any comments about the requested rezoning, you may respond by the following methods:

1. Attend the public hearing and express your views.
2. Express your opinion in writing to the Planning Commission. You may mail this or and deliver it to the City of Bentonville Planning Department, 305 S.W. A Street, Bentonville, AR 72712.
3. Use the bottom of this form to express your opinion by checking the appropriate box. (This may also be delivered or mailed to the above address.).

For more information, you may call the Planning Department at (479) 271-3122.

I/we have received notice of the public hearing for the rezoning of the above described property and:

☐ I / we have no objections to the rezoning.

☒ I / we object to the rezoning because:

Please see attachment

Signature and Physical Address

Signature and Physical Address

Dear members of the Planning Commission:

2/26/18

We are the owners of 303 SE 3rd, aka the Elliott House, and we are opposed to the rezoning of Lot 2, 501 SE 3rd St.

We do not wish to live in a sprawling urban neighborhood. When we purchased our property, we were planning to raise our family in a quiet community in the Historic District, on a street with long-term neighbors, single-family homes, traditional architecture and light traffic.

Rezoning this area a block down our street to high-density/mixed use is out of the spirit of this residential community. Large, unsightly buildings like the Adair Creative Building (307 S Main) will hinder the atmosphere of the historic district. Apartments and duplexes will increase the amount of temporary residents, making it harder to establish a real community of caring neighbors. In addition, for all of the above reasons, we are concerned that the value of our property will diminish.

Most of us who moved to Bentonville were escaping cities. Let's not turn Bentonville into a city. Please vote down this proposal.

Thank you,

A black rectangular box redacting the signature of the sender.

Keely and Alex Brice

ORDINANCE NO. _____

**AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE,
ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF R-1, SINGLE
FAMILY RESIDENTIAL TO DN-3, DOWNTOWN HIGH DENSITY RESIDENTIAL.**

WHEREAS, Bentonville Housing, LLC duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of R-1, Single Family Residential to DN-3, Downtown High Density Residential to be used in accordance with city zoning laws and state laws, which property is described as follows:

LOT 2, BENTONVILLE MUNICIPAL SHOP ADDITION, BENTONVILLE, BENTON
COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD 2013 AT PAGE 353.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held March 20, 2018 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Benton County Daily Record for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted to recommend to the City Council that the petition be approved and that said property be rezoned from its present classification of R-1, Single Family Residential to DN-3, Downtown High Density Residential.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF
BENTONVILLE, ARKANSAS:**

Section 1: That the above described real property is hereby changed from its present zoning classification of R-1, Single Family Residential to DN-3, Downtown High Density Residential to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this _____ day of _____, 2018.

APPROVED:

ATTEST:

MAYOR

CITY CLERK

REZONING STAFF REPORT



Bentonville Housing, LLC

608 SE 3rd Street

PC Date: 3/20/2018

Reviewer: Tyler Overstreet, Planner

Project Number	RZ18-0008
Applicant / Current Owner	Bentonville Housing, LLC PO Box 1860 Bentonville, AR 72712
Site Area	+/- 6.28 acres
Current Zoning	I-2, Heavy Industrial
Requested Zoning	DN-4, Downtown Mixed-Use Residential
Future Land Use Map Designation	Downtown Mixed Use Residential (DMUR)

Property Description

This approximately 6.28 acre tract is part of the former Bentonville Water Utilities complex, located at 608 SE 3rd Street. Adjacent zonings are R-1 to the north and west, R-1 and R-3 to the east, and C-2 and C-3 to the south.

Projected Traffic Impact

The proposed zoning designation does not have the potential to adversely impact traffic in the area. The existing street network will be able to handle any increase in traffic to the area.

Relationship to the General Plan

The Future Land Use Plan depicts this property as Downtown Mixed Use Residential (DMUR). The DN-4, Downtown Mixed-Use Residential zoning is an appropriate zoning district for this designation.

Conclusion

The DN-4, Downtown Mixed-Use Residential is an appropriate zoning district for the Downtown Mixed Use Residential (DMUR) land use designation and is compatible with existing and adjacent uses.

<http://geo.bentonvillear.com/mgweb/PZpending/>

Location Map



Bentonville Housing, LLC

700 SE 5th Street Suite 1 | Bentonville AR 72712 | 479.268.4157

February 12, 2018

City of Bentonville Planning Department
305 SW A Street
Bentonville, AR 72712

RE: Rezoning Request for 608 SE 3rd Street Narrative

Parcel 0110855-000 located at 608 SE 3rd Street is currently zoned I-2. The proposed zoning request from the current I-2, Heavy Industrial District, to DN-4, Downtown Mixed-Use Residential, will allow for an increased neighborhood density. This zoning change will allow for a multi-family apartment building and mixed-use structures adjacent to the bike trails and the downtown commercial areas. The property will relate to the surrounding properties with use and scale. Below are responses to topics related to use, traffic, signage and appearance.

Use:	The new structures on the site will be mixed use residential & commercial use.
Traffic:	The traffic on SE 3 rd Street is very light at this parcel and is a few blocks from several north/south and east/west arteries.
Signage:	Any building signage will be submitted to the City for review and approval.
Appearance:	The proposed structures will follow the City's design standards.
Utilities:	There are existing 4" water lines and sewer running the perimeter and through the shorter length of the site.

ORDINANCE NO. _____

**AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF
BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING
CLASSIFICATION OF I-2, HEAVY INDUSTRIAL TO DN-4, DOWNTOWN
MIXED-USE RESIDENTIAL.**

WHEREAS, Bentonville Housing, LLC duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of I-2, Heavy Industrial to DN-4, Downtown Mixed-Use Residential to be used in accordance with city zoning laws and state laws, which property is described as follows:

CITY SERVICES ADDITION, BENTONVILLE, BENTON COUNTY, ARKANSAS,
AS SHOWN ON PLAT RECORD 2003 AT PAGE 547.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held March 20, 2018 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Benton County Daily Record for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted to recommend to the City Council that the petition be approved and that said property be rezoned from its present classification of I-2, Heavy Industrial to DN-4, Downtown Mixed-Use Residential.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF
BENTONVILLE, ARKANSAS:**

Section 1: That the above described real property is hereby changed from its present zoning classification of I-2, Heavy Industrial to DN-4, Downtown Mixed-Use Residential to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this _____ day of _____, 2018.

APPROVED:

ATTEST:

MAYOR

CITY CLERK

REZONING STAFF REPORT



Bentonville Housing, LLC

401 SE D Street

PC Date: 3/20/2018

Reviewer: Tyler Overstreet, Planner

Project Number	RZ18-0009
Applicant / Current Owner	Bentonville Housing, LLC PO Box 1860 Bentonville, AR 72712
Site Area	+/- .57 acres
Current Zoning	R-1, Single Family Residential
Requested Zoning	DN-4, Downtown Mixed-Use Residential
Future Land Use Map Designation	Downtown Mixed Use Residential (DMUR)

Property Description

This approximately .57 acre tract is located south of the former Bentonville Water Utilities complex, located at 401 SE D Street. Adjacent zonings are I-2 to the north, C-3 to the east, C-2 to the south, and R-1 to the west.

Projected Traffic Impact

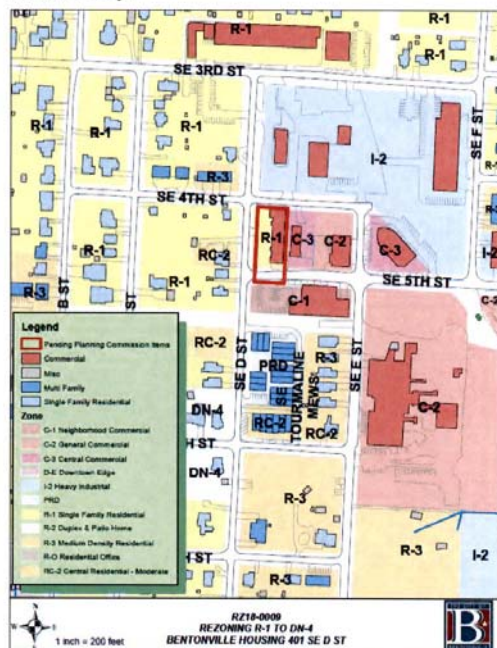
The proposed zoning designation does not have the potential to adversely impact traffic in the area. The existing street network will be able to handle any increase in traffic to the area.

Relationship to the General Plan

The Future Land Use Plan depicts this property as Downtown Mixed Use Residential (DMUR). The DN-4, Downtown Mixed-Use Residential zoning is an appropriate zoning district for this designation.

<http://geo.bentonvillear.com/mgweb/PZpending/>

Location Map



Conclusion

The DN-4, Downtown Mixed-Use Residential is an appropriate zoning district for the Downtown Mixed Use Residential (DMUR) land use designation and is compatible with existing and adjacent uses.

Bentonville Housing, LLC

700 SE 5th Street Suite 1 | Bentonville AR 72712 | 479.268.4157

February 12, 2018

City of Bentonville Planning Department
305 SW A Street
Bentonville, AR 72712

RE: Rezoning Request for 401 SE D Street Narrative

Parcel 01-03587-001 located at 401 SE D Street is currently zoned R-1. The proposed zoning request from the current R-1, Residential Single Family, to DN-4, Downtown Mixed-Use Residential, will allow for an increased neighborhood density. This zoning change will allow for local commerce structures adjacent to the bike trails and the downtown commercial areas. The property will relate to the surrounding properties with use and scale. Below are responses to topics related to use, traffic, signage and appearance.

Use:	The new structures on the site will be for mixed use commercial.
Traffic:	The traffic on SE D Street is very light at this parcel and is a few blocks from several north/south and east/west arteries.
Signage:	Any building signage will be submitted to the City for review and approval.
Appearance:	The proposed structures will follow the City's design standards.
Utilities:	There are existing 4" water lines and sewer running the entire north and west side of the property.

ORDINANCE NO. _____

**AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE,
ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF R-1, SINGLE
FAMILY RESIDENTIAL TO DN-4, DOWNTOWN MIXED-USE RESIDENTIAL.**

WHEREAS, Bentonville Housing, LLC duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential to be used in accordance with city zoning laws and state laws, which property is described as follows:

LOT C BLOCK I, ORCHARD ADDITION, BENTONVILLE, BENTON COUNTY,
ARKANSAS, AS SHOWN ON PLAT RECORD 1988 AT BOOK 11 PAGE 281.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held March 20, 2018 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Benton County Daily Record for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted to recommend to the City Council that the petition be approved and that said property be rezoned from its present classification of R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF
BENTONVILLE, ARKANSAS:**

Section 1: That the above described real property is hereby changed from its present zoning classification of R-1, Single Family Residential to DN-4, Downtown Mixed-Use Residential to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this _____ day of _____, 2018.

APPROVED:

ATTEST:

MAYOR

CITY CLERK

REZONING STAFF REPORT



Atkins

NW 2nd Street

PC Date: 3/20/2018

Reviewer: Tyler Overstreet, Planner

Project Number	RZ18-0010
Applicant / Current Owner	Jon Atkins 2272 Kilbirnie Germantown, TN 38139
Site Area	+/- .11 acres
Current Zoning	R-1, Single Family Residential
Requested Zoning	DN-1, Downtown Low-Density Residential
Future Land Use Map Designation	Downtown Low-Density Residential (D-LDR)

<http://geo.bentonvillear.com/mgweb/PZpending/>

Property Description

This approximately .11 acre tract is located on NW 2nd Street. Adjacent zonings are R-1 to the north, south, east, and west.

Projected Traffic Impact

The proposed zoning designation does not have the potential to adversely impact traffic in the area.

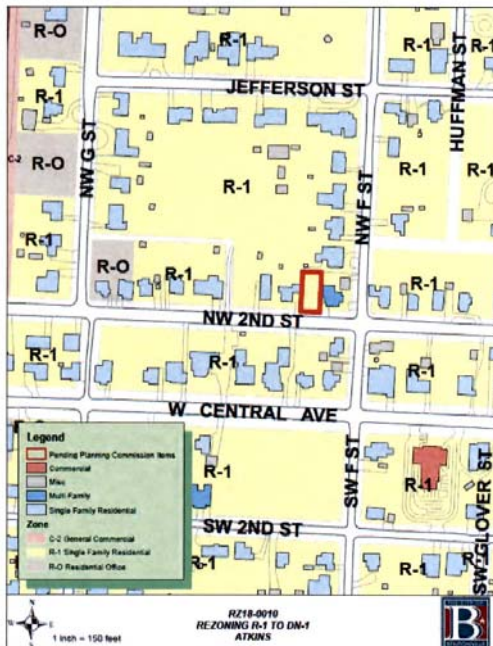
Relationship to the General Plan

The Future Land Use Plan depicts this property as Downtown Low-Density Residential (D-LDR). The DN-1, Downtown Low-Density Residential zoning is an appropriate zoning district for this designation.

Conclusion

The DN-1, Downtown Low-Density Residential is an appropriate zoning district for the Downtown Low-Density Residential (D-LDR) Land Use designation, and is compatible with existing and adjacent uses.

Location Map



Owner – Jon Kelley Atkins

Property Location – NW 2nd Street

Parcel – 01-02389-001

Current Zoning – R1

Rezoning – DN1

The reason the lot is being rezoned is to make better use of the lot. This will allow for a larger outdoor living space between the house and detached garage.

A single family home will be built on the property comparable to the other houses in the area.

Water and sewer are readily available at the lot. A street cut will be required.

ORDINANCE NO. _____

**AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF
BENTONVILLE, ARKANSAS, FROM ITS PRESENT ZONING
CLASSIFICATION OF R-1, SINGLE FAMILY RESIDENTIAL TO DN-1,
DOWNTOWN LOW-DENSITY RESIDENTIAL.**

WHEREAS, Jon Atkins duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of R-1, Single Family Residential to DN-1, Downtown Low-Density Residential to be used in accordance with city zoning laws and state laws, which property is described as follows:

LOT 31, DICKSON'S ADDITION, BENTONVILLE, BENTON COUNTY,
ARKANSAS, AS SHOWN ON PLAT RECORD 2017 AT PAGE 173.; and,

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held March 20, 2018 in the Council Chambers of the City of Bentonville; and,

WHEREAS, public notice of said hearing having been published in the Benton County Daily Record for the time and in the manner required by law; and,

WHEREAS, the Planning Commission voted to recommend to the City Council that the petition be approved and that said property be rezoned from its present classification of R-1, Single Family Residential to DN-1, Downtown Low-Density Residential.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF
BENTONVILLE, ARKANSAS:**

Section 1: That the above described real property is hereby changed from its present zoning classification of R-1, Single Family Residential to DN-1, Downtown Low-Density Residential to be used in accordance with the city zoning laws and state laws.

PASSED AND APPROVED this _____ day of _____, 2018.

APPROVED:

ATTEST:

MAYOR

CITY CLERK

ORDINANCE STAFF REPORT



Zoning Ordinance Amendments

PC Date: 3/20/2018

Reviewer: Shelli Kerr, AICP, Planning Services Mngr

Type	Amendment
Code Impacted	Zoning Code
Section(s)	Choose an item.

<http://www.bentonville.com/departments/planning-department/codes/code-changes/>

From time to time, staff reviews the existing zoning code for clarification, corrections, or updates to meet current conditions. The following outline is a summary of the key issues identified with the current zoning code and the proposed changes to address the issue. Staff requests approval of the proposed ordinance to amend Chapter 14 Zoning Code.

Issue	Solution
Ord. Sec. 2 - Definitions	
1. Regulations regarding awnings and canopies were in the sign code. They have been pulled out of the sign code and placed into zoning with improved definitions.	Add a definition for awning and revise definition of canopy roof.
2. Micro-breweries are specifically regulated and defined in the Use Regulations of the Zoning Code. However, they are included in the definition of "Bar, lounge or tavern" which is allowed in more districts than a microbrewery. This creates confusion on which regulation is correct. Staff interprets that the microbrewery regulation is more recent, therefore, stands as the current regulation.	Remove "microbreweries" from the definition of "bar, lounge, or tavern."
3. Often in the regulations, there is a reference to a general term of "commercial" or "residential" districts. Now with many districts allowing a mixture of uses, it is necessary to clarify when either of those terms are used which districts it pertains to.	Add definitions for "residential district," "commercial district," "downtown district," "downtown neighborhood district," and "industrial district."
4. Home occupation – type A and type B have the same definition. The type is dependent on a list of criteria in the regulations; therefore, there is no need to list both in the definitions.	Keep the definition of Home Occupation – type A, strikethrough "type A" and delete the definition for type B.
Ord. Sec. 3 & 4 – Article 301 Administration & Enforcement	
5. Regulations regarding PC are referenced in a different chapter of the city code, while the BOA is in this chapter. The PC regulations should be in this chapter as well.	Pull in text from Chapter 13.04 into this chapter and delete Chapter 13.04 from the city code.
6. Sec. 301.5 conflicts with building permit regulations in the city code.	Delete Sec. 301.5 Building Permits from zoning code.
Ord. Sec. 5 – DN district design standards	
7. Sec. 401.7-B, subsections D through J are design related regulations that are better located in the subdivision regulations that allow them to go through the PC waiver process instead of	Move Sec. 401.7-B, subsections D through J to Article 1400 Design Standards of the Subdivision Code.

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the variance process.

Ord. Sec. 6 – Zoning District Regulations

- | | |
|---|---|
| <p>8. PUD and PRD's are similar and should be considered in the category of Planned Development. Similarly, the two airport districts are overlay districts and should be grouped into the same category.</p> <p>9. Needed to clarify how setbacks are measured.</p> <p>10. To meet fire code building separation requirements, all side setbacks and rear setbacks need to be a minimum of 7'.</p> <p>11. Minimum lot sizes in the DN districts for single family and two-family dwellings depend on whether or not there is alley access, but the lot and area standards do not adequately show that.</p> <p>12. In DN districts, the height standards are listed as a measured height or number of stories. This can be confusing since it's difficult to determine exactly what is a story.</p> <p>13. C-3 was the original downtown district, but with the new DC and DE districts, it is no longer appropriate for downtown and is better served as a mixed use district for outside of downtown.</p> <p>14. Changing C-3 to a mixed used instead of a downtown district, the 80' maximum height regulation is likely to be out of scale with the desired neighborhood type development desired in this district.</p> <p>15. The regulations do not specify what happens to the zoning when a PUD/PRD expires.</p> <p>16. The maximum height allowed in all residential district is currently 36'. However, this doesn't adequately accommodate higher density residential districts.</p> | <p>Establish a Planned Development category to include both PUD and PRD districts. Add an Overlay Districts category to include the municipal airport and XNA districts.</p> <p>Add regulations for measuring setbacks.</p> <p>Change any side or rear setbacks that are under 7' to 7', in the R-C2, R-C3, DC and DE districts.</p> <p>In the lot and area standards for the DN districts, specifically state that 40 ft. width is only allowed for properties with alley access. Without alley access it's 50 ft.</p> <p>In the height standards for DN districts, remove the "or 2.5 stories" and keep the feet measurement.</p> <p>Revise the description of the C-3 district as a mixed-use district for outside of downtown.</p> <p>Reduce the maximum height in C-3 from 80 ft. to 60 ft.</p> <p>Add a regulation that when a PUD expires, consistent with LSD's, the zoning reverts back to its previous district.</p> <p>Requires a maximum height of 36' in RE, R-1, R-2, R-MH, R-ZL and 40' in R-3, R-4, R-C2, R-C3, RO.</p> |
| <p>Table of Uses</p> | |
| <p>17. The Table of Permitted Uses is an Appendix and should be part of the zoning regulations.</p> <p>18. Now that the C-3 district is more for mixed use, a large size office is an appropriate use.</p> | <p>Pull the Table of Permitted Uses directly into the Zoning Regulations Chapter, remove "permitted" from the title of the table, and change the use of the term permitted to allowed. Added language to better describe how to use the table.</p> <p>Allow "large scale office > 4,000 gross square feet" in the C-3 district.</p> |

ORDINANCE STAFF REPORT

19. Allow mini-storage facilities in the C-2 District. These need to be located where people live and work. They were initially allowed only in industrial due to the appearance of their exterior façade. Today, design standards can address façade concerns.
20. Several areas in the code identify the review period for submitted items. This has changed back and forth from 22 days to 32 days, depending on increasing/decreasing application levels. To be consistent, language for all application sections needs to state that applications should be submitted in accordance with current Planning Department policies and procedures.

Allow mini-warehouse storage in the C-2 district in the table of uses.

Change Sec. 301.6.B.1 Conditional Use Applications; Sec. 301.8.B.1 Zoning Ordinance Amendment applications; and Sec. 301.10.B.1 Variance Applications to remove a specific time period and follow current planning policies.

Section 7 – Parking Regulations

21. To promote the purpose of a mixed-use district, the development needs to be walkable and pedestrian friendly. In order to do this, parking lots should not be the predominant feature of a development.

Add Sec. 501.03.C that off-street parking lots must be located to the rear or side of the primary building in C-3 and DN districts.

Section 8 – Use Regulations

22. Need to clarify how the size limitation on accessory structure is measured and specify that accessory commercial structures need to meet design standards.
23. Outdoor vending needs to specify that the regulations are for those at a fixed location to differentiate it from a mobile food vendor that travels to various locations.
24. For home occupations to be allowed, in cases where the occupant is not the property owner, the property owner must give permission for the home occupation.

In Sec. 601.01.B Size, clarify that the 720 square feet regulation is the footprint of the accessory structure.

In Sec. 601.16, specify that outdoor vending is for a fixed location, but they must remain mobile and not be a permanent structure.

In Sec. 601.12, add a provision under Type A Home Occupations that permission from the property owner is required.

Ord. Sec. 9 – Exemption for outdoor vendor as temporary use

25. Since outdoor vendors could be considered a temporary use or structure, they needed to be exempt from the regulations for temporary uses or structures because they have their own set of regulations.

In Sec. 604.25, exempt Outdoor vendors as temporary structures.

Ord. Sec. 10 - Nonconformities

26. Regulations regarding the ownership of lots is not applicable in zoning, therefore such regulations should be removed.
27. Regulations regarding existing plats were in the zoning regulations and are better served in the nonconformities chapter.

In Sec. 701.03, remove regulations pertaining to lot ownership.

Relocate Sec. 401.04(f) regarding plats recorded prior to adoption of the zoning code to Sec. 701.03 Non-conforming lots of record.

Ord. Sec. 11 – Nonconforming signs

ORDINANCE STAFF REPORT

28. Recent changes to nonconforming sign regulations uses the sign *value* as a measure to gauge when compliance is required. However, a more precise trigger for compliance is measurement based on *size* or if the development must go through the Large Scale Development process.

In Sec. 801.12. H Nonconforming signs, remove value and replace it with size as a measurement for compliance. Require any development going through the large scale development approval process to bring existing noncompliant signs into compliance.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 14 ZONING CODE
OF THE BENTONVILLE MUNICIPAL CODE.

WHEREAS, Bentonville periodically reviews the Zoning Code; and,

WHEREAS, the periodic reviews uncover errors, need for clarification, or updates to meet current conditions;

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

Section 1. That within this ordinance, except section headings, all underlined text shall be added and strikethrough text shall be deleted.

Section 2. That Bentonville Municipal Code, Chapter 14 Zoning Code, Article II-Definitions shall be and is hereby amended by deleting the terms "building height" and "home occupation – type b" and with the following amendments and placing them in alphabetical order within the existing definitions:

Awning: An overhead protective structure that is attached to and/or projects from a wall or roof structure of the building (exclusive of the highest roof of the building) that is constructed to allow pedestrians and/or vehicles to pass under or as a decorative embellishment. This definition does not include canopies, which are freestanding structures and separately defined.

Bar, Lounge or Tavern: An establishment, the primary activity of which is the sale and consumption on the premises of beer, wine or other liquors, and where food service is secondary to the sale of beer, wine or other liquors. Does not includes micro-breweries where patrons are served beer produced on the premises for on-site consumption, which are separately regulated.

Canopy Roof: A permanent freestanding overhead protective structure that is constructed to allow pedestrians and/or vehicles to pass under decorative porch or walkway cover other than an awning which is attached to a building or that is supported by columns extending to the ground. This definition does not include awnings, which are attached to a building and separately defined.

Commercial district: Any land within the city limits of Bentonville zoned as a district listed under Commercial (C) districts in Sec. 401.02 Classification of districts.

Downtown: Downtown is that area between the boundaries of Tiger Boulevard to the north, J Street to the east, SE 14th/Hwy 102 to the south, and Walton Blvd. to the west.

Downtown (D) district: Any land within the city limits of Bentonville zoned as a district listed under Downtown (D) districts in Sec. 401.02 Classification of districts.

Downtown Neighborhood (DN) district: Any land within the city limits of Bentonville zoned as a district listed under Downtown Neighborhood (DN) districts in Sec. 401.02 Classification of districts.

~~Home occupation, type A:~~ A non-residential use carried on within a dwelling, which is clearly subordinate to the residential use and which does not outwardly change the residential character of the use, lot or structure.

Industrial district: Any land within the city limits of Bentonville zoned as a district listed under Industrial (I) districts in Sec. 401.02 Classification of districts.

Obstruction (municipal airport district): Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in ~~Sec. 401.10 D Height limitations~~ the height limitations of the municipal airport district.

Residential district: Any land within the city limits of Bentonville zoned ~~R-E, R-1, R-2, R-3, R-4, R-C2, R-C3, R-MH, R-ZL and R-O~~ as a district listed under Residential (R) districts in Sec. 401.02 Classification of districts.

Section 3. That Bentonville Municipal Code, Chapter 14 Zoning Code, Article 301 Administration shall be and is hereby deleted and replaced with Attachment A: Article 301 Administration and Enforcement, an electronic copy and hard copy of which is on file with the City Clerk, and is hereby adopted by reference as though it were copied herein fully.

Section 4. That Bentonville Municipal Code, Chapter 13.04 Planning Commission shall be and is hereby deleted.

Section 5. That Bentonville Municipal Code, Chapter 14, Zoning Code, Art. 401 Zoning District Regulations Sec. 401.07-B, Subsections D through J be relocated to Article 1400 Design Standards of Chapter 15 Subdivision Code.

Section 6. That Bentonville Municipal Code, Chapter 14, Zoning Code, Art. 401 Zoning District Regulations shall be and is hereby deleted and replaced with Attachment B: Article 401 Zoning District Regulations, an electronic copy and hard copy of which is on file with the City Clerk, and is hereby adopted by reference as though it were copied herein fully.

Section 7. That Bentonville Municipal Code, Chapter 14, Zoning Code, Article 501 Off-Street Parking and Loading shall be and is hereby amended by adding the following to Sec. 501.03 Location of Off-Street Parking:

C. C-3 and DN Districts. Off-street parking lots shall be located to the rear or side of the primary building or structure.

Section 8. That Bentonville Municipal Code, Chapter 14, Zoning Code, Article 601 Use Regulations shall be and is hereby amended with the following:

Sec. 601.01 Accessory Non-residential Buildings

B. Size. An accessory building shall ~~be have a footprint~~ no larger than 720 square feet and shall have a similar architecture to that of the main structure. Total area of all accessory nonresidential buildings shall not exceed 40% of the total area of the primary structure. A variance to the requirement may be requested in accordance with Article 301 Administration and Enforcement. An accessory

building footprint in excess of 720 square feet shall be required to have a building permit and shall conform to required setbacks and shall not be located in any easement.

C. Setbacks. No detached accessory nonresidential building with a footprint of 720 square feet or less shall be located closer than five (5) feet to any side or rear lot line. In the case of a corner lot, said accessory building shall not project beyond the building line required or existing on the adjacent lot. Accessory buildings shall meet the front building setbacks for the zone it is to be located. An accessory nonresidential building footprint in excess of 720 square feet shall conform to the required setbacks.

F. Façade. The façade of the accessory structure shall have a similar architecture to that of the main structure. In commercial districts, the accessory structure shall meet the design standards for large-scale developments.

Sec. 601.12 Home Occupations

A.12. If the occupant is not the property owner, the home occupation is allowed by the property owner.

Sec. 601.16 Outdoor and Mobile Food Vendors

B.2 Application. Applicants may request a Vending Permit for either (1) outdoor vending at a fixed location or (2) mobile food vending.

D.5 Mobility. The conveyance used by the outdoor vendor shall be mobile, able to be moved freely or easily, and may not be a permanent structure.

