

ORDINANCE NO. 1752

AN ORDINANCE REZONING A PART OF NE 1/4, SW 1/4, SECTION 22,
TOWNSHIP 20 NORTH, R-26-W DESCRIBED AS TRACTS 1-5
ON A PLAT DATED SEPTEMBER 1, 1981, AND FILED SEPTEMBER 4, 1981,
IN THE WESTERN DISTRICT OF CARROLL COUNTY
IN PLAT CABINET A, SLIDE 80-R, IN THE CITY OF EUREKA SPRINGS, ARKANSAS,
FROM R-2, CONTEMPORARY RESIDENTIAL
TO C-2, CONTEMPORARY COMMERCIAL

WHEREAS, a Petition was duly filed with the City Council of Eureka Springs, Arkansas,
requesting a reclassification of zoning from R-2, Contemporary Residential, to C-2, Contemporary
Commercial, of the following described real property located in Eureka Springs, Arkansas, to-wit:

Part NE 1/4, SW 1/4, Section 22, Township 20 North, R-26-W described as Tracts
1-5 on a plat dated September 1, 1981, and filed September 4, 1981, in the Western
District of Carroll County in Plat Cabinet A, Slide 80-R, and more particularly
described as follows, to-wit:

TRACT 1: Commencing at the Southwest corner of the NE 1/4 of the SW 1/4 of
said Section 22, thence N 01° 52' 48" W 673.20 feet, thence N 81° 43' 50" E 401.85
feet to the place of beginning, thence N 19° 55' 28" W 250.00 feet to the East R/W
of State Highway #23, thence with said R/W N 80° 54' 03" E 119.75 feet, thence
leaving said R/W S 00° 00' 01" W 53.74 feet, thence S 29° 02' 01" E 66.14 feet to
center line of ravine, thence with said center line S 38° 12' 07" E 108.24 feet, thence
S 46° 25' 51" E 48.03 feet, thence leaving said center line S 81° 43' 50" W 168.63
feet to the place of beginning and containing 0.70 acres more or less and subject to
road right of way.

TRACT 2: Commencing at the Southwest corner of the NE 1/4 of the SW 1/4 of
said Section 22, thence N 01° 52' 48" W 673.20 feet, thence N 81° 43' 50" E 326.85
feet to the place of beginning, thence N 19° 55' 28" W 250.00 feet to the East R/W
of State Highway #23, thence with said R/W N 81° 43' 50" E 75.00 feet, thence
leaving said R/W S 19° 55' 28" E 250.00 feet, thence S 81° 43' 50" W 75.00 feet to
the place of beginning and containing 0.422 acres more or less and subject to road
right of way. Also subject to a twenty (20) foot easement described to wit: Beginning
at the Southwest corner of the above described tract, thence N 19° 55' 28" W 50.00
feet, thence N 81° 43' 50" E 20.00 feet, thence S 19° 55' 28" E 50.00 feet, thence S
81° 43' 50" W 20.00 feet to the place of beginning.

TRACT 3: Commencing at the Southwest corner of the NE 1/4 of the SW 1/4 of

said Section 22, thence N 01° 52' 48" W 673.20 feet, thence N 81° 43' 50" E 80.55 feet to the place of beginning, thence N 14° 45' 44" W 211.85 feet to the East R/W of State Highway #23, thence with said R/W N 61° 27' 11" E 41.21 feet, thence N 68° 24' 13" E 47.76 feet, thence N 74° 32' 41" E 48.48 feet, thence N 79° 05' 57" E 35.71 feet, thence leaving said R/W S 19° 55' 28" E 12.00 feet, thence N 79° 05' 57" E 12.00 feet, thence S 19° 55' 28" E 208.91 feet, thence S 39° 50' 52" E 32.49 feet, thence S 81° 43' 50" W 218.56 feet to the place of beginning and containing 1.051 acres more or less and subject to road right of way.

TRACT 4: Commencing at the Southwest corner of the NE 1/4 of the SW 1/4 of said Section 22, thence N 01° 52' 48" W 673.20 feet, thence N 81° 43' 50" E 80.55 feet to the place of beginning, thence N 81° 43' 50" E 218.56 feet, thence S 39° 50' 52" E 248.48 feet, thence S 24° 42' 18" E 170.99 feet, thence S 89° 14' 57" W 362.82 feet, thence N 14° 45' 44" W 330.33 feet to the place of beginning and containing 2.405 acres more or less and subject to road right of way.

