FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
CITY COUNCIL
APRIL 16, 2002

A meeting of the Fayetteville City Council will be held on April 16, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

NOMINATING COMMITTEE REPORT

A. CONSENT

1. **APPROVAL OF THE MINUTES.**

2. **TCA CABLE BUILDING:** A resolution awarding a bid for renovation to the TCA Building to Neil Hefner Construction in the amount of $195,464 and approval of a project contingency in the amount of $15,000.

3. **GARLAND AVE.:** A resolution authorizing the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400.

4. **BULLETPROOF VESTS:** A resolution approving a grant application with the Department of Justice Bulletproof Vests Partnership Program. This is a four year grant and can be utilized at any time during the four years.

5. **LEGACY POINTE:** A resolution waiving Ordinance 3793 to accept land and money in lieu as the park land requirement for the Legacy Pointe Development.

6. **ELLIS DEVELOPMENT:** A resolution waving Ordinance 3793 to accept land and money in lieu of the park land requirement for the Ellis Development.

7. **CALL CENTER POSITION:** A resolution to approve the filling of the non-emergency call center position to take full advantage of the new software recently purchased and to provide support for the Business Office.

8. **ORGANIZATIONAL PLANNER:** A resolution approving an aggressive litter control program with education, cleanup, and enforcement options, and to assist in the market development analysis and the development of operational plans for commercial glass recycling.

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

B. OLD BUSINESS

1. **RZN 02-6.00:** An ordinance approving rezoning request RZN 02-6.00 as submitted by Terry Carpenter of US Infrastructure, Inc. for property located at 415 Longview Street. The property is zoned A-1, Agricultural and contains approximately 38.6 acres. The request is to rezone to R-O, Residential Office.

C. NEW BUSINESS

1. **THUNDER VALLEY:** An ordinance allowing a special thirty-year anniversary two-day racing event at Thunder Valley Raceway with closing times of 11:30 p.m.

2. **SIDEWALK CONSTRUCTION:** An ordinance repealing Section 171.12 of the UDO, Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk, and adopting a replacement Section 171.12 of the UDO.

3. **RZN 02-7.00:** An ordinance approving rezoning request RZN 02-7.00 as submitted by Lindsey and Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential.

4. **VA 02-1.00:** An ordinance approving vacation request VA 02-1.00 as submitted by Ken and Kathie Marvin for property in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9,10 and 11.

5. **PARKING REGULATIONS:** An ordinance amending Chapter 72: Parking Regulations, Code of Fayetteville, to authorize the impoundment of vehicles illegally stored in public parking decks and lots, changing parking enforcement hours to 7:00 a.m. to 6:00 p.m. and increasing the penalty for parking violations from $2.00 to $5.00.

6. **BURNS AND MCDONNELL:** A resolution approving an agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

Meeting of April 16, 2002

	Roll				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
DAVIS	✓				
SANTOS	✓				
JORDAN	✓				
COODY	✓				

Nomination Committee Report	K.S. 2nd mov. Maye Estes				
REYNOLDS	✓	LS.			
THIEL	✓	LS.			
YOUNG	✓	TW.			
DAVIS	✓	LS.			
SANTOS	✓	TW.			
JORDAN	✓	TW.			
COODY		LS.			

Meeting of April 16, 2002

Consent	ICS				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
DAVIS	✓				
SANTOS	✓				
JORDAN	✓				
COODY					

Cont Center	ICS RR				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
DAVIS	✓				
SANTOS	✓				
JORDAN	✓				
COODY					

Meeting of April 16, 2002

PZN 2-6.	CU 2ND KS.	CU 3RD BD.	PASS		
REYNOLDS	✓	✓	✓		
THIEL	✓	✓	✓		
YOUNG	✓	✓	✓		
DAVIS	✓	✓	✓		
SANTOS	✓	✓	✓		
JORDAN	✓	✓	✓		
COODY					

THUNDER VALLEY.	BD 2ND RR.	BD 3RD LA.	PASS		
REYNOLDS	✓	✓	✓		
THIEL	✓	✓	✓		
YOUNG	✓	✓	✓		
DAVIS	✓	✓	✓		
SANTOS	✓	✓	✓		
JORDAN	✓	✓	✓		
COODY					

Meeting of April 16, 2002

SIDEWALK CONST.	KS 2ND BT.	CU KS. amend. BTC.	KS 3RD CJ.	PASS	
REYNOLDS	✓	✓	✓	✓	
THIEL	✓	✓	✓	✓	
YOUNG	✓	✓	✓	✓	
DAVIS	✓	✓	✓	✓	
SANTOS	✓	✓	✓	✓	
JORDAN	✓	✓	✓	✓	
COODY	✓				

RZN 2-7.00.					
REYNOLDS					
THIEL					
YOUNG					
DAVIS	left on table				
SANTOS					
JORDAN					
COODY					

Meeting of April 16, 2002

Parking Legislation	ICS BD.	ICS CY.	BD CY.	BD ICS.	passed
REYNOLDS	✓	✓	✓	✓	✓
THIEL	✓	✓	✓	✓	✓
YOUNG	✓	✓	✓	✓	✓
DAVIS	✓	✓	✓	✓	✓
SANTOS	✓	✓	✓	✓	✓
JORDAN	✓	✓	✓	✓	✓
COODY					

REYNOLDS					
THIEL					
YOUNG					
DAVIS					
SANTOS					
JORDAN					
COODY					

meeting adjourned. 8:15

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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NOMINATING COMMITTEE REPORT Shackleford, Mack, Estes = Planning Com. Deville = LIBRARY

PASS **A. CONSENT**

1. **APPROVAL OF THE MINUTES.**

2. **TCA CABLE BUILDING:** A resolution awarding a bid for renovation to the TCA Building to Neil Hefner Construction in the amount of $195,464 and approval of a project contingency in the amount of $15,000.

3. **GARLAND AVE.:** A resolution authorizing the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400.

4. **BULLETPROOF VESTS:** A resolution approving a grant application with the Department of Justice Bulletproof Vests Partnership Program. This is a four year grant and can be utilized at any time during the four years.

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6. **ELLIS DEVELOPMENT:** A resolution waving Ordinance 3793 to accept land and money in lieu of the park land requirement for the Ellis Development.

7. **CALL CENTER POSITION:** A resolution to approve the filling of the non-emergency call center position to take full advantage of the new software recently purchased and to provide support for the Business Office.

PASS Remove from Consent

8. **ORGANIZATIONAL PLANNER:** A resolution approving an aggressive litter control program with education, cleanup, and enforcement options, and to assist in the market development analysis and the development of operational plans for commercial glass recycling.

CALL CENTER POSITION: RESOLUTION

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

B. OLD BUSINESS

Ord. PASS

1. **RZN 02-6.00:** An ordinance approving rezoning request RZN 02-6.00 as submitted by Terry Carpenter of US Infrastructure, Inc. for property located at 415 Longview Street. The property is zoned A-1, Agricultural and contains approximately 38.6 acres. The request is to rezone to R-O, Residential Office.

C. NEW BUSINESS

Ord. PASS

1. **THUNDER VALLEY:** An ordinance allowing a special thirty-year anniversary two-day racing event at Thunder Valley Raceway with closing times of 11:30 p.m.

Ord. PASS

2. **SIDEWALK CONSTRUCTION:** An ordinance repealing Section 171.12 of the UDO, Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk, and adopting a replacement Section 171.12 of the UDO.

left on 1st reading

3. **RZN 02-7.00:** An ordinance approving rezoning request RZN 02-7.00 as submitted by Lindsey and Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential.

— Bill of Ordinance —

removed from agenda

4. **VA 02-1.00:** An ordinance approving vacation request VA 02-1.00 as submitted by Ken and Kathie Marvin for property in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9,10 and 11.

PASS

5. **PARKING REGULATIONS:** An ordinance amending Chapter 72: Parking Regulations, Code of Fayetteville, to authorize the impoundment of vehicles illegally stored in public parking decks and lots, changing parking enforcement hours to 7:00 a.m. to 6:00 p.m. and increasing the penalty for parking violations from $2.00 to $5.00.

removed from agenda.

6. **BURNS AND MCDONNELL:** A resolution approving an agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

meeting adjourned.
8:30

FINAL AGENDA
CITY COUNCIL
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NOMINATING COMMITTEE REPORT

A. CONSENT

1. **APPROVAL OF THE MINUTES.**

Res. 59-02 2. **TCA CABLE BUILDING:** A resolution awarding a bid for renovation to the TCA Building to Neil Hefner Construction in the amount of $195,464 and approval of a project contingency in the amount of $15,000.

Res. 60-02 3. **GARLAND AVE.:** A resolution authorizing the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400.

Res. 61-02 4. **BULLETPROOF VESTS:** A resolution approving a grant application with the Department of Justice Bulletproof Vests Partnership Program. This is a four year grant and can be utilized at any time during the four years.

Res. 62-02 5. **LEGACY POINTE:** A resolution waiving Ordinance 3793 to accept land and money in lieu as the park land requirement for the Legacy Pointe Development.

Res. 63-02 6. **ELLIS DEVELOPMENT:** A resolution waving Ordinance 3793 to accept land and money in lieu of the park land requirement for the Ellis Development.

Res. 65-02 7. **CALL CENTER POSITION:** A resolution to approve the filling of the non-emergency call center position to take full advantage of the new software recently purchased and to provide support for the Business Office.

Res. 64-02 8. **ORGANIZATIONAL PLANNER:** A resolution approving an aggressive litter control program with education, cleanup, and enforcement options, and to assist in the market development analysis and the development of operational plans for commercial glass recycling.

B. OLD BUSINESS

ORD. 4385 1. **RZN 02-6.00:** An ordinance approving rezoning request RZN 02-6.00 as submitted by Terry Carpenter of US Infrastructure, Inc. for property located at 415 Longview Street. The property is zoned A-1, Agricultural and contains approximately 38.6 acres. The request is to rezone to R-O, Residential Office.

C. NEW BUSINESS

ORD. 4386 1. **THUNDER VALLEY:** An ordinance allowing a special thirty-year anniversary two-day racing event at Thunder Valley Raceway with closing times of 11:30 p.m.

Ord 4387 2. **SIDEWALK CONSTRUCTION:** An ordinance repealing Section 171.12 of the UDO, Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk, and adopting a replacement Section 171.12 of the UDO.

3. **RZN 02-7.00:** An ordinance approving rezoning request RZN 02-7.00 as submitted by Lindsey and Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential.

4. **VA 02-1.00:** An ordinance approving vacation request VA 02-1.00 as submitted by Ken and Kathie Marvin for property in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9,10 and 11.

Ord 4388 5. **PARKING REGULATIONS:** An ordinance amending Chapter 72: Parking Regulations, Code of Fayetteville, to authorize the impoundment of vehicles illegally stored in public parking decks and lots, changing parking enforcement hours to 7:00 a.m. to 6:00 p.m. and increasing the penalty for parking violations from $2.00 to $5.00.

6. **BURNS AND MCDONNELL:** A resolution approving an agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

Sel	Ref.	Date	Item	Action	Brief Description
_	RES	3/19/2002	46-02		WASTE QUIP-MAYFAB/ROLLOFF
_	RES	3/19/2002	47-02		CLERK/SOLID WASTE
_	RES	3/19/2002	48-02		POLICY AND PROCEDURE/COMMITTEE
_	RES	3/19/2002	49-02		BID 01-55/LANDERS/RON BLACKWELL
_	RES	3/19/2002	50-02		GENERAL PLAN/ANNEXATION POLICY
_	RES	3/19/2002	51-02		MCCLELLAND/BUSINESS TECH PARK
_	RES	3/19/2002	52-02		TOWNSHIP BUILDERS/DDEP/DICKSON
_	RES	3/19/2002	53-02		CDBG/GRANT/HABITAT/BOYGIRLS/LIBRARY
_	RES	4/02/2002	54-02		99 YR.LEASE/FAYETTEVILLE YOUTH CNTR
_	RES	4/02/2002	55-02		EXPENDITURE INCREASE/PAGER SERVICE
_	RES	4/02/2002	56-02		SALE OF CITY OWNED LAND/INDUSTRL PK
_	RES	4/02/2002	57-02		SAGE HOUSE/CITY OF FAYETTEVILLE
_	RES	4/02/2002	58-02		NEW WORLD TECHNOLOGY UPGRADE

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start with 59-02

Sel	Ref.	Date	Item	Action	Brief Description
_	RES	1/02/2002	01-02		CRICKET AGREEMENT LEASE
_	RES	1/02/2002	02-02		ADVANTAGE ARKANSAS PROGRAM
_	RES	1/15/2002	03-02		ELIMINATION OF PUBLIC PARKING
_	RES	1/15/2002	04-04		WAIVE BUILDING PERMIT FEE/HABITAT
_	RES	1/15/2002	05-02		WAIVE BUILDING PERMIT FEE
_	RES	1/15/2002	06-02		WASTE/RECYCLING RECEPTACLES
_	RES	1/15/2002	07-02		SOFTWARE AND IMPLEMENTATION SEVICES
_	RES	1/15/2002	08-02		HALF TIME EQUIVALNT POSITION/FLEET
_	RES	2/05/2002	09-02		FAYETTE TREE & TRENCH/RIDGEWAY
_	RES	2/05/2002	10-02		REFUNDING REVENUE BONDS/BUTTERFIELD
_	RES	2/05/2002	11-02		AMENDMENT/DUNCAN AND ASSOCIATES
_	RES	2/05/2002	12-02		AMENDMENT 2/MCCLELLAND ENGINEERING
_	RES	2/05/2002	13-02		AIR OPERATIONS BASE
_	RES	2/05/2002	14-02		AMENDMENT NO. 7/OMI CONTRACT
_	RES	2/05/2002	15-02		DEVELOPMENT OF EXECUTIVE RAMP

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Sel	Ref.	Date	Item	Action	Brief Description
_	RES	2/05/2002	16-02		JUVENILE ACCOUNTABILITY BLOCK GRANT
_	RES	2/05/2002	17-02		LAND PURCHASE/WRMC/NEW CITY LIBRARY
_	RES	2/05/2002	18-02		WAIVE BUILDING PERMIT FEE
_	RES	2/05/2002	19-02		ARKANSAS BUSINESS TECHNOLOGY PARK
_	RES	2/05/2002	20-02		ENGEERING SER./ARK. BUSI.TECHNOLOGY
_	RES	2/05/2002	21-02		DUKE SOLUTIONS,INC/HARMONY PRODUCTS
_	RES	2/05/2002	22-02		MCGOODWIN, WILLIAMS, AND YATES INC
_	RES	2/19/2002	23-02		FRONT-LOAD SANITATION TRUCKS
_	RES	2/19/2002	24-02		FUEL CELL TECHNOLOGY
_	RES	2/19/2002	25-02		ECONOMIC INFRASTUCTURE FUND GRANT
_	RES	2/19/2002	26-02		COX COMMUNICATIONS, INC./RATE
_	RES	2/19/2002	27-02		ROLL-FORWARD OF 2001 BUDGET
_	RES	2/19/2002	28-02		AMENDMENT #1 BURDIT ASSOCIATES
_	RES	2/19/2002	29-02		WEST MUD CREEK MULTIUSE TRAIL
_	RES	2/19/2002	30-02		PARKS & RECREATIN TEN YR MASTR PLAN

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Sel	Ref.	Date	Item	Action	Brief Description
_	RES	3/05/2002	31-02		TRAILER MOUNTED SEWER WASHER
_	RES	3/05/2002	32-02		COMPENSATION ANALYSIS PROJECT STEPS
_	RES	3/05/2002	33-02		SOFTWARE MAINTENANCE AGREEMENT
_	RES	3/05/2002	34-02		PURCHASE OF VARIOUS BULK MATERIALS
_	RES	3/05/2002	35-02		NEW MISSION STATEMENT
_	RES	3/05/2002	36-02		TASK ORDER NO. 10
_	RES	3/05/2002	37-02		REALLOCATE PROCEEDS/FIRE APPARATUS
_	RES	3/05/2002	38-02		EDWARD BYRNE STATE FRANT
_	RES	3/05/2002	39-02		WEB-SITE DESIGN
_	RES	3/05/2002	40-02		SWBELL/WEB-SITE HOSTING SERVICES
_	RES	3/05/2002	41-02		DENY APPEAL OF EARL/CAROLYN FARRELL
_	RES	3/05/2002	42-02		DENYING STREET NAME CHANGE
_	RES	3/19/2002	43-02		YALE MATERIALS/FORK LIFT/BID 2-12
_	RES	3/19/2002	44-02		4-D CONSTRUCTION/SEWER/I-540
_	RES	3/19/2002	45-02		ROBERT KOHLER/LIBRARY REPRESENTATIO

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015 03 City of Fayetteville 4/17/2002
1/01/2002 - 4/01/2002 Maintenance/Inquiry 9:15:01
Exp..: - 25 Matches
Cont.: - ORD Sel-(B=Browse)
Sel Ref. Date Item Action Brief Description (P=Print)

Sel	Ref.	Date	Item	Action	Brief Description
_	ORD	2/19/2002	4373		SENIOR CITIZENS OF FAYETTEVILLE
_	ORD	3/05/2002	4374		TELE-WORKS/INFORMATION SYSTEM
_	ORD	3/05/2002	4375		SPECIAL ELECTION FOR WARD TWO
_	ORD	3/05/2002	4376		AMEND TITLE XV/LIQUOR STR/DIST. C-1
_	ORD	3/05/2002	4377		AMEND CHAPTER 155/APPEAL RIGHT
_	ORD	3/05/2002	4378		AMENDING CHAPTER 92
_	ORD	3/19/2002	4379		CIVIL SERVICE COMMISSION/TWO MEMB.
_	ORD	3/19/2002	4380		PROPERTY SALE/INDUSTRIAL PARK LAND
_	ORD	3/19/2002	4381		WATER & SEWER REFUNDING REVENUE BON
_	ORD	3/19/2002	4382		SOLID WASTE RATES FOR BRUSH DISPOSA
_					
_		3/19/	4383		Boys & Girls Club (HW needs to sign) (then T. put in)
_					
_					
_					

Cmd1-Return Roll Keys Cmd3-End Press 'ENTER' to Continue
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Last ord was 4384. RZN 02-1.00 (Waiting on Bill of Assurance)

start with = 4385

Sel	Ref.	Date	Item	Action	Brief Description
_	ORD	1/02/2002	4358		AMEND CHAPTER 34/FINANCE & REVENUE
_	ORD	1/02/2002	4359		ANX 01-5.00/DOUBLE SPGS RD/OWL CRK
_	ORD	1/02/2002	4360		RZN 01-24.00/DOUBLE SPGS & OWL CRK
_	ORD	1/02/2002	4361		RZN 01-27.00/DOUBLE SPRNGS/OWL CRK
_	ORD	1/02/2002	4362		RZN 01-26.00/SHILOH DR & PORTER RD
_	ORD	1/02/2002	4363		RZN 01-28.00/SHILOH DRIVE & PORTER
_	ORD	1/15/2002	4364		CIVIL SERVICE COMMISSION
_	ORD	1/15/2002	4365		RESEARCH AND TECHNOLOGY PARK
_	ORD	2/05/2002	4366		REGULATING MOTOR VEHICLE RACING
_	ORD	2/05/2002	4367		RZN 01-3.00/2684 W SIXTH STREET
_	ORD	2/05/2002	4368		AMENDING TITLE XV/UDO
_	ORD	2/05/2002	4369		FORMAL COMPETITIVE BIDDING/UDB
_	ORD	2/19/2002	4370		RZN 02-2.00/JOYCE & CROSSOVER
_	ORD	2/19/2002	4371		ESTABLISH FEES/CITY SWIMMING POOLS
_	ORD	2/19/2002	4372		FAYETTEVILLE YOUTH CENTER, INC.

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113 WEST MOUNTAIN 72701 479-521-7700
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6. **BURNS AND MCDONNELL:** A resolution approving an agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 72: PARKING REGULATIONS, CODE OF FAYETTEVILLE, TO AUTHORIZE THE IMPOUNDMENT OF VEHICLES ILLEGALLY STORED IN PUBLIC PARKING DECKS AND LOTS; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That §72.02 (A) Impoundment Procedures, is hereby repealed and the following is inserted in its stead:

§ 72.02 Impoundment procedures.

(A) The police department is hereby authorized to remove a vehicle from a street, highway, public parking deck or lot to the nearest garage or other place of safety, or to a garage designated or maintained by the police department or otherwise maintained by the city, under the circumstances hereinafter enumerated:

(1) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic.

(2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody or removal.

(3) When any vehicle is left unattended upon a street and is parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic; when any vehicle is left continuously and unattended upon any street, public parking deck or lot for a period of more than 48 hours; and any time a vehicle is parked in a prohibited area that is so designated by signs or other official markings.

(4) When any vehicle is illegally parked on a public street, parking deck or lot designated by a sign or by curb marking as a towaway zone.

Section 2. That §72.10 Parking Prohibited During Certain Hours on Certain Streets, is hereby repealed and the following is inserted in its stead:

§ 72.10 Parking prohibited during certain hours on certain streets.

When signs are erected on any street or part of street in each block giving notice thereof, no person shall park a vehicle on any such street or part of street in each block so designated between the hours specified by the signs, except on weekends and public holidays.

DRAFT

Section 3. That §72.11 Stopping, Standing, or Parking Prohibited During Certain Hours on Certain Streets, is hereby repealed and the following is inserted in its stead:

§ 72.11 Stopping, Standing, or parking prohibited during certain hours on certain streets.

When signs are erected on any street or part of street in each block giving notice thereof, no person shall stop, stand, or park a vehicle on any such street or part of street in each block so designated between the hours specified by the signs, except on weekends and public holidays.

Section 4. That §72.12 Parking Time Limited to One Hour on Certain Streets, is hereby repealed and the following is inserted in its stead:

§ 72.12 Parking time limited to one hour on certain streets.

When signs are erected on any street or part of street in each block giving notice thereof, no person shall park a vehicle on any such street or part of street in each block so designated for longer than one hour at any time between the hours of 7:00 a.m. and 6:00 p.m. of any day, except weekends and public holidays.

Section 5. That §72.99 (B) Penalties, is hereby repealed and the following is inserted in its stead:

§ 72.99 Penalties.

(B) The penalty for each violation of § 72.13, § 72.57, or § 72.58(J) shall be $5.00 if paid before the issuance of a summons, citation, or arrest warrant; otherwise, the penalty for each violation of § 72.13, § 72.57, or § 72.58(J) shall be $25.00; provided the penalty for each violation of § 72.13, § 72.57, or § 72.58(J) in excess of five (5) in any calendar month shall be $25.00 if paid before the issuance of a summons, citation, or arrest warrant; otherwise, the penalty for each violation of § 72.13, § 72.57, or § 72.58(J) in excess of five (5) in any calendar month shall be $50.00.

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PASSED and APPROVED this _____ day of _____, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

MINUTES OF A MEETING
OF THE
CITY COUNCIL
FEBRUARY 19, 2002

A meeting of the Fayetteville City Council will be held on February 19, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Trumbo, Davis, Santos, Jordan, Reynolds, Thiel, Young and Zurcher, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press, and Audience.

Mayor Coody stated David Wright, Parks and Recreation, had received Silver National Aquatic Safety Award.

CONSENT

APPROVAL OF THE MINUTES

SANITATION TRUCKS: A resolution awarding Bid No. 02-01 to two qualified bidders. Item #1- Arkansas Power Steering Mack Chassis with Labrie Body, ($348,677.30) and Item #2- Shipley Motor equipment - Mack Chassis with Heil Body ($298,242.50). Total purchase of $646,919.80.

RESOLUTION 23-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LIBRARY: A resolution supporting cooperation with the Chemical Engineering Department of the University of Arkansas and the Fayetteville Public Library related to distributed power options for the new library building.

RESOLUTION 24-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

INFRASTRUCTURE GRANT: A resolution approving an Economic Infrastructure Grant from Arkansas Department of Economic Development for $100,000 to replace a water distribution main. The work will enable Pinnacle Foods to expand and add 134 jobs.

RESOLUTION 25-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis moved to approve the Consent Agenda. Alderman Santos seconded. Upon roll call the motion carried unanimously.

OLD BUSINESS

CABLE RATES: A resolution expressing the City Council's opposition to the seventy-five percent (75%) rate increase for basic tier cable television service proposed by Cox Communications, Inc., to authorize hiring an expert to audit and challenge the increase before the FCC and to approve a budget adjustment of $6,000.00. The item was tabled at the February 5, 2002, meeting.

Mr. Hugh Ernest, Urban Development Director, stated they had held an open forum last week. There were concerns about the response time Cox had on tie in. He had received a map of where they were with their

new cable installation. They had completed approximately thirty percent of the city. It appeared to him that Cox was reluctant to discuss an important franchise. They have some points to make. They have been at this for some time. The city had a technical committee putting together our version of what an institutional network needs to be for the city. The Council had several options. They could table it, pass it, or remove it from the table with the threat that they could bring it back before them at any time. It was his opinion that if they were going to have any movement on this issue that they would be better served by having the staff and others to use this to negotiate on the franchise. On February 4, he had stated that they had indications from their attorney in Washington that they were considering some give on a reduced life-line tier. In a later e-mail that he had received from Mr. Grogan has shown some change in Cox's position. They were firm in their communications. There appeared to be not much give at all. The only card the city held was the length of the franchise. He recommended that they table the item.

Alderman Zurcher stated Cox's customer service was lacking. They did not care what the subscriber thought about this rate increase. The only way the city could hold them accountable for a fair rate was to do this audit. The lowest tier that they were proposing was only a $1.50 less than it was to get the next tier. They did not want the consumer to get the lowest tier. They were keeping citizen from getting a more affordable tier. They needed to offer a lower life-line tier.

Alderman Young stated he had observed these negotiations for years. One of the things that he had observed was the lack of resolve on the part of the city. He thought they were faced with the same problem today. He proposed that they passed both of the things. It would take a while to get the data together. If they came to an agreement then they could pass a resolution rescinding this resolution.

Alderman Santos stated he had received an e-mail with rates around the country. It seemed to him that other people were getting a better deal than they were giving them. From what he could gather it seemed that if the satellite companies were able to compete with Cox.

Alderman Davis stated he had received more calls with people concerned about losing MSNBC, than about the rate structure.

Mr. Ernest stated it had to do with analog and digital. MSNBC was still carried as an analog. Once they could get MSNBC in digital format it would added to the upper tier.

Alderman Zurcher moved to approve the resolution. Alderman Thiel seconded. Upon roll call the motion carried by a vote of 6-2-0. Trumbo and Davis voting nay.

RESOLUTION 26-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-1.00: An ordinance approving RZN 02-1.00 as submitted by Robert Schmitt for property located at 1140 Hendrix and 1110 Hendrix. The property is zoned R-1, Low Density Residential, and contains approximately 1.36 acres. The request is rezone to R-1.5, Moderate Density Residential. The ordinance was left on the first reading at the February 5, 2002, meeting.

Alderman Young moved to suspend the rules and move to the second reading. Alderman Davis

seconded the motion. Upon roll call the motion carried 6-2-0. Jordan and Zurcher voting nay.

Mr. Williams read the ordinance.
Alderman Jordan stated he had received a petition from the people in the area. They were concerned about traffic congestion, drainage and crime rate.

Ms. Sharon Davidson, an area resident, stated they needed to fix the problem with the map and fix the zoning issues. She questioned if they really needed these apartments.

Ms. Emma Sue Hanna, an area resident, stated traffic and crime in this area was the neighborhood's first concern. There were a number of apartments in this area that were vacant. She asked them to consider that this was one of the last remaining neighborhoods. People were coming in and renovating the neighborhood. It was coming back to life. This was their home and they would like to keep it the way it was. She suggested they build a couple homes.

Mr. Jerry Lang, an area resident, asked the aldermen if they would like to have a duplex built behind his house. It would be ten years before they widened Garland.

Ms. Joyce Richards, an area resident, presented a petition. People in the neighborhood cared. She asked that they not rezone the property. People had lived in this neighborhood for twenty, thirty, fifty years. They have years invested in this area. They were looking for a return in their investment just like Broc Thompson.

Janet Bolin, an area resident, stated she had lived here since she was fourteen. She had seen a lot of changes to the neighborhood. She asked them to preserve the integrity of the older neighborhoods. Quality of life in their neighborhood has decreased. Their street has been paved once since 1966. She sited problems with traffic and water and sewer.

Alice Richards, an area resident, stated a mistake in zoning had allowed two triplexes to be put up in her back yard. She felt that was an invasion into their neighborhood. She asked the council not to rezone the property.

Mr. David Davidson, an area resident, stated people in this area did not want to see the zoning change or the additional apartments. There are concerns about drainage and traffic.

Mr. Steve Frankenburger, an area resident, stated this was a simple issue of neighborhood preservation and property rights. The property belonged to the individual, but it should be a give that the zoning belonged to all of them in the neighborhood. Zoning was a contract between neighbors.

Alderman Thiel asked number of units proposed for the site.

Mr. Conklin stated they have offered a Bill of Assurance for a maximum of nine units. There was one single family home on the property. They would add two units to the single family home, then add two additional triplexes.

Alderman Trumbo stated the purchasers had taken out a loan contingent upon the zoning that the city had showed them. What was their exposure legally?

Mr. Williams stated he did not believe they were legally liable, but only a judge and jury could decide that. He thought their sovereign immunity would protect them. His advise to the Planning Commission was that from a legal point of view they were not liable. Even if negligence could be shown when they were transferring from a paper map to a digital map. The error had been done by mistake. He thought they would be protected by the tort immunity statute. The reason that statute was drafted to protect the city from these types of suits from damages. He did not believe they would be liable for damages.

Mr. Ernest stated a representative of the city had given them a letter stating the property was R-1.5. That was a direct result of a request from the bank.

Alderman Thiel stated regardless of what the Planning office did, would the council rezone this, if this was not the case. She would not consider rezoning this after hearing from the neighbors.

Alderman Jordan stated the people in the area wanted to preserve their neighborhood. He would not want those triplexes in his neighborhood. He knew mistakes had been made, but to rezone this would be another mistakes.

Alderman Young asked how long it was going to take to present a revised map to the council.

Mr. Conklin explained he had discovered the mistake. He did not want this to happen again. It will take approximately two weeks to print out their zoning map on clear plastic and overlay that on their 1970 map, which was colored in crayon. Their GIS department would have to make any adjustments to the map. He hoped they could bring something forward to the city council in a month to a month and a half. He would proposed that they adopt an official map with signatures. The map could change every two weeks. He believed they needed an official map.

In response to questions, Mr. Conklin stated they were going to identify discrepancies and make the necessary adjustments. They were not going to change any zonings that have not been approved by the City Council. It was difficult to take a 1970's map and put it into a digital format.

Alderman Santos stated the property could not return to the commercial use because the grandfather clause no longer applied because it had been vacant for more than six months.

Mr. Ernest stated Garland Avenue was a principle street. It made planning sense to talk about using higher density against principle arterials or collectors. It becomes logical that those cars would not go back into neighborhood, but would go out towards the collector. When they talked about smart growth and higher density in existing neighborhoods, this is a case in point. They were going to be facing this issue over and over, if they were concerned about sprawl. This area of the state was going to grow. This area was going to under increased pressure for housing.

Alderman Trumbo asked if he was advocating the rezoning.

Mr. Ernest stated it made since from a planning perspective. There was one house on the property now. The rest of it was vacant. Quality development on this property could just as easily be a positive benefit to the neighborhood if it was done properly.

Alderman Trumbo stated that was from a planners perspective. From a neighbor standpoint, that did not make any sense.

Alderman Reynolds stated a mistake had been made and they had put triplexes in the neighborhood. These people loved their neighborhood just like everyone else. They wanted to keep their neighborhood as it was at this time.

Alderman Trumbo asked Mr. Osburn if this property was not rezoned would his client still develop the property?

Mr. Osburn stated he could not answer the question.

Alderman Davis asked Mr. Osburn to meet with the neighbors.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

RZN 02-2.00: An ordinance approving rezoning request RZN 02-2.00 as submitted by Craig Hull of Nickle-Hill Group on behalf of Andy Bethell for property located at the northeast corner of Joyce Blvd. and Crossover Road. The property is zoned C-1, Neighborhood Commercial and contains approximately 1.94 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the first reading at the February 5, 2002, meeting.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Ms. Hull stated the Planning Commission had approved their request and they had filed a Bill of Assurance.

Alderman Davis stated there was a bill of assurance on the property which would limit the use of the property.

Alderman Trumbo moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4370 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

Alderman Trumbo moved to move item twelve to number one under new business. Alderman Davis seconded. Upon roll call the motion carried unanimously.

WARD BOUNDARIES: Discussion regarding Ward Boundaries.

A representative from the Election Commission stated John Goddard had presented them a map of the proposed changes that he has developed for the city. They were in conformance with their request. They tried to keep it as simple as possible. The proposal was to modify the boundaries for Ward One and Ward Two to make those two wards conform to the precients. The alternative to this change would be for the election commission to create two small precients. If they could adopt these ward boundaries before their next election it would be helpful.

Mr. Williams stated they were going to have a special election in April. He was concerned about the city council altering the boundaries prior to that special election.

The representative stated he would not advocate them doing something against the law. He knew that they could change their precincts within thirty days of an election. That was the only law that he was aware of.

Mr. Williams stated his advise to the council was to have the election out of the current ward, rather than changing it.

The representative stated the Election Commission happy to make this change. If they had an election based on the existing ward boundaries, then they would have to do something about providing for a special precincts.

Alderman Thiel stated she favored the changes.

The representative stated the simplest thing for them would be to have the changes made then the election.

Alderman Young stated the changes would not match the old ward two boundaries.

Alderman Zurcher stated the new map followed the roads. He thought they were good changes, but he thought it would be best to wait until after the election to make the changes.

The representative stated they would have to create two special precincts.

Alderman Santos stated it would take thirty days to create the new precincts for this election. They were only making this change so that they could have the same people who voted in the last election, vote in this one. After this election they expected to change the city's ward boundaries to match the precinct lines.

NO ACTION TAKEN.

CIVIL SERVICE: An ordinance adding two additional members to the Fayetteville Civil Service Commission.

Mr. Williams read the ordinance.

Alderman Thiel stated currently the commission had staggered six year terms. By adding two more positions they would have the opportunity to add more diversity the commission. In conjunction with this ordinance, the Ordinance Review Committee recommended a revision of their Rules of Order and Procedure. If that recommendation was approved, one of their objections for the selection of commissioners would be to provide a broad diversity of qualified individuals to serve on appointed boards.

Alderman Young asked if they needed to add something in there allowing staggering terms. Figuring out how they would fit into the other members.

Mr. Williams stated the state statutes and state legislature had made that decision for them. It stated that when members were added, "when additional members were appointed subsequent to this subsection. The shall serve staggered terms to be determined by lot so that one would serve a three year term and one a six year term. Their successors will serve six year terms."

Alderman Davis stated the concerns that he had heard had been about the difficulty in getting a quorum. By adding two additional people to the commission would make it more difficult. A lot of people did not realize the time that it took to be a Civil Service Commissioner. They would sometimes spend two days in interviewing. It had to be someone who could take two to four days away from their positions. He had been asked to not support this issue for those reasons.

LEFT ON THE FIRST READING.

ROLLFORWARD: A resolution approving a budget adjustment which will allow for the rollforward and re-budget of all projects for items in progress which were appropriated in the 2001 Budget. The items which are approved will become part of the 2002 Budget.

In response to questions, Mr. Steve Davis stated the roll forwards did not include the Community Access Television. The amount of money they were rolling forward from General Fund was approximately $951,000. When they did the discussion on 2002 budget, they reduced operating budgets in General Fund by 1.3 million. During those deliberations, staff discussed with council that they would be bringing a re-budget item of approximately one million dollars back to the city council in early 2002. They had projected the General Fund reserves to be at $6,004,953 in 2002. The monies that were not spent in revenues that came in a little higher than they had projected. They would have after the roll-forwards were approved $7,043,153.

Mayor Coody stated they were going to be approximately one million dollars ahead of where they thought they were going to be.

Mr. Davis stated they would have more money in their savings account, but if they did not change their expense pattern or revenue pattern, they would be out of their reserves in two years.

Alderman Santos moved to approve the resolution. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

RESOLUTION 27-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BURDITT ASSOCIATES: A resolution authorizing a contract change with Burditt Associates in the amount of $33,000 to complete the city-wide tree inventory and to provide software and management plan.

Mr. Ernest stated on May 15 this council awarded a contract for a not to exceed amount of $25,000 for tree inventory, softward package and a management plan for trees in city right-of-way and city parks. An error had been made in a sever under estimation of the number of trees that were in Fayetteville. Work began on this project in July. In September they had exceeded the amount in the contract. They then stopped work on it. It was inappropriate for the city to insist Burditt complete with project given that the city had underestimated the project. They also felt it was inappropriate for them to continue work on the project until the council had approved additional money for them to continue this process. Trees in a city like Fayetteville should be considered an asset. Urban Forestry Programs depended on the collection of data so that they could systematically manage the asset.

Mr. Drum, Burditt Associates, gave a presentation summarizing the project and a sample of the completed project.

Mr. Ernest stated the emphasis on this project was the management plan.

Alderman Davis asked about using the University to assist in the study.

Mr. Drum stated he had worked behind programs that had used volunteer help that have used unskilled people, they do not see the problems. They see more emotion.

Ms. Kim Hesse stated the University did not have a Forestry Department. They did have a certified degree in Aborticulture. There was a lot to learn from experience.

Alderman Zurcher moved to approve the resolution. Alderman Santos seconded. Upon roll call the motion carried by a vote of 7-1, Reynolds voting nay.

RESOLUTION 28-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MUDD CREEK: A resolution showing support for the Mudd Creek Trail Project and giving the authority

to the Mayor to enter into a contractual agreement with AHTD.

Alderman Trumbo moved to approve the resolution. Alderman Santos seconded.

Mr. Steve Hatfield, Parks and Recreation, stated they had applied for T21 Federal Enhancement Program in August. They had been notified in January that they had received funding. They had gotten $200,000. The city's portion will be $45,000. The trail will be located from CMN Park to Front Street going west to east. They will be able to go under Highway 71B.

Upon roll call the motion carried unanimously.

RESOLUTION 29-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SWIMMING POOL FEES: An ordinance amending Section 97.017 of the Code of Fayetteville to allow the Mayor or his designee to establish fees for the city swimming pool.

Mr. Williams read the ordinance.

Alderman Trumbo moved to suspend the rules and go to the second reading. Alderman Davis seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Trumbo moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4371 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PARKS MASTER PLAN: A resolution approving the Parks and Recreation Ten-Year Master Plan with guiding policies and implementation strategies.

Ms. Connie Edmonston, Parks and Recreation Director, stated they had worked on this for the past two years which was really created by the citizens.

Alderman Trumbo complemented the staff on their hard work. He asked where they were going to get the money to fund the plan.

Ms. Edmonston stated it depended on the funding options that they wanted to go too. They will continue to seek more grant money. They would also be looking at bonds.

Alderman Thiel stated they had been given a twenty year time frame with their existing funding.

Mr. Eric Schultz gave a brief summary of the Master Plan and the process they went through.

Alderman Santos moved to approve the resolution. Alderman Davis seconded. Upon roll call the motion carried unanimously.

RESOLUTION 30-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BOYS AND GIRLS CLUB: An ordinance waiving the requirement of formal competitive bidding and approving a contract between the City of Fayetteville and Boys and Girls Club to provide public recreation.

Mr. Williams read the ordinance.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed.

ORDINANCE 4372 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

COUNCIL ON AGING: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville and Council on Aging in the amount of $30,999.96 to provide public recreations for the senior citizens of Fayetteville for 2002.

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and move the third and final reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion carried unanimously.

ORDINANCE 4273 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FAYETTE TREE AND TRENCH: An ordinance to waive competitive bidding requirements for a contract to repair and replace the sewer main running under I-540 and to declare an emergency.

Mr. Williams read the ordinance.

Mr. Greg Boettcher, Public Works Director, stated there was a twenty-one inch sewer line that crossed under Highway 540, north of 6th Street. The Porter Road lift station which served the area west of 540 pumped through this line. It carried about 800,000 gallons of waste water per day. There had been numerous breaks in the line recently. Where the pipe had been inspected it was found to be in terrible condition. Staff thought it was appropriate to expedite the repair. Engineering had selected a contracting firm and quested a quotation. The estimate was $149,000 to repair this. It would take approximately three weeks to complete the repair and another week to abandon the existing line. By comparison, if they followed their conventional process they would need to complete detailed plans, advertise. It was estimated to be approximately six weeks completion time. This was a very critical pipe line. He could not say if it would fail for sure or not. There had been two problems on it recently.

Mayor Coody asked why they had chosen Fayette Tree and Trench.

Mr. Boettcher stated he had asked engineering for a firm that had done similar work that they had a good relationship with. There were several firms. This company had been low on several recent bid openings. It was one of many.

Alderman Santos stated there was at least one other firm interested in bidding on this.

Mr. Gary Combs, an area contractor, stated he did not believe this was right. They had been the low bidder on the Hwy 265 relocation. He named a number of other jobs they had done for the city. They were concerned that Engineering had decided to act in this manner. This was the good old boy system. He thought they needed to go with bidding for this project.

Alderman Santos stated he thought they needed to take their chances and go through competitive bidding.

Mr. Boettcher stated it was a council decision. He agreed with competitive procurement. In view of what had happened between December and January he felt there was a risk that needed to be brought to the council for a decision. They could proceed in what every direction the council wanted to proceed in. There was some risk. He knew that it was a major line. The photographs that they had indicated that it was in terrible shape.

Alderman Trumbo stated that it seemed to him to be an emergency.

Mr. Williams stated if a blockage were to occur in a place that they could not get too, they could face substantial fines from the EPA. He added in order to waive competitive bidding the council must find that

normal competitive bidding was not feasible or practical in this situation. If that was there determination then they could waive competitive bidding. They should rely upon the facts presented. They also had to rely on their common sense. They had to make a decision based upon what their experts have told them and how compelling those facts were to them.

Alderman Davis asked Mr. Williams how he felt his stance was on this in the event that they were sued if they approved this.

Mr. Williams stated there had been a sufficient showing that could justify their finding that it was not feasible to do bidding. He was concerned about what would happen if the line did break. He thought he could defend the city given the facts presented by Mr. Boettcher. This was a judgment call.

Alderman Trumbo asked if there was a possibility of a restraining order until it was litigated.

Mr. Williams stated he did not believe so.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Young seconded. Upon roll call the motion carried by a vote of 6-3-0, Santos, Jordan, Reynolds voting nay.

Mr. Williams read the ordinance.

Alderman Trumbo moved to suspend the rules and move to the third and final reading. Alderman Young seconded. The motion carried by a vote of 6-3-0, Santos, Jordan, Reynolds voting nay.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 6-3, Santos, Jordan, and Reynolds.

Mr. Williams stated there needed to be a separate vote on the emergency clause. He added the mayor could not vote on the emergency clause. The emergency clause required two-thirds vote to pass. It would be foolish of the council to pass the ordinance then not pass the emergency clause.

Alderman Trumbo moved to approve the emergency clause. Alderman Zurcher seconded. Upon roll call the motion failed by 5-3, Santos, Jordan, and Reynolds.

Alderman Zurcher moved to reconsider the ordinance. Alderman Trumbo seconded. Upon roll call the motion carried unanimously.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 6-2, Davis and Zurcher voting yea.

ORDINANCE FAILED.

FAYETTE TREE AND TRENCH: A resolution to approve a contract with Fayette Tree and Trench in

the amount of $205,650.40 with a 15% project contingency amount of $30,847.60 for a total of $236,498.00 and to approve a budget adjustment in the amount of $236,498.00.

RESOLUTION NOT CONSIDERED.

DEAD HORSE MOUNTAIN BRIDGE: A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding the design and funding for the replacement of the Dead Horse Mountain Bridge. Costs to consist of the deposit payment to AHTD at the start of the preliminary design.

Alderman Reynolds stated not one city tax payer lived on this road. The price of this was going to be a lot higher than they thought it was going to be. The flood water had caused all the damage to the bridge and unless they built up the road too the same thing would happen again.

Mr. Boettcher stated the funding for this bridge would be set up on 80/20 with a million dollar cap. When the State did their estimate the city would be advised of the cost. The city would be out of the cost of the design. They could forgo the construction, if they determined it was not cost effective.
The CIP has included this in the 2003 funded activity. The traffic division had done a traffic count. During the week days they had counted 500-550 vehicles. This past weekend there had been 700-750 vehicles. When the golf course was up and running there could be as many as 1,000 to1,200.

Alderman Thiel stated there were other ways to get out of there. The majority of the people that are in the city limit use those other ways. They would not go back around.

Alderman Santos stated he did not like the sound of closing the bridge or the road.

Mr. Combs stated he paid a lot of taxes in the city, but if they wanted to abandon this bridge he would offer to buy the road. He owned most of the land out there and would be willing to pay for the abandonment. Any repairs would then be made by him.

Mr. Williams stated in order to abandon a road the city had to say that they had no use for it. If the bridge was down, then they might be able to find that. As long as the bridge was functioning he thought they would lack the legal authority to sell the road.

Alderman Thiel stated the road would be dangerous in a few years.

Alderman Thiel moved to approve the resolution. Alderman Trumbo seconded. Upon roll call the motion failed unanimously.

RESOLUTION FAILED.

Meeting adjourned at 11:45 p.m.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
CITY COUNCIL
APRIL 16, 2002

A meeting of the Fayetteville City Council will be held on April 16, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

— AWARD — TREE ADV. & TREE USA. —

NOMINATING COMMITTEE REPORT

A. CONSENT

1. **APPROVAL OF THE MINUTES.** –

2. **TCA CABLE BUILDING:** A resolution awarding a bid for renovation to the TCA Building to Neil Hefner Construction in the amount of $195,464 and approval of a project contingency in the amount of $15,000.

3. **GARLAND AVE.:** A resolution authorizing the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400.

4. **BULLETPROOF VESTS:** A resolution approving a grant application with the Department of Justice Bulletproof Vests Partnership Program. This is a four year grant and can be utilized at any time during the four years.

5. **LEGACY POINTE:** A resolution waiving Ordinance 3793 to accept land and money in lieu as the park land requirement for the Legacy Pointe Development.

6. **ELLIS DEVELOPMENT:** A resolution waving Ordinance 3793 to accept land and money in lieu of the park land requirement for the Ellis Development.

7. **CALL CENTER POSITION:** A resolution to approve the filling of the non-emergency call center position to take full advantage of the new software recently purchased and to provide support for the Business Office.

removed from Consent

8. **ORGANIZATIONAL PLANNER:** A resolution approving an aggressive litter control program with education, cleanup, and enforcement options, and to assist in the market development analysis and the development of operational plans for commercial glass recycling.

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

B. OLD BUSINESS

1. **RZN 02-6.00:** An ordinance approving rezoning request RZN 02-6.00 as submitted by Terry Carpenter of US Infrastructure, Inc. for property located at 415 Longview Street. The property is zoned A-1, Agricultural and contains approximately 38.6 acres. The request is to rezone to R-O, Residential Office.

C. NEW BUSINESS

1. **THUNDER VALLEY:** An ordinance allowing a special thirty-year anniversary two-day racing event at Thunder Valley Raceway with closing times of 11:30 p.m.

2. **SIDEWALK CONSTRUCTION:** An ordinance repealing Section 171.12 of the UDO, Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk, and adopting a replacement Section 171.12 of the UDO.

3. **RZN 02-7.00:** An ordinance approving rezoning request RZN 02-7.00 as submitted by Lindsey and Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential.

4. **VA 02-1.00:** An ordinance approving vacation request VA 02-1.00 as submitted by Ken and Kathie Marvin for property in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9,10 and 11.

remove from agenda.

5. **PARKING REGULATIONS:** An ordinance amending Chapter 72: Parking Regulations, Code of Fayetteville, to authorize the impoundment of vehicles illegally stored in public parking decks and lots, changing parking enforcement hours to 7:00 a.m. to 6:00 p.m. and increasing the penalty for parking violations from $2.00 to $5.00.

6. **BURNS AND MCDONNELL:** A resolution approving an agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

remove from agenda.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 72: PARKING REGULATIONS, CODE OF FAYETTEVILLE, TO AUTHORIZE THE IMPOUNDMENT OF VEHICLES ILLEGALLY STORED IN PUBLIC PARKING DECKS AND LOTS; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That §72.02 (A) Impoundment Procedures, is hereby repealed and the following is inserted in its stead:

§ 72.02 Impoundment procedures.

(A) The police department is hereby authorized to remove a vehicle from a street, highway, public parking deck or lot to the nearest garage or other place of safety, or to a garage designated or maintained by the police department or otherwise maintained by the city, under the circumstances hereinafter enumerated:

(1) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic.

(2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody or removal.

(3) When any vehicle is left unattended upon a street and is parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic; when any vehicle is left continuously and unattended upon any street, public parking deck or lot for a period of more than 48 hours; and any time a vehicle is parked in a prohibited area that is so designated by signs or other official markings.

(4) When any vehicle is illegally parked on a public street, parking deck or lot designated by a sign or by curb marking as a towaway zone.

DRAFT

Section 2. That §72.10 Parking Prohibited During Certain Hours on Certain Streets, is hereby repealed and the following is inserted in its stead:

§ 72.10 Parking prohibited during certain hours on certain streets.

When signs are erected on any street or part of street in each block giving notice thereof, no person shall park a vehicle on any such street or part of street in each block so designated between the hours specified by the signs, except on weekends and public holidays.

Section 3. That §72.11 Stopping, Standing, or Parking Prohibited During Certain Hours on Certain Streets, is hereby repealed and the following is inserted in its stead:

§ 72.11 Stopping, Standing, or parking prohibited during certain hours on certain streets.

When signs are erected on any street or part of street in each block giving notice thereof, no person shall stop, stand, or park a vehicle on any such street or part of street in each block so designated between the hours specified by the signs, except on weekends and public holidays.

Section 4. That §72.12 Parking Time Limited to One Hour on Certain Streets, is hereby repealed and the following is inserted in its stead:

§ 72.12 Parking time limited to one hour on certain streets.

When signs are erected on any street or part of street in each block giving notice thereof, no person shall park a vehicle on any such street or part of street in each block so designated for longer than one hour at any time between the hours of 7:00 a.m. and 6:00 p.m. of any day, except weekends and public holidays.

Section 5. That §72.99 (B) Penalties, is hereby repealed and the following is inserted in its stead:

§ 72.99 Penalties.

(B) The penalty for each violation of § 72.13, § 72.57, or § 72.58(J) shall be $5.00 if paid before the issuance of a summons, citation, or arrest warrant; otherwise, the penalty for each violation of § 72.13, § 72.57, or § 72.58(J) shall be $25.00; provided the penalty for each violation of § 72.13, § 72.57, or § 72.58(J) in excess of five (5) in any calendar month shall be $25.00 if paid before the issuance of a summons, citation, or arrest warrant; otherwise, the penalty for each violation of § 72.13, § 72.57, or § 72.58(J) in excess of five (5) in any calendar month shall be $50.00.

DRAFT

PASSED and APPROVED this _____ day of _____, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

MINUTES OF A MEETING
OF THE
CITY COUNCIL
FEBRUARY 19, 2002

A meeting of the Fayetteville City Council will be held on February 19, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Trumbo, Davis, Santos, Jordan, Reynolds, Thiel, Young and Zurcher, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press, and Audience.

Mayor Coody stated David Wright, Parks and Recreation, had received Silver National Aquatic Safety Award.

CONSENT

APPROVAL OF THE MINUTES

SANITATION TRUCKS: A resolution awarding Bid No. 02-01 to two qualified bidders. Item #1- Arkansas Power Steering Mack Chassis with Labrie Body, ($348,677.30) and Item #2- Shipley Motor equipment - Mack Chassis with Heil Body ($298,242.50). Total purchase of $646,919.80.

RESOLUTION 23-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LIBRARY: A resolution supporting cooperation with the Chemical Engineering Department of the University of Arkansas and the Fayetteville Public Library related to distributed power options for the new library building.

RESOLUTION 24-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

INFRASTRUCTURE GRANT: A resolution approving an Economic Infrastructure Grant from Arkansas Department of Economic Development for $100,000 to replace a water distribution main. The work will enable Pinnacle Foods to expand and add 134 jobs.

RESOLUTION 25-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis moved to approve the Consent Agenda. Alderman Santos seconded. Upon roll call the motion carried unanimously.

OLD BUSINESS

CABLE RATES: A resolution expressing the City Council's opposition to the seventy-five percent (75%) rate increase for basic tier cable television service proposed by Cox Communications, Inc., to authorize hiring an expert to audit and challenge the increase before the FCC and to approve a budget adjustment of $6,000.00. The item was tabled at the February 5, 2002, meeting.

Mr. Hugh Ernest, Urban Development Director, stated they had held an open forum last week. There were concerns about the response time Cox had on tie in. He had received a map of where they were with their

new cable installation. They had completed approximately thirty percent of the city. It appeared to him that Cox was reluctant to discuss an important franchise. They have some points to make. They have been at this for some time. The city had a technical committee putting together our version of what an institutional network needs to be for the city. The Council had several options. They could table it, pass it, or remove it from the table with the threat that they could bring it back before them at any time. It was his opinion that if they were going to have any movement on this issue that they would be better served by having the staff and others to use this to negotiate on the franchise. On February 4, he had stated that they had indications from their attorney in Washington that they were considering some give on a reduced life-line tier. In a later e-mail that he had received from Mr. Grogan has shown some change in Cox's position. They were firm in their communications. There appeared to be not much give at all. The only card the city held was the length of the franchise. He recommended that they table the item.

Alderman Zurcher stated Cox's customer service was lacking. They did not care what the subscriber thought about this rate increase. The only way the city could hold them accountable for a fair rate was to do this audit. The lowest tier that they were proposing was only a $1.50 less than it was to get the next tier. They did not want the consumer to get the lowest tier. They were keeping citizen from getting a more affordable tier. They needed to offer a lower life-line tier.

Alderman Young stated he had observed these negotiations for years. One of the things that he had observed was the lack of resolve on the part of the city. He thought they were faced with the same problem today. He proposed that they passed both of the things. It would take a while to get the data together. If they came to an agreement then they could pass a resolution rescinding this resolution.

Alderman Santos stated he had received an e-mail with rates around the country. It seemed to him that other people were getting a better deal than they were giving them. From what he could gather it seemed that if the satellite companies were able to compete with Cox.

Alderman Davis stated he had received more calls with people concerned about losing MSNBC, than about the rate structure.

Mr. Ernest stated it had to do with analog and digital. MSNBC was still carried as an analog. Once they could get MSNBC in digital format it would added to the upper tier.

Alderman Zurcher moved to approve the resolution. Alderman Thiel seconded. Upon roll call the motion carried by a vote of 6-2-0. Trumbo and Davis voting nay.

RESOLUTION 26-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-1.00: An ordinance approving RZN 02-1.00 as submitted by Robert Schmitt for property located at 1140 Hendrix and 1110 Hendrix. The property is zoned R-1, Low Density Residential, and contains approximately 1.36 acres. The request is rezone to R-1.5, Moderate Density Residential. The ordinance was left on the first reading at the February 5, 2002, meeting.

Alderman Young moved to suspend the rules and move to the second reading. Alderman Davis

seconded the motion. Upon roll call the motion carried 6-2-0. Jordan and Zurcher voting nay.

Mr. Williams read the ordinance.
Alderman Jordan stated he had received a petition from the people in the area. They were concerned about traffic congestion, drainage and crime rate.

Ms. Sharon Davidson, an area resident, stated they needed to fix the problem with the map and fix the zoning issues. She questioned if they really needed these apartments.

Ms. Emma Sue Hanna, an area resident, stated traffic and crime in this area was the neighborhood's first concern. There were a number of apartments in this area that were vacant. She asked them to consider that this was one of the last remaining neighborhoods. People were coming in and renovating the neighborhood. It was coming back to life. This was their home and they would like to keep it the way it was. She suggested they build a couple homes.

Mr. Jerry Lang, an area resident, asked the aldermen if they would like to have a duplex built behind his house. It would be ten years before they widened Garland.

Ms. Joyce Richards, an area resident, presented a petition. People in the neighborhood cared. She asked that they not rezone the property. People had lived in this neighborhood for twenty, thirty, fifty years. They have years invested in this area. They were looking for a return in their investment just like Broc Thompson.

Janet Bolin, an area resident, stated she had lived here since she was fourteen. She had seen a lot of changes to the neighborhood. She asked them to preserve the integrity of the older neighborhoods. Quality of life in their neighborhood has decreased. Their street has been paved once since 1966. She sited problems with traffic and water and sewer.

Alice Richards, an area resident, stated a mistake in zoning had allowed two triplexes to be put up in her back yard. She felt that was an invasion into their neighborhood. She asked the council not to rezone the property.

Mr. David Davidson, an area resident, stated people in this area did not want to see the zoning change or the additional apartments. There are concerns about drainage and traffic.

Mr. Steve Frankenburger, an area resident, stated this was a simple issue of neighborhood preservation and property rights. The property belonged to the individual, but it should be a give that the zoning belonged to all of them in the neighborhood. Zoning was a contract between neighbors.

Alderman Thiel asked number of units proposed for the site.

Mr. Conklin stated they have offered a Bill of Assurance for a maximum of nine units. There was one single family home on the property. They would add two units to the single family home, then add two additional triplexes.

Alderman Trumbo stated the purchasers had taken out a loan contingent upon the zoning that the city had showed them. What was their exposure legally?

Mr. Williams stated he did not believe they were legally liable, but only a judge and jury could decide that. He thought their sovereign immunity would protect them. His advise to the Planning Commission was that from a legal point of view they were not liable. Even if negligence could be shown when they were transferring from a paper map to a digital map. The error had been done by mistake. He thought they would be protected by the tort immunity statute. The reason that statute was drafted to protect the city from these types of suits from damages. He did not believe they would be liable for damages.

Mr. Ernest stated a representative of the city had given them a letter stating the property was R-1.5. That was a direct result of a request from the bank.

Alderman Thiel stated regardless of what the Planning office did, would the council rezone this, if this was not the case. She would not consider rezoning this after hearing from the neighbors.

Alderman Jordan stated the people in the area wanted to preserve their neighborhood. He would not want those triplexes in his neighborhood. He knew mistakes had been made, but to rezone this would be another mistakes.

Alderman Young asked how long it was going to take to present a revised map to the council.

Mr. Conklin explained he had discovered the mistake. He did not want this to happen again. It will take approximately two weeks to print out their zoning map on clear plastic and overlay that on their 1970 map, which was colored in crayon. Their GIS department would have to make any adjustments to the map. He hoped they could bring something forward to the city council in a month to a month and a half. He would proposed that they adopt an official map with signatures. The map could change every two weeks. He believed they needed an official map.

In response to questions, Mr. Conklin stated they were going to identify discrepancies and make the necessary adjustments. They were not going to change any zonings that have not been approved by the City Council. It was difficult to take a 1970's map and put it into a digital format.

Alderman Santos stated the property could not return to the commercial use because the grandfather clause no longer applied because it had been vacant for more than six months.

Mr. Ernest stated Garland Avenue was a principle street. It made planning sense to talk about using higher density against principle arterials or collectors. It becomes logical that those cars would not go back into neighborhood, but would go out towards the collector. When they talked about smart growth and higher density in existing neighborhoods, this is a case in point. They were going to be facing this issue over and over, if they were concerned about sprawl. This area of the state was going to grow. This area was going to under increased pressure for housing.

Alderman Trumbo asked if he was advocating the rezoning.

Mr. Ernest stated it made since from a planning perspective. There was one house on the property now. The rest of it was vacant. Quality development on this property could just as easily be a positive benefit to the neighborhood if it was done properly.

Alderman Trumbo stated that was from a planners perspective. From a neighbor standpoint, that did not make any sense.

Alderman Reynolds stated a mistake had been made and they had put triplexes in the neighborhood. These people loved their neighborhood just like everyone else. They wanted to keep their neighborhood as it was at this time.

Alderman Trumbo asked Mr. Osburn if this property was not rezoned would his client still develop the property?

Mr. Osburn stated he could not answer the question.

Alderman Davis asked Mr. Osburn to meet with the neighbors.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

RZN 02-2.00: An ordinance approving rezoning request RZN 02-2.00 as submitted by Craig Hull of Nickle-Hill Group on behalf of Andy Bethell for property located at the northeast corner of Joyce Blvd. and Crossover Road. The property is zoned C-1, Neighborhood Commercial and contains approximately 1.94 acres. The request is to rezone to C-2, Thoroughfare Commercial. The ordinance was left on the first reading at the February 5, 2002, meeting.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Ms. Hull stated the Planning Commission had approved their request and they had filed a Bill of Assurance.

Alderman Davis stated there was a bill of assurance on the property which would limit the use of the property.

Alderman Trumbo moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4370 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

Alderman Trumbo moved to move item twelve to number one under new business. Alderman Davis seconded. Upon roll call the motion carried unanimously.

WARD BOUNDARIES: Discussion regarding Ward Boundaries.

A representative from the Election Commission stated John Goddard had presented them a map of the proposed changes that he has developed for the city. They were in conformance with their request. They tried to keep it as simple as possible. The proposal was to modify the boundaries for Ward One and Ward Two to make those two wards conform to the precients. The alternative to this change would be for the election commission to create two small precients. If they could adopt these ward boundaries before their next election it would be helpful.

Mr. Williams stated they were going to have a special election in April. He was concerned about the city council altering the boundaries prior to that special election.

The representative stated he would not advocate them doing something against the law. He knew that they could change their precincts within thirty days of an election. That was the only law that he was aware of .

Mr. Williams stated his advise to the council was to have the election out of the current ward, rather than changing it.

The representative stated the Election Commission happy to make this change. If they had an election based on the existing ward boundaries, then they would have to do something about providing for a special precincts.

Alderman Thiel stated she favored the changes.

The representative stated the simplest thing for them would be to have the changes made then the election.

Alderman Young stated the changes would not match the old ward two boundaries.

Alderman Zurcher stated the new map followed the roads. He thought they were good changes, but he thought it would be best to wait until after the election to make the changes.

The representative stated they would have to create two special precincts.

Alderman Santos stated it would take thirty days to create the new precincts for this election. They were only making this change so that they could have the same people who voted in the last election, vote in this one. After this election they expected to change the city's ward boundaries to match the precinct lines.

NO ACTION TAKEN.

CIVIL SERVICE: An ordinance adding two additional members to the Fayetteville Civil Service Commission.

Mr. Williams read the ordinance.

Alderman Thiel stated currently the commission had staggered six year terms. By adding two more positions they would have the opportunity to add more diversity the commission. In conjunction with this ordinance, the Ordinance Review Committee recommended a revision of their Rules of Order and Procedure. If that recommendation was approved, one of their objections for the selection of commissioners would be to provide a broad diversity of qualified individuals to serve on appointed boards.

Alderman Young asked if they needed to add something in there allowing staggering terms. Figuring out how they would fit into the other members.

Mr. Williams stated the state statutes and state legislature had made that decision for them. It stated that when members were added, "when additional members were appointed subsequent to this subsection. The shall serve staggered terms to be determined by lot so that one would serve a three year term and one a six year term. Their successors will serve six year terms."

Alderman Davis stated the concerns that he had heard had been about the difficulty in getting a quorum. By adding two additional people to the commission would make it more difficult. A lot of people did not realize the time that it took to be a Civil Service Commissioner. They would sometimes spend two days in interviewing. It had to be someone who could take two to four days away from their positions. He had been asked to not support this issue for those reasons.

LEFT ON THE FIRST READING.

ROLLFORWARD: A resolution approving a budget adjustment which will allow for the rollforward and re-budget of all projects for items in progress which were appropriated in the 2001 Budget. The items which are approved will become part of the 2002 Budget.

In response to questions, Mr. Steve Davis stated the roll forwards did not include the Community Access Television. The amount of money they were rolling forward from General Fund was approximately $951,000. When they did the discussion on 2002 budget, they reduced operating budgets in General Fund by 1.3 million. During those deliberations, staff discussed with council that they would be bringing a re-budget item of approximately one million dollars back to the city council in early 2002. They had projected the General Fund reserves to be at $6,004,953 in 2002. The monies that were not spent in revenues that came in a little higher than they had projected. They would have after the roll-forwards were approved $7,043,153.

Mayor Coody stated they were going to be approximately one million dollars ahead of where they thought they were going to be.

Mr. Davis stated they would have more money in their savings account, but if they did not change their expense pattern or revenue pattern, they would be out of their reserves in two years.

Alderman Santos moved to approve the resolution. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

RESOLUTION 27-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BURDITT ASSOCIATES: A resolution authorizing a contract change with Burditt Associates in the amount of $33,000 to complete the city-wide tree inventory and to provide software and management plan.

Mr. Ernest stated on May 15 this council awarded a contract for a not to exceed amount of $25,000 for tree inventory, softward package and a management plan for trees in city right-of-way and city parks. An error had been made in a sever under estimation of the number of trees that were in Fayetteville. Work began on this project in July. In September they had exceeded the amount in the contract. They then stopped work on it. It was inappropriate for the city to insist Burditt complete with project given that the city had underestimated the project. They also felt it was inappropriate for them to continue work on the project until the council had approved additional money for them to continue this process. Trees in a city like Fayetteville should be considered an asset. Urban Forestry Programs depended on the collection of data so that they could systematically manage the asset.

Mr. Drum, Burditt Associates, gave a presentation summarizing the project and a sample of the completed project.

Mr. Ernest stated the emphasis on this project was the management plan.

Alderman Davis asked about using the University to assist in the study.

Mr. Drum stated he had worked behind programs that had used volunteer help that have used unskilled people, they do not see the problems. They see more emotion.

Ms. Kim Hesse stated the University did not have a Forestry Department. They did have a certified degree in Aborticulture. There was a lot to learn from experience.

Alderman Zurcher moved to approve the resolution. Alderman Santos seconded. Upon roll call the motion carried by a vote of 7-1, Reynolds voting nay.

RESOLUTION 28-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MUDD CREEK: A resolution showing support for the Mudd Creek Trail Project and giving the authority

to the Mayor to enter into a contractual agreement with AHTD.

Alderman Trumbo moved to approve the resolution. Alderman Santos seconded.

Mr. Steve Hatfield, Parks and Recreation, stated they had applied for T21 Federal Enhancement Program in August. They had been notified in January that they had received funding. They had gotten $200,000. The city's portion will be $45,000. The trail will be located from CMN Park to Front Street going west to east. They will be able to go under Highway 71B.

Upon roll call the motion carried unanimously.

RESOLUTION 29-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SWIMMING POOL FEES: An ordinance amending Section 97.017 of the Code of Fayetteville to allow the Mayor or his designee to establish fees for the city swimming pool.

Mr. Williams read the ordinance.

Alderman Trumbo moved to suspend the rules and go to the second reading. Alderman Davis seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Trumbo moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4371 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PARKS MASTER PLAN: A resolution approving the Parks and Recreation Ten-Year Master Plan with guiding policies and implementation strategies.

Ms. Connie Edmonston, Parks and Recreation Director, stated they had worked on this for the past two years which was really created by the citizens.

Alderman Trumbo complemented the staff on their hard work. He asked where they were going to get the money to fund the plan.

Ms. Edmonston stated it depended on the funding options that they wanted to go too. They will continue to seek more grant money. They would also be looking at bonds.

Alderman Thiel stated they had been given a twenty year time frame with their existing funding.

Mr. Eric Schultz gave a brief summary of the Master Plan and the process they went through.

Alderman Santos moved to approve the resolution. Alderman Davis seconded. Upon roll call the motion carried unanimously.

RESOLUTION 30-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BOYS AND GIRLS CLUB: An ordinance waiving the requirement of formal competitive bidding and approving a contract between the City of Fayetteville and Boys and Girls Club to provide public recreation.

Mr. Williams read the ordinance.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed.

ORDINANCE 4372 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

COUNCIL ON AGING: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville and Council on Aging in the amount of $30,999.96 to provide public recreations for the senior citizens of Fayetteville for 2002.

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and move the third and final reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion carried unanimously.

ORDINANCE 4273 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FAYETTE TREE AND TRENCH: An ordinance to waive competitive bidding requirements for a contract to repair and replace the sewer main running under I-540 and to declare an emergency.

Mr. Williams read the ordinance.

Mr. Greg Boettcher, Public Works Director, stated there was a twenty-one inch sewer line that crossed under Highway 540, north of 6th Street. The Porter Road lift station which served the area west of 540 pumped through this line. It carried about 800,000 gallons of waste water per day. There had been numerous breaks in the line recently. Where the pipe had been inspected it was found to be in terrible condition. Staff thought it was appropriate to expedite the repair. Engineering had selected a contracting firm and quested a quotation. The estimate was $149,000 to repair this. It would take approximately three weeks to complete the repair and another week to abandon the existing line. By comparison, if they followed their conventional process they would need to complete detailed plans, advertise. It was estimated to be approximately six weeks completion time. This was a very critical pipe line. He could not say if it would fail for sure or not. There had been two problems on it recently.

Mayor Coody asked why they had chosen Fayette Tree and Trench.

Mr. Boettcher stated he had asked engineering for a firm that had done similar work that they had a good relationship with. There were several firms. This company had been low on several recent bid openings. It was one of many.

Alderman Santos stated there was at least one other firm interested in bidding on this.

Mr. Gary Combs, an area contractor, stated he did not believe this was right. They had been the low bidder on the Hwy 265 relocation. He named a number of other jobs they had done for the city. They were concerned that Engineering had decided to act in this manner. This was the good old boy system. He thought they needed to go with bidding for this project.

Alderman Santos stated he thought they needed to take their chances and go through competitive bidding.

Mr. Boettcher stated it was a council decision. He agreed with competitive procurement. In view of what had happened between December and January he felt there was a risk that needed to be brought to the council for a decision. They could proceed in what every direction the council wanted to proceed in. There was some risk. He knew that it was a major line. The photographs that they had indicated that it was in terrible shape.

Alderman Trumbo stated that it seemed to him to be an emergency.

Mr. Williams stated if a blockage were to occur in a place that they could not get too, they could face substantial fines from the EPA. He added in order to waive competitive bidding the council must find that

normal competitive bidding was not feasible or practical in this situation. If that was there determination then they could waive competitive bidding. They should rely upon the facts presented. They also had to rely on their common sense. They had to make a decision based upon what their experts have told them and how compelling those facts were to them.

Alderman Davis asked Mr. Williams how he felt his stance was on this in the event that they were sued if they approved this.

Mr. Williams stated there had been a sufficient showing that could justify their finding that it was not feasible to do bidding. He was concerned about what would happen if the line did break. He thought he could defend the city given the facts presented by Mr. Boettcher. This was a judgment call.

Alderman Trumbo asked if there was a possibility of a restraining order until it was litigated.

Mr. Williams stated he did not believe so.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Young seconded. Upon roll call the motion carried by a vote of 6-3-0, Santos, Jordan, Reynolds voting nay.

Mr. Williams read the ordinance.

Alderman Trumbo moved to suspend the rules and move to the third and final reading. Alderman Young seconded. The motion carried by a vote of 6-3-0, Santos, Jordan, Reynolds voting nay.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 6-3, Santos, Jordan, and Reynolds.

Mr. Williams stated there needed to be a separate vote on the emergency clause. He added the mayor could not vote on the emergency clause. The emergency clause required two-thirds vote to pass. It would be foolish of the council to pass the ordinance then not pass the emergency clause.

Alderman Trumbo moved to approve the emergency clause. Alderman Zurcher seconded. Upon roll call the motion failed by 5-3, Santos, Jordan, and Reynolds.

Alderman Zurcher moved to reconsider the ordinance. Alderman Trumbo seconded. Upon roll call the motion carried unanimously.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 6-2, Davis and Zurcher voting yea.

ORDINANCE FAILED.

FAYETTE TREE AND TRENCH: A resolution to approve a contract with Fayette Tree and Trench in

the amount of $205,650.40 with a 15% project contingency amount of $30,847.60 for a total of $236,498.00 and to approve a budget adjustment in the amount of $236,498.00.

RESOLUTION NOT CONSIDERED.

DEAD HORSE MOUNTAIN BRIDGE: A resolution approving an agreement with the Arkansas Highway and Transportation Department regarding the design and funding for the replacement of the Dead Horse Mountain Bridge. Costs to consist of the deposit payment to AHTD at the start of the preliminary design.

Alderman Reynolds stated not one city tax payer lived on this road. The price of this was going to be a lot higher than they thought it was going to be. The flood water had caused all the damage to the bridge and unless they built up the road too the same thing would happen again.

Mr. Boettcher stated the funding for this bridge would be set up on 80/20 with a million dollar cap. When the State did their estimate the city would be advised of the cost. The city would be out of the cost of the design. They could forgo the construction, if they determined it was not cost effective.
The CIP has included this in the 2003 funded activity. The traffic division had done a traffic count. During the week days they had counted 500-550 vehicles. This past weekend there had been 700-750 vehicles. When the golf course was up and running there could be as many as 1,000 to1,200.

Alderman Thiel stated there were other ways to get out of there. The majority of the people that are in the city limit use those other ways. They would not go back around.

Alderman Santos stated he did not like the sound of closing the bridge or the road.

Mr. Combs stated he paid a lot of taxes in the city, but if they wanted to abandon this bridge he would offer to buy the road. He owned most of the land out there and would be willing to pay for the abandonment. Any repairs would then be made by him.

Mr. Williams stated in order to abandon a road the city had to say that they had no use for it. If the bridge was down, then they might be able to find that. As long as the bridge was functioning he thought they would lack the legal authority to sell the road.

Alderman Thiel stated the road would be dangerous in a few years.

Alderman Thiel moved to approve the resolution. Alderman Trumbo seconded. Upon roll call the motion failed unanimously.

RESOLUTION FAILED.

Meeting adjourned at 11:45 p.m.

STAFF REVIEW FORM

xx AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council meeting of April 16, 2002

FROM:

Connie Edmonston	Parks and Recreation	Urban Development
Name	Division	Department

ACTION REQUIRED:
Waiver of Ordinance 3793 to accept land and money in lieu as the park land requirement of the Legacy Pointe Development.

COST TO CITY:

$n/a	$	
Cost of this Request	Category/Project Budget	Category/Project Name
	$	
Account Number	Funds Used To Date	Program Name
	$	
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Marsha Farthing	4/2/02	Nancy Smith	4/2/02
Accounting Manager	Date	Internal Auditor	Date
D. P. Whitaker	4/3/02		
City Attorney	Date	ADA Coordinator	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:
Waiver of Ordinance 3793 to accept partial land and money in lieu as the park land requirement of Legacy Pointe Development.

Connie Edmonston	4-2-02	
Division Head	Date	Cross Reference
Hugh Ernest	4-2-02	
Department Director	Date	New Item: (Yes) No
Jeff Wilber	4/2/02	
Administrative Services Director	Date	Prev Ord/Res #: __
Dan Coody		Orig Contract Date:_
Mayor	Date	Orig Contract Number: ____

Consent ✓
New Business ___

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Coody and City Council

THRU: Hugh Earnest, Urban Development Director

FROM: Connie Edmonston, Parks & Recreation Superintendent CE.

DATE: April 2, 2002

SUBJECT: Waiver of the Park Land Dedication Ordinance 3793

Background

Legacy Pointe is a proposed subdivision located on the western boundary of our city south of Highway 16 and east of Double Springs Road. The owner is Charles Sloan and the engineer is Jorgensen and Associates. The subdivision contains 108 single-family units and 48 multi-family units on 50 acres. The requirement for park land is 3.635 acres and money in lieu is $68,290. The Park Land Dedication Ordinance states if a large scale development is over 40 acres or 100 units, the requirement is land.

> *"...However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study."* (Unified Development Ordinance No. 166.03K)

Current Status

Parks and Recreation staff met with the owner and engineering firm to evaluate the site. The development was presented to the Parks and Recreation Advisory Board on April 1, 2002. See attached minutes with conditions of approval.

Recommendation

Parks and Recreation staff and Parks and Recreation Advisory Board recommend a combination of land and money as the requirement. Park land in this area is recommended by the Parks Master Plan. The park land acreage acceptable by park staff and the developer is 3.42 acres, which is .215 acres short of the required 3.635 acres. This land shortage calculates to a contribution of $4,039.16 in money in lieu of land, thus requiring a wavier of the Park Land Dedication ordinance.

Attachments:
Location Map
PRAB April 1, 2002 Meeting Minutes
Letter Jorgensen & Associates

STAFF REVIEW FORM

Description Waiver of Ordinance 3793

Meeting Date April 16, 2002

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

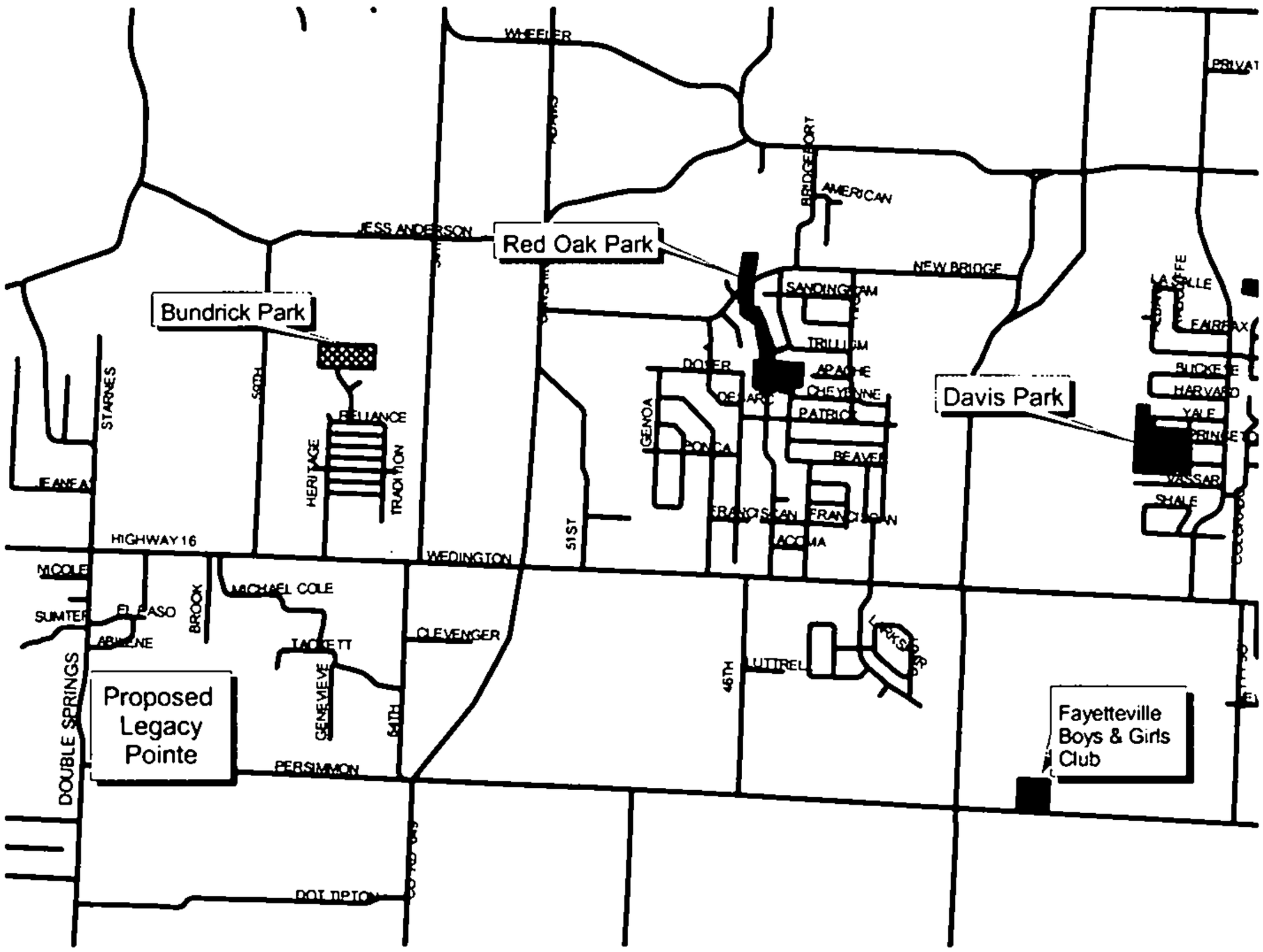
Purchasing Officer

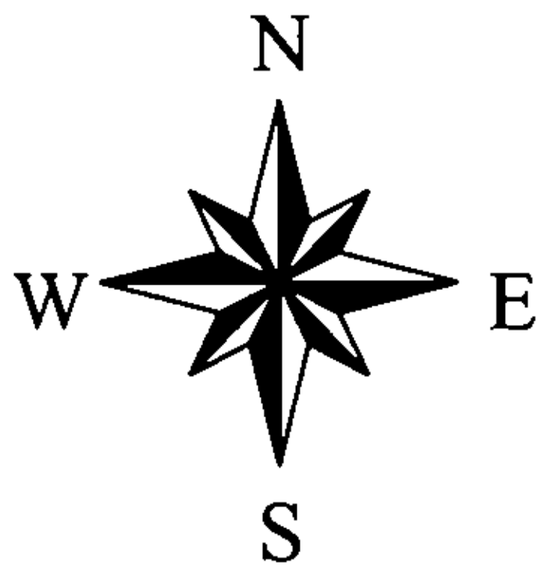
ADA Coordinator

Internal Auditor

Note: PRAB Minutes will be attached as soon as they are completed.

Proposed Legacy Pointe Subdivision





IX.	**Development:**	**Legacy Pointe Subdivision**
	Engineer:	Jorgensen & Associates, Chris Brackett
	Owner:	Charles W. Sloan
	Location:	East of Double Springs Road
	Park District:	SW
	Units:	Single 108 units
		Multi 48 units
	Acres:	49.80 acres
	Land Dedication Requirement:	3.635 acres
	Money in Lieu:	$68,290
	Existing Park Land:	Bundrick Park (4.25 acres)
	Developer's Request:	Land and Money Dedication
	Staff Recommendation:	Combination of money and land dedication

Park staff has brought this development back to the Parks and Recreation Advisory Board for review because the housing units have changed requiring a combination dedication of land and money in lieu. The park land dedication received from this development is 3.42 acres. The acreage required is 3.635 acres leaving a balance of 0.215 acres due, which calculates to $4,039.16. The developer has agreed to install parking facilities to serve this new park. The combination dedication of land and money in lieu will require a waiver from the City Council.

Park staff recommends a combination of money and land dedication with the following conditions:

1) Developer will provide a paved entry between lots 11 and 12 which will include required parking space bumpers and markings. Final design must be approved by Park staff.
2) The POA will have the responsibility of mowing the hillside located behind lots 1, 2, and 3.
3) Developer will provide mowing maintenance for all park land acreage for two years from the date the City receives the deed for the park land.
4) The detention pond will not be located on park property.
5) Any drainage swales or storm drains located on park property must be approved by Park staff.
6) The park land will not be governed by the POA covenants, with the exception of the mowing of the hillside. This must be stated in the writing of the covenants.
7) Jorgensen & Associates have agreed to set park boundary signs as provided by the Parks and Recreation Division.

Mr. Schuldt said the primary reason this development was being presented to the Parks and Recreation Advisory Board again is because the housing units have changed which affected the land and money dedication required.

MOTION:

Mr. Hill moved to recommend a combination of money and a land dedication subject to staff recommendations and request a waiver from City Council to satisfy the Park Land Dedication requirements for the proposed Legacy Pointe Subdivision.

Mr. Marley seconded the motion.

Upon roll call, the motion was approved 8-0-0.

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (501) 442-9127 • FAX (501) 582-4807
DAVID L. JORGENSEN, P.E., P.L.S.
THOMAS HENNELLY, P.E.
CHRISTOPHER B. BRACKETT, P.E.

April 1, 2002

City of Fayetteville
Parks & Recreation Division
113 W. Mountain Street
Fayetteville, AR 72701

Attn: Kim Rogers
Re: Legacy Pointe Subdivision

Dear Kim:

The owner of the Legacy Pointe Subdivision is requesting a combination of parkland dedication and the money in lieu of option for the parks' requirement for this development.

Please call concerning any questions you may have.

Thank you

Sincerely;

Christopher B. Brackett

Christopher Brackett, P.E.

STAFF REVIEW FORM

xx _ AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW

For the Fayetteville City Council meeting of April 16, 2002

FROM:

Connie Edmonston — Name
Parks and Recreation — Division
Urban Development — Department

ACTION REQUIRED:

Waiver of Ordinance 3793 to accept land and money in lieu as the park land requirement of the Ellis Development

COST TO CITY:

$n/a — Cost of this Request
$ _____ Category/Project Budget
_____ Category/Project Name
_____ Account Number
$ _____ Funds Used To Date
_____ Program Name
_____ Project Number
$ _____ Remaining Balance
_____ Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager — Date 4/2/02
Internal Auditor — Date 4/2/02
City Attorney — Date 4/3/02
ADA Coordinator — Date
Purchasing Officer — Date

STAFF RECOMMENDATION:

Waiver of Ordinance 3793 to accept partial land and money in lieu as the park land requirement of Ellis Development.

Division Head — Date 4-2-02
Department Director — Date 4-2-02
Administrative Services Director — Date 4/2/02
Mayor — Date

Consent ✓
New Business

Cross Reference

New Item: Yes No

Prev Ord/Res #: __

Orig Contract Date: _

Orig Contract Number: ___

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Coody and City Council

THRU: Hugh Earnest, Urban Development Director

FROM: Connie Edmonston, Parks & Recreation Superintendent CE

DATE: April 2, 2002

SUBJECT: Waiver of the Park Land Dedication Ordinance 3793

Background

Ellis Development is a proposed large scale development located on Beechwood and Fifteenth Street, south of Baum Stadium. The owner is Tom Broyles and John Ellis and the engineer is Crafton, Tull Associates. The subdivision contains 480 multi-family units on 30 acres. The requirement for park land is 9.6 acres and money in lieu is $180,000. The Park Land Dedication Ordinance states if a large scale development is over 40 acres or 100 units, the requirement is land.

