

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
May 3, 2005**

A meeting of the Fayetteville City Council will be held on May 3, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A. CONSENT:

1. **Approval of the Minutes:** Approval of the April 5, 2005 and the April 19, 2005 City Council meeting minutes. **APPROVED.**
2. **ADM 05-1481 (Sellers Road):** A resolution approving ADM 05-1481 amending the Master Street Plan, relocating the proposed Sellers Road, designated a minor arterial street, south to align with Woolsey Farm Road between 54th and Ruppel Road.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 85-05.

3. **ADM 05-1482 (Broyles Avenue):** A resolution approving ADM 05-1482 amending the Master Street Plan, realigning the proposed Broyles Road, designated a collector street, in the manner approved by the Planning Commission for Large Scale Development (LSD) 05-1385.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 86-05.

4. **DBE Program Participation Goals FY2005 Approval:** A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2005.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 87-05.

5. **Exterior Restoration of the Walker House:** A resolution approving the use of Building Improvement Funds for the exterior restoration of the Walker House in an amount not to exceed \$33,738.00; and authorizing City Staff to solicit bids for the project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 88-05.

6. **Drug Law Enforcement Grant:** A resolution to approve a grant application for the 2005/2006 Drug Enforcement Grant and to approve a budget adjustment of \$51,709.00 to offset a reduction in the grant.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 89-05.

7. **Van Scoyoc Associates Consulting Services:** A resolution approving a Memorandum of Agreement with Van Scoyoc Associates in the amount of \$85,000.00 to provide consulting legislative services in the amount of \$75,000.00, plus expenses up to \$10,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 90-05.

B. UNFINISHED BUSINESS:

1. **Amend Chapter 96: Noise Control:** An ordinance to add § 96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake." *This ordinance was left on the first reading at the April 5, 2005 City Council Meeting. This ordinance was tabled at the April 19, 2005 City Council Meeting to the May 3, 2005 City Council Meeting.*

THIS ITEM WAS TABLED INDEFINITELY.

2. **RZN 05-1412 (Mountain Ranch/Terminella):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1412 for property located south of future Persimmon Street containing approximately 21.05 acres from R-A, Residential Agricultural, to RSF-4, Residential Single Family, Four Units Per Acre. *This ordinance was left on the second reading at the April 19, 2005 City Council Meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4696.

3. **RZN 05-1409 (SCB Investments, LLC):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1409 for property located at 1841 Leverett Avenue containing approximately 1.43 acres from RSF-4, Residential Single Family, Four Units Per Acre, to RMF-24, Residential Multi-Family – 24 Units Per Acre. *This Item Failed at the April 19, 2005 Meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4697.

C. NEW BUSINESS:

1. **Amend § 96.05 Motor Vehicle and Motorcycle Sound Limit:** An ordinance to amend § 96.05 Motor Vehicle and Motorcycle Sound Limit of the Code of Fayetteville.

THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE.

2. **Madison Avenue Street Connection:** A resolution approving the dedication of a 40-foot wide portion of City property as right-of-way to allow a street connection to Madison Avenue by the developer of the Hays Estates Subdivision.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 91-05.

3. **Planning Commission Appeal:** A request to appeal the Planning Commission's motion to deny a waiver for the construction of a dead-end street greater than 500' length should the City Council deny the request for dedication of a City property to the north of the subject property for a 40-foot wide right-of-way and construction of a City Street.

THIS ITEM WAS WITHDRAWN BY THE PETITIONER.

4. **RZN 05-1480 (Bill Eddy Motorsports):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1480 for property located at 1205 North Futrall Drive containing approximately 2.00 acres from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4698.

5. **Environmental Enterprise Group, Inc. Contract:** An ordinance to waive normal competitive bidding and to award a contract in the amount of \$30,855.00 to Environmental Enterprise Group, Inc. for remediation, Demolition Project Management, and Air Monitoring.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4699.

6. **Mountain Inn Demolition Contract:** A resolution to approve a contract with Jimmy Patton Contractor Company in the amount of \$688,137.95 for the demolition of the Mountain Inn Building, Courts Building, former Niblock Law Office and the Red Bird Café as part of the Project Plan for the Highway 71 East Square Redevelopment District.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 92-05.

7. **C-2 Projects, LLC Construction Contract:** A resolution approving a construction contract with C-2 Projects, LLC in the amount of \$1,169,336.25 for the Gregg Avenue Water System Improvements; approving a 10% Project Contingency in the amount of \$116,933.00; and approving a budget adjustment in the amount of \$544,391.00 for same.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 93-05.

8. **Black & Veatch Amendment No.1 Noland Wastewater Treatment Plant:** A resolution to approve Amendment No. 1 to the agreement for professional services with Black & Veatch Corporation to provide construction and post construction services for the Noland Wastewater Treatment Plant in a not to exceed amount of \$1,478,000.00.

THIS ITEM WAS TABLED TO MAY 10, 2005 SPECIAL MEETING.

9. **Easement Vacation for Necessary - VAC 05-1455:** An ordinance approving VAC 05-1455 submitted by Buckley Blew for property located at 3187 E. Waterstone Drive vacating a utility easement as indicated on the attached map and legal description.

THIS ITEM WAS ADDED AT THE MEETING BY CITY COUNCIL. IT WAS PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4700.

10. **Condemnation of Feasibility Studies, Inc. property-North College Avenue Water Line Replacement Line:** A resolution authorizing the city attorney to seek condemnation and possession of certain lands owned by Feasibility Studies, Inc.

THIS ITEM WAS ADDED AT THE MEETING BY CITY COUNCIL. IT WAS PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 94-05.

D. INFORMATIONAL:

May 2, 2005 Council Tour: 4:30 PM

May 2, 2005 Fire Station 7 Ribbon Cutting: 5:00 PM

Meeting adjourned at 7:55 p.m.

Meeting Adjourned
at 7:55 PM

Subject:	Roll				
Motion To:					
Motion By:					
Seconded:					
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody	✓			

Subject:	Consent				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Ferrell			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

Res.
85-05
to
90-05

Subject:	Amend Chapter 96: Noise Control				
Motion To:		Table Indef.			
Motion By:		Thiel			
Seconded:		Marr			
B.1. Unfinished Business Tabled Indef.	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

Subject:	R2N-05-1412 (Mountain Ranch Terminella)				
Motion To:		3rd read	Pass		
Motion By:		Jordan			
Seconded:		Lucas			
B.2. Unfinished Business passed 4694	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Mayor Coody				

Subject:	RZN 05-1409 (SCB Investments LLC)			
Motion To:		Reconsider motion to:	Pass	
Motion By:		Thiel		
Seconded:		Atwood Ferrell		
B.3. Unfinished Business) 5-3 passed 4697	Lucas	N	N	
	Jordan	y	N	
	Reynolds	N	y	
	Thiel	y	y	
	Cook	y	N	
	Marr	y	y	
	Rhoads	y	y	
	Ferrell	y	y	
	Mayor Coody			

6-2

5-3

Subject:	Amend 96.05 Motor Vehicle & Motorcycle			
Motion To:		2nd read		Sound Limit.
Motion By:		Thiel		
Seconded:		Marr		
C.I. New Business Left on the Second Reading	Lucas	✓		
	Jordan	✓		
	Reynolds	✓		
	Thiel	✓		
	Cook	✓		
	Marr	✓		
	Rhoads	N		
	Ferrell	N		
	Mayor Coody			

6-2

Subject:	Madison Avenue Street Connection			
Motion To:	Approve			
Motion By:	Lucas Ferrell			
Seconded:	Jordan Jordan			
C. 2. New Business <u>passed</u> 9/1-05	Lucas	✓		
	Jordan	✓		
	Reynolds	✓		
	Thiel	✓		
	Cook	✓		
	Marr	✓		
	Rhoads	✓		
	Ferrell	✓		
	Mayor Coody			

Subject:	Planning Commission Appeal			
Motion To:	Withdrawn			
Motion By:	by			
Seconded:	Petitioner			
C. 3. New Business	Lucas			
	Jordan			
	Reynolds			
	Thiel			
	Cook			
	Marr			
	Rhoads			
	Ferrell			
	Mayor Coody			

Subject:	RZN 05-1480 (Bill Eddy Motor Sports)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Ferrell	Reynolds		
C.4. New Business Passed 4698	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

Subject:	Environmental Enterprise Group, Inc.				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Marr	Lucas		
C.5. New Business Passed 4699	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

Subject:	Mountain Inn Demolition Contract				
Motion To:		Amended to add a Contingency fund to the resolution			
Motion By:		Marr			
Seconded:		Jordan			
C. C. New Business Amendment Approve Amendment	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	N			
	Mayor Coody				

92-05

7-1

Subject:	Mountain Inn Demolition Contract				
Motion To:		Approve			
Motion By:		Marr			
Seconded:		Jordan			
C. C. New Business Passed	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	N			
	Mayor Coody				

92-05

7-1

Subject:	C-2 Project, LLC Construction			
Motion To:		Approve.		Contract.
Motion By:		Ferrell		
Seconded:		Reynolds		
C.7. New Business Passed 93-05	Lucas	✓		
	Jordan	✓		
	Reynolds	✓		
	Thiel	✓		
	Cook	✓		
	Marr	✓		
	Rhoads	✓		
	Ferrell	✓		
	Mayor Coody			

Subject:	Black & Veatch Amendment #1 Noland			
Motion To:		Table		Wastewater
Motion By:		Marr		Treatment
Seconded:		Jordan		Plant.
C.8. New Business Table until May 10th Special Meeting.	Lucas	✓		
	Jordan	✓		
	Reynolds	✓		
	Thiel	✓		
	Cook	✓		
	Marr	✓		
	Rhoads	✓		
	Ferrell	✓		
	Mayor Coody			

Tabled to:
May 10th
Special Meeting

Subject:	Add - Vac - 05-1455				
Motion To:		Add to Agenda			
Motion By:		Ferrell			
Seconded:		Reynolds			
Add Vac. 05-1455 C.9.	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0.

Subject:	VAC - 05-1455				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Rhoads	Reynolds		
Seconded:		Reynolds	Ferrell		
Added to the Agenda Passed C.9. 4700	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject:	Condemnation of Feasibility Studies, Inc. Property				
Motion To:		Add to the Agenda			
Motion By:		Jordan			
Seconded:		Lucas			
C.I.O. Add Resolution to Agenda	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

Subject:	Condemnation of Feasibility Studies, Inc. Property				
Motion To:		Approve			
Motion By:		Marr			
Seconded:		Jordan			
C.I.O. Passed 94-05	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

Mayor Dan Coody
City Attorney Kit Williams
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Aldermen

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**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
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Roll Call
Pledge of Allegiance**

A. CONSENT:

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B. UNFINISHED BUSINESS:

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C. NEW BUSINESS:

1. **Amend §96.05 Motor Vehicle and Motorcycle Sound Limit:** An ordinance to amend §96.05 Motor Vehicle and Motorcycle Sound Limit of the Code of Fayetteville.
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4. **RZN 05-1480 (Bill Eddy Motorsports):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1480 for property located at 1205 North Futrall Drive containing approximately 2.00 acres from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial.

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D. INFORMATIONAL:

May 2, 2005 Council Tour: 4:30 PM

May 2, 2005 Fire Station 7 Ribbon Cutting: 5:00 PM

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

5/3/2005

Frank Johnson

Submitted By

Police

Division

Police

Department

Action Required:

City Council approve by resolution the application to continue the Drug Law Enforcement Grant and a budget adjustment in the amount of \$51, 709.00.

\$141,709.00

Cost of this request

1010-2900-7601-93

Account Number

Project Number

\$ 90,000.00

Category/Project Budget

\$ -

Funds Used to Date

\$ 90,000.00

Remaining Balance

Transfer to Drug Grant

Program Category / Project Name

Program / Project Category Name

General

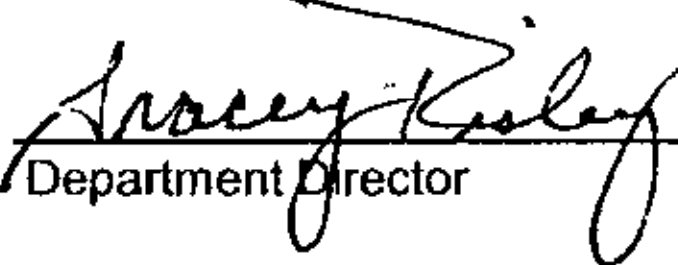
Fund Name

Budgeted Item

☐

Budget Adjustment Attached

x


Department Director

4-26-05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney


Finance and Internal Service Director

4-26-05
Date

Received in City Clerk's Office

Received in Mayor's Office

Mayor

Date

Comments:

**City of Fayetteville, Arkansas
Budget Adjustment Form**

A. 6
Drug Law Enforcement Grant
Page 2 of 14

Budget Year 2005	Department: Police Division: Police Program: Support Services	Date Requested 4/26/2005	Adjustment Number
-------------------------	---	---------------------------------	-------------------

Project or Item Added/Increased: Additional funds to cover Fayetteville's local match requirement for the 2005 2006 Drug Enforcement Grant. This adjustment is required due to the reduction in federal funding.	Project or Item Deleted/Reduced: N/A
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Justification of this Increase: The Fourth Judicial District Drug Task Force is the combined effort of all law enforcement agencies in Washington County to combat illegal drug trafficking. By creating the multi jurisdictional task force, information is gathered and utilized more efficiently. Also, all agencies have the ability to request help of all officers who are specifically trained to enforce drug laws.	Justification of this Decrease: N/A
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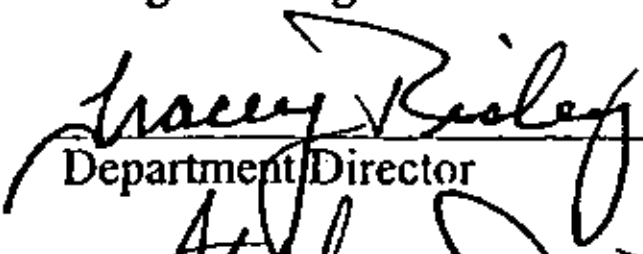
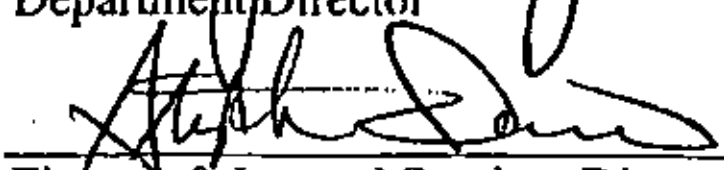
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number
#N/A	1010	2900	7601	93	51,709	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Use of fund balance	1010	0001	4999	99	51,709	

Approval Signatures

Requested By	Date
Budget Manager	Date
 Department Director	4-26-05 Date
 Finance & Internal Services Director	4-26-05 Date
Mayor	Date

Budget Office Use Only

Type:	A	B	C	<u>D</u>	E
Date of Approval	Initial		Date		
Posted to General Ledger	Initial		Date		
Posted to Project Accounting	Initial		Date		
Entered in Category Log	Initial		Date		

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Frank Johnson, Chief of Police *F.J. By TC*

DATE: April 25, 2005

RE: Request to Apply for 2005/06 Drug Enforcement Grant

The application for the attached grant was received Friday, April 22, 2005 and has a submission deadline of May 9, 2005. As a result of these time restrictions our only opportunity to request approval from you and the Council will be at the April 26th Agenda Session. We apologize for any inconvenience this may cause you and the Council.

Recommendation: Council approves application for the continuation of the Edward Byrne Memorial Grant as combined with the Local Law Enforcement Block Grant, (renamed Justice Assistance Grant or JAG), in the amount of \$152,500. The application also requests funds from the State of Arkansas in the amount of \$45,764. These grants total \$198,314 for the support of the Fourth Judicial District Drug Task Force. The local share for the City of Fayetteville Police Department will be \$134,500.00. **Approval of a budget adjustment in the amount of \$51,709 will be necessary to offset the reduction in grant funds (see discussion).**

Background: The Edward Byrne Memorial Grant has supported the Fourth Judicial District Drug Task Force since 1991 by providing 75% funding of all allowable costs. The City of Fayetteville Police Department has served as the lead agency and is responsible for grant administration. The 4th Judicial Drug Task Force is comprised of Fayetteville, Springdale, Johnson, Prairie Grove, Lincoln, Farmington, West Fork, Greenland, Elm Springs, Elkins and Goshen Police Departments and the Washington County Sheriff's Department. The Fourth Judicial Prosecutor, Madison County Sheriff's Department and the University of Arkansas Police Department actively support the Task Force without being represented on the Control Group.

Discussion: The federal funding contribution for this grant has been dramatically cut from 75% to 37.5% due to the State of Arkansas receiving a 50% reduction in pass-through funding for this year. To off-set part of these cuts, this application includes a request to the State of Arkansas for support totaling 15% of one sergeant, five officers, and one secretary, as well as, the necessary operating expenses. The remaining 47.5% and the non-allowable costs are supplied by participating agencies.

The Task Force is responsible for investigating drug related activities within Washington and Madison Counties with the above listed personnel. During the first nine months of the current grant period, investigators opened 603 separate drug cases and made 628 arrests. Included in these cases are the investigation and hazardous cleanup and disposal of eighty-three methamphetamine labs, seizure of 15 pounds of methamphetamine, 2 pounds of cocaine, 12 ounces of crack cocaine, 84 pounds of marijuana and 602 marijuana plants. Drug trafficking and the cost to combat it increases each year while grant funding has been continuously cut to a current level of 50%.

Budget Impact: The funding provided by these grants along with matching funds and funding for ineligible costs (e.g. transportation cost, covert funds, personnel expenses, etc.) are provided by participating agencies to support the Drug Task Force. The General Fund's portion of this expense for July '05 through July '06 is \$141,709 and a budget adjustment of \$51,709 utilizing fund balance is attached.

Version 7/03

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Pre-application ☒ Non-Construction ☐ Construction ☐ Non-Construction		2. DATE SUBMITTED May 5, 2005	Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier	

5. APPLICANT INFORMATION																															
Legal Name: City of Fayetteville		Organizational Unit: Department: Fourth Judicial District Drug Task Force																													
Organizational DUNS: 07-160-7688		Division:																													
Address: Street: 113 West Mountain Street		Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: Mrs. First Name: Judy																													
City: Fayetteville		Middle Name																													
County: Washington County		Last Name: Cohea																													
State: Arkansas	Zip Code: 72701	Suffix:																													
Country: United States		Email: jcohea@ci.fayetteville.ar.us																													
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 71-6018462		Phone Number (give area code) (479)587-3581	Fax Number (give area code) (479)587-3570																												
8. TYPE OF APPLICATION: ☐ New ☒ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify)		7. TYPE OF APPLICANT: (See back of form for Application Types) C. Municipal Other (specify)																													
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): 16-738		9. NAME OF FEDERAL AGENCY: U.S. Department of Justice Bureau of Justice Assistance																													
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Multijurisdictional Drug Task Force																													
13. PROPOSED PROJECT Start Date: 7/01/05 Ending Date: 6/30/05		14. CONGRESSIONAL DISTRICTS OF: a. Applicant: Third Congressional District b. Project: Third Congressional District																													
15. ESTIMATED FUNDING: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">a. Federal</td> <td style="width: 10%;">\$</td> <td style="width: 10%; text-align: right;">152,552</td> <td style="width: 10%; text-align: right;">.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td></td> <td></td> </tr> <tr> <td>c. State</td> <td>\$</td> <td style="text-align: right;">66,562</td> <td style="text-align: right;">.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td style="text-align: right;">234,648</td> <td style="text-align: right;">.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> <td></td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td></td> <td></td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td style="text-align: right;">453,762</td> <td style="text-align: right;">.00</td> </tr> </table>		a. Federal	\$	152,552	.00	b. Applicant	\$			c. State	\$	66,562	.00	d. Local	\$	234,648	.00	e. Other	\$			f. Program Income	\$			g. TOTAL	\$	453,762	.00	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. Yes. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: b. No. ☒ PROGRAM IS NOT COVERED BY E. O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a. Federal	\$	152,552	.00																												
b. Applicant	\$																														
c. State	\$	66,562	.00																												
d. Local	\$	234,648	.00																												
e. Other	\$																														
f. Program Income	\$																														
g. TOTAL	\$	453,762	.00																												
17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes" attach an explanation. ☒ No																															
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.																															
a. Authorized Representative																															
Prefix: Mr.	First Name: Dan	Middle Name																													
Last Name: Coody		Suffix																													
b. Title: Mayor		c. Telephone Number (give area code): (479)575-8330																													
d. Signature of Authorized Representative		e. Date Signed																													

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF INTERGOVERNMENTAL SERVICES

GENERAL PROJECT INFORMATION
(Form IGS 1)

1. Applicant Agency: City of Fayetteville
Address: 113 W. Mountain Street
2. Project Director: Tracey Risley Tele # (479) 587-3500 Fax # (479) 587-3522
Address: 100 A. West Rock Street, Fayetteville, AR 72701
E-Mail Address: trisley@ci.fayetteville.ar.us
3. Fiscal Officer: Judy Cohea Tele # (479) 587-3581 Fax # (479) 587-3570
Address: 100 A. West Rock Street, Fayetteville, AR 72701
E-Mail Address: jcohea@ci.fayetteville.ar.us
4. Project Period: From July 1, 2005 To June 30, 2006
5. Federal Purpose Number: #2 Program Title Multijurisdictional Task Force
6. Identify Counties and/or Cities in Which Program Will Operate: Washington and Madison Counties
7. If the Project is Multi-County/City indicate the Contracting Applicant Agency
City of Fayetteville
Other Involved Agencies Washington County & Madison County Sheriff, Cities of Springdale, Goshen, Prairie Grove, Lincoln, Farmington, West Fork, Greenland, Elm Springs, Elkins, Johnson, 4th Judicial Prosecutor and U of A Police Department
8. Population or Clients to be Served 171,958
9. This Program will be a New Activity, Enhancement of Existing Activities,
or X Continuation of Project # 04-014 Ending Date 6/30/2005
10. Federal Funds Requested \$ 152,552.00 State Match \$ 66,562.00
Local Match \$ 234,648.00 Total \$ 453,762.00
11. Prior 12-Month Budget for the Service or Activity 439,157.00
12. Source of Matching Funds Program income, Washington and Madison County Sheriff, Fourth Judicial Prosecutor, Cities of Fayetteville, Springdale, Lincoln, Prairie Grove, Greenland, Johnson, Elm Springs, West Fork, and Farmington.
13. Project Summary Continue the multi-jurisdictional task force with a four member Control Group representing all law enforcement agencies in Washington and Madison Counties. Continue to target narcotics distributors with an emphasis on methamphetamine dealers and manufacturers. Also, continue to maintain a database of drug related information received from all law enforcement agencies in Washington and Madison Counties. The data base will help prevent law enforcement agencies from spending resources working the same cases.

CERTIFIED ASSURANCES

Page 1 of 3

1. The applicant assures that federal justice assistance funds made available under the Anti-Drug Abuse Act will not be used to supplant state and local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for justice assistance activities;
2. The applicant assures that fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Bureau of Justice Assistance and the Department of Finance and Administration shall prescribe shall be provided to assure fiscal control, proper management, and effective disbursement of funds received under the Act;
3. The applicant assures that it shall maintain such data and information and submit the prescribed reports in the prescribed formats at the prescribed times as the Bureau of Justice Assistance and the Department of Finance and Administration may require;
4. The applicant assures that at the end of each federal fiscal year that the project is in force, and at the end of the project period, it will submit a performance report to the Department of Finance and Administration in a manner to be prescribed;
5. The applicant certifies that the program contained in this application meets all the requirements, and that all the information is correct, and that the applicant will comply with all provisions of the Anti-Drug Abuse Act of 1986 and all other applicable state and federal laws;
6. The applicant assures that before any budgetary or programmatic amendment is made to an approved program, it will submit such an amendment to the Department of Finance and Administration for review;
7. The applicant assures that it will comply, and all its subgrantees and contractors will comply, with any applicable statutorily-imposed non-discrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789(d)); the Victims of Crime Act (42 U.S.C. § 10604(e)); The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672 (b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 7 94); the American with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. § 1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).
8. The applicant assures that in the event a federal or state court or federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice Programs;
9. The applicant assures that if it is required to formulate an Equal Employment Opportunity Program (EEOP) in accordance with 28 CFR 42.301, et. seq., it should submit a certification to the state that it has a current EEOP on file which meets the requirements therein;
10. The applicant assures that it will comply with the provisions of the Department of Finance and Administration's "Justice Assistance Subgrant Procedures and Financial Management Guidelines";
11. The applicant assures that it will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part II, Applicability of Office of Management and Budget Circulars; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22,

CERTIFIED ASSURANCES

Page 2 of 3

Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; and Part 63, Floodplain Management and Wetland Protection Procedures;

12. The applicant assures that in addition to all other audit requirements, it will allow the Division of Legislative Audit or any other independent or internal auditors of the Department of Finance and Administration to have access to the applicant's records and financial statements;
 - (A) as may be necessary for the Department of Finance and Administration to comply with the 1996 Single Audit Act Amendments and Circular A-133, and other rules and/or regulations governing financial accounting and auditing guidelines, principles, and procedures; and
 - (B) as may be requested by the Department of Finance and Administration to comply with any State or local government rules and/or regulations;
13. The applicant assures that it will fully participate in the compilation of statistical information as required by state agencies, i.e., providing complete finger print arrest information;
14. The applicant assures that both federal and matching funds used for this project will be used exclusively to support defined drug law enforcement activities, and will not be used to support any general purpose law enforcement or other activity maintained by the applicant;
15. The applicant assures that if the grant funds are used to support a Task Force, the Task Force Board of Directors or 'Control Group' will hold regularly scheduled meetings at least monthly, and will provide the State Drug Director with copies of the agenda and minutes of each meeting;
16. The applicant assures that if grant funds are used to support a Task Force, the Task Force Administrator and the Board of Directors will develop and/or maintain a detailed policy and procedures manual for the guidance of task force operations.
17. The applicant assures that all proposals for out of state travel for conference and training will be submitted to the Arkansas Law Enforcement Committee for approval prior to any expense being incurred.
18. The applicant agrees to comply with the provisions of the federal Fair Labor Standards Act regarding the preparation and retention of time and attendance records affecting persons employed through financial assistance provided by the grant. The applicant also agrees to accept full responsibility for any compensatory time allowance or overtime pay obligations for persons employed within the project not funded by the grant.

CERTIFIED ASSURANCES

Page 3 of 3

19. The applicant agrees that no officer or employee of its agency shall be involved in a decision that affects the applicant during the time of employment with the knowledge that there is an opportunity to further their interest as set forth in the Department of Justice, Office of Justice Programs Financial Guide.

CERTIFICATION

I certify that the program proposed in this application meets applicable requirements of the Anti-Drug Abuse Act, that all the information presented is correct, and that the applicant will comply with the provisions of the Act and all other applicable federal laws and applicable state laws and regulations.

(Signature of Contracting Official)

(Date)

Dan Coody

(Typed Name)

Mayor

(Title)

113 West Mountain Fayetteville, AR. 72701

(Address)

(479) 575-8330

(Area Code/Telephone Number)

(479) 575-8257

(Area Code/Fax Number)

CERTIFICATION OF AUDIT COST

As the Contracting Official for a Justice Assistance Program subgrant to the organization listed below, I certify that the OMB Circular A-133 audit status is an accurate projection of federal fund expenditures for the fiscal year impacted by this grant, based on information presently available to me. Based on these projections, the audit status of the referenced organization will be as indicated below.

 AUDIT STATUS ONE: PROJECT AUDIT COST

The applicant agency will expend less than \$500,000 from all federal sources during its fiscal year. The Department of Finance and Administration will contract for audit services applicable to the Justice Assistance Program subgrant. The applicant will not budget audit funds.

 X AUDIT STATUS TWO: OVERALL SINGLE AUDIT COST

A single audit must be procured by the applicant agency when the applicant agency expends \$500,000 or more in federal funds from all sources during its fiscal year. Under these circumstances, the applicant agency may take one of two courses in paying for single audit costs. Check either (A) or (B) below to show your intent.

(A) X The applicant agency will pay for the cost of the single audit from its own resources.

(B) The applicant agency will develop an equitable formula for assigning single audit cost to each federal program from which grants are received.

If you checked item (B), complete the grants listing below for your most recent fiscal year, even if you must use estimated data. This information will serve to verify the need for a single audit of your finances during the fiscal year this grant will be active.

FEDERAL FUNDS EXPENDITURES

<u>Name of Federal Agency</u>	<u>Most Recent Fiscal Year</u>	<u>Federal Dollars Expended</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Use supplementary listing if needed)

ESTIMATED TOTAL COST OF SINGLE AUDIT \$ _____

ESTIMATED SHARE OF SINGLE AUDIT COST
TO BE PAID WITH JAG GRANT FUNDS \$ _____

Dan Coody

Printed Name of Contracting Official

Mayor

Title and Organization

Signature

Date

CER-3 Regarding Lobbying; Debarment and Drug-Free Workplace.

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under CFR Part 69, "New Restriction on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69; for person entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instruction:

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any other offenses enumerated in paragraph (1) (b) of this certification; and (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify any of the statements in this certification, he or she shall attach an explanation to this application.

CER-3 Regarding Lobbying; Debarment and Drug-Free Workplace

3. DRUG-FREE WORKPLACE (SUBGRANTEES OTHER THAN INDIVIDUALS)

The prospective Subgrantee Agency certifies, by submission of this proposal, that it will comply with the Drug-Free Workplace Act of 1988, as implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620.

As the duly authorized representative of the agency, I hereby certify that the applicant will comply with the above certifications.

(Signature of Contracting Officer)

(Date)

Dan Coody

(Typed Name)

Mayor

(Title)

113 West Mountain Street Fayetteville, AR 72701

(Address)

(479) 575-8330

(Area Code/Telephone Number)

(479) 575-8257

(Area Code/Fax Number)

CERTIFICATION OF EMPLOYMENT OF QUALIFIED PERSONNEL

By acceptance of this grant provided through the Edward Byrne Memorial Justice Assistance Grant Program (Justice Assistance Program) I certify the following:

- 1) All personnel employed on a salaried or contractual basis, and who function as law enforcement personnel under my authority for the purposes identified in this grant will be currently certified by the Arkansas Law Enforcement Training Academy, are in training at the Arkansas Law Enforcement Training Academy, or have applied and are awaiting admission to the Academy.

For those personnel who are not certified and who are awaiting admission to the Academy, I agree to their participation in training activities designated as mandatory pre-Academy training by the Law Enforcement Committee of the Arkansas Alcohol and Drug Abuse Coordinating Council.

- 2) All personnel other than attorneys and law enforcement officers who are employed for purposes identified in this grant and who are paid from grant or grant matching funds have been determined to be qualified for the position they hold, based on my review of their education, training and experience.

Dan Coody

Printed Name

Mayor

Title

Signature of Contracting Official

Date

City of Fayetteville
Staff Review Form
City Council Agenda Items

or
Contracts

May 17, 2005
City Council Meeting Date

Susan Thomas

Submitted By

Public Information

Division

General Government

Department

Action Required:

Approval of the Van Scoyoc contract for 2005 in an amount not-to-exceed \$85,000.

\$85,000.00

Cost of this request

1010-6600-5314-00

Account Number

Project Number

\$ 155,994.00

Category/Project Budget

\$ 28,460.00

Funds Used to Date

\$ 127,534.00

Remaining Balance

Miscellaneous Program

Program Category / Project Name

Professional Services

Program / Project Category Name

General Fund

Fund Name

Budgeted Item

☒ XX

Budget Adjustment Attached

Susan Thomas
Department Director

4-21-05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

D. J. Whit
City Attorney

4/21/05

Steve Davis
Finance and Internal Service Director

4-21-05
Date

Received in City Clerk's Office

Received in Mayor's Office

Don Cody
Mayor

4/23/05
Date

ENTERED
4/21/05
PB

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: The Mayor and Council

FROM: Susan B. Thomas *SBM*

DATE: April 19, 2005

SUBJECT: A Resolution Reauthorizing the Contract for Services with Van Scoyoc and Associates

Recommendation

A resolution authorizing the renewal of a one-year contract with Van Scoyoc and Associates for the period of February 1, 2005 to January 31, 2006.

Background

The City of Fayetteville entered into a one year renewable contract with Van Scoyoc and Associates in February 2004. The firm is a Washington D.C. based consulting firm that assists clients with securing federal funding including line-item earmarks and agency-based grants.

Each year, the City develops a list of priority projects that qualify for federal support. In 2004, Van Scoyoc helped the City Develop six proposals for FY 2005 funding totaling \$13.5 million. Of those six requests, the City secured \$1.5 million (\$500,000 per year over three years) for wastewater improvements.

Current Status

This year we have developed a list of seven projects for FY 2006 funding totaling \$22.15 million including five proposals for the City and two joint proposals between the City and University of Arkansas (summaries attached). Van Scoyoc is already actively lobbying for these proposals. They are also providing written progress reports, e-mail briefings on relevant budget and/or congressional committee activities, and a monthly conference call to provide funding status reports and to help us generate ideas for increasing our chances for securing federal dollars.

Currently, the firm is also under contract with the University of Arkansas.

Budget Impact

The firm works on an annual retainer basis. Contracts are for one year, with a 90 day opt-out clause for both parties. The final price is subject to negotiation each year. The agreed upon price for this year is \$85,000 (contract copy attached) which is the same contract price for 2004.

RESOLUTION NO. _____

A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT WITH VAN SCOYOC ASSOCIATES IN THE AMOUNT OF \$85,000.00 TO PROVIDE CONSULTING LEGISLATIVE SERVICES IN THE AMOUNT OF \$75,000.00, PLUS EXPENSES UP TO \$10,000.00

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 the attached Memorandum of Agreement with Van Scoyoc Associates for consulting legislative services in the amount of \$75,000.00, plus up to \$10,000.00 in expenses.

PASSED and APPROVED this the 3rd day of May, 2004.

APPROVED:

DRAFT

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

MEMORANDUM OF AGREEMENT

Agreement. The City of Fayetteville hereby retains Van Scoyoc Associates, Inc. (VSA) as consultants and advisors with regard to various legislative and administrative matters.

Statement of Work. VSA will assist the City of Fayetteville and its personnel in the following areas:

- Developing a program and strategy towards obtaining federal appropriations and grants for Fayetteville's future economic viability.
- Analyzing and informing the City of contemplated legislative and regulatory changes that may positively or negatively affect programs of interest to the City.
- Educating Members of Congress and their staffs about Fayetteville concerns or opportunities with respect to legislation or regulations.
- Building grassroots support of the projects to demonstrate local interest by finding individuals and groups with goals similar to those of the City.
- Working with the relevant committees to secure enactment of the legislative agenda or otherwise advance the interests of the City.
- Assisting in working with federal agencies and the federal administration to identify, create and secure new federal grant and funding opportunities.

Lobbying Disclosure Act. It is understood that VSA will be required to register on behalf of the City of Fayetteville under the terms of the Lobbying Disclosure Act of 1995 (P.L. 104-65) and any subsequent laws or regulations.

Term. In consideration of the performance of these services, the City of Fayetteville shall pay to VSA the sum of \$6,250~~0~~ per month for the period of February 1, 2005 through January 31, 2006, for a total of \$75,000 in retainer expenses.

The City of Fayetteville further agrees to pay all reasonable costs and expenses incurred by VSA in furtherance of its efforts on behalf of the City, including, but not limited to, copies, facsimiles, couriers, telephone, local transportation and meals directly attributable to those efforts. VSA agrees that these expenses, exclusive of out-of-town travel costs taken solely at the City's direction, shall not exceed \$10,000 during the contract term.

City of Fayetteville/VSA 2/05-1/06

Page 2

Notice. The City of Fayetteville shall have the right to terminate this contract after giving VSA 30 days advance written notice. Should the City exercise this option, it agrees to pay VSA all outstanding retainer and expense costs owed through the termination date.

VAN SCOYOC ASSOCIATES

Date: 4-8-2005

By: H. Stewart Van Scoyoc
H. Stewart Van Scoyoc
President

CITY OF FAYETTEVILLE

Date: _____

By: _____
Dan Coody
Mayor

FY 2006 Federal Requests

City of Fayetteville Projects

Fayetteville Expressway Economic Development Corridor

Request: \$16.8 M
Bill: Transportation Reauthorization
Agency/Acct: National Corridor and Planning and Border Infrastructure Programs

Summary: The City of Fayetteville requests \$16.8 million for further improvement of the Fayetteville Expressway Economic Development Corridor that includes the Fulbright Expressway and the redevelopment and redesign of the College Avenue Corridor, U.S. Business 71. These funds will be matched with \$9.2 million in local funds.

Illinois River & Scull Creek

Request: \$1 M
Bill: Interior Appropriations
Agency/Acct: USGS and Biological Research

Summary: The City of Fayetteville is requesting \$1 million for the remediation of Scull Creek to halt further degradation of this tributary that empties into the Illinois River.

Fayetteville Regional Wastewater System Improvements

Request: \$4 M
Bill: Independent Agencies Appropriations
Agency/Acct: EPA-State and Tribal Assistance Grants (STAG)

Summary: The City of Fayetteville requests \$4 million to continue the existing initiative of rehabilitation of the regional wastewater collection system.

Fayetteville Housing Partnership

Request: \$1 M
Bill: VA-HUD (now Transportation – Treasury)
Agency: HUD – Community Planning & Development

Summary: The City of Fayetteville is requesting \$1 million to address the lack of attainable/affordable single family housing for a significant percentage of the

population in the city, as identified by the Fayetteville Attainable Housing Partnership.

Community Law Enforcement Fiber Optic Network

Request: \$1.2 M

Bill: Commerce, Justice, State & Judiciary

Agency/Acct: Department of Justice – Community Oriented Policing Services

Summary: The City of Fayetteville is requesting \$1.2 million for the purchase, installation and implementation of a single-mode fiber optic connection system to communicate effectively and efficiently during an emergency situation while eliminating the potential interruptions in wireless data connection.

City of Fayetteville – University of Arkansas Joint Projects

Arkansas Research & Technology Park

Request: \$1.1 M
Bill: Commerce, Justice, State Appropriations
Agency/Acct: SBA – Salaries & Expenses

Summary: Catalyzing and sustaining a culture of innovation will require a robust research and development infrastructure that can provide technology-intensive companies access to leading edge research investigators and facilities. To meet this challenge, the University of Arkansas, in cooperation with the City of Fayetteville, the state and region requests \$1.1 million within the Small Business Administration to support the creation of the Arkansas Research & Technology Park.

University of Arkansas Technology Corridor Enhancement Project

Request: \$4.95 M
Bill: Transportation Reauthorization Bill
Agency/Acct: Federal-Aid Highway High priority Projects

Summary: In an effort to address safety needs and the adverse impact of congestion in an area of heavy pedestrian traffic and to enhance access between the University Main Campus and the Arkansas Research and Technology Park, the University of Arkansas, with the support of the City of Fayetteville and the Arkansas Highway Transportation Department, requests \$4.95 million for the Technology Corridor Enhancement Project in the Transportation Reauthorization Bill.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: March 28, 2005

Subject: Rezoning for SCB Investments (RZN 05-1409)

RECOMMENDATION

The Planning Commission voted to recommend the subject rezoning request to rezone approximately 1.43 acres of property from RSF-4, Residential Single Family – 4 units per acre, to RMF-24, Residential Multi-Family – 24 units per acre.

BACKGROUND

Property: The subject property is located near the southwest corner of Leverett Avenue and Melmar Drive, and is owned by SBC Investments. The former owners were those owners/operators of the adjacent Maria H apartment complex who, in April 2004, requested to rezone 1.89 acres, comprising the subject property, to RMF-24. The request was tabled, however, and no further action was taken to rezone the property until this time. The 1.43-acre property is currently comprised of an older single family home and large yard, remnants of a larger farm which once existing in the area. Surrounding properties are all multi-family in zoning and land use, with the exception of to the south, where an established, older single family residential subdivision is situated. Maria H apartments border the property to the west and north, with additional multi-family development proposed on this property.

Proposal: The developer intends to develop multi-family units on this property, uses not permitted in the RSF-4 zoning designation. The shape of the property, a remnant parcel of surrounding development, may make subdivision of the property into single family lots impractical. The proposed zoning allows for a maximum density of 24 units per acre, resulting in a maximum potential of 34 dwelling units.

Request: The request is to rezone the property RMF-24, Residential Multi-family, 24 units per acre.

DISCUSSION

This item was heard at the regular Planning Commission on March 28, 2005. No public comment was received. The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommend in favor of the rezoning request to RMF-24, Residential Multi-Family – 24 units per acre.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 05-1409 FOR PROPERTY LOCATED AT 1841 LEVERETT AVENUE CONTAINING APPROXIMATELY 1.43 ACRES FROM RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE, TO RMF-24, RESIDENTIAL MULTI-FAMILY – 24 UNITS PER ACRE.

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 RSF-4, Residential Single Family, four units per acre, to RMF-24, Residential Multi-family, twenty-four units per acre, 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 _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT "A"
RZN 05-1409

A PART OF EVIN'S FARM ADDITION TO THE CITY OF FAYETTEVILLE, BEING PART OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 4, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SW ¼ OF THE SW ¼; THENCE NORTH 953.00 FEET; THENCE WEST 35.00 FEET TO THE POINT OF BEGINNING; THENCE N87°17'22"W 360.73 FEET; THENCE N02°42'38"E 145.00 FEET; THENCE S87°17'22"E 213.86 FEET; THENCE N02°42'38"E 71.00 FEET; THENCE S87°17'22"E 144.00 FEET; THENCE S01°56'57"W 216.02 FEET TO THE POINT OF BEGINNING, CONTAINING 1.43 ACRES, MORE OR LESS, BEING SUBJECT TO THE RIGHT-OF-WAY OF LEVERETT AVENUE ALONG THE EAST SIDE THEREOF, AND ALSO BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

DRAFT



PC Meeting of March 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: March 23, 2005

RZN 05-1409: (SCB INVESTMENTS, LLC, 366): Submitted by N. ARTHUR SCOTT for property located at 1841 LEVERETT AVENUE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.43 acres. The request is to rezone the subject property to RMF-24, Residential Multi-family, 24 units/acre.

Property Owner: SCB INVESTMENTS, LLC

Planner: SUZANNE MORGAN

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	Required <u>YES</u>
	☒ Approved ☐ Denied
Date: <u>March 28, 2005</u>	Shackelford/Clark ² 9-0-0
CITY COUNCIL ACTION:	Required <u>YES</u>
	☐ Approved ☐ Denied
Date: <u>April 19, 2005 (1st reading if recommended)</u>	

BACKGROUND:

Property: The subject property is located near the southwest corner of Leverett Avenue and Melmar Drive, and is owned by SBC Investments. The former owners were those owners/operators of the adjacent Maria H apartment complex who, in April 2004, requested to rezone 1.89 acres, comprising the subject property, to RMF-24. The request was tabled, however, and no further action was taken to rezone the property until this time. The 1.43-acre property is currently comprised of an older single family home and large yard, remnants of a larger farm which once existing in the area. Surrounding properties are all multifamily in zoning and land use, with the exception of to the south, where an established, older single family residential subdivision is situated. Maria H apartments border the property to the west and north, with additional multi-family development proposed on this property.

Proposal: The developer intends to develop multi-family units on this property, uses not permitted in the RSF-4 zoning designation. The shape of the property, a remnant parcel of surrounding development, may make subdivision of the property into single family lots impractical. The proposed zoning allows for a maximum density of 24 units per acre, resulting in a maximum potential of 34 dwelling units.

Request: The request is to rezone the property RMF-24, Residential Multi-family, 24 units per acre.

Recommendation: Staff recommends approval of the rezoning request based on findings stated herein. The development of this property will be consistent of that to the north.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Maria H apartment complex	RMF-24, Res. Multifamily, 24 DU/acre
South	Single family homes	RSF-4, Res. Single Family, 4 DU/acre
East	Multifamily apartments	RMF-24, Res. Multifamily, 24 DU/acre
West	Maria H apartment complex	RMF-24, Res. Multifamily, 24 DU/acre

INFRASTRUCTURE:

Streets: Currently the site has access to Leverett Avenue. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements may include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

Surrounding Master Street Plan Streets:

North: Melmar (Local)

South: Belclaire (Local)

East: Leverett Ave. (Collector)

Water: The property currently has access to a 6" water line along Leverett Avenue. An extension of the water main may be required to provide water supply and fire protection within any development on this property. The main may also have to be looped to the north to connect with the 6" line along Melmar Drive to provide dual feed for the development.

Sewer: The site currently does have access to sanitary sewer. A capacity analysis of the sewer lines and/or lift stations downstream of the connection point shall be conducted prior to development.

Fire: The subject property is located 1.1 miles from the Fire Station #2. Normal driving time is 2 min. 28 seconds. From Fire Station #4, the property is 2.9 miles, a driving time of 5 minutes and 40 seconds. Water supply with fire hydrants will be necessary for this property to develop.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as **Residential**. Rezoning this property to RMF-24 is consistent with the land use plan and is compatible with surrounding multifamily land use.

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 for a multifamily residential land use is compatible with adjacent and nearby multifamily dwellings already existing. An existing, fully developed single family neighborhood exists directly south of this property and the adjacent developed Maria H apartment property. Appropriate measures should be taken at the time of development to adequately transition the development of higher density dwelling units adjacent to a lower density. The General Plan designates this area for Residential land use, which is compatible with the proposed RMF-24 zoning.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. The rezoning is needed for the development of a multifamily project as proposed by the applicant. A multi-family residential development could not be developed on this site with the existing RSF-4 zoning in place. The applicant proposes to develop multi-family units in this location.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Though a small property, the proposed zoning will potentially create additional traffic on Leverett Avenue and Melmar Drive. The Fayetteville Police Department contends that this rezoning will not create an appreciable increase in traffic danger and congestion in this area.

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 increase population density from that zoning currently in place. The 1.43 acre tract under an RSF-4 zoning designation would allow for a maximum 5 single family residential dwelling units. With the proposed RMF-24 designation, a maximum of 34 multifamily dwelling units would be permitted. This increases the possible number of residential units, however is in keeping with existing land uses and density in the surrounding area.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

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

161.13 District RMF-24, Residential Multi-Family – Twenty-Four Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 25	Professional offices
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 24
----------------	---------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a Manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses:	
•Development	10,000 sq. ft.
•Individual lot	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 acres
----------------------	---------

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartments:	
•No bedroom	1,700 sq. ft.
•One bedroom	1,700 sq. ft.
•Two bedroom	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements .*

Front	Side	Rear
25 ft.	8 ft.	25 ft.

Cross reference(s)–Variance, Ch. 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.

March 24, 2005

Jeremy Pate
Interim Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Rezoning **RZN 05-1413: (Jones, 294)**, **RZN 05-1409 (SCB Investments, LLC, 366)** and **RZN 05-1412: (Mountain Ranch/Terminella, 478)** would substantially alter the population density and thereby undesirably increase the load on public services or create and appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

Individually, each of these rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

Sincerely,

Captain William Brown
Fayetteville Police Department

PROJECT DESIGN CONSULTANTS, INC.

February 16, 2005

City of Fayetteville
Planning Department
125 West Mountain
Fayetteville, AR 72701
Attn: Mr. Jeremy Pate

**RE: Rezoning of property located at 1841 Leverett St
Fayetteville, AR 72703**

Dear Mr. Pate:

The subject property mentioned above is currently owned by SCB Investments, LLC. Currently, the property is zoned RS4. We propose to rezone the property to RMF-24. This zoning change will relate better to the surrounding property uses; which is a mixture of zoning. The Property immediately to the north and west is zoned RMF_24 and occupied by apartments. This is also the case with the zoning to the east, across Leverett Ave. The site is served by City water and sewer. Leverett Avenue contains a six- inch water main and a fifteen- inch sanitary sewer line. In addition, six inch sewer lines wrap around the west and south boundaries. It will have similar land usage and traffic counts; the appearance will blend better and there is no signage proposed as yet. If you have any further questions, please contact me at 479-248-1161.

Sincerely,



N. Arthur Scott, PE
President

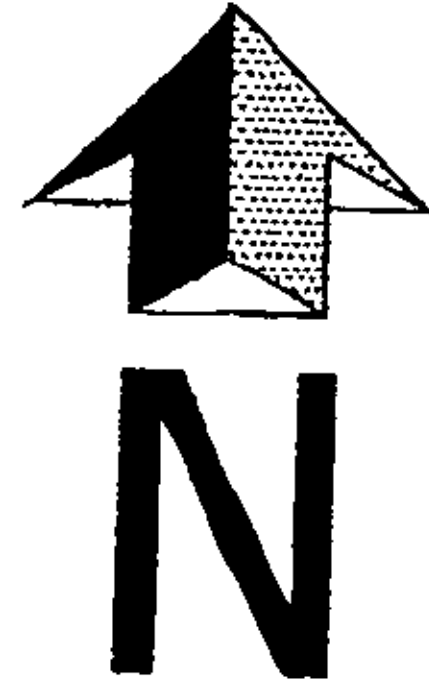
130 N. MAIN • CAVE SPRINGS, AR 72718
PHONE: 479-248-1161 • FAX: 479-248-1462

EXHIBIT

GRAPHIC SCALE



(IN FEET)
1 INCH = 100 FEET



MARIA H APARTMENTS

ZONED RMF - 24

JORDAN RENTALS, LLC
PO BOX 2398
HELENA, AR 72390
PARCEL 765-02714-000

RASBERRY PROPERTIES
PO BOX 2398
HELENA, AR 72390
PARCEL 765-02714-000

ZONED RMF - 24

JORDAN RENTALS, LLC
PO BOX 2398
HELENA, AR 72390
PARCEL 765-02714-000

1.43 ACRES
M/L

EXISTING ZONING RSF-4
PROPOSED-ZONING RMF - 24

ZONED RMF - 24

MERLOCK, WALTER R & MARJORIE H
PO BOX 182
FAYETTEVILLE, AR 72702
PARCEL 765-08505-000

LEVERETT AVE

BEL-AIR DR

BEL-AIR 2ND ADD

PARENT, JIMMY E & MOLLY
2308 FOX TRAIL
FAYETTEVILLE, AR 72703
PARCEL 765-02713-000

KRUEGER, DOUGLAS E &
SHARON D
800 BEL AIR
FAYETTEVILLE, AR 72703
PARCEL 765-02710-000

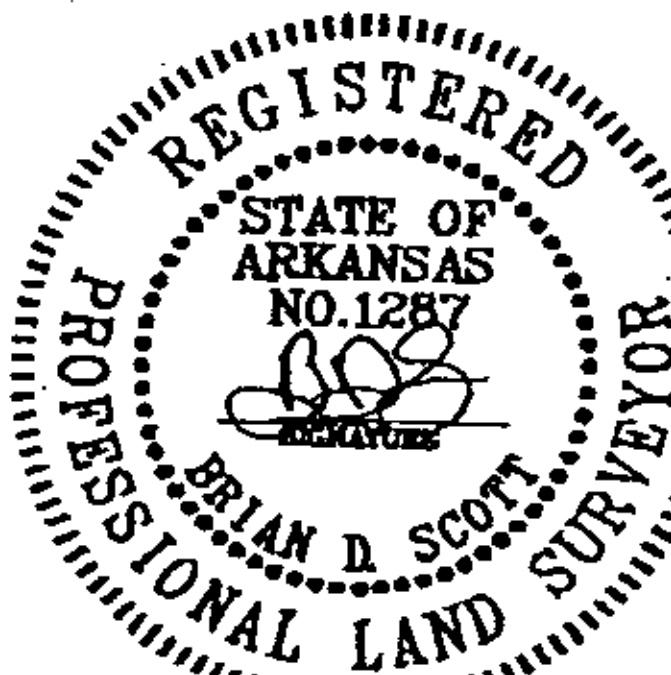
ROBERTS, ROY & SARAH
301 INDIAN TRAIL
SPRINGDALE, AR 72764
PARCEL 765-02711-000

ZONED RSF-4

ANDREWS, SUSAN E &
OLYN BOER, ERIC
800 BEL AIR DR
FAYETTEVILLE, AR 72703
PARCEL 765-02712-000

PARENT, JIMMY E & MOLLY
2308 FOX TRAIL
FAYETTEVILLE, AR 72703
PARCEL 765-02713-000

COPY



BRIAN D. SCOTT PLS# 1287

2/16/05
DATE



GEOMATIC CONSULTANTS INC.

134 N. MAIN STREET
CAVE SPRINGS, AR 72718
PHONE: (479) 248-1466
FAX: (479) 248-1462

ZONING EXHIBIT FOR
SCB INVESTMENTS, LLC
CITY OF FAYETTEVILLE
COUNTY OF WASHINGTON
STATE OF ARKANSAS

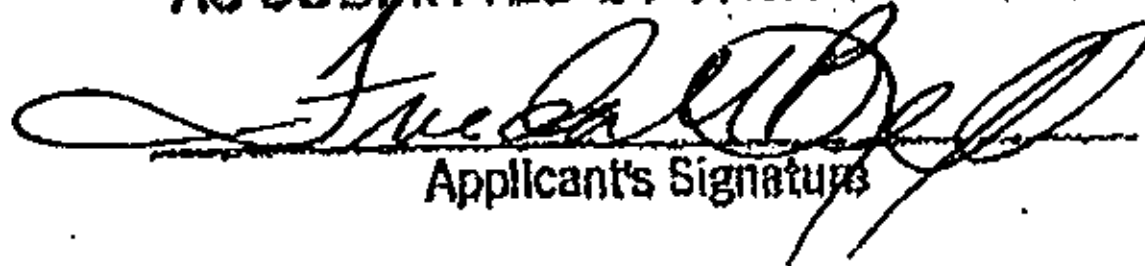
DRAWN BY: YDS	CHECKED BY: BOS
DWG: 40201_EXHIBIT.DWG	
SCALE: 1" = 100'	DATE: 02-16-05

SURVEY DESCRIPTION:

A PART OF EVIN'S FARM ADDITION TO THE CITY OF FAYETTEVILLE, BEING PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SW1/4 OF THE SW1/4; THENCE NORTH 953.00 FEET; THENCE WEST 35.00 FEET TO THE POINT OF BEGINNING; THENCE N87°17'22"W 360.73 FEET; THENCE N02°42'38"E 145.00 FEET; THENCE S87°17'22"E 213.86 FEET; THENCE N02°42'38"E 71.00 FEET; THENCE S87°17'22"E 144.00 FEET; THENCE S01°56'57"W 216.02 FEET TO THE POINT OF BEGINNING, CONTAINING 1.43 ACRES, MORE OR LESS, BEING SUBJECT TO THE RIGHT-OF-WAY OF LEVERETT AVENUE ALONG THE EAST SIDE THEREOF, AND ALSO BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature

Parcel closes

*Second submission,
not the same as the
original, signed version.*

*Submitted as
RZN05-1400*

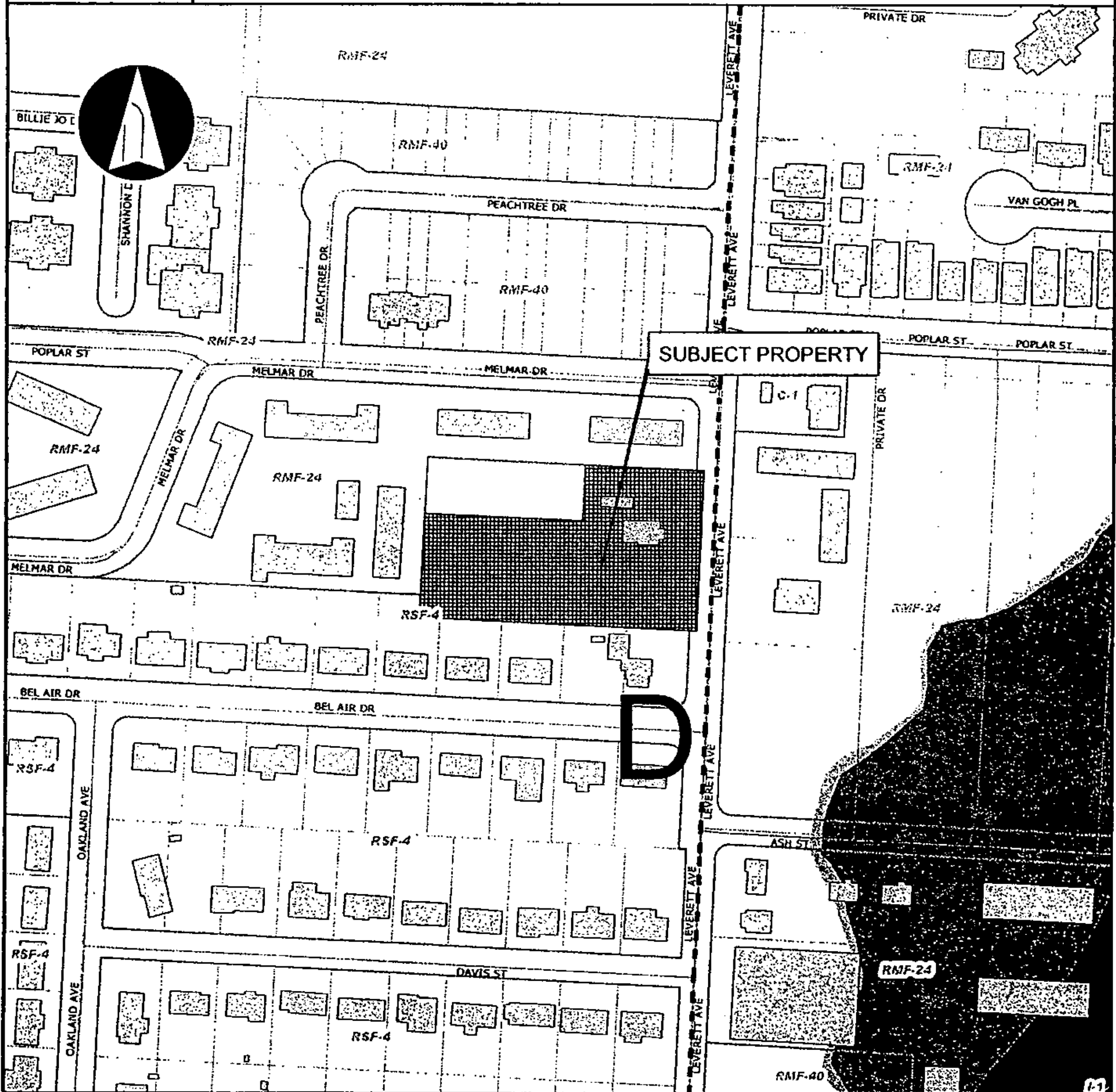
3/8/2005

TJ

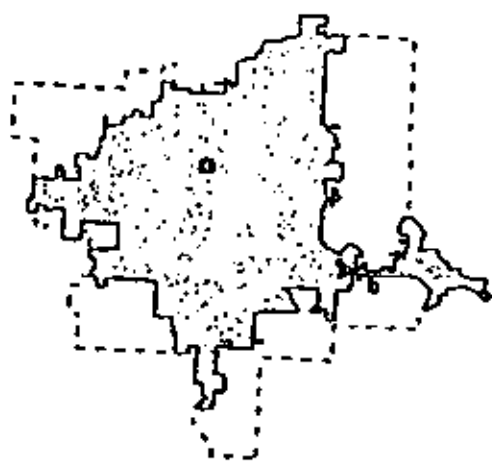
RZN05-1409

Close Up View

SCB INVESTMENTS, LLC



Overview



Legend

RZN05-1409

Overlay District
 Master Street Plan
 Master Street Plan
 Freeway/Expressway

Principal Arterial
 Minor Arterial
 Collector
 Historic Collector

FLOODWAY
 100 YEAR

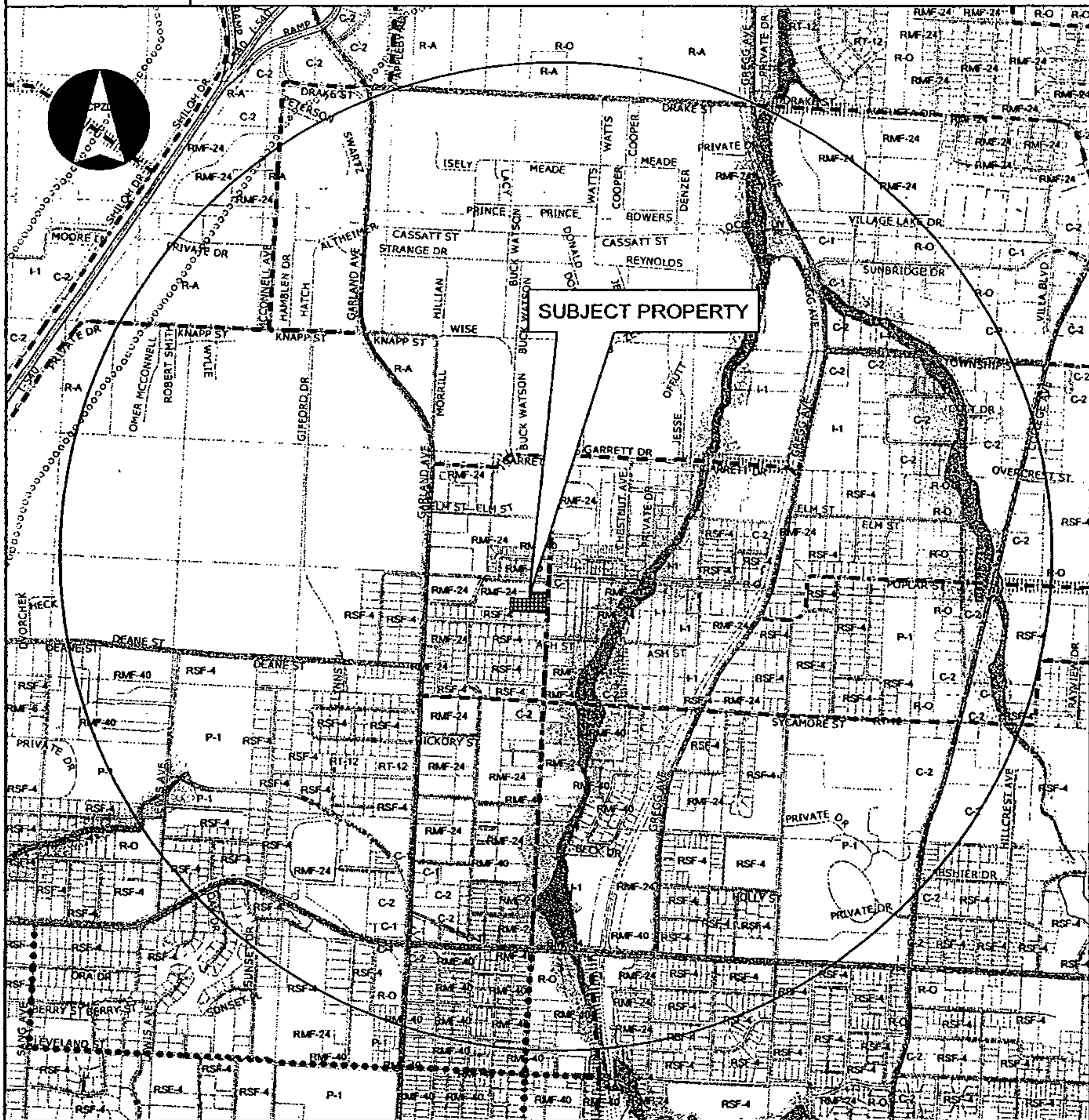
500 YEAR
 LIMIT OF STUDY
 BaseLine Profile
 Fayetteville
 Outside City

0 75 150 300 450 600
Feet

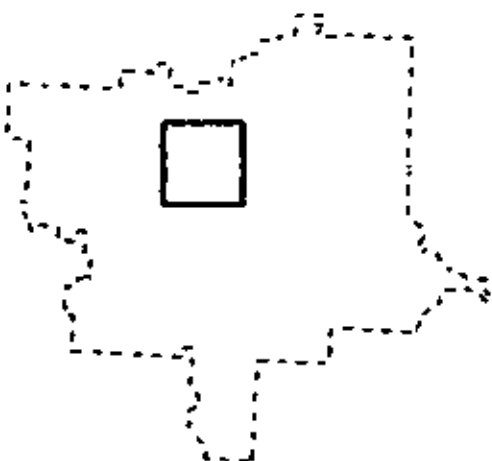
RZN05-1409

One Mile View

SCB INVESTMENTS, LLC



Overview



Legend

Subject Property

RZN05-1409

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

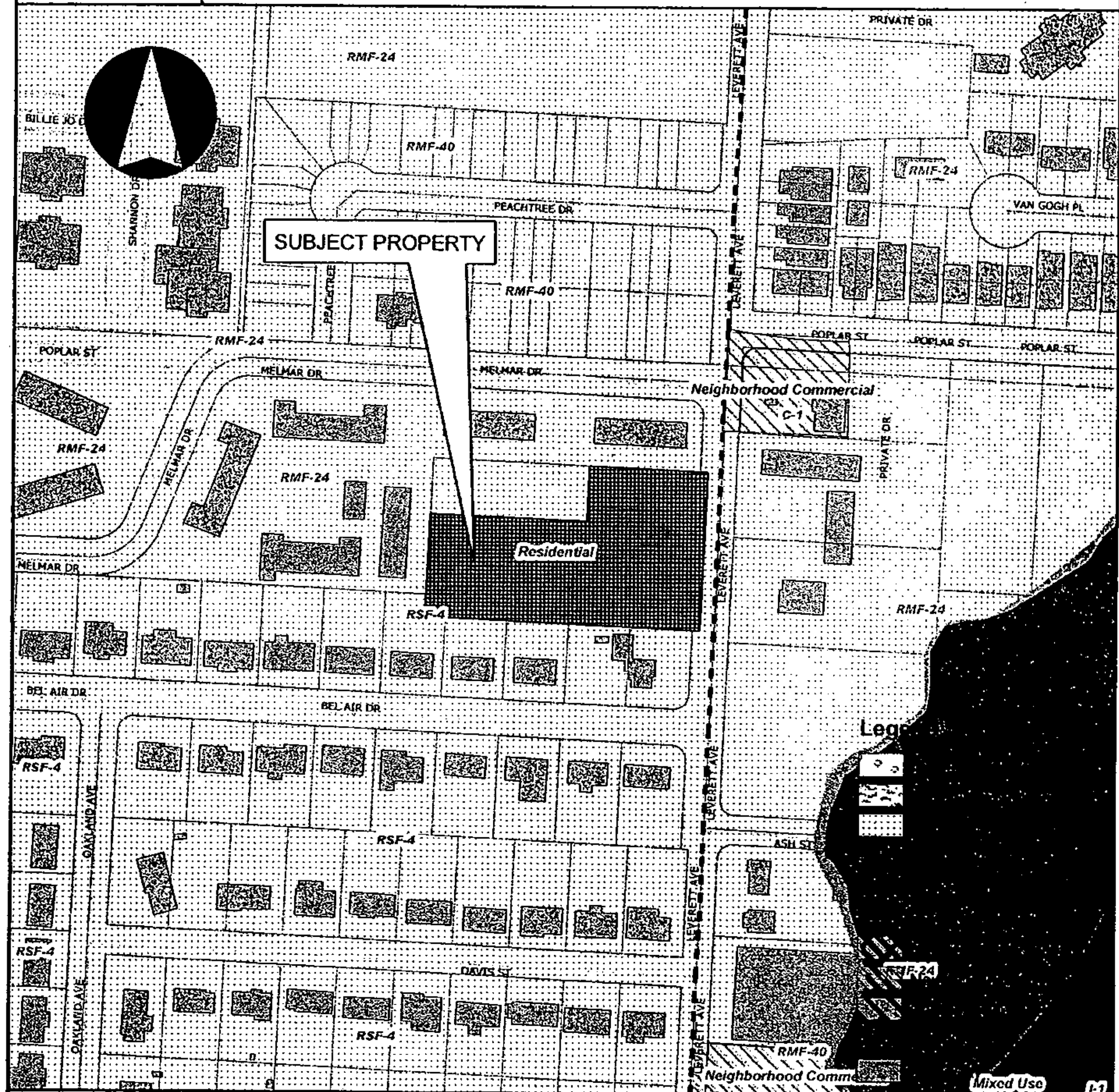
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

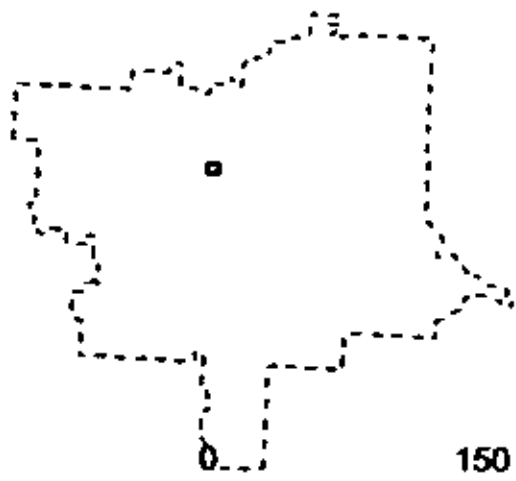
RZN05-1409

Future Land Use

SCB INVESTMENTS, LLC



Overview



Legend

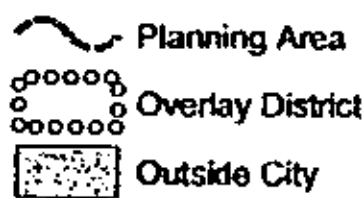
Subject Property



Streets



Boundary



Master Street Plan



150

300

600

900

1,200

Feet



April 22, 2005

Mayor Coody and City Council Members
City of Fayetteville
Fayetteville, AR 72702

Dear Mayor and City Council Members:

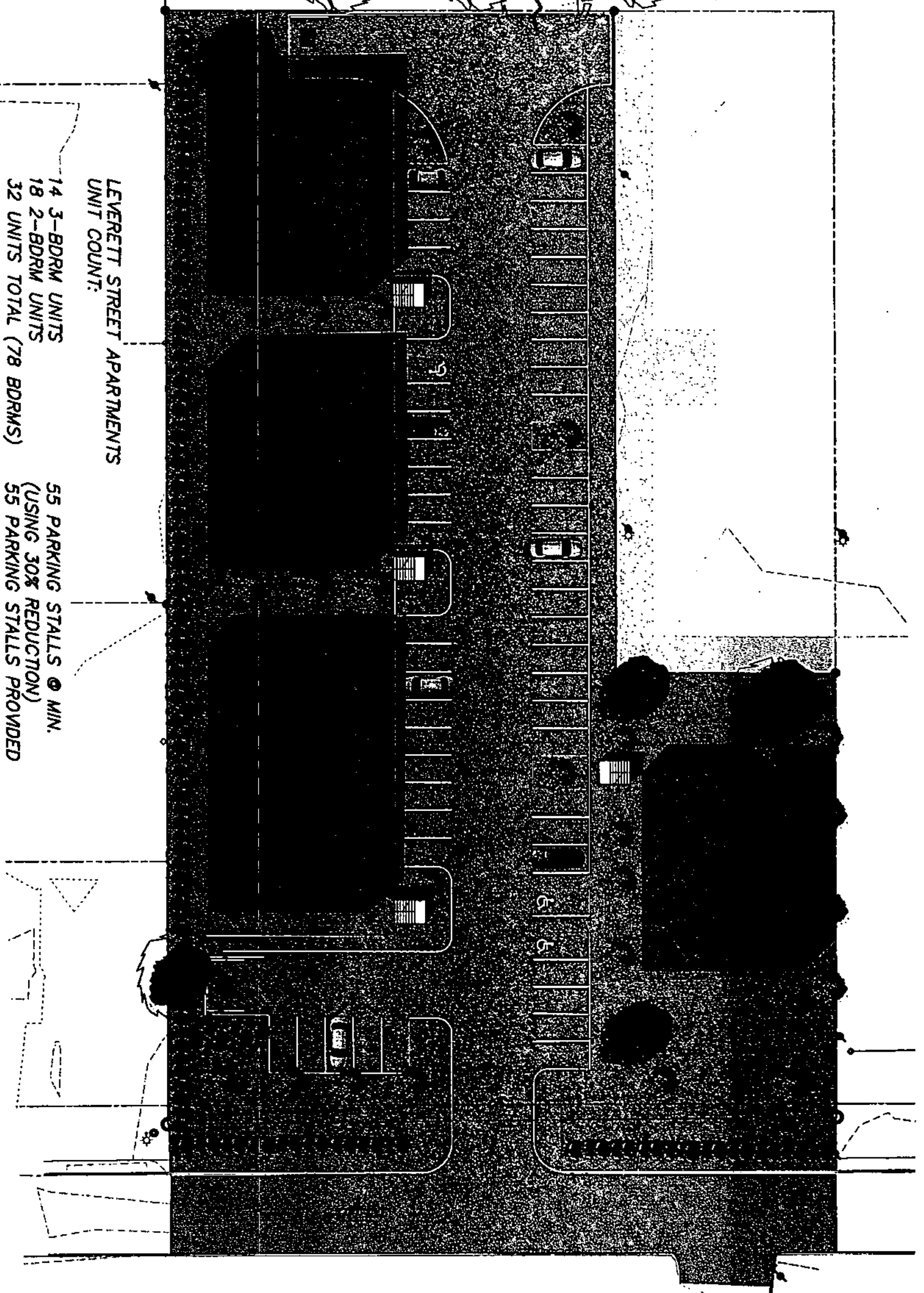
This letter should serve as a Bill of Assurances for our Leverett Apartment Development located on Leverett Street. I guarantee that the following will be done in regards to our development:

- There will be a landscaping screening that will serve as a buffer between our development and the single family homes that border our development.
- Even though the zoning for our development will allow 24 units per acre, our development will consist of a maximum of 32 total units which will be 22.38 units per acre.
- The buildings that we will construct will very closely resemble the elevations presented to the City Council on May 3, 2005.

