Revised

added to new item to Business

Final Agenda
For
City Council Meeting
November 18, 2003

A meeting of the Fayetteville City Council will be held on November 18, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT:

1. **Approval of the Minutes:** Approval of the October 7, 2003, November 4, 2003 Special and November 4, 2003 Regular City Council meeting minutes.

2. **Street, Fire and Police Impact Fees:** A resolution to request city staff to study the feasibility and advisability of new impact fees in the areas of street construction, fire fighter operations, police operations and capital cost.

3. **Crossland Construction Library Change Order No. # 11:** A resolution approving Change Order # 11 to the contract with Crossland Construction Company, Inc. in the amount of $41,342.00 for water and sewer improvements at the New Fayetteville Public Library.

4. **Crossland Construction Library Change Order # 12:** A resolution approving Change Order # 12 to the contract with Crossland Construction Company, Inc. in the amount of $110,117.00 to install underground utilities to seven residences adjacent to the New Fayetteville Public Library.

5. **SBC Long Distance Bid Award:** A resolution awarding Bid #03-59 and approving a three-year contract with SGC Global Services, Inc. in the amount of $16,000.00 per year for long distance telephone services for the City of Fayetteville.

6. **2003 Department of Homeland Security Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Department of Homeland Security Fire Grant in an amount up to $300,000.00 for fire prevention programs.

7. **U of A Hangar, Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Municipal Airport staff to apply for and accept a grant in the amount of $43,820.00 from the Arkansas Department of Aeronautics for the construction of an access road, parking and utilities to serve the University of Arkansas Corporate Hangar.

8. **U of A Hangar, Architectural Contractors:** A resolution awarding a contract to Architectural Contractors, Inc. in the amount of $532,000.00 for the construction of the University of Arkansas Corporate Hangar at the Fayetteville Municipal Airport; approving a project contingency in the amount of $29,565.00; and approving a budget adjustment in the amount of $220,835.00 for same.

9. **Fleet Vehicle Purchase, Ton Truck from Lander's:** A resolution approving the purchase of one pickup truck, 1 ton cab/chassis from Landers GMC at State contract prices in the amount of $24,612.00.

10. **Fleet Vehicle Purchase, Four Pickup Trucks From Lander's:** A resolution approving the purchase of four pickup trucks from Landers Ford at State contract prices for a total cost of $105,721.00.

11. **Williams Tractor Bid Acceptance:** A resolution awarding Bid # 03-61 and approving the purchase of a Bobcat Toolcat 5600 utility work machine from Williams Tractor, Inc. in the amount of $43,306.00.

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. **R-PZD 03-04.00 Lazenby Properties:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 03-04.00 located on the west side of Razorback Road between Baum Stadium and the State Revenue Office containing 7.65 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This Ordinance was left on the first reading at the November 4, 2003 City Council meeting.***

C. NEW BUSINESS:

1. **VAC 03-11.00 Vacation Michael & Jill Salazar:** An ordinance approving VAC 03-11.00 to vacate a portion of a utility easement along lot 51 of the Brookbury Subdivision as depicted on the attached map and legal description.

2. **2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.

D. INFORMATIONAL:

November 17, 2003 – Council Tour

Pull Consent item # 5 and # 6 ADM 03-26.00 and ADM 03-27.00

#2 Old Business - Lazenby 7.65 acres in the descritption.
New map showing storage buildings removed.

- Long distance rates from the past compared to the rate SBC is giving us.

Meeting of November 18, 2003

Meeting Adjourned at 8:40 pm.

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

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

Passed

Res. 167-03 to 176-03

Meeting of November 18, 2003

Subject:	Amend Chapter 51.136 Monthly Water Rates					
Motion By: Seconded:		Marr Reynolds				
Motion To:		Sub. Med Exhibit A.		Motion to Substitute new		
	Thiel	✓		Exhibit A		
	Cook	✓				
	Marr	✓				
	Rhoads	✓				
	Davis	✓				
	Lucas	✓				
	Jordan	✓				
	Reynolds	✓				
	Mayor Coody	—				

B. 1.

Old Business

Subject:	Amend Chapter 51.136 Monthly Water Rates					
Motion By: Seconded:		Reynolds Jordan				
Motion To:		table to the next City Council meeting - Dec. 2, 2003				
	Thiel	✓				
	Cook	✓				
	Marr	✓				
	Rhoads	✓				
	Davis	✓				
	Lucas	✓				
	Jordan	✓				
	Reynolds	✓				
	Mayor Coody	—				

B. 1.

Old Business

passed motion to table until Dec. 2, 2003 City Council Meeting.

Meeting of November 18, 2003

Subject:		R-PZD-03-04.00 Lazenby Properties				
Motion By: Seconded:		Jordan	Davis Reynolds			
Motion To:		Suspend Rules go to 2nd read	3rd read	Pass		
	Thiel	✓	✓	✓		
Old Business	Cook	✓	✓	N		
B. 2.	Marr	✓	✓	✓		
	Rhoads	✓	✓	✓		
	Davis	✓	✓	✓		
5/3	Lucas	✓	N	N		
4528	Jordan	✓	✓	N		
	Reynolds	✓	✓	✓		
	Mayor Coody	—	—	—		

Subject:		UAC 03-11.00 UAcation/Salazar				
Motion By: Seconded:		[redacted]	2nd read		Reynold Jordan	
Motion To:			Davis Reynolds		3rd read	Pass
	Thiel	[redacted]	✓		✓	✓
C. 1.	Cook	[redacted]	✓		✓	✓
New	Marr	[redacted]	Marr absent		Marr absent	✓
Business	Rhoads	[redacted]	✓		✓	✓
	Davis	[redacted]	✓		✓	✓
Passed	Lucas	[redacted]	✓		✓	✓
	Jordan	[redacted]	✓		✓	✓
4529	Reynolds	[redacted]	✓		✓	✓
	Mayor Coody	[redacted]	✓		—	—

Meeting of November 18, 2003

Subject:		ADM 03-27.00 Steams Street Right of Way Reduction				
Motion By: Seconded:						
Motion To:		Approve				
	Thiel	✓				
	Cook	N				
	Marr	N				
	Rhoads	✓				
	Davis	✓				
	Lucas	N				
	Jordan	N				
	Reynolds	✓				
	Mayor Coody	Yes				

C. 2. New Business 177-03 passed 4-4 Mayor Coody yes.

Subject:		ADM - 03 -26.00 Steams Street				
Motion By: Seconded:		Davis / Reynolds				
Motion To:		Approve				
	Thiel	Y				
	Cook	N				
	Marr	N				
	Rhoads	Y				
	Davis	Y				
	Lucas	N				
	Jordan	N				
	Reynolds	Y				
	Mayor Coody	Yes				

C. 3. New Business Passed 178-03 4-4 Mayor Coody yes.

Meeting of November 18, 2003

Subject:	2004 Annual Budget					
Motion By: Seconded:						
Motion To:		motion to table to the next	City Council meeting		on December 2, 2003	
	Thiel	✓				
	Cook	✓				
	Marr	✓				
	Rhoads	✓				
	Davis	✓				
	Lucas	✓				
	Jordan	✓				
	Reynolds	✓				
	Mayor Coody	✓				

C. 4. New Business

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

Final Agenda
For
City Council Meeting
November 18, 2003

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A. CONSENT:

Approved 1. **Approval of the Minutes:** Approval of the October 7, 2003, November 4, 2003 Special and November 4, 2003 Regular City Council meeting minutes.

167-03 2. **Street, Fire and Police Impact Fees:** A resolution to request city staff to study the feasibility and advisability of new impact fees in the areas of street construction, fire fighter operations, police operations and capital cost.

168-03 3. **Crossland Construction Library Change Order No. # 11:** A resolution approving Change Order # 11 to the contract with Crossland Construction Company, Inc. in the amount of $41,342.00 for water and sewer improvements at the New Fayetteville Public Library.

169-03 4. **Crossland Construction Library Change Order # 12:** A resolution approving Change Order # 12 to the contract with Crossland Construction Company, Inc. in the amount of $110,117.00 to install underground utilities to seven residences adjacent to the New Fayetteville Public Library.

170-03 5. **SBC Long Distance Bid Award:** A resolution awarding Bid #03-59 and approving a three-year contract with SGC Global Services, Inc. in the amount of $16,000.00 per year for long distance telephone services for the City of Fayetteville.

171-03 6. **2003 Department of Homeland Security Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Department of Homeland Security Fire Grant in an amount up to $300,000.00 for fire prevention programs.

172-03 7. **U of A Hangar, Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Municipal Airport staff to apply for and accept a grant in the amount of $43,820.00 from the Arkansas Department of Aeronautics for the construction of an access road, parking and utilities to serve the University of Arkansas Corporate Hangar.

173-03 8. **U of A Hangar, Architectural Contractors:** A resolution awarding a contract to Architectural Contractors, Inc. in the amount of $532,000.00 for the construction of the University of Arkansas Corporate Hangar at the Fayetteville Municipal Airport; approving a project contingency in the amount of $29,565.00; and approving a budget adjustment in the amount of $220,835.00 for same.

174-03

9. **Fleet Vehicle Purchase, Ton Truck from Lander's:** A resolution approving the purchase of one pickup truck, 1 ton cab/chassis from Landers GMC at State contract prices in the amount of $24,612.00.

175-03

10. **Fleet Vehicle Purchase, Four Pickup Trucks From Lander's:** A resolution approving the purchase of four pickup trucks from Landers Ford at State contract prices for a total cost of $105,721.00.

176-03

11. **Williams Tractor Bid Acceptance:** A resolution awarding Bid # 03-61 and approving the purchase of a Bobcat Toolcat 5600 utility work machine from Williams Tractor, Inc. in the amount of $43,306.00.

B. OLD BUSINESS:

Tabled 12/3/03

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.***

4528

2. **R-PZD 03-04.00 Lazenby Properties:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 03-04.00 located on the west side of Razorback Road between Baum Stadium and the State Revenue Office containing 7.65 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This Ordinance was left on the first reading at the November 4, 2003 City Council meeting.***

C. NEW BUSINESS:

4529

1. **VAC 03-11.00 Vacation Michael & Jill Salazar:** An ordinance approving VAC 03-11.00 to vacate a portion of a utility easement along lot 51 of the Brookbury Subdivision as depicted on the attached map and legal description.

177-03

2. **ADM 03-27.00 Stearns Street Apartments Right of Way Reduction Stearns Street:** A resolution approving ADM 03-27.00 amending the Master Street Plan, lessening the right-of-way dedication for Stearns Street, designated a collector street requiring 70' right-of-way, to local street standards requiring 50' right-of-way, and reconfiguring the connection between Stearns Street and Vantage Drive.

178-03

3. **ADM 03-26.00 Stearns Street Apartments Right of Way Reduction Shepherd Lane:** A resolution approving ADM 03-26.00 amending the Master Street Plan, lessening the right-of-way dedication for Shepherd Lane, designated a collector street requiring 70' right-of-way, to local street standards requiring 50' right-of-way.

Tabled 12/3/03

4. **2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.

D. INFORMATIONAL:

November 17, 2003 – Council Tour

Minutes
Of The
City Council Meeting
October 7, 2003

A meeting of the Fayetteville City Council was held on October 7, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Alderman Reynolds was absent during Roll Call, Consent, and Old Business #1.

CONSENT:

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

The minutes were pulled from the consent.

Crossland Contractors Bid 03-31: A resolution awarding a construction contract in the amount of $693,662.00 to Crossland Heavy Contractors, Inc. for Gregg Avenue waterline improvements Phase I; approving a project contingency in the amount of $80,000.00; and approving a budget adjustment in the amount of $53,394.00 for same.

Resolution 144-03 As Recorded In The Office Of The City Clerk.

RJN Amendment #2, Wastewater Collection: A resolution approving contract amendment #2 in the amount of $36,780.00 with RJN Group, Inc. to update the Wastewater Collection System Model; and approving a contingency in the amount of $3,220.00 for same.

Resolution 145-03 As Recorded In The Office Of The City Clerk.

Zion Vantage Apartments Money in lieu of Land for Park Land Dedication: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $108,468.00 cash in lieu of the required park land dedication for Zion Vantage Apartments.

Resolution 146-03 As Recorded In The Office Of The City Clerk.

Lazenby Apartments Money in lieu of land for Park Land Dedication: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $40,016.00 cash in lieu of the required park land dedication for Lazenby Apartments.

Resolution 147-03 As Recorded In The Office Of The City Clerk.

Cruzen Equipment Company, Inc. Contract Aviation Fuel Self-Serve Facility: A resolution awarding Bid #03-52 and approving a construction contract with Cruzen Equipment Company, Inc. in the amount of $32,534.83 for the construction of an aviation fuel self-serve facility at the Fayetteville Municipal Airport.

Resolution 148-03 As Recorded In The Office Of The City Clerk.

Arkansas Dept. of Aeronautics Grant Aviation Fuel Self-Serve Facility: A resolution authorizing the Fayetteville Municipal Airport staff to apply for and accept a grant in the amount of $17,966.00 from the Arkansas Department of Aeronautics for the construction of an aviation fuel self-serve facility; and approving a budget adjustment for same.

Resolution 149-03 As Recorded In The Office Of The City Clerk.

Multicraft Contract Repair Filtering System Bid Waiver: A resolution awarding a contract in the amount of $95,000.00 to Multi-Craft contractors, Inc. for repairs to the effluent filtering system at the Noland Wastewater Treatment Plant; and approving a project contingency in the amount of $5,000.00 for same.

Resolution 150-03 As Recorded In The Office Of The City Clerk.

ADM 03-18.00 (Legacy Pointe Subdivision): A resolution affirming the Planning Commission's approval of a variance from the requirements of §167.04, Tree Preservation Protection, Unified Development Code to allow on-site mitigation in the Legacy Pointe Residential Subdivision.

Resolution 151-03 As Recorded In The Office Of The City Clerk.

Arkansas State Highway & Transportation Dept. Arkansas Recreational Trails Grant: A resolution authorizing the Fayetteville Parks and Recreation Division to accept a grant in the amount of $51,247.00 from the Arkansas Highway and Transportation Department for Arkansas Recreational Trails Funds to continue development of trails at Lake Fayetteville North Shore Park; and approving a budget adjustment for same.

Resolution 152-03 As Recorded In The Office Of The City Clerk.

Alderman Davis asked that the minutes be pulled from consent until he has time to review them.

Alderman Jordan moved to approve the consent as read without the minutes. Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

OLD BUSINESS:

Public Hearing Raze and Removal 226 North School Avenue: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Timothy C. and Christine Klinger located at 226 N. School Avenue in the City of Fayetteville, Arkansas. ***This Resolution was tabled at the August 19, 2003 City Council meeting.***

Hugh Earnest: This situation has been resolved and we plan to report to the City Council if there is a lack of progress in the expectations that we have given to the developer. There has to be some movement in redeveloping that structure by the developer.

Alderman Davis: Can you give us an outline of what you expect those movements, the process to be, and the dates we can expect to see something happen?

Hugh Earnest: Within 30 days.

Alderman Jordan moved to table this ordinance indefinitely. Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Public Hearing Raze and Removal 323 N. West Avenue: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by the Bank of Fayetteville, N.A. located at 323 N. West Avenue in the City of Fayetteville, Arkansas. ***This Resolution was tabled at the August 19, 2003 City Council meeting.***

Mayor Coody: The building is unsafe; the owners have no plans for it so we basically struck a deal to where they will tear the building down and clean the brick. We will store the brick until an appropriate use for it can be found. The building may be reconstructed in the future.

Paula Marinoni: Ms. Marinoni gave a brief history of the building, the historical value of the building, and the potential uses of the building.

A discussion followed on the removal of the building, the future use of the building, and moving it to a different location.

Alderman Davis: Mr. Earnest, you are recommending that we table this.

Hugh Earnest: I have spoke to Mr. Lewis about finding an appropriate individual to move towards the compromise that was negotiated between the city and the owner of the building to remove that structure.
Our staff moved very slowly and very carefully from February on to move against this structure that is unsightly, depilated, and dangerous. We've never had any problem in working with them for a possible solution for that building. As the Mayor pointed out, that is a private property issue, our responsibility is to make sure it is not dangerous. If the City Council wishes us to see if there is some alternative to preserving that facility at that site, that may be possible. Our

recommendation remains that that building at that location is not in the best public interest at this time.

Alderman Marr: You are not asking the City Council to raze and remove this tonight.

Hugh Earnest: That is correct; we are looking at a solution that is in the best interest to all parties.

Alderman Davis: By tabling this we are giving you that opportunity to continue to negotiate.

Mayor Coody: As an alternate to tabling you could just vote this down and we could continue to work as we have been, or change course if you want.

Alderman Marr: I don't support voting it down because I think we are looking for a solution rather that saying nothing needs to be done related to raze and removal. I take exception to the comment that there is nothing in our vision about history. In our vision 2002 it talks about preserving and enhancing our nature beauty. I don't consider that to be just trees and water, I also consider the word preserving to be very clear that we are not all about new items we are about protecting the items that we have.

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

Police and Fire Pension LOPFI Agreement: An ordinance electing coverage for eligible members of the Police Pension and Relief Fund and Firefighter Pension and Relief Fund under LOPFI and authorizing Mayor Coody to enter into an agreement with LOPFI. ***This Resolution was tabled at the August 19, 2003 City Council meeting.***

Steve Davis: Both Pension Boards have expressed a desire to remain independent and not merge; they ask that we table this indefinitely.

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

Sale of Library Building at 217 E. Dickson: An ordinance to amend Ordinance No. 4358 in order to exempt the City Library Complex on Dickson Street. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

Alderman Rhoads 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.

Cyrus Young: If you go through with this and this is passed, if the Mayor signs an agreement, does that obligate the City Council to go ahead and sale the property?

Kit Williams: It does not; the City Council is required to approve any offer and acceptance. This is only exempting the appraisal and sale procedure that is set forth; any offer would have to be brought to the City Council and passed by the City Council. The Mayor cannot obligate the city to sell real property. All our offer and acceptances within the last several years have always contained at the end of them in bold letter, any offer and acceptance is subject to City Council approval and the contract is void if the City Council does not approve it.

Susan Porter: There are two separate pieces of property and the Library Board does not have to comply with the ordinance that they are asking an amendment to. I ask that the City Council wait and not pass this tonight.

Mayor Coody: If this passes, this does not obligate us to sale or do anything with the building, it just gives us flexibility.

Susan Porter: I am just wondering what is the rush in getting this amendment approved.

Alderman Rhoads: This gives us flexibility, it doesn't lock us into anything, it allows the library and the city to work together to find a good use.

Susan Porter: If this is passed I see that maybe the city and the Library Board may go forward to sell the whole thing together. I know the Library Board has a need for immediate money. If we join with the Library Board for the marketing of it does that mean that the city is going to spend money for the marketing and for appraisals?

Mayor Coody: I do not see us spending money for marketing.

Hugh Earnest: We have authorized an appraisal on the property; we thought that we needed some definite number. There are individuals and firms that have expressed an interest in the property.

Mayor Coody: Just to see what the value is?

Hugh Earnest: Yes.

Alderman Marr: The appraisal that you have authorized, is it multiple options?

Hugh Earnest: That's right.

Alderman Cook: I still question whether this does actually provide flexibility because we're flexible now, bring the offers forward. I am not ready to waive this ordinance until I see an offer.

Alderman Marr: This ordinance talks about that it is there for the sell of municipal owned property in a matter of great importance and concern to citizens of the City of Fayetteville. We've had citizens that we represent who are very concerned about what may or may not happen to this location. I think this ordinance locks us into having a discussion about whether it should

be for sale and whether it could be used for any other municipal purpose in the city. There are some people who believe that there is no locking mechanism, if we waive this to make sure that, that happens. I understand the importance of waiving the bidding process but what we are having a problem in waiving is the discussion in general about whether it should be sold or used for another purpose and compared against other inventory.

Mayor Coody: I think there are uses for the building that we may have.

Alderman Marr: I think we have the best of both worlds, we have the ability for the Library Board to go out and begin marketing their property and if through that marketing process they identify someone that wants it all then we have the ability to hear those ideas without giving up the debate about keeping it in general.

Alderman Thiel: I think there is a certain amount of urgency on the Library Board to go ahead and market this property; I think they have some very good potential buyers out there. We need to initiate some meetings about whether or not we see a need for this building.

Mayor Coody: If this is passed tonight that does not preclude the public debate that would be required to make the determination of what we do with this. We need to know the value of what we are talking about.

Vince Chadick: My firm and I represent the Library. Here is what I think the intention of our request is. The Library Board needs money but they are putting the interest, compatibility and the working relation with the city above that need for money or else the Library would go out and unilaterally try to market that property. That is not what the Library Board as I understand it wants to do. The first thing the City Council needs to do is to make a determination that the property no longer serves a municipal purpose. We are asking you to develop a mechanism that allows you to consider all potential uses. The way you open this dialogue up to give you the proper information you need, I think is to proceed with this amendment, put a mechanism in place to encourage and cultivate this discussion. This will arm you with the information you need to put the highest and best use in that building for the future of all us. The way I see it, this is the only way to trigger that discussion.

Alderman Rhoads: Is there a difference in the time table we have versus what the Library has, or are we on the same time table?

Vince Chadick: Right now we are on the same time table. We want to work with the city.

Alderman Rhoads: So if it is part of a Master Plan Study and it takes a year, are we okay?

Louise Schaper: That would be a problem, our Library cannot afford to operate two buildings and we will be out of this current building next August. The reason this came before you is because we had to get this discussion started. Things take a long time when you are working with two entities and the public.

Mayor Coody: When will the appraisal be completed?

Louise Schaper: In about three weeks, also there have been two verbal offers since we were here last. We would never have put a for sale sign out there without having permission to go forward and do that.

Alderman Lucas: Even with the passing of this we still have to make the decision of whether we want to sell or not. So it does not matter if we pass this now or later, we have to make the decision of whether we are going to sell.

Alderman Marr: That is why I want to know why we need to do it now. Why isn't the resolution before us tonight a recommendation to sell it or not sell it, why isn't that step one.

Louise Schaper: I sat with citizens during many meetings with people from the neighborhood and what I took back from those meetings was the need to move forward outside the city ordinance. Citizens were worried that if we approached the city with that, that we would end up selling to the highest bidder and that is the reason why we are here right now.

Alderman Marr: I was at some of those meetings and their comments were if they had their way they would have a community building, there are people out there trying to find a not for profit use for the building.

Alderman Thiel: The Library doesn't have to ask our permission to sell their portion. I think they are making an effort to make this a partnership.

A discussion followed on the sale and use of the building. There was also discussion on waiving the ordinance and getting public input on the sell of the property.

Louise Schaper: The public has great concerns about not having a vacant building. We don't want to end up a year from now with the building being vacant and going into disrepair. If this process that we have proposed does not work for you, tell us what will work.

Alderman Lucas: I think the Library Board has done an excellent job of trying to get the word out and trying to get the feeling of the neighborhood. We are going to have two boards deciding if this property is sold.

Jeff Erf: Who owns the library?

Mayor Coody: We own the smaller part on the west; the library owns the building on the east.

Jeff Erf: Who paid for the library?

Mayor Coody: The land that the library sits on is owned by the Library Board and the land the doctor office sits on is owned by the city.

Jeff Erf: The building itself?

Mayor Coody: That sits on Library Board property so it is pretty much their building.

Jeff Erf: Who paid for it?

Louise Schaper: The land that the library sits on was donated by the Fulbright family. The building was paid for by a special tax that was specific to that library and there have been private donations all through the years.

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Davis seconded. Upon roll call the motion passed 7-1. Alderman Davis, Lucas, Jordan, Reynolds, Thiel, Cook and Rhoads voted yes. Alderman Marr voted no.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Davis, Lucas, Jordan, Reynolds, Thiel, and Rhoads voted yes. Alderman Cook and Marr voted no.

Ordinance 4516 As Recorded In The Office Of The City Clerk.

ANX 03-2.00 (Shiloh Community Church): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of 3.95 acres located North of Mt. Comfort Road and West of Rupple Road owned by Shiloh Community Church. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

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

Kit Williams: Before I read this, this began as a voluntarily annexation requested by the petitioner and the information I have is the petitioner no longer wishes to pursue the annexation, so therefore we would not have power to go forward with this at this time.

Jeff Bates, an Engineer with Keystone Consultants: Since the last City Council meeting the church has asked me to do a cost comparison of what it would cost to build in the city verses building in the county. It is going to cost them $80,000 to $100,000 more to build in the city. The church does not feel at this time they have the funds to do that and build their church. They are asking to withdraw their request and not be annexed into the city at this time.

Hugh Earnest: It is a policy not to create as a part of an annexation an island. By them changing their position this creates a problem with staff to continue to recommend that this annexation proceed for the other individuals that still wish to be annexed.

Alderman Davis: How many lots will there be in Mr. Cogers property?

Jeff Bates: Approximately 52 lots.

Alderman Davis: If we allow this to come into the city it will stop those homes from being on septic tanks. We will also get the impact fees; I would suggest we bring the other two in even though we are not annexing the church at this point in time.

Kit Williams: There is a section in the code that if property is totally surrounded by city property, then the City Council without a vote of the people can decide to annex in that island.

Alderman Reynolds: Where did the church come into this, were they first to ask to be annexed?

Tim Conklin: The Coger property and the Shiloh Church property were presented to us together for annexation; the island was the Stevens property.

Joe Jones, Pastor of Shiloh Community Church: We want to be a good neighbor. It is not that we don't want to do the things required by the city, we just can't afford to do them at this time. We just ask at this time that we not be annexed, maybe annex us at a later date.

Alderman Cook: I am struggling with annexations at this time. There is approximately 187 acres that is not developed at this time. We cannot keep pushing the city boundaries out; it is costing us too much.

Alderman Lucas: In this area we are already there, Bridgeport is across the street.

A discussion followed on the traffic study of the road along this subdivision, septic tanks, undeveloped property in the area and other proposed developments in the area.

Jeff Bates: Mr. Coger proposed developing this property with septic systems, city staff asked him to maybe get it annexed, and that's why we are here today.

Alderman Thiel: It is important that we get the infrastructure that we require in the city, not something that is substandard.

Alderman Davis: Should we table this indefinitely and go on with the other items?

Kit Williams: I would like the minutes to show that it has been withdrawn by the petitioners.

This ordinance was withdrawn by the petitioner.

ANX 03-3.00 (James Coger): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of 18.38 acres located North of Mt. Comfort Road and West of Rupple Road owned by James Coger. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

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

Mr. Williams read the ordinance.

James Coger: I think an important thing to look at is that the growth is orderly and that we don't end up with unorganized growth that is unsafe. I share the same concerns about the highway and infrastructure. I have offered to widen the road in front of my subdivision. The subdivision we have developed meets all city standards. I would appreciate your consideration.

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

Mr. Williams read the ordinance.

Alderman Jordan: I think that road is too narrow, I think the intersection is too dangerous, and I think this is sprawl and I cannot support it.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-2-1. Alderman Davis, Lucas, Reynolds, Thiel and Rhoads voted yes. Alderman Jordan and Cook voted no. Alderman Marr abstained.

Ordinance 4517 As Recorded In The Office Of The City Clerk.

ANX 03-4.00 (Carol Stephens): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of 1.08 acres located North of Mt. Comfort Road and West of Rupple Road owned by Carol Stephens. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Davis, Lucas, Reynolds, Thiel and Rhoads voted yes. Alderman Jordan, Cook, and Marr voted no.

Ordinance 4518 As Recorded In The Office Of The City Clerk.

RZN 03-17.00 (Shiloh Community Church): An ordinance rezoning that property described in rezoning petition RZN 03-17.00 as submitted by Geoff Bates of Keystone Consultants on behalf

of Shiloh Community Church for 3.95 acres located North of Mt. Comfort Road and West of Rupple Road. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

This ordinance was withdrawn by the petitioner.

RZN 03-18.00 (James Coger): An ordinance rezoning that property described in rezoning petition RZN-03-18.00 as submitted by Geoff Bates of Keystone Consultants on behalf of James Coger for 18.38 acres located North of Mt. Comfort Road and West of Rupple Road. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Lucas seconded. Upon roll call the motion passed 7-0-1. Alderman Marr abstained.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded. Upon roll call the motion passed 7-0-1. Alderman Marr abstained.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 4-3-1. Alderman Davis, Lucas, Reynolds, and Rhoads voted yes. Alderman Jordan, Thiel, and Cook voted no. Alderman Marr abstained. Mayor Coody voted yes, thus the ordinance passed.

Ordinance 4519 As Recorded In The Office Of The City Clerk.

RZN 03-27.00 (Carol Stephens): An ordinance rezoning that property described in rezoning petition RZN 03-27.00 as submitted by Geoff Bates of Keystone Consultants on behalf of Carol Stephens for property containing 1.08 acres located North of Mt. Comfort Road and West of Rupple Road. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

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

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Davis, Lucas, Reynolds, Thiel and Rhoads voting yes. Alderman Jordan, Cook and Marr voting no.

Ordinance 4520 As Recorded In The Office Of The City Clerk.

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 first reading at the September 16, 2003 City Council meeting.***

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Reynolds seconded. Upon roll call the motion passed 7-0. Alderman Davis was absent during the vote on the motion.

Steve Davis: Earlier today we met with a number of the industrial members of the Chamber of Commerce, they have expressed significant concerns over the proposed rates. We have proposed having a work session at the Chamber of Commerce building within the next two weeks to go through in a more detailed fashion the cost allocation methodology.

A discussion followed on the proposed rate increases.

Alderman Davis: I would like for the administration to come up with some alternatives with the rates. I don't think we want to see our rates go up extremely high for the industry because if we do we will lose some of those clients, not only for the industry but look at the rate increase for residents.

Geary Lowery: Spoke of some proposals and flat rate studies that he presented to the City Council.

Bob Bracy, Superior Industries: We appreciate the City Council looking at the interest of the community and the industry; we want to pay our fair share to support our community. We feel this study needs some more depth into it.

Connie Clampit with Tyson Foods: We would like for you to look at extending the life of the rate proposal, it is currently a three year impact, it would easier to absorb if it was over a five or six year period. I would also like you to consider the difference between the 15% increase in the water rates from Beaver Water, that equates to about a 7 ½ % increase in your operating cost, why is the rate increase a 10% versus the 7 ½ % or 8% and where is that extra 2 ½ % revenue going.

Steven Tennant, City Attorney for the City of Farmington: The City of Farmington resident's rates will be about 142% higher than the City of Fayetteville residents.

A representative from one of the industries: Spoke of his concerns regarding the rate increases.

Teresa Clark, City of Farmington: When you have the meetings regarding the rates, you need to include the citizens of Farmington.

Virgil Neuroth, Vice President of the Chamber of Commerce: We have confirmed October 16, 2003 at 2:00 PM for a work session at the Chamber to discuss this situation.

This ordinance was left on the second reading.

NEW BUSINESS:

Dover, Kohl & Partners Downtown Master Plan Contract: A resolution awarding a contract in an amount not to exceed $200,000.00 to Dover, Kohl and Partners to prepare a Downtown Master Plan

Tim Conklin: Dover, Kohl will be addressing, as part of the Downtown Master Plan, urban design, existing codes, and whether or not they promote appropriate urban design in our downtown area, land use, and compatibility. They have developed a process to create a vision. They will look at a cultural and entertainment district and what uses should be allowed, what are the boundaries, how should parking be addressed, and how do we address the surrounding neighborhoods. They will be looking at economic development, historic preservation, and they will be looking at a parking management strategy.

Alderman Davis: I have been asked if we could wait two weeks and get some comments on this and get some input.

Alderman Thiel: I have heard from several groups that are in support of this.

A discussion followed on the Dover, Kohl plan and group meetings to discuss the plan. There were also comments read from cities that Dover, Kohl has worked with.

Jim Blair: One of the critical things that Northwest Arkansas needs is a cultural development area and the logical place for it is downtown Fayetteville. We need a Downtown Master plan that shows where cultural development needs to be. I urge the City Council to adopt this resolution.

Richard Alexander: This is exactly the type of thing this city needs to be doing. Dover, Kohl has excellent credentials. I encourage the City Council to proceed with this.
He also spoke on the zoning in Fayetteville and the importance of the historic value of our town.

Rob Merryship: I commend you on bringing this proposal forward; I think this is a remedy to a lot of problems.

Laura Kelly: Spoke in support of the resolution.

Bootsie Ackerman: Spoke in support of the resolution.

Anita Scism, Walton Arts Center: Spoke in support of the resolution.

Sharon Hoover a City of Fayetteville Planning Commissioner: Spoke in support of the resolution.

Laura Chioldi: Spoke in support of the resolution.

Jill Anthes: Spoke in support of the resolution.

Rob Sharp: Spoke in support of the resolution.

Mayor Coody read a letter he received from John White Chandler of the University of Arkansas supporting the resolution. He also read an email from Civic Partners, a firm that does construction in downtown areas, supporting the resolution.

Alderman Cook: I think this project will be something from the people, I think this plan can only enhance what we already have in this part of town.

Alderman Jordan: I see a lot of needs in the south part of town. This is a great plan and I believe that the development of that downtown area will bring this city to a new level.

Alderman Rhoads: I see no one against this.

Alderman Reynolds: I have had no calls on this, so I will support it.

Alderman Davis: I am in support of this; I just want to make sure we have unified support from all the different organizations involved.

Alderman Marr: Sometimes we have to have trust in the process.

Mayor Coody: We are the builders of the city and every decision that our planning staff makes affects a small piece of this town that adds up over time.

Alderman Cook moved to approve the resolution. Alderman Marr seconded. Upon roll call the motion passed unanimously.

Resolution 153-03 As Recorded In The Office Of The City Clerk.

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.

Mr. Williams read the ordinance.

Steve Davis: This millage ordinance is the routine millage ordinance that the city has levied every year for the past several years, with two exceptions, we now have to levy the library millage that was voter approved and we also are asking for one mill for general government operations. The policemen's and firemen's pension fund millages were also voter approved some time ago. In order to make the county's quorum court calendar they must have our ordinance no later than November 13th.

Mayor Coody: The one mil for the general operations is for the staffing of the new fire station on the west side of town.

Alderman Reynolds: I thought we were told the money was already in the bank to build and operate that fire station.

Steve Davis: The money is in the sales tax capital improvement fund to construct it; we have been talking about needing additional revenues for the operations of the fire station.

Alderman Davis: I recall last year when we voted to go from 25% to 50% on the one cent sales tax, at that time the fire station was brought into it. It wasn't just the property, it was the people to operate the fire station, that was one of the things we sold the 25% to the 50% increase. We are using the same tool again this year to get an additional mil, why?

Steve Davis: I will have to go back and review those records; we have had a reduction in our sales tax growth from approximately 1.15% on city sales taxes and 1.5% on the county sales taxes.

Alderman Davis: Currently we are at 2.9% on city sales tax increase over last year?

Steve Davis: We had projected 2.5% on each of those sales taxes for the 2003 budget.

Alderman Davis: Currently aren't we up 2.9% over last year on sales taxes?

Steve Davis: I haven't ran the numbers, the last time we ran it we were at 1% on each one, we did have two months that were above 6% each but I am not sure that they are strong enough to bring the total year up that far.

Alderman Marr: When will we get that information on the revised sales tax numbers?

Steve Davis: I would like to wait until I get the September numbers, that way if it is up, we will have three months in a row of increased sales tax. I can run those numbers and have it in your boxes by Friday.

Alderman Marr: I read in the paper that Bikes and Blues generated about $10 million in revenue; we should see a spike in sales tax collection for October.

Steve Davis: It will be from the October receipts but will not show in our bank accounts until sometime in late December. We don't know who is actually collecting those sales taxes.

Alderman Marr: The two months that was the 6% plus was what two months?

Steve Davis: May and June or June and July.

Alderman Reynolds: We had 70,000 people come to town and spend $10 million dollars and we don't know who was supposed to collect the sales tax.

Steve Davis: That is correct.

Alderman Reynolds: Whose department is that?

Steve Davis: Arkansas Department of Finance and Administration.

Alderman Reynolds: What about the city sales tax?

Steve Davis: The state collects all sales taxes. By state law they are the folks that can know who pays.

Alderman Reynolds: That is the reason we need a business license.

Steve Davis: I am not sure that having a business license would provide us with any more information than we have today.

Alderman Marr: I would like to see the yearly average and that we get that updated each month as we go through because from now on through the remainder of the year we are going to be making decisions based off of budget projections and the more critical budget projections in the revenue line.

Alderman Davis: I think we need to look at possible ways we can tighten our belts. We need to see if we need to replace people in certain cases when they leave to keep our payroll down and we need to look at other alternatives.

Alderman Reynolds: I am in favor of the firemen's and policemen's fund but I would like to see those other two mils to go to repairing the city streets and intersections.

Mayor Coody: The one mil for the library is voted on by the public so we can't rededicate that to any thing else.

Alderman Davis: The only thing I have a question on is the 1 mil general fund tax, the rest of it I have no problem with. How can we substantiate that we really need that?

Mayor Coody: If you can help us find ways to do it, we are all ears. Our city staff has not increased at all in the last three years while our population has grown 10% to 11%. I am proud

of these guys that they are making sure our income is used as wisely as possible. When it comes to tightening our belts we get to the point that we have to have more revenue or we have to cut back on services and personnel.

Alderman Jordan: We need a mil for the fire station and a mil to balance the budget and then we want another half mil for unexpected items.

Steve Davis: We don't have any money programmed for any salary range impact from the salary study and we don't have money programmed for any group health care increase, that is expected to be a 9% to a 13% rate increase on our healthcare benefits.

Alderman Jordan: How much revenue did we pull in from the Bike and Blues last year?

Steve Davis: I can't tell you how much we pulled in from those two days last year. October last year was about a $15,000 increase over the previous year.

Alderman Jordan: The fire station is a matter of public safety; it will be difficult to sell this mil and a half.

Kit Williams: If you look at the whole trend, many months last year were higher than the year before.

Alderman Marr: If the new mil were not passed we would have a deficit of $1.6 million?

Steve Davis: That is correct.

Alderman Marr: So really a mil and a half doesn't cover the deficit. Even with the additional one and a half mil, you may still have a deficit if you do increase with your salary structure.

Steve Davis: That is correct.

Jeff Erf: Before you increase property taxes, have you considered impact fees that would cover roads, fire and police protection? Have you considered raising fees for city services? There was a cost of service fee study done several years ago.

A discussion followed on looking at other possibilities.

Alderman Davis: We are asking for this mil for the general fund administration expenses, when you look at impact fees from my understanding that goes over to the CIP to take care of those items that we are putting in.

Alderman Thiel: Is that correct that impact fees can not be used for operations?

Kit Williams: There is a statue that I don't know if anyone in the state has actually used yet. The statue is very broad, some of the impact fees are taxes in effect, they are not fees therefore they would have to be voted on by the people. I think the courts would hold them as taxes and

therefore if we tried to enact them without a vote of the people I think we would probably be sued.

Alderman Thiel: If we were going to use them for operations.

Kit Williams: Yes, building a fire station, roads have been authorized; you still might want to go to a vote of the people. If they say it is really a tax and not a fee, if it has been voted on by the people, that argument is over.

Alderman Marr: Could you update the spreadsheet you did for us last year about what went to schools, etc.?

Steve Davis: The user fee study should be back this month and it probably will reflect some proposed changes in the user fees.

This ordinance was left on the first reading.

Appeal of LSD 03-21.00 Planning Commission Approval: Jones Motorcars, Inc. appeal of right-of-way dedication along Highway 71B/ N. College Avenue.

Tim Conklin: Jones Motor Cars is appealing the requirement for 15 feet of right-of-way dedication on College Avenue. The Master Street plan classifies College Avenue as a principal arterial which requires 55 feet from center line. Currently there is 40 feet of right-of-way; they are appealing the requirement to dedicate an additional 15 feet of right-of-way.

Mike Jones of Jones Motor Cars: He spoke on the history of Jones Motorcars and the reason for the expansion at their site. He spoke of the business that is brought to our town because of the Mercedes-Benz dealership. He spoke of the limitations the project has due to the topography of the site. He said if the highway is widened it would require additional expenses for them above and beyond what the neighbors would have to have. He has made every effort to utilize the property as efficiently as possible to keep the Mercedes-Benz dealership in this location. He said they need this variance for this to happen and that this is a very real and economic undue hardship.

With a loss of 10 display parking places now required to meet the current green space requirements, the loss of 17 spaces, and the drive through that the dedication of this frontage will eventually cost me, will result in a loss of about 25% of my total display spaces. Once I dedicate the property to the city I have lost control of that property, if that happens what will happen when there is a new City Council. Many of my competitors only set back from the street by 8 to12 feet, whereas I currently set back from the road on average at least 20 feet. This will create a unique and potentially harmful situation to my dealership if that should happen. You are asking me to dedicate 7,500 square feet of property plus I would lose the additional 25 feet setback for green space when that happens. The value of that property ranges from approximately $75,000 to $100,000. It will be a significant cost to me to do business here in the city to give that property up. There are no short term or long term plans to widen highway 71. The addition my adjacent competitor just completed with their new large scale development they

were not required to dedicate their frontage on 71 at that time. The development was on the back side of the property, it is all on the same parcel of land that joins Highway 71, although some property was dedicated on Longview and Plainview, the most valuable property is still on Highway 71. I find this to be a significant disadvantage especially now that the property is fully developed and the likelihood of ever dedicating their Highway 71 property is next to nil. I am now at a competitive disadvantage because the property around me will be bought and mine has been given away.

Alderman Thiel: You are not requesting a waiver for the green space requirement.

Mike Jones: I am not requesting a waiver for the green space requirement.

A discussion followed on the dedication.

Alderman Davis: I am in favor of granting this waiver of 15 feet.

Alderman Marr: I am concerned about Millsap; did our traffic study address this particular area at all?

Tim Conklin: We did look at extending the right turn lane at Millsap but there were no improvements on Highway 71.

Alderman Rhoads: If we wanted to widen Highway 71, what would we do with his neighbors to the south?

Tim Conklin: We would be acquiring additional right-of-way.

Alderman Lucas: Have we required this of other businesses?

Tim Conklin: Yes, we have, when sites have been redeveloped we have required the right-of-way dedication. Any time there has been new development we have required the additional right-of-way. In regards to his neighbors to the south, we looked at that, the dealership they built accessed Plainview and Longview, staff required 5 feet of dedication on Plainview and 20 feet of dedication on Longview. It was determined the right-of-way on Longview and Plainview was appropriate since that accessed directly on Plainview and not on Highway 71. That is the reason the decision was made to have the right-of-way dedication on those streets instead of Highway 71.

Alderman Rhoads: Did they not take into consideration the widening of Highway 71?

Tim Conklin: They looked at that project fronting directly onto Longview and Plainview. That was the staff recommendation.

Mike Jones: The sites that Tim has mentioned all of these were brand new developments and they can adjust and move their facilities to adjust for right-of-way. As an existing facility I do

not have those options. When you are redeveloping a piece of property it makes more sense to make that change at that point in time.

A discussion followed on the Lewis land dedication.

Alderman Thiel: We have not granted any waivers on Highway 71 since this green space requirement in front of commercial buildings.

Tim Conklin: I cannot recall any.

A discussion followed on the waiving of the right-of-way dedication.

Alderman Rhoads moved to approve the resolution. Alderman Davis seconded.

Kit Williams: The dedication that you are taking must be related to the impact that this new development is causing. Our Master Street Plan does not have any streets larger than five lanes, which is what this street already is. We would be taking land from this car dealership to build a sidewalk. There may be a problem with us requiring a dedication of a substantial amount of land in order to build a sidewalk and have green space when the impact of this development is for at the most more cars but not more walking. This is a potential problem, something that could be argued by the developer if we continue to go forward and demand this dedication. You have to look at each project by itself.

A discussion followed on the right-of-way dedication.

Upon roll call the resolution failed 4-4. Alderman Reynolds, Marr, Rhoads and Davis voted yes. Alderman Lucas, Jordan, Thiel and Cook voted no. Mayor Coody did not vote therefore the Resolution failed for a lack of a majority.

VAC 03-10.00 (Tamara Breland Brickey): An ordinance approving VAC 03-10.00 to vacate and abandon a 10' utility easement along lots 23, 24, and 25 of the Jackson's First Addition as described on the attached map and legal description.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4521 As Recorded In The Office Of The City Clerk.

Meeting Adjourned at 10:30 PM

Sondra Smith
City Clerk

Minutes
Of The
Special
City Council Meeting
November 4, 2003

A special meeting of the Fayetteville City Council was held on November 4, 2003 at 5:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Mayor Coody called the meeting to order.

CONSENT:

OLD BUSINESS:

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.***

This Ordinance was tabled to a Special City Council Meeting on November 12, 2003 at the October 21, 2003 City Council meeting.

Alderman Jordan moved to remove the 2003 Millage Levy from the table. Alderman Davis seconded. Upon roll call the motion passed unanimously.

Steve Davis: The Firemen's and Policemen's Pension millage and the Library millage were voter approved millages and the city has to levy them so that those institutions can continue to collect them.

Mayor Coody: The one mil for the library is not new; the Fayetteville residents have been paying that for a while.

Steve Davis: That is correct, it was a County library millage and the Arkansas constitution provides that you can have a city library mil or a county mil but you can't have both. The mil for general operations will produce about $650,000 in revenue. The proposed general fund for 2004

shows a deficit of $310,000 to $311,000 which includes $655,000 of revenue from a mil, without the mil we would be looking at a deficit of close to a million dollars.

Mayor Coody: That doesn't mean we are going into debt, we do not have to borrow this, this just comes out of our reserves.

Steve Davis: Last year City Council passed a general fund minimum fund balance reserve that is equal to 60 days expenditures in general fund of the last audited financial statement. That number for 2004 is approximately $3.4 million that we must keep in reserves. I believe our general fund reserves will be approximately $6 million at the end of 2004, unless this millage is not approved, then it will be $5.4 million.

Mayor Coody: So we would have $5.4 million but our minimum that we want to keep is basically $3.4 million.

Alderman Marr: Why would we have a property tax when our reserve is still over the $3.4 million required?

Steve Davis: In years past, staff has been tasked with bringing the budget expenditures in very close to budgeted revenues. From staff's prospective there is some concern that we could not find a million dollars worth of expenses to reduce general fund expenditures to make those two numbers match closer. If City Council wishes to steepen the decline in our reserves to get to our desired level quicker, then we don't have to do a millage increase nor do we have to do a franchise increase.

Mayor Coody: Even if we approve the millage or the franchise fee, we still are going to be dipping into our reserve by approximately $300,000. We would like our reserve to shrink slowly because we know our expenses are going to continue to climb. If we have too steep of a decline, it will be harder to fix later on.

Steve Davis: It would appear as a more dramatic fix when we come in and balance more of our revenues to make sure we are at our minimum fund balance level.

Alderman Thiel: My concern is that we really have not had an opportunity to look at the budget yet. The millage issue we do need to decide that tonight, the franchise issue we could deal with that at any time. We would start receiving the money faster from a franchise increase. This increase of roughly $700,000 is for staffing and operation of the new fire station is that correct?

Steve Davis: The new fire station is going to cost $640,000 to staff; a mil brings in $655,000.

Alderman Thiel: The budget has more new staffing in addition to the fire station.

Steve Davis: That is correct. The total budget has 18.5 new positions requested, 12 of these are fire fighters. The other positions are two dispatchers, one police officer, one landscape maintenance worker, one operations supervisor for water and sewer, one mechanic for fleet and a

half time clerk for the business office. Overtime will be used to cover a portion of these positions.

Alderman Reynolds: What month is the new fire station scheduled to come on line?

Steve Davis: Sometime in the third quarter.

Alderman Marr: Last year we looked at the cities around us and where our gap was, where we don't, as a city finance in comparison to pier cities in the area, was property tax. I personally don't support franchise fees because I think we are already equivalent to most cities and I think it has a bigger impact on lower income individuals, than property tax. The calls that I have received from residents of my ward think we should be looking at property taxes rather than franchise fees.

Steve Davis explained the proposed budget and the proposed revenue projections.

Steve Davis: If it is the City Council's desire that we move more rapidly to our minimum fund balance then we don't have to do the millage or the franchise fee increase for general fund. Both of those are available tools to diversify the city's revenue stream to get us away from the fluctuation of the sales tax driven market place. That is where a lot of our uncertainties are coming from.

Alderman Marr: I love the idea of a more diversified revenue stream. I am trying to determine how we get to it and when we phase to it.

Steve Davis: The minimum fund balance, I am going off of memory, so I would need to calculate that number, since this came from budget I am comfortable that the $4.1 million is accurate.
Without millage or franchise fees I still think we will be above that number if you approve the 2004 budget as it currently stands.

Alderman Marr: The 50% wage study recommendation is that in this number you are giving us and the non-profit funding levels, are they in at the level that you have given us?

Steve Davis: Yes.

Alderman Marr: Is there any major item that you excluded or left out of that, that you expect someone to ask to be put back in?

Steve Davis: No.

Alderman Rhoads: The reserve that is mandated is based on the trailing year's numbers.

Steve Davis: Yes.

Alderman Rhoads: So it is not always $4.1 million?

Steve Davis: No.

Alderman Rhoads: If we don't approve this millage and want to do it next year, when would the city actually receive the money?

Steve Davis: You would receive the money the next year around November.

Alderman Rhoads: The franchise, we could decide that at any time and how long does that take to receive.

Steve Davis: The ordinance has to run 30 days and then the utilities have said it takes 60 to 90 days before we would receive any proceeds.

Mayor Coody: Our income from franchise fees, property taxes and sales tax are lower than sister cities. I think we provide more services and better quality services for less money than other cities. There comes a point where your budget and personnel have to grow along with it, we've squeezed about as much efficiency out of the number of people we have working as we can.

Steve Davis: Some of the cities charge lump sum numbers to there utilities, so it is impossible for us to calculate a percentage off of that.

Alderman Thiel: The budget does not reflect the $4.5 million from the Collins Haynes sale. That is not necessarily operational money, but doesn't that some how change the balance.

Steve Davis: The money from the sale will flow into the general fund and increase the reserve account. City Council and the Mayor are going to have to decide how those proceeds will be spent.

Alderman Marr: That money from the sale will go into the general fund?

Steve Davis: Yes.

Alderman Marr: Those funds could go to general fund operations.

Steve Davis: They can be used for any lawful purpose.

Mayor Coody: However this is a one shot lump sum of money that we need to be very careful how we spend to make sure we get a hundred years of good use from it.

Alderman Marr: I don't think any of us are saying that we are not going to be careful, but we are talking about bringing a reserve down that is going to have some money added to it from that sale price.

Alderman Thiel: This money does show as part of our reserves.

Alderman Marr: We have new information from the first time this was done, was there any consideration given to changing the recommendation to a half of a mil or no mil?

Steve Davis: We have not had time to reflect on that, we received the information from the County late. We did not feel like we had time to look at very many options.

Alderman Cook: My problem with this millage is dropping it into the general fund; if we want to say that is for the fire station then we need to dedicate it for the fire station.

Steve Davis: The money would go to fund general fund operations because it is a discretionary mil; it is recommended that we not dedicate any discretionary millages or any general revenue because it creates considerable future tracking problems.

Alderman Rhoads: We really don't need the money, but we are being asked to pass it just in case we do, but based on projections we don't think we will need it this year.

Steve Davis: That is accurate. We need to pass the millage for the library and the millage for the two retirement funds.

Alderman Davis moved to amend the ordinance and remove the one mil for general purpose and operation. Alderman Marr seconded. Upon roll call the amendment passed unanimously.

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

Kit Williams read the ordinance.

Mayor Coody: We are trying to look to the future; we have some cushion that will continue to be used as effectively as possible. Staff wants to make sure that the budget is in good shape for many years to come, I appreciate their hard work. We are getting so much more work done with the same number of dollars and the same number of people, I am really impressed with everyone's work, I am thrilled with the increased productivity we have seen out of our staff.

Alderman Jordan: I just want to make sure the money is there to staff the fire station?

Steve Davis: Yes.

Fire Chief Bosch: We are proposing a phased in approach in hiring for the fire station. We realize we won't be opening the doors until early in the third quarter, so what we are proposing is that we hire four fire fighters in January, funded through our overtime budget. Those positions will off set vacation and sick leave. We will hire four more in the second quarter and four in the third quarter. We will open the station in the third quarter. The overtime savings that we will see based on the additional personnel and the reduction in salaries will fund those positions. We will have to look at the budget for 2005 to ensure salaries for those folks.

Alderman Marr: When will the station be open?

Fire Chief Bosch: Late September, early October.

Mayor Coody: What affect will this decision tonight have on future budgets, spending and revenue?

Steve Davis: The discretionary millage is an annual renewable millage ordinance so every future City Council will have the opportunity to levy millage to fund general government operations. It is not a locked in set in stone decision once you make it.

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

Kit Williams read the ordinance.

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

Ordinance 4525 As Recorded In The Office Of The City Clerk

NEW BUSINESS:

Franchise Fees: An ordinance increasing franchise fees for electricity, natural gas and solid waste.

Alderman Jordan moved to table the franchise fees indefinitely. Alderman Marr seconded. Upon roll call the motion passed unanimously.

Meeting adjourned at 5:45 PM

_____

Sondra Smith
City Clerk

11-18-03 Agenda

A.3 Crossland
A.4 Crossland

Date: December 11, 2002, rev. 1/16/03, 1/23/03, 5/5/03, 9/29/03; 11/12/03

To: Fayetteville City Council Aldermen
From: Louise Schaper, Executive Director, Fayetteville Public Library
Subject: Blair Library 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. Some of the forthcoming items, i.e. furnishings, may be procured directly by the FPL Foundation.

The second page identifies those items related to off-site improvements (utility burial, drainage, sidewalks etc.) approved in CIP ($671,995). Because additional off-site improvements have been requested by City departments and will be funded by these departments we list them here as well.

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			10/21/03	$206,701	*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.

11-18-03 Agenda A.3 Crossland A.4 Crossland

Item	Within budget?	Source(s)	Budget	Est. date approval	Date Approved	Amount	Notes
Off-Site Improvements Related to Blair Library							
Off-site improvements (see first item above)	Yes	Off-site CIP	$221,995		5/21/02	$221,995	In Crossland Contract, but funded from CIP site improvements project. Includes sidewalks etc.
West Avenue underground utilities	Yes	Off-site CIP	$101,806		10/21/03	$101,806	West Ave underground utility permanent power. Vendor is AEP/SWEPCO.
West Avenue underground utilities to residences	Yes	Off-site CIP	$110,117	11/18/03		$110,117	Addition to Crossland contract for installation of underground utilities to seven housing structures adjacent to Blair Library on west side of West Avenue.
Water and sewer improvements in the streets adjacent to Blair Library	Not in library budget. In Water & Sewer Funds	Water and Sewer Funds	$41,342	11/18/03		$41,342	Improvements to water and sewer that were identified after contract was signed with Crossland. Includes new 6" waterlines in Mountain; 8" waterline in School; 8" sanitary sewer in Rock and 12" waterline in Rock. These improvements are requested to correct leaking, deteriorated and undersized old water and sewer lines in the streets adjacent to Blair Library.

Handed out at
November 18, 2003
City Council meeting.

POLICE TERRORISM in FAYETTEVILLE ARKANSAS APRIL 2003

[1] Published not for profit by: First Church of the Magi, P.O.Box 2827, Fayetteville, Arkansas

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS POLICE DEPARTMENT

Office of Professional Standards
August 28, 2003

Tom Brown
PO Box 2827
Fayetteville, AR 72702

Mr. Brown:

The investigation of a complaint you filed April 16, 2003, has been completed. Captain Risley conducted the investigation into your complaint against Officer Coy and Officer Jones.

After numerous attempts Captain Risley was unable to contact Mr. Davis, Mr. Crutcher, or Mr. Patterson, the other parties involved in your complaint. Without their statements Captain Risley determined there was insufficient evidence to prove or disprove your allegations against Officer Coy and Officer Jones. Therefore, at this time this complaint will receive a disposition of:

Not Sustained.

If contact with Mr. Davis, Mr. Crutcher or Mr. Patterson is made in the future this case will be reopened and investigated further.

We are always happy to receive complaints so improvements in our operations can be made when necessary. If you have further questions, you may contact me at (479) 587-3500.

Sincerely,

Captain Greg Tabor
Office of Professional Standards

FAYETTEVILLE POLICE DEPARTMENT
P.O. BOX 1988
FAYETTEVILLE, ARKANSAS 72702-1988

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
JAIL: 140-A WEST ROCK STREET 72701
PHONE: 501-587-3555 FAX: 501-587-3522

Rev. Tom Brown
First Church of the Magi
P.O. Box 2827
Fayetteville, Arkansas 72702
(479) 251-1780

First Church of the Magi

May 15, 2003

To Whom This May Concern:

As you see from the attached, I have filed a complaint against two Fayetteville City police officers, Nathan Coy (Badge #243) and Mike Jones. The complaint alleges that these two officers, using the so called Drug War as their excuse, stopped, searched and harassed three fine and upstanding residents of the State of Arkansas because they were "walking while Black", or "walking with attitude", or "walking and attempting to avoid a police officers gaze" – you take your pick.

This package contains a letter from me to Capt. Greg Tabor, an Affidavit, a copy of the Complaint I filed, a blank Complaint form, the Memorandum authored by Nathan Coy to explain this incident, the Policies and Procedures that apply, and this letter to you.

First of all I am asking that you take a moment to ask the Creator to come to this time and place and to aid us in understanding what our Nation is faced with by this Drug War and its alleged Drug Warriors. Then I ask you to consider talking to your family, friends and neighbors about this and what we should be prepared to do about it. If in the course of this you learn of other incidents of Police Terrorism, please contact me so that we can attempt to correct this assault on our law, our rights and our liberty.

Imagine we are in Berlin in 1935 and I have just told you that the Reichstag Building (German Congress Building) was not bombed by the Communists as Herr Hitler claims. Instead I tell you that the attack was made by Hitler's thugs in the NAZI party who were attempting to create an incident that will terrorize the population and allow Hitler to take over the government. Imagine I tell you that Hitler plans to build death camps and to exterminate some 20 millions of us as dissidents, homosexuals, artists, Jews, labor leaders, and clergy of the several religious bodies of the Nation. Imagine your shock and disbelief, after all you just allowed Herr Hitler to take office in order to defend the German Nation against terrorism. How could this be?

Well, the history on that has already been written, we don't need to speculate about what Herr Hitler planned and did – we know that everything stated above did in fact happen, while the German Nation cooperated and cheered from the sidelines. Are we to be another Germany of 1935?

Let us pray that our Nation does not become the Pariah that Germany was for so many years.

One Love

Rev. Tom Brown
First Church of the Magi
P.O. Box 2827
Fayetteville, Arkansas 72702

April 17, 2003

Capt. Greg Tabor
Fayetteville Police Department

Dear Sir,

As per our phone conversation, I am requesting certain documents regarding an incident that occurred on April 5, 2003. On that date, at approximately 2:30 pm, officers Nathan Coy and Mike Jones stopped, questioned and searched several friends of mine. I witnessed most of that myself as I arrived at that scene shortly after the officers contacted my friends.

I am requesting the opportunity to review the Fayetteville Police Department Policy and Procedures manual and to obtain copies of the arrest/search procedures sections. I understand that I will be expected to pay the Police Department for the cost of those copies. I am also requesting a copy of the incident report or field interview report filed as a result of that incident of April 5, 2003.

As I stated in our phone conversation, I am concerned about what happened to my friends and what might happen to others in the future. I had attended a benefit fundraiser at the Greek Ampatheatre on the U.A. Campus. Lions of Israel played for that benefit. I am a friend with those musicians. I invited the bass player and two of his friends to come over to my house at 780 West Center during intermission. They came over and were returning to the benefit when stopped by the officers.

I had remained at my home for a few minutes to straighten up some things prior to returning to the benefit. I left the house and walked up West Center to Duncan where I found my friends spread-eagled on the Fayetteville police cars being searched by the officers. I approached the officer I believe is named Nathan Coy, introduced myself and asked why my friends were being searched. He stated that while driving down West Center he had seen the three men walking, that one of them gave him a "hard look", that he turned his police car around to intercept them called for backup and was then engaged in investigating these men. I told the officer who the men were, what they were doing, that they were late returning to the benefit and requested that he stop harassing them so that they could go about their business. Coy refused and told me I was free to go. I told Coy that I chose to remain with my friends until their ordeal was over.

I understand from our phone conversation that Coy has now changed his story from "he gave me a hard look" to "he avoided my gaze" as the cause for stopping and questioning my friends. Whatever the truth is about that, Coy told me that the men were

stopped because there was a drug problem in the neighborhood. I asked Coy why that would cause him to stop these men, he had no answer.

In our phone conversation I asked if you knew about the Edmonds v City of Indianapolis decision from the Supreme Court. You indicated that you did not know of this decision. I also asked you what the policy for cause for a stop and search are here in Fayetteville. You indicated that a police officer can and will stop and search for any or for no reason at all by policy here in Fayetteville. I expressed dismay and asked about obtaining such policy and procedure manual copies as applied in these circumstances and you informed me that I can stop by the Department and file an FOI for those.

Please consider this letter to be a request under Arkansas State FOI statute for documents and information regarding the incident described above.

Thank you for your attention to this matter. I remain,

Sincerely yours,

Rev. Tom Brown

Cc. Mayor Dan Coody, Lions of Israel

MEMORANDUM

TO Cpt. Tabor

FROM Officer Coy #243

SUBJECT Suspicious Activity Contact

DATE March 7th 2003

On March 5th 2003 at approximately 1500hrs. I was patrolling the area of Center and Duncan. I observed 3 black males walking east bound on Center from Duncan. The 3 male subjects appeared to be in their mid 20's and seemed to be following an older white male. As I passed the subject's, I observed the black males stare away from me as if to avoid eye contact. I observed the white male enter inside a residence on Center St. I began turning my patrol car south onto Duncan St. from Center. As I was turning, I observed the 3 black males turn the opposite way and look my direction as if they were attempting to observe which way I was traveling. The subjects paused then entered into the same residence that the older male entered. I found this to be suspicious so I waited to see if the subjects exited the residence. Shortly after, the black males exited the residence with out the older male.

I made casual contact with the subjects and explained to them the reason for me contacting them. The subjects were completely cooperative. They advised me that they were playing in a band at U of A. I asked the subjects if they had identification on them and if I could see their identification. The subjects gave me their names or identification cards. The subject's names were Edmon Crutcher 6-27-73 BM, Marlon Davis 10-12-74 BM and William Patterson 01-11-80 BM. Officer Jones arrived about this time and assisted me in checking the subjects. I asked Marlon Davis for consent to search his person and Officer Jones asked consent to search the other subjects and all subjects consented. No illegal items were found. Officer Jones then ran the subjects through dispatch and dispatch advised that Edmon Crutcher had a possible warrant out of Searcy P.D. for FTA (PCS). At this time the older white male walked up and advised that the subjects were in a band playing at U of A. He advised me that he believed in plant medicinal healing and said that the subjects Officer Jones and I were talking to were good guys. He was respectful and cooperative. Officer Jones advised Mr. Crutcher that he had a possible warrant out of Searcy. It was found that only Mr. Davis was playing in a band at U of A. Officer Jones and I advised Mr. Davis, Mr. Patterson and the older male that they were free to go and we thanked them for there cooperation. Mr. Davis left the scene and the other subjects stayed.

Approximately 15 minutes had passed without confirmation on Mr. Crutcher's warrant. I advised dispatch that I was going to release Mr. Crutcher and they then advised that his warrant was confirmed but Searcy would not extradite. Mr. Crutcher was released and advised about the warrant. We again thanked the subjects for their cooperation.

COMPLAINT

I have attached a sworn affidavit to substantiate the details of this Complaint. I am filing this Complaint against two Fayetteville City Police officers, Nathan Coy (Badge #243) and Mike Jones. I am accusing them of violating Fayetteville Police Policy and Procedures as stated below, of racial profiling, of illegal search and seizure of a person, of harassment and violation of the community norms established in this community over many long years of trial and tribulation. Let us not forget that this community was the lone hold out in Arkansas against the abomination of the protection of slavery perpetrated against our African Brethren by Civil War, that Jim Crow attitudes held power here until very recently and that the changes brought about to end Jim Crow and the enforcement of Jim Crow against our African Brethren were long fought and hard won. This is not the time for us to authorize paid police officers to reestablish Jim Crow in our community.

According to the Memorandum written by Officer Coy, he observed "three black males" walking down the street. When I spoke to him at that time he said that one of the "black males" gave him a "hard look" as Coy drove by. In his Memorandum, Coy has changed his story to say that one of the "black males stared away from me as if to avoid eye contact." The rendition of events in the Memo could be taken to indicate that the "black males" were so separated from me that there was a possibility that they were not related to me and possibly attempting some untoward action against me.

In fact these are my friends, we were walking together – with me walking first on the narrow sidewalk – and that we entered the residence as much together as would be normal and reasonable. There was no evidence to suggest anything other then that four men, one white and three black, were entering a residence together in apparent good spirits. We were in good spirits because the concert was mid way, we had been playing or listening and dancing to the prayerful music and it was otherwise a beautiful day.

In fact, these friends had come from Little Rock to play music for the African Student Association at the Greek Ampetheatre, had been doing so, and were entering my residence on a break in the music so I could share some time at my home with my friends. Marlin Davis, the bass player of the group Lions of Israel, plays in a Gospel Music group for churches in Little Rock. These men were giving of their time and energy to enhance the reputation of the University of Arkansas as an institution that welcomes the members of the African Student Association and their friends to our fair city. Their personal attire and grooming are average and not unusual whatsoever. They are in fact men who have a strong and abiding relationship with God, men who exercise that relationship with God in the community to the betterment of the community, men who have no cause or reason to give a police officer a "hard look" or to "avoid eye contact". The facts of these men speak for themselves, the words of Officer Nathan Coy also speak for themselves.

If Nathan Coy had had reason to stop three unidentified "black males" because of a reasonable suspicion that they intended or had accomplished some harm to myself, then my arrival and verification of their explanation of their presence ended that suspicion – but Nathan Coy and his accomplice Mike Jones continued to harass and attempt to intimidate these men nevertheless.

The actions of Coy and Jones are in violation of the following sections of Fayetteville City Police Policy and Procedure:

1. Number 1.1.1, Sec. III-C. "A police officer shall perform all duties impartially, without favor or affection or ill will and without regard to status, sex, **race**, religion, political belief or aspiration. All citizens will be treated equally with courtesy, consideration and dignity."

In fact, being subjected to unwarranted questioning by police officers who stop them with lights flashing on their police cars, being spread-eagled on the police cars and having the officers place their hands into their pockets and crotches is not being treated with "courtesy, consideration and dignity."

In fact, although I was obviously a party to the events, I was not stopped, questioned, ID'd or searched by these police officers. Of coarse I am an "older white male" so in a Jim Crow community the police officers would have reason to believe that I deserved different treatment them the three "black males".

2. Number 1.2.1, Sec. II-B. "Probable cause has been interpreted as facts and circumstances that amount to **more than mere suspicion** but less than proof beyond a reasonable doubt that would lead a prudent person to believe a crime has been committed or is about to be committed."

In fact, according to Coy's own report there was nothing to suspect that any "prudent person" that was not a KKK – Jim Crow sympathizer would find suspicious. Four men walking down the street enter a residence; three men leave a short time later – so what? In fact, Coy reports no basis for a stop and search other then "mere suspicion", and there is no replicable evidence to support even that "mere suspicion".

3. Number 1.2.1, Sec. III-B.1.a, b, c. "An arrest occurs when the following conditions exist: a) The officer believes that sufficient legal evidence exists that a crime is being committed, and intends to restrain the suspect; and b) The officer deprives the individual of his liberty; and c) The suspect believes he or she is in the custody of the police and cannot voluntarily leave."

In fact Marlin Davis as bass player was concerned that he would be late to play and wanted to return to the Ampetheatre to be ready. He and his companions were in a hurry and left the conversation and comfort of my home solely because of that concern. They had no desire or intention to submit to questioning by police officers let alone be subjected to an illegal search and seizure of their person. They only did so prior to my arrival because the officers effectively ordered that. After my arrival I am witness to the fact that the officers refused to allow them to continue on their way after any possible suspicion of crime had been removed by my presence. The fact that an arrest and seizure of person occurred in the absence of what the policy calls for ("officer believes that sufficient legal evidence exists that a crime is being committed") speaks volumes for the motivation and professional performance of these two officers.

4. Number 1.2.2, Sec.VI-A. "Search of a Person: Any officer may search a person **after a lawful arrest** for the following reasons:".

In fact, Coy and Jones had no legal cause to search my friends, there was no lawful arrest. In fact, the actions of Coy and Jones are no more then attempts at harassment and intimidation and but for the fact that my friends are such good hearted people, and lets hope they continue in that good heartedness, this City would now be in federal court defending itself from charges of violations of many federal and state civil rights laws.

In addition, in subsequent conversations with other residents of Fayetteville I have learned that the following has occurred:

A. A local man, retired from employment as top management at a local manufacturing facility and currently employed on Dickson Street reported that a "short" police officer entered a place on business on Dickson Street, accosted the man, thrust his forefinger into the chest of the man, stated that "I own Dickson Street, you are the problem, and I am going to take you down and take that license off that wall." Needless to say, the idea that a local police officer "owns Dickson Street" is ludicrous and indicative of sufficient mental impairment that this officer should immediately be placed on medical leave pending psychiatric examination.

B. A local woman or remarkable beauty and African lineage reports that she was followed home late one night from a visit to Dickson street by a police car. The police car followed her home. As she pulled into her driveway the officer flashed his police warning lights, stopped her, informed her that her license plate was askew and that she was lucky that it was he and not some other officer who had stopped her.

Several other residents of Fayetteville, report that it is common knowledge that the Fayetteville Police Department is racist, that they engage in profiling, harassment, intimidation and other illegal acts against minority persons on a daily basis.

This state of affairs is not acceptable, is in fact illegal, and will lead to significant legal liability to be suffered by the residents and taxpayers of our City. The men and women employed by our Police Department are not employed as an occupying army, so why are they wearing "BDU's" or **Battle Dress Uniform.** We all know that when a person puts on their clothes they assume a mental attitude reflecting their attire. Exactly what mental attitude do we expect our police officers to assume when they dress in "**Battle Dress Uniform**"? Who is the enemy of these police officers that they are going into battle against?

It is long past time for our police department to become accountable to the people subject to their abuse of authority. Police officers that deliberately lie on their written reports as Coy does on his, cannot be trusted and must be terminated immediately. Police officers that predate on those who they view as being weak and subject to abuse of authority without recourse, must be terminated immediately. Police officers that clearly and knowingly violate the clearly written standards of the police department, let alone the spirit of the law and their duty to protect our rights, must be removed from office immediately and the public protected from their depredations.

Signed_____

Rev. Tom Brown
First Church of the Magi
P.O. Box 2827
Fayetteville, Arkansas 72702

Affadavit

By my signature below, I affirm under penalty of perjury as defined in the laws of the United States and the State of Arkansas that the following is a true account of the relevant events of April 5, 2003.

On April 5, 2003, at about 2pm, I entered my home at 780 W. Center Street, Fayetteville, Arkansas, 72701. I was accompanied by Marlin Davis, Edmon Crutcher and William Patterson. Marlin Davis is a friend who was playing Bass with Lions of Israel at the Greek Ampetheatre on the University Campus for the African Students Association. A few minutes later these gentlemen left my residence to return to the benefit. I left the residence a few minutes after that. As I came to the corner of West Center and North Duncan St. I saw my friends spreadeagled on two Fayetteville City Police cars. I approached one officer and asked why my friend were being held and searched. Nathan Coy, Badge No.243, replied that the men had given him a "hard look" when he passed them in his patrol car, that he had stopped to question and search them. I informed the officer that these men were friends playing a benefit at the University, that they were at my home at my invitation and that they should be released to continue their business. The officer refused and continued to hold my friends and search them.

I asked Coy why they needed to continue to hold my friends and he said that there was a drug problem in the neighborhood that they were dealing with. I asked what that had to do with my friends and he said that the "hard look" one of my friends gave him aroused his suspicion that a drug crime was occurring and he was investigating that possibility. I replied that there was no drug crime occurring and that my friends should not be subject to this harassment. I also spoke to Coy about the waste of police time and effort being made to harass my friends.

As it happens, my friend Marlin Davis plays in Little Rock with a Gospel Group that sings in many of the area churches. Neither he or his friends were engaged in a crime, they had volunteered to come to Fayetteville to share their musical performance with the students on Campus, and now they have the impression that they are targets for police harassment because of their race. Apparently this is true, and they are discouraged from coming to our community by the actions of paid Fayetteville City Police officers.

I was told that I could go but chose to remain with my friends to see what would happen. Some time later Marlin Davis was released and returned to the

benefit. Edmon Crutcher allegedly had a misdemeanor warrant issued for him from Searcy, Arkansas. Finally after at least 30 minutes, the officers released these men and we returned to the benefit.

On Monday April 7 I contacted the Fayetteville Police Dept. in order to obtain copies of the Policies and Procedures that govern police behavior in Fayetteville, the names of the officers, copies of any reports made by the officers about this incident and to file a complaint about racial profiling and harassment. I spoke to the Chief and he directed my inquiry to Capt. Greg Tabor.

A day or so later I got to speak to Capt. Tabor. Capt. Tabor reported that he had a written memorandum about the incident authored by Officer Coy, that there were written policies and procedures that govern Fayetteville City Police and that I could obtain copies of those documents thru Arkansas State FOI procedure - by submitting a letter requesting those documents. Capt. Tabor said that Fayetteville Police Officers don't have to have reason to search someone and that any person contacted by a Fayetteville Police Dept. officer is subject to search at the officers discretion.

Several days later I went to the Fayetteville City Police Department and requested the copies. I gave the clerk the letter citing Arkansas State FOI and requested the copies of the documents (attached). The clerk was not able to provide any information other then the fact that her computer showed that the incident had occurred at about 2pm on April 5. After calling around she was able to have a Police Lt. give me access to the Policy and Procedure manual, I obtained copies of some relevant sections (attached) and later that day I received a phone message that a copy of the incident Memorandum would be available also (attached).

Dated this 15th day of May, 2003

By: _____

Rev. Tom Brown
First Church of the Magi
P.O.Box 2827
Fayetteville, Arkansas
72702

Local man alleges FPD officers stopped men based on race

BY SARAH FISHER
Northwest Arkansas Times

Fayetteville police administrators are contesting the legitimacy of a complaint brought forward against two of its officers who are accused of questioning three men in April on the basis of racial profiling.

