

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
December 6, 2005**

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

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

Firewise Awards Presentation

Snow Bird Lithograph Presentation

A. CONSENT:

1. Approval of the October 18, 2005 City Council meeting minutes.

APPROVED.

2. **Purchase of Two 40 Yard Compactor Units – Solid Waste:** A resolution approving a budget adjustment in the amount of \$46,920.00 for the purchase of two (2) 40-Yard Compactor Units for use by the Solid Waste & Recycling Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 225-05.

3. **Nock Investments, LLC Change Order:** A resolution approving a change order to the cost-share agreement with Nock Investments, LLC in an amount not to exceed \$46,861.31 for improvements to the intersection of Persimmon Street and Ruppel Road.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 226-05.

4. **Lake Fayetteville Preservation Agreement:** A resolution to approve an agreement for preservation and use of the northeastern portion of Lake Fayetteville Park.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 227-05.

5. **Fayetteville Public Schools Lease Agreement:** A resolution to approve the joint lease agreement with the Fayetteville School District.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 228-05.

6. **Renaming of Ozark Avenue as McIlroy Avenue:** A resolution renaming Ozark Avenue as McIlroy Avenue from Dickson Street to Fairview Street.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 229-05.

7. **SBC Communication Easement:** A resolution granting an easement to SBC Communication to install new communication equipment and an associated underground line located on city owned property north of Township Street.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 230-05.

8. **Air Works Heating and Cooling Replacement Contract:** A resolution awarding BID # 05-66 to Air Works, a division of Multi-Craft Contractors, Inc. and approving a contract in the amount of \$126,208.00 for Phase II HVAC renovation at the Police, Courts Building; approving a project contingency in the amount of \$12,620.00; and approving a budget adjustment in the amount of \$138,828.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 231-05.

B. UNFINISHED BUSINESS:

1. **2006-2010 Proposed CIP Adoption:** A resolution adopting the proposed 2006-2010 (CIP) Capital Improvements Program. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 232-05.

2. **2006 Proposed Annual Budget Adoption:** A resolution adopting the proposed 2006 Annual Budget and Work Program. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 233-05.

3. **Mission Boulevard and Lafayette Street Rezoning Study:** A resolution to refer a rezoning study and possible rezoning amendment of the Mission Boulevard and Lafayette Street area to the Planning Commission. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*

THIS ITEM WAS TABLED INDEFINITELY.

4. **RZN 05-1754 The Heights at Park West:** An ordinance rezoning that property described in rezoning petition RZN 05-1754 for approximately 26.28 acres located at the south east corner of Highway 112 and Deane Solomon Road from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre. *This item was left on the second reading at the November 15, 2005 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4797.

C. NEW BUSINESS:

1. **Seven Hills Homeless Shelter Emergency Shelter:** A resolution to approve a year long agreement with Seven Hills Homeless Board and the Yvonne Richardson Center Board to allow use of the Richardson Center by Seven Hills as an emergency shelter during cold weather.

THIS ITEM WAS ADDED AT THE CITY COUNCIL MEETING, PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 234-05.

2. **Jim Lindsey Property Contract:** A resolution to approve a contract with Jim Lindsey and Lindsey Management Company, Inc. to maintain the status quo on his approximately 6.9 acres located east of Mission Boulevard and south of Maple Street.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 235-05.

3. **Fayetteville Public Schools Water Main Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Fayetteville School District in the amount of \$45,395.00 for the upsizing of approximately 1235 feet of 8" water main to a 12" water main; and approving a contingency in the amount of \$6,800.00.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4798.

4. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville Arkansas and the Council on Aging in the amount of Fifty Thousand Dollars (\$50,000.00) to provide public recreation services for the senior citizens of Fayetteville for 2006.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4799.

5. **Youth Center, Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of two hundred fifty thousand dollars (\$250,000.00) to provide public recreation services for the youth and citizens of Fayetteville for 2006.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4800.

6. **ADM 05-1657 (Mt. Sequoyah South Rezoning):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1657 and shown in Exhibit "A" generally located north of Huntsville Rd., east of Willow Ave., south of Rock St., and west of Lyton Ave., from RMF-24 Residential Multi-Family 24 Units Per Acre to RSF-8 Residential Single Family 8 Units Per Acre.

THIS ITEM WAS LEFT ON THE SECOND READING OF THE ORDINANCE AND TABLED TO THE JANUARY 3, 2006, CITY COUNCIL MEETING.

7. **Dover, Kohl and Partners Contract:** A resolution awarding a contract in an amount not to exceed \$225,000.00 to Dover, Kohl and Partners to facilitate a public participation process for the City Plan 2025; approving a contingency in the amount of \$25,000.00; and approving a budget adjustment in the amount of \$250,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 236-05.

8. **ANX 05-1838 (South Ruppel Road Island):** An ordinance to annex into the City of Fayetteville, Arkansas several parcels completely surrounded by the incorporated limits of Fayetteville and the City of Farmington, Arkansas.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4801.

9. **VAC 05-1784 (Four Seasons Sunrooms):** An ordinance approving VAC 05-1784 submitted by Four Seasons Sunrooms for property located at 1586 East Amber Drive vacating a utility easement as indicated on the attached map and legal description.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4802.

10. **Amend § 51.137 Monthly Sewer Rates:** An ordinance to amend § 51.137 of the Code of Fayetteville by lowering the sewer rate charged for Elkins, Arkansas and postponing the scheduled system wide rate increase for four months.

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

11. **C-PZD 05-1610 (East Square Redevelopment):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1610, East Square Development, located at the north west corner of Mountain Street and College Avenue, containing approximately 1.01 acres; amending the Official Zoning Map of the City of Fayetteville; waiving any possibly conflicting development ordinances; and adopting the Associated Planned Zoning District.

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

12. **Bossler Construction Contract:** A resolution approving a contract with Bossler Contracting, Inc. in the amount of \$254,600.00 to remodel the terminal building at the Fayetteville Municipal Airport; approving a 10% project contingency in the amount of \$25,460.00; and approving a budget adjustment in the amount of \$40,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 237-05.

13. Telecommunications Board Appeal (Government Channel Taping): A request to appeal a Telecommunications Board decision to deny approval of a formal request made to the Government Access Television channel to videotape and cablecast a local government meeting that meets FOIA criteria.

THIS APPEAL WAS DENIED BY THE CITY COUNCIL.

Meeting adjourned at 9:05 p.m.

Subject:	Roll				
Motion To:					
Motion By:					
Seconded:					
Alderman Rhoads Arrived at 6:05 PM.	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody	✓			

8-0

Subject:	Consent				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Lucas			
Passed Res. 225-05 231-05	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

8-0

City Council Meeting December 6, 2005

Subject:	2006 - 2010 Proposed CIP Adoption				
Motion To:		Amend Resolution	Amend Community Park Funds		Approve resolution
Motion By:		Jordan	Marr		Marr
Seconded:		Cook	Jordan		Jordan
B.1. Unfinished <u>passed</u> 232-85	Reynolds	✓	✓		✓
	Thiel	✓	✓		✓
	Cook	✓	✓		✓
	Marr	✓	✓		✓
	Rhoads	✓	✓		✓
	Ferrell	✓	✓		✓
	Lucas	✓	✓		✓
	Jordan	✓	✓		✓
	Mayor Coody				
		8-0	8-0		8-0

Subject:	2006 Proposed Annual Budget Adoption				
Motion To:	Amend to	Delete Parks Maint. position			
Motion By:		Ferrell			
Seconded:		Rhoads			
B.2. Unfinished <u>passed</u> 5-3 Delete Parks Maint. position from the budget.	Reynolds	y			
	Thiel	N			
	Cook	N			
	Marr	y			
	Rhoads	y			
	Ferrell	y			
	Lucas	N			
	Jordan	y			
	Mayor Coody				
		5-3			

Subject:	2006 Proposed Annual Budget Adoption				
Motion To:		Adopt Amended budget numbers presented by Budget			
Motion By:		Jordan			
Seconded:		Rucas			
B.2. Unfinished <u>passed</u> ✓	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

8-0

Subject:	2006 Proposed Annual Budget Adoption				
Motion To:		Amend resolution		Approve resolution	
Motion By:		Jordan			
Seconded:		Reynolds		✓	
B.2. Unfinished <u>passed</u> 233-05	Reynolds	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Marr	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Mayor Coody				

8-0

8-0

Subject:	Mission Boulevard & Lafayette Street Rezoning Study				
Motion To:		Table Indef.			
Motion By:		Thiel			
Seconded:		Ferrell			
B.3. Unfinished	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

8-0

Subject:	RZN 05-1754 The Heights at Park West.				
Motion To:		3rd read	Pass		
Motion By:		Jordan			
Seconded:		Ferrell			
B.4. Unfinished passed 24797	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

8-0

8-0

Subject:	Seven Hills Homeless Shelter Emergency Shelter				
Motion To:		Add to the Agenda	Pass		
Motion By:		Marr	Jordan		
Seconded:		Jordan	Marr		
Added to the Agenda <u>Passed</u> 234-05	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

8-0 8-0

Subject:	Jim Lindsey Property Contract				
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Reynolds			
C.I. New Business <u>Passed</u> 235-05	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

8-0

Subject:	Jayetteville Public Schools Water Main Cost Share				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Cook	Cook		
C.2. New Business <u>Passed</u> 4798	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject:	Council on Aggr Contract.				
Motion To:		Amend to \$62,500	2nd read	3rd read	Passed
Motion By:		Marr	Reynolds	Reynolds	
Seconded:		Lucas	Lucas	Marr	
C.3. New Business <u>Passed</u> 4799	Reynolds	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Marr	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Mayor Coody				
		8-0	8-0	8-0	8-0

Subject:	Youth Center, Inc. Contract				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Jordan		
Seconded:		Marr	Lucas		
C.4 New Business <u>Passed</u> 4800	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject:	ADM 05-1657 Mt. Sequeyokah South Rezoning				
Motion To:		Table to Jan. 3, 2006 City Council Meeting			
Motion By:		Thiel			
Seconded:		Marr			
C.5. New Business	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
<u>Left over the First Reading</u>	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
<u>Tabled to Jan. 3, 2006</u>	Jordan	✓			
	Mayor Coody				

8-0

Subject:	Dover, Kohl & Partners Contract				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Marr			
C. 6. New Business <u>Passed</u> 236-05	Reynolds	N			
	Thiel	y			
	Cook	y			
	Marr	y			
	Rhoads	y			
	Ferrell	N			
	Lucas	y			
	Jordan	y			
	Mayor Coody				

6-2

Subject:	ANX 05-1838 South Ruppel Road Island				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Marr		
Seconded:		Jordan	Reynolds		
C. 7. New Business <u>Passed</u> 4801	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject:	VAC. 05-1784 Four Seasons Sunrooms.				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Rhoads	Jordan		
C. 8, New Business <u>Passed</u> 4802	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	N	
	Jordan	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	7-1	

Subject:	Amend 51.137 Monthly Sewer Rates				
Motion To:		Add emergency Clause	2nd read		
Motion By:		Jordan	Cook		
Seconded:		Cook	Jordan		
C. 9, New Business Left on the Second Reading	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				
		8-0	8-0		

Subject:	C-PZD 05-1610 East Square Redevelopment				
Motion To:		Amend ordinance as per kit.			
Motion By:		Marr			
Seconded:					
C.10. New Business Left on the first Reading	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

8-0

Subject:	Bosser Construction Contract				
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Lucas			
C.11. New Business Passed 237-05	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Ferrell	Absent during the vote			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

7-0

Subject:	Telecommunications Board Appeal				
Motion To:		Deny the Appeal			
Motion By:		Ferrell			
Seconded:		Reynolds			
C.12. New Business Appeal Denied	Reynolds	y			
	Thiel	y			
	Cook	N			
	Marr	N			
	Rhoads	y			
	Ferrell	y			
	Lucas	N			
	Jordan	N			
	Mayor Coody	y			

4-4-1 Mayor Coody voted yes to break the tie.

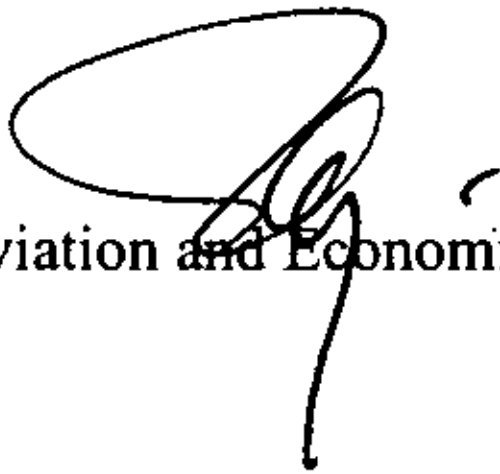
Subject:					
Motion To:					
Motion By:					
Seconded:					
	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Mayor Coody				

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
DAN COODY, MAYOR

MEMORANDUM

TO: Sandra Smith, City Clerk

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development 

DATE: November 18, 2005

SUBJECT: Snow Bird Lithograph Presentation December 6, 2005 Council Meeting

The Arkansas Air Museum requests to present to the City Council and the Mayor a Framed Lithograph of the Canadian Forces Snow Birds which was presented during their visit in October. The presentation will be made by Rick McKinney, President of the Museum Board and Derald Linn, Museum Director. Their request is for the December 6, 2005 City Council Meeting and will take 3 minutes. Mayor Coody has approved this presentation.

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

Aldermen

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

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council
Meeting Minutes
October 18, 2005**

A meeting of the Fayetteville City Council was held on October 18, 2005 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

ABSENT: Alderman Lucas

Pledge of Allegiance

CONSENT:

Airport Disadvantaged Business Program: A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) program participation goals for FY2006.

Resolution 202-05 as Recorded in the Office of the City Clerk.

Purchase of Two 4x4 Crew Cab Trucks from Landers Ford: A resolution awarding Bid #05-69 to Landers Ford for the purchase of two (2) 4x4 Crew Cab and Chassis Trucks with Dump Bodies in the amount of \$83,906.00 for use by the Transportation Division for the In-House Trails Program; and approving a budget adjustment to move funds to Fleet Expense Account.

Resolution 203-05 as Recorded in the Office of the City Clerk.

Purchase of One Compact Track Loader from Williams Tractor: A resolution awarding Bid #05-68 to Williams Tractor for the purchase of one (1) Compact Track Loader in the amount of \$35,696.70 for use by the Transportation Division for the In-House Trails Program; and approving a budget adjustment to move funds to the Fleet Expense Account.

Resolution 204-05 as Recorded in the Office of the City Clerk.

Construction of Walker Park Entry with Midland Construction, Inc.: A resolution approving a contract with Midland Construction, Inc. in the amount of \$64,026.00 for the construction of the Walker Park Entry; and approving a 10% project contingency in the amount of \$6,402.60.

Resolution 205-05 as Recorded in the Office of the City Clerk.

J.B. Hays and Charles W. Sloan O&A Contract: A resolution approving an Offer and Acceptance contract between the City of Fayetteville and J.B. Hays and Charles W. Sloan for the sale of approximately 33.436 acres of the Westside Wastewater Treatment Plant Site for \$1,039,007.00; and authorizing the Mayor and City Clerk to execute said agreement.

Resolution 206-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

UNFINISHED BUSINESS:

2005 Millage Levy: An ordinance levying a tax on the Real and Personal Property within the City of Fayetteville, Arkansas, for the year 2005 fixing the rate thereof at 2.0 mils for General Fund – Operations, 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund and 1.0 mil for the Fayetteville City Library; and certifying the same to the County Clerk of Washington County, Arkansas. *This ordinance was left on the First Reading at the October 4, 2005 City Council meeting.*

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: Since we have discussed the Library funding in conjunction with the two new mils, if we do choose to support that it is with the idea that the Library will request a special election for additional millage and then we can discuss dropping the millage we are currently discussing. It is my understanding that they need 2.5 mils.

Alderman Thiel moved to increase the 2.0 mils to 2.5 mils with the understanding that the Library will seek a special election to support this. Alderman Jordan seconded the motion.

Alderman Marr: The property millage information in our package does not allocate this to a specific project; it is for the General Fund, is your amendment allocated specifically for the Library and contingent on the library property millage vote?

Alderman Thiel: I don't think we can do that.

Kit Williams, City Attorney: This millage is part of the five general mills that are authorized under the constitution for operating general expenses. You can as part of your budget process put your funds where you want to in the General Fund but I don't think you can limit these particular mills to any particular project.

Mayor Coody: One of the things that we went over at one of our agenda meetings was exploring our expenses and our revenues. It has been apparent over the last several years that 70% of our growth and expenses have been to the Fire and Police Departments. So, if we pass this millage it would be basically to make up the short fall that we have experienced. Should we approve these two mills that would help cover the short fall?

Steve Davis, Finance and Internal Services Director: The City Attorney is correct in that the mills would not be designated for any particular purpose. The only time the City has to my knowledge passed any discretionary mills for a specific purpose was when we passed two mills for one year directed to the Senior Center; we did that to assist in the construction cost of the Senior Center. Since these are general operating mills and the library transfer comes out of general revenues for the City it would be staff's recommendation to not designate it for any particular purpose but to use that money to essentially balance the General Fund's budget. In the September budget briefing we predicted about a \$2.2 million deficit.

Alderman Jordan: So if we pass the 2.5 mills it's like it goes into a big pie and then the Council decides at budget time how we slice up the pie?

Steve Davis: That is correct.

Alderman Thiel: The reason that I proposed this is because I think the public thinks this millage will fund the Library. The Library has said all along that they are going to need 2.5 mills if they go to a vote of the people.

Steve Davis: If the Library expenditures were removed from the General Fund we would not necessarily need any millage to balance the budget in 2005 or 2006.

Alderman Thiel: I think the only way the public can really feel comfortable that this millage is being dedicated is if they vote for it.

Elsa Isaacs stated she is following this but it does not coincide with what was in the Times. She stated she is in favor of the Library millage going to a vote of the people. She wants the Library to get its finances through the elected officials at the City. She voiced her concern about citizens that live on social security not being able to afford an increase.

A discussion followed on the millage increase.

Alderman Reynolds: Are people over 65 exempt from this millage increase?

Kit Williams: They are not exempt and I don't think we can insert that.

Alderman Marr: Is the half mil issue related to the Library financing because the packet that the staff put forward certainly took into account what we spend on the Library and their recommendation was 2.0 mils. So to get here tonight and have it be 2.5 mils after the staff made a recommendation of 2.0 mils, using the argument in our first meeting about the Library, I have a concern about. I just want to understand why that half mil was not originally presented.

Steve Davis: We looked at the two mils because when we are doing the General Fund forecast, from our financial planning point of view if we can get an adopted budget within \$500,000 of break even we consider that to be essentially balanced because we know we are not going to spend the full budget.

Alderman Marr: If the library goes to a vote with 2.0 mils not 2.5 mils what impact does it have?

Steve Davis: There would be a half mil more revenue generated for the Library at 2.5 mils than 2.0 mils would generate for the City.

Mayor Coody: We think the Library can suffice with 2.0 mils, they think they need 2.5 mils?

Steve Davis: I can not speak to what they believe they need. The revenue streams that we have we think that for the General Fund budget all we need to ask for is 2.0 mils. The Library has reviewed their financial condition and they think 2.5 mils will meet their needs. They only have one revenue source which is millage, we have multiple.