> *"...However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study."* (Unified Development Ordinance No. 166.03K)

Current Status

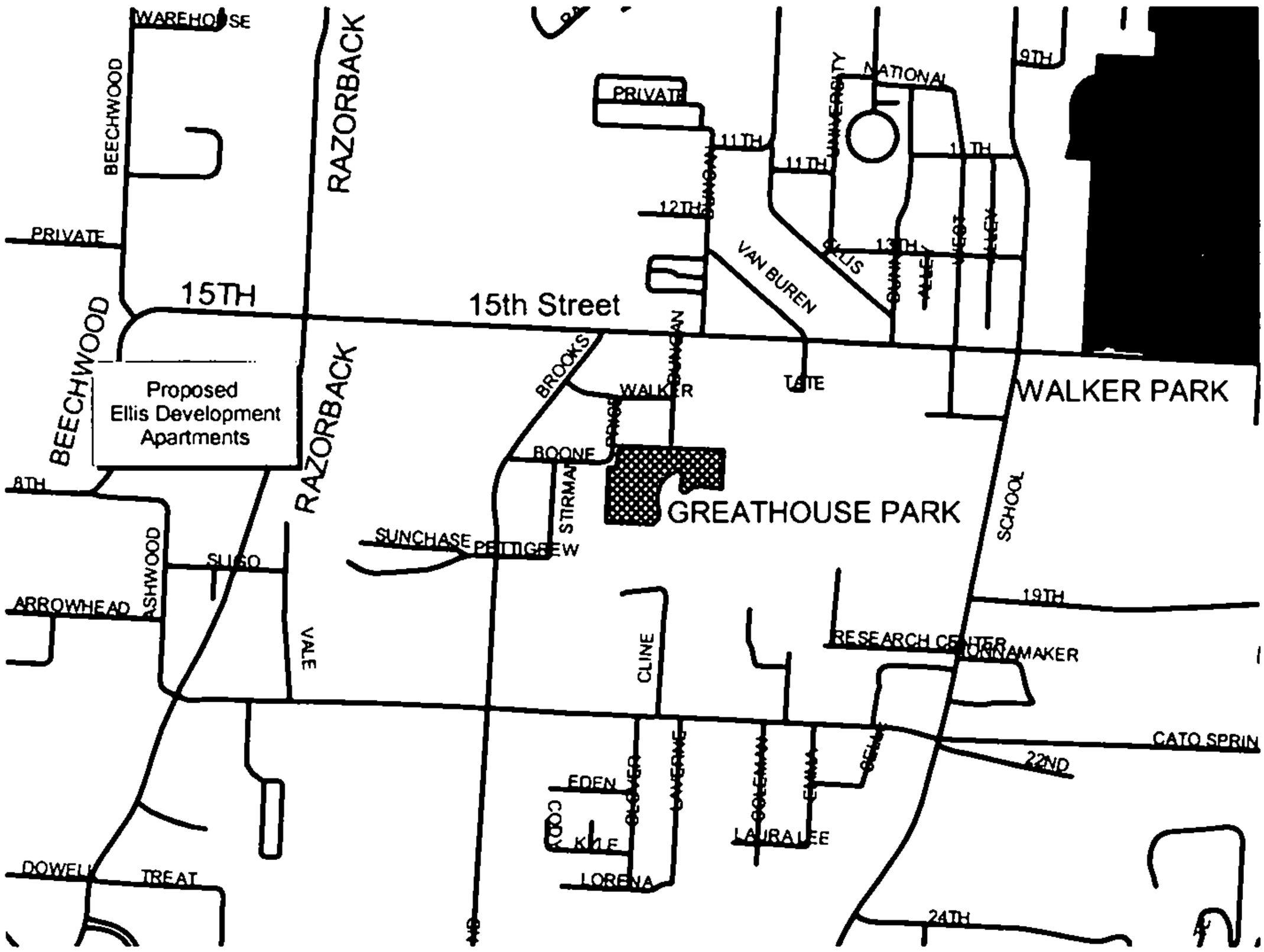
Parks and Recreation staff met with the owner and engineering firm to evaluate the site. The development was presented to the Parks and Recreation Advisory Board on April 1, 2002. See attached minutes with conditions of approval.

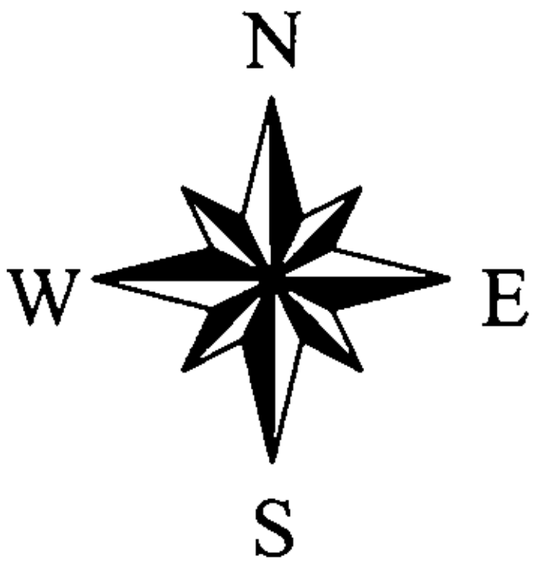
Recommendation

Parks and Recreation staff and Parks and Recreation Advisory Board recommend a combination of land and money, with conditions, as the requirement. Park land in this area is recommended by the Parks Master Plan and is included on the proposed Master Trails Plan. The park land acreage approved by Parks and Recreation Advisory Board and recommended by the developer is approximately 6.65 acres, which is 2.95 acres under the required 9.6 acres. This land shortage calculates to a contribution of $55,312 in money in lieu of land, thus requiring a wavier of the Park Land Dedication ordinance. In addition, the developer has agreed to construct a trail, meeting city standards, on the land to be dedicated to the Parks and Recreation Division. In return, the developer has requested a financial credit of the money required from the ordinance to help defer the cost of trail construction. The credit will not exceed the money in lieu requirement for this development, regardless of the cost associated with construction of the entire trail corridor. This credit is recommended by Parks and Recreation Advisory Board and is forwarded to City Council for approval.

Attachments:
Location Map
PRAB April 1, 2002 Meeting Minutes
Letter Ellis Development

Proposed Ellis Development Apartments





IX.	**Development Name:**	**Ellis Development**
	Engineer:	Crafton, Tull & Associates, Jerry Kelso
	Owner:	Tom Broyles and John Ellis
	Location:	Beechwood and 15th Street, south of Baum Stadium
	Park District:	SW
	Units:	480 multi units
	Total Acres:	29.97 acres
	Land Dedication Requirement:	9.6 acres
	Money in Lieu Requirement:	$180,000
	Staff Recommendation:	Combination of money and land dedication with the following conditions:

a. Park land in this area is recommended by the Parks Master Plan.
b. Staff is recommending a natural greenway corridor.
c. The park land dedication must include a minimum of a 30' corridor north of the floodway.
d. The park land dedication will only be accepted after the proposed land is cleared of all debris and construction materials.
e. The park land will be continuous to Razorback Road.
f. The detention ponds will not be accepted as part of the dedication.
g. The developer must utilize natural stream bank stabilization methods, approved by park staff, to minimize substantial erosion in identified areas along the greenway corridor.
h. The developer has offered to build a trail within this greenway corridor. Trail design, location and construction must meet hard surface multi-use trail specifications as determined by Park staff.

Jerry Kelso of Crafton, Tull & Associates and Tom Broyles presented plans to build apartments on the west side of the property bordering Beechwood, 15th Street, Razorback Road, and Town Branch creek. A greenway corridor would follow the creek, and a trail would be constructed at least thirty feet north of the floodway. The Ellis Development trail would connect to Razorback Road and follow Town Branch creek west, would cross Beechwood, and continue to the property line. Ms. Terry Eastin said neighborhood residents currently walk along Razorback Road because no other opportunities exist, but she pointed out that as traffic increases so does the risk associated with walking. Ms. Eastin said the neighborhood supported the development of a trail and was excited by the opportunity. Mr. Broyles said the University of Arkansas had expressed an interest in the development for possible family housing.

The Parks and Recreation Advisory Board visited the area and voiced concerns about the amount of debris which littered the creek and of other construction waste materials. Safety is a primary concern.

Mr. Kelso asked to work with staff regarding the 30-foot corridor in one area due to building restraints. He also asked for credit for the cleanup and for the trail construction. Ms. Edmonston said credit could not be given for cleanup, but a waiver of park land dedication fees could possibly be granted in exchange for trail construction. Speaking on behalf of the neighborhood, Ms. Eastin urged the Parks and Recreation Advisory Board to grant the waiver since the money would be used to construct a trail which would not only benefit the development but the neighborhood as well. Ms. Edmonston said if the cost of the trail construction was under the money in lieu requirement, then the developer would be required to pay the difference.

Mr. Mauritson expressed concern of the amount of trash and debris and lack of a restoration plan. Discussion of cleanup methods followed. Ms. Eastin said she felt the neighborhood would pull together to help with cleanup efforts. The park land dedication will only be accepted after the proposed land is cleared of all debris and construction materials. Trail construction was another issue of concern. The soil must be able to support a hard surface trail. The design, location and construction will meet trail specifications as determined by Park staff.

MOTION:

Mr. Colwell moved to accept a land dedication subject to Park staff conditions and recommend a waiver of money in lieu fees to offset trail construction costs and to satisfy the Park Land Dedication Ordinance requirements for the proposed Ellis Development.

Mr. Marley seconded the motion.

Upon roll call, the motion was approved 8-0-0.

Crafton, Tull & Associates, Inc.

P.O. Box 549 Rogers, AR 72757 479.636.4838 Fax 479.631.6224 www.craftull.com

April 2, 2002

Connie Edmonston
City of Fayetteville
Parks & Recreation
113 W. Mountain
Fayetteville, AR 72701

RE: Ellis Development
Beechwood Ave and 15th Street
Fayetteville, Arkansas

Dear Ms. Edmonston:

This is a revised proposal request as discussed at the Parks Board Meeting on April 1st for the above referenced project. This is a proposed multi-family development consisting of 480 units total. Amenities such as a clubhouse and swimming pool will be available for the tenants. Also, a public walking trail will be constructed as a part of this project.

The Developer proposes a combination of dedicating land and credit for building a public trail to compensate for the remaining parks fees for the overall development of the project. The land dedication will encompass the proposed trail system to be constructed. As we understand it, by ordinance, the requirement is 0.02 acres per unit or $375 per unit:

- 480 units total
- Dedicate 6.65 acres for 332.5 units
- Construction of the trail will exceed the remaining parks fee which should be in the amount of $55,312.50 for the remaining 147.5 units

Let me know if you have any questions or need any additional information for next city counsel meeting.

Sincerely,

Crafton, Tull & Assoc.

Jerry Kelso, P.E.

Attachments: As stated

Copy: Tom Brugles
John Ellis

STAFF REVIEW FORM

Description Waiver of Ordinance 3793

Meeting Date April 16, 2002

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

April 9, 2002

AGENDA SESSION
CITY COUNCIL
APRIL 16, 2002

NEW ITEMS:

1. **SIDEWALK CONSTRUCTION:** An ordinance repealing section 171.12 of the Unified Development Ordinance, Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk and adopting a replacement section 171.12 of the Unified Development Ordinance. This item was forwarded to the Ordinance Review Committee on February 26, 2002 at Agenda Session and was heard by Ordinance Review on April 4, 2002.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

FROM: **Kit Williams**, City Attorney

DATE: **April 5, 2002**

RE: **Sidewalk Ordinance**

The Sidewalk Ordinance Amendment needs to be returned to the Agenda (as **Old Business**). The City Council Ordinance Review Committee met Thursday, April 4th and discussed proposed changes for over an hour with input from several Planning Commission members, the City Planner, and City Attorney.

Attached is the agreed upon new ordinance that incorporates many improvements recommended by the Planning Commission, some fine tuning by the City Attorney and amendments by the City Council Ordinance Review Committee.

ORDINANCE NO. _____

AN ORDINANCE REPEALING SECTION 171.12 OF THE UNIFIED DEVELOPMENT ORDINANCE, **PROPERTY OWNER TO CONSTRUCT SIDEWALK OR CONTRIBUTE COST OF SIDEWALK** AND ADOPTING A REPLACEMENT SECTION171.12 OF THE UNIFIED DEVELOPMENT ORDINANCE

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That §171.12 of the Unified Development Ordinance, **Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk**; Subsection A. Requirement; Subsection B. Application of Provisions shall be deleted and the following inserted in its stead:

" §171.12 Property Owner to Construction Sidewalk or Contribute Money In Lieu of Construction"

A. Requirement

The owner of any property abutting a public street or highway for which a sidewalk is required by City's Master Street Plan shall construct a sidewalk along said street or highway upon receipt of notice issued at the time a building or parking lot permit is issued.

1. The property owner shall construct the sidewalk in accordance with section 171.13 Sidewalk and Driveway Specifications.

2. A property owner may request a waiver to subsection 171.12 A. 1. requiring sidewalk construction. The Sidewalk Administrator shall review the following factors to determine whether or not to grant the waiver:

    A. pedestrian traffic generators such as parks and schools in the area;

B. the existence of a sidewalk network in the area;

C. the density of current and future development in the area;

D. the amount of pedestrian traffic likely to be generated by the proposed development;

E. whether the terrain is such that a sidewalk is physically practical and feasible, and the extent to which trees, ground cover and natural areas would be adversely impacted by the contribution of the sidewalk; and

F. the overall need for a sidewalk to be constructed on the lot.

3. If the Sidewalk Administrator grants the waiver to construct a sidewalk, the owner shall have an option to construct the sidewalk or to contribute money in lieu of construction as set forth below:

A. The amount of money in lieu of construction to be dedicated shall be determined based upon the rough proportionality of the impact of the development upon the sidewalk infrastructure needs near the development including consideration of the persons served by the development and approximate pedestrian trip generation rates of the development.

B. To facilitate administration of this ordinance for certain recurrent types of development, the City Council has determined that the City will accept, as the roughly proportionate impact, the amount shown below:

1.	Single family house	$630.00
2.	Duplex	$720.00

C. Unless the developer presents evidence that the number of persons served by the development and the pedestrian trip generation rates of the development justify a reduced

contribution in lieu of the construction of sidewalks, all industrial, commercial, and multi-family developments shall make a cash contribution in lieu of the construction of the sidewalk at a rate of Three Dollars $3.00 per square foot of the sidewalk that normally would have been required. The amount per square foot shall be reviewed by the City Council within five years.

D. Contribution in lieu of construction of sidewalks shall be paid or construction of the sidewalks shall be completed before receiving final plat approval, or issuance of a Certificate of Occupancy.

E. Contributions must be expended within one (1) year to build a sidewalk close enough to serve the project being constructed.

F. If the owner voluntarily consents in writing, the contributions may be used to construct sidewalk projects where most needed as determined by the Sidewalk Administrator.

4. An owner/builder may appeal the Sidewalk Administrator's refusal to grant a waiver or the Administrator's determination of the amount of contribution in lieu of construction to the Planning Commission pursuant to §155.06 D.

B. APPLICATION OF PROVISIONS

The provisions of this section shall only apply to the following property:

1. **New Structure.** On which a new structure is build built.

2. **Existing Residential Structure.** On which an existing residential structure is being modified so as to increase the number of dwelling units located therein or to change the use to a nonresidential use.

3. **Parking Lot/Garage.** On which a parking lot or parking garage, having a minimum capacity of five automobiles, is constructed or enlarged.

4. **Additions.** Additions of 2,500 square feet or larger.

5. **Conditional Use.** Any development which requires conditional use approval.

PASSED and **APPROVED** this the _____ day of April, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

_X_ AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council meeting of **April 16, 2002**

FROM:

Louise Schaper	**Library**	**Urban Development**
Name	Division	Department

ACTION REQUIRED: Approve a resolution naming the new Fayetteville Public Library the Blair Memorial Building.

COST TO CITY:

0	**$**	
Cost of this Request	Category/Project Budget	Category/Project Name
	$	**New Library**
Account Number	Funds Used To Date	Program Name
N/A	**$**	
Project Number	Remaining Balance	Fund

BUDGET REVIEW: **N/A** Budgeted Item **N/A** Budget Adjustment Attached

Budget Coordinator — Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:**

Accounting Manager	Date	Internal Auditor	Date
City Attorney	3/29/02 Date	ADA Coordinator	Date
Purchasing Manager	Date		

STAFF RECOMMENDATION: Staff recommends approval.

Louise Schaper	3/29/02	Cross Reference
Division Head	Date	
Hugh Earnest	3-29-02	New Item: **Yes No**
Department Director	Date	
Ed Wilson	3/29/02	Prev Ord/Res #:
Administrative Services Director	Date	
Dan Coody	3/29/02	Orig Contract Date:
Mayor	Date	

Consent

FAYETTEVILLE PUBLIC LIBRARY

DEPARTMENTAL CORRESPONDENCE

TO: Hugh Earnest
FROM: Louise Schaper, Library Director
DATE: March 28, 2002

SUBJECT: City Council resolution to name the new Fayetteville Public Library the Blair Memorial Building.

Background
The Fayetteville Public Library Foundation is conducting a capital campaign to raise private funds to help build and equip the new library, as well as create an endowment.

Current Status

Mr. James Blair announced a $3 million donation to the capital campaign on February 28, 2002 in honor of his late wife, Diane Divers Blair, his grandmother, Bessie Motley Blair, and his aunt, Dr. Mary Grace Blair. At this announcement, Mr. Blair shared with the large crowd how he learned the value of reading at the lap of his grandmother and the worth of a library from trudging up the three flights of stairs that it took to get to the public library when it was on the third floor of the Fayetteville city hall.

Recommendation
The FPL Board of Trustees unanimously voted at its March 18th meeting to request that the City Council approve a resolution officially naming the new building the Blair Memorial Building.

If approved, the library facility would referred to as the:
Fayetteville Public Library
Blair Memorial Building

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA
CITY COUNCIL
APRIL 16, 2002

A meeting of the Fayetteville City Council will be held on April 16, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES.**

2. **TCA CABLE BUILDING:** A resolution awarding a bid for renovation to the TCA Building to Neil Hefner Construction in the amount of $195,464 and approval of a project contingency in the amount of $15,000.

3. **GARLAND AVE.:** A resolution authorizing the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400.

4. **BULLETPROOF VESTS:** A resolution approving a grant application with the Department of Justice Bulletproof Vests Partnership Program. This is a four year grant and can be utilized at any time during the four years.

B. OLD BUSINESS

1. **RZN 01-6.00:** An ordinance approving rezoning request RZN 02-6.00 as submitted by Terry Carpenter of US Infrastructure, Inc. for property located at 415 Longview Street. The property is zoned A-1, Agricultural and contains approximately 38.6 acres. The request is to rezone to R-O, Residential Office.

C. NEW BUSINESS

1. **LEGACY POINTE:** An ordinance waiving Ordinance 3793 to accept land and money in lieu as the park land requirement for the Legacy Pointe Development.

2. **ELLIS DEVELOPMENT:** An ordinance waving Ordinance 3793 to accept land and money in lieu of the park land requirement for the Ellis Development.

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

3. **RZN 02-7.00:** An ordinance approving rezoning request RZN 02-7.00 as submitted by Lindsey and Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential.

4. **VA 02-1.00:** An ordinance approving vacation request VA 01-1 as submitted by Ken and Kathie Marvin for property in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9,10 and 11.

5. **PLANNING COMMISSION APPEAL:** Appeal of a Planning Commission Decision regarding LSD 02-7.00 for property located at the southwest corner of Fletcher Avenue and Rodgers Drive.

6. **PARKING VIOLATIONS:** An ordinance increasing the penalty for parking violations to $5.00 if paid before the issuance of a summons, citation, or arrest warrant, and to $25.00 after such notice is issued.

7. **PARKING ENFORCEMENT:** An ordinance changing the hours of parking enforcement on the square to be enforced from 7:00 a.m. to 6:00 p.m. Monday through Friday.

8. **TOWING VEHICLES:** An ordinance allowing the towing of vehicles from public parking lots that have been abandoned for forty-eight consecutive hours or more.

9. **CALL CENTER POSITION:** A resolution to approve the filling of the non-emergency call center position to take full advantage of the new software recently purchased and to provide support for the Business Office.

10. **BURNS AND MCDONNELL:** A resolution approving an agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

11. **ORGANIZATIONAL PLANNER:** A resolution approving an aggressive litter control program with education, cleanup, and enforcement options, and to assist in the market development analysis and the development of operational plans for commercial glass recycling.

12. **THUNDERVALLEY:** An ordinance allowing a special thirty-year anniversary two-day racing event at Thunder Valley Raceway with closing times of 11:30 p.m.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 72: PARKING REGULATIONS, CODE OF FAYETTEVILLE, TO AUTHORIZE THE IMPOUNDMENT OF VEHICLES ILLEGALLY STORED IN PUBLIC PARKING DECKS AND LOTS; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That §72.02 (A), subsections (3) & (4) Impoundment Procedures, is hereby repealed and the following is inserted in its stead:

§ 72.02 Impoundment procedures.

(3) When any vehicle is left unattended upon a street and is parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic; when any vehicle is left continuously and unattended upon any street, public parking deck or lot for a period of more than 48 hours; and any time a vehicle is parked in a prohibited area that is so designated by signs or other official markings.

(4) When any vehicle is illegally parked on a public street, parking deck or lot designated by a sign or by curb marking as a towaway zone.

Section 2. That §72.10, Parking Prohibited During Certain Hours on Certain Streets, is hereby repealed and the following is inserted in its stead:

§ 72.10 Parking prohibited during certain hours on certain streets.

When signs are erected on any street or part of street in each block giving notice thereof, no person shall park a vehicle on any such street or part of street in each block so designated between the hours specified by the signs, except on weekends and public holidays.

Section 3. That §72.11, Stopping, Standing, or Parking Prohibited During Certain Hours on Certain Streets, is hereby repealed and the following is inserted in its stead:

§ 72.11 Stopping, standing, or parking prohibited during certain hours on certain streets.

When signs are erected on any street or part of street in each block giving notice thereof, no person shall stop, stand, or park a vehicle on any such street or part of street in each block so designated between the hours specified by the signs, except on weekends and public holidays.

Section 4. That §72.12, Parking Time Limited to One Hour on Certain Streets, is hereby repealed and the following is inserted in its stead:

§ 72.12 Parking time limited to one hour on certain streets.

When signs are erected on any street or part of street in each block giving notice thereof, no person shall park a vehicle on any such street or part of street in each block so designated for longer than one hour at any time between the hours of 7:00 a.m. and 6:00 p.m. of any day, except weekends and public holidays.

Section 5. That §72.13, subsections (A) & (B), Two-hour Parking Zones; Towing Procedures, is hereby repealed and the following is inserted in its stead:

§ 72.13 Two-hour parking zones; towing procedures.

(A) The Parking Superintendent is hereby authorized to determine the location of two-hour parking zones and to place and maintain appropriate signs indicating the same and stating the hours during which such limitations are applicable. All such locations heretofore and hereafter designated as two-hour parking zones shall be subject to the provisions of this section.

(B) No person shall park any vehicle in any two-hour parking zone located in the city for longer than two consecutive hours during any four-hour period, except on weekends and public holidays.

Section 6. That §72.99, subsection (B) Penalties, is hereby repealed and the following is inserted in its stead:

§ 72.99 Penalties.

(B) The penalty for each violation of § 72.13, § 72.57, or § 72.58(J) shall be $5.00 if paid before the issuance of a summons, citation, or arrest warrant; otherwise, the penalty for each violation of § 72.13, § 72.57, or § 72.58(J) shall be $25.00; provided the penalty for each violation of § 72.13, § 72.57, or § 72.58(J) in excess of five (5) in any calendar month shall be $25.00 if paid before the issuance of a summons, citation, or arrest warrant; otherwise, the penalty for each violation of § 72.13, § 72.57, or § 72.58(J) in excess of five (5) in any calendar month shall be $50.00.

PASSED and APPROVED this _____ day of _____, 2002.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

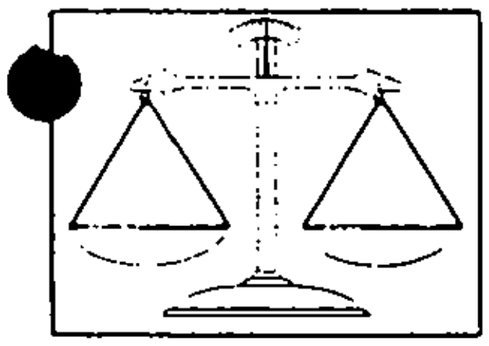
ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council Members

FROM: **Kit Williams**, City Attorney

DATE: **April 9, 2002**

RE: **Proposed Ordinance to establish a Regional Authority to handle sludge disposal**

About two weeks ago, the Springdale Water and Sewer Commission proposed that five cities in Northwest Arkansas join in a Regional Authority to handle sludge disposal, operate wastewater plants and maybe sue Oklahoma over the Illinois River phosphorus level ruling. Although each city would have the same voting power, it was initially suggested that each City pay one dollar for each resident, so Fayetteville would pay $58,000.00.

Although this very powerful Authority with "perpetual existence" was first publicly suggested only a couple of weeks ago, I have heard that a couple City Councils of our neighboring cities may be about to join immediately. **The City of Fayetteville CANNOT join now.**

As you remember, Fayetteville has long been concerned about reducing phosphorus levels in the effluent from our wastewater plant. Both our current and new wastewater plants are state of the art in producing quality effluent and reducing pollutants.

Fayetteville's wastewater plant is not a major phosphorus pollution source for the Illinois River. Non-point source pollution poultry growing operations probably constitute a substantial source of the phosphorus problem. Fayetteville and Bentonville took good steps forward to work toward reducing this problem by expressing our intent to consider a proposal from DukeSolutions, Inc. and Harmony, Inc. that would take our sludge and area chicken litter and convert them into fertilizer. No other Northwest Arkansas city agreed to Harmony's proposal for future study.

When we signed the agreement with Harmony, Inc., the only enforceable provisions concerned Exclusivity and Nondisclosure. We agreed:

> "The City agrees not to pursue or participate in development of any other energy, waste-to-energy or fertilizer project with respect to solids (sludge) during the time the Parties are actually developing the agreement ... **and for a period of sixty (60) days after written notice of cancellation** or conclusion of such activities .... "

It is therefore clear that we would breach our agreement with Harmony, Inc. if we now entered into the Authority proposed by the Springdale Water and Sewer Commission.

As City Attorney, I also advise you to investigate and examine the proposed Authority: its purposes and powers, its benefits

and liabilities, its control and possible problems - very carefully before committing Fayetteville to join. For example, even though Fayetteville has more than five times the population of Siloam Springs, we would have the same number of votes on this Authority.

Even though this Authority is proposed to be created pursuant to A.C.A. §14-233-101 thru §14-233-122 (Chapter 233 of Title 14 **JOINT COUNTY AND MUNICIPAL SOLID WASTE DISPOSAL**), the ordinance gives the Authority the purpose and power "to operate wastewater treatment plants .... " I could find no express authority in the statute for this power although the statute does authorize dealing with "solid waste" and includes "sludge" within solid waste's definition.

As proposed, "The Authority shall have a perpetual existence...." (Article IV) Member cities may withdraw, but all contractual "obligations incurred while the municipality was a member shall remain in full force and effect." (Article V)

Under Article VIII **Purposes, Powers, And Duties**, 8.01 Purposes, the ordinance gives the Authority power to build and "operate facilities to process and dispose of sludge, operate wastewater treatment plants ..., or to share other functions and resources so as to best serve the members of the Authority."

> "8.02 Powers and Duties
> "(D) To sue and be sued "
> "(G) To employ such engineers, architects, attorneys ..."
> "(I) To fix, charge and collect rents, fees and charges for the use of any project ..."
> "(J) To accomplish projects ..."
> "(L) To do any and all other acts and things

necessary, convenient **or** desirable to carry out the purposes and to exercise the powers granted to the Authority by the Act."

"8.03 **There are no limitations on the exercise of the powers granted,** except those limitations contained in the constitutions of the United States and the State of Arkansas, and the statutes of Arkansas. In addition to the foregoing, the Authority .... shall specifically have the following powers and duties:

(C) To operate wastewater treatment plants ... and to share other functions and resources so as to best serve the members of the Authority;
(H) To borrow money and execute and deliver negotiable notes ...
(I) To raise funds by the issuance and sale of revenue bonds ...."

ARTICLE IX - FINANCING

"9.01 The cost of planning and acquiring ... constructing ... or equipping any facility constructed by the Authority ... may be funded in any manner not inconsistent with the Arkansas Constitution or State law, including not limited to: the issuance of bonds ... revenue from fees, charges .... "

"9.02 Any plan or plans for financing and construction of the facilities contemplated by this Agreement shall **not** be required to be presented to the Members (cities)."

From: Greg Boettcher
To: Sonderegger, Jerry
Date: 4/12/02 8:59AM
Subject: City Council Meeting on Tuesday, April 16, 2002

The Water and Sewer Committee did not approve the proposed contract for the Program Management Services. The City Attorney has reservations over the certain aspects of the contract and will be outlining these factors for your attention. It is planned to remove this agenda item from the April 16, 2002 meeting and target this item for the May 7, 2002 meeting. Accordingly, it shall not be necessary for representatives of the firm to attend the upcoming meeting.

I will forward the contract comments/amendments upon receipt.

Should there be any questions please do not hesitate to contact me.

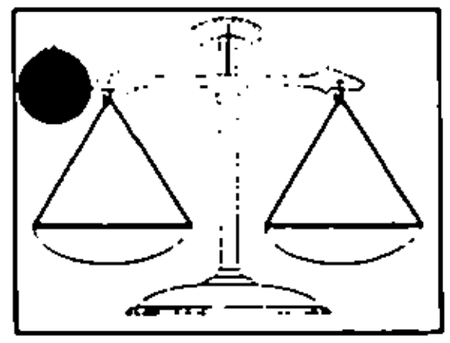
Greg Boettcher

CC: Beavers, Jim; Broyles, Lana; Williams, Kit ; Woodruff, Heather

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council Members

FROM: **Kit Williams**, City Attorney

DATE: **April 4, 2002**

RE: **Motor Vehicle Racing Facility Ordinance**

In January I was trying to fine tune the Motor Vehicle Racing Facility Ordinance and asked Mr. Mike Baker for his input not only personally or on the telephone, but by at least two letters which provided him working drafts of the ordinance. (Attached are copies of these two letters.)

As you see my letter of January 4, 2002, specifically stated: "It also allows a make-up race day if the regularly scheduled one is rained out." I expressly asked for his feedback on these provisions and incorporated all of his requested modifications in the draft of the ordinance accompanying my January 9th letter.

Finally, you granted his request to move the ending time from 10:00 P.M. to 10:30 P.M. when he appeared for the final reading of the ordinance. Basically, Mr. Baker had several opportunities to review the ordinance and suggest changes which the City incorporated into the final ordinance. He never complained (until now) about the provision allowing a make up race day if the races had been rained out.

I believe you have been careful to listen to his legitimate concerns in drafting an ordinance that abates the nuisance of late night racing while accommodating his business needs.

January 4, 2002

Mr. Mike Baker
538 Elm Springs Road
Springdale, AR 72762

COPY

RE: Motor Vehicle Racing Facility

Dear Mr. Baker:

Enclosed is a copy of the ordinance I intend to present to the City Council for its Agenda Session at 4:30 P.M. on Tuesday, January 8, 2002. The most important portion of the ordinance that I would like your feedback on is Section 2.

This section requires race days to end at 10:00 P.M. It allows five (5) special two-day race events in place of a normal one a week race. It also allows a make-up race day if the regularly scheduled one is rained out.

I hope all of these measures are satisfactory to you and will enable you to operate the racetrack successfully while providing assurance to your neighbors that late night racing will not be a problem again.

I also want to thank you for voluntarily working on the noise problem with a better muffler requirement. Your responsible action

will hopefully prevent further calls for the City to regulate noise levels.

With kindest regards,

COPY

Kit Williams
Fayetteville City Attorney

KW/jh

Enclosure

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

CITY ATTORNEY DIVISION
113 WEST MOUNTAIN, 72701
PHONE: 501-575-8313
FAX: 501-575-8315

Kit Williams
CITY ATTORNEY

January 9, 2002

Mr. Mike Baker
538 Elm Springs Road
Springdale, AR 72762

RE: Motor Vehicle Racing Facility

Dear Mike:

Please give your wife my best wishes for a speedy recovery. Enclosed is a copy of the ordinance modified as you requested. If you come to our meeting on Tuesday, January 15, 2002 to support this compromise, I believe the City Council will concur in all of the changes you requested and pass this ordinance as is.

If you have any questions about this, please call me.

With kindest regards,

Kit Williams
Fayetteville City Attorney

KW/jh

Enclosure

(1)

STAFF REVIEW FORM

COPY (1)

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of April 16, 2002

FROM:

Sharon Crosson	Parking Management	General Services
Name	Division	Department

ACTION REQUIRED:
Amend Ordinance No. 72.99 to increase the penalty for parking violations to $5.00 if paid before the issuance of a summons, citation, or arrest warrant, and to $25.00 after such notice is issued.

COST TO CITY:

$		
Cost of this Request	Category/Project Budget	Category/Project Name
		Parking Revenues
Account Number	Funds Used To Date	Program Name
		General Fund
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** _____

Accounting Manager	Date	Internal Auditor	Date
City Attorney	Date	ADA Coordinator	Date
Purchasing Officer	Date	Grant Coordinator	Date

STAFF RECOMMENDATION:
Staff recommends approving ordinance amendment.

Sharon Crosson — Division Head — Date: 3-28-02

Department Director — Date

Administrative Services Director — Date

Mayor — Date

Cross Reference

New Item: **Yes** **No**

Prev Ord/Res #: _____

Orig Contract Date: _____

Orig Contract Number: _____

RICHARD P. ALEXANDER, P.A.
Attorney at Law
11 N. WEST AVENUE, SUITE 201
FAYETTEVILLE, ARKANSAS 72701
PHONE (501) 521-9188
FAX (501) 521-1889

April 5, 2002

Mayor Dan Coody
113 W. Mountain Street
Fayetteville, Arkansas 72701

Dear Mayor:

By copy of this letter I am withdrawing my application for reappointment to the Library Board of Trustees. It has come to my attention that three of the five members on the nominating committee voted to deny my application for reappointment for personal and/or political reasons, wholly unconnected to my qualifications and/or ability to serve, and in spite of a strong recommendation for reappointment from the Library Board and Director.

As a citizen I am deeply concerned about the behavior of some Alderman on the nominating committee. It is, I believe, no secret that the chairman of the nominating committee has a personal grudge against someone on the library staff that so adversely affects his judgment he is not capable of making fair and impartial decisions where the library is concerned. It is also rumored that another Alderman voting against my nomination did so because I had the temerity to speak on an issue involving his church at a public Planning Commission meeting.

I originally applied for the position on the Library Board because I was asked. I reapplied at the request of the entire board and the Director. As you undoubtedly know, service on City boards and commissions involves spending many hours at no pay doing mostly unglamorous work. The actions of some on the nominating committee have made me question whether I have wasted my time and has greatly soured and otherwise personally satisfying and enriching experience.

Sincerely,

Richard P. Alexander

RPA/jd
cc: Fayetteville City Council

04-08-02A08:20

: :

STAFF REVIEW FORM

X Agenda Request
___ Contract Review
___ Grant Review

For the Fayetteville City Council meeting of April 17, 2002.

FROM:

Tim Conklin	Planning	Urban Development
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for VA02-1, submitted by Ken and Kathie Marvin for property located between lots 8, 9, 10 and 11 of Block 5 of Rochier Heights Subdivision. The request is to vacate the alley between lots 8, 9, 10 and 11 as shown and described on the attached maps and legal descriptions.

COST TO CITY:

$0		
Cost of this request	Category/Project Budget	Category/Project Name
Account Number	Funds used to date	Program Name
Project Number	Remaining balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager Date
City Attorney Date
Purchasing Officer Date

GRANTING AGENCY:

ADA Coordinator Date
Internal Auditor Date

STAFF RECOMMENDATION: Staff recommended approval and on March 25, 2002, Planning Commission voted 9-0-0 to recommend and forward the vacation to the City Council.

Division Head 3-28-02 Date

Department Director Date

Administrative Services Director Date

Mayor Date

Cross Reference

New Item: **Yes** **No**

Prev Ord/Res#: _____

Orig Contract Date: _____

Clark Goodaki
1759 Cambridge Rd
Fayetteville, Arkansas
72701

Charles Wright
203 Whispering Hills
Hot Springs Ar.
71901

Candace Eubanks
1136 Rochiek Heights
Fayetteville Arkansas
72701

(2)

STAFF REVIEW FORM

COPY

(2)

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of April 16, 2002

FROM:

Sharon Crosson	Parking Management	General Services
Name	Division	Department

ACTION REQUIRED:
Amend Ordinance No. 72.13 to change the hours of parking enforcement on the square to be enforced from 7:00am to 6:00pm Monday through Friday.

COST TO CITY:

$		
Cost of this Request	Category/Project Budget	Category/Project Name
		Parking Revenues
Account Number	Funds Used To Date	Program Name
		General Fund
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager | Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** _____

Accounting Manager	Date	Internal Auditor	Date
City Attorney	Date	ADA Coordinator	Date
Purchasing Officer	Date	Grant Coordinator	Date

STAFF RECOMMENDATION:
Staff recommends approving ordinance amendment.

Sharon Crosson 3-28-02
Division Head Date

Department Director Date

Administrative Services Director Date

Mayor Date

Cross Reference

New Item: **Yes** **No**

Prev Ord/Res #: _____

Orig Contract Date: _____

Orig Contract Number: _____

(3)

STAFF REVIEW FORM

COPY

(3)

__X__ AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of April 16, 2002

FROM:

Sharon Crosson	Parking Management	General Services
Name	Division	Department

ACTION REQUIRED:
Amend Ordinance No. 72.02 to allow towing of vehicles from public parking lots that have been abandoned for 48 consecutive hours or more.

COST TO CITY:

$		
Cost of this Request	Category/Project Budget	Category/Project Name
		Parking Revenues
Account Number	Funds Used To Date	Program Name
		General Fund
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** _____

Accounting Manager	Date	Internal Auditor	Date
City Attorney	Date	ADA Coordinator	Date
Purchasing Officer	Date	Grant Coordinator	Date

STAFF RECOMMENDATION:
Staff recommends approving ordinance amendment.

Sharon Crosson — Division Head — Date 3-28-02

Department Director — Date

Administrative Services Director — Date

Mayor — Date

Cross Reference

New Item: **Yes** **No**

Prev Ord/Res #: _____

Orig Contract Date: _____

Orig Contract Number: _____

STAFF REVIEW FORM

X **AGENDA REQUEST**
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of April 17, 2002.

FROM:

Tim Conklin	**Planning**	**Urban Development**
Name	Division	Department

ACTION REQUIRED: To approve an ordinance for RZN 02-7.00 as submitted by Lindsey & Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive, Fayetteville, Arkansas. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential.

COST TO CITY:

$		
Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used To Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:**

Accounting Manager Date Internal Auditor Date

City Attorney Date ADA Coordinator Date

Purchasing Officer Date

STAFF RECOMMENDATION: Staff recommended approval and on March 25, 2002 the Planning Commission voted 9-0-0 to recommend approval and to forward the rezoning to the City Council.

3-28-02

Division Head Date

Department Director Date

Administrative Services Director Date

Mayor Date

Cross Reference

New Item: **Yes**

Prev Ord/Res #:

Orig Contract Date:

Orig Contract Number:

Theresa M. Bechaud
c/o Countrywide Home Loans
4004 N. College, Suite F.
Fayetteville, AR. 72703

Franky Joe & william J. Hackler
2418 Valley Dr.
Fayetteville, AR. 72703

Elizabeth W. Landgraf
2426 Valley Dr.
Fayetteville, AR. 72703

William D. & Gayle Mckenzie
2440 Valley Dr.
Fayetteville, AR. 72703

Lois Taylor
2452 Valley Dr.
Fayetteville, AR. 72703

Vonda Kay Cook
2464 Valley Dr.
Fayetteville, AR. 72703

Barbara E. Fitzpatrick &
Natalie Karnes
2500 Valley Dr.
Fayetteville, AR. 72703

Calvary Baptist Church
1410 Porter Rd.
Fayetteville, AR. 72704

William T, Flynt
11332 W. Reed Valley Rd.
Fayetteville, AR. 72703

Carl & Sharon Myers
3129 Skillern Rd.
Fayetteville, AR. 72703

Jeff T. Mattie L. Black
& Bettye S. Ross
5585 S. Sheiffer Rd.
Fayetteville, AR. 72701

[illegible]n H. & Billie J. Stewart
[illegible]11 Megan Dr.
Fayetteville, AR. 72703

Ronald G. &
Krystyna j. Harland
2425 Megan
Fayetteville, AR. 72703

Odell & Danita Ralston
2441 W. Megan Dr.
Fayetteville, AR. 72703

Brian H. & Cindy A. Tippit
2453 Megan
Fayetteville, AR. 72703

Victor M. Linares
2471 Megan
Fayetteville, AR. 72703

Bethel M. Spencer
2485 Megan
Fayetteville, AR. 72703

Christina E.
& Deborah W. Thomas
P.O. Box 1366
Fayetteville, AR. 72702

Christopher A.
& Mary Jo Tucker
2517 Megan Dr.
Fayetteville, AR. 72703

Susan Lee Carter
2531 Megan Dr.
Fayetteville, AR. 72703

Walter R.&
Majorie N. Niblock
P.O. Box 182
Fayetteville, AR. 72702

Jesse D. Luper
c/o Mrs. Everett Luper
1310 Porter Rd.
Fayetteville, AR. 72701

Deborah Sexton
[illegible]. Box 953
Fayetteville, AR. 72702

Robert D.
& Beulah F. Taylor
2577 Megan
Fayetteville, AR. 72703

Christopher O. Mcclung
2591 Megan
Fayetteville, AR. 72703

James E.
& Sue E. Devore
2615 Megan
Fayetteville, AR. 72703

Troy A
& Holli H. Kestner
1240 Porter Rd.
Fayetteville, AR. 72703

Arnold D. Jacqueline S. King
1876 Holly
Fayetteville, AR. 72701

Cynthia O.Grosse
2647 Megan
Fayetteville, AR. 72701

Carl M. & Norma J. Osborn
3048 Straw Berry
Fayetteville, AR. 72703

AVERY

April 9, 2002

AGENDA SESSION
CITY COUNCIL
APRIL 16, 2002

NEW ITEMS:

1. **SIDEWALK CONSTRUCTION:** An ordinance repealing section 171.12 of the Unified Development Ordinance, Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk and adopting a replacement section 171.12 of the Unified Development Ordinance. This item was forwarded to the Ordinance Review Committee on February 26, 2002 at Agenda Session and was heard by Ordinance Review on April 4, 2002.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

FROM: **Kit Williams**, City Attorney

DATE: **April 5, 2002**

RE: **Sidewalk Ordinance**

The Sidewalk Ordinance Amendment needs to be returned to the Agenda (as **Old Business**). The City Council Ordinance Review Committee met Thursday, April 4th and discussed proposed changes for over an hour with input from several Planning Commission members, the City Planner, and City Attorney.

Attached is the agreed upon new ordinance that incorporates many improvements recommended by the Planning Commission, some fine tuning by the City Attorney and amendments by the City Council Ordinance Review Committee.

ORDINANCE NO. _____

AN ORDINANCE REPEALING SECTION 171.12 OF THE UNIFIED DEVELOPMENT ORDINANCE, **PROPERTY OWNER TO CONSTRUCT SIDEWALK OR CONTRIBUTE COST OF SIDEWALK** AND ADOPTING A REPLACEMENT SECTION171.12 OF THE UNIFIED DEVELOPMENT ORDINANCE

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That §171.12 of the Unified Development Ordinance, **Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk**; Subsection A. Requirement; Subsection B. Application of Provisions shall be deleted and the following inserted in its stead:

" §171.12 Property Owner to Construction Sidewalk or Contribute Money In Lieu of Construction"

A. Requirement

The owner of any property abutting a public street or highway for which a sidewalk is required by City's Master Street Plan shall construct a sidewalk along said street or highway upon receipt of notice issued at the time a building or parking lot permit is issued.

1. The property owner shall construct the sidewalk in accordance with section 171.13 Sidewalk and Driveway Specifications.

2. A property owner may request a waiver to subsection 171.12 A. 1. requiring sidewalk construction. The Sidewalk Administrator shall review the following factors to determine whether or not to grant the waiver:

    A. pedestrian traffic generators such as parks and schools in the area;

B. the existence of a sidewalk network in the area;

C. the density of current and future development in the area;

D. the amount of pedestrian traffic likely to be generated by the proposed development;

E. whether the terrain is such that a sidewalk is physically practical and feasible, and the extent to which trees, ground cover and natural areas would be adversely impacted by the contribution of the sidewalk; and

F. the overall need for a sidewalk to be constructed on the lot.

3. If the Sidewalk Administrator grants the waiver to construct a sidewalk, the owner shall have an option to construct the sidewalk or to contribute money in lieu of construction as set forth below:

A. The amount of money in lieu of construction to be dedicated shall be determined based upon the rough proportionality of the impact of the development upon the sidewalk infrastructure needs near the development including consideration of the persons served by the development and approximate pedestrian trip generation rates of the development.

B. To facilitate administration of this ordinance for certain recurrent types of development, the City Council has determined that the City will accept, as the roughly proportionate impact, the amount shown below:

1.	Single family house	$630.00
2.	Duplex	$720.00

C. Unless the developer presents evidence that the number of persons served by the development and the pedestrian trip generation rates of the development justify a reduced

contribution in lieu of the construction of sidewalks, all industrial, commercial, and multi-family developments shall make a cash contribution in lieu of the construction of the sidewalk at a rate of Three Dollars $3.00 per square foot of the sidewalk that normally would have been required. The amount per square foot shall be reviewed by the City Council within five years.

D. Contribution in lieu of construction of sidewalks shall be paid or construction of the sidewalks shall be completed before receiving final plat approval, or issuance of a Certificate of Occupancy.

E. Contributions must be expended within one (1) year to build a sidewalk close enough to serve the project being constructed.

F. If the owner voluntarily consents in writing, the contributions may be used to construct sidewalk projects where most needed as determined by the Sidewalk Administrator.

4. An owner/builder may appeal the Sidewalk Administrator's refusal to grant a waiver or the Administrator's determination of the amount of contribution in lieu of construction to the Planning Commission pursuant to §155.06 D.

B. APPLICATION OF PROVISIONS

The provisions of this section shall only apply to the following property:

1. **New Structure.** On which a new structure is build built.

2. **Existing Residential Structure.** On which an existing residential structure is being modified so as to increase the number of dwelling units located therein or to change the use to a nonresidential use.

3. **Parking Lot/Garage.** On which a parking lot or parking garage, having a minimum capacity of five automobiles, is constructed or enlarged.

4. **Additions.** Additions of 2,500 square feet or larger.

5. **Conditional Use.** Any development which requires conditional use approval.

PASSED and **APPROVED** this the _____ day of April, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA
CITY COUNCIL
APRIL 16, 2002

A meeting of the Fayetteville City Council will be held on April 16, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES.**

2. **TCA CABLE BUILDING:** A resolution awarding a bid for renovation to the TCA Building to Neil Hefner Construction in the amount of $195,464 and approval of a project contingency in the amount of $15,000.

3. **GARLAND AVE.:** A resolution authorizing the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400.

4. **BULLETPROOF VESTS:** A resolution approving a grant application with the Department of Justice Bulletproof Vests Partnership Program. This is a four year grant and can be utilized at any time during the four years.

B. OLD BUSINESS

1. **RZN 01-6.00:** An ordinance approving rezoning request RZN 02-6.00 as submitted by Terry Carpenter of US Infrastructure, Inc. for property located at 415 Longview Street. The property is zoned A-1, Agricultural and contains approximately 38.6 acres. The request is to rezone to R-O, Residential Office.

C. NEW BUSINESS

1. **LEGACY POINTE:** An ordinance waiving Ordinance 3793 to accept land and money in lieu as the park land requirement for the Legacy Pointe Development.

2. **ELLIS DEVELOPMENT:** An ordinance waving Ordinance 3793 to accept land and money in lieu of the park land requirement for the Ellis Development.

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

3. **RZN 02-7.00:** An ordinance approving rezoning request RZN 02-7.00 as submitted by Lindsey and Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential.

4. **VA 02-1.00:** An ordinance approving vacation request VA 01-1 as submitted by Ken and Kathie Marvin for property in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9,10 and 11.

5. **PLANNING COMMISSION APPEAL:** Appeal of a Planning Commission Decision regarding LSD 02-7.00 for property located at the southwest corner of Fletcher Avenue and Rodgers Drive.

6. **PARKING VIOLATIONS:** An ordinance increasing the penalty for parking violations to $5.00 if paid before the issuance of a summons, citation, or arrest warrant, and to $25.00 after such notice is issued.

7. **PARKING ENFORCEMENT:** An ordinance changing the hours of parking enforcement on the square to be enforced from 7:00 a.m. to 6:00 p.m. Monday through Friday.

8. **TOWING VEHICLES:** An ordinance allowing the towing of vehicles from public parking lots that have been abandoned for forty-eight consecutive hours or more.

9. **CALL CENTER POSITION:** A resolution to approve the filling of the non-emergency call center position to take full advantage of the new software recently purchased and to provide support for the Business Office.

10. **BURNS AND MCDONNELL:** A resolution approving an agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

11. **ORGANIZATIONAL PLANNER:** A resolution approving an aggressive litter control program with education, cleanup, and enforcement options, and to assist in the market development analysis and the development of operational plans for commercial glass recycling.

12. **THUNDERVALLEY:** An ordinance allowing a special thirty-year anniversary two-day racing event at Thunder Valley Raceway with closing times of 11:30 p.m.

STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

[illegible] the Fayetteville City Council meeting of April 2, 2002

FROM:

Hugh Earnest — Name
Urban Development — Division
Urban Development — Department

ACTION REQUIRED: Approve a Resolution awarding a bid for renovations to TCA Building to Neal Hefner construction. Approval of a project contingency in the amount of $15,000 is also requested.

COST TO CITY:

$210,464.00 — Cost of this Request	$304,225.00 — Category/Project Budget	TCA Renovation — Category/Project Name
4470-9470-5804-00 — Account Number	$40,645.00 — Funds Used To Date	Program Name
98081-2 — Project Number	$263,580.00 — Remaining Balance	Sales Tax — Fund

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget ~~Coordinator~~ Manager — 3-19-02
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** ____

Accounting Manager — Date 3/19/02
ADA Coordinator — Date
City Attorney — Date 3/20/02
Internal Auditor — Date 3/20/02
Purchasing Officer — Date
Grant Officer — Date

STAFF RECOMMENDATION: To approve a Resolution awarding a bid to Neal Hefner Construction for renovation to the TCA Building.

Division Head — Date
Department Director — Date 3/21/02
Admin. Svcs Director — Date
Mayor — Date

Cross Reference
New Item: Yes No
Prev Ord/Res #: ____
Orig Contract Date: ____

Consent —
New Business ✓

STAFF REVIEW FORM

Description _____ Meeting Date _____

Comments:

Budget Coordinator

Reference Comments:

Accounting Manager

We need 30 days to pay.

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

ADA Coordinator

Reference Comments:

Internal Auditor

Reference Comments:

Grants Offcier

Reference Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

To: The Mayor and Council

From: Hugh Earnest
Urban Development Director

Date: March 12, 2002

Subject: TCA Building Renovation

Background
Over the past nine months, city staff has been looking into the issue of maximizing our use of available space in City Hall and the publicly owned building at the corner of Mountain and Church. A previous franchise operator of the local cable system last owned the building. The building was last used by a local real estate/business management firm. The review concluded that our preferable option for administrative efficiency and freeing up space in City Hall would be to move the Planning Division and Public Lands Maintenance Division into the west wing of the TCA building. This change will also allow us to place the Engineering, Planning and Public Lands Maintenance functions in close proximity.

Current Situation
The staff to be assigned to the building has worked closely with the Cromwell firm and has developed an excellent layout making maximum use of the available space. In addition, the wall between the engineering building and this area has been opened to allow internal circulation and more effective interaction with customers. In order to increase the available space, the building has been expanded by some 590 sq. feet toward Mountain Street. Because of the complexity and scope of the work, it was decided to prepare bid specifications and ask for bids. The bids were opened on Wednesday, March 6, 2002 and a number of excellent bids were received.

Recommendation
A bid tabulation and a letter recommending the awarding of the bid to Neil Hefner Construction in the amount of $195,464.00 are attached along with a sketch of the layout. The bid includes the acceptance of two of the three deductive alternates in the bid. The alternates accepted include painting and staining of the floor. Our building maintenance division can do this work. The third deductive alternate involves the placement of a screen around the electric service for the building and was included to provide a range for the cost of this requirement in our planning codes. The bid is within our estimate for the project and the monies for this project are in our capital budget. It is our recommendation that this bid be awarded.

113 WEST MOUNTAIN 72701 501 521-7700
FAX 501 575-8257

CROMWELL
ARCHITECTS ENGINEERS

March 11, 2002

Hugh Earnest
Director of Urban Development
City of Fayetteville
113 West Mountain St.
Fayetteville, Arkansas 72701

Re: TCA Building Renovation
A/E Project #2001-068
Bid Certification

Dear Mr. Earnest:

Enclosed please find the certified bid tabulation for the TCA Building Renovation. Bids were received from six General Contractors at 2:00pm on March 6th at Fayetteville City Hall.

The apparent low bidder is Neal Hefner Construction with a Base Proposal bid of $212,476.00. Deductive Alternate No.1, delete painting and floor finishing, and No.2, deleting the planning counter, can readily be performed by City employees.

We recommend that Deductive Alternates No.1 and No.2 be included in the contract and that Deductive Alternative No.3, the screening, not be included. (The price for the screening was primarily isolated to give the City an idea how much the requirement for screening will cost future developers in Fayetteville.) Neal Hefner Construction remains the apparent low bidder with the deductive bid price of $195,464.00. We recommend accepting Neal Hefner Construction as the General Contractor for this project.

Sincerely,

Sharon T. Hoover, AIA
Director of Design

STH/cw

Enclosure 1

Cc: Thad Kelly-CAE
Ray Cannon-CAE

CROMWELL ARCHITECTS ENGINEERS, INC. • NORTHWEST ARKANSAS REGION
7 NORTH BLOCK AVENUE (501) 582-2900 FAX (501) 582-2929
FAYETTEVILLE, ARKANSAS 72701

BID TAB[illegible]TION

TCA Building Renovation
City of Fayetteville
Fayetteville, Arkansas

Bid Opening: 2:00 pm 08 March 2002
Location: City of Fayetteville City Hall

Architect Engineer Proj. No: 2001-068

CROMWELL ARCHITECTS ENGINE[illegible]
7 North Block Avenue
Fayetteville, Arkansas 72701

Certified by: Thad R Lowry
Date: 11 Mar 2002

	Harrison Davis	Heckathorn Const.	Neal Hefner Const.	Lillich & Bossler	SSI
Contractor License No:	#001615 0202	#0023780402	#0012630402	#65810402	#001310402
A. Base Proposal	$ 227,000.00	$229,983	$ 212,476.00	$260,150	$222,597
5% Bid Bond	Capitol Indemnity Corp.	United Casualty & Fire Co.	Cumberland Casualty & & Surety Company	Cumberland Casualty & & Surety Company	St. Paul Fire and Marine Insuranc Company
Alternate Proposals					
Alt. No. 1	$21,000	$17,800	$12,695	$16,300	$14,860
No. 2	$2,000	$2,650	$4,317	$2,200	$2,640
No. 3	$4,000	$4,468	$3,320	$4,350	$2,920
Addenda 1, 2, 3	X	X	X	X	X
Subcontractors:					
1. Mechanical Work - Plumbing	Advanced Mechanical	Advanced Mechanical	Webbs Plumbing	Advanced Mechanical	Advanced Mechanical
License number	#0078640302	#0078640302	#0043950302	#0078640302	#0078640302
2. Mechanical work-HVACR	Advanced Mechanical	Advanced Mechanical	American Air	Advanced Mechanical	Advanced Mechanical
License number	#0078640302	#0078640302	#012660303	#0078640302	#0078640302
3. Electrical Work	Beaver Electric	J&S Electric	Beaver Electric	Morrow Cash	Beaver Electric
License number	#0013240203	#0123931002	#0013240203	#84260402	#0013240203
4. Roofing and Sheet Metal	Harrison Davis	Owner	Owner	Lillich & Bossler, Inc.	Owner
License number	#0016150202			#65810402	

BID TABULATION

TCA Building Renovation
City of Fayetteville
Fayetteville, Arkansas

Bid Opening: 2:00 pm 06 March 2002
Location: City of Fayetteville City Hall

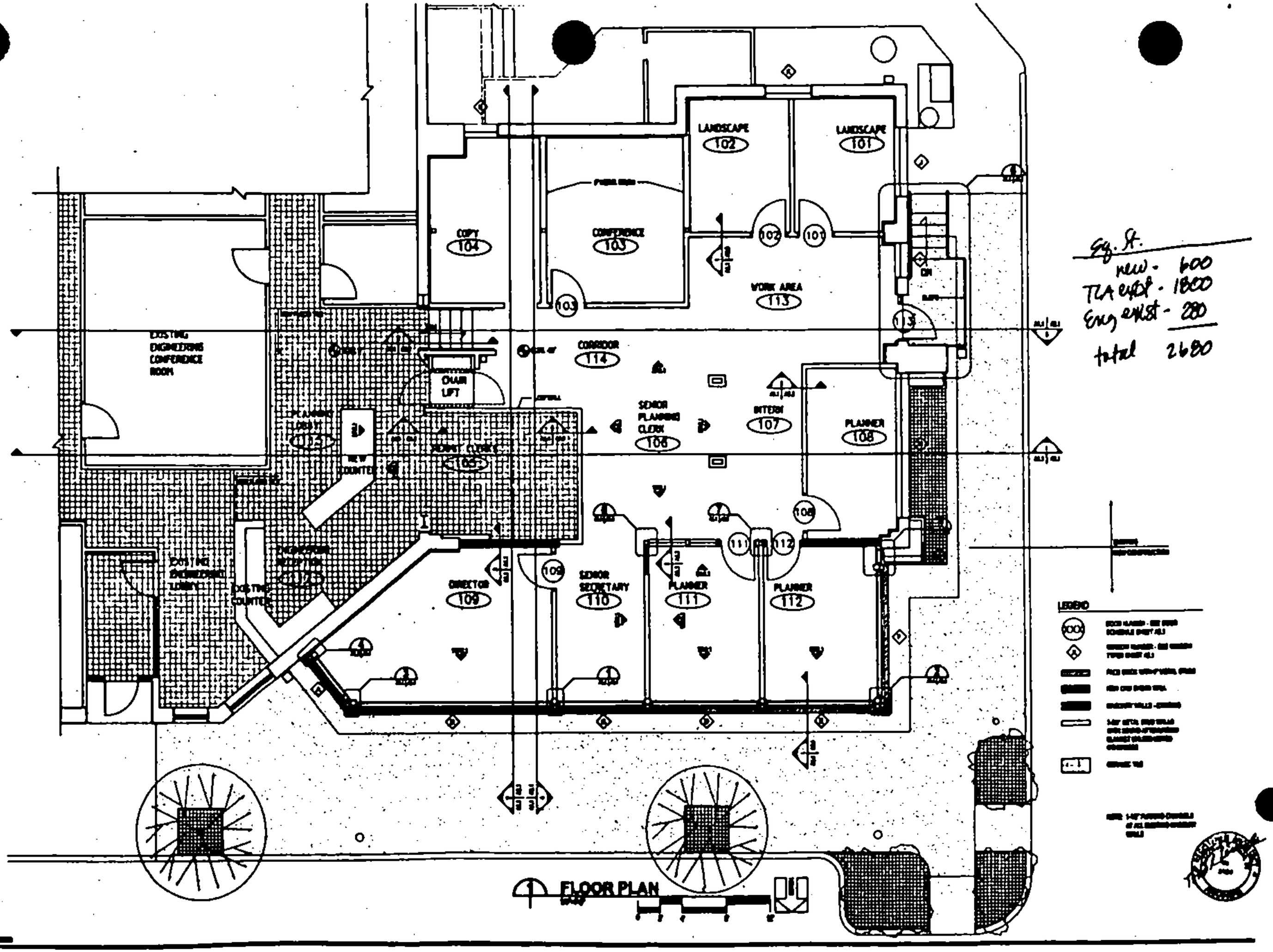
Architect Engineer Proj. No: 2001-068

CROMWELL ARCHITECTS ENGINEERS
7 North Block Avenue
Fayetteville, Arkansas 72701

Certified by: Thad R Kolly III

Date: 11 MAR 2002

	Youngblood Brothers				
Contractor License No:	#0077190402				
A. Base Proposal	$ 314,531.75				
5% Bid Bond	St. Paul Fire & Marine Insurance				
	Company				
Alternate Proposals					
Alt. No. 1	$1,500				
No. 2	$2,100				
No. 3	$1,000				
Addenda 1, 2, 3	X				
Subcontractors:					
1. Mechanical Work - Plumbing	none				
License number					
2. Mechanical work-HVACR	Mastercraft Mechanical				
License number					
3. Electrical Work	Wachter Electric Co.				
License number					
4. Roofing and Sheet Metal	Franklin & Son				
License number					



Sq. ft.
new - 600
TCA exist - 1800
Eng exist - 280
total 2680

TCA BUILDING RENOVATION
CITY OF FAYETTEVILLE

TCA Building
A. 2. Page 7

CITY OF FAYETTEVILLE

Purchase Requisition

(not a purchase order)

Requisition No.:

Date: 3/12/02

P.O. Number:

Expected Delivery Date:

Vendor #: 99 2852

Vendor Name: NEIL HEFNER CONSTRUCTION

Mail: Yes No

Address:

FOB Point:

Taxable: Yes No

City:

State:

Zip:

Ship To Code:

Division Head Approval:

Requester: Hugh EARNEST

*Requester's Employee#: 330

Extension:

Item	Description:	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number:	Project/SubProject Number:	Inventory	Fixed Asset #
	SHIPPING/HANDLING								

Special Instructions:

Subtotal:

Tax:

TOTAL:

Approvals:

(for purchasing office use only)

Mayor:

Department Director: Hugh Earnest

Purchasing Manager:

Admin. Services Director:

Budget Coordinator:

Data Processing Mgr:

TCA Building
A. 2. Page 8

1997 Edition -Electronic Format

AIA Document A101-1997

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a STIPULATED SUM

AGREEMENT made as of the 19th day of March in the year of 2002
(In words, indicate day, month and year)

BETWEEN the Owner:
(Name, address and other information)
City of Fayetteville, Arkansas
c/o Office of the Purchasing Manager
113 West Mountain Street
Fayetteville, Arkansas 72701

and the Contractor:
(Name, address and other information)
Neal Hefner Construction, Inc.
2308 Turner, Suite #1
Springdale, Arkansas 72764

The Project is:
(Name and location)
TCA Building Renovation
City of Fayetteville
Fayetteville, Arkansas
A/E Project No. 2001-068

The Architect is:
(Name, address and other information)
Cromwell Architects Engineers, Inc.
Northwest Arkansas Region
7 North Block Avenue
Fayetteville, Arkansas 72701

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES. CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION. AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

AIA Document A201-1997, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

The Owner and Contractor agree as follows.

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

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OWNER-CONTRACTOR AGREEMENT

The American Institute of Architects
1735 New York Avenue, N.W.
Washington, D.C. 20006-5292

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.
(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)
Date of commencement will be established in a written Notice To Proceed issued by Architect Engineer.

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

3.2 The Contract Time shall be measured from the date of commencement.

3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than One Hundred Twenty (120) calendar days from the date of commencement, ~~or as follows:~~
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)

, subject to adjustments of this Contract Time as provided in the Contract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)

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ARTICLE 4 CONTRACT SUM

4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Hundred Ninety Five Thousand Four Hundred Sixty Four Dollars ($ 195,464.00), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires)

Base bid:	$212,476.00
Alternate No. 1 (Deduct)	$ 12,695.00
Alternate No. 2 (Deduct)	$ 4,317.00
Total Contract Sum:	$195,464.00

4.3 Unit prices, if any, are as follows:
None

ARTICLE 5 PAYMENTS

5.1 PROGRESS PAYMENTS

5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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OWNER-CONTRACTOR AGREEMENT

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1735 New York Avenue, N.W.
Washington, D.C. 20006-5292

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5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month~~, or as follows:~~

5.1.3 Provided that an Application for Payment is received by the Architect not later than the twenty-fifth (25th) day of a month, the Owner shall make payment to the Contractor not later than the tenth (10th) day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than fifteen (15) days after the Architect ~~receives~~ certifies the Application for Payment.

5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ten percent (10 %); Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Subparagraph 7.3.8 of AIA Document A201-1997.

.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent (10%);

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of AIA Document A201-1997.

5.1.7 The progress payment amount determined in accordance with Subparagraph 5.1.6 shall be further modified under the following circumstances:

.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to ninety-five percent (95%) of the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such Work and unsettled claims; and
(Subparagraph 9.8.5 of AIA Document A201-1997 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)

.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of AIA Document A201-1997.

5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

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(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Clauses 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Refer to Section 00800 Supplementary Conditions of the Project Manual, paragraph 9.3.2

5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

5.2 FINAL PAYMENT

5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Subparagraph 12.2.2 of AIA Document A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 6 TERMINATION OR SUSPENSION

6.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-1997.

6.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-1997.

ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)
None

Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.

7.3 The Owner's representative is:
(Name, address and other information)
Mr. Hugh Earnest, Urban Development Director
City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

7.4 The Contractor's representative is:
(Name, address and other information)
Mr. Neal Hefner, President

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES. CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION. AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

AIA Document A201-1997, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

©1997 AIA®
AIA DOCUMENT A101-1997
OWNER-CONTRACTOR AGREEMENT

The American Institute of Architects
1735 New York Avenue, N.W.
Washington, D.C. 20006-5292

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Neal Hefner Construction, Inc.
2308 Turner, Suite 1
Springdale, AR 72764

7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

7.6 Other provisions:

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES. CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION. AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

AIA Document A201-1987, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS

8.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

8.1.1 The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A101-1997.

8.1.2 The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201-1997.

8.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated January 30, 2002, and are as follows:

Document	Title	Pages
Section 00800	Supplementary Conditions	8

8.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 8.1.3, and are as follows:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages
See Exhibit A	Table of Contents	3

8.1.5 The Drawings are as follows, and are dated January 30, 2002 unless a different date is shown below:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
T1.0	Symbols/Abbreviations Index	
C1.0	Site Plan	
A0.1	Existing Elevations, Existing/Demolition Plan	
A1.1	Floor Plan	
A1.2	Reflected Ceiling Plan + Dimensioned Floor Plan	
A1.3	Roof Plan	
A2.1	Door/Window and Finish/Color Schedules	
A2.2	Glazing Elevations	
A3.1	Building Sections	
A3.2	New Elevations	
A4.1	Wall Sections	
A5.1	Exterior Details	
A5.2	Exterior Details	
A5.3	Exterior Details	
A6.1	Interior Elevations and Details	
A6.2	Interior Details	
A6.3	Interior Wall Sections	

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A1.1	Furniture Plan
S1	Foundation Plan
S2	Framing Plan
S3	Details
S4	Details
M1.1	Mechanical Plan
M2.1	Mechanical Schedules & Details
E1.1	Electrical Pwr & Comm. Plans
E2.1	Lighting Plan
E3.1	Electrical Notes, Legend & Schedule
E4.1	Electrical Details & Schedules

8.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
One (1)	February 19, 2002	6
Two (2)	February 19, 2002	1
Three (3)	March 4, 2002	10

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

8.1.7 Other documents, if any, forming part of the Contract Documents are as follows:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

8.1.7.1 See attached Contractor's Bid Proposal Form dated March 6, 2002

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES. CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION. AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

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This document has been approved and endorsed by The Associated General Contractors of America.

OWNER *(Signature)*	CONTRACTOR *(Signature)*
CITY OF FAYETTEVILLE, ARKANSAS	NEAL HEFNER CONSTRUCTION, INC.
(Printed name and title)	*(Printed name and title)*

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OWNER-CONTRACTOR AGREEMENT

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TCA BUILDING RENOVATION
Fayetteville, Arkansas

2001-068
JAN 2002

DIVISION 3 - CONCRETE

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03345 Concrete Finish 2

DIVISION 4 - MASONRY

04220 Unit Masonry 2

DIVISION 5 - METALS

05120 Structural Steel 2
05400 Light Gage Steel Framing 2
05500 Miscellaneous Metals 4

DIVISION 6 - WOOD AND PLASTIC

06100 Rough Carpentry 4
06200 Finished Carpentry & Millwork 2
06400 Architectural Woodwork (millwork) 5

DIVISION 7 - THERMAL AND MOISTURE PROTECTION

07200 Insulation 3
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07600 Flashing and Sheet Metal 3
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08100 Hollow Metal Frames 1
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08800 Glass and Glazing 8

DIVISION 9 - FINISHES

09250 Gypsum Drywall 2
09300 Tile 2
09510 Acoustical Ceilings 2
09900 Painting 3
14420 Wheelchair Lifts 10

DIVISIONS 10 - SPECIALTIES

Xxxxx Title .....

DIVISION 11 - EQUIPMENT

Xxxxx Title .....

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Xxxxx Title .....

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TCA BUILDING RENOVATION
Fayetteville, Arkansas

Refer to AIA 101-97, paragraph 8.1.7.1

2001-068
JAN 2002

FILE COPY

BID PROPOSAL FORM 00300

FROM: Neal Hefner Construction, Inc
2308 Turner, Suite 1
Springdale, AR 72764
(479) 756-5602
Contractor License No. AR0012630402 (hereinafter called "Bidder")

TO: City of Fayetteville, Arkansas (hereinafter called "Owner")
c/o Office of Purchasing Manager
113 West Mountain Street
Fayetteville, Arkansas 72071

RE: TCA BUILDING RENOVATIONS

Architect Engineer Project No. 2001-068

The Undersigned, having received and examined the Project Manual and the Drawings for the above-referenced Project proposes to furnish all labor, materials, equipment, supervision and all associated and related items required for the Work, as required by and in strict accordance with the above-named documents for the following sum:

A. BASE PROPOSAL

Bidder agrees to perform all of the Work necessary to complete the Total Project as described in the Project Manual and indicated on the Drawings for the sum of:
Two Hundred Twelve Thousand Four Hundred Seventy-six
($ 212,476.00).

(Amount shall be indicated in both words and figures. In case of discrepancy, the amount indicated in words shall govern.)

DEDUCTIVE ALTERNATES

Bidder agrees to perform all of the Work necessary to complete the Deductive Alternate(s) as described in the Project Manual and indicated on the Drawings for the following amount(s).

Bidder understands that the Owner reserves the right to accept or reject Deductive Alternates in any order or combinations which they may choose.

1. DEDUCTIVE ALTERNATE No. 1: DELETE FINAL SANDING, RELATED CAULKING, PRIMER COAT, AND TWO COATS OF FINISH PAINT ON ALL INTERIOR AND EXTERIOR SURFACES. DELETE RESILENT BASE, AND FLOOR PREPARATION AND FINISHES FOR CONCRETE STAINED FLOOR. DELETE THE CONCRETE MUD BED AND THE CERAMIC TILE FLOOR.

   a. Delete all floor preparation as required by manufacturer's specifications for staining existing and new concrete slabs. Delete all rubber cove base.

Subtract: Twelve Thousand Six Hundred Ninety-five

($ 12,695.00).

2. DEDUCTIVE ALTERNATE No. 2: DELETE THE PLANNING COUNTER

Subtract: Four Thousand Three Hundred Seventeen

($ 4,317.00).

3. DEDUCTIVE ALTERNATE No. 3: DELETE SCREENING AND STRUCTURE FOR SCREENING ON SOUTH ELEVATION

Subtract: Three Thousand Three Hundred Twenty

($ 3,320.00).

C. ADDENDA

The Undersigned has received and examined the following Addenda numbered 1, 2 and 3, and has incorporated the provisions in this Bid.

D. FURTHER CONDITIONS

The Undersigned, by submitting this Bid, further agrees:

1. That this Bid shall be valid and may not be withdrawn within 60 days after the scheduled closing time for receiving bids.

2. To accept the provisions of the "INSTRUCTIONS TO BIDDERS."

3. To enter into and execute a Contract, if awarded on the basis of this Proposal, and to furnish the Performance Bond and Labor and Material Payment Bond in accordance with the General Conditions of the Contract.

4. To accomplish the Work in accordance with the Contract Documents, of which this Proposal is made a part.

5. To Allow any Federal, State or Local Inspector, acting in their official capacity, access to the project site.

6. Upon receipt of a Notice to Proceed to perform the designated Work expeditiously and with adequate forces to completion within 120 calendar days, including anticipated weather delay days.

7. To coordinate and schedule all Work with Owner.

8. That it is understood that the Owner may reject any or all bids and waive any informalities or irregularities.

E. SUBCONTRACTORS

In accordance with Arkansas Statutes, §§ 22-9-204, et seq. as amended, of the State of Arkansas, I (We) submit the names of the following subcontractors, we propose to use, and their State Contractor License Nos.

2001-068
JAN 2002

TCA BUILDING RENOVATION
Fayetteville, Arkansas

	Name	No.
1. MECHANICAL WORK - PLUMBING		
	Webb's Plumbing	0043950302
2. MECHANICAL WORK - HVACR		
	American Air & Mechanical	012660303
3. ELECTRICAL WORK		
	Beaver Electric	0013240203
4. ROOFING & SHEET METAL		
	None	

(Indicate "NONE" if subcontractor not required for this project. Include Prime Bidder's name and license number if Prime Bidder is doing this work itself and the Prime Bidder's contractor license is qualified for this specialty.)

E. ATTACHMENTS:

Enclosed with this bid proposal are the following: *(Mark all that apply.)*

[_] Bid Security in form of cashier's check, or

[x] Bid Security in form of Bid Bond and Power of Attorney for bid bond.

Respectfully submitted:

Bidder: Neal Hefner Construction, Inc.

By: Neal Hefner Date: March 6, 2002

Title: President

Business Address: 2308 Turner, Suite 1
Springdale, AR 72764

Telephone Number: (479) 756-5602

(SEAL)
(If Bid is by)
(a Corporation)

981104:alk:0202091457

END OF DOCUMENT

SEAL

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A310

Bid Bond

BOND # BB0220002643

KNOW ALL MEN BY THESE PRESENTS, that we
NEAL HEFNER CONSTRUCTION, INC.
2388 TURNER STREET, #1 STRINGDALE, AR 72764
(Here insert full name and address or legal title of Contractor)
as Principal, hereinafter called the Principal, and
CUMBERLAND CASUALTY & SURETY COMPANY
4911 W. Waters Suite 401 Tampa, FL 33634
a corporation duly organized under the laws of the State of FLORIDA as Surety, hereinafter called the Surety, are held and firmly bound unto CITY OF FAYETTEVILLE
113 WEST MOUNTAIN, ROOM 372 FAYETTEVILLE, AR
(Here insert full name and address or legal title of Owner)
as Obligee, hereinafter called the Obligee, in the sum of Five Percent of Amount Bid————————Dollars ($ 5%), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for
TCA BUILDING RENOVATION #2001-068
(Here insert full name, address and description of project)

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 6th day of March, 2002

NEAL HEFNER CONSTRUCTION, INC.

(Principal) (Seal) (Witness)

(Title)

CUMBERLAND CASUALTY & SURETY COMPANY

(Surety) (Seal) (Witness)

(Title) Kimberly L. Dabb of Sherwood, AR, ATTORNEY-IN-FACT

AIA DOCUMENT A310 BID BOND AIA® FEBRUARY 1970 ED. THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 N.Y. AVE., N.W., WASHINGTON, D.C. 20006
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CUMBERLAND CASUALTY & SURETY COMPANY
TAMPA, FLORIDA

BOND № BB0220002643

KNOW ALL MEN BY THESE PRESENTS: That the Cumberland Casualty & Surety Company, a corporation duly organized under the laws of the State of Florida, having its principal office in the city of Tampa, Florida, pursuant to the following resolution, adopted by the Board of Directors of the said Company on the 15th day of April, 1999, to wit:

"Resolved, that the President of the Company shall have the authority to make, execute and deliver a Power of Attorney constituting as attorney(s)-in-Fact, such persons, firms, or corporations as may be selected from time to time.

Be it further resolved, that the signature of the President, Secretary and the Seal of the Company may be affixed to any such Power of Attorney or any certificate relating thereto by facsimile, and any such powers so executed and certified by facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or warrants for the release of retained percentages and/or final estimates on engineering and construction contracts or similar authority or undertaking to which it is attached."

Cumberland Casualty & Surety Company does Hereby make, constitute and appoint Kimberly I. Rabb of Sherwood, AR, its true and lawful attorney(s)-in-fact, for it and in its name, to sign, execute, acknowledge, deliver, act and deed on its behalf in issuing the bond BB0220002643, in the amount of $12,500.00, and to bind Cumberland Casualty & Surety Company thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officer of Cumberland Casualty & Surety Company, and all the acts of said attorney(s)-in-fact pursuant to the authority herein given, and hereby ratified and confirmed.

IN WITNESS WHEREOF, Cumberland Casualty & Surety Company has caused these presents to be signed by an officer of the Company and its Corporate Seal to be hereto affixed.

STATE OF FLORIDA)
) SS
COUNTY OF HILLSBOROUGH)

SEAL

CUMBERLAND CASUALTY & SURETY COMPANY

Edward J. Edenfield IV, President

On this 15th day of April, A.D. 1999, before me personally came Edward J. Edenfield IV, to me known, who being by me duly sworn, did depose and say; that he resides in the County of Hillsborough, State of Florida; that he is President of Cumberland Casualty & Surety Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instruments is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

Beverly Ann Jerky

STATE OF FLORIDA)
) SS
COUNTY OF HILLSBOROUGH)

NOTARY PUBLIC STATE OF FLORIDA

BEVERLY ANN JERKY
Commission # No. CC 758867
Expires August 22, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

I, the undersigned, Secretary of Cumberland Casualty & Surety Company, a Florida Corporation, DO HEREBY CERTIFY that the foregoing and attached POWER OF ATTORNEY remains in full force.
Signed and Sealed at the City of Tampa.

Dated the 6th Day of March 2002

SEAL

Carol S. Black, Secretary

Principal: NEAL HEFNER CONSTRUCTION, INC.
Bond Type: AIA - DOCUMENT A310 BID BOND: 5% BID BOND
Obligee: CITY OF FAYETTEVILLE

STAFF REVIEW FORM

__X__ AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW

FOR: COUNCIL MEETING OF April ~~2~~ 16, 2002 **MAYOR'S APPROVAL** _____

FROM:

Holly Jones,	Land Agent	Engineering
Name	Division	Department

ACTION REQUIRED: A Resolution to authorize the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400.00.

COST TO CITY:

Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used to Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget ~~Coordinator~~ Manager — Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** _____

Marsha Farthing	3/21/02	Nancy Smith	3/21/02
Accounting Manager	Date	Internal Auditor	Date
[signature]	3-21-02		
City Attorney	Date	ADA Coordinator	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:

Division Head	Date
[signature]	03-21-02
Department Director	Date
[signature]	3/22/02
Administrative Services Director	Date
[signature]	3/22/02
Mayor	Date

Consent ✓
New Business ____

CROSS REFERENCE

New Item: **Yes** No

Previous Ordinance/Resolution No.: _____

RESOLUTION NO. _____

A RESOLUTION TO AUTHORIZE THE SALE OF CITY OWNED REAL ESTATE AND A CONSTRUCTION EASEMENT ALONG GARLAND AVENUE TO THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT FOR A CONTRACTUAL AMOUNT OF $3,400.00

WHEREAS, the City of Fayetteville is grateful that the Arkansas State Highway and Transportation Department is widening and improving Garland Avenue (Highway 112) from North Street to Maple Avenue; and

WHEREAS, this beneficial project requires the City to sell to the Arkansas State Highway and Transportation Department 267 square feet of right-of-way, as well as a temporary construction easement and removal of a masonry wall and flower bed from our Garland Fire Station property, for a total price of $3,150.00, plus 117 square feet of right-of-way at the corner of Wedington Drive and Garland Avenue for $250.00.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the sale of the following tracts of land, construction easements and improvements to the Arkansas State Highway and Transportation Department pursuant to the attached deeds, contracts and documents for the following sums:

(A) 267 square feet adjoining Garland Avenue near the fire station: $1,300.00

(B) 1,007 square feet for temporary construction easement near the fire station: $1,000.00

(C) Removal of a masonry wall and flowerbed at the fire station: $ 850.00

(D) 117 square feet at the corner of Wedington and Garland Avenue $ 250.00

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to sign all documents necessary for the sale of this land, easement and improvements to the Arkansas State Highway and Transportation Department.

PASSED and **APPROVED** this 2nd day of April, 2002.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody

CC: Kit Williams, City Attorney — See attached memo
Trish Lynn, Negotiator AHTD

THRU: Jim Beavers, City Engineer
Sid Norbash, Project Manager

FROM: Holly Jones, Land Agent

DATE: March 1, 2002

SUBJECT: Garland Avenue Right of Way

The Arkansas State Highway and Transportation Department has presented us with offers to purchase right-of-way along Garland Avenue on two tracts of property we own.

The first offer is on the property we own currently used as a Fayetteville Fire Station. They are offering to purchase 267 square feet for right-of-way for a fee-simple price of $1,300.00 or $4.88 per square foot. They have also requested a temporary construction easement of 1,007 square feet for rental value of $1,000.00. There is also an offer to reimburse the City for the masonry wall, the length of which is approximately 40 feet long, and a flower bed, at a total value of $850.00. Total offer on this tract $3,150.00. Documents attached.

The masonry wall mentioned above will not be replaced, but the Highway Department has confirmed that the elevation will be changed to eliminate the need for this wall.

The second offer is on a portion of property currently owned by the City, south of the intersection of Wedington Drive and Garland Avenue. It is physically located just South of the driveway of UARK Federal Credit Union. They are offering to purchase 117 square feet of additional right-of-way at about $2.14 per square foot for an offer of $250.00.

This tract of land is property that the Planning Division required to be dedicated to the City to meet their requirements for a large scale development. (I have enclosed a copy of the deed of this area to the City for your records.) The offer letter and appraisal summary are attached.

The Engineering Division has reviewed the areas being requested and find no reason not to sell these areas to the Arkansas State Highway and Transportation Department for additional right-of-way of Garland Avenue.

Feel free to call Sid Norbash at ext. #205, myself at ext. #414 or Ed Connell at ext. #415 if you have any additional questions or concerns.

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Telephone (501) 569-2000

P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

1-9-01

Re: Job: 040273
STPH-9142 (9)
Maple St. –Hwy. 112S (Fayetteville)
Washington County
Tract: 12, 12E

Dear Property Owner(s):

A negotiator for the Arkansas State Highway Commission has presented to you a Contract to Sell offering to purchase the fee simple title to your property needed for highway purposes. A description of the property needed is attached.

The following buildings, structures, and other improvements, including fixtures, located upon the lands needed are as follows: Masonry Wall & Flower Bed.

In the event you desire to retain any of the building, structures or other improvements, including fixtures, listed above for salvage value of $-0-, you must do so prior to the date of closing of a Contract to Sell or eminent domain proceedings.

The offer of $3,150.00 is based on the opinion of a qualified real estate appraiser. The offered amount is based on the market value concept and is broken down as follows: $2,150.00 as just compensation for the realty to be acquired, $1,000.00 for Temporary Construction Easements, and $-0- for damage to the remaining lands.

Should you elect to accept this offer, the State will determine if you can convey a merchantable title, and if so, a proper deed conveying the land to the Arkansas State Highway Commission will be prepared and you will be paid the amount contained in the written offer.

If you make a final rejection of this offer, and if the Arkansas State Highway Commission elects to do so, a condemnation suit will be filed and the amount that the Arkansas State Highway Commission has determined to be estimated just compensation for your property will be deposited into the Registry of the Circuit Court of the County. You may at this time elect to accept the amount deposited as just compensation for your property. If you elect to do so, the Circuit Court

will be asked to enter Judgment in the sum of the estimated just compensation and this amount will be paid to you thereby disposing of the condemnation suit.

If you do not elect to accept the amount deposited as estimated just compensation, then you may withdraw the amount placed on deposit as estimated just compensation without prejudice to your rights to claim additional compensation. In this event, you will be entitled to a trial by jury by the Circuit Court of the County in which your lands are situated to determine just compensation for your lands condemned.

In either event, payment of the estimated just compensation will be made available to you prior to vacating your property.

Yours truly,

James D. Gaither
Division Head
Right of Way Division

JDG:lm

AUTHORIZATION FORM

Form must be filled out completely, signed and turned into Administrative immediately following first contact.

JOB # 040273 TRACT # 13, 12E

PROPERTY OWNER: City of Fayetteville

ADDRESS: _____

_____

TELEPHONE # _____

MORTGAGE COMPANY None

ADDRESS: _____

_____

TELEPHONE # _____

LOAN # _____

CONTACT PERSON: _____

Due to the construction of the above mentioned project we are acquiring property from your mortgagor. It will be necessary to obtain a Partial Release from your company. The mortgagor is aware that some or all the proceeds from this transaction may be required to be applied to the principle balance of the mortgage. The mortgagor is also aware that we will be negotiating only with the mortgagor and that any checks for funds conveyed will be made to the property owner.

By our signatures we are authorizing the Arkansas State Highway & Transportation Department to enter into the process necessary to obtain a Partial Release.

Mortgagor's Signature _____ Date _____

_____

JOB 040273
TRACT 12E

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT City of Fayetteville for and in consideration of One thousand dollars, ($1,000.00), and other valuable considerations, to cash in hand paid by the Arkansas State Highway Commission, the receipt of which is hereby acknowledged, do hereby give and grant to the Arkansas State Highway Commission, it successors and assigns an exclusive temporary right of way and temporary easement for the sole purposes necessary for Highway construction, together with free ingress and egress, to, across, through and over the lands shown on the Right of Way Plans for Job No. 040273 , and designated as Tract No. 12E situated in the County of , State of Arkansas.

This temporary easement as conditioned above shall terminate when the above subject job has been completed by the contractor and accepted by the Arkansas State Highway Commission.

TO HAVE AND TO HOLD the same unto the said Arkansas State Highway Commission and to its successors and assigns for and during the term aforesaid and for the purposes hereinabove set forth.

WITNESS my signature of this day of , 20 .

_____
(SIGNATURE)

_____
(SIGNATURE)

JOB 040273
TRACT 12E

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT City of Fayetteville for and in consideration of One thousand dollars, ($1,000.00), and other valuable considerations, to cash in hand paid by the Arkansas State Highway Commission, the receipt of which is hereby acknowledged, do hereby give and grant to the Arkansas State Highway Commission, it successors and assigns an exclusive temporary right of way and temporary easement for the sole purposes necessary for Highway construction, together with free ingress and egress, to, across, through and over the lands shown on the Right of Way Plans for Job No. 040273 , and designated as Tract No. 12E situated in the County of , State of Arkansas.

This temporary easement as conditioned above shall terminate when the above subject job has been completed by the contractor and accepted by the Arkansas State Highway Commission.

TO HAVE AND TO HOLD the same unto the said Arkansas State Highway Commission and to its successors and assigns for and during the term aforesaid and for the purposes hereinabove set forth.

WITNESS my signature of this day of , 20 .

_____
(SIGNATURE)

_____
(SIGNATURE)

ACKNOWLEDGMENT

STATE OF)
) SS
COUNTY)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public, within and for the County aforesaid, duly commissioned and acting_____

_____

to me well known as the Grantor(s) in the foregoing Contract to Sell and State that_____has executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public____day of_____, 20_____.

MY COMMISSION EXPIRES:

NOTARY PUBLIC

No person lawfully occupying real property shall be required to move from a dwelling, business or farm operation without 30 days written notice from the date of payment of the consideration set forth herein.

The Arkansas State Highway Commission is hereby authorized and directed to make payment of the purchase funds for the conveyance to _____

_____.

Dated this_____day of_____, 20_____.

_____
Signature
SS#_____

_____
Signature
SS#_____

_____
Signature
SS#_____

_____
Signature
SS#_____

ACKNOWLEDGMENT

STATE OF)
) SS
COUNTY)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public, within and for the County aforesaid, duly commissioned and acting_____

_____

to me well known as the Grantor(s) in the foregoing Contract to Sell and State that_____has executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public_____day of_____, 20_____.

