



METROPOLITAN AREA
PLANNING COMMISSION
Jonesboro, Arkansas

Donied

Application for a Zoning Ordinance Map Amendment

Date Received: _____

Case Number: _____

LOCATION:

Site Address: 3701 E. Johnson Avenue, Jonesboro, AR

Side of Street: S between 3605 E. Johnson Ave. and 3705 E. Johnson Ave.

Quarter: NW Section: 10 Township: 14 Range: 4

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: C-3 LUO Proposed Zoning: C-3 LUO (w/additional uses)

Size of site (square feet and acres): 1.61 acres Street frontage (feet): 235.57

Existing Use of the Site: Vacant property, currently zoned C-3 LUO

Character and adequacy of adjoining streets: Johnson Avenue (Highway 49)

Does public water serve the site? Yes

If not, how would water service be provided? _____

Does public sanitary sewer serve the site? Yes

If not, how would sewer service be provided? _____

Use of adjoining properties:

North Johnson Avenue (Highway 49)

South R-1 Residential

East North half C-3 LUO; South half R-1

West C-3 (Bill's Fresh Market)

Physical characteristics of the site: 1.61 acres, 3, 816 sq. ft. vacant house near middle of tract

Characteristics of the neighborhood: All surrounding property adjoining Johnson avenue is zoned commercially. Some R-1 zoned property to south and east.

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.

Page 1 of 2

29-Aug-03, Revised 31-Oct-03

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:*

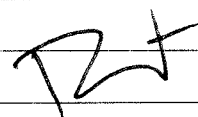
- (1). How was the property zoned when the current owner purchased it?
- (2). What is the purpose of the proposed rezoning? Why is the rezoning necessary?
- (3). If rezoned, how would the property be developed and used?
- (4). What would be the density or intensity of development (e.g. number of residential units; square footage of commercial, institutional, or industrial buildings)?
- (5). Is the proposed rezoning consistent with the *Jonesboro Comprehensive Plan* and the *Future Land Use Plan*?
- (6). How would the proposed rezoning be the public interest and benefit the community?
- (7). How would the proposed rezoning be compatible with the zoning, uses, and character of the surrounding area?
- (8). Are there substantial reasons why the property cannot be used in accordance with existing zoning?
- (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.
- (10). How long has the property remained vacant?
- (11). What impact would the proposed rezoning and resulting development have on utilities, streets, drainage, parks, open space, fire, police, and emergency medical services?
- (12). If the rezoning is approved, when would development or redevelopment begin?
- (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.*
- (14). If this application is for a Limited Use Overlay (LUO), the applicant must specify all uses desired to be permitted.

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:

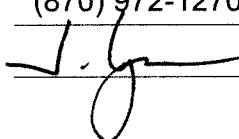
I certify that I am the owner of the property that is the subject of this rezoning application and that I represent all owners, including spouses, of the property to be rezoned. I further certify that all information in this application is true and correct to the best of my knowledge.

Name: Grayson Investments
Address: 1203 Dove Road
City, State: Jonesboro, AR ZIP 72401
Telephone: 870-761-4000
Facsimile: _____
Signature: 

Applicant:

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

Attorney of record for Grayson Investments

Name: Jim Lyons
Address: P.O. Box 7044
City, State: Jonesboro, AR ZIP 72403
Telephone: (870) 972-5440
Facsimile: (870) 972-1270
Signature: 

Deed: *Please attach a copy of the deed for the subject property.*

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APPLICATION
FOR A
ZONING ORDINANCE MAP AMENDMENT

Rezoning information:

(1) How was the property zoned when the current owner purchased it?

Commercial, C-3 LUO.

(2) What is the purpose of the proposed rezoning? Why is the rezoning necessary?

The purpose of the rezoning is to allow the owner of the property to improve the property and allow for additional commercial development. The change in the limited uses for the property are necessary for it to be developed in accordance with its highest and best use, given the change in the amount of traffic and other development along Highway 49.

(3) If rezoned, how would the property be developed and used?

The property would be developed in a commercial nature, similarly to the property immediately East and West of the proposed site. Access to and from the property will be directly off of Johnson Avenue (Highway 49). There will be no access to the residential neighborhood bordering the southeast side of the property.

(4) What would be the density or intensity of development (e.g. number of residential units; square footage of commercial, institutional, or industrial buildings)?

Commercial buildings would have roughly a 1.6 acre lot to work with, which would allow for a structure and necessary parking and permanent buffer area.

(5) Is the proposed rezoning consistent with the Jonesboro Comprehensive Plan and the Future Land Use Plan?

Since the zoning classification is not changing, only the number of uses, the proposed rezoning is consistent with the Jonesboro Comprehensive Plan, Vision 2030, and the Future Use Plan. The surrounding property with frontage to Highway 49 is zoned C-3 or C-3 LUO. The additional uses requested under the C-3 LUO for this property are consistent with uses of the surrounding properties with frontage to the main arterial road.

(6) How would the proposed rezoning be in the public interest and benefit the community?

The subject property would be put to its highest and best use. With the proposed change in available uses the property would be developed and improved, allowing for continued progression of the use of this property near the new hospital. The community would also benefit through the increase in taxes collected from the property.

(7) How would the proposed rezoning be compatible with the zoning, uses, and character of the surrounding area?

The subject property is located in an area which is increasingly becoming highly commercial. Immediately North of the subject property is a major highway (Highway # 49) with ever increasing traffic. Commercial and business uses exist directly to the West of the property, as well as to the East.

(8) Are there substantial reasons why the property cannot be used in accordance with existing zoning?

Yes. The present zoning of the property, with its very limited uses, does not allow for the development of the property in accordance with its highest and best use. Nor is this property being used in a manner which is consistent with the surrounding property and the amount of traffic on Highway 49.

(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.

The proposed changes should not affect anything in the area. The property is already zoned C-3 LUO, we are simply asking for additional uses under the C-3 LUO. To prevent any adverse effects whatsoever, the existing buffer will be maintained.

(10) How long has the property remained vacant?

The property was purchased by the current owner in July of 2008, was vacant at such time, and has since remained vacant.

(11) What impact would the proposed rezoning and resulting development have on utilities, streets, drainage, parks, open space, fire, police, and emergency medical services?

As commercial development has already begun in the surrounding area, there should not be any adverse effect on utilities, streets, or any other service in the area. Fire, police, and medical services will not be hindered by including the requested additional uses.

(12) If the rezoning is approved, when would development or redevelopment begin?

We are unsure as to the specific date, however it would likely be soon after the change in requested limited uses..

- dd. Retail/service
- ee. Safety services
- ff. Vehicle and equipment sales
- gg. Vehicle repair, general
- hh. Vehicle repair, limited
- ii. Warehouse, residential (mini) storage
- jj. Vehicular and equipment storage yard
- kk. All other previously approved uses

F:\WP60\JL\Grayson Investments Zoning App.wpd

out the proposed rezoning? Please attach minutes of the
d to discuss the proposed rezoning or notes from
the proposal has not been discussed with neighbors, please
ing the reason. Failure to consult with neighbors may
the application.

due South of the property, will oppose any changes to the
o, all property surrounding the subject tract, with frontage on
LUO and these property owners will not object.

**Limited Use Overlay (LUO), the applicant must specify all
ed.**

oned C-3 LUO, therefore the following uses are being

e, general
e, limited
or stadium
teller machine
ancial institution

university
ation tower
on sales and service
ce store
imited
eneral
me
nt service

otel
ng range

rvice/office
ome
neral
t, commercial
recreation

/entertainment, indoor
/entertainment outdoor
al vehicle park
t, fast food
t, general

- (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.**

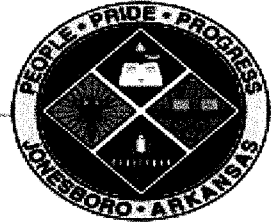
The neighbor, immediately due South of the property, will oppose any changes to the available uses of the property. Also, all property surrounding the subject tract, with frontage on Highway 49, is zoned C-3 or C-3 LUO and these property owners will not object.

