

FILED  
SALINE COUNTY CIRCUIT CLERK  
03/07/16 08:34:38  
BY EA

**IN THE CIRCUIT COURT OF SALINE COUNTY, ARKANSAS**  
311 DIVISION

**CITY OF BRYANT, ARKANSAS  
MUNICIPAL PROPERTY OWNERS'  
MULTIPURPOSE IMPROVEMENT  
DISTRICT NO. 84 (MIDTOWN PROJECT)**

**PLAINTIFF**

**VS.**

Case No. 63CN-16-190-3

**CITY OF BRYANT, ARKANSAS**

**DEFENDANT**

**COMPLAINT FOR DECLARATORY JUDGMENT  
AND FOR OTHER RELIEF**

Comes now the Plaintiff, City of Bryant, Arkansas Municipal Property Owners' Multipurpose Improvement District No. 84 (District 84), by and through its attorneys, Don A. Eilbott – Attorney, PLC, and for its Complaint for Declaratory Judgment and Other Relief and states:

1. That the Plaintiff, City of Bryant, Arkansas Municipal Property Owners' Multipurpose Improvement District No. 84 (District 84), hereinafter referred to as "District 84," is a Municipal Property Owners' Multipurpose Improvement District organized and existing under the laws of the State of Arkansas, formed pursuant to Ordinance 2007-41 of the City of Bryant, Arkansas.
2. Defendant, City of Bryant, Arkansas, hereinafter referred to as "City of Bryant," is a municipality organized and existing under the laws of the State of Arkansas.

3. This court has jurisdiction over the parties and the subject matter hereto. Venue is proper in Saline County, Arkansas.
4. This action is brought in part pursuant to the provisions of Rule 57 of the Arkansas Rules of Civil Procedure for a Declaratory Judgment. Further, this action is brought in part pursuant to Arkansas Code Annotated §16-111-101 through § 16-111-111 for a Declaratory Judgment. In addition, this action is brought in part pursuant to the provisions of Rule 65 of the Arkansas Rules of Civil Procedure requesting an interlocutory injunction.
5. City of Bryant, acting through its Mayor contends that certain streets located and situated within Midtown Bryant, a subdivision of Bryant, Arkansas, hereinafter referred to as "Midtown," are not public streets, owned by the City of Bryant as a part of the public street system of City of Bryant, and accordingly City of Bryant is not responsible for the care, maintenance and upkeep of said streets.
6. District 84 is charged by statute and ordinance with responsibility for construction of certain improvements within the boundaries of Midtown.
7. TND Development, LLC, an Arkansas limited liability company, acting through Hope Engineers, a Registered State of Arkansas Engineer, caused to be prepared a Final Plat of Midtown, Phase I. said Plat contains a Certificate of Owner which states in part as follows:

We, the undersigned owners of the real estate shown and described herein, do hereby certify that we have laid off, platted, and subdivided...in accordance with this plat and do hereby dedicate to the use of the public the (streets, alleys, drives easements, etc.) as shown on said plat.

8. Said plat was approved by the Bryant Planning Commission and recorded in the records of the Circuit Clerk of Saline County, Arkansas on October 2, 2008, as Plat No. 08-85692. A copy of said Plat is attached hereto as Exhibit "A" and made a part hereof.

9. Further, TND Development, LLC, an Arkansas limited liability company, acting through Hope Engineers, a Registered State of Arkansas Engineer, caused to be prepared a Final Plat of Midtown, Phase II. Said Plat contains a Certificate of Owner which states in part as follows:

We, the undersigned owners of the real estate shown and described herein, do hereby certify that we have laid off, platted, and subdivided...in accordance with this plat and do hereby dedicate to the use of the public the (streets, alleys, drives easements, etc.) as shown on said plat.

10. Said plat was approved by the Bryant Planning Commission and recorded in the records of the Circuit Clerk of Saline County, Arkansas on November 26, 2008, as Plat No. 08-99044. A copy of said Plat is attached hereto as Exhibit "B" and made a part hereof.

11. Ordinance 2007-41 was enacted by the City of Bryant, Arkansas on October 22, 2007. Said ordinance is a part of the Code of Ordinances of the City of Bryant, Arkansas. Said ordinance in Section 2.4.3 states in part as follows:

*b. Approval by The Planning Commission*

The Final Plat of the proposed TND or phase shall be submitted to the Planning Coordinator for final approval by the Planning Commission prior to expiration of the Preliminary Plat. ... The Planning Commission shall approve or disapprove the Final Plat at the next regularly scheduled meeting. ... Approval of the Final Plat by the Planning Commission shall constitute the acceptance by the public of the dedication of any thoroughfares or grounds.

