



City of Jonesboro

900 West Monroe
Jonesboro, AR 72401

Council Agenda City Council

Tuesday, February 3, 2009

6:30 PM

Council Chambers

PUBLIC WORKS COMMITTEE MEETING AT 5:15 P.M.

City Council Chambers, Huntington Building

- 1. Call to order by the Mayor at 6:30 P.M.**
- 2. Pledge of Allegiance and Invocation**
- 3. Roll Call by the City Clerk**
- 4. Special Presentations**

Fire Chief Leonard Jadrich to discuss the recent ISO report

- 5. Consent Agenda**

All items listed below will be voted on in one motion unless a council member requests a separate action on one or more items.

MIN-09:006 Minutes for the City Council meeting on January 20, 2009.

Attachments: [Minutes](#)

RES-09:005 A RESOLUTION TO ENTER INTO CONTRACT WITH HARRY HARDWICK FOR ACQUISITION OF PROPERTY RIGHTS AND RIGHT OF WAYS FOR STREET IMPROVEMENTS AND CONSTRUCTION

Sponsors: Engineering

Attachments: [harry 2](#)

Legislative History

1/22/09	Finance & Administration Council Committee	Recommended to Council
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RES-09:015 RESOLUTION TO PLACE TRAFFIC FOUR-WAY SIGNS IN PATRICK AND BELT STREETS IN THE CITY OF JONESBORO

Sponsors: Police Department

Legislative History

1/20/09	Public Safety Council Committee	Recommended to Council
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RES-09:017 A RESOLUTION TO AMEND THE EMPLOYEE HANDBOOK FOR PUBLIC SAFETY OFFICERS FOR THE CITY OF JONESBORO TO INCLUDE CHANGES ON THE AMOUNT OF COMPENSATORY TIME ACCUMULATION ALLOWED

Sponsors: Public Safety Council Committee

Attachments: [Exhibit A Compensatory \(Comp\) Time](#)

Legislative History

1/20/09	Public Safety Council Committee	Recommended to Council
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6. New Business

Ordinances on First Reading

ORD-09:002 AN ORDINANCE TO LEVY A FINE TO HELP DEFRAY THE EXPENSE OF INCARCERATING PRISONERS IN THE CRAIGHEAD COUNTY DETENTION CENTER

Sponsors: Police Department

Attachments: [Opinion No 2003-264](#)
[Opinion No 2003-264 - PDF](#)

Legislative History

1/20/09	Public Safety Council Committee	Recommended to Council
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7. Unfinished Business

Ordinances on Third Reading

ORD-08:072 AN ORDINANCE TO AMEND AND ADD TO THE JONESBORO MUNICIPAL CODE OF ORDINANCES, TITLE 6 ANIMALS AND FOWL, CHAPTER 6.08 DOGS, SUB SECTION 6.08.05 DOGS TO BE CONFINED FOR THE PROHIBITION OF IMPROPER CONFINEMENT OF DOGS IN THE CITY OF JONESBORO

Sponsors: Mayor's Office and Animal Control

Legislative History

11/18/08	Public Safety Council Committee	Tabled
12/18/08	Public Safety Council Committee	Recommended to Council
1/6/09	City Council	Held at one reading
1/20/09	City Council	Held at second reading

Ordinances on Second Reading

ORD-09:006 AN ORDINANCE TO AMEND TITLE 14, KNOWN AS THE ZONING BOUNDARIES PROVIDING FOR CHANGES IN ZONING BOUNDARIES FROM R-1 SINGLE FAMILY MEDIUM DENSITY DISTRICT TO C-4 LUO NEIGHBORHOOD COMMERCIAL DISTRICT WITH LIMITED USE OVERLAY LOCATED NORTH OF U.S. HIGHWAY 49, WEST OF ADAM DRIVE AS REQUESTED BY THREE SISTERS, LLC

Attachments: [Plat](#)
[Application for a Zoning Map Amendment](#)
[MAPC Report](#)

Legislative History

1/20/09 City Council Held at one reading

8. Mayor's Reports

9. City Council Reports

10. Public Comment

Public Comments are limited to 5 minutes per person for a total of 15 minutes.

11. Adjournment.



City of Jonesboro

900 West Monroe
Jonesboro, AR 72401

Meeting Minutes City Council

Tuesday, January 20, 2009

6:30 PM

Council Chambers

PUBLIC SAFETY COMMITTEE MEETING AT 5:15 P.M.

1. Call to order by the Mayor at 6:30 P.M.

2. Pledge of Allegiance and Invocation

3. Roll Call by the City Clerk

Present 12 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson; Rennell Woods and Mikel Fears

4. Special Presentations

COM-09:002 Proclamation by the Mayor for Clergy Appreciation and Brother Larry G. Hunt Month

Attachments: [Larry Hunt Proclamation](#)

Mayor Perrin read the proclamation announcing January 20, 2009, through February 20, 2009, as Brother Larry G. Hunt month and Clergy Appreciation month.

This item was Read.

5. Consent Agenda

Approval of the Consent Agenda

A motion was made by Councilman Chris Moore, seconded by Councilman Tim McCall, to Approve the Consent Agenda. A motion was made that these files be approved by consent voice vote.

Aye: 12 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson; Rennell Woods and Mikel Fears

MIN-09:003 Minutes for the City Council meeting on January 6, 2009.

Attachments: [Minutes](#)

This item was PASSED on the consent agenda.

MIN-09:004 Minutes for special called City Council meeting on January 12, 2009.

Attachments: [Minutes](#)

This item was PASSED on the consent agenda.

6. New Business

Ordinances on First Reading

ORD-09:001 AN ORDINANCE TO AMEND THE JONESBORO CODE OF ORDINANCES CHAPTER 2.20, ENTITLED CITY COUNCIL; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES

Attachments: [Rules of Order and Procedure](#)
[Rules of Order and Procedure - PDF](#)

Councilman Moore offered the ordinance for first reading by title only.

Councilman Moore motioned, seconded by Councilman Dover, to amend two items in the ordinance. First, on line 189, instead of reading "Handbook for Arkansas Municipal Officials" it should read "Procedural Rules for Municipal Officials". Second, on lines 343 and 344, instead of reading "city employee" it should read "department head". He noted those amendments were discussed with the Mayor and City Clerk. All voted aye.

Councilman Moore motioned, seconded by Councilman Dover, to suspend the rules and waive second and third readings. All voted aye.

Councilman Johnson explained he has a problem with the wording in 2.20.01 (C) Special Meetings that states notification of special meetings shall be given by personal service or telephone. He further explained not everyone is able to receive an email because they are not at their computer during the day and the Clerk's Office does not have time to call each of the aldermen. He stated he doesn't know what kind of compromise but asked that some sort of compromise be made. He added if a special meeting is called he would think the individuals calling the special meeting would contact each of the Aldermen to determine whether there would be a quorum. City Clerk Donna Jackson stated she has spoken with IT Director Bill Jenkins to look into setting up a system in which she can record a message and then the message be sent out to whatever numbers the Aldermen provide. She explained the problem with the special called meetings is the media has to be notified at least two hours prior to the special called meeting, so calling each Alderman would be time consuming. She noted if they can set up the message system in addition to whoever is calling the special meeting making sure they have a quorum ahead of time, then that should help solve the problem. Councilman McCall questioned whether there was someone at City Hall who could make phone calls to the Aldermen in the event of a special called meeting. Councilman Johnson explained in order to properly serve the citizens, then some sort of communication needs to be set up. Councilman Moore questioned whether the messaging system would be traceable in order to verify the call is made. Mayor Perrin answered yes, they would be able to show when the calls were made.