Louise Schaper, Library Director: We get funding from both the General Fund and the Capital Fund that is the difference. The other piece of that equation is that when you start collecting millage you don't see all of it for several years and there is also the payment you make to the assessor.

Alderman Marr: What is the dollar amount from CIP?

Louise Schaper: \$280,000 is scheduled for this year and \$298,000 for next year.

Alderman Marr: Please explain the difference in the City collecting this mil and using it in the Library in terms of reserved funds.

Louise Schaper: If you were to approve this discretionary mil it would not begin collection immediately, it would begin collection the following year, which would be 2006. If it were to be approved by the voters it would be 2007 before collection could begin. The tax bill is not due until October so those funds would not be received until November. We couldn't budget those funds in that first year because they would not be coming in until the end of the year that would be 2008. In addition when you begin to start collecting mils and you are an entity that has never

received any income from property tax, you do not see all of what you would expect to see in the first few years.

Alderman Ferrell: My feeling is that the City has a wants list and a needs list and we get them mixed up. I think decisions need to be made that sometimes aren't popular about spending. I think rather than raise taxes we need to start cutting spending. I think we could go for five mils tonight and it would all be spent.

Mayor Coody: It is easy to say that we need to cut spending; we have seen the numbers and the budgets. Have you brought forward a suggested list of cuts to make?

Alderman Ferrell: Why don't I come to your office and I will mark through some items.

Mayor Coody: Sure. It has taken leadership to make sure we can operate as well as we have been operating and we have been collecting zero property mils for operations and maintenance in the City for years. We collect the least sales tax of any City in Northwest Arkansas. So I think that we have been doing very well with the quality of City services that we provide with the absolute least tax bite of any City in Northwest Arkansas. I think this staff, Council and administration has shown good leadership when it comes to handling public money, very well. We will be glad to look at it and you can bring your suggested cuts back to the Council for them to consider.

Alderman Ferrell: Okay

Alderman Marr: I would like to know the difference of the 2.0 mil and the 2.5 mil. I would like to see the numbers that explain the 2.5 mils. I am not comfortable supporting the 2.5 mils tonight.

Alderman Thiel withdrew her motion to increase the mils from 2.0 mils to 2.5 mils. Alderman Jordan agreed to withdraw his second.

Alderman Marr: I understand Alderman Ferrell's comments about our fiduciary responsibility. I also think we have a responsibility to not have all of our eggs in one basket. I think we have the responsibility to diversity our revenue. I do think it is important that we begin to talk about property tax as a revenue stream.

Mayor Coody: I think if we collected the same property tax and sales tax that the next lowest taxing City charges that would be an additional \$7 million dollars a year to the City.

Alderman Marr moved to table this ordinance until the October 27, 2005 Special City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

This ordinance was tabled to the October 27, 2005 Special City Council meeting.

C-PZD 05-1670 (Pratt Place Inn, 481): An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1670, Pratt Place Inn, located at the west end of Markham Road, containing approximately 72 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting. This ordinance was left on the Second Reading at the October 4, 2005 City Council meeting.*

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief update of the project and the conditions of approval.

Alderman Reynolds: Is this restaurant going to serve liquor.

Albert Skiles, Architect: I don't know.

A discussion followed on the closing time of the restaurant and the conditions of approval.

Alderman Thiel moved to amend the ordinance to state the hours of operation will be from 7:00 AM to Midnight. **Alderman Jordan** seconded the motion.

Alderman Marr: I would like to hear the public comment because we may hear things that may make us support or not support the amendments.

Jerry Kelso Crafton, Tull and Associates discussed the project and what the charge of the City Council is regarding this. He stated the current zoning would allow 207 dwelling units and possibility 288 units. He stated the current zoning would allow 1,981 vehicle trips per day the PZD would allow 446 units which is a much less impact. He also stated the water impact would be less with this PZD than as it is currently zoned.

Terry Hunt stated he has known the Archers for years and can be trusted to do what they say they are going to do.

Lynn Wade stated he hoped this would be tabled tonight so they can get some answers to their questions. He stated they are concerned about a commercial activity in a residential area with alcohol and with an event barn. He stated they are also concerned about the amount of traffic this project might create.

A discussion followed on tabling the ordinance until the next City Council meeting.

Felicia Farris stated she would like to see an earlier end time on weekends to the hours of operation. She would rather not have the restaurant and alcohol. She also stated the road is

narrow. She said a bed and breakfast and limited use of the barn would be acceptable but not the restaurant.

Mary Bassett stated she has known the Archers and represented them during the past year and a half. She stated the land has been in the family since the 1900's. She stated it would be very easy to sell this property. She thinks this project would be a wonderful addition to Fayetteville. She supports the project. She also stated the Archers have had high integrity since she has worked with them.

Fran Alexander stated she and her daughter own some adjoining property. She asked if the public could ask for a down zoning on this in the future.

Kit Williams: I don't think the public could, the City Council has the right to rezone property. Until it could be rezoned the property would have to remain as described in the master planning document. They must follow what is on the site plan and all the conditions of approval, if they did sell it they would have to sell it to someone that would want to do the exact same thing.

Fran Alexander: Would it be possible if the neighbors petitioned the Council to down zone it back to residential?

Kit Williams: There would be a problem I think to do that.

Fran Alexander: Are the cabins on septic now?

Albert Skiles: The existing cabins are not going to be there any more.

Jerry Kelso stated everything would tie onto the sewer line.

William Feldman voiced his concern about this commercial property in this neighborhood. He stated his concern about the traffic. He also voiced his concern about the possible noise.

John Williams asked about the questions he has on the property and when he will get the answers to the questions.

Jeremy Pate: We are working on getting that information together.

John Williams stated there are two barns on the property.

Albert Skiles summarized some of the issues and concerns that have been brought up. He stated the Planning Department has approved this project. He gave a brief history of the project. He stated approval of this is just approving the concept; it still has to go to the Planning Commission.

Alderman Thiel withdrew her motion to amend the ordinance to state the hours of operation will be from 7:00 AM to Midnight. **Alderman Jordan** withdrew his second to the motion.

Alderman Marr moved to table this ordinance until the November 1, 2005 City Council meeting. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent.

This ordinance was tabled to the November 1, 2005 City Council meeting.

R-PZD 05-1636 (Wellspring): An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1636, Wellspring, located at Ruppel Road and Highway 16, containing approximately 152 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting. This ordinance was tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting.*

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

This ordinance was tabled indefinitely.

Fayetteville Depot, LLC Lease Agreement: A resolution approving a lease agreement with Fayetteville Depot, LLC for property located at the northwest corner of Dickson Street and West Avenue to provide parking enforcement and revenue collection services for a proposed parking lot. *This resolution was tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting.*

Sharon Jenkins, Parking and Telecommunications Manager: This is a lease agreement for City staff to provide parking services on a piece of private property located at the corner of West and Dickson Street. It has recently been resurfaced and turned into a 150 space parking lot. Staff recommends that we provide the parking services in order to generate some revenue into the parking fund and to provide some constituency with our parking regulations and the way that we handle parking in that area.

Sharon Jenkins: The information that was passed out yesterday pertains to the paid parking plan which is actually not directly related to this lease agreement but it will have an overall impact once the whole plan is brought to the Council.

A discussion followed on the project.

Alderman Marr: I want to understand why we are tabling this. The packet that we received in our mailbox speaks to the feedback from the residential program and the discussion that is taking place on the overall downtown parking plan. The item on our agenda is our support or lack of support for whether we want to manage a private owner's parking lot. I think we are confusing that the information we received in our mailbox relates to this. The piece that relates is the same point that I brought up last Tuesday, there is one item in the contract that requires Lot 55 go to a certain time frame that is the only item in this contract that relates to any information. There actually is no information in this report that speaks to Lot 55. What is in this report is that

we had a residential neighborhood meeting to solicit feedback on a residential parking program and the issue around the downtown Dickson Street feasibility study that was done in partnership with the University. I just want to be clear that I think they are distinctly different.

Alderman Jordan moved to table this resolution until the November 1, 2005 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

This resolution was tabled to the November 1, 2005 City Council meeting.

Associated Time & Parking Controls, Inc.: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of Parking Revenue Collection Equipment from Associated Time and Parking Controls, Inc. in the amount of \$46,805.10; approving a 10% contingency in the amount of \$4,408.50; and approving a budget adjustment in the amount of \$51,213.60. *This ordinance was tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting.*

Alderman Thiel moved to table this ordinance until the November 1, 2005 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

This ordinance was tabled to the November 1, 2005 City Council meeting.

Parking Management Division Position: A resolution authorizing the addition of one (1) full-time position in the Parking Management Division; and approving a budget adjustment in the amount of \$3,282.00. *This resolution was tabled at the October 4, 2005 City Council meeting to the October 18, 2005 City Council meeting.*

Mayor Coody: In the packet there was information that made it seem the starting pay was almost \$31,000, that is the ceiling; it starts at \$21,000 and goes to almost \$31,000. I just wanted to make that clear.

Sharon Jenkins: This position was not in the 2006 budget originally because staff thought we were going to present this to the Council earlier this year with the paid parking plan. When we heard wishes from the Council that they wanted to get more input on the parking program the position was put on hold even though the residential piece was going to be a very important part of what this position was going to help with. So we missed submitting this position with the 2006 budget. Regardless of any other plan we are currently losing revenue by not having this position on the streets. We have a lot of time that we do not have someone on the street because we have one full-time officer and one half-time officer that write parking citations, help the general public, help with special events and they perform all the maintenance on all of our equipment and cleaning of the parking lots. The loss of revenue will more than make up for the salary and all the expenses that this position will generate. The bonus is that if we get this position then we can move forward with the residential parking program which we had

tremendous feedback from the residents in that area. Without this position we do not have the staffing to provide that service.

Alderman Rhoads moved to table this resolution until the November 1, 2005 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-1. Alderman Marr, Rhoads, Ferrell, Jordan, Reynolds and Thiel voting yes. Alderman Cook voting no. Alderman Lucas was absent.

This resolution was tabled to the November 1, 2005 City Council meeting.

RZN-05-1687 (Hopmann): An ordinance rezoning that property described in rezoning petition RZN 05-1687 for approximately 0.18 acres located at 935 North College Avenue from R-O Residential-Office to C-1, Neighborhood Commercial. *This ordinance was left on the Second Reading at the October 4, 2005 City Council meeting.*

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Rhoads seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Alderman Marr: As owner of the Staffing Factor which is a temporary professional staffing business it may be perceived as a conflict of interest since this would be a competitor, therefore I am going to recuse.

Alderman Cook: In the C-1 category they are eliminating eating places, gasoline service stations, liquor stores and outdoor music establishments?

Jeremy Pate: That is correct.

Alderman Cook: From your understanding this is all about that they just want a larger sign.

Jeremy Pate: That is my understanding.

Alderman Cook: The only comments that I have heard from people is that the street behind this has residential houses. Does this Bill of Assurance go with the land?

Jeremy Pate: Yes.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Marr recused. Alderman Lucas was absent.

Ordinance 4778 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Fayetteville Public Library Long Range Funding Plan: A resolution supporting the Fayetteville Public Library in the Development of a Strategic Service Plan and the development of a Long-Range Funding Plan for library services.

Alderman Thiel: Does the Library charge Washington County residents for a library card. Since we are considering a millage that would directly relate to Fayetteville citizens, I think there is a concern about citizens outside the City of Fayetteville not being charged a fee.

Louise Schaper, Library Director: There is an agreement in Washington County that we do not charge anyone that lives in Washington County to use our library and the other libraries do not charge for the use of their libraries.

Alderman Thiel moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the resolution passed 7-0. Alderman Lucas was absent.

Resolution 207-05 as Recorded in the Office of the City Clerk.

Amend §166.06 Planned Zoning District (PZD): An ordinance amending §166.06, Planned Zoning District (PZD), Unified Development Code, Code of Fayetteville, to provide for Planning Commission review of all PZD Master Development Plans.

City Attorney Kit Williams read the ordinance.

Alderman Marr: I brought this forward. This allowed a person to bring forward a master concept plan without going to the level of detail that our current PZD process required. This change would still allow that option but would take it to the Planning Commission before it came to the Council to discuss the laundry list of things that we have experienced in the Pratt Place concept PZD. I would argue the architect's earlier point that by changing this we are sending it back to a large investment on the front end because it is still a concept PZD which allows individuals to talk in concept to get through these items to bring to the Council. It does not require the level of design that the existing PZD process did. Since I was a vote in majority in a 5-4 split of the Council and have experienced something that I do not believe will save developers time and doesn't give citizens the same level of notice that is why I brought this forward.

Jeremy Pate gave a brief description of the ordinance.

Alderman Cook: Thank you for bringing this back. That was one of my concerns initially. I supported the concept design and I still support the concept PZD but I think we have learned how beneficial the Planning Commission review is.

A discussion followed on the ordinance.

Alderman Cook moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Marr, Rhoads, Jordan, Reynolds, Thiel and Cook voting yes. Alderman Ferrell voting no. Alderman Lucas was absent.

Ordinance 4779 as Recorded in the Office of the City Clerk.

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Bio-Based Technology Offer and Acceptance: An ordinance waiving the requirements of §34.27, Code of Fayetteville and approving an Offer and Acceptance Contract with Bio-Based Technologies in the amount of \$940,000.00 for the purchase of the Water & Sewer Operations Center on Cato Springs Road; designating the proceeds for Economic Development purposes; and approving a budget adjustment implementing the designation.

City Attorney Kit Williams read the ordinance.

Steve Russ, FEDC gave a brief description of FEDC and information regarding Bio-Based Technologies. A conference call was conducted with Tom Muccio of Bio-Based Technologies. He stated they are a green company. He stated in the polyethylene market they are the best alternative.

Alderman Ferrell thanked him for considering Fayetteville.

Chuck Chadwick an attorney spoke on behalf of some of the residents. He stated they had three concerns, how will this affect the adjacent land owners specifically, they are all tax payers in the City of Fayetteville how will this affect them as tax payers of the City of Fayetteville and can they get a sewer easement through their property. He stated the City of Fayetteville has planned a sewer and utility easement along the side of the railroad track that will end up at some of the resident's property. He stated the owners of property in this area have contracts on their property and he does not want this utility easement that will be reserved to harm the potential buyers of property in that area.

Tom Muccio stated he believes their development will be an asset to the City of Fayetteville and to the neighbors. He stated they are a green company and their intention is to make that a showplace in terms of the campus. We think it will be an asset to the property owners. He stated he thinks they will bring a lot of knowledge based jobs to the City as well as taxes in terms of their development. He stated the easement will be determined once they work with their

architects and lay out the campus. He stated their intent is to be the best neighbor that they could possibly be to the adjoining land owners and that it is in their best interest to have the entire corridor developed in way that is going to make the City of Fayetteville very proud.

Chuck Chadwick asked why the City would accept less than market value for the property.

Tom Muccio spoke of the company and the step they have taken to move to Fayetteville. He also said he thinks the price the City of Fayetteville is recommending, based on the appraisal that has been made on the property is a fair price.

Chuck Chadwick asked about the company and how it was formed. He also voiced his concerns about the product that will be produced at the site. He stated his clients are concerned about the type of products that will be produced at the facility which is next to his client's property.

Terry Easton a resident of the area voiced her concern about the project. She reminded the Council of a previous company that was located in this area in the past that was a problem to the neighborhood. She stated she admires and looks forward to the opportunity to have economically green businesses in our City. She stated it is necessary and the only way that our country will survive. She stated she supports the University of Arkansas and the mission for providing technology and resources to help these businesses grow. She asked several questions about the project. She asked why this had to be located in the middle of a residential re-development area that has suffered in the past from a blending operation.

Ron Woodruff an attorney opposed the offer and acceptance on behalf of his clients. He asked about the product that will be produced on the site and how safe the product will be. He also voiced his concern about the purchase price not being market value.

Ron Goforth stated he visits companies of this nature around the country. He stated this approach of a knowledge based technology enterprise has a very substantial merit. He stated he has done environmental impact assessments and social economic impact assessments. He stated he has visited the facility in Rogers and there is a limited opportunity of anything going wrong. He stated he feels this is exactly the type of company that we need to have in our City. He urged the Council to move expeditiously on this and to not lose the opportunity that Bio-Based represents.

Renee Thomas stated she is concerned about the City taking less than the appraised value. She also stated there are lots of projects that have been started to revitalize that area but industrial should not be one. She stated Bio-Based is great for Fayetteville but is in the wrong location.

Doris Treat asked if the storage tanks will be below or above ground. She also voiced her concern about the use of the railroad for this project, the noise it will cause and the traffic that will back up due to the train.

Mark Bickford stated he does not feel this facility needs to be built on this property because of the train situation. He asked why they could not be located in the industrial park.

Tom Stockland stated the entity that is buying this land is a month old. He stated that is a true statement. He said Bio-Based Technologies is a stand alone company that has been in existence for two or three years. The technology that it bought and brought into it has been in existence longer. This is not a shell company that can fold and there be no cost involved that is just not happening.

Tom Muccio stated there is nothing in their lab that is not in any of the chemistry labs at the University of Arkansas or the high schools, local stores or home medicine cabinets.

Alderman Thiel asked if the Council could tour the facility and if he could be available to answer any questions during the tour.

A tour of the facility was scheduled.

Kit Williams asked the Council to amend the ordinance so that the title reads approving a real estate sales contract and the same change to Section 1.

Alderman Rhoads moved to amend the ordinance title and Section 1 of the ordinance to read A Real Estate Sales Contract. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent.

This ordinance was left on the first reading.

Fayetteville Municipal Property Owners' Improvement District No. 11 - West Side Village:

An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 11 - West Side Village.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Rhoads** and **Reynolds** were absent during the vote. **Alderman Lucas** was absent. **Mayor Coody** voted yes.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Thiel** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Rhoads** and **Reynolds** were absent during the vote. **Alderman Lucas** was absent. **Mayor Coody** voted yes.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Lucas** was absent.

Ordinance 4780 as Recorded in the Office of the City Clerk.

Water and Wastewater Impact Contract- Duncan Associates: An ordinance waiving the requirements of formal competitive bidding and awarding a contract (Phase I) to Duncan Associates in the amount of twelve thousand three hundred dollars (\$12,300.00) to update the existing Water and Wastewater Impact Fees and to calculate additional Wastewater Impact Fees.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Jordan asked how much money has been received in impact fees since they were established.

Tim Conklin: Around \$1.8 million dollars.

Steve Davis: I believe the wastewater impact fees have generated about \$1.9 million and about \$1 million in water impact fees.

Alderman Ferrell: Will this be paid for with impact fees.

Tim Conklin: The study will be financed with the water and wastewater fund not by the impact fee fund.

Alderman Ferrell asked if impact fee funds could be used to pay for this and if the staff would look into using impact fee money.

Kit Williams: We have to be careful in spending impact fees for capacity improvements. The original impact fee ordinance did not call for spending money that has been collected for this; it is to be used for new pipes or the treatment plant. I think they can only be used for an increase to the capacity. Impact fees have to be kept in their own fund and spent on only what is allowed under the law.

Alderman Cook: I appreciate this coming forward. Originally our impact fees were based solely on the new Westside plant; this will expand it to the full collection system and the lift stations.

