FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
CITY COUNCIL
SEPTEMBER 3, 2002

A meeting of the Fayetteville City Council will be held on September 3, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

A. CONSENT

1. APPROVAL OF THE MINUTES

2. BID 02-44: A resolution awarding Bid 02-44 to Missco Corporation for furniture for the TCA Building in the amount of $51,858.52 plus tax and a 5% contingency.

3. COMMUNITY DEVELOPMENT: A resolution approving a budget adjustment in the amount of $250,000.00 and a budget adjustment policy for the Community Development section.

4. PCS PROPERTIES: A resolution approving an agreement with Southwest PCS Properties for the lease of tower space on the Sang water tank. The proposed lease amount is $1,500 per month with an initial term of five years.

5. BID 02-48: A resolution awarding Bid 02-48 and approving a contract with Arkansas Valley Irrigation and Landscaping in the amount of $55,000, plus a 10% project contingency of $5,500 for a total cost of $60,500.

6. BID 02-49: A resolution awarding Bid 02-49 and approval of a contract with Revelle Irrigation Systems in the amount of $22,700, plus a project contingency of $3,400 for a total cost of $26,100.

7. HAY GROUP: A resolution amending the 2002 Budget authorizing the employment of the Hay Group for work associated with personnel issues and for other purposes.

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

8. **SKATE PARK:** A resolution approving an agreement with Tony Hawk Foundation. The Foundation will provide a $5,000 grant to the Fayetteville Skate Park upon receiving the signed agreement.

9. **HWY 180:** A resolution affirming that the City of Fayetteville shall assume responsibility for the entire section of Highway 180 upon completion of the improvements from Township to Futrall.

B. OLD BUSINESS

1. **RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen on behalf of Larry Garriott for property located north of Persimmon Street and west of 46th Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was tabled on the second reading at the August and August 20, 2002 meetings.

2. **OFF STREET PARKING:** An ordinance amending Section 172.01, Off-Street Parking Lot Design Requirement, of the UDO to provide a method for reducing off-street parking requirements for properties that share a common parking facility and to revise parking ratios for certain uses. Ordinance was left on the first reading at the August 20, 2002 meeting.

3. **OUTDOOR LIGHTING:** An ordinance that minimizes the impact of outdoor lighting on adjacent properties and improves nighttime visibility. Ordinance was left on the first reading at the August 20, 2002 meeting.

4. **RZN 02-21.00:** An ordinance approving rezoning request RZN 02-21.00 as submitted by Dixie Development for property located at 10 Bishop Drive and 35 Appleby Road. The property is zoned A-1, Agricultural and contains approximately 17.39 acres. The request is to rezone to R-O Residential Office. The ordinance was left on the second reading at the August 20, 2002 meeting.

5. **RZN 02-22.00:** An ordinance approving RZN 02-22.00 as submitted by Tom Shackelford for property located at 2975 Old Farmington Road. The property is zoned A-1, Agricultural and contains approximately 1.32 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the August 20, 2002 meeting.

6. **AUTOMATED CARTS:** An ordinance establishing the rate structure and program parameters for an automated cart based on residential trash collection and disposal program. The ordinance was left on the first reading at the August 20, 2002 meeting.

7. **LOPFI 2:** A resolution moving the City of Fayetteville Police LOPFI retirement benefits from Plan 1 to Plan 2 as of October 1, 2002. The resolution was tabled at the August 20, 2002 meeting.

C. NEW BUSINESS

1. **RZN 02-8.00:** An ordinance approving rezoning request RZN 02-8.00 as submitted by Bob Hill of Nickle Hill Group on behalf of J.C. and Alma Nickell for property located at 867 N. College. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-1, Neighborhood Commercial.

2. **RZN 02-24.00:** An ordinance approving rezoning request RZN 02-24.00 as submitted by Phil Hagen of Crafton Tull and Associates on behalf of Don Nelms for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.

3. **RZN 02-25.00:** An ordinance approving rezoning request RZN 02-25.00 as submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential.

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5. **PUBLIC TRANSIT AUTHORITY:** An ordinance authorizing the City of Fayetteville to become a part of a Public Transit Authority to be known as the Ozark Transit Authority and confirming an interlocal agreement to be signed by the Mayor.

Sept 3, 2002

Meeting of ~~March 19, 2002~~

	2002				
SANTOS	✓				
JORDAN	✓				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
MARR	✓				
BECHARD	✓				
DAVIS	✓				
COODY	✓				

Consent	KSRR				
SANTOS	✓				
JORDAN	✓				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
MARR	✓				
BECHARD	✓				
DAVIS	✓				
COODY					

Meeting of March 19, 2002

RZN 02-1500	ICS BD. 3RD	DA-52			
SANTOS	✓	✓			
JORDAN	✓	✓			
REYNOLDS	✓	✓			
THIEL	✓	✓			
YOUNG	✓	✓			
MARR	✓	✓			
BECHARD	✓	✓			
DAVIS	✓	✓			
COODY					
		5-3.			

OFF-ST. PARKING	DM 2ND BD.	BD Amend. TB.	Re BD 3RD TB	PASS	
SANTOS	✓	✓	✓	✓	
JORDAN	✓	✓	✓	✓	
REYNOLDS	✓	✓	✓	✓	
THIEL	✓	✓	✓	✓	
YOUNG	✓	✓	✓	✓	
MARR	✓	✓	✓	✓	
BECHARD	✓	✓	✓	✓	
DAVIS	✓	✓	✓	✓	
COODY					
		7-1			

Meeting of March 19, 2002

OUTDOOR PARKING	BD ORD REV.				
SANTOS	✓				
JORDAN	✓				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
MARR	✓				
BECHARD	✓				
DAVIS	✓				
COODY					
	Sent	to ORD REVIEW Committee			

RZN 02-21.	BD TB. 3LO.				
SANTOS	✓	✓			
JORDAN	✓	✓			
REYNOLDS	✓	✓			
THIEL	✓	✓			
YOUNG	✓	✓			
MARR	✓	✓			
BECHARD	VA ABSTAIN	A			
DAVIS	✓	✓			
COODY					

Meeting of March 19, 2002

RZN 02-22	BD ICS 3RD	2ND			
SANTOS	✓	✓			
JORDAN	✓	✓			
REYNOLDS	✓	✓			
THIEL	✓	✓			
YOUNG	✓	✓			
MARR	✓	✓			
BECHARD	✓	✓			
DAVIS	✓	✓			
COODY					

Automobile Courts	KS 2ND LS	BT Amend. CY B.Z.	BT amend 9/12:00 DM 13-1 11:00		
SANTOS	✓	✓	✓		
JORDAN	✓	✓	✓		
REYNOLDS	✓	✓	✓		
THIEL	✓	✓	✓		
YOUNG	✓	✓	✓		
MARR	✓	✓	✓		
BECHARD	✓	✓	✓		
DAVIS	✓	✓	✓		
COODY					
			6-2.		

left on 2ND as amended.

Meeting of March 19, 2002

COPY 2.		removed from table 1-28 to pass			
SANTOS	✓	✓			
JORDAN	✓	✓			
REYNOLDS	✓	✓			
THIEL	✓	✓			
YOUNG	✓	✓			
MARR	✓	✓			
BECHARD	✓	✓			
DAVIS	✓	✓			
COODY					
		7-1-0	Richard left		10:15

RZN 02-8.00					
SANTOS					
JORDAN					
REYNOLDS					
THIEL					
YOUNG					
MARR					
BECHARD					
DAVIS					
COODY					
	left in 1st mtg.				

Meeting of March 19, 2002

R2002-23					
SANTOS					
JORDAN					
REYNOLDS					
THIEL					
YOUNG					
MARR					
BECHARD					
DAVIS					
COODY					
	left on 1st.				

R2002-24					
SANTOS					
JORDAN					
REYNOLDS					
THIEL					
YOUNG					
MARR					
BECHARD					
DAVIS					
COODY					
	left on 1st				

Meeting of ~~March~~ 9/3 19, 2002

PZ 2-25	BT LG				
SANTOS	✓				
JORDAN	✓				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
MARR	✓				
BECHARD	absent				
DAVIS	✓				
COODY					
	Left on 2ND reading.				

PUBLIC HEARING	BD 2ND ICS				
SANTOS	✓				
JORDAN	✓				
REYNOLDS	✓				
THIEL	✓				
YOUNG	✓				
MARR	✓				
BECHARD	absent				
DAVIS	✓				
COODY					

Meeting adjourned 11:00 pm

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
CITY COUNCIL
SEPTEMBER 3, 2002

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PASS **A. CONSENT**

1. APPROVAL OF THE MINUTES

RES. ...-02 **2. BID 02-44:** A resolution awarding Bid 02-44 to Missco Corporation for furniture for the TCA Building in the amount of $51,858.52 plus tax and a 5% contingency.

RES. ...-02 **3. COMMUNITY DEVELOPMENT:** A resolution approving a budget adjustment in the amount of $250,000.00 and a budget adjustment policy for the Community Development section.

RES. ...-02 **4. PCS PROPERTIES:** A resolution approving an agreement with Southwest PCS Properties for the lease of tower space on the Sang water tank. The proposed lease amount is $1,500 per month with an initial term of five years.

RES. ...-02 **5. BID 02-48:** A resolution awarding Bid 02-48 and approving a contract with Arkansas Valley Irrigation and Landscaping in the amount of $55,000, plus a 10% project contingency of $5,500 for a total cost of $60,500.

RES. ...-02 **6. BID 02-49:** A resolution awarding Bid 02-49 and approval of a contract with Revelle Irrigation Systems in the amount of $22,700, plus a project contingency of $3,400 for a total cost of $26,100.

RES. ...-02 **7. HAY GROUP:** A resolution amending the 2002 Budget authorizing the employment of the Hay Group for work associated with personnel issues and for other purposes.

113 WEST MOUNTAIN 72701 479-621-7700
FAX 479-575-8257

8. **SKATE PARK:** A resolution approving an agreement with Tony Hawk Foundation. The Foundation will provide a $5,000 grant to the Fayetteville Skate Park upon receiving the signed agreement.

9. **HWY 180:** A resolution affirming that the City of Fayetteville shall assume responsibility for the entire section of Highway 180 upon completion of the improvements from Township to Futrall.

B. OLD BUSINESS

1. **RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen on behalf of Larry Garriott for property located north of Persimmon Street and west of 46th Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was tabled on the second reading at the August and August 20, 2002 meetings.

2. **OFF STREET PARKING:** An ordinance amending Section 172.01, Off-Street Parking Lot Design Requirement, of the UDO to provide a method for reducing off-street parking requirements for properties that share a common parking facility and to revise parking ratios for certain uses. Ordinance was left on the first reading at the August 20, 2002 meeting.

3. **OUTDOOR LIGHTING:** An ordinance that minimizes the impact of outdoor lighting on adjacent properties and improves nighttime visibility. Ordinance was left on the first reading at the August 20, 2002 meeting.

4. **RZN 02-21.00:** An ordinance approving rezoning request RZN 02-21.00 as submitted by Dixie Development for property located at 10 Bishop Drive and 35 Appleby Road. The property is zoned A-1, Agricultural and contains approximately 17.39 acres. The request is to rezone to R-O Residential Office. The ordinance was left on the second reading at the August 20, 2002 meeting.

5. **RZN 02-22.00:** An ordinance approving RZN 02-22.00 as submitted by Tom Shackelford for property located at 2975 Old Farmington Road. The property is zoned A-1, Agricultural and contains approximately 1.32 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the August 20, 2002 meeting.

6. **AUTOMATED CARTS:** An ordinance establishing the rate structure and program parameters for an automated cart based on residential trash collection and disposal program. The ordinance was left on the first reading at the August 20, 2002 meeting. Amended.

7. **LOPFI 2:** A resolution moving the City of Fayetteville Police LOPFI retirement benefits from Plan 1 to Plan 2 as of October 1, 2002. The resolution was tabled at the August 20, 2002 meeting.

C. NEW BUSINESS

1. **RZN 02-8.00:** An ordinance approving rezoning request RZN 02-8.00 as submitted by Bob Hill of Nickle Hill Group on behalf of J.C. and Alma Nickell for property located at 867 N. College. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-1, Neighborhood Commercial.

2. **RZN 02-23.00:** An ordinance approving rezoning request RZN 02-23.00 as submitted by Jerry Kelson of Crafton Tull and Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential.

3. **RZN 02-24.00:** An ordinance approving rezoning request RZN 02-24.00 as submitted by Phil Hagen of Crafton Tull and Associates on behalf of Don Nelms for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.

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OLD Council committee

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Meeting adjourned. 11:00 P.M.

CLEBURN STREET (ASPHALT)

5'R

5'R

5'R

30.0'

27'

ORIGINAL NW COR. BLOCK 12

ASPHALT

S89°55'47"E

1

2

2

2

5.00'

10.1'

30.1'

CONCRETE

160.25'

6.0'

ASPHALT

24'

CONCRETE PARKING

165.25'

9.75'

ORIGINAL NE COR. BLOCK 12

LIGHT POLE

SIGN POST

227.85'

CURVE 'A'

30.7'

2'

28.0'

18.5'

OVERHANG

23.4'

2.9'

21.2'

50.77'

1 STORY BLOCK BUILDING

(1)

24'

64.3'

2

31.2'

2.0'

28.1'

25.0'

CONCRETE PARKING

24.2'

S14°53'16"W

27'

S89°55'47"E

4.14'

39.5'

146.86'

0.6'

0.6'

151.00'

3.81'

S89°55'47"E

S14°53'16"W

41.61'

5' STREET VACATION AS PER CITY ATLAS ORDINANCE NO. 964

N75°06'44"W

6.00'

75.00'

(2)

ARD AVENUE (ASPHALT)

E (ASPHALT)

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
JULY 30, 2002**

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

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

WATER SERVICE AREA: A resolution to modify the existing exclusive water service area line between Fayetteville and Springdale to transfer approximately 340 acres in the City of Johnson into Springdale's service area. The item was tabled at the July 16, 2002 meeting.

Mr. Woody Bassett stated there were a lot of good reasons why this resolution should be passed. They felt it would be a win win situation for everyone.

Mr. Boettcher stated they had received a response from Springdale. They stated they would work with them on creating territories as it best suites the municipality. Renee Langston called him on Monday and was willing to met this week. He thought they needed to study this with the utility maps. He thought it would be a time consuming process and not something that they could do in a week.

Alderman Young asked how soon the process would get started.

Mr. Boettcher stated it would be as the need arose or if there was a specific time line that the council would like to see them meet.

Alderman Young stated he would like to see them get together immediately so that this did not happen again.

Mr. Boettcher stated they would meet in the future and decided what was best, so they would know in advance.

Alderman Marr stated it made more sense for a person to receive their water and sewer bill from the same person. He also thought it would be very costly for the city to extend their water lines to this area.

Alderman Marr moved to approve the resolution to modify the existing water service line as shown. Alderman Reynolds seconded. Upon roll call the motion carried unanimously.

RESOLUTION 117-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

IMPACT FEE STUDY: Duncan Associate's presentation of the Final Impact Fee Study: Wastewater, Water, and Roads, including update of the existing Parkland Dedication and Fee-in-Lieu requirements.

Mr. Conklin introduced Jim Duncan and Eric Damon Kelly. They were here to present the final study for the impact fees. The study included roads, water, and wastewater. It also included an update to their existing parkland dedication.

Mr. Duncan presented their final impact fee study. An impact fee was a one time charge. Up front charge on development to pay for the cost of certain facilities and services. It was not reoccurring and it was not a tax. An impact fee if it deemed to be anything like a tax is ruled illegal. It is assessed only on new development. Existing development did not pay an impact fee. The two different times they were assessed was building permits or water meter. Water and sewer were normally assessed when they hooked up water meter. All other types of impact fees where normally assessed at building permit. There were a few that were assessed at plating subdivision stages. An impact fee had to be calculated based upon studies and had to reflect the actual cost of growth. Impact fees had to be used for capital improvements. They could not be used for operations or maintenance or administrative fees.

Fayetteville's population was expected to double in the next twenty two years. There were approximately 580 unites per year. They had a growth that merited looking at impact fees. The history of this project, feasibility had been completed in April of 2001. They had completed a draft of a waste water study in October of 2001. They did a draft of a road and park study that was delivered in January 2002. They did a final impact fees that was presented in April of 2002. The council now needed to decide on whether or not to proceed with any of the adoptions of any of the impact fees and the appropriate ordinances to implement them. He presented a summary of the study.

Alderman Davis asked if there was an existing subdivision which was only fifty percent full, would someone building a new house have to pay the fee.

Mr. Duncan stated the park fee was only applicable at subdivision.

Mr. Kelly, Duncan and Associates stated water and waste water would be a policy issue. An infill development near down town, the typical methodology was to assume that the existing infrastructure was built to serve something on that lot at some time. They would never propose to charge for that. When they got into a new subdivision on the edge of town that when through subdivision approval before impact fees were adopted, but not all of the houses were built, then there was a policy issue on how they wanted to treat it.

Alderman Davis stated most of their development already have their water and sewer. They were going to have storm drainage, curb and gutter and their street lay out. They were just waiting for the person to come in and build their home on the lot.

Mr. Kelly stated the impact fees were not to pay for those things that were laid into the development. They were to pay for the expansion of their plants and water system, the major lines that connect to the plant and the expansion of the sewer treatment plant and the sewer lines. They could not double charge. They could not charge the developer to lay the lines and charge him a fee. The fees were calculated on the basis of the system wide facilities.

Alderman Young questioned if a subdivision had been approved and half of the houses were built, but only half were occupied. Would new people moving in be assessed fees?

Mr. Kelly stated fees were normally assessed at the time of hook up or at the time of the issuance of the building permit.

In response to questions, Mr. Duncan stated if there was a subdivision in process and not totally developed, if they wanted not to charge them they did not have to, it was policy. They would need to be consistent. The roads within the subdivision was not being calculated into the fee. All this fee was for arterials that got them to the subdivision. Developers were still responsible for building roads within the subdivision. It seemed to him that most of the council's concerns were transitional concerns. Their park fee in lieu was already there, it was just a modest increase. If they wanted to phase in the water and sewer they could do that.

Alderman Bechard asked how many cities had impact fees.

Mr. Kelly stated it varied on where they were. He did not know exactly. In Florida, approximately 99% of the cities and counties had impact fees. It was a fast growing fees and retirees had resisted any other funding source. Any community that was growing at a rate, like Fayetteville, or greater the number is over 80-90%.

Mr. Duncan stated he had never worked in a city that had no water or sewer system development charge of any kind. Most of the communities have had those fees for twenty to twenty-five years. The park fees tended to go back that far to. Road fees were a lot more recent and they would see those in the rapid growing communities.

Alderman Bechard stated they had stated what they did was base it on cost, a cost to use. To him that was a principle that they would undertake as a city. Where would they stop that? He lived in a new subdivision so the amount of time they were going to spend fixing his roads would be minimal compared to a subdivision that has been around for twenty to twenty-five years. If they were going to use this cost to use, they needed to up an impact fee in place for those older subdivisions where there are higher cost in maintaining.

Mr. Duncan replied that was not what they were talking about. What they were talking about was when his vehicle left the subdivision and went out and mingled with everybody else in the community and used common, arterial, roads to get from one point to other. Impact fees are one of the strongest pro-growth tools in the country. Impact

fees did not slow down growth. Impact fees subsides growth. They provide the water and wastewater facilities that make growth happen. It was a fiscal measure that kept the fiscal burden off existing residents.

Mr. Kelly stated the economic logic behind impact fees was three fold. There was some evidence from economic studies that part of the cost was charged back to the land seller. The landowners were profiting from selling land that was originally acquired for agricultural or passive uses. They were converting that to a much higher value, through land development. The availability of public utilities was part of that value. Through this charge, developers to the extent that the market was competitive, would say that they had to pay less for the land. The second part of it was that they were dealing with people who were in the business of developing land and houses to make money. It was different to add a cost into their doing business, than it was to charge someone for the use of a social service such as the library or senior center. The third part of it was that this was a capital investment. The facilities that they have add to their value of their home.

Alderman Santos stated impact fees were to be used to build new infrastructure and not for maintaining existing infrastructure.

In response to questions Mr. Duncan stated his reference to "based on cost" meant that they had to base it on the cost to the community to provide that facilities.

In response to questions, Mr. Duncan stated they had tracked the amount of money that they have been spending through other sources. When they did a road fee they tried to figure out how much money had gone into the gasoline tax at the pump and how much of that came back to the community to be spent on roads. They had to deduct the fee by that. In many cases there were bond issues out that was improving roads or parks and they had to deduct that.

Mr. Kelly stated much of the sales tax that they paid every year went into paying operational expense into the city. They had tried to calculate in the portion that has been going toward capital expenditures and calculated that back as a credit. The maximum possible fee that they were giving them has already given them those credit. It was the difference between what these people would be paying directly and what it was going to cost.

Alderman Santos stated they calculated the true impact fee, and then they subtract all of the tax that went towards that. What was left was the fee that they would need to charge. In response to questions, Mr. Duncan stated there were various ways that they could distribute water and waste water. There were some communities that had it by the number of bathrooms for single family.

Mr. Kelly stated the legal requirement was for proportionality. Utility people like to do it on meter sizes. This method was actually better.

Alderman Davis stated they were looking at square footage. There were a lot of people who had a large number of people in a smaller home than in a larger home.

Mr. Duncan stated the courts had been very comfortable in looking at housing size as a determinate in impact fees.

Mr. Williams stated there had only been one case in Arkansas where they looked directly at water and sewer impact fees. In that case, the city of Marion had just chosen a single fee of $950. They did not have graduated fees there. The court did not say that they could not have graduated fees. The courts did sanction and say that was constitutional was the $950 fee for every kind of residence.

Mr. Kelly stated that they had done this kind of analysis.

Alderman Davis asked if the University was exempt from the impact fees.

Mr. Williams stated the university was a higher entity and they did not have to follow the rest of their development process. He did not know how they would be able to apply impact fees to the university.

Mr. Duncan stated in most communities that had a university, they normally did not have a problem with the water and wastewater. If they needed your service they would figure out some way to participate.

Mr. Conklin stated in the past the university have not gone through their city process.

In response to question from Alderman Davis, Alderman Santos stated the university was looking to add six hundred beds and four building.

Alderman Davis stated they were in essence giving the university an advantage over the developer.

Alderman Young asked if they would have to give credits for right-of-way and what would they be.

Mr. Duncan stated road fees were comprised of two different components. The land and right-of-way and the improvements. The right-of-way usually ran about 25%. All communities usually require the dedication of right-of-way, then they adopt the a road fee which only paid for the asphalt. He added both their attorney and the city's attorney had questions about the legalities of road fees in the state of Arkansas.

Alderman Thiel stated if the park fee was just an adjustment of increasing the value of the land, then the Parks board could make that recommendation to the council. That did not even need to be a part of this.

Mr. Duncan stated it was two things. They were also adjusting the people per unit based upon the 2000 census. Then applying the new numbers to the current cost of the land.

Mr. Kelly stated it would be an amendment to an existing ordinance. It would be a calculation adjustment. It would not change the legal substance in any way.

In response to questions, Mr. Williams stated their contract with other cities did not give them the right to impose an impact fee. The contract with Elkins was a contract where they would take a certain amount of their sewage and wastewater. They were not close to the amount that they had guaranteed that they would take. Their contract would run until they reached that amount. The contract with Farmington and Greenland were fifteen year contracts with a right to renew for another fifteen years. Farmington was in a moratorium because of their sewer problems. He did not think they could impose impact fee. He thought they might be able to charge an impact fee on water outside the city limits because they came to the city. That was still an open question right now.

Alderman Davis stated they could be encouraging growth in Farmington and Elkins rather than spending their dollars in Fayetteville.

Mr. Williams did not believe they could impose impact fees in Farmington and Elkins without their permission.

Mr. Kelly stated they should be thinking as impact fees as a way to get money from developers or to put a huge burden on developers or should they be thinking of them as a new revenue source. They should be looking at them as a total financing package for how they could build the improvements that they need and how they were going to pay for them. If they looked at them in that context, they would decide to use some and to not use some. They should not be looking at just the impact on developers. They needed to look at the entire package and what facilities that they wanted and needed to build.

Alderman Marr stated where they were having problems was their roads. He asked why they could not use an impact fee for roads.

Mr. Kelly stated the only legal thing they could do for roads under their existing statute would be something similar to what they do for parks. It would have to be some sort of fee in lieu. By the time they had finished calculating that he thought the developers would be begging for it. He thought the city would be coming out with less than what they were currently getting. Legally it would be very difficult to do.

Alderman Reynolds asked why they were not discussing the fire and police. They needed new fire stations.

Mr. Duncan stated there was serious legal question about doing that. Fire and Police fees were very little. Police and fire were very labor intensive services rather than capital intensive services. He would not recommend that they get into the police and fire. He thought there were some serious legal complications there.

Mr. William stated the Arkansas Supreme Court had already spoken to that. The city of North Little Rock tried to up a public safety fee on their water bill. The court had stated such a fee was such a tax because it was cost for maintaining a traditional public government function and services already in affect and not for special services. He thought an impact for police and fire was beyond their power.

Alderman Jordan stated his concerns were that the surrounding cities basically a free ride, while their residents paid the extra fees. They were going to make their people pay the impact fees and not surrounding cities using our services. He thought they needed to change their policies so that they kicked into the kitty like everyone else. It concerned him that it was not worth the effort to try and apply these fees to already maxed out arterial roads. Our roads needed work and we needed money for those roads.

Alderman Bechard stated they had discussed how to execute impact fees rather than are they the right thing for Fayetteville. He had called two cities and both of them had stated they Fayetteville had not managed their growth well. They can grow profitably. This was a small piece to a bigger picture. He asked what they thought Pinnacle Point in Rogers would bring in property taxes when it was complete. Ten million dollars per year. The number one thing people looked for in community was schools. The property tax went to schools. He thought what they should be doing tonight was not on a thousand dollar impact fee, but how do they get that kind of growth that improved their quality of life. They had talked about a million dollars per year. He quested that there was over a thousand people that came here a night to do business with Wal-mart, J.B Hunt and Tyson. If they spent the night and bought ten dollars, that was over a million dollars a year that they would get in this city. He thought they had to think of the bigger picture. They still were not handling their road issue tonight. They needed to assess what was the best plan for their city that was going to deliver the concerns that they had.

Alderman Jordan stated they needed to set down as a council and set priorities on what they wanted for the city and how they thought the city needed to go and what every they are they needed to stick with. They needed to set some goals.

Mr. Jeff Erf, an area resident, he thought the property owners would absorb the cost of the impact fees in the long run.

Mr. Duncan stated most economist that have analyzed impact fees have come to that conclusion. Over time they have not shown to increase the cost of any type of product.

Mr. Erf replied so in the long run it would not cost the developers anything in the long run.

Mr. Mike Henry, realtor, stated there were cost that had to covered some way and the issue was the best way to do that and fairest way to do that. The ultimate cost to the buyer is higher. The cost is funded through a mortgage. They would be putting this on the back of the buyers at twice the rate that they city could get it through the funding of a

bond issue. A large portion of the population was not able to buy a house because it was outside their affordability.

Mayor Coody stated an impact fee would be approximately one percent of total cost. A realtor commission was generally eight percent. People were going to charge what the market could bear. He did not think the one percent fee was going to have near the impact was what a realtor commission was going to be. And the realtor commission did not give them anything to build a sewer plant with now.

Alderman Davis stated Fayetteville had the highest cost for homes of anywhere in northwest Arkansas. They also paid more tax, percentage wise, than most communities in northwest Arkansas.

Larry Ash, an economist, stated to some extent the home buyer would pay impact fees. Who were they sticking with this million dollars? A majority of the new homes were being purchased by people who already lived in Fayetteville. Many of whom have lived here for a long period of time. Through their taxes they have paid for the infrastructure that they were asking them to pay for twice with impact fees.

Mr. Tim McMann, an area resident, stated the way the impact fees would be paid would be though mortgage financing. Sixty percent of the of the new home purchased were by existing residents. Did they really understand this complex issue? He thought the voters would support increased sales taxes if they were going to receive the benefits.

Mr. Bill Molher, an area resident, stated the buyer of the new home would pay for the taxes. If the existing resident chooses to live in a new house, he would pay the fee. When he bought a new car he paid a new registration fee. If they were going to pay to cost of new infrastructure development by assessing fees on everyone as they did today, the people who have been here will pay seventy percent of the cost of the new development. Unless more people move in, most of the total cost will be born by the resident who were already here because they constitute the majority of the new population.

Mr. Joe Kid, an area resident, stated they had already taken care of the water and sewer. The road and the police and fire were the problem. He did not think there were issue anymore. They did not want to kill the relocation in this town. They did not want to get black listed.

Mr. McKinney, chairman of the Stakeholders committee, stated eleven people in the community had study this over the last several months. They had submitted a report. He urged them to think long and hard before they made a decision on this issue.

The council reviewed a series of questions and decided to consider impact fees for water and wastewater. Duncan should daft the ordinance with Kit input. Impact fees should be phased in.

The meeting adjourned at 9:25 p.m.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT FOR THE COMMUNITY CODE ENFORCEMENT DIVISION REALLOCATING TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000.00) OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS PROVIDE HOUSING REHABILITATION SERVICES IN THE CBDG TARGET AREA; AND MODIFYING.

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

Section 1. That the City Council hereby approves a budget adjustment for the Community Code Enforcement Division reallocating Two Hundred Fifty Thousand Dollars ($250,000.00) of Community Development Block Grant (CDBG) funds provide housing rehabilitation services in the CBDG target area.

Section 2. That the Administrative Procedure to Amend the Budget is hereby amended by inserting the following at Budget Authority Level E:

> In addition to the above, the Budget Office is authorized to process budget adjustments that reallocate existing funding within a federal grant program where the additional or changed appropriation is necessary to either comply with a change in use of the funding or in response to an unforeseen event. All related federal grant program requirements must be met.

PASSED AND APPROVED this 3rd day of September, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE AND SOUTHWEST PCS PROPERTIES, LLC, TO LOCATE CELLULAR TELEPHONE ANTENNAE ON THE TOWNSHIP WATER TANK FOR MONTHLY LEASE PAYMENTS OF ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500.00).

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 approves a lease agreement between the City of Fayetteville and Southwest PCS Properties, LLC, to locate cellular telephone antennae on the Township Water Tank for monthly lease payments of One Thousand Five Hundred Dollars ($1,500.00). A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 3rd day of September, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #02-48 TO ARKANSAS VALLEY IRRIGATION & LANDSCAPING IN THE AMOUNT OF FIFTY-FIVE THOUSAND DOLLARS ($55,000.00) FOR LANDSCAPE IMPROVEMENTS AT WILSON PARK; AND APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY.

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 awards Bid #02-48 Arkansas Valley Irrigation & Landscaping in the amount of Fifty-Five Thousand Dollars ($55,000.00) for landscape improvements at Wilson Park.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a ten percent (10%) project contingency.

PASSED and **APPROVED** this 3rd day of September 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #02-49 TO REVELLE IRRIGATION IN THE AMOUNT OF TWENTY-TWO THOUSAND SEVEN HUNDRED DOLLARS ($22,700.00) FOR AN IRRIGATION SYSTEM IN THE NORTHWEST CORNER OF WILSON PARK; AND APPROVING A FIFTEEN PERCENT (15%) PROJECT CONTINGENCY.

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 awards Bid #02-49 to Revelle Irrigation in the amount of Twenty-Two Thousand Seven Hundred Dollars ($22,700.00) for an irrigation system in the northwest corner of Wilson Park.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a fifteen percent (15%) project contingency.

PASSED and **APPROVED** this 3rd day of September 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT AMENDMENT WITH HAY GROUP, INC. IN AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS ($50,000.00) TO COMPLETE A BENEFIT VALUATION REPORT AND REVIEW CURRENT PAY PLAN PROCESSES AND PROCEDURES; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF THIRTY-FIVE THOUSAND TWO HUNDRED SEVEN DOLLARS ($35,207.00) FOR SAME.

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 approves a contract amendment with Hay Group, Inc. in an amount not to exceed Fifty Thousand Dollars ($50,000.00) to complete a Benefit Valuation Report and review current pay plan processes and procedures. A copy of the contract amendment, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of Thirty-Five Thousand Two Hundred Seven Dollars ($35,207.00) for same.

PASSED and **APPROVED** this 3rd day of September, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #02-44 TO MISSCO CORPORATION OF JACKSON, MISSISSIPPI IN THE AMOUNT OF FIFTY-ONE THOUSAND EIGHT HUNDRED FIFTY-EIGHT DOLLARS AND FIFTY-TWO CENTS ($51,858.52) TO PROVIDE FURNISHINGS FOR THE TCA BUILDING AND APPROVING A FIVE PERCENT (5%) CONTINGENCY.

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 awards Bid #02-44 to MISSCO Corporation of Jackson, Mississippi in the amount of Fifty-One Thousand Eight Hundred Fifty-Eight Dollars and Fifty-Two Cents ($51,858.52) to provide furnishings for the TCA Building.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a five percent (5%) contingency.

PASSED and **APPROVED** this 3rd day of September 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PARKS & RECREATION DEPARTMENT TO ACCEPT A TONY HAWK FOUNDATION GRANT IN THE AMOUNT OF FIVE THOUSAND DOLLARS ($5,000.00) FOR THE FAYETTEVILLE SKATEPARK PROJECT.

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 Parks & Recreation Department to accept a Tony Hawk Foundation Grant in the amount of Five Thousand Dollars ($5,000.00) for the Fayetteville Skatepark project.

PASSED and **APPROVED** this 3rd day of September, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA
CITY COUNCIL
SEPTEMBER 3, 2002

A meeting of the Fayetteville City Council will be held on September 3, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

A. CONSENT

1. APPROVAL OF THE MINUTES

2. **BID 02-44:** A resolution awarding Bid 02-44 to Missco Corporation for furniture for the TCA Building in the amount of $51,858.52 plus tax and a 5% contingency.

3. **COMMUNITY DEVELOPMENT:** A resolution approving a budget adjustment in the amount of $250,000.00 and a budget adjustment policy for the Community Development section.

4. **PCS PROPERTIES:** A resolution approving an agreement with Southwest PCS Properties for the lease of tower space on the Sang water tank. The proposed lease amount is $1,500 per month with an initial term of five years.

5. **BID 02-48:** A resolution awarding Bid 02-48 and approving a contract with Arkansas Valley Irrigation and Landscaping in the amount of $55,000, plus a 10% project contingency of $5,500 for a total cost of $60,500.

6. **BID 02-49:** A resolution awarding Bid 02-49 and approval of a contract with Revelle Irrigation Systems in the amount of $22,700, plus a project contingency of $3,400 for a total cost of $26,100.

7. **HAY GROUP:** A resolution amending the 2002 Budget authorizing the employment of the Hay Group for work associated with personnel issues and for other purposes.

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

8. **SKATE PARK:** A resolution approving an agreement with Tony Hawk Foundation. The Foundation will provide a $5,000 grant to the Fayetteville Skate Park upon receiving the signed agreement.

9. **HWY 180:** A resolution affirming that the City of Fayetteville shall assume responsibility for the entire section of Highway 180 upon completion of the improvements from Township to Futrall.

B. OLD BUSINESS

1. **RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen on behalf of Larry Garriott for property located north of Persimmon Street and west of 46th Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was tabled on the second reading at the August and August 20, 2002 meetings.

2. **OFF STREET PARKING:** An ordinance amending Section 172.01, Off-Street Parking Lot Design Requirement, of the UDO to provide a method for reducing off-street parking requirements for properties that share a common parking facility and to revise parking ratios for certain uses. Ordinance was left on the first reading at the August 20, 2002 meeting.

3. **OUTDOOR LIGHTING:** An ordinance that minimizes the impact of outdoor lighting on adjacent properties and improves nighttime visibility. Ordinance was left on the first reading at the August 20, 2002 meeting.

4. **RZN 02-21.00:** An ordinance approving rezoning request RZN 02-21.00 as submitted by Dixie Development for property located at 10 Bishop Drive and 35 Appleby Road. The property is zoned A-1, Agricultural and contains approximately 17.39 acres. The request is to rezone to R-O Residential Office. The ordinance was left on the second reading at the August 20, 2002 meeting.

5. **RZN 02-22.00:** An ordinance approving RZN 02-22.00 as submitted by Tom Shackelford for property located at 2975 Old Farmington Road. The property is zoned A-1, Agricultural and contains approximately 1.32 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the August 20, 2002 meeting.

6. **AUTOMATED CARTS:** An ordinance establishing the rate structure and program parameters for an automated cart based on residential trash collection and disposal program. The ordinance was left on the first reading at the August 20, 2002 meeting.

7. **LOPFI 2:** A resolution moving the City of Fayetteville Police LOPFI retirement benefits from Plan 1 to Plan 2 as of October 1, 2002. The resolution was tabled at the August 20, 2002 meeting.

C. NEW BUSINESS

1. **RZN 02-8.00:** An ordinance approving rezoning request RZN 02-8.00 as submitted by Bob Hill of Nickle Hill Group on behalf of J.C. and Alma Nickell for property located at 867 N. College. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-1, Neighborhood Commercial.

2. **RZN 02-24.00:** An ordinance approving rezoning request RZN 02-24.00 as submitted by Phil Hagen of Crafton Tull and Associates on behalf of Don Nelms for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.

3. **RZN 02-25.00:** An ordinance approving rezoning request RZN 02-25.00 as submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential.

4. **RZN 02-25.00:** An ordinance approving rezoning request RZN 02-24.00 as submitted by Phil Hagen of Crafton Tull and Associates on behalf of Don Nelms for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.

5. **PUBLIC TRANSIT AUTHORITY:** An ordinance authorizing the City of Fayetteville to become a part of a Public Transit Authority to be known as the Ozark Transit Authority and confirming an interlocal agreement to be signed by the Mayor.

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
JULY 30, 2002**

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

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

WATER SERVICE AREA: A resolution to modify the existing exclusive water service area line between Fayetteville and Springdale to transfer approximately 340 acres in the City of Johnson into Springdale's service area. The item was tabled at the July 16, 2002 meeting.

Mr. Woody Bassett stated there were a lot of good reasons why this resolution should be passed. They felt it would be a win win situation for everyone.

Mr. Boettcher stated they had received a response from Springdale. They stated they would work with them on creating territories as it best suites the municipality. Renee Langston called him on Monday and was willing to met this week. He thought they needed to study this with the utility maps. He thought it would be a time consuming process and not something that they could do in a week.

Alderman Young asked how soon the process would get started.

Mr. Boettcher stated it would be as the need arose or if there was a specific time line that the council would like to see them meet.

Alderman Young stated he would like to see them get together immediately so that this did not happen again.

Mr. Boettcher stated they would meet in the future and decided what was best, so they would know in advance.

Alderman Marr stated it made more sense for a person to receive their water and sewer bill from the same person. He also thought it would be very costly for the city to extend their water lines to this area.

Alderman Marr moved to approve the resolution to modify the existing water service line as shown. Alderman Reynolds seconded. Upon roll call the motion carried unanimously.

RESOLUTION 117-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

IMPACT FEE STUDY: Duncan Associate's presentation of the Final Impact Fee Study: Wastewater, Water, and Roads, including update of the existing Parkland Dedication and Fee-in-Lieu requirements.

Mr. Conklin introduced Jim Duncan and Eric Damon Kelly. They were here to present the final study for the impact fees. The study included roads, water, and wastewater. It also included an update to their existing parkland dedication.

Mr. Duncan presented their final impact fee study. An impact fee was a one time charge. Up front charge on development to pay for the cost of certain facilities and services. It was not reoccurring and it was not a tax. An impact fee if it deemed to be anything like a tax is ruled illegal. It is assessed only on new development. Existing development did not pay an impact fee. The two different times they were assessed was building permits or water meter. Water and sewer were normally assessed when they hooked up water meter. All other types of impact fees where normally assessed at building permit. There were a few that were assessed at plating subdivision stages. An impact fee had to be calculated based upon studies and had to reflect the actual cost of growth. Impact fees had to be used for capital improvements. They could not be used for operations or maintenance or administrative fees.

Fayetteville's population was expected to double in the next twenty two years. There were approximately 580 unites per year. They had a growth that merited looking at impact fees. The history of this project, feasibility had been completed in April of 2001. They had completed a draft of a waste water study in October of 2001. They did a draft of a road and park study that was delivered in January 2002. They did a final impact fees that was presented in April of 2002. The council now needed to decide on whether or not to proceed with any of the adoptions of any of the impact fees and the appropriate ordinances to implement them. He presented a summary of the study.

Alderman Davis asked if there was an existing subdivision which was only fifty percent full, would someone building a new house have to pay the fee.

Mr. Duncan stated the park fee was only applicable at subdivision.

Mr. Kelly, Duncan and Associates stated water and waste water would be a policy issue. An infill development near down town, the typical methodology was to assume that the existing infrastructure was built to serve something on that lot at some time. They would never propose to charge for that. When they got into a new subdivision on the edge of town that when through subdivision approval before impact fees were adopted, but not all of the houses were built, then there was a policy issue on how they wanted to treat it.

Alderman Davis stated most of their development already have their water and sewer. They were going to have storm drainage, curb and gutter and their street lay out. They were just waiting for the person to come in and build their home on the lot.

Mr. Kelly stated the impact fees were not to pay for those things that were laid into the development. They were to pay for the expansion of their plants and water system, the major lines that connect to the plant and the expansion of the sewer treatment plant and the sewer lines. They could not double charge. They could not charge the developer to lay the lines and charge him a fee. The fees were calculated on the basis of the system wide facilities.

Alderman Young questioned if a subdivision had been approved and half of the houses were built, but only half were occupied. Would new people moving in be assessed fees?

Mr. Kelly stated fees were normally assessed at the time of hook up or at the time of the issuance of the building permit.

In response to questions, Mr. Duncan stated if there was a subdivision in process and not totally developed, if they wanted not to charge them they did not have to, it was policy. They would need to be consistent. The roads within the subdivision was not being calculated into the fee. All this fee was for arterials that got them to the subdivision. Developers were still responsible for building roads within the subdivision. It seemed to him that most of the council's concerns were transitional concerns. Their park fee in lieu was already there, it was just a modest increase. If they wanted to phase in the water and sewer they could do that.

Alderman Bechard asked how many cities had impact fees.

Mr. Kelly stated it varied on where they were. He did not know exactly. In Florida, approximately 99% of the cities and counties had impact fees. It was a fast growing fees and retirees had resisted any other funding source. Any community that was growing at a rate, like Fayetteville, or greater the number is over 80-90%.

Mr. Duncan stated he had never worked in a city that had no water or sewer system development charge of any kind. Most of the communities have had those fees for twenty to twenty-five years. The park fees tended to go back that far to. Road fees were a lot more recent and they would see those in the rapid growing communities.

Alderman Bechard stated they had stated what they did was base it on cost, a cost to use. To him that was a principle that they would undertake as a city. Where would they stop that? He lived in a new subdivision so the amount of time they were going to spend fixing his roads would be minimal compared to a subdivision that has been around for twenty to twenty-five years. If they were going to use this cost to use, they needed to up an impact fee in place for those older subdivisions where there are higher cost in maintaining.

Mr. Duncan replied that was not what they were talking about. What they were talking about was when his vehicle left the subdivision and went out and mingled with everybody else in the community and used common, arterial, roads to get from one point to other. Impact fees are one of the strongest pro-growth tools in the country. Impact

fees did not slow down growth. Impact fees subsides growth. They provide the water and wastewater facilities that make growth happen. It was a fiscal measure that kept the fiscal burden off existing residents.

Mr. Kelly stated the economic logic behind impact fees was three fold. There was some evidence from economic studies that part of the cost was charged back to the land seller. The landowners were profiting from selling land that was originally acquired for agricultural or passive uses. They were converting that to a much higher value, through land development. The availability of public utilities was part of that value. Through this charge, developers to the extent that the market was competitive, would say that they had to pay less for the land. The second part of it was that they were dealing with people who were in the business of developing land and houses to make money. It was different to add a cost into their doing business, than it was to charge someone for the use of a social service such as the library or senior center. The third part of it was that this was a capital investment. The facilities that they have add to their value of their home.

Alderman Santos stated impact fees were to be used to build new infrastructure and not for maintaining existing infrastructure.

In response to questions Mr. Duncan stated his reference to "based on cost" meant that they had to base it on the cost to the community to provide that facilities.

In response to questions, Mr. Duncan stated they had tracked the amount of money that they have been spending through other sources. When they did a road fee they tried to figure out how much money had gone into the gasoline tax at the pump and how much of that came back to the community to be spent on roads. They had to deduct the fee by that. In many cases there were bond issues out that was improving roads or parks and they had to deduct that.

Mr. Kelly stated much of the sales tax that they paid every year went into paying operational expense into the city. They had tried to calculate in the portion that has been going toward capital expenditures and calculated that back as a credit. The maximum possible fee that they were giving them has already given them those credit. It was the difference between what these people would be paying directly and what it was going to cost.

Alderman Santos stated they calculated the true impact fee, and then they subtract all of the tax that went towards that. What was left was the fee that they would need to charge. In response to questions, Mr. Duncan stated there were various ways that they could distribute water and waste water. There were some communities that had it by the number of bathrooms for single family.

Mr. Kelly stated the legal requirement was for proportionality. Utility people like to do it on meter sizes. This method was actually better.

Alderman Davis stated they were looking at square footage. There were a lot of people who had a large number of people in a smaller home than in a larger home.

Mr. Duncan stated the courts had been very comfortable in looking at housing size as a determinate in impact fees.

Mr. Williams stated there had only been one case in Arkansas where they looked directly at water and sewer impact fees. In that case, the city of Marion had just chosen a single fee of $950. They did not have graduated fees there. The court did not say that they could not have graduated fees. The courts did sanction and say that was constitutional was the $950 fee for every kind of residence.

Mr. Kelly stated that they had done this kind of analysis.

Alderman Davis asked if the University was exempt from the impact fees.

Mr. Williams stated the university was a higher entity and they did not have to follow the rest of their development process. He did not know how they would be able to apply impact fees to the university.

Mr. Duncan stated in most communities that had a university, they normally did not have a problem with the water and wastewater. If they needed your service they would figure out some way to participate.

Mr. Conklin stated in the past the university have not gone through their city process.

In response to question from Alderman Davis, Alderman Santos stated the university was looking to add six hundred beds and four building.

Alderman Davis stated they were in essence giving the university an advantage over the developer.

Alderman Young asked if they would have to give credits for right-of-way and what would they be.

Mr. Duncan stated road fees were comprised of two different components. The land and right-of-way and the improvements. The right-of-way usually ran about 25%. All communities usually require the dedication of right-of-way, then they adopt the a road fee which only paid for the asphalt. He added both their attorney and the city's attorney had questions about the legalities of road fees in the state of Arkansas.

Alderman Thiel stated if the park fee was just an adjustment of increasing the value of the land, then the Parks board could make that recommendation to the council. That did not even need to be a part of this.

Mr. Duncan stated it was two things. They were also adjusting the people per unit based upon the 2000 census. Then applying the new numbers to the current cost of the land.

Mr. Kelly stated it would be an amendment to an existing ordinance. It would be a calculation adjustment. It would not change the legal substance in any way.

In response to questions, Mr. Williams stated their contract with other cities did not give them the right to impose an impact fee. The contract with Elkins was a contract where they would take a certain amount of their sewage and wastewater. They were not close to the amount that they had guaranteed that they would take. Their contract would run until they reached that amount. The contract with Farmington and Greenland were fifteen year contracts with a right to renew for another fifteen years. Farmington was in a moratorium because of their sewer problems. He did not think they could impose impact fee. He thought they might be able to charge an impact fee on water outside the city limits because they came to the city. That was still an open question right now.

Alderman Davis stated they could be encouraging growth in Farmington and Elkins rather than spending their dollars in Fayetteville.

Mr. Williams did not believe they could impose impact fees in Farmington and Elkins without their permission.

Mr. Kelly stated they should be thinking as impact fees as a way to get money from developers or to put a huge burden on developers or should they be thinking of them as a new revenue source. They should be looking at them as a total financing package for how they could build the improvements that they need and how they were going to pay for them. If they looked at them in that context, they would decide to use some and to not use some. They should not be looking at just the impact on developers. They needed to look at the entire package and what facilities that they wanted and needed to build.

Alderman Marr stated where they were having problems was their roads. He asked why they could not use an impact fee for roads.

Mr. Kelly stated the only legal thing they could do for roads under their existing statute would be something similar to what they do for parks. It would have to be some sort of fee in lieu. By the time they had finished calculating that he thought the developers would be begging for it. He thought the city would be coming out with less than what they were currently getting. Legally it would be very difficult to do.

Alderman Reynolds asked why they were not discussing the fire and police. They needed new fire stations.

Mr. Duncan stated there was serious legal question about doing that. Fire and Police fees were very little. Police and fire were very labor intensive services rather than capital intensive services. He would not recommend that they get into the police and fire. He thought there were some serious legal complications there.

Mr. William stated the Arkansas Supreme Court had already spoken to that. The city of North Little Rock tried to up a public safety fee on their water bill. The court had stated such a fee was such a tax because it was cost for maintaining a traditional public government function and services already in affect and not for special services. He thought an impact for police and fire was beyond their power.

Alderman Jordan stated his concerns were that the surrounding cities basically a free ride, while their residents paid the extra fees. They were going to make their people pay the impact fees and not surrounding cities using our services. He thought they needed to change their policies so that they kicked into the kitty like everyone else. It concerned him that it was not worth the effort to try and apply these fees to already maxed out arterial roads. Our roads needed work and we needed money for those roads.

Alderman Bechard stated they had discussed how to execute impact fees rather than are they the right thing for Fayetteville. He had called two cities and both of them had stated they Fayetteville had not managed their growth well. They can grow profitably. This was a small piece to a bigger picture. He asked what they thought Pinnacle Point in Rogers would bring in property taxes when it was complete. Ten million dollars per year. The number one thing people looked for in community was schools. The property tax went to schools. He thought what they should be doing tonight was not on a thousand dollar impact fee, but how do they get that kind of growth that improved their quality of life. They had talked about a million dollars per year. He quested that there was over a thousand people that came here a night to do business with Wal-mart, J.B Hunt and Tyson. If they spent the night and bought ten dollars, that was over a million dollars a year that they would get in this city. He thought they had to think of the bigger picture. They still were not handling their road issue tonight. They needed to assess what was the best plan for their city that was going to deliver the concerns that they had.

Alderman Jordan stated they needed to set down as a council and set priorities on what they wanted for the city and how they thought the city needed to go and what every they are they needed to stick with. They needed to set some goals.

Mr. Jeff Erf, an area resident, he thought the property owners would absorb the cost of the impact fees in the long run.

Mr. Duncan stated most economist that have analyzed impact fees have come to that conclusion. Over time they have not shown to increase the cost of any type of product.

Mr. Erf replied so in the long run it would not cost the developers anything in the long run.

Mr. Mike Henry, realtor, stated there were cost that had to covered some way and the issue was the best way to do that and fairest way to do that. The ultimate cost to the buyer is higher. The cost is funded through a mortgage. They would be putting this on the back of the buyers at twice the rate that they city could get it through the funding of a

bond issue. A large portion of the population was not able to buy a house because it was outside their affordability.

Mayor Coody stated an impact fee would be approximately one percent of total cost. A realtor commission was generally eight percent. People were going to charge what the market could bear. He did not think the one percent fee was going to have near the impact was what a realtor commission was going to be. And the realtor commission did not give them anything to build a sewer plant with now.

Alderman Davis stated Fayetteville had the highest cost for homes of anywhere in northwest Arkansas. They also paid more tax, percentage wise, than most communities in northwest Arkansas.

Larry Ash, an economist, stated to some extent the home buyer would pay impact fees. Who were they sticking with this million dollars? A majority of the new homes were being purchased by people who already lived in Fayetteville. Many of whom have lived here for a long period of time. Through their taxes they have paid for the infrastructure that they were asking them to pay for twice with impact fees.

Mr. Tim McMann, an area resident, stated the way the impact fees would be paid would be though mortgage financing. Sixty percent of the of the new home purchased were by existing residents. Did they really understand this complex issue? He thought the voters would support increased sales taxes if they were going to receive the benefits.

Mr. Bill Molher, an area resident, stated the buyer of the new home would pay for the taxes. If the existing resident chooses to live in a new house, he would pay the fee. When he bought a new car he paid a new registration fee. If they were going to pay to cost of new infrastructure development by assessing fees on everyone as they did today, the people who have been here will pay seventy percent of the cost of the new development. Unless more people move in, most of the total cost will be born by the resident who were already here because they constitute the majority of the new population.

Mr. Joe Kid, an area resident, stated they had already taken care of the water and sewer. The road and the police and fire were the problem. He did not think there were issue anymore. They did not want to kill the relocation in this town. They did not want to get black listed.

Mr. McKinney, chairman of the Stakeholders committee, stated eleven people in the community had study this over the last several months. They had submitted a report. He urged them to think long and hard before they made a decision on this issue.

The council reviewed a series of questions and decided to consider impact fees for water and wastewater. Duncan should daft the ordinance with Kit input. Impact fees should be phased in.

The meeting adjourned at 9:25 p.m.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT FOR THE COMMUNITY CODE ENFORCEMENT DIVISION REALLOCATING TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000.00) OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS PROVIDE HOUSING REHABILITATION SERVICES IN THE CBDG TARGET AREA; AND MODIFYING.

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

Section 1. That the City Council hereby approves a budget adjustment for the Community Code Enforcement Division reallocating Two Hundred Fifty Thousand Dollars ($250,000.00) of Community Development Block Grant (CDBG) funds provide housing rehabilitation services in the CBDG target area.

Section 2. That the Administrative Procedure to Amend the Budget is hereby amended by inserting the following at Budget Authority Level E:

> In addition to the above, the Budget Office is authorized to process budget adjustments that reallocate existing funding within a federal grant program where the additional or changed appropriation is necessary to either comply with a change in use of the funding or in response to an unforeseen event. All related federal grant program requirements must be met.

PASSED AND APPROVED this 3rd day of September, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF FAYETTEVILLE AND SOUTHWEST PCS PROPERTIES, LLC, TO LOCATE CELLULAR TELEPHONE ANTENNAE ON THE TOWNSHIP WATER TANK FOR MONTHLY LEASE PAYMENTS OF ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500.00).

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 approves a lease agreement between the City of Fayetteville and Southwest PCS Properties, LLC, to locate cellular telephone antennae on the Township Water Tank for monthly lease payments of One Thousand Five Hundred Dollars ($1,500.00). A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 3rd day of September, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #02-48 TO ARKANSAS VALLEY IRRIGATION & LANDSCAPING IN THE AMOUNT OF FIFTY-FIVE THOUSAND DOLLARS ($55,000.00) FOR LANDSCAPE IMPROVEMENTS AT WILSON PARK; AND APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY.

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 awards Bid #02-48 Arkansas Valley Irrigation & Landscaping in the amount of Fifty-Five Thousand Dollars ($55,000.00) for landscape improvements at Wilson Park.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a ten percent (10%) project contingency.

PASSED and APPROVED this 3rd day of September 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #02-49 TO REVELLE IRRIGATION IN THE AMOUNT OF TWENTY-TWO THOUSAND SEVEN HUNDRED DOLLARS ($22,700.00) FOR AN IRRIGATION SYSTEM IN THE NORTHWEST CORNER OF WILSON PARK; AND APPROVING A FIFTEEN PERCENT (15%) PROJECT CONTINGENCY.

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 awards Bid #02-49 to Revelle Irrigation in the amount of Twenty-Two Thousand Seven Hundred Dollars ($22,700.00) for an irrigation system in the northwest corner of Wilson Park.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a fifteen percent (15%) project contingency.

PASSED and **APPROVED** this 3rd day of September 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT AMENDMENT WITH HAY GROUP, INC. IN AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS ($50,000.00) TO COMPLETE A BENEFIT VALUATION REPORT AND REVIEW CURRENT PAY PLAN PROCESSES AND PROCEDURES; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF THIRTY-FIVE THOUSAND TWO HUNDRED SEVEN DOLLARS ($35,207.00) FOR SAME.

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 approves a contract amendment with Hay Group, Inc. in an amount not to exceed Fifty Thousand Dollars ($50,000.00) to complete a Benefit Valuation Report and review current pay plan processes and procedures. A copy of the contract amendment, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of Thirty-Five Thousand Two Hundred Seven Dollars ($35,207.00) for same.

PASSED and **APPROVED** this 3rd day of September, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #02-44 TO MISSCO CORPORATION OF JACKSON, MISSISSIPPI IN THE AMOUNT OF FIFTY-ONE THOUSAND EIGHT HUNDRED FIFTY-EIGHT DOLLARS AND FIFTY-TWO CENTS ($51,858.52) TO PROVIDE FURNISHINGS FOR THE TCA BUILDING AND APPROVING A FIVE PERCENT (5%) CONTINGENCY.

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 awards Bid #02-44 to MISSCO Corporation of Jackson, Mississippi in the amount of Fifty-One Thousand Eight Hundred Fifty-Eight Dollars and Fifty-Two Cents ($51,858.52) to provide furnishings for the TCA Building.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a five percent (5%) contingency.

PASSED and **APPROVED** this 3rd day of September 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PARKS & RECREATION DEPARTMENT TO ACCEPT A TONY HAWK FOUNDATION GRANT IN THE AMOUNT OF FIVE THOUSAND DOLLARS ($5,000.00) FOR THE FAYETTEVILLE SKATEPARK PROJECT.

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 Parks & Recreation Department to accept a Tony Hawk Foundation Grant in the amount of Five Thousand Dollars ($5,000.00) for the Fayetteville Skatepark project.

PASSED and **APPROVED** this 3rd day of September, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

From: Gary Dumas

Date: August 29, 2002

Subject: Rate Comparison with Other Communities

At the Council Agenda Session the attached rate comparison was referenced.

Attached is a spreadsheet with other community rate structures and some indication of the type of services provided. As you will see the rates and services are varied, some higher than the current or proposed local rates, some are totally taxpayer supported (not user supported), some recycling programs are voluntary with additional costs for participation, some provided in base cost. The same variableness exists in the yard waste program.

City	Trash Program	Program Details	Recycling	Yardwaste Collection	Composting
Tulsa **Pop.-383,000**	Partial city service/partial sub-contract to TR Inc. (Last rate increase- 2000. Was raised by 7%. Future Rate increase- Undetermined trying to move to volume based system.	City collection offers carts various sizes once a week. Private collection twice a week with no limit. Can be set out in bags or containers. Rates-$11.37/month to $21.71/month depending upon service level	Curbside is $2.00 extra per month operated by the city, with 5 commodities taken Voluntary only	Oklahoma does not have a yardwaste ban. Can be included garbage. Rate included in trash bill	No compost Mulch available at 2 locations 2 times a month No Fee
Little Rock **Pop.- 183,133**	Cit yservice as of September 2002. Once per week collection Last Rate increase in March 1998 Future Rate increase- September 2002. Will go to $18.91	40 -60 -90 gallon cart collection all charged the same price Rate $16.35 per month currently, will go to $18.91 September 2002.	Curbside 30 gallon bin contracted to Waste Management Will remain contracted to WM in September Voluntary / Fee included in trash bill	Taken in plastic bags and bundles at curb (3ft. bundles) Rate included in trash bill Number of participants undetermined.	City managed compost site Free give-a-way days $10 per cubic yard for walk- in customers. Mulch is sold for $8.