Councilman Johnson then referred to 2.20.12 (A), which discusses Council committees and the designation of a chair. He stated he would like to see some sort of provision that limited committee chairs from serving a maximum of two terms. He explained if Nominating and Rules is rotated, then committee chairs should be rotated as well. Councilman Moore stated as the Rules are currently written the committee chair can be changed every year by vote of the committee. He explained

with Council committee assignments the Aldermen should make sure they can meet at the times the committee meets because of all twelve Aldermen decide they want to be on one committee, then it will take seven Aldermen to make a quorum in order for that committee to do business. Councilman Johnson stated he doesn't have a problem with the way the committees are set up. He added if the subcommittee chairs would have more communication with the department heads of the subcommittees they chair, then that would also take some of the burden off the Council committee chairs. Mayor Perrin agreed with Councilman Johnson.

Councilman Street motioned, seconded by Councilman Moore, to adopt the emergency clause. All voted aye.

A motion was made by Councilman Chris Moore, seconded by Councilman Darrel Dover, that this Ordinance be Passed. The motion CARRIED by a Voice Vote.

Aye: 12 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson; Rennell Woods and Mikel Fears

Enactment No: O-EN-006-2009

ORD-09:006 AN ORDINANCE TO AMEND TITLE 14, KNOWN AS THE ZONING BOUNDARIES PROVIDING FOR CHANGES IN ZONING BOUNDARIES FROM R-1 SINGLE FAMILY MEDIUM DENSITY DISTRICT TO C-4 LUO NEIGHBORHOOD COMMERCIAL DISTRICT WITH LIMITED USE OVERLAY LOCATED NORTH OF U.S. HIGHWAY 49, WEST OF ADAM DRIVE AS REQUESTED BY THREE SISTERS, LLC

Attachments: [Plat](#)
[Application for a Zoning Map Amendment](#)
[MAPC Report](#)

Councilman Street offered the ordinance for first reading by title only.

Councilman Moore asked for the rezoning to be left at one reading.

This Ordinance was Held at one reading.

7. Unfinished Business

Ordinances on Second Reading

ORD-08:072 AN ORDINANCE TO AMEND AND ADD TO THE JONESBORO MUNICIPAL CODE OF ORDINANCES, TITLE 6 ANIMALS AND FOWL, CHAPTER 6.08 DOGS, SUB SECTION 6.08.05 DOGS TO BE CONFINED FOR THE PROHIBITION OF IMPROPER CONFINEMENT OF DOGS IN THE CITY OF JONESBORO

Sponsors: Mayor's Office and Animal Control

Councilman Moore asked the ordinance be held at second reading.

This Ordinance was Held at second reading.

8. Mayor's Reports

Mayor Perrin stated at the next Council meeting City Attorney Phillip Crego will have an updated list of all the lawsuits pending with APERMA. He explained they hope to have a proposal from the accounting firm for accounting policies and procedures. He

added they are working on committees that were discussed during the budget process, such as revenue enhancement, capital improvements and building and long-range planning. He further explained the employee working with Springbrook will be leaving in February for training and they are looking at finalizing a chart of accounts. Mayor Perrin stated they will also be looking at devising a preliminary control and security system in Springbrook. He stated he and Finance Director Jim Barksdale will be meeting on Thursday with the Department of Finance and Administration to discuss previous audits and the recurring items that have come up during those audits. He noted the City has been written up for not having a disaster recovery plan, but they plan to have an ordinance to present at the next meeting in order to take bids for disaster recovery plans.

Mayor Perrin explained on February 19th the City of Jonesboro will be 150 years old. He explained he is putting together a committee to determine how the City will celebrate the event.

Mayor Perrin stated the books for December will be closed on February 10th. He noted there are still bills coming in for 2008, but they will be able to close the books on the 10th and provide a report to the Council.

9. City Council Reports

Councilman Fears explained last week several of the elected officials attended the Arkansas Municipal League Conference in Little Rock. He further explained the conference was very informative and was a good chance to get to know the other Aldermen.

Councilman Dover motioned, seconded by Councilman Fears, to nominate Councilman Moore as President Pro Tem. All voted aye.

Councilman Street announced a Stormwater Management Board meeting at 8:30 a.m. on Wednesday, January 21st.

Councilman Gibson recognized Councilman Woods as being named one of Arkansas' Young Guns in Business by the Municipal League.

Councilman Moore presented the Aldermen with a form to fill out, stating which Council committee they would like to serve on. He asked for the forms to be submitted to the Clerk before each Aldermen leaves the meeting.

Councilman Moore stated over the last two years the Council has gotten sloppy during Council and committee meetings, noting that he has witnessed talking among Aldermen taking place while business is being conducted. He suggested nominating a parliamentarian to get back on track with making sure the Council is following the Rules and Procedures and make sure the ordinances are in proper form. He noted the City has been lucky by not being challenged by a court with some of the items that have been passed by Council. Councilman Moore stated he has spoken with Mayor Perrin about it and recommended putting together some guidelines for a parliamentarian. He added it is not the Mayor, City Clerk or City Attorney's job to police the Council; rather, the City Council should police itself. He asked City Clerk Jackson to put together some information for him regarding a parliamentarian and what other cities do in that respect.

Councilman Hargis stated he is looking forward to the flow of financial information increasing with the new administration. Mayor Perrin agreed, stating he is hoping to provide balance sheets on all departments by the end of each month.

Mayor Perrin announced the City received \$293, 261 from FEMA due to Hurricane Ike. He added more funds will be coming in because of the work they did to help other cities, such as Marmaduke. He noted the money will be going back into the General Revenue account.

10. Public Comment

Chairman of the Employee Representative Committee Larry Jackson asked for an update concerning the employees getting out of the landfill. City Engineer Craig Light explained they have received 22 properties that are being looked at as potential sites for the new facility. He stated they will meet tomorrow to narrow that down to five sites. He added the architect has started their process.

Mr. Harold Carter asked what department within the City controls the public access television. Mayor Perrin stated the IT Department works with the public access channel. Mr. Carter then questioned whether there are any rules and procedures governing the public access television, but the City and Suddenlink were not able to provide any information. He asked how he can get a copy of those rules and procedures. He noted there is supposed to be a complaint committee in case citizens have problems with Suddenlink. Councilman McCall noted in the past the Public Services Committee heard concerns from citizens regarding public access. Mayor Perrin stated the access channel is not being used to its potential, so IT Director Bill Jenkins has contacted Suddenlink regarding the use of the channel. He noted he is working with Arkansas State University's Radio and TV Department in order to record the meetings with more cameras than what is currently being used. He added they have discussed using the public access channel for other things, such as weather alerts, in order to provide more information to the citizens. Mayor Perrin stated he also hopes to use the public access channel one a month to broadcast press conferences, so he can let the citizens know what has gone on in the current month and what is to be expected the next month. Councilman Hargis asked for a preliminary public report from someone in the City regarding what the City has now and what the City should have. Mayor Perrin stated a report will be put together.

Mr. Pat Austin stated a brick was thrown at the back window of his car on Christmas Eve and last Friday his home was broken into. He noted he lives in north Jonesboro. He discussed the living situation in north Jonesboro. He explained the Police Department's advice to him was to move and stated the Police Department has apparently given up on that area of town. Mayor Perrin asked what Mr. Austin's address is. Mr. Austin stated he was not comfortable giving his address due to possible retaliation. He gave his address to the Clerk. Mayor Perrin stated he would like Mr. Austin to visit with Police Chief Michael Yates. Mr. Austin answered he would speak with Police Chief Yates.