The Rev. Tom Brown of the First Church of the Magi has talked with FPD administrators for weeks about allegations concerning the actions of officers Nathan Coy and Mike Jones on April 5. Brown, who handed out information on the Square Tuesday regarding his allegations about the police department in a packet titled, "Police Terrorism in Fayetteville Arkansas April 2002," contends that three black men who he invited to his home on West Center Street were harassed as they walked back to the University of Arkansas campus around 2 p.m. to play a concert at the Greek amphitheater.

"I had remained at my home for a few minutes to straighten up some things prior to returning to the benefit," Brown wrote in a letter to FPD Capt. Greg Tabor dated April 17. "I left the house and walked up West Center to Duncan where I found my friends spread-eagled on the Fayetteville police cars being searched by officers."

Brown said he spoke with Coy who allegedly told him he stopped the men because one of them gave him a "hard look." The reverend feels the officer is now retracting his statement in an attempt to defend his actions by writing a report of the incident that states one of the men "avoided his gaze."

None of the three men in question, who are identified in Coy's report as 28-year-old Marlon Davis, 23-year-old William Patterson and 29-year-old Edmon Crutcher, all of Little Rock, have contacted FPD administrators about a complaint. According to Tabor, repeated attempts have been made to contact Davis, but he has not returned calls to his cell phone or residence. After being searched by the officers they were allowed to go, according to police reports.

Coy's report states that he perceived the three men to be avoiding contact with him as they walked eastbound on Center Street. The officer wrote that he thought the three men who were following "an older white man," later identified as Brown, also looked to see which way he was driving and hesitated to follow Brown into the apartment. He found that to be suspicious and decided to wait and see if they left the apartment in the following few minutes, the report states.

The officer's report also states that the conversation between he and the group of three men was uneventful and that they were cooperative in dealing with him.

"Officer Jones arrived about this time and assisted me in checking the subjects," Coy wrote. "I asked Marlon Davis for consent to search his person and officer Jones asked consent to search the other subjects and all subjects consented. No illegal items were found. ... At this time the older white male walked up and advised the subjects were playing in a band at the U of A. He advised me that he believed in plant medical healing and said that the subjects officer Jones and I were talking to were good guys. He was respectful and cooperative."

Brown's perspective on "plant medical healing" — or the medicinal uses for marijuana — is not unknown to Fayetteville residents or Fayetteville police. In 1994 he was convicted of federal drug charges for reportedly growing marijuana in association with his church in Morrow. He was arrested by members of the Drug Enforcement Administration which included Fayetteville police officers and sentenced to time in a federal prison where he served 52 months. Morrow claimed he had a religious exemption to grow marijuana.

Tabor said Tuesday that officers don't need probable cause to stop and talk to people on the street although Coy and Jones may have been aware at the time that the men were accompanied by someone with a criminal history involving drugs. The fact that the men were seen coming from a convicted drug dealer's house could have been reason for the officers to be suspicious, Tabor said.

Brown feels that theory has little weight because, according to his account of the event, neither Coy nor Jones questioned him about what the group was doing. He believes Davis, Patterson and Crutcher were targeted only because they were black.

"They targeted three African American men for harassment and intimidation because they're racists," Brown said. "I know that for a fact. When I walked up to the scene they didn't question me or harass me."

According to Coy's report, Crutcher had a warrant for his arrest from the Searcy Police Department, but when the department was unwilling to extradite, he was released without incident.

Tabor said Brown's allegations that Coy and Jones, or any of the department's officers, are racists are ridiculous and unfounded. He said the usual process is that all formal complaints — meaning complaints in which an individual submits a letter of complaint for the consideration of administrators — are turned over to the department's Office of Professional Standards for further investigation. Tabor said even without contact from Davis, Patterson or Crutcher, an investigator within the OPS division will be assigned to interview the officers, any witnesses, the complainants and in this case the men in question, to determine if the officers violated department policies, as well as any laws. Tabor would not talk about whether FPD has any pending complaints about Coy or Jones, or any other officer on staff.

"We just don't discuss complaints," Tabor said. "But I can say that very few of them are sustained."

Tabor said FPD's OPS division has investigated 13 complaints this year. One investigation resulted in a finding in which the allegation was sustained.

Arkansas Democrat Gazette

▲ ▲ MONDAY, JUNE 30, 2003 •

Measure to ban racial profiling will take effect

State law follows federal rules for ensuring unbiased policing

BY ERIC HAND
ARKANSAS DEMOCRAT-GAZETTE

Last summer, the son of State Sen. Hank Wilkins, D-Pine Bluff, went to a Little Rock concert that was popular with young blacks.

After the concert, police were checking identification cards and telling kids to get out of downtown Little Rock, Wilkins said.

One police officer stopped Hank Wilkins, then 20, and told him he needed to leave. The son, who was parked in his father's Lincoln Towncar — with Senate license plates — said he was waiting for another friend.

He secretly called his father on the car cell phone so that the senator could listen to the entire conversation between his son and the officer.

"You're not waiting for anybody. You're going to leave, like I said, right now," Wilkins recalled the officer saying.

When Wilkins' son complained that he was parked legally on the street, the officer became more insistent, Wilkins said.

"You're going to do what I said, boy, or else," Wilkins recalled him saying.

Only then did a second officer recognize the Senate tags on the car. He pulled the first officer aside and began whispering to him, Wilkins said. They let his son go on his way.

Anecdotes like this, Wilkins said, led him to introduce a bill banning racial profiling in January. Many states adopted anti-racial profiling laws after a 1999 New Jersey Attorney General's office report showed that policing along the New Jersey Turnpike was racially imbalanced.

According to the report, blacks represented 27 percent of New Jersey state police stops and 53 percent of the searches along the turnpike. Blacks make up only 16 percent of the turnpike-driving population.

Wilkins said it wasn't clear to him if racially motivated policing was occurring in Arkansas, but he wanted a way to gauge it.

Wilkins' bill, which became Act 1207 of 2003, will take effect July 16. It comes on the heels of federal guidelines on racial profiling that the Bush administration issued June 18.

The act defines racial profiling and requires each state law enforcement agency to have a policy banning it by Jan. 1, 2004.

The law

Act 1207 of 2003, which takes effect July 16, defines racial profiling and requires each state law enforcement agency to have a policy banning it by January 1, 2004. It also requires foreign-language training for police officers.

UNBIASED POLICING

Criminal Justice Institute director Don Kidd said he will begin mailing a model racial profiling policy to every police department and sheriff's office in the state this week.

The model policy defines unbiased policing as relying solely on reasonable suspicion or probable cause.

Unbiased policing takes the race into account only when reliable and locally relevant information links that person to a particular unlawful incident, the policy states.

The policy also encourages agencies to use video recorders in patrol cars, both as a way to collect criminal evidence and as a "means for administrative inspection."

Kidd said having a policy will help agencies defend themselves against lawsuits.

The act has a section that specifies annual training in racial profiling, cultural sensitivity and a foreign language.

Dennis Jones, a 17-year teaching veteran at the Arkansas Law Enforcement Training Academy in East Camden, just graduated the first students with racial profiling training.

He taught a two-hour class that focuses on officer discretion and violators that are members of minority groups, he said.

Recruits have received eight hours total of Spanish and cultural sensitivity training as part of their coursework since 1993, he said.

An earlier version of the act required law enforcement agencies to track the race of those stopped and the reason for the stops.

Wilkins compromised and struck that part of the bill when Arkansas State Police said it would cost a million dollars to track the information.

"I thought they were exaggerating there, but I got the point," Wilkins said.

The act requires the governor to appoint a 13-member racial profiling task force that would make biennial recommendations to the Legislature. Kidd worries that this task force may soon ask for the extra bookkeeping.

"If we don't do a good job and the police don't participate, people will say 'Let's keep stats on this,'" he said.

That would take officers off the street and turn them into clerks who collect data, he said.

CUTS BOTH WAYS

Detective Al Barrios, one of three Hispanic officers in the Springdale Police Department, said he agreed with the act's intentions. But a racial-profiling ban implies that it already exists, he said.

He said he's concerned that statistics could be manipulated, if departments are forced to collect them.

He cited himself as an example of someone who, over his career, has targeted Hispanics — precisely because of his ability to speak Spanish.

"I'm probably the worst racial profiler out there," he said.

Cpl. Jose Dominguez, one of two Hispanic police officers in Rogers, found that a sort of profiling can occur in the opposite direction: Prejudices held against police by violators.

He recalled stopping a Hispanic man for speeding who said, "You're doing this to me because I'm Hispanic," before noticing Dominguez's name tag.

Dominguez was offended and told the man so.

"I said, in Spanish, 'I can't believe you're calling me a racist,'" he said. "His eyes got real big and his mouth just dropped.

"The moment I start speaking Spanish, they backpedal and say, 'I'm sorry, I didn't know you were Hispanic,'" he said.

"They're looking at the uniform instead of looking at the person."

DRUG WAR BRIEFS: U.S. & Afghanistan: Partners in Opium

This week, a 19-year-old Florida college student is raped in prison as he serves a weekend stint on a marijuana charge and a **US Military spokesman admits that there are no plans for American troops to eradicate the opium fields of Afghanistan.**

June 10 -- The Gainesville Sun reports: An Alachua County college student in jail on marijuana charges was raped over the weekend by his cell mate, **a man already being held on sexual battery charges, authorities said Monday.**

The 19-year-old student was serving four weekends in jail on charges of delivering marijuana, said Alachua County Sheriff's Sgt. Jim Troiano. Last weekend was the first weekend of his sentence.

His cell mate held a ball-point pen to the teenager's neck at about 9 p.m. Friday and then forced himself on him, Troiano said. Randolph Jackson, 35, was charged with sexual battery. Jackson has been in jail since July on charges of sexual battery in a different case that is still pending. The two were put in a cell together because they were both charged with felonies, Troiano said.

Also, there was very little room in the jail last weekend, Troiano added. There were 918 inmates and the jail's capacity is 920. Jail officials don't house inmates who are charged with misdemeanors, which are less serious crimes, with those who have felony charges, he said.

Troiano said this was the first sexual battery reported at the jail in the memory of jail officials, and Jackson never showed any signs of having sexual tendencies toward other inmates. He has since been moved to his own cell.

June 13 -- BBC News reports: The US military has denied using helicopters to spray herbicides on opium crops in Afghanistan.

The move came after a report in Britain's Guardian newspaper, in which villagers in eastern Afghanistan said US forces had secretly tried to wipe out their poppy crops in April under cover of darkness. **US military spokesman Colonel Rodney Davis said: "That's not what we came here to do and it's not in our plans."**

Afghanistan is the world's biggest producer of opium, the raw ingredient for heroin. Since the fall of the Taleban in 2001, Afghanistan has reclaimed its position as the world's top producer of opium.

MARAJUANA

CURES

CANCER

EPILEPSIY

Muscular Sclerosis

Published not for profit by: First Church of the Magi, P.O. Box 2827, Fayetteville, Arkansas 72702 (479) 251-1780

Greetings,

This booklet contains three scientific study reports. The reports look at the use of Cannabis Indica/Sativa from natural sources and as synthetically produced as Tetra Hydra Cannabinol in the treatment of Cancer, Epilepsey and M.S.

In short, the studies find that Cannabis cures or eliminates symptoms of Cancer, Epilepsey and M.S. effectively. This is the Truth that the U.S. Government has been hiding for many years - but no longer.

In addition, to start the booklet, we look at a Drug Enforcement Administrator as she testifies to Congress. She testifies about the process whereby a drug is placed into regulatory schedule for use, or rescheduled as the case may be. If you go to:
www.medmjscience.org/Pages/reports/jyp1.bhtml
you will find the results of the marajuana rescheduling petition from 1988.

In addition, we have a page from the DEA web site that reports on the "legal marajuana" which is THC in sesame seed oil in a gelatin capsule called Marinol. If Marinol is only Schedule III and available for medical use, why isn't marajuana the plant also available for medical use? Is it because the company owned by Bush senior that makes Marinol is making so much money on their pills?

The reports mention the use of whole marajuana extract and how that is measurably more effective for medical use then artificial THC. Gee, would Congress allow a private company to keep selling less effective medicine for money then we can grown in our back yard for free???

Study these reports carefully. If you don't understand them, (because they are written in medical/science code afterall) then contact me for translation. (479-251-1780 or revtombrown@hotmail or P.O.Box 2827, Fayetteville, Arkansas 72702). Put the report on your doctors desk and direct your employee, the doctor, to write you a prescription for Marinol. If you find that whole herb is better, then they can't say that you didn't try their chemical first.

Let me know how things work for you.

One Love revtombrown

"In the big lie, there is always a certain force of credibility. The broad masses of a nation are always more deeply corrupted in the deeper strata of their emotional nature than consciously or voluntarily. Thus in the primitive simplicity of their minds, they more readily fall victim to the big lie than the small lie, since they themselves often tell small lies in small matters, but would be ashamed to resort to large-scale falsehoods."

-- Adolf Hitler, from 'Mein Kampf' ('My Struggle')

"The lie can be maintained only for such time as the State can shield the people from the political, economic, and/or military consequences of the lie. It thus becomes vitally important for the State to use all its powers to repress dissent, for the truth is the mortal enemy of the lie -- and thus by extension, the truth becomes the greatest enemy of the State."

-- Joseph Goebbels, Hitler's Propaganda Minister

DEA Congressional Testimony

Statement by:

Laura M. Nagel
Deputy Assistant Administrator
Office of Diversion Control
Drug Enforcement Administration

Before the:

House Committee on Government Reform: Subcommittee on Criminal Justice, Drug Policy and Human Resources

Date:

March 27, 2001

Note: This document may not reflect changes made in actual delivery.

Chairman Souder, Ranking Member Cummings, and Members of the Subcommittee, good afternoon and thank you for the opportunity to address this subcommittee on the effects certain state laws have on the enforcement of federal narcotics laws. Mr. Chairman, on behalf of Administrator Marshall, I would like to thank the subcommittee for its unwavering support of the DEA in carrying out our mission of enforcing the nation's drug laws.

Let me begin with a discussion of the Controlled Substances Act (CSA) and the scheduling process. The CSA, Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, is the legal foundation for the United States' fight against abuse of drugs and other substances. The CSA was passed to minimize the quantity of abuseable substances available to those likely to abuse them, while providing for legitimate medical, scientific and industrial needs of those substances in the United States. The Drug Enforcement Administration (DEA) is the agency within the Department of Justice primarily responsible for the administration and enforcement of the provisions of the CSA.

The CSA places substances with a substantial potential for abuse into one of five schedules. Both legitimately produced drugs and clandestinely manufactured substances are included in the list of substances controlled under the CSA. This placement is based on the substance's accepted medical use, safety, potential for abuse, and/or dependence liability; Schedule I is the most restrictive and Schedule V is the least restrictive schedule. The Act also provides a mechanism for (1) substances to be controlled or added to a schedule, (2) decontrolled or removed from a schedule, and (3) rescheduled or transferred from one schedule to another. Proceedings to add, change, or remove a substance from the schedules listed in the CSA can be initiated either (1) by the Attorney General or Administrator of DEA (after reports from DEA field offices, state control authorities, treatment clinics, or other sources regarding the diversion or abuse problems associated with a substance), (2) at the request of the Secretary of Health and Human Services (HHS), or (3) by petition from any interested party (including a pharmaceutical company, advocacy group, or private citizen).

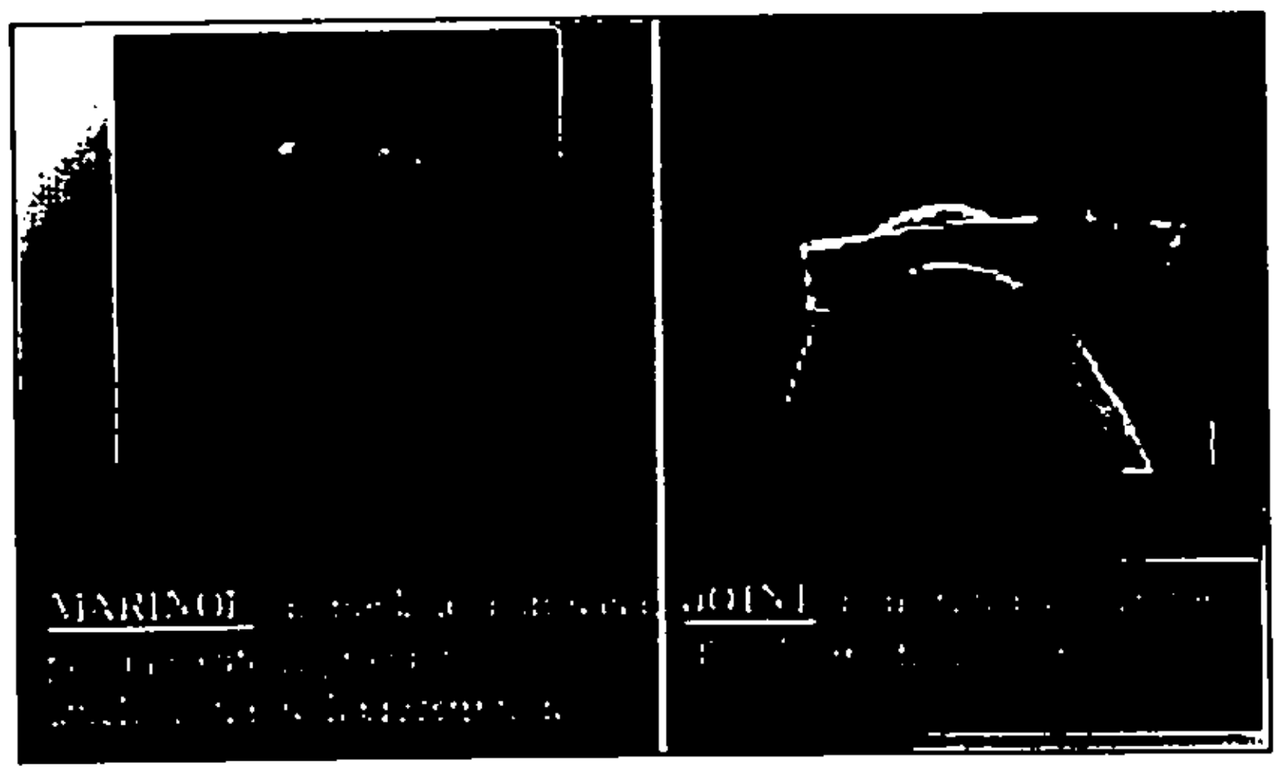
"Medical" Marijuana - The Facts

- Medical marijuana already exists. It's called Marinol.

- A pharmaceutical product, Marinol, is widely available through prescription. It comes in the form of a pill and is also being studied by researchers for suitability via other delivery methods, such as an inhaler or patch. The active ingredient of Marinol is synthetic THC, which has been found to relieve the nausea and vomiting associated with chemotherapy for cancer patients and to assist with loss of appetite with AIDS patients.

- Unlike smoked marijuana–which contains more than 400 different chemicals, including most of the hazardous chemicals found in tobacco smoke-Marinol has been studied and approved by the medical community and the Food and Drug Administration (FDA), the nation's watchdog over unsafe and harmful food and drug products. Since the passage of the 1906 Pure Food and Drug Act, any drug that is marketed in the United States must undergo rigorous scientific testing. The approval process mandated by this act ensures that claims of safety and therapeutic value are supported by clinical evidence and keeps unsafe, ineffective and dangerous drugs off the market.

- There are no FDA-approved medications that are smoked. For one thing, smoking is generally a poor way to deliver medicine. It is difficult to administer safe, regulated dosages of medicines in smoked form. Secondly, the harmful chemicals and carcinogens that are byproducts of smoking create entirely new health problems. There are four times the level of tar in a marijuana cigarette, for example, than in a tobacco cigarette.



- Morphine, for example, has proven to be a medically valuable drug, but the FDA does not endorse the smoking of opium or heroin. Instead, scientists have extracted active ingredients from opium, which are sold as pharmaceutical products like morphine, codeine, hydrocodone or oxycodone. In a similar vein, the FDA has not approved smoking marijuana for medicinal purposes, but has approved the active ingredient-THC-in the form of scientifically regulated Marinol.

- The DEA helped facilitate the research on Marinol. The National Cancer Institute

approached the DEA in the early 1980s regarding their study of THC's in relieving nausea and vomiting. As a result, the DEA facilitated the registration and provided regulatory support and guidance for the study.

- The DEA recognizes the importance of listening to science. That's why the DEA has registered seven research initiatives to continue researching the effects of smoked marijuana as medicine. For example, under one program established by the State of California, researchers are studying the potential use of marijuana and its ingredients on conditions such as multiple sclerosis and pain. At this time, however, neither the medical community nor the scientific community has found sufficient data to conclude that smoked marijuana is the best approach to dealing with these important medical issues.

- The most comprehensive, scientifically rigorous review of studies of smoked marijuana was conducted by the Institute of Medicine, an organization chartered by the National Academy of Sciences. In a report released in 1999, the Institute did not recommend the use of smoked marijuana, but did conclude that active ingredients in marijuana could be isolated and developed into a variety of pharmaceuticals, such as Marinol.

- In the meantime, the DEA is working with pain management groups, such as Last Acts, to make sure that those who need access to safe, effective pain medication can get the best medication available.

New Study Explains How Pot Kills Cancer Cells

By Steve Kubby

A new study published in Nature Reviews-Cancer provides an historic and detailed explanation about how THC and natural cannabinoids counteract cancer, but preserve normal cells.

The study by Manuel Guzmán of Madrid Spain found that cannabinoids, the active components of marijuana, inhibit tumor growth in laboratory animals. They do so by modulating key cell-signalling pathways, thereby inducing direct growth arrest and death of tumor cells, as well as by inhibiting the growth of blood vessels that supply the tumor.

The Guzman study is very important according to Dr. Ethan Russo , a neurologist and world authority on medical cannabis: "Cancer occurs because cells become immortalized; they fail to heed normal signals to turn off growth. A normal function of remodelling in the body requires that cells die on cue. This is called apoptosis, or programmed cell death. That process fails to work in tumors. THC promotes its reappearance so that gliomas, leukemias, melanomas and other cell types will in fact heed the signals, stop dividing, and die."

"But, that is not all," explains Dr. Russo: "The other way that tumors grow is by ensuring that they are nourished: they send out signals to promote angiogenesis, the growth of new blood vessels. Cannabinoids turn off these signals as well. It is truly incredible, and elegant."

In other words, this article explains several ways in which cannabinoids might be used to fight cancer, and, as the article says, "Cannabinoids are usually well tolerated, and do not produce the generalized toxic effects of conventional chemotherapies.

Usually, any story that even suggests the possibility of a new treatment for cancer is greeted with headlines about a "cancer cure" - however remote in the future and improbable in fact it might be. But if marijuana is involved, don't expect any coverage from mainstream media, especially since mainstream editors have been quietly killing this story for the past thirty years.

That's right, news about the abilility of pot to shrink tumors first surfaced, way back In 1974. Researchers at the Medical College of Virginia, who had been funded by the National Institutes of Health to find evidence that marijuana damages the immune system, found instead that THC slowed the growth of three kinds of cancer in mice -- lung and breast cancer, and a virus-induced leukemia.

The Washington Post reported on the 1974 study -- in the "Local" section -- on Aug. 18, 1974. Under the headline, "Cancer Curb Is Studied," it read in part: "The active chemical agent in marijuana curbs the growth of three kinds of cancer in mice and may also suppress the immunity reaction that causes rejection of organ

transplants, a Medical College of Virginia team has discovered." The researchers "found that THC slowed the growth of lung cancers, breast cancers, and a virus-induced leukemia in laboratory mice, and prolonged their lives by as much as 36 percent."

"News coverage of the Madrid discovery has been virtually nonexistent in this country. The news broke quietly on Feb. 29, 2000 with a story that ran once on the UPI wire about the Nature Medicine article," complained MarijuanaNews.com editor Richard Cowan , who said he was only able to find the article through a link that appeared briefly on the Drudge Report Web page. "The New York Times, The Washington Post, and Los Angeles Times all ignored the story, even though its newsworthiness is indisputable: a benign substance occurring in nature destroys deadly brain tumors," added Cowan.

On March 29, 2001, the San Antonio Current printed a carefully researched, bombshell of a story by Raymond Cushing titled, "*POT SHRINKS TUMORS; GOVERNMENT KNEW IN '74.*" Media coverage since then has been nonexistant, except for a copy of the story on Alternet .

It is hard to believe that the knowledge that cannabis can be used to fight cancer has been suppressed for almost thirty years , yet it seems likely that it will continue to be suppressed. Why?

According to Cowan, the answer is because it is a threat to cannabis prohibition . "If this article and its predecessors from 2000 and 1974 were the only evidence of the suppression of medical cannabis, then one might perhaps be able to rationalize it in some herniated way. However, there really is massive proof that the suppression of medical cannabis represents the greatest failure of the institutions of a free society, medicine, journalism, science, and our fundamental values," Cowan notes.

Millions of people have died horrible deaths and in many cases, familes exhausted their savings on dangerous, toxic and expensive drugs. Now we are just beginning to realize that while marijuana has never killed anyone, marijuana prohibition has killed millions.

The Sierra Times maintains its operation only by our sponsors and our readers. As always, any contribution is desperately needed and always accepted. Thank you.

CANNABINOIDS: POTENTIAL ANTICANCER AGENTS

Manuel Guzmán

Cannabinoids — the active components of *Cannabis sativa* and their derivatives — exert palliative effects in cancer patients by preventing nausea, vomiting and pain and by stimulating appetite. In addition, these compounds have been shown to inhibit the growth of tumour cells in culture and animal models by modulating key cell-signalling pathways. Cannabinoids are usually well tolerated, and do not produce the generalized toxic effects of conventional chemotherapies. So, could cannabinoids be used to develop new anticancer therapies?

CANNABINOIDS
Compounds with tetrahydrocannabinol (THC)-like structures and/or THC-like pharmacological properties. Many compounds with a THC-like structure are present in cannabis, but not all of them have THC-like pharmacological properties. In addition, some natural or synthetic compounds have THC-like pharmacological properties but not THC-like structure.

CANNABIMIMETIC
Tetrahydrocannabinol (THC)-like in pharmacological terms. A compound is usually accepted as cannabimimetic if it produces four characteristic THC effects in an *in vivo* assay known as the 'mouse tetrad model': hypomotility, hypothermia, analgesia and a sustained immobility of posture (catalepsy).

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doi:10.1038/nrc1188

Preparations from *Cannabis sativa* have been used for many centuries both medicinally and recreationally. However, the chemical structure of their unique active components — the CANNABINOIDS — was not elucidated until the early 1960s. As they are highly hydrophobic, cannabinoids were initially believed to mediate their actions by inserting directly into biomembranes. This scenario changed markedly in the early 1990s, when specific cannabinoid receptors were cloned and their endogenous ligands were characterized, therefore providing a mechanistic basis for cannabinoid action. This led not only to an impressive expansion of basic cannabinoid research, but also to a renaissance in the study of the therapeutic effects of cannabinoids, which now constitutes a widely debated issue with ample scientific, clinical and social relevance. The scientific community has gained substantial knowledge of the palliative and antitumour actions of cannabinoids during the past few years. However, further basic research and more exhaustive clinical trials are still required before cannabinoids can be routinely used in cancer therapy.

Cannabinoids and their receptors

The hemp plant *Cannabis sativa* produces ~60 unique compounds known as cannabinoids. Although the pharmacology of most of the cannabinoids is unknown, it is widely accepted that Δ^9-tetrahydrocannabinol (THC) is the most important, owing to its high potency and abundance in cannabis[1]. Other relevant plant-derived cannabinoids include Δ^8-THC, which is almost as active as Δ^9-THC but less abundant; cannabinol, which is produced in large amounts but is a weak CANNABIMIMETIC agent; and CANNABIDIOL, which is abundant but has no cannabimimetic activity. THC exerts a wide variety of biological effects by mimicking endogenous substances — the endocannabinoids anandamide and 2-arachidonoylglycerol — that activate specific cannabinoid receptors (BOX 1).

So far, two cannabinoid-specific receptors — CB_1 and CB_2 — have been cloned and characterized from mammalian tissues[2]. Both the central effects and many of the peripheral effects of cannabinoids depend on CB_1-receptor activation. Expression of this receptor is abundant in the brain, particularly in discrete areas that are involved in the control of motor activity (basal ganglia and cerebellum), memory and cognition (cortex and hippocampus), emotion (amygdala), sensory perception (thalamus), and autonomic and endocrine functions (hypothalamus, pons and medulla), but the CB_1 receptor is also expressed in peripheral nerve terminals and various extraneural sites such as the testis, eye, vascular endothelium and spleen. By contrast, the CB_2 receptor is almost exclusively expressed in the immune system, both by cells, including B and T lymphocytes and macrophages, and by tissues, including the spleen, tonsils and lymph nodes[2–4].

Other than the endocannabinoids, there are three main structural classes of cannabinoid-agonist ligands. These are the 'classical' cannabinoid analogues of THC, the 'non-classical' bicyclic and tricyclic cannabinoid analogues of THC, and the aminoalkylindoles. All have

Summary

- Cannabinoids, the active components of *Cannabis sativa* and their derivatives, act in the organism by mimicking endogenous substances, the endocannabinoids, that activate specific cannabinoid receptors. Cannabinoids exert palliative effects in patients with cancer and inhibit tumour growth in laboratory animals.
- The best-established palliative effect of cannabinoids in cancer patients is the inhibition of chemotherapy-induced nausea and vomiting. Today, capsules of Δ^9-tetrahydrocannabinol (dronabinol (Marinol)) and its synthetic analogue nabilone (Cesamet) are approved for this purpose.
- Other potential palliative effects of cannabinoids in cancer patients — supported by Phase III clinical trials — include appetite stimulation and pain inhibition. In relation to the former, dronabinol is now prescribed for anorexia associated with weight loss in patients with AIDS.
- Cannabinoids inhibit tumour growth in laboratory animals. They do so by modulating key cell-signalling pathways, thereby inducing direct growth arrest and death of tumour cells, as well as by inhibiting tumour angiogenesis and metastasis.
- Cannabinoids are selective antitumour compounds, as they can kill tumour cells without affecting their non-transformed counterparts. It is probable that cannabinoid receptors regulate cell-survival and cell-death pathways differently in tumour and non-tumour cells.
- Cannabinoids have favourable drug-safety profiles and do not produce the generalized toxic effects of conventional chemotherapies. The use of cannabinoids in medicine, however, is limited by their psychoactive effects, and so cannabinoid-based therapies that are devoid of unwanted side effects are being designed.
- Further basic and preclinical research on cannabinoid anticancer properties is required. It would be desirable that clinical trials could accompany these laboratory studies to allow us to use these compounds in the treatment of cancer.

been subjected to comprehensive structure–activity relationship studies, which, by selectively modifying the chemical structure of cannabinoid molecules, have led to the generation of various types of potent synthetic cannabinoid-receptor agonists. Selective cannabinoid-receptor antagonists such as the diarylpyrazoles (prototypical compounds developed by Sanofi: for example, SR141716 for CB_1 and SR144528 for CB_2) have also been developed[2,5]. All of these compounds have been excellent pharmacological tools that have been used to achieve a detailed knowledge of cannabinoid action, and might serve as templates for the design of clinically useful drugs.

CANNABIDIOL
A non-psychoactive cannabinoid present in cannabis that inhibits convulsions, anxiety, vomiting and inflammation; it is now in Phase III clinical trials in combination with tetrahydrocannabinol for the treatment of multiple-sclerosis-associated muscle disorders.

MYENTERIC AND SUBMUCOSAL PLEXUS
A network of sympathetic and parasympathetic nerve fibres and neuron cell bodies that are tucked in among the interstices of the smooth-muscle layer surrounding the digestive mucosa (myenteric plexus) or just underneath the digestive mucosa (submucosal plexus) and that coordinately control gastrointestinal contractions.

META-ANALYSIS
Statistical analysis of a large collection of results from individual studies for the purpose of integrating their findings.

Palliative effects of cannabinoids

Cannabinoids have been known to exert palliative effects in oncology since the early 1970s, and for this reason they are given to patients — although quite restrictedly — in the clinic. The molecular basis of the established and potential palliative applications of cannabinoids are still being dissected.

Inhibition of nausea and emesis. Prolonged nausea and emesis/vomiting is a devastating side effect that regularly accompanies the administration of cancer chemotherapeutic drugs. This unwanted effect can be so severe that some patients stop their treatments despite the persistence of malignant cancer. When nausea and vomiting are frequent, antiemetic drugs are routinely given before and after chemotherapy.

Cannabinoids are antiemetic in animal models of vomiting[6]. As the CB_1 receptor is present in cholinergic nerve terminals of the MYENTERIC AND SUBMUCOSAL PLEXUS of the stomach, duodenum and colon, it is probable that cannabinoid-induced inhibition of digestive-tract motility is caused by blockade of acetylcholine release in these areas[6]. There is also evidence that cannabinoids act on CB_1 receptors that are localized in the dorsal–vagal complex of the brainstem — the region of the brain that controls the vomiting reflex — and that endocannabinoids and their inactivating enzymes are present in the gastrointestinal tract and might have a physiological role in the control of emesis[6,7].

One of the earliest studied, and so far the best established, therapeutic benefits of cannabinoids in humans is the treatment of nausea and vomiting. A great number of clinical trials with THC, synthetic cannabinoids and cannabis smoking in the 1970s and 1980s showed that the antiemetic potency of cannabinoids was at least equivalent to that of the antiemetics widely used at that time, such as the dopamine D_2-receptor antagonists prochlorperazine, domperidone and metoclopramide[8–10]. In addition, most of the patients tested had a clear preference for cannabinoids as antiemetics. META-ANALYSIS indicates that an optimal balance of efficacy and unwanted effects was achieved with relatively modest doses of THC (~5.0 mg/day), and that the dose could be increased during chemotherapy cycles[8–10]. Today, capsules of THC (dronabinol (Marinol)) and its classical synthetic analogue LY109514 (nabilone (Cesamet)) are approved to treat nausea and emesis associated with cancer chemotherapy (TABLE 1). Nabilone also inhibits nausea and vomiting associated with radiation therapy and anaesthesia after abdominal surgery. However, the effect of nabilone in these treatments is moderate[8–10].

Although it is clear that cannabinoids serve as antiemetic agents in cancer therapy, several questions remain to be answered[9]. Cannabinoids should be compared alone and in combination with modern antiemetics, such as the selective serotonin 5-HT_3-receptor antagonist ondansetron and the selective substance P/neurokinin-1-receptor antagonist aprepitant, which have fewer associated side effects than the antiemetics that were used when the original cannabinoid trials were carried out. Of interest, cannabinoids are relatively effective in preventing nausea and emesis in patients during the delayed phase of chemotherapy-induced emesis, which usually occurs 24 hours or more after chemotherapy and is poorly controlled in about half of the patients receiving 5-HT_3-receptor antagonists[6,7]. The reason for this distinct behaviour of cannabinoids and 5-HT_3-receptor antagonists is unknown, but might be because of the different pathophysiological bases of acute and delayed emesis. In addition, it is worth noting that cannabinoids can block 5-HT_3 receptors[11]. Further studies will be required to establish which patients and what types of cancer chemotherapy are suited to cannabinoid use for the prevention of nausea and emesis.

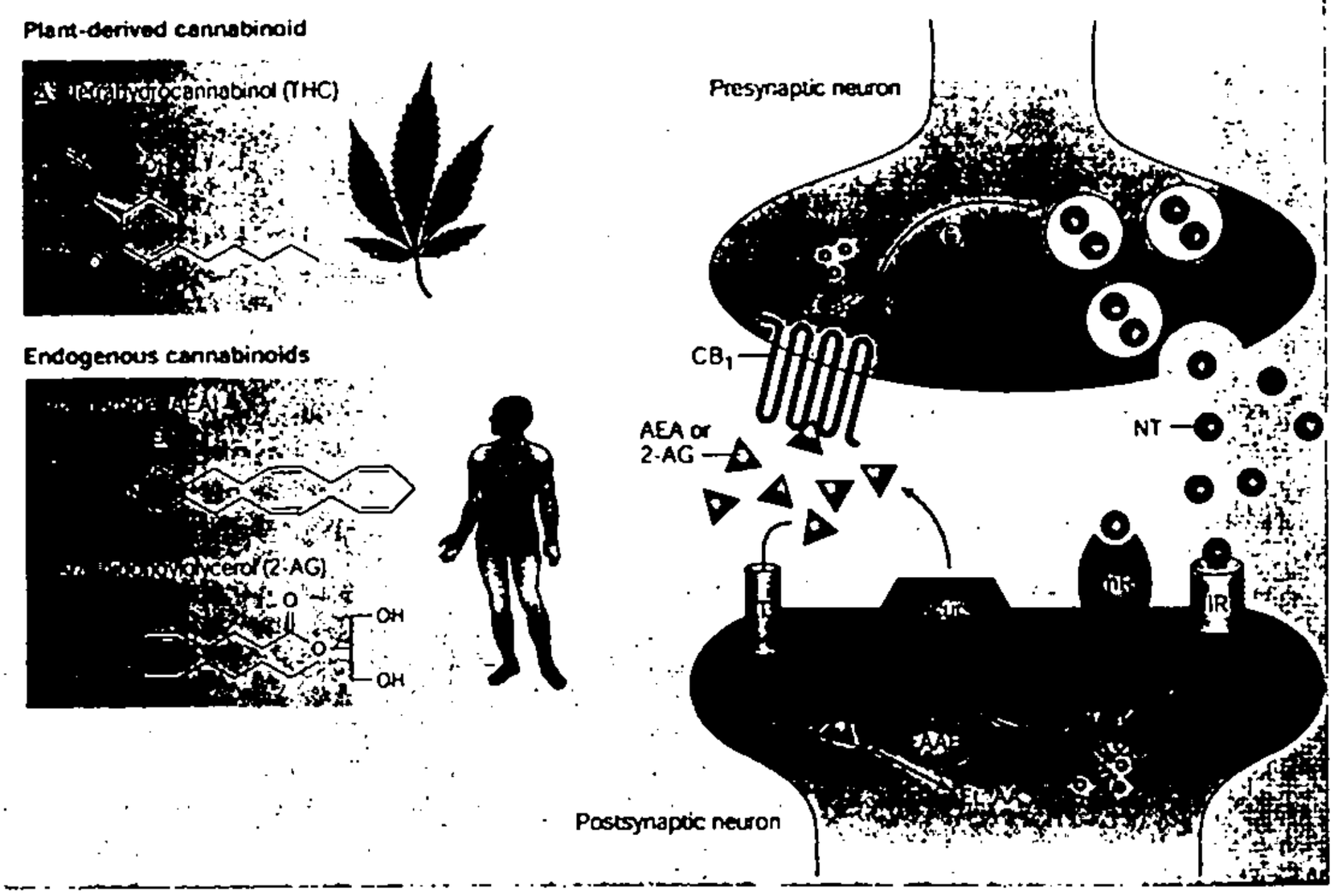
Appetite stimulation. More than half of the patients with advanced cancer experience lack of appetite and/or weight loss, and they consistently rank anorexia as one of the most troublesome symptoms. Anorexia might ultimately lead to massive weight loss — cachexia — which is an important risk factor for morbidity and mortality in cancer. About one-third of cancer patients lose more than 5% of their original body weight, and cachexia is estimated to account for ~20% of cancer deaths[12].

Many studies have reported that THC and other cannabinoids have a stimulatory effect on appetite and increase food intake in animals. These effects are particularly seen when cannabinoids are administered at low to moderate doses, which do not produce marked side effects[13]. The endogenous cannabinoid system might serve as a physiological regulator of feeding behaviour. For example, endocannabinoids and CB_1 receptors are present in the hypothalamus, the area of the brain that controls food intake; hypothalamic endocannabinoid levels are reduced by leptin, one of the main anorexic hormones; and blockade of tonic endocannabinoid signalling with the CB_1 antagonist

Box 1 | The endogenous cannabinoid system

Plant-derived cannabinoids such as Δ^9-tetrahydrocannabinol (THC), as well as their synthetic analogues, act in the organism by activating specific cell-surface receptors that are normally engaged by a family of endogenous ligands — the endocannabinoids (see figure). The first endocannabinoid discovered was named anandamide (AEA), from the sanscrit ananda, 'internal bliss', and with reference to its chemical structure — arachidonoylethanolamide, the amide of arachidonic acid (AA) and ethanolamine (Et)[100]. A second arachidonic-acid derivative (2-arachidonoylglycerol (2-AG)) that binds to cannabinoid receptors was subsequently described[101,102]. These endocannabinoid ligands, together with their receptors[103,104] and specific processes of synthesis[105,106], uptake[107] and degradation[108], constitute the endogenous cannabinoid system.

A well-established function of the endogenous cannabinoid system is its role in brain neuromodulation. Postsynaptic neurons synthesize membrane-bound endocannabinoid precursors and cleave them to release active endocannabinoids following an increase of cytosolic free Ca^{2+} concentrations: for example, after binding of neurotransmitters (NTs) to their IONOTROPIC (iR) or METABOTROPIC (mR) receptors[109]. Endocannabinoids subsequently act as retrograde messengers by binding to presynaptic CB_1 cannabinoid receptors, which are coupled to the inhibition of voltage-sensitive Ca^{2+} channels and the activation of K^+ channels[110]. This blunts membrane depolarization and exocytosis, thereby inhibiting the release of NTs such as glutamate, dopamine and γ-aminobutyric acid (GABA) and affecting, in turn, processes such as learning, movement and memory, respectively[111]. Endocannabinoid neuromodulatory signalling is terminated by an unidentified membrane-transport system[107] (T) and a family of intracellular degradative enzymes, the best characterized of which is fatty acid amide hydrolase (FAAH), which degrades AEA to AA and Et[108]. The endogenous cannabinoid system might also exert modulatory functions outside the brain, both in the peripheral nervous system and in extraneural sites, controlling processes such as peripheral pain, vascular tone, INTRAOCULAR PRESSURE and immune function.



IONOTROPIC RECEPTORS
Channel-like receptors that are opened by agonist binding and through which ions such as Na^+, K^+ and/or Ca^{2+} can pass. Ionotropic glutamate receptors are usually divided into three groups: *N*-methyl-D-aspartic acid (NMDA) receptors, kainate receptors and α-amino-3-hydroxy-5-methyl-4-isoxazole propionic acid (AMPA) receptors.

METABOTROPIC RECEPTORS
Seven-transmembrane (heptahelical) receptors that couple to heterotrimeric G proteins, thereby modulating pathways such as cyclic AMP-protein kinase A (via G_s or G_i), diacylglycerol–protein kinase C (via G_q) and inositol 1,4,5-trisphosphate–Ca^{2+} (via G_q). At least eight subtypes of glutamate metabotropic receptors are known.

INTRAOCULAR PRESSURE
Pressure inside the eye. When it increases — for example, in glaucoma — damage to the optic nerve of the eye can result in blindness. Cannabinoids decrease intraocular pressure.

Table 1 | **Palliative effects of THC and nabilone in cancer therapy**

Palliative effect on cancer therapy	Cannabinoid	Stage in clinical trials	References
Inhibition of nausea and emesis	THC, nabilone	Dronabinol and nabilone approved for cancer chemotherapy	6–10
Appetite stimulation	THC	Phase III with THC for cancer anorexia (however, dronabinol is approved for AIDS wasting syndrome)	8,10,13,18,19
Analgesia	THC	Phase III with THC for cancer pain	21,22,24–26
Inhibition of muscle weakness	THC, nabilone	Phase I/II with THC and nabilone for cancer depression and anxiety	8,10
Mood effects (sedation, antidepression, hypnosis)	THC (± cannabidiol)	Not for cancer, but Phase III with THC for multiple sclerosis muscle-debilitating symptoms	7,28

THC, Δ^9-tetrahydrocannabinol.

rimonabant (SR141716) — now in Phase III clinical trials for the treatment of obesity — inhibits appetite and induces weight loss[13,14]. Although the usual view is that cannabinoids centrally control appetite — as they are expressed in the brain — CB_1 receptors present in nerve terminals[15] and adipocytes[16,17] might also participate in the regulation of feeding behaviour.

Considerable anecdotal information from cannabis smokers and, more importantly, a series of clinical trials support the appetite-stimulating properties of THC[8,10,13]. In particular, the appetite-stimulating (orexigenic) action of THC has been repeatedly observed in AIDS patients, and so dronabinol is prescribed for anorexia associated with weight loss in AIDS patients (TABLE 1), at a dosage range of 2.5–5.0 mg/day[8,10]. In cancer patients, at least three Phase II clinical trials have established a relation between increased appetite and the prevention of body weight loss following THC treatment[10,18], and a recent Phase III trial has confirmed the appetite-stimulating effect of oral THC at 5.0 mg/day in advanced cancer[19].

Further research should elucidate the clinical relevance of cannabinoids for cancer anorexia. For example, the efficacy:safety ratio of different regimens of cannabinoid administration should be evaluated in comparison with the progesterone derivative megestrol acetate, the most extensively used agent for treating cancer anorexia[19]. Moreover, cachexia is caused not only by depression of food intake, but also by increased energy wasting[12]. In this respect, it is interesting that the CB_1 antagonist rimonabant not only suppresses appetite, but also enhances energy expenditure, indicating that CB_1 activation could be involved in energy preservation[16,17].

Pain inhibition. Pain has a negative impact on the quality of life of cancer patients. Almost half of all patients with cancer experience moderate to severe pain, and it increases in patients with metastatic or advanced-stage cancer. Chronic cancer pain usually has a NOCICEPTIVE component, which originates from inflammatory reactions around the sites of injury, and a neuropathic component, which results from damage to the nervous system. So, the pharmacological management of chronic pain should target peripheral nerves, the spinal cord and the brain[20].

Cannabinoids inhibit pain in animal models of acute and chronic HYPERALGESIA, ALLODYNIA and spontaneous pain, caused by heat, mechanical pressure, abdominal stretching, nerve injury and formalin injection[21,22]. There is sufficient evidence that cannabinoids produce antinociception by activating CB_1 receptors in the brain (thalamus, periaqueductal grey matter and rostral ventromedial medulla), the spinal cord (dorsal horn) and nerve terminals (dorsal root ganglia and peripheral terminals of primary-afferent neurons), and that endocannabinoids function naturally to suppress pain by inhibiting nociceptive neurotransmission[21,22]. In addition, peripheral CB_2 and/or CB_2-like receptors might mediate local analgesia, possibly by inhibiting the release of various mediators of pain and inflammation[21,23], which could be important in the management of cancer pain[20].

A meta-analysis of the clinical trials on cannabinoid analgesia is not feasible because of the dearth and heterogeneity of the trials carried out so far[24]. Nonetheless, there are some human data to support the effectiveness of cannabinoids in alleviating pain associated with cancer (TABLE 1), the effects of surgery, phantom limbs, multiple sclerosis, spinal-cord injury and migraine[21,22]. In particular, four Phase III clinical trials on cancer pain have been carried out, one with THC and the other three with two first-generation synthetic cannabinoid derivatives that are not used at present owing to their low potency and specificity. The general conclusion is that cannabinoids have similar analgesic potency to codeine — a moderate opioid analgesic[24,25].

Further clinical trials on cannabinoids in the treatment of cancer pain — including terminal care — seem justified[24,26] and, in fact, are now in progress. An adjunctive role for cannabinoids in analgesia seems the most likely[21,22] and, in this respect, it would be interesting to exploit the synergistic interactions that occur between cannabinoid and opioid antinociception observed in animal models[21,27].

Psychological effects. Studies in animal models indicate that cannabinoids — at least at low doses — exert anti-anxiety effects, and there is considerable anecdotal information about the effects of cannabis use on mood-related disorders[4,10]. However, only a few small trials with cannabinoids have systematically evaluated the mood

NOCICEPTIVE
A stimulus that causes pain or a reaction that is caused by pain.

HYPERALGESIA
An increased sensitivity and lowered threshold to a stimulus — such as burn of the skin — that is normally painful.

ALLODYNIA
Pain caused by a stimulus — such as touch, pressure and warmth — that does not normally provoke pain.

Table 2 | **Tumours that are sensitive to cannabinoid-induced growth inhibition**

Tumour type	Experimental system	Effect	Receptor	References
Lung carcinoma	*In vivo* (mouse); *in vitro*	Decreased tumour size; cell-growth inhibition	N.D.	29
Glioma	*In vivo* (mouse, rat); *in vitro*	Decreased tumour size; apoptosis	CB_1, CB_2	50,51,53,85
Thyroid epithelioma	*In vivo* (mouse); *in vitro*	Decreased tumour size; cell-cycle arrest	CB_1	60
Lymphoma/leukaemia	*In vivo* (mouse); *in vitro*	Decreased tumour size; apoptosis	CB_2	96
Skin carcinoma	*In vivo* (mouse); *in vitro*	Decreased tumour size; apoptosis	CB_1, CB_2	61
Uterus carcinoma	*In vitro*	Cell-growth inhibition	N.D.	97,98
Breast carcinoma	*In vitro*	Cell-cycle arrest	CB_1	57–59
Prostate carcinoma	*In vitro*	Apoptosis	CB_1?	54,59,99
Neuroblastoma	*In vitro*	Apoptosis	VR_1	51,73

N.D., not determined; VR_1, type 1 vanilloid receptor.

state of cancer patients. THC and nabilone might lead to several positive psychological effects, including a reduction in depression and anxiety, which could result in improved sleep[8,10] (TABLE 1). These potentially positive effects, which can influence the medical benefits, need to be objectively evaluated with further clinical trials.

Inhibition of muscle weakness. Muscle weakness occurs in several chronic and debilitating neurological conditions such as multiple sclerosis and spinal-cord injury, and might also affect patients with cancer who have developed paraneoplastic syndromes such as SENSORY-MOTOR PERIPHERAL NEUROPATHIES and other MYASTHENIC syndromes. Increasing amounts of laboratory research and anecdotal information from cannabis users have led to Phase III clinical trials in which THC alone or in combination with other cannabinoids is being tested for treatment of spasticity and other muscle-debilitating symptoms of multiple sclerosis[7,28] (TABLE 1). The potential applicability of cannabinoids to cancer-related muscle weakness is, as yet, unknown.

SENSORY-MOTOR PERIPHERAL NEUROPATHIES
Diseases or abnormalities of the peripheral nervous system that affect senses and movement.

MYASTHENIC
Abnormal muscle weakness or fatigue.

FORKHEAD TRANSCRIPTION FACTORS
A family of proteins that regulate the expression of genes that are involved in the control of cell survival, death, growth, differentiation and stress responses. Their activity is tightly controlled by AKT, so that phosphorylated forkhead transcription factor FOXO is retained in the cytoplasm and remains transcriptionally inactive.

Antitumour effects of cannabinoids

Inhibition of tumour-cell growth. The antiproliferative properties of cannabis compounds were first reported almost 30 years ago by Munson *et al.*[29], who showed that THC inhibits lung-adenocarcinoma cell growth *in vitro* and after oral administration in mice. Although these observations were promising, further studies in this area were not carried out until the late 1990s. Several plant-derived (for example, THC and cannabidiol), synthetic (for example, WIN-55, 212-2 and HU-210) and endogenous cannabinoids (for example, anandamide and 2-arachidonoylglycerol) are now known to exert antiproliferative actions on a wide spectrum of tumour cells in culture[30] (TABLE 2). More importantly, cannabinoid administration to nude mice slows the growth of various tumour xenografts, including lung carcinomas, gliomas, thyroid epitheliomas, skin carcinomas and lymphomas. The requirement of CB_1 and/or CB_2 receptors for this antitumour effect (TABLE 2) has been shown by various biochemical and pharmacological approaches, in particular by determining cannabinoid-receptor expression and by using selective cannabinoid-receptor agonists and antagonists. In one study, endocannabinoids were suggested to exert their apoptotic effect by binding to the type 1 vanilloid receptor (VR_1), a non-selective cation channel targeted by capsaicin, the active component of hot chilli peppers (TABLE 2). However, the precise role of this receptor in cannabinoid signalling is still unclear[2].

Possible mechanisms of antitumour action. Cannabinoids affect various cellular pathways by binding and activating their specific G-protein-coupled cannabinoid receptors. They inhibit the adenylyl cyclase–cyclic AMP (cAMP)–protein kinase A pathway and modulate the activity of Ca^{2+} and K^+ channels[2], which inhibits neurotransmitter release (BOX 1). Cannabinoids have also been found to modulate several signalling pathways that are more directly involved in the control of cell fate[30]: they stimulate mitogen-activated protein kinases (MAPKs) — the extracellular-signal-regulated kinase[31,32] (ERK) and the stress-activated kinases JUN amino-terminal kinase (JNK) and p38 MAPK[33–35] — which have prominent roles in the control of cell growth and differentiation[36] (FIG. 1). Cannabinoid-induced MAPK stimulation has been observed in primary neural cells, neural cell lines, lymphoid cells, vascular endothelial cells and Chinese hamster ovary cells that were transfected with cannabinoid-receptor complementary DNAs. By contrast, cannabinoids have been found to attenuate ERK in a neuronal-like cell line *in vitro*[37]. Cannabinoid receptors are also coupled to stimulation of the phosphatidylinositol 3-kinase (PI3K)–AKT survival pathway[38–40]. Activated AKT can phosphorylate and inhibit nuclear translocation of FORKHEAD TRANSCRIPTION FACTORS[41], thereby preventing the expression of pro-apoptotic proteins. Similar to ERK, the negative coupling of cannabinoid receptors to AKT has also been reported[42]. A role for PI3K as an upstream component of cannabinoid-induced ERK activation is seen in some systems[43,44] but not in others[45].

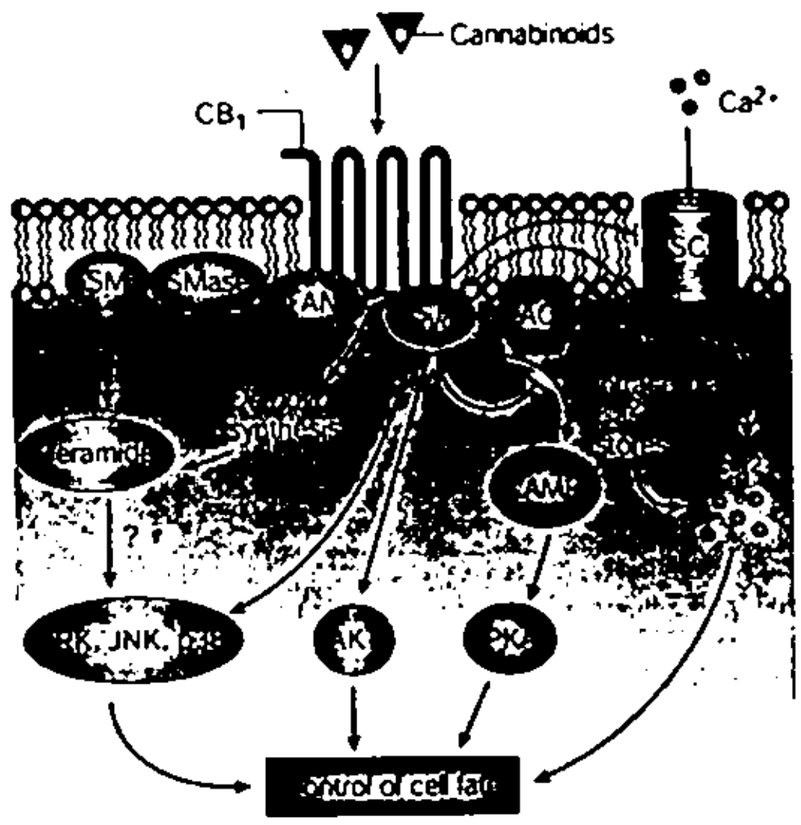


Figure 1 | Signalling pathways involved in the control of cell fate by cannabinoids. Cannabinoids exert their effects by binding to specific G-protein-coupled receptors. The cannabinoid receptor CB_1 signals several different cellular pathways. These include inhibition of the adenylyl cyclase (AC)–cyclic AMP–protein kinase A (PKA) pathway; modulation of ion conductances, by inhibition of voltage-sensitive Ca^{2+} channels (VSCC) and activation of Ca^{2+} release from intracellular stores; activation of mitogen-activated protein kinase cascades (extracellular-signal-regulated kinase (ERK), JUN amino-terminal kinase (JNK) and p38); activation of the phosphatidylinositol 3-kinase (PI3K)–AKT pathway; and ceramide generation, both acutely through FAN–sphingomyelinase (factor associated with neutral sphingomyelinase activation–SMase) and sustainedly through *de novo* synthesis. The crosstalk between the different pathways has been omitted for simplification.

Cannabinoids can modulate sphingolipid-metabolizing pathways by inducing sphingomyelin breakdown and acutely increasing the levels of ceramide[46] — a lipid second messenger that can induce apoptosis and cell-cycle arrest[47,48]. This effect is cannabinoid-receptor dependent but G-protein independent, and seems to involve the adaptor protein FAN (factor associated with neutral sphingomyelinase activation)[49]. Cannabinoid-receptor activation can also generate a sustained peak of ceramide accumulation through enhanced *de novo* synthesis[42,50].

Other targets for cannabinoids that might be involved in the control of cell fate include the transcription factor NF-κB and nitric-oxide synthase (NOS). However, the effects of cannabinoids on these two proteins are variable, ranging from activation to inhibition, and the underlying mechanisms of cannabinoid action remain obscure[2].

Cannabinoids might exert their antitumour effects by several different mechanisms, including direct induction of transformed-cell death, direct inhibition of transformed-cell growth and inhibition of tumour angiogenesis and metastasis (TABLE 3).

Cannabinoid-induced apoptosis can be exemplified by glioma cells[51], in which apoptotic death depends on sustained ceramide generation[50]. The increased ceramide levels observed in glioma cells after cannabinoid challenge would lead to prolonged activation of the RAF1–MEK–ERK signalling cascade[50] and AKT inhibition[42]. It is generally accepted that ERK activation leads to cell proliferation; however, the relation between ERK activation and cell fate is complex and depends on many factors, one of which is the duration of the stimulus, as prolonged ERK activation can mediate cell-cycle arrest and cell death. Following cannabinoid-receptor activation, two peaks of ceramide generation are observed in glioma cells that have different kinetics (minute- versus day-range), magnitude (twofold versus fourfold), mechanistic origin (sphingomyelin hydrolysis versus *de novo* ceramide synthesis) and function (metabolic regulation versus induction of apoptosis)[52] (FIG. 2a). The apoptotic action of cannabinoids on glioma cells clearly depends on the second peak of ceramide generation and ERK activation[42,50,53]. Pharmacological inhibition of *de novo* ceramide synthesis also prevents cannabinoid-induced death of prostate tumour cells[54]. The involvement of oxidative stress[55] and stress-activated protein kinases[50,56] in cannabinoid-induced apoptosis can not be ruled out.

CB_1-receptor activation in breast carcinoma cells blocks the cell cycle at the G1–S transition[57], and this has been ascribed to the inhibition of adenylyl cyclase and the cAMP–protein kinase-A pathway. Protein kinase A phosphorylates and inhibits RAF1, so cannabinoids prevent the inhibition of RAF1 and induce prolonged activation of the RAF1–MEK–ERK signalling cascade[58]. These signalling events mediate the antiproliferative action of cannabinoids on breast carcinoma cells by reducing the expression of two specific receptors, the high-molecular-weight (100 kDa) form of the prolactin receptor and the high-affinity neurotrophin TRK receptor[58,59]. CB_1-receptor activation also induces cell-cycle arrest at the G1–S transition in thyroid epithelioma cells that are transformed with the *KRAS* oncogene both *in vitro* and *in vivo*[60]. The mechanism of cannabinoid action on the cell cycle remains to be established.

Inhibition of growth-factor-receptor signalling following cannabinoid-receptor activation has also been observed in PHEOCHROMOCYTOMA[37], skin carcinoma[61] and prostate carcinoma[54] cells, and could therefore constitute a general mechanism of cannabinoid antiproliferative action. However, its consequences on ERK activity are not obvious: for example, in pheochromocytoma cells, cannabinoids inhibit ERK[37], whereas in breast carcinoma cells, cannabinoids activate ERK[58].

To grow beyond minimal size, tumours must generate a new vascular supply (angiogenesis) for purposes of cell nutrition, gas exchange and waste disposal — therefore, blocking the angiogenic process constitutes one of the most promising antitumour approaches now available[62]. Immunohistochemical and functional analyses in mouse models of glioma[63] and skin carcinoma[61] have shown that administration of cannabinoids turns the vascular hyperplasia that is characteristic of actively growing tumours into a pattern of blood vessels that is characterized by small, differentiated and impermeable

PHEOCHROMOCYTOMA
A relatively severe tumour of adrenal-gland chromaffin cells that causes excess release of adrenaline and noradrenaline and is therefore characterized by hypertension and tachycardia.

Table 3 | **Possible mechanisms of cannabinoid antitumour action**

Process	Possible mechanisms	References
Induction of apoptosis	Ceramide accumulation by *de novo* synthesis; sustained ERK activation and AKT inhibition	42,50,53
Cell-cycle arrest	Adenylyl cyclase inhibition and sustained ERK activation? Inhibition of growth-factor-receptor signalling	57–59
Inhibition of angiogenesis and metastasis	Decreased expression of pro-angiogenic factors and matrix metalloproteinases; inhibition of vascular-endothelial-cell migration and survival?	61,63,64

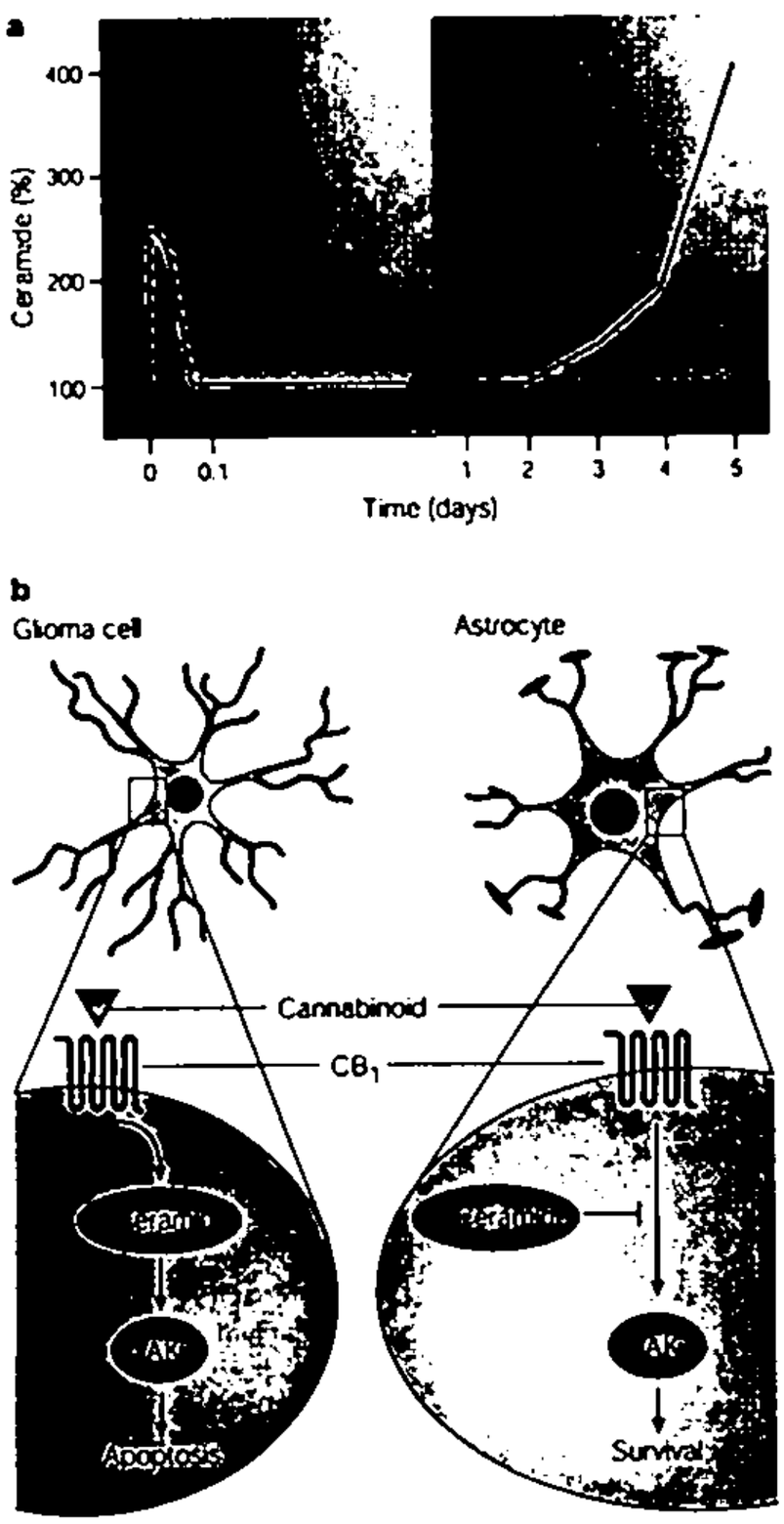


Figure 2 | **Differential cannabinoid signalling in transformed versus non-transformed glial cells.** **a** | In glioma cells, cannabinoids can induce two peaks of ceramide (solid line). The short-term peak occurs through sphingomyelin hydrolysis and is not related to apoptosis. The long-term peak occurs by *de novo* ceramide synthesis, is involved in apoptosis, and does not occur in normal astrocytes or in glioma-cell clones that are resistant to cannabinoid-induced apoptosis (dashed line). **b** | In glioma cells, cannabinoid-induced ceramide accumulation inhibits AKT and induces apoptosis, whereas in normal astrocytes cannabinoids activate AKT and prevent ceramide-induced AKT inhibition, thereby promoting survival.

capillaries. This is associated with a reduced expression of vascular endothelial growth factor (VEGF) and other pro-angiogenic cytokines[61,63,64], as well as of VEGF receptors (C. Blázquez and M.G., unpublished observations). In addition, activation of cannabinoid receptors in vascular endothelial cells inhibited cell migration and survival, which might contribute to impaired tumour vascularization[63]. Administration of cannabinoids to tumour-bearing mice also decreased the activity and expression of matrix metalloproteinase 2 — a proteolytic enzyme that allows tissue breakdown and remodelling during angiogenesis and metastasis[63]. This might explain at least in part why cannabinoid-induced inhibition of tumour metastasis was observed in mice injected with lung carcinoma cells[64].

Selectivity of antiproliferative action. Antitumour compounds should selectively affect tumour cells. It seems that cannabinoids can do this, as they kill tumour cells but do not affect their non-transformed counterparts and might even protect them from cell death. The best characterized example is that of glial cells. Cannabinoids induce apoptosis of glioma cells in culture and induce regression of gliomas in mice and rats (TABLE 2). By contrast, cannabinoids protect normal glial cells of astroglial[65] and oligodendroglial[66] lineages from apoptosis. This protective effect is mediated by the CB_1 receptor and the PI3K–AKT survival pathway. Cannabinoid-induced apoptosis of glioma cells is mediated by ceramide generation[42,50]; however, cannabinoids attenuate ceramide-induced apoptosis of normal astrocytes both *in vitro* and *in vivo*[65].

The molecular basis of this 'ying–yang' behaviour is not yet completely understood, but could result from the differential capacity of tumour and non-tumour cells to synthesize ceramide in response to cannabinoids[52]. As mentioned above, after cannabinoid-receptor activation two peaks of ceramide generation are observed in glioma cells, the second of which is due to enhanced *de novo* ceramide synthesis and triggers apoptosis. However, this second peak does not occur in normal astrocytes or in glioma-cell clones that are refractory to cannabinoid-induced apoptosis, despite the expression of functional cannabinoid receptors[50,52] (FIG. 2a). Of interest, this resistance of primary astrocytes to cannabinoid-induced *de novo* ceramide synthesis and apoptosis is specific, as exposure of these cells to other stimuli such as uptake of the fatty acid palmitate[67] or serum deprivation (A. Carracedo, M.G. & G. Velasco, unpublished observations) does induce apoptosis through *de novo* ceramide synthesis. It is therefore conceivable that cannabinoid receptors regulate cell survival and cell death differently in transformed and non-transformed cells. In glioma cells, cannabinoids inhibit AKT through ceramide[42], whereas in primary astrocytes cannabinoids activate AKT and abrogate ceramide-induced AKT inhibition[65] (FIG. 2b).

The possibility that the 'ying–yang' action of cannabinoids depends on different patterns of cannabinoid-receptor expression and/or on the coupling of cannabinoid receptors to different types of G protein

Box 2 | **Potential adverse effects of cannabinoids**

The administration of cannabinoids to humans and laboratory animals exerts psychoactive effects[7,81,82]. In humans, cannabinoids induce a unique mixture of depressing and stimulatory effects in the central nervous system that can be divided into four groups: affective (euphoria and easy laughter), sensory (alterations in temporal and spatial perception and disorientation), somatic (drowsiness, dizziness and motor discoordination) and cognitive (confusion, memory lapses and difficulties in concentration). Owing to the ubiquitous distribution of cannabinoid receptors, cannabinoids might affect not only the brain, but also almost every body system; for example, the cardiovascular (tachycardia), respiratory (bronchodilatation), musculoskeletal (muscle relaxation) and gastrointestinal (decreased motility) systems[7,81,82].

The central and peripheral effects of cannabinoids are variable and sometimes pronounced in those smoking cannabis for recreational purposes, but are not necessarily apparent in a controlled clinical setting. In fact, dronabinol (Marinol) and nabilone (Cesamet) are usually innocuous when administered as antiemetics to patients with cancer[10,82]. Moreover, tolerance to the unwanted effects of cannabinoids develops rapidly in humans and laboratory animals[81,82]. For example, the most frequently reported adverse psychoactive effects of dronabinol during clinical trials occurred in 33% of patients. This value decreased to 25% reporting minor psychoactivity after 2 weeks and 4% after 6 weeks of treatment. The possibility that tolerance also develops to therapeutically sought effects has not been substantiated. Cannabinoid tolerance is mainly attributed to PHARMACODYNAMIC changes, such as a decrease in the number of total and functionally coupled cannabinoid receptors on the cell surface, with a possible minor PHARMACOKINETIC component caused by increased cannabinoid biotransformation and excretion[7,81,82].

Some people consider cannabinoids as addictive drugs. A withdrawal syndrome, which consists of irritability, insomnia, restlessness and a sudden, temporary sensation of heat — 'hot flashes' — has been occasionally observed in chronic cannabis smokers after abrupt cessation of drug use. However, this occurs rarely, and symptoms are mild and usually dissipate after a few days[7,81,82]. Similarly, after chronic tetrahydrocannabinol (THC) treatment, no somatic signs of spontaneous withdrawal appear in different animal species, even at extremely high doses[112]. Animal models of cannabinoid dependence have been obtained only after administration of an antagonist of cannabinoid receptor CB_1 together with the cessation of chronic administration of high doses of THC to precipitate somatic manifestations of withdrawal[112]. In the clinical context, long-term surveys of dronabinol administration at prescription doses have shown no sign of dependence[82,113]. The low-addictive capacity of THC is usually ascribed to its pharmacokinetic properties (BOX 3) as, unlike commonly used drugs, cannabinoids are stored in adipose tissue and excreted at a low rate. So, cessation of THC intake is not accompanied by rapid decreases in drug plasma concentration[82].

can not be ruled out. However, this seems unlikely. On the one hand, glioma cell clones that are resistant to cannabinoid-induced apoptosis express similar amounts of CB_1 and CB_2 receptors, compared with cannabinoid-sensitive clones[50]; this is further supported by pharmacological studies using selective cannabinoid-receptor antagonists[50]. On the other hand, although activation of G_i proteins by the CB_1 receptor has been reported[68], increasing evidence indicates that cannabinoid receptors have a clear preference for coupling to $G_{i/o}$ proteins[2,69,70].

Other reported examples of cannabinoid selectivity towards tumour cells include thyroid epithelioma[60] and skin carcinoma[61] cells. In addition, though perhaps mechanistically unrelated, cannabinoids protect neurons from death in various models of toxic damage[7,71,72], whereas neuroblastoma cells are sensitive to cannabinoid-induced death[51,73]. A possible exception to this cannabinoid selectivity might be immune cells, although this can depend on experimental conditions — mostly stimulus strength[74]. For example, cannabinoids at high concentrations induce apoptosis of non-transformed monocytes, macrophages and lymphocytes[75,76], which might contribute to impaired host antitumour responses by inhibiting the production of antitumour cytokines such as interferon-γ and interleukin-12 (REF. 77). By contrast, low cannabinoid doses enhance lymphocyte[78] and myeloid-cell growth[79]. In any event, the issue of immunosuppression needs to be explicitly investigated in any trial of cannabinoids in cancer patients[80], although long-term surveys of HIV-positive patients have shown no link between dronabinol use or cannabis smoking and average T-cell counts or progression to AIDS[8,10].

PHARMACODYNAMICS
Mechanisms by which drugs affect their target sites in the body to produce their desired therapeutic effects and their adverse side effects.

PHARMACOKINETICS
Time course of drug and metabolite levels in different fluids, tissues and excreta of the body, and of the mathematical relationships required to develop models to interpret such data.

Towards the clinical application

Side effects and how to circumvent them. Cannabinoids have a favourable drug safety profile[8,81,82]. Acute fatal cases due to cannabis use in humans have not been substantiated, and median lethal doses of THC in animals have been extrapolated to several grams per kilogram of body weight[82]. Cannabinoids are usually well tolerated in animal studies and do not produce the generalized toxic effects of most conventional chemotherapeutic agents. For example, in a 2-year administration of high oral doses of THC to rats and mice, no marked histopathological alterations in the brain and other organs were found. Moreover, THC treatment tended to incease survival and lower the incidence of primary tumours[83]. Similarly, long-term epidemiological surveys, although scarce and difficult to design and interpret, usually show that neither patients under prolonged medical cannabinoid treatment nor regular cannabis smokers have marked alterations in a wide array of physiological, neurological and blood tests[8,10,82].

The use of cannabinoids in medicine, however, is severely limited by their psychoactive effects (BOX 2). Although these adverse effects are within the range of

Box 3 | **Cannabinoid pharmacokinetics**

The route of administration affects the time course and intensity of the drug effects. At present, clinical use of cannabinoids is limited to oral administration of dronabinol and nabilone. However, absorption by this route is slow and erratic; cannabinoids might be degraded by the acid of the stomach; rates of FIRST-PASS METABOLISM in the liver vary greatly between individuals; and patients sometimes have more than one plasma peak, which makes it more difficult to control the drug effects[82].