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

The property is currently zoned C-3 LUO, therefore the following uses are being requested:

- a. Animal care, general
- b. Animal care, limited
- c. Auditorium or stadium
- d. Automated teller machine
- e. Bank or financial institution
- f. Church
- g. College or university
- h. Communication tower
- i. Construction sales and service
- j. Convenience store
- k. Day care, limited
- l. Day care, general
- m. Funeral home
- n. Government service
- o. Hospital
- p. Hotel or motel
- q. Indoor firing range
- r. Library
- s. Medical service/office
- t. Nursing home
- u. Office, general
- v. Parking lot, commercial
- w. Parks and recreation
- x. Post office
- y. Recreation/entertainment, indoor
- z. Recreation/entertainment outdoor
- aa. Recreational vehicle park
- bb. Restaurant, fast food
- cc. Restaurant, general

- dd. Retail/service
- ee. Safety services
- ff. Vehicle and equipment sales
- gg. Vehicle repair, general
- hh. Vehicle repair, limited
- ii. Warehouse, residential (mini) storage
- jj. Vehicular and equipment storage yard
- kk. All other previously approved uses



DATE: Tuesday, July 31, 2012

TO: Accounts Payable

FROM: Otis Spriggs

RE: Refund of Sign Deposit

Please refund \$600 to for sign deposit paid on 04/25/12. Please see the attached receipt as support documentation. Returned 3 (paid for 3) signs on Tuesday, July 31, 2012 for rezoning purposes concerning application RZ 12-06.

Please mail the payment to:

Grayson Investments
1203 Dove Road
Jonesboro, AR 72401

Sincerely,

A handwritten signature in black ink, appearing to read "Otis Spriggs".

Otis Spriggs
Planning Director

OFFICIAL RECEIPT

Receipt # 00078835

Receipt Date 04/25/2012 16:00
Receipt Print Date 07/31/2012

CITY OF JONESBORO
PO BOX 1845
515 W. WASHINGTON
JONESBORO, AR 72403-1845
870-932-3042

CR	600.00
01-000-0155-00	
(3) Zoning Signs Deposits 370	
1 E Johnson	600.00

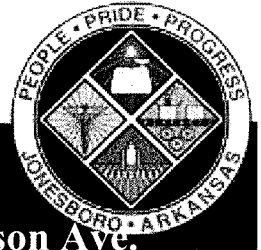
Total	600.00
-------	--------

Check	2704	600.00
Change		0.00

Grayson Investments Ray Osment
Customer #: 000000

Cashier: dcsimpkins
Station: DCSIMPKINS-NEW

City of
Jonesboro
ARKANSAS



City of Jonesboro City Council
Staff Report – RZ 12-06: Grayson Investments 3701 E. Johnson Ave.
Huntington Building - 900 W. Monroe
For Consideration by the Council

REQUEST: To consider a rezoning of a parcel of land containing 1.61 acres more or less

PURPOSE: A request to consider an appeal of a denial recommendation to Council for a modification to an existing "C-3 L.U.O." General Commercial, as ordered by the Circuit Court. SEE MAPC RECORD OF PROCEEDINGS ATTACHED.

APPLICANT OWNER: Attorney Jim Lyons P.O. Box 7044 Jonesboro, AR 72403
Grayson Investments, 1203 Dove Road, Jonesboro, AR 72401

LOCATION: 3701 E. Johnson Ave., Jonesboro, AR (Directly east of Bill's Fresh Market)

SITE DESCRIPTION: Tract Size: Approx. +/- 1.61 Acres 70,131 sq.ft.
Frontage: Approx. 235.57' +/- Johnson Ave.
Topography: Flat
Existing Development.: Single Family Residence

SURROUNDING CONDITIONS:	<u>ZONE</u>	<u>LAND USE</u>
North:	C-3	Commercial
South:	R-1	Residential
East:	C-3 LUO, R-1	Eye Doctor, Residential
West:	C-3	Commercial

HISTORY: The property was denied by City Council on January 16, 2006 in a rezoning request from "R-1" to "C-3", but was later settled in the Circuit Court of Craighead County, Arkansas, Western District Civil Division and rezoned to "**C-3**" **L.U.O.** with specific stipulations for uses and improvements (See attached Consent Judgment- Filed November 16, 2006).

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

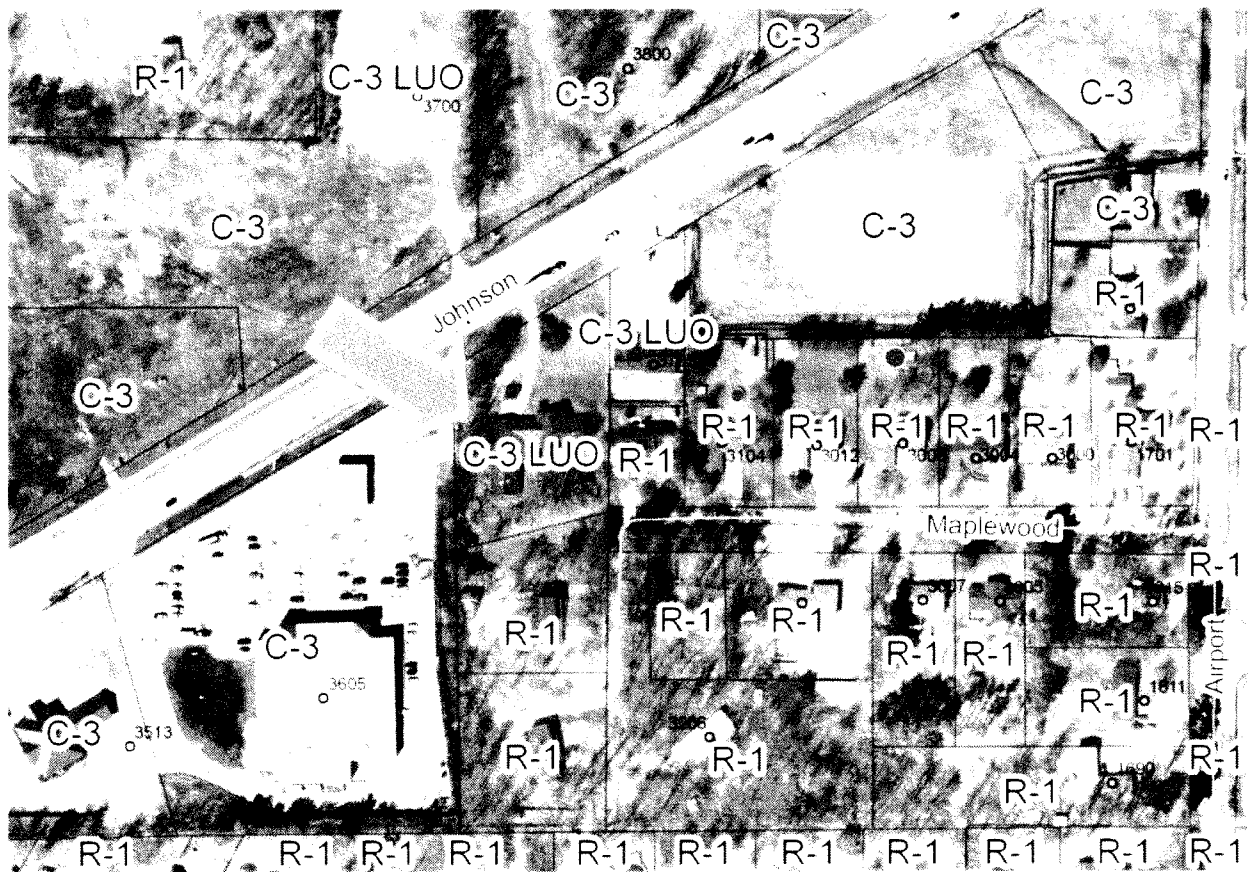
COMPREHENSIVE PLAN FUTURE LAND USE MAP

The Current/Future Land Use Map recommends this location as Single Family Residential. The current rezoning while inconsistent with the adopted Land Use Map, is consistent with the general area that is in major transition: and, one that serves as a Growth Node near the Hwy. 351 intersection and the new NEA Baptist Memorial Hospital. Staff recommends a map revision for this site, due to the new information, as well as the major corridor in which it fronts.