City	Trash Program	Program Details	Recycling	Yardwaste Collection	Composting
Springfield Pop.-150,000	Approximately 30 different licensed haulers dominated by two major haulers Once per week collection Last rate increase- Undetermined/very competitive market because of number of haulers.	Collection procedures depends on hauler. Can be carts, bags or containers. Rate- determined by haulers (average $9 to 11 per month)	City ordinance requires recycling to be offered by haulers. Once every two week minimum collection required by the city. Items taken must include Newspaper, glass, steel, aluminum, and plastic bottles. Haulers can offer more options. $2.00 charge extra on average separate from trash bill.	Missouri has yardwaste ban. There is no requirement placed on haulers to collect yardwaste. Rates vary depending on hauler. Fee is separate from trash bill.	City operates compost site. Will accept yardwaste for free. All haulers use site. $10 per cubic yard charge. Also offer mulch for free.
Fort Smith Pop.- 80,268	City collected Once per week Last rate increase October 2001 from $8.81	In bags or containers Unlimited amount Rate- $10.23	Curbside32 gallon container Fee included in trash bill	Picked up in plastic bags/ bundles in 3 foot sections Included in trash bill	City operated compost site Available all year $10 per cubic yard

City	Trash Program	Program Details	Recycling	Yardwaste Collection	Composting
North Little Rock **Pop. 61,741**	City collection Once per week collection City passed 1 cent sales tax in 2001 for capital improvements. Includes free sanitation services	Unlimited free service No rate because of sales tax	No recycling Jacksonville recycling center for drop-off	Weekly yardwaste collection available Voluntary	No compost
Springdale **Pop.-45,798**	Contracted to Waste Management Once a week collection Last rate increase- City contract allows 2% cost of living increase each year. Future rate increase?	10 bag limit $9.20 per month	Curbside recycling available through subscription $2.00 per month Voluntary 5 items accepted	Yardwaste is collected in green bags $25 per roll or $1.00 per bag Must set up collection time	No compost
Rogers **Pop.-38,829**	Contracted to Waste Management Once a week collection Last rate increase? Future rate increase?	4 bag limit Rate $8.28 per month	Curbside recycling available through subscription $1.00 per month Voluntary 5 items accepted	Yardwaste is collected in green bags $25 per roll or $1.00 per bag Must set up collection time	No compost

City	Trash Program	Program Details	Recycling	Yardwaste Collection	Composting
Hot Springs Pop.-35,750	City vehicles are operated by All States Sanitation. Twice a week collection Last rate **decrease** 1998 $10.00 - $9.50 Future Rate increase-undetermined	Up to two 32 gallon containers per collection Rate $9.50 per month	Once every 2 week curbside collection Voluntary - 4 items collected 24% participation rate Fee included in trash bill	Once every 2 week collection Voluntary Fee included in trash bill Number of participants undetermined	Operated by Sewer Department Free to public if loaded by hand $6 per loading charge
Bentonville/Bella Vista Pop.- 32,200	Contracted to American Disposal Twice a week collection Late rate increase June 2001/ increased from $9.82 Future rate increase undetermined	No limit on bags or containers Rate $10.12 per month	Twice a month voluntary Blue Bag program 20% participation rate Fee included in trash bill Recycling drop-off in Bella Vista	No curbside yard waste collection Free drop-off site located in Bentonville	Operated by Bentonville Wastewater Department Combined with sewage sludge $10 per cubic yard

STAFF REVIEW FORM

Informational Agenda Session Only

__X__ Agenda Request
____ Contract Review
___ Grant Review
For the Fayetteville City Council meeting of September 3, 2002

FROM:

Jill Hatfield	**Animal Services**	**General Services**
Name	Division	Department

ACTION REQUIRED: Approval of Low Cost Spay and Neuter clinic for low income individuals in the city and at cost offered to out of city residents.

COST TO CITY:

$ 0.00	$ 0.00	
Cost of this Request	Category/Project Budget	Category/Project Name
	$ 0.00	
Account Number	Funds Used to Date	Program Name
	$ 0.00	
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ___Budgeted Item ___Budget Adjustment Attached

8/19/02
Budget Manager

Administrative Services Director

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

Marsha Tarkington	8/20/02		
Accounting Manager	Date	ADA Coordinator	Date
[signature]	8/21/02	Nancy Smith	8/20/02
City Attorney	Date	Internal Auditor	Date
[signature]	8/22/02		
Purchasing Officer	Date		

STAFF RECOMMENDATION: Approval of the Resolution and Budget Adjustment

[signature]	8/16/02	
Division Head	Date	Cross Reference
[signature]	8/19/02	
Department Director	Date	New Item: **Yes** No
[signature]	8/22/02	
Administrative Services Director	Date	Prev Ord/Res #:_____
[signature]	8/22/02	
Mayor	Date	Orig Contract Date:_____

Memo

To: Gary Dumas, General Services Administrator

From: Jill Hatfield, Animal Services Superintendent

RE: Low Income/Low Cost Spay/Neuter Clinic Proposal

Date: August 19, 2002

In hiring a Veterinarian position, one of the primary responsibilities was to operate a low cost / low income, spay and neuter program. Not only will the position spay and neuter the animals adopted from the shelter, which is a state law, but also conduct spays and neuters for the low income public as in years past.

The following proposal is based on figures associated with clinic spays and neuters and the federal guidelines for low income individuals. Animal Services will have an application process that potential clients will need to complete. A previous year's income tax statement and photo identification, such as a driver's license is needed for the process to be completed.

Animal Services would also like to provide the clinic for citizens outside the city limits at full cost, adding in the benefits of the Veterinarian and Veterinarian Assistant.

Thank you for your consideration.

The City of Fayetteville Animal Services Clinic

1640 Armstrong Av.
Fayetteville, AR. 72701
479-444-3456

Guidelines for
The City of Fayetteville Animal Services
Low Income/Low Cost
Spay/Neuter Program

The City of Fayetteville proposes a Low Income/Low Cost spay/neuter program in hopes of helping to eliminate the overpopulation of animals in our area. Every year, between 8 and 10 million dogs and cats enter U. S. shelters; some 4 to 5 million of these animals are euthanized because there are not enough homes for them. Clearly, pet overpopulation is not just a problem for the animals or shelters involved. It is a problem here in Northwest Arkansas. That is why the City of Fayetteville is hoping to do its part to prevent uncontrolled breeding by offering low cost spay and neuters for low income families who otherwise might not be able to afford the surgery for the animals they love. The individuals must meet Federal Criteria.

Qualifying incomes are per household:

1 person	2 people	3 people	4 people	more than 4 people
$19,860	$22,680	$25,560	$28,380	$30,660

City of Fayetteville citizens should contact the Animal Shelter if they are interested in participating in this program. You will be asked to fill out an application and show proof of your income, (the previous year's income tax report will be requested) you will also have to show photo identification (such as your driver's license). You must have these with you when filling out the application. Applications will be taken Monday through Friday from 10:00am to 5:00pm. If you have any questions please call the City of Fayetteville Animal Services at 479-444-3456.

Prices will be: Cat Neuter $15
Cat Spay $ 35

Dog Neuter $35
Dog Spay – if less than 45lbs $35
If more than 45lbs $45

An additional $10 fee may be added for female animals in season or pregnant, also if the dog weighs over 75lbs. Since State law requires that all animals be vaccinated for rabies every 12 months, if you do not have proof of current vaccinations by a licensed veterinarian there will be an additional cost of $7. You must bring proof with you when filling out the application. Since the surgery will be performed by the Shelter Veterinarian, after the application has been processed, it will be turned over to the Shelter Clinic. They will call you to set up an appointment for your animal's surgery.

Guidelines for
Residents living outside City limits

Since the City of Fayetteville understands that pet overpopulation is a problem for all of Northwest Arkansas we also propose a Low Income/Low Cost spay/neuter program for residents outside the City limits of Fayetteville.

If anyone living outside the city limits of Fayetteville is interested in participating in this program you will need to contact the Fayetteville Animal Shelter. There will be an application process and you must show proof of your income (last year's income tax report) you must show photo identification (driver's license). You must have these with you when filling out the application. Applications will be taken Monday through Friday from 10:00am to 5:00pm. If you have any questions please call the City of Fayetteville Animal Services at 479-444-3456.

Qualifying incomes are per household:

1 person	2 people	3 people	4 people	more than 4 people
$19,860	$22,680	$25,560	$28,380	$30,660

An additional $10 fee may be added for female animals in season or pregnant, also if the dog weighs more than 75lbs. Since State law requires that all animals be vaccinated against rabies every 12 months, if you do not have proof of current vaccinations by a licensed veterinarian there will be an additional cost of $7. You must bring proof with you when filling out the application. Since the surgery will be performed by the Shelter Veterinarian after the application has been processed it will be turned over to the Shelter Clinic, they will call you to set up an appointment to get your animal in for surgery.

Prices will be: Cat Neuter $25
Cat Spay $40
Dog Neuter $45
Dog Spay – if less than 45lbs $45
If more than 45lbs $55

Fayetteville Animal Services

Memo

To: Gary Dumas, General Services Administrator

From: Bonnie McLaughlin DVM, Animal Services Veterinarian

CC: Jill Hatfield, Animal Services Superintendent, Animal Concerns Committee Members

Date: 8/19/02

Re: Costs associated with Spay Neuter Procedures

Costs for an average spay or neuter are as follows:

Canine Neuter, 60 #	$32.17
Canine Spay, 60 #	$36.86
Feline Neuter, 7 #	$17.42
Feline Spay, 7 #	$33.10

These figures are based on expected drug usage, at today's costs. Post operative pain management is factored in, as well as post operative antibiotic. Suture costs are at a premium rate and I believe we can do better if we shop. The variance in cost of syringe/needles despite same numerical count reflects my personal preferences in type etc. Disposables refer to scrub, alcohol, sponges and the like. All categories were charged $7.00 for temporary housing, cleaning, laundry and monitoring. As we will not be feeding these animals, that figure is probably high. Surgery time is based on 5 minutes per cat neuter, 15 minutes per dog neuter and 20 minutes per spay. Many dogs may run over and many cats under. Check in and out time reflects assistant time and my own, for writing orders or pulling meds as well as a quick double check of cardiac function. Surgeon and assistant fees reflect direct wage only, no benefits factored in.

These figures do not take in to account any unforeseen surgical reactions or problems, and of course, there is always a chance of the unexpected.

Additional fees should accrue to the owners if animal is in estrus, pregnant or obese if that condition causes surgery to run longer or require additional materials.

COST ITEM	DOGS;		CATS;	
	Neuters	Spays	Neuters	Spays
Atropine	.06	.06	.02	.02
AcePromazine	.06	.06	.02	.04
Telazol	l.16		.29	
Ketaset /Xylazine		1.95		
Ketaset			.15	.25
Dura-Penn	.20	.20	.05	.05
Ketoprofen inj.	.71	.71	.08	.08
Dex SP	1.21	1.21	.30	.30
Syringes/Needles	.82	.82	1.00	1.00
Sutures	5.13	5.33		5.04
Disposables	.60	.75	.40	.55
Housing/monitoring	7.00	7.00	7.00	7.00
Surgical assistant	3.03	4.04	1.01	4.04
Surgeon	7.63	10.17	2.54	10.17
Check in & out	4.56	4.56	4.56	4.56
Totals	32.17	36.86	17.42	33.10

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA
CITY COUNCIL
SEPTEMBER 3, 2002

A meeting of the Fayetteville City Council will be held on September 3, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES**

2. **BID 02-44:** A resolution awarding Bid 02-44 to Missco Corporation for furniture for the TCA Building in the amount of $51,858.52 plus tax and a 5% contingency.

3. **COMMUNITY DEVELOPMENT:** A resolution approving a budget adjustment in the amount of $250,000.00 and a budget adjustment policy for the Community Development section.

4. **PCS PROPERTIES:** A resolution approving an agreement with Southwest PCS Properties for the lease of tower space on the ~~Township~~ water tank. The proposed lease amount is $1,500 per month with an initial term of five years.

5. **BID 02-48:** A resolution awarding Bid 02-48 and approving a contract with Arkansas Valley Irrigation and Landscaping in the amount of $55,000, plus a 10% project contingency of $5,000 for a total cost of $60,500.

6. **BID 02-49:** A resolution awarding Bid 02-49 and approval of a contract with Revelle Irrigation Systems in the amount of $22,700, plus a project contingency of $3,400 for a total cost of $26,100.

7. **HAY GROUP:** A resolution amending the 2002 Budget authorizing the employment of the Hay Group for work associated with personnel issues and for other purposes.

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

8. **SKATE PARK:** A resolution approving an agreement with Tony Hawk Foundation. The Foundation will provide a $5,000 grant to the Fayetteville Skate Park upon receiving the signed agreement.

9. Hwy 180 - Hwy dept. dis. of street. readings in adoption of street.

B. OLD BUSINESS

1. **RZN 02-15.00:** An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen on behalf of Larry Garriott for property located north of Persimmon Street and west of 46th Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was tabled on the second reading at the August 6 and August 20, 2002 meetings.

2. **OFF-STREET PARKING:** An ordinance amending Section 172.01, Off-Street Parking Lot Design Requirement, of the UDO to provide a method for reducing off-street parking requirements for properties that share a common parking facility and to revise parking ratios for certain uses. Ordinance was left on the first reading at the August 20, 2002 meeting.

3. **OUTDOOR LIGHTING:** An ordinance that minimizes the impact of outdoor lighting on adjacent properties and improves nighttime visibility. Ordinance was left on the first reading at the August 20, 2002 meeting.

4. **RZN 02-21.00:** An ordinance approving rezoning request RZN 02-21.00 as submitted by Dixie Development for property located at 10 Bishop Drive and 35 Appleby Road. The property is zoned A-1, Agricultural and contains approximately 17.39 acres. The request is to rezone to R-O Residential Office. The ordinance was left on the second reading at the August 20, 2002 meeting.

5. **RZN 02-22.00:** An ordinance approving RZN 02-22.00 as submitted by Tom Shackelford for property located at 2975 Old Farmington Road. The property is zoned A-1, Agricultural and contains approximately 1.32 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the August 20, 2002 meeting.

6. **AUTOMATED CARTS:** An ordinance establishing the rate structure and program parameters for an automated cart based on residential trash collection and disposal program. The ordinance was left on the first reading at the August 20, 2002 meeting.

7. **LOPFI 2:** A resolution moving the City of Fayetteville Police LOPFI retirement benefits from Plan 1 to Plan 2 as of October 1, 2002. The resolution was tabled at the August 20, 2002 meeting.

C. NEW BUSINESS

1. **RZN 02-8.00:** An ordinance approving rezoning request RZN 02-8.00 as submitted by Bob Hill of Nickle Hill Group on behalf of J.C. and Alma Nickell for property located at 867 N. College. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-1, Neighborhood Commercial.

2. **RZN 02-23.00:** An ordinance approving rezoning request RZN 02-23.00 as submitted by Jerry Kelso of Crafton Tull and Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Rd. and east of Futrall. The property is zoned C-2 Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential.

3. **RZN 02-24.00:** An ordinance approving rezoning request RZN 02-24.00 as submitted by Phil Hagen of Crafton Tull and Associates on behalf of Don Nelms for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.

4. **RZN 02-25.00:** An ordinance approving rezoning request RZN 02-25.00 as submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential.

5. Remove from agenda

SETBACK LINES: An ordinance establishing setback line on such streets and highways as are designated on the Master Street Plan and prohibiting the establishment of any new structure or other improvements within the setback lines.

6. **PUBLIC TRANSIT AUTHORITY:** An ordinance authorizing the City of Fayetteville to become a part of a Public Transit Authority to be known as the Ozark Transit Authority and confirming an interlocal agreement to be signed by the Mayor.

7. Remove from agenda

BUDGET ADJUSTMENT POLICY: Consideration of a change in budget adjustment policy.

D. INFORMATIONAL ITEMS put on early by

1. **SPAY / NEUTER CLINIC:** Approval of low cost spay and neuter clinic for low income individuals in the city and at cost offered to out of city residents.

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2. **OFF STREET PARKING:** An ordinance amending Section 172.01, Off-Street Parking Lot Design Requirement, of the UDO to provide a method for reducing off-street parking requirements for properties that share a common parking facility and to revise parking ratios for certain uses. Ordinance was left on the first reading at the August 20, 2002 meeting.

3. **OUTDOOR LIGHTING:** An ordinance that minimizes the impact of outdoor lighting on adjacent properties and improves nighttime visibility. Ordinance was left on the first reading at the August 20, 2002 meeting.

4. **RZN 02-21.00:** An ordinance approving rezoning request RZN 02-21.00 as submitted by Dixie Development for property located at 10 Bishop Drive and 35 Appleby Road. The property is zoned A-1, Agricultural and contains approximately 17.39 acres. The request is to rezone to R-O Residential Office. The ordinance was left on the second reading at the August 20, 2002 meeting.

5. **RZN 02-22.00:** An ordinance approving RZN 02-22.00 as submitted by Tom Shackelford for property located at 2975 Old Farmington Road. The property is zoned A-1, Agricultural and contains approximately 1.32 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the August 20, 2002 meeting.

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TOUR ?? ?? FRIDAY ??

FAYETTEVILLE

HE CITY OF FAYETTEVILLE, ARKANSAS

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CITY COUNCIL
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STAFF REVIEW FORM

X Agenda Request
___ Contract Review
___ Grant Review

For the Fayetteville City Council meeting of September 3, 2002.

FROM:

Coy Hurd	Building Maintenance	General Services
Name	Division	Department

ACTION REQUESTED: To grant re-bid number 02-44 for furniture in the TCA Building to Missco Corporation in the amount of $49,253.05 plus tax and a 5% contingency.

COST TO CITY:
$ 51,858.52 — Cost of this request
1010-6300-5190-00
4470-9470-5804-00 — Account Number
07087 — Project Number

25,124
304,225 — Category/Project Budget
451
254,289 — Funds used to date
24,673
49,936 — Remaining balance

TCA — Category/Project Name
Program Name
Capital Fund
Sales Tax CAP PRJ — Fund

BUDGET REVIEW: X — Budgeted Item ___ Budget Adjustment Attached

Budget Coordinator
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fautsch — Accounting Manager — 8/22/02 Date
[illegible] — City Attorney — 8/21/02 Date
Price — Purchasing Officer — 8/22/02 Date

GRANTING AGENCY:

ADA Coordinator — Date
Danny Smith — Internal Auditor — 8/22/02 Date

STAFF RECOMMENDATION: Staff recommends approval.

Division Head — Date
Department Director — 8-21-02 Date
Administrative Services Director — Date
Mayor — 8/22/02 Date

Cross Reference

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

Prev Ord/Res#: ___

Orig Contract Date: ___

MEMORANDUM
TO: Mayor Dan Coody, Members of Fayetteville City Council
FROM: Coy Hurd, Project Manager
THRU: Gary Dumas, General Services Director
RE: Furniture bid for TCA Building
DATE: August 19, 2002

On August 7th, 2002, a bid was conducted regarding new furniture to be placed in the TCA Building when the current remodel is completed. Of the three bidders responding, the lowest bidder (Innovative Business Furniture) was not responsive; they did not list a Contractor's License Number. The lowest responsive bid was in the amount of $49,253.05 (plus applicable tax), submitted by the Missco Company. This bid is within the declared amount of funds of $50,000. We would also need to include a five percent contingency amount to address any possible changes or additions. It is my recommendation that Missco's bid be accepted, and, that a Notice to Proceed be issued to the Missco Company as soon as possible.

I will certainly be available to answer any questions concerning this recommendation.

Contract is being revised to include sales tax. It will be in final agenda pkg. Thanks, Peggy

BID TABULATION

TCA Rennovation
FURNISHINGS

Fayetteville, AR

Bid Opening: 2:00pm 7-August 2002
Location: TCA Renovation Furnishings

Architect Engineer Proj. No: 2001-068.15

CROMWELL ARCHITECTS ENGINEERS
7 North Block Avenue
Fayetteville, Arkansas 72701

Certified by: Shawn Del Hoon

Date: Aug 7, 2002

	Innovation Business Furniture	La Harpe's	MISSCO Corp.	
Contractor License No:	NONE	0056541101	0007990403	
Modular	18233.80	25711.46	25424.50	
Filing & Storage	14468.70	16092.22	13992.85	
Tables	827.50	1222.00	1138.70	
Seating	3270.00	3712.00	4036.00	
Herman Miller Seating	3817.64	0	4356.00	
Systems	1920.48	3566.33	0	
Desks	190.55	315.00	305.00	
A. Total Proposal	$42,728.75	$50,619.01	$49,253.05	
B. Time of Completion	70 days	70 days	70 days	
C. Addenda 1, 2, 3	Yes	Yes	Yes	
G. Attachments				
1. Bid Bond	5%	5%	5%	
CERTIFIED FUNDS	$50,000.00			

CITY OF FAYETTEVILLE

Purchase Requisition

(not a purchase order)

Requisition No.:		Date: 8|16|02	
P.O. Number:		Expected Delivery Date:	
Vendor #: 8911	Vendor Name: Missco Corporation	Mail: Yes No	
Address: P.O. Box 5349		FOB Point:	Taxable: Yes ✓ No
City: Jackson	State: MS	Zip: 39296	Ship To Code:
Requester: Renee Thomas		*Requester's Employee#: 2038	Division Head Approval:
			Extension: 268

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

Instructions: _____

Subtotal: _____

Tax: _____

TOTAL: _____

Approvals: (for purchasing office use only)

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Admin. Services Director: _____ Budget Coordinator: _____ Data Processing Mgr: _____

Bid 02-44
A. 2. Page 4

BID: FORMAL ☐ ✓ BID BOND REQUIRED YES ☐ NO ☐
INFORMAL ☐ ✓
VERBAL QUOTATION ☐ PERFORMANCE BOND REQUIRED YES ☐ NO ☐ ✓

addendum 1, 2, 3

113 W. MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS 72701

TABULATION OF BIDS

PROJECT _____

DESCRIPTION Furniture TCA Bldg (Rebid) F.O.B. _____ DATE OPENED 8/7/02 2:00 PM

BID NO 02-44 PROJECT NO. _____

		#1 ITEM	#2 ITEM	#3 ITEM	#4 ITEM	#5 ITEM	#6 ITEM	#7 ITEM	#8 ITEM	EXTENSION
BIDDER: Innovative	UNIT/QUANT COST	$18,233.80		$3,827.50		$3,817.64		$190.55	$42,728.75	
ADDRESS: Bus Furniture	EXT. COST	(2) $14,468.70		$3,270.00		$ 1,920.48				
BIDDER:	UNIT/QUANT COST									
ADDRESS:	EXT. COST	$25,711.46		$1,222.00				$315.00	$50,619.01	
BIDDER: La Hayen	UNIT/QUANT COST	$16,092.22		$3,712.00		$3,566.33				
ADDRESS: Furniture	EXT. COST									
BIDDER:	UNIT/QUANT COST									
ADDRESS:	EXT. COST									
BIDDER: Mesco Corp	UNIT/QUANT COST	$25,424.50		$1,138.70		$4,356.00		$305.00	$49,253.05	
ADDRESS:	EXT. COST	(2) $3,992.85		$4,036.00						
BIDDER:	UNIT/QUANT COST									
ADDRESS:	EXT. COST									
BIDDER:	UNIT/QUANT COST									
ADDRESS:	EXT. COST									
BIDDER:	UNIT/QUANT COST									
ADDRESS:	EXT. COST									
BIDDER:	UNIT/QUANT COST									
ADDRESS:	EXT. COST									

BID AWARD SUMMARY:

ITEM _____ TO _____ P.O. # _____

ITEM _____ TO _____ P.O. # _____

ITEM _____ TO _____ P.O. # _____

ITEM _____ TO _____ P.O. # _____

DATE _____ CERTIFIED BY _____

REMARKS:

PURCHASING OFFICER

WITNESS

STAFF REVIEW FORM

___ AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council meeting of 9/3

FROM:

Yolanda Fields (Name) | Community Code Enforcement (Division) | Urban Development (Department)

ACTION REQUIRED:
Approval of a budget adjustment in the amount of $250,000.00 and budget adjustment policy for the Community Development Section.

COST TO CITY:

None — Cost of this Request

Category/Project

Category/Project Name: Housing Rehab

Account Number

Funds Used To Date

Program Name: Comm. Dev.

Project Number

Remaining Balance

Fund

BUDGET REVIEW: ___ Budgeted Item X Budget Adjustment Attached

8-15-02
Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Marsha Fautley — Accounting Manager — 8/15/02 Date
Nancy Smith — Internal Auditor — 8/15/02 Date

City Attorney — 8/16/02 Date

ADA Coordinator — Date

Purchasing Officer — Date

Grants Coordinator — Date

STAFF RECOMMENDATION: Approval of a budget adjustment and budget adjustment policy for the Community Development Section.

Division Head — 8-15-02 Date

Department Director — 8-20-02 Date

Administrative Services Director — 8/16/02 Date

Mayor — 8/19/02 Date

Cross Reference

New Item: Yes

Prev Ord/Res #: _____

Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THROUGH: Hugh Earnest, Urban Development Director

FROM: Yolanda Fields, CCE Director

REFERENCE: Budget Adjustment

DATE: August 14, 2002

Issue

Approval of a budget adjustment and budget adjustment policy for the Community Development Division

Discussion

Community Development Division has submitted a change in program budget to Housing & Urban Development (HUD) that moves federal funding from the Project for Victims of Family Violence to housing rehabilitation activities. HUD has approved the change in spending purpose. During 2002, HUD regulations changed to require grantee organizations such as the City of Fayetteville to have no more than 1.5 times the annual grant amount remaining on the HUD letter of credit. HUD has informed the City that while we are currently in compliance with the spending regulations, we (the City) need to continue drawing money down so that on the next test date (November 4) our letter of credit remaining balance is below the threshold of 1.5 times the annual grant amount. If the City is above the threshold the City of Fayetteville could face future penalties in the form of reduced federal funding for HUD funded activities. HUD notified the City of the new requirements in May, 2002.

The City's Administrative Procedure to Amend the Budget has five levels of authority stipulated: Authority Level A – the Budget Manager is authorized to add up to $2,500 to any program or project, Authority Level B – the Administrative Services Director is authorized to add up to $15,000 to any program or project, Authority Level C – the Mayor is authorized to add up to $20,000 to any program or project, Authority Level D – City Council is authorized to amend the budget, Authority Level E – the authority level is administrative and the adjustment must meet one of several tests. Authority Level E tests are described below.

The City's approved Administrative Procedure to Amend the Budget Authority Level E authorizes Staff to add more than $20,000 to a program when: 1) the additional expense is directly linked to revenues that increase, or 2) the funding that is moved is for the same purpose as originally authorized by City Council or 3) the additional expense budget is part of a routine

pay/fringe benefit adjustment for which City Council had previously authorized a salary contingency All other budget adjustments that accumulate to $20,000 or more per program must be approved by City Council. The original budget authorization and subsequent budget amendments are financial records of the City and as such are routinely audited by the City's independent auditor. The auditor looks for compliance with the City Council approved budget adjustment policy and compliance with state budgetary laws.

Requested Action

City Council amend the Administrative Procedure to Amend the Budget for CDBG programs to empower the Department Director, Division Director and Staff to better respond to changing issues in a more timely manner. The proposed amendment would be in the "E" category and is as follows:

> In addition to the above, the Budget office is authorized to process budget amendments that reallocate existing funding within the CDBG programs where the additional or changed appropriation is necessary to either comply with a change in use of the funding or in response to an unforeseen event. All related HUD requirements must be met.

pay/fringe benefit adjustment for which City Council had previously authorized a salary contingency All other budget adjustments that accumulate to $20,000 or more per program must be approved by City Council. The original budget authorization and subsequent budget amendments are financial records of the City and as such are routinely audited by the City's independent auditor. The auditor looks for compliance with the City Council approved budget adjustment policy and compliance with state budgetary laws.

Requested Action

City Council amend the Administrative Procedure to Amend the Budget for CDBG programs to empower the Department Director, Division Director and Staff to better respond to changing issues in a more timely manner. The proposed amendment would be in the "E" category and is as follows:

> In addition to the above, the Budget office is authorized to process budget amendments that reallocate existing funding within a federal grant program where the additional or changed appropriation is necessary to either comply with a change in use of the funding or in response to an unforeseen event. All related federal grant program requirements must be met.

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Community Code Enforcement	Date Requested	Adjustment #
	Division: Housing	9-3-02	
	Program: Rehabilation		

Project or Item Requested:

Reallocate funds from Projects for Victims of Family Violence. After reviewing with the agency, it was determined that the agency was not ready to progress with the funded project.

Project or Item Deleted:

None. Reallocation of grant funds to better serve the community in the housing program.

Justification of this Increase:

The funds need to be utilized at this time to help the community by increasing Housing program funding.

Justification of this Decrease:

PVFV is not ready to move forward on its project.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number	Project Number
Salaries/Wages	10,000.00	2180-4940-5100-00	
Office/Printing Supplies	1,000.00	2180-4940-5200-00	
Public Notification	500.00	2180-4940-5301-00	
Contract Services	230,500.00	2180-4940-5315-00	
Habitat for Humanities	5.000.00	2180-4940-5390-39	
Minor Equipment	3,000.00	2180-4940-5890-00	

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number	Project Number
Projects for Victims of Families Violence	(250,000.00)	2180-4990-5390-27	99068-10

Approval Signatures

Requested By — Date

Budget Coordinator — Date: 8-15-02

Department Director — Date

Services Director — Date: 8/16/02

Mayor — Date

Budget Office Use Only

Type: A B C (D) E

Date of Approval

Posted to General Ledger

Posted to Project Accounting

Entered in Category Log

Blue Copy: Budget & Research / Yellow Copy: Requester

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Community Code Enforcement Division: Housing Program: Rehabilation	Date Requested	Adjustment #

Project or Item Requested:

Reallocate funds from Projects for Victims of Family Violence. After reviewing with the agency, it was determined that the agency was not ready to progress with the funded project.

Project or Item Deleted:

None. Reallocation of grant funds to better serve the community in the housing program.

Justification of this Increase:

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Contract Services	230,500.00	2180-4940-5315-00	
Habitat for Humanities	5.000.00	2180-4940-5390-39	
Minor Equipment	3,000.00	2180-4940-5890-00	

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number	Project Number
Projects for Victims of Families Violence	(250,000.00)	2180-4990-5390-27	99068-10

Approval Signatures

Requested By _____ Date _____

Budget Coordinator _____ Date _____

Department Director _____ Date _____

Admin. Services Director _____ Date _____

Mayor _____ Date _____

Budget Office Use Only

Type: A B C D E

Date of Approval _____

Posted to General Ledger _____

Posted to Project Accounting _____

Entered in Category Log _____

Blue Copy: Budget & Research / Yellow Copy: Requester

STAFF REVIEW FORM

_x_ AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

FOR THE FAYETTEVILLE CITY COUNCIL MEETING OF SEPT. 3, 2002

FROM:

GREG BOETTCHER	PUBLIC WORKS DIRECTOR	PUBLIC WORKS
NAME	DIVISION	DEPARTMENT

ACTION REQUIRED: APPROVAL OF AN AGREEMENT WITH SOUTHWEST PCS PROPERTIES FOR THE LEASE OF TOWER SPACE ON THE TOWNSHIP WATER TANK. THE PROPOSED LEASE AMOUNT IS $ 1,500.00 PER MONTH, WITH AN INITIAL TERM OF 5 YEARS.

COST TO CITY:

$ 18000 - REVENUE	$ 40000 - REVENUE	RENT
COST OF THIS REQUEST	CATEGORY/PROJECT BUDGET	CATEGORY/PROJECT NAME

5400-0940-6450.00	$ 44,060 - REVENUE	
ACCOUNT NUMBER	FUNDS USED TO DATE	PROGRAM NAME
	$ 4,060 - INCREASED REVENUE	WATER + SEWER
PROJECT NUMBER	REMAINING BALANCE	FUND

BUDGET REVIEW: ___ BUDGETED ITEM ___ BUDGET ADJUSTMENT ATTACHED

8-16-02
BUDGET COORDINATOR — ADMINISTRATIVE SERVICES DIRECTOR

CONTRACT/GRANT/LEASE REVIEW: GRANTING AGENCY:

Marsha Farthing 8/16/02
ACCOUNTING MANAGER — DATE — ADA COORDINATOR — DATE

8/16/02 8/16/02
CITY ATTORNEY — DATE — INTERNAL AUDITOR — DATE

PURCHASING OFFICER — DATE

STAFF RECOMMENDATION: IT IS THE RECOMMENDATION OF THE STAFF THAT THE COUNCIL APPROVE THE LEASE AGREEMENT WITH SOUTHWEST PCS PROPERTIES FOR CELLULAR ANTENNAE LOCATED ON THE TOWNSHIP WATER TANK.
LEASE AMOUNT: $ 1500.00 PER MONTH

DIVISION HEAD — DATE: 8-16-02
DEPARTMENT DIRECTOR — DATE: 8-19-02
ADMIN SVCS DIRECTOR — DATE: 8/19/02
MAYOR — DATE

CROSS REFERENCE

NEW ITEM: YES NO

PREV ORD/RES #: _____

ORIG CONTRACT # _____

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:

_____

_____

_____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Dan Coody
Members of Fayetteville City Council

From: Greg Boettcher, P.E.
Public Works Director

Date: August 16, 2002

Subject: **WATER TANK ATTACHMENT COMMUNICATION SITE LEASE AGREEMENT – SOUTHWEST PCS PROPERTIES**

BACKGROUND

The City of Fayetteville has adopted an ordinance titled "Wireless Communication Facilities" that encourages communication service providers to co-locate on existing towers and structures. Conditional use applications for antennae installations require documentation of efforts to locate the facilities on an existing facility.

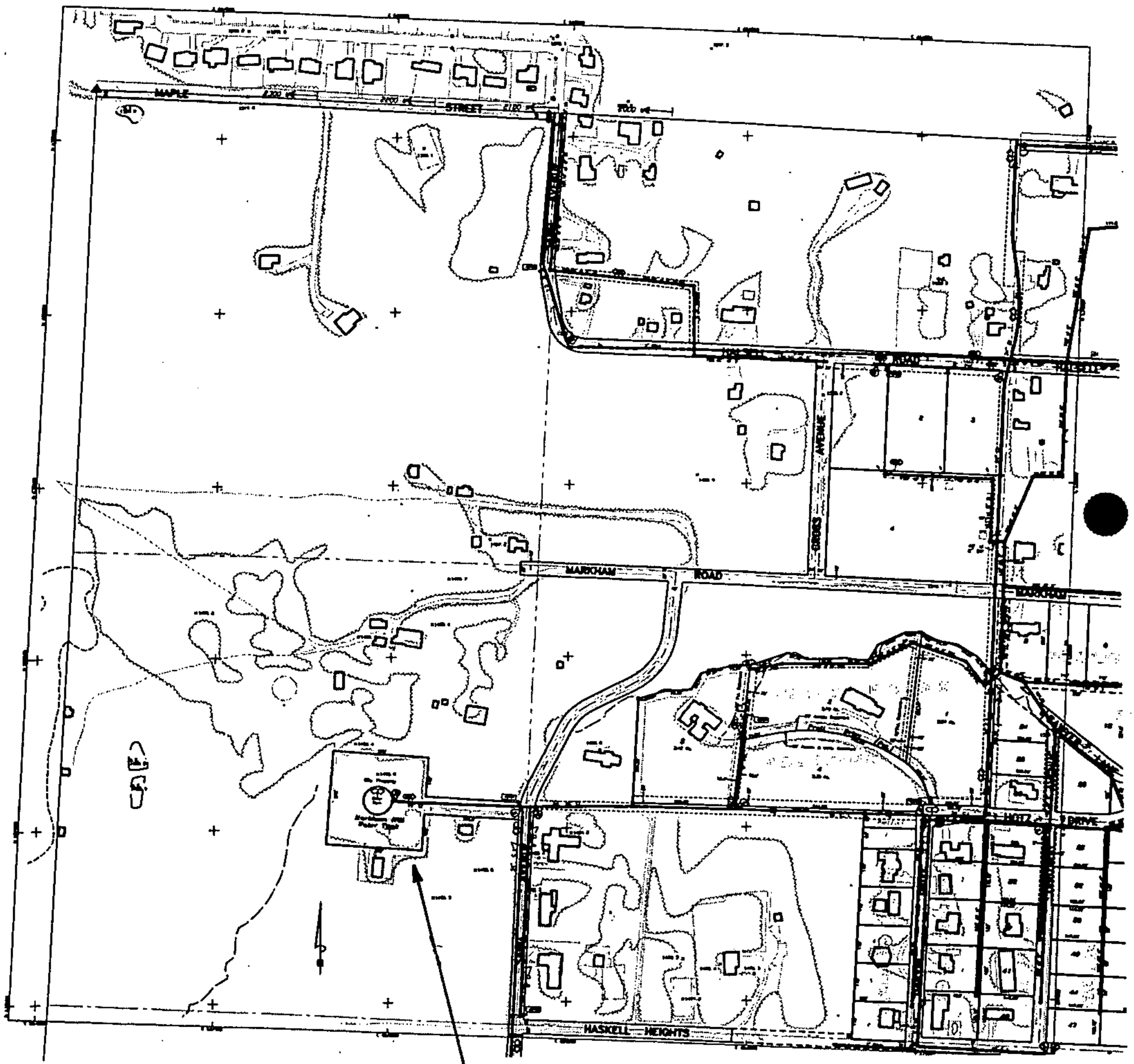
The City of Fayetteville has allowed communication providers to locate on its water towers and storage tanks, with the following contracts being of record: Alltel @ $1000.00/month; Telecorp @ $500.00/month; Southwest PCS @ $1,250.00/month and Cricket @ $1,500.00/month. Neighboring cities report the following arrangements: Rogers - $1000.00/month; Bentonville – City use only; and Springdale – City use only.

DISCUSSION

The proposed agreement for location of communication antennaes on the balcony of the Sang Water Tower provides for a lease payment of $1,500.00 per month for an initial term of 5-years, renewable for an additional 5-years with both parties' consent. The installation details shall not pose a hazard to the tank's structural integrity, the installation shall be arranged to minimize any adverse aesthetic impact and orientation shall be such as to minimize conflicts with normal water operation/maintenance. The communications company shall maintain proper insurance coverage during the term of the lease.

RECOMMENDATION

It is recommended that the Fayetteville City Council approve the lease agreement and authorize the Mayor's execution of the document.



Markham Hill Tank (133 Sang)

WATER TANK ATTACHMENT
COMMUNICATION SITE LEASE AGREEMENT

This Water Tank Attachment Communication Site Agreement ("Agreement") is entered into this ___ day of _____, 20 ___, by and between the City of Fayetteville, hereinafter known as the "Owner" and Southwest PCS Properties, LLC, a Delaware limited liability corporation, hereinafter known as the "Tenant".

GENERAL TERMS AND CONDITIONS:

1. Grant. Subject to the terms and conditions contained within this Agreement, Owner hereby grants to Tenant the nonexclusive right to install, maintain, operate and remove radio communications equipment and appurtenances on the Owner's water tank (the "Water Tank") located on the property described in Exhibit "A" (the "Premises"), and leases to Tenant a portion of the Premises for construction and occupancy of an equipment shelter or building to house Tenant's equipment on the Premises as more particularly described in Exhibit "A". Owner shall continue to have the right to occupy the Premises and operate the Water Tank and to grant others rights to occupy or utilize the Premises and the Water Tank at Owner's sole discretion.

Owner also grants to Tenant a nonexclusive easement during the term of this Agreement for ingress, egress and regress and for the installation and transmission of utilities on property described on attached Exhibit "B" ("Easement"). Tenant may install equipment, personal property, improvements, alterations or fixtures as listed on Exhibit "C" (the "Equipment"), or as Owner may otherwise approve in writing, such approval not to be unreasonably withheld, conditioned or denied. Any personal property owned by Tenant, whether or not fixed or attached to the Premises or Water Tank, shall remain the property of Tenant prior to termination of this Agreement without regard to whether it appears on Exhibit "C".

2. Use. Tenant shall use the Equipment and Premises for the purpose of constructing, installing, maintaining, improving and operating, at Tenant's expense, a communications facility, including antennae, equipment shelter or building, platforms, cable runs and incidental uses as described in this Agreement. Tenant shall be solely responsible for securing any and all building permits and approvals, zoning changes or approvals, variances, use permits, and other governmental permits from applicable governmental authorities, including any Federal Aviation Administration approval (collectively, "Permits") prior to any construction on the Premises. Owner agrees to reasonably cooperate with Tenant in obtaining the Permits, and copies of the Permits shall be provided to Owner upon request. Tenant shall promptly pay all costs and expenses and shall not cause or permit any lien to be created against the Premises.

3. Initial Term. The "Initial Term" of this Agreement shall be five (5) years, commencing the earlier of (i) commencement of installation or (ii) one hundred eighty (180) days after the full execution of the Agreement, (the "Commencement Date") and terminating at midnight five years thereafter.

4. Renewal Term(s). Tenant shall have the right to extend this Agreement for one (1) additional term of five (5) years ("First Renewal Term") on the same terms and conditions as set forth in this Agreement except that the Rent shall be increased as may be specified in the Special Terms and Conditions. This renewal shall be automatic unless Tenant notifies Owner of Tenant's intention not to renew.

Upon expiration of the First Renewal Term [ten (10) years and one hundred eighty (180) days from the date of this agreement] the Owner shall have the right to terminate this

Agreement for any reason, provided the Tenant shall have been notified in writing one hundred and eighty (180) days prior to the expiration date. In the event Owner chooses not to terminate the Agreement, the Tenant shall have the right to extend the Agreement for one (1) additional five (5) year term. However, both parties shall have the right to ask for a renegotiation of the terms and conditions of the Agreement at that time, provided a written notice of the desire to renegotiate terms and conditions is given the other party at least ninety (90) days prior to the Agreement termination date. Notice shall contain an explanation of the items and/or issues to be renegotiated. Owner and Tenant shall have the same rights of termination/negotiation at the end of each successive five (5) year term.

5. Rent. The rental amount for the initial term and subsequent renewal terms shall be as specified in the Special Terms and Conditions of this Agreement. Rental payments shall begin on the Commencement Date and shall be made monthly in advance on the first day of the month and shall be prorated for any partial month at the commencement or termination of this Agreement, based on the number of days in that month. Tenant will receive a monthly statement from Owner and payment shall be sent to the address contained in the monthly statement. Any past due amount shall be shown as such on the following month's billing statement, and shall constitute sufficient notice to the Tenant of the need to bring the account current. Failure to do so within thirty (30) calendar days of the receipt of such notice shall be deemed a default. In the event the Agreement is terminated due to any reason except Tenant's default, Owner shall promptly refund any prepaid rents to Tenant.

6. Maintenance. The costs of maintaining the Water Tank, including painting of the exterior and finishing or painting the interior of the Water Tank, shall be borne by Owner. In the event damage is caused to Tenant's equipment or personal property by Owner's agents, or employees, the cost of repairing such damage shall be borne by Owner who shall, upon due notice and proof of loss provided by Tenant, timely reimburse Tenant the cost of repairing such damage.

Tenant shall maintain its antennas, transmission lines, equipment and equipment shelter in good operating condition. In the event damage is caused to the Water Tank by Tenant or Tenant's agents, employees, contractors or subcontractors, either during the initial installation of the equipment or subsequent operational, construction, or maintenance activities, the cost of repairing such damage shall be borne by Tenant. The cost of repair may include, but would not be limited to the cost of lost water, disinfections, public notifications, and re-painting. Should Tenant fail to timely make repairs required by this Agreement, Owner may, at Owner's option, make such repairs and Tenant shall promptly reimburse Owner for its costs and expenses incurred in such repair. Upon termination or expiration of this Lease Agreement, Tenant shall remove, within ninety (90) days thereof, its Equipment from the Water Tank and repair damage, if any, to the Water Tank caused by the removal of Tenant's Equipment, normal wear and tear and damage due to casualty excepted. Tenant's activities and operations and the Equipment shall not interfere with Owner's maintenance, repair and operation of the Water Tank and its lighting system. Tenant shall be responsible for any damages it may cause to existing or future telecommunications equipment. Tenant shall be obligated to remove all permanent structures down to ground level unless Owner specifically approves of such structure or structures remaining in place. Underground or at grade items, such as slabs on grade, gravel, and vegetation shall not require removal. No underground items shall require removal.

7. Due Diligence Period. Tenant's obligation to perform under this Agreement shall be subject to and conditioned upon:

(a) Tenant's securing appropriate approvals for Tenant's intended use of its Equipment on the Premises from the Federal Communications Commission, the Federal Aviation Administrator, and any other federal, state or local regulatory agency having jurisdiction over Tenant's proposed use of the Equipment;

(b) Tenant's obtaining, at its option, a title report or commitment for a leasehold title policy from a title insurance company of Tenant's choice which must show no defects or restrictions of title or any liens or encumbrances which may adversely affect Tenant's use of the Premises or Tenant's ability to obtain financing;

(c) Tenant's obtaining, at its option, a survey and analysis tests which must show no defects which, in the opinion of the Tenant may adversely affect Tenant's use of the Premises;

(d) Tenant's approval of the condition of the Premises, which may be subject to, at Tenant's option, an environmental audit of the Premises performed by an environmental consulting firm of Tenant's choice; and

(e) Tenant's determination that the Water Tank is structurally appropriate for Tenant's needs.

Tenant shall act with due diligence within ninety (90) days of the date of execution hereof to satisfy all conditions set forth above. In the event that Tenant determines during the due diligence period that the Water Tank and the Premises are, in Tenant's opinion, unacceptable to Tenant, then this Agreement shall terminate and be of no further force or effect.

8. Interference. Tenant agrees to install Equipment of types and generating frequencies which will not cause interference to transmissions or signals from users of the Water Tank as may be already in place on the Water Tank or on the Premises, and who are operating in full compliance with all FCC requirements. At Owner's request, Tenant shall provide a detailed interference analysis showing potential conflicts between Tenant's frequencies and those of the other users already in place on the Water Tank. If, upon installation and start-up of the Equipment, the Equipment causes such interference, Tenant will take all steps necessary to correct and eliminate the interference. If the interference cannot be eliminated within 48 hours after receipt of written notice from Owner to Tenant, Tenant shall temporarily disconnect the electric power and shut down the Equipment (except for intermittent operation for the purpose of testing, after performing maintenance, repair, modification, replacement, or other action taken for the purpose of correcting such interference) and if such interference is not corrected within 30 days after receipt of the written notice, Tenant agrees to remove the Equipment from the Water Tank and the Premises and this Agreement shall terminate as if by expiration.

9. Subsequent Tenants. Owner will require any proposed new co-locating tenant to develop the proper documentation showing that its proposed installation and the use thereof will not interfere with the existing tenant(s) equipment and use of the Tank prior to the execution of an agreement to allow such co-location. The existing tenant(s) shall review and approve such documentation, but shall not unreasonably nor arbitrarily withhold such review and approval.

The Owner will require any Agreement with a subsequent co-locating tenant to contain language which holds the new tenant liable for any and all damages to Tenant's existing equipment and use thereof which may occur as a result of the installation and operation of their equipment. In the event of such interference by a subsequent tenant, Tenant shall have the right to enjoin such interference and if the interference is not remedied within thirty (30) days, Tenant shall have the right to terminate this
Agreement immediately.

10. Utilities and Access. Tenant shall have the right to install utilities, to be separately metered at Tenant's expense, and to improve present utilities on the Premises, including but not limited to the installation of emergency power generators. Tenant shall have the right to place utilities, (and all sleeves, conduits and cables necessary thereto), on a formal utility easement

specifically given by Owner for that purpose in order to service the Equipment throughout the Initial Term or any Renewal Term of this Agreement. All utilities servicing Tenant's equipment and facilities shall be placed underground. Tenant shall be responsible for all utility connection charges, and all utility use charges, for electricity or any other utility used by Tenant.

Tenant shall have access to the Premises and the Equipment at all times, 24 hours each day, through the Owner's access drive. Owner shall maintain the access drive in good condition throughout the Initial Term of this Agreement and throughout any Renewal Term(s).

11. Termination. This Agreement may be terminated by either party in accordance with the provisions of Paragraph 4. This Agreement may be terminated on thirty (30) days prior written notice by either party upon a default of any covenant or term thereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of such default. Any default which cannot be cured in sixty (60) days shall not be considered a default so long as the defaulting party has identified a cure which is satisfactory to the other party and is diligently pursuing such cure. Additionally, this Agreement may be terminated by the Tenant at any time for any reason or for no reason.

Upon termination of this Agreement Tenant shall immediately cease its operation, and shall have ninety (90) days from the termination date to remove all of Tenant's Equipment from the Premises and shall make whatever repairs to the Water Tank and grounds that might be necessary to leave the Premises in a good, clean, and neat condition. Such repairs shall but not be limited to, physical repair and painting of damaged areas of the Water Tank caused by the operation or removal of the antennae and other equipment, and repair to the grounds (seeding, mulching, etc) on and around building removal areas.

12. Structural Analysis. Tenant shall be solely responsible to ensure that Tenant's installation of the Equipment shall not significantly effect the structural integrity of the Water Tank, and that no damage results to the Water Tank due to installation of the Equipment. Owner agrees to furnish Tenant, promptly upon Tenant s request, true and accurate copies of all analyses performed on the Water Tank within the two years preceding the request and Tenant s attachment of antennas or Equipment on the Water Tank.

In the absence of such an analysis or if the most recent analyses are insufficient for Tenant's needs, or if requested to do so by the Owner, Tenant shall be responsible for obtaining a new analysis by a structural engineer licensed to do business in the State of Arkansas. Tenant shall furnish a copy of the analysis to Owner. The cost of the new analysis shall be paid solely by Tenant. If reinforcements to the Water Tank are required for Tenant's use, Tenant shall submit plans to the Owner, prepared by an engineer registered to do business in the State of Arkansas, for such reinforcements. Upon approval by the Owner, Tenant shall proceed with such reinforcements at Tenant's sole cost after review and approval of the plans by the Owner.

Subsequent tenants may be required to_perform an analysis on the Water Tank by a licensed structural engineer indicating that attachment of the Additional Antennas to the Water Tank does not impair the structural integrity of the Water Tank and will not materially diminish the Water Tank's function or useful life. All such Tank analyses shall be in compliance with current industry standards.

13. Taxes. Tenant shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, Tenant's Equipment. Tenant shall not pay real property taxes or other fees and assessments attributable to the Water Tank or the Premises.

14. Environmental Matters. Owner represents that, to Owner's best knowledge, no Hazardous Materials are presently located on the Premises or Easement, and Owner agrees that it

will provide, at no cost or expense to Tenant, for the removal of any Hazardous Materials if Hazardous Materials are present on the Premises or the Easement prior to the date of this Agreement or if Hazardous Materials are brought onto the Premises or Easement by Owner, its agents, servants, employees, licensees, invitees or contractors. If after Tenant takes possession of the Premises Hazardous Materials are discovered to exist on, under or beneath the Premises, Tenant may terminate this Agreement and Tenant shall owe no further duties, obligations or liability to Owner.

Tenant shall comply with all laws, ordinances, rules, orders or regulations applicable to Hazardous Materials. Tenant shall not use the Premises or the Easement for treatment, storage, transportation to or from, use or disposal of Hazardous Materials (other than petroleum products necessary for the operation of an emergency electrical generator to serve the Equipment). Tenant shall be responsible for any expense incident to the abatement or compliance with the requirements of any federal, state or local statutory or regulatory requirements caused, directly or indirectly, by the activities of the Tenant or Tenant's agents, employees or contractors.

As used in this Agreement, "Hazardous Materials" shall mean any and all polychlorinated biphenyls, petroleum products, asbestos, urea formaldehyde and other hazardous or toxic materials, wastes or substances, any pollutants, and/or contaminants, or any other similar substances or materials which are defined or identified as such in or regulated by any federal, state or local laws, rules or regulations (whether now existing or hereinafter enacted) pertaining to environmental regulations, contamination, cleanup or any judicial or administrative interpretation of such laws, rules or regulations or any substance that after release into the environment and upon exposure, ingestion, inhalation or assimilation, either directly from the environment or directly through food chains will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer or genetic abnormalities.

15. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered, mailed by certified mail, return receipt requested, or by overnight service having a record of receipt to the addresses as given in the Special Terms and Conditions of this Agreement.

16. Title and Quiet Enjoyment. Owner represents and warrants that it has the full right, power and authority to execute and enter into this Agreement. Owner further warrants that Tenant shall have the quiet enjoyment of the Premises during the term of this Agreement. In the event the Premises is encumbered by a mortgage or deed of trust, Owner agrees, upon request of Tenant, to obtain and furnish to Tenant a non-disturbance and attornment agreement for each such mortgage or deed of trust, in a form reasonably acceptable to Tenant. Tenant may obtain title insurance on its interest in the Premises. Owner agrees to execute such documents as the title company may require in connection therewith.

_____Notwithstanding any language to the contrary contained herein, Lessor does hereby waive any security interest or lien, inclusive of landlord's lien, whether arising under contract, common law, statute or otherwise in and to Lessee Facilities and other improvements and personal property of Lessee located in, on or about the Tower, Premises or Property.

Lessor further recognizes and acknowledges that Lessee intends to enter into or has entered into certain financial arrangements with Citicorp USA, Inc. ("Citicorp"), as administrative agent and collateral agent for itself and various other lenders (the "Lenders"), and, in connection with such financing arrangements, Citicorp and the Lenders will take a security interest in the Lessee Facilities and the products and proceeds thereof (collectively, the "Collateral") to be installed on the property which is the subject of this Antenna Collocation Lease Agreement. Lessor consents to the installation of the Collateral, disclaims any interest in the Collateral, as noted hereinabove, and represents that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment or

distress from rent due or to become due and that such Collateral may be removed at any time without recourse to legal proceedings. Lessor further represents that such consent and representations noted herein shall inure to the benefit of Lessee, Citicorp, the Lenders and any replacement or refinancing lenders their successors and assigns.

Lessor further represents and acknowledges that Citicorp and the Lenders shall have the right to cure any default of Lessee hereunder within the applicable cure period and may, by assuming all of Lessee's obligations herein, be substituted as Lessee hereunder. Nothing contained herein shall be deemed or construed to obligate Citicorp or any of the Lenders or any replacement or refinancing lenders to take any action hereunder or to perform or discharge any indebtedness, liability, obligation or duty of the Lessee under this Antenna Collocation Lease Agreement.

17. **Representations and Warranties.** Tenant acknowledges that the primary use of the Tank is that of a municipal Water Tank. Owner makes no representations or warranties concerning the suitability of the Premises for Tenant's intended use as a site for the transmission and receipt of wireless communication signals.

18. **Assignment.** Tenant may not assign its interest in this Agreement without prior written approval by Owner, not to be unreasonably withheld, except that Tenant may assign its rights and obligations under this Agreement to an Affiliate. Additionally, Tenant may, upon notice to Owner, mortgage or grant a security interest in this Agreement and the Equipment, and may assign this Agreement and the Equipment to any mortgagees or holders of security interests, including their successors or assigns (collectively, "Mortgagees"), provided such Mortgagees interests in this Agreement are subject to all of the terms and provisions of this Agreement. In such event, Owner shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Owner agrees to notify Tenant and Tenant's Mortgagees simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant or to remove any property of Tenant or Mortgagees located on the Premises, except that the cure period for any Mortgagees shall not be less than thirty (30) days after its receipt of the default notice, as provided in this Agreement. All such notices to Mortgagees shall be sent to Mortgagees at the address specified by Tenant. Failure by Owner to give Mortgagees such notice shall not diminish Owner's rights against Tenant, but shall preserve all rights of Mortgagees to cure any default and to remove any property of Tenant or Mortgagees located on the Premises as provided in this Agreement. Owner hereby waives any and all lien rights it may have, statutory or otherwise concerning the Equipment or any portion thereof which shall be deemed personal property for the purposes of this Agreement, whether or not the same is deemed real or personal property under applicable laws, and Owner gives Tenant and Mortgagees the right to remove all or any portion of the same from time to time, whether before or after a default under this Agreement, in Tenant's and/or Mortgagee's sole discretion and without Owner's consent.

19. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, successors, personal representatives and assigns.

20. **Compliance with Laws.** All installations and operations in connection with this Agreement by either party shall be conducted in accordance with all applicable rules and regulations of the Federal Communications Commission, Federal Aviation Agency, and any other applicable federal, state and local laws, codes and regulations. Tenant is solely responsible for the licensing, operation and maintenance of Tenant's Equipment, including, without limitation, compliance with any terms of its Federal Communications Commission license with respect to Tank light observation and any notification to the Federal Aviation Administration in that regard.

Tenant's Equipment, transmission lines, and any related devises, and the installation, maintenance and operation thereof, shall not damage the Water Tank or any property or properties adjoining, or interfere with the use of the Water Tank and the remainder of the Premises, by Owner

or others, and Tenant shall defend, indemnify and hold harmless Owner from any such damage.

21. **General Liability Insurance**. Tenant will provide General Liability Insurance in an aggregate amount of $1,000,000.00 and name Owner as an additional insured on policy or policies. Tenant may satisfy this requirement by obtaining appropriate endorsement to any master policy of liability insurance Tenant may maintain. Owner and Tenant shall look initially to insurance for loss due to any peril that is covered by insurance and neither party's insurance company shall be subrogated to a claim against the other party, provided that nothing herein shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville under the Constitution and Statutes of the State of Arkansas. Tenant may satisfy the insurance requirements herein by obtaining the appropriate endorsement to any master policy of liability insurance that Tenant maintains.

22. **The Exhibits**. It is understood that not all of the exhibits referenced in these General Terms and Conditions may be necessary for a given Agreement, and that exhibits in addition to those referenced may be needed to fully describe the facilities and equipment installation.

23. **Miscellaneous**. This Agreement constitutes the entire agreement and understanding of Owner and Tenant and supersedes all offers, negotiations and other agreements. Any amendments to this Agreement must be in writing and executed by Owner and Tenant.

If either Owner or Tenant is represented by a real estate broker or agent in this transaction, that party shall be fully responsible for any fees or commission due such broker or agent and shall hold the other party harmless from any such claims arising from execution of this Agreement.

This Agreement shall be construed in accordance with the laws of the State of Arkansas.

If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

Each of the undersigned warrants that he or she has the full right, power and authority to execute this Agreement on behalf of the party indicated for the purposes herein contained.

In the event of casualty damage to the Premises or the Equipment, Tenant shall have the right to terminate if in Tenant's judgment the damage hinders its effective use. In the event of condemnation, Tenant shall have the right to any award specifically designated as compensation for Tenant's interest, value of equipment and cost of removal.

24. **Memorandum of Agreement**. Owner agrees to cooperate with Tenant in executing a Memorandum of Agreement if requested by the Tenant. Tenant may file or record the Memorandum of Agreement, or the entire Agreement, as is normal and customary in order to protect its interest in regard to any Mortgagees. Any Memorandum of Agreement shall have the form as given in Exhibit F.

SPECIAL CONDITIONS TO THIS AGREEMENT

1. **Rental Amounts.** One Thousand Five Hundred Dollars ($1,500.00) per month

2. **Notice Addresses.**

If to Lessor, to:	If to Lessee, to:
City of Fayetteville, Arkansas	Southwest PCS Properties, LLC
113 W. Mountain Street	P.O. Box 64840
Fayetteville, AR 72701	Lubbock, Texas 75240-4840
Attn: Greg Boettcher, Director of Public Works	Attn: Kelly Alderman, Leasing Administrator
Tel. 479-575-8330	Tel: (806) 722-2822

with a copy to:

	Steven A. Portnoy, Attorney at Law
	15851 North Dallas Parkway, Suite 500
	Addison, Texas 75001
Attn:	Tel. (972) 308-8510

3. **Exhibits.** The exhibits pertaining to this Agreement are:

Exhibit A	A description of the property upon which the Water Tank is located. (the "Premises"), and a description of the specific area within the Premises being leased.
Exhibit B	A description of any easement required for the installation of utilities required for Tenant's operations. (the "Easement")
Exhibit C	A list of all equipment, personal property, alterations, buildings, antennas, and all other improvements by Tenant to the Premises (the "Equipment")
Exhibit D	A form of the "Notification of Commencement of Installation of Equipment".
Exhibit E	Plans for the installation, including a Plot Plan showing the location of any buildings to be placed on the Premises, details of the antennae attachment, easement location, leased area, a rendering of the appearance of the antennae on the Water Tank, and other items as may be necessary to fully describe the installation.
Exhibit F	The Memorandum of Agreement (a form of which is attached).

4. **Operational Frequency.** The frequency range for Tenant's Equipment is: 1961.25 MHz (Tx) and 1881.25 MHz (Rx).

IN WITNESS WHEREOF, Owner and Tenant have executed Agreement as of the date and year first written above.