12. On October 1, 2008 the Bryant Planning Commission approved the Final Plat attached hereto as Exhibit A. Said approval, pursuant to Ordinance 2007-41 resulted in the thoroughfares, streets, alleyways being accepted into the City of Bryant, Arkansas.

13. As a result of the Ordinance set forth in Paragraph 11 above, coupled with the action of the City of Bryant Planning Commission set forth in Paragraph 12, said streets in Midtown have been dedicated to public use, are owned by the City of Bryant, Arkansas and Bryant is responsible for the maintenance and upkeep of same. Accordingly, the public has the right to utilize and in fact has utilized said streets and roadways. Further persons have utilized the plat as recorded as the basis for the conveying of lots in Midtown, including the buying and selling of said lots and the mortgaging of same to secure financing for the construction of residences and improvements.


14. District 84, pursuant to ARCP Rule 57 and Arkansas Code Ann. § 16-111-101 through § 16-111-111 requests a determination and declaration by this Court that the streets in Midtown, a subdivision of Bryant, Arkansas, are a part of the public street system of City of Bryant, and accordingly the City of Bryant is responsible for the care, maintenance and upkeep of said streets.

15. In addition, the City of Bryant, by action and inaction, has accepted said streets as a part of the public street system of City of Bryant, and accordingly the City of Bryant is responsible for the care, maintenance and upkeep of said streets, has waived any right to claim to the contrary and is estopped from doing so.

**WHEREFORE**, Plaintiff, City of Bryant, Arkansas Municipal Property Owners' Multipurpose Improvement District No. 84 (District 84), prays as herein and for all other proper relief.

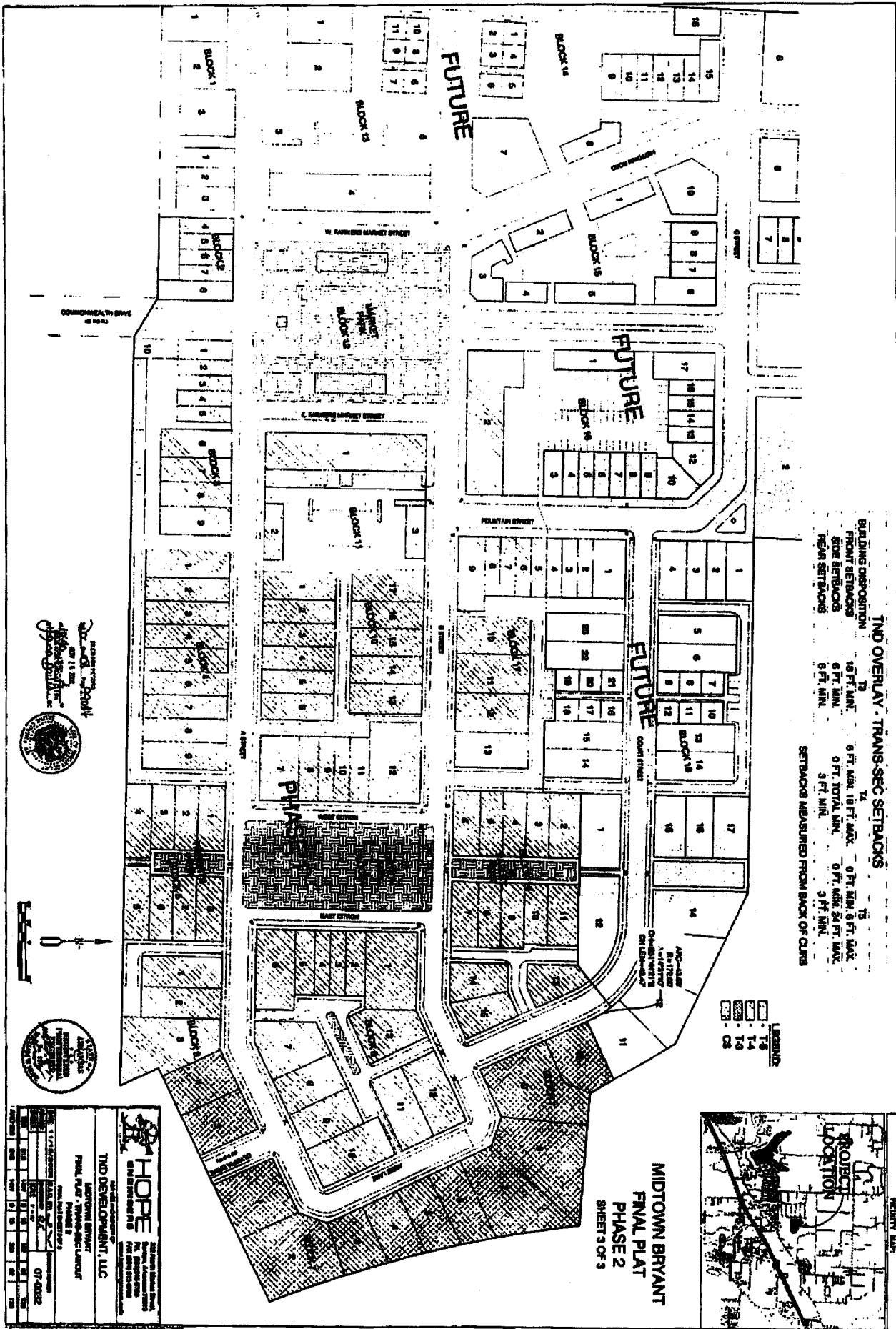
**Don A. Eilbott**  
Arkansas Bar 74042  
Post Office Box 23870  
Little Rock, Arkansas, 72221  
Telephone: 501-225-2885  
[dae@eilbottlaw.com](mailto:dae@eilbottlaw.com)

