Final Agenda
For
City Council Meeting
October 21, 2003

A meeting of the Fayetteville City Council will be held on October 21, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Citizen Survey Report – Molly Longstreth

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the September 2, 2003 meeting minutes.

2. **Narendra Krushiker Change Order # 1 Hampton Inn:** A resolution approving Change Order #1 to the cost-share agreement with Narendra Krushiker in the amount of $8,458.10 to install approximately 650 feet of 8-inch water main north from Sixth Street.

3. **Crossland Heavy Contactors, Inc. Accelerated Water Line Replacement Projects:** A resolution approving Change Order #1 to the contract with Crossland Heavy Contractors, Inc. in the amount of seventy thousand three hundred seventeen dollars and seventy cents ($70,317.70) to add the Locust Avenue Waterline Replacement to the accelerated waterline replacement project.

4. **ADM 03-24.00 Master Street Plan Amendment, Technology Blvd.:** A resolution amending the Master Street Plan to remove the portion of Technology Boulevard shown crossing the proposed springwoods Commercial-Planned Zoning District.

5. **ADM 03-25.00 Master Street Plan Amendment, Truckers Drive:** A resolution amending the Master Street Plan to remove the portion of Truckers Drive shown crossing the proposed springwoods Commercial-Planned Zoning District.

6. **AEP/Swepco Reimbursement of Burial of Utilities:** A resolution approving reimbursement in the amount of $101,806.00 to AEP/Swepco for burial of utilities along a portion of West Avenue near the New Fayetteville Public library.

7. **Crossland Construction Company Contract Adjustments New Fayetteville Public Library:** A resolution approving Change Order # 10 to the contract with Crossland Construction Company, Inc. in the amount of $206,701.00 to install low voltage equipment at the New Fayetteville Public Library.

B. OLD BUSINESS:

1. **Amend Chapter 51.136 Monthly Water Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study. ***This Ordinance was left on the second reading at the October 7, 2003 City Council meeting.***

2. **2003 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2003 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City library; and 1.0 mil for General Purposes and Operations of the City; and certifying the same to the County Clerk of Washington County, Arkansas ***This Ordinance was left on the first at the October 7, 2003 City Council meeting.***

C. NEW BUSINESS:

1. **Houses Development Company, LLC.:** An appeal of Large Scale Development proposal LSD02.29.10.

2. **Use Of Skateboards And Skates Upon Sidewalks:** An ordinance to repeal § 74.08 of the Fayetteville Code and enact a replacement § 74.08 to clarify and expand the prohibition of using skateboards and skates upon sidewalks next to commercial, religious, governmental and industrial buildings and most City streets.

3. **Skyler Place Subdivision Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with M.P. Construction Inc. in the amount of $18, 900.00 to construct approximately 370 feet of 8" water main associated with the Skyler Place Subdivision.

4. **C-PZD 03-8.00 Planned Zoning District (springwoods – Collins Haynes)**: An ordinance establishing a Commercial Planned Zoning District titled springwoods (C-PZD 03-8.00) located South of Highway 112 and West of I-540, containing 289.28 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and according to the Associated Commercial Development Project as approved by the Planning Commission.

5. **Covenant Presbyterian Church Cost Share Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Covenant Presbyterian Church in the amount of $77'570.00 to construct a concrete swale and drainage pipe from Wedington Drive to 46th Street; and approving a budget adjustment in the amount of $12,080.00 for same.

6. **TCA Cable Partners Franchise/Cox Communications:** A resolution authorizing TCA Cable Partners, providing services as Cox Communications, to continue to operate the Cable Communications System.

D. INFORMATIONAL:

1. **Council Tour: October 20, 2003**

Meeting of October 21, 2003

Meeting adjourned 9:14 pm

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

Consent

Res. 154-03 to 159-03

Subject:	Consent Agenda					
Motion By: Seconded:		Jordan / Marr				
Motion To:		Approve				
	Lucas	✓				
	Jordan	✓				
	Reynolds	✓				
	Thiel	✓				
	Cook	✓				
	Marr	✓				
	Rhoads	✓				
	Davis	✓				
	~~Mayor Coody~~					

Meeting of October 21, 2003

Subject:		Amend Chapter 51.136 Monthly Water Rates				
Motion By: Seconded:		Cook / Jordan				
Motion To:		Table until Nov. 18th				
	Lucas	✓				
	Jordan	✓				
	Reynolds	✓				
	Thiel	✓				
	Cook	✓				
	Marr	✓				
	Rhoads	✓				
	Davis	✓				
	Mayor Coody	—				

B. 1.
Old Business

Tabled until Nov. 18th

Subject:		2003 Millage Levy				
Motion By: Seconded:		Jordan / Cook				
Motion To:		Table until Nov. 12th				
	Lucas	✓				
	Jordan	✓				
	Reynolds	✓				
	Thiel	✓				
	Cook	✓				
	Marr	✓				
	Rhoads	✓				
	Davis	✓				
	Mayor Coody	—				

B. 2.
Old Business

Special Council Meeting on Nov. 12th to review this.

Meeting of October 21, 2003

Subject:		Houser Development Co, LLC. Appeal				
Motion By: Seconded:		Marr / Rhoads			~~not requiring center~~ (~~check tape~~)	
Motion To:		Approve the appeal			Reduce the	
	Lucas	✓			den. to 26	
	Jordan	✓			units 42 bedroom	
	Reynolds	N			elim. the requirin	
	Thiel	✓			Center St. to be	
	Cook	✓			build - Olive	
	Marr	✓			Street.	
	Rhoads	✓			Check tape	
	Davis	✓				
	Mayor Coody	—				

C. 1.
New Business

passed 7-1 Res. 160-03

Subject:		Use of Skateboards and Skates upon Sidewalks				
Motion By: Seconded:		Strike Section A	2nd Read			
Motion To:		Reynolds / Thiel	Cook / Reynolds			
	Lucas	✓	✓			
	Jordan	✓	✓			
	Reynolds	✓	✓			
	Thiel	✓	✓			
	Cook	✓	✓			
	Marr	✓	✓			
	Rhoads	✓	✓			
	Davis	✓	—			
	Mayor Coody	—	—			

C. 2.
New Business
Strike Section A passed

Lift on Second Read

Larry Olson

325 South Gregg

Meeting of October 21, 2003

Subject: Skyler Place - Cost Share						
Motion By: Seconded:		Davis / Jordan	Jordan / Davis			
Motion To:		2nd read	3rd read	Approve		
	Lucas	✓	✓	✓		
	Jordan	✓	✓	✓		
	Reynolds	✓	✓	✓		
	Thiel	✓	✓	✓		
	Cook	✓	✓	✓		
	Marr	✓	✓	✓		
	Rhoads	✓	✓	✓		
	Davis	✓	✓	✓		
	Mayor Coody	✓	—	—		

C. 3. New Business ordinance Passed 4522

Subject:	C - PZD 03-8.00 Planned Zoning District					
Motion By: Seconded:		Thiel / Davis - ?	Davis / Reynolds		Springwoods - Collins / Haynes	
Motion To:		2nd Read	3rd Read	Pass		
	Lucas	✓	✓	✓		
	Jordan	N	✓	✓		
	Reynolds	✓	✓	✓		
	Thiel	✓	✓	✓		
	Cook	N	N	N		
	Marr	✓	✓	✓		
	Rhoads	✓	✓	✓		
	Davis	✓	✓	✓		
	Mayor Coody	—	—	—		
		6/2	7/1	7/1		

C. 4. New Business 7/1 passed ordinance 4523

Meeting of October 21, 2003

Subject:	Covenant Presbyterian Church Cost Share					
Motion By: Seconded:		Jordan Reynolds	Jordan Lucas			
Motion To:		2nd read	3rd read	Pass		
	Lucas	✓	✓	✓		
	Jordan	✓	✓	✓		
	Reynolds	✓	✓	✓		
	Thiel	✓	✓	✓		
	Cook	✓	✓	✓		
	Marr	✓	✓	✓		
	Rhoads	✓	✓	✓		
	Davis	✓	✓	✓		
	Mayor Coody	—	—	—		

C. 5.

New Business

Ordinance

Passed 4524

Subject:	TCA Cable Partners Franchise / Cox Communications					
Motion By: Seconded:		Marr Davis		Thiel Rhoads		Thiel Jordan
Motion To:		Approve the Resolution		Motion to reconsider		Amend date to 12/31/04
	Lucas	N		✓		✓
	Jordan	N		✓		✓
	Reynolds	N		✓		✓
	Thiel	N		✓		✓
	Cook	N		✓		✓
	Marr	Y		✓		✓
	Rhoads	Y		✓		✓
	Davis	Y		✓		✓
	Mayor Coody	—		—		—

C.6

New Business Resolution

Failed 3/5

3/5

pass Amend to 12/31/04

Meeting of October 21, 2003

Subject:	TCA Cable Partners Franchise / Cox Comm.					
Motion By: Seconded:		Davis / Thiel				
Motion To:		Approve as Amended	Changing the date of the Contract to 12/31/2004.			
	Lucas	✓				
	Jordan	✓				
	Reynolds	✓				
	Thiel	✓				
	Cook	✓				
	Marr	✓				
	Rhoads	✓				
	Davis	✓				
	Mayor Coody	—				

C. 6.

New Business

161.13

Subject:						
Motion By: Seconded:						
Motion To:						
	Lucas					
	Jordan					
	Reynolds					
	Thiel					
	Cook					
	Marr					
	Rhoads					
	Davis					
	Mayor Coody					

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Citizen Survey Report – Molly Longstreth

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154-03

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155-03

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156-03

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157-03

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Tabled Sp. CC mtg Nov. 12th

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Left on 2nd reading

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① Resolution Failed

② Reconsider passed

Amended ⓚ to 12/31/04

③ passed

16 1-03

6. **TCA Cable Partners Franchise/Cox Communications:** A resolution authorizing TCA Cable Partners, providing services as Cox Communications, to continue to operate the Cable Communications System.

D. INFORMATIONAL:

1. **Council Tour: October 20, 2003**

approved 10-21-03

**Minutes Of A Meeting
Of The
City Council
September 2, 2003**

A meeting of the Fayetteville City Council was held on September 2, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

The Meeting was called to order by Mayor Coody.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Davis, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

A Presentation on the Trails Master Plan.

Steve Hatfield gave a presentation on the Trails Master Plan.

Mayor Coody: Thank you Steve, one of the things we are very pleased about is the progress that we are beginning to make in the trails network, we started off with zero trails here not too long ago and now we're creeping up on getting a network put together. The one that we are starting to work on now, the latest one is the West Mud Creek Trail which is going to be an incredible beautiful trail along Mud Creek that goes out to the business park. Steve took me on a tour there the other day and there are four and five foot diameter trees back in there that we can see and its going to be beautiful. We will be using all of the savings that we had from that job to put toward other trails. I am really pleased with your progress Steve and I am really glad you are on the job and I am really glad that we are making this kind of progress. Thanks for your presentation.

Alderman Thiel: I would just like to say you have done an excellent job with this plan, I think it is a really good tool for the City and for the citizens, I think visually it's a very attractive tool. I think the GIS maps are excellent, I know it was a lot of work and I think we were getting a little inpatient, but I think it was worth the wait.

A Presentation on the Botanical Garden of the Ozarks, Inc. Master Plan.

Blair Johanson gave a presentation on the Botanical Garden of the Ozarks, Inc. Master Plan.

Mayor Coody: Thank you very much, it was a good presentation. We have a real push for economic development and I believe all of us understand that this could be a real shot in the arm for Fayetteville, not only the quality of life but for advancing the beginnings of the tourism market here in town, so we would like to wish you guys total success.

CONSENT:

Approval Of The Minutes: Approval of the July 15, 2003, August 5, 2003, and August 12, 2003 meeting minutes.

Destruction of Records: A resolution authorizing the office of the City Clerk to destroy certain records pursuant to §13-4-204 of the Arkansas Code.

Resolution 128-03 As Recorded In The Office Of The City Clerk.

Botanical Garden of the Ozarks, Inc. Master Plan: A resolution approving the Botanical Garden of the Ozarks Master Plan.

Resolution 129-03 As Recorded In The Office Of The City Clerk.

Botanical Garden Land Lease: A resolution approving a land lease agreement with the Botanical Garden of the Ozarks for the purpose of operating a Botanical Garden at Lake Fayetteville Park

Resolution 130-03 As Recorded In The Office Of The City Clerk.

Alternative Transportation and Trails Master Plan: A resolution adopting the Alternative Transportation and Trails Master Plan as an official planning document.

Resolution 131-03 As Recorded In The Office Of The City Clerk.

McClelland Engineers Contract Amendment # 3 Wilson Springs Business Park: A resolution approving contract amendment No. 3 with McClelland Consulting Engineers, Inc. in an amount not to exceed $5,000.00 to complete survey work required under the real estate contract with Legacy Project, LLC.

Resolution 132-03 As Recorded In The Office Of The City Clerk.

Bank of America Procurement Card: A resolution to accept a contract with Bank of America Corporate Purchasing Card Agreement.

Resolution 133-03 As Recorded In The Office Of The City Clerk.

Alderman Marr said on the August 12, 2003 minutes at the end of the minutes it says shall the resolution pass it never records the actual vote, I just want to get that added to these minutes.

Alderman Marr moved to approve the consent as read. Alderman Jordan seconded. Upon roll call the motion passed unanimously.

NEW BUSINESS:

Cost Share Bid Waiver M.P Construction: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with M. P. Construction, Inc. in an amount not to exceed $63,600.75 for the construction of a double 2' x 8' box culvert under Linda Jo Place.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Marr seconded. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan: It's a bad flooding area, I'm glad to see something like this being done in that area.

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

Ordinance 4511 As Recorded In The Office Of The City Clerk.

Marjorie Lee Brooks Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Marjorie Lee Brooks, *ET ALIA* to secure the necessary easements and rights-of-way for Gregg Avenue improvements.

Mayor Coody: I spoke to their attorney this afternoon and the paperwork was sent to Little Rock this afternoon. Should we table this indefinitely?

Kit Williams: You're saying that in fact they have accepted the Highway Departments offer.

Mayor Coody: I have not seen the paperwork but when I spoke to Marjorie Brooks's attorney, they said they have sent the paperwork off to Little Rock and that was at 4:30 and the State closes about 4:30, so I am assuming everything is all right.

Kit Williams: Yes, I think probably a motion to indefinitely table this would be all right, I think the only reason this was being rushed along is because the State Highway Department was pressuring us to get all this done so there would have to be a special meeting if something falls through.

Alderman Jordan moved to table this resolution indefinitely. Alderman Davis seconded. Upon roll call the motion passed unanimously.

Ruth Thornton Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Ruth C. Thornton to secure the necessary easements and rights-of-way for Gregg Avenue improvements.

Mayor Coody: This one has not been secured and they don't believe that it will be so we probably will have to move along on this condemnation. The reason that the State is wanting us to agree to this tonight is because if we miss tonight's approval of this then they will not be able to let the bids for construction and if we miss this bidding round we may have to wait another quarter, before we can start work on Gregg Avenue extension, which is why they want us to approve this tonight.

Alderman Davis moved to approve the resolution. Alderman Reynolds seconded. Upon roll call the motion passed unanimously.

Resolution 134-03 As Recorded In The Office Of The City Clerk.

Mayor Coody: What has been put before us tonight is this is the third item the State wanted us to approve; we didn't know they wanted this fast tracked as well. This is a pretty simple one, the City of Fayetteville owns land along Gregg Avenue that should have been put into right-of-way for the Highway Department awhile back and apparently it was not and they need to have a resolution declaring this property that we already own dedicated as highway right-of-way.

Alderman Davis moved to suspend the rules and add the Marjorie Lee Steele Brooks, Gregg Avenue Right of Way to the agenda. Alderman Jordan seconded. Upon roll call the motion passed unanimously.

Mayor Coody: Any questions on what I just described about this right-of-way acquisition, since we already own it.

Marjorie Lee Steele Brooks Gregg Avenue Right of Way: A resolution to declare City owned property as right of way for Gregg Avenue.

Alderman Jordan moved to approve the resolution. Alderman Davis seconded. Upon roll call the motion passed unanimously.

Resolution 135-03 As Recorded In The Office Of The City Clerk.

OLD BUSINESS:

Smoking in Certain Public Places: An ordinance to amend §95.05 **Regulation Of Smoking In Certain Public Places** of the code of Fayetteville and to enact a replacement §95.05 **Regulation Of Smoking In Most Public Places And Places Of Employment** in order to remove exemptions for bars, pool halls, small restaurants, beauty salons, barber shops and designated smoking areas in enclosed public access areas in restaurants, theaters, roller rinks, bowling alleys, and retail stores, etc.
This ordinance was left on the second reading at the August 5, 2003 City Council Meeting.

This ordinance was tabled at the August 5, 2003 City Council meeting until the September 2, 2003 City Council meeting.

Alderman Marr: Mayor before we open it to the public to comment on the entire ordinance, a suggestion I would like to throw out is if we have more proposed amendments that we handle them as we did at the last reading where we try to get those out so we can have public comment regarding the amendments and then move forward on the format of the ordinance.

Mayor Coody: I think that's perfectly acceptable.

Alderman Thiel: I have a question and then I have two proposed amendments. The question is I had a constituent contact me about this, how the ordinance would affect the following situation: An individual or group rents a meeting room in a hotel that doesn't have a bar and they hire someone to provide a cash bar for the event, is this room exempt from the ordinance since it comes under the definition of a bar, how is this going to work? He just wanted an answer to that.

Kit Williams: Part of it depends on how the ordinance finally ends up, let's assume its as it is presented to you right now as amended on August 5, the hotels have designated smoking and non-smoking rooms but those would be guest rooms, if this was a guest room that was a designated smoking room I don't think there would be any problem there you can do basically what you want to I think in your own guest room, however if this were a large exhibition room, then I don't think there are any provisions within this ordinance that would exempt that room that I can see. The only exemptions are bars, which are basically stand alone facilities and therefore any other place within the hotel except for the guest rooms that are smoking I don't think would be exempt under this ordinance.

Alderman Thiel: A temporary bar would not qualify as a bar then under this ordinance?

Kit Williams: I don't think it would.

Alderman Thiel: I just wanted that answer. The first amendment I would like to propose is to remove the Code Compliance Officers from the enforcement of this ordinance. That is under E, Enforcement in the

short version, which I'm using; we haven't moved to adopt one or the other, but that is the one that was recommended from the ordinance review committee. I understand Kit's reason for placing it in the ordinance because the smoking ordinance is currently within the health and sanitation section of the code book, however I think the Police Department should be the sole enforcement agency of this ordinance. I think it would be less confusing to the public and I think the Code Enforcement Division does not have enough staff nor do they have staff on call at night when most complaints would be made. That would be my first amendment; the second amendment would be to give businesses an opportunity to offer a smoking area for their employees. This amendment would be placed at the end of the definition of place of employment, at the very end of that section. It would read as follows: An enclosed smoking room with a ventilation system that ensures its air is not commingled with the now smoking areas of the building may be provided by a business for its smoking employees use and shall not be considered a place of employment for purposes of this section. Alderman Davis brought up some good points at the ordinance review meeting that small businesses will really be affected by this, this would be one way that they could possibly not have to eliminate some of their employees that smoke or don't smoke, I'm not sure if that would happen but this would also provide the factories that do provide smoking right now to allow a smoking section for their employees. Do we want to do this one at a time, I would make a motion on these or how do you want me to do this?

Alderman Davis: I have a question, you are talking about the short version right now, don't we need to take the items we discussed at ordinance review and bring them over one at a time and decide if we want to have the short version?

Kit Williams: You might want to go that way first or you might just want to throw the issues on the table as Alderman Thiel has. What ever you all decide to do.

Alderman Thiel: I guess my question about the short version is we have two short version drafts, one refers to a vote of the people, one does not, so I guess I would prefer making a motion to pass my amendments apart from that and then we would discuss whether or not we want to refer this to a vote of the people, which is one of the short versions, is that not correct Kit.

Kit Williams: I did prepare two versions of the short version, one being a referral to a vote of the people and one being just an ordinary ordinance.

Alderman Rhoads: They are both the same except for?

Alderman Thiel: I would move to pass the amendment on removing Code Compliance Officers from the enforcement of this ordinance.

Alderman Lucas: This was in the shortened version, it wasn't in the original version, it was the Mayor that was the designee, and he would designate who would enforce it in the original one, which we have voted on.

Alderman Thiel: So I would have until we get to that.

Mayor Coody: I don't have any intention in putting Code Compliance Officers in that role.

Alderman Davis: You would be good doing that Dan.

Alderman Lucas: So we might want to just leave it like it was in the original one.

Alderman Thiel: So I would need to make that amendment whenever we get to the point of voting on whether we are going to take this to a referendum?

Alderman Rhoads: I think you would vote on it whenever we vote on the short or the long version. If we are going to vote on the short then you would want to put your amendment in there.

Alderman Thiel: But we are going to be voting, if I understand this correctly, when we vote on the short versions we are going to be voting on whether to refer it to a vote or not.

Kit Williams: Someone can make a motion on which short version they want to have, if you want to do it incrementally as Alderman Rhoads was talking about, the first short version that would be presented would be just the way it is right now without a referral to the voters and at that point while that was still pending you could move to amend the short version to remove the Code Compliance Officers from the enforcement provisions. The Code Compliance Officers will not be able to enforce this unless you the City Council gives them that right. The Mayor cannot designate them to enforce this, he can designate the police officers, but he can't designate them to do that. The way I read the Attorney General's opinion and the State law this must be done by the City Council, that is why I included it in there so the Mayor would have that as one of his options, but if you don't want the Mayor to have that option, just remove it.

Alderman Marr: I would like to move that we adopt the short version of the ordinance as drafted by ordinance review, the one that takes it to three whereas clauses and changes the ordinance in such a manner that it includes, the inclusion of places covered by the ordinance with the exception of two exemptions, bars and retail tobacco stores, as drafted without the referendum compontent. So in the format as an ordinance only at this point. Alderman Davis seconded.

Alderman Lucas: I have a question, are you including an enclosed private office that is not regularly entered?

Alderman Marr: I am including this last draft that we have.

Alderman Lucas: Under place of employment?

Alderman Marr: Yes.

Alderman Lucas: So that's being included in there?

Alderman Marr: Yes. That was in the original ordinance as well.

Mayor Coody: Is this the first short.

Alderman Marr: This is the very first regular ordinance short version.

Alderman Rhoads: Without referendum.

Alderman Thiel: I would second that amendment.

Alderman Rhoads: It has already been seconded.

Mayor Coody: We have a motion and a second to approve the first short ordinance. We've had a lot of public comment on this, generally we take public comment on all these, but we would be here if we discuss every jot and tiddle as they say, we will be here until probably next Thursday, what I would like to do is if somebody just has an overwhelming desire to speak to this particular question before us on the first short

ordinance I would appreciate hearing from you, if you have spoken before, I will ask if you could refrain from speaking to let other people speak who haven't spoken on this issue.

Alderman Marr: Not to drag this meeting out but so that people are clear because of the change that we've made and the fact that this ordinance is much more shortly written now I would like to ask that we have our City Attorney read this ordinance so that everyone's clear on what the short version regular ordinance is.

Mayor Coody: Would you mind Kit?

Kit Williams: No, I just want to make sure I have the right one here. I understand the motion to be to adopt basically what I entitled the regular ordinance or the standard ordinance no vote by citizens. Is that the motion on the floor?

Alderman Marr: Yes

Mr. Williams read the ordinance.

Mayor Coody: Does that satisfy the reading of this ordinance? I would like to ask everyone to be very brief in your comments, what I would like to do if you do go over about three to four minutes I will ask you to please with the time sign to finish, so we can try to let everyone speak who would like to. If you have spoken before I am going to ask you to please let other people speak instead of speaking again unless you have completely changed sides in this argument. Thank you.

Cyrus Young: I would like to get my mind straight on what you all just did. Don Marr made a motion and Kit just read something, now is that a motion to amend the ordinance that is on your table right now? You will have to vote on that amendment and then you will have to vote to suspend the rules and read it a third time?

Kit Williams: I don't think they would actually have to, but my recommendation to them was that if they do move to have this changed as significantly as we have done here, I would like to go ahead since I have already read it for you to go ahead and suspend the rules so we can go to the second and third readings of this since it has changed so dramatically assuming that this amendment would pass.

Cyrus Young: So your actual vote will be the third vote you take.

Mayor Coody: Yes, I think so.

Sharon Davidson: Asked the Council to vote on this tonight.

Gene Kovach: Spoke against the ordinance.

Matt Lerch: Spoke about the United Nations World Health Organizations Tobacco Free Initiative. He submitted the rules under the United Nations.

Mike Young: Spoke in favor of the ordinance.

Pat Butler: Spoke in favor of the ordinance.

Pat Donnelly: Spoke in favor of the ordinance.

Kirby Sanders: Spoke against the ordinance.

Stoney Rawlins, President of the Student Government at the University of Arkansas: Read a resolution that was passed against the ordinance.

Alderman Marr: Your role at the student government.

Stoney Rawlins: I am the President of the Student Government, I didn't sponsor this legislation.

Alderman Marr: Do you have a similar resolution in reference to the University's smoking policy?

Stoney Rawlins: No sir, I am just doing this on behalf of an associated student.

Alderman Marr: So this is really to the City not the University.

Stoney Rawlins: Yes sir.

Alderman Marr: Did the student government take a position on the University Smoking Policy?

Stoney Rawlins: No sir they didn't.

Alderman Marr: Thank you.

Dillon Ferrell: Spoke against the ordinance.

William McMullen: Spoke on the ordinance.

Gary Wheeler: Spoke in favor of the ordinance.

George Weiss: Right now if the business has both a bar and tables and they serve food and they serve liquor, this is counted as a restaurant, is that true? If that same business at 10:00 in the evening decides to serve no more food, serves only liquor, is that a bar at that point in time. Can the same business depending on the time of day be both a restaurant where cigarette smoking, if you pass this would be banned and then later in the evening cigarette smoking would be allowed if it's a bar.

Kit Williams: There has been one amendment proposed that would allow that, without that amendment, I think my opinion would be no it would remain what it is which is a restaurant with a bar area even if the restaurant quit serving food. However the City Council may amend the smoking ordinance and provide a provision where after a certain hour if the restaurant is closed that it could then become a bar, it's their opinion.

Gloria Housley: Spoke in favor of the ordinance.

David Whitlow: Spoke against the ordinance. He spoke about the escaladed fine structure for the businesses.

Alderman Marr: That has been changed. There is no longer a progressive fining from $100 to $200 to $500; it is a $100 flat fine with no progressive fine. That was a change made at ordinance review.

Mayor Coody: The gentleman earlier asked a question about police enforcement and the Police Chief has spoken to this issue a couple of times, I don't know that he is here tonight, but he has said that he doesn't see this to be a problem if it passes and as far as the enforcement goes didn't think that if this passes he doesn't

see that if an owner of a restaurant is trying to do what they can and a customer won't do what he has been asked, then it is his job just to call the police and the police aren't going to ticket a restaurant owner for at least trying.

Dr. Jean Gibson: Spoke against the ordinance.

Kim Lowery: Spoke against the ordinance.

A Doctor: Spoke in favor of the ordinance.

Mary Proctor: Spoke against the ordinance. I would ask that you define multiple fines as far as work places, public places, referring to businesses; multi fines would be suspension or taking away a license. How many is multiple, is it three, is it four, is it five, is it at somebody's discretion.

Kit Williams: I think it would be a pattern that the enforcement people would look at and if there was a pattern of multiple violations of this ordinance and I think they would look at what types of violations there were, there can be very minor violations, someone doesn't have a sign up right or there can be a violation where they are encouraging employees and customers to violate the ordinance. That is not absolutely defined multiple means more than one and I think that the people that would be examining this would look at all the factors involved, not just the number of violations that a owner or manager might have of this ordinance to determine whether or not a license issued by the City would be revoked or suspended.

Mary Proctor: So it is up to that person's judgment?

Kit Williams: Just like in virtually every court or administrative hearing there is discretion involved both with the prosecutor and with the administrative judge where the municipal judge in determining the appropriate action, whether it be punishment or not, if you try to spell things out too closely then you tie the hands of your officials and don't let them use their own common sense, so I think it makes much more sense to say multiple violations as opposed to saying if there's three or if there's four, because at that point in time there might be very minor violations, or there could be very significant ones and I think they should be handled differently. I think each case needs to be looked on for itself.

Terry Payton: Spoke in favor of the ordinance.

Brian Wilkie: Spoke against the ordinance.

Judy Wall: Spoke against the ordinance.

Suzanne MacRae: Is an establishment that is basically a music establishment that doesn't serve food, is that a bar?

Kit Williams: If their primary purpose is to serve alcohol, if they are a bar and their primary purpose is to serve beverages and the service of food, if any is incidental then that's a bar.

Suzanne MacRae: Spoke in favor of the ordinance.

Stephan Pollard: Spoke in favor of the ordinance.

Joe Fennel: Spoke against the ordinance.

Andrea Fournet: Weren't you supposed to be discussing the amendments?

Mayor Coody: Basically it's the short version of the ordinance that we are discussing right now.

Andrea Fournet: The way it is written now, bars are out, you can smoke in a bar but you can't smoke in a restaurant correct?

Alderman Thiel: All public businesses.

Andrea Fournet: Except for a bar.

Alderman Thiel: Except for a bar.

Kit Williams: A bar is defined as an establishment whose service of food if any is incidental to their service of alcohol or beverages.

Andrea Fournet: It's illegal to buy cigarettes under the age of 18 correct?

Mayor Coody: I believe so, yes.

Andrea Fournet: Is it illegal to smoke in a restaurant and a bar under the age of 18?

Kit Williams: I don't think that is correct although I can't tell you for sure.

Andrea Fournet: Spoke in favor of the ordinance.

Vicky Hilliard: Spoke in favor of the ordinance.

Julie Sill: Spoke against the ordinance.

Jeff Collins: Spoke in favor of the ordinance.

Cathy Grisham: Spoke in favor of the ordinance.

Charles Ball: Spoke in favor of the ordinance.

Phillip Price: Spoke in favor of the ordinance.

Richard Maynard: Spoke against the ordinance.

Rick Schweik: Spoke against the ordinance.

Jim Smith: Spoke in favor of the ordinance.

Matthew Hask: Spoke in favor of the ordinance.

Sandy Prince: Spoke in favor of the ordinance.

Janet McMullen: Does this ordinance mean that the president of our corporation could not smoke in his office nor could the sheet metal fabricator smoke in the shop?

Kit Williams: It is possible, everything would have to be looked at individually, and there is an exemption under the place of employment definition that states an enclosed private office that is not regularly entered or occupied by a non-smoking employee is not a place of employment for purposes of this section. If it is not a place of employment, it is not regulated, unless it is a public place, which is like restaurants and bars. If you had a private closed separated office that a non-smoking employee did not frequent, did not regularly enter or occupy then that would not be regulated.

Janet McMullen: So if I had two fabricators in the shop and one smokes and one doesn't, does that mean the other one has to go outside to smoke.

Kit Williams: That would be a regulated workplace, that's correct.

Janet McMullen: Spoke against the ordinance.

Cambre Horne-Brooks: Spoke in favor of the ordinance.

Kathy Trotter: Spoke in favor of the ordinance.

Mark Wright: Spoke against the ordinance.

Jean Ann Wilson: Spoke in favor of the ordinance.

David Horne: Spoke on the ordinance.

Alderman Davis: Mayor I have a question and Kit maybe you can help us with this. A bar and a restaurant, let's say for instance someone now decides to have a bar which is smoking and they have it enclosed according to the definition, but we have the restaurant next door, once again it is going to be enclosed, but you have a kitchen that is multi-faucet for both facilities, so if someone wants nachos in the bar, they can get nachos, if they want a full course meal in the restaurant they can. How does that common kitchen area work out in this definition or does it?

Kit Williams: I don't know if it does because the definition says an establishment meaning for a bar that primary serves liquor and the restaurant is an establishment meaning a single one with a bar area being part of that restaurant so that it seems that if a common kitchen was shared they wouldn't be two separate establishments there would be an establishment which is either a bar or a restaurant. They would have to be totally separate, legally as well as physically before you could qualify as a stand alone bar.

Alderman Davis: Let's say both of them have exterior entrances into each section; do you still stand by the same comments you just made?

Kit Williams: I don't think they could have a joint kitchen, I think a joint kitchen means not two establishments it means one establishment, I would think. It is very difficult to talk about these things in the abstract, when you don't know all the facts and factors involved, but at first blush it would seem to be if you have a common kitchen then you are not two different establishments.

Alderman Davis: I know some instances where that could occur here in Fayetteville and that is why I asked the question. I think Common Grounds may have that issue along with Jose's has that situation right now where they probably could go with a bar on one side and a restaurant on the other, but they could possibly have the problem with a common kitchen and if we decide to put it in where they could have a common kitchen, what would be the verbiage we would need to put in the ordinance to allow that.

Kit Williams: I am not exactly sure, I guess we could just try to Draft something that would say that a bar would not be part of a restaurant just because it shares a common kitchen, I don't know exactly how you would do that, this is the first time this has been brought up, this particular issue, but it would be some language similar to that.

Alderman Davis: I kind of brought it up at the ordinance review and when we discussed it, we kind of went over it real quickly. I would like for us to look at some way to Draft the proper language to where certain establishments that are already set up would be able to do that, would have the ability to operate that way should there be a second to the motion of this nature and should the Council up here tonight decide to accept something like that.

Kit Williams: I know Alderman Thiel did present something of a similar sort of motion, because she would have allowed a bar area of a restaurant if it was separately enclosed with a separate entrance and separate ventilation, to be a bar and not a restaurant, she didn't, I don't think address the common kitchen situation, but at that point I don't think there was very much support from the Ordinance Review Committee. I did not see it and so that's why I didn't draft any further language, although I drafted language for her on that, which was considered by the City Council.

Alderman Davis: I'm not sure of the language, but I would like for us to look at some way that the restaurants that do have a common kitchen between two solid walls, then essentially what you have is a common kitchen. You would have ingress and egress from the kitchen to the bar area and ingress and egress also to the restaurant which could be at different ends of the kitchen more than likely and with the ventilation in the kitchen. Anyone that ever works in a restaurant business will tell you that the problem with the kitchen is trying to keep it cool or hot, all the air goes out the ventilation system, so usually your utility bills are a lot higher because of all the stuff that goes out the chimney.

Alderman Thiel: I would just like to point out the memo the City Attorney gave us in reference to that. Establishments can reorganize their business and basically get two separate alcohol permits, in other words the restaurant side could serve alcohol, but primarily food and still be required to be no smoking under this ordinance and their bar then they would have to limit the amount of food they serve or they could possibly even do a take out from the restaurant side, I'm not sure. I think that certain businesses could probably circumvent this ordinance by doing so, I think my idea was rather than require them to go through that which they very likely will, we would be offering some type of amendment that would give them the ability of doing that without having to reorganize their business and go through that expense. I think the City Attorney is correct, you can certainly make that motion, that amendment but it seemed like at the ordinance review there wasn't that much support for it. I will leave it in your court now because I didn't have much luck with it.

Alderman Davis: I'm not sure of the verbiage Kit, but I would like to have whatever you think would be legal along that line put into an ordinance to where a restaurant and a bar could use a common kitchen to have ingress and egress into the divided establishments.

Mayor Coody: Any other comments on this potential amendment?

Alderman Lucas: Will we vote on this separately?

Mayor Coody: Yes.

Kit Williams: Would your amendment also include some of the language that Alderman Thiel had used that the bar would need to be separately enclosed with separate ventilation to ensure its air would not be commingled with the restaurants air?

Alderman Davis: That's fine with me, the way I am discussing it we definitely are going to have two separate entities, the only common area is the kitchen where the employees have to go back and forth through, usually those are doors that have a tendency to open and close as you push your way through in most cases. Brenda do you care to add anything to that?

Alderman Thiel: The definition of a bar in the concept that was presented at ordinance review read under the definition of a bar, a separate stand alone establishment within it's own building or an establishment in an enclosed area within a separate part of the building with a ventilation system that insures that it's air is not commingled with no-smoking areas of the building and with an entrance separate from the entrance to the restaurant whether termed a private club or public establishment that is devoted primary to the sale and service of alcoholic beverages for on premise consumption and where the service of food, if any is only incidental to the consumption of such beverages. It gives a provision in there that would allow a separate entrance to the bar area. So you want me to make this motion, I have made some other amendment proposals.

Alderman Davis: The way I want to make sure that we do have the language in there that talks about the common kitchen. This particular one doesn't actually name a common kitchen.

Alderman Thiel: I guess I don't understand why that has to be named.

Alderman Davis: The only reason I'm saying that is so there is no question as far as interpretation next year or five years from now if it's black and white, it's black and white, if it's gray, it's going to be gray and that's going to depend upon what different individuals think.

Alderman Rhoads: If you don't do what Bob is asking right now, I think it will not work for a common kitchen. I think a common kitchen will be enough to defeat the ability of smoking in one and not in the other, so I think you need this clarification.

Mayor Coody: Any other comments on this item? What is the wish of the Council?

Alderman Davis: Well I brought it up as a proposal and I haven't heard a second.

Alderman Reynolds: Well you get a second. I want to support a common kitchen; I hate to see businesses have to go through the expense of putting in a second kitchen.

Alderman Davis moved to have a restaurant and a bar that can share a common kitchen as long as the restaurant and the bar have separate entrances. Alderman Reynolds seconded.

Alderman Marr: I am not going to support the proposed amendment. I am not going to support it because we have comprised and every time we comprise we move the goal post again. We've gone from protecting the health and public safety of everyone to protecting the health and public safety of everyone but bars and now we are going to protect it for some of the restaurants and I am not going to support that.

Alderman Reynolds: I don't think that we are protecting restaurants, Mr. Marr, I think what we are doing is keeping the business owners from going through the expense, all the restaurants that have bars from putting in a separate kitchen. They can use a common kitchen to take care of their business, if it is a small serving hole into the bar and a small window going into the restaurant, it would be a neutral kitchen, but it would be a small opening, they would be in there and if the cooks are both not smoking, then I don't see a problem with it.

Alderman Davis: You do have to have ingress and egress from the exterior the way that I have brought this up to be able to be a bar separate, with a restaurant separate you also have to have a separate entrance, ingress and egress.

Kit Williams: So the way I understand your potential amendment and correct me if I am wrong is that it would incorporate the language that Brenda read but you would also want to add to that a sentence that a bar and restaurant may share a common kitchen without changing the status of either one.

Alderman Davis: Correct.

Kit Williams: That would just be another sentence added onto that definition that you had proposed Alderman Thiel.

Mayor Coody: Let me ask this Kit, instead of voting on each of these amendments as they happen to come up and then not knowing what the conglomerate aggregate would be at the end, maybe we should discuss each potential amendment and then go back and vote on each one individually.

Kit Williams: However you all want to do it, the votes do need to be done certainly individually, but if you want to discuss other amendments.

Mayor Coody: I think I would like to discuss other amendments before we start voting on each individual one. I will keep a list and we will compare notes at the end.

Alderman Marr: So basically we have two items before us right now, one is changing the definition of a restaurant, because that is what we are doing, we're changing how we handle a bar within a restaurant. I want to make sure that I'm clear, is that right, or adding in the item we talked about at the Ordinance Review Meeting which was the definition, at the time we didn't have support, maybe that's changed since then and we are adding a common kitchen as an additional component of that definition, is that right?

Kit Williams: That is my understanding, but that is now melted into a single amendment. We are also considering Brenda's first amendment which is to remove the Code Compliance Enforcement Officer's, the first sentence under that section which allowed Code Compliance Officers to enforce this and secondly her other amendment which was to provide an enclosed smoking room for employees at the businesses option. Those were the first two amendments that I heard.

Alderman Thiel: I have not actually made a motion on either one of those or received a second.

Alderman Rhoads: I think what we are going to do is talk about the proposed amendments and then perhaps go and see if we can get a motion and a second and then vote.

Alderman Thiel: We have already done a motion and a second on the definition of a bar.

Alderman Rhoads: I am just trying to figure out procedurally, I am with the Mayor; I want to hear all of the things that are going to be proposed as amendments before I vote on any of them. That's my preference.

Alderman Thiel: I think that as parliamentary procedure we should have a motion and a second on these or otherwise they wouldn't be discussed.

Kit Williams: That is probably true, have you made a motion on yours or you don't want to.

Alderman Thiel: I am making a motion right now.

Alderman Thiel moved to remove Code Compliance Officers from the enforcement of this ordinance. Alderman Reynolds seconded.

Alderman Thiel moved to offer a smoking area for employees. Alderman Reynolds seconded.

Alderman Reynolds: We are talking about factories like Superior Wheel, Marshalltown, American Air Filter, etc.

Alderman Davis: Mayor I guess I will bring up one more, as I mentioned the other day in the ordinance review meeting I have had quite a few people call and we heard another lady this evening talking about the small businesses. Being in a business where I work a lot of different companies and so forth, I have heard that people are concerned about companies that have five or fewer employees and a lot of situations what happens is the owner and their wife may work there and both of them may be smokers, and they actually own the business, but they may have a receptionist or someone else that is a non-smoker and their concern is that by passing this ordinance in a small business situation it takes away their ability to do what they do in their business on a normal basis, if they so desire to smoke. They have told me if it comes down to that choice they will end up having to possibly let people go so that they can go ahead since they are the owners of the business and they are the ones that supply the payrolls to those individuals, they may end up having to let some individuals go so they can keep their private rights. I guess I would like to put an amendment here provided I get a second that businesses that have five or fewer people would be excluded from this ordinance.

Alderman Davis moved that businesses that have five or fewer people be excluded from this ordinance. Alderman Rhoads seconded.

Mayor Coody: Let me ask this, there seems to be redundancy here, Bob correct me if I am wrong, but it seems like exempting businesses with five or fewer employees, if the smoking room for those smoking employees that would like to smoke in a business would that not cover that same scenario?

Alderman Davis: Mayor in most cases a small business mode does not have a separate room where you can go smoke. Usually you may have a mail room and two or three offices where you put your individuals along with a reception area and that's it, I mean you are not looking at someone that is going to be housing 3,000 or 4,000 square feet, you're looking at little offices that are going to consist of maybe 1,100 to 1,200 square feet in fact some of them are strictly open. The owner of the business may have his own little office; I think we are looking at two different situations there. I think if you are looking at an employee smoking lounge, you are looking at Marshalltown and places of that nature where you have the factories that are being given the opportunity to have a smoking room for their employees, whereas in a small business usually you don't have that much space.

Alderman Thiel: It seems to me that an enclosed private office that is not regularly entered or occupied by a non-smoking employee is not a place of employment for purposes of this section, it seems like that would cover what you are talking about because if they wanted to have their own office as a smoking office they just wouldn't let their non-smoking employees come in there, that would be pretty simple, they would meet them outside the office, I feel like that is kind of covered here.

Alderman Davis: But that is not real, that is not the way it works in the business world, you are going to get up from your desk, you are going to ask someone to bring you a file, you are going to go back to your desk, sit down, pick up the phone and make a call or two and then that individual is going to walk into your office with the file that you requested, so that individual is going to come back and forth in and out of your office, that is the real world. I don't think you are going to see the business owner continue to get up from their

desk and go outside and close their door and say, I need that file and I am going to wait here until you bring it to me. I don't think that is going to happen, I think they are going to go back into their office, make some additional phone calls and that person is going to walk in and say here is your file. Maybe they are going to knock on the door and say Mr. or Mrs. Owner your file is here on the floor whenever you are ready to come and get it. I would be surprised if that happens.

Mayor Coody: I would too, I think there would be enough flexibility in a small office to where they could probably handle whatever came up, and I can't imagine that we would need to legislate this.

Alderman Davis: But this kind of leaves it questionable.

Alderman Marr: I am just curious there has been tons of discussion all the way up to this meeting about whether it's a vote or not and I heard nobody bring that forward as an option, is that something that we are going to talk about as an amendment since we are putting them all on the table?

Alderman Thiel: This would be the time to do that, because we are getting ready to vote on this ordinance so if there is going to be an amendment to take this to a vote this is the time to do it.

Mayor Coody: Are there any other amendments? So far we have the Smoking Lounge in Businesses, Remove Code Compliance Officers, Sharing a Common Kitchen and Exempting Businesses with Five or Fewer Employees.

Alderman Rhoads: There is nothing to prohibit us from adding other amendments aside from a referendum.

Alderman Marr: No there's not, but what rule are we going to play by, are we going to play by getting them all out and talking about them or are we not going to do that.

Mayor Coody: We have done four out of however many there are, let's go ahead and get them all on the table and find out where we stand because we might find that one potential amendment might be a conflict or redundant with another potential amendment so I would just as soon get them all out on the table.

Mayor Coody: Kyle do you have any amendments that you want to add?

Kyle Cook: No, I personally think we should vote on what we have here, we can beat this thing and beat this thing with changes.

Mayor Coody: We aren't through beating it yet though.

Mayor Coody: Brenda did you have any more amendments you wanted to add?

Alderman Thiel: No.

Mayor Coody: Swifty?

Alderman Reynolds: No, I don't have any more amendments, but I have one comment. Don I would rather not water it down here, but what I am trying to do is protect the people that are in business here today that's already operating. In the future I would be willing for anybody that's coming to town to build their building to meet our ordinance in the future. If we put any thing in there like the kitchens we do it for existing restaurants now and that way it is not watered down in the future. Any new restaurants coming to town would have to open under the new ordinance and we give the existing restaurants until 2006 to meet their ordinance. If we pass it as it is and we don't give our restaurants a break, they have to have everything

changed in four months, that is not possible, that is the reason I say we need to give them a little help with the kitchens.

Mayor Coody: Don did you have any more amendments. Did you want to wait?

Alderman Rhoads: I have some Mayor. I think that if I own a restaurant that does substantial bar business from 10:00 P.M. to 2:00 A.M., but because I'm a restaurant I can't have smoking, then I am at a disadvantage and so I would want to have an amendment that would allow smoking after a certain time or after the kitchen closes and I guess I would rather have my amendment to be after the kitchen closes and allow that owner of that establishment or the manager to post some sort of sign saying that they will allow smoking after he or she closes the kitchen. I would propose in the alternative another probably more sweeping amendment and that would be that we would leave the whereas's in take everything else out and put in something along these lines, that owners of any sort of business or place of employment would post a sign indicating that they either allow smoking in all or some of it's facility or they don't.

Mayor Coody: That's different than convert to smoking.

Alderman Rhoads: No, I said that's in the alternative, in other words what that would do Mayor is that whether you're a factory, small business, restaurant, or bar all you have to do is to post a sign indicating that you allow some smoking or smoking in some part of the facility or all of the facility or you don't and that way people could walk up to your business and see that sign and say you know what I don't think I want to go in there because I don't want to be around smoke or I don't mind I will go in there.

Alderman Davis: Now Robert if I understand what you're saying your first amendment is more or less a red light green light situation is that correct?

Alderman Rhoads: That's right.

Alderman Davis: What is your verbiage that you would like to have?

Alderman Rhoads: My verbiage was the owner or the manager would post a sign indicating that after the kitchen closes and I think it should be specific as to what time the kitchen would close that there is allowed smoking in smoking sections or wherever he wants to have smoking and whether that's 9:00 or 8:00 or 10:00 as long as he posts a sign that gives people fair warning.

Alderman Davis: You need a second on your red light, green light and I will give you a second on that so we can discuss it.

Alderman Rhoads moved to have the owner or manager post a sign indicating that after the kitchen closes smoking would be allowed. They would need to indicate what time the smoking would be allowed. Alderman Davis seconded.

Mayor Coody: Well we could do that or we could just do a motion and a second.

Alderman Thiel: You are saying do away completely with the ordinance we already have?

Alderman Rhoads: Yes. That was my second one.

Alderman Thiel: We have a pretty good ordinance as is.

Alderman Davis: Well he has to get a second for that one for discussion.

Alderman Thiel: You've had a second?

Alderman Davis: No, he has a second on the red light, green light to where the business owner decides to put up a sign when the kitchen closes.

Mayor Coody: I would like to get all the amendments out and then we will go down the list one after the other and do the motions and seconds and just do them all one at a time.

Mayor Coody: Bob did you have anything else?

Alderman Davis: Not at this time.

Alderman Rhoads: I have a motion and a second on the first one. I also put a motion up on the alternative for elimating the ordinance and posting signs. I wonder if I could get a second on that one.

Alderman Rhoads moved to post signs that the establishment is smoking, non-smoking or some combination and replace our existing ordinance with that. Alderman Reynolds seconded.

Mayor Coody: Shirley did you have anything else?

Alderman Lucas: No.

Mayor Coody: Lioneld?

Alderman Jordan: No I don't believe so.

Mayor Coody: Does anyone have any other amendments that they want to bring forward right now?

Alderman Rhoads: Well, I am not sure what the procedure should be because it seems whatever we decide, let's say we take some of these amendments or we take that final one that was just motioned and seconded at the end of all of that I think you could still entertain a motion, I guess I want to get a ruling on this, you can entertain a motion that this all be taken before the people.

Alderman Marr: What's left?

Mayor Coody: Let's find out where we are first.

Alderman Rhoads: I am asking a parliamentary question here.

Mayor Coody: Here is the way I picture this, that we go through here, we won't know what the final outlook of this thing is until we find out what amendments are going to be added or subtracted. I think at that point if some one wanted to make a motion to do something with the entire ordinance whether it's to vote it up or down or send it to a vote of the people it would be appropriate at that time, once we get these hammered out where we know what the whole ball of wax looks like, does that make since.

Alderman Marr: Could you go through who has the motion and who has the second on each one of these please?

Sondra Smith:

1. **Code Compliance from Enforcement: Thiel and Reynolds.**

2. **Add a Smoking Room for Employees: Thiel and Reynolds.**
3. **Common Kitchen: Davis and Reynolds.**
4. **Five or Fewer Employees the Business is Excluded: Davis and Rhoads.**
5. **Owner or Manager to Post Smoking after Kitchen Closes Signs: Rhoads and Davis**
6. **Eliminating the current ordinance and post signs if smoking is allowed or not: Rhoads and Reynolds.**

Mayor Coody: I'm confused, the one about the whereas's and leaving everything else out.

Kit Williams: That is posting a sign only; it is not taking everything else out just posting a sign.

Alderman Thiel: But that is repealing our current ordinance.

Kit Williams: I think that is what he indicated, repealing the current ordinance and posting signs only.

Alderman Thiel: Anything we do here is repealing our current ordinance basically.

Kit Williams: Replacing the current ordinance with whatever ordinance that you come up with.

Mayor Coody: All right first let's do the smoking room in businesses for smokers. Is there any other discussion on that item?

Alderman Thiel: Can I just read that one more time? An enclosed smoking room with a ventilation system that ensures its air is not commingled with non-smoking areas of the building may be provided by a business for its smoking employees use and shall not be considered a place of employment for purposes of this section.

Alderman Rhoads: I am wrestling as to how to proceed as far as my voting and I guess I have some fundamental concerns about all of this and so to just water this thing down, I am not sure that is the appropriate thing to do or not. I hear the people and I take their comments very serious that indicate that we have been elected to make decisions and we want to know how you feel on the subject. I feel obligated to indicate how I feel on the general proposition and then I will probably vote against all of the amendments, well I don't know I will just have to kind of walk through this thing and then try to decide. At the end of the day we are going to vote on if the people are going to get a chance to see this and so I am not sure what the people should be voting on when they get it, that's the predicament that I'm in. Can I have another minute or two Mayor? I don't do this very often and I apologize in advance, I realize it's getting late. I have a personal opinion about smoking; I have an opinion that comes from the hundreds of contacts that, I like everyone else have received and I have an opinion that is formulating as I hear my fellow Council members speak. On a personal front, I saw how three packs a day gave my father emphysema and how emphysema ravaged his life, I have wrestled with smoking in my life as well, so from a personal stand point I've seen what it does and I know that second hand smoke is not a good thing, I know this is a health issue. I also appreciate all of the people on the side of the issue that believe that we should ban smoking, some of the people that have come up to me personally I've known and respected for a long time and some are new people that I have never met and they've made good sense to me and I know their hearts in it. I don't look at necessarily the fact that this is going to tear this City apart, the fact that there is a disagreement, yes there are some people that have probably gotten a bit catty and maybe as we discuss this further maybe we'll do the same but I hope not, but at the end of the day I think we will be able to do what's best for Fayetteville on this issue and many issues to come. I personally respect Don and Shirley for bringing this up. It was being discussed and a number of people were probably approached about bringing it up and again I appreciate the fact that they had the guts to bring it up and they have taken some grief for it, hopefully they are thick skinned. I guess I'm not convinced by the statistics, I don't think the statistics carry the day for either side

whether its health statistics or whether its economic statistics. What I have given the greatest weight to are the people that have come to me that you all have heard up here that indicate "I am not a smoker, I don't like smoking, however I have a real concern about the government taking away the rights of individuals and business owners" and that to me is the argument that is strong and loud. People say that if we pass an ordinance that further bans smoking we will prove to the world that we are a progressive city and I don't know if your progressiveness is measured by the number of ordinances that you pass, to me its pretty darn progressive when you have 110 facilities that are non-smoking and that you have facilities like Hugo's and others that are going non-smoking when you have entertainment venues that are deciding that this particular concert event is going to be non-smoking, when they do it on their own free will because they are listening to the marketplace, that is progressive, that means your voices are being heard and to me that measures progressiveness considerably more. I also have difficultly trying to understand if there really is a movement amongst the service workers, I've talked to a number of them whether its bars or restaurants and as I have talked to the owners and I haven't talked to the service people, the waiters and the bartenders, in front of the owners, I have talked to them by themselves and I don't see any sort of movement to speak of that they feel they need someone to protect them so I have difficultly following that line of reasoning. When it is all said and done I will vote for allowing business owners to make their own decisions and hopefully the marketplace will be a further prompter of these people to perhaps do things that I have heard so many people ask them to do. Lessons will be learned from this debate, this has been I think Joe called this a really rough summer, a long summer because of this issue, well it has brought this issue to a lot of restaurants and bar owners, attention and focus and I think that there are people that no matter how this goes will make changes in their business and that your voices will be heard and so that is a lesson that's learned. I think another lesson that will be learned is that when you have a ordinance that says that you should have a separate smoking section and you make people crawl through that smoking section to get to the non-smoking and you don't ventilate very well, you're not really doing your customers any service and so I think that is another lesson that's going to be learned. Mayor I appreciate you giving me a few minutes here.

Alderman Lucas: There are a few things I think we need to think about before we vote on these amendments and everything, to begin with the smoking ban is not new, we are just expanding on what a very brave group of people did 10 years ago and I know Robert may do away with it all tonight but anyway I think it's something that we need, it was not proposed to get the bars and the restaurants. I love to eat, I hate to cook, this is a health issue, even the tobacco companies and some people that are opposed to the ban that have spoken before us agree that environmental tobacco smoke is bad for your health. Smokers don't smoke in airplanes, malls, Razorback basketball games, at the malls and the Razorback games they take it outside. Smokers haven't stopped flying or shopping or going to the games even though they said, I can remember 10 years ago, well I just won't go to those any more. Those bans are protecting the health and safety of customers and workers so why is there smoking allowed in the restaurants and bars, are not the workers and customers of these establishments entitled to the same protection. People say we need it for the hospitality industry and believe you me I know that the hospitality industry is important in Fayetteville, but does this mean our hospitality industry is only for smokers, I hope not although I have been told over and over if you don't like the smoke don't come to my place. It has been mentioned that there are a equal number of smoke free restaurants, but if you look at the list of the 110 non-smoking restaurants, I think deli's and grocery stores are great but I think when you consider going out for a nice dinner, you don't go to a deli or a grocery store and there are a lot of those in that list of the 110. Again is that the kind of hospitality industry we want to tout. People's rights, for years it appeared that the majority smoked and the non-smokers as several people have told me we just had to tolerate it and now it's our turn. Then the information starting coming out about the bad health affects of second hand smoke, the non-smokers started speaking up, they got a table in the corner and as more and more demanded more the place got larger and now we have more non-smokers than we do smokers and maybe that's why this is important. A lot of people were still hesitant about complaining, I know I was, we had just been geared all these years that smokers by golly they could smoke and that was just an established fact and you just dealt with it. There are a lot people that have come to me and have called me that are not members of these groups that has brought this before us, they're getting

braver now because these people did bring it forward and did bring this information forward and so they now are being braver and saying yes this smoking ban needs to be done. Smokers have told me that when they go into a place they request the non-smoking section because they prefer to eat where there is less smoke, so when Don Marr asked me to cosign it, it was a no brainier especially since I am a nurse and I have seen a lot of results. I have seen how one persons smoking can affect other people and the bad health affect it has on all people, young and old. I new it would be a struggle, you're messing with people's addiction, I was a former smoker, I know. People must realize that we are not trying to stop their smoking, just take it outside. In an ideal world people would be considerate of each other, a smoker would realize that maybe the people to the table next to them would like to enjoy their meal without the smoke, so in an ideal world this wouldn't have to be, people would be considerate of each other, but that is not happening. Actually this could save businesses a lot of expense because they wouldn't have to have the more powerful ventilating systems so who knows they might be able to lower their drink prices. We must remember that it is simply their smoke that's not what we want and for the safety and health of workers and customers, we needed to pass this in its original form, with that said it seems that bars were what the people most wanted protected. I was willing to compromise and exempt the bars, in order for this to pass I did not push for parks although I wanted them and since one was vehemently against it and to avoid more delay because the others thought they needed to talk about it, I sure didn't want any more delays on this, so I withdrew that. A number of people have expressed no referendum with my tax dollars to pay for it and so we were elected to make tough decisions and we need to make this decision for the safety and health of the citizens.

Kit Williams: There is a couple of different ways to dot the I's Mayor procedurally. There is one overriding amendment that's right now on the floor and that is the amendment made by Alderman Marr to go to the short version, I think that was the version that basically everybody had agreed to at the ordinance review committee, if you want to pass on that and then you consider everyone of these other amendments to amend the short version and see which ones pass and which ones do not. You could go that way if that would be the Council's desire.

Mayor Coody: So we have a motion and a second already to approve the short version of the ordinance.

Kit Williams: This is just the amendment to do that, this is not voting on the ordinance. You just need to have a vote on this amendment to go to the shorter version as I read it.

Mayor Coody asked shall the amendment pass.

Upon roll call the amendment passed unanimously.

Mayor Coody: Smoking lounge, smoking place in businesses that would not be considered a work area for smokers. How do you have that worded?

Kit Williams: An enclosed smoking room with a ventilation system that ensures that its air is not commingled with the non-smoking areas of the building may be provided by a business for its smoking employees use and shall not be considered a place of employment for purposes of this section.

Mayor Coody: We have a motion and a second on this. Shall this amendment pass?

Upon roll call the motion failed 3-5. Aldermen Davis, Reynolds and Thiel voting yes. Aldermen Marr, Rhoads, Lucas, Jordan and Cook voting no.

Mayor Coody: Removing Code Compliance from the enforcement list.

Kit Williams: It would just be the first sentence in sub-paragraph E-1 which currently states City Code Compliance Officers are empowered to issue citations for violations of this section, that sentence would be removed.

Mayor Coody: Shall this amendment pass.

Upon roll call the amendment failed 3-5. Aldermen Davis, Reynolds and Thiel voting yes. Aldermen Marr, Rhoads, Lucas, Jordan and Cook voting no.

Mayor Coody: The next one is share a common kitchen.

Kit Williams: It is not just share a common kitchen, but it is also all the language that Alderman Thiel wrote about an enclosed separate entrance, separate ventilation to ensure the air is not commingled and adding a sentence to that which would state that use of a common kitchen between a restaurant and bar would not change the definition of either one. I will get better language if this passes.

Mayor Coody: Shall the amendment pass.

Upon roll call the amendment failed 3-5. Aldermen Davis, Reynolds and Thiel voting yes. Aldermen Marr, Rhoads, Lucas, Jordan and Cook voting no.

Mayor Coody: Businesses with five or fewer employees exempted.

Kit Williams: It would be under the definition of place of employment, it would be another sentence which would state, businesses with five or fewer people shall not be considered a place of employment for purposes of this ordinance.

Mayor Coody: Shall the amendment pass.

Upon roll call the amendment failed 3-5. Aldermen Davis, Reynolds and Thiel voting yes. Aldermen Marr, Rhoads, Lucas, Jordan and Cook voting no.

Mayor Coody: Convert to smoking after the kitchen closes, the red light, green light.

Kit Williams: Basically I had already provided wording at one point to the ordinance review committee so that would be the precise wording, it would be basically when a manager, except it wouldn't have the time that I had in there, so it's when a manager posts a sign that the kitchen has closed the restaurant bar area becomes a bar.

Mayor Coody: Shall the amendment pass.

Upon roll call the amendment failed 1-7. Aldermen Thiel voting yes. Aldermen Marr, Rhoads, Davis, Lucas, Jordan, Reynolds and Cook voting no.

Mayor Coody: Signage to go smoking or non-smoking or some combination thereof.

Kit Williams: This would repeal the current ordinance and replace it with a requirement that the owner/manager would post a sign about whether his business or workplace is smoking or non-smoking or a combination.

Mayor Coody: Shall the amendment pass.

Upon roll call the amendment failed 2-6. Aldermen Rhoads and Reynolds voting yes. Aldermen Marr, Davis, Lucas, Jordan, Thiel and Cook voting no.

Alderman Jordan: Mr. Mayor I want to change my vote, I want to reconsider a vote that I made, I voted against the amendment on the Code Enforcement Officer and I change my vote to a yes.

Kit Williams: You can move to reconsider that issue.

Alderman Jordan: I would like to move to reconsider that issue.

Mayor Coody: So you voted, how did you vote on that?

Alderman Jordan: I voted no.

Mayor Coody: How was the vote on that 3-5?

Kit Williams: He just wants to move to reconsider that.

Alderman Cook: Seconded.

Mayor Coody: Shall the motion to reconsider pass.

Upon roll call the motion to reconsider passed 7-1. Aldermen Marr, Rhoads, Davis, Jordan, Reynolds, Thiel and Cook voting yes. Aldermen Lucas voting no.

Kit Williams: It will be a new vote whenever you get there.

Mayor Coody: So the question is to remove the Code Compliance and it failed earlier so we'll ask the question again.

Alderman Marr: Can we have some discussion from Alderman Jordan and Alderman Thiel about why we think that should not be in there.

Alderman Jordan: The reason I reconsidered that, I think the Code Enforcement people are strapped with a heavy enough workload as it is without adding policing the smokers in restaurants and that is the only reason that I have. I just think its too much of a work load for them, I think they are going to be out and supposedly checking to make sure codes are being enforced in the City such as trash in the yard and grass too high and things like that and I think that will be a large enough job for them and I think we only have three Code Enforcement Officers in the City and that is basically why I reconsidered my vote.

Alderman Thiel: I would just like to point out we have three officers but only two would be able to enforce this because one of those is paid out of the HUD funding and only can work in the target area and I think there is only one restaurant in the target area. The reason I brought this forward is not only because of their work load but I think it would be confusing to the public as to who to contact, plus they do not work at night, I think a lot of the violations of this would occur at night and they would not even be available to do this, unless we want to start paying that division overtime, so I felt very strongly about having Code Enforcement Division not a part of this proposal.

Alderman Marr: When I originally thought about the language of that in this ordinance I didn't think of it about extending their hours to the night or adding staff to it, but should they be out during the day, it was my

understanding from the City Attorney that in order for them to have any opportunity to issue a citation if the City wanted them to, it would need to be listed within the ordinance, so that if for some reason maybe they are out in the middle of the day and someone had a compliant and we wanted an alternative other than the police department, if the Mayor thought that, that needed to be or if the police department thought that needed to be that is why. I am certainly not opposed to taking it out if the Council thinks that, that's going to be a big issue. I didn't look at it as charging them with the issue, but giving them the authority to do it should we need them to do it.

Alderman Thiel: I think the way the verbiage was in the ordinance they were placed first above the police officers and the original verbiage in the original ordinance was just fine, the Mayor basically it's his responsibility to assign. We've gotten into a definition now of the enforcement which I'm not opposed to that, but the original ordinance did not specify that.

Alderman Marr: I support that the Mayor is charged with executing this but it was part of the original draft given him the authority to do whatever he believes as the administrator of the City to do.

Kit Williams: He does have that duty by State law no matter what we say he is charged with the enforcement of all the ordinances, but of course he delegates that. The only difference would be as Alderman Marr said is before he could delegate enforcement of this ordinance to anyone but the police you would have to put it in here.

Mayor Coody: Since this would be my responsibility I have no argument with taking code compliance officers out because I wouldn't be assigning them to this job anyway. I think the word authority was used and I think that if this passes and we do have a problem with a troublesome situation I would rather send police to deal with it than the Code Compliance Officer who wouldn't have the experience or probably the self confidence it might take to deal with belligerent or possibly belligerent situations so I wouldn't be using Code Compliance folks anyway. So we have a motion to reconsider to remove the Code Compliance.

Kit Williams: At this point it would be up for the vote again; it has already been reconsidered so now the amendment to remove it would be up for a vote again.

Mayor Coody: Shall the Amendment to remove Code Compliance pass.

Kit Williams: The amendment would be to strike that language.

Upon roll call the amendment passed unanimously.

Mayor Coody: Is that the last one, is that the last amendment that we have listed.

Kit Williams: Yes that is the last one that has already been moved and seconded.

Mayor Coody: So now we get down to brass tacks, the question before us now is the ordinance as a whole whether we are going to pass this or what.

Alderman Rhoads: Mr. Mayor, what we have before us is whether to pass it as a Council or to pass it for the people to vote on it.

Mayor Coody: That motion has not been made.

Alderman Rhoads: If we vote here as a Council Mr. Williams and I have heard a number of people on both sides of the issue say that no matter how its voted its going to go to a public vote because there will be

enough signatures that it will be voted on. What is the difference between the City Council putting it to a referendum verses the people getting a petition signed putting it to a referendum as far as cost to the City, timing or anything else, or for that matter how it would read.

Kit Williams: I think the only true difference would be the effort that would be required to get the number of legitimate Fayetteville voters to sign which I think is about 3,000. It's 15% of the total number of people that voted in the general election for the office of Mayor at the last general election and the timing because if in fact the City Council voted to refer it to the vote of the people in the same ordinance at the same time that can be done with a vote of five aldermen to do that or four aldermen and the mayor. It takes five affirmative votes to pass any ordinance whether it's a referral to the vote of the people or whether it is just a regular ordinance. If it is passed as a referral to the vote of the people tonight I am pretty convinced that there is only one legal date that the special election could be held because of recent laws that have been passed and that would be November 11th, the second Tuesday in November. If on the other hand a simple ordinance was passed and the people were opposed to that ordinance, then they would have 31 days to collect about 3,000 signatures, they would then turn the signatures over to our City Clerk who would have the duty to verify that these were in fact legally registered Fayetteville voters. Once she had done that then it would be encumbering upon the City Council to set the date for the special election, you would have again about the same 60 to 90 day window at that point that you would have right now in order to set a special election, it would have to be on the second Tuesday of some month and the cost for a special election would be the same.

Alderman Rhoads: So would that be before or after November 11th?

Kit Williams: It would certainly almost be afterwards, I can't image that even if they had the signatures tonight it would take a bit of a time for our clerk to go through them all, so as early as it possibly could be is December and more likely it could push it into January, I am not sure, it would be either December or January.

Alderman Rhoads: If we pass the ordinance and someone got the signatures to take it to a referendum would that vote be then to merely repeal what we had voted on and therefore if the referendum was successful from that stand point you would end up with no law on this?

Kit Williams: No it would be to repeal this entire ordinance that at this point does two things it repeals our current ordinance and replaces it with another one. So the referendum would undo what was done tonight.

Alderman Rhoads moved to take this to a referendum. Alderman Reynolds seconded.

Alderman Thiel: You didn't get all the clarification that I wanted from Kit about if this ordinance passes because we have passed an ordinance they have 31 days in order to get the signatures. If this ordinance fails, is that the same amount of time that the Coalition would have to bring forward a repeal?

Kit Williams: No, there would be nothing to repeal and so they would have to go with what is called an initiated act sort of situation where they would have to have the same number of signatures. The proponents of the smoking ordinance could draft any smoking ordinance they wanted to, it wouldn't have to be what you all considered, but the election on that would not be a special election, that would be at the next general election. They have to have their signatures I think 90 days before the general election that would be a long time because that is more than a year away.

Alderman Jordan: I've done a lot of soul searching since this started, I have kept a tally of the amount of contacts that I've had since January and they have totaled to about 770 contacts. The votes have been about 407 in favor of the ordinance and 363 against. The easy thing for me to do tonight, the simplest thing and

probably the most politically smart thing for me to do is to vote in the referendum. The only thing that would keep me form doing that is basically me, because I have a certain set of core beliefs I go by and there is one thing that I go by it is a simple thing that I go by that some things are taught and some things are caught, now you can teach me a foreign language, you can teach me mathematics, you can teach me how to study the stars, hey you folks can probably teach me some social skills up here, but you can't teach me heart and you can't teach me courage, you can't teach me tenacity and you can't teach me leadership because that is in me, that is something I caught onto a long time ago, I don't know where, put I did and once you catch it, it is like an incurable disease it's with you the rest of your life and that's who I am and that's what I believe. I was elected and I ran on a platform that said I would be responsive and be responsible. My job is to demonstrate leadership in this City and a leader knows the way, shows the way and goes the way. I was elected to make tough decisions I know how uncomfortable they are for me and I will not leave by responsibility that I was elected to do to the people. I will cowboy up here tonight and do what I was elected to do and I am going to vote on this ordinance.

Alderman Davis: Mayor it sounds like we are all up here trying to tell the truths about why we are looking at this ordinance one way or the other. Personally there is no question as to the health issue; I think everybody up here can agree with that along with a lot of people in the audience agree with that also. You know on the Dickson Street improvements we spent about $2.2 million dollars on that project so far and we probably are going to have some additional overruns that we may not have been aware of that may run another half a million dollars. I look at the city taxpayer dollars and had I known about this ordinance before we approved to spend those dollars on Dickson Street, I'm not sure I would have gone ahead and agreed to spend citizen's taxpayer's dollars down there on those particular projects. I have not been convinced yet about the economic situation on this particular ordinance, as you know we had a budget meeting about a month ago and in that meeting we learned that the administration is forecasting about 1 ½ % growth in our total sales tax revenue for next year, well I question those numbers. The reason is because one, currently we are seeing a lot of the local residents going to Rogers to go to the stadium seat movie theater and when most people go there they not only go to the movie, but they go to dine out restaurants and buy dry goods while they are there, on an average people spend between $100 and $200 when they go to Rogers and that takes money out of our economy, until we get a stadium seat theater in Fayetteville, I feel that trend will continue. I am one of those people that have the tendency to go to Rogers to the movies and not long ago I went to see a Saturday matinee and there were 10 people from Fayetteville watching the movie in Rogers and the majority of us went out and bought dry goods and ate dinner that night. I look at that and I'm going wow, if we decide to pass this smoking ban, not only are we the ones going to Rogers to watch a good movie in a good movie theater which Fayetteville right now does not have. We are also taking those people, the smoking cliental and asking them possibly to go else where, so not only do we lose those people that are going to a good theater, we are losing the smoking people that are probably going to have to go elsewhere also, so you are getting a double whammy there. Now, granted Dickson Street I feel like in time hopefully will recover, but we don't know, they have had a tough time for the last 12 months. The merchants I have spoken to on Dickson Street they have had a real tough time making it day to day and if all of a sudden we institute this ban it is going to make it a little longer for them to recover, sure it might rebound in 12 months or 14 months but my question is are we looking at having a brand new street that has a lot of curb appeal but you have boarded up windows, I don't know the answer to that. Some people I know are going to sit here and question those thoughts and that's fine, but I'm also concerned about the local ma and pop restaurant that might not make it and the individuals in those establishments that may lose their jobs. Like I mentioned some people aren't concerned about either one of my points and don't feel like either one of my points are factual but should they become fact and not fiction, the City then, when we are looking at street improvements would have to look at possibly increasing millages or other taxes or maybe a combination of both to generate enough revenue so we can provide our current City services possibly or we may be forced to have to cut back on services that we provide and I'm not sure the citizens want to see that, am I thinking too strongly here about the down side, I don't know, but I look at revenue and I look at dollars and cents and right know I don't see where we are seeing a lot of growth in the capital side on our revenue collections for

the City of Fayetteville. We have to make some changes to make sure that, that occurs, sure we may get a stadium seat theater sooner or later, but that may be 24 months down the road, who knows. I went to a restaurant the other night and my wife and I were sitting there and we had seen these people the previous Thursday night and we were poking fun at one another about this ordinance and they were telling me how I needed to vote for this ordinance and I was giving them a hard time telling them I really wasn't sure how I was going to vote, as we were sitting there this couple came in and they sit across the way and on our way out they wanted me to come over and talk to them and I did and they said you need to make sure you vote for this ordinance because we don't like to be in facilities where smoking is allowed and I looked at them and I noticed over in the corner there was a person smoking and I said what are you doing here there is someone with a cigarette over in the corner and the wife looked at me and said if you think that's bad you should have been here last week. I looked at them and said you mean you came back. That brings me up to Ms. Venema who was here a month ago and Ms. Venema made a very good comment, her comment was the people that were for this ban should just decide not to patronize restaurants that allowed smoking and I agree with that if you really believe and you want to make a change, don't go to those facilities that allow smoking and I've always felt that way, if you want change, do something about it, don't make laws and don't put things on the books because you feel like you need to go places that you feel like you can't go because you don't like what's there, just don't go there and you tell all your friends not to go there and eventually I guarantee you all those restaurants because the dollar is what makes them function and they will make the changes necessary to make sure they get your dollars. My family the majority of time we go to a non-smoking restaurant. Yes, there are 110 restaurants listed that are non-smoking and granted probably 74 of them are fast foods or deli's, but there are a great number here of good quality restaurants that my family and I go out to because we know it's a smoke free atmosphere and we enjoy that too. No one has ever forced me to go into a smoking restaurant, if I've decided to do that it was on my own ability because I wanted to go in there and yes I have walked into restaurants that were too smoky on a particular night and decided that we did not want to eat there. During this two-month debate every time I have gone into a restaurant whether I've had clients with me or my family I have asked the employees of the restaurant without the owner present what do you think about what the City is doing and not a one of them has told me we needed a change. When I have talked to them and gotten their opinion I have asked them to send another waiter or waitress over and let them express their views also. So, yes I have asked a lot of people in the business, not the owners, but the employees and I have yet to have an employee tell me we needed a change. I can't tell you about the bar side because I don't frequent the bars very often so I can't tell you about that but I can tell you about the restaurants.

Alderman Thiel: I am like Lioneld, I certainly am not afraid to vote on this I feel like it shows strength, I guess my question would be as to why we would vote on this because ultimately I am convinced it is going to be taken to a referendum. I feel like if they could gather in a weeks time 3,000 signatures, regardless if they are registered to vote or residents of Fayetteville, I think in 31 days they can gather enough signatures to put this on the ballot. It will prolong this whole debate because they will have 31 days and then it will be set for sometime in December or January, whereas if we set this as a referendum at this time it would go before the voters November 11th. I also believe that as controversial and the fact that this issue affects everyone I think people would be able to accept the decision and live with the decision of a public vote far more than they could nine people on this Council. Regardless of whether we vote this up or down I think it is going to go to a referendum it's just a matter of when and how soon.

Alderman Cook: We've gone too far down this road in my opinion to send it off to the people, I think the City Council should make the decision, I think the democratic process is in place, we should make the decision up or down and let the process go, which ever side doesn't like our decision then they will get a referendum on the ballot, that's the way the process is, it's already in place, but I really do think we should vote on it and make a decision.

Alderman Reynolds: Mayor we have had a good turn out on every session that we've had on both sides of this and I feel like the people on both sides have put up a good argument and I am like Brenda this thing is either going to go to the voters in November, December or January, so we might as well cut the chase and put it on November 11th, I'm for the referendum.

Alderman Rhoads: As we all have said we have all made many contacts, it is pretty darn even and everybody you talk to has an opinion wherever you go. Brenda's point about the fact that it will get to the voters quicker and I think we all agree that no matter what it's going to get to the voters and so it will get there quicker if we set that in motion and if it gets there quicker it will end it quicker. It is a big change, it's a big change in Fayetteville and I think if I owned a restaurant or a bar or any sort of business I would feel that the referendum is more like the market place speaking than the eight or potentially nine of us speaking so that is why I would encourage people to vote for the referendum.

Don Marr: If they don't know where I stand now.

Kit Williams: May I ask the mover if the motion was basically to adopt all the language that was in the short version that said to refer to the vote, because obviously it's not just a motion to amend but it's a motion to change the ordinance by not only adding Section 2 which is the section that refers it to the vote on November 11th, but also some wording in the title and in some of the other clauses, with the exception of the one part that had been taken out about the Code Compliance Officers.

Alderman Rhoads: That's correct.

Mayor Coody: So if this motion to send it to a referendum passes then there would be no change in our restaurants or anything until after the elections and then how long after the election, let's just assume for a minute that it would pass.

Kit Williams: Section 2 states just like the ordinance that it does not take effect until February 1, 2004 if it passes, if it doesn't pass then the current ordinance would remain in affect and it does remain into affect up onto the election.

Mayor Coody: Well obviously this is going to come down to a tie, which I have been looking forward to so much because I get to play dictator for a minute which is my least favorite job in the world and I have concerns, I am strongly supportive of this ordinance. I support it for several reasons, one reason is that I don't think we should base our economy on habits that people have that is bad for everyone's health, I think that every cigarette butt that we see thrown down on the sidewalks, on the streets that we have to go pick up was not put there by a non smoker. This is a fairness issue, I think that for too long the fairness has swung to the 25% of the people who smoke and the 75% of the people who do not smoke have had to suffer for the smoking habits of the smoking community. If everyone was as considerate as a lot of people are where they would just simply step outside to smoke they would field dress their butts and carry them in, we wouldn't be in this situation, this situation is a result not of the smoking habit but of those smokers who are totally inconsiderate of the majority of people who do not smoke and that's the problem. We've eliminated bars I think that was a good thing to do, I would go out to listen to more live music if there was a smoke free environment, my wife is allergic to smoke and I don't go out without her and she wouldn't go into an area that is filled with smoke and I certainly wouldn't enjoy it either. This whole thing has been blown out of portion to a stupendous degree, to think that this is a plot that we are subcoming to right now is beyond comprehension as a start. I think that this is basically an issue that is coming not just to Arkansas but to the entire United States, so many cities and states have banned smoking in one form or another. I was the one that sponsored the smoking ordinance back in 1991 and we had much the same argument then. Everybody came out saying you're taking away my rights, my business is going to fail, and the world economy is going to collapse, nothing like that happened, as a matter of fact after about two weeks it was like it had always

been in place. There were a lot of restaurants, banks and groceries that wanted to keep their mouths shut about voicing any kind of opinion, but they let me know privately, as has happened this time, some very significant bar owners even though they are exempted they still support this but they don't want to be the prize of their industry here in town. I know you may disagree but I know whom I've talked to. I know that back 11 years ago when a lot of folks wanted us to pass a smoking ordinance but didn't want to be publicly in favor of it for fear of running off customers who smoke, they let the City Council pass it and even though the ordinance didn't take effect for 30 days, they put signs on their doors the following morning, saying smoking prohibited. Until 11 years ago you could smoke cigarettes in the produce section, you could smoke in the banks, and you could smoke anywhere in town you wanted to, that's unthinkable today, yet 11 years ago that's exactly how it was. The situation then was more radical because we were going from zero to having a smoking ordinance, all this does is take an existing ordinance and expand it one small step where basically restaurants goers who want to smoke are basically asked to step outside to do so. People have been in this building now for 5 ½ hours and I think there are a lot of smoker in here that have been able to take it. Eating in a restaurant usually takes 45 minutes maybe an hour, a flight across the country, going to church, going to the grocery store all of these are smoke free environments, I don't see this as a big see change in the way we do business. The draw back to our voting on this tonight and passing it straight up here is the dilemma that I face, that I want to see something good passed for the City of Fayetteville. The draw back to us voting on this tonight is the fact that if we vote on this tonight we have given ammunition to the anti ordinance forces to go out and say the government is determining your rights they are taking away your rights, your privileges and you need to stand up to the government, which is a whole different argument than the smoking ordinance. If this goes to a vote of the people then that argument is taken away and the government is not telling anybody anything against their will. This goes straight to a vote of the people and when the people speak then everybody's going to listen, of course it's also been said that if we give this to a referendum then big tobacco is going to come in and spend a ton of money on advertising. I fully expect that to happen too because tobacco came in 11 years ago and tried to get us to shut down the ordinance, they did it once, they tried a second time but we beat them a second time. I fully expect tobacco to come in and spend money on advertising this time but with a well orchestrated campaign of the truth not fear, that the whole world economy is going to collapse if Fayetteville passes this, that every business is going to go out of business, that everybody is going to go to Rogers because they can smoke up there, I don't believe that for a minute. I think there will be a wrinkle in time for maybe a few weeks but after that it's going to be business back to normal as usual just like it happened 11 years ago. I want to pass this thing straight up tonight, but I think its better for the long term Fayetteville if we pass this off to the voters, because if we pass this tonight there will be a referendum and there will be the battle cry don't let the government take your rights away. I think that is a bogus argument but that is the argument that's going to be made. Right now non-smokers have had their rights taken away and non-smokers are paying elevated health care cost to pay for the poor health of the smokers in the State of Arkansas. According to Blue Cross Blue Shield who does our City's insurance, 60 health care providers have left the state in the last five years because of two things low per capital income and poor health and there was two things about Arkansas's health that are bad, one is obesity, the second one, the stronger one, is smoking and because our per capital income is low and our health is low all of us non-smokers are paying elevated health care cost to subsidize the health care cost of the smoking community if you are in a group rate. Nobody is standing up for the non-smokers saying what about my rights to keep my money in my pocket and pay for my health care when I am trying to take better care of myself, those rights are being trampled by the smoking community and I don't think that's fair. If we are going to be talking about a fairness issue let's talk fairness on both sides, am I making myself clear on how I stand on this deal? If we vote on this tonight and we vote it up, I think in the long run it's going to hurt the movement because there will be that battle cry that is bogus, like I said, but it is going to be the battle cry none the less. If we send it straight to the voters I especially will be shot at for being weak and not a good leader. I think for the long run good health of this movement we need to let the people decide and the people who support this need to organize and go out and get people to vote for it if the majority of the people don't smoke and if the majority of the people want to see this happen then it will pass and when it passes then there

won't be this debate back and forth about well the government made us do it and we are going to thumb our noses at the government which I'm sure would happen if we just pass it tonight.

Kit Williams: If you want I could go ahead and read Section 2 which is the new section in which would be the affected part of this amendment so that everyone knows and I will have read that.

Alderman Marr: So Kit will there be two votes, one on this amendment and then one on the final.

Kit Williams: That's right. Section 2 would read that the City Council of the City of Fayetteville, Arkansas hereby refers to the people of the City of Fayetteville the above proposed ordinance repealing the current § 95.05 of the Fayetteville Code and enacting the new § 95.05 regulation of smoking in most public places for their adoption or rejection in a special election be held within the City of Fayetteville pursuant to Amendment 7 of the Arkansas Constitution on Tuesday, November 11, 2003.

Mr. Williams read the rest of the ordinance.

Mayor Coody asked shall the amendment pass.

Upon roll call the amendment failed 4-4. Aldermen Rhoads, Davis, Reynolds, and Thiel voting yes. Aldermen Marr, Lucas, Jordan, and Cook voting no. Mayor Coody chose not to break the tie. The amendment failed for lack of majority.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Marr seconded. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Marr: Mayor I want to thank everyone on the Council for what you have endured, I know it hasn't been easy, I know you have taken a number of calls and for those of us that have work days and those of us that have things that are not related to work but in our personal lives I understand and I hope the public understands the amount of time you took for this issue and I thank you for that. I would like to thank the citizens of Fayetteville even those that are on the opposing side of this ordinance because I think as Joe Fennel talked about earlier tonight agreeing to disagree is okay and I certainly think that we will continue, as many of you believe this debate will end up probably at an election box one day. I want to thank our Mayor because I know how difficult it is when you have people coming before you and really having to struggle with your personal beliefs, your beliefs of representing other people. I think that it is just another example, while it might be difficult and someone may say well I won't vote for you again, because lord knows I've read enough of that about myself in the paper, you have to get comfortable with the fact that what you did was right and you believe in your convictions and if you lose because of that then you know that you took a step forward. I will certainly support you and I appreciate your vote. The other thing is this has always been about health, always been about health, Robert talked about he was most influenced by non-smokers who wanted choice and I can respect that, I have friends, I have restaurants that I go to, I have individuals who have told me, how can you tell us what to do when you don't want people telling you how to live your life and I can respect that, but I am more influenced by the physicians, I am more influenced by the medical information, I am more influenced by the fact that this is a step where we will be saying to the people we want to lower long term health care cost for Arkansas, we want to provide safe environments for everyone. Thirdly the economic impact, we talk about smoking cliental going elsewhere and I certainly hope that doesn't happen, I hope they will go outside and sit on a patio, but I think we also have an opportunity of inviting others to our community who seek non-smoking environments. I'm sorry for those people who don't think that this should have ever come forward, but I think that if one thing we learned in this debate is when you have the number of people talking about the things that they are talking about related to this issue then

we needed to debate it and we need to make a decision. If the people override us for those of you that are on the other side of this vote as we move forward, then that's how it will be, if the people support it then that's how it will be. I would encourage people who have learned anything through this process to get involved, because one thing I think no one can charge this group with is not being well studied, not being well researched and not looking at the information and while some people may not believe that I know that everyone has carried folders of pros, cons, tons of information and I think we are doing the right thing.

Alderman Davis: Don and Shirley once again I appreciate you all bringing this forward, it has been a very educational and a very lively debated topic. I want everybody to remember regardless of whatever happens tonight that I get the impression by talking to certain people that they think if we vote this up it takes care of the smoking situation, I beg to differ. What I see is you are examples to your children and whatever you do at home is what your child wants to imitate in most cases, to me that's where the smoking problem begins, it is not because someone is able to go to a restaurant at 18 years old and decide to light up a cigarette, that's not where the problem begins, the problem begins at home, and I think its up to you and us and each and every person that has children to make sure that our children do what we think they ought to and try to lead them in the right directions. Too many times we let our kids choose all the time and we don't always set the boundaries and that's where a lot of this occurs and these problems arise from so I hope that regardless of whatever happens here we don't always expect government to help us out and direct our children down the path. It is up to each and every one of us to direct our children down the path we want them to go.

Mayor Coody: With 44% of our children smoking in high schools we are not doing a very good job. One thing I want to add is the fact that, that is the main thing that we have to worry about is our young people starting to smoke because the industry needs them to start smoking and nobody in their 20's to 30's begins to smoke. If I were to ask all the smokers in the room how many are glad that you started and if you knew what you know today if you would start again, if you were a non-smoker I bet very few would say yes. The question is how many of you want your children to pick up the habit, very few would say yes to that too.

Alderman Davis: So many times I have seen on Dickson Street for instance mom and dads pull out a cigarette after they leave a restaurant or just walking down the street and they have their children there with them well that's giving them the idea that it's okay.

Mayor Coody: Also people have said they were smokers until they got tired of going outside to smoke realizing that it was just becoming less and less socially acceptable and that helped them quit and then they became better role models for younger people and they became healthier in turn. I want to see the most affective thing we can do to get something to happen, I don't know which is the best way to go, I think if we pass this up it may be a more dangerous route than sending it straight to the folks, and I think it may be more dangerous. I don't mind making the decision to support it, the only thing I don't like is by making the decision to pass this straight up, and in the long term it hurts the cause, that's what bothers me. That's the thing I am not sure about, I think we are taking a little bit more of a risk tonight by passing this straight up rather than sending it off to the voters, but we're going to count on those folks that want to see this substained to rally the forces when it comes time.

Alderman Lucas: I want to just say thank you Don for bringing this up. This has been tough and thank you all. I know you have gotten at least as many contacts as I have and its been a lot, but I thought this was a very important issue, a health issue for Fayetteville and I thought enough people had wanted it brought forward that we should do this and so that's why I agreed with Don to do this. Thank you all for all your input and everything, its been great, however this goes I still think that it is a health issue and it's coming, I had a email from my daughter today that the Louisville Kentucky Council the heart of the tobacco area is considering this, so it is coming however it goes today or in the next month or so and I thank you all.

Mayor Coody: On a personal note, I would like to ask all of us that have friends out in the audience for and against this issue don't jettison friendships over this one item of disagreement, it is very important that we maintain our friendships, that we maintain good relationships, that we maintain respect for each other, it is very important that we don't let this divide us. I've seen it happen before where we've had votes up here which severed long standing relationships and that's not right, we're better than that and I want us to maintain our good friendships and good relationships and I hope that those of you who are on the other side of the coin from those of us up here, bear with us on this and today's opponents are tomorrows allies and we will be allies the next go around.

Alderman Reynolds: I don't know why we didn't enforce the ordinance we had. You have been around three years in November, why didn't we enforce what we had; if we had we probably wouldn't be here today.

Mayor Coody: It was not enforced for the years before I took office and to go back and start enforcing it after restaurants have been built without the enforcement would have been a nightmare to go back and do.

Alderman Reynolds: So that's where we are at tonight, a nightmare.

Mayor Coody asked shall the ordinance pass.

Upon roll call the ordinance passed 5-3. Aldermen Marr, Lucas, Jordan, Thiel and Cook voting yes. Aldermen Rhoads, Davis and Reynolds voting no.

Meeting adjourned at 10:50 PM

_____

Sondra Smith
City Clerk

2003 Fayetteville Citizen Survey Findings

Executive Summary

October 14, 2003

FAYETTEVILLE

Conducted for the

City of Fayetteville

by the

Survey Research Center University of Arkansas

Summer 2003

Survey Research Center

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2003 Survey of Citizens of Fayetteville, Arkansas
Executive Summary of Findings
Conducted by the Survey Research Center, University of Arkansas
October 14, 2003

Fayetteville's Circumstances

- Fayetteville has experienced a change in leadership over the last few years
- Fayetteville is growing rapidly. Its population grew about 38 percent between 1990 and 2000
- As part of an even more rapidly growing area, Fayetteville can expect continued growth

The Survey

The purpose of the survey

The survey was conducted to obtain citizens' opinions about

- How the city is performing
- What the city should do in the future
- How the city should handle the challenges of growth

Advantages of a survey

- To obtain respondents for the survey for the City of Fayetteville randomly generated telephone numbers were sampled
  - This ensures that numbers that are unlisted as well as listed numbers are included in the sample of telephone numbers to be called
- A randomly generated sample of the population provides opinions from a more fully representative group than would be obtained with sampling of any other type
- Therefore, survey respondents include
  - Constituents with interests in particular topics
  - Constituents who are experiencing problems
  - And the other constituents as well
- Sampling randomly allows the probability of the accuracy of the results to be known within certain bounds
- Therefore, the opinions of the sample reflect the opinions of the population
- The opinions of respondents may be analyzed with statistics
- Opinions of subgroups of the population may be determined

The Importance of Survey Results to Policy Makers

- Because Fayetteville's residents prize democracy, it is important to policy makers to understand what a broad cross-section of his or her constituents are thinking
- Surveys inform policy makers of citizens' preferences and demands
  - Citizens can evaluate current plans via surveys
  - Citizens' can assess the quality of services offered by the community
    - Opinions of these services collected over time may reveal effects of improvements made and shortcomings in services as well

- Areas of need may be identified or explored in more depth
- Preferences of subgroups for plans and services may be uncovered in surveys

Research Methods

The survey was conducted via telephone during July and August 2003. Surveys were conducted with respondents whose telephone numbers were both generated and selected at random. Therefore, the survey respondents reflect a broad cross-section of Fayetteville's residents.

Letters mailed to all households for which addresses could be obtained preceded the telephone calling. Four hundred residents of Fayetteville responded. Findings of the surveys conducted with the 400 respondents are reported in this summary.

