

City of North Little Rock Board of Zoning Adjustment Agenda Thursday, June 29, 2023 - 1:30 PM North Little Rock, City Services Building, 700 W 29th St, NLR, AR, 72114

Call to Order -

Roll Call and finding of a Quorum -

Approval of Minutes - May 29, 2023

Public Hearing Items -

- 1. **BOA 2023-11,** 7001 John F Kennedy Blvd, a variance request from the area provisions of Section 14.25 of the North Little Rock Zoning Ordinance (Sign Ordinance) to allow the placement of a wall signs without public street frontage.
- 2. **BOA 2023-12**, 10801 Paul Eells Dr, a variance request from the area provisions of Section 4.1.5: R4: Multi-Family District to allow existing structures to continue to encroach on the platted front, side, and rear yard setbacks adjacent to the north, south, and west property lines

Administrative -

Public Comment -

Adjournment -

Reminder -

- Turn off cell phones
- Board of Adjustment Hearing procedures on back of the Agenda
- Visitors sign-in with both name and address

Next Board of Zoning Adjustment Hearing Filing Deadline July 03, 2023 Hearing Date July 27, 2023

For the Board to grant a variance the applicant must first establish a hardship. A hardship should not be created by the owner, it should be due to unique circumstances existing on the property. For example, it must be demonstrated a strict enforcement of the Zoning Ordinance would prohibit the development of the property or no reasonable use of the property can be made.



NORTH LITTLE ROCK BOARD OF ZONING ADJUSTMENT HEARING PROCEDURES

(1/1/2019)

Order of the Public Hearing: The regularly scheduled public hearing is generally held on the last Thursday of each month at 1:30 PM in the North Little Rock, City Services Building, 700 W 29th St, NLR, AR, 72114. All meetings are open to the public. Typical hearings begin with roll call and finding of a quorum, approval of the previous meeting minutes, correspondence and staff reports, committee reports, unfinished business, new business, public comment and adjournment.

Voting: There are five members of the Board. A quorum consists of three members present. "Robert's Rules of Order" apply unless the Board has outlined alternative procedures. All business must be approved by a minimum of three votes.

Procedure to allow a person to address or approach the Board:

- 1. No person shall address or approach the Board without first being recognized by the Chair.
- 2. After being recognized, each person shall state their name and address for the record.
- 3. All questions and remarks shall be addressed through the Chair.
- 4. All remarks shall be addressed to the Board as a whole and not to any individual Board member.
- 5. When a group of citizens are present to speak on an item, a spokesperson may be selected by the group to address the Board. If multiple individuals of the group desires to speak, the Chair may limit each presentation to three minutes.
- 6. No person other than members of the Board and the person having the floor shall be permitted to enter into any discussion, either directly, indirectly or through a Board member, without permission of the Chair.
- 7. Once the question has been called, no person in the audience shall address the Board on the matter at hand without first securing permission to do so by a majority vote of the Board.
- 8. At least 24-hours prior to the public hearing, anyone wishing to submit exhibits for the record shall provide staff with copies of the exhibits for each Board member, one copy of the exhibit for staff to place in the permanent file and one copy of the exhibit for the legal department.
- 9. At least 24-hours prior to the public hearing, anyone wishing to read a statement into the record shall provide staff with a written copy of the statement.

North Little Rock Board of Zoning Adjustment Minute Record Summary –May 25, 2023

Chairman Tom Brown called the meeting of the North Little Rock Board of Zoning Adjustment to order at 1:30 P.M. in Council Chambers, 300 Main Street, North Little Rock, AR. Roll call found a quorum to be present; a quorum being three members present.

Members Present

Mr. Tom Brown, Chairman

Mr. Tim Giattina, Vice-Chair

Mr. Mike Abele

Mr. Gardner Burton

Mr. Steve Sparr

Members Absent

None

Staff Present

Ms. Donna James, Assistant Director of Planning

Mr. Tracy Spillman, City Planner

Ms. Marie Miller, City Attorney

Others Present

Aeron Peters, Ace Signs Chad Shepard Uzzie Lee, Ace Signs Brian Black Angie Houttekier, Ace Signs

Old Business

None

Administrative

None

Approval of Minutes

Chairman Brown stated there were additions and corrections required on the March 30th minute record. He stated an addition was needed for Case #BOA 2023-08. He requested staff add the statement the applicant was told by Chairman Brown he had 30 days to appeal the Boards denial. Chairman Brown informed the applicant the appeal was to be made within 30 days of the hearing. Mr. Burton formed a motion to approve the minutes as amended from March 30, 2023. Mr. Sparr provided a second. Chairman Brown called for a vote. All members voted in the affirmative, the motion was approved.

North Little Rock Board of Zoning Adjustment Minute Record – March 30, 2023 Page 2 of 2

Public Hearing Items -

BOA #2023-10, 8720 Faulkner Lake Rd, A variance from Section 14.24 to allow the placement of a wall sign without street frontage. Chairman Brown called the item and requested the applicant come forward and provide the Commission with his hardship. Mr. Aeron Peters representing the owner addressed the Board with his hardship. He stated the company wanted the additional signage to identify the business from customers traveling east on Faulkner Lake Road. He stated the business was located off the roadway and the additional signage was necessary for the clients accessing the site which were primarily large vehicles, semi trucks with and without trailers. He stated it was important these customers have visibility to the business to allow them sufficient time to access the site.

Chairman Brown questioned why a sign on the east side of the building was not being considered. Mr. Peters stated the sign was not visible from I430 and would not be of a benefit to the business.

Chairman Brown questioned if any of the Board members had any questions or comments. He then questioned if anyone else in the audience wanted to address the Board. There being none, he stated he would entertain a motion for approval of the variance request. Mr. Burton provided a motion for approval of the item based on the applicants stated hardship subject to the conditions as presented by staff in the staff analysis. Mr. Sparr provided a second to the motion. By a roll call vote, all members voted in the affirmative. The motion was approved (5/0)

Public Comment and Adjournment

There being no further business before the Board, and on the motion of Mr. Sparr and seconded provided by Mr. Burton, and by consent of all members present, the meeting was adjourn at 1:35 PM.

Approved on this	_29 th	day of	June, 2023	_
Tom Brown, Chai	wmon			

<u>Variance Requested</u>: a variance from Section 14.24 to allow the placement of a wall sign without street frontage.