Anecdotal reports indicate that in certain patients cannabis is more effective and might have fewer psychological effects when smoked than when taken orally. However, cannabis smoke contains the same chemical carcinogens that are found in tobacco, making it potentially harmful in long-term use and difficult to investigate in clinical trials[80]. A safer alternative for inhaled administration of cannabinoids has been recently produced by GW Pharmaceuticals and Bayer AG. This is a medicinal cannabis extract known as Sativex, which contains tetrahydrocannabinol (THC) and cannabidiol, that is administered by spraying into the mouth and is now in clinical trials for pain and the debilitating symptoms of multiple sclerosis.

Other routes of cannabinoid administration tested so far in humans include intravenous (THC and dexanabinol in saline/ethanol/adjuvant), rectal (THC-hemisuccinate suppositories) and sublingual administration (THC- and cannabidiol-rich cannabis extracts)[82]. These three routes circumvent the aforementioned problems of oral administration by producing single, rapid and high drug-plasma peaks.

Owing to its high hydrophobicity, absorbed THC binds to lipoproteins and albumin in plasma and is mainly retained in adipose tissue — the main long-term THC storage site. THC is only slowly released back into the bloodstream and other body tissues, so that full elimination from the body is slow (half-life 1–3 days). THC metabolism occurs mainly by hepatic cytochrome P450 isoenzymes. The process yields 11-hydroxy-THC and many other metabolites resulting from hydroxylation, oxidation, conjugation and other chemical modifications that are cleared from the body by excretion.

those accepted for other medications, especially in cancer treatment, and tend to disappear with tolerance following continuous use (BOX 2), it is obvious that cannabinoid-based therapies devoid of side effects would be desirable.

As the unwanted psychotropic effects of cannabinoids are mediated largely or entirely by CB_1 receptors in the brain, a first possibility would be to use cannabinoids that target CB_2 receptors. Selective CB_2-receptor activation in mice induces regression of gliomas[53] and skin carcinomas[61] and can also inhibit pain[84] in the absence of overt signs of psychoactivity. Certain cannabinoids that act through non-cannabinoid receptors — and are therefore devoid of psychoactivity — would also be useful in cancer therapy. These include cannabidiol, which inhibits glioma-cell growth *in vitro*[85,86], DEXANABINOL, of which the effect on tumour-cell growth has not yet been tested[71,87], and AJULEMIC ACID, which inhibits glioma-cell growth *in vitro* and *in vivo*[88] — the pharmacological properties of ajulemic acid are, however, controversial[88,89]. Alternatively, the design of cannabinoids that do not cross the blood–brain barrier might exert antitumour, pain-killing and appetite-stimulating effects without causing psychoactivity. Another strategy would be to manipulate the effects of endocannabinoids. Achieving high endocannabinoid levels in the location of the tumour by selectively inhibiting endocannabinoid degradation has proved successful in animal models, as drugs that block anandamide breakdown exert antitumour effects with little psychoactivity[90].

FIRST-PASS METABOLISM
Pre-systemic metabolism of a drug that limits its exposure to the body. For example, chemical or enzymatic breakdown of a drug in the gastrointestinal lumen or in the stomach, intestine or liver cells can greatly reduce the amount of drug that ends up in the bloodstream.

DEXANABINOL
(HU-211). A non-psychoactive synthetic derivative of tetrahydrocannabinol that blocks ionotropic glutamate receptors and has antioxidant and anti-inflammatory properties; it is now in Phase III clinical trials for the management of brain trauma.

AJULEMIC ACID
(CT3). A synthetic derivative of the tetrahydrocannabinol metabolite 11-carboxy-THC that inhibits pain and inflammation; it is entering Phase II clinical trials for the treatment of pain and spasticity in multiple sclerosis.

Cannabinoids are poorly soluble in water, which determines their pharmacokinetic behaviour, in particular their poor bioavailability when given orally, and has been one of the difficulties in formulating preparations of pure compounds for medicinal use and for finding appropriate routes of delivery (BOX 3). In the case of a possible application in cancer therapy, it is conceivable that administration of a low dose of cannabinoid directly to the target site would increase effectiveness and reduce adverse side effects. So, using water-soluble cannabinoids — such as O-1057 — might help to overcome some of the pharmacokinetic peculiarities of cannabinoids[5].

Combined therapies. Cannabinoids should also be tested in combination with other chemotherapeutic drugs or radiotherapy to establish whether they can enhance present drug treatments. So far, only two such studies have been carried out. In one study, γ-radiation was found to increase cannabinoid-induced leukaemic cell death[91]. However, in the second study synergism was not observed between cannabinoids and tamoxifen during the induction of glioma-cell death[85]. In any event, compounds that induce cell death through ceramide have proved useful in combined therapies[92]. For example, fenretinide (N-(4-hydroxyphenyl)retinamide) kills various types of tumour cell by enhancing ceramide synthesis, and this effect shows potent synergism with that of other compounds that raise intracellular ceramide levels[93]. So, the usefulness of cannabinoids in combination therapy is still unclear.

A pilot clinical trial. Glioblastoma multiforme, or grade IV astrocytoma, is the most frequent class of malignant primary brain tumour and is one of the most malignant forms of cancer. As a consequence, survival after diagnosis is normally just 6–8 months[94,95]. Present therapeutic strategies for the treatment of glioblastoma multiforme and other malignant brain tumours are usually inefficient and in most cases just palliative, and include surgery and radiotherapy. Some chemotherapeutic agents, such as temozolomide, carmustin, carboplatin and thalidomide have been tested and the most recent strategies for glioblastoma multiforme treatment are focused on gene therapy, but no trial carried out so far has been successful[94,95]. It is therefore essential to develop new therapeutic strategies for the management of glioblastoma multiforme, which will probably require a combination of therapies to obtain significant clinical results.

The Spanish Ministry of Health has recently approved a Phase I/II clinical trial, carried out in collaboration with the Tenerife University Hospital and my laboratory, aimed at investigating the effect of local administration of THC — as a single agent — on the growth of recurrent glioblastoma multiforme. This will be the first human study in which THC is administered intracranially through an infusion cannula connected to a subcutaneous reservoir. The clinical trial has just started, and it will be some time before the results can be determined. In the meantime, it is desirable that other trials —

on this and other types of tumours — are initiated to determine how cannabinoids can be used, other than for their palliative effects, to treat patients with cancer.

Implications and future directions

One must be cautious when envisaging the potential clinical use of new anticancer therapies. Despite the huge amount of literature on how tumour cells work, there has been no parallel advance in the clinical practice of chemotherapy, and many compounds that inhibit tumour-cell growth in culture and in laboratory animals turn out to be disappointingly ineffective and/or toxic when tested in patients. Regarding effectiveness, cannabinoids exert notable antitumour activity in animal models of cancer, but their possible antitumour effect in humans has not been established. Regarding toxicity, cannabinoids not only show a good safety profile but also have palliative effects in patients with cancer, indicating that clinical trials with cannabinoids in cancer therapy are feasible.

As with many other antitumour agents, further research on cannabinoids is required and the precise mechanism of cannabinoid antitumour action needs to be clarified in more detail. If we can better understand the intracellular signalling pathways that are involved in cannabinoid antitumour action, determine which intercellular factors and processes (for example, angiogenesis and metastasis) are modulated by cannabinoids in tumours and which tumours are sensitive or resistant to cannabinoids and why, we will be one step closer to understanding how these compounds can be used in a clinical setting. Preclinical studies in animal models should also be carried out to optimize administration routes, delivery schedules, new ligands and adjuvants for potential cannabinoid therapies. As cannabinoids are relatively safe compounds, it would be desirable that clinical trials using cannabinoids as a single drug or in combined anticancer therapies could accompany these laboratory studies to allow us to use these compounds in the treatment of cancer.

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Online links

DATABASES

The following terms in this article are linked online to:

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adenylyl cyclase | AKT | CB_1 | CB_2 | EGF | ERK | FAAH | FAN | interferon-γ | interleukin-12 | JNK | *KRAS* | matrix metalloproteinase-2 | NF-κB | NGF | NOS | p38 MAPK | PI3K | RAF1 | VEGF

FURTHER INFORMATION

British Medical Association (therapeutic uses of cannabis): http://www.bma.org.uk/ap.nsf/Content/Therapeutic+uses+of+cannabis+...%28m%29

GW Pharmaceuticals clinical trials: http://www.gwpharm.com

House of Lords Committee on Science and Technology (therapeutic uses of cannabis):
http://www.publications.parliament.uk/pa/ld200001/ldselect/ldsctech/50/5001.htm |
http://www.publications.parliament.uk/pa/ld199899/ldselect/ldsctech/39/3901.htm |
http://www.publications.parliament.uk/pa/ld199798/ldselect/ldsctech/151/15101.htm

International Cannabinoid Research Society: http://cannabinoidsociety.org

IUPHAR Receptor Database: http://iuphar-db.org/iuphar-rd/index.html

MRC multiple sclerosis clinical trial: http://www.cannabis-trial.plymouth.ac.uk

Pharmos (dexanabinol): http://www.pharmoscorp.com

RoMed (nabilone): http://www.rumed.com

Sanofi-Synthelabo (rimonabant): http://www.sanofi-synthelabo.com

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MARIJUANA AND ITS RECEPTOR PROTEIN IN BRAIN CONTROL EPILEPSY

VCU study is first to test anticonvulsant potential of marijuana and brain's cannabinoid system in animals with recurrent seizures

RICHMOND, Va. – Ingredients in marijuana and the cannabinoid receptor protein produced naturally in the body to regulate the central nervous system and other bodily functions play a critical role in controlling spontaneous seizures in epilepsy, according to a new study by researchers at Virginia Commonwealth University.

The study, the first to look at marijuana and the brain's cannabinoid system in live animals with spontaneous, recurrent seizures, suggests new avenues that researchers can explore in their search for more-effective drugs to treat epileptic patients who don't respond to today's anticonvulsant medications or surgery.

The results appear in the Oct. 1 issue of the Journal of Pharmacology and Experimental Therapeutics.

"Although marijuana is illegal in the United States, individuals both here and abroad report that marijuana has been therapeutic for them in the treatment of a variety of ailments, including epilepsy," says Dr. Robert J. DeLorenzo, professor of neurology in the VCU School of Medicine.

"But the psychoactive side effects of marijuana make its use impractical in the treatment of epilepsy," said DeLorenzo, who was the lead author on the article. "If we can understand how marijuana works to end seizures, we may be able to develop novel drugs that might do a better job of treating epileptic seizures."

Epilepsy is one of the most common neurological conditions, characterized by spontaneously recurrent seizures. Approximately 1 percent of Americans have epilepsy, and 30 percent of those patients are resistant to conventional anticonvulsant drug treatments. Cannabinoids have been used as a natural remedy for seizures for thousands of years, and studies since at least 1974 have found that the primary psychoactive compound in marijuana displays anticonvulsant properties.

DeLorenzo and his colleagues in the VCU Department of Neurology and the Department of Pharmacology and Toxicology have been studying the therapeutic effects of marijuana on epilepsy and other illnesses for more than a decade. They were the first three years ago to

show that cannabinoids work at controlling seizures by activating a protein known as the CB_1 receptor that is found in the memory-related area of the brain, the nervous system and other tissues and organs in the body. Research has shown that the CB_1 receptor is responsible for the psychoactive effects of marijuana. It also is responsible for controlling excitability and regulating relaxation.

The current study was designed to evaluate the role of the CB_1 receptor and function of the body's cannabinoid system in regulating seizures.

The team injected chronically epileptic rats with different combinations of six drugs: 1) an extract of marijuana, 2) two synthetic drugs that include the key psychoactive ingredients in marijuana, 3) the common anticonvulsant drugs Phenobarbital and phenytoin and 4) a drug to block the activation of the CB_1 receptor by cannabinoids in the brain. The marijuana extract and synthetic marijuana drugs completely eliminated the rats' seizures, which averaged three over a 10-hour period. The Phenobarbital and phenytoin failed to completely eliminate the seizures. Injection of the CB_1 antagonist significantly increased the both the duration and frequency of seizures, in some cases to a level consistent with a severe, prolonged form of epilepsy known as status epilepticus.

"This study indicates that cannabinoids may offer unique advantages in treating seizures compared with currently prescribed anticonvulsants," DeLorenzo said. "It shows not only the anticonvulsant activity of exogenously applied cannabinoids but also suggests that the brain's cannabinoid system works to limit seizure duration by activating the CB_1 receptor. Understanding the factors that contribute to seizure initiation and termination has important implications for our ability to treat epilepsy and for the potential development of novel anticonvulsant agents."

DeLorenzo's team is now assessing the dosage requirements and evaluating the long-term effects of using cannabinoids for epilepsy in animals.

EDITORS' NOTE: A copy of Dr. DeLorenzo's article is available in Word format via e-mail or fax. Please call VCU News Services at (804) 828-1231 for more information.

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# # #

Cannabinoids for treatment of spasticity and other symptoms related to multiple sclerosis (CAMS study): multicentre randomised placebo-controlled trial

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Summary
Introduction
Methods
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Summary

Background Multiple sclerosis is associated with muscle stiffness, spasms, pain, and tremor. Much anecdotal evidence suggests that cannabinoids could help these symptoms. Our aim was to test the notion that cannabinoids have a beneficial effect on spasticity and other symptoms related to multiple sclerosis.

Methods We did a randomised, placebo-controlled trial, to which we enrolled 667 patients with stable multiple sclerosis and muscle spasticity. 630 participants were treated at 33 UK centres with oral cannabis extract (n=211), Δ^9-tetrahydrocannabinol (Δ^9-THC; n=206), or placebo (n=213). Trial duration was 15 weeks. Our primary outcome measure was change in overall spasticity scores, using the Ashworth scale. Analysis was by intention to treat.

Findings 611 of 630 patients were followed up for the primary endpoint. We noted no treatment effect of cannabinoids on the primary outcome (p=0·40). The estimated difference in mean reductior in total Ashworth score for participants taking cannabis extract compared with placebo was 0·32 (95% CI -1·04 to 1·67), and for those taking Δ^9-THC versus placebo it was 0·94 (-0·44 to 2·31). There was evidence of a treatment effect on patient-reported spasticity and pain (p=0·003), with improvement in spasticity reported in 61% (n=121, 95% CI 54·6-68·2), 60% (n=108, 52·5-66·8), and 46% (n=91, 39·0-52·9) of participants on cannabis extract, Δ^9-THC, and placebo, respectively.

Interpretation Treatment with cannabinoids did not have a beneficial effect on spasticity when assessed with the Ashworth scale. However, though there was a degree of unmasking among the patients in the active treatment groups, objective improvement in mobility and patients' opinion of an improvement in pain suggest cannabinoids might be clinically useful.

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Introduction

Of the many symptoms encountered in multiple sclerosis, muscle spasticity (muscle stiffness as a result of increased pyramidal tone) and spasms occur in up to 90% of patients at some point. This symptom often leads to considerable distress from pain, reduced mobility, and interference with activities of daily living. Other disabling features of the disease include ataxia and tremor in up to 80% of patients, and sensory symptoms, including pain, in up to 50%.[1] Lower urinary tract dysfunction is present in more than 90% of people with long-standing multiple sclerosis,[2] with the most frequent symptoms being urinary frequency and urgency.[3] Although many symptoms resolve in the remitting phase of multiple sclerosis, spasticity, weakness, ataxia, and bladder symptoms are often characteristic of progressive disease and tend to worsen over time.

Symptomatic therapy often provides inadequate relief and can be limited by toxicity. As a consequence, people with multiple sclerosis have experimented with many alternative therapies, including cannabis, to ease their physical problems.[4,5] There is much anecdotal suggestion that cannabis and its major components, the cannabinoids, have beneficial effects on disease-related pain, bladder symptoms, tremor, and particularly spasticity,[6] but little scientific evidence exists for their efficacy. There is widespread unlicensed and often illegal use of cannabinoids in multiple sclerosis, involving various formulations and routes of administration, and estimates suggest[7] that between 1% and 4% of patients in the UK use cannabis for symptom relief.

The plant *Cannabis sativa* is complex and has more than 60 oxygen-containing aromatic hydrocarbon compounds, known as cannabinoids. Most of their effects seem to be mediated through cannabinoid receptors, two types of which have been isolated and cloned: CB_1[8] and CB_2.[9] CB_1 receptors are distributed widely in the nervous system, and seem to have a general role in the inhibition of neurotransmitter release, whereas CB_2 receptors are mainly found on cells of the immune system. The identification of a range of endogenous cannabinoids, the most important of which are thought to be 2-arachidonoylglycerol and arachidonoylethanolamide (anandamide),[10] has also provoked considerable interest, and there is some evidence[11,12] that cannabinoids have a neuroprotective action.

Four small, randomised, double-blind, placebo-controlled studies[13-16] have been undertaken to assess the effect of cannabinoids on spasticity related to multiple sclerosis, the largest of which[16] was a crossover study of 16 patients. The results suggest that cannabinoids produce subjective symptomatic improvement, but provide no objective evidence for efficacy. Our aim was to ascertain whether either Δ^9-tetrahydrocannabinol (Δ^9-THC) or an ethanol extract of whole cannabis is effective for the treatment of spasticity and a range of other disease-related symptoms in patients with multiple sclerosis.

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Methods

Patients

Between December, 2000, and October, 2002, we enrolled patients aged 18-64 years with clinically definite or laboratory-supported multiple sclerosis who, in the opinion of the treating doctor, had had stable disease for the previous 6 months, with problematic spasticity (Ashworth score of ≥ 2 in two or more lower limb muscle groups). Since cannabinoids can potentially affect cardiac function (reducing heart rate and blood pressure), the exclusion criterion of ischaemic heart disease and the upper age limit were imposed. Furthermore, we made every attempt to stabilise factors that affect spasticity, so any physiotherapy regimen or medication likely to affect spasticity was optimised before the study and not altered in the 30 days before start of treatment. Patients with active

sources of infection, or taking medication such as beta interferon, which could affect spasticity, were excluded, and we asked individuals not to have any immunisations associated with foreign travel over the 15 weeks of the study. Patients were also asked not to drive while they were receiving medication and, if unable to comply, were excluded. Other exclusion criteria included fixed-tendon contractures, severe cognitive impairment, past history of psychotic illness, major illness in another body area, pregnancy, use of Δ^9-THC at any time, and use of cannabis in the 30 days before the start of the study.

We recruited participants from 33 neurology and rehabilitation centres in the UK. We undertook the study on an out-patient basis, with each patient attending eight clinic visits over 15 weeks, including two pre-treatment visits (visits 1 and 2; see webtable 1 at http://image.thelancet.com/extras/03art9446webtable1.pdf for visit schedule). Potentially suitable patients were identified by the local investigator, referred by other clinicians, or self-referred as a result of publicity about the study. Prospective patients were invited to attend for screening 2-4 weeks before start of therapy. We reassessed individuals with respect to inclusion and exclusion criteria before trial treatment began. Patients who did not fulfil the criteria at either of the pre-treatment visits were excluded from the trial.

The study was approved by the South West multicentre research ethics committee and was undertaken under licence from the UK Home Office. All participants provided written informed consent.

Procedures

We randomly assigned patients to receive one of two active treatments or placebo at visit 2, using MINIM (version 1.5).[17] Participants were allocated in a two-to-one-to-two-to-one ratio at trial entry to cannabis extract, cannabis extract placebo, Δ^9-THC, or Δ^9-THC placebo. Patients were randomly assigned by adaptive randomisation to minimise imbalance between centres and ambulatory status (defined as able to walk at least 15 m).[18,19] Once written informed consent had been obtained from an eligible patient, the investigator contacted the coordinating centre by telephone. The coordinating centre allocated the patient a trial number and then forwarded relevant details to the central trial pharmacy, where randomisation took place, using a dedicated stand-alone computer. The appropriate medication was dispatched directly to the centre. Throughout the study, the list of treatment allocation codes was kept at the central trial pharmacy, located separately from the coordinating office.

We were unable to make the active treatments look identical, so each had its own matched placebo. Matching of active and placebo capsules was assessed by an independent panel before the start of the study to ensure there was no obvious difference between them. Active treatment consisted of either synthetic Δ^9-THC (Marinol, Solvay Pharmaceuticals, Atlanta, USA) or a cannabis extract, containing Δ^9-THC and cannabidiol as the main cannabinoids (Cannador, Institute for Clinical Research, IKF, Berlin, Germany). Capsules were manufactured to contain 2·5 mg of Δ^9-THC equivalent, 1·25 mg of cannabidiol, and less than 5% other cannabinoids per capsule. Independent capsule analysis was undertaken to assess concentrations of Δ^9-THC and cannabidiol at various time points over the course of the study. Results showed Δ^9-THC concentrations varied within 2% of 2·5 mg per capsule over 9 months, with similar low degrees of variation in mean cannabidiol concentrations. Placebo capsules contained the respective vegetable oil vehicle. Dose of study medication was based on bodyweight, with a maximum possible dose of 25 mg daily (table 1). Medication was taken twice daily, after food. All other medication was taken as usual, except other oil-based capsules—eg, evening primrose oil—which we asked patients to take separately from trial medication to avoid possible interference with absorption.

	Bodyweight			
	30-49 kg	50-69 kg	70-89 kg	>89 kg
Daily target dose (number of capsules)	4	6	8	10

Cannabis extract	16 (2·34 [1·44])	87 (4·78 [1·78])	78 (5·79 [2·33])	30 (7·99 [2·86])
Δ^9-THC	13 (3·22 [1·12])	80 (4·58 [1·80])	84 (6·30 [2·10])	28 (6·56 [3·27])
Placebo	14 (3·57 [1·24])	94 (5·21 [1·46])	75 (7·11 [1·89])	31 (8·47 [2·23])

Data are number of patients (mean [SD] dose received) unless otherwise indicated.

Table 1: **Dose of study medication**

The study started with a 5-week dose titration phase (visits 3 and 4) because of the well recognised considerable interindividual variation in the tolerated dose with oral administration of cannabinoids. During this period, we asked patients to increase their dose by one capsule (2·5 mg Δ^9-THC equivalent) twice daily at weekly intervals. If side-effects developed, patients were advised not to increase the dose, and if side-effects were considered intolerable, the dose was reduced. Weeks 6-13 constituted a plateau phase, during which participants remained on a stable dose of medication (visits 5, 6, and 7). During week 14, patients reduced their medication by one capsule twice daily each day until they were off study medication. Patients remained off trial medication during week 15, and a final assessment was undertaken at the end of this week (visit 8).

Patients were scheduled to attend clinic visits at the same time of day wherever possible to reduce the effect of any diurnal variation in spasticity. If rescheduling of visits was needed for any reason, arrangements were made for patients to attend within 1 day of the scheduled visit date if possible. To detect any illicit cannabis use, urine samples were collected at visits 2, 5, 6, and 8 and assayed for cannabinoids at a central laboratory by ELISA. Blood samples for cannabinoid assay, using gas chromatography and mass spectrometry, were collected at baseline and all subsequent visits from about 150 patients at the two largest centres, for convenience (unpublished data). To maintain blinding at the coordinating centre in Plymouth, all blood and urine results were held at an independent site (MRC Clinical Trials Unit, London) until statistical analysis began.

Our primary outcome measure was the change in spasticity related to multiple sclerosis, using the Ashworth score of spasticity.[20] Assessment of the Ashworth score was made at six visits: two pre-treatment (visits 1 and 2), three whilst on treatment (visits 5, 6, and 7), and one after discontinuation of treatment (visit 8). The Ashworth score is an assessment of biological impairment, rather than disability or handicap, and is dependent on the estimation of the doctor or physiotherapist. The score consists of a 5-point scale (0=normal, 1=slight catch when the limb is moved, 2=anything more than a catch but not restricting movement, 3=considerable increase in tone limiting passive flexion, 4=limb rigidity in flexion or extension). We assessed ten muscle groups on each side of the body (elbow flexors, extensors, pronators and supinators; wrist and finger flexors; hip adductors, knee flexors and extensors, and foot plantar flexors). The reliability of the Ashworth score depends on assessor experience, thus we made every effort to ensure that the same assessor monitored spasticity in individual patients at all visits. Assessors attended one of six regional training sessions or received individual instruction to ensure uniformity in application of the Ashworth score. We provided all centres with a training video demonstrating the Ashworth assessment. Each patient was assessed supine on a couch, or as close to this position as was tolerated, after resting for 15 min. The limb was moved rapidly in the direction required by assessment. As spasticity can change with passive limb movement, the number of movements of each joint was kept to a minimum. After a muscle spasm, the Ashworth score can increase greatly for some minutes, we therefore asked assessors to wait for 5 min after a spasm before reassessing that limb. The presence of more than seven beats of clonus on examining a joint was taken as implying at least grade 2 spasticity.

Secondary outcome measures included the Rivermead mobility index,[21] a timed 10 m walk, and four self-completion questionnaires–the United Kingdom neurological disability score (UKNDS),[22] the Barthel index,[23] the general health questionnaire (GHQ-30),[24] and a series of nine category-rating scales. The Rivermead mobility index and timed walk were assessed at the same six time points as the Ashworth score. The UKNDS, Barthel index, and GHQ-30 were administered once pre-treatment (before visit 2) and once at the end of the treatment phase (before visit 7). The category rating scales were administered at the end of the treatment phase only. For this assessment, we asked patients to assess how their symptoms had been over the previous week

compared with how they were just before the study started. Categories included irritability, depression, tiredness, muscle stiffness, tremor, pain, sleep, muscle spasms, and amount of energy. At the end of the 15 weeks (visit 8), the treating doctor also asked participants four specific questions about the overall effect of medication on changes in spasticity, tremor, pain, and bladder function. We calculated the Kurtzke expanded disability status score (EDSS)[25] before and after treatment to provide a widely accepted measure of overall degree of disability in the trial population.

The study coordinating team, all investigators, the data monitoring committee, and patients were unaware of the treatment allocation for the duration of the study. Because of the potential for loss of patient blinding with active medication, a treating doctor and an assessor had to be present at each centre, plus deputies to cover for absence. The treating doctor monitored dose, side-effects, and patients' well-being, and the assessor (usually a physiotherapist) ascertained the Ashworth score, timed the 10 m walk, and administered the Rivermead mobility index. Assessors remained unaware of any discussion of dose or side-effects and, when assessing patients' spasticity, were asked not to have access to their assessment scores from previous visits. We assessed degree of blinding at the end of the study (visit 8) by asking patients and study personnel which treatment they thought patients had received. Because it was not possible to match all capsules in the study, some patients might have guessed that they were on either the Δ^9-THC placebo or the cannabis-extract placebo, which is why the exclusion criterion of previous exposure to Δ^9-THC was included. We felt the degree of unmasking and bias from this cause was likely to be small compared with any unmasking as a result of side-effects.

Our study was undertaken under a Doctors and Dentists Exemption Certificate from the UK Medicines Control Agency. A pilot study was done in Plymouth on a cohort of 24 patients to test the procedures and to monitor closely any adverse events. During the dose titration phase of the pilot study, patients were contacted by the Plymouth coordinating centre by telephone every 3 days, and an extensive checklist of questions with respect to adverse events was administered. In all other centres, standard adverse-event monitoring took place at each visit with classification according to International Conference on Harmonisation good clinical practice definitions. The coordinating centre in Plymouth was notified of any serious adverse events immediately; data were then forwarded to the data monitoring and ethics committee. For the purposes of this study, any hospital admission was regarded as a serious adverse event, even if it was related to multiple sclerosis and not necessarily unexpected.

Statistical analysis

To identify an appropriate sample size, we based our power calculations on the assumption that the standard approach of using total Ashworth score as the primary endpoint to measure spasticity would be adopted. A double-blind, placebo-controlled UK trial of the antispasticity agent tizanidine[26] reported a baseline Ashworth score with a mean of about 17. The placebo group showed a decrease in Ashworth score of 1·2 whereas the treatment group showed a decrease of 4·4. The power calculations for our study assumed that the combined placebo group, the cannabis extract group, and the Δ^9-THC group would have mean decreases of 1·2, 4·4, and 2·8, respectively (corresponding to placebo, tizanidine, and the mean of placebo and tizanidine). A rate of 3% of illegal use of cannabis was assumed in the placebo and Δ^9-THC groups with a loss to follow-up rate of 20%, distributed evenly across the three groups.

With these assumptions, recruitment of 220 patients in each group provided 90% power to detect a significant difference at the 5% level in the one-way ANOVA, assuming an SD of 8 for the change in Ashworth score.[27] This calculation assumed there was no difference between placebo groups and that it was valid to combine them. This assumption was validated before the placebo groups were combined. No interim analysis was planned or done.

To minimise data-entry errors, we used a double data-entry system. All decisions with respect to primary outcome data were finalised and agreed by a blind data review panel before unblinding. We used S-Plus 2000 Professional and SAS version 8e software for analysis. Data analysis was by intention to treat and was undertaken in accordance with an analysis plan drawn up and agreed by the trial steering committee before unblinding. We judged a p value of 0·05 significant.

As planned, we compared the cannabis extract placebo and Δ^9-THC placebo groups in terms of changes in Ashworth scores, Rivermead mobility index, and walk times. Since no evidence of any differences was noted between placebo groups, they were combined into a single placebo group for all further analyses. The primary outcome, mean change from baseline in Ashworth score, was then compared, using analysis of variance, with treatments as fixed effects. We also added centres and ambulatory status to the model.

The analysis of times taken to complete a 10 m walk for mobile patients is complicated by the absence of data from patients who were physically unable to walk at one or other assessment. Initial analysis of these data suggested the effects were relative rather than additive and that a log-transformed ratio of walk time (baseline/follow-up) was appropriate. For patients who were ambulatory at baseline but unable to walk at follow-up, we assumed a suitably small value for the log ratio representing longer walk time at follow-up, so that patients who were unable to walk at follow-up had the lowest rank. We analysed data with the Kruskal-Wallis test and used non-parametric methods to produce 95% CIs for the median.

The Rivermead mobility index, UKNDS, Barthel index, and GHQ-30 were each analysed with non-parametric analysis of variance to compare the groups. We analysed patients' perception questions and category rating scales with contingency table analysis. No adjustments were made for multiple comparisons.

Two substudies were incorporated into the main CAMS programme. These focused specifically on lower urinary tract symptoms (CAMS-LUTS) and psychological effects of cannabinoids (CAMS-PEC). The results from both studies will be published separately.

Role of the funding source

The sponsors of the study had no role in study design, data collection, data analysis, data interpretation, or writing of the report.

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Results

Figure 1 shows the trial profile. Of the 630 patients included in the intention-to-treat analysis, follow-up data on the primary outcome was obtained for 611 (97%). Completion and return of data for the secondary outcome measures was also generally high, with data available for analysis from 84-91% of patients, including for the four questions posed at the end of study.

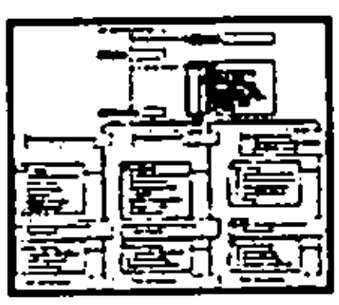
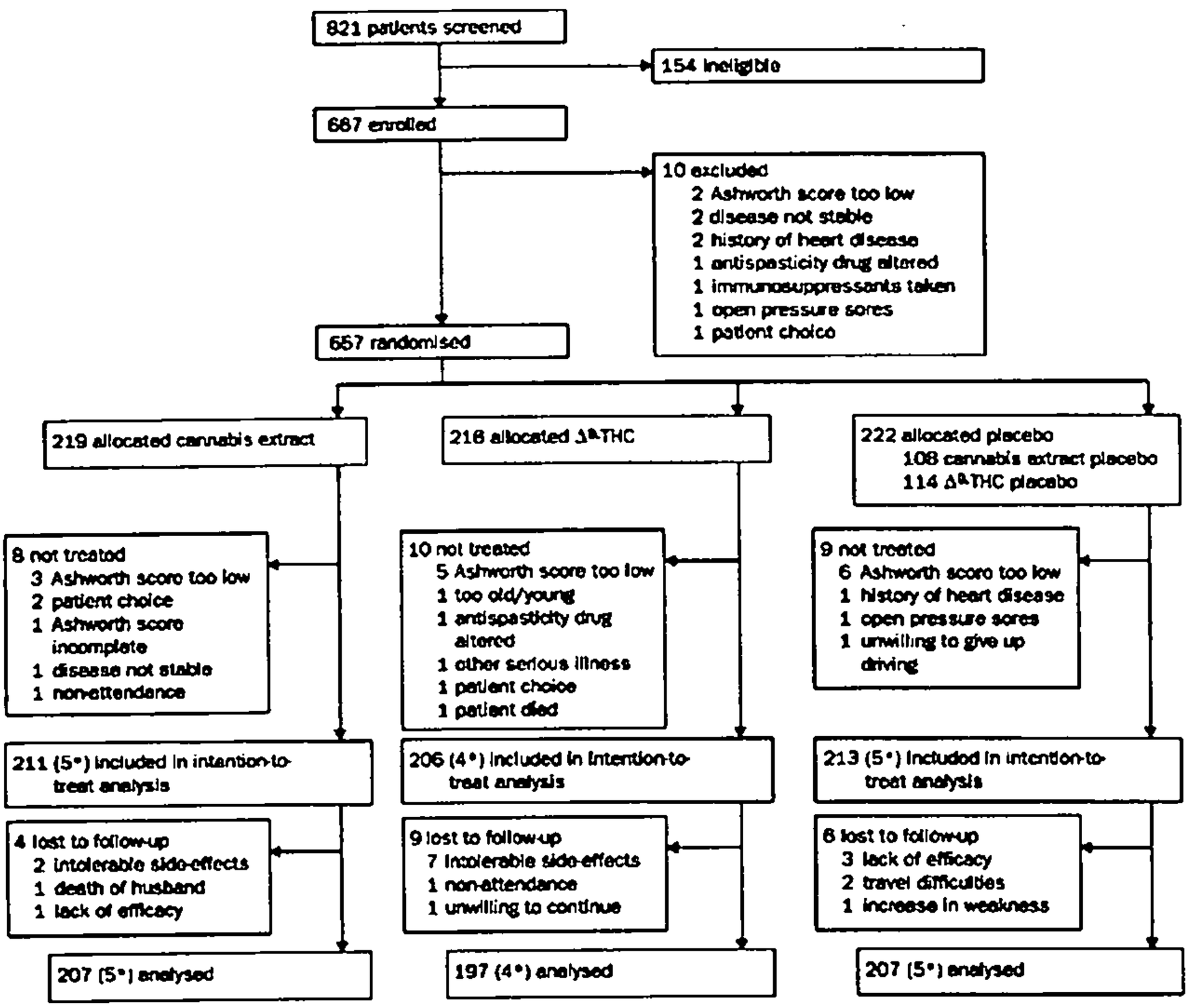


Figure 1: **Trial profile**

*Patients with low Ashworth score already started on treatment.

Table 2 shows the baseline characteristics of the participants. Patients' demographics in the intention-to-treat sample were matched across the different treatment groups except that proportionately fewer patients with relapsing/remitting multiple sclerosis were allocated to cannabis extract than to the other treatment groups. Since relapsing/remitting multiple sclerosis represents only 5% of the total sample, however, this imbalance is unlikely to have greatly affected our results.

	Treatment group


821 patients screened
154 ineligible
667 enrolled
10 excluded
2 Ashworth score too low
2 disease not stable
2 history of heart disease
1 antispasticity drug altered
1 immunosuppressants taken
1 open pressure sores
1 patient choice
657 randomised
219 allocated cannabis extract
218 allocated Δ⁹THC
222 allocated placebo
108 cannabis extract placebo
114 Δ⁹THC placebo
8 not treated
3 Ashworth score too low
2 patient choice
1 Ashworth score incomplete
1 disease not stable
1 non-attendance
10 not treated
5 Ashworth score too low
1 too old/young
1 antispasticity drug altered
1 other serious illness
1 patient choice
1 patient died
9 not treated
6 Ashworth score too low
1 history of heart disease
1 open pressure sores
1 unwilling to give up driving
211 (5*) included in intention-to-treat analysis
206 (4*) included in intention-to-treat analysis
213 (5*) included in intention-to-treat analysis
4 lost to follow-up
2 intolerable side-effects
1 death of husband
1 lack of efficacy
9 lost to follow-up
7 intolerable side-effects
1 non-attendance
1 unwilling to continue
6 lost to follow-up
3 lack of efficacy
2 travel difficulties
1 increase in weakness
207 (5*) analysed
197 (4*) analysed
207 (5*) analysed

	Cannabis extract (n=211)		Δ^9-THC (n=206)		Placebo (n=213)	
	Number of patients	Mean (SD)/% of group	Number of patients	Mean (SD)/% of group	Number of patients	Mean (SD)/% of group
Sex						
Male (n=217)	76	..	63	..	78	..
Female (n=413)	135	..	143	..	135	..
Age (years) (n=630)	211	50·5 (7·6)	206	50·2 (8·2)	213	50·9 (7·6)
Height (cm) (n=624)	209	167·5 (9·3)	205	167·9 (9·8)	210	168·0 (10·4)
Weight (kg) (n=630)	211	71·7 (15·9)	206	71·2 (16·5)	213	71·6 (15·9)
Body-mass index (kg/m^2) (n=624)	209	25·6 (5·6)	205	25·2 (5·2)	210	25·4 (5·1)
Mean baseline Ashworth						
Upper-body muscles (n=629)	211	5·0 (4·8)	206	5·9 (5·6)	212	5·4 (4·9)
Lower-body muscles (n=630)	211	16·8 (6·0)	206	16·7 (6·6)	213	16·1 (5·8)
All muscle groups (n=630)	211	21·8 (8·7)	206	22·6 (10·1)	213	21·4 (8·5)
Form of multiple sclerosis						
Relapsing/remitting (n=33)	6	3%	14	7%	13	6%
Primary progressive (n=145)	53	25%	43	21%	49	23%
Secondary progressive (n=452)	152	72%	149	72%	151	71%
Ambulatory status						
Able to walk with or without aid (n=303)	103	49%	95	46%	105	49%
Unable to walk (n=327)	108	51%	111	54%	108	51%
EDSS						
0-3·5 (n=3)	0	0%	1	0·5%	2	1%
4-5·5 (n=23)	6	3%	9	4%	8	4%
6-6·5 (n=299)	104	49%	94	46%	101	47%
7-9 (n=299)	99	47%	99	48%	101	47%
Missing (n=6)	2	1%	3	1·5%	1%	1%

Table 2: **Baseline characterisics**

With respect to analysis of Ashworth scores, 81% (n=513) of patients had the same assessor throughout or had a different assessor at just one visit (cannabis extract 82% [n=173], Δ^9-THC 82% [n=168], placebo 81% [n=172]). The primary outcome was defined as the change from baseline (mean of two baseline pre-treatment visits) to the end of the 13-week treatment period (visit 7). In accordance with the protocol, missing Ashworth scores at visit 7 were replaced by carrying forward the most recent Ashworth score available during the treatment phase. 39 scores were carried forward; 28 from visit 6 and 11 from visit 5, distributed across treatments (12 cannabis extract, 17 Δ^9-THC, ten placebo). Primary outcome data were not available for 46 patients originally randomised (12 cannabis extract, 19 Δ^9-THC, 15 placebo). There was no evidence of an effect of treatment on change in total Ashworth score from baseline to 13 weeks' follow-up (p=0·29 with adjustment for ambulatory status and centre, p=0·40 without adjustment). Mean (SD) changes in total Ashworth scores (baseline minus follow-up) were 1·24 (6·60), 1·86 (7·95), and 0·92 (6·56)

for cannabis extract, Δ^9-THC, and placebo, respectively. Corresponding figures for upper-body muscle groups were -0·05 (4·11), 0·48 (4·70), and -0·11 (4·04), and for lower-body muscle groups were 1·29 (4·37), 1·39 (5·21), and 1·04 (4·20). Figure 2 shows estimates (95% CI) for the treatment effect adjusted for centre and for ambulatory status; with both active treatments there is a small (less than 3 points) though insignificant improvement over placebo.

Figure 2: **Changes in Ashworth scores from baseline to 13 weeks' follow-up, adjusted for ambulatory status and centre effects**

Estimates (95% CI) shown for lower-body, upper-body, and total scores

There was no evidence of a treatment effect on changes in lower-body (adjusted for centre and ambulatory status p=0·71, unadjusted p=0·74) or upper-body (p=0·20 and p=0·31) components of the Ashworth score, and no evidence of any interaction effect between centre and treatment, between ambulatory status and treatment, or between baseline Ashworth score and treatment.

Both centre (p<0·0001) and ambulatory status (p=0·002) had a significant effect on change in Ashworth score (figure 3). The estimated mean reduction in total Ashworth score for ambulatory patients relative to non-ambulatory patients was 1·78 adjusted for treatment and centre (95% CI 0·6-2·9). There was an improvement in the mean scores with treatment, occurring in all treatment groups, including placebo (figure 4).

Figure 3: **Effect of ambulation on Ashworth scores by treatment group**

Mean (95% CI) for reduction in lower-body, upper-body, and total scores.

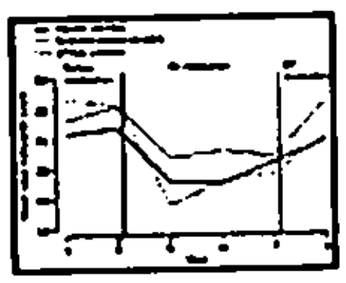


Figure 4: **Changes in Ashworth scores by visit and treatment group**

Mean (95% CI) for reduction in lower-body, upper-body, and total scores. Only cases in which observations on all muscles were available at all visits are included.

With respect to secondary outcome measures, 322 patients provided at least one baseline walk time. Of these, seven (one cannabis extract, three Δ^9-THC, three placebo) dropped out of the trial. Walk times were obtained from 278 patients at visit 7. 20 patients were unable to walk (eight cannabis extract, five Δ^9-THC, seven placebo) and very large walk times were substituted for these individuals. If patients forgot their walking aids at visit 7, walk times were carried forward from visit 6 (four patients) or visit 5 (one patient). Follow-up walk data for visits 5, 6, and 7 were missing for 12 patients. There was a significant treatment effect on walk time from baseline to visit 7 (p=0·015). The median time taken to walk 10 m was reduced from baseline to follow-up by 12% with Δ^9-THC (95% CI 6-21) compared with a reduction with cannabis extract of 4% (0-10) and placebo of 4% (-2 to 7). Figure 5 shows the median walk time by visit and treatment group for patients who provided walk-time information at all six assessor visits.

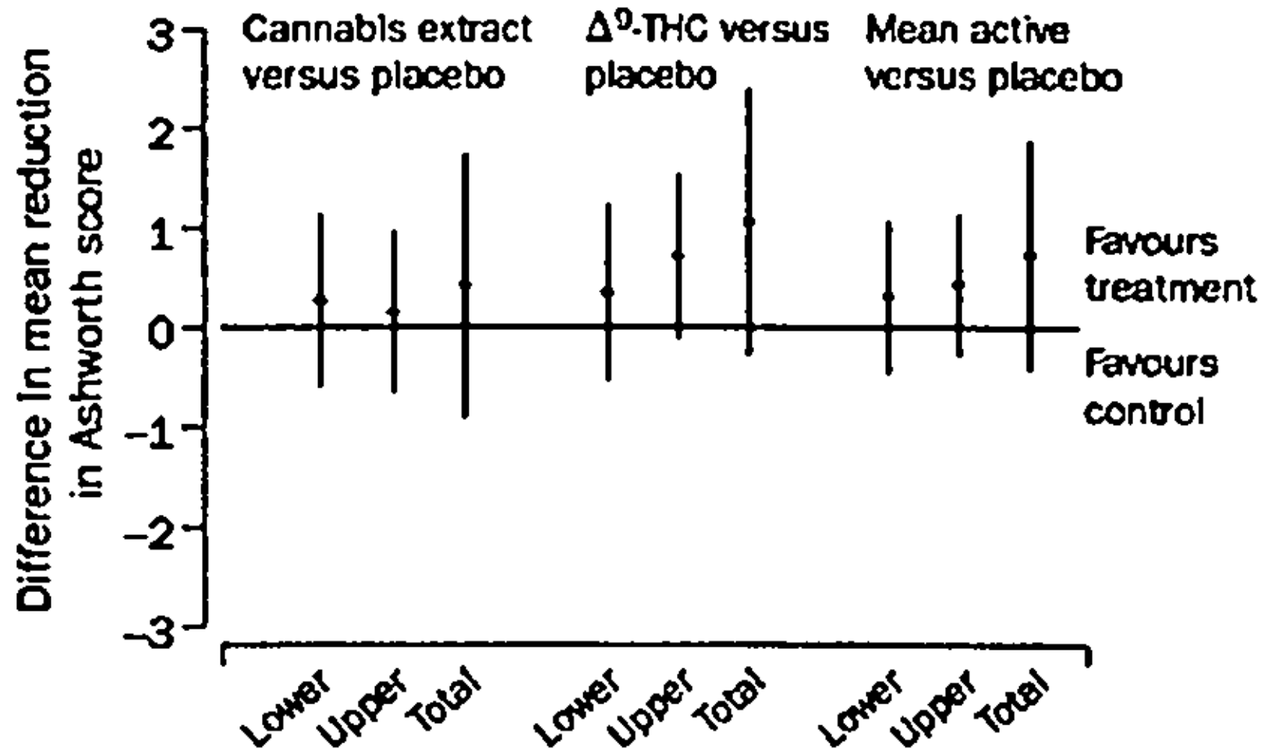


Figure 2: Changes in Ashworth scores from baseline to 13 weeks' follow-up, adjusted for ambulatory status and centre effects

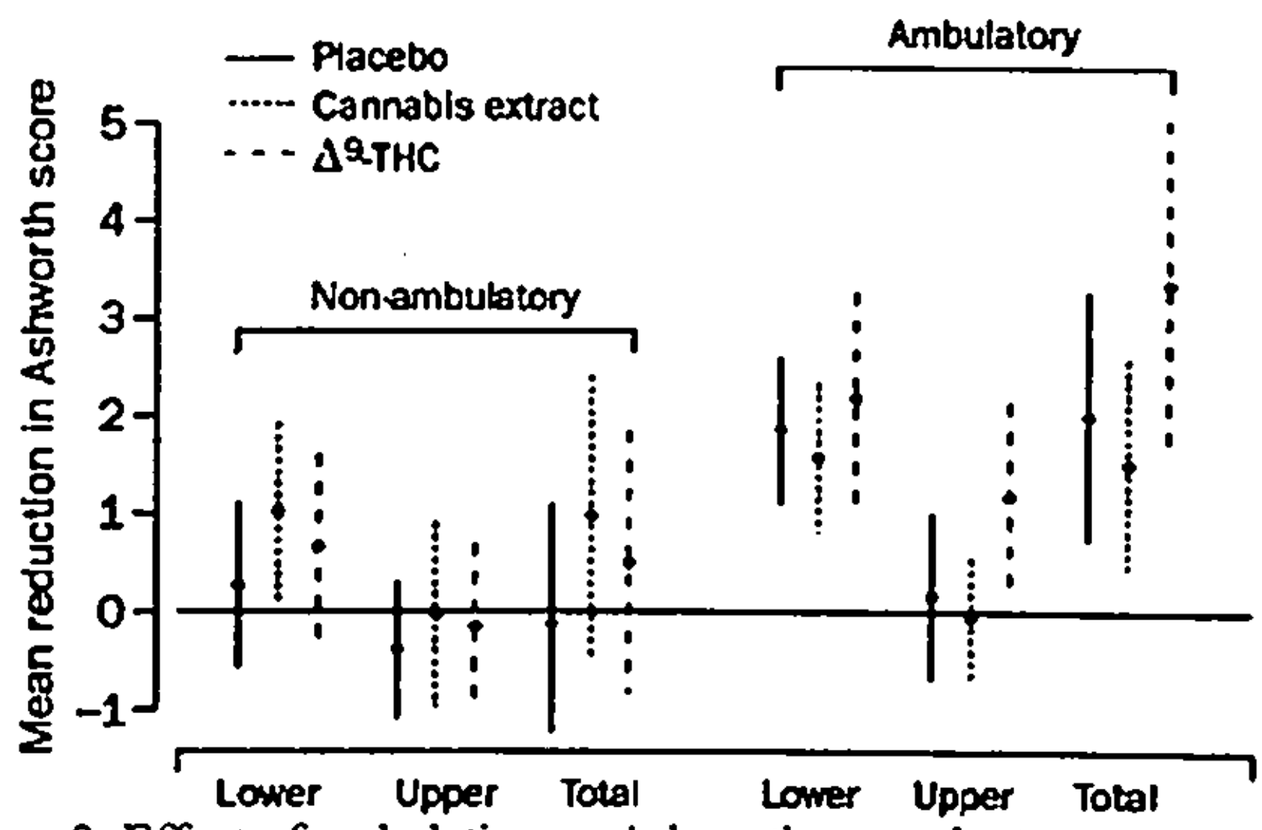


Figure 3: Effect of ambulation on Ashworth scores by treatment group

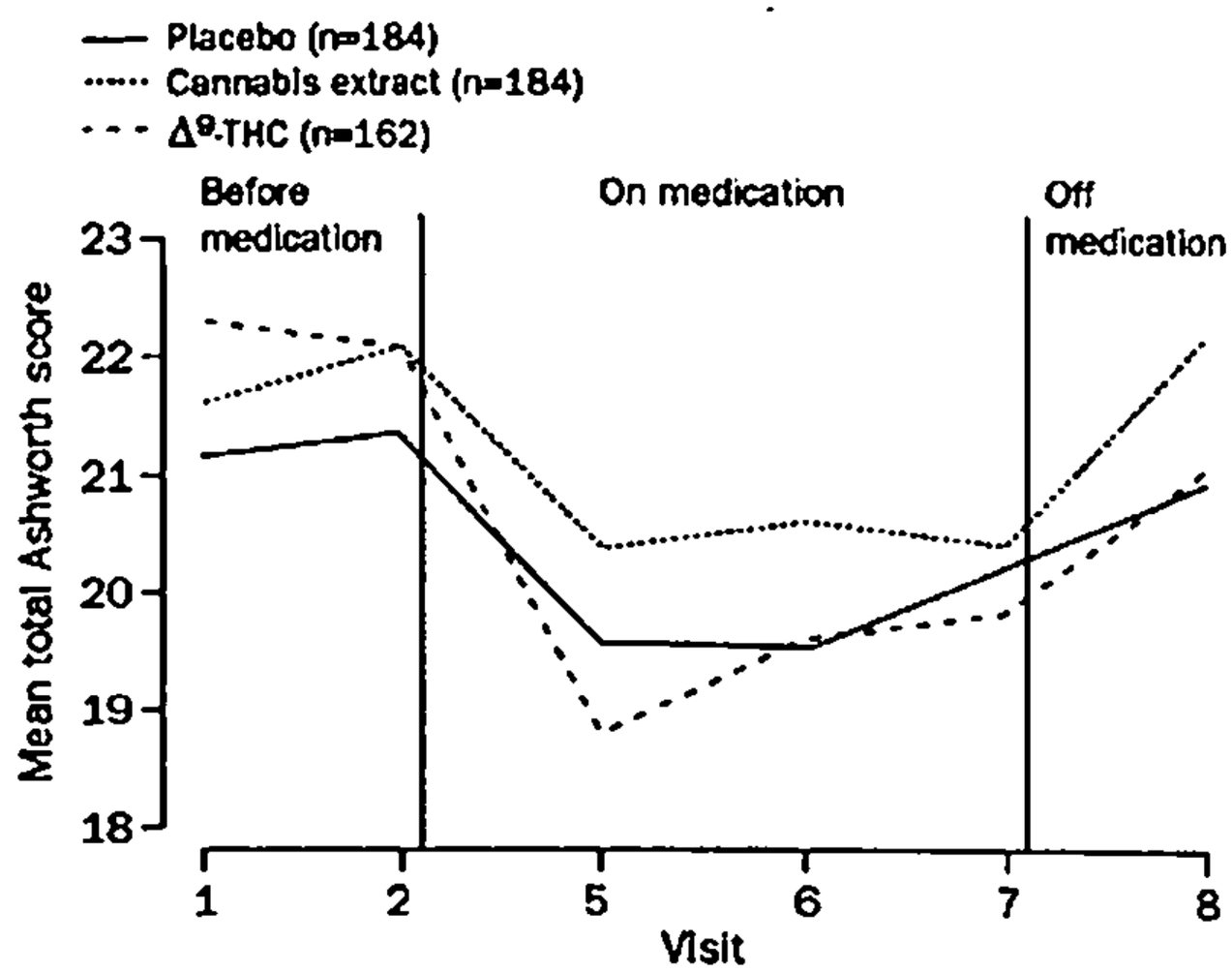
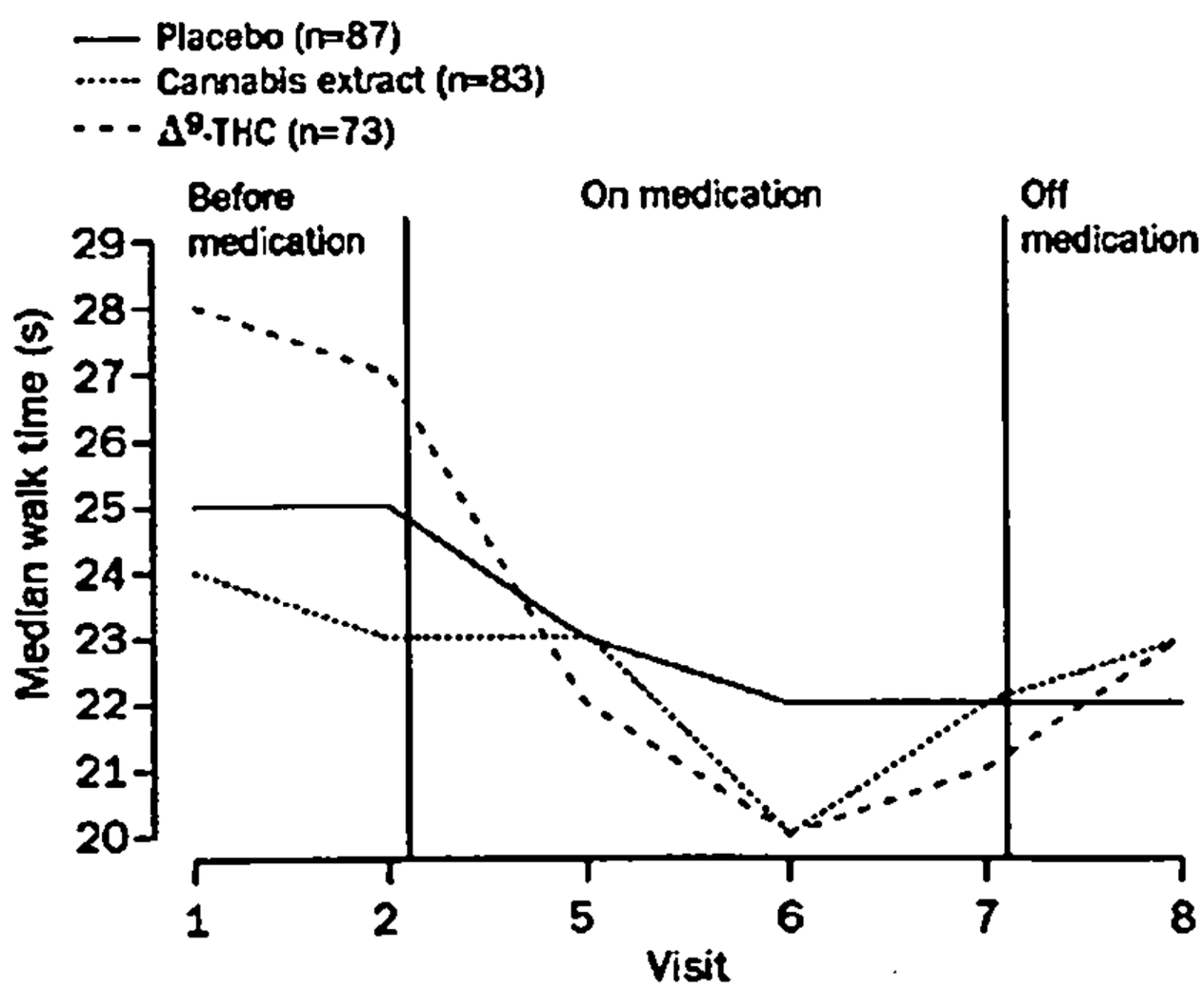


Figure 4: Changes in Ashworth scores by visit and treatment group



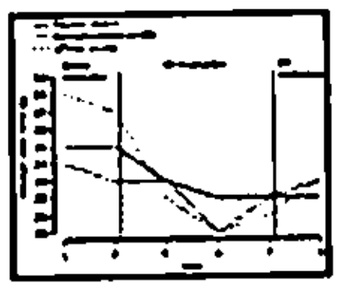


Figure 5: **Median 10 m walk times by visit and treatment group**

Only cases in which patients were ambulatory at baseline and walk information was available at all six visits included. In cases where patient was physically unable to walk a suitably large value was substituted.

We used category rating scales to assess whether patients felt their symptoms had improved while on treatment relative to before start of treatment, with the rating scale only being completed if patients were affected by that particular symptom. Patients felt that symptoms of pain, sleep quality, spasms, and spasticity had improved while on active treatment, though no effect was noted with respect to irritability, depression, tiredness, tremor, or energy (table 3).

	Response									p*
	Improvement			Same			Deterioration			
	Cannabis extract	Δ^9-THC	Placebo	Cannabis extract	Δ^9-THC	Placebo	Cannabis extract	Δ^9-THC	Placebo	
Irritability (n=346)	46 (39%)	37 (33%)	31 (26%)	42 (36%)	42 (38%)	63 (54%)	30 (25%)	32 (29%)	23 (20%)	0·619
Depression (n=382)	43 (36%)	36 (29%)	38 (28%)	44 (37%)	47 (38%)	64 (47%)	33 (28%)	42 (34%)	35 (26%)	0·298
Tiredness (n=490)	46 (28%)	35 (22%)	37 (22%)	51 (31%)	46 (29%)	79 (47%)	68 (41%)	76 (48%)	52 (31%)	0·068
Spasticity (n=543)	95 (52%)	89 (51%)	67 (37%)	43 (23%)	40 (23%)	52 (28%)	46 (25%)	47 (27%)	64 (35%)	0·010
Shake/tremor (n=391)	49 (38%)	52 (41%)	45 (33%)	48 (38%)	44 (34%)	53 (39%)	31 (24%)	32 (25%)	37 (27%)	0·398
Pain (n=419)	68 (46%)	64 (50%)	42 (30%)	48 (32%)	43 (33%)	58 (41%)	32 (22%)	22 (17%)	42 (30%)	0·002
Sleep (n=479)	82 (50%)	71 (47%)	59 (36%)	62 (38%)	57 (38%)	79 (48%)	20 (12%)	24 (16%)	25 (15%)	0·025
Spasms (n=520)	96 (53%)	81 (49%)	67 (39%)	50 (28%)	49 (29%)	68 (39%)	34 (19%)	37 (22%)	38 (22%)	0·038
Energy (n=540)	61 (33%)	61 (35%)	45 (24%)	73 (40%)	63 (36%)	78 (42%)	49 (27%)	49 (28%)	61 (33%)	0·140

Data are number (% of treatment group). *Obtained by comparing three treatment groups on original 11-point rating scale.

Table 3: **Responses to category rating scales**

There was no evidence of a treatment effect in any of the other secondary outcome measures (Rivermead mobility index, Barthel index, GHQ-30, and UKNDS; see webtable 2 at http://image.thelancet.com/extras/ 03art9446webtable2.pdf for raw data). For all measures except the Rivermead mobility index (where the baseline represented the mean of visits 1 and 2), the comparison between treatments was for the change from visit 2 (before treatment) to visit 7 (end of 13 week period on treatment).

At visit 8 (post-treatment) the treating doctor asked the patient specific questions about whether treatment had improved pain, tremor, spasticity, or bladder symptoms. Table 4 shows the patients'

responses to these questions. More patients perceived an improvement in spasticity and pain when taking the active treatments than when taking placebo. Difference in perception of improvement in tremor was not significant and no treatment effect on bladder symptoms was identified. Although there was no stratification for these specific symptoms between groups, the groups were broadly balanced for these symptoms apart from bladder symptoms, where there were fewer patients with urinary symptoms in the group taking Δ^9-THC.

	Treatment group			**p**
	Cannabis extract (n=197)	Δ^9-THC (n=181)	Placebo (n=198)	
Symptom improvement				
Bladder				0·149
Yes	68 (44%)	67 (40%)	51 (33%)	
No	87 (56%)	97 (59%)	102 (67%)	
Pain				0·003
Yes	83 (57%)	64 (50%)	51 (37%)	
No	63 (43%)	64 (50%)	86 (63%)	
Tremor				0·052
Yes	58 (48%)	44 (40%)	43 (33%)	
No	64 (52%)	67 (60%)	89 (67%)	
Spasticity				0·003
Yes	121 (61%)	108 (60%)	91 (46%)	
No	76 (39%)	73 (40%)	107 (54%)	

Data are number (% of particular symptom within group). Not all patients responded to questions, particularly if that symptom was not a major problem for them.

Table 4: **Assessment of treatment benefit at visit 8**

There was a significant association between the actual treatment and the treating doctors' assessment of whether the patient was on active treatment (p<0·001). According to the treating doctors' assessment, 71% (n=140) of the cannabis extract group, 66% (n=119) of the Δ^9-THC group, and 43% (n=85) of the placebo group were on active treatment. Similarly there was an association between the actual treatment and the patients' view of what they had taken (p<0·001). According to patients' reports, 77% (n=151), 77% (n=139), and 50% (n=98) of the cannabis extract, Δ^9-THC, and placebo groups, respectively, thought that they had been on active treatment.

There was no association between the assessors' opinion of treatment and the actual treatment (p=0·72). The proportions viewed by the assessor as being on active medication in the three groups were 44% (n=90) cannabis extract, 39% (n=73) Δ^9-THC, and 42% (n=86) placebo.

Compliance with study protocol was generally good. 592 patients provided pre-treatment urine samples, of which ten (2%) tested positive for cannabis. A small proportion of patients (cannabis extract 2% [n=4], Δ^9-THC 2% [n=4], placebo 1% [n=2]) therefore probably took cannabis in the month preceding the trial, in contravention of the protocol. In the placebo group, three (2%) patients had positive urine tests at visit 5, and four (2%) were positive at visit 6. Concomitant medication was monitored during the course of the study. At the start of the study, 376 patients were taking medication for their spasticity, with no difference between the groups (128 cannabis extract, 120 Δ^9-THC, and 128 placebo). During the 15 weeks of the study, a further 34 patients commenced medication for their spasticity (12 cannabis extract, 11 Δ^9-THC, and 11 placebo).

Table 5 shows a summary of the serious adverse events reported, which on no occasion resulted in unmasking of treatment. Numbers of events are similar across the treatments, with slightly more events in the placebo group. Most of the events were expected in our study population. There was

one death from pneumonia, occurring at week 13 in the Δ^9-THC group. There were a large number of minor adverse events (table 6). As expected from the degree of unmasking among patients and the known side-effects of cannabinoids, there were more episodes of dizziness or light-headedness, and of dry mouth among the active groups. There were some differences between groups for gastrointestinal side-effects. Constipation seemed more frequent in the cannabis extract group, though there was no concomitant increase in hospital admissions for constipation (26 events, compared with nine in the Δ^9-THC group and five in the placebo group). Diarrhoea was more common in both active groups (38 events in cannabis extract group and 36 in Δ^9-THC) compared with placebo (15 events). Increased appetite was also an expected side-effect in treatment groups, although at low levels (four cannabis extract, six Δ^9-THC, one placebo).

	Treatment group			
	Cannabis extract (n=12)	Δ^9-THC (n=18)	Placebo (n=20)	Total (n=50)
Adverse event				
Multiple sclerosis relapse or possible relapse	1	1	7*	9
Urinary tract infection	1	3	4	8
Pneumonia	1	2 (1 death)	1	4
Blocked/insertion of suprapubic catheter	1	1	2	4
Constipation	1		3	4
Grand mal seizures	1		1	2
Other	6†	11‡	2§	19
Total	12	18	20	50

*One patient had two relapses. One event each of: †urinary tract infection/relapse, collapse/bradycardia, fall at home, dizziness (inappropriate SAE report), abdominal pain of unknown cause, active duodenal ulcer and *Helicobacter pylori*; ‡collapse of unknown cause, possible transient ischaemic attack/syncope, viral gastroenteritis, chronic pleural effusion, pneumonia and renal stones, chest infection/urinary tract infection, cellulitis of leg/diarrhoea and vomiting, emergency hip replacement, disease progression (not relapse), urinary tract infection/diarrhoea and vomiting, back pain; and §deep-vein thrombosis, minor cerebrovascular event.

Table 5: **Frequency of serious adverse events**

	Treatment group					
	Cannabis extract		**Δ^9-THC**		**Placebo**	
	Number of patients reporting symptom (% of total ITT patients)	Number of events reported	Number of patients reporting symptom (% of total ITT patients)	Number of events reported	Number of patients reporting symptom (% of total ITT patients)	Number of events reported
Adverse event						
Bladder	55 (26%)	80	49 (24%)	67	49 (23%)	73
Gastrointestinal tract	79 (37%)	132	62 (30%)	96	42 (20%)	65
Pain	51 (24%)	89	53 (26%)	76	69 (32%)	93

Depression or anxiety	20 (9%)	29	20 (10%)	22	18 (8%)	20
Vision	16 (8%)	18	12 (6%)	13	5 (2%)	8
Infection	34 (16%)	40	30 (15%)	37	36 (17%)	40
Dizzy or lightheadedness	105 (50%)	183	121 (59%)	209	38 (18%)	53
Dry mouth	42 (20%)	47	54 (26%)	60	14 (7%)	15
Weakness or reduced mobility	48 (23%)	66	52 (25%)	67	43 (20%)	53
Sleep	85 (40%)	121	73 (35%)	101	70 (33%)	93
Spasms or stiffness	69 (33%)	98	70 (34%)	102	70 (33%)	105
Tremor or lack of coordination	21 (10%)	24	25 (12%)	30	17 (8%)	22
Numbness or paraesthesia	14 (7%)	19	19 (9%)	23	14 (7%)	15
Miscellaneous	64 (30%)	95	58 (28%)	84	47 (22%)	73
Improvement in symptoms	3 (1%)	3	2 (1%)	3	1 (0·5%)	1
Total	706	1044	700	990	533	729

ITT=intention to treat. 558 patients reported adverse events: 196 cannabis extract, 193 Δ^9-THC, 169 placebo.

Table 6: **Frequency of minor adverse events**

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Discussion

Treatment with cannabinoids did not improve spasticity associated with multiple sclerosis as measured with the Ashworth scale, but did result in some benefit in secondary outcome measures, assessing mobility and patients' perceptions of the effect of spasticity. These findings are consistent with those of smaller studies,[13-16] which showed some subjective, but no observer-verified, improvement in disease-related spasticity with use of cannabinoids. Our results should be considered in the context of a degree of patient unmasking in the active treatment groups.

Our aim was to assess spasticity with the Ashworth scale, and the power calculations were based on data from a previous study of tizanidine in multiple sclerosis.[26] The limitations of the Ashworth scale in measuring the highly complex symptom of spasticity are well known,[28] and there is a need to develop new patient-oriented scales to enable measurement of what matters to them.[29] One possible explanation for our results is that the Ashworth scale is too insensitive to identify small but clinically significant effects on spasticity. Nevertheless, we are confident that we have excluded any major observer-assessed effect on spasticity, and the Ashworth score is the most reliable and well-validated measure of spasticity, which has been used in previous studies.[26,30] Another explanation for our results is that we might not have achieved high enough systemic medication concentrations. Higher doses of drug might have achieved a greater effect on the Ashworth score, but most patients within the active treatment groups did not reach their target dose because of side-effects, suggesting that higher doses would not be tolerated. We are analysing serum concentrations of cannabinoids in a large subgroup of patients to examine the relation between serum concentrations and clinical effect.

Spasticity is a complex symptom, which might be assessed differently by patients (who note the degree of stiffness) and doctors (who use the Ashworth score). Cannabinoids might affect patients' perceptions of spasticity, thereby improving their symptoms. This notion is supported by the finding of a significant difference between active and placebo groups with respect to patients' opinion that

the medication had helped their spasticity, on both the overall effect question at the end of the study and the category-rating scales of muscle stiffness and spasms. Our results are also consistent with a report from a crossover study,[31] the findings of which indicated trends in reduction of spasms and improved mobility in 50 patients who received cannabis extract. The absence of subjective effect on tremor suggests that any treatment effect is unlikely to be mediated through a general masking of all negative symptoms, and there seems to be a differential effect in specific areas. Overall, the significant subjective effects on pain and muscle spasms, together with the patients' belief that these drugs helped spasticity, suggests there might be a reduction in the manifestations of spasticity, rather than an effect on muscle stiffness per se.

Our finding of a small improvement in 10 m walking time in ambulant patients is noteworthy, particularly since other measures, such as the Rivermead mobility index, indicated no effect of treatment. Assuming that no major effect on spasticity underlies this improvement, a reduction of discomfort during walking could explain these results. Further work is necessary to assess the mechanism of action by which cannabinoids seem to improve mobility in patients with multiple sclerosis.

To obtain the patients' perspective, pain was assessed with a category rating scale and an overall assessment at the end of the study. In both measures, there was a significant beneficial effect from treatment. This finding is consistent with previous data,[32] suggesting that cannabinoids are effective, if modest, analgesics. However, since many patients have indicated simple analgesia ineffective in pain control, we speculate that cannabinoids might have a more specific role in the management of chronic neuropathic pain. Results of studies done in animals[33] suggest that cannabinoids have analgesic action, which is independent of the opiate system. Furthermore, a report[34] has provided evidence for improvement in pain control and pain-related sleep disturbance in patients with multiple sclerosis who use a cannabis-based medicinal extract.

The main measures used by us to detect any overall effect on disability were the UKNDS and the Barthel index, which showed no significant effects between treatment groups. We chose the GHQ-30 as a measure of general psychological wellbeing or distress. If this class of drugs simply made people feel better, then we would expect to find differences on the GHQ-30, which we did not. Although we might have derived more information if we had used a range of other quality-of-life measures, both disease-specific and generic, we were conscious of demands on both patients and investigators, and therefore tried to keep assessments to a minimum to maximise recruitment and retention. Once again, the measures used might not have been sensitive enough to assess fully the effect of symptoms on degree of disability. It is noteworthy that our results do not agree with those of a previous smaller study,[16] which used the same cannabinoids as our study. In the earlier study, no evidence of any therapeutic effect was obtained using "subjects' global impression" and other measures. This finding could have been the result of inadequate dosing, since participants were only titrated up to a 5 mg twice-daily maximum dose.

The placebo response seen in our study was high, with almost half of patients feeling that their medication had improved spasticity after treatment for 13 weeks with placebo capsules. About 35% of patients in the placebo group felt their pain had improved, similar to figures obtained from, for example, treatments for acute migraine. The extent and duration of placebo response in trials of multiple sclerosis should affect the design of future studies and the interpretation of previous studies in this unpredictable chronic disease. There was an expected unmasking of both treating doctors and patients, but blinding was maintained in the assessing individuals, suggesting that bias is unlikely to have occurred in the assessors' data.

We used oral capsules as the mode of medication delivery. There are inherent difficulties in predicting individual dose-response with cannabinoids, which is why a titration phase was incorporated into the study. Smoking cannabis results in more rapid and reproducible blood concentrations of cannabinoids than oral administration; this group of drugs are lipid soluble and lung inhalation also avoids liver metabolism and hence improves consistency of administration. We chose oral administration because it was considered unethical to expose individuals to the risks associated with smoking cannabis, and oral medication was readily available when the study was designed. Alternative routes of administration are being tested that might allow for more predictable dose-response relations.

There was no evidence for any distinction in terms of efficacy between Δ^9-THC and whole cannabis extract, and any differences observed in the data presented might simply indicate chance, since the study was not powered to detect such differences. Although these drugs were generally well tolerated, there were some slight differences in degrees of adverse events between groups, particularly in the number of gastrointestinal side-effects.

The finding of reduced hospital admissions for relapses in the two active treatment groups compared with placebo was unexpected. Our study was designed to assess the effects of cannabinoids on symptoms related to multiple sclerosis in individuals with fairly stable disease, so most patients had slowly progressive disease. Nonetheless, cannabinoid receptors are present on cells of the immune system, and the finding of a reduced relapse rate in what is commonly regarded as an autoimmune condition, is worthy of further investigation. This finding is consistent with some findings of studies of animal models of demyelinating conditions,[35] in which synthetic cannabinoids used in established disease significantly improved both neurological deficits as well as histological evidence of immune activation.

When assessing our results, it should be acknowledged that the degree of evidence for many of the commonly used drugs to combat symptoms is weak. A Cochrane review[36] of antispasticity agents for multiple sclerosis concluded that the paucity of evidence meant no recommendations could be made to guide prescribing, and that better outcome measures need to be developed. We used the findings of two studies,[26,27] using tizanidine to treat spasticity in patients with multiple sclerosis-related spasticity, in our power calculations. One study noted a difference in Ashworth scores comparing active treatment with placebo,[26] whereas the other showed no effect.[27] Neither of these studies detailed any difference in walking times, and even when a significant effect was obtained in the Ashworth score, there was no difference in pain measures or sleep quality on active medication.[26] Although there is slightly more evidence for the use of anticonvulsants in chronic pain syndromes,[37] few controlled trials have been published, and pain syndromes in multiple sclerosis have been poorly characterised.

Spasticity is a highly complex phenomenon, composed of both signs observable to assessors and symptoms reported by patients. Our results, using the Ashworth score as the primary outcome measure, exclude any major effect of treament of spasticity with cannabinoids, but the effect of spasticity and pain as assessed by patients indicates a symptomatic subjective clinical effect. There was also a beneficial effect on walking time. Our findings therefore provide some evidence that cannabinoids could be clinically useful in treatment of symptoms related to multiple sclerosis, but more work is necessary, using outcome measures that more adequately assess the effect of symptoms in chronic disease.

Contributors

All authors contributed to study design and protocol development. J Vickery was trial coordinator. H Sanders and D Wright did the statistical analysis. J Zajicek, J Vickery, H Sanders, and D Wright wrote the paper, with revisions and contributions from A Thompson, A Nunn, and P Fox. The UK MS Research Group entered patients into the study and provided helpful comments throughout the study and at the investigator meeting.