TRACT 5: Commencing at the Southwest corner of the NE 1/4 of the SW 1/4 of said Section 22, thence N 01° 52' 48" W 673.20 feet, thence N 81° 43' 50" E 346.85 feet to the place of beginning, thence N 81° 43' 50" E 223.63 feet to center line of ravine, thence with said center line S 46° 25' 51" E 45.13 feet, thence S 20° 23' 24" E 113.92 feet, thence S 29° 05' 41" E 63.94 feet, thence S 18° 24' 44" E 55.66 feet, thence S 37° 59' 36" E 77.73 feet, thence S 42° 30' 59" E 100.00 feet, thence leaving said center line S 89° 14' 57" W 230.61 feet, thence N 24° 42' 18" W 196.53 feet, thence N 39° 50' 52" W 226.44 feet to the place of beginning and containing 1.764 acres more or less and subject to road right of way.

WHEREAS, a hearing was held before the Planning Commission of the City of Eureka Springs, Arkansas, on February 13, 1997, and said Planning Commission recommended approval of the rezoning of the above described lands.

WHEREAS, notice that a public hearing would be conducted by the Planning Commission of Eureka Springs, Arkansas, was duly published, and at the time set forth therein all persons present were afforded an opportunity to be heard on the question, and it was ascertained that it would be in the best interests of the City of Eureka Springs for the aforesaid lands to be developed according to the uses established in the C-2 Contemporary Commercial portion of the zoning code.

BE IT THEREFORE ORDAINED BY THE CITY COUNCIL OF EUREKA SPRINGS,
ARKANSAS, THAT:

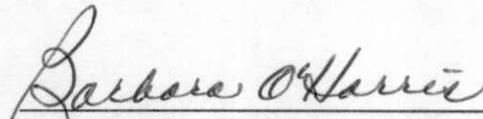
Section 1: The City of Eureka Springs, Arkansas, hereby amends the land use plan of its Zoning Ordinance by withdrawing the former classification of R-2, Contemporary Residential, and substituting therefor the land use classification of C-2, Contemporary Commercial, for all of the heretofore described lands.

Section 2: A copy of this Ordinance, duly certified by the City Recorder, shall be recorded in the deed records of the Ex-Officio Recorder in and for the Western District, Carroll County, Arkansas.

Section 3: This Ordinance shall be in full force and effect thirty (30) days after publication.

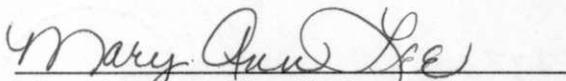
PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS, ON THIS 25th DAY OF March, 1997.

APPROVED:



Barbara O'Harris, Mayor

ATTEST:



Mary Ann Lee, City Clerk

EXHIBIT "A"

LOCATION: TRACTS 1, 2, 3, 4, 5, 6
PART OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4), SECTION 22,
TOWNSHIP-20-NORTH, RANGE-26-WEST, CARROLL COUNTY, ARKANSAS.