Location of the Request: 7001 John F Kennedy Blvd

Legal Description of the Property: Indian Hills 3N Subdivision, Lot 1, Block 300, to the City

of North Little Rock, Pulaski County, AR

Owner: US Bank National Association

Applicant: Brandon Sebald

Present Use of the Property: Bank Branch / Vacant

Present Zoning of the Property: C3

Site Characteristics: The site is currently occupied by a former US Bank branch building that was constructed in 1976. The existing brick and mortar building will be raised and replaced with a manufactured structure that will serve as a new 7 Brew drive thru coffee establishment. The front of the building will face JFK Blvd and will be set approximately 45-feet from the right-of-way. The rear and side yards are adjacent to other commercial zoned properties and located within the boundaries of the complex known as the Indian Hills Shopping Center. Separate vehicular ingress and egress points will be from JFK Blvd. The building will occupy an island in the center of the property with vehicular stacking and circulation on the four sides of the island. Parking will located adjacent to the east property line and adjacent to the east side of the building.

Surrounding Zoning and Uses

Direction	Surrounding Zoning	Surrounding Uses
North	C3	Indian Hills Shopping Center / Access Drive
South	ROW / R5	JFK ROW / Church
East	C3	Restaurant
West	C3	Convenience Store w Gas Pumps

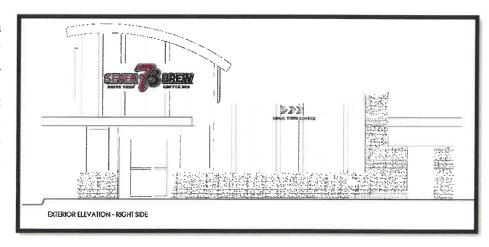
Justification: The applicant's justification is presented in an attached letter.

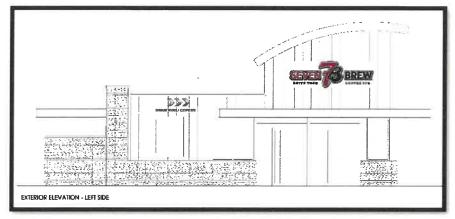
<u>Staff Analysis</u>: The applicant is seeking a variance from Section 14.24 to allow the placement of a wall sign without direct street frontage. Section 14.24 of the North Little Rock Sign Ordinance outlines the criteria for the placement of signage on industrial zoned properties. One (1) freestanding

or ground-mounted sign per premises, window signs and in addition to the ground and window signs the owner may use one (1) of the following:

- a. Wall or mansard signs.
- b. One (1) under-canopy sign.
- c. One (1) projecting sign.
- d. One (1) awning sign.

All permitted wall signs are not to exceed ten (10%) percent in aggregate sign area for that occupancy's façade. Wall signs must face required street frontage except in complexes where a sign without street frontage would be the only means of identification for a tenant.





The applicant is seeking to place wall signs on the east and west sides of the building facing the site entry/exit and circulation drive. The wall signs read "Seven7Brew" and are proposed to be approximately 3-feet in height and 10-feet in length. In addition, an ancillary directional sign is included

on each side elevation that is approximately 1.5-feet in height and 5-feet in length. Both graphics total an area of 37.5 square feet on each side of the building. Both the east and west elevations of the building total an area of approximately 550 square feet. The sign square footage allowance for these elevations would be 55-square feet if street frontage were provided. The south elevation is approximately 370-feet in area allowing 37 square feet of wall signage for building wall facing the street. The "Seven7Brew" logo and ancillary directional sign total approximately 32-square feet on this building elevation.

The applicant has stated in their letter of hardship that "7 Brew seeks to provide a new coffee experience and a vital part of that



experience is the branding, signage and double drive thru." The corporate design includes signage on three sides of the building and stipulates that this specific signage is important to alert drivers that they can get their drink order form both sides of the building.

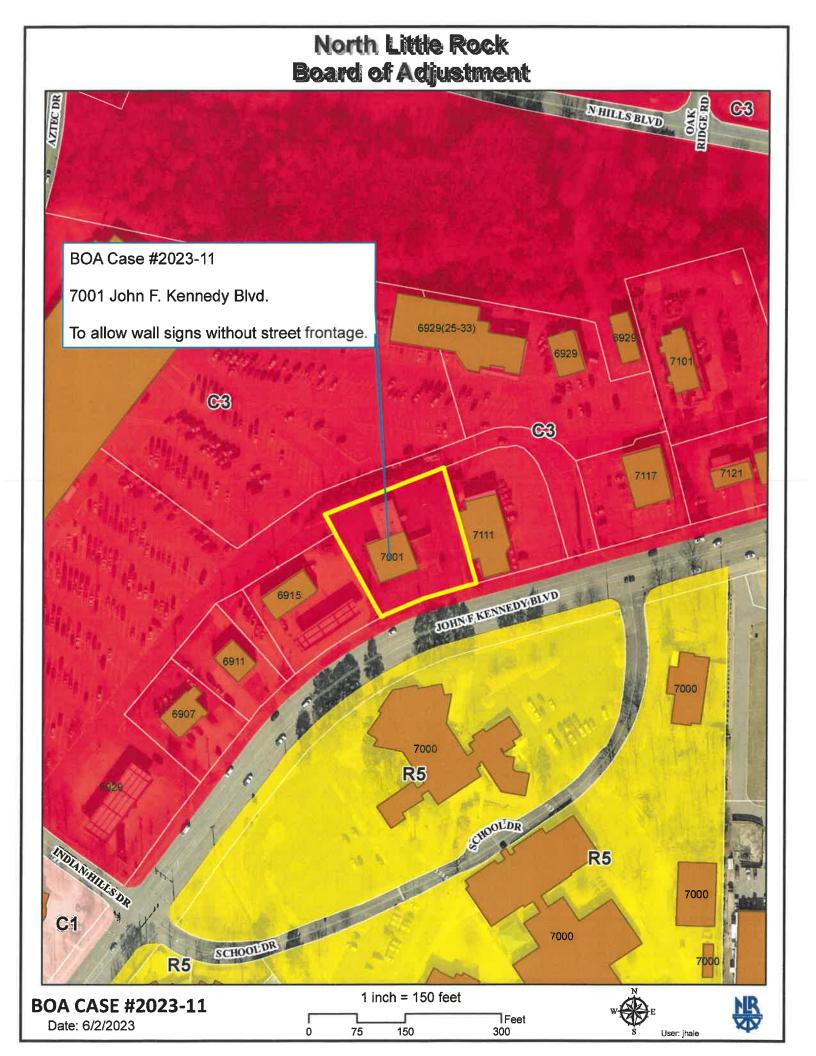
A hardship is a special circumstance, which makes it very difficult for a particular project to meet the Zoning Ordinance requirement. Special circumstances are not interpreted to be something intangible, such as lack of knowledge of the code or misinformation at the time of purchase or construction. A hardship generally occurs when the physical characteristics of a property are such that it cannot be developed as permitted by the zoning ordinance. A hardship may be created by surroundings, shape or topographical conditions particular to the specific property. A hardship cannot be self-imposed, or the result of the property owners own action.