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Conflict of interest statement

None declared.

Acknowledgments

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UNITED STATES DEPARTMENT OF JUSTICE

Drug Enforcement Administration

In The Matter Of MARIJUANA RESCHEDULING PETITION	Docket No. 86-22

OPINION AND RECOMMENDED RULING, FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION OF ADMINISTRATIVE LAW JUDGE

FRANCIS L. YOUNG, Administrative Law Judge

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DATED: SEP 6 1988

UNITED STATES DEPARTMENT OF JUSTICE

Drug Enforcement Administration

In The Matter Of MARIJUANA RESCHEDULING PETITION	Docket No. 86-22

OPINION AND RECOMMENDED RULING, FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION OF ADMINISTRATIVE LAW JUDGE

I.

INTRODUCTION

This is a rulemaking pursuant to the Administrative Procedure Act, 5 U.S.C. § 551, et seq., to determine whether the marijuana plant (Cannabis sativa L) considered as a whole may lawfully be transferred from Schedule I to Schedule II of the schedules established by the Controlled Substances Act (the Act), 21 U.S.C. § 801, et seq. None of the parties is seeking to "legalize" marijuana generally or for recreational purposes. Placement in Schedule II would mean, essentially, that physicians in the United States would not violate Federal law by prescribing marijuana for their patients for legitimate therapeutic purposes. It is contrary to Federal law for physicians to do this as long as marijuana remains in Schedule I.

This proceeding had its origins on May 18, 1972 when the National Organization for the Reform of Marijuana Laws (NORML) and two other groups submitted a petition to the Bureau of Narcotics and Dangerous Drugs (BNDD)[1], predecessor

[1] The powers and authority granted by the Act to the Attorney General were delegated to the Director of BNDD and subsequently to the Administrator of DEA. 28 C.F.R. § 0.100, et seq.

agency to the Drug Enforcement Administration (DEA or the Agency), asking that marijuana be removed from Schedule I and freed of all controls entirely, or be transferred from Schedule I to Schedule V where it would be subject to only minimal controls. The Act by its terms had placed marijuana in Schedule I thereby declaring, as a matter of law, that it had no legitimate use in therapy in the United States and subjecting the substance to the strictest level of controls. The Act had been in effect for just over one year when NORML submitted its 1972 petition.

On September 1, 1972 the Director of BNDD announced his refusal to accept the petition for filing, stating that he was not authorized to institute proceedings for the action requested because of the provisions of the Single Convention on Narcotic Drugs, 1961. NORML appealed this action to the United States Court of Appeals for the District of Columbia Circuit. The court held that the Director had erred in rejecting the petition without "a reflective consideration and analysis," observing that the Director's refusal "was not the kind of agency action that promoted the kind of interchange and refinement of views that is the lifeblood of a sound administrative process." NORML v. Ingersoll, 162 U.S. App. D.C. 67, 497 F.2d 654, 659 (1974). The court remanded the matter in January 1974 for further proceedings not inconsistent with its opinion, "to be denominated a consideration on the merits." Id.

A three-day hearing was held at DEA[2] by Administrative Law Judge Lewis Parker in January 1975. The judge found in NORML's favor on several issues but the Acting Administrator of DEA entered a final order denying NORML's petition "in all respects." NORML again petitioned the court for review. Finding fault

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2 DEA became the successor agency to BNDD in a reorganization carried out pursuant to Reorganization Plan No. 2 of 1973, eff. July 1, 1973. 38 Fed. Reg. 15932 (1973).

with DEA's final order the court again remanded for further proceedings not inconsistent with its opinion. NORML v. DEA, 182 U.S. App. D.C. 114, 559 F.2d 735 (1977). The Court directed the then-Acting Administrator of DEA to refer NORML's petition to the Secretary of the Department of Health, Education and Welfare (HEW) for findings and, thereafter, to comply with the rulemaking procedures outlined in the Act at 21 U.S.C. § 811 (a) and (b).

On remand the Administrator of DEA referred NORML's petition to HEW for scientific and medical evaluation. On June 4, 1979 the Secretary of HEW advised the Administrator of the results of the HEW evaluation and recommended that marijuana remain in Schedule I. Without holding any further hearing the Administrator of DEA proceeded to issue a final order ten days later denying NORML's petition and declining to initiate proceedings to transfer marijuana from Schedule I. 44 Fed. Reg. 36123 (1979). NORML went back to the Court of Appeals.

When the case was called for oral argument there was discussion of the then-present status of the matter. DEA had moved for a partial remand. The court found that "reconsideration of all the issues in this case would be appropriate" and again remanded it to DEA, observing: "We regrettably find it necessary to remind respondents [DEA and HEW] of an agency's obligation on remand not to 'do anything which is contrary to either the letter or spirit of the mandate construed in the light of the opinion of [the] court deciding the case.'" (Citations omitted.) NORML v. DEA, et al., No. 79-1660, United States Court of Appeals for the District of Columbia Circuit, unpublished order filed October 16, 1980. DEA was directed to refer all the substances at issue to the Department of Health and Human Services (HHS), successor agency to HEW, for scien-

tific and medical findings and recommendations on scheduling. DEA did so and HHS has responded. In a letter dated April 1, 1986 the then-Acting Deputy Administrator of DEA requested this administrative law judge to commence hearing procedures as to the proposed rescheduling of marijuana and its components.

After the judge conferred with counsel for NORML and DEA, a notice was published in the Federal Register on June 24, 1986 announcing that hearings would be held on NORML's petition for the rescheduling of marijuana and its components commencing on August 21, 1986 and giving any interested person who desired to participate the opportunity to do so. 51 Fed. Reg. 22946 (1986).

Of the three original petitioning organizations in 1972 only NORML is a party to the present proceeding. In addition the following entities responded to the Federal Register notice and have become parties, participating to varying degrees: the Alliance for Cannabis Therapeutics (ACT), Cannabis Corporation of America (CCA) and Carl Eric Olsen, all seeking transfer of marijuana to Schedule II; the Agency, National Federation of Parents for Drug-Free Youth (NFP) and the International Association of Chiefs of Police (IACP), all contending that marijuana should remain in Schedule I.

Preliminary prehearing sessions were held on August 21 and December 5, 1986 and on February 20, 1987.[3] During the preliminary stages, on January 20, 1987, NORML filed an amended petition for rescheduling. This new petition abandoned NORML's previous requests for the complete de-scheduling of marijuana or rescheduling to Schedule V. It asks only that marijuana be placed in Schedule II.

At a prehearing conference on February 20, 1987 this amended petition was

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3 Transcripts of these three preliminary prehearing sessions are included in the record.

discussed.[4] All parties present stipulated, for the purpose of this proceeding, that marijuana has a high potential for abuse and that abuse of the marijuana plant may lead to severe psychological or physical dependence. They then agreed that the principal issue in this proceeding would be stated thus:

> Whether the marijuana plant, considered as a whole,[5] may

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4 The transcript of this prehearing conference and of the subsequent hearing sessions comprise 15 volumes numbered as follows:

Vol. I - Prehearing Conference, October 16, 1987
Vol. II - Cross Examination, November 19, 1987
Vol. III - Cross Examination, December 8, 1987
Vol. IV - Cross Examination, December 9, 1987
Vol. V - Cross Examination, January 5, 1988
Vol. VI - Cross Examination, January 6, 1988
Vol. VII - Cross Examination, January 7, 1988
Vol. VIII - Cross Examination, January 26, 1988
Vol. IX - Cross Examination, January 27, 1988
Vol. X - Cross Examination, January 28, 1988
Vol. XI - Cross Examination, January 29, 1988
Vol. XII - Cross Examination, February 2, 1988
Vol. XIII - Cross Examination, February 4, 1988
Vol. XIV - Cross Examination, February 5, 1988
Vol. XV - Oral Argument, June 10, 1988

Pages of the transcript are cited herein by volume and page, e.g. "Tr. V-96"; "G-" identifies an Agency exhibit.

5 Throughout this opinion the term "marijuana" refers to "the marijuana plant, considered as a whole".

lawfully be transferred from Schedule I to Schedule II of the schedules established by the Controlled Substances Act.

Two subsidiary issues were agreed on, as follows:

1. Whether the marijuana plant has a currently accepted medical use in treatment in the United States, or a currently accepted medical use with severe restrictions.

2. Whether there is a lack of accepted safety for use of the marijuana plant under medical supervision.

As stated above, the parties favoring transfer from Schedule I to Schedule II are NORML, ACT, CCA and Carl Eric Olsen. Those favoring retaining marijuana in Schedule I are the Agency, NFP and IACP.

During the Spring and Summer of 1987 the parties identified their witnesses and put the direct examination testimony of each witness in writing in affidavit form. Copies of these affidavits were exchanged. Similarly, the parties assembled their proposed exhibits and exchanged copies. Opportunity was provided for each party to submit objections to the direct examination testimony and exhibits proffered by the others. The objections submitted were considered by the administrative law judge and ruled on. The testimony and exhibits not excluded were admitted into the record. Thereafter hearing sessions were held at which witnesses were subjected to cross-examination. These sessions were held in New Orleans, Louisiana on November 18 and 19, 1987; in San Francisco, California on December 8 and 9, 1987; and in Washington, D.C. on January 5 through 8 and 26 through 29, and on February 2, 4 and 5, 1988. The parties have submitted proposed findings and conclusions and briefs. Oral arguments were heard by the judge on June 10, 1988 in Washington.

VIII.

ACCEPTED SAFETY FOR USE UNDER MEDICAL SUPERVISION

With respect to whether or not there is "a lack of accepted safety for use of [marijuana] under medical supervision", the record shows the following facts to be uncontroverted.

Findings of Fact

1. Richard J. Gralla, M.D., an oncologist and Professor of Medicine who was an Agency witness, accepts that in treating cancer patients oncologists can use the cannabinoids with safety despite their side effects.

2. Andrew T. Weil, M.D., who now practices medicine in Tucson, Arizona and is on the faculity of the College of Medicine, University of Arizona, was a member of the first team of researchers to perform a Federal Government authorized study into the effects of marijuana on human subjects. This team made its study in 1968. These researchers determined that marijuana could be safely used under medical supervision. In the 20 years since then Dr. Weil has seen no information that would cause him to reconsider that conclusion. There is no question in his mind but that marijuana is safe for use under appropriate medical supervision.

3. The most obvious concern when dealing with drug safety is the possibility of lethal effects. Can the drug cause death?

4. Nearly all medicines have toxic, potentially lethal effects. But marijuana is not such a substance. There is no record in the extensive medical literature describing a proven, documented cannabis-induced fatality.

5. This is a remarkable statement. First, the record on marijuana encompasses 5,000 years of human experience. Second, marijuana is now used daily by enormous numbers of people throughout the world. Estimates suggest that from twenty million to fifty million Americans routinely, albeit illegally, smoke marijuana without the benefit of direct medical supervision. Yet, despite this long history of use and the extraordinarily high numbers of social smokers, there are simply no credible medical reports to suggest that consuming marijuana has caused a single death.

6. By contrast aspirin, a commonly used, over-the-counter medicine, causes hundreds of deaths each year.

7. Drugs used in medicine are routinely given what is called an LD-50. The LD-50 rating indicates at what dosage fifty percent of test animals receiving a drug will die as a result of drug induced toxicity. A number of researchers have attempted to determine marijuana's LD-50 rating in test animals, without success. Simply stated, researchers have been unable to give animals enough marijuana to induce death.

8. At present it is estimated that marijuana's LD-50 is around 1:20,000 or 1:40,000. In layman terms this means that in order to induce death a marijuana smoker would have to consume 20,000 to 40,000 times as much marijuana as is contained in one marijuana cigarette. NIDA-supplied marijuana cigarettes weigh approximately .9 grams. A smoker would theoretically have to consume nearly 1,500 pounds of marijuana within about fifteen minutes to induce a lethal response.

9. In practical terms, marijuana cannot induce a lethal response as a result of drug-related toxicity.

10. Another common medical way to determine drug safety is called the therapeuic ratio. This ratio defines the difference between a therapeutically effective dose and a dose which is capable of inducing adverse effects.

11. A commonly used over-the-counter product like aspirin has a therapeutic ratio of around 1:20. Two aspirins are the recommended dose for adult patients. Twenty times this dose, forty aspirins, may cause a lethal reaction in some patients, and will almost certainly cause gross injury to the digestive system, including extensive internal bleeding.

12. The therapeutic ratio for prescribed drugs is commonly around 1:10 or lower. Valium, a commonly used prescriptive drug, may cause very serious biological damage if patients use ten times the recommended (therapeutic) dose.

13. There are, of course, prescriptive drugs which have much lower therapeutic ratios. Many of the drugs used to treat patients with cancer, glaucoma and multiple sclerosis are highly toxic. The therapeutic ratio of some of the drugs used in antineoplastic therapies, for example, are regarded as extremely toxic poisons with therapeutic ratios that may fall below 1:1.5. These drugs also have very low LD-50 ratios and can result in toxic, even lethal reactions, while being properly employed.

14. By contrast, marijuana's therapeutic ratio, like its LD-50, is impossible to quantify because it is so high.

15. In strict medical terms marijuana is far safer than many foods we commonly consume. For example, eating ten raw potatoes can result in a toxic response. By comparison, it is physically impossible to eat enough marijuana to induce death.

16. Marijuana, in its natural form, is one of the safest therapeutically

active substances known to man. By any measure of rational analysis marijuana can be safely used within a supervised routine of medical care.

17. Some of the drugs most widely used in chemotherapy treatment of cancer have adverse effects as follows:

> Cisplatin, one of the most powerful chemotherapeutic agents used on humans - may cause deafness; may lead to life-threatening kidney difficulties and kidney failure; adversely affects the body's immune system, suppressing the patient's ability to fight a host of common infections.
>
> Nitrogen Mustard, a drug used in therapy for Hodgkins disease - nauseates; so toxic to the skin that, if dropped on the skin, this chemical literally eats it away along with other tissues it contacts; if patient's intravenous lead slips during treatment and this drug gets on or under the skin the patient may suffer serious injury including temporary, and in extreme cases, permanent, loss of use of the arm.
>
> Procarbizine, also used for Hodgkins disease - has known psychogenic, i.e., emotional, effects.
>
> Cytoxin, also known as Cyclophosphanide - suppresses patient's immune system response; results in serious bone marrow depletion; studies indicate this drug may also cause other cancers, including cancers of the bladder.
>
> Adriamycan, has numerous adverse effects; is difficult to employ in long term therapies because it destroys the heart muscle.

While each of these agents has its particular adverse effects, as indicated above, they also cause a number of similar, disturbing adverse effects. Most of these drugs cause hair loss. Studies increasingly indicate all of these drugs may cause other forms of cancer. Death due to kidney, heart or respiratory failure is a very real possibility with all of these agents and the margin for error is minimal. Similarly, there is a danger of overdosing a patient weakened by his cancer. Put simply, there is very great risk associated with the medical

Tentative Agenda
For
City Council Meeting
November 18, 2003

A meeting of the Fayetteville City Council will be held on November 18, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Burns McDonnell, Wastewater Project Web Site Presentation at Agenda Session on November 13, 2003

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the October 7, 2003 and October 21, 2003 meeting minutes.

2. **Street, Fire and Police Impact Fees:** A resolution to request city staff to study the feasibility and advisability of new impact fees in the areas of street construction, fire fighter operations, police operations and capital cost.

3. **Crossland Construction Library Change Order No. # 11:** A resolution approving Change Order # 11 to the contract with Crossland Construction Company, Inc. in the amount of $41,342.00 for water and sewer improvements at the New Fayetteville Public Library.

4. **Crossland Construction Library Change Order # 12:** A resolution approving Change Order # 12 to the contract with Crossland Construction Company, Inc. in the amount of $110,117.00 to install underground utilities to seven residences adjacent to the New Fayetteville Public Library.

5. **ADM 03-26.00 Stearns Street Apartments Right of Way Reduction Shepherd Lane:** A resolution approving ADM 03-26.00 amending the Master Street Plan, lessening the right-of-way dedication for Shepherd Lane, designated a collector street requiring 70' right-of-way, to local street standards requiring 50' right-of-way.

6. **ADM 03-27.00 Stearns Street Apartments Right of Way Reduction Stearns Street:** A resolution approving ADM 03-27.00 amending the Master Street Plan, lessening the right-of-way dedication for Stearns Street, designated a collector street requiring 70' right-of-way, to local street standards requiring 50' right-of-way, and reconfiguring the connection between Stearns Street and Vantage Drive.

7. **SBC Long Distance Bid Award:** A resolution awarding Bid #03-59 and approving a three-year contract with SGC Global Services, Inc. in the amount of $16,000.00 per year for long distance telephone services for the City of Fayetteville.

8. **2003 Department of Homeland Security Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Department of Homeland Security Fire Grant in an amount up to $300,000.00 for fire prevention programs.

9. **U of A Hangar, Department of Aeronautics Grant:** A resolution authorizing the Fayetteville Municipal Airport staff to apply for and accept a grant in the amount of $43,820.00 from the Arkansas Department of Aeronautics for the construction of an access road, parking and utilities to serve the University of Arkansas Corporate Hangar.

10. **U of A Hangar, Architectural Contractors:** A resolution awarding a contract to Architectural Contractors, Inc. in the amount of $532,000.00 for the construction of the University of Arkansas Corporate Hangar at the Fayetteville Municipal Airport; approving a project contingency in the amount of $29,565.00; and approving a budget adjustment in the amount of $220,835.00 for same.

11. **Fleet Vehicle Purchase, Ton Truck from Lander's:** A resolution approving the purchase of one pickup truck, 1 ton cab/chassis from Landers GMC at State contract prices in the amount of $24,612.00.

12. **Fleet Vehicle Purchase, Four Pickup Trucks From Lander's:** A resolution approving the purchase of four pickup trucks from Landers Ford at State contract prices for a total cost of $105,721.00.

13. **Williams Tractor Bid Acceptance:** A resolution awarding Bid # 03-61 and approving the purchase of a Bobcat Toolcat 5600 utility work machine from Williams Tractor, Inc. in the amount of $43,306.00.

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. **R-PZD 03-04.00 Lazenby Properties:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 03-04.00 located on the west side of Razorback Road between Baum Stadium and the State Revenue Office containing 8.79 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This Ordinance was left on the first reading at the November 4, 2003 City Council meeting.***

C. NEW BUSINESS:

1. **VAC 03-11.00 Vacation Michael & Jill Salazar:** An ordinance approving VAC 03-11.00 to vacate a portion of a utility easement along lot 51 of the Brookbury Subdivision as depicted on the attached map and legal description.

2. **2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.

D. INFORMATIONAL:

November 17, 2003 – Council Tour

November 12, 2003 – A presentation of zero based budgeting by the Parks Division, Fire Department and Police Department. **This presentation will be after the City Council Agenda Session.**

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF NOVEMBER ~~4~~ 18, 2003

FROM:

ALDERMAN LIONELD JORDAN

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution to Request City Staff To Study The Feasibility And Advisability Of New Impact Fees In The Areas Of Street Construction, Fire Fighter Operations, Police Operations And Capital Costs

---

APPROVED FOR AGENDA:

Lionell Jordan 10/24/03
Alderman Date

10/24/03
City Attorney (as to form) Date

RESOLUTION NO. _____

A RESOLUTION TO REQUEST CITY STAFF TO STUDY THE FEASIBILITY AND ADVISABILITY OF NEW IMPACT FEES IN THE AREAS OF STREET CONSTRUCTION, FIRE FIGHTER OPERATIONS, POLICE OPERATIONS AND CAPITAL COSTS

WHEREAS, the City of Fayetteville is facing a long term stagnation of its sales tax revenue despite a rapidly growing population; and

WHEREAS, the population growth is creating a need for street construction and improvements, increased police and fire personnel and facilities and support staff; and

WHEREAS, the City cannot afford to increase spending for road construction, or increased personnel for police, fire and other services without increasing revenue from property taxes or impact fees on new development; and

WHEREAS, it is only fair that the increasing population in new development that is causing a need for new roads and increased fire, police and other staff pay its fair share of the costs for these additional services and roads.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby requests city staff to study the feasibility and advisability of additional impact fees on new development in the areas of road construction, police operations and capital costs and fire operations and capital costs.

PASSED and **APPROVED** this the 4th day of October, 2003.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

RESOLUTION NO. _____

A RESOLUTION TO REQUEST CITY STAFF TO STUDY THE FEASIBILITY AND ADVISABILITY OF NEW IMPACT FEES IN THE AREAS OF STREET CONSTRUCTION, FIRE FIGHTER OPERATIONS, POLICE OPERATIONS AND CAPITAL COSTS

WHEREAS, the City of Fayetteville is facing a long term stagnation of its sales tax revenue despite a rapidly growing population; and

WHEREAS, the population growth is creating a need for street construction and improvements, increased police and fire personnel and facilities and support staff; and

WHEREAS, the City cannot afford to increase spending for road construction, or increased personnel for police, fire and other services without increasing revenue from property taxes or impact fees on new development; and

WHEREAS, it is only fair that the increasing population in new development that is causing a need for new roads and increased fire, police and other staff pay its fair share of the costs for these additional services and roads.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby requests city staff to study the feasibility and advisability of additional impact fees on new development in the areas of road construction, police operations and capital costs and fire operations and capital costs.

PASSED and **APPROVED** this the 18th day of November, 2003.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

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 30, 2003

Subject: Approval of Change Order No.11 in the amount of $41,342.00 with Crossland Construction Company to replace deteriorated and undersized water and sewer facilities in the streets adjacent to the new library project ~~and including a budget adjustment to cover same.~~

RECOMMENDATION

Staff recommends approval of Change Order No. 11 and the contract adjustment of $41,342.00 to Crossland Construction Company.

BACKGROUND

The new Fayetteville Public Library project covers an entire city block bounded by School Avenue, West Avenue, Rock Street and Mountain Street. The Engineering Division identified the following water and sewer line improvements for this project after the original contract was signed with Crossland Construction Company:

- 416 linear feet of new 6" waterline in Mountain Street (between West Avenue and School Avenue)
- 345 linear feet of new 8" waterline in School Street (between Rock Street and Mountain Street)
- 200 linear feet of new 8" sanitary sewer in Rock Street (between West Avenue and School Avenue)
- 390 linear feet of new 12" waterline in Rock Street (between West Avenue and School Avenue)

DISCUSSION

There are leaking, deteriorated and undersized old water and sewer lines in the streets adjacent to the new Fayetteville Public Library project. The Engineering Division has identified these lines to be replaced. The construction contract with Crossland Construction was signed prior to City review of these adjacent water and sewer facilities.

It is staff's recommendation that these old water and sewer lines be replaced as part of the library construction project so as not to leave deteriorating lines adjacent to the new building and underneath the new streets. Since Crossland Construction Company is already under contract to provide some water and sewer facilities, this work represents an opportunity to utilize cost share funds at prices that have already been competively bid. This work will merely constitute a scope amendment to the existing contract with Crossland Construction Company.

The engineering design plans for these new water and sewer improvments have been completed by Garver Engineers and approved by the City of Fayetteville, and Garver Engineers has already been paid for their design services.

This change order does not include an allowance for construction observation services at this time, as required by the Arkansas Department of Health. Construction observation services will be addressed in a future change order with the project architect MS&R.

BUDGET IMPACT

This $41,342.00 expenditure was not included in the original budget and contract with Crossland Construction Company for construction of the new library. It is staff's recommendation to pay for these additional improvements through the Water and Sewer Cost Share Account, which currently has a remaining budget of $238,257.00.

# # #

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER # 11 TO THE CONTRACT WITH CROSSLAND CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF FORTY ONE THOUSAND THREE HUNDRED FORTY-TWO DOLLARS ($41,342.00) FOR WATER AND SEWER IMPROVEMENTS 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 # 11 to the contract with Crossland Construction Company, Inc. in the amount of Forty One Thousand Three Hundred Forty-Two Dollars ($41,342.00) for water and sewer improvements at the new Fayetteville Public Library. A copy of Change Order # 11, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

AmirmoezFosterHaileyJohnson

AFHJ

Architects & Planners

MEMORANDUM

October 21, 2003

To: Bob Kohler

Copy: Kip Guthrie
Sean Wagner
John Priest

From: Jim Foster Jim

Reference: Fayetteville Public Library, Proposal Request 6

The engineers and architects recommend approval of Crossland Construction Company's proposal for water and sewer changes requested by the City. The attached Potential Change Order was based on revisions issued June 17, 2003 by Garver Engineers incorporating final City comments. In addition to the cover letter from Kip Guthrie and a tabulation of additions and deletions, revised Drawings C106, C109, C116, C117, C118 and C119 and spec sections were issued. See copy of memo transmitting these documents to Ron Petrie, City Engineering.

The net change is $41,342 but it includes deletion of work in this project as bid and addition of utility work never in the project budget. The credit is $39,437 for deletions from Sheet C109 related to the waterline on Rock Street and increased costs of $80,779 for the added utility work requested by the City.

Please note that Crossland has requested 12 days extension of time as part of this change. We recommend approval of this time extension. It appears the next window to secure Council approval is to have this item requested by Halloween for consideration November 18. The Contractor would appreciate having this work authorized not later than this date.

Post Office Box 790 • 100 West Center, Suite 302 • Fayetteville, AR 72702 • 479-442-5565 • FAX 479-442-8849

POTENTIAL CHANGE ORDER REQUEST

Project Name: Fayetteville Public Library

Potential Change Order # 15

Date: 10/2/03 rec'd 10/15/03 **Days Requested** 12 **Price Good For** 14 **Days**

Description of Request: Proposal Request #6 - Modifications to Water Line at Mountain Street

Material & Labor Direct Cost

Description	Quantity	Unit	Cost	Unit	Material Cost	Hours		Crew Type		Labor Cost
School Street Repairs							hr		hr	$ -
Primary saw cut/demo	710	lf	$ 2.25	lf	$ 1,597.50	32	hr	A	hr	$ 1,600.00
Final saw cut	710	lf	$ 1.25	lf	$ 887.50	32	hr	C	hr	$ 640.00
Drill & dowel	140	ea	$ 4.86	ea	$ 680.40	8	hr	A/C	hr	$ 560.00
Place & finish	1750	sf	$ 2.45	sf	$ 4,287.50	24	hr	D	hr	$ 600.00
Maintenance Bond		ls	$ 198.72	ls	$ 198.72		hr		hr	$ -
Rock Street Repairs							hr		hr	$ -
Saw cut	700	lf	$ (2.85)	lf	$ (1,995.00)	L				$ -
Replace asphalt	44	tn	$ (45.00)	tn	$ (1,980.00)		hr		hr	$ -
If rock is discovered, Crossland will remove for t		cy	$ 126.00	cy	$ -		hr		hr	$ -
originally agreed upon unit cost.			$ -		$ -		hr		hr	$ -
				MATERIAL SUBTOTAL	$ 3,676.62				LABOR SUBTOTAL	$ 3,400.00
				TAX AS APPLICABLE 8.375%	$ 307.92				LABOR BURDEN 15%	$ 510.00
				MATERIAL TOTAL	$ 3,984.54				LABOR TOTAL	$ 3,910.00

Subcontractor Pricing

Name	Description of Work	Sub Pricing
Earthworks	The following price is based on the revised plans and	$ 30,246.60
	specifications issued with PR #6. All prices are based	$ -
	on the quantities provided on the said plans. If the quant	$ -
	are incorrect the price will need to be adjusted to reflect	$ -
	actual quantities. Price excludes rock excavation,	$ -
	contaminated soil removal, and any other unforeseen	$ -
	condition.	$ -
		$ -
	SUBCONTRACTOR TOTAL	$ 30,246.60

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		$ 3,984.54
Labor Direct Cost		$ 3,910.00
Subcontractor Total		$ 30,246.60
SUBTOTAL		$ 38,141.14
CCC Insurance @	0.15%	$ 57.21
CCC Bond @	1.00%	$ 381.41
CCC Overhead @	15.00%	$ 1,249.97
CCC OH/P for Subs @	5.00%	$ 1,512.33
GRAND TOTAL FOR CHANGE		$ 41,342.06

Approval

Owner: City of Fayetteville, Arkansas

Signature: _____

Architect: Amirmoez-Foster-Hailey-Johnson

Signature: _____

AmirmoezFosterHaileyJohnson

AFHJ

Architects & Planners

MEMORANDUM

June 17, 2003

To: Ron Petrie
City of Fayetteville Engineering Department

Copy: Kip Guthrie
Sean Wagner

From: Jim Foster

Reference: Fayetteville Public Library, Water and Sewer Improvements

Per direction from Kip Guthrie, Garver Engineers, transmitted is one set of revised water and sewer improvement documents. This work was previously issued to Crossland Construction for pricing as Proposal Request #6, February 25, 2003. These documents modify that PR. Attached are the following:

Copy of letter from Guthrie dated June 17, 2003.

Drawings C106, C109, C116, C117, C118 & C119

Specifications Brochure with Spec Sections 02610, 02731, 02732 & 02733

Post Office Box 790 • 100 West Center, Suite 302 • Fayetteville, AR 72702 • 479-442-5565 • FAX 479-442-8849

Garver, Inc.
Engineers

3810 Front Street, Suite 10
Fayetteville, AR 72703

479-527-9100
FAX 479-527-9101

www.garverinc.com

GARVER ENGINEERS

June 17, 2003

AFHJ
Attn: Jim Foster
Post Office Box 790
100 West Center, Suite 302
Fayetteville, AR 72702

Dear Jim:

Enclosed with this letter are three copies of newly revised water and sewer plans for the Fayetteville Library. These sheets incorporate the City of Fayetteville final comments and request for additional items to be added to the Plans.

These revised sheets include major revisions to the "as bid" Plans. The major additions are as follows:

- New 6" waterline in Mountain Street,
- New 12" waterline in School Street,
- New 8" sanitary sewerline in Rock Street,
- Revised waterline size in Rock Street.

Included are revised sheets C106, C109, C116, three new sheets C117, C118, C119 and new specifications required for these improvements. Please submit one copy set to Ron Petrie at the City, and retain two sets for your use. I have sent one to Sean for his records.

I have personally met with the City regarding these changes, and the City has reviewed and verbally approved all the changes. Therefore, we are not expecting any further comments from the City and recommend these Plans be submitted to the Contractor.

Please note that in the review comment letter from the City, Item 4a discusses that review and approval is still needed by the City's Meter Division regarding the meter size and location and the backflow prevention. The proposed location for these items are either inside the building or within the building 5-foot perimeter. Therefore, this comment is outside of our current scope of services. However, we have instructed the Contractor in the Plans he must receive approval from the City regarding the meter location prior to installation.

These revised and additional sheets, plus the enclosed specifications, should to be used in conjunction with the previously accepted as-bid plans for the Fayetteville Public Library. We understand this work will be added to the Library project by a change order being executed with Crossland Construction. Please note that the waterline in Rock Street was a part of the original bid. However, since the City has replaced the waterline in Rock Street from School Avenue to Locust Avenue the City has requested the Contractor construct a new waterline in School Ave to compensate for work performed by the City. Since the amendment number is unknown at this time we have left a space for this number to be inserted in the Plans and Specifications.

We have included a breakdown on the Plans and with this letter showing the items that have been added and/or deleted from the Plans as a part of this amendment.

Please call me if you have any questions.

Sincerely,
GARVER ENGINEERS

Kip Guthrie
Project Engineer

Cc: Sean Wagner

ADDITIONS TO THE PLANS ARE AS FOLLOWS:

SHEET C109
SANITARY SEWER LINE IN ROCK STREET
1) 200 L.F. 8" PVC SDR-26
2) 194 TONS OF CLASS 7 GRANULAR BACKFILL
3) TWO (2) 4' I.D. SANITARY SEWER MANHOLES
4) CONNECTION OF TWO ACTIVE SEWER SERVICES
5) ABANDON THE EXISTING SEWER LINE AS DIRECTED IN THE PLANS AND SPECIFICATIONS.

WATERLINE IN ROCK STREET
1) 390 +/- OF 12" PVC C-900 DR-14 WATERLINE PIPE AS SPECIFIED IN THE CITY OF FAYETTEVILLE'S WATER SPECIFICATIONS, AND ALL ITEMS NECESSARY TO COMPLETE THE WORK.
2) 140' OF 8" PVC C-900 DR-14 WATERLINE FROM ROCK STREET TO THE BUILDING, AND ALL ITEMS NECESSARY TO COMPLETE THE WORK SPECIFIC TO PVC PIPE. (THE AS-BID 6" DUCTILE IRON FROM ROCK STREET TO THE LIBRARY IS NOW AN 8" PVC)
3) 10" X 8" "T" WITH 8" GATE VALVE AND BOX AT STATION 3+00 +/-

SHEET C118
WATERLINE IN MOUNTAIN STREET
1) 6" X 6" TAPPING SLEEVE AND VALVE
2) 8" X 8" CROSS
3) 2 (TWO) 6" X 4" REDUCERS
4) 11 (ELEVEN) 8" SWIVAL ADAPTERS
5) 8" X 6" REDUCER
6) 4 (FOUR) 8" GATE VALVES
7) 2 (TWO) 8" 90 DEGREE BENDS
8) 30 L.F. OF 8" PVC C-900 DR-14 WATERLINE (MEASUREMENTS FOR 8" WATERLINE STOP AT SOUTHERN GATE VALVE ON CROSS, SEE SHEET C119 FOR ADDITONAL QUANTITIES.)
9) 386 L.F. 6" PVC C-900 DR-14 WATERLINE
10) 110 TONS OF CLASS 7 GRANULAR BACKFILL
11) CUT AND CAP EXISTING 4" WATERLINE
12) THRUST BLOCKING AS REQUIRED
13) CONCRETE PAVEMENT REPAIR AS REQUIRED FOR THE PROPOSED IMPROVEMENTS INSIDE THE SCHOOL AND MOUNTAIN INTERSECTION ONLY.
14) ALL ESSENTIALS NEEDED TO CONSTRUCT THE IMPROVEMENTS

SEWERLINE IN MOUNTAIN STREET
1) EXCAVATE THE TWO SOUTHERN SERVICE LINES AT THE MAIN AND PROPERLY ABANDONE.

SHEET C119
WATERLINE IN SCHOOL AVENUE
1) 345 L.F. OF 8" PVC C-900 DR-14 WATERLINE PIPE.
2) 2 (TWO) RECONNECT WATER SERVICE LINES
3) 8" 45 DEGREE BEND
4) 2 (TWO) 8" SWIVEL ADAPTERS

5) 150 TONS OF CLASS 7 GRANULAR BACKFILL
6) THRUST BLOCK AS REQUIRED
7) ALL ESSENTIALS NEEDED TO CONSTRUCT THE IMPROVEMENTS

DELETIONS FROM THE "AS-BID" PLANS
SHEET C 109
1) 226 L.F. OF 18" STEEL ENCASEMENT,
2) TAPPING OF EXISTING WATER LINE TO THE EAST AND ALL BENDS, REBARS, AND THRUST BLOCKS AS SHOWN NEAR STATION 7+50,
3) 12" X 10" REDUCER,
4) TEMPORARY 2" BLOW OFF ASSEMBLY,
5) 10" X 6" "T" AT STATION 3+00 +/-
6) 12" X 10" TAPPING SADDLE WITH 10" GATE VALVE
7) 390' +/- OF 10" PVC WATERLINE PIPE AND ALL ITEMS NECESSARY TO COMPLETE THE WORK.
8) 140' OF 6" DUCTILE IRON WATERLINE FROM ROCK STREET TO THE BUILDING.
9) 170 TONS OF COMPACTED GRANULAR BACKFILL.

EARTHWORKS CONSTRUCTION

GENERAL CONTRACTORS
8078 GATEWAY DRIVE
NEOSHO, MO 64850
PHONE: 417-455-0223
FAX: 417-455-0660
E-MAIL: earth@joplin.com

TO: COMPANY: CROSSLAND CONSTRUCTION
ATTN: JOHN PRIEST
FAX: 620-429-1412
PHONE:

DATE: 10/01/2003
NO. PAGES: 1

JOB: FAYETTEVILLE PUBLIC LIBRARY

SCOPE: WORK CHANGE PROPOSAL REQUEST

1) ORIGINAL BID

CREDIT EAST PART OF ROCK STREET	-$34,889.00
CREDIT DUCTILE TO C-900	-$573.40
NEW TOTAL ROCK STREET	

ADDITIONS:

A) SANITARY SEWER ROCK STREET	$21,852.00
B) WATERLINE SCHOOL STREET	$18,775.00
C) SANITARY SEWER MOUNTAIN STREET	$1,910.00
D) WATERLINE MOUNTAIN STREET	$23,172.00

NEW CONTRACT TOTAL:

ADD TO OWNER: $30,246.60

NOTES:
1) ALL PRICES QUOTED ARE BASED OFF QUANTITIES GIVEN IN THE WORK CHANGE REQUEST. IF THESES QUANTITIES ARE INACCURATE THE PRICE WILL NEED TO BE ADJUSTED TO REFLECT ACTUAL QUANTITIES

EXCLUSIONS:
1) SOLID ROCK EXCAVATION
2) CONCRETE & ASPHALT ROAD REPLACE
3) CAST IN PLACE CONCRETE
4) CONSTRUCTION FENCE REPAIR
5) BONDS, PERMITS & FEES

NOTES:
1) QUOTE IS GOOD FOR 10 DAYS
2) BOND NOT INCLUDED
3) ALL OR NONE
4) OUR QUOTATION IS BASED UPON A STANDARD AIA OR AGC SUB-AGREEMENT

THANK YOU FOR THE OPPORTUNITY TO QUOTE THIS PROJECT.
JUSTIN BURROWS
ESTIMATOR

EARTHWORKS CONSTRUCTION
GENERAL CONTRACTORS
8078 GATEWAY DRIVE
NEOSHO, MO 64850
PHONE: 417-455-0223
FAX: 417-455-0660
E-MAIL: earth@joplin.com

TO: **COMPANY:** CROSSLAND CONSTRUCTION
ATTN: JOHN PRIEST
FAX:
PHONE:

DATE: 09/16/2003
NO. PAGES: 3

JOB: FAYETTEVILLE PUBLIC LIBRARY

SCOPE:

WORK CHANGE PROPOSAL REQUEST

1) SANITARY SEWER LINE IN ROCK STREET

A) 200 LF OF 8" PVC SDR-26
B) 194 TONS CLASS SEVEN GRANULAR BACKFILL
C) TWO 4' ID SANITARY SEWER MANHOLES
D) CONNECTION OF 2 ACTIVE SEWER SERVICES
E) ABANDON EXISTING SEWER LINE

TOTAL: **$21,852.01**

MATERIAL	EQUIPMENT	LABOR	15% OH&P
$6,130.44	$6,423.48	$6,447.83	$2,850.26

~~**2) WATERLINE IN ROCK STREET**~~

~~A) 390' OF 12" PVC C-900~~
~~B) 140' OF 8" PVC C-900~~
~~C) 10" X 8" TEE WITH 8" GATE VALVE~~

~~**TOTAL:**~~

~~MATERIAL~~	~~EQUIPMENT~~	~~LABOR~~	~~15% OH&P~~

3) WATERLINE IN MOUNTAIN STREET

A) 6" X 6" TAPPING SLEEVE & VALVE
B) 8" X 8" CROSS
C) TWO 6" X 4" REDUCERS
D) ELEVEN 8" SWIVAL ADAPTORS
E) 8" X 6" REDUCER
F) FOUR 8" GATE VALVES
G) TWO 8" 90 DEGREE BENDS
H) 30 L.F. OF 8" PVC C-900
I) 386 L.F. OF 6" PVC C-900
J) 110 TONS CLASS SEVEN GRANULAR BACKFILL
K) CUT & CAP EXISTING 4" WATERLINE
L) THRUST BLOCKING

TOTAL: $23,172.00

MATERIAL	EQUIPMENT	LABOR	15% OH&P
$7,656.84	$6,292.73	$6,200.00	$3,022.43

4) SEWERLINE IN MOUNTAIN STREET

A) EXCAVATE SERVICE LINES AND ABANDON

TOTAL: $1,910.00

MATERIAL	EQUIPMENT	LABOR	15% OH&P
$258.35	$550.52	$852.00	$249.13

5) WATERLINE IN SCHOOL AVENUE

A) 345 L.F. OF 8" PVC C-900
B) TWO RECONNECT WATER SERVICE LINES
C) 8" 45 DEGREE BEND
D) TWO 8" SWIVAL ADAPTORS
E) 150 TONS OF CLASS SEVEN GRANULAR BACKFILL
F) THRUST BLOCKING AS REQUIRED

TOTAL: $18,775.00

MATERIAL	EQUIPMENT	LABOR	15% OH&P
$5,387.61	$5,125.57	$5,812.91	$2,448.91

6) CREDIT FOR DEDUCTIONS ON WATERLINE ON ROCK STREET

	CREDIT:
A) 226 L.F. STEEL ENCASEMENT	$6,780
B) TAPPING EXISTING WATERLINE & THRUST BLOCKS	$1,200
C) 12" X 10" REDUCER	$125
D) TEMPORARY 2" BLOW-OFF	$375
E) 10" X 6" TEE	$150
F) 12" X 10" TAPPING SADDLE W/ 10" GATE VALVE	$1,700
G) 390' OF 10" PVC	$16,380
H) 140' OF 6" DUCTILE IRON	$4,900
I) 170 TONS OF COMPACTED GRANULAR BACKFILL	$3,279

TOTAL: $34,889

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:	11	OWNER ☐
DATE:	27 October, 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 water and sewer improvements in streets surrounding the library project as described in Proposal Request Six.

The original (Contract Sum) ~~(Guaranteed Maximum Price)~~ was $ 17,633,931.00

The net change by previously authorized Change Orders $ 1,164,523.70

The (Contract Sum) ~~(Guaranteed Maximum Price)~~ prior to this Change Order was $ 18,798,454.70

The (Contract Sum) ~~(Guaranteed Maximum Price)~~ will be (increased) ~~(decreased)~~ ~~(unchanged)~~ by this Change Order in the amount of $ 41,342.00

The new (Contract Sum) ~~(Guaranteed Maximum Price)~~ including this Change Order will be $ 18,839,796.70

The Contract Time will be (increased) ~~(decreased)~~ ~~(unchanged)~~ by twelve (12) days.

The date of Substantial Completion as of the date of this Change Order therefore is 31 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
27 OCT 03	10/29/03	
DATE	DATE	DATE

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CHANGE ORDER

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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: 11
DATE: 27 October, 2003
ARCHITECT'S PROJECT NUMBER: 2000073-00
CONTRACT DATE: 21 MAY 2002
CONTRACT FOR: GENERAL CONSTRUCTION

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
FIELD ☐
OTHER ☐

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~~ARCHITECT~~ *(Typed name)* Associate Architect	CONTRACTOR *(Typed name)*	OWNER *(Typed name)*
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OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
FIELD ☐
OTHER ☐

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CHANGE ORDER NUMBER: 11
DATE: 27 October, 2003
ARCHITECT'S PROJECT NUMBER: 2000073-00
CONTRACT DATE: 21 MAY 2002
CONTRACT FOR: GENERAL CONSTRUCTION

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
FIELD ☐
OTHER ☐

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2000 EDITION

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Change Order

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(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:	11	OWNER ☐
DATE:	27 October, 2003	ARCHITECT ☐
ARCHITECT'S PROJECT NUMBER:	2000073-00	CONTRACTOR ☐
CONTRACT DATE:	21 MAY 2002	FIELD ☐
CONTRACT FOR:	GENERAL CONSTRUCTION	OTHER ☐

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(Name and address)

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FAYETTEVILLE ARKANSAS 72701

TO CONTRACTOR:
(Name and address)

CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST – PROJECT MANAGER
2510 WEST HUDSON ROAD
ROGERS ARKANSAS 72758

CHANGE ORDER NUMBER:	11	OWNER ☐
DATE:	27 October, 2003	ARCHITECT ☐
ARCHITECT'S PROJECT NUMBER:	2000073-00	CONTRACTOR ☐
CONTRACT DATE:	21 MAY 2002	FIELD ☐
CONTRACT FOR:	GENERAL CONSTRUCTION	OTHER ☐

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STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
___ CONTRACT REVIEW
___ GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18, 2003

FROM:

Gary R. Coover	Engineering	Community Planning & Engineering
Name	Division	Department

ACTION REQUIRED: Approval of Change Order No. 11, adjusting the contract with Crossland Construction Company in the amount of $41,342.00 for water and sewer improvements in the streets adjacent to the new library project ~~and including a budget adjustment to cover same.~~

COST TO CITY:

$41,342.00	$ 305,128.00	Water & Sewer Cost Sharing
Cost of this request	Category/Project Budget	Program Category / Project Name
5400.5600.5808.00	$ 66,871.00	Water & Sewer Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02067	$ 238,257.00	Water & Sewer Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

Budget Manager — Date: 10-30-03

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager	10/30/03 Date	Internal Auditor	10/30/03 Date
City Attorney	10/31/03 Date	Purchasing Manager	10/31/03 Date

STAFF RECOMMENDATION: Staff recommends approval of the change order.

Division Head	10-30-03 Date	**Received in Mayor's Office**	11/3/03 Date
Department Director	11-3-03 Date	Cross Reference:	
Finance & Internal Services Dir.	11-3-03 Date	Previous Ord/Res#:	
		Orig. Contract Date:	
Chief Administrative Officer	Date	Orig. Contract Number:	
		New Item:	**Yes** **No**
Mayor	Date		

For City Council Agenda November 18, 2003

To: Mayor Dan Coody and City Council
From: Louise Schaper, Library and Bob Kohler, Owner's Representative
Date: October 29, 2003

Subject: **Approve a contract adjustment to the original contract dated May 21, 2002 in the amount of $110,117 with Crossland Construction Company for the installation of underground utilities to seven housing structures adjacent to the library along the west side of West Avenue.**

Recommendations

We recommend the City Council approve the contract adjustment in the amount of $110,117 to install underground utilities to the seven residences along West Avenue and a spare conduit that allow connectivity from the new building to the City computer network.

Background

On October 21, 2003 the Fayetteville City Council approved a resolution allowing AEP/SWEPCO to begin work on underground utility installation for primary power to the new library building and for primary and low voltage power to pedestals that serve the seven residences adjacent to the library site. Code-related library construction requirements include the removal of overhead utility lines and poles that currently exist along the east side of West Avenue. These lines serve the residences facing the new building on the west side of West Ave. This contract adjustment includes all remaining work not included in the October 21action that will provide permanent electric power, phone and TV cable to the residences that are otherwise deprived of these services as a direct result of library construction and the removal of the existing poles. Included in this work is the trenching, removal and replacement of all concrete, provide and install all conduit from AEP/SWEPCO pedestals, install new meters provided by AEP/SWEPCO, provide and install conduit and wire from new meter to the existing panels or newly provided panels. The scope of work extends to the final termination at an exterior electrical panel of each residence. Also included in this request is the installation of a 2" conduit for future library use to connect to City computer network from an existing pole north of Mountain St. to an existing pull box.

DISCUSSION

Crossland Construction Company has bid this work through the electrical subcontractor for the project, Beaver Electric, which has in turn bid the trenching work through the approved bidding process to the winning bidder, Fayette Tree and Trench. The architects, MS&R, and the consultant for associated engineering services, Green Anderson, have reviewed and recommend approval of the proposal.

BUDGET IMPACT

While this project was not in the original contract with Crossland Construction, it was budgeted in the CIP for site improvements.

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER # 12 TO THE CONTRACT WITH CROSSLAND CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF ONE HUNDRED TEN THOUSAND ONE HUNDRED SEVENTEEN DOLLARS ($110,117.00) TO INSTALL UNDERGROUND UTILITIES TO SEVEN (7) RESIDENCES ADJACENT TO 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 # 12 to the contract with Crossland Construction Company, Inc. in the amount of One Hundred Ten Thousand One Hundred Seventeen Dollars ($110,117.00) to install underground utilities to seven (7) residences adjacent to the new Fayetteville Public Library. A copy of Change Order # 12, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

AmirmoezFosterHaileyJohnson

AFHJ

Architects & Planners

MEMORANDUM

October 27, 2003

To: Bob Kohler

Copy: John Priest
Sean Wagner
Mike Green
Kip Guthrie

From: Jim Foster

Reference: Fayetteville Public Library, Proposal Request 23

The engineers and architects recommend approval of Crossland Construction Company's proposal for providing underground utilities to residents adjoining the library along the west side of West Avenue. The attached Potential Change Order 35 covers work described in Proposal Request 23, also attached. Documents also include a breakdown of pricing by Beaver Electric and their subcontractor, Fayette Tree and Trench.

Sheet U101A was revised to cover work by AEP and their subcontractor, as well as work by a separate Electrical Contractor. The scope of work covered by this price is both work indicated to be by Electrical Contractor and to provide for items excluded by the AEP proposal. Conduit for SBC and Cox cable are included as well as a separate conduit for future library use to connect to the City's computer network.

If approved, the total change would be $110,117.00. Ninety percent of this amount was never in the Library budget. That is the portion related to reconnecting these residents with buried utilities. Providing overhead service to these residents would been somewhat less costly but it would have caused conflicts between required easements and existing homes as well as severe surgery on existing trees.

Time is critical to have this work approved and we advocate that it be on the November 18 Council agenda. Some of the aspects relate to AEP's work to bring permanent power to the Library since SBC and Cox cable conduits would be placed at the same time. It would also be in the best interest of the City to have the trenches for residential service provided concurrently by the AEP subcontractor. Their larger excavating equipment would probably be more effective in the subgrade of West Avenue than the rubber tired backhoe that Beaver Electric has available.

Post Office Box 790 • 100 West Center, Suite 302 • Fayetteville, AR 72702 • 479-442-5565 • FAX 479-442-8849

Crossland Construction Company
Fayetteville Public Library
2A07ZO
401 West Mountain Street
Fayetteville, AR 72701

Detailed Report
Date Range: All Dates
Printed on: 10/17/03

0043 PCO #35 - PR #23 Permanent Power for Residents on West Ave. Date: 10/17/03

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	110,117.00	0.00

COR No	PCCO No	Reference Document	Notes

Item No / Item Description	Company	Budget Allocation	Budget Code / Item Notes	Orig Est	Prop Amt	Appr Amt / CO No
0001		Approximate Changes		0.00	110,117.00	0.00
Permanent Power for West Ave.						

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 ~~XXXXXXXXXXXXXXXXXX~~ 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: Twenty Three (23)

DATE OF ISSUANCE: October 8, 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)*:

1. Provide for West Avenue utilities indicated on Sheet U101A indicated to be by Electrical Contractor as well as work excluded by the proposal from AEP/SWEP including conduit and pull rope for SBC and Cox Communication to be installed by Fayette Tree and Trench. Sheets C106 and C108 indicate changes in curb and sidewalk to accommodate utilities.

2. Provide 1 additional 2" conduit for future Library use to connect to City computer network from the existing pole north of Mountain Street to a pull box connected to the 2" spare conduit included in the Library contract. Arrange with Fayette Tree and Trench to install this added conduit along with others for Cox Cable.

ATTACHMENTS *(List attached documents that support description)*:

See Drawing Sheets previously reissued: U101A sealed by Michael Green 8/18/03, and C106, C108 signed by Kip Guthrie 8/14/03.
Letter proposal from AEP/SWEP Floyd Hornaday dated 9/18/03.

REQUESTED BY THE ~~XXXXXXXXXXXXXX~~ ASSOCIATE ARCHITECT

BY _____ James R. Foster, FAIA
(Signature) *(Printed name and title)*

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures changes will not be obscured.

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POTENTIAL CHANGE ORDER REQUEST

Project Name: Fayetteville Public Library

Potential Change Order # 35

Date: 10/17/03 *Days Requested* _____ *Price Good For* 14 *Days*

Description of Request: PR #23 - Permanent Power for Residents on West Ave.

Material & Labor Direct Cost

Description	Quantity	Unit	Cost	Unit	Material Cost	Hours	Crew Type	Labor Cost
Repair homes - replace roof, siding, & paint	6	ls	$ 200.00	ls	$ 1,200.00	ls hr	B hr	$ 1,200.00
Repair home - puddy and paint	1	ls	$ 75.00	ls	$ 75.00	ls hr	B hr	$ 75.00
			$ -		$ -	hr	hr	$ -
Conduit and pull rope for SBC and Cox		ls	$ 7,500.00	ls	$ 7,500.00	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
If rock in encountered the originally agreed		cy	$ 126.00	cy	$ -	hr	hr	$ -
unit cost will be charged.			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
			$ -		$ -	hr	hr	$ -
					$ -	hr	hr	$ -
				MATERIAL SUBTOTAL	$ 8,775.00		LABOR SUBTOTAL	$ 1,275.00
				TAX AS APPLICABLE 8.375%	$ 734.91		LABOR BURDEN 15%	$ 191.25
				MATERIAL TOTAL	$ 9,509.91		LABOR TOTAL	$ 1,466.25

Subcontractor Pricing

Name	Description of Work	Sub Pricing
Beaver Electric	Providing underground service to 101, 105, 107, 111, 11	$ 91,559.90
	119, and 127 West Avenue. Price includes trenching, remove	$ -
	and replace all concrete, provide and install conduit from	$ -
	SWEPCO pedestals, Install new meter provided by SWEPC	$ -
	provide and install conduit and wire from new meter to the	$ -
	existing panel or newly provided panels. Price does not	$ -
	include rock trenching or rock removal. Pricing bases on	$ -
	drawings issued on August 18, 2003.	$ -
	SUBCONTRACTOR TOTAL	$ 91,559.90

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		$ 9,509.91
Labor Direct Cost		$ 1,466.25
Subcontractor Total		$ 91,559.90
SUBTOTAL		$ 102,536.06
CCC Insurance @	0.15%	$ 153.80
CCC Bond @	1.00%	$ 1,025.36
CCC Overhead @	15.00%	$ 1,823.30
CCC OH/P for Subs @	5.00%	$ 4,578.00
GRAND TOTAL FOR CHANGE		$ 110,116.51

Approval

Owner: City of Fayetteville, Arkansas

Signature: _____

Architect: Amirmoez-Foster-Hailey-Johnson

Signature: _____

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: 0017

Date: 10-16-03

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 Pricing ASI # 23.

Re: ASI # 23 breakdown.

Dear Mr. Priest,

Be advised of the following changes to the Fayetteville Public Library job, per ASI request number 23.

Scope of Work:
Provide all new electrical services, conduit, wire, and electrical devices as directed in Architects Supplemental Instructions No. 23.

Scope of Work	Material	Tax	Labor	Sub Con.	O&P	Total
ASI # 15	$29,281	$ 1,582	$ 16,113	$35,750	~~$10,025~~ $8,833.20	$ 95,549

Total Price ~~$98,549.00~~ $91,559.20

Allow 3-6 weeks for delivery of equipment after written release and equipment submittal approval. Prices quoted are subject to cancellation or escalation if not accepted within 30 days. Terms are Net 30 days.

Please review the following inclusions:

1) Rigid conduit will be installed from below grade to 5 feet above grade.
2) Emt conduit will be used 5 feet above grade.
3) All fittings for Emt conduit will be die cast.
4) Nema 3R boxes to be mounted 18 inches above grade for SBC and Cox cable use.
5) Provide all pull - strings for SBC and Cox cable in underground conduits.
6) Beaver Electric will provide new cable from power company transformer to new or existing meter bases.
7) The following residences will receive new service panels 101, 105 and 115.
8) The following residences will reuse existing meter bases and panels 107, 111, 119 and 127.

9) Residence 115 will be reconnected with only 2 circuits since this home only has 2 power circuits.
10) Repair of street crossings.

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) Painting.
3) Repairing of existing roofs.
4) Permits.
5) All SBC and Cox pedestals.
6) All Transformers and pads by others.
7) Removal of existing overhead wire.
8) Repairing of siding.
9) Asbestos testing and abatement.
10) Any wiring for SBC and Cox cable by others.
11) All power company terminations by others. This includes transformer and meter base terminations.
12) Temporary power for residences.
13) Rock excavation extra.

Please forward to Green Anderson for approval ASAP.

John Williams
Project Manager

Fayette Tree & Trench, Inc.
P. O. Box 471
Fayetteville, AR 72702-0471

BID PROPOSAL

DATE
9/19/2003

NAME / ADDRESS
BEAVER ELECTRIC 208 N. BLOCK STREET FAYETTEVILLE, ARKANSAS ATTENTION: CHUCK

DESCRIPTION	QTY	COST	TOTAL
RE: FAYETTEVILLE PUBLIC LIBRARY WEST STREET SERVICE LINES TO EXISTING HOUSES INSTALLATION OF CONDUITS ACROSS WEST STREET & TO METER LOCATION INSTALLATION OF 7 STREET CROSSINGS (CONDUIT NOT INCLUDED IN PRICE) REPAIRING CROSSINGS TO CITY OF FAYETTEVILLE CODES RESTORING YARDS AS NEEDED PULL ROPES IN CONDUIT PUT TOGETHER CONDUIT		35,750.00	35750.00
NOTE: PRICE DOES NOT INCLUDE CONDUIT OR MATERIALS RELATED TO WIRING UP HOUSES ROCK EXCAVATION EXTRA			

TOTAL	$35,750.00

TOTAL P.02

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(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: 12
DATE: 27 October, 2003
ARCHITECT'S PROJECT NUMBER: 2000073-00
CONTRACT DATE: 21 MAY 2002
CONTRACT FOR: GENERAL CONSTRUCTION

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
FIELD ☐
OTHER ☐

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ARCHITECT *(Typed name)* Associate Architect	**CONTRACTOR** *(Typed name)*	**OWNER** *(Typed name)*
(Signature)	*(Signature)*	*(Signature)*
JAMES FOSTER	**JOHN PRIEST**	**MAYOR DAN COODY**
BY	**BY**	**BY**
27 OCT 03	10/24/03	
DATE	**DATE**	**DATE**

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ARCHITECT'S PROJECT NUMBER:	2000073-00	CONTRACTOR ☐
CONTRACT DATE:	21 MAY 2002	FIELD ☐
CONTRACT FOR:	GENERAL CONSTRUCTION	OTHER ☐

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STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18, 2003

FROM:

Louise Schaper	Library	General government
Name	Division	Department

ACTION REQUIRED: Approve a contract adjustment to the original contract dated May 21, 2002 in the amount of $110,117 with Crossland Construction Company for the installation of underground utilities to seven housing structures adjacent to the library along the west side of West Avenue .

COST TO CITY:

$110,117	$ 21,891,640	New Main Library
Cost of this request	Category/Project Budget	Program Category / Project Name
4470-9470-5804-00	$ 16,315,177	New Main Library
Account Number	Funds Used to Date	Program / Project Category Name
99073	$ 5,576,463	Capital Improvements Project
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date 10-28-03

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fanshing — Accounting Manager — Date 10/28/03
Nancy Smith — Internal Auditor — Date 10/30/03
D. P. Whit — City Attorney — Date 10/31/03
P Alice — Purchasing Manager — Date 10/31/03

STAFF RECOMMENDATION:

11/3/03 P.H.

Division Head — Date

Department Director — Date

Finance & Internal Services Dir. — Date 11-3-03

Chief Administrative Officer — Date

MAYOR — Dan Coody — 11/03/03

Cross Reference

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

Previous Ord/Res#: ____

Orig. Contract Date ____

Orig. Contract Number ____

ENTERED 10-29-03 TLK

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 31, 2003

Subject: Master Street Plan amendent – Shepard Lane

RECOMMENDATION

Planning Staff recommends approval of a resolution amending the Master Street Plan to reclassify Shepard Lane from a collector to a local street.

BACKGROUND

Property description: The subject property is located east of N. College Ave., between Joyce Blvd. and Zion Rd. Shepard Lane is currently designated a collector street on the Master Street Plan. It is proposed to connect Frontage Road which runs north/south behind the Northwest Village shopping center (Chick-fil-A, Toys R' Us, Barnes and Noble, etc.) with Vantage Drive, a north/south collector which is partially constructed and will connect Zion Rd. and Joyce Blvd.

Proposal: The applicant proposes to develop an apartment project east of Frontage Drive and incorporating Shepard Lane into the development up to the point where it intersects Vantage Drive. A future mixed use or commercial development will connect this apartment project with Frontage Road using Shepard Lane as the means of connection.

Request: The request is to reclassify Shepard Lane from a collector requiring 70' of right-of-way to a local street which requires 50' of right-o- way.

DISCUSSION

The Planning Commission voted 7-0-0 in favor of the associated Large Scale Development for Stearns Street Apartments which included consideration of this Master Street Plan amendment as a condition of that approval on Monday, October 27, 2003.

Stearns Street is identified on the City's current Master Street plan. The purpose of this street is to provide a way for traffic to access Vantage Drive and to then be able to travel north to Zion Road or south to Joyce Street. The proposed change in classification of Shepard Lane will not detrimentally impact the intent of the Master Street Plan in this location. Traffic flow will be substantially the same.

The Master Street Plan amendments which are being presented with the City's Traffic and Transportation Plan prepared by Bucher, Willis & Ratliff Corp. does not show a collector street in this location indicating that Shepard Lane would be reclassified should the new plan be adopted as proposed.

BUDGET IMPACT

None. The full street segment will be built by the developer of Stearns Street Apartments as a required on-site improvement when that project is constructed. A future development will complete Shepard Lane west of the apartment project to its intersection with Frontage Drive.

RESOLUTION NO. _____

A RESOLUTION APPROVING ADM 03-26.00 AMENDING THE MASTER STREET PLAN, LESSENING THE RIGHT OF WAY DEDICATION FOR SHEPHERD LANE, DESIGNATED A COLLECTOR STREET REQUIRING 70' RIGHT OF WAY, TO LOCAL STREET STANDARDS REQUIRING 50' RIGHT OF WAY.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves the herein above mentioned change.

PASSED and **APPROVED** this _____ day of November, 2008

APPROVED:

By: _____
DAN COODY, MAYOR

ATTEST:

By: _____
SONDRA SMITH, CITY CLERK

DRAFT

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

Jeremy Pate
City of Fayetteville, Planning
113 W. Mountain
Fayetteville, AR 72703

October 29, 2003

RE: Master Street Plan R/W Reduction
Sterns Street and Shepherd Lane
CTA Job No. 021131-00

Dear Jeremy:

Per this letter, we are formally requesting a reduction in right-of-way for Sterns Street and Shepherd Lane to be presented at the next regular meeting of the City Counsel. We are requesting to reduce Shepard Lane from a collector street 70' right of way to a local street with 50' of right of way. We are also requesting reducing Stearns street from a 70' right of way to a 50 ft right of way. The following are our justifications:

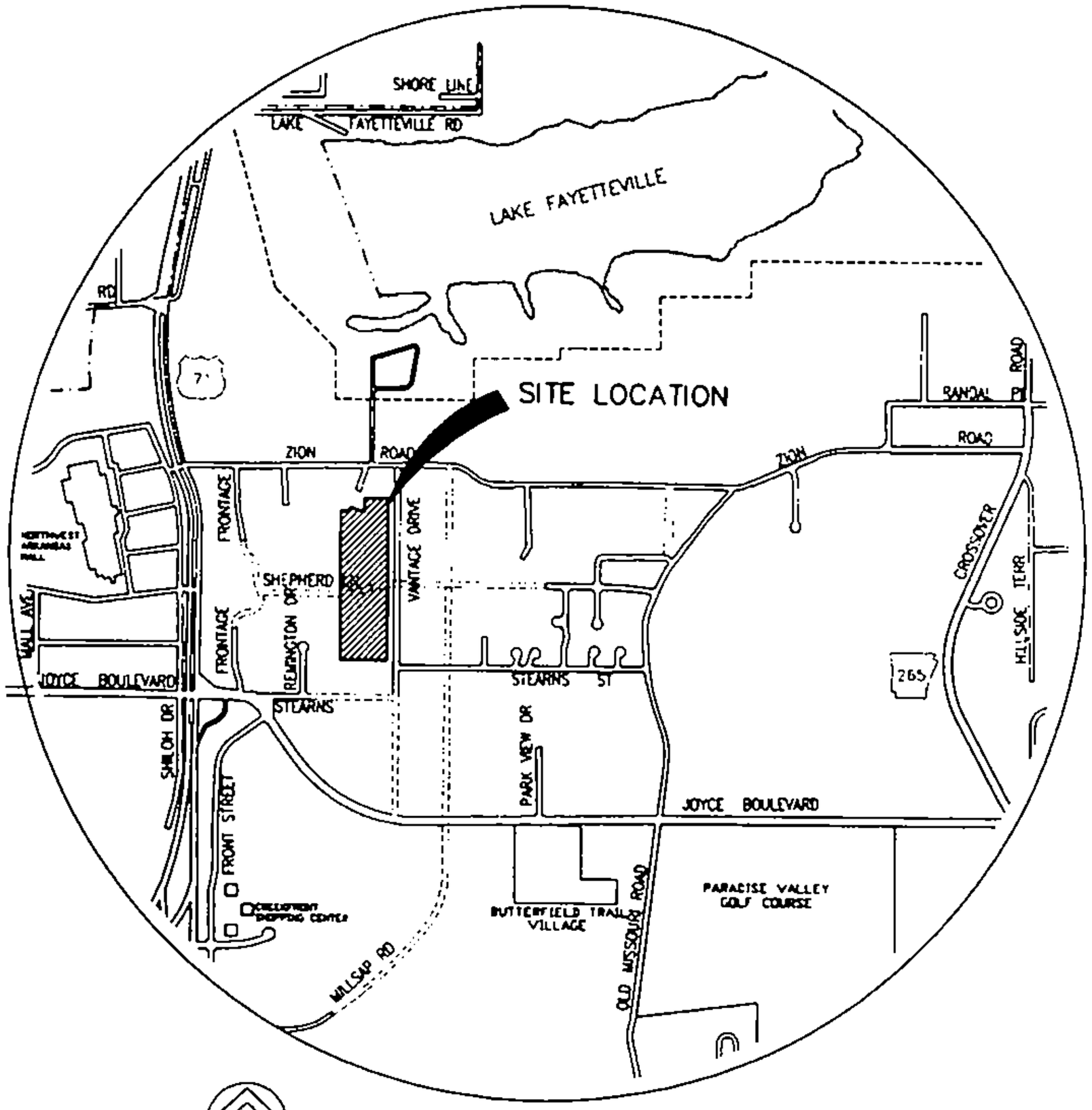
1. The commercial center of Barnes and Noble, Toys-R-Use ect...will prevent Shepard Lane from ever being a through street to 71B which would be the intent of a collector type street. The only traffic that would utilize this street would be Local residential uses.
2. Sterns street connects to Joyce Boulevard near the major intersection of Joyce and 71B. Making Sterns street a collector would create another significant intersection next to one of the busiest in Fayetteville. We fill it would make more since to direct the majority of traffic to the future intersection of Vantage drive and Joyce which would be further east. Also, the section of Stems street that is already constructed, and R/W dedicated, is to local street standards, not collector street standards.

For these reasons, along with constructing Vantage Drive as a boulevard, we fill that the reduction in street classifications are justified. Should you have any questions, or require any additional information, please contact us at your convenience.

Very Truly Yours,

Crafton, Tull & Associates, Inc.

Jerry Kelso, P.E



not to scale

VICINITY MAP

REGISTERED PROFESSIONAL ENGINEER

Crafton, Tull & Associates, Inc.
Architects, Engineers & Surveyors

STEARNS STREET APARTMENTS
FAYETTEVILLE, ARKANSAS

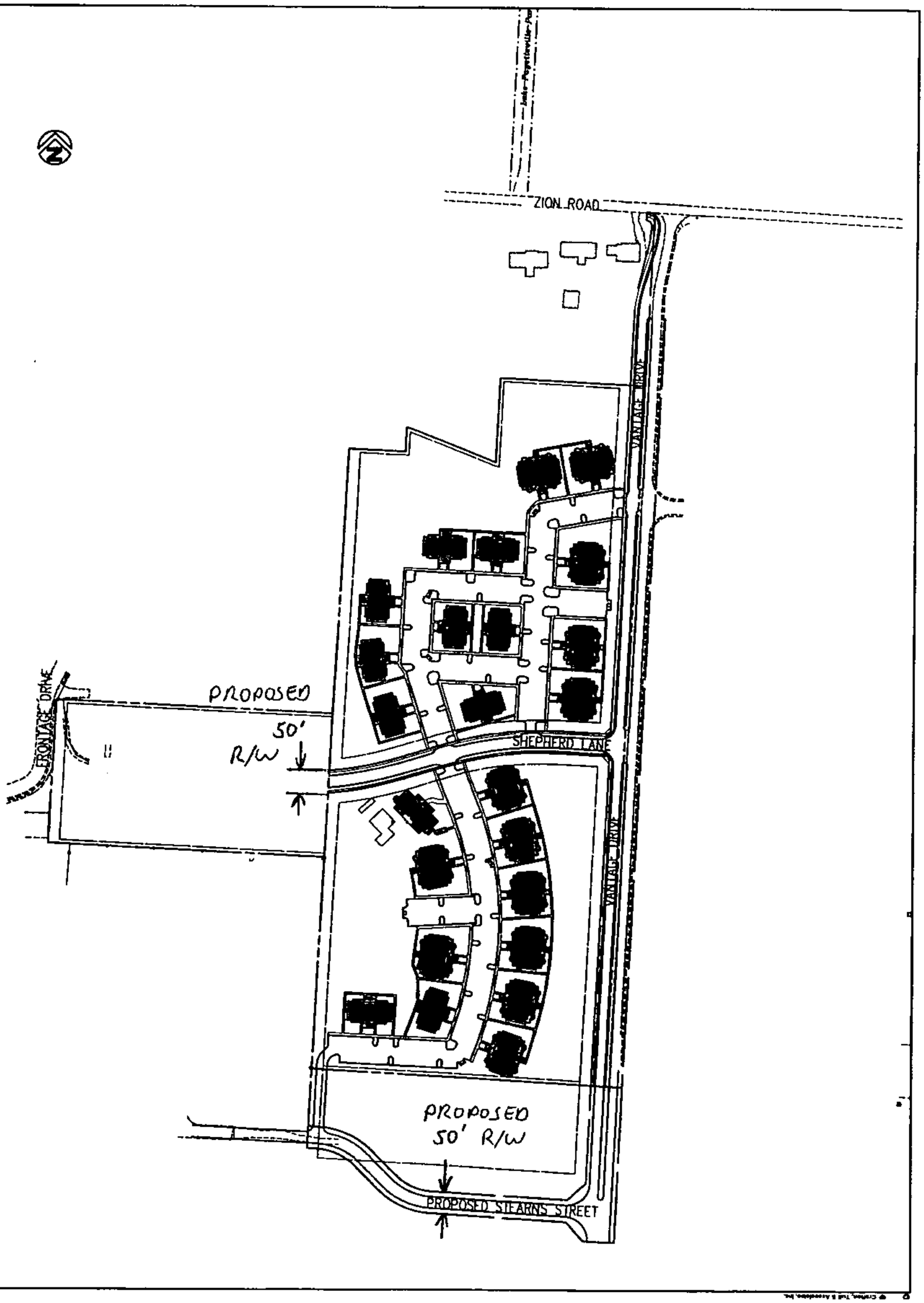
ADM 03-7200 Stearns Street/Shepherd Ln

A.5
Page 5 of 17

STEARNS STREET
APARTMENTS
FAYETTEVILLE, ARKANSAS

Craftton, Tull & Associates, Inc.
Architects, Engineers & Surveyors

REGISTERED PROFESSIONAL ENGINEER
STATE OF ARKANSAS



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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 21, 2003

LSD 03-38.00: Large Scale Development (Stearns Apartments, pp 136) was submitted by Jerry Kelso of Crafton, Tull, and Assoc. on behalf of Stearns Street Apartments Limited Partnership for property located at the southwest corner of Vantage Dr. and Zion Rd. The property is zoned RMF-24, Residential Multi-family 24 units per acre, and R-O, Residential Office, and contains 23 acres. The proposal is to construct an apartment complex with 276 units proposed. Planner: Jeremy Pate

Findings:

Proposal: The applicant requests to construct an apartment complex within an RMF-24 and R-O zoning district comprised of 276 units (460 bedrooms in 23 buildings) and a 1250 SF clubhouse. The R-O parcel was approved by Planning Commission in April of 2003 as a Conditional Use to allow multifamily residential with a maximum density of 18 units per acre (see attached minutes). Conditions of approval specifically addressed a requirement for a mixture of building sizes and facades which would provide the appearance of a more diverse community of residential uses; elevations which were required to be submitted at the time of large scale development review; installation of sidewalks on the subject property; on- and off-site improvements; and a maximum density of 18 dwelling units per acre.

Building elevations were submitted for review by Subdivision Committee on October 16, 2003. Based on comments received, the applicant revised the site plan to reflect three different building footprints with six different facades, including the clubhouse. The conditional use is applicable to only that portion of the site within the R-O zoning district; however, the applicant has continued the mixture of facades and footprints into the RMF-24 portion of the tract, in keeping with the spirit of the requirement.

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Single family homes	R-O, Residential Office R-A, Residential Agricultural
South	Vacant	C-2, Thoroughfare Commercial
East	Zion Valley Estates	RMF-24, Res. Multifamily, 24 DU/Ac
West	Vacant Lots	C-1, Neighborhood Commercial R-A, Residential Agricultural

Right-of-way being dedicated: Vantage Drive (70 feet Collector), Stearns Street (50 feet Local), Shepherd Lane (50 feet Local). *Stearns Street and Shepherd Lane require Master Street Plan amendments for lesser dedication of right-of-way.*

Street Improvements: Vantage Drive is proposed to be constructed with a boulevard cross-section, to City standards, with 22-foot lanes (including on-street bicycle linkage) and a 10-foot landscaped median. Shepherd Lane, the interior Collector Street that in the future connects Vantage Drive with Frontage Road, is proposed to be a Local Street with 50-feet of right-of-way, 28 feet wide with paving, curb, gutter, and six-foot sidewalks on both sides. Stearns Street, an off-site street to the south, is proposed to be extended with 50 feet of dedicated right-of-way, with a 28-foot street cross-section. Staff is in support of the lesser dedication of right-of-way and Master Street Plan Amendment for Stearns Street and Shepherd Lane.

Adjacent Master Street Plan Streets: Vantage Drive, Collector; Stearns Street, Collector (off-site); Shepherd Lane, Collector

Park land Dedication: City Council passed a waiver to the Park Land Dedication Ordinance 166.03k on October 07, 2003, Resolution 146-03, to approve money-in-lieu of land ($108,468).