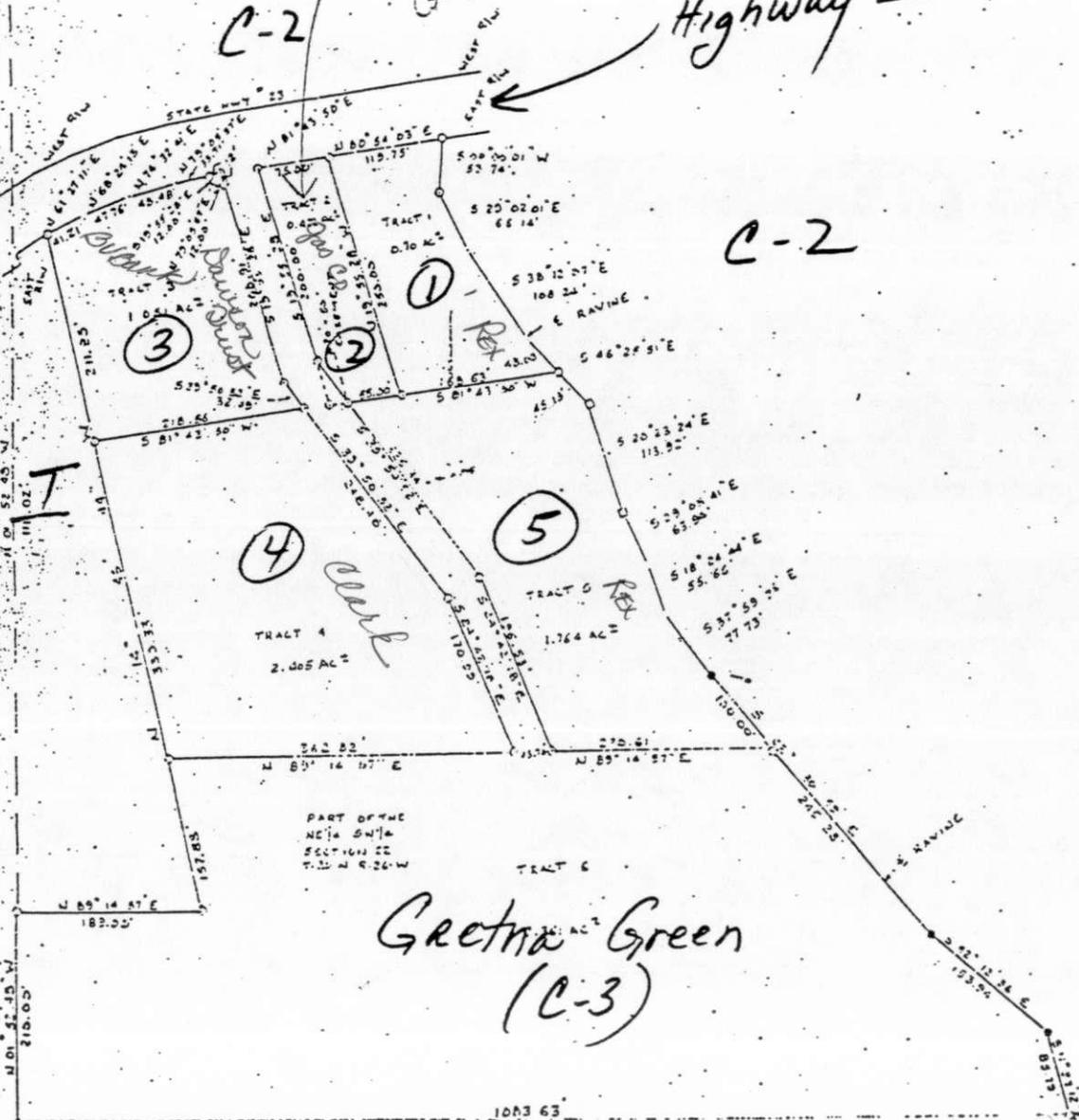
NW CORNER
NE 1/4 SW 1/4
SECTION 22
T. 20-N. R. 26-W.

ARKANSAS
WESTERN
GAS BUDGET

C-2

Highway 23

C-2



DESCRIPTION: TRACT 1
COMMENCING AT THE SOUTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 22,
THENCE N 01° 52' 48" W 673.20 FEET, THENCE N 81° 43' 50" E 101.85 FEET TO THE PLACE
OF BEGINNING, THENCE N 19° 55' 28" W 250.00 FEET TO THE EAST R/W OF STATE HWY. # 23,
THENCE WITH SAID R/W N 80° 51' 05" E 119.75 FEET, THENCE LEAVING SAID R/W S 00°
00' 01" W 53.74 FEET, THENCE S 25° 00' 01" E 66.14 FEET TO CENTER LINE OF RAVINE,
THENCE WITH SAID CENTER LINE S 38° 12' 07" E 106.24 FEET, THENCE S 46° 25' 51" N
48.03 FEET, THENCE LEAVING SAID CENTER LINE S 81° 43' 50" W 158.63 FEET TO THE
PLACE OF BEGINNING AND CONTAINING 0.70 ACRES MORE OR LESS AND SUBJECT TO ROAD
RIGHT OF WAY.