The above will be assured by me in the construction of our apartments on Leverett Street. Thank you for your time and consideration.

Sincerely,

Brandon Barber
Chairman
The Barber Group



LEVERETT STREET APARTMENTS
UNIT COUNT:

14 3-BDRM UNITS
18 2-BDRM UNITS
32 UNITS TOTAL (78 BDRMS)

55 PARKING STALLS @ MIN.
(USING 30% REDUCTION)
55 PARKING STALLS PROVIDED



PROJECT DESIGN CONSULTANTS

THE BARBER GROUP

Cooper Architects

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

B. 3
RZN 05-1409 (SCB Investments, LLC)
Page 18 of 18

19-Apr-05
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1409: (SCB INVESTMENTS, LLC, 366): Submitted by Project Design Consultants for property located at 1841 LEVERETT AVENUE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.43 acres. The request is to rezone the subject property to RMF-24, RESIDENTIAL MULTI-FAMILY - 24 UNITS/ACRE.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 4.1.05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature] 4-4-05
City Attorney Date

Received in City Clerk's Office

Received in Mayor's Office

[Signature]
Mayor Date

Comments:

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes
October 11, 2004

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:38 p.m. on October 11, 2004 on site at the proposed park site on Madison Drive, Fayetteville, Arkansas by Chairman Colwell.

Present:

Parks and Recreation Advisory Board members Colwell, Eads, Hill, Mauritson, Shoulders, and Pawlik Holmes; City staff Coody, Coles, Jumper, Weber, Hatfield, Edmonston, Councilwoman Brenda Thiel; and Audience.

1. Approval of September 13, 2004 Minutes

MOTION:

Hill moved to approve the Parks and Recreation Advisory Board September 13, 2004 meeting minutes.

Eads seconded the motion.

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

2. Proposed Park Site:

Barrington Parke Property Owners Association has requested for PRAB to accept approximately 13 acres of City owned land into the parks system. The land is located south of Highway 45 East, between Starr Drive and Fox Hunter Road. It is immediately west and south of the St. Joseph Cemetery. See attached map.

The City has owned this property for the past 18 years. The land was acquired by the City in conjunction with a court order relating to the installation of sewer mains through the property. The land is zoned R-SF4. It contains a number of sewer and drainage easements. Madison Drive goes through the southern portion of this property, thus eliminating about .6 acre and reducing the total from 13.51 to 12.91 acres.

Amie Glass, a representative of Barrington Parke Property Association, presented their request to transfer the property that the city currently owns to the Parks and Recreation Division. She explained their intent was not to develop the land once it is owned by Parks and Recreation, but to keep the land at a natural state. She then stated that their POA has located a grant writer to help in the search for funding for any sort of development of the land in the future.

Jeff Coles spoke about the minimum level of maintenance a natural area is given. He also explained there are standards that all park land must meet as far as safety and maintenance.

Colwell pointed out the land proposed to Parks and Recreation may be partly in a wet land area.

Citizen A stated his opinion to be that he would like a trail developed on the property.

Hill added his concern is that if development is desired, that it would take four to five years to begin due to funding restraints and the Capital Improvements prioritization process.

Citizen B stated her property adjoins the property from the east side of the proposed park land. She stated her main concern was for security of the property and that she would like for it to remain natural area as well. There have been many people driving vehicles back into the wooded areas.

Amie Glass stated that the majority of the POA is in agreement that the land remains at a natural state and that the POA will research funding if development is desired.

Hill moved to accept the park land on the north side and south of Madison Drive into the Parks and Recreation Division.

Mauritson seconded the motion.

The motion was approved 6-0-0 with Colwell, Eads, Hill, Mauritson, Shoulders, Pawlik Holmes, and voting 'yes' Marley and Bailey absent for the vote.

3. Alison Jumper- Dog Park Update

Jumper reviewed that three public meetings have been held and staff is working on analyzing the results of the meetings and surveys. Survey returns were excellent. Next steps include determining the top location possibilities and then hosting public meetings for the affected neighborhoods. Jumper also mentioned that staff will be posting information about the dog park on the website.

4. Informational Items

Edmonston announced the following events:

- *Skatefest 2004 at Walker Park Grinders Skate Park on Saturday, October 9 at 2-4 p.m.**
- *1st Annual Art Walk at Gulley Park on Saturday, October 30 at 10 a.m. until 4 p.m.**
- *Fall Nature Walks at East Mud Creek Trail on Saturday, October 9 at 10 until 11:30 a.m.**
- *Fall Nature Walks at Lake Fayetteville Environmental Study Center on Saturday, October 30 at 10 until 11:30 a.m.**

Adjournment

Meeting was adjourned at 6:30 p.m.

Minutes submitted by: Rachel Weber

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes April 4, 2005

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:35 p.m. on March 7, 2005 in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Jerry Bailey.

Present:

Parks and Recreation Advisory Board members Hill, Bailey, Harrison, Langsner, Marley, Davidson, Mauritsen, and Park Staff Hatfield, Edmonston, Mihalevich, Coles, Whillock, Wright and Audience. Scout Troop 116 sponsored by Lake Sequoyah Church was in attendance as part of a badge requirement to attend a board meeting.

11. Hays Estates: Matt Mihalevich, Park Planner (Formerly Arapaho Drive Subdivision)

***This item was presented at the March 7, 2005 PRAB meeting. PRAB Motion was to accept money in Lieu for 18 single family units totaling \$9,990. Due to connectivity recommendations from Planning Staff and Subdivision Committee, this project is being presented for an access easement across park land.**

Background:

Planning Staff and Subdivision Committee members have recommended vehicular connectivity from this proposed subdivision to Madison Drive to the north through Madison Street Natural Area. They are requesting approval to dedicate a 40 foot wide by 150 foot long access easement across park land to make the connection. The City asked the developer to request the easement across the park land.

Staff Recommendation: Staff recommends allowing the proposed easement on park land.

Tom Henley representing H2 Engineering stated that the developer's position in requesting right-of-way across City park land would provide accessibility to the park area by the residents of the new development. Because of the benefit provided by this access the developers do not feel they should be required to pay a compensation to the city.

Tom Henley stated that the Boards approval of the proposed extension is necessary in order to have a chance at getting the project approved by Planning. He suggested that the city small section of parks land to the south of Madison could offer the city the potential to generate revenue in the future if the City were to sell those lots for building sites.

Davidson added that the city could sell those lots without the street going through.

Hill stated there needs to be reassurance that there would be no expense required to Parks for the extension. Parks will grant easement to the developer in exchange for the developer bearing the expense of building the street.

PRAB Motion:

Bailey moved to approve the easement for the extension over City park land requiring no compensation for use of the land from the developer and the City incurring no cost for the road. The developer is to pay for the construction of the extension.

Langsner seconded the motion.

The motion was approved 5-0-0 with Mauritson, Bailey, Davidson, Harrison, Langsner and Hill voting 'yes', Pawlik-Holmes and Marley absent for the vote.

Adjournment

Meeting was adjourned at 7:15 p.m.

Minutes submitted by: Cheryl Whillock

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LSP 05-1439: JB Hays, pp 373 was submitted by H2 Engineering for property located at 1760 N. Starr Drive. The property is zoned RSF-1, Residential Single Family, one unit per acre and RSF-4, Residential Single Family, four units per acre, containing approximately 25.27 acres. the request is to divide the subject property into two tracts of 19.82 and 5.45 acres.

PPL 05-1437: Hays Estates, pp 373 was submitted by H2 Engineering for property located west of Barrington Park Phase II. The property is zoned RSF-4, Residential Single Family, four units per acre and contains approximately 5.45 acres. The request is to approve a residential subdivision with 18 single family lots proposed.

Ostner: The next item on our agenda is LSP 05-1439 for J.B. Hays.

Morgan: The applicant requests approval of a Lot Split for a tract which is 25.27 acres. It is located east of Starr Road and west of Barrington Park Subdivision Phase II. The applicant proposes to split this property into two tracts of 19.82 acres and 5.45 acres respectively. The latter is zoned RSF-4 and is proposed to be subdivided into single family lots which I will get to in a short time. This is the third and final Lot Split permissible for the subject property. Water and sewer mains are accessible to each of the proposed tracts. Right of way being dedicated with this Lot Split includes 35' from centerline of Starr Drive. This is a collector street on the Master Street Plan. As well as 50' adjacent to the southern portion of the proposed Tract "2" to allow for future construction of Arapaho. Staff is recommending approval of this Lot Split with a total of six conditions of approval. Of which require right of way dedication and some small revisions to the plat prior to recordation.

Ostner: Thank you Ms. Morgan. Is the applicant present? Would you please introduce yourself and give us your presentation?

Hern: My name is Kip Hern with H2 Engineering. We don't have any exceptions to the conditions of approval this evening and I will be happy to answer any questions.

Ostner: Thank you Mr. Hern. At this point I will open it up to the public if anyone would like to speak to LSP 05-1439 please step forward and give us your comment. Seeing none, I will close it to the public and bring it back to the Commission for discussion.

Anthes: Staff, this would be the third and final split that would be allowed on this property. If there is something about the configuration of the split that the connectivity could not be made and there might be another way to do it if the lot was split differently, can they process a Lot Line Adjustment or some other mechanism that we can look at a different way to subdivide

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this property and allow two ways in and out if this has already been processed?

Pate: Yes. If, for instance, this Lot Split is approved as shown and recorded at the County. A Property Line Adjustment in the future could adjust that property to some other configuration.

Anthes: I will just state for the applicant, I feel like a 809' cul-de-sac is really too long. My concern here with this and the next item is that we don't know whether we are going to be allowed access because that is a City Council approval item. I feel like there is a way to split this property differently and achieve your development with a much shorter cul-de-sac if that connectivity is not allowed and it could be reconfigured a different way. I was hoping to hear what Jeremy stated, that if we needed two points of access you could actually adjust the lot line. I just wanted you to know why I made that statement.

Ostner: This item is in conjunction with a Preliminary Plat entitled Hayes Estates.

Anthes: Can we hear this together or not?

Ostner: We can talk about them together, we need to vote on them independently but they are interrelated.

Anthes: I would ask that we do that.

Ostner: I think that that is appropriate.

Vaught: Why aren't we dedicating the 50' right of way for the whole Arapaho Drive boundary to Starr Drive?

Pate: That will allow adequate access for this particular Lot Split and connectivity to the west, the right of way will then be dedicated. When we proceed with the following Preliminary Plat then we will utilize that right of way area for development of this property.

Vaught: My question is why don't we go along Tract "1" as well all the way to Starr Drive?

Pate: We did look at that. With 19.8 acres there is a number of different configurations that actually could potentially pick this Arapaho Drive back up to meet with the street to the north and west of Starr Drive in a better configuration as opposed to just along the south of the property. There could be some lot yield, for instance, along that portion so we felt at this time it was more appropriate just to have the minimum requirements for a Lot Split, waiver of Preliminary Plat requirements and go with that at this

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time. Should this property develop in the future, if it ever does develop, then we can look at a better means of connection at that time.

Hern: As a note, we did dedicate the 35' along Starr Drive along the west side of the property for not only Tract "1" but also Tract "3" as well, which is outside of this particular Lot Split.

Ostner: If we could have the staff report on the accompanying item, I think it would be nice. We are going to vote on these independently but if we could discuss them together I think it would be helpful.

Morgan: Hayes Estates is the Preliminary Plat proposed for the 5.45 acre tract, which is proposed to be subdivided from the overall tract. The applicant requests approval for an 18 single family lot subdivision in this location. The applicant is proposing to extend Arapaho Drive along the southern property of that tract as well as construct a cul-de-sac to the north at this time. The plat reflects an 809.47' long cul-de-sac. Staff is investigating the possibility of dedicating city property to the north of this property in order that right of way may be dedicated and a street constructed at the developer's expense to connect to Madison Drive. At this time the Parks and Recreation Board have heard this proposal and on April 4th voted to approve staff's recommendation that a street be connected to Madison Drive to provide a secondary means of access to this property. Otherwise, all 18 lots would be accessing through Arapaho Drive through Barrington Park subdivision. Should the City Council approve this dedication it will be the developer's responsibility to construct the street. Our condition of approval number one reflects this recommendation that staff has made and states Planning Commission determination of a waiver request for a cul-de-sac length. Staff recommends dedication of city property to the north for a 50' wide right of way and construction of a city street including sidewalks to Madison Drive at the developer's expense. The Parks and Recreation Board voted unanimously to recommend to City Council that the street connection be approved and that right of way be dedicated across existing parkland to connect the proposed street. If the City Council does not approve the recommendation, staff recommends in favor of a waiver to allow the construction of a dead end street greater than 500' in length. In addition to that condition, there are several standard conditions. Condition three requests that the Planning Commission determine whether to grant a waiver from the 100' separation of a permanent water surface from the finished floor of proposed structure. There is an existing pond just to the west of the tract which is requested to be developed and those structures will be closer than 100' to that pond. Engineering at this time is recommending approval of this waiver request. If you have any questions I'll be happy to answer them.

Ostner: Would the applicant like to state anything else about this Preliminary Plat?

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- Hern: The intent here obviously is to get the Lot Split approved this evening and then carry this forward onto City Council, which we think we will have a tremendous amount of support for the connectivity. Staff is recommending the solution. The developer, although this will be an additional expense, is willing to do this because he is trying to be a good neighbor to Barrington Park. We are asking for approval for both the cul-de-sac and the recommendation going to City Council.
- Ostner: Thank you. At this point I am going to open it up to public comment for the Preliminary Plat, PPL 05-1437 if anyone would like to speak to this item we can go ahead and hear your comments now. Seeing none, I am going to close it to public comment and bring that back to the Commission as well. We have under discussion two items, we need to vote on them separately. Commissioners?
- Clark: When will the City Council hear the request for the street?
- Pate: The agenda request going to City Council after Planning Commission is Friday, it takes about 25 days to get to the following meeting so it would be about three weeks from now.
- Anthes: For clarification, a question from Engineering. Am I reading this correctly to say that the reason that you are in support of this waiver request is that there is a dam that would break before the water ever reached the level of the homes? There are notes in here to the effect that you are in support of a waiver request for the level of the water within 100', that is because there is a dam associated with the pond that would break before the water reached the homes?
- O'Neal: I believe the applicant is going to improve the spill of the pond.
- Hern: Yes Ma'am, the adjacent pond for the subdivision will be utilized as our detention facility. We are going to improve the spillway structure to that facility to over detain. It is being designed to where it will hold a certain 100-year flood elevation. In addition to that though, we have got the breach elevation of the dam and it will be held above that with our adjacent structures. All of our homes are perfectly safe.
- Anthes: That makes sense. Another question of staff then, I believe this is the piece of property we heard quite a few comments on when we were looking at rezoning. It is next to Barrington Park correct?
- Pate: This is one of those. There were two requests on this overall larger piece of property.

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Anthes: Part of the neighborhood concern was points of ingress and egress to this development?

Pate: I believe so. From my recollection, most of the comments were from the density requested with the original request. The original request for this particular piece of property was RMF-12. The Barrington Park residents directly to the east were not happy with that request and staff was not in support of that request either. At this meeting that request was changed to RSF-4 and proceeded forward to Council and I believe it was unanimously approved there.

Anthes: My major concern is that I remember those discussions and the request for RSF-4 which seemed to be more compatible and I think was in line with staff's recommendations. My main concern at this point is what if City Council denies the dedication for the Madison connection? I really believe that an 809' cul-de-sac is really too long and on top of that the two points of connection are beneficial to the residents, the new residents and the surrounding residents. That is why I'm particularly interested in the configuration of the Lot Split. If the Madison connection was denied, there would only be one way to develop that with one point of ingress to the new development. However, if the Lot Split was reconfigured there might be a way to then head west with the second point of egress. The cul-de-sac length would be reduced and probably come close to or within our city standards. Because it is kind of a cart before the horse thing and we are not quite sure what the City Council is going to do, I'm pleased to hear that there would be a way to process the Lot Line Adjustment. I'm not inclined to provide a condition of approval that would allow the waiver request.

Goodereis: My name is Crystal Goodereis, I'm J.B. Hays' assistant. As Mr. Ostner knows, he was present through the City Council of all of this. A lot of the discussion that was heard was on the 1.59 acres, which was the dental clinic which we withdrew and we permanently tabled. Barrington, when we met with Barrington's POA, they were very much in favor of a cul-de-sac because if you go back to the very beginning over a year ago, the developer, J.B. Hays, originally tried to make this connectivity from day one. We were told that this was Park ground that could not be purchased for 20 years and that a right of way was not ever going to be on the table. That was part of our concern. The second part was let's look at Starr Drive. We were told that Starr Drive is not feasibly ready right now at this time and won't be until it becomes a collector street. We have a school emptying out there. They also stated, I need to tell you that staff have been great to work with and all of them, Planning, Subdivision Committee, the whole nine yards, but the reason that we chose not to do the Starr is because Planning would rather see it connect up, swerve around and connect up to Cherokee to alleviate pressure from the school,

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so we don't have three driveways, two from the school and then one connecting out. Barrington was very concerned about this connecting to Starr because they felt like that it would then be a cut through, a cut through from everyone on Hwy 265 that needed to get over to Crossover or Starr and then especially avoiding all of the traffic coming down Mission in the morning with the school traffic. Barrington was more inclined to want to see the cul-de-sac than they were to see connectivity to Starr. There was a lot of issue which would permanently table, because, as we said before, there is no further intent to develop the ground anymore. That is why we withdrew the 1.59 request for an R-O because it just wasn't feasible to have the neighbors upset when we are not planning on developing that ground. To answer some of your questions Ms. Anthes, those were some of the issues that were on the table that we tried to address over a year ago. It wasn't anyone, it was all in hindsight because that ground had just recently then been given to Parks Board, back in October, which was a day late, a dollar short. Prior to that, before that, this could have all been a moot issue and we could've went to the city and got a right of way and been done and not have had any of this happen. That's why I'm asking for granting of the cul-de-sac right now. As a citizen who lives on Starr and will continue to live on Starr, Starr is not ready right now until it turns into a collector to handle the traffic because it wouldn't just be my 18 homes that would be coming out there. That was what Barrington said. That's all that I have to pass on. That's why we ask. I can't speak for City Council, but I would hope that they would be willing to grant the right of way, especially since the Parks Board saw the need for it. The only reason that I'm speaking instead of Kip is because I did the rezoning so I was there for all of the wonderful "fights" if you want to call them, or whatever, but I was there from the beginning. I did the rezoning. Kip came in later so he didn't know how the history of the property went. That's the only reason we are asking for a cul-de-sac that long.

Anthes: Parks has recommended approval of that dedication to Madison?

Pate: That is correct. Planning staff did speak with the applicant's representative in talking about how to reduce this, obviously, with any waiver requirement we try to reduce it as much as possible to meet ordinance requirements, and continue with the approval process. We spoke about this situation at agenda session where probably a different property configuration and a street connection west to Starr Drive could alleviate some of that waiver request. We felt it was a little much to ask for an entire street connection to Starr Drive, even with a stub out in a different configuration, we would still have a dead-end street for all intents and purposes that emergency vehicles would have to get to the end of longer than 500'. We did approach the Parks staff and the Parks and Recreation Board to attempt to hopefully resolve those issues. Knowing

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the property best, the Parks and Recreation Board did vote unanimously to support this City Council request. As per our typical process, the Planning Commission needs to vote and recommend something to the City Council and that is why it is the cart before the horse, but that is sometimes how it has to go with this process. They are looking for your recommendation as well as the Parks Board recommendation. We feel confident that it is a good recommendation, that it provides the city's policy of connectivity for both pedestrian and street connectivity. This area, this parks land specifically is not currently be utilized for parks purposes. There is a trail that could potentially go in this area that would not be impeded by the street connection either. We feel confident in our recommendation.

Hern: One more comment. On the design of the cul-de-sac, you will notice on the very north end of the property, there is a considerable easement there that leads into the property. That in our mind, from a development perspective, is very good use of a cul-de-sac, as you shorten the cul-de-sac and with the prescription of the cul-de-sac with the subdivision to the east and with the pond to the west, any cul-de-sac that you bring back to the south will eliminate a number of lots. We did the best that we could to present something. We have 18 lots here, we understand that we are asking for a waiver, I don't know that that is really an unsafe situation. I would ask you again to consider approval of this particular design here tonight.

Pate: Just to clarify too, our recommendation is that the City Council approve a street connection and this cul-de-sac not be constructed. That is our recommendation. Following that, should the City Council decide not to go with that recommendation, then it would be constructed as shown. I just want to clarify that emphasis is placed upon our recommendation to the City Council and then proceed forward with this request.

Ostner: Just to clarify that clarification, that would only happen if we granted the waiver request. If we did not grant the cul-de-sac waiver tonight and it moved forward and the City Council did not grant the right of way request, they would need to proceed in a different fashion.

Pate: That is correct.

Ostner: I have a question for the City Attorney. In the area of Lot Splits to what degree of latitude are we entitled? I think I understand our decision making processes on Preliminary Plats.

Whitaker: I'm not certain what you mean what degree of latitude on a Lot Split.

Ostner: If a Commissioner were not pleased with the configuration of a proposed Lot Split, how would a Commissioner go about denying that Lot Split?

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Whitaker: A Commissioner could, if they felt that it was not a proper configuration, they certainly could vote against it if they thought it didn't meet the criteria listed in the ordinance. Again, you always have to come back to that. You are restrained to the extent of the language of the ordinance which speaks to factors to be considered. I do not have that in front of me.

Clark: I have absolutely no problem with the configuration of the Lot Split and didn't at Subdivision either. We agreed with staff that the right of way needs to be dedicated to make the connectivity but I understand Commissioner Anthes' argument that if Council decides not to that we will have granted a waiver for an extremely long cul-de-sac. Would it be possible on the first condition of approval to remove the last sentence that we don't give that waiver. We send it to Council with a recommendation that they give the extension. If they don't then they would have to come back for a waiver, would that be appropriate?

Pate: That is. That is your call to make. The Planning Commission is given the discretion to recommend a waiver.

MOTION:

Clark: That would make our intentions clear to the Council that we want this extension and give the developer more argument that it needs to be approved at that level to move ahead or they are going to have to come back to us to ask for a waiver. I will make a motion that we approve LSP 05-1439 as stated in the staff report.

Myres: Second.

Ostner: Is there further discussion on the Lot Split?

Anthes: We are clear that if something does fall through with the connectivity, they can process a Lot Line Adjustment if we want to require a different configuration, correct?

Pate: That is correct. It is an administrative request that does not come before any board.

Anthes: Thank you.

Ostner: Is there further discussion? Could you call the roll please?

Roll Call: Upon the completion of roll call the motion to approve LSP 05-1439 was approved by a vote of 8-0-0.

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Thomas: The motion carries.

Ostner: Our tandem item, PPL 05-1437 is currently on the table.

MOTION:

Clark: I will then make another motion that we approve PPL 05-1437 with amendment to condition one to strike the last sentence and the Commission finding of fact on number three that we approve the waiver. All other conditions as stated.

Vaught: What I don't want to see here is if the City Council doesn't approve the connection, they have to start over. That is not going to happen, they would have to just process a waiver request that would come through to the next meeting, what would be the process for the applicant?

Pate: For the record, I would recommend that should the City Council not approve the right of way dedication and allow the street connection to come through, it could just come back to this body with a proposal that would meet the ordinance requirement if it is stricken as indicated. Also, for the record though, I want to make it clear that a Preliminary Plat would be approved with the Council approval of the right of way dedication so that it is very clear tonight what is being approved and what is not being approved. It is a little bit unusual in the fact that we are recommending approval of a Preliminary Plat, that is not unusual, that would meet ordinance requirements. However, we would just like to make clear for the record for the applicant and for everyone in the public listening, or for City Council reading these minutes, as they look at the right of way dedication, if they choose not to recommend that right of way dedication, that it would come back to this level and a configuration that we could look at. We would need to work with the applicant to make sure that time is not lost. Time is obviously of the essence, but we would need to make sure that all lots meet minimum requirements. We might see a Property Line Adjustment, we might see a situation where if it is the same configuration with a 500' cul-de-sac, we would be looking at pretty large lots along the east side so we just need to make sure that those all meet ordinance requirements.

Vaught: To follow up, do we need to include language in condition number one stating that should City Council deny the dedication, the applicant will return to the Planning Commission for review of waiver request or new lot configuration?

Pate: I would recommend adding a condition, number fourteen, stating should the City Council deny the right of way dedication, this Preliminary Plat

shall return to the Planning Commission for approval or denial, and we would look at whatever configuration at that time.

Clark: I incorporate that into my motion.

Ostner: We currently have a motion for approval of PPL 05-1437. On the first condition of approval we have struck the last sentence. I am going to read the way that condition currently reads. "Planning Commission determination of a waiver request for cul-de-sac length. Staff recommends dedication of city property to the north for a 50' right of way and construction of a city street, including sidewalks, to Madison Drive at the developer's expense. Parks and Recreation Board voted unanimously to recommend to the City Council that this street connection be approved and right of way be dedicated across the existing parkland to connect the proposed street. That is condition number one. A finding of fact in the affirmative for condition number three, the determination of a waiver from the 100' separation of a permanent water surface. The addition of condition of approval number fourteen, should City Council deny the right of way request, this Preliminary Plat will return to the Planning Commission.

Pate: In condition number one it is a 40' right of way as opposed to a 50' right of way.

Ostner: Is there further discussion? Could you call the roll?

Roll Call: Upon the completion of roll call the motion to approve PPL 05-1437 was approved by a vote of 8-0-0.

Thomas: The motion carries.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

May 3, 2005 City Council Meeting

TO: Mayor Dan Coody and Fayetteville City Council

THROUGH: Stephen Davis, Financial and Internal Services Director

FROM: Coy Hurd, Project Manager

DATE: April 26, 2005

SUBJECT: A resolution approving a contract with the low bidder for the demolition of the Mountain Inn and adjacent buildings.

Recommendation: Staff recommends the consideration of the acceptance of the low bid for this demolition effort (\$688,137.95) and the approval of a project contingency fund (\$101,770).

Background: On April 25, the bid was opened for the demolition of The Mountain Inn and adjacent buildings on the first block of West Center Street. The lone bid received was from the Jimmy Patton Contractor Company of North Little Rock. Mr. Patton's bid was \$688,137.95.

Discussion: The Jimmy Patton Contractor Company has a substantial track record in similar demolition projects that have been executed successfully. The bid price of \$688,138 is somewhat less than had been anticipated for this work.

Budget Impact: The amount of \$887,000 has been set aside for the funding of all the costs associated with the demolition of these structures. These funds reside in an existing account (4490 9490 5805 00). There will be several types of costs to be paid from this fund:

May 3 memo, page two

Known issues

	\$688,138	demolition contract
	30,855	contract for environmental testing and oversight (to EEG)
	9,755*	lab testing
	7,500*	work to be done by Water and Sewer Division
	9,900*	utility work to be done to keep three businesses operating during demolition (Hoffbrau, Taste of Thai, Petra Café)
	\$746,148	
Allowance for unknowns (10%)	74,615*	
Total	\$820,763	

* project contingency fund: \$101,770

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH JIMMY PATTON CONTRACTOR COMPANY IN THE AMOUNT OF \$ 688,137.95 FOR THE DEMOLITION OF THE MOUNTAIN INN BUILDING, COURTS BUILDING, FORMER NIBLOCK LAW OFFICE AND RED BIRD CAFE AS PART OF THE PROJECT PLAN FOR THE HIGHWAY 71 EAST SQUARE REDEVELOPMENT DISTRICT

WHEREAS, on April 25, 2005, bids were opened for the demolition of the blighted Mountain Inn, Courts Building, former Niblock Law Office, and vacant Red Bird Cafe; and

WHEREAS, Jimmy Patton Contractor Company was the qualified low bidder for this demolition and should be awarded the contract based upon its bid of \$688,137.95.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards and approves the contract with Jimmy Patton Contractor Company in the amount of \$688,137.95 (attached as Exhibit A) for the demolition and/or gutting of the blighted Mountain Inn and Courts Building and the demolition of the former Niblock Law Office and vacant Red Bird Cafe and authorizes Mayor Coody to sign this contract.

PASSED and APPROVED this 3rd day of May, 2005.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Fayetteville

City Council Meeting of May 3, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Bob Davis, P.E., Water & Wastewater Director

Date: April 15, 2005

Subject: Approval of a contract amendment for Black & Veatch to provide Construction Phase Services dealing with the construction and post-construction activities associated with the Noland Wastewater Treatment Plant headworks and solids handling improvements.

RECOMMENDATION : I recommend approval of this contract amendment. This recommendation was preceded by a thorough review of proposed tasks presented by Black & Veatch including an intense question and answer session, negotiation and refinement, and finally, revision of their preliminary proposal. A detailed breakdown of tasks and estimated hours for each task are provided on the spreadsheet included with this memo. Black & Veatch has designed this work, and continuation of construction phase services with this firm (including shop drawing review, inspection of the construction work, and general resident engineer services) will provide the City with continuation of responsible charge and subsequent engineering responsibility by a single, consistent entity (Black & Veatch). Black & Veatch design and bidding services regarding the Noland Plant have been conducted in a timely, professional manner and we have every reason to believe that this track record will continue throughout construction and post-construction phase activities.

BACKGROUND: As part of the Wastewater Systems Improvement Project (WSIP) the City of Fayetteville has undertaken a major renovation and expansion of the existing Noland Wastewater Treatment Plant including improvements to the headworks and solids handling facilities. Improvement briefs are provided in the following two paragraphs.

Solids Handling Facilities

Improvements include construction of a new two-story sludge dewatering building. The dewatering equipment will be located on the second story to allow for easy sludge loading to the truck drive-through below. The equipment within the building will include a new conveyance system with dewatered cake loadout facilities that will be used to load trucks; a ferric chloride storage and feed system to be used at the belt filter presses for hydrogen sulfide control; and an odor control system for the dewatering building including cake-loading areas.

Headworks Improvements

Improvements include three new flow control structures, a new screenings facility, a new grit removal system, plant flow monitoring, upgrades to the existing influent pump station, a second influent pumping station, replacement of sludge pumps and denitrification pumps, repair of concrete on existing basins, odor control improvements, a

City Council Meeting of May 3, 2005

new gravity belt thickener with associated appurtenances, repairs to the existing building's exterior facing and roof, and other miscellaneous improvements.

DISCUSSION: This is the first project to be constructed in the Wastewater System Improvements Project (WSIP) and all systems are "go". Archer Western was previously awarded the construction contract for the Noland Plant improvements. Construction Contracts have been signed and bonds, insurance, and all other required pre-construction documents have been submitted, reviewed, and approved. To date, a variety of shop drawings have been submitted by Archer Western and review of these will begin in an expeditious fashion by Black & Veatch upon this approval by Council. A pre-construction meeting has been scheduled for May 4, 2005 at the Noland Wastewater Treatment Plant at which time a May 16, 2005 Notice To Proceed will be issued to the General Contractor, Archer Western.

One of the primary discussions during the pre-construction meeting will be project phasing and coordination between the contractor (Archer Western), plant operations staff (OMI), and the resident engineer (Black & Veatch) regarding ties-ins between the new and old systems to guarantee that continuous plant operation will not be jeopardized during construction. Additional important pre-construction meeting topics will include thorough discussions of safety, security and liability issues. The City of Fayetteville Water & Wastewater staff, OMI, and Black & Veatch have conducted previous, thorough discussions concerning all of these topics.

BUDGET IMPACT: Payment for construction phase services offered by Black & Veatch will be from the 3/4 -cent sales tax bond election held on November 6, 2001 for the Wastewater System Improvements Project. Funding through the Arkansas Soil and Water Conservation Commission will not be used to fund this expense. The \$1,478,000.00 requested for these services is 1.18% of the \$125,000,000.00 budget allocated for the Wastewater System Improvements Project.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE AMENDMENT NO. 1 TO
THE AGREEMENT FOR PROFESSIONAL SERVICES
WITH BLACK & VEATCH CORPORATION TO PROVIDE
CONSTRUCTION AND POST CONSTRUCTION SERVICES
FOR THE NOLAND WASTEWATER TREATMENT PLANT
IN A NOT TO EXCEED AMOUNT OF \$1,478,000.00**

**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 Amendment No. 1 to the Agreement for Professional Services with Black & Veatch Corporation to provide construction and post construction services for the Noland Wastewater Treatment Plan in a not to exceed amount of \$1,478,000.00. The City Council authorizes Mayor Coody to sign this Amendment No. 1 (attached as Exhibit "A").

PASSED and APPROVED this 3rd day of May, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Owner: City of Fayetteville, Arkansas
 Project: Noland Wastewater Treatment Plant Improvements - EP-2
 Services: Construction Phase Services and Resident Engineering

PHASE	SUBTOTAL Hours	SUBTOTAL Billing \$	SUBTOTAL EXPENSES	SUBTOTAL SUBCONTRACTS w/ multiplier	Subtotal	TOTAL COST rounded nearest \$100
PHASE/Type				1.00		
(Billing Rate, L/Hr.)						
APPENDIX C - CONSTRUCTION PHASE SERVICES						
C.1 GENERAL						
C.2.1 Management Functions	400	388	\$ 44,516	\$ -	\$ 44,516	
C.3 Office Support Services						
C.3.1 Insurance Certificates	410	4	\$ 648	\$ -	\$ 648	
C.3.2 Initial Construction Schedule	410	26	\$ 3,342	\$ -	\$ 3,342	
C.3.2.1 Existing Facility Continuous Operation	410	64	\$ 6,810	\$ -	\$ 6,810	
C.3.2.2 Updated Construction Schedules	410	86	\$ 11,202	\$ -	\$ 11,202	
C.3.3 Review Schedule of Values and Payment Schedules	410	22	\$ 2,694	\$ -	\$ 2,694	
C.3.4 Review Guarantees, Bonds, Tests	410	116	\$ 15,760	\$ -	\$ 15,760	
C.3.5 Review Drawings and Data submitted by Contractor	410	2,690	\$ 273,020	\$ -	\$ 273,020	
C.3.6 Interpret Contract Documents / RFIs	410	1,266	\$ 143,938	\$ -	\$ 143,938	
C.3.7 Review Applications for Payment	410	214	\$ 21,690	\$ -	\$ 21,690	
C.3.8 Prepare Routine Change Orders	410	326	\$ 40,858	\$ -	\$ 40,858	
C.3.9 Provide Monthly Progress Reports	410	120	\$ 18,720	\$ -	\$ 18,720	
C.3.10 Review On-site requests	410	96	\$ 11,958	\$ -	\$ 11,958	
C.3.11 Review Equip. Maint. O & M manuals	410	272	\$ 23,496	\$ -	\$ 23,496	
C.3.12 Provide data to Program Manager for website	411	68	\$ 8,936	\$ -	\$ 8,936	
C.4 Field Support Services						
C.4.1 Pre-Construction Conference	420	62	\$ 6,840	\$ 630	\$ 7,370	
C.4.2 Conduct Monthly Progress Meetings	420	448	\$ 87,896	\$ 28,380	\$ 116,276	
C.4.3 thru C.4.6 Make Periodic Site Visits / Inspect Unforeseen conditions / Acceptability claims / performance test data.	420	924	\$ 112,162	\$ 15,130	\$ 127,292	
C.4.7 Substantial Completion Inspection	420	104	\$ 11,396	\$ 1,420	\$ 12,816	
C.4.8 Final Completion Inspection	420	44	\$ 4,940	\$ 1,420	\$ 6,360	
Subtotal Hours	7,288					
Subtotal Billing		\$ 820,232	\$ 48,840	\$ -	\$ 869,072	\$ 869,000
APPENDIX D - POST CONSTRUCTION PHASE						
D.1 D.1.1 Prepare Record Set of Drawings	600	570	\$ 81,362	\$ 2,000	\$ 83,362	
D.2 D.2.1 Provide up to 100 hours consulting for 1 year performance rev'w	610	100	\$ 16,060	\$ -	\$ 16,060	
Subtotal Hours	670					
Subtotal Billing		\$ 77,412	\$ 2,000	\$ -	\$ 79,412	\$ 79,800
APPENDIX E - RESIDENT PROJECT REPRESENTATIVE (E.1 thru E.6 Tasks)						
E.1 GENERAL	450	3,360	\$ 369,600	\$ 10,000	\$ 379,600	
E.2 SITE OBSERVATIONS AND LIAISON	450		\$ -	\$ -	\$ -	
E.3 OUTSIDE LIAISON AND PUBLIC INFORMATION SERVICES	450		\$ -	\$ -	\$ -	
E.4 MEETINGS, REPORTS AND DOCUMENT REVIEW	450		\$ -	\$ -	\$ -	
E.5 ASSIST WITH SUBSTANTIAL COMPLETION	450		\$ -	\$ -	\$ -	
E.6 ASSIST WITH FINAL COMPLETION	450		\$ -	\$ -	\$ -	
E.7 Provide Field Testing Services through subcontractor	451		\$ -	\$ 52,500	\$ 52,500	
Subtotal Hours	3,360					
Subtotal Billing		\$ 369,600	\$ 10,000	\$ 52,500	\$ 432,100	\$ 432,100
APPENDIX F - O&M MANUAL / START UP / TRAINING						
F.1 & F.2 O&M MANUAL AND PROCESS DESCRIPTION DOCUMENT	600	583	\$ 64,159	\$ -	\$ 64,159	
F.3 Startup and Training Services						
F.3.1 General						
F.3.2 Training						
F.3.2.1 Conduct site visit to become familiar with plant	600		\$ 710	\$ -	\$ 710	
F.3.2.2 Develop pre-startup training program	600		\$ -	\$ -	\$ -	
F.3.2.3 Prepare training materials for training program	600		\$ -	\$ -	\$ -	
F.3.3 Startup	600		\$ -	\$ -	\$ -	
F.3.4 Training	600	7	\$ 831	\$ -	\$ 831	
F.3.5 Review Contractor's SU Plan	600	160	\$ 25,440	\$ -	\$ 25,440	
F.3.6 Provide 100 hours of on-site plant startup assistance (2 trips)	600		\$ 710	\$ -	\$ 710	
F.3.7 Be present at and review odor control testing	600	48	\$ 6,676	\$ -	\$ 6,676	
Subtotal Hours	768	213				
Subtotal Billing		\$ 97,105	\$ 1,420	\$ -	\$ 98,525	\$ 98,600
SECTION 7 - ADDITIONAL SERVICES						
Additional Services Allowance	700		\$ -	\$ -	\$ -	
Subtotal Hours						
Subtotal Billing		\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL HOURS - ALL PHASES	12,082					
TOTAL BILLING - ALL PHASES		1,364,348	\$ 60,270	\$ 52,500	\$ 1,477,119	
TOTAL BILLING - ALL PHASES					\$ 1,476,000	



BLACK & VEATCH
building a world of difference™

ENERGY • WATER • INFORMATION • GOVERNMENT

City of Fayetteville
Noland WWTP Improvements
CPS Amendment

B&V Project 135045.400
B&V File B-1.1
February 23, 2005

Mr. Bob Davis
Acting Director of Utilities
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Dear Mr. Davis:

We have revised our proposed contract for the Construction Phase Services Contract dealing with the construction and post-construction activities associated with the Noland improvements using the basis discussed at our meeting of February 15, 2005.

We made the following changes to the document:

1. We eliminated the \$50K contingency for out-of-scope items. Through the discussions at the meeting, it is our understanding that the City routinely adds an amount to cover minor unforeseen conditions with contract approval.
2. We have reduced the billing rate of the RPR to \$110/hour. We, of course, also changed RPR's to coincide with this billing rate. The resume of the proposed RPR is enclosed. This amounted to a reduction of \$114.5K but necessitated several other changes in (a) brought all shop drawings back to KC and (b) increased office administrative effort.
3. The last major change is with the O&M Manual, Start-up, and Training. Based on discussions at our meeting and a subsequent telephone conversation with Mr. Ammons, this effort has been reduced by \$120K.
4. Other minor adjustment.

The total for the CPS contract now totals \$1.478 M.

AMENDMENT NO. 1
TO
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
BETWEEN
CITY OF FAYETTEVILLE, ARKANSAS
AND
BLACK AND VEATCH CORPORATION

WHEREAS, On July 15, 2003, the City of Fayetteville, Arkansas (**CITY OF FAYETTEVILLE**) and Black & Veatch Corporation of Kansas City, Missouri (**BLACK & VEATCH**) entered into an Agreement for engineering services in connection with the Wastewater System Improvement Project, and in particular the Paul R. Noland Wastewater Treatment Plant Improvements - Headworks and Solids Handling Improvements - Contract EP-2 (the "**Project**"). The scope of these services included the final design and bidding services, and

WHEREAS, **BLACK & VEATCH** has proceeded with these services in accordance with the scope set forth in the Agreement, and

WHEREAS, **CITY OF FAYETTEVILLE** requests that the scope of **BLACK & VEATCH**'s services to be amended to provide Construction Phase; Resident Services During Construction; O&M Manual Preparation, Startup, Training; and Post-Construction Phase Services for the **Project**, and

NOW THEREFORE, in consideration of the mutual covenants and Agreements herein contained, **CITY OF FAYETTEVILLE** and **BLACK & VEATCH**, the parties hereto, stipulate and agree that the Agreement for Engineering Services dated July 15, 2003, is hereby amended in the following particulars:

SECTION 2 - BASIC SERVICES OF BLACK & VEATCH

2.4 Construction Phase

2.4.1 Delete APPENDIX C - SCOPE OF SERVICES FOR CONSTRUCTION PHASE attached to the Agreement and replace with APPENDIX C - SCOPE OF SERVICES FOR CONSTRUCTION PHASE attached to this Amendment No. 1.

2.5 Post-Construction Phase.

2.5.1 Delete APPENDIX D - SCOPE OF SERVICES FOR POST-CONSTRUCTION PHASE attached to the Agreement and replace with APPENDIX D - SCOPE OF SERVICES FOR POST-CONSTRUCTION PHASE attached to this Amendment No. 1.

2.6 Resident Services During Construction

- 2.6.1 Delete APPENDIX E - SCOPE OF SERVICES FOR RESIDENT SERVICES DURING CONSTRUCTION PHASE attached to the Agreement and replace with APPENDIX E - SCOPE OF SERVICES FOR RESIDENT PROJECT REPRESENTATIVE SERVICES DURING CONSTRUCTION PHASE attached to this Amendment No. 1.

2.7 O&M Manual Preparation and Training and Startup Services During Construction Phase

- 2.7.1 See APPENDIX F for SCOPE OF SERVICES FOR OPERATIONS AND MANUAL PREPARATION

SECTION 3 - ADDITIONAL SERVICES OF BLACK & VEATCH

Add the following tasks to SECTION 3 - ADDITIONAL SERVICES OF BLACK & VEATCH:

- 3.1.8 Additional meetings with local, state, or Federal agencies to discuss project.
- 3.1.9 Review of drawings and other data submitted by Contractor(s) beyond one resubmission because of failure of Contractor to account for exceptions previously noted by BLACK & VEATCH.
- 3.1.10 Appearances at public hearing meetings or before special boards.
- 3.1.11 Supplemental engineering work required to meet the requirements of regulatory or funding agencies that become effective subsequent to the date of this amendment.
- 3.1.12 Special consultants or independent professional associates requested by CITY OF FAYETTEVILLE.
- 3.1.13 Preparation for litigation, or other legal or administrative proceedings; and appearances in court in connection with change orders or construction incidents.
- 3.1.14 Engineering assistance to CITY OF FAYETTEVILLE for and during negotiation meetings.
- 3.1.15 Observing factory tests and field retesting of equipment that fails to pass the initial test.
- 3.1.16 Visits to the construction site or to CITY OF FAYETTEVILLE's location in excess of the number of such trips and the associated time set forth in Appendices C, D, E and F.

- 3.1.17 Special reports as requested by CITY OF FAYETTEVILLE concerning facility operation and personnel matters during the startup period.
- 3.1.18 Where field conditions differ from the conditions indicated in the construction contract documents or the soil boring logs, preparation of sketches of construction work for approval by CITY OF FAYETTEVILLE, to supplement the drawings and specifications as may be required; and providing redesign or relocation information if required by underground obstructions, utilities, or other conditions.
- 3.1.19 Services for making revisions to drawings and specifications made necessary by the acceptance of substitutions proposed by the Contractor(s); and services after the award of the contract for evaluating and determining the acceptability of substitutions proposed by the Contractor.
- 3.1.20 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work by any Contractor, (3) acceleration of the progress schedule involving service beyond normal working hours, (4) prolongation of the construction contract time of any prime construction contract by more than sixty days, (5) default by any Contractor, and (6) failure of the Contractor to complete the work within the construction contract time.
- 3.1.21 Services resulting from significant delays, changes, or price increases caused directly or indirectly by shortages of materials, equipment, or energy.
- 3.1.22 Special services in connection with partial utilization of any part of the project by CITY OF FAYETTEVILLE prior to Substantial Completion which require the Resident Project Representative to work additional hours or require employment of additional onsite personnel.
- 3.1.23 Evaluation of unusually complex or unreasonably numerous claims submitted by Contractor(s) or others in connection with the work.
- 3.1.24 Review and analysis of claims for differing subsurface and physical conditions submitted by the Contractor(s) or others in connection with the work.
- 3.1.25 Additions to the resident project representative (RPR) staffing level and/or individual RPR(s) compensation, based on straight time salary rate, for services extending beyond 40 hours per week as a result of Contractor(s) scheduled extended work week.

- 3.1.26 Prepare applications and supporting documents for governmental grants, loans, or advances.
- 3.1.27 Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.
- 3.1.28 Making revisions in Drawings, Specifications, or other documents when such revisions are:
- 3.1.28.1 Inconsistent with approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's program or Project Budget.
 - 3.1.28.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.
- 3.1.29 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either CITY OF FAYETTEVILLE or Contractor under the Contract for Construction.

SECTION 4 - CITY OF FAYETTEVILLE'S RESPONSIBILITIES

Add the following tasks to SECTION 4 of Agreement:

CITY OF FAYETTEVILLE will furnish and not at the expense of the BLACK & VEATCH the following items.

- 4.13 All maps, drawings, reports, records, manuals, and other data that are available in the files of CITY OF FAYETTEVILLE and which may be useful in the work involved under this Amendment.

SECTION 5 - PERIOD OF SERVICE

- 5.3 The services described in this Amendment are expected to be completed in accordance with the following schedule:

Construction Phase Services,
Resident Project Representative Services

Twenty seven months from time of
Notice to Proceed to Contractor
by the CITY OF FAYETTEVILLE

O&M Manual Preparation and

Complete within 180 days of

Startup and Training

Contractor's Substantial Completion

Post Construction Phase Services,

Within 90 days of Completion of
the one year period of operation

CITY OF FAYETTEVILLE agrees to adjust schedule if the Notice to Proceed is delayed beyond May 1, 2005.

- 5.4 The provisions of this Amendment have been agreed to in anticipation of the orderly progress of construction through completion of the services stated in this Amendment. BLACK & VEATCH will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed as defined in this Amendment.

SECTION 6 - PAYMENTS TO BLACK & VEATCH

6.1 Compensation

For the scope of services set forth in the final design and bidding phase and as may have been amended, plus the Basic Services set forth in this Amendment No. 1, CITY OF FAYETTEVILLE agrees to pay BLACK & VEATCH the amounts indicated for each phase of the work. The total payment to BLACK & VEATCH shall not exceed One Million Eight Hundred Seventy Thousand Dollars (\$1,478,000) except as provided for in Section 3 of the Agreement. The total payment is based on compensation amounts presented in the following table to the scopes of services set forth in this Amendment No. 1.

Service Item(s)	Amount
Appendix C – Construction Phase Services	\$867,800
Appendix D - Post-Construction Services	\$79,500
Appendix E - Resident Project Representative	\$432,100
Appendix F - Operation & Maintenance Manual and Process Description, Start-Up and Training Services	\$98,600
Total Not-to-Exceed Amount	\$1,478,000

Subject to prior City Council approval, adjustment of the compensation may be made should BLACK & VEATCH establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to amend the duration of work from the time period specified in the amended Agreement for completion of work and such modification warrants such adjustment.

Monthly statements for each payroll month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for these services consistent with BLACK & VEATCH's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by BLACK & VEATCH and approved by CITY OF FAYETTEVILLE. Final payment for these services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of this phase for the Project.

Delete Sections 6.1.3, 6.1.4, 6.1.5 and 6.1.6 of the Agreement and include the following:

6.1.3 Construction Phase Services

For the Scope of Services during the Construction Phase described herein, CITY OF FAYETTEVILLE shall pay BLACK & VEATCH the sum not to exceed \$867,800 unless amended in accordance with Paragraph 6.1.7.

6.1.4 Post-Construction Phase Services

For the Scope of Services during the Post-Construction Phase described herein, CITY OF FAYETTEVILLE shall pay BLACK & VEATCH the sum not to exceed \$79,500 unless amended in accordance with Paragraph 6.1.7.

6.1.5 Resident Project Representative Services During Construction Phase

For the Scope of Services during the Resident Project Representative Services During Construction Phase described herein, CITY OF FAYETTEVILLE shall pay BLACK & VEATCH the sum not to exceed \$432,100 unless amended in accordance with Paragraph 6.1.7.

6.1.6 O&M Manual Preparation and Training and Startup Services During Construction Phase

For the Scope of Services during the O&M Manual Preparation and Training and Startup Services During Construction Phase described herein, CITY OF FAYETTEVILLE shall pay the sum not to exceed \$98,600 unless amended in accordance with Paragraph 6.1.7.

6.1.7 Additional Services.

For authorized Additional engineering services under Section 3, "Additional Services", compensation to BLACK & VEATCH shall be negotiated at the time Additional Services are authorized.

6.1.8 The CITY OF FAYETTEVILLE agrees that the BLACK & VEATCH's not-to-exceed upper limit for this Amendment No. 1 is based on the durations indicated in Section 5.3

of this Amendment No. 1 and if the construction period or operation period is extended that the BLACK & VEATCH shall be entitled to additional compensation.

6.1.8.1 Hourly billing rates plus reimbursable direct expenses shall be used as the basis for determining payment to BLACK & VEATCH for the costs incurred by BLACK & VEATCH while providing the services described in this Amendment No. 1. Costs include but not limited to the salaries and benefits paid to employees engaged directly in providing the services and profit. The hourly billing rates are included as Appendix G to this Amendment.

6.1.8.2 The following direct expenses are considered reimbursable and are included in the not to exceed amount.

6.1.8.2.1 Travel, subsistence, and incidental costs.

6.1.8.2.2 Use of motor vehicles on a rental basis for assigned vehicles and on a mileage basis or rental cost basis for vehicles used for short periods. Mileage basis shall not exceed 40 cents per mile.

6.1.8.2.3 One-way moving costs to project for Resident Project Representative.

6.1.8.2.4 Cost of acquiring any other materials or services specifically for and applicable to only this project.

6.1.8.2.5 Subcontract costs times 1.05.

6.1.8.3 The following direct expenses are also considered reimbursable and are not a part of the not to exceed amount.

6.1.8.3.1 Charges of special consultants requested by CITY OF FAYETTEVILLE.

6.1.8.3.2 Special insurance coverage required by CITY OF FAYETTEVILLE.

6.1.8.3.3 Local taxes or fees applicable to the engineering work or payments therefore.

6.1.8.3.4 Cost of acquiring any other materials or services specifically for and applicable to only this project.

6.1.8.4 It is understood and agreed that the not to exceed cost is based on the start of the services being authorized not later than May 1, 2005. If start of services is not authorized by dates given, it is understood and agreed that the not to exceed cost will be adjusted accordingly by an amendment the Agreement.

6.1.8.5 It is understood and agreed that BLACK & VEATCH shall keep records of costs and expenses on the basis of generally accepted accounting practice and records shall be available for inspection at reasonable times.

All other provisions of the original Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed this ____ day of _____, 20__.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

BLACK & VEATCH CORPORATION

By: _____

Title: _____

END OF AMENDMENT NO. 1 TO
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

APPENDIX C – SCOPE OF SERVICES FOR CONSTRUCTION PHASE

This is **Appendix C**, consisting of 4 pages, referred to in and part of the **Agreement For Professional Engineering Services** between CITY OF FAYETTEVILLE, ARKANSAS and BLACK & VEATCH CORPORATION dated July 15, 2003.

Initial:

CITY-OF-FAYETTEVILLE _____
BLACK & VEATCH _____

The following is the Scope of Services for the Construction Phase.

C.1. General

By performing these services, BLACK & VEATCH shall not have authority or responsibility to supervise, direct, or control the Contractor's work or the Contractor's means, methods, technique, sequences, or procedures of construction. BLACK & VEATCH shall not have authority or responsibility for safety precautions and programs incident to the Contractor's work or for any failure of the Contractors to comply with laws, regulations, rules, ordinances, codes, or orders applicable to the Contractor(s) furnishing and performing the work. Specific services to be performed by BLACK & VEATCH are as follows:

C.2. Management

- C.2.1. BLACK & VEATCH's management functions required to successfully complete services to be provided under this Agreement, including all project correspondence with the CITY OF FAYETTEVILLE, consultation and coordination with the Program Manager, supervision and coordination of the services provided by BLACK & VEATCH including scheduling and assignment of personnel, invoicing, and continuous monitoring of the progress of the services.

C.3. Office Support Services During Construction

- C.3.1. Receive the Contractor's insurance certificates and forward to Program Manager for review and acceptance by the CITY OF FAYETTEVILLE's legal counsel.
- C.3.2. Review and comment to Program Manager on the Contractor's initial and updated construction schedule(s) if requested by Program Manager. BLACK & VEATCH's review shall be for general conformity of the to the provisions of the contract documents, to determine if the Contractor's construction schedule and activity sequence include the completion dates, construction sequencing for any special conditions (such as the ability of the CITY OF FAYETTEVILLE to keep the existing

wastewater treatment plant in operation during construction). BLACK & VEATCH's review shall not include an analysis of Contractor's approach, means and methods of construction for performing the work specified in the contract documents.

- C.3.3. Review and comment to Program Manager on the Contractor's initial schedule of values and schedule of estimated monthly payments.
- C.3.4. Review guarantees, bonds, and certificates of inspection, and tests and approvals which are to be assembled by the Contractor(s) in accordance with the construction contract documents, and transmit them to Program Manager. BLACK & VEATCH's review is not a legal review to determine if the Contractor's guarantees and bonds comply with all applicable requirements of the contract documents.
- C.3.5. Review drawings and other data submitted by the Contractor as required by the construction contract documents. BLACK & VEATCH's review shall be for general conformity to the construction contract documents and shall not relieve the Contractor of any of his contractual responsibilities. Such reviews shall not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions and programs incident hereto. This task does not pertain to review and organization of manufacturer's O&M manuals, which is described in another task.
- C.3.6. Interpret construction contract documents when requested. Requests for interpretations, clarifications or information shall be in writing through the Program Manager. Responses to Contractor shall be through the Program Manager.
- C.3.7. Review Contractor's applications for payment and supporting data, determine the amounts owed to Contractor, and recommend to Program Manager, in writing, approval of all payments to Contractor in accordance with the Contract Documents. BLACK & VEATCH's review shall be for the purpose of making a full independent mathematical check of the Contractor's payment request.
- C.3.8. Prepare routine Change Orders as required and submit to Program Manager. Review CITY OF FAYETTEVILLE or Contractor documentation and prepare any additional documentation required to administer the processing of change order, including applications for extension of construction time. Provide opinion to the Program Manager of the performance by the parties thereto, and make recommendations to Program Manager on claims of CITY OF FAYETTEVILLE and Contractor(s) relating to the execution and progress of the Work and other matters and questions related thereto; but BLACK & VEATCH shall not be liable for the results of any such interpretations, opinions, recommendations, or decisions rendered by BLACK & VEATCH in good faith.

