



Planning Commission Regular Meeting Agenda

Date: Monday, August 11, 2025

Location: Bella Vista District Court

Time: Immediately upon the
adjournment of the Board of Zoning
Adjustment meeting at 4:30 PM.

2483 Forest Hills Blvd

Planning Commission regular meetings are live streamed and archived for your convenience. View the meeting at its scheduled time or after at:

<https://bit.ly/bvmeetingslive>.

I. Call to Order

II. Roll Call

Members: Daniel Ellis, PE, Chairman; Doug Farner, Vice-Chairman; Gail Klesen, Secretary; Clayton Sedberry, JB Portillo; Jack Wagnon, and Linda Lloyd.

III. Consideration of Minutes

A. Regular Meeting Minutes - July 14, 2025

IV. Public Input

V. Unfinished Business

VI. New Business

- A. **WVR-2025-60319:** A waiver request on required lot length maximums associated with PLA 60141 located at 5 Dewsbury Circle; Parcel 16-33907-000; Applicant Brendan Hayes; Presented by Planner Hyatt
- B. **PLA-2025-60141:** A property line adjustment between Lots 18 and 19, Block 15 of the York Subdivision located at 5 Dewsbury Circle; Parcel 16-33907-000; Applicant Brendan Hayes; Presented by Planner Hyatt
- C. **Public Hearing ORDINANCE:** A proposed new Small Cell Facilities Ordinance; Presented by Director Robertson

VII. Committee Reports

VIII. Open Discussion

IX. Announcements

- A. The City Council Work Session will be Monday, August 18, 2025 at 5:30 pm.
- B. The City Council Regular Meeting will be on Monday, August 25, 2025 at 6:00 pm.
- C. The Planning Commission Work Session will be Thursday, August 28, 2025 at 4:30 pm.
- D. The Board of Zoning Adjustment meeting will be on Monday, September 8, 2025 at 4:30 pm directly followed by the Planning Commission regular meeting.

X. Adjournment



**Planning Commission
Regular Meeting Minutes**

July 14, 2025
2483 Forest Hills Blvd

I. CALL TO ORDER

Chairman Ellis called the meeting to order at 4:44 PM

II. ROLL CALL

Members: Daniel Ellis, PE, Chairman; Doug Farner, Vice-Chairman; Gail Klesen, Secretary; Clayton Sedberry; JB Portillo; Jack Wagnon, and Linda Lloyd.

Member(s) Absent: None.

III. CONSIDERATION OF MINUTES

A. *Regular Meeting Minutes – June 9, 2025*

On a motion by Ms. Klesen and a second by Mr. Farner, the June 9, 2025 minutes were approved by a voice vote.

IV. PUBLIC INPUT

- A. Chairman Ellis opened the public input session.
- B. Chairman Ellis closed the public input session.

V. UNFINISHED BUSINESS

VI. NEW BUSINESS

A. WVR-2025-59726(A): A waiver request on the required right-of-way dedication associated with PLA 59124 near 411 Town Center (East); Parcel 16-40168-000; Applicant Crafton Tull; Presented by Planner Grady.

1. Planner Grady presented the staff report in the packet.
2. A discussion was held regarding the request.
3. Applicant Evan McMan representing Crafton Tull was present to declare the intent to table the waiver, and PLA 59124, to the August meeting and waive the 60-day review requirements.
4. A motion to table WVR-2025-59726(A) and PLA 59124 was made by Ms. Portillo and a second was made by Mr. Farner.

JB Portillo – Y
Jack Wagnon – Y
Linda Lloyd – Y
Gail Klesen – Y
Clayton Sedberry – Y
Doug Farner – Y

B. PLA-2025-59124: A property line adjustment proposal located near 411 Town Center (East); Parcel 16-40168-000; Applicant Crafton Tull; Presented by Planner Grady.

1. Planner Grady presented the staff report alongside item A.
2. Applicant Evan McMan representing Crafton Tull was present to request Tabling under Item A.
3. The Tabling of Item A and B were heard together under Item A.

C. WVR-2025-59726(B): A waiver request of retaining wall setback requirements for a proposed retaining wall located near 411 Town Center (East); Parcel 16-40168-000; Applicant Crafton Tull; Presented by Senior Planner Hyatt.

1. Senior Planner Hyatt presented the staff report in the packet.
2. The applicant Evan McMan, representing Crafton Tull, was present to request Tabling the waiver until August and waive the time requirements.
3. A motion to Table WVR-2025-59726(B) was made by Mr. Farner and a second was made by Ms. Klesen.