Board to Consider:

- 1. Is the request for which the variance is sought due to unique circumstances existing on the property, the unique circumstances were not created by the owner of the property, and are not due to or the result of general conditions in the district in which the property is located? No, the applicant is constructing a new building on the property fronting JFK Blvd. In addition to the (1) conforming sign facing the street frontage the applicant is requesting two additional signs proposed for the east and west elevations adjacent to the on-site circulation drive and facing the adjacent property.
- 2. Does the variance substantially or permanently injure the appropriate use of adjacent conforming property in the same district? No, the adjacent business are predominately retail and will have a similar use. The proposed additional signs will single drivers traveling east and west before passing the subject property's only site entry drive.
- 3. Will approval of the variance alter the essential character of the district? No, the district is a developed with similar commercial uses.
- 4. Will approval of the variance weaken the general intent and purpose of the land use and zoning plan? No, the land use and zoning will not change based on approval of the variance request.
- 5. Will the approval of the variance be in harmony with the spirit of the ordinance? No, the ordinance specifically defines the number and placement of wall signs. Signs are to be located along a building façade with street frontage except in cases where the signs without street frontage would be the only means of identification such as a shopping center or shopping mall. In addition to the one wall sign permitted by code facing the street right-of-way the applicant is also seeking to place two additional wall signs on east and west sides of the building.
- 6. Will the approval of the variance adversely affect public health, safety, and general welfare? No, there will be no impact on the public health, safety and general welfare of the community by approval of this variance request.

Approval Allows:

- 1. In addition to the one allowable building sign facing the street, approval will allow the placement of one additional wall sign on both the east and west elevation of the proposed building. The total signage one sign with street frontage and two signs without street frontage.
- 2. Approval of this variance request is valid for 180-days from date of approval. If a building permit is not secured within the 180-day period, approval becomes invalid unless, the Board of Zoning Adjustment has approved a request for a time extension. All requests for time extension must be made prior to the expiration of the Board's approval.

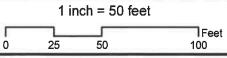


North Little Rock Board of Adjustment



BOA CASE #2023-11

Date: 6/2/2023









March 30, 2023

Board of Zoning Adjustment City of North Little Rock 120 Main Street North Little Rock, AR 72114

RE: 7Brew Variance Request 7001 John F. Kennedy Blvd.

Dear Board of Adjustment,

7 Brew is pleased to be in the North Little Rock area and is excited to open this new location. As you may know 7 Brew is rapidly expanding both in AR and around the country. They provide a needed service and product to the community by offering fast, fresh drinks with a customer experience that ensures repeat business and customer relationship.

In reviewing the current sign ordinance for North Little Rock, we have determined that a minor variance for a building signage is required. 7 Brew provides a corporate design which includes signage on three sides of the building. At 510 to 540 sf, the building footprint is small, and the signage on the building is vital to the operations of the business in attracting customers. The current sign ordinance allows for signs on two (2) of the building sides.

We respectfully request a minor variance to allow a logo sign on the third side of the building.

This additional sign, though not on a frontage road, is part of the design of the building and allows customers to know they can get their drink order from both sides of the building if necessary. It also provides continuity to the current national design and branding of 7 Brew Coffee. The continuity of building design is vital to 7 Brew as they rapidly expand their market presence. 7 Brew seeks to provide a new coffee experience and a vital part of that experience is the branding, signage, and double drive thru. We are excited to be offering this coffee experience in the North Little Rock area and hope to continue expanding across the nation offering customers a new experience in drive thru drinks.

Thank you for your consideration.

Sincerely,

Brandon Sebald Brew Crew, LLC



May 9, 2023

Board of Zoning Adjustment City of North Little Rock 120 Main Street North Little Rock, AR 72114

RE: 7Brew Variance Request 7001 John F. Kennedy Blvd.

To whom it may concern,

This letter is regarding the submittal made by 7 Brew, in respect of a sign variance. As the property owner of 7001 John F. Kennedy Blvd., I give my permission to 7 Brew and its franchisee and representatives to submit any variance requests or permits necessary to the city of North Little Rock.

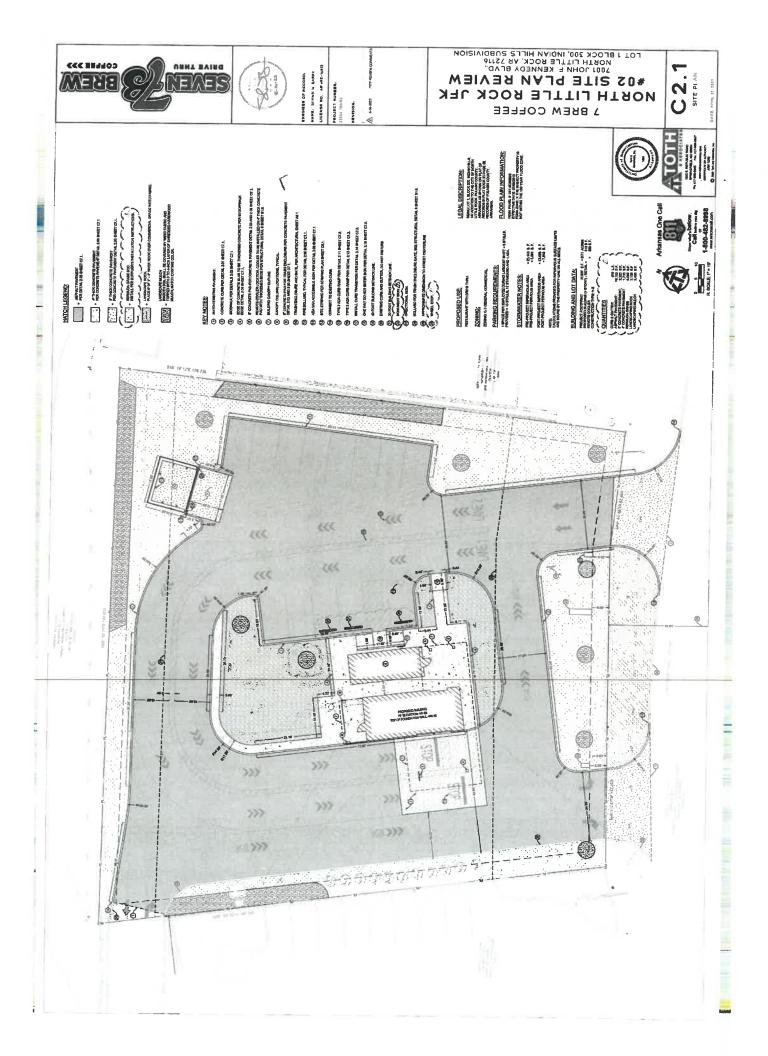
Thank you for your consideration.