If required, evaluate the cost and scheduling aspects of all change orders and, where necessary, negotiate with the Contractor to obtain a fair price for the work. Said negotiation shall be subject to the approval of CITY OF FAYETTEVILLE. Services

related to unusually complex or unusually numerous claims are considered an Additional Service.

C.3.9. Provide monthly progress reports to CITY OF FAYETTEVILLE and Program Manager.

C.3.10. Review and make recommendations regarding "or equal" submittals in accordance with Construction Contract General Conditions.

C.3.11. Provide to the Program Manager, in a format acceptable to the Program Manager, such progress reports; pay applications; project summaries; and other data as may be required, for posting by others on a project web site to allow the public to monitor and review the activities; materials; and financial status of the project. Update the data supplied to the Program Manager when requested.

C.4. Field Support Services During Construction

C.4.1. Conduct the preconstruction conference. BLACK & VEATCH shall prepare an agenda for the conference, and prepare and distribute minutes. The preconstruction conference will include a discussion of the Contractor's tentative schedule, procedures for transmittal and review of the Contractor's submittals, processing payment applications, critical construction sequencing, change orders, record documents, and the Contractor's responsibilities for safety and first aid.

C.4.2. Conduct a monthly progress meeting with Contractor and prepare and distribute minutes of the meeting. While on-site, observe progress of the work, and consult with Program Manager and the Contractor concerning problems and/or progress of the construction. A total of twenty seven (27) meetings are anticipated.

C.4.3. Design team personnel with areas of responsibilities including project management, structural, process mechanical, HVAC, electrical, control and instrumentation, geotechnical, and architectural will make periodic site visits. These site visits will be at intervals appropriate to the stages of construction to consult with and advise the Resident Project Representative, observe the progress and quality of the executed Work, and to determine, in general, if the Project is proceeding in accordance with the Contract Documents. It is anticipated that twenty four (24) separate onsite visits will be required. The level of effort is anticipated to require 16 person hours per trip. A written report summarizing discussions, site observations, and periodically established objectives shall be provided to Program Manager for distribution.

C.4.4. Investigate any unforeseen subsurface conditions or unforeseen underground facilities that may be encountered in accordance with Construction Contract General Conditions. Submit written conclusions to CITY OF FAYETTEVILLE through Program Manager

C.4.5. Investigate claims of CITY OF FAYETTEVILLE and the Contractor relating to the acceptability of the work or the interpretation of the requirements of the construction

contract documents. Submit written conclusions to CITY OF FAYETTEVILLE through Program Manager.

- C.4.6. Analyze data from performance testing of equipment by the Contractor or supplier when the construction contract documents require the equipment to be tested after installation. Submit written conclusions to CITY OF FAYETTEVILLE through Program Manager.
- C.4.7. Conduct a substantial completion inspection of the construction work and prepare a punch-list-of-those-items-to-be-completed-or-corrected-before-final-completion-of-the project. Submit written results of the inspection to CITY OF FAYETTEVILLE and the Contractor through Program Manager. It is anticipated that BLACK & VEATCH's project personnel will require a total of two staff persons for one two-day inspection trip.
- C.4.8. Conduct a final inspection to determine if the construction is completed. BLACK & VEATCH shall submit written results to Program Manager and provide written recommendations concerning final payment to Program Manager, including a list of items, if any, to be completed prior to making such payment. It is anticipated that the BLACK & VEATCH's project personnel will require a total of one staff person for one two-day inspection trip.

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

APPENDIX D – SCOPE OF SERVICES FOR POST-CONSTRUCTION PHASE

This is **Appendix D**, consisting of one page, referred to in and part of the **Agreement For Professional Engineering Services** between CITY OF FAYETTEVILLE, ARKANSAS and BLACK & VEATCH CORPORATION dated July 15, 2003.

Initial:

CITY OF FAYETTEVILLE _____
BLACK & VEATCH _____

The following is the Scope of Services for the Post-Construction Phase.

D. General

D.1. BLACK & VEATCH agrees to provide the following services after completion of the project. The project is identified as the Noland WWTP Improvements, Headworks and Solids Dewatering, Contract EP-2 and defined in the construction documents prepared by BLACK & VEATCH.

D.1.1. Prepare, after completion of construction and prior to the final inspection by the Arkansas Soil and Water Conservation Commission, if any, a Record Set of construction drawings based the construction records maintained and submitted by Contractor and Resident Project Representative. Record Set of construction drawings shall be provided in electronic CADD files.

D.2. Consultation

BLACK & VEATCH agrees to make available the services of design team members for consultation.

D.2.1. Provide one year performance review and submit written conclusions to CITY OF FAYETTEVILLE. Prior to expiration of the warranties, meet with the CITY OF FAYETTEVILLE and conduct an on-site performance review to determine if the performance provisions of the contract documents have been met. It is anticipated that that up to 100 hours will be required.

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

**APPENDIX E – RESIDENT PROJECT REPRESENTATIVE SERVICES DURING
CONSTRUCTION PHASE**

This is **Appendix E**, consisting of 5 pages, referred to in and part of the **Agreement For Professional Engineering Services** between CITY OF FAYETTEVILLE, ARKANSAS and **BLACK & VEATCH** dated July 15, 2003.

Initial:
CITY OF FAYETTEVILLE _____
BLACK & VEATCH _____

The following is the Scope of Services for the Resident Project Representative Services During Construction.

E.1. General

BLACK & VEATCH will furnish up to 3,360 hours of a Resident Project Representative to observe the Contractor's work and perform the services listed below. The Resident Project Representative shall not have responsibility for the superintendence of construction site conditions, safety, safe practices or unsafe practices or conditions, operation, equipment, or personnel other than employees of BLACK & VEATCH. This service will in no way relieve the Contractor of supervision and inspection of the work or the Contractor's obligation for compliance with the Contract Documents. The Contractor shall have sole responsibility for safety and for maintaining safe practices and avoiding unsafe practices or conditions. Specific services performed by the Resident Project Representative and assistants are as follows:

E.2. Site Observations and Liaison with Program Manager and Contractor

- E.2.1. Conduct on-site observations of the general progress of the work to assist BLACK & VEATCH in determining if the work is proceeding in accordance with the construction contract documents.
- E.2.2. Serve as BLACK & VEATCH's liaison with the Contractor and assisting BLACK & VEATCH in providing interpretation of the construction contract documents.
- E.2.3. Assist BLACK & VEATCH in serving as CITY OF FAYETTEVILLE's liaison with the Contractor when the Contractor's operations affect CITY OF FAYETTEVILLE's on-site operation.

- E.2.4. As requested by BLACK & VEATCH, assist in obtaining from CITY OF FAYETTEVILLE additional details or information when required at the jobsite for proper execution of the work.
- E.2.5. Report to BLACK & VEATCH, giving opinions and suggestions based on the Resident Project Representative's observations regarding defects or deficiencies in the Contractor's work and relating to compliance with drawings, specifications, and design concepts.
- E.2.6. Advise BLACK & VEATCH and the Contractor immediately of the commencement of any work requiring a shop drawing or sample submission if the submission has not been reviewed by BLACK & VEATCH or has been not been resubmitted for review if required.
- E.2.7. Observe pertinent site conditions when the Contractor maintains that differing subsurface and physical conditions have been encountered, and document actual site conditions.
- E.2.8. Assist in coordinating scheduling of activities to minimize conflicts with CITY OF FAYETTEVILLE's activities.
- E.2.9. Visually inspect materials, equipment, and supplies delivered to the worksite. Reject materials, equipment, and supplies which do not conform to the construction contract documents.
- E.2.10. Coordinate onsite materials testing services during construction. Copies of testing results will be forwarded to CITY OF FAYETTEVILLE and Program Manager for information.
- E.2.11. Observe field tests of equipment, structures, and piping, and review the resulting reports, commenting to BLACK & VEATCH, as appropriate.
- E.2.12. Report immediately to BLACK & VEATCH upon occurrence of any accident.
- E.3. Outside Liaison and Public Information Services**
 - E.3.1. Accompany visiting inspectors representing public or other agencies having jurisdiction over the project. Record the names of the inspectors, and the results of the inspections, and report to BLACK & VEATCH and Program Manager.
- E.4. Meetings, Reports, and Document Review and Maintenance**
 - E.4.1. Attend the preconstruction conference, and assist BLACK & VEATCH in explaining administrative procedures which will be followed during construction.

- E.4.2. Attend monthly progress meetings, and other meetings with Program Manager and the Contractor when necessary, to review and discuss construction procedures and construction progress, engineering management procedures, and other matters concerning the project.
- E.4.3. Submit to BLACK & VEATCH, with a copy to Program Manager, weekly construction progress reports containing a summary of the Contractor's progress including general condition of the work, problems, and resolutions or proposed resolutions to problems.
- E.4.4. Review the schedule of shop drawings submissions, and schedule of values prepared by the Contractor, and consult with BLACK & VEATCH concerning their acceptability.
- E.4.5. Report to BLACK & VEATCH regarding work which is known to be defective, or which fails any required inspections, tests, or approvals, or has been damaged prior to final payment; and advise BLACK & VEATCH whether the work should be corrected or rejected, or should be uncovered for observation, or requires special testing, inspection, or approval.
- E.4.6. Review applications for payment with the Contractor for compliance with the established procedure for their submission, and forward them with recommendations to BLACK & VEATCH, noting particularly their relation to the schedule of values, work completed, and materials and equipment delivered at the site, but not incorporated into the work.
- E.4.7. Record date of receipt of shop drawing samples. Receive samples which are furnished at the site by the Contractor, and notify BLACK & VEATCH of their availability for examination.
- E.4.8. Verify, during the course of the work, that specified certificates, operation and maintenance manuals, and other data required to be assembled and furnished by the Contractor are applicable to the items actually installed.
- E.4.9. Maintain a marked set of drawings and specifications at the jobsite based on data provided by the Contractor. This information will be combined with information from the record documents maintained by the Contractor. Upon completion of the work, forward the record documents to BLACK & VEATCH.
- E.4.10. Review certificates of inspections, tests, and related approvals submitted by the Contractor as required by laws, rules, regulations, ordinances, codes, orders, or the Contract Documents (but only to verify that their content complies with the requirements of, and the results certified indicate compliance with, the construction contract documents). This service is limited to a review of items submitted by the Contractor and does not extend to a determination of whether the Contractor has complied with all legal requirements.

E.4.11. Maintain the following documents at the jobsite.

- E.4.11.1 Correspondence files.**
- E.4.11.2 Reports of jobsite conferences, meetings, and discussions among the BLACK & VEATCH, Program Manager, and Contractor.**
- E.4.11.3 Submittals of shop drawings and samples.**
- E.4.11.4 Reproductions of original construction contract documents.**
- E.4.11.5 Addenda.**
- E.4.11.6 Change orders.**
- E.4.11.7 Field orders.**
- E.4.11.8 Work Change Directives**
- E.4.11.9 Requests for Interpretation**
- E.4.11.10 Requests for Proposal and Associated Response.**
- E.4.11.11 Additional drawings issued subsequent to execution of the construction contract documents.**
- E.4.11.12 Progress reports.**
- E.4.11.13 Names, addresses, and telephone numbers of all contractors, subcontractors, and major suppliers of materials and equipment.**
- E.4.11.14 Maintain a diary or log book of significant events at the jobsite, including the following information. The diary or log book shall remain the property of BLACK & VEATCH.**

Days the Contractor worked on the jobsite.

Number of Contractor and subcontractor personnel on jobsite.

Construction equipment on the jobsite.

Observed delays and causes.

Weather conditions.

Data relative to claims for extras or deductions.

Construction Activities.

Observations pertaining to the progress of the work.

Materials received on jobsite.

E.5. Assistance with Substantial Completion

- E.5.1. Assist BLACK & VEATCH in conducting substantial inspection in the company of Program Manager and the Contractor, and prepare a list of items to be completed or corrected.
- E.5.2. Verify that all items on the list have been completed or corrected, and make recommendations to BLACK & VEATCH concerning acceptance.

E.6. Assistance with Final Completion

- E.6.1. Assist BLACK & VEATCH in conducting final inspection in the company of Program Manager and the Contractor, and prepare a final list of items to be completed or corrected.
- E.6.2. Verify that all items on the final list have been completed or corrected, and make recommendations to BLACK & VEATCH concerning acceptance.

E.7. Field Testing Services

- E.7.1. Through a subcontract, conduct, evaluate, and report on test and test analyses for equipment and materials, including concrete, masonry, and soil compaction identified in the construction contract documents to be performed by OWNER.

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

APPENDIX F – SCOPE OF SERVICES FOR OPERATIONS AND MANUAL PREPARATION

This is **Appendix F**, consisting of 2 pages, referred to in and part of the **Agreement For Professional Engineering Services** between CITY OF FAYETTEVILLE, ARKANSAS and BLACK & VEATCH dated July 15, 2003.

Initial:
CITY OF FAYETTEVILLE _____
BLACK & VEATCH _____

The following is the Scope of Services for the Operations and Maintenance Support.

F.1. OPERATIONS AND MAINTENANCE TECHNICAL MEMORANDA

BLACK & VEATCH will provide an updated design memorandum and the following two technical memoranda:

Technical Memorandum 1 - Biological Process Description Document

Technical Memorandum 2 - Flow Diversion during Wet Weather Events.

F.1.1. Design Memorandum

Update the Design Memorandum to reflect changes made during construction that impact operation of Improvements constructed the Project.

F.1.2. Biological Process Description Memorandum

Prepare a document that addresses the handling the reduction in biological loadings anticipated to occur when the new West Side plant is placed in service and part of the flow that currently goes to the Noland Plant is diverted to the West Side Plant. Impact to the existing biological treatment process, which includes anaerobic, anoxic, oxic basins and secondary clarifiers, will be addressed.

F.1.3. Flow Diversion During Wet Weather Events

Prepare a document that addresses the different operating conditions for the 36 inch throttling valve down stream of the Wet Weather Splitter Box. Different flow conditions and by-pass options during wet weather conditions will be addressed.

F.1.4. Design Memorandum and Technical Memorandum Review

According to the schedule, technical and design memoranda will be submitted to the CITY OF FAYETTEVILLE for review. CITY OF FAYETTEVILLE's comments will be submitted to BLACK & VEATCH within two weeks.

F.1.5 Manufacturers Maintenance Manuals

The manufacturer's O&M manuals submitted under section 01620 of the construction specifications shall be reviewed and forwarded to CITY OF FAYETTEVILLE.

F.2. TRAINING AND START-UP SUPPORT

BLACK & VEATCH will provide the following services during start-up and training.

- F.2.1. Updated Design Memorandum will be used in training operators on intended method of operation for each process. Provide one 2 day trip for training sessions to assist CITY OF FAYETTEVILLE with operation of facilities.
- F.2.2. Review and comment on startup procedures proposed by the Contractor. The purpose of this review is to confirm the availability of the required equipment for each process area, pre-testing of equipment, and verifying that chemicals, lubricants and expendables are available, work assignments are made, and startup procedures are coordinated with existing plant operations.
- F.2.3. Provide an additional start up and post start up assistance at the request of CITY OF FAYETTEVILLE for up to 160 man hours during the warranty period. Provide up to 4 trips to the site.
- F.2.4. Review and comment on the Contractor's odor control performance testing procedures. Review and comment on data from the 30 day odor control performance tests conducted by the Contractor. Additionally, BLACK & VEATCH will monitor the performance tests for up to 3 days.

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

APPENDIX G – BILLING RATE SCHEDULE

see excel spreadsheet for billing rates table

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

3-May-05
City Council Meeting Date

Bob Davis Water & Wastewater Director
Submitted By Division Department

Action Required:

Approval of a contract amendment for Black & Veatch to provide Construction Phase Services dealing with the construction and post-construction activities associated with the Noland Wastewater Treatment Plant headworks and solids handling improvements.

\$1,478,000.00	113,011,603.00	Wastewater System Improvements
Cost of this request	Category/Project Budget	Project/Noland Plant
4480.9480.5315.00	2,076,252.52	Program Category / Project Name
Account Number	Funds Used to Date	WWTPImp
2133.0303	\$ 110,935,350.48	Program / Project Category Name
Project Number	Remaining Balance	Wastewater System Improvements
		Project Project Fund
		Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

Bob Davis 4-15-05
Department Director Date

Previous Ordinance or Resolution # 108-03

Original Contract Date: 15-Jul-03

[Signature] 4-21-05
City Attorney Date

Original Contract Number: # 912

[Signature] 4-21-05
Finance and Internal Service Director Date

Received in City Clerk's Office

[Signature] 4-21-05
Mayor Date

Received in Mayor's Office

This construction project is scheduled to start on May 16, 2005.

ORDINANCE NO. 4700

Added to the
Agenda at the
City Council
Meeting
5/3/05

AN ORDINANCE APPROVING VAC 05-1455 SUBMITTED BY
BUCKLEY BLEW FOR PROPERTY LOCATED AT 3187 E.
WATERSTONE DRIVE, VACATING A UTILITY EASEMENT
AS INDICATED ON THE ATTACHED MAP AND LEGAL
DESCRIPTION

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate
public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described portion
of platted utility easement is not required for corporate purposes.

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

Section 1: That the City of Fayetteville, Arkansas hereby vacates and abandons
the following described utility easement:

See Exhibit "A" attached hereto and made a part hereof.

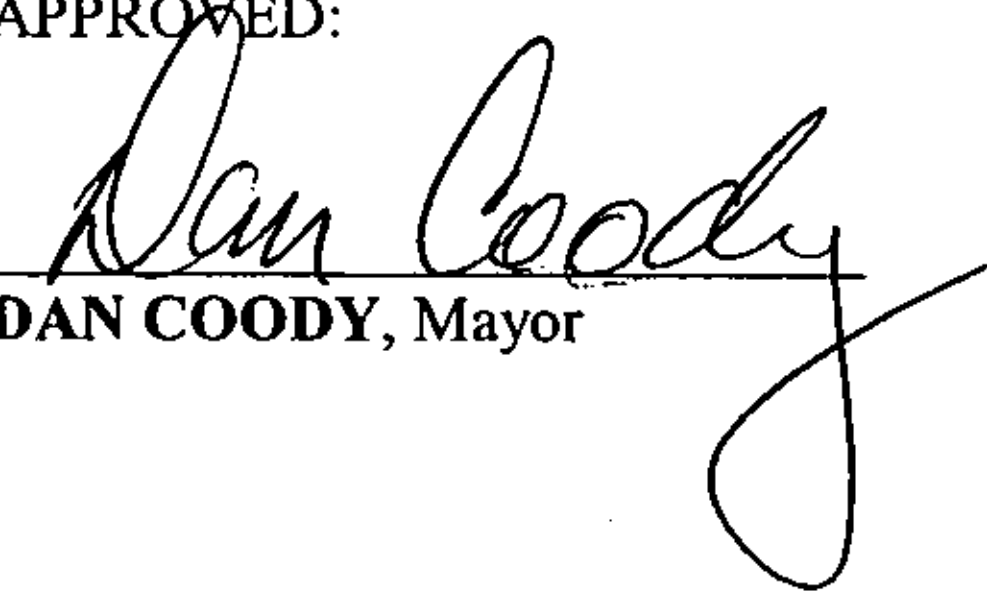
Section 2: That a copy of this Ordinance duly certified by the City Clerk along
with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the
Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this Vacation approval is subject to the conditions of approval
listed in the staff report and Planning Commission recommendation as described in Exhibit
"C" attached hereto and made a part hereof.

PASSED and APPROVED this 3rd day of May, 2005.

APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk

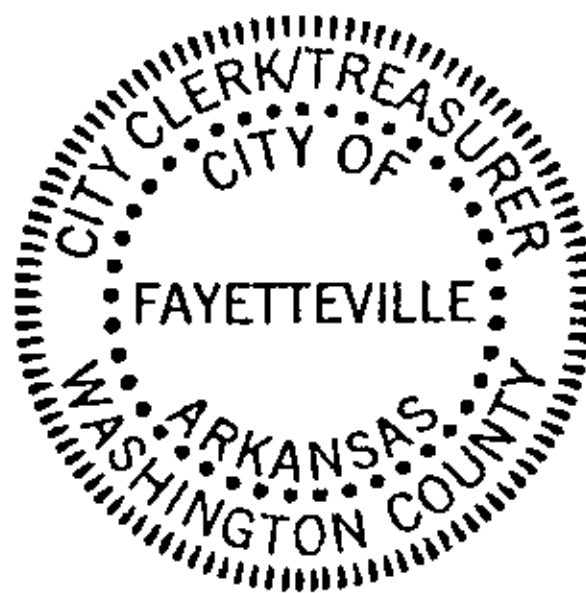


EXHIBIT "A"
VAC 05-1455

A 20' UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS,
TO-WIT:

BEGINNING AT A POINT WHICH IS N00°23'16"W 15.00' FROM THE SOUTHEAST
CORNER OF LOT 114 OF STONEWOOD SUBDIVISION AND RUNNING THENCE
S88°40'28"W 352.96', THENCE N31°38'03"E 23.82', THENCE N88°40'28"E 340.39', THENCE
S00°23'16"E 20.00' TO THE POINT OF BEGINNING. SAID LOT 114 BEING LOCATED IN
STONEWOOD SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER
PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER
OF WASHINGTON COUNTY, ARKANSAS.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JCP*

Date: April 28, 2005

Subject: Easement Vacation for Necessary (VAC 05-1455)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a 20-foot utility easement along the south side of the subject property, as described and depicted herein.

BACKGROUND

The subject property is Lot 114 of Stonewood Subdivision, east of Crossover Road. This property is currently developed for single family residential use. At the time the subdivision was platted, utility and drainage easements were dedicated along the north, west, and south property lines of Lot 114. Although some of these easements are not utilized, the drainage easement adjacent to the southern property line is utilized for a large drain pipe.

Request: The request is to vacate a portion of a platted 20' utility easement on the subject property to construct a swimming pool and related structures. Though there is also a 20-foot building setback, a swimming pool and associated patio or decking may be located within the rear building setback if it under 30 inches in height above the adjacent grade. There is an existing 20' utility easement adjacent to the street by which utilities can access the property. No other utilities utilize this utility easement.

DISCUSSION

Notification was provided to all appropriate utility representatives and adjoining property owners. No objections were submitted. Conditions as requested and pertinent to the subject request are included as a condition of approval. The Planning Commission voted 8-0-0 on its consent agenda to forward this item to the City Council with a recommendation for approval of the vacation request at the regular meeting of April 25, 2005.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 05-1455 SUBMITTED BY BUCKLEY BLEW FOR PROPERTY LOCATED AT 3187 E WATERSTONE DRIVE, VACATING A UTILITY EASEMENT AS INDICATED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described portion of platted utility easement is not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3. That this Vacation approval is subject to the conditions of approval listed in the staff report and Planning Commission recommendation as described in Exhibit "C" attached hereto and made a part hereof.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

By _____
Dan Coody, Mayor

ATTEST:

By _____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 05-1455

A 20' UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS,
TO-WIT:

BEGINNING AT A POINT WHICH IS N00°23'16"W 15.00' FROM THE SOUTHEAST
CORNER OF LOT 114 OF STONEWOOD SUBDIVISON AND RUNNING THENCE
S88°40'28"W 352.96', THENCE N31°38'03"E 23.82', THENCE N88°40'28"E 340.39', THENCE
S00°23'16"E 20.00' TO THE POINT OF BEGINNING. SAID LOT 114 BEING LOCATED IN
STONEWOOD SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER
PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER
OF WASHINGTON COUNTY, ARKANSAS.

DRAFT



PC Meeting of April 25, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Brent O'Neal, Staff Engineer
Suzanne Morgan, Associate Planner
THRU: Jeremy Pate., Director of Current Planning
DATE: April 18, 2005

VAC 05-1455: Vacation (Necessary, pp 99) was submitted by Buckley Blew of Blew Land Surveying, for property located at 3187 Waterstone, Lot 114 of the Stonewood Subdivision. The property is zoned RSF-4, Residential Single Family, four units per acre, and contains approximately 1.12 acres. The request is to vacate a portion of a utility easement on the subject property to construct a swimming pool.

Findings:

Property description: The subject property is located at Lot 114 of Stonewood Subdivision. This property is currently developed for single family residential use. At the time the subdivision was platted, utility and drainage easements were dedicated along the north, west, and south property lines of Lot 114. Although some of these easements are not utilized, the drainage easement adjacent to the southern property line is utilized for a large drain pipe.

Request: The request is to vacate a portion of a platted 20' utility easement on the subject property to construct a swimming pool and related structures. There is an existing 20' utility easement adjacent to the street by which utilities can access the property.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES

RESPONSE

Ozarks Electric	No Objections
Cox Communications	No Objections
AEP/SWEPCO	No Response
Arkansas Western Gas	No Objections
SW Bell	No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections with conditions of approval.
The drainage easement along the south property shall be converted to a water/sewer/drainage easement.

A 7.5 foot water/sewer easement shall be added to the easement along the west property line.

The drainage easement on the west side of the lot shall be converted to a water/sewer/drainage easement.

Transportation

No Objections. The applicant is hereby notified of the existence of a large drain pipe in an easement adjacent to the easement to be vacated.

Solid Waste

No Objections

Engineering

No Objections

Public Comment: The applicant has submitted the required notification forms to the adjacent property owners. Adjacent property owners had no objections to the proposed vacation.

Recommendation: Vacating the easement will not adversely affect the property or access to any easements on the property. Therefore, staff recommends approval of the proposed easement vacation **VAC 05-1455** with the following conditions:

1. Further development of this property shall not encroach any existing easement or those required for dedication as condition of this vacation.
 2. Dedication of 7.5' for a water/sewer easement adjacent to the existing easement along the west property line by separate document.
 3. Appropriate documentation shall be filed to convert the existing drainage easement on the west property line to a water/sewer/drainage easement.
 4. Appropriate documentation shall be filed to convert the existing drainage easement along the south property to a water/sewer/drainage easement.
-

PLANNING COMMISSION ACTION:

yes Required

X Approved

_____ Denied

Date: April 25, 2005

Allen/Clark² 8-00
(on consent agenda)

Comments: _____

The "CONDITIONS OF APPROVAL", as stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____

Title _____

Date _____

CITY COUNCIL ACTION:

yes Required

_____ Approved

_____ Denied

Date: _____

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 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 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
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) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *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; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

RECEIVED

APR 19 2005

PLANNING DIV.

DATE: 18 APRIL 2005

UTILITY COMPANY: FAYETTEVILLE WATER & SEWER

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address: Lot 114, Stonewood Subdivision south side of
lot, easement running east-west, 20' wide.

(Include legal description and graphic representation of what is being vacated)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

- (1) The drainage easements on the west side of the lot must and
shall be converted to a water/sewer/drainage easement.
- (2) 7.5' of water/sewer easement needs to be added
to the east side of the easement on the west side of the
lot.
- (3) The existing 15' drainage easement on the lot must and shall
be converted to a water/sewer/drainage easement.

Signature of Utility Company Representative

[Signature]

Title

WATER/SEWER MAINT Supt.

MARCH 16, 2005

TO WHOM IT MAY CONCERN:

WE ASK TO VACATE 20 FEET OF THE EASEMENT IN OUR BACKYARD
PROPERTY LOCATED AT 3187 EAST WATERSTONE DR. SPRINGDALE, AR
72764. ALL OF THE UTILITIES HAVE SIGNED OFF SAYING IT IS OKAY
FOR A SWIMMING POOL.

RESPECTFULLY,

Brian Necessary
Vikki Necessary
BRIAN & VIKKI NECESSARY

PETITION TO VACATE UTILITY EASEMENT

PETITION TO VACATE AN EASEMENT LOCATED IN LOT 114, STONEWOOD SUBDIVISION, CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lot 114, Stonewood Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

A 20' UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N 00°23'16" W 15.00' FROM THE SOUTHEAST CORNER OF LOT 114 OF STONEWOOD SUBDIVISION AND RUNNING THENCE S 88°40'28" W 352.96', THENCE N 31°38'03" E 23.82', THENCE N 88°40'28" E 340.39', THENCE S 00°23'16" E 20.00' TO THE POINT OF BEGINNING. SAID LOT 114 BEING LOCATED IN STONEWOOD SUBDIVISION IN THE CITY OF FAYETTEVILLE, ARKANSAS AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

That the abutting real estate affected by said abandonment of the alley are: Four (4) 19-17-29 (S-T-R) Fayetteville Outlots and Lot 113, Lot 117, Lot 86, Lot 87, Lot 88, and Lot 89 of Stonewood Subdivision in the City of Fayetteville, Arkansas; Parcel Numbers for said lots respectively being 765-13209-005, 765-13209-003, 765-13209-002, 765-13209-004, 765-22355-000, 765-22357-000, 765-22328-000, 765-22329-000, 765-22330-000, and 765-22331-000 used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate and that the title to said real estate sought to be abandoned to be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said utility easement.

Dated this 28th day of January, 2005

Printed name

Signature

Printed name

Signature

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED

APR 05 2005

PLANNING DIV

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8267

PLANNING DIVISION CORRESPONDENCE

TO: GIS
FROM: Jan Gambill, Senior Planning Clerk
DATE:
SUBJECT: Legal check for planning project

Project Name: VAC05-1455 Necessary Return by: ASAP
Parcel: 4/1

Plat Page#: 99?
Section: 19
Township: 17
Range: 29

Current Zoning: RSF-4
Proposed Zoning:

Submittal: 1st 2nd 3rd

Closure error / comments: OK

Has the applicant been contacted with requested revisions:

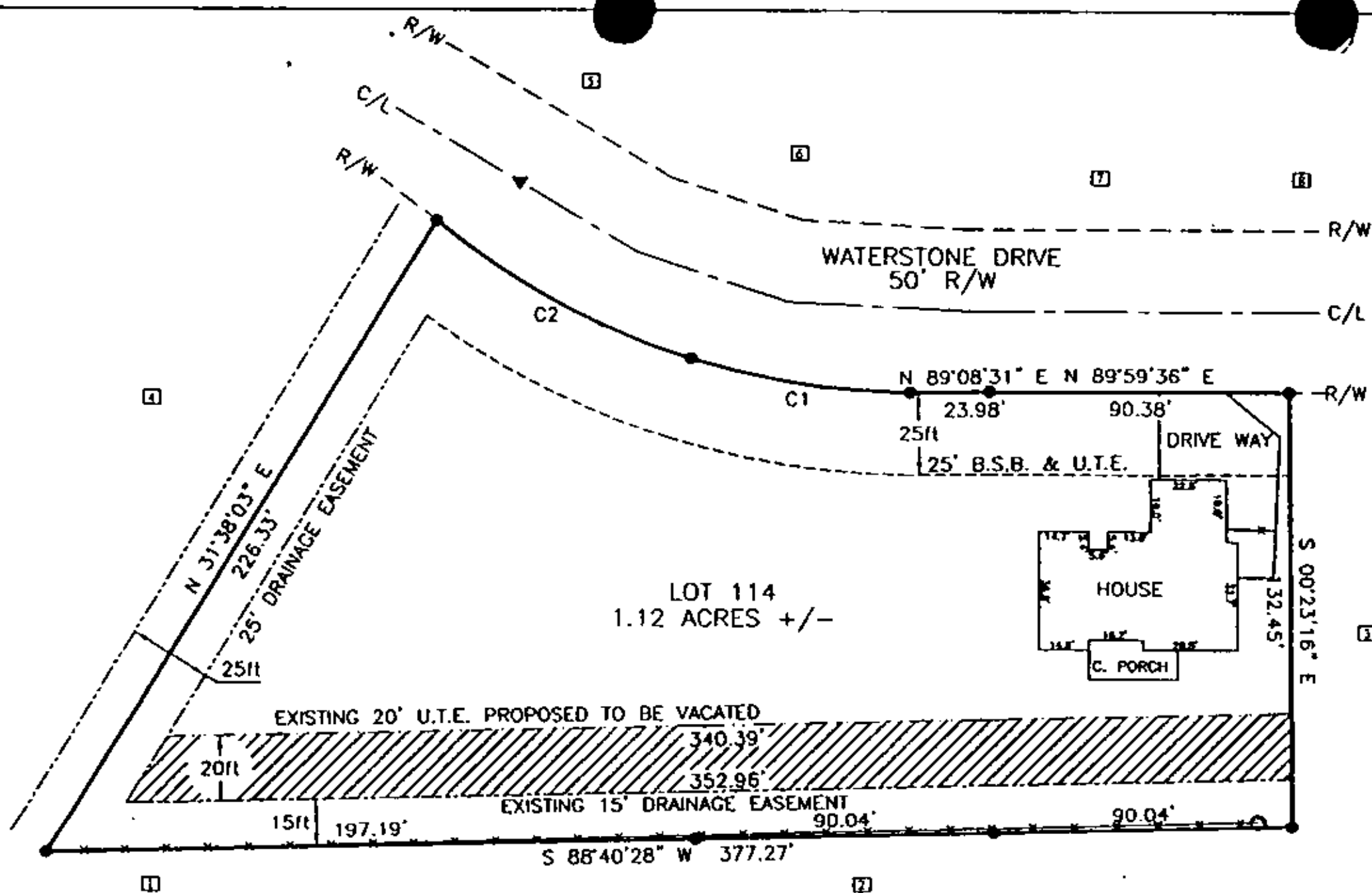
YES

NO

Checked by: CR

Date shape file was created:

4-5-2005



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	224.99'	67.00'	66.75'	N 81°16'54" W	17°03'41"
C2	224.99'	88.38'	87.81'	N 61°35'33" W	22°30'22"

SURVEY DESCRIPTION:

LOT 114 IN STONEWOOD SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

PROPOSED UTILITY EASEMENT VACATION:

A 20' UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N 00°23'16" W 15.00' FROM THE SOUTHEAST CORNER OF LOT 114 OF STONEWOOD SUBDIVISION AND RUNNING THENCE S 88°40'28" W 352.96', THENCE N 31°38'03" E 23.82', THENCE N 88°40'28" E 340.39', THENCE S 00°23'16" E 20.00' TO THE POINT OF BEGINNING. SAID LOT 114 BEING LOCATED IN STONEWOOD SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

CERTIFICATE OF OWNERSHIP & DEDICATION:

WE, THE UNDERSIGNED OWNERS, REPRESENTING ONE HUNDRED PERCENT (100%) OWNERSHIP OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY DEDICATE FOR PUBLIC OWNERSHIP, ALL STREETS AND ALLEYS AS SHOWN ON THIS PLAT FOR PUBLIC BENEFIT AS PRESCRIBED BY LAW. THE OWNERS ALSO DEDICATE TO THE CITY OF FAYETTEVILLE AND TO THE PUBLIC UTILITY COMPANIES (INCLUDING ANY CABLE TELEVISION COMPANY) HOLDING A FRANCHISE GRANTED BY THE CITY OF FAYETTEVILLE) THE EASEMENTS AS SHOWN ON THIS PLAT FOR THE PURPOSE OF INSTALLATION OF NEW FACILITIES AND THE REPAIR OF EXISTING FACILITIES. ALSO ESTABLISHED HEREBY IS THE RIGHT OF INGRESS AND EGRESS TO SAID EASEMENTS, THE RIGHT TO PROHIBIT THE ERECTION OF BUILDINGS, STRUCTURES, OR FENCES WITHIN SAID EASEMENTS, AND THE RIGHT TO REMOVE OR TRIM TREES WITHIN SAID EASEMENTS.

DATE _____

OWNER _____

DATE _____

OWNER _____

I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE _____ DAY OF _____, 2005.

ADJOINING PROPERTY OWNERS:

1) PRESBYTERY OF ARKANSAS AN ARKANSAS NONPROFIT CORP.
1123 S. UNIVERSITY AVE., STE. 1015
LITTLE ROCK, ARKANSAS 72204
PARCEL # 765-13209-005
765-13209-003

2) MAHLER, ROBERT J & VIRGINIA L
3306 E. ZION ROAD
SPRINGDALE, ARKANSAS 72764
PARCEL # 765-13209-002
765-13209-004

3) DRISCOL, CAROL
3209 WATERSTONE DR.
SPRINGDALE, ARKANSAS 72764
PARCEL # 765-22355-000

4) JOHN EASTERLING
CONSTRUCTION, INC.
1748 W. SUNSET STE. B
SPRINGDALE, ARKANSAS 72764
PARCEL # 765-22357-000

5) LAWSON, RICK & JO
3130 WATERSTONE DR.
SPRINGDALE, ARKANSAS 72764
PARCEL # 765-22328-000

6) FORGA, E. MAXINE
3152 E. WATERSTONE DR.
SPRINGDALE, ARKANSAS 72764
PARCEL # 765-22329-000

7) ANDERSON, MARTHA JEAN
(3186 WATERSTONE DR.) P.O. BOX 3303
FAYETTEVILLE, ARKANSAS 72702
PARCEL # 765-22330-000

8) SCARBOROUGH, BILL & VICKIE
3208 WATERSTONE DR.
SPRINGDALE, ARKANSAS 72764
PARCEL # 765-22331-000



GRAPHIC SCALE (IN FEET)

1 inch = 50ft.

CITY PLAT PAGE: #99

IF THE SIGNATURE ON THIS SEAL IS NOT AN ORIGINAL AND NOT BLUE IN COLOR THEN IT SHOULD BE ASSUMED THAT THIS PLAT MAY HAVE BEEN ALTERED. THE ABOVE CERTIFICATION SHALL NOT APPLY TO ANY COPY THAT DOES NOT BEAR AN ORIGINAL SEAL AND SIGNATURE.

FLOOD CERTIFICATION:

A PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE "A" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS.
(FIRM PANEL #05143C0101 E JULY 21, 1999)

DRAWING 04-757

FOR USE AND BENEFIT OF:

BRIAN NECESSARY

ADDRESS:
FAYETTEVILLE, ARKANSAS

DATE: 01/27/05

SCALE: 1"=50'

LOCATION:

SURVEYED: DRAFTED:

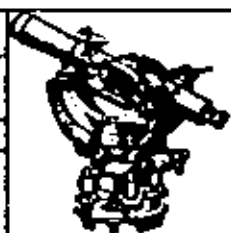
LOT 114

M.T. CARP

STONEWOOD

REVISION DATE:

SUBDIVISION



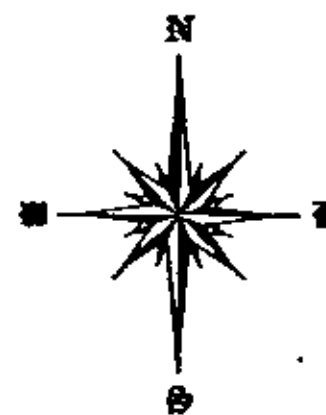
BLEW & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
524 W. SYCAMORE STE. 4
FAYETTEVILLE, AR. 72703
PH. 479-443-4506
FX. 479-582-1883
www.blewlandsurveying.com

BLEW LAND SURVEYING, INC. Copyright 2005
This survey was conducted for the purpose of creating a plat for the purpose of recording the same. It is not intended to be used for any other purpose without the express written consent of Blew Land Surveying, Inc. The surveyor has made no independent investigation for conditions of record, encroachments, restrictive covenants, zoning, etc. and is not responsible for any errors or omissions. Any flood statement provided on this plat is for information only and Blew Land Surveying, Inc. assumes no liability for the correctness of the same. The above statement does not represent the opinion of Blew Land Surveying, Inc. or the probability of flooding.

LEGEND:

THESE STANDARD SYMBOLS WILL BE FOUND IN THE DRAWING

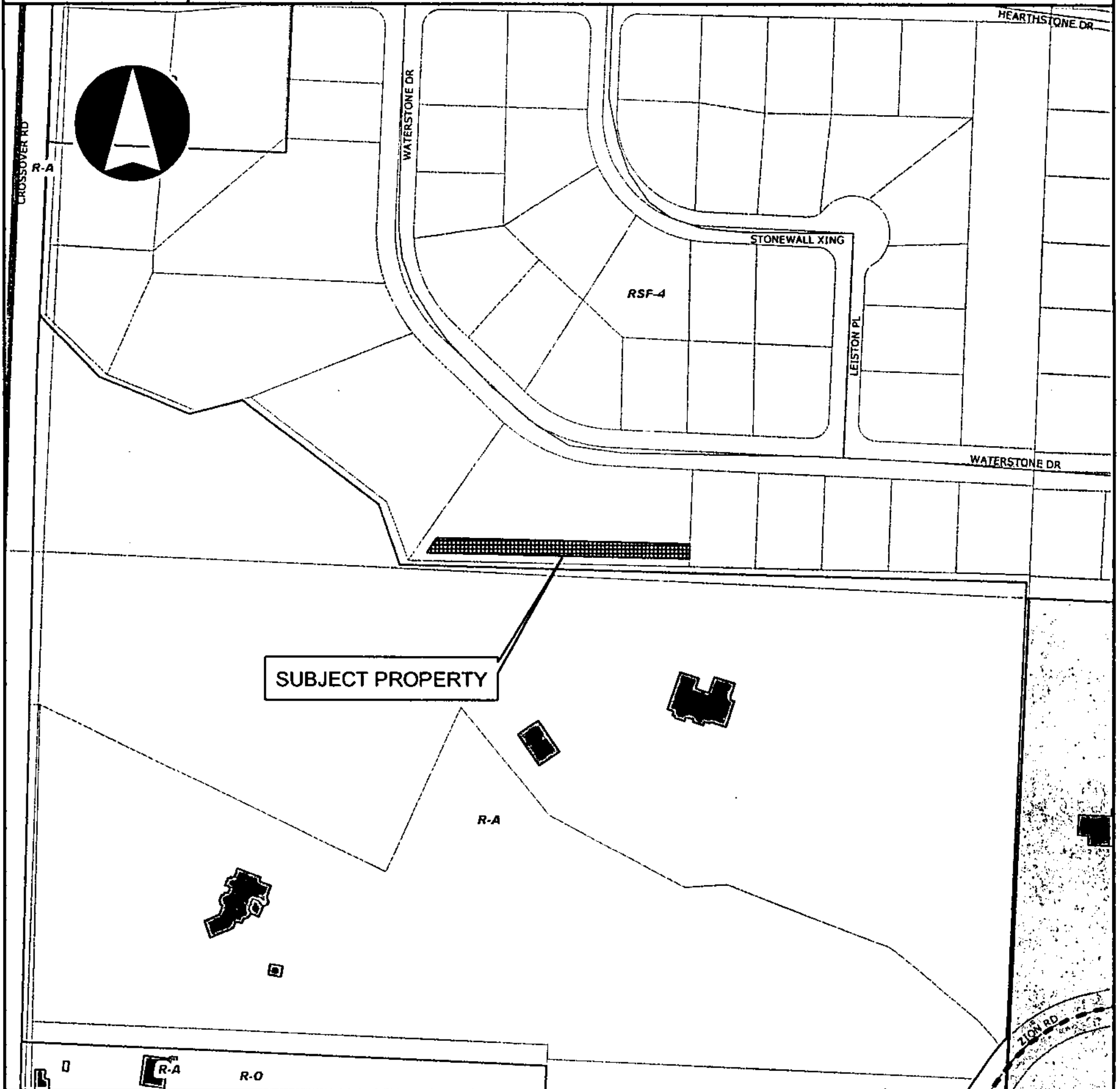
- ADJOINING PROPERTY
- SET 5/8" REBAR
- FOUND 5/8" REBAR
- FENCE CORNER POST
- BOUNDARY LINE
- CENTERLINE OF ROAD
- RIGHT-OF-WAY
- DRAINAGE EASEMENT
- BUILDING SETBACK
- UTILITY EASEMENT
- FENCE
- ▼ P.K. NAIL



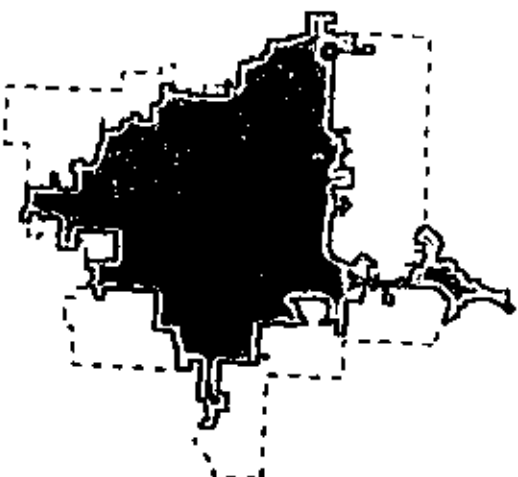
VAC05-1455

Close Up View

NECESSARY



Overview



Legend

VAC05-1455

Overlay District

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

FLOODWAY

100 YEAR

BaseLine Profile

500 YEAR

LIMIT OF STUDY

BaseLine Profile

Fayetteville

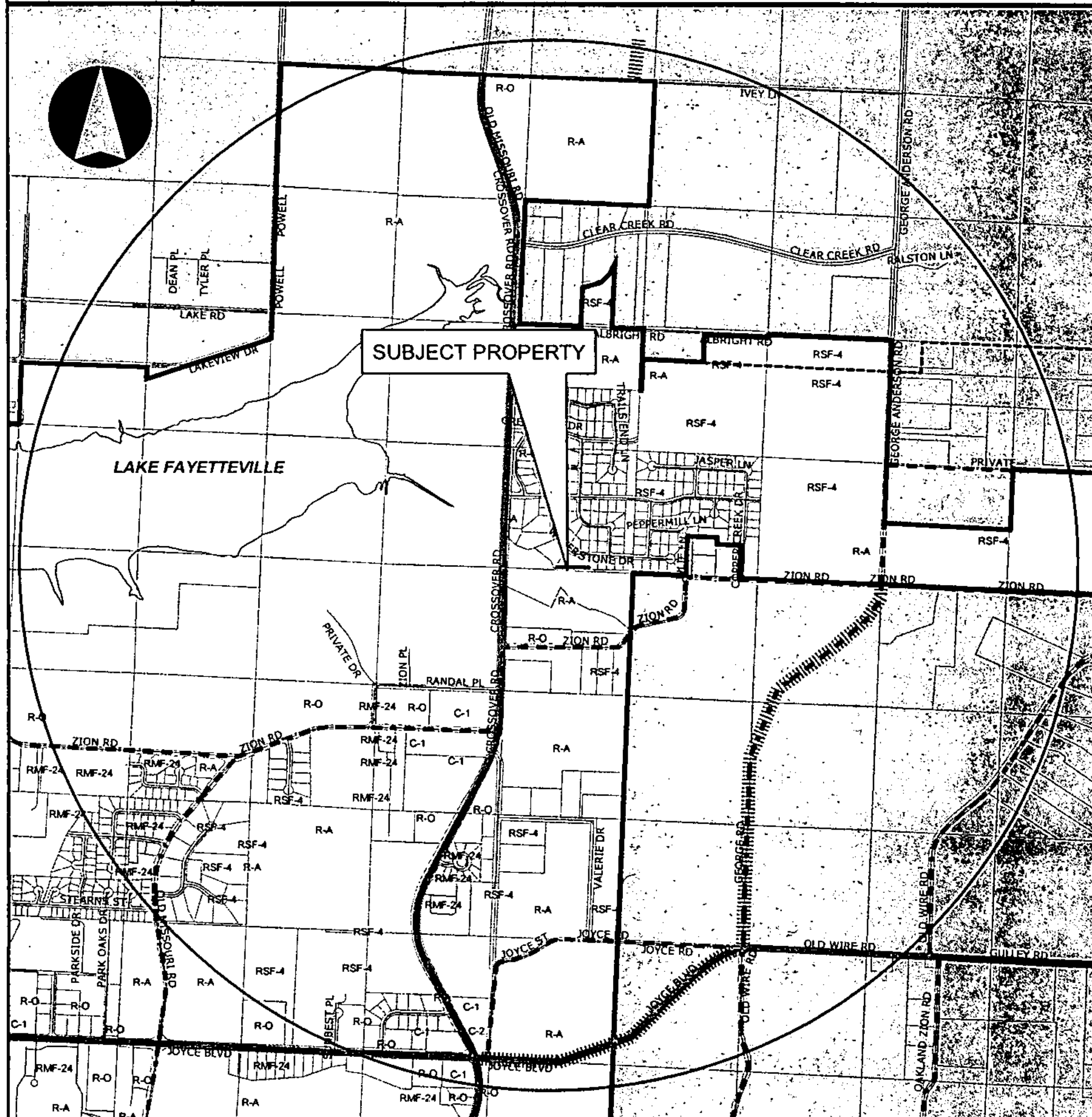
Outside City



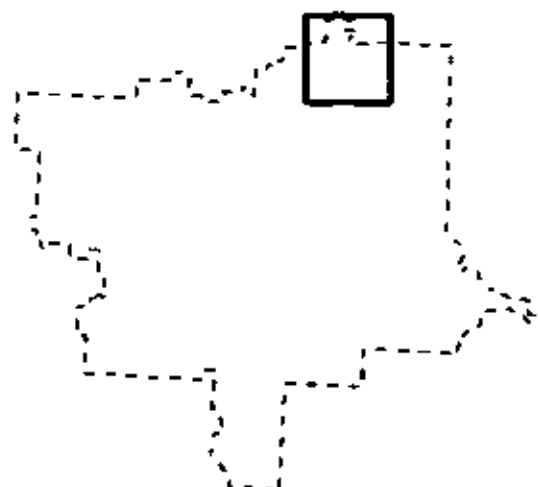
VAC05-1455

One Mile View

NECESSARY



Overview



Legend

Subject Property

VAC05-1455

Boundary

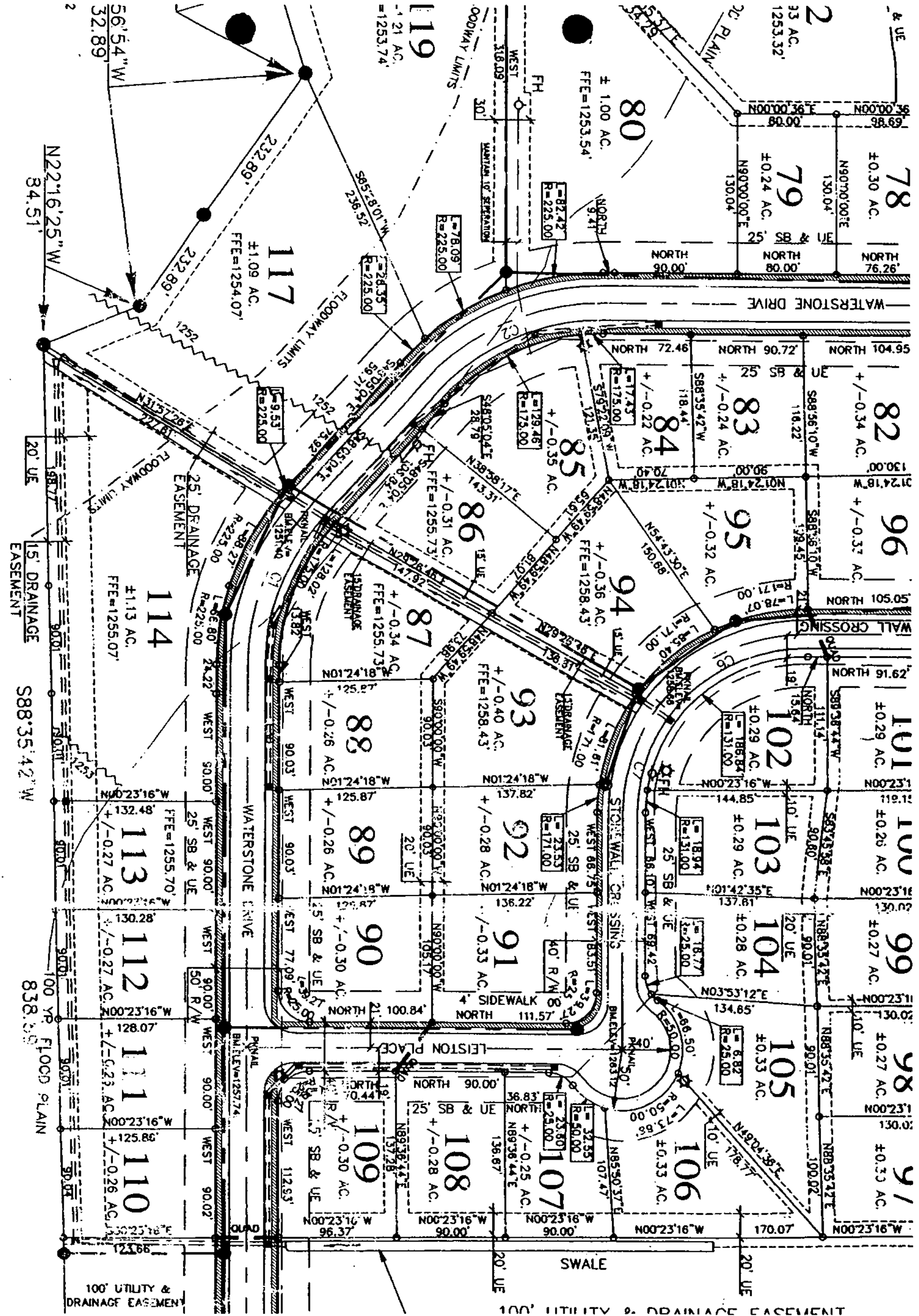
- Planning Area
- Overlay District
- Outside City

Master Street Plan

Master Street Plan

- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.125 0.25 0.5 0.75 1 Miles



ROBERT & VIRGINIA MAHLER
P.O. BOX 440
SPRINGDALE, AR 72765-0440
COUNTY

JOHN & JUDITH HAMMOND
1307 WILSON DR.
LIBERTY, MO 64063
COUNTY

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

3-May-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 05-1455: (NECESSARY, 99): Submitted by BUCKLEY BLEW for property located at 3187 E WATERSTONE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.12 acres. The request is to vacate a portion of a utility easement on the subject property.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

4-29-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature]
City Attorney

5-2-02

Original Contract Number: n/a

[Signature]
Finance and Internal Service Director

5-5-05
Date

Received in City Clerk's Office



[Signature]
Mayor

5/2/02
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: April 28, 2005

Subject: Easement Vacation for Necessary (VAC 05-1455)

*Added at the
City Council
Meeting on
May 3, 2005*

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a 20-foot utility easement along the south side of the subject property, as described and depicted herein.

BACKGROUND

The subject property is Lot 114 of Stonewood Subdivision, east of Crossover Road. This property is currently developed for single family residential use. At the time the subdivision was platted, utility and drainage easements were dedicated along the north, west, and south property lines of Lot 114. Although some of these easements are not utilized, the drainage easement adjacent to the southern property line is utilized for a large drain pipe.

Request: The request is to vacate a portion of a platted 20' utility easement on the subject property to construct a swimming pool and related structures. Though there is also a 20-foot building setback, a swimming pool and associated patio or decking may be located within the rear building setback if it under 30 inches in height above the adjacent grade. There is an existing 20' utility easement adjacent to the street by which utilities can access the property. No other utilities utilize this utility easement.

DISCUSSION

Notification was provided to all appropriate utility representatives and adjoining property owners. No objections were submitted. Conditions as requested and pertinent to the subject request are included as a condition of approval. The Planning Commission voted 8-0-0 on its consent agenda to forward this item to the City Council with a recommendation for approval of the vacation request at the regular meeting of April 25, 2005.

BUDGET IMPACT

None.

EXHIBIT "A"
VAC 05-1455

A 20' UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS,
TO-WIT:

BEGINNING AT A POINT WHICH IS N00°23'16"W 15.00' FROM THE SOUTHEAST
CORNER OF LOT 114 OF STONEWOOD SUBDIVISION AND RUNNING THENCE
S88°40'28"W 352.96', THENCE N31°38'03"E 23.82', THENCE N88°40'28"E 340.39', THENCE
S00°23'16"E 20.00' TO THE POINT OF BEGINNING. SAID LOT 114 BEING LOCATED IN
STONEWOOD SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER
PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER
OF WASHINGTON COUNTY, ARKANSAS.

DRAFT

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections with conditions of approval.
The drainage easement along the south property shall be converted to a water/sewer/drainage easement.

A 7.5 foot water/sewer easement shall be added to the easement along the west property line.

The drainage easement on the west side of the lot shall be converted to a water/sewer/drainage easement.

Transportation

No Objections. The applicant is hereby notified of the existence of a large drain pipe in an easement adjacent to the easement to be vacated.

Solid Waste

No Objections

Engineering

No Objections

Public Comment: The applicant has submitted the required notification forms to the adjacent property owners. Adjacent property owners had no objections to the proposed vacation.

Recommendation: Vacating the easement will not adversely affect the property or access to any easements on the property. Therefore, staff recommends approval of the proposed easement vacation VAC 05-1455 with the following conditions:

1. Further development of this property shall not encroach any existing easement or those required for dedication as condition of this vacation.
 2. Dedication of 7.5' for a water/sewer easement adjacent to the existing easement along the west property line by separate document.
 3. Appropriate documentation shall be filed to convert the existing drainage easement on the west property line to a water/sewer/drainage easement.
 4. Appropriate documentation shall be filed to convert the existing drainage easement along the south property to a water/sewer/drainage easement.
-

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 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 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
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) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *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; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

MARCH 16, 2005

TO WHOM IT MAY CONCERN:

WE ASK TO VACATE 20 FEET OF THE EASEMENT IN OUR BACKYARD
PROPERTY LOCATED AT 3187 EAST WATERSTONE DR. SPRINGDALE, AR
72764. ALL OF THE UTILITIES HAVE SIGNED OFF SAYING IT IS OKAY
FOR A SWIMMING POOL.

RESPECTFULLY,

Brian Necessary
Vikki Necessary
BRIAN & VIKKI NECESSARY

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate and that the title to said real estate sought to be abandoned to be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said utility easement.

Dated this 28th day of January, 2005

Brian Necessary
Printed name

Brian Necessary
Signature

Vikki Necessary
Printed name

Vikki Necessary
Signature

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED

APR 05 2005

PLANNING DIV

113 W. Mountain St.

Fayetteville, AR 72701

Telephone: 479-575-8267

PLANNING DIVISION CORRESPONDENCE

TO: GIS
FROM: Jan Gambill, Senior Planning Clerk
DATE:
SUBJECT: Legal check for planning project

Project Name:
Parcel:

VAC05-1455 Necessary

Return by:

ASAP
4/1

Plat Page#:

Section:

Township:

Range:

99?
14
17
29

Current Zoning:

Proposed Zoning:

RSF-4

Submittal:

1st

2nd

3rd

Closure error / comments:

OK

Has the applicant been contacted with requested revisions:

YES

NO

Checked by:

CR

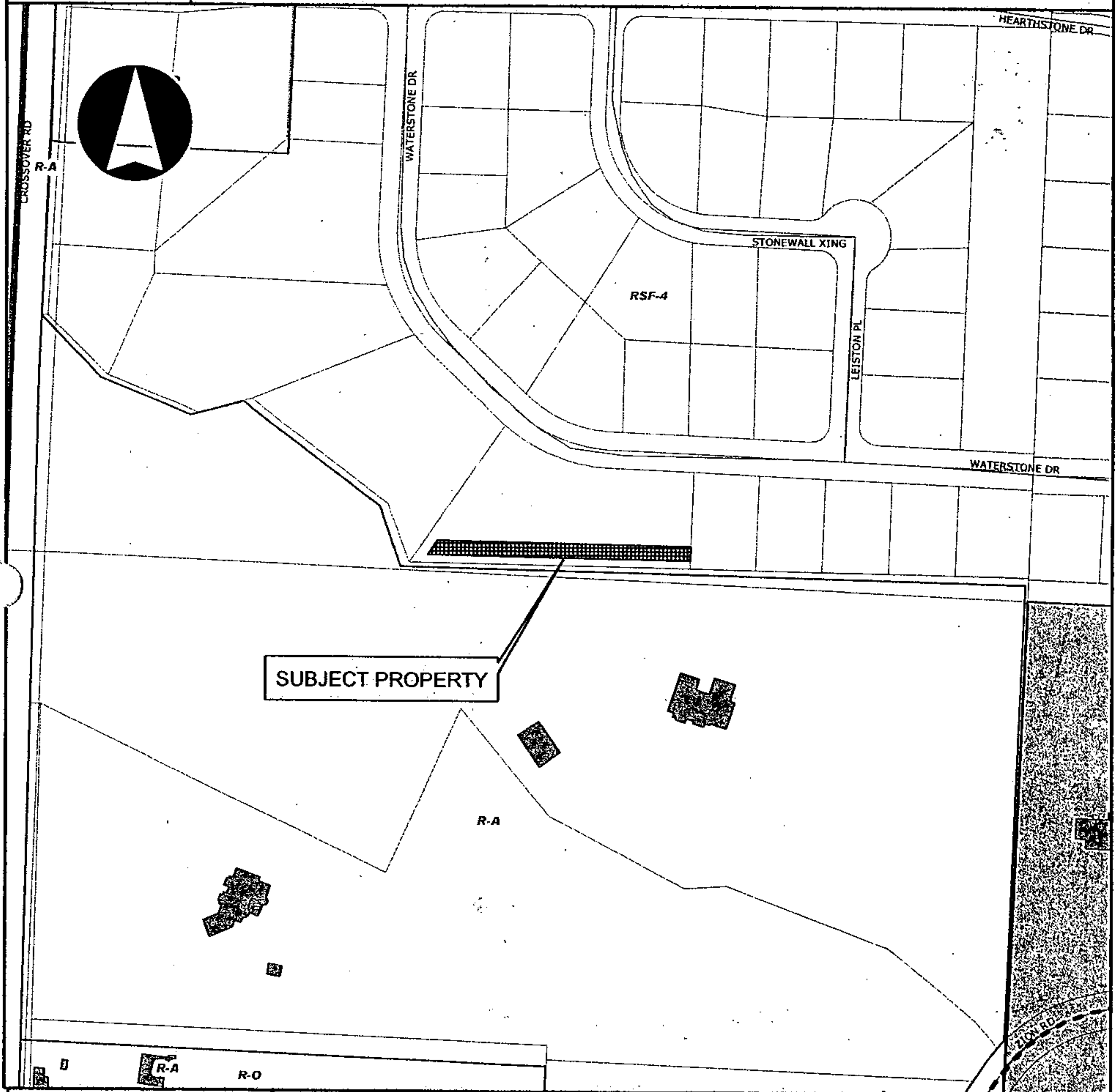
Date shape file was created:

4-5-2005

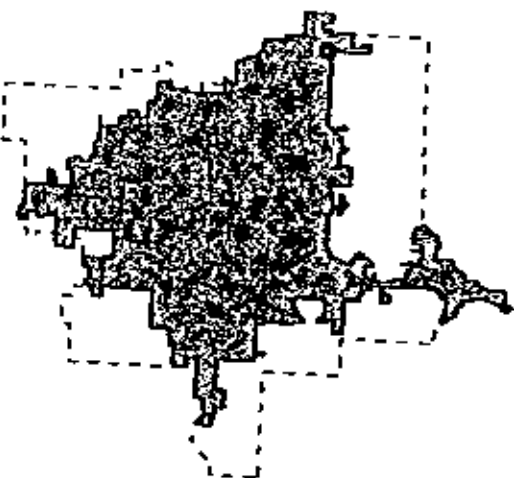
VAC05-1455

Close Up View

NECESSARY



Overview



Legend

VAC05-1455

Overlay District

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

FLOODWAY

100 YEAR

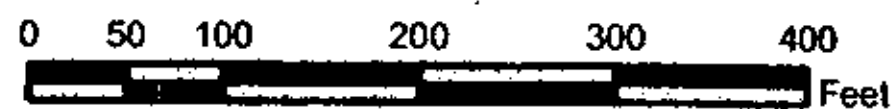
BaseLine Profile

500 YEAR

LIMIT OF STUDY

Fayetteville

Outside City



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

3-May-05
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

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\$0.00	n/a	n/a
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n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

4-29-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature]
City Attorney

5-2-02

Original Contract Number: n/a

Finance and Internal Service Director

Date

[Signature]

5/2/05
Date

Received in City Clerk's Office



Received in Mayor's Office



Comments:

From: Clarice Pearman
To: Pate, Jeremy
Date: 5/6/05 12:23PM
Subject: Ord. Nos. 4696, 4697, 4698 and 4700

Jeremy,
Attached are the ordinances passed by City Council, May 3, 2005 with the exception of Ord. 4700. I am waiting for Exhibit B to attach. I will send you a complete copy when received.
Thanks.
Clarice

Added to the
Agenda at the
City Council Meeting
5/3/05

RESOLUTION NO. 94-05

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY FEASIBILITY STUDIES, INC.

WHEREAS, the City of Fayetteville and Feasibility Studies, Inc. have been
unable to agree on a fair price for the property owned by Feasibility Studies, Inc.
that is needed for permanent utility and temporary construction easements at
530 North College Avenue; and

WHEREAS, the City of Fayetteville needs to gain possession of this
property promptly to begin work on the North College Avenue Water Line
Replacement project.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas
hereby authorizes the City Attorney to file suit to seek court ordered possession
of property located at 530 North College Avenue and owned by Feasibility
Studies, Inc., that is needed for permanent utility and temporary construction
easements, and to pay into the Registry of the Circuit Court the sum of \$4,890.00
as just compensation therefor.