Approval Criteria, Section 117-34 - 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.



Vicinity/Zoning Map

Findings:

Master Street Plan/Transportation

The subject site is served by E. Johnson Ave./Hwy. 49 N which is a State highway and major arterial. The right of way width is 60' from centerline, as depicted on the Rezoning Plat. Staff does not anticipate additional right of way is needed for the proposed project.

Zoning Compliance:

The applicant is proposing to use the property at the highest and best use given the amount of traffic and other development along Highway 49N. However, some buffering and screening is needed for the remaining single family residence to the west of the site. This was conditioned by the Judge Order applied to this case, and the applicant plans to satisfy all buffering and screening previously mandated.

The applicant is requesting a change in the list of uses as ordered by the Judgment attached to this case. The specific list of uses by the Court (Case CV-2006-88(JF)) is as follows:

- a. Animal Care, Limited,
- b. Automated Teller Machine
- c. Bank or Financial Institutions
- d. Church (with conditional use permit)
- e. Day Care, Limited
- f. Government Service
- g. Library
- h. Medical Service/Office
- i. Office, General
- j. Utility, Minor

The following improvements were also ordered prior to Final Occupancy and will still apply:

(i) Solid fence, 8 ft. in height shall be installed along the property line adjacent to the property property zoned R-1 on the South boundary as well as that portion of the East boundary zoned, R-1; (ii) That there be a buffer zone of forty feet (40') between any structure or parking and any R-1 zoned property except as reduced in subsection (v) below; (iii), Trees a minimum of eight feet (8') in height shall be planted along the fence to provide an additional layer of screening and buffering between the Property and properties zoned R-1 adjacent to the Property; (iv) There shall be no vehicular access, from this Property to Maplewood Terrace or vice versa; and (v) The width of the buffer zone will be limited and reduced to the distance of the existing structure from the east boundary of the Property where the existing structure is located. However, if there are any exterior structural improvements that alter the size of the existing structure then the forty foot (40') buffer zone shall apply.

"...That no other, action to rezone said Property shall be necessary. However, if the City is desirous of enacting an Ordinance for this rezoning, it may do so. In the event that the City believes, claims or desires that any additional action be taken for such rezoning to be effective, the City is hereby ordered to do so."

With this application for a Limited Use Overlay (LUO) modification, the applicant has requested and specified that the follow uses be allowed:

During the MAPC Public Hearing, Mr. Lyons presented the reduced list: (These uses are to be allowed if approved).

- d. Automated teller machine
- e. Bank or financial institution
- f. Church
- g. College or university
- i. Construction Sales Service
- k. Day care, limited
- l. Day care, general
- s. Medical service/office
- u. Office, general
- w. Parks and recreation
- x. Post office
- bb. Restaurant, fast food
- cc. Restaurant, general
- dd. Retail/service
- ee. Safety services
- kk. All other previously approved uses by the Court (Case CV-2006-88(JF)) is as follows:
 - Animal Care, Limited,
 - Automated Teller Machine
 - Bank or Financial Institutions
 - Church (with conditional use permit)
 - Day Care, Limited
 - Government Service
 - Library
 - Medical Service/Office
 - Office, General
 - Utility, Minor

Conclusion:

The MAPC has reviewed the requested Zone Change/modification as previously ordered as C-3 L.U.O., submitted by Grayson Investments; and, is recommending denial of Case RZ 12-06. The MAPC Record of Proceedings are attached.

Respectfully Submitted for Council Consideration,



Otis T. Spriggs, AICP
Planning & Zoning Director

Site Photographs



View looking South towards Project Site



View looking North from subject property





View looking North along road, looking to the East



View looking North to yard, looking to the East



View from Property looking at Neighboring Property to the East



View from Property looking at Neighboring Property to the East



View Looking East on Johnson Ave. towards Bill's Market

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File #: ORD-12:033 Version: 1 Name: Rezoning for Grayson Investments

Type: Ordinance Status: Denied

File created: 6/6/2012 In control: [City Council](#)

On agenda: Final action: 7/17/2012

Title: AN ORDINANCE TO AMEND TITLE 14, KNOWN AS THE ZONING ORDINANCE OF THE CITY OF JONESBORO, ARKANSAS, PROVIDING FOR CHANGES IN ZONING BOUNDARIES

Indexes: Appeal hearing, Rezoning

Attachments: [Plat](#), [MAPC Report](#), [MAPC Record of Proceedings](#), [Appeal Letter](#), [Letter to City Council - Opposition](#), [Photographs from July 17, 2012, meeting](#)

[History \(3\)](#) [Text](#)

3 records		Group	Export				
Date	Ver.	Action By	Action	Result	Action Details	Meeting Details	Video
7/17/2012	1	City Council			Not available	Meeting details	Not available
7/2/2012	1	City Council	Held at second reading		Action details	Meeting details	Not available
6/19/2012	1	City Council	Held at one reading		Action details	Meeting details	Not available

JIM LYONS
jlyons@leclaw.com

ZAC BAKER
zbaker@leclaw.com

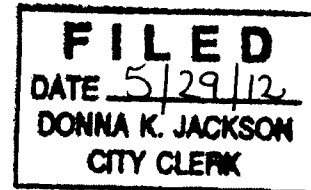
Lyons & Cone, P.L.L.C.

ATTORNEYS AT LAW
407 SOUTH MAIN
P.O. BOX 7044
JONESBORO, ARKANSAS 72403-7044
870-972-5440 • FAX: 870-972-1270

MIKE CONE
mikecone@leclaw.com

DAVID TYLER
dtyler@leclaw.com

May 29, 2012



Ms. Donna Jackson, City Clerk
515 W. Washington Ave.
Jonesboro, AR 72401

Re: Grayson Investments Rezoning
Denial; Appeal to City Council

Dear Ms. Jackson:

Please let this serve as notice of appeal to the Jonesboro City Council in respect to the MAPC's decision on May 8, 2012 to deny rezoning of the Grayson Investments property located at 3701 E. Johnson Avenue. Pursuant to Jonesboro City Code 2-89, "appeals to the city council of decisions of commissions and boards shall be in writing signed by the party appealing, dated and filed with the clerk within 30 days following the decision of the board and/or commission." As such, we ask that you consider this our timely filing of notice of appeal of the MAPC's decision.

We are appealing this decision for several reasons. First, the MAPC promoted commercialization of the area surrounding the Grayson Investments property by approving the rezoning of the location where the new fairgrounds campus is being constructed. In fact, the rezoning of the new fairgrounds campus was sponsored by a current MAPC voting member, Mr. Jerry Reece, who abstained from voting on the Grayson Investments matter during the May 8, 2012 MAPC meeting. It is important to note that Mr. Reece was familiar enough with the property to be aware of a sewer easement potentially running across the Grayson Investments property.

Second, but more importantly, the approval of the development of the new NEA Baptist Memorial Hospital campus has prompted numerous property owners with frontage to Johnson Avenue to place their properties up for sale as commercial property in hopes of attracting buyers interested in using their land for similar commercial development. The area is in need of properties with many different commercial uses, including ones we have attached to our appeal. We feel that this information warrants an appeal to the City Council for further consideration regarding the additional uses being requested for the Grayson Investments property.