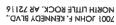
Very truly yours,

U.S. BANK NATIONAL ASSOCIATION

By: Alexander D'Alessandro
Name: Alexander D'Alessandro

Name: Alexander D'Alessandro Title: Transaction Manager

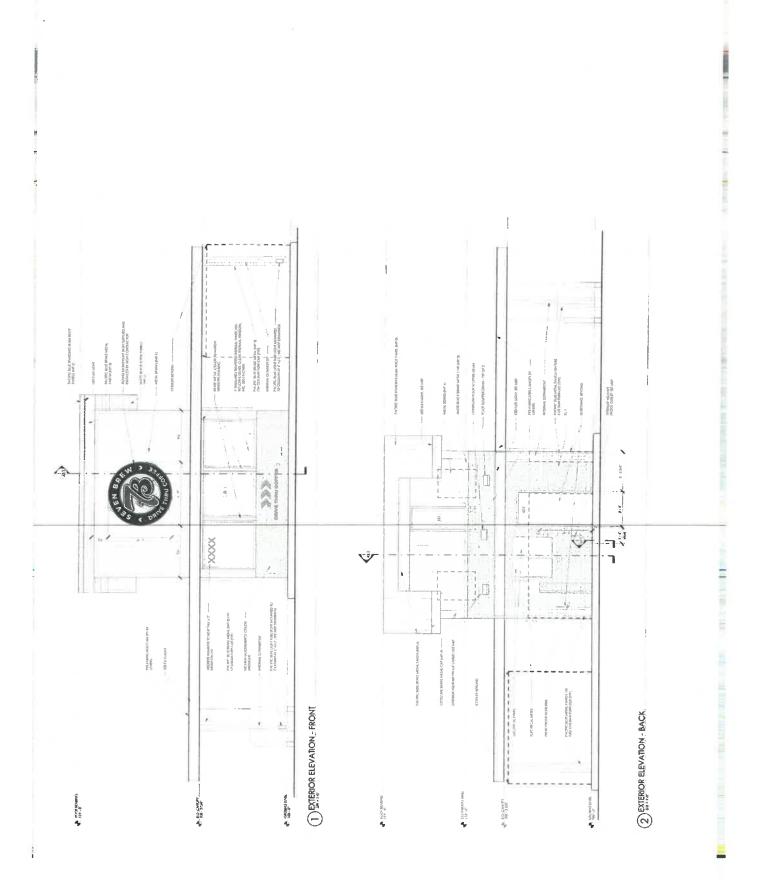




V BREW COFFEE



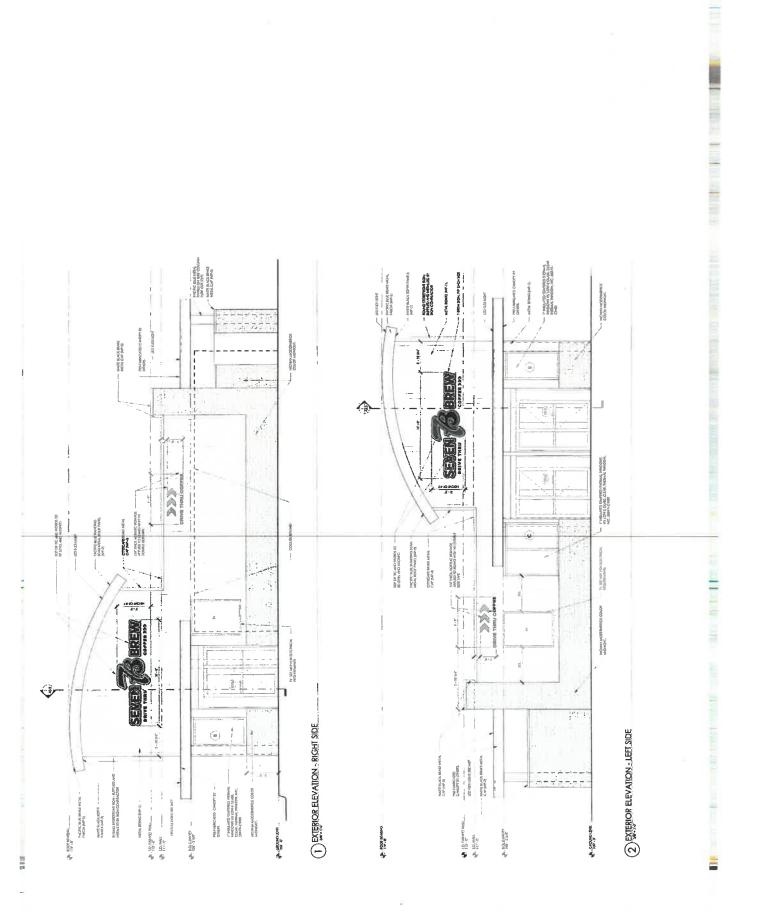




NOBIH FILLTE BOCK #55 BBEM COLLEE

DAR MEL 17, 2013





<u>Variance Requested</u>: A variance request from the area provisions of Section 4.1.5: R4: Multi-Family District to allow existing structures to continue to encroach on the platted front, side, and rear yard setbacks adjacent to the north, south, and west property lines.

Location of the Request: 10801 Paul Eells Dr

<u>Legal Description of the Property</u>: Lot 1R, Fountaine Bleu Apartments, North Little Rock, Pulaski County, Arkansas as shown on Plat of record as Instrument No. 2010038064, records of Pulaski County, Arkansas.

Lot 3, Fountaine Bleu Apartments, North Little Rock, Pulaski County, Arkansas recorded as Instrument #2021052949 dated July 29, 2021 records of Pulaski County, Arkansas

Owner/Applicant: Fountain at Maumelle LLC/HSGC Holdings II LLC

Robyn Allmendinger / Rose Law Firm

<u>Present Use of the Property</u>: Multi-Family, Apartment Complex

Present Zoning of the Property: R4, Multi-family

Site Characteristics:

The site located at 10801 Paul Eells Dr is situated east of Counts Massie Rd and south of White Oak Xing, this R4 property is divided into two parcels. The combined properties total approximately 20 acres and were developed in 2009 as an apartment complex. There are 435 living units, associated club house, and ancillary structures to serve the development and its tenants. The surrounding properties are designated either commercial, residential, or industrial.