By:

  
\_\_\_\_\_  
Don A. Eilbott, 74042







**TND OVERLAY - TRANS-SEC SETBACKS**

BUILDING DISPOSITION: 13  
 FRONT SETBACKS: 8 FT. MIN.  
 SIDE SETBACKS: 8 FT. MIN.  
 REAR SETBACKS: 8 FT. MIN.

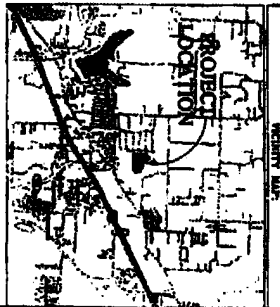
14  
 8 FT. MIN. 18 FT. MAX.  
 0 FT. TOTAL MIN.  
 3 FT. MIN.

15  
 0 FT. MIN. 8 FT. MAX.  
 0 FT. MIN. 24 FT. MAX.  
 3 FT. MIN.

SETBACKS MEASURED FROM BACK OF CURB

**LEGEND**

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**MIDTOWN BRYANT  
FINAL PLAT  
PHASE 2  
SHEET 3 OF 3**

**HOPE**  
 HOPE, ARKANSAS  
 201 HOPE AVENUE  
 HOPE, ARKANSAS 71801  
 PHONE: 501-781-1111  
 FAX: 501-781-1112  
 WWW.HOPEAR.COM

**TND DEVELOPMENT, LLC**  
 201 HOPE AVENUE  
 HOPE, ARKANSAS 71801  
 PHONE: 501-781-1111  
 FAX: 501-781-1112  
 WWW.HOPEAR.COM