Linda Lloyd – Y
Gail Klesen – Y
Clayton Sedberry – Y
Doug Farner – Y
JB Portillo - Y
Jack Wagnon – Y
Daniel Ellis - abstain

Motion approved with six yes votes and one abstain. (6-1)

D. Public Hearing: ORDINANCE: A proposal for a new Section 109 of the Municipal Ordinance known as the Zoning and Development Ordinance along with an accompanying Zoning Map; Presented by Director Robertson and Consultant Freese and Nichols.

1. Director Robertson presented the staff report in the packet.
2. Dawn Warrick with Freese and Nichols presented a review of what was discussed during the work session.
3. A discussion was held regarding the request.
4. Director Robertson presented the Amendment proposal for preservation requirements.
5. A discussion was held concerning the preservation amendment and the zoning map.
6. Chairman Ellis opened the public hearing.
7. Tom Strodbeck, 26 Sullivan Dr, attempted to give his time to Peggy Lucas but was instructed that was not possible.
8. Peggy Lucas, 23 Dewsbury Dr, spoke with concern of the new zoning map.
9. Chairman Ellis closed the public hearing.
10. A discussion was held regarding the ordinance proposal. Mr. Farner proposed to make all site-plans be approved by the Planning Commission rather than staff.
11. Further discussion was held regarding the proposal. Mr. Farner withdrew his proposal to amend site-plan approvals processes.
12. A motion to approve the preservation amendment was made by Mr. Wagnon and a second was made by Ms. Lloyd.

13. A motion to recommend approval of Section 109 and it's map as proposed to City Council was made by Ms. Klesen and a second was made by Ms. Lloyd.

Gail Klesen – Y
Clayton Sedberry – Y
Doug Farner - Y
JB Portillo – Y
Jack Wagnon – Y
Linda Lloyd - Y
Daniel Ellis - Y

Motion approved with seven yes votes. (7-0)

14. A motion to approve Section 109 and send to city council for approval with the preservation amendment was made by Ms. Klesen and a second was made by Ms. Lloyd.

Clayton Sedberry – Y
Doug Farner - N
JB Portillo – Y
Jack Wagnon – Y
Linda Lloyd – Y
Gail Klesen - Y
Daniel Ellis - Y

Motion approved with six yes votes and one no vote. (6-1)

15. A motion to approve the new zoning map and send to city council for approval was made by Ms. Portillo and a second was made by Mr. Wagnon.

Doug Farner – Y
JB Portillo – Y
Jack Wagnon - Y
Linda Lloyd – Y
Gail Klesen – Y
Clayton Sedberry - N
Daniel Ellis - Y

Motion approved with six yes votes and one no vote (6-1)

E. Public Hearing: ORDINANCE: A proposal for a new section 107 of the Municipal Ordinance known as the Subdivision Ordinance: Presented by Director Robertson and Consultant Freese and Nichols.

1. Director Robertson presented the staff report in the packet.
2. A discussion was held regarding the request.
3. Chairman Ellis opened the public hearing.
4. Chairman Ellis closed the public hearing.
5. A motion to recommend approval of Section 107 as proposed to City Council was made by Ms. Lloyd and a second was made by Mr. Sedberry.

Clayton Sedberry – Y
Doug Farner – Y
JB Portillo - Y
Jack Wagnon – Y
Linda Lloyd – Y
Gail Klesen - Y
Daniel Ellis - Y

Motion approved with seven yes votes. (7-0)

VII. COMMITTEE REPORTS

None.

VIII. OPEN DISCUSSION

A. Discussion was held about a new committee report detailing current working projects.

IX. ANNOUNCEMENTS

A summary of upcoming meetings was announced.

IIX. ADJOURNMENT

Chairman Ellis adjourned the meeting at 6:07 pm.

SUBMITTED BY:

Sarah Costa, Office Manager
City of Bella Vista

APPROVED AND ACCEPTED THIS 11TH DAY OF AUGUST 2025:

Daniel Ellis, P.E., Chairman
Bella Vista Planning Commission

Gail Klesen, Secretary
Bella Vista Planning Commission



Meeting Information:

2483 Forest Hills Blvd
August 11, 2025

Reviewer:

Christopher Hyatt
Senior Planner

Project Number	WVR-60319 & PLA-60141
Applicant	Brendan Hayes
Address/Location	5 Dewsbury Circle
Current Zoning	R-1 Single Family Residential
Site Area	2.58 acres
Nature of Request	Requesting a property line adjustment

Property Description

This property is located in the eastern area of Bella Vista City Limits and is located on Parcel #16-33907-000. Lot 18, Block 15. York Subdivision.

Regulation

Sec. 107-249(f)(3) states that no lot shall be more than four times as deep as it is wide. Sec. 107-126 provides four options for incidental subdivisions: lot splits, minor subdivisions, property line adjustments, and correction plats.