OWNER: **CITY OF FAYETTEVILLE**

By: _____

DAN COODY, Mayor

ATTEST:

_____

HEATHER WOODRUFF, City Clerk

TENANT: Southwest PCS Properties, LLC

_____ By:

_____ Title:

ATTEST:

By: _____

Title: _____

ACKNOWLEDGMENTS

State of ARKANSAS,
County of WASHINGTON

OWNER:

I, _____ , a Notary Public of the County and State aforesaid, certify that _____ personally appeared before me this day and acknowledged that he/she is MAYOR of the CITY OF FAYETTEVILLE, a municipal corporation, and that by authority duly given and as the act of the said municipal corporation, the foregoing instrument was signed in its name.

WITNESS my hand and seal this ___ day of _____, 20___.

(SEAL)

_____
Notary Public

My Commission Expires:_____

==========

TENANT:

State of_____,
County of _____

I, _____ , a Notary Public of the County and State aforesaid, certify that _____personally appeared before me this day and acknowledged that he/she is _____ of _____, a registered corporation in the State of _____, and that by authority duly given and as the act of the said corporation, the foregoing instrument was signed in its name.

WITNESS my hand and seal this _____ Day of _____, 20___.

(SEAL)

_____
Notary Public

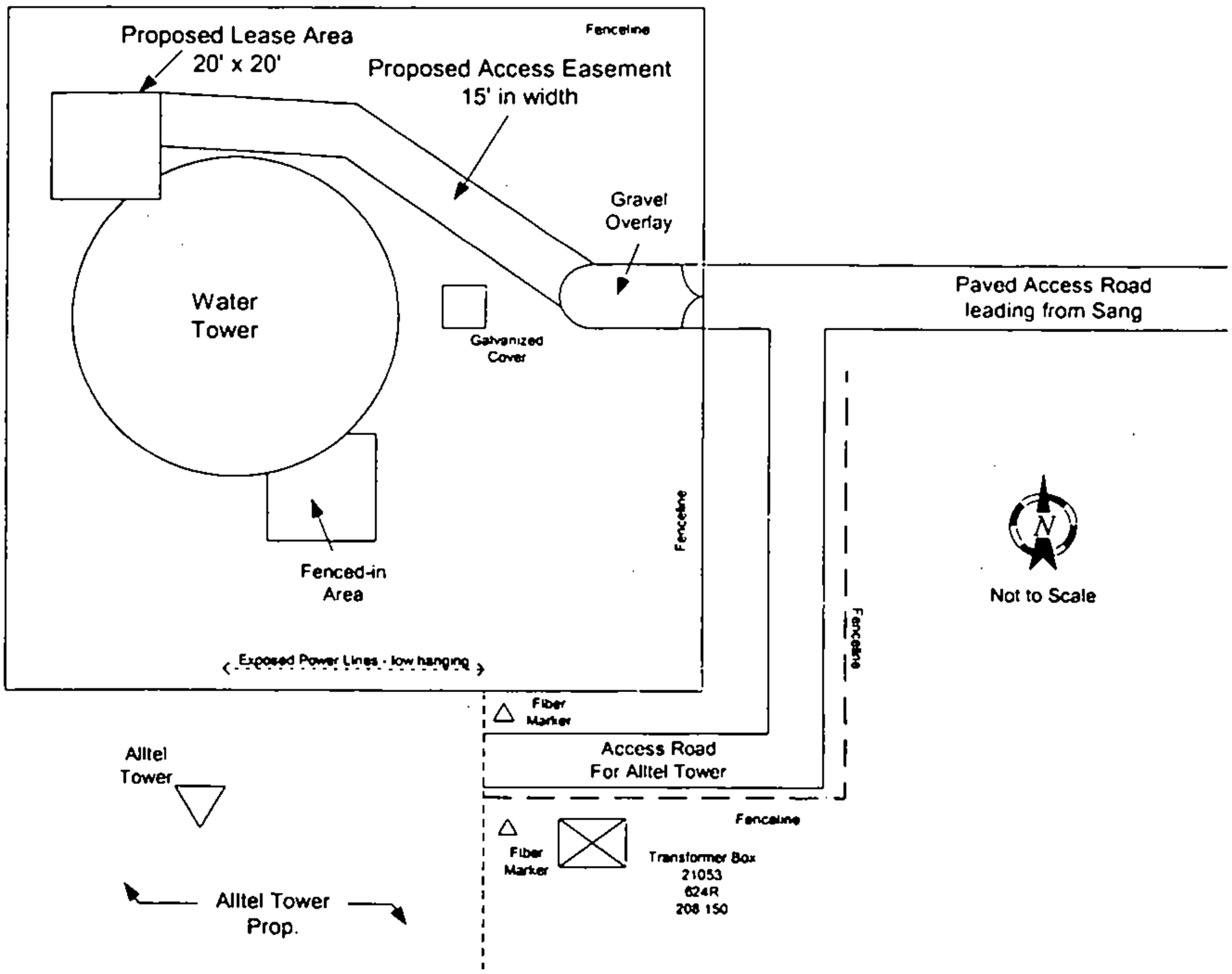
My Commission Expires:_____

EXHIBIT A

Description of Premises

Legal Description: A part of the Southwest Quarter of the Northwest Quarter (SW/4 of the NW/4) of Section 17, Township 16, Range 30, also described as the Fayetteville Outlets, a subdivision of the City of Fayetteville, Arkansas, also described as 133 North Sang Ave. Fayetteville, Arkansas.

Drawing of Premises:



NOTE: This Description of Premises to be replaced by a land survey once it is received by the Lessee.

EXHIBIT B

The Easement

EXHIBIT C

The Equipment

Exhibit D

"Notification of Commencement of Installation of Equipment"

Exhibit E

Plans for Installation

Exhibit F

MEMORANDUM OF AGREEMENT

This **MEMORANDUM OF AGREEMENT** is entered into on this day of _____, 20___, by and between the City of Fayetteville and Southwest PCS Properties, LLC, a Delaware limited liability corporation.

1. Owner and Tenant entered into a Communications Site Lease Agreement ("Agreement") on the _____ day of _____, 20___, for the purpose of installing, operating and maintaining a radio communications facility and other improvements. All of the foregoing are set forth in the Agreement.

2. The Land which is the subject of the Agreement is described in Exhibit "A" annexed hereto. The portion of the Land being leased to Tenant is described in Exhibit "B" annexed hereto.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the day and year first above written.

OWNER: **CITY OF FAYETTEVILLE**

By: _____

DAN COODY, Mayor

ATTEST:

_____

HEATHER WOODRUFF, City Clerk

TENANT: **SOUTHWEST PCS PROPERTIES, LLC**

_____

By: _____

Title: _____

ATTEST:

By: _____
Title: _____

ACKNOWLEDGMENTS

State of ARKANSAS,
County of WASHINGTON

OWNER:

I, _____ , a Notary Public of the County and State aforesaid, certify that _____ personally appeared before me this day and acknowledged that he/she is MAYOR of the CITY OF FAYETTEVILLE, a municipal corporation, and that by authority duly given and as the act of the said municipal corporation, the foregoing instrument was signed in its name.

WITNESS my hand and seal this ___ day of _____, 20___.

(SEAL)

_____
Notary Public

My Commission Expires:_____

==========

TENANT:

State of _____,
County of _____

I, _____ , a Notary Public of the County and State aforesaid, certify that _____personally appeared before me this day and acknowledged that he/she is _____ of _____, a registered corporation in the State of _____, and that by authority duly given and as the act of the said corporation, the foregoing instrument was signed in its name.

WITNESS my hand and seal this _____ Day of _____, 20___.

(SEAL)

_____
Notary Public

My Commission Expires:_____

STAFF REVIEW FORM

XX Agenda Request
XX Contract Review
___ Grant Review

For the Fayetteville City Council meeting of: September 3, 2002

FROM:

Terry Gulley	Parks and Recreation	Urban Development
Name	Division	Department

ACTION REQUIRED: Resolution awarding bid #02-48 and approval of contract with Arkansas Valley Irrigation & & Landscaping in the amount of $55,000, plus a 10% project contingency of $5,500, for a total cost of $60,500.

COST TO CITY: $60,500

$60,500	**$100,000**	**Wilson Park Improv.**
Cost of this Request	**$75,000** Category/Project Budget	**Park Beautification** Category/Project Name
1010-1505-02	**$0**	
2250-9250-5806-00	**$2,336**	**Park Improvements**
Account Number	Funds Used to Date	Program Name
02122-3	**$100,000**	
02003-1	**$72,664**	**Park Development**
Project Number	Remaining Balance	Fund

BUDGET REVIEW: X Budgeted Item ___Budget Adjustment Attached

Reviewed as to budget and bid tab only.
Budget Manager 8/16/02

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

Marsha Tackett 8/19/02
Accounting Manager Date

D. J. Whitaker 8/21/02
City Attorney Date

P Vice 8/20/02
Purchasing Officer Date

GRANTING AGENCY:

ADA Coordinator Date

Nancy Smith 8/19/02
Internal Auditor Date

STAFF RECOMMENDATION: Approval

Terry Gulley 8-16-02
Division Head Date

Hugh Earnest 8.22.02
Department Director Date

W. H. Wilson 8/23/02
Administrative Services Director Date

Dan Coody 8/23/02
Mayor Date

Cross Reference

New Item: XX Yes ___ No

Prev Ord/Res #: _____

Orig Contract Date: _____

STAFF REVIEW FORM

Description: Wilson Park Sod Meeting Date September 3, 2002

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Please make required changes to Bldg Contract and resubmit

Purchasing Officer

Contract

ADA Coordinator

Internal Auditor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Coody and City Council
THRU: Hugh Earnest, Urban Development Director
Connie Edmonston, Parks and Recreation Superintendent
FROM: Terry Gulley, Turf and Facilities Coordinator
DATE: August 15, 2002
SUBJECT: Wilson Park Sod

Background
Wilson Park, considered by many to be our flagship park, is in need of site improvements. Topography challenges, lack of irrigation and heavy use by Fayetteville citizens dictate the need for landscape improvements. These improvements will help beautify the park, control the amount of erosion and assist with extending the current life expectancy of the mature tree canopy.

Current Status
This project was approved by the Parks and Recreation Advisory Board on June 3, 2002. Arkansas Valley Irrigation & Landscaping Inc. was the low bidder on the project to provide sod in the northwest section of the park. The funding for this project will come from the Park Beautification and the Park Land Dedication Fund – Southwest Quadrant. Park staff hopes to have the sod in place before winter, so that Wilson Park will look beautiful for the spring season. In conjunction with this project will be other ongoing improvements to Wilson Park, including a new irrigation system and the development of new picnic areas.

Recommendation
The Parks and Recreation Division seeks a resolution awarding Bid #02-48 and approval of a contract with Arkansas Valley Irrigation & Landscaping Inc. in the amount of $55,000, plus a 10% project contingency of $5,500, for a total cost of $60,500 for landscaping improvements (sod) to Wilson Park. If you have any questions or need additional information, please call at Connie Edmonston at 444-3473 or Terry Gulley 575-8368.

Attachments:
Bid Tabulation Sheet
Contract
Map
PRAB Minutes

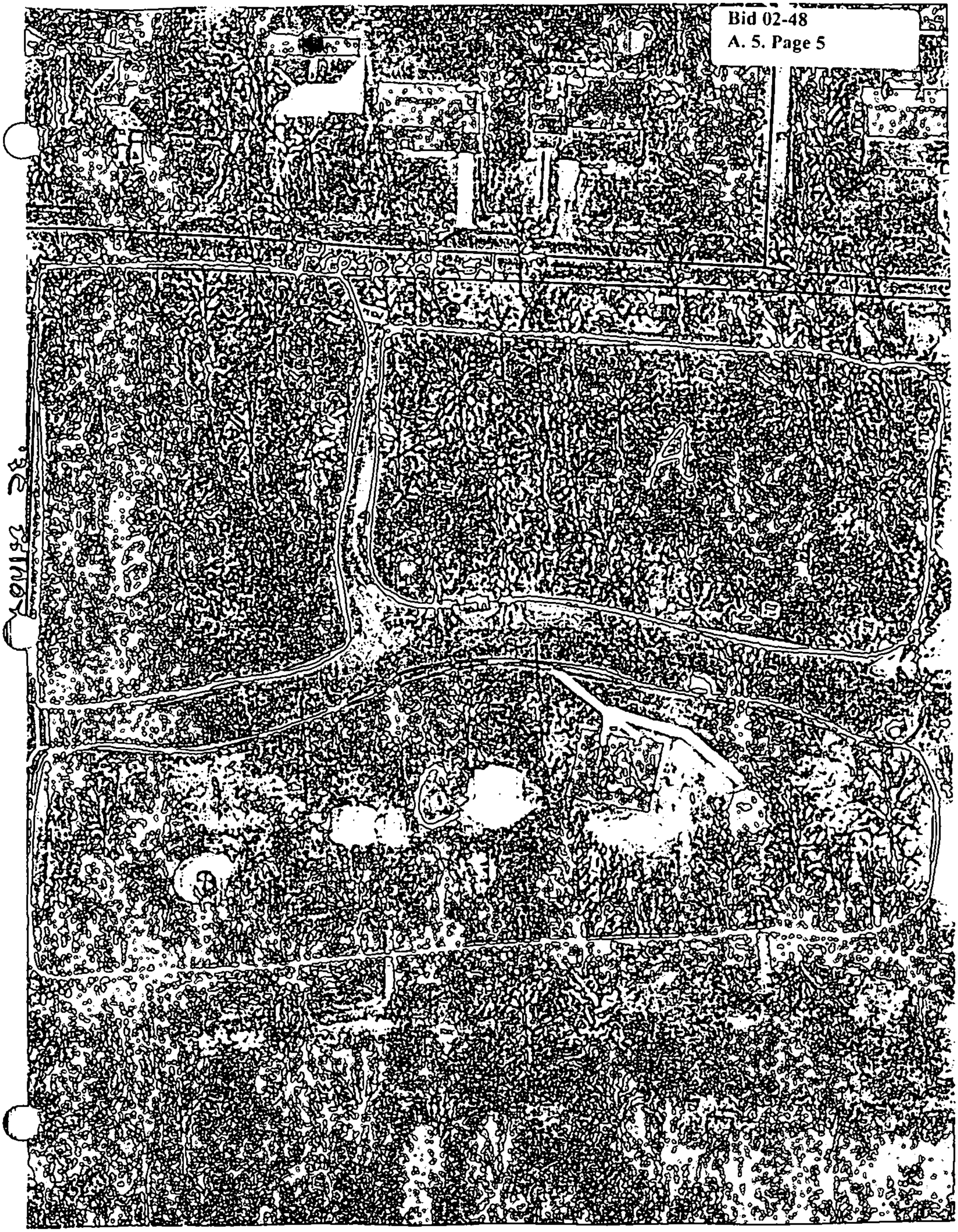
BID: 02-48
DATE: 08/15/02
TIME: 2:OO PM
CITY OF FAYETTEVILLE

DESCRIPTION: WILSON PARK SOD

BIDDER	ITEM #1 FESCUE	ITEM #2 BERMUDA SOD
ARKANSAS VALLEY	0.25 sq ft	0.23 sq ft
QUAIL VALLEY IRRIGATION	non-responsive bid no bid bond included	

Certified by P Vice
P Vice Purch Mgr

R Williams 8/20/02
Witness Date



MINUTES OF A MEETING

OF THE

PARKS AND RECREATION ADVISORY BOARD

June 3, 2002

A meeting of the Fayetteville Parks and Recreation Advisory Board was held on June 3, 2002 at 5:30 p.m. in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Parks and Recreation Advisory Board members Colwell, Eads, Cook, Hill, Shoulders, and Mauritson; City Staff Edmonston, Hatfield, Schuldt, Nelson and Audience.

ABSENT: Marley, Pawlik-Holmes

AGENDA

I. **Approval of PRAB May 6, 2002 meeting minutes.**

MOTION:

Mr. Hill moved to approve the Parks and Recreation Advisory Board May 6, 2002 meeting minutes as distributed.

Ms. Eads seconded the motion.

The motion was approved 5-0-0 with Colwell, Eads, Cook, Hill, and Shoulders voting 'yes' and Mauritson absent for the vote.

Mr. Colwell introduced Boy Scouts Brady Long and Joey Weishoer who are working to achieve Citizenship in the Community Merit Badges.

II. **Skate Park Project Update and Funding Request: Eric Schuldt**

Before an audience of approximately 25 skaters and skate park supporters, Parks Development Coordinator, Eric Schuldt, summarized the history of the skate park project. Born in 1998, the concept grew during public design meetings and skater input. Fund raising efforts became a focus during the past two years. A grant from Arkansas Parks and Tourism for $100,000, a grant from the Tony Hawk Foundation for $5,000, community

past, a tennis instructor has been hired during summer months for lessons but participation numbers have declined.

Mr. Colwell asked the number of public tennis courts. There are four lighted and two unlighted courts at Wilson Park, and two unlighted courts at Walker Park. Mr. Patton said his organization was also interested in using apartment complex courts and privately courts as well if possible.

Ms. Edmonston said she anticipated the renovation of the Wilson Park courts to be completed in about two weeks. Mr. Malone said a 15-member committee was willing to organize a grand opening with local pros providing free instruction.

Mr. Shoulders expressed concern about limiting public use of the courts by allowing the organization to schedule lessons, leagues, and tournaments.

Ms. Edmonston said if a usage agreement was reached, league play times would be posted and schedules would allow for public use too.

Larry Long, Community Tennis Association Vice President, said he wanted tennis to be a major part of the community. He said many courts in the area are not suitable for play and the number of available courts pales in comparison to cities of similar size.

Mr. Patton cited cooperative working agreements with baseball groups and asked for similar consideration. He said his group would like to shape, mold, focus, and develop the sport of tennis in Fayetteville.

~~IV. Lewis & Clark Urban Challenge: Eric Jackson~~

ITEM REMOVED FROM AGENDA

V. Bayyari Park Public Meeting

Capital funding in the amount of $50,000 has been appropriated for improvements to Bayyari Park. A public meeting will be held on Wednesday, June 19, 2002 at 5:30pm at the park to receive input from the neighborhood as to its development.

VI. Informational Items: Connie Edmonston

The following items are on the City Council's June 4, 2002 agenda:

a. Resolution to waive Ordinance 3793 to accept money in lieu ($102,000) as the park land requirement of the Bristol Park Large Scale Development. This development is located north of Joyce Street and west of the Northwest Arkansas Mall.
b. Resolution to approve the Offer and Acceptance Contract with Hollybrooke Estates

MOTION:

Ms. Eads moved to appropriate One Hundred Thousand Dollars ($100,000) from the Southwest Park District for renovations at Wilson Park.

Mr. Cook seconded the motion.

Upon roll call, the motion was approved 6-0-0.

VIII. Walker Park Tennis Court Funding Request

Park and Recreation staff request funding in the amount of $25,682 for renovations of the Walker Park tennis and basketball court from the Southeast Park Land Dedication Fund. This project consists of renovating two tennis courts and one basketball court. The renovation of Wilson Park tennis court was higher than anticipated, therefore decreasing the funds needed for the Walker Park courts. These funds would supplement current funding for this project.

MOTION:

Mr. Colwell moved to appropriate Twenty-Five Thousand Six Hundred Eighty-Two Dollars ($25,682) from the Southeast Park District for renovations of the Walker Park tennis and basketball court.

Mr. Mauritson seconded the motion.

Upon roll call, the motion was approved 6-0-0.

IX. ~~Ridgeway Park Follow-up: Terry Gulley~~

ITEM REMOVED FROM AGENDA

X. Other Business

XI. Adjournment

The meeting adjourned at 6:52pm

MINUTES APPROVED: JUL 0 8 2002

MINUTES TAKEN BY: John Nelson

CITY OF FAYETTEVILLE

Purchase Requisition

(not a purchase order)

Requisition No.:		Date:	08/02
P.O. Number:		Expected Delivery Date:	
Vendor #:		Vendor Name:	Arkansas Valley Irrigation & Landscaping Inc
Address:		FOB Point:	
City:	State: / Zip:	Ship To Code:	75
Requester:	John Nelson	*Requester's Employee#:	1003
Mail:	Yes___ No__X__		
Taxable:	Yes__X__ No___		
Division Head Approval:			
Extension:	406		

Item	Description:	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number:	Project/SubProject Number:	Inventory #	Fixed Asset #
a)	Wilson Park Sod per Bid #02-48	1	JOB	45,000.00	45,000.00	1010.1505.02	02122.3		
	Resolution #								
b)	Wilson Park Sod per Bid #02-48	1	JOB	10,000.00	10,000.00	2250.9250.5806.00	02003.1		
	Resolution #								
	SHIPPING/HANDLING								

Special Instructions:

Subtotal:	55,000.00
Tax:	-
TOTAL:	55,000.00

Approvals: (for purchasing office use only)

Mayor:_____ Department Director:_____ Purchasing Manager:_____

Admin. Services Director:_____ Budget Coordinator:_____ Data Processing Mgr:_____

Bid 02-48
A. 5. Page 9

CONTRACT

BETWEEN

City of Fayetteville, Parks & Recreation Dept. & Arkansas Valley Irrigation and Landscaping, Inc.

This contract made and entered into this 19th day of August 2002, by and between Arkansas Valley Irrigation and Landscaping, Inc. ("Contractor") whose address is 10166 Hwy 7 North, Harrison, Arkansas 72601 and the City of Fayetteville, whose address is 113 Mountain Street, Fayetteville, Arkansas.

THE CONTRACTOR AND OWNER AGREE AS FOLLOWS:

1. This project shall consist of the installation of sod at Wilson Park. All the terms, contracts and specifications for the project (general, supplemental, special and detailed,) the drawings issued prior to execution of the contract between the City of Fayetteville and contractor are incorporated in this contract as if attached to it or repeated herein.

2. The contractor agrees to furnish all labor, materials, and equipment and to perform all the work described in paragraph 3 hereunder in accordance with the terms and covenants of this contract document.

3. The contractor and the City of Fayetteville agree that the contractor shall initiate and complete the following items of construction for the prices reflected herein:

ITEM	DESCRIPTION	EST. QUANTITY	UNIT MEAS.	UNIT PRICE	TOTAL BASED EST. QUANTITY
1.	Fesque sod installation	140,000	SF	$ .25	$35,000.00
2.	Bermuda sod installation	86,956	SF	$ .23	$20,000.00

Contractor agrees to properly perform the above items of work in strict and absolute conformity with this contract.

4. In the event the owner terminates its contract with the contractor, this contract shall be terminated and the City of Fayetteville shall be liable only for the work already performed by contractor and any material the contractor may have purchased.

5. The contractor shall assume all responsibility for damage sustained by persons or property due to carrying on of the work itemized above and he shall indemnify and save harmless the City of Fayetteville and all of its officers, agents and employees from all suits, actions or claims of any character brought forth or on account of any injuries and damages sustained by any person or property by or from the contractor, his agents or employees.

6. Contractor shall secure and maintain throughout the duration of this contract, worker's compensation insurance as required by law, public or general liability insurance with limits of $1,000,000.00 combined, single limits with insurers that is satisfactory to the City of Fayetteville. A certificate of insurance shall be provided to the City of Fayetteville before any work begins.

7. The contractor agrees to conform to all State and Federal Laws and contract provisions as to Payment of Wages, Unemployment Compensation, Workmen's Compensation, Public Liability and Property Damage Insurance Coverage, Income Tax, Social Security Taxes, and Equal Employment Opportunity and to execute all documents requested by the City of Fayetteville to evidence compliance.

8. Contractor is responsible for ensuring that all provisions of the Arkansas State Contracting Laws are adhered to.

9. Contractor will notify Arkansas One Call #1-800-482-8998 prior to any and all excavation, trenching and embankment and will be responsible for any fine incurred by failure to do same.

10. This contract shall be governed by the laws of the State of Arkansas. It is binding on the parties, their successors and assigns.

11. Execution in space provided below shall constitute the formation of this contract between the respective parties.

12. The City of Fayetteville shall make estimated payments on accepted work to the contractor no later than thirty days from start date. The City of Fayetteville shall hold 10% retainage up to 50% completion.

13. Changes, modifications, or amendments in scope, price, or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost, or fees.

14. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the Contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance

CONTRACTOR:

Arkansas Valley Irrigation and Landscaping, Inc.

BY: _____

TITLE: Owner

WITNESS: _____

DATE: 8-21-02

OWNER:

City of Fayetteville.

BY: _____

TITLE: _____

WITNESS: _____

DATE: _____

STAFF REVIEW FORM

XX Agenda Request
XX Contract Review
___ Grant Review

[redacted]e Fayetteville City Council meeting of: September 3, 2002

FROM:

Terry Gulley	Parks and Recreation	Urban Development
Name	Division	Department

ACTION REQUIRED: Resolution awarding bid #02-49 and approval of contract with Revelle Irrigation Systems in the amount of $22,700, plus a 15% project contingency of $3,400, for a total cost of $26,100.

COST TO CITY: $26,100

$26,100	$75,000	Park Beautification
Cost of this Request	Category/Project Budget	Category/Project Name
2250-9250-5806-00	$2,336	Park Improvements
Account Number	Funds Used to Date	Program Name
02003-1	$72,664	Park Development
Project Number	Remaining Balance	Fund

BUDGET REVIEW: XX Budgeted Item ___Budget Adjustment Attached

[redacted] 8/14/02
Budget Manager

Administrative Services Director

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

Marsha Fawthrop 8/16/02
Accounting Manager Date

ADA Coordinator Date

D.P. Whitaker 8/16/02
City Attorney Date

Danny Smith 8/16/02
Internal Auditor Date

Purchasing Officer Date

STAFF RECOMMENDATION: Approval

Terry Gulley 8.16.02
Division Head Date

Hugh Garrett 8.20.02
Department Director Date

[redacted] 8/16/02
[redacted]nistrative Services Director Date

Dan Coody 8/19/02
Mayor Date

Cross Reference

New Item: XX Yes ___ No

Prev Ord/Res #: _____

Orig Contract Date: _____

STAFF REVIEW FORM

Description: Wilson Park Irrigation Meeting Date September 3, 2002

Comments:

Reference Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Coody and City Council
THRU: Hugh Earnest, Urban Development Director
Connie Edmonston, Parks and Recreation Superintendent
FROM: Terry Gulley, Turf and Facilities Coordinator
DATE: August 15, 2002
SUBJECT: Wilson Park Irrigation

Background
Wilson Park, considered by many to be our flagship park, is in need of site improvements. Topography challenges, lack of irrigation and heavy use by Fayetteville citizens dictate the need for landscape improvements. These improvements will help beautify the park, control the amount of erosion and assist with extending the current life expectancy of the mature tree canopy.

Current Status
This project was approved by the Parks and Recreation Advisory Board on June 3, 2002. Revelle Irrigation Systems was the low bidder on the project to provide an irrigation system in the northwest section of the park. The funding for this project will come from the Park Beautification Fund. Park staff will have the irrigation system in place before laying sod. Park staff hopes to have this project completed before winter, so that Wilson Park will look beautiful for the spring season. In conjunction with this project will be other ongoing improvements to Wilson Park, including landscaping and the development of new picnic areas.

Recommendation
The Parks and Recreation Division seeks a resolution awarding Bid #02-49 and approval of a contract with Revelle Irrigation Systems in the amount of $22,700, plus a 15% project contingency of $3,400, for a total cost of $26,100 for an irrigation system at Wilson Park. If you have any questions or need additional information, please call at Connie Edmonston at 444-3473 or Terry Gulley 575-8368.

Attachments:
Bid Tabulation Sheet
Contract
Map
PRAB Minutes

T FOR INSTALL ION OF IRRIGATION SYSTEM

THIS AGREEMENT is made this 16th day of AUGUST, 2002, by
id between Revelle Irrigation Systems, hereinafter referred to as "Revelle" and
THE CITY OF FAYETTEVILLE,
ereinafter individually or jointly referred to as "Owner".

W I T N E S S E T H:

1. Revelle agrees to install an underground irrigation system on the following described roperty which Owner warrants to own:
NORTHWEST CORNER OF WILSON PARK. AREAS A, B, C AS INDICATED ON ATTACHED DRAWING OR PHOTO.

2. IRRIGATION SYSTEM SHALL BE CONSTRUCTED ACCORDING TO SPECIFICATIONS LISTED AND ATTACHED TO THIS AGLEEMENT.

3. That the irrigation system shall be constructed of the material described in the List f Material, Labor and Charges attached hereto and made a part of this agreement by reference 'his list of materials and labor charges has also been initialed by the parties, reflecting their pproval. BID FORM #02-49

4. The Owner agrees to pay to Revelle as consideration for the sale and installation of his irrigation system the total sum of $ 22,700.00, which shall be paid s follows:
1/3 WITH NOTICE TO PROCEED, FINAL AMOUNT WITH COMPLETION AND FINAL ACCEPTANCE.

5. The parties acknowledge that the ditches which must be dug for installation of this ystem will be covered as follows:
BROUGHT BACK TO EXISTING GRADE (TO BE COVERED BY SOD BY SEPERATE CONTRACT OF OTHERS)

6. If, after this Agreement is signed, Owner elects to make a change in the system, Reve hall be notified of this change, and will then prepare a statement reflecting the additional harges to be made for any such change. If the Owner approves the change by signing or nitialing a written Change Order, then said Change Order shall become a part of this Agreement, and the payment due from Owner under Paragraph 4 shall be adjusted accordingly.

7. In the event the installation is terminated prior to completion, Revelle shall be ntitled to compensation for all materials furnished to the job site, as well as all labor harges and any other miscellaneous expenses actually incurred to the date of termination. n the event of such termination prior to completion of installation, the warranty set forth in his Agreement, as well as all other express or implied warranties, including but not limited o implied warranties of merchantability and fitness shall be deemed waived by Owner.

8. Revelle agrees that it will employ it's best efforst to complete the installation within 30 days from the date the Owner or Owner's contractor authorizes commencement of installation, and Revelle shall not be responsible for any delays caused by third parties, ncluding but not limited to the Owner or Owner's contractor, as well as any delays caused by weather.

9. Revelle warrants that the irrigation system described above shall be free of defects n materials and workmanship for a period of one (1) year from the date of completion of installation. Upon receipt of notice of any such defect Revelle shall be given the opportunity o inspect the system, and in the event it is determined that a defect in materials or workmanship does exist, Revelle shall have the option to either repair or replace the system in whole or in part within a reasonable time. As an express condition to this warranty, the Owner sha be required to notify Revelle in writing of any such defect within the one (1) year warranty period.

10. The parties agree that any notice required to be given under this Agreement shall be considered given when postmarked by properly addressed mail to the address of the party set forth below the signature lines of the parties to this Agreement.

11. The parties acknowledge that with the exception of the plans and lists of materials und labor charges referred to in this agreement, this Agreement shall constitute the entire agreement of the parties, and no other agreement or representation shall be effective unless made in writing and signed by both parties.

IT IS SO AGREED.

REVELLE IRRIGATION SYSTEMS
By: _____
Authorized Agent

OWNER: _____
OWNER: _____

Address: _____

_____

REVELLE IRRIGATION
8395 GREATHOUSE SPRINGS RD.
SPRINGDALE, AR 72762

BID FORM
Bid #02-49

Item	Item Description	Unit Price
A	Area A	$100.00
B	Area B	5800.00
C	Area C	8800.00
Total Bid		$ 22,700.00

See attached map of areas.
The bid should include cost of all irrigation supplies, installation costs, applicable taxes and cleanup of irrigated areas.

The Bidder understands the Owner reserves the right to reject any or all bids and to waive formalities deemed to be in the City's best interest.

Bidder agrees that this bid shall be good and may not be withdrawn for a period of thirty (30) calendar days after the schedule closing time for receiving bids.

Contractors Name: RENELLE IRRIGATION SYSTEMS

Contractors License #: 00265704 03

Contact Person: DARYL K. RENELLE

Title: OWNER

Address: 5395 GREATHOUSE SPRINGS RD.
SPRINGDALE AR. 72762

Telephone: 442-0754 FAX

Signature: D K Renelle

All inclusive bids must be submitted no later than **August 15, 2002 at 2:15 p.m.**, to the City of Fayetteville, Purchasing Office, Room 306, 113 West Mountain Street, Fayetteville, Arkansas, 72701 in a sealed enveloped marked "Wilson Park Irrigation Bid 02-49." **Each bidder will be required to meet or exceed the specifications attached. Any deviation must be noted with specifications attached to bid.** Questions should be directed to Terry Gulley Turf & Facility Coordinator at 575-8368.

Specifications
Automatic Lawn Irrigation System

Part 1 General:

Summary:

A. Work described in this section includes the installation, materials, equipment and instructions necessary for a complete, operable, automatic sprinkler irrigation system.

B. The extent of the sprinkler irrigation system shall include, but is not limited to:
1. Plumbing connections to potable water source(s).
2. Installations of sleeves and piping.
3. Excavation and backfilling of trenches.
4. Electrical service to and from system equipment and related materials.
5. Programming and adjustment of automatic system components.

Project Conditions:

A. Determine the locations of all utilities, subsurface drainage and underground construction so that proper precaution may be taken not to disturb or damage during all operations. The Irrigation Contractor to repair immediately, at his expense, any damage to utilities or other construction resulting from the work covered by the contract.

B. Coordinate work schedules with others to avoid interference with the work of other trades.

C. Store Materials delivered to site, prior to actual usage, in a secure place not to interfere with other trades or construction and protect from vandalism, damage by weather or other elements.

Part 2 Products:

General:

A. Materials shall be new and without flaws or defects, and of quality and performance as specified. Excess materials at completion are property of the Irrigation Contractor, to be removed from this site.

B. The sprinkler design and installation shall be based on the equipment of:

Rain Bird Sales, Inc. - Glendora, CA
Hunter Industries Inc. - San Marcos, CA

C. Substitutions shall be made only with the written approval of the Owner's Representative. Substitutions will not be considered prior to opening of bids.

Pipe and Fittings:

A. Mainline Piping Aboveground shall be Copper tube, Type K, drawn temper; copper tube fittings; soldered joints.

B. Piping Belowground shall be polyvinyl chloride (PVC) pipe; meeting ASTM D1785, Schedule 40 for solvent weld connections; Sch 40 for threaded connections.

C. Polyvinyl chloride (PVC) fittings; meeting ASTM D2466, Sch 40 for solvent weld connections; ASTM D2467, Sch 40 for threaded connections.

D. PVC solvent cement shall comply with ASTM D2564, regular-bodied for pipe 2" and smaller, and medium for pipe 2 ½" and larger.

E. Use Teflon tape or an appropriate sealant for all threaded connections.

Control Wires and Connectors:

A. Multi strand wire with at least 3 open leads will be used for wiring to valves.

B. Wire Connectors shall be either 3M DBY or King "One Step" Connectors or approved equal.

Automatic Controller(s) and Sensor(s):

A. Automatic controller shall be Rainbird Esp model that combines electromechanical and microprocessor-based circuitry capable of fully automatic and manual operation. The controller will be housed in a weather-proof, lockable, steel cabinet suitable for wall mounting or free-standing pedestal mounting.

Valves:

A. The remote control valves shall be a normally closed, 24VAC solenoid actuated, globe/angle type valve. It shall have a manual flow control stem for accurate regulation and/or shutoff of outlet flow (Rainbird PE Model). All valves will be located individually.

Drains:

A. All low areas will be fitted with low pressure drains, King drain type or equivalent.

B. Manual ball valve for use as a cut off valve on main line shall be as manufactured by Red-White Valve Corporation, Carson, CA or approved equal.

Valve Boxes:

A. Provide valve boxes for all remote control valves and manual gate valves. The manufacturer shall be Ametek, Plymouth Products Division, Sheboygan, WI or approved equal.

B. When used with a single valve use a 10" round box with a twist lock cover.

Sprinkler Heads:

A. Provide Hunter PGP Adjustable 4" pop-up rotary sprinklers in all large turf areas. The full or part circle sprinkler shall be a single stream, gear driven rotor with a rotating nozzle turret that is independent of the riser stem. The sprinkler shall have a pressure activated wiper seal that will clean debris from the pop-up stem as it retracts. Matched precipitation shall be obtained by coordinating nozzles to arcs.

Part 3 Execution:

General:

A. Verify that the work of this section is installed in accordance with all pertinent codes and regulations and manufacturer's current recommendations.

B. Prior to all work of this section, carefully inspect the installed work of all other trades and verify that all such work is complete to the point where this work may properly commence. Care will be used around all trees, with proper root pruning techniques used when roots must be cut.

C. When sprinkler system work is to be installed close to or will interfere with the work of other trades, the Irrigation Contactor shall assist in working out space conditions to permit all work to be installed satisfactorily. If a Contractor installs his work before coordination with other trades, he shall make necessary changes in his work to correct the condition without additional compensation.

Water Meter(s):

A. Immediately after contact award, conduct tests at the beginning tap or meter note as such on the written results provided to the Owner's Representative of the following:

1. Static Water Pressure
2. Dynamic Water Pressure
3. Gallons per minute

Backflow Preventer(s):

A. The Irrigation Contractor shall comply with the requirements and codes of the local governing authority regarding backflow prevention. In addition, the Irrigation Contractor will provide the necessary materials, insulation/winterization capabilities and acceptable concealment to satisfy the requirements and codes of the local authority and aesthetic needs of the Owner's Representative.

B. Concealment techniques will be with an insulated cover of Rock Type material.

Sleeving:

A. Sleeving shall be polyvinyl chloride (PVC) Sch 40 pipe and fittings, buried at a 18 inch depth.

B. Upon completion of site filling and compaction operations, and prior to the construction of foundations, roadways, walks or other pavements or obstructions, install sleeves in sufficient sizes to accommodate future irrigation piping and/or control wiring. Ends of sleeves shall extend 12 inches past the edges of all paving and curbs. Clearly mark for future use by the Irrigation Contractor.

Trenching and Backfilling:

A. Excavate trenches to a depth of minimum of 12", with at least 6" of fill material. Remove all lumber, rubbish and large rocks from the trenches. Provide a uniform bearing for the entire length of each pipe line to prevent uneven settlement. Make the width of the trench a minimum of 1 ½ times the diameter of the piping.

B. Upon completion of pipe installation, backfill the trenches with clean soil. Backfilling shall be done in six inch layers and tamped down after each layer is put back to prevent excessive settling.

C. If settling occurs within the warrantied period, the Irrigation Contractor shall be responsible for bringing the trenches up to finish grade and repairing plant damage without additional compensation.

Pipe Installation:

A. Remove all foreign matter or dirt from the inside of the pipe before joining. Cap or plug all lines after installation and prior to testing to minimize infiltration of foreign matter or dirt.

B. Snake pipe from side to side of trench bottom to allow for expansion and contraction. Install main lines and lateral lines in common trenches wherever possible.

Pipe and Fitting Connections:

A. Use only the solvent supplied or recommended by the manufacturer to make solvent welded joints. Thoroughly clean pipe and fittings of dirt, dust, and moisture before applying solvent.

B. Make solvent welds with a nonsynthetic bristle brush in the following sequence: Apply an even coat of solvent to the outside of the pipe. Then apply solvent to the inside of the fittings and then re-apply a light coat of solvent to the outside of the pipe, making sure that coated area on the pipe is equal to the depth of the fitting socket.

C. Insert pipe quickly into the fitting and turn the pipe approximately ¼ turn to distribute the solvent and remove air bubbles. Check all tees and ells for correct position, then hold joint for approximately 15 seconds so that pipe does not push out form the fitting. Allow at least 15 minutes drying times for each weld joint before moving.

D. Allow all joints to set a minimum of 24 hours prior to pressurization of system.

Wire Installation:

A. Verify that the work of this section is installed in strict accordance with the latest edition of the National Electric Code and local electrical codes.

B. Install neutral and control wires in the same trenches as the main and lateral lines. Provide expansion loops at every splice, change of direction, at the valves and where the wire enters the conduit for the automatic controller.

C. Solder or join all wire connections by positive mechanical connectors. Splices must be properly insulated and waterproofed. Control wire splices will be allowed only in runs more than 500 feet.

Controller and Sensor Installation:

A. Coordinate with the Owner's Representative the exact location where the automatic controller(s) will be located. Connect zone valve wiring in accordance with manufacturer's instructions. Provide separate, secured to the wall, conduits for both power supply and control wiring. Provide electrical grounding for the controller(s) in accordance with the manufacturer's instructions.

Valve Installation:

A. The remote control valves shall be installed in accordance with manufacturer's instructions. Valves shall be installed in Ametek valve boxes or approved equal. Boxes shall be installed to a height that will not cause them to interfere with maintenance machinery and which is sufficient to prevent soil or mulch from washing into the box.

Sprinkler Head Installation:

A. Install the sprinkler heads so that they are flush with the finish grade and not a hazard to pedestrians and/or maintenance machinery. Set sprinkler heads to plumb and a minimum of 4 inches from curbs and sidewalks.

B. Provide connection to the PVC lateral lines with swing pipe and barbed poly fittings.

Inspection and Acceptance:

A. Owners representative shall inspect the total work for acceptance upon notification by contractor of completion. During the inspection a list of items which need completion Or correction will be compiled. The Irrigation Contractor will have 2 weeks to complete or correct all items listed. If work is not completed within this time frame, the owner may use the retainage and/or pursue other contractors to finish the work.

Record Drawings and Warranty:

A. Upon acceptance of the system, the irrigation contractor shall prepare a copy of as built drawings, product manuals and operating instructions which fully describe all components of the irrigation system.

B. Upon acceptance of the system, the Irrigation Contractor shall furnish a written guarantee of work and materials, for a period of one year from the date of acceptance by the owner.

Bid 02-49
A. 6. Page 12

STAFF REVIEW FORM

X Agenda Request
__ Contract Review
__ Grant Review

For the Fayetteville City Council meeting of September 3, 2002.

FROM:

Hugh Earnest		Urban Development
Name	Division	Department

ACTION REQUIRED:

A Resolution amending the 2002 Budget authorizing the employment of the Hay Group for work associated with personnel issues and for other purposes. Approval of a budget adjustment is also requested.

COST TO CITY:

$ 50,000.00	$ See attachment	
Cost of this Request	Category/Project Budget	Category/Project Name
See attachment	$ see attachment	
Account Number	Funds Used to Date	Program Name
	$ See attachment	Various
Project Number	Remaining Balance	Fund

BUDGET REVIEW: X Budgeted Item X Budget Adjustment Attached

8-12-02
Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fairchild 8/13/02
Accounting Manager Date

See comments
S. J. Whitlock 8/16/02
City Attorney Date

GRANTING AGENCY:

ADA Coordinator Date

Danny Smith 8/13/02
Internal Auditor Date

Purchasing Officer Date

STAFF RECOMMENDATION: Approval of the Resolution and Budget Adjustment

Division Head Date

Hugh Earnest 8-20-02
Department Director Date

Administrative Services Director 8/16/02
Date

Mayor 8/19/02
Date

Cross Reference

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

Prev Ord/Res #:

Orig Contract Date:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Date: August 7, 2002

To: The Mayor and City Council

From: Hugh Earnest
Urban Development Director

Subject: Hay Group Consultant Status

I have attached the memo detailing the recommendations from the Internal Oversight Committee that were discussed with the Council on July 30th. The resolution in front of the Council recommends that the monies needed for this important analysis of our benefit package and assistance from the consultant on improving our internal process and procedures in Human Resources be approved.

Work is continuing on defining and dealing with the scope of work for this effort. No authorization to begin this project will be issued until the scope for both efforts is complete and approved by the Internal Oversight Committee and signed by the Mayor. There is a clearer understanding among all parties as to what is expected from a Benefit Valuation Report and it is probable that we will commence that work prior to the internal analysis of our current system.

We are recommending that the funding for this project be accomplished in the following manner. Each of the principal funds for the City has monies allocated for Worker Compensation claims. We have been relatively successful in managing this area and are recommending that the funds be budgeted as listed below.

General	$35,197.00
Street	3,104.00
Park Development	1,152.00
Water and Sewer	4,967.00
Solid Waste	3,756.00
Airport	582.00
Shop	1,242.00
Total	$50,000.00

Attachment

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8330

URBAN DEVELOPMENT DEPARTMENT CORRESPONDENCE

To: The Mayor and Council

From: Hugh Earnest
Urban Development Director

Subject: Internal Oversight Committee Recommendation

Background
During the budget process for the 2002 budget, the council, in responding to concerns raised by employees, authorized an evaluation of the processes used by the city in determining salary level adjustments for employee grades. In order to accomplish this task, the following steps were taken. A nineteen member employee committee was formed with representation from all departments and divisions of the city. In addition , the Hay group, a Human Resource consulting firm from Dallas that has been working with the city since the late 1980's, was employed to assist in the evaluation of the city's methodology for salary level adjustments. That task, after considerable effort and excellent work by all concerned, was completed and presented to the council on June 25 by Jodie McFadden and Paul Glogowski with the Hay Group.

It should also be noted that the city committee, after numerous discussions, has concluded that there are two issues that are relevant to this topic of Human Resource management/employee relations. They are the salary compensation issue and at least in the opinion of the committee of equal importance, the issue of process and procedure in the management of our Pay Plan. While this was not the original charge to the committee, there is consensus that both issues are important and should be addressed.

Current situation
The Mayor and Council remanded the report on salaries back to the committee and asked the committee to provide a recommendation or recommendations on steps to be taken in addressing this important issue. The committee has developed a recommended plan of action.

Recommendation
It is the feeling of the committee that pay adjustments justified by the survey are the ultimate responsibility of Human Resources and the City Council. Changes in the pay plan should be incorporated into the budget process for the 2003 budget. However, the committee believes that the following action steps should be taken by the city as part of

its ongoing effort to improve the management of its most important resource, its employees.

A. A Benefit Valuation Report should be commissioned

It is the committee's opinion that such a report will provide all parties with a complete picture of the compensation package provided to city employees.

B. Review of current city process and procedures in its pay plan administration.

It has been several years since the basic framework of the pay plan has been evaluated, rendering certain mechanisms outdated and inequitable. The technical support from the Hay Group, over an estimated 6 months will identify needed pay plan updates and assist Human Resources in the implementation of needed pay plan changes.

The committee recommended the relationship with the Hay Group be continued at least through completion of the current activities for purposes of continuity and credibility. To accomplish the remaining pay plan analysis, the city will need to approve the expenditure of up to $50,000 with the Hay Group. The break down of expenses by issue area is as follows:

Benefit Valuation Report:	$30,000	product delivered in four weeks
Review of current process and procedures:	$18,000	($3,000 a month retainer to not exceed 6 months)
Contingency:	$ 2,000	

The committee requests that the Council consider this item as part of its agenda meeting on July 30th. Four committee members are prepared to summarize the committee's findings and conclusions at the meeting.

AMENDMENT TO THE CONTRACT BETWEEN CITY OF FAYETTEVILLE AND HAY GROUP

This Amendment to the Contract is made as of the date it is executed by both parties, by and between the City of Fayetteville, a municipal corporation, hereinafter referred to as the "City," and Hay Group, Inc., a consulting firm located in Dallas, Texas.

WHEREAS, City has engaged Hay Group, Inc. to perform certain services relating to the Pay Plan for employees of the City; and,

WHEREAS, the City now desires that Hay Group, Inc. evaluate the Benefits Plan, and the City's internal processes and procedures related thereto .

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter provided, the City and Hay Group, Inc. agree as follows.

1. **Professional Services.** Hay Group, Inc. shall furnish amended services to City as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

2. **Compensation and Hourly Rates.** For amended services provided by Hay Group, Inc., City shall compensate Hay Group, Inc. as set forth in Exhibit "A".

3. **Non-waiver.** It is agreed that the failure of any party to invoke any of the available remedies under this agreement or under law in the event of one or more breaches or defaults by any party under the agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

4. **Severability.** Each paragraph of this agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any

paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

5. Governing Law. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

6. Supplemental Nature of the Amendment. The parties agree and understand that this Amendment is supplemental to the original Contract, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.

IN WITNESS WHEREOF, the City and Hay Group, Inc. have caused this instrument to be signed by their respective duly authorized officers, on the date subscribed below.

ATTEST:

_____

HAY GROUP, INC.

By: _____
PAUL GLOWGOWSKI

Date: _____

ATTEST:

_____
HEATHER WOODRUFF, City Clerk

CITY OF FAYETTEVILLE

By: _____
DAN COODY, Mayor

Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8330

URBAN DEVELOPMENT DEPARTMENT CORRESPONDENCE

To: Committee Members - Hay Plan Analysis:

Rick Hoyt	Ted Webber
Jason Alvarado	Don Osborne
Kathy Stocker	Constance Butler
Greg Boettcher	Chris Bosch
Richard Cochran	Dennis Ledbetter
Randy Patrick	Dean Matthews
Gary Dumas	Louise Schaper
Jason Drummond	Kim Rogers
Jamie Bytheway	Heather Woodruff
	Hugh Earnest

From: Hugh Earnest
Urban Development Director

Hugh Earnest

Subject: Hay Group Scope of Work

Date: August 12, 2002

Attached is a copy of the proposed Scope of Work for the Benefit Valuation Study.

Please review and have any comments and/or suggestions back to me by 8/19/02. I will also be asking you for comments and suggestions on the review of our process and procedures at a later date.

As always, thanks for your help.

Enc.

ay Group
350 North Central Exp way
Suite 825
Dallas, TX 75206
Tel: (469) 232-3800
Fax: (469) 232-3888

August 8, 2002

Confidential

HayGroup

Mr. Hugh Earnest
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Dear Hugh:

We are excited to begin working with the City of Fayetteville to conduct a Benefit Valuation Study. This letter is to re-confirm the project scope, and to obtain your signature of agreement prior to commencement of this project.

Please review the project scope and terms, and if you agree with the terms and conditions, sign this letter and fax to our office, 469/232-3888.

Project Scope

Hay will compare the City of Fayetteville benefits to two different comparitor groups within our database: Government/Non-Profit and General Industry. Based on these comparisons, we will write and present a comprehensive report to include:

1. Prevalence (by type of benefit) of City compared to market(s) – types of coverage, co-pay information, in-network vs. out-of network, eligibility periods, cost sharing, etc…
2. Overall benefit analysis and recommendations
3. Analysis and recommendations by benefit type (Healthcare, Death, Disability, Retirement, Holiday/Vacation, Perquisites – education reimbursement programs, flextime, day care, etc…

In order to compare the City's benefits to the markets, we will need you to provide the following information and forward to me as soon as possible:

- Complete the attached questionnaires as completely as possible (if questions are not relevant to the City, please note this on the forms).
- Provide two (2) copies of all you SPD booklets, including any retirement plans and executive type programs.
- Provide two (2) copies of all your personnel policies (jury duty, sick pay/short term disability, vacation, holiday, take home vehicles, flextime, education programs, etc.), including graphical depiction of percentile ranking.

Timing

It will take approximately four (4) weeks to complete the study once we have received the requested information from the City of Fayetteville.

Project Fees

Consulting fees are based on our best estimate of the time and consultant level required to deliver quality results as defined in our proposal. Estimated consulting fees for this project will be ***$30,000.***

Invoicing for this project has been scheduled as follows:

Timing	Invoice Amount
Commencement of Project:	$15,000
Completion of Project:	$15,000 plus expenses

All out-of-pocket or project-related direct expenses such as consultant travel, meals, lodging (not to exceed $1,000/trip), and support service such as graphics, production, clerical overtime, photocopies, transparencies, data processing, express mail, etc. are billed additionally at cost or standard labor rates. At this time we do not anticipate any out-of-pocket expenses for this project. If this changes, it will be discussed with you prior to incurring charges.

Should the scope of the project be reduced or expanded, we will discuss this with you in advance and modify our budget (in writing) accordingly.

If at any time during the course of the assignment you find it necessary or desirable to terminate our services, you are quite free to do so and are only obligated to pay fees and expenses incurred or committed up to that point. We would appreciate this request in writing.

The Hay Group prides itself on our long-term relationships with clients, and we look forward to continuing a strong relationship with the City of Fayetteville. If you have any questions about the project, or wish to modify the terms and conditions prior to signing below, please call me at 469/232-3862.

Sincerely,

Jodi L. McFadden
Consultant
Hay Southwest Region

HayGroup

****

Approval:

_____

Name and Title (Printed)

_____

Signature

Date: _____

ORIGINAL

CONTRACT

The City of Fayetteville, Arkansas (hereinafter "Fayetteville") and **Hay Group, Inc**. agree as follows:

The City of Fayetteville agrees to hire the Hay group, Inc. to accomplish the Compensation Analysis Project Steps as set forth in the letter of December 13, 2001, to Mayor Dan Coody from Mr. Paul Glogowski of the Hay Group, Inc. (attached as Exhibit A to this Contract).

The City of Fayetteville agrees to pay and the Hay Group, Inc. agrees to accept the sum of **Twenty-Five Thousand Dollars** ($25,000.00) as full payment to accomplish all Compensation Analysis Project Steps outlined in the December 13th letter (Exhibit A).

The City of Fayetteville will pay the Hay Group, Inc. **Twelve Thousand Five Hundred Dollars** ($12,500.00) upon full execution of this contract by both parties. Fayetteville will pay Hay Group, Inc. the second Twelve Thousand Five Hundred Dollars ($12,500.00) payment upon its satisfactory completion of all Compensation Analysis Project Steps as stated in Exhibit A including receipt by Fayetteville of the Hay Group, Inc.'s final report with recommendations.

Presented by:
Hay Group, Inc.

PAUL GLOGOWSKI

4/9/02
Date

Agreed to and accepted by:
City of Fayetteville

DAN COODY, Mayor

4/23/02
Date

RESOLUTION NO. 32-02

MICROFILMED

A RESOLUTION APPROVING A CONTRACT WITH HAY GROUP, INC. IN AN AMOUNT NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS ($25,000.00) TO ACCOMPLISH THE COMPENSATION ANALYSIS PROJECT STEPS.

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

Section 1. That the City Council hereby approves a contract with Hay Group, Inc. in an amount not to exceed Twenty-Five Thousand Dollars ($25,000.00) to accomplish the Compensation Analysis Project Steps. A copy of the contract, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council authorizes the Mayor to sign such a contract with Hay Group, Inc.

PASSED and **APPROVED** this 5th day of March, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
LUTHER WOODRUFF, City Clerk

City of Fayetteville, Arkansas
Benefit Valuation & Other Services
Funding Recommendation

Attachment

Fund	Cost	Budget Source
General Fund	35,207	Fund Balance
Street Fund	3,102	Worker's Compensation Insuance Premium Budget
Parks Development Fund	1,152	Worker's Compensation Insuance Premium Budget
Water & Sewer Fund	4,963	Worker's Compensation Insuance Premium Budget
Solid Waste Fund	3,753	Worker's Compensation Insuance Premium Budget
Airport Fund	582	Worker's Compensation Insuance Premium Budget
Shop Fund	1,241	Worker's Compensation Insuance Premium Budget
Total	50,000	

H:\BUDGET\PROJECTS\Bud_Adj\Ba_2002\benefit valuation

	ADOPTED BUDGET	BUDGET AMENDMENTS	AMENDED BUDGET	CURRENT MONTH TRANSACTIONS	Y-T-D BALANCE	AMENDED BUDGET LESS YTD BALANCE	PCT. USED
ACCOUNT NUMBER . : 5111.00 Workers' comp insurance							
Fund 1010 - General	157500.00	.00	157500.00	.00	153187.49	4312.51	97%
Fund 2100 - Street	38310.00	.00	38310.00	.00	27813.30	10496.70	73%
Fund 2180 - Comm Devel	420.00	.00	420.00	.00	484.40	64.40-	115%
Fund 2250 - Park Devel	9003.00	.00	9003.00	.00	7231.20	1771.80	80%
Fund 2930 - Drug Grant	1954.00	.00	1954.00	.00	1494.91	459.09	77%
Fund 5400 - W/S	50132.00	.00	50132.00	.00	34696.00	15436:00	69%
Fund 5500 - SolidWaste	142487.00	.00	142487.00	.00	80840.33	61646.67	57%
Fund 5550 - Airport	4500.00	.00	4500.00	.00	3631.34	868.66	81%
Fund 9700 - Shop	9998.00	.00	9998.00	.00	7175.16	2822.84	72%
ACCOUNT NUMBER TOTALS . . . . . :	414304.00	.00	414304.00	.00	316554.13	97749.87	76%
GRAND TOTAL . . . . . :	414304.00	.00	414304.00	.00	316554.13	97749.87	76%

City of Fayetteville, Arkansas
Budget Adjustment Form

Hay Group
A. 7. Page 15

Budget Year	Department:	Date Requested	Adjustment #
2002	Urban Development	08/08/2002	
	Division: Urban Development Director		
	Program: Urban Development Director		

Project or Item Requested:

Increase of $35,207 in contract services.

Project or Item Deleted:

None. Fund balance is being proposed.

Justification of this Increase:

To fund a benefit valuation and other services study with the Hay Management Consultants.

Justification of this Decrease:

Sufficient reserves exist to fund this request and maintain a minimum of 60 days expenses in cash and investments for General Fund.

Increase Expense (Decrease Revenue)

Account Name	Amount	Account Number					Project Number	
Contract Services	35,207	1010	1210		5315	00		

Decrease Expense (Increase Revenue)

Account Name	Amount	Account Number					Project Number	
Use of Fund Balance	35,207	1010	0001		4999	99		

Approval Signatures

Requested By	Date 8-8-02
Budget Manager	Date 8-10-02
Department Director	Date 8/16/02
Administrative Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C (D) E

Date of Approval _____

Posted to General Ledger _____ _____

Posted to Project Accounting _____ _____

Entered in Category Log _____ _____

Blue Copy: Budget & Research / Yellow Copy: Requester

CITY OF FAYETTEVILLE

Purchase Requisition

(not a purchase order)

Requisition No.:	Date:
P.O. Number:	Expected Delivery Date:

Vendor #: 86170	Vendor Name: Hay Management Consultant		Mail: Yes_____ No_____
Address: 100 Penn Square East		FOB Point: Fayetteville, AR	Taxable: Yes_____ No_____
City: Philadelphia	State: PA / Zip: 19107-3388	Ship To Code: 180	Division Head Approval:
Requester: Hugh Earnest		*Requester's Employee#: 1948	Extension: 330

Item	Description:	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Number:	Project/SubProject Number:	Inventory #	Fixed Asset #
1	Benefit Valuation & Other Services	1	ea	$35,207.00	$35,207.00	1010-1210-5315.00			
2	Benefit Valuation & Other Services	1	ea	$3,102.00	$3,102.00	2100-4100-5315.00			
3	Benefit Valuation & Other Services	1	ea	$1,152.00	$1,152.00	2250-9250-5315.00			
4	Benefit Valuation & Other Services	1	ea	$4,963.00	$4,963.00	5400-4000-5315.00			
5	Benefit Valuation & Other Services	1	ea	$3,753.00	$3,753.00	5500-5000-5315.00			
6	Benefit Valuation & Other Services	1	ea	$582.00	$582.00	5550-3940-5315.00			
7	Benefit Valuation & Other Services	1	ea	$1,241.00	$1,241.00	9700-1910-5315.00			
8									
9									
10					$0.00				
11					$0.00				
	SHIPPING/HANDLING				**$0.00**				

Special Instructions: _____

Subtotal: $50,000.00

Tax: ~~$3,312.50~~ N/A

$50,000.00

TOTAL: ~~$53,312.50~~

Approvals: (Purchasing office use only)

Mayor:_____ Department Director:_____ Purchasing Manager:_____

Admin. Services Director:_____ Budget Manager:_____ Data Processing Mgr:_____

H:\BUDGET\Issuebud\2003\[PO rec for hay benefit study.xls]A

STAFF REVIEW FORM

XX Agenda Request
____ Contract Review
____ Grant Review

For the Fayetteville City Council meeting of: September 3, 2002

FROM:

Eric J. Schuldt	Parks and Recreation	Urban Development
Name	Division	Department

ACTION REQUIRED: Approval of Agreement

COST TO CITY: $0

	$75,000	
$0	**$275,000**	**Skate Park**
Cost of this Request	Category/Project Budget	Category/Project Name
2250.9250.5806.00	**$43,885**	
1010.1503.3	**$0**	**Park Improvements**
Account Number	Funds Used to Date	Program Name
	$31,115	**Parks Development**
00006	**$275,000**	**Park Land Dedication**
Project Number	Remaining Balance	Fund

BUDGET REVIEW: __Budgeted Item ___Budget Adjustment Attached

Budget Manager — Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** Tony Hawk Foundation

Marsha Fautley 8/16/02		
Accounting Manager Date	ADA Coordinator	Date
D. J. Whitehead 8/16/02	Nancy Smith	8/16/02
City Attorney Date	Internal Auditor	Date

Purchasing Officer Date

STAFF RECOMMENDATION: Approval of Agreement

Connie Edmonston 8-12-02		
Division Head Date		Cross Reference
Hugh Garrett 8-20-02		
Department Director Date		New Item: __Yes X No
Judy Webber 8/16/02		
Administrative Services Director Date		Prev Ord/Res #: _____
Dan Coody 8/19/02		
Mayor Date		Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Coody and City Council
THRU: Hugh Earnest, Urban Development Director
Connie Edmonston, Parks and Recreation Superintendent C.E.
FROM: Eric J. Schuldt, Parks Development Coordinator EJS
DATE: August 6, 2002
SUBJECT: Grant for Skatepark

Background
The Fayetteville Skatepark, which was designed in a series of public meetings with Fayetteville skaters, will be an 18,870 sq. ft. concrete facility. The skatepark will have beginner and advanced sections to accommodate all skill levels. Many of the elements within the skatepark will duplicate what the skaters use on our city streets.