July 2, 2012

Dear Mayor Perrin and Members of the City Council,

My name is Wendy Jones. I live at 3207 Maplewood Terrace. My husband Allan is in attendance tonight but unfortunately I was not able to be there for the hearing concerning the request to add to the additions to the commercial property in question located on Johnson Avenue between Bill's Fresh Market and Hilltop Eyecare.

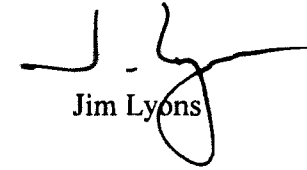
Allan and I bought our house on Maplewood Terrace almost three years ago. We moved back to Jonesboro six and a half years ago after being away for five years in Missouri. We love Jonesboro. And we love our home and our sweet little neighborhood. We lived with Allan's mom and dad; Henry and Julia Jones for three and a half years while we waited for our home in Missouri to sell and while we waited until the perfect home and neighborhood became available. Our two teenage boys and little girl were thrilled when we found this home. In town, yet secluded, a dead end street, and sweet and friendly neighbors. Even though Bill's Fresh Market is literally in backyard, we were at first unconcerned with the goings-on. After being in residence for a time, it became clear having this kind of commercial development this close poses challenges to the peacefulness of a neighborhood. Trash trucks; come and go, delivery trucks, car and store alarms, teenage parties, parking lot cleaner trucks, even a gunfight not too long ago have strained our ability to relax at home at times.

With that said, and having been through the experience, all is tempered at least by a chain link fence, a privacy fence, and some trees for screening and the fact remains; we love our house. I am writing and requesting that you will agree that enough is enough! I implore you to please help retain the integrity of our established and beloved neighborhood. At least help retain what is left of it. And help to spare our neighbors who would border the property in question with the headaches that we endure.

At the crook of the lane at Maplewood Terrace is the backend of the parcel Grayson Investments wishes to sell to perhaps a fast food restaurant, a private club, or maybe an indoor shooting range or a pet lodging facility where dogs would undoubtedly spend the wee hours of the night barking and howling. It actually

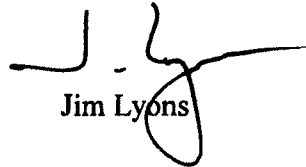
of the record, as well as a prepared ordinance, and proper fee for testing our appeal be heard during the June 19, 2012 City now if you have any questions, or if there is anything else we can plete. Thank you.

Sincerely,


Jim Lyons

We have attached a copy of the record, as well as a prepared ordinance, and proper fee for lodging this appeal. We are requesting our appeal be heard during the June 19, 2012 City Council meeting. Please let us know if you have any questions, or if there is anything else we can provide to make the appeal complete. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. Lyons', with a long horizontal stroke extending to the right.

Jim Lyons

JL/sc

Enclosures

F:\WP60\JL\May 29.Grayson.Appeal.wpd

July 2, 2012

Dear Mayor Perrin and Members of the City Council,

My name is Wendy Jones. I live at 3207 Maplewood Terrace. My husband Allan is in attendance tonight but unfortunately I was not able to be there for the hearing concerning the request to add to the additions to the commercial property in question located on Johnson Avenue between Bill's Fresh Market and Hilltop Eyecare.

Allan and I bought our house on Maplewood Terrace almost three years ago. We moved back to Jonesboro six and a half years ago after being away for five years in Missouri. We love Jonesboro. And we love our home and our sweet little neighborhood. We lived with Allan's mom and dad; Henry and Julia Jones for three and a half years while we waited for our home in Missouri to sell and while we waited until the perfect home and neighborhood became available. Our two teenage boys and little girl were thrilled when we found this home. In town, yet secluded, a dead end street, and sweet and friendly neighbors. Even though Bill's Fresh Market is literally in backyard, we were at first unconcerned with the goings-on. After being in residence for a time, it became clear having this kind of commercial development this close poses challenges to the peacefulness of a neighborhood. Trash trucks; come and go, delivery trucks, car and store alarms, teenage parties, parking lot cleaner trucks, even a gunfight not too long ago have strained our ability to relax at home at times.

With that said, and having been through the experience, all is tempered at least by a chain link fence, a privacy fence, and some trees for screening and the fact remains; we love our house. I am writing and requesting that you will agree that enough is enough! I implore you to please help retain the integrity of our established and beloved neighborhood. At least help retain what is left of it. And help to spare our neighbors who would border the property in question with the headaches that we endure.

At the crook of the lane at Maplewood Terrace is the backend of the parcel Grayson Investments wishes to sell to perhaps a fast food restaurant, a private club, or maybe an indoor shooting range or a pet lodging facility where dogs would undoubtedly spend the wee hours of the night barking and howling. It actually

infiltrates our little corner of the world by its boundaries reaching directly into the neighborhood. This parcel in no way would back up to residents in a benign way. No amount of trees, fences, or landscaping would mask a commercial development Grayson Developments are wanting to market to.

Please help us to retain the original list of uses agreed upon by the Circuit Court in 2006. We all love Jonesboro! We all want to see Jonesboro grow and prosper, but not at the expense of established neighborhoods and the residents who pay taxes and live here.

Thank you so much for your consideration.

Wendy Jones; Wife of Allan Jones, Mother to Weston, John Henry, and Allie

3207 Maplewood Terrace

And Ridgefield Christian Jr. High Science Teacher

MIXON LAW FIRM

ATTORNEYS AT LAW

505 UNION

P.O. BOX 1442

JONESBORO, ARKANSAS 72403

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(870) 935-8622

May 8, 2012

Southern Bank
c/o Mr. Chris Gardner
Attorney at Law
P. O. Box 1965
Jonesboro, AR 72403

*Re: Southern Bank - Request for Rezoning
My Client: Jonesboro Special School District No. 1*

Dear Chris:

Recently an exchange of tracts of real property was completed between Southern Bank and the Jonesboro School District. The school district understood at the time of the exchange that Southern Bank would be requesting a rezoning of this small tract in the northwest corner of Highland Drive and Main Street from R-2 to C-3. As attorney for the school district, I have been authorized to confirm that the school district does not oppose the bank's request for this rezoning. Further, Southern Bank has shown the school district its site plan for the project. The district is pleased to welcome its new neighbor and is happy with the zoning and building proposal. Please feel free to share this letter with the Metropolitan Area Planning Commission and City of Jonesboro to evidence the district's consent to this rezoning request.