Request

The applicant is requesting a waiver of 107-249(f)(3) along with a proposed property line adjustment of the previous Lots 18 and 19 of the York Subdivision, creating new lots 18A and 19A, Block 15 of the York Subdivision.

Background

Adjacent land uses include single-family residential, common property, and Lake Ann. The Comp-Plan 2040 recommends low-density residential for the area.

Various drainage and utility easements have been dedicated to the public per City requirements. Right-of-way width requirements have been previously met for Dewsbury Circle. Easements have been dedicated to the public along the front, sides, and rear as required. Lot area requirements of the R-1 District have been met; as the lots exceed .32 acres, are more than fifty feet wide, and more than 100 feet deep. Due to the layout of the existing lots, the applicant requests a waiver of Sec. 107-249(f)(3) for both Lots 18a and 19A, as their lengths measure more than four times their widths.

Dewsbury Circle is a dead-end cul-de-sac and non-classified residential street per the Master Street Plan that experiences low to minimal traffic.

Please be advised: this property line adjustment may be subject to additional review and approval requirements from the developer. Any changes they require may require additional approvals from the Planning Commission.

Public Comment

None at the time of this report.

Outstanding Technical Comments

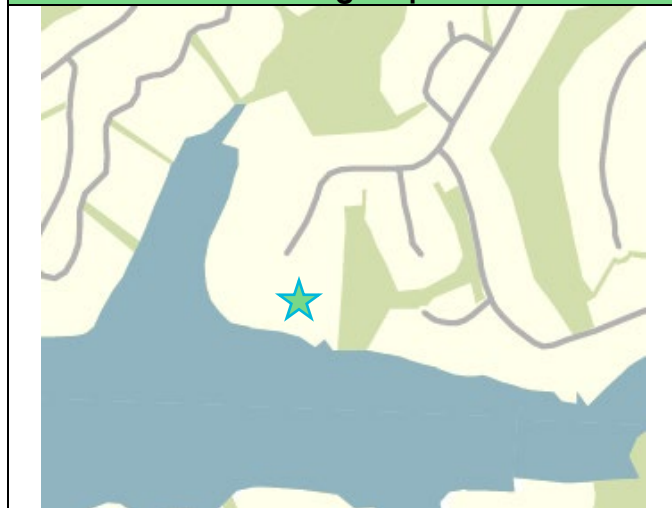
None at the time of this report.

Recommendation

Staff recommends approval of the property line adjustment so long as the Planning Commission approves the waiver request.



Zoning Map



Future Land Use

Sec. 107-35 Waiver Review Requirements

When, by the strict interpretation of Chapter 107, an applicant incurs undue restrictions on the physical property to be subdivided or developed, a waiver for such requirements may be granted by the planning commission. **Under no circumstance** should a waiver be granted because of a personal hardship or for personal or emotional reasons. Waivers shall not be granted based strictly on financial hardship. A waiver is determined by the strict interpretation and enforcement of the rules and regulations upon a given piece of property to be subdivided or developed. No waiver shall be granted unless the planning commission finds all of the following:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provision of these regulations would deprive the applicant of the reasonable use of this land.
2. That the waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant.
3. That the granting of the waiver will not be detrimental to the public health, safety and welfare or injurious to other property in the area.
4. That the granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accord with the provision of these regulations.

Four affirmative votes of the planning commission's authorized membership shall be necessary for the passage of any waiver.

Sec. 107-35 Waiver Review Procedures

- Under exceptional circumstances, the planning commission may grant waivers at the time of final plat approval.
- In granting the waiver, the planning commission shall prescribe any conditions that it deems necessary to or desirable in the public interest.
- In considering the petition for a waiver, the planning commission shall take into account the nature of the proposed use of land involved, existing uses of land in the area, proximity to public utilities, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such waiver upon traffic conditions and upon the public health, safety and general welfare in the vicinity.
- The findings of the planning commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the planning commission meetings at which such waiver is granted. Waivers may be granted only when in harmony with the general purpose and intent of these regulations.

Sec. 107-128 Incidental Subdivision Review and Approval

Planning Commission Approval:

1. Applicability. The planning commission shall approve, approve with conditions, or disapprove any incidental subdivision that is not being administratively approved as set forth in section 107-128(a) of this section.
2. Action. Within 60 days of receipt of the complete plat from the applicant, the planning commission shall take action on the incidental subdivision. If the plans are approved with conditions, the conditions shall be set forth in written form to the owner/developer. The signature of the owner/developer on the form setting forth the conditions of approval shall be deemed his agreement to comply with said conditions, whereupon a building permit may be issued. Disapproval of the plat shall be transmitted to the applicant with the reasons therefor within 15 days after the meeting at which the plat was disapproved.
3. Any incidental subdivision that dedicates street rights-of-way or easements to the public that has been approved by the planning commission shall constitute acceptance of said dedication.
4. Approval signatures. All planning commission approvals of incidental subdivisions shall be signified by the signature of the planning commission chairman upon the development plan.