DESCRIPTION: TRACT 2
COMMENCING AT THE SOUTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 22,
THENCE N 01° 52' 48" W 673.20 FEET, THENCE N 81° 43' 50" E 325.85 FEET TO THE PLACE
OF BEGINNING, THENCE N 19° 55' 28" W 250.00 FEET TO THE EAST R/W OF STATE HWY. # 23,
THENCE WITH SAID R/W N 81° 43' 50" E 75.00 FEET, THENCE LEAVING SAID R/W S 19° 55'
28" E 250.00 FEET, THENCE S 81° 43' 50" W 75.00 FEET TO THE PLACE OF BEGINNING AND
CONTAINING 0.422 ACRES MORE OR LESS AND SUBJECT TO ROAD RIGHT OF WAY.
ALSO SUBJECT TO A TWENTY (20) FOOT EASEMENT DESCRIBED TO WIT: BEGINNING AT THE
SOUTHWEST CORNER OF THE ABOVE DESCRIBED TRACT, THENCE N 19° 55' 28" W 50.00 FEET,
THENCE N 81° 43' 50" E 20.00 FEET, THENCE S 19° 55' 28" E 50.00 FEET, THENCE S 81°
43' 50" W 20.00 FEET TO THE PLACE OF BEGINNING.

DESCRIPTION: TRACT 3
COMMENCING AT THE SOUTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 22,
THENCE N 01° 52' 48" W 673.20 FEET, THENCE N 81° 43' 50" E 80.55 FEET TO THE PLACE
OF BEGINNING, THENCE N 10° 45' 44" W 211.25 FEET TO THE EAST R/W OF STATE HWY. # 23,
THENCE WITH SAID R/W N 61° 27' 11" E 111.31 FEET, THENCE N 68° 21' 13" E 47.76 FEET,
THENCE N 70° 30' 51" E 48.48 FEET, THENCE N 79° 05' 57" E 35.71 FEET, THENCE LEAVING
SAID R/W S 15° 55' 28" E 12.00 FEET, THENCE N 79° 05' 57" E 12.00 FEET, THENCE S 19°
55' 28" E 208.91 FEET, THENCE S 39° 50' 52" E 32.49 FEET, THENCE S 81° 43' 50" W
218.56 FEET TO THE PLACE OF BEGINNING AND CONTAINING 1.051 ACRES MORE OR LESS AND
SUBJECT TO ROAD RIGHT OF WAY.

DESCRIPTION: TRACT 4
COMMENCING AT THE SOUTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 22,
THENCE N 01° 52' 48" W 673.20 FEET, THENCE N 81° 43' 50" E 80.55 FEET TO THE PLACE
OF BEGINNING, THENCE N 81° 43' 50" E 218.56 FEET, THENCE S 39° 50' 52" E 218.56
FEET, THENCE S 21° 42' 18" E 170.99 FEET, THENCE S 89° 14' 57" W 367.82 FEET, THENCE
N 14° 45' 44" W 330.33 FEET TO THE PLACE OF BEGINNING AND CONTAINING 2.005 ACRES
MORE OR LESS AND SUBJECT TO ROAD RIGHT OF WAY.

DESCRIPTION: TRACT 5
COMMENCING AT THE SOUTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 22,
THENCE N 01° 52' 48" W 673.20 FEET, THENCE N 81° 43' 50" E 368.05 FEET TO THE PLACE
OF BEGINNING, THENCE N 81° 43' 50" E 223.43 FEET TO CENTER LINE OF RAVINE, THENCE
WITH SAID CENTER LINE S 46° 25' 51" E 18.13 FEET, THENCE S 20° 23' 12" E 113.99
FEET, THENCE S 29° 05' 41" E 63.74 FEET, THENCE S 18° 24' 44" E 58.56 FEET, THENCE
S 37° 52' 30" E 71.73 FEET, THENCE S 40° 30' 57" E 100.00 FEET, THENCE LEAVING
SAID CENTER LINE S 89° 14' 57" W 230.61 FEET, THENCE N 28° 42' 14" W 106.53 FEET,
THENCE N 39° 50' 52" W 226.44 FEET TO THE PLACE OF BEGINNING AND CONTAINING 1.764
ACRES MORE OR LESS AND SUBJECT TO ROAD RIGHT OF WAY.

DESCRIPTION: TRACT 6
BEGINNING AT THE SOUTHWEST CORNER OF THE NE 1/4 OF THE SW 1/4 OF SAID SECTION 22,
THENCE N 01° 52' 48" W 240.00 FEET, THENCE N 89° 14' 57" E 189.00 FEET, THENCE
N 14° 45' 44" W 157.88 FEET, THENCE S 89° 14' 57" E 437.13 FEET TO CENTER LINE OF
RAVINE, THENCE WITH SAID CENTER LINE S 42° 30' 57" E 285.28 FEET, THENCE S 52° 17'
36" E 153.74 FEET, THENCE S 11° 33' 12" E 85.78 FEET, THENCE LEAVING SAID CENTER
LINE S 89° 14' 57" W 100.63 FEET TO THE PLACE OF BEGINNING AND CONTAINING 7.351
ACRES MORE OR LESS AND SUBJECT TO ROAD RIGHT OF WAY.