Alderman Jordan moved to suspend the rules and go to the second reading. **Alderman Cook** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Lucas** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Cook** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Marr, Rhoads, Jordan, Reynolds, Thiel and Cook voting yes. Alderman Ferrell voting no. Alderman Lucas was absent.

Ordinance 4781 as Recorded in the Office of the City Clerk.

ADM-05-1744 Walnut Crossing: An ordinance amending a Residential Planned Zoning District entitled R-PZD 04-1181, Walnut Crossing, located north of Highway 62 and east of Farmington, containing approximately 52.98 acres, more or less, to reflect revised side setbacks as described and depicted herein.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project.

Kim Hesse stated their intention is to build 1,100 to 1,600 square foot homes. By reducing the set backs they will be able to attain this.

Alderman Thiel: If you are changing the foot print, does that change the detention pond and the drainage?

Kim Hesse: I believe it will but only slightly and we are well over designed in our drainage.

Alderman Ferrell: What will the price range be?

Kim Hesse: \$110,000 to \$160,000.

Alderman Jordan: I have not had any calls on this.

Alderman Jordan moved to suspend the rules and go to the second reading. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Lucas was absent.

Ordinance 4782 as Recorded in the Office of the City Clerk.

RSF-8 Zoning Classification: An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide a new residential zoning district.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief description of the ordinance.

Alderman Cook permitted uses are single family dwellings and everything else is conditional use. I like having this opportunity in our zoning classification.

Jim Jarnagan, a resident of the area stated he thinks this is a wonderful proposal. He voiced his concern about the height restriction. He stated he feels the height needs to be higher or eliminated.

Tim Conklin said in the hillside ordinance he thought we went to 45 feet. Staff would not be opposed to recommending that modification to this ordinance.

A discussion followed on the height requirement.

Alderman Marr moved to amend the ordinance to change the height restriction to 45 feet. **Alderman Thiel** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent.

Alderman Marr moved to suspend the rules and go to the second reading. **Alderman Cook** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Marr moved to suspend the rules and go to the third and final reading. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. **Alderman Lucas** was absent.

Ordinance 4783 as Recorded in the Office of the City Clerk.

Design Overlay District: An ordinance to amend §161.24 Design Overlay District, Subsection (D) (2) Signs.

City Attorney Kit Williams read the ordinance.

Kit Williams: I brought this forward to try to remove the content based sign regulation that we had in our Overlay District that was not any where else within the City and is probably questionable at best from a constitutional point of view.

Alderman Marr: Are there any signs that have currently been denied that would have been allowed.

Kit William: There are some signs that probably can be changed. This is a common thing that cities can be attacked on.

Jeremy Pate: We have had several variances approved.

Kit Williams: That is the problem when we pick and choose which person we allow to have their name only on a sign and which ones we allow to have a slogan. This will be more uniform for all.

A discussion followed on the sign ordinance.

Alderman Reynolds moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-1. Alderman Marr, Rhoads, Jordan, Reynolds, Thiel and Cook voting yes. Alderman Ferrell voting no. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion passed 6-1. Alderman Marr, Rhoads, Jordan, Reynolds, Thiel and Cook voting yes. Alderman Ferrell voting no. Alderman Lucas was absent.

Ordinance 4784 as Recorded in the Office of the City Clerk.

Police and Public Safety Systems Impact Fees - Chapter 159 Fees: An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.03 Police and Public Safety Systems Impact Fees of the Unified Development Code.

City Attorney Kit Williams read the ordinance

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Kit Williams: For the record my original draft of this was to send this to a vote of the people to avoid the possible problem that a court might determine that these impact fees are in fact taxes even though they are noted as impact fees in the statute. I have sent you several memos as to why I am concerned about that. I remain concerned especially since this statute has never been interpreted by a court and these fees generate millions of dollars which are enough to interest attorneys that specialize in suing cities. My recommendation continues to be that you refer this to a vote of the people.

A discussion followed on impact fees in other cities.

Alderman Rhoads: Is there an Attorney General opinion on this?

Kit Williams: Yes, the Attorney General said this is a fee and not a tax and that he did not feel there needed to be an election.

Alderman Ferrell moved to amend the ordinance to send this to a vote of the people. Alderman Reynolds seconded the motion.

Alderman Rhoads: If we vote this down and then later vote the ordinance as it stands are we prohibited from bringing it up again to send it to a vote of the people?

Mayor Coody: No.

Kit Williams: Instead of being a majority vote to send it to the people then I think it requires a two thirds vote. The reason we did not have to vote on the water and sewer impact fees is because the Supreme Court has sanctioned water and sewer impact fees as fees not taxes. The other thing is the difference between water and sewer services the City provides to individual customers through pipes. They provide them only to paying customers; it is not a benefit to the City as a whole. Police, fire and roads are a community benefit you do not have to live here to take advantage of those. Those are general community benefits. What the court stated in one case was that water and sewer impact fees were okay because they provided a benefit to the payers and only to them. They said the contrast was in the ones they found to be a tax is that they were a community benefit.

Alderman Marr: I highly respect Kit's opinion and try to always weigh his advise heavily. We have two pieces of legal advice in this scenario, our City Attorney's and our State Attorney's advise. I have a hard time believing that police and fire that is directly related to home owner's safety and protection, that it is not directly beneficial. On the flip side of it that tourist do not use water and sewer as a general benefit of the community when they go to our parks and motels and hotels. I think it is our job if we believe that we can talk about the direct benefit and impact of growth that our City Attorney can defend us in that situation and that we have the support of the

State position in our analysis. If people do not like this they can take petitions out and get signatures and we can have an election anyway. I think there are opportunities to address this.

Mayor Coody: The one thing that makes me curious is that water and sewer improvements are paid out of our Water and Sewer Fund which is collected by the users every month. Fire and police are paid out of the General Fund, Sales Tax. That fact right there gives me enough pause to say that if the public would support it why not go ahead and have it voted on by the people that would stand a court challenge.

Kit Williams: I would ask that we not vote on the amendment tonight.

Alderman Ferrell moved to withdraw his amendment to send this to a vote of the people. **Alderman Reynolds** withdrew his second.

This ordinance was left on the second reading.

Fire Protection Systems Impact Fee - Chapter 159. Fees: An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159, Fees by enacting §159.04 Fire Protection Systems Impact Fees of the Unified Development Code.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. **Alderman Marr** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

Greenland and/or Farmington Sewer Systems: A resolution to express the intent of the City Council to assume the ownership and the operation of the Greenland and/or Farmington Sewer Systems.

Alderman Cook: We have been negotiating with Farmington about taking over their system. The last discussion we had with them their City Attorney stated that he wanted to have some idea if the City of Fayetteville was interested in doing this.

Steve Davis: The sewer negotiations with Farmington and Elkins have been in compliance with the resolution that was passed that whatever the results of those sewer contract negotiations that the Fayetteville rate payers not be negatively impacted or that they be held harmless. In looking at Elkins it was a fairly straight forward analysis. Farmington is different because we have retail customers that we invoice in Farmington and provide services to. If our customer base in Farmington goes away, the bottom line from a financial perspective is if the Farmington customer base disappears it would equal about a fifteen cent per thousand rate increase for

Fayetteville residents to cover the fixed cost that is currently being paid by Farmington rate payers. That fixed cost is in depreciation and debt service primarily.

Kit Williams: Does that mean as Fayetteville grows and we get more sewer customers as we annex in stuff that lowers everyone's rate payment?

Steve Davis: As you spread your fixed cost around more customers, yes.

Alderman Cook: I struggle with that. I agree philosophy with that but as we annex specifically I struggle with that because while we are spreading the customer base out we are also spreading our system out and we are spreading it out in an in-efficient manner. If we want to spread it out around more customers I would think we would want to do that within the system that is already in place.

Teresa Clark, a Farmington resident stated the citizens of Farmington have a few concerns, she stated what they need is more than the letter that the Mayor's have signed. She stated they need to know rate parity and Fayetteville's intent. She stated if Fayetteville owns Farmington's sewer system can Fayetteville stifle their growth. She wanted to know if Fayetteville will treat Farmington just like they do treat themselves.

Ernie Penn, Farmington City Council member stated he would like a timeframe established on this negotiation period. He said they need to know if they are wasting their time. He said they need to know that this is going to be a negotiation that is in good faith, that will go forward and an agreement will be worked out that will be a good partnership between the two cities. The City of Farmington does not have the resources or the revenue to do the things that they need to do to that system. He stated the current contract is very vague and does not cover all the areas of their system. He said their whole system technically over the last 15 years, has been ignored except for when they had a break in the line or a situation to where the City of Fayetteville had to come out and immediately take care of, which they always did. He commended the people that work for Fayetteville; they have always taken good care of us. He appreciates the fact that Fayetteville is going to pay for another study that is going to address this rate parity. He said impact fees are something that we could offer if in fact our system is taken over by Fayetteville. He stated timeliness is very important.

Kit Williams: When you say rate parity you don't mean rate equality do you?

Ernie Penn: Not necessarily.

Alderman Marr: When I here arguments about rate parity, no growth limits, priority in repairs and capital improvements I think it is unfair to expect that it wouldn't be evaluated against our total system. When we are struggling with our own sewer capacity, our own development and annexation amounts that we can do and then to have an unlimited contract for Farmington or anyone else, I do not believe I could ever support no growth limits in a contract. I think it is our responsibility to take care of our boundaries and not be doing any expansion on management time and cost that affects the overall ability for us to deliver core services at the best cost for our own citizens. You are asking us to create this growth in the system with rate parity and no growth limits that creates an economic base that drains from our sales tax base which is the

primary funding mechanism of our City today because that is how we fund Fayetteville. I continue to have serious concerns about investing our money for someone else to become an economic center, to take from our predominant revenue base with no growth limits, financial impact on our citizens and a set aside prioritization on capital improvements against our own needs. It is not that I don't think we are negotiating in good faith, I personally don't agree with the philosophy of taking over every other cities trash, water or anything else.

Alderman Cook moved to table the resolution until the November 1, 2005 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed 6-1. Alderman Marr, Rhoads, Ferrell, Jordan, Thiel and Cook voting yes. Alderman Reynolds voting no. Alderman Lucas was absent.

This resolution was tabled to the November 1, 2005 City Council meeting.

Meeting Adjourned at 11:40 PM.

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
December 6, 2005**

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

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

Firewise Awards Presentation

Snow Bird Lithograph Presentation

A. CONSENT:

1. Approval of the October 18, 2005 City Council meeting minutes.
2. **Purchase of Two 40 Yard Compactor Units – Solid Waste:** A resolution approving a budget adjustment in the amount of \$46,920.00 for the purchase of two (2) 40-Yard Compactor Units for use by the Solid Waste & Recycling Division.
3. **Nock Investments, LLC Change Order:** A resolution approving a change order to the cost-share agreement with Nock Investments, LLC in an amount not to exceed \$46,861.31 for improvements to the intersection of Persimmon Street and Ruppel Road.
4. **Lake Fayetteville Preservation Agreement:** A resolution to approve an agreement for preservation and use of the northeastern portion of Lake Fayetteville Park.
5. **Fayetteville Public Schools Lease Agreement:** A resolution to approve the joint lease agreement with the Fayetteville School District.

6. **Renaming of Ozark Avenue as McIlroy Avenue:** A resolution renaming Ozark Avenue as McIlroy Avenue from Dickson Street to Fairview Street.
7. **SBC Communication Easement:** A resolution granting an easement to SBC Communication to install new communication equipment and an associated underground line located on city owned property north of Township Street.
8. **Air Works Heating and Cooling Replacement Contract:** A resolution awarding BID # 05-66 to Air Works, a division of Multi-Craft Contractors, Inc. and approving a contract in the amount of \$126,208.00 for Phase II HVAC renovation at the Police, Courts Building; approving a project contingency in the amount of \$12, 620.00; and approving a budget adjustment in the amount of \$138,828.00.

B. UNFINISHED BUSINESS:

1. **2006-2010 Proposed CIP Adoption:** A resolution adopting the proposed 2006-2010 (CIP) Capital Improvements Program. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*
2. **2006 Proposed Annual Budget Adoption:** A resolution adopting the proposed 2006 Annual Budget and Work Program. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*
3. **Mission Boulevard and Lafayette Street Rezoning Study:** A resolution to refer a rezoning study and possible rezoning amendment of the Mission Boulevard and Lafayette Street area to the Planning Commission. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*
4. **RZN 05-1754 Park West Heights:** An ordinance rezoning that property described in rezoning petition RZN 05-1754 for approximately 26.28 acres located at the south east corner of Highway 112 and Deane Solomon Road from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre. *This item was left on the second reading at the November 15, 2005 City Council meeting.*

C. NEW BUSINESS:

1. **Jim Lindsey Property Contract:** A resolution to approve a contract with Jim Lindsey and Lindsey Management Company, Inc. to maintain the status quo on his approximately 6.9 acres located east of Mission Boulevard and south of Maple Street.
2. **Fayetteville Public Schools Water Main Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Fayetteville School District in the amount of \$45,395.00 for the upsizing of approximately 1235 feet of 8" water main to a 12" water main; and approving a contingency in the amount of \$6,800.00.

3. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville Arkansas and the Council on Aging in the amount of Fifty Thousand Dollars (\$50,000.00) to provide public recreation services for the senior citizens of Fayetteville for 2006.
4. **Youth Center, Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of two hundred fifty thousand dollars (\$250,000.00) to provide public recreation services for the youth and citizens of Fayetteville for 2006.
5. **ADM 05-1657 (Mt. Sequoyah South Rezoning):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1657 and shown in Exhibit "A" generally located north of Huntsville Rd., east of Willow Ave., south of Rock St., and west of Lyton Ave., from RMF-24 Residential Multi-Family 24 Units Per Acre to RSF-8 Residential Single Family 8 Units Per Acre.
6. **Dover, Kohl and Partners Contract:** A resolution awarding a contract in an amount not to exceed \$225,000.00 to Dover, Kohl and Partners to facilitate a public participation process for the City Plan 2025; approving a contingency in the amount of \$25,000.00; and approving a budget adjustment in the amount of \$250,000.00.
7. **ANX 05-1838 (South Ruppel Road Island):** An ordinance to annex into the City of Fayetteville, Arkansas several parcels completely surrounded by the incorporated limits of Fayetteville and the City of Farmington, Arkansas.
8. **VAC 05-1784 (Four Seasons Sunrooms):** An ordinance approving VAC 05-1784 submitted by Four Seasons Sunrooms for property located at 1586 East Amber Drive vacating a utility easement as indicated on the attached map and legal description.
9. **Amend § 51.137 Monthly Sewer Rates:** An ordinance to amend § 51.137 of the Code of Fayetteville by lowering the sewer rate charged for Elkins, Arkansas and postponing the scheduled system wide rate increase for four months.
10. **C-PZD 05-1610 (East Square Redevelopment):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1610, East Square Development, located at the north west corner of Mountain Street and College Avenue, containing approximately 1.01 acres; amending the Official Zoning Map of the City of Fayetteville; waiving any possibly conflicting development ordinances; and adopting the Associated Planned Zoning District .
11. **Bossler Construction Contract:** A resolution approving a contract with Bossler Contracting, Inc. in the amount of \$254,600.00 to remodel the terminal building at the Fayetteville Municipal Airport; approving a 10% project contingency in the amount of \$25,460.00; and approving a budget adjustment in the amount of \$40,000.00.
12. **Telecommunications Board Appeal (Government Channel Taping):** A request to appeal a Telecommunications Board decision to deny approval of a formal request made to the Government Access Television channel to videotape and cablecast a local government meeting that meets FOIA criteria.

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE PROPOSED 2006-2010
CAPITAL IMPROVEMENTS 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 2006-2010 Capital Improvements Program, a copy of
which marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

*Handed out at the
Dec. 16, 2005
City Council Meeting
BZ*

City of Fayetteville, Arkansas

2006 Proposed Budget: Budget Amendment #1

		City Council Consensus	Fund Summary Balance
<u>General Fund Changes:</u>			
General Fund Net Sources (Uses):			\$ (663,768)
Budget Reductions			
Salary Contingency:	Currently there is \$575,000 budgeted in the Salary Contingency account to fund on-going merit/step plan raises. If salaries were funded at 98% for all General Employees and 100% for all Public Safety employees, then the Salary Contingency account could be reduced by \$221,358.	\$ 221,358	
	Change in Budget Adjustment Policy to allow funding to be transferred between programs could allow the Salary Contingency account to be reduced additional amounts. Funding from non-salary accounts would be used to supplement programs that do not have turnover.	\$ 178,642	
Budget Adjustment Policy Change:	In order to reduce the Salary Contingency account and still be able to fund the on-going merit/step plan raises, funds will have to be moved from programs with turnover to the programs that do not have turnover. A change in the Budget Adjustment Policy will have to be approved to accommodate the change in policy.		
	- Funding can be transferred between programs within the same fund using internal authority. - Listing of Budget Adjustments included in the Quarterly Management Report given to City Council.		
New Personnel - Phase In	Currently all New Personnel requests are fully funded 100% in the 2006 Budget. If the new positions requested are phased in with a later starting date, the 2006 Budget could be reduced. For example, if the new Firefighters start on October 1 and the remaining other employees start on April 1, \$223,609 could be reduced out of the budget.	\$ 223,609	
Outside Agencies - Contingency	Currently, there is \$30,000 in the Budget for Outside Agencies. The funding was added by City Council as a fuel cost contingency and was not dedicated to a specific agency but was earmarked for use by Ozarks Regional Transit, Council on Aging, and/or Razorback Transit. City Council consensus is to leave \$12,500 for Council on Aging.	\$ 17,500	
Contract Services - Other	There is \$15,000 proposed in the budget for Contract Services as needed.	\$ 15,000	
Strategic Plan Update	There is \$10,000 budgeted for the annual Lyle Sumak Strategic Plan Update.	\$ 10,000	
Performance Audit	There is \$3,000 budgeted for the Performance Audit updates related to the Cox Cable Franchise.	\$ 3,000	
Promotional Materials	There is \$12,000 budgeted for the Promotional Materials such as Trade Shows, Marketing Brochures, etc.	\$ 12,000	