How survey respondents compare with Fayetteville residents racially and ethnically

Population Distribution of Fayetteville and Survey

	2000		2003 Survey	
	N	%	N	%
White	50212	86.5	362	91.2
Black	2969	5.1	24	6.0
American Indian and Alaska Native	730	1.3	4	1.0
Asian	1484	2.6	5	1.3
Native Hawaiian and other Pacific Islander	90	0.2		
Some other race	2562	4.4	2	0.5
Total	58047	100	397	100

	2000		2003 Survey	
	N	%	N	%
Hispanic/Latino	2821	4.9	22	5.5
Non-Hispanic/Latino	55226	95.1	375	94.5

Figure 1

In 2000, 86.5 percent of Fayetteville's population was white; 5.1 percent, black; 1.3 percent American Indian or Alaskan Native; 2.6 percent Asian; 0.2 percent Native Hawaiian or other Pacific Islander; and 4.4 percent some other race (Figure 1) (U.S. Census Bureau, Census 2000 Summary File 1, www.factfinder.gov). The survey respondents are 91.2 percent white; 6.0 percent, black; 1.0 percent American Indian or Alaskan Native; 1.3 percent Asian and/or Native Hawaiian or other Pacific Islander and 0.5 percent, some other race (Figure 1).

The bottom part of the chart (Figure 1) shows that while 5.1 percent of Fayetteville's population was Hispanic/Latino in 2000, 5.5 percent of 2003 survey respondents are Hispanic/Latino (U.S. Census Bureau, Census 2000 Summary File 1, www.factfinder.gov).

The survey respondents are somewhat more likely to be white than is true for Fayetteville as a whole. Survey respondents are less likely to be Asian, Native Hawaiian and/or other Pacific Islander than are Fayetteville residents and much less likely to be of some other race.

The over-representation of white residents in the survey may not be as large as it appears to be, however. All of the 24 Hispanic/Latino survey respondents, composing 5.5 percent of all respondents, are white. The Census Bureau reports that some of the 4.4 percent of "some other race" indicated in the 2000 Census are Hispanic/Latino. If some or many of these Hispanic/Latino residents are white, then the 2000 Census figures for white residents should be adjusted upward. Thus the percentage of white Fayetteville residents who took the survey would more closely resemble the percentage of white people living in Fayetteville.

The survey respondents are also slightly more likely to be African American or Hispanic/Latino than were Census reports of these two groups in 2000. The apparent over-representation of these two groups among survey respondents likely reflects two dynamics that move in the same direction. First, the decennial census historically undercounts members of these two groups. Secondly, African American and Hispanic/Latino residents are the fastest growing segments of Fayetteville's population. Therefore, the fractions of African American and Hispanics/Latino residents in the survey may better resemble their actual representation in the population than figures that would have matched those of the 2000 Census.

Survey Findings

Citizens' Perceptions of the City and Its Services

How would you rate Fayetteville as a place to live?

	Percent
Excellent	46
Good	49
Neither good nor poor	3
Poor	2
Very Poor	0
Total	100

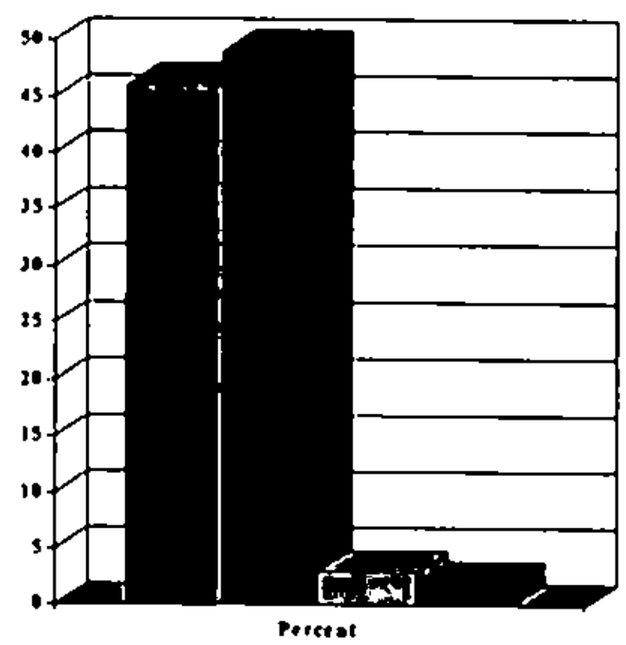


Figure 2

As Figure 2 shows, 95 percent of Fayetteville's residents consider Fayetteville an excellent (46%) or good (49%) place to live. Three percent perceive Fayetteville as neither good nor poor and 2 percent as poor (Figure 2).

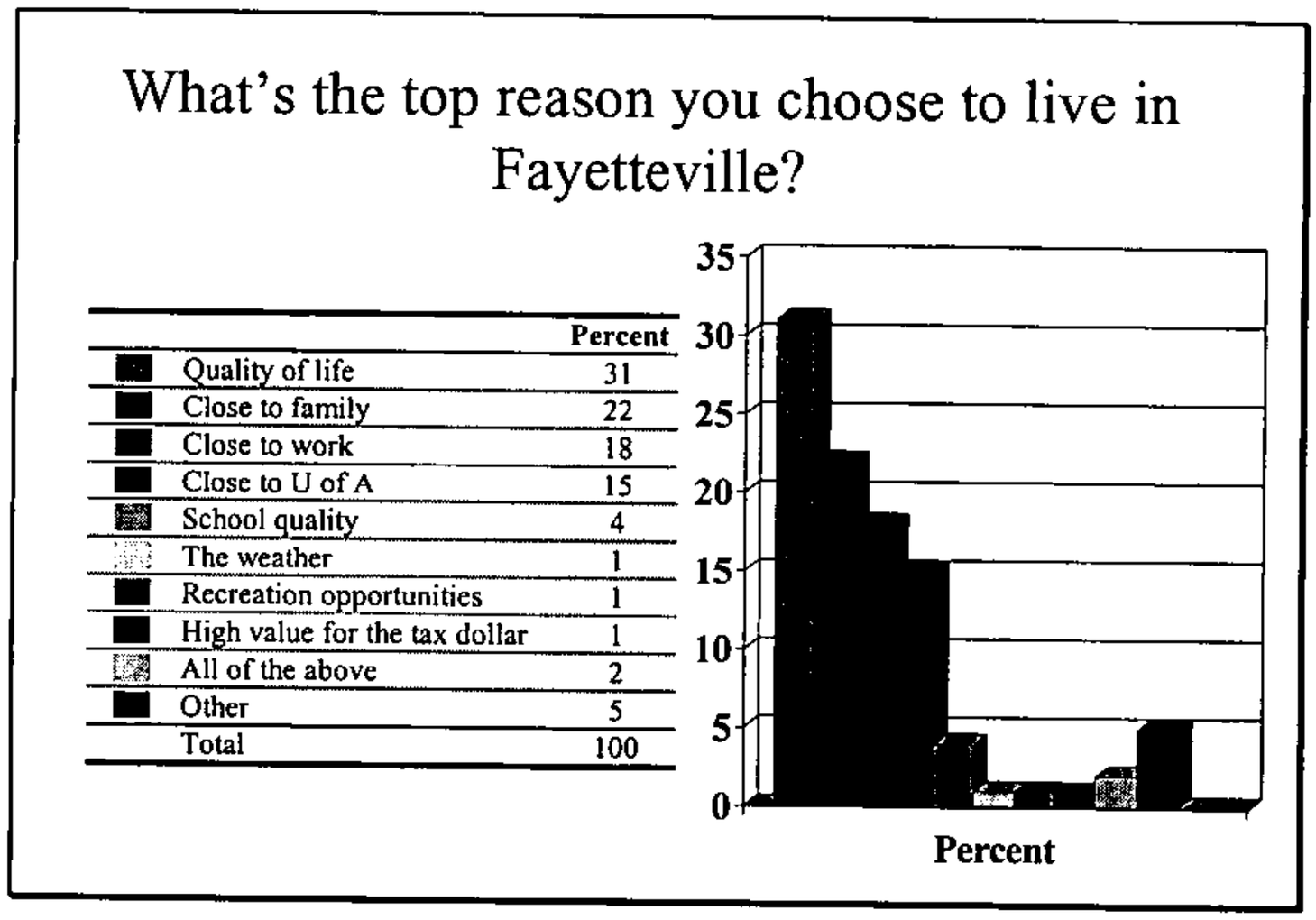


Figure 3

The largest group of residents, nearly one-third (31%), say they live in Fayetteville because of the quality of life it offers. More than one-fifth (22%) live in Fayetteville so as to be close to family; 18 percent to be close to work and 15 percent for proximity to the University of Arkansas.

The remaining residents choose to stay in Fayetteville because of the quality of the schools (4%), the weather (1%), recreational opportunities (1%), high value for the tax dollar (1%), all of the above reasons (2%) and other (5%) (Figure 3).

Satisfaction with city services

City services: Group One

With which one of the following city services are you most satisfied?

	Percent
Parks and Recreation Services	55
Utilities	18
Public Safety Services	14
Transportation	5
Streets	3
Information Programs	3
Other	2
Total	100

Figure 4

When residents choose among the six city services listed in Figure 4 and an "other" option, more than one-half of the residents of Fayetteville (55%) declare that the city services with which they are most satisfied are those of parks and recreation. Eighteen percent are most satisfied with utilities; 14 percent public safety services; 5 percent transportation; 3 percent streets; 3 percent information programs and 2 percent other (Figure 4).

City services: Group Two

Here is a second list of city services. With which one of these are you most satisfied?

	Percent
Downtown Fayetteville, Dickson Street area and College Avenue development	33
Fayetteville Public Library	26
A Clean and Green City	23
Growth and Development	9
Housing	5
Surface and Ground Water	3
Other	1
Total	100

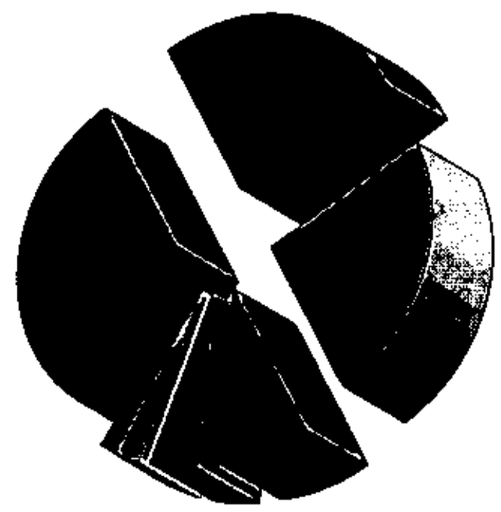


Figure 5

Asked to choose among a second set of city services, citizens are most satisfied with downtown Fayetteville, the Dickson Street area and College Avenue development (Figure 5). More than one-fourth, 26 percent, are most satisfied with the Fayetteville Public Library and nearly one-fourth, 23 percent, with a clean and green city. Fewer than 10 percent each register the most satisfaction with growth and development (9%), housing (5%), surface and ground water (3%) and other (1%) (Figure 5).

City services needing the most attention: Group One

Which one of the following city services do you think needs the most improvement?

	Percent
Streets	51
Transportation	24
Utilities	12
Parks and Recreation Services	5
Information Programs	3
Other	3
Public Safety Services	3
Total	100

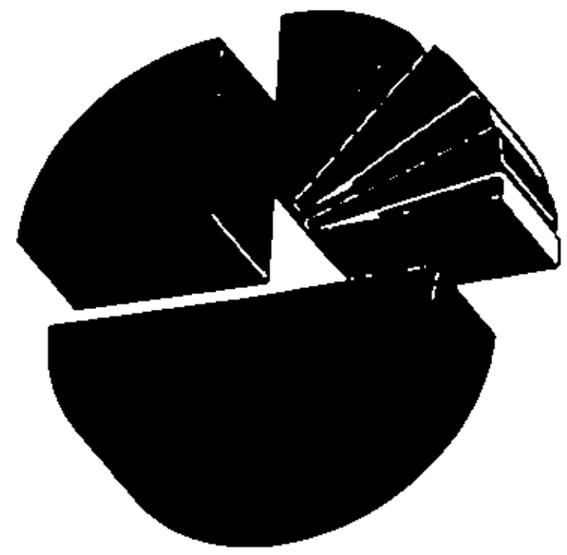


Figure 6

Fayetteville's residents were asked to select the city service they believed needed the most improvement from two sets of city services. The first set of services among which residents chose is listed in Figure 6. The majority of residents (51%) believe that streets need the most improvement and another 24 percent say the same about transportation.

For purposes of the survey, the city service of streets includes street maintenance and repair, cleanliness of streets, and sidewalk maintenance and accessibility. Transportation services are composed of the following as defined in the survey includes ease of car travel, Ozark Regional Transit/public transportation, Razorback Transit and alternative transportation such as bicycling and walking.

While 12 percent of the city's residents conclude that utilities are the services most needing improvement 5 percent or fewer assess the following services similarly: parks and recreation services (5%), information programs (3%), public safety services (3%) and other (3%) (Figure 6).

Residents' travel time to work or school

How long, on average, does it take you to get to work (school) one way?

	Percent
15 minutes or less	82
.5 hour	14
.75 hour	1
1 hour	1
1.25 hours	1
1.5 hours	0
2.25+ hours	1
Total	100

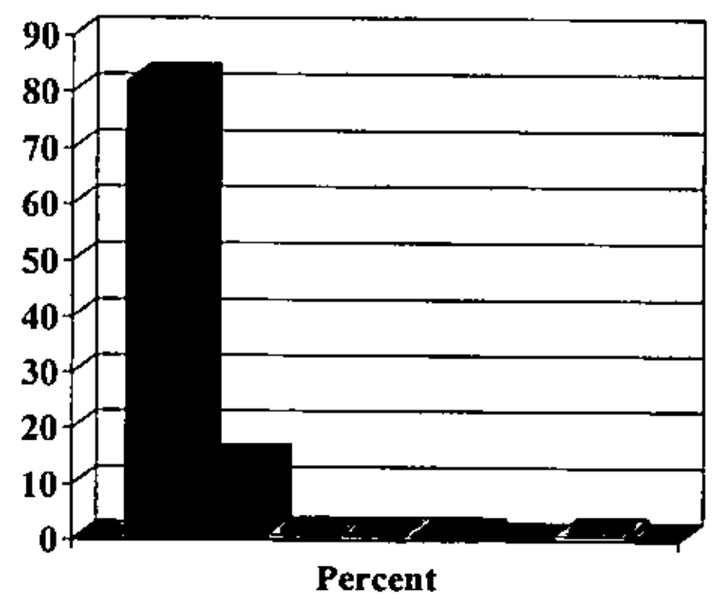


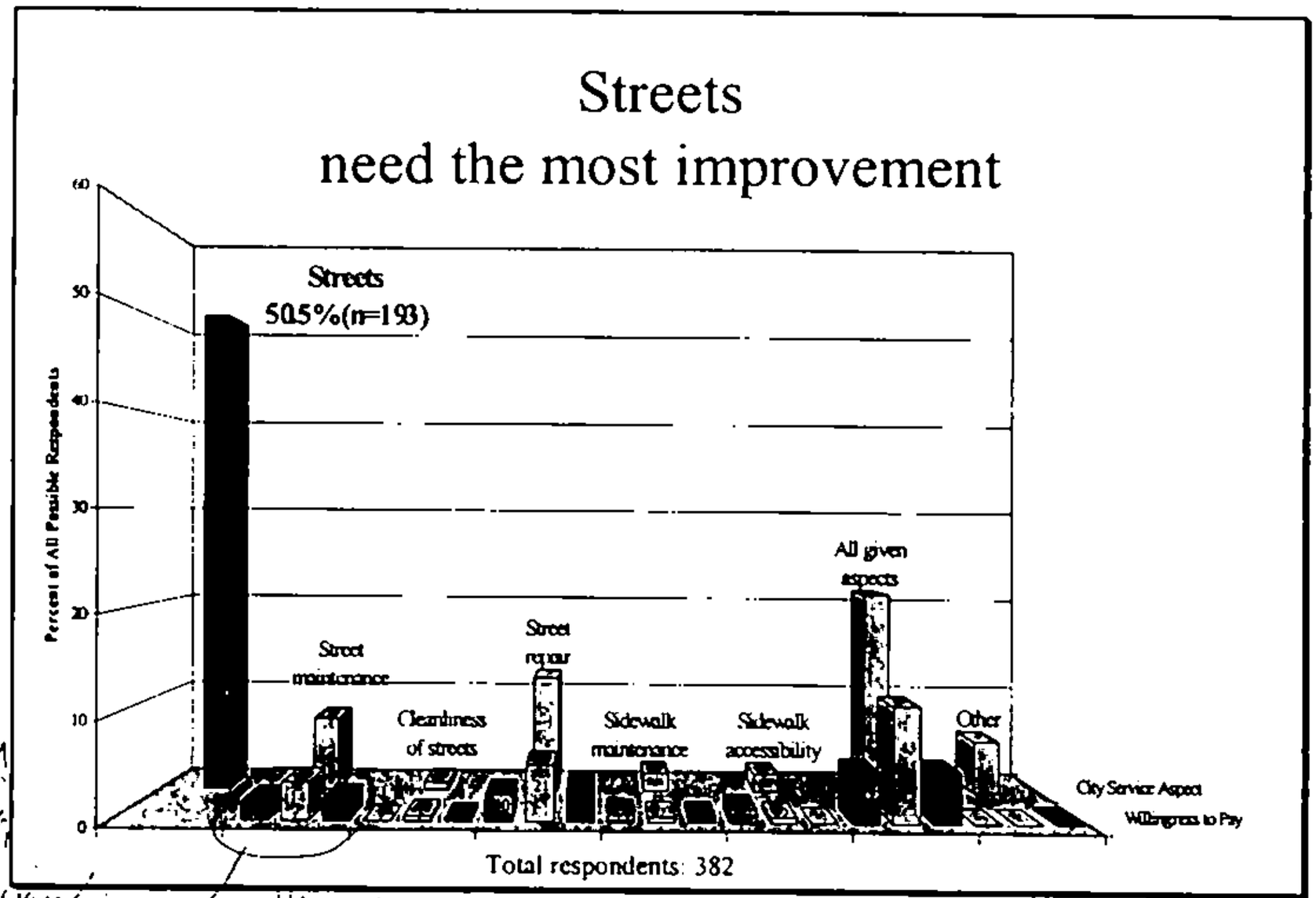
Figure 7

Considering the percentages of Fayetteville residents who believe that streets (Figure 6, Figure 8) and transportation (Figure 6, Figure 9) are the city services that need the most improvement, it is important to review the time residents allocate to their work or school commutes.

About 82 percent of the citizens of Fayetteville spend 15 minutes or fewer traveling to work or school each day (Figure 7). Another 14 percent commute to work or school in one-half an hour or less. The commute for 4 percent (n=12) of Fayetteville's residents exceeds one-half an hour.

How do these findings compare with those reported on the 2000 Census? According to the 2000 Census, the average travel time to work is 16.4 minutes in Fayetteville, 21.4 minutes statewide, and 25.5 minutes nationwide.

City services needing the most attention: Group One – Streets



Willing to pay
may be willing
to pay
not willing to pay

willing to pay for it

Figure 8

Figure 8 and several that follow show three related sets of data. Farthest back on the graph and to the far left is a column indicating the percentage of residents who believe a particular service, of the seven services in Group One presented, needs the most improvement. In Figure 8, 51 percent of Fayetteville's residents assert that streets need the most improvement.

The second (middle level) part of Figure 8 shows the mid-sized columns. These columns represent the particular aspects of streets that need improvement. About 8 percent of the residents of Fayetteville view street maintenance as the aspect of streets that needs the most improvement; 1 percent, cleanliness of streets; 12 percent, street repair; 2 percent, sidewalk maintenance; and 2 percent, sidewalk accessibility. In addition, 21 percent of city residents assert that all of the aspects of streets mentioned (street maintenance, cleanliness and repair, and sidewalk maintenance and accessibility) need the most improvement. Nearly 6 percent of citizens recommend other aspects as needing the most improvement. These are listed in the appendix of the full report.

One way of viewing these findings is to add the percentages of those who say that all aspects of streets need the most improvement to the percentage who support individual options. Thus support for improving street maintenance includes not only the 8 percent who identify street maintenance as the aspect of streets needing the most improvement per se, but also the 21 percent of residents who say that all of the aspects need improvement. Thus, according to

29 percent of Fayetteville's residents, street maintenance needs to be improved; 22 percent, street cleanliness needs to be improved and so on. Viewed from this perspective, these data sum to more than 100 percent, however, because those who say that "All given aspects" need improvement, select more than one aspect of streets as needing improvement.

The third and front-most part of Figure 8 includes three columns for each of the seven aspects of streets needing the most improvement. These columns indicate willingness to pay. The percentage of citizens each of these columns represents is indicated on the vertical axis of Figure 8 and the number of people who chose each option is written on the column that represents it. The column on the left indicates those who are willing to pay for a given option; the middle column, those who may be willing to pay and the column on the right, those who are not willing to pay for the improvement.

Two percent (n=7) of Fayetteville residents say they are willing to pay to improve street maintenance; 4 percent (n=14) may be willing to pay and two percent (n=8) are not willing to pay for it. Thus, of those who contend that street maintenance is the aspect of streets most needing improvement, 24 percent are willing to pay; 48 percent may be willing to pay and 28 percent are unwilling to pay for improved street maintenance (Figure 8).

About 3 percent (n=10) of the citizenry choose street repair as the option needing most attention and are willing to pay for such repairs. Another 5.5 percent (n=21) of the citizens may be willing to pay for repairs to streets and 3 percent (n=13) are not willing to pay. In summary, nearly three-fourths of residents who say that of street problems, repair needs the most attention are willing (23%) or may be willing (48%) to pay for the repair, while 30 percent are not willing to pay.

Among residents who advocate that all the given aspects of streets be improved, 23.5 percent are willing to pay and they compose 5 percent (n=19) of all residents. More than half (53%) of the champions of street improvements may be willing to pay for them and these form 11 percent (n=43) of the population, while 23.5 percent (5 percent of all residents (n=19)) are not willing to pay for the street improvements.

About 43 and 71 percent of citizens who believe that sidewalk maintenance and accessibility, respectively, are the aspects of streets needing the most attention say they are willing to pay for them. These two groups compose a total of about 2 percent of the city's population. About 29 percent each of those hailing sidewalk maintenance and accessibility may be willing to pay for these improvements and account for a total of 1 percent of city residents (n=5 each). Another 29 percent, 0.5 percent of city residents, wanting better sidewalk maintenance would not pay for it (Figure 8).

City services needing the most attention: Group One – Transportation

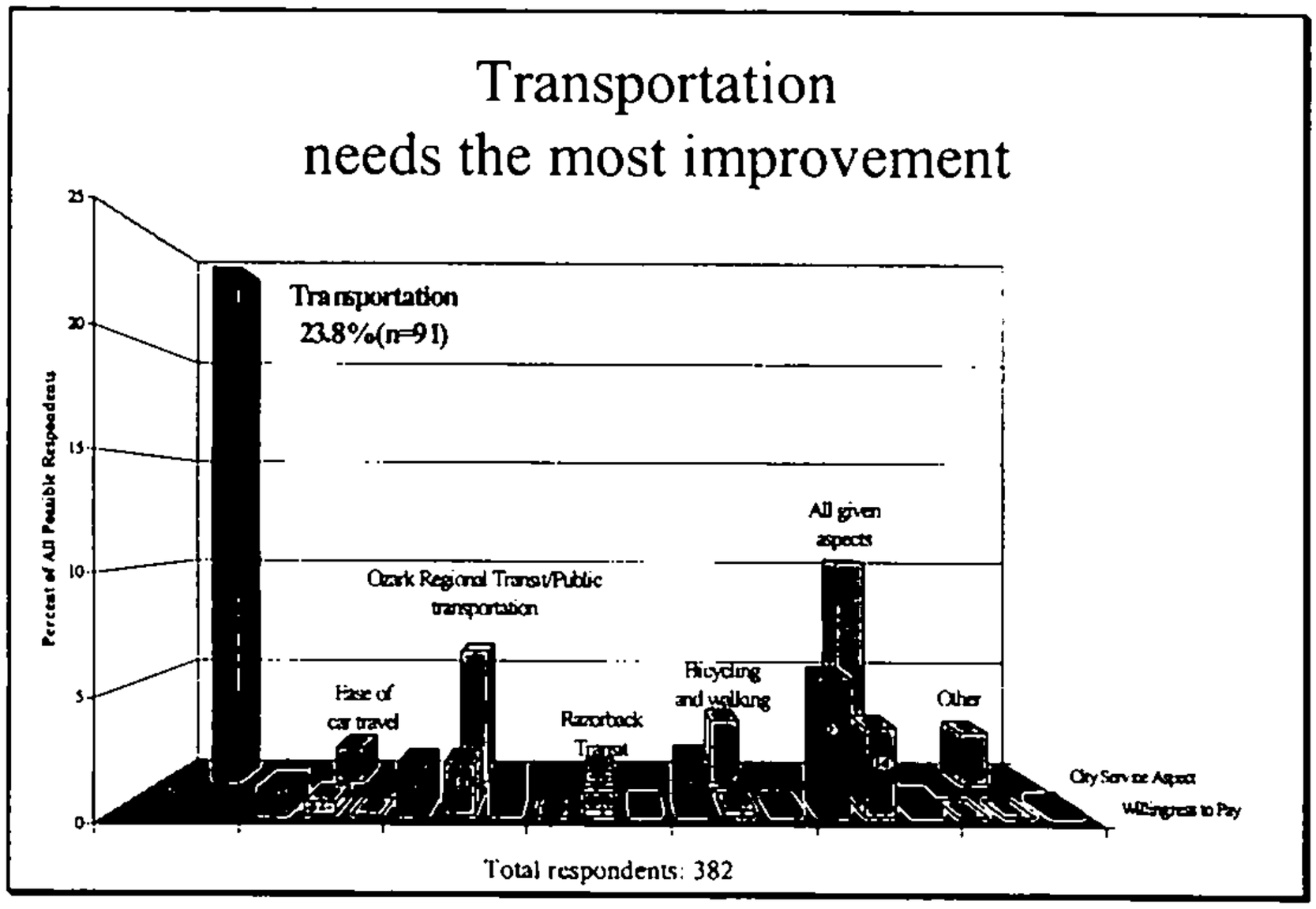


Figure 9

The 24 percent of Fayetteville residents who declare that transportation encompasses the city services most needing improvement were subsequently asked which of four aspects of transportation needs improving the most (Figure 9). The four choices include ease of car travel, Ozark Regional Transit/public transportation, Razorback transit and bicycling and walking. In addition, survey respondents could choose all of the given aspects or suggest other options.

The largest percentage (10 percent) of citizens recommend that all four aspects of transportation mentioned most need to be improved (Figure 9). Two percent of citizens of Fayetteville state that ease of car travel is the aspect of transportation needing the most improvement; 6 percent, Ozark Regional Transit/public transportation; 0.5 percent, Razorback transit; 3 percent, bicycling and walking; and 2 percent, other aspects of transportation (Figure 9).

To what extent are residents who assert that each of these aspects of transportation needs improvement willing to pay for it? Of the 10 percent of Fayetteville residents who advocate that all the given aspects of transportation need the most improvement, 6 percent (n=22) are willing to pay; 4 percent (n=14) may be willing to pay and 0.5 percent (n=2) are unwilling to pay. Those supporting the improvement of Ozark Regional Transit/public transportation are evenly split between the three options. Two percent (n=8) each are or may be willing to pay

for the improvements, while 1.6 percent (n=6) are not willing to pay to improve Ozark Regional Transit/public transportation (Figure 9).

Four of the 6 respondents who say that easing car travel is the most important transportation improvement the city could make, would pay for the changes and the other two may be willing to pay. Of the 3 percent (n=11) who advocate for improving bicycling and walking aspects of the city's transportation system, 2.4 percent (n=9) are willing to pay; 0.3 percent (n=1) may be willing to pay and 0.3 percent (n=1) are unwilling to pay for the enhancements (Figure 9).

City services needing the most attention: Group One – Utilities

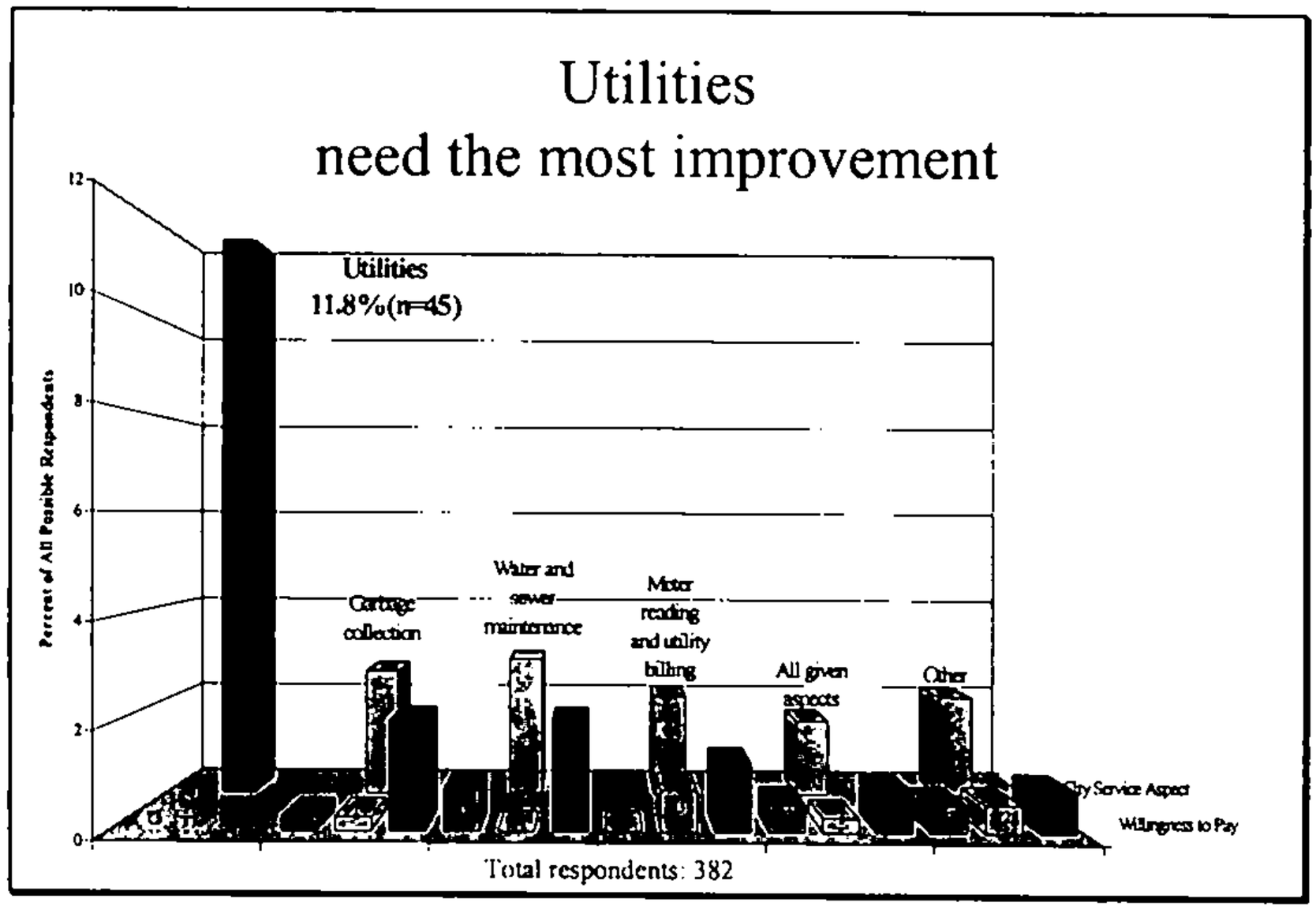


Figure 10

The nearly 12 percent of residents who contend that utilities are the city service needing the most improvement are about evenly split between the five options given. Nearly 3 percent of city residents believe that garbage collection is the aspect of utilities needing most to be improved; 3 percent, water and sewer maintenance; 2 percent, meter reading and utility billing; 1.6 percent, all aspects given and 2 percent, other aspects of utilities (Figure 10).

Of the 3 percent who want garbage collection enhanced, 0.3 percent (n=1) each are willing or may be willing to pay and 2 percent (n=8) are unwilling to pay. Three of the 11 people who say that water and sewer maintenance are paramount in needing upgrades, express willingness to pay and 8 do not. Three of the 8 respondents who promote improvements in meter reading and utility billing may be willing to pay, but 5 are not. Among the 6 who want to advance all three aspects, 2 are willing to pay; 1 may be willing and 3 are not. Four of the 7 respondents making other suggestions to upgrade utilities are either willing to pay or may be willing and 3 are unwilling to pay.

City services needing the most attention: Group One – Parks and recreation services

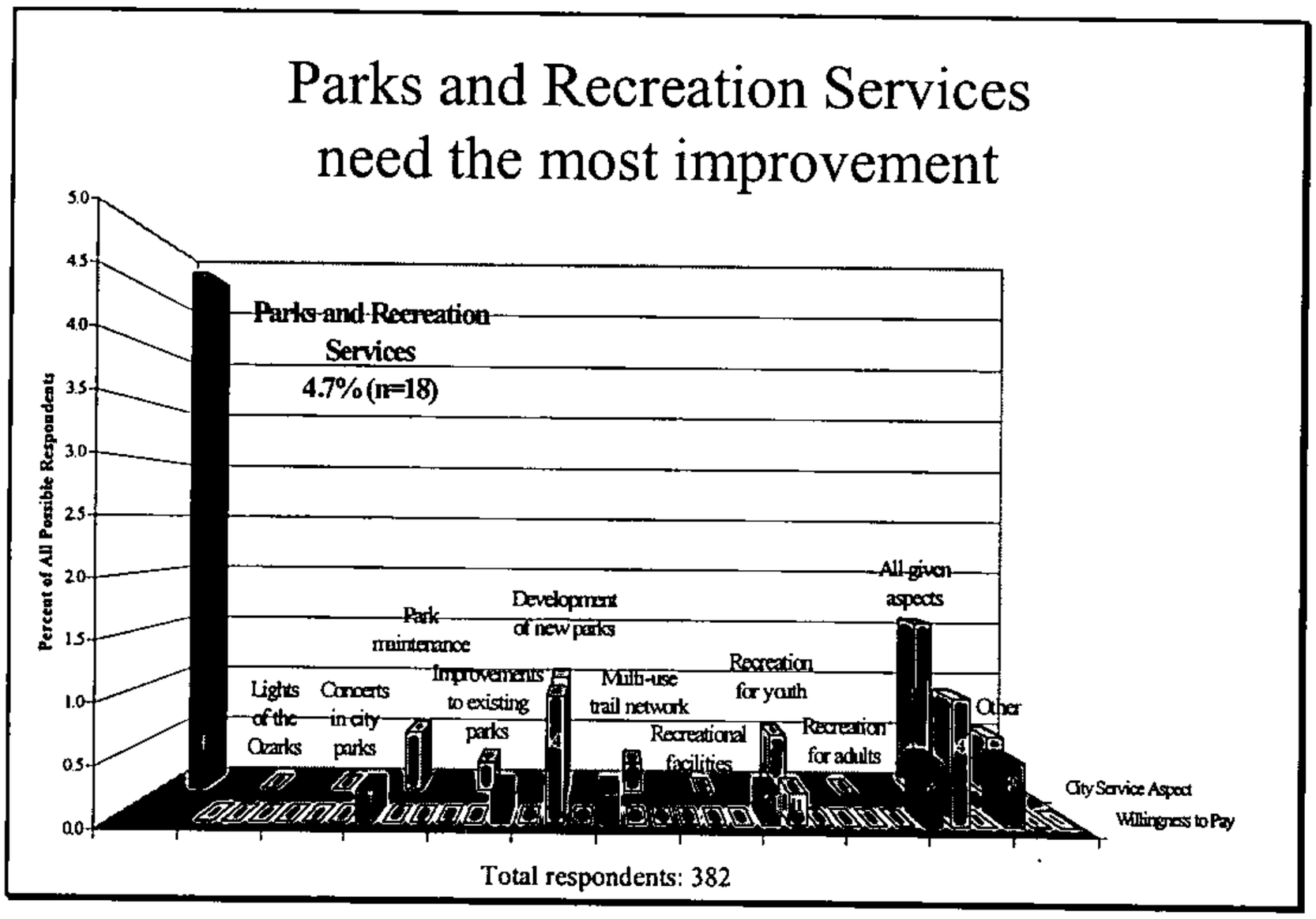


Figure 11

Parks and recreation services (Figure 11) are the city service most in need of upgrading according to approximately 5 percent of the citizens of Fayetteville. A greater percentage of residents (2%; n=6) want all the presented aspects of parks and recreation to be effected than who advocate for the improvement of any individual aspect. Approximately 1 percent or fewer each describe the development of new parks (1%; n=4), park maintenance (0.5%; n=2), improvements to existing parks (0.3%; n=1), multi-use trail system (0.3%; n=1), recreation for use (0.5%; n=2) and other aspects (0.5%; n=2). In six of these seven cases, The advocates for 6 of the 7 options are either willing to pay or may be.

City services needing the most attention: Group One – Public safety services

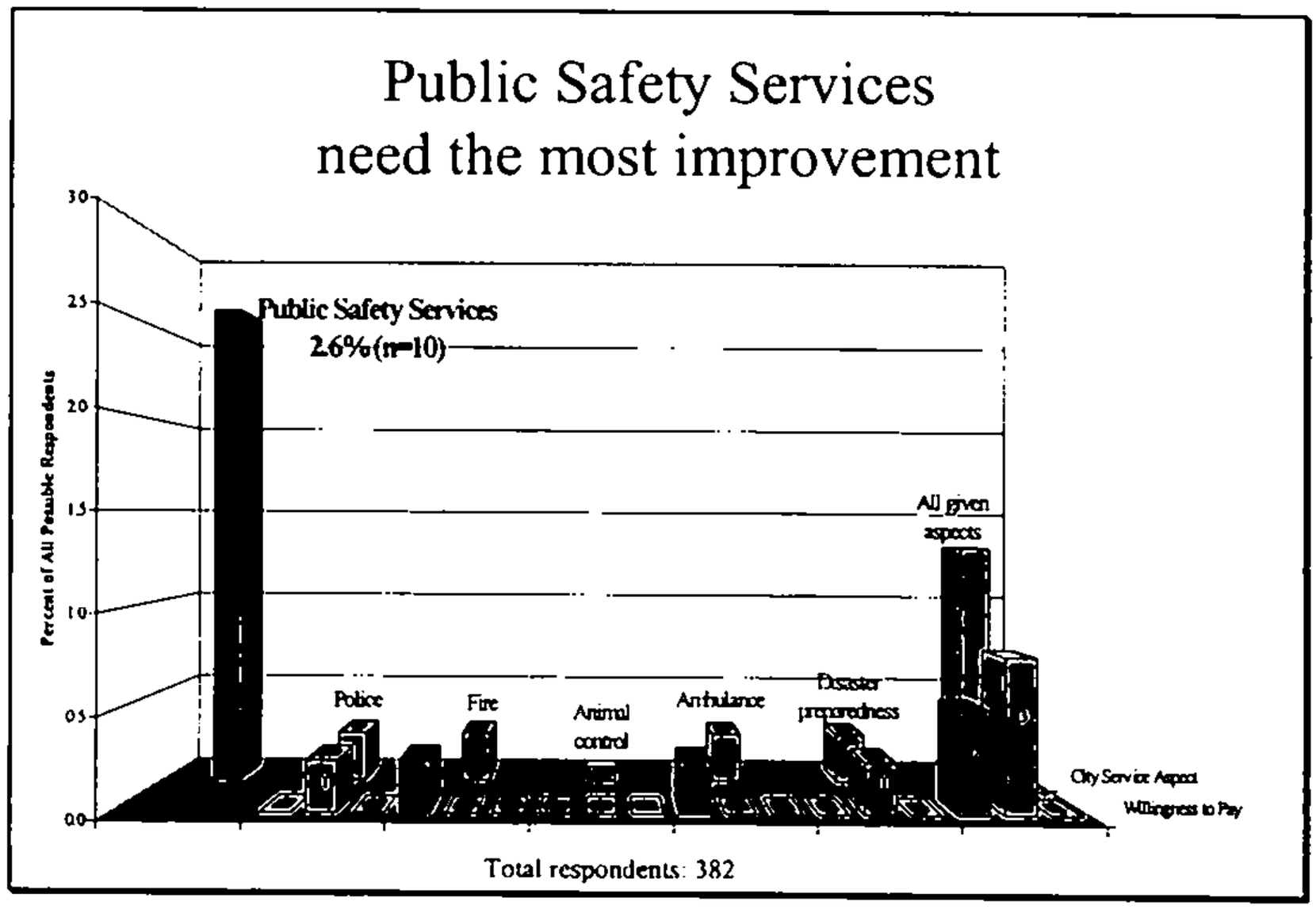


Figure 12

Few residents (2.6%; n=10) believe that of the city services mentioned, public safety services are those most in need of improvement. Five of the nine who expressed further opinions (1.3%) advocate that police, fire, animal control, ambulance and disaster preparedness services all need to be improved. Of these 5, 2 are willing to pay and 3 may be willing to pay for the upgrades (Figure 12). Each of the other four respondents supports improvements in one service: police, fire, ambulance or disaster preparedness. Two of these citizens are willing to pay for the service each advocates and two may be willing to pay.

City services needing the most attention: Group One – Information programs

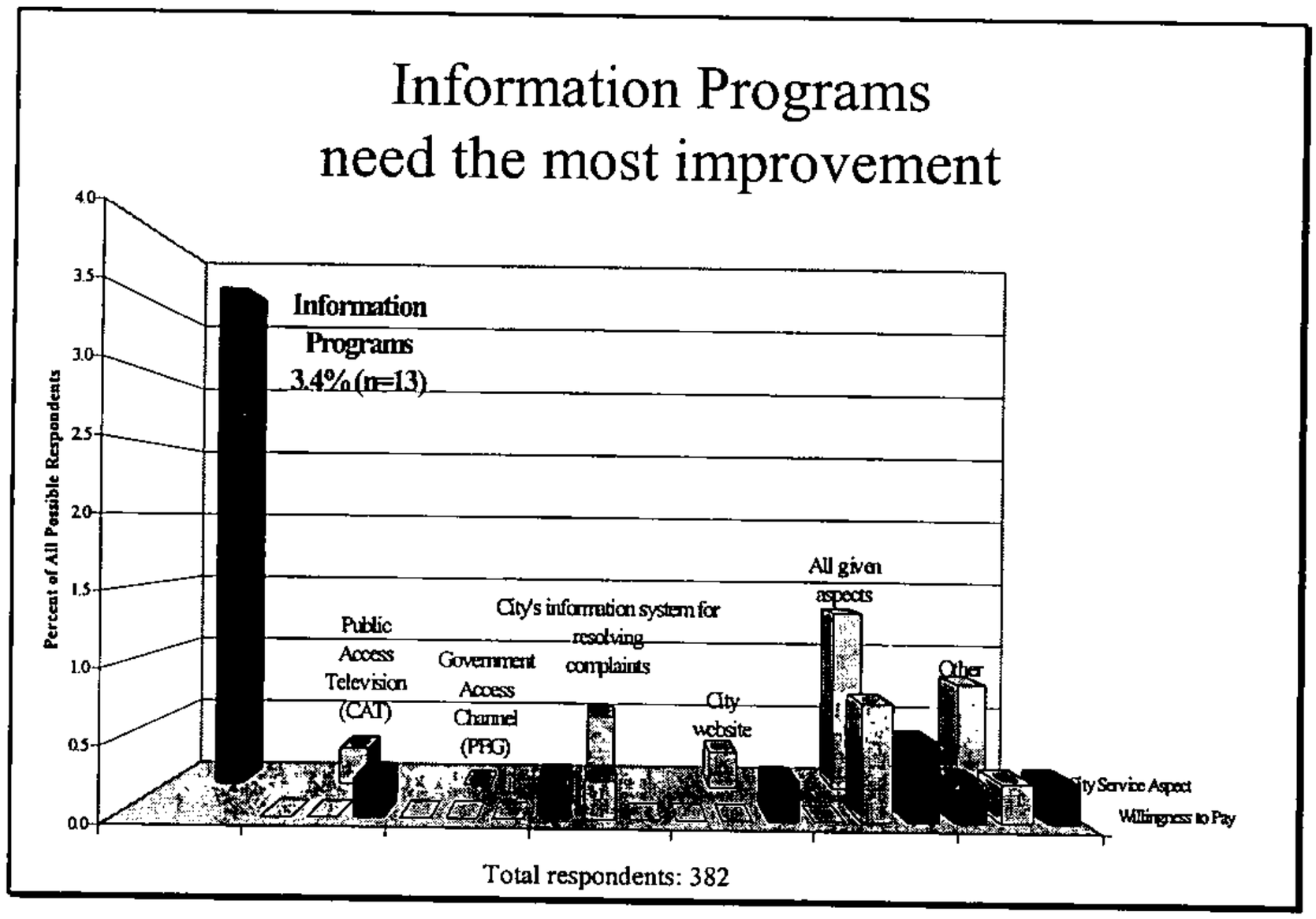


Figure 13

The largest share of the 3.4 percent who believe that the City's information programs are the service from group one needing the most improvement recommend improving all the aspects about which the survey inquired. About 0.3 of Fayetteville's citizens assert that public access television (CAT) is the aspect of information programs most needing improvement; zero percent, the government access channel (PEG); 0.5 percent, the City's information system for resolving complaints; 0.3 percent, the City's website; 1.3 percent, all four of the aforementioned aspects; and 0.8 percent, other (Figure 13).

The advocates for enhancing CAT and the City's website would not be willing to pay for the upgrades, while those desiring change in the City's information system for resolving complaints would be either willing to pay or may be willing. About 0.8 of the citizens may be willing to pay for upgrading all of the aspects and 0.5 percent, unwilling. The 0.8 percent who provided ideas for other improvements to the City's information programs are evenly split between willingness to pay, possible willingness and unwillingness to pay for the improvements they suggest.

City services needing the most attention: Group Two

Here is another list of city services. Which do you think needs the most improvement?

	Percent
Growth and Development	29
Downtown Fayetteville, Dickson Street area and College Avenue development	18
Surface and Ground Water	16
Housing	16
A Clean and Green City	11
Other	5
Fayetteville Public Library	4
Total	100

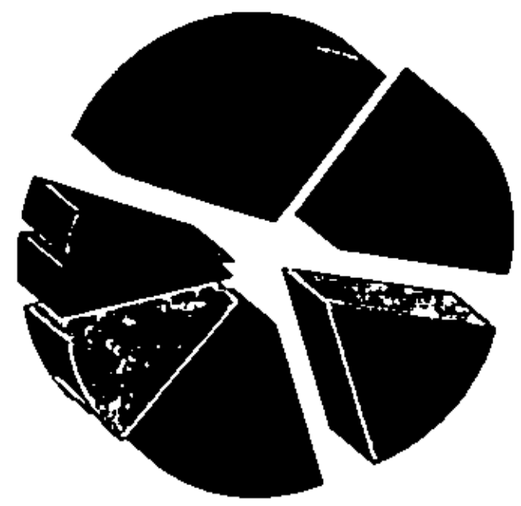


Figure 14

Survey respondents were asked to choose one service as that needing the most improvement from a second list of City services (Figure 14). Of these 29 percent of the citizens say that services related to growth and development need the most improvement; 18 percent, downtown Fayetteville, Dickson Street area and College Avenue development; 16 percent, surface and ground water; 16 percent, housing; 11 percent, a beautiful city – clean and green; 5 percent, other and 4 percent, the Fayetteville Public Library.

City services needing the most attention: Group Two – Growth and development

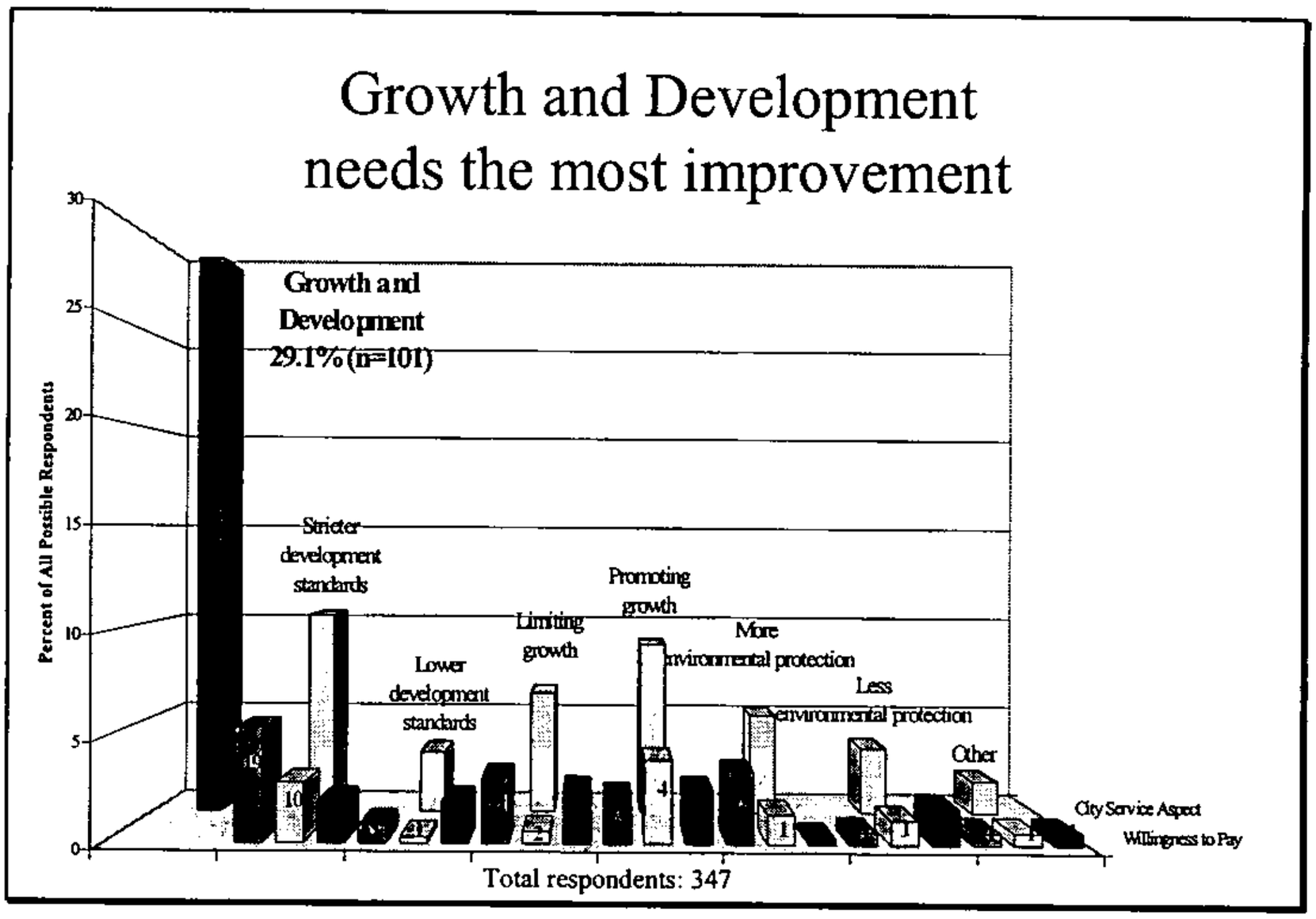


Figure 15

Of the second group of city services about which the survey asked, 29 percent of the residents of Fayetteville contend that services related to growth and development need the most improvement. When asked the next part of this series of questions, those who chose growth and development as needing the most improvement could choose more than one response.

Of services related to growth and development, the largest group – 10 percent of Fayetteville residents, support making development standards stricter. On the other hand, 3 percent of the residents encourage the City to lower development standards. While 6 percent of Fayetteville residents back limited growth, 9 percent favor promoting growth. About 5 percent of citizenry advocate more environmental protection, but 3.5 percent believe the city needs less environmental protection. Other suggestions for better managing growth and development were offered by nearly 2 percent of Fayetteville's inhabitants.

Citizens who are willing or may be willing to pay for stricter development standards compose nearly 6 and 3 percent of Fayetteville's population, in contrast to the 2 percent who are unwilling to pay for stricter development standards. Among those who promote lower development standards, those willing or possibly willing to pay for them represent 1 and 0.3 percent of Fayetteville's population and those unwilling to pay are 2 percent of the population.

Likewise, 3.2 percent of Fayetteville's residents are willing to pay for limiting growth; 0.6% may be willing to pay, but 2.6 percent are not willing to pay to limit growth. To promote growth, 2.3 and 4 percent are willing or may be willing to pay, but 2.6 percent are not willing to pay to promote growth. About 3.5 percent of the public are willing to pay for additional environmental protection; 1.4 percent may be willing to pay and 0.3 percent are not. About 0.6 and 1.2 percent of the populace are willing or may be willing to pay for less environmental protection, respectively, and 1.7 percent are not willing to pay for the City to provide for less environmental protection. Fewer than 1 percent each of those who recommend other ways to handle growth and development, support each of the three levels of willingness to pay (Figure 15).

City services needing the most attention: Group Two – Downtown Fayetteville, the Dickson Street area and College Avenue development

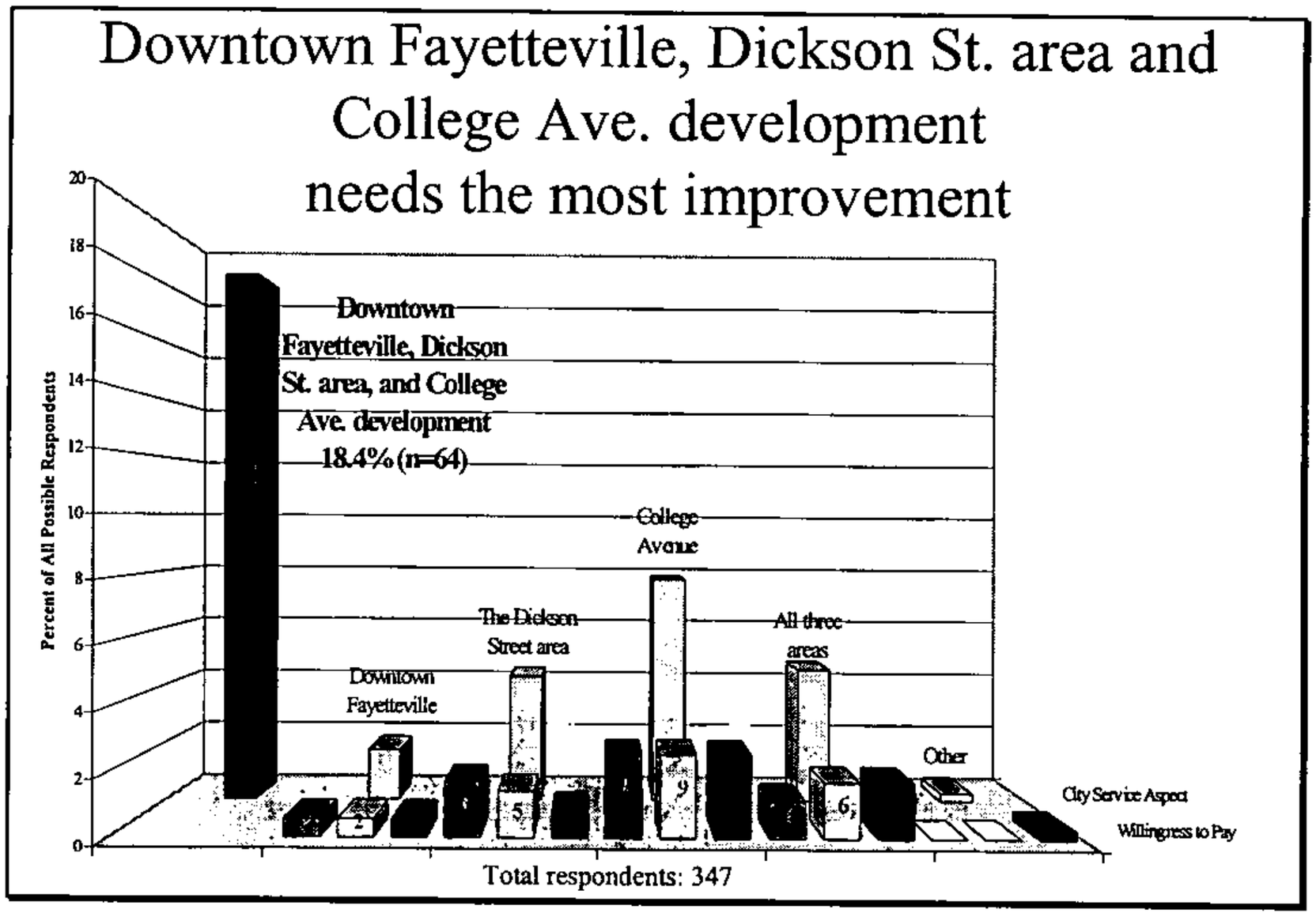


Figure 16

Among the second group of services considered 18 percent of Fayetteville's residents think that downtown Fayetteville, the Dickson Street area and College Avenue development need the most improvement.

Of the three areas, the highest percentage of residents (8%) say that College Avenue needs the most improvement. These respondents are equally divided between those who are willing (2.6%), possibly willing (2.6%) or unwilling (2.6%) to pay for the improvements. The next largest group, nearly 5 percent, asserts that all three of the "crown jewels" need the most improvement of the group of city services with which they are compared. While 1.2 percent are willing to pay for such improvements and 1.7 may be willing to pay, another 1.7 percent are not willing to pay to further develop downtown Fayetteville, the Dickson Street area and College Avenue.

The Dickson Street area needs the most improvement according to 4.3 percent of the residents of Fayetteville. Nearly 2 percent of citizens are willing, 1.4 percent may be willing and 1 percent are not willing to pay to enhance the Dickson Street area. About 2 percent of Fayetteville's citizens deem downtown Fayetteville as the aspect of the "crown jewels" needing the most improvements. These citizens are equally split between those who are willing (0.6%), may be willing (0.6%) or not willing (0.6%) to pay for the upgrades to downtown Fayetteville (Figure 16).

City services needing the most attention: Group Two – Surface and ground water

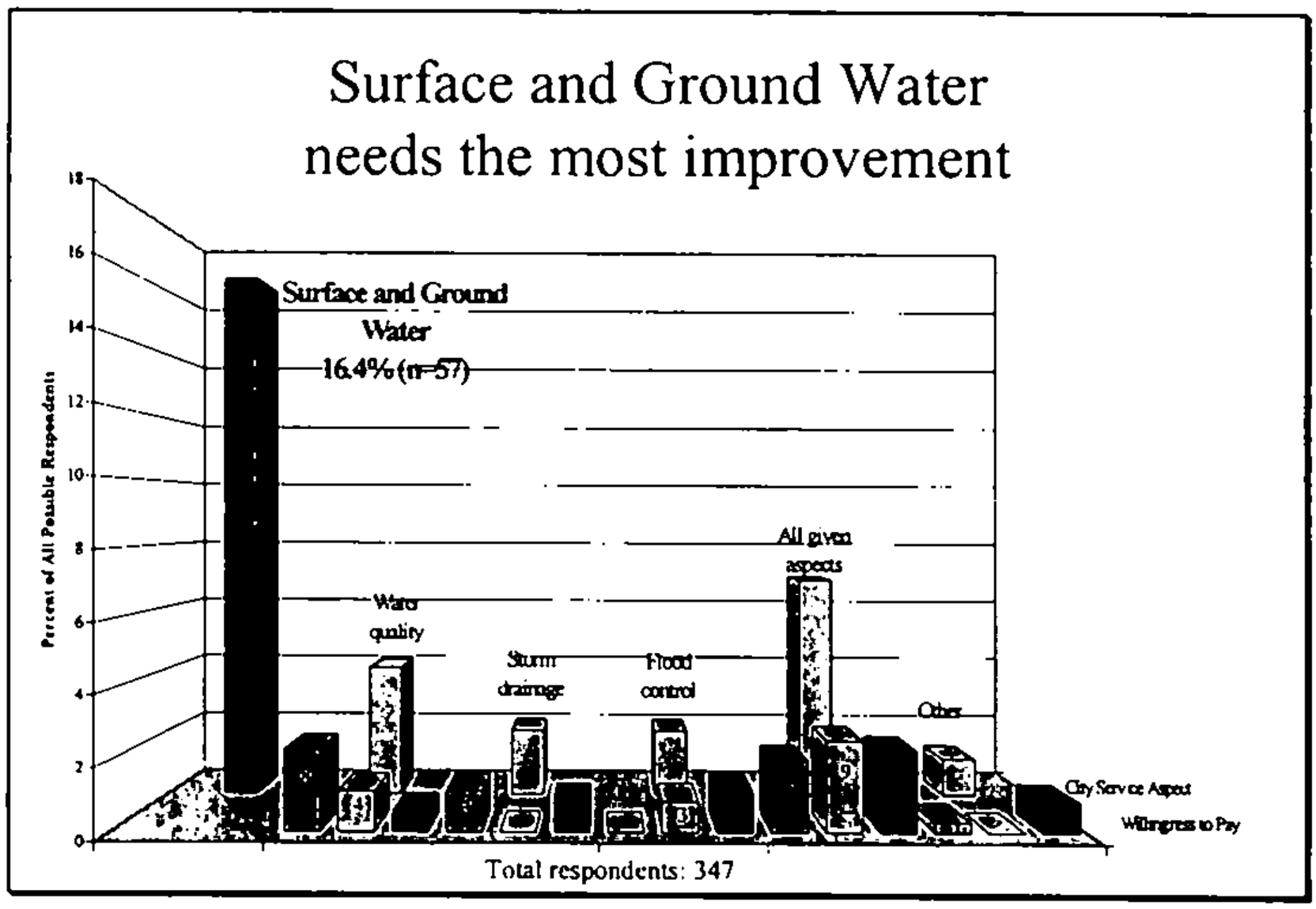


Figure 17

Approximately 16 percent of residents of Fayetteville judge that surface and ground water is the service out of the second group of city services that need the most improvement. What aspect of water services needs the most improvement? Water quality needs the most improvement say 4 percent of Fayetteville's residents; storm drainage, 2 percent; flood control, 2 percent and all three of these, according to 7 percent of Fayetteville's residents. About 1 percent of the citizenry suggest other aspects of water quality needing improvement.

About 2 percent of citizens are willing to pay for upgrades to water quality; 1 percent may be willing to pay and fewer than 1 percent (0.6%) are not willing to pay to increase water quality. Residents of Fayetteville are about evenly split between being willing (1.2%) or unwilling (0.9%) to pay for better storm drainage. Likewise, citizens are nearly evenly divided between those who may be willing to pay (0.9%) for improved flood control and those who would not pay for it (1.2%). Similarly, supporters of improving water quality, storm drainage and flood control are about equally likely to pay (2%), possibly willing to pay (2.6%) and unwilling to pay (2.3%) for these three upgrades in surface and ground water services (Figure 17). Fewer than 1 percent (0.3%) of citizens are willing to pay for the other service upgrades that they propose and nearly 1 percent (0.9%) are not willing to pay.

City services needing the most attention: Group Two – Housing

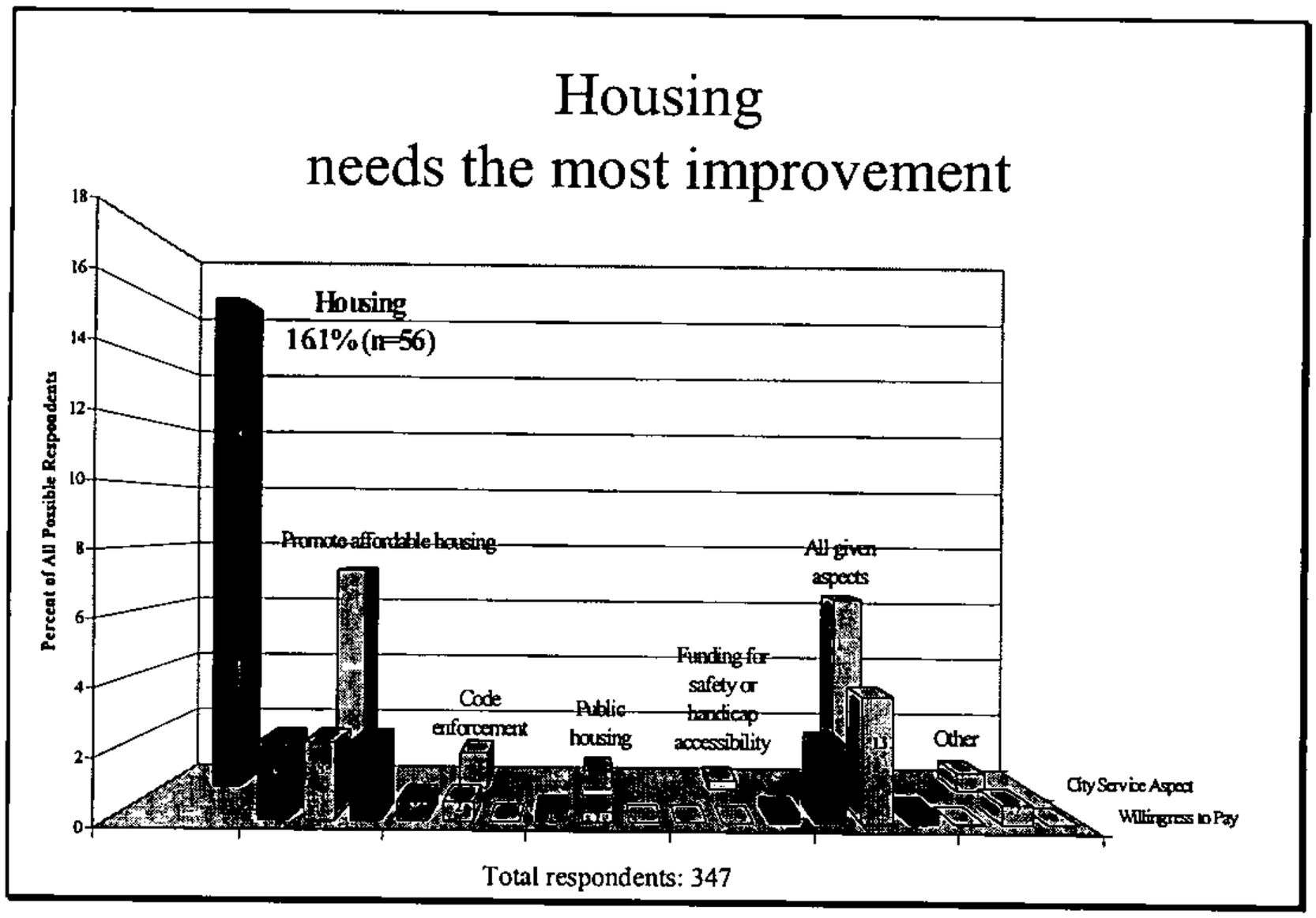


Figure 18

Sixteen percent of the citizens of Fayetteville tell the City that housing is the service of the second group of services needing the most improvement (Figure 18). The largest group of residents declares that promoting affordable housing is the most important upgrade to housing that the city could make. About 2.3 percent each of these residents portray themselves as willing, maybe or not willing to pay to promote affordable housing (Figure 18). The second highest percentage of residents believes that the City should promote affordable housing, public housing, and improve code enforcement. About 2.3 and 3.7 percent of residents are willing to pay or may be willing to pay, respectively, for these three improvements and 0.3 percent is unwilling to pay.

The 1.2 and 0.6 percent of Fayetteville citizens who appraise code enforcement and public housing, respectively, as the aspects of housing needing the most attention are equally split between willingness to pay and possible willingness to pay for these upgrades. Funding for safety or handicap accessibility is the aspect of housing most needing attention according to 0.3 percent of Fayetteville's population. This contingent is unwilling to pay for these upgrades, however. The 0.6 percent of residents who suggest other housing enhancements may be willing to pay additional taxes to cover their costs.

City services needing the most attention: Group Two – A beautiful city – clean and green

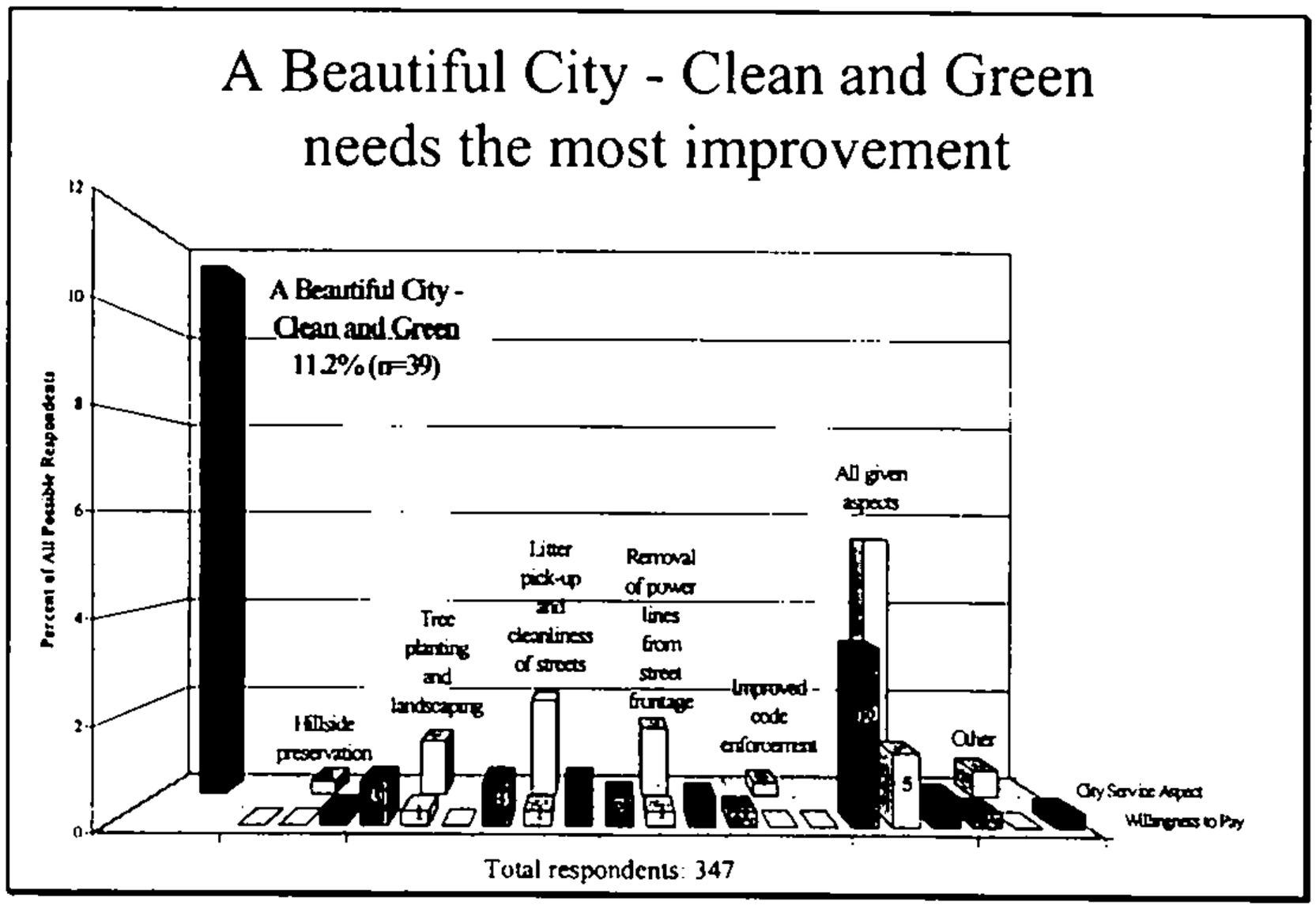


Figure 19

About 11 percent of the city's residents view Fayetteville's beauty, its cleanliness and ecological sustainability, as that in the second set of City services to need the most improvement. The largest fraction of these residents (5.5%) asserts that all the aspects given – hillside preservation, tree planting and landscaping, litter pick-up and cleanliness of streets, removal of power lines from street frontage, and improved code enforcement – need the most attention. About 3.5 and 1.4 percent of residents, respectively, are willing or may be willing to pay for these improvements and 0.6 percent are not willing (Figure 19). In other words, 63 percent of those advocating for all these improvements are willing to pay for them and 26 percent may be willing to pay.

Two percent of Fayetteville residents favor litter pick-up and cleanliness of streets as the aspects of a clean and green city needing the most attention. About 43 percent of these residents are willing to pay, 14 percent may be willing and 43 percent are unwilling to pay for litter pick-up and cleaner streets.

Removal of power lines from street frontage needs the most attention according to 1.4 percent of Fayetteville's residents. Forty percent of these advocates would pay, 20 percent might pay and 40 percent would not pay to remove power lines from street frontage (Figure 19).

The 1.2 percent of citizens who say tree planting and landscaping are most needing attention in order to maintain Fayetteville's beauty are either willing to pay (75%) or may be willing to pay (25%) for these upgrades (Figure 19).

About 0.3 percent each of city residents favor increasing attention to hillside preservation or improved code enforcement. While the 0.3 percent of citizens advocating better preservation of hillsides are not willing to pay for this service, the 0.3 percent promoting improved code enforcement are willing (Figure 19).

Other suggestions to maintain the city's cleanliness and ecological health are made by 0.6 percent of city residents. About half are willing to pay for these improvements and the other half declines to pay (Figure 19).

City services needing the most attention: Group Two – Fayetteville Public Library

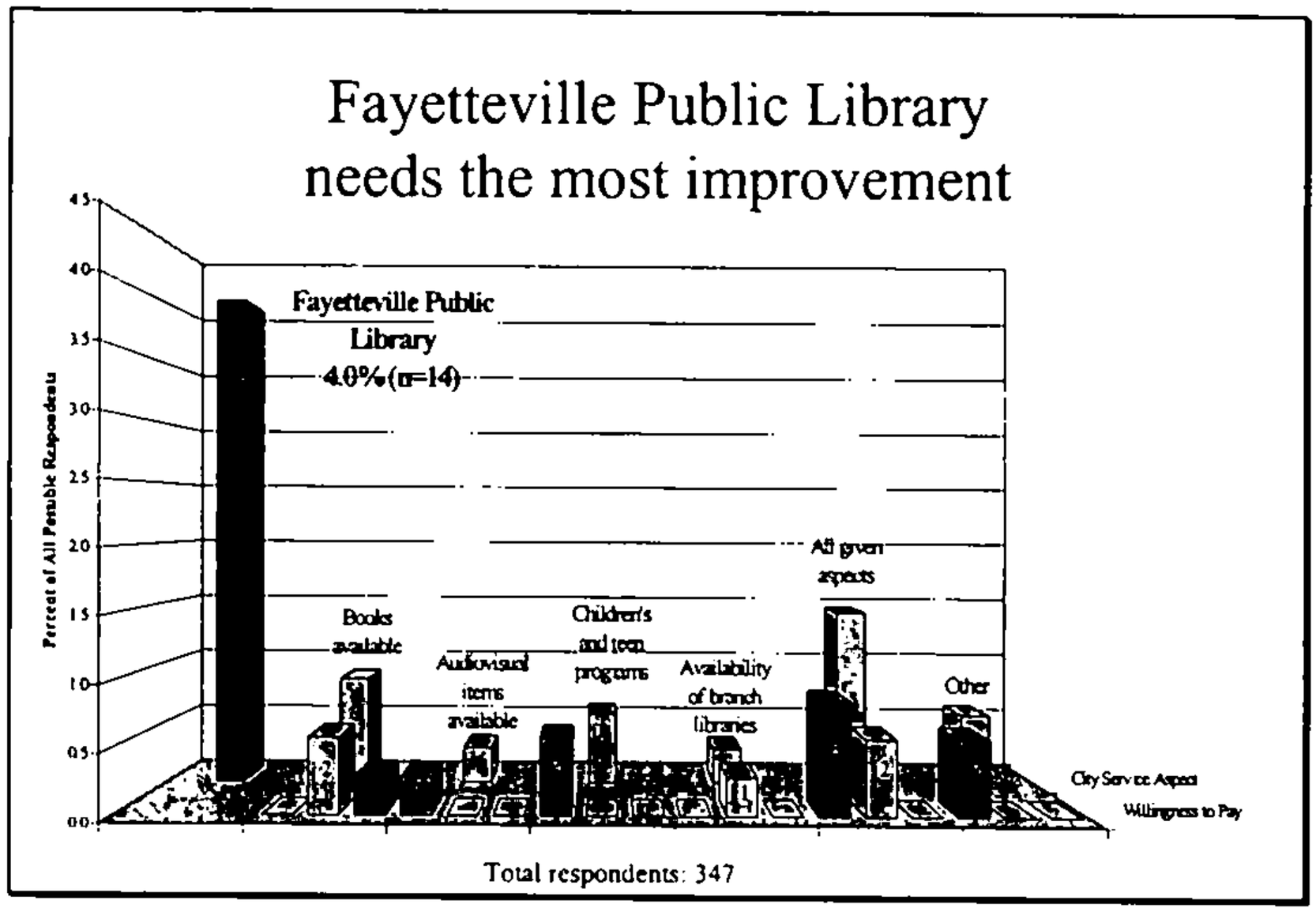


Figure 20

Only about 4 percent of Fayetteville's residents consider that the Fayetteville Public Library is the service out of the second group of services needing the most improvement (Figure 20). The greatest percentage who advocate library improvements, 1.4 percent, think that all aspects considered need attention. These include hours open, books available, audiovisual items and computer resources available, children's and teen's programs and services, adult programs and services, and availability of branch libraries. Sixty percent of these citizens avow willingness to pay for these services and 40 percent may be so willing (Figure 20).

No other citizens identify the hours the library is open, the computer resources available, or the adult programs and services as those needing the most attention individually. But small percentages each recommend books available (0.9%), children's and teen's programs (0.6%), audiovisual items available (0.3%) and availability of branch libraries (0.3%) or other items (0.6%) as aspects of the Fayetteville Public Library needing the most improvement (Figure 20). Regardless of the aspect these citizens would like to see enhanced, they are either willing to pay or may be willing to pay to upgrade these library services (Figure 20).

Citizens' desires for the future

Of the following goals for the city of Fayetteville, which is the most important to you?

	Most Important		Next Important		Total	
	N	%	N	%	N	%
Improved mobility and street quality	119	31	98	26	217	29
Planned and managed growth	107	27	88	24	195	26
A beautiful city - clean and green	71	18	84	23	155	20
Development of South Fayetteville	69	18	59	16	128	17
Downtown Fayetteville, Dickson St. area and College Ave. development	22	6	41	11	63	8
Total	388	100	370	100	758	100

Figure 21

When asked to select the goals they consider most important and second in importance from the list in Figure 21, sizable percentages choose each of the five options. About 31 percent choose improved mobility and street quality as the most important goal and another 26 percent select it as their second most important goal for the city of Fayetteville. Therefore, an average of 29 percent of Fayetteville residents declare that improved mobility and street quality is the most or second most important of the five goals in Figure 21 to them.

Planned and managed growth is the most or second most important goal for 26 percent of Fayetteville's residents, followed by a beautiful city – clean and green, 20 percent; development of south Fayetteville, 17 percent; and downtown Fayetteville, the Dickson Street area and College Avenue development, 8 percent (Figure 21 and Figure 22).

Thus, while some options have stronger support than others, the broad support for each of the options indicates that the residents of Fayetteville deem a variety of goals for Fayetteville as important.

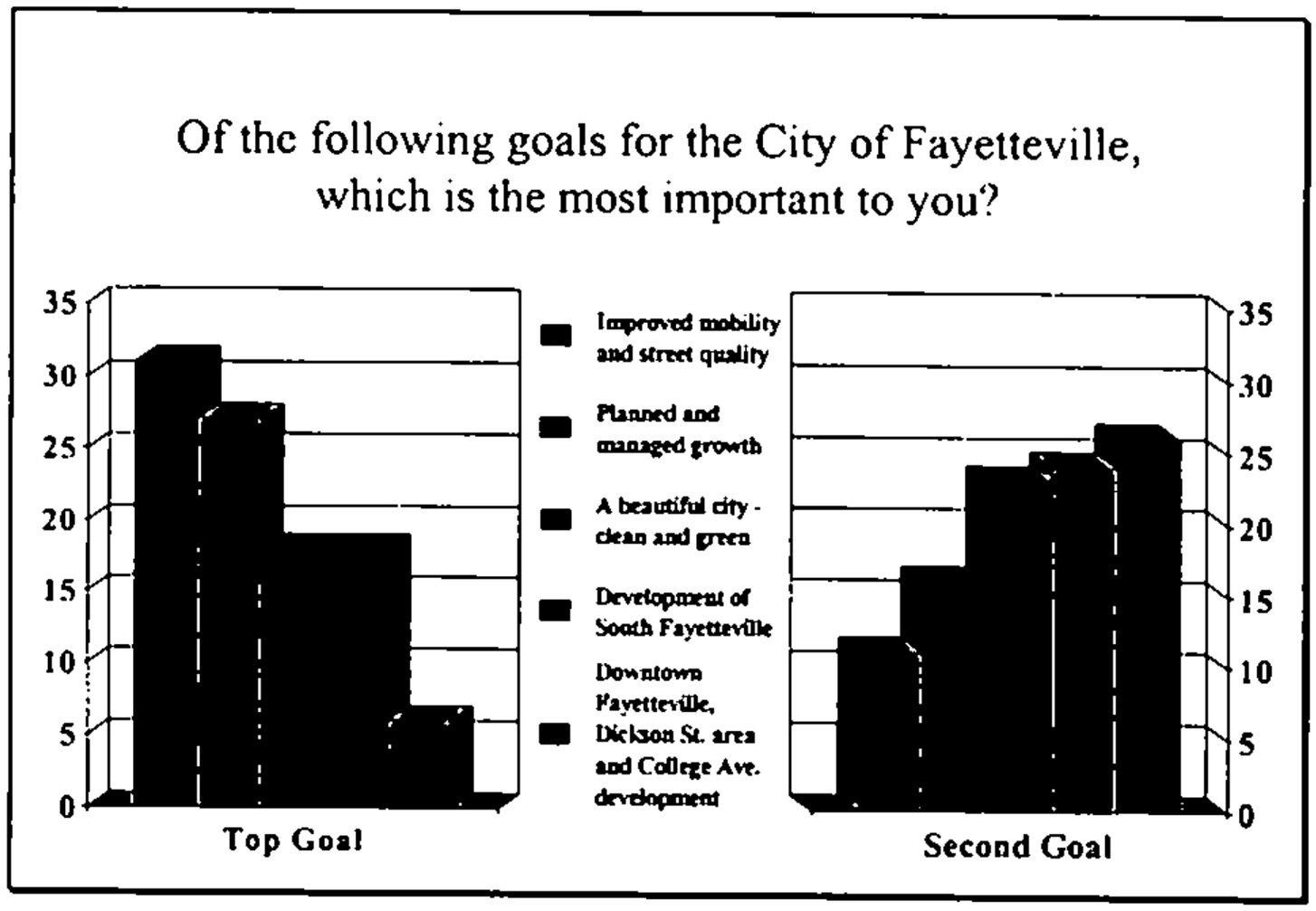


Figure 22

Citizens' top goal among the city's planning goals: Improved mobility and street quality

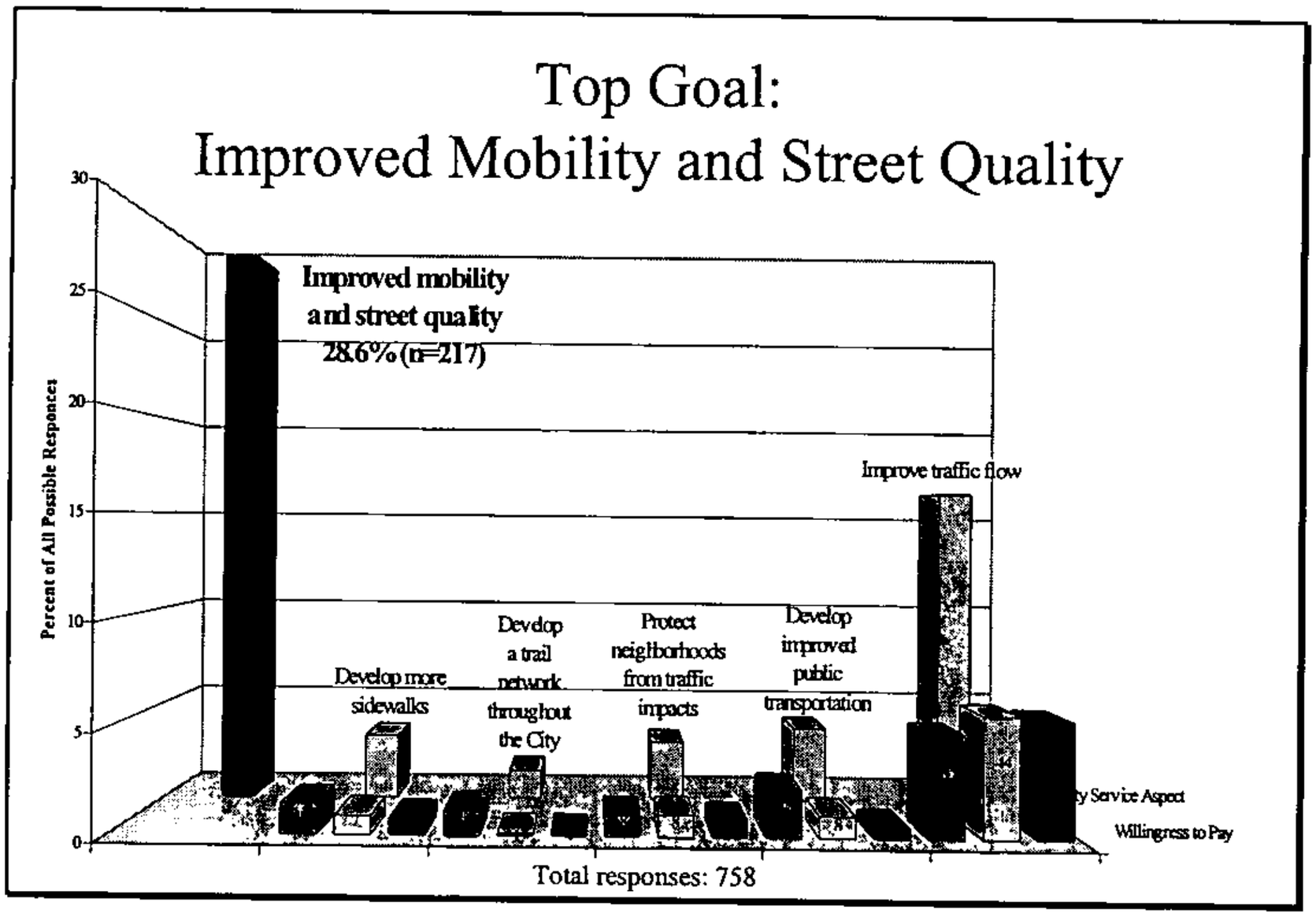


Figure 23

Of the residents who prioritize improved mobility and street quality as their top goal for the city, 96 percent further elaborated on their choices about how to best improve mobility and street quality. Overall, 39 percent attest willingness to pay for the improvements they suggest; 33 percent may be willing to pay for them and 28 percent are unwilling to pay to improve mobility and street quality in Fayetteville.

When asked their preferences among ways of improving mobility and street quality, at least four times as many respondents name traffic flow (16.4% of all Fayetteville citizens) as any of the other methods of achieving this goal included in the question. Approximately one-third each of these citizens claim they are willing to pay (5%), may be willing to pay (6%) or are unwilling to pay (5.5%) for improved traffic flow (Figure 23).

Of the 4 percent of residents who propose developing improved public transportation as the best way to improve mobility and street quality 59 percent contend they are willing to pay (2.2% of all citizens), 29 percent may be willing (1.1% of all citizens) and 25 percent (0.5% of all citizens) are unwilling to pay for better transportation (Figure 23).

About 3 percent of Fayetteville's residents argue that protecting neighborhoods from traffic impacts is most needed for improving mobility and street quality. About 36.4 percent each

of these residents (1.1% of all residents each) declare their willingness or possible willingness to pay to protect neighborhoods from traffic impacts, while 27 percent (0.8% of all residents) don't want to pay for this enhancement (Figure 23).

Developing more sidewalks and a trail network throughout the city are the best means of improving mobility and street quality according to 3.3 and 1.5 percent, respectively, of Fayetteville's citizens (Figure 23). Nearly half (46%; 1.5% of all residents) of those backing sidewalk development to improve mobility and street quality maintain that they would pay, 29 percent (0.9% of all residents) may be willing to pay and 25 percent (0.8% of all residents) that they would not pay to develop sidewalks (Figure 23). Trail supporters are even more willing to financially support their preferences as 81 percent (1.2% of all residents) say they would be willing to pay, 9 percent (0.1% of all residents) may be willing to pay and 9 percent (0.1% of all residents) are unwilling to pay to develop a network of trails throughout the city in order to improve mobility and street quality (Figure 23).

Citizens' top goal among the city's planning goals: Planned and managed growth

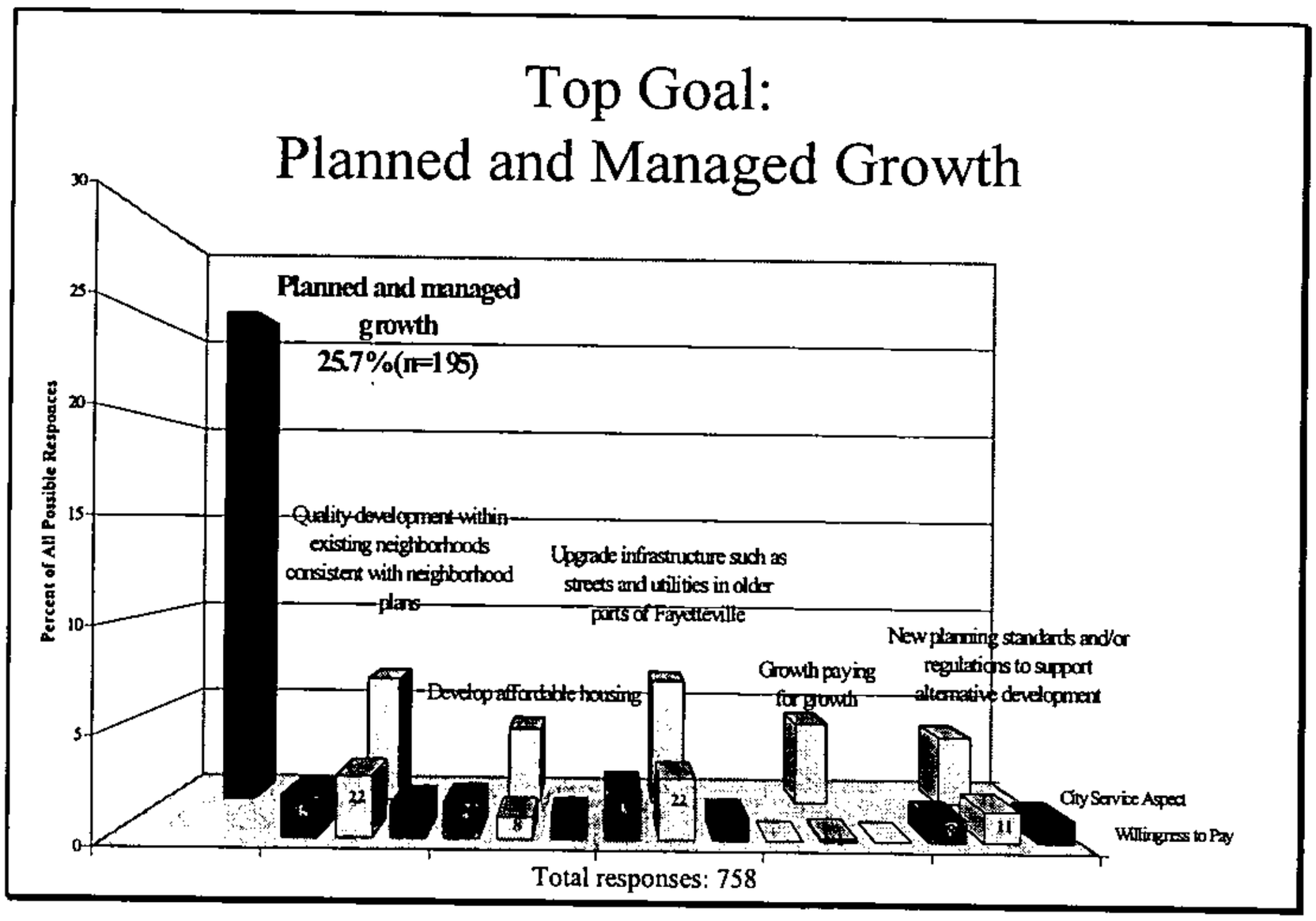


Figure 24

Every method for managing growth proposed garners the support of some proportion of the nearly 26 percent of Fayetteville's citizens who believe that planned and managed growth should be Fayetteville's top goal (Figure 24). Of those who believe in planned and managed growth as the city's most important goal, 35 percent are willing to pay to achieve better planning and management, 42 percent may be willing and 23 percent are unwilling to pay.