_____
NOTARY PUBLIC

JOB NAME Maple Street – Highway 112S (Fayetteville)

JOB 040273
TRACT 12
FAP STPH-9142(9)

CONTRACT TO SELL
REAL ESTATE FOR HIGHWAY PURPOSES

Grantor City of Fayetteville
Address 113 West Mountain, Fayetteville, AR 72701

Grantee: ARKANSAS STATE HIGHWAY COMMISSION

IN CONSIDERATION of the benefits that will inure to the Grantor(s) and the public, the undersigned does hereby give and grant to the Arkansas State Highway Commission, an agency of the State of Arkansas, upon the terms and conditions hereinafter stated, the right to purchase the following described real estate, save and except the oil and gas only therein and thereunder, situated in the County of Washington, State of Arkansas, to wit:

LEGAL DESCRIPTION

Part of Lot 11, Block 13 of Rose Hill Addition to the Town of Fayetteville, Washington County, Arkansas, more particularly described as follows:

Starting at the Southeast Corner of Lot 7, Block 13 of Rose Hill Addition, said point also being on the Northerly existing right of way line of Cleveland Street; thence North 87° 15' 56" West along said existing right of way line a distance of 140.06 feet to a point on the Easterly existing right of way line of State Highway 112; thence North 02° 42' 23" East along said existing right of way line a distance of 210.34 feet to a point on the Easterly proposed right of way line of Arkansas State Highway 112 for the point of beginning; thence continue North 02° 42' 23" East along the Easterly existing right of way line of Arkansas State Highway 112 a distance of 39.57 feet to a point on the North line of Lot 11; thence South 86° 44' 00" East along said North line a distance of 13.48 feet to a point on the Easterly proposed right of way line of State Highway 112; thence South 21° 34' 30" West along said proposed right of way line a distance of 41.67 feet to the point of beginning and containing 267 square feet more or less.

JK/ll
9/26/01

IMPROVEMENTS	APPRAISED SALVAGE VALUE	RETAINED BY GRANTOR YES	RETAINED BY GRANTOR NO	AMOUNT OF BOND REQUIRED	WILL POSSESSION OF IMPROVEMENTS NOT RETAINED
Masonry Wall	-0-			-0-	**At Closing**
Flower Beds	-0-			-0-	At Closing

Grantor(s) agrees that the items checked for removal for salvage will be removed on or before 30 days after closing and expressly waives all claims for damage, injury or loss on account of such removal by him, or removal after this date by the Arkansas State Highway Commission, due to failure of Grantor(s) to complete removal by the designated date.

COMPENSATION BREAKDOWN :

APPRAISED VALUE of Real Estate Including Damages to Remainder $ 2,150.00

LESS SALVAGE VALUE - IMPROVEMENTS RETAINED $ _____

NET PAYMENT DUE $ _____

The Grantor(s) agrees to put up bond at the time of closing of this transaction for the removal of improvements retained, in the amount of N/A .

Grantor(s) further agrees neither to sell nor encumber the said real estate during the term of the Contract to Sell. In the event that any buildings, fixtures, appurtenances, or other improvements are to pass to and become the property of the Commission in connection with the real property herein covered, Grantor(s) agrees to keep the same in good condition without waste, damage or destruction. Grantor(s) also agrees to allow the Commission permission to enter upon that part of the remaining property necessary for the sole purpose of removing any improvements acquired by the Commission, which lies outside the right of way, and not retained by the Grantor, or for the removal of foundations of improvements which are retained.

The Commission shall have the irrevocable right to exercise the "Contract to Sell" at any time within (90) days from date; and it is agreed that if, within the time above specified, the said Commission shall declare its intention to exercise this "Contract to Sell", including the right to purchase the said land, the Grantor(s) will sign and execute a Warranty Deed when presented by the Commission and receive payment of the stated "Net Payment Due" from the said Commission, less any amount that may be found due and payable to any mortgagee. Unless stated to the contrary herein the conveyance shall include buildings, improvements, and appurtenances to the land described. It is expressly understood that the said commission shall not be obligated further unless stated herein to wit:

It is understood and agreed that closing costs will not accure to the Grantor(s) as the Grantee's Attorney will prepare the necessary documents for closing and the Grantee will pay the cost of recording all instruments conveying title to the Arkansas State Highway Commission.

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Telephone (501) 569-2000

P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400

City of Fayetteville
113 West Mountain
Fayetteville, Ar 72701

2/4/02

Re: Job: 040273
STPH-9142 (9)
Maple St. –Hwy. 112S (Fayetteville)
Washington County
Tract: 27

117 +/- SF

Leah Lyon
501-569-2141

Dear Property Owner(s):

A negotiator for the Arkansas State Highway Commission presented to you a Contract to Sell offering to purchase the fee simple title to your property needed for highway purposes. A description of the property needed is attached hereto.

The offer of $250.00 is based on the opinion of a qualified real estate appraiser. The offered amount is based on the market value concept and is broken down as follows: $250.00 as just compensation for the realty to be acquired and $-0- for damage to the remaining lands.

Should you elect to accept this offer, the State will determine if you can convey a merchantable title, and if so, a proper deed conveying the land to the Arkansas State Highway Commission will be prepared and you will be paid the amount contained in the written offer.

If you make a final rejection of this offer, and if the Arkansas State Highway Commission elects to do so, a condemnation suit will be filed and the amount that the Arkansas State Highway Commission has determined to be estimated just compensation for your property will be deposited into the registry of the Circuit Court of this County. You may at this time elect to accept the amount deposited as just compensation for your property. If you elect to do so, the Circuit Court will be asked to enter Judgment in the sum of the estimated just compensation and this amount -will be paid to you thereby disposing of the condemnation suit.

If you do not elect to accept the amount deposited as estimated just compensation, then you may withdraw the amount placed on deposit as estimated just compensation without prejudice to your rights to claim additional compensation. In this event, you will be entitled to a trial by jury by the Circuit Court of the County in which your lands are situated to determine just compensation for your lands condemned.

In either event, payment of the estimated just compensation will be made available to you prior to vacating your property.

Yours truly,

James D. Gaither
Division Head
Right of Way Division

JDG:lm

Garland Ave.
A. 3. Page 19

COMPENSATION ESTIMATE
FOR
ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

JOB: 040273 PROJECT: STPH-914(19) COUNTY: Washington TRACT: 27
LOCATION: Maple St.-HWY. 112S (Fayetteville)

FEE OWNER: City of Fayetteville
ADDRESS: 113 West Mountain; Fayetteville AR 72701
TELEPHONE: 501-575-8206

AREA OF THE WHOLE: 117± S.F. PERMANENT EASEMENT(S):
AREA OF REMAINDER: 0.00± S.F. TEMPORARY EASEMENT(S):
AREA OF ACQUISITION: 117± S.F. HIGHEST & BEST USE: Assemblage
(Title Certificate and Legal Description Attached)

LOCATION OF PROPERTY: Near the Weddington Ave. & Garland Ave. intersection
FRONTAGE: 31.88± Ft.
DEPTH: 7.57± Ft.
TOPOGRAPHY: Gently Sloping
IMPROVEMENT TYPE: None
UTILITIES: Urban

COMMENTS:

ESTIMATED VALUE OF ACQUISITION:

FEE TITLE: 117± S.F. @ minimum value	$	250.00
TEMPORARY EASEMENT(S):	$	
PERMANENT EASEMENT(S):	$	
VALUE OF IMPROVEMENTS ACQUIRED:	$	
COST TO CURE ITEMS:	$	
DAMAGE TO REMAINING PROPERTY:	$	
SUBTOTAL:	$	250.00
SIGNS:	$	
TOTAL COMPENSATION AS OF	$	250.00

BASIS FOR LAND VALUE: 1,11,12,13

CERTIFICATION

I hereby certify that in the preparation of this Estimate I have personally inspected this property; that I have no present or contemplated future interest therein; that compensation to me for this estimate is not contingent upon my value conclusions herein set forth; and that all statements herein are true to the best of my knowledge and belief.

Steven A. Means

Steven A. Means

January 23, 2002
Date

ADMINISTRATIVE APPROVAL:

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPT.
RECEIVED
JAN 23 2002
ACQUISITION SECTION

Ark. Hwy. No. 112-S Wedington Dr./Garland St. Right of Way
Part of Parcel No. 765-02572-001

FILED FOR RECORD
'01 AUG 17 AM 9 03
WASHINGTON CO. ARK.
B. STAMPS

WARRANTY DEED
CORPORATION

BE IT KNOWN BY THESE PRESENTS:

THAT **Hopkins, Inc.**, an Arkansas corporation, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land situated in the County of Washington, State of Arkansas, to-wit:

A certain parcel of land located at the Southwest corner of the intersection of Wedington Drive (Arkansas Highway No. 112-S) and Garland Avenue, in the City of Fayetteville, being situated in the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section 8, Township 16 North, Range 30 West of the 5th Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit: Beginning at a point North 03° 04' 02" East 997.06 feet and North 87° 08' 32" West 25.53 feet from a railroad spike marking the Southeast corner of the NE¼ of the SE¼ of said Section 8; thence North 87° 08' 32" West 7.57 feet to a point; thence North 02° 24' 37" East 30.64 feet to a point; thence South 11° 27' 07" East 31.62 feet to the Point of Beginning, containing 0.0027 acres (116 sq. ft.), more or less.

TO HAVE AND TO HOLD the said lands and appurtenances hereunto belonging unto the said Grantee and Grantee's successors and assigns, forever. And the said Grantor, hereby covenants that it is lawfully seized of said lands and premises; that the same is unencumbered, and that the Grantor will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS the execution hereof on this 6 day of August, 2001.

HOPKINS, INC.

BY: John M. Hopkins
John M. Hopkins, Pres.
(Please print or type Name and Title)

ATTEST:

Sandra G. Hopkins
SANDRA G. HOPKINS, SECTR.
(Please print or type Name and Title)

~~(Seal)~~

ACKNOWLEDGMENT

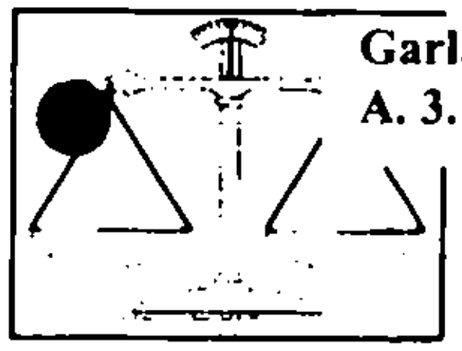
STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

Garland Ave.
A. 3. Page 20

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



Garland Ave.
A. 3. Page 21

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **John Maguire**

FROM: **Kit Williams**, City Attorney

DATE: **February 5, 2002**

RE: **Sale of Real Property**

A.C.A. §14-54-301 (enclosed) states that cities are "empowered to acquire and hold real estate .... "

A.C.A. §14-54-104 (enclosed) states that cities of the first class shall have the power "where lands have been acquired ..., the lands may be used ... or sold by order of the city council .... "

I hope this answers your question concerning the City's legal authority to acquire and sell real property.

Statutory provisions relating to motor vehicles did not repeal or supersede this section or affect the authority of municipalities to regulate the use of streets by trucks. House v. City of Texarkana, 225 Ark. 162, 279 S.W.2d 831 (1955).

Cited: City of Little Rock v. Linn, 245 Ark. 260, 432 S.W.2d 455 (1968); Arkansas County v. Burris, 308 Ark. 490, 825 S.W.2d 590 (1992).

14-54-104. Additional powers of cities of the first class.

In order to better provide for the public welfare, safety, comfort, and convenience of inhabitants of cities of the first class, the following enlarged and additional powers are conferred upon these cities:

(1)(A)(i) To regulate the use of sidewalks, and all structures and excavations thereunder, to require the owner or occupant of any premises to keep the sidewalks in front or alongside the premises free from obstruction, to build and maintain suitable pavement or sidewalk improvements therealong whenever they may become necessary to the safety or convenience of travel, and to designate the kind of sidewalk improvement to be made, the kind of material to be used by the owner or occupant, and the time within which the improvement is required to be completed.

(ii) The kind and character of sidewalk improvement for the same street and block shall be uniform.

(B)(i)(*a*) Sidewalk improvement shall be ordered, either by a general ordinance for all property owners or occupants on a certain street or within a certain quarter where the necessity of sidewalks is general to that extent, or by a resolution or order adopted by the city council and notice served upon the particular individuals owning or occupying the premises where the special necessity exists.

(b)(*1*) In either case, the city shall have power to enforce obedience to the sidewalk ordinance, order, resolution, or notice upon the owners or occupants failing or refusing to obey them by the imposition of fines upon conviction thereof in the police court, in like manner and with like consequences and effect as for a violation of any other ordinance of the city.

(2) Each day that the failure or refusal is continued shall constitute a separate offense.

(ii) After the owner, upon notice, has failed to repair it, in cases where the sidewalk improvement shall be constructed by an occupant who holds the premises as a tenant or lessee, he shall have the right to deduct the cost thereof from the rent that may be due from him, or to hold the possession of the premises for such time as the rental value thereof will be sufficient to reimburse him for the cost.

(iii) Nothing contained in this subdivision shall be so construed as to prevent the city from proceeding by civil action or in any other manner provided by existing laws.

(2) To alter or change the width or extent of streets, sidewalks, alleys, avenues, parks, wharves, and other public grounds, and to vacate or lease out such portions thereof as may not for the time being be required for corporate purposes, and where lands have been acquired

STAFF REVIEW FORM

X AGENDA REQUEST
CONTRACT REVIEW
X GRANT REVIEW

r the Fayetteville City Council meeting of April 16, 2002

FROM:

Rick Hoyt	Police	Police
Name	Division	Department

ACTION REQUIRED:
City council approves Mayor Coody to sign a grant application with the Department of Justice Bulletproof Vests Partnership program. This is a four (4) year grant and can be utilized at any time during the four years.

COST TO CITY:

$97,850.00	$51,641/$246,539	Law Enforcement Trust/Services & Charges
Cost of this Request 1010-1519.00 1010-2940-5302.00	Category/Project Budget 65,222	Category/Project Name Trust/ Uniforms & Equipment
Account Number	Funds Used To Date $51,641/232,958	Program Name General
Project Number	Remaining Balance	Fund

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:**

Marsha Fuchs — Accounting Manager — Date 3/29/02
Nancy Smith — Internal Auditor — Date 3/29/02
City Attorney — Date 3/29/02
ADA Coordinator — Date
Purchasing Officer — Date 3/29/02
Grants Coordinator — Date

STAFF RECOMMENDATION: **City Council authorize Mayor Coody to apply for the Department of Justice Bulletproof Vest Partnership Grant**

Division Head — Date
Eldon R. Roberts — Department Director — Date 3/29/02
Administrative Services Director — Date 4/3/02
Mayor — Date

Consent
New Business

Cross Reference

New Item: **Yes** **No**

Prev Ord/Res #:

Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and the City Council

FROM: Rick Hoyt, Interim Chief of Police

DATE: March 27, 2002

SUBJECT: Application for the Bulletproof Partnership Grant

The Fayetteville Police Department is requesting authorization to apply for a grant to upgrade the protective vests worn by all sworn personnel. The Department recently became aware of this Federal Grant opportunity which will offset the cost of the vests by 50%. Currently, the Department carries in the annual budget approximately $8,000.00 per year to replace protective vests. Protective vests have a five year warranty and the Department is in a continual mode of replacing vests as they become 5 years old.

The matching funds for this grant will be available from our operating budget over the next four years. If additional funds are needed to meet the match, the expense will be charged to the Law Enforcement Trust account. Therefore, a budget adjustment will not be required for matching funds.

The technology of the materials used in manufacturing bulletproof vests has changed over the past few years and vests have become more flexible (wearable) and at the same time their bullet resistance has improved. The vests our officers currently wear have a threat level of II (2). This threat level resists rounds up to a 12 gauge "00" buckshot fired from a 20 inch barrel with a velocity of 1297 feet per second or a 9 mm 124 grain full metal jacket (FMJ) round nose (RN) fired from a 4 inch barrel with a velocity of 1090 feet per second.

With this new grant the Department is proposing to upgrade officers' vests to the threat level III A (3A). These vests are lighter and more comfortable to wear. This threat level resists rounds up to a .44 Mag 158grain semi wad cutter (SWC) round being fired from a six inch barrel with a velocity of 1400 feet per second and a 9 mm 124 grain full metal jacket (FMJ) from a 9.5 inch barrel with a velocity of 1400 feet per second.

This federal grant will enable us to continue our normal process of replacing vests, but we will be able to substantially upgrade the comfort and ballistic protection of the vests and have Federal funds offset the cost.

BVP Application for Funding

Jurisdiction: FAYETTEVILLE CITY
Application Id: 02011940
Jurisdiction Contact: Judy Cohea
(479) 587-3510
cohea@fpd.city.fay.ar.us
Status: Open Application
Last Date Submitted to BVP:

Product: **XTXS3A-1** (Threat Level: **IIIA** / Gender: **M**)
Manufacturer: ***American Body Armor and Equipment, Inc.***
Vendor: ***Cruse Uniform & Equipment***

Quantity:	95	Unit Price:	925.00	Extended Cost:	87875.00
Tax, Shipping & Handling Cost:	2375.00	Total Cost:	90250.00	Date Added:	03/29/02

Change this item Remove this item

Product: **XTXS3A-1** (Threat Level: **IIIA** / Gender: **M**)
Manufacturer: ***American Body Armor and Equipment, Inc.***
Vendor: ***Cruse Uniform & Equipment***

Quantity:	8	Unit Price:	925.00	Extended Cost:	7400.00
Tax, Shipping & Handling Cost:	200.00	Total Cost:	7600.00	Date Added:	03/29/02

Change this item Remove this item

Totals:

Quantity:	103	Unit Price:	N/A	Extended Cost:	95275.00
Tax, Shipping & Handling Cost:	2575.00	Total Cost:	97850.00		

STAFF REVIEW FORM

xx _ AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW

For the Fayetteville City Council meeting of April 16, 2002

FROM:

Connie Edmonston	Parks and Recreation	Urban Development
Name	Division	Department

ACTION REQUIRED:
Waiver of Ordinance 3793 to accept land and money in lieu as the park land requirement of the Legacy Pointe Development.

COST TO CITY:

$n/a	$	
Cost of this Request	Category/Project Budget	Category/Project Name
	$	
Account Number	Funds Used To Date	Program Name
	$	
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager | Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY: _____

Marsha Farthing	4/2/02	Nancy Smith	4/2/02
Accounting Manager	Date	Internal Auditor	Date
D. P. Whitaker	4/3/02		
City Attorney	Date	ADA Coordinator	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:
Waiver of Ordinance 3793 to accept partial land and money in lieu as the park land requirement of Legacy Pointe Development.

Connie Edmonston	4-2-02	
Division Head	Date	Cross Reference
Hugh Earnest	4-2-02	
Department Director	Date	New Item: (Yes) No
Jeff Wilson	4/2/02	
Administrative Services Director	Date	Prev Ord/Res #: __
Dan Coody		Orig Contract Date:_
Mayor	Date	Orig Contract Number: ____

Consent ✓
New Business ___

TTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Coody and City Council

THRU: Hugh Earnest, Urban Development Director

FROM: Connie Edmonston, Parks & Recreation Superintendent CE.

DATE: April 2, 2002

SUBJECT: Waiver of the Park Land Dedication Ordinance 3793

Background

Legacy Pointe is a proposed subdivision located on the western boundary of our city south of Highway 16 and east of Double Springs Road. The owner is Charles Sloan and the engineer is Jorgensen and Associates. The subdivision contains 108 single-family units and 48 multi-family units on 50 acres. The requirement for park land is 3.635 acres and money in lieu is $68,290. The Park Land Dedication Ordinance states if a large scale development is over 40 acres or 100 units, the requirement is land.

> *"...However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study."* (Unified Development Ordinance No. 166.03K)

Current Status

Parks and Recreation staff met with the owner and engineering firm to evaluate the site. The development was presented to the Parks and Recreation Advisory Board on April 1, 2002. See attached minutes with conditions of approval.

Recommendation

Parks and Recreation staff and Parks and Recreation Advisory Board recommend a combination of land and money as the requirement. Park land in this area is recommended by the Parks Master Plan. The park land acreage acceptable by park staff and the developer is 3.42 acres, which is .215 acres short of the required 3.635 acres. This land shortage calculates to a contribution of $4,039.16 in money in lieu of land, thus requiring a wavier of the Park Land Dedication ordinance.

Attachments:
Location Map
PRAB April 1, 2002 Meeting Minutes
Letter Jorgensen & Associates

STAFF REVIEW FORM

Description Waiver of Ordinance 3793 Meeting Date April 16, 2002

Comments:
Budget Coordinator

Reference Comments:

Accounting Manager

City Attorney

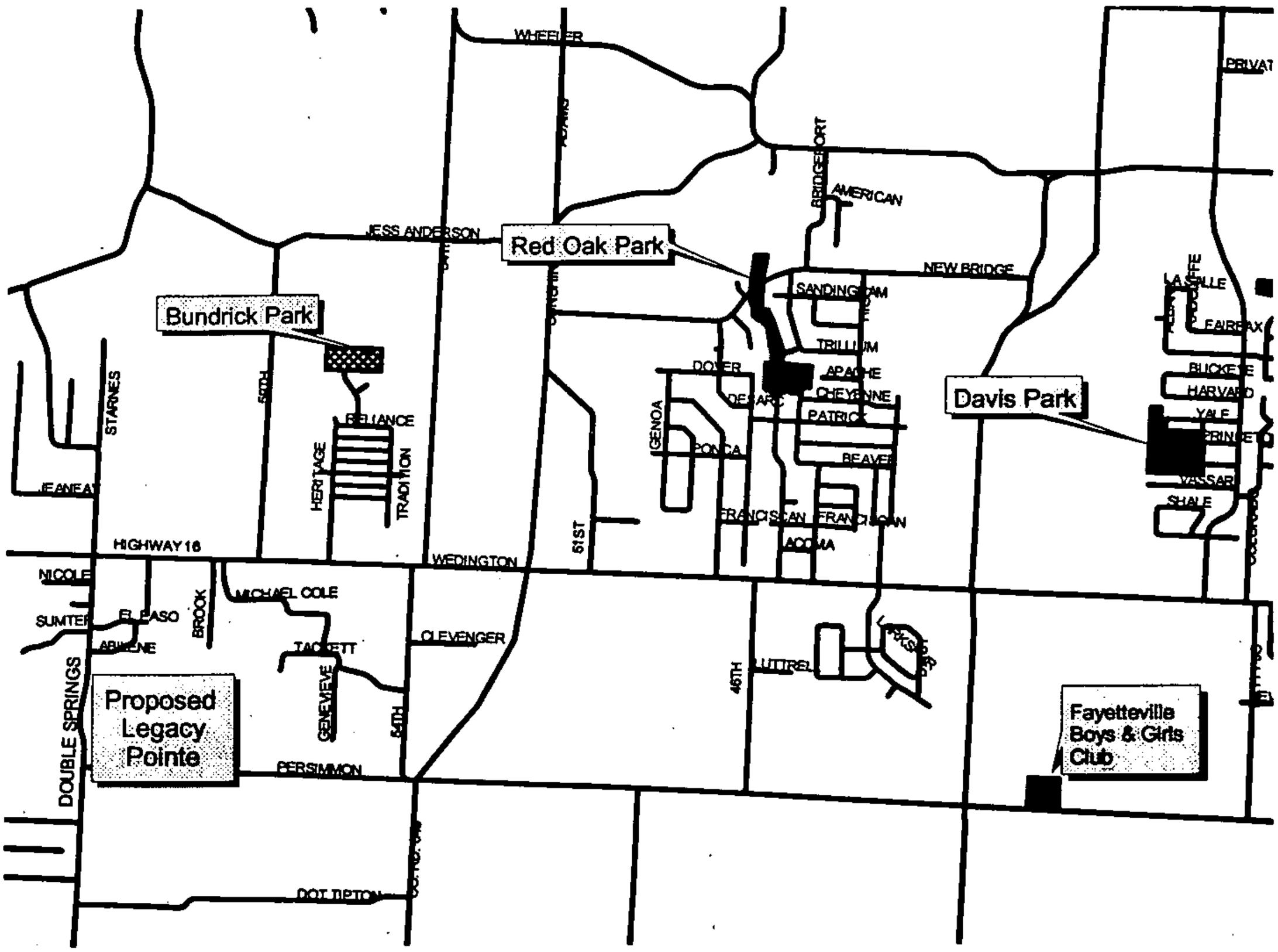
Purchasing Officer

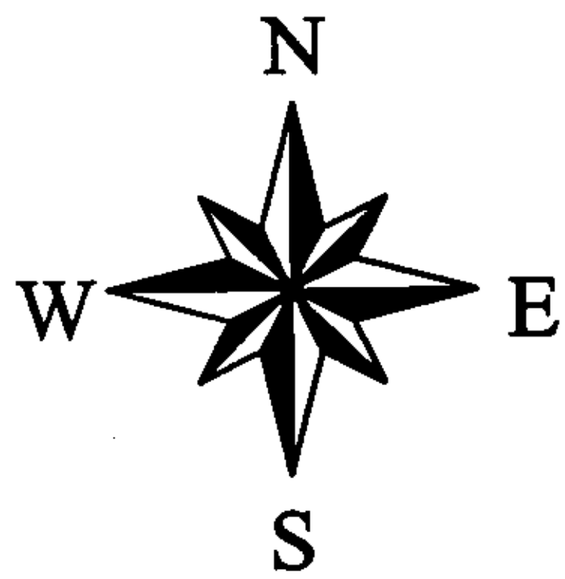
ADA Coordinator

Internal Auditor

Note: PRAB Minutes will be attached as soon as they are completed.

Proposed Legacy Pointe Subdivision





JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (501) 442-9127 • FAX (501) 582-4807
DAVID L. JORGENSEN, P.E., P.L.S.
THOMAS HENNELLY, P.E.
CHRISTOPHER B. BRACKETT, P.E.

April 1, 2002

City of Fayetteville
Parks & Recreation Division
113 W. Mountain Street
Fayetteville, AR 72701

Attn: Kim Rogers
Re: Legacy Pointe Subdivision

Dear Kim:

The owner of the Legacy Pointe Subdivision is requesting a combination of parkland dedication and the money in lieu of option for the parks' requirement for this development.

Please call concerning any questions you may have.

Thank you

Sincerely;

Christopher B. Brackett

Christopher Brackett, P.E.

IX.	**Development:**	**Legacy Pointe Subdivision**
	Engineer:	Jorgensen & Associates, Chris Brackett
	Owner:	Charles W. Sloan
	Location:	East of Double Springs Road
	Park District:	SW
	Units:	Single 108 units
		Multi 48 units
	Acres:	49.80 acres
	Land Dedication Requirement:	3.635 acres
	Money in Lieu:	$68,290
	Existing Park Land:	Bundrick Park (4.25 acres)
	Developer's Request:	Land and Money Dedication
	Staff Recommendation:	Combination of money and land dedication

Park staff has brought this development back to the Parks and Recreation Advisory Board for review because the housing units have changed requiring a combination dedication of land and money in lieu. The park land dedication received from this development is 3.42 acres. The acreage required is 3.635 acres leaving a balance of 0.215 acres due, which calculates to $4,039.16. The developer has agreed to install parking facilities to serve this new park. The combination dedication of land and money in lieu will require a waiver from the City Council.

Park staff recommends a combination of money and land dedication with the following conditions:

1) Developer will provide a paved entry between lots 11 and 12 which will include required parking space bumpers and markings. Final design must be approved by Park staff.
2) The POA will have the responsibility of mowing the hillside located behind lots 1, 2, and 3.
3) Developer will provide mowing maintenance for all park land acreage for two years from the date the City receives the deed for the park land.
4) The detention pond will not be located on park property.
5) Any drainage swales or storm drains located on park property must be approved by Park staff.
6) The park land will not be governed by the POA covenants, with the exception of the mowing of the hillside. This must be stated in the writing of the covenants.
7) Jorgensen & Associates have agreed to set park boundary signs as provided by the Parks and Recreation Division.

Mr. Schuldt said the primary reason this development was being presented to the Parks and Recreation Advisory Board again is because the housing units have changed which affected the land and money dedication required.

MOTION:

Mr. Hill moved to recommend a combination of money and a land dedication subject to staff recommendations and request a waiver from City Council to satisfy the Park Land Dedication requirements for the proposed Legacy Pointe Subdivision.

Mr. Marley seconded the motion.

Upon roll call, the motion was approved 8-0-0.

STAFF REVIEW FORM

xx _ AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of April 16, 2002

FROM:

Connie Edmonston — Name
Parks and Recreation — Division
Urban Development — Department

ACTION REQUIRED:

Waiver of Ordinance 3793 to accept land and money in lieu as the park land requirement of the Ellis Development

COST TO CITY:

$n/a — Cost of this Request
$ — Category/Project Budget
Category/Project Name
Account Number
$ — Funds Used To Date
Program Name
Project Number
$ — Remaining Balance
Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Marsha Farthing — Accounting Manager — Date 4/2/02
Nancy Smith — Internal Auditor — Date 4/2/02
City Attorney — Date 4/3/02
ADA Coordinator — Date
Purchasing Officer — Date

STAFF RECOMMENDATION:

Waiver of Ordinance 3793 to accept partial land and money in lieu as the park land requirement of Ellis Development.

Connie Edmonston — Division Head — Date 4-2-02
Hugh Earnest — Department Director — Date 4-2-02
Administrative Services Director — Date 4/2/02
Lan Coody — Mayor — Date

Consent
New Business

Cross Reference

New Item Yes No

Prev Ord/Res #: __

Orig Contract Date:_

Orig Contract Number: ____

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Coody and City Council

THRU: Hugh Earnest, Urban Development Director

FROM: Connie Edmonston, Parks & Recreation Superintendent CE

DATE: April 2, 2002

SUBJECT: Waiver of the Park Land Dedication Ordinance 3793

Background
Ellis Development is a proposed large scale development located on Beechwood and Fifteenth Street, south of Baum Stadium. The owner is Tom Broyles and John Ellis and the engineer is Crafton, Tull Associates. The subdivision contains 480 multi-family units on 30 acres. The requirement for park land is 9.6 acres and money in lieu is $180,000. The Park Land Dedication Ordinance states if a large scale development is over 40 acres or 100 units, the requirement is land.

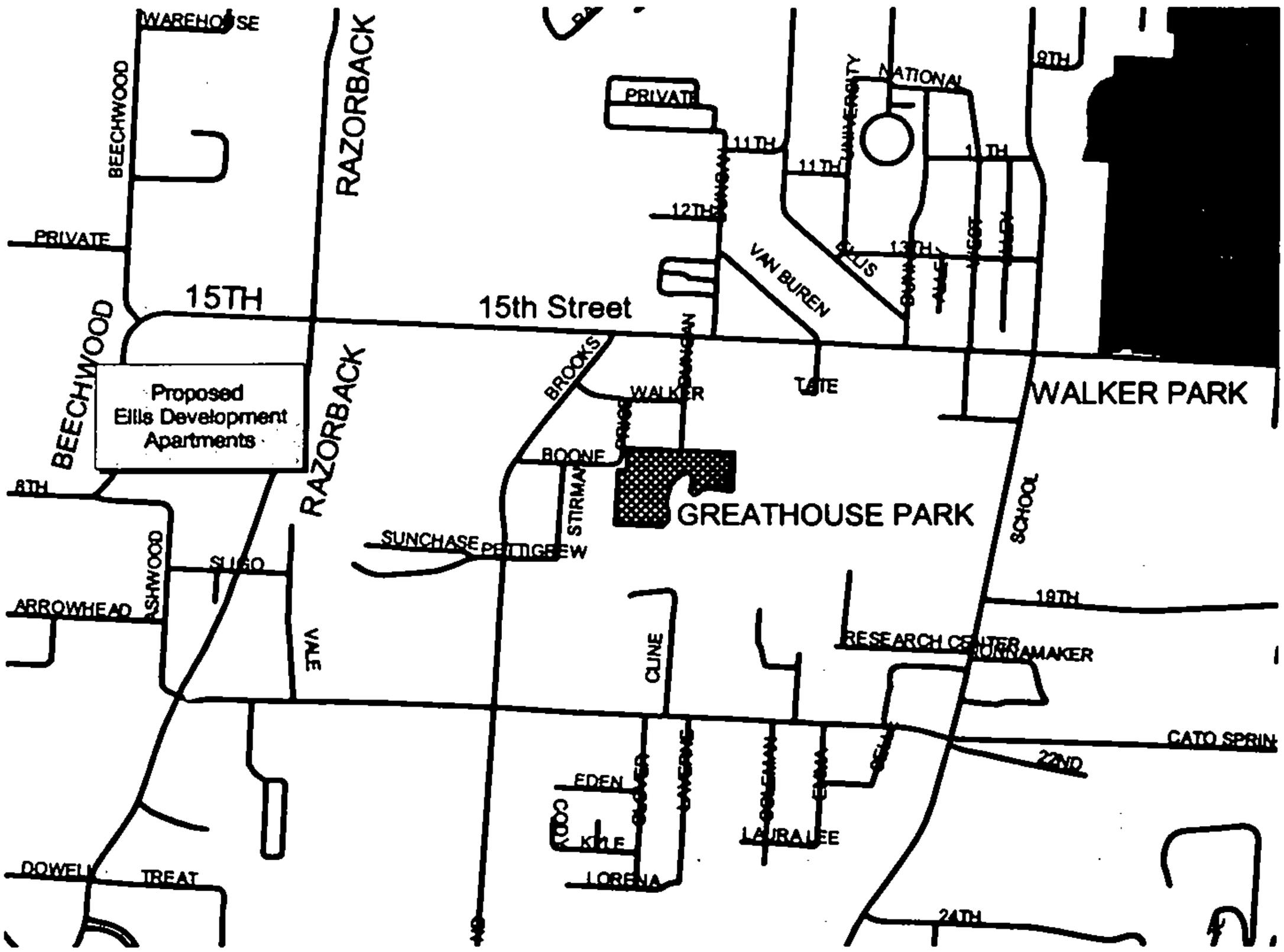
> *"...However, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks Board with instructions or further study."* (Unified Development Ordinance No. 166.03K)

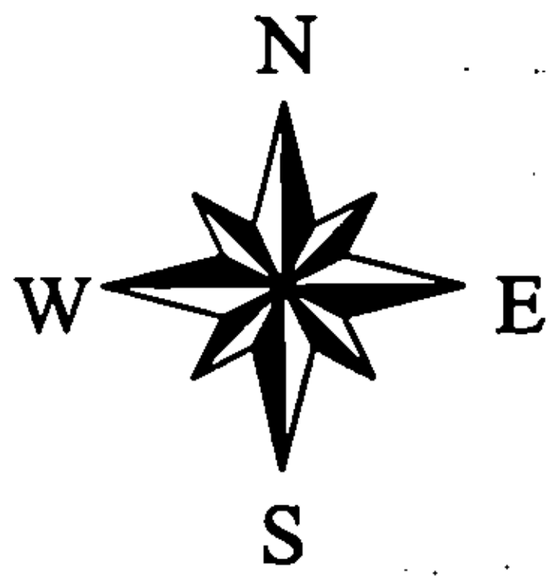
Current Status
Parks and Recreation staff met with the owner and engineering firm to evaluate the site. The development was presented to the Parks and Recreation Advisory Board on April 1, 2002. See attached minutes with conditions of approval.

Recommendation
Parks and Recreation staff and Parks and Recreation Advisory Board recommend a combination of land and money, with conditions, as the requirement. Park land in this area is recommended by the Parks Master Plan and is included on the proposed Master Trails Plan. The park land acreage approved by Parks and Recreation Advisory Board and recommended by the developer is approximately 6.65 acres, which is 2.95 acres under the required 9.6 acres. This land shortage calculates to a contribution of $55,312 in money in lieu of land, thus requiring a wavier of the Park Land Dedication ordinance. In addition, the developer has agreed to construct a trail, meeting city standards, on the land to be dedicated to the Parks and Recreation Division. In return, the developer has requested a financial credit of the money required from the ordinance to help defer the cost of trail construction. The credit will not exceed the money in lieu requirement for this development, regardless of the cost associated with construction of the entire trail corridor. This credit is recommended by Parks and Recreation Advisory Board and is forwarded to City Council for approval.

Attachments:
Location Map
PRAB April 1, 2002 Meeting Minutes
Letter Ellis Development

Proposed Ellis Development Apartments





IX.	**Development Name:**	**Ellis Development**
	Engineer:	Crafton, Tull & Associates, Jerry Kelso
	Owner:	Tom Broyles and John Ellis
	Location:	Beechwood and 15th Street, south of Baum Stadium
	Park District:	SW
	Units:	480 multi units
	Total Acres:	29.97 acres
	Land Dedication Requirement:	9.6 acres
	Money in Lieu Requirement:	$180,000
	Staff Recommendation:	Combination of money and land dedication with the following conditions:

a. Park land in this area is recommended by the Parks Master Plan.
b. Staff is recommending a natural greenway corridor.
c. The park land dedication must include a minimum of a 30' corridor north of the floodway.
d. The park land dedication will only be accepted after the proposed land is cleared of all debris and construction materials.
e. The park land will be continuous to Razorback Road.
f. The detention ponds will not be accepted as part of the dedication.
g. The developer must utilize natural stream bank stabilization methods, approved by park staff, to minimize substantial erosion in identified areas along the greenway corridor.
h. The developer has offered to build a trail within this greenway corridor. Trail design, location and construction must meet hard surface multi-use trail specifications as determined by Park staff.

Jerry Kelso of Crafton, Tull & Associates and Tom Broyles presented plans to build apartments on the west side of the property bordering Beechwood, 15th Street, Razorback Road, and Town Branch creek. A greenway corridor would follow the creek, and a trail would be constructed at least thirty feet north of the floodway. The Ellis Development trail would connect to Razorback Road and follow Town Branch creek west, would cross Beechwood, and continue to the property line. Ms. Terry Eastin said neighborhood residents currently walk along Razorback Road because no other opportunities exist, but she pointed out that as traffic increases so does the risk associated with walking. Ms. Eastin said the neighborhood supported the development of a trail and was excited by the opportunity. Mr. Broyles said the University of Arkansas had expressed an interest in the development for possible family housing.

The Parks and Recreation Advisory Board visited the area and voiced concerns about the amount of debris which littered the creek and of other construction waste materials. Safety is a primary concern.

Mr. Kelso asked to work with staff regarding the 30-foot corridor in one area due to building restraints. He also asked for credit for the cleanup and for the trail construction. Ms. Edmonston said credit could not be given for cleanup, but a waiver of park land dedication fees could possibly be granted in exchange for trail construction. Speaking on behalf of the neighborhood, Ms. Eastin urged the Parks and Recreation Advisory Board to grant the waiver since the money would be used to construct a trail which would not only benefit the development but the neighborhood as well. Ms. Edmonston said if the cost of the trail construction was under the money in lieu requirement, then the developer would be required to pay the difference.

Mr. Mauritson expressed concern of the amount of trash and debris and lack of a restoration plan. Discussion of cleanup methods followed. Ms. Eastin said she felt the neighborhood would pull together to help with cleanup efforts. The park land dedication will only be accepted after the proposed land is cleared of all debris and construction materials. Trail construction was another issue of concern. The soil must be able to support a hard surface trail. The design, location and construction will meet trail specifications as determined by Park staff.

MOTION:

Mr. Colwell moved to accept a land dedication subject to Park staff conditions and recommend a waiver of money in lieu fees to offset trail construction costs and to satisfy the Park Land Dedication Ordinance requirements for the proposed Ellis Development.

Mr. Marley seconded the motion.

Upon roll call, the motion was approved 8-0-0.

Crafton, Tull & Associates, Inc.
P.O. Box 549 Rogers, AR 72757 479.636.4838 Fax 479.631.6224 www.craftull.com

April 2, 2002

Connie Edmonston
City of Fayetteville
Parks & Recreation
113 W. Mountain
Fayetteville, AR 72701

RE: Ellis Development
Beechwood Ave and 15th Street
Fayetteville, Arkansas

Dear Ms. Edmonston:

This is a revised proposal request as discussed at the Parks Board Meeting on April 1st for the above referenced project. This is a proposed multi-family development consisting of 480 units total. Amenities such as a clubhouse and swimming pool will be available for the tenants. Also, a public walking trail will be constructed as a part of this project.

The Developer proposes a combination of dedicating land and credit for building a public trail to compensate for the remaining parks fees for the overall development of the project. The land dedication will encompass the proposed trail system to be constructed. As we understand it, by ordinance, the requirement is 0.02 acres per unit or $375 per unit:

- 480 units total
- Dedicate 6.65 acres for 332.5 units
- Construction of the trail will exceed the remaining parks fee which should be in the amount of $55,312.50 for the remaining 147.5 units

Let me know if you have any questions or need any additional information for next city council meeting.

Sincerely,

Crafton, Tull & Assoc.

Jerry Kelso, P.E.

Attachments: As stated

Copy: Tom Bunyan
John Ellis

APR 2 2002 11:23/ST. 11:22/NO. 6501170238 P 2

STAFF REVIEW FORM

X **AGENDA REQUEST**
____ CONTRACT REVIEW
____ GRANT REVIEW

r the Fayetteville City Council meeting of April 1, 2002.

FROM:

Tim Conklin	**Planning**	**Urban Development**
Name	Division	Department

ACTION REQUIRED: To approve an ordinance for RZN 02-7.00 as submitted by Lindsey & Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive, Fayetteville, Arkansas. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential.

COST TO CITY:

$		
Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used To Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:**

Accounting Manager Date Internal Auditor Date

City Attorney 4/2/02 Date ADA Coordinator Date

Purchasing Officer Date

STAFF RECOMMENDATION: Staff recommended approval and on March 25, 2002 the Planning Commission voted 9-0-0 to recommend approval and to forward the rezoning to the City Council.

3-28-02
Division Head Date

4-3-02
Department Director Date

4/3/02
Administrative Services Director Date

Date

Consent
New Business

Cross Reference

New Item: **Yes**

Prev Ord/Res #:

Orig Contract Date:

Orig Contract Number:

'heresa M. Bechaud
/o Countrywide Home Loans
004 N. College, Suite F.
'avetteville. AR. 72703
RZN 02-7.00
C. 3. Page 2
Hackler
418 Valley Dr.
'ayetteville, AR. 72703

:lizabeth W. Landgraf
426 Valley Dr.
'ayetteville, AR. 72703

Vilham D. & Gayle Mckenzie
440 Valley Dr.
'ayetteville, AR. 72703

Lois Taylor
2452 Valley Dr.
'ayetteville, AR. 72703

Vonda Kay Cook
2464 Valley Dr.
'ayetteville, AR. 72703

Barbara E. Fitzpatrick &
Natalie Karnes
2500 Valley Dr.
'ayetteville, AR. 72703

Villiam T, Flynt
1332 W. Reed Valley Rd.
'ayetteville, AR. 72703

Carl & Sharon Myers
129 Skillern Rd.
'ayetteville, AR. 72703

John H. & Billie J. Stewart
411 Megan Dr.
Fayetteville, AR. 72703

Ronald G. &
Krystyna j. Harland
2425 Megan
Fayetteville, AR. 72703

Odell & Danita Ralston
2441 W. Megan Dr.
Fayetteville, AR. 72703

Brian H. & Cindy A. Tippit
2453 Megan
Fayetteville, AR. 72703

Victor M. Linares
2471 Megan
Fayetteville, AR. 72703

Bethel M. Spencer
2485 Megan
Fayetteville, AR. 72703

Christina E.
& Deborah W. Thomas
P.O. Box 1366
Fayetteville, AR. 72702

Christopher A.
& Mary Jo Tucker
2517 Megan Dr.
Fayetteville, AR. 72703

Susan Lee Carter
2531 Megan Dr.
Fayetteville, AR. 72703

Walter R.&
Majorie N. Niblock
P.O. Box 182
Fayetteville, AR. 72702

Deborah Sexton
.O. Box 953
Fayetteville, AR. 72702

Robert D.
& Beulah F. Taylor
2577 Megan
Fayetteville, AR. 72703

Christopher O. Mcclung
2591 Megan
Fayetteville, AR. 72703

James E.
& Sue E. Devore
2615 Megan
Fayetteville, AR. 72703

Troy A
& Holli H. Kestner
1240 Porter Rd.
Fayetteville, AR. 72703

Arnold D. Jacqueline S. King
1876 Holly
Fayetteville, AR. 72701

Cynthia O.Grosse
2647 Megan
Fayetteville, AR. 72701

Carl M. & Norma J. Osborn
3048 Straw Berry
Fayetteville, AR. 72703

ssie D. Luper
/o Mrs. Everett Luper
310 Porter Rd.
'ayetteville, AR. 72701

:ff T. Mattie L. Black
: E e S. Ross
585 S. Sheiffer Rd.
ayetteville, AR. 72701

'alvary Baptist Church
410 Porter Rd.
'ayetteville, AR. 72704

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 02-7.00 FOR A PARCEL CONTAINING APPROXIMATELY 11.94 ACRES AND LOCATED WEST OF PORTER ROAD AND NORTH OF VALLEY DRIVE, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY LINDSEY & ASSOCIATES ON BEHALF OF THE ESTATE OF MARIE FRANKIE HUGHES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: **That the zone classification of the following described property is hereby changed as follows:**

From R-1, Low Density Residential to RMF-12, Moderate Density Multi-Family Residential as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. **That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.**

PASSED AND APPROVED this _____ day of _____, 2002.

APPROVED:

DRAFT

By:_____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBT "A"

PART OF THE SE ¼ OF THE NE ¼ OF SECTION 7, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID SE 1/4 , NE ¼ THENCE S01°26'00"E 117.21 FEET TO THE POINT OF BEGINNING, THENCE N89°54'11"E 1284.27 FEET, THENCE S00°19'17"E 576.70 FEET TO THE CENTER OF THE CREEK, THENCE ALONG THE CENTER OF SAID CREEK N81°45'11"W 266.74 FEET, THENCE N74°36'06"W 184.84 FEET, THENCE N52°55'14"W 228.36 FEET, THENCE LEAVING SAID CREEK N00°33'08"W 270.60 FEET THENCE WEST 367.52 FEET, THENCE S01°26'00"E 525.11 FEET, THENCE S89°40'05"W 291.00 FEET, THENCE N01°26'00"W 605.74 FEET TO THE P.O.B.; CONTAINING 11.94 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

RZN 02-7.00: Rezoning (Lindsey Properties, pp 402) was submitted by Dave Jorgensen of Jorgensen & Associates on behalf of Lindsey Properties for property owned by the estate of Marie Frankie Hughes, Pauline Millsap, Administrator. The subject tract is located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Multi-Family Residential.

Estes: The next item on the agenda is item number four. This is the first item of new business. This is RZN 02-7.00, submitted by Dave Jorgensen of Jorgensen & Associates on behalf of Lindsey Properties for property owned by the estate of Marie Frankie Hughes, Pauline Millsap, Administrator. The subject tract is located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Multi-Family Residential. Staff recommends approval of the requested rezoning with the Bill of Assurance offered by the perspective developer based on the findings that are included as a part of your materials. Is the applicant or the applicant's representative present? Do you have a presentation that you would like to make at this time?

Lindsey: I am Lindy Lyndsey. Mr. Chair and fellow Commissioners, we've got Cornerstone Properties, which is just west of this sixteen acres and we are wanting to put 108 units of apartments and 9-10 single family dwelling units. When I first talked to Tim Conklin about this he advised me to contact Mr. Richard Maynard, who is the president of the Asbell Neighborhood Association and at that time he helped us out and we had several meetings with the neighbors. We put this, I want to say a special thank you to Richard for all the work that he has done with us. He stayed neutral in his stance, he got us a meeting. He hand delivered all kinds of stuff to the neighbors and really did a good job for us. We had a meeting with the neighbors and it went really well. We covered a lot of items and are just bringing that forward to you all.

Estes: Thank you Mr. Lindsey. Is there any member of the audience who would like to comment on this rezoning request, 02-7.00? If so, would you please come forward, state your name and provide us with the benefit of your comments?

Maynard: My name is Richard Maynard. I live at 1717 Sang Ave. I am here on behalf of the Asbell Neighborhood Association, the other partner in this. We certainly appreciate being appreciated and Mr. Lindsey's remarks. I just want to explain something about this meeting that we had on February 7th and I think the uniqueness of it. To the best of my knowledge, this kind of meeting has never happened before it went to city planning or before it went to this board. What did happen was Mr. Conklin had

advised Mr. Lindsey that it might be a good idea to talk to the neighborhood. He called me and I said I think the best thing to do would be having the neighborhood meeting. He said good, how do we go about that, what do I need to do? I basically told him he didn't need to do anything but show up. That is basically what we do here as a Neighborhood Association, we do provide that dialogue between the city, the neighbors, the developer. They came on February 7th, presented to us what they wanted to do. There was time for questions, there were a lot of good questions asked, the right questions were asked. After they left we took a straw vote, we even talked about maybe having a follow-up meeting, if people needed to talk about it more. The neighbors said they didn't think that was necessary. We took a straw vote, it was overwhelmingly in favor of this development and afterwards, not to just go on that, there was a task that I thought I could do in an afternoon of calling 90 people and seeing how they felt about this. The problem I had with it is it took hours and hours. What was interesting about this is that everybody was very charged. People didn't just want to say yes or say no, they wanted to say why they were saying yes or saying no to this, what their reasons were. They were excited about being involved in this process. I hope it is a process that we keep encouraging but not really demanding. I do have a copy of this and I want to say something about this vote. I asked Mr. Estes if I could and he said I could. This is about the roll of Neighborhood Associations in these meetings. We took a vote, we absolutely understand that this is not a binding vote, we are not regulatory bodies, we have no statutory authority, all this is is just to get a measure of the will of the neighborhood on how they feel about something going on in their neighborhood. If I may Mr. Chairman, I do have a result of that, copies for you, can I bring those up?

Estes: Yes, please pass them to the clerk.

Maynard: Just a couple more things. I know you have a heavy agenda tonight. The first line there is the total number of people at that meeting, 57. How many voted for and against. If you belong to the neighborhood association you have the right to vote whether you attend the meeting or not so that is the total vote and then these at the bottom, just for your information, incase you are interested, how it broke down street by street to those streets that would be most effected such as Megan Drive or Stable and Arthur Hart. I would like to say one thing about why I think this had such overwhelming support. I guess particularly since we raised such a stink 2 ½ years ago about other apartments that were going in our neighborhood. In fact, one person, a member of our board, voted against it for the very reason that she said I know this is going to come back to bite us. I said she was right, the attempt would come back to bite us. Why would we not want to give up R-1 property two years ago, but this time we

do. I think you folks know as well as we do, every development is different. Every proposal is different. There is nothing similar between those two developments outside the fact that they were apartments. Almost everything else was different. The consensus of those present, or members of the ANA in general, was that of course we would like to see more single family residences in the neighborhood but we don't believe that will happen in this particular 16 acres. Primarily given the amount of fill it would take to lift the and above the floodplain. It just wouldn't be cost effective. Our Vice President, who is here, is a builder himself. He looked at that land at one time possibly to do duplexes and he absolutely passed on it, he just didn't think he could make it work. We figure something is going to go in there, it probably will be apartments, if it is going to be apartments, we would rather it be a Lindsey development. At least we know what we are getting. Especially since this is basically an extension of their Cornerstone apartments directly to the west and it will certainly look better than what is there now, which looks more like a junkyard if you have ever seen that property. That is not my opinion. That is what I heard from the people who I talked to after the meeting. I would also like to add that this is an agreement, whether this means anything to you or not is another thing. It means a lot to us. This is an agreement between Lindsey & Associates and this neighborhood. Had it been another developer, had the example that we had been what was going to go in there for example what is sitting on the corner now at Dean and Porter I could almost guarantee you that the vote would have gone almost four to one the other way. The neighborhood is basically saying that we trust this developer and we appreciate the fact that they showed us the common courtesy and respect to us as property owners and residence to consult with us first about the change they are proposing for our neighborhood, which any zoning definitely is. It wasn't just their coming to talk to us that got the support of 80% of the neighborhood. The neighbors that thought this was not a good development for the neighborhood, they would have thanked the Lindseys but said no thanks. The Lindseys would have been well within their rights, as you know, to present their plans to the board. At least then everyone would know what we were talking about instead of what has happened so often in the past. It certainly happened with me in the past, you've come to oppose something that you are not quite sure what you are opposing. That certainly wasn't the case here. Just a couple of other points I want to make on this. That is basically just how we felt. Just some things that I have heard through the grapevine around the city about what the roll of Neighborhood Associations in these development plans. I certainly do not pretend to speak for my neighborhood. I only speak for the Neighborhood Association, I think that is an important distinction and I certainly pretend to speak for another Neighborhood Association but how we, in the Asbell Neighborhood Association, see ourselves as simply offering the forum for

a developer or the city to come and talk directly to the neighbors. Our role in this doesn't change anything else in place. We could be 100% behind the development and you might find for whatever reason that you don't want to approve it or vice versa, we recognize that. We respect that fact, we are not trying to replace anything. I think if more and more of these meetings happen however, you are going to find less and less of these contentious arguments being played out here before you and the City Council and you having to be forced to be judge and jury and always knowing you are going to make somebody unhappy. This is simply allowing neighbors and what I call potential neighbors to get together and talk and we did it without government help, without the help of lawyers or without their interference. We did it on our own to try to work out our problems instead of running to government anytime you have one. That is how we see our role in this, it is certainly not to replace any other public forum. As I said, it was 80% in favor. That means there were 20% against this and pretty vocally against this. They may have something to say here and they certainly should be listened to. Just a couple of things I want to say about the Bill of Assurance. All of these items, except for one were offered to us by the Lindseys. This was nothing that we had to negotiate and certainly we were not positioning ourselves as negotiators. Again, we were just providing the forum. I think the only thing we ask is that the homes that they offer, that they do be built, that is item F and item A, that the property shall revert back to R-1 zoning in the event the petitioner elects not to develop the property for multi-family use. I understand at least, Mr. Williams can correct me if I am wrong. Should that happen, I think that is an off chance but if they decide not to go through with this, we understand for that zoning to go back to R-1, that would have to go through this board and probably back to the City Council, is that correct? It couldn't just automatically revert?

Williams: I think that is probably correct. It s a legislative action so it would probably have to go back to the City Council.

Maynard: The reason that I brought it up is I just wanted to mention that is, again, what they suggested to us. That is an agreement between Lindsey & Associates and the Asbell Neighborhood Association and we hope if that should happen, I doubt that it will, but if that should happen that you would respect that agreement. One big concern here is of course, traffic. Mr. Lindsey said they are going to do what they can to work with us to help mitigate that. Certainly there will be more traffic on Porter Road. As Mr. Lindsey said, you are just going to have to reconcile that fact. Most people, in large, did reconcile that fact. The one thing we will not reconcile and we should not have to reconcile of course is the drainage. I have said this to Mr. Lindsey, I've said this to Tim Conklin, I have said it to Greg Boettcher, I've said it to the Mayor and I am going to say it to you

folks. The drainage is a big worry, it is a huge worry for us and I think it is for this neighborhood. The neighborhood feels, from past experience, that there is just a high degree of skepticism with the city that it won't be done right, given what happened when Wedington Road was widened. And given what happened when that big dam that we call I-540 was built with not enough culverts under it. It created tremendous drainage problems for people in that neighborhood. I am not implying that the Lindseys would do anything or cut any corners. I don't know what else to do other than ask you, plead with you, please, please, please make sure that this is done right in terms of the drainage. If this were to go wrong and people were starting to bail themselves out, I'm not talking about a repeat of the 1980 flood where we will all be on our roofs. This just has to be done right and it should be done right. The fact that it hasn't been done right in the past, and I hope you can appreciate that people are very skeptical but willing to trust once again. Given our meeting, given the will of the neighborhood, we support this development and we hope you approve it. Thank you for your time.

Estes: Thank you Richard. Is there any other member of the audience who would like to comment on this requested rezoning? Seeing none, I will bring the matter back to the Commission for discussions, motions or comments. Mr. Petrie, would you please comment on the drainage issue, in particular, what requirements are there regarding predevelopment flows and post development flows?

Petrie: When we do have a large scale development presented, the one item the Engineering Division will be checking is to ensure that the post development flows will equal the predevelopment flows. That is the ordinance requirements and that is what we enforce.

Estes: Thank you Mr. Petrie. Are there any other comments?

Shackelford: A question for staff. The Bill of Assurance form that we've been given, is that a form that the city provides to the applicant?

Conklin: That is a form that the City does provide if a Bill of Assurance is going to be offered to us.

Shackelford: Ok, I was questioning number three, specific activities will not be allowed upon petitioner's property to include and that is blank. Is that filled in at a later time?

Conklin: They are not offering anything for number three.

Shackelford: Ok, I just wanted to make sure I was reading that correctly.

Williams: Loren, I created this draft Bill of Assurance because in the past there were a number of Bills of Assurances offered by different developers. They didn't include rights of the city to enforce the Bill of Assurance or other problems so I felt like if we had a draft Bill of Assurance that I felt was enforceable then I would be able to tell you or the City Council that we in fact, did have a Bill of Assurance and therefore, I did draft up something. I simply had number three there where it says specific activities will not be allowed to include; because there might be certain times that that would be applicable but because it is not filled out now it just means that this was not one of those times.

Shackelford: Ok, by the fact that it is blank, we just read that to mean that there are no restrictions in that area.

Williams: That is correct.

Estes: Thank you Mr. Williams. Is there any discussion or any motions?

Motion:

Marr: I will move for approval and recommendation to the City Council, the rezoning 02-7.00 based on our staff report and the attached Bill of Assurance that goes with this item.

Estes: We have a motion by Commissioner Marr to approve RZN 02-7.00, is there a second?

Shackelford: I will second.

Estes: We have a second by Commissioner Shackelford. Is there any discussion?

Hoffman: I just want to commend both parties for doing their homework ahead of time. It really indeed does make our job much easier and I would like that those of you in the audience who might be here on other contentious projects and those of you that may be watching tonight, take due note of this. It really does do wonders to be able to sit down across the table from each other and work things out. Thank you both.

Estes: Thank you Commissioner Hoffman. We have a motion by Commissioner Marr and a second by Commissioner Shackelford for approval of RZN 02-7.00, is there any other discussion? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 02-7.00 to the City Council was approved by a vote of 9-0-0.

Estes: The motion to passes unanimously. RZN 02-7.00 will be forwarded to the Fayetteville City Council with a do pass recommendation by the Planning Commission. Thank you Mr. Lindsey.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Senior Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: March 25, 2002

RZN 02-7.00: Rezoning (Lindsey Properties, pp 402) was submitted by Dave Jorgensen of Jorgensen & Associates on behalf of Lindsey Properties for property owned by the estate of Marie Frankie Hughes, Pauline Millsap, Administrator. The subject tract is located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Multi-Family Residential.

RECOMMENDATION:

Staff recommends approval of the requested rezoning with the Bill of Assurance offered by the prospective developer based on the findings included as part of this report.

PLANNING COMMISSION ACTION:	**Required** **YES**	
	O Approved	**O Denied**
Date: March 25, 2002		
CITY COUNCIL ACTION:	**Required** **YES**	
	O Approved	**O Denied**
Date: April 16, 2002 (1st reading)		

Comments: _____

_____

_____

BACKGROUND:

The subject property is located west of Porter Road, south of Megan Drive and north of Wedington Drive (Hwy 16W). The applicant is proposing to purchase the subject property in addition to adjacent property which is currently zoned R-1 and is not a part of the requested rezoning. A development including both multi-family and single family dwellings is the goal of this rezoning request.

During the past several months, the applicant has met with the neighborhood association in which the property is located. Through these meetings and discussions, the neighborhood has been introduced to the developer's plans and the developer has had an opportunity to better understand concerns of the area residents.

A bill of assurance has been offered by this applicant which provides for screening, a maximum density and other terms and conditions for a development which would result from a successful rezoning (see attached).

Rezoning the property from R-1 to RMF-12 will increase the maximum density permitted by ordinance from 47 units to 143 units. In the applicant's bill of assurance, the number of multi-family dwellings for this tract is limited to 108 units (9 – 12 unit apartment buildings).

Surrounding properties include single family residences, a non-conforming mobile home park, and apartments. There is a substantial amount of property within this site which is affected by floodplain and floodway. At the time of development, specific issues such as lot size, access and grading will have to be addressed concerning these areas.

SURROUNDING LAND USE AND ZONING

North:	Vacant / Single family homes, R-1
South:	Single family homes / Mobile home park, R-1
East:	Single family homes, R-1
West:	Apartments / Vacant, R-2 & R-1

INFRASTRUCTURE:

This property is located north of Wedington Drive (Hwy 16W) which has recently been

improved to five lanes in this area. Access to Wedington Drive from the subject tract is from Porter Road. Porter Road is classified a collector on the City's adopted Master Street Plan. At the time of development, dedication of sufficient right of way as well as possible improvements or contributions for Porter Rd. will be addressed.

Access to water is available along Porter Rd. and an 8" sewer line is located on site. The applicant will be responsible for ensuring that adequate utility facilities are extended to the site to serve any proposed development.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to RMF-12, Moderate Density Multi-family Residential is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans. The City's adopted General Plan 2020 specifies that "this land use plan establishes a policy for residential areas to be planned as traditional neighborhoods containing a mix of different densities, housing types, and lot sizes."**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning is justified in that it is consistent with adopted land use plans and policies of the City. It is needed in order to provide a development in this location which is designed to provide a mix of housing types and densities as proposed by this developer.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning will provide for an increase in potential traffic, however with conditions placed at the time of development as needed for street improvements and connectivity, the increase is not expected to appreciably increase traffic danger and congestion in this area. Access to Wedington Drive (Hwy 16W) connecting to I-540 is available from this subject property by way of Porter Road.**

4. A determination as to whether the proposed zoning would alter the population density

and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed zoning will allow for a more dense population on the subject 11.94 acres. The requested RMF-12 district would allow for a total of 143 units. The applicant has offered a Bill of Assurance limiting this number to 108. With current zoning in place (R-1) the property would allow for a total of 47 dwelling units. The increase contemplated with this rezoning should not undesirably increase the load on public services. Additional consideration to access and use of public services (water, sewer and street systems) will be reviewed at the time of development of the subject property.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, **Cornerstone Apartments, Phase II, a Limited Partnership** (hereinafter "Petitioner"), hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, **substantial irreparable damage justifying injunctive relief** has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonably rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to single-family and multifamily residential use.

2. Other restrictions including number and type of structures upon the property are limited to nine 12-unit apartment buildings and no more than ten single-family lots.

3. Specific activities will not be allowed upon Petitioner's property include: _____

4. Any other terms or conditions:

   a. Petitioner's property shall revert back to R-1 zoning in the event Petitioner elects not to develop the property for multifamily use.

   b. Petitioner will install a 6' wooden privacy fence, a 6' wrought iron fence or a privet hedge along the north side of Petitioner's property. The choice of design may be selected by a majority of adjoining property owners on Megan Drive, but the installation must be uniform along the property line.

c. Petitioner will establish covenants for the single-family portion of the development that are compatible with covenants for the Megan Drive addition.

d. Petitioner will plant twenty 6' Loblolly Pine trees along the south boundary as a buffer for residents of Valley Drive.

e. The preliminary plat and Large Scale Development for Cornerstone Apartments, Phase II and the associated single-family development will be submitted simultaneously.

f. Within two years after approval of Petitioner's large scale development, Petitioner will have either commenced construction of houses on the single-family lots or will have listed the lots for sale.

5. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF, and in agreement with all the terms and conditions stated above, I, James Earl Lindsey, President of Cornerstone Apartments Management Company, Inc., the General Partner of Cornerstone Apartments, Phase II, a Limited Partnership, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

CORNERSTONE APARTMENTS, PHASE II,
A LIMITED PARTNERSHIP
BY: CORNERSTONE APARTMENTS
MANAGEMENT COMPANY, INC.,
ITS GENERAL PARTNER

BY: _____
James Earl Lindsey, President
1165 Joyce Boulevard
Fayetteville, AR 72703

Date: 3-19-02

NOTARY OATH

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)

And now on this 19th day of March, 2002, appeared before me, **James Earl Lindsey, President of Cornerstone Apartments Management Company, Inc., the General Partner of Cornerstone Apartments, Phase II, a Limited Partnership,** and after being placed upon his oath swore or affirmed that he agreed with the terms of the Bill of Assurance and signed his name above.

My Commission Expires:

OFFICIAL SEAL
JOY L. HOOPS
NOTARY PUBLIC ARKANSAS
WASHINGTON COUNTY
MY COMM. EXPIRES 9 - 1 2004

Joy L. Hoops
Notary Public

ASBELL NEIGHBORHOOD ASSOCIATION

2615 Megan Drive
Fayetteville, Arkansas 72703

This is a summary of the "vote" of the Asbell neighbors regarding the proposed rezoning and development of RZN 02-7.00, located west of Porter Road and north of Valley Drive. The vote was taken by phone after the meeting on February 7, 2002, between Lindsey Management and the Asbell neighbors at Calvary Baptist Church. The meeting was open for all residents of the Asbell area who resided or owned property within the boundaries of the neighborhood association. The meeting was advertised three weeks prior to the meeting to association members and 5 to 7 days before the meeting to the neighborhood by canvassing door-to-door with flyers.

We realize there is nothing binding in this vote. It is presented to you, the planning commissioners for the City of Fayetteville, simply to give you an idea of the opinion of the neighborhood about this rezoning and development.

Feb. 7 Meeting – 57 people attending

	For	Against	Abstain	Unknown*
Total Present	**38**	**12**	**5**	**2**
Total (including ANA members not present)	**59**	**14**	**16**	**14**

The following results are a breakdown of the above results of the streets in the neighborhood most affected by the proposal. The numbers do not add up to the totals listed below since they only include certain areas or streets of the neighborhood.

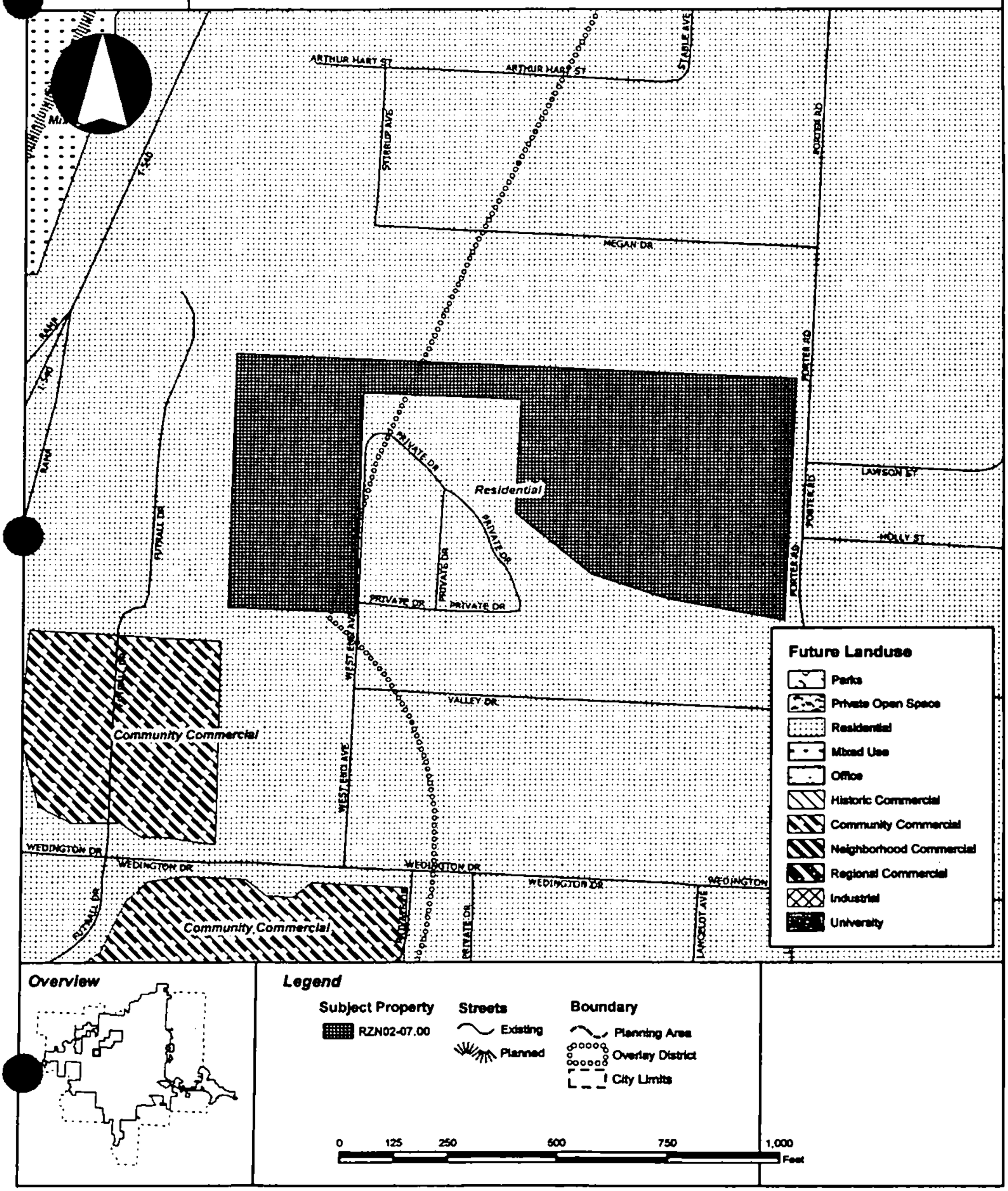
	For	Against	Abstain	Unknown*
Megan Drive	**10**	**2**	**0**	**0**
Stable/Arthur Hart/ Houston	**10**	**2**	**2**	**0**
Porter	**7**	**0**	**0**	**0**
Holly	**10**	**3**	**0**	**0**
Hatfield/Valley	**5**	**1**	**0**	**0**
Lawson	**8**	**1**	**2**	**0**

* *"Unknown" means the people were either at the meeting and/or association members but could not be reached for a vote.*

RZN02-07.00

Future Landuse

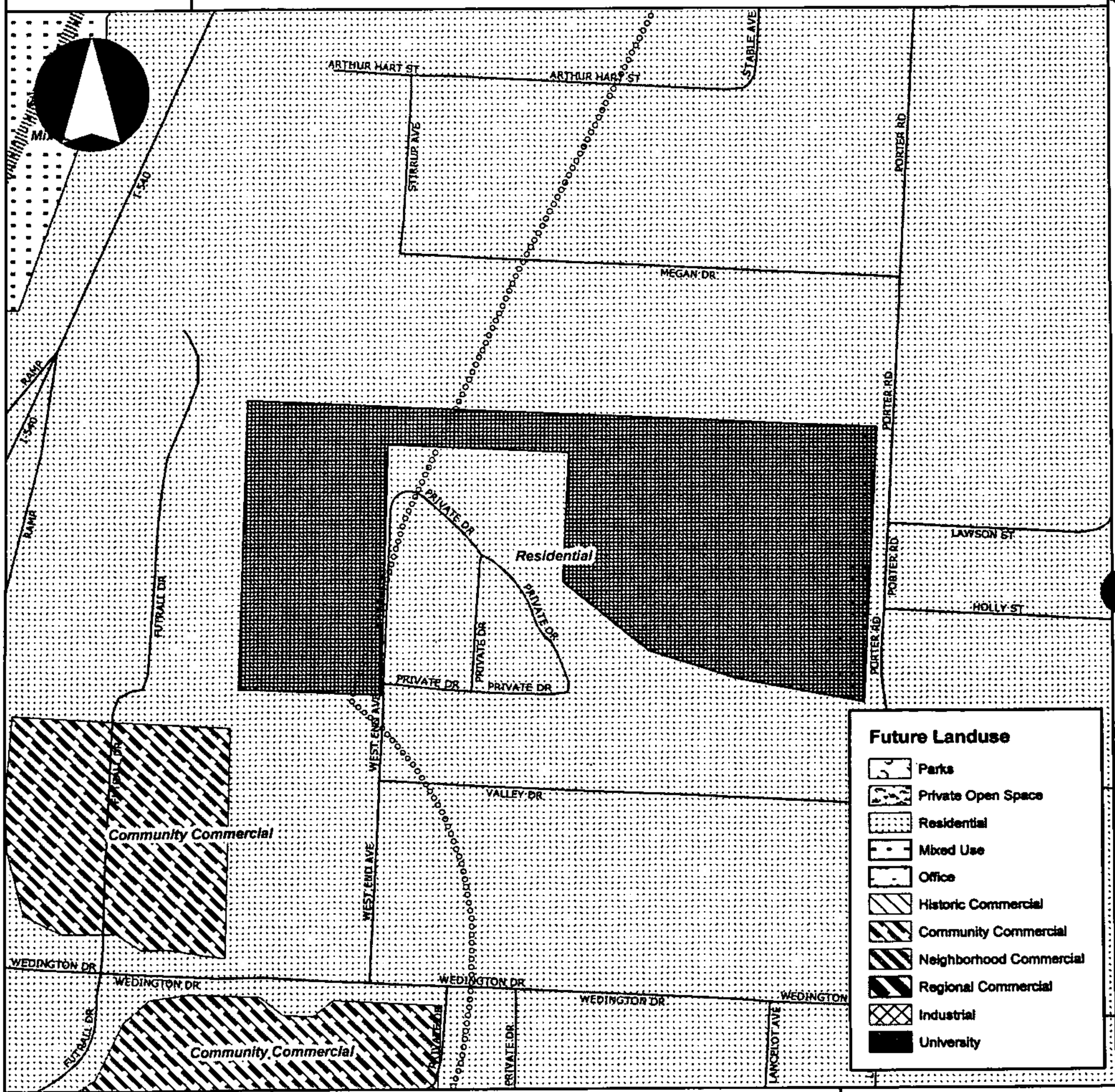
LINDSEY PROPERTIES



RZN02-07.00

Future Landuse

LINDSEY PROPERTIES



Overview

Legend

Subject Property
RZN02-07.00

Streets
Existing
Planned

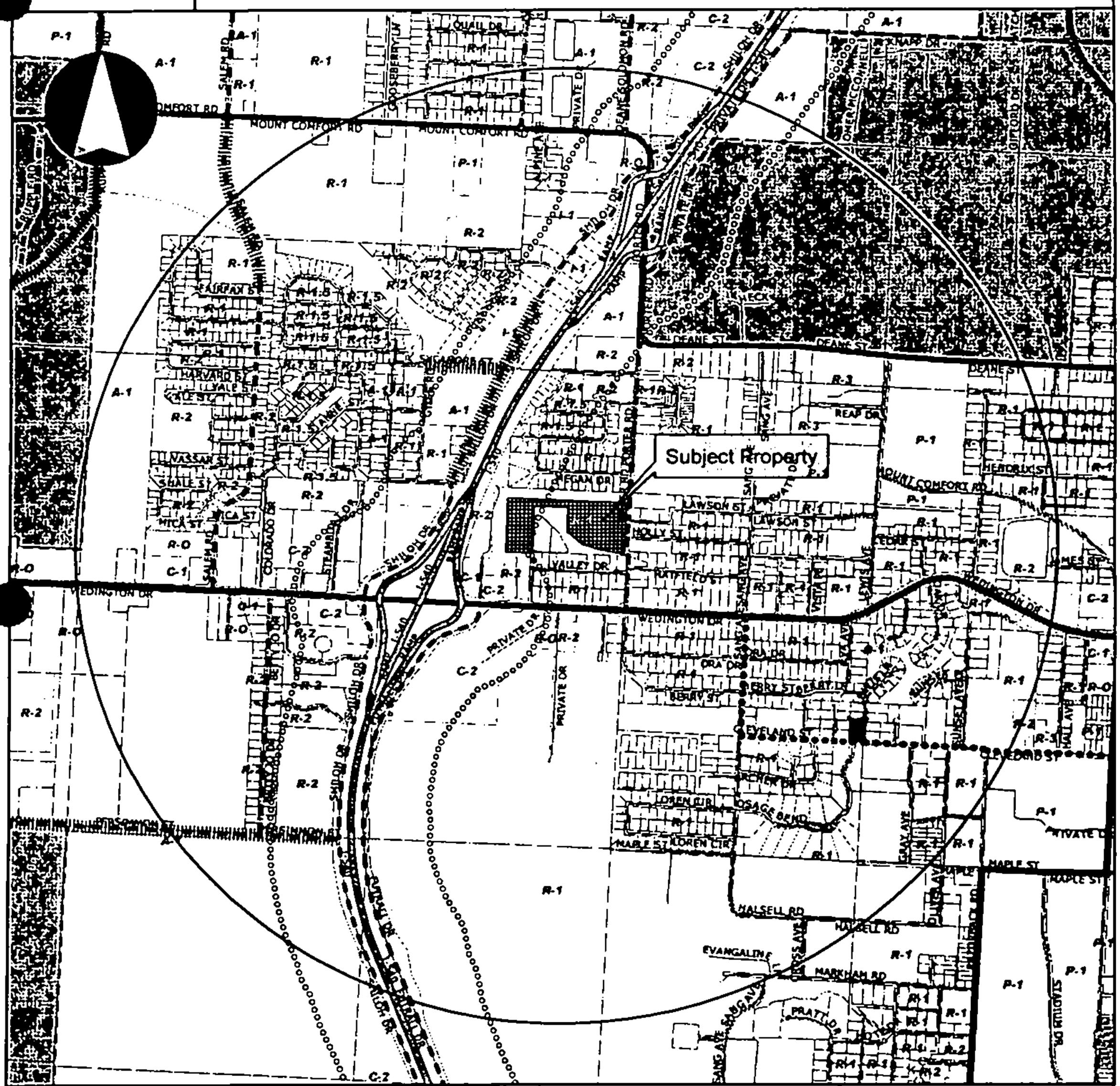
Boundary
Planning Area
Overlay District
City Limits

0 125 250 500 750 1,000 Feet

RZN02-07.00

One Mile View

LINDSEY PROPERTIES



Overview

Legend

Subject Property

RZN02-07.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

STAFF REVIEW FORM

X Agenda Request
___ Contract Review
___ Grant Review

For the Fayetteville City Council meeting of April 1~~0~~, 200~~1~~2.

FROM:

Name	Division	Department
Tim Conklin	Planning	Urban Development

ACTION REQUESTED: To approve an ordinance for VA02-1, submitted by Ken and Kathie Marvin for property located between lots 8, 9, 10 and 11 of Block 5 of Rochier Heights Subdivision. The request is to vacate the alley between lots 8, 9, 10 and 11 as shown and described on the attached maps and legal descriptions.

COST TO CITY:

$0 Cost of this request	Category/Project Budget	Category/Project Name
Account Number	Funds used to date	Program Name
Project Number	Remaining balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	4/2/02 Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and on March 25, 2002, Planning Commission voted 9-0-0 to recommend and forward the vacation to the City Council.

Division Head	3-28-02 Date	Cross Reference
Department Director	4-3-02 Date	New Item: Yes No
Administrative Services Director	4/3/02 Date	Prev Ord/Res#: _____
Mayor	Date	Orig Contract Date: _____

Consent _____
New Business ✓

ORDINANCE NO. _____

AN ORDINANCE APPROVING VA02-1.00 TO VACATE AND ABANDON A 10' WIDE ALLEY LOCATED BEHIND LOTS 8-9 AND 10-11 OF ROCHIER HEIGHTS SUBDIVISION, CITY OF FAYETTEVILLE, ARKANSAS AS SHOWN ON THE ATTACHED MAP.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described right-of-way is not required for corporate purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described right-of-way:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2002.

APPROVED:

DRAFT

By_____
Dan Coody, Mayor

ATTEST:

By_____
Heather Woodruff, City Clerk

EXHIBIT "A"

THE PLATTED ALLEYWAY BETWEEN LOTS 8-9 AND 10-11 IN BLOCK 5 OF PREVIOUS PLATTED ROCHIER HEIGHTS IN THE NE ¼, NE ¼ OF SECTION 20, T-16-N, R-30-W, IN WASHINGTON COUNTY, ARKANSAS.

Estes: The next item on the agenda is item number eight, this was a conditional use request submitted by Robert Schmitt on behalf of Brian Dandy for property located at the southwest corner of Fletcher Ave. and Rodgers Dr. this item was to be heard only if item number eight on the agenda, the large scale development was approved. Because the motion to approve the LSD failed by a vote of five to four, item number nine is removed from the agenda.

VAC 02-1.00: Vacation (Marvin, pp 560) was submitted by Ken and Kathie Marvin for property located east of Rose and south of Rochier. The property is zoned R-2, Medium Density Residential and contains approximately 0.05 acres. The request is to vacate the alley between lots 8,9 10 and 11 of Block 5 of Rochier Heights.

Estes: Item number ten on the agenda is a vacation request. This is VAC -2-1.00, alley vacation submitted by Ken Marvin for property located at 828 and 830 S. Rose Ave., lots 8-11, block 5, Rochier Heights addition. The request is to vacate a 20' wide unimproved alley located to the south of lots eight and nine and to the north of lots 10 and 11 in the above-described subdivision. The recommendation is that the proposed alley vacation be forwarded to the City Council with recommendation for approval. Is the applicant or applicant's representative present? Yes Sir, do you have a presentation that you would like to make? If so, please state your name and provide us with the benefit of your presentation.

Marvin: I am Ken Marvin and I am going to make it real short. I have a four-pled on Rochier, I have an alley way behind my four-plex which I want to vacate so I can put another four-plex above it. That is short.

Estes: Thank you Mr. Marvin. Is there any member of the audience who would like to provide public comment on this requested alley vacation? Seeing none, I will bring it back to the Commission for discussions, motions. Commissioners?

Hoffman: At the risk of being run out of the Commission on a rail, I do have a question. I was up driving and talking to Tim on the cell phone trying to find this today and this is indeed a paper subdivision and there is nothing else there. My only question is are we going to block access to anybody else's property that doesn't have a road built to it by vacating this alley? Which I think I actually found.

Conklin: No.

Hoffman: We are not going to create land locking?

Conklin: The only way to get to the alley is on a paper street which doesn't exist so

by vacating the alley you are not vacating any current access on this entire hilltop.

Hoffman: When you look at a plat and you vacate the alley, if any of this was built, because that was all somebody's idea or dream at one time. Would you land lock any property where we are going to come back and have a problem?

Conklin: No, if you look at page 10.7a, those bigger lines are street right-of-way. These are all lots up there on paper street right-of-way. It is not going to block any individual parcels.

Hoffman: That is all I wanted to know. Thank you very much.

Marvin: I have a survey if you want to see it.

Hoffman: I don't need it, thank you.

Conklin: I just do want to make you aware, we did receive one letter concerned about this question that Commissioner Hoffman asked, it blocking access to their property. That is on page 10.4. Once again, I don't understand how it would block access when we have all this paper street right-of-way on this entire hillside. I did want to make you aware of that.

Estes: Thank you Mr. Conklin. Is there any other discussion? Any motions?

Motion:

Hoffman: I make a motion to approve this alley vacation 02-1.00.

Estes: We have a motion by Commissioner Hoffman to approve VAC 02-1.00, is there a second?

Ward: Second.

Estes: We have a second by Commissioner Ward. Is there any discussion? We have a motion by Commissioner Hoffman and a second by Commissioner Ward to approve VAC 02-1.00. Will the motion the pass? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to recommend approval of VAC 02-1.00 to the City Council was approved by a vote of 9-0-0.

Estes: The motion passes by a unanimous vote. This will be forwarded to the Fayetteville City Council with recommendation for approval of the alley vacation request. Thank you Mr. Marvin.

PC Meeting of 25 March 02

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701

Alley Right of Way Vacation
Ken & Kathie Marvin

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner
Sara Edwards, Associate Planner
FROM: Ron Petrie, Staff Engineer
DATE: March 21, 2002

Project: **VA 02-01.00: Alley Vacation (Ken & Kathie Marvin, pp 560)** was submitted by Ken Marvin for property located at 828 and 830 South Rose Avenue, Lots 8-11, Block 5, Rochier Heights Addition. The request is to vacate a 20' wide unimproved alley located to the south of Lots 8 & 9 and to the north of Lots 10 & 11 in the above described Subdivision. See the attached maps and legal descriptions for the exact locations of the requested alley vacation.

A letter was received from an adjacent property owner that objects to the requested alley vacation. This letter has been included in the report.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

Ozarks Electric - Not applicable.
Southwestern Electric Power Company - No objections.
Arkansas Western Gas - No objections.
SW Bell - No objections.
Cox Communications - No objections, provided that "any damage to or relocations of Cox facilities will be at the Owner's expense."

City of Fayetteville:
Water/Sewer - No objections.
Street Department - No objections.
Solid Waste - No objections.

Recommendation: Forward to City Council with Recommendation for Approval

PLANNING COMMISSION ACTION: __yes__ **Required**
_____ **Approved** _____ **Denied**

Date: 03/25/02

Comments:

_____

_____

_____

_____

CITY COUNCIL ACTION: __yes__ **Required**

_____ **Approved** _____ **Denied**

Date: ___/___/___

PETITION TO VACATE an alley between Lots 8-9 and 10-11 in Block (5) of previous platted Rochier Heights in the NE ¼ NE ¼ of Section (20), T-16-N, R-30-W, in Washington County, Arkansas.

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the alley sought to be abandoned and vacated, lying in between Lots 8-9 and 10-11 in Block (5) of previous platted Rochier Heights in the NE ¼ NE ¼ of Section (20), T-16-N, R-30-W, in the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an alley.

That the abutting real estate affected by said abandonment of the alley are Lots 8-9 and 10-11 in Block (5) of previous platted Rochier Heights in the NE ¼ NE ¼ of Section (20), T-16-N, R-30-W, in the City of Fayetteville, Arkansas and never used by the public, remaining a field to this day, and the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described alley.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

We, the petitioners, have already constructed and rent a fourplex on lots Lots 8-9, Block 5, and would like to be able to place a driveway over the afore mentioned alleyway to construct a fourplex on lots 10-11, Block 5.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 21 day of March 2002.

Kathie Marvin

Kathie Marvin

Ken Marvin

Ken Marvin

REC
MAR 2 1 2002
PLAN. ... DIV.

HEALTHFIRST
PHYSICIANS OF ARKANSAS, P.A.

UROLOGY ASSOCIATES
220 McAuley Court
Hot Springs National Park, AR 71913
Phone (501) 623-8110 – Fax (501) 623-2296

PHILIP A. WOODWARD, M.D. CHARLES C. WRIGHT, JR., M.D. NIRMAL K. KILAMBI, M.D.

Date: March 18, 2002

To: The Fayetteville Planning Commission
113 West Mountain
Fayetteville, AR 72701

Dear Commissioner's:

This is in response to a public hearing notice which affects my property involving Rochier Heights. This property is currently under consideration by perspective buyers. The property involved in the proposed VACATION would affect public and private access to my property. This is a public safety issue. This alley allows additional access to my property and there is concern as to limiting fire and police access. I have consulted with commercial realtors who are working with me and they concur. We ask that you vote in opposition to the proposed VACATION adjacant to my property.

Sincerly,

Charles C. Wright

WASHINGTON COUNTY ABSTRACT
& TITLE COMPANY, INC.

212 West Emma Avenue
P.O. Box 348
Springdale, AR 72764

Phone (479) 751-2183
Fax (479) 756-2918

Visit our Website "wacotitle.com"

March 21st, 2002

City Engineer/Planning Director
The City of Fayetteville
Fayetteville, AR

Re: Kathie Anne Marvin & Kenneth E. Marvin, Wife & Husband
Lots 8, 9, 10 & 11, Block 5, Rochier Heights

We hereby certify that we have searched the Washington County land records as of March 21st, 2002, and find that the following described lands, situated in Washington County, Arkansas, and more particularly described as follows:

> Lots Numbered Eight (8), Nine (9), Ten (10) and Eleven (11), Block Numbered Five (5), Rochier Heights, Fayetteville, Arkansas,

are owned by Kathie Anne Marvin and Kenneth E. Marvin, Wife and Husband, by Deeds filed for record as Land Document No. 97005456 and Land Document No. 97005461 (Copies Attached) and that said property is listed on the Washington County Tax Rolls as Tax Parcel No. 765-10099-000 (Copy Attached).