Tree Preservation:	Existing canopy:	47%
	Preserved canopy:	21%
	Required canopy:	20%
	Mitigation required:	None

Recommendation: Staff recommends approval of **LSD 03-38.00** subject to the following conditions:

Conditions of Approval:

1. Planning Commission determination of compliance with **CUP 03-10.00** Conditions of Approval as stated in the attached minutes, including:
   - review of on- and off-site improvements;
   - sidewalk installation;
   - mixture of building size and façade to provide appearance of a more diverse community of residential uses;
   - submittal of building elevations; and
   - maximum density of 18 DU/acre

2. Planning Commission determination of street improvements. *Staff finds that the applicant's proposed street improvements meet those required by a developer for on- and off-site improvements, including Vantage Drive (50 feet wide, with landscape median, bike lanes and 6-foot sidewalks, Stearns Street (28 feet wide w/curb, gutter and storm drains), and Shepherd Lane (28 feet wide with curb, gutter, storm drains and 6-foot sidewalks on both sides.) All streets are to be constructed in accordance with City standards.*

3. Planning Commission determination of the Master Street Plan Amendment proposals to reduce Stearns Street and Shepherd Lane, both Collector streets, to Local Streets.

The two Master Street Plan Amendments shall be considered as separate items by City Council. *Staff is in favor of the proposed amendment to reduce the Collector Streets to Local Streets.*

4. Planning Commission determination of a variance request for the 100-foot building setback from a water surface in the pond area. *Staff is in support of this variance request. The applicant intends to install a 4-foot wrought iron fence around the pond for safety.*

5. Street names shall be approved by the 9-1-1 Coordinator.

6. Parks fees are assessed for 276 multifamily units in the amount of **$108,468**. Fees shall be paid prior to the issuance of building permits.

7. A complete and detailed Landscape Plan shall be submitted and approved by the Landscape Administrator prior to building permit, complying with all requirements as set forth in the Unified Development Code.

Standard Conditions of approval:

8. Sidewalks shall be constructed in accordance with current City regulations to include 6-foot sidewalks at the right-of-way line on both sides of Shepherd Lane and on the west side of Vantage drive north to Zion Road.

9. All mechanical/utility equipment shall be screened using materials that are compatible with and incorporated into the structure. Equipment located away from the structure shall be screened using vegetation.

10. Trash enclosures shall be screened with access not visible from the street.

11. 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)

12. 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.

13. Large scale development shall be valid for one calendar year.

14. 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

15. Additional conditions:

_____

_____

PLANNING COMMISSION ACTION: **__yes__Required**
_____Approved **_____Denied**

Date: October 27, 2003

Comments:

_____

_____

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

_____
By

_____
Title

_____
Date

10 MASTER STREET PLAN

Amended September 17, 1996, Street Classifications, Res. No. 97-96

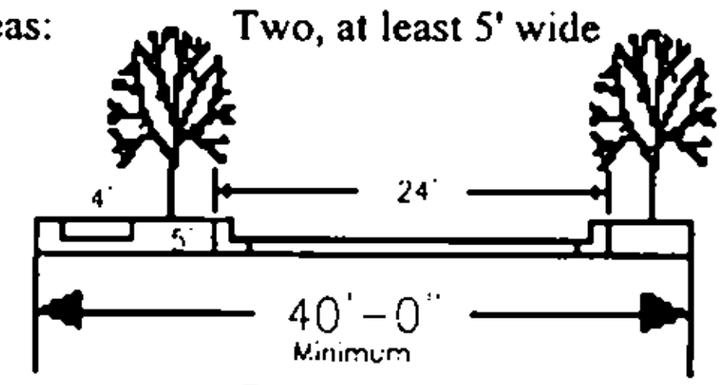
10.1 Street Classifications

Planning is required to connect Fayetteville to other population centers and to provide for circulation within the community. New development must be provided with proper access to alleviate problems associated with congestion and safety by requiring streets in sufficient number and of adequate size to accommodate peak traffic volumes.

The Master Street Plan is a hierarchy of various street types. All streets within Fayetteville have been functionally classified in accordance with the guidelines set forth in the U. S. Department of Transportation's National Highway Functional Classification Study Manual. Functional classification is defined by the Northwest Arkansas Regional Transportation Study as: *The grouping of public ways by likeness of service or purpose into classes or systems according to the character of service they are intended to provide. The frame of reference is the sense of service offered to and expected by the road user. Neither ownership nor administrative responsibility is relevant in grouping by function. The hierarchy of functional classes reflects the type of traffic using each facility and how they function in relation to the overall street network.* Streets within Fayetteville are classified as one of the following nine types:

RESIDENTIAL STREETS provide for the lowest level of traffic and service. They provide access to residential property and are intended to be used only by local traffic.

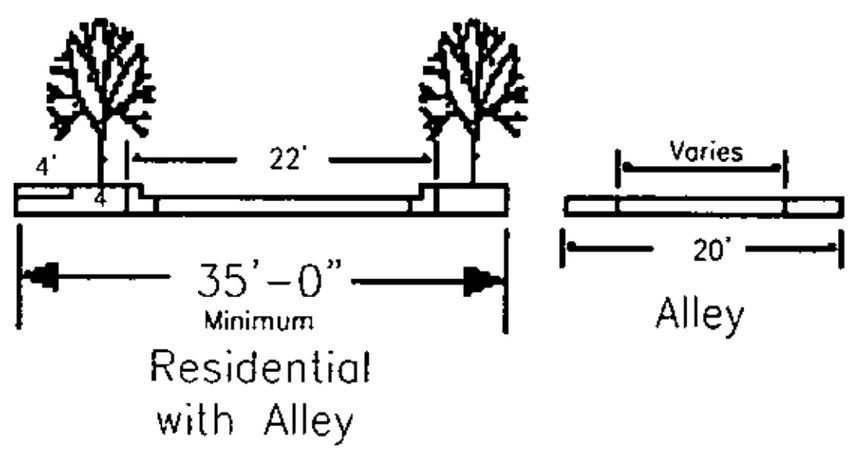
Design Service Volume:	300-500
Speed:	15-20 mph
Traffic Lanes:	Two 10' lanes
Parking:	Allowed
Paved Width:	24' from back of curb
Right of Way:	40'
Sidewalks:	One 4', at least 5' from curb
Tree planting areas:	Two, at least 5' wide



Residential

RESIDENTIAL WITH ALLEY is a street type provided for "traditional neighborhood" development, with access to properties from rear alleys. These streets provide access to residential property and are intended to be used only by local traffic.

Design Service Volume:	100-300
Speed:	10-15 mph
Traffic Lanes:	Two 9' lanes
Parking:	Allowed
Paved Width:	22' from back of curb
Right of Way:	35'
Sidewalks:	One 4', at least 4' from curb
Tree planting areas:	Two, at least 4' wide
Curb cuts	None



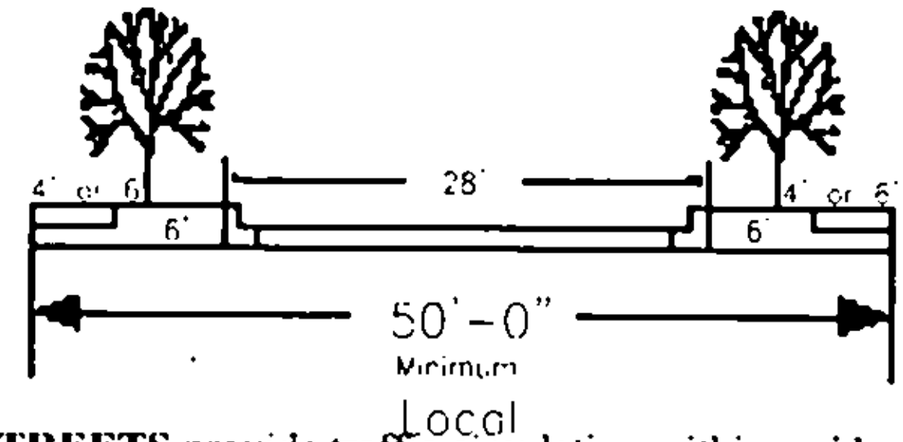
ALLEY is used in conjunction with the above residential street to provide rear access to properties, garages, and off-street parking spaces.

Design Service Volume:	<200
Speed:	5-10 mph
Traffic Lanes:	Undefined
Parking:	Not Allowed
Paved Width:	10' (one way) to 16' (two way)
Right of Way:	20'
Sidewalks:	None
Tree planting areas:	None
Curb cuts:	Continuous access possible. No curb required

LOCAL STREETS provide for the second lowest level of traffic flow and service. They

provide access to abutting land uses and provide connections to higher order systems. They are not intended to provide for through traffic movements.

Design Service Volume:	Less than 4,000 vpd
Speed:	20-25 mph
Traffic Lanes:	Two 10' lanes
Parking Lanes:	Provided but not defined
Paved Width:	28' from back of curb
Right of Way:	50'
Sidewalks:	Two 4', at least 6' from curb
Tree planting areas:	Two, at least 6' wide



COLLECTOR STREETS provide traffic circulation within residential, commercial, and industrial areas. They collect traffic from local or residential streets in neighborhoods and channel it into the arterial system. Connections between arterials should be indirect to discourage use by traffic from outside the neighborhood. In residential neighborhoods, frontage along collectors is discouraged; houses should front on local or residential streets.

Design Service Volume:	4,000 vpd, 6,000 vpd with left turn bays
Speed:	25-30 mph
Traffic Lanes:	Two 11' travel lanes, 10' turn bays where warranted
Parking Lanes:	Two lanes provided. None when turn bay exists
Paved Width:	36' from back of curb
Right of Way:	At least 70'
Multi-use trail:	Two at least 6' wide, at least 10' from curb
Tree Planting areas:	Two, at least 10' wide

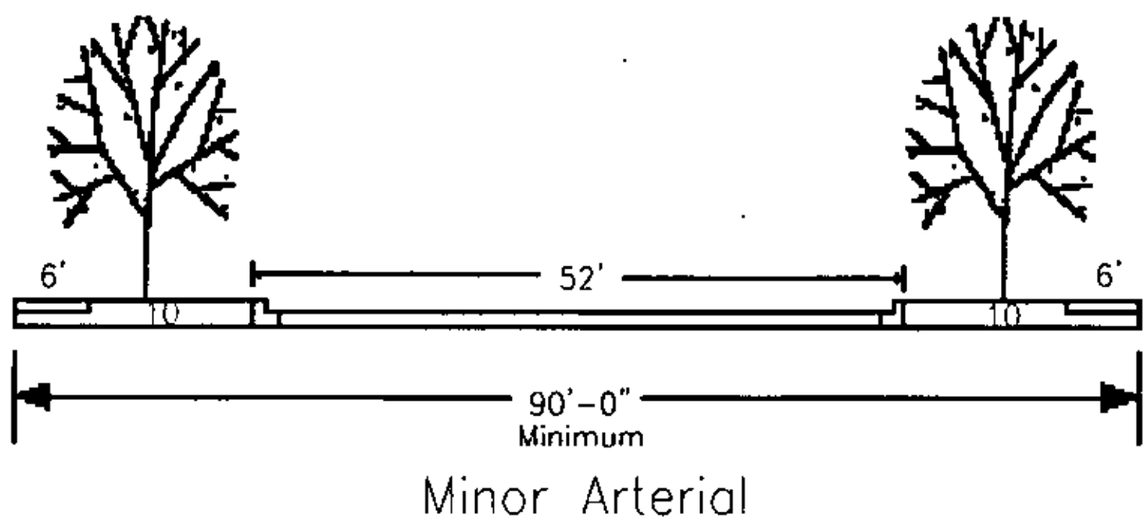
HISTORIC COLLECTOR provides traffic circulation within the historic and developed parts of central Fayetteville. This type of collector street recognizes the right-of-way limitations associated

with developing in "built-out" areas of the city.

Design Service Volume:	4,000 vpd, 6,000 vpd with left turn bays
Speed:	25-30 mph
Traffic Lanes:	Two 11' travel lanes, 10' turn bays where warranted
Parking Lanes:	Two lanes provided. None when turn bay exists
Paved Width:	36' from back of curb
Right of Way:	At least 50'
Sidewalk	6'

MINOR ARTERIAL STREETS connect higher functional class facilities, etc. Residential frontage is strongly discouraged. Access should be from perpendicular local or residential streets.

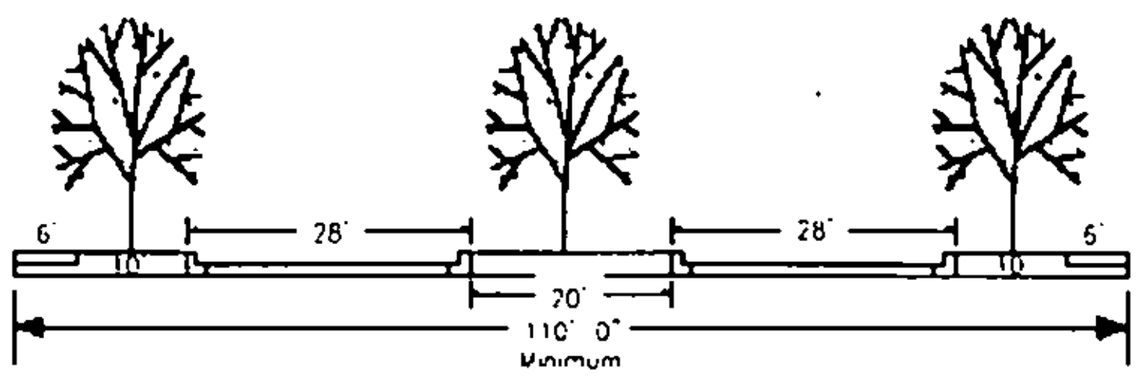
Design Service Volume:	12,200 vpd, 14,800 vpd with left turn bays
Speed:	35-40 mph
Traffic Lanes:	Four 12' travel lanes, 11' turn lanes possible at intersections
Parking Lanes:	None
Paved Width:	52' from back of curb, 59' with turn lane
Right of Way:	At least 90'
Multi-use Trail:	Two at least 6' wide, at least 10' from curb
Tree Planting Areas	Two, at least 10' wide



Minor Arterial

PRINCIPAL ARTERIAL STREETS carry high volumes of through traffic. They are designed as boulevards for beauty and safety. In areas where sufficient right of way is unobtainable, the minor arterial four lane section can be used.

Design Service Volume:	17,600 vpd, 20,600 vpd with left turn bay
Speed:	40-45 mph
Traffic Lanes:	Four 12' travel lanes, 12' turn lanes possible at intersections and at frequent intervals
Parking Lanes:	None
Paved Width:	28' from back of curb each side of median
Right of Way:	At least 110'
Multi-use Trails:	Two at least 6' wide, at least 10' from curb
Median:	20' minimum if no turn bay. May be reduced to 8' to accommodate turn bays
Tree planting areas:	Two, at least 10' wide, in addition to the median

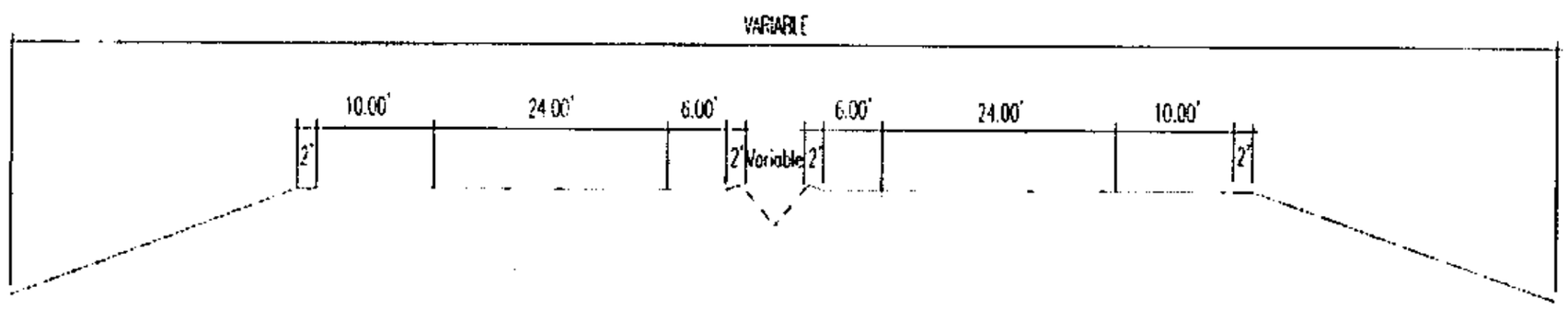


Principal Arterial

FREEWAY/EXPRESSWAY STREETS are high speed, multi-lane facilities with a high degree of access control. These facilities serve the major centers of activity of a metropolitan area; and are designed for the longest trips by being well integrated with the arterial streets serving the area. They should provide a high level of traffic service for travelers who do not have local destinations and wish to bypass the city.

Design Service Volume:	28,300 vpd expressway; 44,800 vpd freeway
Speed:	45-55 mph
Traffic Lanes:	Four 12' lanes; where at grade intersections occur on expressways, right and left turn lanes shall be provided; no grade crossings allowed on freeways
Parking Lanes:	None; emergency parking permitted on shoulders
Shoulders:	10' outside and 6' inside shoulders
Paved Width:	80' from edge of paved shoulder
Right of Way:	200'; 300' for State and Federal projects with more at interchanges; varying including shoulders
Sidewalks:	None

FREEWAY/EXPRESSWAY



10.2 Master Street Plan

A listing of all of the streets classified and shown on the master street plan is in Attachment A. The detailed table identifies each street segment by name or proposed name, classification, existing number of lanes, proposed number of lanes, length, and proposed right-of-way width.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 18, 2003

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Resolution approval.

SUMMARY EXPLANATION:

ADM 03-26.00 was submitted by Jerry Kelso of Crafton, Tull & Associates on behalf of Stearns Street Apartments Limited Partnership for property located at the southwest corner of Vantage Dr. and Zion Rd. The property is zoned RMF-24, Residential Multi-family 24 units per acre, and R-O, Residential Office, and contains approximately 23 acres. The request is to reduce the right of way for Shepherd Lane, currently a collector street requiring 70' right of way, to a local street requiring 50' right of way.

STAFF RECOMMENDATION: Approval

Dawn T. Warrick	10/31/03	Division Head
	11/3/03	City Attorney
	10-31-03	Department Director
	11-3-03	Finance & Internal Services Dir.
		Chief Administrative Officer
	11/3/03	Mayor

Received in Mayor's Office 11/3/03 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

11-3-03

City Council Meeting of November 18, 2003
Agenda Item Number

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 31, 2003

Subject: Master Street Plan amendent – Stearns Street

RECOMMENDATION

Planning Staff recommends approval of a resolution amending the Master Street Plan to reclassify Stearns Street from a collector to a local street and to reconfigure the connection of Stearns Street with Vantage Drive.

BACKGROUND

Property description: The subject property is located east of N. College Ave., between Joyce Blvd. and Zion Rd. Stearns Street is currently designated a collector street on the Master Street Plan connecting Joyce Blvd. and Vantage Drive (a partially built north/south collector).

Proposal: The applicant proposes to develop an apartment project north of the location where Stearns Street will connect with Vantage Drive. As a part of the project, an off-site connection to Stearns Street is proposed in order to provide additional access and connectivity for the development.

Request: The request is to reclassify Stearns Street in this location from a collector street requiring 70' of right-of-way to a local street which requires 50' of right-of-way. A change in the configuration of the intersection of Stearns Street and Vantage Drive is also proposed in order to provide a buildable lot south of the apartments for future development. The current configuration of this connection would cause the extension of Stearns Street to bisect a property leaving little or no ability for it to be properly developed.

DISCUSSION

The Planning Commission voted 7-0-0 in favor of the associated Large Scale Development for Stearns Street Apartments which included consideration of this Master Street Plan amendment as a condition of that approval on Monday, October 27, 2003.

Stearns Street is identified on the City's current Master Street plan. The purpose of this street is to provide a way for traffic to access Vantage Drive and to then be able to travel north to Zion Road or south to Joyce Street. The proposed change in classification and reconfiguration of Stearns Street will not detrimentally impact the intent of the Master Street Plan in this location. Traffic flow will be substantially the same.

The Master Street Plan amendments which are being presented with the City's Traffic and Transportation Plan prepared by Bucher, Willis & Ratliff Corp. does not show a collector street in this location indicating that Stearns Street would be reclassified should the new plan be adopted as proposed.

BUDGET IMPACT

None. The full street segment will be built by the developer of Stearns Street Apartments as an off-site improvement when that project is constructed.

RESOLUTION NO. _____

A RESOLUTION APPROVING ADM 03-27.00 AMENDING THE MASTER STREET PLAN, LESSENING THE RIGHT OF WAY DEDICATION FOR STEARNS STREET, DESIGNATED A COLLECTOR STREET REQUIRING 70' RIGHT OF WAY, TO LOCAL STREET STANDARDS REQUIRING 50' RIGHT OF WAY, AND RECONFIGURING THE CONNECTION BETWEEN STEARNS STREET AND VANTAGE DRIVE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves the herein above mentioned change.

PASSED and **APPROVED** this _____ day of November, 2003

APPROVED:

By: _____
DAN COODY, MAYOR

ATTEST:

By: _____
SONDRA SMITH, CITY CLERK

DRAFT

Crafton, Tull & Associates, Inc.

901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

Jeremy Pate
City of Fayetteville, Planning
113 W. Mountain
Fayetteville, AR 72703

October 29, 2003

RECEIVED
OCT 3 0 2003
PLANNING DIV.

RE: Master Street Plan R/W Reduction
Sterns Street and Shepherd Lane
CTA Job No. 021131-00

Dear Jeremy:

Per this letter, we are formally requesting a reduction in right-of-way for Sterns Street and Shepherd Lane to be presented at the next regular meeting of the City Counsel. We are requesting to reduce Shepard Lane from a collector street 70' right of way to a local street with 50' of right of way. We are also requesting reducing Stearns street from a 70' right of way to a 50 ft right of way. The following are our justifications:

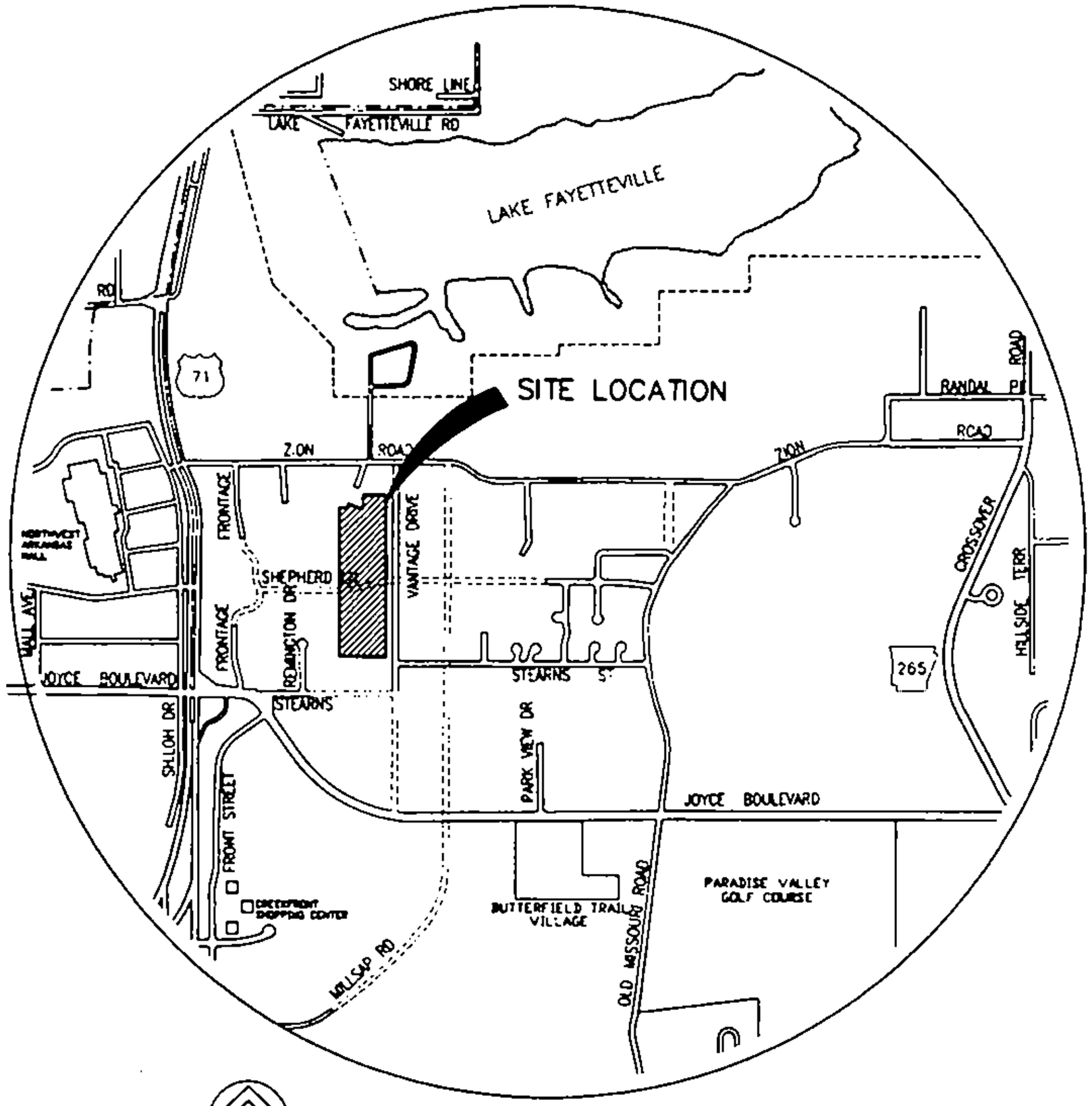
1. The commercial center of Barnes and Noble, Toys-R-Use ect...will prevent Shepard Lane from ever being a through street to 71B which would be the intent of a collector type street. The only traffic that would utilize this street would be Local residential uses.
2. Sterns street connects to Joyce Boulevard near the major intersection of Joyce and 71B. Making Sterns street a collector would create another significant intersection next to one of the busiest in Fayetteville. We fill it would make more since to direct the majority of traffic to the future intersection of Vantage drive and Joyce which would be further east. Also, the section of Sterns street that is already constructed, and R/W dedicated, is to local street standards, not collector street standards.

For these reasons, along with constructing Vantage Drive as a boulevard, we fill that the reduction in street classifications are justified. Should you have any questions, or require any additional information, please contact us at your convenience.

Very Truly Yours,

Crafton, Tull & Associates, Inc.

Jerry Kelso, P.E



N

not to scale

VICINITY MAP

REGISTERED PROFESSIONAL ENGINEER

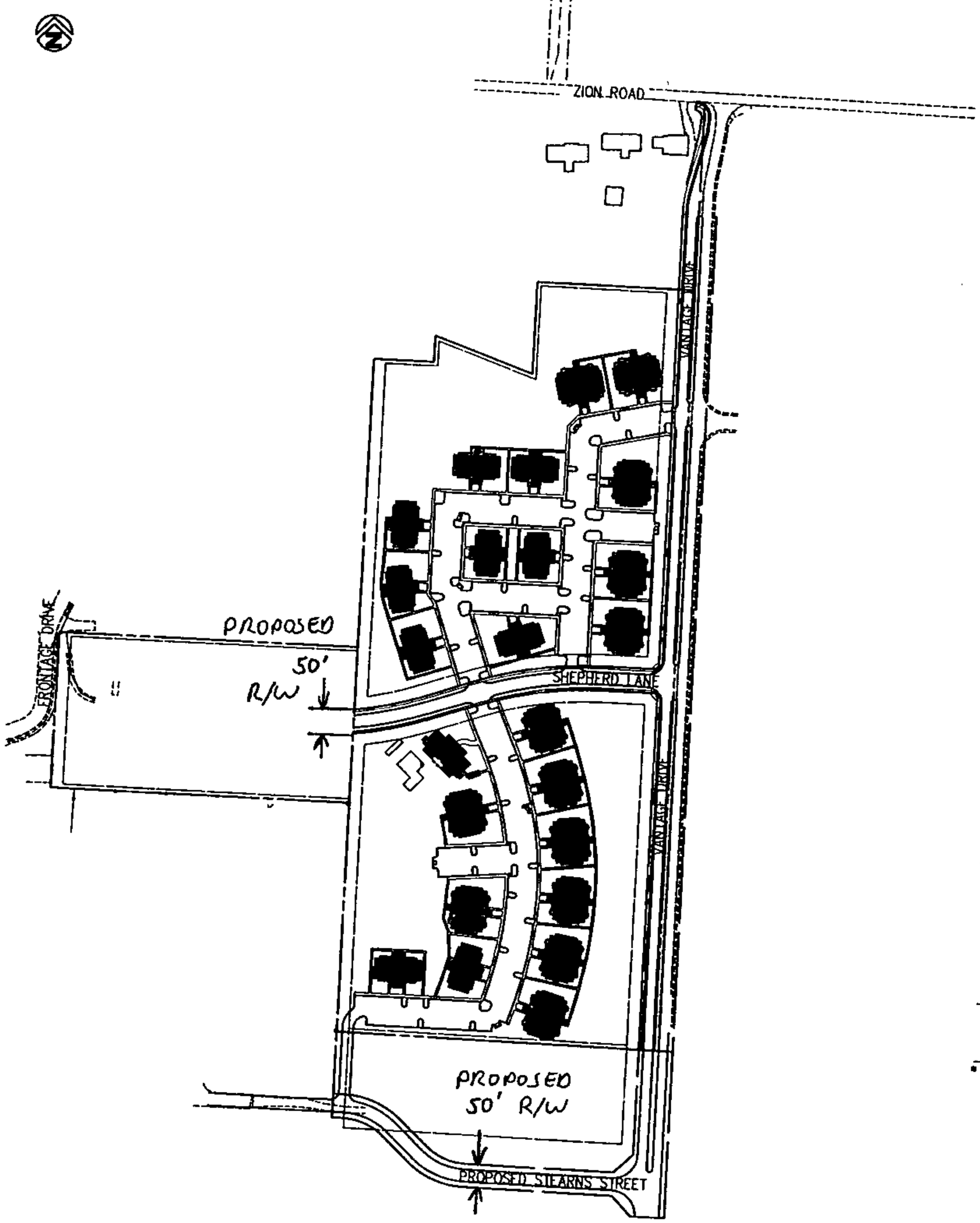
Crafton, Tull & Associates, Inc.
Architects, Engineers & Surveyors

STEARNS STREET APARTMENTS
FAYETTEVILLE, ARKANSAS

OFFSITE IMPROVEMENTS

Drawn by JH
Checked by
Date June 2003

A.6
00 Stearns Str.
Page 5 of 17



STEARNS STREET
APARTMENTS

FAYETTEVILLE, ARKANSAS

Craftonn, Tull & Associates, Inc.
Architects, Engineers & Surveyors

REGISTERED PROFESSIONAL ENGINEER

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of October 27, 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 21, 2003

LSD 03-38.00: Large Scale Development (Stearns Apartments, pp 136) was submitted by Jerry Kelso of Crafton, Tull, and Assoc. on behalf of Stearns Street Apartments Limited Partnership for property located at the southwest corner of Vantage Dr. and Zion Rd. The property is zoned RMF-24, Residential Multi-family 24 units per acre, and R-O, Residential Office, and contains 23 acres. The proposal is to construct an apartment complex with 276 units proposed. Planner: Jeremy Pate

Findings:

Proposal: The applicant requests to construct an apartment complex within an RMF-24 and R-O zoning district comprised of 276 units (460 bedrooms in 23 buildings) and a 1250 SF clubhouse. The R-O parcel was approved by Planning Commission in April of 2003 as a Conditional Use to allow multifamily residential with a maximum density of 18 units per acre (see attached minutes). Conditions of approval specifically addressed a requirement for a mixture of building sizes and facades which would provide the appearance of a more diverse community of residential uses; elevations which were required to be submitted at the time of large scale development review; installation of sidewalks on the subject property; on- and off-site improvements; and a maximum density of 18 dwelling units per acre.

Building elevations were submitted for review by Subdivision Committee on October 16, 2003. Based on comments received, the applicant revised the site plan to reflect three different building footprints with six different facades, including the clubhouse. The conditional use is applicable to only that portion of the site within the R-O zoning district; however, the applicant has continued the mixture of facades and footprints into the RMF-24 portion of the tract, in keeping with the spirit of the requirement.

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Single family homes	R-O, Residential Office R-A, Residential Agricultural
South	Vacant	C-2, Thoroughfare Commercial
East	Zion Valley Estates	RMF-24, Res. Multifamily, 24 DU/Ac
West	Vacant Lots	C-1, Neighborhood Commercial R-A, Residential Agricultural

Right-of-way being dedicated: Vantage Drive (70 feet Collector), Stearns Street (50 feet Local), Shepherd Lane (50 feet Local). *Stearns Street and Shepherd Lane require Master Street Plan amendments for lesser dedication of right-of-way.*

Street Improvements: Vantage Drive is proposed to be constructed with a boulevard cross-section, to City standards, with 22-foot lanes (including on-street bicycle linkage) and a 10-foot landscaped median. Shepherd Lane, the interior Collector Street that in the future connects Vantage Drive with Frontage Road, is proposed to be a Local Street with 50-feet of right-of-way, 28 feet wide with paving, curb, gutter, and six-foot sidewalks on both sides. Stearns Street, an off-site street to the south, is proposed to be extended with 50 feet of dedicated right-of-way, with a 28-foot street cross-section. Staff is in support of the lesser dedication of right-of-way and Master Street Plan Amendment for Stearns Street and Shepherd Lane.

Adjacent Master Street Plan Streets: Vantage Drive, Collector; Stearns Street, Collector (off-site); Shepherd Lane, Collector

Park land Dedication: City Council passed a waiver to the Park Land Dedication Ordinance 166.03k on October 07, 2003, Resolution 146-03, to approve money-in-lieu of land ($108,468).

Tree Preservation:	Existing canopy:	47%
	Preserved canopy:	21%
	Required canopy:	20%
	Mitigation required:	None

Recommendation: Staff recommends approval of **LSD 03-38.00** subject to the following conditions:

Conditions of Approval:

1. Planning Commission determination of compliance with **CUP 03-10.00** Conditions of Approval as stated in the attached minutes, including:
   - review of on- and off-site improvements;
   - sidewalk installation;
   - mixture of building size and façade to provide appearance of a more diverse community of residential uses;
   - submittal of building elevations; and
   - maximum density of 18 DU/acre

2. Planning Commission determination of street improvements. *Staff finds that the applicant's proposed street improvements meet those required by a developer for on- and off-site improvements, including Vantage Drive (50 feet wide, with landscape median, bike lanes and 6-foot sidewalks, Stearns Street (28 feet wide w/curb, gutter and storm drains), and Shepherd Lane (28 feet wide with curb, gutter, storm drains and 6-foot sidewalks on both sides.) All streets are to be constructed in accordance with City standards.*

3. Planning Commission determination of the Master Street Plan Amendment proposals to reduce Stearns Street and Shepherd Lane, both Collector streets, to Local Streets.

The two Master Street Plan Amendments shall be considered as separate items by City Council. *Staff is in favor of the proposed amendment to reduce the Collector Streets to Local Streets.*

4. Planning Commission determination of a variance request for the 100-foot building setback from a water surface in the pond area. *Staff is in support of this variance request. The applicant intends to install a 4-foot wrought iron fence around the pond for safety.*

5. Street names shall be approved by the 9-1-1 Coordinator.

6. Parks fees are assessed for 276 multifamily units in the amount of **$108,468**. Fees shall be paid prior to the issuance of building permits.

7. A complete and detailed Landscape Plan shall be submitted and approved by the Landscape Administrator prior to building permit, complying with all requirements as set forth in the Unified Development Code.

Standard Conditions of approval:

8. Sidewalks shall be constructed in accordance with current City regulations to include 6-foot sidewalks at the right-of-way line on both sides of Shepherd Lane and on the west side of Vantage drive north to Zion Road.

9. All mechanical/utility equipment shall be screened using materials that are compatible with and incorporated into the structure. Equipment located away from the structure shall be screened using vegetation.

10. Trash enclosures shall be screened with access not visible from the street.

11. 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)

12. 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.

13. Large scale development shall be valid for one calendar year.

14. 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

15. Additional conditions:

_____

_____

PLANNING COMMISSION ACTION: **__yes__ Required**
_____Approved _____Denied

Date: October 27, 2003

Comments:

_____

_____

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

_____
By

_____
Title

_____
Date

10 MASTER STREET PLAN

Amended September 17, 1996, Street Classifications, Res. No. 97-96

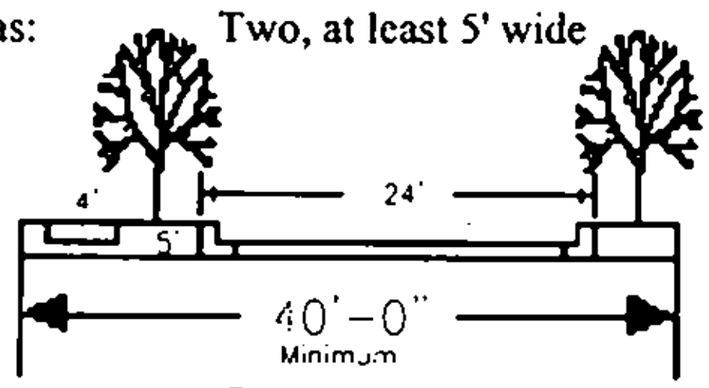
10.1 Street Classifications

Planning is required to connect Fayetteville to other population centers and to provide for circulation within the community. New development must be provided with proper access to alleviate problems associated with congestion and safety by requiring streets in sufficient number and of adequate size to accommodate peak traffic volumes.

The Master Street Plan is a hierarchy of various street types. All streets within Fayetteville have been functionally classified in accordance with the guidelines set forth in the U. S. Department of Transportation's National Highway Functional Classification Study Manual. Functional classification is defined by the Northwest Arkansas Regional Transportation Study as: *The grouping of public ways by likeness of service or purpose into classes or systems according to the character of service they are intended to provide. The frame of reference is the sense of service offered to and expected by the road user. Neither ownership nor administrative responsibility is relevant in grouping by function. The hierarchy of functional classes reflects the type of traffic using each facility and how they function in relation to the overall street network.* Streets within Fayetteville are classified as one of the following nine types:

RESIDENTIAL STREETS provide for the lowest level of traffic and service. They provide access to residential property and are intended to be used only by local traffic.

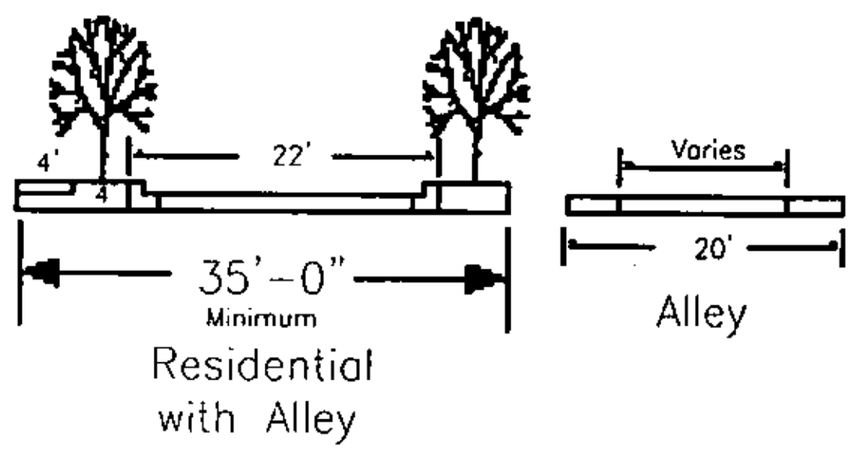
Design Service Volume:	300-500
Speed:	15-20 mph
Traffic Lanes:	Two 10' lanes
Parking:	Allowed
Paved Width:	24' from back of curb
Right of Way:	40'
Sidewalks:	One 4', at least 5' from curb
Tree planting areas:	Two, at least 5' wide



Residential

RESIDENTIAL WITH ALLEY is a street type provided for "traditional neighborhood" development, with access to properties from rear alleys. These streets provide access to residential property and are intended to be used only by local traffic.

Design Service Volume:	100-300
Speed:	10-15 mph
Traffic Lanes:	Two 9' lanes
Parking:	Allowed
Paved Width:	22' from back of curb
Right of Way:	35'
Sidewalks:	One 4', at least 4' from curb
Tree planting areas:	Two, at least 4' wide
Curb cuts	None



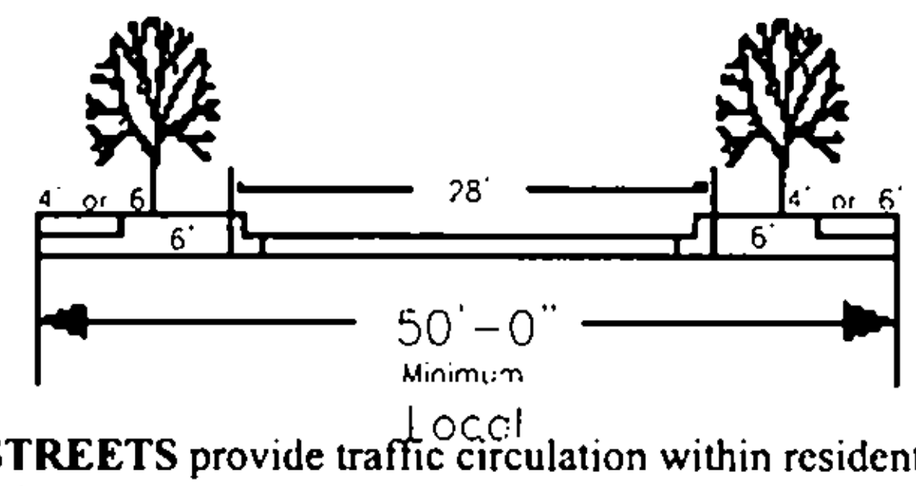
ALLEY is used in conjunction with the above residential street to provide rear access to properties, garages, and off-street parking spaces.

Design Service Volume:	<200
Speed:	5-10 mph
Traffic Lanes:	Undefined
Parking:	Not Allowed
Paved Width:	10' (one way) to 16' (two way)
Right of Way:	20'
Sidewalks:	None
Tree planting areas:	None
Curb cuts:	Continuous access possible. No curb required

LOCAL STREETS provide for the second lowest level of traffic flow and service. They

provide access to abutting land uses and provide connections to higher order systems. They are not intended to provide for through traffic movements.

Design Service Volume:	Less than 4,000 vpd
Speed:	20-25 mph
Traffic Lanes:	Two 10' lanes
Parking Lanes:	Provided but not defined
Paved Width:	28' from back of curb
Right of Way:	50'
Sidewalks:	Two 4', at least 6' from curb
Tree planting areas:	Two, at least 6' wide



COLLECTOR STREETS provide traffic circulation within residential, commercial, and industrial areas. They collect traffic from local or residential streets in neighborhoods and channel it into the arterial system. Connections between arterials should be indirect to discourage use by traffic from outside the neighborhood. In residential neighborhoods, frontage along collectors is discouraged; houses should front on local or residential streets.

Design Service Volume:	4,000 vpd, 6,000 vpd with left turn bays
Speed:	25-30 mph
Traffic Lanes:	Two 11' travel lanes, 10' turn bays where warranted
Parking Lanes:	Two lanes provided. None when turn bay exists
Paved Width:	36' from back of curb
Right of Way:	At least 70'
Multi-use trail:	Two at least 6' wide, at least 10' from curb
Tree Planting areas:	Two, at least 10' wide

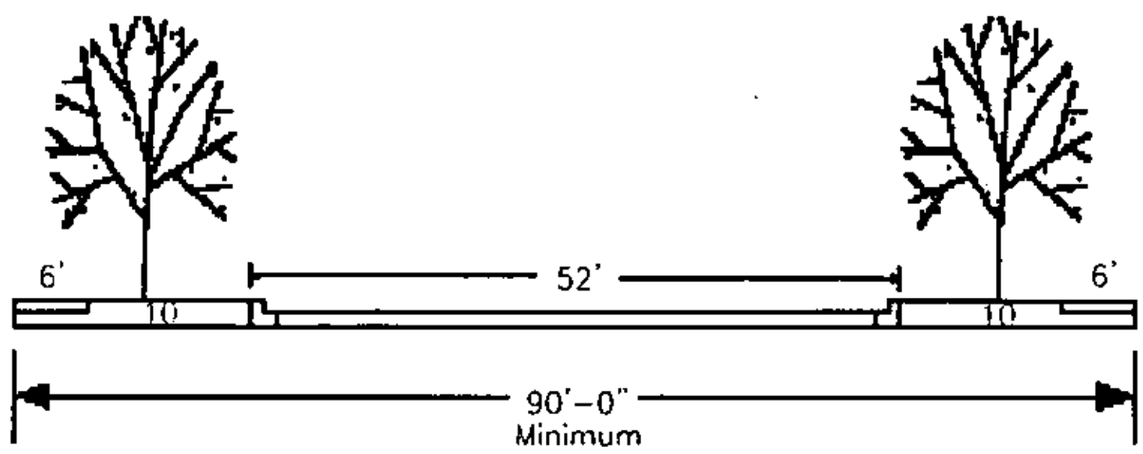
HISTORIC COLLECTOR provides traffic circulation within the historic and developed parts of central Fayetteville. This type of collector street recognizes the right-of-way limitations associated

with developing in "built-out" areas of the city.

Design Service Volume:	4,000 vpd, 6,000 vpd with left turn bays
Speed:	25-30 mph
Traffic Lanes:	Two 11' travel lanes, 10' turn bays where warranted
Parking Lanes:	Two lanes provided. None when turn bay exists
Paved Width:	36' from back of curb
Right of Way:	At least 50'
Sidewalk	6'

MINOR ARTERIAL STREETS connect higher functional class facilities, etc. Residential frontage is strongly discouraged. Access should be from perpendicular local or residential streets.

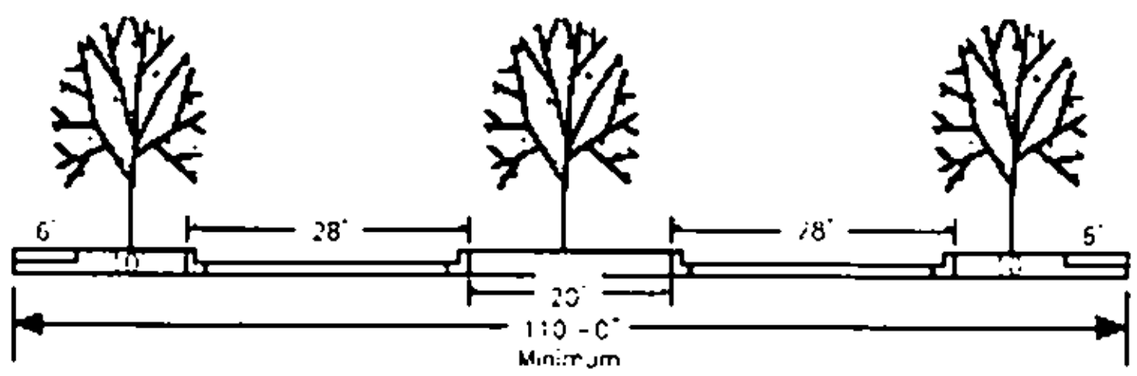
Design Service Volume:	12,200 vpd, 14,800 vpd with left turn bays
Speed:	35-40 mph
Traffic Lanes:	Four 12' travel lanes, 11' turn lanes possible at intersections
Parking Lanes:	None
Paved Width:	52' from back of curb, 59' with turn lane
Right of Way:	At least 90'
Multi-use Trail:	Two at least 6' wide, at least 10' from curb
Tree Planting Areas	Two, at least 10' wide



Minor Arterial

PRINCIPAL ARTERIAL STREETS carry high volumes of through traffic. They are designed as boulevards for beauty and safety. In areas where sufficient right of way is unobtainable, the minor arterial four lane section can be used.

Design Service Volume:	17,600 vpd, 20,600 vpd with left turn bay
Speed:	40-45 mph
Traffic Lanes:	Four 12' travel lanes, 12' turn lanes possible at intersections and at frequent intervals
Parking Lanes:	None
Paved Width:	28' from back of curb each side of median
Right of Way:	At least 110'
Multi-use Trails:	Two at least 6' wide, at least 10' from curb
Median:	20' minimum if no turn bay. May be reduced to 8' to accommodate turn bays
Tree planting areas:	Two, at least 10' wide, in addition to the median

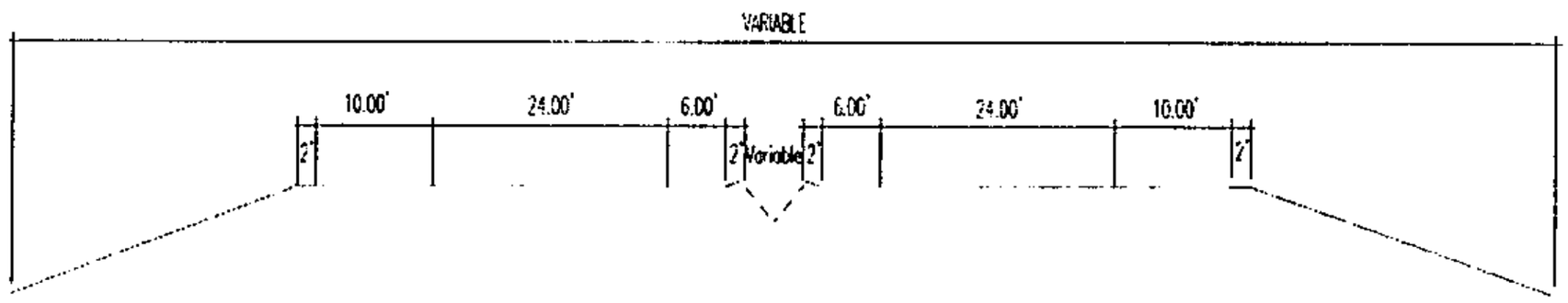


Principal Arterial

FREEWAY/EXPRESSWAY STREETS are high speed, multi-lane facilities with a high degree of access control. These facilities serve the major centers of activity of a metropolitan area; and are designed for the longest trips by being well integrated with the arterial streets serving the area. They should provide a high level of traffic service for travelers who do not have local destinations and wish to bypass the city.

Design Service Volume:	28,300 vpd expressway; 44,800 vpd freeway
Speed:	45-55 mph
Traffic Lanes:	Four 12' lanes; where at grade intersections occur on expressways, right and left turn lanes shall be provided; no grade crossings allowed on freeways
Parking Lanes:	None; emergency parking permitted on shoulders
Shoulders:	10' outside and 6' inside shoulders
Paved Width:	80' from edge of paved shoulder
Right of Way:	200'; 300' for State and Federal projects with more at interchanges; varying including shoulders
Sidewalks:	None

FREEWAY/EXPRESSWAY



10.2 Master Street Plan

A listing of all of the streets classified and shown on the master street plan is in Attachment A. The detailed table identifies each street segment by name or proposed name, classification, existing number of lanes, proposed number of lanes, length, and proposed right-of-way width.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 18, 2003

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Resolution approval.

SUMMARY EXPLANATION:

ADM 03-27.00 was submitted by Jerry Kelso of Crafton, Tull & Associates on behalf of Stearns Street Apartments Limited Partnership for property located at the southwest corner of Vantage Dr. and Zion Rd. The property is zoned RMF-24, Residential Multi-family 24 units per acre, and R-O, Residential Office, and contains approximately 23 acres. The request is to reduce the right of way for Stearns Street, currently a collector street requiring 70' right of way, to a local street requiring 50' right of way and to reconfigure the connection between Stearns Street and Vantage Drive.

STAFF RECOMMENDATION: Approval

Dawn T. Warrick 10/31/03
Division Head Date

11/3/03
City Attorney Date

10-31-03
Department Director Date

11-3-03
Finance & Internal Services Dir. Date

Chief Administrative Officer Date

11/3/03
Mayor Date

Received in Mayor's Office 11/3/03 Date 9:14

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 11-5-03

CONTRACT REVIEW MEMO

TO: Mayor Dan Coody

THRU: Gary Dumas, Director of Operations

FROM: Sharon Crosson, Parking and Telecommunications Manager

DATE: October 24, 2003

SUBJECT: Bid Award and Contract Approval with SBC for Long Distance Services

---

RECOMMENDATION

Staff recommends approving a 3-year contract with SBC for long distance services. A 3-year contract will not only lower our rates even further than a 1-year contract, it will also guarantee our rates will not increase for the next 3 years. Our annual estimated expenditure for long distance services is $16,000.

BACKGROUND

On October 20, 2003, formal bids were opened for long distance services for the City of Fayetteville. There were 3 bids received by the City and SBC was the low bidder. Their rates range from $0.033 to $0.068 per minute; the current rate paid to Alltel Communications is $0.070 per minute for all calls. A 3-year contract with SBC will provide us even lower rates ranging from $0.031 to $0.068 per minute.

The City of Fayetteville previously solicited formal bids for long distance services in March of 2000. At that time, Alltel Communications was the low bidder and was awarded the contract for these services. Although staff does not solicit formal bids for long distance services every year, we do periodically get quotes from various vendors until such time that we see the rates are low enough to warrant the formal bidding process.

DISCUSSION

SBC is a nationwide leader in this industry. SBC Long Distance network provides survivability and redundancy in the event of any single point of failure. In the event of a network failure or major catastrophe, SBC re-routes traffic across a redundant path where backup services automatically take over until restoration is complete.

BUDGET IMPACT

City-wide, we have budgeted $20,000 for long distance services. Under this contract, we estimate our annual expenditures for this service to be $16,000 or less.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #03-59 AND APPROVING A THREE-YEAR CONTRACT WITH SBC GLOBAL SERVICES, INC. IN THE AMOUNT OF SIXTEEN THOUSAND DOLLARS ($16,000.00) PER YEAR FOR LONG DISTANCE TELEPHONE SERVICES FOR THE CITY OF FAYETTEVILLE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards Bid #03-59 and approves a three-year contract with SBC Global Services, Inc. in the amount of Sixteen Thousand Dollars ($16,000.00) per year for long distance telephone services for the City of Fayetteville. A copy of the contract, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

LONG DISTANCE VOICE SERVICES ONLY AGREEMENT HVCP II PLUS

This Agreement between SBC Global Services, Inc., a Delaware corporation, with a place of business at One SBC Plaza, Dallas, Texas 75202, on behalf of Southwestern Bell Communications Services, Inc., a Delaware corporation d/b/a SBC Long Distance (individually and collectively, "SBC"), and City of Fayetteville ("Customer"), a Arkansas government agency, with a place of business at the address below, is effective as of the date last signed below ("Effective Date").

1. **High Volume Calling Services**. This Agreement is subject to (1) the Voice Product Reference and Pricing Guidebook containing product descriptions, technical information, definitions, and SBC Long Distance Voice Terms and Conditions, as modified from time to time and incorporated herein by reference, and (2) applicable state tariffs. The Guidebook can be obtained at www.sbc.com or from an SBC salesperson. The Voice Terms and Conditions can be obtained at www.sbc.com/LD_voice_terms_and_conditions or from an SBC salesperson.

High Volume Calling enables Customer to place domestic and international Direct Distance Dialed ("DDD") calls. Toll Free Service ("TFS") is a reverse-billed service using a universally recognized numbering scheme. Customer agrees to pay a Minimum Annual Commitment ("MAC") specified below (excluding applicable taxes and surcharges) for Services from SBC during each year of this Agreement to begin on the PIC change date. The monthly recurring charges (excluding applicable taxes and surcharges) for DVA, DOV, or PRI Services, if any, will contribute to the MAC. If Customer fails to satisfy the MAC, Customer will be billed and shall pay the shortfall as an under-utilization charge. The term commitment for the MAC shall end in the number of years specified below. The term commitment, MAC, and Interstate Switched ("Sw"), Dedicated ("Ded"), and Proprietary Calling Card ("PCC") Rates per minute for this Agreement are:

☒	***High Volume Calling Plan II Plus ("HVCP II Plus")***: $600 - $9,000 MAC Customer is purchasing SBC Long Distance Services and *agrees to maintain a minimum of 2 access lines from an* SBC Affiliated Local Service Provider for the term of this Agreement.	
☐	1 Year - Interstate Rates	Not Applicable
☐	2 Year - Interstate Rates	Not Applicable
☒	3 Year - Interstate Rates	$6,000 MAC - Sw $.0310 / Ded $.0250 / PCC $.0410

☐	***High Volume Calling Plan II Plus ("HVCP II Plus")***: $12,000 - $90,000 MAC Customer is purchasing SBC Long Distance Services and *agrees to maintain a minimum of 4 access lines from an* SBC Affiliated Local Service Provider for the term of this Agreement.	
☐	1 Year - Interstate Rates	Not Applicable
☐	2 Year - Interstate Rates	Not Applicable
☐	3 Year - Interstate Rates	Not Applicable

☐	***High Volume Calling Plan II Plus ("HVCP II Plus")***: $120,000 - $240,000 MAC Customer is purchasing SBC Long Distance Services and *agrees to maintain a minimum of 6 access lines from an* SBC Affiliated Local Service Provider for the term of this Agreement.	
☐	1 Year - Interstate Rates	Not Applicable
☐	2 Year - Interstate Rates	Not Applicable
☐	3 Year - Interstate Rates	Not Applicable

All other intrastate, interstate, and international usage, and other applicable Services shall be priced at the rates set forth in the HVCP II Plus (for the term commitment and MAC selected above) section of the Guidebook and tariffs. Except for International Mobile Termination Charges, Operator Toll Assistance Services, Directory Assistance Services, International, third-party pass-through charges, and regulatory fees and surcharges, the rates and charges for Services provided by SBC shall not change during the initial term of this Agreement, except by mutual agreement of the parties, and are in lieu of any other discounts specified in Guidebooks or Tariffs, except applicable Guidebook Promotions or VIP discounts, where available, and are available based upon the entire combination of Services, quantities, and revenue commitments made herein. Additional recurring and non-recurring charges ("NRC") for TFS services and features may apply. All fully automated Proprietary Calling Card intrastate calls from an approved state shall be at the tariff rate for that state. Payphone Origination Charges may apply. Domestic and international usage rates are per minute of use ("MOU"). Domestic billing increments are 18 seconds for the initial period and 1 second for additional periods. International billing increments are 30 seconds for the initial period and 6 seconds for additional periods.

Customer acknowledges and agrees that if it fails to meet any of the above SBC Affiliate Local Service Provider requirements to qualify for Customer's selected High Volume Calling Plan II+ during the term hereof, Customer will be moved to a High Volume Calling Plan II with the same MAC and term commitments.

2. **Termination Charges**. Customer may terminate this Agreement or disconnect, in whole or in part, any Service hereunder at any time and without cause upon written notice to SBC. If this occurs during the applicable term commitment,

LONG DISTANCE VOICE SERVICES ONLY AGREEMENT HVCP II PLUS

SBC will compute the termination charges according to the following formula and render a bill to Customer, which Customer agrees to pay within 30 days:

- 100% of any waived Non Recurring Cost, Credits, and Rebates
- 50% of the remaining MAC for Long Distance Service
- Termination charges assessed by the Local Access Provider, if Customer cancels, in whole or in part, any Local Access Service procured by SBC on its behalf.

3. **Credit and Deposits**. SBC reserves the right to require Customer to establish, re-establish, and/or maintain creditworthiness at any time and to the satisfaction of SBC. SBC reserves the right to examine the credit record and check the references of Customer at any time. If Customer's financial condition is unknown or unacceptable, SBC reserves the right to require a security deposit, which SBC may apply to overdue charges. SBC shall determine the amount of any deposit, in its sole discretion, up to three months' estimated usage. SBC shall pay interest on deposits as required under state law. SBC may review Customer's account to determine whether all amounts due have been paid within these terms and conditions. If Customer's payment history is satisfactory, SBC shall refund the deposit in full within the time prescribed under state law.

4. **Automatic Dialer Devices.** CUSTOMER ACKNOWLEDGES AND AGREES THAT USE OF AUTODIALERS, PREDICTIVE DIALERS OR OTHER DEVICES THAT GENERATE AUTOMATED OUTBOUND CALLS IN CONJUNCTION WITH PRODUCTS AND SERVICES PROVIDED UNDER THIS AGREEMENT IS STRICTLY PROHIBITED. SBC MAY TERMINATE THIS AGREEMENT IMMEDIATELY SHOULD CUSTOMER USE SUCH DEVICES.

5. **Offer Availability**. This offer is valid only if this Agreement is executed by Customer prior to December 31st, 2003. If this Agreement is not executed before that date this is withdrawn.

6. **Order of Precedence**. In the case of a inconsistency or conflict between terms and conditions of an applicable Tariff or Guidebook, or this Agreement, the governing order of precedence will be (1) this Agreement, (2) the applicable Tariff or Guidebook. This Agreement shall at all times be subject to such modifications as a PSC/PUC and/or the FCC may, from time to time, require under their respective jurisdictions.

	New or upgrade to a existing SBC Long Distance Agreement
☒	This is a new SBC Long Distance Agreement
☐	This is a upgrade to a existing SBC Long Distance Agreement and the guidelines from Section 3.9.7 Revenue and Term plan Commitments, of the Voice Product Reference and Pricing Guidebook will apply to the old agreement.

SO AGREED by the parties' respective authorized signatories:

CITY OF FAYETTEVILLE	**SBC GLOBAL SERVICES, INC. ON BEHALF OF ITS AFFILIATE**
113 W. Mountain	**138 N. East Ave., Room 100**
Fayetteville, AR. 72701	**Fayetteville, AR. 72701**
	Jeff Ward
Customer Signature	*SBC Signature*
	JEFF WARD
Print Name	Print Name Network Sales Consultant
Title:	Title:
Date:	Date: 10/24/03

LONG DISTANCE VOICE SERVICES ONLY AGREEMENT HVCP II PLUS

Domestic Voice Services Attachment HVCPII PLUS

The following rates shall apply for intrastate interlata and intralata DDD and TFS calls:

Term	California
1 Year	Not Applicable
2 Year	Not Applicable
3 Year	Not Applicable

Term	Texas Oklahoma and Kansas
1 Year	Not Applicable
2 Year	Not Applicable
3 Year	Not Applicable

Term	Arkansas
1 Year	Not Applicable
2 Year	Not Applicable
3 Year	$6,000 MAC - Sw $0.068 / Ded $0.058

Term	Missouri
1 Year	Not Applicable
2 Year	Not Applicable
3 Year	Not Applicable

Term	Nevada
1 Year	Not Applicable
2 Year	Not Applicable
3 Year	Not Applicable

Term	Michigan
1 Year	Not Applicable
2 Year	Not Applicable
3 Year	Not Applicable

The MAC and term commitment selected above must match those selected in Section 1. Otherwise, the rates selected above shall be void and the applicable rates shall be those listed in the applicable state tariffs.

COMPARISON OF BID RESPONSES
BID NO. 03-59 FOR LONG DISTANCE SERVICES

Prepared 10/20/2003

			SBC	MCI	Affinity
1	On what increments of time do you base your charges for calls?	*	1 sec	6 sec	6 sec
2	Do you have a minimum in billing seconds/minutes? Specify.		18 sec	18 sec	18 sec
3	Specify method of call rounding.		rounded by half-minute	nearest 1/10 min	nearest 1/10 min
4	Do you require the customer to pay an initial enrollment fee?		no	no	no
5	Do your require a minimum monthly or annual revenue commitment? Specify.		$6000 yr.	0	0
6	What is the term length of this Agreement?		1 year	3 years	0
7	Do you absorb any of the charges from the local telephone company for changing vendors? Specify.	*	yes 100%	**NO**	yes 100%
8	Do you provide 24-hour customer assistance? Is there a charge?		yes n/c	yes n/c	yes
9	Do you charge for calls which result in a busy or no answer?		no charge	no charge	no charge
10	How do you handle credits for wrong numbers dialed?		no credit	yes credit	yes credit
11	Is there a minimum charge each month for your service? Specify amount.		no	no	no
12	Is there a monthly service charge for your service? Specify.	*	no	**YES**	no
13	How many months can you guarantee the proposed rates without a rate increase?		1 year	3 years	no increase
14	In what form will we be notified of any rate changes?		no change	n/a	n/a
15	How soon in advance will we be notified of a rate change before the change actually goes into effect?		n/a	n/a	n/a
16	Is any equipment required to be leased, purchased, or installed on our premises?		no	no	no
17	Is your company a primary provider?	*	yes	yes	no
18	Is your company a reseller?	*	no	no	yes
19	Where is your closest switch located?	*	Fayettev.	Fayettev.	n/a
20	Do you provide dial access to every telephone in the Continental U.S.?		yes	yes	yes
21	In the event of a network failure, how do you re-route calls? Do you provide redundant path?		yes/redun.	yes	yes
22	Do you provide itemized billings?		yes	yes	yes
23	Do you offer an itemized billing for multi-locations under one account number?		yes	yes	yes

24	Do you provide management reports that detail calls by caller accounting codes?		yes	yes	yes
25	Do you provide management reports that detail calls by station (phone number) where call originated?		yes	yes	yes
26	Does your billing provide invoice hierarchy capabilities?		yes	yes	yes
27	Is there an additional charge for detailed management reports? Specify amount.		no charge	no charge	no charge
28	Do you provide detailed billings on CD-ROM?		no CD	yes	no CD
29	Is there a charge for billings provided on CD-ROM? Specify amount.	*	no	**$75/ month**	no
30	Do you provide detailed billing information through web access? What is the charge?		yes n/c	yes	yes n/c
31	Can you provide long distance service for calls made through the Plexar Custom System?		yes	yes	yes
32	Do you provide 4-digit access codes for call accounting purposes through the Plexar Custom System?		yes	yes	yes
33	How do you assign 4-digit access codes to individual users?	*	activated/ deactivat codes upon request	**$40/mo block of 100 nos.**	you assign code, we can change
34	Can you restrict certain lines from long distance calling without going through SBC?		yes, put PIC freeze on line	yes, through range privileges	yes, we remove PIC on line
35	Do you provide calling cards which can be used for accessing long distance services?		yes	yes	yes
36	If you do provide calling cards, how many digits must be dialed to complete a call?		35 digits	14 digits	14 digits
37	Is there a charge for calling cards? Specify amount.		no	no	no
38	Do you charge an access fee for calls made on calling cards? Specify amount.	*	no	**YES**	no
39	Do you provide toll free numbers? Specify charge for incoming calls.		yes, same rate as outgoing	yes, same rate as outgoing	yes, same rate as outgoing
40	Do you charge a monthly fee for toll free numbers? Specify the charge(s).	*	yes, $5.00 per mo/toll#	**yes, $25.00 mo/toll#**	no charge
41	Do you charge National Access Fees? Specify amount.	*	no	**$.026 per line/mo**	no
42	A sample of your current billing statement must be included (is it?).		yes	yes	**NO**
43	A detailed description of software capabilities must be included (is it?).		**NO**	yes	yes
44	A list of current references must be included (is it?).		yes	yes	**NO**

45	*Pricing>>>>*		*Per Min.*	*Per Min.*	*Per Min.*
	Direct Dialed Calls:				
	Intralata	*	0.068/.02	.1559/.05	.089/.03
	Intrastate/Interlata	*	0.068/.02	.1559/.05	.089/.03
	Interstate 1-100 Miles	*	0.033/.01	.0835/.03	.045/.02
	Interstate 101+ Miles	*	0.033/.01	.0835/03	.045/.02
	International		varies	varies	varies
	Directory Assistance		2.49/1.25	0.5	0.89
	Misc. Access Fees		n/a		n/a
	Calling Card Access:				
	Local Toll	*	0.068/.02	0.25	.099/.05
	Intrastate/Interlata	*	0.068/.02	0.25	.099/.05
	Interstate 1-100 Miles	*	0.043/.01	0.25	.099/.05
	Interstate 101+ Miles	*	0.043/.01	0.25	.099/.05
	International		varies	0.75	varies
	Directory Assistance		2.49/1.25	0.75	0.89
	Misc. Access Fees		n/a		
	Fee Structure				
	Access Line Fee		0		
	Toll Free	*	$5.00/TF#	$25/mo/ln	0
	Account Codes		0	0	0
	On-Line Billing	*	0	$25/mo	0
	Report Fee	*	0	$75/mo	0
	Hardcopy Billing	*	0	$25/mo	0
	Universal Service Fund		9.50%	9.20%	9.50%
	National Access Fee	*	0	.026/line	10.90%
	Other _____				

STAFF REVIEW FORM - FINANCIAL OBLIGATION

XX AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18, 2003. n/a

FROM:

Sharon Crosson	Utilities Management	Operations
Name	Division	Department

Bid award and contract approval with SBC for long distance services for the City of Fayetteville.

COST TO CITY:

$16,000 year	$ 20,000.00	Services and Charges
Cost of this request	Category/Project Budget	Program Category / Project Name
1010-1380-5310-01	$ 9,896.00	Telephone Expense
Account Number	Funds Used to Date	Program / Project Category Name
	$ 10,104.00	General
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 10.28.03

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 10/28/03
Internal Auditor — Date: 10/28/03
City Attorney — Date: 10/27/03
Purchasing Manager — Date: 10/28/03

STAFF RECOMMENDATION:

Division Head — Date: 10-24-03
Department Director — Date: 10/28/03
Finance & Internal Services Dir. — Date: 10-29-03
Chief Administrative Officer — Date: 10-29-03
Mayor — Date: 11/3/03

Received in Mayor's Office Date: 10/28/03 P.H

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

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

11-3-03

City Council Meeting of November 18, 2003

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Chris Bosch, Fire Chief CB

Date: October 29, 2003

Subject: Resolution approving the application for the 2003 Fire Prevention and Safety Grant Program.

RECOMMENDATION

The Fire Department recommends approval to apply for the 2003 Fire Prevention and Safety Grant Program in an effort to fund certain Fire Prevention activities for 2004. The programs being funded would be Public Education and Juvenile Fire Setters in the possible range of $150,000 - $200,000. The City would be required to match 30% of the final requested amount.

BACKGROUND

In 2003, Congress appropriated $745,125,000 to carry out the activities of the Assistance to Firefighters Grant Program. A mandate was given that 5% of this money would be dedicated to fire prevention activities. This money is available to national, State and local organizations as well as fire departments. The amount reserved for fire prevention activities is $27,500,000. Priority will be given to programs that focus on the prevention of injury to children. The Fayetteville Fire Department can show through past and present activities that it has some expertise in the field of fire prevention with an emphasis on juveniles. The prevention office has taken an aggressive approach toward public education activities with an emphasis placed on fire prevention education for children. Such activities include but are not limited to: the JR Fire Marshal program in local schools, Fire Safety House tours, the Smoke Detector program, the Explorer program, Sparky the Fire Dog and juvenile fire setter interventions. Because of the rising number of incendiary fires initiated by juveniles, public safety is at greater risk. With the current resources, the department will only be able to maintain the existing level of service being provided. In the near future, the demand for services will be greater than the level of service being provided. In an effort to look towards the future, additional funding sources need to be secured to ensure the department can grow with the inevitable rise in demand.

DISCUSSION

Since the future of fire safety begins with the youth of the community, that is where the concentration of education efforts are focused. A prime example of the effects that the prevention program can have is Thanksgiving Day of 2002 when a seven year old boy saved the life of his four year old brother. Their house was on fire and the seven year old remembered what he had learned just a few days earlier from the Fire Safety House. The little boy was able to find his brother, get low to the ground, and escape the burning house without injury to either of the boys. He learned how to escape a burning building from a tour through the Fire Safety House. Several supplies are needed in order to operate the Fire Safety House. Additional

funding would allow for the replenishment of these supplies as well as improving upon the education materials currently being provided. This grant would also allow the department to make equipment purchases that would aid in prevention efforts. As well as equipment and supplies, some personnel services costs could be offset for the juvenile fire setters program as well as the public education program. Current funding for all fire prevention activities comes from the general fund. With this grant, the City would only need to fund about 30 % of the above mentioned programs. The potential also exists for future funding of these activities.

BUDGET IMPACT

All prevention activities have been included in the 2004 operational budget. With the current fiscal situation that the City faces for the next few years, this would alleviate some of the costs that will be incurred whether or not the grant money is received. The total estimated budget for Fire Prevention is $273,353. Most of the money being requested would be for current operating activities which would reduce this amount. The matching portion of the grant could either come from the existing budget or from Act 833 money. Act 833 comes from the State which makes this money eligible for matching federal grants. By applying for this grant, the Fire Department maintains its responsibility to be fiscally responsible to the City.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

____ AGENDA REQUEST
____ CONTRACT REVIEW
X GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18, 2003

FROM:

Chris Bosch	Fire Administration	Fire Department
Name	Division	Department

ACTION REQUIRED: The approval of a resolution allowing the Fire Department to apply for the 2003 Department of Homeland Security, FIRE Act Grant for Fire Prevention Programs.

COST TO CITY:

$0.00	$ 266,622.00	FIRE Act, Fire Prevention Grant
Cost of this request	Category/Project Budget	Program Category / Project Name
1010.3010.5100	$ -	Fire Prevention
Account Number	Funds Used to Date	Program / Project Category Name
	$ 266,622.00	Sales Tax
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date 10-31-03

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing — Accounting Manager — Date 10/31/03
Nancy Smith — Internal Auditor — Date 10/31/03
D. Af. White — City Attorney — Date 10/31/03
Alice — Purchasing Manager — Date 10/31/03

STAFF RECOMMENDATION: Approval of the Resolution.

Division Head — Date
C. Board — Department Director — Date 10/31/03
Finance & Internal Services Dir. — Date 11-3-03
Chief Administrative Officer — Date
Dan Coody — Mayor — Date 11/3/03

Received in Mayor's Office 11/3/03 Date P.H

Cross Reference:

Previous Ord/Res#: ____

Orig. Contract Date: ____

Orig. Contract Number: ____

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

addressing a recognized risk or the degree to which they address a previously unrecognized risk.

- Incorporate partnerships that are established with public or private groups/agencies whose mission serves the population identified by the project. We believe that proposals that incorporate partnerships between groups and agencies whose mission serves the target group of the project will lead to a greater success of the project. Therefore, projects that include such partnerships and commitments will be afforded higher consideration.

- Target geographical areas or audience with a higher incidence of fire related deaths and injuries. We believe there is a high benefit to programs that address prevention issues to a targeted geographical area whether that be location or audience.