The applicant purchased the property in April of 2023 with intentions to operate the facility as its intended use. As part of the applicant's due diligence procedures it was discovered that there were eight (8) separate encroachments of existing structures crossing platted building lines.

Surrounding Land Use and Zoning

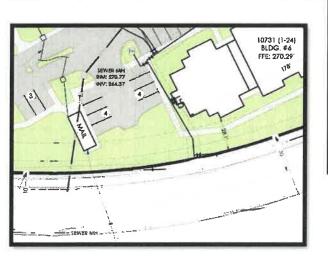
Direction	Surrounding Zoning	Surrounding Uses
North	I2, Light Industrial District & RU: Residential Urban District	Undeveloped
South	Paul Eells Dr I2, Light Industrial District C4, Services and Trades District	ROW Office Warehouse Undeveloped
East	R4, Multi-family	Undeveloped
West	C4, Services and Trades District	Convenience Store/ Undeveloped

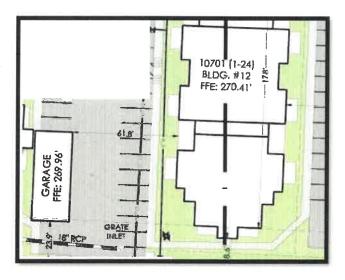
Justification: The applicant's justification is presented in an attached letter.

Staff Analysis:

The applicant is requesting that the existing structures be recognized as constructed and is requesting variances to allow portions of these fabrications to continue to encroach across platted building lines. As stated in the in the attached letter the applicant has identified eight (8) separate encroachments.

1. A portion of one (1) apartment building (Building No. 12) and sprinkler riser system lies approximately 6.4 feet over the south interior side setback requirement of 25.00 feet;

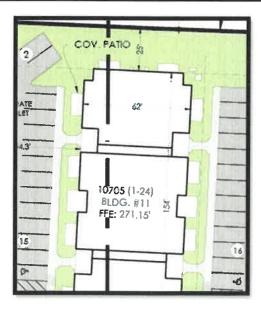


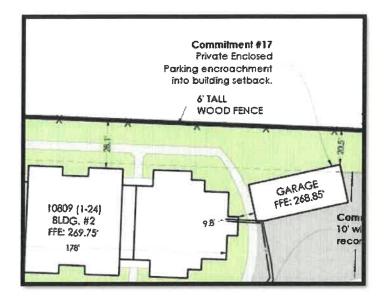


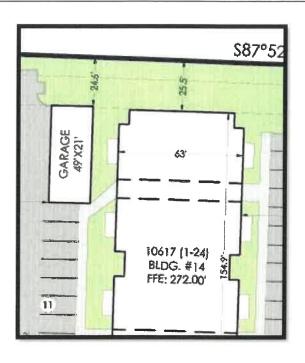
2. A portion of one (1) mailbox building in Lot IR lies a de minimis distance over the south interior front setback requirement of 25.00 feet. The mailbox building encroaches approximately 5.75 over the 25-foot platted building line.

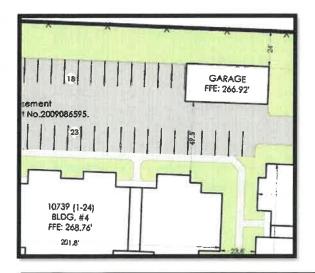
3. A portion of one (1) apartment building (Building No.11) and sprinkler riser system lies a de minimis distance over the north interior side setback requirement of 25.00 feet;

Building No.11 encroaches approximately 6.4 feet over the north 25-foot platted building line.



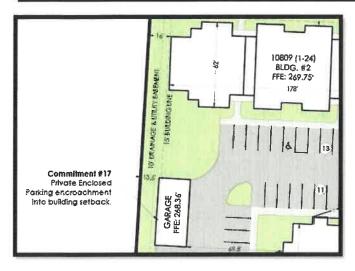






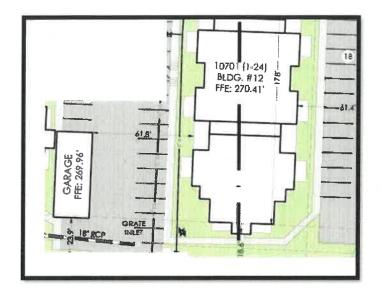
4. A portion of three (3) garages in Lot IR lie a de minimis distance over the north interior front setback requirement of 25.00 feet;

The garage east of Building No.2 has been built 4.5-feet across the north 25-foot platted building line. The garage building northeast of Building No.4 has been constructed 1-foot across the 25-foot building line and the garage building northwest of Building No.14 encroaches .5-feet across this same north building line.



5. A portion of one (1) garage in Lot IR lies a de minimis distance over the west interior front setback requirement of 15.00 feet;

The garage southwest of Building No.2 has been constructed 1.5 feet over the 15-foot platted building line.



6. A portion of one (1) garage in Lot IR lies a de minimis distance over the south interior front setback requirement of 25.00 feet.

The garage west of Building No.12 has been constructed 1.1 foot over the 25-foot south platted building line.

A per Section 4.1.5 of the North Little Rock Zoning Ordinance, where building lines do not appear on a recorded plat or lot of record, the smallest dimension street side shall be designated as the front of the lot. Paul Eells Dr is the only street frontage and the platted building line is shown to be 25-feet on the front and rear of the parcels. Side yard setbacks are only required to be 10-feet in width however, where

platted building lines conflict with the required yard setback, the most stringent shall apply. The site plan indicates a 15-foot platted building line on the west side of the property.

The applicant has noted that the encroachments as noted above have been in place since the construction of the project and stated that to enforce these minor infractions would cause an undue hardship and would be of no material benefit to the property or City. In addition, the applicant has stated that they feel that allowing the structures to remain as constructed will not injure or harm any adjacent conforming property or alter the charter of the zoning district and feels that the requested variance will be in harmony with spirit and purpose of the code.

Board Member's to Consider:

- 1. Does the variance request authorize the operation of a use other than uses specifically permitted in the district? No, the property is zoned for multi-family residential and the use of the property will remain as a multi-family residential use.
- 2. Does the zoning ordinance, if literally interpreted, deny the reasonable use of the property? No, by not granting the variance the applicant is able to use the property as originally constructed without any additional improvements.
- 3. Are there unique circumstances, which were not created by the owner of the property, which necessitates the variance? Yes, the minor setback infractions as noted above occurred during the original development phase of construction by the previous owner. These encroachments were not discovered until the property was purchased by the current owner.
- 4. Will approval of the variance harm the use of the adjoining property? No, the surrounding properties adjacent to the encroachments are mostly undeveloped or street right-of-way. As currently zoned the properties to the north and west would be required to provide screening blocking the infractions of the

subject property when developed. The encroachments adjacent to the street right-of-way on the south side of the site are buffered by a decorative brick privacy fence and/or greenspace.