Sincerely,

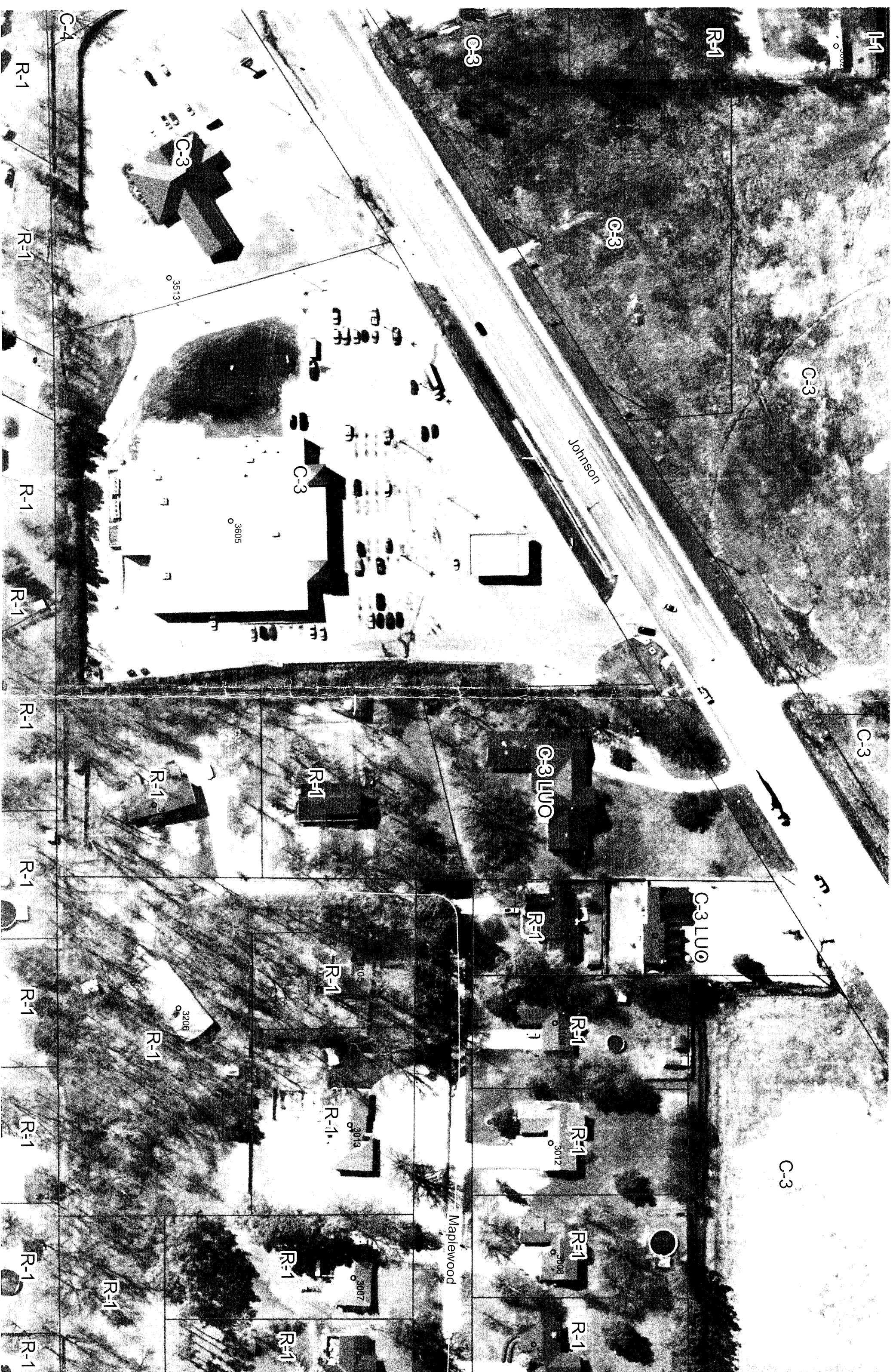
MIXON LAW FIRM



Donn Mixon

DM:sp

cc: Dr. Kim Wilbanks, Superintendent
Mr. Ralph Waddell, School Board President



OFFICIAL RECEIPT

Receipt # 00078599

Receipt Date 04/18/2012 15:44
Receipt Print Date 04/18/2012

CITY OF JONESBORO
PO BOX 1845
515 W. WASHINGTON
JONESBORO, AR 72403-1845
870-932-3042

CR	461.00
01-000-0516-00	
3701 E. Johnson MAPC/ BZA	461.00

Total	461.00
-------	--------

Check	1251	461.00
Change		0.00

Lyons & Cone P.L.C.
Customer #: 013225
P.O. Box 7044

Jonesboro, AR 72401

Cashier: rdgibson
Station: DCSIMPKINS-NEW



T14N-R04E-HALF SECTION 10 SOUTH

CITY OF JONESBORO, AR
"UNCERTIFIED FOR INFORMATION

LYONS & CONE, P.L.C.
Attorneys at Law
407 S. Main
P. O. Box 7044
Jonesboro, AR 72403

Phone 870/972-5440--Fax 870/972-1270

FACSIMILE TRANSMITTAL COVER SHEET

TO: City of Jonesboro Planning & Zoning

FROM: Jim Lyons

RE: W. L. Gillespie vs. City of Jonesboro

DATE: July 28, 2009

TOTAL NUMBER OF PAGES INCLUDING COVER SHEET: 5

Please find attached the Consent Judgment regarding the above referenced matter. If you have any questions or problems, please do not hesitate to contact me. Thank you for your cooperation.

NOTICE

The information contained in this telecopy is intended only for the use of the addressee and may contain information that is confidential, privileged, and/or otherwise exempt from disclosure under applicable law. If you are not the intended recipient or the employee or agent responsible for delivering this transmittal to the intended recipient, you are not authorized to read this transmittal and are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. This transmission is not intended to waive any attorney-client privilege, or other confidential or privileged relationship. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address.

Corrected
RE ZONING
RECEIVED
7/28/09
R1 to C3L00

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CIVIL DIVISION

FILED

06 NOV 16 PM 4:27

W.L. GILLESPIE and
MRS. W. L. (MYRNA) GILLESPIE

ANDERSON
CIRCUIT AND CHANCERY
COURT CLERK

Plaintiffs

Vs.

No. CV-2006-88(JF)

CITY OF JONESBORO, ARKANSAS; ALEC
FARMER, Alderman; CECIL PROVINCE, JR.,
Alderman; JIM HARGIS, Alderman; CHRIS
MOORE, Alderman; ANN WILLIAMS,
Alderman; HAROLD PERRIN, Alderman; JOHN
STREET, Alderman; MITCH JOHNSON,
Alderman; DARREL DOVER, Alderman;
JUDY FURR, Alderman; TIM MCCALL,
Alderman; JIMMY ASHLEY, Alderman, in their
official capacities as the JONESBORO CITY
COUNCIL; DOUG FORMON, in his official
capacity as MAYOR OF CITY OF JONESBORO

Defendants

CONSENT JUDGMENT

On this 13 day of November, 2006, is presented to the Court, the Complaint of
the Plaintiffs, W.L. Gillespie and Myrna Gillespie, his wife, by and through their attorneys,
Lyons, Emerson & Cone, P.L.C., with the Defendants appearing by and through their attorneys,
Bachelor and Newell. Based upon the agreement of the parties, the Court doth find as follows:

1. That Plaintiffs are residents and citizens of Jonesboro, Craighead County,
Arkansas and are the owners of the property in question which property is described below.
2. That Defendant, City of Jonesboro, Arkansas (the "City"), is a municipal
corporation duly organized and existing under the laws of the State of Arkansas and located in
the County of Craighead.

3. That Defendants, Alec Farmer, Cecil Province, Jr., Jim Hargis, Chris Moore, Ann Williams, Harold Perrin, John Street, Mitch Johnson, Darrel Dover, Judy Furr, Tim McCall and Jimmy Ashley make up and comprise the duly authorized and acting City Council of the City of Jonesboro, Arkansas. These individuals are defendants in this action only in their official capacities as the Jonesboro City Council (the "Council").

4. That Defendant, Doug Formon, is the duly authorized and acting Mayor of the City of Jonesboro, Arkansas and is a defendant in this action only in his official capacity of mayor.

5. That this lawsuit involves the following described real property located in Jonesboro, Craighead County, Arkansas, to wit:

That part of the Southeast Quarter of the Northwest Quarter of the Section 10, Township 14 North, Range 4 East, Craighead County Arkansas more particularly described as follows:

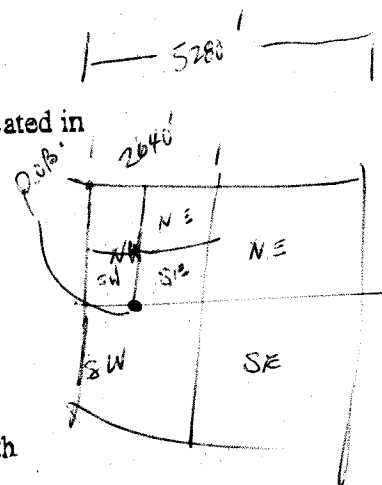
Begin at the Southeast Corner of said Southwest Quarter of the Northwest Quarter; thence West 996.1 feet to a point; thence North 330.1 feet to the point of beginning proper; thence East 200 feet; thence North 410.6 feet; thence South $57^{\circ}57'$ West 233.8 feet; thence South 287.5 feet to the point of beginning.