City of Fayetteville, Arkansas

2006 Proposed Budget: Budget Amendment #1

		City Council Consensus	Fund Summary Balance
<u>Budget Reductions (continued)</u>			
Rentals	There is \$5,000 budgeted for meetings that are held in the Fayetteville Town Center.	\$ 5,000	
Workers Compensation	There is \$303,404 budgeted for the annual Workers Compensation Premium. The 2006 invoice should be received in December 2005 and if all discounts are factored in as in previous years, \$7,000 could be reduced from the budget.	\$ 7,000	
Cost Reimbursements: (Parks Development Fund)	Cost Reimbursements are the allocation fees that General Fund charges to the other funds that receive central services (i.e., Finance, Information Technology, Human Resources, etc.). Starting with the 2004 Adopted Budget, Cost Allocation was removed from all of the Special Revenue Funds (i.e. Community Development, Street, Parks Development) and reduced the amount of reimbursement General Fund receives by \$462,927. All other Enterprise Funds, Airport, Solid Waste, Water & Sewer pay their proportionate share of the central services that they receive.		
	Parks Development Fund (Charged at 60% Level)	\$ 76,000	
Parks Maintenance Worker IV Reduction 1.00 FTE	To reduce 1.00 FTE Parks Maintenance Worker IV position in Parks & Recreation. Budget reduction represents an employee that would start as of April 1, 2006.	\$ 45,372	
<u>Budget Additions</u>			
Code Enforcement - New Personnel (Phased In Starting April 1, 2005)	To add 1.00 FTE for an additional Code Compliance Officer. The additional officer is needed as a result of the Program's increased workload generated from an increase in the number of service requests. These service requests are a result of citizen complaints, officer patrols, and the addition of annexed lands.	\$ (30,375)	
Total Budget Impact		<u>\$ 784,106</u>	
General Fund Net Sources (Uses) - Revised:			<u>\$ 120,338</u>
<u>Parks Development Fund Changes:</u>			
Parks Development Fund Net Sources (Uses):			<u>\$ (219,581)</u>
<u>Budget Additions</u>			
Cost Reimbursements	Parks Development Fund (Charged at 60% Level)	\$ (76,000)	
<u>Budget Reductions</u>			
Community Park Capital Project Reduction	In order to fund the Cost Reimbursement amount paid to General Fund, the Community Park capital project was reduced by \$76,000.	\$ 76,000	
Total Budget Impact		<u>\$ -</u>	
Parks Development Fund Net Sources (Uses) - Revised:			<u>\$ (219,581)</u>

City of Fayetteville, Arkansas

2006 Proposed Budget: Budget Amendment #1

		<u>City Council Consensus</u>	<u>Fund Summary Balance</u>
Airport Fund Changes:			
Airport Fund Net Sources (Uses):			<u>\$ (360,696)</u>
Project Eliminations:	Terminal Building Rehabilitation - Phase II (Total Project Cost \$200,000, Airport Grant Revenue \$100,000)	\$ 100,000	
	Hangar Rehabilitation (AMP and AATC) - (Total Project Cost \$300,000, Airport Grant Revenue \$200,000)	\$ 100,000	
	Roof Maintenance Program (Total Project Cost \$60,000)	\$ 60,000	
	Airfield Marking: (Total Project Cost \$120,000, Airport Grant Revenue \$100,000)	\$ 20,000	
	Runway 34 - PAPI (Total Project Cost \$50,000, Airport Grant Revenue \$50,000)	\$ -	
	Runway Overrun - South End (Total Project Cost \$1,050,000, Airport Grant Revenue \$1,050,000)	\$ -	
Total Budget Impact		<u>\$ 280,000</u>	
Airport Fund Net Sources (Uses) - Revised:			<u>\$ (80,696)</u>

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE PROPOSED 2006 ANNUAL
BUDGET AND WORK 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 2006 Annual Budget & Work Program, a copy of
which marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

B-3
 B-3. Unfinished
 Dec 6. 2005 Mississin
 Boulevard

We, the undersigned, request that the City Council rezone the property located at 701 E. Maple, between Mt. Sequoyah and the Washington-Willow District, from I-1 to RMF-6. In 1975, the Board of Directors were told by Arkansas Western Gas representatives that "the gas company would give the City notice when they planned to sell the property so that the present I-1 zoning classification might be changed to R-2." The gas company moved in 1991 and this property has still not been rezoned.

The uses allowed in an industrial zone are not compatible with the neighborhood. The noise and traffic created by the business currently located at 701 E. Maple are a nuisance and are inappropriate for a residential neighborhood. This industrial site and zoning adversely affects the property values surrounding it.

NAME	STREET ADDRESS
James Reese	219 E. Maple Street, Fayetteville
Cynthia Kalke	605 N. OLIVE AVE, FAY, 72701
Tom Ringer	515 Rebecca
Felix Lopez	755 N. Washington 72701
Joan Smith	326 N. Washington 72701
Christine Ringer	515 Rebecca St, Fay 72701
Gregory Johnson	312 E Maple Fay 72701
Mike & Tony Johnson	324 N. Olive Ave, Fay 72701
MARK MITCHELL	420 E. LAFAYETTE, FAY 72701
Marie Ruler	525 N. Olive Fay 72701
Art Robinson	525 N. Olive, Fay 72701
Laura Vickroy	609 N Olive Fay 72701
Kelly Gallagher	425 E Lafayette 72701
Richard W. Smith	326 N. Washington Ave 72701
Rick McKenney	609 N. Olive 72701
Sam Friday	520 E. Maple St & 545 GUNTER
Carol Daggert	624 mission, E 72701

The uses allowed in an industrial zone are not compatible with the neighborhood. The noise and traffic created by the business currently located at 701 E. Maple are a nuisance and are inappropriate for a residential neighborhood. This industrial site and zoning adversely affects the property values surrounding it.

[illegible]

We, the undersigned, request that the City Council rezone the property located at 701 E. Maple, between Mt. Sequoyah and the Washington-Willow District, from I-1 to RMF-6. In 1975, the Board of Directors were told by Arkansas Western Gas representatives that "the gas company would give the City notice when they planned to sell the property so that the present I-1 zoning classification might be changed to R-2." The gas company moved in 1991 and this property has still not been rezoned.

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NAME	STREET ADDRESS
Christeen H. Kline	801 Rush Dr. Fayetteville AR 72701
Patricia Cockram	803 Rush Dr. Fayetteville AR 72701
Brian Messing	829 Rush Dr Fayetteville AR 72701
Dea May	845 Rush Fayetteville AR 72701
Rachel Waltes	914 N. Rush Fayetteville AR 72701
Dawn Holmberg	922 RUSH Fayetteville AR 72701
Karen Beaton	930 Rush Fayetteville AR 72701
Sandra S. Wiekizer	919 N. Rush Dr.
Tina Hagley	945 N. Rush Dr.
William F. Holt	969 N. Rush Dr.
Deborah Smeatt	833 Rush Dr Fayetteville AR 72701
Carlin Swanson	1790 Janice Ave, Fayetteville 72703
Alfred H. H. H.	919 RUSH, Fayetteville
Pat Schram	506 Johnson St. 72701
Paula Inez	663 N. Walnut 72701
Ken Inez Jr.	663 N. Walnut 72701
Ken Inez	406 Rebecca 72701
Raymond Moss	262 E. Maple Fayetteville 72701
John Mitchell	428 Willow 72703
Missy Gocio	485 N. Vinson 72701

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NAME	STREET ADDRESS
Dixie Mills	519 Johnson-Fayetteville - 72701
Rena Mills	519 Johnson Fay. 72701
Jean Faddis	511 Mission
Jennifer Morris	515 Mission
Patrick Urton	477 Mission Blvd
Don Paul	371 N. Fletcher
Christine Chen	365 Fletcher Ave
Ellen Compton	313 Fletcher Ave
Kathleen Cox	315 Fletcher Ave
Jennifer Sinder	309 N. Fletcher Ave.
Carter Malloy	309 N. Fletcher Ave.
Billy Bennett	423 Mission
Wally Fox	457 Mission
Cecilia Black	520 GUNTER ST.
Von Barenberg	518 Gunter St.
Eldon Grayne Barenberg	518 Gunter
Robert Lee	514 E. GUNTER
Catherine Vaden	618 N. Willow Ave

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[illegible]

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NAME	STREET ADDRESS
Christine Kling	515 Rebecca Street
David Williams	837 N. Olive Ave
Thelma Carson	872 N. Olive
Tim Molesso	814 N. Olive
Liz Molesso	814 N. Olive
Tim Ray	618 N. Walnut
Mark L. Carson	616 N. Walnut
Jennifer H. Hobb	601 N. Walnut
Kristin Musgrave	607 N. Walnut
Angela Hobb	559 N. WALNUT
Brian Breunler	525 N. Walnut
Andrew M. Quire	511 N. Walnut
David Rose	501 N. WALNUT
Elizabeth Woods	419 N. Walnut
Roy Lee	321 E. Lafayette
Larry Tucker	321 E. Lafayette
KEVEE CLAY	407 E. LAFAYETTE
Robert L. Lupton	504 E. Lafayette
David W. Luckett	313 N. Olive
Becky P. Luckett	313 N. Olive

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NAME	date	STREET ADDRESS
Tom Bethel		724 E Lafayette
Jane S. Davis		1923 E. Joyce St C-102
Thomas O'Daniel		1923 E. Joyce Ave. C-102
Tom Harrison		350 Seawood Dr.
Gerald B. Jordan		2881 Highland Park Rd.
Wanda Belzung		1923 E. Joyce, Fayetteville, AR
William Brandon		315 W. MOUNTAIN 72701
Amanda Battle		400 N. MISSION
Esther Lee		807 E. MAPLE ST. 72701
Ann Smith		807 E. MAPLE ST 72701
Steve E. Winkler		EWING - 654 E. Lafayette AR 72701
Richard Frequent		565 Follis Fay. 72701
Charles O'Daniel		1960N GREENVIEW Dr 72701
Gabriele K. Schafers		828 Skyline Dr. Fay. 72701
Z. C. Pritchard		339 N. Gregg Ave Fay. 72701
Michael B. Pritchard		339 N GREGG AVE Fay, 72701
Janet Hicks		449 Assembly Hwy, 72701
Ron Brubaker		242 E. Bayler Ln 72701
George Denny		829 Rockwood Trail
JOHN DUPRIE		1020 ROCKWOOD LANE 72701

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NAME	date	STREET ADDRESS
<i>[Signature]</i>	10-9-06	1070 E. Dogwood Ln
Vonne Coker	11-9-05	816 E DOGWOOD LN
<i>[Signature]</i>		397 Dogwood
Lisa Huff		389 Dogwood Ln.
<i>[Signature]</i>		389 Dogwood Ln
<i>[Signature]</i>		822 TRUST ST.
Ta' Seno		824 E Trust St.
Pamela Odeh		560 N. Fallin Ave
<i>[Signature]</i>		522 N. Fallin Ave.
<i>[Signature]</i>		654 E. Lafayette St. #4
<i>[Signature]</i>		604 E. LAFAYETTE
<i>[Signature]</i>		543 ASSEMBLY RD.
<i>[Signature]</i>		350 Sequoyah
<i>[Signature]</i>		2405 E. St. James Place
<i>[Signature]</i>	11-14-05	313 E. Lafayette St #107
Matt Mahute		420 E. LAFAYETTE
Katu Michalewicz		420 E. LAFAYETTE
<i>[Signature]</i>		525 N. OLIVE
<i>[Signature]</i>		312 E Maple
<i>[Signature]</i>		308 N. Willow

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NAME	date	STREET ADDRESS
Alex R. Bacon	11/18/05	505 N. Sequoyah Drive
Joel L. Titus	11-18-05	508 N. Sequoyah Drive
Linda S. Kelly	11-18-05	524 N. Sequoyah Dr.
Steve Culbertson	11-18-05	540 N. Sequoyah Dr.
Wm. J. Smith	11-18-05	562 N. Sequoyah Dr.
Gyda M. Hall	11/18/05	575 Sequoyah Dr.
D. E. Lusk	11/18/05	607 Sequoyah Dr.
Jeannette Batchelor	11/18/05	612 N. Sequoyah Dr.
Bill Baker	11/18/05	668 N. Sequoyah
Sharon Echols	11/18/05	1022 E. Trust
Edith King	11/18/05	1002 E. Company St.
John E. Brundage	11/18/05	1025 Company
Donna M. King	11/18/05	531 Sequoyah Dr.
Margaret Bonson	11/18/05	505 N. Sequoyah Dr.
Rebecca	11/19/05	1026 E. Rebecca
Marlene Laughlin	11/19/05	1001 E. Rebecca
John H. Tolson	11/19/05	671 N. Sequoyah Dr.
Janey Lamer	11/19/05	555 N. Sequoyah Dr.
Annita Ruth	11/19/05	504 N. Sequoyah Dr.
Susan Foley	11/20/05	745 N. Sequoyah Drive
Howard & Baird	11/20/05	1041 Rockwood Trl.

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NAME	STREET ADDRESS
George Littell	517 E. Johnson St.
Colt W. Sawyer (COMAD V. Sawyer)	518 JOHNSON
Aaron Giler	406 East Maple
Jeanie Wyant	424 Johnson, Fay.
Angela Steen	429 Sutton Street
David Farnst D. Farnst	1214 Shady LN 72703
Pat Han	521 N. OLIVE AVE
Ted Swedensborg	425 E. Lafayette St.
Mary S. Daniels	303 Olive Fay. Ark. 72701
Ruth Placke	819 N. Willow Ave, FV AR 72701
Kathleen Randall	414 E. Maple Fay AR 72701
Dorothy Williams	887 N. Olive Fay AR 72701
Laurie Hesk	520 N. Walnut Fay AR 72701
Steve Davis	756 N. Washington Fay AR 72701
Darlene Davis	756 N. Washington Fay 72701

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[illegible]

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[illegible]

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NAME	STREET ADDRESS
Yawn Reese	219 E. Maple Street Fayetteville
Cynthia Kalke	605 N. OLIVE AVE, FAY, 72701
Jim Klinger	515 Rebecca
Felix Lopez	755 N. Washington 72701
Joan Smith	326 N. Washington 72701
Christine Klinger	515 Rebecca St, Fay 72701
Gregory Johnson	312 E Maple Fay 72701
Mike & Sony Johnson	324 N. Olive Ave, Fay 72701
MARK MINALE	420 E. LAFAYETTE, FAY 72701
Marie Ryle	525 N. Olive Fay 72701
NH Johnson	525 N. Olive, Fay 72701
Lakita McKinnis	609 N Olive Fay 72701
Kathy Gallagher	425 E Lafayette 72701
Richard L. Smith	326 N. Washington Ave 72701
Rick McKinnis	609 N. Olive 72701
Sam Friday	520 E. Maple St #545 GUNTER
Camel Daggett	624 mission, E 72701

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NAME	STREET ADDRESS
Cherokee H. Kline	801 Rush Dr. Fayetteville AR 72701
Patricia Cochran	803 Rush Dr. Fayetteville AR 72701
Richard Messing	829 Rush Dr Fayetteville AR 72701
Dee Mae	845 N. Rush Fayetteville AR 72701
Rachel Laalkes	914 N. Rush Fayetteville AR 72701
Dawn Holmberg	922 RUSH Fayetteville AR 72701
Karen Beaton	930 Rush Fayetteville AR 72701
Sandra S. Wiekizer	919 N. Rush Dr.
Tina Hagley	945 N. Rush Dr.
William E. Hoff	969 N. Rush Dr.
Deborah Smeath	833 Rush Dr Fayetteville AR 72701
Carole Swanson	1790 Janice Ave, Fayetteville 72703
Alvin M. M. M. M.	919 RUSH, Fayetteville
Pat Schram	506 Johnson St. 72701
Paula Inez	663 N. Walnut 72701
Ken Inez Jr.	663 N. Walnut 72701
Ken Inez	406 Rebecca 72701
Myraet Moss	362 E. Maple Fayetteville 72701
John Mitchell	428 Willow 72703
Missy Gooch	485 N. Vinson 72701

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NAME	STREET ADDRESS
Dicie Mills	519 Johnson-Fayetteville - 72701
Reva Mills	519 Johnson Fay, 72701
Jean Faddis	511 Mission
Jennifer Morris	515 Mission
Patrick Linton	477 Mission Blvd
Paul Paul	391 N. Fletcher
Christie Chen	365 Fletcher Ave
Ellen Compton	313 Fletcher Ave
Kathleen Cox	315 Fletcher Ave
Jennifer Sider	309 N. Fletcher Ave.
Carter Malloy	309 N. Fletcher Ave.
Billy Bennett	423 Mission
Billy Fox	457 Mission
Cecilia Black	520 GUNTER ST.
Lou Buehler	518 Gunter St.
Eldon Grayne Barendberg	518 Gunter
Robert Lee	514 E. GUNTER
Catherine Tash	618 N. Willow Ave

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NAME	STREET ADDRESS
Christine Kling	515 Rebecca Street
David Williams	837 N. Olive Ave.
Thelma Carson	872 N. Olive
Tim Molesso	814 N. Olive
Liz Molesso	814 N. Olive
Tim Ray	618 N. Walnut
Mark W. Cooley	616 N. Walnut
Jennifer H. Hobbs	601 N. Walnut
Kristin Musgrave	607 N. Walnut
Angela Nally	559 N. WALNUT
Brian Brumby	525 N. Walnut
Andrew W. Quire	511 N. Walnut
David Rose	501 N. WALNUT
Elizabeth Woods	419 N. Walnut
Roy Lee	321 E. Lafayette
Katy Tucker	321 E. Lafayette
KENEE CLAY	407 E. LAFAYETTE
Robert Hup	504 E. Lafayette
David W. Luckett	313 N. Olive
Becky P. Luckett	313 N. Olive

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NAME	date	STREET ADDRESS
Tom Bethel		724 E Lafayette
Jane S. Davis		1923 E. Joyce St C-102
Thomas O'Daniel		1923 E. Joyce Ave. C-102
Edna Harrison		350 Seawood Dr.
Gerald B. Jordan		2881 Highland Park Rd.
Wanda Belzung		1923 E. Joyce, Fayetteville AR
William Brandon		315 W. MOUNTAIN 72701
Amanda Battlett		400 N. MISSION
Edna Harrison		807 E. MAPLE ST. 72701
Edna Harrison		807 E. MAPLE ST 72701
Steve E. Winkler		DWELL - 654 E. Lafayette AR 72701
Richard Braguer		565 Fallon Fay. 72701
Charles O'Daniel		1923 E. JOYCE DR 72701
Gabrielle K. Schaps		828 Skyline Dr. Fay. 72701
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Vronne Coker	11-9-05	816 E Dogwood LN
Quentin Hume		397 Dogwood
Lisa Huff		389 Dogwood Ln.
John St. Louis		389 Dogwood Ln
Heather Wright		822 TRUST ST.
Tim Reno		824 E Trust St.
Pamela Odeh		560 N. Fallin Ave
Donna K. Vannaman		522 N. Fallin Ave.
Donna Lequeux		654 E. Lafayette St. #4
Will A. Wright		604 E. LAFAYETTE
Ed M. Vannan		543 ASSEMBLY RD.
Meggie Harrison		350 Sequoyah
Sam Harrison		2405 E. St. James Place
Donna Williams	11-14-05	313 E. Lafayette St. #107
Matt Mathews		420 E. LAFAYETTE
Kate Michalewicz		420 E. LAFAYETTE
Justin Gule		525 N. OLIVE
Gregory A. Delpi		312 E Maple
Jeff Warden		308 N. Willow

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Wm. J. Smith	11-18-05	562 N. Sequoyah Dr.
Gydney M. Hall	11/18/05	575 Sequoyah Dr.
D. E. Lusk	11/18/05	607 Sequoyah Dr.
Leanne E. Bickel	11/18/05	612 N. Sequoyah Dr.
Bill Baker	11/18/05	668 N. Stony
Sharon Echols	11/18/05	1022 E. Trust
Leanne M. ...	11/18/05	1002 E. Company St.
John E. Bunker	11/18/05	1025 Company
Donna M. ...	11/18/05	531 Sequoyah Dr.
Margaret Bacon	11/18/05	505 N. Sequoyah Dr.
...	11/19/05	1026 E. Rebecca
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2

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[illegible]

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

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

FROM: **Kit Williams, City Attorney**

DATE: **November 29, 2005**

RE: **Contract with Jim Lindsey to maintain status quo during negotiations**

Attached please find the revised and signed contract with Mr. Jim Lindsey concerning the 6.9 acre tract South of Maple Street and East of Mission Boulevard. This is a straight forward, plain English contract to preserve the current conditions on this land while negotiations for a comprehensive solution can occur.