PASSED and APPROVED this 3rd day of May, 2005.



ATTEST:

By: *Sondra Smith*
SONDRA SMITH, City Clerk

APPROVED:

By: *Dan Coody*
DAN COODY, Mayor



CITY ATTORNEY AGENDA REQUEST

Added at 94-05
City Council
Meeting on
May 3, 2005

FOR: COUNCIL MEETING OF MAY 3, 2005

FROM:

DAVID WHITAKER, ASSISTANT CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

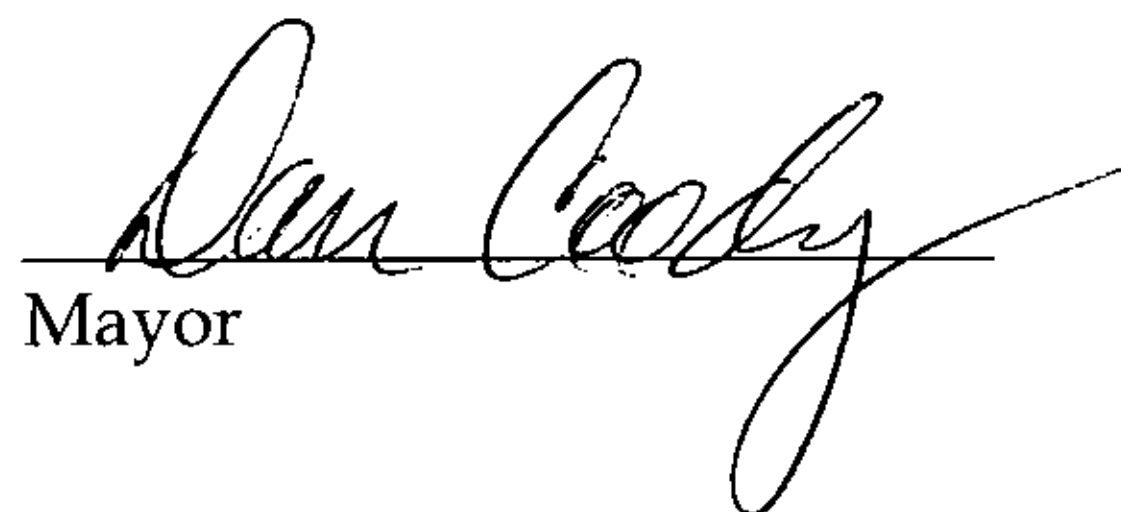
RES
5/3/05
94-05
Condemnation/
530 N. College

A Resolution Authorizing The City Attorney To Seek Condemnation And Possession Of Certain Lands Owned By Feasibility Studies, Inc.

APPROVED FOR AGENDA:


Assistant City Attorney

4/28/2005
Date


Mayor

4/28/05
Date

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
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LANDS OWNED BY FEASIBILITY STUDIES, INC.

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Studies, Inc., that is needed for permanent utility and temporary construction
easements, and to pay into the Registry of the Circuit Court the sum of \$4,890.00
as just compensation therefor.

PASSED and APPROVED this 3rd day of May, 2005.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

KIT WILLIAMS
FAYETTEVILLE CITY ATTORNEY

DAVID J. WHITAKER
Assistant City Attorney
Judy Housley
Office Manager

Phone (479) 575-8313
FAX (479) 575-8315



113 W. Mountain, Suite 302
Fayetteville, AR 72701-6083

April 19, 2005

Mr. Earl Webb
530 North College Avenue
Fayetteville, AR 72701

RE: North College Avenue Water Line Replacement

Dear Mr. Webb:

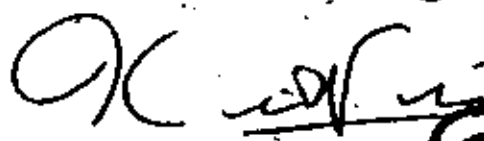
Your file has been provided to my office to begin condemnation procedures to obtain easements necessary to replace the old and unreliable water line located in the middle of North College with a new line along the right of way on both sides. This improvement is primarily designed to help your business and other businesses along North College receive more consistent water service.

Our understanding was that you had agreed to sign the necessary easement documents, but we have yet to receive them. The City sent you a duplicate packet of documents on March 25, 2005, and hopefully has fully complied with the requests you made in your February 10, 2005 letter.

The last thing I want to do is to file a condemnation suit in Circuit Court. Please sign the easement documents and return them to us immediately or let me know what questions you might have that could be delaying resolution of this easement acquisition.

We are certainly trying our best to improve your water service with as little disruption to adjoining land owners as possible. Thank you for your consideration.

With kindest regards,


KIT WILLIAMS
Fayetteville City Attorney

KW/jh
cc: David Jurgens, Water & Wastewater Superintendent

COPY

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Kit Williams, City Attorney

FROM: Jill Goddard, Land Agent 

DATE: April 18, 2005

SUBJECT: North College Water Line Replacement
Possible Condemnations

Attached please find packets (including a brief case history on each) for two properties on the North College Water Line Replacement project that we have not been able to get signed documentation from. Before preparing paperwork for City Council to seek possession through the court, would you like to contact them to see if your influence can obtain the necessary signatures?

This project is currently proposed to start June, 2005, and continue through the summer. It would replace the existing waterline which is in the middle of College Avenue with smaller waterlines either side of College. This is a benefit to the property owners in that the existing line is old and prone to breakage. Out of a total of 30 easements, these two are the only ones left to sign.

Although the estimated start date is within a couple of months, other segments can be constructed while waiting for orders of possession on these two.

Let me know if you need additional information or if I need to prepare the Council packet.

Thanks.

CASE HISTORY

North College Waterline Replacement
Feasibility Studies, Inc.
Line 24, Tract 6

11/30/04	Offer packet mailed (including offer letter, water/sewer easement document, vendor form, and drawing of property).
2/8/05	Notice/reminder letter mailed.
2/10/05	Letter from Earl Webb asking that the easements be staked. Called Robert White, McClelland, to arrange that.
2/22/05	Side letter mailed noting that easements had been marked.
3/24/05	Notification mailed (certified). Letter received on 3/25/05.
3/25/05	Call from Mr. Webb's office asking for a duplicate packet. New packet mailed this date.
4/18/05	Was under the impression that they were preparing to sign documents—as of this date, nothing received.

CONTACT:

Feasibility Studies, Inc.
Attn: Earl Webb
530 N. College
Fayetteville, AR 72701

521-9080

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

March 23, 2005

Feasibility Studies, Inc.
Attn: Earl F. Webb
530 N. College
Fayetteville, AR 72702

RE: Project No. 02030
North College Water Line Replacement
Line 24, Tract 6
530 N. College
Notification

Dear Mr. Webb:

On November 30, 2004, an easement packet was mailed to you outlining proposed easements as to your property at 530 N. College Avenue. On February 8, 2005, the City of Fayetteville sent a reminder letter in regards to this project. On February 10, 2005, we received a letter from you requesting that the easements be staked. The easements were staked by McClelland Engineering and you were notified of this by letter on February 22, 2005.

Time is now of the essence, with construction slated to begin in June, 2005. As of yet, we have not received your signed documentation. If we have not received a signed easement and vendor form by April 4, 2005, your file will be turned over to the City Attorney's office and procedures will be started to obtain possession through the courts. However, please keep in mind that condemnation proceedings can be stopped at any time if an agreement is reached before the court date.

If there are other questions or should additional information be needed, please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or Sid Norbash, Construction Engineer, at (479) 575-8205.

Sincerely,



David Jurgens, P.E.
Water and Sewer Maintenance Superintendent

DJ/jsg

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

February 22, 2005

Feasibility Studies, Inc.
Attn: Earl F. Webb
530 N. College Avenue
Fayetteville, AR 72701

RE: Project No. 02030
North College Water Line Replacement
Line 24, Tract 6
530 N. College
Side Letter

Dear Mr. Webb:

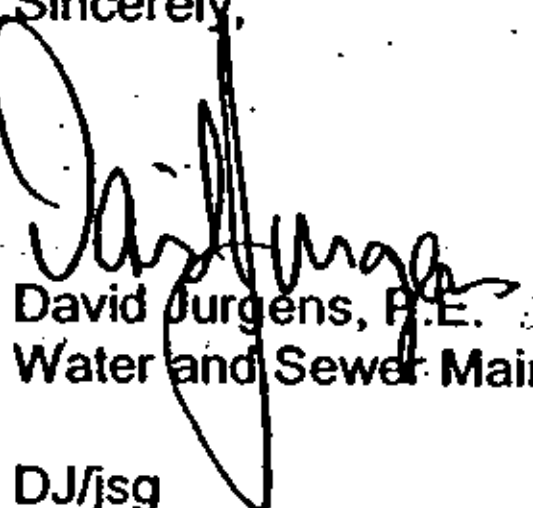
The purpose of this letter is to acknowledge receipt of your letter dated February 10, 2005.

- The permanent and temporary easements across your property at 530 N. College Avenue have been marked by McClelland Engineering.

This letter will become a part of any contract made between the City of Fayetteville and the contractor who bids this project.

If you have any questions or need additional information, please feel free to contact Jill Goddard at (579) 444-3407, Holly Jones at (479) 444-3414, or Sid Norbash, Construction Engineer (for engineering concerns), at (479) 575-8205.

Sincerely,



David Jurgens, P.E.
Water and Sewer Maintenance Superintendent

DJ/jsg



WEBB & ASSOCIATES

INSURANCE & FINANCIAL CONSULTANTS

Tel: (479) 521-2912

530 North College Ave. Fayetteville, AR 72701

Tel: (800) 366-9322

Fax: (479) 521-6918

Earl F. Webb

President

Jason F. Webb

Financial Consultant

February 10, 2005

The City of Fayetteville, Arkansas
Attention: David Jurgens
113 West Mountain
Fayetteville, AR 72701

Re: Project No. 02030
North College Water Line Replacement

Dear Mr. Jurgens,

I received your letter dated February 7, 2005.

I have not responded to the previous offer because I need somebody to mark on my property exactly what the city is wanting to take, and how much of the right of way they want to lease for this process. From reading your letter of description, you want to take all of my parking lot and half of my building. This is not something we would want to do. However, if someone would mark on the site what right of ways they are wanting to take, we could start from there. Please Advise.

Sincerely,

Earl F. Webb
President / Owner

djm

Life • Health • Group Benefits • Securities

E-Mail: earl@webbandassoc.com • Jason@webbandassoc.com

Registered Representative of and Securities Offered Through QA3 Financial Corp.,

Member NASD/SIPC

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

February 7, 2005

Feasibility Studies, Inc.
Attn: Earl F. Webb
530 N. College Avenue
Fayetteville, AR 72701

RE: Project No. 02030
North College Water Line Replacement
Line 24, Tract 6
530 N. College
Follow-up and Notification

Dear Mr. Webb:

The City of Fayetteville is desirous of moving forward with the water line replacement project along North College Avenue (from Maple Street north to Baxter Lane). The primary obstacle to the final approval of the project, enabling bidding of the work, is the finalization of easement acquisition. On November 30, 2004, a packet of information was mailed to you regarding the acquisition of a permanent easement and a temporary construction easement along your property, adjacent to College Avenue.

The City of Fayetteville has not heard from you regarding the proposed easements for this project. A duplicate packet of the information previously mailed can be sent if it is needed. A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements.

In the absence of further negotiations and receipt of signed documents, a deadline for closure of these acquisitions has been established. If we have not heard from you nor received a signed document and vendor form by March 1, 2005, procedures will be started to obtain possession through the courts.

If you have any questions or need additional information, please feel free to contact me at (579) 444-3407, Holly Jones at (479) 444-3414, or Sid Norbash, Construction Engineer (for engineering concerns), at (479) 575-8205.

Sincerely,



David Jurgens, P.E.
Water and Sewer Maintenance Superintendent

DJ/jsg

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

November 22, 2004

Feasibility Studies, Inc.
Attn: Earl F. Webb
530 N. College Avenue
Fayetteville, AR 72701

RE: Project No. 02030
North College Water Line Replacement
530 N. College
Offer Letter

Dear Mr. Webb:

The City of Fayetteville is planning the replacement of some water lines along North College Avenue from Baxter Lane south to Maple Street. A ten-foot-wide permanent easement and a twenty-foot-wide temporary construction easement are necessary for this project. The temporary construction and grading easement shall terminate when the project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

The City of Fayetteville hereby offers \$4,076.00 for the rights associated with the permanent easement (550 square feet) and \$814.00 for the rental of the property within the temporary construction and grading easement (1,100 square feet), for a total offer amount of **\$4,890.00**. The permanent easement amount is based on a fee simple value of \$7.41 per square foot as determined within the certified appraisal report as prepared by Parrish Appraisals, Inc., dated November 8, 2004. The temporary easement (rental) amount is figured at 10% of the fee simple value ($\$7.41 \times 10\% = \$0.741/\text{sq. ft.}$).

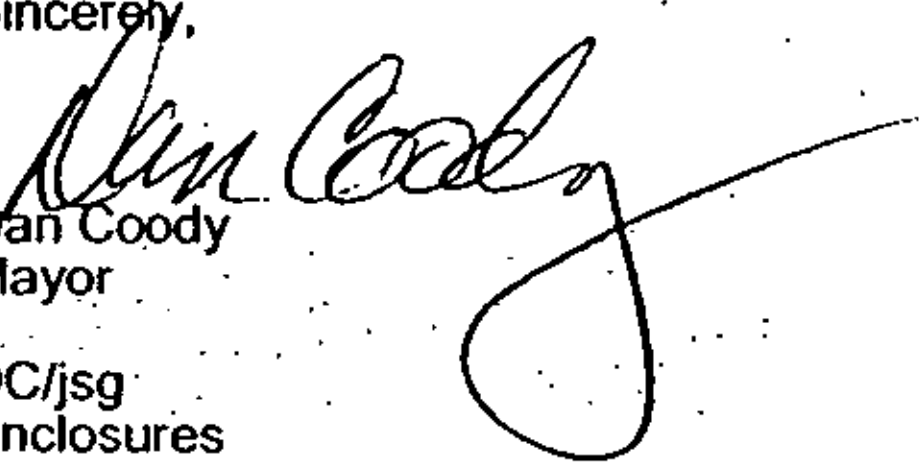
Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated areas required for the proposed easements. The temporary construction easement area will exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

Should you elect to accept this offer, the *Water/Sewer Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the documents if you will advise our office accordingly. Upon receipt of the document, a check will be requested and you will be paid the amount indicated in this offer letter.

A copy of the *Water/Sewer Easement* is included for your records. We can provide a copy of the recorded easement upon your request and at the appropriate time. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or Sid Norbash, Construction Engineer, can be reached at (479) 575-8205.

Sincerely,


Dan Coody
Mayor

DC/jsg
Enclosures

WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT Feasibility Studies, Inc., hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement and a temporary construction and grading easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Book 1197 at Page 003, first description)

A part of the Southwest Quarter of the Southwest Quarter of Section 10 in Township 16 North, Range 30 West of the Fifth Principal Meridian and more particularly described as follows: Beginning at a point which is 417 feet North and 30 feet East of the Southwest corner of said forty acre tract and running, thence East 140 feet; thence North 55 feet; thence West 140 feet; thence South 55 feet to the place of beginning, situated in Washington County, Arkansas.

PERMANENT EASEMENT DESCRIPTION:

The West 10 feet of the North 55 feet of Lot 2 in Davidson's Addition to the City of Fayetteville, Washington County, Arkansas. This permanent easement contains 550 square feet (0.01 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A twenty (20) foot temporary construction and grading easement of equal and uniform width is located along the East side of the above described Permanent Water/Sewer Easement. This temporary construction easement is shown in detail on Exhibit "A" and contains 1,100 square feet (0.03 acre), more or less.

The bearings for this description are based on Arkansas State Plane Coordinates, North Zone, NAD 83, the system which the City of Fayetteville presently uses. This bearing system may vary from the bearing system previously used in describing the subject project.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement other than fences and said fences shall not exceed six (6) feet in height.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _____ day of _____, 2004.

FEASIBILITY STUDIES, INC.

By: _____

[Please print or type Name and Title]

ATTEST:

[Please print or type Name and Title]

[SEAL]

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

} ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____ and _____, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the _____ and _____, respectively, of Feasibility Studies, Inc., and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2004.

MY COMMISSION EXPIRES:

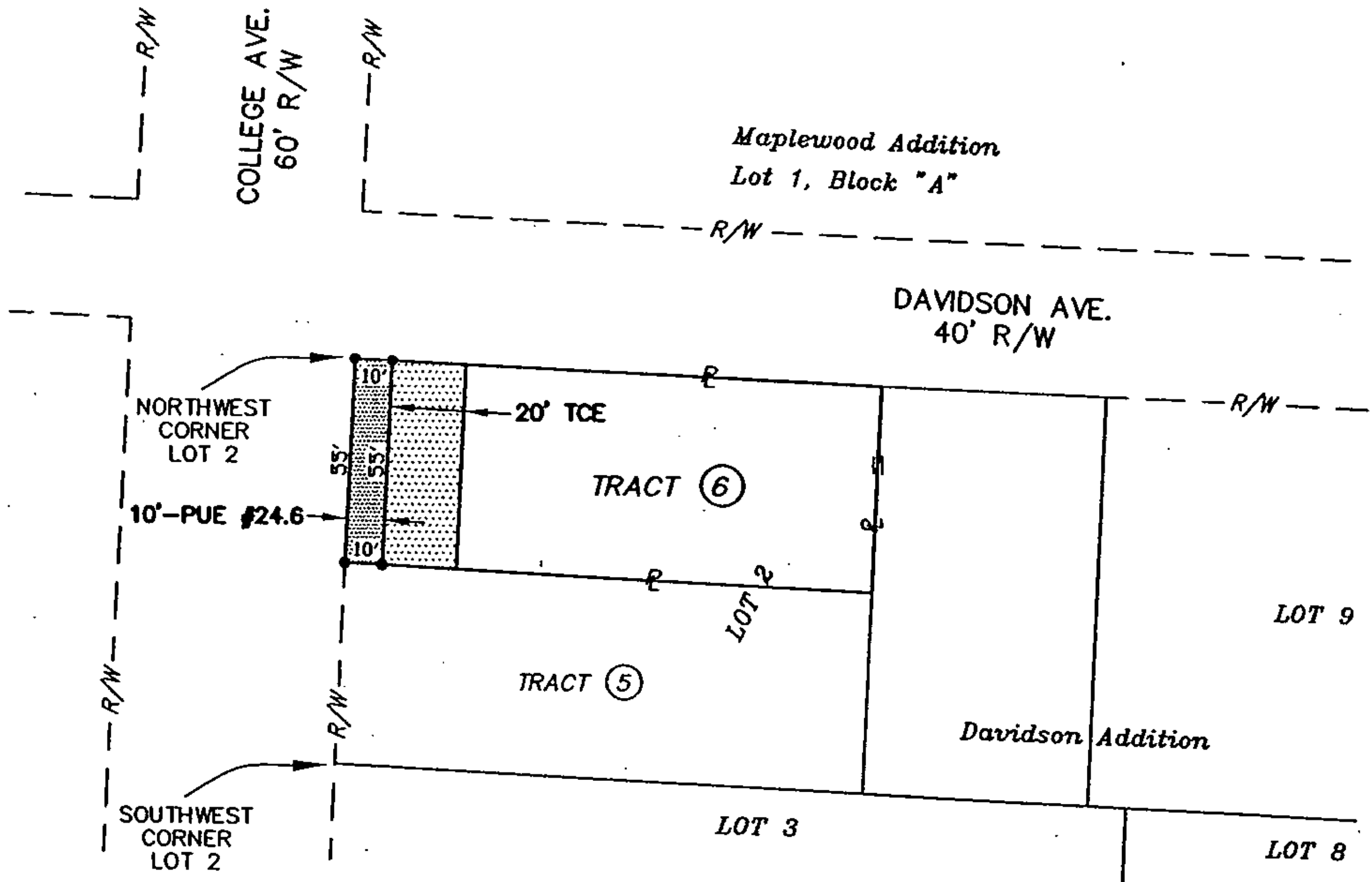
Notary Public

UTILITY EASEMENT PLAT
TRACT MAP NO. 6
EXHIBIT "A"

PUE 24.6 - 550 SQ. FT. (0.01 AC.)
TCE 24.6A - 1,100 SQ. FT. (0.03 AC.)

Basis of Bearings:
Based on the City of
Fayetteville GPS
Coordinate System

SCALE: 1" = 50'



LEGEND

- — Corners of Permanent Utility Easement
- 765-04595-000 — Tax Parcel Number
- 1197-003 — Deed Record
- Permanent Utility Easement
- Temporary Construction Easement
- Existing Utility Easement Line
- Existing Property Line
- UE — Utility Easement
- TCE — Temporary Construction Easement

City of
Fayetteville

Water & Sewer Department

Property Owner : FEASIBILITY STUDIES, INC.
Drawn by : McClelland Consulting Engineers
Date: July 2004 Scale : 1" = 50'
Project No. FY032142 LINE 24 - Tract No. 6

Project Name : North College Water Main		
No.	Revisions	Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PLEASE RETURN TO:

CITY OF FAYETTEVILLE
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701
(479) 444-3407
FAX: (479) 575-8202

VENDOR FORM

Vendor # _____
(For Office Use Only)

According to the Federal Income Tax Law, the City is required to obtain the information listed below from all individuals and companies with whom we do business. Failure to comply may subject you and/or your company to certain penalties, as well as withholding tax.

Please complete the following:

☒ Sole Proprietorship
☐ Corporation
☐ Partnership
☐ Tax-exempt organization under Section 501(a)
☐ Foreign Government
☐ Individual
☐ Other (please explain)

Tax Identification Number:

_____ Federal employer identification number

OR

_____ Social Security number (for individual or sole proprietors)

I certify that the above information is true and correct.

Feasibility Studies, Inc.
Name of Individual or Business

530 N. College Avenue
Address

Fayetteville, AR 72701
City, State, Zip Code

Signature

Date

Title

Please mail or FAX this completed form to the City of Fayetteville at the above address or FAX number.

Record 1 of 1 Last Updated 07/12/04

Parcel Number: 765-04595-000 Prev. Parcel Number: 138333-000-00 Type: Cl
 Location: 530 N COLLEGE AVE
 Owner Name: FEASIBILITY STUDIES, INC.
 Mailing Address: 530 N COLLEGE FAYETTEVILLE AR 72701
 Lot: Block: S-T-R: 10-16-30
 Addition: DAVIDSON'S FIRST
 School District: FAYETTEVILLE SCH, FAY Tax District: 011
 City: FAYETTEVILLE
 Legal: PT LOT 2-50/140 55x140
 Current Year A79 Credit Status: N
 Last Appraised: 2004

	Appraised Value	Taxable Value
Land	39,400	7,202
Improvement	111,100	22,088
Total	150,500	29,290

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit Status	A79	Net Total Tax	Total Tax Paid	Payment Status
2003	26,627	\$1,410.17	\$0.00	\$0.00	\$0.00	N		\$1,410.17	\$0.00	
2002	24,795	\$1,288.35	\$0.00	\$0.00	\$0.00	N		\$1,288.35	\$1,288.35	PAID
2001	20,152	\$1,047.10	\$0.00	\$0.00	\$0.00			\$1,047.10	\$1,047.10	PAID
2000	18,320	\$961.80	\$0.00	\$0.00	\$0.00			\$961.80	\$961.80	PAID
1999	18,320	\$937.98	\$0.00	\$0.00	\$0.00			\$937.98	\$937.98	PAID
1998	18,320	\$939.82	\$0.00	\$0.00	\$0.00			\$939.82	\$939.82	PAID
1997	18,320	\$939.82	\$0.00	\$0.00	\$0.00			\$939.82	\$939.82	PAID
1996	18,320	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID
1995	18,320	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2002	108917	10/10/2003	\$1,288.35	\$0.00	\$0.00	\$0.00	\$0.00	\$1,288.35
2001	47332	7/9/2002	\$1,047.10	\$0.00	\$0.00	\$0.00	\$0.00	\$1,047.10
2000	15429	10/19/2001	\$961.80	\$0.00	\$0.00	\$0.00	\$0.00	\$961.80
1999	12005	10/11/2000	\$937.98	\$0.00	\$0.00	\$0.00	\$0.00	\$937.98

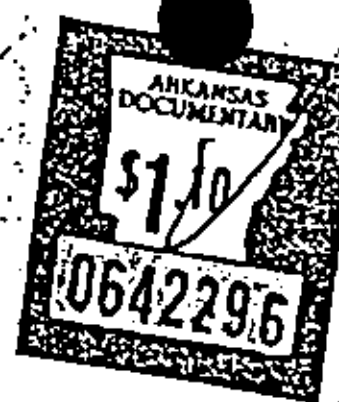
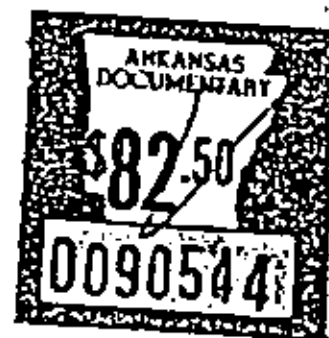
Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
10/9/1986	1197	003	FEASIBILITY STUDIES, INC.		WD	108,000	118.80
SEE #04611 & 04597.							
1/1/1985	778	69	WEBB, EARL F. & MURLENE G.		WD	0	0.00

Structure Number	Business Name	Age or Year Constructed	Heated Area
1	WEBB & ASSOC. FEASIBILITY STUDIES	1975	2682

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps have been placed on this instrument.

Grantee Murlene Webb
Address 5307 College
Fayetteville, Ark.



WARRANTY DEED

WITH RELINQUISHMENT OF DOWER AND CURTESY

KNOW ALL MEN BY THESE PRESENTS:

That we, Earl P. Webb and Murlene G. Webb, husband and wife, hereinafter called Grantors, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration in hand paid by Feasibility Studies, Inc., the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the said Feasibility Studies, Inc., an Arkansas corporation, and unto its successors and assigns forever, the following lands lying in Washington County, Arkansas, to-wit:

S-04595-000
A part of the Southwest Quarter of the Southwest Quarter of Section 10 in Township 16 North, Range 30 West of the Fifth Principal Meridian and more particularly described as follows: Beginning at a point which is 417 feet North and 30 feet East of the Southwest corner of said forty acre tract and running, thence East 140 feet; thence North 55 feet; thence West 140 feet; thence South 55 feet to the place of beginning, situated in Washington County, Arkansas.

ALSO:

S-04597-000
A part of the Southwest Quarter of the Southwest Quarter of Section 10 in Township 16 North, Range 30 West of the Fifth Principal Meridian and being more particularly described as beginning at a point which is 472 feet North and 170 feet East of the Southwest corner of said 40 acre tract; thence South 110 feet; thence East 60 feet; thence North 110 feet; thence West 60 feet to the place of beginning, being the East 60 feet of Lot 2 in Davidson's First Addition to the City of Fayetteville, Arkansas.

ALSO:

Part of the Southwest Quarter of the Southwest Quarter of Section 10 in Township 16 North of Range 30 West of the Fifth Principal Meridian more particularly described as follows, to-wit: Beginning at a point which is 230 feet East and 372 feet North of the Southwest corner of said forty acre tract, and running, thence East 60 feet; thence North 100 feet to the South line of Davidson Street; thence West 60 feet; thence South 100 feet to the place of beginning, and being a part of Lot 9 of Davidson's Addition to the City of Fayetteville, Arkansas.

Subject to restrictive covenants and easements of record, if any.

Subject to mortgage in favor of the First National Bank of Fayetteville, Arkansas, dated June 3, 1983, recorded June 6, 1983 in Book 1083 at Page 791, Recorder's Office, given to secure the original principal sum of \$135,000.00 and having a current balance due and owing of \$ 108,000.00, which grantee herein assume and agree to pay in accordance with the terms and conditions contained therein.

To have and to hold the same unto the said Grantee and unto its successors and assigns forever, with all appurtenances thereunto belonging.

And we hereby covenant with Grantee that we will forever warrant and defend the title to the said lands against all claims whatever.

And we, Earl P. Webb, husband and Murlene G. Webb, wife, for and in consideration of the sum of money, do hereby release and relinquish unto the said Grantee all our right of curtesy, dower and homestead in and to the said lands.

Witness our hands and seals as such grantors this 9 day of October, 1986.

EARL F. WEBB

MURLENE G. WEBB

LIBER 1197 PAGE 003

Prepared by Stanley, Harrington
& Watson, P.A.
P.O. BOX 687, 113 E. EMMA
SPRINGDALE, ARKANSAS 72765

2 - Warranty Deed - Earl F. and Murlene G. Webb to Feasibility Studies, Inc.

ACKNOWLEDGMENT

STATE OF ARKANSAS }
COUNTY OF WASHINGTON) ss.

BE IT REMEMBERED, That on this day came before the undersigned, a Notary Public within and for the County aforesaid, duly commissioned and acting, Earl F. Webb and Murlene G. Webb, husband and wife, to me well known as the grantors in the foregoing deed, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 27th day of
October, 1986.

Barbara M. Williams
NOTARY PUBLIC

My Commission Expires:

May 28, 1990

JANET P. GALLMAN
ATTORNEY AT LAW
BUTTERFIELD PLAZA, SUITE 107C
2863 OLD MISSOURI ROAD
P.O. BOX 4248
FAYETTEVILLE, ARKANSAS 72702-4248

TELEPHONE
(479) 444-7777

FAX (479) 444-7829
e-mail: janetpgallman@cox.net

May 2, 2005

David J. Whitaker, Esq.
Assistant City Attorney
City of Fayetteville
113 W. Mountain, Suite 302
Fayetteville, Arkansas 72701

VIA FAX TRANSMISSION TO: 575-8315
1 Page Total in Fax

Re: North College Avenue Water Line Replacement

Dear David:

Thank you for speaking with me this afternoon regarding the proposed sewer/water easement and temporary easement across the real property of Feasibility Studies, Inc. (Earl F. & Murlene Webb) at 530 N. College Avenue. As I explained to you, Mr. Webb had been trying for some time to get an appraisal of the proposed easement so that the Webbs could make an informed decision as to the amount of compensation offer by the City of Fayetteville. I made contact with Mark Risk this morning who advised he had not been hired by the City of Fayetteville to conduct its appraisal of this section, Line 24, of the project, and asked him to prepare an appraisal as soon as possible.

In the meanwhile, I understand the matter will be placed on the Agenda for the City Council to decide whether to give the "go ahead" for the City to file a condemnation suit. My clients do not want to delay the project, but simply cannot accept the offer without an independent evaluation of the value. If the City needs to proceed with the project, you may need to file your legal action and get an Order for the taking. Thanks for your time and assistance in this matter.

Highest regards,


Janet P. Gallman

/jpg

cc: Mr. Earl F. & Mrs. Murlene Webb via fax to: 521.6918

From: Clarice Pearman
To: Whitaker, David
Subject: Res94-05

David,
Attached is a copy of the resolution passed by City Council, May 3, 2005 regarding the condemnation.
Thanks.
Clarice

CC: Deaton, Vicki

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
May 3, 2005**

A meeting of the Fayetteville City Council will be held on May 3, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

Presentation by Downtown Partners – Agenda Session Only

Presentation by Martin Alexiou Bryson to give an update of the U of A Transportation Plan – Agenda Session Only

A. CONSENT:

- 1. Approval of the Minutes:** Approval of the April 5, 2005 and the April 19, 2005 City Council meeting minutes.
- 2. ADM 05-1481 (Sellers Road):** A resolution approving ADM 05-1481 amending the Master Street Plan, relocating the proposed Sellers Road, designated a minor arterial street, south to align with Woolsey Farm Road between 54th and Ruppel Road.
- 3. ADM 05-1482 (Broyles Avenue):** A resolution approving ADM 05-1482 amending the Master Street Plan, realigning the proposed Broyles Road, designated a collector street, in the manner approved by the Planning Commission for Large Scale Development (LSD) 05-1385.
- 4. DBE Program Participation Goals FY2005 Approval:** A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2005.

5. **Exterior Restoration of the Walker House:** A resolution approving the use of Building Improvement Funds for the exterior restoration of the Walker House in an amount not to exceed \$33,738.00; and authorizing City Staff to solicit bids for the project.

B. UNFINISHED BUSINESS:

1. **Amend Chapter 96: Noise Control:** An ordinance to add §96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake." *This ordinance was left on the first reading at the April 5, 2005 City Council Meeting. This ordinance was tabled at the April 19, 2005 City Council Meeting to the May 3, 2005 City Council Meeting.*
2. **RZN 05-1412 (Mountain Ranch/Terminella):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1412 for property located south of Future Persimmon Street containing approximately 21.05 acres from R-A, Residential Agricultural, to RSF-4, Residential Single Family, Four Units Per Acre. *This ordinance was left on the second reading at the April 19, 2005 City Council Meeting.*

C. NEW BUSINESS:

1. **Amend §96.5 Motor Vehicle and Motorcycle Sound Limit:** An ordinance to amend §96.05 Motor Vehicle and Motorcycle Sound Limit of the Code of Fayetteville.
2. **Madison Avenue Street Connection:** A resolution approving the dedication of a 40-foot wide portion of City property as right-of-way to allow a street connection to Madison Avenue by the developer of the Hays Estates Subdivision.
3. **Planning Commission Appeal:** A request to appeal the Planning Commission's motion to deny a waiver for the construction of a dead-end street greater than 500' length should the City Council deny the request for dedication of a City property to the north of the subject property for a 40-foot wide right-of-way and construction of a City Street
4. **RZN 05-1480 (Bill Eddy Motorsports):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1480 for property located at 1205 North Futrall Drive containing approximately 2.00 acres from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial.
5. **Environmental Enterprise Group, Inc. Contract:** An ordinance to waive normal competitive bidding and to award a contract in the amount of \$30,855.00 to Environmental Enterprise Group, Inc. for remediation, Demolition Project Management, and Air Monitoring.
6. **Demolition Contract Approval:** A resolution to approve a contract with _____ in the amount of \$_____ for the demolition of the Mountain Inn Building, Courts Building, former Niblock Law Office and Red Bird Café as part of the Project Plan for the Highway 71 East Square Redevelopment District. Bids will open on April 25, 2005.

7. **C-2 Projects, LLC Construction Contract:** A resolution approving a construction contract with C-2 Projects, LLC in the amount of \$1,169,336.25 for the Gregg Avenue Water System Improvements; approving a 10% Project Contingency in the amount of \$116,933.00; and approving a Budget Adjustment in the amount of \$544,391.00 for same.

D. INFORMATIONAL:

Council Tour: May 2, 2005 – 4:30 pm

City Council Meeting of May 03, 2005
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: April 15, 2005

Subject: Master Street Plan Amendment for Sellers Road (ADM 05-1481)

RECOMMENDATION

Planning Staff recommends approval of a resolution amending the Master Street Plan to relocate Sellers Road to the south on this policy document. The proposed realignment of Sellers Road on the Master Street Plan is to best facilitate the construction of the new Westside Wastewater Treatment Plant and create more feasible street connectivity in the area.

BACKGROUND

Property: The subject property is the property designated by the City of Fayetteville and recently approved for a Large Scale Development by the Planning Commission for the new Westside Wastewater Treatment Plant (WWTP). The 168 acres on which the WWTP is being constructed is affected by three Master Street Plan Streets: 54th Street to the west (Principal Arterial), Broyles Avenue along the east and through the center (Collector) and Sellers Road, through the south-center (Minor Arterial). As part of the development of the WWTP and the approval process of the Large Scale Development, staff has actively worked with the design engineers and other involved persons to best facilitate both the future traffic in the area and the development plans for the plant site.

Proposal: An amendment to relocate Sellers Road to the south is driven primarily by the design development of the WWTP. Sellers Road currently is an unconstructed street in this location which traverses east-west across the property from 54th Street to Ruppel Road. Staff finds this connection to be an important one in this area, for it will connect the future Ruppel Road, which is rapidly developing, with Broyles Avenue and 54th to the west, which are also seeing increases in traffic generation. However, the current location of Sellers Road would require major infrastructure improvements, including a bridge crossing Goose Creek in the general area of the WWTP development and discharge, as well as the removal of a large portion of tree canopy that has been preserved as part of the WWTP site development plans. The request is to shift Sellers Road to the south to align with Woolsey Farm Road approximately 1400 feet to the south. A similar east-west connection would be maintained, and existing Woolsey Farm Road right-of-way could be utilized for future construction to a Minor Arterial Standard.

Request: The request is to amend the Master Street Plan for Sellers Road to move it south approximately 1400 feet to align with the existing Woolsey Farm Road, retaining its status as a Minor Arterial.

City Council Meeting of May 03, 2005
Agenda Item Number

DISCUSSION

The Planning Commission considered this Master Street Plan amendment as part of the official conditions of approval for LSD 05-1385 (Westside Treatment Plant) on February 28, 2005, on which they voted 5-0 in favor of the recommended amendments.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION APPROVING ADM 05-1481 AMENDING THE MASTER STREET PLAN, RELOCATING THE PROPOSED SELLERS ROAD, DESIGNATED A MINOR ARTERIAL STREET, SOUTH TO ALIGN WITH WOOLSEY FARM ROAD BETWEEN 54TH AVENUE AND RUPPLE ROAD

WHEREAS, the siting of the future Wastewater Treatment Plant as developed and designed requires Sellers Road to be relocated to best facilitate this public infrastructure improvement

WHEREAS, the east-west street connection achieved by Sellers Road is desirable in a more suitable location to best utilize existing infrastructure and right-of-way where possible

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 the herein above mentioned change.

PASSED and APPROVED this _____ day of May, 2005.

APPROVED:

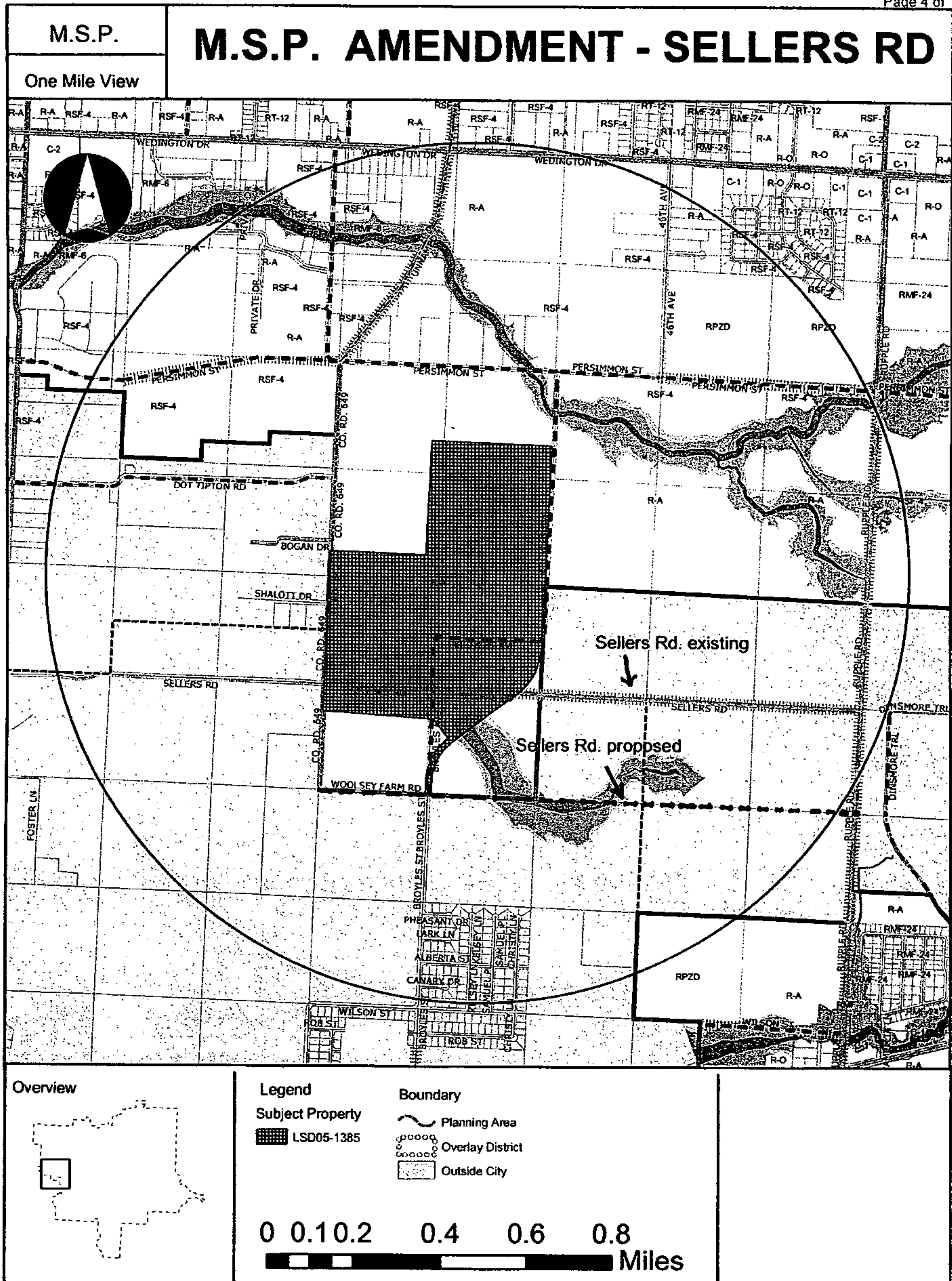
By: _____

DAN COODY, MAYOR

ATTEST:

By: _____

SONDRA SMITH, CITY CLERK



Planning Commission

February 28, 2005

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ESD 05-1385: Large Scale Development (Westside Treatment Plant, pp 470-515)

Submitted by McGoodwin, Williams & Yates for property located at Persimmon between Broyles and 54th. The property is zoned R-A, Residential Agricultural and contains approximately 321.64 acres. The request is to approve a wastewater treatment facility on the subject property with 4,867 sq.ft. and 30 parking spaces proposed.

Ostner: Our next item is a Large Scale Development for the Westside Treatment Plant. If we could have the staff report please.

Pate: Certainly. This property is located east of 54th Avenue south of Persimmon Street, west of Broyles Road, which does traverse through the site currently. The property is zoned R-A, Residential Agricultural and contains approximately 168 acres. Approximately 40 acres of the 168 acres is being utilized for a new wastewater treatment plant, which is the proposal before you, with much of the remainder in open field, tree preservation area, and wetland mitigation area as you can obviously reference here on the graphic. Just for a little history for both the public and Commission, in 1999 the city purchased 322 acres of property which is seen in the graphic south of West Persimmon Street, east of South 54th Avenue, west of Broyles and north of Woolsey Farm Road. It is approximately 322 acres there. The outline in red is showing the 168 acres currently under review for Large Scale Development. The City Council approved the location of a plant site on this property back in 1999 or 2000, purchased and annexed the property with an R-A zoning district, which allows the plant site as a use permitted by right. Numerous public meetings were held in the decision to locate the new facility which is intended to facilitate the new growth that Fayetteville is experiencing. The proposal consists of a development of the wastewater treatment plant to treat wastewater flows generated within the Illinois River Water Shed from the City of Fayetteville. The Westside Treatment Facility will treat flows in the Illinois River Basin and the Nolan Plant will serve the White River Basin. It will capture much of the wastewater that is currently pumped to the Paul Nolan site on the east side of Fayetteville. Only a small portion of the property is actually accessible to visitors and those will probably be visitors with high security. There are a number of state, county and federal regulations that this property and project are subject to beyond the scope of the Planning Commission. Those of course, have all been complied with or are in the process of being complied with to complete construction drawings and continue forward with this project. The Planning Commission's purpose for this project, as with any Large Scale Development, is to review the submitted proposal for compliance with applicable development and zoning provisions of the Unified Development Code. That includes the landscape plan that has been submitted, the tree preservation plan, any street improvements, water and wastewater access, appropriate screening, etc. Staff has evaluated this project based on the criteria in the Unified Development Code and

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included conditions of approval as part of the staff report. Staff is recommending approval of this Large Scale Development finding that the project does meet all applicable zoning and development regulations. There are 15 conditions of approval. As you noticed in your packet, there has been significant public comment within this process. City staff did require the applicants, the city is the applicant, it is a unique situation. We are reviewing as a reviewing body, the Planning staff and Engineering staff, reviewing this as a Large Scale Development as with any other project that you see as a Large Scale Development or subdivision. The applicant's representative is here tonight to speak to any questions or issues that you might have about the project and specifically, there has been public comment with regard to notification for this project. Much of which of course is against this specific use. I just want to remind the condition that this use is a use by right. It is not something that the Planning Commission is here to decide whether or not the treatment plant should go on this property. That is something that the City Council made a policy decision years ago to locate this on this property. The Planning Commission is here to decide whether or not it meets current zoning and development ordinances. As a use by right and not industrial or commercial in nature, there is not technically a screening requirement. However, much of the public comment that came out in these public hearings did request or have views concerning screening. Therefore, through this particular development project there is significant screening proposed. To the west along 54th Avenue is a significant landscape buffer. To the east along Broyles Avenue is also some mounding and berming of earth and landscape in that particular location. As you can see, to the south along the creek the area is being preserved as a tree preservation area for the most part. That will provide screening as well. There are a couple of items that the City Council will have to review as a part of this project. There are two Master Street Plan amendments on pages 4.13 there is a graphic as well as page 4.12 indicating those Master Street Plan amendments that the Planning Commission is asked to make a recommendation to the City Council upon. The first of which, is Broyles Road, which currently makes an "S" curve with right angles through the property currently. The city is proposing to construct approximately one mile of street beyond what is already being constructed from Wedington. The city has constructed Broyles Road south from Wedington to Persimmon Street, which is at the northeast corner of this site. An additional section of course, will be constructed per this project. That would be a 28' wide street within a 70' right of way. The other Master Street Plan amendment is Sellers Road, which currently traverses east/west through the property boundary. Staff is recommending that Sellers Road, a minor arterial, be moved south to be in line with Woolsey Farm Road to complete that connection both to Ruppel and Sellers eventually. As I mentioned, staff is recommending approval of this Large Scale Development. There are a lot of easements that are on going

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currently and utility relocations. I did not itemize everything. I don't think this Planning Commission really needs to understand what fiber optic lines are being removed or what lines are being relocated but I did include a condition that through the construction process the city and the utility representatives will work through that process to adequately relocate any of those lines. Formal easement and/or right of way vacation requests will need to be approved by the City Council for any right of way that does need to be vacated, as well as the City Council shall review the Master Street Plan amendments associated with this project. Item number six, Planning Commission determination of street improvements, staff is recommending that the applicant construct Broyles Road for approximately one mile from Persimmon Street to the south of the subject property with a 28' street section with 6' sidewalks located on the west side of that property. Item number seven, again, I mentioned is technically not required but I did include it. Planning Commission determination of appropriate screening. Staff has evaluated the proposed screening and finds that it does adequately screen this use from adjoining property owners. I believe all of the other conditions are self explanatory but if you have any questions feel free to ask.

Ostner: Thank you Mr. Pate. Is the applicant present?

Siversen: I'm John Siversen, the architect with McGoodwin, Williams & Yates. I am here on behalf of the City of Fayetteville to present you with your Wastewater Treatment Plant. I would like to elaborate a little bit on the site facility which Jeremy has so comprehensively presented. We are very much aware of how important this project is to the city and how we want to be a good neighbor for the community and in particular, the adjacent neighbors. Our approach to the project has two essential elements. The first one being to blend the new facility into the surrounding natural landscape by addition of earth berms and landscaping and secondly, to use architectural design elements to minimize the impact of the buildings on the project site. To help explain this project, if you look at this photograph here you can see as Jeremy so well explained, you have the overall tract which is 322 acres and then within that tract we are designating an area which is going to be the LSD tract, that is 168 acres and then within that again we've got 40 acres which will be a fenced off area for the plant site. As Jeremy said initially, this larger parent tract was purchased by the city back in 1999 solely for this purpose. Back to the LSD tract, which is surrounded by red, we have got the 168 acres and it is bordered by 54th Street on the west and Broyles Road on the east and the new alignment of Broyles Road is coming around here to the southeast. On the south we have got this creek and the far wooded area here and then to the north there has been an alignment determined here to accommodate the wetlands in this LSD tract. Within this LSD tract there are several existing and proposed features. The large wooded area here situated on the south side

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and then it comes around to the west side and will provide a dense screened buffer. To the west there is a large open pasture between 54th Avenue and the plant. That is bordered on the east side of 54th Avenue with the required street tree plantings and then immediately adjacent to the plant there is going to be groupings of trees there to provide additional screening to the plant from the view from the west. Then to the north we've got the wetlands which is 26 acres in area that consists of these bermed areas that are enhanced with landscaping and trees and then to the east of the plant between Broyles Road and the plant there are several berms and planting of deciduous and evergreen nature. Situated within all of these surroundings we have got the wastewater treatment plant itself. It is with an 10MG annual average capacity which is necessary to meet the projected wastewater needs up to the year 2020. Within this plant you've got the engineering on the project requires numerous structures and buildings with various shapes and sizes. These buildings are a direct result of the function that occurs within them and they vary considerably. It has been an architectural endeavor to have these buildings be harmonious and blend in with the existing future residential areas. To this extent we have minimized the height of the buildings and the impact of these buildings in the front. All of the buildings have hip roves to give you a lower profile rather than having gabled ends with a high pitch that would be more intrusive into the landscape. Then we are accenting the horizontal by using the base of the buildings have got a CMU base with wainscote and then there is a pre-finished metal horizontally applied to the building for the remainder of the wall. This is a banding effect, which sort of helps emphasize the horizontality and in effect, keeps a low profile for the project. As well as that we are going to be using a color scheme which includes mainly earth tones that again, helps it blend in with the surroundings. There won't be any use of any accent colors or anything bright that will be fantasy or draws attention to the structures. We want to compliment the future residential development of the adjacent property. In conclusion, this facility with the earth berms and landscape features will blend in with the natural landscape along with the architectural design elements to minimize the impact of this building. It will be harmonious with the surrounding and go above and beyond the status of being a good neighbor. Thank you.

Ostner: Thank you Sir. At this point we will hear from the public. Would anyone like to speak to this issue? Please step forward and give us your comments. Going once, anybody? Seeing none, I will close it to the public and bring it back to the Commission.

Shackelford: I will start the conversation. It was pointed out earlier by the staff and something that we had a discussion about at the Subdivision Committee level. We do have to remember that this property is already annexed and zoned and the use is a use by right on this property. As we serve as

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Planning Commissioners at the discretion of City Council our job is to look simply at the development side of it with provisions to include landscaping, tree preservation, street improvements and to some degree, screening. Although we don't even quite honestly have the ability to determine screening because it is a use by right on this property as well. With that being said, I think the developer and the architect and everybody involved has done a good job in limiting the affect that this is going to have. Obviously, it is a tough sell if this is across the street from your house but I think that with the berms and with the landscaping and that sort of thing I think we have come a long ways from some of the fears and the concerns that were originally thought would be involved with this project. I would like to first congratulate everybody for their involvement and hard work in this process and the end result is necessary for the growth of the City of Fayetteville and I think it is a very good project given what has to be done in this location.

Ostner: Thank you Mr. Shackelford. A question that I have for the applicant is speaking of a tough sell, my question is smells. I have read in the report that this facility is using state of the art systems to control odor. Could you elaborate on that?

Siversen: That is more into the engineering side of it. From my architectural understanding, they are using state of the art, research is ongoing in this country in this area and we have been in touch and involved with the latest and greatest and you are going to be getting it.

Ostner: You don't have anyone here on staff who would know more about the specifics?

Siversen: I can tell you that we are using bio filters and bio scrubbers. We had initially intended to use carbon filters but throughout the course of the project technology has changed to the extent that we have adopted this different approach.

Crider: My name is Lane Crider, I'm with McGoodwin, Williams & Yates. One of the items in your packet has actually changed from your submission. Rather than using bio filters followed by bio scrubbers the design has gone up another step and we are using bio filters followed by carbon absorbers. That is going to eliminate the additional potential of any odor releases by going to that additional type of construction and type of technology. All of the facilities, the basins, which we feel are the odor producing facilities are being covered either by the concrete top, which is the construction of the basin itself or with FRP type covers. The air underneath those will be drawn out from under the covers and all be sent to a centralized treatment facility which has the bio scrubbers followed by the carbon absorbers. This type of technology in many applications has been proven to be as

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good as it gets for this type of facility. We feel like you are getting the best type of treatment that you are going to find for a wastewater treatment plant. I think the additional step of covering those basins that may produce any type of odors release, in that step alone is doing well.

MOTION:

Allen: Some of us on the commission toured the Nolan Plant a few years back and I was really amazed at the ability that they had at that time to deal with odor and I presume that technology has improved since then. Also, I would like to commend the developer on the aesthetics of these buildings. I do think they blend in beautifully with the terrain and going above and beyond with the landscaping. With that being said, I am going to go ahead and move for approval of LSD 05-1385 subject to the fifteen conditions of approval.

Ostner: I will second that motion. There are several municipalities, several cities around here, who have development moratoriums because they don't have enough sewer capacity. We do not have a moratorium, we are looking towards the future. I think this is a big step towards planning for the inevitable growth of our city. I think it is an important part of the puzzle. On a more parliamentary note, I believe we have several determinations. Condition number six and seven are specific, seven is not a specific determination.

Williams: Five is though, you are recommending a change in the Master Street Plan.

Ostner: Master Street Plan change, does the motioner accept conditions five and six as specific findings?

Allen: Yes I do.

Ostner: As the second I will agree. Is there further discussion? Could you call the roll?

Roll Call: Upon the completion of roll all the motion to approve LSD 05-1385 was approved by a vote of 5-0-0.

Thomas: The motion carries.



PC Meeting of February 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Director of Current Planning
Brent O'Neal, Staff Engineer
DATE: February 22, 2005

LSD 05-1385: Large Scale Development (WESTSIDE TREATMENT PLANT, 479/515):
Submitted by MCGOODWIN, WILLIAMS & YATES, INC. for property located at
PERSIMMON, BETWEEN BROYLES AND 54TH. The property is zoned R-A,
RESIDENTIAL-AGRICULTURAL and contains approximately 168.026 acres. The request is
to approve the development of the new wastewater treatment facility on the subject property.
Property Owner: CITY OF FAYETTEVILLE Planner: JEREMY PATE

Findings:

Property: The subject property is located east of 54th Avenue, south of Persimmon Street, and west of Broyles Road, which traverses through the site. A property line adjustment has been processed to create the subject 168-acre site for development of the new Westside Wastewater Treatment Plant (WWTP), to be officially named at a later date. Approximately 40 acres of the 168 acres is to be utilized for the plant site at this time, with much of the remainder in open field, tree preservation area and wetland areas.

Background: (General Plan 2020): In 1997, CH2M Hill prepared a Wastewater Facilities Plan that identified the existing conditions and future needs of the treatment plant. The plan was updated in 2001. In 2000, the facility reached 94 percent of its capacity. Additionally, based on projected wastewater needs for the year 2020, average daily flows were projected to be 21.5 million gallons per day, 10 million gallons more than the existing capacity with the Paul R. Noland Plant. Because of the critical need to expand treatment services, in 1999 the City purchased 322 acres on the southwest side of Fayetteville to construct a new wastewater treatment facility. The City Council approved the location of the plant site on this property, purchased and annexed the property with an R-A zoning district, which allows the plant site as a use permitted by right. Numerous public meetings were held in the decision to locate the new facility, which is needed to facilitate the growth Fayetteville is experiencing.

Proposal: The proposal consists of the development of the WWTP to treat the wastewater flows generated within the Illinois River watershed from the City of Fayetteville. The Westside Treatment Facility will treat flows in the Illinois River Basin and the existing facility will serve the White River Basin. It will capture much of the wastewater that is currently pumped to the Paul R. Noland plant on the east side of Fayetteville. Within the developed site are numerous functions and structures which comprise the overall system. Only a small portion of the property will be accessible to visitors, as security is a high priority. The design of the WWTP also

complies with numerous local, county, state and federal regulations with regard to the overall function, much of which is outside the purview of the Large Scale Development review.

The Planning Commission's purpose for this project is to review the submitted proposal for compliance with applicable provisions and requirements of the Unified Development Code, including the Landscape Plan, Tree Preservation Plan, street improvements, water/wastewater access, appropriate screening, etc. Staff has evaluated the project plan based on the criteria in the Unified Development Code and included conditions of approval as part of the staff report.

Public Comment: Public comment from adjoining property owners has been received by mail, and is included in the staff report. Many object to the use of the WWTP in this area, however it is a use by right, and was brought into the city for the specific purpose of this plant use. Screening is a large component of the project, on both the east and west sides of the property, as indicated in previous public meetings and shown on landscape plans. Additionally, odor concerns have been cited as objectionable with this use. The project is designed as an advanced biological nutrient removal treatment system, also equipped with U.V. disinfection facilities and advanced odor control facilities including biofilters and bioscrubbers. No public comment was received at the Subdivision Committee meeting.

Screening: As a use by right and not industrial or commercial in nature, this property is technically not subject to screening requirements by the Unified Development Code. However, the public input process brought up concerns with regard to screening of the uses from adjacent properties and the design development has subsequently responded with the submitted landscape and tree preservation plans. Natural screening from large tree preservation buffers to the south/southeast effectively screens much of the property from this vantage point. Earthen berms with evergreen and deciduous plantings are sited along the eastern portion of the property to screen much of the required security fencing and structures, as well. Approximately 1158 feet separates the developed area of the WWTP from 54th Street, and additional plantings are located along this street to provide a future streetscape and screen from the west. To the north is 26 acres of wetland mitigation area within a deed-restricted easement, protected in perpetuity from other uses. The developed site is approximately 2500 feet (1/2 mile) from Persimmon Street to the north, where the nearest adjacent northern property owners are located. There are additional off-site trees that currently prohibit the view of this property from the north.

Fencing: Chain link fencing and ornamental metal fencing is proposed to surround the immediate plant site for security purposes. All razor/barbed wire necessary is prohibited if visible from the street right-of-way.

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Vacant	R-A, Residential Agricultural
South	Creek, vacant land	R-A, Planning Area
East	Vacant, single family homes	R-A, Planning Area
West	Single family homes	Planning Area

Right-of-way being dedicated: Broyles Road (Collector), 54th (Principal Arterial)

Street Improvements: A 28-foot wide street is proposed to connect the recently constructed Broyles Road (Wedington to Persimmon) from Persimmon through the subject property south to Woolsey Farm Road, within a Collector Street right-of-way. All access from the plant is to and from this street. A six-foot sidewalk will be constructed for the length of the city property, after all water/wastewater and other utility lines have been installed.

Water/Sewer: Water and Sewer are to be provided to the site.

Parks: N/A

Adjacent Master Street Plan Streets: Broyles Road, Collector; Sellers Road, Minor Arterial

Tree Preservation:	Existing:	29%
	Preserved:	25.2%
	Required:	25%
	Mitigation:	None

Recommendation: Staff recommends approval of LSD 05-1385, with the following conditions:

Conditions to Address/Discuss:

1. The associated property line adjustment shall be filed of record prior to the release of construction plans.
2. All proposed easements shall be recorded by easement plat or separate document, and shall consist of the entire 322-acre tract. Off-site easements that are necessary from adjacent property owners shall be obtained and recorded by separate document, prior to building permit.
3. Formal easement and/or right-of-way vacation requests shall be submitted, reviewed and approved by City Council prior to building permit for those structures affected by existing easements and right-of-way.
4. The potential relocation of large overhead electric lines/poles, installation of new gas lines, fiber optic relocation, and all other utility connections shall be coordinated with the appropriate utility service providers during the construction process.
5. The City Council shall review the Master Street Plan amendments associated with the project for both the realignment of Broyles Road and Sellers Road. *Staff recommends Broyles Road be realigned as indicated on the attached plan, to make the same connection. Staff recommends Sellers Road, which is unconstructed with the exception of an existing gravel road west of the WWTP site, to be moved south to Woolsey Farm Road and connect to the existing Sellers Road to the west through the city's property on the southwest.*
6. Planning Commission determination of street improvements. *Staff recommends the*

City construct Broyles Road for approximately one mile from Persimmon Street to the south of the subject property with a 28-foot street section with a six-foot sidewalk located on the west side.

7. Planning Commission determination of appropriate screening. *As use by right, this property is technically not subject to screening requirements by the Unified Development Code. However, the public input process brought up concerns with regard to screening of the uses from adjacent properties. Staff has evaluated the proposed screening and finds it adequate.*
8. See the attached Tree Preservation Report and Landscape Report for additional conditions of approval, which are considered by reference as part of the official conditions of approval for this project.

Standard Conditions of approval:

9. All other agreements, conditions and/or requirements placed upon this project through previous City Council actions and local, state and federal agencies shall be maintained and completed.
10. Parking lot lighting shall be shielded and directed away from adjoining properties and utilize high pressure sodium lighting or energy equivalent.
11. All mechanical/utility equipment and trash containers shall be screened from view of the public right-of-way using materials that are compatible with and incorporated into the structure.
12. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
13. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
14. Large scale development shall be valid for one calendar year.
15. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve

the site and protect public safety must be completed, not just guaranteed,
prior to the issuance of a Certificate of Occupancy

16. Additional conditions:

PLANNING COMMISSION ACTION: yes Required
✓ Approved _____ Denied
Date: February 28, 2005
5-0-0

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without
exception by the entity requesting approval of this development item.

By

Title

Date



McGoodwin Williams & Yates
Engineering Confidence

January 20, 2005

Mr. Jeremy Pate, City Planner
City of Fayetteville, Arkansas
125 West Mountain
Fayetteville, Arkansas, 72701

Re: Westside Wastewater Treatment Plant (RLF No. CS-050803-03)
and Broyles Avenue Improvements

Dear Mr. Pate:

We are pleased to submit with this letter the Large Scale Development (LSD) plans for the above-referenced project of the City of Fayetteville. The following is a description of the scope, nature and intent of the proposed City of Fayetteville development.

Construction of a new wastewater treatment facility is being planned for a 40-acre site located on a 322-acre property owned by the City of Fayetteville. The site is bordered by Persimmon Street to the north and Broyles Avenue to the east. The Westside Wastewater Treatment Plant (WWTP) will be designed to treat the wastewater flows generated within the Illinois River watershed. The WWTP will be designed as an advanced biological nutrient removal (BNR) treatment system capable of treating an annual average flow of 10 million gallons per day. The WWTP will be equipped with U.V. disinfection facilities and advanced odor control facilities including biofilters and bioscrubbers.

The development of the site will also include a Wetland Mitigation site consisting of approximately 26 acres of created and enhanced palustrine-emergent and palustrine-forested wetlands. The wetland mitigation site will be created as a deed-restricted easement, protected in perpetuity from other uses.

The development of the site will also include improvements to Broyles Avenue, currently a gravel road with open drainage ditches. The improvements will include the construction of approximately 1 mile of a 28-foot wide, curb and guttered collector street with associated drainage structures and sidewalks. The improvements will extend from the intersection of Persimmon Street south to the southern property line of the 322-acre site, which is contiguous with the City of Farmington city limits.