Also, known as 3701 E. Johnson Avenue, Jonesboro, Arkansas (hereinafter referred to as the "Property").

6. That this Court has jurisdiction over this cause of action and the parties thereto and venue is proper herein.

7. That the above described property is hereby rezoned C-3 LUO from its existing R-1 zoning. The specific land uses permitted on the Property based upon this rezoning are:

- a. Animal Care, Limited
- b. Automated Teller Machine



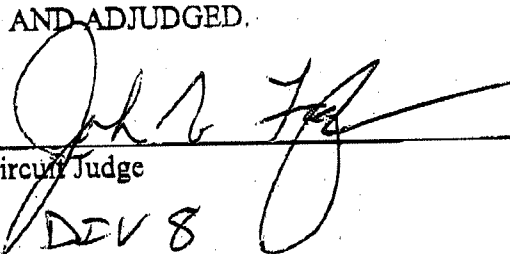
- c. Bank or Financial Institutions
- d. Church (with conditional use permit)
- e. Day Care, Limited
- f. Government Service
- g. Library
- h. Medical Service/Office
- i. Office, general
- j. Utility, minor

Further, at the time that the use of the Property is changed from its present R-1 to C-3 LUO status, the following improvements shall be made prior to obtaining Certification of Occupancy: (i) A solid fence, 8 feet in height shall be installed along the property lines adjacent to the property zoned R-1 on the South boundary as well as that portion of the East boundary zoned, R-1; (ii) That there be a buffer zone of forty feet (40') between any structure or parking and any R-1 zoned property except as reduced in subsection (v) below; (iii) Trees a minimum of eight feet (8') in height shall be planted along the fence to provide an additional layer of screening and buffering between the Property and properties zoned R-1 adjacent to the Property; (iv) There shall be no vehicular access from this Property to Maplewood Terrace or vice versa; and (v) The width of the buffer zone will be limited and reduced to the distance of the existing structure from the east boundary of the Property where the existing structure is located. However, if there are any exterior structural improvements that alter the size of the existing structure, then the forty foot (40') buffer zone shall apply.

8. That no other action to rezone said Property shall be necessary. However, if the City is desirous of enacting an Ordinance for this rezoning, it may do so. In the event that the

City believes, claims or desires that any additional action be taken for such rezoning to be effective, the City is hereby ordered to do so.

IT IS SO HEREBY ORDERED AND ADJUDGED.


Circuit Judge

APPROVED:

LYONS, EMERSON & CONE, P.L.C.

By: 

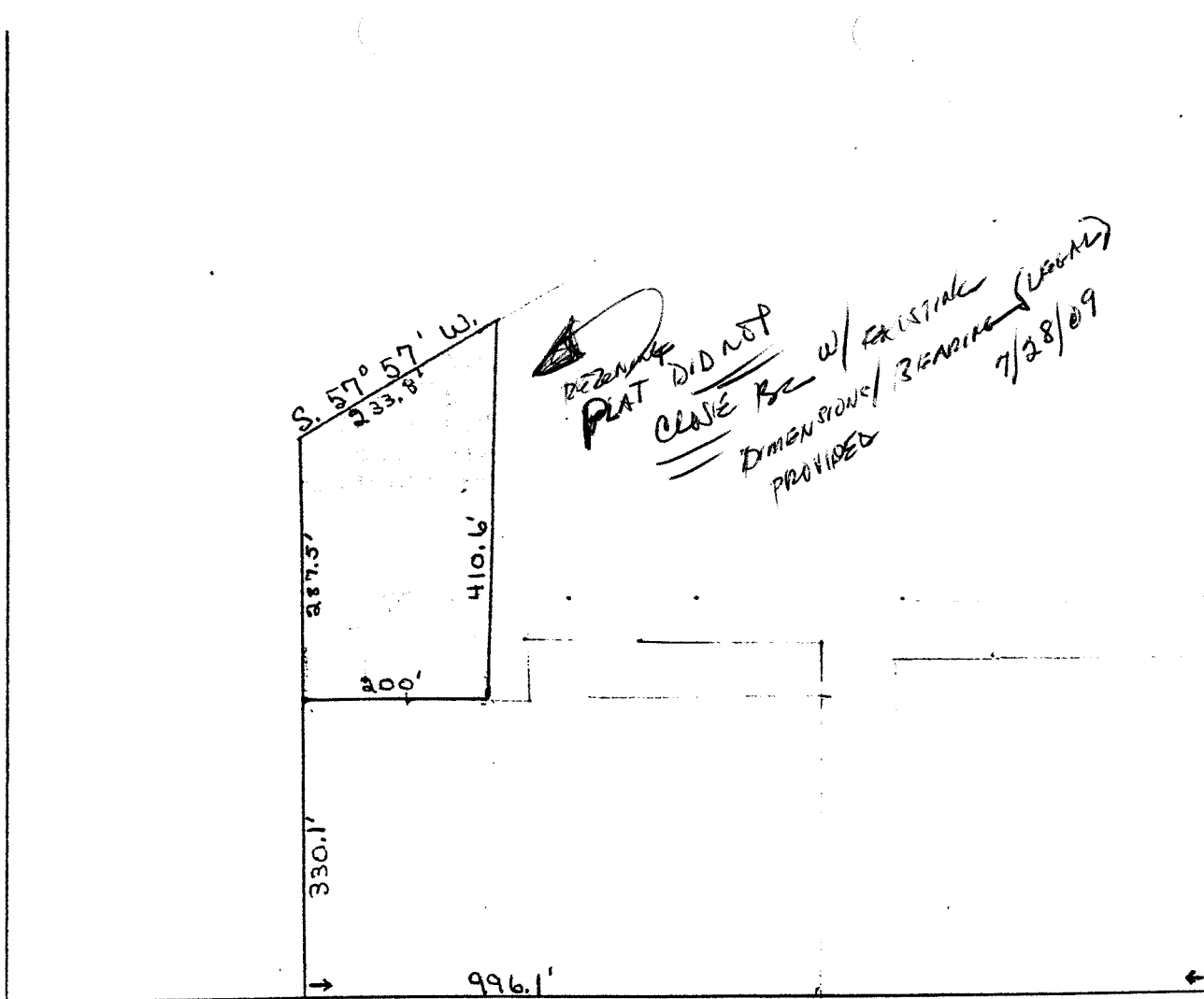
Attorneys for the Plaintiff

BACHELOR & NEWELL

By: 

Attorneys for the Defendants

PAWP60UJAGillespie.order.wpd



PLAT OF

The Southeast Quarter of the Northwest Quarter of Section 10,
Township 14 North, Range 4 East, Craighead County, Arkansas.

SINCE 1895

Marble Abstract Company

ABSTRACTERS OF TITLE

JONESBORO - LAKE CITY, ARKANSAS

MEMBER:
ARKANSAS TITLE ASSOCIATION
AMERICAN TITLE ASSOCIATION

INSURED WITH LLOYDS OF LONDON



RECORD OF PROCEEDINGS: MAPC PUBLIC HEARING HELD MAY 8, 2012

RZ 12-06: Grayson Investments, 3701 E. Johnson Ave.

A request to consider a recommendation to Council for a rezoning/modification of a "C-3 L.U.O.", General Commercial list of permitted uses.