SURVEYOR'S CERTIFICATION:
I HEREBY CERTIFY THAT THE HEREOF DESCRIBED LAND HAS BEEN SURVEYED UNDER MY
SUPERVISION AND THAT THIS PLAT CONFORMS TO THAT SURVEY TO THE BEST OF MY
KNOWLEDGE AND BELIEF, FOR VERIFICATION AND UPDATING CONTACT THE OFFICE OF:

HUSTON SURVEYING
P.O. BOX 297
ORAMA, ARKANSAS

SEPTEMBER 1, 1981

Green Green
(C-3)

JOHN W. HUSTON
REGISTERED
LAND SURVEYOR
STATE OF
ARKANSAS
NO 881

FILED FOR RECORD
this 4th day of September 1981
at 1:30 o'clock P M
JACKIE BUNCH
CLERK OF THE COURT
CARROLL COUNTY, ARKANSAS



SW CORNER
NE 1/4 SW 1/4
SECTION 22
T. 20-N. R. 26-W.

NAME:

DEED REF:

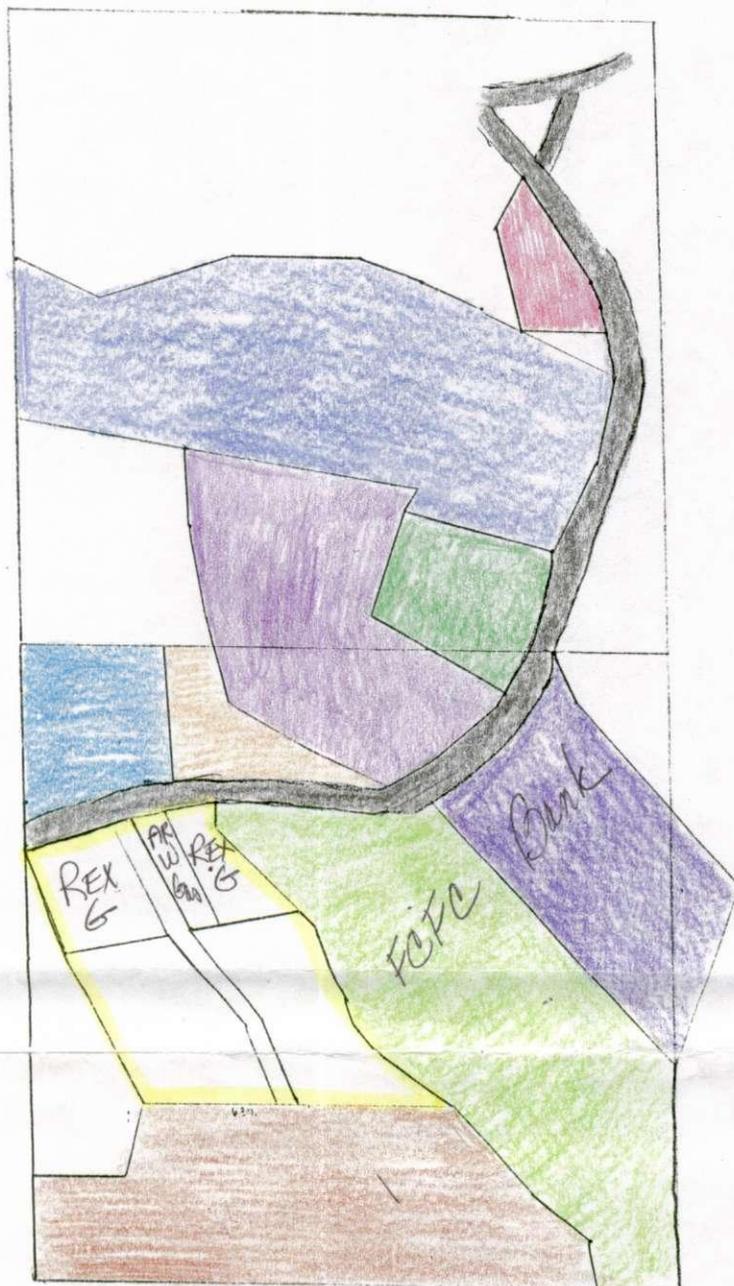
ZONED:

NORTH OF HIGHWAY 23 SOUTH

Ozarka, Inc.	Deed Book 128, Page 426	Commercial
Interstate Auto Wholesale	Deed Book 142, Page 661	Commercial
Kosinski, Mirosław, et ux	Deed Book 137, Page 323	Commercial
Coleman, William A., et ux	Deed Book 75, Page 355	Commercial
Robinson, John L., et ux	Deed Book 112, Page 288	Commercial
Beaver, Robert W., et ux	Deed Book 134, Page 545	Commercial

SOUTH OF HIGHWAY 23 SOUTH

Dawson, C.A. Trust	Deed Book 122, Page 598	Residential
Arkansas Western Gas	Deed Book 96, Page 47	Residential
Clark, Bill	Deed Book 124, Page 170	Residential
Gustin, Rex Trust, et al	Deed Book 133, Page 402	Residential
York Family Trust	Deed Book 142, Page 836	Commercial
Faith Christian Fellowship	Deed Book 106, Page 113	Commercial
First National Bank--BV	Deed Book 121, Page 550	Commercial



PLANNING COMMISSION/BOARD OF ZONING ADJUSTMENT

REGULAR MEETING

THURSDAY, February 13, 1997

6 P.M.

Minutes

The regular meeting of the Planning Commission/Board of Zoning Adjustment was called to order at 6:15 p.m. Thursday, February 13, 1997. Commissioners present: Lamont Richie, Jack Dozier, Auddie Autrey, and Paula Adkins. Commissioners absent: Richard Nickelson and Susan Storch. A Quorum was established.

Chairman Richie deferred the commissioners' business to the end of the agenda and proceeded directly to old business of the Planning Commission.

OLD BUSINESS:

1. Public hearing on request from Wade Williams, on behalf of the First National Bank of Berryville, Trustee of the C. A. Dawson Trust, Arkansas Western Gas Company, Bill Clark and Rex Gustin, on the rezoning of Hwy 23 South frontage property described as Part NE 1/4, SW 1/4, Section 22, Township 20 North, R-26-W, Tracts 1-5, located on the east side of 23 South on either side of the dirt road named Gretna Green Lane, from R-2, Contemporary Residential, to C-2, Contemporary Commercial.

Wade Williams was present to represent the above named property owners. Rex Gustin, Gene Bland and Shari Bozeman were also present. Mr. Williams explained they were asking to rezone 5 parcels of property. He provided a color coded document that showed the surrounding properties. He pointed out all of the surrounding properties are currently zoned commercial. He stated since these properties were the only ones in that area that are zoned residential, they felt the change would help to conform with the surrounding property uses and would most likely be the highest and best use for the properties. He said it was not foreseeable that anyone would want to use these properties, which are surrounded by commercial properties, in any sort of residential manner. He explained it was a high traffic area on 23 South and they believe that a commercial use would be a much more beneficial use to the community than having it zoned residential. He also pointed out to the Commissioners that the property immediately to the west of the area was zoned industrial.

There was some discussion on the zoning of the York Family Trust property. It was determined the property was zoned C-3. Discussion continued on the location of the tracts being considered for

rezoning.

Commissioner Dozier moved to approve that the property previously described be rezoned from R-2, Contemporary Residential, to C-2, Contemporary Commercial. Commissioner Autrey seconded. Chairman Richie stated the secretary has the complete legal description of the properties. He explained they were talking about 5 tracts of land located on the east side of 23 South. A vote was called. All voted aye. Motion passed 4-0-0.

NEW BUSINESS:

1. Request from City Council to set a public hearing on the annexation of Lake Leatherwood.

Chairman Richie said the earliest public hearing date would be March 13, 1997.

The Commission discussed pros and cons regarding the annexation. Chairman Richie suggested Steve Beachum from the Parks Commission and City Attorney Jay Miner attend the February 27 meeting to provide them with additional information before the public hearing. Chairman Richie also asked the announcement be made that written comments will be accepted up until noon on March 13.

Commissioner Adkins moved to set the public hearing on the annexation of Lake Leatherwood for March 13, 1997 at 6 p.m. Commissioner Dozier seconded. A vote was called. All voted aye. Motion passed 4-0-0.