Current Status
The construction cost estimate provided by our skatepark consultants Purkiss-Rose, RSI is $384,855. Parks and Recreation has been working more than two years to obtain funding for the project. We have received two grants, a $100,000 outdoor matching grant from Arkansas Parks and Tourism and a $5,000 pending grant from the Tony Hawk Foundation. Fayetteville Skaters have also taken an active role in the fund-raising process accumulating over $5,000 by working on various fund-raising activities, including a can-drive, letter writing campaign, and donations from birthday parties. Approximately 25 percent of the project cost will be paid for by grants and skater fund-raising. The remaining funds were allocated from the Park Land Ordinance and the Parks and Recreation Capital Improvement Program. Parks and Recreation staff's goal is to bring a successful bid and contract to the City Council in the next couple of months, in order to begin construction this fall.

Recommendation
The Parks and Recreation Division seeks approval to allow the City to enter into an agreement with the Tony Hawk Foundation. The Tony Hawk Foundation will provide a $5,000 grant to the Fayetteville Skatepark upon receiving signed agreement. If you have any questions or need additional information, please call me at 444-3472 or Connie Edmonston at 444-3473.

Attachments:
Tony Hawk Grant Agreement

31878 DEL OBISPO | SUITE 118 PMB 491 | SAN JUAN CAPISTRANO | CA 92675
PHONE 949 443-9002 | FACSIMILE 949 443-1562 | WEB TONYHAWKFOUNDATION.ORG

April 9, 2002

Eric Schuldt
Fayetteville Parks and Recreation
113 W. Mountain
Fayetteville, AR 72701

Dear Eric,

We are pleased to inform you that the Tony Hawk Foundation has decided to grant your organization $5,000 to assist in the construction of a public, non-profit skatepark in Fayetteville. The Foundation will pay one installment of $5,000, which will be sent after we've received the signed grant agreement outlined below.

The grant is made subject to the following conditions:

1. You agree to assume any and all liability for:
   a. The construction and operation of the skateboard park, and
   b. The implementation of any information or advice given to you by the Foundation.

2. The Foundation has the right to terminate the grant, to modify or withhold any payment otherwise due under the grant, or to require repayment of any expended or unexpended grant funds if, in the Foundation's sole judgment:
   a. Grant funds or income arising from the grant have been used for purposes other than those described above; or
   b. Your organization has failed to comply with any of the terms of the grant.

3. You agree to provide a written progress report (not to exceed two pages) on or before six months from the date of this agreement, and a final report twelve months from such date, detailing the manner in which the Grant money has been spent and the progress you've made in accomplishing the purpose of the Grant.

4. You qualify as a public charity as described in Section 501(c)(3) and under IRC sec. 170(b)(1)(a), or you are a state or local agency, including public school systems or public projects. You agree to inform the Foundation immediately of any alterations in your organization's structure or activities which may adversely affect its status under this Code provision.

5. You agree NOT to expend Tony Hawk Foundation grant funds:
   a. To carry on propaganda or otherwise to attempt to influence legislation within the meaning of the Internal Revenue Code 4945(d)(1), or
   b. To influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive within the meaning of Internal Revenue Code Section 4945(d)(2). (The term "legislation" in this case does not include actions by executive, judicial or administrative bodies, such as school boards,

TONY HAWK FOUNDATION

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housing authorities, zoning boards, and similar federal, state or local special-purpose bodies.)

6. In recognition of this grant, you will make reasonable efforts to acknowledge the Foundation in your organization's publications, including print and electronic media, marketing brochures, annual reports and other publications.

7. You give the Foundation permission to publicly release information concerning this grant.

Please signify your agreement to the above terms of the grant by signing below. The agreement must be signed by the officer or officers who are, under your bylaws and the law governing you, authorized to execute contracts on your organization's behalf. Please return both pages of the executed original of the letter to us, and keep a copy for your records.

Sincerely,

Steve Hawk
Executive Director
Tony Hawk Foundation

Agreed to and accepted on behalf of the City of Fayetteville this _____ day of _____, 2002

By: _____ (signature)

Name: _____ (please print)

Title: _____

Address (and name of recipient) where check should be mailed: _____

_____

MISSION

THE TONY HAWK FOUNDATION SEEKS TO FOSTER LASTING IMPROVEMENTS IN SOCIETY, WITH AN EMPHASIS ON HELPING CHILDREN. THROUGH GRANTS AND OTHER CHARITABLE DONATIONS, THE FOUNDATION SUPPORTS PROGRAMS FOCUSING ON THE CREATION OF PUBLIC SKATEBOARD PARKS, AND OTHER CAUSES. THE FOUNDATION FAVORS PROGRAMS THAT CLEARLY DEMONSTRATE THAT FUNDS RECEIVED WILL PRODUCE TANGIBLE, ONGOING, POSITIVE RESULTS.

********** How To Build A Skatepark In Your Town. **********

Mission > Background > Grant Application > Links > Contact >
Corporate Sponsors > How to Donate > Press Releases > Grant Recipients

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BACKGROUND

The charitable, non-profit Tony Hawk Foundation was established by its namesake, professional skateboarder Tony Hawk, to promote and provide funds for high-quality public skateboard parks throughout the United States.

Skateboarding has exploded into one of the most popular and fast-growing sports in the United States. It is estimated that 11 million Americans own and ride skateboards, with more than a million new kids picking up the sport every year. And yet, despite this phenomenal growth, there are still relatively few places where skaters can skate legally, with only an estimated 500 to 700 skateparks nationwide. Of those, about half are public.

Although many new skateparks are in the works across the country, most serious skateboarders grow up feeling like they're in constant conflict with "society." They are repeatedly yelled at, cited or even arrested for skating in prohibited places. They are labeled as outcasts for doing the thing they love most, for pursuing the sport that, in many cases, gives them their best sense of self-esteem.

In recent years, fortunately, hundreds of municipalities have come to embrace the recreational — and, dare we say, societal — benefits of public skateboard parks. Although local officials often oppose these facilities at first, they typically change their minds as soon as the parks get built. Almost overnight, any skatepark built in America becomes one of the most popular recreational facilities in any given region — more popular, and statistically safer, than nearby basketball courts, baseball diamonds or soccer fields.

The Tony Hawk Foundation is designed to promote the creation of quality public skateparks — with an emphasis on the word "quality." It will emphasize the need for home-grown, grass-roots organization, and attempt to educate and persuade local officials to hire designers and contractors who have had experience building good parks. Most cities and counties have no experience when it comes to building skateboard parks. As a result, many of the parks that have been built are largely unskateable, with kinky transitions and cluttered designs that contribute to collisions and injuries.

The foundation was established by an endowment from Tony Hawk. Its directors plan to raise additional funds through events, industry donations and continuing grants from Tony and other entities. In addition to skateparks, the foundation will also make donations to other children-related charities, as chosen by its board of directors.

Tony Hawk, the most famous alternative athlete of all time, is 33 years old, a father of three, and has been skateboarding since he was 9. He learned to skate at a time when the California landscape was dotted with skateparks. His local park, the now-defunct Del Mar Skate Ranch, was his home away from home — the equivalent of a basketball fanatic's local gym. He was not out defacing public property, not home watching MTV, not shoplifting beer from the corner liquor store. Although he had his share of bruised elbows and skinned knees, he also spent hundreds of happy, healthy hours at the skatepark, practicing and goofing off and doing all the things that kids do at playgrounds. With the Tony Hawk Foundation, he hopes to help create similar venues across the country for other young skateboarders.

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CONTRACT AGREEMENT
STATE OF ARKANSAS
ARKANSAS DEPARTMENT OF PARKS AND TOURISM, LITTLE ROCK, ARKANSAS

Applicant: City of Fayetteville

Project No. A-10358-02-WA

Project Title: Walker Park Skate Park

Period Covered By This Agreement: Current Date through July31, 2003

Project Scope (Description of Project):

Project is to develop complete skate park at the existing Walker Park.

RECEIVED
AUG 20 2002
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Project Costs:

Total Costs: $200,000.00

Fund Support: $100,000.00

Fund Amount: $100,000.00

Attachments:

1. **General Provisions**
2. 1 **Land & Water Conservation Fund Natural & Cultural Resources Grant Trust Fund Project Management Guide**
3. 1 **Land & Water Conservation Fund/Natural & Cultural Resources Grant Trust Fund Application**
4. **Attachment #1**

STATE OF ARKANSAS
ARKANSAS DEPARTMENT OF PARKS AND TOURISM
OUTDOOR RECREATION GRANTS PROGRAM

STATEMENT OF AGREEMENT No. 2 **Project No.** A-10358-02-WA

The State of Arkansas, represented by the Executive Director, Arkansas Department of Parks and Tourism and the Applicant named above (hereinafter referred to as the Applicant) mutually agree to perform this agreement in accordance with the Land and Water Conservation Fund Act of 1965, 78 Stat. 897 (1964), and with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, and assurances attached hereto and hereby made a part hereof.

The State of Arkansas hereby promises, in consideration of the promises by the Applicant herein, to obligate to the Applicant the amount of money referred to above, and to tender to the Applicant that portion of the obligation which is required to pay the State of Arkansas share of the costs of the above project stage, based upon the above percentage of assistance, and also based upon receipt of those funds from Act 729 of 1987. The Applicant hereby promises, in consideration of the promises made by the State of Arkansas herein, to execute the project or project stage described above in accordance with the terms of this agreement.

The participant may not deviate from the scope of the project without the concurrence of the Arkansas Department of Parks and Tourism Executive Director. When one of the conditions in the agreement changes, such as change in the project scope, a revised estimate of costs, a deletion or additions of items, or a need to extend the project period, the participant will submit in writing a formal request to the Executive Director for its approval.

The following special project terms and conditions were added to this agreement before it was signed by the parties hereto:

(1) Historic Properties Preservation Act of 1966 (80 Stat. 915 16 U.S.C. 470), Executive Order 11593 (Protection and Enhancement of the Cultural Environment); **(2)** Uniform Relocation Assistance and Real Property Acquisition Policies (41 CFR 114-50) P. L. 91-646; **(3)** National Environmental Policy Act of 1969 (Public Law 91-190); **(4)** OMB Circular A-95; **(5)** Architectural Barriers Act of 1968 (P. L. 90-480); **(6)** Executive Order 12088 (Pollution Control); **(7)** Executive Order 1198 as amended (Floodplain Management); **(8)** OMB Circular A-102 **(9)** Executive Order 11246 as amended (Equal Employment Opportunity) 41 CFR Part 60; **(10)** Copeland "Anti-Kickback" Act (18 U.S.C. 874) DOL (29 CFR, Part 3); **(11)** Clean Air Act 1970 (Construction Contract Amounts in Excess of $100,000.00; **(12)** Nondiscrimination on the Basis of Handicap Section 504 Rehabilitation Act of 1973, DOI (43 CFR Part 17).

The Applicant agrees to comply with the requirements of the Arkansas Department of Parks and Tourism regulations by immediately erecting a project sign and by burying or relocating underground overhead lines at all development and acquisition project sites.

The applicant agrees to be responsible for operation and maintenance of said park in perpetuity.

The undersigned Applicant of the State of Arkansas does hereby agree and accept the same responsibility and obligations as set out in the herein described project and to the same extent and in the same manner, including all requirements, as does the State of Arkansas. The undersigned Applicant of the State of Arkansas further understands, agrees, and accepts that this project is not effective until this project agreement has been duly executed by the State of Arkansas and the said Applicant is notified accordingly: and no work shall be initiated and/or undertaken by said Applicant on the herein described project until it has received said notification by the State.

In witness whereof, the parties have executed this agreement as of the date entered below.

THE STATE OF ARKANSAS

By _____
Executive Director
Arkansas Departmen. of Parks & Tourism

Date August 13, 2002

APPLICANT

City of Fayetteville

By _____
(Signature)

Mayor of Fayetteville
(Title)

030 ORG 985 2/96

CONTRACT AGREEMENT
STATE OF ARKANSAS
ARKANSAS DEPARTMENT OF PARKS AND TOURISM, LITTLE ROCK, ARKANSAS

Applicant: City of Fayetteville

Project No. A-10358-02-WA

Project Title: Walker Park Skate Park

Period Covered By This Agreement: Current Date through July31, 2003

Project Scope (Description of Project):

Project is to develop complete skate park at the existing Walker Park.

Project Costs:

Total Costs: $200,000.00

Fund Support: $100,000.00

Fund Amount: $100,000.00

Attachments:

1. **General Provisions**
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OUTDOOR RECREATION GRANTS PROGRAM

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The State of Arkansas hereby promises, in consideration of the promises by the Applicant herein, to obligate to the Applicant the amount of money referred to above, and to tender to the Applicant that portion of the obligation which is required to pay the State of Arkansas share of the costs of the above project stage, based upon the above percentage of assistance, and also based upon receipt of those funds from Act 729 of 1987. The Applicant hereby promises, in consideration of the promises made by the State of Arkansas herein, to execute the project or project stage described above in accordance with the terms of this agreement.

The participant may not deviate from the scope of the project without the concurrence of the Arkansas Department of Parks and Tourism Executive Director. When one of the conditions in the agreement changes, such as change in the project scope, a revised estimate of costs, a deletion or additions of items, or a need to extend the project period, the participant will submit in writing a formal request to the Executive Director for its approval.

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In witness whereof, the parties have executed this agreement as of the date entered below.

THE STATE OF ARKANSAS

By _____
Executive Director
Arkansas Departmen. of Parks & Tourism

Date August 13, 2002

APPLICANT

City of Fayetteville

By _____
(Signature)

Mayor of Fayetteville
(Title)

030 ORG 985 2/96

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50: GARBAGE AND TRASH, OF THE CODE OF FAYETTEVILLE, TO AMEND, INSERT, AND DELETE CERTAIN DEFINITIONS; MODIFY RESIDENTIAL SERVICE REQUIREMENTS AND ADOPT RATES.

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

Section 1. That §50.01: Definitions, Code of Fayetteville is hereby amended by deleting the definitions of **Container, Garbage Can,** and **Residential Garbage Bags,** and inserting the following:

Bulky Waste. Items too large for collection in City-issued residential garbage carts, such as appliances, furniture, large limbs, etc. Customers should contact the Solid Waste and Recycling division for specific requirements.

Section 2. That the definition for **Residential Service** at §50.01: Definitions, Code of Fayetteville is hereby deleted and the following shall be inserted in its stead:

Residential Service. The collection and removal of garbage and trash from single-family residences located on public roadways within the City of Fayetteville. Collection of garbage and trash from residents on private roadways shall be at the discretion of the City. The City shall only collect garbage and trash contained in City-issued carts.

Section 3. That §50.20(B) Service Requirements: Residential Service, Code of Fayetteville is hereby deleted and the following shall be inserted in its stead:

§50.20 Service Requirements.

B. Residential Service.

1. Residential Garbage Carts Required. Beginning January 2003, customers receiving residential garbage and trash service shall use only the residential garbage carts provided by the City. Only garbage and trash placed in such residential garbage carts shall be collected by the City.

b. Additional bags. On the collection day, an additional bag not to exceed 35 gallons in capacity, may be placed in the top of an open garbage cart. An excess bag fee of $2.50 shall be billed to the customer at the next billing cycle. Bags placed outside of the garbage cart shall not be collected.

DRAFT

c. Additional collection. Residential customers may request additional garbage cart collection by appointment. Again, trash shall be placed in the garbage cart, and an additional bag not to exceed 35 gallons in capacity, may be placed in the top of an open garbage cart. An additional collection fee of $6.00, plus the actual disposal cost based on cart size, shall be billed to the customer at the next billing cycle. Bags placed outside of the garbage cart shall not be collected.

2. Location of Residential Garbage Carts. Residential garbage carts shall be placed at a single collection point within three (3) feet of the curb, street or alley line, where applicable, by 6:00 a.m. on mornings regularly scheduled for garbage and trash collection, provided however, that garbage carts shall not be placed at the curb, street or alley more than twelve (12) hours before regular pickup, and shall be removed within twelve (12) hours thereafter. Alternate collection points may be specified at the discretion of the City.

3. Exemptions. Residential customers who wish to apply for an exemption of the required location of residential garbage carts may contact the Solid Waste and Recycling division for an application. Final determination of exemption status shall be made by the General Services Director or his designated representative.

4. Rental Property Cart Service. Rental property owners listed on the Major Owner List maintained by the City of Fayetteville Business Office, shall be permitted 10 days of service immediately following the vacation of the rental property for 1/3 the normal monthly rate for the cart at the residence. The landlord shall be responsible to contact the Solid Waste and Recycling division if the cart is discovered missing during cleanup activities. The landlord shall be responsible for the cart during these 10 days and shall be required to contact the Solid Waste and Recycling division to arrange for cart pickup.

5. Storage/Maintenance. Residential garbage carts shall be stored and maintained in a manner not likely to create a fire hazard, provide nesting space for rodents and other vermin, or breeding sites for insects.

Section 4. That Chapter 50: Garbage and Trash, is hereby amended by inserting the following:

§50.30 Bulky Waste/Community Cleanups.

A. Bulky Waste Pickup. Each customer shall be entitled to one (1) bulky waste pickup per year. Customers shall arrange for bulky waste pickup by contacting the Solid Waste and Recycling division to reserve a collection date. Mobile home parks and apartment complexes consisting of four (4) or more units shall not be eligible.

DRAFT

B. Community Cleanups.

1. City-wide Earth Week Cleanup. During Earth Week of each year, customers may dispose of normal residential waste at the Solid Waste and Recycling facility free of charge.

2. Neighborhood Association/Ward Cleanups. Each City Council Ward shall be eligible for up to four (4) community cleanups per year, provided however, that each cleanup shall be coordinated by at least one (1) neighborhood association, under the sponsorship of both of the Ward's Alderpersons. The City shall collect normal residential waste free of charge.

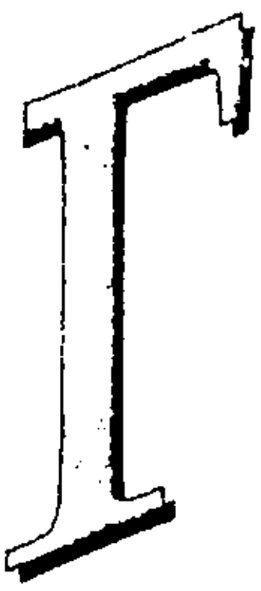
Section 5. That §50.40(A) Rates for Services: Residential Service, Code of Fayetteville is hereby deleted and the following shall be inserted in its stead:

§50.40 Rates for Services.

A. Residential service. Garbage and trash shall be collected from residential customers one time each week for the following rates:

Garbage/Trash User Fee Schedule

Container Volume	Fixed Fee	Graduated Volume Fee	Cart Capitalization Included in Base Rate	Monthly Rate
32	$5.76	$2.06	$0.37	$8.19
64	$5.76	$6.24	$0.49	$12.49
96	$5.76	$11.43	$0.55	$17.74
Apartment complexes recycling – cost per unit				$12.49
Apartment complexes not recycling –cost per unit				$17.74



PASSED and **APPROVED** this 20th day of August, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: August 22, 2002

RZN 02-8.00: Rezoning (Nickell, pp 445/446) was submitted by Bob Hill of Nickle-Hill Group on behalf of J.C. & Alma Nickell for property located at 867 N. College Avenue. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-2, Thoroughfare Commercial.

BACKGROUND:

The subject property is located at the southwest corner of Cleburn St. and College Ave. It is at the northeast edge of the Wilson Park Neighborhood and is within a strip of businesses which are between College Ave. and Pollard St. The majority of these businesses are offices or clinics in addition to a couple of retail outlets. The property being considered in this application was developed for an auto repair business many decades ago, prior to the zoning being established as R-O, Residential Office, which occurred in 1970 when the City adopted a new zoning map and ordinance. The auto repair business continued to operate as a legal non-conforming use under the original ownership and later with a different business owner until relatively recently. When the most recent tenant ceased to utilize the property for an automotive repair business for more than six months, the non-conforming status of the property prevented the same type of business from using the site.

At this time, the applicant is requesting that the property be rezoned to a C-2 designation in order to allow for a new tenant to operate a similar auto related business on the site, making use of the existing building. Staff cannot recommend the requested rezoning because of the potential detrimental impact of this type of business activity on the adjoining residential neighborhood. This property is not conducive to high traffic volumes that can accompany auto related businesses. The building is very close to College Ave. and visibility at the intersection of Cleburn and College is compromised by a turn in College Ave. as well as the siting of buildings on this and nearby lots. In addition, the City's adopted General Plan 2020 and Future Land Use Plan have both identified appropriate areas (nodes at the intersections of higher level streets for example) for development of commercial businesses which are designed to serve the city as a whole and not just the immediate neighborhoods.

The applicant's representative has proposed site improvements to include the installation of landscaping as well as several parking spaces. The proposal would aid in some traffic control by limiting the number of curb cuts and would provide some greenspace around the structure.

Currently there are continuous curb cuts along both Cleburn St. and N. College Ave. with no real measures to control traffic or parking on the site. Because of the location of the building on this site, most of the improvements, if constructed, will be located within City street right-of-way and not on the subject property. Variances as well as City Council approval would be necessary for the proposed improvements.

The history of rezoning requests in this immediate area indicates the need to maintain compatibility with the surrounding neighborhood. Since 1970, several attempts to have been made to have these properties zoned commercially, either C-1 or C-2, which have resulted in withdrawn petitions, consistent opposition from residential neighbors and denials from the Planning Commission.

General Plan 2020 designates this site Community Commercial. Rezoning this property to C-2, Thoroughfare Commercial is not consistent with the land use plan and compatible with surrounding land uses in the area.

CURRENT STATUS

On August 12, 2002, the Planning Commission voted 5-3-0 to approve C-1 zoning and forward the proposal to City Council for approval.

RECOMMENDATION

Staff recommended denial of C-2 Thoroughfare Commercial and on August 12, 2002 the Planning Commission voted 5-3-0 to recommend the C-1 zoning be approved by the City Council.

STAFF REVIEW FORM

X Agenda Request
____ Contract Review
____ Grant Review

For the Fayetteville City Council meeting of September 3, 2002.

FROM:

Tim Conklin	Planning	Urban Development
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for RZN 02-8.00 as submitted by Bob Hill of Nickle Hill Group on behalf of J.C. and Alma Nickell for property located at 867 N. College. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-1, Neighborhood Commercial.

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	8/16/02 Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended denial of C-2, Thoroughfare Commercial and on August 12, 2002 the Planning Commission voted 5-3-0 to recommend the C-1 zoning be approved by the City Council.

Division Head	8-16-02 Date	**Cross Reference**
Department Director	8.20.02 Date	New Item: **Yes** **No**
Administrative Services Director	8/16/02 Date	Prev Ord/Res#:
Mayor	8/19/02 Date	Orig Contract Date:

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 02-8.00 FOR A PARCEL CONTAINING APPROXIMATELY 0.29 ACRES LOCATED AT 867 NORTH COLLEGE, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY BOB HILL OF NICKLE HILL GROUP ON BEHALF OF J.C. AND ALMA NICKELL.

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-O, Residential Office to C-1, Neighborhood Commercial 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:

DRAFT

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"
RZN 02-8.00

LOT NUMBERED ONE (1) IN BLOCK NUMBERED TWELVE (12) AS DESIGNATED ON A.L. TRENT'S REVISED PLAT OF CITY PARK ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, SAVE AND EXCEPT FOUR (4) FEET OF EQUAL AND UNIFORM WIDTH OFF THE EAST SIDE OF SAID LOT NUMBERED ONE (1).

RZN 02-8.00: Rezoning (Nickell, pp 445/446) was submitted by Bob Hill of Nickle-Hill Group on behalf of J.C. & Alma Nickell for property located at 867 N. College Avenue. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Hoffman: The third item on our agenda tonight is RZN 02-8.00, which was submitted by Bob Hill of Nickle-Hill Group on behalf of J.C. & Alma Nickell for property located at 867 N. College Avenue. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-2, Thoroughfare Commercial. Staff recommendation is denial of the requested rezoning based on the findings included as a part of this report. Tim, this has been before us several times. I wondered if you could restate your report or staff's position please?

Conklin: Sure. This is a request to rezone this piece of property from R-O to C-2. The applicant has requested the rezoning in order to utilize the building for an auto lube and tune type or lube shop. This building has previously been used for automotive repair in the past. The City of Fayetteville had received some complaints in the past with regard to cars parked near the intersection of Cleburn and Hwy. 71 Business or College Avenue. The building has been vacant. It has been vacant more than six months. It is currently zoned R-O. It does not allow the use for the automotive lube shop to be reestablished there. Staff still has concerns with regard to changing this to a C-2 zoning district with the lack of area for car storage waiting to get their oil changed and lack of parking and storage area, which could potentially cause some visibility concerns on College Avenue at the intersection. Once again, staff has made that recommendation for denial. The owner of the property has approached the city over the last, since 1970, concerned over the property being rezoned to R-O. However, at this time it remains R-O and the Planning Commission will have to make a decision on what to recommend to the City Council.

Hoffman: Thank you Tim. Is the applicant present? If you would come forward and tell us your name and give us your presentation please.

Nickell: J.C. Nickell, Bob Hill represents us.

Hoffman: You should go get him. You are up.

Hill: That was supposed to have lasted longer.

Hoffman: We are on the applicant's part. Do you have a presentation that you would like to make or would you like me to take public comment first and then answer that?

Hill: That would be fine. I have a presentation but in whatever order you would like.

Hoffman: That would be fine if you would like to take a moment to get your things together.

Hill: I apologize.

Hoffman: Put it where the camera can see it because we can all see the board from here pretty well.

Hill: My name is Bob Hill. I am with the Nickle Hill Group and I am representing J.C. and Alma Nickell. They are here this evening, right here. I just wanted to point out that these are real people, they lived their life and lived most of their lives in the city of Fayetteville. They have a Rogers address now just because they retired and moved to the lake but they have spent most of their time here in Fayetteville. The Nickle Hill Group was hired by the Nickells in October, 2000 to sell or lease the property that we are talking about this evening at 867 N. College. We have been trying to find a user since that time for someone to either buy or lease the property. We have found a tenant who is a franchisee for a national automotive repair and service company. It is a company that as over 300 sites around the United States. He moved here specifically to be the franchisee for this company and he wants to put an operation in each main city in Northwest Arkansas. He wanted Fayetteville to be the flagship, as most people do when they come to Northwest Arkansas, they want to start in Fayetteville. We have gone far enough down the process of pretty much negotiating the terms of the lease. We have talked about what the landlord is going to do as far as cleaning up the property, both power washing the interior and exterior and repainting the building. Also to resurface and restripe the parking lot so the finished product, if we get to that point will be far nicer than what it is today. But we have run into a problem and that is with the zoning. To start with, I have the utmost respect for the Planning Office. Mr. Conklin, Ms. Warrick, and the rest of the people in that office. I work with them a lot and they have a very difficult task. They have to make decisions, sometimes those are objective and sometimes they are subjective, but they always have to make a call. They have to make a decision based on something. I have had numerous conversations with the Planning office regarding this property and what we could do under what we thought was the current zoning. I would like to go on record for the owner tonight and say that they would be very happy with C-1 zoning if we had a different interpretation of Use Unit 18. Through our conversations with Mr. Conklin and Ms. Warrick, it is their interpretation that you can not operate an automotive service and repair station in Use Unit 18. Use Unit 18 is for gasoline service stations so in our opinion all we are doing is not selling gasoline so that is where we disagree with their interpretation and I wanted to make that clear up front. C-2 zoning is not sacred to us. I know that that is a concern with the neighborhood and the primary concern being all the other things that you can do in a C-2 zoning. That is why we have come to the Planning Commission tonight proposing a C-2 zoning but limiting and giving the Bill of Assurance limiting what we could do on that site to only what you could do in a C-1 zoning plus automotive repair and service. That

is the reason we are asking for C-2. We would be happy with C-1 if we could figure out how to do that and still operate a business for which the building was designed and built for. I would like to draw your attention to the city's 2020 plan and I have it on display here. This property is designated as community commercial according to the 2020 plan. This is the property right in here and the part that I have highlighted basically goes from Lafayette north all the way to the mall basically. Almost all of that, if not all of it, is designated community commercial on the 2020 plan and all of that is zoned C-2, except for the little stretch on the west side of College Avenue from Trenton Avenue to North Street. I wanted to point out that it is community commercial and that all the other property there is community commercial and it is zoned C-2 except for us. Before go to the zoning, I would like to read a definition for community commercial, and this is straight from the ordinance I believe from the City of Fayetteville. *Community Commercial areas are defined as activity areas that primarily serve the residents of a community. These areas shown on the proposed land use plan would include grocery stores, dry cleaners, restaurants, daycare, video stores, banks, cafes, gas stations, and other similar types of commercial service that are convenient and serve residents on a daily basis.* That is the definition for community commercial. I think that automotive repair and service certainly fits within that definition. If you will look at the city's zoning map that I have here on display for you, this is our property right here and according to that map that we had at the time our property was zoned C-1. That was another incorrect zoning designation that when we really got down and looked at it at the planning office, we determined that the real zoning for the property was R-O. We had done all of our marketing efforts based on it being C-1 and I know that the owners had thought that it was zoned commercial for a long time also. If you will look, this is our property and all of that there from Trenton Avenue up to North Street, just on the west side of the road is zoned R-O. That happened back in 1970. I don't know why and maybe somebody here on the Planning Commission or in the audience, but I haven't had anybody give me a reason why that was zoned R-O. It is the only place anywhere in Fayetteville is here and that is Archibald Yell when it turns to the west and goes down the hill, that is zoned R-O. That is zoned a higher designation, Downtown Commercial. You have the hospital areas here. Everything else is zoned C-2, all the way from the northern boundaries of the city of Fayetteville all the way to the southern boundaries with those exceptions that I just mentioned. The property to the north of the subject property on the northwest corner of Cleburn and College Avenue was also rezoned to R-O back in 1970. The owner of that property applied to the city Planning Commission in 1990 and the property was rezoned in 1990 to C-1. Our property is very similar to that. It is right across the street. The properties on the northeast corner and the southeast corner, both of those are zoned C-2. We think that our property being zoned commercial is very compatible with that intersection. I wasn't here to hear it but I know that Ms. Warrick probably gave a history of what has taken place on this property and the other properties in this R-O designated area where other people have come before the Planning

Commission and asked for a rezoning and they were all either turned down or they were withdrawn with the exception of the property immediately to the north of the subject property. I would like to give you another side of that history because they say that history is written by the victor. I would like for you to hear the story of Mr. and Mrs. Nickell I think it is important to remember that private business people in the course of their lives, they can't depend on if you don't work for a large corporation or if you don't work for a government entity of some type, we have to look out for ourselves and we have to somehow provide for our own retirement. One of the best ways to do that if you are a private business man, if your business allows for it, is to own the real estate where your business is located. That is exactly what Mr. Nickell did. He first bought the property in 1958. For those of you who have lived here like I have all your life, everybody remembers Nick's DX. It was an institution and that is what this property was. He bought it in 1958, it was a small service station office and two bays that faced out on College Avenue. He bought that property because it was zoned commercial, and he made a business decision when he did that. He wanted to invest in real estate, he wanted to invest in his business, he was investing in his retirement. Mr. Nickell had a good business and in 1960 he came back to the City of Fayetteville and applied for another building permit so that he could expand his business. He did that based on the property being zoned commercial. The city gave him the right to expand his business and he did that based on it being zoned commercial. He again invested in his real estate, and his business, and his retirement. In 1962 his business was still prospering and he came before the City of Fayetteville again and applied for a building permit, he did that based on the property being zoned commercial. The city granted his building permit request. He made another investment in his real estate and in his business and in his retirement. In 1970 the city pulled the rug out under Mr. Nickell. They rezoned his property R-O and I have already asked if anybody knows why that happened, we don't know. I am not the last word in property values but I do work in that industry so I do have the feel for what different property values are and I think it is safe to say that when you down zoned his property to R-O you took 2/3 of his property value away from him because he can't do what that property was designed and built to do. One of the findings of the Planning office, and this is again quoted from their finding of our application. *The existing zoning classification of R-O, Residential Office, does provide development options for this property. While the structure was originally built to house an automotive repair business it could be reused or replaced allowing for an office or similar use which is permitted under the current zoning classification.* In other words the city is saying 'Mr. Property Owner, you can buy property based on it being zoned one thing, you can make two more investments in that property based on it being zoned commercial and we can change the rules on you.' Folks, I don't think that is right to do that. Put yourself in their shoes while you are making your decision tonight, think about if that was you. 867 N. College happens to be in the Wilson Park neighborhood. I don't think that there is anything in this room that would argue the fact that that is one of the loveliest neighborhoods in all of Fayetteville.

I have a lot of childhood memories of Wilson Park, it means a lot to me. I want to congratulate the Wilson Park Neighborhood Association. They have been wonderful to work with, they have been candid, they have been open, they have been receptive to what we wanted to do. We have listened to their concerns and I applaud them for the way that they have handled all of this. I don't know if there is going to be a long line or a short line or what is going to come up but I know that there will be opposition to this tonight. I know that they are going to come up with the same old approaches to being opposed to something. The three things that all of you have heard every time when people come up in opposition to something and it is traffic, it is safety, and it is property values. I don't think those three arguments hold water in this particular instance. If you will look again at the zoning map, if you will remember the red stripe that runs from the north end of Fayetteville bisecting the town all the way through to the south end of Fayetteville, that represents C-2 zoning all along U.S. Highway 71. Most of that is College Avenue, some of that is Archibald Yell and some of it is School Avenue, but all of it represents, with the exception of what I have mentioned earlier, it all represents thoroughfare commercial zoning. That is not just zoning on a map, what is in reality out on College Avenue are commercial businesses. They are on both sides of the street. Guess what is behind all of those commercial businesses all up and down College Avenue, neighborhoods. It is that way in every city in America and it is that way all over Fayetteville. Traffic, safety, and property values are not a good reason to deny this rezoning request. If you will look at some of the handouts that we have given you, they are the ones that are painted green and yellow I believe, that is what the owners have proposed that they improve this property to putting curbed green space at the corner of Cleburn and College Avenue, to putting curbed green space along Cleburn on the north side, and also to put in some curbed green space at the intersection of Pollard and Cleburn. Those sketches that I gave you were done by an engineer but they are very preliminary. There is nothing sacred about those drawings. We are putting those forward to you as a suggestion of what the owners are willing to do to help get this approved. At the same item, by making those improvements that we have proposed, we are in fact making the neighborhood safer because it will reduce the width of that drive through there. We have eased the traffic problem because we have cut out the continuous curb cut, we now have specific curb cuts along the line. We have drawn it in such a way that we won't have people backing out directly onto either Cleburn or on Pollard but instead can pull in to parallel parking spaces, back up and then pull straight forward out onto Pollard and Cleburn. What we have done is we have improved the safety, we have improved the traffic issues and I think that because of what we are doing to beautify that corner, we have in our own way increased the property values in the neighborhood. I have been able to receive a copy, because of the freedom of information act, of all of the letters and all the emails that were sent to the Planning office and also to the mayor of people who were in opposition to this rezoning. We also got a copy of the minutes from the Wilson Park Neighborhood Association that listed the names of all the people who were present that day and

they voted unanimously to oppose this rezoning. The names that we have, we took those, we looked up the street addresses where those people live and with that we were able to go to the Washington County Assessors Office, look and see when each one of those people purchased their home. There were 32 of them that voiced their opposition, most of them at the meeting of the Wilson Park Neighborhood Association. I may have missed one, but if our search was correct, none of those people owned their homes in 1962 when Mr. Nickell was still investing in his property. When they bought their homes that property was there, it had been designed and built as an automotive repair and service station. There was an automotive repair and service station there, it didn't bother them when they built their house or bought their house. Yet, now they want to take the right away from the owners to use the property for what it was designed and built for. I don't think that is fair to Mr. and Mrs. Nickell. The Nickells own property in the Wilson Park neighborhood also and they were there first. Commissioners, you can start the process tonight in my opinion to right a wrong. The applicants aren't coming to you tonight asking for anything new really. They are not asking for any special consideration, they are just asking for you to give them back what the City of Fayetteville took from them in 1970. I want to emphasize again that we have asked for C-2 zoning but are doing so only because we were told that we could not do an automotive repair and service station in C-1. That is the only reason we are asking for C-2 and putting that Bill of Assurance in there that we will only do what is in C-1 plus automotive repair. If there is any way to do this in C-1 they would be more than happy. I know that would make the neighborhood probably happier if we could restrict it that way. I really hope that you will strongly consider our request and thank you for your time.

Hoffman: Thank you.

Conklin: I just want to clarify one thing. You have heard from the representative of the applicant regarding the issue of C-1 verses C-2 zoning. I think you have every right to discuss that if you feel the need to this evening. However, you can not overrule my interpretation. You can appeal my interpretation to the Board of Adjustment. I have also given that option to Mr. Bob Hill to file a petition with the Board of Adjustment arguing his case with regard to how you classify that use in the C-1 zoning district. However, I have made my interpretation. Once again, this evening you do not have the ability to overrule me and put that into a C-1 zoning district for that Use Unit so I just wanted to clarify that. Thank you.

Hoffman: Thank you Tim.

Hill: Can I make one more comment?

Hoffman: Sure.

Hill: I am not sure the exact procedure for this but I think it would be my preference

not to vote on this tonight if we can. We are looking for some direction from you all I think. I feel pretty confident that you all aren't going to approve this rezoning for C-2 tonight. I may be wrong.

Hoffman: Let me just ask you this, if we don't take any action you have no appeal and it stays in limbo. We could take action and then you could appeal our decision either to the City Council as a denial of your rezoning or to the Board of Adjustment in terms of the interpretation of the zoning category. That would be your choice.

Hill: So let you vote and then if in the event you turn my request down.

Hoffman: I don't know what the Commissions pleasure as far as tabling this is. Three Commissioners were absent from the last meeting so it was tabled due to the lack of attendance then. We are here now so I would think if it were me I would go forward with it but I am not you so if you want to withdraw it then that is certainly your option.

Hill: We have had to table it so many times and there have been so many issues involved in this and we are wanting to do it correctly. I didn't know what my options were as far as starting the ball in the process. I know that I have been in here before when somebody came in for a rezoning and you said "No, you can't get that zoning, why don't you do this."

Hoffman: This is a little different because he has made an interpretation about the use category. There have been times when I have been on the Commission when we have used an R-O zone instead of a C-1 zone or something like that because it was more appropriate to the category but we can't override Tim. We could rezone it to C-3 or C-2 or something like that I think.

Conklin: Once again, the options that I see are the applicant can ask that the Board of Adjustment, seven volunteer citizens, to agree with you and overrule me. The Planning Commission can file that and ask the Board of Adjustment to agree with you if you said C-1 is an appropriate zoning district and that I am wrong, that is fine. The third option would be the City Council could change the zoning ordinance and change Use Unit 18 classification and deal with it that way. Once again, I just want to make sure that we are following city ordinance and state law with regard to interpretations of the zoning ordinance.

Hill: Ok, then forget about what I said about thinking that you all won't approve it. I am confident you will.

Hoffman: We will go on from here.

Estes: Madam Chair, before Mr. Hill sits down, Mr. Williams as a procedural matter if

the applicant tables and appeals our Planning Administrator's use determination, then that is permissible at this time. If the Planning Commission votes and it is appealed to the City Council, does that preclude an appeal to the Board of Adjustment regarding Mr. Conklin's determination of the use unit?

Williams: I don't know if it would. In fact, I want to ask our City Planner since right now he is zoned R-O and everybody agrees that you can't have an auto repair facility in an R-O, I wonder if he would even have standing to appeal your decision about a C-1 zoning classification when he is not zoned C-1. Would the Board of Adjustment really have anything to decide unless in fact he was zoned C-1, which is the neighborhood commercial.

Conklin: I think that Mr. Hill could, or a citizen if they came into my office and I made an interpretation with regard to what is allowed in a certain zone and they disagreed with that, they would be able to appeal my interpretation to the Board of Adjustment.

Williams: Even when his property is not zoned that?

Conklin: Say Mr. Hill has other properties he is listing that this is very important to him and he disagrees that it really should be in a C-1 zoning district. Once again, I guess that is another interpretation I am making.

Williams: Well the City Attorney's office wouldn't stand in your way if you wish to do that. In fact, to directly answer Commissioner Estes, I would not interpret our rules to prohibit him seeking to get that interpretation, regardless of what he does tonight. It might be that the City Planner would disagree with me and he is the one that interprets these ordinances but the City Attorney's office would not bar him in either case.

Hoffman: Thank you Mr. Williams. Did you have anything else before we start with public comment?

Hill: No.

Hoffman: Ok, I will go ahead and take public comment. Can I have a show of hands for people that would like to address the Commission? If you all will come up one at a time and try to avoid repeating each other. I would like to remind everybody that we have got nine items on our agenda tonight and we are only on the third one.

Reddig: Thank you very much. My name is William Reddig and my wife Dorothy and I reside at a house at 44 E. Cleburn Street, which is located at the northwest corner of Cleburn and Pollard, which is adjacent or kitty corner to the rear of the 0.29 acres at 867 N. College Ave., the proposed rezoning from R-O, Residential Office

to C-2, Thoroughfare Commercial by the trust of J.C. and Alma Nickell of Rogers. Thank you very much for seeing us tonight. I think the first I heard about this was in March and it has been scheduled to come before you several times but it was pulled back at the last minute there just before Memorial Day and tabled and I certainly hope that we can perhaps move onto a decision tonight. We are retirees who settled in Fayetteville seven years ago and we have lived in our home on the corner for the past three and a half years. We like living there very much and continue to make improvements, including our recent reproofing as Dotty and I stated in our letter to the Commission of April 15, 2002. We also very much like our neighborhood, especially the short tree lined stretch of Cleburn ending at Highland Street, which at present is very quiet all night long and very livable during the daytimes. The former owners of the home liked it so much that they moved just three homes to the west. They have been especially impressed by the many home owner improvements made by our neighbors on Cleburn and throughout the surrounding blocks, especially folks in their 20s and 30s who have bought older homes and then completed major renovations as well as doing great outside maintenance. Nearby businesses are largely of the neighborhood type, doctors and dentists, a flower shop, accountant, interior decorating, graphics, therapists, and others who provide good services and live quiet lives in keeping with the city's intention when it zoned the property in question to R-O, Residential Office. We hope, and a number of neighbors have expressed to me the same hope, that the nearby commercial areas will continue that R-O neighborliness intended when the city established this zoning. We continue, as stated in our April letter, to oppose a rezoning at the corner to C-2. It is a jump that would open the doors to all sorts of uses including sexually oriented businesses, which you know are included in a C-2. I bring with me a reminder from Mark Kinion, head of the Wilson Park Neighborhood Association, who couldn't be here tonight because of a business trip, that the Wilson Park Neighborhood Association in its annual meeting voted unanimously to oppose the rezoning and the association continues to stand by that vote. The applicant I understand owns two adjoining parcels, one the site of a rental house that burned down and after a long period was eventually demolished. The building on the property in question has a very narrow setback. It has long been in zoning non-compliance. When it was operated as a very busy auto repair shop a year or two ago cars were always kept parked at the street, many badly damaged cars were left parked outside for weeks and even months. Wreckers would appear in the middle of the night to leave off damaged cars. Cleburn is a narrow street and with the garages and operation, there are six garages as you probably witnessed, there was always a problem driving up Cleburn to turn on College or coming from College into Cleburn. An up-zoning will bring back and compound the safety and congestion problems a great deal. I appreciate the fact that Bob Hill and the realtors of the Nickle-Hill Group called and sent me data both about a survey outlining curb and green space along with a Bill of Assurance that was proposed from the Nickells proposing to limit the property "to those uses allowed in C-1 zoning plus automotive service repair as defined in Use Unit 17" looking at the

sketch that he provided me I can see where the raised curb islands and greenery might corral Nick's customer's cars better than the past but the curb would use I believe city right of way and could just prove to create new hazards. I am not sure the engineer or the architect who drew this out really thought out all his placement of the greenery at the corner of College and Cleburn where drivers have to have site lines when turning. I don't understand all the implications of the proposed Bill of Assurance but it seems like the owners owning the other adjoining properties would in affect jump the zoning to C-1, while pulling in an exception for auto repair service shops from Use Unit 17. Doesn't then the neighborhood face a domino rezoning threat? Dotty and I continue to oppose RZN 02-8.00, Nickell rezoning from R-O, Residential Office to C-2, Thoroughfare Commercial. On the basis of safety, zoning integrity, and continuity, especially in the name of neighborhood and Fayetteville city well being and improvement, we ask that this rezoning application be denied.

Hoffman: Thank you Sir. Who else would like to address the Commission on this rezoning?

Singleton: My name is Steve Singleton and I live on the corner of Highland and Cleburn. A short way away from the proposed auto repair facility I wouldn't be here tonight if this were still a service station. With a service station cars pull in, they receive the service, the gasoline and then they pull out. The problem has been in the repair aspect of this business. I was one of the ones that complained to the city about cars blocking the view of College Avenue when you try to exit Cleburn onto College. Before I complained to the city I walked in and I talked to the people who were operating Nick's Conoco, explained my concerns and they said basically we have no control over this because people bring their cars in for service and repair, they leave them overnight, we try our best but we can't control it. The problem here is that with all the repair bays, the repair facilities are too large for the existing parking and infrastructure. Basically the facility was overbuilt for the use that it is now receiving, or was receiving. My understanding is that this proposed tenant also operates transmission repair services as well. If that is the case, besides lubes, which would be a day long process or could be, we would also have transmission repair services, which would extend the duration of cars that are out of service, parked on the lot occupying space. For that reason I would ask that you not approve this particular use. Second, I would like to echo the fact that part of the property, the up hill property, all it has ever been is residential or office before the house burned down. Now it is a vacant lot but it is a question of ever changing the zoning of that property, it was always zoned the way it is today and I wanted to make that point because there are still homes and there are still small offices on Pollard that would adjoining that lot. Thank you for your attention.

Hoffman: Thank you Mr. Singleton. Is there any other member of the audience who would care to address us now? Seeing none, I will close discussion. Oh, I'm sorry, please come up.

Singleton: My name is Judy Singleton. I just have a few points that I jotted down. I live on the corner of Cleburn and Highland. One thing that was brought out earlier was the fact than he was a small business owner. I knew Nick when he was up there, my kids used to go up there and get pop so he was part of the neighborhood. One of my objections is that it has been a small business and all along our section of College there is small business, locally owned businesses verses the national chains. My objection is to a national chain that may not be responsive to the community and be part of our neighborhood. The second thing that you can't tell on this map, can I go point and then I'll come back to the mic?

Hoffman: Yes.

Singleton: This is where the property is. There is curve and road and hill. You can't see the curve and you can't see the hill on the map but just to the north of this property it is straight and then it curves right by the property. Visibility is tough. If I start to slow down to turn onto Cleburn to go to my home I don't dare slow down or I will get rear ended. From the other direction south there is a hill that comes up and because of the curve and the hill one thing that is mentioned, and I haven't seen the proposal for the green space I'm sorry that I haven't seen it but my thought is that at Sassafras when you get to their property there is a nice little green space and some plantings but you can't see around them down that hill. Unless there are pansies or something that is no more than 6" off the ground in the front, we won't be able to see the cars coming up the hill to get onto College again. Curb cuts, I wanted to address quickly. Curb cuts can be more dangerous than completely open area. Again, if people are having to slow down on the curve the chances of rear ending is high. I guess those were all my points. Thank you very much but I do recommend not C-2.

Hoffman: Thank you Mrs. Singleton. Is there anyone else that would like to address us before I close public comment? Now I don't see anyone so I will go ahead and bring it back to the applicant and to the Commission for discussion, motions and so forth. I have a question, I guess I will address it first to staff. This is not only a rezoning but it is really a request for redevelopment. I believe I asked the question before but was there a way that we could have looked at this as a conditional use and actually put some conditions of approval with regard to the curb cuts and so forth instead of just seeing a Bill of Assurance and a diagram from the applicant that would show three non-conforming curb cuts on Cleburn Street and one non-conforming on College?

Conklin: No, not at this time.

Hoffman: The reason I asked that is because in the request for rezoning certainly there is a vested right and a vested interest in having had an existing business. However, it was not operational I guess for the six month period, therefore those non-

conforming uses and rights were discontinued so we must look at this in my opinion with regard to potential safety hazards and so forth when the business reopens and what it is going to function as. I am having a problem, knowing that intersection as I do, with the three curb cuts along Cleburn Street. Those would not be permitted for any new business in the configuration that they are in and although it is a rezoning we do know that it is basically a request for redevelopment. My question for you then Mr. Hill is could the business operate without the curb cuts on Cleburn? I think it would be better served to have one off of Pollard and one off of College.

Hill: That is something that I would have to ask the perspective tenant there. The thing that I have continued to in all my discussions with the residents of the Wilson Park neighborhood, is to not take into consideration just our one perspective tenant. They could disappear tomorrow as we know in real estate. They show up and you go and do all these things that we are doing right now and they may disappear. What I kept stressing to the neighbors there is don't consider this a rezoning for an automotive and repair service but consider it a rezoning. That is what we are here to do. Even though we are trying to do this for that specific tenant, they may not be there. For me to tell you that that specific tenant could operate if we eliminated all the curb cuts along Cleburn, possibly. What we are doing is rezoning the property. Even if the tenants went in they could disappear in five years.

Hoffman: Thank you very much. You have answered my question.

Ward: For many years I used Nick's place as a place to get my car fixed and get fuel and all that kind of stuff. It has really become kind of an eye sore and it is kind of for the whole community because we have all the traffic up and down North College and it is not good for our community to have a commercial building, or any kind of building setting vacant right on North College, I think it is bad for the whole community. Mr. Singleton pointed out one of the biggest problems, that the building really encompasses the whole lot and it is hard to work with that. If you are going to try to put a lube business in there there is no place to stack cars, there is no way in, there is no way out. The building totally goes from College to Pollard to Cleburn. Unless there is some kind of restructuring that building, I am thinking like the building down the street, the old Rocket Lube Building, it worked very well as a quick lube business but the cars went up the side street, which would be like Cleburn and turned into the back of the building and then came out the front. It worked very well. I don't see the building being used as an office building like it is zoned now. It seems like to me that it should be neighborhood commercial as a zoning. We don't have the right to bulldoze the building and all those types of things. Those are just the thoughts that I have. I would like to see the building being used but it is something that is going to have to be restructured totally.

Ostner: Mr. Hill, earlier you mentioned the mystery around 1970 or 1971 and it seems a good time to talk about that only because it is so relevant with what Mr. Ward just said. The Planning Office gave us copies of all that discussion, and you all should have that too. What they basically say is that in 1970, this is just historical record, they didn't want it to be C-2 because the future land use pattern is the problem. The relationship of this piece of land, which is your land to the transportation facilities, other land uses, individual site characteristics, and individual owner desires are all conflicting. Weighing these factors with the exception of individual owner desire it would seem that the area should not contain uses which involve frequent traffic movements and uses which would be degrading to adjacent residential property. These types of uses are typically found in the C-2 district as opposed to the R-O district. I believe that really reflects some of my sentiments that even though College is a commercial strip this particular spot is the victim of time. The street has widened after the place was established, the topography has gotten worse with retaining walls I'm sure that came in long after the station was built I would bet. My view is that it is a prime candidate for redevelopment. There is not enough room for parking, I know we are only talking about zoning, but they are tied together because C-2 zoning means a lot more traffic whereas R-O zoning typically does not. It is a lot lower traffic and that is something I wanted to share with you right there. The other issue I wanted to share is that I know this must seem like the rug being pulled out and that the rules have changed in the middle of the game and I'm sure that it seems very unfair but if a different type of business were to approach you, a coffee chain or something that would fit into R-O, this site, I don't know about a coffee chain, this site could be usable and could be very profitable for the owners and for every one involved, for the franchisee but not as it is today. That is really my take on the issue. It needs more than a rezoning to work for the community and for the neighborhood and for the traffic, which has increased dramatically since 1970. I appreciate your query about ½ hour ago of wanting information and that is my two bits. There is a lot more information from the rest of the Commission though. Thank you.

Hoffman: Thank you Commissioner.

Bunch: I live about four blocks south of this location and I live in the 400 block of Washington, which is one block off of North College. It is a situation where we have residential backed up to commercial. I am in a similar situation as some of the neighbors. I have two service stations near the block that I live on, there is one on Lafayette and one on Maple, both on my side of North College. I am also only another block away from where the Rocket Lube was and I don't feel that that has adversely affected my quality of life or my property values. Again, Hwy. 71 Business is basically a commercial strip, has been for many, many years from one end of town to the other and these are businesses. It is a question of buyer beware, the closer you get to College the closer you are going to be to a commercial venture. It is the nature of how the town is. I find it difficult to oppose a commercial zoning. C-2 may be too broad. I would be in favor of a C-1

zoning and with the recommendation that the applicant appeal the decision of Use Unit 18 of whether an automotive repair service, particularly a quick type lube service, whether it should be in Use Unit 17 or Use Unit 18. Most of the functions that are in a rapid lube service traditionally have been in service stations with the exception mentioned earlier with selling gasoline. To me it is a question of interpretation. Again, our Planning Director is offering that this is an avenue that can be explored. That being said, I will move that RZN 02-8.00, rather than C-2, Thoroughfare Commercial, that it be C-1, Neighborhood Commercial with a recommendation to the Board of Adjustment that they examine the ruling that places this in Use Unit 17 and that the Commission would recommend that that be changed to Use Unit 18.

Hoffman: I have a motion by Commissioner Bunch for C-1 zoning, do I have a second?

Shackelford: I will second.

Hoffman: I have a second by Commissioner Shackelford, is there additional discussion?

Shackelford: Just a question. Tim, I don't know if you can answer this or not, I may be leading us down a bad road here but obviously you recommend denial of a C-2 zoning. Would staff be in favor of a C-1 zoning for this property?

Conklin: No, staff's interpretation is that automotive repair service is specifically listed in C-2 and therefore, it needs to be with the C-2 zoning.

Shackelford: Assume that we have no idea what the property is going to be going forward, would you support a C-1 zoning for this property with no adjustments to the use, in other words would you support the C-1 zoning here if there was a buyer coming in that was going to raise this building and build something that would qualify under C-1?

Conklin: The city has rezoned property in the past to C-1 directly across the street. Staff would consider recommending approval for C-1 zoning of this piece of property.

Shackelford: Ok, thank you.

Hoffman: Is there any additional discussion before we call for the question? Ok, Renee, would you call the roll please?

Roll Call: Upon completion of roll call the motion to forward RZN 02-8.00 was approved by a vote of 5-3-0 with Commissioners Estes, Hoover, and Ostner voting no.

Hoffman: The motion carries with five affirmative votes and three negative votes. Thank you.

Hill: Thank you very much.

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: August 12, 2002

RZN 02-8.00: Rezoning (Nickell, pp 445/446) was submitted by Bob Hill of Nickle-Hill Group on behalf of J.C. & Alma Nickell for property located at 867 N. College Avenue. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-2, Thoroughfare Commercial.

RECOMMENDATION:

Staff recommends denial of the requested rezoning based on the findings included as part of this report.

PLANNING COMMISSION ACTION: **Required** **YES**
O Approved **O Denied**

Date: **August 12, 2002**

CITY COUNCIL ACTION: **Required** **YES**
O Approved **O Denied**

Date: **September 3, 2002 (1st reading – if recommended)**

Comments: _____

_____

_____

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BACKGROUND:

The subject property is located at the southwest corner of Cleburn St. and College Ave. It is at the northeast edge of the Wilson Park Neighborhood and is within a strip of businesses which are between College Ave. and Pollard St. The majority of these businesses are offices or clinics in addition to a couple of retail outlets. The property being considered in this application was developed for an auto repair business many decades ago, prior to the zoning being established as R-O, Residential Office, which occurred in 1970 when the City adopted a new zoning map and ordinance. The auto repair business continued to operate as a legal non-conforming use under the original ownership and later with a different business owner until relatively recently. When the most recent tenant ceased to utilize the property for an automotive repair business for more than six months, the non-conforming status of the property prevented the same type of business from using the site.

At this time, the applicant is requesting that the property be rezoned to a C-2 designation in order to allow for a new tenant to operate a similar auto related business on the site, making use of the existing building. Staff cannot recommend the requested rezoning because of the potential detrimental impact of this type of business activity on the adjoining residential neighborhood. This property is not conducive to high traffic volumes that can accompany auto related businesses. The building is very close to College Ave. and visibility at the intersection of Cleburn and College is compromised by a turn in College Ave. as well as the siting of buildings on this and nearby lots. In addition, the City's adopted General Plan 2020 and Future Land Use Plan have both identified appropriate areas (nodes at the intersections of higher level streets for example) for development of commercial businesses which are designed to serve the city as a whole and not just the immediate neighborhoods.

The applicant's representative has proposed site improvements to include the installation of landscaping as well as several parking spaces. The proposal would aid in some traffic control by limiting the number of curb cuts and would provide some greenspace around the structure. Currently there are continuous curb cuts along both Cleburn St. and N. College Ave. with no real measures to control traffic or parking on the site. Because of the location of the building on this site, most of the improvements, if constructed, will be located within City street right-of-way and not on the subject property. Variances as well as City Council approval would be necessary for the proposed improvements.

The history of rezoning requests in this immediate area indicates the need to maintain compatibility with the surrounding neighborhood. Since 1970, several attempts to have been made to have these properties zoned commercially, either C-1 or C-2, which have resulted in withdrawn petitions, consistent opposition from residential neighbors and denials from the Planning Commission. The following list and accompanying documentation (see attached) reflect several historical rezoning requests on property in this general location:

June 1970 - City wide rezoning changed designation of property from Commercial to RO, Residential Office

July 1971 - 700 Block N. College (SW Corner of Trenton & College)

Request rezoning from R-O to C-2
Staff recommendation for denial
PC voted to deny
Applicant requested appeal
No record of pursuit of appeal to City Board

July 1971 - 701 N. College (Lot 5, pt Lot 4 Trent's Revised Addition)

Request rezoning from R-O to C-2
Staff recommendation for denial
PC voted to deny

August 1971 – Board of Directors directed City attorney to prepare a petition to amend the zoning ordinance to rezone the property on the west side of College from North Street to Trenton Street from R-O to C-2

Dec. 1971 – Staff processed a rezoning application reflecting the action directed by the City Board in August 1971

Staff recommendation for denial
PC voted to deny the rezoning
Decision upheld by Board of Directors

Nov. 1972 – Same request denied (701 N. College Ave.)