- 5. Will approval of the variance alter the essential character of the district? No, the site is developed as a multi-family apartment complex and will remain as such.
- 6. Will approval of the variance weaken the general intent and purpose of the land use and zoning plan? No, the request does not include any amendments to the land use or zoning plan for the area.
- 7. Will the approval of the variance be in harmony with the spirit of the ordinance? Possibly, the setback encroachments are minor and other similar variances have been granted to allow existing structures to remain as-built when minor infractions of the zoning code have been discovered.
- 8. Will the approval of the variance adversely affect public health, safety, and general welfare? No, approval of the existing building setbacks as indicated will not have an impact on the public health, safety and the general welfare of the community.

Approval Allows:

- 1. Approval will allow the existing structures to remain as constructed permitting the following;
 - A portion of one (1) apartment building (Building No. 12) and sprinkler riser system to remain as constructed encroaching 6.4 feet into the platted 25-foot front yard (south) setback.
 - A portion of mailbox building to remain as constructed encroaching 5.75 into the platted 25-foot front yard (south) setback.
 - A portion of one (1) apartment building (Building No. 11) and sprinkler riser system to remain as constructed encroaching 6.4 feet into the platted 25-foot rear yard (north) setback.
 - A portion of one (1) garage building east of Building No.2 to remain as constructed encroaching 4.5- feet into the platted 25-foot rear yard (north) setback.
 - A portion of one (1) garage building northeast of Building No.4 to remain as constructed encroaching 1-foot into the platted 25-foot rear yard (north) setback.
 - A portion of one (1) garage building northwest of Building No.14 to remain as constructed encroaching .5-feet into the platted 25-foot rear yard (north) setback..
 - A portion of one (1) southwest of Building No.2 to remain as constructed encroaching 1.5 feet into the platted 15-foot side yard (west) setback.
 - A portion of one (1) garage building west of Building No. 12 to remain as constructed encroaching 1.1 foot over the platted 25-foot front yard (south) setback.

2. Approval of this variance request is valid for 180-days from date of approval. If a building permit is not secured within the 180-day period, approval becomes invalid unless, the Board of Zoning Adjustment has approved a request for a time extension. All requests for time extension must be made prior to the expiration of the Board's approval.

North Little Rock **Board of Adjustment** R4 8410-8428 R4 RENCHMEN LOOP 8901 8900 8402 C3 8809(101-306) BOA Case # 2023-12 8307(101-306) 12 10801 Paul Eells Dr. To allow existing structures to continue to R4 encroach on the platted sideyard setbacks adjacent to the north and south property lines. 8303(101-306) 8301(101-306) 10809 12 107/05(1-24 10625(1-24) 10739(1-24) 10711(1-24 10609(1-24) C4 R4 R4 C2 10613(1-24) 0715(1-24) 10709(1-24) 12 10601(1-24 8113 810E SCOUNTS MASSIE RD C4 PAUL EELLS DR 8010(A-B 8050(A-B) 8060(A-B) 8020(A-B) 12 SE LATER R4 12 10707(1-16) 8001 C3 7950 900 BURKHALTER HAAS DR 10716(1-16 1 inch = 300 feet **BOA CASE #2023-12**

150

300

Date: 6/2/2023

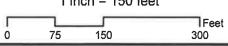
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North Little Rock **Board of Adjustment**



BOA CASE #2023-12

Date: 6/2/2023









501-377-0343 rallmendinger@roselawfirm.com

MAY 30, 2023

City of North Little Rock, Arkansas ATTN: Board of Zoning Adjustment 120 Main Street North Little Rock, Arkansas 72114-2134

RE: Request for Zoning Variance at 10801 Paul Eells Drive, North Little Rock, Arkansas

Ladies and Gentlemen:

Pursuant to the 2023 Steps in Submitting a Request to the Board of Zoning Adjustment and Section 9.1.3 et seq. of the Code of the City of North Little Rock, Arkansas (the "Code"), enclosed with this Cover Letter and Narrative is a request for Zoning Variance (the "Petition") submitted to the Board of Zoning Adjustment on behalf of our client The Fountain at Maumelle LLC and HSGC Holdings II LLC, as tenant in common owners (collectively, the "Applicant") to the City of North Little Rock, Arkansas (the "City"). This letter replaces our previous letter sent on May 24, 2023.

The Petition concerns commercial property zoned Residential Multi-Family District (R4) located at 10801 Paul Ellis Drive, North Little Rock, Arkansas identified by Parcel Number 43N0110000600 and Parcel Number 43N0111500500 (collectively as the "Property"). The Property is improved by buildings, parking areas, improvements, and fixtures now situated on the Property, including, without limitation, the 435-unit multi-family apartment project known as Fountaine Bleau Maumelle. The Property as currently developed was approved by the City in 2009.

In April of 2023, the Applicant purchased the Property from Burkhalter Commercial Group, LLC and will continue to operate the facility. As a standard part of the Applicant's due diligence procedures, the Applicant has recently identified eight (8) *de minimis* encroachments to the twenty-five-foot (25') setback requirement for the Property pursuant to 2008 Ordinance No. 8134 (the "Setback Ordinance"). The eight (8) encroachments (hereinafter referred to as the "Encroachments") are as follows:

1. A portion of one (1) apartment building (Building No. 12) and sprinkler riser system lies approximately 6.4 feet over the south interior side setback requirement of 25.00 feet;

- 2. A portion of one (1) mailbox building in Lot 1R lies a de minimis distance over the south interior front setback requirement of 25.00 feet;
- 3. A portion of one (1) apartment building (Building No. 11) and sprinkler riser system lies a *de minimis* distance over the north interior side setback requirement of 25,00 feet;
- 4. A portion of three (3) garages in Lot 1R lie a *de minimis* distance over the north interior front setback requirement of 25.00 feet;
- 5. A portion of one (1) garage in Lot 1R lies a *de minimis* distance over the west interior front setback requirement of 25.00 feet; and
- 6. A portion of one (1) garage in Lot 1R lies a *de minimis* distance over the south interior front setback requirement of 25.00 feet.

The Applicant directs the City's attention to the Statement of Encroachments on the enclosed Survey (defined below), which denominates each of the above Encroachments.