Dated and certified this 21st day of March, 2002, at 8:00 A.M.

WACO TITLE COMPANY

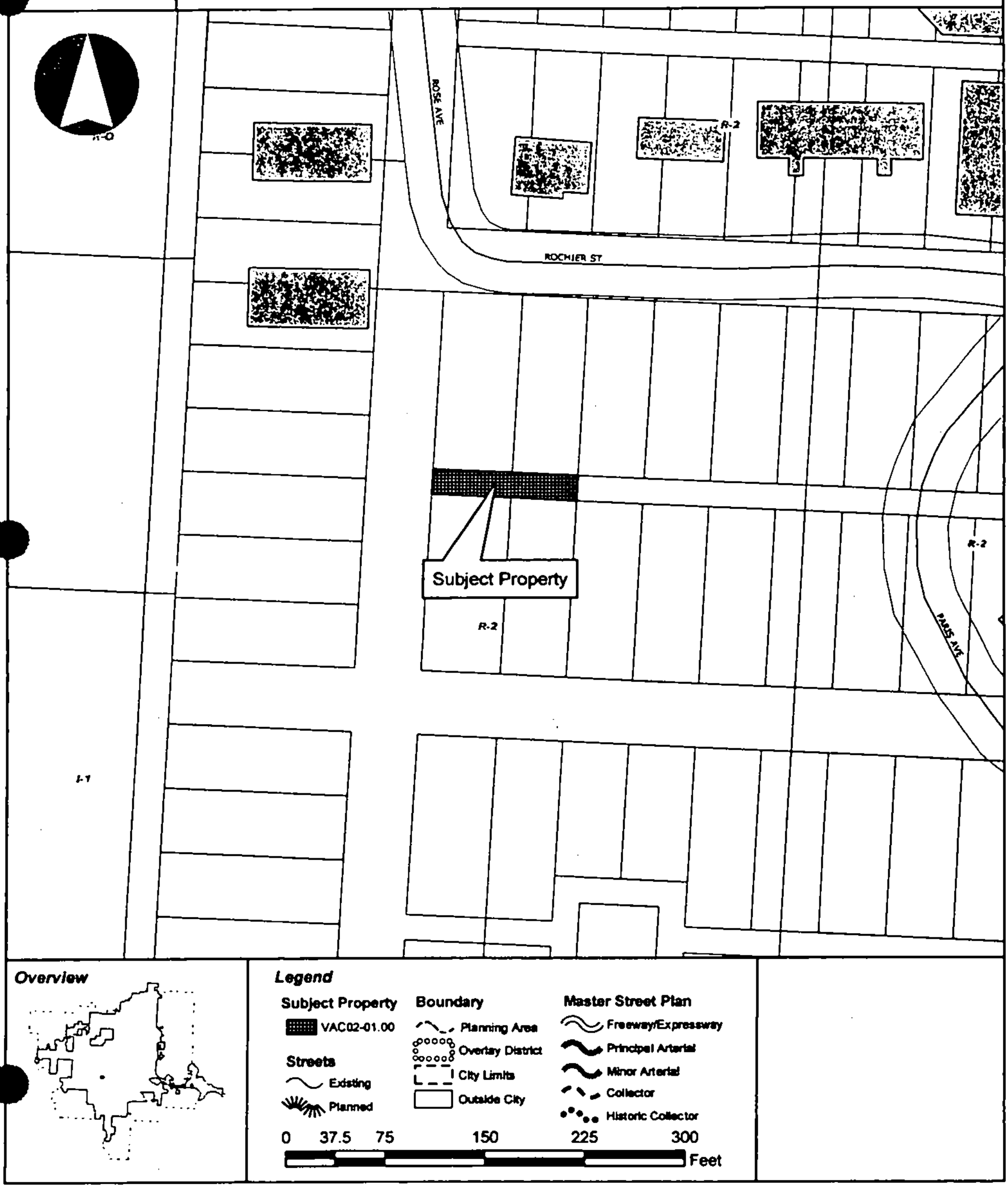
BY: Jimmy W. Plumlee

Jimmy W. Plumlee
Licensed Abstractor

VAC02-01.00

Close Up View

MARVIN



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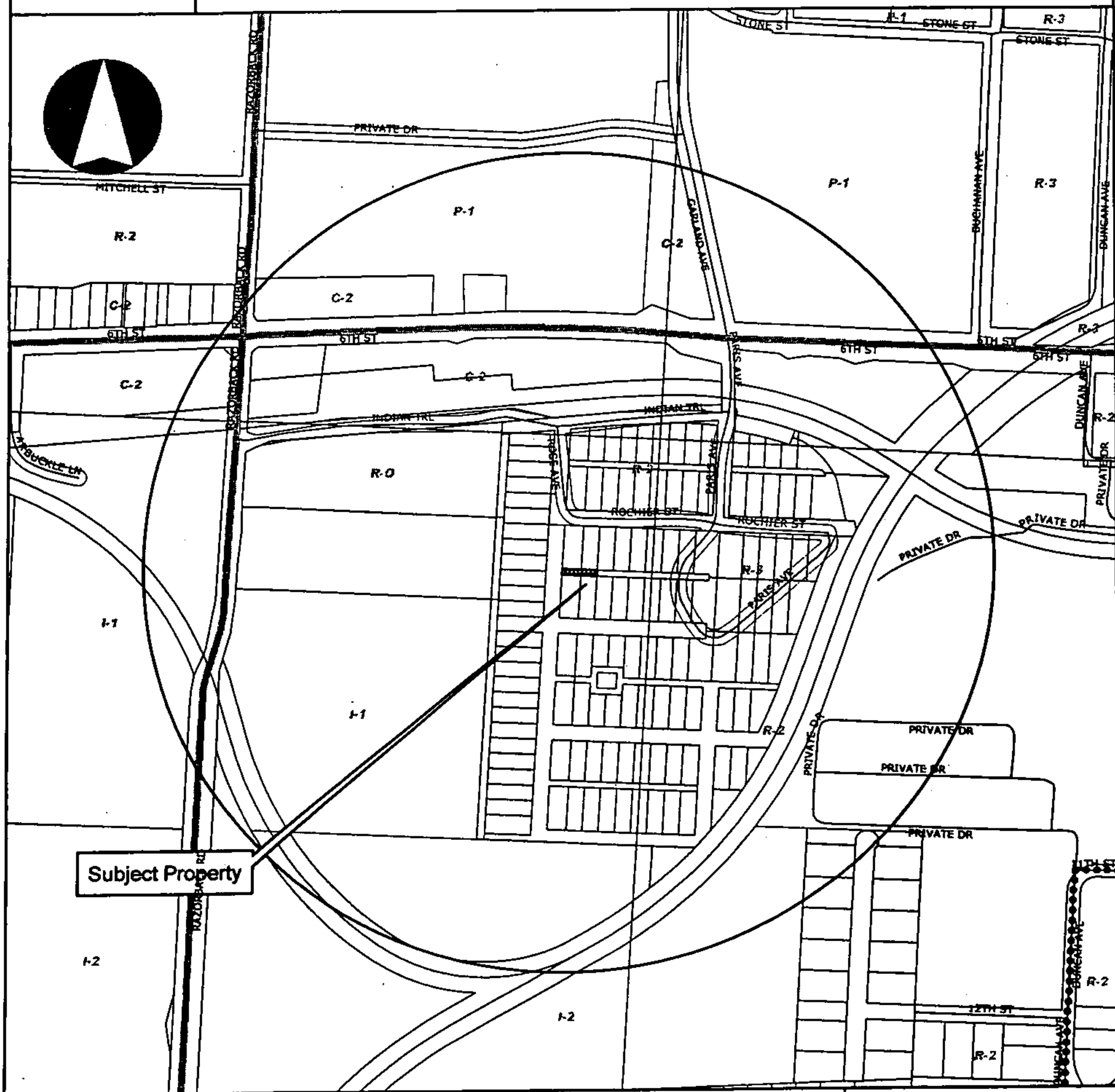
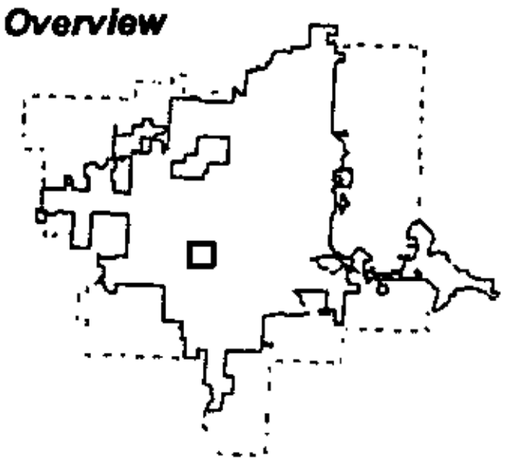
One Mile View

MARVIN



Overview



Legend

Subject Property
- VAC02-01.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.035 0.07 0.14 0.21 0.28 Miles

RICHARD P. OSBORNE
Attorney at Law
26 EAST CENTER STREET
FAYETTEVILLE, ARKANSAS 72701
TELEPHONE (501) 521-5555
FAX (501) 444-0000

RECEIVED
APR 2 2002
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE
HW

April 2, 2002

Hon. Heather Woodruff
Fayetteville City Clerk
113 W. Mountain Street
Fayetteville, AR 72701

Re: Dandy - Schmitt
LSD027

Dear Ms. Woodruff:

Please accept this letter as my appeal on behalf of Brian Dandy and Robert N. Schmitt of the denial of LSD027. The basis of the appeal is that the denial was arbitrary and capricious and not in keeping with Arkansas law or Fayetteville City ordinances.

If you have any questions, please contact me.

Sincerely,

Richard P. Osborne
RPO/dks
Copy: Mr. Robert N. Schmitt
Mr. Brian Dandy
Mr. Tim Conklin

Smudge Free Printing
Planning Appeal
C. 5. Page 2

Vandy / Schmitt 2

Use template for 8160™

Lynn Wade
P.O. Box 1000
Fayetteville, AR 72701

~~Brian Dandy~~
~~2770 Raintree~~
~~Fayetteville, AR 72703~~

Martin & Eva Kultermann
112 Fletcher
Fayetteville, AR 72701

Patrick & Lisa Airs
738 Lighton
Fayetteville, AR 72701

Beulah Cook
621 E. Center
Fayetteville, AR 72701

Lynn Wade
P.O. Box 1000
Fayetteville, AR 72701

~~Brian Dandy~~
~~2770 Raintree~~
~~Fayetteville, AR 72703~~

Martin & Eva Kultermann
112 Fletcher
Fayetteville, AR 72701

Patrick & Lisa Airs
738 Lighton
Fayetteville, AR 72701

Neil McDonald

PC Meeting of March 25, 2002

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701

Dandy/Schmitt, LSD

TO: Fayetteville Planning Commission Members
THRU: Tim Conklin, City Planner
FROM: Sara Edwards, Ron Petrie P.E.
DATE: March 21, 2002

Project: LSD 02-7.00: Large Scale Development (Dandy/Schmitt, pp 524) was submitted by Glenn Carter of Carter & Associates on behalf of Brian Dandy and Robert Schmitt for property located at the southwest corner of Fletcher Avenue & Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 1.01 acres with 9 units proposed.

Findings: This property was before the Planning Commission on April 23, 2001 with a request not to provide the required street frontage for lots in an R-2 zone. Right-of-way for Center Street exists directly in front of this property and runs parallel with Fletcher Street. This waiver was approved subject to the project being processed as a large scale development and limited to six units. When the large scale development originally went to Subdivision Committee on June 14, 2001, there were six , four bedrooms units on one half acre. The item was tabled due to design issues. The item was reheard at the June 28, 2001 Subdivision Committee and was forwarded to Planning Commission. The applicant then decided to redesign the project which required a new review. This new site plan included twelve units with 22 bedrooms and 22 parking spaces and was heard at the August 16, 2001 Subdivision Committee where it was tabled due to concerns over the proposed lift station. The item was then heard at the November 1, 2001 Subdivision Committee meeting and was forwarded to the Planning Commission. The item was heard at the November 12, 2001 Planning Commission, where it was tabled pending a traffic study. Meanwhile, the adjacent half acre parcel was heard at the November 15, 2001 Subdivision Committee, where it was tabled pending receipt of additional information. Both projects were then combined and redesigned. The applicant is now proposing nine, three bedroom units with 30 to 35 parking spaces for the entire 1 acre site. Two plans are proposed, one with 30 spaces and one with 35 spaces.

Recommendation: Approval subject to the conditions listed below.

Conditions of Approval:

1. In the event that the large scale development plan with the 35 parking spaces is approved, approval shall be subject to the approval of a conditional use for five additional spaces.

2. Planning Commission determination of offsite improvements. Staff is recommending that the applicant be assessed in the amount of $5,722.40 for widening the street adjacent to

this property. *See attached memo from Ron Petrie, Staff Engineer.*

3. Payment of parks fees in the amount of $3,375.00 (9 units @ 375 each)

4. Parking spaces provided shall be changed on plat to read 35 spaces.

5. Sidewalk construction in accordance with current standards to include a minimum six foot sidewalk with a minimum six foot greenspace.

6. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

7. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

8. Large scale development shall be valid for one calendar year.

9. Prior to the issuance of a building permit the following is required:
   a. Grading and drainage permits
   b. Separate easement plat for this project
   c. Project Disk with all final revisions
   d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy
   e. Parks fees paid and/or deed recorded and copy received.
   f. Building elevations submitted in order to check eave/overhang height in relation to setback.

Background:

This version of the proposed Large Scale Development was reviewed at the February 27, 2002 Technical Plat review and the March 14, 2002 Subdivision Committee meeting.

Discussion at the Subdivision Committee meeting included the offsite street improvements, project parking, the proposed building materials, as well as parking on site.

The Subdivision Committee forwarded the Large Scale Development to the full Planning Commission subject to all staff comments.

Infrastructure:

a) Water. Existing.

b) Sanitary sewer will be extended to serve this project.

c) Streets. See Conditions of Approval.

d) Grading and Drainage. A preliminary grading plan and drainage report has been submitted and reviewed for general compliance. A final grading plan and drainage report will have to be submitted and approved prior to beginning construction.

PLANNING COMMISSION ACTION: __yes__Required
_____Approved _____Denied

Date: _____

Comments:

_____

_____

_____

CITY COUNCIL ACTION: _____Required
_____Approved _____Denied

Date: __/__/__

The "CONDITIONS OF APPROVAL", beginning on page one of this report, are accepted in total without exception by the entity requesting approval of this development item.

_____
by

_____
title

_____
date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

ENGINEERING DIVISION CORRESPONDENCE

TO:	Planning Commission Members
FROM:	Paul Libertini P.E., Staff Engineer Paul
THRU:	Sara Edwards, Associate Planner
	Tim Conklin, Planning Director
DATE:	January 23, 2002 (for January 28, 2002 P.C. Meeting)
SUBJECT:	Hometown Development (LSD 01-19.10)
	Traffic Study for Schmitt Apartment Complex

Conclusion: The proposed development will have a minimal traffic impact on the existing local road system concerning level of service, maintenance and safety, if the existing speed limit and traffic control devices are obeyed by all who utilize the roads in this area.

Background: I have reviewed the traffic study dated December 19, 2001 submitted by Peters & Associates and have the following comments:

- The 24-hour traffic counts were taken on Thursday & Friday, December 13th & 14th and recorded a maximum of 459 vehicles per day. The City recorded a 24-hour traffic count of 834 vehicles on Thursday, April 26th. The small amount of neighborhood traffic could easily fluctuate this much (+81%) depending on the day and time of year, school and university classes, weather conditions, etc. A small local road is much more susceptible to variation of traffic volumes compared to a collector road which would generally have much larger and steady traffic volume.
- The ITE Trip Generation Manual shows 6.63 trips per unit for an apartment complex which would generate a total increase of 160 vehicle trips for a 24 unit apartment complex. This projected traffic increase agrees with the numbers stated in the Peter's traffic report.
- This development would increase the overall traffic volumes by 35% using the Peter's counts or 19% using the City's counts. The average increase would be 27% more vehicles per day. However, we must keep in mind that an increase of 27% is a VERY small amount because we are discussing very small traffic volumes on local roads.
- The report identified existing road widths, road cross sections and traffic control in the area, but did not make any comments regarding the existing road safety, geometrics, site distance, or off-street parking for visitors to the residents of the apartments.
- The Peter's report combined the projected volume of 160 vpd with the existing volume of 459 vpd for a total of 619 vpd, and compared this future traffic volume to the City's allowable service volume of 1000 vpd for a residential street. The consultant "concluded that the existing street system surrounding the site has adequate reserved "service volume" to satisfactorily serve the additional traffic projected to be generated by the site <u>without discernable impact</u>."

- I agree with the consultants conclusion that the increase in traffic generated from this small development is minimal and the existing roads should easily handle the increased volume. However, it should be noted that the existing Fletcher Avenue is a substandard local road based on today's criteria of a minimum of two 10' lanes with curb & gutter, but on the contrary the design service volume should be 4,000 vpd, not 1,000 vpd as stated in the consultant's report. Therefore, though the road is narrower in some areas, it can easily carry the projected traffic volumes. The additional vehicles per day should not present a safety issue, if drivers follow the basic traffic laws and rules.

Notes from my field trip of January 23, 2002:

- Many of the local streets in the general area are substandard, narrow with no shoulders, steep grades, and ditches close to the edge of pavement.
- The site distance from the proposed site driveway is blocked when looking towards the east (uphill towards Rodgers Drive), but this can be remedied by the development by clearing the vegetation and trees in this area during construction.
- Going downhill from the proposed development near Summit Street is a relatively sharp curve and the pavement appears to be narrow. A small amount of pavement widening around this curve could improve the safety of all vehicles using this existing road. The speed limit is 25 mph, so theoritically, it should be easy to safely negotiate this curve and the narrow roads.

Concerns:

- Other than the required parking spaces, no off-street parking is available for this apartment complex for visitors or guests.

RECEIVED
JAN 14 2002
PLANNING DIV.

PETERS & ASSOCIATES
ENGINEERS, INCORPORATED

December 19, 2001

Tim Conklin
Traffic Study for
Hometown LSD 19.10 and
Dandy LSD 01-37

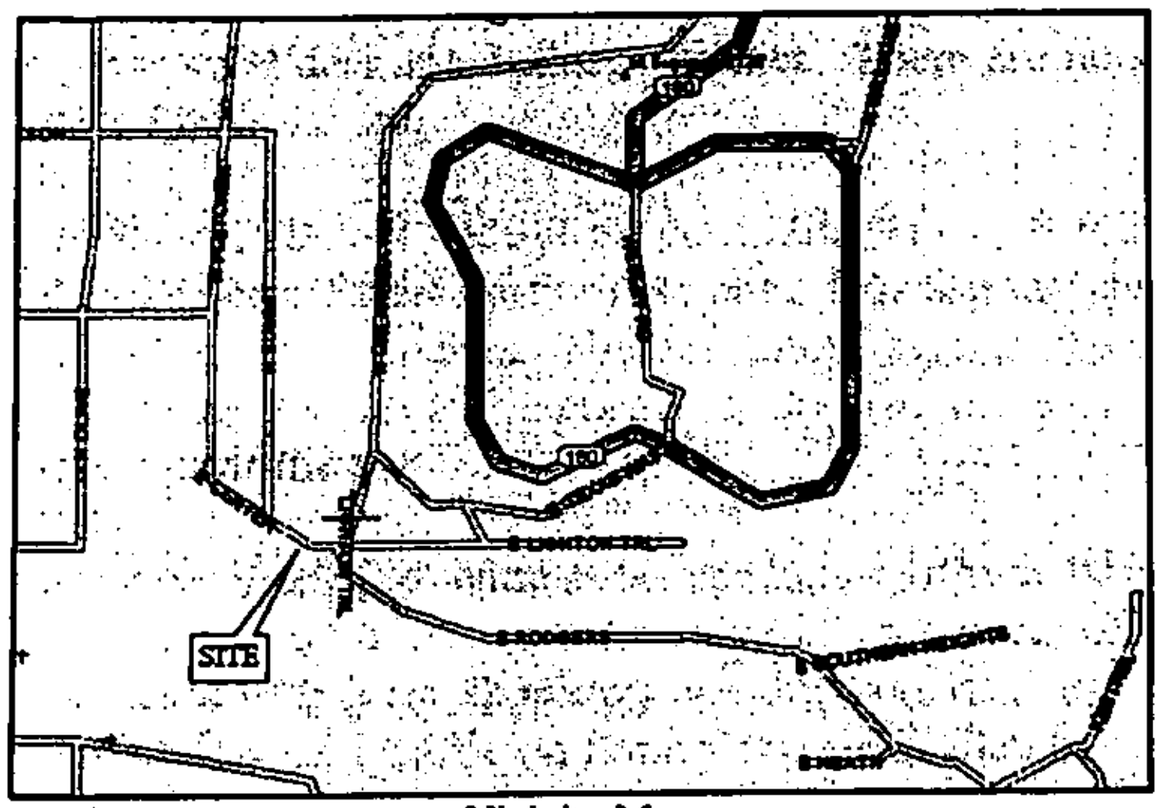
Mr. Robert Schmitt
Home Town Development, LTD.
11446 Mountain Springs Drive
Fayetteville, AR 72701

Re: Schmitt Apartment Complex
Traffic Study
Fayetteville, Arkansas

Dear Mr. Schmitt:

As you requested, we have prepared this letter report to document our findings regarding the referenced traffic study.

Background
Peters & Associates Engineers, Inc. conducted a traffic impact study for a proposed residential apartment complex development located on the south side of Fletcher Avenue, between Summit Street and Oklahoma Way in Fayetteville, Arkansas. The site is proposed to consist of either 12 or 24 apartment units and its location is shown below:



Vicinity Map

This is a report of methodology and findings relating to a traffic engineering study undertaken to:

- Evaluate existing traffic conditions in the vicinity.

P.O. BOX 21638 LITTLE ROCK, ARKANSAS 72221 (501) 225-0500 FAX: (501) 225-0602

- Ascertain projected traffic operating conditions on streets proposed to serve the site.
- Identify the effects on traffic operations resulting from existing traffic in combination with site-generated traffic associated with the development.
- Evaluate proposed access to the site and make recommendations for mitigative improvements which may be necessary and appropriate to ensure minimum impact and acceptable traffic operations.

In the following sections of this report there are presented traffic data, study methods, findings and recommendations of this traffic engineering investigation. The traffic engineering study is technical in nature. Analysis techniques employed are those most commonly used in the traffic engineering profession. Certain data and calculations relative to traffic operational analysis are referenced in the report. This consultant conducted 24-hour traffic counts at the locations depicted on Figure 1, "Existing 24-Hour Traffic Volumes" for the proposed apartment complex in Fayetteville, Arkansas.

Street System

Fletcher Avenue is a two-way, 18-foot wide road consisting of two 9-foot lanes. Fletcher Avenue provides direct access to East Dickson Street north of the site. This asphalt street is constructed with grass shoulders and drainage ditches. There are no sidewalks and the speed limit is not posted near the site.

Summit Street is a two-way, 18-foot wide street consisting of two 9-foot lanes. Summit Street connects to East Dickson Street north of the site. This asphalt street is constructed with grass shoulders and drainage ditches. There is "Stop" sign traffic control for southbound traffic on Summit Street at Fletcher Avenue. There are no sidewalks and the speed limit is not posted near the site.

Oklahoma Way is a two-way, 20-foot wide street consisting of two 10-foot lanes. Oklahoma Way provides indirect access to the residential area north of the site. This asphalt street is constructed with grass shoulders and drainage ditches. There is "Stop" sign traffic control for southbound traffic on Summit Street at Fletcher Avenue. There are no sidewalks and the speed limit is not posted near the site.

Lighton Trail is a two-way, 20-foot wide street consisting of two 10-foot lanes. This street terminates east of Oklahoma Way. This asphalt street is constructed with grass shoulders and drainage ditches. There are no sidewalks and the speed limit is not posted near the site. There is "Stop" sign traffic control for westbound traffic on Lighton Trail at Fletcher Avenue/Oklahoma Way.

Rodgers Drive is a two-way, 22-foot wide street consisting of two 11-foot lanes. This street provides access to a residential area and terminates east of Oklahoma Way. This asphalt street is constructed with grass shoulders and drainage ditches There are no sidewalks and the speed limit is not posted near the site. There is "Stop" sign traffic control for westbound traffic on Rodgers Drive at Fletcher Avenue/Oklahoma Way.

Existing Traffic Volumes
The existing two-way 24-hour traffic volumes for streets in the vicinity of the site range from 85 vehicles per day to 459 vehicles per day. The existing two-way AM peak hour traffic volumes for streets in the vicinity of the site range from 5 vehicles per hour to 46 vehicles per hour. The existing two-way PM peak hour traffic volumes for streets in the vicinity of the site range from 8 vehicles per hour to 36 vehicles per hour.

Trip Generation and Site Traffic Projections
The Trip Generation, an Informational Report, 1998, published by the Institute of Transportation Engineers (ITE) and The Trip Generation Software (Version 4 by Microtrans), were utilized in calculating the magnitude of traffic volumes expected to be generated by the proposed residential land use of this development. These are reliable sources for this information and are universally used in the traffic engineering profession.

Using selected trip generation rates, calculations were made as a part of this study to provide a reliable estimate of traffic volumes that can be expected to be associated with the development as proposed. Applying the appropriate trip generation rates to the land use proposed for the development makes these calculations. Results of this calculation are summarized on Table 1, "Trip Generation Summary – 12 Unit and 24 Unit Apartment Complex," below.

PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE	24-HOUR TWO-WAY WEEKDAY VOLUME	PM PEAK HOUR VOLUME		AM PEAK HOUR VOLUME	
				ENTER	EXIT	ENTER	EXIT
Apartment Complex	12 Units	220	80	5	2	1	5
Apartment Complex	12 Units	220	80	5	2	1	5
		TOTALS:	160	10	4	2	10
		TOTAL ENTERING + EXITING		14		12	

Table 1 – Trip Generation Summary – 12 Unit and 24 Unit Apartment Complex

These calculations indicate that approximately 160 vehicle trips (combined in and out) per average weekday are projected to be generated by the proposed apartments land use on this site. Of this total, approximately 12 vehicle trips are estimated during the adjacent street AM peak hour and approximately 14 vehicles are estimated during the adjacent street PM peak hour.

Residential traffic, as will be associated with this site, ordinarily does contribute to the adjacent street traffic conditions during the on street AM peak traffic hour and the PM peak traffic hour.

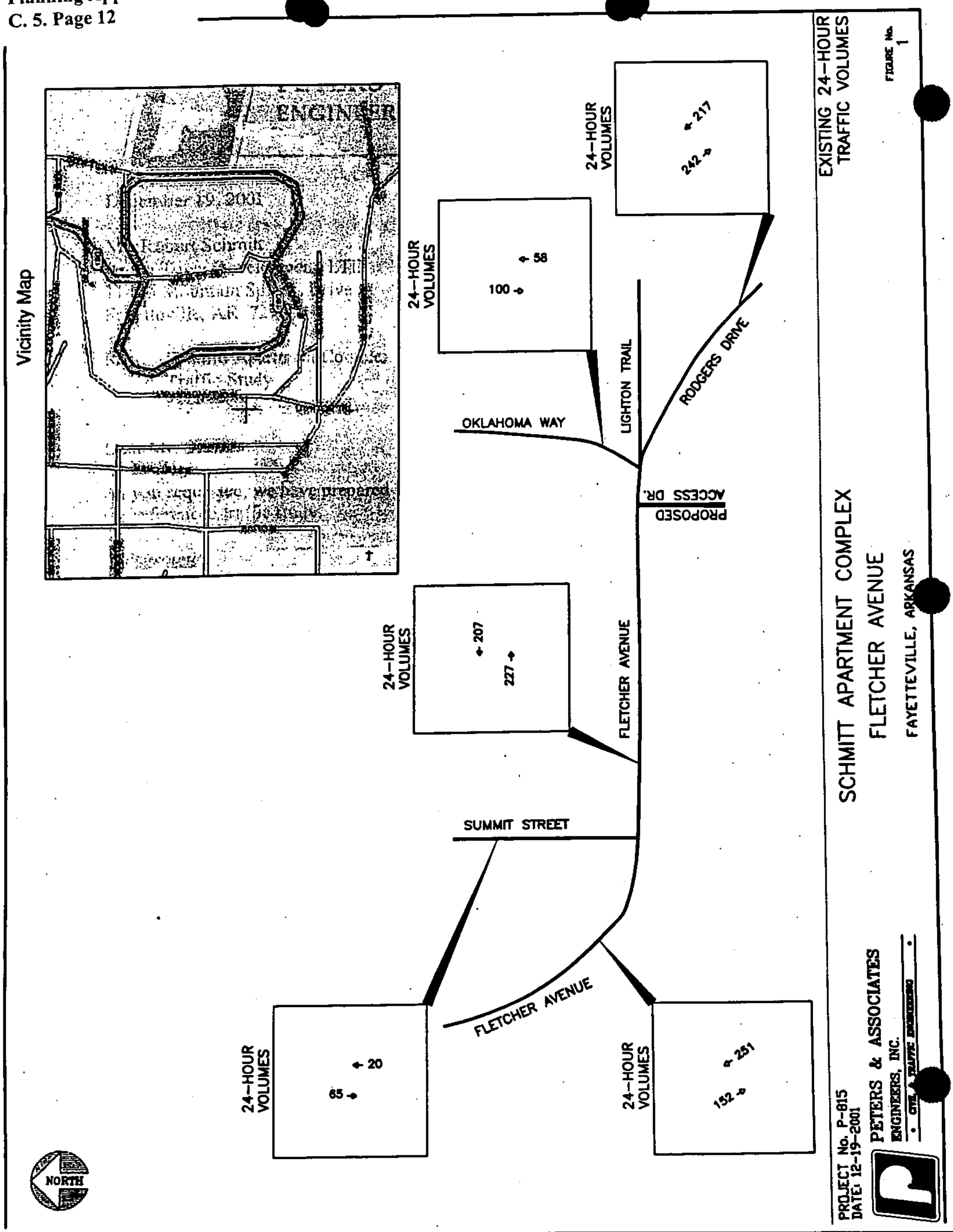
Service Volume
The City of Fayetteville Master Street Plan indicates the "service volume" for a residential street as 500 – 1,000 vehicles per day. Residential streets provide the lowest level of traffic flow and service. They provide access to residential property and are intended to be used only by local traffic. Minor streets are not intended to provide through access. Generally, the "service volume" of a street is a measure of its ability to accommodate a certain magnitude of moving vehicles. More specifically, "service volume" refers to the maximum number of vehicles that a street can be expected to accommodate in a given time period under the prevailing roadway and traffic conditions.

Analysis and Findings
It was assumed the "worst case" condition of all traffic that is projected to be generated by a 24 unit apartment complex for a typical weekday would be combine with the existing traffic of the highest volume local street depicted on Figure 1, "Existing 24-Hour Traffic Volumes" and compared that combined volume to the "service volume" published in the City of Fayetteville Master Street Plan for local streets. The highest two-way, 24-hour existing traffic volume of 459 vehicles per day when combined with the 160 vehicles per day projected to be generated by a 24 unit apartment complex equals 619 vehicles per day. This combined volume of 619 vehicles per day is less than the 1000 vehicle per day service volume expected for residential streets. Therefore, it is concluded that the existing street system surrounding the site has adequate reserved "service volume" to satisfactorily serve the additional traffic projected to be generated by the site without discernable impact.

Please advise if you have questions or need additional information regarding this matter.

Sincerely,
PETERS & ASSOCIATES, ENGINEERS, INC.

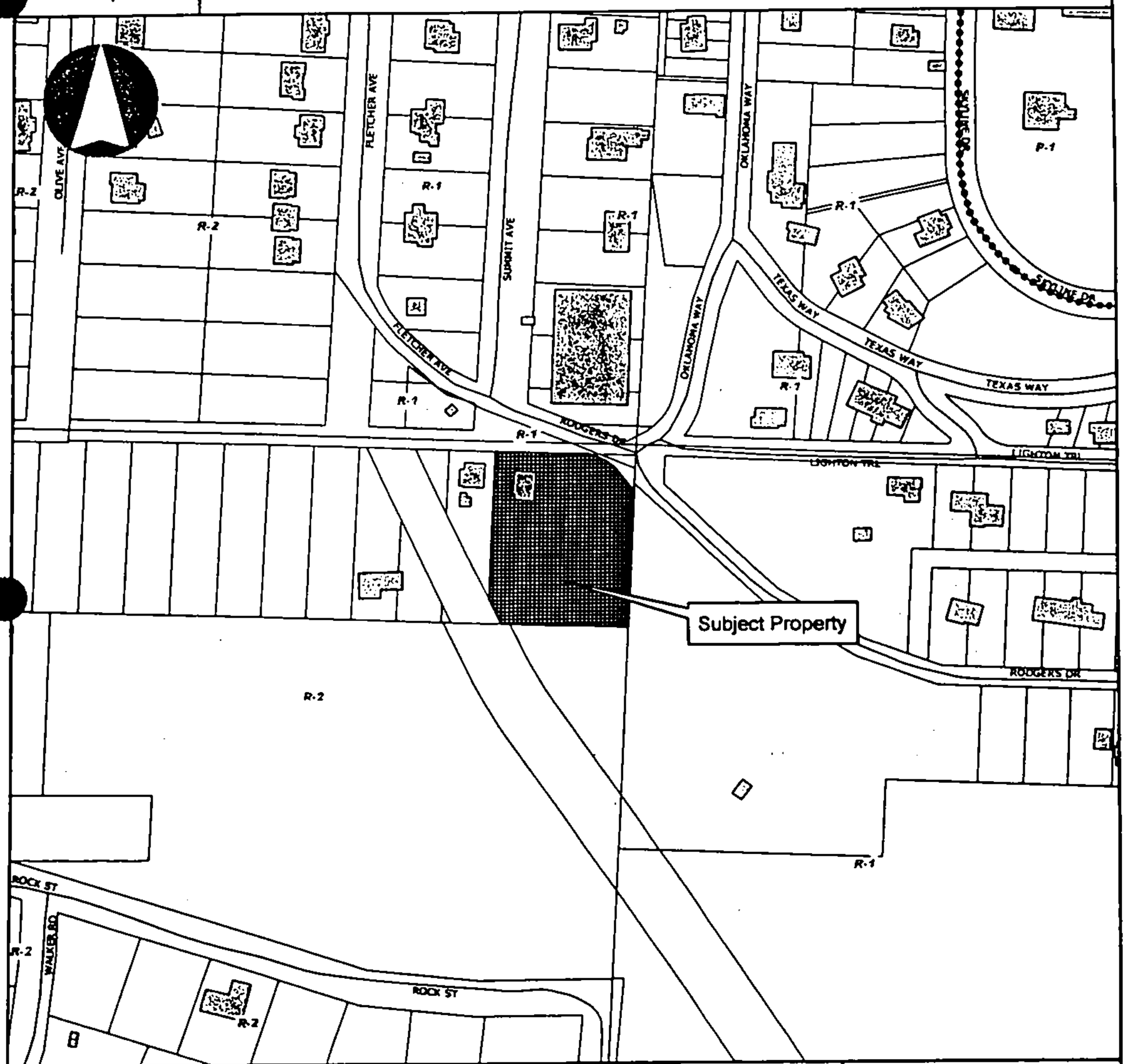
Ernest J. Peters. P.E.
President


Vicinity Map
24-HOUR VOLUMES
217
242
24-HOUR VOLUMES
58
100
OKLAHOMA WAY
LIGHTON TRAIL
RODGERS DRIVE
PROPOSED ACCESS DR.
24-HOUR VOLUMES
207
227
FLETCHER AVENUE
SUMMIT STREET
FLETCHER AVENUE
24-HOUR VOLUMES
20
65
24-HOUR VOLUMES
251
152
NORTH
EXISTING 24-HOUR TRAFFIC VOLUMES
FIGURE No. 1
SCHMITT APARTMENT COMPLEX
FLETCHER AVENUE
FAYETTEVILLE, ARKANSAS
PROJECT No. P-815
DATE: 12-19-2001
PETERS & ASSOCIATES
ENGINEERS, INC.
CIVIL & TRAFFIC ENGINEERING

LSD02-7.00

Close Up View

DANDY / SCHMITT



Overview

Legend

Subject Property
LSD02-7.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

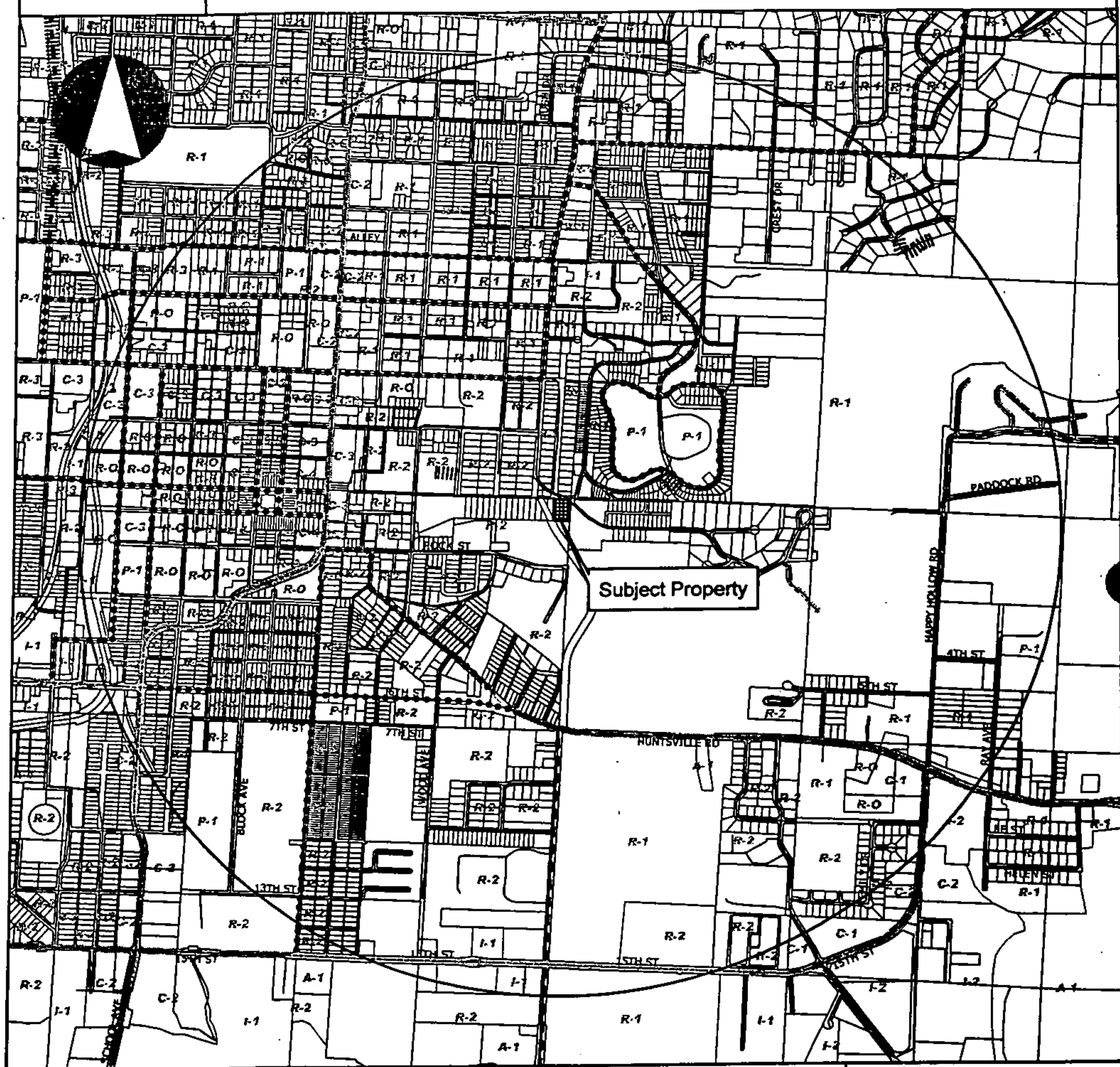
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 75 150 300 450 600 Feet

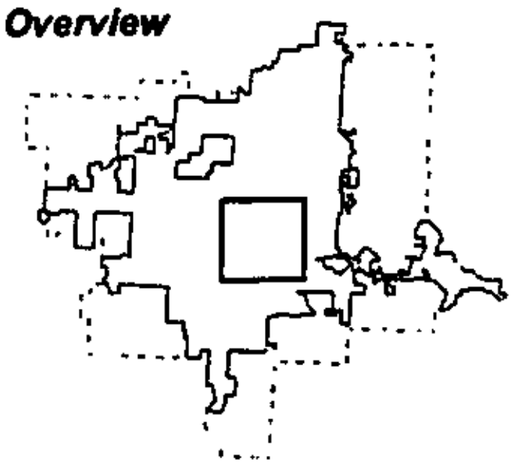
LSD02-7.00

DANDY / SCHMITT

One Mile View



Overview



Legend

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- LSD02-7.00

Streets
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- Planned

Boundary
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Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.125 0.25 0.5 0.75 1 Miles

MAR 4 4 2002
PLANNING DIV.

Mr. Robert Estes, Chair, Planning Commission and Members of the Planning Commission
Re: Development by Mr. Schmitt and Mr. Dandy - Fletcher St., Rodgers Drive, Lighton Trail, Oklahoma Way
Date: March 19, 2002
C.C. Tim Conklin, Fayetteville Planning Department

We, as members of the surrounding neighborhood, understand that modifications have been made to the proposed development at the intersection of Fletcher, Rodgers, Lighton Trail, and Oklahoma Way.
It is our understanding that the plans have been modified as follows:

1. The development is now designed as a large scale development with nine three bedroom units with one entrance drive.
2. Tree canopy (16 large trees minimum) will meet the minimum requirements with the entire tree canopy adjacent to the street and none adjacent to or mixed within the units.
3. Trash and utilities have been removed from the entrance of the complex to the center or rear of the complex.
4. Parking spaces are now designed to accommodate 30 vehicles, but includes spaces that have no exit because they are blocked by other parking spaces.
5. Sidewalk and street lighting meet the minimum requirements.

We ask that the Commission and Planning Office address the following issues:

1. Safety and Traffic – Fletcher is a dangerous street. As we have mentioned before, residents who walk, ride, or drive on Fletcher every day can attest to the hazardous conditions caused by the grade of the hill, the narrowness of the street, the curve, and the lack of sidewalks. These safety issues are compounded during the winter months. This was evident approximately two weeks ago, when the city experienced winter conditions of ice and snow. For more than two days, cars were stuck in the ditches on each side of Fletcher (where the apartments are to be built) making it nearly impossible for other cars to pass on the icy slope. Due to this congestion, many residents were confined at home for two days. These winter conditions or predicted conditions occur four or more times most winters.
Contrary to the traffic count presented by the builders (the city's count last year was approximately twice the number) and the widths of the streets which were wrong, we are convinced this development will significantly increase the amount of traffic on a daily basis and create additional significant safety issues.

Solutions:

a. Require that the developers improve and widen Fletcher from Rodgers to the curve west of the proposed development. Monies collected by the City should be utilized immediately to upgrade this street to enhance the safety and traffic concerns.
b. Require that the ditches be filled with appropriate underground drainage so that the street is not as dangerous.
c. Assure that sidewalks and lighting are installed along Fletcher in front of the development as well as some distance beyond, perhaps to the curve for pedestrian safety.
d. Assure that fire safety and other emergency vehicles have adequate space to enter the property.

2. Parking - It is our understanding that four unrelated individuals can reside in a 3 bedroom unit. Therefore, 36 parking spaces would be needed to accommodate the residents. Where do guests park?

Solutions:

a. Reduce the number of units to accommodate adequate parking for occupants and guests, or reduce the number of bedrooms in each unit, restrict the maximum occupancy equal to the number of bedrooms and have equal number of parking spaces plus 20-30% for guests.
b. Implement and enforce "no parking" on Fletcher and adjacent streets in the immediate vicinity of the development.
c. Implement and enforce "no parking" at the city park, except for those using the park – no overnight parking allowed.
d. Require that parking and driveways on the development are designed so that occupants can have appropriate entry and exits during inclement weather; otherwise, residents will park on adjacent streets to avoid being stuck in the complex.
e. Assure that the parking design includes single parking spaces with appropriate entry and exit, rather than allowing parking spaces behind or in front of another designated space as currently planned by the developers.

3. Appearance of Development – The overall appearance of any property either enhances or mars the neighborhood, and property values of the neighborhood are at risk unless the developer designs, landscapes, and properly maintains the property long term.

Solutions:

a. Recognize that this development is not a typical residential home, but is really "commercial" development in a residential neighborhood. With this in mind, demand that the design of the development be reviewed by the Planning Commission to determine that it is compatible with high quality residential homes, is of high quality construction, and enhances the neighborhood long term. Design the complex to attract long term professional and career families, couples or single individuals, similar to other residents residing in the surrounding neighborhoods, not short term single and unrelated individuals. Homes and duplex units recently built by Mr. Schmidt in residential neighborhoods (Maple and Oliver, Lighton Trail, and Olive), have been or are occupied with multiple unrelated individuals, often more than the city ordinance allows, and are showing deterioration (crumbling retaining and design walls, non-existing landscaping, deck railing supported by 2x4 nailed to a tree, deteriorating driveways, at least one unfinished unit, unplanted grounds, grounds used for parking, and as previously addressed, border to border concrete, etc.). These properties have been built in the past one to three years and already reveal these many problems. What will these homes and units look like in five to ten years?

b. Require that trees, lawn and shrubs are properly planted prior to occupancy, and that they are properly maintained long term. Do not allow any additional reduction of green space to accommodate additional parking spaces.

4. Community Relations – During a previous Commission meeting, the Commission strongly recommended that the developers meet with neighbors. To the best of our knowledge, this still has not occurred, nor has there been any attempt to hold such a meeting.

Solution:

a. Require that the developers design and create a project that is presented to the neighborhood for their support, and is aesthetically compatible with the neighborhood, not border to border apartments/duplexes.

5. Clarification and Commitment – This project has been underway for approximately one year. The neighborhood, as well as the Planning Office and Commission, have seen and heard various presentations and versions as to what might be built on the property. To the best of our knowledge, there has never been a clear, complete, and detailed plan presented. As reported at the recent sub Commission meeting, the developers have now shifted back to a large scale development. During the early part of the meeting, Mr. Schmitt announced that the development might now become condominiums and homes, which may be sold to private owners. Then at the end of

the meeting, when questions were raised about adequate parking space, he indicated that they don't plan on selling the units as condominiums. He further stated that the development is two legally separate properties and projects. How can a large scale development exist with two legally separate properties and projects that have overlapping property lines, common entrance, driveway, retaining pond, utility lines, etc. He further stated that they are building high quality units costing $100/sq.ft, that each unit is 1700 sq.ft. in size, and that they are using $1.2 million to build the units. Using these figures, the cost would be approximately $75/sq.ft. There is a significant difference in quality of construction from $75 and $100 per square foot. He also stated that he would provide the Planning Commission and the neighborhood with detailed design, interior finishes, etc. When will these be presented?

Solutions:

a. Demand legal clarification of ownership and responsibility for the development, properties, and future plans.
b. Demand that a complete set of plans including types of units to be built, exterior and interior design, landscaping, grades and elevation, planned utilization (single or family; homes, duplexes, condominiums, or apartments; rented, leased or sold to private owners, etc.), and long term maintenance of the units be finalized and presented before any further decisions are made.

6. Long Term Planning – In addition to Mr. Schmitt's and Mr. Dandy's development, we are greatly concerned about future plans for building other multi family units on the adjacent properties or on other R2 lots in primarily R1 neighborhoods, creating even greater safety issues, parking problems, and units which are not compatible with a residential neighborhood. We ask that the Planning Commission take an aggressive and strong position to prevent further developments of this type in residential neighborhoods and establish standards that are acceptable and compatible with primarily R1 neighborhoods.

Again, we greatly appreciate the efforts of the Planning Commission and Planning Office in your attempt to support the concerns of residents. As home owners, property owners, residents, and members of the Mount Sequoyah South Neighborhood Association, we strongly believe the current plans as presented by the developers will be detrimental to the overall residential neighborhood. We ask that the Planning Commission does everything within its power and authority to maintain the integrity of our neighborhood, and to require that this development or others in the future be designed to maintain that integrity. We thank you for your consideration and positive action.

Sincerely

Home Owners, Property Owners, Residents, and members of the Mount Sequoyah South Neighborhood Association

Name	Address	Phone #	E-mail
Kathy Ball	1148 Rodgers	442-6135	kaiball@swbell.n
Barry Hess	1148 Rodgers	527-6779	barrhess@swbell.net
[illegible]	1055 Rodgers	442-3512	lgohn@uark.edu
[illegible]	1055 Rodgers Dr.	4423512	sfgohn@aol.com
[illegible]	1124 E. Rodgers	582-1024	JSANDGS@aol.c
Beth Sadler			

Sincerely

Home Owners, Property Owners, Residents, and members of the Mount Sequoyah South Neighborhood Association

Name	Address	Phone #	E-mail
Susan [illegible] Chadick	423 E. Spring	443-0865	
Elizabeth T. Ellis	124 N. Olive	442-2603	
Victoria Bryan	107 N. Olive	521-1473	
Buddy Chadick	423 E. Spring	521-9996	
Elizabeth H Bryan	107 N. Olive	521-1473	elizabethbrar@yahoo.com
Eric Bryan	107 N Olive	521-1473	
Caty Pratt	79 N Olive	871-8949	
Don M. Chaney	79 N. Olive	236-6426	
Jerry Bryan	107 N. Olive	521-1473	

Sincerely

Home Owners, Property Owners, Residents, and members of the Mount Sequoyah South Neighborhood Association

Name	Address	Phone #	E-mail
Harriet Jansma	900 Lighton Trail	521-1909	hjansma@uark.edu
[illegible]	900 Lighton Trail	521 1909	
Ray W. Greenlee	809 E. Lighton Trail	443-7722	
Jerry Hawn	809 Lighton Trail	443-7722	
Michael & Carol Green	747 Texas Way	443.4786	mgreen@greenandassoc.com
[illegible]	738 Lighton TRAIL	587-0913	PAyne@DETROLOR.com
[illegible]	724 Missouri Way	521 2769	
Judy Ter Donald	724 Tennessee Way	521-2769	

Numerous others were away from home because of Spring break.

Sincerely

Home Owners, Property Owners, Residents, and members of the Mount Sequoyah South Neighborhood Association

Name	Address	Phone #	E-mail
[illegible]	1224 Southern Hgts	521-3615	KENP@HEARTLANDSUPPLY.COM
Catherine Luy	1317 Southern Hgts	443-1811	cluy@uark.edu
Susan Hays	1237 Southern Heights	521-9749	Mhays@uark.net
[illegible]	1322 Southern Heights	521-0764	sadkinse@uark.edu
Jerry Adkins	132- Southern Heights	521-0764	"
Anne Crisp	1040 Rodgers	442-3976	
Robert M Crisp	1040 Rodgers	521-1714	
R.C. Holbrook	858 Rodgers	521-0873	

Sincerely

Home Owners, Property Owners, and Residents of the South ⁄ : Mount Sequoyah Neighborhood

Name	Address	Phone #	E-mail
[illegible]	1137 E RODGERS DR	582-5226	
Lois Alward	1137 E. Rodgers Dr.	582-5226	LAlward267@aol.com
Lisa Yockey	1131 Heath Drive	443-7667	
Bob Shoulders	1109 Heath Dr.	582-1876	bshoulders@fayac.com
Katherine Shoulders	1109 Heath Dr	582-1876	
Juanita M. Walker	1149 Southern Heights Pl.	521-9713	
J. Reed Walker	1149 SOUTHERN HEIGHTS	521-9713	
Richard C. Covey	68 So. Kestrel Dr.	442-2263	
Nancy Marie Lawler	68 S KESTREL DR	442-2263	nlawler@uark.edu

Sincerely

Home Owners, Property Owners, Residents, and members of the Mount Sequoyah South Neighborhood Association

8

Name	Address	Phone #	E-mail
• Tim Caffrey	824 Rodgers	442-7013	TimCaffrey@prodigy.ne
• [illegible]	824 Rodgers	442-7013	" " "
• Melissa Caffrey	824 E RODGERS DR	442-7013	TimCaffrey@prodigy.ne
• [illegible]	844 Rodgers Dr.	283-4616	ajsb8@excite.com
• Becky Hauck	51 Fletcher Ave.	521-7540	
Leslie Cingmars	48 N Olive Ave.	521-0911	
[illegible]	904 E Rodgers	587-8039	[illegible]@[illegible]

Sincerely

Home Owners, Property Owners, Residents, and members of the Mount Sequoyah South Neighborhood Association

Name	Address	Phone #	E-mail
Dawn Smith	83 S. Kestrel	521-9210	slsmith0@swbell.ne
Stephen Smith	"	"	" "
Donna M Van Kirk	31 Kestrel	4430346	d.van_kirk@yahoo.
David W Stable	"	"	" "

Sincerely

Home Owners, Property Owners, and Residents of the Southwest Mount Sequoyah Neighborhood

Name	Address	Phone #	E-mail
Clay Dilmore	1221 RODGERS DR.	582-0756	SeND2CHAPE AOL.COM
Michael & Jill McCracken	1235 Rodgers Drive	444-0354	
Wynn Dickenson	1221 Rodgers Dr		send2wynn@aol.
Richard & Ramona Gordon		442-2120	

Sincerely

Home Owners, Property Owners, Residents, and members of the Mount Sequoyah South Neighborhood Association

Name	Address	Phone #	E-mail
Blaine S. MacMahon	938 E. Ridgeway	582-2368	BMCM359
[illegible]	"	"	"
Susan C Cromwell	111 N. Fletcher	443-4078	scromwell@[illegible] net

RECEIVED
MAR 2 5 2002
PLANNING DIV.

Sincerely

Home Owners, Property Owners, Residents, and members of the Mount Sequoyah South Neighborhood Association

Name	Address	Phone #	E-mail
Craig A. B[illegible]	236 Fletcher	521-3982	cbrown@uark.edu
Jennifer S Brown	236 Fletcher	521-3982	jennifer-brown@mac.com

RECEIVED
MAR 2 2 2002
PLANNING DIV.

March 19, 2002

To: Bob Estes, Chair, Planning Commission
Tim Conklin, City Planning Department

From: Harry Alward
1137 E. Rodgers Dr.
582-5226

Re: Dandy/Schmitt 02-7

A group of Mt. Sequoyah residents met on March 14 and voted to form a neighborhood association to be named Mount Sequoyah South. We also discussed in detail the Schmitt/Dandy proposed development at the corner of Lighton Trail and Rodgers Drive. Since I was elected co-representative , but will regretfully be out of state for the March 25 hearing, I am writing you about some of our concerns re this development.

We remain of the opinion that the latest design is still too dense and specifically does not provide adequate parking. We could request additional parking, but the already sparse green space would be further depleted. It is my personal opinion that removal of one duplex would be approximately the correct size for a one-acre lot. Five duplexes and three single structures would then contain 21 bedrooms. Since a nationwide survey indicated an average of 1.3 vehicles per bedroom, this mathematically totals 28 parking spaces.

Several of our members questioned the feasibility of the four-vehicle "piggy-back" parking configuration for each duplex. We seriously question the workability of this approach, which adds to the concerns of overflow parking. Our primary concern is the safety of traffic on Lighton Trail and Rodgers Dr. We drive through these streets every day on every trip to and from. We have numerous walkers, joggers and bikers plus many school children. This is the only way in and out of this area. As these two streets exist today, they are very hazardous and to add parked vehicles to this mix is a disaster waiting to happen.

We as neighbors would like to be neighborly and live in harmony with each other, but the history of this project, and the partially complete unit at 228-234 Oliver Street, leave us somewhat concerned.

Furthermore we are somewhat confused by the process. We have witnessed the Planning Commission recommendations for the developer to meet with the neighbors and also several requests to submit elevation plans. To date, neither has materialized. We find it difficult to understand how setbacks and height codes permit accurate evaluations without such plans.

In view of the concerns and the lack of events above, we request that the Planning Commission deny approval of this development in its present state.

Ke aenl

Subj: Hometown Development
Date: Sunday, February 10, 2002 3:04:32 PM
To: bobestes@arkansas.net
bcc: lgohn@uark.edu

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FEB 11 2002
PLANNING DIV.

I was informed that a traffic impact study (at the Lighton Trail/Rodgers Dr. area) performed by Peters and Associates showed a negligible effect on the area in regard to the construction of the Hometown Development apartment project. My initial reaction was acceptance. However, my recent experiences with Hometown Development cautioned me to investigate further.

There are several errors of fact in this study.

1. In reviewing the daily traffic counts, Peters and Assoc. totalled a daily maximum figure of 459. A city of Fayetteville study on April 26, 2001 totalled a count of 834. Peters and Assoc. calculations show an additional count of 160 per day with this proposed addition. By applying the Peters figures of 459 + 160 = 619, it stays well below the 1000 trip count of Fayetteville specifications of a standard residential street. However, employing the city's count of 834 + (Peters figure) 160, it totals 994. This is a fairly large difference, in my opinion. Also, it is pertinent to note that the 1000 number is for a standard residential street.

2. Peters states the width of Fletcher and Summitt as 18 feet. Also Oklahoma Way, Lighton Trail and Rodgers Drive as 20 feet wide. The streets dimensions are far narrower at 12 feet and 14 feet respectively.

3. The location of this proposed apartment complex is not a normal residential street.

This location is a connector street.
A. Rodgers Drive is a dead end.
B. Lighton Trail is a dead end.
C. Traffic from Oklahoma Way and Texas Way has to procede downtown via this
location.
D. All above traffic has to procede past this apartment location.

4. Lighton Trail has no traffic count reflected in this study as shown on the map of
the last page.

As stated in a file noted by the Fayetteville traffic study, this location is on a non-
standard street with narrower widths than acceptable, no shoulders, and deep ditches.

I now understand that this item has been pulled from the February 11 agenda. Too bad there are no "seven strikes and you're out" precedent. I am sending this information to question the traffic study by Peters and Assoc. should it ever become pertinent.

Thanks you for your time.

Harry Alward
1137 Rodgers Dr.
582-5226
LAlward267@aol.com

AD 01-11.00: Administrative Item (Dandy, p 524) was submitted by Brian Dandy for property located on lots 1, 2 and 3 of City Addition. The property is zoned R-2, Medium Density Residential. The request is to build a multi-family unit on a lot without street frontage.

Estes: The next item of business on the agenda was previous item number three, administrative item AD 01-11.00 submitted by Brian Dandy for property located on lots 1, 2 and 3 of City Addition. This matter was tabled at the agenda session and has been moved to the Planning Commission meeting scheduled for April 23, 2001.

AD 01-11.00: Administrative Item (Dandy, pp 524) was submitted by Brian Dandy & Robert Schmitt for property located on lots 1,2, & 3 of City Addition. The property is zoned R-2, Medium Density Residential. The request is to build multi-family units on two lots without street frontage.

Estes: The next item of business to come before your Fayetteville Planning Commission is item number five. It is administrative item 01-11.00 submitted by Brian Dandy & Robert Schmitt for property located on lots 1,2, & 3 of City Addition. The property is zoned R-2, Medium Density Residential. The request is to build multi-family units on two lots without street frontage. Before I ask for a presentation by the applicant, Mr. Conklin, could you tell us why this administrative item is before us this evening?

Conklin: Yes, Mr. Chairman and members of the Planning Commission, staff has brought this item before you because we have a situation where we had originally three lots up on Fletcher Street that do not have the required street frontage. These three lots actually have street right-of-way between Fletcher and the lots, which is Center Street right-of-way. Under our ordinance, we either have to require the applicant to build the street, which would be Center Street that would connect to Fletcher, or bring this forward and have Planning Commission grant a waiver for required street frontage on a public street. Staff has reviewed and did approve a property line adjustment that combined the three lots into two lots. There are two property owners involved with this request. Staff is recommending that the Planning Commission not require the applicant to build Center Street. At the previous agenda session, prior to this meeting, there was some confusion with regard to what the applicant was proposing on these two lots. He had communicated with the Planning Division staff that he intended to build multi-family residential units on these lots. He communicated with the Engineering Division that he intended only to build one duplex on each lot. What was submitted to Planning Division, on Wednesday, was a site plan that one six-plex on each block. There were additional questions with regard to site distance on Fletcher and with regard to whether or not it had to comply with the City's grading and drainage ordinance and if there is a permit required. Ron Petrie, our Staff Engineer is here this evening, he can kind of go over the grading and drainage issue. One of the conditions staff did place on this item and is condition number three, is that each lot shall go through the required large scale development process. Staff is very concerned with regard to this project complying with all City ordinances and therefore has recommended that condition. Based on the tree, vegetation removal that did occur over two weeks ago and based on the site plan that we do have before us this evening, one six-plex on each lot, they would have been required to get a drainage permit for that. I'll

public is clear and the Commission, the purpose of this hearing tonight is to decide whether or not the applicant has to build Center Street or is the Planning Commission willing to allow him to access Fletcher without the required street frontage. I want to make sure that's clear in everybody's mind. This property was zoned R-2 in 1970. The use of the property for multi-family is allowed by right and allows up to 24 units per acre. Basically each lot could accommodate 12 units based on the current zoning. The applicant has shown and as a condition of approval number two, the density has been limited to 6 units per lot, basically about half of what is allowed. With regard to the land use that was established over 30 years ago and that's not the purpose of this public hearing this evening. Thank you.

Estes: Tim, this is before us as an administrative item, is this in any way a request for a variance or a waiver or is it a request to abandon a City street?

Conklin: It's not a request to vacate the City right-of-way for Center Street. The request is, we have a situation where the subdivision lots were platted many years ago, prior to our current subdivision regulations. Therefore, we have three lots in this area that have no improved street frontage on Center Street. It basically just exists on paper. There are other areas in town and on Mount Sequoyah where this also occurs. The question our office faces during in-fill development in these old antiquated subdivisions is, do you require the applicant to go ahead and build the street or do you bring it forward and have the Planning Commission approve this request to allow him to access Rodgers Drive. This site is somewhat unique because the two streets actually, it turns back into Rodgers as it turns back to the east, Rodgers and Center Street parallel each other, if you look at page 5.5 in your agenda. With regard to having another street built by the applicant, you would have Rodgers Drive and Center Street almost paralleling each other in that location. That is another reason why staff is not recommending the applicant build the street because of the intersection angles that you would create between Center Street and Rodgers Drive. Basically, the decision that you have to make tonight is do you require the applicant to build Center Street which would be very difficult and Planning staff and Engineering staff is not recommending that or do you allow them to cross Center Street right-of-way to the north and have access to Rodgers Drive?

Estes: The request before the Commission is to build multi-family units on two lots without street frontage. Staff recommends approval subject to the Planning Commission finding that the following conditions have been met: In order to grant the requested waiver the Planning Commission must make findings with regard to the following: The property owner shall make safe and convenient access for fire protection and sanitation vehicles.

All structures shall be located on lots as to provide safe, convenient access for servicing, fire protection, and required off-street parking. Number two, the density shall be limited to six units per lot. The applicant is proposing to construct one six-plex on each lot. The density allowed in an R-2 zone is twenty four units per acre by right. This equals approximately 12 units per lot. Number three, each lot shall be required to go through the large scale development process. Any approval with regard to a variance for street frontage shall not be considered an approval of site design. This project will be reviewed by applicable City staff and further conditions or revisions will be required. Do we have signed conditions, staff?

Conklin: No, we do not.

Estes: Mr. Osborne, do you represent the applicant?

Osborne: Yes.

Estes: Do you have a presentation you would like to make?

Osborne: Yes sir. Let me make mention that in their findings I think there is a factual error. I have not gone out and measured the property myself but the engineers plat furnished to us indicates that each of the three lots are about a third of an acre and I don't know what Tim or Dawn, whoever did it, meant by this. The resulting, there is lot 1, 2 and 3, and they are about 1/3rd of an acre each. I'll give you this plat if you would like to see it. We split 2 down the middle, half 2 went with 3, half of 2 went with 1. There's never been an acre. It's been under separate ownership for at least 25 years. This is not one project, this is two projects. Mr. Dandy has half of it and Mr. Schmitt has the other half and I think the staff put it together for your convenience which is fine with us. I haven't researched it, I'm not certain about this but I don't think an LSD is required and we don't want to do an LSD if we don't have to. It's so time consuming and expensive. We've been sitting on this property and I will mention that land is too expensive for downscale apartments, this is for an upscale development. We are hereby offering a Bill of Assurance for the limitation of six units on Mr. Dandy's project and six on Mr. Schmitt's project, a total of 12 units as the Planning Divisions report says. Rather than waste your time with a lot of extra talk, I'll ask if you've got any questions and try to answer them.

PUBLIC COMMENT:

Estes: Commissioners, is there any question you have for Mr. Osborne? Seeing none, thank

you Mr. Osborne. Is there any member of the audience that would like to comment on this requested administrative item 01-11.00?

Davidson: Sharon Davidson, 904 Rodgers in Fayetteville. I do have many problems with this and I would hope before you make any decision you all would go out, like this man has not gone to this property and seen it.

Osborne: I've been there many times. I said I have not measured it.

Davidson: Going there and seeing it, I'm surprised that he is so adamant in wanting to pursue such a dense residential area with these roads in this place on the mountain. It's dangerous, it's inappropriate and if you go and look where it's at, you'll see that we can't handle the traffic flow of that. We can start from the beginning saying "What did prompt the applicant to choose this spot for development instead of single family?" Right on Fletcher, I used to live right on Olive right behind where there's three very nice dense units which is about all those streets can handle. If you've gone up Lafayette, tried to turn up Fletcher, go to Mission, all that's feeding up to the mountain, all that's feeding down Dickson, down Spring and those roads can't handle that traffic. You are asking all these people coming into this place for these men's investment property, not homes for families, investment property, to give up a lot for their investment and this is a neighborhood again of families and it is mainly single and duplex. I think again we can look at the zoning being done 30 years ago and we can see that things have changed and this is very appropriate for a downsizing to an R-1. I personally think, in the area itself, a duplex on each lot, four is the maximum that would be appropriate for the area, the roads, the situation. We also have the intent, we as neighbors cannot trust this development situation. We have two separate people coming as one, two projects and we're told originally they are going to come in and build two houses, all of a sudden we want to do the whole 24, who knows what in between. We are told 6 and now it ends up 12. I have problems with those aspects. I also would like other people to speak so I'll try not to take much time but if you go look at the area, it's being developed as a park. There is a very steep hill there, children, walkers, huge walking population on that mountain. A lot of people move there just to be able to run and walk around there. These people are going to be in danger because of the increased traffic that these roads are not prepared for, the area itself is not prepared for. If you would look at that as to what's there, the road condition, the neighborhood children, the park and all the people that will have to suffer sacrifice for something that is not really going to add to our neighborhood, our values. In my opinion, it will devalue our neighborhood and create a less family use of environment, create a very dangerous hazard, not just the walking population but again, look down there at Mission, we are not going to get that fixed in

time to handle any of that. I think it's inappropriate. I think the way they started, went in and bulldozed all the trees and later we see the sign go up, later we are told they are going to go through this. I would question anyone for wanting to put that type of project in this area and them being good neighbors to us in that neighborhood. Thank you.

Estes: Commissioners, at agenda session there was some discussion regarding Perry Franklin, our Traffic Division Superintendent viewing the project and providing us with his comments regarding site distance and some of the issues that Ms. Davidson just raised and you'll find Mr. Franklin's report in the papers that were distributed to you this evening. Is there any other member of the audience that would like to comment on this requested administrative item?

Kultermann: My name is Eva Kultermann, I own the property at 112 Fletcher which is just across the street and a little bit to the west of the property in question. My main concerns are also traffic issues. I live right in the, it's kind of a sharp turn that comes down from Mount Sequoyah. As the last person said there is a lot of people walking up there and there is a lot of children playing in that park. To me that development also seems much too dense for that area especially being directly adjacent to that park. I have real concerns about the additional traffic that will be generated. I can also tell you that my neighbors and I are not very happy at the way that the site was clear cut. It literally seems as though just about every mature tree was cut down on that site, very quickly and I have real concerns about that.

Estes: Thank you Eva. Eva would you like a couple copies of Mr. Franklin's report and maybe give one to Ms. Davidson since it addresses both the issues that were discussed at agenda session and the issues that you've raised?

Montgomery: My name is Louise Montgomery, I live at 213 North Summit Avenue. My property adjoins what's supposed to be a City park there on Summit. The traffic going down my little narrow street, headed toward the developments up on the top of Mount Sequoyah and down along Rodgers, is already so heavy that it's frightening to me when my little puppy, he's four years old but his name's "Puppy", gets out in the street, out of the yard. There is a heavy amount of traffic, it's never patrolled, the streets are not what Dawn described to me this afternoon when we talked on the telephone as local streets. They don't have 28 feet wide of pavement, they don't have 50 feet right-of-way. These are streets that were built when this was kind of a little area outside of town made to accommodate a very small population. These streets were never designed in terms of where they run and the way the turns were made, nor given their

width, they were never designed for a big population. What we have now are thousands more people using these streets than they were designed for. I would urge you to take care of your responsibility of looking not just at what the property owners want. I am sure what they want is the maximum development they can get so they can make more money. You have a responsibility to look at all of the people who live in that area, including me and all the folks down around Rodgers and Fletcher. There needs to be a street plan. If you were to cut Center Street all the way through to downtown then I wouldn't have to worry about all of these thousands of people who live not off Summit or Fletcher but all these people who whiz by going to other developments. I would urge you, before you permit anybody to build anything else that causes more traffic on my street and on Fletcher, look at the street plan, figure out what you really need to do. Otherwise, you are going to create massive problems in this area. Thank you.

Estes: Tim, in response to one of the issues that Ms. Montgomery raised, does the Master Street Plan call for the extension and the addition of Center Street in this location?

Conklin: It does not call for the extension of Center Street. What we have is platted right-of-way on paper. The City does not have any plans to build Center Street at this time either.

Estes: Thank you. Is there any other member of the audience that would like to comment?

Knowles: My name is Eric Knowles, 1231 Southern Heights Place. I drive Fletcher 6 to 8 times a day, right past this property. It's my only way out really. It's been told to you tonight Fletcher is a small country road with deep ditches on each side. This is a great deal of traffic to place on that road. There are already seven duplexes on Fletcher, all of them face the road and have direct access to it. That seems like a reasonable strategy for this property as well. If you are going to approve a high density arrangement like I have been hearing about. I don't know which plan will finally be built there whether or not it's a series of duplexes like I saw in one site plan or six-plexes like you've been talking about here. It's a sizable number of people to add in a very small plot of land. I would urge you to find some way to improve the roads there and I think the access of this property to roads and building Center Street sounds like one possibility that would work. You are adding an awful lot of traffic to what is a very small road. Thank you.

Meyer: My name is Nancy Meyer and I live at 951 Missouri Way and that is very close to this property. I wanted to speak on a few things that haven't been brought up because I do agree with most of my neighbors that have spoken so far. I think it's important for the

Planners to remember that there are two ways up Mount Sequoyah in this area where I live and that is either Dogwood at the north end or Fletcher at the south end. This is where the fire trucks have to come up. As other people have commented, the road Fletcher is very narrow with deep ditches on both sides. I don't believe it's going to be able to accommodate the 24 cars that are proposed on this plan that I happened to get a copy of from the City. Fletcher is very narrow, there are no sidewalks. These cars turning in and out would be really dangerous in my opinion. What I believe would be possible if for someone to put in an duplex and I understand that is what was proposed to the Engineering Department originally. I think that we shouldn't have any more density than a duplex. That seems like that could be manageable to support this dream of this developer. The reason that people don't clear cut on a mountain is because of the drainage problems. That's why you don't see this on Mount Sequoyah because it really does cause major problems. I've been there several days because I walk my dogs right here and I was so shocked to see what had happened that I went to the City to try to find out what was going on. Even today, it's pretty well flooded and they have put up some plastic around the back side so it won't drain down the hillside. This is very important. I want to make sure that you Planners do, if this does go forward, that these people do have to file a large scale development plan. As I see it now, there really hasn't been much regard for our ordinances. The lots have been clear cut. I went ahead and made some copies of what it looks like, just in case you haven't seen it. I think if you could help the rest of us by somehow recommending to this Tree and Landscape Committee that's been meeting for over a year, if there is any way that you can help people to understand how important it is that they get together with our City staff before this kind of thing happens. This only breeds hard feelings with the neighbors, it really is upsetting. To synopsize what I've been talking about, I really feel that the number of the units are entirely too dense, a duplex at most would be appropriate. All around here are single family homes except for several duplexes. The other thing I would like to add is for future developers who know that something like this will be very controversial, I do recommend that they meet with the neighborhood association. There is a Southwest Mount Sequoyah Neighborhood Association, Gale O'Donnell is the contact person. You can meet with the neighbors and listen to some of our concerns so there wouldn't be hard feelings. That's not really what we are wanting here. I also have one question about the notification signs that the City puts up. I was wondering if you can put more information on there about the fact that so many units are proposed? A lot of my neighbors didn't have time to come down here and find out what it was that was going to be proposed. I would just hope that you can get a little more information on the notification signs. Thank you.

Estes: Would you tell us your name and address for the record?

Jordan: Bob Jordan, 280 Ila Street. I just wanted to point out that this is exactly the kind of epidemic that is occurring across the City. I hope those pictures are as upsetting to you as they are to many of the neighbors and a lot of people in this town and this is just exactly what really has to stop. Thank you.

Havens: My name is Jerry Havens and I live at 809 Lighton Trail, just up the hill from the subject property. I would agree wholeheartedly with most of the comments that have been made tonight but what I want to do it just register a different kind of concern. I have not studied this situation but I think if I were to study it I would probably find out there may not have been any rules broken here. However, on the day the property was cleared, I came home about 12:00 p.m. for lunch and they were erecting the sign, that little red request for a variance sign, simultaneously offloading two bulldozers from two flatbed trucks. I stopped and asked the workman who were offloading equipment what was going on, they were not very helpful. I got out and walked over and looked at the sign which I found to be a very brief description not really telling me much about what was going to go on. I went on home, went back to work, there were a flurry of telephone calls to the Planning office, I left work, went home about 4:00 p.m. and at 4:30 p.m. the bulldozers were gone. In two and a half hours with no notice that I can see, there was an attempt here to bulldoze the project to a point where it would be difficult to reverse. My point is, I'm concerned about the fact that there may not have been a violation of any rules. There certainly was an intent to circumvent the planning efforts that I would hope the Planning Commission is interested in.

Jansma: My name is Harriet Jansma, I live at 900 Lighton Trail. I'm the person who submitted a note to all of you two weeks ago when Hanna's Candle Company issue came up because I had laryngitis and I still do a little bit but I at least can speak tonight. I would like, with your indulgence, to ask the staff, including Kim Hesse who's here tonight, about the City process in relation to what these property owner's have done. The neighborhood, as Jerry had said, was really stunned by the speed of the clearing and by the fact that the notice was put up at the front of the property at the very moment that the lots were being clear-cut, as Nancy Meyer has said. We were all stunned and felt that the property owners had broken faith with the community and with the neighborhood in approaching this project in this way. I would like to know what happened and how it happened and how the staff responded. It seems to me that we have a situation here, we have an example of a situation that has been happening at other places as Bob Jordan mentioned, that is perhaps the City Ordinance does not propose measures that are punitive enough to stop this kind of action on behalf of property owners. They clear the lots, they pay the fines for killing the trees and they put that cost into their project and they move on. We need to find a way to stop that. I

would like to know more about this particular situation in relation to that problem.

Estes: Mr. Conklin, in response to Harriet's questions and Ms. Hesse you are here also, can you tell us what our proper protocol and procedure would have been and what, if any, ordinances may have been violated in this process? What was done by staff once this matter was brought to staff's attention?

Conklin: Just to remind the Commission and the public, this is not a rezoning public hearing, or large scale development public hearing, or a subdivision public hearing. This property was zoned back in 1970 so the land use was established back then, R-2, 24 units per acre. The subdivision, I attempted to determine when that subdivision was platted and was unable to. My guess is 50 or 80 years ago possibly, a long time ago. I don't have any records. It's City Addition, three existing lots. With regard to why there is a sign on the property, we place signs for all agenda items that go out. We started doing that about a year and a half ago, two years ago. There is not a sign required to go out but I thought it was important for the Commissioners, public and everybody to be able to find the sites when you are considering something, so we do place signs for every application except for a final plat. At final plat, the subdivision is done and you should be driving on the streets. With regard to these three lots and the property line adjustment, that's an administrative action. If it meets the R-2 zoning, there is no public hearing, they do not come to the Planning Commission. You do not deal with property line adjustments. With regard to those, if they meet the R-2 and they have the required lot area and lot width, by ordinance I have to sign off on those. That's how we ended up from three lots to two lots. The issue came up during the property line adjustment and I was very concerned about approving that administratively and the applicant thinking that we were giving him approval to access across Center Street right-of-way to Fletcher Street or Rodgers Drive. I placed a condition of approval, keep in mind this is administrative now, that the Planning Commission had to rule on this issue whether or not he had to build Center Street or whether or not the Planning Commission would grant approval for him to have a driveway out to Rodgers Drive. Therefore, that's why when you read the sign, the request was to build multi-family units on two lots without street frontage. Since then, we did receive phone calls from the residents up on Mount Sequoyah regarding the trees being removed. We did contact Engineering and our Landscape Administrator when, I'll have Ron Petrie speak to his conversation with Bob Schmitt regarding what was proposed on this site, the general discussion was that one duplex was going to be placed on each lot which does not require a drainage permit. That was not the same information that Planning Division staff was receiving. Since then, as I stated earlier, we received a proposal for a six-plex on each lot. Talking with Ron Petrie, that would require a drainage permit and in

your packet you do have a letter from Ron to the Commission and to the applicant stating that a drainage permit and grading permit are required for this development. What we have attempted to do, as staff, in order to make sure that the applicant is complying with all City Ordinances, is to place the condition that each lot go through large scale development. We want to make sure you can meet those findings that you are required to make when you do grant permission to provide access without the required lot frontage on a public street. Planning staff did ask the applicant to communicate with our Landscape Administrator and asked the applicant to contact her and bring her out to the site and evaluate the site to determine whether or not a tree preservation plan would be required. She can discuss that in further detail but our understanding is, if it's not a large scale development or subdivision they don't submit tree preservation plans. The issue has been is it a large scale development? Staff is recommending that they will be large scale developments, each lot, as a condition of approval for these two lots. That's how the events have come along and that's how we ended up here this evening, with regard to what kind of notification was sent out and what type of public hearing we are having this evening. With a large scale development there will be an additional sign that will go up, there will be adjacent property owner notification that will occur, another public hearing and actual approval of disapproval by this Planning Commission. If you go along with staff's recommendation there will be another public hearing either with the lots combined, if they decide to bring it through as one project, or you'll have two separate large scale developments. I know there is a lot of issues with regard to the land use issue and what type of approval you are granting tonight. The main issue is, do you require Center Street to be built? As staff and, the Planning Commission you aware of this, we have to be able to tell a developer how to develop and meet the ordinance requirements. We can't say "No, you have to leave it as open space and you can't develop your site." The decision this evening is, are you going to require them to build the street or are you going to require access to Fletcher?

Covey: My name is Richard Covey, I live at 68 South Kestrel Drive. I drive Rodgers, that's the only way in and out. I have a question about Center Street, that right-of-way there, does that have to be abandoned if he's going to cross over that?

Conklin: There are existing driveways that cross over a right-of-way and we have, in the past, allowed driveways to be located within our rights-of-way. The City would not abandon the right-of-way.

Covey: I agree with most of my neighbors that are against this development as it's proposed. I know this is not the time to oppose it I guess. If it comes up as a large scale

development, then we do get to oppose it at that time right?

Estes: That is correct. The purpose of our hearing this evening is the request to build multi-family units on two lots without street frontage.

Covey: I would suggest that a condition of approval would be to upgrade Fletcher Street, make it wider, cover over the culverts and bring it up to standard and go from there. Thank you.

Estes: No ma'am, if we allowed everyone that has offered public comment to come again to the podium and speak again, it would not be fair to the other applicants because we would be here all night. Perhaps during the time the Commission discusses the issue we'll take that matter up.

Meyer: I've been given a letter by someone who had to leave, can I read that for you?

Estes: Yes ma'am. Bring that forward and publish it to the Commission and we'll take a look at it, or do you want to read it?

Meyer: It has a few main points. I would appreciate it if you all could read it. This is written by Mr. Timothy Caffrey, 824 Rodgers. He says that he is not opposed to higher density zoning but if this new multi-plex is built, the developer should pay the real infrastructure cost of the complex. This would be 20 yards of sidewalk in front of the property and the City should be forcing him to go above and beyond to pay for sidewalk and capital improvements all around that area. He says that, we toss around the phrase "quality of life" so often that it's a cliche but here we have an example of the quality of life issue. He says, if this multi-plex goes up and there is not tangible benefits to the immediate surrounding neighborhood then I'm wholeheartedly against it.

Estes: Thank you Ms. Meyer. Is there any other member of the audience that would like to provide public comment on this administrative item?

COMMISSION DISCUSSION:

Estes: Seeing none, I'll bring it back to Mr. Osborne who's representing the applicant. Mr. Osborne do you have any presentation in response to public comment?

Osborne: Mr. Conklin has done a very good job of explaining the situation, I commend him. The only issue tonight is whether or not you want us to build Center Street to city specs or if

you want to waive that and we'll have to get from the City an easement across your right-of-way for our driveway. Otherwise, we'll have no way to get in there. I don't mean this to sound as aggressive as this is going to sound but, we are not interested in LSD. We've got two half acre projects and I believe LSD is only required for an acre and larger projects, Mr. Dandy's project and Mr. Schmitt's project. If we can't get that we would rather just build the street. I really don't mean that in the wrong way. LSD is expensive and time consuming. This is a couple of relatively small projects. We are here hat in hand, honestly, offering half of the density that's allowed. We are already in compliance with the zoning, half of that. We are going to comply with landscape. We are going to comply with every City ordinance there is. The issue is do you want us to build Center Street or do you want to waive the frontage and let us have the driveway across the right-of-way of Center Street. I'll be happy to answer any questions if anybody has any.

Estes: I'll bring Administrative Item 01-11.00 back to the full Commission for considerations, discussion and motions.

Bunch: Question for staff, have any permits been applied for grading, drainage, tree removal or anything of that nature?

Petrie: No sir.

Bunch: None have been applied for and none were necessarily granted?

Petrie: Correct.

Bunch: Do you anticipate doubling the fees since work has started prior to application for the permits and any other penalties that would be incurred?

Petrie: We would not have the authority to double the fees, it's a set amount.

Bunch: I'm looking at the development manual and it calls for doubling of the fees in the event that work progresses prior to application or prior to granting of the permits?

Conklin: The building permit stage is when they double the fees of the building permit.

Bunch: It does spell out the fee schedule for grading and tree removal and all that, is that not included?

Petrie: Not to my knowledge. I've never seen that happen. Again, I've never studied that. I would have to probably get a ruling from our City Attorney before I knew the answer to that.

Osborne: There has been no grading done.

Bunch: Tim, if I remember correctly at agenda session, you showed us a string of lots in this development along Center Street that go to the west of this?

Conklin: That's correct. There are additional lots that were platted as part of that subdivision a long time ago that run on that undeveloped Center Street right-of-way.

Bunch: What happens if someone wants to develop those, how do we get access to it?

Conklin: Fletcher Street still exists over to Center Street, eventually someone could develop Fletcher Street and Center Street. One of the unique characteristics of this request is that Center Street and Rodgers Drive parallel each other in this location. There is a small portion, triangular piece of property the City currently owns. We'll have two streets basically side by side. As Rodgers turns into Fletcher and Fletcher goes back up to the north, Center Street continues down the hill to where it currently exists at Walnut Street. That's where it currently stops if you come up from the hill.

Bunch: If Center were built out as shown on the plat that you showed us at agenda session, would it connect with Lighton Trail, more or less? My Master Street Plan does not show any extension of Fletcher or Center.

Conklin: If you look at the survey on page 5.4, it shows the Center Street right-of-way and Lighton Trail, yes, they would line up.

Bunch: In order for those other lots to develop, Center Street would have to be extended?

Conklin: Center Street would either have to be extended or they would have to come to the Planning Commission, as the applicant is doing this evening, and request approval by the Planning Commission.

Bunch: There was no condition for cross access between the lots?

Conklin: Originally when we did the property line adjustment we did talk about limiting curb cuts onto this site and we discussed having one driveway. However, once again, trying to

make sure we meet the ordinance requirements, it's my interpretation if you grade or do anything that requires you to have a drainage permit that crosses the property lines or you will not meet setbacks, I consider that one development and you do have to have a large scale development. Therefore, the applicant has shown two driveways in order to not grade across property lines. Since then, we've had the applicant remove all the vegetation or almost all the vegetation from the two lots. If Engineering realized that there was a six-plex on each lot, they would require a drainage permit. That concerns me a lot with regard to making sure they comply with our City Ordinances. Therefore, if we do require them to go through large scale development, we can make sure they have adequate access for fire protection, sanitation vehicles and the possibility of combining driveways. I'm trying to make sure that our ordinances are being followed and met.

Bunch: That's all the questions I have at this time.

Estes: Tim, the property is zoned R-2, is that right?

Conklin: That is correct.

Estes: By right that is 24 units per acre, is that correct?

Conklin: That is correct.

Estes: Simply stated, a condition of approval of this administrative item as prepared by staff is that each lot go through large scale development, correct?

Conklin: Yes sir.

Estes: If this administrative item does not pass, is it possible for the applicant to then build Center Street to specs and develop these two lots without a large scale development?

Conklin: Yes, that's how we have handled these antiquated subdivision lots where they meet the zoning in place, the R-2 zoning, they have the required street frontage and these were purchased separately, these were not in combination when Robert Schmitt did purchase the property. Therefore, if they built the street and they met all the zoning ordinance requirements, yes we would have to permit this under our ordinances. Just one clarification, in the beginning there was some discussion by the applicant's attorney with regard to it doesn't add up to over one acre, it does add up to over one acre based on the survey prepared by Jorgensen and Associates, it's 1.06 acres.

Estes: Ms. Montgomery, does that answer your question?

Montgomery: Almost.

Estes: Ms. Hesse? Have you had an opportunity to view this property?

Hesse: Yes, I have.

Estes: Would it require a tree preservation plan?

Hesse: Under our current ordinance, tree preservation plans are required for large scale developments, subdivisions, grading permits of one acre or more. At this point, no. I was notified of the site on April 5th. I was out of town on a conference and I was called by Sara Edwards of the Planning staff and asked that very question. Based on her information they were both under an acre and at this point no grading permit had been requested or was being reviewed. Under our ordinance they do not fall under the tree preservation requirement.

Estes: Did the applicant violate any ordinance when clearing the property prior to this administrative item being heard?

Hesse: The question would be if at this point they are looked at as large scale development, it's a tough one. To start with if they were two lots, I would say "No". If they were working it as one unit, as one site plan, "Yes".

Estes: Does any other Commissioner have any questions of Ms. Hesse?