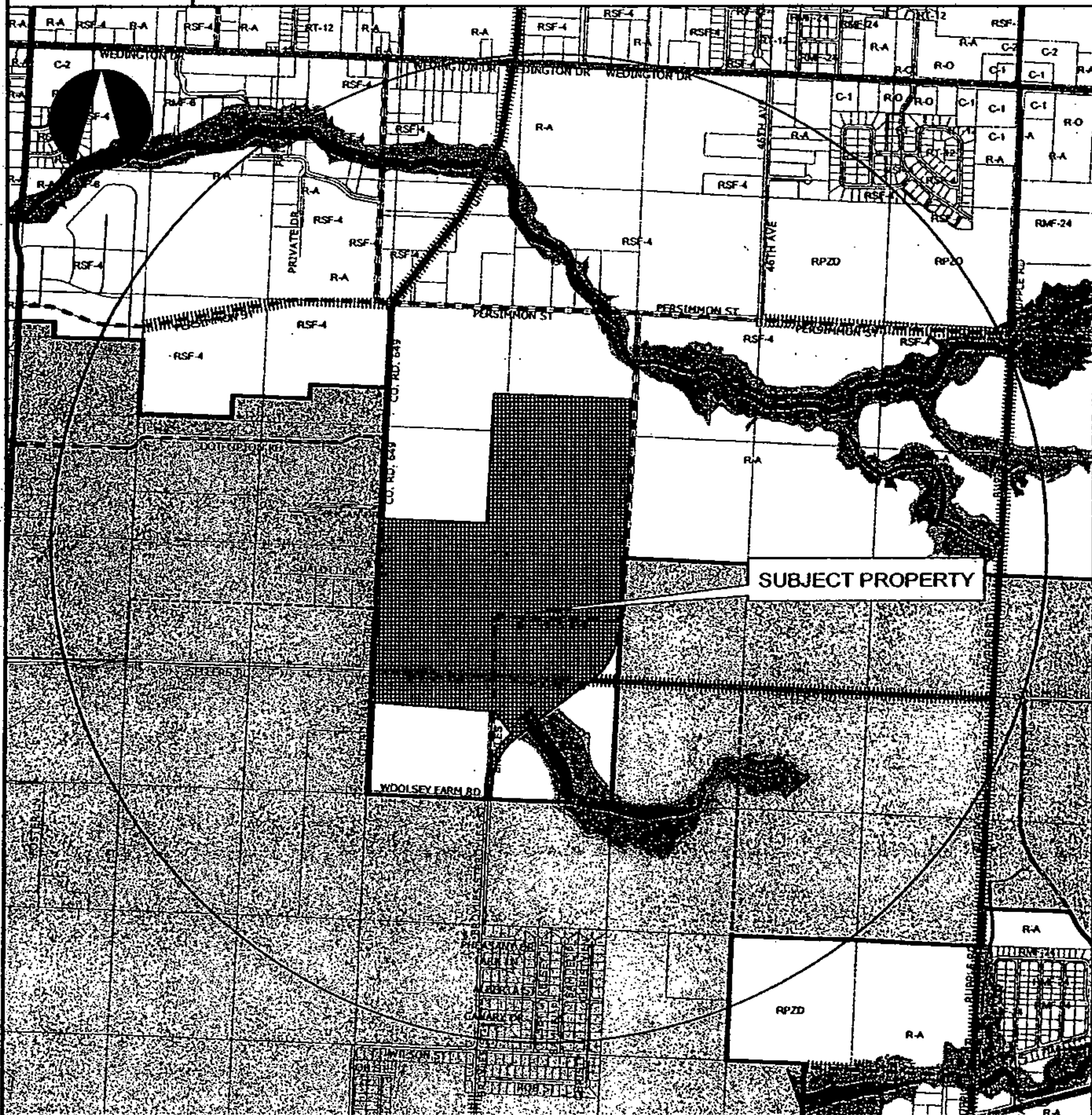
Sincerely,

M. Lane Crider, P.E.
Vice-President/Special Projects

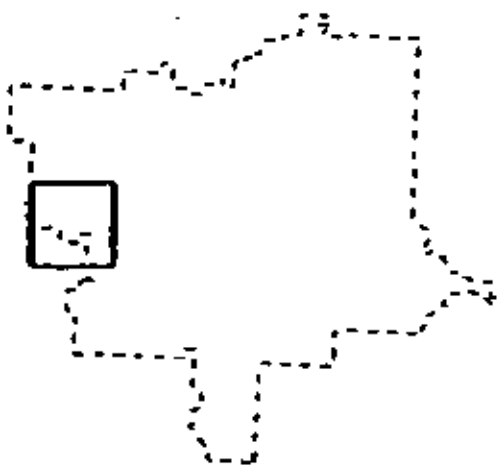
LSD05-1385

WESTSIDE TREATMENT PLANT

One Mile View



Overview



Legend

Subject Property

LSD05-1385

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

3-May-05
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 05-1481: SELLERS ROAD, 479/515): A request to amend the Master Street Plan policy document to relocate Sellers Road, a Minor Arterial Street, south to align with Woolsey Farm Road.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 4-15-05
Department Director Date

Previous Ordinance or Resolution # n/a

[Signature] 4-18-05
City Attorney Date

Original Contract Date: n/a

Original Contract Number: n/a

[Signature] 4-18-05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 4-15-05

[Signature] 4/19/05
Mayor Date

Received in Mayor's Office
ENTERED 4/19/05 PK

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: April 15, 2005

Subject: Master Street Plan Amendment for Broyles Avenue (ADM 05-1482)

RECOMMENDATION

Planning Staff recommends approval of a resolution amending the Master Street Plan to realign Broyles Avenue on this policy document. The proposed realignment of Broyles Avenue on the Master Street Plan is to best facilitate the construction of the new Westside Wastewater Treatment Plant and create more feasible street connectivity in the area.

BACKGROUND

Property: The subject property is the property designated by the City of Fayetteville and recently approved for a Large Scale Development by the Planning Commission for the new Westside Wastewater Treatment Plant (WWTP). The 168 acres on which the WWTP is being constructed is affected by three Master Street Plan Streets: 54th Street to the west (Principal Arterial), Broyles Avenue along the east and through the center (Collector) and Sellers Road, through the south-center (Minor Arterial). As part of the development of the WWTP and the approval process of the Large Scale Development, staff has actively worked with the design engineers and other involved persons to best facilitate both the future traffic in the area and the development plans for the plant site.

Proposal: The development plans call for a realignment of Broyles Avenue to better facilitate traffic movement on this Collector Street. The sharp right angles in the existing alignment are better managed in the new design, and the same access points at the north and south ends of the property are maintained.

Request: The request is to amend the Master Street Plan to realign Broyles Road in the manner recommended by the Planning Commission and shown on the attached diagram.

DISCUSSION

The Planning Commission considered this Master Street Plan amendment as part of the official conditions of approval for LSD 05-1385 (Westside Treatment Plant) on February 28, 2005, on which they voted 5-0 in favor of the recommended amendments.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION APPROVING ADM 05-1482 AMENDING THE MASTER STREET PLAN, REALIGNING THE PROPOSED BROYLES ROAD, DESIGNATED A COLLECTOR STREET, IN THE MANNER APPROVED BY THE PLANNING COMMISSION FOR LARGE SCALE DEVELOPMENT (LSD) 05-1385.

WHEREAS, the siting of the future Wastewater Treatment Plant as developed and designed requires Broyles Avenue to be relocated to best facilitate this public infrastructure improvement

WHEREAS, the realignment of this Collector Street will better facilitate through traffic movement in the area

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 the herein above mentioned change.

PASSED and APPROVED this _____ day of May, 2005.

APPROVED:

By: _____

DAN COODY, MAYOR

ATTEST:

By: _____

SONDRA SMITH, CITY CLERK

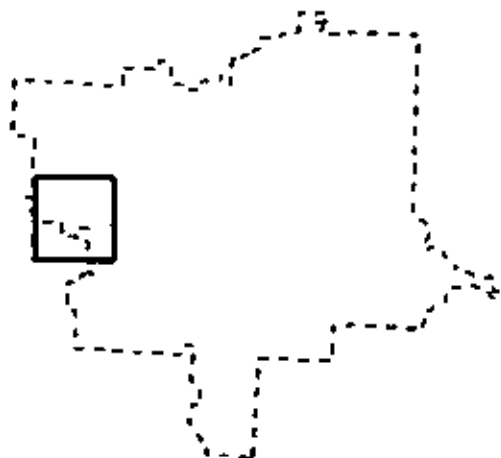
M.S.P.

M.S.P. AMENDMENT - BROYLES AVE

One Mile View



Overview



Legend

Subject Property

LSD05-1385

Boundary

Planning Area

Overlay District

Outside City

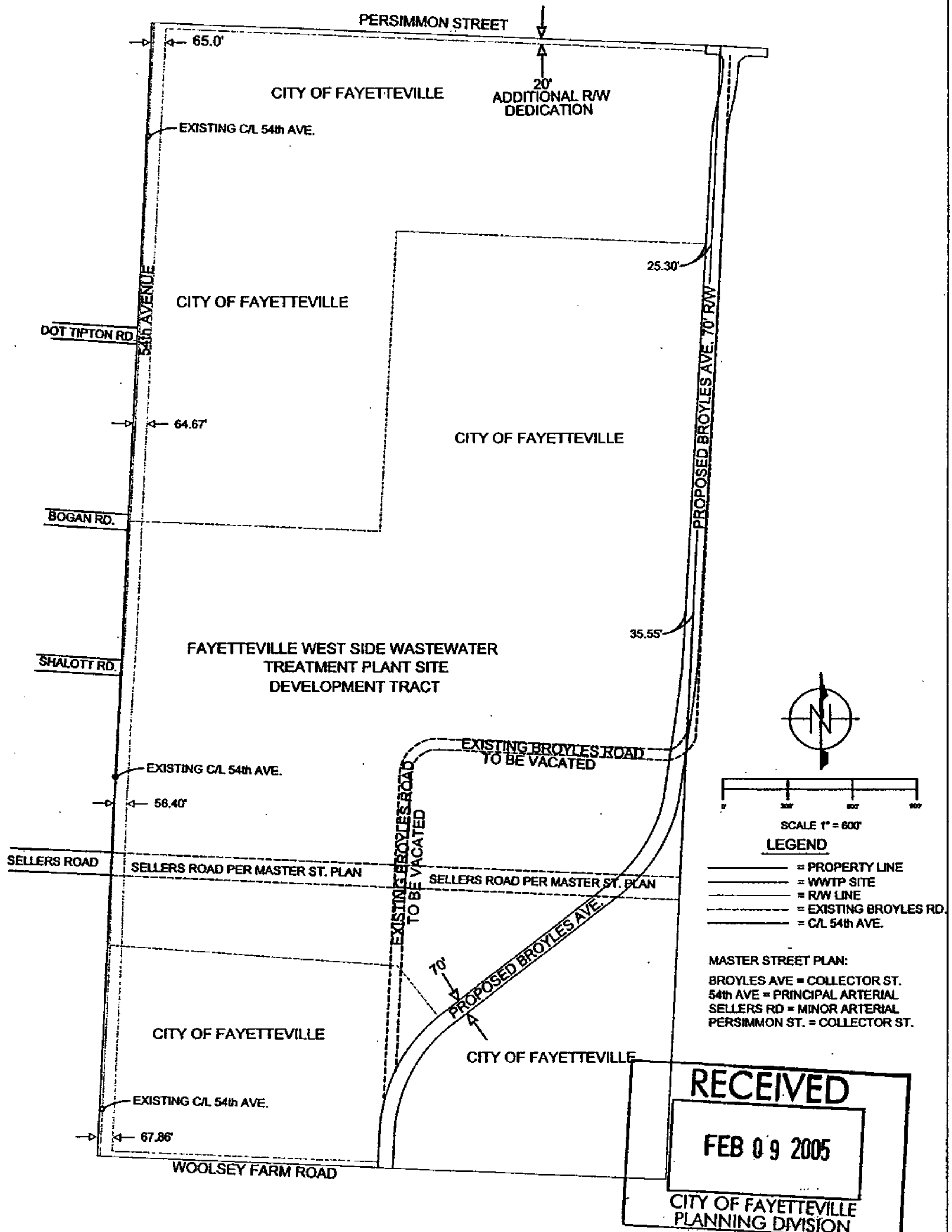
0 0.1 0.2 0.4 0.6 0.8

Miles

MASTER STREET PLAN REVISION

CITY OF FAYETTEVILLE PROPERTY

EAST HALF OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 31 WEST



~~Planning Commission~~

February 28, 2005

Page 13

~~LSD 05-1385: Large Scale Development (Westside Treatment Plant, pp. 479/513)~~

Submitted by McGoodwin, Williams & Yates for property located at Persimmon between Broyles and 54th. The property is zoned R-A, Residential Agricultural and contains approximately 321.64 acres. The request is to approve a wastewater treatment facility on the subject property with 4,867 sq.ft. and 30 parking spaces proposed.

Ostner: Our next item is a Large Scale Development for the Westside Treatment Plant. If we could have the staff report please.

Pate: Certainly. This property is located east of 54th Avenue south of Persimmon Street, west of Broyles Road, which does traverse through the site currently. The property is zoned R-A, Residential Agricultural and contains approximately 168 acres. Approximately 40 acres of the 168 acres is being utilized for a new wastewater treatment plant, which is the proposal before you, with much of the remainder in open field, tree preservation area, and wetland mitigation area as you can obviously reference here on the graphic. Just for a little history for both the public and Commission, in 1999 the city purchased 322 acres of property which is seen in the graphic south of West Persimmon Street, east of South 54th Avenue, west of Broyles and north of Woolsey Farm Road. It is approximately 322 acres there. The outline in red is showing the 168 acres currently under review for Large Scale Development. The City Council approved the location of a plant site on this property back in 1999 or 2000, purchased and annexed the property with an R-A zoning district, which allows the plant site as a use permitted by right. Numerous public meetings were held in the decision to locate the new facility which is intended to facilitate the new growth that Fayetteville is experiencing. The proposal consists of a development of the wastewater treatment plant to treat wastewater flows generated within the Illinois River Water Shed from the City of Fayetteville. The Westside Treatment Facility will treat flows in the Illinois River Basin and the Nolan Plant will serve the White River Basin. It will capture much of the wastewater that is currently pumped to the Paul Nolan site on the east side of Fayetteville. Only a small portion of the property is actually accessible to visitors and those will probably be visitors with high security. There are a number of state, county and federal regulations that this property and project are subject to beyond the scope of the Planning Commission. Those of course, have all been complied with or are in the process of being complied with to complete construction drawings and continue forward with this project. The Planning Commission's purpose for this project, as with any Large Scale Development, is to review the submitted proposal for compliance with applicable development and zoning provisions of the Unified Development Code. That includes the landscape plan that has been submitted, the tree preservation plan, any street improvements, water and wastewater access, appropriate screening, etc. Staff has evaluated this project based on the criteria in the Unified Development Code and

included conditions of approval as part of the staff report. Staff is recommending approval of this Large Scale Development finding that the project does meet all applicable zoning and development regulations. There are 15 conditions of approval. As you noticed in your packet, there has been significant public comment within this process. City staff did require the applicants, the city is the applicant, it is a unique situation. We are reviewing as a reviewing body, the Planning staff and Engineering staff, reviewing this as a Large Scale Development as with any other project that you see as a Large Scale Development or subdivision. The applicant's representative is here tonight to speak to any questions or issues that you might have about the project and specifically, there has been public comment with regard to notification for this project. Much of which of course is against this specific use. I just want to remind the condition that this use is a use by right. It is not something that the Planning Commission is here to decide whether or not the treatment plant should go on this property. That is something that the City Council made a policy decision years ago to locate this on this property. The Planning Commission is here to decide whether or not it meets current zoning and development ordinances. As a use by right and not industrial or commercial in nature, there is not technically a screening requirement. However, much of the public comment that came out in these public hearings did request or have views concerning screening. Therefore, through this particular development project there is significant screening proposed. To the west along 54th Avenue is a significant landscape buffer. To the east along Broyles Avenue is also some mounding and berming of earth and landscape in that particular location. As you can see, to the south along the creek the area is being preserved as a tree preservation area for the most part. That will provide screening as well. There are a couple of items that the City Council will have to review as a part of this project. There are two Master Street Plan amendments on pages 4.13 there is a graphic as well as page 4.12 indicating those Master Street Plan amendments that the Planning Commission is asked to make a recommendation to the City Council upon. The first of which, is Broyles Road, which currently makes an "S" curve with right angles through the property currently. The city is proposing to construct approximately one mile of street beyond what is already being constructed from Wedington. The city has constructed Broyles Road south from Wedington to Persimmon Street, which is at the northeast corner of this site. An additional section of course, will be constructed per this project. That would be a 28' wide street within a 70' right of way. The other Master Street Plan amendment is Sellers Road, which currently traverses east/west through the property boundary. Staff is recommending that Sellers Road, a minor arterial, be moved south to be in line with Woolsey Farm Road to complete that connection both to Ruppel and Sellers eventually. As I mentioned, staff is recommending approval of this Large Scale Development. There are a lot of easements that are on going

currently and utility relocations. I did not itemize everything. I don't think this Planning Commission really needs to understand what fiber optic lines are being removed or what lines are being relocated but I did include a condition that through the construction process the city and the utility representatives will work through that process to adequately relocate any of those lines. Formal easement and/or right of way vacation requests will need to be approved by the City Council for any right of way that does need to be vacated, as well as the City Council shall review the Master Street Plan amendments associated with this project. Item number six, Planning Commission determination of street improvements, staff is recommending that the applicant construct Broyles Road for approximately one mile from Persimmon Street to the south of the subject property with a 28' street section with 6' sidewalks located on the west side of that property. Item number seven, again, I mentioned is technically not required but I did include it. Planning Commission determination of appropriate screening. Staff has evaluated the proposed screening and finds that it does adequately screen this use from adjoining property owners. I believe all of the other conditions are self explanatory but if you have any questions feel free to ask.

Ostner: Thank you Mr. Pate. Is the applicant present?

Siversen: I'm John Siversen, the architect with McGoodwin, Williams & Yates. I am here on behalf of the City of Fayetteville to present you with your Wastewater Treatment Plant. I would like to elaborate a little bit on the site facility which Jeremy has so comprehensively presented. We are very much aware of how important this project is to the city and how we want to be a good neighbor for the community and in particular, the adjacent neighbors. Our approach to the project has two essential elements. The first one being to blend the new facility into the surrounding natural landscape by addition of earth berms and landscaping and secondly, to use architectural design elements to minimize the impact of the buildings on the project site. To help explain this project, if you look at this photograph here you can see as Jeremy so well explained, you have the overall tract which is 322 acres and then within that tract we are designating an area which is going to be the LSD tract, that is 168 acres and then within that again we've got 40 acres which will be a fenced off area for the plant site. As Jeremy said initially, this larger parent tract was purchased by the city back in 1999 solely for this purpose. Back to the LSD tract, which is surrounded by red, we have got the 168 acres and it is bordered by 54th Street on the west and Broyles Road on the east and the new alignment of Broyles Road is coming around here to the southeast. On the south we have got this creek and the far wooded area here and then to the north there has been an alignment determined here to accommodate the wetlands in this LSD tract. Within this LSD tract there are several existing and proposed features. The large wooded area here situated on the south side

and then it comes around to the west side and will provide a dense screened buffer. To the west there is a large open pasture between 54th Avenue and the plant. That is bordered on the east side of 54th Avenue with the required street tree plantings and then immediately adjacent to the plant there is going to be groupings of trees there to provide additional screening to the plant from the view from the west. Then to the north we've got the wetlands which is 26 acres in area that consists of these bermed areas that are enhanced with landscaping and trees and then to the east of the plant between Broyles Road and the plant there are several berms and planting of deciduous and evergreen nature. Situated within all of these surroundings we have got the wastewater treatment plant itself. It is with an 10MG annual average capacity which is necessary to meet the projected wastewater needs up to the year 2020. Within this plant you've got the engineering on the project requires numerous structures and buildings with various shapes and sizes. These buildings are a direct result of the function that occurs within them and they vary considerably. It has been an architectural endeavor to have these buildings be harmonious and blend in with the existing future residential areas. To this extent we have minimized the height of the buildings and the impact of these buildings in the front. All of the buildings have hip roves to give you a lower profile rather than having gabled ends with a high pitch that would be more intrusive into the landscape. Then we are accenting the horizontal by using the base of the buildings have got a CMU base with wainscote and then there is a pre-finished metal horizontally applied to the building for the remainder of the wall. This is a banding effect, which sort of helps emphasize the horizontality and in effect, keeps a low profile for the project. As well as that we are going to be using a color scheme which includes mainly earth tones that again, helps it blend in with the surroundings. There won't be any use of any accent colors or anything bright that will be fantasy or draws attention to the structures. We want to compliment the future residential development of the adjacent property. In conclusion, this facility with the earth berms and landscape features will blend in with the natural landscape along with the architectural design elements to minimize the impact of this building. It will be harmonious with the surrounding and go above and beyond the status of being a good neighbor. Thank you.

Ostner: Thank you Sir. At this point we will hear from the public. Would anyone like to speak to this issue? Please step forward and give us your comments. Going once, anybody? Seeing none, I will close it to the public and bring it back to the Commission.

Shackelford: I will start the conversation. It was pointed out earlier by the staff and something that we had a discussion about at the Subdivision Committee level. We do have to remember that this property is already annexed and zoned and the use is a use by right on this property. As we serve as

Planning Commission
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Planning Commissioners at the discretion of City Council our job is to look simply at the development side of it with provisions to include landscaping, tree preservation, street improvements and to some degree, screening. Although we don't even quite honestly have the ability to determine screening because it is a use by right on this property as well. With that being said, I think the developer and the architect and everybody involved has done a good job in limiting the affect that this is going to have. Obviously, it is a tough sell if this is across the street from your house but I think that with the berms and with the landscaping and that sort of thing I think we have come a long ways from some of the fears and the concerns that were originally thought would be involved with this project. I would like to first congratulate everybody for their involvement and hard work in this process and the end result is necessary for the growth of the City of Fayetteville and I think it is a very good project given what has to be done in this location.

Ostner: Thank you Mr. Shackelford. A question that I have for the applicant is speaking of a tough sell, my question is smells. I have read in the report that this facility is using state of the art systems to control odor. Could you elaborate on that?

Siversen: That is more into the engineering side of it. From my architectural understanding, they are using state of the art, research is ongoing in this country in this area and we have been in touch and involved with the latest and greatest and you are going to be getting it.

Ostner: You don't have anyone here on staff who would know more about the specifics?

Siversen: I can tell you that we are using bio filters and bio scrubbers. We had initially intended to use carbon filters but throughout the course of the project technology has changed to the extent that we have adopted this different approach.

Crider: My name is Lane Crider, I'm with McGoodwin, Williams & Yates. One of the items in your packet has actually changed from your submission. Rather than using bio filters followed by bio scrubbers the design has gone up another step and we are using bio filters followed by carbon absorbers. That is going to eliminate the additional potential of any odor releases by going to that additional type of construction and type of technology. All of the facilities, the basins, which we feel are the odor producing facilities are being covered either by the concrete top, which is the construction of the basin itself or with FRP type covers. The air underneath those will be drawn out from under the covers and all be sent to a centralized treatment facility which has the bio scrubbers followed by the carbon absorbers. This type of technology in many applications has been proven to be as

Planning Commission
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Page 18

good as it gets for this type of facility. We feel like you are getting the best type of treatment that you are going to find for a wastewater treatment plant. I think the additional step of covering those basins that may produce any type of odors release, in that step alone is doing well.

MOTION:

Allen: Some of us on the commission toured the Nolan Plant a few years back and I was really amazed at the ability that they had at that time to deal with odor and I presume that technology has improved since then. Also, I would like to commend the developer on the aesthetics of these buildings. I do think they blend in beautifully with the terrain and going above and beyond with the landscaping. With that being said, I am going to go ahead and move for approval of LSD 05-1385 subject to the fifteen conditions of approval.

Ostner: I will second that motion. There are several municipalities, several cities around here, who have development moratoriums because they don't have enough sewer capacity. We do not have a moratorium, we are looking towards the future. I think this is a big step towards planning for the inevitable growth of our city. I think it is an important part of the puzzle. On a more parliamentary note, I believe we have several determinations. Condition number six and seven are specific, seven is not a specific determination.

Williams: Five is though, you are recommending a change in the Master Street Plan.

Ostner: Master Street Plan change, does the motioner accept conditions five and six as specific findings?

Allen: Yes I do.

Ostner: As the second I will agree. Is there further discussion? Could you call the roll?

Roll Call: Upon the completion of roll all the motion to approve LSD 05-1385 was approved by a vote of 5-0-0.

Thomas: The motion carries.



PC Meeting of February 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Director of Current Planning
Brent O'Neal, Staff Engineer
DATE: February 22, 2005

LSD 05-1385: Large Scale Development (WESTSIDE TREATMENT PLANT, 479/515):
Submitted by MCGOODWIN, WILLIAMS & YATES, INC. for property located at
PERSIMMON, BETWEEN BROYLES AND 54TH. The property is zoned R-A,
RESIDENTIAL-AGRICULTURAL and contains approximately 168.026 acres. The request is
to approve the development of the new wastewater treatment facility on the subject property.
Property Owner: CITY OF FAYETTEVILLE Planner: JEREMY PATE

Findings:

Property: The subject property is located east of 54th Avenue, south of Persimmon Street, and west of Broyles Road, which traverses through the site. A property line adjustment has been processed to create the subject 168-acre site for development of the new Westside Wastewater Treatment Plant (WWTP), to be officially named at a later date. Approximately 40 acres of the 168 acres is to be utilized for the plant site at this time, with much of the remainder in open field, tree preservation area and wetland areas.

Background: (General Plan 2020): In 1997, CH2M Hill prepared a Wastewater Facilities Plan that identified the existing conditions and future needs of the treatment plant. The plan was updated in 2001. In 2000, the facility reached 94 percent of its capacity. Additionally, based on projected wastewater needs for the year 2020, average daily flows were projected to be 21.5 million gallons per day, 10 million gallons more than the existing capacity with the Paul R. Noland Plant. Because of the critical need to expand treatment services, in 1999 the City purchased 322 acres on the southwest side of Fayetteville to construct a new wastewater treatment facility. The City Council approved the location of the plant site on this property, purchased and annexed the property with an R-A zoning district, which allows the plant site as a use permitted by right. Numerous public meetings were held in the decision to locate the new facility, which is needed to facilitate the growth Fayetteville is experiencing.

Proposal: The proposal consists of the development of the WWTP to treat the wastewater flows generated within the Illinois River watershed from the City of Fayetteville. The Westside Treatment Facility will treat flows in the Illinois River Basin and the existing facility will serve the White River Basin. It will capture much of the wastewater that is currently pumped to the Paul R. Noland plant on the east side of Fayetteville. Within the developed site are numerous functions and structures which comprise the overall system. Only a small portion of the property will be accessible to visitors, as security is a high priority. The design of the WWTP also

complies with numerous local, county, state and federal regulations with regard to the overall function, much of which is outside the purview of the Large Scale Development review.

The Planning Commission's purpose for this project is to review the submitted proposal for compliance with applicable provisions and requirements of the Unified Development Code, including the Landscape Plan, Tree Preservation Plan, street improvements, water/wastewater access, appropriate screening, etc. Staff has evaluated the project plan based on the criteria in the Unified Development Code and included conditions of approval as part of the staff report.

Public Comment: Public comment from adjoining property owners has been received by mail, and is included in the staff report. Many object to the use of the WWTP in this area, however it is a use by right, and was brought into the city for the specific purpose of this plant use. Screening is a large component of the project, on both the east and west sides of the property, as indicated in previous public meetings and shown on landscape plans. Additionally, odor concerns have been cited as objectionable with this use. The project is designed as an advanced biological nutrient removal treatment system, also equipped with U.V. disinfection facilities and advanced odor control facilities including biofilters and bioscrubbers. No public comment was received at the Subdivision Committee meeting.

Screening: As a use by right and not industrial or commercial in nature, this property is technically not subject to screening requirements by the Unified Development Code. However, the public input process brought up concerns with regard to screening of the uses from adjacent properties and the design development has subsequently responded with the submitted landscape and tree preservation plans. Natural screening from large tree preservation buffers to the south/southeast effectively screens much of the property from this vantage point. Earthen berms with evergreen and deciduous plantings are sited along the eastern portion of the property to screen much of the required security fencing and structures, as well. Approximately 1158 feet separates the developed area of the WWTP from 54th Street, and additional plantings are located along this street to provide a future streetscape and screen from the west. To the north is 26 acres of wetland mitigation area within a deed-restricted easement, protected in perpetuity from other uses. The developed site is approximately 2500 feet (1/2 mile) from Persimmon Street to the north, where the nearest adjacent northern property owners are located. There are additional off-site trees that currently prohibit the view of this property from the north.

Fencing: Chain link fencing and ornamental metal fencing is proposed to surround the immediate plant site for security purposes. All razor/barbed wire necessary is prohibited if visible from the street right-of-way.

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Vacant	R-A, Residential Agricultural
South	Creek, vacant land	R-A, Planning Area
East	Vacant, single family homes	R-A, Planning Area
West	Single family homes	Planning Area

Right-of-way being dedicated: Broyles Road (Collector), 54th (Principal Arterial)

Street Improvements: A 28-foot wide street is proposed to connect the recently constructed Broyles Road (Wedington to Persimmon) from Persimmon through the subject property south to Woolsey Farm Road, within a Collector Street right-of-way. All access from the plant is to and from this street. A six-foot sidewalk will be constructed for the length of the city property, after all water/wastewater and other utility lines have been installed.

Water/Sewer: Water and Sewer are to be provided to the site.

Parks: N/A

Adjacent Master Street Plan Streets: Broyles Road, Collector; Sellers Road, Minor Arterial

Tree Preservation:	Existing:	29%
	Preserved:	25.2%
	Required:	25%
	Mitigation:	None

Recommendation: Staff recommends approval of LSD 05-1385, with the following conditions:

Conditions to Address/Discuss:

1. The associated property line adjustment shall be filed of record prior to the release of construction plans.
2. All proposed easements shall be recorded by easement plat or separate document, and shall consist of the entire 322-acre tract. Off-site easements that are necessary from adjacent property owners shall be obtained and recorded by separate document, prior to building permit.
3. Formal easement and/or right-of-way vacation requests shall be submitted, reviewed and approved by City Council prior to building permit for those structures affected by existing easements and right-of-way.
4. The potential relocation of large overhead electric lines/poles, installation of new gas lines, fiber optic relocation, and all other utility connections shall be coordinated with the appropriate utility service providers during the construction process.
5. The City Council shall review the Master Street Plan amendments associated with the project for both the realignment of Broyles Road and Sellers Road. *Staff recommends Broyles Road be realigned as indicated on the attached plan, to make the same connection. Staff recommends Sellers Road, which is unconstructed with the exception of an existing gravel road west of the WWTP site, to be moved south to Woolsey Farm Road and connect to the existing Sellers Road to the west through the city's property on the southwest.*
6. Planning Commission determination of street improvements. *Staff recommends the*

City construct Broyles Road for approximately one mile from Persimmon Street to the south of the subject property with a 28-foot street section with a six-foot sidewalk located on the west side.

7. Planning Commission determination of appropriate screening. *As use by right, this property is technically not subject to screening requirements by the Unified Development Code. However, the public input process brought up concerns with regard to screening of the uses from adjacent properties. Staff has evaluated the proposed screening and finds it adequate.*
8. See the attached Tree Preservation Report and Landscape Report for additional conditions of approval, which are considered by reference as part of the official conditions of approval for this project.

Standard Conditions of approval:

9. All other agreements, conditions and/or requirements placed upon this project through previous City Council actions and local, state and federal agencies shall be maintained and completed.
10. Parking lot lighting shall be shielded and directed away from adjoining properties and utilize high pressure sodium lighting or energy equivalent.
11. All mechanical/utility equipment and trash containers shall be screened from view of the public right-of-way using materials that are compatible with and incorporated into the structure.
12. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
13. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
14. Large scale development shall be valid for one calendar year.
15. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve

the site and protect public safety must be completed, not just guaranteed,
prior to the issuance of a Certificate of Occupancy

16. Additional conditions:

PLANNING COMMISSION ACTION: yes Required
✓ Approved _____ Denied
Date: February 28, 2005
5-0-0

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without
exception by the entity requesting approval of this development item.

By

Title

Date



McGoodwin Williams & Yates
Engineering Confidence

January 20, 2005

Mr. Jeremy Pate, City Planner
City of Fayetteville, Arkansas
125 West Mountain
Fayetteville, Arkansas, 72701

Re: Westside Wastewater Treatment Plant (RLF No. CS-050803-03)
and Broyles Avenue Improvements

Dear Mr. Pate:

We are pleased to submit with this letter the Large Scale Development (LSD) plans for the above-referenced project of the City of Fayetteville. The following is a description of the scope, nature and intent of the proposed City of Fayetteville development.

Construction of a new wastewater treatment facility is being planned for a 40-acre site located on a 322-acre property owned by the City of Fayetteville. The site is bordered by Persimmon Street to the north and Broyles Avenue to the east. The Westside Wastewater Treatment Plant (WWTP) will be designed to treat the wastewater flows generated within the Illinois River watershed. The WWTP will be designed as an advanced biological nutrient removal (BNR) treatment system capable of treating an annual average flow of 10 million gallons per day. The WWTP will be equipped with U.V. disinfection facilities and advanced odor control facilities including biofilters and bioscrubbers.

The development of the site will also include a Wetland Mitigation site consisting of approximately 26 acres of created and enhanced palustrine-emergent and palustrine-forested wetlands. The wetland mitigation site will be created as a deed-restricted easement, protected in perpetuity from other uses.

The development of the site will also include improvements to Broyles Avenue, currently a gravel road with open drainage ditches. The improvements will include the construction of approximately 1 mile of a 28-foot wide, curb and guttered collector street with associated drainage structures and sidewalks. The improvements will extend from the intersection of Persimmon Street south to the southern property line of the 322-acre site, which is contiguous with the City of Farmington city limits.

Sincerely,

M. Lane Crider, P.E.
Vice-President/Special Projects

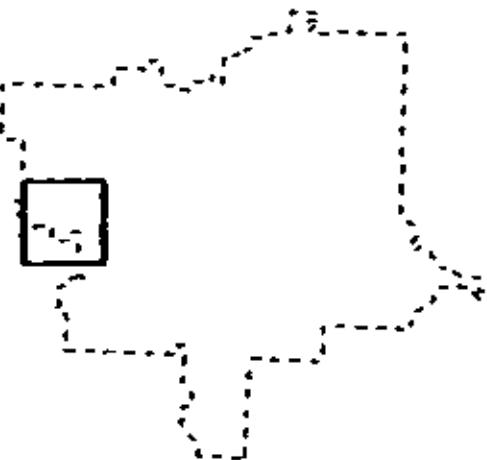
LSD05-1385

WESTSIDE TREATMENT PLANT

One Mile View



Overview



Legend

Subject Property

LSD05-1385

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

3-May-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 05-1482: Broyles Avenue, 479/515): A request to amend the Master Street Plan policy document to realign Broyles Avenue, a Collector Street, in a manner to better facilitate development of the Wastewater Treatment Plant and to more adequately facilitate the movement of traffic.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

4-15-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney

[Signature]
Finance and Internal Service Director

4-19-05
Date

Received in City Clerk's Office



[Signature]
Mayor

4/19/05
Date

Received in Mayor's Office



Comments:



Staff Review Memorandum

TO: Fayetteville City Council
THRU: Ray M. Boudreaux, Director
Staff Review Committee
FROM: James L. Nicholson, Financial Coordinator / DBE Liaison
DATE: April 12, 2005
SUBJECT: Disadvantaged Business Enterprise (DBE) Program Goal Update for FY2005

Recommendation: Review & Approval of a Resolution to accept the Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Goal Update for FY2005.

Background: On October 14, 2000, the Fayetteville City Council approved the Fayetteville Municipal Airport's revised Disadvantaged Business Enterprise Program. The Airport's DBE Program is federally mandated under 49 CFR Part 26 for all Department of Transportation (DOT/FAA) grant recipients which anticipate receiving more than \$250,000 in federal funds in the fiscal year. Drake Field anticipates receiving approximately \$116,605, (Master Plan Update), and \$1,075,000 (West GA Apron) from the DOT/FAA in FY 2005.

The DBE Program assures that Minority & Women-owned businesses, and other economically disadvantaged small businesses have an equal opportunity, or "level playing field," in competing for Airport procurement contracts.

49 CFR Part 26 requires that our DBE Program Goal be updated annually. The Updated Goal describes the overall DBE participation percentage and value of procurement contracts targeted for award to DBE contractors in the fiscal year. The regulation provides the methodology to be used to set contract DBE participation goals.

Discussion: The purpose of this item is a new resolution amending Fayetteville City Council Resolution No. 97-04. Resolution No. 97-04 approves the Revised Disadvantaged Business Enterprise Program to be implemented for all DOT/FAA grant assisted contracts entered into by the City of Fayetteville Municipal Airport.

The new resolution will accept and approve the airport's updated DBE participation goal for FY 2005.

Budget Considerations: No budget effect.

/jn
Attachment: FY 2005 Goal Update & Methodology
Resolution 97-04

RESOLUTION NO. _____

A RESOLUTION TO ACCEPT AND APPROVE THE UPDATED
FAYETTEVILLE MUNICIPAL AIRPORT DISADVANTAGED
BUSINESS ENTERPRISE (DBE) PROGRAM PARTICIPATION
GOALS FOR FY2005.

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 accepts and approves the updated Fayetteville Municipal Airport
Disadvantaged Business Enterprise (DBE) Program participation goals for
FY2005.

PASSED and APPROVED this 3rd day of May 2005.

APPROVED:

By DAN COODY, Mayor

ATTEST:

By

SONDRA SMITH, City Clerk

RESOLUTION NO. 97-04

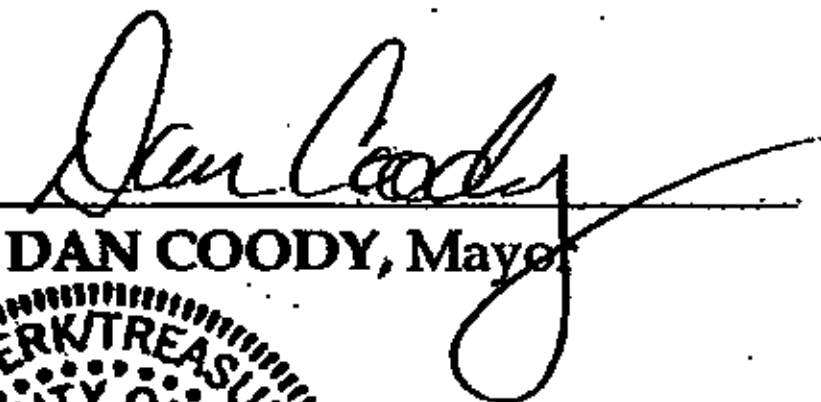
**A RESOLUTION TO ACCEPT AND APPROVE THE UPDATED
FAYETTEVILLE MUNICIPAL AIRPORT DISADVANTAGED
BUSINESS ENTERPRISE (DBE) PROGRAM PARTICIPATION
GOALS FOR FY2004.**

**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 accepts and approves the updated Fayetteville Municipal Airport
Disadvantaged Business Enterprise (DBE) Program participation goals for
FY2004.

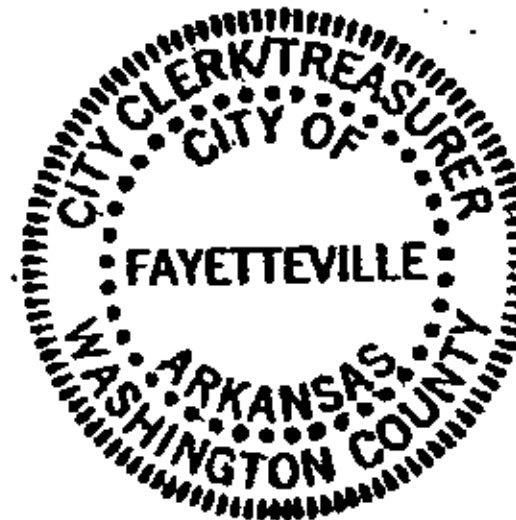
PASSED and APPROVED this 6th day of July 2004.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2005 Update**

Airport Sponsor: City of Fayetteville
Name of Preparer: James Nicholson, Financial Coordinator
Fayetteville Municipal Airport/Drake Field
4500 S School Ave., Suite F, Fayetteville, AR 72701

Goal Period: Project Based – AIP Grant No. 3-05-0020-0033-2005
Overall DBE Goal: For review 1.0%

Introduction to 2005 DBE Goal update: The City of Fayetteville / Fayetteville Municipal Airport DBE Goal update for Fiscal Year (FY) 2005 and extending through the completion of the Airport Improvement Project (AIP) noted above, is provided to describe the Airport Projects which are funded in part with Department of Transportation (DOT) / Federal Aviation Administration (FAA) funds, and to determine by the federally prescribed methodology the portion or percentage of those funds targeted for contract award to Disadvantaged Business Enterprises (DBE's) in accordance with Federal Regulations 49 CFR Part 26.

The Goal Update is a prerequisite for AIP grant funding for airports which anticipate receiving more than \$250,000 in federal funding from the DOT / FAA in the 2005 fiscal year.

The 2005 DBE Goal Update revises the DBE participation goal in federally funded airport contracts anticipated for the 2005 fiscal year, from that originally described in the airport's previously published DBE Program Plan and successive annual goal updates. The FY 2005 Goal Update is effective concurrent with the solicitation of bids through completion of the grant funded project(s).

Public Participation and Consultation in the DBE Goal Update process is a requirement under federal regulations at §26.45(g). The updated Goal and Methodology is published for 30 days prior to submittal to the FAA for approval. Comments on the Goal Update are accepted for 45 days after the date of public notification of its availability for public review. A number of interested private and public entities were selected to review and comment on the Goal Update, (see attachment #1 - list of consulting agencies). Public comments on the updated goal and methodology are incorporated with the submission to the FAA. *Public comments on the proposed FY 2005 Goal will be received until 5/4/05, (see attachment #2 – comments)*

Comments on the FY 2005 DBE Goal Update may be submitted to the Fayetteville Municipal Airport's DBE Liaison Officer by phone, writing, fax, or e-mail to the following:

James Nicholson, DBE Liaison Officer
Fayetteville Municipal Airport / Drake Field
4500 South School Ave., Suite F
Fayetteville, AR 72701
479-718-7643
479-718-7646 fax
jnicholson@ci.fayetteville.ar.us

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2005 Update**

OVERALL GOALS (\$26.45)

Goal Period

Project / Grant based

Amount of Goal

Fayetteville Municipal Airport's overall goal for Grants: AIP 33/34 is: 1.0%

Fayetteville Municipal Airport anticipates two AIP (federally funded) projects in FY 2005. The estimated project costs are \$122,750 for "Airport Master Plan Update" and \$1,075,000 for "West-Side GA Apron". Thus, the total projected dollar amount of DBE participation in the projects is: \$ 11,998

Determination of Market Area

Step 1 of the methodology for determining DBE percentage goal requires an assessment of the relative availability of DBE's in the local market area. The local market area is the area which provides, or is most likely to provide, the firms considered qualified to perform the needed work.

Airport Master Plan:

We used the most recent Census data available (2002) for the State of Arkansas.

West-Side GA Apron:

We used the most recent Census data available (2002) for the Fayetteville-Springdale-Rogers MSA which includes Washington and Benton Counties, and three surrounding Arkansas counties: Crawford, Franklin, and Madison counties.

Effectively all contractors for airport improvement construction work have historically come from the local area, specifically, Washington, Crawford, and Benton County, except that, occasionally a contractor performing ancillary tasks may be recruited from a further distance. However, for the sake of including contractors within a reasonable, feasible range, two other counties bordering Washington County are included in this assessment: Franklin and Madison counties.

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2005 Update**

Considerations in selecting Market Area

Airport Master Plan:

Airport Engineering services are provided by a local consulting Engineering company which is hired by means of a professional services selection process. The resulting Agreement for Engineering Services engages the consultant for a 3 to 5 year span. Typically, the Engineering consultant performs 100% of the services. However, the consultant is contractually obligated to seek DBE's for any subconsultant work they may engage for airport projects.

West-Side GA Apron:

A primary condition of asphalt or concrete pavement work is the distance from the material producer's location to the worksite. The pavement material is time limited in its workability before spoilage due to the material's short curing time. Thus, local producers are most apt to provide material for this project. Also, local concrete finishing contractors performing this type work have established relationships with the local material producers.

Our Washington County, Arkansas location, situated in a central valley of the Boston Mountains, also contributes to an insulated climate for this type of construction work. Accessibility to distant material producers by trans-state highway is limited by mountain terrain and distances of surrounding rural area.

The available DBE Contractors in the Local Market Area are those listed as being certified DBE by the Arkansas State Highway & Transportation Department (AHTD), and listed in AHTD's "Disadvantaged Business Enterprise Directory," published March 2, 2005.

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2005 Update**

Methodology - Step 1

The Fayetteville Municipal Airport / Drake field anticipates awarding two AIP funded project contracts in FY 2005. The projects are: 1. Airport Master Plan Update, consisting of research and strategic planning for the development of the Airport. 2. West-side GA Apron, consisting of 9400 sq yd of apron pavement, access way, and replace sewer line.

Project No. 1 - Airport Master Plan Update

2002 NAICS Code	Work Item	DBE's in Local Market Area	All Available Firms
541330	Engineering Consulting Services	1	270
	Totals for this Construction Contract	1	270

Project No. 2 - West-side GA Apron

2002 NAICS Code	Work Item	DBE's in Local Market Area	All Available Firms
237310	Highway, Street & Bridge Construction	0	11
238110	Concrete Contractor	1	51
327320	Ready Mix Concrete Mfg	0	12
238120	Structural steel & Precast Concrete	1	2
238210	Electrical Contractors	0	112
237310	Striping (Hwy, St, & Bridge Construction)	0	48
238910	Site Preparation Contractors	1	48
484220	Dump Trucking, local specialized	3	20
	Totals for this Construction Contract	6	302

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2005 Update**

Calculation of Base Figure

The base figure is calculated as: the number of available DBE contractors as a percentage of all available contractors in the Local Market Area.

Base Figure = DBE contractors / all contractors

Base Figure = $1+6 / 270+302 = 1.224\%$

Methodology - Step 2

Step 2 is an adjustment to the base figure percentage from Step 1 so that the updated goal accurately reflects the actual attainable DBE participation in FY 2005 airport contracts.

Past years DBE accomplishment results data for similar projects are examined and the *median* percentage is averaged with the base figure to determine the adjusted percentage goal. Only projects comprising like work are used for comparison.

DBE Goal Accomplishments - Historical Information

Year	Goal %	Accomplishment %	Project Type
2000	1.74	0	Access Road Construction
2001	.93	.42	Taxiway / Runway Rehabilitation
2003	.73	1.99	Taxiway Construction
2004	1.18	1.13	Taxiway Construction
Median %	1.055	.775	

Calculation of adjustment to DBE Base Figure

The calculation of the adjusted figure is determined by averaging the base figure and the historical average for like projects.

Base Figure + Historical Avg. / 2 = Adjusted Figure

$(1.224 + 0.775) / 2 = 1.0\%$

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2005 Update**

Other Factors

Research was conducted to determine if any DBE / small business disparity studies for the region were available. No disparity studies could be located for the region or state.

Research was conducted to determine the number of, and the services provided by, DBE-owned financial institutions in the state. A list of all minority owned banks in the U.S., sorted by state, indicates that there are no minority-owned banks in the state of Arkansas.

The latest U.S. Census Data for Hispanic population in the Northwest Arkansas Regional area indicates an increase of 815% from 1990 US Census in 2000. This is indicative of the recent influx of Hispanic emigrants to the area. Market research was conducted to determine the number of Hispanic-owned businesses in the State. Three local Hispanic issues related organizations were contacted for their input. No applicable statistics or listings were available from these groups. We anticipate that there will eventually be an increase of DBE's corresponding to the increase of local minority population as the new emigrants settle and become established.

One noticeable change in the overall environment is that the number of all available contractors in the Local Market Area is less than that recorded in the previous Goal Update. It may be reasoned that due to the very strong growth economy in the region, there has been some consolidation of like businesses, where marginally performing firms are edged out of the market.

No other factors regarding the local DBE environment could be determined to be an influence on the adjusted DBE goal figure.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

In determining what percentage of the 2005 adjusted goal could be met through race-neutral means, we again reviewed historical DBE accomplishments for Fayetteville / Drake Field. FYV has not typically met its DBE goal in any year since 1997, excepting FY 2003. Therefore, we estimate that in meeting our overall 2005 adjusted goal of 1.0%, we will obtain 0% from race-neutral participation and 1.0% from race-conscious measures (e.g. setting contract goals).

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2005 Update**

Attachment #1 - List of Consulting Agencies

ARKANSAS STATE HIGHWAY &
TRANSPORTATION DEPARTMENT
MR JAMES MOORE, DBE COODINATOR
PO BOX 2261
LITTLE ROCK AR 72203-2261
james.moore@ahtd.state.ar.us

ARKANSAS SBDC COLLEGE OF
BUSINESS ADMINISTRATION
100 SOUTH MAIN SUITE 401
LITTLE ROCK AR 72201

SMALL BUSINESS ADVANCEMENT NATIONAL CENTER
UNIVERSITY OF CENTRAL ARKANSAS
COLLEGE OF BUSINESS ADMINISTRATION
UCA BOX 5018201 DONAGHEY AVENUE
CONWAY AR 72035-0001

SMALL BUSINESS ASSOCIATION (SBA)
ARKANSAS DISTRICT OFFICE
CAROL J SILVERSTROM
2120 RIVERFRONT DRIVE SUITE 100
LITTLE ROCK AR 72202-1794
Fax: (501) 324-5199 or (501) 324-5491
carol.silverstrom@sba.gov
patricia.walker@sba.gov
www.sba.gov/ar/

ARKANSAS STATE CHAMBER OF COMMERCE
410 S CROSS
PO BOX 3645
LITTLE ROCK AR 72203-3645

VETERANS BUSINESS DEVELOPMENT OFFICE
ANDY LAMONICA
ARKANSAS DISTRICT OFFICE
2120 RIVER FRONT DRIVE ROOM 100
LITTLE ROCK AR 72202

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2005 Update**

ARKANSAS DEPARTMENT OF
ECONOMIC DEVELOPMENT
DBE OFFICER
ONE CAPITOL MALL
LITTLE ROCK AR 72201

FAYETTEVILLE CHAMBER OF COMMERCE
PO BOX 4216
FAYETTEVILLE AR 72702-4216
FCC@arkansasUSA.com

AIRPORT MINORITY ADVISORY COUNCIL
SHIRLINGTON GATEWAY
2800 SHIRLINGTON RD. SUITE 940
ARLINGTON VA 22206
PHONE (703) 379-5701 FAX (703) 379-5703

MINORITY BUSINESS DEVELOPMENT AGENCY
TO CONTACT US BY EMAIL: HELP@MBDA.GOV
TO CONTACT US BY PHONE: (888) 324-1551

AMERICAN ASSOC OF AIRPORT EXECUTIVES
DBE OFFICER
601 MADISON STREET
ALEXANDRA VA 22314
703-824-0500 PHONE
703-820-1395 FAX

AIRPORTS COUNCIL INTERNATIONAL-NORTH AMERICA
DBE OFFICER
1775 K STREET NW SUITE 500
WASHINGTON DC 20006
PHONE: 202 293-8500
FAX: 202 331-1362

HISPANIC WOMEN'S ORGANIZATION OF ARKANSAS
DBE OFFICER
PO BOX 6132
SPRINGDALE AR 72766
479-751-9494

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2005 Update**

hwoa@jcf.jonesnet.org

ARKANSAS WOMEN'S BUSINESS DEVELOPMENT CENTER
SOUTHERN FINANCIAL PARTNERS

605 MAIN STREET SUITE 203

ARKADELPHIA AR 71923

info@southernfinancialpartners.org

ARK MINORITY SUPPLIER DEVEL COUNCIL
ARMSDC/TEAM

300 SPRING BLDG SUITE 415

LITTLE ROCK, AR 72201

Tel (501) 374-7026 • Fax (501) 371-04

info@armsdc.org

DIVERSITYBUSINESS.COM

200 PEQUOT AVENUE

SOUTHPORT, CT 06890

<http://www.div2000.com/>

FEDERAL ACCESS WEBSITE

LAW OFFICES OF J. COBBIE DE GRAFT

WORLDGATE PLAZA

12801 WORLDGATE DRIVE SUITE 500

HERNDON VA 20170

703-726-0197

703-726-0198 FAX

<http://www.fedaccess.com/>

MINORITY BUSINESS ENTREPRENEUR

3528 TORRANCE BLVD. SUITE 101

TORRANCE CA 90503

310-540-9398

310-792-8263

<http://www.mbemag.com/>

kbarnett@mbemag.com

**Overall Goal and Methodology
Fayetteville Municipal Airport / Drake Field (FYV)
FY 2005 Update**

Attachment #2 – Comments

Comments will be received until 5/4/05

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

CONTRACT REVIEW

X

AGENDA REQUEST

For the Fayetteville City Council Meeting of: May 3, 2005

FROM:

James Nicholson

Aviation & Economic Development

General Government

Name

Division

Department

ACTION REQUIRED: A Resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goal in 2005 for Airport Improvement Grant Project 3-05-0020-0033-2005, Master Plan Update, and 3-05-0020-0034-2005, West GA Apron.

SUMMARY EXPLANATION: The City of Fayetteville / Fayetteville Municipal Airport DBE Goal update for Fiscal Year (FY) 2005 is provided to describe the Airport Projects which are funded in part with Department of Transportation (DOT) / Federal Aviation Administration (FAA) funds, and to determine by the federally prescribed methodology the portion or percentage of those funds targeted for contract award to Disadvantaged Business Enterprises (DBE's) in accordance with Federal Regulations 49 CFR Part 26.

The Goal Update is a prerequisite for Airport Improvement Project (AIP) grant funding for airports which anticipate receiving more than \$250,000 in federal funding from the DOT / FAA.

The 2005 DBE Goal Update revises the DBE participation goal in federally funded airport contracts anticipated for the 2005 fiscal year, from that originally described in the airport's previously published DBE Program Plan and successive annual goal updates.

STAFF RECOMMENDATION: Review and approve



Received in Mayor's Office

Division Head

Date

Date

City Attorney

Date

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Mayor

Date

Cross Reference:

147-00, 150-01

Previous Ord/Res#:

81-03, 97-04

Orig. Contract Date:

NA

Orig. Contract Number:

NA

New Item:

Yes

No X



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

A. 5
Exterior Restoration of the Walker House
Page 1 of 4

DEPARTMENTAL CORRESPONDENCE

April 5, 2005 City Council Meeting

TO: Mayor Dan Coody and the Fayetteville City Council

THROUGH:  Stephen Davis, Director of Financial and Internal Services

FROM:  Coy Hurd, Project Manager

DATE: March 18, 2005

SUBJECT: A resolution authorizing Staff to restore the exterior of the Walker House (adjacent to the Waxhaws Senior Center) using Building Improvement funds. In addition, Staff asks for authority to bid this work and enter into a contract if the bid is within the specified budgetary range.

Recommendation: Staff recommends that the City Council pass a resolution authorizing this restoration.

Background: The City owns a building (known as the Walker House) which is located adjacent to the Waxhaws Senior Center. This two-story, wood-frame building was originally the family dwelling of the Walkers, but was used for some time by the Council on Aging (COA) as office space. More recently it has been used by COA for storage. The COA has decided that it has no further need for this building.

March 18 memo, page two

Discussion: To protect the integrity of this city-owned asset, there is a need for remedial work on the exterior of the structure. The needed items are: tear-off and replace the roof, replace the gutter system, replace the HVAC unit, shore-up the foundation, and, paint the exterior lumber and power wash the exterior vinyl.

Budget Impact: The budgetary impact of this renovation is estimated at \$33,738. These funds are presently budgeted in the Building Improvements Category.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE USE OF BUILDING IMPROVEMENT FUNDS FOR THE EXTERIOR RESTORATION OF THE WALKER HOUSE IN AN AMOUNT NOT TO EXCEED \$33,738.00; AND AUTHORIZING CITY STAFF TO SOLICIT BIDS FOR THE 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 approves the use of Building Improvement funds for the exterior restoration of the Walker House in an amount not to exceed \$33,738.00.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes City Staff to solicit bids for the restoration project.

PASSED and APPROVED this 5th day of April 2005.

APPROVED:

By _____

DAN COODY, Mayor

ATTEST:

By _____

SONDRA SMITH, City Clerk

STAFF REVIEW FORM - FINANCIAL OBLIGATION

A. 5
Exterior Restoration of the Walker House
Page 4 of 4

XX AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: April 5, 2005

FROM:

<u>Coy Hurd</u>	<u>Building Services</u>	<u>Financial and Internal Services</u>
Name	Division	Department

ACTION REQUIRED: The required action is approval of a resolution authorizing City Staff to restore the exterior of the Walker House (adjacent to the Waxhaws Senior Center) using Building Improvement funds.

COST TO CITY:

<u>\$33,738.00</u>	<u>\$ 150,000.00</u>	<u>Walker House Renovation</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4470.9470.5400.00</u>	<u>\$ 68,468.75</u>	<u>Building Improvements</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>02046.1</u>	<u>\$ 81,531.25</u>	<u>Sales Tax Capital</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

_____ Accounting Manager	_____ Date	_____ Internal Auditor	_____ Date
<u>D. P. White</u> City Attorney	<u>3/11/05</u> Date	_____ Purchasing Manager	_____ Date

STAFF RECOMMENDATION:

Division Head Date

Department Director Date

[Signature] 3-12-05
Finance & Internal Services Dir. Date

Chief Administrative Officer Date

[Signature] 5/15/05
Mayor Date

Received in Mayor's Office

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No



ALDERMAN AGENDA REQUEST FORM

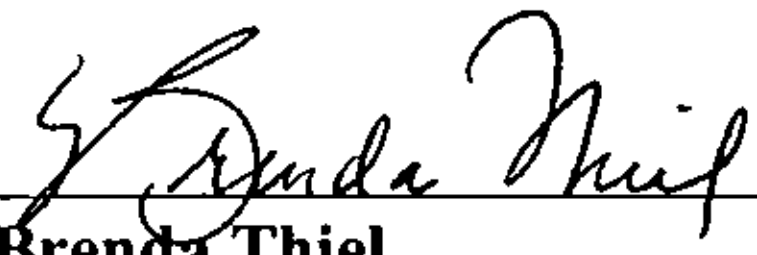
FOR: COUNCIL MEETING OF APRIL 5, 2005

FROM:
ALDERMAN BRENDA THIEL

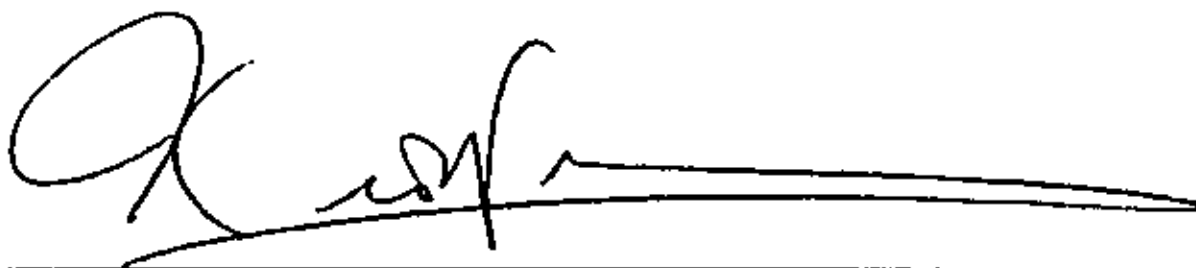
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO ADD §96.09 TO THE CODE OF FAYETTEVILLE TO RESTRICT THE
USE OF A COMPRESSION RELEASE ENGINE BRAKE OR "JAKE BRAKE"

APPROVED FOR AGENDA:


Brenda Thiel
Alderman

3/21/05
Date


Kit Williams
City Attorney (as to form)

3-18-05
Date

*Tabled until May 3, 2005 meeting
Left on the first reading 4/5/05*

ORDINANCE NO. _____

AN ORDINANCE TO ADD §96.09 TO THE CODE OF FAYETTEVILLE TO RESTRICT THE USE OF A COMPRESSION RELEASE ENGINE BRAKE OR "JAKE BRAKE"

WHEREAS, the use of compression release engine brakes, also known as "jake brakes" within the city limits disturbs citizens and constitutes a nuisance.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 96: Noise Control by enacting and adding a new section as shown below:

"96.09 Compression Release Engine Brake or 'Jake Brake'"

- (A) "A compression release engine brake or 'jake brake' or other hydraulically operated device that converts a power producing diesel or gas engine into a power absorbing retarding mechanism with a correspondingly increased amount of noise emission shall not be engaged or used within the city limits of Fayetteville except in the case of failure of the service brake system, adverse weather conditions, or other emergency necessitating the compression release engine brake's use."
- (B) Fire trucks are exempted from the requirements of this section.

PASSED and APPROVED this 5th day of April, 2005.

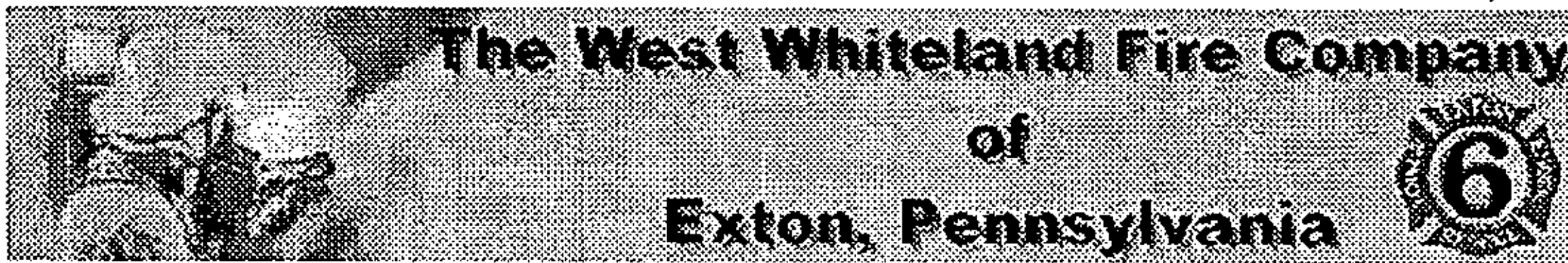
APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk



How a "Jake Brake" Works

The basic idea behind a "Jake Brake" is to use the engine to provide brake power. If you own a stick shift car and have ever downshifted to provide braking, you understand part of the idea. When you brake a car by downshifting, you are using the engine to vacuum to slow the car down.

A "Jake Brake" goes one step further, and actually turns the engine into an air compressor to provide a great deal more braking power. If you have any knowledge how an engine works, you understand the compressing of air in the cylinders takes power. If the engine's drive shaft is turning the engine to brake the truck, the power is stored in the cylinder, so if you let the compressed air simply pushes the piston back down. Therefore you don't really get any braking at all from the compression stroke on an unmodified engine.

A Jake Brake modifies the timing on the exhaust valves so that when braking is desired, the exhaust valves open right as the piston reaches the top of the compression stroke. The energy gathered in the compressed air is released, so the compression stroke actually provides braking power.

The main advantage of a "Jake Brake" is that it saves wear on the normal brakes. This is especially important on long downhill stretches.



Fayetteville, AR	Sound Level in dB(A)		
	Speed Limit 35 mph or Less	Speed Limit Over 35 mph	Stationary Run-up
Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR or 10,000 lbs. or more	92	96	94
Any other motor vehicle or any combination of vehicles towed by any such motor vehicles	78	78	78
Motorcycles	78	78	78
El Paso, TX	Sound Level in dB(A)		
	Speed Limit 35 mph or Less	Speed Limit Over 35 mph	Stationary Run-up
Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR or 10,000 lbs. or more	86	90	88
All other motor vehicles of GVWR or GCWR of 10,000 lbs. or more	70	79	
Any motorcycle	78	82	
Any motor vehicle or any combination or vehicles towed by any motor vehicle	70	79	

Kirkwood, NY	Sound Level in dB(A)		
	Speed Limit 35 mph or Less	Speed Limit Over 35 mph	Stationary Run-up
Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR or 10,000 lbs. or more	86	90	88
All other motor vehicles of GVWR or GCWR of 10,000 lbs. or more	82	86	
Any motorcycle	82	86	
Any motor vehicle or any combination or vehicles towed by any motor vehicle	76	80	

Crystal Falls, MI	Sound Level in dB(A)		
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	Speed Limit 35 mph or Less	Speed Limit Over 35 mph	Stationary Run-up
Motor carrier vehicle GVWR or GCWR or 8,500 lbs. or more	86	90	88
Any motorcycle	82	86	95
Any motor vehicle or any combination or vehicles towed by any motor vehicle	76	82	95

Huntsville, AL		Sound Levels by	
Type of Vehicles	Speed Limit Zone 35 mph or Less	Speed Limit Zone Over 35 mph	
Motorcycles and motor-driven cycles	82	86	
Vehicles with gross weight of 10,000 pounds or over	86	90	
Vehicles with gross weight under 10,000 pounds	80	84	

Gilbert, AZ		Speed Limit of 35 mph	Speed Limit of More or
(i) Any motor vehicle with a manufacturer's gross vehicle weight rating of 6,000 pounds or more, any combination of vehicles towed by such motor vehicle, and any motorcycle other than a motor- driven cycle		88 dB(A)	92 dB(A)
of vehicles towed by such motor vehicles		82 dB(A)	86 dB(A)

Boulder County, CO		Speed Limit of 35 mph	Speed Limit of More or Less Than 35 mph
Motorcycle mfct before 1/1/73		82 dB(A)	86 dB(A)
Motorcycle mfct after 1/1/73		80 dB(A)	84 dB(A)
Vehicle with a manufacturer's gross vehicle rating of 10,000 lbs. or more, and any combination of vehicles towed by such vehicle		86 dB(A)	88 dB(A)
All other vehicles		80 dB(A)	84 dB(A)

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: March 28, 2005

Subject: Rezoning for Mountain Ranch/Terminella (RZN 05-1412)

RECOMMENDATION

The Planning Commission voted to recommend the subject rezoning request to rezone approximately 21.05 acres of property from R-A, Residential Agricultural, to RSF-4, Residential Single Family – 4 units per acre.