Sec. 601.29 Alcohol Sales

B.2 Microbrewery-Restaurant. A microbrewery-restaurant as defined by the Division of Alcoholic Beverage Control of the State of Arkansas, shall be allowed with the approval of a Conditional Use Permit in the C-1, Neighborhood Commercial, C-2, General Commercial, DC, Downtown Core, I-1, Light Industrial, and I-2, Heavy Industrial zoning districts in the zoning districts as set forth in the Table of Uses in Article 401 Zoning Regulations.

Section 9. That Bentonville Municipal Code, Chapter 14, Zoning Code Sec. 601.25 Temporary Uses and Structures shall be and is hereby amended by adding the following exemption: The temporary structure or use is an outdoor vendor otherwise regulated in this chapter.

Section 10. That Bentonville Municipal Code, Chapter 14, Zoning Code, Article 701.03 Nonconforming Lots of Record shall be and is hereby amended with the following:

A. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same

ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width or both of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the board of adjustment.

~~B. If two(2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or parts of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirement established by this ordinance nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.~~

C. Existing plats. In cases where plats were recorded prior to adoption of the Zoning Code on June 10, 2003 and have setbacks that conflict with the setbacks of the zoning code, the setback requirements of this chapter shall prevail. Applicants may seek a variance in accordance with the policies set forth in Article 301 Administration and Enforcement.

Section 11. That Bentonville Municipal Code, Chapter 14, Zoning Code, Article 801.12. H Nonconforming Signs shall be and is hereby amended with the following:

Nonconforming signs. ~~Signs which that~~ were lawful at the time of their construction or placement but are not in conformance with current regulations shall be ~~permitted~~ allowed to be maintained as nonconforming signs until such time that the sign meets any of the following conditions. ~~At such time, the sign shall be removed or brought into compliance with this article. If only the sign face is being replaced, the nonconforming sign structure may remain.~~

- ~~1. 50% of the size of the sign and/or sign structure is damaged or in a state of disrepair beyond 50% of current repair or replacement cost,~~
- ~~2. The sign is proposed for replacement or major alteration, which includes but is not limited to, increasing the sign size or height, replacing the sign cabinet, changing or adding lighting, or any other alteration determine to be major as determined by the director;~~
- ~~3. The primary structure on the site on which the sign is located is:~~
 - ~~a. damaged 50% or more of the structure's gross square footage;~~
 - ~~b. proposed for major alteration, renovation or replacement; or~~
 - ~~c. is or is proposed to be being demolished;~~
 - ~~d. The primary structure on the site on which the sign is located is damaged beyond 50% of current repair or replacement costs or receives an addition that~~

is larger than the gross square footage of the primary structure. At that time, the sign shall be replaced with a sign compliant with this Article.

4. Development on the site on which the sign is located requires large scale development approval, including both administrative and planning commission approvals.

Section 12. This Ordinance shall be in full force and effect 30 days from the date of its passage and approval.

PASSED and APPROVED this ____ day of ____, 2018.

Approved:

Mayor Bob McCaslin

ATTEST:

City Clerk

ARTICLE 301. ADMINISTRATION AND ENFORCEMENT

SEC. 301.00 Reserved.

SEC. 301.01 **Enforcement.**

The Zoning Ordinance, hereinafter referred to as “this chapter.” shall be administered and enforced by the community development director as appointed by the mayor. It shall be a violation of this ~~ordinance~~ chapter for any person to erect, alter, move or improve any building or structure until a building permit has been obtained under the regulations of this ordinance. The planning commission may, from time to time, recommend instructions and operating procedures to be followed in the administration of these regulations to the end that the public may be better informed.

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003)

SEC. 301.02 **Fees.**

(a) *Establishment of fee schedule.* The city council of the city of Bentonville, Arkansas shall establish a schedule of fees, charges and expenses and a collection procedure for ~~building permits, rezonings, conditional uses, variances,~~ appeals and other matters pertaining to this ~~ordinance-chapter~~ by resolution. The schedule of fees shall be available in the ~~Community Development~~ planning office ~~department~~ and may be altered or amended only by the city council.

(b) *Fee to be paid in full.* ~~Development fees.~~ Prior to initiation or commencement of any action or the physical transfer of any item listed in this sectionchapter, the fees, as established from time to time for the same, shall be collected by the city as part of the application for such item or the purchase of said item. to include;

Rezoning-proposed fee
Appeal
Variance
Final plat
Preliminary plat
Large sale development
Lot split
Map sales
Ordinance sales

Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003; Ord. No. 2012-58, § 1, 07-24-2012)

SEC. 301.03 **Planning commission.**

~~See Title 13, Section 13.04 of the Cit Code.~~

(a) Purpose of the planning commission. The general purpose of the planning commission is to:

(1) Prepare, or have prepared, a plan of the municipality;

ATTACHMENT A – P g | 2
Art. 301 Administration and Enforcement
Underlined text to be added and strikethrough text to be deleted.

- (2) Receive and make recommendations on public and private proposals for development;
- (3) Prepare and administer planning regulations;
- (4) Prepare and transmit to the legislative body recommended ordinances implementing plans;
and
- (5) Advise and counsel the city government and other public bodies.

(b) ~~Composition; appointment of members~~ Creation and appointment.

- (1) Membership and appointment. There is hereby ~~appointed~~ appointed a planning commission ~~which~~ shall consist of seven members, at least two-thirds of whom shall not hold any elective or appointive city ~~office~~ department except membership; in the board of adjustment or a joint planning agency. The members of the planning commission shall be ~~nominated~~ appointed by the mayor and confirmed by a majority vote of the city council.
- (2) Terms of office of members. The members of the planning commission shall serve for five-year staggered terms.
- (3) Vacancies in office. When the term of office of any member of the planning commission expires or in the event of any vacancy, the mayor shall immediately make a nomination to fill the vacancy. The person so nominated and confirmed by the city council shall serve for the remainder of the term of the person whom he ~~or she~~ replaced.

(c) Organization.

- (1) Election of officers. The planning commission shall from its membership elect a chairperson, a vice-chairperson and such other officers as it may require. The chairperson shall not hold any other city office or appointment.
- (2) Rules and regulations to be adopted; limitation on delegation of duties to committees.
 - a. The planning commission shall make and adopt bylaws establishing ~~such~~ rules and regulations for the discharge of its duties and the transaction for business, ~~which shall provide for a regular meeting date of the commission at least once in each quarter of each calendar year or more often if prescribed by the commission, and~~ such rules and regulations shall provide for such committees within the commission as may be found necessary and advisable and the duties of such committees shall be prescribed by the commission.
 - b. No committee established pursuant to subsection (1) of this section shall exercise duties delegated by state law or this article that are organic to the commission.
 - c. Such rules and regulations may also provide for special meetings and the manner of calling the same.
- (3) Meetings. The planning commission shall provide for a regular meeting date of the commission at least once in each quarter of each calendar year or more often if prescribed by the commission.
- (4) Minutes. The planning commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or if failing to vote, indicating such fact; it

ATTACHMENT A – P g | 3
Art. 301 Administration and Enforcement
Underlined text to be added and strikethrough text to be deleted.

shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the planning department.

(5) *Quorum.* A quorum of the planning commission shall be a majority of the appointive members present.

~~(f) *Senior planner position established.* A new position of senior planner, Grade 31, is established within the planning commission.
(Code 1994, § 13.04.06; Or. No. 99-8, § 1)~~

(d) *Appropriation by council required prior to expending or encumbering funds.* The planning commission shall not expend or encumber funds without prior appropriation by the city council.

(c) *Comprehensive study.*

(1) The planning commission shall make a comprehensive study of present conditions and future growth of the city and its neighborhood and adjacent territory for the purpose of planning a coordinated, adjusted and harmonious development of the city and its environs which would promote, in accordance with future needs, the safety, morals, order, convenience, prosperity and general welfare of its citizens; efficiency and economy in the process of development, convenience or traffic; safety from fires and other dangers; adequate light and air, healthful and convenient distribution of population; provision of adequate open spaces, good civic design and arrangement; wise and efficient expenditure of public funds; adequate provision for public utilities; and for other matters pertaining to the public requirements.

(2) *Formulation of plan.* The planning commission shall formulate and maintain a plan of the territory within its planning jurisdiction in accordance with state law, which plan shall at least embrace the subjects prescribed by state law and which shall be adopted by the planning commission by resolution after public hearing and notice as provided by state law.

(3) *Filing plan.* When the planning commission shall have approved any plan, the same shall be certified to the city council and shall be filed in the office of the city clerk and in the office of the circuit clerk and county recorder.

(4) *Action on plan by city council; acceptance.*

- a. The city council, on receipt of a certified copy of a plan adopted by the planning commission, may accept, amend, modify or reject the plan in whole or in part.
- b. On acceptance of a plan by city council, it shall become in full force and effect binding upon all persons with force of law.

(5) *Manner of amending plan.* Whenever a plan has been adopted by the planning commission, filed for record and accepted by the city council, the same shall not be changed, altered or amended except by the procedure required by state law for the adoption of an original plan.

(f) *Construction of streets, public utilities, etc., to be approved by planning commission.* Whenever a plan has been so adopted, filed and become effective, no new street, square, park or other public way, ground or open space or any public building or structure or public utility, whether publicly or privately owned, shall be constructed or authorized to be constructed in any section or district of the planning

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jurisdiction embraced within a plan until the location, character and extent thereof shall have been submitted to the planning commission in the manner prescribed by state law.

(g) *Rules to be prepared after master street plan governing subdivision of land is adopted.* After a master street plan is adopted and filed as provided in this article, the planning commission shall prepare and administer rules governing subdivision of land within its jurisdiction in accordance with state law.

(h) *Cooperation with other planning bodies.* The planning commission shall have the authority to cooperate with official and unofficial planning bodies for the purpose of coordinating the preparation of plans for the city and its adjacent territory.

(i) ~~Development fees. Prior to initiation or commencement of any action or the physical transfer of any item listed in this section, the fees, as established from time to time for the same, shall be collected by the city as part of the application for such item or the purchase of said item.~~

~~Rezoning-proposed fee~~

~~Appeal~~

~~Variance~~

~~Final plat~~

~~Preliminary plat~~

~~Large-scale development~~

~~Lot split~~

~~Map sales~~

~~Ordinance sales~~

(Code 1994 § 13.04.17; Ord. No. 83-31, § 1; Ord. No. 97-7, §1)

State law reference – General purpose of municipal plans, A.C.A. § 14-56-403; establishment of planning commission, A.C.A. § 14-56-404; designation and term of officers, A.C.A. § 14-56-406; regular meetings, A.C.A. § 14-56-407; internal rules and regulations, A.C.A. § 14-56-408; appropriations authorized, A.C.A. § 14-56-410; purpose of planning commission, A.C.A. § 14-56-411; legislative recommendations, A.C.A. § 14-56-415; land development regulations, A.C.A. § 14-56-417; amendments to recommended ordinances and regulations, A.C.A. § 14-56-420, 14-56-426, 14-56-424; adoption procedure, A.C.A. § 14-56-422.

SEC. 301:04 Board of adjustment.

(a) *Creation and appointment.*

(1) *Memberships and terms.* There is hereby appointed a board of adjustment which shall consist of five (5) members; each to be appointed by the city council of the City of Bentonville for a term of five (5) years. Not less than one (1) member shall be appointed from the membership of the planning commission. Appointments shall be staggered.

(2) *Removal.* A member of such board of adjustment, once qualified, can thereafter be removed during his/her term of office only for cause on a majority vote of the city council. In the event of the death, resignation, or removal of any such member before the expiration of his/her term, a successor shall be appointed by the city council to serve his/her unexpired term by resolution.

(b) *Organization.*

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- (1) *Officers.* A chairperson, vice chairperson, and secretary shall be elected annually by the board from among its membership. The chairperson, or in his/her absence, the vice chairperson, shall preside at all meetings, shall decide all points of order or procedure.
 - (2) *Rules and regulations to be adopted.* The board of adjustment shall adopt bylaws to establish rules necessary to the conduct of its affairs and in keeping with the provisions of ~~the Zoning Ordinance~~ this chapter and for appeals to floodplain interpretations.
 - (3) *Meetings.* Meetings shall be held on a regular schedule and at such other times as the board may determine. All meetings shall be open to the public.
 - (4) *Minutes.* The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or if failing to vote, indicating such fact; it shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the planning office.
 - (5) *Quorum.* A quorum of the board shall consist of three (3) members. The concurring vote of three (3) of the board members shall be necessary to revise any order or decision of the Community development director or to decide on any matter upon which it is required to pass under this ~~Ordinance~~ chapter.
- (c) *Powers and duties.* The board of adjustment shall have all the powers and duties prescribed by law and by this ~~Ordinance~~ chapter, which are more particularly described as follows:
- (1) *Appeal of interpretation.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of this ~~Zoning Ordinance~~ chapter and floodplain regulations. The board may affirm or reverse, in whole or in part, said decision of the community development director.
 - (2) *Variances.* To hear and decide requests for variances from the literal provisions of the zoning ordinance in instances where strict enforcement of the ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the ordinance.
 - (3) *Determination of zoning district boundaries.* In addition to the powers and duties specified above, the board shall also have the powers and duties to hold public hearings and interpret zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground are at variance with those shown on the Zoning District Map.

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003; Ord. No. 2012-58, § 1, 07-24-2012)

SEC. 301.5 Building permits.

No building permit shall be issued except in conformance with the provisions of this section chapter.

~~Whenever any structure or building is to be erected or structurally altered, including but not limited to modular or manufactured structures, a building permit shall be obtained from the Community development director or his designee(s). Every applicant for a building permit shall furnish the following information:~~

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(a) ~~Plans.~~ A plot plan, drawn to scale, showing the exact size, shape and dimension of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities and all easements on the lot.

(b) ~~Declaration.~~ A declaration of the existing and intended use of each existing and proposed building or structure on the lot and the number of families and housekeeping units which each existing building accommodates and which each existing and proposed building is designed to accommodate.

(c) ~~Additional Information.~~ Additional information relating to the proposed improvement needed to determine compliance with these regulations.

(d) ~~Survey.~~ A survey prepared by an engineer or surveyor registered in the State of Arkansas of the boundaries of the lot on which the improvement is proposed to be located may be required by the Mayor or Community development director.

(e) ~~Filing.~~ A record of such application and plat shall be kept by the Community development director and is subject to review by the Planning commission.

SEC. 301.06 Conditional uses.

(a) Authority. ~~The planning commission shall have the authority to approve conditional uses in accordance with the provisions of this section.~~

(b) *General.*

(1) *Purpose.* The purpose of this section is to define the concept of conditional uses; to establish standards by which the planning commission shall evaluate conditional uses; and to set forth procedures for processing conditional uses.

(2) *Description.* A conditional use is a use that conforms to the intent of the General Plan for a specific area and is generally allowable. The use may represent potential problems, however, with respect to its impact on neighboring property or to the city as a whole. For this reason, it requires a careful review of its location, design, configuration, and spatial impact to determine the desirability of allowing it on a particular site.

The conditional use process must not allow an applicant to secure a use variance or as a means to circumvent the intent of the General Plan or Zoning Ordinance. Building configurations, footprints, and outlines should be compatible with other uses permitted for a district. Whether a proposed use is appropriate in a particular location depends upon a careful evaluation of the impacts to the neighborhood and the city by the planning commission and a weighing of conditions and methods proposed by the commission or by the applicant to mitigate those impacts.

(3) *Table of Permitted uses.* Where the letter “C” appears for certain uses in the *Table of Permitted Uses for zoning districts*, the use is ~~permitted~~ allowed subject to approval by the planning commission of a conditional use permit.

(c) *Procedure for conditional use request.*

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- (1) *Application.* The property owner shall submit ~~An application shall be filed by the property owner with the city~~ to the planning department in accordance with current planning department policies and procedures. ~~Said application shall be filed no less than twenty-two (22) days prior to the planning commission meeting.~~ Such applications shall show the location and intended use of the site and include a general statement as to the intent of the use. Applications may be obtained from the planning ~~office~~ department. A general graphic representation of what is proposed shall be submitted as well and shall include the following:
- a. The location, size, and use of buildings, signs, land and improvements;
 - b. The location, size and arrangement of parking space, loading space, driveways and street access;
 - c. Proposed screening and landscaping;
 - d. The use of adjoining property;
 - e. Scale, north arrow and vicinity map; and
 - f. Any additional information needed by the staff because of conditions peculiar to the development.
- (2) *Notification.*
- a. *Notice of public hearing.* Notice of public hearing shall be published in a newspaper of general circulation in the city, at least one (1) time fifteen (15) days prior to the hearing. The planning department will publish the notice for conditional use. This public notice must include the conditional use sought, the location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice), and the time, date and place of the public hearing.
 - b. *Sign.* The planning department will post one or more public hearing signs on the premise of said property. Such sign(s) shall be clearly visible, unobstructed to the passing general public, and posted on or near the existing front property line not later than seven (7) days prior to the public hearing.
- (3) *Staff review.* The planning department staff shall review the proposed conditional use and report to the planning commission on its relation to and probable effect on the surrounding area as well as its compliance with the requirements of this ~~Ordinance~~ chapter and shall make recommendations to the planning commission.
- (4) *Public hearing.* The city planning commission shall hold one (1) or more public hearings thereon. The planning commission shall review conditional use applications at its regularly scheduled meetings, at which time interested persons may appear and offer information in support of, or against, the proposed conditional use.
- (5) *Planning commission action.*
- a. *Action.* The planning commission may approve, deny, defer, or modify a conditional use request based on findings of fact with regard to the standards set forth in Section ~~(d)~~ (d) below.

b. *Conditions.* The planning commission may impose conditions and restrictions upon the premises benefited by a conditional use permit as may be necessary to reduce or minimize any injurious effects of the conditional use. Such action may be necessary to ensure that the conditional use is compatible with surrounding property to better carry out the intent of this ~~Ordinance~~chapter. Once any portion of the approved conditional use permit is utilized, all such conditions pertaining to such authorization shall become effective immediately. Such conditions may include time limits for exercise of such authorization and commence within a reasonable time. The violation of any condition so imposed shall constitute grounds for revocation of the conditional use permit.

(d) *Standards for approval.* In carrying out the purpose of this section, the commission's consideration shall include, but not be limited to, the following development standards and design specifics. The appropriateness of these standards shall be determined at the discretion of the planning commission for each specific conditional use location.

- (1) The proposed use shall be so designated, located and operated so that the public health, safety and welfare will be protected.
- (2) The proposed land use shall be compatible with other area properties located near it.
- (3) The proposed use shall be in compliance with the provision of "Conditional Uses" as set out in this ~~Ordinance~~chapter.
- (4) The proposed use shall be in conformance with all applicable provisions stated in this ~~Ordinance~~chapter for the district in which the use is to be located.
- (5) The proposed conditional use shall be in conformance with all off-street parking and loading requirements of this ~~Ordinance~~chapter and ingress and egress and pedestrian ways shall be adequate.
- (6) Safeguards limiting noxious or offensive emissions, including lighting, noise, glare, dust and odor shall have been addressed in the proposed use application.
- (7) Landscaping and screening of the proposed use shall be in accordance with these ~~Ordinance~~ regulations and the city of Bentonville landscaping regulations.
- (8) Proposed use signage shall be in accordance with the provisions of this ~~Ordinance~~chapter.
- (9) Open space located on the proposed use shall be maintained by the owner/developer.
- (10) The size and shape of the site, including size, shape and arrangement of proposed structures shall be in keeping with the intent of this ~~Ordinance~~chapter.
- (11) The planning commission shall in no case authorize less than minimum requirements of the ~~Ordinance~~chapter relating to height, area, or setbacks.
- (12) The planning commission shall not permit any use in a zone as a conditional use that is not permitted under the Zoning Ordinance.

(e) *Amendments.* Major changes to a conditional use authorization must follow the same process as the original conditional use; however, the commission may delegate to the staff authority to approve minor modifications to the conditions approved, including modifications to an approved development plan.

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~~(f) Building permit. No building permit shall be issued except in conformance with the provisions of this section.~~

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003; Ord. No. 2012-58, § 1, 07-24-2012)

SEC. 301.07 ~~Violation and Penalties.~~ Reserved.

A violation of this ordinance shall be deemed a misdemeanor and shall be punishable as set forth in the Bentonville Municipal Code Section 1.32.01.

SEC. 301.08 ~~Zoning ordinance amendments~~ (rezoning).

(a) ~~General Authority.~~ The city council shall have the authority to enact amendments to the text or map of the Zoning Ordinance in accordance with the provisions of this section. Such action may be initiated on the recommendation of the planning commission, on its own motion, or on petition from a property owner. Before action is taken in regard to any amendment of the Ordinance is chapter, the planning commission shall have reviewed the case and given a recommendation. However, nothing in this section shall be construed to limit the city council's authority to recall the ordinances and resolutions by a vote of the majority of the council.

(b) *Procedure for zoning amendments by property owners.*

(1) *Application.* ~~The property owner shall submit. A~~ an application giving the legal description of the property involved and the zoning classification requested for the property, shall be submitted to the Planning planning department in accordance with current planning department policies and procedures Commission by the agent of the property owner no less than twenty-two (22) days prior to the public hearing. The petition shall provide the legal description of the property involved, the zoning classification requested for the property, and also include a statement and diagram explaining why the proposed changes will not conflict with the surrounding land uses. A proposed ordinance rezoning the property shall also be submitted with the petition for approval as to its correctness and form.

(2) *Notification.*

- a. *Notice of public hearing.* Notice of the public hearing shall be published in a newspaper of general circulation in the city, at least one (1) time fifteen (15) days prior to the hearing. The planning department will publish the notice of proposed amendment. The notice shall include the rezoning being sought, the location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice), and the time, date and place of the public hearing.
- b. *Sign.* The planning department will post a notice of public hearing sign on said property to be rezoned. Such sign(s) shall be clearly visible, unobstructed to the passing general public and posted on or near the front property line not later than fifteen (15) days prior to the public hearing.
- c. *Certified mail.* The property owner will be required to notify, by certified mail with return receipts requested ~~and/or petition~~, all property owners within 200 feet of the property of his/her intention to apply for a zoning amendment no less than fifteen (15) days prior to

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the public hearing. The petitioner shall state the date and time of the public hearing with a certified letter ~~and/or petition~~. The postmarked certified receipts and/or petitions shall be submitted to the planning department staff not less than ten (10) days prior to the planning commission meeting along with a map showing the location of the property in question as well as the owners within 200 feet of the property and a letter from the petitioner certifying that the map shows a complete list of those property owners.

- (3) *Staff review.* The planning department staff shall review the proposed zoning request and report to the planning commission on its relation to and probable effect on the surrounding area as well as its compliance with the requirements of this ~~Ordinance~~ chapter and shall make recommendations to the planning commission.
 - (4) *Public hearing.* The city planning commission shall hold one (1) or more public hearings thereon. The planning commission shall review zoning request applications at its regularly scheduled meetings, at which time interested persons may appear and offer information in support of, or against, the proposed zoning request.
 - (5) *Planning commission action.*
 - a. *Approval.* Following the public hearing, the proposed amendment may be approved as presented or as modified, by a majority vote of the planning commission and recommended for adoption by the city council, with reasons for recommendation stated in writing. No petition shall be reviewed by the city council without a report from the planning commission on the case.
 - b. *Denial.* If the planning commission disapproves a proposed amendment, the applicant may appeal to the city council in accordance with ~~Sec. 106-309~~ Sec. 106-309; *Appeals to city council.*
 - c. *Forward to city council.* Following approval by the planning commission, the petition will be sent to the city council for action. A petitioner may withdraw the request for an amendment prior to action by the city council.
 - d. *Re-consideration.* No application for a zoning amendment will be considered by the Planning commission within one (1) year from date of final disapproval by planning commission of a proposed amendment. The resubmission must meet all requirements for a rezoning request and must be a different rezoning from original request.
 - (6) *City council action.* The city council by majority vote, may by ordinance, adopt the recommended amendment submitted by the planning commission or may return the proposed amendment to the planning commission for further study and recommendation. If the city council does not concur with the recommendation of the planning commission, either as first submitted or as submitted after re-study, the city council may, by majority vote, amend this ordinance by granting the request for amendment in full or in modified form. However, nothing in this section shall be construed to limit the city council's authority to recall the ordinances and resolutions by a vote of a majority of the council.
- (c) *Procedures for zoning amendments by the city council.*

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- (1) *Refer to planning commission.* The city council may refer a request for amendment to the planning commission to be considered in accordance with the procedures outlined in Sub-section ~~-(d),~~ below.
- (2) *Emergency.* The city council may act upon a request to amend this Ordinance when an emergency exists which threatens the health, safety, welfare, or morals of the citizens of the city. An amendment may be made under this section upon the approval of two-thirds (2/3) of the entire city council.
- (d) *Procedures for zoning amendments by the planning commission.*
 - (1) *Initiation.* The planning commission, may, from time to time, either upon request by one or more of its members, by direction of the city council, or in the course of its normal planning activities, consider amendments or additions to the Zoning Ordinance.
 - (2) *Studies.* The planning commission shall prepare a work program and make studies, including the preparation of maps, to support its decisions regarding possible amendments.
 - (3) *General plan.* If the proposed amendments are not consistent with the General Plan, the planning commission shall first consider and adopt any necessary changes to the General Plan.
 - (4) *Public hearing.* The planning commission shall hold a public hearing to consider amendments to the Zoning Ordinance and amendments to the General Plan, if required.
 - (5) *Notification.* Changes in the Zoning Ordinance initiated by the planning commission shall be considered comprehensive changes affecting the entire city and no individual notifications shall be made. A map indicating the proposed changes shall be available in ~~City Hall~~ the mayor's office or at a convenient location designated by the mayor for interested citizens and property owners.
 - (6) *Planning commission action.* Following the public hearing, the proposed plans may be recommended as presented, or in modified form, by a majority of the entire planning commission.
 - (7) *City council action.* Following its adoption of plans and recommendations of ordinances and regulations, the commission shall certify adopted plans or recommended ordinances and regulations to the city council for its adoption.
- (e) *Standards for approval.* The city council may consider several recommendations and planning documents when attempting to make a decision on the granting of an amendment. Such guidelines may be derived from recommendations from the planning commission and planning staff, use of provisions of the General Plan, Master Street Plan, Master Parks Plan, Land Use Plan, Capital Improvements Plan, and Bicycle and Pedestrian Master Plan, as well as any other appropriately approved document created to provide required public facilities necessary to protect the public interest. Any denial by the city council of an amendment shall be final for one (1) year and the same application may not be reinitiated until the expiration of that deadline.

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003; Ord. No. 2012-58, § 1, 07-24-2012)

SEC. 301.09 Appeals to city council.

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(a) *Notice of appeal.* Any decision by the planning commission regarding a rezoning or conditional use permit, may be appealed to the city council. In order to make an appeal, the aggrieved party must file a “Notice of Appeal” with the city clerk within 30 days of the planning commission’s final action. The Notice of Appeal shall be filed on forms and in a format prescribed by the city council. As a minimum however, the applicant shall provide the following information:

- (1) Summary of any reasons provided by the planning commission concerning the decision made in the case.
- (2) Reasons why the applicant of the appeal contends that the planning commission erred in its decision.
- (3) Reasons why the applicant of the appeal believes that the public health, safety, welfare, and morals would be better served if the planning commission’s action were reversed.
- (4) Any new and pertinent information bearing on the case which may have been overlooked by the planning commission or which may have come to light following the meeting at which the planning commission made its decision.

(b) *City council action.* Appeals to the city council shall be de novo; however, they shall first be considered on the record of the public hearing and planning commission meeting at which the original case was heard and the original decision made. Based on this review, the city council may affirm the planning commission’s decision, reverse it, or send the case back to the planning commission for further study and re-certification. If new information is placed before the Council that, in the opinion of the Council, would affect the planning commission’s decision, the Council may refer the case back to the planning commission for further study, including the new information, and re-certification.

(Code 1994; Ord. No. 2003-101, §1, 06-10-2003; Ord. No. 2012-58, § 1, 07-24-2012)

SEC. 301.10 Variances.

(a) *General Authority.* The board of adjustment shall have the authority to approve variances of the Zoning Code this chapter in accordance with the provisions of this section.