I envision some possible solution that would allow Mr. Lindsey to move his industrial uses to a smaller tract of raw land in our South Industrial Park. The cost of the Industrial park land would offset his development costs for this site (to replace his old, but usable buildings, etc. at the Mission Boulevard site). Mr. Lindsey would retain development rights on the 6.9 acre parcel which would initially be rezoned residential, but ultimately would be rezoned as a Residential Planned Zoning District with limited, but adequate density.

As part of any final solution, the City Council after public comment would need to approve the R-PZD as a condition of the agreement to deed the land to Mr. Lindsey in the South Industrial Park. That way the citizens and alderman would know exactly how the land would be developed (including its density, height and size of buildings, buffers for single family housing, etc.) prior to final approval of the transfer of the Industrial Park site.

If any alderman or the Mayor believes this possible solution is not advisable or tenable, please let me know so I will not waste time negotiating the details. Also, you need to know that Mr. Lindsey has not agreed to any of this although during our conference (Tim Conklin, Jim Lindsey, Roy Stanley, and me), we discussed this general concept.

CONTRACT

The City of Fayetteville and Mr. Jim Lindsey, personally and as President of J. Edgar Lindsey, Inc., General Partner of the J. E. Lindsey Family Partnership (owner of the subject property) and as CEO/representative of Lindsey Management Company, Inc. (all hereinafter referred to as **Jim Lindsey**) agree to the following mutual covenants and promises:

1. The City of Fayetteville agrees to refrain from rezoning or referring an official request for a rezoning study or a question of a rezoning amendment concerning the approximately 6.9 acres owned by Mr. Jim Lindsey located east of Mission Boulevard and south of Maple Street (hereinafter the "subject property").
2. Mr. Jim Lindsey agrees not to request a building permit, increase the size or alter the type of operations currently occurring on the subject property, nor increase the hours of operation at this site.
3. Both the City of Fayetteville and Jim Lindsey have the right to terminate their obligations under this contract with ninety (90) days written notice sent to the other party mailed and faxed to:

Jim Lindsey
Lindsey Management Co.
P.O.Box 13000
Fayetteville, AR 72703
FAX: 527-8842

Dan Coody
Fayetteville Mayor
113 West Mountain
Fayetteville, AR 72701
FAX: 575-8315

CC: Roy Stanley
President
Lindsey Management Co., Inc.
P.O. Box 13000
Fayetteville, AR 72703
FAX: 527-8842

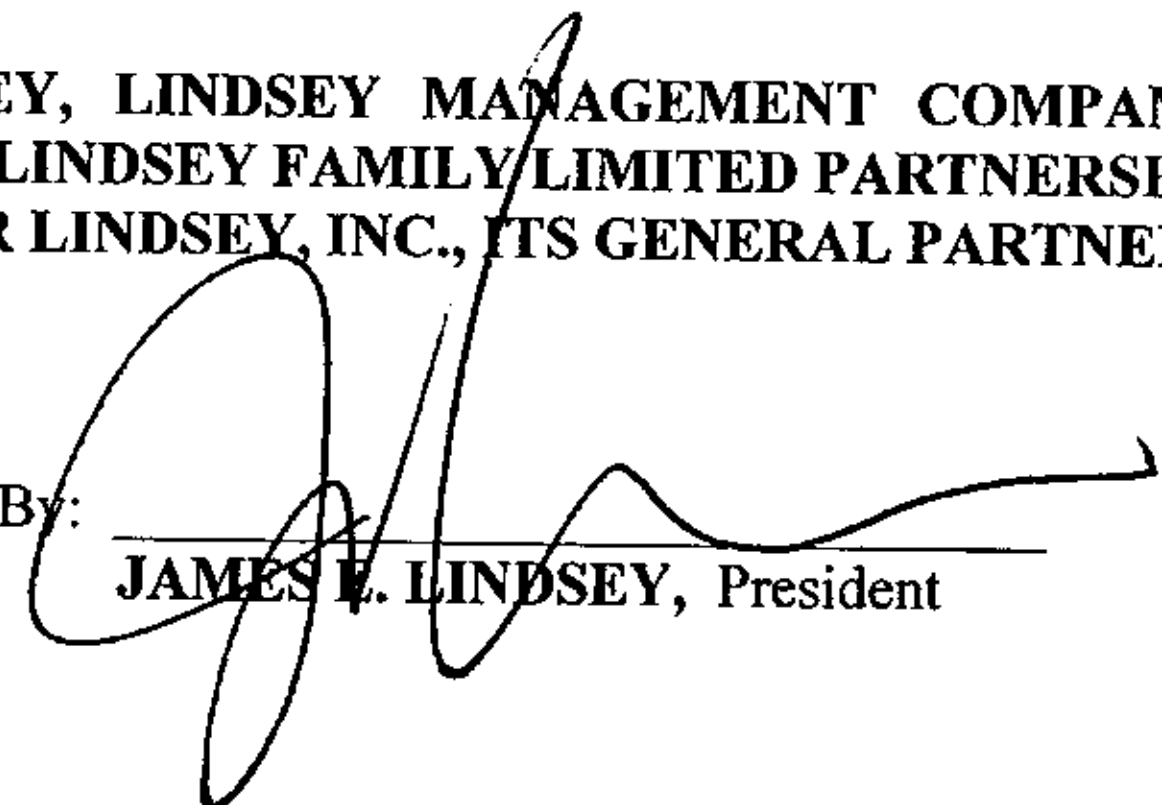
4. If the City of Fayetteville notifies Mr. Jim Lindsey of its intent to terminate this contract, Mr. Jim Lindsey shall immediately enjoy the right to apply for a building permit for the subject property.

5. If Mr. Lindsey notifies the City of Fayetteville of his intent to terminate this contract, the City of Fayetteville shall immediately enjoy the right to rezone the subject property or to officially request a rezoning study or refer the question of zoning amendment to the Planning Commission concerning the subject property. (Mr. Lindsey is not waiving any of his rights to oppose rezoning of his property or to seek damages or other relief in Court.)

IN AGREEMENT WITH ALL OF THE FOREGOING PROMISES, TERMS AND COVENANTS, the parties sign below:

EXECUTED on this, the 28th day of November, 2005.

**JIM LINDSEY, LINDSEY MANAGEMENT COMPANY,
INC. & J. E. LINDSEY FAMILY LIMITED PARTNERSHIP
BY J. EDGAR LINDSEY, INC., ITS GENERAL PARTNER**

By: 

JAMES E. LINDSEY, President

EXECUTED on this, the ____ day of December, 2005, by the City of Fayetteville.

CITY OF FAYETTEVILLE, A Municipal Corporation

By: _____

Dan Coody, Mayor

Witness: _____

Sondra Smith
Fayetteville City Clerk

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council
FROM: Frank Johnson, Chief of Police *FJ*
DATE: December 6, 2005
RE: Seven Hills Homeless Shelter Emergency Shelter

Recommendation:

The Council authorizes the mayor to sign the Seven Hills Homeless Center's Cold Weather Shelter Program Memorandum of Agreement.

Background:

Seven Hills operates an emergency cold weather shelter on evenings in which the temperature drops below forty degrees. Because of the growing homeless population a partnership has become necessary to establish another facility for use during "overflow" situations. The Yvonne Richardson Center has been identified as a possible facility for this shelter.

The purpose of this agreement is solely intended to establish a contingency option for use in extreme weather situations in which the available shelter in Fayetteville is not sufficient to provide safe refuge for Fayetteville's homeless citizens.

Discussion:

A copy of this memorandum of agreement is attached and has been signed by a representative of Seven Hills and the Yvonne Richardson Center Board.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A YEAR LONG AGREEMENT
WITH SEVEN HILLS HOMELESS BOARD AND THE
YVONNE RICHARDSON CENTER BOARD TO ALLOW USE
OF THE RICHARDSON CENTER BY SEVEN HILLS AS AN
EMERGENCY SHELTER DURING COLD WEATHER

WHEREAS, the City of Fayetteville, the Yvonne Richardson Center Board and the Seven Hills Homeless Board desire to expand the availability of emergency overflow homeless shelter during cold winter weather by allowing the use of the Richardson Center during the nighttime hours (9:00 P.M. to 7:00 A.M.).

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 approves the agreement attached as Exhibit A and authorizes Mayor Coody to sign this Memorandum of Understanding.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

MEMORANDUM OF UNDERSTAND BETWEEN THE SEVEN HILLS HOMELESS CENTER AND THE RICHARDSON CENTER

Purposes of Agreement:

The Seven Hills Homeless Center operates a Day Center and Transitional Housing program for homeless persons on a year round basis. However, when during the winter months (October-March) the Center's daily hours are expanded and an Emergency Cold Weather Shelter is opened on evenings in which the temperature drops below forty degrees. The Seven Hills Homeless Center collaborates with the Salvation Army Shelter in Fayetteville to provide emergency shelter on cold weather nights so that we are able to provide a safe refuge to those who otherwise would be exposed to the elements. This collaboration has been successful for the past four years but as Fayetteville and Northwest Arkansas continue to grow so to does our homeless population. This reality calls for expanded preparedness in the event that the need for Emergency Cold Weather Shelter becomes greater than the combined capacity of the Seven Hills Homeless Center and the Salvation Army. Therefore, the Seven Hills Center Board has recommended that a partnership be established with another facility so that in the event it is needed an over-flow cold weather shelter for the homeless could be made available. The purpose of this agreement is solely intended to establish a contingency option for use in extreme weather situations in which the available shelter in Fayetteville is not sufficient to provide safe refuge for Fayetteville's homeless citizens. This agreement in no way transfers program responsibility to the partnering facility.

This agreement is entered into between Seven Hills Homeless Center's *Cold Weather Shelter* program (hereafter, the Sponsor) and the Yvonne Richardson Center (hereafter, the Overflow Shelter Site) for the 2005-2006 program year. The following is understood and agreed to by the parties:

1) Duration.

This Understanding shall become effective on December 7, 2005 and shall terminate one year from the effective date, unless terminated sooner.

2) Sponsor Responsibilities. The Sponsor will:

- a. Conduct intake and assessment of cold weather shelter residents at Seven Hills Homeless Center.
- b. Make determination of shelter capacity and inform overflow shelter site contact if additional cold weather shelter will be needed for the remainder of the night.
- c. Insure that a sponsor's representative is on site at the Richardson Center at all times that the Richardson Center is used as a cold weather shelter.
- d. Provide all supplies (blankets, cots, pillows, sheets, etc.) needed to provide a cold weather shelter at the Richardson Center.

- e. Coordinate security, as needed, with the Fayetteville Police Department to insure the safety of shelter residents and of the overflow shelter site.
- f. Screen shelter residents for potential intoxication and administer breathalyzer or urine analysis when such a test is deemed necessary.
- g. Transport shelter residents to the overflow shelter site after 9 pm and from the overflow shelter site to Seven Hills Day center at 7am.
- h. Insure that the overflow shelter site is cleaned and orderly before vacating the property.
- i. Maintain regular communication with overflow shelter site Director in order to convey any pertinent information necessary for the efficient operation of this project.
- j. Assume all legal liability for the operation of this program.

3) Overflow Shelter Site Obligation. The site's responsible parties will:

- k. Provide a name and contact information for Seven Hills staff in case of a need for overflow shelter. If multiple contacts are responsible on different days the overflow shelter site will provide a schedule detailing which contact should be called, by day of the week.
- l. Insure the provision of a key to the facility for use on occasions in which the need for an overflow shelter is deemed necessary.
- m. Maintain regular communication with Seven Hills Program Director in order to convey any pertinent information necessary for the efficient operation of this project.

4) Notices.

All notices and communication required to be given to the Sponsor by the overflow shelter site, except as otherwise specifically provided, shall be directed to:

Eric Samuels
Program Director
Seven Hills Homeless Center
1561 W. 6th Street
Fayetteville, AR 72701
Ph: 479-251-7776
director-7hills@sbcglobal.net

5) Amendments.

This Memorandum of Agreement may be amended at any time by an agreement in writing executed by authorized representatives of the Sponsor and the overflow shelter site.

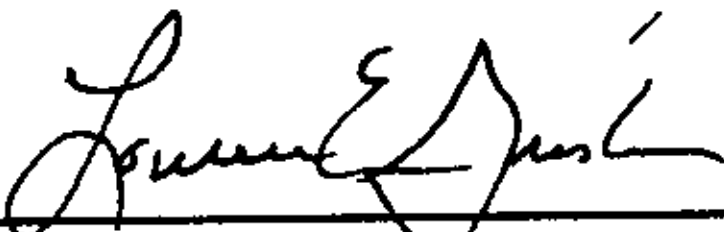
6) Termination.

The Sponsor or overflow shelter site may terminate this Agreement at any time by giving thirty (30) days notice in writing.

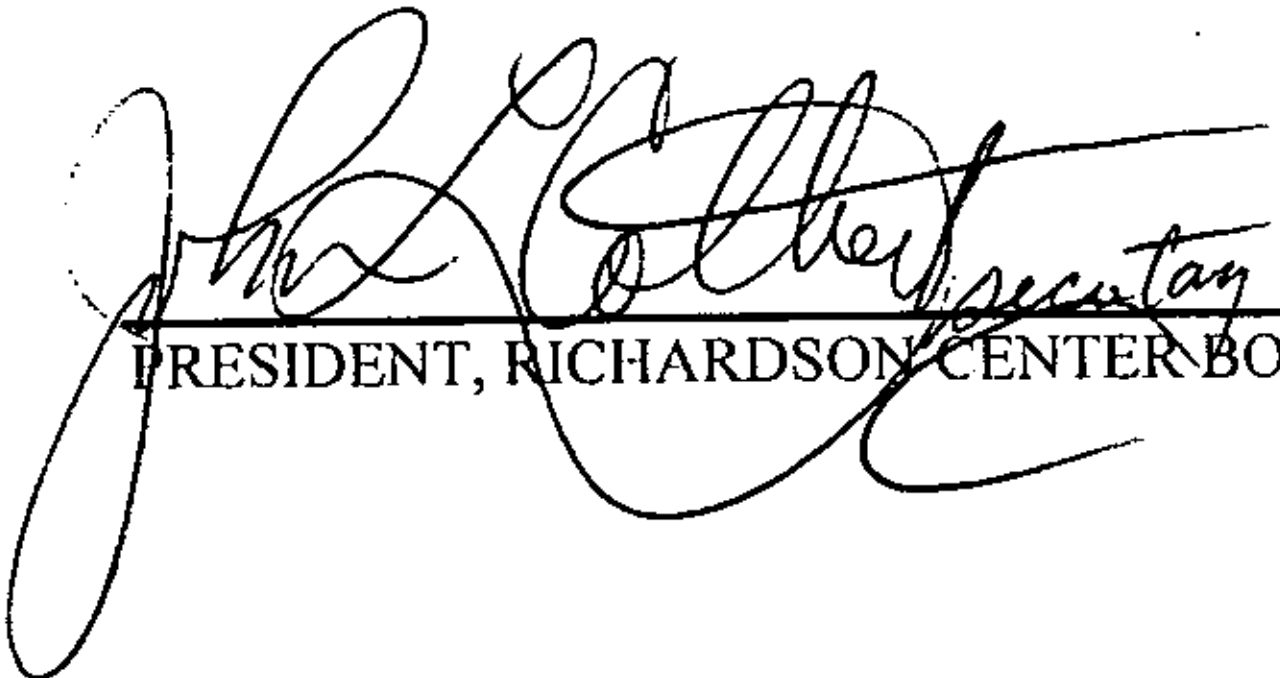
7) Authorization.

The Sponsor and the overflow shelter site hereby acknowledge by their signatures that they have read, understand and agree to all terms and conditions of this agreement.

This agreement will remain in effect until the end of the program year, which is December 7, 2006.



PRESIDENT, SEVEN HILLS BOARD 12/5/05
DATE



PRESIDENT, RICHARDSON CENTER BOARD 12/6/05
DATE

MAYOR, DAN COODY CITY OF FAYETTEVILLE DATE

C-11



VIEW OF THE EAST SQUARE PROJECT FROM THE SOUTHEAST

An Analysis of the Urban Parking Structure East Square Development Project

Report to the City Council
Fayetteville, Arkansas

November 17, 2005

Prepared by Robert Sharp, Architect, Inc.

The purpose of this report is to study the effects of parking structures as a functional and design element in the urban environment, as it relates to downtown Fayetteville in terms of the East Square Redevelopment Project. To begin with, parking is fundamental to the success of a vibrant downtown. The automobile remains far and away the most prominent form of transportation and its needs must be accommodated if an urban area is to succeed. The Unified Development Code requires that parking be provided for the East Square Redevelopment Project. It is the goal of the developers to meet this need for parking in an efficient and attractive manner, keeping in mind the needs of the downtown as a whole, the immediate streetscape, and the overall financial goals of the project.