About 6.5 percent each of Fayetteville's residents champion quality development within existing neighborhoods consistent with neighborhood plans (infill) and upgrading infrastructure such as streets and utilities in older parts of Fayetteville as the best and/or second best ways to accomplish the goal of planning and managing growth (Figure 24). About 31 and 38 percent, respectively, of all who advocate for infill and infrastructural upgrades as the best ways to manage growth value them enough to pay for them; about 45 percent each may be willing to pay for these upgrades and about 24.5 and 17 percent are unwilling to pay for infill and infrastructural upgrades, respectively (Figure 24).

About 4 percent each of the citizens of Fayetteville consider that growth paying for growth (continued use of fees on new construction to pay for needed infrastructure), developing affordable housing and new planning standards and/or regulations to support alternative development are the best or second best ways to manage growth (Figure 24). Of those who view growth paying for growth as the top means for managing growth, only one indicated his

or her willingness to pay and he or she may be willing to pay. Of those who support affordable housing as the best way to manage growth 45 percent (1.7% of all residents) are willing and 28 percent each (1.1% of all residents each) may be or are not willing to pay for the affordable housing they support. About 30 (1.1% of the population) and 41 (1.5% of the population) percent of citizens who champion new planning standards and/or regulations are willing or may be willing to pay for this means of managing growth, while 30 (1.1% of the population) percent are unwilling to do so (Figure 24).

Citizens' top goal among the city's planning goals: A beautiful city – clean and green

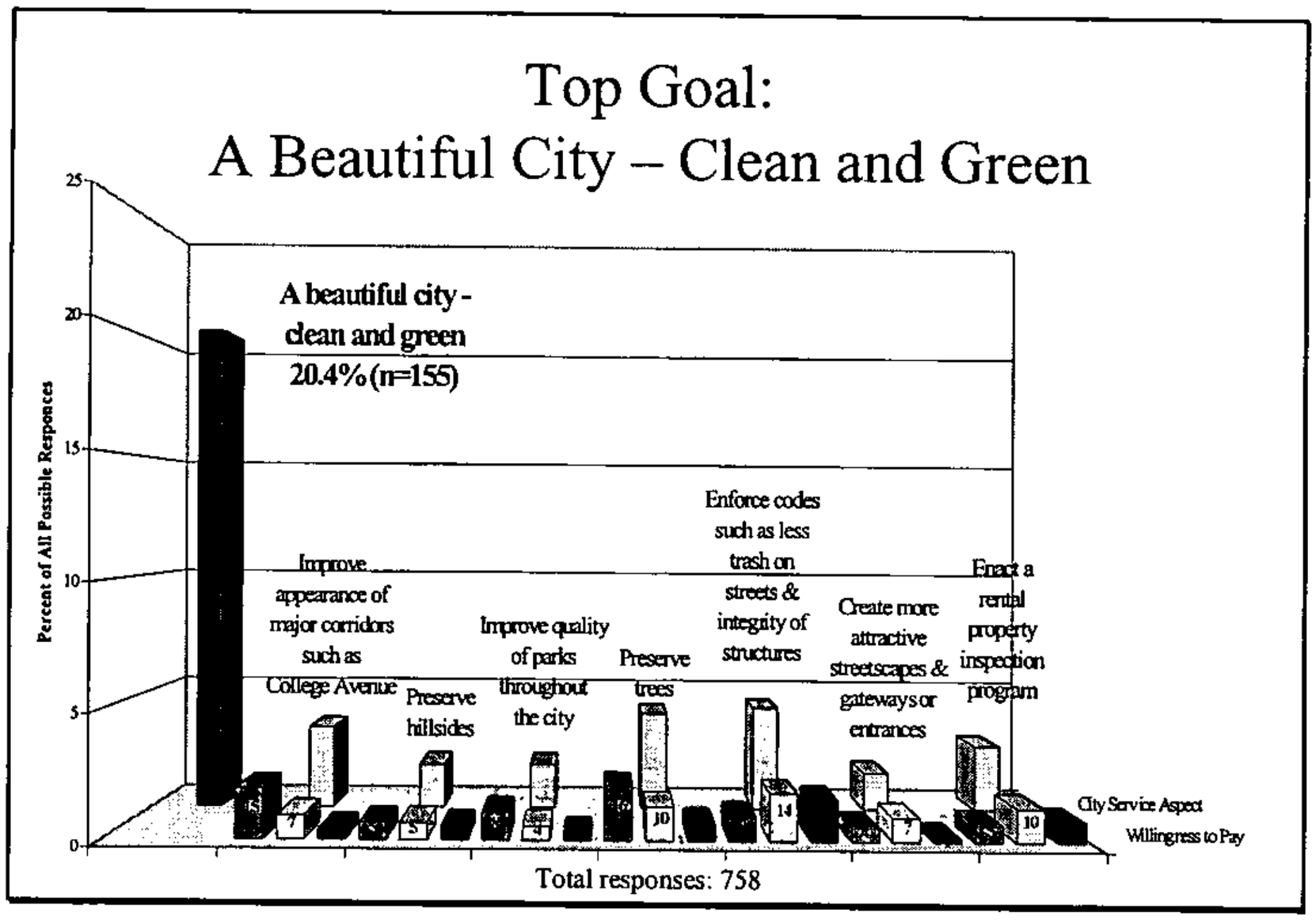


Figure 25

Of the five strategic goals from which to choose, about 20 percent care the most about a "Beautiful City – Clean and Green" (Figure 25). Of these, about 40 percent report they are willing; 38 percent possibly willing, and 22 percent unwilling to pay for means to effect this goal.

The most popular options for achieving a clean and green city are enforcing codes such as less trash on streets and integrity of structures (4.4%) and preserving trees (4.1%). About 21 percent (0.9% of all residents) of those who believe that enforcing codes to reduce trash on streets and maintain the integrity of structures is the best way of keeping Fayetteville clean and green contend they will pay; 42 percent (1.8% of all residents) may pay and 36 percent (1.6% of all residents) will not pay to support this effort (Figure 25).
More than 80 percent of citizens who want to preserve trees say they are willing (52%) or may be willing (32%) to pay and 16 percent are unwilling to pay for this means of keeping Fayetteville clean and green.

Improving the appearance of major corridors such as College Avenue and enacting a rental property inspection program state 3.4 and 2.8 percent of the citizenry are the best ways to keep Fayetteville clean and green. About 60 percent of advocates of improving corridor appearance espouse willingness to pay; 28 percent, some willingness and 12 percent, no

willingness to pay for this measure of enhancing Fayetteville's beauty. About 24 and 48 percent of residents who believe that an inspection program for rental property would best achieve a beautiful – clean and green city reckon they are willing or possibly willing to pay for it and 28 percent lack such willingness (Figure 25).

Fewer than 2 percent of Fayetteville's residents each suggest that improving the quality of parks throughout the city (1.8%) and creating more attractive streetscapes and gateways or entrances are primary ways to promote the beauty of Fayetteville (Figure 25). Those willing to pay to improve park quality compose 57 percent (1.1% of all residents) of all who select this option; somewhat willing to pay, 29 percent (0.5% of all residents) and those unwilling to pay, 14 percent (0.3% of all residents) of citizens desirous of improving park quality to heighten Fayetteville's beauty (Figure 25). To enhance streetscape appearance, 33 percent of its advocates (0.5% of all residents) say they are willing pay; 58 percent (0.9% of all residents) may be willing to pay and 8 percent (0.1% of all residents) decline to pay (Figure 25).

Citizens' top goal among the city's planning goals: Development of south Fayetteville

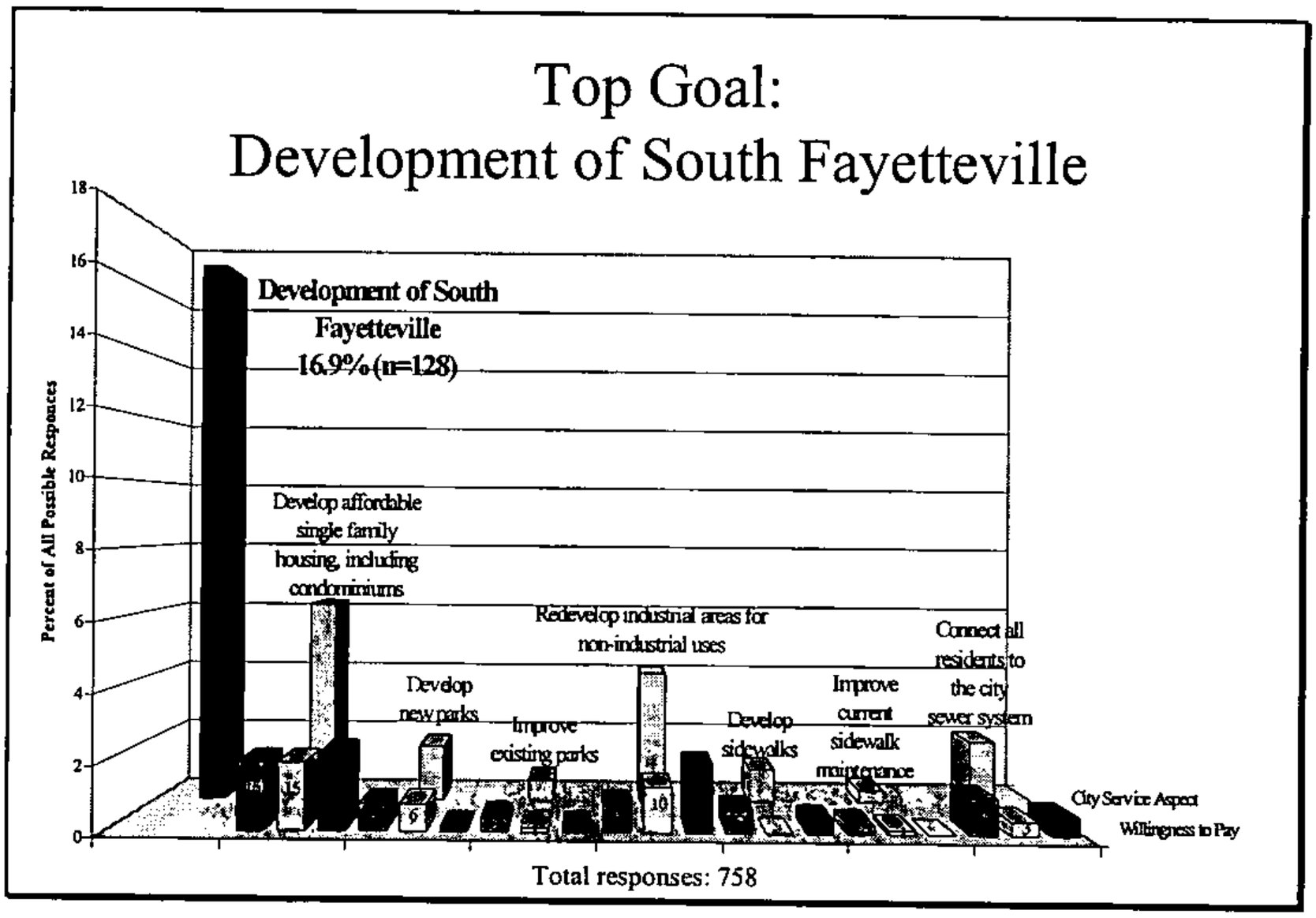


Figure 26

South Fayetteville's development is paramount among the strategic goals for about 17 percent of the city's residents. Of these, nearly 37 percent profess willingness to pay for efforts to develop south Fayetteville; 30 percent possible willingness and 33 percent unwillingness to pay (Figure 26).

More than 6 percent of Fayetteville's citizens deem that developing affordable single- family housing, including condominiums is the best of the seven options given to revitalize south Fayetteville (Figure 26). The advocates of single family housing for south Fayetteville are about evenly split in their willingness to pay – 32 percent are willing; 32 percent may be willing and 36 percent are unwilling to pay for such development (Figure 26). Redevelop industrial areas for non-industrial uses, say 4 percent of Fayetteville's residents and 19 (0.8% of all) and 32 (1.3% of all) percent will or may be willing to pay for it, respectively, although 48 percent (1.8% of all residents) will not pay (Figure 26).

About 2 percent each of city residents declare that south Fayetteville's renovation would best be effected by connecting all residents to the city sewer system and developing new parks (Figure 26). High percentages of proponents of each effort are willing or somewhat willing to pay. To connect all residents to the sewer system 53 (1.1% of all residents) and 20 (0.4% of all residents) percent are willing or may be willing to pay, respectively, while 27 percent (0.5% of all residents) are unwilling to pay (Figure 26). About 46 percent (0.8% each of all

city residents) each are willing or may be willing to pay for new parks in south Fayetteville and 8 percent (0.1% of all residents) are not willing to pay for park development (Figure 26).

Fewer than one percent of the city's residents (0.7%) advocate improving existing parks as the primary way to improve south Fayetteville. About 60 percent (0.4% of all residents) of the fans of improving existing parks profess willingness to pay to do so; 20 percent (0.1% of all residents) some willingness and 20 percent (0.1% of all) lack of willingness to pay to enhance existing parks in south Fayetteville (Figure 26).

A total of about 1.5 percent of Fayetteville's citizens uphold developing sidewalks (1.1%) or improving current sidewalk maintenance (0.4%) as the means they prefer for improving south Fayetteville (Figure 26). More than 60 percent of the advocates of each of these sidewalk improvements are willing to pay for them. About 37 percent (0.4% of all residents) would not be willing to pay for developing sidewalks, whereas 33 percent (0.1% of all residents) may be willing to pay to improve sidewalks (Figure 26).

Citizens' top goal among the city's planning goals: Development of downtown Fayetteville, the Dickson Street area and College Avenue

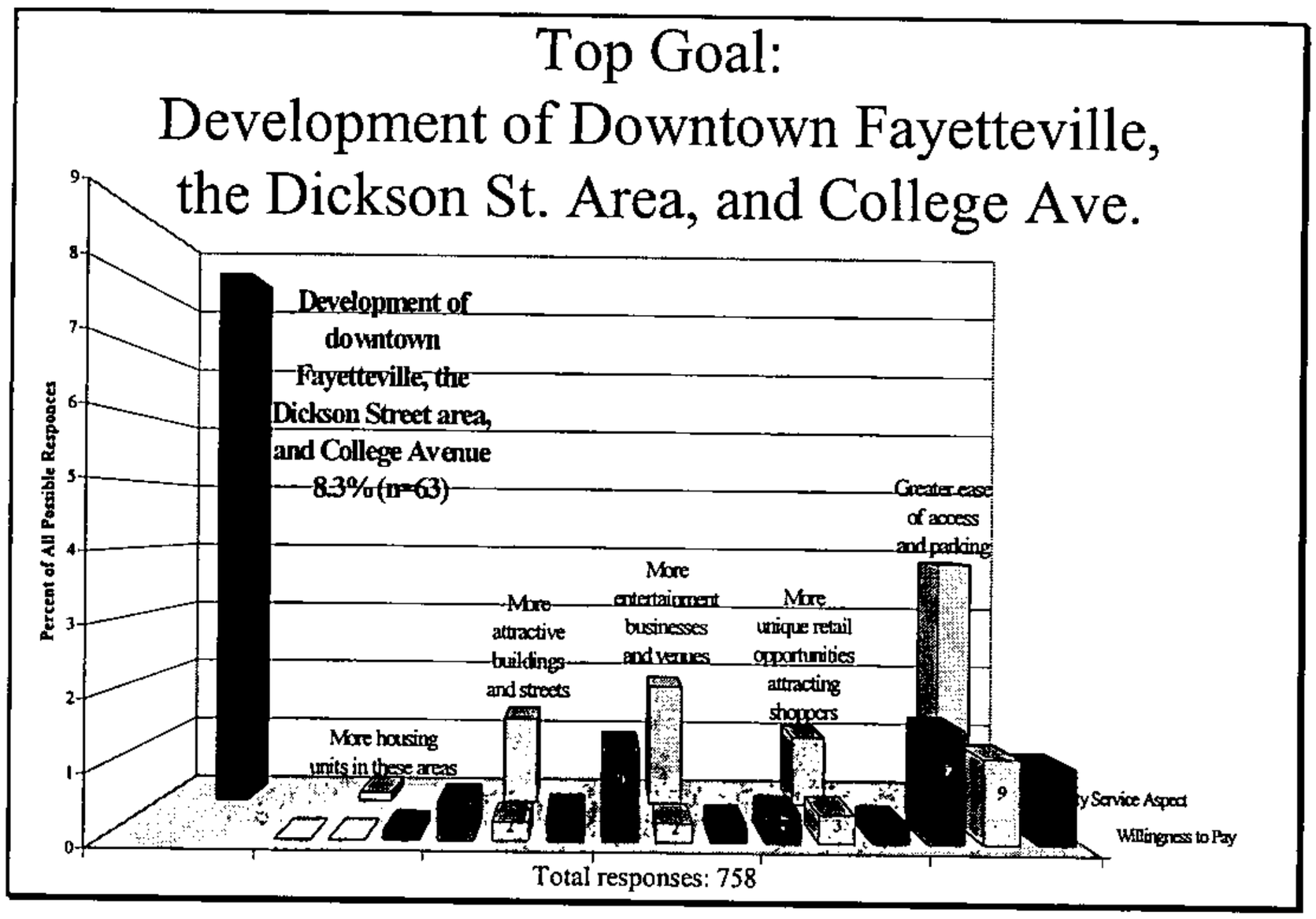


Figure 27

Of the more than 8 percent of all residents who say that compared with the four other goals for Fayetteville, development of downtown Fayetteville, the Dickson Street area and College Avenue should take precedence nearly three quarters are willing (48%) or may be willing (26%) to pay for it (Figure 27).

Greater ease of access and parking garnered the most support among the five possible improvements to the "crown jewels" suggested – 4 percent of all residents (Figure 27). Of these 72 percent are wiling to pay (41%; 1.6% of all city residents) or may be willing to pay (31%; 1.2% of all residents) for the access, but 28 percent (1.1% of all residents) are not (Figure 27). Another nearly 2 percent propound more entertainment businesses and venues as the best way to develop the downtown, Dickson Street area and College Avenue (Figure 27). More than 70 percent (1.3% of all residents) profess willingness to pay for more entertainment businesses and venues; 14 percent (0.3% of all residents) may be so willing and 14 percent (0.3% of all residents) are unwilling to financially support additional entertainment businesses and venues (Figure 27).

Slightly more than 1 percent each of Fayetteville's citizens prefer to develop the crown jewels through more attractive buildings and streets (1.3%) and more unique retail opportunities attracting shoppers (1.1%) (Figure 27). About two-thirds of the proponents of

both methods are willing or may be willing to pay for these upgrades and the remaining third are not willing (Figure 27).

Only one person, representing 0.1 percent of the population of Fayetteville believes that more housing units in downtown Fayetteville, the Dickson Street area and along College Avenue is the strongest strategy for developing these areas (Figure 27). Willingness to pay is not evident (Figure 27).

Challenging choices: Parks and trails, infill and perimeter development

Parks and trails

Fayetteville is considering buying land for a multi-purpose park and is also planning to develop a multi-purpose trail system. If the city could only carry out one of these projects, which would you prefer that the city do?

	Percent
Buy land for a new multi-purpose park	47
Implement the new multi-purpose trail	41
Neither one	12
Total	100

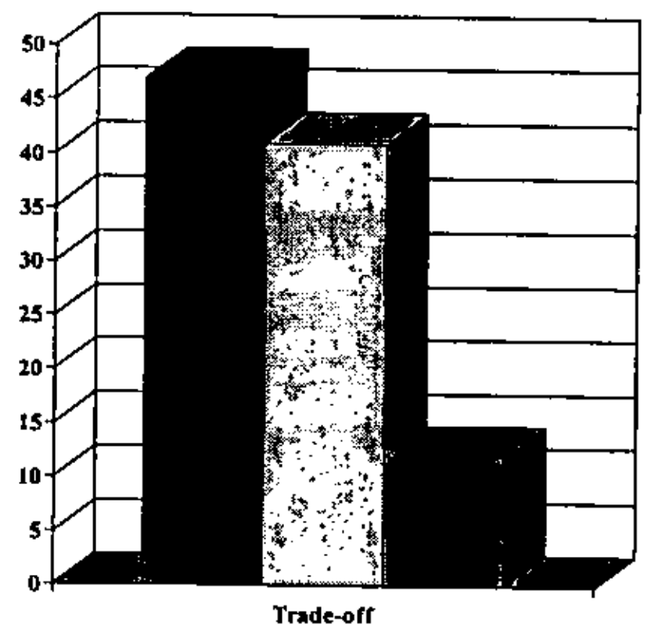


Figure 28

Residents are about evenly split in their preferences for a new multi-purpose park and implementation of a new multi-purpose trail system, although a slightly higher fraction prefer the park to the trail system. In addition, 12 percent would like the City to neither acquire land for a park nor implement a trail system (Figure 28).

Some citizens want the city to permit additional development within currently developed areas and others want the city to permit development of current farmland on the edges of the city. Which do you prefer, that the city promote:

	Percent
Quality development within existing neighborhoods consistent with neighborhood plans	67
Quality development on current farmland consistent with city regulations	24
Neither one	9
Total	100

Figure 29

In the second set of choices, the clear preference is for quality development within existing neighborhoods consistent with neighborhood plans, according to two-thirds (67%) of residents. Nearly one-fourth (24%) of residents favor quality development on current farmland consistent with city regulations. About 9 percent of residents prefer that the city develop using neither of these options or not at all (Figure 29).

Opinions on Growth and Housing

Growth

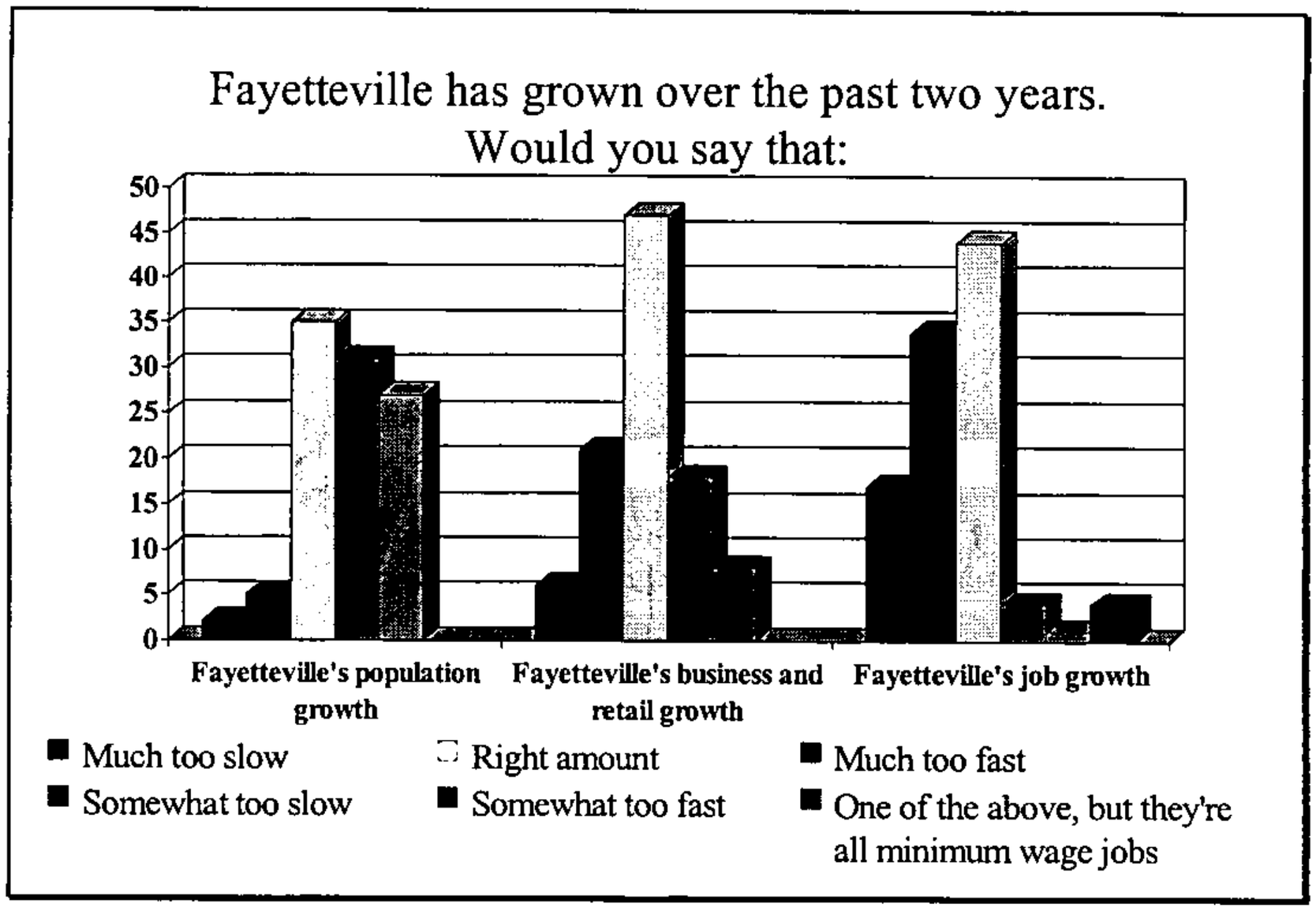


Figure 30

Few residents think that Fayetteville's population growth was too slow (much too slow: 2.1%, n=8; somewhat too slow: 4.7%, n=18). Rather, 35% say that Fayetteville is growing at the right amount, 31% somewhat too fast, and 27% much too fast (Figure 30).

About half believe that business and retail growth are growing at the right amount (47.4%, n=182), a little more than a quarter think that growth is on the slow side (much too slow: 6.3%, n=24; somewhat too slow: 20.6%, n=24), and a little more than a quarter on the fast side (much too fast: 7.6%, n=29; somewhat too fast: 18%, n=70) (Figure 30).

Most residents feel that job growth either needs to be faster (much too slow: 17%, n=60; somewhat too slow: 34%, n=119) or is moving at the right amount (44%, n=154). Only 4.5% say that job growth is somewhat too fast (n=16) and less than one percent much too fast (0.85%, n=3). Of these citizens, two percent add the caveat "..., but they're all minimum wage jobs" (n=7) to "somewhat too slow" and a combined one and a half percent to "much too slow" (n=1), "right amount" (n=2), and "somewhat too fast" (n=2) (Figure 30).

Preferences on growth management strategies

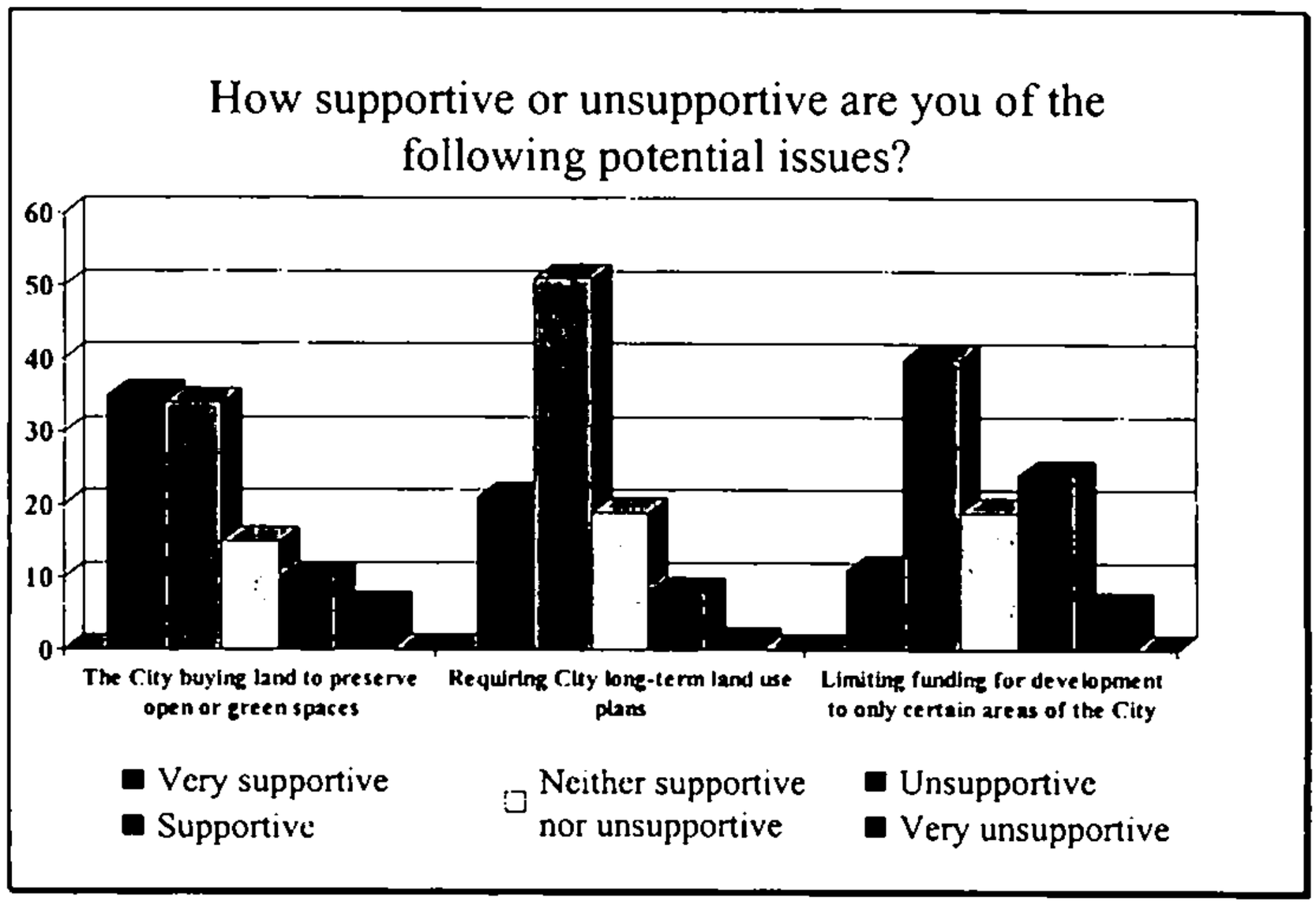


Figure 31

In general, people support all three growth management techniques mentioned (Figure 31). More than two-thirds support the city buying land to preserve open or green spaces (very supportive: 35%, n=137; supportive 34%, n=134) and 15% are neither supportive nor unsupportive (n=58). A total of 15% of city residents do not support buying land to preserve open or green spaces (unsupportive: 10%, n=39; very unsupportive: 5%, n=21).

Nearly three-quarters of citizens favor the city using long-term land use plans (very supportive: 22%, n=78; supportive: 51%, n=183). Almost another fifth are neither supportive nor unsupportive (n=69). Fewer than 10 percent are unsupportive (8%, n=28) or very unsupportive (n=1%) of requiring Fayetteville to adopt long-term land use plans (Figure 31).

A majority of Fayetteville residents affirm limiting funding for development to only certain areas of the city (very supportive: 11%, n=39; supportive: 40%, n=148) as a growth management strategy. Nineteen percent are neither supportive nor unsupportive (n=71) and 29% somewhat unsupportive (unsupportive: 24%, n=89; very unsupportive: 5%, n=20) of limiting funding for development to only certain areas of the city (Figure 31).

Willingness to pay for growth management techniques

For which of the following would you be willing to pay and additional $10 to $20 per year in taxes?

	Frequency	Percent
Instituting a smart growth plan for the area	156	40
Buying land for greenspace that would not be developed	152	39
Buying land to keep farmland from being developed	138	35
Buying land for parks	98	25
Unwilling to pay any additional taxes	81	21
Total Responses	433	
Total Respondents	395	

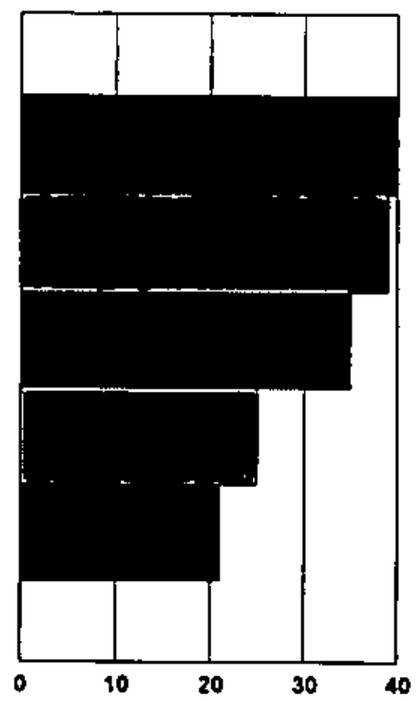


Figure 32

Nearly equal percentages of residents say they are willing to pay an additional $10 to $20 in taxes annually in order to institute a smart growth plan for the area (40%), buy land for greenspace that would not be developed (39%) and buy land to keep farmland from being developed (35%) (Figure 32). To buy land for parks of residents 25 percent profess willingness to pay the extra $10 or $20 tax in order. More than one-fifth of residents (21%) are unwilling to pay any additional taxes (Figure 32).

Housing preferences

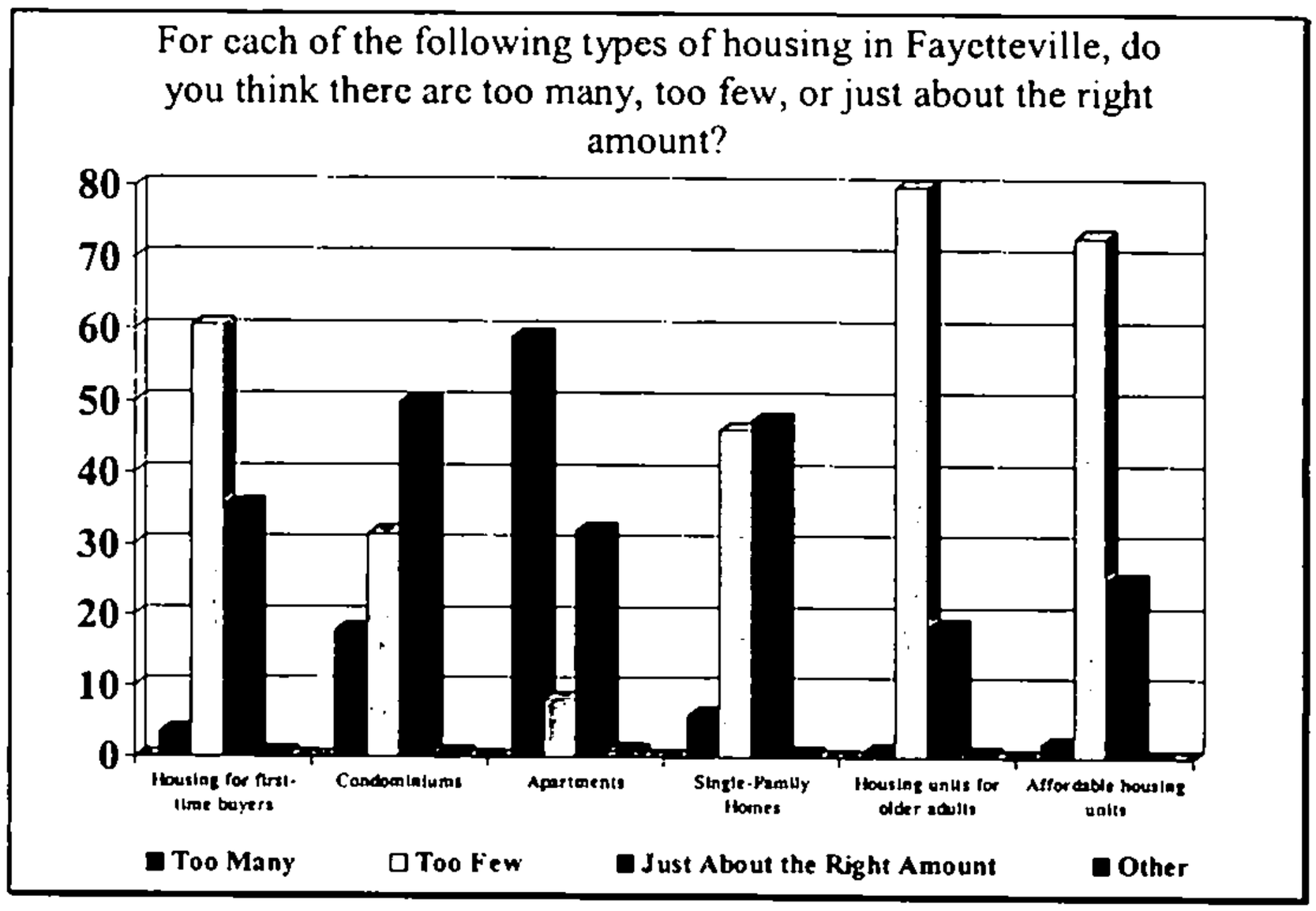


Figure 33

Sixty percent of citizens feel that too few housing units for first-time buyers exist (n=206) while 36% (n=122) say Fayetteville has just about the right amount. Only 3.5% (n=12) feel there are too many units for first-time buyers on the market. This is the reverse of residents' assessments about apartments, where 59% say there are too many (n=216), 32% the right amount (n=119), and 8% too few (n=30) (Figure 33).

Half of the citizenry say there are just about the right amount of condominiums (n=156), 32 percent too few (n=21.5), and 18% too many (n=57). Forty-six and 48 percent think that there are either too few or just about the right amount of single-family homes in Fayetteville (n=158 and n=164, respectively) (Figure 33).

Eighty percent of citizens (n=249) conclude that too few and 18.3% just the right amount of housing units for older adults are available in Fayetteville. Only 1.3 (n=4) say there are too many housing units for older adults. Seventy-three percent think that Fayetteville has too few affordable housing units (n=257), 25 percent the right amount (n=88), and 2% too many (n=7) (Figure 33).

Information

When you want information from the city, how do you get it?

	Frequency	Percent
Newspapers	237	60
Personal contact	186	47
Television stations other than CAT or PEG	155	39
Inserts in utility bills	145	37
Internet	140	35
Radio	131	33
Public access television (CAT) on cable	123	31
Government access channel (PEG) on cable	83	21
Total Responses	1200	
Total Respondents	395	

Figure 34

Presented with a list of eight methods of obtaining information about or from the city, most respondents assert they use three ways. The predominant method of obtaining information from or about the city is newspapers (60%, n=237), followed by personal contact (47%, n=186). All of the other ways, but one, of obtaining information about the city are employed by at least 30 percent of residents. Inserts into utility bills ranked 4th, as 37% of citizens say they obtain information in this manner. Thirty-five percent claim they turn to the internet for their information and 33% to the radio (n=140 and n=131, respectively). About 31 percent of Fayetteville's residents watch public access television (CAT) (n=131), 21 percent the government access channel (PEG) on cable (n=83) and nearly two-fifths (39%) other television stations (n=155) (Figure 34). Five percent of respondents (n=25) report not seeking information from the city.

How do you communicate with the city?

	Frequency	Percent
Communicate via telephone	248	63
Attend City Council meetings	67	17
Visit with City Council Representative	67	17
Communicate via e-mail	64	16
Visit with other governmental representatives	61	15
Communicate via letter	60	15
Communicate via the website	53	13
Total Responses	620	
Total Respondents	395	

Figure 35

When asked "How do you communicate with the city?", 98.75 percent affirm that they do communicate with the city and nearly 60 percent use only a single method (n=395 and n=233). Nearly two-thirds (63%) of residents communicate with city personnel via the telephone. Approximately one-sixth each attend City Council meetings (17%), visit with City Council representatives (17%), and/or communicate via e-mail (16%) (Figure 35). Fifteen percent each of citizens communicate with the city by visiting with other governmental representatives (n=61) and/or via letters (n=60). The city website is used for communication with the city by 13 percent of its residents (n=53) (Figure 35). About 18 percent of the citizens of Fayetteville (n=73) maintain that they "Do not contact the city".

Demographic Characteristics of Respondents

How long have you lived in Fayetteville?

	Percent
Less than one year	4
1 to 5 years	27
6 to 10 years	21
11 to 20 years	21
More than 20 years, but not all my life	22
All my life	5
Total	100

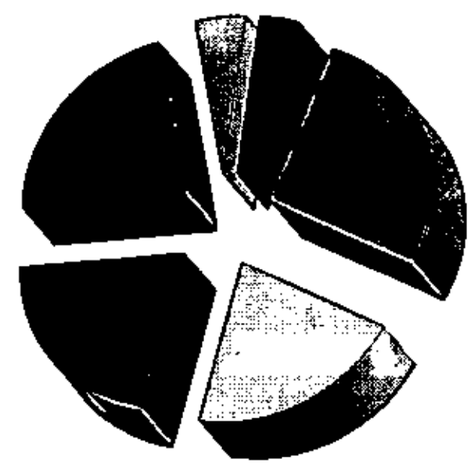


Figure 36

Over two-thirds of citizens answering the survey have lived in Fayetteville for over 5 years (68.5%; n=274). Another 27 percent have lived here over a year but under 6 years (n=109) and only 4 percent have lived in Fayetteville for less than a year (n=16) (Figure 36).

What best describes your residence?

	Percent
One family house detached from any other houses	72
A building with two or more apartments	18
One family house attached to one or more houses	8
Mobile home	1
Other	1
Total	100

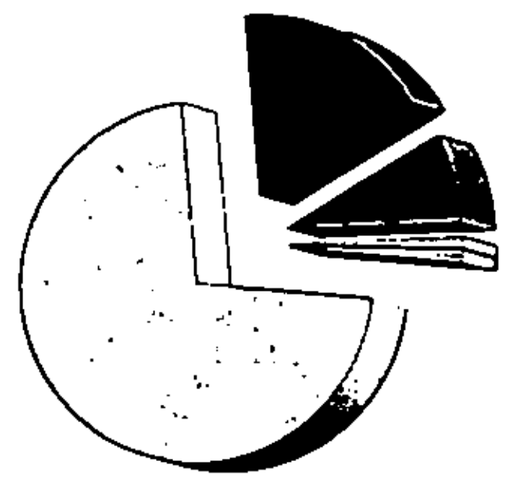


Figure 37

Citizens living in single-family homes compose 72 percent (n=285) of the respondents to the survey and thus are over-represented among survey respondents. Those living in apartment buildings are the next largest group surveyed, at 18 percent of all respondents (n=73). People living in single family homes attached other units make up 8 percent (n=31) of the respondents and the remaining 2% are split between mobile home dwellers and those respondents who identify their housing as "other" (n=6 and n=3) (Figure 37).

Which of the following best describes you? Are you:

	Percent
Working full-time (35+ hrs/ week)	50
Retired and don't work	14
A full-time homemaker	9
Student, working part-time	7
Working part-time	7
Retired and work part- or full-time	4
Student, working full-time	3
Looking for work	2
Student, not working	2
Other	3
Total	100

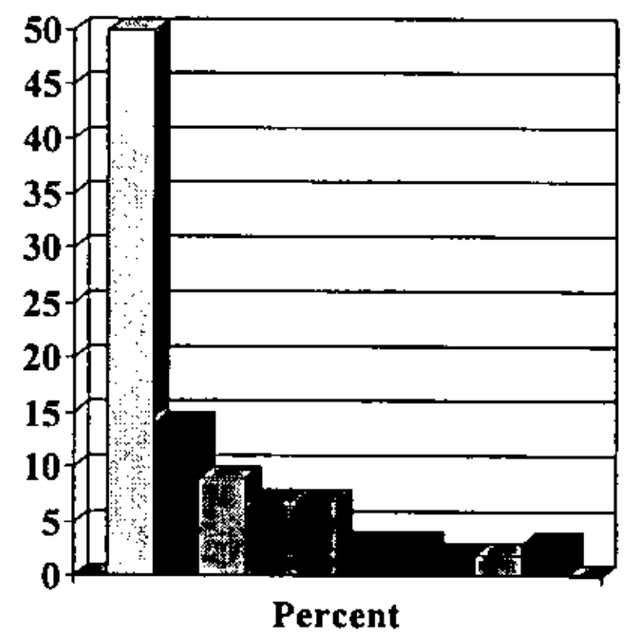


Figure 38

As many as 57 percent of the survey respondents work full-time. This is because 50 percent (n=199) work full-time *per se*, 3 percent are students (n=12) who also work full-time and 4 percent are retired and work either full- or part-time (n=14). The second largest set of respondents, 14 percent (n=56), are retired and not working. Full-time homemakers are next at 9 percent (n=35), then students (7%, n=29) working part-time and others (7%, n=27) working part-time. Those looking for work (n=8) and students who do not work (n=8) compose another 2% of the population each (Figure 38).

What is the highest diploma or level of school you have completed?

	Percent
12th grade or less, no diploma	8
High school graduate or G.E.D.	17
Some college, no degree	21
Associate degree (e.g. AA, AS, vocat. school, cert. program)	9
Bachelors degree (e.g. BA, AB, BS)	25
Graduate or professional degree	20
Total	100

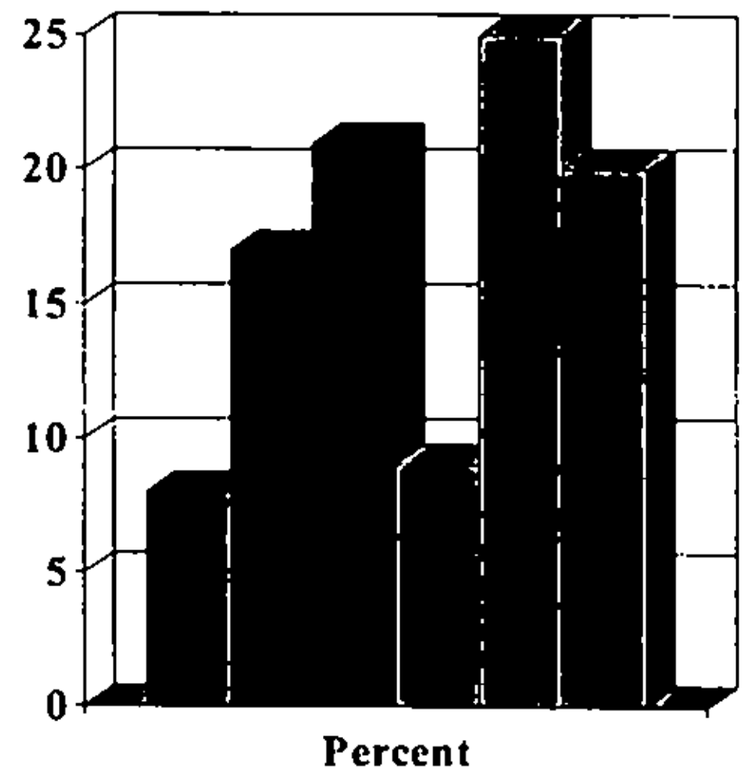


Figure 39

A quarter of those surveyed have bachelors degrees (n=99) and a fifth have graduate or professional degrees (n=80). Another 21% have attended or are attending college, but have no degree (n=83); and 9 percent have associate degrees (n=34). About 17 percent are high school graduates or have obtained their G.E.D.s (n=69) and the remaining 8% (n=33) have a 12th grade education or less (U.S. Census Bureau, Census 2000 Summary File 1, www.factfinder.gov) (Figure 39).

Consequently, survey respondents are very slightly more likely than the citizens in Fayetteville to have earned bachelors' or graduate or professional degrees. Respondents are much more likely than Fayetteville residents to hold associate's degrees and are very slightly less likely to have attended some college, but not completed their degrees. Lower percentages of survey respondents than citizens of Fayetteville hold high school diplomas as their terminal degrees or to have left high school prior to completing a degree.

What is your racial or ethnic background?

From the questions "Are you Spanish, Hispanic, or Latino?" and "What is your race?"

	Percent
Black or African American	6
White or Caucasian, Hispanic	5
White or Caucasian, non-Hispanic	86
Other racial and ethnic identities	3
Total	100

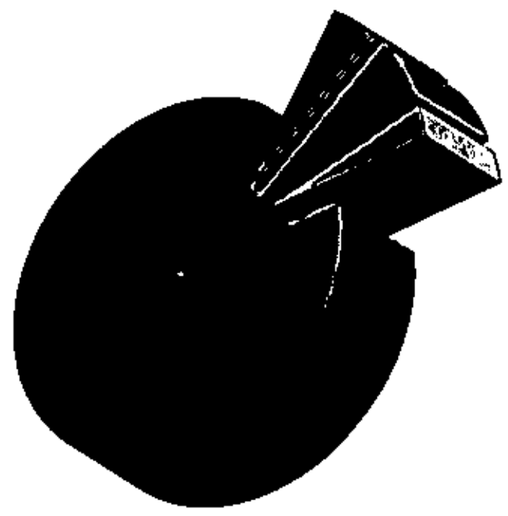


Figure 40

About 86 percent of survey respondents consider themselves white or Caucasian and non-Hispanic (n=340). Another five percent (n=22) describe themselves as white or Caucasian and Hispanic. Six percent say they are black or African American (n=24) and the remaining citizens assign themselves other racial and ethnic identities (n=11) (U.S. Census Bureau, Census 2000 Summary File 1, www.factfinder.gov) (Figure 40).

What is your age?

From the question "In what year were you born?"

Years of Age	Percent
18 to 25	16
26 to 40	26
41 to 50	24
51 to 64	22
65 and over	12
Total	100

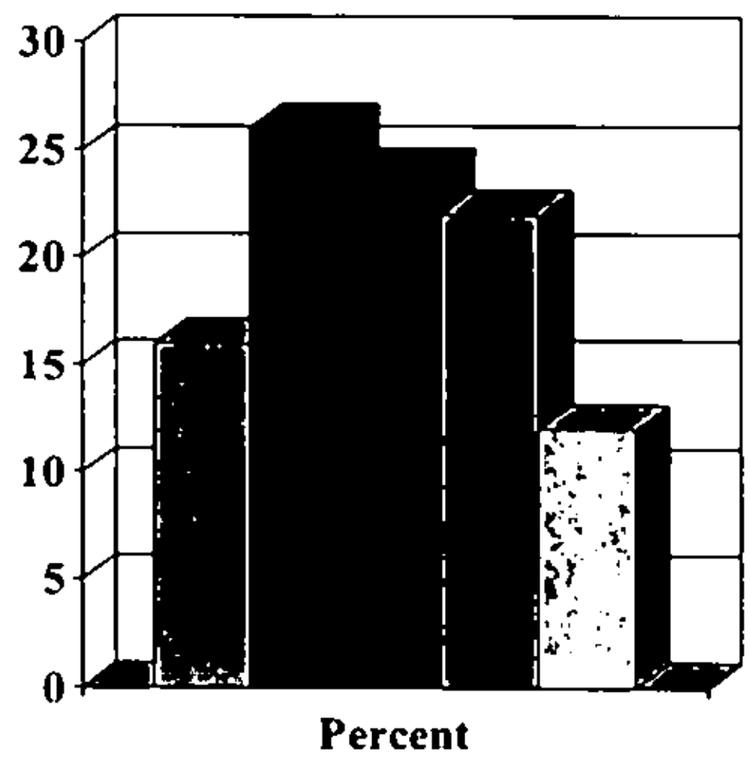


Figure 41

Citizens responding to the survey range in age from 18, the minimum age of allowable response, to 91 years. Half of respondents are ages 44 or younger and half older. Sixteen percent of respondents are ages 18 to 25 (n=63); 26%, 26 to 40 (n=100); 24%, 41 to 50 (n=91); 22%, 51 to 64 (n=84); and 12% are 65 years of age or older (n=48) (Figure 41). Twenty-four individuals prefer not giving their year of birth.

How much do you anticipate your household's total income before taxes will be in 2003?

	Percent
Less than $15,000	13
$15,001 to $25,000	14
$25,001 to $35,000	13
$35,001 to $50,000	19
$50,001 to $75,000	19
$75,001 to $100,000	10
More than $100,000	12
Total	100

Figure 42

Citizens are evenly represented across the range of incomes and closely matched the national average (U.S. Census Bureau, Census 2000 Summary File 1, www.factfinder.gov). Thirteen percent of respondents report that their 2003 household incomes will be less than $15,000, 14% between $15,001 and $25,000, and another 13% between $25,001 and $35,000 (n=44, n=50, and n=46, respectively). Nineteen percent each of those responding estimate their 2003 household incomes will fall within ranges of $35,001 to $50,000 (n=65) or $50,001 to $75,000. Households with incomes between $75,001 and $100,000 compose 10% of the respondents with remaining 12 percent reporting yearly incomes of more than $100,000 (n=40) (Figure 42).

Are you male or female?

	Percent
Male	41
Female	59
Total	100

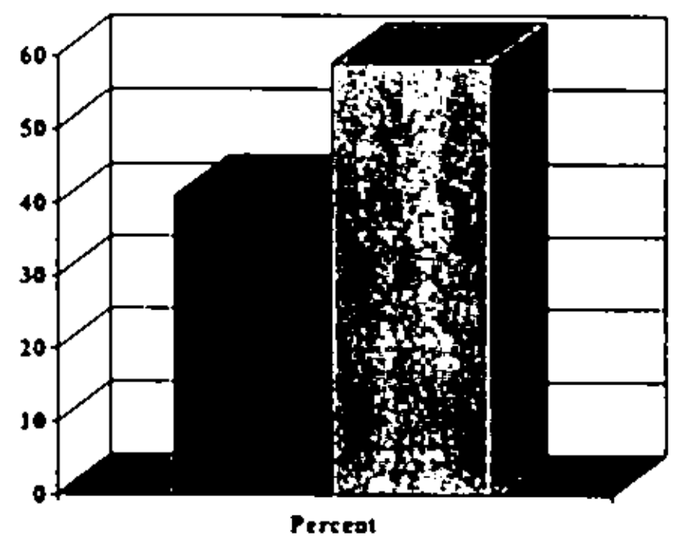


Figure 43

Of those citizens who responded to the survey, 41% are male (n=164) and 59% female (n=235) (Figure 43). The 2000 U. S. Census records that Fayetteville's population of those 18 years of age or older is 50.5% male and 49.5% female (2000 U. S. Census, www.factfinder.com).

Respondent's Ward

From the questions "On what street do you live?" and "What is the nearest cross street to your home?"

	Percent
Ward 1	28.5
Ward 2	21.5
Ward 3	24
Ward 4	26
Total	100

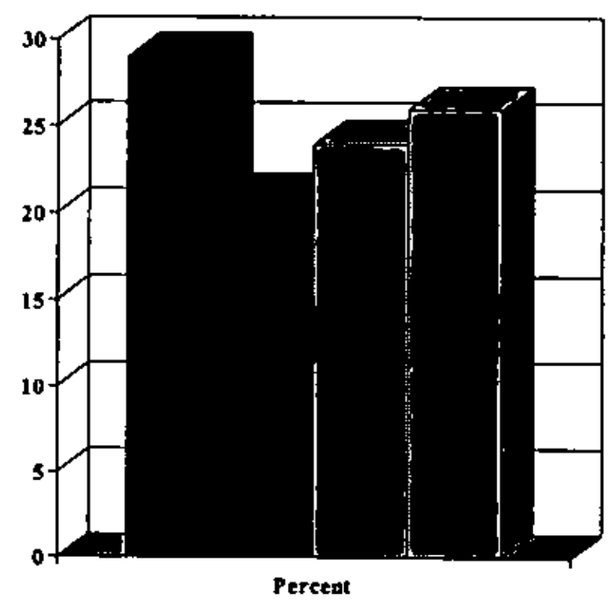


Figure 44

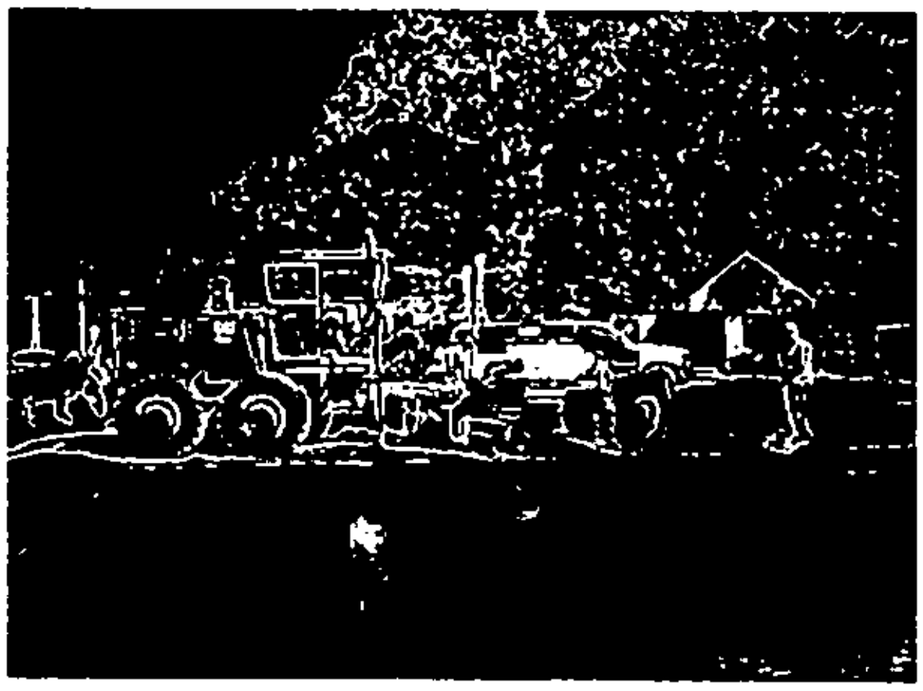
The distribution of survey respondents by ward is very similar to the actual population in Fayetteville's four wards. Ward 1, containing a quarter of the city's population, is slightly overrepresented with 28.5% (n=114) of survey respondents. Ward 2 is slightly underrepresented with 21.5% (n=86) of respondents, although this is the smallest ward in the city as it includes 24.3% of the citizenry. Wards 3, encompassing 25% of the city's population, is the home of 24% (n=96) of the survey respondents. Ward 4 is nearly identical, given its 26% (n=104) share of the survey sample versus it 25.6% share of the city's inhabitants (Figure 44).

Summary

Residents of Fayetteville are more than satisfied with Fayetteville as a place to live

- Of the first group of city services from which they could choose, citizens are most satisfied with parks and recreation, utility and public safety services
- Satisfaction is also high with the development of downtown Fayetteville, Dickson Street area and College Avenue, the Fayetteville Public Library and the city as a clean and green place.

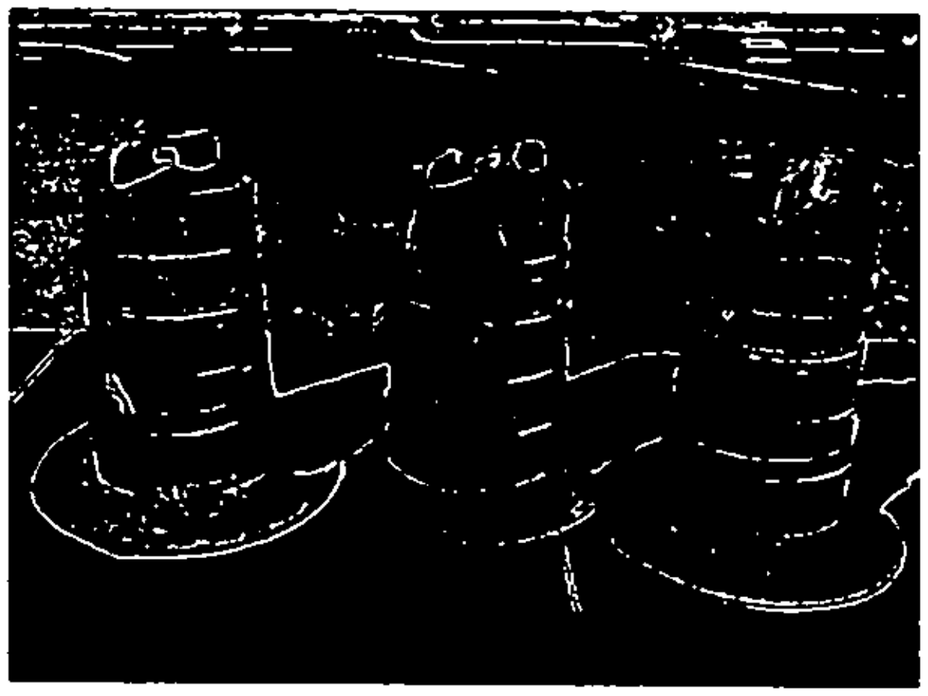
To maintain this high level of satisfaction, citizens recommend that the city improve



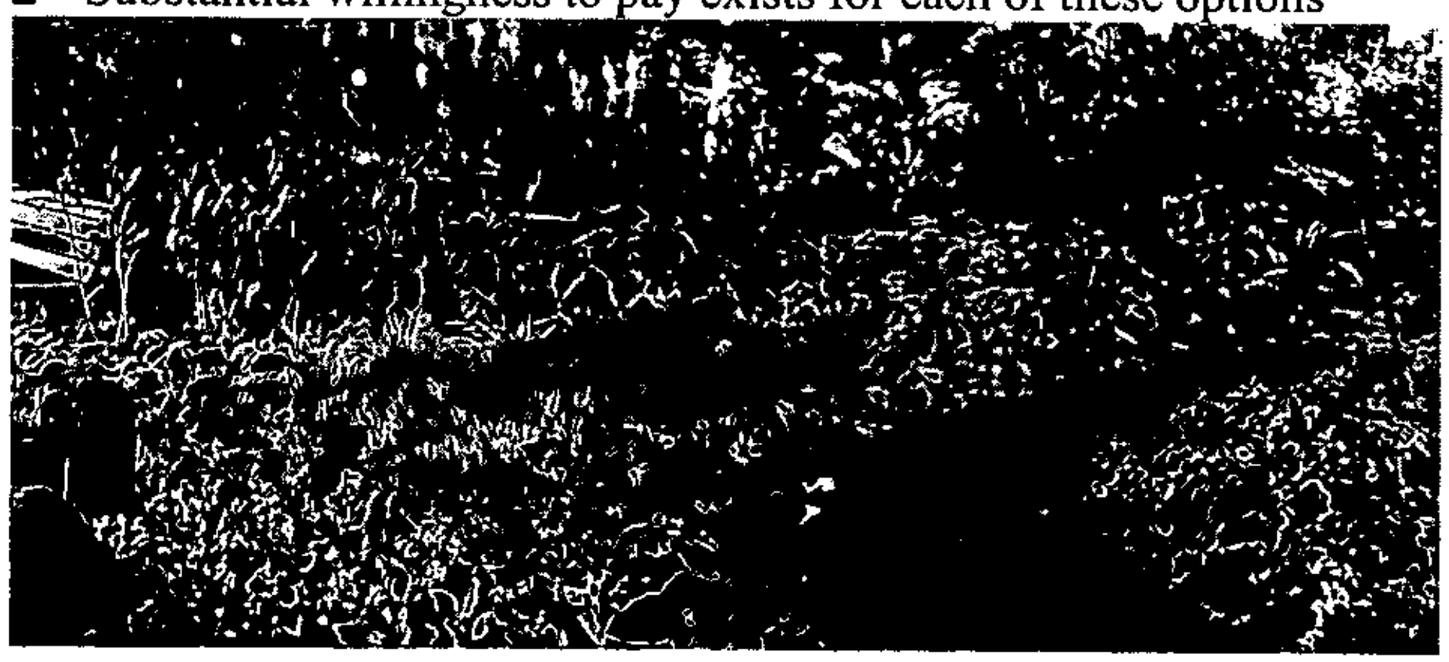
- Streets
  - All aspects noted
- Transportation
  - All aspects noted
- Growth and development
  - Adopt additional growth management techniques
- Continue developing downtown Fayetteville, the Dickson Street area and College Avenue
- Surface and ground water quality
- Housing

Future directions of importance to Fayetteville's residents are:

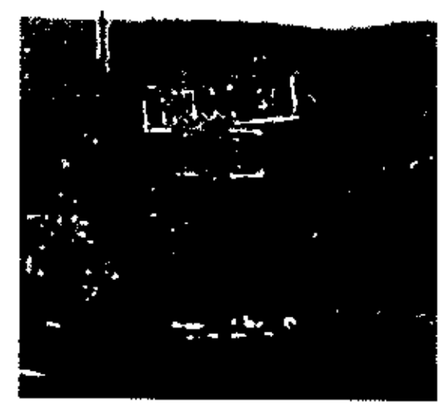
- Improving mobility and street quality
  - Improve traffic flow and residents are willing to pay for it
- Planning and managing growth
  - Support quality infill projects
  - Upgrade infrastructure in older sections
  - Residents have relatively high willingness to pay for both of these



- Maintaining Fayetteville as a beautiful city – clean and green
  - Enforce codes
  - Preserve trees
  - Improve appearance of major corridors
  - Substantial willingness to pay exists for each of these options

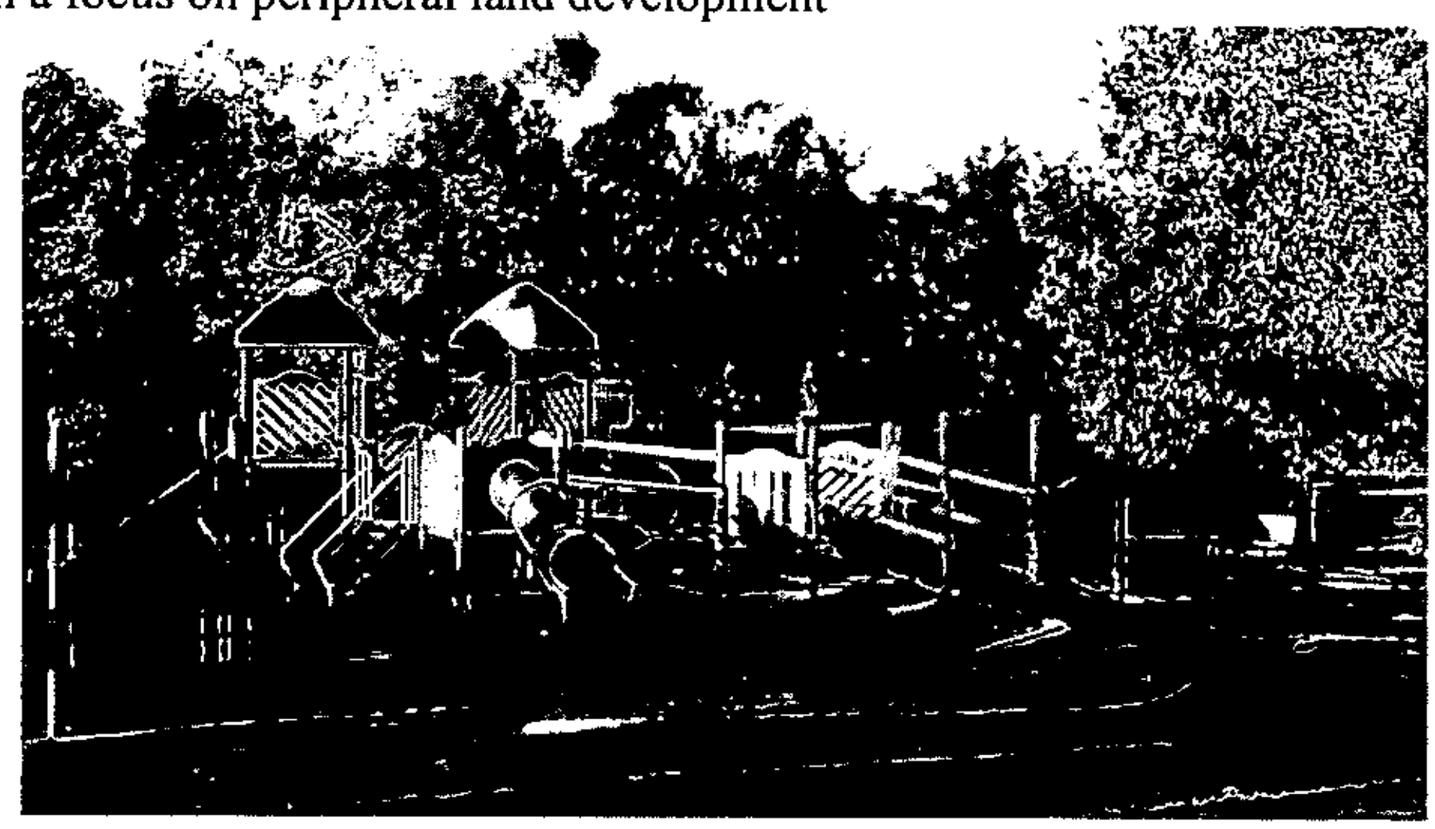


- Developing south Fayetteville
  - Develop affordable single family housing
    - Substantial willingness to pay
  - Redevelop formerly industrial areas into non-industrial uses
    - Some willingness to pay



When residents were asked to choose among options competing for their tax dollars

- Residents were nearly evenly split between support for a new multi-purpose park and a new multi-purpose trail system
- Residents prefer quality development consistent with neighborhood standards rather than a focus on peripheral land development



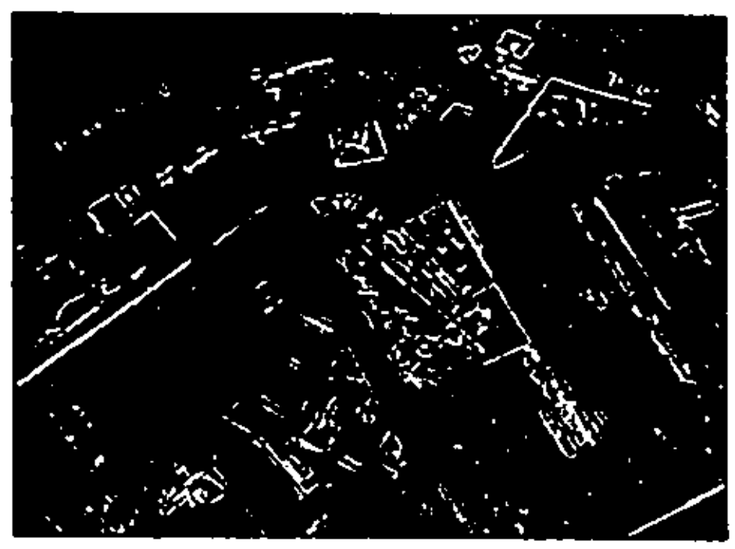
On growth issues,

- Residents believe that
  - Fayetteville's population has grown too fast
  - Business and retail have grown the right amount
  - Job growth has been too slow

- Residents also voice housing concerns. They would like to see
  - More housing for older adults
  - More affordable housing
  - More housing for first-time buyers
  - Fewer apartments
- To deal with growth, citizens are willing to pay additional taxes to
  - Institute smart growth plans
  - Buy land for greenspace around the community that would not be developed

Information

- Very high percentages of residents learn about city activities through newspapers and personal contact
- Every other form of information for learning about the city is used by at least 20 percent of the respondents
- While very large fractions of respondents contact the city via the telephone, substantial percentages use every other means listed.



Now it's up to you.

- Fayetteville's citizens are pleased with the city thus far
- They have shared their preferences about how best to improve already strong services and how to focus resources for the future
- Residents may be willing to pay for services they would like

Therefore, given the common interests of the citizens and leadership of Fayetteville and given sufficient resources to be effective, the future looks promising.

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October 8, 2003

Tim Conklin
Planning Division
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701
Via Facsimile

Re: Center Street

Dear Tim,

I have been asked by Greg House to research the extension of Center Street from the existing terminus to Fletcher Avenue. My research has disclosed that the recorded plat of City Addition depicts that each lot runs to the North line of the NE ¼ of the SW ¼ of Section 15, Township 16 North, Range 30 West, which is also the depicted centerline of Center Street on the City of Fayetteville Plat records.

Additionally it has been discovered that Louis Bryant, Jr. is the current owner of Lot 18, City Addition and is also shown as the owner of the adjacent property that lies to the North being located within Harrison Addition. The legal description of the conveyance to the Bryants in Harrison Addition is not a lot and block description, but is a metes and bounds description that starts on the North line of the NE ¼ of the SW ¼ of Section 15, which is also the North line of City Addition. Therefore, their combined legals block the proposed right of way of Center Street extension East to Fletcher Avenue.

Please advise me if you need additional information.

Sincerely,

Scott Bronson
President

cc: Greg House

REPRESENTING:
FIRST AMERICAN TITLE INSURANCE CO.

HOUSES
INCORPORATED

Real Estate
Development

Gregory T. House
Attorney at Law
Executive Broker

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facsimile: 501-521-6199
mobile: 501-790-4135
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website: www.housesinc.com

HOUSES
INCORPORATED

217 North East Avenue
Fayetteville, AR 72701
telephone 479.521.9155
facsimile 479.521.6199

September 25, 2003

Messrs Craven, Ingram, Gilliam, et al
106 N. Washington Ave.
Fayetteville, AR 72701

Re: Lots 16 & 17, City Addition, Fayetteville

Dear Messrs,

As you may be aware, our firm has been attempting to develop some lots at the end of Olive Street on Mount Sequoyah. To that end, in order to best utilize the potential of our lots, the City has asked that we purchase a right of way for what has been incorrectly platted as the unimproved portion of Center Street.

Therefore, our firm is interested in either purchasing the lots referred above just east of the end of Center Street, or at a minimum, purchasing a 15' right of way on your northern boundary. If you have an interest in discussing selling the lots or a right of way to Center Street, please contact me at 521-9155. Thank you for your time and consideration in this matter.

Sincerely,

Gregory T. House for
Houses, Inc.

HOUSES DEVELOPMENT CO., L.L.C.

217 NORTH EAST AVENUE
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE
(501)521-9155

FAX
(501)521 6199

September 29, 2003

Louis Bryant, Jr.
P.O. Box 793
Fayetteville, AR 72702

Re: Lot 18, City Addition, Fayetteville, and Harrison Addition Land

Dear Mr. Bryant,

As you may be aware, our firm has been attempting to develop some lots at the end of Olive Street on Mount Sequoyah. To that end, in order to best utilize the potential of our lots, the City has asked that we purchase a right of way for what has been incorrectly platted as the unimproved portion of Center Street.

Therefore, our firm is interested in either purchasing the lots and your house referred above just east of the end of Center Street, or at a minimum, purchasing a 30' right of way--15' from your northern boundary of the existing structure and 15' from the parcel in the Harrison Addition. Or, as an alternative, perhaps you would consider allowing us to pay for moving your existing home to the south and selling some right of way. If you have an interest in discussing selling this property or a right of way for Center Street, please contact me at 521-9155. Thank you for your time and consideration in this matter.

Sincerely,

Gregory T. House for
Houses, Inc.

LSD 02-29.10: Large Scale Development (Sequoyah Commons, pp 485) was submitted by Mandy Bunch of EB Landworks on behalf of Greg House of Houses Development for property located between Olive Avenue & Fletcher Avenue, south of Spring Street. The property is zoned R-2, Medium Density Residential and contains approximately 2.06 acres with 39 dwelling units proposed (48 bedrooms).

Hoover: On to item number eight, LSD 02-29.10 for Sequoyah Commons submitted by Mandy Bunch of EB Landworks for the property at Olive Avenue and Fletcher Avenue.

Warrick: This is a Large Scale Development for multi-family dwellings. The property contains approximately 2.06 acres, 39 dwelling units are proposed with 48 bedrooms. The property is located between Olive and Fletcher south of Spring Street. The applicant proposes to construct seven buildings as I said containing 39 dwelling units consisting of one and two bedroom town homes for a total of 48 bedrooms. Included with the development are proposed improvements to Olive Avenue and construction of a connection to Walnut via Center Street. Also, the construction of 56 parking spaces on site. Surrounding development and land use, primarily single-family homes and duplexes with R-2 zoning to the north and south. The subject property is zoned R-2 as well. To the east is R-1 zoning and to the west is vacant zoned Industrial, I-2. The applicant, as I mentioned is proposing 39 dwelling units on 2.06 acres. The density is approximately 19.2 units per acre in the R-2 zoning district 24 units per acre are permitted. Water and sewer are available to the site along Olive Avenue. No additional right of way for this project is necessary. Olive currently contains more than the standard right of way for this type of street. There is a 60' right of way existing. There is 30' of right of way existing for Center Street and 60' for Fletcher. Olive Avenue is proposed to be extended to Center Street along the west side of the subject property. With that Center Street will be extended within existing right of way to connect to Walnut. That would be to the east. The applicant will also be widening portions of Olive Street, which are currently narrower than 20' in width. Olive varies between 18' and 20'. Access is proposed by Olive Avenue, which is currently as I mentioned, between 18' and 20' in width. It is paved up approximately to the development where there is a gravel section. The applicant will be extending Olive Street the full width adjacent to the subject property. No Master Street Plans are being affected by this particular development. With regard to tree preservation the existing site is 100% covered in canopy. The applicant is proposing to preserve 21.25% which meets the requirement of 20% in this zoning district. The original proposal by this applicant went through the Large Scale review process was heard by staff and at the Subdivision Committee level. Staff at that time, at the time that it reached the Subdivision Committee, recommended the connection in the Center Street right of way to connect Olive to Walnut. At the April 28th

Planning Commission meeting the Commission reviewed a concept plat. The reason that that was brought forward was in order to provide some direction to the applicant with regard to street connections and off site improvements that may be necessary. The Planning Commission on April 28th voted to require the extension of Center Street east to Olive. There is a typo in your report, that should read east instead of west. The construction of Olive Avenue along the entire western boundary of this project. The applicant is requesting that the city participate in a cost share for the construction of Center Street from the centerline of Olive to Walnut Street. There is a letter attached that addresses that issue. At the May 15th Subdivision Committee meeting the Committee forwarded the Large Scale to the full Planning Commission subject to staff comments. We have had significant public comment on this particular project to include issues of density, traffic, parking, street improvements, sidewalks. You were provided one additional comment from a neighbor this evening. We also included minutes from the previous Planning Commission meeting with this information for you. Staff is recommending approval of this Large Scale Development with several conditions and one additional condition that is not listed in your staff report that I need to add is the improvement of Olive to a 20' width north of the development to Spring Street. As I mentioned that is to make it a uniform 20' where in certain situations it is not quite wide enough right now to meet that 20' minimum. Conditions that staff is recommending include 1) Applicant shall improve Olive Street its full width adjacent to the proposed project with curb and gutter on each side. Sidewalks are to be constructed on the east side only in accordance with City standards. 2) Applicant shall provide a connection within existing street ROW for Center Street between Olive and Walnut Streets to include a 20' paved section. 3) Approval shall be subject to the vacation of a 15 foot existing utility easement, which runs north/ south through the property. 4) A utility easement shall be granted a minimum of 10 feet on each side of all water and sewer lines to provide for maintenance of the line. 5) All buildings will be required to meet setbacks based on height. 6) Lighting shall be shielded and directed downward, away from adjacent residential properties. There is a park fee in lieu of land dedication for this particular project in the amount of $15,327 which is $393 per unit for the 39 units proposed. Other conditions are listed in your report and are standard conditions for all Large Scale Developments. Just kind of in reference to the previous project and other Large Scales that we have seen. The question generally comes up as to what issues you as a Planning Commission have the ability to address for a Large Scale Development, in particular a residential Large Scale Development. Issues that you really can't address relate to density. The density has to do with the zoning district that is applied to the project, the uses that are permitted within that district are allowed by right as long as the development proposal meets the city's design and development criteria. Design standards, as you pointed out with the last project, the city

does not have residential design standards. The uses, as I mentioned under zoning, the uses that are permitted on a particular piece of property go with the zoning that is applied to that property. Issues that you can and should address would include connectivity, the Master Street Plan and right of way dedications, one of the things that is required with a Large Scale Development is that it comply with the Master Street Plan and that any right of way necessary to meet the Master Street Plan standards is dedicated with that project. Grading and drainage, we talked a lot about that in the last item and compliance with the city's grading and drainage criteria is an issue that you are here to ensure. Utility extensions, any applicant with a Large Scale Development is required to provide utilities and to extend utilities to the project site. Parking, the number of parking spaces, the configuration and cross access are things that you can look at. Landscaping and screening where it is required by ordinance, tree preservation, which is a specific ordinance requirement, and the park land dedication or money in lieu ordinance requirements are things that the Planning Commission has control over. With that, I will answer any questions.

Hoover: Dawn, on page 8.1 it looks like there is a typo. When you have down here the direction to the west the land use is vacant and it says I-2, is that supposed to be R-2?

Warrick: I believe that is R-2, it is vacant. It is R-2.

Hoover: Thank you. Would the applicant like to make a presentation now?

House: Yes. Good evening ladies and gentlemen, I am Greg House speaking for the applicant, House's Development Company. I thought I would give Mandy a bit of a break here. She is having to do double duty here this evening. After listening to Dawn's report I thought what I might begin with is to state that we are in agreement with all of the conditions that have been recommended by the Planning staff. However, in our presentation in a letter that I mailed to you all on May 6th and I brought up an issue that I want to bring up again and that is we can approach this application with options. The first option is ask for no variances or waivers of any kind, meets the UDO standard, the International Fire Code, and the Large Scale Development ordinance in its entirety. That is to allow us to construct Olive Street in front of our property and on out to Spring as a residential street to meet the traffic load that our development and the existing neighborhood would create. I point that out in paragraph one, or item one, of that letter. I am bringing that up so that the Planning Commission can see that there is a way to approve this project without having to grant a single variance. However, as the Planning staff has asked and has continually brought forth and as your Commission recommended in our last meeting, the issue of connectivity has come up

and the Planning staff wants us to connect to Walnut. That we don't object to however, we have submitted in our submittals that we think it is only fair that we pay the rational nexus portion of that. I guess I understand that that is actually part of your charge this evening to recommend that or not. That comes from something I just received from staff at about 1:30 this afternoon. That is pursuant to City Council Resolution 9496 city participation in street extension cost. In their report that is continued on page 8.2 the top part of that page, that paragraph says the city may participate in the construction of streets either adjacent to the development or on a street leading to a development if the need leading to such a development if the need for such improvement is not totally caused by the development in question. City staff has told us, I don't see it in writing here, that they agree that the burden that we create is only 43% of the total burden that the new portion of Center Street would bear. The next sentence of that ordinance goes on to say the appropriateness of any such cost sharing between the owner and developer and the city shall be determined by the Planning Commission based on city ordinances governing the cost sharing of streets. That is new to me. This is a constantly evolving process. I think that is something that Dawn may have left out that you are charged with this evening is to discuss that, especially in light of our last meeting.

Warrick: You have a memo on page 8.9.

House: The issues of drainage, the Master Street Plan, trees and green space and the right amount of right of way, I believe we have covered all of those and we have shown that we can meet all of those requirements and I will let Mandy elaborate further on those in a minute. I do want to mention that all of those requirements for approval of the development again can be met by dead ending in essence Olive with a hammer head turn around. I bring this up because what I am concerned about, and I heard this earlier this evening with another gentleman that was before your Commission, is that we take this on up to the City Council level, talk about cost sharing and then for some reason it gets denied and I am back to the drawing board again starting all over with the project. I just want to point out that we have continually submitted this as a two part application and I think that you may want to consider that so that all the issues can be brought forward regarding our application. I am available for questions as you go through the discussion. Thank you.

Hoover: Mandy, do you have anymore to add to that?

Bunch, M: Just very briefly. I just want to clarify some of the traffic issues. Based on our previous Planning Commission meeting things were brought up that streets did not appear to be at certain levels, etc. so I just want to kind of nail that out there. Staff, we have had several meetings on that level

and what the numbers that you are looking at today basically even include, previously we were talking about local streets and we were talking about 4,000 vehicles per day and everybody was in agreement that the streets as they exist and as they would be constructed with the waivers would not accommodate 4,000 vehicles per day. All of the calculations have been adjusted to look at Olive from Spring to the site frontage as a residential street. Which, regarding option number one, Greg's discussing lends to a total if you look at our entire traffic with the new generation numbers on a per unit basis, 420 total cars on Olive, which is within the realm of 300 to 500 vehicles per day that is allotted or assigned to the design service volume for a residential street in the Master Street Plan. Option number two which we are discussing with connectivity, the same cost share percentage has been calculated based on using Center as constructed with 20' in width asphalt with the waivers as a residential street and not as a local street. Either option being addressed can meet the city requirements. We have worked hard to address several issues with the property owners that live adjacent to this property and I know everyone is still not happy and I'm sure they want to talk about it. I want to stop and we are here for questions if you guys need anything.

Hoover: Thank you Mandy. Before we go to public comment Dawn, would you just clarify the connectivity issue because I thought that that had already been decided.

Warrick: The Planning Commission did vote on April 28th to have a connection to use the existing Center Street right of way to connect Olive to Walnut. That is what you sent back to your developer with regard to your determination on connectivity and requested that the Large Scale that came forward show that connection. The developers brought that forward and they do show that connection with this Large Scale Development. However, they are still requesting that options be made available. Staff is recommending the connection. We have been recommending the connection consistently since Subdivision Committee and we feel that it is appropriate to make that connection in this particular location. The grade of the Center Street right of way that we are considering is not excessive. It can be traveled, it can be walked, it can be driven currently. Utilizing that area we feel is an appropriate way to connect this particular project and to provide two means of access for the development as well as the existing houses on Olive Street.

Hoover: Thank you. Now I would like to open it up to public comment. I just want to remind you to keep your comments brief, to the point and relevant. You might start out organizing what your issues are up front so we can keep track easily.

Davison: Good evening, my name is Sharon Davison, I do live in Fayetteville.

Actually I lived at 48 Olive 25 years ago right to where this man is trying to put in this development. I don't like being here, I'm missing my son's baseball game. When I run out the door to try to catch the end of it I do hope I don't hear that you all have made a bunch of excuses at the end and approved this when I can give you and you have a lot of reasons why not to approve it at this time. Number one is the very main reason that is given by you. Might I say, who needs the extra hired help? I believe Ms. Dawn did a wonderful pitch job for Mr. House and that in itself, shows my concern. Again, staff

Hoover: Ms. Davison, I would appreciate you not attacking personal attacks, would you just stick to the project?

Davison: It was a pitch thank you. I know a pitch when I hear one.

Hoover: That is not necessary.

Davison: That is what our city staff is doing by continually approving things that are not good for the citizens of the city and then they know that you will say we believe you brought this to us. I believe that most people did hear that. If you are familiar with this area and this situation you will know why I feel this way. First of all let's get to the main issue of the R-2 zoning. You have a reason tonight, and those of you that are new to the Commission, I would like that you check with the Council record of the past over year with this R-2 zoning problem, inappropriate R-2 zoning smack dab in the middle of 100% tree coverage. Have you seen those trees? 100% coverage. He is going to take 4 out of 5 of those trees out. I hope you can see that little part. We don't even have to talk about the yards that are given up, the people's drives, all of those things. Back to inappropriate R-2 zoning. We have discussed this in depth with our Council. We were promised by our Council a year ago to address this issue but they have been too busy dealing with things than to really address it. They did tell us. We have been told as a neighborhood and as individuals that that is an inappropriate area for R-2 zoning. Slope, grade, neighborhood, issues. It is supposed to be fixed so let's keep that in mind when you come to the end of this night and approve for no other good reason than his right because of R-2 zoning. That is very much in question in this particular area so I ask you all to consider that. Ok, we will run through a few things that are real legitimate reasons even whatever your opinions of the development for this particular property, for this particular project. Apartments, it is too dense. I also heard Ms. Warrick say the neighborhood is primarily single-family homes with some duplexes. His project will change the entire dynamics of the area. I live there. I could've brought my slide off pictures that we had for the wonderful intersection where Mr. Schmitt of Hometown Development wanted to put his apartments because it does happen. When we talk about

road access think about winter. We are talking about almost 6 months of the year that Spring Street is almost unusable and Center Street is almost unusable. Just consider that, he is only talking about half a year that his project will be reached. You realize everyone will go down to Dickson, everyone will go down to Lafayette. I would like you to see the corner of Fletcher and Lafayette these days. Ok, so do we build the streets to make it safer? We can't put as many parking spaces on a property because we have to maximize our room density so we demand, and he makes demands doesn't he. He is sure telling you about how much he is going to pay to the penny of his part for the street. Excuse me, what do we as citizens, tax payers pay for our part for his indulgence? Thank you, he is not a man trying to build himself a home for his family. He is a man trying to make money at other's expense. Our infrastructure is not here to meet his needs. I would like to understand why we put in a sewer tax, we are all waiting, it is all coming yet damn, we need a quarter of a million dollars for a lift station over there on Wedington. He talks about fire access. Excuse me, may I ask city staff, are we still on a hiring freeze?

Hoover: Ms. Davison, will you please stay on one topic?

Davison: It is, it is relative because he is bringing up all these things that he is meeting code. At this time we can't handle any of this. It is amazing. I would like to know how much money, and I think people that are listening to this when developer's say they are paying their share, their part, I think people need to really look at the numbers and understand what their part is and what you are expected to give up. So, you have the right to put these projects off for a year. If everyone begs put him off this is why. Everything about it is wrong. Trust me, you do have, as our attorney has told you tonight, you can disapprove this right now because I beg to differ if staff says he will not create a dangerous traffic situation. Does his buildings get built before the roads get built? I am not sure I understand our order in a lot of this. So, here it is. You have a choice. He wants to do this, you don't have to let him. Why can we not let our infrastructure catch up? Why can we not check and see that this particular area your City Council has said is inappropriate for R-2 zoning and that they will address it? They said they would. Of course, where is it in writing? I would like you to remember that it is 100% canopy lot. I would like you to think about all the people that are going to have to give up space, yards, etc. to make it meet requirements. We can always meet requirements. Who is paying it on this end? I am sorry, it does get me upset and I try to still be polite but I would like to ask you to consider when again, you have the out here. You don't have to look at a group of upset neighborhoods, people and say our hands are tied. I know your hands aren't tied. I hope you discover that before you vote on this for this gentleman tonight because you have every right to either deny it or delay it and you have major reasons to do that. One of them specifically is dangerous traffic

situations. I have a child in school there. The bus can't even come up the hill to us. He has to go down to the bus because of this area in winter. There are not sidewalks. You heard him, he is not going to do one inch more than you make him. Please help us do the right thing tonight. I will stop.

Hoover: Thank you Ms. Davison. Is there any other member of the audience that would like to speak to this Large Scale Development?

Chadick: My name is Susan Chadick and I live at the corner of Olive and Spring Street. I just have to say that I cannot embrace this Large Scale Development. It is too big a change to the tradition of the residential neighborhood on the mountain. That tradition being single-family and duplexes. What this kind of development will do is impact the mountain and then there will be a chain reaction of changes and I am not so sure those are going to be predominantly good changes so that concerns me. All along you have heard me express concern about the parking issue. I am just still convinced that it is ludicrous to have 48 bedrooms with 56 on site parking when the rent for those bedrooms or those units are going to be between 4700 and $900. I just feel they are going to be more than one car per bedroom. Again, we have just got 56 on site parking places. We can approach this with options. We have gone to Mr. House and asked for a reduction in the number of units so that there could be more on site parking and so that we would eliminate some of the traffic. I realize he has done well in proposing a minimal in the density guidelines but I would like to see less. Thank you.

Hoover: Thank you Ms. Chadick. Is there any other member of the audience?