Hoffman: We have in our packets some green and blue plats, who drew these?

Osborne: We did.

Hoffman: This is one of two pages. They are mirror images of each other.

Osborne: Yes, basically.

Hoffman: The contention on your part is that each lot is acting independently of the other and there is to be no connection between the two.

Osborne: They are independent. Lots 1 and 2 were owned by party A, lot 3 was owned by

party B. I don't know who owned them, I can't remember off-hand. Mr. Dandy bought 1 and 2 and Mr. Schmitt bought 3. Mr. Schmitt bought half of 2 from Mr. Dandy. Staff is the one who put this all together as one project, not us. They did it for your convenience. This is two separate projects. They don't have any money in common, they are not together, it's two separate projects. It just happens they are going to be developed at the same time.

Conklin: With regard to ownership, Robert Schmitt purchased lot number 3 on August 1, 2000 from Gary Goodwin. Lots 1 and 2 were purchased by Brian Dandy on February 28, 2001. There were two property owners. Mr. Schmitt owned lot 3, Mr. Dandy owned lots 1 and 2. There was a property line adjustment that was done to combine the lots from 3 lots into 2 lots. With regard to combining them together, staff was concerned about the number of curb cuts. We talked about using one drive. Staff is concerned about grading, stormwater management. I think the intent, I'm not in charge of the stormwater management ordinance but when it says a duplex is exempt on a half acre lot, I don't remember or think that you would clear the entire half acre lot for one duplex. That concerns me and with regard to fire and sanitation, I think it would be best for these projects to go through large scale development so the City staff can sit down, the utilities can sit down, the police and fire department and sanitation can sit down at the same table and make sure that these projects comply with our City Ordinances.

Hoffman: I understand your contention about their being two separate lots but if you end up sharing utility easements, for instance it would not make sense to build two water and sewer easement on opposing sides of the lot when if you are backing up to each other you would more than likely have a common water and sewer easement where you would just run one line instead of two. I would also assume that you would want to take a look at those minutes when the lots were replatted, if you are limited to one driveway then you are going to have a circulation driveway, it would seem to me to be almost necessary between the two lots. In applying the large scale development ordinance, I don't want to get technical, but do we have specific wording that says we are sharing items, storm drainage, tree preservation plans or whatever we are sharing to make each lot comply with all of our ordinances, that a large scale development is required?

Conklin: That is my interpretation. We have seen quite a bit of activity in these antiquated subdivisions. This is not the first time that this issue has been brought to the Planning Division. There are other lots on Mount Sequoyah and other areas of Fayetteville where I had developers come into my office and they want to know exactly what they

have to do to get their development approved. The lots meet all the zoning requirements except for the street frontage. My interpretation is you can develop those lots, you can build the street that wasn't built by the developer that brought the plat through. You can do either, if it doesn't require large scale, we can permit it that way. What I've told developers in the past is, if you cannot meet those ordinance requirements on that individual lot that you have to go through a large scale development process. I do not want to see a bulldozer crossing property lines and basically doing a large scale development and not going through that process. That's what concerns me about this site. There was clearing that occurred on the entire site. When I say "You develop your individual lots independent and you meet all the grading setbacks and the building setbacks and parking lots, that you don't go out there and completely grade and do everything to both lots or multiple lots in these areas."

Hoffman: What I think I'm getting to is it's hard for me to make decisions not having all of the information in front of me. I can see kind of both pros and cons about not using Center Street, if we can still guarantee ourselves that we have access to other lots, if we can satisfy everybody that we have street access to other lots other than these. If these were the only ones involved, I would just say they can put a driveway across the City right-of-way and however that's managed, but the one's kind of downhill from this, if we don't require Center, does that preclude us from requiring Center to come up from that other street for the future development?

Conklin: Once again, staff is recommending that we do not build Center Street because of the grades and angle at the intersection, that would be very difficult to have a parallel street that comes into Rodgers Drive. Basically this development, assuming Rodgers Drive is the front, they could use that drive. About a year and a half ago we did have an applicant who had property along Fletcher and Center Street and all the way down to Olive Street, came to the City and asked for that right-of-way to be dedicated. That was denied by the City Council.

Hoffman: That's down at the opposite end of this?

Conklin: You are going west, you are going downhill. Center Street currently ends at Walnut. I've heard from the public on both sides of the issue, some of them do not want to see Center Street extended up Mount Sequoyah and I've heard from others that wouldn't mind seeing Center Street extended. Our Engineering Division said it would be very difficult to meet our current minimum street standards today, to actually build that street.

Hoffman: Is it possible to rule on whether or not we have a large scale development requirement

and not do the street issue right now?

Conklin: The applicant would like to find out whether or not he has to build the street or he'll have access to Fletcher granted by this Commission.

Hoffman: I think either way he would have access. If we were going to approve the development for him, he would have to have access and we would have to grant it to him one way or the other.

Conklin: I'm not sure. The applicant will probably have to answer that question, whether or not if you deny this request, whether or not they will build Center Street and go through the administrative process.

Petrie: I would like to add one thing. If they do choose to construct Center, there would be several waivers required from our minimum street standards and possibly would take some kind of action from City Council. It's my guess if that happens, it would have to take out this corner of Rodgers and have some type of T intersection with Fletcher. I would like to make sure everybody is aware, that's not a simple solution for the applicant to just build Center Street.

Allen: Mr. Osborne, with the applicant being unclear as to whether or not this would come through a large scale development, could you explain to me why the trees were cleared?

Osborne: I don't know that it's possible to explain it, they just wanted to clear the trees. It's simple as that. It is my belief that a large scale development is not required. One thing I need to clarify, there are two separate driveways. Whatever the audience thinks, this is two separate projects, half acre each, two driveways and a separate utilities to every unit and separate utilities to each development from which the service lines will run. They are going to put new trees in. I don't think they liked the configuration in the landscaping as it was so they started by taking the trees out and they are going to put new stuff in. That's the only answer I have. They didn't like what was there so they are going to replace it.

Marr: I guess when I look at this request I'm very clear that the decision is build Center or allow access to Rodgers but in that is a request from the City that we look at a condition of placing an LSD requirement on it as well as outlining the six units that I believe was the commitment. For me, I'm also looking at the LSD portion of this piece. I guess, I'm sitting here and I look at actions that take place and whether you

act independently or whether it acts as a consolidated project. I already believe that the tree clearing that took place was the entire two pieces. I'm assuming that action is looking at it as a total. I have a site plan in front of me, two different site plans that are drawn identical, it looks like the same configuration. I guess my questions are, are there different architects on this project or are there architects involved in this project?

Osborne: There will be.

Marr: Are they the same or different?

Osborne: I have selected one yet. That's the site plan for concept only, that's all that's required by City Code at this time. As I said, we are willing to commit to 50% reduction which is why we are able to draw a site plan.

MOTION:

Marr: I understand that. I think you've made that very clear. I am still going back and struggling with the fact that when it looks like a consolidated plan and acts like a consolidated plan, then I tend to say the rule of common sense says it's a consolidated plan. Everything about this looks identical to me and I would prefer, or at least my motion would be to allow access but I agree with the conditions that are placed on this outlining the 12 and requiring the LSD. I'm going to move for approval of Administrative Item 01-11.00.

Allen: I second.

Estes: We have a motion by Commissioner Marr and second by Commissioner Allen to approve Administrative Item 01-11.00, Commissioner Marr the applicant has offered a Bill of Assurance for less than or equal to six units per lot, is that an additional condition of approval in your motion?

Marr: Yes.

Estes: Commissioner Allen?

Allen: Yes.

Hoover: Explain to me Tim, why is this an administrative item and I realize it's a waiver but when you are requesting a waiver isn't that usually for an LSD?

Conklin: This is how it's worded in the ordinance. Because they are not building the street, staff has placed conditions of approval on this. They need to know whether or not they have to build the street or you are going to allow them to have access.

Hoover: I guess I'm just accustom of if someone is requesting a waiver, it has to go to Planning Commission no matter what. Isn't that correct? If it's under an acre, no matter what, if you need a waiver.

Conklin: If they are asking for a waiver of our ordinance, yes. In this situation, this is actually in our ordinance that talks about with approval of Planning Commission they can have access on a lot without frontage. It doesn't say that with approval of large scale development that they can have access without street frontage. It says approval of the Planning Commission for this request. I've inserted large scale development as condition number three.

Hoover: If this does get approved with the LSD requirement and the applicant chooses not to go this route, they choose to build the street, they don't need to come back to the City for anything, or they'll have to go? Ron, if they need a waiver that will bring it back to us?

Petrie: That's correct.

Hoover: How confident are you they will need a waiver?

Petrie: 99.9%.

Marr: I want to make a comment on the motion. When I read this, I'm supposed to make a finding of fact for fire protection access required off-street parking. The reason I support this and the reason I support LSD as a portion of it is, I don't have the information today in front of me that tells me that. Therefore, I think that's what the LSD process does as a result of bringing that back and that's why my motion is the way it is.

Shackelford: As I understand the motion and second, we are making a finding that this is a consolidated project and based on that finding we are requiring LSD. Given that we have two separate owners with purchases of this property six months apart, I would like to ask our City Attorney his opinion whether or not that would constitute a consolidated plan and do we have the right to require this to go through an LSD process?

Williams: I worked with Tim Conklin about this project. Ever since we discovered it did not have sufficient street frontage, we met with Mr. Osborne and his client and told them they would have to come before you and get a variance. I must say that I agree with the staff's recommendation on this all the way through. I don't think the Planning Commission is actually making a decision that this is a large scale development, what you are saying is you are conditioning your waiver on them coming in to the large scale development. If they choose not to do that, if they choose to build Center Street and can get it approved to city standards which our City Engineer has said will be difficult. I know that area very well myself, this land doesn't quite adjoin mine but I know where this property is and those intersections. That will be a very difficult project. If they build Center Street then you are not involved in this process whatsoever. The Planning Commission is not making the decision this is a large scale. I think what you are doing is saying it's fair to make them go through large scale for safety considerations because in fact they have been developing this project as a single unit even though technically, Mr. Osborne is quite correct, there is two different owners here, technically if they had not certainly been doing this as one project, we could not force them to do that.

Shackelford: We are not in fact making the finding that it is a consolidated project, we are making it as a condition of approval of this administrative item?

Williams: Yes.

Hoffman: Does our action prevent, if there is a change of mind on part of the applicants, them from constructing a couple of duplexes on these lots? I would assume that this access, granting should they downsize the project to something that would not be multi-family, I think one and two family dwellings are exempted from large scale development on acreage, should we incorporate anything like that in the motion?

Conklin: Staff made a recommendation that these projects go through large scale development for access.

Ward: Can they build a duplex, each of them?

Conklin: Not right now.

Ward: Once we allow access without coming through large scale development?

Conklin: No.

Ward: That's all we need to know.

Osborne: I need to clarify one point, the Bill of Assurance was offered for a waiver, it was not offered if we build Center Street. We don't want to submit ourselves to the large scale development process. I'll say one last thing, you've got a good staff. They are good to work with, they really are.

Hoover: If they do decide to build Center Street and they have to get a waiver because of the problems with Center Street, will that then mean that it's a large scale development, we'll be viewing it as that or would we just be looking at it as a waiver for that street?

Petrie: I believe the answer is we would be looking at it only as a waiver. It would be brought forth as an administrative item, same as this situation.

Estes: Any other discussion? Sheri, would you call the roll?

ROLL CALL:

Upon roll call AD 01-11.00 is approved by a unanimous vote of 8-0-0.

LSD 01-19.00: Large Scale Development (Hometown Developments, pp 524) was submitted by Robert Schmitt of Hometown Developments for property located on the southwest corner of Fletcher Avenue & Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 0.50 acres with 6 dwelling units proposed.

Ward: The last item on our agenda is LSD 01-19.00 Hometown Developments submitted by Robert Schmitt of Hometown Developments for property located on the southwest corner of Fletcher Avenue & Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 0.50 acres with 6 dwelling units proposed.

Edwards: First, I am handing out Kim's comments. This property was before the Planning Commission on April 23rd, with a request to not provide the required street frontage for lots in an R-2 zone. The right-of-way for Center Street exists directly in front of this property, it runs parallel with Fletcher. The Planning Commission granted approval not to build Center Street contingent upon this property and the lot to the east going through large scale development. That's what we are seeing today. The applicant is proposing to provide 6 units with 4 bedrooms each. There is property zoned R-2 to the east, west and south of this project. It is currently zoned R-2 and this type of density is permitted in an R-2 zone. We are recommending that you forward this to the full Planning Commission. I still have some parking issues. The applicant is counting parking both in the garage and striped parking out in front for a total of 25, 10 being in the garages. The maximum allowed is 24. I would like to see one space removed and the outside parking spaces numbered so that I can tell which ones are spaces and which are landscaped area. All parking lots must be at least five feet off the side property lien. I'm measuring it and I don't get five feet. If there is five feet and I'm in error, please dimension it or else we need to move it. Dumpster and utility equipment shall all be screened. There are some other comments from staff.

Keith Shreve - Sidewalk and Trails

Shreve: We are requesting a six foot sidewalk along the frontage on Fletcher Avenue.

Schmitt: What about the trees that have to be removed for that sidewalk, has Kim had a chance to look at those?

Shreve: Not to my knowledge. Traditionally we try to go around the trees if possible. We try to save all we can. We can work with the greenspace width to move the sidewalk and go around the trees.

Ron Petrie - Staff Engineer

Petrie: The water meters, the way you've got them shown, can you move those back up to the waterline edge and put them on the right-of-way? I would prefer they be separately connected. It would be one line unless you want to make a public line coming down into this site. There is a 20 foot setback requirement from detention ponds to build, this does not meet it. This is 4.1 feet. Do we have a letter or anything requesting these waivers?

Carter: Yes.

Petrie: Is there any reason given?

Schmitt: What is the purpose of that ordinance?

Petrie: I was here when it was written. It says "In no cases, shall the limit to the maximum pond elevation be closer than 20 feet horizontal from any building." I don't know why. I can't give you the exact details.

Schmitt: You are actually 8.6 feet from the building so there is a 12 foot difference. This is an overhang. We would like to know an interpretation of that ordinance, what the purpose of it is. There has to be a reason that they have that and we would like to know what it is so that we can consider that in reference to the waiver that we requested.

Petrie: The only thing I can tell you is my guess, it has to do with two things, one thing is public safety and having dwelling units close to a place that's going to flood whenever it rains and the other thing is for structural reasons and the water sitting in places close to the building. That's the only two reasons. The other thing on the detention pond, the number I've got don't work. You are still increasing the flows on 10 and 25 year storms, doubling the flow.

Carter: I don't have that report with me. I'm not sure what you are talking about. The reservoir printed out for the 100 year but didn't print out for the other years to show up. It does a separate reservoir for each storm. I just need to rerun that.

Petrie: My recommendation is going to be, if this doesn't fit here, we need to see it back here. You are going to have to reconfigure something to work, we've already got a waiver request.

Carter: I think it does fit, I just didn't get a run on those two hydro graphs there. Those two just didn't print? Is it the 2, 5 10 and 100 or is it the 10 and 25?

Petrie: The 10 and 25.

Carter: They work, I don't know why they didn't print.

Petrie: I printed out the number, are you saying the number is wrong?

Carter: That number is wrong, yes.

Petrie: Before we can take it to the Planning Commission we need to see those numbers. Also, you've got this retaining wall a foot off the property line, we have a five foot setback requirement there.

Carter: I think we can deal with that. It's needs to be five feet off the line?

Petrie: Yes.

Hoover: Where is that retaining wall?

Petrie: Along that west property line. You see the property line, dot and two dashes and the solid line right behind it. I don't think it's even labeled. You have to guess by the contours. How would that change your configuration to make that work?

Carter: It won't. We'll just have to scoot over. The reason we have room is because we initially had three story and there won't be three stories. That let's us up from the height restriction so we can scoot back over. We'll have room there.

Petrie: The other things, are we going to discuss Center Street construction? Where are we at on that?

Edwards: What the applicant is choosing to do is, have Planning Commission hear this and in the event this is denied, have them also hear waivers for the construction of Center Street, it cannot meet all of our minimum street standards. Would you like to ask any questions about that, I notice Janet did include the plat for that construction in the packet? My intention was just to let it go to Planning Commission but if you would like to discuss it, we can.

Petrie: What I was needing to do was review this and find out how many waivers were

required to build Center Street and I came up with five. I don't know if you want me to go over those now?

Ward: Why don't you because I haven't had time to study this at all.

Petrie: The first waiver is from section 3-2, what we have is termed that K value and that's basically how tight vertical curves are to make sure there is no steep transitions. There is a limit on how grades can come into curves and how smooth your vertical curves are on streets. It has a requirement for 20 for crest then come over crest and then 30 for sags, the two that are being proposed are zero. We can't recommend that one. The next one is section 3-3, requires the maximum grade within 100 feet of an intersection shall be 4% for hilly terrain, they are proposing 9.91%. With the way this intersection is configured, we couldn't recommend you do that. The next one, section 3-3, the minimum angle of street centerline intersection shall be 75°, which means it's the way two streets come in to one another, the angles of intersection. There is a requirement that the minimum angle be 75°. Typically they are 90° and you can configure it 75° and still meet the requirements. They are proposing 15°. Of course there is no way you can make that corner there. We couldn't recommend you do that. Next is from 3-3, the required distance from street intersections, local streets is 150 feet offset from one intersection to the next. You have another intersection just to the east, the distance is 50 feet from Oklahoma Way and it doesn't meet that requirement. The next one, from 3-3, the maximum grade for local streets shall be 10% with provision for 15% grade for a maximum distance of 300 feet in case of hilly terrain. They are proposing a grade of 32%. We do have a letter. Your only comments are "due to existing conditions". Do you want to go over this letter?

Schmitt: I wanted to see if I could give you guys some comments on why we are in the situation we are in having to have the two different options here. When I originally purchased these lots, these are two free-platted R-2 lots that exist in City records. Center Street, where it sits, the way the angle of the intersection and all that was already pre-platted so we are dealing with what the City handed us on that. In our original meeting with Rick Osborne, Kit Williams, Tim Conklin and I, we sat down and looked at this and realized that there was an issue of frontage here that nobody really thought that there was originally. Nobody realized that Center Street was there, everybody thought these all fronted on Fletcher. They were like "Yes, you have the right to develop your property under existing guidelines and under existing regulations but we have to deal with this issue of frontage." We didn't want to build the street either. We thought that putting a street in there was a bad idea because of all of the things that he just mentioned.

What they suggested originally was "You need to get a waiver from the Planning Commission to come in here and access it across the Center Street area and you need to talk with Kim Hesse and find out what she wants to do with plants along that City owned area and they want some kind of guarantee on how we are going to take care of that." We agreed to that. About a week later, when we applied to go see the Planning Commission on this, they informed us that also a condition of the waiver, something that we had never discussed in the meeting was that they wanted us to go through large scale development. That' where all the confusion started to come in on this project. Just to give you some background, we have spent the money to give you both options so that you can decide which best suits the City and best addressed my right to develop my property. That's kind of where we are. I just didn't want to get confused with all the side issues on the different variances that we need. We are just trying to give you both of our options.

Carter: All I would add is just, I can go over each of these individually but we are going to keep coming back to the same thing. You take the City street standards and you try to plot it down on an existing right-of-way, in an existing part of town, where Oklahoma Way comes in, there are five streets coming in right there together, existing conditions are the whole problem, with existing grade. We've got to match what's there are we are not going to get anybody off the street onto the existing streets. The K value on the street, I cut off the profile on that street design and took the slope down at a little flatter than 3 to 1 to this neighbors driveway, if we didn't we'll be covering up his driveway. It's another existing condition constraint. We just accomplished the street design with all the existing conditions the best way we could realizing that we would have these conflicts. There they are and Ron has done a good job of finding out what details and listing the ordinances that violates to try to do that street design in that area.

Ward: I do think that the things that is going to be hard to get a waiver on is the setback from detention ponds and things like that. Those are things you have to address for sure. I'm not sure that you are going to get actual approval at either Planning Commission or City Council, I think it's going to be a court action. You probably have a right to build if the existing has been grandfathered in but that's a court decision. It's going to be tough to get it approved through all these levels with all the variances that are going to be thrown at us.

Schmitt: Right now, for the large scale development, the only variance that we know of is the detention pond, is that right?

Edwards: You did read Kim's note on the trees?

Schmitt: I think that's a doubtful legality but I did read it.

Edwards: Is that feasible without changing your site?

Schmitt: I don't know, we need to get back and check. The first time we saw that was today.

Ward: What I'm going to recommend we do is, I know it seems like we keep putting this off, I don't think it's going to go anywhere for a little while. I think we need to get this addressed with Glen and Bob with the detention, the tree preservation, plus you require 30% instead of 20%?

Edwards: 30%.

Schmitt: I would like to know what the dollar amount of the fine would be that she is anticipating. I think that needs to be an option.

Ward: That would be something to get worked out before it comes back to us again and that way you can make a clear decision. At least a lot of little things that need to make decisions on so we can get approval or disapproval quickly through us. A lot of those issues and we kind of know what they are. Personally I think the concept, I don't know that there is much difference between the two concepts of putting in the six apartment complex buildings or six single family homes. I think that they are going to be strictly rental, right? They won't be able to be sold off.

Schmitt: That's right.

Ward: I haven't had a chance to really study this at all.

Bunch: It's shown as three story and you made comment that you changed it to two story and that would cause reconfiguration?

Schmitt: The three story shouldn't have been on there. We are going to run the roof lines north and south as opposed to east and west and what that does is allow us, where they measure that roof line, it allows us to move those farther towards the property line on the west, which gives us more room to meet the parking setback and retaining wall setback that Ron just mentioned. I don't think we'll have a problem addressing those issues.

Bunch: Are you talking about to the west or to the north?

Schmitt: For the peak to run north and south.

Bunch: You will be shifting the buildings which direction?

Schmitt: They will move to the east.

Bunch: That would cause a change in all these drawings which would...

Schmitt: Basically everything would be shifted over about four or five feet.

Carter: The issue with the detention pond is, I ran those numbers and I got them all to work and when I did the printout I had to go back and change something and it caused me to have to rerun the hydro graphs for each of those storms and two of them I didn't get rerun. It showed a higher number. It's going to work exactly as it's shown, I just didn't print out the numbers to show it.

Petrie: For the detention pond, the only thing I requested at Plat Review is to give me more information on these contour lines. I want to verify that these contours are going to work.

Carter: They are shown on the grading plan.

Petrie: The contours but not the elevations.

Carter: Actually there is a difference between the contour number on the plan and on the report. The report I said the bottom of the pond was 15/20 and on the plan I show it as 15/22. I found that raising the pond exactly two feet fit all the other contours. On the plan it shows 15/22, I'll just have to go back and adjust the numbers in the computer on the report.

Petrie: I never got a copy is part of the problem.

PUBLIC COMMENT:

Ward: I'll open it up to the public now, if anybody has something they want to bring up about this particular project. I don't think it's going to go much further today than right here but we would be happy to take public comment. Make sure you say your name and anything you would like to address.

Airs: Patrick Airs, my wife Lisa, we are adjoining.

Ward: What side do you join?

Airs: We are right at Lighton and Fletcher. Several issues, not the most important issue but we are just concerned about this property being put in at all. Apparently, it does meet the requirements with the City but we are really new to the area and the state. Our main concern is really changing the neighborhood, we just moved here less than a year ago. It's an extremely quite neighborhood. We really feel that two apartment complexes, adding 50 plus people is really going to change the neighborhood. Obviously property value plays a role. We really feel like all the additional people around it is going to make a definite impact. Ultimately, the biggest concern is traffic. There is a huge traffic issue, the streets are too skinny as they are. Obviously, we don't want to change the dynamics of the neighborhood so widening it and taking out even more trees than what have already been cut down, we feel would be a real concern. The street is not even marked. You can barely get two vehicles past each other on this road currently. With additional traffic it's going to be unbearable, not just on Fletcher but on down to Spring. There is some very dangerous turns. If additional roads are not added or can't be added, the only other option appears to be widening the current road which does even more damage to the neighborhood. We are concerned. The exit to the apartment complex is a blind curve and coming off of Rogers is a real issue unless they plan to take down all these trees on the corner.

Mrs. Airs: Why an apartment complex here? Six units, four rooms in each apartment, what market are you targeting for this apartment complex and how is it going to benefit and beautify our neighborhood?

Ward: First of all this property has been zoned R-2 for a long time. It has been grandfathered in long before any of us got here probably.

Mrs. Airs: Do we have any plans what this structure is going to look like?

Ward: Not at this level.

Davison: Sharon Davison. I have a big problem with this. The problem starts with the inappropriate zoning of this property as R-2. I just glanced at our big map in here and if you look at the few pockets of R-2 and where they join many of these R-1's, they should be R-1. Why they are R-2, I'm not sure. We have the problem with Lindsey wannabees such as this gentlemen who go and look on topos, pick out something good for them, good for their pocket book and come and try to inflict

that upon an existing neighborhood. One, before you go any further on this, I would really hope that you go up to this property, if you haven't already. Have you been to this property? You know the roads. Have you been to maybe Lafayette and Fletcher at 8:00 in the morning or 5:00? I have certain issues such as there is a sweet little old lady, Mildred Rose, she's lived here forever. She takes her walks up there. I'm concerned because of this, I'm not going to see Mildred Rose there one day. Our children are in this neighborhood. Here we discuss the aspect of existing conditions are not conducive to this type of development, even if you set aside the concern of the neighborhood. I assure you that the neighborhood is completely against this. I speak only for myself but I've spoken to many of the neighbors, we will fight this. We will try our best not to let this go through because it is totally inappropriate for Fayetteville, for our neighborhood, for our children, for our community. Let's get to traffic, let's get to Center Street, they want to put this thing in, they should make sure Center Street is in first then we can see where and what can handle what. Again, this gentleman is sitting here wanting things and he has not come to the neighbors, he hid at the Council meeting, they know what they are doing to the neighborhood and they do not care. This is a major issue. You look at how they change things, we either don't have the figures, the figures are wrong. First we are told when it first came in "We are just going to put two houses in there." Fine. There are duplexes in the neighborhood. Right down from this lot Greg House has three duplexes on an acre, I'm not positive. That is reasonable to pull up to the very edge that type of project. They could've been reasonable for trying to make a little money in this area, respecting the area and put in a couple of duplexes which are already in this R-1 area. We live across the street from people living in duplexes, duplexes are appropriate for R-1. Again, our problem is this is R-2 where it should be R-1. How do we go about dealing with this totally inappropriate thing until we fix R-2 back to R-1 how it should be, we can talk amongst the neighborhood to people who try and do this and ask them to voluntarily rezone it to R-1. We know this gentleman won't do that. What do we do? We rely on you, the Planning Commission, to do the right thing for us, the citizens that are here, the citizens have bought in this particular area specifically for it's family oriented, home quietness. We ask you to use at your disposal the legalities such as the problems with the streets, the conditions, the safety, the traffic, to deny these inappropriate plans put in an area that technically zoned R-2 he can do what he wants but if you can help us by telling him "We are not going to give you waivers. One, you have been up front about your project. You have not been really, in my opinion, honest about the details and you also really don't know what you are doing." Three stories, two stories, two units, twenty-four units, we won't know, they are waiting to see what they can push over on you. What I would appreciate you doing is telling them you are not going to get pushed

over by people trying to do inappropriate projects in inappropriate areas that are a heightened risk, not just to our little neighborhood but a real risk as far as pedestrian traffic and auto traffic. It is increasing the danger of the area and I will hold this gentleman responsible if something happens to Mildred Rose. I can say a whole lot more but we know why this guy bought this, we know what he's doing, we know what he did over on Marcum, I know what he's about and I don't appreciate it in my neighborhood. So, I will fight you on this sir.

Ward: You need to keep your comments non-personal.

Schmitt: First is, I've never done any projects on Marcum. Second, I've done two projects on Mount Sequoyah in the past three years, both of them have received nothing but good comments from the neighbors. All of them think they are additions to the areas. One of them is on Lighton Trail which is just up the street from the Airs. There was a condemned house that had been there, was a fire danger, and I put in neighboring units that has received nothing but good comments. Another was two vacant lots that I found over on Olive Street. I built a $420,000 house there that the Trumbo's live in that is a beautiful addition to the neighborhood.

COMMITTEE DISCUSSION:

Ward: I would like to bring it back to the Committee.

Bunch: This is part of a previously platted subdivision which extends, if I'm not mistaken, to the west on the non-existent Center Street, it basically goes down hill?

Schmitt: That is correct.

Bunch: What do we look at on those people's ability to develop their property? We have a street that is not necessarily going to be able to build a street on that's platted. We have property platted, somebody's paying taxes on that property, how does this tie in with looking at that in the future? There are other people who are going to want to develop that property, how does this tie in with that?

Petrie: Anything could happen. I don't think I could give you a good enough answer. That drops straight down off that mountain. My opinion is, you could never get Center Street built. It would never work appropriately. The concerns of several people who live in the area are avoiding getting that connected. My guess is, this is just a guess is a lot of that land will be developed into something else, whether

it's a PUD.

Schmitt: I think Greg House is working on that right now. What's the status of that, Sara?

Edwards: I haven't heard anything.

Schmitt: He bought quite a few of those lots so I know you will be addressing this again probably in the near future.

Davison: We do desire addressing this half acre aspect, his partner will come in and he'll want another 25 spots and he'll want another garages, do we understand this man is asking for four bedroom units with 50 parking spaces? We just had these large scale developments over there by the Agri Farm.

Ward: I would like to recommend to table this. I would like you to get with the setback requirements on the detention pond, also the trees. I think we need to get those two issues wound up and you will have a better chance.

Bunch: I have a question on this retaining wall, how close is that to the property line?

Schmitt: He informed us it needs to be five feet.

Bunch: Is that close enough that any kind of construction easements are going to be required or neighbor's property or anything of that nature?

Petrie: If it's setback five feet it doesn't require it unless the actual construction of it requires it. If it was closer than that we would require them to get an easement just so we know we have the adjacent property owner's approval to put it there. There is some stipulations for being able to do that. You don't necessarily need a waiver if the adjacent property is for it.

Schmitt: I assume rip rap is out of the question?

Petrie: The City policy is not to accept that.

Bunch: This will require new drawings so when are we looking at it again? Is this an indefinite table or to be brought back...

Edwards: Do you need it to come back to Plat Review or here?

Petrie: Here is fine.

Edwards: Two weeks. The deadline will be Wednesday the 20th.

MOTION:

Bunch: I'll move that we table LSD 01-19.00 to be brought back to the Subdivision Committee when appropriate measures have been completed.

Hoover: I'll second.

Ward: I'll concur.

LSD 01-19.00: Large Scale Development (Hometown Developments, pp 524) was submitted by Robert Schmitt of Hometown Developments for property located on the south and west corner of Fletcher Avenue & Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 0.50 acres with 6 dwelling units proposed.

Ward: The last item on our agenda today is LSD 01-19.00 a large scale development for Hometown Developments submitted by Robert Schmitt of Hometown Developments for property located on the south and west corner of Fletcher Avenue & Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 0.50 acres with 6 dwelling units proposed.

Conklin: This property was before the Planning Commission on April 23, 2001 with a request to not provide the required street frontage for lots in an R-2 zone. If you recall, Center Street comes straight up the hill, it's undeveloped at this time, it kind of parallels Fletcher Street. The applicant owns this lot right here. Basically you would have to cross the Center Street right-of-way to get to the Fletcher Street right-of-way. Therefore, technically he doesn't have frontage on Fletcher Street. It's a very unique situation, typically we don't have two street rights-of-way that parallel each other. Therefore, staff is not recommending that they actually build the street. This property is zoned R-2, it was zoned back in 1970, R-2. The waiver was requested to approve this project at that time for the street frontage. We required them to go through large scale development process. The applicant is proposing seven units with four bedrooms is each unit. There is property zoned R-2 to the east, west and south of this project. If this project is not approved, the applicant is requesting permission to build Center Street. Basically the right-of-way exists, it's existed for a long time. Typically, the way these are handled, in order to get the street frontage they would actually build Center Street which would give them the required frontage for the zoning in place. Therefore, it would be an administrative approval through Planning and Inspection Divisions. The only reason they are here today is because of the street right-of-way intervening between Fletcher and Center. Several waivers are being requested as part of the actual construction of the street, if that's what ends up happening, if they build the street to get the required frontage to build the project. Both items will be on the next Planning Commission agenda. Staff is recommending this project be forwarded to the entire Planning Commission. Conditions to address and discuss: All Dumpsters and utility equipment shall be screened. We have done traffic counts here at the City. With regard to traffic on Fletcher Street, we did a 24 hour count. Daily totals were 834 vehicles. We have looked at what 7 units of apartments would generate, based on 28 persons in the apartment and that came up to a 24 hour, two-way volume of 94 vehicles per day. Currently we are at 834, this project would add 94. Perry Franklin

has been out there and has taken a look at it with regard to ability to have a curb cut at that location and did find that it would meet sight distance standards. I just wanted to share that information with you with regard to the amount of traffic this project would generate.

Ward: Keith?

Keith Shreve - Sidewalk and Trails

Shreve: We are requesting a six foot sidewalk due to the zoning and on the drawing it's shown as four foot. A correction needs to be made. Your detail shows a six foot sidewalk. That's the only comment I have.

Ron Petrie - Staff Engineer

Petrie: I would request that we get all the grades shown for the sidewalk and, if you are going to meet the 2% requirement, it will throw some of your grades off. I'm not sure how it will affect the other things.

Conklin: 2% above the street elevation?

Petrie: Yes.

Shreve: Also the cross slope.

Carter: The slope of the sidewalk will follow the slope of Fletcher, right?

Shreve: Yes.

Carter: Cross slope 2%. You want to see the contours and grades, okay.

Petrie: The detention pond, I've looked at that and what's shown is not complete. You show the topo up to elevation of 1525 and you don't show it coming back down to meet natural ground. Almost all the way around this whole perimeter of this detention pond that grading would have to be off-site to make it work as it's shown. Unless, of course you put a retaining wall all the way around the detention pond. Your outlet structure that you show doesn't match, change that to make it all match. This retaining wall along the west side, make sure you are aware that would require both a guard rail and a hand rail. This is in proximity to that parking lot. That's all I've got.

Ward: Did you understand about the detention pond?

Carter: Yes, I did. What I had shown there, I didn't mention in my drainage report was just an overflow spillway to where this is going.

Petrie: Actually you mentioned a 13 inch orifice, not a spillway.

Carter: I did not mention it in my report, I know. I'll fix that.

Petrie: The other comment I have, I've gotten a revised summary for the detention pond calculations, I need the back up.

Kim Hesse - Landscape Administrator

Hesse: I don't know if you remember my memo from last time?

Edwards: I included it in there.

Hesse: The concern is the trees in the parking lot. It looks like they are giving 200 square foot. Unless you do some sort of alternative paving or something. What I was concerned about is giving the trees enough space to grow to maturity. I believe I requested 1,200 square foot.

Carter: We had 7 feet in those islands and you said that wasn't wide enough, you needed 10 feet to put a tree in so we revised the plan and put 10 feet.

Hesse: Which would have been for a typical medium size trees, what I was trying to do was get 8 large species trees, big canopy, 1,200 square foot per tree to grow. You can do that if you use alternative paving where the pavement allows for filtration and air, which is an option if you put them in the landscaped islands. Another concern is the trees in the right-of-way area will they be obsolete, it looks like right-of-way area. Any grading that would happen here, if they are not removing more trees. The retaining wall stops here, the possibility of a retaining wall, check with engineering, that could go in the right-of-way. That would take the retaining wall out to do preservation here. Those are my concerns. The rest of these trees could have room to grow, this gives them space. I'm just real concerned being surrounded by pavement and buildings, unless the paving is filtered.

Schmitt: That's for large trees as opposed to medium sized trees?

Hesse: Right. The way our parking lot landscape standards are established, that's why we have the different options and if you choose large species you don't have to put in as many but you do have to give them more space. This would be for a medium sized tree. Even then, the parking lot trees are not really there to get your canopy back up, they are more as an addition. What I was concerned with on these was getting canopy back up for the tree loss. That's why I'm trying to get the large species in there and more room for them to grow.

Carter: Are the four up front spaced okay?

Hesse: I'm concerned a little bit about this one just because you have one right by the dumpster pad. I don't know about foundation you will be building near the dumpster pad, there needs to be room for those roots to head to the northeast.

Schmitt: How much room do you need, like a 20 by 20 section for large trees? Is that what you look for? You said you want 400 square feet per tree?

Hesse: 1,200 square feet. What we do, in the current ordinance is undersized and the idea is to require more trees to get enough. You can do it that way but you would end up with more trees in an 800 square foot space. You go this way you need 8 trees but they end up in a 1,200 square foot space.

Carter: Would it be a problem, we've got one more tree than we were supposed to put on here, if we took two out of these island and put them on the north side of the pond? On the north side of the pond there is a space where there is nothing, we could put a tree there couldn't we and then one on the south side of the pond?

Hesse: I think the south side of the pond you are getting too close to existing canopy. I don't know how your grades are. It just depends on what you do with your grades. I want to see how that comes out. Yes, there is room here on the north side of the pond for probably two, that's assuming the tree roots are going in the pond area.

Schmitt: Just remove them all from the parking area?

Hesse: Unless you do alternative paving.

Schmitt: Can we do two down here and just put medium size trees in the parking island? That would give you what you requested plus three medium size trees.

Hesse: It will probably calculate to the canopy removed. What we are trying to do is get the canopy back in. I don't want to see any additional removal up in here.

Schmitt: I think the only additional removal that would be required up in here would be required by the sidewalk.

Hesse: With these grades you can remove them here, depending on how this graded out once we saw the grades in the canopy here too. Until we see the rest of the grades, I would be concerned about that. I suggest retaining walls.

Ward: Are there rare trees there?

Hesse: I don't believe they were.

Bunch: What kind of trees are those?

Hesse: Walnut, cherry, oak.

Bunch: The eight or nine trees?

Hesse: We've asked for hardwoods.

Schmitt: We trying to get oak.

Hoover: Are there just these four trees here or are there more?

Hesse: There is little trees. Those are probably located 12 inch and up.

Carter: They are 8 to 12 inch. Most of them are under 12.

Hesse: I couldn't tell you specifically what these species are.

Bunch: My concern would be more with replacement trees.

Ward: Is there a certain type of oak tree that you are talking about normally?

Hesse: No. White or red oak, 2 inch caliper.

Ward: 2 or 2 ½?

Hesse: Yes.

Ward: Bob, do you have any other comments to make on the development?

Schmitt: I don't think so.

Bunch: I see you added an additional unit, from six to seven and eliminated the space in between them?

Schmitt: Yes sir. Given some of the requirements that were thrown at us at the last meeting, we didn't have a whole lot of options.

PUBLIC COMMENT:

Ward: At this time I would like to turn it over to the public for comment. If you have comment, keep your comments strictly to this particular item we are discussing, make them brief and once somebody has said something don't keep repeating the same issues.

Havens: I'm Jerry Havens. I live on Lighton Trail and I was here at the first meeting so I won't repeat any of the comments I made there. I really have two requests for information, this may not be the place to get them but maybe you can tell me where I can follow up. My concerns are two. First, has to do with the fact that the standard conditions of approval that are listed as a follow to see the City looked at make final approval of grading, drainage, water, sewer and all of these things, I'm concerned about the sewer because I've lived up there for a long time and I know that there are some fairly significant sewer problems there. I suspect they are all over town. They boil down to the fact that we have occasion, particularly when we have a lot of rain, we have sewage overflows and results in odors and so forth. When I called the City about that, basically all they could tell me is that we could expect the sewage system is not in the condition we would like to have it but prohibitive to fix it, etcetera, etcetera. My concern here is, who is looking the question of how this development would impact the sewage system. I would like to have some quantitative information on that, I assume somebody is bound to do that. The second question was prompted by my reading of your handout today, it has to do with the letter that requests waivers from the City of Fayetteville minimum street standards. There are five specific requests for waivers and I won't go into it in detail but my reading of them suggest that they are very significant. There was a waiver here earlier to go from the required 30 feet to 29 feet, these are much more meaningful waivers. When I read them, they look to me like they would be very important from

the standpoint of traffic safety, not the density of traffic, not the number of people that would be traveling on the road but from the safety problems that would be generated by the closeness to the intersection, the angle of the intersection and so forth. My request is there just to have you suggest to me on how I could follow up on how decisions would be made to grant these waivers.

Ward: Ron, if you would like to make some comments about the sewer or what problems we have?

Petrie: That is certainly an older part of the system. I know there are some problems. You asked me about quantitative information, that is information I don't have with me. As a Staff Engineer here reviews these plans and what I have to do, of course on public sewer they are going to put in, it's more or less my responsibility to make sure that gets put in per code. When it comes to what our capacities are, I have to rely on David Jurgens, Water and Sewer Superintendent. He's the one who knows where the problems are and deals with them on a daily basis. I have to rely on him telling me if this is going to cause problems when it comes to actual capacity. Mr. Jurgens gets the same plat material that I do. Also, when it comes to capacity we have a study that's usually updated every few years on where the problem areas and where we need to attack next as a capital improvement project. I don't have all the answers you need right now. That's something I can look into, there is people in the City that can get you some more information. That's how it's reviewed and looked at potential problems.

Havens: I would like to request that information.

Petrie: Sure. The minimum street standards that you mentioned, those waiver requests are only if they are required to build Center Street. What's before us right now is not doing that.

Havens: Do I understand you that if they go to Fletcher there is no waiver required for that?

Petrie: From the minimum street standards, I'm not sure about the other standards. From the street standards there is not. We wouldn't support those waiver requests either. What I'm told, they want to bring that forward at the next Planning Commission if this is forwarded, they would like to have that as an administrative item to be heard after this. If this development, as we've got it, is not approved, they would like that administrative item to be heard on building that street and giving the proper road frontage.

Havens: When I got into this the thing that really concerned me about it is the fact that I was the

first one to discover trees going down and now we are dealing with how we can replace them and I feel that was a very deliberate move to get down the road so we couldn't turn around and go backwards. That's what my concern is here and why I raise these questions because as I understand this, there has been a position taken by the developer that if such and such doesn't occur today then they are going to move in another direction. Apparently this waiver question associated with Center Street is the preparation in going in another direction if this doesn't happen. In the interest of the homeowners out there, this is all a very confusing situation and I'm appealing to you all to help me insure that the City takes a look at all of these questions under the existing standards and evaluate them fairly for all of us.

Ward: I know I'm confused because Fletcher and Center and other streets come together right there. We have a piece of property that's been zoned R-2 for a long time, it's been there longer than any of us have been up there. We are very concerned about all the things up there, traffic, density and those type of things but the property has been sitting there all these years as R-2 property. It's a complicated problem. I don't know if there is a perfect way of doing it.

Green: I'm Michael Green, I live at Texas Way and Lighton Trail. I guess one of my main concerns is this is going to be a high density shock to a very low density neighborhood although this obviously is a long term plan. Part of the neighborhood, as far as R-2 is concerned, there has never been anything with this high a density. There is also a lot next to it, which is probably off the justification of this approval, will proceed with further adding to the number of people and traffic right in that area. I'm also concerned about this being so close, within yards of the intersection of four streets, none of which have a square angle on them. They are all coming in different angles and the sight lines are not textbook sight lines. I would feel better if the traffic people really take a very close look at this, both from their quantitative standpoint, from the sight lines that they have there, plus the considerations of the brush at the intersections and the strange angles that the streets come together. I've personally witnessed several car accidents there, even with the lower traffic counts we see there now. I'm really concerned about what this shock is going to do with that narrow street. Also, there is no place to park along those streets, they are very narrow, they don't have shoulders, only ditches right around that particular development. Where is the overflow going to park? I hope there is 28 parking spaces, at least one for each bedroom unit. I think there was some concern initially that there were going to be too many parking spaces. I'm kind of concerned there is not going to be enough and then people are going to have to end up parking on the street, they have visitors and things of this sort. I just don't think this has been thought out very well and I know all of my concerns have not been addressed yet.

Before this gets too far, I want to request that we do take a very close look at this from all the departments in the City. We just want to make sure everybody has thought this out and we don't get ourselves into a real bind later on. Thank you.

Jansmen: I'm Harriet Jansmen. I live at 900 Lighton Trail. I share the concerns of Jerry Havens and Mike Green, my neighbors. I wanted to mention one issue in particular and that is the ditches on either side of that street in relation to the steepness of Oklahoma Way as it comes down to that very sharp curve. One summer day, like today, I pulled a woman and child out of an overturned car in one of those ditches. It doesn't take bad weather for them to be dangerous. In bad weather that corner is a danger to cars and trucks. I would like to see a requirement not just the driveway have a culvert under it but that a curb and gutter be required along the frontage of that property if there is going to be that kind of development in that area. I think there is an interest, not just of the residents of the area now and of the trees on the property, but of the the residents there for the safety of everyone. The driveway curves back toward the east, 99% of the exits are going to be toward the west and there is a real steep corner at Fletcher where it's also a blind corner and there has been a lot of accidents there too. I think there the street infrastructure is as inadequate as the sewer in that area. I think our interest is not by definition against density close to downtown, density close to downtown prevents sprawling the suburbs but we want to make sure we don't have a Motel 6 move into a nice neighborhood.

Ward: Ron, what do you think about Ms. Jansmen idea about curbs and so on along the road up there, is that something that's possible or is that against regulations?

Petrie: I think it's shown minus about 10 feet on the west side, there is a culvert.

Jansmen: It stops at the edge of the driveway doesn't it? The drive is pretty wide and there is culvert under the drive but then along the drive there is not a culvert in the ditch.

Petrie: If you project the property lines up, and I assume you are talking about just the frontage of it, if I can show you this.

Jansmen: I see what you are saying, it's a real sharp distance. If the second development to the east is built, I'm suggesting the same thing there.

Petrie: I can tell you with the traffic that is a concern and I know that the streets are inadequate, the thing I don't know is what do we do and how do we assess it to this development? I left that open for discussion here. We certainly can't have this

developer improve all of Fletcher Street.

Davison: That's the only thing that will go in there. There is no other major huge development that's part of the issue. This is where the only huge development would go would be to service him and his units, there is no other units. There is no other R-2 beyond that section of the mountain, it's only coming up Center. So, we are doing it all for this gentlemen and his friend's development. They should carry the cost for service to their development.

Petrie: We are not doing anything for them.

Davison: That is my request is that you don't do anything for them.

Caulk: Bob Caulk, I live on Missouri Way out there. I'm not going to say anything because everything I was planning on saying has been said by other people. I just want to make sure I get on record as saying I agree with the issues on sewers, streets and traffic.

Airs: Patrick Airs, 738 Lighton. I just wanted to put a quantitative number to the additional traffic that you were estimating. With the 28 bedrooms for this particular apartment. Obviously with location there is a good chance it will be college kids, good chance you will have at least one car per bedroom, sometimes more. If we take some more realistic numbers for that location plus the additional, you are looking at a 30% increase roughly. You are saying 94 people based on 28 cars, realistically it will probably be more than that. The potential with the additional development with estimated will be the same number, maybe more, we don't know at this point. You are looking at least at a 30% plus increase. With the concern about the streets, the blind turns, it being dangerous in a car, it is going to be very dangerous to walk. To be honest there are probably more people walking up there than they are driving. All my other concerns have pretty much been addressed.

Conklin: The calculation on the number of traffic is a software program from the Institute of Traffic Engineers and they do these studies all around the nation. It's not just something that staff just calculates by ourselves.

Jansmen: Do they consider the demographics and population?

Conklin: There are many different ways of doing it. We actually did it two different ways and we used the number of people that we thought would be living in the apartment complex versus the number of units to get a higher number.

Davison: My name is Sharon Davison and I have been following this from the beginning. I do live down on Rodgers Drive. I have seen from day one when they went in and removed the trees. Let's get back to the issue of R-2 zoning being the problem please because we look at all these factors, it is inappropriate for that area. We supposedly can't do anything about the R-2 fact but we can do the right thing by not allowing waivers, not granting variances. One reason I think this case particularly does not deserve any extra help is day one, how it started. Let's look at how it started. How did this gentlemen pick this property to develop? They looked at a map that said R-2 zoning to fit their needs. What was on that lot to begin with? There was an old one family on that. It's three lots, these two gentlemen went into business, bought together and split to do this project. What was there originally was the one house. That sort of contradicted it of this being just so inappropriate because it's labeled R-2. We want everyone to understand, we are in a very mixed use area. We have duplexes that have been up there for years. We like having mixed rental in some duplexes. There are a lot of people who turn their house into duplexes. We've tried to talk to these gentlemen and say "We understand even if you are doing this strictly for investment purposes, that duplexes are appropriate in that area even though, again the whole traffic area is very bad there." They decided not to do that. They've shown their contempt for the neighborhood by tacking on another unit to cover the expense of them having to do what they should have to begin with. I do believe I have a problem with that and hope that you all will show us the consideration. There is over 100 family owners up in that area that are directly affected by these gentlemen's plans. If you will please do the right thing and make them come up to standard to prove that they care about what they are doing. Do not grant waivers, do not grant variances. They are not appropriate. The other part is that we have a wildlife area on the back side of that mountain that's very protected. It comes up from the cemetery, stretches all the way around the south side of that mountain, we have birds and wonderful things. I believe that land will be minimized, the bird population and all those things will go down and our whole quality of life will go down in this area. I'll stop now and I appreciate everyone showing up and showing that we care about what's going on. I will say a lot more people would have been at this meeting but as you know it takes a lot of time, money and luxury to take off work and get to these type of meetings. I think our representation here shows that we care, that we don't appreciate it and there will be a lot more people at the evening meeting that most people can attend. Thank you.

COMMITTEE DISCUSSION:

Ward: Any other public comment? Seeing none, I will close it to the public at this time and bring it back to the Committee.

Hoover: Tim, are we doing any waivers or variances on this? I don't see asking for any waivers.

Conklin: No. I don't believe that they are asking for any waivers on the large scale development. To build the street they need to ask for the waivers. They want to build the street in order to build the units. I need to bring something up. Looking back at the April 23rd staff report, our condition of approval limited it to six units. They'll need to reduce it down to six and that's what was approved.

Ward: That's been my only concern. Not that you had the right to build them but maybe the higher density number you put in there. From economics I can understand it but this would be a lot more than what's there now. I assume it will be a very nice project like a lot of other projects you've done but to me it's a little bit high density. Of course I live up there. I've got to be careful about how I think about these things but I do feel like it's too high a density. That's the only thing. I'm not against the project.

Schmitt: I would be glad to drop the density if the City will drop some of the requirements.

Ward: I think that's a trade-off. There are a lot of rentals up there, duplexes and so on. It's a great neighborhood to live in, we all want to keep it that way. Mount Sequoyah is a great place to be. We want to try to keep it that way. There is some concern about the higher density that we are trying to put in here today.

Schmitt: I understand the density is allowable up to 12 units.

Conklin: In our staff report we made a recommendation to allow the access without the street, we put the condition on there based on your proposal with six units on each lot.

Schmitt: If you will go back to your meeting when we first went to the Planning Commission you recommended approval on 8.

Conklin: It says 6 in the staff report. "The density shall be limited to 6 units per lot. The applicant is proposing to construct one six-plex on each lot. The density allowed in R-2 zoning is 24 units per acre by right. This equals to approximately 12 units per acre."

Schmitt: At this point, based on the new information we got at the last meeting, we don't have any option other than to go with 7 units. It's still roughly 60% request of the allowable density. This is the way it stands at this point. You will need to deny us at 7.

Bunch: When this was zoned R-2, do we have anything on record as to when it was zoned R-2?

Conklin: 1970.

Bunch: At that time, what was the allowable density for R-2 zoning?

Conklin: 24 units per acre.

Bunch: The same as current?

Conklin: Yes.

Ward: Our new R-2 regulations and policies have changed that recently which we have allowed a lot less density per R-2 for different situations, in different locations. I think that will solve a lot of problems that we are facing here today.

Bunch: These are all proposed as four bedroom units?

Schmitt: Yes sir.

Bunch: Each with a garage?

Schmitt: Yes sir.

Bunch: Carport or garage?

Schmitt: Garage.

Bunch: Two enclosed and two outside for each unit?

Schmitt: We had preferred six units with some additional parking per unit to relieve some of the concerns that were mentioned here today, the 20 foot setback request for the detention pond and the request for 30% tree canopy replacement for mature trees did not allow us to put those extra parking spots in. We would be glad to put them back in if the City decided they would rather have adequate parking than some of these trees.

Hoover: On the sight lines in the topo, when you are looking at the traffic manual, how does that come into play, you can't just take it that everything is flat? Does someone need to go

out there and do an analysis of the area and do elevations of the sight distances?

Petrie: That's what I understand Perry has done. There are some fairly standard guidelines on what's required. Perry usually does that for most projects to make sure they meet that. When you go out and do the study, you have to determine where the car is and where your eyes are going to be when you are pulling out and you take your sight distances from that. There are certain heights you use, I just don't know them off the top of my head.

Hoover: With the Summit Avenue being so close, that's actually in the manual that it's okay to have that jog and this many people come out with an intersection and another one that close?

Petrie: This is just a driveway, it's not a street.

Hoover: It's not a driveway for residential. I can see for one house but because there are 94 cars per day, that increases it more than a residential driveway. Does it explain in Perry's report how he did that?

Conklin: Sure. I'll read that for you. This was April 23, 2001, from Perry Franklin our Traffic Superintendent. "I checked the above location for adequate sight distance. I exited the property from the existing gravel drive to check the sight distance. The gravel drive and the 24 foot drive shown west of it would both have adequate sight distance if vegetation to the east is trimmed back a couple of feet. Both Rodgers Drive and Lighton Trail have a stop sign for westbound traffic coming down the hill towards this proposed drive. Sight distance to the west is unobscured. The drive should be located as far to the west as is practical to serve the property. If I can help you any further, please let me know."

Hoover: Does it make any comment if you are traveling up Summit Avenue?

Conklin: I can get with Perry again.

Hoover: I think it would be a good idea if Perry came to the meeting because the neighbors are going to have specific questions for him.

Conklin: Sure, I'll invite Perry.

Ward: How many homes are up on Summit?

Conklin: I'm not sure.

Davison: Six.

Conklin: What I heard from Perry is the traffic on this road is fairly low and we have many roads in town that carry a lot higher traffic.

Hoover: I don't think it's so much the traffic flow as the visibility.

Ward: There really is not that much traffic.

Hoover: The other thing Tim, is there allowed any parking on Fletcher Avenue?

Conklin: No, not at this time.

Bunch: On the drawing we are showing existing canopy 1.75 acres, preserved canopy 1.39 and then in our report we are showing the total size of the place is only about half an acre, which numbers do we believe?

Ward: I'm not sure where this came from.

Carter: I see your numbers and I don't know the answer to that. Those numbers are obviously in error.

Hesse: There is also an application required. We get the numbers from the existing on the large scale.

Bunch: When we do get the revised numbers on existing preserved canopy, is that going to be canopy before or after the lot was cleared?

Hesse: It's after.

Bunch: It's kind of hard to get 1 3/4 acres on half an acre.

Conklin: You do have an application form with the numbers.

Hoover: The sidewalk where it jogs around, what are those circle and squares there?

Carter: They are utilities, there is telephone pedestals.

Hoover: Are those existing?

Carter: Yes.

Ward: This has to go to full Planning Commission. You are going to have plenty of time to make those comments before it's approved. We are just going to forward it and let the full Planning Commission look at determination and that's when we can, if there is anything that comes up as far as density levels and so on, we can discuss that. This is just a preliminary agreement, we've gone over it and looked at a lot of the concerns, listened to the public and tried to get as many things answered at this level before it goes through to Planning Commission.

Bunch: Is the next Planning Commission timely enough to be able to have that information and sewer overflow information, traffic updates and that sort of thing at the next meeting? Is that time enough for that?

Conklin: I think that will be enough time for Perry to get out there and look at the traffic. Dave Jurgens?

Petrie: I don't know exactly what information he's got. I hate to speak for him. I guess I can present whatever we've got at the meeting and if you need more information you can table it there.

Bunch: Who do we need to invite to the next meeting? Perry Franklin and Sewer Division? Will you have sufficient information to solve that information and answer it?

Petrie: Let me see what we have.

Ward: It starts over again because we have nine people at the Planning Commission. It's neutral. We don't recommend approval or disapproval. Our main objective here is to try to get a lot of the problems solved before it gets to the full Planning Commission and look at some of the things that might not have come up before.

MOTION:

Bunch: I'll move that we forward LSD 01-19.00 to the full Planning Commission including the report that have been requested and staff comments, all notes from the meetings.

Hoover: I'll second.

Ward: I'll concur. Thanks.

LSD 01-19.10: Large Scale Development (Hometown, pp 524) was submitted by Glenn Carter of Carter & Associates on behalf of Hometown Development for property located on the southwest corner of Fletcher Avenue & Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 0.50 acres with 12 dwelling units proposed.

Bunch: The next item on the agenda is a large scale development 01-19.10 for Hometown Development submitted by Glenn Carter of Carter & Associates on behalf of Hometown Development for property located on the southwest corner of Fletcher Avenue & Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 0.50 acres with 12 dwelling units proposed.

Sara Edwards - Associate Planner

Edwards: If you will remember, this property has right-of-way existing for Center Street running directly north of it and they are proposing not to develop that right-of-way but to access their driveway from Fletcher Avenue. We've seen this before. A request was before the Planning Commission on April 23, 2001, where they requested not to provide the required street frontage for lots in an R-2 zone. Approval was granted subject to large scale development with a limit of six units on this lot. They are proposing twelve units and requesting that the Planning Commission rehear that item and basically allow 12 units instead of the 6 that was approved. The proposal is 12 units, 10 two-bedroom units and 2 one-bedroom units. They are providing 22 parking spaces. We do have some conditions we are recommending you forward to the full Planning Commission so that this item may be heard with the other items.

Conklin: The first item will be the administrative item you first heard with regard to allowing a development to come through without the required street frontage. That administrative item limited the density to 6 units on this half acre of property. Without amending that condition, you can't hear the large scale development, in my opinion. That will be the first item. The second item will be this large scale development which, depending on what you do with the first item, if you agree to amend that condition, you hear the large scale development and decide whether or not it meets all ordinance requirements and either deny it or approve it. If the item is denied, the property owner/developer has requested that you hear an administrative item for a waiver of our minimum street standards in order to develop Center Street off of Fletcher and the street would give him frontage and the property is zoned R-2, the first item which was no street frontage goes away and they meet zoning ordinance requirements with regard to street frontage. There will be three items on that agenda. One, no street frontage, two,

large scale development and three, how you build the street and get variances for minimum street standards.

Bunch: Which meeting is this?

Conklin: The 27th.

Edwards: The first condition, from out Traffic Superintendent, when he was out checking sight distance, he feels the sight distance will be adequate as long as the trees along the right-of-way east of this proposed drive are trimmed to provide adequate sight distance. That will be prior to the final certificate of occupancy. Those trees, he says it's difficult for him to tell if they are right-of-way trees or on this property. It's probably a combination of both. The developer will be responsible on his property and the City will be responsible for those on theirs. The second condition is, all efforts shall be made to eliminate the need for a public lift station for this site. The use of a public lift station must be a last resort option. I will let Ron explain that when we come around to him. The third condition is, any electric lines provided to serve the lift station shall be placed underground. The other conditions are standard conditions.

Conklin: This item was brought back through the process because they did change the large scale development configuration of the parking. They have actually, on this latest plan that we did receive, are showing a lift station that is actually located partially on this property and partially on a property to the east owned by Brian Dandy. Based on those changes, I thought they were significant enough to make them go back through Plat Review, Subdivision and Planning Commission process. That's why it is back before Subdivision Committee. There were changes that had been made, it's a different project that you are looking at from what you originally saw with the six units.

Keith Shreve - Sidewalk Division

Shreve: No additional comments.

Ron Petrie - Staff Engineer

Petrie: In regards to this lift station, just as it says, there is some maintenance costs associated with a public lift station. We want that to be a last resort. There are other alternatives and they involve off-site easements. We want to make sure that's a last resort. In regard to that additional conditions, if this is a lift station, the area that's fenced needs to be deeded to the City. Two, we need access to it. I

don't know if it means taking out parking spaces or what, but we need some type of driveway to get back there to it. There is a $4,300 feet to buy and install the SCADA system for the station and we would need a 20 foot utility easement that covers the force main leading from it. My other issue is something we discussed at plat review, that was because of the reconfiguration I need to know the changes in impervious areas from what we accepted on the preliminary drainage report.

Carter: We calculated those and the impervious area dropped.

Petrie: I would like to have that in writing.

Carter: I thought we turned in a new report to you.

Petrie: That's all.

Carter: It showed that our calculations for flow are conservative. The new resulting flow with this configuration is less than it was before. I'll show that in the report.

Petrie: There is one other thing that wasn't originally listed in the last condition of approval, that has to do with improvements to Fletcher Street. Planning Commission should make that determination. They are showing widening Fletcher Street adjacent to the site 14 feet from centerline with curb and gutter. That is a determination Planning Commission does need to make.

Carter: We don't have a problem with that.

Kim Hesse - Landscape Administrator

Hesse: No additional comments since the last meeting. The only addition we had was a parking change, an island was added for parking lot landscaping. Glenn, I just want to make sure that is 8 foot wide to give the tree room to grow. Based on our current requirements they've met the additional 8 large trees. As we said last time they are to be hardwood species 2 inch caliper. You are giving at least enough room as shown on the plan.

Estes: The discussion has been that because condition of approval number two is all effort has been made to eliminate the need for a public lift station at this site. The use of a public lift station must be a last resort. Commissioner Bunch raised the issue that on the drawings that we have, they are not complete regarding lift stations. There is just a little notation "lift station, pig launch structure", and Commissioner Bunch was suggesting we table this. My thought would be that the

condition of approval is that all efforts be made to eliminate. I would like to ask Ron, if it develops at some time that the lift station is necessary than you are going to be involved in this process, are you not?

Petrie: Yes sir. It will have to be designed before we approve the construction plans and they start building the apartments.

Estes: I would like to go ahead and take public comment. This is a contingency, it may be necessary, it may not. I would imagine the applicant is going to make every effort possible to illuminate the need for the public lift station because of the intended expense.

Carter: I would ask that you not table it at this time. We just found out about this requirement at this meeting. There is no way we could prepare for that. We do understand in general that lift stations need access and we can provide that. I don't see any problem with rearranging the parking to make that happen. There are a couple of other issues, is this the first time you have seen this with this configuration?

Estes: This is the first time I have seen this.

Carter: I wanted to make a couple of general comments on behalf of the client. We were asked to come to Plat review, back to the beginning of the process and Subdivision Committee because, as Tim noted, the change in the parking and the change in the configuration. I just wanted you to understand that was a change that was required by Planning which we accepted and we made adjustments to. Also, I just wanted to point out also this issue about condition of approval that the Planning Commission heard with the stipulation of six units. We were thinking not in hard fast terms of units and numbers, we were thinking more in common sense fashion. We were kind of hoping the common sense aspect would come into play here a little bit. If six units as approved in the Planning Commission, there would be 24 residents on the property. When we came back to Plat Review and Subdivision Committee the first time we had seven units which was an increase to 28 and we were told by Planning, at that time, we would be denied approval for 7 units. At that time, because of those changes and because of the comments, we redesigned and reconfigured to try to come closer to their compliance and actually come into a less dense situation than was approved by Planning Commission to begin with. Whether you call it six units or twelve units, the point that we are making is we are actually dropping below the 24 residents that would be there, to 22 residents, we are just reconfiguring how many different actual units you have. If that's a big factor, I guess that's just a big factor. I

would appeal to your thinking on that, in common sense terms, we are trying to reduce the density and we are trying to comply with the spirit of the approval that was given to begin with. I just wanted to make that comment and, as far as the lift station access goes, we could easily comply with that I believe. We would ask you to not table us at this point and bring this to the Planning Commission.

Conklin: I'm not sure but, I always thought that ADA would have a requirement for ADA parking spaces and I don't see any on here. I'm not sure why you don't have any shown.

Carter: We discussed that in either this meeting or Plat Review meeting, maybe it was with Perry Franklin that was here.

Conklin: You don't think ADA requires you to have any spaces for this project? It's federal law.

Carter: I would have to look at the comments to see what the comments were but I thought someone said that we wouldn't require it for this project. I don't know. We probably need to look at the minutes and see who made that comment. I thought it was someone from the City of Fayetteville.

Conklin: I need to take a look at federal law and see what it requires versus our Plat Review minutes.

Carter: It's not a problem, if we need ADA then we'll make ADA spaces.

Conklin: It's going to reduce your parking spaces.

Carter: The comment concerned these slopes and whether or not it would be safe to have ADA space down there. If it's a law, it's a law.

PUBLIC COMMENT:

Bunch: I will now open the meeting to public comment. Please identify yourself for the recording.

Davison: My name is Sharon Davison and I do live here in Fayetteville. I've been spending time on this as we've been forced to. My first comment is, look at the empty chair. It's empty because the developer does not want to be here, we all know why. He sent his guy here to give us new numbers, new figures, new things. We've spent over five months because they do not do the right thing from the start

and every time they come in it's a stall tactic to see if they can push through something on this. They come out with "We have tried to comply, poor us." Let's get that straight. They have not tried to comply, they've been made to comply because of their actions. They have not come forthright, everything has been changed. The first meeting that these men were at, their lawyer sat up front, they sat in back. When Commissioner Estes asked if the people were there, they didn't speak up, their lawyer got up. I think these men know exactly what they are doing. The whole point is, why are we having to spend all this time when they are coming to us wanting favors and variances, wanting to do something negative for the neighborhood and not being forthright in their plans and then put it back on us? I think that's pretty low. I think there should be something where we can say "Come back in a year. We are not going to spend five more months on this." We, as a collective group in our neighborhood, have had to spend five months going to meetings that get postponed, get put off because these gentlemen don't have it together and that's how they approach you. How can we not say enough? Come back in a year when our city sewer can handle it, come back when you know what you are doing and maybe want to do something for us all. That's the other issue, they are going to keep building this up where they say "We have invested so much time and money in this, you have to let us do it." My opinion, that's the dirty dog card because they started out that way. We are spending a lot, collectively as a group of people, time, money, effort. We have millions to lose compared to their money to make. It gets down to the issue, speaking only for myself, I have no money, I owe student loans but, this is Fayetteville, I know a lot of lawyers. Force me, we'll have to do what we can to stop you when the City's hands are tied while you try to force this development down our throats.

Havens: My name is Jerry Havens and I live at 809 Lighton Trail. I have two points, both are requests for clarification. I went to the last meeting and I registered a concern about the capacity for the sewer system, can it handle this? In that regard, I noticed that there is a statement here, a condition of approval that approval does not guarantee that sewer capacity will be available. My question is, did someone look into more definitively the question about how this will exceed or not exceed the sewer capacity, what did you find out?

Petrie: I did and prepared a report to the Planning Commission and it's in this file. There are two different systems on the mountain. One system that comes around back to the north that has a history of capacity problems, overflows. That system is not being connected to this development. I should say on that system we have over a million dollars in our capital improvements project to replace that system next year. That's scheduled to be done. I can show you this on the map. What they are connecting to is this line that comes up.

Havens: That one is adequate?

Petrie: Yes sir. It is adequate and it does not have a history of overflow.

Havens: I assume that the lift station we are talking about is a sewer lift station, a lift station to the sewer line?

Petrie: Yes sir.

Havens: My second point was the principal concern of everyone here last time. The way I understand is we are shooting at a moving target right now but, apparently a decision will have to be made, regardless of what kind of finding there is here. A decision will have to be made as to how to deal with the requirement for a street waiver. At the last meeting there was considerable detail about the waivers that would be required. I don't see those here. What I remember about them was that it would require a number of waivers that seem to appear to be severe waivers. They weren't even close to the requirements and it would require a real substantial change and waivers. We felt like those would impinge strongly on public safety and traffic safety. My comment is to ensure that those situations are still being addressed by the Planning Commission.

Bunch: Jerry, that was addressed in the comment Tim made at the onset of this, this particular portion of it deals with access from Fletcher and that had to do with access, if this is denied, their request for access from Center Street.

Havens: I had a hard time understanding.

Bunch: That's an administrative item that will be on the agenda.

Havens: What that boils down to is that is going to be considered should it become a situation that has to be considered in the future?

Conklin: If they want to build the street, they cannot meet our minimum street standards and, therefore, a variance would have to be granted. Once they build the street they would meet all zoning ordinance requirements. It was zoned R-2 in 1970. That's the whole issue why we are here, if this lot had frontage on Fletcher Street we wouldn't be here today, a permit would be issued as long as they complied with all ordinance requirements.

Havens: I guess the only thing that I'm concerned about is, this has gotten so complex that I don't really know how to understand or have a good feeling about what the

alternatives are that we would be looking at depending on whatever action is taken at this particular meeting. I realize it might be a request to repeat something that you've already said but that's the concern I have.

Bunch: The action that will be taken here will be whether or not to forward it to the full Planning Commission. If it is forwarded to the full Planning Commission, there is an administrative item for the widening of Fletcher and this item, first we would have to hear the administrative item on the changes to Fletcher and if that passed, we would hear this. If this did not pass, we would look at the one with all the street changes on the waivers for Center Street.

Havens: Does this body have two options, either to deny it or to forward it to the Commission? I assume if it's forwarded, that simply means it's forwarded not with recommendations or anything?

Bunch: That's correct. One other item on the sewer, this item 8 that you were referencing is a standard condition that we put on all these types of developments. It has to do with capacity of the sewer system as a whole but we also have the situation Ron described on Mount Sequoyah where their lines are inadequate. I think that standard statement applies more to the capacity of the wastewater treatment plant than it does to the specific situation on Mount Sequoyah.

Petrie: You have a copy of my memo in your packet.

Jansmen: I'm Harriet Jansmen and I live 900 Lighton Trail. Has the question of the pond, it encroached on the adjacent property in the last plan, been addressed?

Petrie: Yes, it has been addressed and how they are proposing to meet the setback requirements for the grading is to install a wall along the south and west sides of that pond. As long as the revised numbers that I get with regard to impervious area and how it compares to the report that was accepted, if that is appropriate and looks okay I would say yes, it has been addressed.

Caulk: Clark Caulk, I live on Missouri Way. I'm very happy to hear that they are not going to be hooking up to the sewer that comes on my side of the hill, we couldn't handle it I'm sure. My real concern about this one is, anything that's done up on the hill that has the potential of increasing traffic. In my case particularly Missouri Way/Oklahoma Way corner. It is quite a dangerous corner that causes me great concern. While where this is located it won't necessarily increase traffic up there a great deal, it has potential increasing it 24 or 22 people up there increasing traffic and that is a real concern to me.

Bunch: Is there anyone else?

COMMITTEE DISCUSSION:

Bunch: Seeing none, I'll bring it back to the Committee.

Estes: I have several questions. Ms. Hesse, what determination was made regarding the prior tree removal, has that issue been resolved to your satisfaction?

Hesse: I conferred with the City Attorney's office. In another situation we fined the applicant and their sentiment was that they prefer to replace the canopy. I conferred with the Attorney to make sure it was an either/or situation either a fine or replacement and he felt it was, you can't do both. The public appeared to want canopy replacement. What the canopy replacement is, the requirement plus 10%. Assuming those trees reach close to maturity, that's only 8 large trees. That's what we have asked them to plant and make room for. They have met the minimum space.

Estes: The previous proposal was six units, is that correct?

Carter: Yes.

Estes: How many bedrooms were going to be in that six unit complex?

Carter: 24.

Hoover: On the lift station, I'm looking at Tim's plan, is that the property line that's showing in the water line on the legend?

Conklin: The red line should be the property line.

Hoover: I guess I'm concerned about, before Planning Commission, will the lift station issue be resolved? It looks like it is a major issue with how it's going to sit on this property if that's the property line. Right now it's over on the other side. What are the alternatives to the lift station?

Petrie: Before we get the elevations and design, it's hard to say exactly what the options are. I can tell you what I think. There is an existing line on Olive Street, it would involve quite a bit of pipe to get from Olive Street and run it down Fletcher. The problem is, there is a low point in Fletcher between the existing sewer line and this. I guess they have a problem with elevation and getting it over here. They

either are going to have to come back up the hill and go around that low point or come from Olive down below. Those are really the two options I see. They both involve obtaining off-site easements.

Hoover: Can this lift station be positioned on here to work?

Petrie: With the driveway and maintenance?

Hoover: Right. And getting it within the property, are there any setback requirements for the lift station on this property.

Petrie: Not that I know of. We get the deed for that property. If they can get a driveway in there, I'm not sure.

Conklin: How can we have a lift station on someone else's property, these are two separate pieces of property, two separate large scale developments? Has Mr. Dandy signed anything giving the authorization to put a lift station on the property to the east?

Carter: He's given verbal.

Conklin: Can we have that in writing? My whole issue with this development, once it's two separate developments, no grading, no infrastructure improvements across property lines. The whole issue was this was going to be two separate developments, less than an acre, now we are planning infrastructure improvements on someone else's property. That bothers me.

Hoover: There is probably something going to be developed there, does this mean this other property would then get it's own lift station?

Petrie: That's what we would like. We would like it to be their lift station and their lift station and not the City's lift station and have the public main out here on Fletcher and they can pump the private lift station into this public main, so we are not responsible for all this.

Hoover: You would rather it be a private lift station.

Petrie: Yes.

Hoover: What are the requirements for that?

Petrie: That becomes a plumbing question that I'm not familiar with.

Hoover: As far as the City requirements, it's within their property.

Petrie: The items that I went over, it would get deeded to us and we have access to it.

Hoover: I guess what I am confused with, is it possible that by Planning Commission to have this further resolved so we know what's going to happen? It's a tight site, if it was a larger site with a lot of room, but it's not, they are going to have move.

Carter: If I understand Ron's comments correctly, the reason we went to a public lift station, we didn't want to do that, they are a lot more expensive than private. The problem we have is this low point that Ron mentioned on Fletcher. We were just going to put a manhole here and let gravity flow down to this other and just do a sewer main extension, that would have been great. The problem is, it goes down and then comes back up. Because of that grade and elevation problem we have to put a force main down the street. Because we have to put a force main, that can't be private. The state law with the health department won't allow us to do that. If we could find a way to do it, we would love to do that. We don't want to put in a public lift station. We haven't found an option to that.

Estes: Condition of approval number two is that all efforts shall be made to eliminate the need for a public lift station and now we are talking about a private lift station. Do I understand correctly that there is two ways to avoid that, one is to run a line to Olive and what was the other way?

Petrie: It involves the existing line on Fletcher, instead of following Fletcher going down the street with it, it would actually have to cut back to the east to get back to the hillside a little bit and kind of go around the low point in Fletcher.

Estes: Both of these are going to require easements, is that right?

Petrie: That's correct.

Estes: You say go down Fletcher, which direction?

Petrie: Right here.

Estes: They can either go to Olive...

Petrie: This is the existing line in Fletcher and this is the site here. The low point sits about right here in the street. Instead of running it straight down the right-of-way to get it to the site, they would have to actually come back and either cut the

corner here or possibly come back here on this line.

Estes: That would require going across the existing fee simple property which would require taking an easement.

Petrie: Right. The other option is Olive Street which requires the same thing.

Estes: Mr. Petrie, is it a fair statement to say that it's more likely than not that we are going to be looking at a lift station?

Petrie: I'm afraid so. That's what I fear.

MOTION:

Estes: With that said, let me say this, one of the things that we are charged with as the Subdivision Committee, is not to send incomplete work to the full Commission. To me, Commissioner Bunch you are exactly right in your opening remarks, that is a very salient issue. If Mr. Petrie is saying it's more probable than not, he can certainly correct me if it's a misstatement, that we are going to look at a public lift station or a private lift station, I want to see that work before I send this on to the Commission for any reason or for no reason at all. If you can't tell by the tone of my voice, I'm a little upset that we've burned up all of this time and effort and there hasn't been full disclosure of that issue. With that said, I move to table LSD 01-19.00 and the reason for that motion is, it appears that based upon the advice of staff, it is going to be more probable than not that there will either be a public lift station or a private lift station and that is going to certainly impact this project. I am not prepared to forward this on to the full Commission without that information.

Carter: I feel like we've done everything we can do.

Estes: Let me ask you this, is there going to be a public lift station?

Carter: Yes.

Estes: Why is it not on the plan?

Carter: It is, right here.

Estes: I'm not an architect and I'm not an engineer but what I see there sure doesn't give me any definition. We've got an engineer and an architect here and perhaps if I

am wrong, they can correct me.

Hoover: I'm confused when it's on another piece of property, the lift station for this property.

Bunch: The only access that I can see to is right there in the tree restoration area. We don't have any of those issues addressed which means we are even more incomplete.

Estes: If this was a courtroom and I was the lawyer and you were the Judge and you sanctioned me and held me in contempt, I don't think I would have a very good defense. Don't bring stuff like this to us.

Hoover: I'll second.

Bunch: I'll concur.

ADM 01-11.10: Administrative Item (Dandy & Schmitt, pp 524) was submitted by Brian Dandy & Robert Schmitt for property located on lots 1,2, & 3 of City Addition. The property is zoned R-2, Medium Density Residential. The request is to build a multi-family unit on a lot without street frontage.

Estes: The next item of new business on the agenda is an Administrative item, AD 01-11, submitted by Brian Dandy and Robert Schmitt for property located on lots 1, 2 and 3 of city addition. The property is zoned R-2, Medium Density Residential, the request is to build multi family units on two lots without street frontage. Staff recommends approval subject to certain conditions of approval listed in your packet. Do we have signed conditions of approval Mr. Conklin?

Conklin: Mr. Chair, members of the Commission, what you have in your packet on 4.1 is the staff report from April 19, 2001. I included that staff report because at that meeting we did place a condition of approval, which is condition number two. It reads "the density shall be limited to six units per lot." The applicant is proposing to construct one six plex on each lot. The density allowed in a R-2 zone is 24 units per acre by right, this equals approximately 12 units per both lots. The reason why I have brought this back to the Commission, this item, is before we go to the large scale development is that once again, we are dealing with two lots, particularly, this lot does not have street frontage on Fletcher. Center Street right of way which runs east and west is between Fletcher Street and this property. Center Street is undeveloped. The applicant came to the Planning Division and asked what it would take to develop this R-2 lot which allows multi family units, up to 24 units per acre. Looking at our ordinances, we informed him that there were two options. He could go to the Planning Commission and ask that the Planning Commission approve this development without the street frontage, which is what we did back in April, or construct a street. This administrative item was a request by the applicant not to construct the street. The reason why staff placed condition number two with the language of limited to six units, that is what the applicant provided to staff. From our experience, if we don't put it in writing, things tend to change over time and that is not something that we came up with, the six units. However, this property is zoned R-2, the applicant proposed at that time six four bedroom units which would be 24 bedrooms total, he is now proposing as part of the large scale development, ten two bedroom and two one bedroom units, so the number of bedrooms has decreased by two. Staff is not opposed to modifying that condition, but since that was a condition of approval back in April, I wanted you to act on it prior to considering the large scale development.

Estes: Is the applicant present?

Osborne: Yes, I'm Richard Osborne, representing the applicant.

Estes: Mr. Osborne, do you have any presentation that you would like to make to the Commission regarding this requested administrative item?

Osborne: Tim has done a very fine job of covering it. I will mention that I live on Mount Sequoyah, not too far from this proposed development so I have a personal interest as well as professional I guess you would say. We believe, Bob and everybody involved, that we are going to get a tenant that will fit better in the neighborhood in a two bedroom apartment and a one bedroom apartment than we would have gotten in four bedroom apartments. While we have increased the number of units we have decreased the number of people and I believe that everything else is in compliance with staff requirements, I believe that Tim mentioned that. I know that you are all familiar with this, if you have any questions, Glenn Carter, the engineer is here, Mr. Schmitt is here, Mr. Dandy is here and I'm here and we'll answer any questions that you might have. I think these three items are going to run together. If I may take just a minute to address one thing, the way I see it is, the City Attorney may correct me if need be, this is a choice for you to make on waving the street and approving the LSD and thereby allowing the intersection to stay pretty much the same that it is now or adding a street which would be a fifth street coming into that intersection which may be a little bit busy for that area. That is alternative A. Alternative B would be that we'll just build a street and go ahead. We think we're doing what staff wants us to do. We're trying to, let's put it that way. Mr. Chair, I hope you will approve this waiver of the street and the proposal to put in the ten two bedroom units and two one bedroom units. I'll answer any questions that you have.

Estes: Commissioners, do you have any questions for Mr. Osborne at this time?

Osborne: Or Mr. Carter, Mr. Schmitt or Mr. Dandy?

Estes: Seeing none, is there any member of the audience who would like to provide public comment on this requested administrative item?

Estes: Seeing none, I will bring it back to the full Commission for discussion, comments, motions. Mr. Conklin, I have a question for purposes of clarification. We have seen this request before is that correct?

Conklin: That is correct.

Estes: We granted the request, why are we now seeing it again?

Conklin: Because the large scale development, which is the next item on your agenda has ten two

bedroom units and two one bedroom units on one of the half acre lots that Mr. Schmitt is developing. Staff put a condition, which is condition number two, that states the density shall be limited to six units per lot. When we talk about density we are talking about dwelling units, a structure or a unit that has a kitchen and bathroom facility, occupied by one family. The definition of family is up to four unrelated individuals. I put six units because that is what the applicant provided as a site plan to the Commission. I am always concerned when you look at site plans that they actually do what they say they are going to do on the site plans so that is where six came from, since then, and we have been at this for five months now with the applicant, the plans have changed, we're up to instead of six four bedroom units, ten two bedroom units and two one bedroom units. So we started with twenty-four bedrooms with six units, we're down to twenty-two bedrooms with twelve units. That is the maximum density allowed by right under R-2 zoning, this is a half acre lot, it allows up to twenty-four units per acre. Twelve units would be the maximum density. Since I did make that a condition of approval, I am asking that the Commission amend that condition of approval. I really thought that is what Mr. Schmitt wanted to do back in April is a six plex, a six unit apartment building. However, his plans have changed. I really can't think of a reason why you should deny that since the property is zoned R-2, it was zoned R-2 in 1970 from the research that I can find, it has sat there all these years. We have a multi family zoned piece of property. I brought this to you once again, I was very concerned that we had Center Street right of way between this property parallel to Fletcher Street. The City of Fayetteville staff did not want to require this applicant to build Center Street because it would make a dangerous situation building this street at that intersection.

Estes: Thank you Mr. Conklin. Any other questions, comments, motions?

Motion:

Ward: We've already granted a waiver, I think we did it unanimously for the use of Fletcher Street and not build Center Street. I live up on Mount Sequoyah and I was not in favor personally of an apartment complex, when you build four bedroom units I think you get a different type of clientele with renters of four bedrooms than in one or two bedrooms. My ideal is that the twelve units with the ten two bedroom units and the two one bedroom units is a much better situation for me living up there than having a bunch of these four bedroom units up there. I will make a motion that we approve AD 01-11.00 for this administrative item allowing twelve units along with all other conditions of approval.

Estes: Mr. Conklin, it is my understanding that the request is to build multi family units on two lots without street frontage, is that the administrative item?

Conklin: The administrative item, I'm bringing back to you an administrative item that was approved, not to require the applicant to build the street. Condition number two stated that he couldn't build more than six units on each lot, that came from the applicant. The applicant changed his plans, he wants to do twelve units on each lot. Instead of six four bedroom units, he wants to do ten two bedroom and two one bedroom units. Therefore, in my opinion, you need to modify condition number two from your original approval to allow this to go forward. I can't think of any reason why you would deny this request to change this, to allow him what is allowed by right under zoning.

Estes: Commissioner Ward, is that your understanding of the requested administrative item?

Ward: Yes, I believe that is it.

Estes: We have a motion by Commissioner Ward to approve ADM 01-11, is there a second?

Hoffman: I have a question. I don't see the need for Center Street either but I'm just wondering, if this waiver is approved, the plan is a little bit difficult for me to read. I'm going to ask staff this. Does the applicant plan on widening Fletcher to accommodate this driveway? I guess I'm not seeing where the right of way is coming to. Are they adding right of way to Fletcher to approach this street frontage?

Conklin: This large scale development, one of the conditions of approval on this, not to confuse things more, was that they go through large scale development. That is why you have the next item on your agenda. Staff recommended that as a condition and you approved it. If you turn to page 4.4 there is a survey that shows the lots. It shows the Center Street right of way that I've been referring to. Staff is recommending a condition that the applicant be responsible for improving Fletcher Street 14' from centerline including curb, gutters and sidewalk. On parcel B there is a large scale that is before you this evening and in process right now is a large scale development for parcel A. Staff will be making the same recommendation. In answer to your question, yes. They are responsible for the front of those lots to improve Fletcher Street.

Hoffman: The driveway that we see, because I think this isn't really related to the large scale development, is adequate and would come up to the street frontage, there is not a dimension on the driveway. Can you tell me why the driveway is at Fletcher?

Conklin: They do have a radius there. At the neck of the driveway it is going to be 24' from back of curb to back of curb.

Hoffman: It widens up considerably and they don't have radii listed.

Conklin: I'm not sure what radius they are using. Their engineer may be able to answer that question.

Hoffman: Would you mind?

Carter: The radius is 25' I believe.

Hoffman: On both sides?

Carter: Yes.

Hoffman: Is the hatched area shown through that is that a sidewalk?

Conklin: That is the sidewalk.

Carter: The hatched area is the sidewalk. Radius is 25'.

Hoffman: Where does the Fletcher right of way...I'm trying to describe this line on this map, where the driveway flares out, is that pretty much the Fletcher right of way?

Carter: If you look on the driveway, on the right side there is a line that crosses that curb, it says R.W. Fletcher Avenue. That is the Fletcher Avenue right of way.

Hoffman: Alright, that line follows across and hits the curb of the driveway on the other side too?

Carter: Yes.

Hoffman: What is the private driveway listed to the left of that? Is that not a part of this property?

Carter: It is not. That is a private residence.

Hoffman: Ok, thank you very much.

Estes: We have a motion by Commissioner Ward to approve ADM 01-11, is there a second?

Marr: I'll second.

Estes: We have a motion by Commissioner Ward to approve ADM 01-11 and a second by Commissioner Marr, is there any discussion, any comments, any further questions of the applicant?

Marr: I want to make sure I understand, basically, everything else will remain in place that has been previously approved with the condition two being the change.

Conklin: That is correct, that is what we are asking.

Marr: Which is, just to explain my second, I think that obviously the applicant and owner of the property has the right, based on the zoning to bring whatever request within the limits and that is why I will support hearing it.

Estes: Any other questions? Renee, would you allow the record to reflect that Commissioner Bunch is present and would you call the roll please?

Roll Call: Upon the completion of roll call the motion to approve ADM 01-11.00 was approved by a vote of 8-0-0.

Estes: The motion to approve ADM 01-11 passes by a unanimous vote.

LSD 01-19.10: Large Scale Development (Hometown Developments, pp 524) was submitted by Glenn Carter of Carter & Associates on behalf of Robert Schmitt of Hometown Developments for property located on the southwest corner of Fletcher Avenue & Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 0.50 acres with 12 dwelling units proposed.

Estes: The next item is the companion large scale development, this is LSD 01-19.10, a large scale development for Hometown, submitted by Glenn Carter of Carter and Associates on behalf of Hometown Development for property located on the southwest corner of Fletcher Avenue and Rogers Drive. The property is zoned R-2, Medium Density Residential, and contains approximately 0.50 acres with 12 dwelling units proposed. Staff recommends approval subject to certain conditions of approval. Mr. Conklin, do we have signed conditions of approval?