As a starting point, surface parking was rejected. In urban areas, surface parking creates a wasteland and absolutely kills off any chance of a diverse and exciting downtown. (see figure 1)

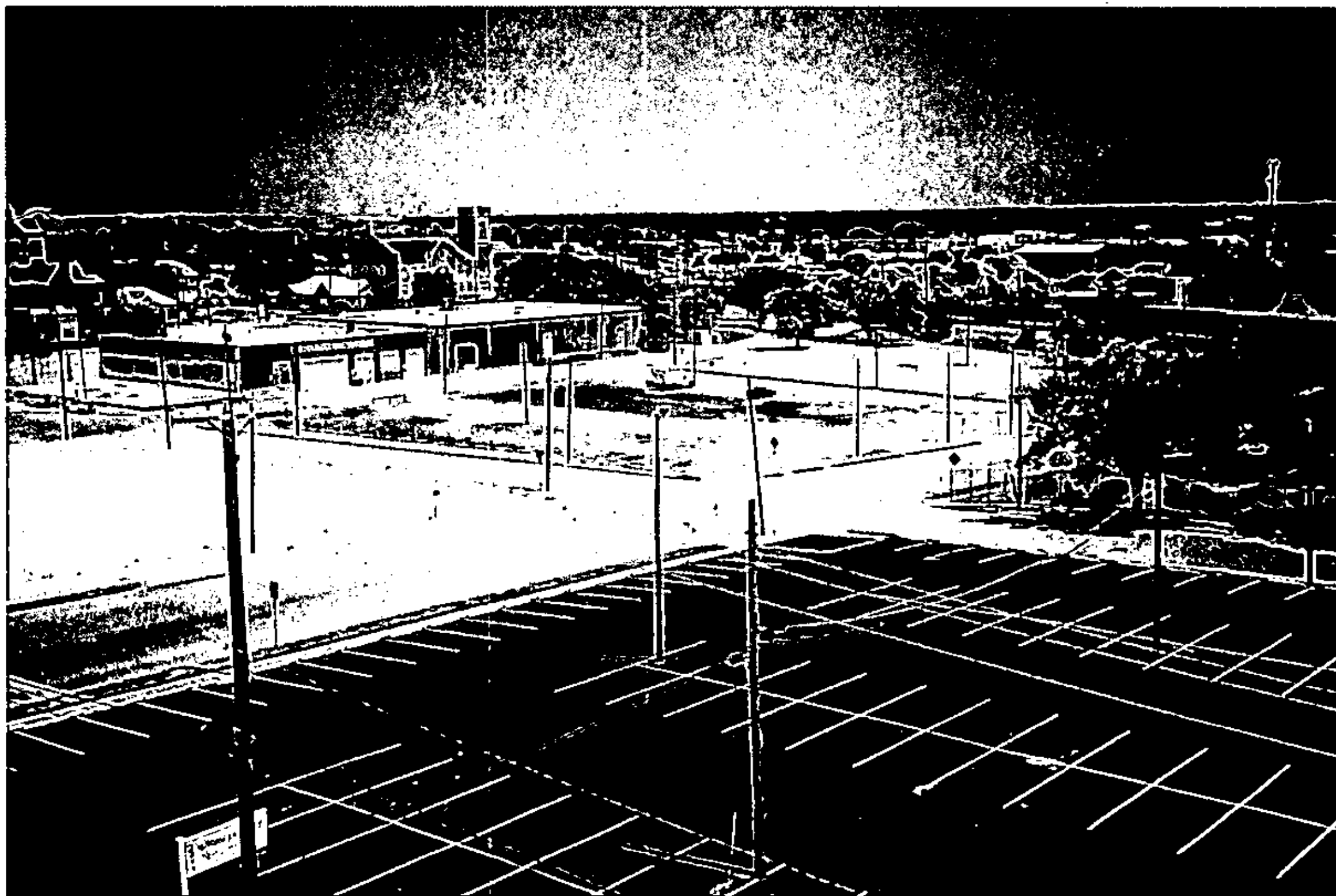


Figure 1: Surface Parking is the Antithesis of Good Urban Design

Faced with the absolute need for parking, some cities have embarked on ambitious and expensive efforts to build parking decks with decidedly mixed results. As figure 2 demonstrates, a collection of parking structures designed with no concern for the streetscape has a deadening effect on urban life and vitality. Clearly the environment shown in figure 2 is a place where the needs of the car are placed before the needs of people:



Figure 2: Parking Deck City

Some cities are so desperate for parking that they build over entire city streets. As shown in figure 3, this is not always the best way to create a vibrant and architecturally rich streetscape:

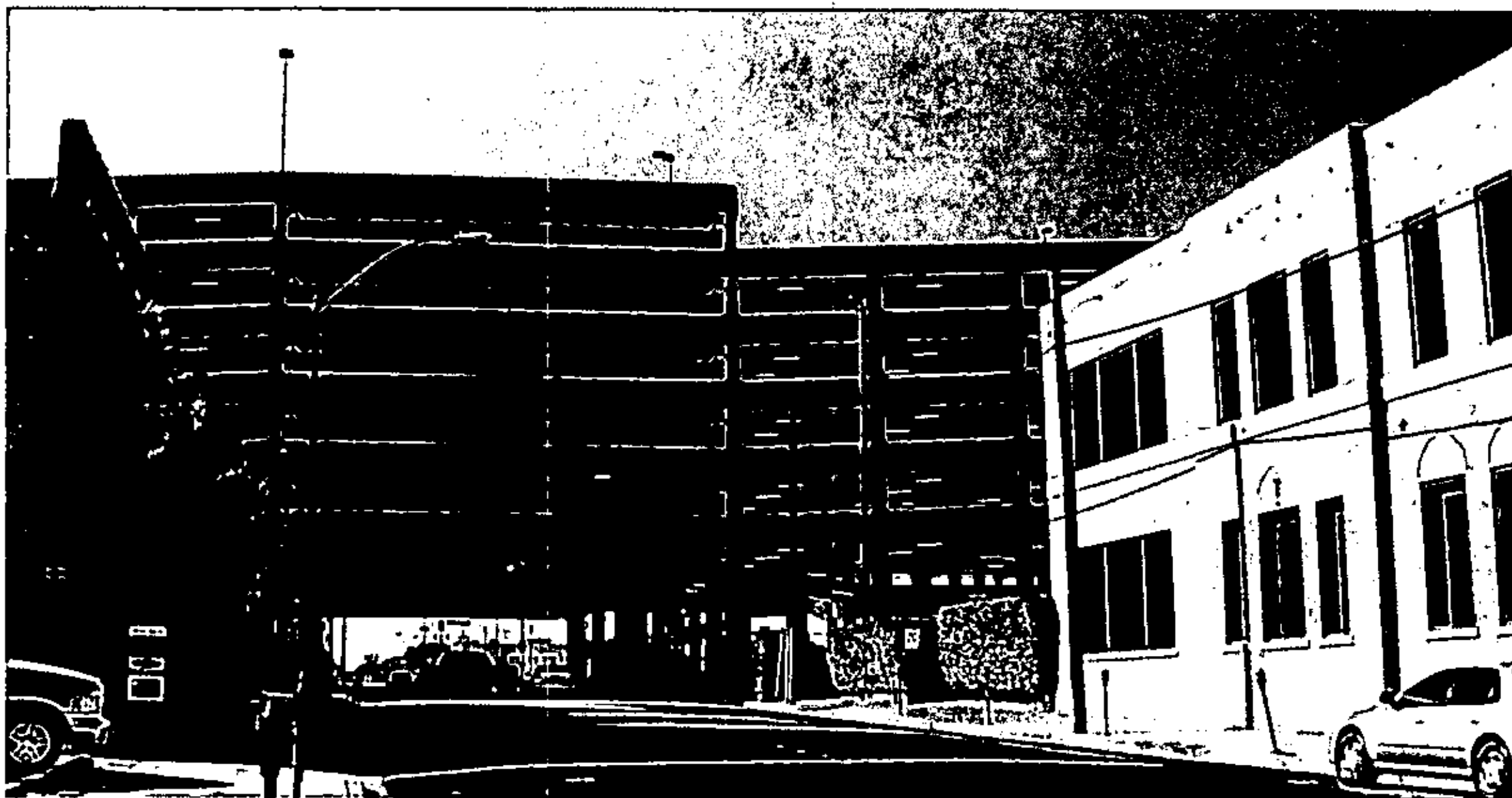
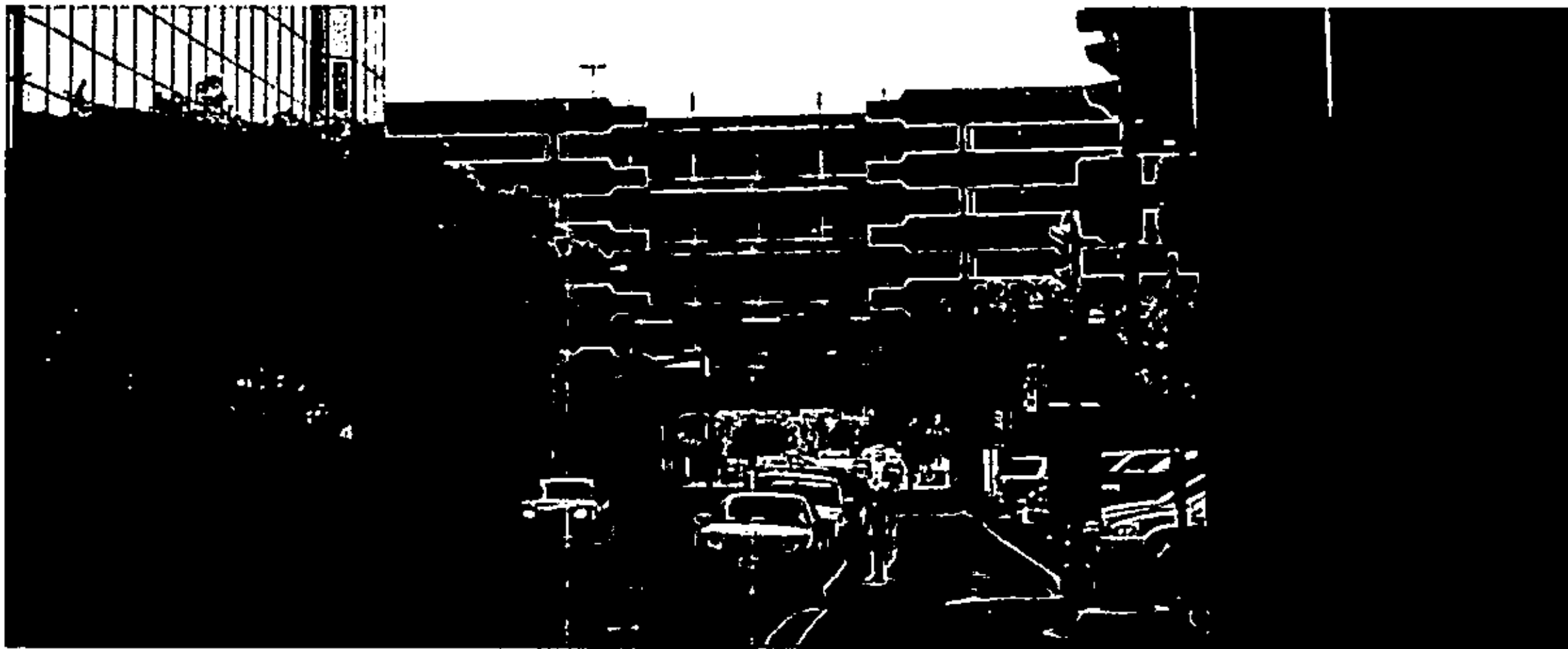


Figure 3: Parking Decks Over the Street

Parking structures can extend over the sidewalk without destroying the urban fabric, but the ground level needs to be more carefully designed than the parking deck shown in figure 4:

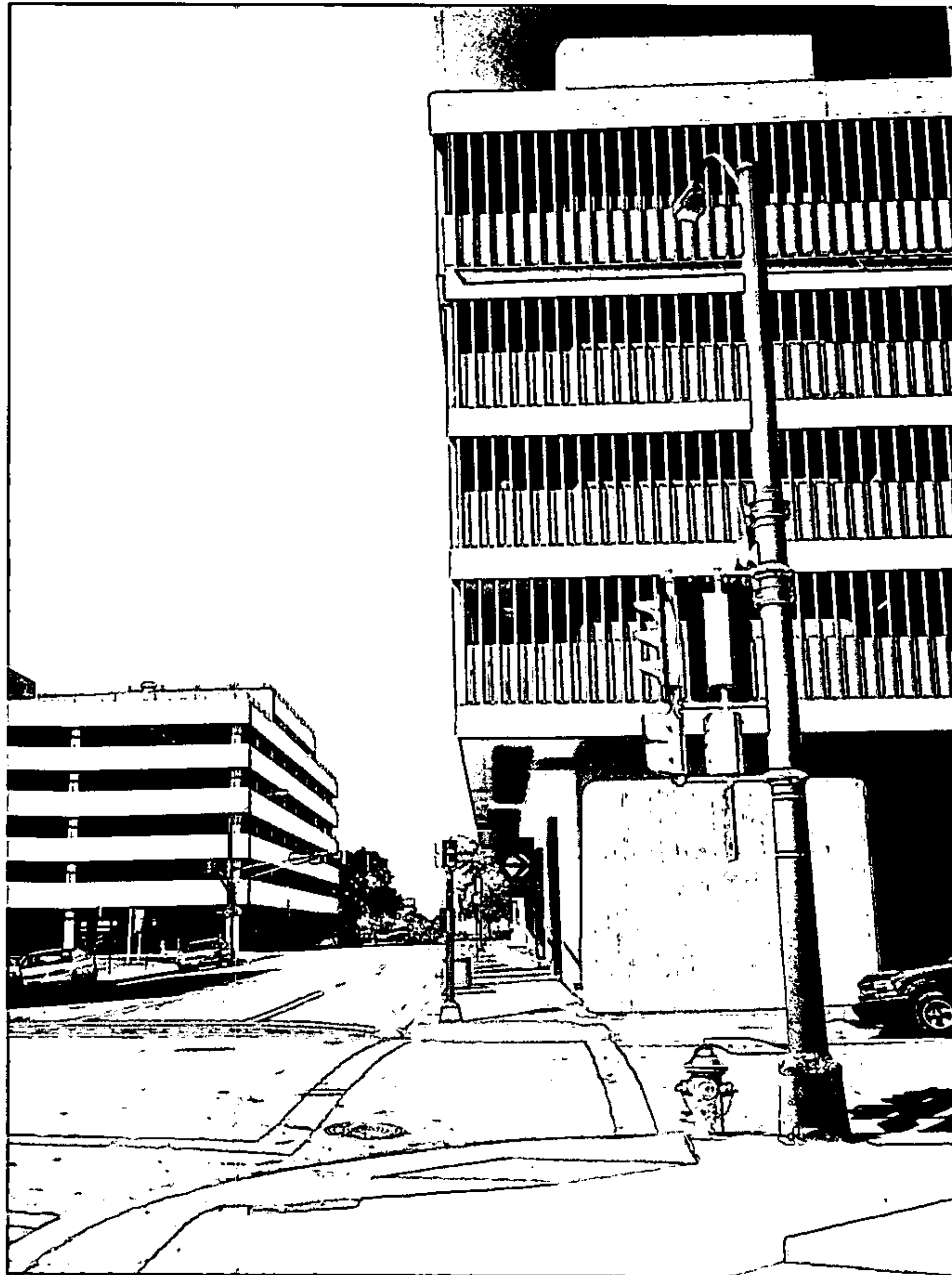


Figure 4: Parking Deck over the Sidewalk

Parking structures can be designed to match the buildings that are adjacent to them, but the effect is often less than satisfactory. The parking structure tends to become a cheaper, thinner cartoon version of the “real” buildings, or as in figure 5, the real building starts to take on the blank unaccented look and feel of the parking structure. For the East Square Redevelopment project, the developers have opted to build a parking structure that is a clear and authentic expression of its utilitarian function. Materials for the parking structure will be brick, glass, and metal detailed in a manner that is complementary of the adjacent traditional brick buildings, but not derivative. The funds for the highest quality materials are reserved for the landmark hotel portion of the project.



Figure 5: Parking Structure as Inferior Version of its Neighbor

Good clear graphics are also critical to the success of a parking structure. The entry must be clearly marked as shown in figure 6:



Figure 6: Clear Graphics are Critical

Perhaps the most critical urban design element of the parking structure is the use of the ground floor space for retail. This creates a lively street edge as shown in figure 7. Note also how the parking structure in figure 7 differs stylistically from its neighbor, yet is complementary.



Figure 7: Retail at Ground Level is Critical.
Identical Materials and Decorative Accents are not.

The design of the East Square parking structure was driven also by the developer's desire to save the historic buildings along Center Street. The difficulty this created is due to the geometry of parking structures: there must be room for double loaded drive lanes in each direction. This creates a minimum width of 124' as shown in figure 8:

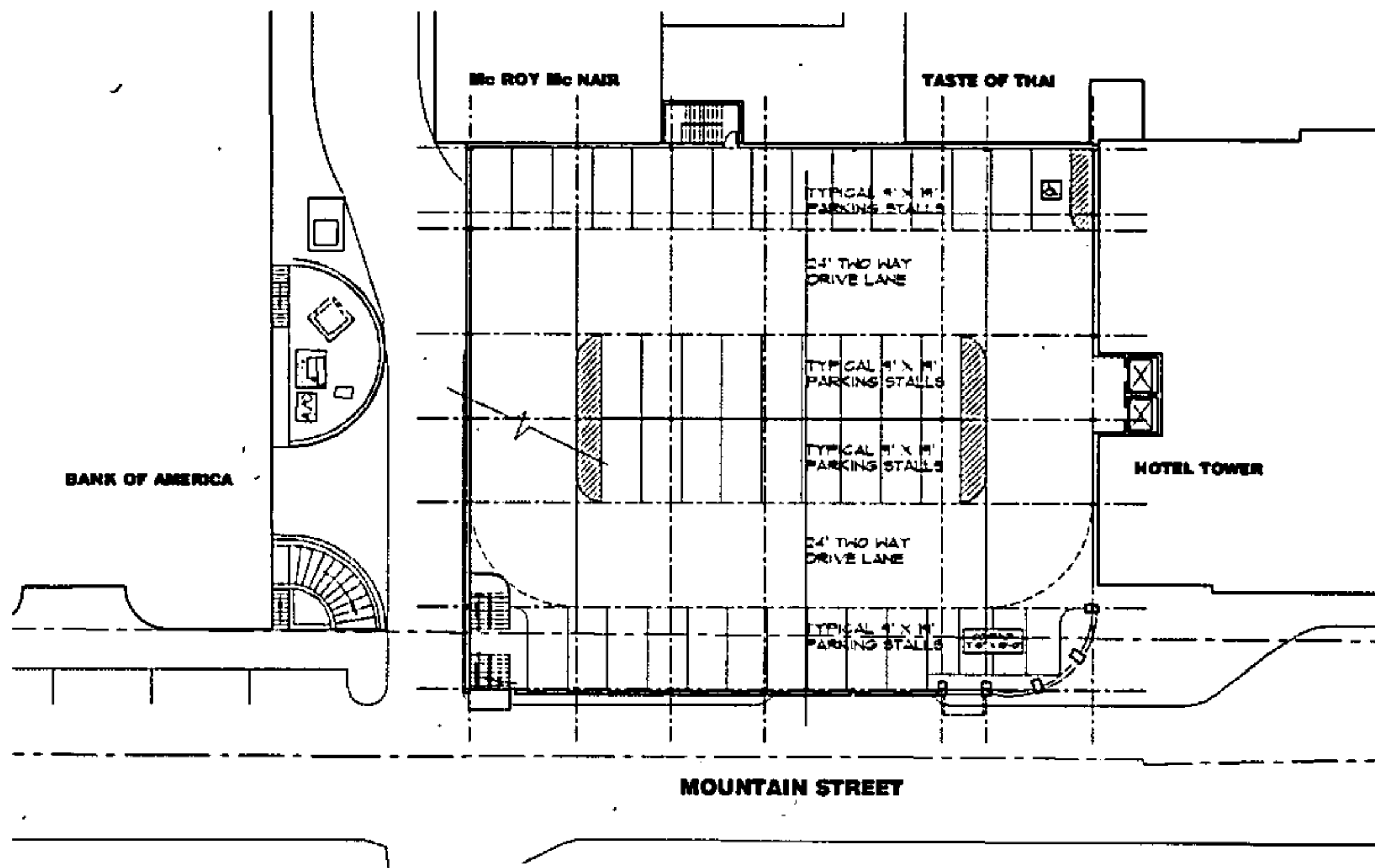


Figure 8: Parking Deck Geometry Dictates Width of 124'

Another purpose of the parking structure is to conceal the loading docks and utility equipment. Figure 9 is a cross section drawing of the parking structure looking west. This diagram shows how the street front retail colonnade functions at ground level.