11. Adjournment.

A motion was made by Councilman Mitch Johnson, seconded by Councilman Chris Moore, that this meeting be Adjourned. The motion CARRIED by a Voice Vote.

Aye: 12 - Darrel Dover; Ann Williams; Charles Frierson; Jim Hargis; Chris Moore; John Street; Mitch Johnson; Tim McCall; Gene Vance; Chris Gibson; Rennell Woods and Mikel Fears

_____ Date: _____
Harold Perrin, Mayor

_____ Date: _____
Donna Jackson, City Clerk



City of Jonesboro

515 West Washington
Jonesboro, AR 72401

Text File

File Number: RES-09:005

Introduced: 1/6/2009

Current Status: Recommended to
Council

Version: 1

Matter Type: Resolution

Title

A RESOLUTION TO ENTER INTO CONTRACT WITH HARRY HARDWICK FOR ACQUISITION OF PROPERTY RIGHTS AND RIGHT OF WAYS FOR STREET IMPROVEMENTS AND CONSTRUCTION

Body

WHEREAS, The City of Jonesboro desires to enter into a contract with Harry Hardwick, an independent contractor for the purpose of acquiring property rights and right of ways for street improvements and construction and all other duties as directed by the Mayor; and coordinated by Chief City Engineer; and

WHEREAS, It is in the best interest of the City of Jonesboro that the City Council authorize the Mayor and City Clerk to execute this contract;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF JONESBORO, ARKANSAS THAT:

1. This contract for the purpose of obtaining the services of Harry Hardwick to acquire property rights and right of ways for street improvements and construction is in the best interest of the City of Jonesboro.
2. The Mayor and City Clerk are hereby authorized to execute said contract for 2009.

**CITY OF
JONESBORO**

CONTRACT FOR SERVICES

AGREEMENT, entered this 1st day of January, 2009, by and between **Harry Hardwick** and the City of Jonesboro. Now, whereas **Harry Hardwick** is in the business of acquiring property rights and right of ways for street improvements and construction and all other duties as directed by the Mayor, and whereas; the City of Jonesboro is desirous of obtaining such services; **KNOW THEREFORE, FOR AND IN CONSIDERATION OF** the payment of \$1,450.00 twice monthly for twelve months, Harry Hardwick agrees to acquire the desired right of ways for the City of Jonesboro.

W-I-T-N-E-S-S-E-T-H

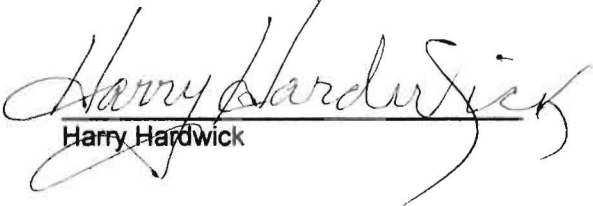
1. **TERM.** This contract shall continue in full force and effort for a period of 12 months from the date subscribed herein, until 12/31/2009.
2. **PLACE OF PERFORMANCE.** This contract shall be performed within the city limits of Jonesboro, Arkansas.
3. **AUTHORIZATION.** The duly authorized officer of the City of Jonesboro hereto does authorize Harry Hardwick to perform all necessary and requested acquisitions of desired right of way.
4. **INDEPENDENT CONTRACTOR.** The parties hereto do understand and agree that Harry Hardwick is an Independent Contractor not an employee of the City of Jonesboro. That neither party has the right or authority to direct or control the other or agents in the performance of duties and each agrees to indemnify and hold the other harmless for any liability arising from their acts.
5. **ASSIGNMENT.** This contract is only assignable with the written consent of the parties hereto.
6. **GOVERNING LAW.** This contract shall be governed by the Laws of the State of Arkansas.
7. **TOTAL INCORPORATION.** This agreement is the entire agreement between the parties and may only be modified by mutual agreement in writing.

- 8. **SAVINGS CLAUSE.** This agreement and individual covenants and conditions set forth herein shall be severable. In the event that any provisions shall be held void, illegal or in conflict with applicable State or Federal Law, the remaining provisions shall remain in full force and effect.
- 9. **WITHDRAWAL.** Either party may withdraw from the contract at any time, for any reason.
- 10. **CONTRACTOR.** To furnish personal phone and vehicle, for \$450.00 per month expenses.
- 11. **NOTICES.** Any necessary written notice as communications shall be directed as follows:

HARRY HARDWICK
900 Marjorie Drive
Jonesboro, AR 72401

CITY OF JONESBORO
Attn: Mayor Harold Perrin
515 West Washington Ave.
Jonesboro, AR 72401

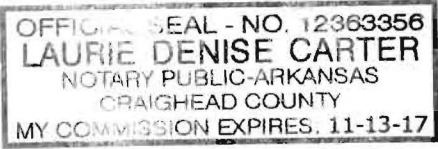
In Witness whereas, the parties hereto have set their hands and seals this 5 day of January, 2009.


Harry Hardwick

Harold Perrin, Mayor

STATE OF ARKANSAS
COUNTY OF CRAIGHEAD

Subscribed and sworn to before me a Notary Public this 5 day of January, 2009.
My commission expires: 11-13-17.





City of Jonesboro

515 West Washington
Jonesboro, AR 72401

Text File

File Number: RES-09:015

Introduced: 1/9/2009

Current Status: Recommended to
Council

Version: 1

Matter Type: Resolution

title

RESOLUTION TO PLACE TRAFFIC FOUR-WAY SIGNS IN PATRICK AND BELT
STREETS IN THE CITY OF JONESBORO

body

WHEREAS, Chief Yates has reviewed the intersection of Patrick and Belt Street and makes the recommendation that this intersection should be a four-way stop intersection.

BE IT RESOLVED by the City Council of the City of Jonesboro, Arkansas to place four-way stop signs at the intersection of Patrick Street and Belt Street.



City of Jonesboro

515 West Washington
Jonesboro, AR 72401

Text File

File Number: RES-09:017

Introduced: 1/13/2009

Current Status: Recommended to
Council

Version: 1

Matter Type: Resolution

Title

A RESOLUTION TO AMEND THE EMPLOYEE HANDBOOK FOR PUBLIC SAFETY OFFICERS FOR THE CITY OF JONESBORO TO INCLUDE CHANGES ON THE AMOUNT OF COMPENSATORY TIME ACCUMULATION ALLOWED

Body

WHEREAS, THE CITY OF JONESBORO HAD PREVIOUSLY ADOPTED AN EMPLOYEE HANDBOOK AS A GUIDE FOR ALL EMPLOYEES OF THE CITY OF JONESBORO IN RESOLUTION NO. 1995:12, AND AMENDED THE HANDBOOK WITH RESOLUTION NO. 2004:635

WHEREAS, THERE IS A NEED TO FURTHER AMEND SAID EMPLOYEE HANDBOOK,

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF JONESBORO, ARKANSAS THAT:

Section 1: The City of Jonesboro Employee Handbook previously adopted by Resolution No. 1995:12 and amended by Resolution No. 2004:635 be amended as to the allowed amount of Public Safety Officer accumulated compensatory time as reflected in attached Exhibit A.

OVERTIME PAY

Overtime will be paid when you work more than 40 hours in your work week, unless you are a shift working firefighter. If you are a shift working firefighter, you will be paid overtime when you work more than 53 hours in your work week. The rate of pay is 1.5 times your times hourly rate.