Bryan: I am Holly Bryan, 107 N. Olive. Again, I would like to go on record as saying that I am totally against this Large Scale Development. I believe that it is truly incompatible with the single-family homes in this area and just as a side, several neighbors a year or so ago were seeking out the option of how to downzone and we were told by City Planning to wait until the hillside study was done, gather the data, and here we sit again waiting so that we can. In the family we have a large chunk that we want down zoned. There are several issues that you can stop this or delay this. Again, I have been pushing the safety and the traffic issues. The parking on site 56 spaces on site, I don't feel that is reasonable. Please keep in mind there will be no parking in the development itself in the lanes. Those will all be fire lanes so only the spots that are marked parking will be just 56 cars. There will be no parking on the street, in the cul-de-sac that is also a fire lane. I believe that maybe Mr. House has allowed for 4 or 6 spaces on the street but then there is a good chance what has happened in the 200 block of Olive with no parking on both sides. We could seek that out so then there would be no on street parking. As far as the

dangerous traffic situation, I do believe last Thursday you all mentioned how dangerous it can be when you came out and viewed the developmental site. I happened to look out my window as you all were departing from the development site and noticed that it was quite challenging for you to get that 16 passenger van turned around in the street. I think there were two or three people out directing the person driving how to back out of the driveway to get out back onto Spring Street. I don't see that by even widening Olive to 20' you are still, we are in the same predicament with the dangerous traffic situation which will also be compounded when you have a 20' wide Center Street. I really, we want to work and figure out a solution that will be acceptable to all of us. With the cost share on Center Street, I believe precedence has been already set with another Large Scale Development west of town where the developer paid 100% of his street. You can correct me if I'm wrong. I believe it was west of town, I don't know if it was a Lindsey property or one out off, well, it is on the west of town. I stay down here downtown. I know that developer did pay 100% so I think it is ludicrous for the cost share that Mr. House proposes. Thank you.

Hoover: Thank you. Is there any other member of the audience?

Bryant: My name is Lois Bryant, I live at the corner of Center and Walnut and I will speak for your connectivity issue. As far as Center Street and that being a right of way, there is no one in the City Administration that can tell me when Center Street was built, when the right of way was established, and if it was on private property when the street was built or what goes on with that. One thing too, in the winter we have a world of a time trying to get the city just to come out and salt Center Street and Spring Street so we can get down the hill and get to work. The best we ever get out of them is "Well, that is kind of dangerous for us to bring our trucks down there." Well, we have to drive down it. My dad and I during the winter months we salt and sand the corner of Center Street and Willow so we can make that corner so when we are coming down the hill we don't end up in the people down the street, in their yard. No consideration has been given to my dad about his property, none whatsoever. No one has spoke with us. Your supposed right of way that nobody is going to tell me when it existed or when it started, yes, it sits right smack dab in the middle of our property. You are generating a financial issue for us if the right of way goes through then the next thing on the list is we will get a letter from the city that tells us we don't have the standard setback which generates a bill for us to move the house back. Why should we have to move our house back for 50 spaces or enough cars to come down through for a couple hundred cars? Why should we be generating at the rate housing construction is now a $40,000 to $60,000 bill to convenience a few people. Granted, this will convenience a few people because that would give people who own those empty lots there access to their property by

way of someone else paying for it but that is a detriment to us. One other thing that I will be to the point at because yes Center Street is only 19', 21' to the curbs and sidewalks, one other thing that I would ask that you look at is according to our deed and title we own lot 18, according to the deed Center Street sits on the outside of our property and our property line. This deed was set up, the original purpose was for the previous owner and this deed was done in 1936.

Estes: Ms. Bryant, may I see your abstract and I will give it right back to you? Thank you.

Hoover: Thank you. Do we have any other members of the audience? Seeing none, I will bring it back to the Commission and the applicant. Mandy, would you like to address some of those issues?

Bunch, M: The density issue I am sure that we will have further discussion about. I am not sure quite how to address that other than what we have already stated. The parking, we have provided as many parking stalls as we possibly can to meet all of the other city requirements. There are no other opportunities on site, which is why the additional parking was placed offsite on the street for visitors because of the concerns. The width of Olive not being adequate to turn around is very evident and I think that is something that the staff has considered with their recommendation to extend Center Street so that there is more than one way in and out for emergency and other traffic to access all the properties there, not just the one in question tonight. Also, with Ms. Bryant, part of the problem with Planning is a really good thing but part of the problem with planning is sometimes things are brought into consideration that aren't taken to the end. We have not had the opportunity and basically where we are tonight is does the Planning Commission approve this project based on all the requirements and the conditions that have been placed on it at this point in time. Once this is approved if it is maybe approved, we have to go into the exploratory phase. We have to do all the deed research on the right of way. We have to make sure that right of way is there. We have to look at a detailed design of the street to make sure that things are not taken out and things are not made into a situation worse than they were before. Again, that is part of the problem with us having to plan this issue without the details known at this point. We will have to address all of the adjacent property owner concerns when the street is constructed. I don't really have any other thing to add to that. I think that there will be questions that come out of your discussions.

Hoover: Thank you Mandy. I have a question for staff. Dawn, can you comment on where the hillside study is or what the prediction is for that?

Warrick: I don't know if I can give you a time frame. I know that it has been

initiated. Some data bases have been created. Some of the neighbors did do quite a bit of work to initiate a land use study for some of the target areas that were identified for the hillside review. This is stemming from a resolution that the City Council passed asking staff and the Planning Commission to review those properties within the city that are currently zoned for multi-family development that have a slope of 15% or greater. That is the subject that is being addressed. Our Long Range Planning Division is looking at that and we are having to work with existing resources within the Planning Division as well as within our GIS Division in order to get the appropriate mapping and database work put together in order to bring something back to you. Unfortunately, I can't give you a time frame but I can say that that is still an ongoing project.

Hoover: Then would you address on the right of way, we are not asking them to move their house?

Warrick: No.

Hoover: What are the consequences to the Bryant's property?

Warrick: The existing structure sits where it has forever and the existing right of way is where it has been since the subdivision was platted. The street was never built. Therefore, it is right of way that exists as lines on paper. The house is certainly within a 25' setback from that right of way line and my assumption is that the house was built prior to 1970 when our current regulations went into affect requiring a 25' setback. That house is considered to be an existing legal, non-conforming structure. It will certainly remain as it is and can remain as it is and be repaired and maintained in that location without any requirements being placed on it to be removed or otherwise adjusted in any way. We treat it as an existing nonconformity and the city would not go in and require that the structure be relocated because the street was extended. In this situation the right of way location is not changing and that doesn't change any of the existing conditions except for the fact that there would be pavement within the right of way and a street connection up to Olive.

Hoover: Thank you. Commissioners?

Bunch: Can we have Engineering or possibly the applicant give us an overview on the proposed grades of Center Street and of Olive Street for the newly constructed and how those grades compare to city standards?

Bunch, M: Basically Center Street can be constructed even at a slope less than 15% based on the city's GIS information. If a city street has to go over 15% it has to be concrete. Currently on our plans on Olive we have a small portion past the site driveway that is 20% and that is something that we are

going to work to reduce but otherwise we will have to construct that in conformance with city requirements based on my discussions with staff after we submitted. That would have to go to concrete unless we could reduce that slope to 15% or less. Did that answer your question?

Bunch: This is for Planning staff. Is there any difference between the 100 block and the 200 block of Olive as far as street width and allowed parking? I know we have had various comments. There has been considerable comment about the parking in the 200 block and also the 100 block and I noticed that both of them at different times of the year have people parking on the street. Is that allowed on a 20' street and is there any difference between the 100 and 200 block as far as regulations are concerned?

Warrick: My understanding is that the neighbors have worked with our Transportation Division to limit or restrict parking on Olive north of Spring Street in that block. I am not real familiar with the situations but my understanding is that there are some no parking signs in that section of Olive Street.

Bunch: Ok, what about the 100 block should this development be built would that be a similar situation? Are we creating a different standard for one group of people on one block and another standard for a group of people on a block to the south?

Warrick: I am sure if the same issue were addressed and there were apartments on the block south of Spring Street our Transportation Division could look at that the same that they did the block north of Spring Street and determine where it might be appropriate to place no parking signs based on the traffic condition and safety concerns.

Bunch: Thank you.

Warrick: Without the development being in place I don't know that there is an issue. The residents do park on the street. They seem to either stagger or park on one side so that there is still a thru lane for traffic to pass.

Bunch: And for emergency vehicles?

Warrick: Yes.

Bunch: Ok.

Allen: I know that these buildings are town homes, I wondered if any of them would be for sale?

House: Most likely, yes. It depends on how the numbers come out and whatever we end up with costs and offsite improvements.

Allen: Based on the neighborhood compatibility and traffic concerns and safety concerns that I have I suggest that this development be put on hold until the hillside ordinance study is completed.

Hoover: That is an interesting discussion item.

Williams: That was your motion to table?

Hoover: That is a discussion item, that's not a motion yet, I'm assuming that's not a motion yet is that correct?

Allen: No, that is just my opinion.

Estes: Dawn, the parking concerns me. How did we calculate the required number of parking spaces that is the standard 48 and the 3 ADA with the 56?

Warrick: One space per bedroom is the requirement by ordinance. ADA spaces are required one every 25 spaces within a parking area and then bicycle racks are required one per every 25 parking spaces.

Estes: Ok, thank you.

Hoover: Commissioner Estes, were you done? Is there any response to Nancy's comments about perhaps waiting for the hillside ordinance?

Estes: I would like to hear our City Attorney's opine and comment.

Williams: When the issue was brought before the City Council there was in the original resolution actual contained a moratorium on development while the Planning Commission and the Planning staff looked at the possible rezonings of R-2 land that was on 15% slopes and especially they were looking at Mount Sequoyah because this was around about the time that the other development on Fletcher Street had been before you turned down and also before the City Council and was turned down there because of traffic safety issues. The City Council decided not to grant a moratorium. They removed the language from the resolution that would have had a moratorium on development while this was being studied. They intentionally did that from some comments from the City Council because they did not want to stop particular development and at that point it was known that Mr. House was looking at attempting to develop his property. I think the City Council went on record basically as saying that they wanted to have the hillside density studied but they did not want to stop

development at that point in time until the study was completed. Of course that was quite a while ago and hopefully the study will be moving forward. I know they have had one person in the Planning Department that was doing this was Shelli Rushing and as you know she left to assume another planning job in a sister city so I think that probably has slowed down this process a little bit and now I think we are closer to getting back up to full staff again. I don't know if we are even there yet.

Warrick: It is actually more a matter of the GIS Division being able to accommodate our mapping needs. They are very overwhelmed with mapping requirements from City Council and other divisions as well and they are trying to get the information. We do need to get more staffing placed on this project but it is one of those items that is in our work program as a priority for this calendar year.

Williams: I would be a little bit reluctant to put all potential developments on hold, all multi-family developments in 15% land on hold. The City Council potentially could do that and probably could do that without incurring substantial risks although there would be some risk for developers who are saying well you're denying me my development and going after the City for inverse condemnation. I think that would have to be a City Council decision. I don't think the Planning Commission itself should try to make such a decision. I think there would be some danger to the city if you decided to try to do that unilaterally and just say well we are not going to approve the development, we are going to put it on hold until the City Council has acted. There is nothing to prove that the City Council is going to take any action on rezoning. They are going to have a study done and then they will look at the study and decide what they want to do. They might decide to do nothing. We don't know what they are going to do. Since we also can't give you a definite time period when that can be done at this point in time we are in a little bit of a dangerous ground to stop consideration of a Large Scale Development that meets the other requirements of the ordinance, if you would determine that this meets the requirements of the ordinance. Just to wait for a study when we don't know when it is going to be done nor do we know what the results shall be.

Hoover: Thank you Mr. Williams. Are there any other questions about that concern?

Vaught: I do have a question on the cost share agreement and this might be for the City Attorney as well. It is my understanding that if we approve this here it still has to go before the City Council for the cost share section. Does it go for the whole thing or just the cost share portion of the ordinance?

Williams: My understanding, and correct me if I'm wrong Dawn, it's just the cost

share that you all can make a recommendation but the ultimate decision is up to the City Council on whether or not they want to participate in that. Is that the way you understand it?

Warrick: I agree. The development approval is in the hands of the Planning Commission, or consideration is in the hands of the Planning Commission. Any cost share, any allocation of city funds requires the City Council to act on that. Typically the process is that the project is forwarded to the Street Committee of the City Council. They make a recommendation to the full City Council with regard to entering into a cost share on a particular project. The Planning Commission is asked to in this particular case determine if it is appropriate that a cost share be considered. Again, you don't have the ability, nor does staff have the ability to allocate funds.

Estes: Dawn, one concern that I had when we saw this in an advisory capacity and which we discussed was the determination of whether Olive is a local street or a collector street, did we ever make that determination?

Warrick: We have treated Olive as a residential street because of the section and the amount of traffic that it carries. A residential street is designed to carry between 300 and 500 vehicles per day and is typically a narrower street.

Estes: What is the city standard for a residential street?

Warrick: A residential street is a 24' street with curb and gutter, storm drain, sidewalks on one side. Olive doesn't meet that requirement.

Estes: We're recommending, or staff is recommending, Center Street between Olive and Walnut be a 20' street?

Warrick: In this particular situation we are trying to work within existing conditions. The right of way existing is 30', which is a narrow right of way for a residential street a 40' right of way is really necessary in order to meet the city's standards. Working within the existing conditions we're trying to get the amount of street that is consistent with many of the surrounding streets and that will provide a two way access to this development. No it will not be a standard street. It will meet the grade requirements, it will meet the width necessary in order to provide access for fire and emergency vehicles.

Estes: What are we recommending for Olive?

Warrick: For Olive Street, which is in a 60' right of way it has a width that varies between 18' and 20'. Our recommendation is that the developer provide a consistent 20' uniform street width from the development north to Spring Street.

Estes: Somewhere I got the notion that a standard residential street was 28'.

Warrick: A local street is 28'.

Estes: Ok, a local street is 28' and a residential street is 24'. The reason that we are recommending that Olive be 20' and that Center be 20' is because we don't have the right of way, is that correct?

Warrick: On Olive Street the right of way does exist. If Olive Street north of this development to Spring were widened out to either residential or local street standards the steep driveways that currently access the structures on Olive Street would be made more steep. I think that there would be more of an issue in dealing with existing conditions and trying to work around the infrastructure and improvements that people have made to that street.

Estes: What troubles me is that we have a piece of property that is R-2, if we follow the ordinance and if we look at the applicant's compliance with the ordinance we fall into on that basis alone that the Large Scale Development is appropriate. Yet, if we look at it in a practical pragmatic sort of way it just doesn't seem like it is appropriate, it is just not appropriate. That is the quandary that I have. If you make a list of each of the ordinances and the applicant's compliance with each of the ordinances you pretty much have to check off all but about maybe one or two of them but then if you look pragmatically at what we're doing it sure isn't the best place to put this project but that is what we are being asked to do.

Hoover: Are there any other comments?

Bunch: I have a question for legal staff. Could you elaborate a little bit on creating a substandard street? I understand retrofitting Olive from the development north to Spring Street that that is a preexisting condition and basically any work that would be done there would be more of a maintenance issue. What sort of legal issues are we looking at creating a substandard street on Center?

Williams: I don't think that we are creating a dangerous legal position for ourselves. It might be a policy issue that certainly the City Council should look at. Why would we not follow our own street standards that we require other developers to do. From a legal point of view you know we are protected from our own negligence by sovereign immunity so I think at worst someone could bring a cause and say that we were negligent in building a street that is too narrow. Of course you look throughout this area of Mount Sequoyah you will see lots of 20' and more narrow streets with no sidewalk and no curb and gutter. Basically once you get up on the mountain to Fletcher and Rogers, Oklahoma Way, Lighton Trail, that is

the way all of these streets are built and that is the way they were developed in the past before we had street standards. It is not out of tune with the regular neighborhood even though it does not match our current street standards. Of course normally it is the city's policy that it is going to follow all of the ordinances that it requires other people to follow when it does developments.

Estes: Mr. Williams, I have a question regarding city resolution 9496. It is in our materials at the bottom of page 8.2 and the top of 8.3. In the third full paragraph about half way down it says "The developer's share shall be that cost which bears a rational nexus to the needs created by the development. In no event shall the developer be responsible for less than the cost of a standard 31' local street." What does that mean? Plain reading of that to me means that the developer is responsible for 100% of the cost of the street until it goes to 31 plus something.

Williams: I think that refers to, and of course 31' used to be what a local street standard was and that was reduced after this resolution was made. What that means is when a collector on the Master Street Plan would go through a developer's development and the city would determine that it needed to go ahead and have a collector built, the developer's cost would have to be the full cost for the 31' street and then the city would pick up at that point the extra 5' cost to make it a 36' wide collector. I think that is what that is referring to as opposed to this particular situation where this street is not actually even abutting Mr. House's land.

Anthes: I guess I am a little concerned that someone with the city staff was disingenuous with the neighborhood in telling them to wait for a hillside study in order to take action. That was eluded to and I hope that is not what happened. Also, when I first went to this site after knowing that this Commission required connectivity I approached a drive through from the south part of Center and am very familiar with where Ms. Bryant's house sits. It is concerning me that we're looking at taking that street down it looks like it would go within 5' of the exterior wall of your home. That is not necessarily the nicest thing to do to somebody, long term residents of the neighborhood as I know you have been. My question of staff is if we are requiring connectivity as part of this project, and I know Mr. House is not being required to build the street west of Walnut Street, but assuming that that connection would then happen as a result of this loop happening, what provision is made within our design to alleviate the impact of running a street within that close of an existing property? What happens?

Warrick: I am going to ask our engineer to address that.

Casey: I'm not sure that I can fully answer that. We will have to look at the grades and the cross sections in the area where there have been

improvements made. I believe there is a stone wall that runs east and west along the Bryant property and other landscaping and improvements. We might refer to Mr. Williams to see what the responsibility of the city is if improvements are made, private improvements are made within city right of way. Is the city required to replace those? Would that be at our expense or would that be something that the owner would have to take care of?

Williams: I would think if it is within a city right of way it actually is city property even if someone else has placed it there. Occasionally someone will inadvertently place something within the right of way and usually it is not actually within the street itself and then often times we will see that we will make an exception and reduce the amount of setback so that it will not be within the right of way. If it was actually within the street area I don't know what the city could do. That has been supposedly property dedicated to the city and it is city property at that point in time until it would be vacated. If it was vacated then it would go back to the abutting property owners on both sides of what the dedicated street was. Until that happens it is city property and a city easement and a public easement to use that property and if someone would build something across it, it would be subject to be taken down I think with no compensation.

Anthes: I beg the indulgence of the applicant because I realize this is off your site. I just have some questions about this procedure. I understand that Mr. Estes was looking at your deed and that your home was built somewhere around 1936 you were saying and we were saying that the street plats were done in the 1970's, is that correct?

Warrick: No, current city regulations with regard to setbacks and zoning were adopted in 1970. This portion of the city I'm guessing that this area of the subdivision was created and adopted by the city in the 1920's, maybe the early 1930's.

Anthes: Per her comments about that no one has been able to show the Bryant's the exact right of way on a map, is that the case?

Warrick: I have not had an opportunity to speak with the Bryants. I will be glad to sit down in the office and show our plat maps if that is necessary. I have not had that opportunity, I have not been asked the question.

Hoover: Mandy, do you know the dimension from the right of way to their structure approximately? I know we saw a marker out there when we went on tour.

Bunch, M: From all accounts I have heard it is 5' to 10' and just looking at it, it looks like that too. It is close.

Ostner: Is that to the road bed or from the right of way? Five to ten feet from house to curb or from house to right of way?

Bunch, M: I believe it is from the right of way. The right of way is 30', the street would be 20' centered within that. The reason Matt answered you the way he did is because of the grading in that area. It is kind of hard to say where the limits of construction would actually fall.

Hoover: How much do you think that would be from the curb to the structure about?

Bunch, M: Well it is 20' with no curbs so probably 15'. It is hard to guess at this point.

Bunch: Matt, is there a water line within this same area and would that create a different offset to where it couldn't be centered because the City of Fayetteville's water line, what part of Center Street does that line up with?

Casey: It generally runs along the north portion of the right of way. The roadway can be constructed over that line.

Bunch: Ok, so the water line is not a reason to make the street not be centered on the right of way?

Casey: That is correct.

Hoover: Are there other comments? Do we have a motion? Can I call for a motion a second time? I will call for a motion a third time.

Williams: Let me advise the Planning Commission that there must be a motion. If you, I think your habit has been if there is not a motion it is denied. Then you would be denying a Large Scale Development with no reasons given. Please, you might want to deny it but give your reasons that you are denying it. Do not just sit mute and no one say anything because I guarantee you we lose if we deny this with no reasons given. Somebody needs to make a motion yes or no.

Vaught: I have a question for staff I guess. The idea of finishing out Center is something you are recommending, would you recommend the project without that connection?

Warrick: We brought this to the Planning Commission as a Concept Plat. The Planning Commission voted to connect. Staff is recommending the connection. The city has a policy of connectivity. We feel that it is important to have street connections and not to provide additional dead-

ends for conflicts in the future. Yes, staff is recommending the connection. I believe that it is important to be consistent with the Concept Plat that the Planning Commission heard in April recommending that Center Street be connected.

Vaught: I think I agree with Commissioner Estes again on the fact that you look at this on density and so many issues that they are falling within the code. There are a few things that are a little more objective in our standard. I just don't know if we have the basis to turn it down. I guess that is what I would like to hear.

Hoover: If we could get Mr. Williams to reiterate on what reasons can we turn down a Large Scale Development like this?

Williams: If it is not meeting the requirements of our developmental ordinances, whether or not they are agreeing to do the infrastructure as required by our ordinances, whether it is creating or compounding a dangerous traffic situation, whether it has adequate water and sewage access. I think those are about the only things you can look at. If I could, let me answer Commissioner Vaught's question about connectivity and what was done before. There was a Concept Plat and it was asked of the Planning Commission about whether or not they favored connectivity down to Walnut Street. There are winners and losers in every decision you make. Of course the losers if you said no would be the people who lived on Olive Street who would then have all of this traffic run by their street. The losers if you said yes would be the Bryants who would then have half of this traffic run right by their house within 5' to 10' of their house. Keep in mind that Olive right now is a dead end street. In fact, I think that it would be extended to some extent but it already runs in this direction a bit of the way. The Planning Commission in April voted for connectivity. That wasn't a unanimous vote but I think there are only two people descended from that particular vote. Just as the City Council is not completely bound by what it did in passing the resolution, it is always the most recent resolution that controls, you are not absolutely bound on that decision. Nobody is, even if you voted for it. Even though there has been a lot of work done by staff and by Mr. House and his engineer based upon your decision that you made back on April 28th. The other option would be to decide that the theory of connectivity that is supported in our 2020 Plan as correctly stated by our Planning staff is not an absolute requirement in every case, especially when he doesn't own the land down to Walnut Street. All his land that he owns is east of Olive Street so you are asking him to make a connection away from his property, not even adjoining his property. That is just another thing to consider. You considered it in April though, not all of you because not all of you were on it. That was a hard decision then and it is still a hard decision now. That is my only other comment on that. You are not absolutely bound on that

even though you made that decision just a month ago.

Vaught: I have an additional question for staff. I noticed that there was a traffic study in our material that was done by an outside engineer. Have you guys done a traffic study and what is your take on the traffic situation I guess, your recommendation?

Warrick: The traffic study was commissioned by the developer. It is included for your review. That traffic study indicates that either of the two options that the developer is considering, either a hammer head on Olive without the connection or the connection would provide a reasonable traffic flow for this development. I will let the developer's engineer address anything additional.

Vaught: Is it staff's opinion that it does not create an excessively dangerous traffic situation?

MOTION:

Allen: Based on lacking neighborhood compatibility and traffic concerns and safety concerns I move for denial of LSD 02-29.10.

Hoover: I have a motion to deny by Commissioner Allen, is there a second?

Estes: I voted no when this was before us before and I hope my reasons are stated in the motion and based on that I am going to second the motion.

Hoover: Thank you. There is a second by Commissioner Estes. Is there anymore discussion? Seeing none, Renee, would you call the roll?

Roll Call: Upon the completion of roll call the motion to deny LSD 02-29.10 failed by a vote of 2-0-6 with Commissioners Church, Ostner, Vaught, Hoover, Anthes, and Bunch.

Thomas: The motion fails two to six.

Hoover: Thank you, so then do we need to do another motion?

Williams: Yes. Nothing has been approved at this point.

Hoover: Thank you. Seeing that, do I have a motion?

MOTION:

Ostner: I agree this is a complicated issue. I cannot find the reason to vote against it though I have a lot of opinions. I believe with the case before us that the developer has satisfied our requirements. I would like to make a motion to approve LSD 02-29.10.

Hoover: Subject to the conditions with the addition of number seven that improvement of Olive Street to a 20' width north to Spring?

Ostner: Yes.

Williams: Does that include your recommendation of the appropriateness of a cost share to the City Council?

Ostner: It does.

Hoover: Is there a second?

Vaught: I will second.

Hoover: Is there any more discussion?

Anthes: A clarification. This is based on all of staff's recommendation so also the connection within the existing street right of way for Center Street as part of this motion?

Ostner: Yes. That is number two. If anyone is interested, as was eluded to earlier, someone always loses. It is an unfortunate situation and I think we can mitigate it as best we can by making the street as narrow as we can for it to still safely operate.

Hoover: Commissioner Vaught, did you include condition number two also?

Vaught: Yes, based on staff's recommendation I think that that is the appropriate thing to do. They have obviously studied it and looked at it.

Hoover: Ok. Is there anymore discussion?

Estes: I will vote against the motion and I would like to explain my reasons why. I voted no on the issue of connectivity because I was not in favor of connectivity because of the hardship that results to existing land owners. Without connectivity it is my opinion that the project then creates or compounds a dangerous traffic situation and that is my reasoning for voting no on this motion.

Hoover: Thank you. Are there any other comments?

Bunch: I will reluctantly support the motion. This is very similar to the preceding item on our agenda. We have an unpopular issue but our rules and regulations have failed to legislate good taste, which is not our job. Requirements have been met and I feel that legally I feel that personally I am bound to vote in favor of it because I have worked with this all the way through and they have met the requirements and the problems with the requirements so I will reluctantly support it.

Hoover: Thank you Commissioner. Is there any other discussion? Seeing none, Renee, would you call the roll please?

Roll Call: Upon the completion of roll call the motion to approve LSD 02-29.10 was approved by a vote of 6-0-2 with Commissioners Allen and Estes voting no.

Thomas: The motion carries six to two.

Hoover: Thank you. Dawn, is there any other business?

Warrick: No Ma'am, that is all.

Hoover: We are adjourned. Thank you.

Meeting Adjourned: 9:32 p.m.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of October 13, 2003

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jeremy Pate, Associate Planner
	Matt Casey, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	October 08, 2003

Project: C-PZD 03-08.00: Planned Zoning District (springwoods, pp 248) was submitted by Joe Tarvin, P.E. of EGIS Engineering, Inc. on behalf of Collins Haynes for property located on the southwest side of I-540 and Arkansas Highway 112. The property is zoned I-1, Heavy Commercial/Light Industrial, in the Design Overlay District and contains approximately 289.26 acres. The request is to rezone the property to a Planned Zoning District to allow for development of Residential and Commercial sites.

Findings: The 289-acre subject property is being reviewed as a proposal for a Commercial Planned Zoning District. The applicant requests a rezoning and preliminary plat approval for a large lot subdivision within the Design Overlay District. The rezoning request, in conjunction with a development proposal, requires Planning Commission consideration and City Council approval pursuant to the requirements for a PZD. The proposed nine (9) lots have been assigned Use Units and/or specific uses that are legally binding to each lot. Each of the larger lots will require further review in the form of a preliminary and final plat and/or large scale development review. More detailed comments regarding vehicular and pedestrian circulation, street improvements, buffers and screening, commercial design standards, and other typical review items will be provided with the future submittals for each of these lots.

Numerous environmental concerns have been raised with the history of this particular site. The developer of the springwoods subdivision has indicated that the Audubon Society has particular interest in utilizing and preserving Lot #8, comprising approximately 124 acres, or 43% of the entire site. This particular lot is required to be preserved (or enhanced) in large part in its natural state, thereby retaining the wetlands, tree canopy, and grasslands currently existing. Any future development on this lot, as with the others, through Audubon or any other entity, is bound to these restrictions and must be reviewed for Code compliance through the City of Fayetteville.

Proposed Use Units:
(D) *C-PZD, Commercial Planned Zoning District*

Lot No.	Land Use	Use Units	Density	Acreage
1	Commercial	12,13,14,15,16,17,25	n/a	47.73
2	Multi-Family	26	18 DU/AC	26.36
3	Single Family	8	2 DU/AC	25.53
4	Multi Family	26	4 DU/AC	10.70
5	Single Family	8	2 DU/AC	32.28
6	Commercial	12,13,14,15,16,17,25	n/a	18.04
7	Commercial	12,13,14,15,16,17,25	n/a	5.17
8	Preservation Area	1*	n/a	123.45
9	Lift Station	3**	n/a	0.02

*Lot 8 (Audubon) Uses shall be further restricted as described in proposed uses of the" Wilson Spring Site" as stated by Audubon.

**Lot 9 to be retained by the City of Fayetteville for the existing lift station. Necessary utility and access easements shall be provided to this lot with the Final Plat.

(A) ***Unit 1. City-wide uses by right.***

(1) *Description.* Unit 1 consists of public uses, essential services, agricultural uses, open land uses, and similar uses which are subject to other public controls or which do not have significantly adverse effects on other permitted uses and are, therefore, permitted as uses of right in all districts.

(2) *Included uses.* Public facilities of the types embraced within the recommendations of the General Plan.

Agricultural, forestry, and fishery:	•Field crop farms •Fishery •Forest •Fruit, tree, and vegetable farm
Essential services located in public right-of-way:	•Fire alarm box •Fire hydrant •Passenger stop for bus •Police alarm box •Sidewalk •Street, highway, and other thoroughfare •Street signs, traffic signs, and signals •Utility mainline, local transformer and station, and similar facilities customarily located in public right-of-way
Recreation and related use:	•Arboretum

	•Historical marker •Park area •Parkway •Wildlife preserve
Water facilities:	•Reservoir, open •Watershed •Conservation or flood control project

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Vacant pasture	R-A, Residential Agricultural
South	Single family homes, horse farm, commercial lots	R-A, Residential Agricultural C-2, Thoroughfare Commercial
East	I-540, Landers Autopark	C-2, Thoroughfare Commercial
West	Single family lots, agricultural land	RSF-4, Res. Single Family, 4 DU/acre RMF-24, Res. Multifamily 24 DU/acre Planning Area

Right-of-way being dedicated:

- Deane Solomon, Collector: 70 feet total, 35 feet from centerline
- Shiloh Drive, Collector: 35 feet from centerline
- Moore Lane, Local: 25 feet from centerline
- Truckers Dr/Gypsum Dr, Collector: To be considered for a Master Street Plan Amendment by City Council as indicated
- Technology Blvd, Collector: To be considered for a Master Street Plan Amendment by City Council as indicated

Requests for Master Street Plan amendments will be considered as individual items on the agenda for City Council

Street Improvements: No street improvements are proposed with the C-PZD and associated Preliminary Plat under review. Staff has made preliminary recommendations for street improvements to coincide with the development of each of the lots.

Tree Preservation:
It is the Landscape Administrator's understanding that most of the trees throughout the site will be preserved, and that as development occurs individual Tree Preservation Plans will be submitted for each large scale and residential subdivision.

Background:
The subject property was purchased by the City of Fayetteville in 1988. In the years following, water and sewer lines, a lift station and fiber optic cable were installed, in anticipation of a high-technology development site, which never occurred.

The site contains a number of environmentally sensitive areas, including delineated wetlands,

grasslands, stream corridors and associated floodplain, and habitat for the Arkansas Darter and numerous other wildlife species. These factors have presented both a challenge and an ecological asset to the development potential of the site.

A total of 165 acres of the property is proposed to be developed in mixed-use residential and commercial uses, with the remaining 124 acres (43%) to be set aside permanently for greenspace. The Audubon Society has expressed interest in the conservation of this property and its significant wildlife habitat for the past two years, as potential for an environmental education center for northwest Arkansas (see attached).

Responses from adjoining property owners all reflect "no objection" to the project as described, with one exception, which states "not enough commercial development."

The proposed C-PZD was heard at Technical Plat Review on August 27, 2003 and at Subdivision Committee on October 02, 2003. Discussion at the Subdivision Committee meeting included: traffic circulation and connectivity, proposed use and compatibility, buffering and screening, and wildlife interface with residential uses.

Recommendation:
Forward to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed development subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district C-PZD 03-8.00 with all conditions of approval as determined by the Planning Commission.

2. An ordinance creating this C-PZD shall be approved by City Council.

3. A Final Plat is required to legalize the lot configuration and allow for the sale and/or development review of lots.

4. Requests for Master Street Plan amendments to Truckers Lane and Technology Blvd. require Planning Commission recommendation and City Council approval prior to final approval of the C-PZD. *Staff is in favor of these amendments.*

5. On- and off-site street improvements shall be coordinated with lot development. Staff has provided preliminary recommendations with Technical Plat Review comments, which remain applicable.

6. Each respective lot designated in the C-PZD shall be reviewed by Preliminary Plat and/or Large Scale Development in accordance with City Code for future development,

requiring Planning Commission approval.

7. Covenants to be filed with the final plat creating the springwoods subdivision shall address the uses and restrictions associated with these lots.

8. Draft covenants shall be further refined to include information required by §166.06 and to address residential as well as commercial development standards at the time of final plat. Draft covenants for the springwoods C-PZD zoning district shall address the overall master plan and shall be filed with the final plat creating this 9 lot subdivision.

9. Setbacks, Height, and Building Area shall be determined and approved by the Fayetteville Planning Commission at the time of large scale development and/or subdivision approval. These standards shall apply to all lots and development within the individual tracts as shown on this plat.

10. All requirements as stated within Chapter 166 Development of the Unified Development Code shall apply to all future large scale developments and/or subdivisions within the springwoods C-PZD zoning district.

11. Flexibility provided within the PZD guidelines shall be applied to each development tract (large scale development and/or subdivision) as determined appropriate by the Planning Commission to allow alternative methods of design where it is consistent with the objectives of the springwoods C-PZD zoning district.

Standard Conditions of Approval:

12. All utilities shall be placed underground. Any existing overhead electric lines under 12 kv shall be relocated underground at the developer's expense.

13. 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)

14. 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.

15. Tree Preservation Plans shall be required with the development of each individual lot.

16. Parks fees shall be assessed with the development of each individual residential lot. Coordination with Parks staff will be necessary to determine appropriate trail connections, corridors, and parkland dedication.

17. Sidewalk construction in accordance with current standards shall be required with the

development of each individual lot.

18. No construction will be authorized without a floodplain development permit where required.

PLANNING COMMISSION ACTION: **__yes__Required**
_____Approved _____Denied

Date: October 13, 2003

Comments:

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

By

Title

Date

Findings associated with R-PZD 03-4.00

Sec. 166.06. Planned Zoning Districts (PZD).

(B) *Development standards, conditions and review guidelines*

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposal includes residential development and commercial development

that provide compatible uses with surrounding development. The General Plan 2020 designates the surrounding area as Multi-Use, Residential and Regional Commercial, which are compatible uses with those proposed. The Master Development Plan proposal sets aside 124 acres, 43% of the total 289 acres for permanent conservation to preserve the unique natural amenities of wetlands, wildlife habitat, grasslands and tree canopy. The proposed Audubon lot will provide a buffer along Clabber Creek and the tributary which run through the site from erosion and siltation. All lots are required to submit large scale development plans and/or preliminary plats for future development, providing a venue for more detailed review of pedestrian and vehicular circulation, screening, parking and landscaping requirements. All proposals will be required to comply with City ordinances, along with the covenants as proposed and filed of record for this PZD.

(2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: A detailed landscaping and screening plan, where appropriate, will be required with each development plan submitted, in accordance with current City Ordinances.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Internal street circulation systems are to be designed to safely and adequately carry traffic into and out of the proposed planned zoning district, as well as be sensitive to safety, convenience, separation of vehicular and pedestrian traffic and proper relationship of different land uses. Truckers Drive, a proposed Master Street Plan Collector, is proposed to be eliminated from crossing the wetland area, and instead stub out to the north property line, to connect to a future East-West Collector. Access from Truckers Drive to Lot 7 is also proposed. Technology Boulevard, an east-west future Collector is proposed to be removed from crossing the site to provide contiguous corridors of land for wildlife movement on Lot 8. Sidewalks and trails as designated on the Master Street Plan and Alternative Transportation and Trails Plan will be coordinated with the developer of each lot to carry out the goals and policies of connectivity as adopted by City Council.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: All proposed development within the PZD shall comply with Chapter 172 Parking and Loading where applicable.

(5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: All proposed development within the PZD shall be reviewed and comply as necessary with the greenspace and buffer requirements as set forth by the Unified Development Code. Particular treatment of the interface between wildlife and human activity will be investigated. For those lots within the Design Overlay District boundary, all applicable ordinances within this boundary shall apply.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks are to be constructed in conformance with current standards.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be installed in conformance with current standards.

(8) *Water.* As required by §166.03.

FINDING: Water service is to be provided in conformance with current standards

(9) *Sewer*. As required by §166.03.

FINDING: Sewer service is to be provided in conformance with current standards

(10) *Streets and Drainage*. Streets within a residential PZD may be either public or private.

(a) *Public Streets*. Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets*. Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and

any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: Public and private streets within this PZD shall be reviewed by staff and comply with all city ordinances at the time of development. Improvements to streets adjacent to the development has been recommended; specific recommendations by City staff will occur at the time of development review.

(11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: N/A

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The

location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant is to comply with the requirements of Chapter 167, as determined by the Landscape Administrator, for all development within the PZD.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: For all proposed office and commercial structures within the C-PZD, the developer shall comply with appropriate ordinances with reference to Commercial Design Standards. Where applicable, commercial and office structures shall also comply with Design Overlay District requirements. The submitted draft of covenants addresses these structures to some degree, and a final draft shall be filed at the time of Final Plat.

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: N/A

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open

spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.
(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant has submitted a draft of covenants for the proposed PZD describing the responsibilities and maintenance of future open space and street systems.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposal is for mixed-use planned development comprised of multifamily residential, single family residential, office and commercial uses with 43% of the site, at minimum, to be preserved as greenspace. The rezoning of the property to a planned zoning district may be deemed appropriate due to the provision of flexibility by providing a number of housing types and opportunities; compatibility with existing and planned surrounding land uses; harmony in creating a mixture of land uses that serve one another; variety in providing housing, employment and recreational/educational activities to achieve an integration of economic and development opportunities; no negative impact on future land development in the area; provision of contiguous open space potentially providing educational and recreational activities at the community and regional levels; a maximum enhancement of existing natural features with the preservation of 124 acres of ecologically sensitive habitat; and a planning approach that incorporates mixed, yet harmonious development in the same area, consistent with the guiding policies of the General Plan.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. Those findings are attached to this report. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. Covenants provided by the developer will be included in the PZD ordinance. This ordinance will be forwarded to the City Council for approval.*

(D) *C-PZD, Commercial Planned Zoning District*

(1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to

accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

(a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.

(b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.

(c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.

(d) To encourage commercial development which is consistent with the city's General Plan.

(e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: The proposal provides an effective relationship of different land uses within a single development, including single family residential, multifamily residential, open space, retail, commercial and office uses. The large lot subdivision identifies areas of potential land use in an orderly manner, encouraging commercial development which is consistent the with city's General Plan. As a PZD, the 289-acre development, currently zoned I-1, Heavy Commercial/Light Industrial, better facilitates more appropriate mixed land uses in a harmonious relationship.

(2) Permitted uses.

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping
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 21	Warehousing and wholesale
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 29	Dance Halls

FINDING: The proposal utilizes Unit 1 City-wide uses by right, Unit 3 Public protection and utility facilities, Unit 8 Single-family dwellings, 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 25 Professional Offices, and Use Unit 26 Multi-family dwellings, which are permitted uses in a C-PZD.

(2) *Conditions.*

(a) In no instance shall the commercial or office use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.

(b) Residential uses must be appropriate to the design of the project.

(c) Warehousing and light industrial uses shall have a gross area per use that does not exceed five thousand (5,000) square feet and at least twenty percent (20%) of the floor area used for retail sales.

FINDING: The proposed PZD is required to meet the minimum 51% commercial use within the development.

***Required Findings for Rezoning Request.**

RECOMMENDATION:
Staff recommends approval of the requested rezoning based on the findings included as part of this report.

LAND USE PLAN: General Plan 2020 designates this site Industrial. Rezoning this property to C-PZD 03-8.00 is **not** consistent with the land use plan but is compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed zoning is not consistent with the General Plan 2020 which designates the site Industrial, as it is currently zoned. However, immediate surrounding areas are designated Mixed Use, Community Commercial, Regional Commercial and Residential on the General Plan, thereby giving the C-PZD a high degree of consistency with current land use planning objectives, principles and policies and with land use and zoning plans.**

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

Finding: **The proposed zoning is justified in that the site is currently zoned for industrial purposes, which is generally incompatible within the context of the environmentally sensitive habitat. Surrounding uses are mixed in nature and are compatible with the proposed commercial planned zoning district.**

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

Finding: **The proposed zoning will not create or appreciably increase traffic danger and congestion, based on determinations made by the Fayetteville Police Department (see attached). The potential of employment and residential land uses in close proximity allows for increased multimodal transportation opportunities.**

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: **Based on Fayetteville Police Department findings, this increase in population will not alter the population density in a manner which undesirably increases the load on public services including schools, water, and sewer facilities (see attached).**

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.

Fayetteville:

Project Name: C-PZD 03-08.00 (Legacy/Haynes)

To Whom It May Concern:

The aforementioned project falls under the definitions of a C-PZD, Commercial Planned Zoning District, in the city of Fayetteville for the following reasons:

- The development was designed in such way so as to cluster commercial and office activities into areas specifically designated for such uses.
- The development organized in respect to each areas intended uses, so as to minimize the impact such development might have on the surrounding areas and traffic flows.
- The general design of the project was accomplished by utilizing the input and expertise of groups intimately involved in the development of other successful commercial and residential developments in the area while simultaneously working with The Audubon Society, whose goal was to help shape the project's interface with the intended users of this area, while still protecting the existing ecosystems and wetlands.

In summary this project is a collaboration of many professionals working together to help create distinct and diversified uses for the land while focusing on minimizing the impact this project will have on not only the surrounding areas but also the existing environmentally sensitive areas.

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PLANNING DIV.

DRAFT

PROPOSED AUDUBON USES OF THE WILSON SPRINGS SITE

Subject to the approval of its Board of Trustees, it is the ultimate intent of the National Audubon Society to develop the Wilson Springs site as an Audubon Center—a nature center, in other words, whose purpose is to connect people to nature through a variety of educational and recreational activities. While the exact level of development and list of permitted and excluded activities has yet to be developed for this site, Audubon Centers are typically organized as follows:

Features and Permitted Uses

- A building up to 15,000 square feet, sited away from sensitive natural features, that may include classrooms, exhibits, offices, storage, and related public and support spaces, using environmentally-sustainable ("green") construction techniques and design elements
- Parking and trails for limited public access at discretion of the National Audubon Society
- Small pedestrian bridges and/or boardwalks
- Wildlife viewing and photography blinds
- Limited small signage (i.e., marking trails, interpreting natural features)
- Only energy saving, "dark skies" lighting
- Restricted and controlled use of pesticides and herbicides
- Habitat restoration projects (native prairie, wetland, etc.)
- Special gardens designed to attract hummingbirds, butterflies, and other wildlife
- Activities to include hiking, birdwatching, photography, educational tours, and other low-impact uses.
- Managed/controlled grazing
- Fire management

Excluded Uses

- ATVs, motorcycles, bicycles, and skateboards
- Horseback riding
- Pets
- Most forms of active recreation, including team sports, running/jogging, etc.
- Planting of invasive non-native species

The exact features and uses of the site will be determined through a site-specific planning process that includes mechanisms for public input and involvement, and may include or exclude the above or other elements at the sole discretion of the National Audubon Society.

This is subject to revision as circumstances dictate or as more information becomes available with the understanding that this is not a binding document of usage.

October 3, 2003

NOTE:

The springwoods project is currently being reviewed via the U.S. Army Corps of Engineers Section 404 (of the Clean Water Act) permit process. Compensatory mitigation activities will likely be required. As a result, in order to comply with a Corps permit, land utilized for mitigation purposes will be transferred to the National Audubon Society when conditions of the Corps permit have been satisfied. Mitigation will include items such as wetland preservation/enhancement and creation, native prairie restoration and enhancement, establishment of riparian buffer zones along waterways as well as installation of wildlife habitat improvement structures.

EGIS, Inc. is actively coordinating the Section 404 permit request on behalf of Haynes Limited. Mitigation plans will continue to be coordinated by EGIS and Haynes with the Audubon Society prior to commencement of mitigation activities.

RESTATED

PLAT AND BILL OF ASSURANCE
springwoods

This Plat and Bill of Assurance made this 2nd day of October 2003 by Legacy Project, LLC, hereinafter referred to as "Developer".

Article 1.

Recitals

1. 1 The Developer is the present record title holder of certain real property situated in the County of Washington, State of Arkansas, more particularly described as follows:

A part of Section 33, Township 17 North, Range 30 West, being more particularly described as beginning at the NW corner of said Section 33,
Thence South 87° 19'24" East- 2637.40 feet to the NE corner of the NE ¼ of the NW ¼ of said Section 33;
Thence South 87° 14' 56" East – 247.50 feet;
Thence South 2° 26' 17" West- 1030.76 feet;
Thence South 87° 17' 25" East – 1100.15 feet to the West right of way line of U.S. Highway 71 By-Pass;
Thence along said West right of way line of the following bearings and distances,
South 26° 01' 09" West- 74.14 feet;
Thence South 74° 59' 16" West - 100.11 feet;
Thence South 75° 15' 02" West - 117.54 feet;
Thence South 66° 53' 26" West - 127.62 feet;
Thence South 50° 13' 36" West - 191.34 feet;
Thence South 31° 34' 48" West - 190.36 feet;
Thence South 16° 24' 53" West - 126.58 feet;
Thence South 04° 16' 48" West - 188.26 feet;
Thence South 16° 36' 56" East - 57.67 feet;
Thence South 12° 48' 23" East - 100.11 feet;
Thence South 05° 19' 10" East - 280.77 feet;
Thence South 07° 15' 05" West - 170.41 feet;
Thence South 27° 10' 09" West - 171.37 feet;
Thence South 34° 22' 25" West - 949.12 feet;
Thence South 38° 27' 59" West - 150.76 feet;
Thence South 34° 22' 18" West - 922.60 feet;
Thence leaving the West right of way of Hwy 71 By-Pass North 87° 11' 53" West - 631.86 feet;
Thence South 02° 25' 44" West - 329.87 feet;
Thence North 87° 21' 18" West - 660.00 feet;
Thence North 02° 25' 44" East - 330.00 feet;
Thence North 87° 21' 18" West - 660.23 feet;
Thence North 02° 28' 11" East - 2480.65 feet;
Thence North 87° 19' 24" West - 330.00 feet;

C-PZD 03-08.00 springwoods

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OCT 06 2003
PLANNING DEV.

Thence North 2° 28' 11" East - 1816.06 feet to the point of beginning, containing 289.28 acres, more or less, Washington County, Arkansas.

1.2 The Developer intends to plat the Property from time to time into Lots but all the Property shall forever be known as **springwoods**, Washington County, Arkansas.

1.3 Developer is desirous of subjecting the Property to the conditions, covenants, restrictions and reservations herein set forth to insure proper use and appropriate development and improvement of said Property as an office park / residential-mixed use complex.

Article II.

Definitions

2.1 Definition of Terms:

a) "Developer" shall mean Legacy Project, LLC, its successors and assigns.

b) "Owner" shall mean and refer to the record owner, whether one or more persons or entities of the fee simple title to any Lot in Springwoods, Washington County, Arkansas, but excluding those having any interest merely as security for the performance or payment of an obligation.

c) "Property" shall mean and refer to the real property hereinbefore described as Springwoods, Washington County, Arkansas.

d) "Improvements" shall mean and include but not be limited to buildings, parking areas, loading areas, fences, walls, hedges, landscaping, mass plantings, poles, signs and any structures of any type or kind.

e) "Lot" shall mean and refer to the fee simple absolute estate of any numbered plot of land shown upon the Plat of Springwoods as heretofore and hereafter platted.

f) "Plat" shall mean and refer to that certain drawing attached to and made a part of this instrument.

Article III.

Purpose

3.1 The Property is hereby made subject to the following conditions, covenants, restrictions and reservations all of which shall be deemed to run with the Property and each and every parcel thereof to insure proper use and appropriate development and improvement of said Property so as to:

a) protect the Owner against such improper development and uses of surrounding Lots as will depreciate the value and use of their Lots;

b) prevent the erection on the Property of structures constructed of improper or unsuitable materials or with improper quality and methods of construction;

c) insure adequate and reasonably consistent development of the Property;

d) encourage and assure the erection of attractively designed permanent improvements appropriately located within the Property in order to achieve harmonious appearance and function;

e) to provide adequate off street parking and loading facilities; and

f) generally promote the welfare and safety of the Owner.

3.2 The Developer hereby plats Springwoods, Washington County, Arkansas. Henceforth, description and conveyance by such designation as shown and represented on the Plat shall be a proper and sufficient description for all purposes.

Article IV.

Easements and Roadways

4.1 A permanent easement or easements for drainage, for laying and maintaining sewer pipes and mains, storm sewers and for the installation and maintenance of utilities are created, accepted and reserved over, across and through the Property as shown on the attached Plat.

4.2 The Developer hereby dedicates to the public forever an easement of way on and over the streets as shown on said Plat, to be used as public streets.

Article V.

Permitted Uses

5.1 In the development, use, or ownership of all or any portion of the Property the Owner thereof shall develop same in compliance with the zoning rules and regulations of the City of Fayetteville and any and all other applicable governmental entities as they apply to any particular portion of the Property.

5.2 Owner shall not permit any commercial uses on said Property except (1) those permitted as Accessory Uses and Conditional Uses in the RPZ Zoning Classifications of the Zoning Ordinances of the City of Fayetteville.

Article VI.

Regulation of Improvements

6.1 Approval. No building shall be erected, placed or altered on the Property until the building plans, specifications, exterior color scheme and plot plan showing the location and facing of such building with respect to existing topography, adjoining streets and finished ground elevations have been approved in writing by the Developer. A primary purpose of this restriction is to insure that proper standards of planning, design and construction are followed in the development of the Property and as such, all submissions shall be prepared by a licensed architect with current registration in the State of Arkansas.

6.2 Developer's Liability. The granting of any approval, permit or authorization by the Developer shall be final and binding. The Developer shall incur no liability by reason of its approval or refusal to approve any plans or specifications submitted hereunder.

6.3 Submission Requirements.

(a) Any submission to the Developer for approval of a proposed development shall include:

(1) A large scale development plan, to scale, indicating the location of all proposed improvements, including, without limitation, structures, parking areas, storage and maintenance areas, fencing, drainage and traffic circulation;

(2) Landscape plan, to scale, indicating site topography, elevations of walks, drive and building entries, existing tree locations, proposed tree removal and /or replacement (location and trunk diameter), fencing location, site of fencing and material thereof, and any other pertinent site treatment;

(3) Building elevations, to scale, indicating all elevations of proposed structures with specification of building materials, fences and color scheme; and

(4) Sign plan, indicating design, location and details of all signs which will be visible from the exterior of any building.

(b) Approval of any proposed development by the Developer will not relieve any Owner of the obligation to comply with all laws, ordinances, regulations or rules of any governmental body, nor can any Owner rely upon such approval as an indication of such compliance. In no event will approval of such proposed development by the Developer create any liability to the Owner or to any third party who may seek to rely thereon.

6.4 Setbacks. No building shall be located on any building site nearer to the front, side or rear lot lines than the minimum building set-back lines shown on any recorded Plat affecting the Property. Provided, however, in the event any Owner or Owners of contiguous Lots desire to develop their Lots as one project, the Developer shall have the right to waive the common side setback lines to promote the development of the contiguous Lots as one in a manner which is aesthetically compatible with the development of the Property, if approved by the City of Fayetteville.

6.5 Sidewalks. Sidewalks shall be installed by the Lot Owner along abutting streets as may be required by the City of Fayetteville.

6.6 Fencing. Owners of lots abutting residential or agricultural zoning designations are hereby required to install solid type wood fencing (six feet tall) along the adjoining R or A zoned land (submit as part of large scale development plan). Design and location to be approved by Legacy L.L.C.

6.7 Subdividing. No Lot shall be subdivided without written consent of the Developer and the Fayetteville Planning Commission first having been obtained.

6.8 Building Exteriors. The exterior of all improvements on any Lot shall comply with the following:

(1) Exterior wall elevations of buildings must include at least 40% content of Eureka brick, blend 23 or blend 65 - modular or equivalent, unless otherwise approved by the Developer.

(2) Roofs shall be of a flat or sloping design in standing seam metal (slate grey) approved by the Developer.

(3) Roof-mounted mechanical equipment, which is visible from the ground, is to be screened and painted to match the exterior material of the building. No rooftop HVAC units allowed.

(4) Gutters and downspouts are to be painted to match the surface to which attached.

(5) Vents, louvers, exposed flashing and service doors are to be painted consistent with the exterior material of the building.

6.9 Screening. Areas used for loading, service access, ground-level mechanical equipment, and other appurtenant items of poor visual quality are to be screened by the use of the same material as the building exterior. In the case of certain low-level items, such as transformers, the Developer may approve the substitution of dense, mature landscape materials.

6.10 Signs.

(a) Ground Signs.

(1) There may be a maximum of one ground sign per building unless the development has entrance drives on two streets, in which case there may be one ground sign at the entrance drive on each street up to a maximum of two total signs.

(2) The ground signs will be of material approved by the Developer. All letters are to have metal finish directly applied.

(3) Ground signs will be no more than four feet above grade in height nor more than 32 square feet in area. If signs are upon landscaped berms, their maximum height above curb level shall be six feet.

(b) Wall Signs.

There may be a maximum of one wall sign per building unless a building fronts on two streets, in which case there may be one wall sign per street frontage up to a maximum of two per building.

(c) Pole Signs. One pole sign per site may be allowed by the Developer in the event that any of the following commercial businesses are included within the Property.

(1) Offices

(2) Vendor

Unless expressly approved by the Developer, pole signs are not permitted.

(d) Temporary Signs. The location, size and design of temporary signs are subject to the approval of the Developer.

6.11 Driveways and Parking. (a) The location of driveways requires the prior approval of the Developer.

(b)Each development is to provide the following minimum parking within its confines:

(1) Office: One space per 300 square feet gross floor area

(c) All parking areas adjacent to landscaped areas shall have concrete upright curbs.

6.12 Lighting. Exterior lighting shall comply with the following:

(a) Parking Lot:

(1) Type: Hubbell Lighting, Magnuform III, RCS Series

(2) Height: Twenty feet overall

(3) Finish: Black finish for pole (SSP-420X-XX) and fixture (RCSA 175H3P8 1)

(b) Walkways:

(b) Walkways:

(1) Type: 8" round bollard light

(2) Finish: Black finish

(c) Lighting to highlight building shall be at ground level with black finish for fixtures.

(d) Security lighting fixtures are limited to use for lighting loading or similar service areas and shall have black shielding.

(e) All exterior lighting shall be shielded and confined within the site boundaries.

6.13 Landscaping.

(a) Owner will be responsible for the design, development and maintenance of the landscape on his own site and contiguous planting areas within various right-of-ways and public property to the face of curb. Contiguous parcels owned by such Owner reserved for future expansion shall have the required landscape areas fronting on streets fully developed at the time the first phase of development occurs. Lot mowing of any undeveloped parcels shall be required at least monthly during the growing season. Dead or extensively damaged trees, ground cover or shrubs shall be identically replaced within thirty (30) days after the damage occurs. Replacements may be made at a later date, with the Developer's approval, if necessary due to seasonal conditions.

(b) Irrigation:

All landscaped areas are to be irrigated with an approved automatic sprinkler system. Impact heads will be utilized along the rights-of-ways and will be spaced to provide complete coverage between the right-of-way line and the back of curb. The irrigation system will be designed and operated to prevent or minimize run-off and discharge of irrigation water on to roadways, driveways, adjacent properties and any area not under control of the user.

6.14 Maintenance of Areas in Public Rights of Way

(a) Each Lot Owner shall pay to the Developer or its assignee and annual maintenance charge, which charge shall be due and payable annually in advance on the first day of January in each year. The first year fee shall be prorated on a daily basis from the date of closing through December 31 of that year. The maintenance fund will be used for improving (not initial development) and maintaining the rights of ways (the "Public Areas") in the Property in such a manner as is deemed necessary by the Developer to maintain the overall attractiveness of the Property, including but not limited to maintaining attractive landscaping in the Public Areas, or for doing any other thing necessary in the opinion of the Developer, for keeping the Public Areas neat or in good order. The maintenance of the green areas for each individual Lot within the public right-of-way shall be the responsibility of the Lot Owner.

(b) The maintenance charge shall be computed based upon the ratio of the square foot area of each Lot within the Property is to the total square foot area of all property within the Property, less the Public Areas. The payment by Owner at the beginning of each year shall be based upon an estimate by the Developer and adjusted up or down at year end.

(c) In the event that any Owner fails to maintain its Lot or that area of the public right-of-way that is its responsibility for maintenance, then the Developer, following reasonable notice, may perform the necessary maintenance and charge to that respective Owner the cost of such maintenance work. This right of the Developer shall be limited to the landscaping and exterior housekeeping and shall not extend to any maintenance of buildings.

(d) Any unpaid amount for general maintenance of the Public Areas or for specific maintenance performed by the Developer due to Owner's failure to maintain its Lot shall become a lien against the subject Lot.

(e) Initial fee shall be $1,200.00 annually per lot.

Article VII.

Termination, Modification and Assignments.

7.1 Term. The covenants, conditions and restrictions and reservations contained herein shall continue in full force and effect until January 1, 2028 and shall thereafter be renewed automatically from year to year unless and until terminated as provided in paragraph 8.2 hereof.

7.2 Termination and Modification. The covenants, conditions, restrictions and reservations contained herein may be terminated, extended, modified or amended as to the whole of the Property or any portion thereof, with the written consent of the owners of 50% of the Property (other than Property dedicated to the Public Areas). Such termination, extension, modification or amendment shall be immediately effective on the recording the proper instrument in writing executed and acknowledged by such Owner in the office on the Clerk and Ex-Officio Recorder of Washington County, Arkansas.

7.3 Assignment of Developer's Rights and Duties. Any and all rights, powers and reservations of the Developer herein contained may be assigned by the Developer to any person, corporation or association or committee which will assume any or all of the duties of Developer hereunder, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume Developer's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by the Developer herein. Upon such assignment, and to the extent thereof, the Developer shall be relieved form all liabilities, obligations and duties hereunder. The term Developer as used herein includes all such assignees and their heirs, successors and assigns. If at any time the Developer ceases to exist and has not made such as assignment, a successor developer may be appointed by the Owners of 50% of the Property (other than Public Areas) upon compliance with the requirements of paragraph 8.2 of this Article VII.

Article VIII.

Miscellaneous

8.1 No Waiver. All the conditions, covenants, restrictions and reservations contained in this Bill of Assurance shall be construed together, but if it shall at anytime be held that any one of said conditions, covenants, restrictions and reservations or any part thereof, is invalid, or for any reason becomes unenforceable, no other conditions, covenants, restrictions and reservations or any part thereof shall be thereby affected or impaired.

8.2 Owner's Liability Subsequent to Sale. Upon sale of a Lot, the Owner so selling shall not have any further liability for the obligations thereon which accrue against such Lot sold after the date of the conveyance; provided, however, that nothing herein shall be construed so as to relieve an Owner of any Lot from any liability or obligations incurred prior to such sale pursuant to this Bill of Assurance. Furthermore, any such sale shall not modify Developer's right of repurchase pursuant to Article VII hereof.

8.3 Benefits and Burdens. The terms and provisions contained in this Bill of Assurance shall bind and inure to the benefit of the Developer, the Owners of all Lots located within the Property, their respective heirs, successors, personal representatives and assigns.

8.4 Notice. Any notices required or permitted herein shall be in writing and mailed, postage prepaid by registered or certified mail, return receipt requested and shall be directed as follows: If intended for an Owner (1) to the Lot if improved; (2) if the Lot is not improved to the address set forth in purchase contract; (3) none of the foregoing, to the last known address of the Owner. If intended for the Developer to the address as follows:

Springwoods c/o H. Collins Haynes

5417 Pinnacle Point Drive

Suite 100

Rogers, AR. 72758

8.5 Singular and Plural. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the contacts requires.

EXECUTED on the date first mentioned above.

Springwoods

by

H. Collins Haynes, Managing Partner

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this day before me, a Notary Public, duly commissioned, qualified and acting within and for said county and state, appeared the within named H. Collins Haynes, Managing Partner, Legacy, LLC., to me personally well known, who stated he was duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said partnership and further stated and acknowledged that he had so signed, executed, and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this____ day of 1999.

_____

My Commission Expires: _____

End of Document

DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
LITTLE ROCK, ARKANSAS 72203-0867

REPLY TO
ATTENTION OF

NOV 9 1999

Engineering and Technical Services Division
Regulatory Section

FILE No. 06527

Mr. Manuel Barnes
EGIS
314 South Main
Bentonville, Arkansas 72712

Dear Mr. Barnes:

Please refer to your preliminary wetland assessment dated September 13, 1999, concerning a wetland determination on 319 acres known as the Arkansas Research and Technology Park (ARTP). The park is along Clabber Creek, in Section 33, T. 17 N., R 30 W., northern Fayetteville, Washington County, Arkansas.

We concur with your delineation of the "waters of the United States" on the subject property. An estimated 66 acres of wetlands were identified using the 1987 Corps of Engineers Wetlands Delineation Manual, and another 12 acres (5,900 linear feet) of stream are also present. The approximate location of these areas are shown on the attached map of the site.

This determination is valid for a period of 5 years from the date of this letter unless new information warrants revision of the determination before the expiration date.

Please be advised that the discharge of dredged or fill material in waters of the United States, including wetlands, requires a Department of the Army permit prior to beginning work. A permit is required pursuant to Section 404 of the Clean Water Act and Corps of Engineers implementing regulations, 33 Code of Federal Regulations (CFR) 320 - 330. The clearing of wetlands with mechanized equipment; landleveling; construction of ditches, dikes, and dams; placement of fill to raise the elevation of a site; placement of backfill and bedding associated with utility lines and stabilization of banks are examples of activities that routinely require a permit.

Plan and cross section drawings should be on 8 1/2- by 11-inch paper. Our acceptance of an application does not necessarily mean it will be approved. Final wetland boundaries should be surveyed and quantified on the plan view of the development. Typical drawings of road and utility crossings in wetlands and streams should be furnished.

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ARNOLD ENV.

Once a preliminary plan for the area is developed, we recommend an on-site meeting with state and federal resource agencies prior to submittal of an application.

Your cooperation in the Regulatory Program is appreciated. If you have any questions, please contact the Project Manager, Mr. Ken Lyon at (501) 324-5295 and refer to No. 06527-1.

Sincerely,

Jerry L. Harris, P.E.
Chief, Regulatory Section

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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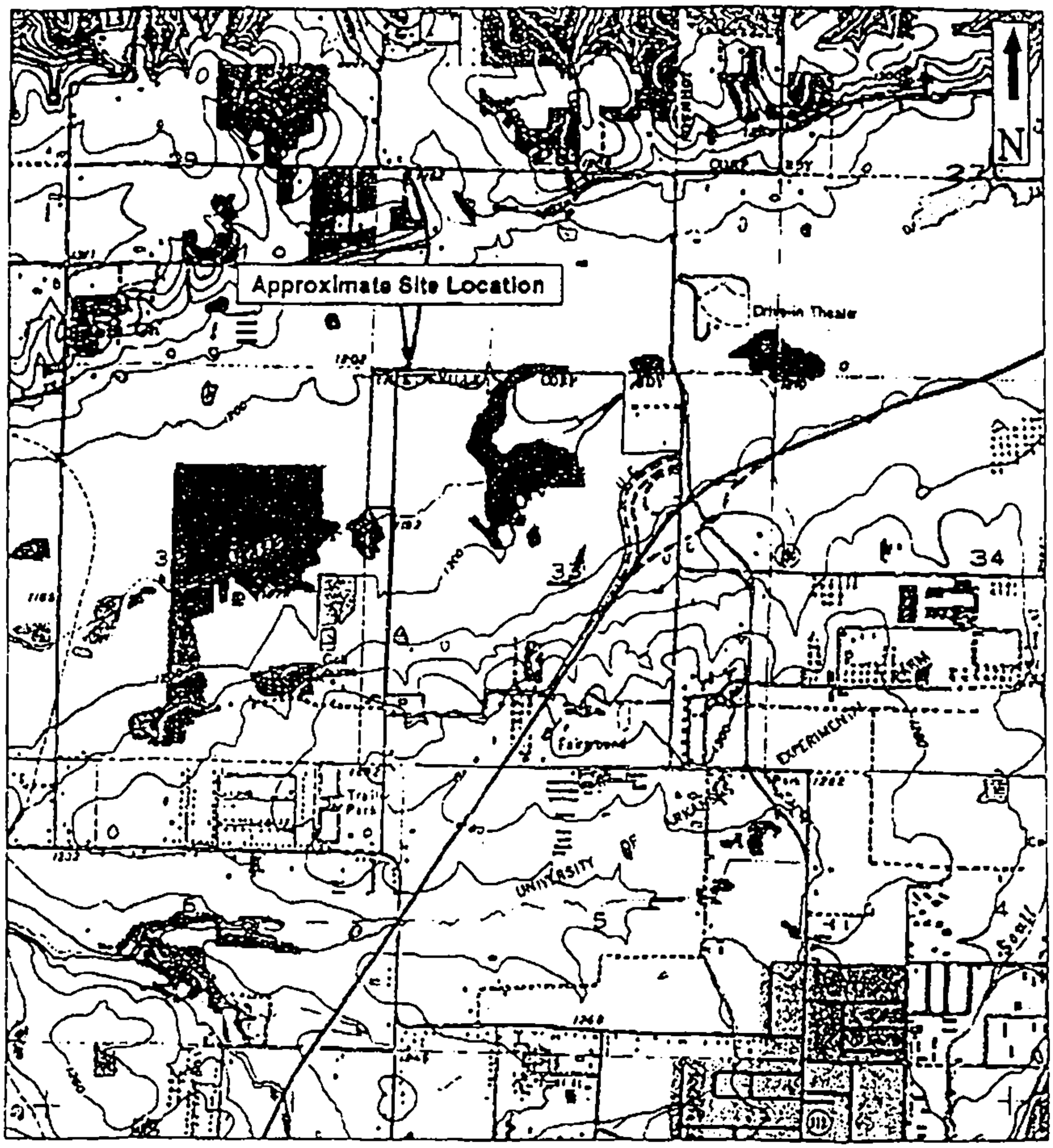
SEP 24 2003
NOV



EGIS

ACTION ID NO. 06527
City of Fayetteville
Wetland Determination
Clabber Creek
November 1999 SHEET 1 OF 2

EGIS #1850

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PLANNING DIV.

WETLAND FEATURES OVERLAID BY EGIS CONTOUR TWO
(NOTE: WETLAND FEATURES ARE SKETCHED AND
SHOULD BE CONSIDERED APPROXIMATION)

ACTION ID NO. 06527
City of Fayetteville
Wetland Determination
Clabber Creek
November 1999

SHEET 2 OF 2

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 10-6-03

REZONING ✓ ANNEXATION _____

REZONING # C-P2P 03-08 OWNER Collis Haynes
ANNEXATON# _____ OWNER _____
LOCATION OF
PROPERTY SW Side of I-540 - Ar Hwy 112

*Route Taken was From STA 2 - Deane Solomon

NEAREST FIRE STATION AND
LOCATION STA #2 GARLAND

RESPONSE TIME FROM FIRE STATION # 2 TO
LOCATION OF
PROPERTY 5 MINUTES 30 SECONDS.
TRAVEL MILES FROM FIRE STATION # 2 TO LOCATION OF
PROPERTY 3 miles.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS _____

EXISTING FIRE HYDRANTS? IF SO
LOCATION _____

WATER SUPPLY WITH HYDRANTS
NEEDED? yes

ADDITIONAL
COMMENTS _____

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272

October 7, 2003

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed zoning **RZN 03-08.00: Planned Zoning District (Springwoods, pp 248)** for property located on the Southwest side of I-540 and Arkansas Highway 112 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 and thereby undesirably increase the load on police services.

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially increase traffic congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

July 21, 2003

Joe Tarvin
EGIS
314 S. Main Street
Bentonville, AR 72712

Re: Legacy/Technology Park site

Dear Mr. Tarvin,

Staff has reviewed the conceptual site plan for a Planned Zoning District (PZD) for the old Technology Park site as discussed on our July 09, 2003 meeting. Following are recommendations and findings from Staff as to how to proceed with your proposal:

- Access: Staff remains concerned about overall connectivity as the site plan currently proposes. A specific policy of City Council, connectivity intends for commercial areas and residential areas to be easily accessible by vehicles, pedestrians and bicyclists. Areas that staff would like to see improved or investigated more thoroughly include:
    - *Possible connection to Moore Lane to allow for better ingress/egress to higher density multi-family area. Connectivity for these multi-family units to commercial areas will be crucial.*
    - *Investigation of a gridded street pattern to better facilitate the use of alleys and for better delineation of neighborhoods in the multi-family area*
    - *Moving the access from Deane Solomon to the Legacy South SFR to the currently proposed cul-de-sac location, reducing the impact on the delineated wetlands. Why is the current location across wetland areas?*
    - *Line up the access to the Legacy North SFR area with the future street ROW across Deane Solomon*
    - *Investigate the option of using internal streets to provide an edge along the wetland/natural area as a transition area from the more manicured residential and commercial uses*
    - *A traffic study is necessary to determine the impacts of the proposed development. Two intersections that in particular will be affected by the current proposal, Shiloh/Hwy 112, and Deane Solomon/Porter Road, are items of concern. The potential traffic impact of the proposed uses is also a finding that Planning Commission must determine for reasons of safety and adequate means of access.*

- *Investigation of alternative means of East/West connections through the site. The Master Street Plan currently proposes two Collector streets to carry traffic from Shiloh/Hwy 112 to Deane Solomon through the subject property. The current proposal does not provide for an adequate means of east/west transport as determined is necessary by the Master Street Plan.*
-

- **Street Improvements:** Recommended improvements to current infrastructure as discussed include, but are not limited to:
  - *Curb/gutter extended the entire length of the property that fronts onto Shiloh Drive. Staff is in favor of a trail at grade for pedestrian connection along Shiloh Drive, as opposed to a traditional sidewalk along the street, based on existing topography grades and the potential for retaining walls, fill, etc. Staff will work with the developer to help with placement for the trail at the bottom of the slope.*
  - *Deane Solomon is recommended to be improved for the entire length of the property frontage. Twenty-eight feet, with curb/gutter, storm sewer, sidewalks and landscaping shall be required for that northern portion of the property that encompasses both sides of the street. Fourteen feet from centerline with the same improvements shall be required for the remainder of the street frontage.*
  - *Moore Lane will require 14 feet from centerline improvements including curb/gutter, storm drains, sidewalks and landscaping.*
  - *Improvement of the curve of Deane Solomon at the north end of the property*
  - *Truckers Lane will require 28 feet of pavement, curb/gutter, storm drains, sidewalks and landscaping.*
  - *Shiloh Drive, Truckers Lane and Dean Solomon all shall be constructed to Collector street standards, with a 70' right-of-way (35' from centerline).*
  - *Private streets within a residential PZD shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.*
  - *Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted in §166.06 Planned Zoning Districts (See attached).*
  - *Need to consider the impact to Hwy 112 adjacent to the project for staff to further review and recommend improvements along this stretch of highway.*

- **Stormwater:** Detention is required. What is the proposal for detention/filtration to allow for no change in the quantity and quality of discharge into the wetlands?

- **Interface between proposed development and natural wetland area:**
  - *Staff would like to see the actual delineated wetlands overlain on the submitted aerial/site plan, in order to see how the development edges were determined. The associated wetlands report is also requested. How were the developable areas carved out of the wetland area, specifically? Is there a "softer" alternative, to mitigate potential impacts to the adjacent wetland habitat?*
  - *A more detailed description of the interface between the proposed development and the wetland area is requested. Staff is concerned that the edge of typical development (board fence, etc.) would create a harsh edge and limit wildlife mobility for this particular site. Please provide some potential solutions or information as to the treatment of this important edge condition. Specific, detailed description shall be required, to ensure the requirement of harmony and compatibility with adjacent properties and land use is met.*
  - *Commercial areas will require buffering and screening from adjacent residential properties. The interface between the commercial area and the wetland area shall also be investigated, and a proposal for how they integrate or are distinctly separate should be part of the PZD application.*

- The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

- All PZD developments shall comply with the UDC requirements of Chapter 167 Tree Preservation and Protection.

- All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14.

- The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

- The proposed pedestrian trail connections need to be more completely investigated and shown, to ensure pedestrian and bicyclist connectivity from residential areas to surrounding land uses.

- A detailed site analysis plan and report, required with the PZD application, is requested for staff to better understand some of the design intent, as mentioned in previous comments. Hopefully many of the design decisions were driven by the numerous natural amenities this site has to offer.

- Overall compliance with the intent and purpose of the PZD, as set forth by **§161.25** Planned Zoning Districts, and the development standards, conditions and review guidelines as noted in **§166.06**:

Passed out at Agenda session

Sec. 161.25 Planned Zoning District

(A) *Purpose.* The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) *Flexibility.* Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) *Compatibility.* Providing for compatibility with the surrounding land uses.

(3) *Harmony.* Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) *Variety.* Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) *No negative impact.* Does not have a negative effect upon the future development of the area;

(6) *Coordination.* Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) *Open space.* Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) *Natural features.* Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) *General Plan.* Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) *Special Features.* Better utilization of sites characterized by special features of geographic location, topography, size or shape.

(B) *Rezoning.* Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and

specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

Sec. 166.06 Planned Zoning District

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

Staff would like another opportunity to review the proposed PZD before submitted, once some of the issues presented here have been addressed. Please feel free to call or meet with us to go over these comments, and others that may arise in the site development process.

Sincerely,

Jeremy C. Pate
Associate Planner

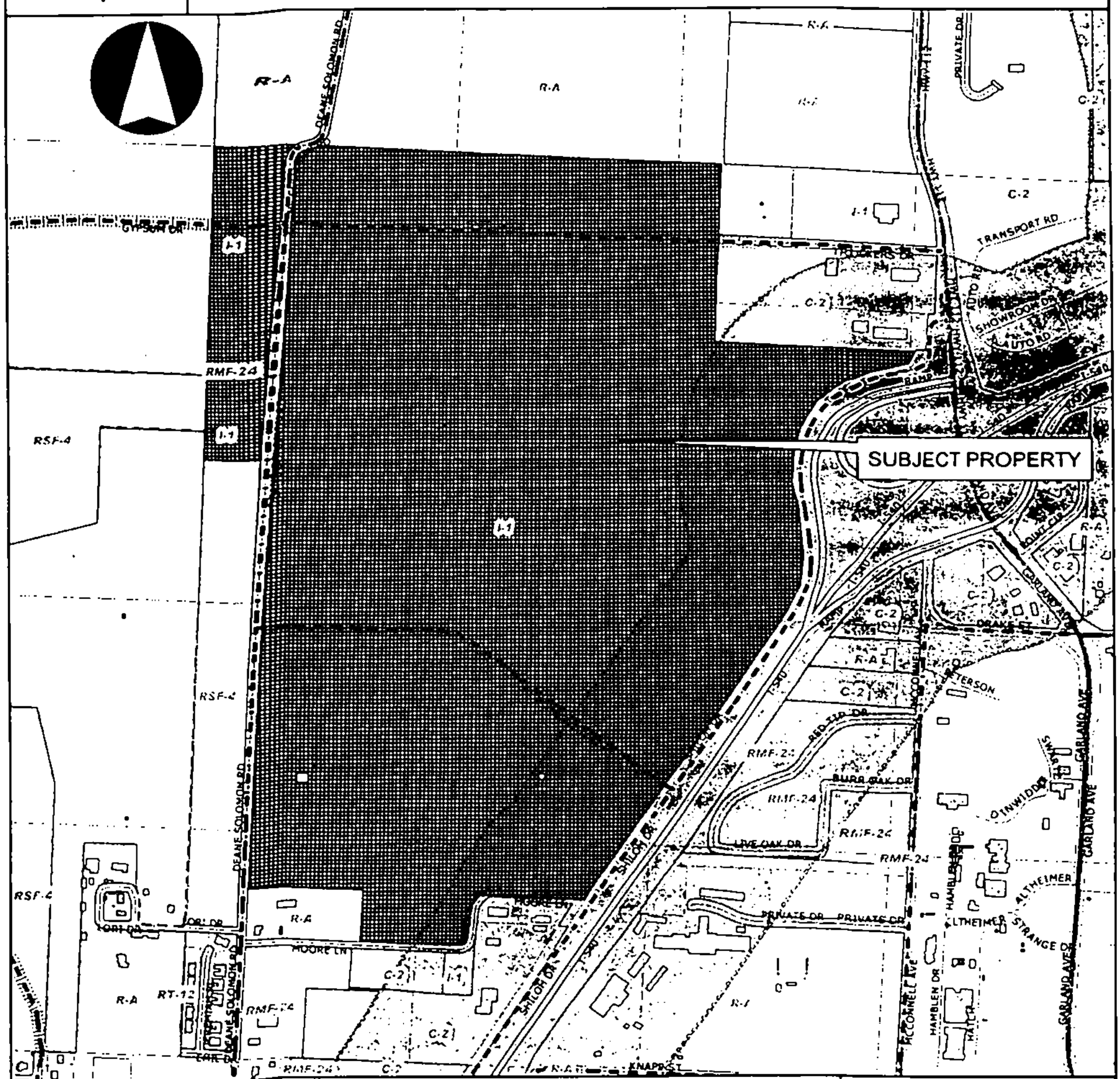
Attch: UDC Section 166.06

cc: Tim Conklin, Director of Community Planning & Engineering Services
Dawn Warrick, Zoning & Development Coordinator
Matt Casey, Staff Engineer
Craig Carnagey, Landscape Administrator

C-PZD03-08.00

SPRINGWOODS

Close Up View



Overview

Legend

Subject Property

C-PZD03-08.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

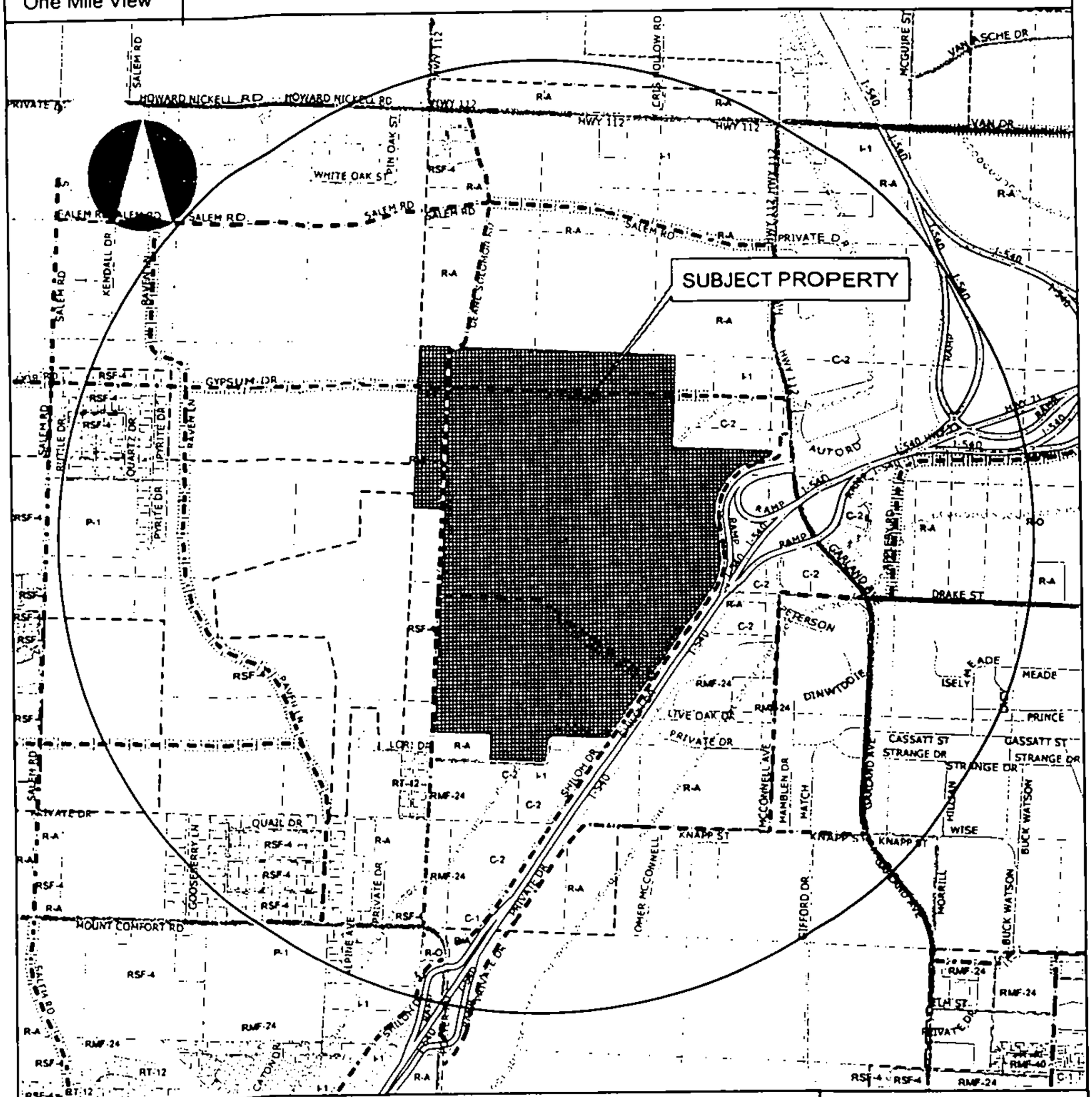
Historic Collector

0 250 500 1,000 1,500 2,000 Feet

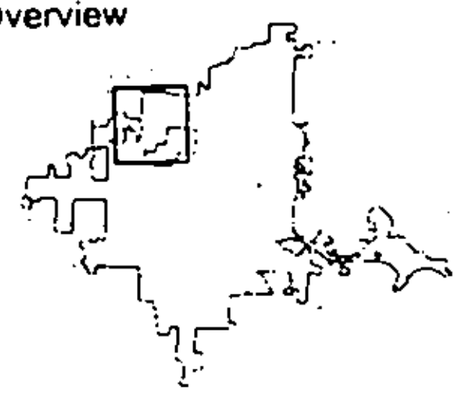
C-PZD03-08.00

One Mile View

SPRINGWOODS



Overview



Legend

Subject Property

C-PZD03-08.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

Tentative Agenda
For
City Council Meeting
October 21, 2003

A meeting of the Fayetteville City Council will be held on October 21, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Citizen Survey Report – Molly Longstreth

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the September 2, 2003 meeting minutes.

2. **Narendra Krushiker Change Order # 1 Hampton Inn:** A resolution approving Change Order #1 to the cost-share agreement with Narendra Krushiker in the amount of $8,458.10 to install approximately 650 feet of 8-inch water main north from Sixth Street.

3. **Crossland Heavy Contactors, Inc. Accelerated Water Line Replacement Projects:** A resolution approving Change Order #1 to the contract with Crossland Heavy Contractors, Inc. in the amount of seventy thousand three hundred seventeen dollars and seventy cents ($70,317.70) to add the Locust Avenue Waterline Replacement to the accelerated waterline replacement project.

4. **ADM 03-24.00 Master Street Plan Amendment, Technology Blvd.:** A resolution amending the Master Street Plan to remove the portion of Truckers Drive shown crossing the proposed Springwoods Commercial-Planned Zoning District.

5. **ADM 03-25.00 Master Street Plan Amendment, Truckers Drive:** A resolution amending the Master Street Plan to remove the portion of Technology Boulevard shown crossing the proposed Springwoods Commercial-Planned Zoning District.

6. **AEP/Swepco Reimbursement of Burial of Utilities:** A resolution approving reimbursement in the amount of $101,806.00 to AEP/Swepco for burial of utilities along a portion of West Avenue near the New Fayetteville Public library.

7. **TCA Cable Partners Franchise/Cox Communications:** A resolution authorizing TCA Cable Partners, providing services as Cox Communications, to continue to operate the Cable Communications System.

8. **Crossland Construction Company Contract Adjustments New Fayetteville Public Library:** A resolution approving Change Order # 10 to the contract with Crossland Construction Company, Inc. in the amount of $206,701.00 to install low voltage equipment at the New Fayetteville Public Library.

B. OLD BUSINESS:

1. **Amend Chapter 51.136 Monthly Water Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study. ***This Ordinance was left on the second reading at the October 7, 2003 City Council meeting.***

2. **2003 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2003 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City library; and 1.0 mil for General Purposes and Operations of the City; and certifying the same to the County Clerk of Washington County, Arkansas ***This Ordinance was left on the first at the October 7, 2003 City Council meeting.***

C. NEW BUSINESS:

1. **Houses Development Company, LLC.:** An appeal of Large Scale Development proposal LSD02.29.10.

2. **Use Of Skateboards And Skates Upon Sidewalks:** An ordinance to repeal § 74.08 of the Fayetteville Code and enact a replacement § 74.08 to clarify and expand the prohibition of using skateboards and skates upon sidewalks next to commercial, religious, governmental and industrial buildings and most City streets.

3. **Skyler Place Subdivision Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with M.P. Construction Inc. in the amount of $18, 900.00 to construct approximately 370 feet of 8" water main associated with the Skyler Place Subdivision.

4. **C-PZD 03-8.00 Planned Zoning District (Springwoods – Collins Haynes)**: An ordinance establishing a Commercial Planned Zoning District titled Springwoods (C-PZD 03-8.00) located South of Highway 112 and West of I-540, containing 289.28 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and according to the Associated Commercial Development Project as approved by the Planning Commission.

5. **Covenant Presbyterian Church Cost Share Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Covenant Presbyterian Church in the amount of $77'570.00 to construct a concrete swale and drainage pipe from Wedington Drive to 46th Street; and approving a budget adjustment in the amount of $12,080.00 for same.

D. INFORMATIONAL:

1. **Council Tour: October 20, 2003**

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: October 21, 2003

FROM:

Matt Casey	Engineering	Community Planning & Engineering
Name	Division	Department

ACTION REQUIRED: Approval of a change order in the amount of $ 8,458.10 for a cost-share agreement with Narendra Krushiker for the construction of approximately 650 feet of 8" water main. The change order will cover additional meters and a fire line connection that were not forseen in the original agreement.

COST TO CITY:

$8,458.10	$ 305,128.00	Water & Sewer Cost Sharing
Cost of this request	Category/Project Budget	Program Category / Project Name
5400.5600.5608.00	$ 51,871.00	Water & Sewer Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02067	$ 253,257.00	Water & Sewer Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date 10-6-03

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date 10/6/03
Internal Auditor — Date 10/6/03
City Attorney — Date 10/5/03
Purchasing Manager — Date 10/7/03

STAFF RECOMMENDATION: Staff recommends approval of the change order.

Division Head — Date 9-30-03
Department Director — Date 10-2-03
Finance & Internal Services Dir. — Date 10-8-03
Chief Administrative Officer — Date 10-8-03
Mayor — Date

Received in Mayor's Office 10/7/03

Cross Reference:

Previous Ord/Res#: Ord. 4469
Orig. Contract Date: 3/18/03
Orig. Contract Number: 894

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

Staff Review Form - Page 2

Description Change Order for Krushiker Cost-Share Meeting Date October 21, 2003

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Tim Conklin, Community Planning and Engineering Services Director

Date: October 1, 2003

Subject: Change Order #1 to the Hampton Inn Cost Share Agreement with Narendra Krushiker

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RECOMMENDATION

Fayetteville City Administration recommends approval of a change order totaling $8,458.10 to the Cost Share Agreement with Narendra Krushiker of Springdale, Arkansas.

BACKGROUND

The City Council approved an agreement with Narendra Krushiker on March 18, 2003 to install an 8" waterline to replace a failing waterline adjacent to the Hampton Inn development. Mr. Krushiker was extending the water main to provide a looped source of water for the Hampton Inn. The City agreed to pay for the upgrade and replacement of one of the existing mains connected to the development.

DISCUSSION

During the replacement of this water main, it was discovered that there were additional water services and a fire line to the University Square shopping center that the plans prepared by the developer's engineer did not include. Due to these circumstances, Narendra Krushiker was sent an invoice for the installation of this material which was not included in their original contract with Clark Mechanical Services, Inc. The total overrun was $16,916.20, but Mr. Krushiker has agreed to pay for half of the cost overrun.

BUDGET IMPACT

Based upon the information provided by the Budget Division, there is a remaining balance of $253,257.00 in the Water and Sewer Cost Sharing account. The final costs to the City will be based upon actual costs as documented by Narendra Krushiker and will not exceed the approved amount without additional authorization.

Original Contract Amount	$23,173.70
10% Contingency	$ 2,317.30
Change Order #1	$ 8,458.10
Total Cost Share	**$33,949.10**

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER # 1 TO THE COST-SHARE AGREEMENT WITH NARENDRA KRUSHIKER IN THE AMOUNT OF $8,458.10 TO INSTALL APPROXIMATELY 650 FEET OF 8-INCH WATER MAIN NORTH FROM SIXTH STREET.

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 Change Order # 1 to the Cost-share Agreement with Narendra Krushiker in the amount of $8,458.10 to install approximately 650 feet of 8-inch water main north from Sixth Street A copy of Change Order # 1, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 21st day of October, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

GENERATIONS, INC.
c/o NARRY KRUSHIKER
P O BOX 7479
SPRINGDALE, AR 72766
TEL/FAX: 479-872-1854

9/1/03

TO: City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

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1. OFF SITE WATER LINE - REPLACED		23,173.70	
2. ADD AND CHANGES PER CITY see attached details		19,233.50	
	TOTAL	42,407.20	
TOTAL APPROVED AND DUE		**25,491.00**	
BALANCE REQUESTED FOR CHANGES	CITY	**8,458.10**	– REQUESTED CHANGE ORDER AMOUNT
DELVELOPER PARTICIPATION		8,458.10	DEVELOPER AGREED TO PAY THIS AMOUNT OF THE OVER RUN.
	TOTAL	**42,407.20**	

RECEIVED
SEP 2 2 2003

Hand del. Eng

Clark Mechanical Services Inc.

Specializing in commercial and industrial plumbing and piping.

P.O. Box 23503 Barling, AR 72923 PH : 479-478-0186 FAX : 479-478-0183 E-mail : MARKCMSINC@aol.com
AR Contractors Lic. # 00816604013/AR Master Plumber Lic. # MP4987

Mr. Krushiker
Fax: 479.872.1854
E-Mail: nkrushiker@aol.com

9.10.2003

RE: Hampton Inn, Fayetteville, AR Utility Changes.

Mr. Krushiker,

The following are the prices that you requested, if you have any questions, please don't hesitate to call me.

1.) Cut in (1) - 6" Gate Valve to Fire Line.....$1,303.50

2.) Cut in 8" X 6" Tee and add Gate Valve, Tie into Existing 6" Water Line and Plug Existing 6" Fire Line from Building.....$4,675.00

3.) Add Service Lines and Tie into Existing Meters - 1" Service Lines and (1) 1-1/2" Service.....$9,075.00

4.) Add (2) Double Meter Setters and (1) Single Meter Services and Service Lines to Meter Setters.....$4,180.00

5.) Original off-site Water Line Project.....$23,173.70

Sincerely,

Mark D. Clark
President
Clark Mechanical Services Inc.

CHANGE ORDER NO. 1

Project Title: Hampton Inn Water Line Improvements Cost-Share

Project No. 02067 **Contract No.** N/A **Contract Date:** 3-18-03

Developer: Narendra Krushiker

The following changes are hereby made to the agreement:

An addition of $8,458.10 for connection of a fire line and additional meters. See attachments.