The Encroachments have been in place on Lot 1R of the Property since 2009 without any harm to the zoned area. Removal of the Encroachments in order to comply with the Setback Ordinance will cause a significant hardship to the Applicant. The Applicant has received a quote from an engineer for the removal of the sprinkler riser system, which work involves (i) demolition and removal of the utility room, footings, electrical work, fire suppression of the control room, plumbing and (ii) installation of a new utility room, footings, framing, electrical, plumbing, fire suppression control room, brick veneer, architectural shingles. The quote for this work was approximately \$275,000.00.

In support of its Petition, the Applicant hereby submits the following additional items:

- 1. The required \$170 fee due at the time of submittal;
- 2. The required letter from Applicant as the Property Owner attached as Exhibit A;
- 3. ALTA/NSPS Land Title Survey of Phase I, II & III of the Fountaine Bleau Apartments Addition, Job No. 2022-050 (the "Survey") attached as **Exhibit B**;
- 4. A quote from an engineer detailing the required work to remove and relocate the sprinkler riser encroachment, attached as **Exhibit C**; and
- 5. The required legal description of the Property attached as **Exhibit D**.

The Applicant desires to obtain from the City a zoning variance from the Setback Ordinance with respect to the Encroachments. The Applicant itself did not permit or cause the Encroachments; instead, the Encroachments arose during the prior owner's construction of the existing facilities. Literal enforcement of the ordinance with respect to the Encroachments will cause an undue hardship on the Applicant and will be of no material benefit to the Property or the City.

The requested variance will not authorize a use other than the uses specifically permitted within the zoning district. It also will not injure or harm any adjacent conforming property or alter the character of the zoning district, nor will it harm the general purposes of the Code or the public health, safety or general welfare. The requested variance will be in harmony with the spirit and purpose of the Code.

Accordingly, the Petition requests that the City, at its June 29 meeting of the Board of Zoning Adjustment, approve a zoning variance to Setback Ordinance with respect to the Encroachments.

If any further information is required, please do not hesitate to reach out to me at the contact information provided. Thank you for your attention to this matter. We look forward to hearing from you and presenting the Petition to the City.

Respectfully,

ROSE LAW FIRM, A PROFESSIONAL ASSOCIATION

By: Robyn P. Allmendinger

Counsel for The Fountain at Maumelle LLC & HSGC Holdings II LLC

Enclosures

Exhibit A

[Attach Letter from the Applicant]

MAY 30, 2023

City of North Little Rock, Arkansas ATTN: Board of Zoning Adjustment 709 W. 29th Street North Little Rock, Arkansas 72114-2134

RE: Request for Zoning Variance at 10801 Paul Eells Drive, North Little Rock, Arkansas

Ladies and Gentlemen:

Pursuant to the 2023 Steps in Submitting a Request to the Board of Zoning Adjustment and Section 9.1.3 et seq. of the Code of the City of North Little Rock, Arkansas (the "Code") we, being The Fountain at Maumelle LLC along with HSGC Holdings II LLC, as tenant in common owners (collectively the "Applicant"), submit this letter to the City of North Little Rock, Arkansas (the "City") to request a zoning variance from the Board of Zoning Adjustment. We submit this letter as the required letter from the Property Owner along with the Hardship Letter from our attorney, Robyn Allmendinger of Rose Law Firm. This letter replaces our previous letter sent on May 24, 2023.

This letter concerns commercial property zoned Residential Multi-Family District (R4) located at 10801 Paul Ellis Drive, North Little Rock, Arkansas identified by Parcel Number 43N0110000600 (the "Property"). The Property is improved by buildings, parking areas, improvements, and fixtures now situated on the Property, including, without limitation, the 435-unit multi-family apartment project known as Fountaine Bleau Maumelle. The Property as currently developed was approved by the City in 2009.

We purchased the Property in April of 2023 from Burkhalter Commercial Group, LLC and will continue to operate the facility. As a standard part of our due diligence procedures, we identified eight (8) *de minimis* encroachments to the twenty-five-foot (25') setback requirement for the Property pursuant to 2008 Ordinance No. 8134 (the "Setback Ordinance"). The eight (8) encroachments (hereinafter referred to as the "Encroachments") are as follows:

1. A portion of one (1) apartment building (Building No. 12) and sprinkler riser system lies approximately 6.4 feet over the south interior side setback requirement of 25.00 feet;

- 2. A portion of one (1) mailbox building in Lot 1R lies a *de minimis* distance over the south interior front setback requirement of 25.00 feet;
- 3. A portion of one (1) apartment building (Building No. 11) and sprinkler riser system lies a *de minimis* distance over the north interior side setback requirement of 25.00 feet;
- 4. A portion of three (3) garages in Lot 1R lie a *de minimis* distance over the north interior front setback requirement of 25.00 feet;
- 5. A portion of one (1) garage in Lot 1R lies a *de minimis* distance over the west interior front setback requirement of 25.00 feet; and
- 6. A portion of one (1) garage in Lot 1R lies a *de minimis* distance over the south interior front setback requirement of 25.00 feet.

We request the City's attention to the Statement of Encroachments on the enclosed Survey (defined below), which denominates each of the above Encroachments.

The Encroachments have been in place on Lot 1R of the Property since 2009 without any harm to the zoned area. Removal of the Encroachments in order to comply with the Setback Ordinance will cause a significant hardship. We have received a quote from an engineer for the removal of the sprinkler riser system, which work around involves (i) demolition and removal of the utility room, footings, electrical work, fire suppression of the control room, plumbing and (ii) installation of a new utility room, footings, framing, electrical, plumbing, fire suppression control room, brick veneer, architectural shingles. The quote for this work was approximately \$275,000.00.

We desire to obtain from the City a variance from the Setback Ordinance with respect to the Encroachments. The unique circumstance that caused the Encroachments are not as a result of our actions; instead, the Encroachments arose during the prior owner's construction of the existing facilities. Literal enforcement of the ordinance with respect to the Encroachments will cause an undue hardship and will be of no material benefit to the property or the City. If a variance is not granted, the expenses will

The requested variance will not authorize a use other than the uses specifically permitted within the zoning district. It also will not injure or harm any adjacent conforming property or alter the character of the zoning district, nor will it harm the general purposes of the Code or the public health, safety or general welfare. The requested variance will be in harmony with the spirit and purpose of the Code.

Accordingly, we request that the City, at its June 29 meeting of the Board of Zoning Adjustment, approve a zoning variance to the Setback Ordinance with respect to the Encroachments.

If any further information is required, please do not hesitate to reach out to us.

[Signature page to follow]

Thank you for your attention to this matter. We look forward to hearing from you and presenting the petition for variance to the City.