**HOPE**  
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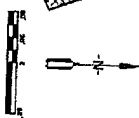
COMMONWEALTH DRIVE  
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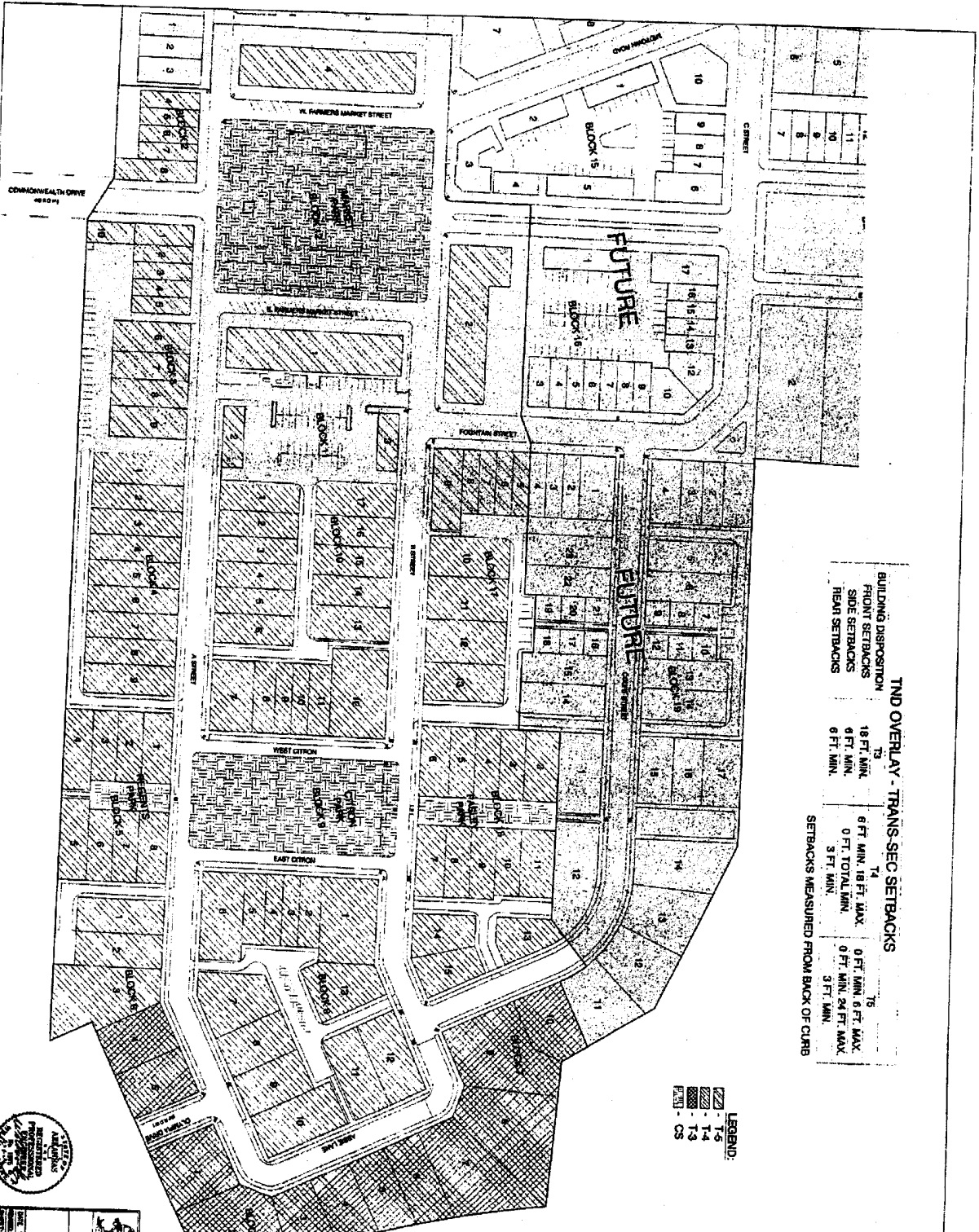
**HOPE**  
HOPE DEVELOPMENT, LLC  
2000 North Main Street  
P.O. Box 10000  
Fall River, MA 01923

**TND DEVELOPMENT, LLC**  
MIDTOWN BRYANT  
FINAL PLAT - TRANS-SEC LAYOUT  
PHASE 1  
DATE: 07-2002

DATE	BY	CHKD	APP'D
07-2002	J.S.	J.S.	J.S.