Justification:
The City Council agreed to provide $25,491.00. for the replacement of an existing waterline adjacent to this development. During construction it was discovered that there were additional water services and a fire line that was not included in the original plans and cost estimate.

Original Cost Share Amount:	$ 25,491.00
As adjusted by previous change orders:	$ 0.00
This C.O. will increase the agreement cost:	$ 8,458.10
The new Cost Share amount will be:	$ 33,949.10

CHANGE TO CONTRACT TIME:
There will be an addition of -0- calendar days to the contract time, and the date for completion of all work under the contract shall be adjusted accordingly.

CITY OF FAYETTEVILLE

By:
DAN COODY, Mayor

DEVELOPER

By: Narendra M. Krushiker
Narendra Krushiker

CHANGE ORDER NO. 1

Project Title: Hampton Inn Water Line Improvements Cost-Share

Project No. 02067 **Contract No.** N/A **Contract Date:** 3-18-03

Developer: Narendra Krushiker

The following changes are hereby made to the agreement:

An addition of $8,458.10 for connection of a fire line and additional meters. See attachments.

Justification:
The City Council agreed to provide $25,491.00. for the replacement of an existing waterline adjacent to this development. During construction it was discovered that there were additional water services and a fire line that was not included in the original plans and cost estimate.

Original Cost Share Amount:	$ 25,491.00
As adjusted by previous change orders:	$ 0.00
This C.O. will increase the agreement cost:	$ 8,458.10
The new Cost Share amount will be:	$ 33,949.10

CHANGE TO CONTRACT TIME:
There will be an addition of -0- calendar days to the contract time, and the date for completion of all work under the contract shall be adjusted accordingly.

CITY OF FAYETTEVILLE

By:
DAN COODY, Mayor

DEVELOPER

By: Narendra M. Krushiker
Narendra Krushiker

CHANGE ORDER NO. 1

Project Title: Hampton Inn Water Line Improvements Cost-Share

Project No. 02067 **Contract No.** N/A **Contract Date:** 3-18-03

Developer: Narendra Krushiker

The following changes are hereby made to the agreement:

An addition of $8,458.10 for connection of a fire line and additional meters. See attachments.

Justification:
The City Council agreed to provide $25,491.00. for the replacement of an existing waterline adjacent to this development. During construction it was discovered that there were additional water services and a fire line that was not included in the original plans and cost estimate.

Original Cost Share Amount:	$ 25,491.00
As adjusted by previous change orders:	$ 0.00
This C.O. will increase the agreement cost:	$ 8,458.10
The new Cost Share amount will be:	$ 33,949.10

CHANGE TO CONTRACT TIME:
There will be an addition of -0- calendar days to the contract time, and the date for completion of all work under the contract shall be adjusted accordingly.

CITY OF FAYETTEVILLE

By:_____
DAN COODY, Mayor

DEVELOPER

By: Narendra M. Krushiker
Narendra Krushiker

CHANGE ORDER NO. 1

Project Title: Hampton Inn Water Line Improvements Cost-Share

Project No. 02067 **Contract No.** N/A **Contract Date:** 3-18-03

Developer: Narendra Krushiker

The following changes are hereby made to the agreement:

An addition of $8,458.10 for connection of a fire line and additional meters. See attachments.

Justification:
The City Council agreed to provide $25,491.00. for the replacement of an existing waterline adjacent to this development. During construction it was discovered that there were additional water services and a fire line that was not included in the original plans and cost estimate.

Original Cost Share Amount:	$ 25,491.00
As adjusted by previous change orders:	$ 0.00
This C.O. will increase the agreement cost:	$ 8,458.10
The new Cost Share amount will be:	$ 33,949.10

CHANGE TO CONTRACT TIME:
There will be an addition of -0- calendar days to the contract time, and the date for completion of all work under the contract shall be adjusted accordingly.

CITY OF FAYETTEVILLE

By:
DAN COODY, Mayor

DEVELOPER

By: Narendra M. Krushiker
Narendra Krushiker

STAFF REVIEW FORM – FINANCIAL OBLIGATION

_X_ AGENDA REQUEST
_X_ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council meeting of **October 21, 2003**

FROM:

Sid Norbash	Engineering	CP& E
Name	Division	Department

ACTION REQUIRED: Approval of Change Order #1 to the construction contract with **Crossland Heavy Contractors, Inc.** in the amount of **$70,317.70**, for **Accelerated Water Line Replacements Project Phase I – Addition of Locust Street Waterline Replacement Between Sixth Street and Archibald Yell Blvd. (700 ft. of 12" line)**.

COST TO CITY:

$70,317.70	$1,498,052	Waterline Replacements
Cost of this Request	Category/Project Budget 2003	Program Category/Project Name
5400-5600-5808-00	$1,198,626	Water & Sewer Imprvts.
Account Number	Funds Used To Date 2003	Program/Project Category Name
02125-0020	$299,426	Water/Sewer
Project Number	Remaining Balance 2003	Fund Name

BUDGET REVIEW: x Budgeted Item _____ Budget Adjustment Attached

Budget Manager — Date 10-6-03

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date 10/6/03
Internal Auditor — Date 10/6/03
City Attorney — Date 10/6/03
Purchasing Manager — Date 10/6/03

STAFF RECOMMENDATION: Approval of Change Order #1.

Division Head — Date 10-3-03
Department Director — Date 10-3-03
Finance and Internal Services Director — Date 10-8-03
Chief Administrative Officer — Date 10-8-03
Mayor — Date

Received in Mayor's Office Date 10/7/03 pm

Cross Reference :

Prev Ord/Res #: 142-03

Orig. Contract Date: Sep 16, 2003

Contract #

New Item: **Yes**__ No X

RECEIVED
OCT 03 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

STAFF REVIEW FORM

Description Accelerated Waterline Replacement Project Change Order #1

Meeting Date 9-16-2003

Comments: Reference Comments:

Budget Manager

Accounting Manager

Internal Auditor

City Attorney

Purchasing Manager

Finance and Internal Services Director

Chief Administrative Officer

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER # 1 TO THE CONTRACT WITH CROSSLAND HEAVY CONTRACTORS, INC. IN THE AMOUNT OF SEVENTY THOUSAND THREE HUNDRED SEVENTEEN DOLLARS AND SEVENTY CENTS ($70,317.70) TO ADD THE LOCUST AVENUE WATERLINE REPLACEMENT TO THE ACCELERATED WATERLINE REPLACEMENT 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 Change Order # 1 to the contract with Crossland Heavy Contractors, Inc. in the amount of Seventy Thousand Three Hundred Seventeen Dollars and Seventy Cents ($70,317.70) to add the Locust Avenue Waterline Replacement to the Accelerated Waterline Replacement Project. A copy of the Change Order, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 21st day of October, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Tim Conklin, Community Planning and Engineering Services Director T.C.

Date: September 29, 2003

Subject: : Approval of Change Order #1 to the construction contract with Crossland Heavy Contractors, Inc. in the amount of $70,317.70 for the Accelerated Waterline Replacements Project Phase I- **Addition of Locust Street Waterline Replacement Between Sixth Street and Archibald Yell Blvd. (700 ft. of 12" line).**

RECOMMENDATION

Staff recommends approval of the Change Order #1.

BACKGROUND

The above referenced project is part of an ongoing Capital Improvement Project. The purpose of this project is to replace old and leaky water mains that require immediate attention.

The construction contract for Phase I of the Accelerated Waterline Replacements Project was approved by the Council at the September 16, 2003 meeting. The contractor for this project is Crossland Heavy Contractors, Inc.

The construction phase of this project is to begin on October 6, 2003. This project adheres to **Guiding Principle #2 "Well maintained City Infrastructure and Facilities"**

DISCUSSION

Walgreens Drug Stores is in the process of constructing another store on the northeast corner of the intersection of 6th Street and S. School. One of the conditions for the approval of this project was for Walgreens to improve West half of Locust Ave. from 6th Street to 5th Street. Please refer to the attached map for more information.

The Staff was alerted by David Jurgens, Water & Sewer Superintendent, to the fact that the two existing waterlines with sizes of 8" and 12" are located in the street at the present time and both are very old and have a history of several leaks and maintenance problems. A water main rupture could occur and cause extensive damage to the new street after it is constructed.

Staff has coordinated efforts with the contractor for Walgreens to allow for an emergency replacement of these waterlines. These two waterlines will be replaced by one new 12" waterline, and the old lines will be abandoned. The length of the new 12" waterline is approximately 700 feet. **The scope of this project is installation of a new 12" waterline from 6th Street to Archibald Yell Blvd.**

Garver Engineers, LLC are the design engineers for the accelerated waterline project. As part of their current engineering contract with the City of Fayetteville, Garver was directed to prepare plans and specifications for the replacement of the 8" and 12" waterlines. These plans and specifications were used to negotiate Change Order #1 to the contract with Crossland Heavy Contractors, Inc (Attached).

Crossland Heavy Contractors, Inc. has agreed to honor the bid prices submitted to the City for the Accelerated Waterline Replacement Project Phase I. Change Order #1 has been prepared and agreed to by the contractor in the amount of $70,317.70.

Items "A" through "P" on the change order are from the existing contract bid items. The prices for Items Q,R,S,T, and U were negotiated by the Engineer and approved by the Staff.

BUDGET IMPACT

This project was approved with a budget of $1,500,000 in 2002. The beginning project budget for 2003 was $1,498,052. A summary of costs is as follows:

Project Budget	$1,498,052
Spent/obligated to date	$1,198,626
Proposed Change Order #1	$ 70,317
Balance	$ 229,109

The balance will be used for Phase II of the Accelerated Waterline Replacement Project.

Attachments: Change Order #1
Vicinity Map

RESOLUTION NO. 142-03

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF SIX HUNDRED NINETY-EIGHT THOUSAND THREE HUNDRED SEVENTY-NINE DOLLARS AND THIRTY CENTS ($698,379.30) TO CROSSLAND HEAVY CONTRACTORS, INC. FOR THE CONSTRUCTION PHASE OF THE ACCELERATED WATERLINE REPLACEMENT PROJECT; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF SIXTY-NINE THOUSAND EIGHT HUNDRED THIRTY-EIGHT DOLLARS ($69,838.00) FOR SAME.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards a construction contract in the amount of Six Hundred Ninety-Eight Thousand Three Hundred Seventy-Nine Dollars and Thirty Cents ($698,379.30) to Crossland Heavy Contractors, Inc. for the construction phase of the Accelerated Waterline Replacement Project. A copy of which, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Project Contingency in the amount of Sixty-Nine Thousand Eight Hundred Thirty-Eight Dollars ($69,838.00) for same.

PASSED and **APPROVED** this 16th day of September, 2003.

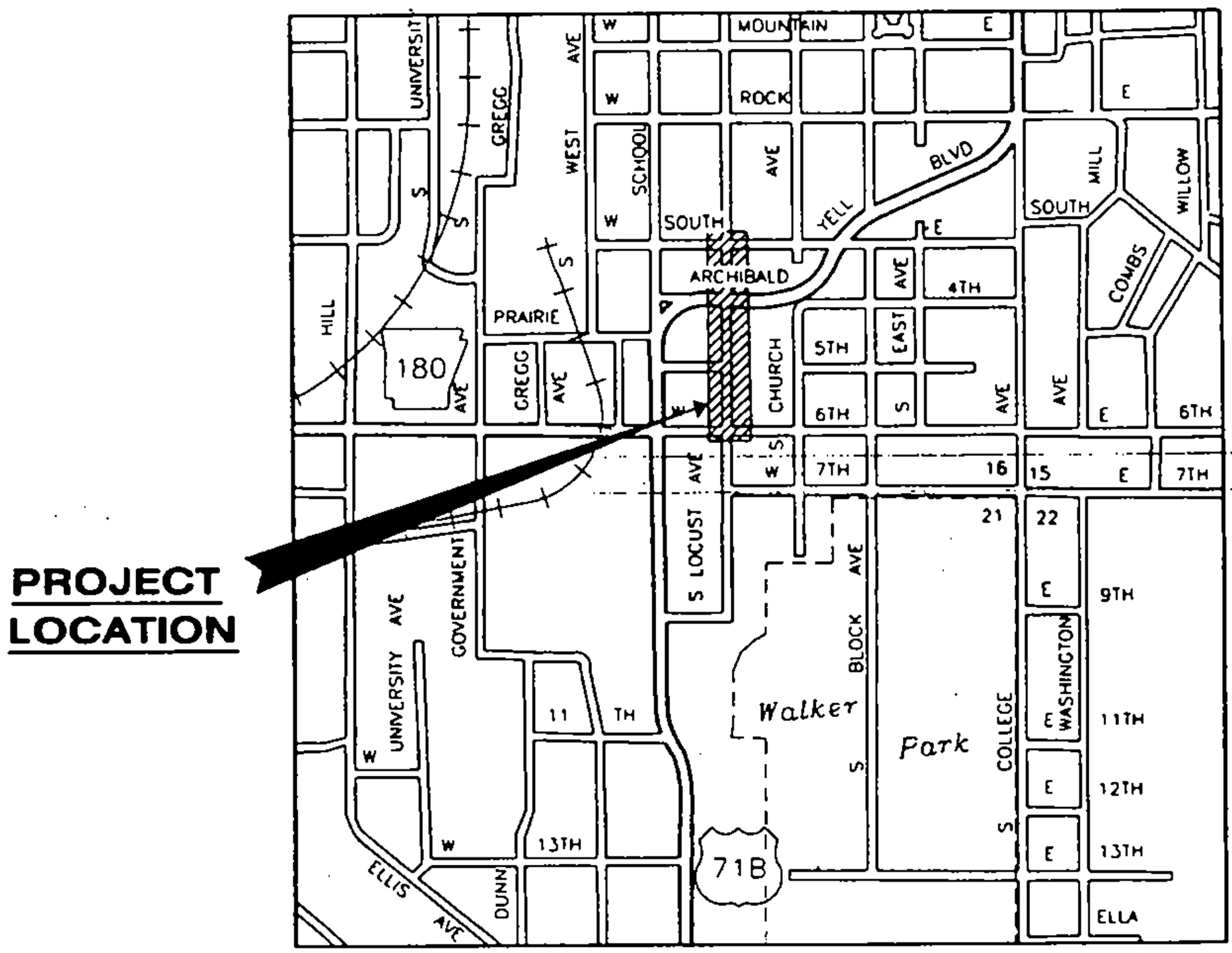
APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CITY OF FAYETTEVIL
FAYETTEVILLE, ARKANSA

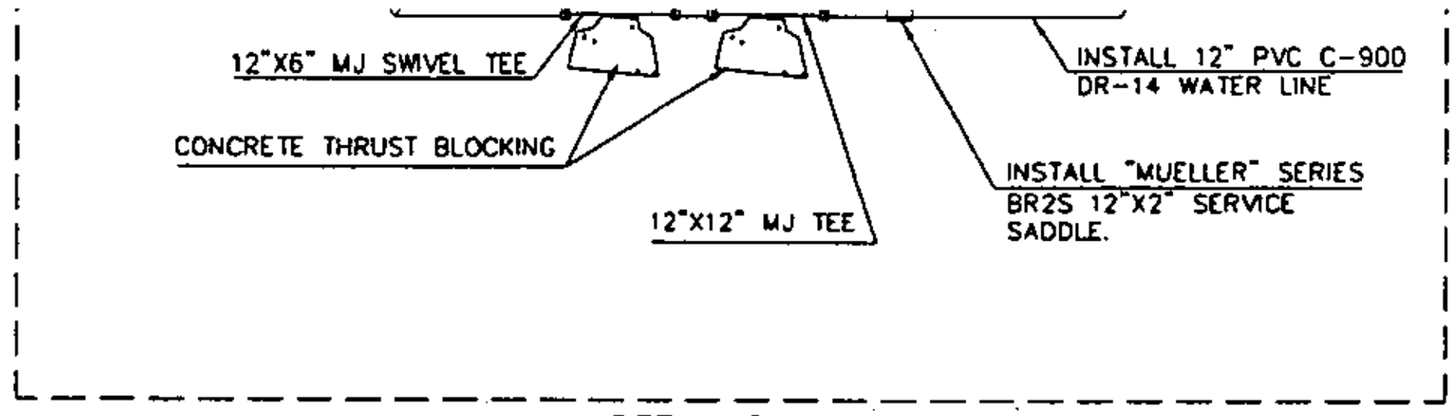


VICINITY MAP

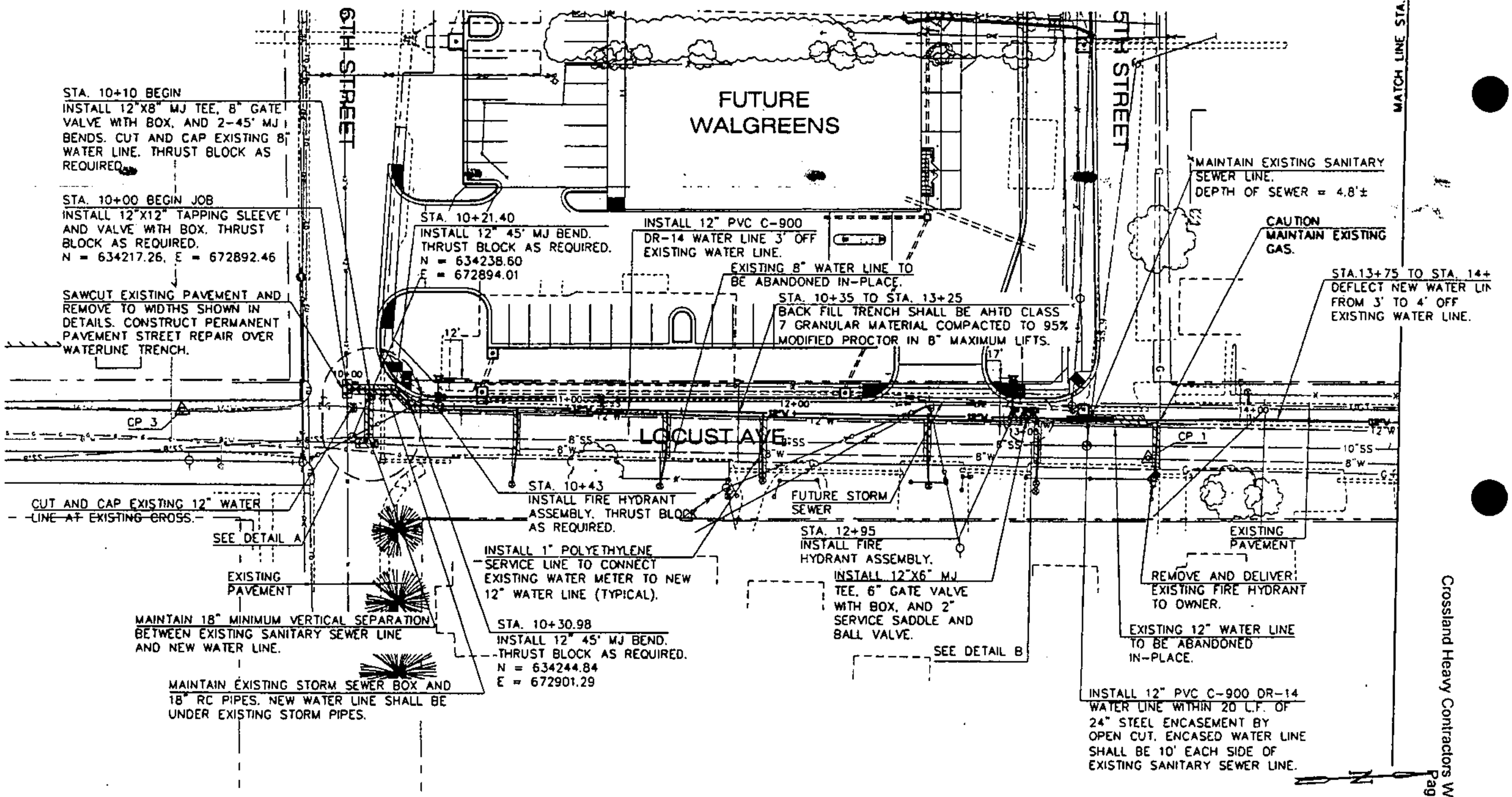
NO SCALE

STALL 2-8" 45° MJ BENDS. CONNECT
NDS WITH 8" SWIVEL ADAPTER.

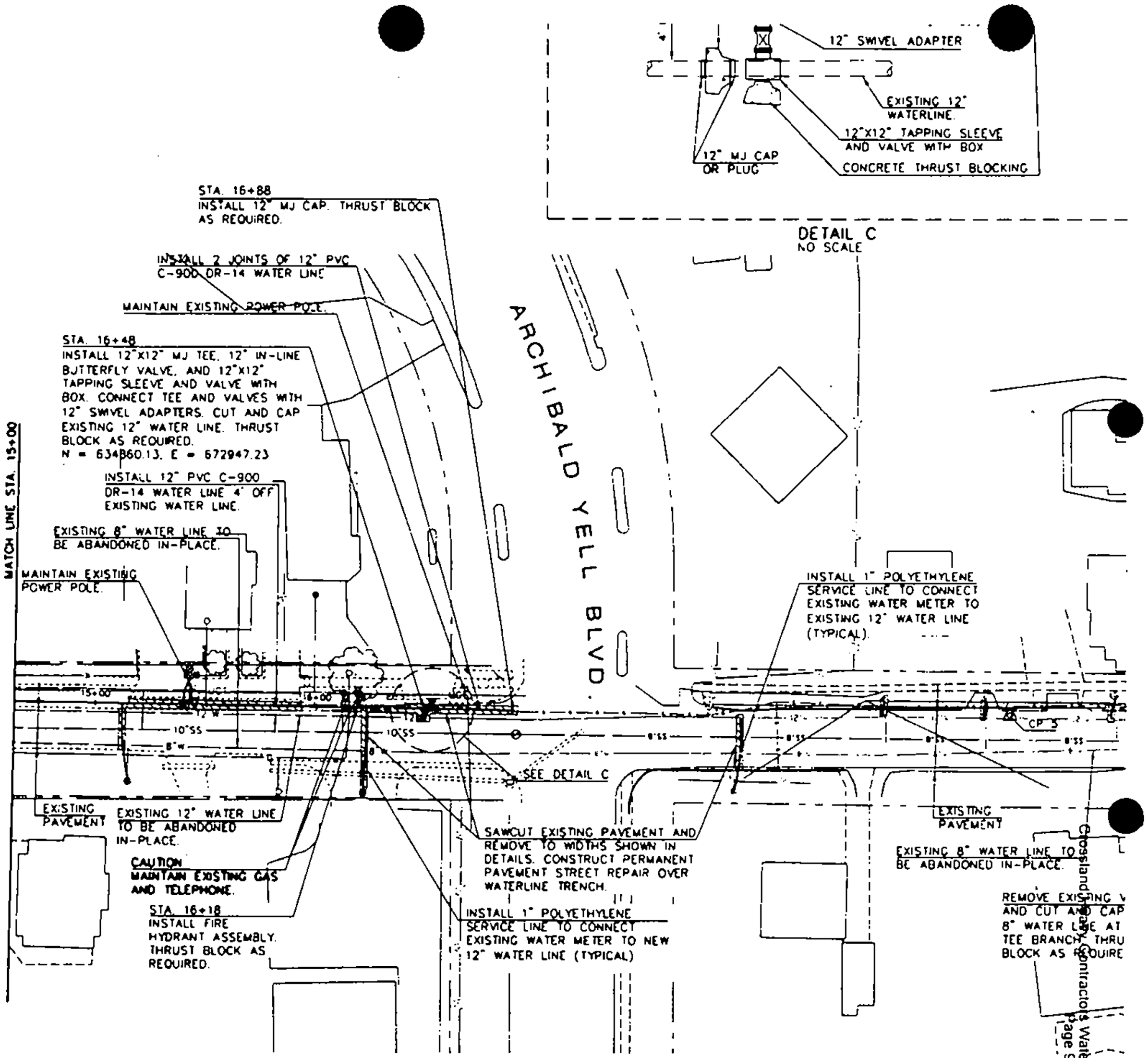
W AND EXISTING WATER
AN 8" SOLID SLEEVE.



DETAIL B
NO SCALE



ITS OF CONSTRUCTION. AN ATTEMPT HAS BEEN MADE TO LOCATE THESE UTILITIES ON THE PLANS. HOWEVER, ALL EXISTING UTILITIES MAY BE SHOWN AND THE ACTUAL LOCATIONS
IING ANY TYPE OF EXCAVATION, THE CONTRACTOR SHALL CONTACT THE UTILITIES INVOLVED AND MAKE ARRANGEMENTS FOR THE LOCATION OF THE UTILITIES ON THE GROUND. THE
RE NO LONGER NECESSARY. ARKANSAS STATE LAW, THE UNDERGROUND FACILITIES DAMAGE PREVENTION ACT, REQUIRES TWO WORKING DAYS ADVANCE NOTIFICATION THROUGH THE
) EQUIPMENT OR EXPLOSIVES (EXCEPT IN THE CASE OF EMERGENCY). THE ONE-CALL SYSTEM PHONE NUMBER IS 1-800-482-8998. THE CONTRACTOR IS ADVISED THAT THERE IS
ARE MEMBERS OF THE ARKANSAS ONE-CALL SYSTEM; THEREFORE, THE CONTRACTOR IS ADVISED TO CONTACT ALL NON-MEMBER UTILITIES AS WELL AS THE ONE-CALL SYSTEM.



CAUTION: UNDERGROUND UTILITIES EXIST WITHIN AND ADJACENT TO THE LIMITS OF CONSTRUCTION. AN ATTEMPT HAS BEEN MADE TO LOCATE THESE UTILITIES ON THE PLANS. HOWEVER, ALL EXISTING UTILITIES OF THE UTILITIES MAY VARY FROM THE LOCATIONS SHOWN. PRIOR TO BEGINNING ANY TYPE OF EXCAVATION, THE CONTRACTOR SHALL CONTACT THE UTILITIES INVOLVED AND MAKE ARRANGEMENTS FOR THE LOC CONTRACTOR SHALL MAINTAIN THE UTILITY LOCATION MARKINGS UNTIL THEY ARE NO LONGER NECESSARY. ARKANSAS STATE LAW, THE UNDERGROUND FACILITIES DAMAGE PREVENTION ACT, REQUIRES TWO WORKING ARKANSAS ONE-CALL SYSTEM CENTER BEFORE EXCAVATING USING MECHANIZED EQUIPMENT OR EXPLOSIVES (EXCEPT IN THE CASE OF EMERGENCY). THE ONE-CALL SYSTEM PHONE NUMBER IS 1-800-482-8998. A SEVERE PENALTY FOR NOT MAKING THIS CALL. NOT ALL UTILITY COMPANIES ARE MEMBERS OF THE ARKANSAS ONE-CALL SYSTEM; THEREFORE, THE CONTRACTOR IS ADVISED TO CONTACT ALL NON-MEMBER UTI

J:\PROJECTS\2002\0296-1500 FAY WATER LINES\DESIGN\DRAWINGS\WORK ORDER LOCATIV AYWCWL4-02.DWG, MODEL, 9/30/2003 9:17:48 AM,
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Construction Contract Change Order

Project: Accelerated Waterline Replacement (Bid No. 03-49) Work Order No. 1 Garver Job No. 0296-3500	**Change Order No.** 1 **Date Prepared:** October 2, 2003
Owner: City of Fayetteville 113 West Mountain Fayetteville, AR 72701	**Contractor:** Crossland Heavy Contractors, Inc. P.O. BOX 350 Columbus, KS 66725

Description of Work Included in Contract

The City has elected to add approximately 700 linear feet of new 12" waterline from 6th Street to Archibald Yell along Locust Avenue. This additional work includes the new 12" line, connecting to existing waterlines, abandoning existing waterlines, service line connections, and fire line and service line connection for the new Walgreens (currently under construction). The addition of this work revises the quantities and scope of work associated with numerous construction activities. These items are listed in this change order and typically include pavement and curb and gutter repair, temporary safety fence, and erosion control.

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Q-U New Item - required for the Construction of the waterline in Locust Avenue

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B	SP-02-5.1b	12" PVC C-900 DR-14 WATERLINE	195	L.F.	$43.30	375	$43.30	$8,443.50	$16,237.50
C	SP-02-5.1c	8" PVC C-900 DR-14 WATERLINE (INCLUDING AHTD CLASS 7 GRANULAR BACKFILL)	2440	L.F.	$50.90	2470	$50.90	$124,196.00	$125,723.00
D	SP-02-5.1g	DUCTILE IRON MECHANICAL JOINT WATERLINE FITTINGS	3960	LBS.	$3.40	5060	$3.40	$13,464.00	$17,204.00
E	SP-02-5.1l	12" BUTTERFLY VALVE AND VALVE BOX	4	E.A.	$1,776.40	5	$1,776.40	$7,105.60	$8,882.00
F	SP-02-5.1m	8" GATE VALVE AND VALVE BOX	7	E.A.	$696.90	8	$696.90	$4,878.30	$5,575.20
G	SP-02-5.1n	6" GATE VALVE AND VALVE BOX	8	E.A.	$320.70	9	$320.70	$2,565.60	$2,886.30
H	SP-02-5.1o	FIRE HYDRANT ASSEMBLY	11	E.A.	$500.00	14	$500.00	$5,500.00	$7,000.00
I	SP-02-5.1p	CUT AND CAP EXISTING 12" WATER MAIN	2	E.A.	$205.10	4	$205.10	$410.20	$820.40
J	SP-02-5.1q	CUT AND CAP EXISTING 8" WATER MAIN	3	E.A.	$174.00	5	$174.00	$522.00	$870.00
K	SP-02-5.1u	1" SERVICE LINE	95	E.A.	$90.00	111	$90.00	$8,550.00	$9,990.00
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M	SP-02-5.1z	PERMANENT CONCRETE PAVEMENT REPAIR	780	S.Y.	$94.20	830	$94.20	$73,476.00	$78,186.00
N	SP-02-5.1aa	REMOVE EXISTING FIRE HYDRANT AND DELIVER TO CITY OF FAYETTEVILLE WATER AND SEWER DEPARTMENT	1	E.A.	$138.50	2	$138.50	$138.50	$277.00
O	M-1-5.1a	TEMPORARY SAFETY FENCE	1000	L.F.	$2.40	1750	$2.40	$2,400.00	$4,200.00
P	I-17-5.1a	CONCRETE CURB AND GUTTER	2345	L.F.	$19.40	2365	$19.40	$45,493.00	$45,881.00

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							Net Cost for this Change Order		$70,317.70

Estimated Project Cost

	Estimated Project Cost
Original Contract Amount	$698,379.30
Previously Approved Changes	$0.00
This Change Order	$70,317.70
New Contract Amount	$768,697.00

Time Change

Original Contract Date	10/6/2003
Original Contract Construction Days (calendar days)	150
Additional Calendar Days granted by this Change Order	30
New Contract Construction Time (calendar days)	180
New Construction Completion Date	4/3/2004

THIS AGREEMENT IS SUBJECT TO ALL ORIGINAL CONTRACT PROVISIONS AND PREVIOUS CHANGE ORDERS

ISSUED FOR REASONS INDICATED ABOVE
Engineer: Garver Engineers
Engineer's Signature — Title: Proj. Eng — Date: 10/2/03

ACCEPTED BY CONTRACTOR:
Crossland Heavy Contractors
Contractor's Signature — Title: Proj Mgr — Date: 10-2-3

APPROVED BY OWNER: City of Fayetteville
Owner's Signature — Title — Date

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Engineer: Garver Engineers

Engineer's Signature: [signature] Title: Proj. Eng Date: 10/2/03

ACCEPTED BY CONTRACTOR:
Crossland Heavy Contractors

Contractor's Signature: [signature] Title: Proj Mgr. Date: 10/2/03

APPROVED BY OWNER: City of Fayetteville

Owner's Signature _____ Title _____ Date _____

Construction Contract Change Order

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J	SP-02-5.1q	CUT AND CAP EXISTING 8" WATER MAIN	3	E.A.	$174.00	5	$174.00	$522.00	$870.00
K	SP-02-5.1u	1" SERVICE LINE	95	E.A.	$90.00	111	$90.00	$8,550.00	$9,990.00
L	SP-02-5.1y	PERMANENT ACHM PAVEMENT REPAIR	2035	S.Y.	$9.90	2265	$9.90	$20,146.50	$22,423.50
M	SP-02-5.1z	PERMANENT CONCRETE PAVEMENT REPAIR	780	S.Y.	$94.20	830	$94.20	$73,476.00	$78,186.00
N	SP-02-5.1aa	REMOVE EXISTING FIRE HYDRANT AND DELIVER TO CITY OF FAYETTEVILLE WATER AND SEWER DEPARTMENT	1	E.A.	$138.50	2	$138.50	$138.50	$277.00
O	M-1-5.1a	TEMPORARY SAFETY FENCE	1000	L.F.	$2.40	1750	$2.40	$2,400.00	$4,200.00
P	I-17-5.1a	CONCRETE CURB AND GUTTER	2345	L.F.	$19.40	2365	$19.40	$45,493.00	$45,881.00

Construction Contract Change Order

Project: Accelerated Waterline Replacement (Bid No. 03-49) Work Order No. 1 Garver Job No. 0296-3500	**Change Order No.** 1 **Date Prepared:** October 2, 2003
Owner: City of Fayetteville 113 West Mountain Fayetteville, AR 72701	**Contractor:** Crossland Heavy Contractors, Inc. P.O. BOX 350 Columbus, KS 66725

Description of Work Included In Contract

The City has elected to add approximately 500 linear feet of new 12" waterline from 6th Street to Archibald Yell along Locust Avenue. This additional work includes the new 12" line, connecting to existing waterlines, abandoning existing waterlines, service line connections, and fire line and service line connection for the new Walgreens (currently under construction). The addition of this work revises the quantities and scope of work associated with numerous construction activities. These items are listed in this change order and typically include pavement and curb and gutter repair, temporary safety fence, and erosion control.

Changes and Reasons Ordered (List Individual Changes as: A, B, C, D, etc.)

A-P Revised Quantity - these items were in the original bid items, but have been revised due to the addition of the waterline in Locust Avenue.

Q-U New Item - required for the Construction of the waterline in Locust Avenue

Contract Changes	Bid Item No.	Bid Item Description	Original Estimated Quantity	Unit of Meas.	Contract Unit Price	Revised Estimated Quantity	Revised Unit Price	Original Estimated Cost	Revised Estimated Cost
Q	SP-02-5.1ab	12"X12" TAPPING SLEEVE AND VALVE WITH BOX	0	E.A.	$0.00	2	$3,000.00	$0.00	$6,000.00
R	SP-02-5.1ac	2" SERVICE SADDLE, 2" BALL VALVE, AND 2" PLUG	0	E.A.	$0.00	1	$225.00	$0.00	$225.00
S	SP-05-5.2e	24" STEEL ENCASEMENT PIPE INSTALLED BY OPEN CUT	0	L.F.	$0.00	20	$125.00	$0.00	$2,500.00
T	I-12-5.1a	SILT FENCE	0	L.F.	$0.00	1000	$1.25	$0.00	$1,250.00
U	I-12-5.1b	HAY BALES	0	E.A.	$0.00	100	$7.50	$0.00	$750.00
								Summation of Cost	**$408,613.70**	**$478,931.40**
								Net Cost for this Change Order	**$70,317.70**

Estimated Project Cost

	Estimated Project Cost
Original Contract Amount	$698,379.30
Previously Approved Changes	$0.00
This Change Order	$70,317.70
New Contract Amount	$768,697.00

Time Change

Original Contract Date	10/6/2003
Original Contract Construction Days (calendar days)	150
Additional Calendar Days granted by this Change Order	30
New Contract Construction Time (calendar days)	180
New Construction Completion Date	4/3/2004

THIS AGREEMENT IS SUBJECT TO ALL ORIGINAL CONTRACT PROVISIONS AND PREVIOUS CHANGE ORDERS

ISSUED FOR REASONS INDICATED ABOVE **Engineer: Garver Engineers**	Engineer's Signature	Title	Date 10/2/03
ACCEPTED BY CONTRACTOR: **Crossland Heavy Contractors**	Contractor's Signature	Title Project Mgr.	Date 10-3-03
APPROVED BY OWNER: City of Fayetteville	Owner's Signature	Title	Date

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: October 21, 2003

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Resolution approval.

SUMMARY EXPLANATION:

ADM 03-24.00: (Master Street Plan Amendment, Technology Blvd., pp 248) was submitted by Joe Tarvin, P.E. of EGIS Engineering, Inc. on behalf of Collins Haynes for property located southwest of I-540 and Arkansas Highway 112. The property is zoned I-1, Heavy Commercial/Light Industrial, located in the Design Overlay District,and contains approximately 289.26 acres. The request is to amend the Master Street Plan to remove Technology Boulevard, a proposed collector, potentially connecting Deane Solomon Road to Shiloh Avenue, from crossing the subject property.

STAFF RECOMMENDATION: Approval

Dawn Warrick — Division Head — 10/2/03 Date

Received in Mayor's Office 10/6/03 Date

D. P. White — City Attorney — 10/6/03 Date — Revised Resolution Attached.

Department Director — 10-2-03 Date

Cross Reference:

Previous Ord/Res#:

Finance & Internal Services Dir. — 10-6-03 Date

Orig. Contract Date:

Chief Administrative Officer — 10-6-03 Date

Orig. Contract Number:

Mayor — 10/7/03 Date

New Item: Yes No

RESOLUTION NO. _____

A RESOLUTION AMENDING THE MASTER STREET PLAN TO REMOVE THE PORTION OF TRUCKERS DRIVE SHOWN CROSSING THE PROPOSED SPRINGWOODS COMMERCIAL-PLANNED ZONING DISTRICT.

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 amends the Master Street Plan to remove the portion of Truckers Drive shown crossing the proposed Springwoods Commercial-Planned Zoning District.

PASSED and **APPROVED** this 21st day of October, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director T.C.

From: Dawn T. Warrick, AICP, Zoning and Development Administrator

Date: October 3, 2003

Subject: Amendment of adopted Master Street Plan to remove Technology Blvd. (a proposed collector street connecting Shiloh Dr. and Deane Solomon Rd.)

RECOMMENDATION

Planning Staff recommends approval of a resolution amending the Master Street Plan to remove Technology Blvd., a proposed collector street, from this policy document. This request will be heard by the Planning Commission October 13, 2003 as a part of the proposed springwoods C-PZD (commercial planned zoning district).

BACKGROUND

Technology Blvd., a proposed connection between Shiloh Dr. and Deane Solomon Rd. has been identified on the City's Master Street Plan for many years. Approval of a C-PZD is currently being sought to begin the development process of a 289 acre tract (formerly Wilson Springs Business Park) which includes approximately 125 acres of land to be preserved. A second Master Street Plan amendment as well as the master plan for the C-PZD will be considered by the City Council at this time also.

DISCUSSION

In the attached memo the project representative for the proposed development states, "The two referenced streets are presently shown to cross our Legacy (renamed springwoods) project location; therefore, we are requesting Trucker's Lane and Technology Blvd. be removed from crossing the Legacy (springwoods) project.

Area that would be impacted by this street connection is included in a lot which is proposed to be a preserved nature area including wetlands and other wildlife habitats which will be an amenity to the overall project. The approx. 125 acre preservation area has been attributed to the project being proposed by the Audubon Society in collaboration with the developer of springwoods C-PZD.

BUDGET IMPACT

None.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: October 21, 2003

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Resolution approval.

SUMMARY EXPLANATION:

ADM 03-25.00: (Master Street Plan Amendment, Truckers Drive, pp 248) was submitted by Joe Tarvin, P.E. of EGIS Engineering, Inc. on behalf of Collins Haynes for property located southwest of I-540 and Arkansas Highway 112. The property is zoned I-1, Heavy Commercial/Light Industrial, located in the Design Overlay District and contains approximately 289.26 acres. The request is to amend the Master Street Plan to remove ~~Technology Boulevard~~ Truckers Drive, a proposed collector, potentially connecting Deane Solomon Road to Shiloh Avenue, from crossing the subject property.

STAFF RECOMMENDATION: Approval

Dawn Warrick — Division Head — 10/2/03 Date

Received in Mayor's Office 10/6/03 Date

D. P. White — City Attorney — 10/6/03 Date — Revised Resolution Attached

Department Director — 10-2-03 Date

Finance & Internal Services Dir. — 10-6-03 Date

Chief Administrative Officer — 10-6-03 Date

Mayor — 10/7/03 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

RESOLUTION NO. _____

A RESOLUTION AMENDING THE MASTER STREET PLAN TO REMOVE THE PORTION OF TECHNOLOGY BOULEVARD SHOWN CROSSING THE PROPOSED SPRINGWOODS COMMERCIAL-PLANNED ZONING DISTRICT.

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 amends the Master Street Plan to remove the portion of Technology Boulevard shown crossing the proposed Springwoods Commercial-Planned Zoning District.

PASSED and **APPROVED** this 21st day of October, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director TC.

From: Dawn T. Warrick, AICP, Zoning and Development Administrator

Date: October 3, 2003

Subject: Amendment of adopted Master Street Plan to remove the westward extension of Trucker's Drive (a proposed collector street)

RECOMMENDATION

Planning Staff recommends approval of a resolution amending the Master Street Plan to remove the westward extension of Trucker's Drive (designated a future collector street) from this policy document. This request will be heard by the Planning Commission October 13, 2003 as a part of the proposed springwoods C-PZD (commercial planned zoning district).

BACKGROUND

The westward extension of Trucker's Drive has been identified on the City's Master Street Plan for many years. Approval of a C-PZD is currently being sought to begin the development process of a 289 acre tract (formerly Wilson Springs Business Park) which includes approximately 125 acres of land to be preserved. A second Master Street Plan amendment as well as the master plan for the C-PZD will be considered by the City Council at this time also.

DISCUSSION

In the attached memo the project representative for the proposed development states, "The two referenced streets are presently shown to cross our Legacy (renamed springwoods) project location; therefore, we are requesting Trucker's Lane and Technology Blvd. be removed from crossing the Legacy (springwoods) project.

Area that would be impacted by this street connection is included in a lot which is proposed to be a preserved nature area including wetlands and other wildlife habitats which will be an amenity to the overall project. The approx. 125 acre preservation area has been attributed to the project being proposed by the Audubon Society in collaboration with the developer of springwoods C-PZD.

BUDGET IMPACT

None.

09-30-03 04:20 PM RCVD

RECEIVED
SEP 30 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

STAFF REVIEW FORM

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: October ~~14~~ 21, 2003

FROM:

Louise Schaper	Library	General Government
Name	Division	Department

ACTION REQUIRED: A resolution ~~to award a contract~~ approving reimbursement in the amount of $101,806 to AEP/SWEPCO for the burial of utilities along West Avenue.

COST TO CITY:

$ 101,806.00	$ 21,891,640	New Main Library
Cost of this request	Category/Project Budget	Program Category / Project Name
4470-9470-5804-00	$ 16,304,454	New Main Library
Account Number	Funds Used to Date	Program / Project Category Name
99073	$ 5,587,186	Capital Improvements Project
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

Budget Manager — Date 10-1-03

CONTRACT/GRANT/LEASE REVIEW:

Marsha Furtsch — Accounting Manager — Date 10/1/03
Nancy Smith — Internal Auditor — Date 10/1/03
D. P. Whitlock — City Attorney — Date 10/3/03
Purchasing Manager — Date 10/3/03

STAFF RECOMMENDATION:

Louise Schaper — Division Head — Date 9/29/03
Department Director — Date
Finance & Internal Services Dir. — Date 10-6-03
Chief Administrative Officer — Date 10-8-03
Dan Coody — 10/7/03

10/6/03 pH

Cross Reference

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

Previous Ord/Res#: _____

Orig. Contract Date _____

Orig. Contract Number _____

09-30-03 P04:21 RCVD

ENTERED 10-1-03

Mayor

Date

Staff Review Form - Page 2

Description _____ Meeting Date October 14, 2003

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

Internal Auditor

Finance & Internal Services Director

Chief Administrative Officer

RESOLUTION NO. _____

A RESOLUTION APPROVING REIMBURSEMENT IN THE AMOUNT OF ONE HUNDRED ONE THOUSAND EIGHT HUNDRED SIX DOLLARS ($101,806.00) TO AEP/SWEPCO FOR BURIAL OF UTILITIES ALONG A PORTION OF WEST AVENUE NEAR THE NEW FAYETTEVILLE PUBLIC LIBRARY.

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 reimbursement in the amount of One Hundred One Thousand Eight Hundred Six Dollars ($101,806.00) to AEP/SWEPCO for burial of utilities along a portion of West Avenue near the new Fayetteville Public Library.

PASSED and **APPROVED** this 21st day of October, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

For City Council Agenda October 14, 2003

To: Mayor Dan Coody and City Council
From: Louise Schaper, Library; Hugh Earnest, Urban Development
Date: October 1, 2003

Subject: **A resolution to award a contract in the amount of $101,806 to AEP/SWEPCO for the burial of utilities along West Avenue in behalf of the new Fayetteville Public Library located at 401 W. Mountain Street.**

Background

The City building code requirement to bury the new and existing utilities on the west side of the new library created a challenge and an opportunity. The opportunity to create a more safe and visually appealing aspect of the project is highly desirable for the project and the surrounding area. The residences facing the new building on the west side of West Avenue are directly affected by this change due to the existing overhead utility poles currently serving them. With the removal of those poles the residences are entitled to new service connections including electric power, telephone, and TV cable. This resolution enables the work to proceed that provides underground installation along the east side of West Avenue of the high voltage lines serving the library as well as power to pedestals that serve the residences. Also included is the labor to install the low voltage distibution, telephone and TV cable conduit to the residences, not including material. All equipment including switchgear, cabling, transformers, and pedestals is included in the proposal. The existing temporary power poles will be removed by AEP/SWEPCO when the underground work is completed and the poles are no longer required. Not included in the proposal is the trenching, backfill, and conduit installation under West Avenue and through the properties to the new connections at each residence. This scope of work will be prepared under a separate document.

Status

On February 5, 2002 the Fayetteville City Council approved an ordinance waiving requirements for competitive bidding for the burial of utilities for the library project. This enables pre-qualified subcontractors of AEP/SWEPCO to bid on the work to provide 1) electric power ducts and vaults, and 2) telephone, TV cable, and any fiber optic ducts. The City will contract directly with AEP/SWEPCO for this work. Time is of the essence on this request due to the project schedule requirements of getting permanent power to the building. The funding for this item comes from the site improvement project ($571,995) that was approved as part of the Council's 2002-2006 CIP.

Recommendations

We recommend the City Council approve the resolution in the amount of $101,806 to award the contract to AEP/SWEPCO for utility burial and equipment along West Avenue.

Date: December 11, 2002, rev. 1/16/03, 1/23/03, 5/5/03, 9/29/03

To: Fayetteville City Council Aldermen
From: Louise Schaper, Executive Director, Fayetteville Public Library
Subject: Project Budget and Contract Approvals

This table identifies those requests related to the construction of the Blair Library that Council has approved, as well as forthcoming requests. Our intent is to ensure that Council is aware of all requests that are **within** our $23,341,655 budget for the turnkey project as approved by the FPL Board on May 2, 2002 and those items that are outside of this budget. *At this time, there are no items approved or requested outside of this budget.* Some of the forthcoming items, i.e. furnishings, may be procured directly by the FPL Foundation.

We have added to this table those items related to the CIP funded site improvements (utility burial, drainage, sidewalks etc.) approved in CIP ($671,995).

Item	Within budget?	Source(s)	Budget	Est. date approval	Date Approved	Amount	Notes
Blair Library Construction, Furnishing and Equipping							
Crossland contract for construction	Yes	sales tax + private			5/21/02	$17,633,931	Includes $221,995 for off-site improvements from CIP funds
Contingency	Yes	sales tax + private	$830,000		5/21/02	$700,000	$167,676 remaining of approved contingency
Exterior cladding: APC replacement	Yes	sales tax + private	$949,658	11/02	11/19/02	$402,896	*Deferred from contract.* APC will be at entrance as planned and brick will clad lintels + stairwell towers.
Low voltage equipment	Yes	sales tax + private		10/14/03		$206,700.90	*Deferred from contract.*
Low voltage conduit	Yes	sales tax + private		4Q03			Deferred from contract
Landscape	Yes	sales tax + private		1Q04			*Deferred from contract*
Interior signage	Yes	sales tax + private		2004			*Deferred from contract*
AV Equipment	Yes	sales tax + private		2004			*Deferred from contract*
Meeting room enhancements	Yes	sales tax + private		2004			*Deferred from contract*
Technology related items	Yes	sales tax + private	$470,000	2003-04			
Furnishings	Yes	private	$980,000	2003-04			Includes shelving, seating, work stations etc.
Smart library, e.g. conveyor, self-check, RFID	**Yes**	sales tax + private	**$659,751**	**5/03**	5/03	$395,632	**Conveyor**
							RFID
							Self-check
Moving costs	Yes	sales tax + private	$30,000	2004			
Unfunded and cut items.	No		$0	N/A			Such as staff lockers, full signage package, meeting room divider, piano.
Off-Site Improvements							
Off-site improvements (see first item above)	Yes, CIP				5/21/02	$221,995	In Crossland Contract, but funded from CIP site improvements project
West Avenue underground utilities	Yes, CIP		$101,806	10/14/03			West Ave underground utility permanent power and equipment for residences.

RECEIVED
SEP 2 3 2003

AEP SOUTHWESTERN ELECTRIC POWER®

September 18, 2003

Mr. Kip Guthrie
Project Engineer
Garver Engineers
3810 Front Street, Suite 10
Fayetteville, Ar. 72703

Re: Fayetteville Library Project
AEP UED Distribution Facilities
West Ave. - Fayetteville, Ar.

Dear Mr. Guthrie:

Following for your information and per your request is the proposed scope of work, and estimated cost to install AEP/Southwestern Electric Power (SWEP) underground electrical distribution facilities on West Ave. at the site of the new Fayetteville Public Library.

Two of AEP/SWEP's approved excavation contractors reviewed the proposed excavation work and submitted estimated costs to perform excavation work as noted below, and in accordance with the utility relocation plan U101A that was submitted with your letter of request dated August 18 of this year. The two contractors were Fayette Tree & Trench, Inc. and Hickman Trenching Co. Fayette Tree & Trench submitted the low proposal.

The scope of the work is as follows:

1.) AEP's contractor will perform the ditching and backfill work on the east side of West Ave., extending from the north side of Mountain St. to the south side of Rock St. as specified on the trench detail "E" of the relocation plan U101A.

2.) AEP's contractor will install AEP supplied conduit for AEP's high voltage and low voltage distribution cables in the ditch described above, and will install telephone and CATV conduits (to be supplied by others) also in the above described ditch. No ditch excavation or conduit installation across West Ave. to the residences on the west side of West Ave., or from AEP's proposed vault location to the location for the Fayetteville Library's pad mounted electrical transformer is included in this estimate. Material cost for other utility's conduits are also not included in AEP's cost estimate.

3.) AEP will provide the necessary high voltage and low voltage UED distribution cables, pad mounted transformers, switchgear, and pedestals to provide a point of service on the east side of West Ave. to the affected residences on the west side of West Ave., and provide for future electrical service to the new library.

4.) AEP will remove the existing overhead distribution line on West Ave. after the underground facilities are installed, including the services to residences on West Ave., and construction power to the library site, which is currently supplied from the overhead line, is no longer required.

Hickman Trenching Co. elected to submit the attached proposal to provide conduits and pull ropes for SBC and COX Communications. This proposal is not included in AEP's proposed scope of work. Fayette Tree & Trench elected not to submit a proposal to provide conduits for the other utilities.

If the actual location for any of AEP's facilities is on the library property, AEP will require a utility easement to cover these facilities.

The estimated cost for the above scope of work is $ 101, 805.78. AEP will require payment prior to the beginning of any work.

If you have any questions regarding this proposal, you may contact me at (479) 973-2301.

Attach.

Sincerely,

Floyd Homaday

Floyd Homaday

Project Engineer

HICKMAN TRENCHING CO.

1624 S. DIXIELAND ROAD
ROGERS, AR.

Fayetteville Public Library

9-15-03

American Electric Power Service Corporation
Floyd Hornaday
101 West Township
Fayetteville, AR. 72703

To Whom It May Concern:

Hickman Trenching Co. submits a bid for providing conduit and pull ropes per SBC and COX communications standards of Seven Thousand Five Hundred Dollars (7500.00)

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: October 21, 2003

FROM:

Hugh Earnest	Cable	Administration
Name	Division	Department

ACTION REQUIRED: Approval of an extension of the Franchise with TCA Cable Partners providing services as Cox Communications until December 31, 2005.

SUMMARY EXPLANATION:

STAFF RECOMMENDATION:

Hugh Earnest — Division Head — 10/2/03 Date

City Attorney — 10/2/03 Date

Department Director — Date

Finance & Internal Services Dir. — 10-2-03 Date

Chief Administrative Officer — 10-2-03 Date

Mayor — 10/7/03 Date

Received in Mayor's Office 10/2/03 Date PH

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING TCA CABLE PARTNERS, PROVIDING SERVICES AS COX COMMUNICATIONS, TO CONTINUE TO OPERATE THE CABLE COMMUNICATIONS SYSTEM

WHEREAS, the City of Fayetteville, Arkansas ("City") passed and adopted an Ordinance (hereinafter referred to as the "Franchise") granting a non-exclusive franchise; and

WHEREAS, the Franchise is currently held by TCA Cable Partners providing services as Cox Communications ("TCA"); and

WHEREAS, pursuant to Section 47 U.S.C. §546(a) TCA provided notification to the City of TCA's intent to seek renewal of the Franchise under 4 U.S.C. §546(a-g); and

WHEREAS, pursuant to Section 47 U.S.C. §546(a) the City properly commenced franchise renewal proceedings; and

WHEREAS, the City and TCA have agreed, pursuant to 47 U.S.C. §546(h), to conduct franchise renewal negotiations informally in an attempt to reach a mutually acceptable franchise agreement; and

WHEREAS, the City and TCA are interested in continuing informal discussions and negotiations regarding franchise renewal; and

WHEREAS, both the City and TCA desire to expressly reserve all of their respective rights under state and federal law.

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

Section 1. The City hereby authorizes TCA to continue to operate the cable television system in the City of Fayetteville, in full compliance with all of the terms and conditions of the Franchise, and the terms and conditions contained in the August 18, 2003 letter attached hereto and made a part hereof, through December 31, 2005, and continuing on a month to month basis thereafter.

Section 2. This Resolution shall become effective upon the occurrence of both of the following conditions:

1) The resolution being passed and adopted by the City Council of the City of Fayetteville, and;

2) TCA's acceptance of this resolution and the franchise for the terms specified in paragraph (1) above, provided TCA accepts and agrees to this extension.

PASSED and **APPROVED** this the 21st day of October, 2003.

APPROVED:

DRAFT

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

ACCEPTANCE

TCA Cable Partners, providing service as Cox Communications, hereby acknowledges the City of Fayetteville Resolution authorizing TCA Cable Partners to continue to operate the cable system through December 31, 2005, ("Resolution"), attached hereto and hereby accepts each and every term, provision and recital of the Resolution and agrees to be bound by the terms and provisions of the Franchise in accordance with the Resolution.

Dated: _____, 2003

TCA CABLE PARTNERS
Providing services as Cox Communications

By: _____
DENNIS YOCUM

Its: _____

SUBSCRIBED AND SWORN to before me this the _____ day of October, 2003.

_____
Notary Public

My Commission Expires:

_____

City Council Meeting of October 21, 2003

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Hugh Earnest. Chief Administrative Officer

Date: October 1, 2003

Subject: A resolution approving an extension of the Franchise with TCA Cable Partners providing services as Cox Communications until December 31, 2005

Recommendation
The Telecommunication Board of the city has unanimously recommended that the current franchise with the city be extended until December 31, 2005. This action came after extensive discussion with city staff, our attorney and representatives of the company.

Background
The city has been engaged in discussions with Cox for several years and the parties have been unable to come to agreement on terms and conditions that are acceptable to both parties. The existing franchise agreement with Fayetteville is a long and complex document that has served the city reasonably well for close to two decades. There is considerable sentiment that many of the terms and conditions are outdated and do not reflect the current situation relative to telecommunication infrastructure. However there is at present no clear consensus on how best to position the city and possibly the region to operate in this rapidly changing communication environment.

One of the issues of considerable concern to the board and city staff was the fact that the company had not completed the re-build of its delivery system. We had insisted that this be completed as a condition for continued discussion. We are now satisfied that this important improvement has now been completed.

Discussion
A letter from Cox containing the terms and conditions under which we will proceed is attached. In addition, the chair of the telecom board and I have agreed to establish a task force to address the development of a City Technology Infrastructure plan as suggested within the Council adopted goal statement, "**A Strong, Diverse Local Economy**". In addition, all parties will continue to discuss how best to develop and maintain regional linkages, either through inter-local agreements or as part of formal language within franchise agreements

Budget Impact
The franchise payment for use of city right-of-way has grown from $371,613 in 2000 to an estimated $546,200 in 2004. This particular usage charge is calculated at 5% of gross.

4901 South 48th Street
Springdale, Arkansas 72762
(501) 751-2000
(501) 273-5644
(501) 756-1081 Fax

RECEIVED
AUG 19 2003
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

COX COMMUNICATIONS

August 18, 2003

Hugh Earnest
Chief Administrative Officer
City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

Dear Mr. Earnest:

In connection with extending the present franchise agreement until December 31, 2005, TCA Cable Partners providing services as Cox Communications and the City have agreed as follows:

1. The "Gross Revenues" subject to the 5% franchise fee presently include items such as advertising revenue and shopping channel revenues and others, and will continue to include such items during the extension period.
2. Both the City and Cox Communications reserve their rights to the renewal provisions of 47 USC §546(a)-(g) without further notification.
3. The City intends to explore ways and means of facilitating and assisting capital contribution-in-aid-of-construction for service installations beyond 300 aerial and 150 underground feet, with the aim of promoting progress toward universal service within the City.
4. Among other things the City will investigate the feasibility of devoting a portion of the cable franchise fee proceeds to a fund from which financing of service extensions could be provided. Cox to looks forward to working with the City's efforts in that regard.
5. The City's interest in extending this agreement is to provide both Cox Communications and the City the opportunity to explore the feasibility of a common Franchise agreement covering the Cox service area.
6. Upon expiration of the original term extension, the franchise will continue on a month-to-month basis until such time as the City and Cox Communications agree to the terms and conditions of a new agreement if possible.
7. The terms and conditions of the existing agreement shall continue in full force and effect subject to the above provisions

Cox Communications welcomes the opportunity to work with the City to provide affordable services that address the cable related needs and interests of the community as we move forward with our plans.

Sincerely,

Nelson Mower
Vice President of System Operations - Arkansas

STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

09-30-03P04:20 RCVD

For the Fayetteville City Council Meeting of: October ~~14~~ 21, 2003

FROM:

Louise Schaper	Library	General Government
Name	Division	Department

ACTION REQUIRED: To approve a contract adjustment in the amount of $206,701 with Crossland Construction Company for low voltage equipment including fire alarm and detection system, security intrusion and detection system, and digital communications cabling systems to be installed in the new Fayetteville Public Library located at 401 W. Mountain Street.

COST TO CITY:

$206,701.00	$ 21,891,640	New Library
Cost of this request	Category/Project Budget	Program Category / Project Name
4150-9150-5804-00	$ 16,304,454	New Library
Account Number	Funds Used to Date	Program / Project Category Name
99073	$ 5,587,186	Library Construction Fund Sales Tax Improvement Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 10-1-03

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 10/1/03
Internal Auditor — Date: 10/1/03
City Attorney — Date: 10/1/03
Purchasing Manager — Date: 10/1/03

STAFF RECOMMENDATION:

Division Head — Date: 9.29.03
Department Director — Date:
Finance & Internal Services Dir. — Date:
Chief Administrative Officer — Date: 10-2-03
MAYOR — 10/3/03

10/2/03

Cross Reference

New Item: Yes (No)

Previous Ord/Res#: 83-02

Orig. Contract Date: 5/21/02

Orig. Contract Number: 843

ENTERED 10-7-03

RECEIVED
SEP 30 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Mayor

Date

Staff Review Form - Page 2

Description _____ Meeting Date October 14, 2003

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

Internal Auditor

Finance & Internal Services Director

Chief Administrative Officer

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER # 10 TO THE CONTRACT WITH CROSSLAND CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF TWO HUNDRED SIX THOUSAND SEVEN HUNDRED ONE DOLLARS ($206,701.00) TO INSTALL LOW VOLTAGE EQUIPMENT AT THE NEW FAYETTEVILLE PUBLIC LIBRARY.

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 Change Order # 10 to the contract with Crossland Construction Company, Inc. in the amount of Two Hundred Six Thousand Seven Hundred One Dollars ($206,701.00) to install low voltage equipment at the new Fayetteville Public Library. A copy of Change Order # 10, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 21st day of October, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

For City Council Agenda October 14, 2003

To: Mayor Dan Coody and City Council
From: Louise Schaper, Library; Hugh Earnest, Urban Development
Date: October 1, 2003

Subject: **To approve a contract adjustment in the amount of $206,701 with Crossland Construction Company for low voltage equipment including fire alarm and detection system, security intrusion and detection system, and digital communications cabling systems to be installed in the new Fayetteville Public Library located at 401 W. Mountain Street.**

Background

From the beginning of the design process of the new library the architects and library management teams have strived for efficiency and effectiveness in planning for operations. These essential components -- fire detection, security, and communications -- are critical in the assurance of life safety and long term life cycles for building operations.

This request for a contract adjustment includes intrusion detection cabling and equipment, IP-based closed circuit surveillance cabling and equipment, fire alarm and detection cabling and equipment, and communications cabling (copper + fiber optic) and equipment. *This item was deferred for further study prior to the City Council approving the construction contract between the City of Fayetteville and Crossland Construction Company. See attached table.* We have used the additional time to conduct value engineering, design analysis, and drawing revisions. Over the past twelve months countless meetings with contractors, subcontractors, and vendors have been held to isolate the best equipment and pricing for the long-term benefit of the project. The associated contract for this work achieves to position the building in the most efficient and cost-effective manner by awarding the work to the vendors with the most compatible systems and pricing available.

Status

Crossland's procurement process included a bid request by subcontractor Beaver Electric resulting in SBC Communications winning the bid for providing Communications cabling and equipment and the IP-based CCTV cabling and equipment. Simplex Grinnell won the bid for cabling and equipment for Fire Alarm and Detection and Building Intrusion Detection. The procuring process of the low voltage equipment includes long lead times. It is important that this process commence in a timely manner to ensure enough time for manufacturing, delivery, and testing. Conduit for this work is not included in this contract and will be procured under a separate document.

Recommendations

We recommend that City Council approve the contract adjustment in the amount of $206,701 for the low voltage equipment.

Date: December 11, 2002, rev. 1/16/03, 1/23/03, 5/5/03, 9/29/03

To: Fayetteville City Council Aldermen
From: Louise Schaper, Executive Director, Fayetteville Public Library
Subject: Project Budget and Contract Approvals

This table identifies those requests related to the construction of the Blair Library that Council has approved, as well as forthcoming requests. Our intent is to ensure that Council is aware of all requests that are **within** our $23,341,655 budget for the turnkey project as approved by the FPL Board on May 2, 2002 and those items that are outside of this budget. *At this time, there are no items approved or requested outside of this budget.* Some of the forthcoming items, i.e. furnishings, may be procured directly by the FPL Foundation.

We have added to this table those items related to the CIP funded site improvements (utility burial, drainage, sidewalks etc.) approved in CIP ($671,995).

Item	Within budget?	Source(s)	Budget	Est. date approval	Date Approved	Amount	Notes
Blair Library Construction, Furnishing and Equipping							
Crossland contract for construction	Yes	sales tax + private			5/21/02	$17,633,931	Includes $221,995 for off-site improvements from CIP funds
Contingency	Yes	sales tax + private	$830,000		5/21/02	$700,000	$167,676 remaining of approved contingency
Exterior cladding: APC replacement	Yes	sales tax + private	$949,658	11/02	11/19/02	$402,896	*Deferred from contract.* APC will be at entrance as planned and brick will clad lintels + stairwell towers.
Low voltage equipment	Yes	sales tax + private		10/14/03		*$206,700.90*	*Deferred from contract.*
Low voltage conduit	Yes	sales tax + private		4Q03			Deferred from contract
Landscape	Yes	sales tax + private		1Q04			*Deferred from contract*
Interior signage	Yes	sales tax + private		2004			*Deferred from contract*
AV Equipment	Yes	sales tax + private		2004			*Deferred from contract*
Meeting room enhancements	Yes	sales tax + private		2004			*Deferred from contract*
Technology related items	Yes	sales tax + private	$470,000	2003-04			
Furnishings	Yes	private	$980,000	2003-04			Includes shelving, seating, work stations etc.
Smart library, e.g. conveyor, self-check, RFID	**Yes**	sales tax + private	**$659,751**	**5/03**	5/03	**$395,632**	**Conveyor**
							RFID
							Self-check
Moving costs	Yes	sales tax + private	$30,000	2004			
Unfunded and cut items.	No		$0	N/A			Such as staff lockers, full signage package, meeting room divider, piano.
Off-Site Improvements							
Off-site improvements (see first item above)	Yes, CIP				5/21/02	$221,995	In Crossland Contract, but funded from CIP site improvements project
West Avenue underground utilities	Yes, CIP		$101,806	10/14/03			West Ave underground utility permanent power and equipment for residences.

AmirmoezFosterHaileyJohnson

AFHJ

Architects & Planners

MEMORANDUM

September 26, 2003

To: Bob Kohler

Copy: Sean Wagner

From: Jim Foster

Reference: Fayetteville Public Library, PR 10

The Architects recommend approval of the low voltage equipment and cable included in the attached partial response to Proposal Request 10. To be resolved later is the amount required for conduit for these systems.

After the project was bid low voltage was broken out as $340,000. Exhibit C to the Agreement removed $340,000.00 from the bid amount for fire alarm and detection systems, security intrusion systems, closed circuit television systems, and voice and data cabling systems work as required by Section 16720, Section 16726, Section 16729, and Section 16740. The overall project budget was concurrently adjusted to include several deferred items including $260,000 for low voltage systems and $16,000 for cable tray system. Out of these two $276,000 budget items there has been committed $33,478.95 in Change Order #4 and Construction Change Directive #6 with a maximum amount of $20,000 to allow conduit rough in to proceed.

The attached Potential Change Order #22 in the amount of $206,700.90 has been thoroughly reviewed by the design team and should be considered as Change Order 10 to the contract. Low voltage systems were redesigned to reduce scope and accommodate newer more flexible technology. The remaining sum in the budget for the balance of this work, after the limit of CCD 6 is reached, will be $15,820. Every effort is being made to stay within this budget but realistically we expect the final cost to exceed this budget line item.

Post Office Box 790 • 100 West Center, Suite 302 • Fayetteville, AR 72702 • 479-442-5565 • FAX 479-442-8849

Potential Change Orders

Crossland Construction Company
Fayetteville Public Library
2A07ZO
401 West Mountain Street
Fayetteville, AR 72701

Detailed Report
Date Range: All Dates
Printed on: 9/17/03

0033 PCO #22 - PR #10 Low Voltage System Date: 9/17/03

Category	Reason	Reference	User Defined Field
Pending	Architect Directive		

Days Req'd	Days Appr'd	Date Req'd	Date Done	Closed	Notify	Total Orig Est	Total Prop'd	Total Appr'd
0.00	0.00			No	No	0.00	206,700.90	0.00

COR No	PCCO No	Reference Document	Notes

Item No	Company	Budget Allocation	Budget Code	Orig Est	Prop Amt	Appr Amt
Item Description			Item Notes			CO No
0001	Amirmoez Foster Hailey Johns	Approximate Changes		0.00	206,700.90	0.00
Low Voltage System						

RECEIVED
SEP 22 2003
AMIRMOEZ • FOSTER
HAILEY • JOHNSON

AIA Contract Administration

G709 Work Changes Proposal Request

(Instructions on the reverse side)

Distribution List:

Owner _____
Architect _____
Consultant _____
Contractor _____
Field _____
Other _____

PROJECT *(Name and address)*:
FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS 72701

OWNER *(Name and address)*:
CITY OF FAYETTEVILLE
113 WEST MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS 72701

FROM ~~ARCHITECT (Name and address)~~ **ASSOCIATE ARCHITECT**
AMIRMOEZ FOSTER HAILEY JOHNSON
PO BOX 790
FAYETTEVILLE, ARKANSAS 72702-0790

TO CONTRACTOR *(Name and address)*:
CROSSLAND CONSTRUCTION COMPANY INC.
ATTN: JOHN PRIEST, PROJECT MANAGER
PO BOX 907
ROGERS, ARKANSAS 72756

PROPOSAL REQUEST NUMBER: **Ten 10)**

DATE OF ISSUANCE: **May 13, 2003**

CONTRACT FOR: **GENERAL CONSTRUCTION**

CONTRACT DATE: **MAY 21, 2002**

ARCHITECT'S PROJECT NUMBER: **2000073-00**

Please submit an itemized proposal for changes in the Contract Sum and Contract Time for proposed modifications to the Contract Documents described herein. Within ____TEN____ (10) days, the Contractor must submit this proposal or notify the Architect, in writing, of the date on which proposal submission is anticipated.

THIS IS NOT A CHANGE ORDER, A CONSTRUCTION CHANGE DIRECTIVE OR A DIRECTION TO PROCEED WITH THE WORK DESCRIBED IN THE PROPOSED MODIFICATIONS.

DESCRIPTION *(Insert a written description of the Work)*:

Provide a proposal for incorporating additional scope of work consistent with attachments. This work is subject to the overhead and profit limits established in paragraph 8.1.7.1 of Exhibit 'C' of the Contract for Construction. This scope of work includes: Fire Alarm and Detection, Building Intrusion Detection, IP-based Closed Circuit Surveillance, and Communications Cabling System. This will require complete and detailed information from the electrical sub-contractor and third tier sub-contractors. The format for the proposal is included below.

Due to integration requirements with the Owner's future network equipment, we are requesting a minimum of four (4) separate qualified third-tier contractors for the communications cabling systems. There are specific qualifications for third tier sub-contractors for the Communications Cabling specified in Section 16740 (rev.4/2003), and copies of required certifications must be attached to the proposal. Pricing is requested to be in the detail indicated in the Proposal Request Detail Outline attached.

ATTACHMENTS *(List attached documents that support description)*:

A. Proposal Request Detail Outline
B. Specifications Section 16720, Fire Alarm and Detection System
C. Specifications Section 16726, Security Intrusion and Detection System
D. Specifications Section 16740, Digital Communications Cabling Systems
E. Seven sheets of Drawings with latest revision date of 05/08/03:
LV-101, LV-101.5, LV-102, LV-103, LV-104, LV-104.5, LV105.

REQUESTED BY THE ~~ARCHITECT~~ **ASSOCIATE ARCHITECT**

x _____ James R. Foster, FAIA
(Signature) *(Printed name and title)*

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POTENTIAL CHANGE ORDER REQUEST

Project Name: Fayetteville Public Library

Potential Change Order # 22

Date: 9/17/03 *Days Requested* _____ *Price Good For* 14 *Days*

Description of Request: PR #10 - Modifications to Low Voltage System

Material & Labor Direct Cost

Description	Quantity	Unit	Cost	Unit	Material Cost	Hours	Crew Type	Labor Cost
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -

MATERIAL SUBTOTAL	$ -	LABOR SUBTOTAL	$ -
TAX AS APPLICABLE 8.375%	$ -	LABOR BURDEN 15%	$ -
MATERIAL TOTAL	$ -	LABOR TOTAL	$ -

Subcontractor Pricing

Name	Description of Work	Sub Pricing
Beaver Electric	The following pricing is for fire alarm & detection, building	$ 204,062.00
	intrusion detection, IP based closed circuit surveillence, and	
	communications cabling system. The attached breakdown	
	identifies labor and material for only the related systems. The	
	extent of the labor and material related to the conduit, mud rings,	
	boxes, and miscellaneous materials is still being evaluated and	
	value engineered. Please note that the alternate deduct for the	
	CCTV is based on a coax cable system and the approval of	
	the alternate manufacturers.	
	SUBCONTRACTOR TOTAL	$ 204,062.00

CCC Crew Types

Description	Type	Cost / Hour
Operator w/ Equipment	A	$ 50.00
Carpenter	B	$ 30.00
Laborer	C	$ 20.00
Concrete Finisher	D	$ 25.00
Carpenter & (1) Laborer	E	$ 50.00
Carpenter & (2) Laborer	F	$ 70.00
Layout Eng & (1) Laborer	G	$ 80.00

Cost Summary

Material Direct Cost Total	$	-
Labor Direct Cost	$	-
Subcontractor Total	$	204,062.00
SUBTOTAL	$	204,062.00
CCC Insurance @ 0.15%	$	64.36
CCC Bond @ 1.00%	$	429.09
CCC Overhead @ 15.00%	$	-
CCC OH/P for Subs @ 2.50%	$	2,145.45
GRAND TOTAL FOR CHANGE	$	206,700.90

Approval

Owner: City of Fayetteville, Arkansas

Signature: _____

Architect: Amirmoez-Foster-Hailey-Johnson

Signature: _____

Proposal Request Detail Outline

Scope of Work	Material	Labor	Alt. Deduct	O/P	Total
Communication Cabling (copper)	$ 41,460	$ 30,955	$ (3,800)	$ 3,431	$ 72,046
Communication Cabling (fiber optic)	included	included	included		
Communication Related Equipment	included	included	included		
Communication Cable Tray	$ 6,434	$ 4,080	$ -	$ 526	$ 11,040
Communication Conduit	Not included, still under consideration & V/E				$ -
Total - Communication Cabling System					$ 83,085

Scope of Work	Material	Labor	Alt. Deduct	O/P	Total
IP-based CCTV System Cabling	$ 59,201	$ 7,500	$ (8,858)	$ 2,892	$ 60,735
IP-based CCTV System Equipment	included	included	included		
IP-based CCTV System Conduit	Not included, still under consideration & V/E				$ -
Total - IP-based CCTV System					$ 60,735

Scope of Work	Material	Labor	Alt. Deduct	O/P	Total
Fire Alarm and Detection Cabling	$ 3,100	$ 6,173	$ -	$ 464	$ 9,737
Fire Alarm and Detection Equipment	$ 24,750	$ 5,994	$ -	$ 1,537	$ 32,281
Fire Alarm and Detection Conduit	Not included, still under consideration & V/E				$ -
Total - Fire Alarm and Detection Systems					$ 42,018

Scope of Work	Material	Labor	Alt. Deduct	O/P	Total
Building Intrusion Detection Cabling	$ 3,950	$ 5,180	$ -	$ 457	$ 9,587
Building Intrusion Detection Equipment	$ 4,276	$ 3,950	$ -	$ 411	$ 8,637
Building Intrusion Detection Conduit	Not included, still under consideration & V/E				$ -
Total - Building Intrusion Detection Systems					$ 18,224

Total Price From Beaver Electric **$ 204,062**

<u>All of the following cost savings have been implemented above:</u>

Communications Alternate Cost Savings different data rack (deduct)	($1,800)
Communications Alternate Cost Savings different patch cable (deduct)	($2,000)
CCTV System Alternate Cost Savings CCTV different manufactures (deduct)	($8,858)

LOW VOLTAGE SYSTEM PRICE PROPOSAL
PROPOSAL REQUEST #10

For

FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN
FAYETTEVILLE, ARKANSAS

ARCHITECT:
Meyer, Scherer & Rockcastle, Ltd.
119 North 2nd Street
Minneapolis, MN 55401-1420

GENERAL CONTRACTOR:
Crossland Construction
2510 West Hudson Road
Rogers, Arkansas 72756

ELECTRICAL CONTRACTOR:
Beaver Electric Corporation
208 N. Block P. O. Box 1071
Fayetteville, Arkansas 72702
PHONE: 442-8755
FAX: 442-0938

BEAVER ELECTRIC CORPORATION
208 N. Block P.O. Box 1071
Fayetteville, Arkansas 72702
Phone: (479) 442-8755 Fax: (479) 442-0938

PROPOSAL CONTRACT

Change Order Num: 0010R3

Date: 09-17-03

Crossland Construction
3015 East Skelly Drive
Tulsa, Ok 74105

Ph.479-571-2322 Fax. 479-571-3748
Ph.620-429-1414 Fax. 620-429-8948

Att. John Priest,

Subject: Request for change order# C-0010R3,

Re: Low Voltage Proposal,

Dear Mr. Priest,

Be advised of the following changes to Fayetteville Public Library per Work Change Proposal number Ten. As request new fire alarm per Section 16720, security intrusion and detection system per Section 16725, IP-Based network CCTV Monitoring System per section 16729 and digital communications cabling systems per Section 16740.

Scope of Work:
Provide new low voltage systems per drawings dated 05-08-03 and the following sheets LV-101, LV-101.5, LV-102, LV-103, LV-104, LV-104.5 and LV-105.

Bid #1 Simplex

Scope of Work	Material	Tax	Labor	O&P	Total
Fire Alarm and Detection Cabling	$ 3,100	Included	$ 6,173	$ 464	$ 9,737
Fire Alarm and Detection Equipment	$ 24,750	Included	$ 5,994	$ 1,537	$ 32,281
Fire Alarm and Detection Conduit					

Scope of Work	Material	Tax	Labor	O&P	Total
Building Intrusion Detection Cabling	$ 3,950	Included	$ 5,185	$ 456	$ 9,592
Building Intrusion Detection Equipment	$ 4,276	Included	$ 3,950	$ 411	$ 8,637
Building Intrusion Detection Conduit (Beaver)					

• Page 2

September 17, 2003

Bid #2 SBC

Scope of Work	Material	Tax	Labor	O&P	Total
Communications Cabling (copper)					
Communications Cabling (fiber optic)	$ 41,460	Included	$ 30,955	$ 3,620	$ 76,035
Communications Cable Tray	$ 6,433	Included	$ 4,080	$ 526	$ 11,039
Communications Related Equipment					
Communications Conduit(Beaver)					

Scope of Work	Material	Tax	Labor	O&P	Total
IP-based CCTV System Cabling	$ 53,342	Included	$ 4,500	$ 2,892	$60,734
IP-based CCTV System Equipment	THIS PRICE IS LUMP SUM				
IP-based CCTV System Conduit (Beaver)					

Communications Alternate Cost Savings different Data Rack (deduct)	$ <1,800.00>
Communications Alternate Cost Savings different Patch Cable (deduct)	$ <2,000.00>

ALLOW 4-8 WEEKS FOR DELIVERY OF EQUIPMENT AFTER WRITTEN RELEASE AND EQUIPMENT SUBMITTIAL APPROVAL
Prices quoted will be canceled if not accepted within 30 days. Terms are Net 30 days.

All cabling will be tested at time of rough in. If any wiring problems after rough in are detected, cables will be repaired at an additional cost. Furthermore, if any electrical equipment are damaged (cut pull strings, mud rings removed, mud rings not cut in by sheetrock ect.) will be replaced at additional cost.

Please review the following exclusions:

1) Overtime. (Our price is based on a continuous work schedule with normal working hours from 7:00am. To 3:30 Monday thru Friday.
2) Saw cutting of existing concrete.
3) Patching of existing concrete and sheetrock.
4) X-raying of existing concrete.
5) Removal of concrete and sheetrock spoils.
6) Backing for Low Voltage equipment.
7) Painting.

Please respond in writing ASAP.

John Williams
Project Manager

Cc: Austin Blevins

AIA DOCUMENT G701-2000

Change Order

(Instructions on reverse side)

PROJECT:
(Name and address)

FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

TO CONTRACTOR:
(Name and address)

CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST – PROJECT MANAGER
2510 WEST HUDSON ROAD
ROGERS ARKANSAS 72756

CHANGE ORDER NUMBER:	10	OWNER ☐
DATE:	26 SEPTEMBER 2003	ARCHITECT ☐
ARCHITECT'S PROJECT NUMBER:	2000073-00	CONTRACTOR ☐
CONTRACT DATE:	21 MAY 2002	FIELD ☐
CONTRACT FOR:	GENERAL CONSTRUCTION	OTHER ☐

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives.)

Provide fire alarm and detection system, security intrusion system, closed circuit television system, and voice and data cabling systems work as described in Proposal Request 10, excluding conduit for these systems.

The original (Contract Sum) ~~(Guaranteed Maximum Price)~~ was $ 17,633,931.00

The net change by previously authorized Change Orders $ 957,822.80

The (Contract Sum) ~~(Guaranteed Maximum Price)~~ prior to this Change Order was $ 18,591,753.80

The (Contract Sum) ~~(Guaranteed Maximum Price)~~ will be (increased) ~~(decreased)~~ ~~(unchanged)~~ by this Change Order in the amount of $ 206,700.90

The new (Contract Sum) ~~(Guaranteed Maximum Price)~~ including this Change Order will be $ 18,798,454.70

The Contract Time will be ~~(increased) (decreased)~~ (unchanged) by ---- (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is 19 JULY 2004

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive for which the cost or time are in dispute as described in Subparagraph 7.3.8 of AIA Document A201.

Not valid until signed by the Architect, Contractor and Owner.

AFHJ ARCHITECTS **PO BOX 790** **FAYETTEVILLE, AR 72702**	**CROSSLAND CONST. CO. INC.** **PO BOX 907** **ROGERS, AR 72756**	**CITY OF FAYETTEVILLE** **113 WEST MOUNTAIN ST** **FAYETTEVILLE, AR 72701**
~~ARCHITECT~~ *(Typed name)* Associate Architect	**CONTRACTOR** *(Typed name)*	**OWNER** *(Typed name)*
(Signature)	*(Signature)*	*(Signature)*
JAMES FOSTER	**JOHN PRIEST**	**MAYOR DAN COODY**
BY	**BY**	**BY**
29 Sep 03	10/1/03	
DATE	**DATE**	**DATE**

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AIA DOCUMENT G701-2000
CHANGE ORDER

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

AIA DOCUMENT G701-2000

Change Order

(Instructions on reverse side)

PROJECT: *(Name and address)*

FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

TO CONTRACTOR: *(Name and address)*

CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST – PROJECT MANAGER
2510 WEST HUDSON ROAD
ROGERS ARKANSAS 72756

CHANGE ORDER NUMBER: 10
DATE: 26 SEPTEMBER 2003
ARCHITECT'S PROJECT NUMBER: 2000073-00
CONTRACT DATE: 21 MAY 2002
CONTRACT FOR: GENERAL CONSTRUCTION

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
FIELD ☐
OTHER ☐

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives.)

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The net change by previously authorized Change Orders $ 957,822.80

The (Contract Sum) ~~(Guaranteed Maximum Price)~~ prior to this Change Order was $ 18,591,753.80

The (Contract Sum) ~~(Guaranteed Maximum Price)~~ will be (increased) ~~(decreased)~~ ~~(unchanged)~~ by this Change Order in the amount of $ 206,700.90

The new (Contract Sum) ~~(Guaranteed Maximum Price)~~ including this Change Order will be $ 18,798,454.70

The Contract Time will be ~~(increased) (decreased)~~ (unchanged) by ---- (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is 19 JULY 2004

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive for which the cost or time are in dispute as described in Subparagraph 7.3.8 of AIA Document A201.

Not valid until signed by the Architect, Contractor and Owner.

AFHJ ARCHITECTS PO BOX 790 FAYETTEVILLE, AR 72702	CROSSLAND CONST. CO. INC. PO BOX 907 ROGERS, AR 72756	CITY OF FAYETTEVILLE 113 WEST MOUNTAIN ST FAYETTEVILLE, AR 72701
~~ARCHITECT~~ *(Typed name)* Associate Architect	CONTRACTOR *(Typed name)*	OWNER *(Typed name)*
(Signature)	*(Signature)*	*(Signature)*
JAMES FOSTER	JOHN PRIEST	MAYOR DAN COODY
BY	BY	BY
29 Sep 03	10/1/03	
DATE	DATE	DATE

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AIA DOCUMENT G701-2000
CHANGE ORDER

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

AIA DOCUMENT G701-2000

Change Order

(Instructions on reverse side)

PROJECT:
(Name and address)

FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

TO CONTRACTOR:
(Name and address)

CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST – PROJECT MANAGER
2510 WEST HUDSON ROAD
ROGERS ARKANSAS 72756

CHANGE ORDER NUMBER:	10	OWNER ☐
DATE:	26 SEPTEMBER 2003	ARCHITECT ☐
ARCHITECT'S PROJECT NUMBER:	2000073-00	CONTRACTOR ☐
CONTRACT DATE:	21 MAY 2002	FIELD ☐
CONTRACT FOR:	GENERAL CONSTRUCTION	OTHER ☐

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives.)

Provide fire alarm and detection system, security intrusion system, closed circuit television system, and voice and data cabling systems work as described in Proposal Request 10, excluding conduit for these systems.

The original (Contract Sum) ~~(Guaranteed Maximum Price)~~ was $ 17,633,931.00

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(Signature)	*(Signature)*	*(Signature)*
JAMES FOSTER	**JOHN PRIEST**	**MAYOR DAN COODY**
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Left on 1st reading

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION Left on 2d reading 10/7/03 B. 1

XX AGENDA REQUEST

For the Fayetteville City Council Meeting of: September 16, 2003

FROM:

Greg Boettcher	Water & Wastewater Dir.	Water & Wastewater
Stephen Davis	Finance & Internal Services Dir.	Finance & Internal Services
Name	Division	Department

ACTION REQUIRED: Approve an ordinance amending (Chapter 51.136) the monthly water rates, monthly meter service charge, monthly standby fire protection service charge, monthly wholesale treated water rates outside city limits (Table W-19), add "Section 51.136 A(3) Customers may, when a common facility/building is served by multiple water meters and the water usage is for the same purpose for the water meters, petition the Water & Wastewater Director and/or the Finance & Internal Services Director to have the water consumption aggregated and have the tiered rates apply to the aggregated water quantity"; and amending monthly quantity charge, monthly services charge and extra strength surcharge (Table S-19), elimination of 51.137 B(1) and add "for domestic customers, the monthly wastewater charge shall be based on 85% of monthly water consumption"; add "Section 51.137 B(2) domestic customers with a single water meter and an existing irrigation system may petition the Water & Wastewater Director for extended time not to exceed 36 months from the adoption of the ordinance revisions to install an irrigation meter and be exempted from paying impact fees for the irrigation meter"; and amend the water and sewer ordinance (Chapter 51) to remove Public Works Director, Water & Sewer Services Superintendent and replace with Water & Wastewater Director or designee and/or Finance & Internal Services Director or designee, as appropriate.

SUMMARY EXPLANATION:

The City contracted with Black & Veatch to conduct a rate study in advance of the wastewater system improvements being completed. The rate study has been completed and contains the following recommendations: the water utility needs a rate adjustment of 10%. This rate adjustment is driven by the wholesale rate increase implemented by Beaver Water District. The wastewater utility needs a rate adjustment of 29.5% between 2003 and 2006. This rate adjustment is needed due to increased operational costs of the new wastewater treatment plant. The last time rates were adjusted for either utility was in 1997.

STAFF RECOMMENDATION: Approve ordinance revisions.

Division Head	Date
D. J. Whit — City Attorney	9/3/03 Date
Department Director	Date 8-25-03
Finance & Internal Services Dir.	8-25-03 Date
Chief Administrative Officer	9-03-03 Date
Mayor	9/3/03 Date

Received in Mayor's Office 9/3/03 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 51, WATER AND SEWERS, OF THE CODE OF FAYETTEVILLE, TO CHANGE NOMENCLATURE; AND ADJUST WATER AND SEWER RATES CONSISTENT WITH THE RECOMMENDATIONS OF THE BLACK & VEATCH RATE STUDY.

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

Section 1. That Chapter 51: Water and Sewers, Code of Fayetteville is hereby amended by deleting all references to the **"Public Works Director"** and the **"Water & Sewer Services Superintendent"**, and replacing them with "the Water & Wastewater Director or designee, or the Finance & Internal Services Director, or designee."

Section 2. That §§ 51.136 & 51.137 of the Code of Fayetteville are hereby repealed, and Exhibit "A" attached hereto and made a part hereof, is inserted in their stead.

PASSED and **APPROVED** this 16th day of September, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

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EXHIBIT "A"

51.136 Monthly Water Rates

Effective as of the first billing statements issued after December 31, 2003, the following monthly rates shall be fixed as rates to be charged for water furnished by the waterworks system of the city, which rates the City Council finds and declares to be reasonable and necessary minimum rates to be charged:

(A) Monthly treated water rates.

(1) The water usage of each customer shall be determined each month by meter measurement and the amount per 1,000 gallons to be paid for water usage by each customer shall be computed on the basis of the following schedule of rates. The minimum billing shall be 1,000 gallons per month.

Table A
Monthly Water Rates

Usage Rate (In gallons)	Inside City	Outside City
First 10,000	$2.85	$3.10
Next 290,000	2.55	2.65
Next 4,700,000	2.30	2.45
Over 5,000,000	2.00	2.10

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(2) All bills under such schedule shall be computed by adding the applicable meter service charge prescribed by subsection (B) to the amount determined to be due for water usage under this schedule. Applicable sales tax and franchise fees shall be added to the bill so computed.

(3) When a common facility/building is served by multiple water meters and the water usage is for the same purpose, customers may petition the Water & Wastewater Director and/or the Finance & Internal Services Director to have the water consumption aggregated and have the tiered rates apply to the aggregated quantity.

(B) *Monthly meter service charge.*

(1) In addition to the above, each customer shall pay a monthly meter service charge in accordance with the following schedule:

EXHIBIT "A"

Table B
Monthly Meter Service Charge*

Meter Size	Inside City	Outside City
5/8 inch	$ 3.97	$ 4.97
3/4 inch	5.40	6.79
1 inch	7.40	9.33
1 ½ inch	13.12	16.59
2 inch	18.83	23.85
3 inch	43.99	55.80
4 inch	72.58	92.11
6 inch	144.04	182.86
8 inch	215.51	273.63

(2) The monthly treated water rates and the monthly meter service charge rates prescribed by subsections (A) and (B) of this section shall commence as of the first billing statements issued after December 31, 2003 for those customers outside the city limits receiving city water, and shall continue until such time as said customers either go off service or until such time as a revised rate structure is adopted by the City Council. Customers served through the white river water district system will pay the outside city rate plus an additional $5.94 per the monthly service charge specific to this subsystem.

(C) *Monthly standby fire protection service charge*. Charges for unmetered service connections inside the city limits for standby fire protection and fire hydrants shall be:

Table C
Monthly Standby Fire Protection Service Charge

Line Size	Inside City	Outside City
2 inch	$ 4.00	$ 4.00
3 inch	12.00	12.00
4 inch	23.00	25.00
6 inch	64.00	69.00
8 inch	134.00	140.00
10 inch	230.00	248.00

* Includes $0.25 Safe Water Act Fee

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EXHIBIT "A"

(E) Monthly wholesale treated water rates outside city limits shall be:

Table D
Monthly Wholesale Treated Water Rates - Outside City Limits

Usage Rate Per 1,000 Gallons	$ 2.01
Reduced demand	1.81
Meter charge	55.55

(F) Monthly charge for fire hydrants provided water by the city for municipalities and/or districts outside the city limits for billing statements issued after December 31, 2003 shall be $10.00 per hydrant per month.