COMPENSATORY (COMP) TIME

The City may provide compensatory time (comp time) off in lieu of monetary overtime compensation, at a rate of not less than one and one-half hours of compensatory time for each hour of overtime worked. No employee shall be allowed to accumulate more than a *total* of 40 hours of compensatory time, **unless you are a public safety officer**. After reaching a total of 40 hours compensatory time, all overtime shall be paid in monetary compensation until the total hours of compensatory time drops below a total of 40. The procedure for scheduling compensatory time off is the same as scheduling vacation.

If you are a public safety officer you will be allowed to accumulate no more than a *total* of 100 hours of compensatory time, all overtime shall be paid in monetary compensation until the total hours of compensatory time drops below a *total* of 100 hours. The procedure for scheduling public safety officer's compensatory time off is the same as scheduling vacation.

Department Directors shall be charged with maintaining accurate records of compensatory time in their department and providing the Finance Department records of compensatory time as it is earned and taken.

Upon termination of employment, an employee will be paid for unused compensatory time figured at: 1) the average regular rate received by such employee during the last three years of employment; or 2) the final regular rate received by such employee, *Whichever is higher*.

In the event a non-exempt employee moves into an exempt position, any accumulated compensatory time owed to them shall be taken within 3 months of becoming exempt and if not taken during the 3 month time frame it shall be paid to them at the end of three months at their current rate of pay.

EXHIBIT A



City of Jonesboro

515 West Washington
Jonesboro, AR 72401

Text File

File Number: ORD-09:002

Introduced: 1/5/2009

Current Status: First Reading

Version: 1

Matter Type: Ordinance

Title

AN ORDINANCE TO LEVY A FINE TO HELP DEFRAY THE EXPENSE OF
INCARCERATING PRISONERS IN THE CRAIGHEAD COUNTY DETENTION CENTER

Body

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO,
ARKANSAS THAT:

Due to the rising costs of incarcerating prisoners in the Craighead County detention Center, the Mayor and City Council have determined a need to seek additional funds by the means and for the purposes set forth below.

SECTION 1:

Whereas and pursuant to Arkansas Code Annotated Section 16-17-129, the Mayor and City Council can and hereby does levy a fine in the amount of five dollars on each defendant who pleads guilty or nolo contendere, or is found guilty of, or forfeits bond for any misdemeanor or traffic violation in the Craighead County District Court, and;

SECTION 2:

Whereas, the Clerk of the Craighead County District Court, shall, at the end of each month, turn over the funds generated by this ordinance to the City Treasurer, who shall deposit all such funds in a special fund to be used exclusively to help defray the cost of incarcerating prisoners in the Craighead County Detention Center, as well as payments to other entities for incarcerating prisoners on behalf of the City of Jonesboro, and;

SECTION 3:

Whereas, this ordinance, being necessary for the protection and preservation of health and safety, an emergency is declared to exist and this ordinance shall be enforced and take effect upon passage and publication.

Opinion No. 2003-264
November 4, 2003

The Honorable Randy Laverty
State Senator
P. O. Box 165
Jasper, AR 72641

Dear Senator Laverty:

I am writing in response to your request for an opinion regarding Act 1188 of 2003, which amended A.C.A. § 16-17-129 to include counties among those political subdivisions authorized to levy an additional municipal court (now district court) fine for prisoner expense. You state that Boone County has enacted an ordinance in accordance with Act 1188, and you have asked:

Can the City [of Harrison]¹, by ordinance, also levy and collect an additional \$5.00 from the defendants who reside within the City?

RESPONSE

It is my opinion that the City of Harrison has separate authority to pass an ordinance pursuant to A.C.A. § 16-17-129 levying the additional \$5.00 fine. With regard to the ordinance's applicability, please note that I have enclosed a copy of Attorney General Opinion 2003-238, which addresses possible interpretations of A.C.A. 16-17-129, and which concludes that the proper interpretation can only be definitively reached by a court, absent legislative clarification. I will not restate the analysis, but refer you instead to the opinion for the discussion.

Assistant Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

MIKE BEEBE
Attorney General

¹ Boone County has one district court, the Harrison District Court, located in the City of Harrison. See § 16-17-902 (Supp. 2003) and A.C.A. § 16-17-108 (ss) (Supp. 2003) (concerning the salaries of district court judges and personnel).



City of Jonesboro

515 West Washington
Jonesboro, AR 72401

Text File

File Number: ORD-08:072

Introduced: 8/20/2008

Current Status: Third Reading

Version: 1

Matter Type: Ordinance

Title

AN ORDINANCE TO AMEND AND ADD TO THE JONESBORO MUNICIPAL CODE OF ORDINANCES, TITLE 6 ANIMALS AND FOWL, CHAPTER 6.08 DOGS, SUB SECTION 6.08.05 DOGS TO BE CONFINED FOR THE PROHIBITION OF IMPROPER CONFINEMENT OF DOGS IN THE CITY OF JONESBORO

body

WHEREAS, a large number of dogs within the city limits of Jonesboro, Arkansas have suffered severe injury from being tethered to a fixed location, limited to a small enclosure and neglected; and

WHEREAS, studies by the Humane Society of the United States and other reputable animal organizations have shown that tethering a dog to a fixed location for extended periods of time inhibits socialization and often results in dogs becoming more territorial and aggressive; and

WHEREAS, dogs that are unaltered are more likely to be territorial and aggressive; and

WHEREAS, neighborhoods are harmed by the tethering of dogs to a fixed location for extended periods because of the associated concentration of urine and feces within a small area and damage to the yard

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS THAT:

SECTION 1: A complete revision of Section 6.08.05 of the Jonesboro Municipal Code of Ordinances, Title 6 Animals and Fowl, Chapter 6.08 Dogs, Sub Section 6.08.05 Dogs to be Confined is requested to further outline specific guidelines for the safe confinement of dogs to prevent abuse, cruelty and unwanted aggressive behavior.

SECTION 2: The entire sub section 6.08.05 of the Jonesboro Municipal Code of Ordinances pursuant to Ordinance number 1266, Sec.6 is hereby repealed and replaced with the following five sections.

SECTION 3: Safety of persons and property is utmost in the minds of the City of Jonesboro, Arkansas.

The complete Sub Section 6.08.05 of the Jonesboro Municipal Code is hereby revised as follows.

SECTION 6.08.05 Dogs to be confined. From and after the passage of this chapter, any person owning, possessing or keeping a dog or dogs, whether vaccinated or unvaccinated, licensed or

unlicensed, shall confine such dog or dogs within an adequate fence or enclosure or within a house, garage or other building or shall confine such dog or dogs by a chain or leash affixed to the dog's collar and attached to some substantial stationary object adequate to prevent the dog or dogs from running at large. (Ord. No. 1266, Sec. 6.)

Is hereby amended and replaced with the following:

6.08.05 (A) ACCESS TO WATER AND SHELTER

Any person owning or keeping a dog confined outside must provide the dog with access to fresh clean water and an appropriate dog shelter. The dog shelter must allow the dog to remain dry and protected from the elements. Such shelter shall be fully enclosed on three sides, roofed, and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of wind and rain. The shelter shall be small enough to retain the dog's body heat and large enough to allow the dog to stand and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage must be provided so that water is not standing in or around the shelter.

6.08.05 (B) DOG PENS

Unless otherwise permitted under subsection d, outdoor dog pens shall be located 50 feet from any dwelling other than the person owning or controlling the dog. There shall be at least 100 square feet in such pen for each dog kept therein which is over six months of age over 20 LBS.