Applicant:

Mr. Jim Lyons: Attorney- Representing Grayson Investments. Mr. Lyons presented the case noting that the property is located next to Bill's Fresh Market on E. Johnson Ave. Since the last traffic count and the most recent 2010 traffic count, approximately 25,000 cars are reflected at the point which is exactly where our property. The City of Jonesboro has done two (2) things in the recent past that will increase the likelihood of this property being commercial by: 1. *approving the NEA Baptist Memorial Hospital*; and, 2. *approving the development of the fairgrounds towards Brookland*. That has increased the traffic in this area. There is a change in the character of the neighborhood. Mr. Lyons showed slides of the current uses of the properties in the vicinity, including the rear of the property along Maplewood Terrace and properties along Highway 49N, as well as the C-3/ C-3 L.U.O. Zoning abutting.

Mr. Lyons noted the eye care facility to the east and the property underdevelopment as C-3 showing the dirt work underway in the photo to the north across E. Johnson. It is our position that this land is clearly commercial. He noted that he drove from the Ace Hardware Store and it measured 1.1 miles to Bill's Market. All of the properties are either commercial, 11 were unused and others used as residential, but those properties were for sale. He added that there were 3 or 4 properties which are currently residential, but he could not tell if it looked like one home may have been used as commercial. The rest of the properties along E. Johnson are commercial. Mr. Lyons stated that he understands that residents are opposed to this request. He understands the reason for that. When a City makes a decision to allow the building of the hospital, and makes a decision to rezone property for the fairgrounds, the result is that as Brookland grows, as Paragould grows, and Jonesboro has a substantial increase in traffic. He added that he would dare say that if we took a traffic count today, it would be at least 10% higher as a result of the development of the hospital and the other area out there. Obviously, if you continue to go past

the hospital, virtually all of those properties are also for sale, because people are going to develop those as commercial properties. He added that eventually all of the property along Johnson is going to be commercial, and he thinks that it is proper for this to be rezoned or changed as a limited use overlay- applied for to be changed for those uses of which we have asked for today.

Staff:

Mr. Spriggs gave a summary and history of the case. The former Gillespie case was applied for in December of 2005. It was acted on by the MAPC and forwarded to City Council for approval; and, it was acted on by the Council in a series of 2 meetings, denied and was litigated in the Circuit Court of Craighead County. As a part of that, Mr. Spriggs noted that he was actually hired at the same time and attended those proceedings. The judge handed down the Court Order of which you were copied- with a Rezoning to C-3 L.U.O. having specific uses and conditions. This is what is in question tonight: The applicant is petitioning a revision to that Limited Use Overlay. City Council did not follow up and rezone the property to C-3 L.U.O. by ordinance; however the rezoning remains valid with those conditions and specific uses that were listed. The applicant has requested (36 plus 10 original uses) as noted in the report. Those are your typical C-3 allowable uses, and the applicant is proposing to allow those for marketing or other reasons. Also there are specific conditions added by the court which covers screening, buffering and setbacks in proximity to existing and proposed structures. All of those are to remain in force. With the expansion of the use list, MAPC is asked to modify that order. We are dealing with process tonight; the MAPC is making a recommendation to City Council and Council will make any official decision from that point. The City Attorney's office is here to answer any questions as well as Planning Staff.

Mr. Tomlinson asked for clarity of whether we are considering a rezoning? **Mr. Spriggs** stated that this is technically a rezoning/change to an existing C-3 L.U.O. District. Any current district would be petition in this same manner to be modified. It has to go through this same process for modifications. This constitutes the same process for rezoning. **Mr. Tomlinson:** I wonder why they don't just go to the court and ask them to make the decision. **Mr. Spriggs** noted that is an option.

Mr. Jim Lyons: Before you can file an action against the City, the City has to refuse this or say we will *a, b and c*, but we will not allow *d, e and f*. We can't just file suit against the City and just say- We don't know what the City will do. It is necessary to have a true action against something claiming that it was improper what the City did. So we have to come to you first, before we can go back and ask the Court to re-do this. The City has to refuse. And, the proper method to do that, is this process. We were not trying to avoid going to Court.

Mr. Tomlinson: This was done in 2005; so, has the intensity of the area development has gone up considerably? **Mr. Lyons:** Yes, substantially. **Mr. Tomlinson:** I wish that the applicant would had derived a list of things that they desired to be there, as opposed to taking the whole C-3 ordinance, and turning it over and saying we want it all. Some of the listed uses couldn't be done anyway due to the size of lots and setbacks. **Mr. Tomlinson** added that he does think those uses need to be increased. There is a C-3 L.U.O. next door. You probably do not have as many uses as we granted them. Mr. Spriggs stated he would have the list of the property next door- I would like to see that. The minimum should be to permit what was allowed next door to you. I don't like to take all the time to write uses in the meeting. If they had submitted a list of what they would have thought to be required, then that would have been a great help to me.

Public Input:

Mr. Allen Jones, 3207 Maplewood Terrace: Agreed Highway 49N will be and is becoming commercial. At this lot, is where the commercial and residential uses intersect. And, I think the City Council recognized this in 2006 and denied the C-3 request that went to Circuit Court, who also recognized this and agreed, and allowed only the 10 restrictions. I think they got it right; I do not like the animal care use being next to residential.

Mr. Jones: I don't think that City Council can change what circuit court said; but I am not an attorney. I think that City Council should reject this, and they go back to Circuit Court to let them say you can change these accepted uses. I don't know the property owner's intent- Are they wanting to add these 27 acceptable uses to make it more attractive to a land purchaser, or is their actual intent hidden somewhere in those 27 additional or acceptable uses. I hope it is not for a communication tower or an arena. I request City Council to deny this and let Circuit Court make that decision again.

Mr. Jim Carter: 3013 Maplewood Terrace (40 Years). Stated that has a great neighborhood. Your Staff Report will show that in 2006, our neighborhood settled in Circuit Court that the property in question will be a C-3 L.U.O., with specific stipulations. At this point, there has not been anything to warrant a change in that settlement. We may talk about traffic counts, but the property in question has not been changed. The neighbors are there and it abuts a residential neighborhood that will be heard. We believe the court settlement was fair to our neighborhood, and we still feel the same way in 2012. We ask that you recommend to the City Council that the property stays as settled in Court in 2006; and, you not start peeling away one restriction at a time, so they end up with a regular C-3 out there. **Mr. Carter** added that he doesn't know the Grayson

Corporation, and they should have known that there were restrictions on the property when they purchased it. It is also a fact that will probably be given to you this evening that they really do not care how our neighborhood looks, by the way they have taken care of the property, since they have owned it.

Mr. Jerry Reece: Asked for clarification of the property- was it a part of the Maplewood Subdivision? **Mr. Carter:** Stated that he believe it was and they sold it off, lot by lot.

Mr. Lyons: Stated that if it were a part of the subdivision, then a bill of assurance would have existed. And there was no bill of assurance applied to the subject property.

Stacey Schratz, 3104 Maplewood Terrace: Referring to application Item 13: Ms. Schratz noted that the owner of Hilltop Eye Care (east of property), Doctor Megan Moll, stated that no one has discussed this with them and she objects; she could not be here.

Stacey Schratz: On the application, it says that the property purchased by the owner in 2008 was vacant and has since remained vacant. That is incorrect. She presented pictures to the MAPC. **Mr. Lyons:** Concurred that it is currently occupied. She added they are not good about keeping the property up. Other neighbors mow portions of the property, because they get tired of looking at it.

Ms. Schratz added that Mr. Osment or whoever owns this doesn't care about it. She has filed a complaint with code enforcement about having the property cleaned. She read the Rezoning Criteria for approval. She also spoke on nuisances on the property.

Wendy Jones, 3207 Maplewood Terrace read a letter from neighbors who are gone out of town- Dr. George and Phoebe Harp, **3206 Maplewood Terrace.** Spoke on increased pedestrian traffic on Maplewood Terrace. She is opposed to having access to this property from Maplewood Terrace. **Ms. Jones** made comments on the character of the neighborhood, and noted that a change of more uses is not desirable as a through-street.