51.137 Monthly Sewer Rates

(A) *Monthly sewer rates.* All monthly sewer charges shall be calculated from the customer's monthly water usage. The following monthly rates are hereby fixed as rates to be charged for sewer services:

(1) Monthly quantity charge:

Table E-1
Monthly Quantity Charge - Usage Rates Per 1,000 Gallons Beginning *December 31, 2003*

Residential	$ 2.49
Commercial/Industrial	2.49
Outside city limits	6.03
Elkins	5.24

Table E-2
Monthly Quantity Charge - Usage Rates Per 1,000 Gallons Beginning *December 31, 2004*

Residential	$ 2.71
Commercial/Industrial	2.71
Outside city limits	6.57
Elkins	5.71

Table E-3
Monthly Quantity Charge - Usage Rates Per 1,000 Gallons Beginning *December 31, 2005*

Residential	$ 2.95
Commercial/Industrial	2.95
Outside city limits	7.16
Elkins	6.22

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EXHIBIT "A"

(2) Monthly service charge:

Table F-1 Monthly Service Charge
After *December 31, 2003*

Meter Size	Inside City	Outside City
5/8 inch	$ 7.27	$ 8.72
3/4 inch	9.89	11.87
1 inch	13.57	16.28
1½ inch	24.08	28.90
2 inch	34.60	41.51
3 inch	80.85	97.02
4 inch	133.41	160.09
6 inch	264.82	317.78
8 inch	396.22	475.47

Table F-2 Monthly Service Charge
After *December 31, 2004*

Meter Size	Inside City	Outside City
5/8 inch	$ 7.92	$ 9.50
3/4 inch	10.78	12.94
1 inch	14.79	17.75
1½ inch	26.25	31.50
2 inch	37.71	45.25
3 inch	88.13	105.75
4 inch	145.42	174.50
6 inch	288.65	346.38
8 inch	431.88	518.26

Table F-3 Monthly Service Charge
After *December 31, 2005*

Meter Size	Inside City	Outside City
5/8 inch	$ 8.63	$ 10.35
3/4 inch	11.75	14.10
1 inch	16.12	19.35
1½ inch	28.61	34.33
2 inch	41.10	49.32
3 inch	96.06	115.27
4 inch	158.51	190.21
6 inch	314.63	377.56
8 inch	470.75	564.90

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(B) *Determination of charge for domestic customers.*

(1) (a) The monthly wastewater charge for domestic customers shall be based on 85% of the customer's monthly water usage.

(b) Each domestic customer shall be required to make a $50.00 service deposit with each application for sewer service. This service deposit shall be retained in trust, without interest, by the city finance department. When service to the

depositor is discontinued permanently, said service deposit shall be applied to the final billing and the remainder, if any, returned to the depositor.

(2) Domestic customers with a single water meter and an existing irrigation system may petition the Water & Wastewater Director within 36 months of the effective date of this ordinance revision, to install an irrigation meter and to request a waiver of the meter impact fee for the pre-existing irrigation demand.

(C) *Determination of charge for commercial and industrial customers.* In the case of commercial and industrial customers the monthly sewer charge shall be determined by applying the schedule of rates prescribed in subsection (A) of this section to the monthly water usage of such customers. In the event that a commercial or industrial customer discharging waste into the city's sanitary sewer system produces evidence to the water and sewer superintendent demonstrating that a substantial portion of the total amount of water from all sources used for all purposes does not reach the sanitary sewer which is in excess of the factors used in establishing the rates in division (A) of this section, an estimated percentage of total water consumption to be used in computing charges may be established by the water and sewer superintendent. The factors used in establishing said rates are on file in the office of the water and sewer superintendent and are incorporated herein by reference thereto. Any rate so adjusted by the water and sewer superintendent shall be effective for a 12-month period beginning with the billing for the month when rates adjudged hereby go into effect.

(D) *Extra Strength Surcharge.* For all commercial and industrial customers whose wastewater discharge is greater than 300 mg/l of BOD_5 and/or TSS, the City shall levy an Extra Strength Surcharge for each parameter in accordance with the following unit charges:

	After December 31, 2003	*After December 31, 2004*	*After December 31, 2005*
(1) Extra Strength BOD_5 ---	$0.3822/lb.	0.4166/lb.	0.4541/lb.
(2) Extra Strength TSS -----	$0.2994/lb.	0.3263/lb.	0.3557/lb.

Extra Strength Surcharges shall be billed monthly and shall be computed on the basis of water meter reading (wastewater discharge volume).

(E) *Definitions.*

For the purpose of this division the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(1) *Commercial, industrial customer or user.* All retail stores, restaurants, office buildings, laundries, and other private business and service establishments which contributes wastewater to the city's wastewater treatment plant. It shall include any nongovernmental, nonresidential user of publicly owned

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treatment works which is identified in the *Standard Industrial Classification Manual, 1972, Office of Management and Budget,* as amended and supplemented, under the following divisions; Division A-Agriculture, Forestry, and Fishing; Division B-Mining; Division D-Manufacturing; Division E-Transportation, Communications, Electric, Gas and Sanitary; and Division I-Services. It also includes social, charitable, religious, and educational activities such as schools, churches, hospitals, nursing homes, penal institutions and similar institutional users; legislative, judicial, administrative, and regulatory activities of federal, state and local governments.

(2) *Domestic customer or user.* Any contributor of wastewater to the city's treatment works whose lot, parcel, or real estate, or building is used for domestic dwelling purposes only.

(3) *Infiltration/inflow.* The total quantity of water other than wastewater from both infiltration and inflow without distinguishing the source from defective pipes, pipe joints, connections, manholes, roofleaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy area, cross connections, catch basins, cooling towers, storm waters, surface runoffs, street wash water, or drainage.

(4) *Municipality.* A city, town, county, parish, district, association, or other public body (including an inter-municipal agency of two or more of the foregoing entities) created under state law having jurisdiction over disposal of sewage, industrial waste or other waste. The definition includes special districts such as water, sewer, sanitary, utility, drainage, transport, or disposal of liquid waste of the general public in a particular geographic area.

(5) *Operation and maintenance.* Those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and which such works were designed and constructed. The term "operation and maintenance" includes replacement as defined in subsection (D)(1)(f) of this section.

(6) *Replacement.* Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(7) *Treatment works.* Any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances; extensions improvement; remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply

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such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for composting sludge, temporary storage of such compost, and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

(8) *Useful life.* The estimated period during which a treatment works will be operated.

(9) *User charge.* That portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.

(10) *Water meter.* A water volume measuring and recording device, furnished and installed by the water department of the city.

(F) *Deposit of revenues; fund.*

(1) The revenues from user charges collected by the city shall be deposited in a separate non-lapsing fund known as the operation, maintenance, and replacement fund.

(2) Fiscal year-end balances in the operation, maintenance and replacement fund shall be used for no other purpose than those designated. Moneys which may be transferred from other sources to meet temporary shortages in the operations, maintenance and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates. The user charge rates shall be adjusted so that the transferred moneys will be returned to their respective accounts within six months of the fiscal year in which moneys were borrowed.

(3) *Application for review; adjustments to user.*

(a) Any user who feels his user charge is unjust and inequitable may make written application to the director of public works requesting a review of his user charge. The written request shall, where necessary, show actual or estimated flows and/or strength of his wastewater, including how the measurements were made.

(b) A review of the request shall be made by the public works director and if substantiated, the user charges for that user shall be recomputed based on the revised flow and/or strength characteristics. In no case, however, shall

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allowances or adjustments be made for claims of sewage strengths less than 300 mg/l suspended solids and 300 mg/l of BOD_5.

(c) Any adjustments will be applicable to the next billing period.

(4) *Annual review by city; revision of rates;* notification of user.

(a) The city shall review the user charges at least annually and revise the rates as necessary to ensure that adequate revenues are generated to pay the cost of operation, maintenance, and replacement, and that the system continues to provide for the proportional distribution of operation, maintenance, and replacement costs among users and user classes.

(b) The city shall notify each user at least annually, in conjunction with a regular bill, of the rates being charged for operation, maintenance and replacement of the treatment works.

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Table W-19

City of Fayetteville
Water Utility
Proposed Rates
Years 2003, 2004, and 2005
(Proposed Rates Effective January 1 of each year shown)

	2004		2005		2006	
	Fayetteville	Outside City (a)	Fayetteville	Outside City (a)	Fayetteville	Outside City (a)
Volume Charge - $/1,000 gallons						
First 10,000 gallons	2.85	3.10	2.85	3.10	2.85	3.10
Next 290,000 gallons	2.55	2.65	2.55	2.65	2.55	2.65
Next 4,700,000 gallons	2.30	2.45	2.30	2.45	2.30	2.45
Over 5,000,000 gallons	2.00	2.10	2.00	2.10	2.00	2.10
Minimum Bill (b) - $/month						
5/8"	3.97	4.97	3.97	4.97	3.97	4.97
3/4"	5.40	6.79	5.40	6.79	5.40	6.79
1"	7.40	9.33	7.40	9.33	7.40	9.33
1/2"	13.12	16.59	13.12	16.59	13.12	16.59
2"	18.83	23.85	18.83	23.85	18.83	23.85
3"	43.99	55.80	43.99	55.80	43.99	55.80
4"	72.58	92.11	72.58	92.11	72.58	92.11
6"	144.04	182.86	144.04	182.86	144.04	182.86
8"	215.51	273.63	215.51	273.63	215.51	273.63
Wholesale Water Rates						
Volume Charge - $/1,000 gallons		2.01		2.01		2.01
Reduced Demand (c) - $/1,000 gallons		1.81		1.81		1.81
Meter Charge - $/month		55.55		55.55		55.55
Private Fire Protection - $/month						
2"	4.00	4.00	4.00	4.00	4.00	4.00
3"	12.00	12.00	12.00	12.00	12.00	12.00
4"	23.00	25.00	23.00	25.00	23.00	25.00
6"	64.00	69.00	64.00	69.00	64.00	69.00
8"	134.00	145.00	134.00	145.00	134.00	145.00
10"	230.00	248.00	230.00	248.00	230.00	248.00
Public Fire Protection - $ (d)		10.00		10.00		10.00

(a) Under proposed rates, White River will pay outside City rates plus an additional $5.94 per month.
(b) Includes $0.25 Safe Water Act Fee.
(c) Applicable to customers with a storage capacity at least 2.5 times the average daily usage whose maximum daily usage does not exceed 2.0 times average daily usage.
(d) Per hydrant per month.

Table S-19

City of Fayetteville
Wastewater Utilty
Proposed Rates
Years 2003, 2004, and 2005
(Proposed Rates Effective January 1 of each year shown)

	2004		2005		2006	
	Fayetteville	Outside City	Fayetteville	Outside City	Fayetteville	Outside City
Volume Charge - $/1,000 gallons						
All Retail	2.49	6.03	2.71	6.57	2.95	7.16
Elkins		5.24		5.71		6.22
Minimum Bill - $/month						
5/8"	7.27	8.72	7.92	9.50	8.63	10.35
3/4"	9.89	11.87	10.78	12.94	11.75	14.10
1"	13.57	16.28	14.79	17.75	16.12	19.35
1 1/2"	24.08	28.90	26.25	31.50	28.61	34.33
2"	34.60	41.51	37.71	45.25	41.10	49.32
3"	80.85	97.02	88.13	105.75	96.06	115.27
4"	133.41	160.09	145.42	174.50	158.51	190.21
6"	264.82	317.78	288.65	346.38	314.63	377.56
8"	396.22	475.47	431.88	518.26	470.75	564.90
Excess Strength Surcharge - $/lb						
BOD over 300 mg/l	0.3822		0.4166		0.4541	
Suspended Solids over 300 mg/l	0.2994		0.3263		0.3557	

mg/l - milligrams per liter

August 7, 2003

Alderman Robert Reynolds
P.O. Box 1625
Fayetteville, AR 72702

RE: Water and Wastewater Rate Study
Fayetteville Benchmarking Study
Overview and Preliminary Schedule

Dear Alderman Reynolds,

Attached for your review and reference, please find copies of the Water and Wastewater Rate Study and the Fayetteville Benchmarking Study as prepared by Black and Veatch. A detailed presentation on both work products is scheduled for a Water and Sewer Committee Meeting immediately following the City Council Agenda session on August 12, 2003, with more abbreviated presentations to follow as necessary.

This letter is provided to summarize the key issues and objectives of both activities and to outline a tentative schedule for City Council actions. The process planned for the water and wastewater rate changes provides ample lead time for stakeholder reviews while still complying with the schedule constraints imposed by external sources (Arkansas Soil and Water Conservation Commission, Beaver Water District, Water and Wastewater Operations Budget). Much of this work has been completed for some time; however, it was not prudent to bring these issues before the committee and City Council until formal approval of the rate study by the Arkansas Soil and Water Conservation Commission was received (copy of July 25, 2003 approval letter enclosed).

Based upon scheduling factors and external constraints, the proposed timeline for the water and wastewater rate changes are highlighted as follows:

TARGET DATE	ACTIVITY
August 12, 2003	**Black and Veatch Presentation to Water and Sewer Committee**
August 13, 2003 (8:00 am – 12:00 pm)	**Open Workshop for local elected officials, contract customers and other extended concerns – Black and Veatch to chair workshop**
September 16, 2003	**First Reading of Rate Change Ordinance-preceded by Black and Veatch overview**
October 7, 2003	**Second Reading of Rate Change**

	Ordinance
October 21, 2003	Third and Final Reading of Rate Change Ordinance
October, 2003	Submit Rate Change Ordinance to Arkansas Soil and Water Conservation Commission
November, 2003	Beaver Water District to institute a 15% rate increase for customers
January, 2004	Billings to Fayetteville customers reflect water and wastewater rate changes

Integrated within these proposed milestone dates will be media notices, customer billing inserts, public meeting (if necessary), large-customer notices, and other public information tasks found appropriate.

WATER AND WASTEWATER RATE STUDY SUMMATION

- Water rates will increase an average of 10%, primarily as a result of bulk water rate increase by Beaver Water District
- Wastewater rates will increase by an average of 9%, reflecting the first step of a 28% total cost increase associated with the wastewater system improvement
- New policy allows contiguous integrated complexes to stack their water use, once customer charges are satisfied
- New rate methodology which bases wastewater charges on water charges is proposed to mirror utility industry practices, reduce administrative burdens and improve billing accuracy. Removal of winter averaging includes a compensating reduction in residential charges, making this a revenue-neutral methodology change
- New water and wastewater rates have been similarly completed for all customer classes and service jurisdictions providing an equitable distribution of expenses using cost of service

FAYETTEVILLE BENCHMARKING STUDY OBJECTIVES

- Various performance measures for similar utility systems have been completed to allow a comparative analysis of Fayetteville with peer communities
- Benchmarking data will be analyzed to reveal current operating strengths
- Benchmarking data will be critically evaluated to reveal opportunities for further improvements in operations
- Benchmarking information is being reviewed by department managers, and will be used for strategic improvements in future operations

CONCLUSIONS AND RECOMMENDATIONS

The immediate actions to be considered by the Fayetteville City Council relate only to utility rate methodology and rate structure, the benchmarking data will be used for continuing strategic analysis of operations. The recommended changes to water and

wastewater rate systems are necessary to maintain solvency of the enterprise operations and are consistent with communications set forth during the wastewater projects sales tax election. The recommended actions set forth in the proposed ordinance pose changes as follows:

- ✓ Replace winter averaging with an equivalent reduction in the residential rates-revenue neutral
- ✓ Allow stacking of water use for large complexes
- ✓ Institute nominal 10% water rate increase in 2004
- ✓ Phase in 9% wastewater rate increase in 2004 (part of 28% rate increase linked to wastewater improvement project)

We respectfully recommend the City Council's approval of the water and wastewater rate system changes.

Very truly yours,

CITY OF FAYETTEVILLE, ARKANSAS

Greg Boettcher
Water & Wastewater Director

Stephen Davis
Finance & Internal Services Director

cc: Hugh Earnest, Chief Administrative Officer
David Jurgens, Water & Sewer Maintenance Superintendent
Don Osburn, Water Services Supervisor
Rainy Laycox, Business Office Supervisor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and
Fayetteville City Council

FROM: Greg Boettcher, P.E.,
Water & Wastewater Director GB

COPY: Steve Davis, Hugh Earnest, Kit Williams

DATE: July 23, 2003

RE: **Rate Adjustment Notification**
External Customer Groups

Under the terms of our contracts with external customer groups, it is necessary that written notice be provided for forthcoming rate schedule adjustments. A copy of the typical letter being forwarded to such entities is attached for your information. Detailed information on adjustments, justifications and recommended actions will be provided to you in the coming weeks. This information is provided for your awareness should any of these entities report same to the media. Our external customer notifications were mailed to:

- **City of Elkins**
- **City of Farmington**
- **City of Goshen**
- **City of Greenland**
- **City of Johnson**
- **Mount Olive Water Authority**
- **City of West Fork**
- **Washington County Rural Development Authority**

THE CITY OF FAYETTEVILLE, ARKANSAS

July 23, 2003

Mayor Wallace Brt
City of Elkins
P.O. Box 331
Elkins, AR 72727

RE: **WATER AND WASTEWATER RATE ADJUSTMENT**
Water Purchase Contract-May 21, 1991
Wastewater Service Contract-July 23, 1981

Dear Mayor Brt:

In accordance with the provisions of the above noted contracts, this letter is provided as notice of a pending adjustment to the Elkins' rate schedule. The City of Fayetteville has retained Black and Veatch of Kansas City, Missouri to perform a cost of service study for Fayetteville's water and wastewater enterprises. The use of this firm complies with the determinations made sometime prior to 1991 by a joint selection committee that said firm perform such financial analyses. This study has been completed, and is currently under the review of the Arkansas Soil and Water Conservation Commission. We expect to receive written approval of the cost of service findings, enabling formal consideration of the recommended adjustments by Fayetteville government in the coming months. The nature and effective date of water and wastewater rate adjustments cannot be guaranteed at this time, as final decisions rest with our elected officials.

A tentative schedule has been proposed for the implementation of the adjusted cost of services, with key activities being noted as follows:

August 12, 2003	Fayetteville Water and Sewer Committee receives rate study presentation by Black and Veatch
August 13, 2003	Continuous rate study workshop in room 326, City Hall, Fayetteville, Arkansas for neighboring community representatives (Elkins, Farmington, Goshen, Greenland, Farmington, Johnson, Mount Olive Water Authority and West Fork)
September 2003	Fayetteville City Council considers water and wastewater rate adjustments
November 2003	Beaver Water District Rate Increase becomes effective
January 2004	Customer billings after January 1, 2004 reflect water and wastewater cost of service adjustments

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

The details of the water and wastewater rate adjustments will be defined in explicit terms for our customers in the coming months. Due to the use of "cost of service" methodology, the adjustments proposed will vary according to customer class to provide an equitable rate structure. The primary factor in the water rate adjustment is the increased cost of potable water being levied by Beaver Water District. The upgrading, expansion and enhancement of this water supply requires a rate increase to meet operation, maintenance and debt service obligations. Similarly, the improvement of the Fayetteville wastewater system and increasingly stringent operating requirements necessitate rate adjustments to meet growing operation, maintenance and replacement costs. The wastewater rate service adjustments are softened dramatically by Fayetteville citizens approving a ¾-cent sales tax to make debt service payments on the $125 million of capital costs. This action reduced the typical customer's wastewater rate increase from 134% to only 28%. In the current cost of service rate study, only a portion of the rate increase is to be implemented in 2004. Such an approach will allow customers to be transitioned gradually to the new wastewater service charges, matching the phased expense increases.

We will be in contact as firm dates for meetings are developed. Should there be questions, please feel free to contact either Steve Davis or the undersigned at 479-575-8330.

Sincerely,
City of Fayetteville

Greg Boettcher
Water & Wastewater Director

GB/pkh

cc: Kit Williams
Hugh Earnest
David Jurgens

Steve D

BIP - DESIGN - COSTS FILE (NEW)

Arkansas Soil & Water Conservation Commission

Amend Chapter 51.136 M

J.Randy Young, PE
Executive Director

101 East Capitol, Suite 350
Little Rock, Arkansas 72201
www.accessarkansas.org/aswcc

Phone: (501) 682-1611
Fax: (501) 682-3991
E-mail: aswcc@mail.state.ar.us

Mike Huckabee
Governor

RECEIVED
JUL 28 2003
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

July 25, 2003

The Honorable Dan Coody
Mayor, City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Arkansas Soil and Water Conservation Commission – Arkansas Clean Water State Revolving Loan Fund Program – City of Fayetteville – 00183-CWRLF-L– User Charge System

Dear Mayor Coody:

The proposed User Charge System, comprised of the User Charge Ordinance and RLF-122 rate structure documentation, is approved and a copy is enclosed for your project records.

Amendment number 1 to the Memorandum of Agreement, dated March 24, 2003, between the City of Fayetteville and the Arkansas Soil and Water Conservation Commission requires that the enacted rate ordinance be submitted by January 5, 2004. When you officially enact the Ordinance, please submit the following documents to our office:

1. Certified copy of the Ordinance
2. Proof of publication of the notice of public hearing
3. Transcript or minutes of the public hearing
4. Proof of publication of the User Charge Ordinance

Any future Ordinances affecting your rate structure must be in accordance with program requirements and must be approved by the Commission before enactment.

At some point in the near future, your Bond Counsel should begin preparation of the draft Bond Ordinance and Bond Purchase Agreement for this project. Considering application certification is not estimated until April 2004 and construction might not be ready to commence until May 2004, it is still premature; however, when the City is ready to involve its Bond Counsel, I recommended that he/she contact me to establish a tentative schedule regarding the preparation and submittal of these documents for review.

Thank you for your interest and cooperation in bringing this project closer to completion. If you have any questions or need assistance, please contact me at (501) 682-3086 or e-mail scott.savoy@mail.state.ar.us.

Sincerely,

Scott J. Savoy
Project Administrator

Enclosure

cc: Greg Boettcher, P.E, Water & Wastewater Director, 113 West Mountain Street, Fayetteville, AR 72701 w/enclosure

PROPOSED USER CHARGE SYSTEM CHECKLIST

PROJECT NAME: **Fayetteville, ARKANSAS**

PROJECT NUMBER: **CS-050803-03**

YES NO

_X___ ____ 1.Each user (or user class) pays its proportionate share of operation, maintenance and replacement (OM&R) costs based upon their total wastewater discharge into the system.

_X__ ____ 2. The UCS has an adequate surcharge system for excessive strength wastewater discharges.

_X___ ____ 3.All users are notified annually, in conjunction with a regular bill, of the rate and portion of user charges which are attributable to wastewater treatment costs for OM&R. If notification is not through a regular bill, list other method: _____

_X___ ____ 4.Provide for an adequate financial management system?

_X___ ____ 5.Account accurately for all revenues generated by the system derived from OM&R, administration and debt service charges?

____ __X__ 6.Will the project involve a revenue-producing technology? If not, mark N/A. If so,

a. List annual revenue estimate: $_____.

b. Does UCS include method to adjust user charges to account for this revenue?

_____

_X___ ____ 7.Does the project accept wastewater from other municipalities? If not, mark N/A. If so,

_X___ ____ a. Are these municipalities subject to the applicant's User Charge System?

_X___ ____ b. If not, refer to Procedures For User Charge System, Section IIB, for review guidance.

_X___ ____ 8.The proposed User Charge Ordinance states that it will take precedence over all existing terms, ordinances, agreements or contracts pertaining to User Charges that conflict with its provisions.

_X__ ____9. Are User Charge rates consistent with project cost estimates contained in the Facility Plan (FP), Environmental Information Document (EID) and financial capability analysis? If not, discuss the situation with the Environmental Review Coordinator to see if a new Public Hearing will be necessary or if the FP, EID or Finding of No Significant Impact will need to be amended.

__X__ ____10. Is a pretreatment program in existence or required for this project? If so, list annual pretreatment costs: $_____

Indicate how these costs are/will be distributed among affected parties:

Pretreatment is user responsibility, only costs are extra strength surcharges

11. Total Project Cost: **$ 125,000,000**
RLF Amount: **$ 100,000,000**
Local Funds: **$ 25,000,000**
Other Funding Sources:* $ _____

*Note: List Other Funding Agencies:

_____

12. Annual OM&R Costs:
Operation: **$ 9,914,344**
Maintenance: **$ 1,351,956**
Replacement: **$ 168,600**

Total: **$ 11,434,900**

13. Annual Debt Service Costs:
Existing: **$ 390,000**
Future: $ (sales tax to pay new debt service)
Total: **$ 390,000**

14. Total Annual UCS Costs (12 + 13):
$ 11,824,900

Total Annual UCS Revenue (Estimate)
$ 12,389,500

If expenses exceed revenues, consult Planning Section Manager for guidance.

15. Does the proposed User Charge Ordinance contain the following information:

_X___ ____ a.Defines purpose of Ordinance and how revenue will be utilized.

_X___ ____ b.Incorporates RLF model ordinance terminology.

_X___ ____ c.Rate structure and minimum bill are clearly defined so that rates and charges, which are subject to annual revision, can be easily changed without affecting other sections of the Ordinance.

_X__ ____ d.Defines appeal procedures for users who question rates and actions for delinquent payment.

_X___ ____ e. Ordinance contains invalidity clause.

Reviewed By: Scott Sanzy (Project Administrator)

Comments:
The purpose of this proposed User Charge Ordinance is well defined with RLF model ordinance terminology incorporated throughout.

NOTE: Ensure That the User Charge System Methodology is attached.

Financial Capability Reviewed By: Regina Funck

RLF Fund Manager's Comments:

Date comment letter sent regarding deficiencies: _____

Date approval letter drafted (RLF-31): _____

COPY

IV. User Charge Calculation:

A. The user charge methodology and costs are set forth in the attached study titled "Draft Report on Revenue Requirements, Costs of Service and rates for water and Wastewater Service" as developed by Black and Veatch in March of 2003. User charge design considers fixed and variable costs of service with equitable allocations of the costs to the various customer classes.

B. The proposed rates that will be in effect in 2006 (using a phase in of the design rate over several years)are set forth in the following table as per the rate study:

VOLUME CHARGES-COST PER 1,000 GALLONS

RATE CATEGORY	EXISTING	2006
Residential-Fayetteville	$2.39	$2.95
Residential-Outside City	$4.00	$7.16
Commercial-Fayetteville	$1.87	$2.95
Commercial-Outside City	$4.00	$7.16
Retail-Fayetteville		$2.95
Retail-Outside City		$7.16
Elkins-Wholesale	$1.80	$6.22

CUSTOMER CHARGES-MINIMUM MONTHLY COST

Meter Size	Existing-Fayetteville	2006-Fayetteville	Existing-Outside	2006-Outside
5/8"	$8.00	$8.63	$9.60	$10.35
¾"	$ 9.25	$11.75	$11.10	$14.10
1"	$10.40	$16.12	$12.48	$19.35
1-1/2"	$14.54	$28.16	$17.45	$34.33
2"	$19.36	$41.10	$23.23	$49.32
3"	$40.40	$96.06	$48.48	$115.27
4"	$71.11	$158.51	$85.33	$190.21
6"	$135.75	$314.63	$162.90	$377.56
8"	$213.08	$470.75	$255.70	$564.90

EXTRA STRENGTH SURCHARGE-COST PER POUND

Parameter	Current Charge	2006 Charge
BOD over 300mg/l	$0.2061	$0.4541
Suspended Solids over 300 mg/l	$0.1030	$0.3557

FAYETTEVILLE-CLEAN WATER
RATE PRESENTATION - CURRENT RATES

REVISED 6/10/03

LOAN AMOUNT	$100,000,000	
RATE	3.25%	
TERM	20 YEARS	
ANNUAL BILLABLE WATER		
FAYETTEVILLE	2,936,201,000	EST.
OUTSIDE CITY	115,645,000	EST.
ELKINS-WHOLESALE	12,954,000	EST.
	3,064,800,000	
OPERATION & MAINTENANCE	$11,637,900	
REPLACEMENT	$0	
ANNUAL OM&R REQUIRED	$11,637,900	
CURRENT DEBT SERVICE	$390,045	
RLF DEBT SERVICE	$0	PAID BY SALES TAX
ANNUAL DEBT SERVICE REQ.	$390,045	

USER CLASSES/NO. OF CUSTOMERS PER CLASS

FAYETTEVILLE-RES.	21,361	2000 + EST.
OUTSIDE CITY-RES.	1,672	
FAYETTEVILLE-COMM	1,477	
OUTSIDE CITY-COMM	71	
TOTAL NO. OF USERS	24,581	

MINIMUM GALLONS BILLED 1,000

CUSTOMER CHARGES-MINIMUM MONTHY COST
5/8" METER SIZE

FAYETTEVILLE	$8.00
OUTSIDE CITY	$9.60

VOLUME CHARGE PER 1,000 GALLONS

FAYETTEVILLE	$2.39
OUTSIDE CITY	$4.00
ELKINS-WHOLESALE	$1.80

MINIMUM BILL FOR FAYETTEVILLE-RESIDENTIAL

$8.00	MININUM MONTHLY COST
$2.39	VOLUME CHARGE 1,000 GAL
$10.39	MINIMUM BILL FOR 1,000 GAL/MO

CUSTOMER CHARGES-MINIMUM MONTHY COST

FAYETTEVILLE-RES.	$8.00	X	21,361	X	12 MO. =	$2,050,656
OUTSIDE CITY-RES	$9.60	X	1,672	X	12 MO. =	$192,614
FAYETTEVILLE-COMM	$8.00	X	1,477	X	12 MO. =	$141,792
OUTSIDE CITY-COMM	$9.60	X	71	X	12 MO. =	$8,179
			24,581			

BILL FOR 4,000 GALLONS FAYETTEVILLE-RESIDENTIAL

$8.00	MININUM MONTHLY COST
$9.56	VOLUME CHARGE 4,000 GAL
$17.56	BILL FOR 4,000 GAL/MO

TOTAL MINIMUM MONTHLY COST $2,393,242

BILL FOR 6,000 GALLONS FAYETTEVILLE-RESIDENTIAL

$8.00	MININUM MONTHLY COST
$14.34	VOLUME CHARGE 6,000 GAL
$22.34	BILL FOR 6,000 GAL/MO

VOLUME CHARGE

		IN 1,000 GALLONS			
FAYETTEVILLE	$2.39	X	2,936,201		$7,017,521
OUTSIDE CITY	$4.00	X	115,645		$462,579
ELKINS-WHOLESALE	$1.80	X	12,954		$23,317
			3,064,800		
TOTAL VOLUME CHARGE					$7,503,417

MINIMUM BILL FOR OUTSIDE CITY

$9.60	MININUM MONTHLY COST
$4.00	VOLUME CHARGE 1,000 GAL
$13.60	MINIMUM BILL FOR 1,000 GAL/MO

TOTAL REVENUE $9,896,659

VARIOUS METER SIZES (5/8" TO 8")-USED 5/8"

REQUIRED DEBT SERV.	($390,045)
REQUIRED OM&R	($11,637,900)
NET	($2,131,287)

FAYETTEVILLE-CLEAN WATER
RATE PRESENTATION - PROPOSED RATES-Black & Veatch

REVISED 5/12/03

LOAN AMOUNT	$100,000,000	
RATE	3.25%	
TERM	20 YEARS	
ANNUAL BILLABLE WATER		
FAYETTEVILLE	2,936,201,000	EST.
OUTSIDE CITY	115,645,000	EST.
ELKINS-WHOLESALE	12,954,000	EST.
	3,064,800,000	
OPERATION & MAINTENANCE	$11,637,900	
REPLACEMENT	$0	
ANNUAL OM&R REQUIRED	$11,637,900	
CURRENT DEBT SERVICE	$390,045	
RLF DEBT SERVICE	$0	PAID BY SALES TAX
ANNUAL DEBT SERVICE REQ.	$390,045	

USER CLASSES/NO. OF CUSTOMERS PER CLASS		
FAYETTEVILLE-RES.	21,361	2000 + EST.
OUTSIDE CITY-RES.	1,672	
FAYETTEVILLE-COMM	1,477	
OUTSIDE CITY-COMM	71	
TOTAL NO. OF USERS	24,581	

MINIMUM GALLONS BILLED 1,000

CUSTOMER CHARGES-MINIMUM MONTHY COST
5/8" METER SIZE

FAYETTEVILLE	$8.63
OUTSIDE CITY	$10.35

VOLUME CHARGE PER 1,000 GALLONS

FAYETTEVILLE	$2.95
OUTSIDE CITY	$7.16
ELKINS-WHOLESALE	$6.22

MINIMUM BILL FOR FAYETTEVILLE-RESIDENTIAL

$8.63	MININUM MONTHLY COST
$2.95	VOLUME CHARGE 1,000 GAL
$11.58	MINIMUM BILL FOR 1,000 GAL/MO

CUSTOMER CHARGES-MINIMUM MONTHY COST

FAYETTEVILLE-RES.	$8.63	X	21,361	X 12 MO. =	$2,212,145
OUTSIDE CITY-RES	$10.35	X	1,672	X 12 MO. =	$207,662
FAYETTEVILLE-COMM	$8.63	X	1,477	X 12 MO. =	$152,958
OUTSIDE CITY-COMM	$10.35	X	71	X 12 MO. =	$8,818
			24,581		

BILL FOR 4,000 GALLONS FAYETTEVILLE-RESIDENTIAL

$8.63	MININUM MONTHLY COST
$11.80	VOLUME CHARGE 4,000 GAL
$20.43	BILL FOR 4,000 GAL/MO

TOTAL MINIMUM MONTHLY COST $2,581,584

BILL FOR 6,000 GALLONS FAYETTEVILLE-RESIDENTIAL

$8.63	MININUM MONTHLY COST
$17.70	VOLUME CHARGE 6,000 GAL
$26.33	BILL FOR 6,000 GAL/MO

VOLUME CHARGE

		IN 1,000 GALLONS		
FAYETTEVILLE	$2.95	X	2,936,201	$8,661,794
OUTSIDE CITY	$7.16	X	115,645	$828,016
ELKINS-WHOLESALE	$6.22	X	12,954	$80,574
			3,064,800	
TOTAL VOLUME CHARGE				$9,570,384

MINIMUM BILL FOR OUTSIDE CITY

$10.35	MININUM MONTHLY COST
$7.16	VOLUME CHARGE 1,000 GAL
$17.51	MINIMUM BILL FOR 1,000 GAL/MO

TOTAL REVENUE	$12,151,968
REQUIRED DEBT SERV.	($390,045)
REQUIRED OM&R	($11,637,900)
NET	$124,022

1

ASWCC MINIMUM REQUIREMENT

FAYETTEVILLE-CLEAN WATER
RATE PRESENTATION - PROPOSED RATES

00183-CWSRF-L

REVISED 6/10/03

LOAN AMOUNT	$100,000,000	
RATE	3.25%	
TERM	20 YEARS	
ANNUAL BILLABLE WATER		
FAYETTEVILLE	2,936,201,000	EST.
OUTSIDE CITY	115,645,000	EST.
ELKINS-WHOLESALE	12,954,000	EST.
	3,064,800,000	
OPERATION & MAINTENANCE	$11,637,900	
REPLACEMENT	$0	
ANNUAL OM&R REQUIRED	$11,637,900	
CURRENT DEBT SERVICE	$390,045	
RLF DEBT SERVICE	$0	PAID BY SALES TAX
ANNUAL DEBT SERVICE REQ.	$390,045	

USER CLASSES/NO. OF CUSTOMERS PER CLASS

FAYETTEVILLE-RES.	21,361	2000 + EST.
OUTSIDE CITY-RES.	1,672	
FAYETTEVILLE-COMM	1,477	
OUTSIDE CITY-COMM	71	
TOTAL NO. OF USERS	24,581	

MINIMUM GALLONS BILLED 1,000

CUSTOMER CHARGES-MINIMUM MONTHY COST
5/8" METER SIZE

FAYETTEVILLE	$8.00
OUTSIDE CITY	$9.60

VOLUME CHARGE PER 1,000 GALLONS

FAYETTEVILLE	$3.20
OUTSIDE CITY	$4.20
ELKINS-WHOLESALE-VOLUME ONLY	$6.00

MINIMUM BILL FOR FAYETTEVILLE-RESIDENTIAL

$8.00	MININUM MONTHLY COST
$3.20	VOLUME CHARGE 1,000 GAL
$11.20	MINIMUM BILL FOR 1,000 GAL/MO

CUSTOMER CHARGES-MINIMUM MONTHY COST

FAYETTEVILLE-RES.	$8.00	X	21,361	X 12 MO. =	$2,050,656
OUTSIDE CITY-RES	$9.60	X	1,672	X 12 MO. =	$192,614
FAYETTEVILLE-COMM	$8.00	X	1,477	X 12 MO. =	$141,792
OUTSIDE CITY-COMM	$9.60	X	71	X 12 MO. =	$8,179
			24,581		

BILL FOR 4,000 GALLONS FAYETTEVILLE-RESIDENTIAL

$8.00	MININUM MONTHLY COST
$12.80	VOLUME CHARGE 4,000 GAL
$20.80	BILL FOR 4,000 GAL/MO

TOTAL MINIMUM MONTHLY COST $2,393,242

BILL FOR 6,000 GALLONS FAYETTEVILLE-RESIDENTIAL

$8.00	MININUM MONTHLY COST
$19.20	VOLUME CHARGE 6,000 GAL
$27.20	BILL FOR 6,000 GAL/MO

VOLUME CHARGE

		IN 1,000 GALLONS		
FAYETTEVILLE	$3.20	X	2,936,201	$9,395,844
OUTSIDE CITY	$4.20	X	115,645	$485,708
ELKINS-WHOLESALE	$6.00	X	12,954	$77,724
			3,064,800	
			TOTAL VOLUME CHARGE	$9,959,276

MINIMUM BILL FOR OUTSIDE CITY

$9.60	MININUM MONTHLY COST
$4.20	VOLUME CHARGE 1,000 GAL
$13.80	MINIMUM BILL FOR 1,000 GAL/MO

TOTAL REVENUE $12,352,518

VARIOUS METER SIZES (5/8" TO 8")-USED 5/8"

REQUIRED DEBT SERV.	($390,045)
REQUIRED OM&R	($11,637,900)
NET	$324,572

RECEIVED
JUL 15 2003
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

BLACK & VEATCH

11401 Lamar Avenue
Overland Park, Kansas 66211 USA

tel: (913) 458-2000

Black & Veatch Corporation

July 14, 2003

Mr. Stephen Davis
Finance and Internal Services Director
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mr. Davis:

In response to the Arkansas Soil & Water Conservation Commission letter dated June 25, 2003 regarding sewer charges to the City of Elkins, we are providing the following information.

The City of Fayetteville provides wastewater treatment service to the City of Elkins on a wholesale basis. Wastewater from Elkins is received into the Fayetteville system by way of a trunk sewer. As such, the City of Elkins does not utilize the smaller lateral sewer lines in the Fayetteville collection system, and should not share in costs associated with lateral sewer lines.

The allocation process is illustrated in the attached tables from our rate report. Table S-9 shows the allocation of net plant investment. Costs associated with larger trunk sewer lines are utilized by all customers inside and outside the City of Fayetteville, whether served on a retail or wholesale basis. Trunk sewer lines are therefore assigned to the "Common to All" category. Because lateral sewer lines are utilized by only those customers served on a retail basis, those costs are assigned to the "Retail Only" category.

Allocation of depreciation expense, shown in Table S-10, is similar to the allocation of net plant investment.

The result of the allocation process is that the rate for Elkins ($6.22 per 1,000 gallons) is lower than the rate to other outside city customers such as Farmington, Greenland, and Growth Area that are served on a retail basis.

We trust the enclosed information adequately explains the rate differential in question. Should additional questions arise, however, we will be happy to respond.

Very truly yours,

BLACK & VEATCH CORPORATION

Blaine W. Bickel

Blaine W. Bickel

BWB/mdp
Enclosures

Table S-9

City of Fayetteville
Wastewater Utility
Allocation of Net Plant Investment
to Functional Cost Components
Test Year 2006

Line No		Total Net Plant Investment (a)	Common to All				Retail Only
				Wastewater Strength			
			Volume	BOD	SS	Customer	Volume
		$	$	$	$	$	$
		G-12					
	Collection System						
1	Trunk Sewer Lines	27,725,700	27,725,700				
2	Lateral Sewer Lines	14,164,200					14,164,200
3	Connections	640,200				640,200	
4	Subtotal Collection System	42,530,100	27,725,700	0	0	640,200	14,164,200
5	Wastewater Treatment Plant	113,126,100	45,250,500	45,250,400	22,625,200		
6	General Plant & Equipment	1,164,600	545,900	338,600	169,300	4,800	106,000
7	Total Net Plant Investment	156,820,800	73,522,100	45,589,000	22,794,500	645,000	14,270,200
	Percent of Total	100.0%	46.9%	29.1%	14.5%	0.4%	9.1%

(a) Excludes contributed plant.

Table S-10

City of Fayetteville
Wastewater Utility
Allocation of Annual Depreciation Expense to Functional Cost Components
Test Year 2006

Line No		Total Plant Net Annual Depreciation (a)	Common to All				Retail Only
				Wastewater Strength			
			Volume	BOD	SS	Customer	Volume
		$	$	$	$	$	$
		G-12					
	Collection System						
1	Trunk Sewer Lines	187,000	187,000				
2	Lateral Sewer Lines	302,300					302,300
3	Connections	26,000				26,000	
4	Subtotal Collection System	515,300	187,000	0	0	26,000	302,300
5	Wastewater Treatment Plant	3,540,900	1,416,300	1,416,400	708,200		
6	General Plant & Equipment	23,400	9,300	8,200	4,100	100	1,700
7	Total Depreciation Expense	4,079,600	1,612,600	1,424,600	712,300	26,100	304,000
	Percent of Total	100.0%	39.5%	34.9%	17.5%	0.6%	7.5%

(a) Excludes contributed plant.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

Left on 1st Reading 10/7/03

CITY COUNCIL AGENDA ITEM

TO: Mayor Dan Coody and Fayetteville City Council

THRU: Hugh Earnest, Chief Administrative Officer
Stephen Davis, Finance & Internal Services Director

FROM: Kevin Springer, Budget Manager

DATE: September 17, 2003

SUBJECT: **2003 Millage Levy**

Recommendation:

Staff recommends the levy of 2.8 mils on real and personal property taxes for 2004. The millage levy is comprised of the following:

Millage Item	Millage Type	Millage Amount
General Fund Operations	discretionary	1.0
Library (approved in 2002)	voter approved	1.0
Fire Pension & Relief Fund	voter approved	0.4
Police Pension & Relief Fund	voter approved	0.4
Total		2.8

Background:

Each year the City must approve an ordinance to renew the levy of ad valorem taxes on real and personal property within the City. This request will provide for such levy on property assessed during 2003.

A millage levy ordinance must be approved by City Council in order for the City to continue to collect property taxes for the Policemen's Pension and Relief Fund and the Firemen's Pension and Relief Fund. The millage levy for the Policemen's Pension and Relief Fund is 0.4 mils for real

property and 0.4 mils on personal property. The millage levy for the Firemen's Pension and Relief Fund is 0.4 mils for real property and 0.4 mils on personal property.

In addition, a millage levy must be approved for the operation of the Fayetteville Public Library that was approved by the voters on October 1, 2002. The millage levy for the Fayetteville Public Library is 1.0 mils for real property and 1.0 mils on personal property.

The total assessed value of real and personal property located within the city limits of Fayetteville, as of September 14, 2003, is approximately $689 million. The assessed valuation is before the Washington County Board of Equalization has made all the changes to the County Assessors Abstract. Based on the preliminary assessments, the growth in real estate assessments is approximately 7.2%. The change in assessed real estate value is due to newly discovered, newly constructed property (6.2%) and reassessment of existing property (1.0%). The final assessments are anticipated from Washington County mid October.

Discussion:

In addition to the mils authorized for Police Pension, Fire Pension, and the Fayetteville Public Library, City Council has the option of approving the assessment of up to 5 discretionary mils on real and personal property. City Council may choose to exercise its option to levy some or all these discretionary 5 mils to provide a financial cushion to General Fund to offset the budget shortfalls as a result of lower than projected sales tax collections.

During the August 4, 2003 Budget Briefing to City Council, staff recommended that City Council approve 1.0 mil for the operation of Fire Station #7.

Even with the additional 1.0 mil slated for the operation of Fire Station #7, General Fund needs an additional 1.0 mil or $678,000 in revenue to balance the 2004 Budget. This millage does not provide any funding for this projected expense nor is any funding made available for either requested moneys to fund current services or to address any pay range or benefit cost increases.

Funding Item	**Amount**	**Millage Needed**
Current budget shortfalls due to Sales Tax collections	678,000	1.00
Identified funding needs to maintain operations at existing service levels.	323,000	0.50
Total	1,001,000	1.50

The combined funding needed to balance General Fund and provide funds to continue existing services at current levels is $1,001,000 or an additional 1.5 mils.

This additional revenue could come from increased sales tax collections, increases in franchise fees, or a combination of these items plus user fee increases.

Budget Impact:

If the millage is not approved for General Fund operations, the impact for 2004 will be a budget deficit of $1,641,000. This would reduce the 2004 projected ending fund balance amount to $4,185,000 which is $37,000 below the Required Fund Balance Reserve amount approved by City Council in 2002.

Conclusion:

The millage levy must be at Washington County, November 6 to be included in their consolidated levy ordinance which will be approved at the November 13, Quorum Court meeting. The City levy will be added to the levies by Washington County, the various school districts, improvement districts and other cities within the County when the Washington County Quorum Court adopts its millage levy for 2003.

If you have any questions concerning this agenda request please contact either myself at 575-8226 or Stephen Davis at 575-8330.

City of Fayetteville
Property Tax Revenue per Mil
August 2, 2003

Millage	Approximate Revenue
0.10	$ 66,000
0.20	$ 131,000
0.30	$ 197,000
0.40	$ 262,000
0.50	$ 328,000
0.60	$ 393,000
0.70	$ 459,000
0.80	$ 524,000
0.90	$ 590,000
1.00	$ 655,000
2.00	$ 1,310,000
3.00	$ 1,965,000
4.00	$ 2,620,000
5.00	$ 3,275,000

The millage revenue reflected above is based on the Washington County Preliminary Summary Report of County Assessments for the Year 2003 dated August 2, 2003 and excludes real and personal property for Utilities. The City Council can approve up to 5.0 mils for operations. The table assumes a 95% collection rate. Total real and personal property assessments for 2003 amount to approximately $689 million excluding real estate and personal property for utilities.

The change in assessed value for real estate from 2002 to 2003 is approximately $37.9 million or 7.2%. The change in assessed real estate value is due to newly discovered, newly constructed property (6.2%) and reassessment of existing property (1.0%). This change is offset by a total reduction of approximately $37.4 million in the assessed value for personal property. The net change for all assessments is approximately $0.5 million or 0.07%. It is noteworthy to mention that personal property continues to be assessed right up until the values are turned over for collection. The current negative amounts are preliminary and are being compared to last year's final totals.

Property Tax Impact Illustration

	Appraised Value	Assessed Value	1 Mil Tax / Year
Single Family Home	$ 75,000.00	$ 15,000.00	$ 15.00
Single Family Home	$ 100,000.00	$ 20,000.00	$ 20.00
Single Family Home	$ 150,000.00	$ 30,000.00	$ 30.00

H:\BUDGET\PROJECTS\MILLAGE\Millage Increase - 2003.xls

WASHINGTON COUNTY
STATE OF ARKANSAS
Washington County Courthouse
280 North College - Suite 250
Fayetteville, Arkansas 72701

LEE ANN KIZZAR
COUNTY ASSESSOR

TELEPHONE
479/444-1500

August 12, 2003

Mr. Steve Davis
Budget Officer
113 W Mountain
Fayetteville AR 72701

Dear Mr. Davis

Enclosed is a copy of the Preliminary Summary Report of County Assessments for the Year 2003.

Please remember that personal property continues to be assessed right up until the values are turned over for collection. Don't be alarmed that many of the personal property increases are negative. These preliminary totals are being compared to last year's final totals.

I hope you find this information useful. Please feel free to call me if you have any questions.

Sincerely

Lee Ann Kizzar

Lee Ann Kizzar

Washington County
Preliminary Summary Report of County Assessments for the Year 2003

School District Totals

	2002	2003	NDP	% Change	% NDP
Benton County	7,410,504	7,641,490	219,297	3.12	3.79
Elkins	30,382,955	32,132,757	1,623,174	5.76	6.97
Farmington	73,692,596	77,975,666	3,991,367	5.81	6.34
Fayetteville	726,917,272	731,815,745	31,744,856	0.67	5.42
Greenland	37,885,077	42,152,991	1,036,145	11.27	4.35
Lincoln	43,730,267	45,595,332	2,512,711	4.26	7.46
Prairie Grove	54,421,153	57,772,428	3,116,008	6.16	7.12
Springdale	723,779,728	737,361,516	32,270,954	1.88	5.78
West Fork	33,495,837	34,415,640	981,131	2.75	3.96
Winslow	10,085,582	10,787,359	372,536	6.96	5.60
Grand Total	**1,741,800,971**	**1,777,650,924**	**77,868,179**	2.06	**5.69**

City Totals

	2002	2003	NDP	% Change	% NDP
Elkins	11,077,558	12,680,225	1,373,019	14.47	13.27
Elm Springs	9,097,960	10,217,766	910,158	12.31	10.47
Farmington	31,643,668	32,789,619	1,130,490	3.62	4.21
Fayetteville	713,711,345	716,244,620	32,880,016	0.35	5.79
Goshen	9,454,069	11,415,195	1,828,977	20.74	18.31
Greenland	6,971,696	7,487,812	413,938	7.40	6.82
Johnson	28,330,308	29,474,409	1,669,379	4.04	7.11
Lincoln	14,119,515	13,779,195	319,078	(2.41)	2.95
Prairie Grove	23,038,498	24,235,990	1,235,520	5.20	6.26
Springdale	527,805,979	532,866,230	20,815,853	0.96	5.25
Tontitown	19,110,348	21,650,221	1,898,541	13.29	11.66
West Fork	14,656,874	15,331,361	515,633	4.60	4.27
Winslow	2,477,551	2,535,162	0	2.33	0.00

ORDINANCE NO. _____

AN ORDINANCE LEVYING A TAX ON THE REAL AND PERSONAL PROPERTY WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS, FOR THE YEAR 2003 FIXING THE RATE THEREOF AT 0.4 MILS FOR THE FIREMEN'S PENSION AND RELIEF FUND, 0.4 MILS FOR THE POLICEMEN'S PENSION AND RELIEF FUND, 1.0 MIL FOR THE FAYETTEVILLE CITY LIBRARY; AND 1.0 MIL FOR GENERAL PURPOSES AND OPERATIONS OF THE CITY; AND CERTIFYING THE SAME TO THE COUNTY CLERK OF WASHINGTON COUNTY, ARKANSAS

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

Section 1. That a tax is hereby levied on the real and personal property within the City of Fayetteville, Arkansas, for the year 2003, to be collected in 2004, for the following purposes at the following rates:

REAL AND PERSONAL PROPERTY

Purpose		Levy
Fayetteville City Library		1.0 mils
Policemen's Pension Fund		0.4 mils
Firemen's Pension Fund		0.4 mils
General Purposes of City Government		1.0 mils
	TOTAL	2.8 mils

Section 2. That the real and personal property tax so levied and the rates provided therefore are hereby certified to the Clerk of Washington County, Arkansas, to be placed in the tax book by the County Clerk and collected in the same manner that the county and school district taxes are collected.

Section 3. The City Clerk is hereby authorized and directed to file certified copies of this ordinance in the office of the County Recorder, County Clerk, County Assessor, and the County Tax Collector for Washington County, Arkansas.

Section 4. That the 1.0 mil levied above for the general purposes of the City Government is almost enough to fund the operation of the new Rupple Road Fire Station.

PASSED and **APPROVED** this the 7th day of October, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

XX AGENDA REQUEST

For the Fayetteville City Council Meeting of: October 7, 2003

FROM:

Kevin Springer	Budget & Research	Finance & Internal Services
Name	Division	Department

ACTION REQUIRED: City Council is requested to adopt real and personal property tax rates for 2003 for the Policemen's Pension & Relief, the Firemen's Pension & Relief Funds, the Fayetteville Public Library and General Government Operations. The rate to be adopted for the Policemen's Pension & Relief Fund and the Firemen's Pension & Relief Fund is 0.4 mils for real property and 0.4 mils for personal property, the millage for the Fayetteville Public Library is 1.0 mil for real property and 1.0 mil for personal property and the millage for General Government Operations is 1.0 mil for real property and 1.0 mil for personal property. This millage request corresponds to the millage prediction included in the City Council budget briefing of August 4, 2003.

SUMMARY EXPLANATION:

Each year the City must levy property tax millages on the current year assessments to be collected in the subsequent year. This year's levy includes millages for the Policemen's Pension & Relief, the Firemen's Pension & Relief Funds, the Fayetteville Public Library and General Government Operations. The millages for the pension plans and the Library are voter approved and the millage levy for General Government Operations is from the 5.0 discretionary mils that City Council is authorized by the Arkansas Constitution and Code.

STAFF RECOMMENDATION:

Division Head	9-24-03 Date
City Attorney	9/24/03 Date
Department Director	Date
Finance & Internal Services Dir.	9-24-03 Date
Chief Administrative Officer	9-24-03 Date
Mayor	Date

Received in Mayor's Office _____ Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

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

ENTERED 9/29/03 LM

Staff Review Form - Page 2

Description 2003 Millage Levy Meeting Date October 7, 2003

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

HOUSES DEVELOPMENT CO., L.L.C.

217 NORTH EAST AVENUE
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE
(501)521-9155

FAX
(501)521-6199

October 1, 2003

Members of the City Council
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: Sequoyah Commons
LSD 02.29.10

Dear Members of the Fayetteville City Council,

Houses Development Company, LLC has appealed the Planning Commission's decision on May 27, 2003 of Houses Development Company's Large Scale Development proposal (LSD 02.29.10).

While Houses Development Company, L.L.C. (HDC), as owner of this property, is pleased that the Planning Commission approved much of the proposed project as submitted, the Planning Commission only addressed part of HDC's proposal with respect to offsite improvements. The Commission's approval of this LSD is subject to HDC providing a connection within the purported street right of way for Center Street between Olive and Walnut Streets. The Commission also recommended that the City Council approve a cost-sharing proposal by HDC that the City pay for 53% of said offsite improvements. However, the Planning Commission failed to consider HDC's alternative proposal to construct Olive Avenue as a residential street to service this new development as described in Section 1) of our May 6, 2003 letter to the Planning Commission (attached hereto) and as addressed at both the concept plat meeting and the meeting of May 27, 2003.

The reason HDC made this alternative proposal was to provide a legal means of accessing and servicing this development in the event the City Council did not approve a cost sharing arrangement. However, subsequent to the May 27th meeting, the City staff has determined that no right of way exists for what has been for decades an erroneously platted unimproved portion of Center Street. Therefore, HDC would submit that its original plan for offsite improvements serving this LSD should be approved as previously requested.

Attached also find a detailed description and illustrations of our proposed project, along with copies of the pertinent communications regarding the more than 2 year history of this submittal.

Thank you for your time and consideration in reviewing this matter, and please contact me with any questions that you may have.

Sincerely,

Gregory T. House for
Houses Development Company, L.L.C.

Enc.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

COMMUNITY PLANNING AND ENGINEERING SERVICES DEPARTMENT

August 13, 2003

Gregory T. House
For Houses Development Company, LLC
217 North East Avenue
Fayetteville, AR 72701

Dear Mr. House:

In response to your letter received July 28, 2003, we have answered each of your four questions related to Sequoyah Commons large scale development below:

1. After the Planning Commission approval, Mrs. Jessie Bryant, a property owner in the City Addition brought her deed to the Planning Division and requested that we prove to her that the 15' of right-of-way shown on the City Atlas was officially dedicated to the City. The City hired WACO Title to research and to determine if the 15 feet of right-of-way had been dedicated to the City. That research led to the conclusion that there were "no recorded easements for right-of-way for Center Street (Please see attached Certificate from WACO).

2. Section 166.05 C 7 of the Unified Development Code "Miscellaneous Requirements" requires new development to construct the onsite and offsite improvements requirements associated with the development. In order to implement the City's policy of connectivity, staff has recommended to the Planning Commission the on-site and off-site improvements that where shown on your large scale development plan as approved by the Planning Commission. This recommendation creates a second access for the development and follows the recorded plans for the original subdivision. This recommendation also acknowledges the fact that staff is recommending the off-site improvements and acquisition of additional right-of-way for Center Street in exchange for improvements (additional street right-of-way on Center, street improvements, underground drainage, sidewalks, street lights) to Fletcher Street and Center Street adjacent to the property. The plans to develop a traditional urban design based on lots and blocks in the Mt. Sequoyah area was established in 1891 with the City Addition and in 1888 with the Harrison Addition and has been followed in the developed areas.

3. See attached calculation by staff and acknowledged by your engineer, Mandy Bunch.

4. Staff recommends that we follow the recorded subdivision plats for this area and will not modify its recommendation based on density or land use. The recorded subdivisions in this area represent good traditional urban design principals of building neighborhoods on a lot and block design regardless of the density or land use proposed. Overall, the principals we are trying to follow result in the creation of neighborhoods that provide street frontage and access to homes and apartments avoiding the development of isolated projects or structures with only one way in and out and separating the development from the overall neighborhood.

Please let us know if you still intend to appeal to the City Council the Planning Commission's decision to require the Center Street connection. If you have any additional questions or need more clarification regarding this letter, please lets us know and we can set up a meeting to answer any additional questions you may have.

Sincerely,

Tim Conklin, AICP
Dir. Community Planning
and Engineering Services

Dawn Warrick, AICP
Zoning and Development Administrator

HOUSES DEVELOPMENT CO., L.L.C.

217 NORTH EAST AVENUE
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE
(501)521-9155

FAX
(501)521-6199

June 4, 2003

Sandra Smith, City Clerk
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: Sequoyah Commons
LSD 02.29.10

Dear Ms. Smith,

Please consider this a formal appeal of the Planning Commission's decision on May 27, 2003 of Houses Development Company's Large Scale Development proposal referred to above.

While Houses Development Company, L.L.C. (HDC), as owner of this property, is pleased that the Planning Commission approved much of the proposed project as submitted, the Planning Commission only addressed part of HDC's proposal with respect to offsite improvements. The Commission's approval of this LSD is subject to HDC providing a connection within the existing street R.O.W. for Center Street between Olive and Walnut Streets. The Commission also recommended that the City Council approve a cost sharing proposal by HDC that the City pay for 53% of said offsite improvements. However, the Planning Commission failed to consider HDC's alternative proposal to construct Olive Avenue as a residential street to service this new development as described in Section 1) of our May 6, 2003 letter to the Planning Commission (attached hereto) and as addressed at both the concept plat meeting and the meeting of May 27, 2003.

The reason HDC made this alternative proposal was to provide a legal means of accessing and servicing this development in the event the City Council did not approve a cost sharing arrangement. Therefore, as we discussed, I would propose that this appeal be scheduled for hearing following a hearing on the cost sharing issue as the necessity of our appeal might be rendered moot.

Thank you for your time and consideration in this matter and please feel free to contact me if you require any further information.

Sincerely,

Gregory T. House for
Houses Development Company, L.L.C.

Enc.

HOUSES
INCORPORATED

217 North East Avenue
Fayetteville, AR 72701
telephone: 479.521.9155
facsimile: 479.521.6199

May 6, 2003

Planning Commission
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE SEQUOYAH COMMONS OFF-SITE IMPROVEMENTS

Dear Members of the Planning Commission,

I am writing to discuss the off-site improvements made necessary by our project on Olive Street. Having debated this issue at length with the City Planning Staff and our civil and traffic engineers, we believe that the traffic and access issues for this project can be met in one of two ways:

1) Bring Olive into conformity as a residential street by improving Olive avenue from Spring Street to the Center Street right of way as follows: widen the existing street to 24' back of curb to back of curb, overlay the existing paving, construct the new portion adjacent to our property to 28' wide (to accommodate on street parking) install a 4' concrete sidewalk on one side of Olive Avenue and install storm drainage to code. The capacity for a residential street is 300 to 500 trips per day. The total load on Olive at completion is projected at 395 per day. With these improvements, our LSD proposal will meet every requirement of the law, including the Unified Development Ordinance and the International Fire Protection Code;

2) The alternative planning staff is requesting would be to leave Olive Avenue as is, (though making sure that it is at least 20' wide) improve Olive adjacent to our project, and build Center Street between Olive and Walnut, with the necessary waivers requested in our latest submittal. This portion of Center Street is desired by the City Planner for purposes of "connectivity." Based upon the LSD Ordinance, our share of the costs for these improvements is limited to the "Rational Nexus" of need for the street being created by our project. In discussion with the City Planning Staff, we determined that the ratio of our project to the total units served by this new street would be approximately 43%. We should bear no more than 43% of the cost of the work to construct these improvements, and that the City of Fayetteville should provide the remaining 57%.

We can be satisfied with either solution. The choice is yours: either allow us to improve Olive Avenue or allow us to pay our share of the Center Street construction.

Respectfully Submitted,

Gregory T. House for
Houses, Incorporated

PETERS & ASSOCIATES
ENGINEERS, INC

May 6, 2003

Mr. Greg House
Houses Development Company
217 North East Avenue
Fayetteville, AR 72701

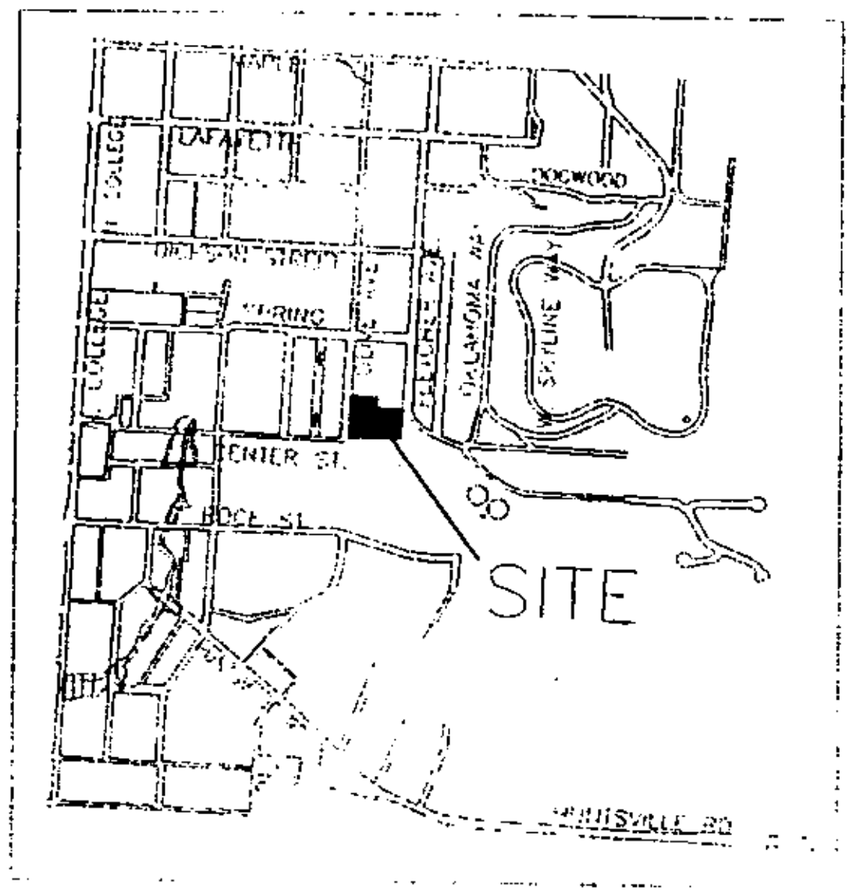
Re: Sequoyah Commons Apartment Complex
Revised Traffic Impact and Safety Study
Fayetteville, Arkansas

Dear Mr. House:

As you requested, we have prepared this revised letter report to document our findings regarding the referenced traffic study.

Background

Peters & Associates Engineers, Inc. conducted a traffic impact study for a proposed residential apartment complex development located on the east side of Olive Avenue and south of Spring Street in Fayetteville, Arkansas. The site is proposed to consist of 39 apartment units and its location is shown below:



Vicinity Map

This is a report of methodology and findings relating to a traffic engineering study undertaken to:

- Evaluate existing traffic conditions in the vicinity.
- Ascertain projected traffic operating conditions on streets proposed to serve the site
- Identify the effects on traffic operations resulting from existing traffic in combination with site-generated traffic associated with the development.
- Evaluate proposed access to the site and make recommendations for mitigative improvements which may be necessary and appropriate to ensure minimum impact and acceptable traffic operations.
- Evaluate traffic safety considerations in the vicinity of the site

In the following sections of this report there are presented traffic data, study methods, findings and recommendations of this traffic engineering investigation. The traffic engineering study is technical in nature. Analysis techniques employed are those most commonly used in the traffic engineering profession. Certain data and calculations relative to traffic operational analysis are referenced in the report. This consultant and the City of Fayetteville conducted 24-hour traffic counts at the locations depicted on Figure 1, "Existing 24-Hour Traffic Volumes" for the proposed apartment complex.

Street System

Olive Avenue is a two-way street that varies in width from 18 feet to 20 feet. Presently, Olive Avenue provides the only access to the site. This asphalt street is constructed without curb and gutter. There are no sidewalks and the speed limit is not posted near the site. Olive Avenue is classified as a local street in the City's Master Street Plan.

Spring Street is a two-way street that varies in width from 20 feet to 22 feet. This asphalt street is constructed without curb and gutter. Spring Street is classified as a local street in the City's Master Street Plan.

Existing Traffic Volumes

The existing two-way 24-hour traffic volumes for Spring Street and Olive Avenue in the vicinity of the site range from 136 vehicles per day to 1,711 vehicles per day. The existing two-way AM peak hour traffic volumes for Spring Street and Olive Avenue in the vicinity of the site range from 6 vehicles per hour to 104 vehicles per hour. The existing two-way PM peak hour traffic volumes for Spring Street and Olive Avenue in the vicinity of the site range from 5 vehicles per hour to 167 vehicles per hour.

Trip Generation and Site Traffic Projections

The Trip Generation, an Informational Report, 1998, published by the Institute of Transportation Engineers (ITE) and The Trip Generation Software (Version 4 by Microtrans), were utilized in calculating the magnitude of traffic volumes expected to be generated by the proposed residential land use of this development. These are reliable sources for this information and are universally used in the traffic engineering profession.

Using selected trip generation rates, calculations were made as a part of this study to provide a reliable estimate of traffic volumes that can be expected to be associated with the development as proposed. Applying the appropriate trip generation rates to the land use proposed for the development makes these calculations. Results of this calculation are summarized on Table 1, "Trip Generation Summary – 39 Unit Apartment Complex," below.

PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE	24-HOUR TWO-WAY WEEKDAY VOLUME	PM PEAK HOUR VOLUME		AM PEAK HOUR VOLUME	
				ENTER	EXIT	ENTER	EXIT
Apartment Complex	39 Units	220	259	16	8	3	17
		TOTAL ENTERING + EXITING		24		20	

Table 1 -- Trip Generation Summary -- 39 Unit Apartment Complex

These calculations indicate that approximately 259 vehicle trips (combined in and out) per average weekday are projected to be generated by the proposed apartments land use on this site. Of this total, approximately 20 vehicle trips are estimated during the adjacent street AM peak hour and approximately 24 vehicles are estimated during the adjacent street PM peak hour.

Improvement Scenarios

Two street improvement scenarios are under consideration as a part of this development:

- Construct Olive Avenue to a 24 foot width with curb and gutter on both sides from Spring Street to the north property line of the site. Construct Olive Avenue to a 20 foot width plus an 8 foot wide parking lane with curb and gutter on east side of street from the north property line to 50 feet past site driveway and construct a hammerhead turnaround.

- Construct Olive Avenue to a 20 foot width with an 8 foot wide parking lane along the site frontage with curb and gutter on east side of street and improve Olive Avenue to a 20 foot width with no curb and gutter from the north property line to Spring Street. Construct Center Street a 20 foot width with no curb and gutter from Olive Avenue to Walnut Avenue.

Service Volume

The City of Fayetteville Master Street Plan indicates the "service volume" for a local street of less than 4,000 vehicles per day. Local streets provide the second lowest level of traffic flow and service. They provide access to abutting land uses and provide connections to higher order street classification. They are not intended to provide for through traffic movements.

Generally, the "service volume" of a street is a measure of its ability to accommodate a certain magnitude of moving vehicles. The "service volumes" are not measures of capacity (which value would be greater) but represent a normal volume that can be expected on a given type of street.

Capacity calculations accounting for a street width as narrow as 18 feet yield results that indicate no discernible difference in street capacity compared to the new street standard width of 28 feet for local streets.

Contrary to the City of Fayetteville Master Street Plan, City staff has determined that Olive Avenue and Center Street will be considered residential streets (Service Volume 300-500 vehicles per day) for the purposes of this study.

Analysis and Findings

- **Traffic Volumes** - It was assumed the "worst case" condition of all traffic that is projected to be generated by a 39 unit apartment complex for a typical weekday (259 trips) would be combined with the existing traffic of the highest volume local street depicted on Figure 1, "Existing 24-Hour Traffic Volumes." This sum was compared to the "service volume" specified in the City of Fayetteville Master Street Plan for local streets. The highest two-way, 24-hour existing traffic volume on Spring Street (a local street classification) of 1,711 vehicles per day combined with the 259 vehicles per day projected to be generated by the apartment complex equals 1,970 vehicles per day. This combined volume of 1,970 vehicles per day is less than the 4,000 vehicle per day service volume expected for local streets.

  Additionally, it was assumed the "worst case" condition of all traffic that is projected to be generated by the apartment complex for a typical weekday would be combined with the existing traffic of the highest volume residential street (Olive Avenue) depicted on Figure 1, "Existing 24-Hour Traffic Volumes." This sum was compared to the "service volume" specified in the City of Fayetteville Master Street Plan for residential streets. The highest two-way, 24-hour existing traffic volume on Olive Avenue from Spring Street to the site of 136 vehicles per day when combined with the 259 vehicles per day projected to be generated by the apartment complex equals 395 vehicles per day. The combined volume of 395 vehicles per day is in the range of 300-500 vehicles per day service volume expected for residential streets.

  It is concluded that the existing street system surrounding the site has adequate reserve "service volume" to satisfactorily serve the additional traffic projected to be generated by the site without discernable impact.

- **Sight distance** – The site access drive should be designed to provide sight distance for exiting traffic to comply with City requirements and regulations. The sight distance at the intersection of Olive Avenue and Spring Street for northbound traffic will not be affected by the construction of the apartment complex. The small number of additional vehicles will have no significant impact regarding sight distance at this intersection.

- **Topography** – The construction of this apartment complex will comply with City regulations regarding topography on-site. The access to the street system will not alter the existing topography of the street.

- **Turning radii** - Turning radii exiting the site driveway onto Olive Avenue meet all City regulations. The turning radii at the intersection of Olive Avenue and Spring Street appear to adequately serve the existing traffic volumes. Since the additional number of vehicles added to the existing traffic volume at this intersection by this development is small, no improvements to turning radii are recommended.
- **Curbing** – As shown on the site plan submitted for this project, curb and gutter is proposed to be constructed coincident with the street improvements adjacent to the site. Curbing

constructed as a part of street improvements is generally constructed to address drainage issues and not safety concerns.

- **Traffic accidents** - Traffic accident data for the previous twelve months was reviewed for the following intersections:
  - Olive Avenue and Spring Street
  - Olive Avenue and Dickson Street
  - Fletcher Avenue and Spring Street

  Only one accident was reported during the previous twelve months at the intersection of Spring Street and Fletcher Avenue. Because the accident history at intersections near the site is limited, no future projections were made for traffic accidents. The very small increase in traffic volumes generated by the site is not expected to adversely affect the favorable accident history.

- **Pedestrian Safety** – The traffic accident data did not indicate that pedestrians were a factor in the only reported accident at Fletcher Avenue and Spring Street. Since no changes are being made regarding sight distances and increase in traffic volumes are very small, no pedestrian safety issues are anticipated as a result of this development. Sidewalks are proposed to be constructed adjacent to the site coincident with street improvements.

Conclusions

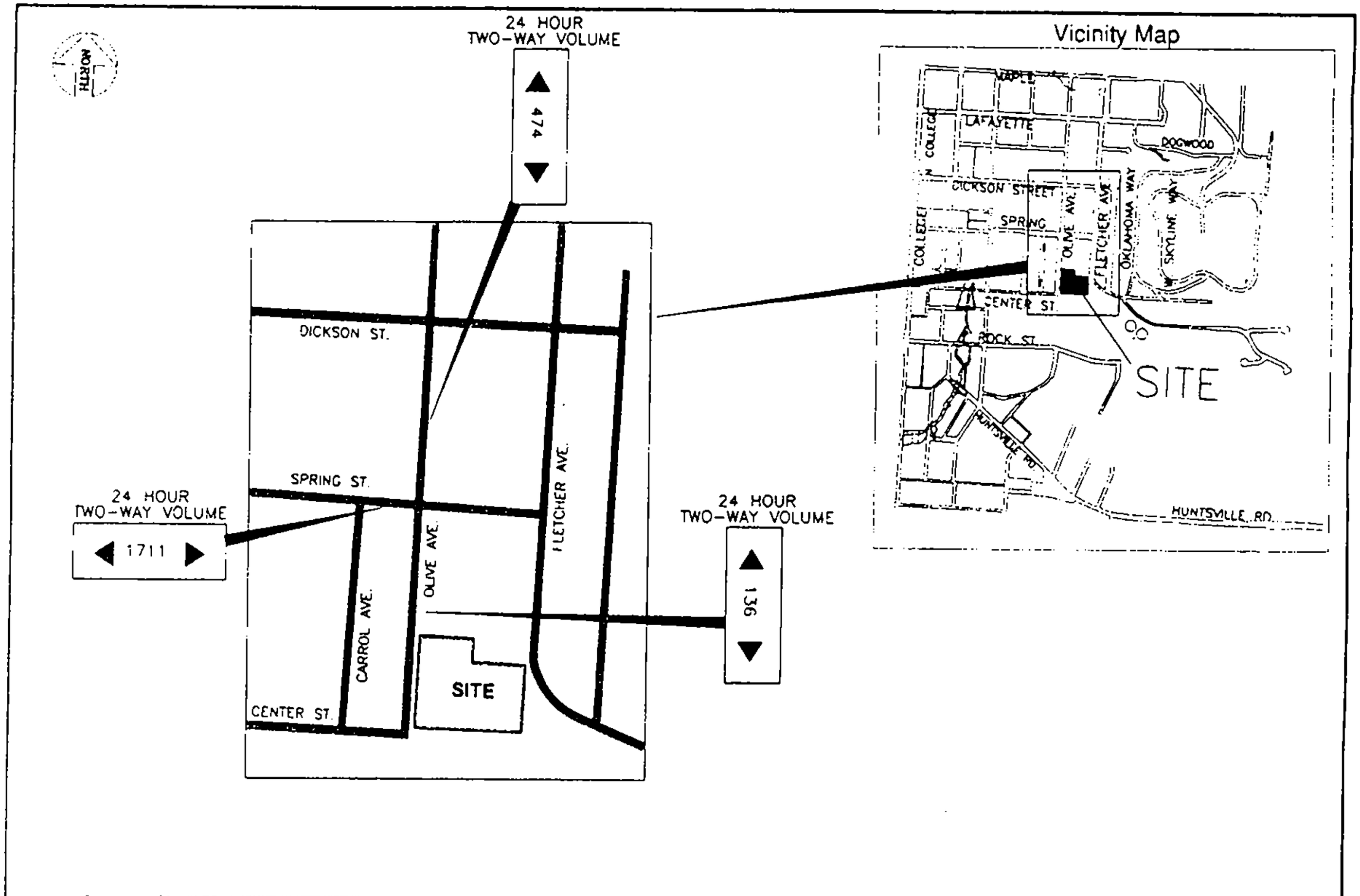
As a result of this study, we conclude that for either of the improvement scenarios that this small residential development generates low traffic volumes and our analysis indicates resulting traffic volumes are well within the range expected on local and residential streets. We see no adverse effects to:

- Traffic operations
- Sight distance
- Vehicle and pedestrian safety.

Please advise if you have questions or need additional information regarding this matter.

Sincerely,
PETERS & ASSOCIATES, ENGINEERS, INC.

Ernest J. Peters. P.E.
President



PROJECT No. P-888
DATE: 11-19-2002

PETERS & ASSOCIATES
ENGINEERS, INC.
• CIVIL & TRAFFIC ENGINEERING •

SEQUOYAH COMMONS
CENTER STREET AND OLIVE AVENUE
FAYETTEVILLE, ARKANSAS

EXISTING 24-HOUR
TRAFFIC VOLUMES

FIGURE No.
1

MEETING MINUTES

discussion of the connectivity. Am I wrong in that Tim?

Conklin: The primary issue is access which is when we met with Mr. House, concerns about spending a lot of money designing and engineering a street connection. Also, as I thought I stated earlier, has presented a concept design which has moved some buildings and added some parking and my understanding is it has been seven buildings, 39 units, that really hasn't changed. Once again, there may be some other issues that we will discuss this evening.

Aviles: I think the concept plat is rather as a favor to the developer because if your plan had been submitted without the street connection it likely would've been disapproved on that basis. That being the main point we will be discussing that in detail this evening. I believe Tim, at agenda session, said that you have met other ordinance requirements regarding density and so forth as they exist in R-2 zoning. The traffic is an issue that we will be discussing.

Conklin: That is correct. With regard to the density issue, that is a zoning issue. This is zoned R-2 so it is really not something that should be discussed as part of this development. What we are discussing is access to the development and other development ordinances. The primary issue that we have been discussing with the applicant is with regard to what is appropriate for access to this site should there be a street connection, should Olive Street be extended. You are within an historic platted area. Rights of way exist. Connections may be possible if you complete out the grid system. Staff recommended looking at how to develop some of this connectivity, street connections in areas that were not very steep like you see in other areas. Center Street going north up to Fletcher, staff did not recommend that at this time. Center Street south of Olive to Walnut from my observation out there, it does look like vehicles have traveled a gravel drive in the past so it is possible to drive on it today. I would like to note that it would require a variation in our minimum street standards in order to make this connection. The larger policy issue that I have discussed with Mr. House and his engineer is this area is zoned R-2. We are seeing increased density being built in this area. If this area is increased from two units per acre to 20 units per acre what kind of street network do we need in the future? What type of connectivity do we need in the future? We have an existing grid pattern, right of way that was recorded and platted. Do we as a city complete that grid pattern and make those connections with the idea that this may develop with multi-family as we are seeing, this may develop as single-family regardless of whether it is multi-family or single-family, urban design principles traditional houses are along streets. Do you want to complete the street network? With regard to the overall design, once again, modifications have been made with regard to building location placement and parking.

Aviles: Those are in conformance with city ordinances. What I would like to do is to focus our discussion this evening in terms of the discussion. I think that we have a large issue in front of us in terms of offsite improvements and what Houses Incorporated is willing to do with regard to cost sharing on that and that the access is the issue that we need to address on this if we are meeting the other ordinances and design standards, lets not waste everybody's time. We have got a lot of people here tonight. Can I see a show of hands if you are here with the public to address us on this concept plat. We are going to hear from everyone. I would like to be very clear on what I am asking the applicant and the public to address. That is the offsite improvements, the access to the site, and the implications for cost sharing. Since we have a lengthy agenda tonight and this only number four of fourteen if you could keep your comments short, to the point, and try to avoid repetition we would certainly appreciate that. Mr. House would you like to continue with your presentation?

House: Yes. Thank you Madam Chair. I understand and it will cut my presentation down considerably. To paraphrase, we are talking about offsite improvements, access to the site, and the cost sharing. First let me begin by stating that the plan that we submitted originally as part of the Large Scale Development process was submitted meeting all of the requirement of the UDO, city street standards and international fire code. That plan is the plan without connectivity to Center Street. Let me say that again, the plan that we submitted meets all of the requirements of the UDO, the city street standards, and the international fire code. That is why we feel it is not necessary to connect to Center Street from a legal perspective. If the city feels that it is necessary for other policy considerations like what is going to happen on the hill in the future, we are not opposed to that. The question is how do we pay for it. Is it incumbent upon our company to have to pay for the development of a street that is not adjacent to this property, that is not necessary for the development of this property because the rest of the hill is going to get developed in the future. While I agree it may help ease the burden of some traffic out on Olive because a connection to Center Street would theoretically provide another access, many property owners would benefit from that besides ours. I understand there is a theory called rational nexus, which is hard for me to get my hands around and I am a lawyer. I have asked my engineer to do a rational nexus study to determine what share should be ours, how the improvement of Center Street would benefit our project. Mandy Bunch of EB Landworks in conjunction with a traffic study by Ernie Peters out of Little Rock have come up with an estimate and a percentage that they deem is the amount of benefit to our property by the improvement to Center Street. It is amazingly enough, a pretty small number. That was submitted in the packet that we gave the Planning staff the first of last week. Hopefully it is in your packet. It would be a letter

from EB Landworks to Tim Conklin dated March 17th if I can direct your attention to it. In that letter Ms. Bunch talks about how much her estimate is of cost, vehicle trips per day, and what the percentage of our impact would be and it is fairly minimal, something around 2%. This is supported by a study by Ernie Peters that did a traffic analysis and the whole report is probably in your file as well. This is based on Olive being a local street and the city street standards define a local street as two 10' lanes. Olive, as it exists, is 18' to 20' wide so it has two 10' traffic lanes. We have proposed in our submittal to make sure Olive is 20' wide for those areas that it is not to meet the local street standards. Supposedly somebody has figured out that that takes 4,000 trips per day. Mr. Peters has stated after his study in conjunction with some city studies for this area, that our trips are going to be approximately 297, let's call it 300 trips per day on Olive so as you can see it is not huge just going in and out of Olive without even going out Center Street. The impact of the traffic that we are going to create on Olive is less than 10% of the allowed traffic as it exists. Basically, rather than belabor you with all of the stuff that we have already submitted, we have made our argument in all of the stuff that we submitted that access to the site is reasonable as it is but we are willing to help pay for Center is that is determined necessary. The offsite improvements, we have already submitted that we would do a new street from the existing portion of Olive to Center. Our original plan was to just have a cul-de-sac at the entrance to our property but in the spirit of compromise with the Planning Department we agreed to pave all of Olive so that the potential of connectivity could be done now or in the future. I guess I will ask to see if anyone as any questions. If that is all that we are talking about, I can talk about density and having met with the neighbors and all of our agreements with the neighbors and all of that.

Aviles: We are just going to limit the discussion to access and your participation in offsite improvements. Should you be required to extend the street, have you come up with a figure that you would be willing to participate in for that?

House: We have submitted that it is 2% of the total cost and the estimates are it is going to cost approximately $100,000, I think the real number is $94,000. I guess we would have to put some sort of cap on it in the event that it cost $300,000 but that is what we have submitted based on the engineering. That is for the Center portion. We will already have quite a bit of money in the rest of Olive but that is for the Center Street portion.

Aviles: Thanks Mr. House. I see that there are members of the public that would like to address us. Come on up, tell us your name, where you live, and give us the benefit of your opinion. As I said, if you could keep it to the point of access we would appreciate that.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO:	Subdivision Committee Members
FROM:	Sara Edwards, Associate Planner
THRU:	Tim Conklin, City Planner, A.I.C.P.
	Matt Casey, Staff Engineer
DATE:	January 30, 2003

Project: LSD 02-29.00 (1040): Large Scale Development (Sequoyah Commons, pp 485) was submitted by Mandy Bunch of EB Landworks on behalf of Greg House of Houses Development for property located between Olive Avenue & Fletcher Avenue, south of Spring Street. The property is zoned R-2, Medium Density Residential and contains approximately 2.06 acres with 39 dwelling units proposed (48 bedrooms).

Findings:

Proposal: The construction of 7 buildings with a total of 39 dwelling units.

Parking: Required: 48
Proposed: 51

Existing Development: Vacant

Surrounding Zoning: North: R-2
South: R-2
East: R-1
West: R-2

Surrounding Land Use: North: Single Family Residential
South: vacant
East: Mixture of duplex and single family
West: vacant

Water: Available along Olive

Sewer: Available along Olive

Right-of-way being dedicated: No additional right-of-way dedication required. There is currently

60 feet of right-of-way for Olive, 30 feet of right-of-way for Center, and 60 feet of right-of-way for Fletcher existing.

Street Improvements Proposed: Olive is proposed to be improved adjacent to the site only.

Access: Access is proposed by means of Olive Avenue which is substandard both in width and in surfacing.

Adjacent Master Street Plan Streets: None

Tree Preservation: Existing: 100%
Preserved: 20.17%

Recommendation: Forward to the full Planning Commission

Conditions to Address / Discuss:

1. Planning Commission determination of required offsite improvements and required access. Olive is currently substandard. It is only 18 feet wide and does not meet state fire code. With the allowance of on street parking two-way traffic cannot be accommodated. The pavement and subbase is failing and can likely not accommodate construction traffic. The site has access to Fletcher but no access point is proposed. Right-of-way for Center exists adjacent to the site and south to Walnut. Staff is recommending the construction of Center Street and Olive Street to the southeast corner of the site with waivers from the minimum street standards.

2. The sidewalk shall be continuous through the driveway.

3. Approval shall be subject to the vacation of a 15 foot existing utility easement, which runs north/ south through the property.

4. A 10 foot utility easement shall be granted on both sides of the existing 30 foot water line, which is required for maintenance of the line.

5. All buildings will be required to meet setbacks based on height.

6. Lighting shall not reflect onto adjacent properties. A lighting plan shall be submitted and approved by staff prior to installation.

Standard Conditions of Approval:

7. 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)

8. 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.

9. Payment of parks fees in the amount of $14,625 (39 units @ $375)

10. Sidewalk construction in accordance with current standards to include a minimum four foot sidewalk along Olive.

11. Large scale development shall be valid for one calendar year.

12. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. Separate easement plat for this project that shall include the tree preservation area.
    c. Project Disk with all final revisions
    d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy
    e. Parks fees paid and/or deed recorded and copy received.

13. Additional conditions:

    a. _____

    b. _____

    c. _____

Subdivision Committee Action: ☐ Approval ☐ Forwarded to P.C.
Meeting Date: January 30, 2003
Comments: _____

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

_____ Signature

_____ Date

Applicable Code Sections:

§166.05 LARGE SCALE DEVELOPMENT.

7. Miscellaneous Requirements.

a. Comply with those requirements of §§ 166.03 through 166.04 of the Development regulations pertaining to streets, surface drainage system, water system, sanitary sewer systems; and, if the development is multifamily housing, said requirements pertaining to public parks; and install a sidewalk adjacent to all abutting streets or highways in accordance with City specifications for sidewalk construction.

b. The developer may be required to install off-site improvements, where the need for such improvements is created in whole or in part by the proposed large scale development. For purposes of this section, an off-site improvement shall mean all, or any part of, a street, surface drainage system, water system, or sanitary sewer system, which is to be installed on property located outside the proposed large scale development.

c. Any required off-site improvements shall be installed according to City standards. The developer shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the large scale development.

d. The Subdivision Committee or Planning Commission may refuse to approve a large scale development for any of the following reasons:

(1). The development plan is not submitted in accordance with the requirements of this section.

(2). The proposed development would violate a City ordinance, a State statute, or a Federal statute.

(3). The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this chapter.

(4). The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a "dangerous" traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.

(5). City water and sewer is not readily available to the property within the large scale development and the developer has made no provision for extending such service to the development.

(6). The developer refuses to comply with subsection 7. b. and c. pertaining to required on-site and off-site improvements.

Cross Reference: Notifications and Public Hearings, Chapter 157; Appeals. Chapter 155.

City of Fayetteville

Tree Preservation Plan Review Form

Project: Sequoyah Commons **Developer:** Houses Development Co.

Location Address: South end of Olive **Engineer:** EB Landworks

This form shall stand as a: ☐Initial Review/Letter of Confirmation

✔Recommendation to Planning Commission or City Council

☐Final Administrative Determination*

Submital requirements met:

✔Initial Review ✔Site Analysis ✔Analysis Report ✔Tree Preservation Plan

Comments:

Canopy measurements:

% Tree Canopy Required to be Preserved
Land Use R-2
%To be Preserved 20%

Total Area of Existing Tree Canopy:
Acres: 1.99
Square Feet: 86,516
% of Total Site Area: 100%

Total Area of Site:
Acres: 1.99 acres
Square Feet: 86,516 sf

Existing Tree Canopy Preserved:
Acres: 0.42
Square Feet: 17,450 sf
% of Total Site Area 20.17%

Mitigation/Off Site Alternatives Requested: ☐Yes ☐No

☐On-Site Mitigation ☐Off-Site Preservation ☐Off-Site Forestation ☐Tree Fund

Tree Preservation Criteria Met: ☐Yes ☐No (See back for criteria list and comments)

Applicant's Plan: ✔Approved ☐Disapproved ☐Conditionally Approved

Reason(s) For Decision: *Due to the ~~fact~~ density of construction on site, remedial measures or mitigation may be assess after construction is complete.*

Signed: Kim J. Hesse ,the Landscape Administrator, date 1-29-03

Criteria used by Landscape Administrator to evaluate Tree Preservation Plan:

1. The desirability of preserving a tree or group of trees by reason of age, location, size or species.

Comments_____

2. Whether the design incorporates the required Tree Preservation Priorities.

Comments_____

3. The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

Comments_____

4. 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.

Comments_____

5. Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

Comments_____

6. Whether the size or shape of the lot reduces the flexibility of the design.

Comments_____

7. The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

Comments_____

8. The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

Comments_____

9. The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

Comments_____

10. Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

Comments_____

11. Construction requirements for On-Site and Off-Site Alternatives.

Comments_____

12. The effects of proposed On-Site Mitigation or Off-Site Alternatives.

Comments_____

13. The effect other chapters of the UDO, and departmental regulations have on the development design.

Comments_____

14. The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations.

Comments_____

15. The impact a substantial modification or rejection of the application would have on the Applicant.

Comments_____

*An appeal may be filed against a Final Administrative Determination in accordance with Chapter 155 of the Unified Development Ordinance. City Landscape Administrator determinations/decisions may be appealed by any person aggrieved to the Planning Commission within 10 business days. Recommendations go straight to Planning Commission, thus no formal appeal is necessary for recommendations.

City of Fayetteville

Landscape Review Form

Project: Sequoyah Commons **Developer:** Houses Development Co.

Location Address: South end of Olive **Engineer:** EB Landworks

This project falls under the requirements of :

✔Off Street Parking Lot - Landscaping
☐Commercial Design Standards - Landscaping
☐Buffers between zones - Landscaping/Fence

Landscape Plan Requirements: *This information may be included with the site plan. A Preliminary Landscape Plan is required for Planning Commission review and the Final Landscape Plan is required prior to issuance of the Building Permit.*

Off Street Parking Lot - Landscaping

Preliminary	Final	
✔	☐	Landscape protection - wheel stops or curb
✔	☐	Irrigation - automatic or hose bibs located 100' O.C.
✔	☐	Landscaping beds - must be in beds with edging indicated.
✔	☐	Type (species) of trees and shrubs must be indicated on plans.
✔	☐	Size of plants at installation
☐	☐	Interior Landscaping - must be 4' into the limits of the parking lot Tree lawn - 10' min. width — 1 tree per 15 spaces Tree Island -min. 8' width, 17'. length — 1 tree per 12 spaces Tree Pit - 6" by 6" min. — 1 tree per 10 spaces
✔	☐	Exterior - Along R.O.W. 15' adjacent to R.O.W exclusive for landscaping 1 tree per 30 L.F. Continuos planting of shrubs and ground cover / 50% evergreen
✔	☐	Exterior - Side and Rear 5' between property and parking lot to be left for landscaping.
	☐	Soil Amendments - Notes must include that soil is amended and sod removed.
	☐	Mulching - note must indicate mulching around trees and within landscape beds.
	☐	Planting details per City of Fayetteville Landscape Manual

Commercial Design Standards - Landscaping

☐	☐	15' wide landscape strip required along Right-of-way
☐	☐	Trees required at 30' spacing along street R.O.W.

Overlay District - Landscape Requirements

☐	☐	25' landscape buffer required along street R.O.W.
☐	☐	Trees required at 30' spacing along street R.O.W.,
☐	☐	25% of the project is required to be left as landscaped/open space.