- Present a high benefit for the cost incurred and maximizes the level of funding that goes directly into the delivery of the program i.e. projects that include little or no overhead and administrative costs.

- Include sound reasoning regarding the determination of the target audience, measurable goals and project evaluation.

- Propose a program that will be sustained beyond the grant performance period and has a greater potential for long-term benefits;

- Illustrate the applicant has a successful record for timely project completion and performance in similar projects.

Evaluation Process

FEMA will use the above criteria in making funding decisions. Applications that closely meet all of the listed evaluation criteria will be more likely to receive favorable consideration. Additional consideration will be given to applications that directly relate to funding initiatives listed above as well as those applications that propose innovative ideas or implement proven prevention strategies. Federal and Non-federal experts will assist with the preliminary review of proposals and analysis as part of the funding decisions.

The online application will allow for multiple projects to be outlined separately. If applicants choose to apply for several different projects, each should have details on the areas outlined above for this activity including budget details. Be advised that your application should only include activities that can be completed within the one-year grant period.

Other Eligible Costs

i. Enhance national, State, or local efforts to reduce fires and burn injuries affecting children under the age of 14 or adults over 65;
ii. Target geographical areas with a higher incidence of fire related deaths and injuries;
iii. Implement projects that mitigate risk in urban cities or groups of high risk to include addressing culturally sensitive materials or addresses social economic challenges;

- Projects that affect the entire community such as educating the public about residential sprinklers, promoting residential sprinklers, and demonstrating working models of residential sprinklers;

- Projects that promote the adoption or awareness of building codes and enforcement, improve engineering or enact fire-related ordinances for new construction;

- Projects that develop and implement national prevention initiatives;

- Local or regional programs that address training personnel in the area of public education, code enforcement and arson prevention.

USFA Goals and Priorities

The three major goals of the U.S. Fire Administration are as follows:

- To reduce the overall loss of life from fire by three percent per year.
- To establish comprehensive multi-hazard risk reduction plans led by or including the local fire service in 2,500 communities.
- To create the ability for communities to respond appropriately to emergent issues in a timely manner.

For the purposes of funding priorities under the Fire Prevention and Safety Grant Program, we believe that the greatest benefit will be achieved through proposals that target the USFA target groups, i.e., children under the age of 14, adults 65 years and older, and firefighters. Proposals that focus on one or more of these groups will receive the highest consideration with respect to funding. Proposals that do not address these priorities will receive very low consideration.

The next highest level of consideration will be provided to applications that include the following characteristics:

- Use of an innovative project to address an identified risk or enhance traditional methodologies. We feel that benefit will be achieved through innovative approaches to fire prevention and safety. Projects will be evaluated on the degree to which they propose an innovative means of

those submitted on-line via the automated grant application system will be accepted (i.e., we will not accept applications submitted via email). We will **not** be responsible for applications mailed to any other address than the one listed above.

A written narrative is required for both online and paper applications. The narrative portion of your application should provide the details of activities you propose to be funded including budget details for each activity. It should elaborate on the funding priorities outlined in the Notice of Funds Availability and this guidance. Minimally the narrative should focus on the benefits the constituency or target audience will gain from the expenditure of the grant funds and what methodology was used to determine the need for this program.

Space for the narrative is limited, so the narrative **cannot** exceed ten pages. Please note the system will "time-out" on each screen if no activity is detected. If you are entering the information into a narrative box the system does **not** recognize this as activity. Be sure to click the "save" button periodically to ensure information has been recorded. We recommend that the narrative be typed off-line on any word processing software, such as Word, Word Perfect, Notepad, etc., to avoid losing any work. Once your narrative is complete, you can copy it or "cut-and-paste" it from your word processing source onto the narrative block in the application. Any supporting documents that exceed ten pages will not be included in the review process.

Beginning October 1, 2003, all Federal agencies will be required to request a Data Universal Numbering System (DUNS) number by applicants applying for Federal grants. The DUNS number is a unique nine-character identification number provided by the commercial company Dun & Bradstreet. There is no charge to obtain a DUNS number. We encourage obtaining a DUNS number prior to the application period as it may take 14 business days to obtain the number online www.dnb.com/US/duns_update/index.html. Applicants can also call **1-800-333-0505** and register for a number immediately.

Programs and Program Priorities

We encourage applicants to develop innovative projects that address an identified fire prevention need. The following are examples of initiatives that we deem to be of high importance. This list is **not** an all-inclusive list of projects that will be considered. These programs are **not** listed in order of importance.

Eligible Activities

- Projects that focus on distributing and installing smoke alarms and checking to assure smoke alarms are operational.

- Projects that focus on planning and practicing escape routes, or conducting home fire safety walkthroughs;

- Fire prevention programs targeting high-risk audiences, including those that:

Department of Homeland Security
Federal Emergency Management Agency

U.S. Fire Administration

Working for a Fire Safe America

Grants

Assistance to Firefighters Grant Program

2003 Fire Prevention and Safety Grants - Notice of Funds Availability

DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency
Assistance to Firefighters Fire Prevention and Safety Program

Agency:
U.S. Fire Administration (USFA), Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security (DHS).

Action:
Notice of availability of funds.

Summary:
FEMA gives notice of the availability of funds for Fiscal Year 2003 under the Assistance to Firefighters Fire Prevention and Safety Program (the Program) as authorized by the Federal Fire Prevention and Control Act of 1974. The Program will make up to $27,500,000 of the total appropriated amount of $745,125,000 available for fire prevention activities. FEMA will fund fire prevention activities based on proposals that address the Program's priorities and maximize the benefits to be derived from the funds. FEMA is statutorily mandated to provide these funds to national, State and/or community organizations (including fire departments) that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities. In selecting recipients, FEMA will give priority where practical to organizations that focus on prevention of fire or fire related injuries to children.

Authority:
15 U.S.C. 2229; 44 CFR Part 152, 68 FR 12544 (Final Rule published March 14, 2003.)

Dates:
Completed applications must be received online or postmarked by 5 p.m. EST November 14, 2003.

For Further Information Contact:

Brian Cowan, Chief, Grants Program Branch, USFA, FEMA
500 C Street, SW., Room 330
Washington, DC 20472
1-866-274-0960
or usfagrants@fema.gov.

Download/View

Notice of Availability of Funds - 44 Kbytes

Notice of Availability of Funds - 8 Kbytes

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE FIRE DEPARTMENT TO APPLY FOR A DEPARTMENT OF HOMELAND SECURITY FIRE GRANT IN AN AMOUNT UP TO THREE HUNDRED THOUSAND DOLLARS ($300,000.00) FOR FIRE PREVENTION PROGRAMS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville Fire Department to apply for a Department of Homeland Security FIRE Grant in an amount up to Three Hundred Thousand Dollars ($300,000.00) for fire prevention programs.

PASSED and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City council meeting of: November 18, 2003
Agenda item number: _____

CITY COUNCIL AGENDA MEMORANDUM

TO: Mayor and City Council

THRU: Hugh Earnest, Chief Administrative Officer

FROM: Ray M. Boudreaux, Director Aviation and Economic Development

DATE: October 30, 2003

SUBJECT: Award U of A Aircraft Hangar Project

RECOMMENDATION: Approve a grant application and acceptance of grant award to the State Department of Aeronautics in the amount of $43,820 to assist in the funding of the access road for the new hangar for the U of A on the southwest corner of the executive ramp. Total project cost $620,835.

BACKGROUND: The U of A Aviation Department signed a lease with the City of Fayetteville to lease a hangar from the City that would accommodate their aircraft, a Beech Jet 400 and a King Air 200. The City Council approved the project with economic development funds in the amount of $400,000. The Council additionally approved a grant from the State Department of Aeronautics in the amount of $200,000 which is the maximum available for building construction. We will apply for an additional 75/25 grant for the access road in the amount of $43,820. The new hangar will be constructed on the southwest corner of the new executive ramp.

DISCUSSION: Currently the U of A aircraft are housed in two separate buildings on the airport. They lease one hangar and pay a monthly hangar fee for space in the FBO hangar. McClelland Consulting Engineers was contracted to design the building and prepare bid documents for the project. The bids were received October 23, 2003. The low bidder was Architectural Contractors, Inc. at $532,000. Following negotiations to determine whether or not a reduction in size and scope would result in a measurable savings it was determined that very little could be changed and still have the quality structure desired. Reducing the size of the hangar by 20 feet

Aviation and Economic Development Department
4500 South School, Suite F
Fayetteville, Arkansas 72701
(479) 718-7642
Ray M. Boudreaux, Director
rboudreaux@ci.fayetteville.ar.us

in width (1600SF) and the size of the office by 4 feet in depth (124SF), along with some minor changes to the HVAC and utility systems would only reduce the cost of the building by 6.9%. The basic reason for the increase in price from the previous project was the change in loading requirements with the 2000 International Building Code which is estimated to have increased the base bid by approximately 15%. We will initiate owner change orders to reduce the cost of several items that will not affect the quality of the structure or the utility of the building following further study by the engineer and in consultation with the contractor. We have met with the U of A and they agree with this course of action.

BUDGET IMPACT: A budget adjustment is attached to increase the budget for the project to $591,300 plus a 5% contingency of $29,565. The amount includes the bid amount of $532,000 and the design and project oversight amount of $59,270 plus the 5% contingency of $29,565 for a total project cost of $620,835. Funds are available for the project including $400,000 from the Economic Development fund plus $200,000 from the State grant for the hangar and $43,820 from the State grant for the access road for a total available of $643,820.

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4500 South School, Suite F
Fayetteville, Arkansas 72701
(479) 718-7642
Ray M. Boudreaux, Director
rboudreaux@ci.fayetteville.ar.us

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE MUNICIPAL AIRPORT STAFF TO APPLY FOR AND ACCEPT A GRANT IN THE AMOUNT OF FORTY-THREE THOUSAND EIGHT HUNDRED TWENTY DOLLARS ($43,820.00) FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS FOR THE CONSTRUCTION OF AN ACCESS ROAD, PARKING, AND UTILITIES TO SERVE THE UNIVERSITY OF ARKANSAS CORPORATE HANGAR.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville Municipal Airport staff to apply for and accept a grant in the amount of Forty-Three Thousand Eight Hundred Twenty Dollars ($43,820.00) from the Arkansas Department of Aeronautics for the construction of an access road, parking, and utilities to serve the University of Arkansas corporate hangar.

PASSED and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

ARKANSAS DEPARTMENT OF AERONAUTICS

APPLICATION FOR STATE AIRPORT AID

The City/~~County~~ of **Fayetteville**, herein called "Sponsor", hereby makes application to the Arkansas Department of Aeronautics for State funds pursuant to Act 733 of 1977, for the purpose of aiding in financing a project for the development of a municipal airport located in the City of **Fayetteville**, Arkansas, **Washington** County.

Date of Request: **October 30, 2003**

Name of Airport: **Fayetteville Municipal Airport / Drake Field (FYV)**

Name and address of City/County Commission sponsoring request:

City of Fayetteville, Airport Dept. Person to contact about project:

Ray M. Boudreaux, 4500 S School Ave.

Fayetteville, AR 72701

Phone/~~Fax~~ Number: **479-718-7642** ~~Phone~~/Fax Number: **479-718-7646**

Name and address of Engineering Firm (If Applicable):

McClelland Consulting Engineers, Inc. Contact Person: **Wayne Jones, P. E.**

PO Box 1229, 1810 N College Ave.,

Fayetteville AR 72702 Number: **479-443-2377 ph, 479-443-9241 fax**

Describe the work to be accomplished: **Construction of an access roadway, parking, and utilities to serve the University of Arkansas corporate hangar.**

State and Local Project Costs:
Please indicate: ____ 50-50% Match
X 75-25% Match
____ 90-10% Match

Total Cost of Project	**$58,427.00**
Local Share/Funds	14,607.00
Local Share/In-Kind	
State Share	43,820.00

Federal AIP Projects:

Total Cost of Project	$
Federal Share (90%)	$
Local Share (5%)	$
State Share (5%)	$

State Airport Aid Application
Page Two

Provide the information listed below as it applies to your project:

FUNDS:

Source of Funds:

State Funding: Arkansas State Department of Aeronautics

Local Funding: Fayetteville Municipal Funds, Economic Development Fund

Source of In-Kind Services: **N/A**

Estimate starting date of project: **11/24/03**

Estimate completion date of project: **05/01/04**

Project will be for: New Airport _____ Existing Airport **XX**

Is land to be leased or purchased? **NO**

Description of land and cost per acre:

Provide the Federal AIP Grant Number (AIP Projects Only)

_____

State Representatives for your area:

State Senator **Sue Madison**

State Representative **Bill Pritchard - District 8**

State Airport Aid Application
Page Three

The Sponsor agrees to furnish the Arkansas Department of Aeronautics a copy of the legal instrument affecting use of the property for an airport. In application for a new landing site or expansion of existing facility, the FAA Form 7480.1, Notice of Landing Area Proposal, must be approved by FAA before review for grant can be made by the state.

No land purchased with State Grant Funds may be sold or disposed of without State Commission approval. All requests for sale or disposal of property will be considered on an individual case basis.

No airport accepting State Grant funding may issue an Exclusive Rights Lease.

All applications for navigational aids (such as NDB or ILS) must have FAA site approval before a state grant can be approved.

All Grant applications involving Federal Airport Improvement Program (AIP) funding must be accompanied by the approved FAA application.

If this project is approved by the Arkansas Department of Aeronautics, and is accepted by the sponsor, it is agreed that all developments and construction shall meet standard FAA construction practices as outlined in the specifications of this agreement. Runways, Taxiways, Parking Ramps, etc., shall have a base and a thickness that will accommodate the weight of aircraft expected to operate at this airport.

All grant applicants (City and/or County) are totally responsible for compliance with all Federal, State, County and City Laws, Statutes, Ordinances, Rules, Regulations, and Executive Orders concerning contracts and purchases for which this grant is approved and issued. All grant applicants must submit with their applications a completed Contract and Grant Disclosure and Certification Form. (Form F-1-Pages 1&2).

It is understood and agreed that should the sponsor fail to start this project within three (3) months of the Arkansas Department of Aeronautics' date of acceptance, that this grant is null and void.

It is also agreed that this project, except FAA funded projects, shall be completed within one year from the date of acceptance of this grant by the Arkansas Department of Aeronautics. Applications for extension will be entertained if circumstances beyond the sponsor's control occur.

Funds will be disbursed according to Department procedures and final inspection of completed project. (See Instruction Page).

IN WITNESS WHEREOF, the sponsor has caused this Application for State Airport Aid to be duly executed in its name, this 31st day of October, 20 03 .

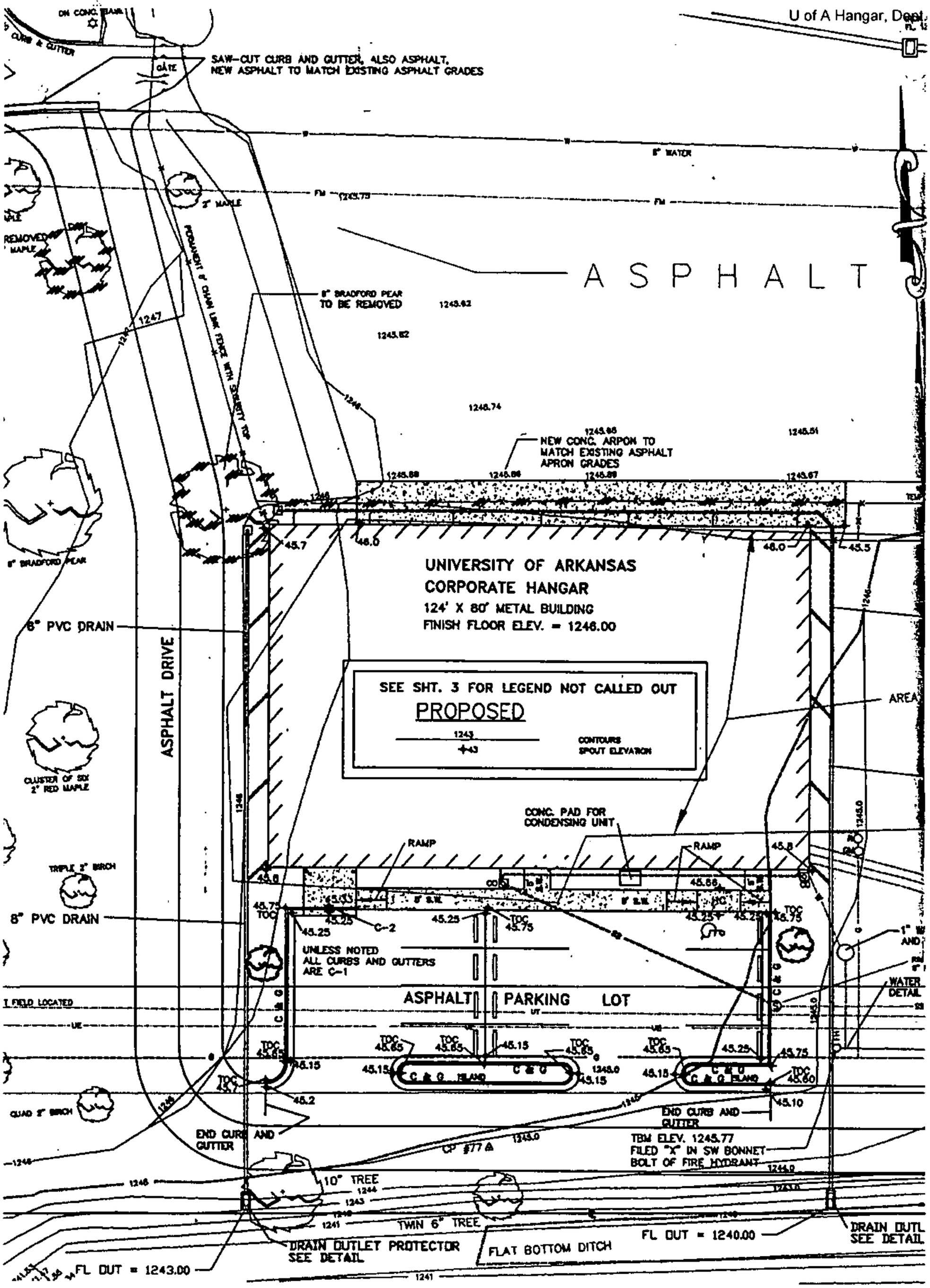
City of Fayetteville
Name of Sponsor

Authorized Signature

Ray M. Boudreaux, Director
Title

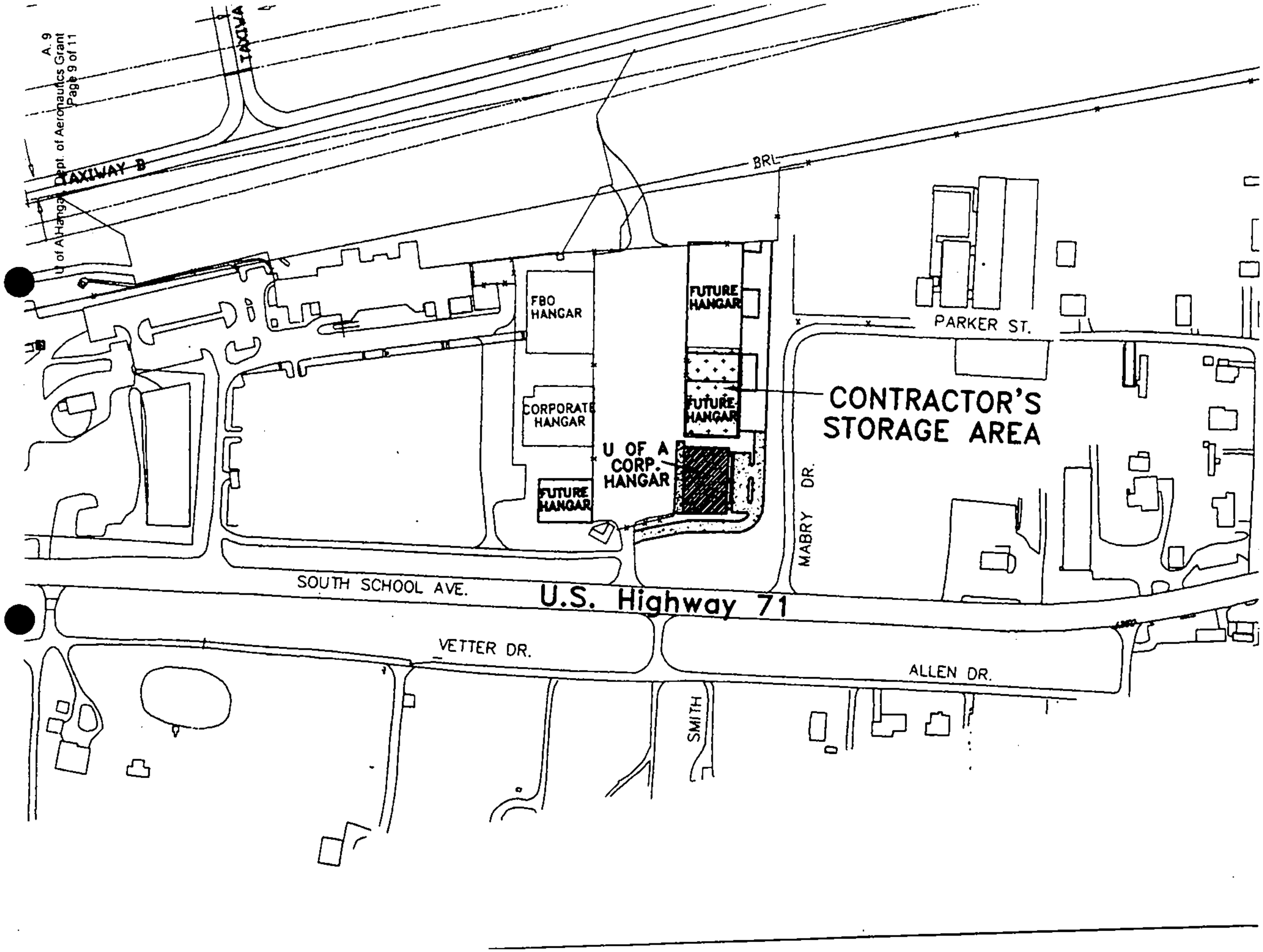
BREAK-DOWN OF ELIGIBLE SITE WORK COSTS
CORPORATE HANGAR PROJECT
FAYETTEVILLE MUNICIPAL AIRPORT, DRAKE FIELD
PROJECT NO. FY032118

ITEM DESCRIPTION	EST. QUANTITY	UNIT	UNIT PRICE	ITEM COST
EARTHWORK	1650	CY	$6.00	$9,900
ASPHALT, 3 INCHES	220	TON	$48.00	$10,560
ROADWAY BASE, CLASS 7	760	TON	$15.00	$11,400
SELECT FILL MATERIAL, 18"	820	CY	$12.50	$10,250
SIDEWALK, 5'W X 5"TK	60	SY	$26.10	$1,566
CONC. CURB & GUTTER	240	LF	$13.50	$3,240
UNDERGROUND DRAINS	320	LF	$17.45	$5,584
SUBTOTAL, CONSTRUCTION				**$52,500**
SUBTOTAL, ENGINEERING				**$5,927**
TOTAL				**$58,427**



GRADING PLAN

SCALE: 1"=20'


TAXIWAY A
TAXIWAY B
BRL
FBO HANGAR
CORPORATE HANGAR
FUTURE HANGAR
FUTURE HANGAR
FUTURE HANGAR
U OF A CORP. HANGAR
CONTRACTOR'S STORAGE AREA
PARKER ST.
MABRY DR.
SOUTH SCHOOL AVE.
U.S. Highway 71
VETTER DR.
ALLEN DR.
SMITH

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18,2003

FROM:

Ray M. Boudreaux	Aviation & Economic Development	General Government
Name	Division	Department

Award contract to construct a hangar for the U of A to Architectural Contractors, Inc in the amount of $532,000 plus a 5% project contingency of $29,565. Approve a budget adjustment for the project in the amount of $220,835. Approve application and acceptance of a state Department of Aeronautics grant of $43,820 for access road work. Forward to Mayor ~~for signature~~.

COST TO CITY:

$ 43,820.00 Cost of this request	Revenue 376,058 Category/Project Budget	U of A Hangar Construction Program Category / Project Name
4470.0947-4302-000 Account Number	$ 119,471 Funds Used to Date	Program / Project Category Name
03027.1 Project Number	$ 256,587 Remaining Balance	Sales Tax Capital Improvements Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date 11-3-03

CONTRACT/GRANT/LEASE REVIEW:

Marla Fairchild — Accounting Manager — Date 11/3/03
Nancy Smith — Internal Auditor — Date 11/3/03
D. Whitlock — City Attorney — Date 11/3/03 — Approval of Grant Resolution ONLY!
~~D. Whitlock 11/4/03~~
P. Vice — Purchasing Manager — Date 11/3/03

STAFF RECOMMENDATION:

Division Head — Date
Department Director — Date Oct 31, 2003
Finance & Internal Services Dir. — Date 11-4-03
Chief Administrative Officer — Date
Mayor — Date

Received in Mayor's Office — Date

Cross Reference:

Previous Ord/Res#: 63-03, 64-03, 123-03

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No XX

ENTERED 10-31-03

Staff Review Form - Page 2

Description U of A Hangar construction contract Meeting Date November 18, 2003

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

The contract has been returned to the Airport for revision. The grant Resolution is attached.

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

City council meeting of: November 18, 2003
Agenda item number: _____

CITY COUNCIL AGENDA MEMORANDUM

TO: Mayor and City Council

THRU: Hugh Earnest, Chief Administrative Officer

FROM: Ray M. Boudreaux, Director Aviation and Economic Development

DATE: October 30, 2003

SUBJECT: Award U of A Aircraft Hangar Project

RECOMMENDATION: Award contract to construct a hangar for the U of A on the southwest corner of the executive ramp to Architectural Contractors, Inc in the amount of $532,000.00 plus a 5% contingency of $29,565. Approve a Budget Adjustment for the project that utilizes grant funds (75/25) from the State Department of Aeronautics for selected portions of the project. Total project cost $620,835.

BACKGROUND: The U of A Aviation Department signed a lease with the City of Fayetteville to lease a hangar from the City that would accommodate their aircraft, a Beech Jet 400 and a King Air 200. The City Council approved the project with economic development funds in the amount of $400,000. The Council additionally approved a grant from the State Department of Aeronautics in the amount of $200,000 which is the maximum available for building construction. We will apply for an additional 75/25 grant for the access road in the amount of $43,820. The new hangar will be constructed on the southwest corner of the new executive ramp.

DISCUSSION: Currently the U of A aircraft are housed in two separate buildings on the airport. They lease one hangar and pay a monthly hangar fee for space in the FBO hangar. McClelland Consulting Engineers was contracted to design the building and prepare bid documents for the project. The bids were received October 23, 2003. The low bidder was Architectural Contractors, Inc. at $532,000. Following negotiations to determine whether or not a reduction in size and scope would result in a measurable savings it was determined that very little could be

Aviation and Economic Development Department
4500 South School, Suite F
Fayetteville, Arkansas 72701
(479) 718-7642
Ray M. Boudreaux, Director
rboudreaux@ci.fayetteville.ar.us

changed and still have the quality structure desired. Reducing the size of the hangar by 20 feet in width (1600SF) and the size of the office by 4 feet in depth (124SF), along with some minor changes to the HVAC and utility systems would only reduce the cost of the building by 6.9%. The basic reason for the increase in price from the previous project was the change in loading requirements with the 2000 International Building Code which is estimated to have increased the base bid by approximately 15%. We will initiate owner change orders to reduce the cost of several items that will not affect the quality of the structure or the utility of the building following further study by the engineer and in consultation with the contractor. We have met with the U of A and they agree with this course of action.

BUDGET IMPACT: A budget adjustment is attached to increase the budget for the project to $591,300 plus a 5% contingency of $29,565. The amount includes the bid amount of $532,000 and the design and project oversight amount of $59,270 plus the 5% contingency of $29,565 for a total project cost of $620,835. Funds are available for the project including $400,000 from the Economic Development fund plus $200,000 from the State grant for the hangar and $43,820 from the State grant for the access road for a total available of $643,820.

Aviation and Economic Development Department
4500 South School, Suite F
Fayetteville, Arkansas 72701
(479) 718-7642
Ray M. Boudreaux, Director
rboudreaux@ci.fayetteville.ar.us

RESOLUTION NO. _____

A RESOLUTION AWARDING A CONTRACT TO ARCHITECTURAL CONTRACTORS, INC. IN THE AMOUNT OF FIVE HUNDRED THIRTY-TWO THOUSAND DOLLARS ($532,000.00) FOR THE CONSTRUCTION OF THE UNIVERSITY OF ARKANSAS CORPORATE HANGAR AT THE FAYETTEVILLE MUNICIPAL AIRPORT; APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF TWENTY-NINE THOUSAND FIVE HUNDRED SIXTY-FIVE DOLLARS ($29,565.00); AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF TWO HUNDRED TWENTY THOUSAND EIGHT HUNDRED THIRTY-FIVE DOLLARS ($220,835.00) 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 contract to Architectural Contractors, Inc. in the amount of Five Hundred Thirty-Two Thousand Dollars ($532,000.00) for the construction of the University of Arkansas corporate hangar at the Fayetteville Municipal Airport.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a project contingency in the amount of Twenty-Nine Thousand Five Hundred Sixty-Five Dollars ($29,565.00).

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of Two Hundred Twenty Thousand Eight Hundred Thirty-Five Dollars ($220,835.00) for same.

PASSED and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: General Government Division: Aviation & Economic Development Program: Sales Tax Capital	Date Requested	Adjustment Number
2003		10/31/2003	

Project or Item Requested:

$220,835 in the U of A Hangar Construction Capital Project.

Project or Item Deleted:

None. To recognize the acceptance of a 75/25% grant of $43,820 from the State of Arkansas to the City.

$139,039 from the Economic Development Matches capital project.

$37,976 from the Sales Tax Capital Use of Fund Balance account.

Justification of this Increase:

Recent changes to Intl Building Code designed loading requirements and increases to steel prices nationally, have caused an increase to building costs above that originally estimated for the project.

Negotiated reductions to the scope of the project with the contractor did not result in favorable cost reductions, and were regarded as detrimentally affecting the finished project.

Justification of this Decrease:

The $43,820 will be received upon the acceptance of a grant from the State of Arkansas Department of Aeronautics.

The U of A Hangar project was originally approved under the Economic Development Matches capital project.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Building costs	4470	9470	5804	00	220,835	03027	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
State grants	4470	0947	4302	00	43,820	03027	1
Contract services	4470	9470	5315	00	139,039	02050	1
Use of fund balance	4470	0947	4999	99	37,976		

Approval Signatures

Requested By	Date
Budget Manager	10-31-03 Date
Department Director	Date
Finance & Internal Services Director	11-4-03 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		

U A Hangar Construction
Project # 03027

Account Number		Current Amended Budget	Budget Adjustments	Total Budget	Contingency	Total
4470.0947.4302.00	State Grants	200,000	43,820	243,820		243,820
4470.9470.4999.99	Fund Balance	200,500	147,450	347,950	29,565	377,515
				-		-
Total Revenues:		400,500	191,270	591,770	29,565	621,335
4470.8470.5315.00	Contract Services	400,000	191,270	591,270	29,565	620,835
4470.9470.5301.00	Public Notification	500		500		500
Total Expenses:		400,500	191,270	591,770	29,565	621,335
Actual Expenses LTD		59,770		59,770		59,770
Remaining		340,730		532,000		561,565

Project Item	COST
McClelland Consulting Engineers	59,270
Architectural Contractors Inc.	532,000
Project Contingency 5%	29,565
NWA Dem / Gaz	500
Total Project cost	621,335

RESOLUTION NO. 63-03

A RESOLUTION APPROVING A LEASE AGREEMENT WITH THE UNIVERSITY OF ARKANSAS FOR A 80′ x 120′ HANGAR; AND DESIGNATING THE DISPOSITION OF THE LEASE PROCEEDS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a Lease Agreement with The University of Arkansas for a 80′ x 120′ hangar. A copy of the Lease Agreement marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the proceeds of the Lease Agreement shall be returned to the Economic Development Capital Improvements Fund, less one half percent (½%) to the Airport Fund for facility maintenance.

PASSED and APPROVED this 6th day of May 2003.

APPROVED:

By: Dan Coody

DAN COODY, Mayor

CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARK.

ATTEST:

By: Sondra Smith

SONDRA SMITH, City Clerk

RESOLUTION NO. 64-03

A RESOLUTION APPROVING, CONTINGENT UPON THE EXECUTION OF A LEASE AGREEMENT WITH THE UNIVERSITY OF ARKANSAS, TASK ORDER NO. 1 WITH McCLELLAND CONSULTING ENGINEERS, INC. FOR ENGINEERING SERVICES AND CONSTRUCTION OBSERVATION ASSOCIATED WITH THE CONSTRUCTION OF AN 80' x 120' HANGAR AT THE FAYETTEVILLE MUNICIPAL AIRPORT.

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, contingent upon the execution of a Lease Agreement with the University of Arkansas, Task Order No. 1 with McClelland Consulting Engineers for engineering services and construction observation associated with the construction of an 80' x 120' hangar at the Fayetteville Municipal Airport.

PASSED and APPROVED this 6th day of May, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

RESOLUTION NO. 123-03

A RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF TWO HUNDRED THOUSAND DOLLARS ($200,000.00) FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS FOR CONSTRUCTION OF THE UNIVERSITY OF ARKANSAS HANGAR PROJECT; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF FOUR HUNDRED THOUSAND DOLLARS ($400,000.00) 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 accepts a grant in the amount of Two Hundred Thousand Dollars ($200,000.00) from the Arkansas Department of Aeronautics for construction of the University of Arkansas Hangar Project.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of Four Hundred Thousand Dollars ($400,000.00) for same.

PASSED and **APPROVED** this 19th day of August, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

October 30, 2003

Mr. Ray Boudreaux
Airport Department
City of Fayetteville
4500 S. School Ave., Suite F
Fayetteville, AR 72701

Re: U of A Corporate Hangar
Fayetteville Municipal Airport, Drake Field

Dear Mr. Boudreaux:

Bids were received on the above referenced project on Thursday, October 23, 2003, with six Contractors submitting bids. The low bidder is Architectural Contractors, Inc., of Springdale, Arkansas, in the amount of $,532,000.00 for the Total Lump Sum Base Bid. The range of bids was 11 percent to a high bid of $590,000.00. These six bids are very close for this size project and the number of bidders interested in this project indicates that each of the bidders needs projects to keep there personnel busy. A copy of the Bid Tabulation is attached. The Engineer's Estimated Construction Cost for this project is $ 488,000.00.

We have worked with Architectural Contractors, Inc., in the past and have had very good results. We recommend the City accept the low bid submitted by Architectural Contractors, Inc. for the Total Lump Sum Base Bid in the amount of $ 532,000.00. We have attempted to negociate the cost of the project down by reducing the building size, office size and other items. The reduction of $ 32,800 is, in our opinion, not recommended for the smaller building size. The building cost was higher than estimated due to the loading requirements of the 2000 International Building Code. Some of the identified cost reductions items attached, could be accepted at a later date before start of construction.

The exterior construction work in the amount of $ 52,500.00 and Engineering fee in the amount of $ 5,927.00 is eligible for a State Aeronautics Commission 75-25% in the amount of $ 43,820.00.

If there are any questions regarding the bids or this recommendation, please contact us.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.

R. Wayne Jones, P.E.
Vice President

Enclosure: Bid Tabulation & Reduction Cost Items

J:\2003\032116\correspondence\boudreaux-1030.wpd wj

PROJECT COST
REDUCTIONS ITEMS

Delete Wheel Stops	$ 660.00
Reduce Landscape Allowance to $2500	2,500.00
Reduce office Size and Storage Floor	7,560.00
Changes to Plumbing	3,000.00
Window changes	904.00
Reduce Bldg. size to 80x106	13,413.00
Electrical changes	1,910.00
HVAC changes	500.00
Footing size reduction	2,380.00
Reduce Building Eave Height to 29 Feet	5,522.00
Reduce Rolling Door width to 80 Feet	4,500.00

BID 03-63

City of Fayetteville
Fayetteville Municipal Airport
U of A Corporate Hangar
October 23, 2003 2:00 p.m.
MCE Project #FY032118

NAME OF BIDDER	TOTAL LUMP BASE BID	SITE WORK	TRENCH & EXCAVATION SAFETY SYSTEM	ADDITIONAL UNDERCUT AND BACKFILL	DEDUCTIVE ALTERNATE #1
Architectural Contractors, Inc	$532,000.00	$52,500.00	$300.00	$13.00/CY	$8,050.00
Building, Inc.	$588,645.00	$62,800.00	$100.00	$14.00/CY	$5,000.00
Cordova Constructors, Inc.	$557,000.00	$54,000.00	$100.00	$14.00/CY	$10,000.00
Crossland Construction Co. Inc.	$590,000.00	$70,000.00	$1,500.00	$14.00/CY	$8,200.00
SSI Inc. of Northwest Arkansas	$549,900.00	$62,000.00	$500.00	$14.70/CY	$6,400.00
John P. Marinoni Const. Co., Inc.	$537,700.00	$15,000.00	$200.00	$25.00/CY	$6,000.00

Certified by: R. Wayne Jones
R. Wayne Jones, P.E. #4532

J:\2003\032118\Bid Tab\Bid Tab.wb2

DOCUMENT 00500-Revised

CONTRACT

THIS AGREEMENT, made and entered into on the _____ day of November, 2003, by and between Architectural Contractors, Inc. and the City of Fayetteville, Arkansas:

W I T N E S S E T H:

That Architectural Contractors, Inc., for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville, Arkansas as follows:

1. That Architectural Contractors, Inc. shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled U of A Corporate Hangar for Fayetteville Municipal Airport, dated August, 2003.

Advertisement for Bids	Payment Bond
Instructions to Bidders	General Conditions
Bid and acceptance thereof	Supplementary Conditions
Performance Bond	Specifications
	Drawings (Bound Separately)

2. That the City of Fayetteville, Arkansas hereby agrees to pay to Architectural Contractors, Inc. for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of Five Hundred Thirty Two Thousand Dollars ($ 532,000.00)

3. The Work will be substantially completed within **180** days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

4. Liquidated Damages: The City of Fayetteville, Arkansas and Architectural Contactors, Inc. recognize that time is of the essence of this Agreement and the City of Fayetteville, Arkansas will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville, Arkansas if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville, Arkansas and Architectural Contarctors, Inc. agree that as liquidated damages for delay (but not as a penalty) Architectural Contactors, Inc. shall pay the City of Fayetteville, Arkansas **Four Hundred Forty Dollars ($440.00)** for each day that expires after the time specified in Paragraph 3 for Substantial Completion.

0

5. That within 30 days of receipt of an approved payment request, the City of Fayetteville, Arkansas shall make partial payments to Architectural Contractors, Inc. on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by Architectural Contractors, Inc., LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville, Arkansas until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville, Arkansas.

6. That upon submission by Architectural Contractors, Inc. of evidence satisfactory to the City of Fayetteville, Arkansas that all payrolls, material bills, and other costs incurred by Architectural Contractors, Inc. in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by Architectural Contractors, Inc. of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville, Arkansas.

7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville, Arkansas shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, Architectural Contractors, Inc. shall, at its expense, within 5 days after the receipt of notice from the City of Fayetteville, Arkansas, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville, Arkansas. In such event, no further payment to Architectural Contractors, Inc. shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville, Arkansas.

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

9. This Contract shall be governed by the law of the State of Arkansas.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

ARCHITECURAL CONTRACTORS, INC.
CONTRACTOR

WITNESSES:

By _____
Title President

Peggy L Counts

CITY OF FAYETTEVILLE, ARKANSAS
CITY OF FAYETTEVILLE, ARKANSAS

ATTEST:

_____ By _____
Clerk Mayor

Approved as to form:

_____ Attorney for City of Fayetteville, Arkansas

DOCUMENT 00500-Revised

CONTRACT

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W I T N E S S E T H:

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Instructions to Bidders	General Conditions
Bid and acceptance thereof	Supplementary Conditions
Performance Bond	Specifications
	Drawings (Bound Separately)

2. That the City of Fayetteville, Arkansas hereby agrees to pay to Architectural Contractors, Inc. for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of Five Hundred Thirty Two Thousand Dollars ($ 532,000.00)

3. The Work will be substantially completed within **180** days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

4. Liquidated Damages: The City of Fayetteville, Arkansas and Architectural Contactors, Inc. recognize that time is of the essence of this Agreement and the City of Fayetteville, Arkansas will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville, Arkansas if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville, Arkansas and Architectural Contarctors, Inc. agree that as liquidated damages for delay (but not as a penalty) Architectural Contactors, Inc. shall pay the City of Fayetteville, Arkansas **Four Hundred Forty Dollars ($440.00)** for each day that expires after the time specified in Paragraph 3 for Substantial Completion.

5. That within 30 days of receipt of an approved payment request, the City of Fayetteville, Arkansas shall make partial payments to Architectural Contractors, Inc. on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by Architectural Contractors, Inc., LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville, Arkansas until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville, Arkansas.

6. That upon submission by Architectural Contractors, Inc. of evidence satisfactory to the City of Fayetteville, Arkansas that all payrolls, material bills, and other costs incurred by Architectural Contractors, Inc. in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by Architectural Contractors, Inc. of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville, Arkansas.

7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville, Arkansas shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, Architectural Contractors, Inc. shall, at its expense, within 5 days after the receipt of notice from the City of Fayetteville, Arkansas, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville, Arkansas. In such event, no further payment to Architectural Contractors, Inc. shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville, Arkansas.

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

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

ARCHITECURAL CONTRACTORS, INC.
CONTRACTOR

WITNESSES:

By _____
Title President

_____

CITY OF FAYETTEVILLE, ARKANSAS
CITY OF FAYETTEVILLE, ARKANSAS

ATTEST:

_____ By _____
Clerk Mayor

Approved as to form:

_____ Attorney for City of Fayetteville, Arkansas

DOCUMENT 00500-Revised

CONTRACT

THIS AGREEMENT, made and entered into on the _____ day of November, 2003, by and between Architectural Contractors, Inc. and the City of Fayetteville, Arkansas:

W I T N E S S E T H:

That Architectural Contractors, Inc., for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville, Arkansas as follows:

1. That Architectural Contractors, Inc. shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled U of A Corporate Hangar for Fayetteville Municipal Airport, dated August, 2003.

Advertisement for Bids	Payment Bond
Instructions to Bidders	General Conditions
Bid and acceptance thereof	Supplementary Conditions
Performance Bond	Specifications
	Drawings (Bound Separately)

2. That the City of Fayetteville, Arkansas hereby agrees to pay to Architectural Contractors, Inc. for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of Five Hundred Thirty Two Thousand Dollars ($ 532,000.00)

3. The Work will be substantially completed within **180** days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

4. Liquidated Damages: The City of Fayetteville, Arkansas and Architectural Contactors, Inc. recognize that time is of the essence of this Agreement and the City of Fayetteville, Arkansas will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville, Arkansas if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville, Arkansas and Architectural Contarctors, Inc. agree that as liquidated damages for delay (but not as a penalty) Architectural Contactors, Inc. shall pay the City of Fayetteville, Arkansas **Four Hundred Forty Dollars ($440.00)** for each day that expires after the time specified in Paragraph 3 for Substantial Completion.

5. That within 30 days of receipt of an approved payment request, the City of Fayetteville, Arkansas shall make partial payments to Architectural Contractors, Inc. on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by Architectural Contractors, Inc., LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville, Arkansas until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville, Arkansas.

6. That upon submission by Architectural Contractors, Inc. of evidence satisfactory to the City of Fayetteville, Arkansas that all payrolls, material bills, and other costs incurred by Architectural Contractors, Inc. in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by Architectural Contractors, Inc. of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville, Arkansas.

7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville, Arkansas shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, Architectural Contractors, Inc. shall, at its expense, within 5 days after the receipt of notice from the City of Fayetteville, Arkansas, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville, Arkansas. In such event, no further payment to Architectural Contractors, Inc. shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville, Arkansas.

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

9. This Contract shall be governed by the law of the State of Arkansas.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

ARCHITECURAL CONTRACTORS, INC.
CONTRACTOR

WITNESSES:

By _____
Title President

Peggy L. Counts

CITY OF FAYETTEVILLE, ARKANSAS
CITY OF FAYETTEVILLE, ARKANSAS

ATTEST:

_____ By _____
Clerk Mayor

Approved as to form:

_____ Attorney for City of Fayetteville, Arkansas

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18,2003

FROM:

Ray M. Boudreaux	Aviation & Economic Development	General Government
Name	Division	Department

Award contract to construct a hangar for the U of A to Architectural Contractors, Inc in the amount of $532,000 plus a 5% project contingency of $29,565. Approve a budget adjustment for the project in the amount of $220,835.

COST TO CITY:

$532,000.00	$400,000	U of A Hangar Construction
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5804.00	$ 59,770.00	Other Capital Improvements
Account Number	Funds Used to Date	Program / Project Category Name
03027.1	$ 340,230.00	Sales Tax Capital Improvements
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item X Budget Adjustment Attached

Budget Manager — Date: 11-3-03

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing — Accounting Manager — Date: 11/3/03
Nancy Smith — Internal Auditor — Date: 11/3/03
D. J. Whitlock — City Attorney — Date: 11/5/03 — Approval of Form of Resolution ONLY!
P Vice — Purchasing Manager — Date: 11/3/03
D. J. Whitlock — 11/4/3 for Contract

STAFF RECOMMENDATION:

Division Head — Date
Department Director — Date: Oct 31, 2003
Finance & Internal Services Dir. — Date: 11-5-03
Chief Administrative Officer — Date
Mayor — Date

Received in Mayor's Office — Date

Cross Reference:

Previous Ord/Res#: 63-03,64-03,123-03

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No XX

ENTERED

FAYETTEVILLE

CITY OF FAYETTEVILLE

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: October 31, 2003

Subject: Approval of Purchase of 1 truck from State Contract prices – Project 02078

RECOMMENDATION: That City Council approve the purchase of 1 only 1 Ton truck, cab/chassis, 4 x 2 from the State Contract prices from Landers GMC.

BACKGROUND: This truck is for the Parks Division, to replace unit #287. This truck is 11 ½ years old, has 136,743 miles and is no longer dependable nor economical to maintain.

Funds for this purchase are available in 9700.1910.5802.00, Project 02078.

This purchase was approved by the Equipment Committee at the meeting of October 28, 2003.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) PICKUP TRUCK, 1 TON CAB/CHASSIS FROM LANDERS GMC AT STATE CONTRACT PRICES IN THE AMOUNT OF TWENTY FOUR THOUSAND SIX HUNDRED TWELVE DOLLARS ($24,612.00).

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) pickup truck, 1 ton cab/chassis from Landers GMC at state contract prices in the amount of Twenty Four Thousand Six Hundred Twelve Dollars ($24,612.00).

PASSED and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

CITY OF FAYETTEVILLE

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: City of Fayetteville, Equipment Committee

From: David Bragg, Fleet Operations Supt.

Date: October 27, 2003

Subject: Purchase of Fleet Vehicles from State of Arkansas Purchase Contract

The following vehicles are in need of replacement and funds have been appropriated in the FY2003 Budget. Vehicles that meet the needs of the City of Fayetteville are available from the State of Arkansas Vehicle Purchasing Contract. Due to factory allowances available through the State volume purchase contract, pricing is consistently lower than individual local bids. Bid prices include delivery to Fayetteville.

Qty.	Description	Make / Model	Vendor	Unit Price
1	1/2 Ton Reg. Cab Pickup	Chevrolet Silverado	Bale Chevrolet	$13,356.00

Division	Replace Unit#
Parks	261

Qty.	Description	Make / Model	Vendor	Unit Price
1	¾ Ton Ext. Cab Pickup 4X4	Ford F250 Diesel	Landers Ford	$25,285.00

Division	Replace Unit#
Solid Waste	255

Qty.	Description	Make / Model	Vendor	Unit Price
3	¾ Ton Crew Cab Pickup 4X4	Ford F250 Diesel	Landers Ford	$26,812.00

Division	Replace Unit#
Transportation	146; 250; 264

Qty.	Description	Make / Model	Vendor	Unit Price
1	1 Ton Cab/chassis 4X2	GMC Sierra Diesel	Landers GMC	$24,612.00

approved 10-28-3

Division	Replace Unit#	
Parks	287	(Utility body and crane to be bid separately)

Funds for the purchase of these units are available in the FY2003 replacement project accounts:
02078 – Light/Medium $143,689

I recommend purchase of these vehicles from the State of Arkansas Vehicle Purchasing Contract.

City of Fayetteville, Arkansas

Request for Expansion/Replacement Equipment

Division: Parks Program: Maintenance Date of Request: 10/15/2003

Acct.# Currently Charged: 1010.5260. Acct. # to be Charged: 1010.5260.

Expansion ___ or Replacement X Date Required: _____

Unit # for Vehicle being Replaced: 287 Unit # for Expansion/Replacement: 2XX4

Purchase Price of Exp./Replace Vehicle: 24,612.00 CIP Budget / Project # 9700.1920.5802 2078

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 0.00 Maintenance: 393.00 Overhead: 113.00

# of Months Budgeted: 12.00 Total Budgeted: 6,072.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 510.00 Maintenance: 150.00 Overhead: 128.00

# of Months to be in Service for Current Year: 0.00 Current Year Expense: 0.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

1 Ton cab/chassis 4 x 2 diesel, with Utility bed and auto crane

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

This truck is used for Public Lands Maintenance, towing, transporting, loading and unloading equipment and materials.

Approval Signatures:

Division Head	Date	Finance & Internal Services Dir.	Date
	10/31/03		
Fleet Operations Superintendent	Date	Chief Administrative Officer	Date
	10-31-03		
Budget Manager	Date	Mayor	Date
	11/1/03	Please return original form to Fleet when signed by all.	
Department Director	Date		

A.11
Page 5 of 6

City Of Fayetteville

(Not a Purchase Order)

Requisition No.	
Date:	10/31/2003
P.O Number	
Expected Delivery Date:	

Vendor #

Vendor Name: **LANDER'S BUICK PONTIAC GMC**

Mail Yes:__ No:____

Address:

Fob Point:

Taxable Yes:__ No:____

City:

State:

Zip Code

Ship to code: 050

Divison Head Approval

Quotes Attached Yes:____ No:____

Requester: BARBARA OLSEN BO

Requester's Employee #: 1940

Extension: 495

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	GMC Sierra diesel 1 Ton cab and	1	EA	$24,612.00	$24,612.00	9700.1920.5802.00	02078		
2	chassis, 4 x 2		EA		$0.00				
3			EA		$0.00				
4			EA		$0.00				
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions: STATE CONTRACT PRICE

Subtotal: 24,612.00

Tax: 2,061.26

Total: 26,673.26

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18, 2003

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of purchase of 1 pickup truck, 1 ton Cab/chassis, 4 x 2 from State Contract prices from Lander's GMC

COST TO CITY:

$24,612.00	$ 636,908 -	Light/Medium Trucks
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 105,721 -	
Account Number	Funds Used to Date	Program / Project Category Name
02078	$ 531,187 -	Shop
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 10-31-03

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing — Accounting Manager — Date: 10/31/03
Nancy Smith — Internal Auditor — Date: 10/31/03
City Attorney — Date: 10/31/03
Purchasing Manager — Date: 10/31/03

STAFF RECOMMENDATION:

Division Head — Date: 10/31/03
Department Director — Date: 4/11/03
Finance & Internal Services Dir. — Date: 11-4-03
Chief Administrative Officer — 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 10-31-03 AIW

CITY OF FAYETTEVILLE
FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: October 31, 2003

Subject: Approval of Purchase of 4 trucks from State Contract prices – Project 02078

RECOMMENDATION: That City Council approve the purchase of 4 pickup trucks, ¾ ton, from the State Contract prices from Landers Ford.

BACKGROUND: Three of these trucks are for the Transportation Division to replace units 250, 146, and 264; one is for Solid Waste to replace unit 255. Unit 146 is a retired police car that does not meet the functional needs of Transportation; the unit is nearly 8 years old with over 105,000 miles. Unit 250 is 9 years old with over 100,000 miles; unit 264 is 13 years old with over 148,000 miles. Unit 255 is 8.5 years old with over 116,000 miles. These units are no longer dependable nor economical to maintain.

Funds for this purchase are available in 9700.1910.5802.00, Project 02078.

These purchases were approved by the Equipment Committee at the meeting of October 28, 2003.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF FOUR (4) PICKUP TRUCKS FROM LANDERS FORD AT STATE CONTRACT PRICES FOR A TOTAL COST OF ONE HUNDRED FIVE THOUSAND SEVEN HUNDRED TWENTY ONE DOLLARS ($105,721.00).

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of four (4) pickup trucks from Landers Ford at state contract prices for a total cost of One Hundred Five Thousand Seven Hundred Twenty One Dollars ($105,721.00).

PASSED and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

FAYETTEVILLE

CITY OF FAYETTEVILLE

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: City of Fayetteville, Equipment Committee

From: David Bragg, Fleet Operations Supt. DB

Date: October 27, 2003

Subject: Purchase of Fleet Vehicles from State of Arkansas Purchase Contract

The following vehicles are in need of replacement and funds have been appropriated in the FY2003 Budget. Vehicles that meet the needs of the City of Fayetteville are available from the State of Arkansas Vehicle Purchasing Contract. Due to factory allowances available through the State volume purchase contract, pricing is consistently lower than individual local bids. Bid prices include delivery to Fayetteville.

Qty.	Description	Make / Model	Vendor	Unit Price
1	1/2 Ton Reg. Cab Pickup	Chevrolet Silverado	Bale Chevrolet	$13,356.00

Division	Replace Unit#
Parks	261

Qty.	Description	Make / Model	Vendor	Unit Price
1	¾ Ton Ext. Cab Pickup 4X4	Ford F250 Diesel	Landers Ford	$25,285.00

Division	Replace Unit#
Solid Waste	255

approved 10-28-3 2003

Qty.	Description	Make / Model	Vendor	Unit Price
3	¾ Ton Crew Cab Pickup 4X4	Ford F250 Diesel	Landers Ford	$26,812.00

Division	Replace Unit#
Transportation	146; 250; 264

Qty.	Description	Make / Model	Vendor	Unit Price
1	1 Ton Cab/chassis 4X2	GMC Sierra Diesel	Landers GMC	$24,612.00

Division	Replace Unit#	
Parks	287	(Utility body and crane to be bid separately)

Funds for the purchase of these units are available in the FY2003 replacement project accounts:
02078 – Light/Medium $143,689

I recommend purchase of these vehicles from the State of Arkansas Vehicle Purchasing Contract.

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Transportation Program: Traffic Control & Maint. Date of Request: 5/27/2003

Acct.# Currently Charged: 1010-5320 Acct. # to be Charged: 1010-5320

Expansion ___ or Replacement X 2 Date Required: ASAP

Unit # for Vehicle being Replaced: 250 Unit # for Expansion/Replacement: 2XX4

Purchase Price of Exp./Replace Vehicle: 26,500.00 CIP Budget / Project # 9700.1920.5802 02078

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 406.00 Maintenance: 220.00 Overhead: 161.00

# of Months Budgeted: 12.00 Total Budgeted: 9,444.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 429.00 Maintenance: 140.00 Overhead: 105.00

# of Months to be in Service for Current Year: 5.00 Current Year Expense: 3,370.00

Description of the equipment to be purchased/transferred:

Ford F-150 4 x ~~4 Extended~~ crew Cab Pickup for use by Traffic Control Supervisor.

Justification for this equipment:

Current Ford Ranger Pickup does not provide adequate space to allow for transportation of necessary equipment. The new vehicle will provide necessary size of truck needed and also allow towing capability when needed.

Approval Signatures:

Division Head — Date: 5-28-03

Fleet Operations Superintendent — Date: 5-28-03

Budget Manager — Date: 6/4/03

Approval Signatures:

Department Director — Date: 6-10-03

Finance and Internal Services Director — Date: 6-10-03

Chief Administrative Officer — Date: 6-11-03

Mayor — Date: 6/13/03

City of Fayetteville, Arkansas

Request for Expansion/Replacement Equipment

Division: Transportation Program: Operations & Admin Date of Request: 5/27/2003

Acct.# Currently Charged: 2100-5315 Acct. # to be Charged: 2100-5530

Expansion ___ or Replacement X / Date Required: ASAP

Unit # for Vehicle being Replaced: 146 Unit # for Expansion/Replacement: 2XX7

Purchase Price of Exp./Replace Vehicle: 28,500.00 CIP Budget / Project # 9700.1920.5802 02078

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 76.00 Maintenance: 124.00 Overhead: 88.00

# of Months Budgeted: 12.00 Total Budgeted: 3,456.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 377.00 Maintenance: 150.00 Overhead: 110.00

# of Months to be in Service for Current Year: 5.00 Current Year Expense: 3,185.00

Description of the equipment to be purchased/transferred:

The Sidewalk program is requesting a Ford 3/4 ton Crew Cab 4 x 4 Pickup to replace the Crown Interceptor currently in use. Due to this vehicle being needed for construction work.

Justification for this equipment:

The current vehicle will not readily provide the necessary ability that this crew requires. The crew cab truck will not only move the necessary personnel, but also has towing and equipment capabilities. This vehicle will allow for greater flexibility and efficiency. The addition of a snow plow to this vehicle further diversifies its use.

Approval Signatures:

Division Head — Date: 5-28-03

Fleet Operations Superintendent — Date: 5-28-03

Budget Manager — Date: 6/4/03

Approval Signatures:

Department Director — Date: 6-10-03

Finance and Internal Services Director — Date: 6-10-03

Chief Administrative Officer — Date: 6-11-03

Mayor — Date: 6/13/03

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Transportation Program: Operations & Admin Date of Request: 5/27/2003

Acct.# Currently Charged: 2100-5530 Acct. # to be Charged: 2100-5530

Expansion ___ or Replacement X Date Required: ASAP

Unit # for Vehicle being Replaced: 264 3 Unit # for Expansion/Replacement: 2XX7

Purchase Price of Exp./Replace Vehicle: 28,500.00 CIP Budget / Project # 9700.1920.5802 02078

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 88.00 Maintenance: 172.00 Overhead: 92.00

# of Months Budgeted: 12.00 Total Budgeted: 4,224.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 377.00 Maintenance: 150.00 Overhead: 110.00

# of Months to be in Service for Current Year: 5.00 Current Year Expense: 3,185.00

Description of the equipment to be purchased/transferred:

New 3/4 ton Crew Cab 4 X 4 Pickup truck for use by the Right-of-Way crews in the removal of brush.

Justification for this equipment:

Will provide vehicle for Field Operations Supervisor with towing capabilities to assist Right-of-Way crew getting appropriate equipment to job sites. Current vehicle has in excess of 160,000 miles and does not have sufficient power to accomplish these tasks. This vehicle will also have the capability of adding the use of a snow plow.

Approval Signatures:

Division Head — Date: 5-28-03

Fleet Operations Superintendent — Date: 5-28-03

Budget Manager — Date: 6/4/03

Approval Signatures:

Department Director — Date: 6-10-03

Finance and Internal Services Director — Date: 6-10-03

Chief Administrative Officer — Date: 6-11-03

Mayor — Date: 6/13/03

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Solid Waste Program: Recycling Date of Request: 10/15/2003

Acct.# Currently Charged: 5500.5060. Acct. # to be Charged: 5500.5060.

Expansion ___ or Replacement X Date Required: _____

Unit # for Vehicle being Replaced: 255 Unit # for Expansion/Replacement: 2XX4

Purchase Price of Exp./Replace Vehicle: 25,285.00 CIP Budget / Project # 9700.1920.5802 2078

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 65.00 Maintenance: 125.00 Overhead: 69.00

# of Months Budgeted: 12.00 Total Budgeted: 3,108.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 510.00 Maintenance: 150.00 Overhead: 128.00

# of Months to be in Service for Current Year: 0.00 Current Year Expense: 0.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

3/4 ton 4 x 4 Extended Cab Pickup truck.

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

This truck is for the crew leader for Recycling. It is to replace unit #255 which is due for replacement. This truck will carry a 50 gallon fuel tank, and at times will tow a trailer.

Approval Signatures:

Division Head	10/31/03 Date	Finance & Internal Services Dir.	Date
Fleet Operations Superintendent	10/31/03 Date	Chief Administrative Officer	Date
Budget Manager	10/23/03 Date	Mayor	Date
Department Director	11/04/03 Date		

Please return original form to Fleet when signed by all.

A. 12
Fire Vehicle Purchase Four Pickup Trucks
Page 8 of 9

City Of Fayetteville

(Not a Purchase Order)

Requisition No.		Date: 10/31/2003	
P.O Number		Expected Delivery Date:	
Vendor # 7582	Vendor Name: LANDER'S FORD	Mail Yes:__ No:____	
Address:	Fob Point:	Taxable Yes:__ No:____	
City:	State:	Zip Code / Ship to code: 050	Divison Head Approval / Quotes Attached Yes:____ No:____
Requester BARBARA OLSEN 130	Requester's Employee # 1940	Extension: 495	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Ford F250 diesel, 3/4ton,Ext.Cab,4x4	1	EA	$25,285.00	$25,285.00	9700.1920.5802.00	02078		
2	Ford F250 dsl, 3/4ton,Crew Cab,4x4	1	EA	$26,812.00	$26,812.00	9700.1920.5802.00	02078		
3	Ford F250 dsl, 3/4ton,Crew Cab,4x4	1	EA	$26,812.00	$26,812.00	9700.1920.5802.00	02078		
4	Ford F250 dsl, 3/4ton,Crew Cab,4x4	1	EA	$26,812.00	$26,812.00	9700.1920.5802.00	02078		
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions: STATE CONTRACT PRICES

Subtotal: 105,721.00

Tax: 8,854.13

Total: 114,575.13

TAX EXEMPT

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18, 2003

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of purchase of 4 pickup trucks, 3/4 ton, from State Contract prices from Landers Ford.

COST TO CITY:

$105,721.00	$ 636,908 -	Light/Medium Trucks
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 0 -	
Account Number	Funds Used to Date	Program / Project Category Name
02078	$ 636,908 -	Shop
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 10-31-03

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing	10/31/03	Nancy Smith	10/31/03
Accounting Manager	Date	Internal Auditor	Date
D. J. Wilkins	10/31/03	Alice	10/31/03
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION:

Division Head	10/31/03	Date
Department Director	11/11/03	Date
Finance & Internal Services Dir.	11-4-03	Date
Chief Administrative Officer		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 10-31-03

CITY OF FAYETTEVILLE

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: October 31, 2003

Subject: Approval of Bid Award Recommendation 03-61 – Project 02080

RECOMMENDATION: That City Council approve acceptance of the bid of $43,306.00 from Williams Tractor, Inc., for one 4 wheel drive utility work machine for the Transportation Division.

BACKGROUND: Bids were received on October 8, 2003. One bid meeting all specifications was received from Williams Tractor, Inc. of Fayetteville on a Bobcat Toolcat with loader bucket, angle broom attachment, and soil conditioner attachment. A second vendor was called and advised of the bid date and process, but no bid was received. This Toolcat is to replace unit 706 which is no longer dependable nor economical to maintain.

Funds for this purchase are available in 9700.1910.5802.00, Project 02080.

This purchase was approved by the Equipment Committee at the meeting of October 28, 2003.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID # 03-61 AND APPROVING THE PURCHASE OF A BOBCAT TOOLCAT 5600 UTILITY WORK MACHINE FROM WILLIAMS TRACTOR, INC. IN THE AMOUNT OF FORTY-THREE THOUSAND THREE HUNDRED SIX DOLLARS ($43,306.00).

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid # 03-61 and approves the purchase of Bobcat Toolcat 5600 Utility Work Machine from Williams Tractor, Inc. in the amount of Forty-Three Thousand Three Hundred Six Dollars ($43,306.00).

PASSED and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

FAYETTEVILLE

CITY OF FAYETTEVILLE

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: City of Fayetteville, Equipment Committee

From: David Bragg, Fleet Operations Supt.

Date: October 23, 2003

Subject: Purchase of utility work machine for Transportation Division

Bids were received on October 8, 2003 for one 4 wheel drive utility work machine for Transportation Division. One bid meeting all specifications was received from Williams Tractor, Inc. of Fayetteville on a Bobcat Toolcat with loader bucket, angle broom attachment, and soil conditioner attachment. A second vendor was called and advised of the bid date and process, but no bid was received

Funds for the replacement of Fayetteville fleet unit #706 are available for this purchase.

I recommend acceptance of the bid of $43,306.00 from Williams Tractor, Inc.

Approved
10-28-03

☐ FORMAL
☐ INFORMAL
☐ VERBAL QUOTATION

BID BOND REQUIRED YES ☐ NO ☐

PERFORMANCE BOND REQUIRED YES ☐ NO ☐

CITY OF FAYETTEVILLE, AR
113 W. MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS 72701

TABULATION OF BIDS

PROJECT _____ F.O.B. _____ DATE OPENED 10/8/03 11:00AM

DESCRIPTION 4-Wheel Steering Utility Vehicle

BID NO. 03-61 PROJECT NO. _____

		ITEM 1	ITEM	ITEM 2	ITEM	ITEM 3	EXTENSION
BIDDER: Wms Tractor	UNIT/QUANT COST	33,486.00		4,120.00		5,700.00	
ADDRESS: ~~Fort~~	EXT. COST	Bobcat S600		Angle broom		soil cond	
BIDDER:	UNIT/QUANT COST	Toolcat					
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST	Total Price					
ADDRESS:	EXT. COST	43,306.00					
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						

BID AWARD SUMMARY:

ITEM _____ TO _____ P.O. # _____

ITEM _____ TO _____ P.O. # _____

ITEM _____ TO _____ P.O. # _____

ITEM _____ TO _____ P.O. # _____

ITEM _____ TO _____ P.O. # _____

DATE _____ CERTIFIED BY

REMARKS:

_____ PURCHASING OFFICER

_____ WITNESS

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Transportation Program: Operations & Admin Date of Request: 5/27/2003

Acct.# Currently Charged: 2100-5530 Acct. # to be Charged: 2100-5530

Expansion ___ or Replacement X Date Required: ASAP

Unit # for Vehicle being Replaced: 706 Unit # for Expansion/Replacement: Bobcat Toolcat

Purchase Price of Exp./Replace Vehicle: 30,500.00 CIP Budget / Project # 9700.1920.5802. 02077

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 793.00 Maintenance: 147.00 Overhead: 283.00

# of Months Budgeted: 12.00 Total Budgeted: 14,676.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 534.00 Maintenance: 250.00 Overhead: 233.00

# of Months to be in Service for Current Year: 5.00 Current Year Expense: 5,085.00

Description of the equipment to be purchased/transferred:

5600 Bobcat Toolcat utility work machine with bucketloader, 68" angle broom, and 72" soil conditioner with hydraulic angle.

Justification for this equipment:

To provide sidewalk crews with appropriate equipment to increase efficiency to maximum levels. This equipment will allow greater flexibility for both the grading and finish crews, increasing production of sidewalks.

Approval Signatures:

Division Head — Date: 5-28-03

Fleet Operations Superintendent — Date: 5-28-03

Budget Manager — Date: 6/4/03

Approval Signatures:

Department Director — Date: 6-10-03

Finance and Internal Services Director — Date: 6-10-03

Chief Administrative Officer — Date: 6-11-03

Mayor — Date: 6/13/03

A. 13
Williams Tractor Acceptance
Page 6 of 7

City Of Fayetteville

(Not a Purchase Order)

Requisition No.	Date: 10/31/2003
P.O Number	Expected Delivery Date:

Vendor # 11133	Vendor Name: WILLIAMS TRACTOR, INC.	Mail Yes:__ No:____	
Address:	Fob Point:	Taxable Yes:__ No:____	
City:	State:	Zip Code / Ship to code: 050	Divison Head Approval / Quotes Attached Yes:____ No:____
Requester BARBARA OLSEN BO.	Requester's Employee # 1940	Extension: 495	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Bobcat Toolcat 5600 with loader	1	EA	$43,306.00	$43,306.00	9700.1920.5802.00	02080		709045
2	bucket, angle broom attachment,		EA		$0.00				
3	and soil conditioner attachment		EA		$0.00				
4	PER BID 03-61		EA		$0.00				
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal:	43,306.00
Tax:	3,626.88
Total:	46,932.88

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18, 2003

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Acceptance of lowest bid for a Utility work machine for the Transportation Division. Bid 03-61 - bid received from Williams Tractor, Inc. of Fayetteville.

COST TO CITY:

$43,306.00	$ 290,145 -	Other Vehicles/Equipment
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 41,570 -	
Account Number	Funds Used to Date	Program / Project Category Name
02080	$ 248,575 -	Shop
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 10-31-03

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 10/31/03
Internal Auditor — Date: 10/31/03
City Attorney — Date: 10/31/03
Purchasing Manager — Date: 10/31/03

STAFF RECOMMENDATION:

Division Head — Date: 10/31/03
Department Director — Date: 11/04/03
Finance & Internal Services Dir. — Date: 11-4-03
Chief Administrative Officer — 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 10-31-03

FAYETTEVILLE

City Council Meeting November 18, 2003

Water & Sewer Rates

THE CITY OF FAYETTEVILLE, ARKANSAS

To: Mayor Coody and City Council

From: Stephen Davis, Finance & Internal Services Director
Greg Boettcher, Water & Wastewater Director

Date: November 5, 2003

Subject: Water & Wastewater Rate Ordinance

Recommendation: Approval of the Water & Sewer Committee recommendation of Across-The-Board % Increase with the exception of those service agreements that specify an explicit methodology.

Background: The City Council Water & Sewer Committee met on November 3, 2003 in Room 111 to consider rate options to the Cost of Service Study prepared by Black & Veatch. The Committee voted to recommend to the full City Council water & sewer rate increases based on 10% increase across-the-board for water with the new rate structure effective for water bills dated after January 1, 2004 and across-the-board for wastewater increase for sewer service charges with the increases being 9% for wastewater service dated after January 1, 2004, 8% for wastewater service after January 1, 2005 and 9% for wastewater services January 1, 2006. The rate adjustment is 10% for water and a cumulative 29.5% for wastewater. This rate recommendation will govern water & sewer rate adjustments except those that stipulate a rate methodology in a current contract.

The rate tables that reflect the charges are attached.

Discussion: The City contracted with Black & Veatch during 2002 to conduct an operations study, as required by bond indentures, and to conduct a cost-of-services water & wastewater study and to develop recommendations that would provide sufficient funding to operate the water & sewer utility on a sound business basis. The City had previously approved wastewater system improvements that include a second treatment plant in the Illinois River watershed and this new rate study needed to address the increased cost associated with the new facilities. Additionally, the City had to cease land application of sludge and begin land filling the materials due to a build-up of certain nutrients.

Prior to the initiation of the wastewater system improvements a public vote was conducted whereby the Citizens authorized the use of a special sales & use tax to fund the construction cost of the improvements. During the information phase leading up to the

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

City Council Agenda Item

public vote, the City disclosed that a system wide increase in revenues of 29.5% would be required when the new facilities came on-line.

Additionally, Beaver Water District announced this past summer that the wholesale water rate would be increased by 15% beginning on November 1, 2003. This increased cost of purchased water translates into a 10% rate increase, system-wide, for the water utility.

Black & Veatch completed their contract and delivered to the City a cost-of service rate study (Study) and Staff forwarded the Study to City Council for consideration and adoption. Subsequent to submission of the Study, representatives of the industrial customer group and representatives of the City of Farmington expressed concerns over the magnitude of the proposed increases and requested the City to consider alternative rate structures. Black & Veatch developed two alternatives: Across-the-Board % Increase and Across-the-Board Unit Cost Increase. City Council Water & Sewer Committee met, in a public session, to determine which of the alternatives to recommend to the full City Council.

Budget Impact: A rate structure must be approved that provides sufficient funding to operate the water & sewer utility, comply with bond indenture requirements and is able to be approved by the Arkansas Soil & Water Conservation Commission.

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

DRAFT

Fayetteville
Alternative Water and Sewer Rates

Alternative 1 – Across-the-Board Rate Increase

Across-the-board rate increases are easy to understand, and impact all customers equally. Across-the-board increases do not, however, address changes in costs of service.

For water, the existing rate schedule is increased 10 percent effective 2004. Monthly bills to all customers would increase 10 percent as a result of this adjustment.

The exception is White River. The Cost of Service study recommended that White River pay the same charges as other outside City customers. In keeping with that recommendation, the charges to White River customers would vary from the overall 10 percent adjustment.

The existing schedule of sewer rates is increased 9 percent effective 2004, 9 percent effective 2005, and an additional 9 percent effective 2006. To facilitate the across-the-board adjustments, the differential volume charges for inside residential and nonresidential customer classes are maintained. Relative to existing sewer charges, bills to all customers would increase 9 percent in 2004, 18.8 percent in 2005, and 29.5 percent in 2006.