August 1975 –Same request denied

Dec. 1983 – Same request processed

Staff recommended denial
PC recommended denial
City Board voted to approve rezoning to C-2 with Bill of Assurance to allow only limited uses (April 1985 - Bill of Assurance amended to permit only a pizza delivery service)

Jan. 1984 – SW Corner of North & College (Lots 1-4, Block 13)

Request rezoning from R-O to C-2
Request denied by PC

June 1990 – 901 N. College (NW Corner Cleburn & College)

Request rezoning from R-O to C-2
PC recommended approval of C-1
City Board approved C-1 zoning

On several other occasions, rezoning requests were submitted and then withdrawn based upon opposition from surrounding residential neighbors and / or staff recommendations for denial.

Staff believes that consistency with previous Planning Division recommendations is the way to ensure that this area maintains compliance with the adopted policies and principles of the City. Conditions in this area have not changed significantly since the City determined that the appropriate uses for this area should be those allowed within the R-O zoning district except that there is more traffic congestion along College Ave. Traffic volume maps produced by the Arkansas Highway & Transportation Dept. indicate 27,000 vehicle trips per day in the year 2000. This was an increase from the 23,000 vpd reported in 1999 (no volume was listed for this location on the 1998 map).

The applicant has provided a Bill of Assurance that would limit the uses on the subject property to those uses permitted in the C-1 district and including automotive service and repair. A proposed tenant has indicated a desire to utilize the building for a lube and oil / tune up type operation, similar to the auto repair business that was previously located on this site.

Staff is concerned with the proposal due to the high traffic nature of this type of business and the very limited amount of space on this site to accommodate a large number of vehicles. The existing building is non-conforming and there is no formal parking lot on the site. Should vehicles line up behind the service bays, visibility up and down College Ave. at the site as well as at the intersection of College Ave. and Cleburn St. would be compromised.

SURROUNDING LAND USE AND ZONING

North: Cleburn St. / Retail. R-O
South: Vacant, R-O
East: College Ave. / Retail, C-2
West: Residential, R-1

§162.02 INTERPRETATION.

A. In each use unit division, permitted uses are set forth in the division entitled "Included Uses." In the event of a conflict between such divisions and the "description" divisions, the former shall prevail.

B. In any case where there is a question as to whether or not a particular use is included in a particular use unit, the City Planner shall decide. A use shall not be interpreted as being in any use unit if it is specifically listed in another unit in this chapter.

(Code 1991, §160.056; Code 1965, App. A, Art. 6(B); Ord. No. 1747, 6-29-70; Ord. No. 2181, 1-6-76)

§ 14-56-416. Zoning ordinance.

(a)(1) Following adoption and filing of the land use plan, the commission may prepare for submission to the legislative body a recommended zoning ordinance for the entire area of the municipality.

(2) The ordinance shall consist of both a map and a text.

(3)(A) The ordinance may regulate the location, height, bulk, number of stories, and size of buildings; open space; lot coverage; density and distribution of population; and the uses of land, buildings, and structures.

(B) The ordinance may require off-street parking and loading.

(C) The ordinance may provide for districts, of compatible uses, for large scale unified development, for elimination of uses not in conformance with provisions of the ordinance, and for such other matters as are necessary to the health, safety, and general welfare of the municipality.

(D) The ordinance shall include provisions for administration and enforcement.

(E)(i) The ordinance shall designate districts or zones of such shape, size, or characteristics as deemed advisable.

(ii) The regulations imposed within each district or zone shall be uniform throughout the district or zone.

(b)(1) [redacted] which may either be composed of at least three (3) members, or the commission as a whole may sit as the board of zoning adjustment.

(2) The board shall have the following functions:

(A) Hear appeals from the decision of the administrative officers in respect to the enforcement and application of the ordinance, and may affirm or reverse, in whole or in part, the decision of the administrative officer;

(B)(i)(a) Hear requests for variances from the literal provisions of the zoning ordinance in instances where strict enforcement of the ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the ordinance.

(b) The board shall not permit, as a variance, any use in a zone that is not permitted

under the ordinance.

(c) The board may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

(ii) Decisions of the board in respect to the above shall be subject to appeal only to a court of record having jurisdiction.

(3)(A) The board shall establish regular meeting dates, adopt rules for the conduct of its business, establish a quorum and procedure, and keep a public record of all findings and decisions.

(B) Each session of the board shall be a public meeting with public notice of the meeting and business to be carried on published in a newspaper of general circulation in the city, at least one (1) time seven (7) days prior to the meeting.

(c) The ordinance shall be observed through denial of the issuance of building permits and use permits.

History. Acts 1957, No. 186, § 5; 1965, No. 134, § 1; A.S.A. 1947, § 19-2829.

§ 14-56-417. Regulations to control development of land.

(a)(1) Following adoption and filing of a master street plan, the commission may prepare and shall administer, after approval of the legislative body, regulations controlling the development of land.

(2) The development of land includes, but is not limited to:

(A) The provision of access to lots and parcels;

(B) The extension or provision of utilities;

(C) The subdividing of land into lots and blocks; and

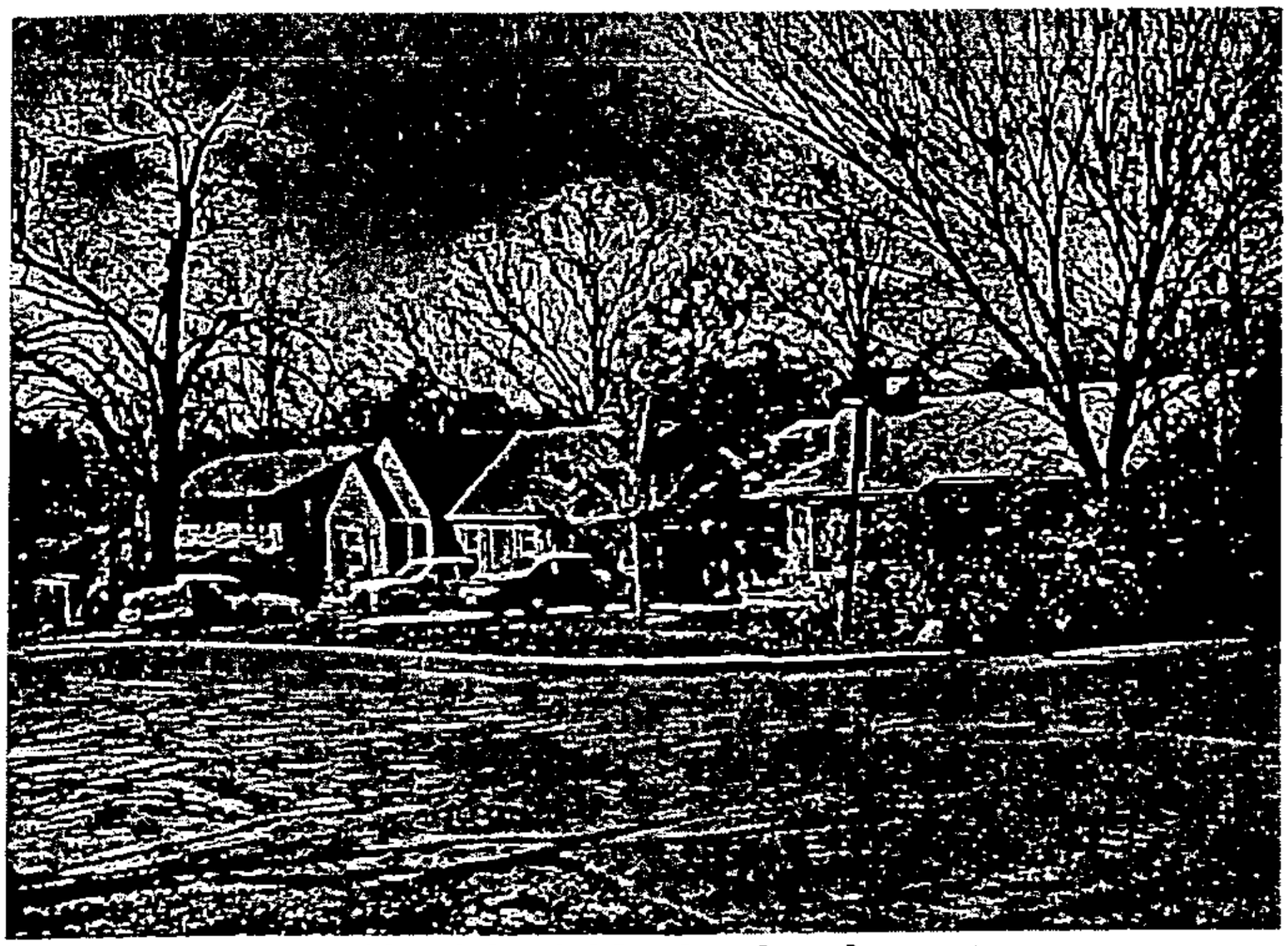
(D) The parceling of land resulting in the need for access and utilities.

(b)(1) The regulations controling the development of land may establish or provide for the minimum requirements as to:

(A) Information to be included on the plat filed for record;

(B) The design and layout of the subdivision, including standards for lots and blocks, street rights-of-way, street and utility grades, and other similar items; and

Subject property from across Cleburn St.



Residential neighborhood to the west

INFRASTRUCTURE:

The subject property is located at the southwest corner of College Ave. (a principal arterial) and Cleburn Street (a residential street). Access is also available from Pollard Street (a residential street) which runs along the western boundary of the site.

Water and sewer are both available to the property.

LAND USE PLAN: General Plan 2020 designates this site Community Commercial. Rezoning this property to C-2, Thoroughfare Commercial is not 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 not consistent with land use planning objectives, principles, and policies. The requested C-2, Thoroughfare Commercial zoning designation is more suited for areas called out for Regional Commercial development or at nodes of activity which are commonly found at intersections of collector or arterial streets. The potential traffic generated by typical C-2 uses as well as other nuisances would negatively impact the established residential neighborhood which borders this site.**

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 not justified at this time. The reason for the request is to make the existing building available to a potential user, however, the entire site has potential for redevelopment under the current zoning regulations for R-O, Residential Office property, or for C-1, Neighborhood Commercial property which would be much more in keeping with the General Plan 2020 designation of Community Commercial for this site.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning and the uses permitted within the C-2 zoning district would create traffic danger at this intersection. This property is situated in an area where access and traffic volume must be controlled in order to prevent very dangerous conditions. Development or redevelopment of this site must be strictly monitored in order to correct problems currently located on the site with regard to vehicular circulation and parking areas.**

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 would not alter population density.

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: The existing zoning classification of R-O, Residential Office does provide development options for this property. While the structure was originally built to house an automotive repair business, it could be reused or replaced allowing for an office or similar use which is permitted under the current zoning classification.

§164.07 NONCONFORMING USES AND STRUCTURES.

A. Intent.

1. Within the districts established by this chapter or amendments that may later be adopted, if there exist lots, structure, uses of land and structures, and characteristics of use which are lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

2. It is not the intent of this section to prohibit the improvement of nonconforming residences by adding bath facilities or connecting to utilities as long as the bulk and area requirements of the R-3 District are met.

3. Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved.

4. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter by the addition of other uses of a nature which would be prohibited generally in the district involved.

(Code 1991, §160.135; Code 1965, App. A, Art 4(1); Ord. No. 1747, 6-29-70; Ord. No. 1918, 5-15-83; Ord. No. 2126, 7-14-75)

B. Nonconforming Lots of Record.

1. In any district in which single-family dwellings are permitted, a single-family dwellings and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, of both, of the lot shall conform to the regulations for the district in which such lot is located. In a previously developed subdivision, platted prior to June 29, 1970, and with the approval of the subdivision committee, a new single-family dwelling or an addition or repair to an existing single-family dwelling may be constructed in all residential zones in keeping with the existing standard in the neighborhood so long as the interior side setback is no less than five feet. Variance of yard requirements shall be obtained only through action of the board of adjustment.

2. If two or more or combination of lots and portion of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all parts of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for parcel the purposes of this chapter, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this chapter. The prohibition prescribed hereby shall not apply to a nonconforming lot on which a principal structure existed on the effective date of adoption of this chapter and which adjoins a nonconforming lot on which a principal structure existed on the effective date of the adoption of this chapter.

(Code 1991, §160.136; Code 1965, App. A, Art. 4(2); Ord. No. 1747, 6-29-70; Ord. No. 2505, 2-20-79; Ord. No. 3114, 9-3-85; Ord. No. 3124, 9-17-85)

C. Nonconforming Uses of Land (or Land with Minor Structures Only). Where at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where

such use involves no individual structure with a replacement cost exceeding $1,000, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter.

3. If any such nonconforming use of land ceases for any reason for a period of more than 120 days, any subsequent use of such land shall conform to the regulations in which such land is located; and

4. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

(Code 1991, §160.137; Code 1965, App. A, Art. 4(4); Ord. No. 1747, 6-29-70)

D. Nonconforming structures. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restriction on areas, lot coverage, height, yards, its location in the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity but any structure or portion thereof may be altered to decrease its nonconformity, provided, the following structures may be enlarged or altered as hereinafter provided:

a. Nonconforming residential structures may be enlarged or altered by increasing the height of said structures.

b. Carports in residential zones may extend into the required yard setbacks if: the carport is set back at least ten feet from the street right-of-way; the carport is set back at least five feet from any interior side property line; the carport is set back at least ten feet from the rear property line; the area below the roof is open on the sides; and the carport does not materially obstruct vision.

c. In residential zones, detachable awnings which are not structurally a part of the building may be erected in any required front yard or rear yard if the awning does not project more than six feet. Detachable awnings which are not structurally a part of the building and which project no more than four feet may be erected in any required interior side yard.

d. In residential zones, porch roofs and open porches may extend into required yards by one foot on each side of the entry door to a maximum depth of six feet in required front yards and rear yards and to a maximum depth of four feet in required interior side yards.

2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Code 1991, §160.138; Code 1965, App. A, Art. 4(4); Ord. No. 1747, 6-29-70; Ord. No. 3130, 10-1-85)

E. Nonconforming Uses of Structures or of Structures and Premises in Combination. If lawful use involving individual structures with a replacement cost of $1,000 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter the lawful use may be continued as long as it remains otherwise lawful, subject to the following

provisions:

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located or as required by other ordinances;

2. Any nonconforming use may be extended throughout any parts of building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a conditional use be changed to another nonconforming use provided that the Planning Commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district that the existing nonconforming use. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accord with the provisions of this chapter.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period (except where government action impedes access to the premises), the structure or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this division is defined as damage to an extent of more than 50% (or other figure) of the replacement cost of time of destruction;

7. All outdoor advertising signs (billboards) not conforming with the provisions of this chapter shall be removed within the period prescribed by §174.06.

(Code 1991, §160.139; Code 1965, App. A, Art. 4(5); Ord. No. 1747, 6-29-70; Ord. No. 1806, 7-19-71; Ord. No. 2126, 7-15-75)

F. Repairs and Maintenance.

1. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10% of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

2. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe, or unlawful due to lack or repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt, except in conformity with the regulations of the district in which it is located or as required by other ordinances.

(Code 1991, §160.140; Code 1965, App. A, Art. 4(6); Ord. No. 1747, 6-29-70)

G. Conditional Use Provisions Not Nonconforming Uses. Any use which is permitted as a conditional use in a district under the terms of this chapter (other than a change through Planning Commission action from a nonconforming

use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall be without further action considered a conforming use.

(Code 1991, §160.141; Code 1965, App. A, Art. 4(7); Ord. No. 1747, 6-29-70)

H. Owner-occupied Nonconforming Residences. Notwithstanding any other provision in this subchapter, any owner-occupied nonconforming residence may be enlarged, extended, constructed, reconstructed, or structurally altered to permit expansion up to 25% of the square footage of the structure as it existed on the date it became nonconforming, and customary accessory structures may be located on property where an owner-occupied nonconforming residence
is located subject to the following conditions: An owner-occupied nonconforming residence so expanded or any accessory structure so located may be enlarged, extended, constructed, reconstructed, structurally altered, or located in conformity with the bulk and area regulations, yard requirements, and building area requirements in the R-1, low density residential district.

(Code 1991, §160.42; Code 1965, App. A, Art. 5(8); Ord. No. 1747, 6-29-70; Ord. No. 1891, 12-5-72)

§161.12 DISTRICT R-O RESIDENTIAL OFFICE.

A . Purpose. The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

B. Uses.

1. Uses Permitted.

Unit 1	City-Wide Uses by Right
Unit 5	Government Facilities
Unit 8	Single-Family and Two-Family Dwellings
Unit 12	Offices, Studios and Related Services
Unit 25	Professional Offices

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 9	Multi-Family Dwelling - Medium Density
Unit 10	Multi-Family Dwelling - High Density
Unit 13	Eating Places

C. Bulk and Area Regulations.

(Per Dwelling Unit for Residential Structures)

Lot Minimum Width:	Mobile Home Park	100 ft.
	Lot Within a Mobile Home Park	50 ft.
Lot Minimum Width:	Mobile Home Park	100 ft.
	One Family	60 ft.
	Two Family	60 ft.
	Three or More	90 ft.
Lot Area Minimum:	Mobile Home Park	3 acres
	Lot Within a Mobile Home Park	4200 sq. ft.
	Row Houses: Development Individual Lot	 10,000 sq. ft. 2500 sq. ft
	Single Family	6000 sq. ft
	Two Family	6500 sq. ft
	Three or More	8000 sq. ft
	Fraternity or Sorority	1 acres
Land Area Per Dwelling Unit:	Mobile Home	3000 sq. ft.
	Row Houses &Apartments: Two or More Bedrooms One Bedroom No Bedroom	 1200 sq. ft. 1000 sq. ft. 1000 sq. ft
	Fraternity or Sorority	500 sq. ft., per resident

D. Bulk and Area Regulations/ Setbacks. Setback lines shall meet the following minimum requirements.

From Street ROW	30 ft.
From Street ROW if Parking is Allowed Between the ROW and the Building	50 ft.
From Side Property Line	10 ft.
From Side Property Line When Contiguous to a R-1, R-2 or R-3 District	15 ft.
From Back Property Line Without Easement or Alley	25 ft.
From Center Line of Public Alley	10 ft.

E. Building Area. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

F. Height Regulations. There shall be no maximum height limits in R-O Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any R-1, R-2, or R-3 District an additional distance of one foot for each foot of height in excess of 20 feet.

(Code 1991, §160.041; Code 1965, App. A, Art. 5(x); Ord. No. 1747, 6-29-89; Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80)

§161.14 DISTRICT C-2 THOROUGH-FARE COMMERCIAL.

A. Purpose. The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 4	Cultural and Recreational Facilities
Unit 12	Offices, Studios and Related Services
Unit 13	Eating Places
Unit 14	Hotel, Motel and Amusement Facilities
Unit 15	Neighborhood Shopping Goods
Unit 16	Shopping Goods
Unit 17	Trades and Services
Unit 18	Gasoline Service Stations and Drive-In Restaurants
Unit 19	Commercial Recreation
Unit 20	Commercial Recreation, Large Sites
Unit 24	Outdoor Advertising
Unit 33	Adult Live Entertainment Club or Bar

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 21	Warehousing and Wholesale
Unit 28	Center for Collecting Recyclable Materials
Unit 32	Sexually Oriented Business

C. Bulk and Area Regulations. Setback lines shall meet the following minimum requirements:

From Street ROW	50 ft.
From Side Property Line	None
From Side Property Line When Contiguous to a Residential District	15 ft.
From Back Property Line	20 ft.

D. Building Area. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

E. Height Regulations. In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(Code 1991, §160.036; Code 1965, App. A, Art. 5(VI); Ord. No. 1747, 6-29-89; Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-177; Ord. No. 2603, 2-19-80; Ord. No. 4034, §§3,4, 4-15-97)

§161.13 DISTRICT C-1 NEIGHBORHOOD COMMERCIAL.

A. Purpose. The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 12	Offices, Studios and Related Services
Unit 13	Eating Places
Unit 15	Neighborhood Shopping
Unit 18	Gasoline Service Stations and Drive-In Restaurants
Unit 25	Professional Offices

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities

C. Bulk and Area Regulations/Setbacks. Setback lines shall meet the following minimum requirements:

From Street ROW	50 ft.
From Side Property Line	None
From Side Property Line When Contiguous to a Residential District	10 ft.
From Back Property Line	20 ft.

D. Building Area. On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

E. Height Regulations. There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of ten feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of ten feet.

(Code 1991, §160.035; Code 1965, App. A, Art. 5(V); Ord. No. 1747, 6-29-89; Ord. No. 2603, 2-19-80)

APPLICATION FOR REZONING
Lot 1, Block 12, City Park Addition

1. The property is owned by the J.C. Nickell Trust and the Alma L. Nickell Trust. The property is currently for sale or lease. We have a lease proposal that will require C-2 zoning.
2. Improvements on the property consist of a building that was originally a service station and subsequent additions that provided space for auto repair. This building, as well as the business that occupied the building, were already in existence when the master zoning was done along College Ave. The existing business was "grandfathered" in due to it being an established business prior to the zoning. Another auto repair business was also allowed to use the building after the original business owner retired. I believe the ordinance states that a business has the right to use a property in a non-conforming site as long as the building is not unoccupied for over six months. This building has been vacant for over six months. C-1 zoning does not allow auto repair shops. We have tried unsuccessfully for several months to sell or lease the building to a user that would conform to C-1 zoning. The building is what it is. The original structure was a two bay service station with gas pumps (the tanks have been filled and given a clean bill of health from EPA). Three more rooms were later added. The building now has approximately 5,200 square feet designed specifically for auto repair. We have obtained a lease proposal from a national auto repair chain that has indicated they intend to make improvements to the building and grounds. Their occupancy of this building will clean up the site and provide for a good long term business in a building that was designed for auto repair. Their business will require C-2 zoning.
3. The property is located on College Ave, the main north/south thoroughfare in Fayetteville. The entire length of this US Highway is bordered on both sides with C-2 zoning or higher except for a patch of R-O and R-2 along Archibald Yell, a small stretch on the west side between Trenton and North Street that is zoned C-1 and R-O and a piece on the southeast corner of US Highway 71 and North Street. All of the properties fronting on US Highway 71 in the neighborhood of the subject property are houses that have been converted to retail or office use or are buildings that were constructed for commercial purposes. Changing the zoning of this property should not affect traffic, the appearance will improve with proper zoning and a good tenant and the property will comply with the city's sign ordinance.
4. The property is serviced by a 2 inch water line on south side of Cleburn and an 8 inch sewer line along College.

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, (hereinafter "Petitioner") T.C. Nickell and Alan Nickell, 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 those uses allowed in C-1 Zoning plus Automotive Service and Repair as defined in Use Unit 17.

2. Other restrictions including number and type of structures upon the property are limited to NA.

3. Specific activities will not be allowed upon petitioner's property include NA.

4. (Any other terms or conditions) NA.

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 set forth above, I, _____, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

_____ _____
Date Printed Name

_____
Address

_____ _____
Signature

NOTARY OATH

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)

And now on this the ____ day of _____, 200__, appeared _____ and before me, _____ after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

_____
NOTARY PUBLIC

My Commission Expires:

_____

Steve Singleton
836 N. Highland Ave.
Fayetteville, AR 72701-2013
Phone: (501) 521-7468
E-mail: singleton1@bigfoot.com

RECEIVED
APR 12 2002
PLANNING DIV.

April 11, 2002

Ms. Dawn Warrick
Planning Division
Administration Building
113 W Mountain
Fayetteville, AR 72701

Dear Ms. Warrick:

As residents of W. Cleburn St, my wife and I oppose rezoning of the property located at 867 N. College from C-1 to C-2. I understand that the property owner would like to make it as attractive as possible for potential tenants or buyers; but many of the C-2 permitted uses—taverns and strip clubs to name two—would severely detract from the quality and character of the neighborhood. As unlikely as those uses may be, once the zoning is changed to C-2, opposing them would be futile.

As I undertand it, C-1 permits service stations, but not repair facilities. Light repair and lubrication, such as oil changes, tire repairs, brake jobs and muffler installation, are performed by many service stations which also sell gas. I would urge the Planning Commission toward a somewhat liberal interpretation of C-1 service station use for those jobs that are generally done within a day. In the past, long term repairs at Nick's caused problems due to cars parked so close to College that they obscured traffic for drivers entering College from Cleburn. Limiting C-1 auto services to short term service station work would prevent that hazard, while allowing the property to be used as originally intended. That seems to me to offer a fair balance between the needs of the property owner and the needs of residents to minimize impact on the neighborhood.

I would also urge that the hilltop portion of the property on Prospect, where the old house burned down, should be zoned either for another residence or for professional offices. Since two of the three existing structures on the east side of Prospect are offices now, another office would have minimal impact on residents.

Thank you for considering our position on this matter.

Sincerely,

Steve Singleton

Steve & Judi Singleton

FAYETTEVILLE

CITY OF FAYETTEVILLE, ARKANSAS

MEMORANDUM

TO: City Planning Commission
FROM: John Merrell, Planning Management Director
DATE: 23 May 1990

SUBJECT: Request for rezoning filed by Bill Lazenby, on behalf of Linda Eaton, for property located at 901 N. College

Background

Several months ago, Ms Linda Eaton contacted Richard Wilson, Sign Inspector, making a general inquiry about signage allowed on commercial properties. On April 3, 1990, Ms Eaton filed a conditional use application for a wall paper store to be located at 901 N. College, zoned R-0 Residential-Office. In April, Ms Eaton again contacted Inspector Wilson, who informed her that the property at 901 N. College was zoned R-0, and that she could have a maximum of 16 square feet of signage on the wall facing N. College and another 16 square feet on the wall facing Cleburn. After the Planning Commission's approval of her conditional use request, Ms Eaton submitted an application for a sign permit for one sign of 16 square feet. After reviewing this application, Mr. Wilson returned the application with a message asking her to indicate the location of the sign or signs on her application. Shortly thereafter, Ms Eaton complained to Inspector Wilson of being discriminated against and requested Mr. Lazenby, owner of said property, to petition for a rezoning to C-2, so that she could install larger signs. We regret if there was a misunderstanding between staff and Ms Eaton; however, it should be noted that most of the signage in this district is modest and conforms to the sign ordinance.

The property in question is located in a R-O zoning district along Hwy 71 N from Trenton to North St. It is the only stretch of R-O zoning along N. College, which is predominantly zoned C-2. The present R-O zoning area was established in June of 1970, after several years of study and updating the City's comprehensive plan. Prior to that, all of the Hwy 71 frontage was zoned C-2. The rationale for downzoning was narrow depth lots, difficult terrain, heavy traffic volumes, difficult sight distances, and exposure to a stable residential district on the west. In 1971 a group of property owners petitioned the City for a rezoning from R-0 to C-2. The Planning Commission denied the petition by a vote of 5-2, and the Board of Directors upheld that decision.

RECEIVED
APR 15 2002
PLANNING DIV.

April 11, 2002

Ms. Dawn Warrick, Planner
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Dear Ms. Warrick:

We are writing regarding the possible rezoning of the property at the corner of College and E. Cleburn. Although we are not immediately adjacent to this property, we are very familiar with it. We owned the house at 44 E. Cleburn for ten years until we sold it four years ago to Bill and Dottie Reddig. We now own the house at 12 E. Cleburn, just down the street.

We want you to know that we oppose the rezoning request for several reasons. Our narrow, poorly paved street becomes a high speed thoroughfare twice daily during rush hours (people use our street to avoid the light at College and North.) In addition, since there is no turning lane on College, turning left onto Cleburn is very difficult as well as dangerous. Pulling out onto College from Cleburn is also difficult when cars parked in front of the wallpaper store make it hard to see cars approaching from the north. In short, we think that a busy commercial property on the corner would only exacerbate all of these problems.

Not only do we have concerns regarding safety, but we also want to maintain the viability and integrity of our neighborhood. Apparently, the most recent business to operate on the property (an auto repair shop) was doing so in violation of the property's current zoning. We do not see any reason to perpetuate the error when there is now a perfect opportunity to correct it.

So, in the name of safety, integrity, and not to mention aesthetics, we oppose any increase in the "commercialization" of this corner.

Thank you for your consideration.

Sincerely,
Bob Wiken
Pat Wiken

Bob and Pat Wiken
12 E. Cleburn Street
Fayetteville, AR 72701
521-0283

RECEIVED
APR 16 2002
PLANNING DIV.

April 15, 2002

Dawn T. Warrick, Planner
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR, 72001

Dear Ms. Warrick:

Would you please forward to the staff and Planning Commission our opposition to the requested rezoning of the property at the corner of College and E. Cleburn (867 N. College, described as RZN 02-8-Nickell) from R-O, Residential Office, to C-2, Thoroughfare Commercial? We own and occupy the house at 44 E. Cleburn, just catty-corner across from the back of this property. (the corner of Cleburn and Pollard).

We very much like our neighborhood, from the short, tree-lined Cleburn (ending at Highland street) to the many improvements made by current and new residential neighbors, to the neighborhood-type businesses including dentists and doctors, flower, furniture and interior decorating shops. A jump to the wide-ranging C-2 category from R-O would NOT be protecting the city's past intentions nor nurturing current trends in this fine neighborhood, where many of us are proud members of the Wilson Park Neighborhood Association.

The most recent business operating on the property (an auto repair shop) was not in conformance with current zoning, we understand. Why multiply the problem, opening up our neighborhood to a wide range of uses including adult live entertainment clubs?

We are also worried about the additional traffic that would be generated in a change to C-2. There is only a very narrow setback around the current building. When it was used as an active business, cars were always parked to the street lines, blocking driver views to College and from Pollard to Cleburn. Cars were tested down Cleburn.

On the basis of safety, zoning integrity, and especially city and neighborhood well-being, we ask that the rezoning application be denied,.

Sincerely,
William Reddig
Dorothy Reddig
William and Dorothy Reddig
44 E. Cleburn St.
Fayetteville, AR 72701-2001
587-8150

CC: Tim Conklin, City Planner; Janet Strain, Senior Planning Clerk

From: "Halsell, Michele" <MHalsell@walton.uark.edu>
To: "'dwarrick@CI.FAYETTEVILLE.AR.US'" <dwarrick@CI.FAYETTEVILLE.AR.US>
Date: 5/13/02 8:43AM
Subject: Rezoning Cleburn&College

Dawn and Dan,
I just want to let you know that we are adamantly opposed to rezoning the property at the corner of Cleburn and College to C1 or C2. The only zoning we are in favor of is RO. The Wilson Park Neighborhood Association voted unanimously to oppose the zoning change at its annual meeting on May 5. This is an opportunity to IMPROVE the neighborhood (emphasis on neighborhood and neighbors in stead of business). There are many uses for the property if it is RO.
Respectfully,
Michele Halsell and Jim Halsell

CC: "'dcoody@ci.fayetteville.ar.us'" <dcoody@ci.fayetteville.ar.us>

From: M Kinion <mkinion@swbell.net>
To: <dwarrick@CI.FAYETTEVILLE.AR.US>
Date: 5/13/02 12:36AM
Subject: Wilson PArk Neighborhood Association does not support zoning change;867 N. College

Dear Ms. Warrick,

Attached please find the minutes of the Wilson Park Neighborhood Association Annual Meeting. After discussion, the general membership passed the following resolution:

"The neighbors of the Wilson Park Neighborhood Association do not endorse or support the rezoning of the property located at 867 N. College from RO to commercial."

The motion carried by unanimous vote.

Please let it be known and placed into official public record that the members of the Wilson Park Neighborhood Association do not support a zoning change as requested by The Nickells, J.C. and Alma of Rogers, for property located at 867 N. College Avenue. The request for rezoning is stated on application RZN 0-2 Nickell from R-O, Residential Office, to C-2, Thoroughfare Commercial.

Submitted By
Mark Kinion
Coordinator of Wilson Park Neighborhood Association

Mark Kinion
418 W Ila Street
Fayetteville, AR 72701

Home (501) 442-7868
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Wilson Park Neighborhood Association
Annual Meeting

May 5, 2002

Attendees:

Jim Mitchell, Shannon Mitchell, Steve Hoffpauir, Sarah Hoffpauir, Dara Hoffpauir, Michele Halsell, Jim Halsell, Tim Hudson, Charlotte Taylor, Floy York, Phil Tugwell, Ramona Tugwell, Doug Adams, Sally Adams, Chaim Goodman Strauss, Kendall Curlee, W. Brooks Swink, Randy Childers, Sage Hobbs, Bill Reddig, Dottie Reddig, Bob McGimsey, George Presley, J Presley, Greg Herman, Cat Wallack, Marjorie

Rudolph, Leighton Rudolph, David Adams, Carrie Adams, Matt Adams, Brittany Adams, Anna Adams, Judith Levine, Daniel Levine, Steve Singleton, Judi Singleton, Michael Roberts, Steve Frankenberger, Mary Ann Frankenberger, Chris Sheffield, Suzye Sheffield, Sam LaFoy, Heather Hackworth, Tony Hackworth, Bill Walker, Kerry Walker, Kent Walker, Greg Thoma, Alison Thoma, Stephen Thoma, Sarah Gheen, Wade Colwell, Shaune Colwell, Sharon Hoover, Steve Hoover, Tim DeNoble, Anne DeNoble, William DeNoble, Bunny DeNoble, Henry DeNoble, Harris DeNoble, Kelly Tribell, Emma Tribell, Tammy Smith, Tom Smith, Harrison Smith, Julia Smith, Mason Smith

Wilson Park Neighborhood Coordinator Mark Kinion Called the Meeting to order at 4:40 P.M. Sunday May 5, 2002.

a.. Welcome
b.. Introduction of Guests: Guests present included Steve Frankenberger and Don Marr, City Council Ward 2 Candidates.
c.. Introduction: Guest of Honor Lisa Paschal, Wilson Park Garden Wizard
Lisa Paschal reported on the Gardens at Wilson Park. The green house has been a valuable addition to our park. It allows more plantings and better plant breeding and management. She also gave an outline of the "America in Bloom" project. Michelle Halsell is representing Wilson Park Area on the citywide "America in Bloom" committee. Michelle also gave encouraging remarks regarding the project. Judging will be July 23rd. Please tend your lawns and Gardens on or around the 23rd of July.

Business Meeting

The following were elected to serve on the WPNA Steering Committee by unanimous vote of general membership present:

1) Mark Kinion, WPNA Coordinator 418 W. Ila

2) Steve Frankenberger, WPNA Assistant Coordinator 414 W. Prospect

3) Joel Sharp, WPNA Treasurer 309 W. Louise

4) Suzy Sheffield, WPNA Secretary 127 W. Ila

5) Cindy Arsaga, 16 W. Maple

6) Eileen Thoma, 224 W. Cleburn

7) Bob Brandon, 649 Wilson Avenue

8) Charlie Axtell, 455 W. Cleburn

9) John King, 432 W. Hawthorn

10) Kelly Tribell 448 Hawthorn

11) Shannon Mitchell, 112 W. Maple

12) Greg Hermann, 26 W. Davidson

Resolution to Commend Block Captains passed by unanimous vote:

Be it resolved that the WPNA Block Captains are commended by the membership for their invaluable and fleet "feet on the street" communication network delivering essential neighborhood information door-to-door.

Block Captains Are:

Sam Simpson

Julia Thoma

Steve Singleton

Tony Hackworth

Charlie Axtell

Eileen Thoma

Suzanne Stoner

Tammy Smith

Margaret Howard

Sarah Gheen

Bill Walker

Bob Brandon

Joel Giaruso Sharp

Tim Hudson

Jim Mitchell

John Lewis

Steve Hoffpauir

Resolution to Commend Daniel Levine, WPNA Cleanup Crew Foreman, and WPNA Work Crew passed by unanimous vote:

Be it resolved that Daniel Levine in commended for bravery and leadership in the fight against litter. Dan

was brave and initiated the Frisco Low Water Bridge cleanup campaign despite threatening springtime weather. Let it be known throughout the land that Daniel Levine is a sparkling spick and span example of what a good neighbor ought to be.

The floor was opened to discuss the proposed Zoning Change Request for property located at the corner of Cleburn and College Avenue from RO to C1 or C2. After fifteen minutes of open discussion, Bill Walker submitted the following motion for consideration. Motion Seconded by Michael Roberts.

The neighbors of the Wilson Park Neighborhood Association do not endorse or support the rezoning of the property located at 867 N. College from RO to commercial.

The motion carried by unanimous vote.

Other Business

City Council Candidates Steve Frankenberger and Don Marr addressed the WPNA membership.

Adjourn to Dinner

CC: Mayor Dan Coody <dcoody@ci.fayetteville.ar.us>

From: "Kurt Tweraser" <tweraser@uark.edu>
To: <dwarrick@CI.FAYETTEVILLE.AR.US>
Date: 5/22/02 9:35AM
Subject: RZN 0-2 Nickell

To Whom It May Concern:

We are longtime Fayetteville residents living in the immediate neighborhood of the property at the corner of Cleburn and College. We are strongly opposed to the rezoning of this property for a variety of reasons, the major ones being the damage to the residential quality of the neighborhood and the increased traffic which would result. There is already a dangerous situation with traffic backing out of the parking area on the northwest corner of this intersection. Rezoning would just increase this problem, particularly for those of us who turn west on Cleburn from College to get to our homes. Please take into consideration the damage this rezoning would do to our neighborhood. We will be out of town on May 28 and thus cannot be present at the hearing. We hope the views of immediate neighbors will be taken into consideration. Those of us who live on the east side of Highland use the alley in back of our homes, Glen Wing Lane and Pollard Street to access our homes, which means we have to pass this property numerous times each day.

Thank you for your consideration.

Gene and Kurt Tweraser
816 Highland Avenue
Fayetteville

CC: <dcoody@CI.FAYETTEVILLE.AR.US>

8/7/71

Director McFerran moved that the rules be further suspended and the Ordinance be placed on third and final reading. The motion was seconded by Director Orton, and upon roll call the following vote was recorded:
"Aye", Orton, Purdy, McFerran, Lancaster and Stanton. "Nay", Utley.
There being five "Ayes" and only one "Nay", the Asst. Mayor declared the motion passed.
The Ordinance was then read for the third and final time.
Asst. Mayor Lancaster then asked the question, "Shall the Ordinance pass?"
Upon roll call the following vote was recorded:
"Aye", None. "Nay", Orton, Purdy, McFerran, Lancaster, Utley and Stanton.
There being six "Nays" and no "Ayes", the Asst. Mayor declared the Ordinance did not pass.

1-25

The City Attorney read, at the Asst. Mayor's request, a proposed Ordinance in its entirety entitled: AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1747 AND ZONING DISTRICT MAP OF FAYETTEVILLE, ARKANSAS APPROVED JUNE 29, 1970, TO REZONE CERTAIN PROPERTY FROM I-1, HEAVY COMMERCIAL AND LIGHT INDUSTRIAL DISTRICT, TO R-O, RESIDENTIAL OFFICE DISTRICT, said Ordinance resulting from a recommendation from the Planning Commission that a tract on the West side of West Avenue from South Street to Meadow Street from West Street to the railroad track be rezoned.
Following discussion by the Board, Director Stanton moved that the rules be suspended and the Ordinance be placed on second reading.
The motion was seconded by Director Lancaster, and upon roll call passed unanimously.
The Ordinance was then read for the second time.
Director Orton moved that the rules be further suspended and the Ordinance be placed on third and final reading. The motion was seconded by Director Purdy, and upon roll call passed unanimously.
The Ordinance was then read for the third and final time.
Asst. Mayor Lancaster then asked the question, "Shall the Ordinance pass?"
Upon roll call, the following vote was recorded:
"Aye", Orton, Purdy, McFerran, Lancaster, Utley and Stanton. "Nay", None.
There being six "Ayes" and no "Nays", the Asst. Mayor declared the Ordinance passed.
*Ordinance No. 1812 is on Pages 132-33 of Ordinance and Resolution Book 2.

2-25

Asst. Mayor Lancaster introduced the next item of business as being an appeal from James W. Holder to the Board of Directors of a decision of the Planning Commission to deny a petition for rezoning a portion of land from R-O, Residential Office District to C-2, Thoroughfare Commercial District. The property involved is located on the West side of College Ave. between Trenton Blvd. and Prospect Street. Mr. Holder spoke concerning his appeal to this Board. He explained that his request for rezoning had been denied on the grounds that there is a blind curve and the traffic volume is very heavy at this location. He stated he feels this is a very weak denial because we have hills and blind curves all over Fayetteville. He purchased this property on a commercial basis but is now unable to sell it for C-2. In connection with Mr. Holder's appeal, Dr. David Harner's appeal to this Board of a rezoning denial by the Planning Commission was also discussed. Dr. Harner was present and discussed his appeal. Dale Slaughter, owner of the Motel at North College and Trenton, the owner of Nick's D-X Service Station on North College, and Glen Wing, all interested property owners in the zoning on North College, were present and participated in the discussion. The Slaughters had circulated a petition

and had received signatures from approximately 90% of the property owners in the area requesting that the area be returned to C-2 zoning.
Following discussion by the Board, Director McFerran moved that the City Attorney be directed to prepare a Petition to amend the zoning Ordinance to rezone the property on the West side of College from North Street to Trenton Street from R-O to C-2. This action would put the matter before the Planning Commission for public hearing and study of the entire area.
The motion was seconded by Director Orton, and upon roll call, the following vote was recorded:
"Aye", Orton, Purdy, McFerran, Lancaster, Utley and Stanton. "Nay", None.
There being six "Ayes" and no "Nays", the Asst. Mayor declared the motion passed.
Director Orton moved to table action on the appeals of Mr. Holder and Dr. Harner until public hearings have been held and the Planning Commission has made a recommendation on these two issues.
The motion was seconded by Director Purdy, and upon roll call the following vote was recorded:
"Aye", Orton, Purdy, McFerran, Lancaster, and Utley. "Nay", Stanton.
There being five "Ayes" and only one "Nay", the Asst. Mayor declared the motion passed.

54 The City Attorney read for the second time, at the Asst. Mayor's request, a proposed Ordinance in its entirety entitled: AN ORDINANCE AMENDING ZONING ORDINANCE NO. 1747 AND ZONING DISTRICT MAP OF FAYETTEVILLE, ARKANSAS, APPROVED JUNE 29, 1970, TO REZONE CERTAIN PROPERTY FROM R-O, RESIDENTIAL OFFICE DISTRICT TO R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT, said Ordinance resulting from a recommendation of the Planning Commission that property on the South side of Prospect Street be rezoned.
Following discussion by the Board, Director Purdy moved that the rules be suspended and the Ordinance be placed on third and final reading.
The motion was seconded by Director McFerran, and upon roll call passed unanimously.
The Ordinance was then read for the third and final time.
The Asst. Mayor then asked the question, "Shall the Ordinance pass?"
Upon roll call the following vote was recorded:
"Aye", Orton, Purdy, McFerran, Lancaster, Utley and Stanton.
"Nay", None. There being six "Ayes" and no "Nays", the Asst. Mayor declared the Ordinance passed.
*Ordinance No. 1813 is on Pages 134-35 of Ordinance and Resolution Book 2.

54 The City Attorney read, at the Asst. Mayor's request, a proposed Ordinance in its entirety entitled: AN ORDINANCE AMENDING ORDINANCE NO. 1747 TO PERMIT HOME FURNITURE ESTABLISHMENTS IN C-1, NEIGHBORHOOD COMMERCIAL DISTRICT, AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.
Director Orton read the definition of C-1 and stated she does not feel a furniture store belongs in neighborhood-commercial zoning.
Following discussion by the Board, Director Utley moved that the rules be suspended and the Ordinance be placed on second reading.
The motion was seconded by Director Stanton, and upon roll call passed unanimously.
The Ordinance was then read for the second time.
Director Purdy moved that the rules be further suspended and the Ordinance be placed on third and final reading.
The motion was seconded by Director Utley, and upon roll call passed unanimously.
The Ordinance was then read for the third and final time.

REZONING APPLICATION

STAFF REPORT

Applicant:
City of Fayetteville

Proposal:
To consider the possible change in zoning from R-O (Residential-Office) District to C-2 (Thoroughfare Commercial) District on part or all of the area bounded by Highway 71 North to Pollard and from North Street to Trenton.

Findings:

Zoning Pattern -
The present zoning pattern was established in June of 1970, after several years of study and updating of the City's Comprehensive Plan. Prior to that date much of the land now being reviewed was zoned C-2, a commercial district. In fact, all of the Highway 71 frontage was zoned C-2 prior to the 1970 change.

Land Use -
A recent check of the land use in the area under consideration indicates the following:

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10 Dwellings	1 Vacumm Cleaners Office
6 Doctors' Offices	1 Motel
3 Real Estate Offices	1 Service Station, Auto Parts & Muffler Shop
1 Beauty Shop	1 Auto Parts Shop
1 Loan Office	1 Storage (Vacant)
1 Insurance Office	3 Outdoor Advertising Signs Shop
1 Cleaners	

Of these various uses, the following would be considered non-conforming:

1 Cleaners	1 Auto Parts Shop
1 Motel	1 Outdoor Advertising Signs Shop
1 Service Station, Auto Parts & Muffler Shop	1 Storage

All of these uses were zoned C-2 and were conforming prior to the 1970 change.

Comprehensive Plan -
The Plan recommends commercial from North Street to Prospect on the west side of Highway 71, and low density residential from Prospect to Trenton on the west side of Highway 71.

2

Recommendation -

It becomes apparent that the area under consideration has some very difficult problems, regardless of the use to be considered. The area is characterized by narrow depth lots, difficult terrain, heavy traffic volumes, difficult sight distances, and awkward exposure to adjacent areas.

The basic question is what should the future land use pattern be for the area. The factors that effect this decision are the relationship of the area to transportation facilities, other land uses, individual site characteristics, and individual owner desires. Weighing these factors with the exception of individual owner desire, it would seem that the area should not contain uses which involve frequent traffic movements and uses which would be degrading to adjacent residential property. These types of uses are typically found in the C-2 District as opposed to the R-O District.

The more immediate question involves the non-conforming uses mentioned earlier. These uses are the most drastically effected by the change to R-O as opposed to C-2. The staff would suggest that any move to reinstate the C-2 zoning for those uses would likely lead to a total commercial commitment for the entire area along Highway 71. The non-conforming status does not mean that the uses cannot remain or make improvements. It does mean that they cannot be enlarged and that the public expression of future development in the area is toward less intensive uses of the residential and office nature.

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cut off 11-22-71

STREET

NORTH

PIKE STREET

Board of Directors
Contiguous Plats
ina Globally should have
more than one
11-22-71

AVENUE

AVENUE

AVENUE

Dr. Offices

RI. Est.

Cleaners

Paint

Auto Parts

Dr. Off

Sign

BAXTER

City Shop

Floors

Church

CLEBU

Drug

S.S.

Insurance

PRO

STREET.

HIGHLAND

POLLARD

CREST LANE

STREET

Beauty Shop

Cafe

REB

Loans

A 20

Doctors

OLIAR LANE

Beauty Shop

Monument Co.

Motel

TRENTON

BOULEVARD

Auto Sales

Serv.

PETITION R71-10
CITY BOARD OF DIRECTORS
College Ave. between North & Trenton Blvd.

The next matter on the agenda was Rezoning Petition No. R71-10, City Board of Directors, for property located on the West side of College Avenue between Trenton Boulevard and North Street and to rezone from R-O Residential Office District, to C-2 Thoroughfare Commercial District.
Larry Wood presented the Staff Report and made some prefacing remarks. He stated the area has been under consideration for some time.
Roy Clinton asked for statements from those persons favoring rezoning to C-2 only those properties having frontage on College Avenue.
Those speaking in favor of such rezoning were J. C. Nickell and his attorney, Walter Niblock, Dale Slaughter, Jim McDonald, Jim Holder, Ken Lazenby, and Gus Ostmeyer all either owning property or operating businesses or both in the area under discussion.
Larry Wood noted that between Prospect and North Street people use Pollard Avenue as much as College Avenue for access which places a hardship on the residential property to the West.
Mrs. Tweraser, 816 Highland, was against adding any commercial to that area. Others having comments and questions were Dr. Clare Venema, Delmar Collins, Philip Bashor, and Peg Anderson. It was noted that the former C-2 zoning between Prospect and Trenton did not extend all the way to the alley from College, but only 150 ft. West of the centerline of College.
Roy Clinton asked the Commission members if any of them wanted to consider going any further to the West of College Avenue with C-2 zoning than the motel and the alley. None did. He then informed the audience that the Commission was not desirous to changing any of the land which does not adjoin College Avenue to C-2 and asked that the audience withhold comments on property not adjoining College.
Marion Orton stated the Board of Directors intent was not to include properties which did not adjoin College.
Glen Wing said he did not oppose rezoning to C-2 the Jim Holder property and the D-X service station (J. C. Nickell), but requested the narrow "neck" South of the service station remain R-O.
Mr. & Mrs. Philip Bashor presented a petition supporting rezoning to C-2 only three properties: the service station, the motel, and the auto parts store. George Ray opposed this as spot zoning.
The public hearing was closed.

PETITION R71-11
HOYET GREENWOOD
Leverett & Poplar

The next item on the agenda was Rezoning Petition R71-11, Hoyet Greenwood, for property located on the Southeast corner of the intersection of Leverett Avenue and Poplar Street and to rezone from R-2, Medium Density Residential District, to C-1, Neighborhood Commercial District.
Larry Wood presented the Staff Report.
Hoyet Greenwood, Stanley Greenwood, and Wayne Bayley spoke in support of the petition. A convenience grocery store is planned.
Ernest Jacks asked Larry Wood if the corner grocery store is "out". He said it is coming back into planning, but in a different way. It is provided for in the planned unit development. He said the corner grocery store had a way of growing into other "corner" commercial activities.
Others having comments in favor of the rezoning were Dale Richards and Walter Niblock.
The public hearing was closed.

Staff Recommendation

All of the factors that contributed to the 1970 downzoning of this area remain in play today. In fact, the proposed future land use plan indicates primarily one to two family residential and service/office commercial (as opposed to retail/wholesale commercial) for this area.

Directly across N. College to the east is a strip of C-2 adjacent to a R-1 zoning district. Long term conflicts between the night clubs, which operate by right in the C-2 district, and home owners, living in the R-1 district, indicate the type of problems that might be created if the property at 901 N. College were rezoned to C-2. In fact, the severity and longevity of these conflicts may indicate a need to reevaluate zoning for the eastern stretch of College between Trenton and North Streets.

It is our belief that any reinstatement of C-2 zoning in the R-O district between Trenton and North would likely lead to a total commercial commitment for the entire area along Hwy 71. We strongly recommend against the rezoning of this property. In our opinion, rezoning this property is not in the public interest.

MINUTES OF A MEETING OF THE
FAYETTEVILLE CITY PLANNING COMMISSION

A meeting of the Fayetteville Planning Commission was held on Tuesday, May 29, 1990 in the Board of Directors Room on the second floor of the City Administration Building, 113 West Mountain Street, Fayetteville, Arkansas.

MEMBERS PRESENT: Jerry Allred, Fred Hanna, J.E. Springborn, Jett Cato, Gerald Klingaman and Charles Nickle

MEMBERS ABSENT: Jack Cleghorn, Joe Tarvin and J. David Ozment

OTHERS PRESENT: John Merrell, Becky Bryant, Elaine Cattaneo, Traci Stokes, members of the press and others

MINUTES

The minutes of the regular meeting of May 14, 1990 were approved as distributed.

PUBLIC HEARING - REZONING PETITION R90-11
LINDA EATON - NW CORNER OF CLEBURN & COLLEGE AVE

The second item on the agenda was a public hearing - rezoning petition R90-11 submitted by Linda Eaton for property located on the northwest corner of Cleburn and College Avenue (901 North College). The request was to rezone from R-O, Residential-Office, to C-2, Thoroughfare Commercial.

John Merrell, Planning Management Director, stated that a conditional use application was recently approved for a wallpaper store at this location. This was formerly used as an auto parts store and a automobile dealership. He added that a wallpaper store has began operation in the building, but there was an apparent misunderstanding over the question of signage for the building. The staff feels that in order for her to keep the signs that she has recently installed on this building, it will need to be rezoned to C-2. The conditional use does not allow a sign on the building that is in violation of the sign ordinance. He further stated that the sign ordinance and the zoning ordinance interrelate to some degree, but they really aren't separate ordinances. Under the R-O zoning, the building could accommodate a maximum of 16 square feet of sign on the wall facing North College and another 16 square feet on the wall facing Cleburn. This is about the only remaining stretch of R-O zoning along North College with the rest of it predominately zoned C-2. The R-O zoning for this area was established in 1970; prior to that all the zoning in this area was C-2. In another words, it was downzoned from C-2 to R-O. There was a rezoning request for this area a couple of years later which was denied. The land across the street is zoned C-2 and is adjacent to the R-1 zoning district farther to the east. He noted that there are some places where a C-2 district adjoining an R-1 district are unavoidable. However, the City is experiencing some problems with this type of situation farther down on North College with some

complaints regarding parking problems associated with a couple of nightclubs. The staff is recommending that the property not be rezoned. It is the staff's opinion that the land uses in that stretch of North College are quite a bit different than those in the area north of the hospital. The staff's preference would be to maintain the R-O zoning. They feel that the signs that Ms. Eaton has put up are not in harmony with most of the other signage in that part of North College. Her position is that the staff informed her that those signs would be allowable. Therefore, she went to the expense of purchasing the signs.

In answer to a question from Chairman Hanna, Mr. Merrell stated that everything in that particular block is R-O as well as the block to the south down to Trenton Street on the west side of the road.

Mr. Merrell advised that, when the "Cakes By Design" business was moved across the street, it was handled as a conditional use as opposed to a rezoning.

In answer to a question from Commissioner Allred, Mr. Merrell stated the applicant does have the option of requesting a variance from the sign ordinance from the Board of Sign Appeals. He added that, if the Planning Commission prefers that route, the staff would look into it.

Commissioner Springborn stated that a solution to a sign problem should be pursued through normal channels on appeal to the Board of Sign Appeals rather than being brought before the Planning Commission as a rezoning request.

Mr. Merrell stated that, if it is the consensus of the Planning Commission to go that route, the staff would study it. In answer to a question from Commissioner Springborn, Mr. Merrell stated that there is provision for an appeal of a decision of the Board of Sign Appeals to go to the Board of Directors.

Chairman Hanna clarified that Ms. Eaton could table this request until the staff gave her an answer on the sign appeal route.

William A.(Bill) Lazenby, the owner of the property, stated that this is a commercial building and doesn't lend itself to be used for anything other than commercial. He noted that there have been several people inquiring about leasing that building for retail sales and couldn't because of the zoning. Regarding the sign that Ms. Eaton is wanting to put up, the signs previously up there were of this same caliber. He added that there are several commercial properties from Trenton Street including a couple of doctors offices, a motel, a service station, and a machine shop. On the other side of the street, there is a floor covering business, a restaurant, liquor store, and retail sales. He advised that he owns the property on the opposite end of that street (North Street and College Avenue) which they tried to rezone in the past. He noted that practically every property owner along the street from Evelyn Hills to the old original Safeway building were in favor of it, but it was turned down because the people in the Wilson Park area to the west were concerned that it would bleed down into that area. He stated that they are bound to have a sharp contrast in some zoning in this area. It seems logical to him that the zoning along a state highway (thoroughfare) should go commercial.

Commissioner Allred asked the staff what they envision this area becoming, if the doctors move out of their offices into the new North Hills Medical Center. Mr. Merrell stated that he would want to be a little more assured that transition would happen, although it is a given fact that there would be a migration of some of the medical community out there. He added that there are some uses in this area that are more of a C-2 use, particularly on the east side of the street. There are some problems related to the zoning districts backing up to each other. In the staff's opinion, this would be a spot rezoning. He advised that this is one of the areas that the staff needs to take a close look at in the new zoning and the new plan. He advised that he would rather see it done in a coordinated effort rather than focusing in on one piece of property.

Commissioner Allred stated that he would hate to see the businesses fail because the Planning Commission refuses to rezone anything. He added that no one could utilize the buildings, and they would deteriorate which causes a very unsightly situation. He noted that the Planning Commission needs to be cautious about what they do there.

Mr. Lazenby advised that there are a lot of little businesses around this area that would like to have retail sales but can't because of the zoning. Mr. Merrell advised that they need to keep in mind what uses could be allowed under C-2 zoning. This wallpaper store is a quality operation with no problems. But, once the property is zoned to C-2, anything allowed in C-2 could go in. If the Commission as a whole feels supportive of the rezoning, the staff would be more comfortable with a Bill of Assurance, which would address what type of uses would be allowed in this building.

Mr. Lazenby stated that the size of the land itself would govern itself from becoming a nightclub because of the parking situation. The size of a sign allowed in the R-O zoning on a building that small isn't very effective.

Commissioner Springborn stated that it seems that they are getting into a discussion of rezoning an entire block rather than the problem that they are facing at the subject property.

There being no one else in the audience wanting to address this petition, the Public Hearing was closed.

Chairman Hanna advised that what they are addressing is the rezoning of this building at the corner of Cleburn and College Avenue and the discussion should be limited to this. He noted that any appeals to the Sign Appeals Board will come subsequent, if necessary, but don't need to be addressed at this time.

MOTION

Commissioner Springborn moved to table this petition to give the applicant the opportunity and time to pursue other avenues relative to her sign problem. The motion died for the lack of a second.

Chairman Hanna stated that he has looked at that two block area very closely and about 50 percent of the businesses are non-conforming uses. He added that the Planning Commission has granted some non-conforming uses, but most were in operation before the zoning ordinance. Therefore, the owner of the property definitely has a problem that isn't confined to the wallpaper business. He added that he would be in favor of this rezoning.

In answer to a question from Commissioner Allred, Mr. Merrell stated that the applicant could offer a Bill of Assurance, limiting the use of this building to retail sales only. The staff would be more comfortable with this petition, if such a Bill of Assurance were offered. The applicants would have to offer it either before or at the Board of Directors meeting. The Planning Commission could recommend a rezoning subject to a Bill of Assurance being offered.

Bill Lazenby stated that he would be happy to offer a Bill of Assurance that this building would be limited to retail sales.

Commissioner Klingaman asked if a wallpaper store is a permissible use in the C-1, Neighborhood Commercial, zoning. Chairman Hanna stated that Use Unit 15, Neighborhood Shopping Goods, is a permissible use in C-1 zoning and it permits hardware stores and home furniture stores. Mr. Merrell advised that he would interpret Use Unit 15 to be flexible enough to accommodate a wallpaper store.

Commissioner Klingaman stated that, if this were zoned C-1, the liquor store and the nightclub would be the only non-conforming uses that are there currently. Mr. Merrell stated that those would be two examples, but there would be some other examples that might have more of a potential negative impact such as car repairs and transmission shops. He added that these uses are not permitted in C-1 but are permitted in C-2.

Chairman Hanna stated that the only problem he sees with this being zoned C-1 is that zoning district is designated neighborhood commercial as opposed to C-2, thoroughfare commercial. This is on a thoroughfare.

Mr. Merrell advised that a C-1 rezoning would accommodate limiting the use of the property and, by the same token, would restrict uses such as nightclubs or car repair. Chairman Hanna noted that the Bill of Assurance limiting the use wouldn't be needed if it were rezoned to C-1.

Commissioner Allred asked if the sign ordinance was the same in C-1 as in C-2. Mr. Merrell stated that he wasn't sure.

Commissioner Nickle stated that it appears that the use of the building for some period of years is more fit for C-1 than the R-O even though the area was down zoned in 1970. He stated that he would personally like to see some protection against the kind of C-2 development that exists across the street and down the street.

MOTION

Commissioner Nickle moved to recommend a rezoning from R-O, Residential-Office, to C-1, Neighborhood Commercial, seconded by Cato and followed by discussion.

Chairman Hanna asked Mr. Lazenby if the C-1 would be acceptable to him. Mr. Lazenby stated that hopefully the sign would work in the C-1 zoning. Chairman Hanna advised that, when the Planning Commission rezones less intensely than requested, the applicant has the option to bring the original request back to the Planning Commission.

AMENDMENT TO MOTION

The motion was amended to state that, if there is a difference in the sign size, the Planning Commission recommends to the Board of Sign Appeals that the larger sign be accepted. **The motion with the amendment was passed 5-1-0 with Klingaman, Allred, Hanna, Nickle & Cato voting "yes" and Springborn voting "no".**

PUBLIC HEARING - REZONING PETITION R90-12
WILLIAM SHERWOOD - S OF WEDINGTON DR, W OF 46TH ST

The third item on the agenda was a public hearing for a rezoning petition - R90-12 submitted by William Sherwood for property located south of Wedington Drive and west of 46th Street containing 1.29 acres. The request was to rezone from A-1, Agricultural, to C-2, Thoroughfare Commercial.