Conklin: No.

Estes: Condition of approval number 1 is Planning Commission approval of an administrative item to allow a lot zoned R-2 to be developed without the proper street frontage with 12 apartment units, this is the action that was just taken and this was the administrative item that was approved by a unanimous vote. Condition number two, one ADA parking space shall be included on the site plan and shall meet standard specifications for van accessible parking to include an 8' aisle and an 8' parking space; Condition number three, trees along the right of way east of the proposed drive must be trimmed to provide adequate site distance prior to final certificate of occupancy. You have a memo in your material Commissioners from Traffic Superintendent, Perry Franklin, regarding the site distance; Condition number four, Planning Commission determination of off site improvements to Fletcher Avenue. The applicant is proposing to widen the street to 14' from centerline adjacent to the Center Street frontage to meet local street standards. A recent traffic count has determined that 834 vehicles per day presently use Fletcher Avenue. This development is projected to add 80 vehicles per day; Condition number five, no public sewer lift station shall be used for this development. You have information in your material from the Engineering Division regarding the sewer line capacity on Mount Sequoyah; Number six, all replacement trees shall be a minimum 2" caliper, you have a memo from our Landscape Administrator, Ms. Kim Hesse regarding the tree preservation for this development and that memo is included in your materials; Number seven, all dumpster and utility equipment shall be screened; Condition number eight, plat review and Subdivision Committee comments to include written staff comments provided to the applicant or his representative and all comments from utility representatives; Condition number nine, staff approval of final detailed plan specifications applications and calculations where applicable for grading, drainage, water, sewer, fire protection, streets, public and private, sidewalks,

parking lots and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the city's current requirements; Condition number ten, sidewalk construction in accordance with current standards to include a minimum 6' sidewalk with a minimum 6' greenspace; Condition number eleven, large scale development approval to be valid for one calendar year; Condition number twelve, approval of this project does not guarantee that sewer capacity will be available at the time of construction; Condition thirteen, prior to the issuance of a building permit the following is required, grading and drainage permits, separate easement plat for this project, project disk with all final revisions, completion of all required improvements or the placement of a surety with the city as required by §158.01. Is the applicant present?

Osborne: Yes Sir.

Estes: Do you have a presentation that you would like to make? If so, would you please state your name and give us the benefit of your presentation.

Osborne: I'm Richard Osborne representing Bob Schmitt and Bryan Dandy. This is Glenn Carter the engineer, I think I probably would save us a lot of time letting Glenn address this.

Carter: I believe he stated clearly what our intention is and I don't really have a presentation. It is as you have all seen it before and I would be glad to answer any questions you have concerning any technical questions or engineering for the project, I believe we have complied with all the ordinances and requirements of the city. If there are any questions I would be glad to answer them.

Estes: Commissioners, do you have any questions for Mr. Carter at this time?

Hoover: On the plan that we have here, I'm counting six units, are these one story or two story units? I'm confused.

Carter: There are twelve units and there are five two story and one one story, is that correct?

Schmitt: There are six two story, they are not separate units, there is one unit on the bottom and one unit on the top.

Hoover: Ok.

Schmitt: The reason those lines are there is because they stair step down the hillside, that is the

reason those lines are there to show elevation.

Estes: Commissioners, any other questions of Mr. Carter at this time?

Marr: Are there elevations for this development?

Carter: Yes.

Marr: We don't have those in our packet, is there actual elevations?

Carter: Oh, you mean...no, there is not.

Marr: Excuse me, they're not?

Carter: No Sir, there are not.

Estes: Commissioners, any other questions of the applicant at this time?

Hoffman: Does the apartment building have a fire sprinkler system in it?

Carter: No.

Hoffman: Ok, thank you, that is all.

Estes: Any other questions of the applicant at this time? Seeing none, is there any member of the audience who would like to provide public comment on this requested large scale development, LSD 01-19.10? If there is, would you please come to the podium, introduce yourself to us and provide us with the benefit of your comments.

Vick: Good afternoon, my name is Al Vick and I live on East Rock Street. I'm a little bothered by this because consistently this neighborhood has asked not to have roads going across Mount Sequoyah. You have something down here in the next section that is on waiving the minimum street requirements. I'm assuming that that is going to be for Center Street. If they widen this road by 14' that means that people who live there are going to have some of their property taken away. They are going to be putting up with construction equipment running up and down their streets for the next year, year and half or whatever while all of this is being done. I'm concerned about this, I think and I know that I've been given authority to speak for Dr. Joanne Hoye who couldn't be here tonight, that people have come to this neighborhood and moved to this neighborhood because it is a nice quiet place

to be. There are red fox running around in there, wild turkeys, it is a nice place to be at. Each housing unit that you start building, each expansion of the roads that you put in is going to necessitate more of the same. Ultimately, my belief is that it is going to destroy that neighborhood. I know that it is zoned R-2, I know that legally everybody can possibly do that or that it is legal for them to do that. However, it is going to change the face of a nice neighborhood forever. I would urge you all to think about that. Thank you.

Estes: Thank you Mr. Vick. Is there anyone else who would like to provide public comment on this requested large scale development?

Peters: Hi, my name is Didi Peters. I walk around up in Mount Sequoyah. I don't live in that neighborhood but there is another development that this gentleman has done on N. Olive Street and there have been many complaints about the cleanup and sewage issues. It looks to me that the grading has not been kept up with and the parking is a big problem there. I'm concerned about the number of parking spaces. They haven't even completed occupancy on the one on Olive Street and there are already too many cars occupying the space. I'm not sure if they belong to residents but they are there early in the morning and I'm curious as to why there are no sprinklers. I don't know if it is needed, that would be a planning issue. There is a large wooded area behind there, Walker Cemetery and also the Confederate Cemetery is very close. My issues mainly are parking, the fire, not keeping up with what they've promised as far as debris and grading. Also, I'm curious as to why there is no elevation plans in your packet. It seems that this developer has repeatedly promised one thing and has changed his ways half way through. I think it should be part of the packet and I'm disappointed that it is not. Thank you.

Estes: Thank you Ms. Peters.

Davidson: Hi, my name is Sharon Davidson. I live on Rodgers, near this proposed development. I have been outspokenly against it from the beginning for many, many reasons. I hope you all will consider all the reasons brought up tonight and consider the collective actions of these gentlemen as to how we can put faith in what they say they will do. Let's get back to real issues, even if they were people we could feel we could trust their word. I have a question for our attorney later about their word early on in this process. One, I have pictures as to the tree pile which precipitated all the interest in this when they came in, I was there that day. Their bulldozer backed over the concrete section of sidewalk at Olive and Spring, broke that, pulled up the hill, pulled in there, I didn't know who owned the property, didn't know what was going on, later that day there was a big pile of trees. Ok. It is for this reason and reasons such as the two beautiful trees that were removed by Sweetser down at the old folks home that we have gone to all the trouble for this tree

ordinance. Here is one more thing, a 2" tree replacement for large trees, that is why we were forced to put in a tree ordinance because these types of gentlemen act first, whine later and don't care what they end up doing to us. Ok, we have the Olive Street example, I believe that is a Schmitt development, am I correct? Sir?

Estes: Ms. Davidson, if you would please provide us with the benefit of your comments and any questions that you have.

Davidson: I don't want to make any... this is a collective part and I wanted to make sure I know I'm speaking right.

Estes: If you have any questions, please direct them to me as the chair and if I can't answer them then I will direct them to an appropriate person.

Davidson: Thank you then. My question is I do believe there is a track record here with the four plex that was crammed into a location on a hillside there at Olive, it runs into that lady's pasture. They are having problems there. I think he said he built a place on Lighton Trail which is directly behind us, that rental residence brings a lot of traffic and here comes to the main issue of what we're building here which is apartments, not even duplexes, this was the point to begin with. If we were going to have duplexes, we understood duplexes had a chance to blend with the neighborhood and also keep consistent who the basic residents of the neighborhood are, family, people. These gentlemen are catering best I know, to a particular market which is college students. If you'll notice on the corner of Dickson and Fletcher is what was a single family residence that is now occupied by a minimum of four college students each with their own SUV. You go one block down the street right past a dangerous intersection where a school bus can barely pull that hill on Spring and you have all kinds of construction we're dealing with now with cables, with sewer with everything and there is another house right there. Four SUVs, four college students, living in what was a single family residence house, each with their own SUV, that is just two houses. We can absorb a little of this but his system is to inject all these different types. I am sorry, they are young, we hear them at the games cheering and I hear these guys in the back, they are good hog fans having a good time, they're whipping up and down the road in their vehicles, coming and going and staying up late. Ok, we have a little of that. These gentlemen are wanting to build apartments. Apartments are a total different dynamic in a mixed neighborhood. I haven't seen anything yet as to what kind of materials they are going to be, any of that system as to what we're going to be left with after they are not the revenue making things that they want and they downgrade them. This gets back to R-2 in general. Ok, if we look at our map, there are sections of R-2 that are right in this mountainside that are totally inappropriate. Yes, we seem to have the HUD housing right

there below the cemetery. I don't think the mountain top and that whole side can handle lots of apartments. The road situation is amazing there. I would like you all to please, before you do indulge these gentlemen, at already a very expensive cost to all of us, I know our city is crunching for money. I've asked for numbers as to how much our city departments have had to spend to accommodate these gentlemen, I don't know about that yet. These roads that we're going to have to widen and fix, there are five roads that come together at one point which is right where their driveway is supposed to be, in the middle of the steep sloping mountain, next to a hilly grass park where children play, where people walk, where people walk more than drive. Again, you come up Spring Street, it is a pretty dangerous street in the winter, most people can't access it and young drivers in SUVs are going to be in ditches. You can not get out on College at Spring, there is no light there so traffic can't feed that way. We have two other streets to feed to this, that is Lafayette and Dickson. Lets all please go there at 5:00 and try to turn off of Lafayette onto Fletcher, we know we have that horrendous problem around the corner at Lafayette and that intersection going up the mountain, where our four way stop signs are. If you all would go to that intersection at 5:00, you might see part of where these big problems are going to be if these type of things are entered in. One thing, you're opening the door, this is the corner of this R-2 that is inappropriate for the mountain. If you look at where our R-2 is, it is reasonable between Sixth Street and Fifteenth Street as far as topography, as far as what is already zoned there for business, what is being put in there. Our area for R-2 dense apartments for college kids is essentially from Happy Hollow down to I540 in a nice strip, it is laid out there, that is where it is going. We don't need them capitalizing on what is appropriate in that area because it has been extended too far in a totally unreasonable area and especially at this time. Here it is, whatever they are proposing, it is inappropriate at this time. We have no money, no resources to accommodate them. They are devaluating the whole neighborhood. I do have a question for the City Attorney so other people who I know are concerned and can speak better than I as to some more issues. When they signed the letter promising six units, and again, we have issues with units. Can someone tell me, in apartments, which is what seems to be a unit if it is not a single family dwelling, before they had four bedrooms per unit, how many four bedroom units can you have verses how many 3, 2 or 1 bedrooms? I'm confused about the units and how we add up all these bedrooms and units.

Estes: Ms. Davidson, it is my understanding, and if I'm not correct Mr. Conklin, perhaps you can edify us that the density was to be six units per lot and within each of those six units were to be four bedrooms so there were twenty-four bedrooms, six units, twenty-four bedrooms per lot. For whatever reason, the applicant came back, and I think wisely so, and perhaps in response to some of the comments of Commissioners at Subdivision and changed it to a ten two bedroom units and two one bedroom units. This was simply a design change on

behalf of the applicant and I can't speak for the applicant but I know that I did attend that Subdivision Committee meeting and it is my memory that Commissioner Ward chaired that meeting and that there were some comments regarding the lack of appropriateness of six four bedroom units.

Davidson Thank you for reminding me about that. I was thinking this predated that when they originally said they were putting in duplexes. I may be wrong, but I thought the original paper they signed was saying they would put in six duplexes. I would just want to make sure, and I don't know did all of that become moot once they became a large scale development? Do they not have to comply with that original paper?

Estes: The reason for the large scale development is that when the administrative item was first submitted regarding the request to build multi family units on two lots without street frontage a condition that the Commission put on that was a grant of that request subject to the large scale development. Without the requirement of the large scale development, we wouldn't be even hearing this item this evening.

Davidson: Right. I think I understand that Sir. I believe this is the point I would like to get across to everyone who is not really familiar what we're fighting on here. Again, it is inappropriate R-2 zoning and the ability of someone to come in and demand huge amounts of city resources to accommodate their desire, not to build a home, not to make a living, but to make money. My desire is to ask one, we wait for impact fees to be enacted before we start letting all of these R-2 projects go into neighborhoods where they are not wanted, where they are not good for the neighborhood, when their sole purpose is for the benefit of that developer which is obvious here. I ask to try and consider withholding, we're in a big crunch here, next year is going to be real depressing for all of us and if we're stuck with all of these guys who in the last minute got these projects in that will degrade our town, that will create erosion, runoff problems, I think if you speak to the people who live in the little house right below this project, you'll find that their house is flooding more simply because of what these men have done to this one lot. This one lot is in the corner, it opens up, watch out, they are going to come back and want to build Center Street because they've put in a project, they've made the way, they've opened the door and if you let them open the door to ruin that whole side of the mountain beside the cemetery, again, we have the wildlife area, we have homes, families, residents. This changes that whole dynamic. This corner piece is the one that I ask you to consider waiting, put it off. It is still there, they still have that right at this time but it is not an appropriate time. In doing so, the way you can protect us please while we have this R-2 thing, which I do not believe our City Staff would say they recommend this project, I don't think if they can ever say anything like that, speak out for it, if you listen to their words they are saying "We have to

do this because..." Up here at R-2 zoning, that is a blanket, where the blanket of protection comes from is for you all to not grant waivers, for you to please wait. Thank you very much for listening, please do not grant any waivers.

Estes: Thank you Ms. Davidson. If I may make a comment. Perhaps there is some misunderstanding, this is not a rezoning request. This property has been zoned R-2 for a number of years. If I also may add that the remaining item on the agenda, the administrative item regarding Center Street, if the LSD is approved then that administrative item will not be heard. Is there any other member of the audience who would like to provide comment on the requested LSD 01-19.10. Yes Sir, if you would introduce yourself to us please.

Belt: Yes Sir, I'm Rick Belt, I live on Rogers Drive. I am curious about how far the widening of Fletcher Street is supposed to go.

Estes: Mr. Carter, would that be an appropriate question for you to answer? Could you respond to that please?

Carter: The widening of the street is only in front of the lot, from property line to property line. The street will be widened approximately 4½ to 5' to give a total of 14' from centerline.

Estes: Does that answer your question?

Belt: Yes, but I must point out that that is on a curve and what is the point of widening it if it is for a very brief span?

Estes: Mr. Conklin, can you answer that question?

Conklin: Our ordinances allow us to require street widenings when the project abuts a street that doesn't meet our current street standards so typically staff is making a recommendation that it is 14' from centerline, curb, gutter and sidewalks. That is pretty much the standard improvement that we require based on a local standard street of 28' wide.

Estes: Thank you Mr. Conklin. Mr. Bell, does that answer your question?

Bell: Thank you Mr. Bell for your comments.

Osborne: We would be happy if you want to waive the widening of the street.

Estes: I understand. Personally I'm not prepared to do that. Yes, Mr. McKinney?

McKinney: I'm Rick McKinney, I live on Olive Street. Just because your R-2 allows the maximum density does not necessitate that you approve it. I believe that the clearing that has been done on that lot has changed drainage and created a good deal of erosion from what I have witnessed down there, it has probably affected some downhill neighbors already if I'm not mistaken even though they may be distant, it will create a change. I'm not sure Mr. Estes if you answered one of the people questions about the related development that is almost complete without clean up gentlemen, on Olive Street. According to the permit box, Hometown Development is involved in that and frankly, I think it is terrible. You know, to put that many units in that small lot, the concrete is already cracking that they have laid, the ditches are not clear for drainage, I'm not sure that they would ever be if we were not up here at this time discussing this second development. The amount of violations in code during building construction that are in those permit boxes is absurd. I would hope that the city has reinspected them like they should to make sure that they have been corrected. If this is a tell tell sign of the type of construction that is going into this next development, these buildings are not going to last for a number of years. They are not going to last on the ground and foundation that they are going to excavate and put them on. I just don't see the quality of construction and materials going into these buildings. I believe that these people will have made their money and will be gone when I'm still living in this neighborhood and perhaps when my children may be living in this neighborhood as adults if they stay here. The type of development I think that you folks need to consider as our representatives needs to be of a little bit lesser density than this development. My wife also was concerned about the number of vehicles that will be parked in this parking lot. I think we're looking at, I heard a figure of 80 more passages per day in the street due to this addition, 10 dwellings, 10 units, I believe in a parking lot if you get one or two people per unit you are going to have an amount of cars or trucks that will not be able to adequately park in this lot that they are proposing that you approve. I am concerned about the sewer up in that area. They are not requiring a lift station yet we're not sure it is going to adequately handle the sewage that is going to come out of these units. Here again, the drainage in that area, the surface drainage is not controlled very well even though there are rough ditches out there. At this time, I would ask until some additional conditions for maybe fewer units or if they would like to propose fewer units in this lot, a half acre and the number of units is just unacceptable to me and I ask that you not approve it at this time.

Estes: Thank you Mr. McKinney. Is there anyone else who would like to provide public comment on this requested large scale development?

Thompson: Hello, I'm Kathy Thompson, I'm the president of the Washington Willow Neighborhood Association. I know that I do not live on Mount Sequoyah but I walk there everyday and it has been a part of my life for twenty years and I speak for other people in the neighborhood association and am urging you not to approve this. I think that it is obvious to everyone what has happened down on Olive Street and if for some reason you do pass it, I know that legally it is zoned for it then I urge you extremely to pay close attention and care to what they are doing there. I feel like that what was done on Olive Street shouldn't have happened and I also believe that it was not what they said was going to happen and I think that one of the reasons we're all here with these fears is because of that very situation on Olive Street. I won't get into the fact that I feel like it is aesthetically not proper for the neighborhood or for our area, I think everyone has already said that. I am just going to ask you one more time from the neighborhood down below that cares about the neighborhood up on the mountain to please reconsider and really think about what you are being asked to do. Thank you.

Estes: Thank you Ms. Thompson.

Faust: Good evening, my name is Harriet Faust. My husband and I have lived on Spring Street and Olive Avenue for over 31 years. I presently live on Olive Avenue and look at what everyone has been referring to. Not too long ago I believe it was Gregg House that was coming up here before you, it was withdrawn at the last minute but I think it will be coming back to get permission for 48 units which are right next to or very near by the units you're talking about right now. I'm wondering if anyone has considered those extra units. We all assume that the intentions are good and the property and the rentals will be nice. It appears to me that these are some very big developments that are coming in there slowly, inking their way in and we're going to have a traffic problem that is well beyond our control. For 31 years we've watched traffic increase going up Spring Street and an enormous amount of traffic does not take Fletcher, it comes across Olive, turns and goes up Spring to take Fletcher. We've watched it come by our house for years. They have to travel across Fletcher or Olive especially on bad weather days. This is my main problem. The last development that Mr. Schmitt did in our area was the one on Olive that everyone has referred to which now has a ditch drainage problem which causes the water from the mountain to overflow the road, it goes into what is now Dr. Meldram's property, it used to be the old Gregory property. I don't think that Dr. Meldram is even aware of the problem yet, but I'm sure he is going to be one day. The property developed on Olive, which is about two blocks from the property you are discussing tonight has a solid concrete driveway, in fact, the whole mountain in concrete, of a greater than 5% grade, all eight to twelve of the vehicles that are parking there are going to have to park on the flat street area of Olive most of the winter time. They will be unable to get up into their

property as I am unable to get into mine. I have to also park in front of my home on Olive, as do many other people in the neighborhood. I doubt a garbage truck or fire truck is going to be able to get through Olive when we have bad weather under these new conditions with these new vehicles added to this one little street of Olive. Before he built these four cabins, which by the way are three bedroom, two bath, two story homes in my book, we had 5-8 cars always parked when it was a prediction of snow or ice, now we're going to add 8-12 more and there will be no way someone will be able to traverse Olive Avenue at all because if you make a turn on it and someone's coming at you, you have to back up, you back up onto Dickson or you're going to back up onto Spring and you're going to get stuck because it is going to be ice and snow. The area is a neighborhood and though we were told these were going to be cute cabins, I'm sorry to have to say I just have to cringe every time I look at it because it is a solid sheet of cement. It was a beautiful lot, gorgeous trees, everything was gone. I'm concerned with the increase in traffic flow in the area. We have a tremendous increase in walkers going up the mountain. At some point, the city may want to do a walking or jogging trail. With all of this traffic my husband and I are strictly of the opinion that Center Street should be opened at least to Fletcher if not further. The City needs to open Center for another avenue to get up to this area before we get all of these new developments. Remember, you haven't heard from Gregg House yet, he's still coming. He still owns that land, I'm sure he is going to build all of those units. Thank you.

Estes: Thank you Mrs. Faust. Is there anyone else who would like to comment on this requested large scale development? If so, would you please come forward, introduce yourself and provide us with the benefit of your comments?

Harris: Hi, I'm Patrick Harris. First off, I want to say I'm completely blown away because I feel like I'm affected by this more than all of these other people here because I'm the closest house to this development. I'm completely blown away. Really, it is amazing. Three main concerns of mine. One, is he going to be a good neighbor? Two, is it going to be dangerous? Three, is population density and the general appropriateness of this for the area? A good neighbor, first, the removal of the trees which I'm sure you are all aware of, removal of a huge number of trees from a very small lot which will not be replaced underneath the guidelines of a R-2. While I'm on R-2, I want to mention one small thing, the reason these are zoned R-2, it seems to be because the plan is to build Center Street. That is part of the city's master street plan and it would make sense to have R-2 on Center Street. If they are not going to build Center Street how is the R-2 zoning appropriate for that area? I'm really concerned about that. Dangerous, I think this has all been mentioned before but with the waiving of the building of the road, I know it is a dangerous intersection, it is only going to get more so with more driveways there but there needs to

be more access. There is not enough access to the area for this ½ acre development and the other ½ acre development to come right beside it. On top of there not being enough access, obviously, Spring Street continues to be mentioned as an issue. The widening of the road is a good thing, 14', sidewalk, it is all great but people are forced to walk on the road now. That whole stretch of road up there, people are forced to walk on the road to get from point A to point B and until the whole area is widened and there is appropriate sidewalk for that area, it will not be safe for people to walk which is a very common thing up there. Like many people have said, there are more walkers generally than there are cars. In addition to the access, is the dangerous intersection itself. It is a blind curve, I know there is a stop sign there and I know we can sit here all day and say if people would follow the traffic laws it would be a much safer intersection but no one stops at that stop sign. I'm not here to bust my neighbors, but no one stops for that stop sign and primarily because they can not see up and down Fletcher and up and down Rogers. Finally, population density. As you can see there are some other zoning area that is R-2, what has been developed has been developed appropriately, what has not been developed is a very nice place to live. We would like to keep the feel of Mount Sequoyah, I've only lived in the state and here for a year, I would like to keep this area the way it is for as long as possible because it is an incredible place to be, it is an attribute to Fayetteville, it makes me want to stay in this town. If you continue to develop you will push people out. That is all I have to say.

Estes: Thank you Mr. Harris. Does anyone else wish to comment on this requested LSD 01-19.10? Seeing none, I will give Mr. Osborne, the applicant's representative an opportunity for a rebuttal presentation.

Osborne: Thank you Mr. Chairman. I know that it is not a zoning issue, but I just want to mention that the property was zoned before Bobby could walk. He has lived here 32 years. Twelve of those years he lived on Mount Sequoyah. His great grandfather is buried in Walker Cemetery. He is not trying to ruin the area. He thinks very long and hard about this project daily and I think he is going to put a nice development out there. Every issue that was brought up by the opponents is covered by either a city ordinance or an agreement with the Planning staff. I don't know of a thing that they said that is not already covered. I don't know if there is anything that we can do about the police and fire protection of the street and all that. We've got a nice project and it boils down in my view to one thing, we either go with the large scale development which was requested by the staff, and we think we've complied with everything, we regret that the trees were cut down. We are sorry that we did that. At the time that it was done, he had the right to do that. It was a pre-platted lot, quite frankly, if we had it to do again, we would not cut the trees down but they have all been replaced. I believe we have done everything Ms. Hesse

has asked. If there is anything that is not done that she wants done, we'll do it. We're doing everything we can to comply with this request of the staff. If there is anything remaining, we'll agree to it and we'll put it in writing, of course. It boils down to we can do it under the LSD proposal or build Center Street, I think this is a far better proposal, far better. If anybody has got any questions, we'll be happy to respond.

Estes: Thank you Mr. Osborne. I'll bring the matter back to the Commission for discussion, comments, any questions, Mr. Conklin?

Conklin: I would just like to point out, during your deliberations, on page 5.3 we did include §166.05, for Large Scale Development. I bring this up to kind of go over what you can consider when you look at a large scale development and make a decision to approve or deny large scale developments. Those start actually on page 5.4 at the top of the page.

No. 1 The development plan is not submitted in accordance with the requirements of the section.

No. 2 The proposed development would violate city ordinance, a state statute or federal statute.

No. 3 The developer refuses to dedicate a street right of way utility easement, or drainage easements required by this chapter.

No. 4 The proposed development would create or compound a dangerous traffic condition for the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography or the nature of the traffic pattern.

No. 5 City and water sewer is not readily available for the property within the large scale development and the developer has made no provision for extending such service to the development.

No. 6 The developer refuses to comply with the requirements for onsite and offsite improvements.

Conklin: I just wanted to bring those to your attention.

Estes: Thank you Mr. Conklin. Any comments, discussions, motions?

Hoover: I have a question for Tim. There has been a lot of discussion for a similar development on Olive Street and I'm curious as to how many units that is and the size of the street in comparison to what is going on here as far as size.

Conklin: I'm sorry, I don't have that information. The traffic count information that you have before you, we did pass down a map where that traffic count was taken. It was taken at about the location of where those units were built.

Hoover: How many units is it in Olive? Do you know that?

Conklin: I'm not sure.

Faust: On Olive Street, there are four homes, they call them cottages. They are three bedroom, two bath, two story buildings. There was never a traffic count on Olive.

Estes: Thank you Mrs. Faust.

McKinney: The traffic count was done on Fletcher

Estes: Ok, thank you Mr. McKinney.

Hoffman: I have gone through the items on page 5.4 under which we may approve or deny a development pretty carefully because it is my stance to usually try to be squarely in the middle of things. I am really concerned with the character of the neighborhood and I'm also concerned with the ability of a developer to use his lot and develop it according to the city standards. However, I think this needs more work and I won't be able to support it for two main reasons. Under item number two, the proposed development would violate a city ordinance in that it does not have, I believe, adequate fire department access in that I think there are things that the applicant can do to mitigate the fact that the buildings are not sprinklered by the additions of fire walls and things. If it is not sprinklered, I believe a fire truck can only go in 150 feet before it has a turn around or a back up space. This project doesn't provide for that. Nor have I seen in any of our literature where the fire department has even reviewed this or approved this layout. Secondly, under item number four, it is my understanding that there is going to be a companion development on tract "A:" and the traffic count would then be increased by about 20% on Fletcher Avenue which I have looked at pretty carefully. In terms of creating or compounding a dangerous traffic condition, I would suggest to the applicant that it might be a good idea to take a look at a traffic impact analysis done by a private traffic engineer. I don't believe the city has the capability of making those kinds of determinations, I certainly don't. I see a 20% increase for just this development and the companion one as being a significant increase. I guess the third thing, and it is really not a part of this list but I believe that on large scale developments we always require elevations and make a determination about commercial design standards.

Conklin: No, this is a residential project. Commercial design standards do not apply to this.

Hoffman: We did that on the conditional use on School.

Conklin: Yes, for multi family and staff has asked applicants to provide those as part of the conditional use application.

Hoffman: Ok, so I stand corrected on that. Items two and four to me are still significant and I do not want to hold this developer up. If he could meet all of the city standards, I do have sympathy for both sides. I really feel like we're just not quite there yet. Certainly, the number of units with that kind of traffic on that small street is a major concern along with the fire access. 80% of the deaths that occur in fires in the United States occur in residential apartments or single family dwellings between 10:00 p.m. and 4:00 a.m. If we don't have what I believe to be the required fire access, then to me we've violated a city ordinance. That is where I'm standing at this time and can't support the development as it is drawn.

Estes: Mr. Petrie, I have a question regarding the existing sanitary sewer system on Mount Sequoyah. We learned from the materials which you have provided that there is a lateral number one and a lateral number two. Which of these laterals have created some problems in the recent past?

Petrie: It is lateral number one, the way it is labeled on this drawing. That is the lateral that feeds the majority of Mount Sequoyah. This site will not be connecting to that lateral. It will be another lateral that comes up Spring Street. To my knowledge, there have been no complaints from that particular system.

Estes: Does the applicant propose to connect to lateral number two Mr. Carter? Simply stated, my question is that Mr. Petrie I believe has explained to us that it is lateral number one that has caused some problems in the recent past, are you connecting to lateral one or lateral two?

Carter: We are connecting to lateral number two.

Estes: The second question I have, is Ms. Hesse still with us? Ms. Hesse, there has been some discussion regarding the tree issue and you have favored us with a memo that we have in our packet but the people in attendance do not have that. The historic background is that this lot was clear cut, what recommendations have you made and why have you made those recommendations?

Hesse: When this first came through it was separated into two so it didn't fall within the requirements for tree preservation. It would have to be a large scale development, one acre or more for that to be the case. Under the conditions that you placed on it, it was put under large scale development. That is when we looked at the ordinance, by that time the trees had been removed. That is why we are requiring that 30% of the site be replaced. Based on the ordinance at the time this went through, you base those as 800 sq. ft. per tree. Basically, 30% would be 6,400 square feet approximately, that is 8 large canopy trees. Those can be planted in a lesser space so we are requiring a minimum of 3,200 sq. ft. planting space for those eight shade trees. That has been provided on the latest plan that I reviewed. Under the ordinance which is no longer in place, but was in place during the proposal of this development, we are basically meeting all that we can require of them in replacement trees. Thanks.

Marr: I have a question while Ms. Hesse is at the podium. Was there consideration given to larger replacement plantings? We heard some reference in public comment earlier that the size of replacement trees were too small, can you speak to that?

Hesse: As the administrator, I can only require what is in the ordinance. That would have to come from the Planning Commission. Per ordinance, it is required 2" caliper.

Marr: Thank you.

Estes: Thank you Ms. Hesse.

Conklin: Just from some of the responses we got from the audience regarding whether or not a traffic count was done, this is what Perry Franklin, our Traffic Superintendent, indicated to our Staff Engineer, we asked him today twice regarding this. There was a traffic count done on Olive, it was done 200 feet north of Dickson Street. I don't live out there so I can't verify whether the tube was down on the street or not but the numbers that they counted, once again, I'm just reporting to you what our city traffic department did, they did some counts there and you might want to go over it.

Marr: Is that this handout?

Conklin: Yes. The reason why the city traffic department, I'll try to explain why the city went out there to do this. Commissioner Allen, from my understanding, correct me if I'm wrong since I was not at agenda session, but one of our Commissioners asked for a traffic count to be done.

Allen: Right. I just wanted to base a comparison between the two streets.

Conklin: Ok. That is why Olive Street was chosen and the city went out there and did that. Apparently, there is some concern that it really wasn't done.

Davidson: It wasn't done at the right place.

Estes: I have a question of the applicant. There is an adjoining lot and it is reasonable to expect, and perhaps there is even a probability that that property will be developed in the near future. What plans have you made for connectivity and cross access to that property?

Osborne: Are you speaking about the Dandy lot?

Estes: Yes.

Osborne: Repeat your question please.

Estes: What plans, if any, have you made for cross access and connectivity and I'm thinking about traffic flow and particularly, the traffic flow off of Fletcher.

Osborne: I think I need Mr. Carter to answer that. He is the engineer that drew the plan up.

Carter: There is no cross connection planned.

Estes: Commissioners, any other questions? Any comments?

Bunch: On June 14th in a meeting of a Subdivision Committee, the applicant, Mr. Schmitt, asked us to look at his record in considering this particular development. He told us about some of the developments that he has made. The question I have at this time, we've heard quite a bit of comment about a development on Olive Street, I would like to ask the applicant if that is his development on Olive in between Dickson and Spring on the east side?

Osborne: Mr. Bunch, he believes he has met all of the requirements, but he is going to go back and take another look and if there is something else to do, he's going to do it.

Bunch: My question is, is that his development?

Osborne: Yes Sir.

Bunch: Ok. . .

Osborne: Let me rephrase that, I don't know what they are talking about. He has a development on Olive Street.

Bunch: There is just to the north of Spring and on the east side of Olive a very recent development with a considerable amount of concrete, four buildings.

Osborne: Again, that gets back to what I had mentioned earlier. We think that we have complied with all of the ordinances, but if we haven't, we will. If there is something else to do out there we're going to go and do it. I don't think he had even noticed that there was an objection out there. Nobody bothered to call him and say there is something wrong, but we'll take care of it.

Bunch: One of the things that concerns me in looking at these types of developments, is of course, meeting the letter of the law and the technicalities of our development codes. Another is looking at the spirit of the law and the spirit of the development codes and some of these look like they have been a masterful job of looking for loopholes in order to meet technicalities just to get by without trying to deal with things like compatibility with neighborhoods and that kind of issue.

Osborne: Yes Sir, I understand what you're saying. In this case we submitted the LSD at the request of the city. We think we've done everything that city staff has asked us to do. We have not looked for a loophole and we've tried to comply with what we were requested to do and we believe we have. We're here tonight, not looking for a loophole, we're looking for the best way to develop which would be the LSD at issue now or build Center Street which is the other alternative. We agree with the city staff the best alternative is the proposal now on the table.

Bunch: Of course, when you use the term "the best way to develop" that becomes a rhetorical question and has quite a bit to do with the number of units, the architectural style, whether or not it is compatible with the neighborhood, what impact it has on a neighborhood and judging from, at the applicant's request, to look at his record and judging from that past record to see if that is indicative of what he would also try to put in this neighborhood I can not support this development at this time.

Osborne: Well, like I said, we tried to comply with all the city ordinances, state laws, whatever. I understand the city is about to undergo a review of the zoning, maybe you will include Sequoyah Mountain in the review of the rezoning, maybe some of the other ordinances

need review as well. That is all we've got to go by is the ordinances. He has done what he is required to do, we believe he has complied. If there is more to do, we'll try to be good neighbors, we'll try to do it.

Estes: Any other discussion? Mr. Conklin?

Conklin: If you decide to deny this large scale development, I would just ask that you clarify exactly what you are asking the developer to do to comply with our city ordinances in order to bring this back forward. I just want to make sure it is clear to the applicant and staff what you are asking them to do and what code sections, or code that you are asking them to comply with. It is a large scale development and if you do deny it I think you need to let the applicant know exactly what he needs to be bringing back to you.

Hoffman: I want to be clear about what I was referring to because I don't know, it may pass, but if it doesn't, my concerns are that fire department access, according to the fire code is met. It doesn't look to me like it has been at this time and that the 20% increase in traffic volume, this is a subjective opinion on my part, but I have to say and look at these reasons very carefully for denying this. You know, if this was my lot I would certainly want to make the most of it and I understand that. I don't want to compound a dangerous traffic condition. We've got grades and we've got a narrow street and we've got site distance problems and things that we know about. It is my recommendation if this is denied that a private traffic consultant do a traffic impact analysis and that the traffic impact analysis be done, not only for this development but if there is to be a companion development, and I don't know, I don't think I'm really supposed to talk about something that hasn't come before us but if I understand correctly, there is one in the works, it would cover both developments and it would show how this would impact the nature of the street and traffic flow for the neighborhood. Those are the two issues I have in my mind.

Osborne: With all due respect Ms. Hoffman, I believe these matters you are talking about have been reviewed by the staff. Without bringing this up there and pointing I don't know how to show you, but there is a fire hydrant on the property at the request of staff. It is shown to be installed at the request of your staff and we believe we are in full compliance with all ordinances that grants ability of the fire department to get in there. The 20% increase in the traffic figures, the figures I saw showed about a 10% increase in traffic.

Hoffman: For this one side that is correct. If you take both sides, it is 20%.

Osborne: We're just dealing with one side tonight. As far as those issues that Mr. Conklin addressed, the staff reviewed that and they still recommended in favor of the project. You

were aware that there was a fire hydrant there? I just wanted to be sure.

Hoffman: Yeah, I saw that there but a fire hydrant is different than a road access and I don't see that we have any record of the Fire Chief addressing that.

Marr: I guess maybe if I could ask a question of Tim. What does it hurt us to get the opinion of our Fire Chief on whether this would be considered a safe development from his standpoint, from access into a drive. I have the same concern that Commissioner Hoffman has and the fact that this access of parking, there is no out. Regardless of whether there is a fire hydrant there or not, I wouldn't want someone trapped on one end of this if a fire happens to be in the middle and they are on the other end of it. I have a concern of being able to get out of this thing from one end of it. I don't see what it hurts. We certainly got an opinion from Perry Franklin on site distance. Part of the issue is that we're not supposed to be looking at both developments. Part of planning is planning for what is going to happen in the area. I can't help but look at what the zoning is and what the requirements are and if this has a 10% impact and there is a peer property with like size and like development coming down the road then I can use some common sense that that is going to double. I think that creates some issues relevant to traffic and danger which is obviously a condition we need to look at. This property sits on a curve, while it is not a requirement, or not something that we can look at, from a good will standpoint it seems to me that I do struggle with trying to picture in my mind what a residential elevation is going to look like on a property I've already heard concerns about from the prior neighborhood, even though it is not part of the consideration. I have an issue with fire, I understand there is a hydrant. Did we consider access out any other way from the property? Maybe it is just humanly not possible, but I want to know if we looked at that. I think traffic count is a concern that also needs to be addressed.

Conklin: With regard to the Fire Department, they do receive a packet of information as a part of this internal review. That is not a bad idea. We can go back to the Fire Department and ask them to look at this one more time. With regard to traffic study, I would like more clarification on that, we're asking the applicant to hire a consultant and pay a consultant to produce for him a traffic study, or are we asking the applicant to pay the city to hire a traffic consultant. I just bring this point up, the last thing I want to do is have the applicant hire a consultant and then maybe the study is not good enough because the applicant is paying for a study to answer a question that you have.

Marr: For me, I would prefer that the city manage that. I think it is the city's job to evaluate the traffic count and the impact on it. Whether we ask the developer to pay part of that or some of that or all of that, I think we need it. We have some discrepancy about what we

have in front of us that we're making a decision on. I also am going to consider it in addition to what else comes right here. If it is the same applicant with an identical development coming right behind it, I can't help, I'm not going to put blinders on to say I'm only going to look at these 10% traffic count. If we did that, nobody would be looking at College someday. Nobody would be looking at some of the other roads that we've had in the city that I think we have to look at. I'm not trying to be difficult, I'm a business person, if I own land I want to develop it also. I do think we have a right under what I read as these guidelines to get some input. I think when we have some discrepancy about some of us are uncomfortable with whether it is safe. What does it hurt to get our Fire Chief to say it's not if it's not. If they're comfortable with it or if someone is caught on one end of this thing with no out access that they feel comfortable that we can have a safe condition still exist.

Conklin: I agree with you. On the traffic study, I don't have money in the budget for planning to do that.

Marr: What do those typically cost?

Conklin: I don't know, do you have any idea Ron?

Petrie: I would hate to guess. I don't know.

Marr: What did it cost us to do this one?

Conklin: That's just a count.

Hoffman: My intention, a traffic study is done by a P.E., it is a traffic engineer, I don't think it matters who hires them, they are going to use a standard manual and it is going to tell them a lot. I don't really know the terminology but it is going to tell them based on national standards and vehicle trips per day and terrain issues and things like that whether or not this is feasible and then they make recommendations independently. This is an independent traffic consultant, just because the developer hires him doesn't mean that he is going to tell the developer necessarily what he wants to hear. We saw quite a bit of that in CMN I think. They had an independent traffic engineering firm take a look at their roads and they had some recommendations that the city followed that since we are not in the business of designing roads for brand new developments or putting this many people in an infilling development. It would just be a good idea, since this is their development they should bare the cost of it. I am just looking for some expert opinion and I don't know that they are going to break the bank. I think that traffic studies can be defined in their scope and

I think we've defined pretty much, or I have tried to be fairly specific about what I'm looking for.

Conklin: Ok, I just wanted to clarify who is hiring and paying the consultant.

Hoffman: If the city can get a better rate, then they can reimburse the city, that might be an option.

Marr: I just think it is important for it to not be, I can see where the applicant, if it was a requirement, does a study and then somebody says "Well, of course, it is his person and the study came out his way." I don't think that is fair to the applicant. I think the city needs to manage that process if we're going to make a requirement.

Conklin: When you say manage. . .

Marr: I guess hire the individual to have it done, have the report given to the city and the city then distributes it to the appropriate parties.

Conklin: And the applicant reimburses the city for that?

Marr: If you are wanting me to say that, then yes.

Conklin: I'm sorry, I'm bringing up an example from another state I used to live and work in. The applicant would pay the city for that, have we done that before? No. My concern was having the applicant go out, hire a consultant, and everybody say the study is invalid because he is paying an expert to come here to the Commissioner with his report.

Marr: I could not agree with you more that that possibility exists. If it takes that, we'll feel comfortable if we see it and they pay for it and maybe we put some, I have no idea what it costs. Maybe there is something that makes it so it is not unreasonable or financially unbearable on the developer. I think we need it.

Allen: I just wanted to say that as planners, I think we're not doing an effective job of planning if we only look at one tiny element and not consider the whole. That is my concern here.

Estes: Mr. Petrie, did you have a comment?

Petrie: I just wanted to add that we do have a traffic engineer on staff in the Engineering Division. My recommendation would be they do hire their own engineers and he reviews their

findings and you have both parties findings come before you would be my recommendation.

Williams: A lot of the comments that were made by the neighbors here, I think the Commission certainly shares and staff does too in concern to this R-2 development. That is why I think the staff is looking at, possibly the first time in thirty years undergoing a comprehensive rezoning examination of Fayetteville. That would be a major project probably including you all also. That is really the problem I think involved in this particular large scale development. However, when you are making your decision on this particular project, this large scale development request, I think you have to look at this particular request. I don't think it is right to speculate very much beyond that or to try to hold them to any different standards other than the criteria that is right there in our ordinance. Also, it sounds to me like the comments that I've heard from you are comments that you need further information as opposed to a rejection of this particular proposal. If that is your feeling then of course, the proper decision would be to table as opposed to deny this large scale development.

Marr: Kit, I appreciate your comments. I think they are very accurate. I guess for me, or at least maybe what I'm looking at when I talk about a development is a half acre development that has a 10% impact seems substantial for the size of it to me. Therefore, I think it has the possibility of creating dangerous situations and I would like to feel better about it. I am not recommending denial. I am recommending that I would deny it today based on the information in front of me because I think there is more information that I personally would like to see. If this is all I have to consider, that is how I would vote. However, I do think it would be beneficial to get that information to consider it because those are my sticking points to not vote on it. I actually applaud the applicant in that I do agree that I think smaller units are more effective than six four bedrooms and I'm certainly more comfortable with that than the last thing I saw. I think we have zoning issues, Kit's comments are right. Some of the concerns are how the zoning is and that is something that we need to look at, but that is not something we're here to do today. My issues are fire, traffic and connectivity or access out of this site on one end of this. I would not vote for it until I get more comfortable from the experts around those issues.

Hoover: I have an issue to add to that. I wanted to know where is the guest parking? I mean if you are going to have this many units, where do the guests park? Where does a guest park when they come to visit?

Osborne: I'm sorry, I couldn't hear you.

Hoover: Where does a guest park when they come to visit?

Osborne: Glenn, that is your department. I have a couple of other things, if it is permissible, I would like to mention. The city has limited us to the number of parking spaces now shown, staff did.

Hoover: Tim, how do we handle that in other apartment units?

Conklin: We allow one space per bedroom but we also allow 20% over that so we have a minimum and a maximum. Some developers choose to do more than the minimum.

Hoover: I just find on this particular site, there is no way anyone could park on Fletcher. Then with the dead-end parking, with the dead-end drive way. . .

Osborne: We'll put more, you have to get your staff to let us though.

Hoover: I don't see how you could get anymore in here actually. To me this is a big issue because you know there are going to be guests if there are that many units and I don't understand that. That is a big issue for me besides all the others that Commissioner Marr mentioned. Planning in general takes in the context of the whole area and I find it very difficult to look at this as one single segment without looking at what is going on in this area. I agree, we can't put blinders on that there is not going to be a development next door. Actually, I find it always to the developers advantage to bring the entire thing in. Lots of times, for instance, I do have an issue with where this dumpster is located and how that is going to be screened because you are going to be able to see that from Fletcher, unless it is screened on all four sides. Where as, if the whole development came in together perhaps they could have one dumpster instead of two. Perhaps they could have one detention pond instead of two. I really see it as an advantage for the developers. As a planner, I can not look at this as just one isolated lot in the city. It has an effect over a lot of the area. It would be like any other development, when we have a bar come in on Dickson Street. We look at how it affects all of the area there and what would be going on in that area, not just one isolated element of it.

Estes: Mr. Osborne, did you have a comment you would like to make?

Osborne: Yes I do, thank you Mr. Chairman. The driveway for these apartments is 24' wide paved. That is wider than many of the streets on Mount Sequoyah, including the one on which I live. It is quite a bit wider. As far as connectivity, we did what the staff recommended for us to do. If you want it done the other way, we'll do it the other way. They said total separation so you got total separation. We did that as directed. That is not a criticism of

the staff. They've been great to work with. We're just trying to get everybody happy and it is a little hard to do.

Estes: Thank you Mr. Osborne.

Hoover: I didn't quite understand the connectivity. The staff wouldn't let you connect to another development? That is unusual.

Conklin: Mr. Chair, can I explain myself?

Estes: Yes Mr. Conklin.

Conklin: Thank you. Ok, we started out with two lots, two different owners, they said it was two separate projects. Both combined were over an acre, separate were less than an acre. I have to deal with this as City Planner. I made an interpretation. It is really not an interpretation, dealing with one owner, I said if you are going to combine lots, I don't care if it is one owner, three owners, five owners, if it is over an acre, you are going to have to go through large scale development. Mr. Schmitt and Mr. Dandy insisted it was two separate projects. I said "Fine, I can't make you make it into one project." I can't make people join together and develop property together. I said "You have to meet every single ordinance separately, on your own." Throughout this process we've gone back and forth with lift stations on other people's property, detention ponds on other people's property which has resulted in trying to bring forward a complete stand alone development. I'm not opposed to combining the driveways, but it kind of goes against everything I told them up front which was to do two separate stand alone developments. I have kind of put myself in a corner here because I think the public is aware and the Commission is aware that there is another development coming to you and the whole issue was they were not required to go through large scale development because it was under an acre. That is where we are at today. I've taken a hard stand on that, it has to be two separate developments. However, both are coming through large scale development and if that is something the Commission would like to see, I'm all in favor of that.

Williams: Mr. Chairman, let me defend Tim just a second. In early meetings he did encourage this all to be developed in one unit and it was a choice that they basically refused to do that. They were insisting on separate projects and that is why Tim made the decisions he made.

Osborne: They are separate. They have got separate financing, it is two separate families. They are not related in any way, they are just friends. They don't want to tie it together. Mr. Dandy lives in Springdale and Mr. Schmitt lives in Fayetteville. They are not related in any way

other than they just have adjoining property. If you want us to develop one way, we don't care.

Estes: Mr. Conklin, if this Commission was to deny this LSD request, would it be permissible for the applicant to appeal to the City Council?

Conklin: Yes.

Estes: If the request was pulled by the applicant when would it come back on the agenda?

Conklin: It would come back to you if they reapplied, next year.

Estes: If this Commission tabled this LSD request, when would it come back on the agenda?

Conklin: November 26th.

Estes: My concerns are somewhat similar to Commissioner Marr and Commissioner Hoffman. The traffic issue in my mind is a subjective determination. I think there has been a very articulate request made by Commissioner Marr that there be additional material data provided. The fire protection issue is some concern to me. I note that the plat we've been provided with, the fire hydrant is on the Fletcher end of the property. I too would like to hear from our Fire Chief regarding compliance. I will tell you this, Commissioner Hoffman makes her living coding and certifying code compliance. When she tells us that this does not comply, that gets my attention. That carries great weight with me.

Hoffman: I'm not trying to be mean about it. I think that planning is somewhat subjective in nature and it really does bother me to turn something down and that is why I was whispering to Bob about the tabling verses you going on and appealing it. That is certainly an option that you've got. It seems like with a little more work and you know, maybe meeting with these people, I don't know if that has been done yet or not but I feel like building a consensus with a project is a lot better than having an adversarial relationship with your neighbors.

Motion:

Estes: With the chronological time line provided by Mr. Conklin, I'm going to make a motion that we table LSD 01-19.10, the reason I'm doing that is for the reasons stated by Mr. Conklin. If the applicant pulls it then we'll see it next year. If we deny it and it is appealed to the City Council, that further delays the most expeditious way for this to come back

before us, hopefully, with our concerns addressed and the problems stated and articulated, solved is for this to be tabled. That is the reason I make a motion to table LSD 01-19.10.

Marr: I certainly support that. I don't know how we've done it in the past, should we tie into that tabling bringing back to the Commission on a particular date with the following information and outline that information so it is clear what we're looking for.

Estes: I think that has been articulated in the comments and discussion, but if not what I'm interested in seeing is I want our Fire Chief to take a look at it and give an opinion as to whether he feels it conforms with code or not. Second, I would like to see some more imperial data on the 24 hour two way traffic volumes. Those are my concerns.

Hoffman: Can I add on the fire code stuff that you have a lot of different ways to meet the fire code?

Marr: The third thing, the only other issue that I've heard that I think certainly is something and maybe the staff gives us more information on is relative to Commissioner Hoover's comments on the guest parking or the parking requirements relative to this development. If those three things are in that table motion then I would second that.

Allen: Before voting I just have another question to ask. I wondered whether or not the neighbors had been involved in aspect of your planning?

Osborne: Other than at the public meetings, I'm not aware of any. They've been at almost every public meeting we've had.

Allen: You've not made any attempt to get together with them and see what might be more workable from their point of view.

Osborne: No Ma'am we haven't. We will make an effort to do that.

Allen: Ok, that would be helpful.

Estes: Commissioner Marr, your comments are incorporated in my motion.

Marr: I'll second that.

Petrie: Can I get a clarification? I just want to make sure we understand on the traffic study. You mentioned imperial, for one is this traffic study going to be done by the applicant? Number two, do you just want data, do you want conclusions that this will be a safety problem, that

this will not create a safety problem. I think that is what you are after, but I would like some guidance.

Hoffman: When you do a traffic study, it is my understanding that a traffic impact analysis addresses by its very nature trips per day, safety information, parking, driveway widths, road widths, grades, I don't know what else, but a traffic impact analysis is just that. It analyzes the impact of the development on the existing street.

Marr: I guess Ron, if I could also add onto that what I'm looking for is item number four, it talks about the development would create or compound a dangerous traffic condition. Is the count such that it would create or construe a means on which the risk of accidents increases involving motor vehicles. I would prefer that the method you described in our discussion of someone in the engineering staff who does that do theirs, that the developer hire someone to do their own and that be submitted to your contact of which both results be presented to the Commission.

Estes: We have a motion by Commissioner Estes and a second by Commissioner Marr to table LSD 01-19.10, is there any further discussion?

Ward: I kind of after studying this and watching this through Subdivision and Planning Commission several times, I personally feel like on this particular issue, as a Planning Commissioner we're at a big disadvantage because this property has already been zoned R-2 for a long, long time. It is allowable on an R-2 to have 24 units per acre. A half acre which this is, they can have 12 units. That is really the crutch of the main problem. If this is a rezoning or another type of use, a conditional use, we could limit the number of units, number of bedrooms or what not on this property and we would have a lot more control of what is going on. I feel like that they can meet all the ordinances that we have. I feel like they can propose to put as many units as allowable up to the 12 units on there and all these things are allowable under our ordinances. I personally feel like there are too many units on there but if it is allowable it is allowable, it is the rights of the property owner, it is zoned that way. That is my main problem with it is I believe they can meet all of the ordinances. I feel like I would have to vote for it since they have met all of those ordinances. I think it is going to be hard to prove that this is more of a hazard in traffic than any other place in town that is not already up there. I live on Mount Sequoyah and we all deal with those kinds of problems. Those are just some of my thoughts and comments.

Hoover: The planning staff shared with us information from the Fayetteville Police Department about the number of accidents that have happened in that area and I think it is important for all of the Commissioners to have that information if they would share that with us.

Estes: Mr. Conklin, do you have that material available this evening?

Conklin: One accident according to the Fayetteville Police Department. . .

Petrie: That was the information that was given at Subdivision, there has been one accident in the past of the year that was reported and police responded to. It had to do with failure to yield.

Marr: We heard that from the stop sign running, failure to yield.

Estes: We have a motion by Commissioner Estes and a second by Commissioner Marr to table LSD 01-19.10, is there any further discussion?

Bunch: In fairness to the applicant, I too will say what some of my concerns were since we are voting on a motion to table. One of the concerns since we have a companion development, whether it is a part of it, kin to it or whatever I believe coming up in the very near future to Subdivision, I don't see the space between the two mirror imaged developments, maybe I'm not reading the drawings correctly. I don't see a whole lot of treatment of the space between the two buildings, the setback area. My concerns are drainage issues and maintenance issues and that sort of thing, how that is taken care of. That is one of the things I would like to let you know that if we do vote to table, we need a more clear understanding, since the same engineering company is working on both developments, how that space in between the two is considered. Concerning R-2 developments, yes, technically, we'll get back to this issue of letter of law verses intent of the law, the letter of the law says that R-2 can be developed up to 24 units per acre. The intent of the law I think is to try and create developments that are compatible with the neighborhood and fit in with the community. I don't really see that happening at this location. Again, the letter of the law allows 24 per acre. I believe in trying to satisfy the letter of the law that possibly this is a little over zealous and that is where the complaints from the community and some of the concerns from the Commission come in that it is just a little too much development for the ground. I do believe that we have a unique location with some terrain problems and with the traffic in inclement weather which is always a problem in this area with ice and snow. Indifference to any other comments that have been made on the interconnectivity between the two lots. It seems like it would be better to have the two combined because then you would only have one sewer lift station instead of two lift stations, various economies of scale. That is a decision for the developers to make, but it seems like if there was some cooperation and some interconnectivity that possibly some of the questions of terrain related traffic and parking problems could be resolved. I will be supporting the motion to table and these are some of my reasons for

supporting that so that in the time, if this is to be tabled, to give the applicants an opportunity to look at some of these issues because this has drawn out for a particularly long time and I would encourage the applicants to meet with the community and I understand that it is very difficult to design by committee and to meet everyone's needs but at the same time, open communication and some consensus might be beneficial here.

Marr: I'm sorry Mr. Chair, one more thing, actually two more things. A question for Tim, how far away is the adjoining development? How far along is it in the process and would it be a possibility or likelihood that that could be an additional agenda item on our November 26th meeting so that even though these are independent, we have the opportunity to see both? Is it far enough along to look at it that way?

Conklin: I know it has been submitted to our office. I don't recall reviewing the development today, and Ron was there, and both of us can't recall if it was. . .

Petrie: Maybe Glenn can help us, but I think it is going to Subdivision, it has already been to Plat Review.

Carter: We're going to Subdivision Committee this Thursday I believe.

Marr: I would encourage city staff that if it makes it through Subdivision in one meeting, that we look at trying to schedule that on the same Planning Commission date if this comes back from being a tabled item and that the information may be looked at. The second question I had, I want to go back to the elevation issue because call me dense, I've been on here and I'm about to go off, and I can remember almost every Lindsey development giving an elevation. I'm trying to understand what the difference might be in something like that verses this. Why we wouldn't see an elevation in this case.

Conklin: Some applicant's developers like to show the Commission beautiful pictures of their development as a part of the review process. I think they use it as a marketing sales tool to show you how wonderful their development is going to be. I think that is why you've seen a lot.

Marr: But it has not been something required by the city?

Conklin: No.

Marr: I would encourage the developer, if he has a beautiful picture that he would like to share, I would certainly be interested in seeing it.

Estes: Thank you Commissioner Marr. We have a motion by the chair and a second by Commissioner Marr to table LSD 01-19.10, is there any further discussion? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call, the motion to table LSD 01-19.10 was approved by a vote of 8-0-0.

Estes: The motion to table passes by a unanimous vote. Because there was no dispositive action, either positive or negative taken on agenda item number 5, the LSD was tabled by motion passed by the Commission, no action is required on agenda item number 6, the administrative item. Tim, are there any announcements?

Conklin: Sure, we would like the applicant know and the public that next Wednesday at noon is the deadline to get the information to us which seems very ambitious I guess, to hire a traffic consultant to do a traffic study and have the results by next Wednesday, but that is up to you, the deadline is Wednesday at noon. Thursday is Thanksgiving, our agenda session, I guess I'm announcing that to you today, I would like to have that Wednesday at 3:30 instead of Thanksgiving at 3:30, if that is ok with the Commission.

Schmitt: Can we extend that deadline based on. . .

Conklin: We have to provide the Commission an agenda and the information they are requesting.

Hoffman: He could skip the cycle.

Estes: I think the question was is it permissible to skip a cycle and go through the next cycle or is there any mandatory requirement that they be placed on the next agenda?

Conklin: There is not, and that is why I brought it up. December 10th would be the next Planning Commission meeting. The deadline for that would be that Thursday prior to December 10th.

Estes: Any other announcements?

Conklin: Yes, I do have a couple more. December 4th Duncan & Associates will be here in Fayetteville, they are the consultants looking at impact fees. They will be presenting to the Stakeholders Committee and the public the impact fee methodology used for roads. I am proposing to have a joint Planning Commission and City Council information session with the consultant at 5:30 on December 4th if you can attend that. I think it is going to be

important at that meeting to have our consultant go over with you on water, waste water and roads to kind of get you up to speed on their calculations and methodology. December 13th I would like to have a Planning Commission retreat and work on our 2002 work program. This is going to be very important to set our agenda next year. We will be bringing forward our annexation policy. We will be bringing forward our amendments for our comprehensive plan. We will be talking about a comprehensive city wide rezoning. I want input from the Commission of what your priorities are with regard to our work load in the Planning Division and the staff. We are doing a tremendous amount of work right now and we just want to make sure that as we go forward next year, we are all on the same page of what we want to accomplish in 2002. That will be December 13th at 5:30, I will announce. . .

Marr: What day is that?

Conklin: That is a Thursday.

Hoffman: What day is the 4th?

Conklin: The 4th is a Tuesday. There is a City Council meeting that night at 6:30 so it would be about an hour long.

Hoffman: Thursday is at what time?

Conklin: 5:30, and I will announce a location on that. This is something I have not done in the past but all of the different subcommittees we have working on different ordinances and my list of 20 things I want to accomplish in the next year or four years, I want to share that with the Commission and get your ideas of what you want us to work on first and bring that forward to you. There are a lot of issues out there. I do want to work on a comprehensive rezoning, that is going to be a six month, year or even year and a half long project. Over and over again we're seeing issues with the 31 year old zoning map. That is all I have.

Estes: I would like to personally invite our City Attorney to attend that workshop session if his schedule permits. I can see that we'll be dealing with some rather complex legal issues as we talk about a city wide rezoning effort.

Williams: I will be happy to attend. As you pointed out in some other issues, this would certainly be a legislative action by the City Council to do that which gives us more leverage in that

particular area. Although there are complex legal issues to look at, we don't want to do anything that is going to endanger the city treasury.

Conklin: I agree.

Estes: Any other announcements? We stand adjourned.

Meeting adjourned: 7:45 p.m.

LSD 01-37.00 Large Scale Development (Dandy, pp 524) was submitted by Glenn Carter of Carter Consulting, PA on behalf of Brian Dandy for property located at the southwest corner of Fletcher Avenue and Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains 0.50 acres with 12 dwelling units proposed.

Ward: The second item on the agenda is LSD 01-37.00, Large Scale Development submitted by Glenn Carter of Carter Consulting on behalf of Brian Dandy for property located on the southwest corner of Fletcher Avenue and Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains 0.50 acres with 12 dwelling units proposed. We're becoming pretty familiar with this.

Conklin: This is the first time you've seen this. This is a different development, a different property owner. The property was looked at by the Planning Commission with regard to street frontage for the R-2 zoning. We discussed that Tuesday night with the lot directly to the west. I won't go into that in great detail. They are basically mirroring the development to the west, ten two bedroom units, two one bedroom units. Total bedrooms, twenty-two. Twenty-two parking spaces are being provided. It is zoned R-2 to the east, west and south of this project. Conditions to address, right of way shall be dedicated to include 25' from centerline along Rodgers Drive and Fletcher Avenue. An additional 15' of landscaping is required between the two and the new public right of way and all parking lots. Planning Commission determination of offsite improvements to Fletcher Avenue. The applicant is proposing to widen the street 14' from centerline adjacent to Center Street frontage to meet local street standards. A traffic count was performed. 834 vehicles per day presently use Fletcher Avenue. This development would be projected to generate 80 vehicles per day. No public lift station shall be used for this development. All replacement trees shall be a minimum of 2" caliper. All dumpster and utility equipment shall be screened. Trees along the right of way east of the proposed drive must be trimmed to provide adequate site distance prior to final certificate of occupancy. One ADA parking space is required with an 8' aisle and 8' space. The minimum driveway radius has not been labeled as requested. It does not appear to meet the 25' that is required. Center Street right of way shall be shown on the plat. Staff would like to add two more conditions, based on Tuesday night's discussion that in order to treat this developer consistently with the developer to the west, a traffic study will need to be performed and provided to us as part of the resubmittal, analyzing the traffic on Fletcher. Also, the Fire Chief will need to make a recommendation with regard to what Ms. Hoffman brought up with regard to distance and turn around. The rest are standard conditions of approval. I have talked with Dennis Ledbetter, our interim Fire Chief, our new Fire Chief starts today. I have not spoken with him. Dennis Ledbetter stated this morning, looking at the one to the west, which was brought up that it does seem to meet the distance requirements from the fire

hydrant, that is about 200' from the fire hydrant to the edge of the building. With regard to the need for a turn around, he would recommend that a turn around be provided, however, we have not required turn arounds in parking lots for apartments in the past. This would be a change in what we've done on Lindsey projects, and other projects in town, where you have a 24' aisle, 19' stalls. We have not required.

Hoover: Have you had a dead end parking lot before and not required it?

Conklin: Yes. Two off of Lewis, Elder and Lewis, Dale Schultz, we have not in the past required that. It would be difficult to do a turn around with regard to how this is laid out because a cul de sac radius is 40' or 80' wide, it would take quite a bit of distance to make a turn around a fire truck would be able to use in a private development, private drive, private parking lot. Dennis Ledbetter will be the one assigned to review all development from now on. He will be working with us on all development and we had some discussion this morning on what he sees as a need for fire protection. Any changes that we do make, ordinance changes, we'll bring those through you and to the City Council with regard to what is required for a development.

Ward: Ok, thanks Tim. Keith, sidewalks?

Shreve: No comment.

Ward: Ok, thank you.

Schuldt: No parks fees, the City Attorney ruled that this particular development would not be governed by the park land ordinance.

Ward: Ok, thank you. Ron with engineering?

Petrie: On this, I just want to make sure everybody understands. The street widening, right of way dedication, what is involved. I kind of sketched it out myself just looking at it. What is in the pink is what we would recommend that is street widening, the typical 14' from centerline. That is going to involve for one thing, now the sidewalk is going to have to come all the way around. Now it is just shown to be stubbed out to the middle of the street. It should follow the street, it should wrap around like this and come around like this. Right of way we're looking at would sit about right here. That is at the edge of the driveway. The right of way would fall right along here.

Hoover: The sidewalk keeps going?

Petrie: The sidewalk should be wrapped around to follow that right of way.

Hoover: Oh, ok.

Petrie: Then we have the planning requirement of the 15' of greenspace. We've got some issues that is going to take some plan changes.

Carter: I was advised by my client that this had been discussed in the very initial phase of the conditional use with the Planning Commission that this situation where the property goes out into the street and the right of way and all that, had already been discussed and agreed upon. My client tells me that he would certainly comply with anything you would like but if you are going to require the right of way, which is very understandable, the street was built over the guy's property. If you are going to require us move the property line back to the right of way, then we would at least like a variance of the 15' greenspace requirement. That being the case, we would be asking for a variance of the 15' of greenspace requirement.

Conklin: I would probably disagree that it was discussed. They had a concept plan that showed both properties together and this is the first time we've reviewed it for code compliance, I just want to make that clear.

Carter: Ok, well I was not present.

Conklin: A lot has happened. We've been dealing with this since May. I'm always concerned on drawings the applicants hand out, because we don't review those for code compliance typically. All the different divisions, that is where the six units came from.

Edwards: There was a specific statement that said this has not been reviewed.

Carter: Ok.

Petrie: Some other comments, just real quick. If you could move your meters up to the right of way. The location that you have got shown for discharge in that detention pond, that needs to be reevaluated. That is more or less shown just to dump out south. There is no, it doesn't go there now. It needs to get back to the low point where it is presently discharging. That is all that I have.

Ward: Let's go back over this 15' greenspace area. Where would that be?

Edwards: I think Ron just stated the property line would be the new right of way, is that correct?

Petrie: The right of way should be 25' from the center of the road.

Edwards: Which is this red line?

Petrie: Yes.

Edwards: Then the 15' would have to come back.

Conklin: The Center Street right of way comes across at this point right there. This is all right of way already. Once again, this is a very difficult, very unique situation with all of the rights of way. Really, the dedication would be about that much because that is Center Street.

Petrie: It would be from this triangle, there to there to there.

Conklin: Ok.

Carter: Again, we would be glad to do anything we can to comply with all the ordinances, to the point that it just destroys the project. If there is anything way possible to make that work, we'll be working on making that work.

Petrie: Even if it stays the way it is, you're going to have the back of curb, you're going to have a sidewalk and then you're going to have parking, there is not going to be any greenspace, not in the right of way or anywhere in order to make that fit in there.

Carter: The area of the street, is the street going to be widened all the way to our property line?

Petrie: Property line to property line.

Carter: Ok.

Petrie: That is the recommendation. It requires Planning Commission to make that determination.

Carter: Does that leave any green area at all, whether it is in right of way or not. How much space between the new edge of pavement and the sidewalk is there?

Petrie: I can't answer that. There is a requirement that there is 6' of greenspace.

Carter: Ok, I'm just wondering if when we do this, is there going to be any grass at all? Are we going to wipe out all of the trees that already there?

Petrie: Well, what's there right now, there is not any plan to be saved, with parking lot, sidewalk.

Carter: There's not much. I understand what you're asking for and I guess we need to look at that and see how we can provide it.

Ward: Ok, thanks Ron for explaining that. Kim?

Hesse: What is this on the plans EC?

Carter: Erosion control.

Hesse: Erosion control, ok. The electric is going to be running in the easement, is that right?

Carter: Yes.

Hesse: We need the proper space for these trees. You show one of them on the side, they can't be in the right of way. You have to have it in this space. That is all I have.

Carter: Ok.

Ward: Ok, thanks Kim. I asked you Eric about Parks. Glen, do you have any questions or anything before I go to the public?

Carter: No, I think Ron has done a good presentation and it is real clear on everything else.

Public Comment:

Ward: Ok, thank you. At this point I will open it up to the public on this particular item. Is there anyone who would like to make public comment on this issue?

Davidson: Yes Sir. My name is Sharon Davidson. I live on Rodgers, I've been following this problem from the start. As you can see, the people going over to work on this table. It is a problem. It is a big problem because we're trying to put an acre concrete slab in an area where it doesn't work. We have its predecessor project on Olive we're suffering from. It is a concrete slab of four houses shoved on a lot that was once a wooded lot. There is drainage problems and the parking issue is a major problem. These men have a

history, they can see what they've done to these folks that now don't have anywhere to park, can't drive up and down their street because all of these vehicles that are in this tight four plex concrete slab development are going to be parking on their street. These guys know this. What are they still trying to do? The more of the same on a larger scale in a worse location. Why did this whole problem start? Mr. Schmitt himself admitted, as I first suspected, was he had some money, whatever, he wanted to get in on the development game. Ok, he may have some history in it before. I'm not sure. It is hard to even get them to admit what they have done or not but then they want to bring up examples of past projects. I get this either/or from their situations. One, we're doing everything we can to ask us. Two, what, what did you ask we should do in the first place? The problem with this property is this was picked off the map. The man went into the office, looked at R-2, wow, R-2 as close to the University as I can get, that is what he went in there looking for. Not to build any wonderful project, not to come into a neighborhood and add, compliment or even have a nice little lot for future potential. He came in to inject himself to find the most dense real estate he could, closest to the University, he didn't care what happened. We have proved that they don't care because one, the way they started, they brought their bull dozer in, the single common driveway into their three split lot, divided, whatever, project lots. They cleared that with one man and one bulldozer. Then we come in here later, we have to say it is two projects, we have to manipulate the situation. It puts our city in a bind. They know these guys are doing the dirty, but they have to do a certain amount of accommodating. They have to wind up having some control on people who do not care what they do. So what do they do? They get us in this line now that we've given one waiver to put in a large scale to hopefully have some control over it. Well, what are they doing there? They haven't worked with the neighborhood. They originally told the neighborhood when there was a little bit of comment about what is going on after the tree removal that they were going to put in duplexes. Ok, we are a mixed area, we have duplexes. Nobody wants more of everything but we can understand. We understood that trying to be reasonable. Funny, that is not what was going on from the get go, it is apartments and apartments are a huge difference. Ok, now we get back to the inappropriateness of the project, they still have a right to demand, simply because it is R-2, that they can cost our city amazing amounts of dollars and resources at a time we don't have it to accommodate their right to ruin our neighborhood. I have a little problem with that. I just don't see why they have a right to do that. It was suggested at the last meeting to Mr. Dandy's partner that he speak with the neighborhood, the lawyer said, blah, blah, blah, blah...maybe. Ok, what they did in response to the neighborhood having a problem and asking them to do what they originally said they were going to do, we'll add one more unit. You all are costing us too much money, we're going to stick one more unit in there, just to show you. This is what we are dealing with. Ok, we can have a tract history of their previous projects. We have their giving contempt for our city resources, the community,

the people and excuse me, Mr. Ward, but I have a big problem with your just poo pooing away with the traffic isn't any worse in anywhere else in Fayetteville, I beg to differ with you Sir. I think that is a horrible argument. I don't quite like that you get to relate that you live on Mount Sequoyah and sort of give a "Well I live up there and I can deal with it" I don't think you live down there Sir, you live on Dogwood. Dogwood goes, you know, you don't have to deal with this. I don't think it is quite fair for you to correlate that you live up there and you can deal with it when you aren't having to deal with it Sir. It doesn't go to you down there. Back to the whole problem of the road, the safety. That is all going to come up in the Planning Commission. These are apartments. If you look down here on 11 in our conditions. None of those are good, grading, drainage, water, sewer, fire, streets...all of that. Tree preservation, every aspect, these men have either given us erroneous figures, wrong figures, switched their data, whatever. Even if we give them the benefit of the doubt that they're just not real bright. Ok, well that really impacts me even more than them being smart and knowing what they're doing. They are not real bright, that is what happened on Olive, we're in trouble here because these guys don't have their act together. Their public statements to the press and whatever. "We do everything the Commission tells us to do, we don't know, blah, blah..." Excuse me! That is rude and it is wrong and you know exactly what you're doing. Ok, so here is the deal. I think the whole point of a Planning Commission, and I think our Kit Williams was a little off when he put R-2 rights up here when the whole point of planning is not to just make sure all of the rules and ordinances are followed, it is to have a concept, a plan. It is to make sense. It is to integrate. We would like sustainable growth. We would like smart growth, that isn't just infill or putting in anything on a lot you can fit. That is not smart growth and these gentlemen know what they're doing, they don't care what they're doing. It is going to be a huge problem. Again, go look at the concrete on Olive and you think that that slab of concrete, how are they going to get all of these apartments? These trees, these everything in here, they can't. They are going to have to come back to you again. It should be put off, there is no services for these guys. They don't deserve it. I think we're going to find out that Sir, the traffic is a serious major issue. It is a very, very dangerous area and with old ladies like my Mildred Rose up there walking, I'm telling you I have a problem with you allowing a dangerous situation to be created. Again, we'll talk more later. Thank you.

Ward: Would anyone else like to make a comment on this particular item? Hearing none, I will close it to the public and bring it back to the Committee.

Hoover: I have a question for Eric. Why is it we're not collecting parks fees on this?

Schuldt: Tim, do you want to explain that?

Hoover: I just know that on our lot splits we collected parks fees.

Conklin: Sure. Back when we started, they brought to us two developments on two separate lots, less than an acre. They went out and cleared the vegetation off of both lots together. When I brought forward the agenda request for administrative item for the concern I had over the lot not having frontage directly onto Fletcher. I put on there that it had to go through large scale development. There were discussion that there is not a law to make me require them to go through large scale. Because all other developers that develop on less than an acre don't have to pay parks fees, that they shouldn't have to pay parks fees. That was according to a discussion with the City Attorney.

Hoover: Wait, back up one second so I can understand that. Less than an acre doesn't require parks fees?

Conklin: That is correct.

Hoover: What about a lot split that is less than an acre? That does require parks fees.

Conklin: Yes, that is the ordinance, it is the way the ordinance is written.

Hoover: That is exactly what the ordinance says?

Conklin: I don't have it in front of me or else I would read it to you.

Hoover: I believe you. I just can't believe it is written that way.

Conklin: Yes. Internally, I've talked about trying to make it more equal, but then that makes it sometimes more complex too.

Hoover: Usually so, being fair to everybody is usually more complex.

Conklin: There is no magic. This over an acre, I don't know where that came from. That's just how it is.

Hoover: So if it is over an acre it requires parks fees?

Conklin: Yes, on large scale. The definition of a large scale development is something that is over an acre. This has been the entire debate from day one. Should these be large scales? Can we make them large scales? Two separate lots, two separate owners. Can we make

two separate individual owners have to get together, hire engineers and plan their developments together? I don't think I can do that. People have the right to develop their property individually. That is why I have taken the stand that they have to meet all ordinances separately. You brought that up about the shared driveway. That backed me up into a corner somewhat. We've seen detention ponds on this person's property that we're dealing with today for Mr. Schmitt's project. We've seen lift stations for Mr. Schmitt's project on this property. We've had to go back and I'm the reason, I'm the one that has said if they were going to cross property lines, it was going to be one large scale development. That is how we got to the parks fee issue. These shouldn't even be before you. They are before you because I was very concerned after all of the vegetation was cleared off that truly it was one project and not two separate projects.

Bunch: Tim, on that lot line adjustment, in effect that was actually a lot split wasn't it of the two lots in between them? It did change hands.

Conklin: Well, the difference between a lot split and a property line adjustment, a lot split you start with one piece of property and end up with two. A property line adjustment, you start with two or three or however many parcels and you end up with less. You started with three and ended up with two. We didn't split anything.

Bunch: Well, in effect this was a lot split because one lot was split into two.

Conklin: It just adds property to another piece.

Bunch: The middle lot was split and half of it was sold to the other party.

Conklin: It enlarges a property line adjustment either enlarges both lots or takes one lot and makes it smaller and gives it to another. You never end up with more lots, you end up with fewer or larger or smaller. In this case we ended up with fewer lots.

Bunch: Ok, I see that.

Hoover: Do we have any restrictions on the distance a driveway can be from an intersection on large scale development?

Conklin: That is a code we can enforce, I believe it is 40'.

Hoover: How do you consider this an intersection? It is past the intersection.

Conklin: You know what, since the condition on there is to hire a traffic consultant, I think that is a good question for a professional traffic engineer to answer that question.

Ward: Don, do you have anymore questions?

Bunch: This may be a moot point with the additional traffic review, of the 834 vehicles per day used on Fletcher, just for clarification, at what point on Fletcher was that recorded?

Conklin: Do you have that Ron? Do you know where Perry took that count on Fletcher?

Petrie: My understanding was it was immediately in front of this project.

Bunch: Ok, another question. On the drawing under general notes, it says there are no existing or proposed buildings within 100 feet of the site, I think we're all aware that there is one long building of 12 units proposed within 100 feet of the site.

Carter: I thought that was referring to existing buildings.

Bunch: It says existing or proposed.

Conklin: It is probably not a bad idea to show that project on there.

Petrie: It is required for it to be shown. I missed that, I made that comment at Plat Review, that is a grading ordinance requirement.

Carter: You want to see the other building proposed on there?

Bunch: Well, there is a note on here that doesn't ring true and I was wondering why we had the note on there.

Conklin: This is what you said.

Carter: Ok. My apologies.

Bunch: Obviously there is one proposed within 100 feet.

Carter: I'll be glad to add that.

Bunch: That is just a housekeeping measure to see what that was. Also, on this project and the one next door to it, unless I'm reading the drawing wrong, I don't show finished grading in the strip between the two proposed apartment complexes. We have a considerable space there with each project that doesn't show any finished grading or landscaping or anything like that where they back up to each other.

Carter: That is because we don't propose to change that grading. It is existing and it remains existing.

Conklin: That is a Tim Conklin requirement again that they don't cross property lines.

Carter: There will be a stem wall on this building and the existing grading, the existing contours you see will remain the same unchanged.

Bunch: There will be a strip between the two that is. . .

Carter: Unchanged.

Bunch: That will be unchanged.

Conklin: I'm not trying to make it difficult for either property owner or developer but if they are going to claim they are two separate projects, they need to meet ordinances separately, even though we're at two large scale developments now.

Bunch: It would also be a great place if they were one development, to put in trees or something like that.

Carter: We thought so too, but they wouldn't let us do that.

Hoover: I have another question. Tim, on a LSD, do we ever look at compatibility with the rest of the neighborhood? Does that come up in our ordinance?

Conklin: I read to you what you can consider on a large scale development. I guess the answer to that is if you're talking about land use, no. I think you have to follow your zoning.

Hoover: No, I'm just saying compatibility as far as the character of the neighborhood.

Conklin: No.

Hoover: Does that come up in our 2020 plan?

Conklin: Yes.

Hoover: That's good. One question I have is on the dumpster being up front on the road and where we're saying it should be screened. Now, I don't know whether I should be making the assumption that there is a gate on that, if it is screened on three sides, you're going to see it from the road.

Conklin: We're going to need some detail on that Glen, what you propose to screen your dumpster?

Carter: Is there a requirement for it to not be seen from the road?

Conklin: Well, it defeats the purpose if we're telling you to screen it and you're going to be able to see it from the road. We would like some detail on what you plan to do around the dumpster.

Carter: Ok, we're trying to accommodate the sanitation department for getting trucks in there and being able to get to that and get out of there as easy as possible. We can work on that.

Conklin: Ok, I would like to know what it is going to look like after it is done.

Carter: Ok, sure.

Bunch: Another question would be the air conditioners, the air-conditioning and heating units, where are they located? Are they screened? I guess this would actually apply to both projects since you're the engineer on that since that other one has been tabled to look at issues like this.

Carter: I don't think that applies on residential.

Hoover: This is a LSD.

Conklin: No, we really don't have screening on residential projects.

Bunch: Haven't we done it on apartment complexes, required screening?

Ward: I don't believe we have.

Conklin: On dumpsters, but on air conditioning or roof mounted we haven't. Just a note, since you brought that up, I think it is a very good point, those air conditioning units will not be allowed to be in that 10' easement back there. That is essentially what we've done right Ron? We don't allow air conditioning units in utility easements. That is for both projects, something to look like. Any balconies, porches extending our from behind those buildings can't extend over that area either. I've seen that as a problem in the past on some other projects.

Ward: One thing you might do Glen, I don't think any of these are really totally required, and there are separate projects. There is going to be a total of 24 units right?

Carter: Yes.

Ward: 44 bedrooms for both projects total. Even though they are not required, it would be really nice if we could find a place to put a bike rack or two in there. Also, we've talked in the past about some type of cross access around if it is possible at all. That would really make it much more desirable, not only for the people living there, I think it would make it much safer and easier to get in and out if possible. Those are some considerations that you could look at to make it a nicer place to be. There again, I don't think it is required but to answer some of these questions, and we kind of brought it up the other night on Schmitt's was some kind of elevations on what these would look like, some kind of rendering to see if it is kind of compatible with the neighborhood. There are all kinds of things up on Mount Sequoyah so those are some concerns I have.

Carter: One question I have about cross access, are you talking about pedestrian or vehicular?

Ward: I'm really thinking vehicular if possible, it would make it much nicer to be in since they are kind of a mirror image of each other. If possible, you'll just have to look at it and see if it is possible.

Conklin: On your parking, just so you know, that 24' aisle, that is going to be a fire lane on this side and they are always like that. If you put another project to the west, parking will not be allowed along that boundary, this side of the aisle.

Carter: How wide is the fire line?

Conklin: There is no parking in there at all except the space.

Carter: What I'm saying was would you like us to mark that fire line? Fire line, no parking or something?

Conklin: Sure. Most likely the curb is going to painted red when they go out there.

Carter: I was just wondering if there is a width on the fire lane that is required so I can mark it. We can surely put that note on there.

Conklin: With regard to Lorel Hoffman's question about the distance, I need to get with Lorel and see if she can give me a code section on that, I need to have Dennis Ledbetter research that, it would be helpful if I can get a code section from Lorel, it's in the fire code, we just need to find that. We haven't been able to find that code section.

Hoover: She'll have it memorized, I can guarantee it.

Conklin: I need the numbers for that code section so we can verify that as a requirement.

Ward: Any other concerns or questions?

Bunch: A lot of the comments from the separate owner, the identical project next door would definitely work on this since that other one was tabled at the last Planning Commission meeting, I think some of the comments would work here like the fire lane and that sort of thing would be applicable to both. I don't think that this is ready to send it to the full Planning Commission with this long list of additional considerations and the greenspace with the right of way wrapping around and that sort of thing. I am going to move that this be tabled until such time that at the applicant's discretion, he feels that these additional measures are resolved. That would be like the traffic study off Fletcher, Fire Department determination of the proper access, relocation of meters and detention pond questions and the right of way Ron Petrie brought up, room for replacement trees with the reconfiguration of the right of way, placement of air conditioning units, bike racks and cross access consideration, these are just a few of the ones that have been mentioned. I think that we have a pretty full plate and I don't think it is going to be able to get ready in time for Planning Commission. I believe we need to table it and leave it to your discretion as to when you feel that you have these measures resolved and wish to bring it back.

Ward: Is the traffic study getting ready to start or do we know anything about that?

Carter: I'm trying to contact Ernie Peters now who is kind of a big guy, there is nobody around here that does those. I will be contacting him and trying to get that done with the other

project that we're talking about, not planning to come back to the next Planning Commission, it would probably make better sense for this to wait and go to Planning Commission at the same time anyway. I see no problem in bringing this back to the next Subdivision Committee with these items. That would give us some time to work on these things and to address these items and then present you another plat that has got these comments taken care of. I don't see a problem with that. I think that would be appropriate.

Conklin: Is the traffic study going to be combined with each of these projects or is it going to be individual?

Carter: I hadn't considered that. We thought about the Planning Commission requiring each separate, I mean requiring the study, I don't know. I would like to hear how you all feel about it. Would you as Planning Commissioners like to see that as one study?

Ward: I think it needs to be two studies. I think it needs to be two and then combine them and add them up. It might turn out that separate properties, separate owners, separate financing, separate all other things, it might turn out that one of them ends up building and another one does something totally different.

Bunch: There is also the issue of where the driveways are in relationship to the intersection and that sort of thing, it does seem almost redundant to have two of them back to back mirror images of each other having to have independent studies. At the same time, it has been stated very strongly that these are two separate projects, I guess we will have to have two separate studies.

Conklin: With regard to the study, I would like each study to consider the other development. I would hate to assume that that is not being developed over here. I think Ernie Peters, if you hire him, is going to have to consider what is happening next door.

Carter: Isn't that kind of like combining them? What's the difference?

Bunch: Tim, since the same engineer is working on both projects, do we have the owners or the engineering company have the survey done?

Conklin: The owners are going to hire the traffic consultant, our staff is going to review his findings. Ron, why don't you help me out here. Don't you think that it would be beneficial to have them look at the developments individually but consider them, consider what is happening in the area together?

Petrie: Yes, we would probably need to look at both scenarios.

Conklin: I mean he could say "If this develops on its own, these are my findings..." "If this area develops with this other development, that is independent from this, these are other findings."

Ward: I have a motion to table, do I have a second?

Hoover: I'll second.

Ward: I'll concur. Thank you.

LSD 02-7.00: Large Scale Development (Dandy/Schmitt, pp 524) was submitted by Glenn Carter of Carter & Associates on behalf of Brian Dandy and Robert Schmitt for property located at the southwest corner of Fletcher Avenue and Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 1.01 acres with nine units proposed.

Ward: The last item on the agenda this morning is LSD 02-7.00 submitted by Glenn Carter of Carter & Associates on behalf of Brian Dandy and Robert Schmitt for property located at the southwest corner of Fletcher Avenue and Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 1.01 acres with nine units proposed. Tim, are you going to handle this one?

Conklin: Sure. This property was before the Planning Commission on April 23, 2001 with a request not to provide the required street frontage for lots in an R-2 zone. The property was zoned R-2, as far as I can tell, back in 1970. That is based on the 1970 zoning map. Right-of-way for Center Street exists directly in front of this property and runs parallel on Fletcher Street. This waiver was approved subject to the project being processed as a large-scale development and limited to six units. That was for half of what you see today. When the large-scale development originally went to our Subdivision Committee on June 14, 2001 there were six 4 bedroom units on ½ acre. The item was tabled due to design issues. The item was reheard on June 28, 2001 by the Subdivision Committee and was forwarded to the Planning Commission. The applicant then decided to redesign the project, which required a new review. The new site plan included twelve units with 22 bedrooms, 22 parking spaces and was heard at the August 16, 2001 Subdivision Committee meeting where it was tabled due to concerns over the proposed lift station. The item was then heard at the November 1, 2001 Subdivision Committee meeting and was forwarded to the Planning Commission. The item was heard at the November 12, 2001 Planning Commission meeting where it was tabled pending a traffic study. Meanwhile, the adjacent ½ acre parcel was heard at the November 15, 2001 Subdivision Committee meeting where it was tabled pending receipt of additional information. Both projects were then combined and redesigned and resubmitted to the Planning Division. The applicant is now proposing a total of nine 3 bedroom units with 30 parking spaces for the entire one acre site. What has happened is Mr. Schmitt's project and Mr. Dandy's project has been combined into one large-scale development. They have eliminated separate curb cuts and combined it into one drive. Instead of having two driveways they have one driveway. The units have been reduced to a total of nine on the property. Conditions to address and discuss include the determination of offsite improvements. Staff is recommending that the applicant be assessed $5,722.40 for the widening of the street adjacent to this property. There is a report from Ron Petrie, our Staff Engineer. 2) There shall be one tree planted per 30'

along the front property line. These trees may count as the 16 trees required by the Landscape Administrator for replacement. There will also be, since this is now a large-scale development, an acre, there will also be payment of parks fees in the amount of $3,375. That is nine units at $375 each. That is a change from before. It was technically less than an acre and parks fees were not being assessed. Parks fees will be assessed and will have to be paid with this development. I know that we have looked at this for almost a year now and it has changed over the year. Now we are to, once again, the nine units with the one driveway with both projects combined into one. That is all that I have on this development.