Alternative 1
Across-the-Board Rate Increase

City of Fayetteville
Water Utility
Proposed Rates
Years 2003, 2004, and 2005
(Proposed Rates Effective January 1 of each year shown)

	Existing Rates		2004		2005		2006	
	Fayetteville	Outside City	Fayetteville	Outside City	Fayetteville	Outside City	Fayetteville	Outside City
Volume Charge - $/1,000 gallons								
First 10,000 gallons	2.55	3.20	2.81	3.52	2.81	3.52	2.81	3.52
Next 290,000 gallons	2.20	2.75	2.42	3.03	2.42	3.03	2.42	3.03
Next 4,700,000 gallons	1.60	2.00	1.76	2.20	1.76	2.20	1.76	2.20
Over 5,000,000 gallons	1.45	1.80	1.60	1.98	1.60	1.98	1.60	1.98
Minimum Bill (a) - $/month								
5/8"	3.78	4.73	4.41	5.45	4.41	5.45	4.41	5.45
3/4"	4.02	5.04	4.67	5.79	4.67	5.79	4.67	5.79
1"	5.15	6.47	5.92	7.37	5.92	7.37	5.92	7.37
1 1/2"	8.80	11.11	9.93	12.47	9.93	12.47	9.93	12.47
2"	12.70	16.06	14.22	17.92	14.22	17.92	14.22	17.92
3"	29.25	37.08	32.43	41.04	32.43	41.04	32.43	41.04
4"	48.25	61.21	53.33	67.58	53.33	67.58	53.33	67.58
6"	96.25	122.17	106.13	134.64	106.13	134.64	106.13	134.64
8"	144.25	183.13	158.93	201.69	158.93	201.69	158.93	201.69
Wholesale Water Rates								
Volume Charge - $/1,000 gallons		2.70		2.97		2.97		2.97
Reduced Demand (b) - $/1,000 gallons		2.49		2.74		2.74		2.74
Meter Charge - $/month		58.20		64.02		64.02		64.02
White River								
Volume Charge - $/1,000 gallons								
First 1,000 gallons	9.06		(c)		(c)		(c)	
Next 4,000 gallons	3.00							
Next 5,000 gallons	2.75							
Next 10,000 gallons	2.50							
Over 20,000 gallons	2.25							
Minimum Bill (a) - $/month	6.19							
Private Fire Protection - $/month								
2"	6.00	6.60	6.60	6.60	6.60	6.60	6.60	6.60
3"	18.00	19.80	19.80	19.80	19.80	19.80	19.80	19.80
4"	36.00	39.60	39.60	39.60	39.60	39.60	39.60	39.60
6"	100.00	110.00	110.00	110.00	110.00	110.00	110.00	110.00
8"	210.00	231.00	231.00	231.00	231.00	231.00	231.00	231.00
10"	360.00	396.00	396.00	396.00	396.00	396.00	396.00	396.00
Public Fire Protection - $ (d)	7.00		7.70		7.70		7.70	

(a) Includes $0.25 Safe Water Act Fee.
(b) 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.
(c) Under proposed rates, White River will pay outside City rates plus an additional $5.94 per month
(d) Per hydrant per month.

Alternative 1
Across-the-Board Rate Increase

City of Fayetteville
Water Utility
Comparison of Typical Monthly Water Bills
Under Existing and Proposed Rates
(Proposed Rates Effective January 1 of each year shown)

Meter Size	Usage	Existing Rates	2004 Proposed Rates			2005 Proposed Rates			2006 Proposed Rates		
			Amount	Increase	Increase	Amount	Increase	Increase	Amount	Increase	Increase
inches	1,000 gal.	$	$	$	%	$	$	%	$	$	%
Fayetteville											
5/8	5	16.53	18.18	1.65	10.0	18.18	1.65	10.0	18.18	1.65	10.0
5/8	10	29.28	32.21	2.93	10.0	32.21	2.93	10.0	32.21	2.93	10.0
5/8	25	62.28	68.51	6.23	10.0	68.51	6.23	10.0	68.51	6.23	10.0
5/8	30	73.28	80.61	7.33	10.0	80.61	7.33	10.0	80.61	7.33	10.0
1	10	30.65	33.72	3.07	10.0	33.72	3.07	10.0	33.72	3.07	10.0
1	20	52.65	57.92	5.27	10.0	57.92	5.27	10.0	57.92	5.27	10.0
1	50	118.65	130.52	11.87	10.0	130.52	11.87	10.0	130.52	11.87	10.0
1	100	228.65	251.52	22.87	10.0	251.52	22.87	10.0	251.52	22.87	10.0
4	500	1,031.75	1,134.93	103.18	10.0	1,134.93	103.18	10.0	1,134.93	103.18	10.0
4	1,000	1,831.75	2,014.93	183.18	10.0	2,014.93	183.18	10.0	2,014.93	183.18	10.0
6	2,500	4,279.75	4,707.73	427.98	10.0	4,707.73	427.98	10.0	4,707.73	427.98	10.0
6	5,000	8,279.75	9,107.73	827.98	10.0	9,107.73	827.98	10.0	9,107.73	827.98	10.0
8	10,000	15,577.75	17,135.53	1,557.78	10.0	17,135.53	1,557.78	10.0	17,135.53	1,557.78	10.0
8	15,000	22,827.75	25,110.53	2,282.78	10.0	25,110.53	2,282.78	10.0	25,110.53	2,282.78	10.0
Farmington, Greenland, Growth Area, and Wheeler											
5/8	5	20.73	22.80	2.07	10.0	22.80	2.07	10.0	22.80	2.07	10.0
5/8	10	36.73	40.40	3.67	10.0	40.40	3.67	10.0	40.40	3.67	10.0
5/8	25	77.98	85.78	7.80	10.0	85.78	7.80	10.0	85.78	7.80	10.0
5/8	30	91.73	100.90	9.17	10.0	100.90	9.17	10.0	100.90	9.17	10.0
1	10	38.47	42.32	3.85	10.0	42.32	3.85	10.0	42.32	3.85	10.0
1	20	65.97	72.57	6.60	10.0	72.57	6.60	10.0	72.57	6.60	10.0
1	50	148.47	163.32	14.85	10.0	163.32	14.85	10.0	163.32	14.85	10.0
1	100	285.97	314.57	28.60	10.0	314.57	28.60	10.0	314.57	28.60	10.0
White River											
5/8	5	27.25	28.74	1.49	5.5	28.74	1.49	5.5	28.74	1.49	5.5
5/8	10	41.00	46.34	5.34	13.0	46.34	5.34	13.0	46.34	5.34	13.0
5/8	25	77.25	91.72	14.47	18.7	91.72	14.47	18.7	91.72	14.47	18.7
5/8	30	88.50	106.84	18.34	20.7	106.84	18.34	20.7	106.84	18.34	20.7
Wholesale											
	500	1,408.20	1,549.02	140.82	10.0	1,549.02	140.82	10.0	1,549.02	140.82	10.0
	1,000	2,758.20	3,034.02	275.82	10.0	3,034.02	275.82	10.0	3,034.02	275.82	10.0
	2,500	6,808.20	7,489.02	680.82	10.0	7,489.02	680.82	10.0	7,489.02	680.82	10.0
	5,000	13,558.20	14,914.02	1,355.82	10.0	14,914.02	1,355.82	10.0	14,914.02	1,355.82	10.0

Alternative 1
Across-the-Board Rate Increase

City of Fayetteville
Wastewater Utility
Proposed Rates
Years 2003, 2004, and 2005
(Proposed Rates Effective January 1 of each year shown)

	Existing Rates		2004		2005		2006	
	Fayetteville	Outside City	Fayetteville	Outside City	Fayetteville	Outside City	Fayetteville	Outside City
Volume Charge - $/1,000 gallons								
Residential	2.39	4.00	2.61	4.36	2.84	4.75	3.10	5.18
Commercial	1.87	4.00	2.04	4.36	2.22	4.75	2.42	5.18
All Retail								
Elkins		1.80		1.96		2.14		2.33
Minimum Bill - $/month								
5/8"	8.00	9.60	8.72	10.46	9.50	11.41	10.36	12.43
3/4"	9.25	11.10	10.08	12.10	10.99	13.19	11.98	14.37
1"	10.40	12.48	11.34	13.60	12.36	14.83	13.47	16.16
1 1/2"	14.54	17.45	15.85	19.02	17.27	20.73	21.99	22.60
2"	19.36	23.23	21.10	25.32	23.00	27.60	31.44	31.45
3"	40.40	48.48	46.31	52.84	50.77	57.60	73.01	73.04
4"	71.11	85.33	77.51	93.01	84.49	101.38	120.26	120.31
6"	135.75	162.90	149.26	177.56	163.64	193.54	238.37	238.47
8"	213.08	255.70	232.26	278.71	253.16	303.80	356.48	356.63
Excess Strength Surcharge - $/lb								
BOD over 300 mg/l	0.2061		0.2246		0.2449		0.2669	
Suspended Solids over 300 mg/l	0.1030		0.1123		0.1224		0.1334	

mg/l - milligrams per liter

Alternative 1
Across-the-Board Rate Increase

City of Fayetteville
Wastewater Utility
Comparison of Typical Monthly Wastewater Bills
Under Existing and Proposed Rates
(Proposed Rates Effective January 1 of each year shown)

Meter Size	Usage	Existing Rates	2004 Proposed Rates			2005 Proposed Rates			2006 Proposed Rates		
			Amount	Increase	Increase	Amount	Increase	Increase	Amount	Increase	Increase
inches	1,000 gal.	$	$	$	%	$	$	%	$	$	%
Fayetteville											
Residential											
5/8	5	19.95	21.75	1.80	9.0	23.70	3.75	18.8	25.84	5.89	29.5
5/8	10	31.90	34.77	2.87	9.0	37.90	6.00	18.8	41.31	9.41	29.5
5/8	25	67.75	73.85	6.10	9.0	80.49	12.74	18.8	87.74	19.99	29.5
5/8	30	79.70	86.87	7.17	9.0	94.69	14.99	18.8	103.21	23.51	29.5
Commercial											
1	10	29.10	31.72	2.62	9.0	34.57	5.47	18.8	37.69	8.59	29.5
1	20	47.80	52.10	4.30	9.0	56.79	8.99	18.8	61.90	14.10	29.5
1	50	103.90	113.25	9.35	9.0	123.44	19.54	18.8	134.55	30.65	29.5
1	100	197.40	215.17	17.77	9.0	234.53	37.13	18.8	255.64	58.24	29.5
Industrial											
4	500	1,006.11	1,096.66	90.55	9.0	1,195.36	189.25	18.8	1,331.11	325.00	32.3
4	1,000	1,941.11	2,115.81	174.70	9.0	2,306.23	365.12	18.8	2,541.96	600.85	31.0
6	2,500	4,810.75	5,245.01	434.26	9.0	5,718.01	907.26	18.9	6,292.63	1,481.88	30.8
6	5,000	9,485.75	10,340.76	855.01	9.0	11,272.37	1,786.62	18.8	12,346.89	2,861.14	30.2
8	10,000	18,913.08	20,615.26	1,702.18	9.0	22,470.63	3,557.55	18.8	24,573.52	5,660.44	29.9
8	15,000	28,263.08	30,806.76	2,543.68	9.0	33,579.37	5,316.29	18.8	36,682.05	8,418.97	29.8
Outside City											
Residential											
5/8	5	29.60	32.26	2.66	9.0	35.17	5.57	18.8	38.33	8.73	29.5
5/8	10	49.60	54.06	4.46	9.0	58.93	9.33	18.8	64.23	14.63	29.5
5/8	25	109.60	119.46	9.86	9.0	130.22	20.62	18.8	141.94	32.34	29.5
5/8	30	129.60	141.26	11.66	9.0	153.98	24.38	18.8	167.84	38.24	29.5

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

EXHIBIT "A"

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.

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(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

EXHIBIT "A"

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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EXHIBIT "A"

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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EXHIBIT "A"

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**

FAYETTEVILLE

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

WSIP - DESIGN - COSTS FILE (WSIP)

Arkansas Soil & Water Conservation Commission

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 Savay (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

ASWCC MINIMUM REQUIREMENT

FAYETTEVILLE-CLEAN WATER
RATE PRESENTATION - CURRENT 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	$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)

ASWCC MINIMUM REQUIREMENT

FAYETTEVILLE-CLEAN WATER
RATE PRESENTATION - PROPOSED RATES-Black & Veatch

REVISED 5/12/03

MINIMUM GALLONS BILLED 1,000

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	

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 00183-CWSRF-L
RATE PRESENTATION - PROPOSED RATES REVISED 6/10/03

MINIMUM GALLONS BILLED 1,000

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	

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: Volume	Common to All: Wastewater Strength: BOD	Common to All: Wastewater Strength: SS	Common to All: Customer	Retail Only: 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.

Left on 1st reading

Left on 2d reading 10/7/03

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

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	9/3/03
City Attorney	Date
Department Director	Date
Greg Boettcher	8-25-03
Finance & Internal Services Dir.	Date
Chief Administrative Officer	Date
Dan Coody	9/3/03
Mayor	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

Tabled to Nov. 18, 2003

Left on the first reading at the Nov. 4 2003 City Council meeting.

City Council Meeting of November 4, 2003
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator

Date: October 16, 2003

Subject: Residential Planned Zoning District for Lazenby

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating the Residential Planned Zoning District (R-PZD) for Lazenby. This action will establish a unique zoning district for development of an 8.79 acre tract located on the west side of Razorback Road south of 6th Street and north of Baum Stadium. The proposal is for the construction of 112 multi-family residential units with 168 bedrooms and 168 parking spaces and 15,400 s.f. of office/retail space with 57 parking spaces.

BACKGROUND

The subject property is currently vacant land located on Razorback Road, between 6th Street and 15th Street. Surrounding land uses include commercial, manufacturing, and University of Arkansas student activities (Baum Stadium).

The proposed R-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: building elevations, office/retail structure location, Commercial Design Standards, parking and street alignment.

DISCUSSION

The Planning Commission voted 7-1-0 in favor of this request on Monday, October 13, 2003. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval (large scale development). Recommended conditions included in the attached staff report were approved by the Planning Commission with one addition:

> *Signage for the commercial structures shall be wall mounted only and shall be in accordance with C district wall signage allowances as stated in Chapter 174 Signs of the Unified Development Code.*

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED (R-PZD 03-04.00) LOCATED ON THE WEST SIDE OF RAZORBACK ROAD BETWEEN BAUM STADIUM AND THE STATE REVENUE OFFICE CONTAINING 7.65 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ACCORDING TO THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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

<u>Section 1:</u> That the zone classification of the following described property is hereby changed as follows:

From I-1, Heavy Commercial/Light Industrial to R-PZD 03-04.00 as shown in Exhibit "A" attached hereto and made a part hereof.

<u>Section 2.</u> That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on October 13, 2003.

<u>Section 3.</u> That this ordinance shall take affect and be in full force at such time as all of the requirements of the development plan have been met.

<u>Section 4.</u> 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"
R-PZD 03-04.00

PART OF THE W ½, NE ¼ OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID W ½, NE ¼ THENCE SOUTH 878.30 FEET, THENCE WEST 119.80 FEET TO THE POINT OF BEGINNING. THENCE SOUTH 00°16'03" EAST 451.25 FEET; THENCE NORTH 88°48'23" WEST 115.84 FEET; THENCE NORTH 88°19'47" WEST 457.98 FEET; THENCE NORTH 00°48'44"E 583.39 FEET; THENCE N69°45'17"E 116.70 FEET; THENCE N00°03'08"E 187.19 FEET; THENCE N43°27'11"E 15.91 FEET; THENCE SOUH 00°28'00" WEST 4.65 FEET; THENCE SOUTH 38°42'23" EAST 489.88 FEET; THENCE EAST 134.33 FEET TO THE POINT OF BEGINNING. CONTAINING 7.65 ACRES MORE OR LESS.

DRAFT

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: R-PZD 03-04.00: Planned Zoning District (Lazenby, pp 560) was submitted by Landtech Engineering Inc. on behalf of Bill Lazenby for property located on the west side of Razorback Rd. between Baum Stadium and the State Revenue office. The property is zoned I-1, Heavy Commercial/Light Industrial, and contains approximately 8.79 acres. The request is to rezone the property to a Residential PZD (Planned Zoning District) to allow for the construction of 112 Multi-family residential units with 168 bedrooms and 168 parking spaces and 15,400 s.f. of office space with 57 parking spaces proposed. Planner: Jeremy Pate

Findings: The applicant requests a rezoning and large scale development approval for a mixed use development within an R-PZD zoning district. The majority of proposed use is multi-family residential, with 112 units (168 bedrooms) proposed. Commercial/Office space is also proposed along Razorback Road, and an extension of the existing warehouse storage development to the northwest is requested (to be separated from R-PZD). The development wraps around existing wetlands and a large tree-canopied area on the site, most of which is being preserved in its existing natural state and utilized for stormwater detention purposes. All tree mitigation required is being planted on-site, providing for a significant amount of potential future canopy coverage. A draft of Covenants has been submitted for Planning Commission review. This item must also be heard by City Council pursuant to the requirements for a PZD.

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	State of Arkansas Revenue Office	I-1, Light Industrial/Heavy Commercial
South	University of Arkansas Baum Stadium, associated parking lot	I-1, Light Industrial/Heavy Commercial I-2, General Industrial
East	Hog Country Distributors	I-1, Light Industrial/Heavy Commercial
West	Industrial warehouse, storage	I-1, Light Industrial/Heavy Commercial

Right-of-way being dedicated: 55 feet along Razorback Road (AR Hwy 112) to comply with Principal Arterial right-of-way requirements (110' total)

Street Improvements: The State Highway Department has indicated that no improvements to Hwy 112 in this location be made at this time. Staff is recommending that the applicant install six-foot sidewalks along the property's frontage onto Hwy 112, to be installed at the right-of-

way line. In addition, street trees and a continuous planting of shrubs are proposed to screen the parking adjacent to the right-of-way.

Adjacent Master Street Plan Streets: AR State Hwy 112 (Razorback Road), a Principal Arterial

Tree Preservation:	Existing canopy:	19.5%
	Preserved canopy:	12.2%
	Required:	15.0%
	Mitigation:	96 trees, on-site mitigation

Background:
The subject property is currently vacant land located on Razorback Road, between 6th Street and 15th Street. Surrounding land uses include commercial, manufacturing, and University of Arkansas student activities (Baum Stadium).

The proposed R-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: building elevations, office/retail structure location, Commercial Design Standards, parking and street alignment.

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 for R-PZD 03-4.00 with all conditions of approval as determined by the Planning Commission.

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

3. Planning Commission determination of Commercial Design Standards for the commercial/office structures.

4. All utilities shall be placed underground. All utility easements shall be verified by utility representatives with the easement plat process, to ensure adequate easements have been indicated on the plat.

5. All signage proposed on site shall comply with **Chapter 174 Signs** of the Unified Development Code and shall be permitted accordingly.

6. Covenants shall be filed which provide for maintenance of parking areas, private streets and greenspace.

7. Interior street names shall be approved by the City 9-1-1 Coordinator.

8. A lot line adjustment shall be processed, removing the Contractor Storage use, a use not permitted within the R-PZD zoning district, from the legal boundaries of the proposed R-PZD, prior to City Council hearing. The additional storage units, if pursued by the applicant, shall be reviewed through the Large Scale Development process for Use Unit 21 Warehousing & Wholesale, a use permitted by right in an I-1 zoning district.

Standard Conditions of Approval:

9. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

10. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

11. Payment of parks fees in the amount of **$44,016** shall be required prior to building permit.

12. Sidewalk construction in accordance with current standards to include a six foot sidewalk with a minimum ten foot greenspace along Razorback Road.

13. Large scale development shall be valid for one calendar year.

14. 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.

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 the nearby University. The site design has been investigated and revisited several times, with regard to preserving the existing natural wetlands and large tree-canopied area. All 96 required mitigation trees are proposed to be planted on-site, providing a potentially high percentage of canopy coverage in future years. The Landscape Administrator has recommended approval of the associated tree preservation plan. Proper erosion control and siltation methods will be utilized and final design will be completed prior to permitting.

(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 landscape plan, differentiating required parking lot landscaping and mitigation canopy, has been provided. Screening in the form of street trees and a continuous planting of shrubs is proposed along Razorback Road. The proposed contractor storage units are to be screened with a privacy fence and evergreen trees, as called out on the Landscape Plan. (Contractor Storage units are to be removed from the R-PZD with a lot line adjustment and be approved separately under an appropriate review

process. Mini-storage is a use not allowed in an R-PZD zoning district (Use Unit 21).

(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: The internal street circulation system has been designed to safely and adequately carry traffic into and out of the proposed parking areas. Sidewalks are proposed along Razorback Road and are located within the development so as to provide continuous pedestrian access to Razorback Road and the proposed commercial development. The internal drives will end in cul-de-sacs which will not allow for through traffic but will provide for adequate access for service vehicles. Razorback Road (Hwy 112) is a principal arterial adjacent to the site; The State Highway at this time has recommended that no improvements be made.

(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: The parking spaces required by both multifamily residential units (1/bedroom) and office/retail (1/300 SF, 1/250 SF) have been provided. Additional bicycle racks have been provided to accommodate multimodal transportation for both the residential units and the commercial uses proposed.

(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: Residential uses have been adequately buffered from adjacent Industrially-zoned properties. Open space requirements have been met pursuant to Ordinance requirements. Parking areas have been adequately screened from the public right-of-way.

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

FINDING: Sidewalks are proposed in conformance with current standards.

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

FINDING: Street lights are proposed in conformance with current standards.

(8) *Water.* As required by §166.03.

FINDING: Water service is proposed in conformance with current standards

(9) *Sewer.* As required by §166.03.

FINDING: Sewer service is proposed 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: Private residential streets are proposed which conforms to current standards. The covenants filed unique to this PZD need to address the maintenance, funding and all other required provisions for proposed streets, and the plat shall reflect the designation of said streets as "private."

(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 has complied with the requirements of Chapter 167, as determined by the Landscape Administrator.

(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: Rendered elevations and a materials sample board has been submitted to the Planning Commission for review of Commercial Design Standards for the proposed office and retail structures.

(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 City Council has approved money-in-lieu of open space or parkland requirements for this particular development, as recommended by Parks Staff. Fees in the amount of $44,016 shall be submitted prior to the issuance of building permits.

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, retail and office uses surrounding an environmentally sensitive area. The rezoning of the property to a planned zoning district may be deemed appropriate due the enhancement and minimal disruption of existing natural features and amenities, comprehensive planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan, and providing flexibility and variety in the distribution of land uses, density of development and other matters typically governed by zoning district regulations.

(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.*

(C) R - PZD, Residential Planned Zoning District.

(1) Purpose and intent. The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The proposal provides an effective relationship of different land uses within a single development, including residential units, retail and office space. The wetlands on-site are not being significantly disturbed and will be protected from erosion and siltation during site development. The natural character of the wetlands will be retained, and for those trees removed in the construction process, all required mitigation trees will be planted on-site, enhancing the canopy coverage in this area. Existing public street infrastructure is being utilized along Razorback Road, as well as water service that exists along the south boundary of the project.

(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 15	Neighborhood shopping
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

FINDING: The proposal is for Use Unit 13 Eating Places, Unit 15 Neighborhood shopping goods, Use Unit 25 Professional Offices, and Use Unit 26 Multi-family dwellings, which are permitted uses in an R-PZD. The current plats reflect a Contractor Storage use, which is a use not allowed in the R-PZD zoning district. Staff is recommending a lot line adjustment to remove the property from the R-PZD legal description and add it to the existing storage unit lot also owned by Mr. Lazenby. Separate approval for the storage units will be required, however it is a use (Use Unit 21, Warehousing & Wholesale) that is permitted by right in the I-1 zoning district.

(3) Condition. In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The proposed development meets this requirement with 87% of the gross floor area to be used for residential purposes.

***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 Mixed Use. Rezoning this property to R-PZD 03-4.00 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning is consistent with the General Plan 2020 which

designates the site Mixed Use. This is also consistent 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 with areas on the south and north sides utilized for student activities and public services, respectively. Surrounding uses are mixed in nature and are compatible with the proposed 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).**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed zoning will provide residential dwelling units in an immediate area that currently is in close proximity to employment, but not residential uses. 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.

Finding: **N/A**

Razorback Road R-PZD
R-PZD Residential Planned Zoning District

a. **Purpose and intent.** The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

1. To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's general plan and the orderly development of the city.
This development is predominantly residential in nature and it will help fulfill the need for the ever increasing demand for student housing at the University of Arkansas.

2. To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
Part of the land will be allocated for mini storage which will service residences in the development as well as contractor mini storage. The eastern portion adjacent to Razorback road will be developed as commercial area.

3. To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing pubic facilities.
The surrounding uses are commercial, warehousing, student activities (Baum Stadium) and this development will incorporate uses which compliment the surrounding uses.

4. To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
This development was designed to leave a natural green belt area through the wetlands. By using this design we are preserving 46,704 square feet of existing canopy and we are incorporating over 83,750 square feet of landscaped area for a total of 130,454 square feet of green area.

5. To encourage the efficient use of those pubic facilities required in connection with new residential development.
The PZD is using the existing infrastructure along Razor-back road as well as the water line running along the North side of Baum Stadium and to the warehousing complex which is adjacent to the western side of this proerty.

HALEY RAE INC.
180 INDUSTRIAL CIRCLE SUITE D
SPRINGDALE, AR 72762
479-361-1500
FAX 479-361-1501

Covenants for apartments on Razorback Road, owned by William A. Lazenby, located between State Revenue office and Baum Stadium.

1.) Construction of complex and maintenance of complex will be the responsibility of R.B. of Springdale Inc. A company licensed in the state of Arkansas as a general contractor. R.B. of Springdale Inc. will be responsible for the up keep of all structures, parking areas, and roads on property.

2.) On site management of the complex will be the responsibility of Haley Rae Inc. Haley Rae Inc. will be responsible for the collection of rent as well as all minor maintenance and up keep. Haley Rae Inc. will be responsible for the up keep of all landscaping. Haley Rae Inc. will have the responsibility of keeping all trailers, tents, shacks, barns, and temporary buildings off property for this is strictly prohibited. Haley Rae Inc. will be responsible for keeping all trash areas as clean as possible with trash to be contracted with the city of Fayetteville for pick up. Haley Rae Inc. will maintenance these covenants as well as all rules and restriction stated in the lease signed by all tenants. **Copy Attached.**

October 6, 2003

William A. Lazenby, Owner

Ronnie Ball, President Haley Rae Inc.

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Cedar Avenue Apartments | The Pines at Southridge | Pryor Creek Apartments

HALEY RAE INC.
180 Industrial Circle
Suite D
Springdale AR,72762

Residents:----------,----------,----------

That in consideration of the representations made in the application filed by the Resident and with the Owner, and the rent herein reserved, and of the covenants herein contained by the said Resident to be performed, the Owner hereby leases to the Resident, and the Resident hereby leases from the Owner, Apartment No.-------- in the Apartments known as the Pines at Southridge, located in Tahlequah Oklahoma, to be occupied as a private dwelling and not otherwise:

For a term of —12----- months, commencing for the same on the ----------day of ----------, 20----and ending the---------- day of----------, 20--------.

For the total rental of -$ 425.00 (1Br), $525.00-(2Br)----------Dollars payable in equal monthly installments of four hundred and twenty five dollars ($ 425.00)(1 Br) ($525.00) (2 Br), in advance without deduction or demand, on the first day of each month during said term, at the office of the Resident Manager, or at such other place designated by the Owner. The first payment of--$425.00 (1Br), $525.00 (2Br)----------Dollars ($-425.00-1Br), ($525.00 2 Br) to be made upon the execution hereof covering rent in advance for the Pro Rata portion of the first month of said term.

IT IS FURTHER UNDERSTOOD AND AGREED that the Resident will deposit with the Owner the sum of -$200.00---------- ----------Dollars ($-200.00---) as security for the payment of all monthly rent, repair of damage to the apartment or furniture, other charges which may accrue and for the full and faithful performance of all covenants and conditions of this agreement. Upon expiration of the tenancy said deposit shall be returned to the Resident without interest provided (1) the full term on the lease has expired and no month to month to month tenancy has been declared; (2) one calendar months written notice was given Owner prior to first day of the month before leaving the leased premises; (3) no damage to property at time of vacating of leased premises beyond fair wear and tear, including without limitation, damage caused by pet, and Owner in receipt of written "pre-occupancy" and move-out "inspection report" showing the requirements for work to make premises available for new rental and immediate occupancy by next tenant; (4) the entire leased premises, including range, exhaust fan, refrigerator, bathroom, closets and cabinets are clean and the refrigerator is to be defrosted; (5) no stickers or scratches or holes on walls and all burned out light bulbs replaced; (6) no burns or spots on carpeting or indentations or scratches in wood or resilient flooring; (7) all late charges or delinquent rents have been paid; (8) all keys are returned; (9) all debris and rubbish and discards placed in proper rubbish containers; (10) a forwarding address has been left with management. Charges will be $125 for cleaning, $250 for painting, and $125 for carpet cleaning. If there for less than one year, you will be charged the full $250 for painting.

The cost of labor and materials for cleaning, repairs, and delinquent payments will automatically be deducted from Security Deposit if the above provisions are not complied with. The portion of Security Deposit due Resident, if any, will be refunded by a check mailed to the forwarding address, made payable to all persons signing the lease, but said refund will not be made earlier than 14 days nor later than 30 days after vacating premises and written demand by tenant. Refunds cannot be picked up at the office at the time of departure.

IT IS FURTHER COVENANTED AND AGREED BETWEEN THE OWNER AND RESIDENT AS FOLLOWS:

RESIDENT ACKNOWLEDGES GOOD CONDITION OF PREMISES

1. The Resident hereby acknowledges the good condition of the herein leased premises and his acceptance of possession of the premises is to be deemed as conclusive evidence that said premises are in good and satisfactory order and repair at the time of commencement of lease, unless otherwise specified herein; and he agrees that no representation as to the condition of the premises has been made to decorate, alter, or improve the premises unless otherwise specified in writing.

POSSESIONS

2. The Owner shall not be liable for failure to deliver possession of the leased premises at the time stipulated herein except that in the event of delay, the rent herein to be paid shall be abated for the period from the date of the commencement specified in this lease to the day possession is tendered to the Resident. If the landlord fails to deliver possession, rent abates until possession or the tenant may terminated by giving written notice and the landlord must return all prepaid rent and deposits.

DAMAGES TO PREMISES ETC-

3. The Resident shall make suitable repairs to the leased premises and fixtures belonging thereto whenever they have been damaged by misuse or neglect of the Resident, his family, servants or visitors, and if Owner makes repairs, Resident agrees to pay the cost of same upon presentation of bill, and at the termination of his residency, he shall deliver up the leased premises in the good order in which they were at the commencement of the lease, ordinary wear and tear and casualties not caused by acts of resident resulting from fire and the elements only excepted. The Resident shall give the owner prompt notice of any defects in or accidents to the water or steam pipes, electric wiring, heating or air conditioning apparatus, or any other part of said leased premises, in order that the same may be repaired with due diligence but it is mutually agreed between the parties hereto that the Owner shall not be liable for any damage of whatsoever kind, or by whomsoever, cause, to person or property of the Resident or to anyone on or about the premises by consent of the Resident, however caused and the Resident agrees to hold the Owner harmless against all such claims, unless it can be clearly proved that it was caused by or resulting

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from the negligence of the Owner, his agents, servants, or employees, on the operation, care of maintenance of the leased premises or any portion of, or facility upon, the property of which the leased premises are a part.

USE AND OCCUPANCY RESTRICTIONS ON SUBLETTING, ETC... 4. The Resident shall personally use and occupy the leased premise, solely as a private dwelling for himself and his immediate family (unless said application provides otherwise); and shall not sublet or rent the leased premises or any part thereof, or suffer or permit the leased premises or any part thereof, or suffer or permit the leased premises or any part thereof to be used by any additional occupant, and shall not transfer or assign this lease, or take any action in connection with any of the same. Resident agrees that the number of occupants is not to exceed the number shown on the application; failure to comply with this limitation shall constitute a breach of this lease and shall constitute grounds for owner at its option to declare the term of the lease forthwith terminated. In the event the resident is adjudicated bankrupt, or makes an assignment for the benefit of creditors, this agreement, at right in either of said events forthwith to re-enter and repossess said premises.

PERSONAL PROPERTY RISK 5. All personal property placed in the leased premises, or in any other portion of said building or any place appurtenant thereto, shall be at the sole risk of the resident or the parties owning the same, and the owner shall in no event be liable for the loss destruction, theft or damage to such property unless caused by or resulting from the negligence of the owner, his agents, servants or employees, in the operation, care or maintenance of the leased premises or any portion of, or facility upon, the property of which the leased premises are a part.

STORAGE AND PARKING 6. The resident, at his sole risk, and without any liability or responsibility on the part of the owner, may use reasonable parking space. If owner has provided unassigned parking space for which no charge is made by the owner, such spaces shall be used only by residents and guests on a first come, nor reservation basis. Cars shall be parked only in spaces designated therefore
Owner reserves the right to make rules for use of such spaces, or place limitations upon use thereof at any time after commencement of this lease. If owner has provided assigned or reserved parking spaces on property of which the leased premises are a part, resident agrees to abide by such assignment. If any employee of the owner shall, at the request of the resident or members of his household, move, handle, or store any articles, or handle, move, park or drive any automobile placed on the parking lot, then and in every such case, such employee shall be deemed the agent of the resident: and the owner shall not be liable for any loss, damage, or expense that may be suffered or sustain3ed in connection therewith. Any personal property which may be left in any automobile while it it on the lot shall be at the sole risk of the resident or the parties owning the same, and the owner shall in no event be liable for the loss, destruction, theft of or damage to such property or automobile, unless caused by or resulting from the negligence of the owner, his agents, servants or employees, in the operation, care or maintenance of the leased premises or any portion of, or facility upon, the property of which the leased premises are a part. No washing or repairing of automobiles will be permitted or allowed on the parking areas. The parking lot is for automobiles only. Automobiles must have current license plates and be in operating condition. All residents and guests must observe all parking regulations as posted or indicated by the owner and/or local authorities and will abide by the same. Violators of any parking rules or regulations may be towed away at their own risk and expense.

UTILITIES 7. The owner shall be responsible for the payment of all utilities and services except which shall be paid for by the resident. Where applicable the owner shall furnish the resident only in the pipes and faucets provided for such purposes hot and cold water, during the term of this lease, and a reasonable amount of heat to all reasonable hours if the weather and outside temperature require it, except when prevented by strike, accident or other cause beyond the control of the owner, and except during the repairing of the apparatus provided in the building furnishing of such for heat or water. The owner shall not be liable for any injury or damage whatsoever which may arise or accrue, either from his furnishing or his failure to furnish hot or cold water, or heat, or air conditioning, regardless of the cause, or on account of any defect in the building or premises, unless caused by or resulting from his negligence upon the property of which the leased premises are a part. Please be advised that if heat, running water, hot water, electric, gas, or other essential service is not supplied or quits working the tenant after giving written notice and its not fixed within a reasonable time may immediately eliminate the rental agreement, get substitute housing i.e. Holiday Inn and the Landlord is liable.

APPLIANCES 8. The owner will furnish and maintain in operation in the leased premises such appliances as the owner shall deem suitable and appropriate, but shall not be liable for any damage which may be caused directly or indirectly, in furnishing or maintaining the same, or by failure to maintain the same in operation. Resident agrees that if any member of his household, his servants, guests or visitors shall cause damage to appliances of owner, resident agrees to pay cost of repairing the damage or replacing the said appliances.

UNLAWFUL USE 9. The resident shall not use, or permit to be used, the leased premises for any unlawful purpose, or do or permit any unlawful act in or upon the leased premises.

PAINTING, WALLPAPERING AND ALTERATIONS 10. The resident shall not paint or permit the painting of any portion of the leased premises or wallpaper or permit any unlawful act in or upon the leased premises.

LOCKS AND KEYS 11. No additional locks shall be placed upon any doors of the premises. Upon the termination of this lease, the resident shall surrender to the landlord all keys to the premises.

AWNINGS, AERIALS SHADES, RADIO, ETC... 12. No awnings or other projections except such as are installed by the owner shall be attached to the outside or other parts of the building, and no blinds, shades, screens, attachments, or contrivances of any kind shall be attached to, hung in, or used in connection with, any window or door or patio of the leased premises, nor shall the resident install or use any radio aerial or television aerial other than the central television aerial installed in the leased premises by the owner without the prior written consent of the owner. Resident agrees to have television connected by an elect4ronics service approved by the owner, so as to avoid damage to the master T.V. Aerial or sets of other residents. Under no

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DEVELOPMENT

circumstances shall any air conditioning apparatus, television aerials, or radio aerials be installed by the resident either upon the interior or exterior of said building.

PLUMBING FIXTURES 13. The water-closets and other water and sewer apparatus and fixtures shall not be used for purposes other than those for which they were designed and no sweepings, matches, rags, ashes, or other improper articles shall be thrown therein. **THE COST OF REPAIRING ANY DAMAGE RESULTING FROM MISUSE OF ANY OF THE SAME SHALL BE BORNE BY THE RESIDENT, OF THE DAMAGED PREMISES.**

FIRE HAZARDS 14. The resident shall no permit any act or thing deemed extra-hazardous by owner on account of fire or that will increase the rate of insurance on said premises. In case the premises shall be damaged by fire, rain, wind or there use beyond the control of the owner, unless the same shall occur for any reason for which the resident is responsible, then the premises shall be repaired within a reasonable time at the expense of the owner, and in case the damage be so extensive as to render the premises untenantable, the rent shall cease; in case of total destruction of the premises by fire or otherwise, the rent shall be paid up to the time of such destruction, and from thence forth this lease shall cease and come to an end. In the event that damage is caused by act of resident, or someone on property by reason of resident's permission or consent, there shall be no reduction of rent.

REMOVAL FOR OBJECTIONABLE CONDUCT 15. If the owner shall at any time deem the residency of the resident undesirable by reason of objectionable or improper conduct on the part of the resident, the occupants of the apartment hereby leased, or visitors thereto, or by reason of conduct or action of the persons aforesaid, or any of them causing annoyance to other residents in said building, then the owner shall have the right to terminate this lease by giving the resident personally, or by leasing at the leased premises, a ten day written notice to quit and vacate the same, and the term of this lease shall terminate upon the expiration and may avail itself of any remedy provided by law for the restitution of possession and without any further and other notice to quit.

HABITUAL COMPLAINERS 16. It is mutually understood and agreed that if, in the owners sole judgment the resident is a habitual complainer or is dissatisfied with the management and continues to demoralize the management of the owners overall building or causes discontent, unrest, dissatisfaction or disturbance among other residents of owner or otherwise creates conditions which make the efficient management of the project difficult, it being recognized that the owner's project management is of vital import to owner, taking precedent over any individual resident's lease and with the full approval of this being acknowledged upon the herein resident upon its execution of this lease agreement, then owner may, by giving 30 days written notice to the resident cancel and terminate this lease agreement without prejudice and the resident agrees that it will in that instance, deliver the demised premises to the owner free and clear of any and all property of the resident and in the same good order and condition as originally received, except for normal wear and tear and damage by the elements.

ABANDONMENT 17. If the resident shall abandon the leased premises, or quit and vacate the leased premises, voluntarily or involuntarily, the same may be let by the owner for such rent and upon such terms as the owner in his descretion may deem reasonable and advantageous; and in the event of such reletting, the resident shall be and remain liable for any deficiency in rent, and expenses incident to such reletting, and as well as any damages which the owner may have sustained by virtue of the resident's use and occupation of the leased premises.

ACCESS BY OWNER 18. The owner shall retain duplicate keys to all of the leased premises and the owner, or its agent, shall have access to the leased premises at all reasonable hours, in order to inspect the same, or to make necessary repairs, either in the leased premises or in said building.

WAIVING OF ONE BREACH NOT A GENERAL WAIVER 19. No waiver of any breach of the covenants, provisions or conditions contained in this lease shall be construed as a waiver of the covenant itself or any subsequent breach thereof; and if any breach shall occur and afterwards be compromised , settled or adjusted, this lease shall continue in full force and effect as if no breach had occurred.

REPRESENTATIONS APPLICATION 20. The owner tenders this lease to the resident and the resident accepts the IN IN same on the basis of the representations contained in the aforesaid application submitted to the landlord by the resident and made a part of this lease for the purpose of inducing the owner to ececute the lease agreement with the resident; and in the event that any of the representations contained in the aforesaid application shall be found by the owner to be misleading, incorrect or untrue, the owner shall have the right to forthwith cancel this lease.

CONTEXT OF AGREEMENT 21. Where the context requires, words in the singular shall be substituted for the plural and vice versa, and words in the masculine shall be substituted for any gender.

LEASE BINDING ON HEIRS, ETC.... 22, This lease and all covenants, conditions, terms and provisions hereof and are binding upon and shall inure to the benefit of the successors and assigns of the owner and the heirs, executors, administrators.

PAYMENT OF RENTS 23. All rents are due and payable in advance on or before the first of each month unless special arrangements are made to pay on a special day. A late payment fee of $ 5.00 is due on the 6th day and $ 5.00 per day charge will be assessed for every day payment is late thereafter. There shall be a return check charge of $ 25.00. If any checks have been returned unpaid from the bank, rent must be paid in cash, by a cashier's check, money order, or other acceptable certified funds.

HOLD-OVER AND RENEWAL 24. Resident agrees to give owner one full calendar month notice prior to the AUTOMATIC termination of this agreement stating that resident does not desire to renew this agreement. Stating that resident does not desire to renew this agreement. In the event that a timely notice is not given by the resident within the period prescribed, but,

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however, the resident shall remain or continue to be in possession of the leased premises or any part thereof after the termination of this agreement.

RULES AND REGULATIONS 25. ALL LEASES ARE MADE SUBJECT OT THE RULES AND REGULATIONS which are for the purpose of promoting the convenience, safety and welfare of all residents and for the preservation of the owner's property. Resident shall comply with the rules and regulations governing this entire apartment complex and any alterations or changes in the rules and regulations which the owner, in its discretion, hereafter shall and may adopt.

WE STRONGLY URGE ALL RESIDENTS TO OBTAIN INSURANCE ON PERSONAL PROPERTY, YOU ARE NOT COVERED BY OUR INSURANCE FOR ANY LOSS.

IT IS AGREED THAT ALL SECURITY DEPOSITS WILL BE HELD IN OUR OPERATION ACCOUNT.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed in person or by a person thereunto duly authorized and their respective seals to be hereunto affixed, the day and year first hereinabove written.

LESSEE:

By_____**(DATE)**_____

RESIDENT

By_____**(DATE)**_____

RESIDENT

By_____
Landlord

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DIV.

R-PZD03-04.00

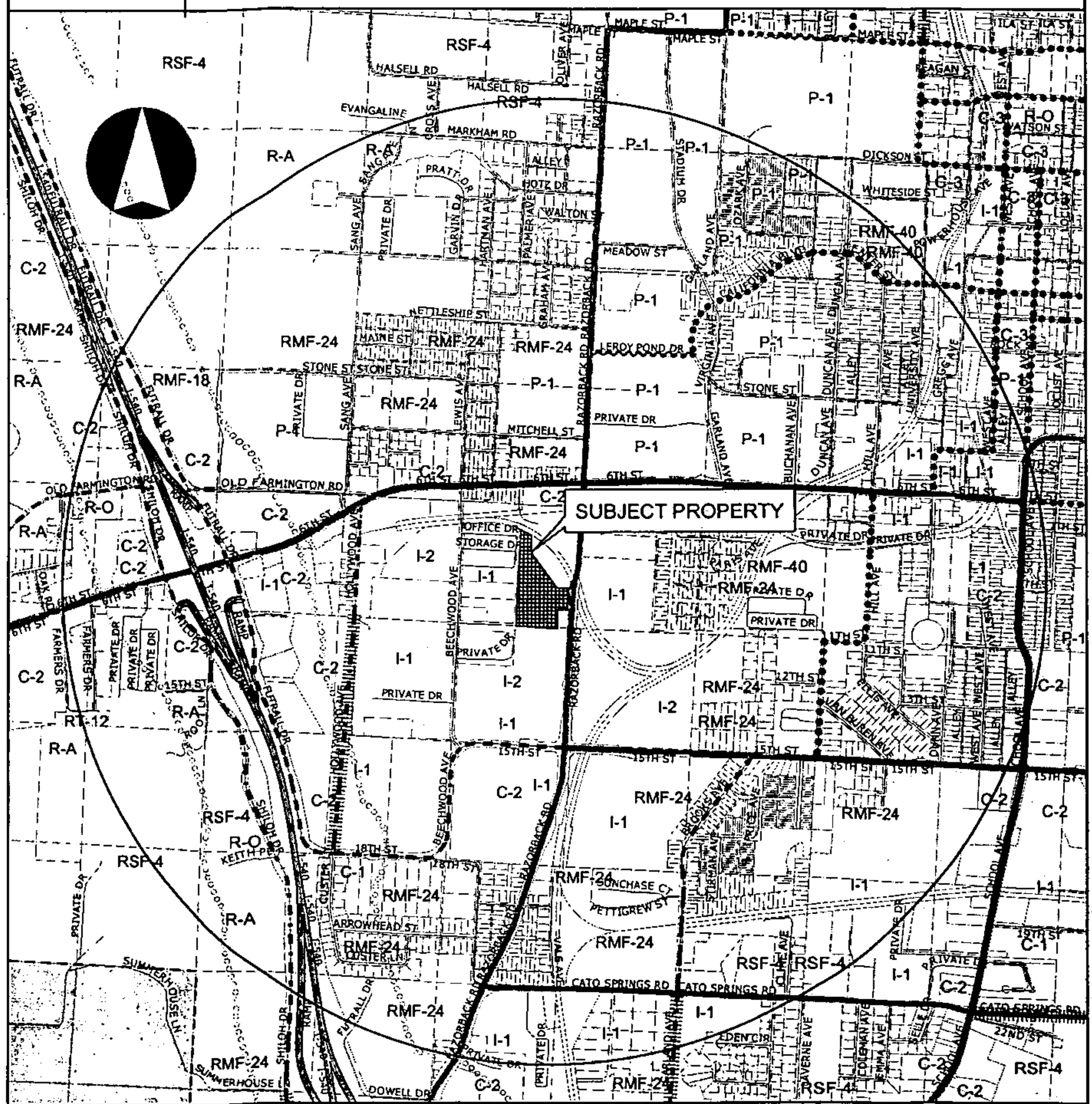
Close Up View

LAZENBY APARTMENTS

R-PZD03-04.00

One Mile View

LAZENBY APARTMENTS



Overview

Legend

Subject Property

R-PZD03-04.00

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 - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 4, 2003

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

R-PZD 03-04.00: Residential Planned Zoning District (Lazenby, pp 560) was submitted by Landtech Engineering, Inc. on behalf of Bill Lazenby for property located on the west side of Razorback Road between Baum Stadium and the Revenue Office containing 8.79 acres. The request is to rezone the subject property from I-1, Heavy Commercial/Light Industrial to R-PZD 03-04.00.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — 10/16/03
Division Head — Date

D. J. White — 10/17/03
City Attorney — Date

Department Director — Date

Steve Davis — 10-17-03
Finance & Internal Services Dir. — Date

Hugh Earnest — 10-17-03
Chief Administrative Officer — Date

Dan Coody — 10/20/03
Mayor — Date

Received in Mayor's Office 10/17/03 AM
Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 10-17-03

City Council Meeting of November 18, 2003
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator

Date: October 31, 2003

Subject: Vacation of a portion of a utility easement at 2721 Shadybrook Cove (VAC 03-11 Salazar)

RECOMMENDATION

Staff recommends approval of an ordinance vacating a portion of a utility easement located at 2721 Shadybrook Cove (lot 51, Brookbury Subdivision) where a portion of a single family home encroaches the easement.

BACKGROUND

Property description: The subject property is located at 2721 Shadybrook Cove. The property is zoned RSF-4, Residential Single-family, 4 units per acre. This lot is located in the Brookbury Subdivision and is surrounded by single family homes in the RSF-4 zoning district. The rear of the subject property contains a 25' utility easement and setback. There is a sunroom and deck structure constructed at the rear of the house which encroach this easement area. The overhang on the north side of the home also encroaches a utility easement by one foot.

History: Staff has researched this property to determine the cause for this encroachment. The encroachment of the roof overhang on the north side of the home appears to have been a contractor's error when the structure was originally sited on the lot. A building permit was issued in July of 1996 for the single family home. The site plan and setback information for that building permit do not reflect the sunroom and deck addition (a 32' rear setback was reported by the applicant at that time). In June of 2000, a permit was issued for the construction of an in-ground swimming pool on the property. This action did not modify any existing site conditions or reflect structural changes.

The applicant has stated that when she signed a contract for the home, it was under construction. At that time, the sunroom and deck were also being constructed. The applicant has learned during the past two years of occupying the structure that there was no permit issued which properly reflected the sunroom and deck.

Proposal: The applicant had a survey performed recently for the purpose of refinancing the home which revealed an encroachment. No development proposals are currently being considered for this property.

Request: The request is to vacate that portion of the utility easement which has been encroached into by the sunroom and deck at the rear of this single family home.

DISCUSSION

No objections were voiced by any city divisions or franchise utilities. The Planning Commission voted 7-0-0 to approve this request on the consent agenda at the October 27, 2003 Planning Commission meeting.

Note: A variance of the required 25' building setback that was platted with this subdivision may only be granted by the Board of Adjustment. Should the applicant wish to seek a variance in order for the structure to be considered legal and conforming, a separate application needs to be processed.

A building permit for the sunroom and deck portion of this structure needs to be obtained by the applicant in order for the City to have record of that construction activity. A variance must be sought first and double permitting fees will be required in order for the permit to be issued retroactively. Staff will work with the applicants to ensure that they understand the processes required to seek resolution of this situation.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 03-11.00 TO VACATE A PORTION OF A UTILITY EASEMENT ALONG LOT 51 OF THE BROOKBURY SUBDIVISION AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

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

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

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described street right of way:

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

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

PASSED AND APPROVED this _____ day of _____, 2003.

APPROVED:

By_____
Dan Coody, Mayor

ATTEST:

By_____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 03-11.00

A PART OF LOT NUMBERED FIFTY-ONE (51) OF BROOKBURY WOODS SUBDIVISION, PHASE II, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT FIFTY-ONE (51); THENCE N77°00'00"E ALONG THE NORTH LINE OF SAID LOT FIFTY-ONE (51) 22.74 FEET; THENCE S13°00'00"E 8.87 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE NORTHWEST CORNER OF THE ROOF OVERHANG; THENCE N77°25'33"E ALONG THE NORTHERNMOST ROOF OVERHANG 69.10 FEET TO THE NORTHEAST CORNER OF SAID ROOF OVERHANG; THENCE S12°34'27"E ALONG THE EASTERNMOST ROOF OVERHANG 0.62 FEET TO A POINT ON THE TEN (10) FOOT UTILITY EASEMENT LINE WHICH IS PARALLEL WITH THE NORTH LINE OF SAID LOT FIFTY-ONE (51); THENCE S77°00'00"W ALONG SAID UTILITY EASEMENT LINE 65.30 FEET TO THE INTERSECTION OF THE NORTH UTILITY EASEMENT LINE AND WEST UTILITY EASEMENT AND BUILDING SETBACK LINE; THENCE S20°30'00"E ALONG THE WEST UTILITY EASEMENT AND BUILDING SETBACK LINE 36.01 FEET; THENCE S10°00'00"E ALONG THE WEST UTILITY EASEMENT AND BUILDING SETBACK LINE 12.14 FEET TO A POINT ON THE SOUTH SIDE OF AN EXISTING DECK; THENCE S77°25'33"W 7.22 FEET TO THE SOUTHWEST CORNER OF SAID DECK; THENCE N12°34'27"W ALONG THE WEST SIDE OF SAID DECK 30.70 FEET TO THE SOUTH EDGE OF A ROOF OVERHANG; THENCE S77°25'33"W 1.00 FEET TO THE SOUTHWEST CORNER OF SAID ROOF OVERHANG; THENCE N12°34'27"W ALONG THE WEST EDGE OF SAID ROOF OVERHANG 18.20 FEET TO THE POINT OF BEGINNING, CONTAINING 357 SQUARE FEET, MORE OR LESS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of October 27, 2003

113 W. Mountain St.
Fayetteville, AR 72701

TO: Fayetteville Planning Commission Members
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
FROM: Matt Casey P.E. Staff Engineer
DATE: October 20, 2003

VAC 03-11.00: Vacation (Salazar, pp 294) was submitted by Michael and Jill Salazar for property located at 2721 Shadybrook Cove. The property is zoned RSF-4, Residential Single-family, 4 units per acre. The request is to vacate a portion of a utility easement along lot 51 of the Brookbury Subdivision.

Findings: See the attached maps and legal descriptions for the exact locations of the requested utility easement vacation. The request is to vacate only the portion of the easement that is encroached upon by the existing structure.

No objections from the adjacent property owners have been submitted to the City.

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

UTILITIES	RESPONSE
Ozarks Electric	No Objections.
AEP/SWEPCO	No Objections
Arkansas Western Gas	No Objections
SW Bell	No Objections.
Cox Communications	No Objections.
City of Fayetteville:	
Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections
Engineering	No objections

Recommendation: Approval of the proposed utility easement vacation 03-11.00 subject to the following conditions.

Conditions of Approval:

1. Any relocation of existing utilities will be at the owner's expense.

2. Encroachment upon building setbacks by the existing structure requires a separate action and approval by the Board of Adjustment.

PLANNING COMMISSION ACTION: **__yes__Required**
__√__Approved _____Denied
CONSENT AGENDA

Date: 10-27-2003

CITY COUNCIL ACTION: **__yes__Required**
_____Approved _____Denied

Date: __/__/____

October 30, 2003

Jeremy Pate
Associate Planner
City of Fayetteville

RE: 2721 Shadybrook Cove
(Lot 51 Brookbury Woods subdivision)

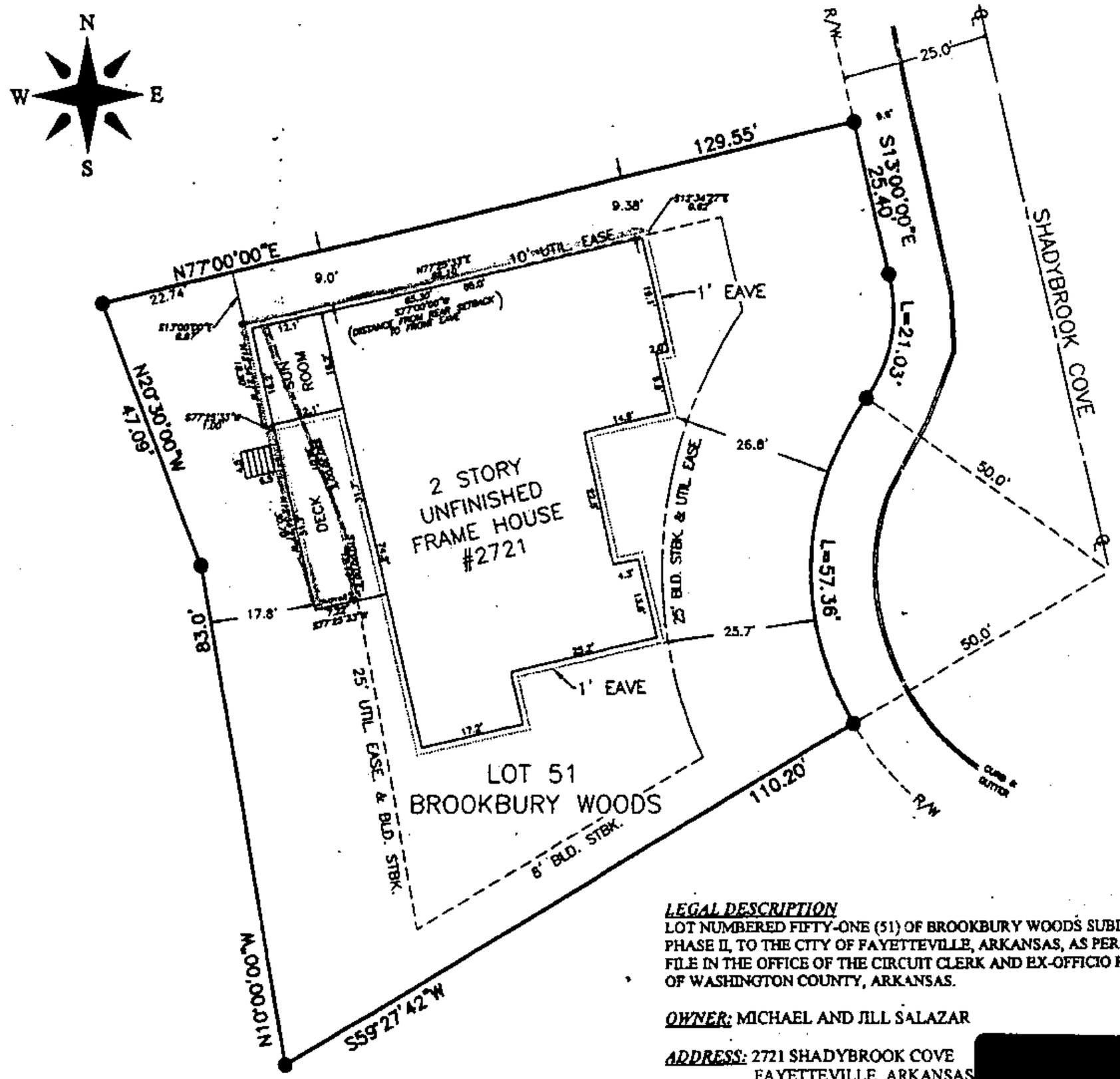
Dear Mr. Pate,

As requested, we are writing to you to explain the need for the vacation/variance on our property located at 2721 Shadybrook Cove in Fayetteville, Arkansas. The builder was running behind on completing a number of items by the closing date. It was later determined that a portion of the structure was in the setback. Apparently the builder did not have a survey completed prior to construction. Due to the lowering of interest rates we had the house refinanced. We had a survey done which confirmed the encroachment.

Please let us know if you need additional information. We appreciate your consideration.

Sincerely,

Mike & Jill Salazar



SURVEY DESCRIPTION OF ENCROACHMENT

A PART OF LOT NUMBERED FIFTY-ONE (51) OF BROOKBURY WOODS SUBDIVISION, PHASE II, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT FIFTY-ONE (51); THENCE N77°00'00"E ALONG THE NORTH LINE OF SAID LOT FIFTY-ONE (51) 22.74 FEET; THENCE S13°00'00"E 8.87 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE NORTHWEST CORNER OF THE ROOF OVERHANG; THENCE N77°25'33"E ALONG THE NORTHERNMOST ROOF OVERHANG 69.10 FEET TO THE NORTHEAST CORNER OF SAID ROOF OVERHANG; THENCE S12°34'27"E ALONG THE EASTERNMOST ROOF OVERHANG 0.62 FEET TO A POINT ON THE TEN (10) FOOT UTILITY EASEMENT LINE WHICH IS PARALLEL WITH THE NORTH LINE OF SAID LOT FIFTY-ONE (51); THENCE S77°00'00"W ALONG SAID UTILITY EASEMENT LINE 65.30 FEET TO THE INTERSECTION OF THE NORTH UTILITY EASEMENT LINE AND WEST UTILITY EASEMENT AND BUILDING SETBACK LINE; THENCE S20°30'00"E ALONG THE WEST UTILITY EASEMENT AND BUILDING SETBACK LINE 36.01 FEET; THENCE S10°00'00"E ALONG THE WEST UTILITY EASEMENT AND BUILDING SETBACK LINE 12.14 FEET TO A POINT ON THE SOUTH SIDE OF AN EXISTING DECK; THENCE S77°25'33"W 7.22 FEET TO THE SOUTHWEST CORNER OF SAID DECK; THENCE N12°34'27"W ALONG THE WEST SIDE OF SAID DECK 30.70 FEET TO THE SOUTH EDGE OF A ROOF OVERHANG; THENCE S77°25'33"W 1.00 FEET TO THE SOUTHWEST CORNER OF SAID ROOF OVERHANG; THENCE N12°34'27"W ALONG THE WEST EDGE OF SAID ROOF OVERHANG 18.20 FEET TO THE POINT OF BEGINNING, CONTAINING 357 SQUARE FEET, MORE OR LESS.

REGISTERED
STATE OF ARKANSAS
NO. 1005
SIGNATURE
ALAN REID
PROFESSIONAL LAND SURVEYOR

- CONCRETE MONUMENT
- COMPUTED CORNER
- COTTON SPINDLE
- FOUND R.R. SPIKE
- ROW MARKER
- FOUND PIPE
- SET IRON PIN
- FOUND IRON PIN

0' 20' 40' 60'

LEGAL DESCRIPTION

LOT NUMBERED FIFTY-ONE (51) OF BROOKBURY WOODS SUBDIVISION, PHASE II, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

OWNER: MICHAEL AND JILL SALAZAR

ADDRESS: 2721 SHADYBROOK COVE
FAYETTEVILLE, ARKANSAS

[redacted]

JILL SALAZAR		
DRAWN JCC	DATE 01/24/03	ALAN REID & ASSOC. 118 S. COLLEGE AVE. FAYETTEVILLE, AR. 479-444-8784
APPROVED	DATE	
SCALE 1" = 20'	SHEET 1of1	PROJECT NO. 96340-II

Record 1 of 1 Last Updated 10/30/03

Parcel Number: **765-19893-000** Prev. Parcel Number: **765-13283 & 13292** Type: **RI**
Location: **2721 N SHADYBROOK CV**
Owner Name: **ALMON, GERALDINE**
Mailing Address: **2721 SHADY BROOK COVE FAYETTEVILLE AR 72703**
Lot: **051** Block: S-T-R: **31-17-29**
Addition: **BROOKBURY WOODS**
School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
City: **FAYETTEVILLE**
Legal:
Current Year A79 Credit Status: **F**

Last Appraised: **2001**	**Appraised Value**	**Taxable Value**
Land	**40,000**	**7,400**
Improvement	**253,150**	**41,270**
Total	**293,150**	**48,670**

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Total Tax	Total Tax Paid	A79 Credit	A79 Status	Payment Status
2002	**48,670**	**$2,228.89**	**$0.00**	**$0.00**	**$0.00**	**$2,228.89**	**$2,228.89**	**$300**	**F**	**PAID**
2001	**48,670**	**$2,228.89**	**$0.00**	**$0.00**	**$0.00**	**$2,228.89**	**$2,228.89**	**$300**	**F**	**PAID**
2000	**45,090**	**$2,367.23**	**$0.00**	**$0.00**	**$0.00**	**$2,367.23**	**$2,367.23**		**O**	**PAID**
1999	**45,090**	**$2,308.61**	**$0.00**	**$0.00**	**$0.00**	**$2,308.61**	**$2,308.61**			**PAID**
1998	**45,090**	**$2,313.12**	**$0.00**	**$0.00**	**$0.00**	**$2,313.12**	**$2,313.12**			**PAID**
1997	**37,560**	**$1,926.83**	**$0.00**	**$0.00**	**$0.00**	**$1,926.83**	**$1,926.83**			**PAID**
1996	**7,400**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			**PAID**

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2002	**15812**	**4/30/2003**	**$2,228.89**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$2,228.89**
2001	**35999**	**5/7/2002**	**$2,228.89**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$2,228.89**
2000	**2682**	**4/17/2001**	**$2,067.23**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$2,067.23**
1999	**6706**	**4/3/2000**	**$2,308.61**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$2,308.61**

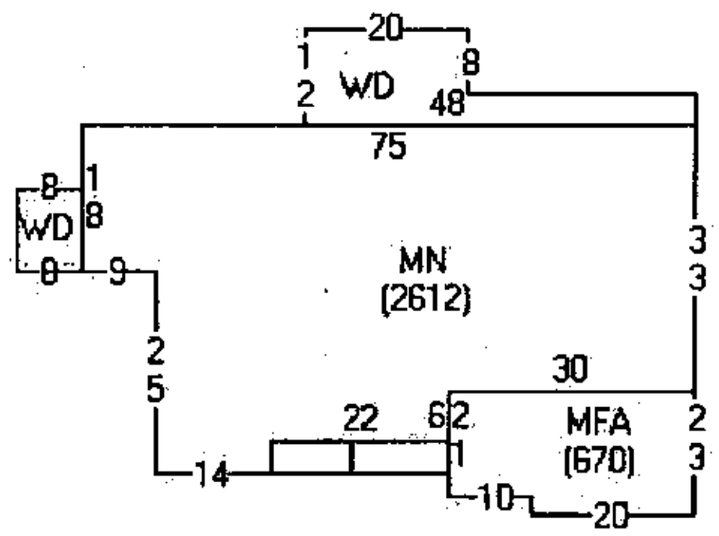
Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
11/15/2001	**2001**	**153115**	**ALMON, GERALDINE JEAN; SALAZAR,**	**MICHAEL SHANE & JILL LYNN**	**TD**	**0**	**0.00**
DMF 2001-153115 TD NO REV							
3/1/1997	**97**	**73234**	**SALAZAR, MICHAEL & JILL; ALMON,**	**GERALDINE J.**	**WD**	**0**	**0.00**
LPW 97-73234 WD NO REV - NO DAY DATE ON DEED - ONLY							

MONTH & YEAR							
1/13/1997	**97**	**2647**	**SALAZAR, MICHAEL & JILL; ALMON,**	**GERALDINE J.**	**WD**	**261,000**	**861.30**
LRR 97-2674 WD 861.30 (261M)							
6/20/1996	**96**	**40858**	**SCHMITT, ROBERT N.; SCHMITT,**	**NEIL & CAROLYN**	**WD**	**37,000**	**122.10**
ALP - 96-40858 WD $122.10 (37M)							
7/1/1994	**94**	**40959**	**DUNNERSTOCK DEVELOPMENT, INC.,**	**AN ARKANSAS CORPORATION**		**0**	**0.00**
94-63616 SEE 765-13283-000 & 13292-000 FOR PREVIOUS TITLE							

Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Age or Year Constructed	Basement Area
1	**SF**	**MV**	**2612**	**3060**	**3**	

Sketch:



Permit # _____

BUILDING PERMIT APPLICATION

City of Fayetteville Inspection Division
113 W. Mountain Street
Fayetteville, AR 72701
Phone 575-8233

C & SC 21

Review Routing & Approval

Division	Req'd (Y/N)	/S/ = OK	Date
Planning		KB	7/16/96
Flood Zone			
Engineering	Y	[illegible]	7/16/96
Landscape			
SW/Trails			
Fire			
Inspections			

Date: 7/16/96
SITE ADDRESS: 2721 SHADYBROOK COVE N
Lot: 51 Block: NA Subdivision: BROOKBURY
Sec-Twn-Rng: 31-17-29 Plat: 294 Plan Check: __Y __N

Owner	Mailing Address	Zip	Phone
ROBERT W. SCHMITT	1754 POINTER LN	72701	521-1950

Architect/Engineer	Mailing Address	Zip	Phone

Contractor	Mailing Address	Zip	Phone
SAME			

Review Contact	Phone	State Contractor's License #	Expires

Work: X NEW __ ADDITION __ ALTERATION __ REPAIR __ MOVING __ DEMOLITION OTHER
__ FOOTING ONLY __ EXTERIOR ONLY __ TENANT FINISH __ DESIGN/BUILD _____

Residential: (Single Family) Multi-family (number of units ____) __ Townhouse

Valuation of Work		Building Information			
Structural	$ 25,000	# of Stories	1	Sum Total Area	3080 sq. ft
Electrical	$ 15,000	Height	9'	Total Heated/Cooled	2480 sq. ft
Plumbing	$ 5,000	Length	64'	Total Unheated	600 sq. ft
Mechanical	$ 10,000	Width	48'	Add./Alt Area	____ sq. ft
	$ ____	Slab Floor	X Y __ N	Public Sewer	X Y __ N
Total	$ 55,000	Basement	NO SqFt	Structure: Wood X Metal __ Masonry X Other	

Building will comply with Arkansas Energy Code Requirements (Yes/NA): YES.
Are you responsible for other buildings in this subdivision? (Yes/No): ____ Engineering Division Approval: ____

DESCRIPTION OF WORK: ____

Use of Building: ____ Previous Use: ____

Const. Type ____ Occ. Group: ____
Max. Occ. Load: ____ Fire Zone: ____
Protection (hrs): ____ Sprinkled: __ Y __ N

NOTICE

SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING MECHANICAL. THIS PERMIT BECOMES NULL AND VOID IF WORK/ CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 6 MONTHS, OR IF WORK/CONSTRUCTION IS SUSPENDED OR ABANDONED FOR A PERIOD OF 6 MONTHS AT ANY TIME AFTER WORK IS COMMENCED.

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

[signature] 7/16/96
signature of contractor or authorized agent (date)

signature of owner (date)

Office Use Only Special Approvals:	Req'd (Y/N)	/S/=OK	Date
Flood Plain			
Parks Fee			
Ark. Health			
Septic			
Seismic			
Arch/Engr			
Accessibility			

Note: Inspection of permitted work may reveal code violations not discovered during plan review.

ZONING INFORMATION

ADDRESS 2721 SHADYBROOK COVE
ZONING DISTRICT R-1

PLOT PLAN The applicant must provide a drawing showing proposed buildings, additions to existing buildings, off-street parking, driveways, and other proposed permanent improvements like pools, hot tubs, heating or A C. units, decks, carports, etc. The distance from any proposed structure to property lines must be clearly indicated. If the building has an overhang, you must show the distance from the overhang to the property line. NOTE: Property lines can be accurately determined only by survey. The street is at the front property line

BUILDING SETBACKS

	Proposed	Minimum	Comments
North	10'	8'	
South	21'	8'	
East	27'	25'	
West	32'	20'	

HEIGHT The height of the proposed building will be _____

ADDITIONAL REVIEW REQUIREMENTS
Board of Adjustment_____ Large Scale Development_____
Planning Commission_____ Lot Split_____

IMPROVEMENTS REQUIRED BY THE CITY

Public Sidewalk A sidewalk is required along W. side of SHADYBROOK COVE street(s). It shall be a minimum of 4 feet in width for residential and 5 feet for commercial, constructed in accordance to specifications in the City Street and Sidewalk Ordinance.

House Numbers No permanent water meter will be set until permanent house numbers (visible from the street and at least 4" high) are installed on the building. House numbers may not be changed without approval from the Water Department.

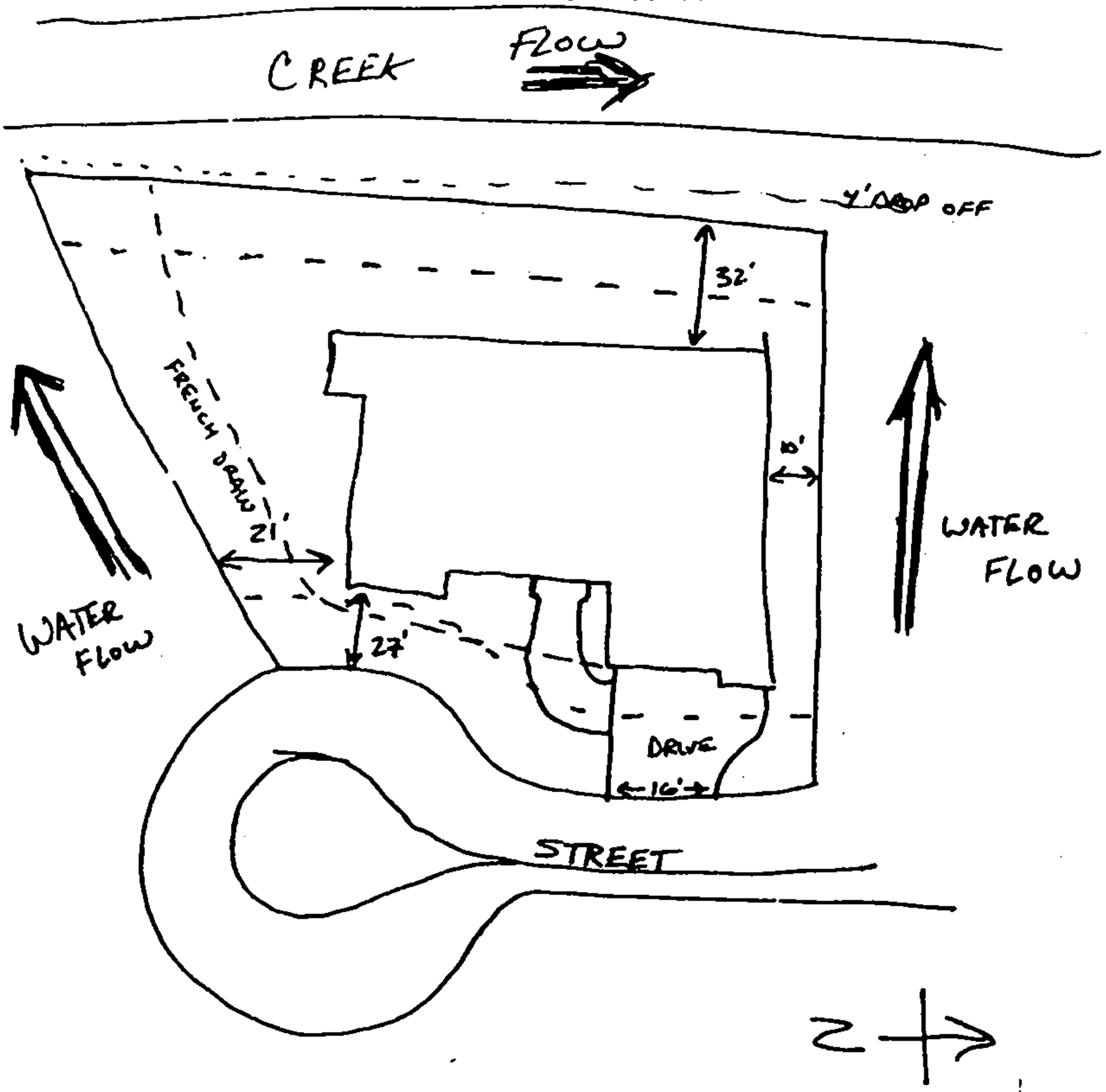
PAVED DRIVEWAYS AND PARKING AREAS These must be paved with double chip and oil seal, hot mix asphalt or portland cement.

(a) Driveways Must be surfaced for a minimum of 12½ feet into the property.
(b) Off-Street Parking The parking area(s) must be striped into a minimum of _____ spaces of _____ size. You must also provide curbs, bumper guards or wheel stops so that no part of a parked vehicle extends beyond the boundary of the parking lot.