6.08.05 (C) TETHERING

Unless otherwise permitted under subsection d and e, it shall be unlawful for any person to tether, fasten, chain, tie, restrain or cause a dog to be fastened, chained, tied or restrained to houses, trees, fences, garages or other stationary or highly immobile objects by means of rope, chain, strap, or any other physical restraint for the purpose of confinement, except an adult dog age 1 year or over and less than 20 pounds.

6.08.05 (D) TROLLEY SYSTEMS

A trolley system is a method to confine a dog by tethering the dog to a cable that is no less than fifteen feet (15ft) in length and elevated seven (7) feet off the ground in a manner that allows the tether to move freely along the length of the cable. Only one animal may be attached to each running cable line or trolley system. Unless otherwise permitted under subsection d, it shall be unlawful for any person to confine a dog through the use of a trolley system as follows in any items 1-6:

- 1.) For more than 10 consecutive hours or more than 16 total hours in any twenty-four hour period.
- 2.) For a puppy under the age of 3 months to be attached to a running cable line or trolley system for more than one consecutive hour or more than 8 hours in a twenty

four hour period.

- 3.) For dogs that are not spayed or neutered for any period of time. Unaltered dogs MUST be in a completely enclosed yard or housed indoors.
- 4.) That is located within 50 feet from any dwelling other than the person owning or controlling the dog.
- 5.) Any tethering system employed shall not allow the dog or puppy to leave the owner's property or
- 6.) In a manner that poses harm to the dog, including without limitation:
 - a.) The use of a collar or harness that is ill fitting or constructed of any material other than leather or nylon;
 - b.) The use of a tether that exceeds 1/5th of the body weight of the dogs or 10 pounds total weight. Or
 - c.) The use of trolley system in an area that contains hazards to the dog or deprives the dog of food, water, and shelter.

6.08.05 (E) PERMITTING

The Director of the Jonesboro Animal Control is hereby authorized to issue permits to allow trolleying of a dog in a manner that would otherwise be prohibited by this section. The yearly cost of said permit shall be \$450.00 per animal.

- 1.) CRITERIA - No permit shall be issued unless the Director determines that: (i) unusual circumstances warrant confinement of the dog in this manner; (ii) the welfare of the dog will not be harmed by the confinement; and (iii) the neighborhood will not be adversely impacted by the confinement.
- 2.) INSPECTION - All permits issued under this subsection shall require consent to both scheduled and unscheduled inspections of the animal and confinement area.
- 3.) REVOCATION - The Director shall revoke a permit issued under this subsection if : (i) the holder of the permit is convicted of ANY offense under local, state, or federal laws involving animal cruelty; or (ii) an inspection indicates that the criteria authorizing the permit are no longer met.
- 4.) PUNISHMENT - Any revocation of permit will be accompanied by a fine of no less than \$250 and one year suspension of permit privileges. Repeat revocation of permits include the aforementioned fines plus any or all of the following, community service, animal care training or jail time as determined by a court.
- 5.) Nothing in this section shall be construed to prohibit walking dogs with a hand-held leash.

6.08.05 (F) FINES

1.) Any person owning, possessing or keeping a dog which has been tethered contrary to the permitted allowances in this Ordinance of the city of Jonesboro, Arkansas, shall be deemed guilty of a misdemeanor and shall upon conviction for the first offense be subject to a fine of Thirty Five Dollars (\$35.00). If that same person is convicted of tethered contrary to the permitted allowances in this Ordinance of the city of Jonesboro a second time, said person shall be subject to a fine of One Hundred Dollars (\$100.00); if a person is convicted of a third offense of tethered contrary to the permitted allowances in this Ordinance of the city of

Jonesboro, that party shall be subject to a fine of Four Hundred Fifty Dollars (\$450.00) and a summons/warrant to appear in court will be issued. Each subsequent offense shall constitute a fine of Five Hundred Dollars (\$500.00), an issuance of a summons/warrant to appear in court, court costs and potential permanent removal of pet. The fine shall be in addition to all charges imposed upon said party in



City of Jonesboro

515 West Washington
Jonesboro, AR 72401

Text File

File Number: ORD-09:006

Introduced: 1/14/2009

Current Status: Second Reading

Version: 1

Matter Type: Ordinance

title

AN ORDINANCE TO AMEND TITLE 14, KNOWN AS THE ZONING ORDINANCE PROVIDING FOR CHANGES IN ZONING BOUNDARIES

body

BE IT ORDAINED BY THE CITY COUNCIL OF JONESBORO, ARKANSAS:

SECTION I: TITLE 14, KNOWN AS THE ZONING ORDINANCE OF THE CITY OF JONESBORO, ARKANSAS BE AMENDED AS RECOMMENDED BY THE METROPOLITAN AREA PLANNING COMMISSION BY THE CHANGES IN ZONING CLASSIFICATION AS FOLLOWS:

FROM (R-1) SINGLE FAMILY MEDIUM DENSITY DISTRICT TO (C-4 LU-O), NEIGHBORHOOD COMMERCIAL DISTRICT WITH LIMITED USE OVERLAY, THE FOLLOWING DESCRIBED PROPERTY:

LEGAL DESCRIPTION:

LOT 1 OF BLOCK A AND LOT 1 OF BLOCK B OF MERRELL ESTATES REPLAT, TO THE CITY OF JONESBORO, ARKANSAS.

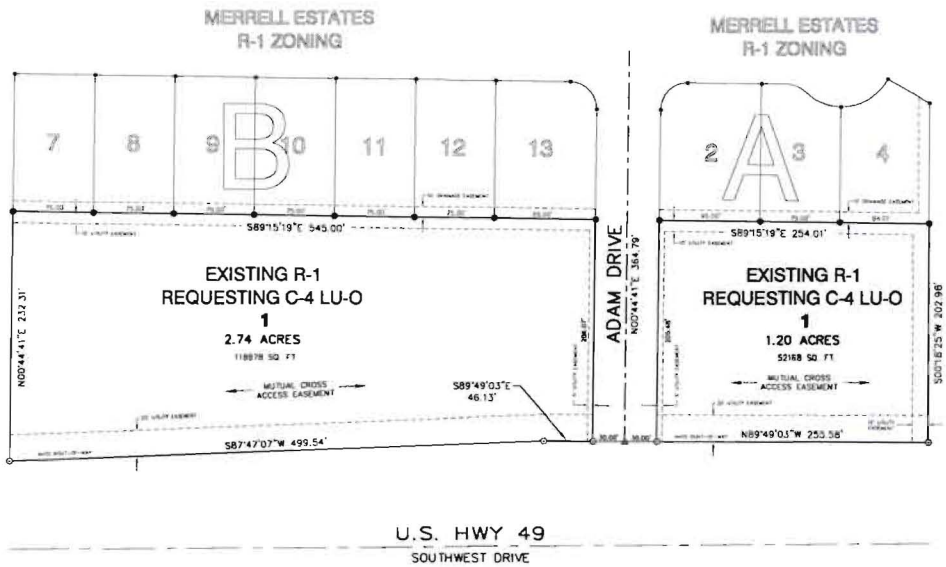
SECTION II: THE REQUESTED REZONING CLASSIFICATION IS C-4 LIMITED USE OVERLAY. THE LU-O IS RESTRICTED AS FOLLOWS:

1. THE LIMITED USES SHALL INCLUDE THE FOLLOWING:
 - ALL PERMITTED USES ALLOWED IN C-4 AND
 - RETAIL / SERVICE

2. THE LIMITED USES SHALL NOT INCLUDE THE FOLLOWING:
 - FUNERAL HOME
 - GOLF COURSE
 - NURSING HOME
 - UTILITY, MAJOR
 - UTILITY, MINOR
 - VEHICLE REPAIR, LIMITED
 - VOCATIONAL SCHOOL
 - COMMUNICATIONS TOWER
 - OFF-PREMISE SIGNS (BILLBOARDS)

SECTION III: THE CITY CLERK IS HEREBY DIRECTED TO AMEND THE OFFICIAL ZONING DISTRICT BOUNDARY MAP OF THE CITY OF JONESBORO, ARKANSAS,

INSOFAR AS IT RELATES TO THE LANDS DESCRIBED HEREINABOVE SO THAT
THE ZONING CLASSIFICATION OF SAID LANDS SHALL BE IN ACCORDANCE WITH
THE PROVISIONS OF THIS ORDINANCE.