Sec. 107-130 Incidental Subdivision Review Criteria

Approval or disapproval of incidental subdivisions shall be given based on the following threshold guidelines:

5. No new street or alley is required or proposed.
6. No vacation of streets, alleys, setback lines, access control or easements is required or proposed.
7. Such action will not result in any significant increases in public service requirements, nor will interfere with maintaining existing public service levels.
8. There is adequate street right-of-way as required by these regulations and the master street plan.
9. All easement requirements have been satisfied.
10. All lots created by such split or readjustment shall have access on a public street.
11. No substandard sized lots or parcels shall be created.
12. No waivers or variances from these regulations are requested.

Planning Commission
City of Bella Vista
Bella Vista, AR 72714

Dear Planning Commission,

I am writing to request an adjustment to the middle lot line between the properties located at 5 Dewsbury Circle, identified as Parcel Numbers 16-33908-000 and 16-33907-000. Per Bella Vista Code 107-249(f)(3), no lot shall be more than four times as deep as it is wide. However, these lots were pre-platted and have not met this requirement since their creation.

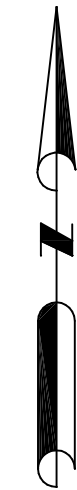
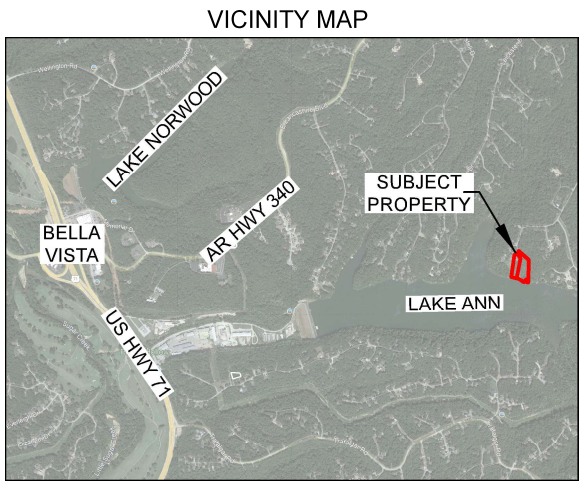
Due to this pre-existing condition, I respectfully request a waiver of the aforementioned code requirement. My family and I would greatly appreciate your consideration of this matter.

Thank you for your time and attention to this request.

Sincerely,
Brendan Hayes
5 Dewsbury Circle
Bella Vista, AR 72714

YORK SUBDIVISION, LOTS 18A & 19A

(BEING A REPLAT OF LOTS 18 & 19, BLOCK 15, YORK SUBDIVISION,
IN THE CITY OF BELLA VISTA, IN BENTON COUNTY, ARKANSAS)



BASIS OF BEARING:
STATE PLANE GRID NORTH

EASEMENTS: EASEMENTS OR RIGHTS OF WAY COULD EXIST THAT AFFECT THE INTENDED USE OF THIS PROPERTY. TO PROTECT YOUR INTEREST, YOU CAN CALL ARKANSAS ONE CALL TO HAVE ALL UTILITIES MARKED ON THE GROUND. YOU CAN CONSULT THE TITLE COMPANY FOR ANY EASEMENTS OF RECORD, OR YOU CAN UPGRADE THIS SURVEY TO AN A.L.T.A., LAND TITLE SURVEY. THIS ALLOWS US TO COORDINATE WITH THE TITLE COMPANY AND ARKANSAS ONE CALL, AND THEN SUBSEQUENTLY PLOT ANY RELEVANT EASEMENTS ON THE SURVEY PLAT FOR YOUR REVIEW.

TITLE RESEARCH NOTE: IN ADDITION TO THE INITIAL DOCUMENTS RECEIVED BY THE CLIENT, OR THEIR REPRESENTATIVE, ONLY LIMITED DEED RESEARCH WAS PERFORMED BY THIS COMPANY DURING THIS SURVEY. THEREFORE, PLEASE HAVE A REPUTABLE TITLE COMPANY CONFIRM THE SURVEYED PROPERTY AND THE ACREAGE SHOWN.



LOT 17

LOT 18A
0.88 AC+/-

38,138 SQ. FT.

PARCEL: 16-33907-000
HAYES, BRENDAN & LAURA

LOT 19A
1.66 AC+/-

72,494 SQ. FT.