Applicant's Plan: ☐Approved ☐Disapproved ✔Conditionally Approved

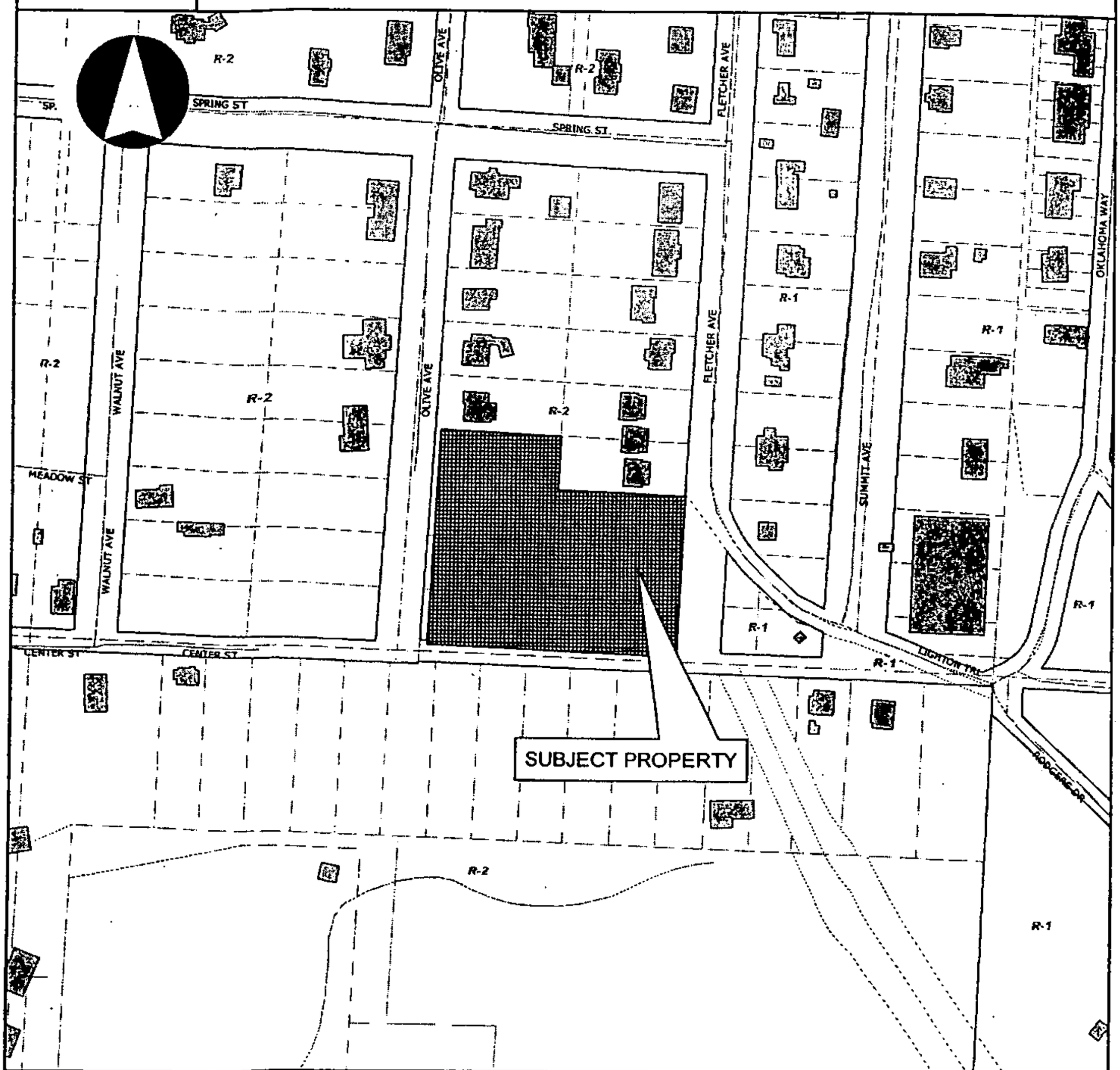
Conditions for Approval: *Reveiw the possability of placing a tree in the parking lot island east of building 4.*

Signed: Kim J Hesse ,the Landscape Administrator, date 1-29-03

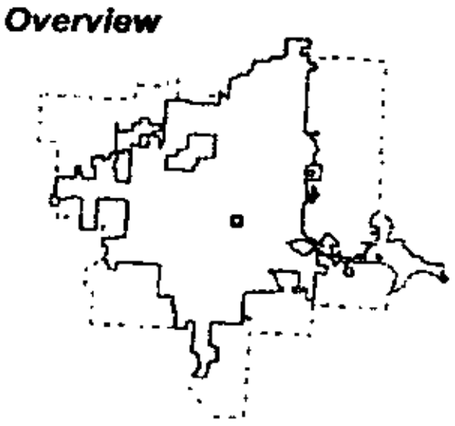
LSD02-29.00

Close Up View

SEQUOYAH COMMONS



Overview



Legend

Subject Property
- LSD02-29.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

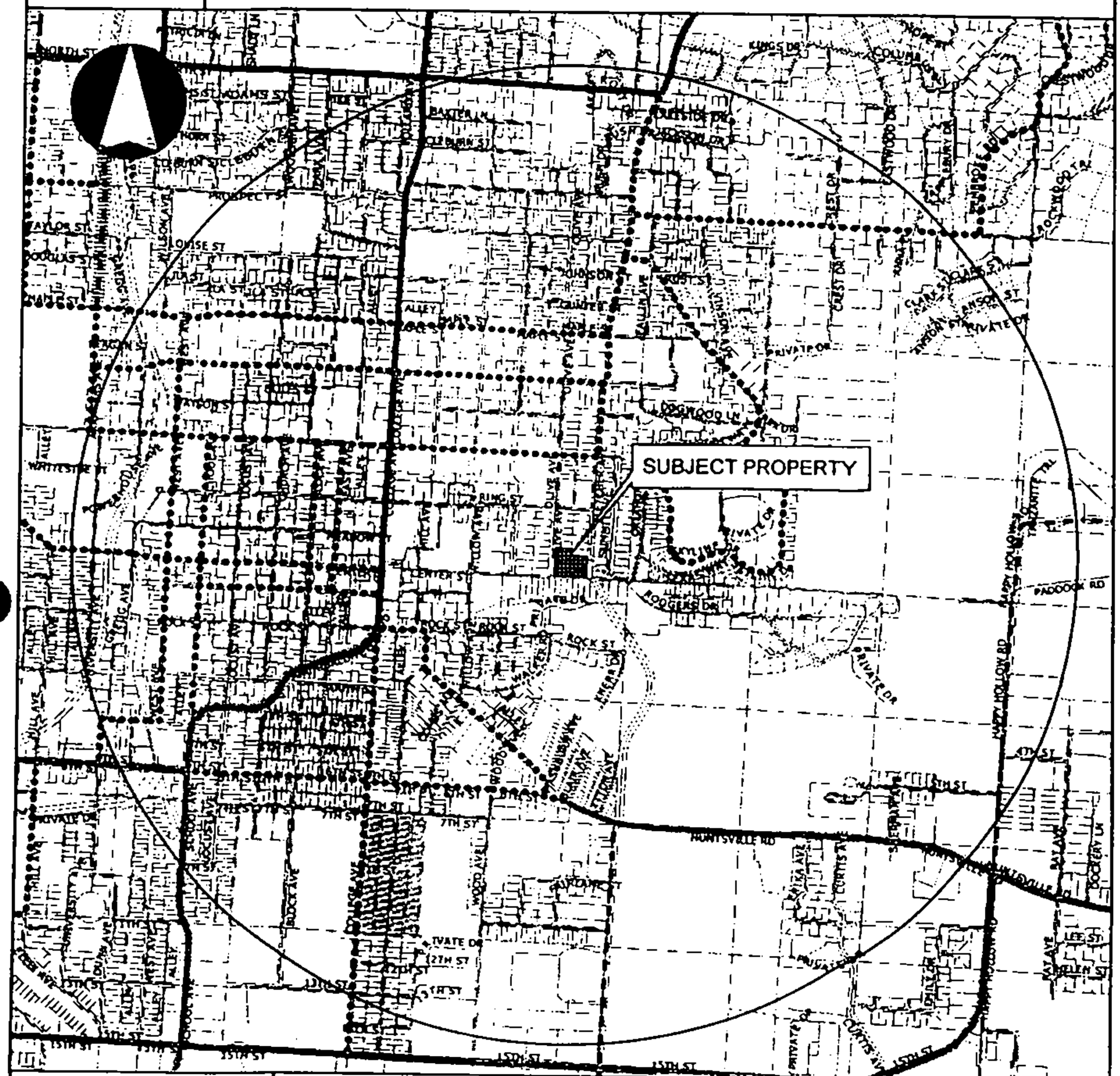
Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 75 150 300 450 600 Feet

LSD02-29.00

One Mile View

SEQUOYAH COMMONS



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Mandy Bunch
FROM: Sara Edwards, Associate Planner
DATE: October 24, 2002
SUBJECT: In-House Plat Review Comments

Project Name: LSD 02-29.00

The following is a review of project requirements concerning the project mentioned above:

1. **Submittal Requirements**

		Adequate	Inadequate	See Comments
a.	Completed Application	X		
b.	Number of Required Plats	X		
c.	Adjoining Property Owners (labels)	X		
d	Property is a legal lot of record	X		
e.	Prelim. Grading & Drainage Plan / Report	X		
f.	Tree Preservation Plan / Info	X		
g.	Color Rendered Elevations (Main Facade, Signage)	NA		

Comments: Split to vacation (15' UE)

2. **Zoning Requirements**

		Adequate	Inadequate	See Comments
a.	Use Allowable in Zoning District	X		
b.	Use Compliant with Lot Width		X	X
c.	Use Complaint with Lot Area	X		
c.	Density requirements met	X		
d.	Special Regulations necessitated by use.	X		

Comments: Proposal is to construct Olive 91.51 feet into property to provide required frontage.

3. **Plat Requirements**

		Adequate	Inadequate	See Comments
a.	Adjacent Zoning	X		

b.	Adjacent Property Owners	X
c.	Plat Page	X
d.	Layout of Adjoining Property (300')	X
e.	Vicinity Map	X
f.	Floodplain Reference	X
g.	Contours	X
h.	Legal Description(s)	X
j.	Legend	X
k.	R-O-W Dimensions from Centerlines	X
l.	Easement Dimensions	X
m.	Building height (additional setback)	X
o.	Building Setbacks	X
p.	Project Owner / Developer	X
q.	Site Coverage Note	X

Comments: What is the hight of buldings ½. Additional setback over 20'.

4.	**Street Requirements**	Adequate	Inadequate	See Comments
a.	Master Street Plan Conformance	X		
b.	R-O-W Dedication	X		
c.	Curb Cuts (number & location)	X		
d.	Compliance with Design Standards	X		

Comments: Street id longer than 500' ending in a cul-de-sac.

5.	**Parking and Driveway Requirements**	Adequate	Inadequate	See Comments
a.	Parking Spaces (number & ratio)	X		
b.	Parking Stall Dimensions	X		
c.	Traffic Flow Patterns	X		
d.	Internal Aisle Widths	X		
e.	Driveway Widths		X	
f.	Driveway Curb Radius	X		
g.	Adequate Throat Length	X		
h.	Adequate Distance Between Adjacent Drives.	X		
i.	Bike Racks Provided	X		
j.	Off street loading berths	NA		
k.	Front and side landscaping	X		
l.	Parking lot lighting			X

Comments: Fire needs 20' of ROW on both streets and drives. Explain lighting planned.

6.	**Other Requirements**	Adequate	Inadequate	See Comments
a.	Buffer Strip / Fencing / Screening	NA		

b.	Indicate and Locate all Signs	NA
c.	Written Description for any Waivers	NA
d.	Overlay District Requirements	NA
e.	Underground Utilities	NA
f.	Commercial Design Standards	NA

Comments: **All aisle will be fire lanes.**

In order for this project to continue in the current review cycle, all requested revisions and additional information must be added to the plat, to the elevations (if required) and to the diskette (if required).

37 copies of the **revised plat including grading and tree preservation plan** must be submitted to the Planning Division no later than November 6 @ 10:00 AM.

Reminder: Developers of all **preliminary plats and large scale developments** are required by City ordinance to provide notification to all adjoining property owners of the upcoming public hearings (Subdivision Committee and Planning Commission meetings). Proof of said notification is required to be submitted with revisions; this project will not proceed to the next review level without proof of notification.

Prior to the issuance of a building permit the following is required:

a. Grading and drainage permits
b. Separate easement plat for this project that shall include tree preservation areas.
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.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE **501-575-8206**

To: Mandy Bunch

Thru: Sara Edwards, Development Coordinator

From: Matt Casey P.E., Staff Engineer

Date: October 29, 2002

Re: "In-house" plat review comments (30 October 2002 Tech. Plat Meeting)

Development: LSD 02-29.00 Sequoyah Commons, pp485

1. Provide complete hydrographs in the drainage report.
2. Provide details for the outlet structure of the detention pond.
3. Remove the island proposed in the middle of the street.
4. Provide easements a minimum of 10' on each side of the proposed water and sewer lines. The shown easements do not meet this requirement.
5. Either extend the water main to be closer to the water meters or place the meters close to the main to avoid long service lines between the main and meter.
6. Show the location of the proposed silt fence on the grading plan.
7. Show the existing water and sewer on the grading plan.
8. Verify the width of the easement for the existing water lines.
9. All retaining walls over four (4) feet in height shall be designed by a registered professional engineer, and shall be inspected by the design engineer.
10. All retaining walls over 30" in height shall have a safety railing installed that meets the requirements of the SBBC.
11. The flow from the parking lot on the east side of the proposed detention pond needs to discharge through a pipe instead of dropping of the retaining wall.
12. According to §169.06 of the Unified Development Ordinance, cuts adjacent to public rights-of-way shall be set back a minimum of 25 feet. However, since this grading includes the construction of the roadway, this will not apply to this situation.
13. Planning Commission determination of offsite street improvements is required. At this time staff recommends that Olive St. be improved to meet the residential street standards including pavement, subbase, curb and gutter, and storm drainage from Spring St. to the proposed cul de sac. A second option that staff would consider is the extension of Center St. to provide frontage to the property.

than residential st. standards must not be absolutely needed if Center constructed or Olive would suffice if improved!

CITY OF FAYETTEVILLE
Public Works / Traffic Division
Plat Review Check List

PROJECT TITLE: SEQUOYAH COMMONS (between Olive & Fletcher, south of Spring)

PROJECT TYPE: LARGE SCALE DEVELOPMENT

SUBMITTED BY: Mandy Bunch of EB Landworks

DATE: October 29, 2002

REVIEWED BY: Perry Franklin, Traffic Superintendent

PHONE: 575-8228

Street names approved as submitted with the following comments or exceptions:

None

Street light locations approved with the following comments or exceptions:

None

Sight Distance Problems:

None

Other comments or recommendations:

1. Do you meet all of the parking requirements?

City of Fayetteville

Tree Preservation Plan Review Form

Project: Sequoyah Commons **Developer:** Houses Development Co.

Location Address: South end of Olive **Engineer:** EB Landworks

This form shall stand as a: ☐Initial Review/Letter of Confirmation

✔Recommendation to Planning Commission or City Council

☐Final Administrative Determination*

Submital requirements met:

✔Initial Review ✔Site Analysis ☐Analysis Report ✔Tree Preservation Plan

Comments:

Canopy measurements:

% Tree Canopy Required to be Preserved
Land Use R-2
%To be Preserved 20%

Total Area of Site:
Acres: 1.99 acres
Square Feet: 86,516 sf

Total Area of Existing Tree Canopy:
Acres: 1.99
Square Feet: 86,516
% of Total Site Area: 100%

Existing Tree Canopy Preserved:
Acres: 0.42
Square Feet: 18,515
% of Total Site Area 21%

Mitigation/Off Site Alternatives Requested: ☐Yes ☐No

☐On-Site Mitigation ☐Off-Site Preservation ☐Off-Site Forestation ☐Tree Fund

Tree Preservation Criteria Met: ☐Yes ☐No (See back for criteria list and comments)

Applicant's Plan: ☐Approved ✔Disapproved ☐Conditionally Approved

Reason(s) For Decision: *Tree Preservation cannot be counted within utility easements or areas too narrow to sustain a healthy canopy through construction. The tree preservation area along the south border is to be research to identify the utility easements existing for the Water line. The Preservation area along the north boundary is too narrow to sustain much canopy. Prior to approval, I will need to review the type and amount of trees existing in these narrow areas.*

Signed: Kim J Hesse ,the Landscape Administrator, date 10-29-02

City of Fayetteville

Landscape Review Form

Project: Sequoyah Commons **Developer:** Houses Development Co.

Location Address: South end of Olive **Engineer:** EB Landworks

This project falls under the requirements of :

✔Off Street Parking Lot - Landscaping
☐Commercial Design Standards - Landscaping
☐Buffers between zones - Landscaping/Fence

Landscape Plan Requirements: *This information may be included with the site plan. A Preliminary Landscape Plan is required for Planning Commission review and the Final Landscape Plan is required prior to issuance of the Building Permit.*

Off Street Parking Lot - Landscaping

Preliminary	Final	
✔	☐	Landscape protection - wheel stops or curb
✔	☐	Irrigatión - automatic or hose bibs located 100' O.C.
✔	☐	Landscaping beds - must be in beds with edging indicated.
✔	☐	Type (species) of trees and shrubs must be indicated on plans.
✔	☐	Size of plants at installation
☐	☐	Interior Landscaping - must be 4' into the limits of the parking lot
		Tree lawn - 10' min. width — 1 tree per 15 spaces
		Tree Island -min. 8' width, 17'. length — 1 tree per 12 spaces
		Tree Pit - 6" by 6" min. — 1 tree per 10 spaces
✔	☐	Exterior - Along R.O.W.
		15' adjacent to R.O.W exclusive for landscaping
		1 tree per 30 L.F.
		Continuos planting of shrubs and ground cover / 50% evergreen
✔	☐	Exterior - Side and Rear
		5' between property and parking lot to be left for landscaping.
	☐	Soil Amendments - Notes must include that soil is amended and sod removed.
	☐	Mulching - note must indicate mulching around trees and within landscape beds.
	☐	Planting details per City of Fayetteville Landscape Manual

Commercial Design Standards - Landscaping

☐	☐	15' wide landscape strip required along Right-of-way
☐	☐	Trees required at 30' spacing along street R.O.W.

Overlay District - Landscape Requirements

☐	☐	25' landscape buffer required along street R.O.W.
☐	☐	Trees required at 30' spacing along street R.O.W.,
☐	☐	25% of the project is required to be left as landscaped/open space.

Applicant's Plan: ☐Approved ☐Disapproved ✔Conditionally Approved

Conditions for Approval: *Please confirm that the interior parking lot islands that are utilized for tree islands are a minimum of 8' by 17'.*

Signed: Kim J. Hesse ,the Landscape Administrator, date 10-29-02

FAYETTEVILLE

THE CITY OF FAYETTEVILLE

DEPARTMENTAL CORRESPONDENCE

TO: Tim Conklin, City Planner
Sara Edwards, Associate Planner
THRU: Chuck Rutherford, Sidewalk Administrator
FROM: Keith Shreve, Development Coordinator
DATE: Friday, October 25, 2002
SUBJECT: PLAT REVIEW/SUBDIVISION COMMITTEE/PLANNING COMMISSION
IN-HOUSE REVIEW on **Tuesday, October 29, 2002**

I have reviewed a large scale development/subdivision proposal submitted under the name of:
LSD 02 - 29.00, Large Scale Development, (Sequoyah Commons)
submitted by: Mandy Bunch of EB Landworks on behalf of Gregg House Development

Location: between Olive Ave. and Fletcher Ave. south of Spring Street.
Plat Page #485 Zoning: **R - 2** Acreage: **2.06**

COMMENTS:

Olive Avenue is a ????? residential street which requires a four foot sidewalk and a minimum of five feet of green space along one side of the street and wrapping a cul-de-sac.

The sidewalk shall be continuous through driveways with a maximum of 2% cross slope and elevated 2% above top of curb. Remove lines representing curbs through the sidewalk section (in the driveway) from the drawing.

On residential class streets where the sidewalk wraps around the cul-de-sac and ends, a ramp should be constructed at the ending/beginning point of the sidewalk (preferably at a lot line) and a corresponding ramp across the street.

Detectable warnings are now required when constructing or altering curb ramps. A 24 in wide strip of detectable warning (truncated domes) should be installed at the bottom of a curb ramp to indicate the transition from the sidewalk to the street.

All retaining walls shall be set back a minimum of 2 feet from the right of way. All retaining wall construction shall be on the building permit and have the approval of the City Engineer.

New driveway approaches, access ramps or sidewalks constructed in the right of way shall be designed to meet Unified Development Ordinance Section 171.13 (a.k.a. Ord. #4005).

Driveway approaches shall be constructed of Portland Cement Concrete with a broom finish. Textured, stamped or exposed aggregate concrete is not allowed within the street right of way.

An inspection is required prior to the concrete pour.

One (1) bicycle parking racks are required per Ordinance # 4293.

If you have questions or comments, please give me a call at 575-8291. Thank you.

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: PLANNING DIVISION

FROM: FIRE PREVENTION BUREAU, FIRE MARSHAL'S OFFICE

REF: HYDRANT SPACING

PLEASE REVIEW THE FOLLOWING WITH PROPERTY OWNERS.

DATE: 10/28/02 OWNER Greg House

LOCATION/ADDRESS Olive and Fletcher

**SPRINKLED OCCUPANCIES SHALL HAVE A FIRE HYDRANT WITHIN 100 FEET OF THE FDC (FIRE DEPARTMENT CONNECTION). N/A

COMMENTS:
* All entry points shall be at least 20'
∴ Remove islands on Olive and at entry point
∴ Enlarge access at N. and S. ends of "Compact" parking area

* Existing hydrants meet 300' requirement (8" min)
↳ However, recommend additional hydrant located at N/E corner of entry due to limited access to buildings

OFFICER Capt. Casey PHONE 444-3449

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

TO: Sara Edwards, Associate Planner

FROM: Kim J. Rogers, Parks Operations Coordinator

DATE: October 28, 2002

SUBJECT: Parks & Recreation Plat Review Comments

****

Meeting Date:	**October 30, 2002**
Item:	**LSD 02-29.00 (1040) Sequoyah Commons, pp 485**
Park District:	**SW**
Zoned:	**R-2**
Billing Name & Address:	**Greg House, Houses Incorporated, 217 N. East Avenue, Fayetteville, AR 72701 479-521-9155**

	Land Dedication Requirement	Money in Lieu
Single Family	_____@ .025 acre per unit = _____ acres	@ $470 per unit = $
Multi Family	_____@ .02 acre per unit = _____ acres	_____@ $375 per unit = $_____
Mobile Home	_____@ .015 acre per unit = _____ acres	_____@ $280 per unit = $_____

COMMENTS:

The Parks and Recreation Advisory Board voted to accept money in lieu of land on October 7, 2002. Parks fees are assessed in the amount of $14,625 for 39 multi units.

Ms. Eads reported the Botanical Garden Society of the Ozarks would be conducting a Harvest Festival next week and were looking for volunteers to help with the event. Additionally, the organization is actively searching for more board members.

Mr. Hatfield announced the grand opening celebration of East Mud Creek Trail will be October 10 from 5:00 p.m. until 7:00 p.m. Several events will take place along with door prize awards. Parking is on Old Missouri Road behind Butterfield Trail Village.

The Parks and Recreation Advisory Board conducted a site tour of the following proposed developments:

6. **Development Name:** **Sequoyah Commons**
Engineer: EB LandWorks, Inc.
Owner: Greg House
Location: Olive Avenue, South of Spring Street on Mt. Sequoyah
Park District: SE
Units: 33 Multi Units
Total Acres: 2 acres
Land Dedication Requirement: 0.66 acres
Money in Lieu Requirement: $12,375
Existing Parks and Acreage: Mt. Sequoyah Gardens (2.42 acres)
Staff Recommendation: Money in Lieu of Land

1) The land dedication for park usage would be minimal.
2) The development is located across the street from Mt. Sequoyah Gardens Park.

Mandy Bunch and Melissa Evans of EB LandWorks, Inc. met the Parks and Recreation Advisory Board on site.

MOTION:

Mr. Marley moved to accept money in lieu of a land dedication to satisfy the park land dedication requirement for the proposed Sequoyah Commons development.

Mr. Hill seconded the motion.

Upon roll call, the motion was approved unanimously 7-0-0.

7. **Park Land Dedication**
Development Name: **Persimmon Place Subdivision**
Engineer: Jorgensen & Associates, Dave Jorgensen
Owner: Larry Garriott
Location: West of I-540, South of Hwy. 16 on Persimmon St.
Park District: SW
Units: 145 Single Units (buildable units)
Total Acres: 59.6 acres
Land Dedication Requirement: 3.625 acres
Money in Lieu Requirement: $68,150

Oct. 21, 2003

Houses, Inc

Phone (479) 521-9155
Fax (479) 521 6199

To Sandra Smith

Company City of Fayetteville

Fax # 575 - 8257

From Greg House

Date/Time June 4, 2003 4:15 pm

Total pages (including cover sheet) 4

NOTES/COMMENTS

Copy to Tim Conklin
6/4/03 Sandra

RECEIVED
JUN 04 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

HOUSES DEVELOPMENT CO., L.L.C.

217 NORTH EAST AVENUE
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE
(501)521-9155

FAX
(501)521-6199

June 4, 2003

Sandra Smith, City Clerk
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: Sequoyah Commons
LSD 02.29.10

Dear Ms. Smith,

Please consider this a formal appeal of the Planning Commission's decision on May 27, 2003 of Houses Development Company's Large Scale Development proposal referred to above.

While Houses Development Company, L.L.C. (HDC), as owner of this property, is pleased that the Planning Commission approved much of the proposed project as submitted, the Planning Commission only addressed part of HDC's proposal with respect to offsite improvements. The Commission's approval of this LSD is subject to HDC providing a connection within the existing street R.O.W. for Center Street between Olive and Walnut Streets. The Commission also recommended that the City Council approve a cost sharing proposal by HDC that the City pay for 53% of said offsite improvements. However, the Planning Commission failed to consider HDC's alternative proposal to construct Olive Avenue as a residential street to service this new development as described in Section 1) of our May 6, 2003 letter to the Planning Commission (attached hereto) and as addressed at both the concept plat meeting and the meeting of May 27, 2003.

The reason HDC made this alternative proposal was to provide a legal means of accessing and servicing this development in the event the City Council did not approve a cost sharing arrangement. Therefore, as we discussed, I would propose that this appeal be scheduled for hearing following a hearing on the cost sharing issue as the necessity of our appeal might be rendered moot.

Thank you for your time and consideration in this matter and please feel free to contact me if you require any further information.

Sincerely,

Gregory T. House for
Houses Development Company, L.L.C.

Enc.

HOUSES
INCORPORATED

212 North East Avenue
Fayetteville, AR 72701
telephone 479 521 9155
facsimile 479 521 6199

May 6, 2003

Planning Commission
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE SEQUOYAH COMMONS OFF-SITE IMPROVEMENTS

Dear Members of the Planning Commission,

I am writing to discuss the off-site improvements made necessary by our project on Olive Street. Having debated this issue at length with the City Planning Staff and our civil and traffic engineers, we believe that the traffic and access issues for this project can be met in one of two ways:

1) Bring Olive into conformity as a residential street by improving Olive avenue from Spring Street to the Center Street right of way as follows: widen the existing street to 24' back of curb to back of curb, overlay the existing paving, construct the new portion adjacent to our property to 28' wide (to accommodate on street parking) install a 4' concrete sidewalk on one side of Olive Avenue and install storm drainage to code. The capacity for a residential street is 300 to 500 trips per day. The total load on Olive at completion is projected at 395 per day. With these improvements, our LSD proposal will meet every requirement of the law, including the Unified Development Ordinance and the International Fire Protection Code;

2) The alternative planning staff is requesting would be to leave Olive Avenue as is, (though making sure that it is at least 20' wide) improve Olive adjacent to our project, and build Center Street between Olive and Walnut, with the necessary waivers requested in our latest submittal. This portion of Center Street is desired by the City Planner for purposes of "connectivity." Based upon the LSD Ordinance, our share of the costs for these improvements is limited to the "Rational Nexus" of need for the street being created by our project. In discussion with the City Planning Staff, we determined that the ratio of our project to the total units served by this new street would be approximately 43%. We should bear no more than 43% of the cost of the work to construct these improvements, and that the City of Fayetteville should provide the remaining 57%.

We can be satisfied with either solution. The choice is yours: either allow us to improve Olive Avenue or allow us to pay our share of the Center Street construction.

Respectfully Submitted,

Gregory T. House for
Houses, Incorporated

HOUSES DEVELOPMENT CO., L.L.C.

RECEIVED
JUN 06 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

217 NORTH EAST AVENUE
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE
(501)521-9155

FAX
(501)521-6199

June 4, 2003

Sandra Smith, City Clerk
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

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LSD 02.29.10

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Thank you for your time and consideration in this matter and please feel free to contact me if you require any further information.

Sincerely,

Gregory T. House for
Houses Development Company, L.L.C.

Enc.

HOUSES
INCORPORATED

217 North East Avenue
Fayetteville, AR 72701
telephone: 479.521.9155
facsimile: 479.521.6199

May 6, 2003

Planning Commission
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE SEQUOYAH COMMONS OFF-SITE IMPROVEMENTS

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We can be satisfied with either solution. The choice is yours: either allow us to improve Olive Avenue or allow us to pay our share of the Center Street construction.

Respectfully Submitted,

Gregory T. House for
Houses, Incorporated

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF OCTOBER 21, 2003

FROM:

ALDERMAN BOB REYNOLDS

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Repeal §74.08 Of The Fayetteville Code And Enact A Replacement §74.08 To Clarify And Expand The Prohibition Of Using Skateboards And Skates Upon Sidewalks Next To Commercial, Religious, Governmental, And Industrial Buildings And Most City Streets

APPROVED FOR AGENDA:

Robert E Reynolds 10-9-03
Alderman Date

10/1/03
City Attorney (as to form) Date

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL §74.08 OF THE FAYETTEVILLE CODE AND ENACT A REPLACEMENT §74.08 TO CLARIFY AND EXPAND THE PROHIBITION OF USING SKATEBOARDS AND SKATES UPON SIDEWALKS NEXT TO COMMERCIAL, RELIGIOUS, GOVERNMENTAL AND INDUSTRIAL BUILDINGS AND MOST CITY STREETS

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 repeals **§74.08 Use of skates, coasters, and the like; clinging to vehicles** of the Fayetteville Code and enacts a replacement **§74.08 Skateboards, roller skates and inline skates** of the Fayetteville Code as shown below:

> **"§74.08 Skateboards, roller skates, inline skates**
>
> "(A) No person shall use or ride on a skateboard, roller skates, or inline skates upon any street or road (unless the street is an officially designated a 'play street').
>
> "(B) No person shall use or ride on a skateboard, roller skates, or inline skates on sidewalks adjoining, in front of, or along side of commercial, religious, governmental or industrial buildings and their property, nor upon the private property of such establishments without the express consent of the owner or manager of such establishment.
>
> "(C) When legally using or riding on a skateboard, roller skates, or inline skates on residential or otherwise permitted sidewalks, the rider must yield to all pedestrians upon such sidewalks and follow all the rules set forth for pedestrians in Chapter 74 of the Fayetteville Code.
>
> "(D) No person riding upon a skateboard, roller skates, inline skates, or sled shall attach himself, herself or the sled to any vehicle upon a roadway."

PASSED and **APPROVED** this 21st day of October, 2003.

APPROVED:

By: _____
DAN COOPER, Mayor

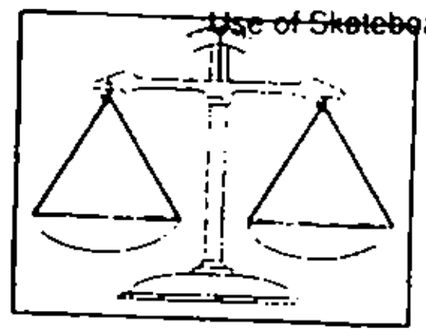
DRAFT

ATTEST:
By: _____
Sondra Smith, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Robert Reynolds**, Alderman

FROM: **Kit Williams**, City Attorney

DATE: **October 1, 2003**

RE: **Skateboard Ordinance**

Please review the proposed modifications to §74.08 of the Fayetteville Code to see if that is what you want. I do not think an Emergency Clause is legally appropriate since it requires an immediate danger to health, safety or peace. As they are already prohibited from streets by the current §74.08, the new part of the replacement §74.08 is largely concerned with protection of property rather than safety. That is why I did not include an Emergency Clause.

Let me know if this ordinance is okay. I will inform the City Clerk to place it on the October 21st agenda.

cane, or without using a "seeing-eye dog" specially trained for the purpose of accompanying and assisting blind persons, shall be guilty of a misdemeanor and subject to a like fine.
(Code 1965, § 19-251; Ord. No. 1447, 6-7-65)
Cross reference—Penalty, § 74.99.

§ 74.07 Duty of drivers to exercise care with regard to pedestrians.

Notwithstanding the provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.
(A.C.A., § 27-51-1204(d))
(Code 1965, § 19-252; Ord. No. 1447, 6-7-65)
Cross reference—Penalty, § 74.99.

§ 74.08 Use of skates, coasters and the like; clinging to vehicles.

(A) No person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway except while crossing a street on a crosswalk and, when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street.

(B) No person riding upon any coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.
(Code 1965, §§ 19-18, 19-20; Ord. No. 1447, 6-7-65)
Cross reference—Penalty, § 74.99.

§ 74.99 Penalty.

(A) Whoever violates any provision of this chapter for which no penalty is otherwise provided shall be fined as set forth in § 10.99.

(B) Whoever violates any provisions of § 74.06 shall be fined not more than $100.00.
(Code 1965, §§ 19-251, 19-263(b); Ord. No. 1447, 6-7-65; Ord. No. 2219, 5-4-76)

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: October 21, 2003

FROM:

Matt Casey	Engineering	Community Planning & Engineering
Name	Division	Department

ACTION REQUIRED: Approval of a cost-share and bid waiver in the amount of $18,900.00 with M.P. Construction, Inc. for the construction of a approximately 370 feet of 8" water main.

COST TO CITY:

$18,900.00	$ 305,128.00	Water & Sewer Cost Sharing
Cost of this request	Category/Project Budget	Program Category / Project Name
5400.5600.5808.00	$ 60,329.00	Water & Sewer Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02067	$ 244,799.00	Water & Sewer Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 10-6-03

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 10/6/03
Internal Auditor — Date: 10/6/03
City Attorney — Date: 10/3/03
Purchasing Manager — Date: 10/7/03

STAFF RECOMMENDATION: Staff recommends approval of the cost share and bid waiver.

Division Head — Date: 10-2-03
Department Director — Date: 10-2-03
Finance & Internal Services Dir. — Date: 10-8-03
Chief Administrative Officer — Date: 10-8-03
Mayor — Date:

Received in Mayor's Office 10/2/03 Date P.H.

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: No

RECEIVED
OCT 03 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Staff Review Form - Page 2

Description Skyler Place Sub. Water line Cost-Share Meeting Date October 21, 2003

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

ORDINANCE NO._____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE AGREEMENT WITH M. P. CONSTRUCTION, INC. IN THE AMOUNT OF $18,900.00 TO CONSTRUCT APPROXIMATELY 370 FEET OF 8" WATER MAIN ASSOCIATED WITH THE SKYLER PLACE SUBDIVISION.

WHEREAS, entering into a cost-share agreement with M. P. Construction, Inc. and utilizing its engineer will avoid the added cost and unnecessary duplication of effort which would arise from the formal competitive bidding process, and;

WHEREAS, the City Council finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical.

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 waives the requirements of formal competitive bidding and approves a cost-share agreement with M. P. Construction, Inc. in the amount of $18,900.00 to construct approximately 370 feet of 8" water main associated with the Skyler Place Subdivision.

PASSED AND APPROVED this 21st day of October, 2003.

APPROVED:

By:_____
DAN COODY, Mayor

ATTEST:

By:_____
SONDRA SMITH, City Clerk

DRAFT

City Council Meeting of October 21, 2003

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Tim Conklin, Community Planning and Engineering Services Director

Date: September 30, 2003

Subject: Proposed Skyler Place Subdivision Cost Share in the amount of $18,900.00 with M.P. Construction Inc. for the installation of approximately 370 feet of 8" water main.

RECOMMENDATION

Staff recommends that the City cost-share with M.P. Construction Inc., the developer, to construct approximately 370 feet of 8" water main. By participating in the construction of these improvements, the City will be creating a loop in the water main system in this area and eliminating the gap in the system.

BACKGROUND

On November 25, 2002, the Planning Commission approved the Preliminary Plat for Skyler Place Subdivision. The proposed Skyler Place Subdivision is located adjacent to Deane Street, Porter Road and Sang Avenue. As a part of this development, the developer will be constructing water, sewer, streets and storm drainage for a residential subdivision. The site grading and water and sewer extensions have been approved for the site and construction is currently underway.

DISCUSSION

There are existing water mains along Sang Ave., but there is a gap between them at this time. A requirement for this subdivision was that the developer connect to one of the water mains along Sang to offer more than one source of water. They are also connecting to the water main on Porter. By connecting to the water main on Sang, the gap between the water mains is reduced to approximately 370 feet. It would benefit the City of Fayetteville to have this gap in the water main system eliminated and to further loop the system in this area.

ENTERED 10-2-0

Construction estimates have been provided to the City for these improvements by M.P. Construction Inc.'s engineer as follows:

Developer's Share (Connection to Sang)	**$ 14,200.00**
City's Share	**$ 18,900.00**
Total	**$ 33,100.00**

BUDGET IMPACT

Based upon the information provided by the Budget & Research Division, there is a remaining balance of $244,799.00 in the Water and Sewer Cost Sharing Account. The final costs to the City will be based upon actual costs as documented by M.P. Construction Inc. subject to review by the City and may, or may not exceed the submitted estimate. However, the City's share will not exceed the estimate without additional authorization.

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:

Date: 9/24/2003

P.O Number:

Expected Delivery Date:

Vendor #: NEW

Vendor Name: M.P. CONSTRUCTION COMPANY, ATTN: BLEAUX BARNES

Mail Yes:__ No:____

Address: 5571 BLEAUX AVE. PO BOX 6485

Fob Point:

Taxable Yes:__ No:____

Quotes Attached Yes:____ No:____

City: SPRINGDALE

State: AR

Zip Code: 72762

Ship to code: 90

Divison Head Approval:

Requester: MATT CASEY

Requester's Employee #: 2119

Extension: 423

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Cost-Share for installation of approx. 370 ft. of 8" Water Main for Skyler Place Subdiv.				$18,900.00	5400-5600-5808.00	2067.2		
2					$0.00				
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

please return PO to Engineering

Subtotal: $18,900.00

Tax:

Total: $18,900.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

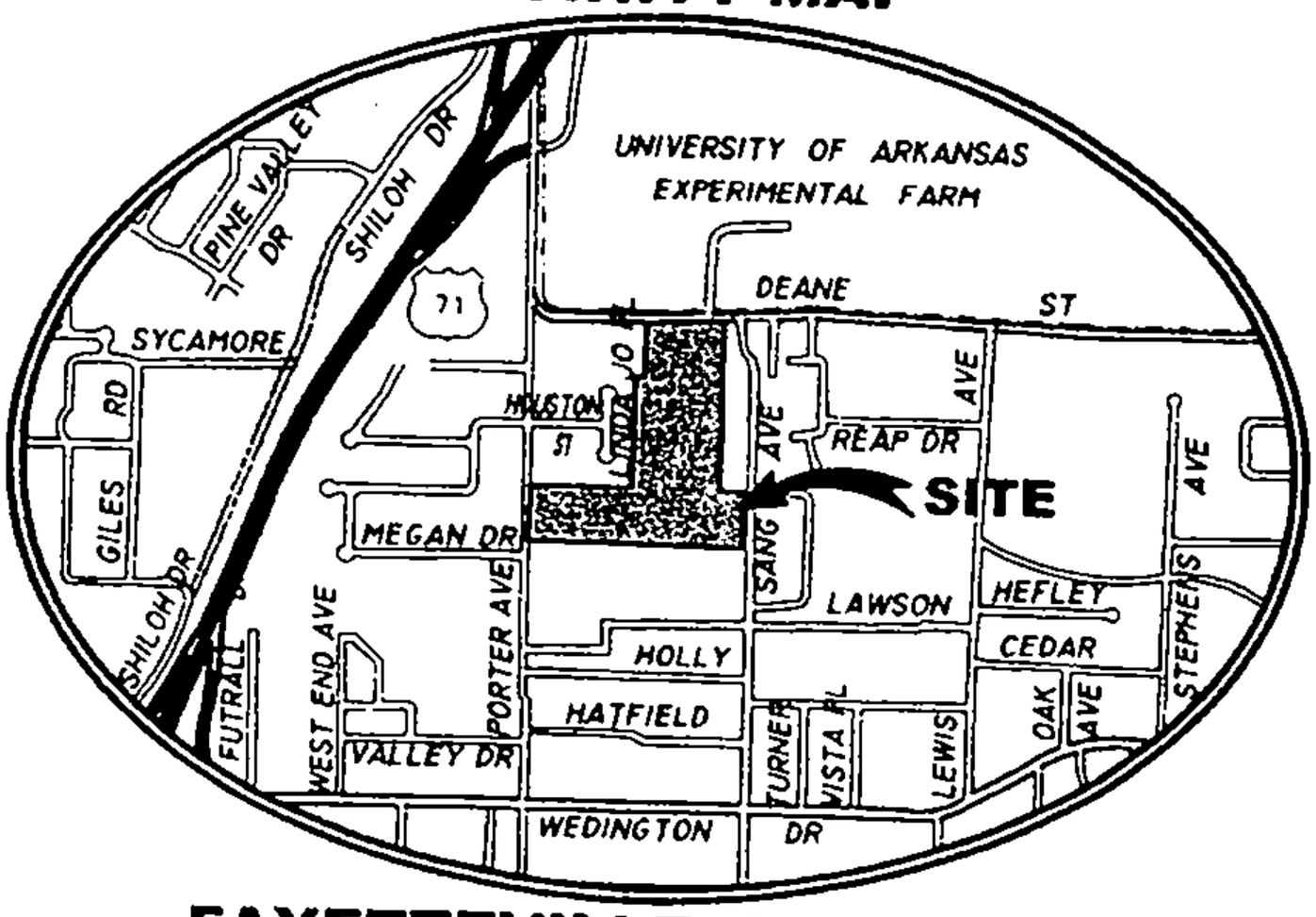
Dispatch Manager: _____

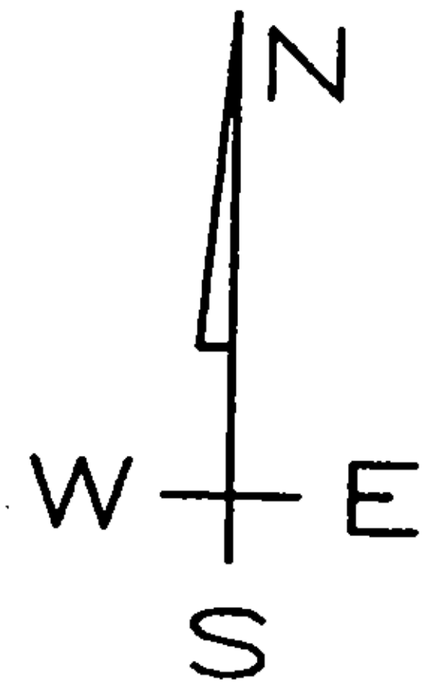
Utilities Manager: _____

Other: _____

Revised 6/17/03

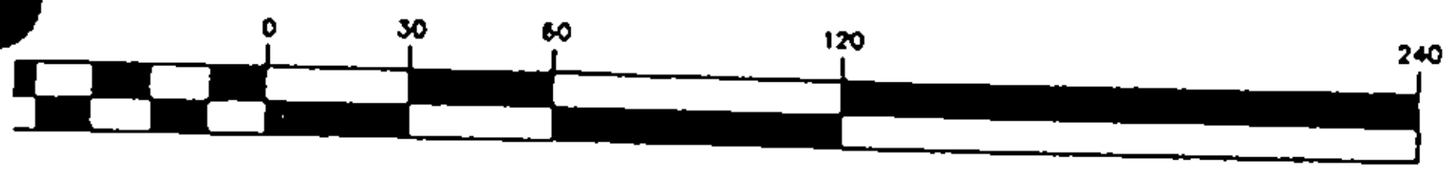
VICINITY MAP



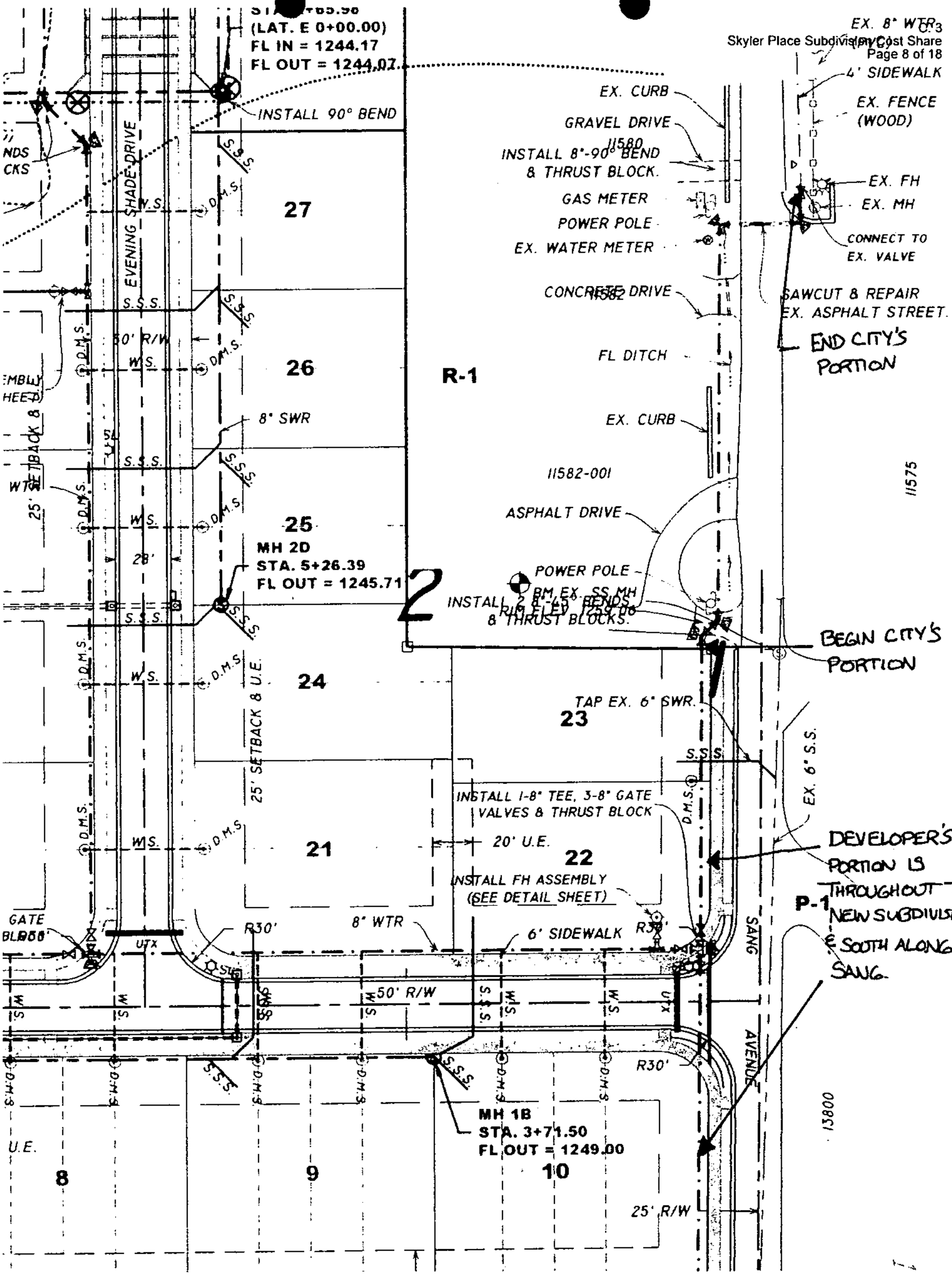


FAYETTEVILLE, ARKANSAS

GRAPHIC SCALE



(IN FEET)
1 inch = 60 ft.


(LAT. E 0+00.00)
FL IN = 1244.17
FL OUT = 1244.07
INSTALL 90° BEND
EVENING SHADE DRIVE
27
26
50' R/W
8" SWR
25
MH 2D
STA. 5+26.39
FL OUT = 1245.71
24
25' SETBACK & U.E.
21
R-1
EX. 8" WTR
4' SIDEWALK
EX. CURB
GRAVEL DRIVE
INSTALL 8"-90° BEND & THRUST BLOCK.
GAS METER
POWER POLE
EX. WATER METER
EX. FENCE (WOOD)
EX. FH
EX. MH
CONNECT TO EX. VALVE
CONCRETE DRIVE
SAWCUT & REPAIR EX. ASPHALT STREET.
END CITY'S PORTION
FL DITCH
EX. CURB
11582-001
ASPHALT DRIVE
POWER POLE
BM EX. SS MH
INSTALL 2 8"-45° BENDS & THRUST BLOCKS.
BEGIN CITY'S PORTION
TAP EX. 6" SWR.
23
EX. 6" S.S.
INSTALL 1-8" TEE, 3-8" GATE VALVES & THRUST BLOCK
20' U.E.
22
DEVELOPER'S PORTION IS THROUGHOUT THE NEW SUBDIVISION
INSTALL FH ASSEMBLY (SEE DETAIL SHEET)
P-1
SOUTH ALONG SANG.
GATE
8" WTR
6' SIDEWALK
R30'
50' R/W
SANG AVENUE
MH 1B
STA. 3+71.50
FL OUT = 1249.00
U.E.
8
9
10
25' R/W
11575
13800

Bennett's Dozer Service, Inc.
Route 1, Box 225
Havana, Arkansas 72842

Estimate

Date	Estimate No.
9/4/2003	107

Name / Address
City of Fayetteville Water & Sewer Department Skyler Place Subdivision

			Project
Description	**Quantity**	**Cost**	**Total**
Tap Water Main East Sang		3,000.00	3,000.00
Cut & Repair Sang		3,000.00	3,000.00
Cut & Repair Drives & Sidewalk		3,100.00	3,100.00
8" Water Main Main Ends on Common Lot Line 22 & 23	370	25.00	9,250.00
D/I Fittings		550.00	550.00
		Total	$18,900.00

RECEIVED
SEP 18 2003

Sep 16 03 05:15p Mathias Properties 479-750-0953 p.2

Bennett's Dozer Service, Inc.
Route 1 Box 225
Havana, AR 72842

Invoice

DATE	INVOICE #
9/15/2003	1999

BILL TO
MP Construction of Springdale, Inc.
1772 W. Sunset Avenue
Springdale, AR 72762
Skyler Place Sub.

P.O. NO.	TERMS	PROJECT

QUANTITY	DESCRIPTION	RATE	AMOUNT
	Tie in Valve at Sang Baptist church	600.00	600.00
3	8" Gate Valves	800.00	2,400.00
2	45 bends	200.00	400.00
	8" Tee	300.00	300.00
500	8" water Main	18.00	9,000.00
	Repair drive and curb	1,500.00	1,500.00
		Total	$14,200.00

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____ __ __ , by and between the City of Fayetteville, Arkansas and M.P. Construction, Inc., Witnesseth:

WHEREAS, M.P. Construction, Inc will hire a contractor to construct Skyler Place Subdivision; and

WHEREAS, The proposed subdivision has a water main extension that connects to an existing main on Sang Avenue; and

WHEREAS, There is a gap between the two existing waterlines along Sang Avenue; and

WHEREAS, it would benefit the City of Fayetteville to connect these waterlines to create a loop and eliminate the gap in the water main system; and

NOW, THEREFORE, the City of Fayetteville and M.P. Construction, Inc agree as follows:

1. Upon the City Council approving the Street Cost-Share, the City of Fayetteville agrees to:

   A. Pay for 100% of the actual documented construction costs for the construction of the 370 feet of 8" water main as shown on the plans prepared by the Jorgensen and Associates for M.P. Construction, Inc.

   B. Pay a maximum-not-to-exceed cost of $18,900.00 for the afore mentioned water main construction as was provided by Jorgensen and Associates for M.P. Construction, Inc., and made a part of this agreement.

   C. Reconsider the costs if the future and actual construction & inspection prices exceed the maximum-not-to-exceed amount that was furnished by Jorgensen and Associates for M.P. Construction, Inc., The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.

   D. Make all efforts to provide payment to M.P. Construction, Inc. within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.

2. M.P. Construction, Inc. agrees to:

   A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable water line installation.

   B. Provide a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the water main construction.

   C. Not to proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and signed by the Mayor.

3. It is further understood that the contract for construction is between M.P. Construction, Inc. and his Contractor & Engineer and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of $18,900.00 for the water main improvements.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

By:_____
DAN COODY, Mayor

M.P. Construction, Inc

By:_____

ATTEST:

By:_____
City Clerk

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IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

By:_____
DAN COODY, Mayor

M.P. Construction, Inc

By:_____

ATTEST:

By:_____
City Clerk

CONTRACTUAL AGREEMENT

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IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

By:_____
DAN COODY, Mayor

M.P. Construction, Inc

By:_____

ATTEST:

By:_____
City Clerk

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IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

By:_____
DAN COODY, Mayor

M.P. Construction, Inc

By:_____

ATTEST:

By:_____
City Clerk

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: October 21, 2003

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

C-PZD 03-08.00: Planned Zoning District (springwoods, pp 248) was submitted by Joe Tarvin, P.E. of EGIS Engineering, Inc. on behalf of Collins Haynes for property located southwest of I-540 and Arkansas Highway 112. The property is zoned I-1, Heavy Commercial/Light Industrial, located in the Design Overlay District, and contains approximately 289.26 acres. The request is to approve the Commercial Planned Zoning District with the conditions of approval recommended by staff and the Planning Commission.

STAFF RECOMMENDATION: Approval.

Division Head	9/30/03 Date	Received in Mayor's Office 10/6/03 Date
City Attorney	10/6/03 Date	
Department Director	10-2-03 Date	Cross Reference:
Finance & Internal Services Dir.	10-6-03 Date	Previous Ord/Res#:
Chief Administrative Officer	10-6-03 Date	Orig. Contract Date:
Mayor	10/7/03 Date	Orig. Contract Number:

New Item: Yes No

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED SPRINGWOODS (C-PZD 03-08.00) LOCATED SOUTH OF HWY. 112 AND WEST OF I-540, CONTAINING 289.28 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ACCORDING TO THE ASSOCIATED COMMERCIAL DEVELOPMENT PROJECT AS APPROVED BY THE PLANNING COMMISSION.

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 I-1, Heavy Commercial/Light Industrial to C-PZD 03-08.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan and development standards as shown on the preliminary plat for springwoods and approved by the Planning Commission on October 13, 2003.

Section 3. That this ordinance shall not take affect and be in full force until approval of the final plat for the subdivision.

Section 4. That all conditions of approval of the subdivision as approved by the Planning Commission shall be satisfied prior to the issuance of a final plat.

Section 5. 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 _____, 2003.

APPROVED:

By:_____
DAN COODY, Mayor

By: _____
Sondra Smith, City Clerk

DRAFT

EXHIBIT "A"
C-PZD 03-08.00

A PART OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NW CORNER OF SAID SECTION 33, THENCE SOUTH 87°19'24"EAST-2637.40 FEET TO THE NE CORNER OF THE NE ¼ OF THE NW ¼ OF SAID SECTION 33; THENCE SOUTH 87°14'56" EAST – 247.50 FEET; THENCE SOUTH 2°26'17" WEST-1030.76 FEET; THENCE SOUTH 87°17'25" EAST – 1100.15 FEET TO THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY 71 BYPASS; THENCE ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING BEARINGS AND DISTANCES, SOUTH 26°01'09" WEST – 74.14 FEET; THENCE SOUTH 74°59'16" WEST – 100.11 FEET; THENCE SOUTH 75°15'02" WEST – 117.54 FEET; THENCE SOUTH 66°53'26" WEST – 127.62 FEET; THENCE SOUTH 50°13'36" WEST – 191.34 FEET; THENCE SOUTH 31°34'48" WEST – 190.36 FEET; THENCE SOUTH 16°24'53" WEST - 126.58 FEET; THENCE SOUTH 4°16'48" WEST - 188.26 FEET; THENCE SOUTH 16°36'56" EAST – 57.67 FEET; THENCE SOUTH 12°48'23" EAST 100.11 FEET; THENCE SOUTH 5°19'10" EAST – 280.77 FEET; THENCE SOUTH 7°15'05"WEST 170.41 FEET; THENCE SOUTH 27°10'09" WEST – 171.37 FEET; THENCE SOUTH 34° 22'25" WEST 949.12 FEET; THENCE SOUTH 38°27'59" WEST – 150.76 FEET; THENCE SOUTH 34°22'18" WEST – 922.60 FEET; THENCE LEAVING THE WEST RIGHT OF WAY OF HIGHWAY 71 BY PASS NORTH 87°11'53" WEST – 631.86 FEET; THENCE SOUTH 2°25'44" WEST – 329.87 FEET; THENCE NORTH 87°21'18" WEST – 660.00 FEET; THENCE NORTH 2°25'44" EAST 330.00 FEET; THENCE NORTH 87°21'18" WEST – 660.23 FEET; THENCE NORTH 2°28'11" EAST – 2480.65 FEET; THENCE NORTH 87°19'24" WEST – 330.00 FEET; THENCE NORTH 2°28'11" EAST – 1816.06 FEET TO THE POINT OF BEGINNING, CONTAINING 289.28 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

DRAFT

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director T.C.

From: Dawn T. Warrick, AICP, Zoning and Development Administrator DTW

Date: October 3, 2003

Subject: Commercial Planned Zoning District for springwoods

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating the Commercial Planned Zoning District (C-PZD) for springwoods. This action would allow the establishment of a master plan with uses identified for 9 proposed lots. Development of each lot in the future will require further approval from the Planning Commission.

BACKGROUND

The City Council entered into an agreement with developer Collins Haynes for property formerly known as Wilson Springs Business Park. The current proposal is to create 9 total lots for further development review. Each lot has been identified with land uses designated which would be appropriate. Uses proposed include office and commercial, single family residential, multi-family residential and preserved land for wildlife/nature uses. One small lot (lot #9) contains a City lift station. This property will remain under City ownership for this public purpose.

DISCUSSION

The Planning Commission will consider this request on Monday, October 13, 2003. Approval of a planned zoning district project requires City Council approval as it includes zoning approval in the designation of uses for lots being proposed by a specific development plan.

BUDGET IMPACT

None.

EGIS

EGIS ENGINEERING, INC.

314 South Main
Bentonville, AR 72712-5903
Web: www.egis-env.com

(479) 271-9252
(479) 271-8627 (fax)
egis@egis-env.com

September 24, 2003

City of Fayetteville
Planning/Engineering Department
113 W. Mountain
Fayetteville, AR 72701

Attn: Tim Conklin

Re: Legacy Project
Fayetteville, Arkansas

Dear Mr. Conklin:

We would like to request that an amendment be made to the Master Street Plan regarding Truckers Lane and Technology Boulevard in Fayetteville. The two referenced streets are presently shown to cross our Legacy project location; therefore, we are requesting Truckers Lane and Technology Boulevard be removed from crossing the Legacy project.

Thank you for your consideration and assistance with this project.

Sincerely,

Joe Tarvin, P.E.
President

Copy

Audubon ARKANSAS

Heritage West
201 East Markham Street
Suite 450
Little Rock, AR 72201
Tel: 501-244-2229
Fax: 501-244-2231
www.audubon.org

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Catherine Rideout
Little Rock
Karen Rowe
DeWitt
Michael "Bo" Verser
Heber Springs

August 22, 2003

Collins Haynes
Haynes LTD
5417 Pinnacle Point Drive
Rogers, AR 72758

Dear Mr. Haynes:

RE: Letter of Support Regarding Wilson Spring Property

I have enjoyed working with you and your team on the Wilson Spring project and appreciate the time, energy, and earnestness you have brought to the task. You have been open to suggestions on the design of this project that we believe will help protect the sensitive environmental features of the property. In response to Audubon's feedback on your initial draft development plan, you have:

- Increased the size of the undeveloped property from 100 acres to 120 acres or more,
- Established protective wildlife corridors to the north and west thus encompassing stream buffers to Clabber Creek and its small tributaries,
- Removed a bridge over Clabber Creek that would have affected the watershed and jeopardized important habitat for the rare Arkansas Darter,
- Concentrated the acreage you propose to give to Audubon, thus reducing the fragmentation of habitat,
- Incorporated adjacent development designs that minimize detrimental impacts to the proposed Audubon property,
- Offered 3.0 acres of land to Audubon along Shiloh Drive appropriate for a future Audubon Center.

Audubon has been interested in the conservation of this property and its significant wildlife habitat for the past two years and welcomes the opportunity to work with Haynes Ltd. If the City of Fayetteville approves a development plan and the ultimate sale of this property, Audubon will consider taking ownership of

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all or parts of the balance of the undeveloped land. There are issues and details to work through, and Audubon has an internal approval process that must be followed, but I am hopeful that we can preserve the environmentally significant features of the land and one day have a ribbon cutting for a state of the art environmental education center for northwest Arkansas. *Any formal agreement between Audubon and Haynes Ltd will require approval by the President and the Board of the National Audubon Society.*

Thank you for working with Audubon.

Sincerely yours,

Ken Smith

Kenneth L. Smith
Vice President and Executive Director

cc: Don Nelms, Audubon Arkansas Board Chairman
Dan Taylor, Vice President, National Audubon Society

COPY

OLD BUSINESS:

R-PZD 03-1.00 (Jackson Place): Planned Zoning District Jackson Place: An ordinance establishing a Residential Planned Zoning District titled Jackson Place (R-PZD 03-1.00) located south of Skillern Road and east of Crossover Road; amending the official zoning map of the City of Fayetteville. The ordinance was left on the first reading at the April 15, 2003 City Council Meeting.

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

Mr. Williams read the ordinance

Tim Conklin, City Planning, said this is a residential planned zoning district it is 14 lots of single family homes. Staff and the Planning Commission recommended approval.

Alderman Marr said at agenda session when this first came up there was some discussion about the intersection and whether or not that could be studied. I am concerned about the concern on this intersection and how this might impact 265 traffic.

Mr. Conklin said staff did forward to transportation consultants that are working on the master plan a copy of this intersection for them to look at. A plan at this time is to place a stop sign where Old Wire turns back to the north and a stop sign at the new road that will line up across from Old Wire going to the north.

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

Mr. Williams read the ordinance

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

Ordinance 4480 As Recorded In The Office Of The City Clerk.

NEW BUSINESS:

* **Wilson Springs Business Park Land Sale:** A resolution to approve the real estate purchase and sale contract wherein Legacy Project LLC purchases the 289 acre I-540 Business Park site from the City of Fayetteville for 5.2 million dollars and other consideration.

Collins Haynes a developer said he has made an offer on the I-540 Business Park and that he is here to answer any questions. He said he thinks a minimum of 100 acres will be preserved.

Alderman Thiel said that in the contact it says an agreement to convey and deed 100 acres more or less of the property identified by Legacy Project to an Environmental Conversation Non-Profit

Organization acceptable to and determined by Legacy Project. There are at least 85 acres of delineated wet lands and 14-15 acres of floodway. She asked if that was part of this.

Mr. Haynes said yes it is part of it. He said we consider the described wetlands on the site to be pristine acreage and we believe that that acreage should be held in perpetuity by a group or a series of groups that can preserve it. I think more study needs to be done on the site to determine where the wet lands are.

Alderman Jordan asked how we came up with the figure of $5.2 million.

Mayor Coody said he came up with that because he wanted to bring a number forward that he thought was high enough for the City Council and the tax payers to reap the benefit of, yet low enough to where a developer, if we could find one would find it attractive enough to purchase. It was kind of the middle ground of getting a good return on our investment yet attractive enough to the developer to want to make an offer, which he has.

Alderman Jordan said this comes to roughly $34,000.00 per acre.

Mr. Haynes said some of that site is easement and hw is paying for land that is already owned by the City and will continue to be owned in perpetuity by the City.

Alderman Jordan said he is trying to determine what an acre of land is worth out there. He has heard from $10,000.00 up to $50,000.00. He said he wanted clarification as to what it is worth per acre.

Mr. Haynes said the worth would have to be analyzed in several different ways. This site has a signification ground water situation on it. The ground water varies from 2 feet to 5 feet in areas on this property. He said this causes additional expense in the development process. We take those numbers and work backwards to try to find what our real costs are. If we are buying land at $10,000.00 per acre but our actual development cost were $40,000.00 per acre then that is something that we would have to consider before we start the project. We have looked at the soil studies that were done; we know this is going to be an expensive site to do any development work on.

Alderman Marr asked Mr. Haynes if this is a time sensitive transaction meaning does it need to happen within a certain time frame. If this Council does not make a decision tonight will it kill the project from your perspective.

Mr. Haynes said if we are successful with obtaining approval from the City Council to a least present a plan for your review so that we could purchase this land we would be back within 30 days at the latest. With any project that has been as controversial as this one is, in order to develop it successfully there is going to have to be compromise from our side and from the ones that want to hold this land insitu forever. Without compromise it is never going to happen.

Mayor Coody gave a brief history of the land. In 1988 the City purchased this land for $1.3 million and over the course of the next few years we spent money putting in water and sewer lines and a lift station. Southwestern Bell has put in fiber optic cable.

Steve Davis, Finance and Internal Services Director, said the City has $1,658,000.00 in land cost and an additional $552,000.00 in other cost of which includes the sewer and water lines. Total cost to the City is $2.2 million rounded.

Mayor Coody said he thought it was originally bought because Texas Instruments was interested in coming to Arkansas, but they did not come.

Jonathan Jones, a member of the Task Force, said the per acre value is about $18,000.00 per acre for 289 acres at $5.2 million and that is not counting the $700.000 rebate, with that it would be more along the line of $15,000. The appraisals came in from $11,000 to $67,000 on comparable sales along the I-540 corridor this is on the lower end of those. The reason it is lower is because a lot of the property has drainage and soil issues. Those same issues are what make this property ecologically valuable. Mr. Haynes seems like a very trustworthy fellow. I would prefer to see a more concrete proposal with more specific details where there was an agreement in hand between the developer and Audubon before the City Council approves the sale of the property.

Mayor Coody said that before the transaction would consummate, the PZD zoning would have to be approved.

Alderman Jordan asked what the 70 acres that the Task Force recommended for development would be worth per acre.

Mr. Jones said the economic value of any property is at best a guess until the transaction has been consummated. The 70 acres on the south if you look at the report the estimated development cost is across the board $50,000 per acre. Development cost on the 70 acres to the south would be less. I would put the value of the 70 acres at least the medium of the appraised value that came back which would be somewhere in the mid 30's. The pay back to the City from this investment would be 6 ½ to 7 percent.

Lou Weiss she was told that we could not have the Audubon or anyone like that because this is not a park property, but there are other places in Fayetteville that we do that so why can't we do it in this place.

Kit Williams, City Attorney, said constitutionally the City is not allowed to give away resources to non-profit groups that would be doing government service things. We can enter into agreements with non-profits organizations, it doesn't always require money if they can provide enough services to the citizens of Fayetteville to justify the value of the property that we are leasing to them. The key issue is value. In order for a non-profit to be provided this land I can't see how they would be able to provide enough services to Fayetteville citizens to pay the fair market lease on land that is worth so much money.

Ms. Weiss said so would it be up to you and the Mayor and the Council people to make the decision on how valuable the organization that wants to lease the land would be to the citizens to Fayetteville.

Mr. Williams said certainly the Council and the Mayor would need to make some decisions like that but it would also have to be reasonable decisions. The Attorney General in his opinion has stated the crucial issue is whether the agreement is supported by adequate consideration. You can lease land to non-profits, but the tax payers are entitled to adequate consideration for their property.

Terry Eastin, Sharon Davison, and Al Vick spoke against the sale of the property.

Jeff Collins, the Chairman of the Task Force said the idea that there would be development on the north side of the property was considered and it was deemed that what was required was further research on the value of that property before it would be developed. When you are talking about developing the south and the north, some amount of acreage to be determined, that is within the ream of possibility.

Tom McKinney, a member of the Task Force said the sale of this property was discussed once. Nothing in the sale proposal coincides at all with any of the recommendations that the Task Force came up with. The 100 acres is not a donation, that 100 acres is protected wet lands and flood plains, the developer can not touch that anyway unless he is going to replace it somewhere else. This is a new project, if the property is sold then as far as I am concerned the delineation of the wet lands needs to be redone. Our recommendation was that we develop 70 acres of the southern portion, that approximately 80 acres of the middle portion needs to be set aside for putridity and that the northern portion of the property should be studied. The other resolution that was voted on by the City was to negotiate with Audubon to lease the 219 acres that was not included in the 73 developed.

Alderman Jordan asked what is impacted wet lands.

Mr. McKinney said as he understands there is certain criteria that must be met to have something designated as wet land. The wet lands out there meet that criteria.

Alderman Jordan said so those wet lands have always been there but they have sort of been covered over, but if they are let to go back to their natural state they will return.

Mr. McKinney said yes.

Laura Kelly spoke against the sale of the property.

Rob Leflar, Political Chair of the Ozark Headwater Group of the Sierra Club said this does not need to be an issue that divides the citizens of Fayetteville. Mayor Coody's plan is a plan that has some merits, we just disagreed that it is the best plan. The most developable commercially saleable area that is the piece that recoups the City's investment and then some, protects the tax payers interest, it should be put on the market, and it should be sold. That is not all the

developable area. The Task Force reported that after study some of the rest of that tract could prove of less ecological value. The reminder is critical wet land habitat. The Audubon could protect that. We would request that you table this proposal that is before you. He presented a petition that was signed by 200 voters in opposition to the sale.

Mayor Coody said the sale is not a $4.2 million dollar net it is a $5.2 million, the $700,00 that we would reimburse for the development is in the bank but it can only be used for this site we can not use it for anything else. If we don't use it we have to send it back to Little Rock.

Andrea Radwell, Stephen Boss, Steven Nichols, Fran Alexander, Jennifer Holt, Jim Bemis, and Melissa Terry spoke against the sale of the property.

Jeff Erf asked about the $700,000 grant money and how those funds can be used.

Mr. Williams said he has looked at this, there were two grant applications one from Mayor Hanna's administration and from Mayor Coody's administration. They are almost identical except for the name of the I-540 site. Both Mayors' in their transmittal letters asked for money to aid in construction of the water and sewer lines and streets at the park. Mr. Williams read the resolutions; they state the grants are to aid in the construction of the water and sewer lines and streets at the park. We would only be able to reimburse Mr. Haynes for the money that he would spend for street, sewer and water lines. Mr. Williams said these grants are not tied to the University, it is not tied to technology, and it must be for the infrastructure in the development of this site. Mr. Williams said he believes that this would be completely legal to use these grants in that way.

Mr. Erf asked do you think it would be legal to use those grants and give them to the University of Arkansas Genesis.

Mr. Williams said no.

Steve Frankenberger, a resident, asked Mr. Williams if we were to lease this to the Audubon Society and we are trying to delineate the economic benefits to the tax payer of the City to make it legal to lease this out at something less than market value, you have to be able to defend that line of reasoning in court, am I correct?

Mr. Williams said yes, I would not say that we are leasing it for less than fair market value, I would say that we are getting services from the Audubon Society besides money.

Mr. Frankenberger said but it is not an arbitrary figure that you just pick out of the air and the City Council decides it, you have to be able to defend it in court. Mr. Frankenberger said no matter what you decide tonight, the wet lands are preserved. The ad in the paper implies that the wet lands are to be developed, that is simply not true. The issue is where do we draw the line between what will be preserved and what will be developed. In a perfect world there would be a lot more sites like this being preserved, but this is not a perfect world and because it is not a perfect world, this issue should not be examined in a vacuum. With any issue that involves money, it has to be decided in the context of the budget and that means it has to be examined as

to where it lies on a list of priories. The value of preservation has to be compared to the value of what the City would do with that money. This is no different than taking $5.2 million from our current budget and buying that land. The question is this, what is the best use of this resource for the people of Fayetteville, is this land more important to us than the fire protection that it would buy, is this land more important to us than the trails and sidewalks it would buy, is this land more important to us that the green space that it would buy, is this land more important to us than the traffic improvement that it would buy, is this land more important to us in the piece of mind we would have by setting the money aside and doing nothing with it. Where is this on your list of priorities, unless it is at the very top, you should vote to sell this land and fund the items that are on the top. Fully developed this property will be worth hundreds of millions of dollars that will generate millions of dollars of property taxes for our schools and the library. They will have to pay impact fees to help us with our infrastructure. You will generate a flow of millions of dollars of commerce that much of it is likely to be subject to sales tax. This is a win, win situation; I urge you to accept this offer, sell this land and use the money wisely.

Jim Huffman spoke in favor of the sale.

Robert Farrell a resident said he has never seen nor can he recall a time when the recommendation of a citizens committee became public policy. A resolution does not tie the hands of elected officials who set public policy and enact laws and ordinances. Selling the property makes since for the City's economy. Recently 70 acres was acquired at Mount Sequoyah for green space, we must allocate resources to other things like widening street, building sidewalks and maintaining our needed repairs in the city and trying to keep up with our escalating public transit insurance. Several of us went to Little Rock several times to ask for infrastructure grants for the I-540 property. I take exception that the money was intended for Genesis, certainly we wanted it to be for the entire community. Please vote for the sale of the property.

Rebecca Garner, Bob Hill, Bill Clodfelter and Bill Moeller spoke in favor of the sale of this property.

Tommy Deweese, a resident, said he represented the City of Fayetteville back in 1998 when they took 5 of the Mayors from Northwest Arkansas and traveled to Little Rock to try to get the funds from the Arkansas Economic Development Division. The specific purpose that I was asked whenever I made the presentations by the committee was number one what will you use the money for, by response to that in the way that we came up with dollars is just as Kit Williams has said, my response was that we would use that for development of the specific property for streets and sewers out there. We were able to get in those two grants about $700,000. We received a lot of support from the cities of Bentonville, Springdale, Rogers and all those communities, because they realized the benefit that all of Northwest Arkansas could have from the development of that property, on the interstate there so many people travel by each day. Kit, it's exactly as you say, it was presented and came back to us as a representative of the City of Fayetteville to be used for that specific property for improvements on street and sewer.

Len Schaper, a resident that worked on the project, said this land was proposed as a Research and Technology Park at that time because it would bring good jobs. In 1995 I received a memo

from a member of the Research and Technology Park Committee about the ecologically sensitive nature of some of the land out there, but at that time we thought there was about 7 acres of wet lands on that property. How did it get to be 85 acres of wet lands, a lot of wet lands is depending on vegetation. The wet lands may have been there at the time and never appeared because the land was being leased to folks for them to graze cattle, apparently that kept the water from running down the hill and forming wet lands. Regardless of how they got there they need to be preserved. In the mean time things have changed, ideas have changes, concepts have changed, why should we be building a Research and Technology Park out by the bypass when we have Genesis and Engineering South down here. I must disagree with Kit, the money was to go for Research and Technology Park and the building of infrastructure in a Research and Technology Park, if you say and the folks from the State say it's tied to the site, so be it, it's tied to the site, it will still bring in jobs, it will still bring in high quality jobs. If I had my druthers it would go with the use and have it down at Genesis to help the University put in the infrastructure that we need down there. Does it make since to have a $5.2 million deal on this land, I think it does in some form. I am not sure if this is the perfect form, but I think it is a really good offer and I think you folks need to consider it very, very seriously. Obviously Mr. Haynes is an environmentally conscious developer, perhaps the title to the land should not all go to him, perhaps you work it out so first you figure out how much is wet lands, and that wet lands goes directly to whatever group everybody agrees on, I don't know, it is up to you to structure the best deal possible. Do you need to vote on it tonight, maybe not, but in principle I can certainly support this because it is a good use of that land. Is a nature center the best use I don't know, when I go out in nature I like to be able to hear the frogs, I am not sure I could hear the frogs above the roar of the 18 wheelers going up and down the bypass. Let's recognize that there is a lot more history to this than just the Wilson Springs Task Force, it goes way back. The final study came in 1998, so we worked on this between 1995 and 1998. The City Council accepted it at that time. A better idea comes along you go along with it. It's been 13 years that the City has owned this, it is time to recoup the investment, it is time to get the City out of that land development business and get it into the hands that can do it very well, that has demonstrated his ability to do it very well, I urge you at some point, maybe not tonight but in the near future, get this deal worked to the satisfaction of many folks and move on.

John Kelly spoke against the sale of the property.

Bob Nickle, Wayne Mays, and Paul Justus, Charlie Sloan and Dave Fulton spoke for the sale of the property.

Jeff Collins said as you look at the Task Force process you have to understand that we started with a certain state of the world and we tried to do the best with that state of the world. We at the time had no one making an offer for the property, in fact much of the discussion revolved around the uncertainty about whether anyone would make an offer for the property. We were also very concerned about the ability of the City to be a developer. The Audubon had talked about doing some things, there were a number of ideas floating around, but no resolution had been passed about the Audubon, we didn't integrate it into our deliberations and we certainly didn't integrate the idea that someone would be in front of us today offering $5.2 million for this site into our deliberation, that would have erased a great deal of uncertainly on my part. I was sort of the leader of the group that looked at the economics of the site and if you look at our

report we made some estimations about job creation, and value of the site. What I would ask you to do is go back to those estimations and put them into the context, those estimations were made under a great deal of uncertainty much of which has been removed by my way of thinking by actually having an offer on the table. There still is uncertainty on the site with regard to environmental values; I can't speak to those because that is not my area of expertise. What I can speak to is the idea of value. I don't know how many would go there, I have my doubts about how many people would actually use the Wilson Springs site. We as individuals assign value to these environmental amenities. The idea that we are trading one environmental amenity for another as if all environmental amenities had the exact same dollar value is ludicrous we make these trade offs all the time. With regard to the Task Force recommendations I think you have to understand that as time has elapsed and a great deal of time has elapsed since we began the process the world has changed. What recommendations we would come to now in this new world I can not tell you, those are merely guidelines. We did the best we could with the information that we had. We gave it to you to use to guide your decision making process.

He read two letters from two other Task Force members, Kathy Foraker and George Faucette expressing their support of the sale.

A member of the Task Force said there are many things about the Task Force process that he regrets, of all of the proposals that were entertained at many meetings in deliberating over what to do with this property I regret that one of those proposals was not Mr. Haynes proposal. It would have put everything in better context for us and would have been a better framework for the decision making. I would say that in accepting this proposal you are in many ways embodying most of the objectives of the Task Force, one we were trying to develop some plausible scheme for development in the context of the existing wet lands, the wet lands are going to be preserved, but also you are going to have a quality development out there. Everyone can attest to the fact that I have some serious concerns about the City functioning as a private developer. Turning this over to a private developer takes care of a lot of those concerns for me.

Pete Reagan spoke in favor of the sale of the property.

Bill Ramsey, CEO of the Chamber of Commerce spoke in favor of the sale of the property. In March the Chamber Board of Directors unanimously passed a resolution in support of the sale of this property.

Don Nelms, a resident representing the National Audubon Society and Audubon Arkansas, said he talked with Dan Taylor, Vice President of the National Audubon Society, today and has come in full circle in our organization, there has been some question if we are really representing the National Audubon Society, and I can assure you that I am and that Dan Taylor is. They support what I am saying. Our objective in the National Audubon Society is to connect people with nature and almost every person in this entire room grew up in an age that is very different than what our children are growing up today. I spent 90% of my time when I was at home until dark or after dark outside and I think many of you did the same thing. You went out into the fields and you discovered the way the earth works. Today children know more about nature strictly by TV than any other method and they spend an extremely small amount of time outside and we feel like that is something important that needs to change because we feel there is something

really being lost in this country. It's not just a matter of a piece of land it's part of our soul, a part of the structure that helps us come back and be reasonable people and get along and I think that is what we are trying to do in this city tonight, we are trying to get along. I want to try to get along, I am not here to read the right act to anybody, but to say I would like to be part of the solution here tonight and not part of the problem. I think the first thing that I need to explain and we have explained it before. Let me restate what an Audubon Center is and draw you a picture of what one would be like in this community. We would be talking about, if we are talking about Wilson Springs, about a 10,000 square foot building primarily devoted to education and helping people interact with nature. Where school children could come there, college students could come there and do research, where we could have all day long with students and get them out into the field and let them feel nature and find out what it's really like and get that wow factor back into what they see, that's what TV doesn't have. Kids can sit home and watch a bird do something or watch a fish do something but there is no wow to it, but when you are in nature and you are out there and you see something and you've got that where you just say wow, wow how beautiful is that, that's what we are not getting and that's something that I think is very very important and I would like to be a part of bringing that back to the children of the future. We would like to be in a position to have people come into this city and observe wildlife, have nature professional, and professional naturalist that could take people out into this area and show them things, to be able to bring displays in from all over the nation and have it to where people could go through this center. The argument that we are having tonight and the very arguments against this I am sure were the very same arguments that were made about Central Park in New York, they were the very same arguments that were made when Portland Oregon decided to sit aside probably 30% of that entire town and today anybody that has ever been to those places can look back and say man is that not incredible that somebody had the concept and the foresight to see what that would mean to this community. I believe that some kind of resolution to this away from the 100 acre resolution has the potential of doing that for this city and I hope it does. The Springfield, Missouri center attracts about approximately 250,000 people a year and I asked Dan today how many it was. I said Dan how many do you think will be attracted to this one, he said Don it would probably be in excess of 100,000, I really couldn't tell you that, that's anybody's guess. Nobody really knows the answer to that, I think it depends on who runs it and how it's run and how our city embraces it. Obviously if the city does not embrace this it's a no deal, it's just that simple, and it just isn't going to go anywhere. What do we need out there and what would it look like, I guess I would start with what would an Audubon Center out there look like, I would visualize the wet lands being wet lands and being restored back to their natural state. Remember somebody just dug a trench right through the center of this thing to drain it and that's what we have today. I would like to see that back to the meandering stream that it once was and all the tremendous things that it would bring back to that wet land and yes the wet lands will grow because the truth of the matter is the wet lands at one time were significantly larger than they are today so that would help it grow. I would like to see the tall grass prairies out there restored, I tell you, you would not believe how many people would go out there to see the flowers on those and would be involved in the bird processes and things like that. It would be necessary to restore that and it would be a central focal point for this community and something that would be a learning experience for everybody in this community. That's another thing I would like to see, I would like to see a trail system all down the creek that runs on down to the adjoining schools, there's two schools. We need controlled access to the wet lands, it doesn't need to be something that people can just go out there and tromp around in all the time, you have nesting birds, you

have all kinds of wildlife out there and you just can't have just free access to it because if you do you will destroy the very thing that we are talking about saving here. If you are talking about just letting people walk around on it, just X it because it's gone. There are times that you can, and there are observation things and there are things that can be done, but I mean just free access to it cannot, so we have to have controlled access. A generous remnant of the tall grass prairie needs to be present out there. I spent this spring traveling back and forth to prairies all over Arkansas and I am going to Hope next week to look at the tall grass prairies down there which is a black land prairie and the flowers on those and the things that you can see and the wild life and things that you take for granted you wouldn't believe, there is just holes all over those things where there are animals living down there, there are hawks over above that are going down and getting them and it's a cycle of life that's none of us really observe unless you are there and it's a chance for us to come back and have our community be able to observe what was a very broad amount of land in this area. We have hillsides all over this town and I would certainly be in favor in saving every one of them that we could, but they are not nearly as unique as this piece of property out there is and if we restore it, it would be so unique that it would just blow your mind, I guarantee you. We need a suitable building site and that would be about three acres and so really we are talking about what we need can be put on three acres. We can build a center on three acres, we can put the parking lots, hopefully Collins if he develops this, which I certainly hope that he will, then if he could share with us some parking lots we could even cut that amount. We need a center and we need it strategically located so we could have observation out of it and these things would just have to be worked out. We need access to high traffic areas and this is the reason this site so appeals to us, no different than the reason Collins wants to come here is the same reason we want to come here, because we are in the business of attracting a large number of people, if we don't attract a large number of people, we have no purpose. The nature conservancy goes out and sets aside land and just keeps people off of it and that's a wonderful thing to do, but that's not what we are really into, we're really into bringing people into nature and letting them interact with it. There is one other part that is extremely important and it hasn't really been brought out, but we need to preserve Wilson Springs. Wilson Springs is an extraordinarily unique thing that's out there that has the Arkansas Darter in it, a small beautiful fish that is pretty special and it's got to be protected and access to it has to be protected and I am not sure exactly how to do it but I think that's another worthy ambition. The next point I would do is to say, will 100 acres work, well let's not joke each other, there is 100 acres probably of wet lands out there right now, it's not buildable, it's not usable for anything, so the answer on that is obviously not, something more than that has to work and we would have to have that. My personal opinion of this is the Task Force recommendation. Many of the people that stood up here tonight and said it's time to bail out we've changed our mind, we are going to go on, I think it was thought through better than people give it credit for because over a very long period of time I have observed this, I've went out there, I've visualized building on it and I am not an architect but I tell you it is very problematic and I think that I would have a little bit of a heart tug with some of the things that are going to have to be done out there. We talk of this like this $5.2 million is a done deal, guys read the contract it's not a done deal, this contract simply says I'm going to go out there and I'm going to work up a deal, if I can get it through and I'm happy with it I'm going to buy it if I'm not I'm gone, so you don't have a deal you've got the beginning of a deal. You have a whole lot of people that you have heard here tonight that don't want that deal, so it's not over, and the shouting is going to go on for a long time and it really is time to put this to bed, so maybe some other solution is really a better solution, a better solution

for Collins, a better solution for the National Audubon Society, a better solution for the people of this city and that is what I would like you to consider. I just tell you what I think would make some sense, sit down with this developer, look at the price that he is paying, now no one is talking about whether that's the right price, but I want to talk about it being the right price. I spent my life selling things at the right price, you can either say it's a good deal or bad deal but I have probably sold 100,000 cars in my life and if I sold the majority of those at the wrong price I wouldn't have sold them. We have a situation here where we may have the price wrong; it may need to be a little less to give this developer the flexibility necessary to take all the things into consideration that needs to be taken into consideration. I think that Collins, and I am not putting words in your mouth, because I'm frankly kind of tired of people putting words in my mouth, so I don't want to put words in your mouth, but I would be surprised if he wouldn't tell you that this thing would be a heck of a lot easier if there wasn't such a price issue on this. If this thing could be resolved at a lesser amount and just sell him the whole property and let us sit down and work with him or some other organization and it doesn't have to be us we are not the only one in the world, but let us work toward a resolution to this at a dollar amount where he could actually get us the land or work a deal with us to get the land, but he could receive the tax benefits from it and he could receive a lot of things from it, but the whole thing is at $5.2 million, guys the economic model here is that you have just about got to do the whole thing there is just not much left and that may just be too much, so I will leave you with that, I have made Collins a commitment, I said I would come back and look at it when he gets it done. The National Audubon Society would like to have a center in Fayetteville, Arkansas no matter what anybody else says we want a center here and we are willing to commit our time and our resources to get this done, but let's get it off to a good start. I suggest to go back to the drawing boards see if you can't come up with something that's a little more compatible to everybody concerned and then see if we can't make a deal here that will live, if you make a deal tonight and he has such a problem developing this thing and so many people making it difficult for him he may say man I don't have to have this life, this isn't worth it, so let's make it worth it to him, let's make it a good deal for him.

George Weiss, a resident said every intelligent person wants to gather all the information that they can if we are making a decision, one of the things I have not heard yet discussed tonight, since the Audubon does have nature centers throughout the country, has anybody looked into what impact they have in those communities, good or bad and I think until you have that information I don't know how you can make a reasonable decision, so I would suggest until you get that information you table this.

Mayor Coody said we want Audubon here too, that has always been our position. Of course everybody in Fayetteville wants Audubon here too.

Mr. Nelms said I don't think everyone is a fair statement, I've heard you say this time and time again. It's got to be compatible to us establishing and being able achieve our mission and we are talking about a very, very long term commitment to this city that will live way past any of us in this room and it has to be a deal that works and so we looked at this seriously, thought about it and we brought experts in, these guys do this every day and I am looking to them. They feel like this is a wonderful site for us, we will find a site in Northwest Arkansas, but I am telling you we are going to stick to the dying death on this one just simply because we think the habit is so

unique here and it is something that this city would be so proud of and we would be proud of, because this land is not pristine, everybody that has been out there knows that, this thing has had more alterations, it doesn't even come close to being calling pristine, but the potential for restoration is just unbelievable and the result would be unbelievable. I didn't mean to take up your time any more but I appreciate you all hearing us and whatever you do is fine with me, I am going to be happy with it and all of you really are my friends and that includes you Dan, I know we fuss and all this but I'll tell you I have been diligent about this because I think it's worth it and it's my time and I'm not even on the job here just remember that, I mean I think this is important, if we don't have this happen we'll do something else some other time, but I have met with Collins, I like him he has a great reputation, everybody here tonight has said that, so let's not let this chance pass up to make a lot of people happy with this thing.

Mayor Coody said that what he was going to say is I think there may be some room where Audubon and Mr. Haynes can work together we have been visiting with each other and I know you have mentioned the possible purchase of a small tract of some land. I want to see Audubon work out a deal here in town and I do think that there is room for that, no one knows exactly what the magic number of acres is for the potential site out there of Wilson Springs Business Park, love to have Audubon out there, love to have Collins Haynes out there, I feel certain that you two can work out some kind of a deal to where you both can come out ahead. Matter of fact after talking with Mr. Haynes about this I feel certain that he will be able to work with you to accomplish your goal and I feel certain that you will be able to be flexible enough to work with Mr. Haynes to make something work out for Audubon, so I am putting faith in the two of you to be able to work out some kind of a compatible arrangement, I just feel certain that this will work just fine.

Mr. Haynes said there has been a lot of discussion about Audubon. There are other groups out there that are just as deserving as Audubon, I don't have anything against the Audubon Society nor Mr. Nelms, I consider him a friend, I consider him a great environmentalist, but my point is this is not trying to accommodate Audubon, all I am trying to do is put an offer to the City Council of the City of Fayetteville that says I will pay you $5.2 million for this piece of property, I will deed out, this really is giving this land away, I mean I can own this 100 acres in putridity myself. I don't have to give this land up, this is a gift, and the notion that it is not a gift is a gross misconception. I see a very limited potential for failure, because I have gotten support of every person that I have talked to within the city government, I have gotten support of Mr. Nelms about trying to work out a solution on this property, if we don't come to a solution with the Audubon Society, there are other groups that I can work with on it and if I don't find a suitable group that 100 acres will sit insitu, I will protect it, I will let no one own this property. I mean it needs to stay pristine, whether Audubon uses it or the Sierra Club or the Nature Conservancy, whoever, it is a pristine wonderful piece of property, that being said I hope you vote for it so that I'll get a chance to show you what I think I can do with the property, should you vote against it, it's still a great piece of property and the Audubon Society and all the other environmental groups deserve to have a shoot at it. Thank you.

Mayor Coody read a letter from the Mayor in Rogers commending Mr. Haynes and his work.

Alderman Davis said you are willing to work with other non-profits including Audubon if they need more acreage you are possibility willing to give or sell or try to work out some deal is that correct.

Mr. Haynes said absolutely.

Alderman Davis said with that and Mr. Haynes track record and his willingness to work with Audubon or another non-profit organization, I don't believe the City needs to be in the development business, it is something we needed to be out of 12 or 13 years ago. We bought the land because of TI, Texas Instruments was coming into Fayetteville supposedly and it never happened, as long as the land is owned by the City I firmly believe that nothing is ever going to take place out there, because of what has happened at this point in time, because of that I am going to move that I would like for the City Council to accept Mr. Collins Haynes offer.

Alderman Davis moved to approve the resolution. Alderman Lucas seconded.