Ward: Ok, thanks Tim.

Schmitt: My name is Robert Schmitt. I just wanted to say that in the year, where we got with our project is I think we had almost dotted all the I's and crossed all the T's with the larger density project. At that point, when I looked at what we were left with, we weren't real pleased with the final product. We had a retaining wall running around the thing for like 320'. It was going to be concrete with a few trees kind of stuck in and that had never been our intention even from the onset. What we tried to do was go back to the drawing boards and come up with something that incorporated the concerns that we had heard from the neighbors and the Commission itself, just different issues as far as the number of curb cuts, planning, street density and how many cars were running up and down the street. We paid for the individual street traffic study. We had that done. Even though there wasn't a negative impact on traffic, we decided to try to reduce the number of units to try to make it have the least impact on the neighbors as possible. What we have come back with, each of these units will be designed in such a way, and we are having elevations done that should be at the full Planning Commission. We have a graphic artist doing those so you will be able to look at what we are planning on building there. We have a significant amount of greenspace compared to the last plan. We are trying to bring something before the Commission that is more palpable to the neighbors and addressing some of the things that we have heard throughout the last year.

Ward: Ok. We've got these nine buildings, what kind of units are those going to be? Are they going to be condominiums or are they going to be homes?

Schmitt: We are going to set these up, with the expense that we have in these, we don't know that they can actually be effective rental units at this point. They would have to rent in the $1,600 range. We probably can sell these as individual homes. We will either try to lease them to families and people who like upscale rentals or sell them off to individual families who would like something out there. We tried to, we have consistently heard the word duplex mentioned from the neighbors as something they would

consider appropriate on this property. We have tried to design the two units, or three of the units that we could topographically get together in a duplex type format. One thing I would like to mention too is that even though these are combined and going through the city as one project, which is also something that we had heard from the Commission as a request, they still are two legally separate parcels owned by two different individuals. As much as people really want to try to make this one project, we legally are two separate projects and we are just trying to address concerns and all of that by going together. The units themselves will be about 1,700 sq.ft. The appraisals that we have are about $170,000. They are about $100 a foot. We think that they are going to be quality additions to the area. Like I said, we will try to have some elevations for you at the full Planning Commission meeting.

Ward: Ok, thank you. Ron with Engineering?

Petrie: When you sell the houses, you are not splitting the property?

Schmitt: No, we are not splitting it. I think if you classify them as condominiums, which are allowed under this zoning, the individual structures can be sold and it has a P.O.A. that controls the whole.

Conklin: It is under the horizontal property regime where the land is not owned, it is not being split.

Petrie: I understand.

Schmitt: We just heard that as a suggestion from some folks that they would like to see this in more of a residential capacity and not where it has to be a strictly rental type area. We were trying to comply with that.

Petrie: Just a few additional things. On the plat we need to spell out all the maintenance agreements and access easements. We are still dealing with two different property owners. The lift station, whose job it will be to work it out. We will review that on the entire set of construction plans. I think I asked for a revised grading and drainage application, if I could get that before Planning Commission.

Carter: I thought we had turned it in. I will check, maybe not.

Petrie: I may just not have gotten it. Other than that, these water meters need to go out by the waterline, they will be installed on the side of the sidewalk, that is all.

Ward: Ok, Keith with sidewalks?

Shreve: They are proposing a 6' sidewalk, which meets our requirements.

Ward: Ok, Kim with Landscaping?

Hesse: Once we get the infrastructure and the buildings worked out we can find better locations to plant the trees.

Schmitt: Anywhere you want them.

Hesse: I would possibly like to leave enough room to create some groupings in some places. Once we get an easement plat we can work that out.

Ward: I don't see Kim with Parks but you understand about the parks fees applying to this. There are now parks fees involved for these nine units, a total in the amount of $3,375. At this point I would like to open it up to public comment on this particular issue. Lets just talk about this particular issue with the nine units please. Ms. Davison, you can go first.

Davison: That is me. I am Ms. Davison. I just want to address your derogatory comments earlier Almost all of the meetings I usually, after introducing myself, say I speak only for myself. I have no money and I resent that rude comment of yours Mr. Ward when I think that is what we are fighting here. In regard to this particular project, which I am not going to go into the pictures of the cars in the ditches from the last snow storm right in front of his property. The safety issue is unbelievable there. I have pictures of all of his other projects. We can't count on this. I am assuming these little condo units are similar to what he shoved in on Olive Street. Sir, would that be the kind of thing you are planning?

Ward: Ms. Davison, make your comments to the Committee.

Davison: Can we ask him?

Ward: Make your comments to the Committee please.

Davison: Ok, well if you would then, later ask him and then tell me Sir if these are the same type of units that are on Olive Street and have ruined that street in the one block stretch. There is a concrete culvert coming down in it. People have to park on the street. Ok, after one year of coming to these meetings, I have actually organized my life around this year with Mr. Schmitt. Here we are, he has finally, because he can't make it work, not because of what the neighbors all said, he knew. Every time we came in there was a different number, a different figure. One together, now separate, we want it this way, we are going to tie it together when it fits our purposes and we're going to tell you we're apart when it does not. The main issue where I expect at Planning Commission for this to be

denied as is, besides all of the other issues we have discussed, is traffic and safety. I finally see one figure here that shows me a little bit of how much it is costing us, as citizens in Fayetteville, to accommodate these gentlemen's right to make money. It is a $53,000 street for their project. Lets get that clear. They only have to pay $5,722.40, we, to accommodate these lovely gentlemen to degregate our neighborhood, to turn our neighborhoods, right in a row, they will go faster. You don't need anybody going faster on that road. We are going to have to pay $53,027.60. I don't appreciate that I, one, have to deal with the traffic this man is going to develop, unsafe neighborhoods for our children, but I am having to pay $53,000 to accommodate his street. We don't need that street widened. If you look at this whole area, we have a dead end street one-way, we have got a dead end street the other way. We have got a little loop that goes up to the hill that most of Mount Sequoyah's access from the other side. There is no one that needs this road widened. It will increase total traffic to the cross. We will have lots more traffic just from widening the road to accommodate this man's right to make money. Even when you widen that road, you are not going to make it any safer. People are going to be coming down and they are going to be in the ditches, in the culverts. You look at Olive Street, people cannot transverse on Olive Street where his other units are because they are parking on the street, I will have pictures of that for you. These people are going to have company that are going to park in the street when the weather is bad no one is going to be able to get anywhere. I am really glad to start seeing some numbers here, such as $53,000 that I have to pay for that man to make money and ruin my whole neighborhood. Thank you for listening Mr. Ward.

Ward: Thank you Ms. Davison. Is there anyone else that would like to make a public comment on this? Yes Sir?

Allred: My name is Harry Allred, I live at 1137 E. Rodgers Drive. My concern is basically safety. I look at the development, I look at the size of it, I look at the density and I know they are going to increase traffic, that is inevitable but the parking, the parking on Lighton Trail and the parking on Rodgers is going to cause some problems. The street is substandard, extremely narrow, right now it is a hazard as it exists. We are in the process of forming a Neighborhood Association, we haven't quite formed it. I would hope that you would consider the big issue. In my opinion, the development is one duplex too large. If I look at the mathematics of that I end up with 21 sleeping units, one car per bedroom, they have 20 parking spaces, I figure it would be about right. If I look at the piggyback parking in there where they've got four parking spaces in one unit, it appears a little bit light also. I apologize I am hard of hearing, I didn't get to hear everything you said when you were talking to each other but please don't shoot the messenger because of the message.

Ward: I appreciate your comments. Is there any other comment?

Davison: I am sorry, I forgot about the parking issues. They will be parking in the street park, in the wide roads.

Ward: Ms. Davison, we've already taken your comments.

Davison: Excuse me Sir, where will that road come from? It will come from our park.

Ward: Would anybody else like to make a public comment? Yes Sir.

Jansen: I am Jerry Jansen, I live on Lighton Trail. I can view the property from my property. I have a question for the staff. It is my understanding from reading the documents here that there is going to be a 6' sidewalk and then 6' of greenspace and nine 3 bedroom units and parking for 30 cars. I just don't think they can fit that all on one lot. It will be a difficult fit and I just have a little concern that the appearance of this thing is going to be like a parking lot at Wal-Mart.

Ward: Ok, thank you Sir. Are there any other comments?

Wilkerson: My name is Tom Wilkerson. I know traffic was an issue in the first round on this. I presume you guys are looking at that this time. Does anybody have any information on that?

Ward: We did have studies on it. If I remember right, it has been a while back, but even with the 22 units proposed, the experts that did the traffic study said that the impact would be allowable for that particular street and area considering what is already up there. This is a lot less units proposed. In an R-2 zone you can have 24 units total and this is nine units on this particular piece of property so it has been really a lot compared to what it was when we first started looking at it. I am not sure any units up there is safe to some people. Anyway, I drive by your house everyday and I am not sure how safe it is coming by your house either. Anyway, to me this is a much, much improved project compared to what we've been looking at. It is something that gives a lot of options. I see this becoming a very viable part of our whole Mount Sequoyah neighborhood. I am anxious to see what the elevations on this project look like.

Wilkerson: If I can ask another question. Does the Planning Commission approval of the project depend in any way on what it looks like?

Ward: Actually I don't think we have the right so much to make that particular decision. We don't have design standards as far as residential. That is my understanding. Is that right Tim?

Conklin: That is correct.

Ward: We are, the developer has made it clear that he is going to provide those. I live up there too and I am very anxious to see what it looks like. The property has been zoned this way for 50-60 years, it is R-2. There are property rights issues. In my case, I'm much happier with this particular proposal than anything I could ever imagine.

Wilkerson: I appreciate that. Is there a way to assure the neighborhood that that is exactly what is going to happen?

Schmitt: Can I address that? One thing I might mention for one of the gentlemen is that half of these parking spots are in garages so that half of the cars will not be seen. I guess we have 18 of the 30 requested spots in garages. The other thing I would say is that when we provide elevations as far as finished materials on the exterior, finished materials on the interior, I will be glad to provide some Bills of Assurance for those. We have to do the same thing for the lending institutions that make us loans on these. The total amount of money that we are going to use to build these is 1.2 million dollars. If you divide that by nine those end up being some pretty nice units. Yes, I will be glad to provide something.

Ward: Ok, thank you. Is there any other public comment? Seeing none, I will close it to the public and bring it back to the Committee.

Hoover: I have a question for Ron. On this rational nexus calculation, how do you do that?

Petrie: This is a conservative method.

Hoover: I am just curious. For instance, if you figure out square footage wise, it would be like $3.00 a sq.ft. to widen the street.

Petrie: It is about $250 a linear foot.

Hoover: Right, but when you multiply it times the percentage factor for the development you come up with a total of $58,000 and when you multiply it times the percent of the traffic for the development and it ends up being $5,800 is the developer's expense. I am just curious when I figure out the amount of square footage for 8' of road that is 235' long, that ended up being $3.00 a foot is what the developer is contributing. Is that usually about right?

Petrie: You are saying $3.00?

Hoover: A square foot, not linear. I am saying square foot.

Petrie: It depends on the density of the development, how much traffic. It is hard to give you a definite answer for that because it is based on the density.

Hoover: Right. Is it always based on a ratio of the amount of traffic that is going to be generated from this development that was not already there?

Conklin: It is based on how the roads survey.

Hoover: Right, so if we had a development that was three times this size then the developer would be paying more portion towards that. It is kind of interesting because if there was no development there then the city is not contributing anything to widen the street. It is just interesting to see the difference between how much the city has to put in and how much the developer has to put in just in general. I guess it always seemed like it was closer to being more equal but I guess that is because they were higher density developments.

Conklin: That is why you look at our Road Impact Fee Study, the development community needs to look at that too. It creates a level playing field for everybody that is using the facility. It is not putting the total cost on one individual that happens to join the road. It goes back and forth. It is kind of interesting with the debate on impact fees.

Hoover: That is what I started thinking about. We would be better off having a higher impact, a higher density, because then the developer would pay more.

Conklin: But you are trying to assess based on a rough proportionality theory that this is their impact.

Petrie: If I may, I think the Commissioners understand this but maybe some of the public doesn't. We are not recommending that this be widened. When this previous development came through we were recommending that it be widened. This is about ½ as much traffic so we didn't feel like, by rational nexus, that we could judge it by that recommendation. That is why we are recommending the money in lieu. Just because it cost $58,000 to do it, the city is not throwing in that money right now because we are not going to widen that street. It is planned to widen at this point and some day I am sure it will be, but not now.

Conklin: In order to do a calculation you have to have a number.

Hoover: Right. Just as a side line, on the Impact Fee Study with roads, is it similar to this?

Conklin: Roads is all based on the average trip length. It is based on how much traffic is being generated by the development.

Hoover: It is interesting.

Conklin: We can talk about it later.

Hoover: Right, I was just curious. I have the question about parking. You have 18 of the parking spaces in the garage?

Schmitt: Nine units with two per. Yes Ma'am.

Hoover: So you have got 3 extra spaces? You've got 27, I guess we are saying 30?

Schmitt: Well, we have been walking a fine line on parking. Originally people were like "We don't want a parking lot up there." Then we have other people that come back and say "Wait, we don't have adequate parking." Also again, the amount of concrete, the last Technical Plat Review, they asked us to cut down actually the amount of concrete so we tried to do that a little bit. We are open. If you want us to try more or less.

Hoover: I don't have an answer. After our experience this morning. I thought having off street parking was a good thing but then people are complaining that there are cars in the driveway. I think in this situation, it looks like I guess if you had two cars for each unit, then that would be 18 cars so you would have enough. I am just concerned about the street, I don't know if the city has up no parking signs out along the road there?

Conklin: There will be.

Hoover: Ok, I just think that would make sure.

Schmitt: At the Technical Plat Review, somebody had brought up maybe providing some parallel parking within the existing concrete that we are doing and I think that we provided three spaces in there. Is that correct?

Conklin: Mr. Chair, if I could just respond to this. I agree with Sharon. It has been difficult because we like to try to limit the amount of parking and so we typically try to limit how much parking is being built on a site but at the same time in this instance with this development I am hearing that we want more parking in these areas and there is some opportunity to build some more parking. I just am kind of in between. I am trying to preserve

as much greenspace and not create a huge parking lot and the issue of parking. We will have to listen and I think there is some opportunity here.

Ward: In this kind of development do we have to worry about bike racks?

Hoover: They are on there.

Bunch: Refresh my memory Glenn on this offsite area. That .16 acres, I don't understand that on the drawing.

Carter: That is part of the grading and drainage plan. We have identified an area on a separate map, a separate plat that shows the total acreage of offsite area and contributes run off to the site. The ordinance requires us to show the amount of offsite area. This is a combined grading and drainage plan that is why it is on here.

Petrie: It doesn't necessarily need to be shown on here.

Bunch: On previous considerations for this piece of property, there were some questions and other drawings forwarded showing the reworking of the sewer system, is that still in effect? It is hard for me to determine from looking at this drawing exactly where we are on the additions. At one time there were some fairly extensive additions to the sewer system proposed.

Carter: We are going to come to here and have a lift station. Everything will drain down the lift station and extend up to a gravity sewer and there is an existing sewer extension plan to take this sewer out to the gravity sewer.

Bunch: Ok, that is because there was a question about the capacity of the two different systems on the mountain. That is still part of the project to improve that?

Carter: Yes.

Schmitt: Where is that in process? Ron, is that in your office approval, the sewer system design?

Petrie: Glenn had submitted something just as a review to make sure that it would work and it hasn't necessarily been approved. I think we need to look at it a little more to approve it. What was submitted should work.

Schmitt: Ok.

Ward: Are there any other comments?

Bunch: One of my comments is on the parking. Some of this seems to be from a nuts and bolts standpoint, like parking space number 22, if there is a car in 21, that looks like it is going to be awfully tight to try to get into 22 or needless to say, 24. The same way with a person backing out of 25, since that is the end of a building, if there is a car in 22, 21, 18 in through there, it looks like they are going to have to back straight back and then come forward. If these places are full, these guys are going to have to back over this way and then when he comes forward, here is this curb sticking out. I am just wondering if proper distances and clearances have been checked on this because this area right in here seems extremely tight. There were a couple of other areas too. The other thing that we're looking in parking, if this does sell off as condos then are these people over here, if they have three bedrooms just like these people over here have three bedrooms and need more parking, these guys only have two parking spaces and these have four. That is going to create probably a lot of ill will.

Schmitt: Yeah, when one guy is parking in somebody else's spot.

Bunch: Right, if this guy over here parks here then this guy can't get out and this guy may be incognito or something. It looks like it is rather wieldy. There is not that much in the way of what is apparent has common parking area for a condo situation.

Schmitt: Ok, well as it stands right now we don't intend to sell these off. We set that up initially as just another request that we heard to make sure that it could be more residential in nature. These, I think Glenn and I did go through and check all of the numbers so that these people could back out. This unit probably could be turned just a little bit this way to give them better access pulling out.

Carter: I have made this distance equal to or to exceed 24' width so when this guy comes out, these are 9' so he has got around 27' there to back up. As far as this, we can cut this back but since Plat Review I have gone into this and made an attempt to further reduce the impervious area as much as possible. I brought this high land up a little further and things like that. As long as we can keep 24', I have tried to that to reduce the run off and it is just kind of a goal of the city I have learned that we try to reduce impervious area. It is tight but if there is 24' there, if you think they need more then I guess we could do that. We just went with the standard driving lane width of 24'.

Schmitt: One other thing I might mention, I noticed this morning. This retaining wall here that runs beside parking spot 24, that actually is supposed to go from that corner over to the corner of this southeast building and we will have that revised on the next meeting. Glenn and I talked about that on the phone and I think we mis-communicated.

Bunch: This space right here, is it 19? I don't see a 19 along here, it just kind of jumps around there.

Carter: Yes.

Bunch: Another one was on the backing out of number 16, again, it looked like it was pretty tight.

Schmitt: They could turn around here.

Bunch: They might be hitting this right over here because this does stick out past this point. A full car length comes out to here. It does look as though they can turn back into this area. It looks like they would have to come back up around here and come out. It looks like you could get there out of thirteen.

Schmitt: We will take a look at the parking.

Bunch: This is a better design than what we had, it still seems to have a long ways to go but it is no where near the density of the previous submittal.

Ward: I am just one person, but I personally think that there needs to be more parking. As you know, every time you put in a parking space you lose greenspace.

Schmitt: How many are we allowed under ordinance?

Conklin: One per bedroom.

Schmitt: Is there not a maximum over that?

Conklin: 20% over.

Schmitt: What is that?

Conklin: If you go 20% over it is 30.

Ward: Just because of the situation, if you could find a place to put a few more parking spaces in I think it is going to be easier.

Bunch: It will take a waiver for that?

Conklin: A conditional use.

Bunch: Because it exceeds 30, 20% over.

Carter: If you count these two parallel we've got 32. If we provide those two additional then we will need to request a waiver.

Conklin: A conditional use.

Carter: Ok.

Schmitt: We would be glad to put those on if you are suggesting it.

Hoover: It does seem that you need to have an area designated guest parking so that we know they are going to be off the road. I don't know what that number is and maybe you have some better idea from your business. I don't know realistically.

Bunch: Just a look says that the three units over here only two parking spaces per, that you're three parking spaces shy and that is going to be a bone of contention with all the rest of the people in there. It looks like you are a minimum of three shy or one bedroom over here.

Schmitt: We could definitely try to go back and show three or six more additional spots.

Bunch: I haven't been over the garage setup. It lends itself to automatically having four per unit over here on this side and that uses up some of your allotment.

Schmitt: Again, in trying to make this thing as residential looking as possible, doing the garage in just kind of like a normal subdivision, they have two inside and two behind so we were trying to set something up along those lines to get away from having a large parking lot but I think if you could designate a couple of small areas and maybe put up a sign that says guest parking and then assign the rest of the parking spots, that might take care of some of those issues and I would be glad to do that.

Carter: This parallel right here would work for guest parking for this one and this parallel could be guest parking for this one. We may be able to pull that back a little and put a parallel right there as guest parking for this one.

Schmitt: We will work on that.

Bunch: I don't see a dumpster on here.

Hoover: It is ok.

Bunch: Ok, I see it, they have turn around room. What about fire access? What did we find out when we looked at it before as far as fire engines driving down and backing back up?

Edwards: He looked at it and he felt like they could drive in forward and back back out. We haven't required a turn around in the past and we're not going to start at this point. If you remember, he came to agenda session.

Bunch: It looks like it is considerably less density than it was. I don't know that I am that proud of it but it has come a long way.

Ward: Are there any other comments or motions?

Motion:

Hoover: I will make a motion to forward LSD 02-7.00 to the full Planning Commission.

Bunch: I will second.

Ward: I will concur. Thank you.

Schmitt: Thank you.

Meeting adjourned: 10:55 a.m.

LSD 02-7.00: Large Scale Development (Dandy/Schmitt, pp 524) was submitted by Glenn Carter of Carter & Associates on behalf of Brian Dandy and Robert Schmitt for property located at the southwest corner of Fletcher Avenue & Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 1.01 acres with 9 units proposed.

Estes: The next item on the agenda is item number eight. This is a large scale development, LSD 02-7.00 submitted by Glenn Carter of Carter & Associates on behalf of Brian Dandy and Robert Schmitt for property located at the southwest corner of Fletcher Ave. and Rodgers Drive. The property is zoned R-2, Medium Density Residential and contains approximately 1.01 acres with nine units proposed. Staff recommends approval subject to certain conditions of approval. Mr. Conklin, do we have signed conditions of approval?

Conklin: No.

Estes: Those conditions of approval are 1) In the event that the large scale development plan with the 35 parking spaces is approved, approval shall be subject to the approval of a conditional use for three additional spaces. 2) Planning Commission determination of offsite improvements. Staff is recommending that the applicant be assessed in the amount of $5,722.40 for widening the street adjacent to this property. See attached memo from Ron Petrie, Staff Engineer. 3) Payment of parks fees in the amount of $3,375.00 (9 units @ 375 each) 4) Parking spaces provided shall be changed on plat to read 35 spaces. 5) Sidewalk construction in accordance with current standards to include a minimum six foot sidewalk with a minimum six foot greenspace. 6) Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives. 7) Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. 8)Large scale development shall be valid for one calendar year. 9) Prior to the issuance of a building permit the following is required: Grading and drainage permits; Separate easement plat for this project; Project Disk with all final revisions; Completion of all required improvements or the placement of a surety with the City as required by §158.01 "Guarantees in Lieu of Installed Improvements" Park fees paid and/or deed recorded and building elevations submitted in order to check eave/overhang height in relation to setback. Is the applicant or the applicant's representative present?

Osborne: Yes Sir.

Estes: Mr. Osborne, do you have a presentation that you would like to make at this time?

Osborne: Yes. I am going to try to be brief. I know most of you are familiar with this. I am going to put these two pictures of the proposed structures. Down below is a plat. The project has been reduced from the originally proposed 24 units down to nine units and they are going to be setup where they can be sold individually under something called the horizontal property regime, which is the same as condos, you all are familiar with that. There is a whole lot less pavement than originally, way less and there is a whole lot more greenspace. Of course the drainage plan, you all are fully aware that we are going to have to comply with city ordinances on that. The book that I have handed you. Actually, the cover and the first three pages primarily deal with this project and on the very last section is the Bill of Assurance that Bob and Brian are offering. The rest of it Bob has put in here. Bob has been sort of attacked by innuendo, indicted by innuendo at several previous meetings and I wanted you, and Bob wanted you to see some of the other work he has done in this community. He is not the ogre that he has been alleged to be. He does quality construction in the area. I think he has shown a willingness to work with the neighbors by reducing it from 24 down to 9 units, that is a pretty significant reduction. As you can see, it is a quality structure. If you will read the Bill of Assurance there in the last section of the book, it addresses the quality of construction that he proposes. Rather than belabor all of this since you are all familiar with this, I will sit down and let the others speak. I will offer some rebuttal if appropriate. Thank you.

Hoffman: Thank you Mr. Osborne. I will go ahead and open the floor up to public comment. If you wish to speak on this project could you raise your hand to get an idea of how much time this is going to take? Thank you very much. We will go ahead and start with public comment now. I would advise you though to try to avoid the repetition so we can expedite this meeting but everyone will be heard. If you would like to speak please come forward.

Gonn: Good evening, I know you are tired, it has been a long meeting. I am Lyle Gonn, I live at 1055 Rodgers Drive. We greatly appreciate the work that you as Commissioners have done in the past on this project and the concern that you have shown for it. I think in your packet you have a petition from the neighbors that was circulated in about three days and collected over sixty signatures. The last petition that we submitted collected over a hundred signatures. We had a longer period of time to circulate that petition and to get our neighbors to sign it. I guess first of all a number of the neighbors are here and I hope that they will and I know

that they plan to address a number of the issues that are in the petition that is a part of your packet. Some of the issues that are in this petition are very similar to what were in the previous petition and in our opinion, have not been addressed by the developer. I guess the question that we would probably raise would be if you are concerned about safety and traffic issues, the corner that this development is going to be built on is a very dangerous corner. It is a street that is only 16' in width at the point of their development with ditches on each side. If you are concerned about parking, the developer has planned for, as we understand, nine units, three bedrooms, twenty-seven beds. As you know, four unrelated people can live in each of those units so potentially there are at least 36 residents living in those units. The parking plan is not designed for that and the parking plan, at least what we saw previously, is very poorly designed with parking backed up behind each other. If you are concerned about appearance, as we mentioned, there are nine three bedroom units on an acre lot. You heard just previously with the Hotz project, two units on about a fourth of a 1/10 of a lot and the residents were concerned about that. Here we are talking about nine three-bedroom units on approximately one acre. If you are concerned about appearance and design look at some of the previous projects that these builders have built and look at the condition of those projects after a year or two. There is very little maintenance and problems that are developing immediately. What will they be like in five years? What will those projects be like in our neighborhood, our residential neighborhoods. If you are concerned about community relations, ask the developers if they have ever attempted to contact the neighborhood. You, as Commissioners, directed them to do that back in December. There has never been one attempt and they were invited to our neighborhood meeting. If you are concerned about clarification and commitment. Just who owns these units? How will they be used? At the Subdivision Committee meeting it was very confusing. If you are concerned about the long range city planning, think about how this is going to change our neighborhood. Thank you.

Estes: Thank you Lyle. Is there anyone else who would like to provide public comment on this requested large scale development?

Havens: My name is Jerry Havens. I live at 809 Lighton Trail in Fayetteville. In order to try to expedite this, I have written my remarks and I will just read them to you. Members of the Commission, I am here again along with my neighbors in response to the latest notice of public hearing regarding this project. I have signed the petition, which is being presented to you and I hope that my presence helps to demonstrate our community's concerns. I oppose this development because I think it will hasten the destruction of unique characteristics of the Mount Sequoyah area that our city should value highly. I understand that regulations addressing detail such as tree

canopy space, sidewalk placement provides some protection but my purpose here is to ask you to consider what I believe to be more important concerns. 1) Our Community has been treated without the slightest regard by the parties which bulldozed, by surprise, the trees on the property. It appears to me that they anticipated a slap on the hand by your members. Thus is making a decision that we were powerless to reverse but in which we had the greatest interest. I recall one of your members, upon hearing my objections to this action, asking the developer why they made the move in this manner. The attorney in representation just said "I don't know, we just cut them." In my opinion the system is not working in the community's interest when assumptive response coupled with a hand slap suffices to enable the continuation of the process. 2) It has been repeatedly pointed out that the infrastructure requirements for this project, although they may be provided for to the letter of the law, are subjects for serious concern and I have two that I would like to share with you first. I have not had time to review the traffic studies which have been done. Although I am an engineer, I don't need to be to understand that the additional cars moving on the Fletcher access to the development will create significant safety hazards. I understand that this development could legally be populated by as many as four unrelated individuals in each of the proposed units and I assume that no prohibition will be made of individual ownership of cars. In my opinion, the system is not working when such a number study, however systematically done, can be used to support a decision process that doesn't even make common sense. Nor have I had time to study the city's response to my questions about the adequacy of the sewage handling requirements. I have been too busy getting my own sewer system fixed after more than a year long effort, I recently determined the source of very objectionable sewage odors which I had observed almost daily in my yard and in my home. Numerous attempts to find the problem had always come up empty, as had several attempts by city personnel. It turned out that the sewer line traversing my yard from a lift station on the adjacent property had been damaged. More important to our discussion here, I visited the City Engineer's office in an attempt to locate the position of the sewer lines in my area. That office was helpful but I learned that the location of the sewer lines in the area are in many cases either imprecise or in gross error. I don't need to be a plumber to observe that the sewage collection system on Mount Sequoyah frequently is subject to leaks and overflow conditions. The large number of lift stations, one of which I provide, are so the city tells me, partly responsible for our continuing problem. I had requested at a previous public meeting addressing this project the city's appraisal of the adequacy of the sewage handling system in our area and he expected impact of the proposed development. I understand some attention was given to my question but I do not consider it sufficient. Again, in my opinion, the system is not working when a number study can be used to support a

decision process that doesn't satisfy common sense appraisal. I believe that you have the responsibility, if not an opportunity, to guide the processes under consideration so as to avoid the extreme concerns that are being voiced throughout the country in areas which have been living longer with fast development than we have in Fayetteville. I thank you for your consideration.

Estes: Thank you Mr. Havens. Does anyone else wish to provide comment?

Lawler: I am Nan Lawler, 68 S. Cantrell Drive in Fayetteville. I just wanted to point out less anyone suggest that 60 of us plus signed the letter by accident not knowing what was going on, we did make an effort to contact the developers. Catherine Lux and I just recently organized the Neighborhood Association and lets face it, one of the reasons it was real easy to organize was everybody is concerned about this development. When you organize a Neighborhood Association, you should invite everyone to participate. Residents, whether they are home owners or renters and property owners, whether they live on the premises or not. We made an effort to get a hold of property owners in our neighborhood. In particular, because of this development, I made a special effort to get a hold of them. I called Tim Conklin's office as a matter of fact. I figured his office would have addresses for them. I got addresses for both of them. As a matter of fact, the address for one of them, the woman who gave me the address said that she thought it might be better to send it in care of Glenn Carter because they had sent several letters to the address given and they had come back. When we were sending out flyers, distributing flyers for our Neighborhood Association, I personally sent flyers to both Schmitt and Dandy. I don't want there to be any suggestion that we have not tried to get in touch with them. They have not been interested in getting a hold of us. Incidentally, in terms of the number of parking spaces, when I was in college I had three cars. I had three cars out in a student housing where a bunch of us were living in one house. If you think one parking space per bedroom will suffice, dream on! Thank you.

Estes: Thank you Nan. We have had the benefit of three very fine presentations. We are very familiar with the history of this project. I would ask that if you have a comment that it be comment that edifies us and helps us in our decision making process. Please keep your comments brief, to the point, relevant to the agenda item at hand and we would appreciate that.

Davison: Thank you Sir. I appreciate you listening. I have also written my comments because I am an emotional person and it seems to be I am dismissed when I am emotional. In writing I think I can improve that. My name is Sharon Davison Sir. Here we go. I have been dealing with this for over a year. It has been quite an amazing process. I am sort of

concerned as to why we are all spending this time here when it is all about ordinances. There is no power here. I am confused. Are you here as a board only to prevent corruption in our Planning Department? Otherwise, why would we not just hire people to say this ordinance needs to be met for this or that. I am not sure why we use your time here when you cannot affect positive change. Here we go. I live in Fayetteville and as I always say, I speak only for myself. I am here tonight to represent unrepresented people in this room. They are the people who matter the most to me personally, professionally. They come before money, they come before individual property rights. They come before what this one guy should be able to do to us. You know who that is? That is children. I am here speaking about my child's safety. Not this young man, Bobby Schmitt Mr. Neil Schmitt's son who lives here and has grown up to think this is ok. There are children that are growing up here right now. My son is an eleven year old. He has to walk, no choice, to school to catch the bus. He can't get to school without walking to the bus. He has to go down this very dangerous stretch of road, right in front of, as you will see later with my picture presentation of this project, of all of his projects that I am aware of, only the ones that I am aware of. He has to walk right down there, no sidewalks, and he has to go to the bus and he has to walk that way twice a day. The reason why is because it is too dangerous for the bus to come up to our street in the winter. His whole school year he has to go down and go this long way to catch the bus because a big part of the school year it is not safe for the school bus to come get him. I am talking about my child, not everyone in the neighborhood can drive their child, so he is walking on roads without sidewalks to his bus. I have one picture here that shows the most recent wreck in front of this property. It is a wreck, it is not even in a ditch. Here we go on that particular incident, it is directly in front of the very piece of property we are speaking about. It had a severe impact with a tree and was towed. On that particular icy day while my son and other children played in the park, again, directly across from this. A steep incline, a park that was developed for children. There were a minimum of three vehicles in those ditches on that particular day that couldn't make it past that curve down the mountain, right there in front of the Schmitt/Dandy residence. In fact, you can check the police report because there was a police incident because of one of those cars on that day. Here is my concern, I keep hearing it is R-2, it's R-2. Right or wrong there is nothing we can do about it. Planning says staff suggests. Staff recommends, excuse me, if you really want to care about what staff is telling you, staff is telling you they have met these requirements, we have to say ok. They turn it over to you hoping that you might do the right thing. These men get to manipulate that information and say staff approves. I bet you I could ask Mr. Tim Conklin right now if he were allowed to give his professional opinion, I doubt that he would say staff backs this. He would have to say staff can't do this, staff can't do that.

Unlike our problem with Markham Hill and your inability to protect them because that man wasn't asking for any "favors, waivers, favors, waivers" we have that here. You can do the right thing here. Back to Excuse me! I am suppose to be so grateful when I look at this whole area that is inappropriately zoned. Again, that was brought up in 1970 after most of these single-family homes were already in there. It was brought up to be changed. The reason why we don't have the maximum allowable units is not because they are so nice. It is not because my neighbors have complained so much, it is because it doesn't work. It will not fit. Here we go! They are still trying to over maximize this property. Your opportunity to fix this is coming up next as far as the parking. Ok, they are still trying to do this to us. It is not compatible with our neighborhood. Not only is our neighborhood primarily a family and home owner's neighborhood, it has scattered rentals, a lot of those rentals are actually families. Guess what the key is here. None of them are more than duplexes. You look on Fletcher and there are several examples of good duplexes that have plenty of parking, have not overbuilt on lots. Ok-he switched from apartments to these to everything imaginable. The only thing suitable in our neighborhood would be duplexes. Here is the deal. I figured out that he went in and he is looking for rental. We understand that rental is a problem. We have said ok to the Lindsey Broyles mega complex. We are in the process of approving our plan for housing all of these students. Are we going to allow our whole town and our neighborhood and our family structures to be destroyed in term of waiting for the appropriate housing for students in that corridor or are we going to do something about it? Here is my problem with what these guys are up to. I believe it is more than just this development. As you will see, I have examples of the four proposed developments of his there is something wrong with everyone of them. He has a bad history in every neighborhood he has developed. Ok- I don't think this is that funny. We all used to joke about the law school here and how it turned out that all of the lawyers are here in Fayetteville. I am getting concerned when I am seeing what is going on here that our B school is turning out a lot of B school guys that have figured out the rental market and they would like to stay here.

Estes: Sharon, would you, if you have something to say that would help us in the decision making process, please provide us with that information.

Davison: Ok. Well one quote here Sir would be from one of Mr. Osborne's last meetings and his closing remark was "We're not looking for loopholes."

Estes: Sharon, you are not helping us. We know the historic record of this applicant. If you would please provide us with comments that will help us in the decision making process and please keep your comments limited to

the agenda item before us, which is this large scale development. Do you have anything that you can share with us that will help us in the decision making process?

Davison: I would like to ask the question, has the fire protection issue been addressed?

Estes: Mr. Conklin, can you respond to that?

Conklin: The Fire Department has looked at this and they have stated that they can drive their truck in and have the hose released and drive back out. Yes, it has been addressed.

Estes: Do you have another question?

Davison: I would like to know, I guess, to tie this up and since you are not happy with me trying to address the issues of safety, of appropriate and compatible buildings, the fact that this is detrimental to our neighborhoods, the fact of the impact that it will have on the cemeteries below, on the houses below. The fact that there are no apartments closer to this than the projects in the holler and that the only thing around this neighborhood is duplexes and that would be the only thing appropriate. This was a single family lot that was three lots originally. It had one house on it. If they wanted to split it and do a neighborhood appropriate, where the max that we could handle would be two duplexes, each one. You can do those neighbors. I did have some more to say and could've followed up on a lot of inconsistencies. I have lots of material where all their facts change all the time. Sir, when you are looking to a person I think it is relevant as to the history, the facts and the things that don't add up. My last thing in closing before I allow other people who might be more eloquent and composed than myself is to ask is everyone planning on voting on this particular item?

Estes: It is not appropriate to respond to that at this time. Each individual Commissioner will vote as they see appropriate. Do you have anything else for us?

Davison: I would like to address that issue if it comes up later.

Estes: What issue is that?

Davison: I believe there is a conflict of interest on your board beyond the fact that it is outweighed by banker business interests, realtors, etc.

Estes: Well, you know what I am going to do Sharon? I am going to give you an

opportunity to articulate that perceived conflict and perhaps the individual Commissioner that you are speaking to can respond. I don't want anybody to vote on this issue that any citizen feels like should be conflicted out and should recuse. Would you address each one of those individual Commissioners that you feel should recuse, stating the reason you feel that they should recuse and giving them an opportunity to respond?

Davison: Yes Sir. There is one Commissioner...

Estes: No, state by name.

Davison: Of course. There is one Commissioner Sir, his name is Lee Ward. My problem with it is that Mr. Osborne is representing numerous people, a group of people, I bet you they are connected Sir, that are trying to do similar projects like this. He is doing more than one of those. These are high impact very, very important developments. I don't believe someone who has business interests with someone representing a client should vote and this man has outspoken, been positively "Oh! No traffic problem up there, that intersection is no worse than anywhere else." This is what I have been hearing from this person every meeting I've attended. To me that statement, that set off bells and I wanted to know was he more than just a realtor. I understand.

Estes: I appreciate your comments and Mr. Ward can respond at whatever time he feels is appropriate if he feels necessary to respond. Now is there any other Commissioner that you feel should recuse from voting on this item?

Davison: I have no idea about anything else besides that Sir. If you just all would look at this it will verify the facts that landscaping is not done after these projects, there is severe runoff, there is crumbling. There are the trees. Please look at these pictures. It will show conclusively what this man's developments are.

Estes: Thank you Sharon. Is there any other member of the audience who would like to provide public comment on this requested large scale development? George, if you would say your name for the recorded record please and provide us with the benefit of your comments.

Weis: My name is George Weis and I live at 1614 Sawyer Lane. I was watching the November 12th Planning Commission meeting at which Commissioner Don Bunch mentioned that the applicant, Mr. Bob Schmitt asked you, the Commissioners to examine his record. Would you Mr. Chairman, want me to examine a little bit of his record if I took about three minutes of time in a different part of the city?

Estes: George, I think each member of this Commission is eminently familiar with this applicant and with the history of this project. We have seen this over the past year. I think the first time that we saw this was when it was before us on April 23rd of last year. The same sitting members sit before you this evening. I know that I am very familiar with the history. I have viewed all of the photographs that have been presented. I have toured projects and I would suggest to you that I am not the Lone Ranger.

Weis: I just wanted to know if you wanted me to take three minutes to expand upon what I did send you in a letter because there is additional information that was not in that letter which I did not have at that time.

Estes: George, I don't think that is relevant to this large scale development which is before us and regarding the history of this applicant and this project, again, we are most familiar with it.

Weis: Alright, I appreciate it. Thank you.

Estes: Thank you George. Is there any other member of the audience who would like to provide public comment on this issue?

Jansen: My name is Jerry Jansen. My wife Harriett and I live at 900 Lighton Trail. We are very close neighbors to this proposed development. I have just a few brief points that I would like to make. If this development is approved with nine three-bedroom units it will be the highest density residential development in our neighborhood by a wide margin. It will be a very, very abrupt change from the nature of the residences that are there now. The second thing I would like to submit to you is that it is one acre of land, it is going to contain nine three-bedroom units, 35 parking spaces, a driveway, 6' of paved sidewalk, space for solid waste containers and other necessary infrastructure elements that have to go with developments of this type, a large scale development. I think it is going to be a very, very dense, very crowded, very industrial looking development unlike anything else in our neighborhood. My third point is that if you do see fit to approve this I urge you with the strongest power that you have to support the Planning Commission and the City Staff in making sure that all the elements of landscaping and other amenities that should be provided with large scale development are met and that that is a continuing process so that after the first year or two when the trees that have been planted die as they often do in our hot summers, that they are replanted and the development keeps the appearance that is suitable for the nature of our area. Thank you very much.

Estes: Thank you Jerry. Is there any other member of the audience who would

like to provide public comment? Yes Ma'am.

Chaddick: My name is Susan Chaddick and I live at the corner of Spring Street and Olive on Mount Sequoyah, or East Mountain as it is known for those of us that have been here for a long while. I have been here a long while. I was raised on that mountain and came back s a grandmother. I would simply ask that you be very cautious and aware that the infrastructure from a novas view point simply is not there to support what I think will be a floodgate of activity in building on the mountain. I just ask that you be very cautious about decisions made. Thank you.

Estes: Thank you Susan. Does anyone else wish to provide public comment? If you would come forward please.

Green: Good evening, I am Michael Green. I live on Texas Way. My driveway actually connects to Lighton Trail so I am only about ½ block from this proposed development. I have witnessed first hand numerous car accidents as a result of this very complicated intersection. I don't want to try to repeat things that have already been said tonight. It is getting late and I certainly appreciate your patience with this entire process. What I would like to emphasize is that this intersection is not a strict congeal connection of four streets. It is a very complicated geometric connection of the four streets and it is a three dimensional connection because of the elevation changes there. I doubt if there are any of the street engineering tables that can account for all of the variables that we see at this very complicated intersection. The only real point I want to make is that this is a very special situation safety wise and traffic wise and whatever development is allowed there I certainly hope that you are very forceful in making sure that all of the paths of egress and traffic flow and parking and how the driveway is allowed to connect to Lighton Trail is handled in a manner that will really address these very complicated safety issues. Personally I don't think that this property is as suitable for an R-2 just by the way that this area has developed. It is a neighborhood of mostly R-1 since thirty years ago that it was zoned, it has developed as mostly R-1 and not only R-1 but most of these places in our neighborhood are owner occupied which gives us a little bit more of a vested interest in our neighborhood. That is really the only points that I want to make other than what has already been made. I certainly appreciate your consideration to deny this request in its present form. Thank you.

Estes: Thank you Mr. Green. Is there anyone else who would like to make a comment on this requested large scale development?

McKinney: Good evening, my name is Rick McKinney, I live at 609 Olive Street. I too grew up when there was a water treatment plant operating on the top

of that hill. What you are about to do tonight is going to set precedence one way or another. If you approve this you are approving the type of development that has not been approved on that part of that mountain before in this neighborhood. If you deny it that will set precedence too. It will send a message that perhaps this is the wrong place for this type of development. I feel the land is wrong. It is almost an over density in that area. Someone please remind me the thirty-five parking spaces, where are the guests going to park? We still have a problem with guest parking. If each one of those residents has one guest there is not going to be room to drive up Fletcher to Rodgers because they are going to be parking on the street. There is not going to be room in the parking lot. After your last vote I urge you to think about this please. Because the regulations allow it does not necessitate that you must approve it. You up here with discretion, you are up here with discretion to reinforce the regulations for the applications in front of you but you also have the authority to deny them and I ask that you deny this. Thank you.

Estes: Thank you Mr. McKinney. Does anyone else wish to provide public comment?

Belt: I am Rick Belt, I live at 904 E. Rodgers and yes, I am Sharon Davison's husband. I guess I am a little bit simple minded and I am one of these people that did buy a house that does have a second structure that is zoned for an apartment on the lot. I guess I am a little different than your average real estate consumer. I just have trouble understanding why we are required to pass all these waivers and exceptions and what have you. This place didn't really even have street access to begin with. It looks to me like purchasing it was a bit of a gamble that some sort of a development would fly to begin with. As I read through some of the regulations, one issue that has been eluded to that does allow some discretion by Planning Commission members is topography. Eyeballing this lot and seeing the example on Olive Street, it looks like that is about ½ acre, I'm not sure exactly. There are four little units in it and there doesn't look like much room for parking and in fact there is a truck parked on the street all the time there now, at least a good bit of the time. We have to be concerned here, if it is icy on the main street it will be icy on that drive coming out and there will be runoff. Just the eyeball assessment, I think three or possibly the maximum of four duplexes would be alright but I can't even visualize thirty-five parking spaces there with much of any kind of structure. Please, it is in your regulations that topography can be used as a considering factor. Please consider this, I think this is just too dense for our area. Thank you.

Estes: Thank you Mr. Belt. Does anyone else wish to provide public comment on this requested large scale development?

Zandine: Hello, my name is John Zandine, I live at 1124 E. Rodgers. Roughly a year ago I lived at 922 E. Lighton Trail. We elected to build a house over on East Rodgers because we love the neighborhood. It is a great walking neighborhood. Also, with the city tearing down the water storage tanks there and converting that into a park I thought it was a great opportunity for our kids to enjoy a neighborhood park. However, you need to come up there at any time during the week or on the weekend and try to walk up to that park. I find myself now loading the kids up in the car and safely driving to the park because of the dangerous intersection there where this proposed development is going in. Numerous accidents, not just on icy winter days up there on the hills. We have had accidents where kids come flying down the hill and slide down the ditch right where this development is going to be. Safety is my number one concern in this area. This Lighton Trail that connects to Rodgers Ave. there, there are a lot of blind spots, people come flying down and go through the stop signs. It is just a horrible intersection. The other thing I want to bring up is I had the displeasure of living across the street from Bobby Schmitt's development on Lighton Trail. For a year I watched this development go up. Numerous times I tried to call Bob Schmitt with Hometown Properties. I left him about a dozen messages. The project that was built there was built at all hours through the weekend, all hours during the night. I had a wife in bed that was pregnant that was bed ridden and he had construction workers working around the clock to put in his so called apartment complex, or single apartment. It was a real problem. I got no response from this gentleman. If you want to look in the city files I submitted numerous complaints to the city about this development. I had problems with debris dumped in my yard. I had problems with just no response and that is the problem that I have. This guy is coming again into our neighborhood to develop a project. He is not talking to the neighbors and I guarantee that he won't respond to any of our concerns if this project goes through. That should also be considered in this please. Thank you.

Estes: Thank you John for your comments. Does anyone else wish to provide public comment?

Ball: Hi, I am Kathy Ball and I live at 1148 Rodgers Drive. I have lived there for eighteen years. I have seen a lot of changes up on the mountain. The only thing that really has not changed is the condition of those streets. I would ask you if you pass this development, I do not see how you can not ask that developer to improve that section of the street. Not just in front of the development but around the whole corner. Safety is my main concern too. Thank you.

Estes: Thank you Kathy. Does anyone else wish to provide public comment on

this requested large scale development?

Peters: Hi, I am Dede Peters, 306 Baxter. I was just handed this information by someone that has already left. In 1993 the City of Fayetteville Planning Commission reversed a decision that they made to grant a lot split on being presented information from the neighborhoods opposing what was going on in their neighborhood. The developer of that protested the reversal of the decision but the reversal was upheld in the appellate court and that is Case 1997 WL 177.825 TRD Inc. v. City of Fayetteville This is not allowed for public reproduction that is why you guys would not be able to see it but it was that the Rosewood Subdivision was zoned a low density residential area with large building area lots and to allow the lot line adjustment in this case would thwart that purpose or scheme because more houses would be constructed in the area than originally planned. I think this goes back to the fact that that lot is incorrectly zoned and goes against the planning for the neighborhood, with residential neighbors and not a large scale apartment complex with lots and lots of cars. Thank you.

Estes: Thank you Dede. Does anyone else wish to provide public comment on this requested large scale development?

Crisp: I am Connie Crisp, 1040 Rodgers and I just wanted to say that I walk by that everyday when I am walking my dog. I go by that intersection and I get as quickly as I can up to Lighton Trail because it is a problem now and it is a concern for safety and I just wanted to reemphasize that to you all. Thank you.

Estes: Thank you Connie. Does anyone else wish to provide public comment on this requested large scale development?

Wagoner: My name is Kale Wagoner and I have a slightly different perspective than most people.. I am a renter and I have lived at two different locations in this neighborhood. I have lived 213 Summit Ave. and I have been living for the last couple of months at 986 Rodgers Drive. I am not from around here and when I first started living on this street there wasn't any other place in Fayetteville that I would want to live. It is the most beautiful, it is a very special place. I will quickly get on with my point. There are so many people in this area that walk dogs, that have children, that ride bikes. Anymore people on this mountain and you are going to inevitably have somebody die and I am very scared, I am very concerned about the safety issue. I walk my dog, I ride a bike and there are people everyday in this area doing that. Any more people and I am afraid of what might happen. Thanks.

Estes: Thank you Mr. Wagoner. Is there anyone else who wishes to provide

comment on this requested large scale development? Has everyone spoken who desires to speak regarding this proposed large scale development, 02-7.00? Seeing that no one else wishes to speak I will bring it back to Mr. Osborne for comments, rebuttal and response.

Osborne: The predominant thing from my perspective was that most of the opposition is of traffic and safety. Mr. Schmitt commissioned a traffic study done at the request of the Planning Commission, or the planning staff, one or the other. It has been provided to the city. The study says that the roads are adequate. I am not a traffic engineer. I have no clue about that sort of thing, we have to go by the study that was provided. As for the sewer service, your city sewer department says it is adequate. We have to comply as the thing is constructed and put in. That will be adequate or it won't be constructed. The number of parking spaces, the next item on your agenda is a request for three additional spaces and that is to accommodate guests. They may be right about that. That is why we are requesting three additional spaces for the overall project. As for the notice of the meeting, we received it the day of the meeting, late in the day. You can hardly consider it adequate notice or Mr. Schmitt and Mr. Dandy would have gone. Addressing the number of units, as a matter of right by law Bob and Brian can build a city street and put twenty-four units on that property. They don't want to do that. This is a much nicer development, nicer for the city, nicer for the neighborhood. It s better for all concerned. They are really working hard. They have complied, with I believe, everything that they have been asked to do by the city and by some of the neighbors, the reasonable requests. We have been here several times and we have tried to meet every reasonable request we can. The driveway connection, clearly the city is going to have something to say about that and we will comply with whatever they think is best. As far as precedent setting, you know it is not precedent setting by law. Every decision you make is an individual decision and stands on its own. As for dog walking, I lost my dog about six months ago on Rockwood Trail. He was dumb enough to lay in the middle of Rockwood Trail and there is not much you can do about that. Dog walking and people is a problem all over town. I live on Sequoyah Mountain myself, the other end of the mountain from this development but people are walking all over Fayetteville and I am glad they are. I am not quite sure how to address that problem. I don't want people to quit walking and I certainly don't want them to quit walking their dogs but I don't know that there is anything that Bobby Schmitt or Brian Dandy or you members of the Commission can do about that. If you have any questions Mr. Carter the engineer is here, Mr. Dandy is here and Mr. Schmitt is here. We would be glad to address any questions you have.

Estes: Thank you Mr. Osborne. I will now bring the matter back to the

Commission for discussion, motions and comments.

Allen: I would like to ask Mr. Schmitt why he has not been available to the neighbors.

Schmitt: Good evening, I am Robert Schmitt. The first notification I had was, as she said, she sent that letter to Glenn Carter, I got it the day of at about 3:00 and the meeting was at 5:00. I had a previous commitment that I couldn't break. I don't know specifically when Mr. Dandy got his but they were fairly close to the meeting and we weren't able to make it. Mr. Osborne said that we probably would have gone had we got the notices. I don't know for sure that I would have. Given the nature of the attacks on my character and my previous history I don't know that I would've wanted to have gone and been beat up. On this project we have tried to address many of the issues that you guys have raised through the past year. We have heard from the neighbors. We had six units, we had some extra infrastructure requirements. We raised the number of units and they asked us to take them down. As a matter of fact, the last plan that we had had twenty-four units and we had actually found a way to meet all of the requirements that you guys had as a city and meet all of the ordinances and we decided not to bring that back. We decided to bring this back. It is something that we can be proud of and hopefully the neighbors once we get it built, will be able to see that it can be a good addition to the neighborhood. Does anyone else have any questions?

Allen: As a follow-up on that question. You and Mr. Osborne have both talked about a reasonable request. It seems reasonable to me that you would have time during the duration of this project to meet with the neighbors.

Schmitt: Ok, I would be glad to do it.

Shackelford: I just want to make a quick point. The issue of recusal was brought up through public comment. I want to get on public record that Mr. Schmitt and I have had business dealings in the past. To the best of my knowledge, he and I have not had any direct business dealings in over two years. Neither myself nor my employer is involved in this specific project and based on those facts I have not recused myself from this vote at this point. I would like to defer to the City Attorney Mr. Williams for his opinion of whether or not that recusal should be required at this time.

Williams: I don't think it would be required. Obviously a recusal would be required if there was a direct financial interest that any Commissioner would have with the applicant or even with someone opposing it also. Beyond that it is a matter of judgment. You say it has been two years so I certainly wouldn't question your judgment on that.

Shackelford: With that I guess I would ask you as Chairman and any other Commissioners if you feel that there is a conflict of interest and ask that I recuse I would be willing to do so at this point.

Estes: Commissioner Shackelford, I see no conflict of interest.

Shackelford: Thank you Sir.

Church: Do we have any recent information about how many accidents have occurred at this intersection where this development is going in? It seems like I remember something about it in our previous report and I am just wondering if that has been looked at recently.

Conklin: We have not looked at the recent reports.

Hoffman: I have a question for the applicant. A lot of the neighbors seem to be concerned that this is going to be student housing. This doesn't look to me like student housing. I think Mr. Osborne mentioned that it was going to be that the individual units were going to be sold as condominiums, what type of client are you marketing this to?

Schmitt: We don't intend to sell them at this point but we are trying to set them up so that they can be sold. For us to take the density down to this number we have quite a bit more money for each unit. The rents that we are going to need for these are between $1,400 and $1,500 a unit. I think that precludes quite a few of the students from being able to rent these. Hopefully the type of tenants will be more of the single family nature and will be something that the neighborhood will be glad to have in the area. I do think that you will have some graduate students in there. I know that as I got older and was finishing school I wanted to get out of the normal high density areas and wanted something a little bit nicer that I could rent. If it comes that we can't get the rents that we need for these to make this project work at this density then we will put these up for sale and that is why we set them up this way. These units appraised close to $170,000 per unit and so they are very nice units.

Hoffman: Thank you. Could you comment on your perception of the traffic problems on the adjacent streets and the safety issues?

Schmitt: I would think that that would be a tough issue for anybody to decide. The majority of the streets up there, including Rodgers and Lighton and Texas Way that comes down and Fletcher Street are all narrow. They were built many years ago. I don't know what the design standards were at that time. I do think that the city has asked us to provide a certain amount of money

so that they can come in and at some point in the future widen these roads. I don't know what the calculations are but they seem to be a fairly significant number to me. I don't remember if it was $5,000 or $8,000 or whatever it cost but we are gladly paying our share to make sure these roads are safe.

Ward: While you are there Mr. Schmitt what I would like you to do is you are offering up a Bill of Assurance. Maybe what you should do is go over that Bill of Assurance as it pertains to these units and talk about how they are being built, what the materials are being made of and that type of thing.

Schmitt: I would be glad to. What we are offering or proposing to submit on a Bill of Assurance regards the interior and exterior amenities and the types of materials that will be on the outside of the structures. I think you have a list of them but I will be glad to numerate them for you. We are guaranteeing that we will do full masonry on at least 50% of each unit. Rock will be used on half of the proposed units. Let me be specific there, we may use the petra stone which has been used extensively in a lot of the different subdivisions in town. It looks a lot like rock but it is a little bit cheaper of an alternative. There will be architectural shingles on each unit. There will be no vinyl siding on any structure in this project. The elevations shown will be used on the units indicated. Privacy fencing along adjoining residential lots will be provided. There is only one lot on the west side of this project that has a house on it. The property to the south is a large undeveloped tract, the property to the east is the city's old water tanks and the property to the north is the city park. The units will be set up so that they can be sold individually under the horizontal property regime. Property owners Mr. Dandy and myself will join the Neighborhood Association. A P.O.A. will control all of the landscape maintenance. The yards will be fully sodded. The interiors will have tile, wood and carpeting, no linoleum. The interiors will all have fire places, tile counter tops, 2" wood blinds and at this point that is what we are willing to commit to.

Estes: Mr. Schmitt, I have a question. This was first before us on April 23, 2001 with a request not to provide the required street frontage for lots in an R-2 zone. This waiver was approved, I voted for that waiver and it was subject to the project being processed as a large scale development and limited to six units.

Schmitt: That is correct.

Estes: At that time when I voted for that I considered density, housing type, lot size, frontage requirements and parking. You are now before us with a proposal for nine units. Why have we never seen a proposal of six units?

Can you edify me in some way or another? Why have you never come back to us with the six units?

Schmitt: It goes back to the history of the project.

Estes: You know I am not going to vote for this the way it is.

Schmitt: Ok.

Estes: Explain to me why you have never come to us with a large scale development with six units.

Schmitt: I have to go back to how we procured the property. I bought a single piece of property owned by Gary Goodwin I think. He had a trailer that he was using and it had his septic system running or a septic wire coming out and running to a previous septic tank where a house had burned down. I bought the property from him, I found out there were some adjacent lots. I could not afford to buy those lots, I told a friend about them, Mr. Dandy, and he purchased those lots with the idea of coming in there and doing something appropriate with the R-2 zoning. At the time we had no idea that there was a street frontage issue. It was not brought up through any title search and we didn't realize that anything was going to be required of us other than when we turned in a building permit plan. We met with Mr. Conklin on a Tuesday I think, I don't know for sure, don't pin me down on that, but he let us know when he approved our property line adjustment, and Mr. Williams was there, that there was an issue of street frontage and that it would have to be addressed in the form of a waiver as opposed to us building the street. As I understand it, our property rights are either we can build a street to access our property or get a waiver from you guys. We decided that we thought it was a dangerous intersection already and we don't want to add another street to it. We can approach you guys with the...

Estes: I think you are going underwater and I think your lawyer would like to step up and say something.

Osborne: The six units was on just his side.

Schmitt: That's right.

Osborne: We've gone from six units down to four and a half. There are four units on Bob's side now and five on Brian's side if I am looking at this correctly.

Schmitt: That's correct.

Osborne: We are down from twelve units, six on each side to five and four.

Schmitt: What you originally approved was six units and I am proposing four on my side. Let me get back to the situation. The reason that you saw six units was because in the space of a week Sara Edwards called me and said "We have to know for Planning Commission what you are putting on this." I said, "They have to know exactly what I am going to do to approve a waiver?" She said "Yes." So over the weekend I did a hand drawn sketch to scale of what I was intending to put on there. I had to decide a little bit faster than I was prepared. You approved it based on that design. Since then we have been in the committee process for a year. In that committee process you guys have continued to give us different hurdles I would say to make sure this complies with all of the ordinances. We have continued to do that. Sometimes those infrastructure requirements require changes in density and structure because everything does have to work financially. We are where we are now. Are there any more questions?

Estes: No Sir.

Bunch: A question for staff concerning the parking. One of the problems that have been discussed and has been somewhat alleviated has to do with the stacking of parking. If we look at parking and loading Chapter 172 of our Unified Development Ordinance under section 172.01(C) Parking Lot Design Standards, under maneuvering, is this applicable to this project? Particularly when we are looking at the situation where this might be one big project or while later it might be sold off as condominiums but it has to do with the maneuvering of vehicles in and out of parking and how to design parking lots.

Conklin: It is fairly unique because we have an applicant providing garages. Typically you don't have covered garage parking in a multi-family development. You are looking at something that typically isn't done with garages being developed. In other developments we have approved where we have garages to count the spaces in front of the garage. That is a very good question because we are not looking at a typical parking lot because they have garages.

Bunch: This is one of the reasons that at Subdivision Committee we requested them to look at providing a little more parking because of the three units, 7-9, did not have the same parking setup that 1-6 did and 1-6 were using up the allowed overage and 7-9 were being shorted and it was going to create a situation. I just wanted to be clear about how we are dividing this up.

Schmitt: Do you feel we adequately addressed that?

Bunch: As far as what we requested, yes.

Schmitt: Ok, thank you.

Bunch: I just wanted to make sure that we weren't doing this other. Also, on the elevations, on your Bill of Assurance elevations are for 1-6, do you have any plans for 7, 8 and 9.

Schmitt: The person that did those for us wasn't able to get those finished before tonight. They will be similar in nature.

Bunch: As the developer, would they fall under the same Bill of Assurance as far as materials?

Schmitt: The Bill of Assurance would be applied to all of them, yes Sir. If we need to change the wording on that we would be glad to.

Bunch: That is all the questions I have at this time.

Estes: Is there any other discussion?

Osborne: In light of your remarks Mr. Chairman, I want to be sure I've made myself clear. We have reduced the number of units from what was originally discussed a year ago. It was six for each side, a total of twelve and now we are down to five and four so I hope you will reconsider your opposition.

Estes: Well, what I am struggling with Mr. Osborne is when we first saw this and it was before us for a request not to provide the required street frontage. The waiver was approved and I voted for that and that was subject to the project being processed as a large scale development and limited to six units and I considered density, housing type, lot size, frontage requirement, parking. I don't want to dwell on the history too much but my perception is that there was some discussion about what was going to come in, how many units were going to come in, there was some discussion about where part of the infrastructure was going to be placed. When I voted for that what I was voting for was a large scale development with six units.

Osborne: Brian Dandy just started his a couple of months ago.

Estes: There were add ons and the second lot was brought in...

Osborne: The second lot was brought in a couple of months ago, it wasn't here a year ago. Brian Dandy's wasn't even on the paper then.

Estes: Yes, that is what I am saying. The second lot was brought in and when I was thinking about things like density, housing type, lot size, frontage requirement, parking, I was thinking six units.

Schmitt: On ½ acre.

Estes: No, I was thinking six units. I was thinking about a large scale development with six units.

Conklin: Just looking at our files and what was approved. What was approved was six units on each lot, each lot being a half acre, a total of twelve units. What they have attempted to do, and we went through this whole argument debate about whether or not these were two separate projects and if they are that I didn't want anything combined, grading setbacks, detention ponds, access. We got to that point and there was a lot of concern about having two driveways and not having it planned together. Mr. Schmitt and Mr. Dandy asked if they could process this together as one large scale to help address some of the concerns with two driveways and create some additional open space and greenspace. I just want to take this time to explain why you are seeing this together is because they asked if they could bring it together to address some of the concerns from the neighborhood and reduce the density. Just so you, as a Commission, understand why these two projects are together it is because they were trying to address some of the concern with the number of units and access.

Estes: Thank you Mr. Conklin.

Osborne: I will conclude by saying these guys have bent over backwards to make this thing acceptable. I hope you will give it favorable consideration.

Estes: Thank you Mr. Osborne.

Marr: A question for Ron or Tim. The $5,700 charge or whatever we want to call it, that goes to improvements on adjacent streets that has a total cost of $58,000 if I understand this right and the calculation. Will that improvement actually be made in coordination with this development or is that purely a collection for future road improvement. If not, is there any time frame we anticipate that this road improvement would happen?

Petrie: It will be a collection of several different assessments. That is the way it is set up. By ordinance they have five years. They can come back and

request the Planning Commission to refund that money and the Planning Commission has several different options if that is the case. At the moment there are no plans to widen these streets. Nothing on our capital improvement program list and that does concern me. Did I answer your question?

Marr: Yes you did. At the risk of being pegged as some bleeding heart I guess. When I think about this entire project I don't look at the things that we've asked for as hurdles that we've thrown up to keep this from going. I look at it as requirements that we have been asked to look at. Safety, fire response, traffic impact, safety and the risk of the people in the area, not only those that will reside in this development but those that are already in this area. Quite honestly I don't think that my biggest issue when we talk about what is important to me throwing all else aside is that I don't think that the density requirement that it is currently zoned is appropriate. I struggle with the fact that you have that land with that zoning and I keep coming back to does another wrong make a right? How I try to get to that is that the issues that come with density get taken care of, that there is going to be the appropriate safety for these nine or twelve units. I still struggle with the fact that we have a road charge without a road improvement and I don't think that improves safety. I appreciate the work that you have done to change this from the maximum density because quite honestly I think that goes back to the spirit to what is a lot of the problem in the area in general. I do recognize that movement but I don't recognize that that movement has resolved all of the issues that come with whatever is built on this lot. I am not going to support it because I don't see anything in our capital improvement plan. I don't see this road as being built and quite honestly I didn't vote for the road variance because I would rather see the road get built and know it is going to be safe where this development is than to be in the situation that we are in today where we are going to have it there not taking care of anything that started out as the original issue. I wanted you to understand that and I am not trying to be difficult to you personally. My issues are, have been, and will be, that this density brings with it issues and one of those issues is safety in my opinion. That is all I have.

Estes: Are there any other comments, motions or discussion? Let me call three times for a motion.

Motion:

Ward: I will go ahead and make a motion. In order to get this thing on record at least I think that at least we should vote on it and go from there. The project is much better than it was from the very first day. The property is zoned R-2, I live in this neighborhood on a very busy street. Traffic has

always been a problem and will continue to be a problem. I live on the corner of Assembly, which is a state highway and Dogwood, you get a lot of traffic. That is part of living on the mountain I guess. I feel that this project meets what is required in R-2 and I think it is our obligation to either vote for it or make recommendations of why we cannot vote for it. I will go ahead and move for approval of this LSD 02-7.00.

Estes: We have a motion by Commissioner Ward to approve LSD 02-7.00, is there a second? Is there a second?

Shackelford: I will second.

Estes: We have a second by Commissioner Shackelford.

Shackelford: I would like to ask City staff a question if I could. If the large scale development is declined tonight what is the appeal process, what is the next step available on this situation? Can it be appealed to City Council?

Conklin: It can be appealed to City Council.

Shackelford: Ok. I too agree with Commissioner Ward that we have to look at the fact that this is zoned R-2, rightly or wrongly it is R-2 zone and there is some use by right with that zoning. I feel that we need to bring this thing to a vote so we can get off high center and go one direction or the other. I second it for that reason.

Estes: We have a motion by Commissioner Ward and a second by Commissioner Shackelford to approve LSD 02-7.00 is there any discussion or any comments?

Hoffman: As much as I don't like to vote against things, I realize that we do need to give our explanations about why we vote how we do. I guess I am hung up on the density issue as well. I want to say that I really do not like to vote against a project, particularly one that has been worked on as hard as this. I think that a lot of folks that are on both sides of this aisle, I think that you've done quite a bit of work so up or down if this project does go through you are going to end up with a much better project than what was originally proposed. However, I guess I am going to go back to the 2020 Plan and give my reason as being I am familiar with the area, I do believe that it is out of character because of the number of units still. I do think that duplexes or other arrangements with fewer units would have been more sellable. If it comes back, I don't think it will but I don't know. I just think that I have to really take big consideration to the character of that Mount Sequoyah neighborhood and it is very collected, very diverse. It has ranges of all types of houses from your very expensive to your very

affordable. I think these are attractive but I think there are more of them on one lot than you see in the rest of the area. That is why I won't support this project and I am really sorry to say it.

Conklin: Mr. Chair, I just want for the record and you articulate if you vote to approve or deny this large scale development, here is what the ordinance states. The Subdivision Committee or Planning Commission may refuse to approve a large scale development for any of the following reasons. The development plan is not submitted in accordance with the requirements of the section. 2) The proposed development would violate a city ordinance, a state statute or federal statute. 3) The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this chapter. 4) The proposed development would create or compound a dangerous traffic condition. For the purpose of the section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as but not limited to, high traffic volume, topography or the nature of the traffic pattern. 5) City water and sewer is not readily available to the property within the large scale development and the developer has made no provision for extending such service to the development. 6) The developer refuses to comply with the subsection 7(b) and (c) pertaining to the required onsite and offsite improvements. I just wanted to make sure that you are aware that the ordinance does outline the reasons for denial of a large scale development.

Estes: Thank you Mr. Conklin.

Hoover: I have a question for staff. Just help me with my memory here. I know that there are duplexes just north of this, north and west?

Conklin: Greg House does have some, I'm not sure if they are duplexes.

Hoover: What are those?

Petrie: Townhouses.

Conklin: Townhouses, attached.

Hoover: How many acres are those, how does that compare to this?

Conklin: When you look at Mr. House's development and he is not here to defend himself, but I will just share with you that he has approached the city with regard to further development on that site and I have been approached by another property owner with R-2 property about further development. When you look at Mr. House's project, he has more future plans and more

development than just what you see right there for the property he owns. I can't answer your question with regard to density.

Estes: We have a motion by Commissioner Ward and a second by Commissioner Shackelford to approve LSD 02-7.00, is there any other discussion?

Hoffman: I suppose in light of Mr. Conklin's statements that I should go ahead and extrapolate that density equals greater traffic so to keep me out of trouble, that would follow and I would say that the density for the size of that street is my main issue. If there were on a wider street, on a flatter piece or anything like that I would feel much more comfortable with it.

Marr: Obviously I didn't accurately articulate but I certainly think the topography of this area and the facts that our improvements won't be happening aren't in a plan without five years certainly don't help us deal with traffic issues we currently have. I think this will increase traffic. I think the study that we saw, saw that it would increase traffic when it was a higher density but I don't think that those traffic concerns have been resolved. I am not voting for it based on the width associated with the road on a steep piece of land and the number of additional traffic trips.

Shackelford: Mr. Chair, as long as we are extrapolating on our reasons. I just wanted to state that I understand that there are some safety issues that still need to be addressed on this property. The reason that I seconded the motion to bring this to a vote was that I do feel there is some landowner use by right with it being zoned R-2. I think we need to bring this thing to a conclusion to give the applicant the answer and allow them the appeal process going forward. Thank you.

Estes: Thank you Commissioner Shackelford. We have a motion by Commissioner Ward and a second by Commissioner Shackelford to approve LSD 02-7.00, is there any further discussion? Are there any comments? Shall the motion pass? Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to approve LSD 02-7.00 failed by a vote of 4-5-0 with Commissioners Estes, Hoffman, Hoover, Allen and Marr voting no.

Estes: The motion fails by a vote of four to five.

STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of April 16, 2002

FROM:

Sharon Crosson	Parking Management	General Services
Name	Division	Department

ACTION REQUIRED:
Amend Ordinance No. 72.99 to increase the penalty for parking violations to $5.00 if paid before the issuance of a summons, citation, or arrest warrant, and to $25.00 after such notice is issued.

COST TO CITY:

$		
Cost of this Request	Category/Project Budget	Category/Project Name
		Parking Revenues
Account Number	Funds Used To Date	Program Name
		General Fund
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:**

Marsha Furbing	3/28/02	Nancy Smith	3/28/02
Accounting Manager	Date	Internal Auditor	Date
D.J. Whatley	3/29/02		
City Attorney	Date	ADA Coordinator	Date
P Vieira	3/29/02		
Purchasing Officer	Date	Grant Coordinator	Date

STAFF RECOMMENDATION:
Staff recommends approving ordinance amendment.

Sharon Crosson	3-28-02	
Division Head	Date	Cross Reference
Gary Dumas	3-28-02	New Item: **Yes** **No**
Department Director	Date	
Administrative Services Director	3/29/02 Date	Prev Ord/Res #:
Dan Coody		Orig Contract Date:
Mayor	Date	Orig Contract Number:

Consent ____
New Business ✓

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Mayor Dan Coody
Gary Dumas, General Services Director

FROM: Sharon Crosson, Telecommunications Manager

DATE: March 28, 2002

SUBJECT: **Parking Recommendations for Downtown/Dickson Street Area**

Staff has been reviewing downtown parking issues since last summer to determine appropriate changes needed to more efficiently utilize downtown parking and meet the needs of customers, downtown merchants, and downtown employees. Last fall we held two public meetings to gather public input concerning the needs for downtown parking. Since then, the City has conducted various surveys to analyze parking issues and situations after the opening of the Town Center, which alleviated most of the congestion around the square.

Upon further consideration of the findings, City staff and members of DDEP have jointly determined that there is no immediate need for a parking deck to be constructed in the vicinity of the square. However, there are several other changes that we can implement to ensure that our current parking areas are being utilized appropriately. The attached recommendations were compiled from the public meetings held last fall. Two more public meetings were held in March to review these recommendations before going to city council. No changes were requested at that time.

Please note, the two main items that the public requested was to raise the fines for parking violations, AND to provide more free parking for downtown employees. There are only three items in the following list of recommendations that require council approval. Because these items amend three separate ordinances, we have presented them to you as three separate agenda items.

Attachments: Parking Recommendations Downtown/Dickson Area
Map - Parking Lot Locations
Map - Current Layout of Lot 1
Map - Revised Layout of Lot 1
Summary of Input from Public Meetings
Memo - Ordinance to Increase Penalty for Parking Violations

PARKING RECOMMENDATIONS DOWNTOWN/DICKSON AREA

CHANGES IN PROGRESS (INFORMATIONAL ONLY):

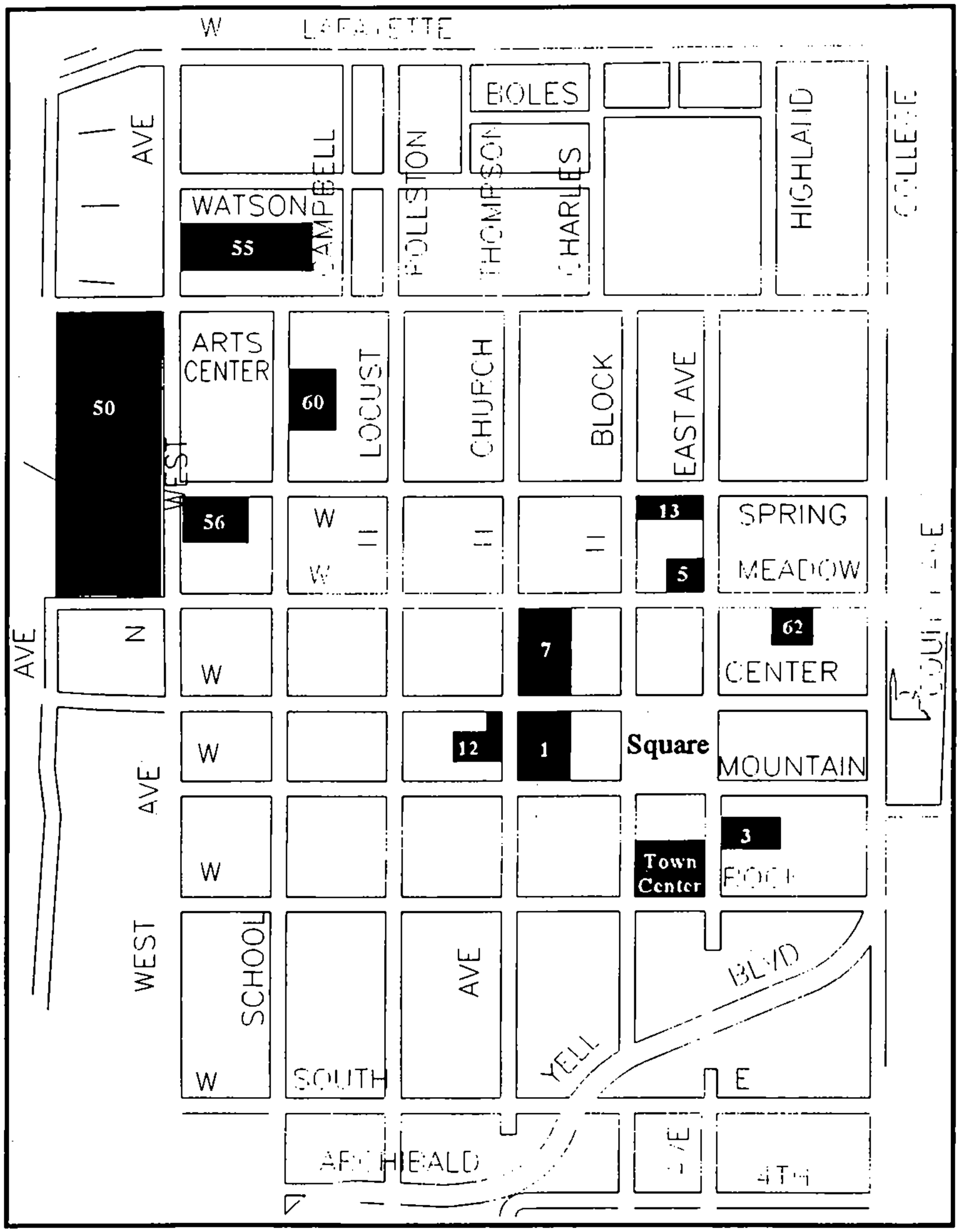
1. Remove 36 parking meters in Lot 13 (See map: Attachment A); make this a free lot for customers and downtown employees. This will be a loss of $4,400 in annual revenues, but we project that the increased penalty for parking fines will more than make up for any meter revenues lost.
2. After reviewing usage of free spaces in Lot 13 for 6 months, staff will consider removing 14 on-street parking meters located on Block Ave. from Spring St. to Dickson St. Staff may also consider removing another 25 on-street parking meters located on East Ave. from Spring St. to Dickson St. These could all become unlimited free parking for downtown employees and customers.
3. Design and distribute informational brochures to downtown employees and business owners. These brochures will be color-coded with all parking areas, parking programs, and related costs. It would also provide education of the value of customer parking and the necessity of ensuring that our downtown employees do not use the "customer spaces".
4. Begin a "Streets are for Customers Campaign". Utilize parking enforcement officers to provide POSITIVE public relations by assisting visitors and employees in finding the appropriate parking areas. They will also assist with distributing the downtown parking brochures.
5. Change 2-hour parking signs on square to state "2-Hour Customer Parking".
6. Issue a "Courtesy Ticket" for first-time offenders (only on square; not at meters). We need to be courteous of our out-of-town visitors that may not be aware of our 2-hour parking ordinances. This ticket would not levy a fine, but would give a gentle notification of our parking regulations. The courtesy ticket would also welcome customers to our city, provide some very helpful tourist information, and provide them with our new parking brochure that will direct them to the appropriate parking areas depending on the anticipated length of their visit.
7. Revise lease zone in Lot 1 prescribed for 25 leased parking spaces. Set new zone and allow staff to administer lease contracts internally. The number of leased spaces will decrease by 1 space. This is necessary due to the trash container being relocated from the north side of the lot, to a site just west of the transformer. Lease spaces numbered 31 and 32 will need to be maintained as public spaces in order to have restricted parking before 7:00am to allow the solid waste trucks access to the receptacle. Therefore, the Lessee for space number 32 has agreed to relocate to another space; lease space number 31 is not currently being leased. Please refer to Attachment B.1 and B.2 for a diagram of Lot 1 and its revisions.

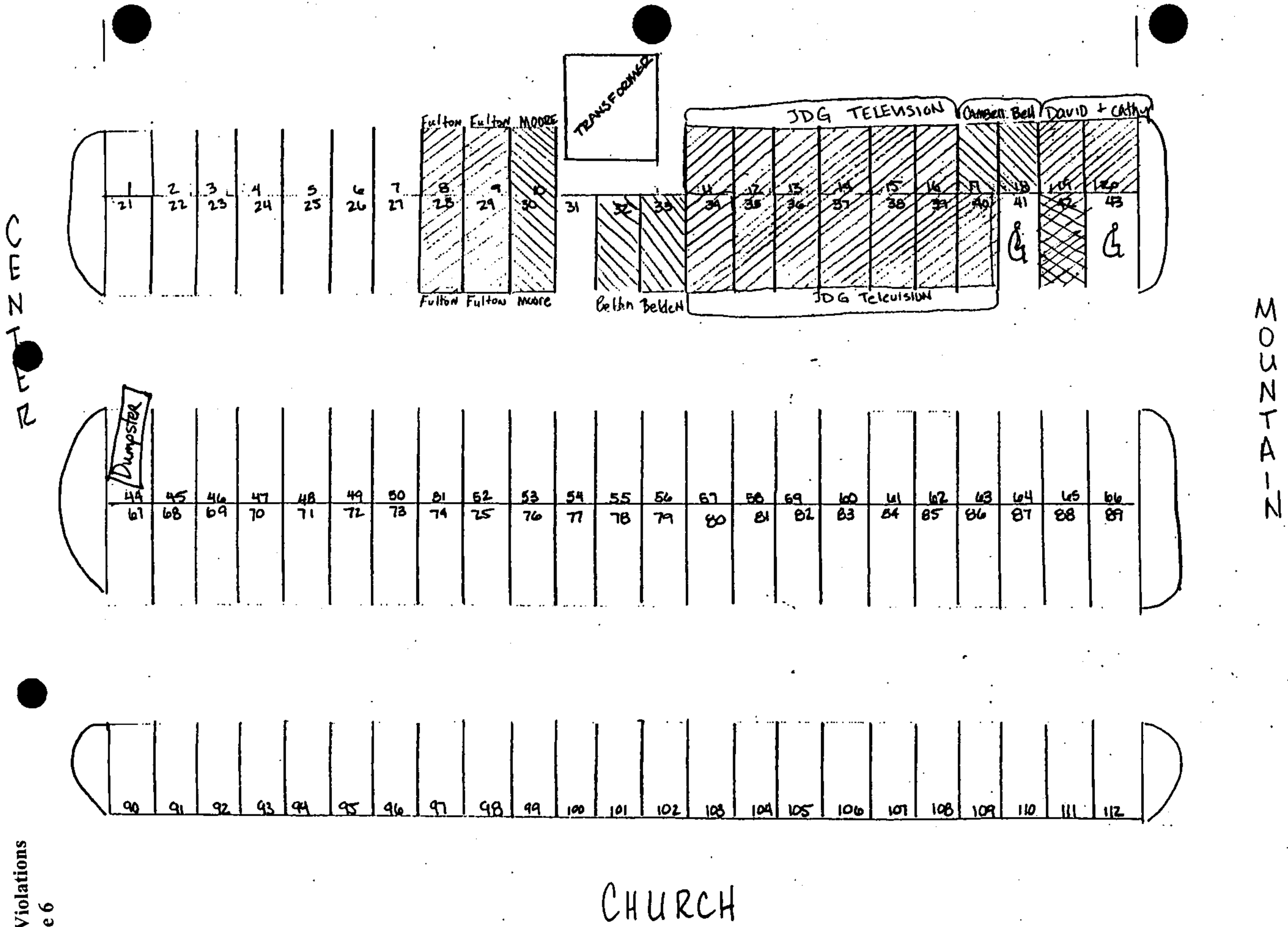
ORDINANCE CHANGES REQUIRING COUNCIL APPROVAL:

1. Increase the current penalty for a parking violation from $2.00 to $5.00. (Paying a $2.00 ticket is more attractive that participating in a parking program because you get to park all day on the square!) ORD. NO. 72.99
2. Change the parking enforcement hours on the square to be enforced from 7:00am to 6:00pm (currently 8:00am to 6:00pm). ORD. NO. 72.13
3. Adopt a "No Storage" ordinance. We should not allow any municipal parking lot or parking deck to be used as a storage facility. At a price of $30.00 per month, we have citizens purchase a parking card just to store their vehicles. We also have experienced citizens using their parking card to enter their stored vehicle and then reuse it daily for their every-day parking; two spaces for the price of one! Downtown public parking is too precious to be used for storage. ORD. NO. 72.02

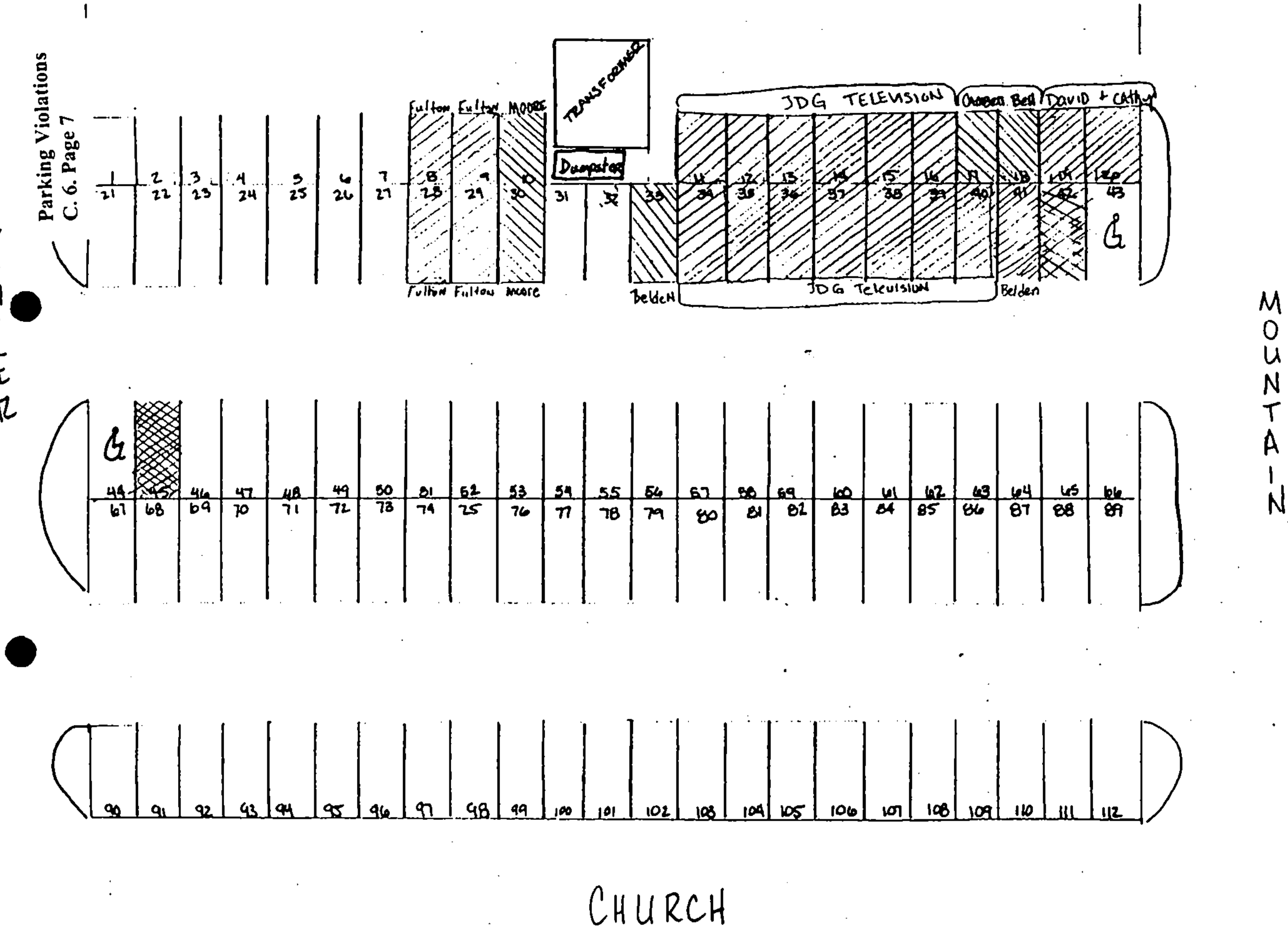
NOTE: Public meetings were held in August 2001, and again in March 2002, to gather public input concerning downtown parking issues. Please see Attachment C for a summary of these meetings.