BASIS OF BEARINGS: THE RECORD PLAT OF MERRELL ESTATES, BY TERRY BARE P.S. 1048, RECORDED IN BOOK C, PAGE 177, DATED MAY 17, 2006.

CERTIFICATE OF SURVEY:

THIS IS TO CERTIFY THAT HAYWOOD, KENWARD, BARE AND ASSOCIATES INC., PROFESSIONAL LAND SURVEYORS, HAVE REPLATED THE FOLLOWING PARCELS OF LAND.

LOT 1 OF BLOCK A AND LOT 1 OF BLOCK B OF MERRELL ESTATES REPLAT, TO THE CITY OF JONESBORO, ARKANSAS

OWNERS CERTIFICATION:

I HEREBY CERTIFY THAT I AM THE OWNER/AGENT OF THE ABOVE DESCRIBED PROPERTY AND I HEREBY REQUEST A REZONING FROM R-1, SINGLE FAMILY MEDIUM DENSITY DISTRICT TO C-4 LU-O, NEIGHBORHOOD COMMERCIAL DISTRICT WITH LIMITED USE OVERLAY.

LIMITED USES TO BE INCLUDED:

- ALL USES PERMITTED IN C-4 AND:
- RETAIL / SERVICE

LIMITED USES NOT INCLUDED:

- FUNERAL HOME
- GOLF COURSE
- NURSING HOME
- UTILITY, MAJOR
- UTILITY, MINOR
- VEHICLE REPAIR, LIMITED
- VOCATIONAL SCHOOL
- COMMUNICATIONS TOWER
- OFF-PREMISE SIGNS (BILLBOARDS)

SIGNED THIS 17 TH DAY OF DECEMBER, 2008

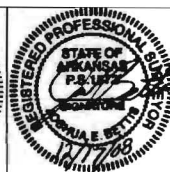
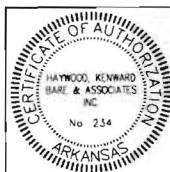
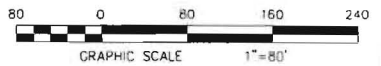
Fonda Lofton for Three Sisters, etc.
 NAME
Managing Member
 TITLE
Fonda Lofton
 SIGNATURE

SURVEYOR'S NOTES:

1. SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD OR ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.
2. BASIS OF BEARINGS: THE RECORD PLAT OF MERRELL ESTATES, BY TERRY BARE P.S. 1048, RECORDED IN BOOK C, PAGE 177, DATED MAY 17, 2006.
3. THE FOLLOWING DOCUMENTS WERE USED IN THE CONSTRUCTION OF THIS SURVEY:
 - THE RECORD PLAT OF MERRELL ESTATES, BY TERRY BARE P.S. 1048, RECORDED IN BOOK C, PAGE 177, DATED MAY 17, 2006.
 - AHD RIGHT-OF-WAY PLANS JOB NUMBER 100611, TRACT 23
4. SUBJECT PROPERTY LIES OUTSIDE THE 100-YEAR FLOODPLAIN AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP PANEL 050100150C, DATED 09-27-1991.

LEGEND:

- FOUND 5/8" REBAR W/ YELLOW PLASTIC CAP STAMPED T, BARE, P.S. 1048 (OR AS-NOTED)
- FOUND 5/8" REBAR W/ PINK PLASTIC CAP STAMPED "BETTS P.S. 1572"
- ▲ CALCULATED POINT



REZONING PLAT

MERRELL ESTATES REPLAT
 TO THE CITY OF JONESBORO, CRAIGHEAD COUNTY, ARKANSAS

HAYWOOD, KENWARD, BARE & ASSOCIATES, INC.
 CIVIL ENGINEERING - SURVEYING - PLANNING
 1801 LA TOURETTE DRIVE
 JONESBORO, ARKANSAS 72404

TEL 870-932-2019 FAX 870-932-1076

REVISIONS	
DATE	DESCRIPTION
02/14/09	REB MARK COMMENTS
SURVEY INDEX CODE	
PROJECT NO: T001-0004-12	
DRAWN BY BETTS	CHECKED BY
SHEET 1 OF 1	SCALE 1"=80'
DATE 12/17/08	DRAWING NO 57-320



Application for a Zoning Ordinance Map Amendment

METROPOLITAN AREA
PLANNING COMMISSION
Jonesboro, Arkansas

Date Received: _____
Case Number: _____

LOCATION:

Site Address: UNDEVELOPED - US HWY 49

Side of Street: between WILKINSON DRIVE and MAPLE VALLEY DRIVE
NORTH

Quarter: SW Section: 3 Township: 13 NORTH Range: 3 EAST

Quarter: SE Section: 4 Township: 13 NORTH Range: 3 EAST

Attach a survey plat and legal description of the property proposed for rezoning. A Registered Land Surveyor must prepare this plat.

SITE INFORMATION:

Existing Zoning: R-1 Proposed Zoning: C-4 LU-O

Size of site (acres): 3.94 AC +/- Street frontage (feet): 815' +/-

Existing Use of the Site: UNDEVELOPED

Character and adequacy of adjoining streets: CURRENTLY UNDER CONSTRUCTION FOR WIDENING,
WILL BE ADEQUATE FOR TRAFFIC FLOW.

Does public water serve the site? YES

If not, how would water service be provided? N/A

Does public sanitary sewer serve the site? YES

If not, how would sewer service be provided? N/A

Use of adjoining properties:

North R-1 RESIDENTIAL

South R-1 & C-3 BALTZ EQUIPMENT AND TRACTOR SALES

East C-3 CRAIGHEAD CO. FARMERS COOP

West AG-1 UNDEVELOPED

Physical characteristics of the site: UNDEVELOPED

Characteristics of the neighborhood: COMMERCIAL / SINGLE-FAMILY RESIDENTIAL

Applications will not be considered complete until all items have been supplied. Incomplete applications will not be placed on the Metropolitan Area Planning Commission agenda and will be returned to the applicant. The deadline for submittal of an application is the 17th of each month. The Planning staff must determine that the application is complete and adequate before it will be placed on the MAPC agenda.