Alderman Thiel said she has supported the Audubon Nature Center. I really was not going to get into that, but I think there really is a desire of the people that I have heard from, because as it has been pointed out the Nature Conservative provides basically a passive preservation of land and the offer that we have from the National Audubon Society is to build a nature center, which is the reason I have always thought of this as a win, win is because that would provide tourism dollars, educational opportunities that I don't think the Nature Conservative preservation of land would offer the same thing, with that being said I want to go on and say what I had planned to say. I support the sale of this property to Collins Haynes, who I believe is a fairly environmentally sensitive developer, but I don't believe this particular contract is in the best interest of the citizens of Fayetteville. If the Mayor had followed the recommendations of the Council and had gone to Collins Haynes with a proposal for involving the Audubon idea which he has a resolution on, we could be looking at a high class business commercial area and a National Audubon Center contract tonight and I truly think both would bring immeasurable economic benefits to the City of Fayetteville. I agree with what Don Nelms said that the best solution would be for Mr. Haynes and an Audubon representative to work out an arrangement that is suitable to both parties and to the public and this would probably consist of a reduced price coming back to this Council for this land. It would allow Collins to economically develop the land 70 to 90 acres and donate the rest to the Audubon Society which then of course you would derive the tax credits for that. I think this Council and the public needs to remember this land was bought for economic incentive, it was never bought to sell for profit, that was not the intention of the purchase of this land, if we can sell this land, recoup our loss and make some, I think that is the win, win. I fully understand that people, all the public is very tired of this debate, I think they want something now, but I think we still have the opportunity to do the right thing, I think the citizens desire that, particularly the citizens of Ward 4 where this property is located. So I would like to see this tabled for another two weeks to give these people an opportunity to discuss this a little further.

Alderman Thiel moved to table the resolution until the next Council meeting. Alderman Jordan seconded.

Alderman Jordan said every once in a while when I make my decisions we come to a point to where we as politicians the plastic facade that we put around us from time comes off and the true character of the politician is revealed, what I mean by that is this. When you come to a vote like this who you are really comes out, what you believe, what you rely on, who you are. As I made decisions on this thing I flipped through my notes and I asked myself two questions, what have we said and what have we done, what do we have and what do we lose. As I made decisions on this thing, we passed a resolution last October, I in good faith and we passed it unanimously and we said this is what we are going to do, if I remember this correctly, we are going to preserve 180 acres we are going to develop 70, we are going to put a 600 foot buffer around that creek in the northern area and we are going to study the rest and that was never done. That concerns me. As far as the Audubon goes this is a chance to have a nationally known park in this area that can be passed down for our children and our children's children from one generation to the next and that is important to me. I do not want to sacrifice the inheritance of my children and my grandchildren for some monetary gain right now, now I fully believe that we can table this and come back with a better solution to this. We do know we can sale the seventy acres right now and if it is anywhere close to $35,000, that is $2.4 million and we can still have the Audubon and we can still study the land in the northern area to see what we can have, but in my opinion, I have made a decision and I am going to go with the first recommendation of that Task Force. I don't care what kind of straw vote we've got in here tonight.

Alderman Marr said he loved Mr. Molders comment that it is time to pony up to the table and make some decisions and I know that before I even ran for office in a special election this piece of land was being talked about, I remember on the Planning Commission, I remember people talking about it at our Rotary and one of my first meetings was a presentation on what the City did and this particular piece of land came up and what should be done with it. I struggle with whether it should be tabled or not because I think that most everyone who has talked to me, who has called me, I have been very clear that I absolutely 100% do not believe that the City should be a developer, there is a lot of appeal to me to get out of the business that is not our core competency, I don't think we have compensation programs around creating positions that encourage people to attract business to the city. I don't think you have proven even with the Task Force recommendation that we had people lined up to come develop or we would already have had things in front of us, I think there are a lot of weaknesses and I think we need to get out of that. I too have some questions on the contract itself, because I don't like that every out is on the side of the developer. I think Ms. Alexander's comments tonight that it's identified by Legacy Group, the time period is designated by the Legacy Group some of those things concern me. I don't want to kill a deal over that, but I'll tell you that it concerns me because I think it's a decisive issue that probably could be worked out. I also do not want to run off a developer, my very first question was is it time sensitive because I can tell you if I could pick a person that I would want to do this it would be the one that is standing here with the offer without question. What limited conservation I have had with him personally and with what my own due diligence and referencing of him as a developer in the region. So I really struggle with this motion to table because what I don't want is to be here on May 20th from 6:00 to 10:00 pm hearing the same comments again, I don't know that it will change that much and I don't know how willing we truly are to say are we willing to take a little bit less to get a little more preserve so that we get win, win. If it came down to the fact that nothing was going to change, then I don't support tabling it and if we think that we have some kind of negotiation that can take place, then I think

we should wait. So I guess I am trying to get some feel for, do we think that there is any possibility of further discussion on the contract or do you see it that way, do you see that there is a resolution on an amount and the terms.

Mr. Haynes, said we do not design by committee nor do we work deals out by committee, so I am not use to this, let me just tell you where I am coming from, I have an offer on the table to you right now for $5.2 million. My suggestion to you is that you take that as a basis in fact per acre for that property, if during our discussions and my submittal to the City through the PZD process that Audubon can work with me on taking part of that land more that just the designated wet land area and come up with a suitable site that they can use for their development and I am going to give back another amount of acreage then you reduce my basis back down that I pay you for that land by that amount, because this could go on. I have done a lot of work on this project in trying to find suitable environmental non-profit's to utilize the property, I have called the Audubon, I have emailed the Audubon, the Audubon comes back and I quote in this email " Audubon at this present time has more projects possible than we can ever possibility take on even in a strong economy" that comes from the National Audubon Society, you have nothing in writing that indicates that Audubon is going to build there, I fully believe they will build there, I want them there, I like Ken Smith, I like Don Nelms, I think it can happen, but it's not going to happen in 6 months, it's not going to happen in a year, it's going to take a long time. I'm not going to wait, neither is any reasonable businessman, so what I am trying to point out to you is I think the solution here is to put a basis per acre cost into this contract, if I buy all 289 acres for the property I am going to give you $5.2 million, if I work something out that your Planning Commission and your PZD group agrees is the best solution to try to get a nature center in there and I have to give up 30 more acres of my property then my price and my basis are reduced portionally that would be a suggestion.

Alderman Marr said how is that reflected in this contract.

Mr. Williams said he was negotiating this contract with Mr. Haynes attorney and we looked at this and this contract has gone through a lot of back and forth's to try to make it as fair as possible and as you are aware being on the Planning Commission often times the person that is asking for a rezoning doesn't own the property yet, they just have a right to buy it if the property is rezoned, so that is not so unusual. In this particular context Mr. Haynes doesn't actually have to fully go through with this contract and pay the $5.2 million unless his development is approved, and when it is approved by the Planning Commission or possibly the City Council which is our out, because if he proposes a development that is not satisfactory, that does not honor the wishes and desires of the Planning Commission or the City Council, well then he is not going to be approved. You have the power just like the Planning Commission has the power on that, especially if it is a Planned Zoning District, so he has a right and I think it is very reasonable for him to have a right to say unless my project gets approved this land is not worth anything to me, that's why he has the right to back out of it. I think at that point in time, let's assume as Mr. Haynes just said that after he has done his study on the wet land, after he has talked to whatever non-profit conservation group he wants, maybe it's looked at that there is more than 100 acres that's needed to be preserved, it doesn't mean that we can't go back as part of this contract and make an amendment to the contract just as he has suggested, if as long as you all would agree and he would agree at that point in time. I don't think you will ever get to that point though,

unless you agree to this contract, because he is not going to begin all the development process to get there.

Mr. Haynes said if you want to sell me the property for $5.2 million and I give you a minimum of 100 acres back to a non-profit that is the deal on the table, I think it's evidence by what I'm telling you and being heard and being listened to and probably quoted in the press as probably saying right now, my reputation is on the line, I do what I say I am going to do. I have just told you I want to work with Audubon or a non-profit to try to develop the piece of property so we can both co-habitat and have a great development.

Upon roll call the motion to table failed 2-6. Alderman Thiel and Jordan voting yes. Alderman Cook, Marr, Rhoads, Davis, Lucas and Reynolds voting no.

Alderman Thiel said there are some changes she would like to see in the contract, but since we didn't table this there is really no way, I don't see how we handle making amendments to a contract, I don't see how this Council can do that tonight, that's why my suggestion to table it so this could be worked out, we make suggestions for changes. they come back to us with the changes. I have a real concern about one of the sections in this, that's the one Fran eluded to. Can we make amendments to this.

Mr. Williams said I don't think you can make amendments to this particular contract, this is an offer and acceptance contract which has been signed both by the Mayor and Mr. Haynes, and so the contract is before you for acceptance or rejection at this point in time.

Mr. Haynes said that that's all it is, it's an O & A.

Alderman Thiel said she would just as soon see the consideration of this 100 acres of wet land and creek be removed from this contract.

Mr. Williams said if this contract is not acceptable to you, you will need to vote against the resolution.

Alderman Marr said how do we make sure that the proceeds go towards the things that we are talking about tonight as opposed to being in the general fund without any direction as to how it is going to be spent.

Mayor Coody said the decision is ultimately the Council's how this money is spent, but I am going to make a pitch to the Council that we spend $3 million of this money preserving creeks, streams, multi use trails, etc. It is going to be up to the Council on how we spend the money, but I feel certain that they will fall within the parameters that we came up with at the retreat.
Alderman Rhoads said the last thing you said is the most important piece and that is what we decided our priorities were a month and half ago, we all have them, I bring them to every meeting, I look at them, I refresh my memory. I think we should maintain the flexibility to use the proceeds as our priorities dictate otherwise we are going to have the same kind of conservation that we had tonight about you promised to do this and you promised to do that. I think we need the flexibility to spend the money on the priorities.

Upon roll call the motion to approve the resolution passed. 6-2. Alderman Cook, Marr, Rhoads, Davis, Lucas and Reynolds voting yes. Alderman Thiel and Jordan voting no.

Resolution 68-03 As Recorded In The Office Of The City Clerk.

Wilson Springs Business Park Survey: A resolution approving Contract Amendment #2 with McClelland Engineers, Inc. in the amount of $71,000.00 for engineering services relating to the sale of the Arkansas Business Technology Park (Wilson Springs Business Park).

Alderman Davis moved to approve the resolution. Alderman Reynolds seconded. Upon roll call the motion carried 7-0-1. Alderman Rhoads was absent during roll call.

Resolution 69-03 As Recorded In The Office Of The City Clerk.

WHM Land Investments, Inc. Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by WHM Land Investment, Inc. to secure the necessary land on which to construct the West Fayetteville Fire Station. The resolution was tabled at the May 6, 2003 City Council meeting.

Alderman Davis moved to table the resolution until the next meeting. Alderman Thiel seconded. Upon roll call the motion to table passed 7-0-1. Alderman Rhoads was absent during roll call.

VAC 03-6.00 (Allen): An ordinance approving VAC03-6.00 to vacate and abandon a 43.7 sq. ft. portion of the utility easement located along the south property line of 2541 Litchfield Lane as depicted on the attached map and legal description.

Mr. Williams read the ordinance.

Alderman Davis asked what was the reason for the vacation.

Mr. Conklin stated that there is a small encroachment with ease of an existing structure, so in order to get clear title and clean that up they have to vacate just that 43.7 sq. ft.

Alderman Davis stated that this was passed by The Planning Commission 7-0.

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

Mr. Williams read the ordinance.

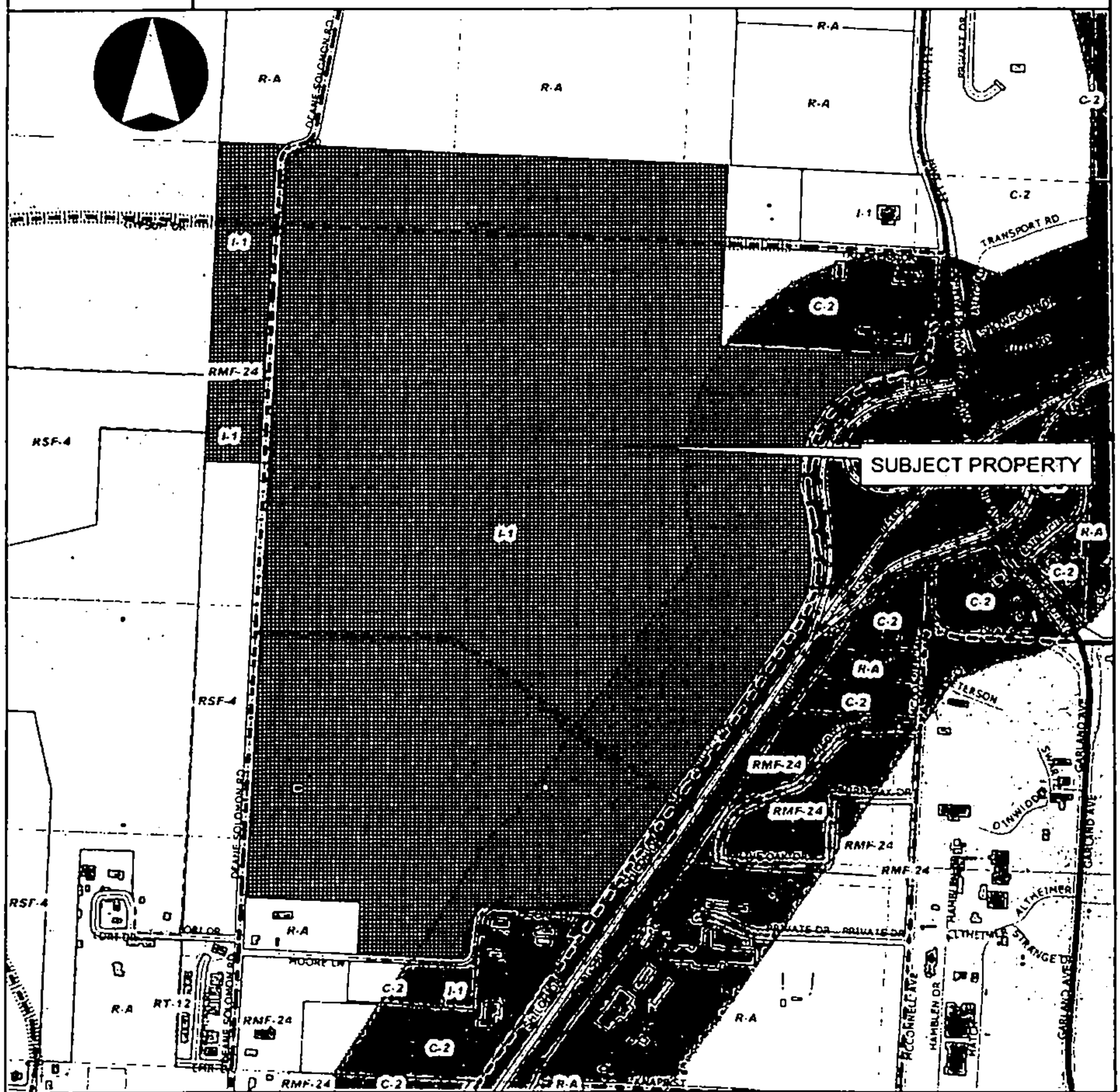
Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Davis seconded. Upon roll call motion passed unanimously.

Mr. Williams read the ordinance.

C-PZD03-08.00

Close Up View

SPRINGWOODS



Overview

Legend

Subject Property

C-PZD03-08.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

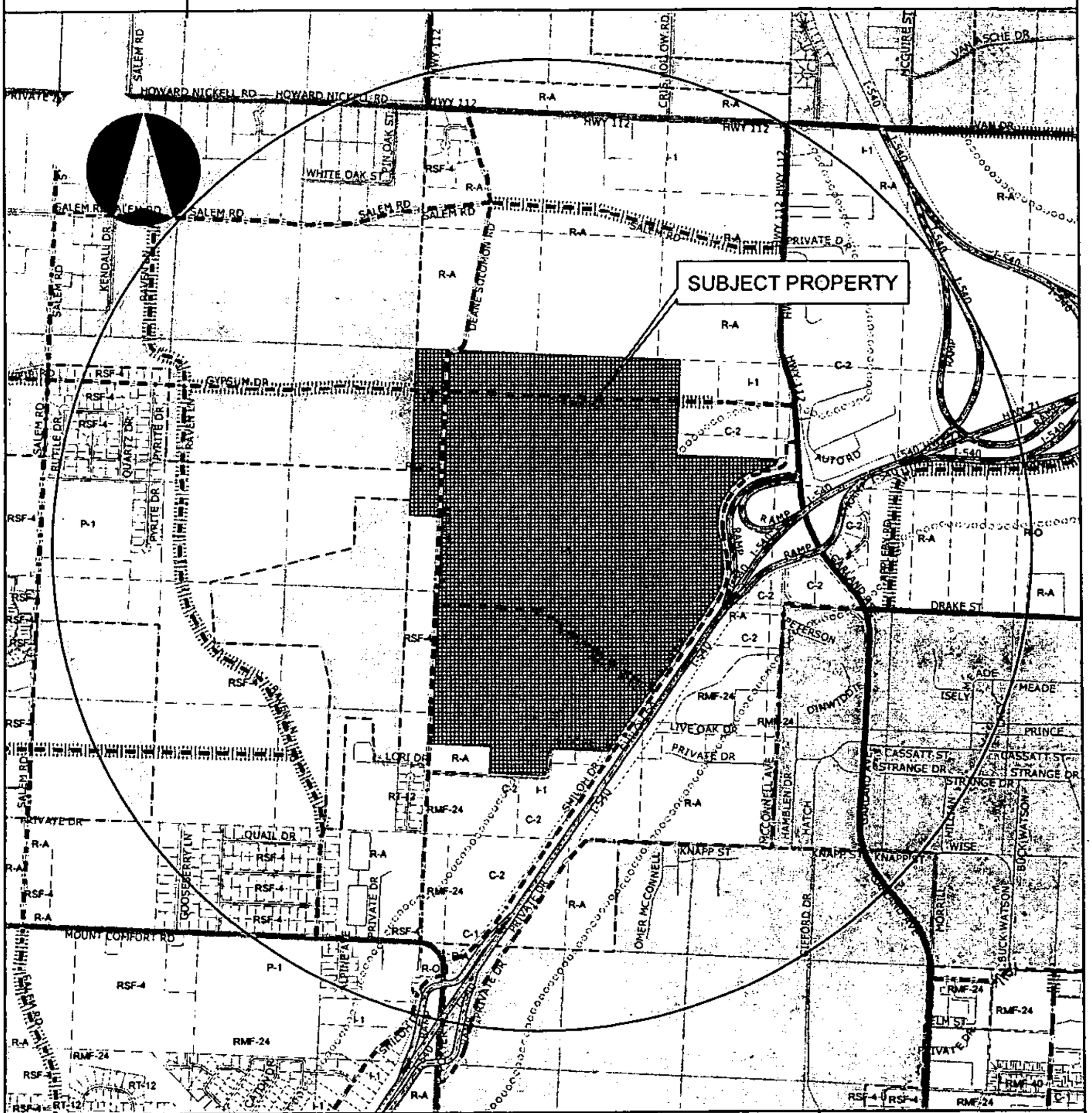
Historic Collector

0 250 500 1,000 1,500 2,000 Feet

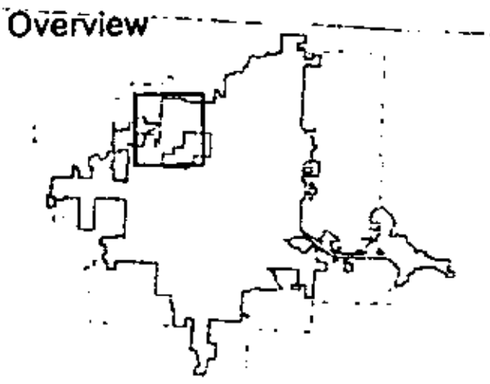
C-PZD03-08.00

One Mile View

SPRINGWOODS



Overview



Legend

Subject Property
- C-PZD03-08.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: October 21, 2003

FROM:

Ron Petrie	Engineering	Community Planning & Engineering
Name	Division	Department

ACTION REQUIRED: Approval of a cost-share and bid waiver in the amount of $77,570.00 with Covenant Presbyterian Church for the construction of a concrete swale and drainage pipe from Wedington Drive to 46th Street and a budget adjustment in the amount of $12,080.00.

COST TO CITY:

$77,570.00	$ 182,806.00	Bridge & Drainage Improvement
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5817.00	$ 117,315.94	Other Drainage Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02108	$ 65,490.06	Sales Tax
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item X Budget Adjustment Attached

Budget Manager — Date: 10-3-03

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 10/2/03
Internal Auditor — Date: 10/2/03
City Attorney — Date: 10/3/03
Purchasing Manager — Date: 10/3/03

STAFF RECOMMENDATION: Staff recommends approval of the cost share, bid waiver, and budget adjustment.

Division Head — Date: 10-2-03
Department Director — Date: 10-2-03
Finance & Internal Services Dir. — Date: 10-6-03
Chief Administrative Officer — Date: 10-6-03
Mayor — Date: 10/7/03

Received in Mayor's Office 10/6/03 p14

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: **Yes**

ENTERED 10-27-03 TLM

Staff Review Form - Page 2

Description Covenant Presbyterian Church Cost-Share Meeting Date October 21, 2003

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

ORDINANCE NO._____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE AGREEMENT WITH COVENANT PRESBYTERIAN CHURCH IN THE AMOUNT OF $77,570.00 TO CONSTRUCT A CONCRETE SWALE AND DRAINAGE PIPE FROM WEDINGTON DRIVE TO 46TH STREET; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $12,080.00 FOR SAME.

WHEREAS, entering into a cost-share agreement with Covenant Presbyterian Church and utilizing its engineer and contractor will avoid the added cost and unnecessary duplication of effort which would arise from the formal competitive bidding process, and;

WHEREAS, the City Council finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical.

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 waives the requirements of formal competitive bidding and approves a cost-share agreement with Covenant Presbyterian Church in the amount of $77,570.00 to construct a concrete swale and drainage pipe from Wedington Drive to 46th Street.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $12,080.00 for same.

PASSED AND APPROVED this 21st day of October, 2003.

APPROVED:

By:_____
DAN COODY, Mayor

ATTEST:

By:_____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department:	Division:	Program:	Date Requested	Adjustment Number
2003	Community Planning & Engineering	Engineering	Sales Tax Capital Improvements	10/21/2003	

Project or Item Requested:
$12,080 in the Other Drainage Improvements capital project.

Project or Item Deleted:
$12,080 from the Drainage Study/Master Plan capital project.

Justification of this Increase:
The additional funding is needed to cover a cost-share with Covenant Presbyterian Church from Wedington Drive to 46th street.

Justification of this Decrease:
There is sufficient funding remaining to meet 2003 objectives.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Bridge & drainage improve	4470	9470	5817	00	12,080	02108	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Professional services	4470	9470	5314	00	12,080	02097	1

Approval Signatures

Requested By	Date
Budget Manager	10-3-03 Date
Department Director	Date
Finance & Internal Services Director	10-8-03 Date
Mayor	Date

Budget Office Use Only

Type: A B C (D) E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Tim Conklin, Community Planning and Engineering Services Director

Date: October 1, 2003

Subject: Approval of a cost-share and bid waiver in the amount of $77,570.00 with Covenant Presbyterian Church for the construction of a concrete swale and drainage pipe from Wedington Drive to 46th Street and a budget adjustment in the amount of $12,080.00.

RECOMMENDATION

Staff recommends approval of the cost share, bid waiver, and budget adjustment.

BACKGROUND

The widening of Wedington Drive from I-540 to Meadowlands Drive by the Arkansas Highway & Transportation Department (AHTD) included a new drainage system along Wedington Drive that transports storm water from Rupple Road westward to the end of the improvements. The new drainage system currently discharges into a small overgrown ditch on the Covenant Presbyterian Church's property. This undersized ditch drains approximately 42.4 acres around the Church property and discharges the runoff onto two adjacent properties that are located between the Church and 46th Street. These properties do not have defined drainage paths to 46th Street which causes the storm water to pond in the rear of the properties. In addition to this problem, there is a plant nursery located on the north side of Wedington Drive that keeps this ground saturated throughout the year because of the constant irrigation.

In 1998 and 1999, the City received several complaints regarding this situation and a drainage study was performed by the Engineering Division which recommended installing a storm pipe system along and under 46th Street and to install an open channel from 46th Street to the Church property. In 1999, the drainage pipes were installed by the Street Division but the open channel was not installed due to easement acquisition problems. Also, the property owner had recently paid to have a french drain system installed and did not want an open ditch placed on her property.

DISCUSSION

At this time, the Covenant Presbyterian Church is requesting to enlarge their existing parking lot and install fill material on a large portion of the property. The Church proposal would include cleaning and enlarging the existing ditch around their property and rerouting the offsite drainage around the onsite detention pond. The Engineering Division cannot approve this request without addressing the offsite drainage problems. The adjacent property owner that originally rejected the improvements has agreed to give an easement for these improvements. The Engineer for the Church has designed the offsite drainage system to 46th Street which includes a concrete swale and 350 feet of arch 18" storm pipe.

By participating in the construction of these improvements, the City and the Church will be eliminating a known drainage problem in this location. Construction bids have been provided to the City for these improvements by the Church's contractor as follows:

City's Share	**$ 68,018.50**
Developer's Share	**$ 41,570.42**
Total	**$109,588.92**

In addition , engineering inspection fees and a contingency have been added to the City's portion:

City's Portion	**$ 68,018.50**
Engineering/Inspection Fees	**$ 2,500.00**
Sub-Total	**$ 70,518.50**
10% Contingency(+/-)	**$ 7,051.50**
Total	**$ 77,570.00**

BUDGET IMPACT

This $77,570.00 expenditure for a drainage cost-share is included in the Fiscal Year 2003 Budget in the *Other Drainage Improvement Account* in which drainage cost-shares are typically authorized when they are identified by Staff. However, at this time, there is a remaining balance of $65,490 in this account which would require a budget adjustment to fully pay for this identified cost-share. Therefore, it is recommended that $12,080 be moved from the *Drainage Study/Master Plan Account* to the *Other Drainage Improvement Account*. There is a remaining budget of $573,069.18 in the *Drainage Study/Master Plan Account.*

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this ____ day of _____, 2003, by and between the City of Fayetteville, Arkansas and the Covenant Presbyterian Church, Witnesseth:

WHEREAS, the Covenant Presbyterian Church has hired a contractor to construct approximately 830 feet of drainage swale/ditch from Arkansas Highway No. 16 discharge point around the perimeter their property; and discharging at the Southwest corner of the church property; and

WHEREAS, the City completed a drainage improvement project along and across 46th Street in May of 2001; and

WHEREAS, there will be a gap between the two projects of approximately 350 feet; and

WHEREAS, the City of Fayetteville desires that this 350 feet of "gap section" be constructed of concrete and to the City of Fayetteville's Specifications, it will benefit both parties to complete this gap in the drainage system at the same time by the same contractor.

NOW, THEREFORE, the City of Fayetteville and the Covenant Presbyterian Church agree as follows:

1. Upon the City Council approving the Drainage Cost-Share, the City of Fayetteville agrees to:

   A. Pay for the actual documented engineering design, survey and grade staking, construction costs & inspection costs for approximately 350 L.F. of concrete ditch paving and 270 L.F. of 18" Reinforced Concrete Arch Storm Pipe from the Church property to 46th Street as shown on the plans prepared by Covenant Presbyterian Church's Engineer.

   B. Pay a maximum-not-to-exceed cost of $77,570.00 for the afore mentioned drainage system construction as was provided by the Covenant Presbyterian Church's Contractor and Engineer and made a part of this agreement.

   C. Reconsider the costs if the future and actual construction & inspection prices exceed the maximum-not-to-exceed amount that was furnished by the Covenant Presbyterian Church's Contractor and Engineer. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.

   D. Negotiate and obtain all necessary rights-of-way/easements with the other property owners necessary for the construction project, both temporary and permanent.

   E. City will then temporarily assign to Covenant Presbyterian Church the

easement/right-of-way for construction work on property West of Church property.

F. Make all efforts to provide payment to the Covenant Presbyterian Church within thirty (30) days after receipt of the invoice(s) but no longer than 120 days in any event.

2. The Covenant Presbyterian Church agrees to:

A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable drainage system installation.

B. Provide a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the drainage system installation.

C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and signed by the Mayor.

3. It is further understood that the contract for construction is between the Covenant Presbyterian Church and their Contractor & Engineer and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of $77,570.00 for the cost reimbursement to Covenant Church for the drainage system installation.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

By:_____
DAN COODY, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

COVENANT PRESBYTERIAN CHURCH

By: James A Beckham MD

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DAN COODY, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

COVENANT PRESBYTERIAN CHURCH

By: James A Beckman

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CITY OF FAYETTEVILLE

By:_____
DAN COODY, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

COVENANT PRESBYTERIAN CHURCH

By: James A Beck

29/2003 14:42
P03-46 Covenant Presbyterian Church, Fay.
*** Paul Pace

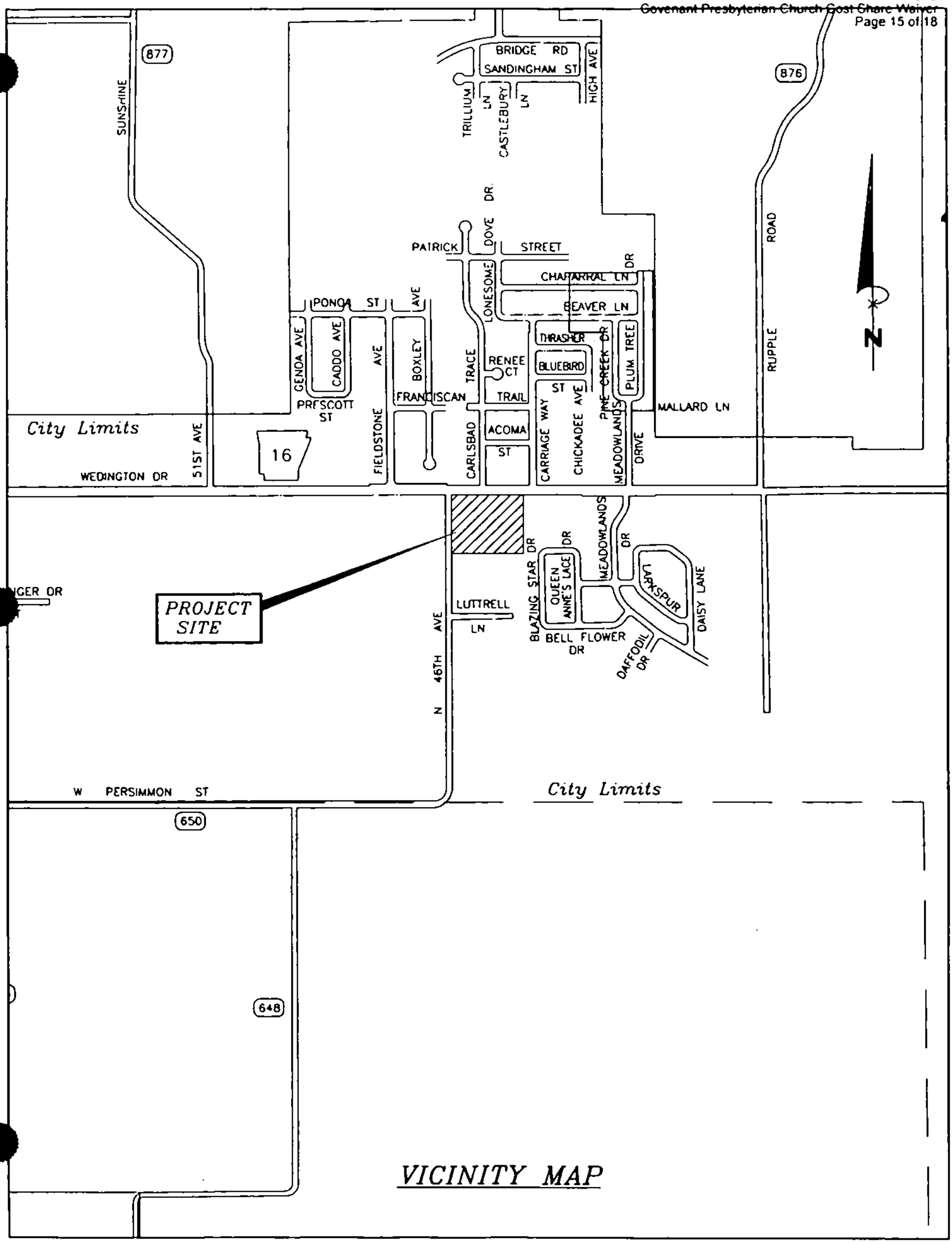
BID TOTALS

Biditem	Description	Quantity	Units	Unit Price	Bid Total
10	Remove & Dispose Existing New Asphalt	88.000	TN		
20	Reshape & Grade Existing Base	1,145.000	SY		
30	18" Type A Concrete Curb & Gutter	72.000	LF		
40	4" Concrete Sidewalk over 4" Base	52.000	SY		
50	6" Class 7 Base at Parking Lot Expansion	355.000	TN		
60	3" Ty 3 ACHM Surface Course w/Prime Oil	175.000	TN		
70	Backfill Curb & Sidewalk	150.000	LF		
80	Stripe Parking Spaces	32.000	EA		
90	Construction Staking & Layout, Prk Lot Expansion	1.000	LS		
	Total Parking Lot Expansion	Lump Sum			$27,300.37
100	Erosion Control	1.000	LS		
110	R & D Concrete Weir	1.000	LS		
120	Excavation, Cut to Fill	650.000	CY		
130	12" Corrugated Plastic Pipe at Detention Pond	47.000	LF		
140	Imported Fill Material (Topsoil for yard area)	250.000	CY		
150	Final Grading, Grass Swale & Detention Pond	9,935.000	SY		
160	Seed & Mulch Detention Pond & Yard areas	2.100	AC		
170	Staking & Layout, Detention Pond & Yard areas	1.000	LS		
	Total Grass Swale, Detention Pond & Yard areas	Lump Sum			$41,570.42
	Total all work for Church	Lump Sum			$68,870.79
180	Erosion Control, City's Portion at Channel	1.000	LS	2,900.00	2,900.00
190	Construct Temporary Access Drive	1.000	LS	5,460.00	5,460.00
200	Demo/Remove Temporary Drive	1.000	LS	2,710.00	2,710.00
210	Clearing & Grubbing, City's Portion at Channel	1.000	LS		
220	Excavation, Cut to Fill at Church Yard Area	500.000	CY	9.70	4,850.00
230	Hillside Placement at Channel, City	400.000	TN	16.50	6,600.00
240	4" Misc. Base under Concrete Channel	120.000	TN		
250	6" Concrete Trapezoidal Channel	507.000	SY	48.75	24,716.25
260	22" x 14" Reinforced Conc. Arch Pipe	276.000	LF	47.25	13,041.00
270	Inlet Drainage Box	1.000	EA	2,870.00	2,870.00
280	Backfill Channel, Grade Green Area	1,175.000	SY	1.80	2,115.00
290	Seed & Mulch south side of Channel	0.250	AC	6,425.00	1,606.25
300	Remove & Replace 4' Chain-link Fence	120.000	LF		
310	Construction Staking & Layout, City's Channel	1.000	LS	1,150.00	1,150.00
	Total Fayetteville City's portion of Channel	Unit Price Bid Schedule			$68,018.50

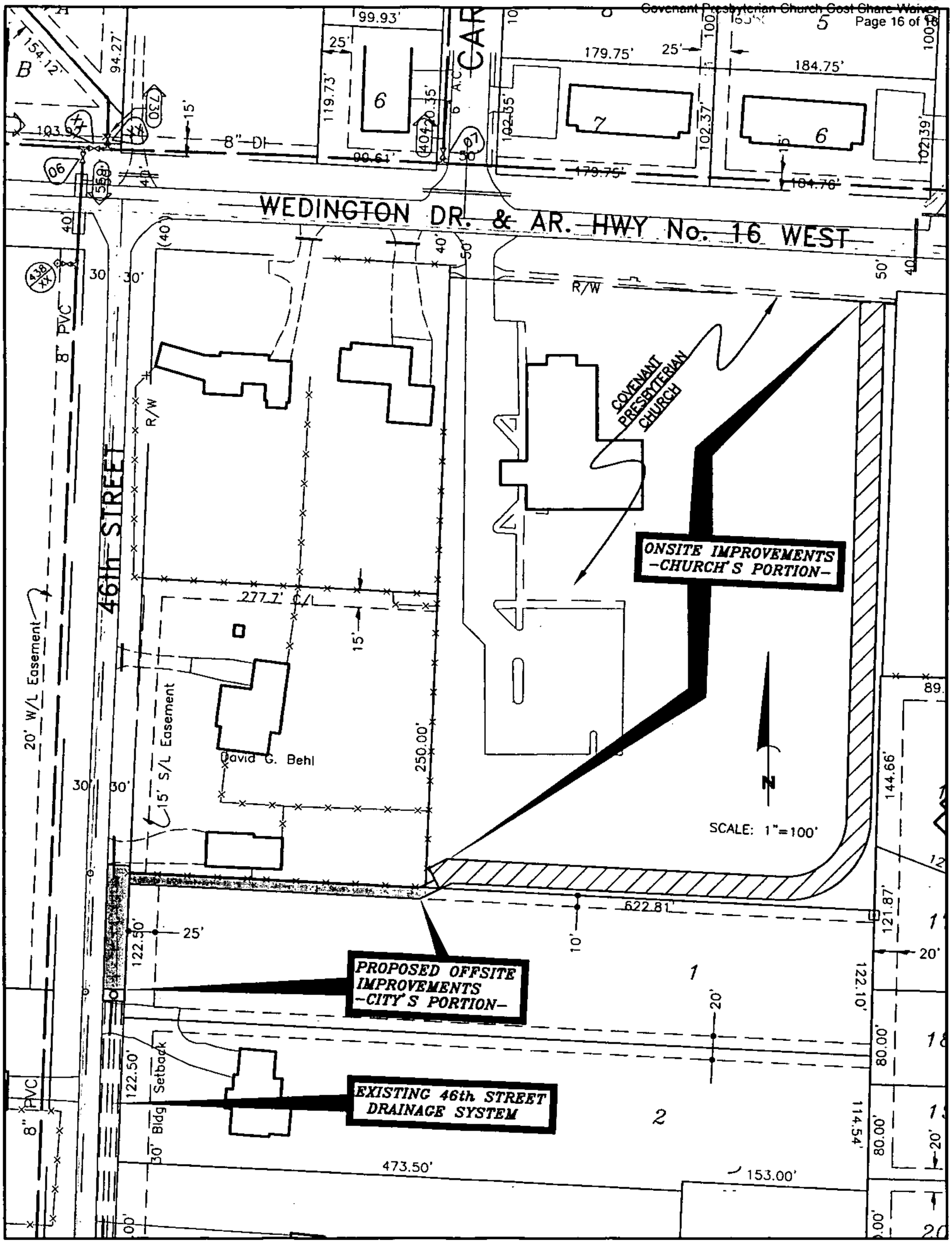
08/29/2003 14:42
PP03-46 Covenant Presbyterian Church, Fay.
*** Paul Pace

BID TOTALS

Biditem	Description	Quantity	Units	Unit Price	Bid Total
	Estimated Bid Total				$136,889.29



VICINITY MAP


WEDINGTON DR. & AR. HWY No. 16 WEST
46th STREET
COVENANT PRESBYTERIAN CHURCH
ONSITE IMPROVEMENTS
-CHURCH'S PORTION-
PROPOSED OFFSITE IMPROVEMENTS
-CITY'S PORTION-
EXISTING 46th STREET DRAINAGE SYSTEM
David G. Behl
20' W/L Easement
15' S/L Easement
8" PVC
R/W
Setback
30' Bldg
SCALE: 1"=100'
N
99.93'
179.75'
184.75'
277.7' C/L
250.00'
622.81'
473.50'
153.00'
144.66'
121.87'
122.10'
114.54'
80.00'
122.50'

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:	Date: 9/10/2003
P.O Number:	Expected Delivery Date: ASAP
Vendor #: new	Vendor Name: Covenant Presbyterian Church
Mail Yes__ No: __X_	
Address: 4511 West Wedington Drive	Fob Point:
Taxable Yes: _ No: __X__	Quotes Attached Yes: ____ No: ____
City: Fayetteville	State: Arkansas
Zip Code: 72704	Ship to code: .090
Divison Head Approval:	
Requester: Ron Petrie	Requester's Employee #: 1461
Extension: 418	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Cost Share for Drainage Improvements	LS	LS	77,570.00	$77,570.00	4470.9470.5817.00	02108		
2					$0.00				
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Please Send P.O. to the Engineering Division

Subtotal:	$77,570.00
Tax:	$0.00
Total:	$77,570.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 8/17/98

REQUEST FOR VENDOR FILE MAINTENANCE

(CHECK ALL AVAILABLE RESOURCES, VENDOR LIST, ACCESS SYSTEM PRIOR TO SUBMISSION OF THIS REQUEST)

DATE OF REQUEST: September 10, 2003 REQUESTED BY: Ron Petrie

DEPT./DIVISION: Engineering EFFECTIVE DATE: September 10, 2003

TELEPHONE EXTENSION: 418

NEW VENDOR: ✔ VENDOR CHANGE: ☐ VENDOR RE-ENTRY: ☐

VENDOR #: VENDOR #:

VENDOR NAME: Covenant Presbyterian Church

STREET OR P.O. BOX: 4511 West Wedington Drive

CITY: Fayetteville STATE: Arkansas ZIP CODE: 72704

ATT : Dr. Jim Beckman PHONE: 442-5267

E-Mail Fax #

REMITTANCE ADDRESS IF DIFFERENT FROM ABOVE:

NAME:

ADDRESS:

CITY, ST, ZIP:

TYPE OF ORGANIZATION

FEDERAL ID OR SOCIAL

CORPORATION	(100):	
PARTNERSHIP	(200):	
INDIVIDUAL	(300):	
EMPLOYEE	(400):	
PENSION	(500):	
NON-PROFIT	(600):	✔

PURCHASING OFFICE USE ONLY

NEW VENDOR: ENTERED BY:

VENDOR CHANGES: DATE:

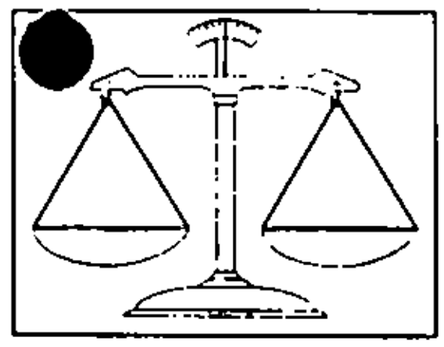
VENDOR RE-ENTRY: G. L. FILE:

W-9 FORM MAILED: INVENTORY FILE:

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

DATE: **October 22, 2003**

RE: **Passed Resolutions and Ordinances from City Council meeting of October 21, 2003**

The following Ordinances and Resolutions were passed at last night's City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **Narendra Krushiker Change Order #1 Hampton Inn:** Resolution approving change order #1 to the cost-share agreement with Narendra Krushiker in the amount of $8,458.10 to install approximately 650 feet of 8-inch water main north from Sixth Street;

2. **Crossland Heavy Contractors, Inc. Accelerated Waterline Replacement Projects:** Resolution approving change order #1 to Contract w/Crossland Heavy Contractors, Inc. in amount of $70,317.70 to add Locust Avenue waterline replacement to accelerated waterline replacement project;

3. **ADM 03-24.00:** Resolution amending Master Street Plan to remove portion of Technology Boulevard shown crossing proposed Springwoods Commercial-Planned Zoning District;

4. **ADM 03-25.00:** Resolution amending Master Street Plan to remove portion of Truckers Drive shown crossing proposed Springwoods Commercial-Planned Zoning District;

5. **AEP/Swepco Reimbursement of Burial of Utilities:** Resolution approving reimbursement in amount of $100,806.00 to AEP/Swepco for burial of utilities along a portion of West Avenue near new Fayetteville Public Library;

6. **Crossland Construction Company Contract Adjustments:** Resolution approving change order #10 to the contract w/Crossland Construction Company, Inc. in amount of $206,701.00 to install low voltage equipment at new Fayetteville Public Library;

7. **House Development Company, LLC.:** Resolution granting appeal of Greg House for LSD 02-29 Sequoyah Commons as modified by City Council;

8. **Skyler Place Subdivision Cost Share:** Ordinance waiving requirements of formal competitive bidding and approving cost-share agreement w/M.P. Construction, Inc. in amount of $18,900.00 to construct approximately 370 feet of 8" water main associated w/Skyler Place Subdivision;

9. **CPZD 03-8.00 (Springwoods – Collins Haynes):** Ordinance establishing a Commercial Planned Zoning District titled Springwoods, located south of HWY. 112 and west of I-540, containing 289.28 acres, more or less; amending official zoning map of City of Fayetteville; and adopting Associated Commercial Development Project as approved by Planning Commission;

10. **Covenant Presbyterian Church Cost Share Waiver:** Ordinance waiving requirements of formal competitive bidding and approving cost-share agreement w/Covenant Presbyterian Church in amount of $77,570.00 to construct concrete swale and drainage pipe from Wedington Drive to 46th Street; and approving budget adjustment in amount of $12,080.00 for same;

11. **TCA Cable Partners Franchise Agreement:** Resolution authorizing TCA Cable Partners, providing services as Cox Communications, to continue to operate the cable communications system.

Tentative Agenda
For
City Council Meeting
October 21, 2003

A meeting of the Fayetteville City Council will be held on October 21, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Citizen Survey Report – Molly Longstreth

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the September 2, 2003 meeting minutes.

2. **Narendra Krushiker Change Order # 1 Hampton Inn:** A resolution approving Change Order #1 to the cost-share agreement with Narendra Krushiker in the amount of $8,458.10 to install approximately 650 feet of 8-inch water main north from Sixth Street.

3. **Crossland Heavy Contactors, Inc. Accelerated Water Line Replacement Projects:** A resolution approving Change Order #1 to the contract with Crossland Heavy Contractors, Inc. in the amount of seventy thousand three hundred seventeen dollars and seventy cents ($70,317.70) to add the Locust Avenue Waterline Replacement to the accelerated waterline replacement project.

4. **ADM 03-24.00 Master Street Plan Amendment, Technology Blvd.:** A resolution amending the Master Street Plan to remove the portion of Truckers Drive shown crossing the proposed Springwoods Commercial-Planned Zoning District.

5. **ADM 03-25.00 Master Street Plan Amendment, Truckers Drive:** A resolution amending the Master Street Plan to remove the portion of Technology Boulevard shown crossing the proposed Springwoods Commercial-Planned Zoning District.

6. **AEP/Swepco Reimbursement of Burial of Utilities:** A resolution approving reimbursement in the amount of $101,806.00 to AEP/Swepco for burial of utilities along a portion of West Avenue near the New Fayetteville Public library.

7. **TCA Cable Partners Franchise/Cox Communications:** A resolution authorizing TCA Cable Partners, providing services as Cox Communications, to continue to operate the Cable Communications System.

8. **Crossland Construction Company Contract Adjustments New Fayetteville Public Library:** A resolution approving Change Order # 10 to the contract with Crossland Construction Company, Inc. in the amount of $206,701.00 to install low voltage equipment at the New Fayetteville Public Library.

B. OLD BUSINESS:

1. **Amend Chapter 51.136 Monthly Water Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study. ***This Ordinance was left on the second reading at the October 7, 2003 City Council meeting.***

2. **2003 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2003 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City library; and 1.0 mil for General Purposes and Operations of the City; and certifying the same to the County Clerk of Washington County, Arkansas ***This Ordinance was left on the first at the October 7, 2003 City Council meeting.***

C. NEW BUSINESS:

1. **Houses Development Company, LLC.:** An appeal of Large Scale Development proposal LSD02.29.10.

2. **Use Of Skateboards And Skates Upon Sidewalks:** An ordinance to repeal § 74.08 of the Fayetteville Code and enact a replacement § 74.08 to clarify and expand the prohibition of using skateboards and skates upon sidewalks next to commercial, religious, governmental and industrial buildings and most City streets.

3. **Skyler Place Subdivision Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with M.P. Construction Inc. in the amount of $18, 900.00 to construct approximately 370 feet of 8" water main associated with the Skyler Place Subdivision.

4. **C-PZD 03-8.00 Planned Zoning District (Springwoods – Collins Haynes)**: An ordinance establishing a Commercial Planned Zoning District titled Springwoods (C-PZD 03-8.00) located South of Highway 112 and West of I-540, containing 289.28 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and according to the Associated Commercial Development Project as approved by the Planning Commission.

5. **Covenant Presbyterian Church Cost Share Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Covenant Presbyterian Church in the amount of $77'570.00 to construct a concrete swale and drainage pipe from Wedington Drive to 46th Street; and approving a budget adjustment in the amount of $12,080.00 for same.

D. INFORMATIONAL:

1. **Council Tour: October 20, 2003**

Hence

Tentative Agenda
For
City Council Meeting
October 21, 2003

A meeting of the Fayetteville City Council will be held on October 21, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Citizen Survey Report – Molly Longstreth

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the September 2, 2003 meeting minutes.

2. **Narendra Krushiker Change Order # 1 Hampton Inn:** A resolution approving Change Order #1 to the cost-share agreement with Narendra Krushiker in the amount of $8,458.10 to install approximately 650 feet of 8-inch water main north from Sixth Street.

3. **Crossland Heavy Contactors, Inc. Accelerated Water Line Replacement Projects:** A resolution approving Change Order #1 to the contract with Crossland Heavy Contractors, Inc. in the amount of seventy thousand three hundred seventeen dollars and seventy cents ($70,317.70) to add the Locust Avenue Waterline Replacement to the accelerated waterline replacement project.

4. **ADM 03-24.00 Master Street Plan Amendment, Technology Blvd.:** A resolution amending the Master Street Plan to remove the portion of Truckers Drive shown crossing the proposed Springwoods Commercial-Planned Zoning District.

5. **ADM 03-25.00 Master Street Plan Amendment, Truckers Drive:** A resolution amending the Master Street Plan to remove the portion of Technology Boulevard shown crossing the proposed Springwoods Commercial-Planned Zoning District. Denied

6. **AEP/Swepco Reimbursement of Burial of Utilities:** A resolution approving reimbursement in the amount of $101,806.00 to AEP/Swepco for burial of utilities along a portion of West Avenue near the New Fayetteville Public library.

7. **TCA Cable Partners Franchise/Cox Communications:** A resolution authorizing TCA Cable Partners, providing services as Cox Communications, to continue to operate the Cable Communications System.

Pull off Consent Move to NB

8. **Crossland Construction Company Contract Adjustments New Fayetteville Public Library:** A resolution approving Change Order # 10 to the contract with Crossland Construction Company, Inc. in the amount of $206,701.00 to install low voltage equipment at the New Fayetteville Public Library.

B. OLD BUSINESS:

1. **Amend Chapter 51.136 Monthly Water Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study. ***This Ordinance was left on the second reading at the October 7, 2003 City Council meeting.***

2. **2003 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2003 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City library; and 1.0 mil for General Purposes and Operations of the City; and certifying the same to the County Clerk of Washington County, Arkansas ***This Ordinance was left on the first at the October 7, 2003 City Council meeting.***

C. NEW BUSINESS:

Jim to meet with Mr. Thursday Houses

1. **Houses Development Company, LLC.:** An appeal of Large Scale Development proposal LSD02.29.10.

2. **Use Of Skateboards And Skates Upon Sidewalks:** An ordinance to repeal § 74.08 of the Fayetteville Code and enact a replacement § 74.08 to clarify and expand the prohibition of using skateboards and skates upon sidewalks next to commercial, religious, governmental and industrial buildings and most City streets.

3. **Skyler Place Subdivision Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with M.P. Construction Inc. in the amount of $18, 900.00 to construct approximately 370 feet of 8" water main associated with the Skyler Place Subdivision.

4. **C-PZD 03-8.00 Planned Zoning District (Springwoods – Collins Haynes):** An ordinance establishing a Commercial Planned Zoning District titled Springwoods (C-PZD 03-8.00) located South of Highway 112 and West of I-540, containing 289.28 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and according to the Associated Commercial Development Project as approved by the Planning Commission.

5. **Covenant Presbyterian Church Cost Share Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Covenant Presbyterian Church in the amount of $77'570.00 to construct a concrete swale and drainage pipe from Wedington Drive to 46th Street; and approving a budget adjustment in the amount of $12,080.00 for same.

#6 TCA Cable Consent item #7

D. INFORMATIONAL:

yes **1. Council Tour: October 20, 2003** @ 4:30

Tentative Agenda
For
City Council Meeting
October 21, 2003

A meeting of the Fayetteville City Council will be held on October 21, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Citizen Survey Report - Molly Longstreth

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the September 2, 2003 meeting minutes.

B. OLD BUSINESS:

1. **Amend Chapter 51.136 Monthly Water Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study. ***This Ordinance was left on the second reading at the October 7, 2003 City Council meeting.***

2. **2003 Millage Levy:** An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2003 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City library; and 1.0 mil for General Purposes and Operations of the City; and certifying the same to the County Clerk of Washington County, Arkansas ***This Ordinance was left on the first at the October 7, 2003 City Council meeting.***

C. NEW BUSINESS:

1. **Houses Development Company, LLC.:** An appeal of Large Scale Development proposal (LSD02.29.10).

2. ~~**Council on Aging, Inc., Fayetteville Senior Center, Walker Park:**~~

3. ~~**State of Arkansas Contract with Cannon USA, Annual Maintenance Contract with Preferred Office Products.**~~

4. ~~**Business License Program:** An ordinance to establish a Business license requirement for all establishments legally required to pay, hotel, motel and restaurant taxes in Fayetteville.~~

Consent Change Order #1 Resolution

5. ~~Hampton Inn Certificate of Acceptance~~ with Narendra Krushiker ~~Change Order #~~ 1:

6. **Skyler Place Subdivision Cost Share:** Ordinance

Resolution

Consent 7. **Crossland Heavy Contactors, Inc. Accelerated Water Line Replacement Projects:**

Consent 8. **ADM 03-24.00 Master Street Plan Amendment, Technology Blvd.:** A resolution amending the Master Street plan to remove the portion of Truckers Drive shown crossing the proposed Springwoods Commercial-Planned Zoning District.

Consent 9. **ADM 03-25.00 Master Street Plan Amendment, Truckers Drive:** A resolution amending the master Street plan to remove the portion of Technology Boulevard shown crossing the proposed Springwoods Commercial-Planned Zoning District.

10. **C-PZD 03-8.00 Planned Zoning District (Springwoods – Collins Haynes):** An ordinance establishing a Commercial Planned Zoning District titled Springwoods (C-PZD 03-8.00) located South of Highway 112 and West of I-540, containing 289.28 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and according to the Associated Commercial Development Project as approved by the Planning Commission.

Check Resolution

11. **Covenant Presbyterian Church Cost Share Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Covenant Presbyterian Church in the amount of $77,570.00 to construct a concrete swale and drainage pipe from Wedington Drive to 46th Street; and approving a budget adjustment in the amount of $12,080.00 for same.

Jones Olds

Consent 12. **AEP/Swepco Reimbursement of Burial of Utilities:** a resolution approving reimbursement in the amount of $101,806.00 to AEP/Swepco for burial of utilities along a portion of West Avenue near the New Fayetteville Public library.

Consent 13. **TCA Cable Partners Franchise/Cox Communications:** A resolution authorizing TCA Cable Partners, providing services as Cox Communications, to continue to operate the Cable Communications System.

Consent 14. **Crossland Construction Company Contract Adjustments New Fayetteville Public Library:** A resolution approving Change Order # 10 to the contract with Crossland Construction Company, Inc. in the amount of $206,701.00 to install low voltage equipment at the New Fayetteville Public Library.

D. INFORMATIONAL:

1. **Council Tour: October 20, 2003**

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

RECEIVED
OCT 22 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

AFFIDAVIT OF PUBLICATION

I, Diane Williams, do solemnly swear that I am Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas Times newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, that advertisement of:

Final Agenda was inserted in the regular editions on 10/20/03.

PO# 03-0000154-001

** Publication Charge: $ 194.46

Subscribed and sworn to before me this

20th day of October, 2003.

Sean-Michael Argo
Notary Public

My Commission Expires: 07/25/2013

** Please do not pay from Affidavit.
An invoice will be sent.

Official Seal
SEAN-MICHAEL ARGO
Notary Public-Arkansas
WASHINGTON COUNTY
My Commission Expires 07-25-2013

FINAL AGENDA
FOR
CITY COUNCIL MEETING
OCTOBER 21, 2003

City of Fayetteville

A meeting of the Fayetteville City Council will be held on October 21, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Citizen Survey Report - Molly Longstreth

A. CONSENT:

1. Approval Of The Minutes: Approval of the September 2, 2003 meeting minutes.

2. Narendra Krushiker Change Order # 1 Hampton Inn: A resolution approving Change Order #1 to the cost-share agreement with Narendra Krushiker in the amount of $8,458.10 to install approximately 850 feet of 8-inch water main north from Sixth Street.

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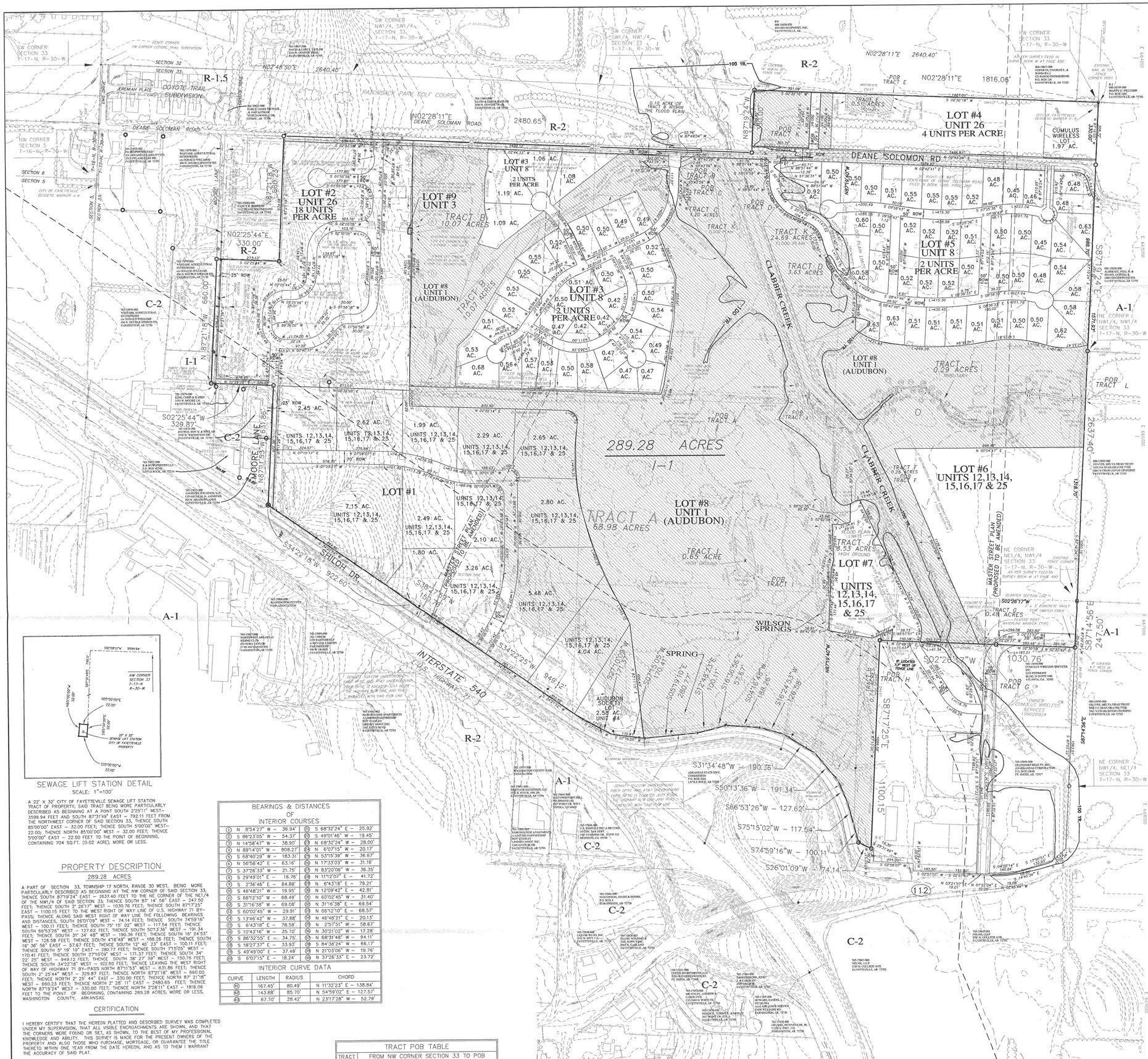
5. Covenant Presbyterian Church Cost Share Waiver: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Covenant Presbyterian Church in the amount of $77,570.00 to construct a concrete swale and drainage pipe from Wedington Drive to 48th Street; and approving a budget adjustment in the amount of $12,080.00 for same.

6. TCA Cable Partners Franchise/Cox Communications: A resolution authorizing TCA Cable Partners, providing services as Cox Communications, to continue to operate the Cable Communications System.

D. INFORMATIONAL:

1. Council Tour: October 20, 2003



EXISTING LEGEND

- SET IRON PIN
- FOUND IRON PIN
- FOUND RR SPIKE
- 3" ALUMINUM DISK MONUMENT
- HIGHWAY RIGHT OF WAY MARKER
- FOUND NAIL
- POINT OF BEARING CHANGE (POINT NOT SET)
- POWER POLE
- SANITARY SEWER MANHOLE
- SANITARY SEWER LINE
- GAS LINE
- WATER LINE
- CONCRETE TELEPHONE VAULT
- SILO/BIN
- FLAG POLE
- ANTENNA
- LIGHT POLE
- MANHOLE
- CATCH BASIN
- FIRE HYDRANT
- SAT DISH
- CONTOUR LABEL
- WETLANDS
- SECTIONAL BREAKDOWN LINE AS DETERMINED BY SURVEY'S FILED IN SURVEY PLAT BOOK M, PLATS 488 THRU 493
- ADJACENT PROPERTY LINES
- EXISTING WIRE FENCE
- UTILITY EASEMENT LINE
- ROAD / STREET RIGHT OF WAY LINE
- BOUNDARY LINE FOR INTERIOR TRACTS OUTSIDE OF FLOOD PLAIN. IRON PINS SET AT EACH CHANGE IN DIRECTION.
- BOUNDARY LINE FOR INTERIOR TRACTS INSIDE OF FLOOD PLAIN. NO IRON PINS SET.
- CURBED ROAD
- UNPAVED ROAD
- STOCK PILE
- TRAIL
- CONCRETE
- PAVED PARKING
- UNPAVED PARKING
- PAVED DRIVEWAY
- UNPAVED DRIVEWAY
- SIDEWALK
- BUILDING
- FOUNDATION
- STRUCTURE
- TANK
- FENCE
- GATE
- HEAD WALL
- WALL
- GUARD RAIL
- FLOWLINE
- LAKE/POND
- BRIDGE
- CULVERT PIPE
- CONCRETE DAM
- CONCRETE CHANNEL
- INDEX CONTOUR
- INTER CONTOUR
- OVERLAY DISTRICT BOUNDARY
- 100 YR. — 100 YEAR FLOOD PLAIN– PANEL# 050216 0083D, PANEL# 050216 0084D JULY 21, 1999

PROPOSED LEGEND

- LOT LINES
- RIGHT OF WAY

TABLE 1 SHOWS DATA AS A RESULT OF FIELD WORK PERFORMED BY McCLELLAND CONSULTING ENGINEERS IN 2003. TABLE 2 SHOWS DATA AS A RESULT OF FIELD WORK PERFORMED BY THE CITY OF FAYETTEVILLE IN 2001. A SLIGHT DIFFERENCE IN THE TWO TABLES DOES EXIST. IT IS SUGGESTED THAT ALL FIELD WORK PERFORMED SHOULD BE COMPARED TO TABLES 1 AND 2 AND USED ACCORDINGLY.

MONUMENT CONTROL DATA - TABLE 1 (BY MCC)

ID No.	Northing	Easting	Elevation	Description
1	652052.97	664557.36	1191.86	3" Alum. Monument
2	652461.67	663715.37	1194.47	3" Alum. Monument
3	652904.74	667061.40	1199.91	3" Alum. Monument
4	652688.26	667887.06	1208.51	3" Alum. Monument
5	652139.92	667056.24	1206.67	3" Alum. Monument
6	651411.21	667502.06	1222.20	3" Alum. Monument
7	650942.43	666323.06	1216.25	3" Alum. Monument
8	650380.04	666814.67	1251.91	3" Alum. Monument
9	649727.13	663636.92	1298.12	3" Alum. Monument
10	649408.87	665487.12	1277.94	3" Alum. Monument
11	649728.37	665043.66	1269.31	3" Alum. Monument
12	651167.12	665730.49	1207.26	3" Alum. Monument
J-9 *	648751.14	664625.69	1282.69	3" Alum. Monument
K-9 *	654044.83	664251.77	1251.38	3" Alum. Monument

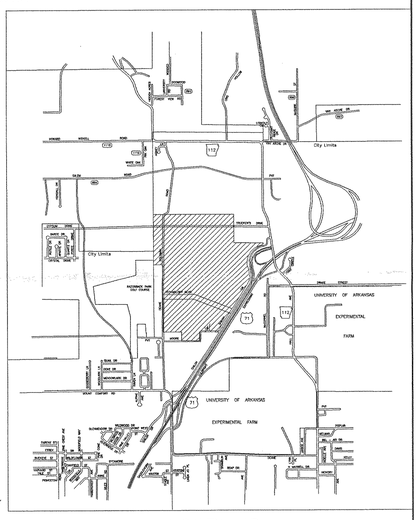
MONUMENT CONTROL DATA - TABLE 2 (BY CDF)

ID No.	Northing	Easting	Elevation	Description
1	652053.74	664557.21	1191.86	3" Alum. Monument
2	652461.40	663715.32	1194.47	3" Alum. Monument
3	652904.76	667061.43	1199.91	3" Alum. Monument
4	652688.30	667887.23	1208.51	3" Alum. Monument
5	652139.96	667056.34	1206.67	3" Alum. Monument
6	651411.06	667502.23	1222.20	3" Alum. Monument
7	650942.23	666323.19	1216.26	3" Alum. Monument
8	650381.76	666814.84	1251.91	3" Alum. Monument
9	649728.75	663634.06	1299.12	3" Alum. Monument
10	649408.40	665487.16	1277.94	3" Alum. Monument
11	649727.92	665043.63	1269.31	3" Alum. Monument
12	651167.12	665730.49	1207.26	3" Alum. Monument
J-9 *	648751.14	664625.69	1282.69	3" Alum. Monument
K-9 *	654044.83	664251.77	1251.38	3" Alum. Monument

* = Geodetic Markers Set By Aerial Data Services, Inc. In 1994. Note: Monuments 1 thru 12 Set By City of Fayetteville In 2001.

EXISTING SEWER MANHOLE INFORMATION

A	RIM ELEV. 1216.89 8" PVC OUT NNE 1254.74 8" PVC IN S 1254.80	G	RIM ELEV. 1234.43 8" PVC OUT N 1225.83 8" PVC IN S 1226.34
B	RIM ELEV. 1230.45 8" PVC OUT N 1220.68 8" PVC IN S 1215.06 6" PVC IN SE 1221.65 8" PVC IN SW 1225.74	H	RIM ELEV. 1324.99 8" PVC OUT N 1215.96 8" PVC IN S 1215.10 8" PVC IN S 1217.11
C	RIM ELEV. 1238.94 8" PVC OUT N 1231.72 8" PVC IN SW 1232.13	I	RIM ELEV. 1234.07 8" PVC OUT N 1223.95 8" PVC IN SE 1226.99
D	RIM ELEV. 1219.51 12" PVC OUT N 1210.42 8" PVC IN W 1211.59 8" PVC IN SSE 1211.59	J	RIM ELEV. 1230.97 8" PVC OUT W 1225.04 8" PVC IN SE 1225.13
E	RIM ELEV. 1233.98 8" PVC OUT WNW 1226.59 8" PVC IN SE 1227.03	K	RIM ELEV. 1244.81 8" PVC OUT NW 1238.22 8" PVC IN SE 1238.22
F	RIM ELEV. 1223.88 8" PVC OUT W 1213.02 8" PVC IN E 1213.02 8" PVC IN SSE 1214.31	L	RIM ELEV. 1263.46 8" PVC OUT NW 1257.13 6" PVC IN E 1257.64



VICINITY MAP

SEWAGE LIFT STATION DETAIL

SCALE: 1"=100'

A 22' X 32' CITY OF FAYETTEVILLE SEWAGE LIFT STATION TRACT OF PROPERTY, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT A POINT SOUTH 2°25'11" WEST– 3599.94 FEET AND SOUTH 87°31'49" EAST – 792.11 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 33, THENCE SOUTH 85°00'00" EAST – 32.00 FEET; THENCE SOUTH 5°00'00" WEST– 22.00; THENCE NORTH 85°00'00" WEST – 32.00 FEET; THENCE 5°00'00" EAST – 22.00 FEET TO THE POINT OF BEGINNING, CONTAINING 704 SQ.FT. (0.02 ACRE), MORE OR LESS.

PROPERTY DESCRIPTION

289.28 ACRES

A PART OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NW CORNER OF SAID SECTION 33, THENCE SOUTH 87°19'24" EAST – 2637.40 FEET TO THE NE CORNER OF THE NE1/4 OF THE NW1/4 OF SAID SECTION 33, THENCE SOUTH 87° 14' 56" EAST – 247.50 FEET; THENCE SOUTH 2° 26'17" WEST – 1030.76 FEET; THENCE SOUTH 87°17'25" EAST – 1100.15 FEET TO THE WEST RIGHT OF WAY LINE OF U.S. HIGHWAY 71 BY–PASS; THENCE ALONG SAID WEST RIGHT OF WAY LINE THE FOLLOWING BEARINGS AND DISTANCES, SOUTH 26°01'09" WEST – 74.14 FEET; THENCE SOUTH 74°59'16" WEST – 100.11 FEET; THENCE SOUTH 75° 15' 02" WEST – 117.54 FEET; THENCE SOUTH 66°53'26" WEST – 127.62 FEET; THENCE SOUTH 50°13'36" WEST – 191.34 FEET; THENCE SOUTH 31° 34' 48" WEST – 190.36 FEET; THENCE SOUTH 16° 24'53" WEST – 126.58 FEET; THENCE SOUTH 41°6'48" WEST – 188.26 FEET; THENCE SOUTH 16° 36' 56" EAST – 57.67 FEET; THENCE SOUTH 12° 46' 23" EAST – 100.11 FEET; THENCE SOUTH 5° 19' 10" EAST – 280.77 FEET; THENCE SOUTH 7°15'05" WEST – 170.41 FEET; THENCE SOUTH 27°10'09" WEST – 171.37 FEET; THENCE SOUTH 34° 22' 25" WEST – 949.12 FEET; THENCE SOUTH 38° 27' 59" WEST – 150.76 FEET; THENCE SOUTH 34°22'18" WEST – 922.60 FEET; THENCE LEAVING THE WEST RIGHT OF WAY OF HIGHWAY 71 BY–PASS NORTH 87°11'53" WEST – 631.86 FEET; THENCE SOUTH 2° 25'44" WEST – 329.87 FEET; THENCE NORTH 87°21'18" WEST – 660.00 FEET; THENCE NORTH 2° 25' 44" EAST – 330.00 FEET; THENCE NORTH 87° 21'18" WEST – 660.23 FEET; THENCE NORTH 2° 28' 11" EAST – 2480.65 FEET; THENCE NORTH 87°19'24" WEST – 330.00 FEET; THENCE NORTH 2°28'11" EAST – 1816.06 FEET TO THE POINT OF BEGINNING, CONTAINING 289.28 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

CERTIFICATION

I HEREBY CERTIFY THAT THE HEREON PLATTED AND DESCRIBED SURVEY WAS COMPLETED UNDER MY SUPERVISION, THAT ALL VISIBLE ENCROACHMENTS ARE SHOWN, AND THAT THE CORNERS WERE FOUND OR SET, AS SHOWN, TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND ABILITY. THIS SURVEY IS MADE FOR THE PRESENT OWNERS OF THE PROPERTY AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE YEAR FROM THE DATE HEREON, AND AS TO THEM I WARRANT THE ACCURACY OF SAID PLAT.

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(A) TO RECOVER OR RESET THE PROPERTY CORNERS AS ESTABLISHED BY SURVEYS PLATS MADE IN 1990 AND RECORDED IN SURVEY PLAT BOOK "M" AT PAGES 488–493. THE DESCRIPTIONS FOR THIS PROPERTY IS RECORDED ON WARRANTY DEEDS FILED IN DEED BOOK 1376 AT PAGES 504, 505, 510, AND 516. THE SAID PROPERTY DESCRIPTIONS WERE TAKEN FROM THE ABOVE MENTIONED 1990 PLATS OF SURVEYS.

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(2) THE AREAS AND LIMITS OF THE 100 YEAR FLOOD PLAIN, WETLANDS, AND HIGH GROUNDS AS SHOWN ON THIS PLAT OF SURVEY WAS DETERMINED BY THE CITY OF FAYETTEVILLE. BELOW IS THE DEFINITION OF EACH TRACT.

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TRACTS C–D–F–G WETLANDS WITHIN THE FLOOD PLAIN.

TRACTS H–I–J HIGH GROUND OUTSIDE AND ABOVE THE FLOOD PLAIN AND WETLANDS – DEVELOPABLE BUT LANDLOCKED.

TRACT K 100 YEAR FLOOD PLAIN.

TRACT L A TRIBUTARY OUTSIDE AND ABOVE THE FLOOD PLAIN.

BEARINGS & DISTANCES OF INTERIOR COURSES

(1)	N 8°54'27" W – 36.94'	(20)	S 68°32'24" E – 25.92'
(2)	S 86°23'05" W – 54.37'	(21)	S 49°01'46" W – 19.45'
(3)	N 14°58'47" W – 38.90'	(22)	N 68°32'24" W – 28.00'
(4)	N 89°14'01" W – 808.27'	(23)	N 6°07'15" W – 20.17'
(5)	S 68°40'29" W – 183.31'	(24)	N 53°15'39" W – 36.67'
(6)	N 56°56'42" E – 63.16'	(25)	N 17°33'03" W – 31.16'
(7)	S 37°26'33" W – 21.75'	(26)	N 83°20'06" W – 36.35'
(8)	S 29°49'01" E – 16.76'	(27)	N 11°12'07" E – 41.72'
(9)	S 2°36'46" E – 84.88'	(28)	N 6°43'18" E – 79.21'
(10)	S 46°48'21" W – 19.95'	(29)	N 12°09'42" E – 42.81'
(11)	S 66°12'10" W – 68.49'	(30)	N 60°02'45" W – 31.40'
(12)	S 31°16'38" W – 69.08'	(31)	N 31°16'38" E – 69.54'
(13)	S 60°02'45" W – 29.91'	(32)	N 66°12'10" E – 68.57'
(14)	S 13°46'42" W – 37.88'	(33)	N 46°48'21" E – 20.13'
(15)	S 6°43'18" E – 76.58'	(34)	N 2°57'51" W – 58.67'
(16)	S 10°43'16" W – 35.70'	(35)	N 30°21'02" W – 17.28'
(17)	S 86°32'55" E – 34.75'	(36)	N 68°31'48" W – 94.11'
(18)	S 18°27'37" E – 33.93'	(37)	S 84°38'24" W – 66.17'
(19)	S 49°49'00" E – 37.49'	(38)	N 21°03'06" W – 19.76'
(20)	S 6°07'15" E – 18.24'	(39)	N 37°26'33" E – 23.72'

INTERIOR CURVE DATA

CURVE	LENGTH	RADIUS	CHORD
(40)	167.45'	80.49'	N 11°32'23" E – 138.84'
(41)	143.68'	85.70'	N 54°59'02" E – 127.57'
(42)	67.70'	28.42'	N 23°17'28" W – 52.79'

TRACT POB TABLE

TRACT	FROM NW CORNER SECTION 33 TO POB
(A)	S 87°19'24" E – 1615.60' & S 1°14'05" W – 1786.62'
(B)	S 2°28'11" W – 2285.03' & S 87°31'49" E – 415.71'
(C)	S 2°28'11" W – 2023.84' & S 87°31'49" E – 438.11'
(D)	S 2°28'11" W – 1742.86' & S 87°31'49" E – 714.37'
(E)	S 2°28'11" W – 1083.12'
(F)	S 87°19'24" E – 2140.34' & S 2°40'36" W – 1075.62'
(G)	S 87°19'24" E – 2884.90' & S 2°26'17" W – 472.01'
(H)	S 87°19'24" E – 2884.90' & S 2°26'17" W – 1031.08'
(I)	S 87°19'24" E – 2563.03' & S 2°40'36" W – 1703.54'
(J)	S 87°19'24" E – 1615.60' & S 1°14'05" W – 1569.31'
(K)	S 2°28'11" W – 1654.49' & S 87°19'24" E – 330.00'
(L)	S 87°19'24" E – 1571.93'

*Lot 8 (Audubon) Uses shall be further restricted as described in proposed uses of the" Wilson Spring Site" as stated by Audubon.
**Lot 9 to be retained by the City of Fayetteville for the existing lift station.
Covenants to be filed with the final plat creating the springwoods subdivision shall address the uses and restrictions associated with these lots.

Setbacks, Height, and Building Area shall be determined and approved by the Fayetteville Planning Commission at the time of large scale development and/or subdivision approval.

These standards shall apply to all lots and development within the individual tracts as shown on this plat.

All requirements as stated within Chapter 166 Development of the Unified Development Code shall apply to all future large scale developments and/or subdivisions within the springwoods C-PZD zoning district.

Flexibility provided within the PZD guidelines shall be applied to each development tract (large scale development and/or subdivision) as determined appropriate by the Planning Commission to allow alternative methods of design where it is consistent with the objectives of the springwoods C-PZD zoning district.

Draft covenants shall be further refined to include information required by §166.06 and to address residential as well as commercial development standards at the time of final plat. Draft covenants for the springwoods C-PZD zoning district shall address the overall master plan and shall be filed with the final plat creating this 9 lot subdivision.

Lot No.	Land Use	Use Units	Density	Acreage
1	Commercial	12,13,14,15,16,17,25	n/a	47.73
2	Multi-Family	26	18 DU/AC	26.36
3	Single Family	8	2 DU/AC	25.53
4	Multi Family	26	4 DU/AC	10.7
5	Single Family	8	2 DU/AC	32.28
6	Commercial	12,13,14,15,16,17,25	n/a	18.04
7	Commercial	12,13,14,15,16,17,25	n/a	5.17
8	Preservation Area	1*	n/a	123.45
9	Lift Station	3**	n/a	0.02

NOTES:

A Tree Preservation Plan following the recommendations and specifications of the City of Fayetteville will be provided for each individual large scale development site or preliminary plat as development occurs.

An agreement acceptable to the City and the Audubon Society allowing limited access for trails will be determined. Property covenants will also consider environmental sensitivity regarding future landowners. Such as, use of native plants, limited application of herbicides and pesticides and promotion of song birds to help control insects.

GRAPHIC SCALE

200 0 100 200 400

(IN FEET)
1 inch = 200 ft.

FOR APPROVAL

SHEET: #1

MASTER DEVELOPMENT PLAN/ PRELIMINARY PLAT

HAYNES

Haynes Limited
5417 Pinnacle Point Drive
Rogers, AR 72758
(479) 464-8622

EGIS

EGIS Engineering, Inc.
Civil & Environmental Engineers
314 South Main Street
Bentonville, AR 72712
(479) 271-9252

DATE: OCTOBER 14, 2003	JOB NUMBER: 3015.60	FSCM NO.	REV
APPROVED BY: J.E.T.	DRAWN BY: D.R.S.	SCALE: 1"= 200'	SHEET: 1

Plans for Agenda Pack 10-21-03

EXISTING LEGEND

- SET IRON PIN
- FOUND IRON PIN
- FOUND RR SPIKE
- 3" ALUMINUM DISK MONUMENT
- HIGHWAY RIGHT OF WAY MARKER
- FOUND NAIL
- POINT OF BEARING CHANGE (POINT NOT SET)
- POWER POLE
- SANITARY SEWER MANHOLE
- SANITARY SEWER LINE
- GAS LINE
- WATER LINE
- CONCRETE TELEPHONE VAULT
- SILO/BIN
- FLAG POLE
- ANTENNA
- LIGHT POLE
- MANHOLE
- CATCH BASIN
- FIRE HYDRANT
- SAT DISH
- CONTOUR LABEL
- WETLANDS
- SECTIONAL BREAKDOWN LINE AS DETERMINED BY SURVEY'S FILED IN SURVEY PLAT BOOK M, PLATS 488 THRU 493
- ADJACENT PROPERTY LINES
- EXISTING WIRE FENCE
- UTILITY EASEMENT LINE
- ROAD / STREET RIGHT OF WAY LINE
- BOUNDARY LINE FOR INTERIOR TRACTS OUTSIDE OF FLOOD PLAIN. IRON PINS SET AT EACH CHANGE IN DIRECTION.
- BOUNDARY LINE FOR INTERIOR TRACTS INSIDE OF FLOOD PLAIN. NO IRON PINS SET.
- CURBED ROAD
- UNPAVED ROAD
- STOCK PILE
- TRAIL
- CONCRETE
- PAVED PARKING
- UNPAVED PARKING
- PAVED DRIVEWAY
- UNPAVED DRIVEWAY
- SIDEWALK
- BUILDING
- FOUNDATION
- STRUCTURE
- TANK
- GATE
- HEAD WALL
- WALL
- GUARD RAIL
- FLOWLINE
- LAKE/POND
- BRIDGE
- CULVERT PIPE
- CONCRETE DAM
- CONCRETE CHANNEL
- INDEX CONTOUR
- INTER CONTOUR
- OVERLAY DISTRICT BOUNDARY
- —100 YR.— 100 YEAR FLOOD PLAIN– PANEL# 050216 0083D, PANEL# 050216 0084D JULY 21, 1999

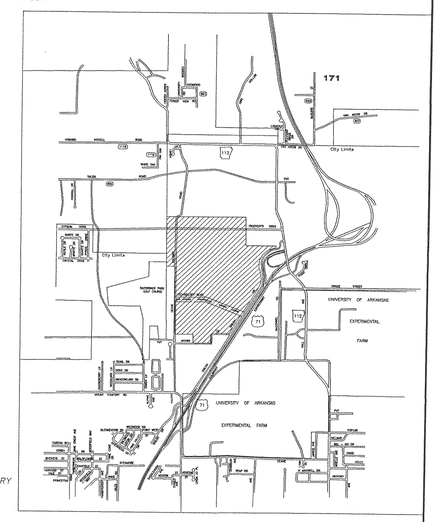
TABLE 1 SHOWS DATA AS A RESULT OF FIELD WORK PERFORMED BY McCLELLAND CONSULTING ENGINEERS IN 2003. TABLE 2 SHOWS DATA AS A RESULT OF FIELD WORK PERFORMED BY THE CITY OF FAYETTEVILLE IN 2001. A SLIGHT DIFFERENCE IN THE TWO TABLES DOES EXIST. IT IS SUGGESTED THAT ALL FIELD WORK PERFORMED SHOULD BE COMPARED TO TABLES 1 AND 2 AND USED ACCORDINGLY.

MONUMENT CONTROL DATA – TABLE 1 (BY MCE)				
ID No.	Northing	Easting	Elevation	Description
1	652053.97	664557.36	1191.86	3" Alum. Monument
2	652461.67	665715.37	1194.47	3" Alum. Monument
3	652904.74	667061.43	1199.91	3" Alum. Monument
4	652688.26	667829.06	1208.51	3" Alum. Monument
5	652139.02	667056.24	1206.67	3" Alum. Monument
6	651411.21	667950.06	1222.20	3" Alum. Monument
7	650942.43	666382.06	1216.26	3" Alum. Monument
8	650980.04	664814.67	1215.91	3" Alum. Monument
9	649279.13	666362.92	1290.12	3" Alum. Monument
10	649408.87	665487.12	1277.94	3" Alum. Monument
11	649726.37	664043.66	1259.31	3" Alum. Monument
12	651167.42	664370.47	1207.26	3" Alum. Monument
J-9 *	649751.14	664625.69	1282.69	3" Alum. Monument
K-9 *	654044.83	664251.77	1201.38	3" Alum. Monument

MONUMENT CONTROL DATA – TABLE 2 (BY CDF)				
ID No.	Northing	Easting	Elevation	Description
1	652053.74	664557.21	1191.86	3" Alum. Monument
2	652461.40	665715.32	1194.47	3" Alum. Monument
3	652904.76	667061.43	1199.91	3" Alum. Monument
4	652688.30	667829.23	1208.51	3" Alum. Monument
5	652138.96	667056.34	1206.67	3" Alum. Monument
6	651411.06	667502.29	1222.20	3" Alum. Monument
7	650942.23	666363.19	1216.26	3" Alum. Monument
8	650981.76	664814.84	1215.91	3" Alum. Monument
9	649278.75	666364.06	1296.12	3" Alum. Monument
10	649408.40	665487.16	1277.94	3" Alum. Monument
11	649727.92	665043.63	1259.31	3" Alum. Monument
12	651167.12	665735.49	1207.26	3" Alum. Monument
J-9 *	649751.14	664625.69	1282.69	3" Alum. Monument
K-9 *	654044.83	664251.77	1201.38	3" Alum. Monument

* - Geodetic Markers Set By Aerial Data Services, Inc. in 1994. Note: Monuments 1 thru 12 Set By City of Fayetteville in 2001.

EXISTING SEWER MANHOLE INFORMATION			
A	RIM ELEV. 1215.89 8" PVC OUT NW 1234.74 8" PVC IN S 1234.80	G	RIM ELEV. 1234.42 8" PVC OUT N 1225.93 6" PVC IN SE 1226.34
B	RIM ELEV. 1230.45 8" PVC OUT N 1220.68 8" PVC IN S 1221.06 8" PVC IN SE 1221.65 6" PVC IN SW 1221.74	H	RIM ELEV. 1224.99 8" PVC OUT W 1215.96 8" PVC IN E 1216.10 8" PVC IN S 1217.11
C	RIM ELEV. 1238.94 8" PVC OUT N 1231.72 8" PVC IN SW 1232.13	I	RIM ELEV. 1234.07 8" PVC OUT N 1225.95 6" PVC IN SE 1226.99
D	RIM ELEV. 1219.61 8" PVC OUT N 1210.42 8" PVC IN E 1210.65 8" PVC IN SSE 1211.59	J	RIM ELEV. 1230.07 8" PVC OUT W 1225.04 8" PVC IN SE 1225.13
E	RIM ELEV. 1233.98 8" PVC OUT NW 1226.59 8" PVC IN SE 1227.03	K	RIM ELEV. 1244.61 8" PVC OUT NW 1238.22 8" PVC IN SE 1238.52
F	RIM ELEV. 1223.88 8" PVC OUT W 1213.02 8" PVC IN E 1213.25 6" PVC IN SSE 1214.31	L	RIM ELEV. 1263.46 8" PVC OUT NW 1257.13 6" PVC IN E 1257.64



VICINITY MAP

SEWAGE LIFT STATION DETAIL

SCALE: 1"=100'

A 22' X 32' CITY OF FAYETTEVILLE SEWAGE LIFT STATION TRACT OF PROPERTY, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT A POINT SOUTH 2°25'11" WEST– 3599.94 FEET AND SOUTH 87°31'49" EAST – 792.11 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 33, THENCE SOUTH 85°00'00" EAST – 32.00 FEET; THENCE SOUTH 5°00'00" WEST– 22.00; THENCE NORTH 85°00'00" WEST – 32.00 FEET; THENCE 5°00'00" EAST – 22.00 FEET TO THE POINT OF BEGINNING, CONTAINING 704 SQ.FT. (0.02 ACRE), MORE OR LESS.

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(11)	S 66°12'10" W – 68.49'	(30)	N 60°02'45" W – 31.40'
(12)	S 31°16'38" W – 69.08'	(31)	N 31°16'38" E – 69.54'
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TRACT	FROM NW CORNER SECTION 33 TO POB			
(A)	S 87°19'24" E – 1615.60'	&	S 1°14'05" W – 1788.62'
(B)	S 2°28'11" W – 2285.03'	&	S 87°31'49" E – 415.71'
(C)	S 2°28'11" W – 2023.84'	&	S 87°31'49" E – 438.11'
(D)	S 2°28'11" W – 1742.86'	&	S 87°31'49" E – 714.37'
(E)	S 2°28'11" W – 1083.12'		
(F)	S 87°19'24" E – 2140.34'	&	S 2°40'36" W – 1075.62'
(G)	S 87°19'24" E – 2884.90'	&	S 2°26'17" W – 472.01'
(H)	S 87°19'24" E – 2884.90'	&	S 2°26'17" W – 1031.08'
(I)	S 87°19'24" E – 2563.03'	&	S 2°40'36" W – 1703.54'
(J)	S 87°19'24" E – 1615.60'	&	S 1°14'05" W – 1569.31'
(K)	S 2°28'11" W – 1654.49'	&	S 87°19'24" E – 330.00'
(L)	S 87°19'24" E – 1571.93'		

*Lot 8 (Audubon) Uses shall be further restricted as described in proposed uses of the" Wilson Spring Site" as stated by Audubon.
**Lot 9 to be retained by the City of Fayetteville for the existing lift station.
Covenants to be filed with the final plat creating the springwoods subdivision shall address the uses and restrictions associated with these lots.

Setbacks, Height, and Building Area shall be determined and approved by the Fayetteville Planning Commission at the time of large scale development and/or subdivision approval.

These standards shall apply to all lots and development within the individual tracts as shown on this plat.

All requirements as stated within Chapter 166 Development of the Unified Development Code shall apply to all future large scale developments and/or subdivisions within the springwoods C-PZD zoning district.

Flexibility provided within the PZD guidelines shall be applied to each development tract (large scale development and/or subdivision) as determined appropriate by the Planning Commission to allow alternative methods of design where it is consistent with the objectives of the springwoods C-PZD zoning district.

Draft covenants shall be further refined to include information required by §166.06 and to address residential as well as commercial development standards at the time of final plat. Draft covenants for the springwoods C-PZD zoning district shall address the overall master plan and shall be filed with the final plat creating this 9 lot subdivision.

Lot No.	Land Use	Use Units	Density	Acreage
1	Commercial	12,13,14,15,16,17,25	n/a	47.73
2	Multi-Family	26	18 DU/AC	26.36
3	Single Family	8	2 DU/AC	25.53
4	Multi Family	26	4 DU/AC	10.7
5	Single Family	8	2 DU/AC	32.28
6	Commercial	12,13,14,15,16,17,25	n/a	18.04
7	Commercial	12,13,14,15,16,17,25	n/a	5.17
8	Preservation Area	1*	n/a	123.45
9	Lift Station	3**	n/a	0.02

PROPOSED LEGEND

- LOT LINES

NOTES:

A Tree Preservation Plan following the recommendations and specifications of the City of Fayetteville will be provided for each individual large scale development site or preliminary plat as development occurs.

An agreement acceptable to the City and the Audubon Society allowing limited access for trails will be determined. Property covenants will also consider environmental sensitivity regarding future landowners. Such as, use of native plants, limited application of herbicides and pesticides and promotion of song birds to help control insects.

MAGNETIC

GRAPHIC SCALE

200 0 100 200 400

(IN FEET)
1 inch = 200 ft.

FOR APPROVAL

SHEET: #2

MASTER DEVELOPMENT PLAN/ PRELIMINARY PLAT

HAYNES Limited
5417 Pinnacle Point Drive
Rogers, AR 72758
(479) 464-8622

EGIS Engineering, Inc.
Civil & Environmental Engineers
314 South Main Street
Bentonville, AR 72712
(479) 271-9252

DATE: OCTOBER. 2, 2003	JOB NUMBER: 3015.60	FSCM NO.	REV
APPROVED BY: J.E.T.	DRAWN BY: D.R.S.	SCALE: 1"= 200'	SHEET: 2