City of Fayetteville - Parking Lot Locations




CENTER
MOUNTAIN
TRANSFORMER
Fulton Fulton MOORE
Fulton Fulton MOORE
Belden Belden
JDG TELEVISION
JDG Television
Camben Bell
DAVID + CATHY
Dumpster
CHURCH

Parking Violations
C. 6. Page 7



Public Meetings held August 9th and 10th, 2001
Public Input

PROBLEMS:

1. Employees using customer parking spaces.
2. Employees not using long-term parking spaces.
3. Lack of available parking spaces for employees.
4. Lack of information to citizens on available parking and alternative parking.
5. Cost of parking for employees too expensive.
6. Customers overstaying on meters.
7. Habitual offenders.
8. Delivery trucks blocking customer vehicles and streets.
9. Lack of signage.
10. Lack of bicycle racks.

SOLUTIONS:

1. Higher fines; increase to $5.00 or $10.00.
2. Make violators have to see the judge on supertickets.
3. Provide stricter enforcement.
4. Display 2-hour parking rules in applicable areas.
5. Change square to 1-hour parking.
6. Lower rates for spaces furthest from the square.
7. Need more affordable parking programs for downtown employees (less than $30.00 per month).
8. Sell parking deck tokens to employees and customers.
9. Provide discounted parking to employers that provide parking for their employees.
10. Lower rate at Town Center deck to $40.00 per month.
11. Free parking in distant lots, plus free transportation to square area.
12. Reserve certain lots for downtown employees only (free of charge); install signage that shows "Reserved for downtown employees only" and provide stickers for employees to display on their vehicles.
13. Ensure refusal to renew vehicle registration if parking fines are unpaid.
14. Provide detailed, color-coded maps and informational brochures that show various parking areas, programs, and costs; distribute to citizens, downtown employees, and downtown business owners.
15. Provide detailed, color-coded signs that show various parking areas and costs.
16. Add church parking to map/brochure.
17. Signage and information: run on government channel and website; insert into water bills.
18. Emphasis on free parking for downtown employees.
19. Add 15-minute parking spaces on Dickson Street.
20. Need loading/unloading areas and zones; provide better enforcement, back alley delivery, smaller delivery vehicles, and restricted delivery times.
21. Build a new deck.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Mayor Dan Coody
Gary Dumas, General Services Director

FROM: Sharon Crosson, Telecommunications Manager
Bootsie Ackerman, DDEP Executive Director

DATE: March 28, 2002

SUBJECT: **Ordinance to Increase the Penalty for Parking Violations**

Staff recommends increasing the parking fines from $2.00 to $5.00 effective July 1, 2002. The current penalty for a parking violation is not much incentive to get off the street. Nearly all of the downtown merchants we have spoken with wholeheartedly agree that the fines need to be raised and enforced. Now that the Town Center construction has ended, a large number of parking spaces have been made available. Also, the City is making great strides to provide free parking to downtown employees in areas that are only 2 blocks from the square. Downtown employees may even park in the Town Center deck for as little as $1.00 per entry.

Now that we have affordable parking available to downtown employees, staff feels that increasing the penalty for parking violations is our best tool to get the employees to park in the appropriate areas. The spaces on the square need to be made available so that our customers get the "front door"spaces.

Currently, by city ordinance:

> The penalty for each violation shall be $2.00 if paid before the issuance of a summons, citation, or arrest warrant. After such notice is issued, the violation increases to $5.00.

We would change this to $5.00 and $25.00 respectively. The rest of the ordinance would remain the same where habitual offenders are recognized with the provision that for each violation in excess of five (5) in any calendar month, the violation shall be $25.00 if paid before the issuance of a summons, citation, or arrest warrant. After such notice is issued for this type of "superticket", the violation increases to $50.00.

These increased fines are not intended to penalize employees for working downtown, but to encourage employees to utilize our parking programs and free up prime parking spaces for citizens to be able to visit our downtown area. The City of Fayetteville has 7 parking lots situated near the downtown square with over 700 metered or gated parking spaces. These are all off the square and off the streets.

The success and viability of businesses on and around the square are contingent upon the availability of parking spaces for their customers. According to Hyett Palma, a consulting firm out of Alexandria, VA, a prime parking space in a downtown area is worth approximately $150 - $300 in retail sales per day. "Based on this calculation, the cost per year to downtown retailers is a loss of $45,000 - $90,000 per space when downtown business employees park in prime downtown spaces. If only 10% of the City's on-street spaces are taken by downtown employees, this results in lost sales of $1.4 million - $2.8 million annually."

The first step to resolving our parking problems are to get the downtown employees off the free spots on the square. The only way to accomplish this is to encourage participation in our parking programs, and discourage the price of paying a ticket.

ASSUMPTIONS:

Assuming that a downtown employee works 8:00am to 5:00pm, then that employee needs a minimum of 9 hours to park each day. Here are their current parking options:

1. **PARKING PROGRAM**
   - A. Employee may sign up for one of our parking programs (hang tags or gated lots), and park 1 to 3 blocks away from work.
   - B. Location: Lots 1, 3, 5, 7, 12, 13
   - C. Cost: $30/month
2. **MUNICIPAL PARKING DECK AT HILTON**
   - A. Employee may lease a space on 2nd level of the municipal parking deck (covered parking).
   - B. Location: Lot 62
   - C. Cost: $45/month
3. **TOWN CENTER PARKING DECK**
   - A. Employee may lease a space at the Town Center parking deck (covered parking).
   - B. Location: Lot 10
   - C. Cost: $50/month
4. **FEED THE METER**
   - A. Employee can park at a meter 1 to 3 blocks away from work and feed the meter all day long (closer meters are only 2-hour meters so employee must return to feed the meter every 2 hours or less). Long term meters are further away, but the cost is less.
   - B. Location: All metered lots both on-street and off-street.
   - C. Cost: Approx. $45/month (short-term meters are 25 cents/hour; long-term meters are 15 cents/hour)
5. **ACCUMULATE/PAY PARKING VIOLATIONS**
   - A. Employee can park anywhere they want, including right on the square.
   - B. Location: Park anywhere! (Including square which needs to be available for customers visiting downtown merchants.)
   - C. Cost: $30 - $60/month (4.00/day for 2 parking violations)

STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of April 16, 2002

FROM:

Sharon Crosson	Parking Management	General Services
Name	Division	Department

ACTION REQUIRED:
Amend Ordinance No. 72.13 to change the hours of parking enforcement on the square to be enforced from 7:00am to 6:00pm Monday through Friday.

COST TO CITY:

$		
Cost of this Request	Category/Project Budget	Category/Project Name
		Parking Revenues
Account Number	Funds Used To Date	Program Name
		General Fund
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:**

Marsha Hutching	3/28/02	Nancy Smith	3/28/02
Accounting Manager	Date	Internal Auditor	Date
D.J. Whitten	3/29/02		
City Attorney	Date	ADA Coordinator	Date
P Lee	3/29/02		
Purchasing Officer	Date	Grant Coordinator	Date

STAFF RECOMMENDATION:
Staff recommends approving ordinance amendment.

Sharon Crosson	3-28-02	
Division Head	Date	Cross Reference
Dan Dennis	3-28-02	New Item: **Yes** **No**
Department Director	Date	
Jody Wilber	3/29/02	Prev Ord/Res #:
Administrative Services Director	Date	
Dan Coody		Orig Contract Date:
Mayor	Date	Orig Contract Number:

Consent —
New Business ✓

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Mayor Dan Coody
Gary Dumas, General Services Director

FROM: Sharon Crosson, Telecommunications Manager
Bootsie Ackerman, DDEP Executive Director

DATE: March 28, 2002

SUBJECT: **Ordinance to Change Hours of Parking Enforcement on Square**

Staff recommends that the Parking Enforcement staff begin enforcement of parking at 7:00am on the square. The parking on the square is free parking and is limited to two consecutive hours. The parking on the square is designed to allow customers visiting our downtown shops the ability to come and shop without paying for parking. We continue to have downtown employees park in these free spaces, leaving none available for the customers. Staff feels that is we can begin the "timed parking" at 7:00am, then those employees that continue to park on the square would have to move their vehicle off the square by 9:00am. This is the peak time customers start arriving downtown.

Currently, the hours of parking enforcement are designated by ordinance from 8:00am to 6:00pm for all parking zones. At this time we propose only changing those hours for the square to be from 7:00am to 6:00pm effective July 1, 2002. The appropriate signs will be posted to notify the public of the new enforcement times.

/slc

(3)

STAFF REVIEW FORM

Towing Vehicles
C. 8. Page 1

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

r the Fayetteville City Council meeting of April 16, 2002

FROM:

Sharon Crosson	Parking Management	General Services
Name	Division	Department

ACTION REQUIRED:
Amend Ordinance No. 72.02 to allow towing of vehicles from public parking lots that have been abandoned for 48 consecutive hours or more.

COST TO CITY:

$		
Cost of this Request	Category/Project Budget	Category/Project Name
		Parking Revenues
Account Number	Funds Used To Date	Program Name
		General Fund
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Administrative Services Director

NTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:**

Marsha Farthing	3/28/02	Nancy Smith	3/28/02
Accounting Manager	Date	Internal Auditor	Date
D. J. Whitten	3/29/02		
City Attorney	Date	ADA Coordinator	Date
D Vice	3/29/02		
Purchasing Officer	Date	Grant Coordinator	Date

STAFF RECOMMENDATION:
Staff recommends approving ordinance amendment.

Sharon Crosson	3-28-02	
Division Head	Date	Cross Reference
[illegible]	3-28-02	New Item: **Yes** **No**
Department Director	Date	
[illegible]	3/29/02	Prev Ord/Res #:
Administrative Services Director	Date	
Dan Coody	4/1/02	Orig Contract Date:
Mayor	Date	Orig Contract Number:

Consent ____
New Business ____

FEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THROUGH: Mayor Dan Coody
Gary Dumas, General Services Director

FROM: Sharon Crosson, Telecommunications Manager
Bootsie Ackerman, DDEP Executive Director

DATE: March 28, 2002

SUBJECT: **Ordinance to Tow Abandoned Vehicles from Public Parking Lots**

Staff recommends that we add a section to Ordinance No. 72.02 (Impoundment Procedures) that allows the city to tow a vehicle that has been parked on a public parking lot for 48 consecutive hours or more. We should not allow any municipal parking lot or parking deck to be used as a storage facility. At a price of $30.00 per month, we have had citizens purchase a parking card just to store their vehicles. We also have experienced citizens using their parking card to enter their stored vehicle and then reuse it daily for their every-day parking of another vehicle (two spaces for the price of one!). Downtown public parking is too precious to be used for storage.

The current ordinance on impoundment procedures authorized the police department to remove the vehicle from the site. Therefore, the parking enforcement staff would first attach a "tow notice" to the vehicle giving the owner 24 hours to move the vehicle; then they would notify the police department to begin removal procedures. Retrieval of the vehicle will be at the owners expense. Appropriate signs will be posted to notify the public of the "no storage ordinance".

/slc

STAFF REVIEW FORM

Call Center Position
C. 9. Page 1

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of April 19, 2002

FROM:

Name	Division	Department
Ted Webber	Administrative	Administrative

ACTION REQUIRED:
RESOLUTION TO APPROVE THE FILING OF THE NON-EMERGENCY CALL CENTER POSITION TO TAKE FULL ADVANTAGE OF NEW SOFTWARE RECENTLY PURCHASED AND TO PROVIDE SUPPORT FOR THE BUSINESS OFFICE.

COST TO CITY:

$ 9,850.00 ~~$10,000.00~~	179,316	PERSONNEL
Cost of this Request	Category/Project Budget	Category/Project Name
1010-0150	38,235	OFFICE of the Mayor
Account Number	Funds Used To Date	Program Name
	141,081	GENERAL
Project Number	Remaining Balance	Fund

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Coordinator — Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** _____

Accounting Manager	4/3/02 Date	ADA Coordinator	Date
City Attorney	4/3/02 Date	Internal Auditor	4/3/02 Date
Purchasing Officer	4/3/02 Date	Grant Officer	Date

STAFF RECOMMENDATION:

Division Head	Date	Cross Reference
Department Director	Date	New Item: **Yes** **No**
Admin. Svcs Director	3/29/02 Date	Prev Ord/Res #:
Mayor	4/4/02 Date	Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

ADMINISTRATIVE SERVICES DEPARTMENT CORRESPONDENCE

To: Mayor and City Council

From: Ted H. Webber, Director of Administrative Services

Date: April 2, 2002

Subject: Call Center Resource

Background

During a recent period in January and February, we audited the number of telephone calls that came into the City's switchboard and the Customer Service area of the Business Office. This audit proved that more 5,200 telephone calls were received by these 2 sources alone. This audited number does not include any calls that the public would have made directly to other Division telephone extensions listed in the telephone book.

The Business Office is also facing almost immediately one of their two busiest seasons as the University student population closes out utility accounts at the end of the current semester and settles up final bills. Although this busy season hits us annually, this year is particularly a challenge in that two of the employees in the Business Office will simultaneously be away on medical leave for approximately 4-6 weeks. This will leave us two employees short of a full staff during this busy time.

In anticipation that the City would have its automated telephone system in place in 2002, the City last fall revised its listing in the local telephone book to highlight the single number (718-7600) for the Automated Citizen Information System (ACIS) access line. The telephone book with this listing in it has been available for all of 2002 even though the ACIS (also known as the Tele-Works project) is not yet implemented. The public has been calling this telephone number with the expectation of reaching the new automated system.

With the signing of contracts with Hansen and Tele-Works, the City is purchasing and implementing some very powerful tools to enable us to better manage this incoming voice traffic. Even with the use of these tools, however, there is still a need for a person to be available to intercept those calls that cannot be handled routinely by these new automated tools. The best use of these new tools includes the implementation of a centralized non-emergency call center. This call center would be staffed with a person who would be responsible to answer the incoming calls that are not handled by Tele-Works and Hansen and to act as ombudsman or guide for the citizens that walk in to the City Administration Building.

Using a call center organization is a common practice among cities that have these types of tools available to them. For instance, Tulsa uses a call center along with Hansen for its non-emergency calls from the public. We can learn from the experience of other cities.

Benefits of a Non-Emergency Call Center

Several of the benefits of implementing the non-emergency call center at the City can be summarized in the following table:

1. Cost savings to the City in that we can focus our on-going training efforts on a few individuals rather than on a broad range of employees city-wide that would be taking the calls and entering data into the Hansen system for follow up on a work order or in a permitting/inspection case. Also, the call center can help manage and respond to the large volume of calls that are currently coming into the Business Office. This unusually large call volume inhibits the ability of the Business Office to process utility payments and bills and to deal with the public on these utility topics. This is especially true for the upcoming end of season rush of activity due to the staffing constraints that are anticipated today
2. Citizens will not feel they are getting the 'run around' from the City in that the call taker will own every call taken and transferring an incoming caller to another extension will generally be done only at the caller's consent. The call taker will be cross-trained in the activities of the City divisions so that the call taker is properly informed and can understand the caller's needs and requests.
3. The public will be able to effectively use the published single central telephone number that currently is in the telephone book (718-7600).

Staff Recommendation

- Prepare a two-year implementation plan for a Call Center that will accomplish the goal of informing the public that the City has a single information number for their use in obtaining needed information for the City about the City or the community.
- Define operating procedures, and organize a Call Center to be staffed in order to provide the single point of telephone answering and call handling within the City and to provide some immediate relief for the Business Office in handling the incoming call volume (5,200 calls) and the walk-in traffic for this end of season rush.
- Obtain a resolution from Council permitting the hiring of a person to staff the non-emergency call center on a full time basis to make the best use of the new tools we have purchased and to provide needed relief as described above. This position was anticipated in preparing the 2002 budget, it was budgeted in the 2002 budget and it was funded in the 2002 budget. Staff needs to get Council's approval to move forward with the filling of the position. During the past 2 years the City has paid out more than $10,000 for a part-time person to assist in the business office's annual close-out rush, in handling some of these incoming calls and in other City divisions as needed. We will roll the current year's budget for this part-time position amount into funding the call center when approved.

STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

r the Fayetteville City Council meeting of

OM:

Name	Division	Department
Greg Boettcher	Public Works	Public Works

ACTION REQUIRED: Approval of agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

COST TO CITY:

$336,881.00	11,800,000	WSIP
Cost of this Request	Category/Project Budget	Category/Project Name
4480-9480-5815-00		
Account Number	Funds Used To Date	Program Name
98105-30	11,800,000	Sewer Plant Const. Fund
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date	Grant Officer	Date

STAFF RECOMMENDATION:

Division Head	Date	Cross Reference
Greg Boettcher	04-03-02	New Item: Yes No
Department Director	Date	
Admin. Svcs Director	Date	Prev Ord/Res #:
Mayor Date		Orig Contract Date:

STAFF REVIEW FORM

Description _____ Meeting Date _____

Comments:

Budget Coordinator

Reference Comments:

Accounting Manager

Reference Comments:

City Attorney

Reference Comments:

Purchasing Officer

Reference Comments:

ADA Coordinator

Reference Comments:

Internal Auditor

Reference Comments:

Grants Offcier

Reference Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and
Fayetteville City Council

FROM: Greg Boettcher, P.E.,
Public Works Director Greg Boettcher

DATE: April 4, 2002

SUBJECT: **Wastewater System Improvement Project**
Program Manager and Value Engineering Services
Burns and McDonnell, Kansas City, Mo
Predesign Management Proposal (Phase I)

BACKGROUND

In November of 2001, the citizens of Fayetteville overwhelming approved a sales tax to finance the construction of a critical Wastewater System Improvements Project. This integrated system of improvements includes interceptor sewer mains, wastewater pumping stations, treatment facility upgrades and new treatment facility construction; the combination of activities representing a project of $120 million. These improvements are predicted to meet core wastewater system needs for a period of 20-years. Due to the size and complexity of this improvement program, the City Council divided the responsibility between four consulting firms: Black and Veatch (upgrading of the existing Noland Wastewater Treatment Plant), Garver Engineers (East side pumping station and interceptor sewer mains), McGoodwin, Williams and Yates (New Westside Wastewater Treatment Plant) and RJN Group (Wes tside pumping stations and interceptor sewer mains).

To approach this project from a least-cost perspective, Fayetteville secured low-interest Revolving Loan Fund financing from the Arkansas Soil and Water Conservation Commission. This federal/state loan program is implemented under the terms of a Memorandum of Agreement, said agreement including a specific

schedule for project completion. To encourage compliance with the schedule, failures to meet stipulated completion dates can result in an interest penalty that would substantially increase the financing cost for the $120 million dollar loan. Accordingly, the development of an adherence to a Project Schedule is an integral element of the Wastewater System Improvement Project.

It has been concluded that the City of Fayetteville does not have the internal resources to manage this $120 million Project; therefore, the use of outside resources shall be necessary. At the February 4, 2002 meeting of the Fayetteville Water and Sewer Committee, it was agreed that a selection committee should interview prospective service providers, a firm should be selected and contract proposal negotiated for the first phase of the work. The outsourcing process conformed to the funding agency's requirements for the selection of professional service providers, enabling said consultant's costs to be later claimed as an eligible project cost. The respondents to the request for qualifications were evaluated, with three firms being elected for formal interviews. The three firms making formal presentations were evaluated on a competitive basis using specific criteria. The highest-ranking firm was Burns and McDonnell of Kansas City, Missouri, with the anticipated scope of services to be provided being defined as "Program Management and Value Engineering Services." The formal interviews and selection process were completed on March 14, 2002 at City Hall. The selected consultant was requested to develop a scope of work and a contract proposal to meet the immediate needs of the project. In essence, this first phase of services was to include the assessment of current status, development of a project segmentation plan, development of a critical path analysis for the project activities, establishment of task schedules/costs, evaluation of separate equipment contracts and coordination of the work of the multiple consultants.

CURRENT SITUATION

Burns and McDonnell Engineering Company, Inc. has developed an agreement for professional engineering services that addresses the initial needs of the project (through predesign phase). This first phase of program management is predicted to span a period for not more than 120 days, is estimated to involve 2,758 person-hours and will represent a not-to-exceed contract value of $336,581.00. Services shall be provided on a schedule of hourly rates basis, therefore, compensation shall track the level of effort. Within this predesign phase of program management services, the consultant proposes to:

1. IDENTIFY PROGRAM STATUS

- Collect data on project status through individual meetings with city staff, consultants of record, Arkansas Soil and Water Conservation Commission and OMI.
- Quantify status of existing contracts and facility planning activities.
- Identify priority issues and develop resolution strategies.
- Prepare summary evaluation, outline recommended actions and discuss such findings at a joint meeting of stakeholders.

2. PERMITTING PROCESS ANALYSIS

- Identify, review and confirm the status of project permitting activities.
- Prepare a fatal flaw analysis of all permitting tasks, targeting those items that are critical to the project schedule.

3. CREATE STEERING DOCUMENT

- Prepare a prioritized master schedule (through design) for the Project, complete with tasks, priorities, milestone dates, phasing and responsibilities.
- Define elements to be coordinated and standardized.
- Assist in development of a standard professional services agreement for contracting with the individual consultants of record, incorporating into each agreement the negotiated compensation arrangement and a time of performance.
- Outline value engineering activities
- Standardize design criteria and work elements to maintain consisting, coordination and uniformity of individual consultant activities.
- Create standard bedding documents and general requirements for use on all contracts.

4. PREPARE PROGRAM BUDGET

- From record information and other resources, develop a comprehensive, itemized program budget complete with predicted cash flow requirements.

5. OTHER PROGRAM MANAGEMENT SERVICES

- Create a Program Management Plan for the Project that establishes procedures, responsibilities, decision processes,

and communications for the management, design and construction of the Project.

- Establish a Program Management Control System to track and control the various Project tasks. This computer-based system shall monitor, report and manage the work; as well as provide a web site for the public's access to Project information.
- Maintain a communications plan whereby stakeholders shall be informed of Project progress.
- Create a Master Program Schedule that reflects the actual verses scheduled task accomplishment. This schedule shall be cost-loaded to track budgetary compliance. Benchmark the schedule data and update throughout the term of service.
- Provide up to four formal progress reports to Fayetteville City Council.

The scope of work and preliminary schedule set out in the Professional Services Agreement represent the tasks necessary for the initial phase of program management. This phase of services shall advance the Project into the detailed design phase, with key factors properly identified (contract segments, schedules, sequences, costs). The next phase of the Program Management and Value Engineering Services shall address the value engineering and design phase services. It is expected that the third phase of services shall relate to the construction phase activities.

RECOMMENDATIONS

The large and complex Wastewater System Improvement Project requires appropriate control and management to meet mandated schedules and contain costs within budgets. The City of Fayetteville does not have the internal resources to manage this large Project, nor would it be prudent to increase staffing and resources to address this one-time need. Accordingly, it is most effective and economical for the City of Fayetteville to obtain these resource needs by outsourcing. A selection process found the Burns and McDonnell Engineering Company of Kansas City, Missouri to be the best-qualified provider for the Program Management and Value Engineering Services. The contract proposal submitted by said firm has been found to be in conformance with immediate needs and objectives. It is recommended that the Fayetteville City Council approve the Agreement for Professional Services with Burns and McDonnell Engineering Company, Inc. for a not-to-exceed amount of $336,881.00, and authorize the Mayor to execute said agreement.

AGREEMENT

For

PROFESSIONAL ENGINEERING SERVICES

Between

CITY OF FAYETTEVILLE, ARKANSAS

And

BURNS & McDONNELL ENGINEERING COMPANY, INC.

Kansas City, Missouri

THIS AGREEMENT is made as of _____, 2002, by and between City of Fayetteville, Arkansas (hereinafter called OWNER) and Burns & McDonnell Engineering Company, Inc., a Missouri Corporation specializing in consulting engineering services (hereinafter called ENGINEER).

OWNER requires professional engineering services in connection with the program management of study, design, construction, operation, maintenance, management, and financing of wastewater treatment and conveyance facilities. Therefore, OWNER and ENGINEER in consideration of their mutual covenants agree as follows:

ENGINEER shall serve as OWNER's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to OWNER during the performance of ENGINEER's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field.

SECTION 1 SCOPE OF SERVICES OF ENGINEER

1.1 General

1.1.1 Perform Program Management services in connection with Pre-Design Phase Projects as hereinafter stated which may include normal civil, structural, mechanical, and electrical engineering services and normal architectural design services incidental thereto.

1.1.2 Advise OWNER as to the necessity of OWNER providing or obtaining services or data from others of types described in Paragraph 2.3, make recommendations as to the possible sources of such services, and act as OWNER'S representative in connection with any such services.

1.2 Identification of Program Status

1.2.1 Consult with OWNER to determine OWNER's requirements for the Project and collect available data on contracts with Consultants of Record (Consultants).

1.2.2 Review contracts of Consultants and ascertain the schedules and deliverables due to the OWNER as part of the contracts. Examine cost-to-date and the status of billings to the OWNER for each contract.

1.2.3 Review Arkansas Department of Environmental Quality (ADEQ) requirements for Facility Plans approval. Meet with ADEQ regarding each Facility Plan being prepared.

1.2.4 Review Facility Plans and assess the level of completion. Determine the activities remaining before approval.

1.2.5 Review Water Quality Study and assess the level of completion. Determine the activities remaining before approval.

1.2.6 Conduct a one-day meeting in Fayetteville with OWNER and staff to further identify status, scheme, and schedule for the projects. Report to the OWNER the preliminary conclusions gained from examination of Facility Plans and Water Quality Study. Establish agenda and goals for joint meeting with Consultants. Establish goals and expectations and lines of communication for the Program.

1.2.7 Jointly conduct with the OWNER separate meetings with each Consultant and OMI, Inc. to review Program status, identify concerns and issues which may impede completion of Consultants' services, and to receive other feedback from Consultants. Review Consultants' staffing plan and schedule for completion of the pre-design activities. Determine status of property acquisition.

1.2.8 Assess the information obtained in the meetings with Consultants and prepare an evaluation and recommendations. Present the final results of the evaluation process to OWNER for final approval. This presentation will highlight the evaluation process, including status of stakeholder involvement, and identify the recommendation for proceeding with design activities.

1.3 Develop Steering Document

1.3.1 Prepare a Level 1 concept milestone schedule for the overall Program through the Design Phase which identifies tasks, phases, projects, or subprojects and prioritizes them. The concept milestone schedule will provide guidance to the OWNER and Consultants by establishing *"what's first, what's next, what's critical*, and *what can be accomplished independent of other aspects of the project"*. The concept milestone schedule will identify an initial Critical Path for the overall Program and will provide direction to the Consultants through the Design Phase. Establish a phasing plan to be followed in the design of facilities which will permit continuous provision of service by existing facilities.

1.3.2 Identify and address items requiring standardization and coordination among the Consultants. Topics anticipated include treatment processes, equipment, SCADA concepts, reliability and redundancy, and facility staffing goals.

1.3.3 Establish schedule and requirements for Value Engineering Services.

1.3.4 Develop design standards and criteria. Develop and maintain design standards for wastewater treatment plant and sewerage facilities, support facilities, and privately developed facilities to be adopted by the OWNER's Consultants. By adopting the design standards, Consultants will assume full responsibility and liability for their resulting design services. ENGINEER will review design standards provided by the Consultants. ENGINEER will prepare design standards and criteria for remaining facilities using the existing standards as a starting point. The design standards will be developed to provide overall design intent and construction quality objectives with the functional and aesthetic objectives of the OWNER. Establish CADD standards, sheet sizes, borders, and title blocks.

1.3.5 Develop standard contract language. Develop General Conditions for General Construction Contracts. Develop other documents, including Bidding and Agreement forms, and Division 1 Specifications.

1.3.6 Disseminate the Steering Document which includes design standards and criteria and standard contract language, to Consultants for use in preparation of design contracts, budgets, and scope.

1.3.7 Assist OWNER in developing standardized Professional Services Agreements, based on EJCDC documents as a starting point.

1.4 Develop Program Budget

1.4.1 Prepare the overall Program Budget utilizing Consultants' opinions of probable construction costs. Formulate independent opinions of probable design fees for the West Treatment Plant, modifications to the existing Noland Facility, the West sewer system improvements, and the East sewer system improvements. Analyze and include other likely Program Budget costs.

1.5 Evaluate Status of Permitting Process

1.5.1 Review Arkansas Department of Environmental Quality (ADEQ) requirements for permitting of facilities.

1.5.2 Identify permitting requirements for the construction and operation of the new and modified facilities.

1.5.3 Identify the status of the permitting process to date.

1.5.4 Conduct a Fatal Flaw Analysis.

1.5.5 Develop matrix illustrating the permits required, the responsibilities for obtaining them, the tasks remaining before each permit is obtained, and a schedule for completion of the permitting process.

1.6 Provide Other Program Management Services

1.6.1 Prepare a Program Management Plan (PMP) describing the responsibilities of the Program Manager, Consultants, and construction contractors involved in management, design, and construction. The PMP will establish procedures enabling the OWNER to monitor the design and construction phases of the projects. The PMP will emphasize the monitoring of cost, schedule and quality and will establish procedures to permit the OWNER to make timely decisions to properly control the Program. The PMP will describe review and approvals at all stages of the Program or projects such as design, construction, security, safety, D/M/WBE programs, logistics, and communications.

1.6.2 Establish a computer-based Program Management Control System (PMCS) to monitor and manage the Program schedule, budget, financial requirements, and D/M/WBE compliance. Establish a document tracking and control system, including shop drawings, samples, approvals, and changes to the work. The system will be used by the Program Manager

throughout the Program to advise the OWNER on schedule and financial issues and manage the design and construction process. The proposed system consists of Primavera Expedition project management software, customized to the OWNER'S documentation requirements. Primavera Project Planner (P3) scheduling software will be used for the Master Program Schedule, which will be used in conjunction with Expedition. Review OWNER's information retrieval needs and consider providing OWNER with real-time read-only access to program financial records or provision of periodic hard copy of desired reports. Establish a public/private Web-based communications to be used for inter-firm access to selected program information by the OWNER, Program Management Team, and Consultants.

1.6.3 Assist in developing a Communications Plan to involve the stakeholders during the concept development and design phase; and promote a positive image of the overall Program and the OWNER. The plan may include newsletters, press releases, message boards, and the Project web site. The plan development and implementation will be coordinated with OWNER's Public Relations staff.

1.6.4 Prepare a Master Program Schedule by refining the conceptual milestone schedule. Develop the Master Program Schedule through design development, construction documents, and construction. Cost load the schedule, based on program activities, for cash flow and spending plan analysis. Benchmark the program schedule and update based on actual progress of activities.

1.6.5 Prepare and coordinate up to four reports or presentations to the City Council, City staff, or other parties as directed by the OWNER.

1.7 It is anticipated that the above described Scope of Services can be completed in 2758 person-hours.

SECTION 2 RESPONSIBILITIES OF OWNER

OWNER shall, within a reasonable time, so as not to delay the services of ENGINEER:

2.1 Provide full information as to OWNER's requirements for the Project.

2.2 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

2.3 Furnish ENGINEER services or data such as core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; appropriate professional interpretations of all of the foregoing; property, boundary, easement, right-of-way, topographic, and utility surveys; zoning and deed restrictions; and other special data or consultations, all of which ENGINEER may rely upon in performing his services under this Agreement.

2.4 Guarantee access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services under this Agreement.

2.5 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by ENGINEER and render in writing decisions pertaining thereto.

2.6 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.

2.7 Designate in writing a person to act as OWNER's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

2.8 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any defect in the Project.

2.9 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

2.10 If ENGINEER's standard bidding requirements, Agreement forms and General Conditions are not to be used but OWNER's documents are to be used instead, OWNER shall provide copies of such documents for ENGINEER's use in coordinating the Contract Drawings and Specifications.

SECTION 3 PERIOD OF SERVICE

3.1 ENGINEER will proceed with providing the services set forth herein immediately upon the execution of this Agreement. These services will be completed within 120 days of the execution

of this Agreement subject to adjustment from factors outside ENGINEER's control, e.g., permitting, etc.

SECTION 4 PAYMENTS TO ENGINEER

4.1 Compensation

4.1.1 Amount of Payment:

For services performed, the OWNER shall pay the ENGINEER the sum of the following:

4.1.1.1 For time expended by personnel, payment at the hourly rates indicated in the attached "Schedule of Hourly Professional Service Billing Rates" Form BMR 902. Such rates include overhead and profit. The schedule is effective to January 1, 2003, and will be revised annually.

4.1.1.2 For outside expenses incurred by ENGINEER, such as authorized travel and subsistence, including airfare, food, lodging, automobile rental, commercial services, courier deliveries, and incidental expenses, the cost to ENGINEER plus 10 percent.

4.1.1.3 For normal computer usage, computer-aided drafting (CAD), telephone, fax, photocopy and mail services, a technology charge in accordance with the "Schedule of Hourly Professional Service Billing Rates" in effect at the time the service is provided. Specialty items are not included in the technology charge. For reproduction, printing and binding of documents, and vehicle and testing apparatus usage, amounts as determined from ENGINEER's schedule of rates in effect at the time the service is provided.

4.1.1.4 For services rendered by others as subcontractor(s) to ENGINEER, such as value engineering, surveying, real property descriptions, soil borings, subsurface investigations, laboratory testing, field quality control tests, progress photographs, or other activities required or requested by OWNER, the cost to ENGINEER plus 10 percent.

4.1.2 The total payment for the Scope of Services described herein is estimated to be Three Hundred Thirty Six Thousand Eight Hundred Eighty One United States Dollars ($336,881.00), but is not a guaranteed maximum. The total payment is based on expending no more than 2758 person-hours.

4.2 Statements

4.2.1 Monthly statements, in ENGINEER's standard format, will be submitted by the ENGINEER to the OWNER. Statements will be submitted covering services and expenses incurred during the preceding month.

4.3 Payments

4.3.1 Statements are payable upon receipt. A late payment charge of 1.5 percent per month or any partial month will be added to amounts not received within 30 days of the statement date. Time is of the essence in payments of statements, and timely payment is a material part of the consideration of this Agreement. Costs, including reasonable attorney's fees, incurred by the ENGINEER in collecting any delinquent amount shall be reimbursed by the OWNER. If a portion of ENGINEER's statement is disputed by OWNER, the undisputed portion shall be paid by OWNER by the due date. The OWNER shall advise the ENGINEER in writing of the basis for any disputed portion of any statement.

4.4 Taxes

4.4.1 Taxes, other than United States federal and state income taxes, and Kansas City, Missouri earnings tax, as may be imposed by the United States, state, and local authorities, shall be in addition to the payment stated under "Amount of Payment."

SECTION 5 GENERAL CONSIDERATIONS

5.1 Insurance

5.1.1 During the course of performance of these services, ENGINEER will maintain (in United States Dollars) the following minimum insurance coverages:

Type of Coverage	Limits of Liability
Workers' Compensation	Statutory
Employers' Liability	$500,000 Each Accident

Type of Coverage	Limits of Liability
Commercial General Liability	
Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Automobile Liability:	
Bodily Injury and Property Damage	$1,000,000 Combined Single Limit

If requested, ENGINEER will provide to OWNER certificates as evidence of the specified insurance.

5.1.2 Construction Contractors shall be required to provide (or OWNER may provide) Owners' Protective Liability Insurance naming the OWNER as a Named Insured and the ENGINEER as an additional insured, or, to endorse OWNER and ENGINEER as additional insureds on construction Contractor's liability insurance policies covering claims for personal injuries and property damage. Construction Contractors shall be required to provide certificates evidencing such insurance to the OWNER and ENGINEER.

5.1.3 OWNER and ENGINEER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of ENGINEER's services. If the services result in a Construction Phase, a provision similar to this shall be incorporated into all Construction Contracts entered into by OWNER, and all construction Contractors shall be required to provide waivers of subrogation in favor of OWNER and ENGINEER for damage or liability covered by any construction Contractor's policy of insurance.

5.2 Professional Responsibility

5.2.1 ENGINEER will exercise reasonable skill, care, and diligence in the performance of ENGINEER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. If the ENGINEER fails to meet the foregoing standard, ENGINEER will perform at its own cost, and without reimbursement from OWNER, the professional engineering services necessary to correct errors and omissions which are caused by ENGINEER's failure to comply with above standard, and which are reported to ENGINEER within one year from the completion of ENGINEER's services for

the Project. The obligations and representations contained in this Article are ENGINEER's sole obligation and OWNER's exclusive remedy with respect to the quality of services. OWNER's failure to properly operate and maintain the Facility or allow ENGINEER to perform such remedial services as ENGINEER may deem appropriate shall relieve ENGINEER of its obligation relative to such improper operation or maintenance.

5.2.2 In addition, subject to the limitation stated in Paragraph 5.2.4 below, ENGINEER will be responsible to OWNER for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by ENGINEER's Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 5.1.1.

5.2.3 In no event will ENGINEER be liable for any special, indirect, or consequential damages including, without limitation, damages or losses in the nature of increased Project costs, loss of revenue or profit, lost production, claims by customers of OWNER, or governmental fines or penalties.

5.2.4 The ENGINEER's aggregate liability for all damages connected with its services for the Project not excluded by the preceding subparagraph will not exceed the greater of US$100,000 or the compensation paid under this Agreement.

5.2.5 The obligations and remedies stated in this Paragraph 5.2, Professional Responsibility, are the sole and exclusive obligations of ENGINEER and remedies of OWNER, regardless of the cause of action pled including, without limitation, negligence of every character.

5.3 Cost Opinions and Projections

Cost opinions and projections prepared by ENGINEER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on ENGINEER's experience, qualifications, and judgment as a design professional. Since ENGINEER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, ENGINEER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by ENGINEER.

5.4 Changes

OWNER shall have the right to make changes within the general scope of ENGINEER's services, with an appropriate change in compensation and schedule, upon execution of a mutually acceptable amendment or change order signed by an authorized representative of the OWNER and the President or any Vice President of the ENGINEER.

5.5 Suspension of Services

Should OWNER fail to fulfill his responsibilities as provided under Section 2 to the extent that ENGINEER is unduly hindered in ENGINEER's services or if OWNER fails to make any payment to ENGINEER on account of ENGINEER's services and expenses within 90 days after receipt of ENGINEER's bill therefor, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until OWNER has satisfied OWNER's obligations under this Agreement.

5.6 Termination

5.6.1 Services may be terminated by the OWNER or ENGINEER by seven (7) days' written notice in the event of substantial failure to perform in accordance with the Terms hereof by the other party through no fault of the terminating party. Failure on the part of the OWNER to make payments to ENGINEER when due shall be considered substantial nonperformance and cause for termination. If so terminated, OWNER shall pay ENGINEER all amounts due ENGINEER for all services properly rendered and expenses incurred to the date of receipt of notice of termination, plus reasonable costs incurred by ENGINEER in terminating the services.

5.6.2 In the event of premature termination of the Project by the OWNER and through no fault of the ENGINEER, the ENGINEER shall be entitled to: 1) recover all reasonable costs and expenses incurred to date of termination plus all costs incurred to assemble and close Project files and documents; 2) unavoidable down time in the reassignment of Project staff; 3) termination penalties/expenses related to third parties retained by ENGINEER in regard to his obligations under this contract; plus 4) a termination amount of 15 percent of the remaining portion of the total compensation (or estimated compensation) agreed to herein or by separate authorization to cover lost profits, damages, and lost opportunity costs which cannot otherwise be accurately calculated.

5.7 Delays

In the event the services of the ENGINEER are suspended or delayed by the OWNER, the ENGINEER shall be entitled to additional compensation for reasonable costs incurred by the ENGINEER in temporarily closing down or delaying the Project and reassigning Project staff (including, but not limited to, unavoidable down time and any termination expenses incurred where reassignment is not reasonably possible) and in organizing Project files, records, and work in progress for suspension and later resumption of the ENGINEER's services.

5.8 Disputes

In the event that a dispute should arise relating to the performance of the services to be provided and should that dispute result in litigation, it is agreed that the prevailing party shall be entitled to recover all reasonable costs of litigation, including staff time, court costs, attorneys' fees, and other related expenses.

5.9 Rights and Benefits

ENGINEER's services will be performed solely for the benefit of the OWNER and not for the benefit of any other persons or entities.

5.10 Dispute Resolution

5.10.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between OWNER and ENGINEER which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of OWNER or ENGINEER in the performance of this Agreement, and disputes concerning payment.

5.10.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate and, if necessary, mediate their disputes as set forth in this Paragraph. If timely Notice is given under Paragraph 5.10.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 5.10.3 and 5.10.4 have been complied with.

5.10.3 Notice of Dispute

5.10.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

5.10.3.2 For disputes arising after the making of final payment, OWNER shall give ENGINEER written Notice at the address listed in Paragraph 5.18 within ninety (90) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

5.10.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for the OWNER and ENGINEER shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of the ENGINEER and the following executive officer of OWNER, Mayor of City of Fayetteville. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

5.10.5 Mediation: If the OWNER's and ENGINEER's said officers are unable to resolve the dispute, then either side may request that the matter be submitted to mediation before a mediator mutually agreed upon. If the parties cannot agree on a mediator, then the American Arbitration Association shall appoint one upon request. Any administrative or mediator's fees shall be split equally between the parties.

5.10.6 Waiver Upon Final Payment: The making of final payment by OWNER and the acceptance of same by ENGINEER and ENGINEER's subconsultants shall constitute a waiver of existing claims by the OWNER and such payee except those previously made in writing and identified as unsettled by OWNER at the time of payment, or by the payee at the time of such payee's final invoice. Except for those claims waived under Paragraph 5.1.3, final payment shall not constitute a waiver of claims by the OWNER relating to liens unsettled, or subsequent discovery of services not in compliance with this Agreement. The waivers contained in Paragraph 5.1.3 shall continue to apply after final payment is made.

5.10.7 Waiver Due to Untimely Notice: Claims arising after the making of final payment shall be barred, and no suit or demand may be filed if Notice as stated in Paragraph 5.10.3.2 is not

given. Nothing in this Paragraph shall be construed as directly or indirectly limiting the time to institute suit, but rather to give the responding party timely notice and prompt opportunity to investigate the allegations of the dispute.

5.11 The OWNER represents that it has sufficient funds or the means of obtaining funds to remit payment to the ENGINEER for services rendered by the ENGINEER.

5.12 Publications

Recognizing the importance of professional development on the part of ENGINEER's employees and the importance of ENGINEER's public relations, ENGINEER may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to ENGINEER's services for the Project. Such publications will be provided to OWNER in draft form for OWNER's advance review. OWNER shall review such drafts promptly and provide OWNER's comments to ENGINEER. OWNER may require deletion of proprietary data or confidential information from such publications, but otherwise OWNER will not unreasonably withhold approval. The cost of ENGINEER's activities pertaining to any such publication shall be for ENGINEER's account.

5.13 Indemnification for Pollution Related Claims

For services involving or related to pollution, toxic substances, or hazardous wastes or asbestos abatement work, OWNER agrees to release, defend, indemnify, and hold harmless ENGINEER and its officers, directors, employees, agents, and consultants and from all liability, claims, demands, damages, losses, and expenses, direct, indirect or consequential, including, but not limited to, claims of OWNER and other persons and organizations, reasonable fees and expenses of attorneys and consultants, and court costs arising out of the performance of this Agreement. This indemnification provision extends to claims against ENGINEER which arise out of the actual, alleged, or threatened dispersal, escape, or release of chemicals, wastes, liquids, gases, or any other material, irritant, contaminant, or pollutant, or arising out of or resulting from asbestos abatement work.

5.14 Indemnification

5.14.1 OWNER agrees that it will require all construction Contractors to indemnify, defend, and hold harmless OWNER and ENGINEER from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the

negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

5.14.2 If this Project involves construction, and ENGINEER does not provide engineering services during construction including, but not limited to, on-site observation, Site visits, submittals review, and design clarifications, OWNER agrees to indemnify and hold harmless ENGINEER from or against any liability arising from the Project or this Agreement.

5.15 Computer Models

ENGINEER may use or modify ENGINEER's proprietary computer models in service of OWNER under this Agreement, or ENGINEER may develop computer models during ENGINEER's service to OWNER under this Agreement. Such use, modification, or development by ENGINEER does not constitute a license to OWNER to use or modify ENGINEER's computer models. Said proprietary computer models shall remain the sole property of the ENGINEER. OWNER and ENGINEER will enter into a separate license agreement if OWNER wishes to use ENGINEER's computer models.

5.16 Reuse of Documents

All documents including Contract Drawings and Specifications prepared or furnished by ENGINEER (and ENGINEER's independent professional associates and consultants) pursuant to this Agreement are instruments of service in respect of the Project, and ENGINEER shall have the ownership and property interest therein whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with the use and occupancy of the Project by OWNER and others; however, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's independent professional associates or consultants, and OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's independent professional associates and consultants from and against all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

5.17 Electronic Media

Any electronic media (computer disks, tapes, and similar items) furnished with respect to ENGINEER's services are for OWNER's information and convenience only. Such media are not to be considered part of ENGINEER's instruments of service. (Due to the potential that information contained in electronic media can be modified by OWNER or others, ENGINEER, at its option, may remove all indicia of ENGINEER's ownership and involvement from each electronic display.)

ENGINEER shall not be liable for loss or damage directly or indirectly, arising out of use of electronic media including, but not limited to, any loss of business or incidental or consequential damage. OWNER shall assume all risk and release, indemnify, and hold harmless ENGINEER, its officers, directors, employees, servants, agents, successors, and assigns, from and against each and every claim or cause of action that OWNER or others may have or which may arise in the future respecting use of the electronic media.

If there is a discrepancy between the electronic media files and the signed and sealed hard copies, the hard copies shall govern.

5.18 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

OWNER's address:

City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

ENGINEER's address:

Burns & McDonnell Engineering Co., Inc.
9400 Ward Parkway
Kansas City, MO 64114

5.19 Successor and Assigns

OWNER and ENGINEER each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither OWNER nor ENGINEER shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

5.20 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Missouri without regard to any conflicts of law provisions.

5.21 Entire Agreement

This Agreement represents the entire Agreement between the ENGINEER and OWNER relative to the Scope of Services herein. All previous or contemporaneous agreements, representations, promises, and conditions relating to ENGINEER's services described herein are superseded. Since terms contained in purchase orders do not generally apply to professional services, in the event OWNER issues to ENGINEER a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by ENGINEER, shall be considered as a document for the OWNER's internal management of its operations.

SECTION 6 SPECIAL CONDITIONS

6.1 Additional Responsibilities of the ENGINEER:

6.1.1 The OWNER's or ASWCC's review, approval, or acceptance of design drawings, specifications, reports, and other services furnished hereunder shall not in any way relieve the ENGINEER of responsibility for the technical adequacy of the work. Neither the OWNER's nor ASWCC's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6.1.2 The ENGINEER shall be and shall remain liable, in accordance with applicable law, for all damages to the OWNER caused by the ENGINEER's negligent performance of any of the

services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to the OWNER or OWNER-furnished data.

6.1.3 The ENGINEER's obligations under this clause are in addition to the ENGINEER's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that the OWNER may have against the ENGINEER for faulty materials, equipment, or work.

6.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between the OWNER and the ENGINEER arising out of or relating to this Agreement or the breach thereof will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the state in which the OWNER is located.

6.3 Audit: Access to Records

6.3.1 The ENGINEER shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. The ENGINEER shall also maintain the financial information and data used by the ENGINEER in the preparation of support of the cost submission required for any negotiated agreement or change order and send to the OWNER a copy of the cost summary submitted. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, the OWNER, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. The ENGINEER will provide proper facilities for such access and inspection.

6.3.2 Records under Paragraph 6.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

6.3.3 This right of access clause (with respect to financial records) applies to:

6.3.3.1 negotiated prime agreements,

6.3.3.2 negotiated change orders or agreement amendments in excess of $10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement,

6.3.3.3 agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

(1) with respect to record pertaining directly to subagreement performance, excluding any financial records of the ENGINEER,

(2) if there is any indication that fraud, gross abuse or corrupt practices may be involved,

(3) if the subagreement is terminated for default or for convenience.

6.4 Covenant Against Contingent Fees

The ENGINEER warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the ENGINEER for the purpose of securing business. For breach or violation of this warranty, the OWNER shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

6.5 Gratuities

6.5.1 If the OWNER finds after a notice and hearing that the ENGINEER, or any of the ENGINEER's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the OWNER, the State or EPA in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, the OWNER may, by written notice to the ENGINEER, terminate this Agreement. The OWNER may also

pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which the OWNER bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of the Agreement.

6.5.2 In the event this Agreement is terminated as provided in Paragraph 6.5.1, the OWNER may pursue the same remedies against the ENGINEER as it could pursue in the event of a breach of the Agreement by the ENGINEER. As a penalty, in addition to any other damages to which it may be entitled (as determined by the OWNER) which shall be not less than three nor more than ten times the costs the ENGINEER incurs in providing any such gratuities to any such officer or employee.

6.6 Arkansas Freedom of Information Act. The ENGINEER agrees that it will provide to the OWNER, at a cost to be agreed upon, all documents in its possession that are, under this Agreement, the property of the OWNER and which the OWNER believes to be subject to an Arkansas Freedom of Information Act request made to it, or, in anticipation of such a request, which it believes necessary for it to possess. The ENGINEER further agrees that it will request of all subconsultants, retained by the ENGINEER to perform services under this Agreement, to provide to the OWNER, at a cost to be agreed upon, all documents in the possession of such subconsultants that are, under this Agreement, the property of the OWNER and which the OWNER believes to be subject to an Arkansas Freedom of Information Act request made to the OWNER, or, in anticipation of such a request, which it believes necessary for the OWNER to possess. The ENGINEER will produce all documents or material in the format that are kept by the ENGINEER, or at the option of the ENGINEER, in some other format. If a specialized format is requested by the OWNER, the cost of conversion, if that additional responsibility is accepted by the ENGINEER, will be borne by the OWNER at the then prevailing rates for the parties actually performing the conversion. Production of requested items will be done with reasonable diligence, but cannot in some circumstances be within the time frame established by the Act. The above and foregoing provisions apply only to work performed from this date forward and does not apply retroactively.

Nothing in this Agreement shall constitute an acceptance of the ENGINEER or its subconsultants to the application of the Arkansas Freedom of Information Act to the ENGINEER or its subconsultants or to the ENGINEER's or subconsultant's books, records, drawings, or other items not constituting the property of the OWNER under this Agreement, nor a waiver of its

rights to object to any requests made to it pursuant to the Arkansas Freedom of Information Act by any person or entity not a party to this Agreement.

IN WITNESS WHEREOF, the City of Fayetteville, Arkansas, by and through its Mayor, and Burns & McDonnell Engineering Company, Inc., by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____

Title: Mayor

ATTEST:

_____
City Clerk

BURNS & McDONNELL ENGINEERING COMPANY, INC.

By: _____
President, Infrastructure Group

By: _____
Project Manager

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

XX Agenda Request
Contract Review
Grant Review

STAFF REVIEW FORM

Organizational Plnr
C. 11. Page 1

the Fayetteville City Council meeting of: **April 16, 2002**

FROM:

Gary Dumas		General Services
Name	Division	Department

ACTION REQUIRED: Concurrence is requested from the City Council to implement an aggressive litter control program with education, cleanup and enforcement options, and to assist in the market development analysis and the development of operational plans for commercial glass recycling.

COST TO CITY:

$10,000 est.	$333,814	Service Charges
Cost of this Request	Category/Project Budget	Category/Project Name
5500-5060-5314-00	$85,470	Recycling
Account Number	Funds Used to Date	Program Name
na	$248,336	Solid Waste
Project Number	Remaining Balance	Fund

BUDGET REVIEW: XX Budgeted Item ___Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:**

Accounting Manager — Date 3/21/02

ADA Coordinator — Date

City Attorney — Date 3/22/02

Internal Auditor — Date 3/22/02

Purchasing Officer — Date

STAFF RECOMMENDATION: Concur with request

Division Head — Date

Department Director — Date 3-22-02

Administrative Services Director — Date 3/22/02

Mayor — Date 4/1/02

Consent ___
New Business ✓

Cross Reference

New Item: XXXXX **Yes** **No**

Prev Ord/Res #:

Orig Contract Date:

MEMO

TO: Dan Coody, Mayor
FROM: Gary Dumas
CC: Carrol Hill, Environmental Affairs Administrator
Melissa Terry, Sustainable Environment Educator
DATE: 3/20/02
RE: Keep Fayetteville Beautiful Coordinator

The City of Fayetteville has a visible problem with littering and urban dumping. Both litter and dumps create a poor image for the City, and for potential business investors.

At this time, staff has identified several areas needing attention in order to launch a citywide Keep Fayetteville Beautiful campaign. They are:

- Citizens need to learn how their litter affects their community;
- Business and industry need to know how their stewardship is pivotal for Fayetteville's appearance and community spirit;
- Schools and the University can learn what materials are available to their students, educators and administrators; and
- City divisions can come together and learn how to be more effective in the enforcement of ordinances, codes and policies pertaining to litter and illegal dumps.

The Solid Waste and Recycling Division is intending to expand the job description for the city's Sustainable Environmental Educator to include these coordination tasks. This additional workload will mean that some activities currently being performed by this position will need to be reassigned. The problem is that there is no staff to reassign these work tasks to. Additionally, the current position has assisted in operational planning of future programs such as apartment recycling, business recycling, commercial glass recycling program development which includes collection process and vehicles, processing and ultimate market for the refined material. These additional tasks as "operational planner" for this and other program improvements are necessary if the City is to move forward effectively and efficiently, from both the operational as well as the financial perspective.

The following memo lays out a proposed option to test this need in an cost effective manner.

MEMO

TO: Gary Dumas
FROM: Carrol Hill, Environmental Affairs Administrator
Melissa Terry, Sustainable Environment Educator
DATE: 3/20/02
RE: Organizational Planner

The Solid Waste and Recycling Division has filed a pre-application to the Tri-County Solid Waste District for grant funds to purchase glass-pulverizing equipment.

If this grant is funded our division will be able to serve the bottle glass recycling needs for Fayetteville restaurants and businesses. We will also be able to accommodate the recycling of windows, glass, mirrors, ceramics and shatterproof glass – none of which are recycled at this time.

Additionally this process will help to streamline residential collections by allowing the commingling of various glass colors. While this would be a small improvement in the time requirements per stop for residential recycling, the estimated savings of 7.5-seconds per stop translates into approximately 56 minutes per day per route (7.5-seconds X 450 stops / 60 seconds = 56 minutes). With nine routes, this is a labor savings of almost 8.5 hours per day.

The concept is that commingled glass will be pulverized into four (4) separate materials grades form cullet-sized (gravel equivalent) down to fine particle sand. We anticipate a wide variety of local uses for these materials. For example, cullet-sized glass chunks can replace gravel as a base fill material under streets, foundations, sidewalks, paved trails, etc. Additionally, fine particle grades may be marketed as filter material for pool equipment, wastewater treatment plant filters, and blasting, etc.

All of these potential markets will take significant time to research, secure, and implement. This market development or end use of the collected glass is critical, as critical, is the actual commercial glass collection process. The collection process must be compatible with the commercial business practices. A full grant proposal for the pulverizing equipment will need to articulate the exact details for the proposed project. This will necessarily include details on the actual commercial collection process; i.e. how the commercial customer will collect the glass within their business and how the City will then collect it at the curb; the disposal of the recycled material to the end users, and the fee structure for this service. This is a complex program which when implemented correctly will be easy for the participating businesses, which will develop cost effective uses for the recycled material, and which will have the added benefit of helping to reduce the residential recycling collection process.

This research will be a full-time endeavor from April 2002 through July 2002.

Staff availability for this scope of work is currently not an option. We propose utilizing contract services to hire an organizational planner to facilitate this expansion of our recycling effort. This contract service would be for the time-period through the anticipated grant award. If we were successful, this position will need to be made permanent; if unsuccessful, the contract would be terminated, unless authorized for extension by the City Council.

STAFF REVIEW FORM

__X__ AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW

FOR: COUNCIL MEETING OF April 16, 2002 **MAYOR'S APPROVAL** _____

FROM:

Kit Williams	Legal	City Attorney
Name	Division	Department

ACTION REQUIRED: An Ordinance to allow a special 30-year anniversary two-day racing event at Thunder Valley Raceway with closing times of 11:30 P.M.

COST TO CITY:

Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used to Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator _____ Administrative Services Director _____

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** _____

Accounting Manager	Date	Internal Auditor	Date
City Attorney	Date 4-4-02	ADA Coordinator	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:

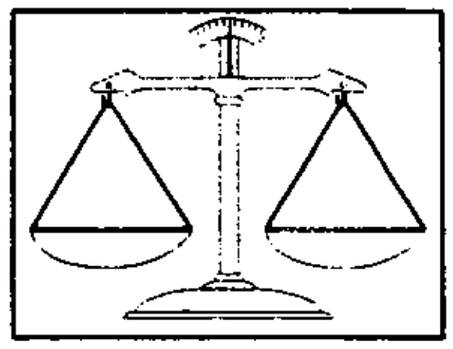
Division Head	Date
Department Director	Date
Administrative Services Director	Date
Mayor	Date 4/4/02

CROSS REFERENCE

New Item: **Yes** No

Previous Ordinance/Resolution No.: _____

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS
KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**
City Council Members

FROM: **Kit Williams**, City Attorney

DATE: **April 4, 2002**

RE: **Variance to allow racing until 11:30 P.M.**
on July 5th & July 6th, 2002

Pursuant to your request at the City Council meeting of April 2, 2002, I have drafted an Ordinance to allow Thunder Valley Raceway to conduct racing until 11:30 P.M. on July 5th and July 6th.

Hopefully the management of Thunder Valley Raceway will continue to operate the track in compliance with our ordinances and come to us early enough so any justifiable variance requests can be properly considered by the City Council. Obviously, the City Council could NOT accommodate Mr. Baker's request to extend racing hours on April 13th. Such a variance of Ordinance 4366 requires passing another ordinance which would not go into legal effect for 31 days (long after the date he requested for a later closing time).

Thank you for agreeing to hear Mr. Baker although he was not on your Agenda. I believed he would only ask to extend the closing hour for the thirtieth anniversary racing event in July, and I needed your guidance about whether or not to draft such an ordinance. I was not aware he would ask for a later closing time on April 13th. I would have told him it was too late for such a request.

ORDINANCE NO. _____

AN ORDINANCE TO ALLOW A SPECIAL 30-YEAR ANNIVERSARY TWO-DAY RACING EVENT AT THUNDER VALLEY RACEWAY WITH CLOSING TIMES OF 11:30 P.M.

WHEREAS, the management of Thunder Valley Raceway has diligently complied with Ordinance #4366 passed February 5, 2002 and operated the track as a good neighbor to the citizens of Fayetteville this year; and

WHEREAS, the management of Thunder Valley Raceway has requested a variance of Ordinance #4366 to allow an extra hour of racing time on July 5th and July 6th, 2002, to allow a special 30th anniversary racing event,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes a one time variance to Ordinance #4366 to allow an extra hour of racing on July 5th and July 6th of 2002, for Thunder Valley Raceway so it can conduct a 30 year anniversary racing event. Therefore, the Thunder Valley Raceway may operate until 11:30 P.M. on July 5th and July 6th, 2002 without being in violation of Ordinance #4366.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby congratulates Thunder Valley Raceway on its thirty years of providing exciting and entertaining car races for our area and wishes Thunder Valley Raceway continued success in the future.

PASSED and **APPROVED** this the 16th day of April, 2002.

APPROVED:

By: _____ DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

ORDINANCE NO. 4366

AN ORDINANCE TO PREVENT INJURY OR ANNOYANCE WITHIN THE CORPORATE LIMITS OF FAYETTEVILLE BY REGULATING MOTOR VEHICLE RACING FACILITIES SO THAT THESE FACILITIES WILL NOT BE NUISANCES

WHEREAS, the City Council of Fayetteville, Arkansas recognizes the value, attraction, and history of motor vehicle racing facilities within and near the corporate limits of Fayetteville; and

WHEREAS, the City Council of Fayetteville, Arkansas recognizes and agrees with the Arkansas State Legislature that motor vehicle racing facilities cause noise, air pollution, and traffic congestion; and

WHEREAS, many citizens have petitioned the City Council to abate a motor vehicle racing facility as a nuisance because of its late hours of operation and loud noise; and

WHEREAS, previous owners and/or operators of this motor vehicle racing facility were enjoined by the Washington County Chancery Court from operating after 10:00 P.M. because the Chancellor held that the facility's "operation after 10:00 P.M. does constitute a nuisance."

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. **Finding of Nuisance and Need for Abatement.**

The City Council of the City of Fayetteville, Arkansas determines and finds that operation of a motor vehicle racing facility is a nuisance to the citizens and city of Fayetteville, Arkansas if operated or used other than as prescribed in Section 2 and, therefore, should be abated by the reasonable regulations required by this ordinance.

Section 2. **Abatement of Nuisance.**

A. All motor vehicle racing facilities shall only be allowed to operate during the period of 10:00 A.M. until 10:30 P.M.

B. Except for any make-up race days allowed in subsection C and any special two-day racing events allowed in subsection D, all motor vehicle racing facilities shall only be allowed to operate one day per week and only during the racing session (within the months of March through October).

C. If a regularly scheduled race day is rained out or otherwise cannot be held, a make-up race day may be held within the following seven days.

D. Special two-day racing events may be held up to five times per racing season in place of the normal one racing day that week.

Section 3. **Jurisdiction of This Ordinance.**

Pursuant to A.C.A. §14-54-103(1), this ordinance to abate a nuisance shall be applicable to any and all motor vehicle racing facilities located within the corporate limits of Fayetteville and for one (1) mile beyond the city limits as prescribed in A.C.A. §14-262-102.

Section 4. **Definitions.**

A. "**Motor vehicle racing facility**" for purposes of this ordinance shall mean any facility designed or used for practicing or for competitive racing by automobiles or trucks which are modified for racing or for practice of competitive racing by motorcycles or other motor vehicles.

B. "Motor vehicle racing facility" does **NOT** include facilities such as Lokomotion which only allows its customers to operate its own low powered and quiet vehicles and operates in such a way that it is not a nuisance.

Section 5. **Penalty.**

A. Any owner, lessor or lessee of real property upon which is located a motor vehicle racing facility and any operator, manager, or promoter of such facility shall ensure such facility is operated within the limits of this

ordinance and shall be guilty of a misdemeanor for any violation of the requirements of this ordinance.

B. Any driver or operator of a motor vehicle upon a motor vehicle racing facility shall be guilty of a misdemeanor if the driver or operator operates his motorized vehicle in violation of any of the terms of this ordinance.

C. Each hour or part thereof in violation of the operational hour limitations of this Ordinance shall constitute a separate violation of this ordinance and shall be punished by a fine up to $500.00.

Section 6. Nothing in this ordinance removes or reduces a property owner's right to sue or seek an injunction against any owner or operator of a motor vehicle racing facility if such facility constitutes a private or public nuisance to that property owner.

PASSED and **APPROVED** this the 5 February day of January, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

Auditors in this week
report -
meetings are canceled
April 10 - quarterly reports

PICC - Sign this week
for [redacted] employees

Effy Grove
170,50 expended
5 this [redacted]
[illegible]

DRAFT TENTATIVE AGENDA
CITY COUNCIL
APRIL 16, 2002

A meeting of the Fayetteville City Council will be held on April 16, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 W. Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES**

2. **TCA BUILDING:** A resolution awarding a bid for renovations to TCA Building to Neil Hefner Construction. Approval of a project contingency in the amount of $15,000.

3. **GARLAND AVE.:** A resolution authorizing the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400.

2:00 PP 219

4. **LIBRARY:** A resolution naming the new Fayetteville Public Library the Blair Memorial Building.

B. OLD BUSINESS

C. NEW BUSINESS

8 12:00 C 185

1. **LEGACY POINTE:** An ordinance approving a waiver of Ordinance 3793 to accept land and money in lieu as the park land requirement of the Legacy Pointe Development.

April 9 Developers Review process at Legacy Training

2. **PARKING VIOLATIONS:** An ordinance increasing the penalty for parking violations to $5.00 if paid before the issuance of a summons, citation, or arrest warrant, and to $25.00 after such notice is issued.

3. **PARKING ENFORCEMENT:** An ordinance changing the hours of parking enforcement on the square to be enforced from 7:00 a.m. to 6:00 p.m. Monday through Friday.

RZ ANT VA Nightclub area

4. **TOWING VEHICLES:** An ordinance allowing towing of vehicles from public parking lots that have been abandoned for forty-eight consecutive hours or more.

Call Center
Person
Tel website

5) Rick - RADIO - TEX. ARK

6) - VEST - Bullet proof

7) SW - Dumas - litter program / recycling expansion.

WW / program manager
see Guy
need w/s committee.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Heather Woodruff**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **April 17, 2002**

RE: **Passed Ordinances and Resolutions from City Council meeting of April 16, 2002**

The following Ordinances and Resolutions were passed at the last City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **TCA Cable Building**: Resolution awarding bid for renovation to TCA Building to Neil Hefner Const in amount of $195,464 and approval of project contingency in amount of $15,000

2. **Garland Avenue**: Resolution authorizing sale of city-owned real estate and construction easement along Garland Avenue to AHTD for contractual amount of $3,400.00

3. **Bulletproof Vests**: Resolution approving grant application w/Department of Justice Bulletproof Vests Partnership Program

4. **Legacy Pointe**: Resolution waiving Ordinance 3793 to accept land and money in lieu as park land requirement

5. **Ellis Development**: Resolution waiving Ordinance 3793 to accept land and money in lieu of park land requirement

6. **Call Center Position**: Resolution approving filling of non-emergency position to take advantage of new software recently purchased and to provide support for Business Office

7. **Organizational Planner**: Resolution authorizing Solid Waste and Recycling divisions to pursue the implementation of commercial glass recycling program

→ CALL CENTER POSITION: RESOLUTION

8. **RZN 02-6.00**: Ordinance approving rezoning request as submitted by Terry Carpenter of US Infrastructure, Inc. for property located at 415 Longview Street

9. **Thunder Valley**: Ordinance allowing special thirty-year anniversary two-day racing event w/closing times of 11:30 P.M. each night

10. **Sidewalk Construction**: Ordinance repealing Section 171.12 of UDO, Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk and adopting replacement Section 171.12 of the UDO

11. **Parking Regulations**: Ordinance amending Chapter 72: Parking Regulations, Code of Fayetteville, to authorize impoundment of vehicles illegally stored in public parking decks and lots, changing parking enforcement hours to 7:00 A.M. to 6:00 P.M. and increasing penalty for parking violations form $2.00 to $5.00

FAYETTEVILLE

will be
Council tour
4:30 - Monday

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA
CITY COUNCIL
APRIL 16, 2002

A meeting of the Fayetteville City Council will be held on April 16, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Nominating Committee Report

A. CONSENT

1. **APPROVAL OF THE MINUTES.**

2. **TCA CABLE BUILDING:** A resolution awarding a bid for renovation to the TCA Building to Neil Hefner Construction in the amount of $195,464 and approval of a project contingency in the amount of $15,000.

3. **GARLAND AVE.:** A resolution authorizing the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400.

4. **BULLETPROOF VESTS:** A resolution approving a grant application with the Department of Justice Bulletproof Vests Partnership Program. This is a four year grant and can be utilized at any time during the four years.

B. OLD BUSINESS

1. ~~RZN 01-6.00~~: An ordinance approving rezoning request RZN 02-6.00 as submitted by Terry Carpenter of US Infrastructure, Inc. for property located at 415 Longview Street. The property is zoned A-1, Agricultural and contains approximately 38.6 acres. The request is to rezone to R-O, Residential Office.

C. NEW BUSINESS

move to consent

1. **LEGACY POINTE:** An ~~ordinance~~ resolution waiving Ordinance 3793 to accept land and money in lieu as the park land requirement for the Legacy Pointe Development.

2. **ELLIS DEVELOPMENT:** An ~~ordinance~~ resolution waving Ordinance 3793 to accept land and money in lieu of the park land requirement for the Ellis Development.

#1 Shadowalley.
#2. Silverwalk Const.

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

3. **RZN 02-7.00:** An ordinance approving rezoning request RZN 02-7.00 as submitted by Lindsey and Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential.

4. **VA 02-1.00:** (correct) An ordinance approving vacation request ~~VA 01-1~~ (wrong) as submitted by Ken ~~and Kathie~~ Marvin for property in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9,10 and 11.

moving to May 7th

5. **PLANNING COMMISSION APPEAL:** Appeal of a Planning Commission Decision regarding LSD 02-7.00 for property located at the southwest corner of Fletcher Avenue and Rodgers Drive.

6. **PARKING VIOLATIONS:** An ordinance increasing the penalty for parking violations from $2.00 to $5.00 to $5.00 if paid before the issuance of a summons, citation, or arrest warrant, and to $25.00 after such notice is issued.

7. **PARKING ENFORCEMENT:** An ordinance changing the hours of parking enforcement on the square to be enforced from 7:00 a.m. to 6:00 p.m. Monday through Friday.

8. **TOWING VEHICLES:** An ordinance allowing the towing of vehicles from public parking lots that have been abandoned for forty-eight consecutive hours or more.

move to consent

9. **CALL CENTER POSITION:** A resolution to approve the filling of the non-emergency call center position to take full advantage of the new software recently purchased and to provide support for the Business Office.

10. **BURNS AND MCDONNELL:** A resolution approving an agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

move to consent

11. **ORGANIZATIONAL PLANNER:** A resolution approving an aggressive litter control program with education, cleanup, and enforcement options, and to assist in the market development analysis and the development of operational plans for commercial glass recycling.

12. **THUNDERVALLEY:** An ordinance allowing a special thirty-year anniversary two-day racing event at Thunder Valley Raceway with closing times of 11:30 p.m.

move to #1 under N.B.

Prop Heather

Baldee

Thanks!
Doug
521-6471

CITY OF FAYETTEVILLE
FINAL AGENDA
CITY COUNCIL
APRIL 16, 2002

A meeting of the Fayetteville City Council will be held on April 16, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

NOMINATING COMMITTEE REPORT

A. CONSENT

1. **APPROVAL OF THE MINUTES.**
2. **TCA CABLE BUILDING:** A resolution awarding a bid for renovation to the TCA Building to Neil Hefner Construction in the amount of $195,464 and approval of a project contingency in the amount of $15,000.
3. **GARLAND AVE.:** A resolution authorizing the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400
4. **BULLETPROOF VESTS:** A resolution approving a grant application with the Department of Justice Bulletproof Vests Partnership Program. This is a four year grant and can be utilized at any time during the four years.
5. **LEGACY POINTE:** A resolution waiving Ordinance 3793 to accept land and money in lieu as the park land requirement for the Legacy Pointe Development
6. **ELLIS DEVELOPMENT:** A resolution waiving Ordinance 3793 to accept land and money in lieu of the park requirement for the Ellis Development.
7. **CALL CENTER POSITION:** A resolution to approve the filling of the non-emergency call center position to take full advantage of the new software recently purchased and to provide support for the Business Office.
8. **ORGANIZATIONAL PLANNER:** A resolution approving an aggressive litter control program with education, cleanup, and enforcement options, and to assist in the market development analysis and the development of operational plans for commercial glass recycling

B. OLD BUSINESS

1. ***RZN 02-6.00:*** *An ordinance approving rezoning request RZN 02-6.00 as* submitted by Terry Carpenter of US Infrastructure, Inc for property located at 415 Longview Street The property is zoned A-1, Agricultural and contains approximately 38.6 acres The request is to rezone to R-O, Residential Office

C. NEW BUSINESS

1. **THUNDER VALLEY:** An ordinance allowing a special thirty-year anniversary two-day racing event at Thunder Valley Speedway with closing times of 11:30 p.m.
2. **SIDEWALK CONSTRUCTION:** An ordinance repealing Section 171.12 of the UDO, Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk, and adopting a replacement Section 171.12 of the UDO.
3. **RZN 02-7.00:** An ordinance approving rezoning request RZN 02-7.00 as submitted by Lindsey and Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres The request is to rezone to RMF-12, Moderate Density Family Residential.
4. **VA 02-1.00:** An ordinance approving vacation request VA 02-1.00 as submitted by Ken and Kathie Marvin for property in Rochier Heights Subdivision The request is to vacate the alley between Lots 8, 9, 10 and 11.
5. **PARKING REGULATIONS:** An ordinance amending Chapter 72 Parking Regulations, Code of Fayetteville, to authorize the impoundment of vehicles illegally stored in public parking decks and lots, changing parking enforcement hours to 7:00 a.m. to 6:00 p.m. and increasing the penalty for parking violations from $2.00 to $5.00
6. **BURNS AND MCDONNELL:** A resolution approving an agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

file with Agenda Pack 4-16-02

ACREAGE TABLE	
LOT #	ACRES
1	.28
2	.21
3	.21
4	.21
5	.21
6	.25
7	.48
8	.22
9	.24
10	.24
11	.24
12	.24
13	.24
14	.23
15	.26
16	.28
17	.26
18	.31
19	.50
20	.38
21	.26
22	.22
23	.22
24	.22
25	.22
26	.22
27	.33
28	.24
29	.24
30	.24
31	.24
32	.24
33	.32
34	.26
35	.25
36	.24
37	.24
38	.24
39	.24
40	.24
41	.29
42	.27
43	.23
44	.26
45	.42
46	.31
47	.25
48	.55
49	.22
50	.24
51	.24
52	.24
53	.22
54	.24
55	.29
56	.22
57	.22
58	.22
59	.22
60	.22
61	.22
62	.22
63	.27
64	.31
65	.28
66	.22

ACREAGE TABLE	
LOT #	ACRES
67	.21
68	.23
69	.26
70	.31
71	.35
72	.40
73	.45
74	.34
75	.27
76	.30
77	.31
78	.33
79	.26
80	.24
81	.24
82	.24
83	.25
84	.36
85	.33
86	.25
87	.32
88	.29
89	.29
90	.25
91	.22
92	.22
93	.22
94	.22
95	.22
96	.22
97	.22
98	.22
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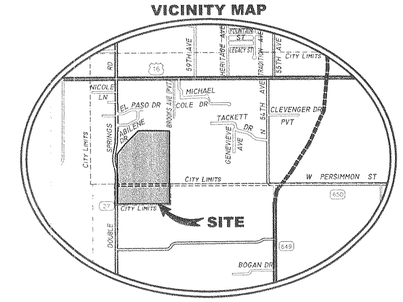
100	.29
101	.22
102	.22
103	.23
104	.22
105	.22
106	.22
107	.22
108	.22
109	.22
110	.38
111	.25
112	.33
113	.36
114	.25
115	.25
116	.25
117	.23
118	.30
119	.28
120	.23
121	.26
122	.22
123	.22
124	.22
125	.33
126	.33
127	.22
128	.22
129	.22
130	.25
131	.25
132	.36
133	1.58

VICINITY MAP



FAYETTEVILLE, ARKANSAS

LEGEND

- BOUNDARY CORNER
- LOT CORNER
- STREET LIGHT
- FIRE HYDRANT
- SEWER MANHOLE
- EX. SEWER MANHOLE
- UTILITY EASEMENT
- BUILDING SETBACK
- STREET CENTERLINE
- NEW WATERLINE
- EX. WATERLINE
- NEW SEWER LINE
- EX. SEWER LINE
- STORM DRAINAGE
- NEW SIDEWALK

GRAPHIC SCALE

100 0 50 100 200 400

(IN FEET)
1 inch = 100 ft.

DEVELOPER:

SLOAN PROPERTIES, INC.
3459 KNOTTINGHAM PLACE
FAYETTEVILLE, AR 72703
(479) 444-8404

OWNERS:

CONLEY & VIRGINIA WORLEY
6316 WEDINGTON DRIVE
FAYETTEVILLE, AR 72703

GERALD & IRENE GRISCOM
24170 MILL ROAD
SUMMERS, AR 72769-9795

SYLVESTER & CAROL GUIST
434 NORTH DOUBLE SPRINGS ROAD
FAYETTEVILLE, AR 72703

ENGINEER:

JORGENSEN & ASSOCIATES
CONSULTING ENGINEERS, INC.
124 WEST SUNBRIDGE SUITE 5
FAYETTEVILLE, AR 72703
(479) 442-9127

STREET CENTERLINE CURVE TABLE				
CURVE	RADIUS	DELTA	TANGENT	LENGTH
1	500.00'	18°59'45"	83.65	165.77'
2	500.00'	18°59'45"	83.65	165.77'
3	500.00''	18°59'45"	83.65	165.77'
4	500.00'	18°59'45"	83.65	165.77'
5	250.00'	18°59'45"	41.83	82.89'
6	350.00'	15°15'37"	46.89	93.22'
7	150.00'	19°21'41"	25.59	50.69'
8	150.00'	49°36'10"	69.31	129.86'
9	150.00'	49°36'10"	69.31	129.86'
10	150.00'	90°	150.00	235.62'

PLAT PAGE: #435 & #474

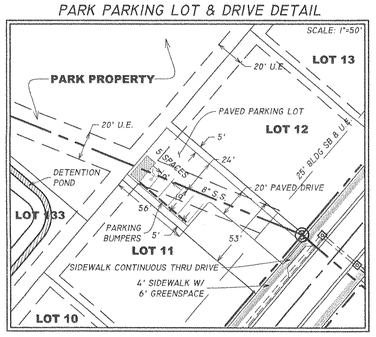
STREET	RIGHT-OF-WAY	STREET WIDTH	SIDEWALK	GREENSPACE
Persimmon Street	70'	28'	6'	15'
Grays Gap Road	50'	28'	4'	6'
Greens Chapel Road	50'	28'	4'	6'
Monroe Station	50'	28'	4'	6'
Millikens Bend	50'	28'	4'	6'
Brandy Station	50'	28'	4'	6'
Rocky Crossing	50'	28'	4'	6'
Double Springs Road	VARIES	14'*	6'	10'

*STREET WIDTH TAKEN FROM CENTERLINE.

OWL CREEK SUBDIVISION PROPERTY OWNERS BY LOT NUMBER:

LOT 4 - SAM WHITE; 6345 ABILENE DRIVE; FAYETTEVILLE, AR 72704
LOT 5 - RICHARD PHILLIPS; 6307 ABILENE DRIVE; FAYETTEVILLE, AR 72704
LOT 6 - RICHARD PHILLIPS; 6307 ABILENE DRIVE; FAYETTEVILLE, AR 72704
LOT 7 - ROBERT ERICSON; 6283 ABILENE DRIVE; FAYETTEVILLE, AR 72704
LOT 8 - HISAYA HYONO; 6271 ABILENE DRIVE; FAYETTEVILLE, AR 72704

PARK PARKING LOT & DRIVE DETAIL



LEGAL DESCRIPTION:

PART OF THE SE1/4 OF THE SE1/4 OF SECTION 10, ALSO PART OF THE NE1/4 OF THE NE1/4 OF SECTION 15 ALL IN T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NE CORNER OF SAID NE1/4, NE1/4 THENCE S00°09'50"W 328.42 FEET, THENCE S00°10'21"E 165.63 FEET, THENCE S89°33'51"W 949.79 FEET, THENCE NORTH 165.64 FEET, THENCE S89°33'51"W 331.95 FEET TO THE EAST RIGHT OF WAY OF DOUBLE SPRINGS ROAD, THENCE N00°00'56"W 327.70 FEET, THENCE N89°31'44"E 15.93 FEET, THENCE N00°49'39"E 219.39 FEET, THENCE N03°21'33"W 94.96 FEET, THENCE N°08'00"W 162.43 FEET, THENCE N10°32'51"W 176.56 FEET, THENCE N00°02'28"W 80.53 FEET, THENCE N31°53'43"W 63.33 FEET, N22°00'27"E 43.92 FEET, N00°24'29"W 70.00 FEET, THENCE N89°35'31"E 47.67 FEET, THENCE N43°36'46"E 183.14 FEET, THENCE N45°08'49"E 438.56 FEET, THENCE N88°37'31"E 153.82 FEET, THENCE S89°20'05"E 638.81 FEET, THENCE SOUTH 1321.30 FEET TO THE P.O.B.; CONTAINING 49.80 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

FLOOD PLAIN NOTE:

THIS PROPERTY IS AFFECTED BY THE 100 YEAR FLOOD PLAIN AS PER FIRM #05143C0087D DATED 07-21-99 AND AS SHOWN ON THIS PLAT.

ZONING:

R-1 = 41.06 ACRES
RMF-6 = 8.74 ACRES

INTENDED USE:

LOTS 1-6 & 22-132 = SINGLE FAMILY (108 LOTS)
LOTS 7-21 & 33-41 = DUPLEX (24 LOTS)

NOTES:

1.) THERE ARE NO KNOWN WETLANDS ON THIS PROPERTY.

2.) EXISTING HOUSE ON LOT 76 TO REMAIN. ALL OTHER STRUCTURES INCLUDEING HOUSE, BARN AND SHEDS ON THIS PROPERTY TO BE REMOVED.

3.) ALL PROPOSED WATERLINES SHALL BE 8".

4.) LOT 133 (DETENTION POND) SHALL BE MAINTAINED BY THE P.O.A.

5.) TRUCK ACCESS WILL BE PROVIDED FOR MANHOLES BETWEEN LOTS 92-106 & 93-105. FINAL LOCATION AND MATERIALS TO BE SHOWN ON CONSTRUCTION PLANS.

6.) TWO SIDEWALK ACCESS RAMPS WILL BE INSTALLED AT EACH STREET CORNER.

7.) ALL UTILITY CROSSING SHALL BE 6 - 4" PVC PIPES BURIED MINIMUM 42" DEEP.

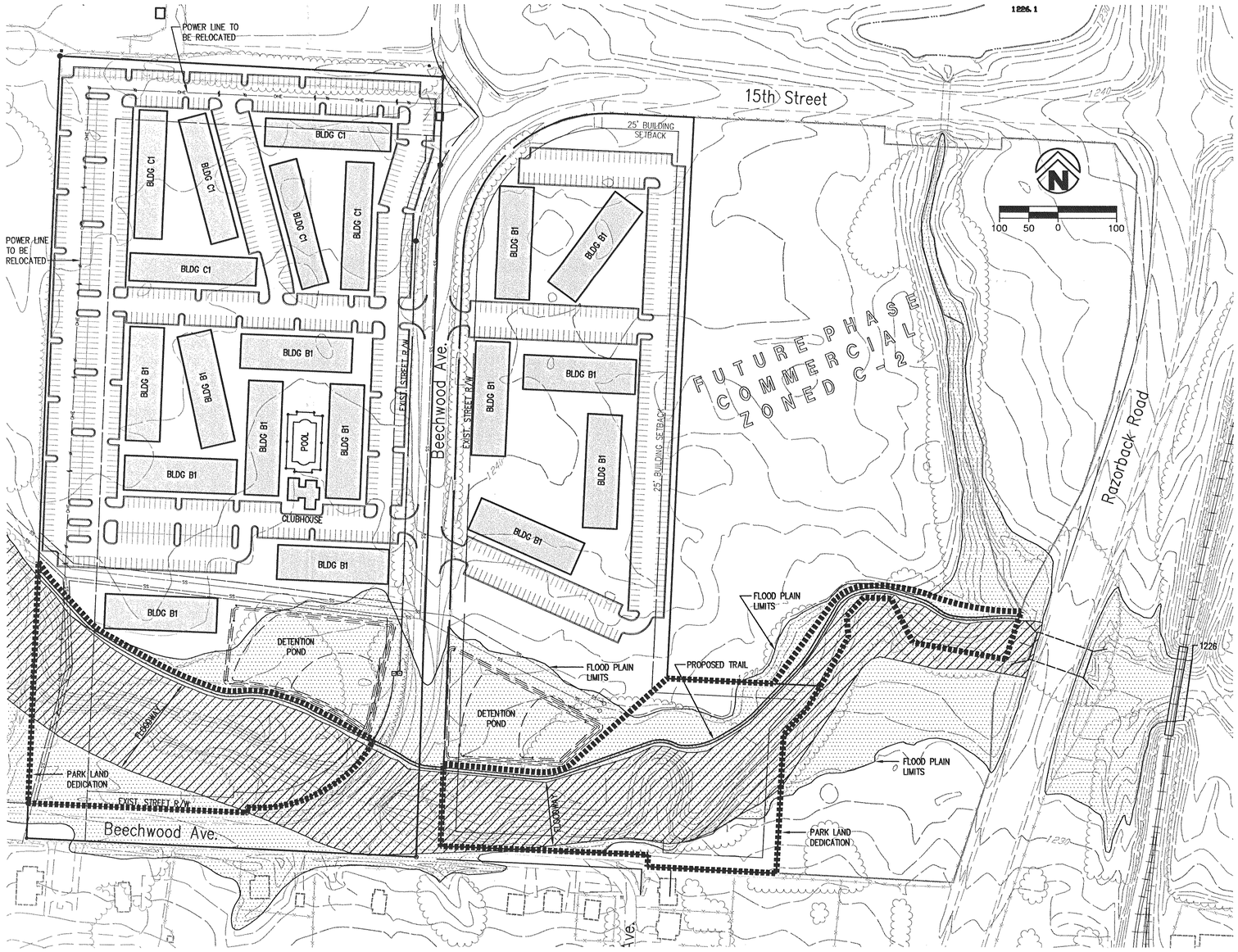
DRAWN BY: CBB
C:\SLOAN\DBLSPRINGS.DWG
CHECKED BY: DLJ
DATE REVISED: 18MAR02
SCALE: 1"=100'
DATE: 15FEB02

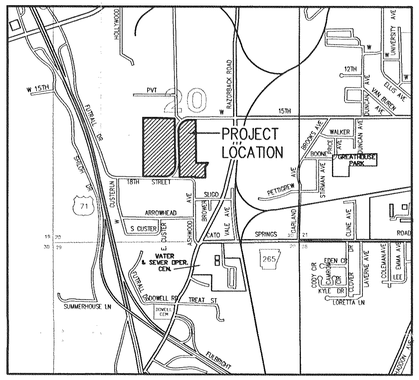
LEGACY POINTE
PRELIMINARY PLAT

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS
124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 521-2427

file with
agenda pk
4-16-02
waiver of ord.
3793

MULTI FAMILY DEVELOPMENT
FAYETTEVILLE, ARKANSAS





VICINITY MAP

ZONING: R-2 (PROPERTY IS WITHIN FAYETTEVILLE CITY LIMITS)

MULTI FAMILY DEVELOPMENT: 480 UNITS

TOTAL ONSITE ACRES: 29.97 ACRES
PROPOSED PARK LAND DEDICATION: 6.65 ACRES

ENGINEER:

CRAFTON, TULL & ASSOCIATES, INC.
901 N. 47th STREET, SUITE 200
ROGERS, ARKANSAS 72756
PHONE: (479)636-4838

OWNER/DEVELOPER:

ELLIS BUSINESS CONSULTANTS, L.L.C.
46 TIMBER CREEK DRIVE
CORDOVA, TN 38018
PHONE: (901)758-1411

THIS PLAN IS FOR CONCEPT ONLY AND IS NOT INTENDED FOR USE AS A CONSTRUCTION DRAWING.

Crafton, Tull & Associates, Inc.
Architects, Engineers & Surveyors
901 N. 47th St., Suite 200
Rogers, Arkansas 72756
Phone: 479-636-4838
www.craftull.com

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CONCEPT PLAT
FOR
JOHN ELLIS

FAYETTEVILLE, ARKANSAS

Revisions

CONCEPT PLAN

Drawn by	Job Number
RLK	013026-01
Checked by	Contact Person
	J. Kelso
Date	Sheet Number
March 2002	

Time: 2:52 pm
Scale: 1=100 (PS)
Date: 4/1/2002
Drawing Name: 013026-01\eng\concept\concept3.dwg (rkunc)