BACKGROUND

Property: The subject property contains approximately 21.05 acres located southeast of the Fayetteville Boys & Girls Club and adjoins an extension of Persimmon Street as reflected on the City's Master Street Plan. Approximately 78.42 acres immediately adjacent to the west was annexed and rezoned RSF-4 in July 2004. In addition to the property currently zoned RSF-4 and that property proposed to be rezoned, the applicant owns 205.97 acres to the east which is currently zoned R-A.

Proposal: The applicant intends to develop a single family residential subdivision, as one phase of a larger multi-use project. At the time of annexation and rezoning of the property to the west, the developer anticipated that development of the land would most likely be in the form of a Planned Zoning District, as densities for single family homes will likely vary significantly, depending upon terrain, floodplain, tree canopy, available and constructed access, among other factors. Single family use, with a mixture of density, is the developer's primary intent for land use in this area, along with supporting facilities developing both on the applicant's property and on adjacent properties.

The applicant is requesting an RSF-4 zoning district knowing that the desired development for the property is single family residential dwelling units, not to exceed 4 units per acre.

Request: The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre.

Left on the 2nd reading 4/19/05

DISCUSSION

This item was heard at the regular Planning Commission on March 28, 2005. No public comment was received. The Planning Commission voted 8-0-1 to forward this item to the City Council with a recommendation in favor of the rezoning to RSF-4, Residential Single Family – 4 units per acre, with Commissioner Anthes voting against.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1412 FOR PROPERTY SOUTH
OF FUTURE PERSIMMON STREET CONTAINING
APPROXIMATELY 21.05 ACRES FROM R-A, RESIDENTIAL
AGRICULTURAL, TO RSF-4, RESIDENTIAL SINGLE FAMILY,
FOUR UNITS PER ACRE.

**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-A, Residential Agricultural to RSF-4, Residential Single Family, four
units per acre, 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 _____, 2005.

APPROVED:

**By: _____
DAN COODY, Mayor**

ATTEST:

**By: _____
Sondra Smith, City Clerk**

EXHIBIT "A"
RZN 05-1412

PART OF THE FRACTIONAL NW ¼ OF THE NW ¼ OF SECTION 18, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID FRACTIONAL NW ¼ OF THE NW ¼ OF SECTION 18; THENCE S 87°34'55"E 876.87 FEET ALONG THE NORTH LINE THEREOF; THENCE LEAVING SAID NORTH LINE S 02°25'05"W 64.95 FEET; THENCE 73.06 FEET ALONG A CURVE TO THE LEFT HAVING 40.00 FOOT RADIUS AND A S 40°05'39"W 63.32 FOOT CHORD; THENCE 49.69 FEET ALONG A CURVE TO THE LEFT HAVING 172.50 FOOT RADIUS AND A S 20°28'53"E 49.52 FEET CHORD; THENCE S 28°43'59"E 320.79 FEET; THENCE S 61°16'01"W 155.00 FEET; THENCE S 28°43'59"E 143.88 FEET; THENCE S 61°16'01"W 349.40 FEET; THENCE S 36°46'51"W 306.00 FEET; THENCE N 36°52'30"W 23.63 FEET; THENCE 393.30 FEET ALONG A CURVE TO THE RIGHT HAVING 565.27 FOOT RADIUS AND A S 72°59'46"W 385.42 FOOT CHORD; THENCE N 87°04'16"W 111.76 FEET TO THE WEST LINE OF SAID FRACTIONAL NW ¼ OF THE NW ¼ OF SECTION 18; THENCE ALONG SAID WEST LINE N 02°15'42"E 1180.75 FEET TO THE POINT OF BEGINNING, CONTAINING 21.05 ACRES, MORE OR LESS, SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD OR FACT.

DRAFT



PC Meeting of March 28, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: March 23, 2005

RZN 05-1412: (MOUNTAIN RANCH/TERMINELLA, 478): Submitted by CRAFTON TULL & ASSOCIATES INC. - ROGERS for property located SOUTH OF THE FUTURE PERSIMMON ST., SOUTHEAST OF THE BOYS AND GIRLS CLUB. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 21.05 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

Property Owner: RESERVE, LLC

Planner: Suzanne Morgan

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:		Required <u>YES</u>
		☒ Approved ☐ Denied
Date: <u>March 28, 2005</u>		
CITY COUNCIL ACTION:		Required <u>YES</u>
		☒ Approved ☐ Denied
Date: <u>April 19, 2005 (1st reading if recommended)</u>		

Shackelford/Trumbo 8-0-1 with Commissioner Antles voting no.

BACKGROUND:

Property: The subject property contains approximately 21.05 acres located southeast of the Fayetteville Boys & Girls Club and adjoins an extension of Persimmon Street as reflected on the City's Master Street Plan. Approximately 78.42 acres immediately adjacent to the west was annexed and rezoned RSF-4 in July 2004. In addition to the property currently zoned RSF-4 and that property proposed to be rezoned, the applicant owns 205.97 acres to the east which is currently zoned R-A. The applicant has submitted a property line adjustment to adjust the eastern boundary line of a parcel to match the eastern property line of this rezoning request. Staff has approved this property line adjustment contingent on recordation of a warranty deed dedicating right-of-way for Ruppel Road adjacent to the proposed Elementary/Middle School.

Proposal: The applicant intends to develop a single family residential subdivision, as one phase of a larger multi-use project. At the time of annexation and rezoning of the property to the west, the

developer anticipated that development of the land would most likely be in the form of a Planned Zoning District, as densities for single family homes will likely vary significantly, depending upon terrain, floodplain, tree canopy, available and constructed access, among other factors. Single family use, with a mixture of density, is the developer's primary intent for land use in this area, along with supporting facilities developing both on the applicant's property and on adjacent properties.

The applicant is requesting an RSF-4 zoning district knowing that the desired development for the property is single family residential dwelling units, not to exceed 4 units per acre.

Request: The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre.

Related Issues: Approximately 78.42 acres immediately adjacent to the west was rezoned RSF-4 in July 2004. The Planning Commission voted 5-4 to forward the rezoning request with a recommendation in support of RSF-4, with the City Council approving the rezoning unanimously.

Recommendation: Staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Boys & Girls Club & vacant property	R-A, Residential Agricultural
South	Vacant, undeveloped	R-A, Residential Agricultural
East	Vacant, undeveloped	R-A, Residential Agricultural
West	Vacant; Marinoni RZN	RSF-4, Res. Single family - 4 units/acre

INFRASTRUCTURE:

Streets: Currently the site does not have access to any constructed street, although it is adjacent to the future extension of Persimmon Street. The overall tract on which this property is located abuts Persimmon Street and Ruppel Road. At the time of development, these streets will need to be brought up to current standards along the property frontage. These improvements include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

Surrounding Master Street Plan Streets:

North: Persimmon St. (planned collector)

West: Ruppel Road (minor arterial)

Water: The site currently does have access to public water. The nearest water main is a 12" main along Persimmon Street. Water service will need to be extended within the property at the time of development. Additional connections may be required to complete looped systems.

Sewer: The site currently does not have access to sanitary sewer. An off-site sewer main extension will be required to serve this development. There is an 8" sewer main to the west. A capacity analysis of the sewer lines and/or lift stations downstream of the connection point shall be conducted prior to development.

Fire: The subject property is located 0.493 miles from future Fire Station #7 on Ruppel Road. Normal driving time is 1 minute. Water supply and construction of streets will be necessary for this property to develop.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

LAND USE PLAN: General Plan 2020 designates this site **Residential**. Rezoning this property to RSF-4 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 for a Single Family residential subdivision is compatible with adjacent and nearby single family residential land use. The General Plan designates this area for residential uses, which is compatible with the proposed RSF-4 zoning.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A higher density than the current R-A zoning district is appropriate in this area, and would provide compatibility with adjoining developments that are zoned RSF-4, R-PZD and currently being developed with residential subdivisions. In order to provide the connectivity and network of public infrastructure with adjacent residential subdivisions in a manner that is consistent with the future land use plan and guiding policies of annexation, a residential zoning district is needed.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Development with the proposed zoning will provide additional traffic on

streets in the area. Most streets in this area are undeveloped and will require full construction to city specifications. Ruppel Road is the only currently constructed street in the vicinity, recently built with a 28-foot width. Three approved developments, Persimmon Place Subdivision, Cross Keys PZD and the Ruppel Row PZD, along with developments to the west of the subject property, will combine to construct Persimmon Street west of Ruppel Road. A traffic signal has also recently been installed and is in operation at the intersection of Ruppel Road and Wedington Drive. The Fayetteville Police Department finds that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

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 increase population density in the area. Currently the property is vacant, undeveloped and virtually uninhabited, yielding no significant population. The 21.05 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 10 dwelling units (1 per 2 acres) if fully developed. With the proposed RSF-4 designation, 84 dwelling units could be permitted, if fully developed. This increases the possible number of residential dwelling units, however public service providers' assessments indicate that with public infrastructure provided by the developer in the construction of water, sanitary and storm sewer lines, streets and street lights, the increase in population density will not undesirably increase the load on public services.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

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

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 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 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot width minimum	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) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *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; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

March 24, 2005

Jeremy Pate
Interim Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Rezoning **RZN 05-1413: (Jones, 294)**, **RZN 05-1409 (SCB Investments, LLC, 366)** and **RZN 05-1412: (Mountain Ranch/Terminella, 478)** would substantially alter the population density and thereby undesirably increase the load on public services or create and appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

Individually, each of these rezoning do not necessarily substantially alter the population density, nor do they create and appreciable increase in traffic danger and congestion. The sum total presented over the years, however, has had a substantial impact on the demand for police services and has caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel, these areas may see a lack of traffic enforcement or may experience situations where officers are delayed in answering many calls for service because of call volume exceeds the number of officers available to respond in a timely manner.

Sincerely,

Captain William Brown
Fayetteville Police Department

Item 6 on Rezoning Application Checklist: Zoning Request Description

- a. Current ownership information. The property is currently owned by The Reserve, L.L.C., and there are no known proposed or pending property sales at this time.
- b. Reason for zoning change request. To allow development of the tract as a single family residential subdivision. This project is the first phase of a larger, multi-use project.
- c. How the property relates to surrounding properties. This property will continue the emerging trend in the area for single family residential uses, and fit in well with these uses. This trend has been recognized by Fayetteville school officials with location of a new school across Ruppel Road from the property. In addition, inclusion of land for parks has been worked out with the Parks Advisory Board to meet the expected needs for recreational facilities in the area. Anticipated traffic needs have been addressed with the cooperative improvement and construction of both Persimmon Street and Ruppel Road in the vicinity by developers of various projects within the area.
- d. Availability of water and sewer. Both water and sewer are available in the area. An 8" water has been extended to the Boys and Girls Club, immediately to the north of this tract, and a 36" water line runs along the I-540 frontage road to the east. An 8" sanitary sewer exists along the north property line. Sewer capacity concerns for this area will be addressed with completion of the new treatment plant to the west.

Item 7 on Rezoning Application Checklist:

- a. The proposed zoning is entirely consistent with the land use and zoning plans.
- b. The proposed zoning is justified because it is needed to initiate the development of the proposed project.
- c. The proposed zoning will increase traffic; however, improvements to Ruppel Road and Persimmon Street are part of the proposed project.
- d. The proposed zoning will not cause an undesirable increase to the load on public services because water and sewer are already present. There is a new school under construction adjacent to the proposed project.
- e. The city has grown around the project site, so that agriculture is no longer the best use of the property.

FROM

03-09-05:08:38AM:

(WED) MAR 9 2005 8:50/ST. 8:49/NO. 6307149784-05-1412
B.2
(Mountain Ranch/Terminilla)
Page 12 of 16

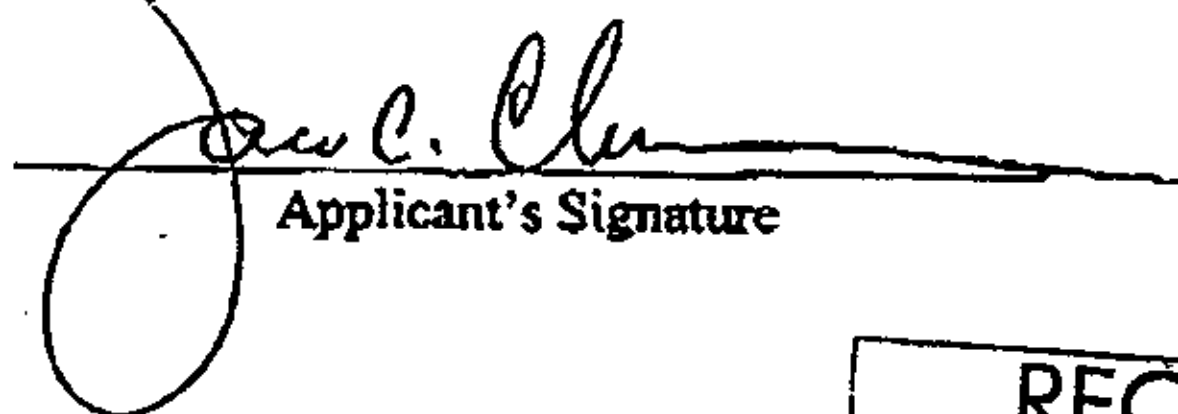
Proposed Rezoning

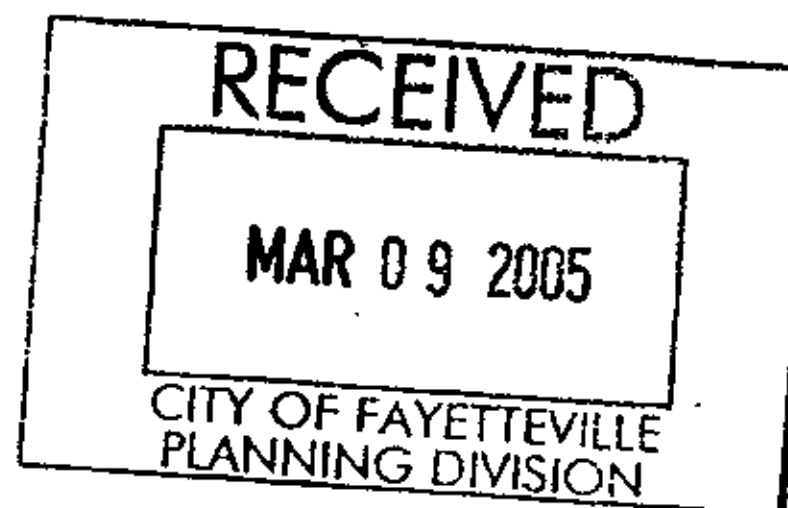
DESCRIPTION: PART OF TRACT 1 REVISED

PART OF THE FRACTIONAL NW 1/4 OF THE NW 1/4 OF SECTION 18, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID FRACTIONAL NW 1/4 OF THE NW 1/4 OF SECTION 18; THENCE S 87°34'55"E 876.87 FEET ALONG THE NORTH LINE THEREOF; THENCE LEAVING SAID NORTH LINE S 02°25'05"W 64.95 FEET; THENCE 73.06 FEET ALONG A CURVE TO THE LEFT HAVING 40.00 FOOT RADIUS AND A S 40°05'39"W 63.32 FOOT CHORD; THENCE 49.69 FEET ALONG A CURVE TO THE LEFT HAVING 172.50 FOOT RADIUS AND A S 20°28'53"E 49.52 FEET CHORD; THENCE S 28°43'59"E 320.79 FEET; THENCE S 61°16'01"W 155.00 FEET; THENCE S 28°43'59"E 143.88 FEET; THENCE S 61°16'01"W 349.40 FEET; THENCE S 36°46'51"W 306.00 FEET; THENCE N 36°52'30"W 23.63 FEET; THENCE 393.30 FEET ALONG A CURVE TO THE RIGHT HAVING 565.27 FOOT RADIUS AND A S 72°59'46"W 385.42 FOOT CHORD; THENCE N 87°04'16"W 111.76 FEET TO THE WEST LINE OF SAID FRACTIONAL NW 1/4 OF THE NW 1/4 OF SECTION 18; THENCE ALONG SAID WEST LINE N 02°15'42"E 1180.75 FEET TO THE POINT OF BEGINNING, CONTAINING 21.05 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD OR FACT.

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT


Applicant's Signature



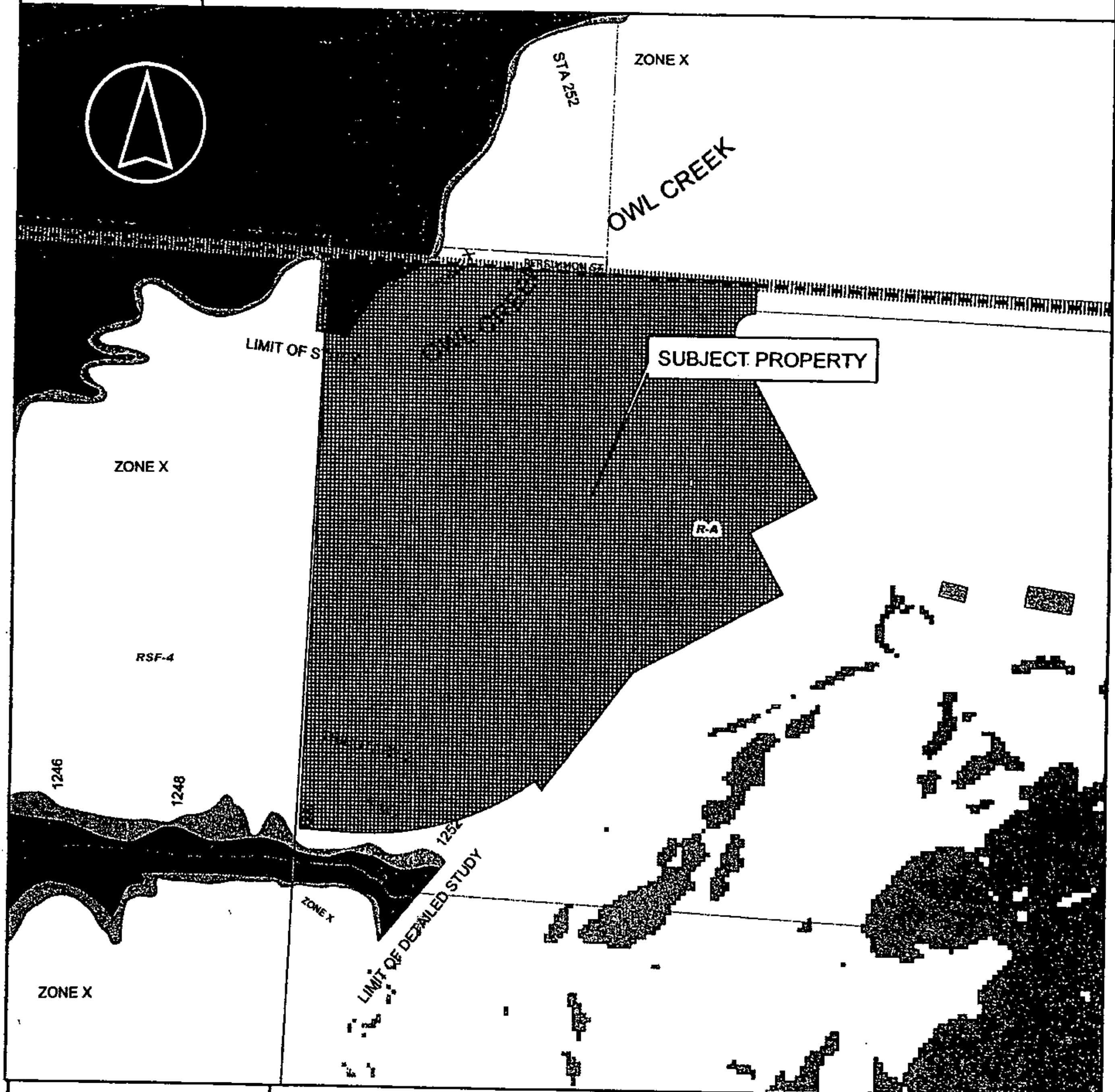
Submitted as
RZNO5-1412

3/9/2005 TJ

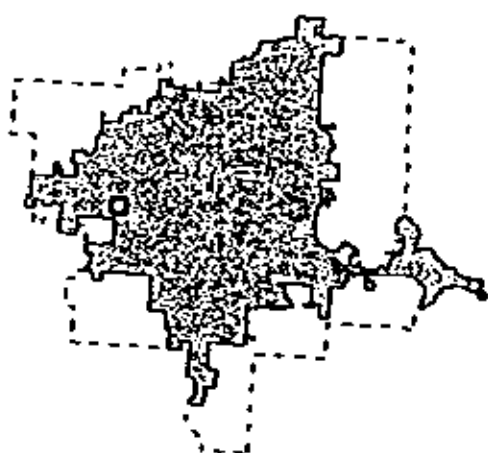
RZN05-1412

Close Up View

MOUNTAIN RANCH/TERMINELLA



Overview



Legend

RZN05-1412

Overlay District
Master Street Plan
Master Street Plan
 Freeway/Expressway

Principal Arterial
 Minor Arterial
 Collector
 Historic Collector

FLOODWAY
 100 YEAR

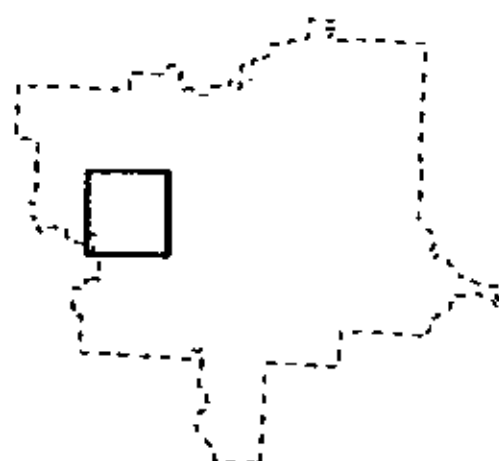
500 YEAR
 LIMIT OF STUDY
 Baseline Profile
 Fayetteville
 Outside City
 Slope Greater Than 15%

0 75 150 300 450 600
Feet

One Mile View



Overview



Legend

Subject Property

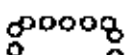


RZN05-1412

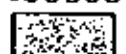
Boundary



Planning Area



Overlay District



Outside City

Master Street Plan

Master Street Plan



Principal Arterial



Collector



0000 Historic Collection

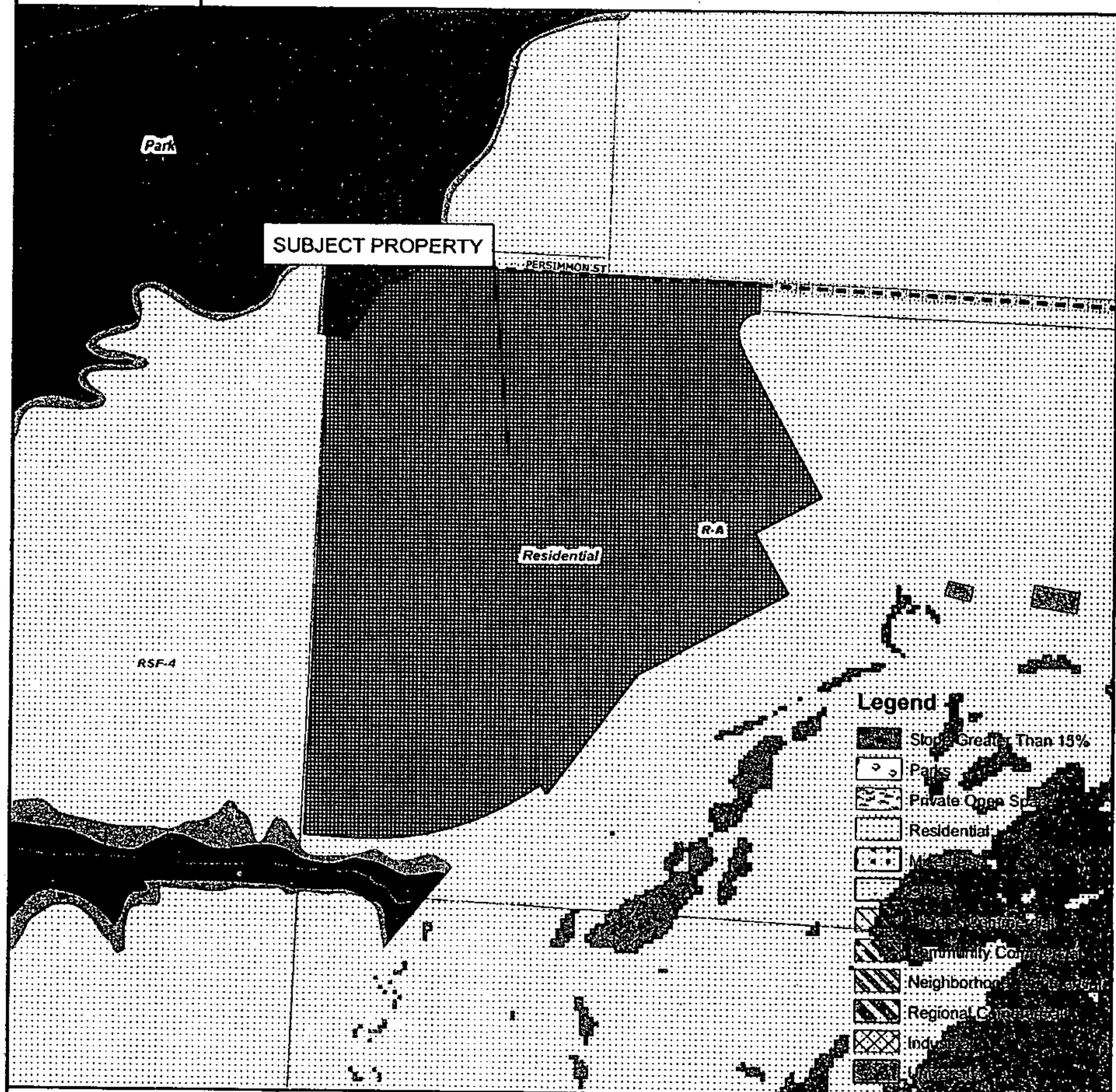
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Miles

RZN05-1412

Future Land Use

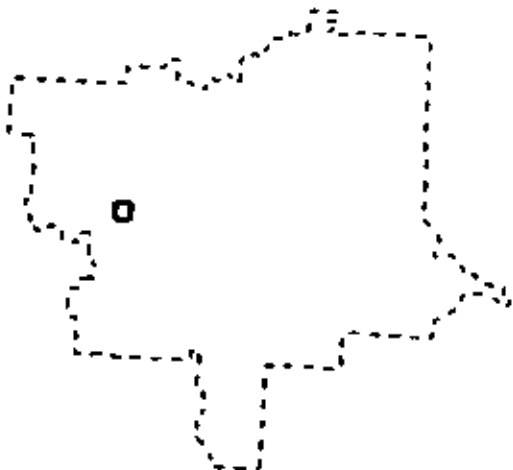
MOUNTAIN RANCH/TERMINELLA



Legend

- Slope Greater Than 15%
- Parks
- Private Open Space
- Residential
- Medium Density Residential
- Low Density Residential
- Community Center Zoned
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- Utility

Overview



Legend

Subject Property

- RZN05-1412

Streets

- Existing
- Planned

Boundary

- Planning Area
- Overlay District
- Outside City

Master Street Plan

- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

B. 2
RZN 05-1412
(Mountain Ranch/Terminella)
Page 16 of 16

19-Apr-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1412: (MOUNTAIN RANCH/TERMINELLA, 478): Submitted by CRAFTON TULL & ASSOCIATES INC. - ROGERS for property located SOUTH OF THE FUTURE PERSIMMON ST., SOUTHEAST OF THE BOYS AND GIRLS CLUB. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 21.05 acres. The request is to rezone the subject property to RSF-4, Residential Single-family, 4 units per acre.

\$0.00
Cost of this request

n/a
Category/Project Budget

n/a
Program Category / Project Name

n/a
Account Number

n/a
Funds Used to Date

n/a
Program / Project Category Name

n/a
Project Number

n/a
Remaining Balance

n/a
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

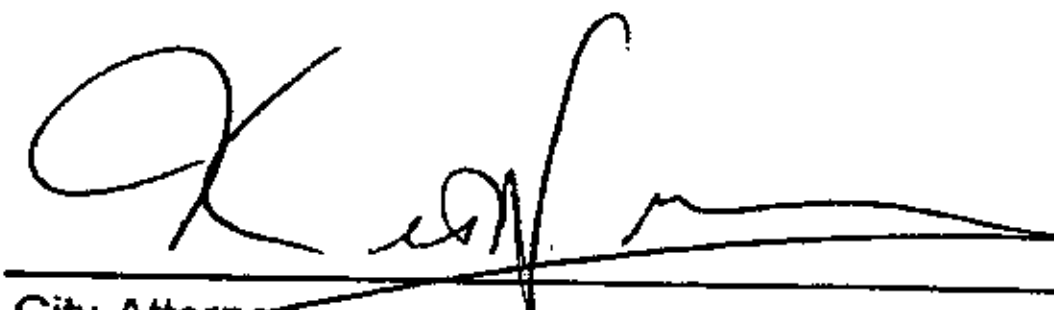

Department Director

4-1-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

4-4-05
Date

Received in City Clerk's Office


Mayor
Date

Received in Mayor's Office

Comments:

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF May 3, 2005
~~APRIL 19, 2005~~

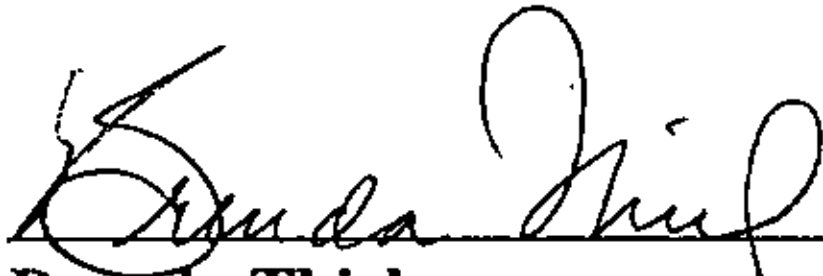
FROM:

BRENDA THIEL, ALDERMAN

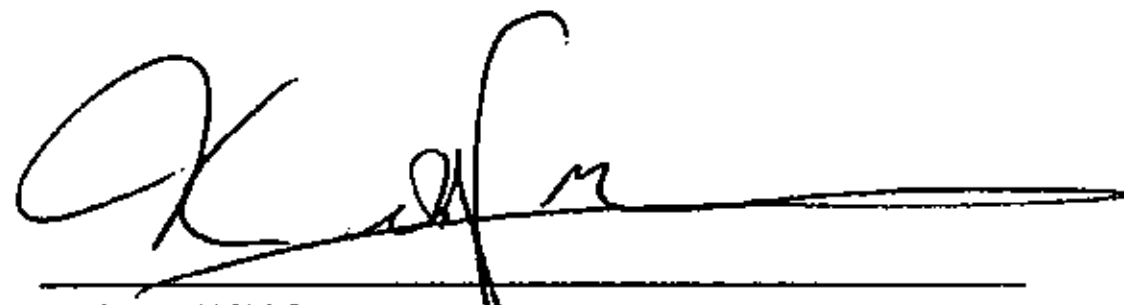
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §96.05 Motor Vehicle And Motorcycle Sound Limit Of The Code
Of Fayetteville

APPROVED FOR AGENDA:


Brenda Thiel
Alderman

4/18/05
Date


Kit Williams
City Attorney (as to form)

4/18/05
Date

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND §96.05 MOTOR VEHICLE
AND MOTORCYCLE SOUND LIMIT OF THE CODE OF
FAYETTEVILLE**

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Table II of §96.05 **Motor Vehicle and Motorcycle Sound Limit**, subsection (A) by changing the maximum allowed decibels for vehicles of 10,000 or more pounds from 92 for speed limit zones of 35 mph or less to 86 decibels; from 96 for speed limit zones over 35 mph to 90 decibels and from 94 for stationary run up to 88 decibels. All other parts of this noise ordinance shall remain unchanged and in full force and effect.

PASSED and APPROVED this 19th day of May, 2005.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

**96.05 Motor Vehicle And Motorcycle
Sound Limit**

- (A) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way or private property at any time and in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table II below.

TABLE II

MOTOR VEHICLE AND MOTORCYCLE
SOUND LIMIT

(Measured at 25 Feet From the Near
Side of the Nearest Lane Monitored)

Sound Level in dB

Vehicle class	Speed limit 35mph or less	Speed limit over 35mph	Stationary Run-up
Motor vehicle carrier engaged in interstate commerce of GVWR or GCWR of 10,000 lbs. Or more	92 86	96 90	94 88
Any other motor vehicle or any combination of vehicles towed by any such motor vehicles	78	78	78
Motorcycles	78	78	78

Amend →

unchanged →

- (B) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation.
- (C) No person shall sound any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public place, except as a warning of danger.
- (D) Operating or causing to operate any sound amplification device from within a vehicle so that the sound is plainly audible at a distance of 30 feet or more from the vehicle whether in a street, a highway, an alley, parking lot or driveway, whether public or private property, is prohibited and declared to be a noise disturbance in violation of this chapter.

(Code 1965, §13-8.1(d), (e), (f); Ord. No. 2580, 12-4-79; Ord.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Through: Gary Dumas, Director of Operations
From: Tim Conklin, Director of Planning and Development Management
Date: April 15, 2005
Subject: City Council approval to grant a 40 foot right-of-way located on City owned property south of Madison Drive to provide public street connectivity to Hays Estates.

RECOMMENDATION

Staff recommends approval of granting a 40 foot public right of way to allow the connection to be made to Hays Estates as shown on the plat.

BACKGROUND

The Fayetteville Planning Commission recently reviewed and approved a proposed 18 lot, single family home subdivision on 5.45 acres. The City has a long standing policy of requiring connectivity between developments in order to provide better traffic and pedestrian circulation and to promote a sense of community.

On April 11, 2005, the Fayetteville Planning Commission approved the preliminary plat for Hays Estates subject to the following condition:

1. Planning Commission determination of a waiver request for cul-de-sac length. Staff recommends dedication of City property to the north for a 40-foot wide right-of-way and construction of a city street, including sidewalks, to Madison Drive at the developer's expense. The Parks and Recreation Board voted unanimously to recommend to City Council that this street connection be approved and right-of-way be dedicated across existing parkland to connect the proposed street.

This property was recently designated as parkland and the Parks and Recreation Board voted to approve the street to be connected to Madison Drive through this property. This street connection allows for pedestrian and vehicular connectivity and provides a second means of access.

Without the access, the proposed 18 lots would be through Arapahoe Drive, located in Barrington Parke Subdivision. Should the City Council approve this dedication, it will be the developer's responsibility to construct a street north to Madison Drive compliant with ordinance requirements.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE DEDICATION OF A
40-FOOT WIDE PORTION OF CITY PROPERTY AS
RIGHT-OF-WAY TO ALLOW A STREET CONNECTION
TO MADISON AVENUE BY THE DEVELOPER OF THE HAYS
ESTATES SUBDIVISION

WHEREAS, the City's longstanding policy of vehicular and pedestrian connectivity is best achieved by dedicating sufficient right-of-way to allow the developer to complete the connection of Arapaho Drive to Madison Avenue over about 115 feet of city property; and

WHEREAS, the Planning Commission and Parks and Recreation Board unanimously recommended that the City Council dedicate sufficient right-of-way for the street connection to Madison Avenue; and

WHEREAS, a second means of ingress and egress will be achieved for the proposed subdivision by this dedication of right-of-way; and

WHEREAS, the connection would provide a means by which the subdivision development can comply with the Unified Development Code by removing a dead-end street that does not comply with the UDC.

**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 dedicates a 40-foot wide portion of city property as shown on the attached plat and legal description to connect an unnamed street to Madison Avenue.

PASSED and APPROVED this 3rd day of May, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk





THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 11, 2005

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: April 7, 2005

PPL 05-1437: Preliminary Plat (HAYS ESTATE, 373): Submitted by TOM HENNELLY for property located at THE WEST BOUNDARY OF BARRINGTON PARKE, PHASE II. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 5.45 acres. The request is to approve a residential subdivision with 18 single family lots proposed.

Property Owner: J.B. HAYS

Planner: SUZANNE MORGAN

Findings:

Property: The subject property contains 5.45 acres located west of Starr Road and east of Barrington Park Subdivision. The property is zoned RSF-4. A single family lot subdivision with 18 single family lots is proposed at this location. A lot split request to create the property which is represented in this preliminary plat and dedicated the 50' right-of-way for the extension of Arapaho Drive has been submitted with this preliminary plat request.

Public Comment: Staff has received comments from one adjacent property owner stating that she would prefer to see the proposed street connect onto Madison Drive to allow for two points of access.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Vacant; City Park property	RSF-4, Res. Single Family - 4 units/acre
South	Catholic School	R-A, Residential Agricultural
East	Dental Office, residential & pasture	RSF-1, Residential Single Family - 1 unit/acre
West	Single family residential (Barrington Park Subdivision)	RSF-4, Res. Single Family - 4 units/acre

Water and Sewer: Water and sewer lines shall be extended to serve the proposed development.

Adjacent Master Street Plan Streets: Madison Drive and Arapaho Drive, Local Streets, and Starr Drive, a Collector Street.

Right-of-way to be dedicated: Per the lot split plat requested for approval to create the 5.45 acre tract of property, staff has recommended dedication of 50' of right-of-way for the extension of Arapaho Drive and dedication for a total 35' from centerline of Starr Drive. Additional right-of-way shall be required to construct the 809.47' cul-de-sac. At this time, Staff is investigating the possibility of dedicating City property for right-of-way north of the subject property to provide a connection to Madison Drive. The Parks and Recreation Board on Monday, April 04, voted to approve staff's recommendation that the street be connected to Madison Drive, thereby allowing for pedestrian and vehicular connectivity and providing a second means of access. Otherwise, all access to the proposed 18 lots would be through Arapahoe Drive, in Barrington Parke Subdivision. Should the City Council approve this dedication, it will be the developer's responsibility to construct a street north to Madison Drive compliant with ordinance requirements.

Connectivity: Connectivity is provided to the east. A stub-out is proposed to the west, and staff is evaluating the possibility of connecting to Madison Drive to the north.

Tree Preservation:	Existing:	9.6%
	Preserved:	8.2%
	Required:	9.6%
	Mitigation:	Required

Recommendation: Staff recommends approval of PPL 05-1437 with the following conditions:

Conditions of Approval:

1. Planning Commission determination of a waiver request for cul-de-sac length. ⁴⁰ Staff recommends dedication of City property to the north for a 50-foot wide right-of-way and construction of a city street, including sidewalks, to Madison Drive at the developer's expense. The Parks and Recreation Board voted unanimously to recommend to City Council that this street connection be approved and right-of-way be dedicated across existing parkland to connect the proposed street. (If the City Council does not approve the recommendation, staff recommends in favor of a waiver to allow the construction of dead-end street greater than 500' in length.) *Strike last sentence per motion.*
2. Should right-of-way for the proposed street be granted through the city owned property to the north of the property, a trail easement shall be included with the access easement for White River Trail as shown in the Fayetteville Alternative Transportation & Trail Master Plan. The applicant shall coordinate these easements with the Parks Division.
3. Planning Commission determination of a waiver from 100' separation of a permanent water surface from the finished floor of a proposed structure. *The Engineering Division recommends approval of the requested waiver. PC affirmed waiver request.*
4. A total of 12 two-inch caliper trees or a \$3,000 contribution is required to meet mitigation requirements for this development. Payment or submittal of a planting plan in accordance with ordinance regulations is due at the time of final plat. *recommendation in favor of*
5. Parks fees are assessed in the amount of \$9,435 for 18 single family units. Fees are due prior to signing final plat.

6. Off-site drainage easements shall be dedicated by separate document prior to signing the final plat.
7. Street lights shall be installed or guaranteed with a maximum separation of 300 feet along all streets prior to final plat.
8. Subdivision area signage shall be permitted in accordance with applicable city codes. Signs shall be installed at locations determined by staff to indicate the future extension of right-of-way prior to recordation of the final plat.

Standard Conditions of Approval:

9. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
 10. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
 11. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
 12. All street names shall be approved by the 911 coordinator.
 13. Preliminary Plat approval shall be valid for one calendar year.
- Additional conditions:
- a. Should the City Council deny ROW dedication, this PPL
 - b. Shall come back to the Planning Commission for approval or denial.
 - c. _____

PLANNING COMMISSION ACTION: yes Required X Approved Denied
Date: April 11, 2005
Clark/Allen² 8-0-0

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____

Title _____

Date _____



PC Meeting of April 11, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Jeremy Pate, Landscape Administrator

Date: April 06, 2005

ITEM #: PPL 05-1437 (Hays Estates)

Requirements Submitted:

	Initial Review with the Landscape Administrator
✓	Site Analysis Map Submitted
✓	Site Analysis Written Report Submitted
✓	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	5.45
square feet	237,402
Existing Tree Canopy	
acres	0.65
square feet	22,746
percent of site area	9.6%
Existing Tree Canopy Preserved	
acres	0.45
square feet	19,531
percent of total site area	8.2%
Percent Minimum Canopy Required	9.6%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **The trees located on this site are grouped along the eastern boundary, consisting**

primarily of a dense screen of pine trees. The majority of these trees are desirable for preservation, as they provide an existing mature screen to adjacent properties.

Whether the design incorporates the required Tree Preservation Priorities.

- **The design of the subdivision does incorporate the required Tree Preservation Priorities. Those trees being removed are located within proposed utility easements and right-of-way necessary for the construction of the subdivision.**

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation will not occur due to the removal of the trees for this project.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Adjacent properties would be effected by the removal of the trees to the east; however, this existing buffer is to remain by the developer, allowing future homeowners instant privacy.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **No alternative construction methods are proposed.**

Whether the size or shape of the lot reduces the flexibility of the design.

- **The size and shape of the lot does not inhibit the flexibility of design, as the lot is being created to fit this development. A determining factor, however is the large pond to the west.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of all groups of trees on this site is good, without a noticeable presence of disease or injury.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **Most trees shown to be preserved are sited in good relationship to the proposed streets and utilities, to ensure prolonged preservation.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **Some trees may need to be removed to install essential public utilities, but most will not be in danger for future maintenance of those utilities in the future.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **The streets and utilities have been aligned to minimize removal and damage of tree canopy.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **A contribution into the tree fund is requested.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **N/A**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan.**

Recommendation: Staff recommends approval of the Tree Preservation Plan associated with PPL 05-1437, with the following condition:

1. **A total of 12 two-inch caliper trees or a \$3,000 contribution is required to meet mitigation requirements for this development. Payment or submittal of a planting plan in accordance with ordinance regulations is due at the time of final plat.**



March 22, 2005

Planning Commission
City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701

RE: HAYS ESTATES - WAIVER REQUEST

Dear Commissioners:

Please accept this letter as an official request of waiver for two development standards in the proposed residential subdivision of Hays Estates. The proposed project is a single-family residential development with a zoning designation of RSF-4. The proposed project is bound by Barrington Parke Subdivision, Phase II on the east, City of Fayetteville parks property along the north, and R-1 zoned property owned by the developer to the west.

The development is currently proposed with a cul-de-sac length of 859 feet, which is greater than the City development standard of 500 feet. It is our understanding that the City may be willing to donate right-of-way for connectivity of this development to Madison. The developer supports an opportunity for connectivity, but requests conditional approval and a waiver of the cul-de-sac length if City Council denies the extension.

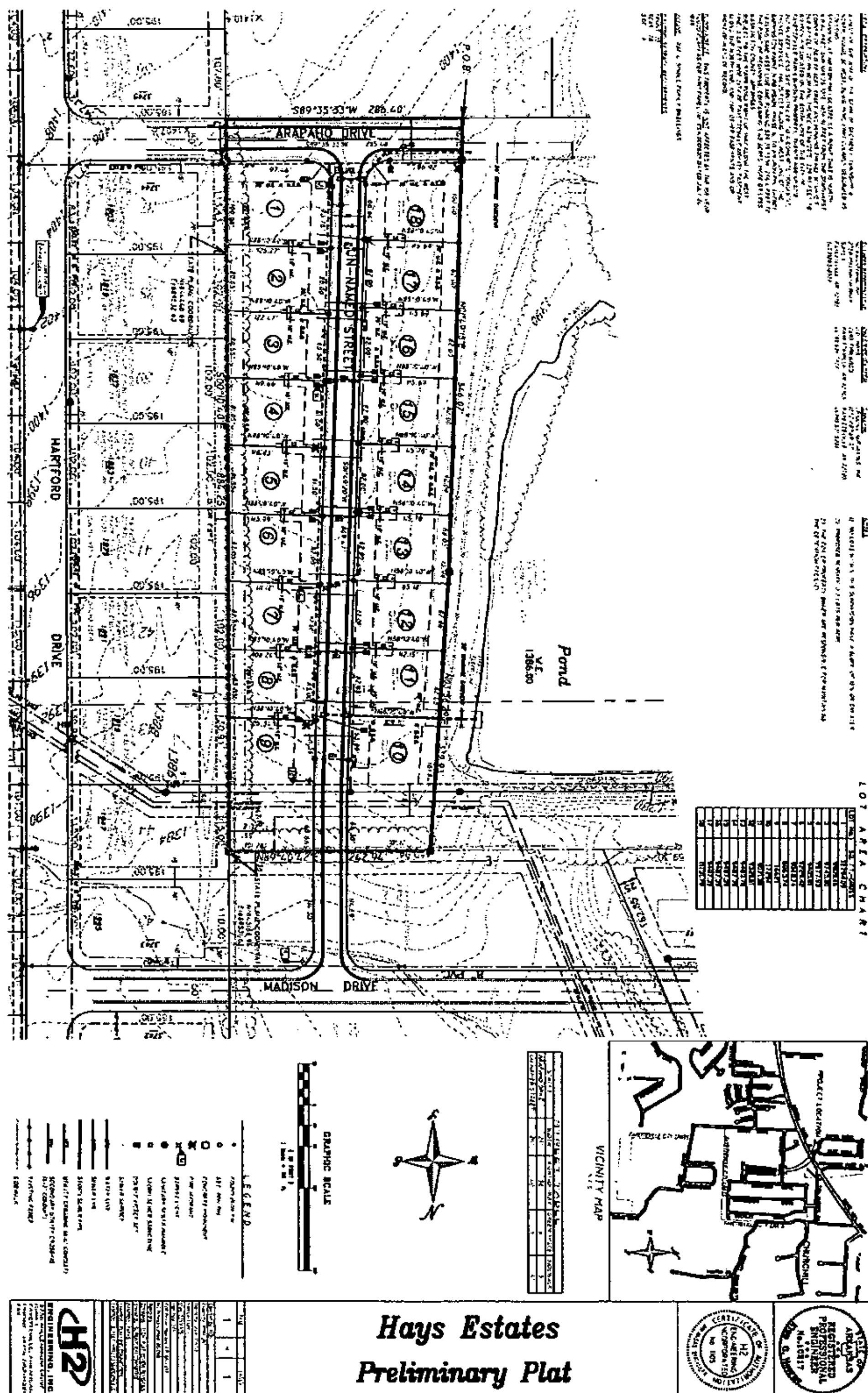
The developer is also requesting a waiver to the 100 foot horizontal setback requirement with respect to the 100-year water surface elevation. Proposed lot numbers 10-16 are not in compliance with this requirement. However, a minimum finished floor elevation is reflected on all the lake front property at elevation 1391.0. The 100-year water surface elevation is calculated at elevation 1388.0 and the breach elevation of the dam embankment is at an approximate elevation 1389.0. Consequently, the dam will breach prior to flooding any inhabitable structures with a minimum finished floor elevation of 1391.0.

Respectfully

A handwritten signature in black ink, appearing to read 'Kipp Hearne', is written over a horizontal line.

Kipp Hearne, P.E.
Vice-President

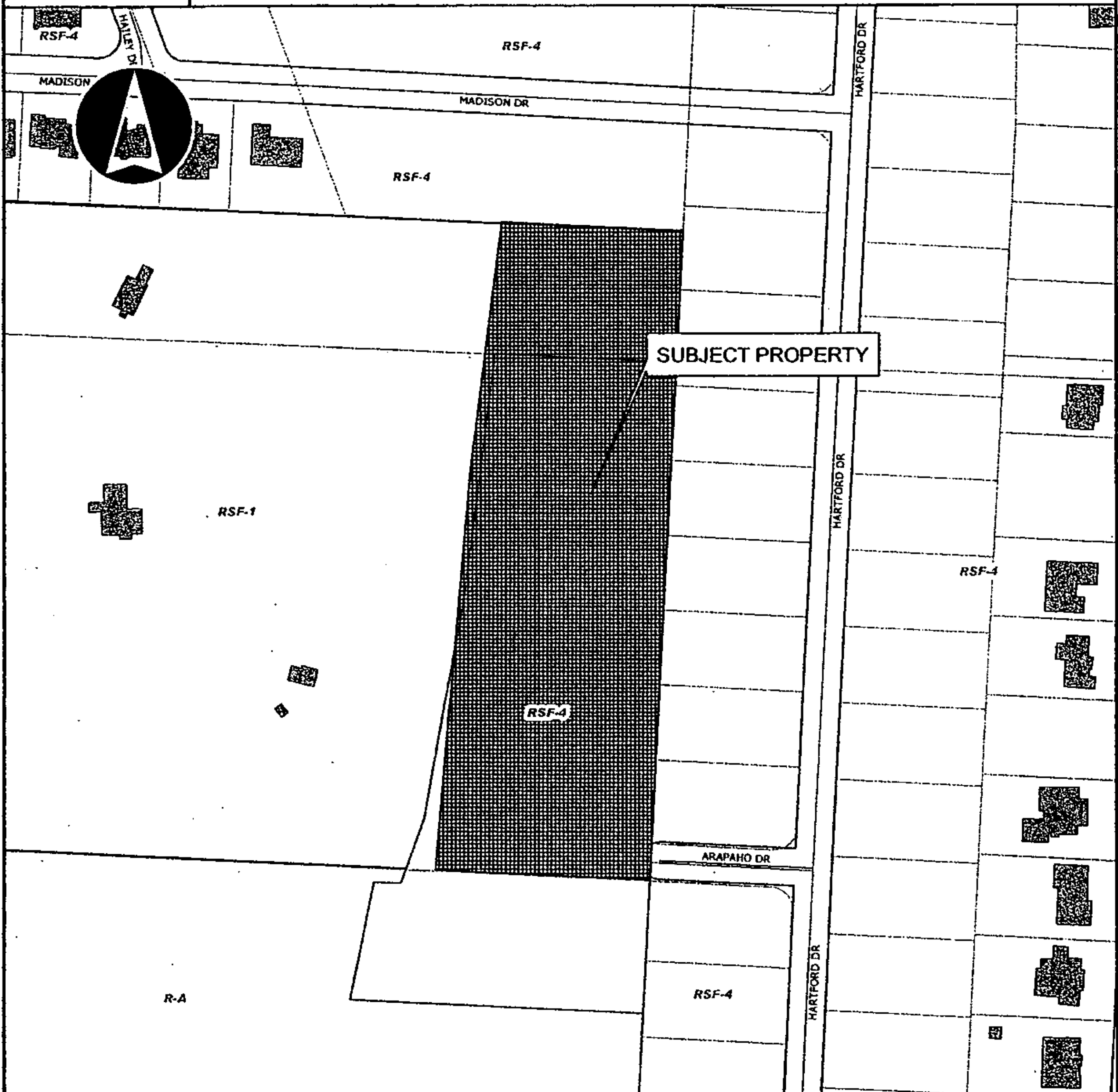




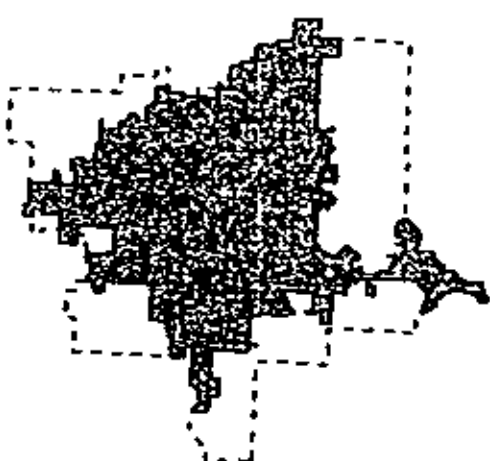
PPL05-1437

HAYS ESTATE

Close Up View



Overview



Legend

PPL05-1437

Overlay District

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

FLOODWAY

100 YEAR

500 YEAR

LIMIT OF STUDY

BaseLine Profile

Fayetteville

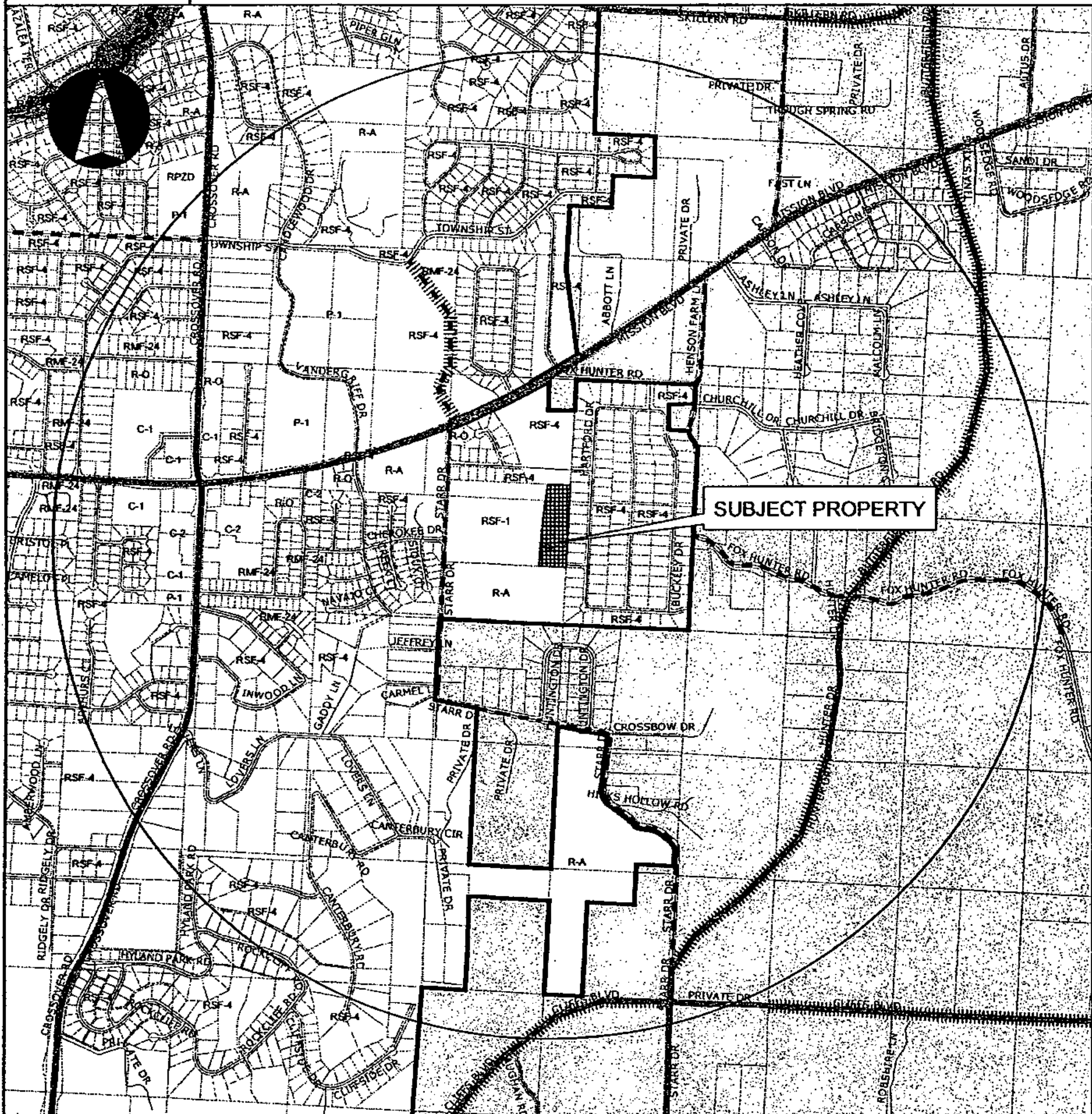
Outside City



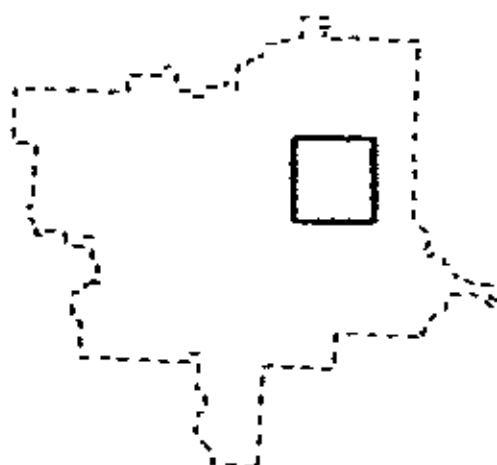
PPL05-1437

One Mile View

HAYS ESTATE



Overview



Legend

Subject Property

PPL05-1437

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

5/3/2005

City Council Meeting Date

Tim Conklin 
Submitted By

Planning and Development Mgt.
Division

Operations
Department

Action Required:

City Council approval to grant a 40 foot right-of-way located on City owned property south of Madison Drive to provide public street connectivity to Hays Estates.

Cost of this request

Account Number

Project Number

Category/Project Budget

Funds Used to Date

\$ -

Remaining Balance

Program Category / Project Name

Program / Project Category Name

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director

4-15-05
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

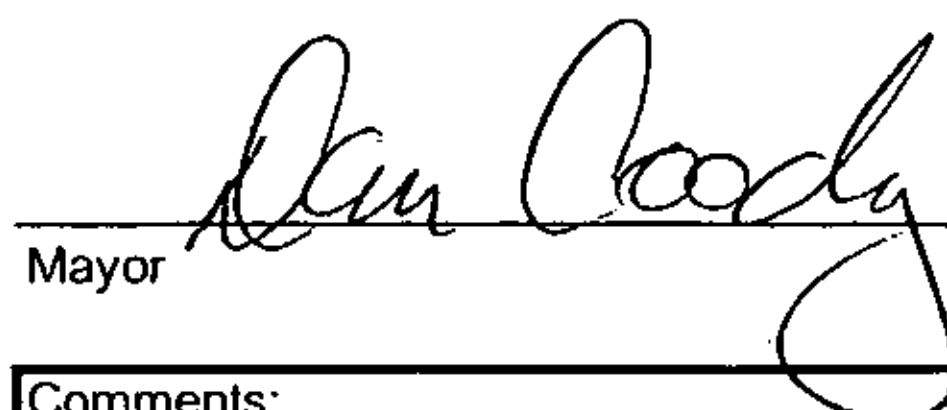

City Attorney

4-18-05


Finance and Internal Service Director

4-19-05
Date

Received in City Clerk's Office 


Mayor

4/19/05
Date

Received in Mayor's Office 

Comments:

To: City Clerk
From: Crystal Goedereis
Re: PPL # 05-1437 Hays Estates

April 19th, 2005

Dear City Clerk,

I wish to appeal the decision of the planning commission to deny the variance for the cull de sac if the city council votes against the right of way dedication onto Madison. I would appreciate it if the two items would stay together so the city council would know what is being proposed. The right of way issue is to be heard May the 3rd. If I can be of any further assistance please feel free to contact me at 313-4756.

Sincerely,

Crystal Goedereis

From: Suzanne Morgan
To: Gambill, Jan
Date: 4/20/05 11:45AM
Subject: Hays Estates Appeal

The request is to appeal the Planning Commission's motion to deny a waiver for construction of a dead-end street greater than 500' length should the City Council deny the request for dedication of City property to the north of the subject property for a 40-foot wide right-of-way and construction of a city street.



THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of April 11, 2005

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: April 7, 2005

PPL 05-1437: Preliminary Plat (HAYS ESTATE, 373): Submitted by TOM HENNELLY for property located at THE WEST BOUNDARY OF BARRINGTON PARKE, PHASE II. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 5.45 acres. The request is to approve a residential subdivision with 18 single family lots proposed.

Property Owner: J.B. HAYS

Planner: SUZANNE MORGAN

Findings:

Property: The subject property contains 5.45 acres located west of Starr Road and east of Barrington Park Subdivision. The property is zoned RSF-4. A single family lot subdivision with 18 single family lots is proposed at this location. A lot split request to create the property which is represented in this preliminary plat and dedicated the 50' right-of-way for the extension of Arapaho Drive has been submitted with this preliminary plat request.

Public Comment: Staff has received comments from one adjacent property owner stating that she would prefer to see the proposed street connect onto Madison Drive to allow for two points of access.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Vacant; City Park property	RSF-4, Res. Single Family – 4 units/acre
South	Catholic School	R-A, Residential Agricultural
East	Dental Office, residential & pasture	RSF-1, Residential Single Family – 1 unit/acre
West	Single family residential (Barrington Park Subdivision)	RSF-4, Res. Single Family – 4 units/acre

Water and Sewer: Water and sewer lines shall be extended to serve the proposed development.

Adjacent Master Street Plan Streets: Madison Drive and Arapaho Drive, Local Streets, and Starr Drive, a Collector Street.

Right-of-way to be dedicated: Per the lot split plat requested for approval to create the 5.45 acre tract of property, staff has recommended dedication of 50' of right-of-way for the extension of Arapaho Drive and dedication for a total 35' from centerline of Starr Drive. Additional right-of-way shall be required to construct the 809.47' cul-de-sac. At this time, Staff is investigating the possibility of dedicating City property for right-of-way north of the subject property to provide a connection to Madison Drive. The Parks and Recreation Board on Monday, April 04, voted to approve staff's recommendation that the street be connected to Madison Drive, thereby allowing for pedestrian and vehicular connectivity and providing a second means of access. Otherwise, all access to the proposed 18 lots would be through Arapahoe Drive, in Barrington Parke Subdivision. Should the City Council approve this dedication, it will be the developer's responsibility to construct a street north to Madison Drive compliant with ordinance requirements.

Connectivity: Connectivity is provided to the east. A stub-out is proposed to the west, and staff is evaluating the possibility of connecting to Madison Drive to the north.

Tree Preservation:	Existing:	9.6%
	Preserved:	8.2%
	Required:	9.6%
	Mitigation:	Required

Recommendation: Staff recommends approval of PPL 05-1437 with the following conditions:

Conditions of Approval:

1. Planning Commission determination of a waiver request for cul-de-sac length. *Staff recommends dedication of City property to the north for a 40 50-foot wide right-of-way and construction of a city street, including sidewalks, to Madison Drive at the developer's expense. The Parks and Recreation Board voted unanimously to recommend to City Council that this street connection be approved and right-of-way be dedicated across existing parkland to connect the proposed street. ~~If the City Council does not approve the recommendation, staff recommends in favor of a waiver to allow the construction of dead-end street greater than 500' in length.~~ PLANNING COMMISSION DENIED THE WAIVER FOR A DEAD-END STREET GREATER THAN 500' SHOULD THE CITY COUNCIL DENY THE REQUEST FOR DEDICATION OF RIGHT-OF-WAY.*
2. Should right-of-way for the proposed street be granted through the city owned property to the north of the property, a trail easement shall be included with the access easement for White River Trail as shown in the Fayetteville Alternative Transportation & Trail Master Plan. The applicant shall coordinate these easements with the Parks Division.
3. Planning Commission determination of a waiver from 100' separation of a permanent water surface from the finished floor of a proposed structure. *The Engineering Division recommends approval of the requested waiver.*
4. A total of 12 two-inch caliper trees or a \$3,000 contribution is required to meet mitigation requirements for this development. Payment or submittal of a planting plan in accordance with ordinance regulations is due at the time of final plat.

5. Parks fees are assessed in the amount of **\$9,435** for 18 single family units. Fees are due prior to signing final plat.
6. Off-site drainage easements shall be dedicated by separate document prior to signing the final plat.
7. Street lights shall be installed or guaranteed with a maximum separation of 300 feet along all streets prior to final plat.
8. Subdivision area signage shall be permitted in accordance with applicable city codes. Signs shall be installed at locations determined by staff to indicate the future extension of right-of-way prior to recordation of the final plat.

Standard Conditions of Approval:

9. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
10. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
11. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
12. All street names shall be approved by the 911 coordinator.
13. Preliminary Plat approval shall be valid for one calendar year.