(b) *Procedure for variance requests.*

- (1) *Application.* ~~All appeals and applications made to the Board shall be made in writing on forms prescribed by the Board.~~ The property owner shall submit an application to the planning department in accordance with the current planning department policies and procedures. Every appeal or application shall refer to the specific provision of the Ordinance this chapter involved and shall exactly set forth:
 - a. The interpretation that is claimed,
 - b. The use for which the permit is sought, or
 - c. The details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.
 - d. ~~Scale Drawing.~~ Each applicant must submit, at least ten (10) days prior to the public hearing, a scaled drawing showing the requested variance along with all relevant

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information, including the exceptional condition or situation of the property which causes the exceptional practical difficulty or undue hardship for which relief is being sought.

e. Any additional information requested by the planning department due to conditions specific to the request.

(2) *Notification.*

a. *Notice of public hearing.* The Board shall fix a reasonable time for the public hearing of an appeal, cause public notice to be given of the time and place thereof, as well as due notice to the parties in interest, and decide same within a reasonable time. Said public notice shall be published at least once not less than seven (7) days preceeding the date of such hearing in a newspaper of general circulation in Bentonville. The public notice shall give the particular location of the property on which the appeal is requested, including a legal description and an address (if no address is available, a description which is clear to the average lay person will suffice), as well as a brief statement of what the appeal consists.

Notice of a public hearing shall be published in a newspaper of general circulation in the city, at least one (1) time seven (7) days prior to the hearing. The planning department will publish the notice of proposed amendment. The notice shall include the variance being sought, the location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice), and the time, date and place of the public hearing.

b. *Sign.* The planning department will post a notice of public hearing sign on said property ~~to be rezoned~~ for which the variance is being requested. Such sign(s) shall be clearly visible, unobstructed to the passing general public and posted on or near the front property line not later than seven (7) days prior to the public hearing.

(3) *Staff review.* The planning department staff shall review the proposed variance request and report to the board of adjustment on its relation to and probable effect on the surrounding area as well as its compliance with the requirements of this ~~Ordinance~~ chapter.

(4) *Public hearing.* Public hearings may be adjourned from time to time, and, if the time and place of the adjourned meeting be publicly announced when the adjournment is made, no further notice of such adjourned meeting need be published. At a public hearing any party may appear in person, by agent, or by attorney.

(c) *Standards for approval.* A variance from the terms of this ~~Zoning Ordinance~~ 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 ~~Ordinance~~ chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ~~Zoning Ordinance~~ chapter;

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- 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 ~~Zoning Ordinance~~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 ~~Zoning Ordinance~~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 ~~Zoning Ordinance~~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 ~~Ordinance~~chapter in the district involved, or any use expressly or by implication prohibited by the terms of this ~~Zoning Ordinance~~chapter in said district.
- (d) *Effect of appeal.* An appeal shall stay all proceedings of the action appealed from, unless the person affected by such appeal certifies to the board, that, by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record on application, and notice to the person from whom the appeal was taken.
- (e) *Time limit on permits.* No order permitting the use of a building or premises, or the alteration or erection of a building shall be valid for a period longer than six ~~(6)~~ months unless such use is established or the erection or alteration is started within such period and proceeds to completion in accordance with the terms of a building permit.
- ~~(f) *Fee.* The fee for any appeal or application to the Board shall be established by the Bentonville City council and subject to periodic change. Current fee schedules are available with the application. Fees are non-refundable.~~
- (f) *Appeals from board of adjustment.* Any person or persons, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision of the board of adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of Arkansas.

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Art. 301 Administration and Enforcement
Underlined text to be added and strikethrough text to be deleted.

(g) *Reconsideration.* If a variance request is denied, it shall not be reconsidered by the board of adjustment within one (1) year from the date of denial of the variance request. The resubmission must meet all requirements for a variance request and shall be a different variance request.

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003; Ord. No. 2007-67, § 1; Ord. No. 2007-67, §1; Ord. No. 2012-58, § 1, 07-24-2012)

~~SEC. 301.11 Severability.~~

~~If any portion of this Ordinance shall be held to be invalid or unconstitutional, the remainder of the Ordinance shall not thereby be invalid, but shall remain in full force and effect.~~

~~SEC. 301.12 Repeal of conflicting ordinances.~~

~~Any ordinance now in effect that conflicts with any provision of this Ordinance is hereby repealed, held to be invalid and to no effect to the extent of the conflict.~~

~~SEC. 301.13 Emergency clause.~~

~~Whereas no emergency exists for the immediate taking effect of this Ordinance, therefore, the same shall be in full force and effective one month from and after its passage. (Ord. No. 2012-58, 7-24-12)~~

ATTACHMENT B - P g | 1
Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

ARTICLE 401 ZONING DISTRICT REGULATIONS

SEC. 401.01 Zoning district boundary map.

(a) *Official zoning map.* This ~~Ordinance~~ chapter consists of a map and text. The City of Bentonville shall maintain the Official Zoning Map in the mayor's office or at a convenient location designated by the mayor. Although copies of the map or portions thereof may be distributed to the public in paper or digital form, the Official Zoning Map consists of the paper copy signed by the mayor or as shown in the official city of Bentonville GIS website and designated as such, as may be amended by ordinance adopted by the city council.

(b) *Boundary of districts.* The boundaries of the zoning districts are hereby established as shown on the map entitled "Zoning District Boundary Map" of Bentonville, Arkansas as may be amended by ordinance adopted by the city council, which is part of this ~~Ordinance~~ chapter and which is on file in the office of the city clerk.

(c) *Interpretation of district boundary.* Where due to scale, lack of detail or illegibility of the zoning map, there is uncertainty, contradiction or conflict as to location of any zoning district boundary as shown thereon, the ~~Designated Staff~~ community development director shall make an interpretation of the map upon request of any person. Any person in disagreement with any such interpretation may appeal such interpretation to the board of zoning adjustment. All city commissions, boards or personnel interpreting the zoning map or deciding any appeal, shall apply the following standards:

- (1) Zoning district boundary lines are intended to follow lot lines or along the center lines of alleys, streets, right-of-way or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.
- (2) Where zoning districts boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
- (3) Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
- (4) In un-subdivided property, the district boundary lines on the maps accompanying and made part of this ~~Ordinance~~ chapter shall be determined by use of scale contained on such map.
- (5) Where a zoning district boundary is indicated as approximately following city limits the boundary shall be determined as such.
- (6) Where a zoning district boundary is indicated as approximately following railroad lines, the boundary shall be construed to be midway between the main tracks.
- (7) If, after all of the previously stated rules have been applied, uncertainty shall exist as to exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of zoning ordinances and amendments in the city as well as other relevant facts. The board of adjustment, upon motion, shall interpret and determine the location of said boundaries based on the above mentioned guidelines.

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003; Ord. No. 2012-58, § 2, 07-24-2012)

ATTACHMENT B - P g | 2
Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

SEC. 401.02 Classification of districts.

This ~~Ordinance~~chapter classifies and regulates the use of land, buildings, and structures within the city limits of Bentonville, Arkansas as hereinafter set forth. For the purpose of promoting the health, safety, and welfare of the inhabitants by dividing the city into zones and regulating therein the use of the land and the use and size of buildings as to height and number of stories, the coverage of land by buildings, the size of yards and open spaces, density of population and location of buildings. Zoning districts shall be designated as follows:

- (a) Agricultural (A) districts.
 - (1) A-1, Agricultural
- (b) Residential (R) districts.
 - (1) R-E, Residential Estate
 - (2) R-1, Single Family Residential
 - (3) R-2, Duplex and Patio Home Residential
 - (4) R-3, Medium Density Residential
 - (5) R-4, High Density Residential
 - (6) R-MH, Manufactured Home Residential
 - (7) R-ZL, Zero Lot Line
 - (8) R-O, Residential Office
 - (9) R-C2, Central Residential – Moderate Density
 - (10) R-C3, Central Residential – High Density
- (c) Downtown ~~Neighborhood Residential~~ (DN) districts.
 - (1) DN-1, Downtown Low-Density Residential
 - (2) DN-2, Downtown Medium-Density Residential
 - (3) DN-3, Downtown High Density Residential
 - (4) DN-4, Downtown Mixed-Use Residential
- (d) Commercial (C) districts.
 - (1) C-1, Neighborhood Commercial
 - (2) C-2, General Commercial
 - (3) C-3, Central Commercial
- (e) Downtown (D) districts.
 - (1) DC, Downtown Core
 - (2) DE, Downtown Edge
- (f) Industrial (I) districts.
 - (1) I-1, Light Industrial
 - (2) I-2, Heavy Industrial
- (g) Planned development districts.
 - (1) PUD, Planned Unit Development
 - (2) PRD, Planned Residential Development
- (h) Overlay districts
 - (1) Municipal Airport Overlay District
 - (2) Northwest Arkansas Regional (XNA) Airport Overlay District

ATTACHMENT B - P g | 3
Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

(Code 1994; Ord. No. 99-20, § 1, 02-09-1999; Ord. No. 2003-101, §1, 06-10-2003; Ord. No. 2006-33, § 1; Ord. No. 2009-50, § 4; Ord. No. 2009-111, §1; Ord. No. 2012-58, § 2, 07-24-2012; Ord. No. 2016-141, § 2, 10-11-2016)

SEC. 401.03 ~~General provisions~~ **Calculations and measurements.**

(a) *Measuring lot width.* Lot width is measured at the building setback.

(b) *Measuring lot depth.* The minimum lot depth is measured at its shallowest point measured at right angles or radial to the street right-of-way line.

(c) *Measuring building height.* ~~The regulations herein set forth qualify or supplement, as the case may be, the specific district regulations.~~

(1) *Measuring height.* Building height shall be measured as the vertical distance from the elevation of the natural grade level to the highest point of the roofline or parapet wall. In measuring heights, a habitable attic shall be counted as a story unless the area of the attic at a height of four (4) feet above the floor does not exceed two-thirds (2/3) of the floor area of the story immediately below it and which does not contain an independent apartment.

(2) *Exceptions.* Chimneys, elevators, poles, spires, tanks, towers, (except for transmission towers/station) and other projections not used for human occupancy may extend above the height limit.

(d) *Measuring setbacks.* Setbacks shall be measured as the horizontal distance between the property line and/or right-of-way line and the structure's foundation.

(e) *Computing density.* When computing gross density of a tract of land, any and all common open space may be used in said calculation.

(Ord. No. 2012-58, § 2, 07-24-2012)

SEC. 401.04 **Application of zoning district regulations.**

(a) *Minimum regulations.* The regulations set by this ~~ordinance~~ chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

(b) *Conformity of regulations.* No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located. No building, ~~or other structure~~ or land shall hereafter be erected or altered:

- (1) to exceed the height or bulk;
- (2) to accommodate or house a greater number of families;
- (3) to occupy a greater percentage of lot area; and,
- (4) ~~to have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required or in any other manner contrary to the provisions of this ordinance~~ chapter.

ATTACHMENT B - P g | 4
Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

(c) Independent compliance. No part of a yard or other open spaces or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance ~~chapter~~ shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building, unless otherwise stated in the city code.

(d) Yard and lots to meet minimum requirements. No yard or lot existing at the time of passage of this ordinance ~~chapter~~ shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance ~~chapter~~ shall meet at least the minimum requirements established by this ordinance ~~chapter~~.

(e) Zoning district for annexations. All territory which may hereafter be annexed to the City of Bentonville, Arkansas shall be considered to be in District A-1 until the territory is rezoned as provided herein or unless provided for in the annexing ordinance.

(f) ~~In cases where plats were recorded prior to adoption of the Zoning Code on June 10, 2003 and have setbacks that conflict with the setbacks of the zoning code, the zoning code setback requirements shall prevail. Applicants may seek a variance in accordance with the policies set forth in Article 3, Administration and Enforcement.~~

(g) Prior to annexation to the city. On any parcel annexed into the city subsequent to the adoption of these regulations, and upon which building construction has proceeded to the point at which the foundation(s) has been completed, construction may continue. If construction continues after the annexation, these regulations shall require no changes in the overall layout, plans, construction, or size of any building unless the planning commission determines that continued construction would pose a threat to the health, welfare, safety, or morals of the citizens of Bentonville. If construction is stopped for a period exceeding one (1) year, the planning commission may require, as a condition of renewing construction thereafter, that the building(s) meet all requirements for new construction.

~~(h) Height. The regulations herein set forth qualify or supplement, as the case may be, the specific district regulations.~~

~~(1) Measuring height. In measuring heights, a habitable attic shall be counted as a story unless the area of the attic at a height of four (4) feet above the floor does not exceed two thirds (2/3) of the floor area of the story immediately below it and which does not contain an independent apartment.~~

~~(2) Exceptions. Chimneys, elevators, poles, spires, tanks, towers, (except for transmission towers/station) and other projections not used for human occupancy may extend above the height limit.~~

(i) Sight distance requirements. No building, structure, sign or part thereof shall be located so as to create an obstruction in the area to be kept clear of all sight obstructions, as set forth in Chapter 15 Subdivision Code, Article 1100.01 General Provisions, unless otherwise approved by the city engineer.

(j) Setback encroachments. Awnings may extend into a required front setback up to six (6) feet but shall be no closer than two (2) feet, measured in horizontal distance, from the curb of any street or property line.

(k) Clearance. Awnings and canopy structures shall maintain a clearance of eight (8) feet above a public right-of-way, sidewalk or front yard.

ATTACHMENT B - P g | 5
Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003; Ord. No. 2004-63, §1; Ord. No. 2009-50, §6; Ord. No. 2012-58, § 2, 07-24-2012; Ord. No. 2017-205, § 8, 12-12-2017)

SEC. 401.05 Table of permitted uses for zoning districts.

(a) ~~A.~~ Location and Description. The Table of Permitted Uses is located in Appendix Table of uses. The table below establishes a list of land uses and identifies the zoning districts in which that use is allowed by right, allowed with a conditional use permit, or prohibited. Land uses are listed in the column on the left and zoning districts are listed across the top row. Further clarification of each use is provided in Article 201 Definitions.

(b) ~~Permitted Uses.~~ Uses allowed by right. Where the letter “P” a dot (●) appears on the line of a permitted use and in the column of a district in the box where the land use row and the district column intersect, the use is permitted allowed by right as a primary and secondary use in that district, subject to the provisions of:

- (1) Article 501 Off-Street Parking and Loading and Landseaping
- (2) Article 601 Supplemental Use Regulations.

(c) ~~Conditional Uses.~~ Uses allowed with an approved conditional use permit. Where the letter “C” appears in the box where the land use row and the district column intersect, the use is permitted allowed subject to acquiring a conditional use permit as set forth in Article 301.046 Conditional uses.

(d) Uses allowed as an accessory use. Where the letter “A” appears in the box where the land use row and the district column intersect, the use is allowed only as an accessory use to the primary use and shall not be a primary use.

(e) ~~Uses prohibited~~ uses. Where neither “A” a dot (●) nor “C” appears in a district column, the box where the land use row and the district column intersect, the use is not allowed in the district.

(f) ~~Uses not listed~~. When a use is proposed that is not listed in the Table of Permitted Uses the table below, the community development director shall recommend the appropriate districts based on land uses that are similar in size, bulk, and traffic generation. If the applicant does not agree with this interpretation, he/she may appeal the interpretation to the board of adjustment. If the ~~Community Development director~~ fails to make an interpretation for the use in question, then the application shall be handled as a proposed amendment to the Zoning Ordinance and shall be processed in accordance with Article 301 Administration and Enforcement.

ATTACHMENT B - P g | 6
Art. 401 Zoning District Regulations
Underlined text to be added and strikethrough text to be deleted.

TABLE OF USES

	Use Regs.	A1	RE	R1	R2	R3	R4	R-C2	R-C3	R-MH	R-ZL	RO	DN-1	DN-2	DN-3	DN-4	C1	C2	C3	DC	DE	II	IZ
Agriculture and animals																							
agriculture		●																					
agricultural product processing		●																		C	●	C	●
agriculture-related business		●																		C	●	C	●
animal clinic	601.03	●															C	●	C	●	●	●	●
animal kennel or shelter	601.03	●																C		●	●	●	●
animal - domestic or household		●	●	●	●	●	●	●	●	●	●	●					●	●	●	●	●	●	●
animal - exotic		C																					
animal - farm	601.03	●	C																				
apiculture	601.04	●	A	A																			
botanical garden		●	C	C	C	C	C	C	C	C	C	●					●	●	C	●	●	●	●
chicken, hobby	601.11	●	●	A	A																		
community garden		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●							
greenhouse		●	●														C	●	C	●	●	●	●
livestock market		●																			C		C
plant nursery		●																●		●	●	●	●
slaughterhouse		C																			C		C
stable, commercial		●																					
Residential																							
dwelling - accessory	601.02	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
dwelling - condominium				●	●	●	●	●	●	●	●	●	●	●	●	●		●	●	●	●	●	
dwelling - manufactured									●														
dwelling - modular		●	●	●	●	●	●	C	C	●	●	●	●	●	●	●			C		●		
dwelling - multi-family						●	●		●						●			●	●	●			
dwelling - multi-family - end block															●	●							
dwelling - single family		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●					●		
dwelling - townhouse or rowhouse					●	●	●		●						●	●			C	●	●		
dwelling - townhouse or rowhouse - end block								●							●	●							
dwelling - two-family					●	●	●	●	●		●				●	●			C		●		
home occupation - type a	601.12	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●				●	●	●	
home occupation - type b	601.12	C	C	C	C	C	C	C	C	C	C	●	C	C	C	C			●	●	C		
manufactured home park										●													
residential facility - assisted living						●	●	●	●	●	●				●	●	●	●					
residential facility - extended medical care																	●	●					
residential facility - rehabilitation																	●	C	●				
residential facility - temporary shelter						●	●				●							●					

ATTACHMENT B - P g | 7
Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

	Use Regs.	A1	RE	R1	R2	R3	R4	R-C2	R-C3	R-MH	R-ZL	RO	DN-1	DN-2	DN-3	DN-4	C1	C2	C3	DC	DE	TI
Recreation, education, public assembly																						
aquarium		C	C	C	C	C	C	C	C	C	C						•	•	•	•	C	
arena / auditorium		C																	•	•	C	•
community center	601.10	C	C	C	C	C	C	C	C	C	C	C					•	•	•	•	C	•
commercial recreation facility - indoor		C															C	•	•	•	•	C
commercial recreation facility - outdoor	601.08	C															C	C	C			C
conference / convention center																		•		•	C	•
country club		C	C	C	C	C	C	C	C	C	C	C										
cultural studio											•			C	C		•	•	•	•	•	
educational facility		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
golf course	601.08	•	C	C	C	C	C	C	C	C	C	C					C	C	C			C
library			•	•	•	•	•	•	•	•	•	•					•	•	•	•	•	
museum		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	•	•	•	•	C	•
park - mini		•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
park - neighborhood			•	•	•	•					•	C	•	•	•		•	•	•	•	•	•
park - community		•	•								C						•				•	•
religious facilities	601.19	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
recreational vehicle park	601.17	•																				

ATTACHMENT B - P g | 8
Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

	Use Regs.	A1	RE	R1	R2	R3	R4	R-C2	R-C3	R-MH	R-ZL	RO	DN-1	DN-2	DN-3	DN-4	C1	C2	C3	DC	DE	II	I2
Services																							
ATM machine												●					●	●	●	●	●	●	●
adult day care		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	●	●	●	●	●	●	●
auction house												C					●	●	●	●			
auto or equipment auction		C																●				●	●
automobile repair																			●			●	●
car wash	601.06																C	●				●	●
cemetery or mausoleum		●	C	C	C	C	C	C	C	C	C	C	C	C	C	C	●	●	C		●	●	●
child care - commercial	601.07	●	C	C	C	C	C	C	C	C	C	●					●	●	●	●	●	C	C
child care - residential (4 children)	601.07	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●
child care - residential (5 -10 children)	601.07	C	C	C	C	C	C	C	C	C	C	●	C	C	C	C			●		●		
copy services												C					●	●	●	●	●	●	●
correctional facility or jail		●																				●	●
crematory																		C				●	●
financial institution												●					●	●	●	●	●		
funeral home												●					●	●	●	●	●		
governmental service facility		●										●					●	●	●	●	●	●	●
lodging - bed & breakfast	601.05	C	C		C	C	C	C	C			C		C	C	C	C		C	C	C		
lodging - hotel / motel																		●	●	●	C		
maintenance service																	●	●			●	●	●
medical services - hospital	601.43																	●	C				
medical services - doctor office												●					●	●	●	●	●		
medical services - urgent care clinic																		●		●	●		
medical services - laboratory																		●		●	●	●	●
medical services - substance abuse or mental health treatment clinic																		●					
office - small scale(≤ 4,000 gsf)												●		C	●	●	●	●	●	●	●	●	●
office - large scale (> 4,000 gsf)																		●	●	●	●	●	●
office/warehouse																		●		C	C	●	●
personal services												C			C	●	●	●	●	●	●		
public safety services		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
postal services									P								●	●	●	●	●	●	●
repair services - household																	●	●	●	●	●	●	●
repair services - equipment, large appliances																		●				●	●

ATTACHMENT B - P g | 9
Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

Use Regs.		A1	RE	R1	R2	R3	R4	R-C2	R-C3	R-MH	R-ZL	RO	DN-1	DN-2	DN-3	DN-4	C1	C2	C3	DC	DE	I1	I2
Retail																							
artisan shop															C	•	•	•	•	•	•		
auto and vehicle sales/rental																		•				•	•
bakery									P						C	•	•	•	•	•	•		
bar, lounge or tavern								C									•	•	•	•	C		
building and landscape material sales																		•				•	•
construction / heavy equipment sales/rental																	C					•	•
convenience store								C									•	•	•	•			
convenience store that sells beer and/or light wine for off-site consumption	601.29														C	C	•	•	•	C			
convenience store that sells beer and/or light wine for off-site consumption within 500' of a city owned park or trail	601.29																C	C	C	C			
convenience store that sells beer, light wine and/or spirits for off-site consumption	601.29																•	•	•				
convenience store that sells beer, light wine and/or spirits for off-site consumption within 500 ft. of a city owned park or trail	601.29																C	C	C				
equipment rental - indoor																	•	•				•	•
equipment rental - outdoor																		•				•	•
gas station																	C	•	•			•	•
manufactured home sales																						•	•
medical marijuana dispensary	601.31																	•	•	•		•	•
mobile food vendor	<u>601.021</u> 6	•	•	•	•	•	•	•	•	•	•	•				•					•		
outdoor vending, private property	601.16																•	•	•	•	•	•	•
outdoor vending, public right-of-way	601.16																			•	•		
outdoor vendor park	<u>601.021</u> 6																C	C	C	C			
package liquor store	601.29																	•					
package liquor store within 500 ft. of a city owned & maintained park or trail	601.29																	C					
pharmacy																		•	•	•		•	•
recreational vehicle and boat sales/rental																		•				•	•
restaurant								C								P	C	•	•	•	C		
restaurant, drive-in																		•	•				
restaurant, microbrewery	601.29															P	C	C		C		C	C
retail - small scale (≤ 4,000 gsf)															•	•	•	•	•	•	•	•	•
retail - large scale (> 4,000 gsf)																		•		•			
sexually oriented business	601.22																	C					
sidewalk café in public right-of-way	601.23															•			•	•	•		

ATTACHMENT B - Pg | 10
Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

Use Regs.	A1	RE	R1	R2	R3	R4	R-C2	R-C3	R-MH	R-ZL	RO	DN-1	DN-2	DN-3	DN-4	C1	C2	C3	DC	DE	II	12
Industrial and warehousing																						
artisan / craft product manufacturing																					•	•
bulk storage of highly flammable material																						C
cold storage plant																					•	•
contractor maintenance yard																	C				•	•
industrial - intensive																						•
industrial - light																					•	•
laboratory - dental or medical																	•				•	•
laboratory - manufacturing																					•	•
laboratory - research																	•				•	•
light fabrication and assembly process																					•	•
manufacturing and/or distribution plant, alcoholic beverages of every kind and type	601.29																C				•	•
manufacturing and/or distribution plant, alcoholic beverages of every kind and type within 50 ft. of a city owned & maintained park or trail	601.29																C			C	C	
Medical marijuana cultivation facility	301.31																•	•	•		•	•
mining		C															C			C	C	
mini-warehouse storage	601.14																•				•	•
taxidermy		•															•				•	•
salvage yard	601.20	C																				C
warehousing or wholesaling																					•	•
Transportation, Communication and Utilities																						
airport facilities		C															C	C			C	C
broadcasting studio																	•	•	•			
electric generating plant																						C
parking facility (as principal use)											C						C	•	C	•	C	•
sewage treatment plant	601.21	C																				C
solar energy system	601.24	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
solid waste disposal		C																				C
transportation facilities excluding airports																	C	C	C		•	•
utility facility		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
wind energy system, small	601.26	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
wind energy system, large		C																				C
wireless communication facility (cell towers)	601.27	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Other																						
building accessory - nonresidential	601.01	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
temporary uses	<u>601.25</u>	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C

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(Code 1994; Ord. No. 95-81, §1, 08-22-1995; Ord. No. 98-58, §1, 06-23-1998; Ord. No. 98-70, § 1, 08-11-1998; Ord. No. 98-83, § 3, 10-13-1998; Ord. No. 99-20, § 1, 02-09-1999; Ord. No. 2003-101, § 1, 06-10-2003; Ord. No. 2004-63, § 6; Ord. No. 2006-24, § 14-15; Ord. No. 2006-33, § 13; Ord. No. 2009-50, § 3; Ord. No. 2009-11, §2; Ord. No. 2010-5, § 2, 01-12-2010; Ord. No. 2010-72, § 3, 11-23-10; Ord. No. 2009-11, § 2, 11-10-2009; Ord. No. 2013-75, §3, 08-27-2013; Ord. No. 2016-83, § 4, 06-14-2016; Ord. No. 2016-141, § 4, 10-11-2016)

Sec. 401.06 A-1, Agricultural district regulations.

(a) ~~General~~Description and purpose. The regulations for the A-1 Agricultural District are designed to preserve and protect prime agricultural lands and to protect undeveloped areas from intensive uses until a use pattern is approved.

(b) Bulk and area regulations.

(1) Density. The table below establishes the maximum density for agricultural districts.

<u>AGRICULTURAL (A) DISTRICT</u> <u>DENSITY STANDARDS</u>	
<u>Zoning district</u>	<u>Maximum density allowed</u>
A-1	1 dwelling unit per 5 acres

(2) Lot and area ~~requirements~~ standards. The table below establishes the lot and area standards for agricultural districts.

<u>AGRICULTURAL (A) DISTRICT</u> <u>LOT AND AREA STANDARDS</u>							
District	<u>Building type</u>	Min. lot area (sq. ft.)	<u>Min. land area / dwelling unit (sq. ft.)</u>	Min. lot width	Min. lot depth	Max. lot coverage	
						Interior lot	Exterior / corner lot
A-1	<u>All</u>	217,800 (5 acres)	<u>217,800 (5 acres)</u>	100'	100'	30%	30%

(3) Minimum setback ~~requirements~~ standards. ~~(It)~~ The table below establishes the minimum setback standards for agricultural districts.

<u>AGRICULTURAL (A) DISTRICT</u> <u>MINIMUM SETBACK STANDARDS</u>					
District	<u>Building Type</u>	Front	Side		Rear
			<u>Interior</u>	<u>Exterior</u>	
A-1	<u>All</u>	30'	30'	30'	30'

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- (4) *Height ~~requirements~~ standards.* The table below establishes the maximum height allowed.

AGRICULTURAL (A) DISTRICT
HEIGHT STANDARD

District	Maximum height allowed
A-1	40'

2. *Exceptions:* A building or structure may exceed the maximum height shown provided each of its front, side, and rear setbacks are increased an additional foot for each foot such building exceeds the maximum height.

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003; Ord. No. 2012-58, § 2, 07-24-2012)

SEC. 401.07 Residential (R) districts ~~description and purpose~~ regulations.

- (a) *General ~~description and purpose~~.*

- (1) *Residential districts generally.* The target goal of the residential districts is to provide sound, safe, economical, and innovative housing solutions for all citizens of Bentonville. Specific goals of residential districts include:

- a. provisions of adequate space at appropriate locations necessary to create an appropriate mix of housing alternatives for people of all lifestyles;
- b. consideration to site selection and variety of choice;
- c. prevention of congestion as much as possible by regulating population density, activity intensity and extent of building bulk in relation to area land use;
- d. control of structure height to provide light and air access through windows; and,
- e. promotion of desirable land use and development in order to protect district character and to conserve land and building value.