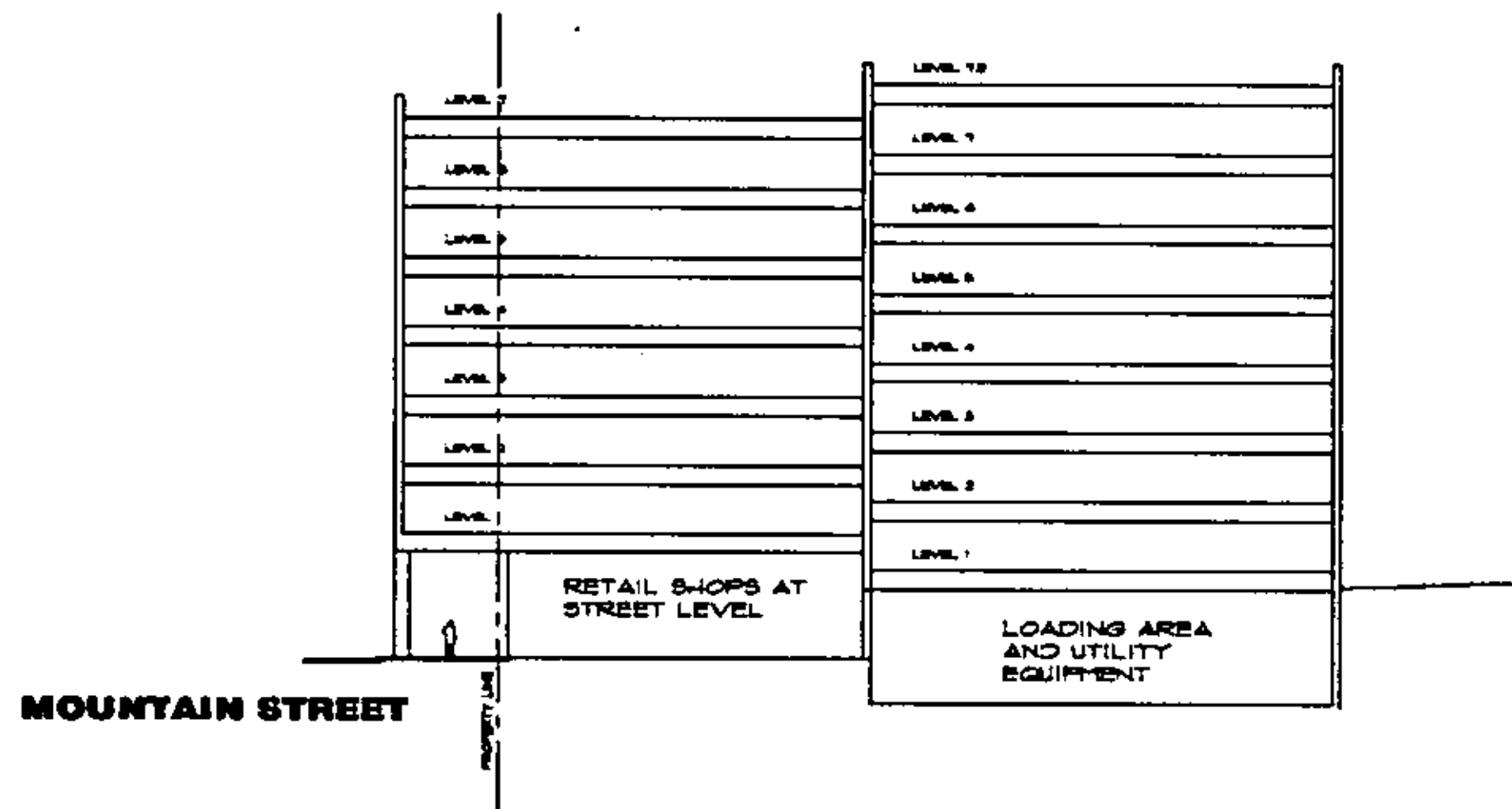
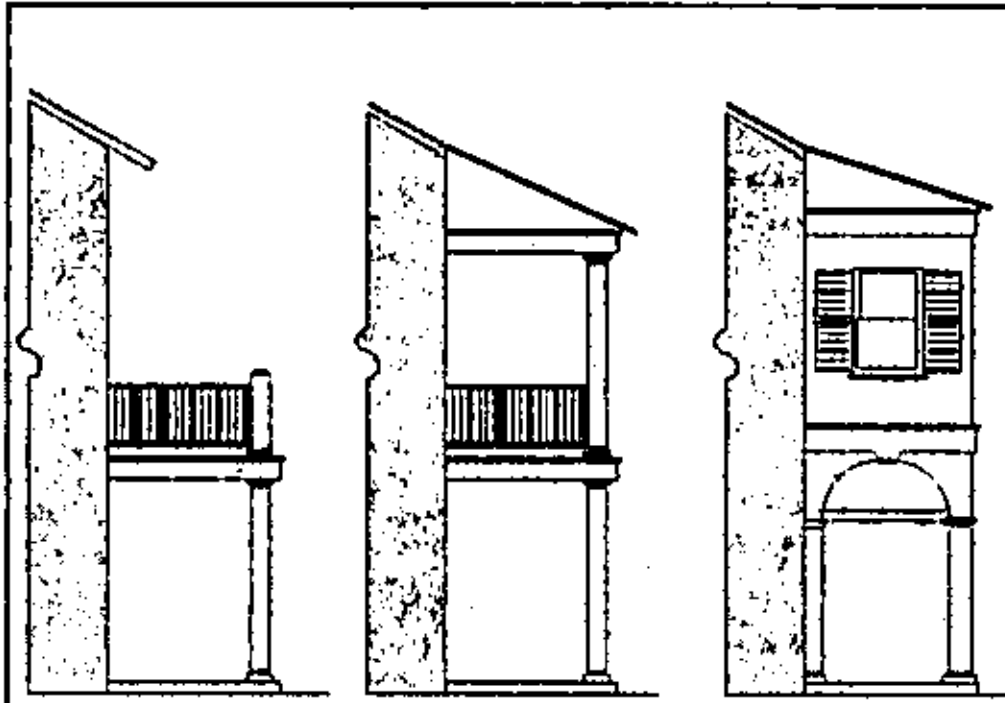


Figure 9: East Square Parking Deck Puts Retail on the Street,
Hides the Loading Docks

Another critical design feature is to keep security and personal safety always in mind. The parking structure will be well-lit internally, and the stair tower has been placed on the prominent northwest corner of the structure and wrapped in clear glass so that the public and the police can informally monitor and observe those that come and go, giving the users of the parking structure a feeling of safety and supervision. Isolated and dark stairs and corridors must be avoided.

Colonnades extending over the sidewalk are encouraged by the Fayetteville Downtown Master Plan. East Square Parking Structure meets the dimensional requirements as follows:



Depth = 8 ft minimum from the principal façade to the inside column face. 18" from outside column face to curb.

Height = 10 ft minimum clear.

Length = 75-100% of Building Front. (for storefronts only).

Open multi-story porches, awnings, balconies, and enclosed useable space shall be permitted above the colonnade.

Colonnades shall only be constructed where the minimum depth can be obtained. Colonnades shall occur forward of the principal façade, and shall not extend past the curb line. Colonnades may replace street trees along their length. On corners, colonnades may wrap around the side of the building facing the side street.

The Master Plan recommends up to 12 story buildings in this area, so a 7 ½ story parking structure is not over sized for the recently adopted vision for Downtown Fayetteville.

Also worth noting is that the East Square Parking Structure adopts some of the architectural features of the Master Plan, such as a cornice along the top, storefront windows at street level, and a change in materials between the street level and the upper floors of the structure. In general, the parking structure has been carefully detailed to provide screening of the parked cars and to express an authentic use of materials throughout.

Summary:

1. Parking is critical to the success of the East Square Redevelopment project.
2. Poor access and inconvenient parking contributed to the failure of the previous Mountain Inn.
3. In order to avoid demolition of existing historic buildings, upper levels of the parking deck must extend over the sidewalk. The existing drive lanes will *not* be reduced or compromised.
4. We are proposing that the existing narrow sidewalk and on-street parking be replaced by a generous covered colonnade. Ground floor is retail space to provide a vibrant pedestrian experience.
5. Giving up a row of on-street parking is a small price to pay for adding 350 parking stalls to the downtown area.
6. The parking structure is tucked between the Bank of America building and the proposed hotel tower, limiting its visual impact. The south façade has been carefully detailed to give the building scale and interest. The design complements, but does not mimic its neighbors.
7. The design of the parking structure is consistent with the overall goals of the recently adopted Downtown Master Plan.
8. The parking structure, although carefully designed, is secondary to the hotel tower in terms of the use of costly materials.

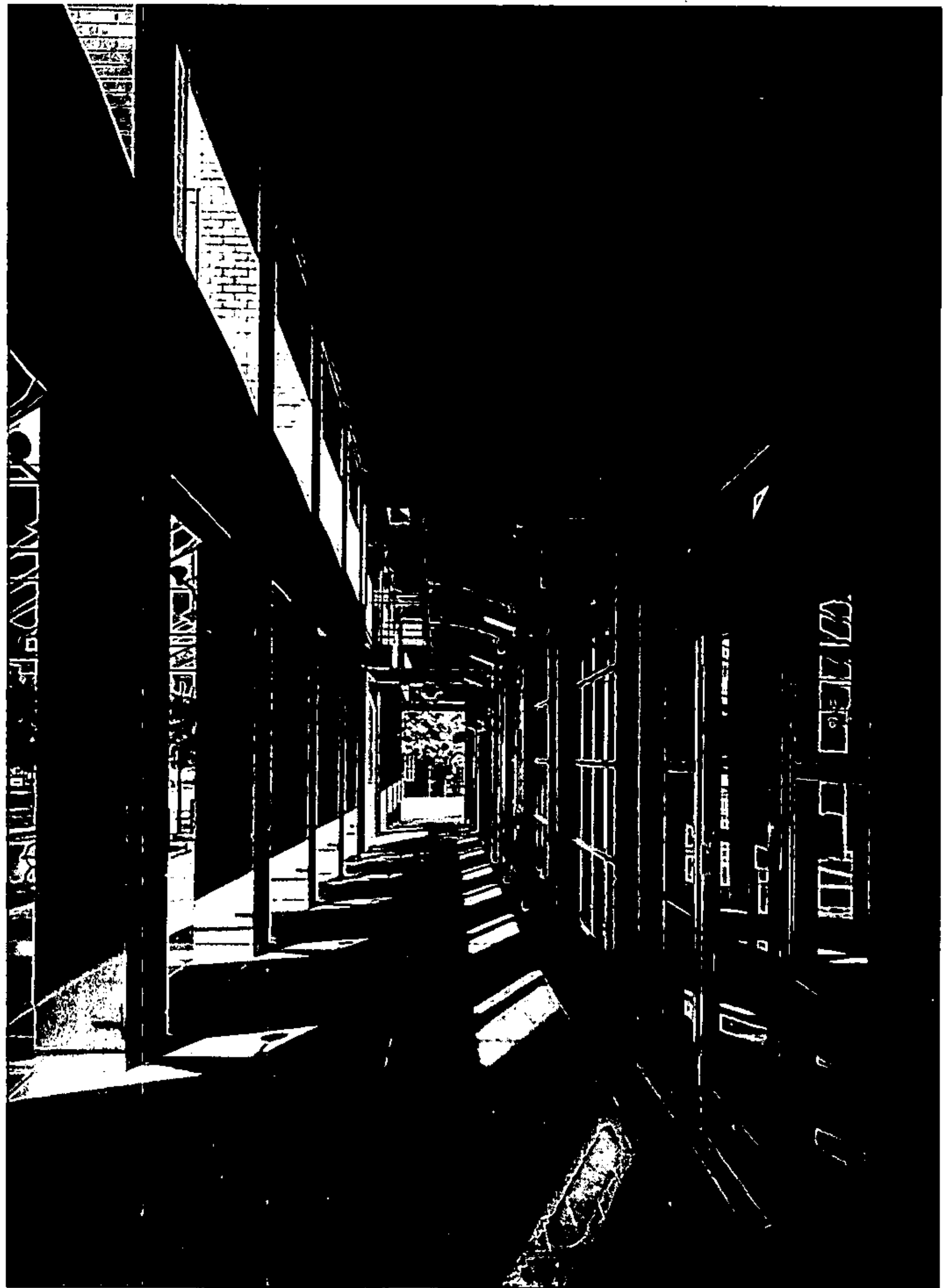


Figure 10: An example of a covered sidewalk used in the design of the East Square Parking Deck.