PARCEL: 16-33908-000
HAYES, BRENDAN & LAURA

PARENT TRACT DESCRIPTION - LOT 18: LOT 18, BLOCK 15, YORK SUBDIVISION, IN THE CITY OF BELLA VISTA, IN BENTON COUNTY, ARKANSAS.

LOT 18A SURVEY DESCRIPTION: LOT 18A, BEING A REPLAT OF LOTS 18 & 19, BLOCK 15, YORK SUBDIVISION, IN THE CITY OF BELLA VISTA, IN BENTON COUNTY, ARKANSAS, AS SHOWN ON THIS SURVEY PLAT (SURVEYED BY CORNERSTONE SURVEYING FOR LAURA & BRENDAN HAYES, ON 07-18-2025, JOB# 24-1061), CONTAINING 0.88 ACRES MORE OR LESS, SUBJECT TO ANY EASEMENTS OR RIGHTS OF WAY OF RECORD.

PARENT TRACT DESCRIPTION - LOT 19: LOT 19, BLOCK 15, YORK SUBDIVISION, IN THE CITY OF BELLA VISTA, IN BENTON COUNTY, ARKANSAS.

LOT 19A SURVEY DESCRIPTION: LOT 19A, BEING A REPLAT OF LOTS 18 & 19, BLOCK 15, YORK SUBDIVISION, IN THE CITY OF BELLA VISTA, IN BENTON COUNTY, ARKANSAS, AS SHOWN ON THIS SURVEY PLAT (SURVEYED BY CORNERSTONE SURVEYING FOR LAURA & BRENDAN HAYES, ON 07-18-2025, JOB# 24-1061), CONTAINING 1.66 ACRES MORE OR LESS, SUBJECT TO ANY EASEMENTS OR RIGHTS OF WAY OF RECORD.

BASIS OF SURVEY: THIS IS A SURVEY OF THAT PROPERTY DESCRIBED IN DEED BOOK 2013, PAGE 25068, OF THE FRANKLIN COUNTY RECORDS. SEE ALSO PRIOR SURVEYS BY COSTELLO LAND SURVEYING, FOR BUCHANAN SERVICES, INC., ON 02-10-2008, JOB# 8005, AND A PRIOR PLAT BY CHEROKEE VILLAGE DEVELOPMENT COMPANY, OF YORK SUBDIVISION, ON 07-20-1967.

FLOOD STATEMENT: APPROXIMATELY 0.003 ACRES OF LOT 18A, AND APPROXIMATELY 0.02 ACRES OF LOT 19A LIES IN FLOOD ZONE "A" OF THE FIRM MAP #05007C0080J, EFFECTIVE ON 09-28-2007, AS PER FEMA.

NOTE: ADJUSTED EASEMENTS ALONG LOT LINES ARE DEDICATED TO THE PUBLIC, PER THIS PLAT.

1. CERTIFICATE OF SURVEYING ACCURACY

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

SIGNED: [Signature] DATE OF EXECUTION: 07-18-2025
REGISTERED LAND SURVEYOR
STATE OF ARKANSAS REGISTRATION NO. PS 1364

2. CERTIFICATE OF APPROVAL

PURSUANT TO THE CITY OF BELLA VISTA SUBDIVISION REGULATIONS AND ALL OTHER CONDITIONS AND APPROVALS HAVING BEEN COMPLETED, THIS DOCUMENT IS HEREBY ACCEPTED. THIS CERTIFICATE IS HEREBY EXECUTED UNDER THE AUTHORITY OF THE SAID RULES AND REGULATIONS.

DATE OF EXECUTION: _____
SIGNED _____
PLANNING COMMISSION CHAIRMAN

3. CERTIFICATE OF OWNERSHIP

WE THE UNDERSIGNED, OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED, AND SUBDIVIDED AND DO HEREBY LAY OFF, PLAT, SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THIS PLAT AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC THE STREETS, ALLEYS, DRIVES, AND EASEMENTS AS SHOWN ON SAID PLAT.

SIGNED: _____
NAME & ADDRESS: _____
DATE OF EXECUTION: _____
SOURCE OF TITLE: DEED RECORD _____ PAGE _____

ACKNOWLEDGMENT
STATE OF ARKANSAS
COUNTY OF BENTON

ON THIS DAY BEFORE THE UNDERSIGNED, A NOTARY PUBLIC DULY QUALIFIED AND ACTING IN AND FOR THE COUNTY AND STATE AFORESAID, PERSONALLY APPEARED _____ SATISFACTORILY PROVEN TO BE THE PERSON(S) WHOSE NAME(S) APPEAR(S) AS THE OWNER(S) IN THE FOREGOING INSTRUMENT, AND STATED THAT HE/SHE/THEY HAS/HAVE EXECUTED THE SAME FOR THE CONSIDERATION, USES AND PURPOSES THEREIN STATED.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND AND ON THIS _____ DAY OF _____, 2025.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES: _____