- (2) *R-E, Residential Estate purpose.* The R-E district is an extremely low density residential district designed to provide for maximum privacy through the use of open spaces, permit the keeping of animals, specifically approved by the planning commission, promote scenic attraction, expand and promote residential alternatives and encourage the development of residential areas most protective of the environment.

- (3) *R-1, Single-family Residential purpose.* The R-1 district serves low density developments in which housing is generally of the highest value and where strict separation of land uses is desired. Since R-1 districts are separated from all commercial and industrial activity, access to connecting traffic arteries is essential.

- (4) *R-2, Duplex and Patio Home Residential purpose.* The R-2 district encourages the basic land use restrictions as the R-1 district. It permits slightly higher ~~population density~~ than the R-1 district, with residential and related uses separated from commercial and industrial activity.

- a. Such a district shall encourage and maintain duplex and patio home development at appropriate locations.

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- b. The R-2 district should provide areas for the development of two-family residential structures, attached or detached. The district may be located in developed areas or undeveloped areas of the city where an environment compatible with moderate density residential development can be established. Such a district can also be located in medium density areas where conversion may facilitate their continuation as a desirable area.
- (5) *R-3, Medium Density Residential purpose*. The R-3 district is established to provide suitable areas for medium density residential development. Such units would be located in areas where adequate city facilities existed prior to development or would be provided in conjunction with development, and where a suitable environment for medium density residential development would be available. Such districts could be used as buffer or transitional zones between incompatible development districts. Within this district, zero lot line and townhouses are ~~permitted~~allowed.
- (6) *R-4, High Density Residential purpose*. The R-4 district is established in order to provide high-density residential development. This area could exist in the older sections and newer developed areas of town. Such a district may be developed adjacent to, or in conjunction with neighborhood commercial or shopping center development. Adequate public utilities and services shall exist prior to or be provided in conjunction with development. Such a district may exist as a buffer zone between single-family and non-compatible use districts. Within this district, buildings, structures or uses having commercial characteristics and not planned as a main part of the total development shall be excluded.
- (7) *R-MH, Manufactured Home Residential purpose*. The R-MH district is established to ~~permit~~allow and encourage the development of single-family manufactured home subdivisions, manufactured home parks, or placement of manufactured homes on individual lots in a suitable environment.
- (8) *R-ZL, Zero Lot Line Residential purpose*. The R-ZL district is a moderate density residential district designed to permit and encourage the development of a variety of dwelling types including "zero lot line" units suitable for a low cost per unit development. To be approved, an R-ZL district must be efficient in the use of land and utilities. It should be considered compatible with other residential uses and may be used to create a transition from purely residential districts to medium and high-density residential zones.
- (9) *R-O, Residential Office purpose*. The R-O district is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities and compatible residential uses. It is further the intent of this district to establish a transition area where the continuation of residential activity is no longer practical between residential and nonresidential uses.
- (10) *R-C2, Central Residential – Moderate Density purpose*. The R-C2 district is established to provide moderate density residential development and redevelopment in that area generally referred to as "Downtown", primarily those residential areas beyond the town square and beyond the commercial corridors of SW A Street and S Main Street. The purpose of the district is to stabilize and improve existing residential neighborhoods, encourage infill of available lands, provide a choice of housing types and locations for a variety of lifestyles and economic levels, and encourage traditional urban design. This district is appropriate as a buffer or

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transitional zone between single family and higher density residential or commercial districts.

- (11) *R-C3, Central Residential – High Density purpose*. The R-C3 district is established to provide high density residential development and redevelopment in that area generally referred to as “Downtown”, primarily the areas surrounding the town square and along —the commercial corridors of SW A Street and S Main Street. The purpose of the district is to stabilize and improve existing residential neighborhoods, encourage infill of available lands, provide a choice of housing types and locations for a variety of lifestyles and economic levels, and encourage traditional urban design.

(Ord. No. 2006-33, 2-28-06)

- (b) *Residential (R) districts density standards*. The table below establishes the maximum density allowed for each residential zoning district.

RESIDENTIAL (R) DISTRICTS
DENSITY STANDARDS

Zoning district	Maximum density Permitted <u>allowed</u>
R-E	1 dwelling unit per 2 acres
R-1	6 dwelling units per acre
R-2	9 dwelling units per acre
R-3	12 dwelling units per acre
R-4	24 dwelling units per acre
R-MH	6 dwelling units per acre
R-ZL	9 dwelling units per acre
R-O	6 dwelling units per acre
R-C2	18 dwelling units per acre
R-C3	36 dwelling units per acre

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(c) Residential (R) districts lot and area ~~requirements~~standards.

(1) *Standards.* The table below establishes minimum residential lot and area standards.

RESIDENTIAL (R) DISTRICTS
~~BULK LOT~~ AND AREA STANDARDS

District	Building type	<u>Min.</u> Lot area (sq. ft.)	<u>Min.</u> Land area / dwelling unit (sq. ft.)	<u>Lot width</u>		<u>Min. lot depth</u>	Max. lot coverage	
				Min. lot width	Max. lot width		Interior lot	Exterior / corner lot
R-E	All	87,120 (2 acres)	87,120 (2 acres)	100'	=	<u>100'</u>	10%	10%
R-1	All	6,000	6,000	60'	=	<u>100'</u>	40%	45%
R-2	Two-family	7,000	3,500	70'	=	<u>100'</u>	50%	55%
	Townhouses	10,000 /dev. 2,000 / lot	3,500	14' (interior) 21' (exterior)	=	<u>100'</u>	50%	55%
	All others	6,000	6,000	60'	=	<u>100'</u>	40%	45%
R-3	Two-family	7,000	3,500	70'	=	<u>100'</u>	50%	55%
	All others	6,000	6,000	60'	=	<u>100'</u>	40%	45%
R-4	Two-family	7,000	3,500	65'	=	<u>100'</u>	50%	55%
	All others	10,000	--	65'	=	<u>100'</u>	50%	55%
R-MH	Manufactured home lots	4,500	4,500	50'	=	<u>100'</u>	30%	35%
	Manufactured home parks	11,000	3,500	60'	=	<u>100'</u>	30%	35%
	All others	7,000	7,000	65'	=	<u>100'</u>	40%	45%
R-ZL	Zero lot line	4,000	4,000	40'	=	<u>100'</u>	60%	65%
R-O	Single-family	6,000	6,000	60'	=	<u>100'</u>	40%	45%
	Two-family	7,000	3,500	70'	=	<u>100'</u>	50%	55%
	All others	6,000	6,000	60'	=	<u>100'</u>	60%	65%
R-C2	Single-family and all others not specifically listed	4,000	-	35' with rear alley or rear private drive access 50' without rear alley or rear private drive access	=	=	--	--

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RESIDENTIAL (R) DISTRICTS
~~BULK~~ LOT AND AREA STANDARDS

District	Building type	Min. Lot area (sq. ft.)	Min. Land area / dwelling unit (sq. ft.)	Lot width		Min. lot depth	Max. lot coverage	
				Min. lot width	Max. lot width		Interior lot	Exterior / corner lot
	Two-family / duplex Townhomes – end block	--	2,000	20' with rear alley or rear private drive access 25' without rear alley or rear private drive access	=	=	--	--
R-C3	Single-family	3,000	-	15'	=	=	70%	70%
	Two-family / Duplex	7,000	-	15'	=	=	70%	70%
	Townhomes (attached)	-	1,200	15' per unit	=	=	No max.	No max.
	Multi-family (4+ units)	-	1,200	No minimum	=	=	No max.	No max.
	All others	4,000	--	15'	=	=	70%	70%

- (2) Street frontage. Each lot in R-1, R-2, R-C2 and R-C3 zoning districts shall have a minimum street frontage equal to the minimum lot width required at the building line, except for lots fronting on cul-de-sac turnarounds and on curving street frontages, which must have no less than ~~thirty-five (35)~~ feet of street frontage with the two side lot lines intersecting the street diverging until they are separated by the minimum required lot width at the building line. Each lot in the remaining residential zoning districts shall have a minimum of thirty-five (35) feet of street frontage.
- (3) Depth. Each lot, not including the R-C2 and R-C3 zoning districts shall be a minimum of one hundred (100) feet in depth at its shallowest point with the depth measured at right angles or radial to the street right-of-way line.
- (4) Width of corner lots. The minimum width for corner lots shall be 75' ft. at the building line. The minimum width for corner lots in a manufactured home subdivision shall be 60 ft. at the building line.
- (5) Setbacks for zero lot line lots. One side yard setback must be no less than ~~twelve (12)~~ feet, and the other side yard setback may be ~~zero (0)~~ feet.
- (d) Residential (R) districts ~~Minimum setback requirements~~ standards.
- (1) Standards: The table below establishes the minimum residential setback standards.

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RESIDENTIAL (R) DISTRICTS
MINIMUM SETBACK STANDARDS

District	Building Type	Front	Side		Rear
			Interior	Exterior	
R-E	All	30'	30'	30'	30'
R-1	All	20'	7'	20'	25'
R-2	All	20'	7'	20'	25'
R-3	All	20'	10'	20'	25'
R-4	All	20'	10'	20'	25'
R-MH	Manufactured home lots	20'	10'	20'	25'
	Manufactured home park	25'	15'	25'	25'
R-ZL	Zero lot line	20'	12'/0'	20'	25'
R-O	Single-family	20'	7'	20'	25'
	Two-family	20'	10'	20'	25'
	Office with parking in front	50'	10'	50' parking; 20' no parking	25'
	Office w/o parking in front	20'	10'	20'	25'
R-C2	Single-family and all others not specifically listed	20'	5 7'	20'	15'
	Two-family, duplex	20'	5 7'; 0' where attached	20'	15'
	Townhome – end block	10'	7 5'; 0' where attached	10	15
R-C3	Single-family	0'	0'	5'	5 7'
	Duplex	0'	0'	5'	5 7'
	Townhome	10'	0'	10'	10'
	Multi-Family	0'	0'	10'	5 7'
	All others	0'	7 5'	5'	5 7'

(2) Garages.

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1. Street facing garage. The minimum front setback for street facing garages shall be 30 ft. from the property line that the garage faces.
 2. Side or rear-loading garage. The minimum front setback for side- or rear-loading garages shall be 20- ft. from the front property line. The minimum garage setbacks apply to attached and detached garages.
 3. Garages in R-C2 and R-C3 districts. In the R-C2 and R-C3 districts, when a rear alley or rear private drive exists or is platted~~anned~~, a rear-loading garage is required. When no rear alley or rear private drive exists or is platted~~anned~~, a front-loading garage is allowed, but must be pushed toward the rear lot line and must be recessed a minimum of ~~six~~(6) feet, from the front façade of the building.
- (3) Easements. Where a utility easement extends beyond the required setback, the edge of the utility easement shall be the setback.

(e) Residential (R) districts ~~height requirements~~ standards. The table below establishes the maximum height allowed in residential (R) districts.

- (1) Standards.

RESIDENTIAL (R) DISTRICTS
HEIGHT STANDARDS

<u>District</u>	<u>Maximum height allowed</u>
<u>All Residential (R) districts</u> RE, <u>R-1, R-2, R-MH, R-ZL</u>	<u>36'</u>
<u>R-3, R-4, R-C2, R-C3, RO</u>	<u>40'</u>

- (2) Guidelines. New infill structures should be constructed at a height that is compatible to the adjacent structures. If at all possible, the new dwelling should have a height within an acceptable percentage to the Planning Commission to ensure compatible massing, scale and to prevent the overshadowing of the adjacent structure(s).
- (3) Exceptions. The principal use building or structure may exceed the maximum allowed height when an additional one ft. of interior side yard setback is provided for each two ft. of additional height. This exception does not apply to zero lot line buildings.

(Code 1994; Ord. No. 99-20, § 1, 02-09-1999; Ord. No. 2003-101, §1, 06-10-2003; Ord. 2004-63, § 2; Ord. No. 2006-33, § 2-12; Ord. No. 2006-58, §1-2; Ord. No. 2012-58, § 2, 07-24-2012; Ord. No. 2016-83, § 2, 06-14-2016)

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SEC. 401.7-B Downtown Neighborhood (DN) districts regulations.

(a) ~~District purposes~~ *Description and purpose.*

- (1) *DN-1, Downtown Low Density Residential purpose.* The intent of the DN-1 district is to preserve the established development pattern of portions of the downtown neighborhoods that are predominantly single-family with lots generally larger than 60 ft. in width.
- (2) *DN-2, Downtown Medium Density Residential purpose.* The intent of the DN-2 district is to allow for an increased single-family density through small lot widths where alleys and infrastructure support such development, and where small-lot single-family development provides an appropriate transition between large-lot residential areas and those of higher density. In some instances, such as the end of blocks, townhouses may be appropriate in this district.
- (3) *DN-3, Downtown High Density Residential purpose.* The intent of the DN-3 district is to allow for an increased neighborhood density through the development of small-lot single-family housing and townhouses throughout the district. These areas tend to be adjacent to downtown commercial uses. In some instances, such as at the ends of blocks, multi-family apartment buildings may be an appropriate use in this district.
- (4) *DN-4, Downtown Mixed-use Residential purpose.* The intent of the DN-4 district is to allow for increased neighborhood density and increased local commerce through the development of multi-family housing and mixed-use structures. These areas tend to be located in areas of unique activity due to the surrounding context and resulting levels of activity and housing demand.

(b) *DN districts ~~building types~~ allowed.* For the purposes of the Downtown Neighborhood districts, all structures must be classified as one of the building types below, as defined in Article 201 Definitions.

DOWNTOWN NEIGHBORHOOD (DN) DISTRICTS
BUILDING TYPES ALLOWED

	Single-family	Two-family	Townhouse		Multi-family		Mixed-use
			Block-end	Mid-block	Block-end	Mid-block	
DN-1	•						
DN-2	•	•	•				
DN-3	•	•	•	•	•		
DN-4		•	•	•	•	•	•

(c) *DN districts ~~Bulk lot and area requirements~~ standards.* ~~Table 401.7-B(2)~~ *The table below* establishes the lot and area standards for all development in the Downtown Neighborhood districts. Accessory dwelling units (ADUs) are permitted in DN-1 and DN-2 on lots with single-family structures and do not require additional land area per the table below, but are subject to additional standards in *Article 601.02 Accessory dwelling units.*

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DOWNTOWN NEIGHBORHOOD (DN) DISTRICTS
LOT AND AREA STANDARDS

District	Building Type	Min. Lot Area (sq. ft.) ^(A)	Min. Land Area / Dwelling Unit (sq. ft.)	Lot Width		Max. Lot Coverage ^(C)	
				Min. Lot Width ^(B)	Max. Lot Width	<u>Interior lot</u>	<u>Exterior /corner lot</u>
DN-1	Single-family	6,000	6,000	60'	N/A	40%	<u>40%</u>
DN-2	Single-family <u>with alley access</u> and two-family	5,000	3,500	40'	N/A	50%	<u>50%</u>
	<u>Single-family without alley access</u>	<u>5,000</u>	--	<u>50'</u>	<u>N/A</u>	<u>50%</u>	<u>50%</u>
	<u>Two-family with alley access</u>	<u>5,000</u>	--	<u>40'</u>	<u>N/A</u>	<u>50%</u>	<u>50%</u>
	<u>Two-family without alley access</u>	<u>5,000</u>	--	<u>50'</u>	<u>N/A</u>	<u>50%</u>	<u>50%</u>
	Townhouse cluster	15,000	2,700	125'	N/A	60%	<u>60%</u>
	Single-family and two-family <u>with alley access</u>	5,000	3,500	40'	N/A	50%	<u>50%</u>
DN-3	<u>Single-family without alley access</u>	<u>5,000</u>	--	<u>50'</u>	<u>N/A</u>	<u>50%</u>	<u>50%</u>
	<u>Two-family with alley access</u>	<u>5,000</u>	--	<u>40'</u>	<u>N/A</u>	<u>50%</u>	<u>50%</u>
	<u>Two-family without alley access</u>	<u>5,000</u>	--	<u>50'</u>	<u>N/A</u>	<u>50%</u>	<u>50%</u>
	Townhouse cluster	15,000	2,700	125'	N/A	65%	<u>65%</u>
	Multi-family	20,000	800	125'	N/A	65%	<u>65%</u>
DN-4	Single-family <u>with alley access</u> and two-family	5,000	3,500	40'	50'	50%	<u>50%</u>
	<u>Single-family without alley access</u>	<u>5,000</u>	--	<u>50'</u>	<u>N/A</u>	<u>50%</u>	<u>50%</u>
	<u>Two-family with alley access</u>	<u>5,000</u>	--	<u>40'</u>	<u>50'</u>	<u>50%</u>	<u>50%</u>

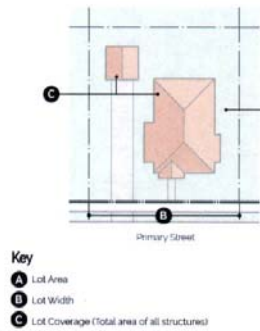
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<u>Two-family without alley access</u>	<u>5,000</u>	<u>--</u>	<u>50'</u>	<u>N/A</u>	<u>50%</u>	<u>50%</u>
Townhouse cluster	15,000	2,700	125'	N/A	65%	<u>65%</u>
Multi-family	20,000	800	125'	N/A	75%	<u>75%</u>
Mixed-use	10,000	800	75'	N/A	75%	<u>75%</u>

DOWNTOWN NEIGHBORHOOD (DN) DISTRICTS

LOT STANDARDS REFERENCE



(d) DN districts setback standards. The table below establishes the setback standards for the Downtown Neighborhood districts. The required setback for townhouses applies to townhouse clusters. No setback is required between individual townhouse dwelling units within the same townhouse cluster.

DOWNTOWN NEIGHBORHOOD (DN) DISTRICTS
MINIMUM SET-BACK STANDARDS *in the DN Districts.*

District	Building type	Front Yard		Corner Side Yard (CS)		Interior Side Yard (S)			Rear Yard (R)
		Min. (F1)	Max. (F2)	Min.	Max.	Total Min. (% of lot width)	Yard 1	Yard 2	
DN-1	Single-family	15'	25'	15'	N/A	25%	10'	Remainder of total, but no less than 5'	25'

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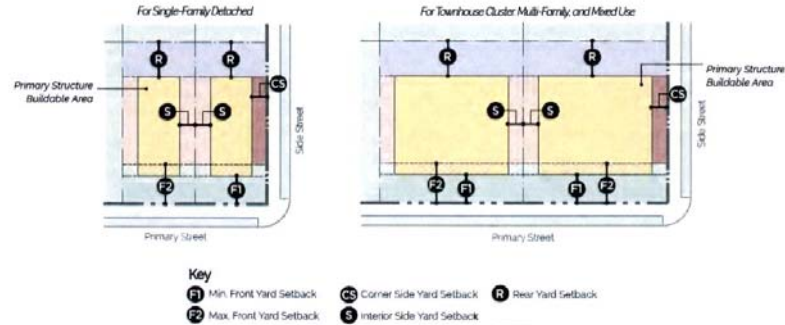
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DN-2	Single-family with lot width > 50' & two-family <u>with</u> alley access	15'	25'	12'	N/A	30%	7 ⁵ '	Remainder of total, but no less than 5'	25'
	Single-family with lot width > 50' & two-family <u>without</u> alley access	15'	25'	12'	N/A	25%	10'	Remainder of total, but no less than 5'	25'
	Single-family with lot width <u>equal to</u> or < 50' & two-family	15'	25'	12'	N/A	25%	7 ⁵ '	Remainder of total, but no less than 5'	25'
	Townhouse cluster: block-end	15'	25'	12'	N/A	N/A	10'	10'	25'
DN-3	Single-family with lot width > 50' & two-family <u>with</u> alley access	15'	25'	10'	N/A	30%	7 ⁵ '	Remainder of total, but no less than 5'	25'
	Single-family with lot width > 50' & two-family <u>without</u> alley access	15'	25'	10'	N/A	25%	10'	Remainder of total, but no less than 5'	25'
	Single-family with lot width <u>equal to</u> or < 50' & two-family	15'	25'	10'	N/A	25%	7 ⁵ '	Remainder of total, but no less than 5'	25'
	Townhouse cluster	15'	25'	10'	N/A	N/A	10'	10'	25'
	Multi-family: block-end	15'	25'	10'	N/A	N/A	12'	12'	25'
DN-4	Single-family & two-family	10'	20'	8'	N/A	25%	7 ⁵ '	Remainder of total, but no less than 5'	25'
	Townhouse cluster	10'	20'	8'	N/A	N/A	10'	10'	25'
	Multi-family	10'	20'	8'	N/A	N/A	12'	12'	25'
	Mixed-use	0'	15'	0'	10'	N/A	0', 8' if adjacent to a non mixed-	Same as Yard 1	25'

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						use building	
--	--	--	--	--	--	-----------------	--

DOWNTOWN NEIGHBORHOOD (DN) DISTRICTS
SETBACK STANDARDS REFERENCE



(e) DN districts height standards. The table below establishes the maximum height standards ~~allowed~~ in for the Downtown Neighborhood districts. For the purpose of this table, a 1/2-story refers to a level of habitable interior space that is integrated into the design of the roof structure through the use of dormers or other protrusions.

DOWNTOWN NEIGHBORHOOD (DN) DISTRICTS
HEIGHT STANDARDS

District	Single-family and two-family	Townhouse	Multi-family	Mixed-use
DN-1	35 <u>36</u> ' or 2.5 stories	--	--	--
DN-2	35 <u>36</u> ' or 2.5 stories	35' or 2.5 stories	--	--
DN-3	40' or 3 stories	40' or 3 stories	40' or 3 stories	--
DN-4	40' or 3 stories	40' or 3 stories	50' or 4 stories	50' or 4 stories

Subsections D – J regarding design are relocated to the Design Standards of the Subdivision Code.

SEC. 401.08 Commercial (C) districts regulations.

(a) General Description and purpose.

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Underlined text to be added and strikethrough text to be deleted.

- (1) Commercial districts generally. Regulations for commercial districts are designed to encourage stable and efficient areas to meet the needs for commercial goods and services of both the city's neighborhoods and its trade area. The planning commission will consider, in the administration of commercial districts, the General Plan objective of discouraging urban sprawl. The districts are designed to:

- a. minimize any potential incompatibilities between commercial developments and other types of land use;
- b. provide opportunities for investment as new residential areas and thoroughfares are built, they are particularly designed to encourage the use of undeveloped lands in existing commercial areas;
- c. provide sufficient space, at appropriate locations in close proximity to established residential areas for retail and service trade. Such commercial establishments should provide shopping needs of nearby residential areas; and,
- d. provide sufficient and appropriate space to meet anticipated future needs for planned commercial developments in central shopping districts, regional, community and neighborhood shopping centers.

Provision of off-street parking ~~space~~ in conjunction with commercial area development shall be fostered through commercial district ~~establishments~~. Establishments will be encouraged through the districts to congregate in planned developments to the consumer and merchant's advantage.

- (2) C-1, Neighborhood Commercial purpose. The C-1 district is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas while maintaining a character in harmony with residential development. To this end, development in the C-1 district should harmonize in terms of form, bulk, height, materials, architecture, and overall design with surrounding residential areas. Signage and lighting should be subdued while landscaping and open space should be maximized. Parking areas should be as inconspicuous as possible as should loading and trash collection areas.
- (3) C-2, General Commercial purpose. The C-2 district represents the least restrictive of the commercial districts and is designed to serve the planning area and highway travelers. This district shall congregate on local arterial streets in such a manner as to minimize disruptions of through traffic and shall be interspersed within the corporate boundaries.
- (4) C-3, Central ~~Mixed-Use~~ Commercial purpose. The C-3 district ~~comprises that area generally referred to as "Downtown."~~ Because of its unique and historic nature, properties within the district ~~enjoy privileges not afforded other commercial or residential developments. The Zoning Ordinance does not require front yards or side yards in the Central Commercial District. Additional fire code protections as well as historic preservation requirements apply in this district, however, and redevelopment plans are closely monitored in order to maintain the design integrity of the district.~~ is established for areas outside of downtown to provide an opportunity for people to live, work, meet, shop and utilize services within the vicinity of their residences. The C-3 district allows for a mix of neighborhood commercial and personal services, offices and medium density residential uses. Development in this district should be

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designed with an urban, walkable character that encourages physical activity, alternative transportation and greater social interaction to benefit the health and wellbeing of residents.

(b) Commercial (C) districts density standards. ~~bulk and area regulations~~ The table below establishes the maximum density when residential is allowed in a commercial district.

**COMMERCIAL (C) DISTRICTS
DENSITY STANDARDS**

<u>District</u>	<u>Maximum density allowed</u>
<u>C-1</u>	=
<u>C-2</u>	=
C-3	48 dwelling units per acre

(c) Commercial (C) districts lot and area requirements standards. ~~The table below establishes the lot and area standards for all development in commercial (C) districts.~~

**COMMERCIAL (C) DISTRICTS
LOT AND AREA REQUIREMENTS STANDARDS**

<u>District</u>	<u>Building Type</u>	<u>Min. lot area (sq. ft.)</u>	<u>Min. land area / dwelling unit (sq. ft.)</u>	<u>Lot width</u>		<u>Min. lot depth</u>	<u>Max. lot coverage</u>	
				<u>Min. lot width</u>	<u>Max. lot width</u>		<u>Interior lot</u>	<u>Exterior / corner lot</u>
C-1	All	7,000	=	70'	=	=	50%	50%
C-2	All	7,000	=	70'	=	=	60%	60%
C-3	All except townhouses	None	=	25'	=	=	100%	100%
	Townhouses	None	=	14'	=	=	100%	100%

(d) Commercial (C) districts setback requirements standards.

(1) Standards: See The table below establishes the minimum setbacks required for all development in commercial (C) districts.

**COMMERCIAL (C) DISTRICTS
MINIMUM SETBACK REQUIREMENTS**

<u>District</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>
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	Parking in front	No parking in front	Adjacent to non-residential district	Adjacent to residential district	Adjacent to non-residential district	Adjacent to residential district
C-1	50'	20'	7'	15'	20'	25'
C-2	50'	20'	7'	30'	20'	30'
C-3	0'	0'	0'	10'	0'	0'

- (2) *Canopies in C-3 district:* In the C-3 Central Business District, canopies may project over the street rights of way if they terminate no less than two (2) feet horizontally from the outside edge of the street curb and are no less than eight (8) feet above the surface of a new or existing sidewalk.
- (c) *Sidewalk setback in C-3 district:* No building in the C-3 Central Business district, regardless of the location of the lot lines of the property on which it is to be built, shall be built closer than eight (8) feet from the back of the curb line of any public street abutting the property on which the building is located. This spacing shall be maintained in order to provide adequate space for the required sidewalk to be built along that street frontage.

(e) Commercial (c) districts height requirements standards.

- (1) *Standards:* The table below establishes the maximum height standards for all development in commercial (C) districts.

COMMERCIAL (C) DISTRICTS
MAXIMUM HEIGHT STANDARDS

District	Maximum height
C-1	40'
C-2	60'
C-3	80' <u>60'</u>

- (2) *Exceptions:* Any structure exceeding the listed maximum height shall be set back an additional one (1) foot for each foot in excess of the maximum height allowed for that district. In the C-3 district, only that portion of the structure above the maximum height shall meet the additional setback requirement.

(Code 1994; Ord. No. 2003-101, §1, 06-10-2003; Ord. No. 2005-82, § 3; Ord. No. 2006-24, § 3; Ord. No. 2012-58, § 2, 07-24-2012)

SEC. 401.8-B Downtown (D) districts regulations.

(a) District Purposes Description and purpose.

- (1) DC, Downtown Core purpose.**

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Underlined text to be added and strikethrough text to be deleted.

The Downtown Core comprises that area of the Bentonville Square and extends those urban characteristics along the primary downtown street of SW A Street to Highway 102/~~14th Street~~. The intent of this zone is to maintain and expand the pedestrian oriented character of the ~~town~~ square. The physical form is of an urban character with uses that promote retail and entertainment venues with upper story residential uses permitted. Mixed use is defined as vertical mixed use with commercial and retail on the first floor and office and residential on the upper floors. Buildings are spaced closely or attached.