REZONING INFORMATION:

The applicant is responsible for explaining and justifying the proposed rezoning. *Please prepare an attachment to this application answering each of the following questions in detail:*

- (1). How was the property zoned when the current owner purchased it? **AG-1**
- (2). What is the purpose of the proposed rezoning? Why is the rezoning necessary? **BEST USE OF THE PROPERTY.**
- (3). If rezoned, how would the property be developed and used? **WITHIN THE RESTRICTIONS OF THE PROPOSED ZONING.**
- (4). What would be the density or intensity of development (e.g. number of residential units; square footage of commercial, institutional, or industrial buildings)? **N/A**
- (5). Is the proposed rezoning consistent with the *Jonesboro Comprehensive Plan* and the *Future Land Use Plan*? **YES**
- (6). How would the proposed rezoning be the public interest and benefit the community? **TO SERVE AS A BUFFER BETWEEN EXISTING C-3 AND R-1 PROPERTY**
- (7). How would the proposed rezoning be compatible with the zoning, uses, and character of the surrounding area? **IT WOULD BE COMPATIBLE WITH THE SURROUNDING AREA.**
- (8). Are there substantial reasons why the property cannot be used in accordance with existing zoning? **REZONING WOULD BENEFIT THE SURROUNDING AREAS.**
- (9). How would the proposed rezoning affect nearby property including impact on property value, traffic, drainage, visual appearance, odor, noise, light, vibration, hours of use or operation and any restriction to the normal and customary use of the affected property. **POSITIVE IMPACT.**
- (10). How long has the property remained vacant? **N/A**
- (11). What impact would the proposed rezoning and resulting development have on utilities, streets, drainage, parks, open space, fire, police, and emergency medical services? **CURRENT INFRASTRUCTURE WILL SUPPORT THE PROPOSED DEVELOPMENT**
- (12). If the rezoning is approved, when would development or redevelopment begin? **IMMEDIATELY**
- (13). How do neighbors feel about the proposed rezoning? Please attach minutes of the neighborhood meeting held to discuss the proposed rezoning or notes from individual discussions. *If the proposal has not been discussed with neighbors, please attach a statement explaining the reason. Failure to consult with neighbors may result in delay in hearing the application.* **PUBLIC IS AWARE OF ONGOING DEVELOPMENT.**

Applications will not be considered complete until all items have been supplied. Incomplete applications will not be placed on the Metropolitan Area Planning Commission agenda and will be returned to the applicant. The deadline for submittal of an application is the 17th of each month. The Planning staff must determine that the application is complete and adequate before it will be placed on the MAPC agenda.

(14). If this application is for a Limited Use Overlay (LUO), the applicant must specify all uses desired to be permitted.

LIMITED USES TO BE INCLUDED:

ALL USES PERMITTED IN C-4 ZONING AND;
RETAIL SERVICE

LIMITED USES NOT INCLUDED:

FUNERAL HOME
GOLF COURSE
NURSING HOME
UTILITY, MAJOR
UTILITY, MINOR
VEHICLE REPAIR, LIMITED
VOCATIONAL SCHOOL
COMMUNICATIONS TOWER
OFF-PREMISE SIGNS (BILLBOARDS)

OWNERSHIP INFORMATION:

All parties to this application understand that the burden of proof in justifying and demonstrating the need for the proposed rezoning rests with the applicant named below.

Owner of Record:

I certify that I am the owner of the property that is the subject of this rezoning application and that I represent all owners, including spouses, of the property to be rezoned. I further certify that all information in this application is true and correct to the best of my knowledge.

Applicant:

If you are not the Owner of Record, please describe your relationship to the rezoning proposal:

Name: **THREE SISTERS L.L.C.**

Name:

Address: **3004 MOCKINGBIRD LANE** *Fonda Lofton, Manager's member*

Address:

City, State: **JONESBORO, AR**

ZIP **72401**

City, State:

ZIP

Telephone: **870-243-5297**

Telephone:

Facsimile:

Facsimile:

Signature: *Fonda Lofton, Manager's Member*

Signature:

Applications will not be considered complete until all items have been supplied. Incomplete applications will not be placed on the Metropolitan Area Planning Commission agenda and will be returned to the applicant. The deadline for submittal of an application is the 17th of each month. The Planning staff must determine that the application is complete and adequate before it will be placed on the MAPC agenda.

City of Jonesboro City Council
Staff Report – RZ08-30: Merrell Estates Rezoning
Huntington Building - 900 W. Monroe
For Consideration by the City Council on January 20, 2009

REQUEST: A recommendation by MAPC to rezone property containing 3.94 acres more or less.

PURPOSE: To rezone: Tract 1: a parcel of 1.2 acres more or less that is requesting a change in Zoning from R-1, Single Family Medium Density to C-4 Limited Use Overlay Neighborhood Commercial.

Tract 2: a parcel of 2.74 acres more or less that is requesting a change in Zoning from R-1, Single Family Medium Density to C-4 Limited Use Overlay Neighborhood Commercial.

**APPLICANT/
OWNER:** Fonda Lofton, Managing Member
Three Sisters, LLC, 3004 Mockingbird Ln., Jonesboro, AR 72401

LOCATION: The subject site is located on the North side of Southwest Dr. (Hwy. 49 S.) and immediately West of Craighead Farmers’ Coop. The site is further described as being approximately 2,865 ft. West of Maple Valley Drive and approximately 1,320 ft. East of Wilkerson Drive.

**SITE
DESCRIPTION:** Tract Size: 3.94 Acres
Frontage: Approx. 815’ +/- ft. on Southwest Dr. Hwy. 49S
Topography: Predominantly Flat
Existing Dvlpmt: Undeveloped.

SURROUNDING CONDITIONS:	<u>ZONE</u>	<u>LAND USE</u>
North:	R-1 Residence	Residential
South:	R-1 Residence & C3 Commercial	Single family Res./Commercial
East:	C-3	Craighead Co. Famers Coop
West:	AG-1 Residence	Undeveloped

HISTORY: A previous petition for rezoning of a parcel of property containing forty seven (47) acres more or less is on file. The areas considered were identified as Tract A, Tract B, and Tract C requesting a change in Zoning from AG-1 and R-1 Single Family Medium Density to R-1 and C-3 General Commercial. The R-1 Single Family was only approved under ORD 3636 on May, 2, 2006 by Council.

ZONING ANALYSIS: City Planning Staff has reviewed the proposed development and offers the following findings.

MAPC Record of Proceedings:

The Metropolitan Area Planning Commission met on January 13, 2009 to consider this rezoning case and forwards a recommendation of approval with the following record of proceedings:

Mr. Terry Bare appeared before the Commission to present the case, stating that for Conditions 1 through 7, the applicant agrees. With comments on the deceleration lane in the report, there is not enough room. The drive is located to serve that block of land limiting the access to the east side and west side. That driveway is 350 ft. from the existing street and the minimum requirement would be about 450 ft. We are limiting it to one drive off of Hwy. 49 to restrict the traffic.

Mr. Day asked why would we want to grant conditional use at this time for the retail. Mr. Bare stated that the owner is not looking for a huge superstore but a small market. All the land to the west of this area, there is no access or simple access other than going around to Hwy. 226. Fast food is a concern stated Mr. Day. Mr. Spriggs stated that the applicant could always come back for a conditional use for certain types of retail before the Planning Commission and that could be looked upon on a case by case basis.

Mr. Bare stated that he didn't see a problem with pulling the fast food from the list.

Mr. Tomlinson stated that cross access easements should be provided to the property to the west and addressed at each site plan review. Only the one driveway cut will be allowed on the west tract. Mr. Tomlinson asked if the one on the east should contain that cross access also (Next to the COOP property)? He stated that he would like to see it extended to the COOP property line.

Motion by was made by Mr. Day to recommend approval of the rezoning with the staff conditions and the exclusion of the fast food condition use request and also add the condition requiring that there be a cross access easement parallel to Highway 49S for all tracts.