LINE	BEARING	DISTANCE
L1	S 75°16'23" E	92.78'
L2	N 30°16'10" W	95.56'
L3	S 88°42'45" W	25.47'
L4	N 09°18'19" W	54.99'
L5	S 43°29'06" W	64.05'
L6	N 56°01'04" W	96.85'
L7	N 75°16'23" W	38.70'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	79.86'	54.23'	53.19'	S 66°14'33" W
C2	79.86'	50.33'	49.50'	N 28°44'17" E

COMMON
PROPERTIES

CORNERSTONE
SURVEYING

3501 S. Gary Street, Fort Smith, Arkansas 72903 479.763.1414 www.cornerstone-surveying.com

○ FOUND IRON PIN	⊗ FOR. SERV. MONUMENT	◌ COMPUTED POINT	— LOT LINE	⊕ WATER METER
⊙ FOUND IRON PIPE	⊗ CORP MARKER	◌ SET POST ON LINE	R/W RIGHT OF WAY	⊕ WATER VALVE
△ FOUND IRON SPIKE	⊗ FND. ALUM. CAP OR MON.	◌ POINT OF BEGINNING	— UNDERGROUND GAS LINE	⊕ WATER LINE
□ FOUND SET STONE	■ FENCE CORNER POST	— EDGE OF GRAVEL	U/P UNDERGROUND PHONE	⊕ GAS METER
⊗ R/W MARKER	● SET 1/2" REBAR	— FENCE LINE	UGE UNDERGROUND ELEC.	⊕ FIRE HYDRANT
▽ FOUND "T" POST	⊗ SET 2" CAP-1/2" REBAR	— (xxx.xx') RECORD DISTANCE	— SANITARY SEWER	— UTILITIES ESMT.
◇ FOUND R.R. SPIKE	◆ SET R.R. SPIKE	— OHP OVERHEAD POWER	⊕ MANHOLE	— SET BACK LINE

PROPOSED NEW ADDITION TO **109-032 MISCELLANEOUS USES**

(g) Small Cell Facilities and Networks

1. **Applicability.** Small cell facilities may not be constructed, erected, moved, enlarged, or substantially altered in the right-of-way except in accordance with the provisions of this subsection.
2. **Exemptions and Exclusions.**
 - a. **Micro-wireless facility.** No permit shall be required for any person to install, maintain or operate a micro-wireless facility that is suspended on cables that are strung between existing poles and comply with applicable codes, provided that a permit may be required for work requiring lane closure or excavation.
 - b. **Maintenance.** No permit shall be required for any person to perform routine maintenance on a previously permitted small wireless facility or to replace a previously permitted small wireless facility with one that is substantially similar or smaller, provided that a permit may be required for work requiring lane closure or excavation.
 - c. **Interior facilities.** No application or permit shall be required under this regulation to install a small wireless facility that is located within an interior structure.
3. **Definitions.** Unless otherwise defined in the zoning ordinance or below, the terms used in this provision shall have the meanings set forth in the Arkansas Small Wireless Facility Deployment Act, Ark. Code Ann. §23-17-501, et seq.:
 - a. **Administrative Review** means non-discretionary evaluation of an application by the Director.
 - b. **Small cell facility** means a wireless facility that is mounted on a structure 50 feet or less in height, including the antennas; is mounted on a structure no more than ten percent taller than other adjacent structures, or does not extend an existing structure on which it is located to a height of more than 50 feet or by more than ten percent, whichever is greater.
 - c. **Stealth technology** means systems, components and materials used in the construction of wireless communications facilities to make it compatible with the surrounding property.
4. **Permit required.** No person shall attach, install, or maintain a small cell facility in the right-of-way without a permit issued by the city or in violation thereof. Applicant shall comply with all applicable state and federal regulations. Proof of compliance shall be provided upon request of the Director. Applicant shall not be required to enter into any franchise agreement with the city.
5. **Applications.** The application shall be on an approved form by the Director and shall contain the following information for review and processing:
 - a. Applicant information and property owner.
 - b. A site plan of the location of the facilities.
 - c. Elevations that shows the final appearance and height of the facilities.
 - d. Engineered drawings of the facilities to be installed, including a structural analysis.
 - e. A description of any agreements that have been reached or are necessary with other telecommunications providers or providers of other utility services regarding use of existing facilities;