John Merrell, Planning Management Director, stated that the applicant's purpose for the rezoning is to sell automobiles and farm machinery. He advised that this area can be considered either as a single-family or an agricultural area. The closest commercial land uses of any significance are at the intersection of Wedington Drive and Double Springs Road. The Planning Commission approved a rezoning about a year ago at the convenience market there. Also, farther east at the intersection of Wedington and Rupple Road there is a the new Spe-dee Mart. A small clock repair business which was grandfathered in as a non-conforming use is located to the west of the subject property . The surrounding properties are mostly single-family residential and agricultural. The Land Use Plan for the property in this vicinity is low density residential. The staff is recommending denial of this rezoning for several reasons:

1. The rezoning would not be in harmony with either the surrounding land uses or the surrounding zoning.

2. The rezoning would constitute a classic example of a "spot zoning " strictly for the benefit of the applicant. No legitimate public purpose would be served.

3. The City Planning Commission has established and firmly backed up a planned growth policy for the Wedington Drive corridor. This policy provides that commercial development (and commercial rezonings) are

Board Minutes

June 5, 1990

COMMITTEE APPOINTMENTS

Chairman of Nominating Committee Director Kelley reported on three committee appointments to be made. First was one position on the Advertising and Promotion Commission. Nominating Committee recommended Richard Pat Henry and Kelley made this in the form of a motion, seconded by Green. Upon roll call, the motion passed unanimously. Second appointment was to the Arts Center Council for three positions. Committee recommended Jim Gilbreath, Steve Adams, and Billie Jo Starr. This was also made in the form of a motion, seconded by Martin. Upon roll call, the motion passed unanimously. The third appointment was one position on the Board of Housing and Construction Appeals. Committee recommended Fred P. Sherman, Jr. This was made in the form of a motion, seconded by Martin. Upon roll call, the motion passed unanimously.

REZONING ORDINANCE

Martin introduced consideration of an ordinance concerning the rezoning of property located at 901 North College (Lot 12, Block 13 of the City Park Addition) on the corner of North College and Cleaver Street.

Location: Lot 12, Block 13 of City Park Addition, on the corner of North College and Cleaver Streets

Property Owner: Linda Eaton

Change requested: From R-O "Residential Office" to C-2 "Thoroughfare Commercial"

At a public hearing held May 29, 1990, the Planning Commission had recommended rezoning the property to C-1 "Neighborhood Commercial" by a vote of 5 to 1. If the recommendation is denied by the Board of Directors, the Planning Commission recommended granting a variance to the Sign Ordinance.

The ordinance was read for the first time. Marinoni, seconded by Martin, made a motion to suspend the rules and place the ordinance on its second reading. Upon roll call, the motion passed unanimously. The ordinance was read for the second time.

Marinoni, seconded by Martin, made a motion to further suspend the rules and place the ordinance on its third and final reading. Upon roll call, the motion passed unanimously. The ordinance was read for the third and final time.

Dan Coody questioned the Board regarding the signs on the property. Martin answered that if the property is rezoned, the signs will stay as they are now. If the property is not rezoned, the property

owner will be required to get a variance from the Board of Sign Appeals.

Director Green stated that he felt it strange to rezone a piece of property so a sign on the property would comply with the sign ordinance. He felt it would be a matter of time before the property would be rezoned C-1, but felt it would be better to let this matter go back for a sign appeal at this time.

Director Vorsanger stated that most of the property along the area is already zoned C-1 and, in addition, the Planning Commission has already discussed and voted on what they would recommend.

Planning Management Director John Merrell addressed the Board's question regarding the owner's request of zoning. He stated that the owner did request the rezone from R-O to C-2, but the Planning Commission voted to recommend rezoning to C-1 because it was the feeling of the Commission that there were certain land uses and businesses that would be allowed in a C-2 zone that could possibly impact the residential neighborhoods to the west or the rear of the property in a negative manner.

Director Green asked if the property owner had concurred with the application from C-2 to C-1.

Merrell stated they had not stated either way and their absence from the meeting that night did not allow them to speak for themselves.

Upon roll call, the motion passed by a vote of 6 to 1, with Director Green voting in the minority.

ORDINANCE 3486 APPEARS ON PAGE OF ORDINANCE AND RESOLUTION BOOK

BID ON SANITATION TRUCK CHASSIS

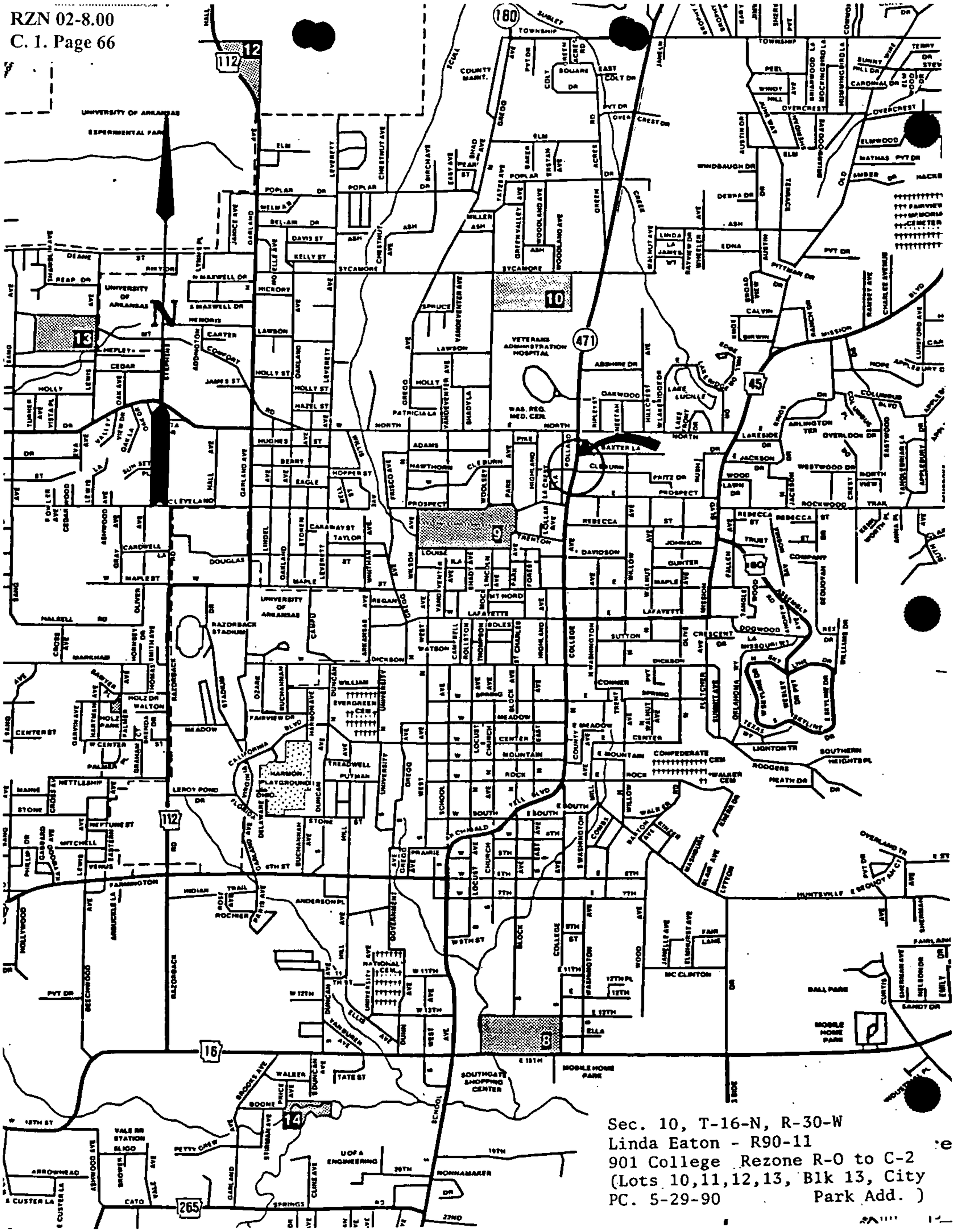
Martin introduced consideration of the approval of the awarding of Bid 90-24 for the purchase of heavy duty truck cab chassis with solid waste disposal bodies installed and a heavy duty truck cab chassis only for dump application in the amount $448,810. This bid is for four new sanitation trucks, one new sanitation truck body and one dump truck and will replace ten vehicles.

The bid is to be split with $425,680 to Shipley Motor Equipment Company and $23,130 to Bucy Equipment Company.

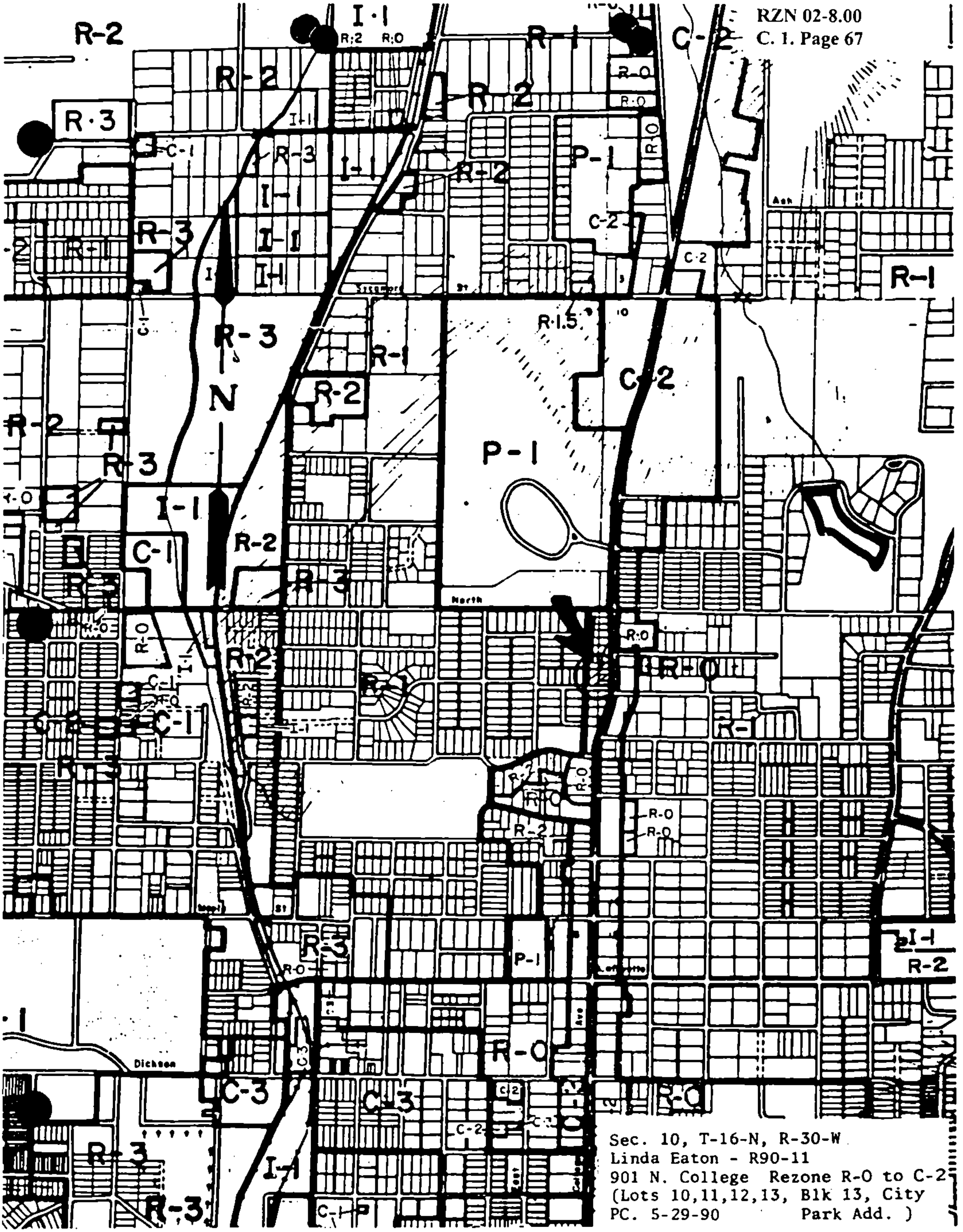
Director Kelley, seconded by Marinoni, made a motion to award the bid.

Director Marinoni stated that he had talked with Bill Oestrich, the Sanitation Shop Supervisor, and it was his personal feeling that

RZN 02-8.00
C. 1. Page 66

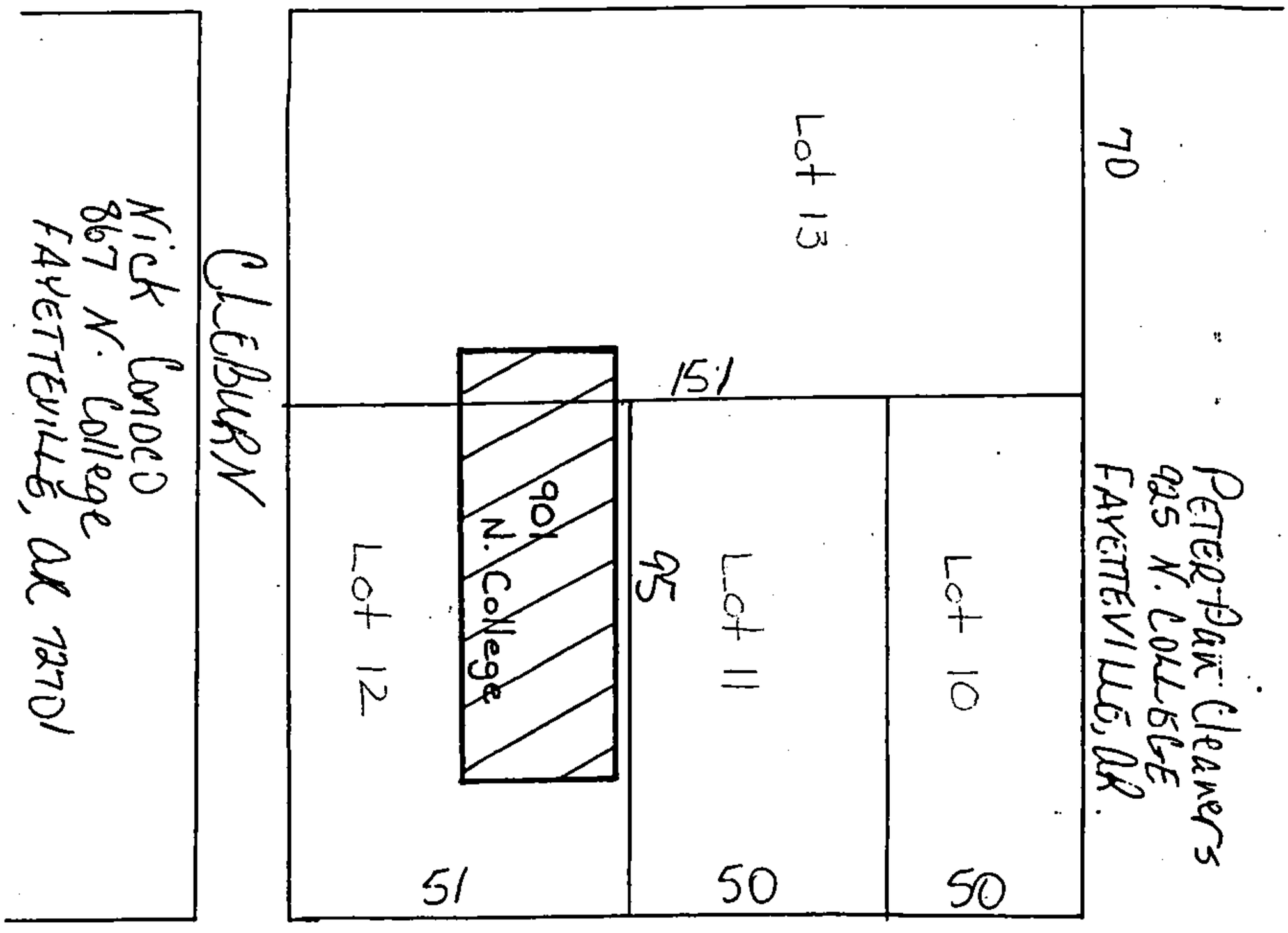


Sec. 10, T-16-N, R-30-W
Linda Eaton - R90-11
901 College Rezone R-O to C-2
(Lots 10,11,12,13, Blk 13, City
PC. 5-29-90 Park Add.)



Sec. 10, T-16-N, R-30-W
Linda Eaton - R90-11
901 N. College Rezone R-O to C-2
(Lots 10,11,12,13, Blk 13, City
PC. 5-29-90 Park Add.)

POLLARD



College

Sec. 10-16-30 R90-11
Linda Eaton - 901 N. College
Lots 10,11,12,13, Blk 13, City Park Add.
Rezone R-O to C-2
PC. 5-19-90

Jim January
Ozark Floor Co.
928 College
Fayetteville, 72701

WHEREAS, the City Planning Commission has had under study a report prepared by James Vissier, Planning Consultant, known as "General Plan 1970-1990, Volumes I and II" having incorporated therein a proposed zoning district map for the City of Fayetteville, Arkansas, and

WHEREAS, public hearings were held by the City Planning Commission Thursday, February 19, 1970, and Friday, February 20, 1970, fifteen (15) days after said plans were placed on display in the Office of City Planning and after a notice was published in the Northwest Arkansas Times, a newspaper of general circulation, and

WHEREAS, after the public hearings and after further considerations and revisions of said plans by the Planning Commission, the Planning Commission voted on May 21, 1970, to make a recommendation to the Board of Directors on "General Plan 1970-1990, Volumes I and II" incorporated with a proposed zoning district map for the City of Fayetteville, Arkansas.

NOW, THEREFORE, BE IT RECOMMENDED BY THE CITY PLANNING COMMISSION TO THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS:

SECTION 1. That "General Plan 1970-1990, Volumes I and II" with revisions made by the Planning Commission be adopted as guidelines for future development and planning for the City of Fayetteville, Arkansas.

SECTION 2. That ordinances be enacted for the purpose of adopting Volume II of General Plan 1970-1990 which includes the following:

(a) Land Use Map for the City of Fayetteville, Arkansas.

(b) Master Street Plan for the City of Fayetteville, Arkansas.

(c) Capital Improvements Program for the City of Fayetteville, Arkansas.

(d) Zoning Regulations for the City of Fayetteville, Arkansas.

(e) Zoning District Map for the City of Fayetteville, Arkansas.

(f) Subdivision Regulations for the City of Fayetteville, Arkansas.

PASSED AND APPROVED THIS 21st day of May, 1970.

APPROVED:

_____

Clark McClinton, Chairman

SPECIAL

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS
June 29, 1970

The Board of Directors of the City of Fayetteville, Arkansas, met in special session on Monday, June 29, 1970, in the Directors Room in the City Administration Building at 7:30 p.m.
Present: City Manager Wesley M. Howe, City Clerk Marilyn Moore, City Attorney David Malone, and Directors Swartz, McFerran, Melton, Lancaster, Starr.
Absent at Roll Call but later entering: Director Dunn.
Absent: Director Jones.
Representatives of the Press were present.

118 The Mayor reported that the purpose of the meeting was to adopt a Land Use Plan; adoption of a comprehensive ordinance regulating and establishing the use of land and the use and location of buildings and structures; regulating the bulk of buildings and structures and determining the area of yards, courts and other places surrounding them; regulating and restricting the density of use; dividing the City of Fayetteville into districts for such purposes; adoption of an official zoning regulation of said City showing boundaries and the class of such districts; establishing a Board of Adjustments; and providing penalties for the violation of its provisions; and the transaction of such other business as may properly come before the Board of Directors.
The Mayor reported that all Directors had been notified of the special meeting in person at the last special meeting of the Directors on June 22, 1970 and by U. S Mail.
118 Director Jones was unable to attend but has waived notice of the Special Meeting.

WAIVER OF NOTICE OF SPECIAL MEETING OF
FAYETTEVILLE CITY BOARD OF DIRECTORS

Comes now the undersigned, being a duly elected, qualified and acting member of the Board of Directors of the City of Fayetteville, Arkansas, and specifically waives notice of a special meeting of the Fayetteville Board of Directors to be held in the Directors Room of the City Administration Building, Fayetteville, Arkansas, at 7:30 o'clock p.m., on June 29, 1970.

DIRECTOR JONES

118 The City Manager reported that the Planning Commission had adopted a Planning Area Map. The Planning Commission also recommended to the Board of Directors that the Land Use Plan map be adopted.
Director Dunn entered at this time.

118 The City Attorney introduced, and at the request of the Mayor, read a proposed resolution in its entirety adopting the Land Use Plan and the general plan following page 92, Volume I, of said plans with revisions by the City Planning Commission as the Land Use Map for the City of Fayetteville.
Director Lancaster moved that the Resolution be adopted.
The motion was seconded by Director Starr, and upon roll call the following vote was recorded: "Aye" Swartz, McFerran, Melton, Lancaster, Starr, and Dunn. "Nay" none. There being six "Ayes" and no "Nays", the Mayor declared the Resolution adopted.
* Resolution No. 31-70 is on page 66 of Ordinance and Resolution Book 1.

The City Attorney introduced, and at the request of the Mayor, read a proposed ordinance in its entirety for the first time entitled, "A COMPREHENSIVE ORDINANCE REGULATING AND RESTRICTING THE USE OF LAND AND THE USE AND LOCATION OF BUILDINGS AND STRUCTURES; REGULATING THE BULK OF BUILDINGS AND STRUCTURES AND DETERMINING THE AREA OF YARDS, COURTS AND OTHER PLACES SURROUNDING THEM; REGULATING AND RESTRICTING THE DENSITY OF USE; DIVIDING THE CITY OF FAYETTEVILLE INTO DISTRICTS FOR SUCH PURPOSES; ADOPTING AN OFFICIAL ZONING MAP OF SAID CITY SHOWING BOUNDARIES AND THE CLASSIFICATION OF SUCH DISTRICTS; ESTABLISHING A BOARD OF ADJUSTMENT; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS." 1-119

Director Swartz moved that the rule be suspended and that the Ordinance be placed on second reading.

The motion was seconded by Director McFerran and passed unanimously. The Ordinance was then read for the second time.

Director McFerran moved that the rule be further suspended and that the Ordinance be placed on third and final reading.

The motion was seconded by Director Dunn and passed unanimously. The Ordinance was then read for the third and last time. The Mayor then declared the Ordinance open for discussion. After a discussion, the Mayor asked the question, "Shall the Ordinance pass?" Upon roll call the following vote was recorded:

"Aye" Swartz, McFerran, Melton, Lancaster, Starr, and Dunn.

"Nay" none. There being six "Ayes" and no "Nays", the Mayor declared the Ordinance passed.

* Ordinance No. 1747 is on page 126 of Ordinance and Resolution Book 1.

Representatives of Donrey Advertising Company appeared before the Board of Directors to protest the restrictions on billboard advertising that the new zoning ordinance, 1747, would impose. The Mayor requested the Planning Commission to study the protest and recommend a decision. 2-119

The Mayor reported that the Master Street Plan and Subdivision Regulations would be considered at the next regular meeting on July 6, 1970. 3-119

Mayor Melton reported that a special meeting of the Board of Directors would be held at 7:30 p.m. July 13, 1970 in the Directors Room in the City Administration Building to consider a special report from Black and Veatch. 4-119

There being no further business, Director Dunn moved to adjourn. The motion was seconded by Director McFerran and passed unanimously, whereupon the Mayor declared the meeting adjourned.

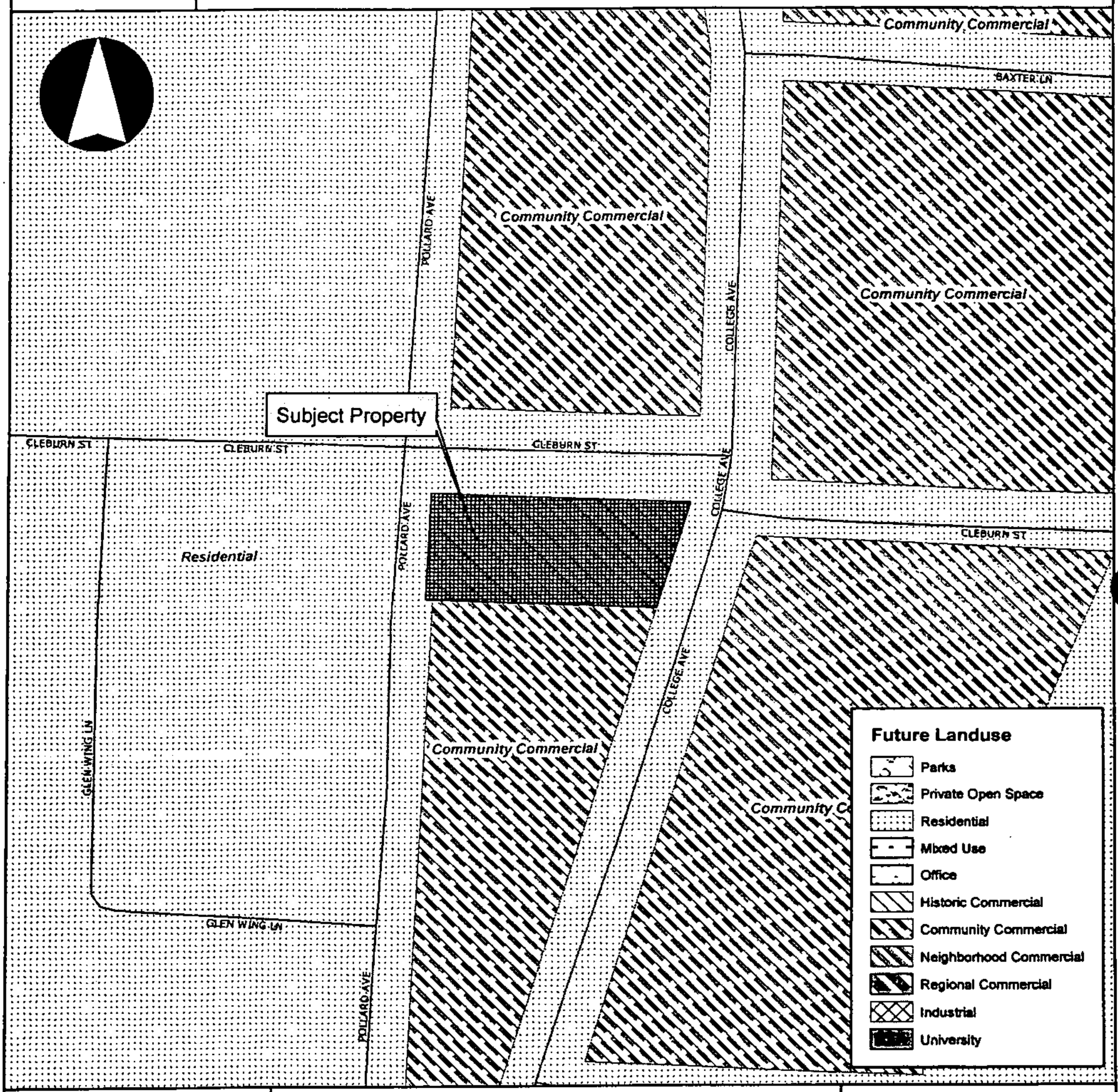
APPROVED: C. G. Melton Jr.
C. G. MELTON, JR., MAYOR

ATTEST: Marilyn Moore
MARILYN MOORE, CITY CLERK

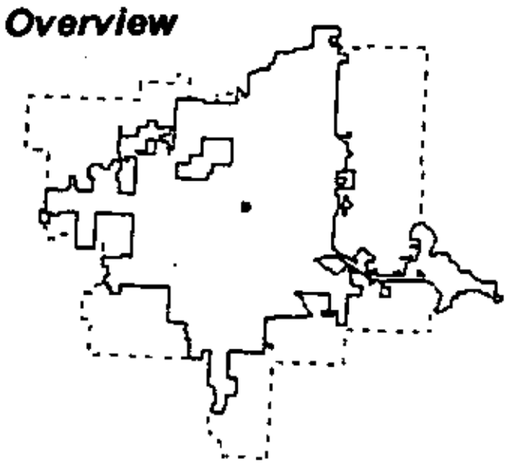
RZN02-08.00

Future Landuse

NICKELL



Overview



Legend

Subject Property
RZN02-08.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits

0 37.5 75 150 225 300
Feet

RZN02-08.00

Close Up View

NICKELL

BAXTER LN
POLLARD AVE
COLLEGE AVE
CLEBURN ST
GLEN WING LN
C-2
R-1
R-O

Overview

Legend

Subject Property
RZN02-08.00

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 37.5 75 150 225 300 Feet

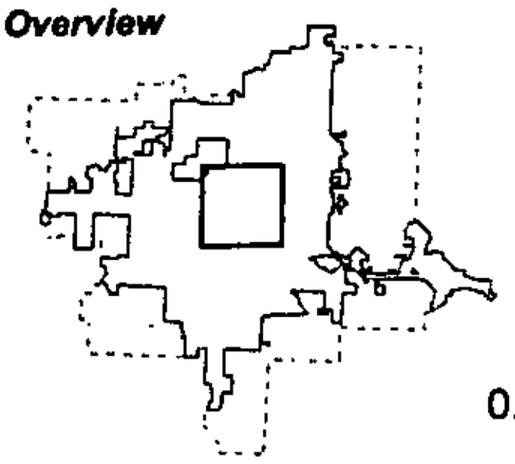
RZN02-8.00

One Mile View

NICKELL

Subject Property

Overview



Legend

Subject Property

RZN02-8.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0.25 0.125 0 0.25 0.5 0.75

Miles

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: August 22, 2002

RZN 02-23.00: Rezoning (Lindsey, pp 519) was submitted by Jerry Kelso of Crafton, Tull & Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall Road. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential.

BACKGROUND:

The subject property is located along the I-540 corridor just north of the Hwy 62 interchange. It is on the east side of the bypass which is largely undeveloped between Hwy 16 and Hwy 62. In 1994 the property was rezoned from R-1 and R-O to the current designation of C-2. At that time, a development proposal for a National Home Center was processed and approved by the Planning Commission. That project was not built in this location and the property remains vacant.

The applicant is seeking an RMF-18 zoning designation which would allow the development of apartments on this site at a density of 18 units per acre. This would permit approximately 349 units on the 19.39 acre property. In the written proposal for the project, the applicant states that the plan is to develop 312 apartment units (approx. 16 units per acre).

The rezoning of this property for residential purposes is consistent with several actions taken by both the Planning Commission and City Council within the past few years. There have been numerous properties lying adjacent to the I-540 corridor which have been zoned for multi-family residential development, several have been downzoned from commercial districts for this purpose. Some of these developments include: Shiloh West Apartments, Cornerstone Apartments, Chamberland Square Apartments, and Fair Park Apartments. Within Fayetteville, large tracts (approx. 20 acres) of land zoned for multi-family residential development are not generally available and rezonings for this use are common.

General Plan 2020 designates this site Regional Commercial. Rezoning this property to RMF-18, Medium Density Multi-Family Residential is consistent with surrounding land uses in the area.

CURRENT STATUS

On August 12, 2002, the Planning Commission voted 8-0-0 to recommend the requested rezoning be approved by the City Council.

RECOMMENDATION

Approval by City Council.

STAFF REVIEW FORM

__X__ Agenda Request
____ Contract Review
____ Grant Review

For the Fayetteville City Council meeting of September 3, 2002.

FROM:

Tim Conklin	Planning	Urban Development
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for RZN 02-23.00 as submitted by Jerry Kelso of Crafton, Tull & Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential.

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	8-16-02 Date	
Purchasing Officer	Date	

GRANTING AGENCY:

ADA Coordinator	Date
Internal Auditor	Date

STAFF RECOMMENDATION: Staff recommended approval and on August 12, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

Division Head	8-16-02 Date	**Cross Reference**
Department Director	8-20-02 Date	New Item: **Yes** **No**
Administrative Services Director	8-16-02 Date	Prev Ord/Res#: _____
Mayor	8/19/02 Date	Orig Contract Date: _____

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 02-23.00 FOR A PARCEL CONTAINING APPROXIMATELY 19.39 ACRES LOCATED NORTH OF OLD FARMINGTON ROAD AND EAST OF FUTRALL DRIVE, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY JERRY KELSO OF CRAFTON, TULL & ASSOCIATES ON BEHALF OF LINDSEY MANAGEMENT COMPANY.

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 C-2, Thoroughfare Commercial to RMF-18, Medium 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:

By: DRAFT
DAN COODY, Mayor

ATTEST: DRAFT

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"
RZN 02-23.00

PART OF THE SE ¼ OF THE SE 1/4 AND PART OF THE S ½ OF THE S ½ OF THE NE¼ OF THE SE¼ OF SECTION 18, T-16-N, R-30-W, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT IS N0°44'12"W 648.61 FEET FROM A FOUND IRON PIN AT THE SE CORNER OF SAID SE ¼ OF SECTION 18, T-16-N, R-30-W; THENCE S89°22'06"W 624.58 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF HIGHWAY 71 BYPASS (NOW INTERSTATE 540); THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING COURSES: N23°49'56"W 285.84 FEET; THENCE N27°50'55"W 502.71 FEET; THENCE N31°16'55" W 337.35 FEET TO A CONCRETE MONUMENT; THENCE LEAVING SAID RIGHT OF WAY LINE N89°22'06"E 1107.26 FEET; THENCE S0°44'12"E 659.47 FEET; THENCE N89°19'14"E 30.00 FEET; THENCE S0°44'12"E 340.56 FEET TO THE POINT OF BEGINNING, CONTAINING 19.393 ACRES, MORE OR LESS, BEING SUBJECT OF ANY AND ALL EASEMENTS AND RIGHTS OF WAY OF RECORD OR OF FACT.

RZN 02-23.00: Rezoning (Lindsey, pp 519) was submitted by Jerry Kelso of Crafton, Tull & Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall Road. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential.

Hoffman: Fourth on our agenda is RZN 02-23.00, which is a rezoning for Lindsey Development, which was submitted by Jerry Kelso of Crafton and Tull on behalf of Lindsey Management Company for property located north of Old Farmington Road and east of Futrall Road. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential. Staff recommends approval of the requested rezoning based on the findings included as a part of this report. Tim, would you like to give us a short report before we hear from the applicant?

Conklin: This is a rezoning request for 19.39 acres. The property is currently zoned C-2. They are asking for RMF-18, which allows for multi-family residential units, apartments. This property was the site of what the City Planning Commission did review and look at, which was the National Home Center large scale development. That was never built on this site. This property does adjoin apartments back to the east and the applicant is proposing to downzone it from C-2, Thoroughfare Commercial to RMF-18, in order to develop additional apartment complexes on this piece of property. That is all I have.

Hoffman: Thanks Tim. Is the applicant present and would you like to make a presentation?

Lindsey: Thank you madam Chairman. We several years ago bought this property from the National Home Center and it was zoned Commercial and we knew that. At the time the frontage road was two ways and now the frontage road is one way and it is very difficult to deal with the concept of commercial there. We propose to do a project that will have a substantial lake that will be close to the bypass side and it will have fountains and we think it will be a very nice view of what we build here. In real simple language, when we went out there I thought who would be negative to this? It is a total downzone and I really feel that I need to apologize to people that I have considered friends for a long time and that is the Barnes, Howard and Barbara. In that sense, they are on my immediate north there, and I did not perceive their thoughts that they would like their property maybe to be commercial and I am sure they will speak to that. My thought process is real simple. It is a down zoning. We still have access to Old Farmington Road for the entrance into ours to get back toward Hwy. 62 the way it is left but as far as the bypass is concerned it is a difficult commercial turn. When a road goes one way, in my opinion for whatever it is worth, I think they basically destroyed the potential for commercial in any direction off of the immediate intersection. There might be some type commercial that could go there in the future. We wanted to use the land and therefore, we felt like that this was a fair and good way of doing

this, that this was a downzone would be in keeping with what would be acceptable to the city and we appreciate the Planning office interpretation of that and we look forward to being able to use the property for that purpose. Thank you all very much.

Hoffman: Thank you. Is there any member of the audience that would like to address us on this rezoning? Please come forward and tell us who you are.

Schaper: I am Len Schaper, 1940 Pratt Drive. I have a philosophical and long range issue with the proposed rezoning because right now on the 2020 land use plan this area is designated part of regional commercial. It is a major commercial node that it is indicated on the land use plan at the intersection of 6th Street and the bypass. Is it a major commercial node right now? No. It is a minor commercial node perhaps but we have not seen yet the impact of the construction of I-540 on southern Washington County south of Fayetteville. In other words, the land south of Fayetteville has not had time to develop since the completion of that roadway. It will certainly develop because now it is a lot more accessible to Fayetteville than it was in the past. The positioning of a major commercial node here at this intersection, which is one of the few intersections where you could have a major commercial node, is very important for the economic health of Fayetteville in the future. From my time on the City Council, and certainly you all know, that the city lives by the sales tax. You also know that in the last few years the demands on city services are going up and the sales tax revenue is not keeping up with the demands on city services so we have had to go into reserves in the city to make ends meat on the budget. We need our commercial areas in order to fund the city services that are expected by the citizens of Fayetteville. We will need them more in the future. The fact that this land is not developed now and it may be a bit inconvenient to develop doesn't deny the fact that the folks who live south of Fayetteville, just as we relied on folks from all over Northwest Arkansas in the past to come to Fayetteville to shop, we are hoping that in the future that development will occur south of us along that bypass, those folks will still come to Fayetteville to shop. If they do, this is the first place they are going to come to is this major regional area at this intersection of 6th Street and the bypass. When we think long term about the economic health of our city, I am worried that if we let this area become residential that this is a drain on our resources instead of an addition to our resources. You know land at commercial nodes like that is like waterfront property. There is only so much of it. We are not going to get another interstate highway through the city of Fayetteville. The land that is along it, the land that is very accessible to it is a precious resource that we have to guard and just turning it over because of a short term concern that it may not be as convenient to develop as other land, in the long term may be a very serious problem for us given the long term economics and how we support our city. We know that residential does not pay for itself in terms of city services. The cost of those services is born by the commercial because of our reliance on sales tax and I think we need to keep all of our opportunities open to maximize our sales tax

would behoove you and the City of Fayetteville to ask for a full scale plan for traffic. Also, you keep repeating, not you as the members, but the Planning staff repeats that there is very land left for this type. I think that what would be ideal in this situation would be to see some kind of commercial in here followed by residential. This is going to be the first view of Fayetteville for many people and if other land sales should take place, maybe you should consider not simply rezoning this area but rezoning at the same time areas to the north to have a comprehensive plan for this. If there is enough land, say 40 acres, and Mr. Lindsey and I have talked about this, that you may even have one of the golf course developments as opposed to the standard apartment development with the golf course ringing this area. That would make certainly a much more attractive site for people coming to Fayetteville for the first time than simply just apartments. Those are some of the concerns that I have as a nearby property owner. Thank you. I would also like to say on behalf of Mr. Lindsey that certainly his apartments are very, very well maintained, well managed units that you don't have some of the rundown appearances that other apartment units have and we know that this is an opportunity to create both a superb commercial area and perhaps a good multi-family area in this gateway to the city of Fayetteville. Thank you.

Hoffman: Thank you Mr. Archer. Is there any other member of the audience that would like to address us on this rezoning tonight? Seeing no one I will go ahead and bring it back to the applicant and to the Commission for further discussion.

Lindsey: Thank you. One of the things that I would want to point out that we are not rezoning this whole tract. You have Sines body shop, you have the bank on that corner south and then north there we are keeping six acres of this and then we are moving to the R-2. It is consistent with the general planning of zoning commercial at the intersections and moving away and zoning R-2 as you go up the street. Again, I point out that it is a one way street. If you go on further north the land starts getting very steep and difficult to build on. I just see it as being a use for this land mainly because of the one way road and that is not going to change. They had a little meeting and a hearing and all of the sudden they just said that is the way it is going to be. Well, nobody got to vote on it, nobody even had a chance to talk about it. People from the city were there and weren't for it as I understood it. The Highway Department just said that is the way it is going to be. We know that's not fair, we know it restricts the commercial use and from my point I am leaving approximately six acres on the corner and then we will buffer it to residential and go on with the land use plan, which I think includes R-1 past our land. That is the point I would make. Thank you all.

Hoffman: Thank you.

revenue. It is being taken away because we are seeing increasing commercial development in Benton County north of us, look at the building permits. We have to keep our options open here and I am not saying we'll develop in the next five years, it may be ten, it may be fifteen, it may be twenty, but that is what long term land use and regional planning is about. Please don't foreclose our options to keep our economy healthy by turning this over to a residential development when we will need that commercial in the long term. Thank you.

Hoffman: Thank you Mr. Schaper. Is there anybody else that would like to address us on this rezoning?

Archer: Julian Archer 2115 Markham Road in Fayetteville. I would like to give you somewhat of an expanded view of the question. What you are asked to do here is to rezone a certain section. If you do rezone it to this multi-family usage that is before you, you have then created a terrible dilemma for the property owned by Mr. And Mrs. Barnes just to the north of it. Some 9.4 acres, I believe that Mr. Barnes has provided you with a map showing that. I happen to own the property just to the north of Mr. And Mrs. Barnes, a 20 acre tract. The Barnes also own a land locked triangle along Futrall. If this should be rezoned the property just to the north is R-1 but it doesn't really make it feasible for this to be R-1 and so you are going to have coming before you in the coming years, maybe not while you are Commissioners but the city of Fayetteville will having come before it the question of what to do with this property. It certainly will not be handled as R-1, it will undoubtedly be some kind of multi-family project. Then the pressure will be on us as to how the property should be handled and whether to keep it R-1. We have no R-1 plans there at all. We certainly would like to just see it as woods although we know it would certainly be unattractive to have an apartment complex there. What I would like to call upon the Planning Commission to do is to table this motion today, ask the city staff to come back with a full fledged plan. Mr. Lindsey has very appropriately pointed out the traffic problems there, and they are very real. No one, if you add these 300 plus units in there and then on the Barnes' property to the north there could be another 150 to 180 units in there if that is rezoned sometime in the future, which undoubtedly it will be. There is no street plan that is before you. You as the Planning Commission need to see how all of that traffic is going to be handled, how that residential traffic is going to be handled, how that commercial traffic is going to be handled. You might be wondering, and I want to bring this before you, have I been approached about this for sale. Yes I have. This is another factor for consideration. You do have, as Mr. Schaper pointed out some of the prime commercial real estate in Fayetteville. The fact that it has not sold in the last four years certainly is very, very difficult for Mr. Lindsey but who would have predicted that that drive-in on the road to Farmington would've become a Wal-Mart Supercenter, that that property would've gone through that evolution. I think all of you have lived in Fayetteville long enough to see that areas that you never thought would develop the way they did have indeed developed and developed with amazing rapidity so I think it

Motion:

Estes: I agree with most of what Mr. Schaper said with a couple of exceptions. This property is removed from the commercial node. It is a piece of property that is bordered on the west by Futrall Drive with one way access and the only remaining ingress and egress to the property is Root Avenue and Stone Street. I bet that if we asked Mr. Lindsey he would tell us that he would've much preferred that it remain a C-2 use but because of some action that was taken that was outside of his control that is not possible so that leaves us with the proposed down zoning. The proposed zoning change from C-2 to RMF-18 from the city of Fayetteville's future land use plan, which shows C-2. The surrounding area is residential and that is being consistent with the land use plan. The proposed zoning will downgrade from a C-2 to a RMF-18. This will amount to considerable less traffic than the commercial use such as a large retail center. These are some of the reasons that at this time I would move that we forward to the City Council with a do pass recommendation of RZN 02-23.00.

Hoffman: I have a motion by Commissioner Estes.

Allen: I will second.

Hoffman: I will give the second to Commissioner Allen.

Shackelford: Just one point real briefly. In regard to the comments that allowing this multi-family development would have an adverse affect on future developments of commercial in this node, I am in disagreement with that statement. I look towards just north of here, the corner of Wedington and I540 is an area that there is currently commercial development going on two of the four corners and we have apartment complexes on the other two corners so I think that I am in support of this and think that it won't in any way affect the future development of this as a commercial node.

Hoffman: Thanks Commissioner. I would like to add to that statement that my reading of the 2020 Plan we do have mixed uses encouraged even though they may not be accurately shown as the designated land use on this particular area that I would like to dry an analogy between this development and what we just approved a moment ago at CMN for a multi-family use in a commercial district. We down zoned there and in my view we are making what could be a "big box development" more attractive by mixing the uses and providing some break in that heavy commercial. For that reason, I will support the motion as well. Tim, did you have something to say?

Conklin: I just wanted to respond to a couple of comments. In ten years I have seen three shopping centers struggle at that intersection. I have seen two grocery stores that are no longer there today. One is Food 4 Less, which went with Wal-Mart and

then Marvin's IGA. I am very pleased that the Planning Commission recently saw the Westlake Shopping Center renovations going forward and we did rezone some of that to C-2 with that commercial node and I think that we will see some nice new businesses going into that shopping center. What I would hope, because that is an entrance into the city of Fayetteville, and what concerns me is that when you do drive into Fayetteville and you look at the Food 4 Less shopping center and you look at the old Wal-Mart shopping center it would be nice to see those redeveloped in the future with that commercial node to serve the citizens of Fayetteville and the visitors to Fayetteville. I think that there is an opportunity here also if this is rezoned by the City Council, down zoned to RMF-18 that these shopping centers could be redeveloped and could be an asset to the city of Fayetteville because right now I think that they are somewhat lacking as an entrance into the city of Fayetteville. Also, we did recently approve a 25 acre commercial development Final Plat up at Wedington and I 540 and the amount of acreage that you see with Marvin's, the old Food4Less, and the old Wal-Mart, I think there is enough acreage there that in the future redevelopment, changing those uses from a Wal-Mart setup warehousing situation and an optical lab that we could eventually get some kind of retail back at that intersection. I just want to make that point, thank you.

Hoover: I have a couple of questions for staff. Could you just explain first of all how are we supposed to view the 2020 plan? Is this a guideline? Second, how are some of these land use applications chosen like for instance on the nodes, give a little bit of history about our 2020 plan and how we should view it.

Conklin: Sure. On the commercial nodes and what you see on your 2020 land use plan are those areas that were existing as commercially zoned pieces of property and that was due the fact that during the development of the 2020 plan the City Council and Planning Commission stated a desire, a policy not to expand commercial all up and down all the highways, Crossover Road, Hwy. 265, I 540 so commercial was limited to those nodes and I think we have done a good job at the city to limit commercial to those nodes if you look at Hwy. 45 and Hwy. 265, if you look at our other intersections. That is how that was determined. With regard to, I am going to go into the regional commercial part, because we did assign a designation for regional commercial and that is of course up with the Northwest Arkansas Mall and land surrounding the mall, in particular the CMN II development, 309 acres estimated at 2.7 million square feet of retail just in the CMN development. We have seen about three to four hundred thousand square feet since those Final Plats have been approved. Just around the mall we saw 1.6 million square feet of retail in the last ten years be developed including an expansion of the mall to around 900,000 square feet from about 500,000 square feet so that really has become a regional retail center for Fayetteville up at the Northwest Arkansas Mall and that area. Those are the differences in the type of commercial that is shown on the land use plan. There is a recognition that we do have a regional commercial area and then we do have commercial areas that serve

the city of Fayetteville.

Ward: I too agree with Mr. Schaper about taking away our commercial land and making it more for residential is not really the right step to go with taking away the sales tax potential and so on but it is kind of like the property directly across the road from this to the west there are two or three motels that we have over there. You can't get there. They struggle nightly to meet payroll and so on because of the changing of the roads out there as far as one way. I have had to pick people up out there and I couldn't get to the motel. I wasn't smart enough to get there. It has become a problem with the way that the State has changed that making those one way. I do think that Mr. Lindsey does do a great job on landscaping and what his apartment complexes look like. I think they look great along I 540, there are three or four complexes already that have been built recently along there that have become, I think they look fantastic compared to what could be along there. I will support this although there is some relevance to what Mr. Schaper has to say about taking away our commercial nodes for residential.

Hoffman: Is there any further discussion? Renee, would you call the roll please?

Roll Call: Upon completion of roll call the motion to forward RZN 02-23.00 was approved by a vote of 8-0-0.

Hoffman: Thank you Renee. The motion carries unanimously.

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, AICP, Senior Planner
THRU: Tim Conklin, AICP, City Planner
DATE: August 12, 2002

RZN 02-23.00: Rezoning (Lindsey, pp 519) was submitted by Jerry Kelso of Crafton, Tull & Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall Road. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential.

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings included as part of this report.

PLANNING COMMISSION ACTION:	**Required** **YES**	
	○ Approved	**○ Denied**
Date: **August 12, 2002**		
CITY COUNCIL ACTION:	**Required** **YES**	
	○ Approved	**○ Denied**
Date: **September 3, 2002**		

Comments: _____

_____

_____

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BACKGROUND:

The subject property is located along the I-540 corridor just north of the Hwy 62 interchange. It is on the east side of the bypass which is largely undeveloped between Hwy 16 and Hwy 62. In 1994 the property was rezoned from R-1 and R-O to the current designation of C-2. At that time, a development proposal for a National Home Center was processed and approved by the Planning Commission. That project was not built in this location and the property remains vacant.

The applicant is seeking an RMF-18 zoning designation which would allow the development of apartments on this site at a density of 18 units per acre. This would permit approximately 349 units on the 19.39 acre property. In the written proposal for the project, the applicant states that the plan is to develop 312 apartment units (approx. 16 units per acre).

The rezoning of this property for residential purposes is consistent with several actions taken by both the Planning Commission and City Council within the past few years. There have been numerous properties lying adjacent to the I-540 corridor which have been zoned for multi-family residential development, several have been downzoned from commercial districts for this purpose. Some of these developments include: Shiloh West Apartments, Cornerstone Apartments, Chamberland Square Apartments, and Fair Park Apartments. Within Fayetteville, large tracts (approx. 20 acres) of land zoned for multi-family residential development are not generally available and rezonings for this use are common.

SURROUNDING LAND USE AND ZONING

North:	Vacant, R-1
South:	Vacant, C-2
East:	Fayetteville H.S. West Campus, P-1
West:	I-540 / Commercial, C-2

INFRASTRUCTURE:

Access to this site is available from Old Farmington Road (a local street) which is located south of the site and from Futrall Drive which adjoins the west property line and runs north between the subject property and I-540.

In reviewing materials from a development proposal which was approved but not constructed on the site, water and sewer facilities are available to serve a development on the property. Possible extensions of utilities or other off-site improvements made necessary by a development proposal for this site will be reviewed at the time of development review and presented to the Planning Commission for final determination should this rezoning be

successful.

LAND USE PLAN: General Plan 2020 designates this site Regional Commercial. Rezoning this property to RMF-18, Medium Density Multi-Family Residential is consistent 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: **This area is designated Regional Commercial on the Future Land Use Map. That designation is reflective of the current zoning of the site which is C-2, Thoroughfare Commercial. The property was zoned residentially prior to a development proposal in 1994 which was never built. The proposed zoning will return the property to a residential designation and will allow for the development of residential units within close proximity to commercial areas which can serve those new residents. Connectivity of pedestrian as well as vehicular access routes when the property is developed will satisfy the City's policies of connectivity and providing mixed use areas where appropriate.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **Large tracts of undeveloped land which is zoned for multi-family residential development are no longer available within the City. Generally, the Planning Commission and City Council are asked to rezone property for this purpose and in several recent instances, properties have been downzoned in order to provide land in the proper zoning districts. Examples of this type of action include – Bristol Park apartments (in CMN II west of the NWA Mall), Shiloh West Apartments (west side of I-540, south of Wedington), Cornerstone Apartments (east side of I-540, north of Wedington) and Fair Park Apartments (east of I-540, south of the Hwy 112 interchange).**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning will cause an increase in traffic movements in this area. Regardless of the type of development, additional traffic will result. The streets surrounding the subject property (Old Farmington and Futrall) are feeder roads to the I-540 bypass. Futrall is designated a collector on the Master Street Plan and 6th Street (Hwy 62) to the south is a principal arterial. Traffic counts provided by the AHTD indicate approximately 3,500 vehicle trips per day (vpd) on Futrall in this location. A collector street as defined in the City's General Plan is to be designed to carry between 4,000 and 6,000**

vpd. Traffic counts for 6th Street show approximately 26,000 vpd south of the property. A principal arterial should carry 17,600 – 20,600 vpd. Old Farmington Rd. is a local street which should carry up to approximately 4,000 vpd.

Access to the site and improvements to the circulation system in the area will need to be evaluated at the time of development. The applicant will be required to provide access to several existing streets in order to promote connectivity and allow for orderly ingress and egress from the development.

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 would alter population density. It should not however undesirably increase the load on public services.**

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**

§161.14 DISTRICT C-2 THOROUGH-FARE COMMERCIAL.

A. Purpose. The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 4	Cultural and Recreational Facilities
Unit 12	Offices, Studios and Related Services
Unit 13	Eating Places
Unit 14	Hotel, Motel and Amusement Facilities
Unit 15	Neighborhood Shopping Goods
Unit 16	Shopping Goods
Unit 17	Trades and Services
Unit 18	Gasoline Service Stations and Drive-In Restaurants
Unit 19	Commercial Recreation
Unit 20	Commercial Recreation, Large Sites
Unit 24	Outdoor Advertising
Unit 33	Adult Live Entertainment Club or Bar

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 21	Warehousing and Wholesale
Unit 28	Center for Collecting Recyclable Materials
Unit 32	Sexually Oriented Business

C. Bulk and Area Regulations. Setback lines shall meet the following minimum requirements:

From Street ROW	50 ft.
From Side Property Line	None
From Side Property Line When Contiguous to a Residential District	15 ft.
From Back Property Line	20 ft.

D. Building Area. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

E. Height Regulations. In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(Code 1991, §160.036; Code 1965, App. A, Art. 5(VI); Ord. No. 1747, 6-29-89; Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-177; Ord. No. 2603, 2-19-80; Ord. No. 4034, §§3,4, 4-15-97)

Exhibit "D"

§161.063 DISTRICT RMF-18 MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL.

A. Purpose. The Medium Density Multi-family Residential District is designed to permit and encourage the development of multifamily residences at a medium density that is appropriate to the area.

B. Uses.

1. Uses Permitted.

Unit 1	City-Wide Uses by Right
Unit 8	Single-Family Dwellings
Unit 9	Multifamily Dwellings - Medium Density

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 11	Mobile Home Park
Unit 25	Professional Offices

C. Density.

Families Per Acre	4 to 18

D. Bulk and Area Regulations.

1. Lot Width Minimum.

Mobile Home Park	100 Feet
Lot within a Mobile Home Park	50 Feet
One Family	60 Feet
Two Family	60 Feet
Three or More	90 Feet
Professional Offices	100 Feet

2. Lot Area Minimum.

Mobile Home Park	3 Acres
Lot Within a Mobile Home Park	4,200 Sq. Ft.
Row House: Development Individual Lot	 10,000 Sq. Ft. 2,500 Sq. Ft.
Single-Family	6,000 Sq. Ft.
Two-Family	7,000 Sq. Ft.
Three or More	9,000 Sq. Ft.
Fraternity or Sorority	2 Acres
Professional Offices	1 Acre

3. Land Area Per Dwelling Unit.

Mobile Home	3,000 Sq. Ft.
Apartments: Two or More Bedrooms One Bedroom No Bedroom	 2,000 Sq. Ft. 1,700 Sq. Ft. 1,700 Sq. Ft.
Fraternity or Sorority	1,000 Sq. Ft. per Resident

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	25

Cross Reference: Variances Chapter 156.

F. Height Regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(Code 1991, § 160.033; Code 1965, App. A, Art. 5(III); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81)

Crafton, Tull & Associates, Inc.

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

July 22, 2002

Tim Conklin
City of Fayetteville, Planning
113 W. Mountain
Fayetteville, AR 72703

RE: Proposed Rezoning
CTA Job No.

Dear Tim:

This is a proposed rezoning request for Lindsey Family Partnership at the Old National Homecenter site that was approved along Futrall Road. The existing zoning is C-2 and we are asking for an RMF-18 multi-family zoning for the north 1000' of the property. The remaining piece at the south end would remain C-2.

Water and sewer are available to the site and the surrounding area is existing multifamily and commercial.

Should you have any questions, or require any additional information, please contact us at your convenience.

Very Truly Yours,

Crafton, Tull & Associates, Inc.

Jerry Kelso, P.E.
Vice President

Attachment:

Crafton, Tull & Associates, Inc.
P.O. Box 549 Rogers, AR 72757 479.636.4838 Fax 479.631.6224 www.craftull.com

July 25, 2002

City of Fayetteville
Planning Division
113 West Mountain St.
Fayetteville, AR

Re: Rezoning Request for Lindsey Family Trust @ Futrall Road

Dear The City of Fayetteville Planning Commissioners and City Councilmen:

The following statements address the items in section 6 of the rezoning application:

a. The proposed zoning change from C-2 to RMF-18 is a downgrade from the City of Fayetteville's Future Land Use Plan showing C-2. The surrounding area is residential being consistent with the Land Use Plan.

b. There is a plan to put 312 units on this property for a multi-family development.

c. The proposed zoning will downgrade from a C-2 to an RMF-18, which would be considerable, less amount traffic than a commercial use such as a large retail center.

d. There would be an increase in population as a result of multi-family development, but again would be less of an impact than a commercial development

e. The existing C-2 zoning would put a lot of pressure on the surrounding infrastructure and a multi-family use would be more desirable with the existing area.

Should you have any questions concerning this request, please feel free to contact me at 479-878-2423.

Respectfully,

Jerry Kelso
Project Engineer

FROM (THU) JUL 25 2002 16:47/ST. 16:40/NO. 6301110062 P 2

PUBLIC HEARING - REZONING APPEAL NO. R94-13
EOFF TRUST III, MAURICE BARNES, CLAUDE CURRY, & VERNON LIERLY - E OF FUTRALL DRIVE, NORTH OF OLD FARMINGTON ROAD

The next item was a public hearing for Rezoning R94-13 submitted by Lynn Farrell on behalf of Eoff Trust III, Maurice Barnes, Claude Curry, and Vernon Lierly for property located on the east side of Futrall Drive, north of Old Farmington Road. The request is to rezone 20.04 acres from R-1, Low Density Residential and R-O, Residential-Office to C-2, Thoroughfare Commercial.

Mr. Conklin advised the applicant had petitioned for C-2 zoning in order to develop a regional commercial use on the site. He pointed out the 2010 General Plan did recognize that the Highway 62 Bypass interchange was one of the four areas to direct regional type of commercial uses. He stated that, when the site was developed, the owner would be required to go through the large scale development process, at which time on-site and off-site improvements would be required. He noted that, to the north, there was R-1 zoning on vacant land; to the east was the Fayetteville West Campus which was zoned P-1, Institutional; to the west was C-2 zoning with the Bypass and commercial uses; to the south was C-2 zoning with commercial uses. He also pointed out the 6-inch water and sewer line along Old Farmington Road and a 21-inch force main along Futrall Drive. He noted access to the site was from Futrall Drive which was classified as a collector street under the Master Street Plan. He recommended approval of the requested rezoning. He pointed out rezoning the property would be consistent with the recommendation and policies outlined in the 2010 Plan.

Mr. Allred asked if the new overlay district being worked on would apply to this as the development.

Ms. Little stated it would depend on the time-frame in which the overlay district was adopted and added it would also apply to any large scale developments or subdivisions which occurred after the date of adoption.

Mr. Allred clarified it could have an impact on the development, but it should not have an impact on the zoning of it.

Ms. Little agreed.

Ms. Britton inquired as to whether there were any streets other than Old Farmington Road that could access back through to interior streets.

Mr. Conklin stated possibly Stone Street could be accessed between the P-1 and the R-2 where a development was currently coming through. He also noted there was right-of-way to the west that possibly extended to or into the subject property.