MIDTOWN BRYANT  
FINAL PLAT  
PHASE 1  
SHEET 3 OF 4

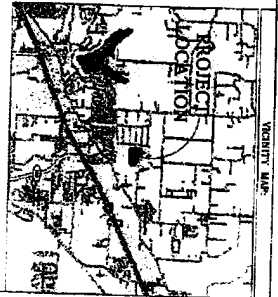


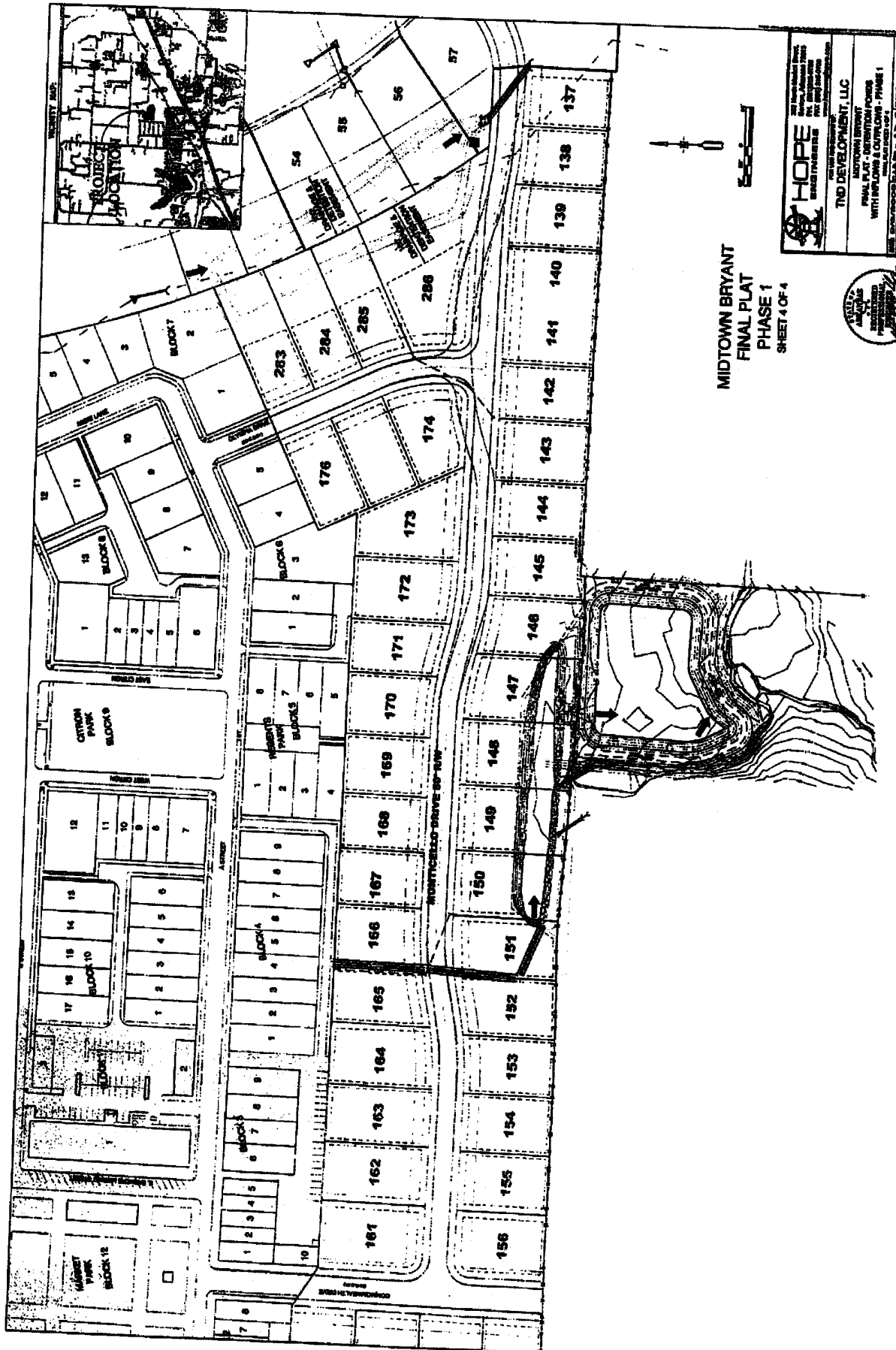
**TND OVERLAY - TRANS-SEC SETBACKS**

BUILDING DISPOSITION	TO	FROM
FRONT SETBACKS	18 FT. MIN.	6 FT. MIN. 18 FT. MAX.
SIDE SETBACKS	0 FT. MIN.	0 FT. TOTAL MIN.
REAR SETBACKS	6 FT. MIN.	3 FT. MIN.

SETBACKS MEASURED FROM BACK OF CURB

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MIDTOWN BRYANT  
FINAL PLAT  
PHASE 1  
SHEET 4 OF 4

**HOPE**  
LAND DEVELOPMENT, LLC

DESIGNED BY  
HOPE LAND DEVELOPMENT, LLC

PREPARED BY  
HOPE LAND DEVELOPMENT, LLC

DATE  
07-0028



IN THE CIRCUIT COURT OF       SALINE       COUNTY, ARKANSAS

630W-16-190-3

**NOTICE OF RIGHT TO CONSENT  
TO DISPOSITION OF CASE BY A STATE DISTRICT COURT JUDGE**

In accordance with Administrative Order Number 18, you are hereby notified that upon the consent of all the parties in a case, a State District Court Judge may be authorized to conduct all proceedings, including trial of the case and entry of a final judgment. Copies of appropriate consent forms are available from the Circuit Clerk.

You should be aware that your decision to consent or not to consent to the disposition of your case before a State District Court Judge is entirely voluntary, and by **consenting to the reference of this matter to a State District Court Judge, the parties waive their right to a jury trial**, and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals as authorized by law.

You should communicate your consent by completing the Form — **CONSENT TO PROCEED BEFORE A STATE DISTRICT COURT JUDGE** -- and return to the Circuit Clerk.

FILED  
SALINE COUNTY CIRCUIT CLERK  
03/07/16 09:47:51

BY EA.