Respectfully,

The Fountain at Maumelle LLC, on behalf of itself and HSGC Holdings II LLC

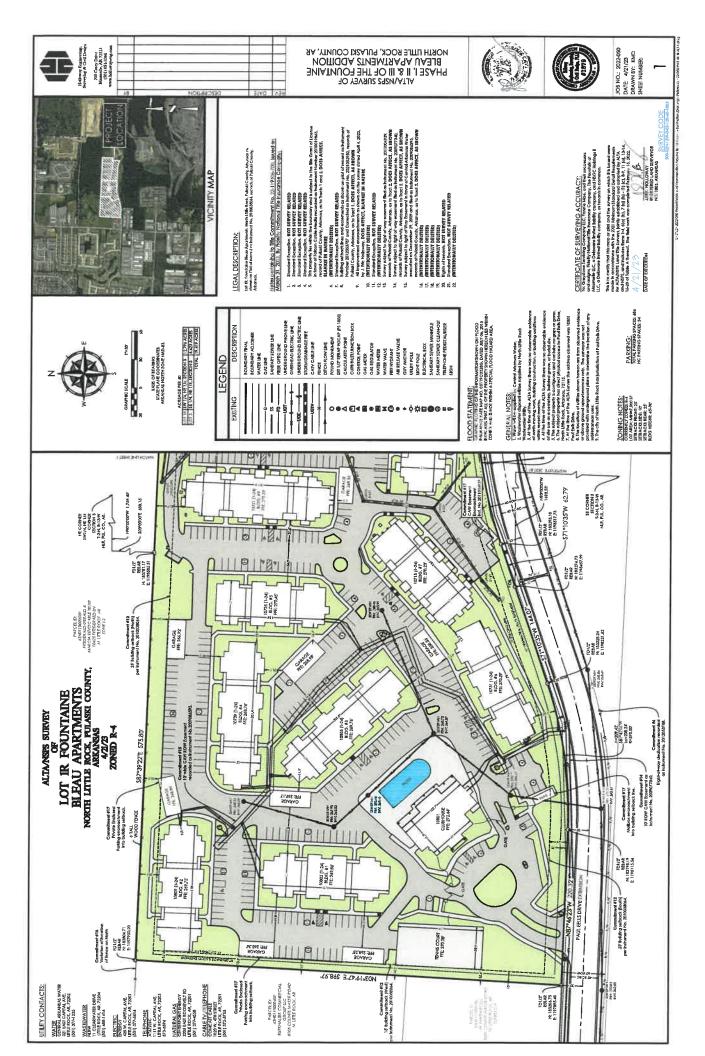
By: TFM JV I LLC, a Delaware limited liability company, its manager

By: TFM Manager LLC, a Delaware limited liability company, its manager

By: Isaac Gutman, its Manager

Exhibit B

[Attach Survey]





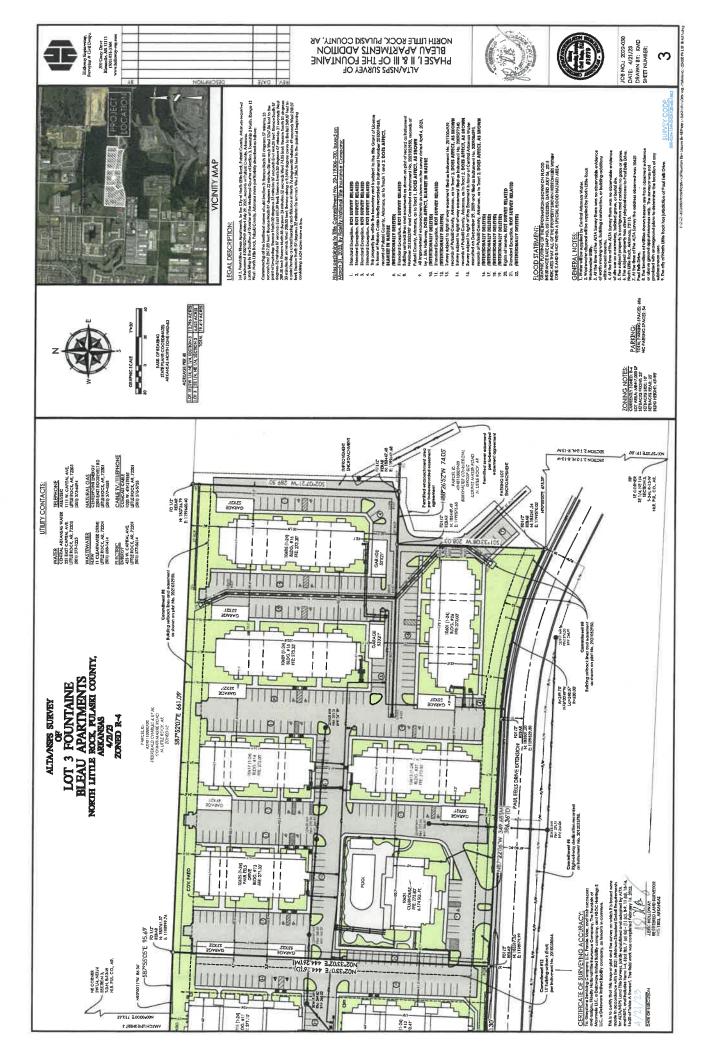


Exhibit C

[Attach Quote from Engineer]

BSC Construction

7007 Highland Park Drive Fort Smith, AR 72916

Estimate

Date	Estimate #	
4/27/2023	7854	

Name / Address	
FOUNTAINE BLEAU APARTMENT 10701 PAUL EELLS DR, MAUMELLE, AR 72113	

Project

Description	Qty	Rate	Total
BUILDING 12 - DEMO UTILITY ROOM OFF OF BUILDING 12. TO INCLUDE REMOVING FOOTINGS, MOVING ELECTRICAL, MOVE FIRE SUPPRESSION CONTROL ROOM, AND PLUMBING. INSTALLING NEW UTILITY ROOM TO INCLUDE: FOOTINGS, FRAMING, ELECTRICAL, PLUMBING AND FIRE SUPPRESSION CONTROL ROOM, BRICK VENEER, AND ARCHITECTURAL SHINGLES.		275,000.00	275,000.00
		Total	\$275,000.00

Exhibit D

Lot 1R, Fountaine Bleau Apartments, North Little Rock, Pulaski County, Arkansas as shown on Plat of record as Instrument No. 2010038064, records of Pulaski County, Arkansas.

Lot 3, Fountaine Bleau Apartments, North Little Rock, Pulaski County, Arkansas recorded as Instrument #2021052949 dated July 29, 2021, records of Pulaski County, Arkansas.