Ms. Little stated Stone Street was the street beginning at the east and heading to the west north of the P-1 school property. She explained there was a subdivision which had been through Plat Review and Subdivision Committee where additional access to the west had been requested by the staff. She stated the street would be extended to the west but not the complete length of the remaining property.

Ms. Britton expressed concern that, if the property developed as C-2, all the traffic would be forced to go through the intersection.

Ms. Little advised Futrall Drive existed all the way to the north and south which would take traffic up to Wedington as well.

Ms. Britton noted it would still impact an interchange where ingress and egress off the highway was taking place. She added she was concerned the traffic could not disburse in more than a north/south direction.

Mr. Conklin advised he had reviewed traffic direction and noted that, given the infrastructure currently in place, Futrall Drive did have access onto the Bypass going north. He also pointed out there was a signalized intersection onto a 5-lane principal arterial (Highway 62) and access on the Bypass at that location. He advised it was the staff's opinion that, if they were going to site some type of regional use which would generate traffic, the subject tract would be one of the better locations in Fayetteville.

Ms. Britton asked if all of the property was on a fairly gentle grade.

Mr. Conklin noted it was his understanding the tract was fairly level before it started going up hill.

Mr. Lynn Farrell advised the particular tracts included in the rezoning request were basically level and noted it was to the north of this site that the elevation increased.

Mr. Farrell advised the owners had owned the subject property since prior to construction of the Bypass and the service road, Futrall Drive. He added he had contacted Dr. Winston Simpson, Superintendent of Fayetteville Public Schools, who endorsed and supported this application. He further noted the property owner to the immediate north was in attendance and he concurred with the zoning change. He further stated the property to the south and the west were already zoned C-2.

MOTION

Mr. Head moved to recommend approval of rezoning request R94-13 subject to staff comments.

The motion was seconded by Mr. Reynolds.

The motion carried 9-0-0.

Ms. Britton inquired at what point the Commission needed to determine the development overloaded the intersection. She noted that, if commercial development took place all along Futrall Drive and all vehicles had to access either at the top or the bottom, there would be a corridor of very heavy traffic which intersected at each end with another heavy corridor of traffic.

Ms. Little stated the only way to determine when a Commission action would overload an intersection would be to have traffic counts on the street, the average daily traffic during the peak hours, and then know the uses allowed under the current zoning to project the traffic generation and then compare that count to the capacity of the roadway.

April 19, 1994

Alett Little stated this zoning will bring the 4 duplexes currently on the land into compliance with the zoning.

City Attorney Rose read the ordinance for the first time. Odom, seconded by Box, made a motion to suspend the rules and place the ordinance on its second reading. Upon roll call, the motion passed by a vote of 7 to 0, and the City Attorney read the ordinance for the second time. Miller, seconded by Odom, made a motion to further suspend the rules and place the ordinance on its third and final reading. The motion passed by a vote of 7 to 0. Rose read the ordinance for the third time.

Upon roll call, the ordinance passed by a vote of 7 to 0.

ORDINANCE 3776 APPEARS ON PAGE 163 **OF ORDINANCE BOOK** XXVII

REZONE R94-13

Mayor Hanna introduced consideration of an ordinance rezoning 20.04 acres located on the east side of Futrall and north of Old Farmington Road from R-O, Residential-Office, and R-1, Low Density Residential, to C-2, Thoroughfare Commercial, as requested by Lynn Farrell on behalf of Eoff Trust III, etal. The Planning Commission voted 9-0-0 to recommend the rezoning.

City Attorney Rose read the ordinance for the first time. Box, seconded by Daniel, made a motion to suspend the rules and place the ordinance on its second reading. Upon roll call, the motion passed by a vote of 7 to 0, and the City Attorney read the ordinance for the second time. Miller, seconded by Odom, made a motion to further suspend the rules and place the ordinance on its third and final reading. The motion passed by a vote of 7 to 0. Rose read the ordinance for the third time.

Upon roll call, the ordinance passed by a vote of 7 to 0.

ORDINANCE 3777 APPEARS ON PAGE 165 **OF ORDINANCE BOOK** XXVII

REZONE R94-14

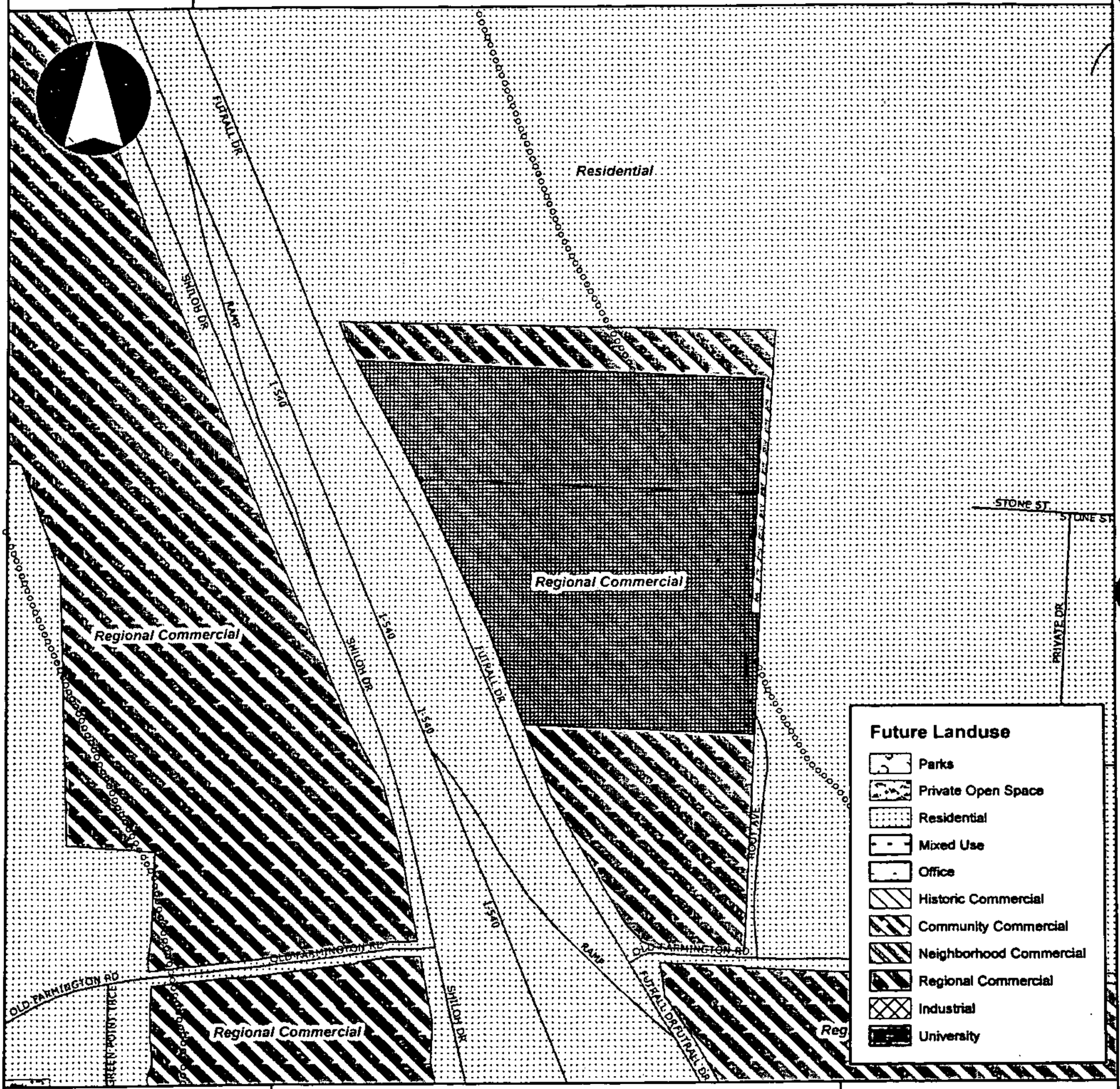
Mayor Hanna introduced consideration of an ordinance rezoning 2.63 acres located on the north side of Joyce Boulevard and west of Crossover Road from A-1, Agricultural, to R-O, Residential-Office, as requested by Neal Pendergraft on behalf of Perry Crawford. The Planning Commission voted 9-0-0 to recommend the rezoning.

City Attorney Rose read the ordinance for the first time. Box, seconded by Daniel, made a motion to suspend the rules and place the ordinance on its second reading. Upon roll call, the motion passed by a vote of 6-0-1, with Odom abstaining. The City Attorney read the ordinance for the second time. Miller, seconded by Odom, made a motion to further suspend the rules and place the ordinance

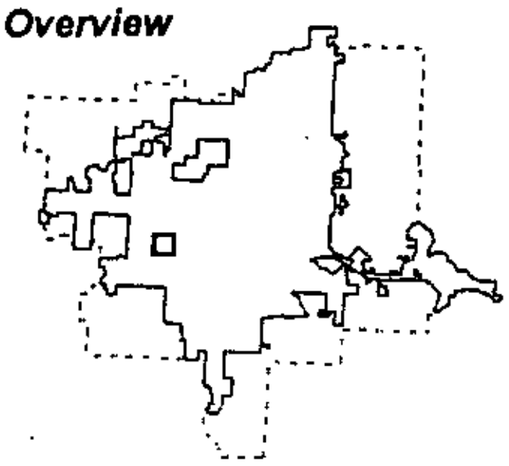
RZN02-23.00

Future Landuse

LINDSEY



Overview



Legend

Subject Property
RZN02-23.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits

0 125 250 500 750 1,000
Feet

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Shelli Rushing, Associate Planner
THRU: Tim Conklin, City Planner
DATE: August 15, 2002

RZN 02-24.00: Rezoning (Nelms, pp 209) was submitted by Phil Hagen of Crafton, Tull & Associates on behalf of Nelms LLP for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.

BACKGROUND

History. The subject property is located at the northwest corner of I-540 and Highway 112 and immediately north of Landers Auto Park. The property lies within the Design Overlay District and is located within the 100 year floodplain of Clabber Creek which runs along the south edge of the property. The center portion of the property has been determined to be a wetland.

Neighborhood Characteristics. The property is in an area that is zoned primarily C-2 Thoroughfare Commercial. The property to the south is used as an auto park for car sales and the property to the west is a drive-in movie theater. I-540 runs parallel to the east boundary and the property immediately to the north is vacant with industrial uses further north.

Request. The applicant is the owner of Landers Auto Park and he proposes to construct an additional outdoor display area for car sales. The applicant is requesting to rezone the 27.81 acres from A1 to C2 to sell cars.

CURRENT STATUS

On August 12, 2002, the Planning Commission voted 8-0 to recommend the City Council approve the rezoning.

RECOMMENDATION

Staff and the Planning Commission recommend approval of RZN 02-24.00: Rezoning (Nelms, pp 209).

STAFF REVIEW FORM

__X__ **Agenda Request**
____ **Contract Review**
____ **Grant Review**

For the Fayetteville City Council meeting of September 3, 2002.

FROM:

Tim Conklin	Planning	Urban Development
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for RZN 02-24.00 as submitted by Phil Hagen of Crafton, Tull & Associates on behalf of Don Nelms for property located west of I-540 and east of Hwy. 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.

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 — Date — Internal Auditor — Date

Purchasing Officer — Date

STAFF RECOMMENDATION: Staff recommended approval and on August 12, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

Division Head	8-16-02 Date	**Cross Reference**
Department Director	8-20-02 Date	New Item: **Yes** **No**
Administrative Services Director	8-16-02 Date	Prev Ord/Res#: _____
Mayor	8/19/02 Date	Orig Contract Date: _____

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 02-24.00 FOR A PARCEL CONTAINING APPROXIMATELY 27.81 ACRES LOCATED WEST OF I-540 AND EAST OF HWY. 112, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY PHIL HAGEN OF CRAFTON, TULL & ASSOCIATES ON BEHALF OF NELMS LLP.

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 A-1, Agricultural to C-2, Thoroughfare Commercial 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:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: DRAFT
Heather Woodruff, City Clerk

-24 NELMS

EXHIBIT "A"
RZN 02-24.00

A TRACT OF LAND IN THE EAST HALF (E ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 28, AND THE WEST HALF (W ½) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION 27, TOWNSHIP 17 NORTH, RANGE 30 WEST IN WASHINGTON COUNTY, ARKANSAS, BEING MORE FULLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHEAST QUARTER (SE ¼); THENCE NORTH 89 DEGREES 42'32"EAST, ALONG THE NORTH LINE THEREOF, 911.89 FEET; THENCE SOUTH 00 DEGREES 40' 00" EAST,448.81 FEET; THENCE SOUTH 02 DEGREES 45'56" EAST, ALONG AN EXISTING FENCE, 300.00 FEET TO THE POINT OF BEGINNING THENCE SOUTH 02 DEGREES 45'56" EAST 1884.24 FEET TO A POINT ON THE SOUTH LINE OF SECTION 28; THENCE SOUTH 89 DEGREES 49'09" EAST, ALONG SAID LINE, 649.51 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF HIGHWAY 71; THENCE FOLLOWING SAID RIGHT OF WAY NORTH 10 DEGREES 32'48" EAST 367.70 FEET; THENCE NORTH 04 DEGREES 37'13" EAST 238.29 FEET; THENCE NORTH 08 DEGREES 00'11" WEST, 372.85 FEET; THENCE NORTH 14 DEGREES 18'13" WEST 206.22 FEET; THENCE NORTH 26 DEGREES 54'45" WEST 399.56 FEET; THENCE NORTH 34 DEGREES 03'53" WEST 301.66 FEET; THENCE NORTH 29 DEGREES 33'06" WEST 126.30 FEET; THENCE LEAVING SAID RIGHT OF WAY WEST, 311.95 FEET TO THE POINT OF BEGINNING, CONTAINING 27.81 ACRES, MORE OR LESS.

RZN 02-24.00: Rezoning (Nelms, pp 209) was submitted by Phil Hagen of Crafton, Tull & Associates on behalf of Nelms LLP for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Hoffman: The fifth item on our agenda tonight is RZN 02-24.00 which was submitted by Phil Hagen of Crafton, Tull & Associates on behalf of Nelms LLP for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial. Staff recommends approval of the requested rezoning based on the findings included in our report. Tim, would you care to give us a more detailed report?

Conklin: Sure. This is a requested rezoning for 27.81 acres from A-1 to C-2. This is a piece of property that is located north of the existing Landers Auto Park. On the east side it is bounded by I 540 and to the west you have the 112 Drive In Theater. The request is for C-2, it is consistent with the General Plan 2020. The proposal is to rezone it and then they do have a large scale development currently in process that they are working on with regard to expanding the Landers Auto Park out there and that will be coming to you in the next few weeks. Thank you.

Hoffman: Thanks Tim. Is the applicant here and would you like to make a presentation or answer questions?

Hagen: I will just answer questions. I am Phil Hagen with Crafton, Tull & Associates. I don't have a presentation and I would be happy to answer any questions anybody has.

Hoffman: I will go ahead and take public comment and then we will get back to you. Is there any member of the public here that would wish to address us?

Moorman: I am Barbara Moorman, Finger Road. I am concerned about three aspects of this. One is of course the wetland situation and another is the drainage, which I want to say seems rather complicated to me. What I have right here is from the Engineering Department's files on the original Nelms development. It shows four different drainage basins. The third thing that I am concerned about, I might as well say right now is the fact that there are two things going on at once here. One is the proposal to rezone, and that is what you are considering, I understand that but there is also the Large Scale Development in process, as Tim just said. I think what concerns me is the complexity of the various drainage basins that are shown on this map in combination with the fact that there is not a drainage plan shown for the combined two projects, the rezoning and whatever will come of that and the 900,000 sq.ft. parking lot that is projected for the other parcel, which is a seven acre parcel. I think it is not just a question of the drainage not being worked out but the wetland determination, as I understand it, is not yet available

or has not yet been completed and I believe if I understand correctly, that that is a combination of these two projects. In other words, the wetland determination is being done I don't know by whom. I understand it is by someone who was hired by the owner. The wetland determination will be for the two combined so it seems to me that you need to have the wetland determination before you I would remind you that in the case of the, I call it Benedict property, that is not really what it was I don't think but it was last year sometime. Property just north of this which was rather boggy and was proposed for development. You all requested that there be a wetland determination done on that property before the property was rezoned and it wasn't even as complex as this because there was only one project, one rezoning in front of you at the time. I think there are three problems, one is the wetland determination, one is the drainage, and the third is the fact that there really are two things going on even though there is only one that you are having to consider. I want to point out that there is talk in the other project of re-channeling the drainage, which currently goes into Clabber Creek, which of course has something to do however indirectly, with the B and T Park to take that drainage, if not all of it then at least some of it, and channel it up toward the north. Now if you are channeling that toward the north you are going to have to know what lies up to the north and we come right back to the notion of the wetland determination. Those are just some things that I hope you will consider and I think what I am saying is that I hope you will table this as you did in the case of the property to the north of this last year and ask for more information on wetland and drainage. Thank you.

Estes: Thank you Barbara. Is there any other member of the audience who would like to provide public comment on this requested rezoning? Seeing none, I will bring it back to the applicant for rebuttal.

Hagen: We have had a preliminary wetlands determination done. There are wetlands on that land in the middle of the 28 acres. It is the intent of the applicant to put that aside in a nature preserve. There are really only two areas of this 28 acres that we intend to develop, about two acres of the south portion of it and potentially the four or five acres of the north with the center piece being put in preserve. A lot of those issues and a lot of the drainage issues probably will be better addressed at the large scale where we have the detail in front of us but all of that has been submitted to the engineers. I have forwarded the wetland determinations to Mr. Conklin. I am not sure if he has received the faxes or had a chance to look over them. It was just today that I actually sent one of them and Friday I sent the other one.

Conklin: I have the one that was sent on Friday. I don't think I received the one today. I think the statement that you just made, there are wetlands on the site, that is true. I will just read a quote here "Based on these observations it is our initial opinion that wetlands are likely to be present within an estimated area from three to six acres in the central to north parts of the proposed development tracts. See exhibit

one." I won't go into the three or four page letter but yes, there are wetlands on the site based on this consultant.

Hagen: There are wetlands and it is a beautiful piece of property with beautiful trees on it and it is the intent of Mr. Nelms to put that aside in a preserve with the south two to three acres for future expansion of Landers and then the north for potentially, it depends on how the property to the north develops, some future development just for the north four or five acres.

Conklin: I would just like to remind the Commission for those Commissioners that didn't go out to CMN II development, that is a piece of property that is zoned C-2, had wetlands. We toured what the U.S. Army Corp. of Engineers required the developer to do to protect and mitigate wetlands in that development. I bring this up because yes, we are aware there are wetlands. There is also floodplain, floodway and those regulations, city regulations and those state and federal regulations will have to be met for any development of this site. I just wanted to bring that up. Thank you.

Estes: Thank you Mr. Conklin.

Hagen: She is correct in saying that this is a complicated piece of property because there are those issues but we are dealing with all of those with the Large Scale Development plan.

Estes: Thank you Phil. I will now bring the matter back to the Commission for discussion or motions.

Ward: According to our facts the property is on our 2020 plan and all of our future plans as being regional commercial and it is pretty much bordered by regional commercial on all sides. This is strictly a rezoning, it is not a large scale or anything else. I will go ahead and recommend that we approve the RZN 02-24.00 for this 27.81 acres.

Estes: We have a motion by Commissioner Ward to forward to the City Council with a recommendation of approval RZN 02-24.00 is there a second?

Shackelford: I will second.

Estes: We have a second. Is there any discussion?

Ostner: I realize we are not developing this right now but in the change to C-2 there is a concern with the drive-in and the light pollution or light. If it is rezoned it is going to have to be dealt with one way or the other because the uses conflict, the night time of the drive-in and the night time advertisement lights. I know it is real early in the process but is that going to be part of the development?

Hagen: That has already been a part of our consideration and we are going to leave a stand of trees that is wider in width than the stand of trees that are between the drive-in and the existing dealership so really the situation will not be any worse than it is with the existing dealership. We are further away with the new phases of the dealership than we are with the existing dealership.

Conklin: We did receive a telephone call on the 9th from a Jimmy Terry for 112 Drive In. He did come to our office earlier that week and did express concerns with regard to light. The message is Nelms rezoning, stated that he wanted to withdraw his objection comments and state that he was now for the project. He says he spoke with Mr. Nelms last night and he explained what he was proposing and to call him if we had any questions. Lighting is something that we will address during the large scale development review and we do have our outdoor lighting ordinance going to the Council fairly soon.

Estes: Thank you Mr. Conklin. We have a motion by Commissioner Ward and a second by Commissioner Shackelford to forward to the City Council with a do pass recommendation RZN 02-24.00 is there any further discussion?

Allen: I know this isn't the large scale development but I wonder since we do know how this property will be developed, are we thinking about in the 2020 Plan and regional nodes, do we consider things like large masses of asphalt and the kind of development that we know will be in that one area when we decide to rezone?

Conklin: Hopefully, and maybe we need to take a look at our regulations, but this is in the Overlay District and it does require landscaping and minimum percent open space on the property, 25%. Hopefully through our regulations we can mitigate some of the impacts of just paving over every square inch of Fayetteville through those parking lot landscaping, commercial design standards, and overlay district standards.

Allen: Those commercial design standards have changed since the original development?

Conklin: No.

Estes: Is there any further discussion?

Hoffman: I just want to make the comment that as far as this being a C-2 zoning I can see that that is appropriate but I do want to state that I do have reservations if it is a continuation of what we approved before. One for the light pollution and then the other was also the landscaping. I want to say that I am for the zoning but I guess I want to give the applicant warning that as far as when the large scale development comes through that they be very cautious and aware that there are more issues.

Allen: I have the same concerns.

Estes: We have a motion by Commissioner Ward and a second by Commissioner Shackelford to forward to the City Council with a do pass recommendation RZN 02-24.00 is there any further discussion? Is there any further discussion? Renee, would you call the roll please?

Roll Call: Upon completion of roll call the motion to forward RZN 02-24.00 to the City Council was approved by a vote of 8-0-0.

Estes: The motion passes by a unanimous vote, thank you.

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: Shelli Rushing, AICP, Associate Planner
THRU: Tim Conklin, AICP, City Planner
DATE: August 8, 2002

RZN 02-24.00: Rezoning (Nelms, pp 209) was submitted by Phil Hagen of Crafton, Tull & Associates on behalf of Nelms LLP for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings included as part of this report.

PLANNING COMMISSION ACTION:	**Required** **YES**	
	○ Approved	**○ Denied**
Date: August 12, 2002		
CITY COUNCIL ACTION:	**Required** **YES**	
	○ Approved	**○ Denied**
Date: September 3, 2002 (1st reading if approved)		

Comments: _____

_____

_____

BACKGROUND:

History. The subject property is located at the northwest corner of I-540 and Highway 112 and immediately north of Landers AutoPark. The property lies within the Design Overlay District and is located within the 100 year floodplain of Clabber Creek which runs along the south edge of the property. The applicant is in the process of obtaining a wetland determination.

Neighborhood Characteristics. The property is in an area that is zoned primarily C-2 Thoroughfare Commercial. The property to the south is used as an autopark for car sales and the property to the west is a drive-in movie theater. I-540 runs parallel to the east boundary and the property immediately to the north is vacant with industrial uses further north.

Request. The applicant is the owner of Landers Autopark and proposes to construct an additional outdoor display area for car sales. The applicant is requesting to rezone the 27.81 acres from A1 to C2 to sell cars.

Public Comment Received. The Planning Division has received several calls regarding this rezoning. The property owner to the west operates a drive-in movie theater that will likely be impacted by the lights from the parking lot. Other citizens have commented on the impact development of this site may have on the floodplain, wetlands and natural environment.

SURROUNDING LAND USE AND ZONING

	Land Use	Zoning
North	Vacant / Industrial	A1, Agriculture C2 Thoroughfare Commercial
South	Auto sales	C-2 Thoroughfare Commercial
East	I-540	n/a
West	Drive-in movie theater	C-2 Thoroughfare Commercial

INFRASTRUCTURE:

Streets: North: I-540
South: I-540
East: I-540
West: Highway 112

Water: A water line runs parallel to Highway 112 along the east side.

Sewer: A sewer line runs parallel to Highway 112 along the east side.

LAND USE PLAN: General Plan 2020 designates this site regional commercial. Rezoning this property to C-2 Thoroughfare Commercial 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 of C-2 is consistent with the Future Land Use Plan that shows this area as regional commercial.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The property is surrounded by C-2 zoning and commercial uses and the applicant intends to expand his business. The zoning is justified at this time.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning should not significantly increase traffic danger or congestion. The proposed use only increases the options for potential buyers.**

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 not alter population density.**

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:

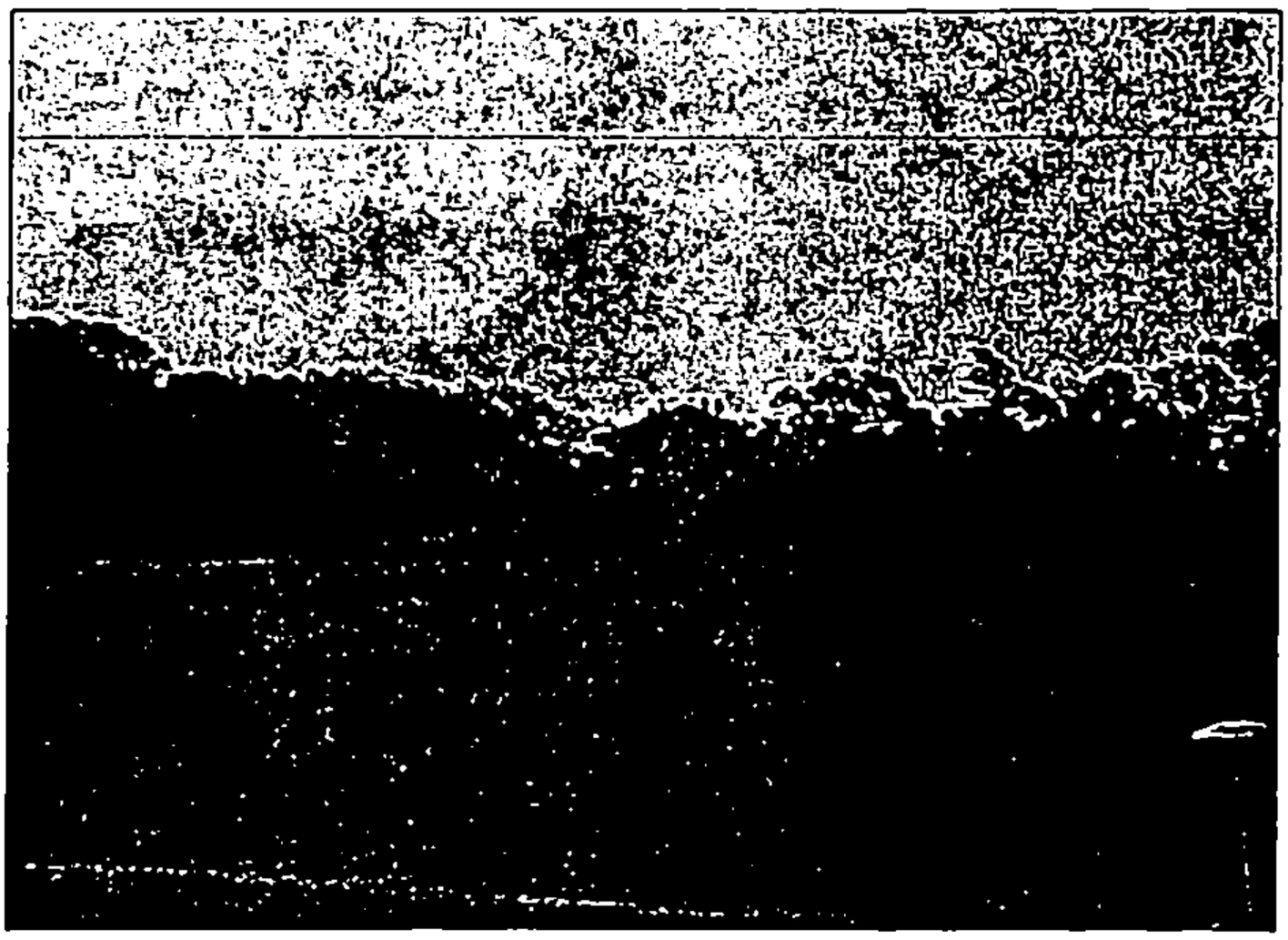
   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   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**

Nelms (RZN02-24.00)

Standing at the drive in looking east toward subject property.



Standing at drive-in looking east at subject property.

From Chapter 161 Zoning Regulations
Fayetteville Unified Development Ordinance

§161.03 DISTRICT A-1 AGRICULTURAL.

A. Purposes. The regulations of the Agricultural District are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; prevent unsightly development, increase scenic attractiveness; and conserve open space.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 3	Public Protection and Utility Facilities
Unit 6	Agriculture
Unit 7	Animal Husbandry
Unit 8	Single-Family and Two-Family Dwellings

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 4	Cultural and Recreational Facilities
Unit 20	Commercial Recreation; Large Sites

C. Bulk and Area Regulations.

Lot Width Minimum	200 ft.
Lot Area Minimum: Residential Nonresidential	 2 acre 2 acre
Lot Area Per Dwelling Unit	2 acre

D. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
35	20	35

E. Height Requirements. There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required yard lines.

(Code 1991, §160.030; Code 1965, App. A, Art. 5(I); Ord. No. 1747, 6-29-89)

From Chapter 161 Zoning Regulations
Fayetteville Unified Development Ordinance

§161.14 DISTRICT C-2 THOROUGH-FARE COMMERCIAL.

A. Purpose. The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 4	Cultural and Recreational Facilities
Unit 12	Offices, Studios and Related Services
Unit 13	Eating Places
Unit 14	Hotel, Motel and Amusement Facilities
Unit 15	Neighborhood Shopping Goods
Unit 16	Shopping Goods
Unit 17	Trades and Services
Unit 18	Gasoline Service Stations and Drive-In Restaurants
Unit 19	Commercial Recreation
Unit 20	Commercial Recreation, Large Sites
Unit 24	Outdoor Advertising
Unit 33	Adult Live Entertainment Club or Bar

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 21	Warehousing and Wholesale
Unit 28	Center for Collecting Recyclable Materials
Unit 32	Sexually Oriented Business

C. Bulk and Area Regulations. Setback lines shall meet the following minimum requirements:

From Street ROW	50 ft.
From Side Property Line	None
From Side Property Line When Contiguous to a Residential District	15 ft.
From Back Property Line	20 ft.

D. Building Area. On any lot the area occupied by all buildings shall not exceed 60% of the total area of such lot.

E. Height Regulations. In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(Code 1991, §160.036; Code 1965, App. A, Art. 5(VI); Ord. No. 1747, 6-29-89; Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-177; Ord. No. 2603, 2-19-80; Ord. No. 4034, §§3,4, 4-15-97)

Nelms

Summary of Trip Generation Calculation
For 392040 Th.Gr.Sq.Ft. of New Car Sales
August 02, 2002

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	37.50	24.92	1.00	14701500
7-9 AM Peak Hour Enter	1.61	0.00	1.00	631184
7-9 AM Peak Hour Exit	0.60	0.00	1.00	235224
7-9 AM Peak Hour Total	2.21	1.92	1.00	866408
4-6 PM Peak Hour Enter	1.12	0.00	1.00	439085
4-6 PM Peak Hour Exit	1.68	0.00	1.00	658627
4-6 PM Peak Hour Total	2.80	2.02	1.00	1097712
Saturday 2-Way Volume	21.03	9.38	1.00	8244601
Saturday Peak Hour Enter	1.51	0.00	1.00	591980
Saturday Peak Hour Exit	1.46	0.00	1.00	572378
Saturday Peak Hour Total	2.97	2.15	1.00	1164359

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

Crafton, Tull & Associates, Inc.
P.O. Box 549 Rogers, AR 72757 479.636.4838 Fax 479.631.6224 www.craftull.com

July 25, 2002

City of Fayetteville
Planning Division
113 West Mountain St.
Fayetteville, AR

Re: Rezoning Request for the 28-acre Parcel North of Landers Autopark

Dear The City of Fayetteville Planning Commissioners and City Councilmen:

The following statements address the items in section 6 of the rezoning application:

a. The proposed zoning change from A-1 to C-2 is consistent with both the existing surrounding zonings and the City of Fayetteville's Future Land Use Plan.

b. Submitted with this rezoning application is a Large Scale Development Plan for an additional parking lot to serve the Landers Auto Group Dealership. A portion of the property proposed for rezoning is needed for the green space to satisfy the requirements of the I-540 overlay district.

c. The access to this property will be through the existing dealership, so only property affected by any increased traffic created by this rezoning would be the property owned by the applicant.

d. Being that this rezoning proposal is for commercial zoning, there will be no alteration in population density as a result of the rezoning. There are no utility extensions planned for the parking lot expansion.

e. It would be impractical to continue using this land for agricultural purposes because it is surrounded by commercial uses and this property is much more valuable and better suited, due to its location, as commercial.

Should you have any questions concerning this request, please feel free to contact me at 479-878-2423.

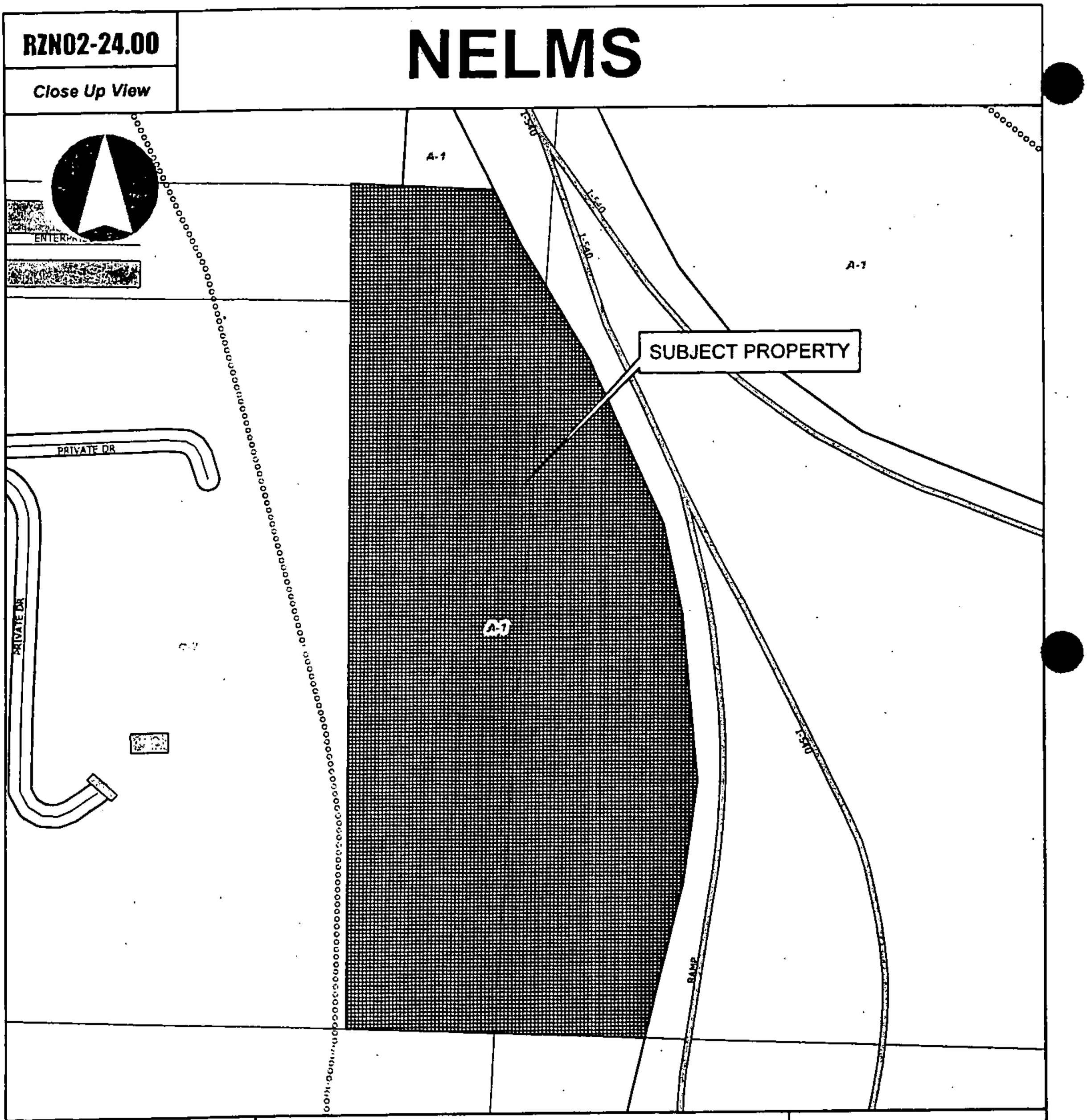
Respectfully,

Phil Hagen, E.I.
Project Engineer

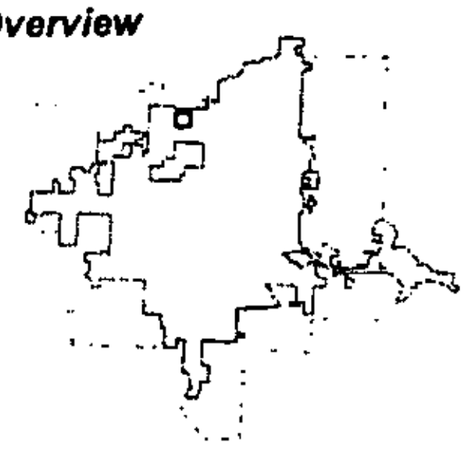
RZN02-24.00

Close Up View

NELMS



Overview



Legend

Subject Property
RZN02-24.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

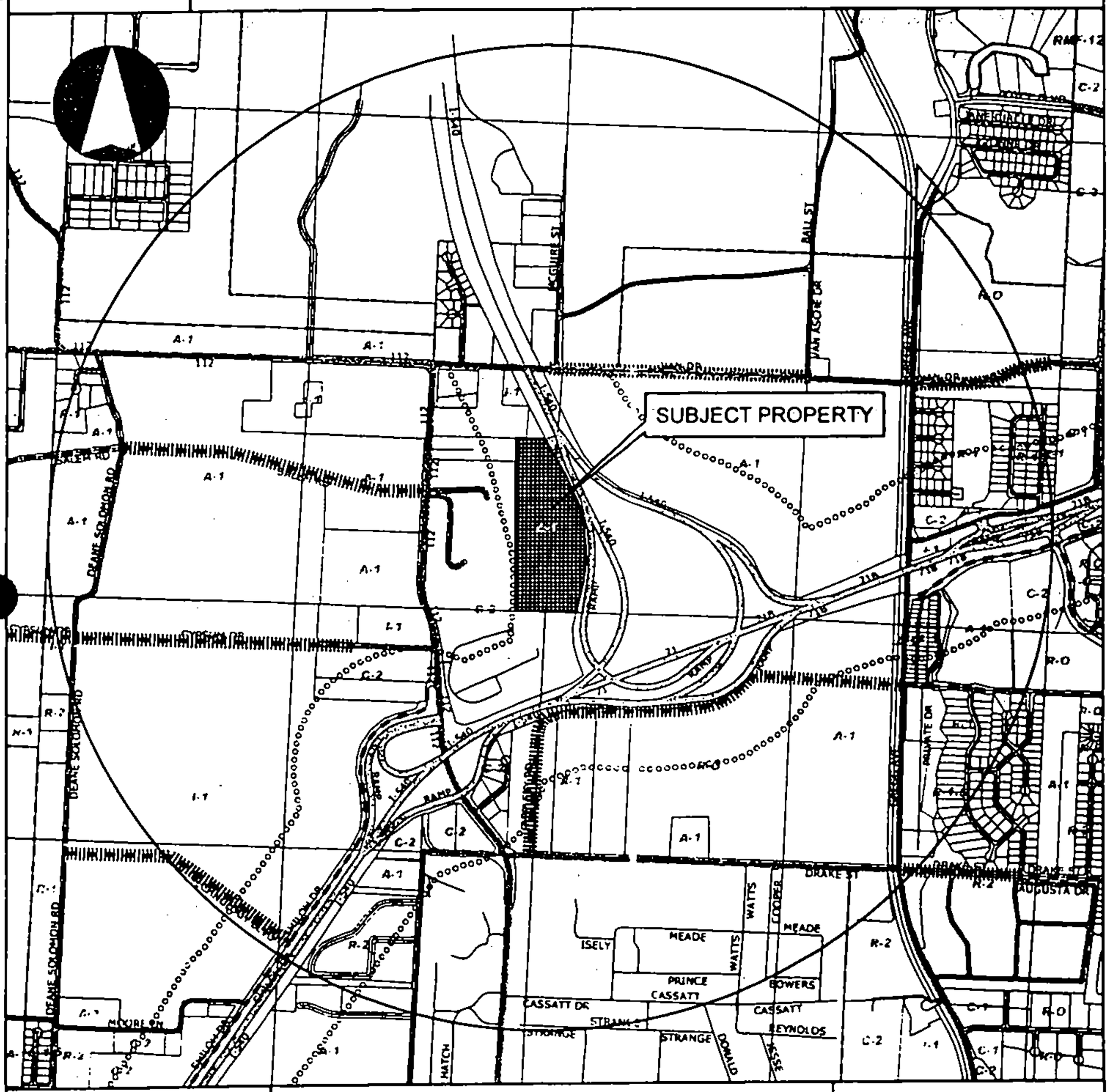
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 125 250 500 750 1,000 Feet

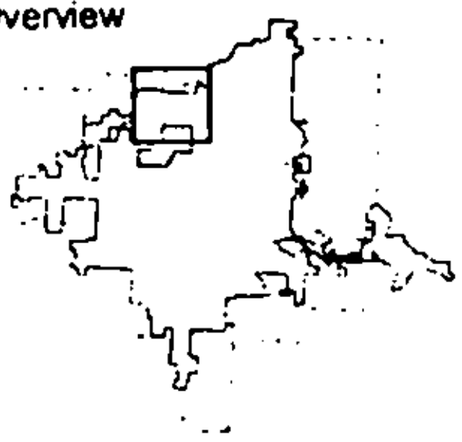
RZN02-24.00

One Mile View

NELMS



Overview



Legend

Subject Property

RZN02-24.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

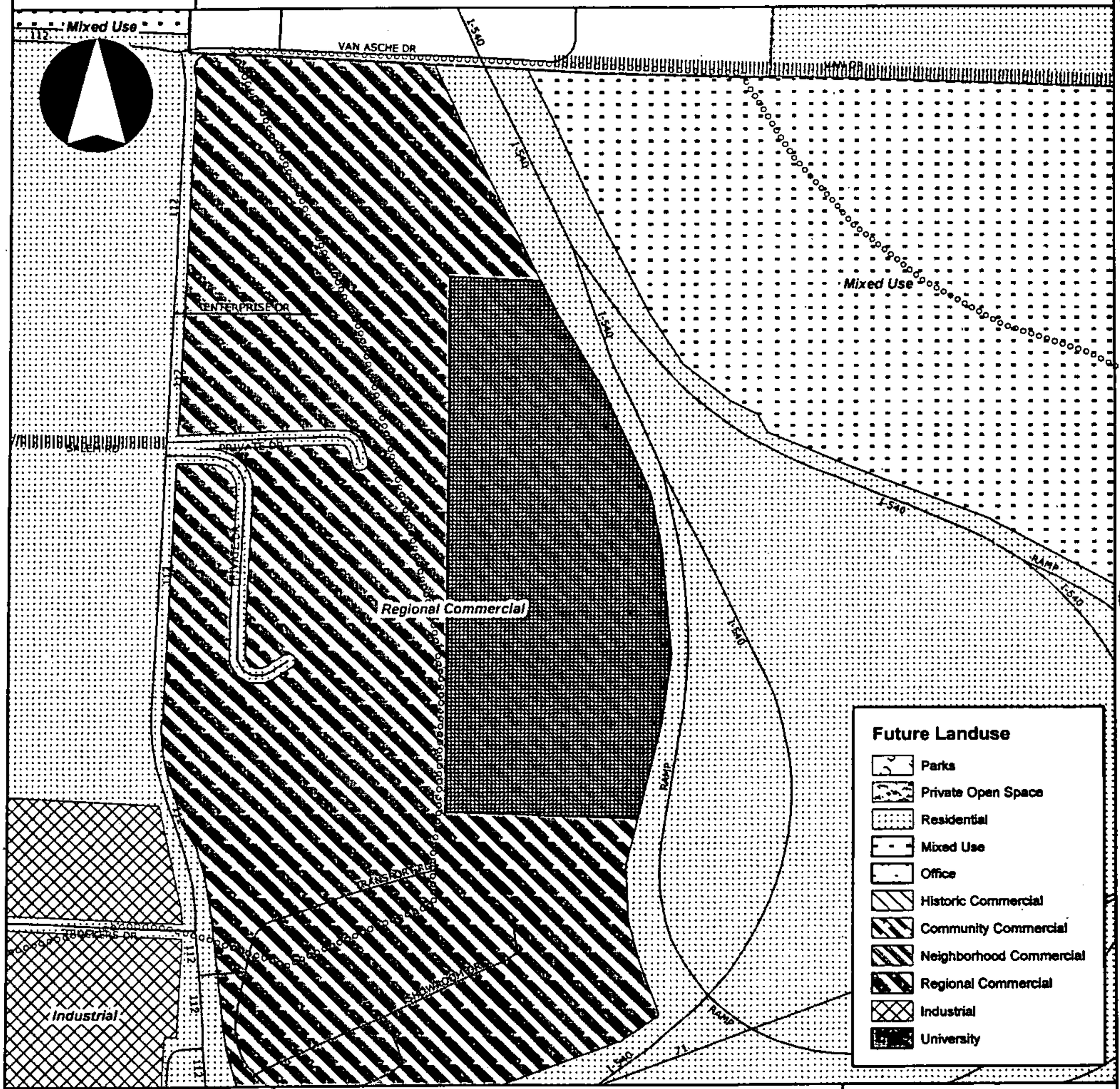
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

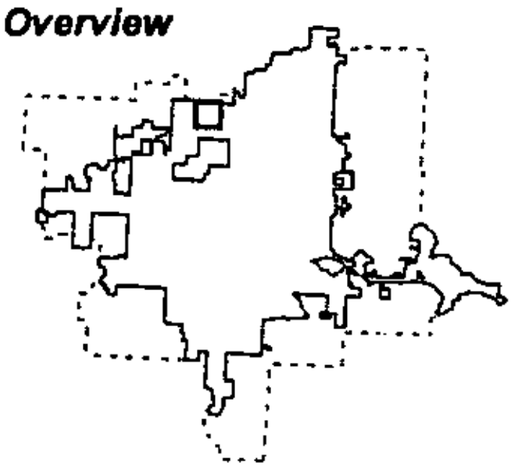
RZN02-24.00

Future Landuse

NELMS



Overview



Legend

Subject Property
RZN02-24.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits

0 125 250 500 750 1,000
Feet

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville City Council
FROM: Tim Conklin, AICP, City Planner
THRU: Hugh Earnest, Urban Development Director
DATE: August 22, 2002

RZN 02-25.00: Rezoning (Sage House, pp 564) was submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential.

BACKGROUND:

The subject property is located on the south side of Huntsville Rd. east of Morningside Drive and west of the Cedarpoint Subdivision. The property is owned by the City of Fayetteville and contains approximately 19.42 acres. This request is to rezone a 4.22 acre portion of the property adjacent to Huntsville Road for the purpose of establishing short term transitional housing for the community.

Surrounding land uses are primarily single family residences on large tracts. The Cedarpoint Subdivision to the east is a development of duplex homes. There are some apartments in the general area as well as some scattered commercial uses along Huntsville Rd.

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. The General Plan 2020 further encourages a mix of different residential uses in order to better reflect traditional neighborhood development patterns.

CURRENT STATUS

On August 12, 2002, the Planning Commission voted 8-0-0 to recommend the requested rezoning be approved by the City Council.

RECOMMENDATION

Approval by City Council.

STAFF REVIEW FORM

__X__ **Agenda Request**
____ **Contract Review**
____ **Grant Review**

For the Fayetteville City Council meeting of September 3, 2002.

FROM:

Tim Conklin	Planning	Urban Development
Name	Division	Department

ACTION REQUESTED: To approve an ordinance for RZN 02-25.00 as submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential.

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 August 12, 2002 the Planning Commission voted 8-0-0 to recommend the rezoning be approved by the City Council.

Division Head	8-16-02 Date
Department Director	8-20-02 Date
Administrative Services Director	8-16-02 Date
Mayor	8/19/02 Date

Cross Reference

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

Prev Ord/Res#: _____

Orig Contract Date: _____

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 02-25.00 FOR A PARCEL CONTAINING APPROXIMATELY 4.22 ACRES LOCATED AT 1033 HUNTSVILLE ROAD, FAYETTEVILLE, ARKANSAS, AS SUBMITTED BY ERIN RUSHING ON BEHALF OF SAGE HOUSE.

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 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:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: DRAFT
Heather Woodruff, City Clerk

.00

EXHIBIT "A"
RZN 02-25.00

A PART OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION TWENTY-TWO (22), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST OF THE 5TH PRINCIPAL MERIDIAN, BEING MORE PARTICULARLY DESCRIBED HEREWITH AS FOLLOWS: BEGINNING AT A POINT SOUTH 02°47'37"EAST 44.29 FEET FROM THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 22, SAID POINT BEING ON THE WEST LINE OF THE NE ¼ OF THE NE ¼ OF SAID SECTION 22 AND ON THE SOUTH RIGHT OF WAY LINE OF HUNTSVILLE ROAD; RUNNING THENCE ALONG SAID SOUTH RIGHT OF WAY LINE SOUTH 87°50'21"EAST 155.34 FEET; THENCE LEAVING SAID SOUTH RIGHT OF WAY LINE OF HUNTSVILLE ROAD SOUTH 01°28'11" EAST 258.35 FEET; THENCE SOUTH 87°28'11"EAST 60.00 FEET; THENCE SOUTH 01°28'11"EAST 65.00 FEET; THENCE SOUTH 09°49'11" EAST 225.00 FEET; THENCE SOUTH 82°40'11" EAST 100.00 FEET; THENCE SOUTH 85°16'19" EAST 43.03 FEET; THENCE SOUTH 87°28'11" EAST 79.67 FEET; THENCE SOUTH 02°48'08" WEST 125.00 FEET; THENCE NORTH 87°50'21" WEST 510.83 FEET TO THE WEST LINE OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 22; THENCE WITH SAID WEST LINE NORTH 02°47'37" EAST 679.67 FEET; MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 4.22 ACRES, MORE OR LESS, SUBJECT TO RIGHTS OF WAY AND EASEMENTS OF RECORD AND SUBJECT TO A PUBLIC ACCESS EASEMENT, SAID EASEMENT BEING 60 FEET IN EQUAL AND UNIFORM WIDTH, EAST OF AND ADJACENT TO THE WEST LINE OF THE PROPERTY DESCRIBED HEREINABOVE.

RZN 02-25.00: Rezoning (Sage House, pp 564) was submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential.

Hoffman: Item six on our agenda tonight is RZN 02-25.00, for Sage House. It was submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential. Tim, can you give us an update on this one please?

Conklin: Yes. This is a rezoning request from RMF-12 from R-1. The Sage House is a non-profit organization for short term transitional housing. This is located off of Huntsville Road on the south side. It originally was planned for up on Deane Solomon Road on part of the land that we purchased for the Wilson Springs Business Park. However, now this has been relocated down to this location. The rezoning is required because it is an apartment type residential use.

Hoffman: Thanks Tim. Is the applicant here and would you like to give us a presentation please?

Weatherton: Lance Weatherton with Miller, Boscus, Lack Architects. We are prepared to make a presentation but at this point we are at schematic design. Basically since we have been accepted at the site we would just like to answer any questions that you have for a rezoning at this point.

Hoffman: That will be fine. Is there any member of the public that would address us on this rezoning? Seeing none, I will go ahead and bring it back to the Planning Commission and to the applicant for further discussions or motions.

Estes: I would recommend that we approve and forward to the full City Council with a recommendation of do pass RZN 02-25.00.

Hoffman: I have a motion for approval by Commissioner Estes, do I have a second?

Allen: I second.

Hoffman: I have a second by Commissioner Allen. Is there any further discussion?

Bunch: Yes. I realize that this is just a rezoning but I would like to weigh in at this time on a previous issue that we had in this neighborhood where there were questions concerning the availability of parks as we were allowing some residential subdivisions to grow and the Parks Board had recommended taking money in lieu of land dedication. This particular area was discussed at that time as a good

potential site for some parks to service the area that is bounded by Happy Hollow Road, 15th Street, and Huntsville Road. I just wanted to make a comment at this time that it would be good when we see this come through as an LSD to consider whether or not the 4.22 acres is sufficient because there will be a land dedication or money in lieu of land dedication at that time for the Parks Department and this would be a very good opportunity to address the situation where we are sufficient in parks in this area.

Weatherton: I would like to address that. With the schematic design phase the way we have the building situated if you are familiar with this site it is a pie shaped site and with the nature of Sage House being a transitional living facility, security is a big issue. We have located the building approximately 400' off Huntsville Road leaving that remaining land available for possible park area and that is our focus at this point with the schematic design for Sage House. We also are working on a design for 16 units expandable up to 32. Even with the expansion we will not be encroaching into the 400' setback from Huntsville Road. We will be moving from the current position of the building to the east so we have taken into consideration. A lot is dictated because of the contour of the land and the nature of the facility to leave the remaining part of the land from our facility to Huntsville for park area. We will take that advisement into consideration.

Hoffman: Thank you very much. Is there any further discussion? Renee, would you call the roll please?

Roll Call: Upon completion of roll call the motion to forward RZN 02-25.00 was approved by a vote of 8-0-0.

Hoffman: Thank you the motion carries unanimously.

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: August 12, 2002

RZN 02-25.00: Rezoning (Sage House, pp 564) was submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential.

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings included as part of this report.

PLANNING COMMISSION ACTION:	**Required** **YES**	
	O Approved	**O Denied**
Date: August 12, 2002		
CITY COUNCIL ACTION:	**Required** **YES**	
	O Approved	**O Denied**
Date: September 3, 2002		

Comments: _____

_____

_____

H:\USERS\COMMON\PLANNING\REPORTS\PCREPORTS 2002\AUGUST\SAGE HOUSE_RZN02-25.DOC

BACKGROUND:

The subject property is located on the south side of Huntsville Rd. east of Morningside Drive and west of the Cedarpoint Subdivision. The property is owned by the City of Fayetteville and contains approximately 19.42 acres. This request is to rezone a 4.22 acre portion of the property adjacent to Huntsville Road for the purpose of establishing short term transitional housing for the community.

Surrounding land uses are primarily single family residences on large tracts. The Cedarpoint Subdivision to the east is a development of duplex homes. There are some apartments in the general area as well as some scattered commercial uses along Huntsville Rd.

SURROUNDING LAND USE AND ZONING

North:	Single family homes, R-1
South:	Vacant, R-1
East:	Single family homes, R-1
West:	Vacant, R-1

INFRASTRUCTURE:

The subject property is located on the south side of Huntsville Rd. (Hwy 16E). This is the only access to the site. Huntsville Rd. is classified as a principal arterial on the City's adopted Master Street Plan and is a part of the state highway system which is managed by AHTD.

Utilities are available in the vicinity of this property. There is an 8" water line located along the north side of Huntsville Rd. and an 8" sanitary sewer line located approximately 300' from the proposed rezoning. Extension of sewer facilities and other on and off-site improvements made necessary by a proposed development will need to be reviewed at the time that a project is presented for Planning Commission consideration.

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 the City's adopted General Plan 2020 and associated Future Land Use Map which designates this area as Residential. The General Plan 2020 further encourages a mix of different residential uses in order to better reflect traditional neighborhood development patterns.**

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 needed in order for the applicant to develop a multi-family residential structure to serve as a transitional living facility for the community.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The proposed zoning will increase traffic, however it is not expected to create or appreciably increase traffic danger and congestion in this location.**

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 increase population density. The current R-1 zoning district allows a density of 4 units per acre. Approval of this rezoning would increase the allowable density to 12 units per acre or a total of 50 possible units. The applicant proposes to develop 32 residential units. This increase in population density should not undesirably increase the load on public services.**

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**

§ 161.04 DISTRICT R-1: LOW DENSITY RESIDENTIAL.

A. Purpose. The Low Density Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 26	Single-Family Dwelling

2. UsesPermissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 8	Single-Family and Two-Family Dwellings

C. Density.

SINGLE-FAMILY DWELLINGS	TWO FAMILY DWELLINGS
4 or Less Families Per Acre	7 or Less Families Per Acre

D. Bulk and Area Regulations.

	Single-Family	Two-Family
Lot Minimum Width	70 ft.	80 ft.
Lot Area Minimum	8,000 sq. ft.	12,000 sq.ft.
Land Area Per Dwelling Unit	8,000 sq. ft.	6,000 sq. ft.

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	20

F. Building Area. On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031)

Exhibit "C"

§161.062 DISTRICT RMF-12 MODERATE DENSITY MULTI-FAMILY RESIDENTIAL.

A. Purpose. The Moderate Density Multi-family Residential District is designed to permit and encourage the development of multifamily residences at a moderate density that is appropriate to the area.

B. Uses.

1. Uses Permitted.

Unit 1	City-Wide Uses by Right
Unit 8	Single-Family Dwellings
Unit 9	Multifamily Dwellings - Medium Density

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 11	Mobile Home Park
Unit 25	Professional Offices

C. Density.

Families Per Acre	4 to 12

D. Bulk and Area Regulations.

1. Lot Width Minimum.

Mobile Home Park	100 Feet
Lot within a Mobile Home Park	50 Feet
One Family	60 Feet
Two Family	60 Feet
Three or More	90 Feet
Professional Offices	100 Feet

2. Lot Area Minimum.

Mobile Home Park	3 Acres
Lot Within a Mobile Home Park	4,200 Sq. Ft.
Row House: Development Individual Lot	 10,000 Sq. Ft. 2,500 Sq. Ft.
Single-Family	6,000 Sq. Ft.
Two-Family	7,000 Sq. Ft.
Three or More	9,000 Sq. Ft.
Fraternity or Sorority	2 Acres
Professional Offices	1 Acre

3. Land Area Per Dwelling Unit.

Mobile Home	3,000 Sq. Ft.
Apartments: Two or More Bedrooms One Bedroom No Bedroom	 2,000 Sq. Ft. 1,700 Sq. Ft. 1,700 Sq. Ft.
Fraternity or Sorority	1,000 Sq. Ft. per Resident

E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	25

Cross Reference: Variances Chapter 156.

F. Height Regulations. Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(Code 1991, § 160.033; Code 1965, App. A, Art. 5(III); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81)

CEI Engineering Associates, Inc.

Corporate Office: 3317 SW "I" Street • P.O. Box 1408 • Bentonville, AR 72712-1408 • (479) 273-9472 • (479) 273-0844

July 22, 2002

DISTRIBUTION:
CMS/RWR/File

City of Fayetteville Planning Commission
113 W. Mountain
Fayetteville, AR 72701
(479) 575-8264

Re: Sage House Property
Fayetteville, Arkansas
CEI Project No. 17625.0

To whomever it may concern:

This is a formal request for the rezone of 4.22 acres from R-1 to RMF 12 for the purpose constructing a multi-family residential home to be utilized for battered women, short term transitional housing and young mothers.

The current property owner is the City of Fayetteville. Negotiations are being made by the Sage House Inc., to purchase and/or lease the property from the City of Fayetteville.

The land use in this area is primarily single family residential homes, mobile homes and undeveloped land parcels. The architectural appearance of the facility will be of equal to higher quality that what is currently present surrounding the said property. The proposed facility will be designed to expand to a maximum of 32 units.

The traffic generated will be minimal, the traffic will be primarily generated from the residents of the proposed facility including a small staff. Some of the residents may or may not own a vehicle due to the circumstances.