DOWNTOWN CORE
CONCEPT ILLUSTRATION



- (2) *DE, Downtown Edge purpose*. The Downtown Edge creates an area of transition between the Downtown Core with its retail emphasis and the lower density residential neighborhoods on the outskirts of downtown. This is the area of downtown with the greatest potential for infill and redevelopment. The physical form of structures begins to shift from commercial to residential character with flexibility in use, taking on a more service-oriented character for surrounding neighborhoods. The horizontal and vertical mixed use allows retail, commercial, office and residential uses on all floors. Live/work housing, personal services and small offices are strongly evident in this district. Buildings are spaced closely, but are separated by setbacks.

DOWNTOWN EDGE
CONCEPT ILLUSTRATION



(b) Downtown (D) districts primary and secondary streets. Developments that face primary streets have specific regulations pertaining to the relationship between the building and the street. The designated primary streets in the downtown districts are: Central Ave, SW A St, SW 8t St, and S Main St. All other streets in the downtown districts shall be considered secondary streets.

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Underlined text to be added and strikethrough text to be deleted.

(c) Downtown (D) districts density standards. ~~Bulk and area regulations~~ The table below establishes the density standards for the downtown (D) districts.

DOWNTOWN (D) DISTRICTS
DENSITY STANDARDS

Zoning district	Maximum density allowed
DC	48 du/acre
DE	18 du/acre

(d) Downtown (D) districts lot and area requirements standards.

DOWNTOWN (D) DISTRICTS
LOT AND AREA STANDARDS

District	Building type	Lot area		<u>Min. land area/dwelling unit (sq. ft.)</u>	Lot width		<u>Min. lot depth</u>	Lot coverage	
		Min.	Max.		Min. lot width	Max. lot width		Min.	Max.
DC	All	None	None	=	None	None	=	None	100%
DE	All	None	None	=	None	None	=	None	80%

(e) Downtown (D) districts setback requirements. ~~Setbacks from the property lines shall be:~~ The table below establishes the setbacks from property lines for all development in the downtown (D) districts. Side setbacks are not applicable when a common wall is proposed or present.

DOWNTOWN (D) DISTRICTS
SETBACK REQUIREMENTS

District	<u>Building type</u>	Front Yard		Side Yard		Rear			
						<u>Adjacent to Residential</u>		<u>Adjacent to Non-residential</u>	
		<u>Min.</u>	Max.	Min.	<u>Max.</u>	Min.	<u>Max.</u>	Min.	<u>Max.</u>
DC	Residential	=	20'	0'	=	0'	=	0'	=
	Nonresidential	=	0'	0'	=	0'	=	0'	=
DE	Residential	=	20'	6' 7'	=	12'	=	6' 7'	=
	Nonresidential	=	0'	6' 7'	=	12'	=	6' 7'	=

(f) Downtown (D) districts height requirements standards. The table below establishes the height standards for all development in the downtown (D) districts.

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Underlined text to be added and strikethrough text to be deleted.

DOWNTOWN (D) DISTRICTS
HEIGHT STANDARDS

<u>District</u>	<u>Height standards</u>	
	Minimum	Maximum
DC	20'	80'
DE	None	60' <u>50'</u>

(g) *Downtown (D) districts ~~encroachment requirements~~ standards.* Following are the requirements The table below establishes the standards for encroachments such as canopies, awnings and balconies. Height clearance is measured from the pavement to the bottom most portion of the encroachment. The setback is measured from back of curb or, if no curb is present, from the edge of street pavement ~~if no curb is present.~~

DOWNTOWN (D) DISTRICTS
ENCROACHMENT STANDARDS

District	Min. <u>height</u> clearance	Min. setback adjacent to a primary street	Min. setback adjacent to a secondary street
DC	8'	2'	2'
DE	8'	4'	<u>6'</u>

(Ord. No. 2009-11, § 1, 11-10-09; Ord. No. 2012-58, §2, 07-24-2012)

SEC. 401.9 Industrial (I) districts regulations.

(a) *Description and purpose.*

- (1) *Industrial districts generally.* The Industrial districts ~~Zones~~ are to provide for development of industrial uses and related facilities. The regulations for the Industrial districts are designed to:
- make available a range of suitable sites for all types of manufacturing and related activities;
 - protect residences by separating them from manufacturing activities and by limiting the use of each space for new residential development;
 - provide restricted areas for those industries emitting objectionable noises, odors, or which involve danger of fire or explosives;
 - to protect industrial activities and related developments against congestion, as appropriate for each area, by limiting building bulk in relation to surrounding land and other industries and providing off-street parking and loading with each development;
 - to promote desirable land use and building development direction and to provide stability for industry and related development in an effort to strengthen the city's economic base; and,

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Underlined text to be added and strikethrough text to be deleted.

f. to protect district character and usage and to conserve land and building value.

(2) *I-1, Light Industrial district purpose*. The I-1 district is designed primarily to provide for general offices, light manufacturing, assembly and accessory warehousing for products which present low risk of objectionable environmental and aesthetically offensive influences, have low traffic volumes and provide no health or safety hazards.

(3) *I-2, Heavy Industrial district purpose*. The I-2 district is designed primarily to minimize the high risk of hazardous and environmentally objectionable uses of general manufacturing processes and storage facilities as well as provide for warehousing, heavy equipment repair and transportation facilities.

(b) *Industrial (I) districts ~~Bulk lot and area~~ requirements standards*. The table below establishes the lot and area standards for all development in the industrial (I) districts.

INDUSTRIAL (I) DISTRICTS
LOT AND AREA STANDARDS

District	Building type	Min. lot area (sq. ft.)	Min. land area / dwelling unit (sq. ft.)	Lot width		Min. lot depth	Max. lot coverage		Min. street frontage
				Min. lot width	Max. lot width		Interior lot	Exterior / corner lot	
I-1	All	20,000	=	100'	=	100'	60%	60%	50'
I-2	All	20,000	=	100'	=	100'	50%	50%	50'

(c) *Industrial (I) districts ~~Minimum setback requirements~~*.

(1) *Standards. (in feet):* The table below establishes the minimum setback standards for all development in the industrial (I) districts.

INDUSTRIAL (I) DISTRICTS
MINIMUM SETBACK REQUIREMENTS

District	Building type	Front		Side		Rear		
		With parking in front	Without parking in front	Adjacent to non-residential district and/or ROW	Adjacent to residential district	Adjacent to ROW	Adjacent to non-residential district	Adjacent to residential district
I-1	All	75'	30'	30'	75'	30'	50'	75'
I-2	All	75'	50'	50'	75'	50'	50'	75'

(2) *Railroads*. Where property abuts a railroad and loading and unloading facilities are utilized, or second siding or spurs, the loading and unloading portions of the structures may be built up to railroad property line.

(d) *Industrial (I) districts height standards requirements*.

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Underlined text to be added and strikethrough text to be deleted.

- (1) *Standards:* The table below establishes the maximum height allowed in industrial (I) districts.

INDUSTRIAL (I) DISTRICTS
MAXIMUM HEIGHT STANDARDS

District	Maximum height allowed
I-1	60'
I-2	60'

- (2) *Exceptions:* A building or structure may exceed the maximum heights ~~shown~~ allowed provided each of its front, side, and rear yards are increased an additional one foot for each one foot such building exceeds the maximum height allowed.

(e) *Industrial (I) districts development criteria.* Unless otherwise specifically provided in this section, the following development criteria shall apply:

- (1) *All Industrial (I) districts.*

- a. *Nuisance mitigation.* Any lighting visible from outside the site shall be designed to reflect away from adjacent residential districts. No noise, odor or vibration shall be emitted so that it constitutes a nuisance which substantially exceeds the general level of noise, odor or vibration emitted by uses adjacent to or immediately surrounding the site. Such comparisons shall be made at the boundaries of the site.
- b. *Trash receptacles.* Outdoor storage of trash receptacles shall be at the sides or rear of the site and shall be totally encircled or screened by a sight-proof fence, planting or other suitable visual barrier.
- c. *Screening.* A permanent opaque screening fence or wall shall be constructed along any side or rear property line which abuts property zoned for residential purposes. The height of this screen or wall shall be not less than eight (8) feet and shall be constructed of wood, masonry or other durable opaque material, and finished in a manner appropriate to the appearance and use of the property.
- d. *Front yards.* No loading or storage of material shall be permitted in the required front yard.

- (2) *I-1 Industrial district only.* Every use or any part thereof that is not conducted within a building completely enclosed on all sides shall be screened by a permanent opaque screening fence or wall so that it cannot be seen from an adjoining lot. The following screening and display criteria shall apply to uses located in the I-1, Industrial district:

- a. *Screening.* The height of any opaque screening fence or wall shall not be less than eight (8) feet.
- b. *Vehicle storage areas.* Automobile, bus, truck, tractor, mobile home, boat or motorcycle, and wheeled and/or tracked industrial vehicle storage areas are not required to screen fully assembled merchandise which is ready for sale.

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003)

SEC. 401.10 PUD, Planned Unit Development (~~Ord. No. 2005-51, 02-08-05~~)

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Underlined text to be added and strikethrough text to be deleted.

(a) ~~Description and General Description~~ purpose of PUD districts. The purpose of the PUD district is to establish a mechanism for a person to propose a commercial, industrial or residential mixed-use development that is innovative but which does not strictly comply with the provisions of the zone in which the property is located and cannot be achieved through traditional zoning.

The intent of the PUD district is to promote high quality developments while allowing greater flexibility in the design of such developments. The PUD should produce:

- (1) a maximum choice in the types of environment and living units available to the public;
- (2) common open space and recreation areas;
- (3) a pattern of development which preserves natural features and prevents soil erosion;
- (4) a creative approach to the use of land and related physical development;
- (5) an efficient use of land resulting in smaller networks of utilities and streets and thereby lowering costs;
- (6) internally located commercial uses that serve surrounding residential areas; and,
- (7) an environment of stable character in harmony with the surrounding development.

(b) ~~Minimum district area required for PUD districts.~~ The minimum lot area required for property proposed for a Planned Unit Development dDistrict shall be 10 acres.

(c) ~~PUD districts require zoning designation and a master site plan.~~ The PUD is a combination of zoning designation and master site plan. A detailed site plan is required for approval. Once approved, the site plan becomes a zoning district by city ordinance in the same manner as any other zoning parcel and the applicant may proceed with the platting or large scale development process. Development must follow the site plan exactly. Failure in this respect will result in reversion of the property to the original zoning. Although design innovation is encouraged and flexibility is allowed, the PUD may not be used simply as a method of avoiding zoning regulations.

(d) ~~Allowed uses in PUD districts-allowed uses.~~ The PUD submittal shall include a listing of the proposed land uses and the amount of land devoted to each. This list will constitute part of the zoning component of the PUD. No other land uses will be allowed unless the PUD is revised through a rezoning process.

(e) ~~PUD districts-Density requirements for PUD districts.~~ The site plan shall clearly depict the proposed density by land use category. For purposes of calculating densities, net residential acres are defined as gross acres of the PUD site minus all public rights-of-way, and less the area of all parcels or lots devoted to commercial, industrial, or institutional uses not of a residential nature. Common open space that is owned and maintained by a property owners' association shall be included in calculating the net residential acres available for all dwelling units that automatically belong to such an association. Where more than one (1) property owners' association is to be created, then each common open space can only be attributed to the lot or dwellings which have automatic membership for that specific common open area.

(f) ~~PUD districts may modification y of development standards.~~ The applicant shall provide a written description of the proposed zoning and development standards. This information will become part of the zoning ordinance of the PUD district.

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- (1) *Modifications permitted.* The PUD district may ~~allow~~ modify the following zoning and development standards ~~to be modified~~:
- a. density;
 - b. building setbacks;
 - c. height of building or structure;
 - d. lot size;
 - e. lot width;
 - f. lot depth;
 - g. landscaping;
 - h. required off-street parking spaces in instances of mixed residential/commercial uses; ~~and~~;
 - i. street widths; and;
 - j. garage setbacks.
- (2) *Modifications prohibited.* The PUD district shall not ~~allow~~ modify the following development standards ~~to be modified~~:
- a. sign requirements;
 - b. grading and drainage;
 - c. access management;
 - d. outdoor lighting;
 - e. screening;
 - f. residential and commercial street light standards; and,
 - g. flood damage protection.
- (g) ~~D. PUD~~ D. development criteria for PUD districts.
- (1) PUD districts common open space requirements. Common useable open space constitutes an essential ingredient in a planned unit development and is one of the most basic and important design elements.
- a. ~~Standards. The common open space requirements are:~~
- ~~i. Minimum area devoted to open space.~~ A minimum of 20% of the total project area, exclusive of public right-of-way and parking lots, shall be devoted to common open space.
 - b. *Equitable distribution.* Open space should be distributed more or less equitably throughout the PUD district in relationship to the dwelling units and other use areas that are intended to be served by the common open space.
 - c. *Preservation.* Adequate guarantees must be provided that the common open space areas as contained in the plan for the PUD district are preserved and maintained for those purposes only. A property owners' association shall be required if other arrangements satisfactory

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to the planning commission have not been made for improving, operating and maintaining all such common open space areas. At the time the final plan and plat is submitted, the articles of incorporation and bylaws of the property owners' association shall be reviewed and approved by the planning commission. Additionally, the restrictive covenants which run with the land must be submitted and include similar provisions to preserve all open space areas.

- d. *Accessible*. Common useable open space shall be open to tenants and customers within the PUD. Access by the general public is desired.
- e. *Common open space determination*~~options~~. The required common open space may include:
 - 1. Wetlands and water bodies, including the normal water surface area of unfenced retention ponds up to 50% of the required open space area;
 - 2. Active detention ponds that include recreational equipment/facilities;
 - 3. Vegetated / landscaped area, excluding required parking lot landscaping requirements;
 - 4. Pedestrian paths, trails, sidewalks (exclusive of those required by ordinance) and covered walkways;
 - 5. Public plazas and hard surfaced recreation areas; and,
 - 6. Public pools, tennis courts, basketball courts, baseball fields, soccer fields, or similar outdoor recreation facilities that are open to the residents and users of the PUD.
- (2) *PUD districts parking and off-street loading requirements*. All uses established within a Planned Unit Development district shall comply with the off-street parking and loading requirements as established in *Article 501 Off-Street Parking and Loading*. However, the requirements for individual structures or lots may be met through either provision of adequate parking on the lot on which such structure is so located or upon adjacent property which is under the control of a property owners' association to which said lot is an automatic participant. In no case, however, shall the cumulative requirements for all parking and off-street loading requirements be less than if said uses were individually established and located in any other zoning district within the city.
- (3) *PUD districts perimeter requirements*. In order to assure compatibility with surrounding development, the developer shall submit specific information as to the setbacks, building height, coverage factors and other elements necessary for all perimeter lots that are adjacent to the boundary of the PUD district or adjacent to any boundary or perimeter street right-of-way. While no specific setback requirements are herein established, the planning commission and city council shall consider the nature, extent and character of the adjacent development and shall take into consideration the types of area regulations applicable to adjacent properties.
- (4) *PUD districts structural design standards*. The PUD shall meet the design standards for large scale developments in the subdivision code and the following structural design standards.
 - a. Residential buildings should have their main entrances oriented toward the adjoining street.
 - b. All structures shall have a common architectural theme.

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- c. Avoid unbroken building facades of more than 100 ft.
- d. Provide human scale features, especially at street level.
- e. Avoid unarticulated and monotonous building facades and window placement.
- f. Provide a variety of building heights and varied roofline articulation.
- g. Aluminum, vinyl or fiberglass siding or roofing materials on the facades or sides of the building shall not be visible from a public right-of-way.
- h. Rear and side loading residential garages are encouraged and shall be setback a minimum of 20 feet. Front-loading garages shall be recessed a minimum of 10 ft, from the front elevation of the house and shall be setback a minimum of 30 ft. from the front property line.

(i) PUD expiration. If a PUD expires as set forth in the Subdivision Code, the PUD zoning designation is void and the property reverts to its previous zoning district.

(Code 1994; Ord. No. 2003-101, § 1, 06-10-2003; Ord. No. 2005-51, § 1; Ord. No. 2012-58, § 2, 07-24-2012)

SEC. 401.11 PRD, Planned Residential Development district regulations.

(a) ~~General~~ Description and purpose of PRD districts. This section establishes standards and criteria for Planned Residential Developments (PRD). The primary purpose of a PRD is to enhance the design of a residential development by allowing for flexibility and variation from the established site requirements and development standards of the zoning and subdivision codes. The PRD is a mechanism by which the city may allow for variation in the design and arrangement of structures as well as provide for the coordination of project characteristics with features of a particular site in a manner that is consistent with the public health, safety, and welfare of the community. A PRD allows for innovations and special features in site development, including the locations and type of structures, the conservation of natural features, the conservation of energy, the efficient use of open space, and allowances for housing serving varying price points.

The intent of the PRD district is to encourage the use of Smart Growth principals and Traditional Neighborhood Design, to provide a variety of housing types and densities available to the general public, and to promote high quality residential developments while allowing greater flexibility in the design of such developments. The PRD shall produce:

- (1) A maximum choice in the types of environment and living units available to the public;
- (2) A variety of housing types that effectively meets the varying price points of the community;
- (3) Energy-efficient site design or building features;
- (4) A minimum of fifteen percent (15%) common, useable open space and recreation areas;
- (5) A pattern of development which preserves natural features and prevents soil erosion;
- (6) A creative approach to the use of land and related physical development;
- (7) Efficient use of land resulting in smaller networks of utilities and streets and thereby lowering costs;

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Underlined text to be added and strikethrough text to be deleted.

- (8) Environment of stable character in harmony with the surrounding development;
- (9) Efficient use of infrastructure, and,
- (10) High quality architectural design, placement, relationship and orientation of structures.

(b) *Smart Growth and Traditional Neighborhood Design (TND)*. The PRD district shall incorporate Smart Growth principles, including Traditional Neighborhood Design elements into the development by such means as:

- (1) Offer a range of housing opportunities and choices;
- (2) Foster walkable, “close-knit” neighborhoods;
- (3) Promote distinctive, attractive communities with a strong “sense of place”;
- (4) Preserve open space, farmland, natural beauty, and critical environmental areas;
- (5) Strengthen and encourage growth in existing communities;
- (6) Provide an interconnected network of narrow streets that are safe and pleasant for pedestrians and which provide a variety of routes for local traffic; and,
- (7) Provide high quality public spaces such as greenbelts, parks, plazas, squares, courtyards, and streets that are an organizing feature and gathering place for the neighborhood.

(c) *Minimum District area*. The minimum lot area required for property proposed for a PRD shall be three (3) acres.

(d) *PRD districts require zoning designation, a master site plan, and architectural elevation renderings*. A PRD is a combination of zoning designation and master site plan, including architectural elevation renderings. A detailed master site plan and architectural elevation renderings are required for approval and must be submitted at the time of application submittal. Elevations may be digitally or hand drawn. Once approved, the site plan becomes a zoning district by ordinance in the same manner as any other zoning parcel and the application may proceed with the preliminary platting or large scale development process. Development must follow the site plan exactly. Failure in this respect will result in reversion of the property to the original zoning. Although design innovation is encouraged and flexibility is allowed, the PRD may not be used simply as a method of avoiding zoning regulations.

- (1) *Master site plan*. PRD master site plan shall include:
 - a. Residential housing types;
 - b. Building setbacks;
 - c. Location of the central gathering area(s) such as a public plaza or courtyard;
 - d. Open space including, but not limited to parks, trails, and other recreational facilities (central gathering area(s) are a separate requirement, but may be included as open space);
 - e. Heights of all buildings and other structures;
 - f. Lot size, width, and depth;
 - g. All parking spaces including off-street and on-street;
 - h. Locations of all structures;

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Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

- i. Housing densities by type, expressed in units per acre;
- j. Traffic circulation pattern;
- k. Street widths and sidewalks; ~~and;~~
- l. Location of proposed signage;
- m. Ariel view of all public gathering places depicted on the master site plan;
- n. garage setbacks;

(2) Architectural elevations. PRD district architectural elevation renderings shall include:

- a. Front, rear, and side elevations and architectural design for each type of residential structure.
- ~~b. Ariel view of all public gathering places depicted on the master site plan.~~
- b. Exterior façade building materials list for each type of residential structure and public gathering places.

(e) *Allowed uses in PRD districts.* The primary use of a PRD shall be residential. Uses that are accessory to the primary residential use are also allowed, as are open space and recreation uses as permitted by this zone. The PRD submittal shall include a listing of the proposed land uses and the amount of land devoted to each type of development. This list will constitute part of the zoning component of the PRD. No other land uses will be allowed unless the PRD is revised through a rezoning process.

(f) ~~PRD districts shall provide a~~ Development standards for PRD districts. The applicant shall provide a written description of the proposed zoning and development standards. This information will become part of the zoning ordinance of the PRD district.

(1) ~~Modifications permitted~~ allowed. The PRD district master site plan may ~~allow the~~ modify the following zoning and development standards ~~to be~~ modified:

- a. density;
- b. building and garage setbacks;
- c. height of buildings or structures;
- d. lot size, depth, and width;
- e. required off-street parking spaces, and
- f. street widths.

(2) *Modifications prohibited.* The PRD district shall not ~~allow~~ modify the following zoning and development standards ~~to be~~ modified:

- a. sign requirements;
- b. grading and drainage;
- c. access management;
- d. outdoor lighting;

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Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

- e. landscaping and screening;
- f. residential light standards, and
- g. flood damage protection.

(g) ~~PRD districts~~ Phased development for PRD districts. If development is to be completed in phases, the development plan shall coordinate improvement of the open space, the construction of buildings, structures, and improvements in such open space, and the construction of dwelling units in order that each development stage achieves a proportionate share of the total open space and environmental quality of the total PRD.

(h) ~~PRD districts~~ Development criteria for PRD districts.

(1) *Common open space and recreation requirements*. In addition to adhering to Article 1400 of the Subdivision Code, common usable open space constitutes an essential ingredient in a PRD and is one of the most basic and important design elements.

- a. *Minimum area*. A minimum area of fifteen percent (15%) of the total project area, exclusive of public right-of-way and parking lots, shall be devoted to common usable open space.
- b. *Equitable distribution*. Open space shall be distributed more or less equitably throughout the PRD district in relationship to the dwelling units or other use areas that are intended to be served by the common open space.
- c. *Preservation*. Adequate guarantees must be provided that the common useable open space area as contained in the plan for the PRD district are preserved and maintained for those purposes only. A property owner's association (POA) shall be required if other arrangements satisfactory to the planning commission have not been made for improving, operating, and maintaining all such common open space area. At the time the final plat and plan is submitted, the articles of incorporation and bylaws of the POA shall be reviewed and approved by city staff. Additionally, the restrictive covenants which run with the land must be filed with Benton County, submitted to the planning ~~Office~~ department and include similar provisions to preserve all open space areas.
- d. *Accessibility*. Common open space shall be open to tenants and customers within the PRD, although access by the general public is encouraged and desired.
- e. *Common open space Determination* options. The required common open space may include:
 - 1. wetlands and water bodies;
 - 2. lawns – five percent (5%) maximum of total percentage required;
 - 3. pedestrian paths, trails, sidewalks (exclusive of those required by ordinance) and covered walkways;
 - 4. central gathering spaces such as plazas, parks, or courtyards;
 - 5. vegetated / landscape areas, excluding required parking lot landscaping requirements; and,

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Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

6. recreational areas / facilities such as public pools, tennis courts, basketball courts, baseball fields, soccer fields, or similar outdoor recreation facilities that is open to the residents and users of the PRD.
- (2) *Parking and off-street loading.* All uses established within a PRD shall comply with the off-street parking and loading requirements as established Art. 501 Off-street Parking and Loading of the Zoning Code and the following additional requirements.
 - a. Two (2) off-street parking spaces must be provided for each residential unit, such as a driveway, carport, garage, etc.
 - b. Guest parking spaces may be uncovered and shall be so located as to be accessible to visitors and guests.
 - c. The required parking spaces, garages, or carports, or any portions thereof, may be grouped when it is determined by the planning commission that such grouping and the locations thereof will be accessible and useful in connection with the proposed dwelling unit in the development.
- (3) *Perimeter requirements.* In order to ensure compatibility with surrounding development, the developer shall submit specific information as to the setbacks, building height, lot coverage, and other elements necessary for all perimeter lots that are adjacent to the boundary of the PRD district or adjacent to any boundary or perimeter street right-of-way. While no specific setback requirements are herein established, the planning commission and city council shall consider the nature, extent, and character of the adjacent development and shall take into considerations the types of area regulations applicable to adjacent properties.
- (4) *Density.* The site plan shall clearly depict the proposed density, expressed in units per acre for each residential type included within the PRD.
- (5) *Authorization of housing types.* A PRD may authorize a variety of housing types including, but not limited to:
 - a. detached, single-family;
 - b. common wall dwellings including multi-family, condominiums, duplex / patio home;
 - c. townhouses or row-houses (including those on individual lots to be sold in fee and those sharing common lots), and,
 - d. zero lot line homes.
- (6) *Structural design standards.* The PRD shall meet the following structural design standards.
 - a. Buildings shall be sensitive to the natural environmental conditions and should be oriented around a public gathering space such as a plaza, park, or courtyard, or respond in design to a prominent feature, such as a corner location, or other manmade or natural feature.
 - b. Buildings and site design shall provide inviting entry orientation.
 - c. Main entrances shall be oriented toward the adjoining street.
 - d. All structures shall have a common architectural theme.

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Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

- e. Human scale features shall be provided.
- f. Provide a variety of building height and varied roofline articulation.
- g. Aluminum, vinyl, or fiberglass siding materials on the facades or sides of the building shall not constitute over fifty percent (50%) of the structure; soffit and fascia shall not be included within this 50% calculation.
- h. Rear and side loading garages ~~are encouraged and~~ shall be setback a minimum of ~~thirty feet (30 ft.)~~ for a rear loading garage and twenty feet (20') for a side loading street facing garage. Front loading garages ~~shall be recessed a minimum of ten feet (10') from the front elevation of the house and~~ shall be setback a minimum of thirty feet (30 ft.) from the property line.

(i) ~~PRD districts~~ Re-evocation of PRD districts. Where the master plan is not met, the planning commission shall meet and discuss the revocation of the PRD at any time they feel necessary.

(j) PRD expiration. If a PRD expires as set forth in the subdivision code, the PRD zoning designation is void and the property reverts to its previous zoning district.

(Ord. No. 2006-176, § 2; Ord. No. 2012-58, § 2, 07-24-2012)

SEC. 401.12 Municipal Airport Overlay District.

(a) Description and purpose. The purpose of the Municipal Airport District is to:

- (1) prevent the creation or establishment of hazards to air navigation;
- (2) eliminate, remove, alter and mitigate hazards to air navigation; and,
- (3) provide for marking and lighting of obstructions.

(b) Review and approval. In addition to the standard review and approval procedures, all developments within this district also shall be reviewed and approved by the Federal Aviation Administration (FAA) and the Bentonville Airport Manager or his or her designee.

(c) Municipal airport ~~district~~ zoning ordinance map.

- (1) Official map. The Bentonville Municipal Airport Zoning Ordinance Map is made a part hereof. The map identifies the zones within the ~~Municipal Airport District~~. The City of Bentonville shall maintain the Official Municipal Airport Zoning Ordinance Map in the mayor's office or in a convenient location designated by the mayor. Although copies of the map or portions thereof may be distributed to the public in paper or digital form, the Official Municipal Airport Zoning Ordinance Map consists of the paper copy signed by the mayor and designated as such, as may be amended by ordinance adopted by the city council.

- (2) Interpretation of zones. An area located in more than one airport zone is considered to be only in the zone with the more restrictive height limitation.