Additional conditions:

- a. _____
- b. _____
- c. _____

PLANNING COMMISSION ACTION: yes Required _____ Approved _____ Denied

Date: April 11, 2005

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By

Title

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning JP

Date: April 15, 2005

Subject: Rezoning for Eddy Motorsports (RZN 05-1480)

RECOMMENDATION

Planning Staff recommends approval of the subject rezoning request to rezone approximately 2.00 acres of property from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial.

BACKGROUND

Property: The subject property is the former location of Hank's Furniture at N. Futrall Drive and Wedington, adjacent to I-540. The property contains a large building that formerly housed a retail furniture establishment that has since vacated the structure. The applicant has purchased the property and recently renovated the interior to relocate a motorcycle/ATV retail establishment from Shiloh Drive, north of this property. Staff informed the applicant that Use Unit 17, Trades and Services, under which motorcycle sales, service and repair is located, is not a permitted or conditional use in the C-1 zoning district. Subsequently, the C-2 zoning district was requested, to facilitate the expansion and relocation of the motorcycle/ATV business and provide for a more compatible zoning district near I-540.

Proposal: The developer intends to relocate an existing, established motorcycle/ATV sales and service facility to the building on this property. This will allow for an expansion of services provided.

Request: The request is to rezone the property C-2, Thoroughfare Commercial.

DISCUSSION

This item is to be heard at the regular Planning Commission meeting on April 25, 2005. Staff finds the request to be compatible with adjacent properties, complementary to existing uses and the Future Land Use Plan for Community Commercial uses.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1480 FOR PROPERTY
LOCATED AT 1205 NORTH FUTRALL DRIVE CONTAINING
APPROXIMATELY 2.00 ACRES FROM C-1, NEIGHBORHOOD
COMMERCIAL TO C-2, THOROUGHFARE COMMERCIAL.

**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-1, Neighborhood Commercial, 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 _____, 2005.

APPROVED:

**By: _____
DAN COODY, Mayor**

ATTEST:

**By: _____
Sondra Smith, City Clerk**

EXHIBIT "A"
RZN 05-1480

A PART OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS NORTH 02°18'00" WEST A DISTANCE OF 549.40 FEET AND SOUTH 88°38'09" WEST A DISTANCE OF 264.04 FEET FROM THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT, THENCE SOUTH 88°58'13" WEST A DISTANCE OF 178.19 FEET TO A POINT ON THE EAST RIGHT OF WAY OF THE HIGHWAY 16 AND 71 INTERCHANGE; THENCE ALONG SAID RIGHT OF WAY SOUTH 11°20'51" WEST A DISTANCE OF 92.07 FEET; THENCE SOUTH 03°16'27" EAST A DISTANCE OF 152.84 FEET; THENCE SOUTH 09°02'00" EAST A DISTANCE OF 84.10 FEET; THENCE SOUTH 15°07'00" EAST A DISTANCE OF 110.86 FEET; THENCE SOUTH 64°29'16" EAST A DISTANCE OF 82.53 FEET; THENCE NORTH 89°44'48" EAST A DISTANCE OF 89.88 FEET; THENCE LEAVING SAID RIGHT OF WAY ALONG THE WEST RIGHT OF WAY AT FUTRALL DRIVE NORTH 02°18'00" WEST A DISTANCE OF 471.68 FEET TO THE POINT OF BEGINNING, CONTAINING 2.00 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS, RIGHT OF WAYS OR RESTRICTIONS OF RECORD.

DRAFT



PC Meeting of April 25, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Director of Current Planning
DATE: April 15, 2005

RZN 05-1480: (BILL EDDY MOTORSPORTS, 402): Submitted by WILLIAM AND CATHERINE EDDY for property located at 1205 N FUTRALL DRIVE. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 2.00 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

Property Owner: WILLIAM & CATHERINE EDDY

Planner: JEREMY PATE

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>April 25, 2005</u>			
CITY COUNCIL ACTION:	Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>May 03, 2005 (1st reading if recommended)</u>			

BACKGROUND:

Property description: The subject property contains one 2.00-acre parcel located north of Wedington, east of N. Futral Drive and west of I-540. The subject property was recently vacated by Hank's Furniture, and ongoing interior renovations have been taking place to relocate a business into the structure. Surrounding properties are a mix of multi-family residential and commercial uses with adjacent businesses including Marinoni Construction, Karstetter and Glass Auto Body Repair, and the Cornerstone Apartment Community.

Proposal: The applicant intends to utilize the property for the relocation of Eddy Motorsports, which is currently located on Shiloh Drive and I-540, north of the subject property. The facility would be used to expand the business and services provided. Extensive renovations interior to the building are underway. However, Use Unit 17, under which motorcycle sales, service and repair is located, is not allowed in the C-1, Neighborhood Commercial zoning district as a permitted or conditional use. The applicant proposes a rezoning of the subject property to C-2,

Thoroughfare Commercial, to allow for a use that is compatible and similar in nature to the uses that surround the parcel.

Recommendation: Staff recommends approval of the rezoning request. This area is designated as Community Commercial on the future land use plan, which is consistent with the C-2 zoning district. It is identified as a node of commercial development with direct access to major thoroughfares, namely I-540 and Wedington Drive. The intersection of Wedington Dr. and Interstate 540 serves as a large commercial node with an planned and existing assortment of residential, shopping, and assorted convenience commercial uses located in close proximity to each other, serving the surrounding community.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Cornerstone Apartment Community	RMF-24
South	Wedington Drive, platted Comm. S/D	C-2, Thoroughfare Commercial
East	Auto Body repair	C-2, Thoroughfare Commercial
West	I-540, commercial uses	C-2, Thoroughfare Commercial

INFRASTRUCTURE:

Streets: Access to the site is provided by Wedington Dr., a principal arterial, and Futrall Dr., a local street, as identified in the Master Street Plan.

Water: The property currently has access to an 8" water line located along Futrall Dr. at the front of the property.

Sewer: The site has access to an 8" sanitary sewer line along Futrall Drive.

Fire: The Fayetteville Fire Department has reviewed the request and has estimated that the response time from Fire Station #7 to the site would be approximately 3 minutes for a distance of 1.2 miles.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services.

LAND USE PLAN: The Future Land Use Plan designates this site for Community Commercial. Rezoning this property to C-2, Thoroughfare Commercial is consistent with the land use plan for this area and the proposed use is compatible with surrounding properties that are similarly zoned.

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 rezoning is consistent with current land use planning objectives and policies and is compatible with adjacent properties in the same district. Surrounding properties are primarily commercial in nature, and largely function within a commercial district. The property in question is near parcels zoned R-O, C-2, and RMF-24. The I-540 and Wedington Drive interchange is indicated on the Future Land Use plan as a large commercial node that would be best facilitated by uses allowed within the C-2 zoning district.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to promote orderly and consistent development patterns. The General Plan 2020 identifies the Guiding Policies for Community Commercial areas as: "centers that are accessible and compatible with adjacent residential development" and "uses within community commercial areas [that] primarily serve residents of Fayetteville." The proposed use would be compatible and similar to adjacent land uses.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Future development with the proposed zoning would not potentially increase traffic accessing onto Mt. Comfort Rd. or Futrall Drive, any more so than the furniture store that previously occupied the space.

Police — It is the opinion of the Fayetteville Police department that an appreciable increase and traffic danger and congestion will not be created by this rezoning request.

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 substantially alter the population density in the area. Public service providers have responded accordingly:

Police – This rezoning will not substantially alter the population density thereby undesirably increasing the load on police services.

Fire – This rezoning is in close proximity to Fire Station #7 and has an adequate response time of 3 minutes.

Engineering – The property currently has access to 8" water and sewer mains located along Futrall Dr. Future development may require improvements or looped systems, as the need arises.

Currently the site has access to Futrall Road. At the time of future development, this street will need to be brought up to current standards along the property frontage. These improvements may include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

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

161.16 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) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

lot.

161.17 District C-2, Thoroughfare 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 & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) *Conditional uses.*

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
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *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.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

Bill Eddy's Motorsports

Bill Eddy's Motorsports
2028 N Shiloh Drive
Fayetteville, AR 72704

(479)521-7133 Phone
(479)521-7220 Fax

Application for Zoning Change

Rezoning request for 1205 N Futrall Drive Fayetteville, Ar 72703

1. Attached check #30841 for \$325.00 made payable to City of Fayetteville.
 2. Legal description of property attached.
 3. N/A
 4. N/A
 5. Legal description of property attached.
 6. a. Current Ownership Information: William J and Catherine M Eddy There are no proposed or pending property sales.

b. We want to move our business currently located at 2028 N Shiloh Drive in Fayetteville, AR 72704 (Retail motorcycle shop, Parts and Service.)

c. The property will not change significantly in terms of land use or traffic. Appearance will change slightly with new accent paint & awnings. Signage will change, of course, with the new name. No additions to building, no changes to sod, etc... Our business will be similar to the business that was there previously.

d. Water and sewer are already available and were used by previous business.
 7. a. The proposed zoning is still consistent with land use planning objectives, principles and policies and with Land Use and Zoning plans. This particular area has grown so much over the years and businesses have moved in so much that this is no longer a "neighborhood commercial" area, all the other businesses are zoned C-2. This is the only property left in the neighborhood that is still zoned C-1

b. The proposed zoning is justified due to the fact that this is the only business in the area still zoned C-1, everything else is zoned C-2.
-

c. Our business will very similar to the previous business. We are both retail businesses and we do not foresee any noticeable increase in traffic or congestion.

d. Our business will not alter population density or put any additional load on public services.

e. It is impractical to leave this zoned C-1 when the surrounding businesses in the neighborhood are zoned C-2.

Fayetteville Fire Department Service Delivery Impact: Zoning Review February 1, 2005

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
ANX 05-1365	Wilkins	ANX 05-1365	10	S7	n/a	n/a		0	0	0
RZN 05-1366	Wilkins			S7	2.7 Miles	7 Minutes	8 Minutes	9	4	6
ANX 05-1370	Hall	ANX 05-1370	235.38	S5	n/a	n/a		0	0	0
RZN 05-1371	Hall			S5	2.9 Miles	7 Minutes	8 Minutes	114	45	69
RZN 05-1378	Goff/Hall			S5	3.3 Miles	8 minutes	8 Minutes	14	5	8
RZN 05-1372	Mailco USA		2.536	S1	3 Miles	5 minutes	5 Minutes	0	0	0
RZN 05-1374	Cornerstone		0.53	S7	1.2 Miles	3 minutes	3.5 Minutes	0	0	0

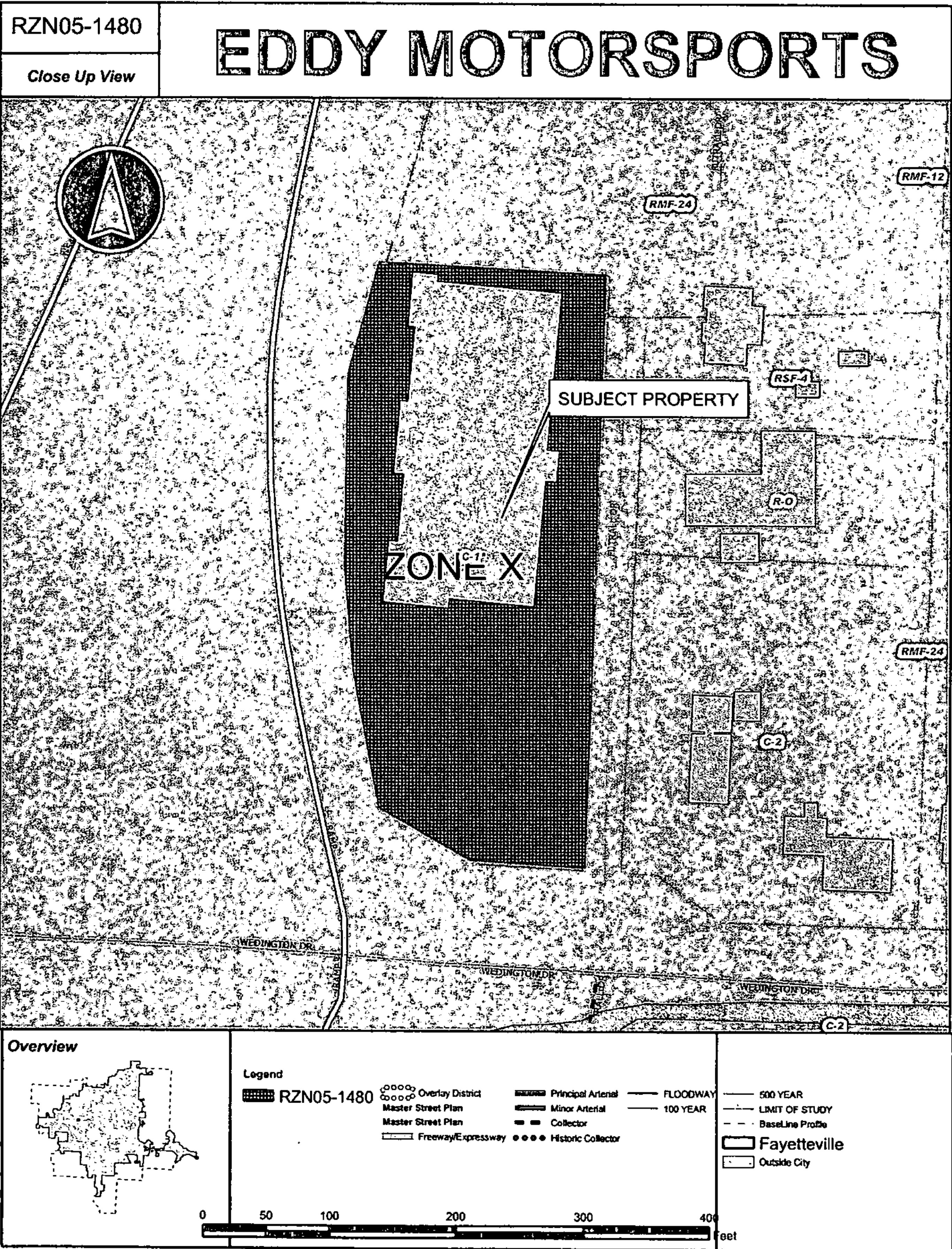
→ Directly adjacent to the subject property... the same response time is anticipated.

One Mile View



SUBJECT PROPERTY

Miles



City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts

C. 4
RZN 05-1480 (Bill Eddy Motorsports)
Page 14 of 14

3-May-05
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1480: BILL EDDY MOTORSPORTS, 402): Submitted by WILLIAM AND CATHERINE EDDY for property located at 1205 N FUTRALL DRIVE. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 2.00 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial

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

Budgeted Item

☐

Budget Adjustment Attached

☐

[Signature]
Department Director

4-18-05
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney

4-18-05

[Signature]
Finance and Internal Service Director

4-19-05
Date

Received in City Clerk's Office



Received in Mayor's Office



[Signature]
Mayor

4/19/05
Date

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 5
Environmental Enterprise Group, Inc. Contract
Page 1 of 20

DEPARTMENTAL CORRESPONDENCE

May 3, 2005 City Council Meeting

TO: Mayor Dan Coody and Fayetteville City Council

THROUGH: Stephen Davis, Financial and Internal Services Director 

FROM: Coy Hurd, Project Manager 

DATE: April 14, 2005

SUBJECT: A resolution approving a contract with the Environmental Enterprise Group, Inc. (EEG), for demolition project management and air monitoring at the Mountain Inn Demolition Project. In addition, a bid wavier is requested.

Recommendation: Staff recommends the acceptance of the proposed price of \$30,855 for the services of the EEG Company, to consist of oversight of the abatement of hazardous materials (including air monitoring), and oversight of the demolition work.

Background: The EEG Company was hired by the developers of the site to produce the specifications and bid documents for the demolition effort and for the abatement of asbestos and other hazardous materials present in the targeted buildings. The bid for this work is scheduled to open on April 25.

Discussion: Assuming that a successful bid is received on the 25th, further services will be required on the demolition site. The services needed have been delineated above. These services are required for the successful completion of the demolition effort.

A bid wavier is requested as it would not be feasible to bid this work. The project requires that EEG maintain oversight, as they are authors of the specifications and bid documents.

Budget Impact: The amount of \$887,000 has been set aside for all costs associated with the demolition of these structures. The developers have given a verbal commitment to make up any difference for any overrun, should it occur. The fee of \$30,850 would be taken from this amount.

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE NORMAL COMPETITIVE BIDDING AND TO AWARD A CONTRACT IN THE AMOUNT OF \$30,855.00 TO ENVIRONMENTAL ENTERPRISE GROUP, INC. FOR REMEDIATION, DEMOLITION PROJECT MANAGEMENT, AND AIR MONITORING

WHEREAS, because EEG, Inc. prepared the specification and bid documents for the remediation and demolition of the Mountain Inn and adjoining properties and for abatement of the asbestos and other hazardous materials, it is uniquely qualified to perform the project management and air monitoring needed for this demolition project.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby finds that Environmental Enterprise Group, Inc.'s unique circumstance stated above constitutes an exceptional situation in which competitive bidding is not feasible or practical. Therefore, the City Council waives competitive bidding and approves the attached contract with Environmental Enterprise Group, Inc. in the amount of \$30,855.00 and authorizes Mayor Coody to sign this contract.

PASSED and APPROVED this 3rd day of May 2005.

APPROVED:

DRAFT

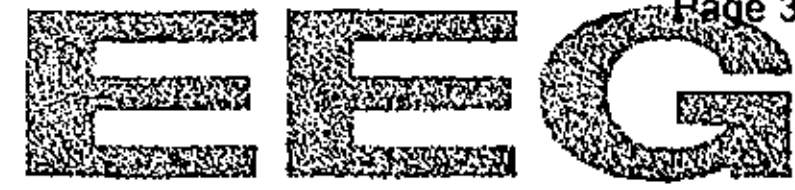
By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk



Environmental
Enterprise Group, Inc.
Environmental Consulting, Remediation and Subcontracting Inc.

April 11, 2005

Mr. Coy Hurd
City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72703

RE: ♦ REMEDIATION AND DEMOLITION PROJECT MANAGEMENT AND AIR MONITORING
♦ *Proposal #P05-078 ♦ Highway 71 East Square Redevelopment District # 1 ♦ Fayetteville, Arkansas*

Dear Mr. Hurd:

Thank you for considering ENVIRONMENTAL ENTERPRISE GROUP, INC. (EEG) regarding your environmental needs. EEG is pleased to submit the attached proposal for Remediation and Demolition Project Management & Air Monitoring, and air monitoring to be performed at the above-referenced project located in Fayetteville, Arkansas.

The members of EEG's professional management staff have more hands-on experience in dealing with the aspects of environmental issues than any other environmental consulting company in this region. EEG has all of the certifications and accreditations necessary to provide environmental consulting and a complete range of analytical services. EEG also provides our clients with \$5,000,000 professional liability insurance coverage from an "A" rated carrier.

The attached fee schedule includes Remediation and Demolition Project Management & Air Monitoring. EEG is prepared to begin the scheduling and coordination of this project immediately upon formal notice to proceed. Upon completion of the proposed work, EEG will provide you with the final report within 30 days.

Thank you for the opportunity to provide the City of Fayetteville with this proposal for Remediation and Demolition Project Management & Air Monitoring. If this proposal is acceptable, please acknowledge by signing the attached *Scope of Work and Fee Schedule* document and returning to our office via facsimile at (501) 968-1956. If you have any questions or require further information, please contact me at (800) 530-7968 or via email at . I will be glad to help in any way, and look forward to hearing from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob E. Smith', with a stylized flourish at the end.

Bob E. Smith
Vice President

Page 2 of 2

City of Fayetteville

Remediation and Demolition Project Management & Air Monitoring Proposal #P05-078

April 11, 2005

Scope of Work

General Description of project includes **Remediation and Demolition Project Management & Air Monitoring** during the remediation and demolition of structures identified in the Highway 71 East Square Redevelopment District #1 project in Fayetteville, Arkansas.

- ◆ **Project Management** - Provide Project Management and Air Monitoring during the remediation and demolition of structures identified in the Highway 71 East Square Redevelopment District #1 project in Fayetteville, Arkansas, as identified in the *Project Design & Specification* prepared specifically for this project. Provide onsite air sample collection and analysis.
 - Provide Close-Out Documentation for Project
 - EEG will provide all required insurance, including Worker's Compensation, Automobile and Comprehensive General Liability
 - Utilities at the subject site are to be provided by the *Owner*

Fee Schedule

Onsite Project Management, including Air Monitoring	\$30,000.00
<i>Daily throughout the course of the project at \$750.00 per 10-Hour Shift</i>	
<i>The Current estimate of project duration is 8 weeks. Time estimate was provided by others.</i>	
Report Generation	\$850.00

Proposal Acceptance

Mr. Coy Hurd
City of Fayetteville

Date



April 15, 2005

Mr. Coy Hurd, Ph.D.
City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

RE: ♦ REMEDIATION AND DEMOLITION PROJECT MANAGEMENT AND AIR MONITORING SERVICES
♦ *Proposal #P05-078 ♦ Highway 71 East Square Redevelopment District # 1 ♦ Fayetteville, Arkansas*

Dear Mr. Hurd:

ENVIRONMENTAL ENTERPRISE GROUP, INC. (EEG) appreciates the opportunity to provide you with this proposal to provide environmental consulting assistance to the City of Fayetteville.

Attached is EEG's standard **TECHNICAL SERVICES AGREEMENT** and a fee schedule for our consulting services to be provided.

EEG appreciates the opportunity to provide our environmental consulting services to the City of Fayetteville. Please sign and return the agreement to our Fayetteville Office. Upon receipt of the signed agreement, EEG is prepared to begin this project for you immediately upon notice to proceed. If you have any questions or require further information, please contact me at (479) 444-0438.

Sincerely,
Environmental Enterprise Group, Inc.

A handwritten signature in black ink, appearing to read "Keith Zimmerman", written over a horizontal line.

Keith Zimmerman
President

Attachments

TECHNICAL SERVICES AGREEMENT

This Agreement for professional consulting services has been entered into by and between **Environmental Enterprise Group, Inc.** (hereinafter referred to as EEG) and **City of Fayetteville** on this ____ day of _____, 2005. EEG shall perform the services described below in accordance with the Terms and Conditions of this Agreement.

PROJECT: Highway 71 East Square Redevelopment District #1 Fayetteville, Arkansas

City of Fayetteville and EEG agree that the following provisions shall be a part of their agreement:

1. SERVICES TO BE PERFORMED. General Description of project includes *Remediation and Demolition Project Management & Air Monitoring* during the remediation and demolition of structures identified in the Highway 71 East Square Redevelopment District #1 project in Fayetteville, Arkansas.

(A) **Project Management** - Provide Project Management and Air Monitoring during the remediation and demolition of structures identified in the Highway 71 East Square Redevelopment District #1 project in Fayetteville, Arkansas, as identified in the *Project Design & Specification* prepared specifically for this project. Provide onsite air sample collection and analysis.

- *Provide Close-Out Documentation for Project
- *EEG will provide all required insurance, including Worker's Compensation, Automobile and Comprehensive General Liability
- *Utilities at the subject site are to be provided by the *Owner*

2. COMPENSATION. The City of Fayetteville shall compensate EEG for its Professional Services as outlined in the Schedule of Fees attached hereto as Attachment "A" in a not to exceed amount of \$30,850.00.

3. PAYMENT. EEG will bill City of Fayetteville monthly for all project expenses in accordance with the Schedule of Fees. All invoices are due upon presentation and shall be past due if not paid within twenty (20) days. If City of Fayetteville objects to any portion of an invoice, City of Fayetteville shall notify EEG in writing within five (5) business days of receipt of the invoice. City of Fayetteville shall identify the specific cause of the disagreement and shall pay when due the portion of the invoice not in dispute.

4. **ACCESS.** City of Fayetteville agrees to provide EEG with appropriate access to the property in Fayetteville that will allow EEG to perform its services as outlined above. City of Fayetteville's personnel will also provide EEG as requested with all information within its knowledge about the facility to help EEG to perform the services outline above.

5. **STANDARD OF SERVICES.** EEG shall perform its services as outlined above in accordance with generally accepted industry practices for the environmental consulting industry for the specific types of services being performed or provided, and makes no warranties or guaranties, express or implied.

6. **INSURANCE.** Prior to beginning work under this Agreement, EEG will provide City of Fayetteville with a certificate of insurance evidencing the following:

- a. Workers' compensation in accordance with all applicable statutory requirements;
- b. Comprehensive general liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage;
- c. Comprehensive automobile liability, including coverage for all owned and non-owned vehicles used in connection with any remedial action, with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage;
- d. Employers' liability insurance with limits of not less than \$1,000,000 per occurrence;
- e. Professional liability insurance with limits of not less than \$1,000,000 per occurrence and \$1,000,000 aggregate, or higher if required by state or federal law.

In addition, City of Fayetteville will be named as additional insured. The certificate will include an agreement or endorsement that the policies will not be canceled or materially modified by the insurer without at least fifteen days prior to written notice to the City of Fayetteville.

7. **INDEMNIFICATION.** EEG shall indemnify City of Fayetteville, its officers, directors, agents and employees against claims, demands and causes of action, including expenses of defense for personal injury, disease or death, and loss or damage of property (other than property of City of Fayetteville for which City of Fayetteville hereby assumes responsibility), arising out of EEG's performance of the Services described above and to the extent caused by the sole negligence or willful misconduct of EEG.

8. **RELATIONSHIP.** EEG's services are performed as an independent contractor and not as the City of Fayetteville's agent, partner or joint venturer.

9. **FORCE MAJEURE.** EEG will have no liability to perform nor will it be liable for damages due to any circumstances beyond its reasonable control such as riots, strikes, war or insurrection, fires, flood, explosion, earthquakes, other natural disasters, acts of government, labor disturbances, or transportation disruptions.

10. **ENTIRE AGREEMENT.** This Agreement, including Attachment A, represents the entire understanding and agreement between EEG and City of Fayetteville and supersedes any prior written or oral understandings or agreements between the parties.

11. **SEVERABILITY.** If any portion of this Agreement shall be held invalid or unenforceable, any remaining portion shall continue in full force and effect.

12. **ASSIGNMENT.** There shall be no assignment of the rights or obligations under this Agreement by either party without the prior written consent of the other party.

13. **AUTHORITY.** EEG and City of Fayetteville each represent and warrant to each other that each is duly authorized to execute, deliver and perform its obligations under this Agreement as well as any and all documents and transactions contemplated hereby or incidental hereto.

14. **ATTORNEYS FEES.** If any lawsuit or equitable proceeding is filed or commenced relating to or arising from a breach, default or violation of this Agreement, the prevailing party shall be entitled to recover from the other party such attorney's fees (including fees and expenses of in-house counsel), costs and expenses as the court may award.

15. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas. Jurisdiction and venue shall be Washington County, Arkansas.

IN WITNESS WHEREOF, the parties hereby execute this agreement upon the terms and conditions stated above and on the date and year indicated above.

**ENVIRONMENTAL
ENTERPRISE GROUP, INC.**
2209 Main Drive
Fayetteville, Arkansas 72704

By: _____
KEITH ZIMMERMAN
President

**CITY OF FAYETTEVILLE,
ARKANSAS**
113 W. Mountain Street
Fayetteville, Arkansas 72701

By: _____
DAN COODY
Mayor

Attest: _____
Sondra Smith, City Clerk

ATTACHMENT A

Scope of Work

General Description of project includes *Remediation and Demolition Project Management & Air Monitoring* during the remediation and demolition of structures identified in the Highway 71 East Square Redevelopment District #1 project in Fayetteville, Arkansas.

- ◆ **Project Management** - Provide Project Management and Air Monitoring during the remediation and demolition of structures identified in the Highway 71 East Square Redevelopment District #1 project in Fayetteville, Arkansas, as identified in the *Project Design & Specification* prepared specifically for this project. Provide onsite air sample collection and analysis.
 - Provide Close-Out Documentation for Project
 - EEG will provide all required insurance, including Worker's Compensation, Automobile and Comprehensive General Liability
 - Utilities at the subject site are to be provided by the *Owner*

Fee Schedule

Onsite Project Management, including Air Monitoring	\$30,000.00
<i>Daily throughout the course of the project at \$750.00 per 10-Hour Shift</i>	
<i>The Current estimate of project duration is 8 weeks. Time estimate was provided by others.</i>	
Report Generation	\$850.00



April 15, 2005

Mr. Coy Hurd, Ph.D.
City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

RE: ♦ REMEDIATION AND DEMOLITION PROJECT MANAGEMENT AND AIR MONITORING SERVICES
♦ *Proposal #P05-078 ♦ Highway 71 East Square Redevelopment District # 1 ♦ Fayetteville, Arkansas*

Dear Mr. Hurd:

ENVIRONMENTAL ENTERPRISE GROUP, INC. (EEG) appreciates the opportunity to provide you with this proposal to provide environmental consulting assistance to the City of Fayetteville.

Attached is EEG's standard **TECHNICAL SERVICES AGREEMENT** and a fee schedule for our consulting services to be provided.

EEG appreciates the opportunity to provide our environmental consulting services to the City of Fayetteville. Please sign and return the agreement to our Fayetteville Office. Upon receipt of the signed agreement, EEG is prepared to begin this project for you immediately upon notice to proceed. If you have any questions or require further information, please contact me at (479) 444-0438.

Sincerely,
Environmental Enterprise Group, Inc.

A handwritten signature in black ink, appearing to read "Keith Zimmerman", with a long horizontal flourish extending to the right.

Keith Zimmerman
President

Attachments

TECHNICAL SERVICES AGREEMENT

This Agreement for professional consulting services has been entered into by and between **Environmental Enterprise Group, Inc.** (hereinafter referred to as EEG) and **City of Fayetteville** on this ____ day of _____, 2005. EEG shall perform the services described below in accordance with the Terms and Conditions of this Agreement.

PROJECT: Highway 71 East Square Redevelopment District #1 Fayetteville, Arkansas

City of Fayetteville and EEG agree that the following provisions shall be a part of their agreement:

1. SERVICES TO BE PERFORMED. General Description of project includes *Remediation and Demolition Project Management & Air Monitoring* during the remediation and demolition of structures identified in the Highway 71 East Square Redevelopment District #1 project in Fayetteville, Arkansas.

(A) **Project Management** - Provide Project Management and Air Monitoring during the remediation and demolition of structures identified in the Highway 71 East Square Redevelopment District #1 project in Fayetteville, Arkansas, as identified in the *Project Design & Specification* prepared specifically for this project. Provide onsite air sample collection and analysis.

- *Provide Close-Out Documentation for Project
- *EEG will provide all required insurance, including Worker's Compensation, Automobile and Comprehensive General Liability
- *Utilities at the subject site are to be provided by the *Owner*

2. COMPENSATION. The City of Fayetteville shall compensate EEG for its Professional Services as outlined in the Schedule of Fees attached hereto as Attachment "A" in a not to exceed amount of \$30,850.00 based on a performance period of 8 weeks or (40) 10 hour shifts. The performance period of the project was provided by others.

3. PAYMENT. EEG will bill City of Fayetteville monthly for all project expenses in accordance with the Schedule of Fees. All invoices are due upon presentation and shall be past due if not paid within twenty (20) days. If City of Fayetteville objects to any portion of an invoice, City of Fayetteville shall notify EEG in writing within five (5) business days of receipt of the invoice. City of Fayetteville shall identify the specific cause of the disagreement and shall pay when due the portion of the invoice not in dispute.

4. **ACCESS.** City of Fayetteville agrees to provide EEG with appropriate access to the property in Fayetteville that will allow EEG to perform its services as outlined above. City of Fayetteville's personnel will also provide EEG as requested with all information within its knowledge about the facility to help EEG to perform the services outline above.

5. **STANDARD OF SERVICES.** EEG shall perform its services as outlined above in accordance with generally accepted industry practices for the environmental consulting industry for the specific types of services being performed or provided, and makes no warranties or guaranties, express or implied.

6. **INSURANCE.** Prior to beginning work under this Agreement, EEG will provide City of Fayetteville with a certificate of insurance evidencing the following:

- a. Workers' compensation in accordance with all applicable statutory requirements;
- b. Comprehensive general liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage;
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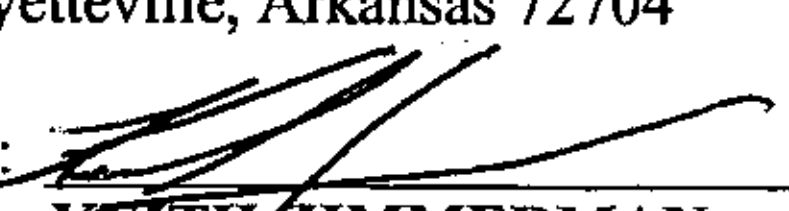
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**ENVIRONMENTAL
ENTERPRISE GROUP, INC.**
2209 Main Drive
Fayetteville, Arkansas 72704

By: 
KEITH ZIMMERMAN
President

**CITY OF FAYETTEVILLE,
ARKANSAS**
113 W. Mountain Street
Fayetteville, Arkansas 72701

By: _____
DAN COODY
Mayor

Attest: _____
Sondra Smith, City Clerk

ATTACHMENT A

Scope of Work

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Fee Schedule

Onsite Project Management, including Air Monitoring	\$30,000.00
--	--------------------

Daily throughout the course of the project at \$750.00 per 10-Hour Shift

The Current estimate of project duration is 8 weeks. Time estimate was provided by others.

Report Generation	\$850.00
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**ENVIRONMENTAL
ENTERPRISE GROUP, INC.**

2209 Main Drive
Fayetteville, Arkansas 72704

By: 

KEITH ZIMMERMAN
President

**CITY OF FAYETTEVILLE,
ARKANSAS**

113 W. Mountain Street
Fayetteville, Arkansas 72701

By: _____

DAN COODY
Mayor

Attest: _____

Sondra Smith, City Clerk

ATTACHMENT A

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- *Provide Close-Out Documentation for Project
- *EEG will provide all required insurance, including Worker's Compensation, Automobile and Comprehensive General Liability
- *Utilities at the subject site are to be provided by the *Owner*

Fee Schedule

Onsite Project Management, including Air Monitoring	\$30,000.00
--	--------------------

Daily throughout the course of the project at \$750.00 per 10-Hour Shift

The Current estimate of project duration is 8 weeks. Time estimate was provided by others.

Report Generation	\$850.00
--------------------------	-----------------

City of Fayetteville
Staff Review Form

C. 5
Environmental Enterprise Group, Inc. Contract
Page 19 of 20

3-May-05
City Council Meeting Date

Coy Hurd, Project Manager
Submitted By

Building Services
Division

Financial and Internal Services
Department

Action Required:

The action required includes a resolution approving a contract with Environmental Enterprise Group, Inc., for the demolition project mangement and air monitoring at the Mountain Inn Demolition Project. In addition, a bid wavier is requested.

\$30,855.00
Cost of this request
4490 9490 5805 00
Account Number
05038.2
Project Number

\$877,000
Category/Project Budget
\$0
Funds Used to Date
\$ 877,000.00
Remaining Balance

Highway 71 East Square
Redevelopment District No. 1
Program Category / Project Name
Other Captial Improvement
Program / Project Category Name
TIF Captial Improvement Fund
Fund Name

Budgeted Item

☒

Budget Adjustment Attached

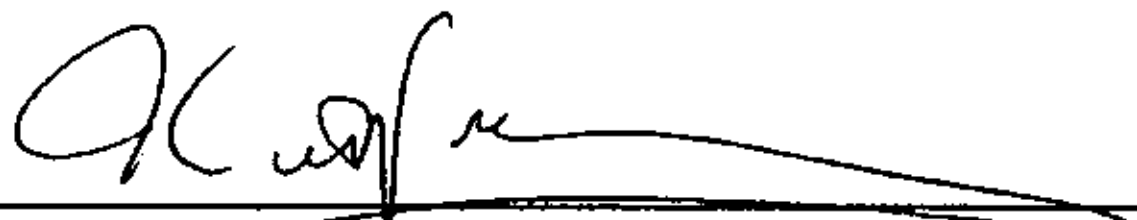
Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

4-15-05


Finance and Internal Service Director

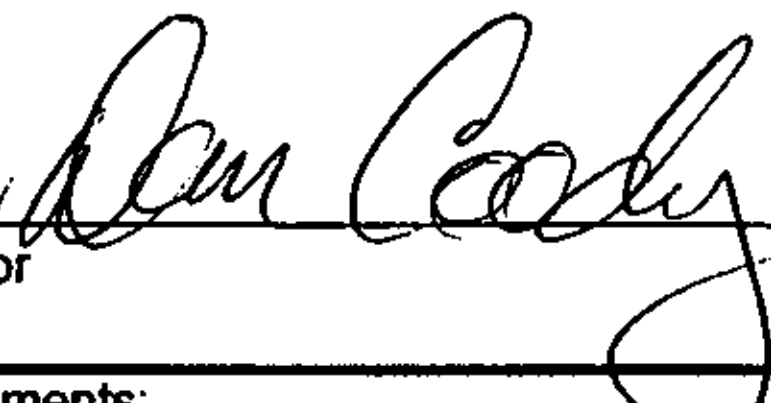
4-14-05
Date

Received in City Clerk's Office



Received in Mayor's Office




Mayor

4/14/05
Date

Comments:

DEPARTMENTAL CORRESPONDENCE

May 3, 2005 City Council Meeting

TO: Mayor Dan Coody and Fayetteville City Council

THROUGH: Stephen Davis, Financial and Internal Services Director

FROM: Coy Hurd, Project Manager *CH*

DATE: April 11, 2005

SUBJECT: A resolution approving a contract with the low bidder for the demolition of the Mountain Inn and adjacent buildings.

Recommendation: Staff recommends the consideration of the acceptance of the low bid for this demolition effort.

Background: The date of April 25 has been set for the opening of the bids for the demolition of the Mountain Inn Building and other adjacent structures. Due to the nature of the schedule for this work, staff is asking that this item be placed on the agenda so that action may be considered by the City Council at their meeting of May 3.

Discussion: The first step towards the construction of the fourteen story hotel complex is the demolition of six structures now located on the first block of West Center Street. Specifications and bid documents have been developed for this effort. The bid opening date has been set for April 25.

Budget Impact: The amount of \$887,000 has been set aside for all costs associated with the demolition of these structures. The developers have given a verbal commitment to make up any difference for any overrun, should it occur.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH
_____ IN THE AMOUNT OF
\$ _____ FOR THE DEMOLITION OF
THE MOUNTAIN INN BUILDING, COURTS BUILDING,
FORMER NIBLOCK LAW OFFICE AND RED BIRD CAFE
AS PART OF THE PROJECT PLAN FOR THE HIGHWAY
71 EAST SQUARE REDEVELOPMENT DISTRICT

WHEREAS, on April 25, 2005, bids were opened for the demolition of the
blighted Mountain Inn, Courts Building, former Niblock Law Office, and vacant Red
Bird Cafe; and

WHEREAS, _____ was the qualified low bidder for this
demolition and should be awarded the contract based upon its bid of \$ _____.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
awards and approves the contract with _____ in the amount of
\$ _____ (attached as Exhibit A) for the demolition and/or gutting of the blighted
Mountain Inn and Courts Building and the demolition of the former Niblock Law Office
and vacant Red Bird Cafe and authorizes Mayor Coody to sign this contract.

PASSED and APPROVED this 3rd day of May, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

City of Fayetteville
Staff Review Form

C. 6
Demolition Contract Approval
Page 3 of 4

3-May-05
City Council Meeting Date

Coy Hurd, Project Manager
Submitted By

Building Services
Division

Financial and Internal Services

Action Required:

The action required is the approval of a contract (and a project contingency fund) with the apparent low bidder for the demolition of the Mountain Inn and several adjacent buildings. The bid will open on April 25, 2005.

\$887,000.00
Cost of this request
4490 9490 5805 00
Account Number
05038.2
Project Number

\$887,000
Category/Project Budget
\$0
Funds Used to Date
\$887,000
Remaining Balance

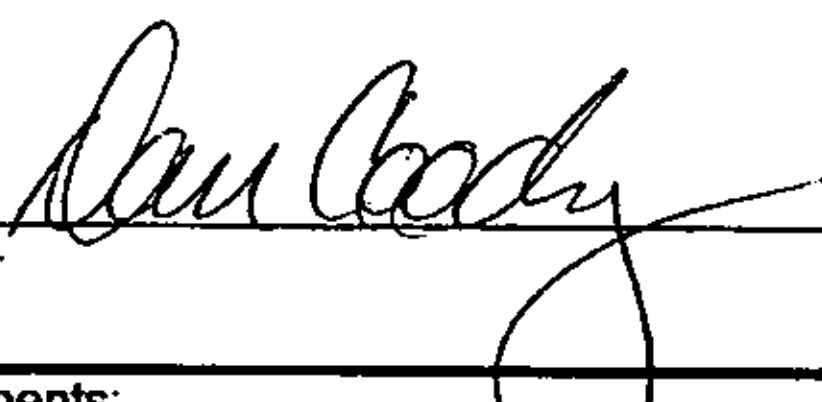
Highway 71 East Square
Redevelopment District No.1
Program Category / Project Name
Other Capital Improvement
Program / Project Category Name
TIF Capital Improvement Fund
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

Department Director _____ Date _____
 4-14-05
City Attorney

 4-14-05
Finance and Internal Service Director Date

 4/14/05
Mayor Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office


Received in Mayor's Office


Comments:

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Gary Dumas, Director of Operations
Bob Davis, Water & Wastewater Director
Ron Petrie, City Engineer

From: Sid Norbash, Staff Engineer 

Subject: **Gregg Ave. Water System Improvements Project**
Construction Contract with C-2 Projects LLC

BACKGROUND

Gregg Ave. is scheduled for improvements and widening by Arkansas Highway & Transportation Department, from Futrall Drive to Township Rd.(please see attached vicinity map).

In order to clear the way for the widening project by A.H.T.D., the existing water line serving this area will have to be relocated to avoid construction conflicts with the highway facilities. Also, in addition to the necessary relocation, the Staff has requested some over-sizing of the water mains, and fire protection improvements for this area. There are also some minor sewer adjustments and improvements planned for this project as well.

Per City Council approval Garver Engineers, LLC has been performing the engineering tasks for this project. Plans and Specifications were completed in March, and the project was advertised for construction.

DISCUSSION / STATUS

On April 1, 2005, four bids were received by the City of Fayetteville and the low bidder is C-2 Projects, LLC, from Springfield Missouri, in the amount of \$1,169,336.25.

Garver Engineers inquired about the past performances of C-2 Projects construction company, and the results have been favorable. Attached for your information are the Garver's award recommendation, as well as bid tabulation sheets.

RECOMMENDATION:

The Staff recommends Council approval of the following:

- (1) Award of the Construction Contract to C-2 Projects, LLC, in the amount of \$1,169,336.25.
- (2) Approval of a 10% Project Contingency in the amount of \$116,933.
- (3) Approval of the related Budget Adjustment in the amount of \$544,391.

FUNDING FOR 2005:

2005 Budget	\$849,346
Funds used to date	\$107,468
Remaining Funds	\$ 741,878
Needed Budget Adjustment	\$544,391

One reason for the estimated cost over-run is that the original estimate did not include the additional improvements which involve the over-sizing of the water mains, and additional fire protection improvements. Another reason is the abundance of construction projects and the low number of interested contractors in Northwest Arkansas.

The additional funds are from water + sewer reserves.

SN/sn

Attachments: Contract Documents
Vicinity Map
Letter of recommendation
Bid Tabulation

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONSTRUCTION CONTRACT WITH C-2 PROJECTS LLC IN THE AMOUNT OF \$1,169,336.25 FOR THE GREGG AVENUE WATER SYSTEM IMPROVEMENTS; APPROVING A 10% PROJECT CONTINGENCY IN THE AMOUNT OF \$116,933.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$544,391.00 FOR SAME.

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

Section 1. That the City Council of Fayetteville, Arkansas, hereby approves a construction contract with C-2 Projects LLC in the amount of \$1,169,336.25 for the Gregg Avenue Water System Improvements. A copy of the contract marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of Fayetteville, Arkansas, hereby approves a 10% project contingency in the amount of \$116,933.00.

Section 3. That the City Council of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of \$544,391.00 for same.

PASSED and APPROVED this 3rd day of May, 2005.

APPROVED:

By:

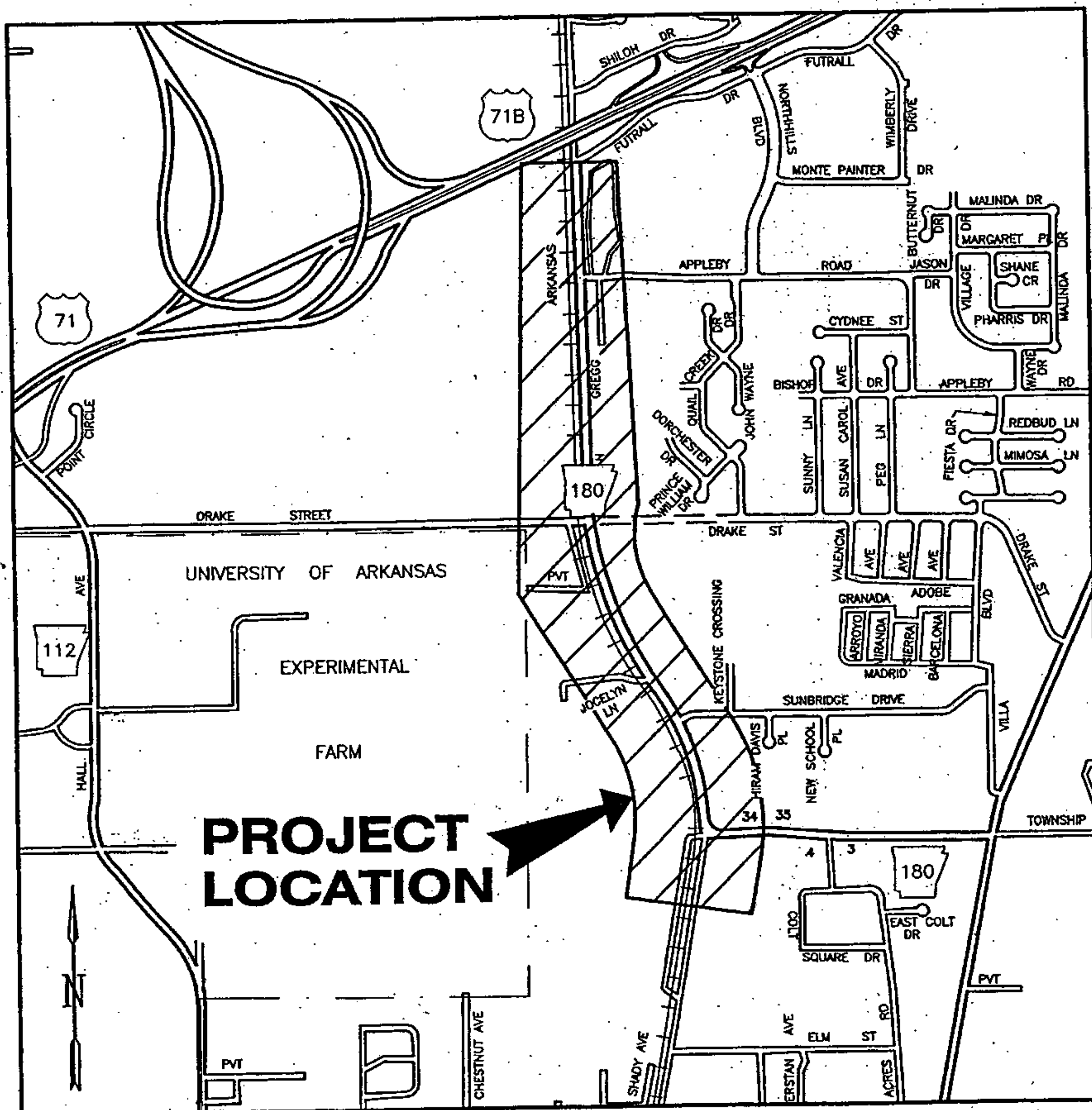
DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT



VICINITY MAP

NO SCALE

Garver Engineers, LLC

1088 East Millsap Road
Fayetteville, Arkansas 72703

(479) 527-9100
FAX (479) 527-9101

www.garverengineers.com

GARVER|ENGINEERS

April 5, 2005

Mr. Sid Norbash
City of Fayetteville Engineering Department
113 W. Mountain Street
Fayetteville, AR 72703

Re: Gregg Avenue Water System Improvements – Phase II
Evaluation of Bids
Garver Project No. 0296-3600 (2)

Dear Sid:

Four bids were received at 2:00 p.m. on Friday, April 1, 2005 for the Gregg Avenue Water System Improvements Project – Phase II.

The bids have been checked for accuracy and a tabulation of the bids is enclosed with this letter. A summary of the bids and Garver's opinion of construction cost is shown below.

<u>Contractor</u>	<u>Bid</u>
C-2 Projects	\$ 1,169,336.25
Garver Engineers' Estimate	\$ 1,186,375.00
GN Contractors	\$ 1,334,969.70
Mobley Contractors, Inc.	\$ 1,368,998.55
Sweetser Construction, Inc.	\$ 1,534,575.45

We checked references provided by the low bidder, C-2 Projects, and have attached a summary of our discussions. Based on our conversations with the provided references, Garver recommends the award of this project to C-2 Projects for the amount of \$1,169,336.25.

Respectfully submitted,
GARVER ENGINEERS



Jerry Morrow, PE
Senior Project Engineer

Cc: Bob Davis, PE – Water & Waste Water Director
Dave Jurgens – Water & Wastewater Maintenance Superintendent
Ron Petrie, PE - City Engineer
Project Files

Garver Engineers, LLC

1088 East Millsap Road
Fayetteville, Arkansas 72703

479-527-9100
FAX 479-527-9101

www.garverengineers.com

GARVERENGINEERS

PHONE RECORD

Author: Chris Buntin, EI (Garver Engineers)

Date: 4/5/05

Project: Gregg Avenue Water System Improvements - Phase II

Subject: References for C-2 Projects

A phone record for checked references provided by C-2 Projects is shown below for the referenced project. C-2 Projects is located in Springfield, Missouri. A contact for C-2 Projects is David Ewing at (417) 832-9937 business and (417) 827-1490 mobile.

- **4/5/05 - City of Springfield, Derek Lee**
(417) 864-2057

Derek has had two sewer jobs with C-2 Projects. They have had no liquidated damages, do a good job, good with cleanup, and they have completed jobs ahead of schedule.

- **4/5/05 - City of Springfield, Kim Brown**
(417) 864-1933

Kim did the inspection on a sewer job with C-2 Projects. They were late starting her project because of other projects. She had no real problems with their work. They ran over schedule a few days because of rock excavation encountered.

- **4/5/05 - APAC Missouri, Dave Foreman**
(417) 868-6700

APAC was the prime contractor for a Missouri Department of Transportation roadway project and they hired C-2 Projects to perform water line relocations. The water relocations were very difficult because of an intersection with numerous other utilities to contend with. C-2 Projects got the job done on a rush schedule. They have a lot of experience. C-2 Projects is not a big contractor.

- **4/5/05 - Simmons Engineering, Brian Bowers**
(417) 732-1883

Brian is doing the inspection on 4-inch and 6-inch water line replacements in the City of Bull Creek, Missouri currently under construction by C-2 Projects. Brian and the City of Bull Creek have no complaints about them and are happy with the work accomplished. They are on schedule to complete the work.

- **4/5/05 - Archer Engineers, Doug Carmichael**
(417) 865-4083

C-2 Projects had a sewer job with them that had a lot of existing utilities to contend with. They did good work on time. However, they are a small contractor, need more professionalism, and have trouble communicating. They had problems on the paperwork for a change order.

CITY OF FAYETTEVILLE
GREGG AVENUE WATER SYSTEM IMPROVEMENTS PHASE II
BID VERIFICATION FOR BIDS RECEIVED ON APRIL 1, 2003, 2:00 P.M.

			ENGINEERS ESTIMATE		C-2 PROJECTS		GN CONTRACTORS		MOBLEY CONTRACTORS, INC.		SWEETSER CONSTRUCTION, INC.		
ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
1	18" PVC C-900 DR-18 W/tee	6350	LF	\$ 60.00	\$ 381,000.00	\$ 70.00	\$ 444,500.00	\$ 78.00	\$ 510,900.00	\$ 62.14	\$ 407,017.00	\$ 85.00	\$ 539,750.00
2	12" PVC C-900 DR-14 W/tee	380	LF	\$ 50.00	\$ 19,000.00	\$ 47.50	\$ 18,050.00	\$ 41.20	\$ 15,656.00	\$ 105.41	\$ 40,055.80	\$ 59.00	\$ 22,420.00
3	8" PVC C-900 DR-14 W/tee	1160	LF	\$ 35.00	\$ 40,600.00	\$ 33.50	\$ 38,860.00	\$ 36.05	\$ 41,918.00	\$ 65.97	\$ 76,325.20	\$ 55.00	\$ 63,800.00
4	6" PVC C-900 DR-14 W/tee	115	LF	\$ 45.00	\$ 5,175.00	\$ 27.25	\$ 3,128.75	\$ 28.84	\$ 3,305.40	\$ 65.49	\$ 7,541.15	\$ 95.00	\$ 10,925.00
5	4" PVC C-900 DR-14 W/tee	20	LF	\$ 45.00	\$ 900.00	\$ 16.75	\$ 335.00	\$ 21.65	\$ 432.60	\$ 131.36	\$ 2,657.20	\$ 150.00	\$ 3,000.00
6	Ductile Iron Fittings	9590	LB	\$ 6.00	\$ 57,540.00	\$ 6.75	\$ 64,732.50	\$ 9.01	\$ 86,403.90	\$ 7.41	\$ 71,061.90	\$ 10.00	\$ 95,900.00
7	8" X 8" Tapping Sleeve and Valve with Valve Box	4	EA	\$ 2,500.00	\$ 10,000.00	\$ 2,130.00	\$ 8,520.00	\$ 4,326.00	\$ 17,304.00	\$ 3,779.31	\$ 15,117.24	\$ 3,500.00	\$ 14,000.00
8	18" Butterfly Valve with Valve Box	12	EA	\$ 6,000.00	\$ 72,000.00	\$ 4,905.00	\$ 58,860.00	\$ 5,665.00	\$ 67,980.00	\$ 4,337.32	\$ 52,047.84	\$ 5,700.00	\$ 68,400.00
9	12" Butterfly Valve with Valve Box	1	EA	\$ 4,000.00	\$ 4,000.00	\$ 2,980.00	\$ 2,980.00	\$ 3,914.00	\$ 3,914.00	\$ 3,382.11	\$ 3,382.11	\$ 4,400.00	\$ 4,400.00
10	8" Gate Valve with Valve Box	9	EA	\$ 1,500.00	\$ 13,500.00	\$ 1,270.00	\$ 11,430.00	\$ 1,442.00	\$ 12,978.00	\$ 1,534.30	\$ 13,808.70	\$ 1,900.00	\$ 17,100.00
11	Air Release Valve	1	EA	\$ 3,000.00	\$ 3,000.00	\$ 1,850.00	\$ 1,850.00	\$ 2,987.00	\$ 2,987.00	\$ 10,756.47	\$ 10,756.47	\$ 4,200.00	\$ 4,200.00
12	Fire Hydrant Assembly	6	EA	\$ 2,750.00	\$ 16,500.00	\$ 2,835.00	\$ 17,010.00	\$ 3,193.00	\$ 19,158.00	\$ 4,202.00	\$ 25,212.00	\$ 2,800.00	\$ 16,800.00
13	Cut and Cap Existing 8" Water Main	4	EA	\$ 750.00	\$ 3,000.00	\$ 635.00	\$ 2,540.00	\$ 2,575.00	\$ 10,300.00	\$ 718.78	\$ 2,875.12	\$ 700.00	\$ 2,800.00
14	Cut and Graft Existing Water Main	8	EA	\$ 350.00	\$ 2,800.00	\$ 1,000.00	\$ 8,000.00	\$ 2,575.00	\$ 20,600.00	\$ 362.61	\$ 2,901.04	\$ 650.00	\$ 5,200.00
15	2" Polyethylene Service Line	50	LF	\$ 17.50	\$ 875.00	\$ 11.10	\$ 555.00	\$ 30.90	\$ 1,545.00	\$ 26.88	\$ 1,344.00	\$ 30.00	\$ 1,500.00
16	1" Polyethylene Service Line	50	LF	\$ 15.00	\$ 750.00	\$ 10.00	\$ 500.00	\$ 25.75	\$ 1,287.50	\$ 25.43	\$ 1,271.50	\$ 28.00	\$ 1,400.00
17	2" Service Saddle	1	EA	\$ 250.00	\$ 250.00	\$ 235.00	\$ 235.00	\$ 824.00	\$ 824.00	\$ 1,450.54	\$ 1,450.54	\$ 700.00	\$ 700.00
18	1" Service Saddle	1	EA	\$ 225.00	\$ 225.00	\$ 230.00	\$ 230.00	\$ 772.50	\$ 772.50	\$ 1,309.88	\$ 1,309.88	\$ 700.00	\$ 700.00
19	2" Ball Valve	1	EA	\$ 325.00	\$ 325.00	\$ 217.25	\$ 217.25	\$ 556.20	\$ 556.20	\$ 338.35	\$ 338.35	\$ 400.00	\$ 400.00
20	1" Ball Valve	1	EA	\$ 275.00	\$ 275.00	\$ 92.00	\$ 92.00	\$ 391.40	\$ 391.40	\$ 257.78	\$ 257.78	\$ 400.00	\$ 400.00
21	2" Water Meter Yoke	1	EA	\$ 150.00	\$ 150.00	\$ 95.00	\$ 95.00	\$ 1,545.00	\$ 1,545.00	\$ 2,652.29	\$ 2,652.29	\$ 1,900.00	\$ 1,900.00
22	1" Water Meter Yoke	1	EA	\$ 125.00	\$ 125.00	\$ 185.00	\$ 185.00	\$ 772.50	\$ 772.50	\$ 775.80	\$ 775.80	\$ 300.00	\$ 300.00
23	3/4" Water Meter Yoke	1	EA	\$ 125.00	\$ 125.00	\$ 105.00	\$ 105.00	\$ 463.50	\$ 463.50	\$ 287.82	\$ 287.82	\$ 250.00	\$ 250.00
24	Water Meter Box	1	EA	\$ 125.00	\$ 125.00	\$ 165.00	\$ 165.00	\$ 463.50	\$ 463.50	\$ 401.32	\$ 401.32	\$ 200.00	\$ 200.00
25	Water Meter Lid	1	EA	\$ 100.00	\$ 100.00	\$ 62.50	\$ 62.50	\$ 123.60	\$ 123.60	\$ 283.72	\$ 283.72	\$ 60.00	\$ 60.00
26	Adjust Existing Meter Location	1	EA	\$ 200.00	\$ 200.00	\$ 101.75	\$ 101.75	\$ 1,545.00	\$ 1,545.00	\$ 755.31	\$ 755.31	\$ 1,000.00	\$ 1,000.00
27	Permanent ACHM Pavement Repair	883	SY	\$ 60.00	\$ 52,980.00	\$ 45.00	\$ 39,825.00	\$ 18.54	\$ 16,407.90	\$ 83.66	\$ 74,039.10	\$ 130.00	\$ 115,050.00
28	Permanent Concrete Pavement Repair	115	SY	\$ 70.00	\$ 8,050.00	\$ 50.00	\$ 5,750.00	\$ 35.02	\$ 4,027.30	\$ 69.23	\$ 7,961.45	\$ 150.00	\$ 17,250.00
29	Class 7 Backfill Under Pavement	208	CY	\$ 15.00	\$ 3,120.00	\$ 12.00	\$ 2,496.00	\$ 27.01	\$ 5,618.08	\$ 63.37	\$ 13,180.96	\$ 20.00	\$ 4,160.00
30	30" Bored Steel Encasement Pipe	70	LF	\$ 325.00	\$ 22,750.00	\$ 500.00	\$ 35,000.00	\$ 360.50	\$ 25,235.00	\$ 394.82	\$ 27,837.40	\$ 485.00	\$ 33,950.00
31	30" Steel Encasement Pipe Installed By Open Cut	370	LF	\$ 175.00	\$ 64,750.00	\$ 200.00	\$ 74,000.00	\$ 319.30	\$ 118,141.00	\$ 235.44	\$ 87,112.80	\$ 225.00	\$ 83,250.00
32	24" Steel Encasement Pipe Installed By Open Cut	125	LF	\$ 125.00	\$ 15,625.00	\$ 110.00	\$ 13,750.00	\$ 242.05	\$ 30,256.25	\$ 212.42	\$ 26,552.50	\$ 205.00	\$ 25,625.00
33	16" Bored Steel Encasement Pipe	25	LF	\$ 380.00	\$ 9,500.00	\$ 338.00	\$ 8,450.00	\$ 360.50	\$ 9,012.50	\$ 382.25	\$ 9,556.25	\$ 285.00	\$ 7,125.00
34	16" Steel Encasement Pipe Installed By Open Cut	405	LF	\$ 100.00	\$ 40,500.00	\$ 87.50	\$ 35,437.50	\$ 185.40	\$ 75,087.00	\$ 175.53	\$ 71,089.65	\$ 185.00	\$ 74,925.00
35	12" Steel Encasement Pipe Installed By Open Cut	105	LF	\$ 75.00	\$ 7,875.00	\$ 80.00	\$ 8,400.00	\$ 154.50	\$ 16,222.50	\$ 163.24	\$ 17,140.20	\$ 150.00	\$ 15,750.00
36	Concrete Encasement	175	CY	\$ 100.00	\$ 17,500.00	\$ 170.50	\$ 29,837.50	\$ 154.50	\$ 27,037.50	\$ 197.78	\$ 34,611.50	\$ 125.00	\$ 21,875.00
37	Embankment Over Water Main	1250	CY	\$ 10.00	\$ 12,500.00	\$ 10.50	\$ 13,125.00	\$ 15.45	\$ 19,312.50	\$ 11.21	\$ 14,012.50	\$ 24.00	\$ 30,000.00

CITY OF FAYETTEVILLE
GREGG AVENUE WATER SYSTEM IMPROVEMENTS PHASE II
BID VERIFICATION FOR BIDS RECEIVED ON APRIL 1, 2005, 2:00 P.M.

				ENGINEER'S ESTIMATE		C-2 PROJECTS		GN CONTRACTORS		MOBLEY CONTRACTORS, INC.		SWEETSER CONSTRUCTION, INC.	
ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
38	4" Concrete Sidewalk	77	SY	\$ 50.00	\$ 3,850.00	\$ 55.00	\$ 4,235.00	\$ 35.02	\$ 2,696.54	\$ 21.61	\$ 1,663.97	\$ 36.00	\$ 2,772.00
39	2" Concrete Curb and Gutter	15	LF	\$ 20.00	\$ 300.00	\$ 20.00	\$ 300.00	\$ 12.36	\$ 185.40	\$ 60.93	\$ 913.95	\$ 25.00	\$ 375.00
40	6" Concrete Curb	30	LF	\$ 10.00	\$ 300.00	\$ 18.00	\$ 540.00	\$ 15.45	\$ 463.50	\$ 33.19	\$ 995.70	\$ 25.00	\$ 750.00
41	Remove and Deliver existing Fire Hydrant	4	EA	\$ 250.00	\$ 1,000.00	\$ 250.00	\$ 1,000.00	\$ 772.50	\$ 3,090.00	\$ 775.00	\$ 3,100.00	\$ 500.00	\$ 2,000.00
42	Remove and Replace Existing Fence	30	LF	\$ 15.00	\$ 450.00	\$ 15.00	\$ 450.00	\$ 100.94	\$ 3,028.20	\$ 22.00	\$ 660.00	\$ 25.00	\$ 750.00
43	4" ID Manhole (0'-12" Deep)	2	EA	\$ 3,000.00	\$ 6,000.00	\$ 2,468.50	\$ 4,937.00	\$ 3,502.00	\$ 7,004.00	\$ 2,148.67	\$ 4,297.34	\$ 4,500.00	\$ 9,000.00
44	16" PVC SDR-21 Gravity Sewer (0'-12" Deep)	509	LF	\$ 85.00	\$ 43,265.00	\$ 86.50	\$ 44,028.50	\$ 60.77	\$ 30,931.93	\$ 74.16	\$ 37,747.44	\$ 90.00	\$ 45,810.00
45	Remove and Dispose of Existing Manhole	1	EA	\$ 1,500.00	\$ 1,500.00	\$ 1,075.00	\$ 1,075.00	\$ 1,236.00	\$ 1,236.00	\$ 459.38	\$ 459.38	\$ 1,000.00	\$ 1,000.00
46	Connect to Existing Manhole	1	EA	\$ 1,000.00	\$ 1,000.00	\$ 1,700.00	\$ 1,700.00	\$ 1,545.00	\$ 1,545.00	\$ 1,864.06	\$ 1,864.06	\$ 1,000.00	\$ 1,000.00
47	Mobilization	1	LS	\$ 60,000.00	\$ 60,000.00	\$ 65,000.00	\$ 65,000.00	\$ 7,725.00	\$ 7,725.00	\$ 21,312.50	\$ 21,312.50	\$ 3.45	\$ 3.45
48	Site Preparation	1	LS	\$ 50,000.00	\$ 50,000.00	\$ 23,500.00	\$ 23,500.00	\$ 29,870.00	\$ 29,870.00	\$ 125,064.06	\$ 125,064.06	\$ 9,000.00	\$ 9,000.00
49	Trench Excavation and Safety	1	LS	\$ 40,000.00	\$ 40,000.00	\$ 12,260.00	\$ 12,260.00	\$ 18,540.00	\$ 18,540.00	\$ 12,296.88	\$ 12,296.88	\$ 12,000.00	\$ 12,000.00
50	Maintenance of Traffic	1	LS	\$ 60,000.00	\$ 60,000.00	\$ 37,000.00	\$ 37,000.00	\$ 41,200.00	\$ 41,200.00	\$ 25,998.44	\$ 25,998.44	\$ 78,000.00	\$ 78,000.00
51	Erosion Control	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 8,500.00	\$ 8,500.00	\$ 16,480.00	\$ 16,480.00	\$ 9,173.44	\$ 9,173.44	\$ 46,750.00	\$ 46,750.00
				\$ 1,186,375.00		\$ 1,169,336.25		\$ 1,334,969.70		\$ 1,368,998.55		\$ 1,534,575.45	

Section 00500
AGREEMENT

BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2005 by and between the City of Fayetteville, Arkansas (hereinafter called **FAYETTEVILLE**) and C-2 Projects, LLC (hereinafter called **CONTRACTOR**).