Mr. Lyons: We are not asking for vehicular access to Maplewood Terrace, and there is no vehicular access from that point. On the property, we are required to build a fence where it touches residential property. There is a provision for no access to Maplewood Terrace in the request.

Mr. Reece: Isn't there a sewer easement that goes through that property and will it affect any new buildings? **Mr. Lyons** stated that it should not be an issue of interference of the sewer.

John Hatcher, 3105 Maplewood Terrace: The very issue raised about accessing through Maplewood Terrace lets us know that this affects Maplewood. Mr. Hatcher noted that he can look out his window and see the property due west of him. It is not a house that backs a residential neighborhood; it is in a residential neighborhood.

Ms. Schratz: Noted that the limitations next door is the same and is very limited.

Mr. Hoelscher: Asked what limitations were placed on the adjacent property. Mr. Spriggs continued to research the records to locate the files.

Ms. Nix: What would give us the right to rezone it legally?

City Attorney's Office, Ms. Carol Duncan reported that she did some research on that question, as well as consulted with Attorney Jim Lyons about case law he had found. Nothing was found to reflect either way. Either way we will end up, with this Commission's recommendation to City Council. **Ms. Duncan** stated that she does not feel the court wants to be in the business of rezoning our property forever. The gut instinct is that- if the City had rezoned the property by ordinance after the Court order and consistent with the Court order, there would be no question. We could have then made the decision and they could file against our decision in Circuit Court; but, we didn't do that- so the gray area exists. We will continue to research that issue upon review by Council, then the issue will be addressed; I am sure, at the Council level. There was just not any research available on that certain topic.

Mr. Kelton: It's my understanding from Mr. Lyon's presentation that he could not go back to Circuit Court, and ask for a change until a decision has been rendered by the Planning Commission and the City Council- Is that correct?

Ms. Duncan: Concurred that is what Mr. Lyons stated.

Mr. Kelton: So he is just following procedure? **Ms. Duncan** reiterated that there is no guidance in the law; this is the procedure that he and Mr. Spriggs worked out; *they are to go through the same steps as you would for any rezoning.* We are still researching the matter; I do not feel that the Court wants to be rezoning property for ever, just because litigation was filed.

Ms. Nix: Stated that she still would like a legal opinion about the process.

Ms. Duncan: You won't get a definitive answer, because there is no case law that does so; they are following the only procedure that we have available.

Mr. Lyons: If Mr. Spriggs would have said- *ya'll don't need to come here before the MAPC, then we would not be here.* You have to have a case of controversy, before you go to court. You can't just file suit for nothing. Then, there would be

a Rule 11 petition before me, because I am filing for nothing. Carol Duncan could issue sanctions against me; I've never had one filed against me. I am trying to do my job and get these additional uses on this property; and we believe that this is the proper way to do it. If a judge says that it is not, then it is not. We believe and Mr. Spriggs thought so- I still believe that we have to go through this process. The City Council must rule on that, before we will have a basis to file suit against the City. They might turn us down, but we don't know until we go and ask them by going through this process- which is coming to you, and a recommendation is made that then goes to City Council for action. We are not trying to do this for any purpose to cause any problems for the City. We are trying to make sure we follow the necessary steps, so those modifications could be acted on. I don't file suits that are not necessary.

Mr. Hoelscher: Is the issue at hand that the City was ordered to rezone the property? **Ms. Duncan:** The judge made the decision to rezone the property.

Mr. Hoelscher: So there wasn't an ordinance filed? **Ms. Duncan:** True, and had it been filed, it would have made it clearer.

Mr. Lyons: Read the order language which said.... *no other action was necessary; if the City so desires it may* (It was not required).

Mr. Kelton: Is it possible for you to pair this list down? **Mr. Lyons** stated, yes.

Mr. Spriggs: Stated that located the conditions from the 2002 case and read them:

ORD 02:0577, Rezoning by Phillip and Lonette Byrd, Adopted 08/05/2002, C-3 L.U.O., **Specific Land Uses permitted under Ordinance 02:0577 include:**

- (1) Animal Care, Limited
- (2) Automated Teller Machine
- (3) Bank of Financial Institution
- (4) Church (with conditional use permit)
- (5) Day Care, Limited
- (6) Day Care, general
- (7) Government Service
- (8) Library
- (9) Medical Service/Office
- (10) Office, General
- (11) Safety services
- (12) Utility, Minor

At the time this property changes uses from its present R-1 use to a C-3 L.U.O. use, the following improvements shall be made prior to obtaining a Certificate of Occupancy: A wooden screening fence, eight feet in height, shall be installed along the property lines abutting property zoned R-1. Trees, a minimum of

eight feet in height , shall be planted along the fence to provide an extra layer of screening and buffering between properties zoned R-1.

Prior to further development of the subject property, a Site Development Plan meeting the requirements of Section 14.36 of the Zoning Ordinance shall be prepared and submitted for review and approval by the City's Planning Department. This plan shall specifically show the relationship of the subject property to existing and proposed streets, driveways, utilities, and buildings within a 300 foot radius of the subject property.

Mr. Scurlock: Asked for clarification on the setbacks and fencing installation.

Mr. Spriggs: Stated that the adjacent property was never redeveloped and the current owners only went before the MAPC to have living quarters remain above the Optometrist's business.

Mr. Reece: Asked: *Will the action taken here tonight be passed on to City Council for an ultimate decision?*

Mr. Spriggs: *My recommendation is that you take some action tonight and recommend to Council based on the information provided to you. I honestly feel you have enough information to make a decision.*

Mr. Kelton: Stated that following along with the 2002 conditions, he noticed that they are almost identical, such as the 8- ft. fence and the trees which mirror the Judge's conditions. He noted difficulty in the Judge's stipulation of the 40 ft. setback from any structure, parking and any R-1 property. **Mr. Spriggs** clarified that it is the proposed structure in relationship to the adjacent R-1 zoned property- which is the property line.

Mr. Lyons presented the cut-down list: (These uses are to be allowed if approved).

- d. Automated teller machine
- e. Bank or financial institution
- f. Church
- g. College or university
- i. Construction Sales Service
- k. Day care, limited
- l. Day care, general
- s. Medical service/office
- u. Office, general
- w. Parks and recreation
- x. Post office
- bb. Restaurant, fast food
- cc. Restaurant, general

X Amel Carl

dd. Retail/service

ee. Safety services

kk. All other previously approved uses by the Court (Case CV-2006-88(JF)) is as follows:

- Animal Care, Limited,
- Automated Teller Machine
- Bank or Financial Institutions
- Church (with conditional use permit)
- Day Care, Limited
- Government Service
- Library
- Medical Service/Office
- Office, General
- Utility, Minor

Mr. Carter: Reiterated that this is *"free/ peeling away a little at time"* and revamping what we went through before with all this. We went to Council; they denied it, and they went to court; we settled; now we come back and they are peeling away. This is like our freedom. Send this to City Council with no approval, and let us get alone about our business. What we thought was fair was fair. It's good enough for the Hilltop Optometrist and it should be good enough for the person that bought this property.

ACTION:

Mr. Dover made a motion to approve the rezoning for property of 3701 E. Johnson as C-3 L.U.O., as stated with the narrow down list of permitted uses as proposed and make recommendation to City Council. Motion was seconded by Mr. Kelton.

Roll Call Vote: Mr. Scurlock- Aye; Mr. Hoelscher- Aye; Mr. Kelton- Aye; Mr. Reece- Abstain; Mr. Tomlinson- Nay; Ms. Elmore- Nay; Ms. Nix- Nay; Mr. Dover- Nay.

Case Denied. 3- Aye to 4- Nay; 1- Abstain