(d) Zones within the municipal airport district. There are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Bentonville Municipal Airport. The zones are hereby established and defined as follows:

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Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

- (1) *Zone A, Runway larger than utility with a visibility minimum greater than ¼ mile non-precision instrument approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is 500 ft. wide. The approach zone expands outward uniformly to a width of 3,500 ft. at a horizontal distance of 10,000 ft. from the primary surface. Its centerline is the continuation of the centerline of the runway.
 - (2) *Zone B, Transitional Zone.* The transitional zones are the areas beneath the transitional surfaces.
 - (3) *Zone C, Horizontal Zone.* The horizontal zone is established by a swinging arc of 10,000 ft. radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
 - (4) *Zone D, Conical Zone.* The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 ft.
- (e) *Height limitations.* Except as otherwise provided in this section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in the Municipal Airport District to a height in excess of the applicable height herein established for such zone. Nothing in this section shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 ft. above the surface of the land. Applicable height limitations are hereby established for each of the zones as follows:
- (1) *Zone A, Runway larger than utility with a visibility minimum greater than ¼ mile non-precision instrument approach zone.* Slopes 34 ft. outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 ft. along the extended runway centerline.
 - (2) *Zone B, Transitional Zone.* Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 ft. above the airport elevation, which is 1,296 ft. above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 ft. measured at 90 degree angles to the extended runway centerline.
 - (3) *Zone C, Horizontal Zone.* Established at 150 feet above the airport elevation or at a height of 1,446 feet above mean sea level.
 - (4) *Zone D, Conical Zone.* Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
- (f) *Use restrictions.*

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Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

- (1) Notwithstanding any other provision of this section, no use may be made of land or water within the municipal airport district in such a manner as to:
 - a. create electrical interference with navigational signals or radio communication between the airport and aircraft;
 - b. make it difficult for pilots to distinguish between airport lights and others;
 - c. result in glare in the eyes of pilots using the airport;
 - d. impair visibility in the vicinity of the airport;
 - e. create bird strike hazards; or
 - f. otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
 - (2) *Marking and lighting.* The owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Mayor to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the city.
 - (3) *Noise sensitive uses.* All types of residential uses and uses that promote places of public gathering such as schools, religious facilities, hospitals, etc. are allowed in the Municipal Airport District if sound attenuated to achieve a minimum of 30 decibel noise reduction from outside noise levels to indoor noise levels. The granting of an aviation easement is required prior to issuing a building permit and plat notification is required on all plats.
- (Ord. No. 2006-23, § 2; Ord. No. 2012-58, § 2, 07-24-2012)

SEC. 401.13 Northwest Arkansas Regional (XNA) Airport Overlay District.

(a) *Description and purpose.* The Northwest Arkansas Regional Airport (XNA) Overlay District is designed to provide protection to people and property on the ground and to protect the airport from the encroachment of non-compatible land uses that may interfere with the safe operation of the airport.

(b) *Northwest Arkansas Regional Airport (XNA) Overlay District Zones-Map.*

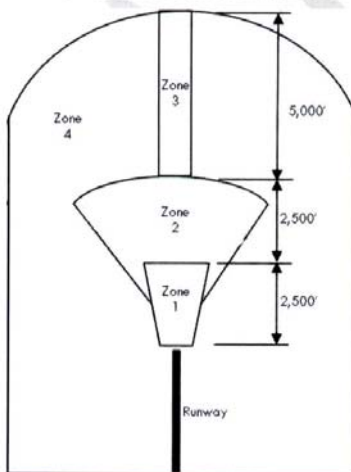
- (1) *Official map.* The ~~Northwest Arkansas Regional (XNA) Airport~~ Overlay Zones Map is made a part hereof. The map identifies the zones within the XNA ~~Airport~~ Overlay District. The City of Bentonville shall maintain the official ~~Northwest Arkansas Regional (XNA) Airport~~ Overlay Zones Map in the ~~m~~Mayor's office or in a convenient location designated by the ~~m~~Mayor. Although copies of the map or portions thereof may be distributed to the public in paper or digital form, the ~~Northwest Arkansas Regional (XNA) Airport~~ Overlay Zones Map consists of the paper copy signed by the ~~m~~Mayor and designated as such, as may be amended by ordinance adopted by the ~~C~~city ~~C~~council.
 - (2) *Interpretation of zones.* An area located in more than one airport zone is considered to be only in the zone with the more restrictive height limitation and use restriction.
- C. *Zones within the Northwest Arkansas Regional Airport Overlay District Zones*

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Art. 401 Zoning District Regulations

Underlined text to be added and strikethrough text to be deleted.

- (1) *Zone 1, Runway Protection Zone (RPZ).* The Runway Protection Zone is defined by a trapezoidal shaped area beyond the runway ends. The clearance of all objects within the RPZ is necessary. This area shall remain as open/undeveloped space and shall be contained entirely on airport property.
- (2) *Zone 2, Inner Safety/Turning Zone (ISTZ).* The ISTZ boundary is defined by a triangular shaped area that is positioned along each side of the Zone 1 (RPZ). For Runway 16/34 at the Northwest Arkansas Regional Airport, Zone 2 (ISTZ) extends approximately 5,000 feet from the inner width of Zone 1 (RPZ), within a 60 degree sector off the extended runway centerlines.
- (3) *Zone 3, Outer Safety Zone (OSZ).* The OSZ boundary is defined by rectangular area that is centered on the runway. For runway 16/34 at the Northwest Arkansas Regional Airport, the OSZ is 1,000 feet wide overall (extending 500 feet laterally from the runway centerline) and extends approximately 5,000 feet beyond Zone 2, ISTZ.
- (4) *Zone 4, Traffic Pattern Zone (TPZ).* The TPZ boundary extends approximately 6,000 feet on each side of the runway. Beyond the ends of the runway, this boundary follows the same arc pattern of Zone 2 (ISTZ).

NORTHWEST ARKANSAS REGIONAL AIRPORT (XNA)
OVERLAY DISTRICT ZONES



(d) *General provisions.*

- (1) *Glare.* In Zones 1, 2, and 3, no glare-producing material shall be used on the exterior of any building, including any metal building, which would produce glare that would endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the airport.
- (2) *Lighting.* In Zones 1, 2, and 3, no flashing or blinking signs or upward projecting lights shall be used that would interfere with a pilot's ability to identify airport lights.

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Underlined text to be added and strikethrough text to be deleted.

- (3) *Visibility.* In Zones 1, 2, and 3, no structure or use shall impair the visibility in the vicinity of the airport so as to endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the airport. Such prohibited uses include, but shall not be limited to, the emission or discharge of smoke, steam, or other obscuring phenomena that would interfere with the health and safety of pilots, or that would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.
- (4) *Electronic interference.* In Zones 1, 2, 3, and 4 no structure or use on land or water shall create electrical or electronic interference with navigational signals, or radio or radar communications between aircraft and a ground station.
- (5) *Wildlife hazards.* In Zones 1, 2, and 3, in the judgment of the Community Development Director or other authorized agent, a use with the potential to attract wildlife that threatens aviation safety shall be prohibited.
- (6) *Sound attenuation.* In Zones 1, 2, 3, and 4, all noise sensitive uses shall be sound attenuated to achieve a minimum of 30 db noise reduction from outside noise levels to indoor noise levels. Noise sensitive uses are those defined as including but not limited to: day care/child care centers, school facilities, hospitals, religious facilities, single family homes, multifamily homes, manufactured homes, convalescent /maternity /nursing homes, or any other type of dwelling.
- (7) *Avigation easements.* In Zones 1, 2, 3, and 4 the granting of an avigation easement is required prior to issuing a building permit and plat notification is required on all plats.
- (e) *Height limitations.* All structures must comply with the Height Hazard Zoning Ordinance prepared by the Northwest Arkansas Regional Airport Authority. All development shall supply to the Planning Department a height certificate issued by the FAA.
- (f) *Use restrictions.* The XNA Airport Overlay District is divided into four zones with specific uses prohibited within each zone.
 - (1) *Zone 1, Runway Protection Zone (RPZ).*
 - a. Uses prohibited in Zone 1: All ~~uses are prohibited.~~
 - (2) *Zone 2, Inner Safety/Turning Zone (ISTZ).*
 - a. Uses allowed in Zone 2: ~~Permitted uses:~~ -All uses ~~permitted-allowed~~ in the base zoning district are ~~permitted-allowed~~ in Zone 2, except as listed below in the Prohibited Uses section. All uses must meet the requirements of ~~Subsection (d): General provisions~~ above.
 - b. Uses allowed with conditional use approval: ~~in Zone 2.~~ All uses ~~permitted-allowed~~ in the base zoning district as conditional uses are ~~permitted-allowed~~ as conditional uses in Zone 2, except as listed below in ~~Subsection c.~~ Uses Prohibited in Zone 2 ~~Uses Section.~~ All uses must meet the requirements of ~~SubSection (d): General provisions~~ above.
 - c. Uses prohibited in Zone 2: ~~The following uses are prohibited in Zone 2:~~
 - 1. places of public assembly not designed for airport patrons, including but not limited to: adult day care, child care, educational facilities, hospitals, religious facilities,

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theaters (indoor and outdoor), museums, arena/auditoriums; conference/convention centers; and community centers;

2. places of residence including, but not limited to single family homes, multifamily homes, manufactured homes, assisted living facilities, or any other type of dwelling;
3. correctional facilities or jails;
4. transmission tower/station;
5. wind turbines;
6. mining;
7. solid waste disposal;
8. above ground bulk hazardous material storage or bulk storage of highly flammable materials and related facilities which could pose a threat to the public in the event of an aircraft crash;
9. contractor maintenance yards; salvage yards; or storage yards for oxides, coal, stone, concrete mixing supplies or asphalt plants; and,
10. wireless communication facility.

(3) *Zone 3, Outer Safety Zone (OSZ).*

- a. Uses allowed in Zone 3~~Permitted uses.~~ All uses ~~permitted~~ allowed in the base zoning district are ~~permitted~~ allowed in Zone 3, except as listed below in ~~the~~ Subsection c. Uses prohibited in Zone 3 ~~Prohibited Uses Section~~. All uses must meet the requirements of ~~Subs~~Section (d). General provisions above.
- b. Uses allowed with ~~Cconditional uses~~ approval. All uses ~~permitted~~ allowed in the base zoning district as conditional uses are ~~permitted~~ allowed as conditional uses in Zone 3, except as listed below in Subsection c. Uses prohibited in Zone 3 ~~the Prohibited Uses Section~~. All uses must meet the requirements of ~~Sub~~Section (d). General provisions above.
- c. Uses ~~Prohibited uses~~ in Zone 3. The following uses are prohibited in Zone 3:
 1. places of public assembly not designed for airport patrons, including but not limited to: adult day care, child care, educational facilities, hospitals, religious facilities, theaters (indoor and outdoor), museums, arena/auditoriums; conference/convention centers and community centers;
 2. places of residence including, but not limited to single family homes, multifamily homes, manufactured homes, assisted living facilities, or any other type of dwelling;
 3. correctional facilities or jails;
 4. transmission tower/station;
 5. mining;
 6. solid waste disposal;
 7. wind turbines;

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Art. 401 Zoning District Regulations

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8. above ground bulk hazardous material storage or bulk storage of highly flammable materials and related facilities which could pose a threat to the public in the event of an aircraft crash;
9. contractor maintenance yards; salvage yards; or storage yards for oxides, coal, stone, concrete mixing supplies or asphalt plants; and,
10. wireless communication facility.

(4) *Zone 4, Traffic Pattern Zone (TPZ).*

a. *Permitted ~~Uses~~ allowed in Zone 4.* All uses permitted ~~allowed~~ in the base zoning district are permitted ~~allowed~~ in Zone 4, except as listed below in the Prohibited Uses Section. All uses must meet the requirements of *Subs*Section (d). *General provisions* above.

b. *Uses allowed with ~~C~~conditional uses approval in Zone 4.* All uses permitted ~~allowed~~ in the base zoning district as conditional uses are permitted ~~allowed~~ as conditional uses in Zone 4, except as listed below in *Subsection c. Uses prohibited in Zone 4* the Prohibited Uses Section. All uses must meet the requirements of *Subs*Section (d). *General provisions* above.

c. *Uses ~~prohibited~~ uses in Zone 4.* Manufactured homes are prohibited.

(Ord. No. 2006-23, § 2; Ord. No. 2006-153, § 1; Ord. No. 2009-23, §1; Ord. No. 2012-58, § 2, 07-24-2012)

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Art. 401 Zoning District Regulations

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except as listed below in Subsection c. Uses prohibited in Zone 4~~the Prohibited Uses Section~~. All uses must meet the requirements of SubsSection (d). General provisions~~above~~.

c. Uses P~~rohibited~~ ~~uses in Zone 4.~~ Manufactured homes are prohibited.

(Ord. No. 2006-23, § 2; Ord. No. 2006-153, § 1; Ord. No. 2009-23, §1; Ord. No. 2012-58, § 2, 07-24-2012)

DRAFT



CHECK ALL THAT APPLY			
	Bid Award	Bid #	
x	Budget Adjustment		
	Change Order		
	Informational		
	Ordinance		
	Resolution		
	Other		

AGENDA FORM

CITY COUNCIL MEETING OF:

March 27, 2018

Submitted by:

Jon Simpson

Department

Police

Phone

271-3172

ACTION REQUIRED:

This item asks for the consideration of Council to add one additional police officer position to our current staff of 76 sworn officers. At their March 12, 2018 meeting, the Bentonville Board of Education voted to approve an additional School Resource Officer (SRO) for the school district. The approval of this additional officer position would fulfill this request and allow the placement of one SRO at each of the three Jr. High Schools. Currently, one of our 4 SRO's divides time between two Jr. High School locations. The additional SRO would go into service for the 2018-2019 school year. This timing would necessitate the need to conduct additional hiring as soon as possible to backfill for the officer that will be selected for this position. If additional hiring is accomplished by June of this year, the 2018 cost to the city would be approximately \$33,662 for pay and benefits. This amount represents the estimated six month pay and benefit cost for an experienced Police Officer II. In accordance with the existing SRO agreement with Bentonville Schools, the city would be reimbursed for the actual costs associated with the actual assigned SRO, including the related vehicle insurance and depreciation costs. A police vehicle that is already in the city's possession can be utilized, without modification, as a vehicle for this new SRO. This vehicle is available as a result of items that were previously funded by a 2012 federal grant being released to sponsoring jurisdictions. This will eliminate any need to accompany this request with an additional police vehicle request at this time. See attached letter of request from the school district.

COST TO CITY:

Cost of this Request: \$33,622

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE







where excellence lives

March 14, 2018

Chief Jon Simpson
Bentonville Police Department
Bentonville AR 72712

Dear Chief Simpson,

On Monday, March 12, 2018 the Bentonville Schools Board of Education officially approved our request for one additional School Resource Officer for the 2018 – 2019 school year. This individual will serve our junior high schools.

Please consider this our formal request to initiate the interview, selection and hire process for our new officer. Thank you for working closely with Mr. Steve Vera to coordinate these efforts.

Best wishes,

Dena Ross

dross@bentonvillek12.org / (479) 254 - 5015
500 Tiger Boulevard Bentonville, AR 72712

dross@bentonvillek12.org



CHECK ALL THAT APPLY			
	Bid Award	Bid #	
	Budget Adjustment		
	Change Order		
	Informational		
	Ordinance		
	Resolution		
x	Other		

AGENDA FORM

CITY COUNCIL MEETING OF:

March 27, 2018

Submitted by:

Hadi Dudley

Department

Library Director

Phone

271-3194

ACTION REQUIRED:

Council approval of Mayor McCaslin's recommendation to reappoint Kimberly Seay to the Library Advisory Board.

COST TO CITY:

Cost of this Request:

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE





March 9, 2018

To: City Council Members & City Clerk
From: Mayor Bob McCaslin
Subject: Reappointment of Kimberly Seay to the Bentonville Public Library Advisory Board.

I recommend Kimberly Seay for reappointment to the Bentonville Public Library Advisory Board.

Mrs. Seay's first term will expire on December 31, 2021.


Bob McCaslin

From: Kimberly Seay
Sent: Thursday, March 08, 2018 6:58 PM
To: Hadi Dudley
Subject: Library Advisory Board Reappointment

Dear Hadi,

I would like to continue serving on the Library Advisory Board and will appreciate Mayor McCaslin's reappointment to the board.

Thank you,

Kimberly Seay



CHECK ALL THAT APPLY		
☐	Bid Award	Bid #
☐	Budget Adjustment	
☐	Change Order	
☐	Informational	
☐	Ordinance	
☐	Resolution	
☒	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

March 27, 2018

Submitted by:

Hadi Dudley

Department

Library Director

Phone

271-3194

ACTION REQUIRED:

Council approval of Mayor McCaslin's recommendation to appoint Melissa Godoy to the Library Advisory Board.

COST TO CITY:

Cost of this Request:

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712
www.bentonvillear.com



PLEASE RECYCLE





March 9, 2018

To: City Council Members & City Clerk
From: Mayor Bob McCaslin
Subject: Appointment of Melissa Godoy to the Bentonville Public Library Advisory Board.

I recommend Melissa Godoy for appointment to the Bentonville Public Library Advisory Board.

Mrs. Godoy is filling Katie Gottlieb's unexpired term upon resignation from the board and relocation to another state. Mrs. Godoy's term will expire on December 31, 2020.

Bob McCaslin

From: Katie Gottlieb

Sent: Friday, December 08, 2017 2:06 PM

To: Hadi Dudley

Subject: Resignation

Hadi,

I'm so sad to send this note, but I need to resign from the Library's Advisory Board.

Randy has accepted a new job in Tennessee, and we will be moving in February.

Please let me know if you'd like me to continue till then or not. I've really enjoyed my time working with you all!

Thanks,

Katie

Sent from my iPhone



APPLICATION FORM

For appointment to City of Bentonville Boards & Commissions

Please Print or Type all Answers

APPLICANT INFORMATION

Name

If married, spouse's name:

Home Address

City Zip Code

Home/Cell Phone

Business Phone

Email Address

Occupation

Employer

Length of Residency in Bentonville

* Must be a Bentonville resident to serve on a Bentonville Board or Commission.

FOR OFFICE USE ONLY

Board / Commission Appointed to:

Date of Appointment:

Term Expires:

Terminate:

Replaced:

REFERENCES

Name

Phone

Email

Name

Phone

Email

Please select all commissions / boards for which you would like to be considered:

- | | |
|---|--|
| ☐ Advertising & Promotion Commission | ☐ Fireman's Pension Board |
| ☐ Airport Advisory Board | ☒ Library Advisory Board |
| ☐ Bentonville Facility Board | ☐ Ozark Regional Transit Authority (Bentonville representative) |
| ☐ Board of Adjustment | ☐ Parks & Recreation Advisory Board |
| ☐ Bentonville Housing Authority | ☐ Planning Commission |
| ☐ Criminal Nuisance Abatement Board | ☐ Public Art Advisory Committee |
| ☐ Community Development Block Grant Advisory Committee | ☐ Tree & Landscape Advisory Committee |

1. What are your qualifications for serving on this commission or board, including education and expertise in the subject matter?

I am currently an active member in the Bentonville Public Library Community both in a personal aspect as well as a volunteer aspect. I am a Mom to a 5-year old little boy who loves to read, and we are frequent visitors and patrons to the Bentonville Public Library. I have been involved with the Bentonville Friends of the Library for the past 2 years and am a regular volunteer with both the Friends of the Library Read it Again Bookstore and other literary events hosted by the library and FOL. I have personally hosted two book fairs to support expanding our library collections as well as volunteering for all of the other book fairs hosted at the library over the past 2 years. My family and I are passionate about reading and about our Bentonville Public Library.

2. Why would you like to be considered for appointment to this commission or board?

Reading and literacy have always been a very important part of my life. I grew up with a Mom who taught me to love books and reading. We used to visit the library several times a week just because I would read through the stacks of books so eagerly. As I grew up, I was always an avid reader - sometimes going through 16 books in a two-week time period. When we found out I was expecting my now 5-year old, the very first thing I did was buy him some of my favorite books from when I was a little girl. I would read to him every night while rubbing my tummy. It makes my heart soar to know that our nightly negotiation is based on "How many books can we read tonight Mama?". I would love the opportunity to serve on the BPL Advisory Board to help them give the gift of books, reading and literacy to the families in our community.

RETURN THIS APPLICATION TO: Submit by E-mail to Janice Hopkins, jhopkins@bentonvillear.com or deliver to the Mayor's Office, 117 West Central, Bentonville, AR 72712. If you have any questions, call 271-3112.

If you are not appointed, your application will be kept for one year and will automatically be resubmitted during that time. After a year if you want to be considered for a position, you will need to reapply.



CHECK ALL THAT APPLY			
Bid Award	Bid #	18-009	
Budget Adjustment			
Change Order			
Informational			
Ordinance			
Resolution			
Other			

AGENDA FORM

CITY COUNCIL MEETING OF:

March 27, 2018

Submitted by:

Crant Osborne

Department

Parks and Rec

Phone

271-3190

ACTION REQUIRED:

Council approval of bid number 18-009, in the amount of \$22,640.00, for canopies to cover bleachers at nine baseball/softball fields in Memorial Park.

COST TO CITY:

Cost of this Request: \$22,640

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

Previously Budgeted	\$	25,000
Funds Expended to Date		
Remaining Budget		25,000
Budget Adjustment		-
Remaining After Adjustment	\$	25,000

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712
www.bentonvillear.com



PLEASE RECYCLE



Memo



To: City Council, Mayor McCaslin
From: Crant Osborne, Parks Operations Manager
Thru: David Wright, Parks and Recreation Director
Date: March 15, 2018
Re: Council approval of bid number 18-009, in the amount of \$22,640, to purchase canopies to cover bleachers at nine baseball/softball fields in Memorial Park.

Parks and Recreation Staff is requesting City Council to approve the purchase of eighteen canopies from Don's Canopies and Metal to cover the bleachers at the baseball and softball parks in Memorial Park in the amount of \$22,640.00.

The canopies provide safety to park spectators by providing cover from the elements as well as protecting them from any stray balls that leave the field of play. The current canopies are approximately nine years old. They are weathered, faded and beginning to deteriorate.

If you have any questions regarding this item, please let me know. Please call me at 271-3190, or email cosborne@bentonvillear.com.

EVANS, Co INC.





CHECK ALL THAT APPLY			
☒	Bid Award	Bid #	IFB-18-008
☐	Budget Adjustment		
☐	Change Order		
☐	Informational		
☐	Ordinance		
☐	Resolution		
☐	Other		

AGENDA FORM

CITY COUNCIL MEETING OF:

March 27, 2018

Submitted by:

Tony Davis

Department

Street

Phone

271-3130

ACTION REQUIRED:

The Street Department is asking for Council's approval to award bid #IFB-18_008 to Riggs Cat in the amount of \$196,510.89 which includes sales tax. This is for a 2018 excavator that was approved in the 2018 budget. Please see attached bid, memo, and bid tab.

COST TO CITY:

Cost of this Request: \$196,510.89

Additional Budget Amount \$0

☒ One time amount

☐ Continuing O and M

Previously Budgeted	\$	208,000
Funds Expended to Date		
Remaining Budget		\$11,489
Budget Adjustment		-
Remaining After Adjustment	\$	11,489

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE





Bentonville Street Department
3200 SW Municipal Dr.
Bentonville, AR 72712
Phone: (479) 271-3130

MEMORANDUM

DATE: 3-27-2018
TO: City Council, Mayor McCaslin
FROM: Tony Davis, Street Manager
RE: Excavator

When the Street Departments excavator went down, approval for the purchase of a new excavator was approved in the budget for this year. The Street Department advertised for bids and tried out two different excavators that meet our specifications, The Caterpillar 315F with a bid price of \$179,462.00 and a John Deere 135G with a bid price of \$184,467.42. The Street Department is asking for Council's approval to award the low bid to Riggs Cat for the purchase of the Caterpillar 315F. The overall total for the purchase price will be \$196,510.89 that includes sales tax. The 2018 budget was \$208,000 for this purchase so no budget adjustment is needed for this. Please see the attached bid and bid tab.

Sincerely,

Tony Davis
Street Manager



CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
CITY HALL
117 W. CENTRAL AVE
BENTONVILLE, ARKANSAS 72712

INVITATION FOR BID
EXCAVATOR

Date of Issuance: **February 26, 2018**

Bid Number: **IFB-18-008**

Bid Opening Date: **March 8, 2018**

Bid Opening Time **10:00 A.M.**

Questions regarding this bid should be directed to the Purchasing Manager at screed@bentonvillear.com.
All questions must be submitted prior to 10:00 A.M., March 2, 2018.

Bids must be received by the Purchasing Department prior to 10:00 A.M., March 8, 2018 in a sealed envelope, clearly marked on the outside with bid # IFB-18-008. Bids which must be opened to be identified will be rejected. Late bids will be rejected.

Bids will be publicly opened at City Hall, First floor, Purchasing Department, 117 West Central Ave, Bentonville, AR 72712.

☒ Supplier is submitting a firm bid which is not revocable for ninety (90) days.

☐ Supplier is not submitting a bid because, _____

EXECUTION OF BID

Upon signing this Bid, the bidder certifies that he/she has read and agrees to the requirements set forth in this bid proposal including specifications, conditions and pertinent information regarding the articles being bid on, and agrees to furnish these articles at the prices stated. Unsigned bids will be rejected - no exceptions.

NAME OF FIRM:	<i>Riggs Cat</i>	PHONE NUMBER:	<i>479-756-8080</i>	FAX NUMBER:	<i>479-756-8099</i>
BUSINESS ADDRESS, STREETS:	<i>4117 Wilson Wood Rd</i>	CITY:	<i>Springdale</i>	STATE:	<i>AR</i>
SIGNATURE				DATE:	<i>3-8-18</i>
PRINTED	<i>Brett Arlos</i>			TITLE:	<i>Sales mgr</i>

ARKANSAS SALES OR USE TAX NUMBER: *019243-78-001*

STATE CONTRACTORS LICENSE NUMBER: *N/A*

INTENT

The intent of this solicitation is to purchase a 2018 or newer Excavator for the City of Bentonville's Street Department.

RESPONSE DOCUMENTS

The following documents must be complete to provide a complete bid response package:

- IFB document, all response fields complete.

All pricing must be entered on pricing sheet ("no bid" is an acceptable entry). Bid price shall include all destination charges, delivery charges, title fees, rebates, and all other applicable costs and refunds.

CONTRACT TERM:

The awarded bidder shall receive a purchase order from the City Of Bentonville for a one time purchase and delivery of an excavator to the city of Bentonville's Street Department.

SCOPE

The City of Bentonville, AR is soliciting bids for the purchase and delivery of an excavator for our Street Department. Bidder agrees to furnish equipment as required in the following specifications.

DELIVERY

The City Of Bentonville request delivery within 30-45 calendar days after receipt of order. If this delivery schedule cannot be met, bidder must state number of days required to place equipment in the City's designated location. Failure to state delivery time obligates bidder complete delivery by the City's requested 30-45 days. Extended delivery dates may be considered when in the best interest of the City.

Delivery: 16 weeks calendar days after receipt of award.

EQUIVALENT

Whenever these specifications mention an item by name and use specific descriptions as refers thereto, it is intended to convey to the bidder an understanding of the standard of excellence required. Items of equal type, quality, and size that will conform substantially to the standard of excellence established to provide equivalent merit, strength, durability, and to perform the required function in accordance with these specifications may be offered. City of Bentonville shall have the final approval of whether a substitute item is equal to the item specified. **The bidder should submit detailed description for equivalent equipment.**

INVOICING

Bidder shall provide an invoice to City of Bentonville, AR, 117 W Central Ave., Bentonville AR 72712

PAYMENT TERMS

☒ Net 30 days

☐ Other: _____

Contractor/Vendor Disclosure

Company Name: Riggs CAT

Registered with the Secretary of State's Office to Conduct Business in the State of Arkansas:

☒ Yes ☐ No

Identify each employee of the City Of Bentonville to whom you, any of your Employees owning more than 5% interest in your Company, or are a Director/Executive/Decision Maker of your Company are immediately related.

Immediate Relation includes:

- Spouse/Domestic Partner
- Parents-Natural or Legal/Step/In Laws
- Children/Step, Siblings-Whole/Half/Step/ In Laws
- Grandchildren/Step, Great Grandchildren.