2. Discussion regarding the utilization of the former Police Department building.

Chairman Richie explained that the Mayor and City Council have talked with Tom Johnson about remodeling the former Police Department building. He said the proposal was to turn part of it into a permanent meeting room. He added there would be two offices, one for the building inspector and one for a city planner, plus two restrooms. After some discussion, the consensus was positive.

Chairman Richie requested the Planning Commission/Board of Zoning Adjustment agendas appear on Channel 31. The Commissioners agreed.

Chairman Richie asked that all of the application forms be revised to make sure they are compliance with the policies and procedures manual.

The Commissioners were given copies of the basis for what is now the City's tree and landscaping ordinance. He asked that the Commissioners read through it and compare it to what is now in the ordinance. He gave examples of changes he would like to see in the ordinance, specifically a grading and backfill permit.

BOARD OF ZONING ADJUSTMENT

OLD BUSINESS:

No Old Business

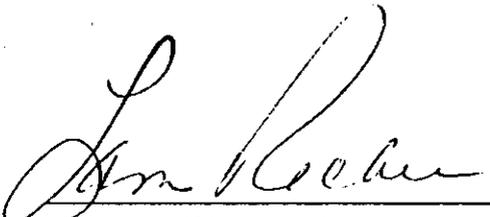
NEW BUSINESS:

No New Business

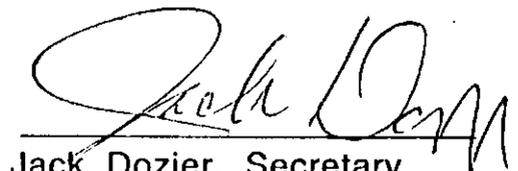
Chairman Richie announced the annual election of officers. Commissioner Adkins nominated Richie to continue as chairman. The vote was unanimous. Commissioner Autrey nominated Adkins for vice-chairperson. The vote was unanimous. Commissioner Richie nominated Dozier for secretary. The vote was unanimous.

The minutes of the December 12 regular meeting were approved with one change on page 2, line 5, the word "wandering" to "wondering".

Without objection, the meeting was adjourned at 7:35 p.m.



Lamont Richie, Chairman



Jack Dozier, Secretary

Minutes prepared by City Hall Secretary Sheila Hulseley

MEMO

DATE: February 20, 1997

TO: Mayor O'Harris, Members of the City Council, Mary Ann Lee, Jay Miner, Don Young

FROM: Lamont Richie, Chairman of the Planning Commission

RE: Application for rezoning 5 tracts described as Part NE 1/4, SW 1/4, Section 22, Township 20 North, R-26-W. These tracts are located on the east side of Highway 23 South, bordering a dirt road commonly known as Gretna Green Lane. The property is currently zoned R-2 (Contemporary Residential) and applicants desire it to be rezoned C-2 (Contemporary Commercial).

RECOMMENDATION: The Planning Commission recommends the rezoning.

FACTS: Applications for rezoning were brought to the Planning Commission by Attorney Wade A. Williams representing the owners as follows:

1. Tracts 1 & 5, Rex Gustin;
2. Tract 2, Arkansas Western Gas Company;
3. Tract 3, First National Bank of Berryville, Trustee of the C. A. Dawson Trust; and
4. Tract 4, Bill Clark.

A public hearing was set for Thursday, February 13, 1997, at 6 p.m. and notice of the hearing was duly published in the Eureka Springs Times-Echo.

At the public hearing, Mr. Williams gave testimony that the parcels in question were surrounded by commercially-zoned property to the North (C-2) and to the East (C-3), and by Industrially-zoned property to the South (the future site of the Methodist Church). Across Highway 23 also is commercially zoned. Further, Tract 2 was until a couple of years ago the local office for the Arkansas Western Gas Company. Tracts 1, 2 & 3 front Highway 23 South; and Tracts 4 & 5 are immediately behind.

No one appeared to speak in opposition to the application.

CONCLUSION: The Highway 23 South corridor is represented by a mix of lodging and retail outlets, along with a bank and 2 churches, as well as the future location of another church. Further down Highway 23 are other commercial enterprises--and, while not all are within the City Limits, there is the definite sense of a commercial neighborhood.

The Planning Commission recommends 4-0-0 that the City Council approve the rezoning request.