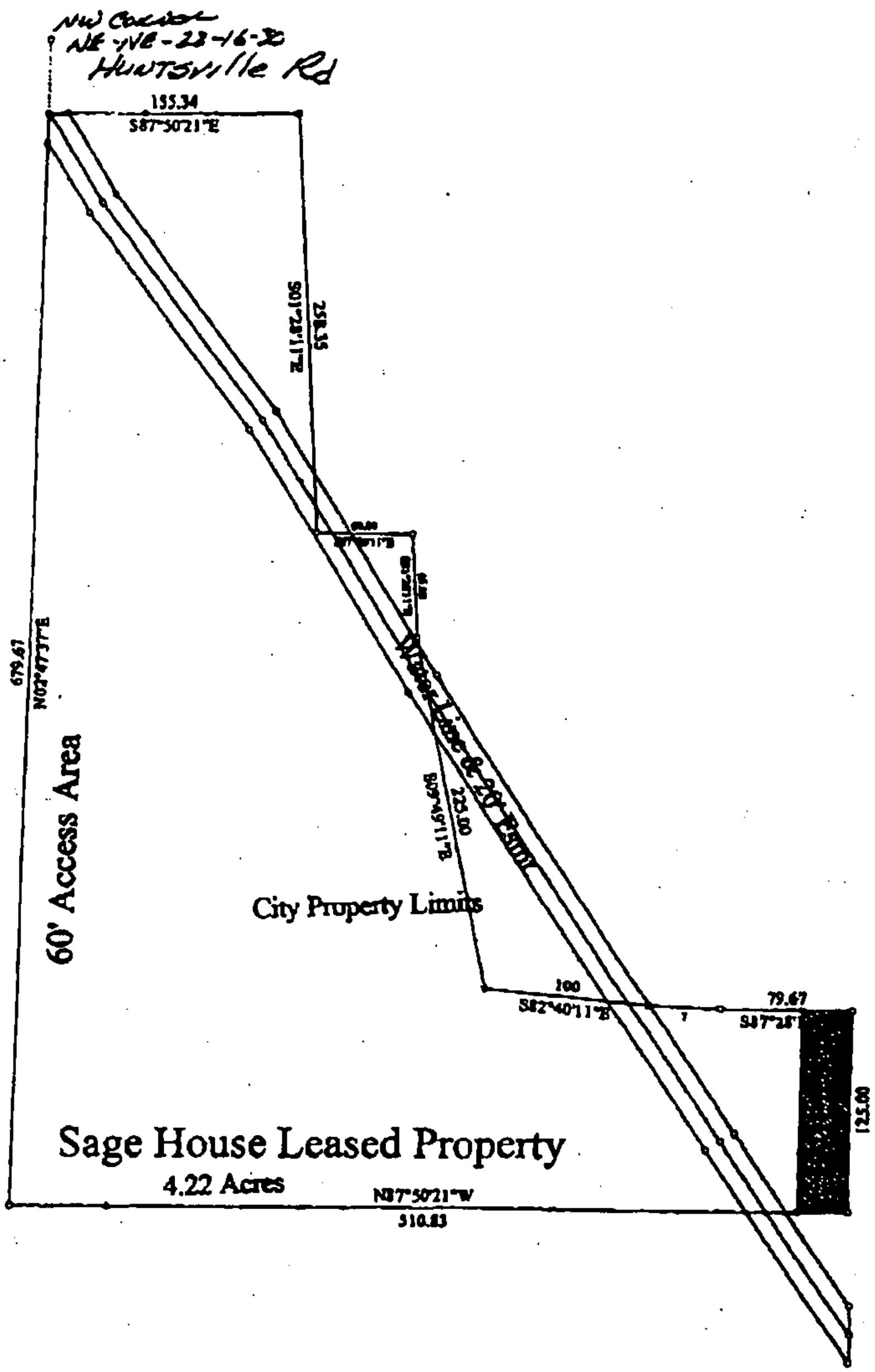
There is an 8" water line on the north side of Huntsville Road. There is an 8" sanitary sewer available 300 feet south from the southeast corner of the proposed rezone area.

The current zoning of the property does not allow the development of multi-family housing, therefore, the rezoning of this property from single family residential to multi-family is necessary to accommodate the facility, current needs and any future plans.

We appreciate your consideration in this matter, and if you have questions or concerns, please do not hesitate to call.

Respectfully submitted,

R. Erin Rushing, RLA
Project Designer/Planner
Local Development/Public Works

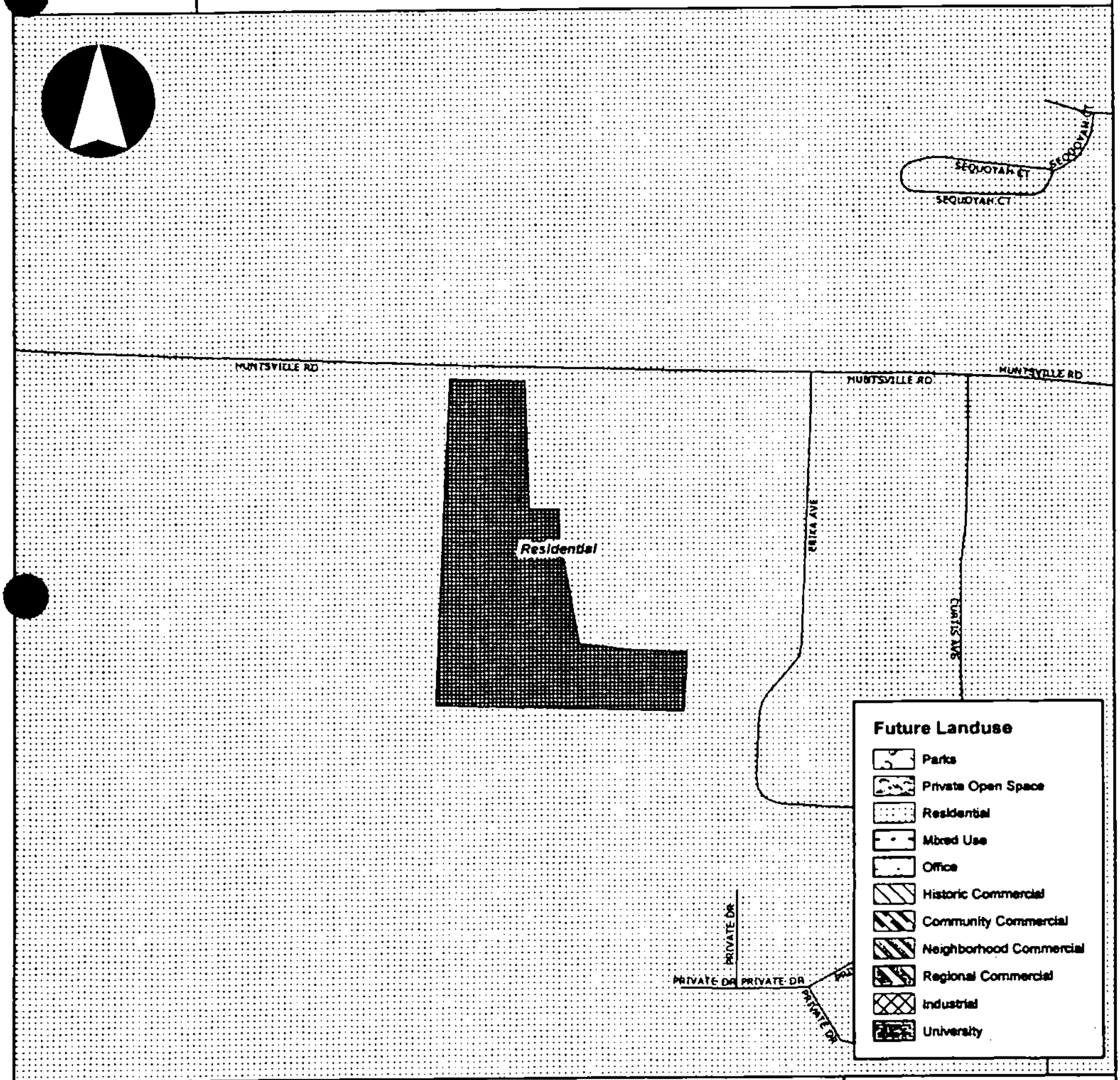


Title: Sage House Property Description	Date: 02-27-2002
Scale: 1 inch = 100 feet	File: Sagenm2.dgn

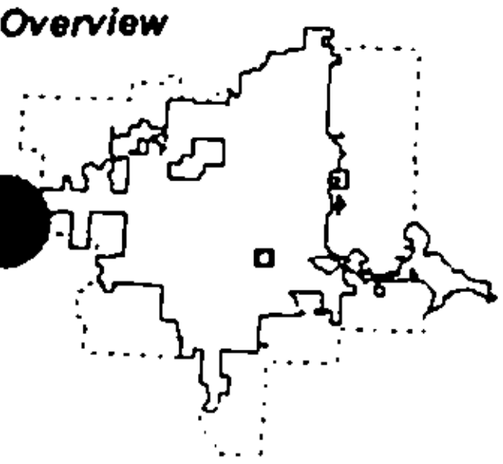
RZN02-25.00

uture Landuse

SAGE HOUSE (BRADBERRY)



Overview



Legend

Subject Property
RZN02-25.00

Streets
Existing
Planned

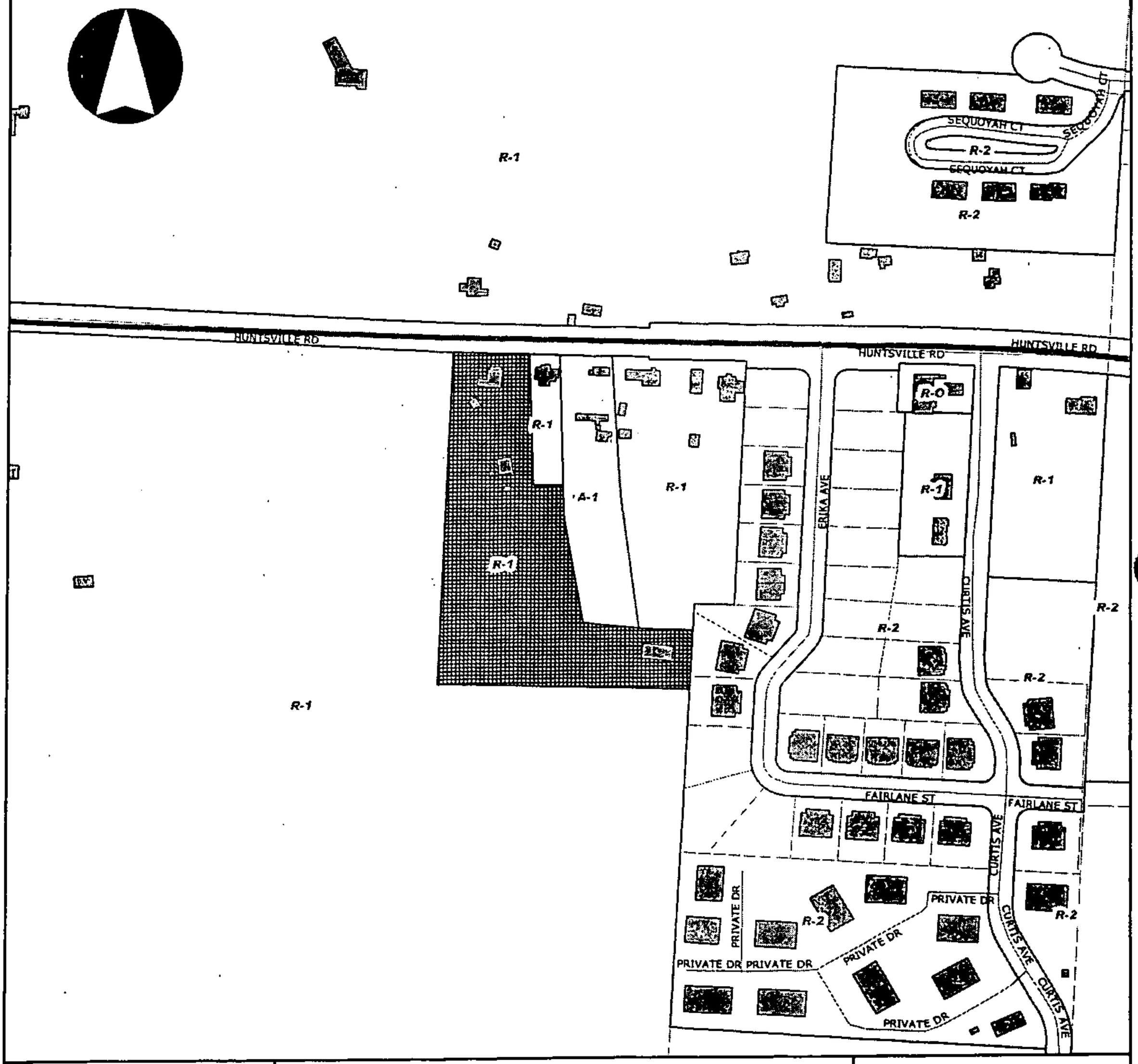
Boundary
Planning Area
Overlay District
City Limits

0 125 250 500 750 1,000 Feet

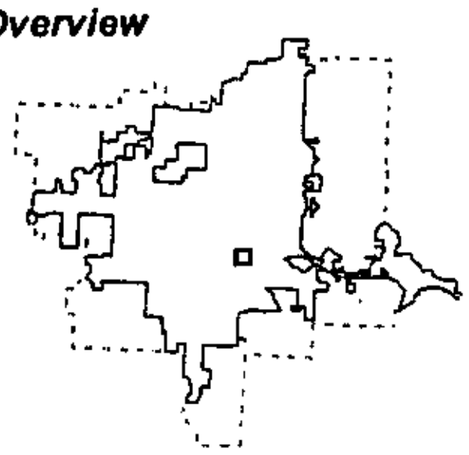
RZN02-25.00

Close Up View

SAGE HOUSE (BRADBERRY)



Overview



Legend

Subject Property
RZN02-25.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 125 250 500 750 1,000
Feet

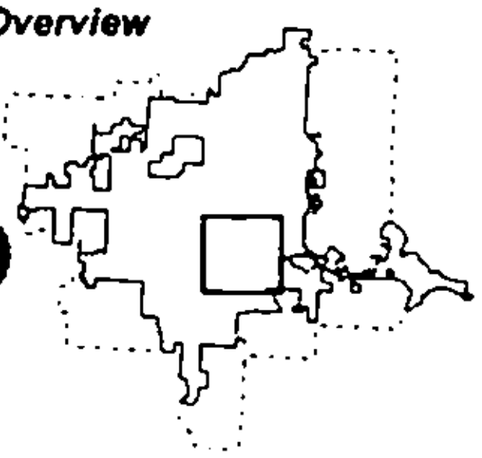
RZN02-25.00

One Mile View

SAGE HOUSE (BRADBERRY)

Subject Property

Overview



Legend

Subject Property
RZN02-25.00

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 0.125 0.25 0.5 0.75 1 Miles

STAFF REVIEW FORM

____ Agenda Request
_X_ Contract Review
____ Grant Review

For the Fayetteville City Council meeting of September 3, 2002.

FROM:

Tim Conklin	Planning	Urban Development
Name	Division	Department

ACTION REQUESTED: To adopt an ordinance establishing setback lines on such streets and highways as are designated on the Master Street Plan and prohibiting the establishment of any new structure or other improvements within the setback lines.

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	ADA Coordinator	Date
City Attorney	8/16/02 Date	Internal Auditor	Date
Purchasing Officer	Date		

GRANTING AGENCY:

STAFF RECOMMENDATION: Staff recommended approval and on August 12, 2002 the Planning Commission voted 8-0-0 to recommend the ordinannce be approved by the City Council.

Division Head	8-16-02 Date
Department Director	8-20-02 Date
Administrative Services Director	8-16-02 Date
Mayor	8/19/02 Date

Cross Reference

New Item: Yes No

Prev Ord/Res#: _____

Orig Contract Date: _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (501) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Shelli Rushing, Associate Planner
THRU: Tim Conklin, City Planner TC
DATE: August 15, 2002

ADM 02-24.00: Administrative Item (Master Street Plan Setback Ordinance) to adopt an ordinance establishing setback lines on such streets and highways as are designated on the Master Street Plan and prohibiting the establishment of any new structure or other improvements within the setback lines.

BACKGROUND

The City of Fayetteville's current Master Street Plan was adopted on December 19, 2000 with Resolution Number 170-00-B. The Master Street Plan is a hierarchy of street types that are classified according to function. Each classification requires a specific right-of-way to accommodate the street. Section 166.06 Large Scale Development section C.6 requires developers to dedicate sufficient right-of-way as required by the Master Street Plan. The City also requests developers to provide a right-of-way *setback* when a right-of-way *dedication* is not required.

State statute allows municipalities to establish setback lines based on the rightof-way required for streets classified on the master street plan. The statute is as follows:

> *§14-45-418. Setback ordinance.*
> *When a master street plan has been adopted and filed as provided, the legislative body of the city, upon recommendation of the commission, may enact ordinances establishing setback lines on such streets and highways as are designated by the plan and may prohibit the establishment of any new structure or other improvements within the setback lines.*

The City of Fayetteville does not currently have an adopted ordinance to establish setback lines for the streets and highways designated on the Master Street Plan. To continue the practice of requiring a right-of-way setback in accordance with state statutes, staff proposes the attached Master Street Plan Setback Ordinance.

CURRENT STATUS

On August 12, 2002, the Planning Commission voted 8-0 to recommend the City Council approve the master street plan setback ordinance.

RECOMMENDATION

Staff and the Planning Commission recommend approval of ADM 02-24.00: Administrative Item (Master Street Plan Setback Ordinance).

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING SETBACK LINES ON SUCH STREETS AND HIGHWAYS AS ARE DESIGNATED BY THE MASTER STREET PLAN AND PROHIBITING THE ESTABLISHMENT OF ANY NEW STRUCTURE OR OTHER IMPROVEMENTS WITHIN THE SETBACK LINES.

WHEREAS, master street planning is required to connect Fayetteville to other population centers and to provide for circulation within the community; and

WHEREAS, new development must be provided with proper street access to alleviate problems associated with congestion and safety by requiring streets in sufficient number and of adequate size to accommodate peak traffic volumes, pedestrians and alternative modes of transportation; and

WHEREAS, the City of Fayetteville adopted a Master Street Plan in 1996 with Resolution No. 97-96; and

WHEREAS, state statute §14-45-418. Setback ordinance provides enabling legislation that gives municipalities the power to establish setback lines according to an adopted master street plan;

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

Section 1. That §166.19 Master Street Plan Setbacks is hereby added to Chapter 166 Land Development as stated below:

> ***§166.19 MASTER STREET PLAN SETBACKS.*** *The City shall require the applicant/developer to establish a right-of-way setback line based on the right-of-way requirements for streets and highways designated by the Master Street Plan. Such setback line shall be considered the property line for such purpose of satisfying the requirements of the UDO. All building setbacks, required landscaping, parking lots, display areas, storage areas and other improvements and uses shall be located outside of such established setback area. The required width of setbacks, landscaped areas, buffers, and all other setback and yard requirements shall be dimensioned from the established right-of-way setback line. The establishment of any new structure or other improvements within the right-of-way setback is prohibited.*

PASSED and APPROVED this _____ day of _____, 2002.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

DRAFT

By: _____
HEATHER WOODRUFF, City Clerk

H:\USERS\COMMON\PLANNING\Reports\City Council 2002\SEPT\ADM MSP Setback Ord.doc

ADM 02-24.00: Administrative Item (Master Street Plan Setback Ordinance) to adopt an ordinance to establish setback lines on such streets and highways as are designated on the Master Street Plan and prohibiting the establishment of any new structure or other improvements within the setback lines.

Hoffman: The ninth item on our agenda tonight is ADM 02-24.00, the Master Street Plan Setback Ordinance, to adopt an ordinance to establish setback lines on such streets and highways as are designated on the Master Street Plan and prohibiting the establishment of any new structure or other improvements within the setback lines. Tim?

Conklin: This is an ordinance amendment to add into our Unified Development Ordiannce the ability for staff to require that all improvements on developments less than an acre that do not go through Large Scale Development process and dedicate the right-of-way, that their parking lots, display areas, and landscaping all be setback based on that Master Street Plan. Therefore, if you have one development over an acre it goes through Large Scale, they have the additional right-of-way, the sidewalk, and the landscaping whereas if you have a development less than an acre you don't get the same amount of right-of-way which doesn't allow for the street to be expanded in the future and you have potentially, for example, a used car lot that may not be meeting the Master Street Plan setbacks. This was brought to my attention by a local developer who asked to have me show him the ordinance where I could require this. I was unable to produce that ordinance and therefore, it is before you this evening. I ask that you make a recommendation for the City Council to approve this. Thank you.

Hoffman: Thanks Tim. There is no public to comment so I will go ahead and bring it to the Commission for motions and discussion. Anybody?

Motion:

Ostner: I move that we approve ADM 02-24.00.

Hoffman: And that is going to be for a recommendation to City Council for approval.

Allen: I second.

Hoffman: I have a second by Commissioner Allen. Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to approve ADM 02-24.00 was approved by a vote of 8-0-0.

Hoffman: Thank you. The motion carries unanimously. Tim, is there any further business before us tonight or announcements?

Conklin: There is no additional business or announcements.

Hoffman: Thank you everybody for staying so late. We will see you next time. We are adjourned.

Meeting adjourned: 9:20 p.m.

STAFF REVIEW FORM

_x Agenda Request
___ Contract Review
___ Grant Review

For Fayetteville City Council meeting of September 3, 2002

FROM:

Hugh Earnest		Urban Development
Name	Division	Department

ACTION REQUIRED: An ordinance authorizing the city of Fayetteville to become a part of a Public Transit Authority to be known as the Ozark Transit Authority, and confirming an interlocal agreement to be signed by the Mayor.

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

8-12-02
Budget Manager

Administrative Services Director

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

Marsha Firestone 8/12/02
Accounting Manager Date

ADA Coordinator Date

8/13/02
City Attorney Date

Nancy Smith 8/13/02
Internal Auditor Date

Purchasing Officer Date

STAFF RECOMMENDATION: Approval of the ordinance and Interlocal agreement

Division Head Date

Hugh Earnest 8-20-02
Department Director Date 8/16/02

Cross Reference

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

Administrative Services Director Date

8/19/02

Prev Ord/Res #:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Date: August 12, 2002

To The Mayor and City Council

From: Hugh Earnest
Urban Development Director

Subject: Regional Transit Authority Ordinance

Background and History

Ozark Regional Transit began serving certain transportation needs of Northwest Arkansas in 1975 under the umbrella of the Community Resources Group headquartered in Springdale. In 2001, CRG announced that they no longer wished to operate the Transit operation serving the region. In order to insure that the service continued, the Mayors of Bentonville, Fayetteville, Springdale and Rogers along with the County Judges of Benton, Carroll, Madison and Washington Counties formed a not-for-profit organization and assumed operation of the service in October of last year. The group decided that this particular operation required professional management and employed First Transit Management Services from Cincinnati, Ohio to manage the system.

The funding for this service has historically come primarily from Federal and State sources with some assistance from local governments.

Ozark Regional Transit's 2002 budget year ends September 30, 2002 and their total expenditures were $1,316,319. Last year, the four cities contributed $145,324 broken down as follows:

Bentonville	$16,731
Springdale	$47,700
Rogers	$42,574
Fayetteville	$38,319

As the Council knows, our initial experience with the new management of ORT has been very positive and it is my opinion that we can expect to see considerable improvements in service levels and quality of service in the future.

Current Situation

Early this year, the not-for-profit group that was established to operate this service decided that the interests of the region would be best served by forming a Regional Transit Authority. Mr. George Butler, who is the Washington County Attorney, prepared an ordinance for review by the respective entities. As of this date, the Quorum Courts in

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

Carroll, Madison and Washington have all adopted the ordinance along with the City of Bentonville.

Recommendation

The ordinance that is being adopted by the respective governments is attached for your review. In its current form, the ordinance simply establishes a Regional Authority. and leaves all funding decisions to the individual local governments. While it is possible that the future will require that additional authority be vested in the regional group, this ordinance and the accompanying Interlocal Agreement does not address those issues. It is our recommendation that the City Council approve the ordinance as submitted. In addition, the Council should confirm the Interlocal Agreement that is also attached. The Interlocal Agreement effectively establishes the operational parameters for the authority.

ORDINANCE NO. ____

AN ORDINANCE AUTHORIZING THE CITY OF FAYETTEVILLE TO BECOME A PART OF A PUBLIC TRANSIT AUTHORITY TO BE KNOWN AS THE OZARK TRANSIT AUTHORITY, AND CONFIRMING AN INTERLOCAL AGREEMENT TO BE SIGNED BY THE MAYOR.

WHEREAS, pursuant to Ark. Code Ann. 14-334-101 et seq., the City of Fayetteville is authorized to become a part of a public transit authority; and,

WHEREAS, to become a part of said authority, the City Council must approve such and any agreement of implementation; and,

WHEREAS, public transit is currently being provided to the citizens of Washington, Benton, Madison and Carroll Counties and the incorporated cities therein by a non-profit corporation whose board consists of the County Judges as aforesaid and the Mayors of Fayetteville, Springdale, Bentonville, and Rogers; and,

WHEREAS, said non-profit corporation was intended to be transitional until an authority could be formed pursuant to Ark. Code Ann. 14-334-101 et seq.; the Public Transit System Act; and,

WHEREAS, it is in the best interests of the citizens of all the aforesaid that the system become publicly owned so as to better manage the federal, state, and local monies that are invested in the system.

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

Section 1. That the City of Fayetteville is hereby authorized to become a part of a public transit authority to be known as the Ozark Transit Authority which shall consist of the above stated entities and any others that desire to join.

Section 2. That neither the City of Fayetteville, nor any other entity, may be financially or otherwise obligated except upon specific approval of the respective governing bodies.

Section 3. That the Interlocal Agreement attached hereto and incorporated herein as if set out word for word is hereby approved and the Mayor is authorized to sign said agreement.

PASSED and APPROVED this _____ day of _____, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

DRAFT

INTERLOCAL AGREEMENT FOR THE CREATION OF A PUBLIC TRANSIT SYSTEM TO BE KNOWN AS THE OZARK TRANSIT AUTHORITY

WHEREAS, pursuant to Ark. Code Ann. 14-334-101 et seq., the City of Fayetteville is authorized to become a part of a public transit authority; and,

WHEREAS, to become a part of said authority, the City Council must approve such and any agreement of implementation; and,

WHEREAS, public transit is currently being provided to the citizens of Washington, Benton, Madison and Carroll Counties and the incorporated cities therein by a non-profit corporation whose board consists of the County Judges as aforesaid and the Mayors of Fayetteville, Springdale, Bentonville, and Rogers; and,

WHEREAS, said non-profit corporation was intended to be transitional until an authority could be formed pursuant to Ark. Code Ann. 14-334-101 et seq.; the Public Transit System Act; and,

WHEREAS, it is in the best interests of the citizens of all the aforesaid that the system become publicly owned so as to better manage the federal, state, and local monies that are invested in the system.

NOW, THEREFORE, IT IS AGREED:

ARTICLE 1. A public transit authority is hereby created to be known as the Ozark Transit Authority.

ARTICLE 2. The authority shall consist of the Counties of Washington, Benton, Madison, and Carroll and the Cities of Fayetteville, Springdale, Bentonville, and Rogers. Any other incorporated city may become a member at its option. Any unincorporated community may become a member upon majority vote of the Board.

ARTICLE 3. The authority shall be governed by a board of directors consisting of the County Judges and Mayors of the aforesaid counties and cities or their representatives.

ARTICLE 4. No entity which is a part of the authority may be financially or otherwise obligated except upon specific approval of its governing body.

ARTICLE 5. Said authority shall have all those powers and authority as set out in Ark. Code Ann. 14-334-101 et seq.

ARTICLE 6. Any member may withdraw from said authority by a majority vote of its governing body upon six (6) months notice pursuant to Ark. Code Ann. 14-14-901, or Ark. Code Ann. 14-43-502.

ARTICLE 7. In the event the authority should dissolve, after payment of its just debts, its assets shall be distributed pursuant to state and federal law; unless and until dissolution occurs, its existence shall be perpetual.

ARTICLE 8. The system shall be financed through grants from the Federal Transit Authority administered through the Arkansas State Highway Department; fares and special subscriptions, and such local monies as appropriated by the entities which are a party hereto; donations; private grants.

Executed this _____ day of _____, 2002.

WASHINGTON COUNTY

Jerry Hunton, County Judge

BENTON COUNTY

Gary Black, County Judge

MADISON COUNTY

Wes Fowler, County Judge

CARROLL COUNTY

Ed Robertson, County Judge

CITY OF FAYETTEVILLE

Dan Coody, Mayor

CITY OF SPRINGDALE

Jerre Van Hoose, Mayor

CITY OF BENTONVILLE

Terry Coberly, Mayor

CITY OF ROGERS

Steve Womack, Mayor

DRAFT

Public Transit
C. 6. Page 8

STAFF REVIEW FORM

___ Contract Review
___ Grant Review

For the Fayetteville City Council meeting of September 3, 2002

FROM:

Hugh Earnest		**Urban Development**
Name	Division	Department

ACTION REQUIRED: An ordinance authorizing the city of Fayetteville to become a part of a Public Transit Authority to be known as the Ozark Transit Authority, and confirming an interlocal agreement to be signed by the Mayor.

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	ADA Coordinator	Date
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Approval of the ordinance and Interlocal agreement

Division Head	Date	Cross Reference
Department Director	Date	New Item: **Yes** **No**
Administrative Services Director Date		Prev Ord/Res #:

STAFF REVIEW FORM

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of September 3, 2002

FROM:

Stephen Davis	Budget & Research	Admin Services
Name	Division	Department

ACTION REQUIRED: City Council consideration of a change in budget adjustment policy.

COST TO CITY:

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

BUDGET REVIEW: ____ Budgeted Item ____ Budget Adjustment Attached

8/12/02
Budget Manager

Administrative Services Director

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

Accounting Manager	8/12/02 Date	Internal Auditor	8/12/02 Date
City Attorney	8/12/02 Date	ADA Coordinator	Date
Purchasing Officer	8-12-02 Date	Grant Coordinator	Date

STAFF RECOMMENDATION: Staff recommends City Council consider revision of the budget adjustment policy as a method to better empower staff to accomplish City-wide priorities.

Division Head	8/12/02 Date	Cross Reference
Department Director	8-20-02 Date	New Item: **Yes** **No**
Administrative Services Director	8-12a Date	Prev Ord/Res #:_____
Consent	8/13/02 Date	Orig Contract Date:_____
		Orig Contract Number:_____

H:\BUDGET\Division Memos & Letters\Budget & Research\budget adjustment policy amendment agenda request.wpd

New

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THROUGH: Ted H. Webber, Administrative Services Director

FROM: Stephen Davis, Budget Manager

REFERENCE: Budget Adjustment Policy Revision

DATE: August 12, 2002

Statement of Problem

Community Development Division needs to move more than $20,000 from one program to another program for a different purpose than originally appropriated.

Discussion

Community Development Division has submitted a change in program to Housing & Urban Development (HUD) that moves federal funding from the Project for Victims of Family Violence to housing rehabilitation activities. HUD has approved the change in spending purpose. During 2002, HUD regulations changed to require grantee organizations such as the City of Fayetteville to have no more than 1.5 times the annual grant amount remaining on the HUD letter of credit. HUD has informed the City that while we are currently in compliance with the spending regulations, we (the City) need to continue drawing money down so that on the next test date (November 4) our letter of credit remaining balance is below the threshold of 1.5 times the annual grant amount. If the City is above the threshold we could face future penalties in the form of reduced federal funding for HUD funded activities. HUD notified the City of the new requirements in May, 2002.

The City's Administrative Procedure to Amend the Budget has five levels of authority stipulated: Authority Level A – the Budget Manager is authorized to add up to $2,500 to any program or project, Authority Level B – the Administrative Services Director is authorized to add up to $15,000 to any program or project, Authority Level C – the Mayor is authorized to add up to $20,000 to any program or project, Authority Level D – City Council is authorized to amend the budget, Authority Level E – the authority level is administrative and the adjustment must meet one of several tests. Authority Level E tests are described below.

The City's approved Administrative Procedure to Amend the Budget Authority Level E authorizes Staff to add more than $20,000 to a program when: 1) the additional expense is directly linked to revenues that increase, 2) the funding that is moved is for the same purpose as originally authorized by City Council or 3) the additional expense budget is part of a routine pay/fringe benefit adjustment for which City Council had previously authorized a salary contingency. All other budget adjustments

that accumulate to $20,000 or more per program must be approved by City Council. The original budget authorization and subsequent budget amendments are financial records of the City and as such are routinely audited by the City's independent auditor. The auditor looks for compliance with the City Council approved budget adjustment policy and compliance with state budgetary laws.

To further illustrate the application of the "E" level budget adjustments described above three examples are provided:

Example 1: Soccer Fee revenue above the budgeted amount is received and additional soccer participant registration expenses are incurred.

Example 2: During 2002, City Administration reorganized the Building Safety Division and created a new division called Community Code Enforcement. Three employees were transferred from Building Safety Division to the new division. The budget was amended to reflect the new division. In excess of $119,000 was moved from Building Safety to Community Code Enforcement. This change in appropriation was viewed as Administrative because the new division preformed the same services as originally appropriated and there was no impact to fund balance.

Example 3: During 2002, the Fire Department responded to the NIOSH report and implemented several changes. One of the results of the changes made was an increase in the total expenditure for Overtime. Money was moved from other accounts within the Fire Operations Program to fund the increased overtime. The increased overtime cost is in excess of $177,000.

Requested Action

City Council amend the Administrative Procedure to Amend the Budget to empower the Department Directors and Staff to better respond to changing issues in a more timely manner. The proposed amendment would be in the "E" category and is as follows:

> In addition to the above, the Mayor is authorized to approve budget amendments that reallocate existing funding within a department and within a fund where the additional or changed appropriation is necessary to either comply with a change in use of the funding or in response to an unforeseen event. This change in authorization does not authorize the moving of appropriated funding between departments or funds without City Council approval or a previously authorized budget amendment in compliance with authority levels A through C.

CITY OF FAYETTEVILLE, ARKANSAS
ADMINISTRATIVE PROCEDURES
TO ADJUST THE APPROVED BUDGET

Amended Policy

PURPOSE:

The procedures outlined in this section define, standardize, and set forth responsibilities for budget adjustments.

DEFINITION AND EXPLANATION:

A budget adjustment is a change in the authorized budget, either revenue or expense. A budget adjustment increases one expenditure item or capital project by a specific dollar amount and decreases the budget for one expenditure item or capital project. An expenditure item or capital project can also be offset by a revenue increase or use of fund balance. Since a budget adjustment is a change in allocated funds, great care must be taken and only changes for good reason will be accepted.

All Department Directors and Division Heads are mandated to stay within each operational program budget as adopted and to stay within the total budget for each capital project. **Neither the Accounting or Purchasing Offices will process payments or purchase orders, which will cause a program or capital project to be over the annual budget amount.**

Each operational division is grouped into programs (i.e. Engineering - Administration, Engineering - Plans & Specifications, Engineering - Right-of-Way, etc.). Budget adjustments will be required in the following instances:

1) When the budgeted amount per operational program is exceeded (an offsetting adjustment must be made from another operational program or fund balance).

2) When the budgeted amount for a capital project is exceeded (an offsetting adjustment must be made from another capital project, another program, or fund balance).

Any changes in the personnel services category must meet the City's policy for raises, promotions, and staff increases.

TYPES OF BUDGET ADJUSTMENTS

There are basically five (5) types of budget adjustments. These are:

A. Adjustments between operational programs, between capital projects, or to an operational program, up to $2,500, may be approved by the responsible Department Director and the Budget Manager;

B. Adjustments between operational programs, between capital projects, or to an operational program, for $2,501 to $15,000, may be approved by the Administrative Services Director;

C. Adjustments between operational programs, between capital projects, or to an operational program, up to $20,000, may be approved by the Mayor;

D. Adjustments which exceed the Mayor's authority, may be approved by City Council or the appropriate governing body of the funding source; Example: The Advertising & Promotion Commission approves all expenditure activity within the Advertising & Promotion Fund.

E. Administrative budget adjustments may be approved by the Mayor. Administrative budget adjustments generally do not have any impact on fund balance. Administrative budget adjustments are generally required because of additional revenue received in one fund. In addition to the above, the Mayor is authorized to approve budget amendments that reallocate existing funding within a department and within a fund where the additional or changed appropriation is necessary to either comply with a change in use of the funding or in response to an unforeseen event. This change in authorization does not authorize the moving of appropriated funding between departments or funds without City Council approval or a previously authorized budget amendment in compliance with authority levels A through C.

Example: HMR taxes received by the Advertising and Promotion (A&P) Fund are required, by debt instrument, to be transferred to the Continuing Education Center (CEC) Fund. HMR tax revenue in excess of budget will create an over budget for the transfer category in the A&P Fund.

Adjustments to a capital project or operational program are considered to be cumulative on an annual basis. Therefore, a single adjustment may meet the criteria for one type of adjustment, but fall into another type due to prior adjustments to the same operational program or capital project. The Budget Manager shall have the authority to make the final determination as to which type of adjustment is necessary.

Significant adjustments to an operational program's total budget must be justified by modifying program objectives and performance measures. These items must be submitted with the budget adjustment and approved simultaneously.

RESPONSIBILITIES AND PROCEDURES

It is the responsibility of each Department Director or Division Head to prepare his/her adjustment whenever required, obtain all the required signatures, and return the form to the Budget Manager.

Following review by the Budget Manager, the adjustment is either processed through the Budget & Research Office or returned to the Division Head requesting the adjustment for placement on a City Council agenda. It is the responsibility of the Mayor to present the adjustments to the City Council and advise them of any consequences.

CITY OF FAYETTEVILLE, ARKANSAS
ADMINISTRATIVE PROCEDURES
TO ADJUST THE APPROVED BUDGET

Current Policy

PURPOSE:

The procedures outlined in this section define, standardize, and set forth responsibilities for budget adjustments.

DEFINITION AND EXPLANATION:

A budget adjustment is a change in the authorized budget, either revenue or expense. A budget adjustment increases one expenditure item or capital project by a specific dollar amount and decreases the budget for one expenditure item or capital project. An expenditure item or capital project can also be offset by a revenue increase or use of fund balance. Since a budget adjustment is a change in allocated funds, great care must be taken and only changes for good reason will be accepted.

All Department Directors and Division Heads are mandated to stay within each operational program budget as adopted and to stay within the total budget for each capital project. **Neither the Accounting or Purchasing Offices will process payments or purchase orders, which will cause a program or capital project to be over the annual budget amount.**

Each operational division is grouped into programs (i.e. Engineering - Administration, Engineering - Plans & Specifications, Engineering - Right-of-Way, etc.). Budget adjustments will be required in the following instances:

1) When the budgeted amount per operational program is exceeded (an offsetting adjustment must be made from another operational program or fund balance).

2) When the budgeted amount for a capital project is exceeded (an offsetting adjustment must be made from another capital project, another program, or fund balance).

Any changes in the personnel services category must meet the City's policy for raises, promotions, and staff increases.

TYPES OF BUDGET ADJUSTMENTS

There are basically five (5) types of budget adjustments. These are:

A. Adjustments between operational programs, between capital projects, or to an operational program, up to $2,500, may be approved by the responsible Department Director and the Budget Manager;

B. Adjustments between operational programs, between capital projects, or to an operational program, for $2,501 to $15,000, may be approved by the Administrative Services Director;

C. Adjustments between operational programs, between capital projects, or to an operational program, up to $20,000, may be approved by the Mayor;

D. Adjustments which exceed the Mayor's authority, may be approved by City Council or the appropriate governing body of the funding source; Example: The Advertising & Promotion Commission approves all expenditure activity within the Advertising & Promotion Fund.

E. Administrative budget adjustments may be approved by the Mayor. Administrative budget adjustments generally do not have any impact on fund balance. Administrative budget adjustments are generally required because of additional revenue received in one fund. Example: HMR taxes received by the Advertising and Promotion (A&P) Fund are required, by debt instrument, to be transferred to the Continuing Education Center (CEC) Fund. HMR tax revenue in excess of budget will create an over budget for the transfer category in the A&P Fund.

Adjustments to a capital project or operational program are considered to be cumulative on an annual basis. Therefore, a single adjustment may meet the criteria for one type of adjustment, but fall into another type due to prior adjustments to the same operational program or capital project. The Budget Manager shall have the authority to make the final determination as to which type of adjustment is necessary.

Significant adjustments to an operational program's total budget must be justified by modifying program objectives and performance measures. These items must be submitted with the budget adjustment and approved simultaneously.

RESPONSIBILITIES AND PROCEDURES

It is the responsibility of each Department Director or Division Head to prepare his/her adjustment whenever required, obtain all the required signatures, and return the form to the Budget Manager.

Following review by the Budget Manager, the adjustment is either processed through the Budget & Research Office or returned to the Division Head requesting the adjustment for placement on a City Council agenda. It is the responsibility of the Mayor to present the adjustments to the City Council and advise them of any consequences.

STAFF REVIEW FORM

Informational Agenda Session Only

__X__ Agenda Request
___ Contract Review
___ Grant Review
For the Fayetteville City Council meeting of September 3, 2002

FROM:

Jill Hatfield	Animal Services	General Services
Name	Division	Department

ACTION REQUIRED: Approval of Low Cost Spay and Neuter clinic for low income individuals in the city and at cost offered to out of city residents.

COST TO CITY:

$ 0.00	$ 0.00	
Cost of this Request	Category/Project Budget	Category/Project Name
	$ 0.00	
Account Number	Funds Used to Date	Program Name
	$ 0.00	
Project Number	Remaining Balance	Fund

BUDGET REVIEW: ___Budgeted Item ___Budget Adjustment Attached

	8/19/02		
Budget Manager		Administrative Services Director	

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

Marsha Tarkington	8/20/02		
Accounting Manager	Date	ADA Coordinator	Date
[signature]	8/21/02	Nancy Smith	8/20/02
City Attorney	Date	Internal Auditor	Date
[signature]	8/22/02		
Purchasing Officer	Date		

STAFF RECOMMENDATION: Approval of the Resolution and Budget Adjustment

[signature]	8/16/02	
Division Head	Date	Cross Reference
[signature]	8/19/02	
Department Director	Date	New Item: **Yes** **No**
[signature]	8/22/02	
Administrative Services Director	Date	Prev Ord/Res #:_____
[signature]	8/22/02	
Mayor	Date	Orig Contract Date:_____

Memo

To: Gary Dumas, General Services Administrator

From: Jill Hatfield, Animal Services Superintendent

RE: Low Income/Low Cost Spay/Neuter Clinic Proposal

Date: August 19, 2002

In hiring a Veterinarian position, one of the primary responsibilities was to operate a low cost / low income, spay and neuter program. Not only will the position spay and neuter the animals adopted from the shelter, which is a state law, but also conduct spays and neuters for the low income public as in years past.

The following proposal is based on figures associated with clinic spays and neuters and the federal guidelines for low income individuals. Animal Services will have an application process that potential clients will need to complete. A previous year's income tax statement and photo identification, such as a driver's license is needed for the process to be completed.

Animal Services would also like to provide the clinic for citizens outside the city limits at full cost, adding in the benefits of the Veterinarian and Veterinarian Assistant.

Thank you for your consideration.

The City of Fayetteville Animal Services Clinic

1640 Armstrong Av.
Fayetteville, AR. 72701
479-444-3456

Guidelines for
The City of Fayetteville Animal Services
Low Income/Low Cost
Spay/Neuter Program

The City of Fayetteville proposes a Low Income/Low Cost spay/neuter program in hopes of helping to eliminate the overpopulation of animals in our area. Every year, between 8 and 10 million dogs and cats enter U. S. shelters; some 4 to 5 million of these animals are euthanized because there are not enough homes for them. Clearly, pet overpopulation is not just a problem for the animals or shelters involved. It is a problem here in Northwest Arkansas. That is why the City of Fayetteville is hoping to do its part to prevent uncontrolled breeding by offering low cost spay and neuters for low income families who otherwise might not be able to afford the surgery for the animals they love. The individuals must meet Federal Criteria.

Qualifying incomes are per household:

1 person	2 people	3 people	4 people	more than 4 people
$19,860	$22,680	$25,560	$28,380	$30,660

City of Fayetteville citizens should contact the Animal Shelter if they are interested in participating in this program. You will be asked to fill out an application and show proof of your income, (the previous year's income tax report will be requested) you will also have to show photo identification (such as your driver's license). You must have these with you when filling out the application. Applications will be taken Monday through Friday from 10:00am to 5:00pm. If you have any questions please call the City of Fayetteville Animal Services at 479-444-3456.

Prices will be: Cat Neuter $15
Cat Spay $ 35

Dog Neuter $35
Dog Spay – if less than 45lbs $35
If more than 45lbs $45

An additional $10 fee may be added for female animals in season or pregnant, also if the dog weighs over 75lbs. Since State law requires that all animals be vaccinated for rabies every 12 months, if you do not have proof of current vaccinations by a licensed veterinarian there will be an additional cost of $7. You must bring proof with you when filling out the application. Since the surgery will be performed by the Shelter Veterinarian, after the application has been processed, it will be turned over to the Shelter Clinic. They will call you to set up an appointment for your animal's surgery.

Guidelines for
Residents living outside City limits

Since the City of Fayetteville understands that pet overpopulation is a problem for all of Northwest Arkansas we also propose a Low Income/Low Cost spay/neuter program for residents outside the City limits of Fayetteville.

If anyone living outside the city limits of Fayetteville is interested in participating in this program you will need to contact the Fayetteville Animal Shelter. There will be an application process and you must show proof of your income (last year's income tax report) you must show photo identification (driver's license). You must have these with you when filling out the application. Applications will be taken Monday through Friday from 10:00am to 5:00pm. If you have any questions please call the City of Fayetteville Animal Services at 479-444-3456.

Qualifying incomes are per household:

1 person	2 people	3 people	4 people	more than 4 people
$19,860	$22,680	$25,560	$28,380	$30,660

An additional $10 fee may be added for female animals in season or pregnant, also if the dog weighs more than 75lbs. Since State law requires that all animals be vaccinated against rabies every 12 months, if you do not have proof of current vaccinations by a licensed veterinarian there will be an additional cost of $7. You must bring proof with you when filling out the application. Since the surgery will be performed by the Shelter Veterinarian after the application has been processed it will be turned over to the Shelter Clinic, they will call you to set up an appointment to get your animal in for surgery.

Prices will be: Cat Neuter $25
Cat Spay $40
Dog Neuter $45
Dog Spay – if less than 45lbs $45
If more than 45lbs $55

Fayetteville Animal Services

Memo

To: Gary Dumas, General Services Administrator

From: Bonnie McLaughlin DVM, Animal Services Veterinarian

CC: Jill Hatfield, Animal Services Superintendent, Animal Concerns Committee Members

Date: 8/19/02

Re: Costs associated with Spay Neuter Procedures

Costs for an average spay or neuter are as follows:

Canine Neuter, 60 #	$32.17
Canine Spay, 60 #	$36.86
Feline Neuter, 7 #	$17.42
Feline Spay, 7 #	$33.10

These figures are based on expected drug usage, at today's costs. Post operative pain management is factored in, as well as post operative antibiotic. Suture costs are at a premium rate and I believe we can do better if we shop. The variance in cost of syringe/needles despite same numerical count reflects my personal preferences in type etc. Disposables refer to scrub, alcohol, sponges and the like. All categories were charged $7.00 for temporary housing, cleaning, laundry and monitoring. As we will not be feeding these animals, that figure is probably high. Surgery time is based on 5 minutes per cat neuter, 15 minutes per dog neuter and 20 minutes per spay. Many dogs may run over and many cats under. Check in and out time reflects assistant time and my own, for writing orders or pulling meds as well as a quick double check of cardiac function. Surgeon and assistant fees reflect direct wage only, no benefits factored in.

These figures do not take in to account any unforeseen surgical reactions or problems, and of course, there is always a chance of the unexpected.

Additional fees should accrue to the owners if animal is in estrus, pregnant or obese if that condition causes surgery to run longer or require additional materials.

COST ITEM	DOGS;		CATS;	
	Neuters	Spays	Neuters	Spays
Atropine	.06	.06	.02	.02
AcePromazine	.06	.06	.02	.04
Telazol	l.16		.29	
Ketaset /Xylazine		1.95		
Ketaset			.15	.25
Dura-Penn	.20	.20	.05	.05
Ketoprofen inj.	.71	.71	.08	.08
Dex SP	1.21	1.21	.30	.30
Syringes/Needles	.82	.82	1.00	1.00
Sutures	5.13	5.33		5.04
Disposables	.60	.75	.40	.55
Housing/monitoring	7.00	7.00	7.00	7.00
Surgical assistant	3.03	4.04	1.01	4.04
Surgeon	7.63	10.17	2.54	10.17
Check in & out	4.56	4.56	4.56	4.56
Totals	32.17	36.86	17.42	33.10

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: **September 4, 2002**

RE: **Passed Ordinances and Resolutions from City Council meeting of September 3, 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. **Bid 02-44:** Resolution awarding bid to Missco Corporation for furniture for TCA Building in amount of $51,858.52 plus tax and 5% contingency;

2. **Community Development:** Resolution approving budget adjustment in amount of $250,000.00 and budget adjustment policy for Community Development section;

3. **PCS Properties:** Resolution approving agreement with Southwest PCS Properties for lease of tower space on Sang water tank; proposed lease amount is $1,500/month with initial term of five years;

Res

4. **Bid 02-48:** Resolution awarding bid and approving contract w/Arkansas Valley Irrigation and Landscaping in the amount of $55,000, plus 10% project contingency of $5,500 for total cost of $60,500;

5. **Bid 02-49:** Resolution awarding bid and approval of contract w/Revelle Irrigation Systems in amount of $22,700, plus project contingency of $3,400 for total cost of $26,100;

6. **Hay Group:** Resolution amending 2002 Budget authorizing employment of Hay Group for work associated w/personnel issues and for other purposes;

7. **Skate Park:** Resolution approving agreement w/Tony Hawk Foundation; Foundation will provide $5,000 grant to Fayetteville Skate Park upon receiving signed agreement;

8. **Hwy. 180:** Resolution affirming that City of Fayetteville shall assume responsibility for entire section of Highway 180 upon completion of improvements from Township to Futrall;

9. **RZN 02-15.00:** Ordinance approving rezoning request as submitted by Dave Jorgensen on behalf of Larry Garriott for property located north of Persimmon Street and west of 46th Street; property is zoned A-1 and contains approximately 57.82 acres; request is to rezone to R-1, Low Density Residential and to accept attached Bill of Assurance;

10. **Off Street Parking:** Ordinance amending Section 172.01, Off-Street Parking Lot Design Requirement, of UDO to provide method for reducing off-street parking requirements for properties that share common parking facility and to revise parking ratios for certain uses;

11. **RZN 02-21.00:** Ordinance approving rezoning request as submitted by Dixie Development for property located at 10 Bishop Drive and 35 Appleby Road; property is zoned A-1 and contains approximately 17.39 acres; request is to rezone to R-O; and accept a Bill of Assurance;

12. **RZN 02-22.00:** Ordinance approving rezoning request as submitted by Tom Shackelford for property located at 2975 Old Farmington Road; property is zoned A-1 and contains approximately 1.32 acres and request is to rezone to R-1;

140-02 13. **LOPFI:** Resolution moving City of Fayetteville Police LOPFI retirement benefits from Plan 1 to Plan 2 as of October 1, 2002.

NORTHWEST ARKANSAS EDITION

Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Diane Williams, do solemnly swear that I am Legal Clerk of the Arkansas Democrat-Gazette newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, the advertisement of:

Final Agenda
September 2, 2002

was inserted in the regular editions on

** Publication Charge: $ 202.35

Subscribed and sworn to before me this

3 day of September, 2002.

Tammy Allen
Notary Public

My Commission Expires:

Official Seal
TAMMY ALLEN
Notary Public-Arkansas
WASHINGTON COUNTY
My Commission Expires 11-05-2011

** Please do not pay from affidavit.
An invoice will be sent.

FINAL AGENDA - CITY COUNCIL
SEPTEMBER 3, 2002

A meeting of the Fayetteville City Council will be held on September 3, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

City of Fayetteville

A. CONSENT

1. APPROVAL OF THE MINUTES
2. BID 02-44: A resolution awarding Bid 02-44 to Miasco Corporation for furniture for the TCA Building in the amount of $51,858.52 plus tax and a 5% contingency.
3. COMMUNITY DEVELOPMENT: A resolution approving a budget adjustment in the amount of $250,000.00 and a budget adjustment policy for the Community Development section.
4. PCS PROPERTIES: A resolution approving an agreement with Southwest PCS Properties for the lease of tower space on the Sang water tank. The proposed lease amount is $1,500 per month with an initial term of five years.
5. BID 02-48: A resolution awarding Bid 02-48 and approving a contract with Arkansas Valley Irrigation and Landscaping in the amount of $55,000, plus a 10% project contingency of $5,500 for a total cost of $60,500.
6. BID 02-49: A resolution awarding Bid 02-49 and approval of a contract with Reveille Irrigation Systems in the amount of $22,700, plus a project contingency of $3,400 for a total cost of $26,100.
7. HAY GROUP: A resolution amending the 2002 Budget authorizing the employment of the Hay Group for work associated with personnel issues and for other purposes.
8. SKATE PARK: A resolution approving an agreement with Tony Hawk Foundation. The Foundation will provide a $5,000 grant to the Fayetteville Skate Park upon receiving the signed agreement.
9. HWY 180: A resolution affirming that the City of Fayetteville shall assume responsibility for the entire section of Highway 180 upon completion of the improvements from Township to Futrall.

B. OLD BUSINESS

1. RZN 02-15.00: An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen on behalf of Larry Garriott for property located north of Persimmon Street and west of 46th Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was tabled on the second reading at the August and August 20, 2002 meetings.
2. OFF STREET PARKING: An ordinance amending Section 172.01, Off-Street Parking Lot Design Requirement, of the UDO to provide a method for reducing off-street parking requirements for properties that share a common parking facility and to revise parking ratios for certain uses. Ordinance was left on the first reading at the August 20, 2002 meeting.
3. OUTDOOR LIGHTING: An ordinance that minimizes the impact of outdoor lighting on adjacent properties and improves nighttime visibility. Ordinance was left on the first reading at the August 20, 2002 meeting.
4. RZN 02-21.00: An ordinance approving rezoning request RZN 02-21.00 as submitted by Dixie Development for property located at 10 Bishop Drive and 35 Appleby Road. The property is zoned A-1, Agricultural and contains approximately 17.39 acres. The request is to rezone to R-O Residential Office. The ordinance was left on the second reading at the August 20, 2002 meeting.
5. RZN 02-22.00: An ordinance approving RZN 02-22.00 as submitted by Tom Shackelford for property located at 2975 Old Farmington Road. The property is zoned A-1, Agricultural and contains approximately 1.32 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the August 20, 2002 meeting.
6. AUTOMATED CARTS: An ordinance establishing the rate structure and program parameters for an automated cart based on residential trash collection and disposal program. The ordinance was left on the first reading at the August 20, 2002 meeting.
7. LOPFI 2: A resolution moving the City of Fayetteville Police LOPFI retirement benefits from Plan 1 to Plan 2 as of October 1, 2002. The resolution was tabled at the August 20, 2002 meeting.

C. NEW BUSINESS

1. RZN 02-8.00: An ordinance approving rezoning request RZN 02-8.00 as submitted by Bob Hill of Nickle Hill Group on behalf of J.C. and Alma Nickell for property located at 867 N. College. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-1, Neighborhood Commercial.
2. RZN 02-23.00: An ordinance approving rezoning request RZN 02-23.00 as submitted by Jerry Ketson of Crafton Tull and Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential.
3. RZN 02-24.00: An ordinance approving rezoning request RZN 02-24.00 as submitted by Phil Hagen of Crafton Tull and Associates on behalf of Don Nelms for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.
4. RZN 02-25.00: An ordinance approving rezoning request RZN 02-25.00 as submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential.

PUBLIC TRANSIT AUTHORITY: An ordinance authorizing the City of Fayetteville to become a part of a Public Transit Authority to be known as the Ozark Transit Authority and confirming an interlocal agreement to be signed by the Mayor.

NORTHWEST ARKANSAS TIMES

Monday, September 2, 2002

FINAL AGENDA - CITY COUNCIL
SEPTEMBER 3, 2002

A meeting of the Fayetteville City Council will be held on September 3, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

City of Fayetteville

A. CONSENT

1. APPROVAL OF THE MINUTES
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4. PCS PROPERTIES: A resolution approving an agreement with Southwest PCS Properties for the lease of tower space on the Sang water tank. The proposed lease amount is $1,500 per month with an initial term of five years.
5. BID 02-48: A resolution awarding Bid 02-48 and approving a contract with Arkansas Valley Irrigation and Landscaping in the amount of $55,000, plus a 10% project contingency of $5,500 for a total cost of $60,500.
6. BID 02-49: A resolution awarding Bid 02-49 and approval of a contract with Revelé Irrigation Systems in the amount of $22,700, plus a project contingency of $3,400 for a total cost of $26,100.
7. HAY GROUP: A resolution amending the 2002 Budget authorizing the employment of the Hay Group for work associated with personnel issues and for other purposes.
8. SKATE PARK: A resolution approving an agreement with Tony Hawk Foundation. The Foundation will provide a $5,000 grant to the Fayetteville Skate Park upon receiving the signed agreement.
9. HWY 180 A resolution affirming that the City of Fayetteville shall assume responsibility for the entire section of Highway 180 upon completion of the improvements from Township to Futrall.

B. OLD BUSINESS

1. RZN 02-15.00: An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen on behalf of Larry Garriott for property located north of Persimmon Street and west of 48th Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was tabled on the second reading at the August and August 20, 2002 meetings.
2. OFF STREET PARKING: An ordinance amending Section 172.01, Off-Street Parking Lot Design Requirement, of the UDO to provide a method for reducing off-street parking requirements for properties that share a common parking facility and to revise parking ratios for certain uses. Ordinance was left on the first reading at the August 20, 2002 meeting.
3. OUTDOOR LIGHTING: An ordinance that minimizes the impact of outdoor lighting on adjacent properties and improves nighttime visibility. Ordinance was left on the first reading at the August 20, 2002 meeting.
4. RZN 02-21.00: An ordinance approving rezoning request RZN 02-21.00 as submitted by Dixie Development for property located at 10 Bishop Drive and 35 Appleby Road. The property is zoned A-1, Agricultural and contains approximately 17.39 acres. The request is to rezone to R-O Residential Office. The ordinance was left on the second reading at the August 20, 2002 meeting.
5. RZN 02-22.00: An ordinance approving RZN 02-22.00 as submitted by Tom Shackelford for property located at 2975 Old Farmington Road. The property is zoned A-1, Agricultural and contains approximately 1.32 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the August 20, 2002 meeting.
6. AUTOMATED CARTS: An ordinance establishing the rate structure and program parameters for an automated cart based on residential trash collection and disposal program. The ordinance was left on the first reading at the August 20, 2002 meeting.
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C. NEW BUSINESS

1. RZN 02-8.00: An ordinance approving rezoning request RZN 02-8.00 as submitted by Bob Hill of Nicide Hill Group on behalf of J.C. and Alma Nickell for property located at 867 N. College. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-1, Neighborhood Commercial.
2. RZN 02-23.00: An ordinance approving rezoning request RZN 02-23.00 as submitted by Jerry Kerson of Crafton Tull and Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-16, Medium Density Multi-Family Residential.
3. RZN 02-24.00. An ordinance approving rezoning request RZN 02-24.00 as submitted by Phil Hagen of Crafton Tull and Associates on behalf of Don Nelms for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.
4. RZN 02-25.00: An ordinance approving rezoning request RZN 02-25.00 as submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential.

PUBLIC TRANSIT AUTHORITY: An ordinance authorizing the City of Fayetteville to become a part of a Public Transit Authority to be known as the Ozark Transit Authority and confirming an interlocal agreement to be signed by the Mayor.