Neighborhood Commercial is forwarded to City Council, with the following conditions/stipulations:

1. That the percentage of total lot area for building footprint coverage shall be maintained at 20%.
2. That a minimum 10 ft. landscaped island shall be maintained along the frontage to provide sufficient street tree landscaping.
3. That a minimum 20 ft. buffer area (undisturbed with construction or parking) be implemented along the entire northern property line to allow screening for the residential subdivision to the north. And, that a continuous privacy fence be maintained along that perimeter.
4. Interior landscape islands shall be placed in the parking lot areas to prevent a complete island of pavement along the building front yards.
5. Off-premise billboard signage shall be prohibited.

6. A lighting photometric plan shall be submitted as part of the permit submittal demonstrating 0 ft. candles at the property lines of abutting residential property.
7. All future site plan proposals or developments shall be subject to final MAPC review and approval for the associated lots.
8. The need for a deceleration lane shall be satisfied if deemed necessary by traffic analysis or required by the Arkansas State Highway Department.
9. That cross access/ingress easements shall be required, parallel to Highway 49S for all tracts allowing for connectivity to neighboring properties.
10. The following list of uses shall be limited as part of the C-4 L.U.O.:

LIMITED USES TO BE INCLUDED:

ALL USES PERMITTED (P) IN C-4 ZONING AND,
RETAIL SERVICE

LIMITED USES NOT INCLUDED:

FUNERAL HOME
GOLF COURSE
NURSING HOME
UTILITY, MAJOR
UTILITY, MINOR
VEHICLE REPAIR, LIMITED
VOCATIONAL SCHOOL
COMMUNICATIONS TOWER

Motion was made by Mr. Day, 2nd by Mr. Roberts. [Mr. Tomlinson – Aye, Mr. Roberts- Aye, Ms. Norris- Aye, Mr. Day – Aye, and Mr. Hoelscher- Aye. (5 to 0)]

COMPREHENSIVE PLAN FUTURE LAND USE MAP

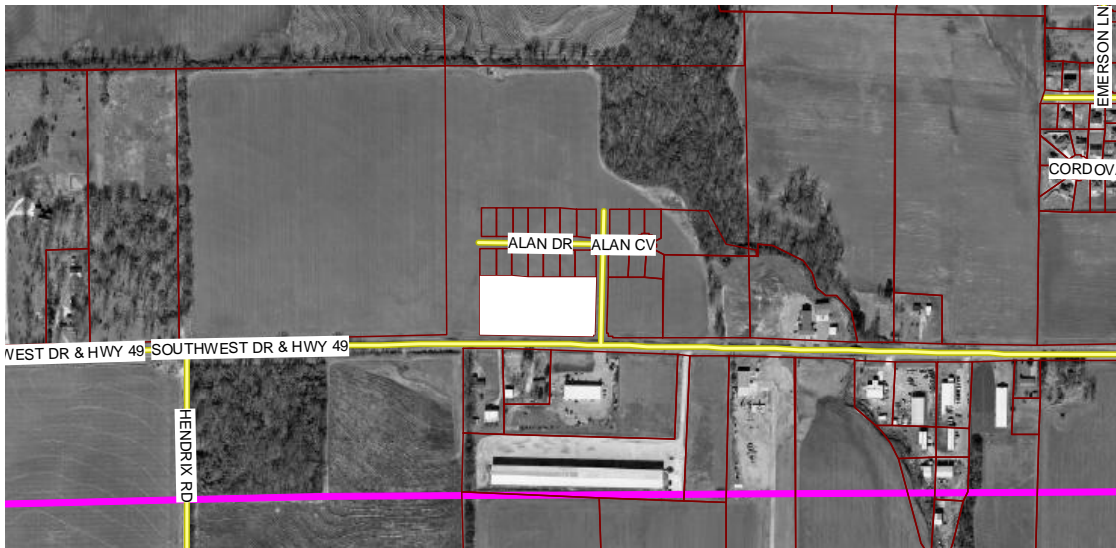
The Comprehensive Plan shows the area of the subject property as “Village Residential”. This is defined on Page 21 of the Comprehensive Plan as: Includes all future single-family residential, two-family residential, multi-family residential and manufacturing housing residential uses that are four or more units net per acre and that are in specifically designated areas. Supporting commercial uses of a neighborhood type and scale may be included on a selective basis subject to limitations in location, numbers, site application and appearance.

This area is under restudy by the Land Use Advisory Committee, and updates are forthcoming for adoption in the very near future. Staff recognizes that this area will transform due to the pending construction of the new 5-lane improvements on the highway frontage. Proliferation of piece-meal retail development should be discouraged, however consolidated development of neighborhood service oriented commercial will be a benefit to the area if access management is a priority in the site planning.

Approval Criteria- Section 14.44.05, (5a-g)- Amendments:

The criteria for approval of a rezoning are set out below. Not all of the criteria must be given equal consideration by the planning commission or city council in reaching a decision. The criteria to be considered shall include but not be limited to the following:

- (a) Consistency of the proposal with the Comprehensive Plan
- (b) Consistency of the proposal with the purpose of the zoning ordinance.
- (c) Compatibility of the proposal with the zoning, uses and character of the surrounding area;
- (d) Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment;
- (e) Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual, odor, noise, light, vibration, hours of use/operation and any restriction to the normal and customary use of the affected property;
- (f) Length of time the subject property has remained vacant as zoned, as well as its zoning at the time of purchase by the applicant; and
- (g) Impact of the proposed development on community facilities and services, including those related to utilities, streets, drainage, parks, open space, fire, police, and emergency medical services.



Findings:

This particular site was submitted in 2006 as stated above for a rezoning to C-3 along the frontage of Highway 49. Staff at that time stated that a more residential scale/ service oriented commercial zoning should be considered. This approach was taken in anticipation of the new construction now under way to add width to Highway 49 at this point.

The proposed rezoning does for the most part addresses those issues. However, the western tract (2.74 acres) is planned to have an access drive off of Highway 49S (approx. 350' West of Adam Dr.). Staff, in a preliminary meeting with the applicant suggested some form of access management that would allow safe traffic flow onto the commercial sites from the highway. The developer should perform some form of access/traffic analysis and consider a deceleration lane at that point to promote efficient traffic flow on Highway 49S once it is completed.

Under the C-4 District, the percentage of total lot area for building footprint coverage shall be maintained at 20%. With the typical layout of the eastern lot, the plans appear to comply with this standard thus far. The future parking areas shown on the typical layout should be shifted to allow for a minimum 10 ft. landscaped island along the frontage to provide sufficient street tree landscaping. A minimum 20 ft. buffer area (undisturbed with construction or parking) should be implemented along the entire northern property line to allow screening for the residential subdivision to the north. A continuous privacy fence should be maintained along that north perimeter. Interior landscape islands should be placed in the parking lot areas to prevent a complete island of pavement along the building front yards.

Conclusion

The MPAC and Planning Staff has reviewed and suggested possible approaches to the commercial proposal. As noted above in the Record of Proceedings, the MAPC unanimously voted (5 to 0) to recommend that the rezoning of the subject property from R-1 Single Family to C-4 L.U.O. Neighborhood Commercial be forwarded to City Council, with the above conditions/stipulations.

Respectfully Submitted for City Council Consideration,

Otis T. Spriggs, AICP
Planning & Zoning Director

Site Photographs



View Looking East from Adam. Dr.



View Looking West along Hwy 49



View Looking North at Intersection of Hendrix Rd. & Hwy 49



View looking North on Adam Dr.



View Looking West along Hwy 49



View Looking North from Hwy 49



View Looking East along Hwy 49



View Looking South from Adam Dr.



View Looking West from Adam Dr.