SIGNATURES

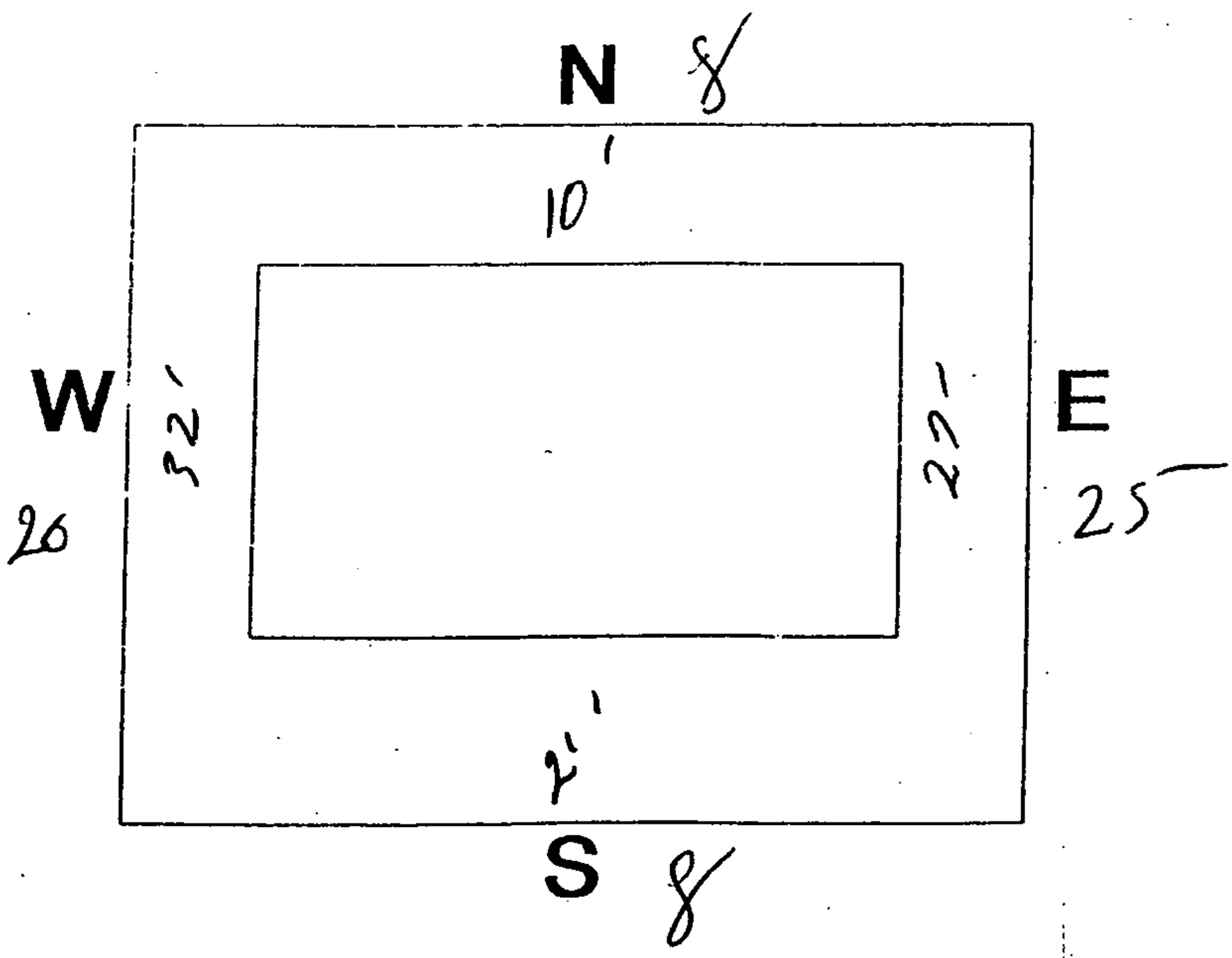
_____	Robert N. Schott	_____
Owner	Contractor	Lessee
_____	7/16/96	_____
Date	Date	Date

2721 N. Shadybrook Cove
ADDRESS
9602785
PERMIT NO.
CONSTRUCTION CONFORMS TO SITE DRAWING SUBMITTED FOR APPROVAL AND MINIMUM SET-BACKS ARE NOT VIOLATED.
OWNER/ARCHITECT — DATE
BUILDING OFFICIAL — DATE 7-16-96
CITY OF FAYETTEVILLE
INSPECTIONS & PLANNING DIVISION



Fayetteville City Codes Inspector, Joy Perry, measured the building setbacks from the property lines I establishied at 2721 Shadybrook All of the buildings' exterior perimeter is shown on the drawing below and meets setbacks.

J Moore 2-16-96
Signature Date



Copy!

C.O.Z. 00-138 C. 1

APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE

The applicant must provide a site plan, drawn to scale, showing setbacks and measurements from overhangs on all proposed structures, existing structures, utility easements, off-street parking, driveways, landscaping and other proposed permanent improvements like pools, hot tubs, heating or a.c. units, decks, carports, etc. The distance from any proposed structure to property lines must be clearly indicated. Floor plans may be required for certain uses to verify zoning compliance. *NOTE: Property lines can be accurately determined only by survey. The street is not the front property line.*

ZONING REQUIREMENTS:

•PROPERTY ZONED: R-1 SITE ADDRESS: 2721 N. Shadybrook Cove
•PROPERTY OWNER: Mike Salazar PHONE: 4143-4583
•PROPERTY OWNER'S ADDRESS: 2721 Shadybrook CITY: Fay STATE: Ar. ZIP:

•BUILDING SETBACKS

•SCALE: 1"=20'

•PROPOSED BUILDING HEIGHT:

•NOTES: Pool

	PROPOSED	[redacted]
NORTH	88'	[redacted]
SOUTH	9'	[redacted]
EAST	38'	[redacted]
WEST	30'	[redacted] 20'

•NUMBER OF DWELLING UNITS: 1

•PUBLIC SIDEWALK a sidewalk is required along Shadybrook Cove street(s) and constructed in accordance to specifications in the City's Street and Sidewalk Ordinance.

•HOUSE NUMBERS no permanent water meter will be set until permanent house numbers (visible from the street and at least 4" high) are installed on the building. House numbers may not be changed without approval from the Water Department.

•DRIVEWAYS MUST BE PAVED with hot mix asphalt or concrete and must be surfaced for a minimum of 12 ½ feet into the property.

•OFF-STREET PARKING: The parking area(s) must be striped into a minimum of _____ spaces of _____ size, of these spaces, shall be ADA accessible including for van accessibility, and shall include accessible ramps where needed. You must also provide curbs, bumper guards or wheel stops so that no part of a parked vehicle extends beyond the boundary of the parking lot.

Spaces Required: _____ Spaces Provided: _____

•DO YOU SHARE PARKING WITH ANY OTHER BUSINESS? YES NO If yes, please explain in writing.

•ADDITIONAL REVIEWS/DATE:

Board of Adjustments: _____ Large Scale Development: _____
Planning Commission: _____ Lot Split: _____

NON-RESIDENTIAL REQUIREMENTS:

•BUSINESS NAME: _____ BUSINESS PHONE: _____
•LESSEE NAME: _____ LESSEE PHONE: _____
•LESSEE ADDRESS: _____ CITY: _____ STATE: ____ ZIP: _____
•PROPOSED USE: _____ PREVIOUS USE: _____
•IS THE STRUCTURE VACANT? YES NO If yes, how long has the structure been vacant? _____
•IS THE BUSINESS A HOME OCCUPATION? YES NO If yes, provide: permit ID #: _____ P.C. approval date: _____
•DOES THE USE REQUIRE AN AIR PERMIT FROM THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY? YES NO
If yes, please provide a copy of the permit.
•DOES THE USE PRODUCE AN ODOR? YES NO If yes, please describe the odor: _____
•NUMBER OF EMPLOYEES: _____
•OUTDOOR STORAGE OF MATERIAL AND/OR EQUIPMENT? YES NO
If yes, please describe: _____
•SQ. FT. OF BUILDING - TOTAL: _____ SQ. FT. OF BUSINESS: _____ SQ. FT. OF EXPANSION: _____

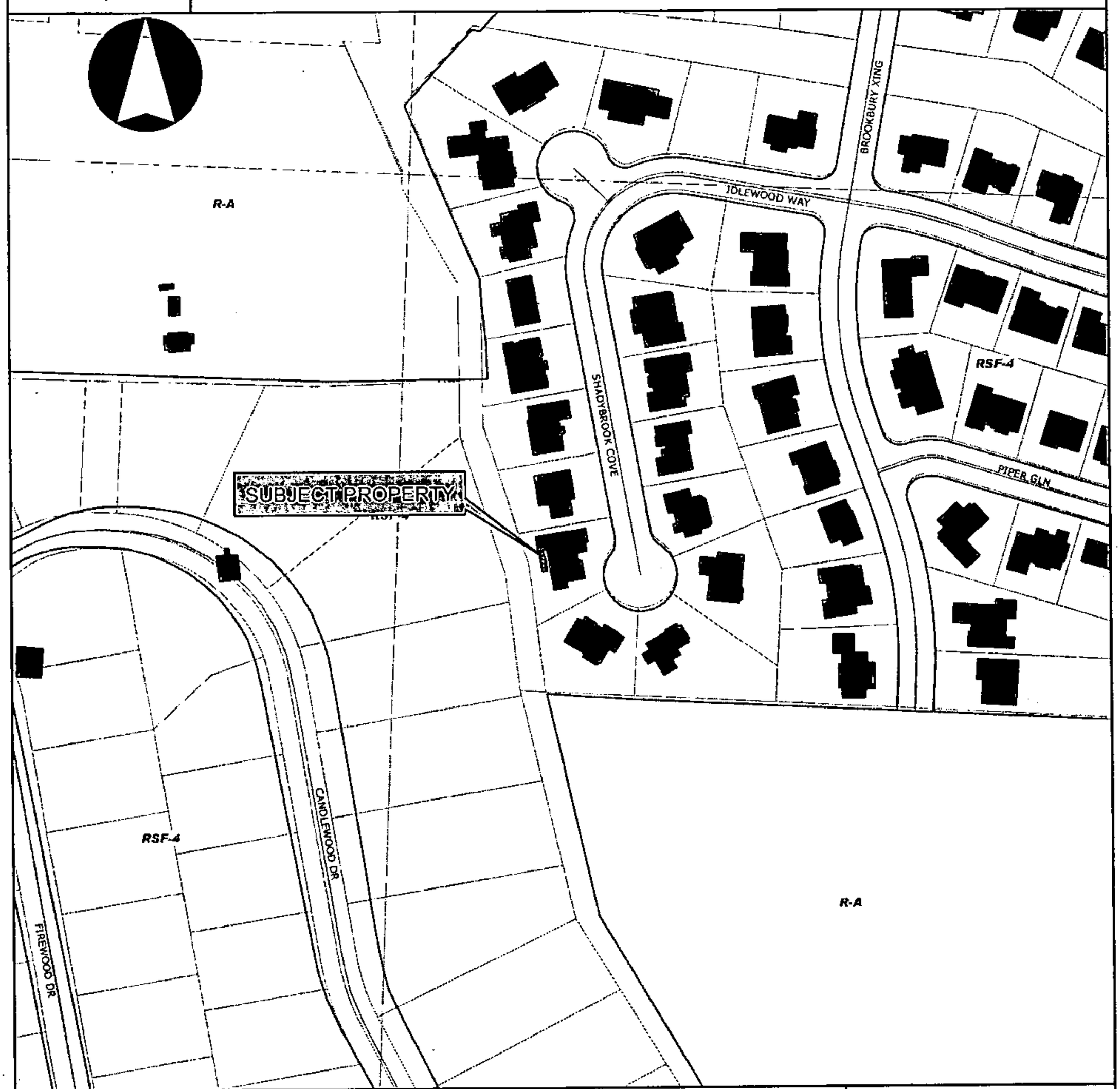
FOR OFFICE USE ONLY:
PROPERTY ZONED: R-1 PARCEL NUMBER: 765-19893-000 S-T-R: 31-17-29
PLAT PAGE: 294 LOT: 51 BLOCK: — PHASE: — SUBDIVISION: Brookbury Woods
USE UNIT: 26 INCLUDED USE(S): S.F.D.
§161.02 CERTIFICATE OF ZONING COMPLIANCE NONCONFORMING SECTIONS: _____
NOTES:

SKO Permit Clerk 6/28/00
CITY PLANNER DATE

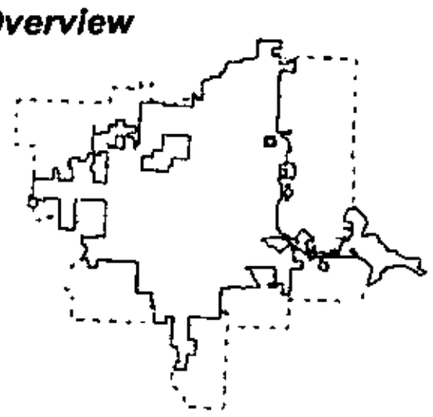
VAC03-11.00

Close Up View

SALAZAR



Overview



Legend

Subject Property

VAC03-11.00

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

VAC03-11.00

One Mile View

SALAZAR

Overview

Legend

Subject Property
VAC03-11.00

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 - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: November 18, 2003

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance Approval.

SUMMARY EXPLANATION:

VAC 03-11.00: Vacation (Salazar, pp 294) was submitted by Michael and Jill Salazar for property located at 2721 Shadybrook Cove (Lot 51). The property is zoned RSF-4, Residential Single-family-4 units per acre. The request is to vacate a portion of a utility easement along lot 51 of the Brookbury Subdivision.

STAFF RECOMMENDATION:
Staff recommended approval and on October 27, 2003 the Planning Commission voted on consent, 7-0-0, to recommend approval of this Vacation by the City Council.

Dawn T. Warrick	10/31/03
Division Head	Date
	11/3/03
City Attorney	Date
	10-31-03
Department Director	Date
	11-3-03
Finance & Internal Services Dir.	Date
Chief Administrative Officer	Date
Dan Coody	11/3/03
Mayor	Date

Received in Mayor's Office 11/3/03 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 11-3-03

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Stephen Davis, Finance & Internal Services Director

FROM: Kevin Springer, Budget Manager

DATE: November 6, 2003

SUBJECT: **Proposed 2004 Annual Budget & 2004-2008 Capital Improvements Program**

Recommendation:
Consider the Proposed 2004 Annual Budget & 2004-2008 Capital Improvements Program for adoption by the December 18, 2003 City Council meeting.

Discussion:
The Proposed 2004 Annual Budget & 2004-2008 Capital Improvements Program documents were distributed to City Council on Friday, October 31 for consideration.

A brief overview of the proposed 2004 Annual Budget and 2004-2008 Capital Improvements Program documents is scheduled for **Wednesday, November 12** following the City Council agenda session that starts at 4:30 PM in room 326. Other meeting dates are scheduled as follows:

Date	Budget Meeting
Tuesday, November 12 2003	Budget & Capital Improvements Program Presentation / Zero Based Budget Presentation by the Parks & Recreation Division, the Fire Department, and the Police Department (agenda session)
Tuesday, November 18 2003	City Council Meeting
Tuesday, November 25 2003	Budget/CIP Working Session (agenda session)
Tuesday, December 2 2003	City Council Meeting
Tuesday, December 9 2003	Budget/CIP Working Session (agenda session)
Tuesday, December 16 2003	City Council Meeting

If you have any questions concerning the Proposed 2004 Annual Budget or the 2004-2008 CIP, please feel free to contact either Stephen Davis at 575-8330 or myself at 575-8226. Thank you for your attention to this matter.

2004

City of Fayetteville, Arkansas

Proposed Annual Budget

and

2004-2008 Capital Improvements Program

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE PROPOSED 2004 ANNUAL BUDGET & WORK PROGRAM AND THE 2004-2008 CAPITAL IMPROVEMENT PROGRAM.

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 adopts the Proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program, attached as Exhibit "A".

PASSED and **APPROVED** this 18th day of November, 2003.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: November 18, 2003

FROM:

Kevin Springer	Budget & Research	Finance & Internal Services
Name	Division	Department

ACTION REQUIRED:

Approve a resolution adopting the Proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvements Program.

COST TO CITY:

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

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 10-31-03

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 10/31/03
Internal Auditor — Date: 10/31/03
City Attorney — Date: 10/31/03
Purchasing Manager — Date: 10/31/03

STAFF RECOMMENDATION: Staff recommends approval of the Proposed 2004 Annual Budget & 2004-2008 CIP.

Division Head — Date
Department Director — Date
Finance & Internal Services Dir. — Date: 11-3-03
Chief Administrative Officer — Date
Mayor — Date: 11/3/03

Received in Mayor's Office — Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

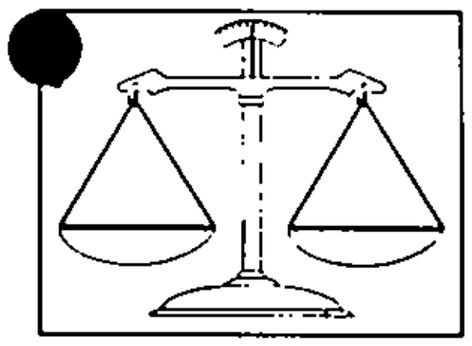
New Item: **Yes** **No**

ENTERED 10-31-03

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: **November 19, 2003**

RE: **Passed Resolutions and Ordinances from City Council meeting of November 18, 2003**

The following Ordinances and Resolutions were passed at last night's regular City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **Street, Fire and Police Impact Fees:** Resolution requesting city staff to study feasibility and advisability of new impact fees in areas of street construction, fire fighter operations, police operations and capital cost;

2. **Crossland Construction Library Change Order #11:** Resolution approving Change Order #11 to contract w/Crossland Construction in amount of $41,342.00 for water and sewer improvements at new Fayetteville Public Library;

3. **Crossland Construction Library Change Order #12:** Resolution approving Change Order #12 to contract w/Crossland Construction in amount of $110,117.00 to install underground utilities to seven residences adjacent to new Fayetteville Public Library;

4. **SBC Long Distance Bid Award:** Resolution awarding bid and approving three-year contract w/SGC Global Services, Inc. in amount of $16,000.00 per year for long distance telephone services for City of Fayetteville;

5. **2003 Department of Homeland Security Grant:** Resolution authorizing Fayetteville Fire Department to apply for a Department of Homeland Security Fire Grant in amount of up to $300,000.00 for fire prevention programs;

6. **U of A Hangar, Department of Aeronautics Grant:** Resolution authorizing Fayetteville Municipal Airport staff to apply for and accept grant in amount of $43,820.00 from Arkansas Department of Aeronautics for construction of access road, parking and utilities to serve U of A Corporate Hangar;

7. **U of A Hangar, Architectural Contractors:** Resolution awarding contract to Architectural Contractors, Inc. in amount of $532,000.00 for construction of U of A Corporate Hangar at Fayetteville Municipal Airport; approving project contingency in amount of $29,565.00 and approving budget adjustment in amount of $220,835.00 for same;

8. **Fleet Vehicle Purchase, Ton Truck:** Resolution approving purchase of one pickup truck, 1 ton cab/chassis from Landers GMC at State contract prices in amount of $24,612.00;

9. **Fleet Vehicle Purchase, Four Pickup Trucks:** Resolution approving purchase of four pickup trucks, from Landers Ford at State contract prices for total cost of $105,721.00;

10. **Williams Tractor Bid Acceptance:** Resolution awarding bid and approving purchase of Bobcat Toolcat 5600 Utility Work Machine from Williams Tractor, Inc. in amount of $43,306.00;

11. **R-PZD 03-4.00 Lazenby Properties**: Ordinance establishing Residential Planned Zoning District titled R-PZD 03-4.00 located on west side of Razorback Road between Baum Stadium and State

Revenue Office containing 7.65 acres, more or less; amending official zoning map of City of Fayetteville and adopting Associated Residential Development Plan as approved by Planning Commission;

12. **VAC 03-11.00 Vacation (Salazar):** Ordinance approving vacation of a portion of utility easement along lot 51 of Brookbury Subdivision as depicted on attached map and legal description;

13. **ADM 03-27.00 Stearns Street Apartments Right-of-Way Reduction Stearns Street:** Resolution approving amendment to Master Street Plan, lessening right-of-way dedication for Stearns Street, designated a collector street requiring 70-foot right-of-way, to local street standards requiring 50-foot right-of-way, and reconfiguring connection between Stearns Street and Vantage Drive;

14. **ADM 03-26.00 Stearns Street Apartments Right-of-way Reduction Shepherd Lane:** Resolution approving amending Master Street Plan, lessening right-of-way dedication for Shepherd Lane, designated a collector street requiring 70-foot right-of-way, to local street standards requiring 50-foot right-of-way.

Tentative Agenda
For
City Council Meeting
November 18, 2003

A meeting of the Fayetteville City Council will be held on November 18, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Burns McDonnell, Wastewater Project Web Site Presentation at Agenda Session on November 13, 2003

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the October 7, 2003 and October 21, 2003 meeting minutes.

2. **Street, Fire and Police Impact Fees:** A resolution to request city staff to study the feasibility and advisability of new impact fees in the areas of street construction, fire fighter operations, police operations and capital cost.

3. **Crossland Construction Library Change Order No. # 11:** A resolution approving Change Order # 11 to the contract with Crossland Construction Company, Inc. in the amount of $41,342.00 for water and sewer improvements at the New Fayetteville Public Library.

4. **Crossland Construction Library Change Order # 12:** A resolution approving Change Order # 12 to the contract with Crossland Construction Company, Inc. in the amount of $110,117.00 to install underground utilities to seven residences adjacent to the New Fayetteville Public Library.

5. **ADM 03-26.00 Stearns Street Apartments Right of Way Reduction Shepherd Lane:** A resolution approving ADM 03-26.00 amending the Master Street Plan, lessening the right-of-way dedication for Shepherd Lane, designated a collector street requiring 70' right-of-way, to local street standards requiring 50' right-of-way.

6. **ADM 03-27.00 Stearns Street Apartments Right of Way Reduction Stearns Street:** A resolution approving ADM 03-27.00 amending the Master Street Plan, lessening the right-of-way dedication for Stearns Street, designated a collector street requiring 70' right-of-way, to local street standards requiring 50' right-of-way, and reconfiguring the connection between Stearns Street and Vantage Drive.

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12. **Fleet Vehicle Purchase, Four Pickup Trucks From Lander's:** A resolution approving the purchase of four pickup trucks from Landers Ford at State contract prices for a total cost of $105,721.00.

13. **Williams Tractor Bid Acceptance:** A resolution awarding Bid # 03-61 and approving the purchase of a Bobcat Toolcat 5600 utility work machine from Williams Tractor, Inc. in the amount of $43,306.00.

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. **R-PZD 03-04.00 Lazenby Properties:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 03-04.00 located on the west side of Razorback Road between Baum Stadium and the State Revenue Office containing 8.79 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This Ordinance was left on the first reading at the November 4, 2003 City Council meeting.***

Tentative Agenda
For
City Council Meeting
November 18, 2003

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C. NEW BUSINESS:

Consent

1. **Street, Fire and Police Impact Fees:** A resolution to request city staff to study the feasibility and advisability of new impact fees in the areas of street construction, fire fighter operations, police operations and capital cost.

Consent

2. **Crossland Construction Library Change Order # 12:** A resolution approving Change Order # 12 to the contract with Crossland Construction Company, Inc. in the amount of $110,117.00 to install underground utilities to seven residences adjacent to the New Fayetteville Public Library.

Consent

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Consent

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5. **VAC 03-11.00 Vacation Michael & Jill Salazar:** An ordinance approving VAC 03-11.00 to vacate a portion of a utility easement along lot 51 of the Brookbury Subdivision as depicted on the attached map and legal description.

6. **2004 Annual Budget:** A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.

Consent

7. **SBC Long Distance Bid Award:** A resolution awarding Bid #03-59 and approving a three-year contract with SGC Global Services, Inc. in the amount of $16,000.00 per year for long distance telephone services for the City of Fayetteville.

Consent

8. **2003 Department of Homeland Security Grant:** A resolution authorizing the Fayetteville Fire Department to apply for a Department of Homeland Security Fire Grant in an amount up to $300,000.00 for fire prevention programs.

Consent 9. **U of A Hangar, Architectural Contractors:** – Grant to Consent Hanger to Consent.

Consent 10. **Fleet Vehicle Purchase, Lander's:**

Consent 11. **Fleet Vehicle Purchase Lander's:**

Consent 12. **Williams Tractor Bid Acceptance:**

~~13. Council on Aging, Inc. Lease Fayetteville Senior Center:~~

~~14. Retaining Wall Replacement Employee Parking Lot:~~

15. **Hay Group Recommendation Adoption:**

Consent. 16. **Crossland Construction Change Order No. 11:**

D. INFORMATIONAL:

Council Tour: November 10, 2003

Veterans Day Holiday: November 11, 2003

Agenda Session: November 12, 2003

C. NEW BUSINESS:

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D. INFORMATIONAL:

November 17, 2003 – Council Tour

November 12, 2003 – A presentation of zero based budgeting by the Parks Division, Fire Department and Police Department. **This presentation will be after the City Council Agenda Session.**

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Jill Scott, 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 Monday Nov. 17 2003

PO# 03-0000154-001

** Publication Charge: $ 193.19

Subscribed and sworn to before me this

18th day of November, 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

RECEIVED
NOV 19 2003
CITY OF [illegible]

FINAL AGENDA
FOR
CITY COUNCIL MEETING
NOVEMBER 18, 2003

City of Fayetteville

A meeting of the Fayetteville City Council will be held on November 18, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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1. Approval of the Minutes: Approval of the October 7, 2003, November 4, 2003 Special and November 4, 2003 Regular City Council meeting minutes.
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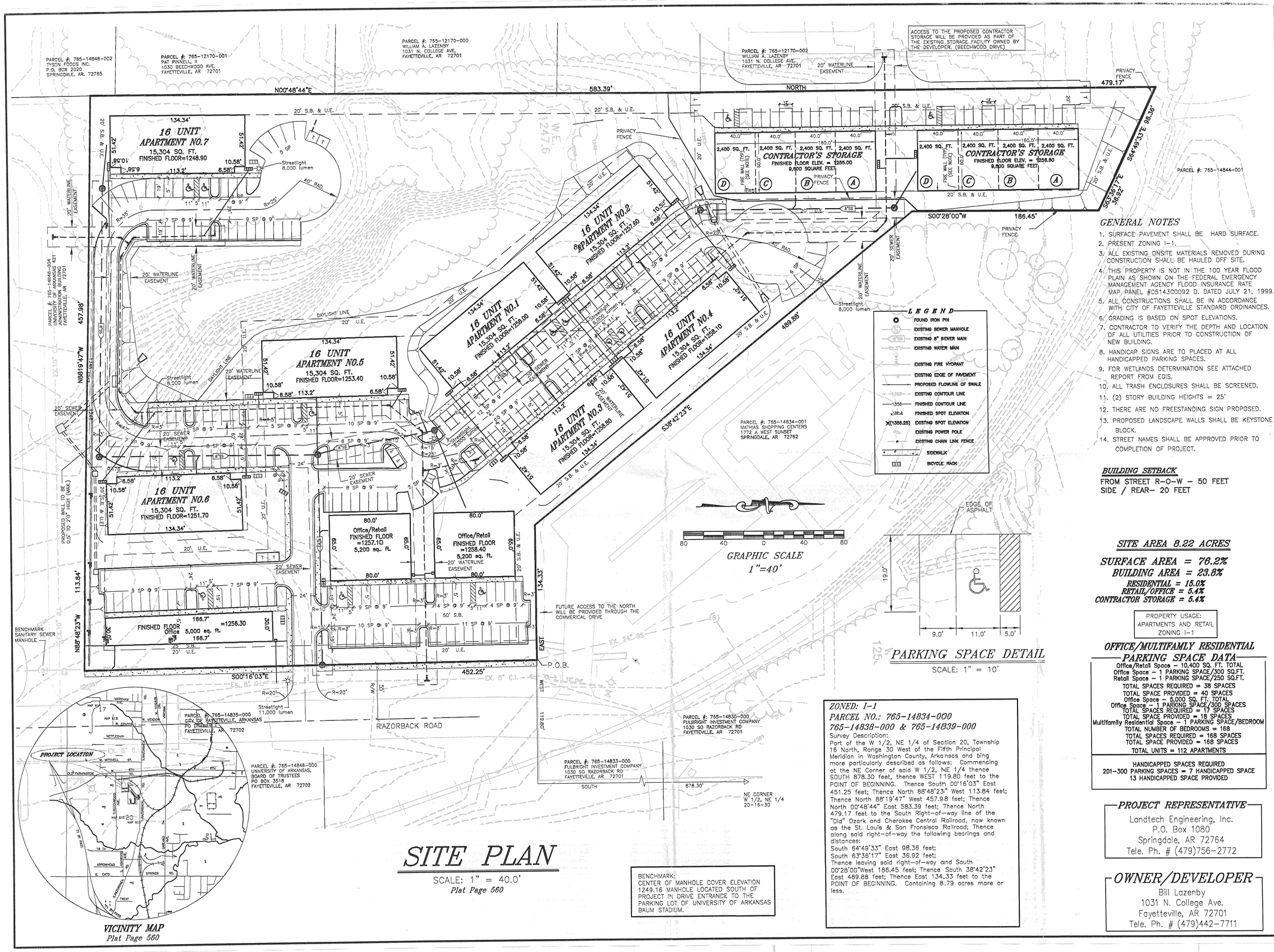
D. INFORMATIONAL:
November 17, 2003 - Council Tour

RECEIVED
NOV 19 2003
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE



SITE PLAN

SCALE: 1" = 40.0'

Plat Page 560

GENERAL NOTES

1. SURFACE PAVEMENT SHALL BE HARD SURFACE.
2. PRESENT ZONING I-1.
3. ALL EXISTING ONSITE MATERIALS REMOVED DURING CONSTRUCTION SHALL BE HAULED OFF SITE.
4. THIS PROPERTY IS NOT IN THE 100 YEAR FLOOD PLAIN AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP PANEL #05143C0092 D. DATED JULY 21, 1999.
5. ALL CONSTRUCTIONS SHALL BE IN ACCORDANCE WITH CITY OF FAYETTEVILLE STANDARD ORDINANCES.
6. GRADING IS BASED ON SPOT ELEVATIONS.
7. CONTRACTOR TO VERIFY THE DEPTH AND LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION OF NEW BUILDING.
8. HANDICAP SIGNS ARE TO PLACED AT ALL HANDICAPPED PARKING SPACES.
9. FOR WETLANDS DETERMINATION SEE ATTACHED REPORT FROM EGIS.
10. ALL TRASH ENCLOSURES SHALL BE SCREENED.
11. (2) STORY BUILDING HEIGHTS = 25'
12. THERE ARE NO FREESTANDING SIGN PROPOSED.
13. PROPOSED LANDSCAPE WALLS SHALL BE KEYSTONE BLOCK.
14. STREET NAMES SHALL BE APPROVED PRIOR TO COMPLETION OF PROJECT.

BUILDING SETBACK

FROM STREET R-O-W – 50 FEET
SIDE / REAR– 20 FEET

BENCHMARK:
CENTER OF MANHOLE COVER ELEVATION 1249.16 MANHOLE LOCATED SOUTH OF PROJECT IN DRIVE ENTRANCE TO THE PARKING LOT OF UNIVERSITY OF ARKANSAS BAUM STADIUM.

ZONED: I-1
PARCEL NO.: 765-14834-000
765-14836-000 & 765-14839-000

Survey Description:
Part of the W 1/2, NE 1/4 of Section 20, Township 16 North, Range 30 West of the Fifth Principal Meridian in Washington County, Arkansas and being more particularly described as follows: Commencing at the NE Corner of said W 1/2, NE 1/4 thence SOUTH 878.30 feet, thence WEST 119.80 feet to the POINT OF BEGINNING. Thence South 00°16'03" East 451.25 feet; Thence North 88°48'23" West 113.84 feet; Thence North 88°19'47" West 457.98 feet; Thence North 00°48'44" East 583.39 feet; Thence North 479.17 feet to the South Right-of-way line of the "Old" Ozark and Cherokee Central Railroad, now known as the St. Louis & San Fransisco Railroad; Thence along said right-of-way the following bearings and distances:
South 64°49'33" East 98.36 feet;
South 63°36'17" East 36.92 feet;
Thence leaving said right-of-way and South 00°28'00"West 186.45 feet; Thence South 38°42'23" East 489.88 feet; Thence East 134.33 feet to the POINT OF BEGINNING. Containing 8.79 acres more or less.

SITE AREA 8.22 ACRES

SURFACE AREA = 76.2%
BUILDING AREA = 23.8%
RESIDENTIAL = 15.0%
RETAIL/OFFICE = 5.4%
CONTRACTOR STORAGE = 5.4%

PROPERTY USAGE:
APARTMENTS AND RETAIL
ZONING I-1

OFFICE/MULTIFAMLY RESIDENTIAL PARKING SPACE DATA

Office/Retail Space – 10,400 SQ. FT. TOTAL
Office Space – 1 PARKING SPACE/300 SQ.FT.
Retail Space – 1 PARKING SPACE/250 SQ.FT.
TOTAL SPACES REQUIRED = 38 SPACES
TOTAL SPACE PROVIDED = 40 SPACES
Office Space – 5,000 SQ. FT. TOTAL
Office Space – 1 PARKING SPACE/300 SPACES
TOTAL SPACES REQUIRED = 17 SPACES
TOTAL SPACE PROVIDED = 18 SPACES
Multifamily Residential Space – 1 PARKING SPACE/BEDROOM
TOTAL NUMBER OF BEDROOMS = 168
TOTAL SPACES REQUIRED = 168 SPACES
TOTAL SPACE PROVIDED = 168 SPACES
TOTAL UNITS = 112 APARTMENTS

HANDICAPPED SPACES REQUIRED
201-300 PARKING SPACES = 7 HANDICAPPED SPACE
13 HANDICAPPED SPACE PROVIDED

PROJECT REPRESENTATIVE

Landtech Engineering, Inc.
P.O. Box 1080
Springdale, AR 72764
Tele. Ph. # (479)756-2772

OWNER/DEVELOPER

Bill Lazenby
1031 N. College Ave.
Fayetteville, AR 72701
Tele. Ph. # (479)442-7711

REVISIONS

DATE:	BY:	REASON:

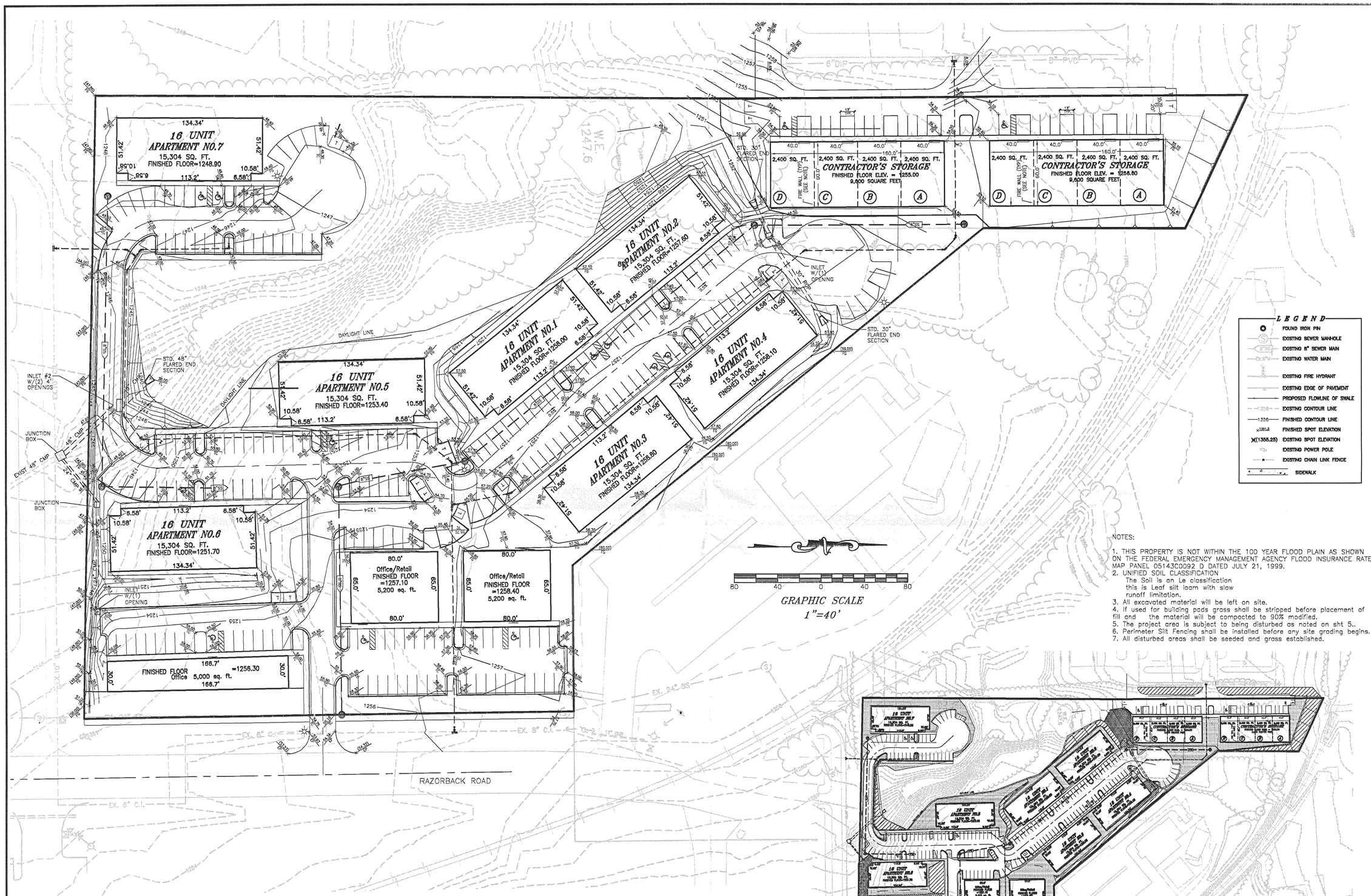
Plans for 11-18-03 Agenda Packet

Residential Planned Zoning District
LAZENBY APARTMENTS

TITLE: SITE PLAN	LOCATION: FAYETTEVILLE, ARKANSAS
JOB NO.: 02029	FILENAME: 02029MOD-LSD.DWG
DRAWN BY: D.W.H.	
CHECKED BY: L.F.G.	
SCALE: 1" = 40'	
DATE: AUG. 2003	

Professional Land Planners
Landtech Engineering, Inc.
120 W. Emma Ave.
Springdale, Arkansas 72765
Telephone: (479) 756-2772

SHEET NO. 1/5

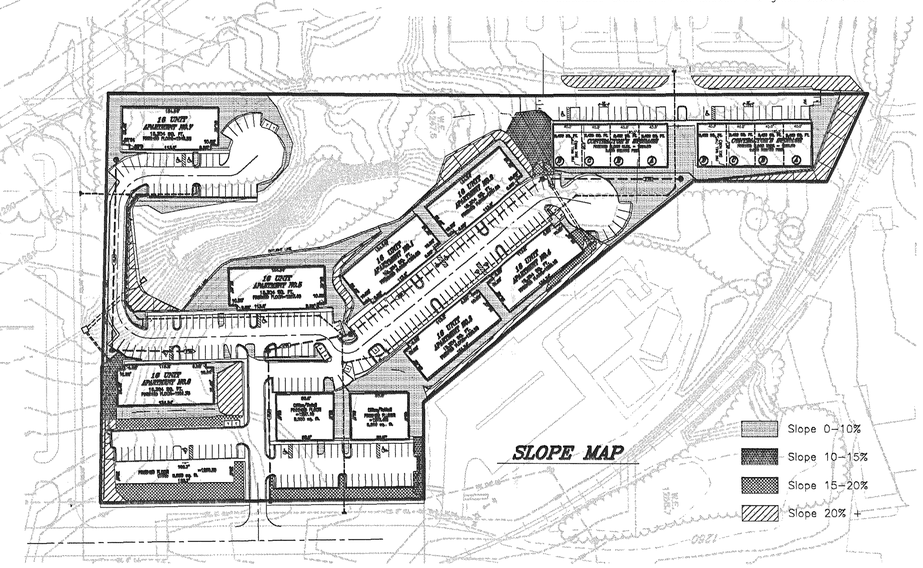


NOTES:

1. THIS PROPERTY IS NOT WITHIN THE 100 YEAR FLOOD PLAIN AS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP PANEL 05143C0092 D DATED JULY 21, 1999.
2. UNIFIED SOIL CLASSIFICATION
   The Soil is an Le classification
   this is Leaf silt loam with slow
   runoff limitation.
3. All excavated material will be left on site.
4. If used for building pads grass shall be stripped before placement of fill and the material will be compacted to 90% modified.
5. The project area is subject to being disturbed as noted on sht 5..
6. Perimeter Silt Fencing shall be installed before any site grading begins.
7. All disturbed areas shall be seeded and grass established.

GRADING PLAN

SCALE: 1" = 40.0'



REVISIONS		
DATE:	BY:	REASON:

Residential Planned Zoning District

LAZENBY APARTMENTS

LOCATION: FAYETTEVILLE, ARKANSAS

FILENAME: 02029MOD-LSD.DWG

TITLE: SITE PLAN

JOB NO.: 02029

DRAWN BY: D.W.H.

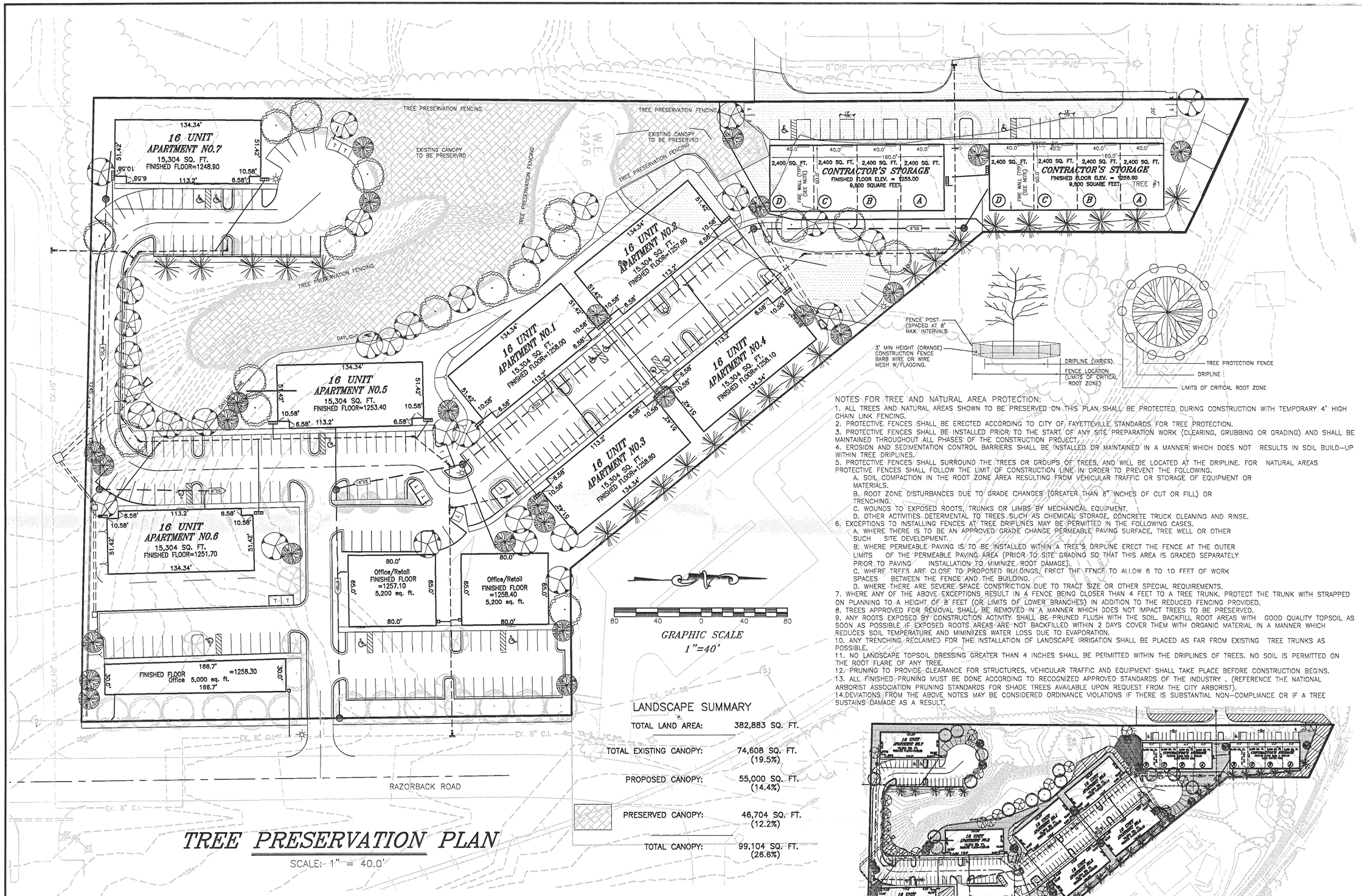
CHECKED BY: L.F.G.

SCALE: 1" = 40'

DATE: AUG. 2003

Professional Land Planners
Landtech Engineering, Inc.
120 W. Emma Ave. 72765
Springdale, Arkansas
Telephone: (479) 756-2772

SHEET NO. 2/5



TREE PRESERVATION PLAN

SCALE: 1" = 40.0'

NOTES FOR TREE AND NATURAL AREA PROTECTION:

1. ALL TREES AND NATURAL AREAS SHOWN TO BE PRESERVED ON THIS PLAN SHALL BE PROTECTED DURING CONSTRUCTION WITH TEMPORARY 4' HIGH CHAIN LINK FENCING.
2. PROTECTIVE FENCES SHALL BE ERECTED ACCORDING TO CITY OF FAYETTEVILLE STANDARDS FOR TREE PROTECTION.
3. PROTECTIVE FENCES SHALL BE INSTALLED PRIOR TO THE START OF ANY SITE PREPARATION WORK (CLEARING, GRUBBING OR GRADING) AND SHALL BE MAINTAINED THROUGHOUT ALL PHASES OF THE CONSTRUCTION PROJECT.
4. EROSION AND SEDIMENTATION CONTROL BARRIERS SHALL BE INSTALLED OR MAINTAINED IN A MANNER WHICH DOES NOT RESULTS IN SOIL BUILD-UP WITHIN TREE DRIPLINES.
5. PROTECTIVE FENCES SHALL SURROUND THE TREES OR GROUPS OF TREES, AND WILL BE LOCATED AT THE DRIPLINE. FOR NATURAL AREAS PROTECTIVE FENCES SHALL FOLLOW THE LIMIT OF CONSTRUCTION LINE IN ORDER TO PREVENT THE FOLLOWING.
   A. SOIL COMPACTION IN THE ROOT ZONE AREA RESULTING FROM VEHICULAR TRAFFIC OR STORAGE OF EQUIPMENT OR MATERIALS.
   B. ROOT ZONE DISTURBANCES DUE TO GRADE CHANGES (GREATER THAN 8" INCHES OF CUT OR FILL) OR TRENCHING.
   C. WOUNDS TO EXPOSED ROOTS, TRUNKS OR LIMBS BY MECHANICAL EQUIPMENT.
   D. OTHER ACTIVITIES DETERMENTAL TO TREES SUCH AS CHEMICAL STORAGE, CONCRETE TRUCK CLEANING AND RINSE.
6. EXCEPTIONS TO INSTALLING FENCES AT TREE DRIPLINES MAY BE PERMITTED IN THE FOLLOWING CASES.
   A. WHERE THERE IS TO BE AN APPROVED GRADE CHANGE PERMEABLE PAVING SURFACE, TREE WELL OR OTHER SUCH SITE DEVELOPMENT.
   B. WHERE PERMEABLE PAVING IS TO BE INSTALLED WITHIN A TREE'S DRIPLINE ERECT THE FENCE AT THE OUTER LIMITS OF THE PERMEABLE PAVING AREA (PRIOR TO SITE GRADING SO THAT THIS AREA IS GRADED SEPARATELY PRIOR TO PAVING INSTALLATION TO MIMINIZE ROOT DAMAGE).
   C. WHERE TREES ARE CLOSE TO PROPOSED BUILDINGS, ERECT THE FENCE TO ALLOW 6 TO 10 FEET OF WORK SPACES BETWEEN THE FENCE AND THE BUILDING.
   D. WHERE THERE ARE SEVERE SPACE CONSTRICTION DUE TO TRACT SIZE OR OTHER SPECIAL REQUIREMENTS.
7. WHERE ANY OF THE ABOVE EXCEPTIONS RESULT IN A FENCE BEING CLOSER THAN 4 FEET TO A TREE TRUNK. PROTECT THE TRUNK WITH STRAPPED ON PLANNING TO A HEIGHT OF 8 FEET (OR LIMITS OF LOWER BRANCHES) IN ADDITION TO THE REDUCED FENCING PROVIDED.
8. TREES APPROVED FOR REMOVAL SHALL BE REMOVED IN A MANNER WHICH DOES NOT IMPACT TREES TO BE PRESERVED.
9. ANY ROOTS EXPOSED BY CONSTRUCTION ACTIVITY SHALL BE PRUNED FLUSH WITH THE SOIL. BACKFILL ROOT AREAS WITH GOOD QUALITY TOPSOIL AS SOON AS POSSIBLE. IF EXPOSED ROOTS AREAS ARE NOT BACKFILLED WITHIN 2 DAYS COVER THEM WITH ORGANIC MATERIAL IN A MANNER WHICH REDUCES SOIL TEMPERATURE AND MIMINIIZES WATER LOSS DUE TO EVAPORATION.
10. ANY TRENCHING RECLAIMED FOR THE INSTALLATION OF LANDSCAPE IRRIGATION SHALL BE PLACED AS FAR FROM EXISTING TREE TRUNKS AS POSSIBLE.
11. NO LANDSCAPE TOPSOIL DRESSING GREATER THAN 4 INCHES SHALL BE PERMITTED WITHIN THE DRIPLINES OF TREES. NO SOIL IS PERMITTED ON THE ROOT FLARE OF ANY TREE.
12. PRUNING TO PROVIDE CLEARANCE FOR STRUCTURES, VEHICULAR TRAFFIC AND EQUIPMENT SHALL TAKE PLACE BEFORE CONSTRUCTION BEGINS.
13. ALL FINISHED PRUNING MUST BE DONE ACCORDING TO RECOGNIZED APPROVED STANDARDS OF THE INDUSTRY . (REFERENCE THE NATIONAL ARBORIST ASSOCIATION PRUNING STANDARDS FOR SHADE TREES AVAILABLE UPON REQUEST FROM THE CITY ARBORIST).
14. DEVIATIONS FROM THE ABOVE NOTES MAY BE CONSIDERED ORDINANCE VIOLATIONS IF THERE IS SUBSTANTIAL NON-COMPLIANCE OR IF A TREE SUSTAINS DAMAGE AS A RESULT.

LANDSCAPE SUMMARY

TOTAL LAND AREA:	382,883 SQ. FT.
TOTAL EXISTING CANOPY:	74,608 SQ. FT. (19.5%)
PROPOSED CANOPY:	55,000 SQ. FT. (14.4%)
PRESERVED CANOPY:	46,704 SQ. FT. (12.2%)
TOTAL CANOPY:	99,104 SQ. FT. (26.6%)

TREE LIST	QUANTITY PROVIDED
LOBLOLLY PINE (800 SQ FT) EASTERN WHITE PINE	23
SMALL TREE (300 SQ FT) REDBUD, FLOWERING DOGWOOD, THORNLESS HONEY LUCUST	25
MEDIUM TREE (500 SQ FT) ASH GREEN, YELLOWWOOD WATER OAKS,RIVER BURCH	31
LARGE TREE (800 SQ FT) RED MAPLE, WILLOW OAK SYCAMORE	17

NOTE:
LANDSCAPING SHALL BE CONSTRUCTED PER CITY OF FAYETTEVILLE REQUIREMENTS

MIN. OF 96 TREES TO BE INSTALLED FOR TREE MITIGATION TO BE DECIDED BY THE DEVELOPER FROM THE TREE LIST PER CITY OF FAYETTEVILLE

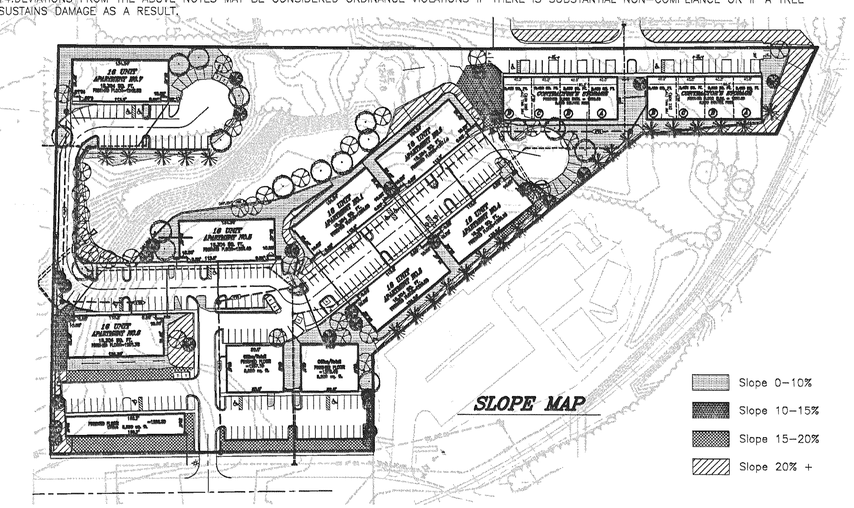
REQUIRED TREE MITIGATION = 96 TREES

ALL TREE MITIGATION REQUIREMENTS WILL BE MET ON SITE

TREE INVENTORY CHART

TREE NO.	TRUNK DIA.	DESCRIPTION	CONDITION	CANOPY SQ FT	PRIORITY	STATUS
1	28"	ELM	FAIR	2300	LOW	REMOVE

TOTAL NUMBER OF TREES OVER 20" TRUNK DIA.: 1 TOTAL
TOTAL NUMBER OF TREES PRESERVED: 0 TOTAL



REVISIONS

DATE:	BY:	REASON:

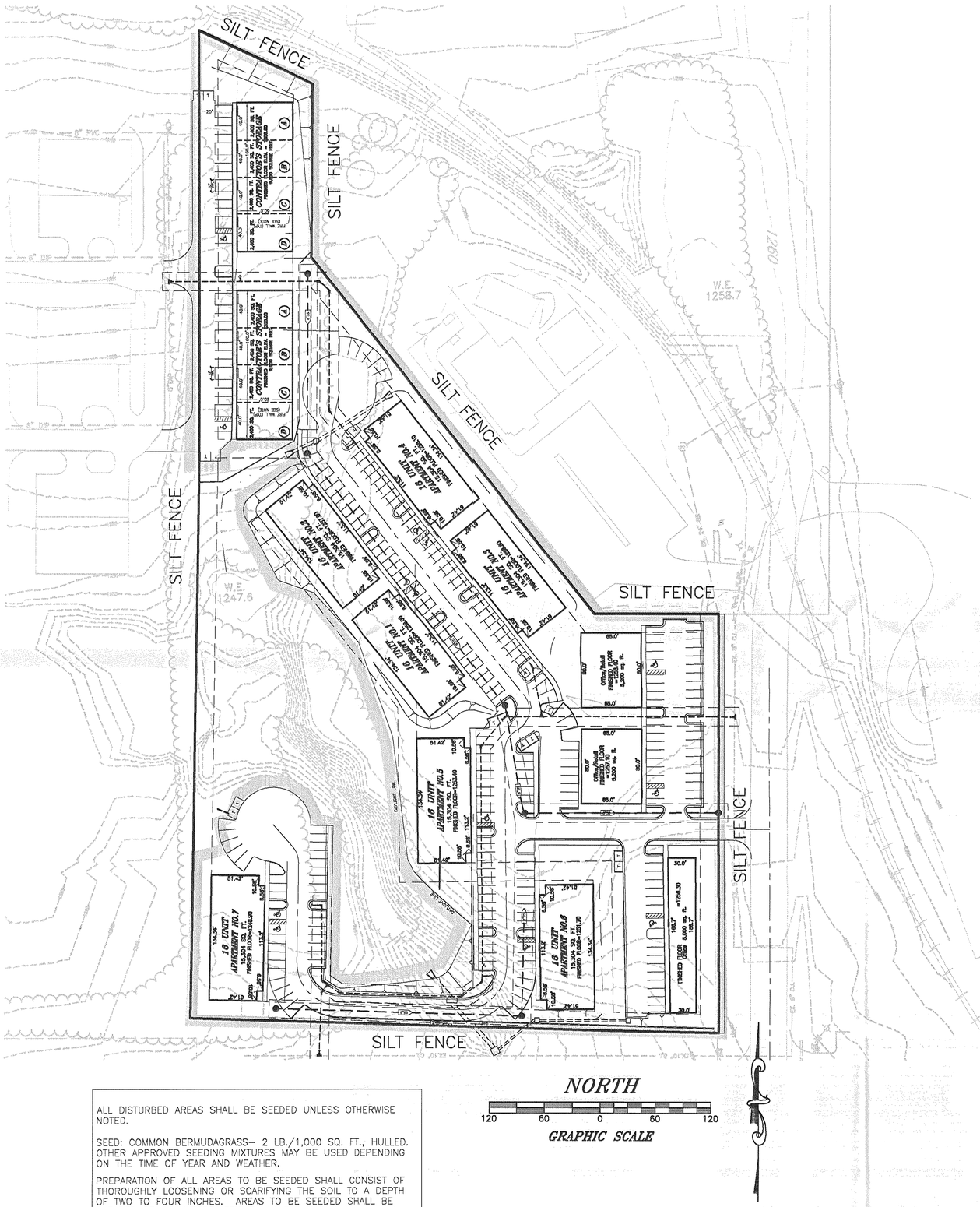
Residential Planned Zoning District

LAZENBY APARTMENTS

TITLE: LANDSCAPE/TREE PRESERVATION PLAN
LOCATION: FAYETTEVILLE, ARKANSAS
JOB NO.: 02029
FILENAME: 02029MOD-LSD.DWG
DRAWN BY: D.W.H.
CHECKED BY: L.F.G.
SCALE: 1" = 40'
DATE: AUG. 2003

Professional Land Planners
Landtech Engineering, Inc.
120 W. Emma Ave. 72765
Springdale, Arkansas
Telephone: (479) 756-2772

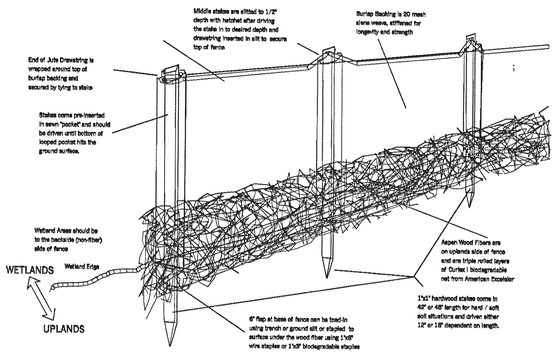
SHEET NO.
5/5

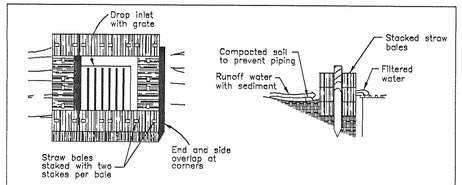


1. BioFence is shipped in 50 foot rolls with either 42" or 48" stakes
2. Unroll BioFence with point of stakes facing uplands
3. Drive stakes in until bottom of burlap loop meets ground insuring that material between stakes is stretched as taut as possible, and ensure burlap seam is spaced evenly on the stake. Stake should be driven 18" min for 48" stake, 12" for 42".
4. Tighten drawstring after all stakes driven, securing top of burlap seam to top of stake by inserting drawstring into a hatchet created slit in top of stake, and/or, stapling top of burlap to top of stakes over the drawstring creating a "no sag" appearance. From behind the fence, kick bottom of fence forward so that the flap on base is facing the uplands and can be secured.
5. Secure bottom of BioFence by inserting the 6 inch flap at bottom of fence into a created trench secure via erosion blanket staples in rough terrain as conditions merit. Let wood fibers settle down over flap.
6. Adjacen t second roll of BioFence uses ends of drawstrings to tie abutting and stakes together.
7. Fence is allowed to biodegrade in place. Some maintanance of drawstring may be required after storm events. After work period, burlap may be allow to settle to base of stakes to accelerate the biodegrading period.

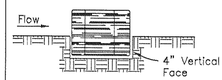
Silt Fence shall be Biofence or approved Equal

SPECS & TYPICAL INSTALLATION

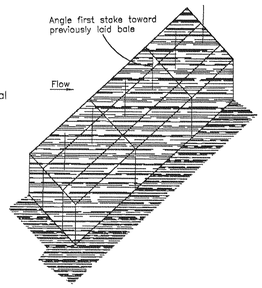




DETAIL: STRAWBALE DROP INLET PROTECTION

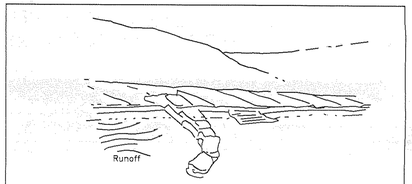


BEDDING DETAIL



DETAIL: STRAWBALE ANCHORING

NOTE: BALES TO BE TIGHTLY ABUTTED
BALES MAY BE EMBEDDED OR HELD IN



DETAIL: CURB CHECKDAM/INLET PROTECTION

NOTE: STRAWBALES MAY BE USED ON FLAT AREAS ((3%) IF ANCHORED BY GRAVEL OR SANDBAGS MIN. 4".

ALL DISTURBED AREAS SHALL BE SEEDED UNLESS OTHERWISE NOTED.

SEED: COMMON BERMUDAGRASS– 2 LB./1,000 SQ. FT., HULLED. OTHER APPROVED SEEDING MIXTURES MAY BE USED DEPENDING ON THE TIME OF YEAR AND WEATHER.

PREPARATION OF ALL AREAS TO BE SEEDED SHALL CONSIST OF THOROUGHLY LOOSENING OR SCARIFYING THE SOIL TO A DEPTH OF TWO TO FOUR INCHES. AREAS TO BE SEEDED SHALL BE CLEARED OF ANY WEEDS, STICKS, OR OTHER DEBRIS. WATER ALL SEEDED SOIL IMMEDIATELY AFTER SEEDING.

EROSION CONTROL NOTES

1. THE LOCATIONS OF EROSION CONTROL DEVICES SHOWN ARE SCHEMATIC. IT IS THE CONTRACTOR'S RESPONSIBILITY TO COMPLY WITH LOCAL, STATE AND FEDERAL REGULATIONS REGARDING EROSION CONTROL.
2. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ERECTING, MAINTAINING, AND REPAIRING ALL EROSION CONTROL DEVICES UNTIL THE SITE IS STABILIZED, AND FOR REMOVING SAME WHEN THE SITE IS STABILIZED. THE CONTRACTOR ALONE SHALL BE LIABLE FOR ALL PENALTIES, FINES, OR OTHER CONSEQUENCES OF HIS FAILURE TO MAINTAIN EROSION CONTROL.
3. ALL TREES OUTSIDE THE LIMITS OF GRADING SHALL BE PROTECTED FROM ALL ACTIVITIES DURING CONSTRUCTION. NO EQUIPMENT SHALL BE DRIVEN, OPERATED, PARKED, SERVICED, OR MAINTAINED INSIDE THE DRIPLINE OF THESE TREES.
4. SILT FENCES, STRAW BALE BARRIERS AND OTHER EROSION CONTROL DEVICES SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL. ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY. IF ANY EROSION CONTROL DEVICE DECOMPOSES OR BECOMES INEFFECTIVE PRIOR TO ESTABLISHMENT OF PERMANENT VEGETATION, THE DEVICE SHALL BE REPLACED PROMPTLY.
5. CONTRACTOR SHALL REMOVE SEDIMENT FROM ALL EROSION CONTROL DEVICES AND BASINS WHEN THE SILT HAS REACHED A DEPTH OF
9. EROSION CONTROL DEVICES MAY BE REMOVED AFTER THEY HAVE SERVED THEIR USEFUL PURPOSE BUT NOT BEFORE THE UPSLOPE AREA HAS BEEN PERMANENTLY STABILIZED.
10. PERMANENT IMPROVEMENTS SUCH AS STREETS, STORM SEWERS, CURB AND GUTTERS, AND OTHER FEATURES FOR CONTROL OF RUNOFF SHALL BE SCHEDULED COINCIDENTAL TO REMOVING VEGETATIVE COVER FROM THE AREA SO THAT LARGE AREAS ARE NOT LEFT EXPOSED BEYOND THE CAPACITY OF TEMPORARY EROSION CONTROL MEASURES.
11. TOPSOIL SHALL BE STOCKPILED AND PROTECTED FOR LATER USE ON AREAS REQUIRING LANDSCAPING. IF TOPSOIL OR OTHER SOIL IS TO BE STOCKPILED FOR MORE THAN 30 DAYS, A TEMPORARY COVER OF ANNUAL RYE OR OTHER SUITABLE GRASS SHALL BE PLANTED
12. THE CONTRACTOR SHALL INCORPORATE PERMANENT EROSION CONTROL FEATURES AT THE EARLIEST PRACTICAL TIME.
13. CONTRACTOR SHALL SPRAY WATER ON THE SITE AS NEEDED TO REDUCE DUSTING.
14. AREAS OF LESS THAN 10% EXISTING GRADE SHALL BE PERMANENTLY STABILIZED WITH SEED OR GROUND COVER PER THE LANDSCAPE PLAN.
15. AREAS OF SLOPE BETWEEN 10% AND 25% SHALL BE PERMANENTLY STABILIZED WITH STAKED SOD AND/OR GROUNDCOVER.
16. COMPLETED AREAS OF SLOPE FROM 25% TO 33% SHALL BE COVERED WITH LANDSCAPE FABRIC AND STAKED SOD.
17. NO SLOPE SHALL BE STEEPER THAN 33%

REVISIONS		
DATE:	BY:	REASON:

Residential Planned Zoning District
LAZENBY APARTMENTS

LOCATION: FAYETTEVILLE, ARKANSAS
FILENAME: 02029MOD–LSD.DWG
TITLE: EROSION CONTROL PLAN
JOB NO.: 02029
DRAWN BY: D.W.H.
CHECKED BY: L.F.G.
SCALE: 1" = 60'
DATE: AUG. 2003

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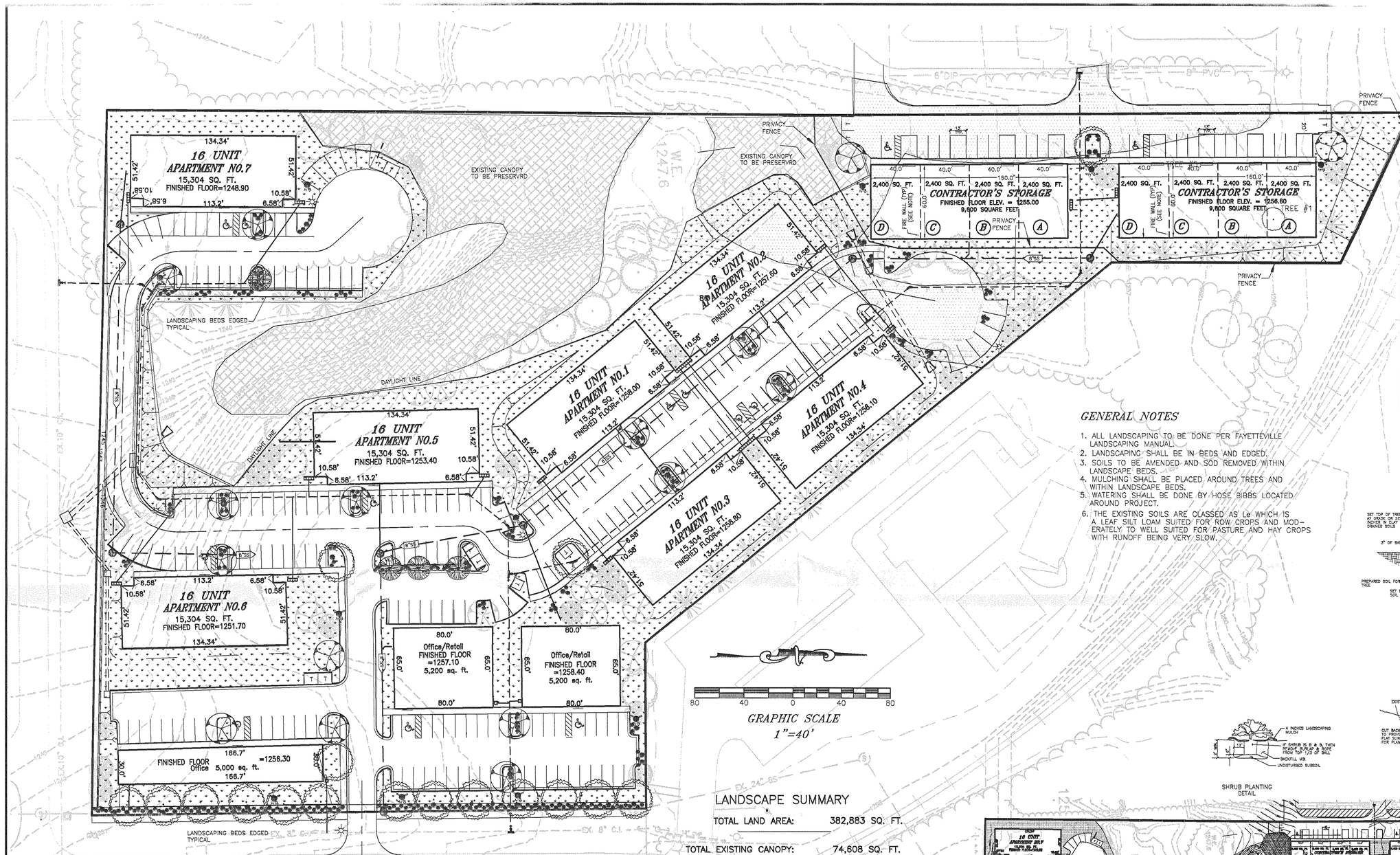
SHEET NO. 3/5



LANDSCAPE PLAN

SCALE: 1" = 40.0'

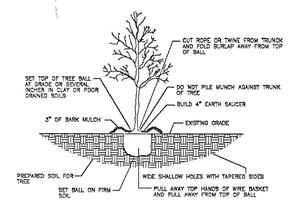
GRAPHIC SCALE
1"=40'

GENERAL NOTES

1. ALL LANDSCAPING TO BE DONE PER FAYETTEVILLE LANDSCAPING MANUAL.
2. LANDSCAPING SHALL BE IN BEDS AND EDGED.
3. SOILS TO BE AMENDED AND SOD REMOVED WITHIN LANDSCAPE BEDS.
4. MULCHING SHALL BE PLACED AROUND TREES AND WITHIN LANDSCAPE BEDS.
5. WATERING SHALL BE DONE BY HOSE BIBBS LOCATED AROUND PROJECT.
6. THE EXISTING SOILS ARE CLASSED AS Le WHICH IS A LEAF SILT LOAM SUITED FOR ROW CROPS AND MODERATELY TO WELL SUITED FOR PASTURE AND HAY CROPS WITH RUNOFF BEING VERY SLOW.

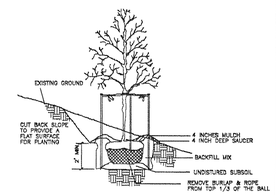
LEGEND

- FOUND IRON PIN
- EXISTING SEWER MANHOLE
- EXISTING 8" SEWER MAIN
- EXISTING WATER MAIN
- EXISTING FIRE HYDRANT
- EXISTING EDGE OF PAVEMENT
- PROPOSED FLOWLINE OF SWALE
- EXISTING CONTOUR LINE
- 1356 FINISHED CONTOUR LINE
- x1361.3 FINISHED SPOT ELEVATION
- x(1358.25) EXISTING SPOT ELEVATION
- EXISTING POWER POLE
- EXISTING CHAIN LINK FENCE
- SIDEWALK
- HOSE BIBB



TREE PLANTING DETAIL

SHRUB PLANTING DETAIL



TREE PLANTING DETAIL
SLOPE

LANDSCAPE SUMMARY

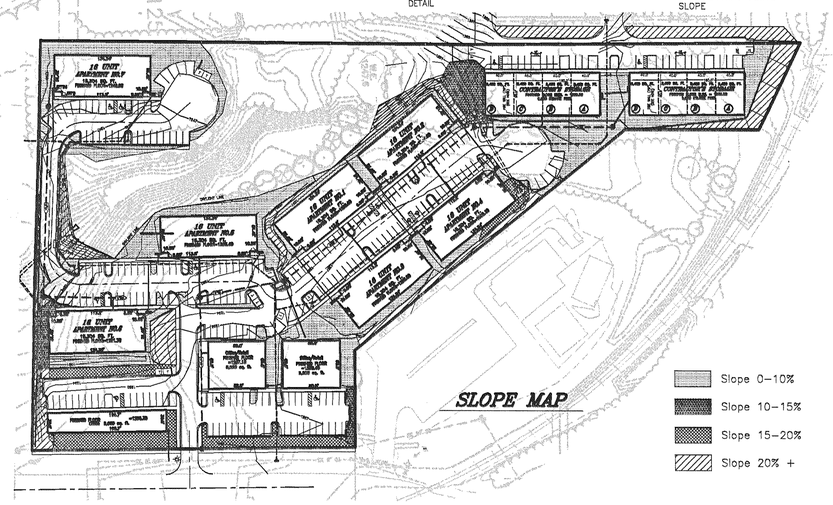
TOTAL LAND AREA:	382,883 SQ. FT.
TOTAL EXISTING CANOPY:	74,608 SQ. FT. (19.5%)
PROPOSED LANDSCAPE CANOPY:	20,300 SQ. FT. (5.3%)
PRESERVED CANOPY:	46,704 SQ. FT. (12.2%)
TOTAL CANOPY:	67,004 SQ. FT. (17.5%)
TOTAL LANDSCAPED AREA:	91,680 SQ. FT.

PLANT/TREE LIST QUANTITY PROVIDED

HOLLY (MIN. 3 GALLON)	208
DWARF FOTHERGILLA (MIN. 3 GALLON)	87
SMALL TREE (300 SQ FT) REDBUD, FLOWERING DOGWOOD, THORNLESS HONEY LOCUST	4
MEDIUM TREE (500 SQ FT) ASH GREEN, YELLOWWOOD, WATER OAK, RIVER BIRCH	16
LARGE TREE (800 SQ FT) RED MAPLE, WILLOW OAK, SYCAMORE	17

NOTE:
LANDSCAPING SHALL BE CONSTRUCTED PER CITY OF FAYETTEVILLE REQUIREMENTS

MIN. OF 31 TREES TO BE INSTALLED TO BE DECIDED BY THE DEVELOPER FROM THE TREE LIST PER CITY OF FAYETTEVILLE



REVISIONS

DATE:	BY:	REASON:

Residential Planned Zoning District
LAZENBY APARTMENTS

TITLE:	LANDSCAPE/TREE PRESERVATION PLAN
LOCATION:	FAYETTEVILLE, ARKANSAS
FILENAME:	02029MOD-LSD.DWG
JOB NO.:	02029
DRAWN BY:	D.W.H.
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