- f. The project timeline for completion of construction, including any phases of construction;
 - g. Evidence of performance bonding.
 - h. Required application fees as set by the City Council.
 - i. Description of efforts to collocate the facility on existing structures or poles. The applicant should demonstrate a good faith effort to locate facilities on existing structures and/or co-locate with other carriers.
 - j. Description of whether the applicant will or will not accommodate equipment of other telecommunications providers that could co-locate on the facility. Describe how such accommodation will impact both the pole and the ground mounted facilities. Provide documentation of the provider's willingness or unwillingness to accommodate other providers who may be able to co-locate on the facility.
 - k. Professional Engineer. Unless otherwise waived in writing by city, as part of the permit application process, and at the wireless provider's sole expense, a qualified and experienced professional engineer in the State of Arkansas, or an employee or contractor of the wireless provider who has been approved by city, must undertake and complete the engineering design and pole loading analyses calculations required in completing a permit application, participate in the pre-construction survey, and certify that the wireless provider's small wireless facilities can be and were installed on the identified poles in compliance with the applicable codes and in accordance with the permit.
 - l. Such other information as well provide the city with pertinent information relating to the construction of the telecommunications facilities, including any pertinent information requested by the city.
6. Applicable standards for when a permit is required. When a permit is required for a small cell facility, the following standards apply:
- a. Generally.
 - 1. City Right-of-Way. Upon proper application, the city shall grant a wireless provider a revocable, nonexclusive permit authorizing the installation and maintenance of a small wireless facility and, if applicable, a pole that will be used to support a small wireless facility, within the city's public rights-of-way, as provided in this regulation.
 - a) ARDOT Right-of-Way. Applications to install small wireless facilities and/or poles used to support small wireless facilities in a right-of-way controlled by the Arkansas Department of Transportation must be approved by the Arkansas Department of Transportation prior to submission to the city.
 - b) Outside the Right-of-Way. Applications to install small wireless facilities and/or poles used to support small wireless facilities outside of the right-of-way will be evaluated and processed according to city ordinances governing the zoning and development of property.
 - 2. Installation on City Property. Upon proper application, city may grant a wireless provider a revocable, nonexclusive permit authorizing the installation and maintenance of a small wireless facility on property owned by the city upon

such terms and conditions as may be approved by city in accordance with state law.

3. Collocation. For locations within the City right-of-way, applicants should make every effort possible to install their facilities on existing towers to reduce the amount of facilities within the public right-of-way.
4. Review and approval. The review and approval process shall be as prescribed by A.C.A 23-17-510.
5. Expiration and extension of approval.
 - a) Expiration. The approved permit shall expire 365 days after issuance.
 - b) Extension. The applicant may request an extension from the Director if a delay has been caused due to lack of commercial power, communications, transportation facilities to the site, or any other hardships outside of the applicant's control.
6. Standards of Construction. The method of construction, workmanship used, and materials utilized in the construction shall conform to all applicable federal, state and local statutes, rules, regulations and ordinances. All work shall be performed in a safe, thorough, and reliable manner using materials of good and durable quality so as not to create a hazard or dangerous conditions on the streets. If, at any time, it is determined by the city or any other agency or authority of competent jurisdiction that any telecommunications facility presents a danger to the public health, safety or welfare, then the telecommunications provider or lessee shall, at its own cost and expense, upon thirty (30) days advance written notice, at its own cost and expense, promptly correct all such conditions.
7. Maintenance and Repair. Any telecommunications facility constructed or utilized pursuant to a franchise or license shall be maintained and repaired in accordance with the standards and under the terms and conditions set out in the preceding paragraph and such other terms and conditions as shall appear in this ordinance or the franchise agreement or license agreement.
8. Minimal Disruption. Construction, maintenance and repair of the telecommunications facilities shall be conducted in such a manner as to minimize any interference with or disruption of the city's streets, traffic, residences, businesses and institutions. The provider shall at all times endeavor to use trenchless technology in appropriate circumstances.
9. Restoration. Any disturbance of the city's streets shall be repaired and restored by the telecommunications provider or lessee at its expense and to a condition at least as good as that prevailing before the work causing such disturbance was commenced.
10. Location of Facilities. New poles and other new facilities shall be located to the extent feasible in such a way as to minimize their effect on the visual landscape and on other aesthetic considerations and so as to minimize inconvenience.

11. Burial of Transmission Lines. A telecommunications provider shall place its transmission line or other facilities underground where feasible and desirable from an aesthetic perspective.

10.Tree Trimming. A telecommunications provider is authorized to trim trees in the city's streets to the extent necessary to properly maintain its transmission line or other facility, but prior to major trimming projects, it shall provide at least twenty-four (24) hours' notice to the city. The city, at its option, may choose to supervise such tree trimming. Upon conclusion of the tree trimming, the provider shall immediately clean up and remove all debris.

11.Curb Cuts. No provider shall make paving cuts or curb cuts without the written consent of the Director or an access permit; whichever is applicable.