FAYETTEVILLE and **CONTRACTOR**, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Gregg Avenue Water System Improvements – Phase II
City of Fayetteville, Arkansas

Article 2. ENGINEER.

The Project has been designed by:

Garver Engineers, LLC
1088 East Millsap Road
Fayetteville, AR 72703

who is hereinafter called **ENGINEER** and who is to act as **FAYETTEVILLE**'s representative, assume all duties and responsibilities, and have the rights and authority assigned to **ENGINEER** in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1. The Work shall be substantially completed within **150 consecutive calendar days** after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and fully completed and ready for final payment in accordance with paragraphs 14.07 B & C of the General Conditions within **180 consecutive calendar days** after the date when the Contract Time commences to run.

If delays in utility relocations by others impede the Contractor's progress for major Contract items and/or items critical to the prosecution of the work within the Contract Time, the Contract Time will be temporarily suspended or adjusted by the City as appropriate. During such periods, the Contractor will be allowed to work on minor Contract items, as approved by the City, without spending Contract Time.

3.2. *Liquidated Damages.* FAYETTEVILLE and CONTRACTOR recognize that time is of the essence of the Agreement and that FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, Fayetteville and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay FAYETTEVILLE **Five Hundred dollars (\$500.00)** for each day that expires after the time specified in paragraph 3.1 for substantial completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by FAYETTEVILLE, CONTRACTOR shall pay FAYETTEVILLE **Five Hundred dollars (\$500.00)** for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

FAYETTEVILLE agrees to pay, and the CONTRACTOR agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the prices bid in the Proposal which is hereto attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

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.

Article 5. PAYMENT PROCEDURES

5.1. *Progress Payments.* FAYETTEVILLE shall make periodic progress payments on the basis of Work completed as provided in paragraph 14.02 of the General Conditions and SC-14.02 of the Supplementary Conditions. Prior to Final Completion, progress payments will be made in an amount equal to the value of completed Work, plus the value of stored materials, less retainage, less the aggregate of payments previously made, and less such amounts as FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions:

Retainage: FAYETTEVILLE will retain ten percent of the value of completed Work until such time as 50 percent of the Work has been completed. If 50 percent of the Work has been completed, as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to FAYETTEVILLE, retainage will be

fixed at five percent of the Contract Price. FAYETTEVILLE reserves the right to reinstate retainage at ten percent if the character and progress of the Work become unsatisfactory to FAYETTEVILLE.

Stored Materials: FAYETTEVILLE will pay 100 percent of the value of materials and equipment not incorporated in the Work but delivered, suitably stored, insured, and accompanied by documentation satisfactory to FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.2 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.06 and 14.07.B & C of the General Conditions, FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce FAYETTEVILLE to enter into this Agreement CONTRACTOR makes the following representations:

6.1. CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work.

6.3. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4. CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. CONTRACTOR accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02 of the General Conditions.

CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that FAYETTEVILLE and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning

conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. CONTRACTOR is aware of the general nature of work to be performed by FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

6.7. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between FAYETTEVILLE and CONTRACTOR concerning the Work consist of the following:

- 7.1. This Agreement (pages 1 to 6, inclusive).
- 7.2. Performance and Payment Bonds, (Exhibit A).
- 7.3. Certificates of Insurance, (Exhibit B).
- 7.4. General Conditions (pages 1 to 40, inclusive).
- 7.5. Supplementary Conditions (pages 1 to 15, inclusive).
- 7.6. Specifications consisting of Sections as listed in Table of Contents herein.
- 7.7. Addenda numbers 1 to 2, inclusive.
- 7.8. Drawings (not attached hereto) consisting of a cover sheet and sheets numbered 1 through 21, inclusive with each sheet bearing the following general title:

**City of Fayetteville
Gregg Avenue Water System Improvements -- Phase II**

7.9. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

7.9.1. Notice to Proceed

7.9.2. All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 8. MISCELLANEOUS.

8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3. FAYETTEVILLE and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5 Freedom of Information Act: 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

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.

IN WITNESS WHEREOF, FAYETTEVILLE and CONTRACTOR have signed this Agreement in six (6) counterparts. One counterpart each has been delivered to FAYETTEVILLE and ENGINEER, and two counterparts have been delivered to CONTRACTOR. All portions of the Contract Documents have been signed, initialed, or identified by FAYETTEVILLE and CONTRACTOR or identified by ENGINEER on their behalf.

This Agreement will be effective on _____, 20__ (which is the Effective Date of the Agreement).

OWNER: City of Fayetteville

CONTRACTOR: C-2 PROJECTS, LLC

By: _____
Mayor

By: [Signature]

[Signature]
Title
no corporate seal
[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

Address for giving notices

Attest [Signature]

Address for giving notices

(If FAYETTEVILLE is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

License No. 0155810405

Agent for service of process:

(If CONTRACTOR is a corporation, attach evidence of authority to sign)

**City of Fayetteville, Arkansas
Budget Adjustment Form**

C. 7
C-2 Projects, LLC Construction Contract
Page 15 of 16

Budget Year 2005	Department: Water & Wastewater Division: Water & Sewer Maintenance Program: Capital Water Mains	Date Requested 5/3/2005	Adjustment Number
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Project or Item Added/Increased:
\$544,391 is requested for the Gragg Avenue Water System Improvement project.

Project or Item Deleted/Reduced:
None. Use of fund balance is proposed.

Justification of this Increase:
Cost has increased from the original budget due to an extended time frame.

Justification of this Decrease:
Sufficient funding remains to comply with City policies.

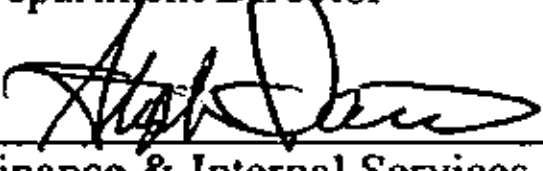
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Water line improvements	5400	5600	5808	00	544,391	02129	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	5400	0940	4999	99	544,391		

Approval Signatures

Requested By	Date
Budget Manager	Date
Department Director	Date
	4-15-05
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval	Initial	Date
Posted to General Ledger	Initial	Date
Posted to Project Accounting	Initial	Date
Entered in Category Log	Initial	Date

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

May 3, 2005

City Council Meeting Date

Sid Norbash, Staff Engineer
Submitted By

Engineering
Division

Operations
Department

Action Required:

Approval of the Construction Contract with C-2 Projects LLC in the amount of \$1,169,336.25 for Gregg Ave. Water System Improvements, also the project contingency in the amount of \$116,933 (10%), and the related budget adjustment in the amount of \$544,391.

\$1,286,269.00
Cost of this request
5400-5600-5808-00
Account Number
02129-20
Project Number

\$849,346
Category/Project Budget
\$107,468
Funds Used to Date
\$741,878
Remaining Balance

Gregg Ave. Water System Imprvts.
Project
Program Category / Project Name
Water System Improvements
Program / Project Category Name
Water & Sewer
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

Robert A. Davis 4/14/05
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

D. F. Whit 4/14/05
City Attorney

Argha Datta 4-15-05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 4-14-05

Ken Coody 4/19/05
Mayor Date

Received in Mayor's Office
ENTERED 4/14/05 P/A

Comments:

Agenda Session
4/26/05
Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
May 3, 2005**

A meeting of the Fayetteville City Council will be held on May 3, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Presentation by Downtown Partners – Agenda Session Only

Presentation by Martin Alexiou Bryson to give an update of the U of A Transportation Plan – Agenda Session Only

A. CONSENT:

1. **Approval of the Minutes:** Approval of the April 5, 2005 and the April 19, 2005 City Council meeting minutes.
2. **ADM 05-1481 (Sellers Road):** A resolution approving ADM 05-1481 amending the Master Street Plan, relocating the proposed Sellers Road, designated a minor arterial street, south to align with Woolsey Farm Road between 54th and Ruppel Road.
3. **ADM 05-1482 (Broyles Avenue):** A resolution approving ADM 05-1482 amending the Master Street Plan, realigning the proposed Broyles Road, designated a collector street, in the manner approved by the Planning Commission for Large Scale Development (LSD) 05-1385.
4. **DBE Program Participation Goals FY2005 Approval:** A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2005.

5. **Exterior Restoration of the Walker House:** A resolution approving the use of Building Improvement Funds for the exterior restoration of the Walker House in an amount not to exceed \$33,738.00; and authorizing City Staff to solicit bids for the project.

B. UNFINISHED BUSINESS:

1. **Amend Chapter 96: Noise Control:** An ordinance to add §96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake." *This ordinance was left on the first reading at the April 5, 2005 City Council Meeting. This ordinance was tabled at the April 19, 2005 City Council Meeting to the May 3, 2005 City Council Meeting.*
2. **RZN 05-1412 (Mountain Ranch/Terminella):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1412 for property located south of Future Persimmon Street containing approximately 21.05 acres from R-A, Residential Agricultural, to RSF-4, Residential Single Family, Four Units Per Acre. *This ordinance was left on the second reading at the April 19, 2005 City Council Meeting.*

C. NEW BUSINESS:

1. **Amend §96.5 Motor Vehicle and Motorcycle Sound Limit:** An ordinance to amend §96.05 Motor Vehicle and Motorcycle Sound Limit of the Code of Fayetteville.
2. **Madison Avenue Street Connection:** A resolution approving the dedication of a 40-foot wide portion of City property as right-of-way to allow a street connection to Madison Avenue by the developer of the Hays Estates Subdivision.
3. **Planning Commission Appeal:** A request to appeal the Planning Commission's motion to deny a waiver for the construction of a dead-end street greater than 500' length should the City Council deny the request for dedication of a City property to the north of the subject property for a 40-foot wide right-of-way and construction of a City Street
4. **RZN 05-1480 (Bill Eddy Motorsports):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1480 for property located at 1205 North Futrall Drive containing approximately 2.00 acres from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial.
5. **Environmental Enterprise Group, Inc. Contract:** An ordinance to waive normal competitive bidding and to award a contract in the amount of \$30,855.00 to Environmental Enterprise Group, Inc. for remediation, Demolition Project Management, and Air Monitoring.
6. **Demolition Contract Approval:** A resolution to approve a contract with _____ in the amount of \$ _____ for the demolition of the Mountain Inn Building, Courts Building, former Niblock Law Office and Red Bird Café as part of the Project Plan for the Highway 71 East Square Redevelopment District. Bids will open on April 25, 2005.

~~Shil-
map-124
16~~
Park Board
Meeting
Minutes.

7. **C-2 Projects, LLC Construction Contract:** A resolution approving a construction contract with C-2 Projects, LLC in the amount of \$1,169,336.25 for the Gregg Avenue Water System Improvements; approving a 10% Project Contingency in the amount of \$116,933.00; and approving a Budget Adjustment in the amount of \$544,391.00 for same.

D. INFORMATIONAL:

Council Tour: May 2, 2005 – 4:30 pm

Add: Black & Veatch New Business
Drug Law Enforcement Grant Consent
Van Scoyoc Associates Consent

Add: Old Business Motion
to reconsider RZN-05-1409
SBC

5. **Environmental Enterprise Group, Inc. Contract:** An ordinance to waive normal competitive bidding and to award a contract in the amount of \$30,855.00 to Environmental Enterprise Group, Inc. for remediation, Demolition Project Management, and Air Monitoring.
6. **Mountain Inn Demolition Contract:** A resolution to approve a contract with Jimmy Patton Contractor Company in the amount of \$688,137.95 for the demolition of the Mountain Inn Building, Courts Building, former Niblock Law Office and the Red Bird Café as part of the Project Plan for the Highway 71 East Square Redevelopment District.
7. **C-2 Projects, LLC Construction Contract:** A resolution approving a construction contract with C-2 Projects, LLC in the amount of \$1,169,336.25 for the Gregg Avenue Water System Improvements; approving a 10% Project Contingency in the amount of \$116,933.00; and approving a Budget Adjustment in the amount of \$544,391.00 for same.
8. **Black & Veatch Amendment No.1 Noland Wastewater Treatment Plant:** A resolution to approve Amendment No. 1 to the agreement for professional services with Black & Veatch Corporation to provide construction and post construction services for the Noland Wastewater Treatment Plant in a not to exceed amount of \$1,478,000.00.

Email
D. INFORMATIONAL:

May 2, 2005 Council Tour: 4:30 PM

May 2, 2005 Fire Station 7 Ribbon Cutting: 5:00 PM

*May 28th
 Ward 3 Cleanup.*

*Brian Pugh about clean-ups
 Ward and Sport Creek
 and cleanup.*

*Room 11
 Ward 4 Meeting 7:00
 May 16th at*

*Agenda
 Special
 City Council
 Meeting 5:30
 May 10th*

*Water & Sewer Meeting
 Monday May 9th
 Room 11 at
 5:00*

*May 10th
 Street Committee
 meeting after*

Special City Council Meeting

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
May 3, 2005**

A meeting of the Fayetteville City Council will be held on May 3, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Presentation given by Downtown Partners – Agenda Session Only

Presentation given by MAB to give an update of the U of A Transportation Plan – Agenda Session Only

A. CONSENT:

- 1. Approval of the Minutes:** Approval of the April 5, 2005 and the April 19, 2005 City Council meeting minutes.
- 2. ADM 05-1481 (Sellers Road):** A resolution approving ADM 05-1481 amending the Master Street Plan, relocating the proposed Sellers Road, designated a minor arterial street, south to align with Woolsey Farm Road between 54th and Ruppel Road.
- 3. ADM 05-1482 (Broyles Avenue):** A resolution approving ADM 05-1482 amending the Master Street Plan, realigning the proposed Broyles Road, designated a collector street, in the manner approved by the Planning Commission for Large Scale Development (LSD) 05-1385.
- 4. DBE Program Participation Goals FY2005 Approval:** A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2005.

5. **Exterior Restoration of the Walker House:** A resolution approving the use of Building Improvement Funds for the exterior restoration of the Walker House in an amount not to exceed \$33,738.00; and authorizing City Staff to solicit bids for the project.

B. UNFINISHED BUSINESS:

1. **Amend Chapter 96: Noise Control:** An ordinance to add §96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake." *This ordinance was left on the first reading at the April 5, 2005 City Council Meeting. This ordinance was tabled at the April 19, 2005 City Council Meeting to the May 3, 2005 City Council Meeting.*
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C. NEW BUSINESS:

- ✓ 1. **Amend §96.5 Motor Vehicle and Motorcycle Sound Limit:** An ordinance to amend §96.05 Motor Vehicle and Motorcycle Sound Limit of the Code of Fayetteville.
- ✓ 2. **Madison Avenue Street Connection:** A resolution approving the dedication of a 40-foot wide portion of City property as right-of-way to allow a street connection to Madison Avenue by the developer of the Hays Estates Subdivision.
- ✓ 3. **Planning Commission Appeal:** A request to appeal the Planning Commission's motion to deny a waiver for the construction of a dead-end street greater than 500' length should the City Council deny the request for dedication of a City property to the north of the subject property for a 40-foot wide right-of-way and construction of a City Street
- ✓ 4. **RZN 05-1480 (Bill Eddy Motorsports):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1480 for property located at 1205 North Futrall Drive containing approximately 2.00 acres from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial.
- ✓ 5. **Environmental Enterprise Group, Inc. Contract:** An ordinance to waive normal competitive bidding and to award a contract in the amount of \$30,855.00 to Environmental Enterprise Group, Inc. for remediation, Demolition Project Management, and Air Monitoring.
- ✓ 6. **Demolition Contract Approval:** A resolution to approve a contract with _____ in the amount of \$ _____ for the demolition of the Mountain Inn Building, Courts Building, former Niblock Law Office and Red Bird Café as part of the Project Plan for the Highway 71 East Square Redevelopment District.

(Bids will open on April 25, 2005)

7. **C-2 Projects, LLC Construction Contract:** A resolution approving a construction contract with C-2 Projects, LLC in the amount of \$1,169,336.25 for the Gregg Avenue Water System Improvements; approving a 10% Project Contingency in the amount of \$116,933.00; and approving a Budget Adjustment in the amount of \$544,391.00 for same.

~~8. **Black and Veatch Contract Amendment:** Bob Davis sent back, no memo.~~

D. INFORMATIONAL:

Council Tour: May 2, 2005 – 4:30 pm

Presentation

From: Kevin Santos <ksantos@uafphpl.uark.edu>
To: Tim Conklin <tconklin@ci.fayetteville.ar.us>
Date: 4/20/05 2:07PM
Subject: Re: MM: City Council Agenda Session (tentative)

Tim,

Yes, we'd like to be an information item during (before? at the start of?) Agenda Session on April 26. George and Mike want 15 minutes to mostly talk about the deck feasibility, which is the document that Jay took 10 or 11 copies of to Brent in Engineering yesterday. George and Mike will be prepared to answer questions about all aspects of the campus transportation plan. Well, the parts that we already have studied. We'll also have the wayfinding consultant in tow, and he may say a brief word or two about his role and intentions.

We just want to keep communication open, and let the City know that you are getting something in return for the money you contributed toward the deck feasibility study.

Thanks,
Kevin

At 01:51 PM 4/20/2005, you wrote:

>Kevin -- Do you still want to be on this agenda. What will MAB be talking
>about? The Parking Study the was sent over yesterday? Harmon
>Ave? Arkansas? Thanks.

>

>Tim Conklin, AICP
>Director of Community Planning & Engineering Services
>City of Fayetteville
>113 West Mountain Street
>Fayetteville, AR 72701

>

>Phone: 479-575-8267
>Fax: 479-575-8202

>

>planning@ci.fayetteville.ar.us

>

> >>> "Kevin E. Santos" <ksantos@uark.edu> 04/14/05 10:55AM >>>

>Meeting Invitation from Kevin E. Santos

>

>Title: City Council Agenda Session (tentative)

>Location: City Hall 319

>Time Zone: USA Central (USA)

>Date: Tuesday, April 26, 2005

>Time: 4:30 PM to 5:30 PM

>Guests: George Alexiou, Tim Conklin, Jay Huneycutt, Michael Ray

>Johnson, Kevin E. Santos, Brian Wert

>

>This notification generated by Meeting Maker (R)

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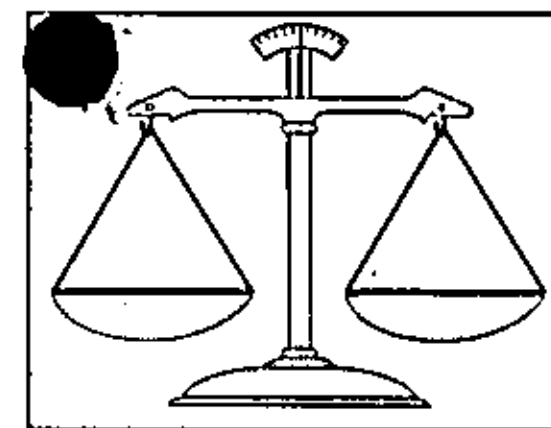
CC: Mike Johnson <mjohnson@uafphpl.uark.edu>, <hjhuney@uark.edu>, "Ron Petrie" <Rpetrie@ci.fayetteville.ar.us>, Jill Anthes <janthes@uark.edu>, Gary Smith <garys@uark.edu>, <georgealexiou@mabtrans.com>, <jherrick@cloudehshan.com>

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

A handwritten signature in black ink, appearing to read 'Kit Williams', with a long horizontal flourish extending to the right.

DATE: **March 16, 2005**

RE: **Passed Resolutions and Ordinances from City Council meeting of May 3, 2005**

The following Resolutions and Ordinances were passed at last night's regular City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **ADM 05-1481:** Resolution approving amending to Master street Plan, relocating proposed Sellers Road, Designated a minor arterial street, south to align with Woolsey Farm Road between 54th and Ruppel Road;

2. **ADM 05-1482:** Resolution approving amendment to Master Street Plan, realigning proposed Broyles Road, designated a collector street, in the manner approved by Planning Commission for LSD 05-1385;

3. **DBE Program Participation Goals:** Resolution accepting and approving updated Fayetteville Municipal Airport Disadvantaged Business Enterprise Program Participation Goals for FY2005;

4. **Exterior Restoration of Walker House:** Resolution approving use of Building Improvement Funds for exterior restoration of Walker House in amount not to exceed \$33,738.00 and authorizing City Staff to solicit bids for project;

5. **Law Enforcement Drug Grant:** Resolution approving grant application for 2005-2005 Drug Enforcement Grant and to approve budget adjustment of \$51,709.00 to offset reduction in grant;

6. **Van Scoyoc Assoc. Consulting Services:** Resolution approving Memorandum of Agreement w/Van Scoyoc Assoc. in amount of \$85,000.00 to provide consulting legislative services in amount of \$75,000.00 plus expenses up to \$10,000.00;

7. **RZN 05-1412:** Ordinance rezoning that property described in rezoning petition for property located south of future Persimmon Street containing approximately 21.05 acres from R-A, Residential Agricultural, to RSF-4, Residential Single Family, Four Units Per Acre;

8. **RZN 05-1409:** Ordinance rezoning property described in rezoning petition for property located at 1841 Leverett Avenue containing approximately 1.43 acres from RSF-4, Residential Single Family, Four Units Per Acre, to RMF-24, Residential Multi-Family – 24 Units Per Acre;

9. **Madison Avenue Street Connection:** Resolution approving dedication of 40-foot wide portion of City property as right-of-way to allow street connection to Madison Avenue by the developer of the Hays Estates Subdivision;

10. **RZN 05-1480:** Ordinance rezoning property described in rezoning petition for property located at 1205 N. Futrall Drive containing approximately 2.00 acres from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial;

11. **EEG, Inc. Contract:** Ordinance waiving normal competitive bidding and awarding contract in amount of \$30,855.00 to Environmental Enterprise Group, Inc. for remediation, Demolition Project Management, and Air Monitoring;

12. **Mountain Inn Demolition Contract:** Resolution approving contract w/Jimmy Patton Contractor Company in amount of \$688,137.95 plus project contingency fund of \$74,615.00 for demolition of Mountain Inn Building, Courts Building, former Niblock Law Office and Red Bird Café as part of Project Plan for Highway 71 East Square Redevelopment District; and \$27,155.00 for lab testing, water, sewer and utility work;

13. **C-2 Projects, LLC:** Resolution approving construction contract w/C-2 Projects, LLC in amount of \$1,169,336.25 for Gregg Avenue Water System Improvements; approving 10% project contingency in amount of \$116,933.00 and approving budget adjustment in amount of \$544,391.00 for same;

14. **VAC 05-1455:** Ordinance approving VAC 05-1455 submitted by Buckley Blew fore property located at 3187 E. Waterstone Drive, vacating utility easement as indicated on attached map and legal description;

15. **Condemnation of Lands owned by Feasibility Studies, Inc.:** Resolution authorizing City Attorney to seek condemnation and possession of certain lands owned by Feasibility Studies, Inc.

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City Council
Meeting Minutes
April 5, 2005**

A meeting of the Fayetteville City Council was held on April 5, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Lioneld Jordan called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Mayor Coody was absent

**Alderman Ferrell was absent until 6:02 PM
Alderman Rhoads was absent until 6:35 PM**

Pledge of Allegiance

Nominating Committee Report – Public Library Board of Trustees

Alderman Cook: I forgot to add one name at the last meeting. Louis Gottsponer, we are reappointing him for another term.

Alderman Cook moved to approve the Nominating Committee Report. Alderman Marr seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads and Ferrell were absent during the vote.

CONSENT:

Approval of the Minutes: Approval of the March 15, 2005 City Council meeting minutes.

The minutes were pulled from the Consent and will be added at the next City Council meeting.

Skid Steer Loader Purchase: A resolution authorizing the use of funds budgeted in the 2005 In-House Pavement Improvements Project for the purchase of one (1) Skid Steer Loader with a Hydraulic Breaker Attachment, a 24" Hi-Flo Planer Attachment, and a Forklift Attachment in the amount of \$48,012.41 for use by the Transportation Division.

Resolution 60-05 as Recorded in the Office of the City Clerk.

SBC Web Hosting Contract: A resolution to approve a web hosting contract with Southwestern Bell Communications, Inc. in the amount of \$14,100.00 plus \$2,820.00 contingency, plus tax annually for five years.

Resolution 61-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Contract Renewal: A resolution to agree to extend for one year the existing contract with McClelland Consulting Engineers, Inc. pursuant to its option to renew provision.

Resolution 62-05 as Recorded in the Office of the City Clerk.

Off Street Parking Development District No. 1 Lease Agreement: A resolution approving a one-year lease agreement with Off-Street Parking Development District No: 1 for the City of Fayetteville to operate certain off-street parking lots.

Resolution 63-05 as Recorded in the Office of the City Clerk.

Home Rehabilitation Contract: A resolution to approve a contract between Erin Jenkins and Randy Evans for the rehabilitation on Erin Jenkins' home using Community Development Block Grant Funds in the amount of \$24,070.00 with a contingency of \$1,000.00.

Resolution 64-05 as Recorded in the Office of the City Clerk.

Design Workshop, Inc. Contract: A resolution to approve a contract with Design Workshop, Inc. in the amount of \$32,550.00 plus reimbursables not to exceed \$6,000.00 and to approve a Budget Adjustment of \$40,000.00.

Resolution 65-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Task Order # 5: A resolution to approve Task Order #5 to the contract with McClelland Consulting Engineers, Inc. in the amount of \$122,742.00 to produce an Airport Master Plan and to approve applications for grant funding from the FAA and Arkansas Department of Aeronautics to pay for this project, and to approve a budget adjustment of \$122,750.00.

Resolution 66-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Task Order # 6: A resolution to approve Task Order #6 to a contract with McClelland Consulting Engineers, Inc. in the amount of \$99,850.00 to design and oversee the construction of a new west side general aviation apron and sewer line replacement, and to approve applications for funding from the FAA and Arkansas Department of Aeronautics to pay for this project, and to approve a budget adjustment of \$1,079,316.00.

Resolution 67-05 as Recorded in the Office of the City Clerk.

Community Development Block Grant Agreement: A resolution to approve the 2005 Community Development Block Grant Action Plan and the 2005 Funding Approval/Agreement and to authorize Mayor Coody to sign this Funding Approval/Agreement.

Resolution 68-05 as Recorded in the Office of the City Clerk.

Sondra Smith, City Clerk asked that the March 15, 2005 City Council minutes be pulled from the agenda.

Alderman Reynolds moved to approve the Consent Agenda with the minutes pulled. **Alderman Marr** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent during the vote.

UNFINISHED BUSINESS:

ANX 05-1365 (Wilkins): An ordinance annexing that property described in annexation petition ANX 05-1365 annexing to the City of Fayetteville, Arkansas, certain property located east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres. *This item was left on the second reading at the March 15, 2005 City Council Meeting.*

Alderman Ferrell moved to suspend the rules and go to the third and final reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent during the vote.

Mr. Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. **Alderman Ferrell, Lucas, Jordan, Reynolds, Thiel and Marr** voting yes. **Alderman Cook** voting no. **Alderman Rhoads** was absent during the vote.

Ordinance 4688 as Recorded in the Office of the City Clerk

RZN 05-1366 (Wilkins): An ordinance rezoning that property described in rezoning petition RZN 05-1366 for property east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. *This item was left on the second reading at the March 15, 2005 City Council Meeting.*

Alderman Lucas moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

Mr. Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent during the vote.

Ordinance 4689 as Recorded in the Office of the City Clerk

ANX 05-1370 (Hall): An ordinance annexing that property described in annexation petition ANX 05-1370 annexing to the City of Fayetteville, Arkansas, certain property located at 2577, 2216, 2844, 2822 Dead Horse Mountain Road, containing approximately 235.38 acres. *This item was left on the second reading at the March 15, 2005 City Council Meeting.*

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

Mr. Williams read the ordinance.

Alderman Thiel: This is a peninsula. I realize this is an issue that concerns all of us that we are continuing to annex property into the city without having a master plan. I am concerned about these projects that are being done outside the city limits that aren't necessarily building streets to our standards and are utilizing septic tanks rather sewer.

On this particular project I have reviewed some of the Planning Commissioner's comments that were in the minutes and one commissioner stated that within our 2020 Plan we have stated that we need to annex environmentally sensitive areas. I think I support this for that reason alone. It is along the river and I certainly would not want to see this land developed, as it could be if it was not in the city limits, on septic tanks going directly into that creek. I do support this annexation for those reasons.

Alderman Marr: I would like for the city attorney to relate the key findings of fact as it relates to an annexation. Some of my concerns are zoning related and others may be appropriate here. As I was reading the staff report it appeared that it is as follows: consistent with land use plans, impact on public service, not creating islands, infrastructure and utilities and financial impact. Can you let me know what findings I should be looking at as I determine my vote?

Kit Williams: I think you have stated many of the ones that should be looked at that were included in the staff report. I will note that these particular findings are all self imposed by the City Council. Under state law you pretty much have unbridled discretion about whether you want to annex a piece of property or not. To guide yourselves you then adopted an annexation policy about islands and the other findings that you spoke about. I don't think it really detracts from your overall power as City Council members to basically make the determination whether you want this property within the city. The 2020 Plan is a guide it is not a requirement.

Alderman Marr: The staff report talks about that the staff actually advised the applicant on more than one occasion to approach land owners within the surrounding area to incorporate the land so that the entire group could be brought into the city limits at one time. The original request was not creating an island but we chose to do that. Could you speak to why the staff encouraged them to bring in more property that actually created islands?

Jeremy Pate: The original property that was requested is essentially the property that we are looking at for the rezoning application which is following this. Technically I don't believe that with certain technicalities it would create islands, it would create almost entirely surrounded unincorporated pieces of property. The floodplain and floodway to the west of what we are looking at in the following rezoning request would not have been incorporated within that original request. Staff felt it was important to go ahead and incorporate this so that with future development on this property we would see this within the city limits as opposed to that property never being brought into the city limits and not being a part of our jurisdiction to look for floodplain development permits, etc.

Alderman Marr: When we have other boundary lines in the city that may not be the most appropriately drawn lines, to get it cleaner, we might look at annexing those. Why are we doing it at the time that someone is bringing an item through as opposed to doing that or having the same conservation with any other boundary line that might be inappropriate?

Jeremy Pate: A property owner that comes to us that is adjacent to the city limits by state law is allowed to request annexation. As Mr. Williams mentioned it is entirely discretionary for the City Council. There are islands that the city can involuntarily annex; properties though just to clean up boundaries outside those islands are not applicable in that involuntary annexation. I don't believe that is an option under state law. Those properties that are almost completely surrounded are typically problem areas because if they are in fast developing areas on septic systems then staff would typically recommend that they connect to sewer that is directly adjacent to that property and develop to city standards as opposed to county standards.

Alderman Marr: In your staff report you also say the staff does not intend to establish a pattern of recommending annexations that create islands.

Jeremy Pate: That is correct.

Alderman Marr: We have in this case. Is it still true that there are some property owners within this that if this passes you will then move forward with annexing those remaining pieces so that we don't have any islands remaining?

Jeremy Pate: That is correct. I believe to my knowledge that there are two property owners specifically that would prefer to stay in the county that are within the nine property owners from which this application comes. There are approximately three to four property owners that are undecided, they remain neutral or my state law cannot come in with this request because they are not immediately adjacent to city limits. The remaining property others would like to come into the city limits immediately. Staff's recommendation is two pronged; we are recommending approval of this annexation and would immediately follow it up with the island annexations.

Alderman Marr: Are you concerned at all that we are creating any kind of precedence by creating an island and then turning around and annexing it because it is now completely surrounded by city property?

Jeremy Pate: I understand that is a concern and that is precisely why I stated that to the applicant in public several times. As with any of these requests it is not necessarily precedence setting, it is entirely discretionary. Our recommendation is based on the fact that incorporating this entire area both the islands that are being created now and the subject request that it is important for that to be incorporated as part of the city limits with reference to our guiding policies. We have to base these recommendations on sound planning principles and staff feels this is a sound planning decision to annex this property at this time.

Alderman Marr: Your infrastructure assessment as it relates to the Police Department and their letter. This talks about the fact that this annexation will not substantially alter the population density. It will increase our response time for service calls in the area. Their letter later states that the sum total presented over the years however has a substantial impact on the demand of police services and caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel there may be a lack of traffic enforcement, an experience of situations where officers are delayed in answering calls for service and the call volume exceeds the number of officers available in a timely manner. That seems contradictory to me. It seems that in the report we are saying there is no issue but as we saw during the budget process this year we had that almost verbatim statement from police reports on these annexations the entire year and then we get a request for 20 plus officers. The feedback is that it is based on the size of our city and the increase in services that we are doing. Did you talk to them about that?

Jeremy Pate: I would defer to the Police Department to answer to their letter. They also stated in their report that they recommend specific improvements that would help improve that response time. Our findings also are based on the fact that we do travel outside the county and then go back into the city service area. One of the requests tonight is to rezone a portion of that property to RSF-4 which would then be developed so the response time in net time is not really increased. Obviously the amount of increased dwelling units would likely increase the number of calls thereby increasing the response time.

Alderman Marr: The Fire Department service delivery impact if I am reading it correctly once we are looking at a certain number of units they are projecting 114 projected cost for service at a maximum build out so if this subdivision built to the 500 units they would expect 114 calls per year?

Jeremy Pate: I believe that is correct.

Alderman Marr: And 45 of those would be fire service calls and 69 would be EMS calls?

Jeremy Pate: 45 would be projected fire and other calls; I am assuming that is also police calls and any other emergency services. EMS calls would be 69 at maximum build out 4 units per acre.

Alderman Marr: I guess I am trying to be sold on when we say there is no impact because we are already driving outside the city. There is a big difference if we are going to have 114 new calls.

Chris Bosch, Fire Chief: We have a computer software program that allows us to calculate the number of calls for service anticipated based on population. This is a computer generated number that estimates at complete build out that we will see about 114 calls for service a year.

Alderman Marr: Does that include any police response.

Chris Bosch: No that is just fire.

Captain Brown, Police Department: I don't have a software program that we can use to predict the number of calls for a maximum build out on a zoning. A single family residence by industry standard will generate 10 automobile trips per day. It will add a little bit to the traffic congestion and the fact that it is on the edge of the city we very well could see a longer response time to those areas.

Alderman Marr: We approve a budget based on the total services, one of the items that is a finding of fact is the financial impact of annexations to our city. In every annexation that we have received since I have been sitting up here we don't do one. The only way we have to assess that is to look at your service, your increased head count, the cost for us to provide sewer to an area, cost shares and things of that nature. Where are we on the year? I know you looked at it individually because the first sentence says it is no impact. Then your last paragraph says that when you add all these up we need more people.

Captain Brown: The sum total of all of these annexations over the years is going to have an impact on our response time, our coverage area, the number of times that they are going to see an officer out patrolling an area; it is going to make our beats bigger. It is going to have an impact on us.

Alderman Marr: How far behind from your perspective are we today with what we have already approved on head count for the Police Department?

Captain Brown: I don't know that I could make a statement on where we are at exactly.

Alderman Marr: How short did we fund what you asked for?

Captain Brown: Those approved positions I can tell you where all those are existing right now.

Alderman Marr: Thank you.

Alderman Cook: Don hit on exactly my issue with annexations. We had an annexation committee last summer that discussed the physical impact of annexations. We struggled with that because it was hard to measure the physical impact. You would think that with the growth that Fayetteville is experiencing we would be flush with cash but it seems like we are stretched for cash right now. We have to catch up cost within the city and we are barely hitting that because we are behind in some areas of city services. We have maintenance and strategic cost. To me Fayetteville should be better and not bigger. A lot of people argue that we already provide services in these areas, some of that is true, we use the utility model and we collect money for some of those services. To me annexing the property I don't see how it is really going to benefit the city. We don't collect property taxes that much within the city, we survive on sales tax. A lot of these people already buy their goods in Fayetteville, so we already see the revenue

from the people in the county. The discussion that we need for them to follow our rules and regulations for proper development, the city is not the savior to the county. We can't keep stretching ourselves to the point that one of these days we are going to wake up and think what are we doing.

Alderman Ferrell: My experience has been unless the area directly abuts the city limits you do not see the patrols like you do up against the city limit area especially if it is at the edge of a rural part of the city limits. If there is an island the city can force annex it but if there is not an island if those people elect not to come into the city as property owners, that is their right.

Jeremy Pate: Property owners that are not surrounded?

Alderman Ferrell: Yes

Jeremy Pate: That is correct.

Alderman Marr: We are creating this island if we pass this.

Alderman Ferrell: We are in a catch 22, we want to export to the neighboring areas our regulations but we don't necessarily want to bring them in sometimes.

Alderman Reynolds: I support this because I don't want this developed with septic tanks on the river.

Alderman Lucas: This is a peninsula that is partially surrounded by city property. The fire and police now have to go out of the city and then go back into the city to take care of citizens down the road. That creates a problem for our services too. I think it is important to protect the wetlands and our river. I don't want to see a septic system put in out there either.

Alderman Jordan: I would like to see this development come in at city standards so the city will have control with the type of development there. Chief Bosch how would you rate a 7 minute respond time?

Chief Bosch: That is about 2 minutes greater than our average. It is livable but not good. We can hope that once we get Station 3 in at the Tyson project it should reduce that response time somewhat.

Alderman Reynolds: We will have Station 3 up and running before this development gets built.

Chief Bosch: I would hope so, yes. We anticipate having Station 3 completed within the next year and a half.

Alderman Marr: When an Alderman makes a statement that this is an annexation to develop to city standards, it is a compelling argument to me. This RSF-4 that is a companion is that the only zoning this land can be if it is annexed? Did the city staff look at any zoning that was less than four units per acre for this property?

Jeremy Pate: There was not a request less than four units per acre for this property.

Alderman Marr: The Planning Commission voted 7-2 for the annexation but 5-4 for the zoning.

Jeremy Pate: That is correct. Planning staff is putting together the physical impact to the city on annexations and what type of growth pays for itself and what types do not and how those can be better balanced.

Mel Milholland, Milholland Engineering gave a brief description of the property in this annexation and the surrounding property. He stated total build out of this subdivision will be about three years. All surrounding property owners were contacted. He requested the Council to look positive on this tonight.

Nancy Allen, Planning Commission stated she was there to hear the City Council's advice on this annexation. If this is an exception why is it an exception?

Alderman Thiel: I think in this case the fact that it is a peninsula largely surrounded by city property I think that does make it rather unique. Speaking for our policy about annexation I don't think we really have an adopted policy. I think in this case I would support this more than land lying totally outside of our boundary. I am concerned about it being built to standards below city standards and being surrounded by city property. I think that is even more of a concern. I think the improvements they will make to the shared road will benefit everyone that lives outside of this area.

Alderman Marr: I think this Council does not agree. The most compelling argument is the environmental argument and the septic tanks on the waterway. I don't think we should be creating islands that turn around and give us the technicality to bring everything in around it. That is my personal view of it. We all weigh it differently.

Jeannie Hall, property owner gave a description of the surrounding property that is farther out than her property but that is city property. She stated she intends to sell a portion of this land for development. She stated that it makes good sense to her that this is brought in under the city umbrella.

Mel Milholland: There maybe one of the islands that may be against the annexation of this property.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Rhoads, Ferrell, Lucas, Jordan, Reynolds and Thiel voting yes. Alderman Cook and Marr voting no.

Ordinance 4690 as Recorded in the Office of the City Clerk

RZN 05-1371 (Hall): An ordinance rezoning that property described in rezoning petition RZN 05-1371 for property located at 2577 Dead Horse Mountain Road, containing approximately 125.179 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. *This item was left on the second reading at the March 15, 2005 City Council Meeting.*

Alderman Reynolds moved to suspend the rules and go to the third and final reading. **Alderman Cook** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent during the vote.

Mr. Williams read the ordinance.

Mel Milholland showed the City Council on a map the area to be rezoned, the flood plain and the proposed park land. He also went over the proposed zoning.

Alderman Marr asked about the improvements that will be done on this particular property.

Jeremy Pate: We would look at all site improvements as a portion of this developer's responsibility based upon this developments impact on the infrastructure. That includes for this development sewer extension under the river to allow for a sewer line for this area. It will also include improvements along Dead Horse Mountain Road and the intersection. Even more prevalent is the bridge. All the property developed in this area would be assessed an amount per lot for bridge impact for that area in the future to replace that bridge.

Alderman Marr: How many other developments are in this assessment area that you are talking about or is this the only one going on at this time in terms of bridge renovation?

Jeremy Pate: There are several concept diagrams that we have seen. There is one I believe in process along the golf course. We have seen concept sketches in just about every section of this proposed area with exception of the Combs property and south of the potential area which is all county property. There are two means of access Black Oak Road and Stonebridge.

Jeremy showed the Council on the map the points of access to this property.

Alderman Jordan: Does the bridge on Dead Horse Mountain Road ever become impassable?

Jeremy Pate: I am not sure, I believe in the floods of last year there were times when it was impassable.

A discussion followed on emergency access if the bridge becomes impassable and the increase in response time.

Alderman Marr: If this zoning was RSF-2, based upon the build out requirements what would be the number of lots anticipated compared to this RSF-4. If this RSF-4 is building out at 2.9 or 2.6 what does RSF-2 build out to?

Jeremy Pate: It is likely it would develop closer to the actual 2 dwelling units per acre density because the same infrastructure improvements would serve a lesser number of lots. I would assume it would be more like 1.8 or 1.9. We have not seen a lot of developments develop at that actual density.

Alderman Marr: Have you ever recommended an RSF-2, something other than RSF-4?

Jeremy Pate: We have one that will come before you at the next meeting.

Alderman Jordan: If a fee is going to be accessed to build the bridge, how long do you think it will be before the bridge is constructed and how long do you think it will be before a light is put in at Highway 16?

Jeremy Pate: The light in part would depend upon the State Highway Department and their evaluation of that condition. I don't anticipate the full cost could be recovered before the bridge would have to be replaced.

Alderman Reynolds: This will be a development for affordable housing. We need to support people that need affordable housing.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Rhoads, Ferrell, Lucas, Reynolds and Thiel voting yes. Alderman Jordan, Cook and Marr voting no.

Ordinance 4691 as Recorded in the Office of the City Clerk

RZN 05-1378 (Goff/Hall): An ordinance rezoning that property described in rezoning petition RZN 05-1378 for property located at the south side of Highway 16 East and west of Dead Horse Mountain Road, containing approximately 15.12 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. *This item was left on the second reading at the March 15, 2005 City Council Meeting.*

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Thiel: How is this being built out? The other one was 2.8 lots per acre.

Mel Milholland: This is already in the city limits we are only asking for a rezoning. Those are the larger lots that we are planning on doing so the yield is a little less than the 2.8 lots per acre.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Rhoads, Ferrell, Lucas, Reynolds and Thiel voting yes. Alderman Jordan, Cook and Marr voting no.

Ordinance 4692 as Recorded in the Office of the City Clerk

NEW BUSINESS:

Amend Chapter 96: Noise Control: An ordinance to add §96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake."

Mr. Williams read the ordinance.

Alderman Thiel: Obviously this is not a wide spread problem. She stated the portion of the noise ordinance that relates to transient noise may need to be addressed if we don't do this. She spoke of the decimal levels that were registered during the test the Police Department conducted. She stated the real concern is trying to find a way the police can deal with this problem. I would prefer that we leave this on the first or second reading. At least until the mayor returns because he has some concerns about this as well.

Alderman Reynolds: I have had some calls in favor of this ordinance. I talked to two insurance agencies and they said if we took the Jake brakes away from these trucks we would have a hazard in the city and they were not for it. We can not compare our city to Springdale. They are mostly flat and we have more hills.

Alderman Ferrell stated he could not support this. He stated that at agenda session MR. Bragg Director of Fleet Operations for the City of Fayetteville stated Jake brakes enhances braking opportunities. Officer Yates of the Fayetteville Police Department stated there was a truck not using his Jake brake and he had smoke visibly pouring off the brakes at the bottom of the hill on Highway 265. I live a block off of Highway 265 and I have not received a single call.

This Ordinance was left on the First Reading.

Waive Provisions of §97.070, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson: An ordinance to waive various provisions of §97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2006.

Mr. Williams read the ordinance.

Alderman Marr: Do we anticipate that this will be a recurring event if it is successful?

Bill Springer, Mechanical Engineering Department at the U of A: Yes. It has been offered to us for two years 2006 and 2007. The past five years it has been held in Buffalo, New York.

Alderman Marr: Is there a reason this waiver is not through 2007?

Kit Williams: Since the city has never experienced this before I thought you would be more comfortable waiving it for a one time event and see how that event went. Obviously if it is something you would like to continue after the first year you could look at amending the ordinance for this project. That is why I drafted it for one year to keep your options open.

Alderman Marr: In your prior competitions has there ever been damage to habitat or some reason that people have not wanted the event held at their location?

Bill Springer: No sir.

Alderman Rhoads: I think it really dove tails some of the things that we are trying to do in the city.

Bill Springer: There is also a high school portion of this if it works out so if some of the local high schools wanted to participate there is a separate category for them to compete in. I think it has a lot of positives.

Alderman Reynolds: Will the lake be shut down for four days?

Bill Springer: Yes sir, there will not be any fishing or any recreational boating on the lake for safety reasons. Those people that house their boats on the lake we can work with them so they can get to their boat, take it out and bring it back. They would have access to their equipment they just will not be able to use it on Lake Fayetteville during the competition.

Alderman Reynolds: How many people are you expecting for this event?

Bill Springer: We are hoping to get 30 or more teams at about 10 students per team plus facility advisors. He explained the project and some of the ideas they have regarding the competition.

Steve Russ, President of the Economic Development Council stated his support of this event. He stated this is an international event and it is environmentally friendly.

Alderman Reynolds moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Lucas moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Vice mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4693 as Recorded in the Office of the City Clerk

Convert Certain Streets to Two-Way and Create Additional Parking: A resolution to convert St. Charles Avenue between Dickson Street and Watson Street to two way traffic; to convert Church Avenue between Center Street and Dickson Street to two way traffic; to convert Spring Street between East Street and School Street to two way traffic; and to add parking to the south side of Center Street between Locust Avenue and Church Avenue.

Tim Conklin, Director of Planning and Development Management stated this item came to the fore front when we went through our Downtown Master Plan process. This was recommended at our Street Committee meeting. Staff and the Street Committee are recommending to convert this street back to a two way street. I talked to an employee at the Post Office but have not talked to the Post Master. We will have to work with the Post Office with regard to the location of the drop off mailboxes.

Alderman Thiel: I wonder if when St Charles was changed to one way if it was not at the desire of the post office.

A discussion followed on the flow of traffic into the post office if this is converted to a two way street.

A discussion followed on the cost to complete this project.

Steve Davis, Fayetteville Downtown Partners: We are in favor of supporting this resolution. This will make it less frustrating for visitors and residents. It was also suggested in the Downtown Master Plan.

Alderman Thiel moved to amend the resolution to remove Section 1, St. Charles Avenue from the resolution. The motion failed for lack of a second.

Alderman Marr: I read this to be that it is our intent to have a two way street and that the city administration can work with the post office regarding the areas we are concerned about. I still think the street needs to be two way. I don't think we need to see the solution we just need to know they are going to address that item.

Alderman Marr moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads recused.

Alderman Rhoads: I recused on this item because I don't think it is an appropriate subject to vote on. I believe that we have smart people in our city administration that know what streets need to be two way streets and one way streets. We got tons of comments during our Master Plan process.

Resolution 69-05 as Recorded in the Office of the City Clerk.

Water and Sewer Operations Evaluation: A resolution to approve an Engineering Services Contract with HDR/Economic and Engineering Services, Inc. in the amount of \$60,636.00 with a contingency of \$8,000.00 for evaluation and rate study of the City's Water and Wastewater Operations.

Steven Davis, Finance and Internal Services Director: By bond indenture the city is required to do an operation study of our water and wastewater system every three years. During our last rate study a number of our customer groups were upset with the process in developing the rates. We committed to a selection process for a new consultant. Through the process we reviewed 7 firms. The committee interviewed firms and selected HDR/EES to do the operation study and also an audit of the 2003 rate study that Black & Veatch performed.

Alderman Marr: We are hiring a firm to evaluate the last firm we had to study the rate study. This is not a rate study; this is an evaluation of the rate study that a prior provider provided.

Steve Davis: It is an evaluation of the methodology that Black & Veatch used. In order to develop a working relationship with our major customer groups we needed to have some closure on the 2003 rate study. The most cost effective way to accomplish that task is to have another

firm audit the methodology. This is not a new rate study that is being proposed it is an audit of an existing rate study. This is an audit to make sure the published guidelines were adhered to.

Alderman Marr: Can you give me the cost of a rate study versus the cost of an audit of a rate study.

Steve Davis: The audit of the rate study in this proposal is about \$14,000. Between the operation study, rate study, affordability analysis and the impact fee analysis that Black & Veatch performed for us the last go around the city spent almost \$200,000.

Alderman Marr: When do you expect the next rate study?

Steve Davis: We have purchased software so that we can do our own rate study in the future. We did that because we have an ordinance that states staff is suppose to review the adequacy of our rates on an annual basis. Then we will have a consultant come in and audit that work for the staff to make sure we are accurate.

Kit Williams: I would suggest that we amend the resolution to state for an operation study.

Alderman Ferrell: Are they going to give us a presentation tonight?

Steve Davis: Until they have a contract for services they don't have anything to present.

Alderman Ferrell: How long would you say it will be before we have to budget this money again for any kind of audits or rate studies?

Steve Davis: There are two major parts that I don't think we will have to budget again. If the plan works as I envision it will, we will have an operation study every three years. We will have an audit in conjunction with that operation study on a three year cycle. We will have \$75,000 to \$80,000 every three years. This amount will have to be adjusted due to inflation.

Alderman Cook: This has been through the Water and Sewer Committee and we did support this. This is for us to get a fresh look at what we are doing here in the City of Fayetteville from someone other than we had previously. Which is a good thing? Resolution number 5 on our agenda is to reevaluate our contracts with our other customers and we urgently need to address that. I do hope at some point in the future we do another rate study.

Kit Williams: I think we need to amend the resolution that is currently before you by striking evaluation and rate and replacing it with *an operations*.

Alderman Rhoads moved to amend the resolution by striking evaluation and rate and replacing it with an operations. **Alderman Thiel** seconded the motion. Upon roll call the amendment to the resolution passed unanimously.

Alderman Cook moved to approve the resolution. **Alderman Reynolds** seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 70-05 as Recorded in the Office of the City Clerk.

Water and Sewer Business Relationship Evaluation and Rate Study Audit: A resolution to approve an engineering services contract with HDR/Economic and Engineering Services, Inc. in the amount of \$62,379.00 with a contingency of \$14,000.00 for audit of the 2003 Rate Study, evaluation of Water and Wastewater business relationship with major customers and development of new contracts.

Alderman Reynolds moved to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 71-05 as Recorded in the Office of the City Clerk.

Northwest Arkansas Mall Time Limitation Waiver: An ordinance to waive the time limitation of subsection §156.05(F) of the Unified Development Code for the variance granted to the Northwest Arkansas Mall.

Mr. Williams read the ordinance.

Alderman Marr: The mall is comfortable with us putting a time limit on this if we chose to. Something like 90 days and they will not miss the deadline this time.

Kit Williams: Don, did you say you wanted to add within 90 days from this date at the end of section one?

Alderman Marr: Yes.

Alderman Marr moved to amend the ordinance to add 90 days from this date at the end of section one. Alderman Cook seconded the amendment. Upon roll call the amendment passed unanimously.

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Vice mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4694 as Recorded in the Office of the City Clerk

Alderman Ferrell thanked Alderman Marr for bringing the above ordinance forward.

PUBLIC HEARING:

Dynasty Cab Company Certificate of Public Convenience and Necessity: A resolution granting a Certificate of Public Convenience and Necessity to Dynasty Cab Company for the operation of two (2) to ten (10) taxicabs within the City of Fayetteville, Arkansas.

Alderman Reynolds: I brought this forward. I think we are going to be proud to have a good cab company in Fayetteville that is going to be represented by good business people.

Captain Brown, Police Department: I have Mr. Curry's application, an insurance policy for one vehicle and his financial statement. He is asking for up to ten cabs on his application.

Brice Curry, Dynasty Cab gave a brief description of his intended cab service.

Alderman Reynolds moved to approve the resolution. **Alderman Lucas** seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 72-05 as Recorded in the Office of the City Clerk.

Meeting Adjourned 8:40 PM

Dan Coody, Mayor

Sondra Smith, City Clerk

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City Council
Meeting Minutes
April 19, 2005**

A meeting of the Fayetteville City Council was held on April 19, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Dan Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

CONSENT:

Approval of the Minutes: Approval of the March 15, 2005 City Council meeting minutes.

Approved

City of Goshen Inter-Local Agreement: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Goshen, Arkansas to provide animal sheltering services to the City of Goshen for 2005.

Resolution 73-05 as Recorded in the Office of the City Clerk.

City of Farmington Inter-Local Agreement: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington for 2005.

Resolution 74-05 as Recorded in the Office of the City Clerk.

City of Winslow Inter-Local Agreement: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Winslow, Arkansas to provide animal sheltering services to the City of Winslow for 2005.

Resolution 75-05 as Recorded in the Office of the City Clerk.

City of West Fork Inter-Local Agreement: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of West Fork, Arkansas to provide animal sheltering services for 2005.

Resolution 76-05 as Recorded in the Office of the City Clerk.

City of Tontitown Inter-Local Agreement: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Tontitown, Arkansas to provide animal sheltering services to the City of Tontitown for 2005.

Resolution 77-05 as Recorded in the Office of the City Clerk.

Washington County Inter-Local Agreement: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2005.

Resolution 78-05 as Recorded in the Office of the City Clerk.

ADEQ & Boston Mountain Solid Waste District Grants: A resolution authorizing the Fayetteville Solid Waste and Recycling Division to accept two grants totaling \$38,389.00 from the Arkansas Department of Environmental Quality (ADEQ) and the Boston Mountain Solid Waste District for the purchase of a wire tie system and repairs to the bailer; approving a Budget Adjustment to recognize the grant revenue; and awarding Bid 05-27 to Downing Sales & Service, Inc.

Resolution 79-05 as Recorded in the Office of the City Clerk.

Disc Mower Conditioner Purchase: A resolution approving the purchase of one (1) Disc Mower Conditioner from Williams Tractor Co. in the amount of \$14,699.00 for use by OMI.

Resolution 80-05 as Recorded in the Office of the City Clerk.

Hay Baler Purchase: A resolution approving the purchase of one (1) Large Square Hay Baler from Williams Tractor Co. in the amount of \$54,949.00 for use by OMI.

Resolution 81-05 as Recorded in the Office of the City Clerk.

Off-Street Parking Appointment: A resolution approving the appointment of Rick Woods to the Board of Off-Street Parking Development District No. 1 in accordance with A.C.A. § 14-88-304.

Resolution 82-05 as Recorded in the Office of the City Clerk.

Jail Services Inter-Local Agreement: A resolution adopting an Addendum to the Inter-Local Agreement for Jail Services between the City of Fayetteville, Arkansas, and Washington County, Arkansas.

Resolution 83-05 as Recorded in the Office of the City Clerk.

Cross, Gunter, Witherspoon & Galchus, P.C. Professional Services: A resolution to approve a contract for Professional Services with Cross, Gunter, Witherspoon & Galchus, P.C. in a not to exceed amount of \$20,000.00 to begin representation of the City in the Peter T. Reagan, ET.AL. V. City of Fayetteville Lawsuit.

Resolution 84-05 as Recorded in the Office of the City Clerk.

Alderman Reynolds moved to approve the Consent Agenda. **Alderman Jordan** seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

Amend Chapter 96: Noise Control: An ordinance to add §96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake." *This ordinance was left on the first reading at the April 5, 2005 City Council Meeting.*

Alderman Thiel: I would like to table this for now. There were so many concerns about safety if we banned the use of jake brakes that I thought we might consider something else that would basically get our current ordinance down to a level that more or less meets the standards of some other cities that were studied. I came up with a decimal level using this study for a proposed ordinance which I will have on the next agenda. I will table this ordinance for now and give everyone an opportunity to look at this new proposed ordinance.

Alderman Thiel moved to table this ordinance until the May 3, 2005 City Council meeting. **Alderman Jordan** seconded the motion. Upon roll call the motion to table passed unanimously.

Tabled to the May 3, 2005 City Council Meeting.

NEW BUSINESS:

RZN 05-1409 (SCB Investments, LLC): An ordinance rezoning that property described in Rezoning Petition RZN 05-1409 for property located at 1841 Leverett Avenue containing approximately 1.43 acres from RSF-4, Residential Single Family, Four Units Per Acre, to RMF-24, Residential Multi-Family – 24 Units Per Acre.

Mr. Williams read the ordinance.

Jeremy Pate recapped the Planning Commission's vote, they voted 9-0 to forward this recommendation for approval on this rezoning request to the City Council. He gave a brief description of the project.

Alderman Ferrell moved to suspend the rules and go to the second reading. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. **Alderman Rhoads** seconded the motion. Upon roll call the motion passed 7-1. **Alderman Ferrell, Lucas, Jordan, Reynolds, Thiel, Cook and Rhoads** voting yes. **Alderman Marr** voting no.

Mr. Williams read the ordinance.

Alderman Thiel: Were there any concerns at all by any neighbors at the Planning Commission meeting?

Jeremy Pate: There was no public comment taken at the Planning Commission meeting. The applicant did contact the resident's eventually most of them are rental properties at this time. In our findings you will note that we did recommend some screening and buffering along the south portion of this property because it is single family residential. While it is not a requirement the applicant's have said that they will take that into consideration when developing site plans for this property.

Alderman Thiel: Take it into consideration, does that mean that they will do it?

Jeremy Pate: I would assume so. It is not an ordinance requirement but that is something we will likely request.

Alderman Jordan: So he has met with the residents in the area and they seem to be alright with it then?

Jeremy Pate: What I understand yes sir.

Alderman Jordan: What do you all think?

Alderman Cook: I struggle with the fact that that part of town is totally becoming apartments. Some people call that student slums now, that is not a very nice way to put it but I struggle with the fact that it is all apartments through there starting at campus heading north all the way down through there. The single family neighborhoods down there we have heard them in other parts of that area how they struggle with the fact that they feel like they are losing their identity down there. I probably wouldn't support this because I think while usually I do support higher density but at some point do we turn the whole city into apartments? So we just mow down everything and make it one giant heavy density area. I probably wouldn't support this one.

Alderman Lucas: That is right next to Bel Air isn't it?

Jeremy Pate: It is north, it is one block north.

Alderman Lucas: Like you were talking about Kyle that is a single family residence's isn't it?

Jeremy Pate: Correct, south of that property is all zoned RSF-4 the integrity of the neighborhood is very obvious. In staff findings we did not feel that this was encroaching into the

integrity of that neighborhood, this is an undeveloped portion of property that is surrounded on the northwest and east by multifamily. That is really a major consideration with any rezoning request is whether it will be compatible and maintain the integrity of the surrounding neighborhoods.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 2-6. Alderman Ferrell and Rhoads voting yes. Alderman Lucas, Jordan, Reynolds, Thiel, Cook and Marr voting no.

The Ordinance Failed.

Mayor Coody: Can we back up and visit on this for a minute now that it failed so dramatically. What was the Planning Commission's vote on that a 9-0 approval?

Jeremy Pate: That is correct. We did not have any public comment and we did not receive any written public comment from adjacent property owners in the area. They were notified, each adjacent property owner was by ordinance notified as well.

Mayor Coody: So there was no public comment, a 9-0 approval and this is the first time for us to see this is that right.

Jeremy Pate: It is the first time for you to see this, back in April of last year the same request was submitted for a little larger portion of property, that owner was the owner of Marie H apartments and they have since sold the property for development, for multifamily development obviously.

Mayor Coody: How long has this been in the process?

Jeremy Pate: Approximately 40 days to the Planning Commission and then three weeks to get to this level for this first reading.

Mayor Coody: Alright, thank you very much.

RZN 05-1412 (Mountain Ranch/Terminella): An ordinance rezoning that property described in Rezoning Petition RZN 05-1412 for property located south of Future Persimmon Street containing approximately 21.05 acres from R-A, Residential Agricultural, to RSF-4, Residential Single Family, Four Units Per Acre.

Mr. Williams read the ordinance.

Alderman Jordan: We can go ahead and suspend the rules and go to the second reading but I would like to hold it there for two weeks.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. The Planning Commission voted 8-1 to forward this item to the City Council with a recommendation in favor.

Alderman Jordan: I don't really have a problem with this but I would like to take comments from the people at my ward meeting this coming Monday.

This Ordinance was left on the Second Reading.

RZN 05-1413 (Jones): An ordinance rezoning that property described in Rezoning Petition RZN 05-1413 for property located at 2468 N. Crossover Rd. (The NE corner of Crossover & Township) containing approximately 4.77 acres, from R-A, Residential Agricultural to RSF-2, Residential Single-Family 2 Units/Acre.

Mr. Williams read the ordinance.

Jeremy Pate gave a brief description of the property. The Planning Commission voted unanimously to forward this item with a recommendation for approval.

Alderman Thiel: All these lots are going to enter directly into Crossover Road?

Jeremy Pate: We did discuss that at the Planning Commission quite a bit and we have been reviewing that with the engineering firm that is working on the lot layout. We are not supportive of every one of these lots having additional curb cuts. By right if they develop the lots right now they would be allowed at least an access point. What they have shown here is a proposal to have potentially side load garages and each share an access so you would only have two additional curb cuts on Crossover for the remaining 6 lots that are shown there. There is one existing curb cut that lot would share one with the lot to the north. We did mention an alley access that would require two curb cuts in itself at least to get in and out. That is an option for the developer to look at through the development of the subdivision. It was a concern of ours as well.

Alderman Thiel: So there would be three curb cuts or two?

Jeremy Pate: Two additional.

Alderman Thiel: Two additional, there is already one.

Tom Hennelly with H2 Engineering: Currently this is plated with three lots so there would be in fact three access points onto Highway 265. What we are proposing in the layout is that we have three shared accesses, we are going to be doing away with one of the existing ones. All of the six lots would share a driveway on a common lot line so there would only be three access points onto 265.

Mayor Coody: Is there one now?

Tom Hennelly: There is one now.

Mayor Coody: So will there be two or three additional?

Tom Hennelly: The one that exists now would be demolished and turned into a shared access with the adjacent lot.

Mayor Coody: So there would be a total of three, so that means two additional curb cuts.

Tom Hennelly: That's true. There will be three allowed on the layout that is there currently and we are showing three after we complete our development.

Alderman Thiel: That is what exists right now, if we left the zoning as it is there are three lots.

Tom Hennelly: All we are doing is we want to redistribute the property into more lots.

Alderman Ferrell: I think I mentioned in the agenda meeting a couple of people that live close to there were concerned about this but they were concerned that they might try to change to a different zoning. But the R-2, they like.

Alderman Cook: I agree with what Brenda said with the access onto Crossover. The more we can limit the curb cuts on Crossover that is a good thing. I don't have a problem with them splitting the lots up at all.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

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

Ordinance 4695 as Recorded in the Office of the City Clerk.

Meeting Adjourned 6:25 PM

Dan Coody, Mayor

Sondra Smith, City Clerk