NONE

Failure to disclose shall be considered a material breach and grounds for immediate termination of this contract/agreement. **Note: Any change in circumstances resulting in a conflict or appearance of a conflict shall be reported in 30 days of change of circumstance.** SD Initials

**CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT**

INSTRUCTIONS TO BIDDERS

1. **SCOPE:** These instructions to bidders and general conditions apply to solicitations for material, equipment, supplies or services with an estimated single or combined cost of \$20,000 or more. These conditions shall be in force unless otherwise modified by the City in this bid document. Bidders shall be advised that the City of Bentonville is not responsible for the content of any bid package received through any 3rd party bid service. It is the sole responsibility of the vendor to ensure the completeness of the documents received from any 3rd party source other than hand delivered.
2. **DEFINITIONS (AS USED HEREIN):**
 - a. The term "Invitation For Bid" means a solicitation of formal sealed bids with a combined or single unit value \$20,000 and over. The acronym "IFB" means Invitation for Bid.
 - b. The term "bid" means the offer by the bidder.
 - c. The term "bidder" means the person or organization responding to the solicitation.
 - d. The term "contractor" means a person or organization who is the successful bidder and who enters into a contract with the City.
 - e. The term "change order" means a written order from the Purchasing Manager directing the contractor to make changes to a contract.
 - f. The term "City" means the City of Bentonville, Arkansas.
 - g. The term "City Council" means the governing body of the City of Bentonville, Arkansas.
3. **PREPARATION OF BIDS:** Bidders shall review the specifications, drawings, and all special and general conditions. Failure to do so will be at the bidder's risk.

Each bidder shall furnish the information required in the solicitation. The bidder shall provide their name, address, e-mail address, and telephone number where indicated in the solicitation documents. The affidavit must be signed by an officer or employee having the authority to bind the company or organization by his/her signature and included with the bid response.

Unit price for each unit offered must be provided. The unit price will be presumed correct.

The bidder must state a definite time for delivery of supplies or performance of services.
4. **SUBMITTING A BID:** Bids must be received by the City of Bentonville Purchasing Office **BEFORE** the time of opening indicated in the solicitation. All references to time shall be Bentonville, Arkansas time (Central time zone). Late bids will be rejected. Any exceptions or additional information required on a solicitation will be noted in the bid documents. Failure to provide any requested information or to follow these procedures may result in the rejection of your bid.
5. **BID DOCUMENT MISTAKES:** The bidder shall not be allowed to modify or correct mistakes in the bid document after the opening of the bid. Failure to complete the entire bid accurately may result in declaring the bid as non-responsive and the bid may be rejected.

Bids may not be withdrawn after the bid opening time and date if a bid mistake is based upon an error in judgment. If a nonjudgmental mistake, such as a math error, is suspected by the City or the bidder, the bidder shall respond within two (2) business days of the bid opening with a request for the City to consider verification of the mistake. Once a bid has been verified, it shall be considered submitted, as verified. The City shall permit a bidder to withdraw its bid without penalty or forfeiture of bid security if: (a) a nonjudgmental mistake is evident on the face of the bid, or (b) the bidder establishes by clear and convincing evidence that a nonjudgmental mistake was made.

If multiple bids are received from the same vendor, the City will either consider only one of the bids from that vendor, or reject all bids from the vendor, at the sole discretion of the City.
6. **ACCEPTANCE OF OFFER:** The submitted bid is considered an offer on the part of the bidder; such offer is deemed accepted upon issuance by the City of a Purchase Order or other contractual document.
7. **FIRM PRICES:** By submitting the bid, bidder signifies that the prices, terms and conditions quoted in their bid will be firm for acceptance for a period of not less than ninety (90) days from the bid opening date unless otherwise specified in the solicitation. Prices quoted must remain firm for the period of performance of any resulting purchase order or contract to be performed over a specified period of time as indicated in the solicitation.

8. **CONTRACT RENEWAL:** The City reserves the right to renew any contract resulting from this solicitation at the same prices, specifications, terms and conditions, upon mutual agreement between the City and the contractor.
9. **ESTIMATED QUANTITIES:** Whenever a bid requests prices to be firm for a period of performance, the quantities or usages shown are estimated only with no guarantee made by the City. The quantities are for the bidder's information only, and the City will be bound only for actual quantities ordered.
10. **DISCOUNTS:** Cash discounts will be considered in determining the award. Unless otherwise indicated in the IFB, discounts offering 10 days or more will be taken by the City's Accounts Payable Division, with payment made on the nearest pay period after receipt, inspection and acceptance of articles, and receipt of correct invoice(s).
11. **SAMPLES:** Samples of items, when required, must be submitted within the time specified at no expense to the City. If not destroyed by testing, samples may be returned at the bidder's expense unless otherwise indicated in the solicitation.
12. **AWARD:** Award will be made to the lowest most responsive and responsible bidder, which will be judged on the basis of price, conformance to specifications, quality, delivery time, references, payment terms, and in the best interest of the City of Bentonville, all factors being considered.

The City reserves the right to accept or reject any or all bids or part of bids, to waive irregularities and technicalities, and to request rebids on the material described in the solicitation.

The City reserves the right to award the contract on a split-order basis, lump-sum or individual-item basis, or any other combination that is in the best interest of the City unless otherwise specified.

Conditional bids are subject to rejection in whole or in part at the sole discretion of the City.

In the event of two or more identical low bids, Arkansas code Annotated Section 14-22-11 shall apply

No order or contract resulting from this solicitation may be assigned, transferred, or delegated to another party without written approval of the Procurement Manager of the City.

13. **BRAND NAMES:** If brand names, make, name of any manufacturer, trade name, or vendor catalog number are specified in these bid documents, it is for the purpose of establishing a grade or quality of material only. When the City does not wish to rule out other brands or makes, the phrase OR EQUAL is added. However, if a product other than that specified is bid, it is the bidder's responsibility to identify such product in their bid and prove to the City that the product is equal to or better than the product specified. Unless otherwise indicated, evidence in the form of samples may be requested if the proposed brand is other than that specified by the City. Such samples are to be furnished as specified in the solicitation or upon request of the City. Any samples requested by the City must be received by the City no later than four (4) days after formal request is made.
14. **VARIATIONS OF SPECIFICATIONS:** For purposes of evaluation, bidder must indicate any variances from any provision, specification, or condition stated in this solicitation, no matter how slight. If bidder does not indicate any variations, it will be assumed that the product or service fully complies with the provisions, specifications, or conditions as stated. If satisfactory bids are not received, the City reserves the right to consider alternate bids containing deviations from stated specifications.
15. **QUALITY:** Unless otherwise identified in the solicitation, all materials used in the manufacture or construction of supplies, materials or equipment covered by this solicitation shall be new. The items bid must be the latest make or model in current production, as offered to commercial trade, and of the highest quality material and workmanship. Used, shopworn, demonstrator, prototype, or discontinued models are not acceptable.
16. **ECO-FRIENDLY (GREEN) PRODUCTS:** The City of Bentonville supports the use of products that are ecologically friendly to the environment. Bidders are urged to include information with their bid submittal that describes the human health and environmental impact of products proposed. This eco-friendly approach takes into account, but is not limited to, waste production, energy and water use, greenhouse gas emissions, indoor air quality, recycled and reused content and packaging, and the presences of hazardous substances. Consideration may be given to these eco-friendly products when compared to mainstream products in cost and packaging.
17. **MATERIAL SAFETY DATA SHEET (MSDS):** It is mandatory for a manufacturer, supplier, or distributor of hazardous material to supply an MSDS as required by 29CFR 1910.1200 with the first shipment. Any time the content of an MSDS is revised, the vendor is required to provide a new MSDS to the City.
18. **ACCEPTANCE OF MATERIAL:** The material delivered under this bid shall remain the property of the seller until a physical inspection and actual usage of this material and/or service is made and is accepted by the City. It must comply with the terms of this IFB, and fully comply with specifications, and be of the highest quality. In the event the material and/or services supplied to the City is found to be defective or does not conform to specifications, the City reserves the right to cancel the order upon written notice to the contractor and return product to contractor at the contractor's expense.

19. **CODES AND REGULATIONS:** All products supplied and work performed within the scope of this request shall be supplied by the successful bidder to all applicable current prevailing City, State and Federal codes and regulations.
20. **DELIVERY:** Bidders must indicate the number of calendar days required to make delivery after receipt of a purchase order. Delivery time may be considered in making an award. The City reserves the right to cancel any order, or any part of that order, without obligation if delivery is not made within the time(s) specified on the bid form.
- The City may grant additional time for delivery if the City is satisfied the delay is beyond the control of the vendor. Any request for time extension must be in writing and approved by the City's authorized representative.
- All deliveries shall be FOB Destination to the location listed on the purchase order or price agreement unless otherwise specified. Bidders may be requested to provide separate pricing for delivery of all items in this solicitation.
21. **THIRD PARTY FREIGHT SERVICE:** The City of Bentonville may, at its discretion, use a third party freight service to arrange for delivery of the goods ordered as a result of this solicitation. In this case, the freight terms will be FOB Destination/Third Party Prepaid.
22. **PRICE CHANGES ON CONTRACTS:** If this solicitation is for an estimated quantity of supplies, consideration in awarding bid for yearly contracts will be given:
- First to bidder offering firm prices for full contract period; and
 - Second to bidder offering firm prices subject to market price adjustment.
23. **COPYRIGHT OR PATENT RIGHTS:** By submitting the bid, bidder signifies that there has been no violation of copyrights or patent rights in manufacturing, producing or selling the goods shipped or ordered as a result of the bid, and bidder agrees to hold the City harmless from any and all liability, loss, or expense caused by any such violation.
24. **CONFLICT OF INTEREST:** The contractor, by signing the bid form in the solicitation or by acceptance of any purchase order resulting from this solicitation, certifies that to the best of their knowledge or belief, no elected or appointed official of the City is financially interested, directly or indirectly, in the purchase of the goods or services specified on this order or in the contract.
25. **TAXES:** The City of Bentonville is not tax exempt from any taxes imposed by the State and/or Federal Government. Applicable taxes should be included on all vendor invoices.
26. **MANUFACTURER'S CERTIFICATION:** The City reserves the right to request from bidders a separate manufacturer certification of all statements made in the bid. Failure to provide any requested certification may result in rejection of bid or termination of contract for which the bidder must bear full liability.
27. **TERMINATION:** Subject to the following provisions, any contract resulting from this solicitation may be terminated by either party upon thirty (30) days advance written notice to the other party; but if any work or service is in progress but not completed as of the date of termination, then said contract may be extended upon written approval of the City until said work or services are completed and accepted. Types of termination include:
1. Termination for Convenience
In the event that the contract is terminated or cancelled upon request and for the convenience of the City, without the required thirty (30) days advance written notice, then the City shall negotiate reasonable termination costs, if applicable.
 2. Termination for Cause
Termination by the City for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provision; termination costs, if any, shall not apply. The thirty (30) days advance notice requirement is waived in the event of termination for cause.
 3. Termination Due to Unavailability of Funds
When funds are not appropriated or otherwise made available to support continuation of performance, the contract shall be cancelled at the discretion of the City.
28. **W-9 REQUIREMENT:** The City of Bentonville requires a Form W-9 (Request for Taxpayer Identification Number and Certification), updated annually, from all contractors that do business with the City of Bentonville. The Form W-9 verifies the Tax Identification Number of the contractor so the City can correctly report to the IRS all funds paid to the contractor.
29. **DEFAULT OF CONTRACT:** In case of default by the contractor, the City may procure the items or services from other sources and hold the contractor responsible for any excess costs caused by such procurement. Failure of a bidder to furnish the equipment, supplies, material, and/or services as specified is cause for elimination of the bidder from the active bidder's list for the products or services concerned.
30. **BID BOND:** If required in this solicitation, bidders shall include a bid guarantee in the form of a bid bond, certified check, cashier's

check in the amount of five percent (5%) of the base bid, payable without condition to the City of Bentonville. Personal or company checks are not acceptable. The bid bond shall be accompanied by a power of attorney showing the authority of the person executing the bond on behalf of the surety company. Failure to include a bid bond or bid guarantee request with your bid submittal may be cause for rejection of your bid. Bid guarantees (submitted by certified or cashier's checks) will be returned to unsuccessful bidders when the successful bidder is determined and the contract is executed. **When noted, a certified check or bid bond in the amount of 5% of the total bid shall accompany bid if bid exceeds \$35,000.00 [pursuant to Arkansas Code Annotated Section 22-9-203].**

31. **PERFORMANCE BOND:** At the discretion of the City, a performance bond may be required under the contract resulting from this solicitation. Such bond must be of a type and amount suitable for the nature of the commodity or services purchased and the dollar amount of the contract as indicated in this solicitation. The performance bond shall be for the duration of the contract, guaranteeing the faithful performance of the contract, and otherwise conditioned as required by law. Performance bond shall be accompanied by a power of attorney showing the authority of the person executing the bond on behalf of the surety company. Bond forms must be executed with a surety company licensed to do business in the State of Arkansas. The cost of the bond shall be included in the bidder's offer.
32. **MODIFICATIONS FOR CHANGES:** No agreement or understanding to modify this solicitation and resultant purchase orders or contract shall be binding upon the City unless made in writing by the Purchasing Manager of the City of Bentonville.
33. **ORDER OF PRECEDENCE:** In the event of an inconsistency between provisions of the solicitation, the inconsistency will be resolved in the following order: (a) the schedule; (b) Instructions to Bidders and General Conditions; (c) special provisions; (d) other provisions of the contract, whether incorporated by reference or otherwise; and, (e) the specifications.
34. **WARRANTY:** Supplies or services furnished as a result of this solicitation shall be covered by the most favorable commercial warranties, expressed or implied, that the bidder and/or manufacturer gives to any customer. The rights and remedies provided herein are in addition to and do not limit any rights afforded to the City by any other clause of this bid. The City reserves the right to request from bidders a separate manufacturer certification of all statements made in the bid.
35. **PAYMENT:** Payment for materials or services received under this contract will be made upon completion of delivery for each purchase order and submission of invoice to the Accounts Payable Department, 117 West Central, Bentonville, AR 72712. Normal pay periods for the City are every other Friday.
38. **GOVERNING LAW:** Any agreement resulting from this solicitation shall be interpreted under and governed by the laws of the State of Arkansas.
39. **ESCALATION/DE-ESCALATION CLAUSE:** In the event prevailing market conditions warrant an adjustment in contract pricing, the following escalation/de-escalation clause shall be the only clause acceptable to the City:
 1. Contractor shall give written notice to the Purchasing Manager of any proposed changes from contract prices not less than fifteen (15) calendar days prior to the effective date of price changes.
 2. Such notice must be accompanied by a copy of the supplier's notification to the contractor of a justifiable price change.
 3. No price escalation will be authorized in excess of the amount of the increase indicated on the supplier's notice.
 4. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.
 5. Approved price changes are not applicable to orders already issued and in process at time of price change.
 6. The City reserves the right to audit and/or examine any pertinent books, documents, papers, records, or invoice relating directly to the price increase after reasonable notice and during normal business hours.
 7. The Purchasing Manager retains the right to determine whether or not such proposed price changes are in the best interests of the City.
 8. If in the opinion of the Procurement Manager any proposed increase is found unacceptable, the Purchasing Manager reserves the right to cancel the contract upon fifteen (15) calendar days' written notice.
 9. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index or some other form of verifiable document. Contractor will put the Procurement Manager on the mailing lists for such publications so the Purchasing Manager can monitor said changes. Such membership will be at no cost to the City.
 10. If parties to the contract cannot agree on renewal terms, it is understood that the contract will be cancelled and a new contract will be solicited.
40. **ADDITIONAL INFORMATION:** Additional information may be obtained from the Purchasing Office at (479) 271-3115.

REQUIREMENTS

Bidder must indicate, as specified, by placing an "x" in the designated column. Bidder must also provide additional information where indicated. Bidders should include, with their bid, manufacture specification brochure for equipment being bid. Not including equipment literature may be terms for bid rejection.

MANUALS

As Specified

Vendor shall provide:

- One (1) copy of the Operator's Manual
- One (1) copy of Equipment Repair Manual
- One (1) copy of Equipment Parts Manual

X
X
X

Equipment will not be accepted for delivery until the manuals listed above are received by the City of Bentonville.

REPLACEMENT PARTS

Parts shall be available within three (3) working days after request for the first five (5) years or 7,500 hours of the equipment bid. If replacement parts are unavailable in the time required, vendor shall provide, to the City at no additional charge, an equivalent excavator for the City to use until suchtime as the replacement parts are available.

X

WARRANTY

Bidder shall submit a copy of the manufacturer's standard warranty. Bidder shall also provide pricing for a five (5) year, 5,000 hour powertrain and hydraulics warranty on the following pricing sheet of this bid. Additional warranty shall include service response time of no more than 24 hour notice by the City. If warranty service will take three (3) or more working days bidder shall deliver an equivalent excavator the City's use, at no additional cost, until warranty service is complete.

X

SPECIFICATIONS

REDUCED TAIL SWING TRACK MOUNTED HYDRAULIC EXCAVATOR

- Operating Weight 32,500 lbs. – 34,000 lbs.
- Rated net engine power shall be no less than 90 hp.
- Minimum four (4) cylinder diesel engine with a displacement of no less than 180 cu. in.
- Engine shall have auto idle mode to reduce engine speed when Hydraulics are not in use.
- Engine shall have a cold start aid such as glow plugs.
- Undercarriage shall have a minimum of one (1) carrier rollers and a minimum of seven (7) Track rollers per side.
- Track and carrier rollers shall be lubricated for life.
- Track shall be grease lubricated.

X
X
X
X
X
X
X
X

- Track shoe width shall be a minimum of twenty (20) inches. ✓
- Tracks shall have manufactured rubber crawlers. No exceptions. X
- Shall include standard right hand, left hand, and counterweight mirrors. ✓
- Shall include standard rear camera X
- Shall include lockable cab door, fuel cap, service doors and tool box. X
- Swing speed shall be no less than 11 rpm. X
- Cab shall have an openable roof hatch, clear visibility to overhead obstacles and sunshade X
- Cab shall have auto climate control (A/C and Heater). ✓
- Horn and travel alarm shall be operable while machine is moving forward and in reverse. X
- Shall have a minimum reach of twenty-seven (27) feet at ground level. X
- Shall have a minimum of nineteen (19) feet, six (6) inches of digging depth. X
- Equipment shall include valves, hoses, plumbing and controls to connect to hydraulic Cylinder to run any type of hydraulic powered implement (hydraulic thumbs, etc.) X
- Bidder shall install full rotation thumb and connect to the hydraulics as described above ✓
- HELAC tilting bucket attachment with built-in quick coupler compatible with OEM buckets Installed and connected to the hydraulics as described. X
- 30" bucket with teeth and compatible with HELAC tilting bucket attachment as described. ✓
- 60" ditch cleaning bucket compatible with HELAC tilting bucket as described. ✓
- Backfill blade with bolt on replaceable cutting edge X

Notice to Bidders
City of Bentonville
IFB-18-008 Amended

IFB-18-008 – Excavator is amended as follows:

Page 9

Delete:

As Specified

- ~~• HELAC tilting bucket attachment with built-in quick coupler compatible
with OEM buckets installed and connected to the hydraulics as described~~

Add:

- Quick Coupler compatible with OEM Buckets ☒
- HELAC tilting bucket attachment for 60" Ditch cleaning bucket installed
and able to quick connect to the optional hydraulics as described above. ☒

Vendor must acknowledge and submit this amendment with their bid or bid may be rejected.

Vendor Signature:


JA Riggs / CAT Sales mgr
Company/Title

PRICING SHEET

(Bid prices shall include all costs as indicated in the "Equipment Specification", but shall exclude taxes for evaluation purposes)

EXCAVATOR: **Quantity 1 each**

\$ 152,790⁰⁰

Year/Make and Model of Excavator being bid:

2018 Caterpillar 315F

Five year / 5,000 hour additional warranty

\$ 1,726⁰⁰

HELAC tilting bucket attachment with built-in quick coupler

\$ 9,088⁰⁰

30" bucket with teeth and compatible with HELAC tilting bucket

\$ 3,605⁰⁰

60" ditch cleaning bucket compatible with HELAC tilting bucket

\$ 4,349⁰⁰

Backfill blade with bolt on replaceable cutting edge

\$ 7,904⁰⁰

TOTAL:

\$ 179,462⁰⁰

Pricing of the Above Listed Item is subject to the purchase
of the Above specified Caterpillar 315F machine.

City of Bentonville
IFB-18-008
Excavator

[illegible]



CHECK ALL THAT APPLY		
	Bid Award	Bid #
	Budget Adjustment	
	Change Order	
	Informational	
X	Ordinance	
	Resolution	
	Other	

AGENDA FORM

CITY COUNCIL MEETING OF:

March 27, 2018

Submitted by:

Bryan Wick

Department

Engineering

Phone

479-696-0227

ACTION REQUIRED:

Staff requests City Council approval of a waiver of competitive bidding requirement for the materials needed to add protected left turn signals to the intersection of South Walton and SE 28th Street. These components are sole source items provided by Temple. None of the items being purchased are more than \$20,000.00 individually. Cost of this request is \$48,146.18 including tax and freight and will come from the Bond account.

COST TO CITY:

Cost of this Request: \$48,146.18

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE



REQUEST FOR WAIVER OF BID

Date 3/27/2018

Requested by: Bryan Wick

Department: Engineering

DESCRIPTION OF REQUEST:

Type of Equipment: Traffic Signal Components

Year & Model: See Quote Attached

Serial # See Quote Attached

To Be Purchased From: Temple, Inc.

P.O. Box 2066

Decatur, Alabama 35602-2066

Amount:	Base Amount:	\$	<u>43,421.18</u>
	Tax:	\$	<u>4,125.00</u>
	*Other:	\$	<u>600.00</u>
	TOTAL	\$	<u>48,146.18</u>

* List all other costs:

JUSTIFICATION FOR REQUEST FOR WAIVER OF BID:

Staff requests City Council approval of a waiver of competitive bidding requirement for the materials needed to add protected left turn signals to the intersection of South Walton and SE 28th Street. These components are sole source items provided by Temple. None of the items being purchased are more than \$20,000 individually. Cost of this request is \$48,146.18 including tax and freight and will come from the Bond account.

Department Head

Director of Finance & Administration

Revised 6-18-99

Memorandum



To: Mayor and City Council

From: Bryan Wick, Project Manager

Date: Monday, March 19, 2018

Re: Wavier of Bid for Traffic Signal Equipment for S Walton and SE 28th Street

In May of 2017, TEC performed a left turn protected turn warrant study for the intersection of South Walton Blvd and SE 28th Street. The study shows that the protected left turn is needed so the process was started with ArDot. Plans were developed and ArDot has issued the City of Bentonville a permit for construction.

In efforts to help expedite the installation of the turn signal, the City will be purchasing the equipment needed. The total cost of the equipment will be \$48,146.18, tax and freight included which will come from the Bond Account. None of the equipment or components will be more than \$20,000 individually. Since all of these items are sole source, a waiver of bid is requested to purchase these materials. Please see the attached letters indicating the Temple, Inc. is the sole source provider.

Staff recommends that City Council approve of the wavier of bid to purchase traffic signal equipment for the installation of protected left turn signals at the intersection of S Walton Blvd and SE 28th Street.

Please contact me with any questions or concerns regarding the project. My telephone number is (479) 696-0227 or I can be reached via email at bwick@bentonvillear.com.

Temple, Inc.
P.O. Box 2066
Decatur, Alabama 35602-2066
Phone 1-800-633-3221
Fax (256) 353-4578



Serving the South Since 1954!

Signal Equipment
Bentonville, AR
attn: Brad Conley

DATE
March 16, 2018
TERMS
NET 30
DELIVERY
12-14 Weeks A.R.O.
SALESMAN
Brad White

CONDITIONS: The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by **Temple, Inc.** All quotations and agreements are contingent upon strikes, accidents, fires, availability of materials and all other causes beyond our control. Prices are based on costs and conditions existing on date of quotation and are subject to change by **Temple, Inc.** before final acceptance. Freight will be prepaid and allowed unless otherwise noted on this quotation.

Quantity	Description	Price	Amount
			\$ -
1	EPAC6138M62 [8133-0000-014] Eight phase controller	\$ 2,882.05	\$ 2,882.05
1	MMU2-16LEip NEMA LCD Malfunction Management Unit	\$ 782.05	\$ 782.05
1	KY-3182RM 10 Port Managed Card Rack Traffic Switch	\$ 1,094.87	\$ 1,094.87
3	EDGE2-2N processor with trade-in	\$ 2,700.00	\$ 8,100.00
1	EDGECONNECT-PAK	\$ 2,198.72	\$ 2,198.72
1	SP1250LX-N Uninterruptible Power with 6 battery pack	\$ 5,803.85	\$ 5,803.85
1	2 Wire iNavigator System to include:	\$ 5,631.38	\$ 5,631.38
8	IN23TN0Y button		
1	ICCU-S ICCU Shelf Model		
1	IN2-ICB Interconnect Board for ICCU-S		
1	850-217 Standard Cable Harness 50 Pin		
8	800H-84 Sign		
4	Special Message		
8	4606479001 Dialight countdown ped module	\$ 365.38	\$ 2,923.04
4	4 section head with backplates (FYA)	\$ 660.68	\$ 2,642.72
1	HDMI Color Monitor	\$ 612.50	\$ 612.50
300	ZCA-8281 Belden Coaxial price per foot	\$ 1.41	\$ 423.00
300	ZCA-1119A Belden Power Cable price per foot	\$ 1.28	\$ 384.00
1	Tax	\$ 4,125.00	\$ 4,125.00
1	Freight	\$ 600.00	\$ 600.00
NOTES:			
1) Temple, Inc. reserves the right to charge 4% on all credit card purchases			

Quote Valid For 30 Days.

SALESMAN

Bentonville.031418.Signal Equipment revised

Temple, Inc.
P.O. Box 2066
Decatur, Alabama 35602-2066
Phone 1-800-633-3221
Fax (256) 353-4578



Serving the South Since 1954!

Signal Equipment
Bentonville, AR
attn: Brad Conley

DATE
March 16, 2018
TERMS
NET 30
DELIVERY
2 - 6 Weeks A.R.O.
SALESMAN
Brad White

CONDITIONS: The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by **Temple, Inc.** All quotations and agreements are contingent upon strikes, accidents, fires, availability of materials and all other causes beyond our control. Prices are based on costs and conditions existing on date of quotation and are subject to change by **Temple, Inc.** before final acceptance. Freight will be prepaid and allowed unless otherwise noted on this quotation.

Quantity	Description	Price	Amount
			\$ -
100	7 cc 14ga Stranded Cable	\$ 0.75	\$ 75.00
1	8 phase Cabinet Assy w/16 load switch positions with backdoor and integrated UPS compartment. Note: Includes loadswitches, flashers, flash relays and necessary incidentals	\$ 9,868.00	\$ 9,868.00
NOTES: 1) Temple, Inc. reserves the right to charge 4% on all credit card purchases 2) Tax will be added if applicable. 3) Freight not included unless noted on quote			

Quote Valid For 30 Days.

SALESMAN
Bentonville.031418.Signal Equipment revised



CLARY CORPORATION
150 E. HUNTINGTON DR.
MONROVIA, CA. 91016
TEL: 800-44-CLARY
FAX: 626-305-0254

March 14, 2018

To whom it may concern;

Please be advised that Temple, Inc. is our exclusive, contracted, representative dealer for Clary Corporation's ITS and Traffic Power Conditioning and Uninterruptible Power Systems in the state of Arkansas. This representation does not have an expiration date.

Temple, Inc. is a fully factory trained firm, providing full support and design applications of Clary Traffic and ITS UPS products.

All Clary Traffic UPS systems are true on-line, real time, fully digital design, power systems, that provide real-time power conditioning with full voltage and current regulation to all loads at all times.

Clary Corporation is the only manufacturer at this time, of this true on-line totally digital design Power Conditioning UPS product. Other manufacturers utilize various types of battery backup designs which are of mainly a standby type of design concept which cannot and will not, provide real-time voltage and current regulation.

For all repairs you can go through Temple Inc. or directly to Clary Corporation.

Please feel free to contact me at any time if there are any questions concerning Clary products or Temple, Incorporated representation.

Sincerely,

Pamela Ward,
Inside Sales & Engineering,
Clary Corporation
Phone: 626-359-4486
Fax: 626-305-0254
sales@clary.com

150 East Huntington Drive
Monrovia, CA 91016
Ph (626)359-4486 Fax (626)305-0254
www.clary.com



Date: March 14, 2018

Subject: Authorized Dialight Distributor

To whom it may concern:

The authorized distributor for Dialight LED Traffic Signal Modules in the State of Arkansas is Temple, Inc. If there are any questions or concerns, please do not hesitate to contact us.

Best regards,

Steve Robertson

Steve Robertson

Sales Manager – Traffic Division
Dialight Corporation
860.307.4262
srobertson@dialight.com

1501 Route 34 South, Farmingdale, NJ 07727
Tel: (732) 919-3119 Fax: (732) 751-5778 www.dialight.com



EBERLE DESIGN, INC.