12.Height Limitations. New poles placed by the provider in public rights-of-way are permitted to be a maximum height of no more than 50 feet or 10% taller than the tallest pole in place within 300 feet in the same right-of-way. Facilities may be installed on the new poles provided that the facilities do not extend any higher than 50 feet above the ground or more than 10% above the pole on which it is located.

13. Camouflaging or Stealth Technology Required. New facilities shall be designed to be camouflaged to the greatest extent reasonably possible including, but not limited to, be maintained with a galvanized steel finish, wood laminate, or subject to any FAA standards, be painted a neutral color so that visual obtrusiveness is minimized; and incorporate within street lights, screening, landscaping, and placement within trees. All antenna arrays, cables, and other accessories used for providing the services shall not be obtrusive or noticeably visible. The Director may approve the installation of a standard utility pole in areas where such installation will not degrade the streetscape but any facilities shall be camouflaged to the greatest extent reasonably possible.

Camouflaging and stealth technology shall be required in all areas.

- a) Minor modifications. The Director may determine if a telecommunications facility or component of a telecommunications facility is designed to be stealth. If an applicant establishes that it is not technically feasible to meet this requirement, the Director may grant a minor modification in the minimum amount necessary.

12. Placement.

- a) Generally. No person shall install a new pole within a right-of-way unless the pole is at least 18 inches from the road surface.
- b) Fall Zone. The minimum distance from the base of any facility to any residential dwelling unit shall be the lower height or required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in a signed writing to the construction of said facility. This setback is considered a "fall zone." In the event that an existing facility is proposed as a mount for the provider's equipment, a fall zone shall not be required.

- c) New non-camouflaged or non-stealth poles shall be spaced a minimum of 500 feet from any other new or replacement non-camouflaged or non-stealth pole approved in accordance with this section.
 - d) New camouflaged facilities or poles or new facilities utilizing stealth technology to fit within the streetscape (e.g., incorporated within a street light pole) shall be subject to the following distance requirement:
 - e) Where streetlights are present, no person shall install a new pole in the right-of-way when there is an existing pole located in the right-of-way within 100 feet of the proposed location that is reasonably suitable for collocation, unless collocation on the existing pole will impose technical limits on the small wireless facilities to be installed or significant additional costs. A pole is deemed reasonably suitable if it will structurally support the attachment and the owner will permit attachment at a rate that is equal to or less than the rate provided by this section. The purpose of this rule is to reduce the number of poles within the right-of-way in areas with heightened aesthetic concern.
 - f) Where streetlight poles are not present, new poles will be aligned with, and generally match the appearance of existing poles within the right-of-way that are within 300 feet of the proposed location; however, if such alignment or appearance will impose technical limits on the small wireless facilities to be installed or impose significant additional costs, new poles will be constructed using a stealth design that fully conceals all small wireless facilities and associated equipment within the pole. New poles will not vary from the height of existing poles by more than 10%. Where poles of different heights are present, new poles shall match the height of existing poles that are closest to the new pole. The purpose of this rule is to ensure uniformity in the appearance and height of poles of poles within the right-of-way in areas with heightened aesthetic concern.
- b. Abandonment. Any small cell facility no longer in use for its original communications purpose or any tower for which a conditional use permit has been, for any reason, terminated or not renewed shall be considered abandoned. The owner of the tower shall provide the City with a copy of any notice given to the FCC relating to its intent to cease operations.
- 1. The small cell facility and all accessory structures shall be dismantled and removed at the owner's expense within ninety (90) days of the date of cessation of operations. Failure to timely remove these facilities shall constitute a nuisance under this Chapter subjecting the owner and/or users to a fine not exceeding \$500.00. Each day of delinquency shall constitute a new violation. Upon removal, the tower owners shall re-vegetate the telecommunication facility site to blend with the existing surrounding vegetation at their expense.
 - 2. In the case of multiple antenna operators sharing use of a single tower, the provisions of this Subsection regarding removal of abandoned towers shall not

become effective until all users have ceased communications operations, provided all other provisions of this Subsection are fully complied with.

3. All obligations imposed by this Chapter shall be the obligation of the applicant and, if applicable, the lessee of the property upon which the tower and/or antenna are located. Prior to colocation of a site, the original applicant shall sign an agreement where co-locators accept full site maintenance in the event that the original applicant abandons the site. In the event that any tower or antenna is not properly and timely removed as required hereunder, then the city may proceed to remove the abandoned tower and/or antenna and the communication facility, in general, and thereafter recover the costs of removal, together with the costs of enforcement of this article (including reasonable attorney's fees), from the applicant.
- c. Notification of Change of Ownership/Operator. Upon assignment or transfer of a permit or any of the rights thereunder to a new small cell facility operator, the owner or operator shall provide written notice within thirty (30) days to the Director.