3510 East Atlanta Avenue
Phoenix, AZ 85040 USA
www.EDIttraffic.com

Tel: 480-968-6407
Fax: 602-437-1996



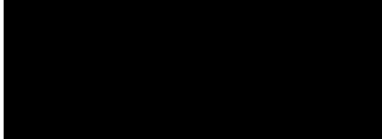
March 14, 2108

To whom it may concern,

This letter certifies that Temple, Inc. is the sole source provider for direct sales of Eberle Design, Inc. products and services into the State of Arkansas.

If you have any questions or require further information, please let me know at your earliest convenience.

Regards,



Jon Muilenberg
Director of Sales

CC: Brad White
Temple, Inc.



1501 Arthur Street
Orlando | FL | 32804
Ph: 407.292.9776 | Mobile: 407.383.1845
Email: ws@iteris.com

July 6, 2017

State of Arkansas

Dear To Whom It May Concern,

This letter is to confirm that Temple, Inc. is the only authorized seller, service and repair supplier for the **Iteris** family of products for the state of Arkansas. This includes our Vantage Video Detection products, Velocity Travel-Time System, and Pegasus Wireless products. Our sales person for Arkansas is:

Brad White

Temple, Inc.

50 Davis Ct

Decatur, AL 35602

brad.white@temple-inc.com (800)-633-3221

They are fully authorized to sell, supervise the installation, and provide warranty service for all of our family of products for the transportation industry.

Warranty and customer service from Iteris is only available for products purchased from an authorized distributor. The only authorized distributor in Arkansas is Temple, Inc..

Sincerely,

A black rectangular box used to redact the signature of W Stokes Wallace.

W Stokes Wallace

Southeastern Regional Sales Manager

Roadway Sensors

1700 Carnegie Avenue | Suite 100 | Santa Ana | CA | 92705-5551 | tel: 949.270.9400 | fax: 949.270.9401 | www.iteris.com



March 14, 2018

To Whom It May Concern:

This letter is to serve as notification that Temple, Inc. is Polara Enterprises, LLCs exclusive distributor for the territory states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Tennessee, and North and South Carolina.

Polara products that they distribute are the Navigator Accessible Pedestrian Signal System, the BullDog push button and the Model X crosswalk activation system.

If you have any questions, please feel free to give me a call.

Sincerely,

Jeremy Cook
HR Manager
Polara Enterprises

"Quality is Our Top Priority and It Starts with Me!"

100 Maple Street
Commerce, TX 75428
Fax 903.366.0399



Phone 903.366.0317
jcook@polaraent.com
<http://www.polara.com>



March 14, 2018

State of Arkansas

RE: Sole source letter

To Whom It May Concern:

Siemens Industry, Inc., Intelligent Traffic Systems is pleased to notify you that Temple is the sole distributor authorized to sell, install and support Siemens traffic control products within the State of Arkansas.

Additionally, as Temple is the sole authorized distributor in the State of Arkansas, they provide first line repair services for Siemens traffic control products and serve as the proper avenue for all service and warranty repairs. Please note that Siemens warranties on products can only be honored if all components are official Siemens parts and all services have been performed by authorized Siemens repair facilities. Repairs to Siemens traffic control products by unauthorized repair facilities could void any warranty and/or functional responsibility on the part of Siemens.

Sincerely,



Steve Gitkin
Director of Sales

Siemens Industry, Inc.
Mobility Division

9225 Bee Cave Road, Suite 101B
Austin, TX 78733

Tel.: +1 512-837-8300
Fax: +1 512-837-0196



March 14, 2018

To Whom It May Concern:

This letter is to serve as notification that Temple, Inc. is the sole provider and distributor of the ELS1014BD cabinet and all its components for the State of Arkansas.

There are no other authorized distributors for these products in the State.

If you have any questions you may contact our corporate offices at 1-800-633-3221 and ask for Forrest Temple.

Sincerely,

Brad White
Temple, Inc.
Arkansas Sales Representative

Temple, Inc.
P.O. Box 2066 • Decatur, AL 35602-2066
(256) 353-3820 • (800) 633-3221
Sales/Customer Fax (256) 353-4578 • Accounting Fax (256) 353-3351

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY CLERK TO PURCHASE EQUIPMENT AND COMPONENTS FOR THE PROTECTED LEFT TURNS AT SOUTH WALTON BLVD AND SE 28TH STREET AND WAIVING THE REQUIREMENT OF COMPETITIVE BIDDING.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS.

Section 1: That the Mayor and City Clerk be and are hereby authorized to purchase materials and components needed for the protected left turns at South Walton Blvd and SE 28th Street, in an amount not to exceed \$48,146.18 as per the proposal attached hereto as Exhibit "A".

Section 2: Due to said intersection needing these improvements and because Temple, Inc. is the sole source provider for these items in this area as per the letters attached hereto as Exhibit "B", it would neither be practical nor feasible to advertise for competitive bidding, and that requirement is herein waived.

PASSED and APPROVED this _____ day of _____, 20____.

APPROVED:

MAYOR

ATTEST:

CITY CLERK



CHECK ALL THAT APPLY			
	Bid Award	Bid #	
X	Budget Adjustment		
	Change Order		
	Informational		
	Ordinance		
	Resolution		
	Other		

AGENDA FORM

CITY COUNCIL MEETING OF:

March 27, 2018

Submitted by:

Brent Boydston

Department

Fire

Phone

271-5927

ACTION REQUIRED:

Fire Department Staff is submitting a request from Whittington Holdings for half of the road construction cost that accesses Station # 7 property. Whittington Holdings has invoiced the City for half the cost. However, because it was not completed within the one year as set forth in the real estate agreement, payment requires Council approval.

COST TO CITY:

Cost of this Request: \$56,431

Additional Budget Amount

☐ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	56,431
Remaining After Adjustment	\$ 56,431

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712
www.bentonvillear.com



PLEASE RECYCLE



BUDGET ADJUSTMENT REQUEST FORM

Budget Adjustment #
(Assigned by Admin)

Department: Fire

Date of Request: March 27, 2018

[illegible]

Justification:

This is the shared cost of the road that accesses Station # 7 property.

FOR ACTING USE ONLY

Council Action: Approved Disapproved Other _____

Date: _____ Date entered: _____ By: _____

Revised 5/1/07

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712

www.bentonvillear.com



PLEASE RECYCLE





Inter-office Memorandum

To: Mayor McCaslin and City Council
From: Brent Boydston, Fire Chief
CC: Camille Thompson, Staff Attorney, Denise Land, Finance Director
Date: March 27, 2018
Re: Shared cost for road construction to Station # 7

The land for station 7 was acquired in 2007, in the contract, the developer and the City agreed to split the cost of the construction of the road to station 7 property in 2008.

Road construction was the developer's responsibility, with reimbursement from the City once complete.

The road is now complete and they have invoiced us for half the cost. However, because it was not completed within the one year as set forth in the real estate agreement, payment requires additional Council approval.

The developer has asked for reimbursement for the City's share of the construction, the City's shared cost is \$56,430.51.

The construction cost would be a budget adjustment from "Impact Fees".



June 22, 2007

J.E. Woods, Jr.
Apartment Development
Services, Ltd.
1750 Valley View Lane
Suite 100
Dallas, Texas 75234

RE: *Offer and Acceptance for Fire Station Site Property*

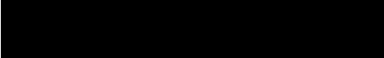
Dear Mr. Woods:

Please find enclosed two fully executed agreements concerning the property referenced above.

We are proceeding with obtaining a lot split through the Planning Commission. Additionally, please advise me if you have a particular title company that you would prefer to utilize for closing. If you have no preference, then I will select one and begin making arrangements.

Please do not hesitate to contact me if you have any questions or concerns regarding this matter.

Sincerely,


Camille Steadman Thompson
Staff Attorney for the City of Bentonville
(479) 271-5956

Enclosures

cc: Chief Dan White

117 W. CENTRAL AVE. • BENTONVILLE, AR 72712 • (479) 271-3112
• www.bentonvillear.com •

OFFER AND ACCEPTANCE

PARTIES: Transcontinental Realty Investors, "Seller", and The City of Bentonville, Arkansas, as "Buyer", hereby agree that the Seller shall sell and Buyer shall buy the following property upon the following terms and conditions:

I. DESCRIPTION:

- a) Legal description of real estate ("Property") located in Benton County, Arkansas:

Part of the SW ¼ of the SE ¼ of Section 15, Township 19 N, Range 31 W, described as beginning at the NE corner of said SW ¼ of the SE ¼ thence West 290'; thence South 300'; thence East 290'; thence North 300' to the point of beginning consisting of 2 acres, more or less.

- b) Street address, if any, of the Property being conveyed is:

None.

- c) Personal property including all buildings and improvements on the property and all right, title and interest of Seller in and to adjacent streets, roads, alleys and rights-of-way, and:

None

II. PURCHASE PRICE.

- a) In lieu of a cash purchase price, and in exchange for the dedication of the property from Seller to Buyer, Seller shall receive a credit toward future Bentonville Fire/EMS Development Impact Fees at the rate of \$2.75 per square foot, not to exceed a total credit of \$239,580.00 as compensation for the property herein described. Further, Seller shall provide the City of Bentonville Community Development Department a copy of this offer and acceptance as proof of said credits at the time of building permit application in order to qualify for said credits. The credits shall apply to the remainder of the 80 acres situated on Regional Airport Road, Bentonville, Arkansas, as more particularly described in the attached Exhibit "A". These credits may be transferred to any purchaser of said property, either the entire tract or parts thereof. If parts of the tract are conveyed separately, the credits shall apply to each part at a rate of \$3,071.53 per square acre and will be applied proportionally by square feet if an acre is subdivided into less than 1 acre lots.

- b) It is further agreed that Buyer and Seller would share equally (50/50) in the construction costs of a road to access the property as shown on the attached Exhibit "B". Seller and Buyer shall agree upon the specifications of said road. Seller shall provide Buyer with bid for construction of said road and Buyer shall have 10 days to accept or reject the price. Failure of

Buyer to respond within 10 days shall be deemed to constitute Buyer's acceptance of the bid. Buyer shall also be responsible for 50% of the engineering costs involved in preparing plans and specifications for said road. Buyer shall reimburse Seller for its pro rata share of the engineering costs and construction, costs and, until acceptance by Seller, for maintenance costs, within 10 days of receiving invoice from Seller. Seller shall construct the road within one (1) year of the date of the agreement, and this agreement shall be a covenant running with the land, binding any successors in title; provided, however, that upon the completion of the Road and acceptance by the City, the covenant shall be released

III. SURVEY & TITLE COMMITMENT; PERMITTED EXCEPTIONS.

- a) Preliminary Title Report. Buyer shall obtain a preliminary Title Report.
- b) Survey. Buyer shall obtain a survey of the property and apply for a lot split/plat dividing said property from the remaining parcels. Seller shall dedicate required right of ways and easements to facilitate the lot split/plat.

IV. PROVISIONS WITH RESPECT TO CLOSING.

- a) Closing Date. The consummation of the transaction contemplated by this Agreement ("Closing") shall take place at such place as designated by Seller on or before July 15, 2007, or at such earlier date as agreed mutually, unless extended by other provisions hereof or by mutual agreement.
- b) Seller's Obligation at Closing. At Closing, Seller shall do the following: Execute, acknowledge, and deliver to Purchaser a Special Warranty Deed conveying the Property to Buyer subject to:
 - (i) taxes and assessments for year of closing and subsequent years;
 - (ii) restrictions, easements and zoning ordinances of record, if any;
 - (iii) public utility easements of record, if any;
- c) Buyer's Obligations at Closing. Subject to the terms, conditions and provisions hereof, and concurrently with the performance by Seller of its obligations set forth in Section IV b) above, Buyer shall deliver to Seller evidence of reduction in impact fees in the amount set forth in Section II of this Agreement.
- d) Closing Costs. Buyer shall be responsible for all closing expenses and costs, other than Seller's attorney fees.
- e) Proration of Taxes. Taxes for the year of the Closing shall be prorated to the date of Closing. If the Closing shall occur before the tax rate is fixed for the then current year, the

apportionment of taxes shall be upon the basis of the tax rate of the preceding year applied to the latest assessed valuation.

V. OTHER CONTRACTUAL PROVISIONS.

- a) Notices. Any notice to be given or to be served upon any party hereto, in connection with this Agreement, must be in writing, and may be given by certified mail and shall be deemed to have been given and received when a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States Mail; and if given otherwise than by certified mail, it shall be deemed to have been given when delivered to and received by the party to whom it is addressed. Such notices shall be given to the parties hereto at the addresses stated above. Any party hereto may, at any time by giving five (5) days' written notice to the other party hereto, designate any other address in substitution of the foregoing address to which such notice shall be given and other parties to whom copies of all notices hereunder shall be sent.
- b) Assignability. The Purchaser is prohibited from assigning all or any part of this Agreement.
- c) Entire Agreement; Modification. This Agreement embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged, or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.
- d) Applicable Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Arkansas.
- e) Headings. Descriptive headings are for convenience and shall not control or affect the meaning or construction of any provision of this Agreement.
- f) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.
- g) Counterparts. This Agreement may be executed in several counterparts, each constituting a duplicate original, but all such counterparts constituting one and the same Agreement.
- h) Interpretation. Whenever the context hereof shall require, the singular shall include the plural, the male gender shall include the female gender and the neuter, and vice versa.

i) Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

j) Section 1031 Exchange. Upon request by Seller, Purchaser shall cooperate with Seller in order to effectuate the goal of Seller to have this transaction qualify for a tax deferred treatment under Section 1031 of the Internal Revenue Code of 1986, as amended, provided that Purchaser is put to no additional expense, in this regard, and that the closing is not materially delayed. Formal provisions detailing the exchange shall be entered into by the parties and made a part of the final contract of exchange, no later than as such time as Purchaser shall acknowledge satisfaction of the contingencies to its obligation to close this transaction.

k) Time for Acceptance & Effective Date. If this offer is not executed by both parties hereto on or before June 8, 2007, this offer shall thereafter be null and void. The date of the Agreement ("Effective Date") shall be the date when the last one of the Seller and Purchaser has signed this offer.

l) City Council Approval. This offer is conditioned upon the City of Bentonville receiving Approval from the Bentonville City Council to purchase this property.

[signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Witnesses: "Buyer" (The City of Bentonville, Arkansas) by:


Mayor Bob McCaslin

Attest:


City Clerk

Date: 6-19-07

"Seller" (Transcontinental Realty Investors) by:

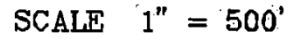

Steven A. Sherry, Vice President

Date: May 30, 2007

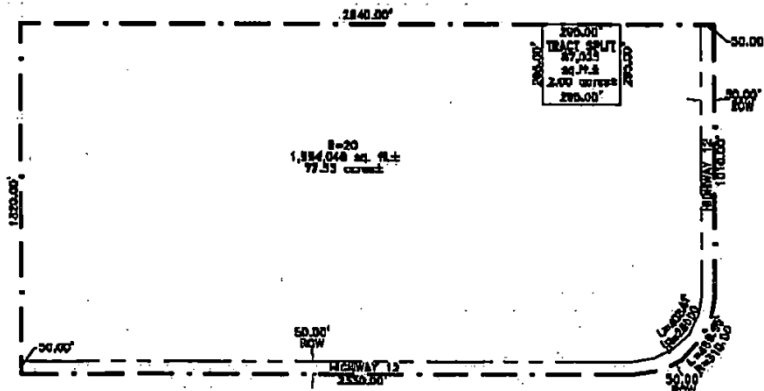
BOUNDARY _____

PROPOSED RIGHT OF WAY _____

PROPOSED LOT LINE _____



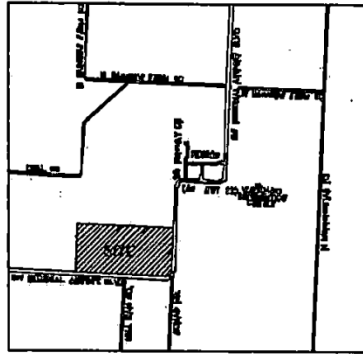
TEAMCENTRAL REAL ESTATE INVESTORS
1009 VALLEY VIEW LANE, 2ND FLOOR
DALLAS, TEXAS 75234



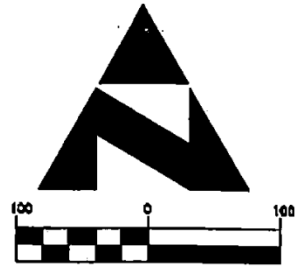
PROJECT WORK

1

A



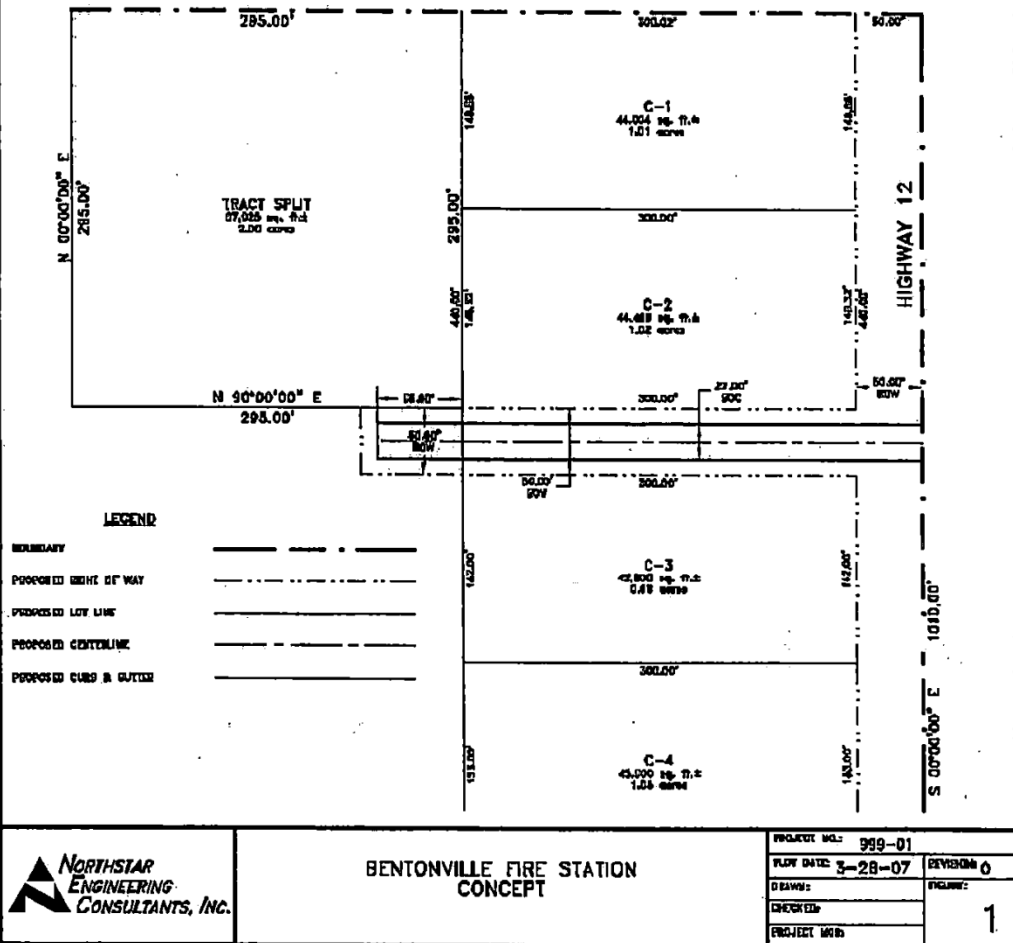
VICINITY MAP
NOT TO SCALE



SCALE 1" = 100'

DEVELOPER:

TRANSCONTINENTAL REALTY INVESTORS
1000 VALLEY VIEW BLVD, 3RD FLOOR
DALLAS, TEXAS 75234



EXHIBIT

B

Sl. 7 property

Brande DeShields-Circuit Clerk
Benton County, AR
Book/Pag 2007/42356
Tore/Cashier: CASH/MPETERS
10/16/2007 11:39:10 AM
Tenn: 16070
Total Fees: \$25.00
Book 2007 Page 42356
Recorded in the Above
DEED Book & Page
10/16/2007

This instrument was prepared by:
James P. Lazer, P.C.
6949 Sherry Lane, Suite #111
Dallas, TX 75226

WARRANTY DEED

Return to: After recording return to:
Landowner's Counsel with Title Insurance Co.
6949 Sherry Lane, Suite #111
Dallas, Texas 75226

KNOW ALL MEN BY THESE PRESENTS:

That, TCI BENTONVILLE, INC., a Nevada corporation (herein referred to as "GRANTOR"), for nominal consideration paid by THE CITY OF BENTONVILLE, ARKANSAS (herein referred to as "GRANTEE"), whose mailing address is: 117 W. Central, Bentonville, Texas 72712, hereby grants, bargains, sells and conveys unto GRANTEE, and unto Grantor's successors and assigns forever, the following real property lying in Benton County, Arkansas, to-wit:

LOT 1, PRIME PARC, BENTONVILLE, BENTON COUNTY, ARKANSAS, AS SHOWN ON PLAT
RECORD "2007" AT PAGE 902.

PARCEL NO.: 01-07958-025

Being a portion of the property conveyed to Grantor by Deed recorded July 18, 2005 in Book 2005,
Page 36200, Real Property Records, Benton County, Arkansas.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its successors and assigns forever. And the said Grantor does hereby covenant to and with Grantee, that it is the owner in fee simple of said premises; that they are free from all encumbrances except as described herein, and that it will warrant and defend the same from all lawful claims whatsoever, by, through or under Grantor, but not otherwise.

[Continued on next page]

Book 2007 Page 42357

Recorded in the Above

This conveyance is made and accepted subject to the lien for current taxes, assessments and all valid and subsisting restrictions, reservations, conditions, limitations, encumbrances, covenants, exceptions and easements as may appear of record, if any, affecting the above described property.

The singular number shall include the plural, the plural the singular, and use of any gender shall be applicable to all genders.

WITNESS Grantor's hand and seal on this 12th day of October, 2007.

TCI BENTONVILLE, INC.

STATE OF TEXAS
COUNTY OF DALLAS

On this day, personally appeared before me STEVEN A. SHELLEY, President of TCI BENTONVILLE, INC., known to me to be the person whose name is subscribed to the within instrument and acknowledgment that he executed the same on behalf of said corporation and for consideration and purposes therein contained.

WITNESS my hand and official seal this 12th day of October, 2007.



My commission expires: July 28, 2010

Amount of Revenue Stamps: \$ NO REVENUE STAMPS REQUIRED AS NO
CONSIDERATION GIVEN.

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have
been placed on this instrument.

Address:

After recording return to:
LandAmerica Commonwealth Title Insurance Co.
5949 Sherry Lane, Suite 111
Dallas, Texas 75225

Book 2007 Page 42358
Recorded in the Above
DEED Book & Page
10/16/2007
Benton County, AR
I certify this instrument was filed on
10/16/2007 11:39:32AM
and recorded in DEED Book
2007 at pages 0042354 - 0042358
Brenda DeShields-Circuit Clerk

OWNER'S POLICY OF TITLE INSURANCE
issued by
Commonwealth Land Title Insurance Company

SCHEDULE A

Name and Address of Title Insurance Company:
COMMONWEALTH LAND TITLE INSURANCE COMPANY
5600 Cox Road, Glen Allen, Virginia 23060-9266

File No.: 3325

Policy No.: C33-0019569

Address Reference: 6346 SW Regional Airport, Bentonville, AR 72712

Amount of Insurance: \$239,580.00

Date of Policy: October 16, 2007, at 11:40am

Premium:

1. Name of Insured:
The City of Bentonville, Arkansas
2. The estate or interest in the Land that is insured by this policy is:
Fee Simple
3. Title is vested in:
The City of Bentonville, Arkansas
4. The Land referred to in this policy is described as follows:
SEE ATTACHED EXHIBIT "A"

Countersigned

Realty Title & Closing Services, LLC

Authorized Signatory

Signing Agent No.: SA305-07

Issuing Agent No.: IA305

SCHEDULE A
Continued

Policy No.: C33-0019569

EXHIBIT "A"

Lot 1, Prime Parc, Bentonville, Benton County, Arkansas, as shown on plat record "2007" at page 802.

OWNER'S POLICY OF TITLE INSURANCE
Issued by
Commonwealth Land Title Insurance Company

SCHEDULE B

File No.: 3325

Policy No.: C33-0019569

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. (A) Any lien, or right to lien, for services, labor, or material heretofore or hereafter furnished imposed by law not shown by the public records. (B) Survey: Any encroachments, measurements, party walls, or other facts which a correct survey of the premises would show. (C) Easements, or claims of easements, not shown by the public records. (D) Rights or claims of parties in possession not shown by the public records.
2. All assessments and taxes for the year 2007 and all subsequent years.
3. Taxes or special assessments which are not shown as existing liens by the public records.
4. Rights claimed in appliances or personal property attached or unattached to the real estate or buildings.
5. Roads, ways or streams, if any, not shown by the public records.
6. Highway 12 right of way agreement, in favor of Arkansas State Highway Commission and Benton County, as filed for record on November 16, 1949 in deed record 279 at page 627, records of Benton County, Arkansas.
7. Right of way grant, in favor of Arkansas Western Gas Company, as filed for record on October 30, 1996 as instrument no. 96-88985, records of Benton County, Arkansas.
8. Water and sewer easement, in favor of Northwest Arkansas Regional Airport Authority, as filed for record on July 1, 1997 as instrument no. 97-54650 and assignment to the City of Bentonville, in an assignment filed for record on June 29, 2001 as instrument no. 2001-94606, records of Benton County, Arkansas.
9. Right of way with special consideration, in favor of the City of Bentonville and Arkansas Western Gas Company, as filed for record on December 9, 1999 as instrument no. 99-129240, records of Benton County, Arkansas.
10. Utility easement, in favor of the City of Bentonville and Arkansas Western Gas Company, as filed for record on December 9, 1999 as instrument no. 99-129241, records of Benton County, Arkansas.
11. Variation in location of the fence line not being on the property line as shown on plat record "2005" at page 218 and as shown on plat record "2007" at page 802, records of Benton County, Arkansas.
12. Rights of the adjoining property owners to that portion of subject property lying between the North boundary line and an off-line inside fence as shown on plat record "2007" at page 802, records of Benton County, Arkansas.
13. Building setback lines and utility easements as established and shown on plat record "2007" at page 802, records of Benton County, Arkansas.

ALTA Owner's Policy (6-17-06)
Schedule B

Page 3



CHECK ALL THAT APPLY			
	Bid Award	Bid #	
X	Budget Adjustment		
	Change Order		
	Informational		
	Ordinance		
	Resolution		
	Other		

AGENDA FORM

CITY COUNCIL MEETING OF:

March 27, 2018

Submitted by:

Travis Matlock

Department

Electric

Phone

271-5941

ACTION REQUIRED:

Electric Department recommends a budget adjustment in the amount of \$12,000.00 to purchase updated SAG-10 software.

COST TO CITY:

Cost of this Request: \$12,000

Additional Budget Amount

☒ One time amount

☐ Continuing O and M

Previously Budgeted	\$
Funds Expended to Date	
Remaining Budget	-
Budget Adjustment	-
Remaining After Adjustment	\$ -

This form must be turned into the Mayor's office 7 days prior to the scheduled City Council meeting.

117 WEST CENTRAL AVENUE * BENTONVILLE, AR 72712
www.bentonvillear.com



PLEASE RECYCLE



MEMORANDUM

DATE: March 27, 2018

TO: City Council, Mayor McCaslin

FROM: Travis Matlock, Engineer Director

RE: Budget Adjustment – SAG-10 software purchase

Staff recommends a budget adjustment for \$12,000 in order to purchase updated SAG-10 software.

SAG-10 is the software that our engineering techs use when designing OH power lines and it was last purchased in 2009. SAG-10 has recently informed us they have stopped supporting our current version, and when IT moves to the next version of Windows, SAG-10 will no longer work. The best option is to purchase a Standard Concurrent License for \$12,000. This will give us the ability to have 5 seats and allow us to install the software on both desktops and laptops.

There will also be a maintenance contract for 10% of the purchase price that will be placed in next year's budget. Not only will this allow us to troubleshoot items, but it will allow the City to receive any future upgrades at no cost.