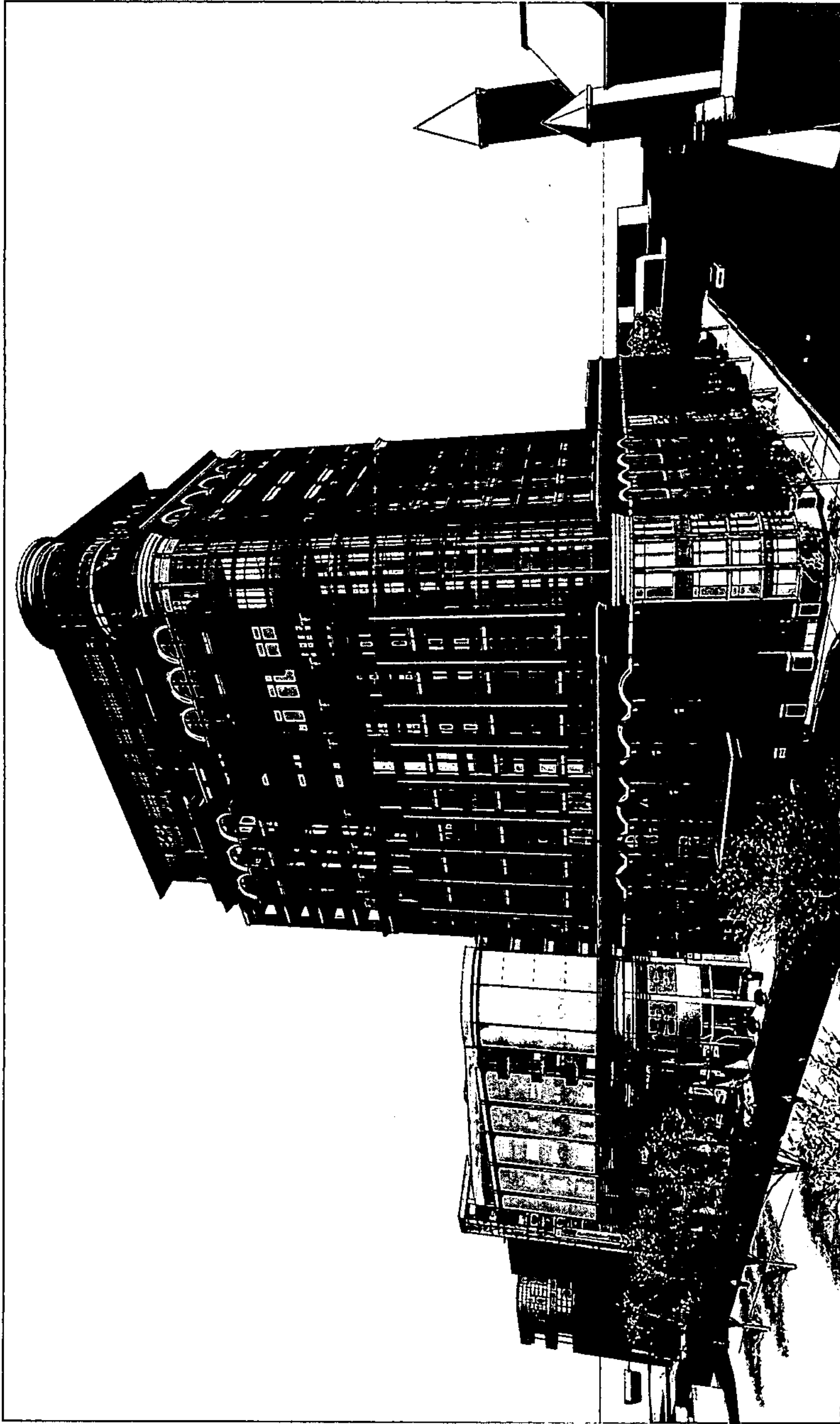


Figure 11: Proposed Parking Structure, View from the Southeast

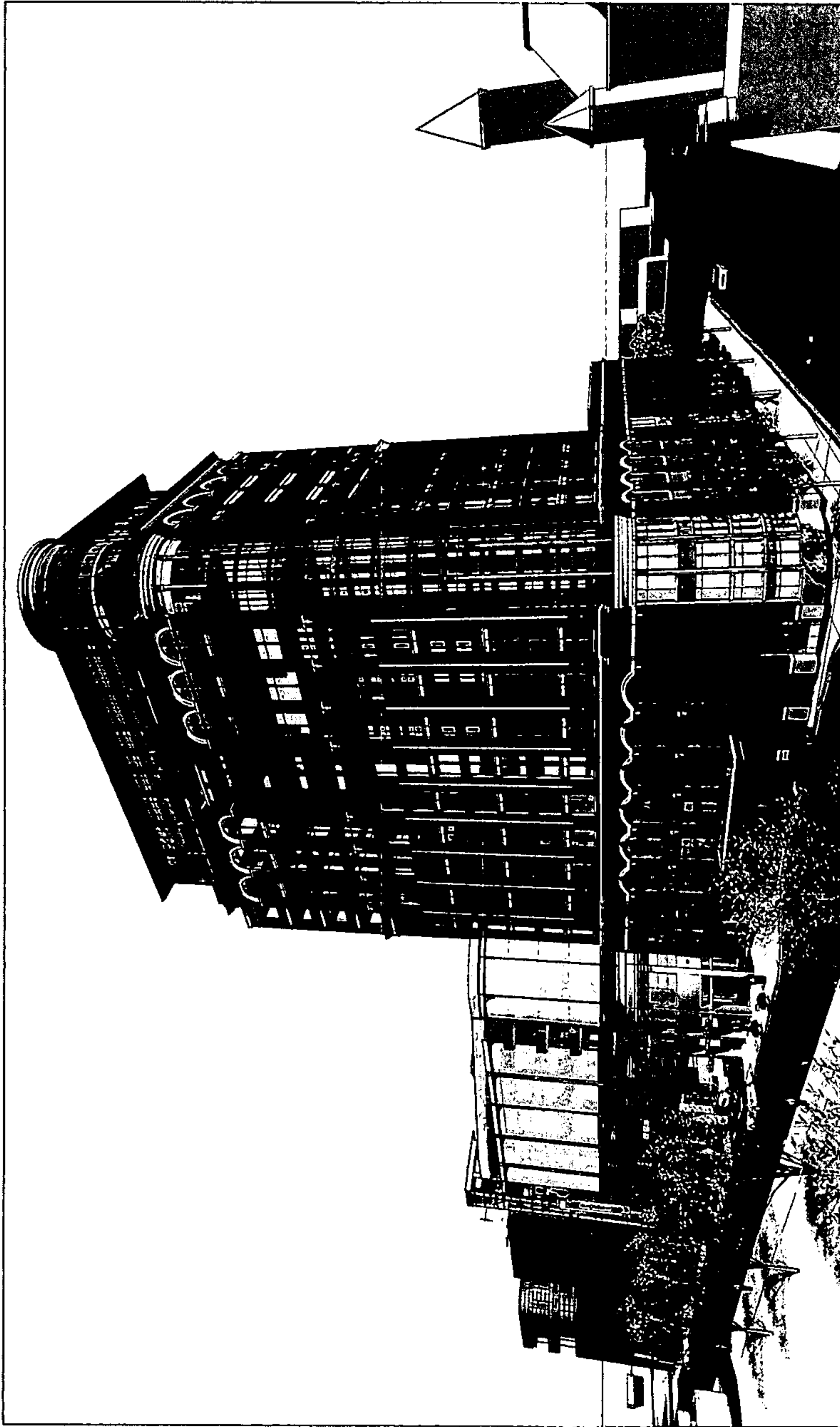


Figure 12: Parking Structure set back to Property Line, View from the Southeast



Figure 13: Parking Structure, View from the Square

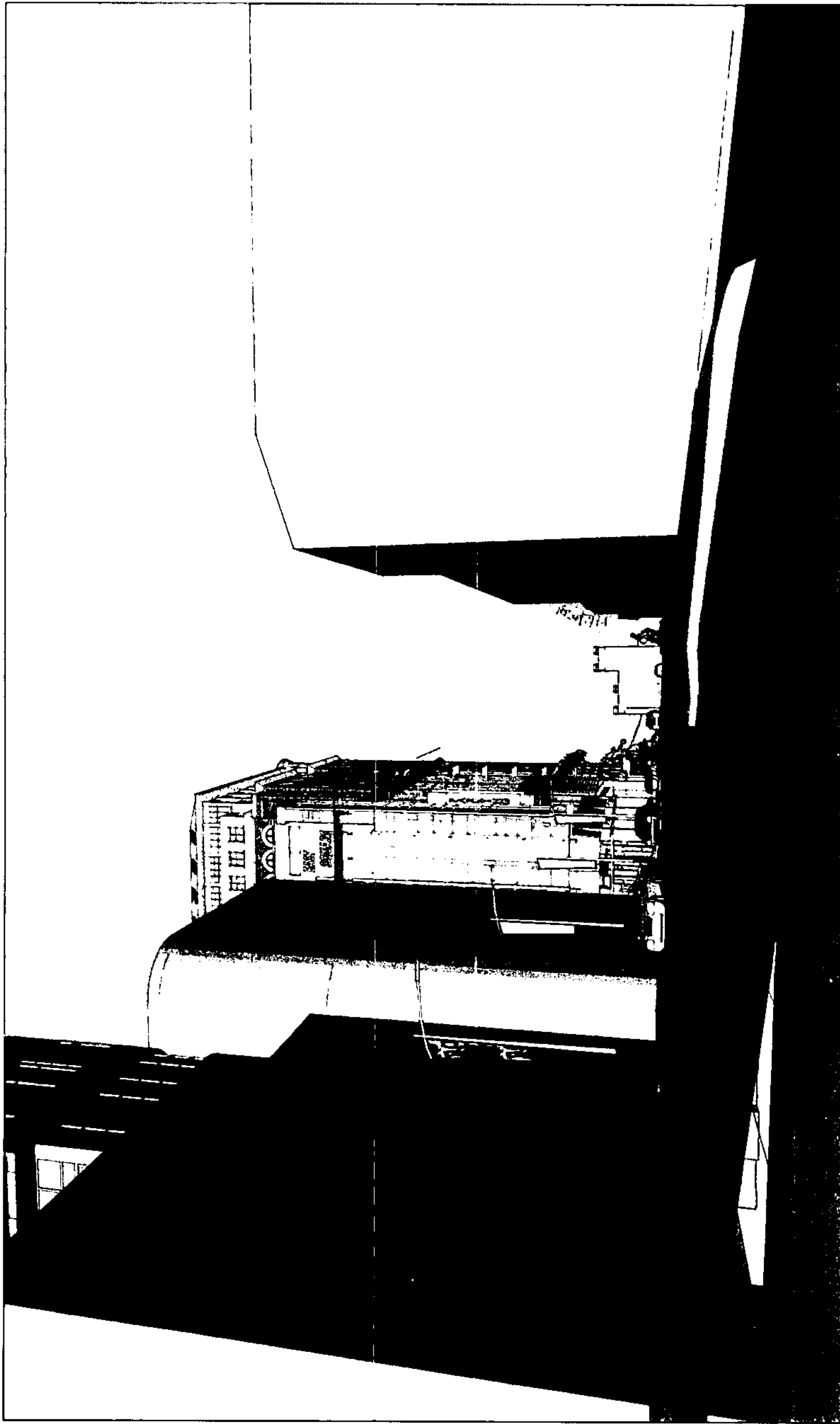


Figure 14: Parking Structure set back to Property Line, View from the Square

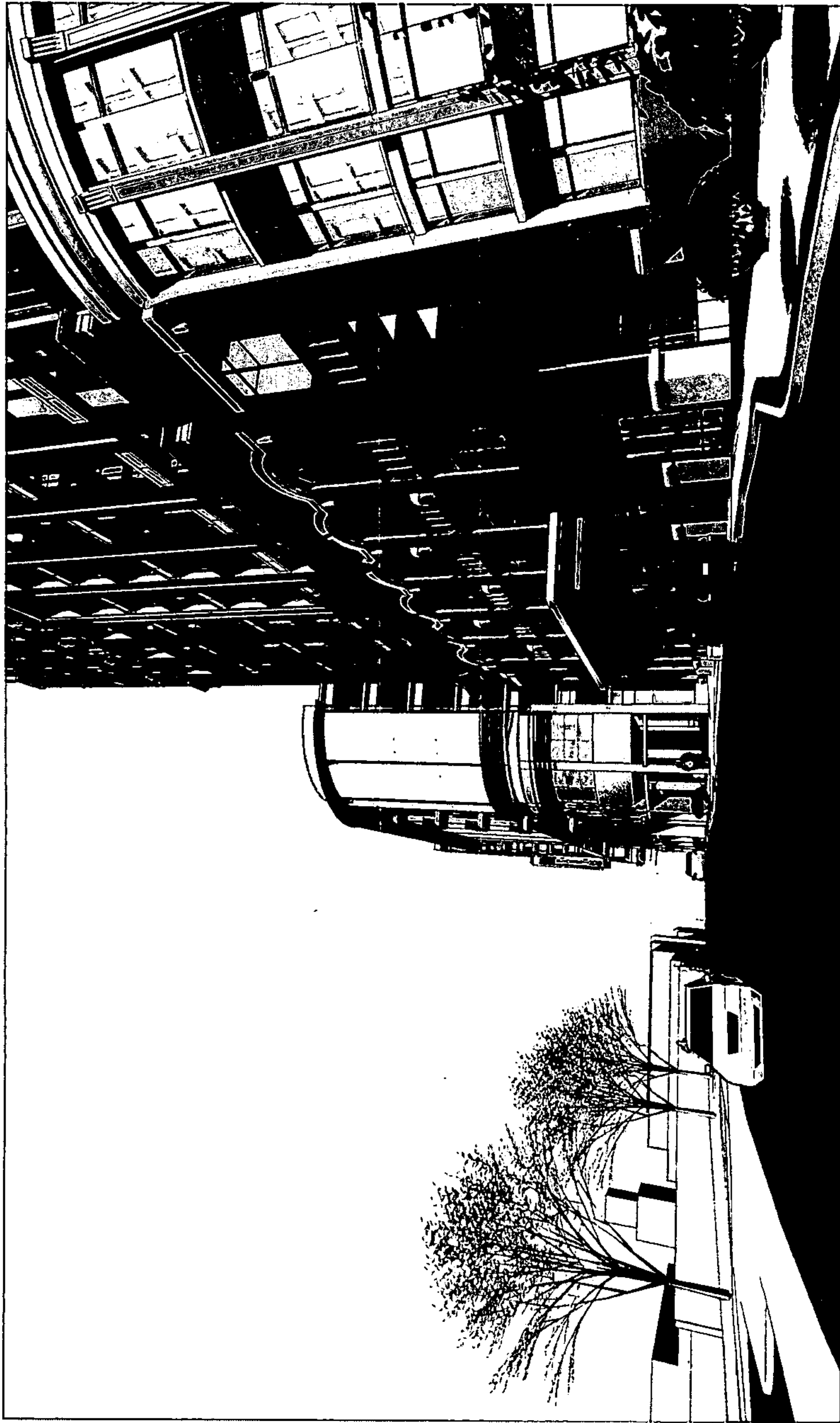


Figure 15: Parking Structure, View along Mountain Street



Figure 16: Parking Structure set back to Property Line, View along Mountain Street

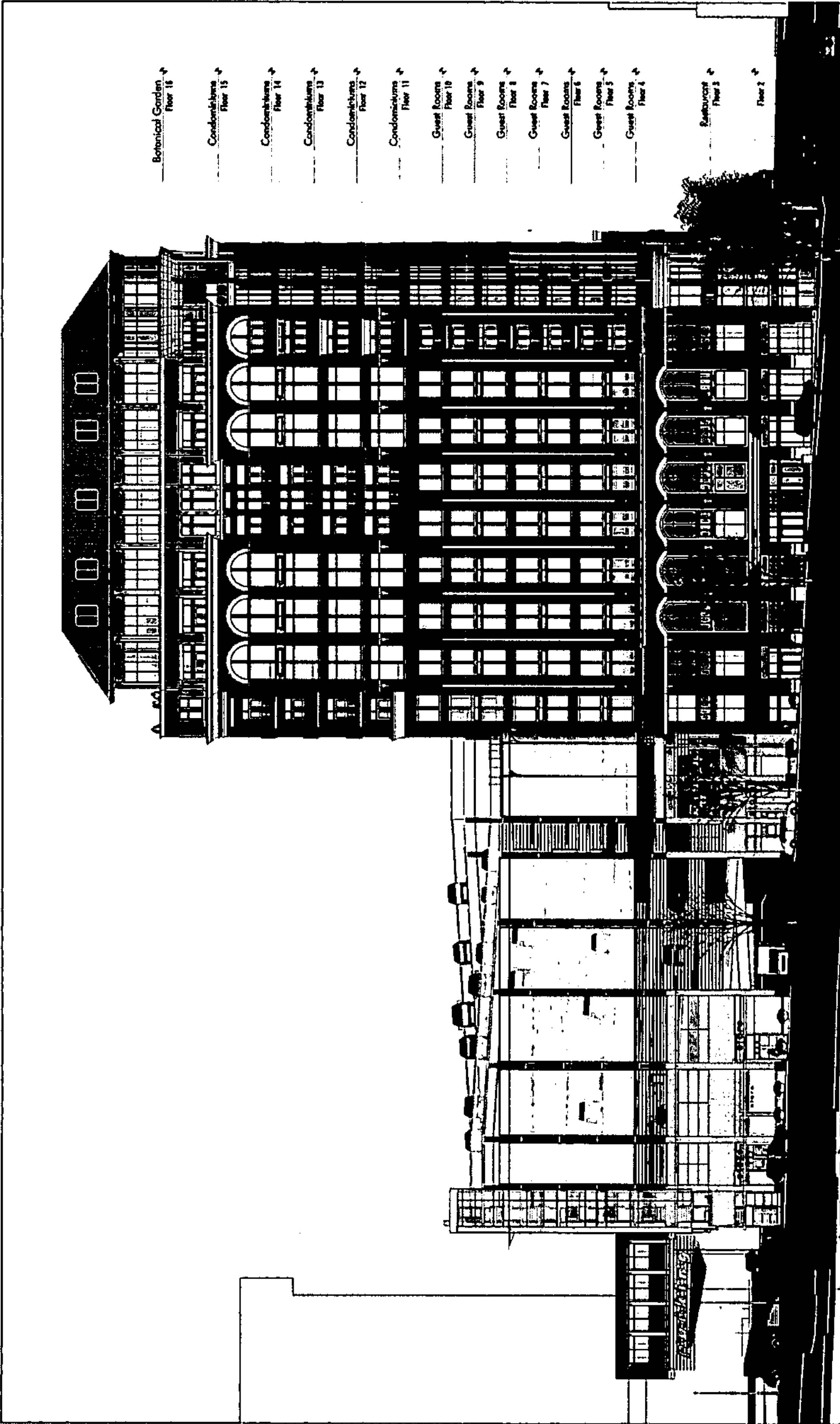


Figure 1: South Elevation

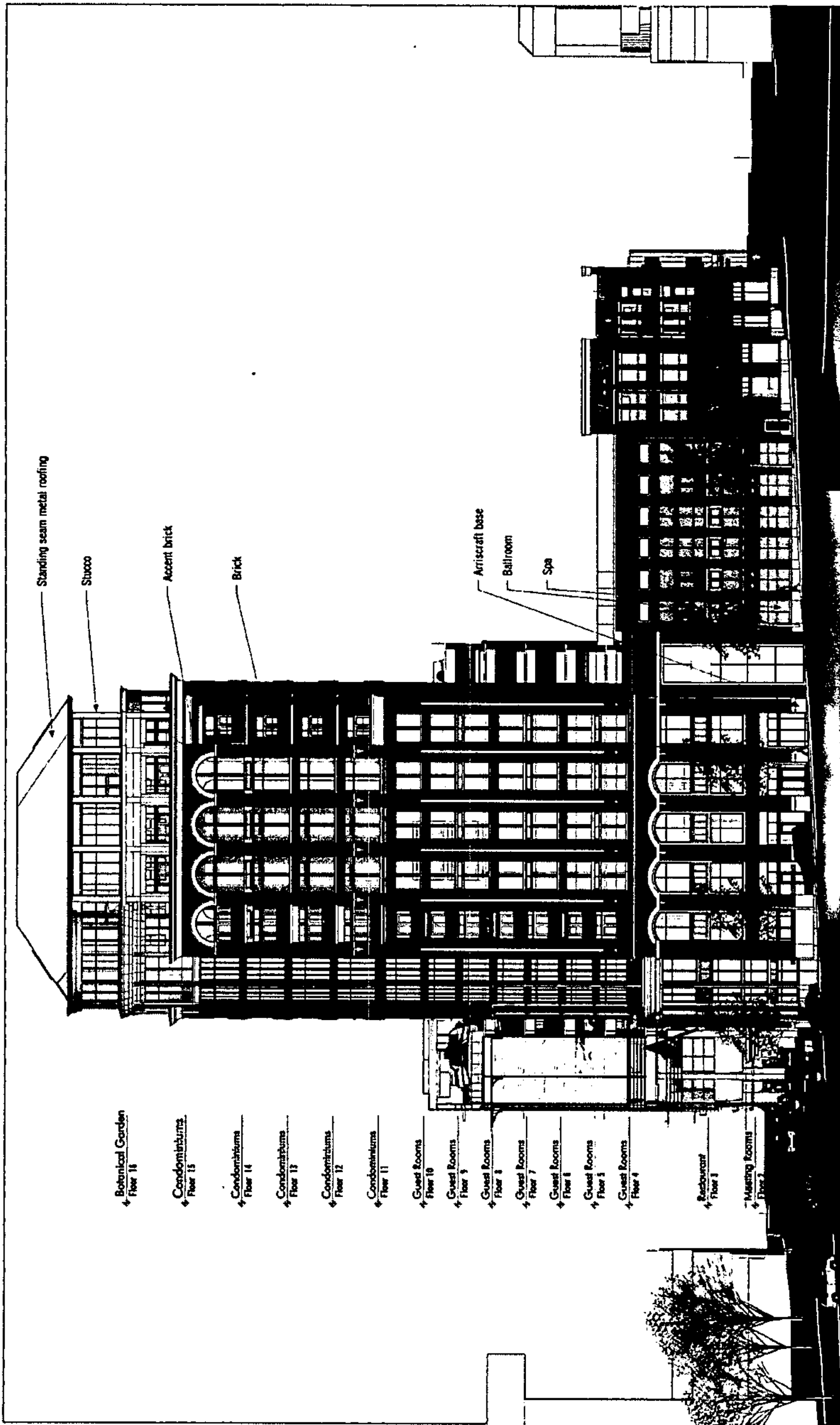


Figure 2: East Elevation

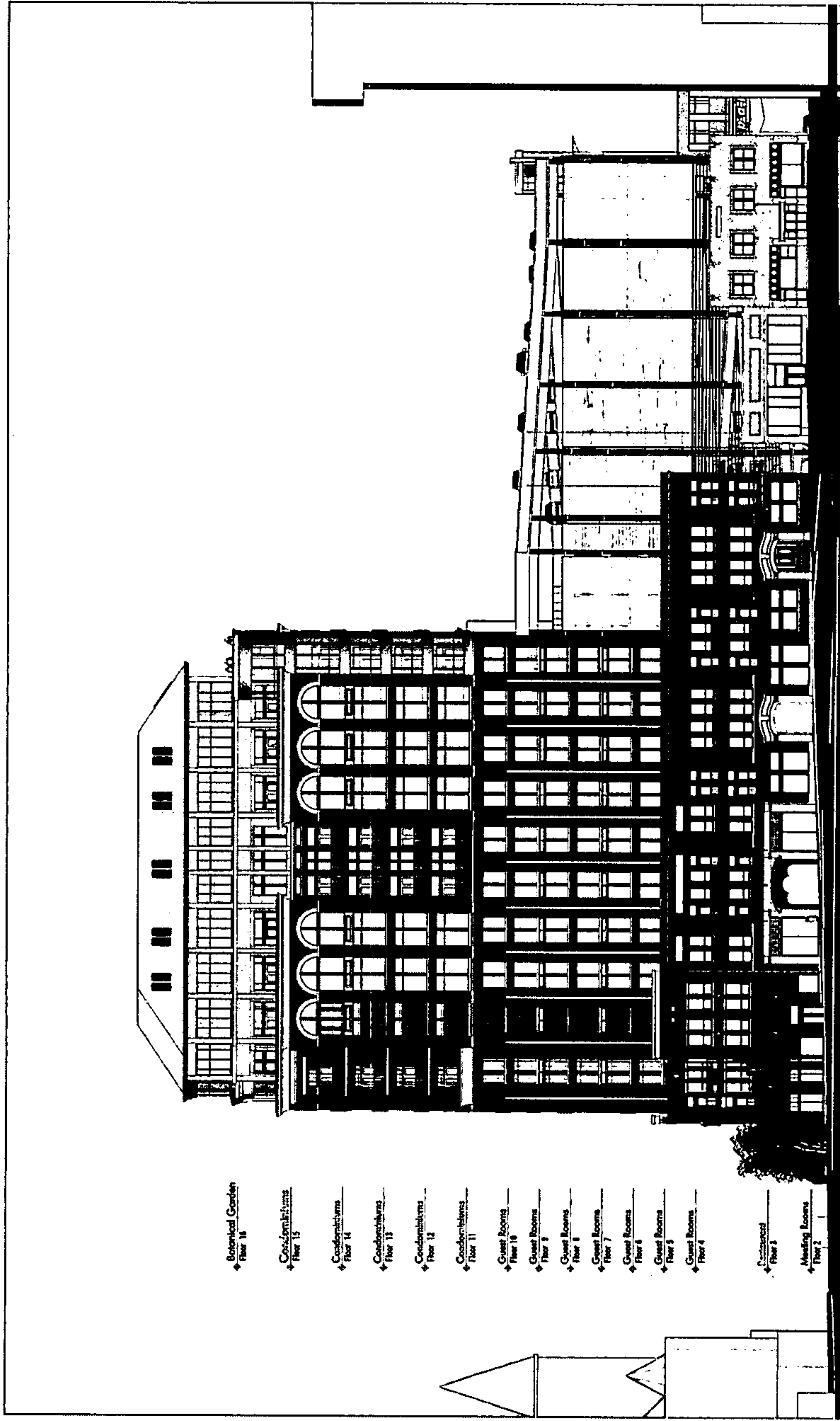


Figure 3: North Elevation

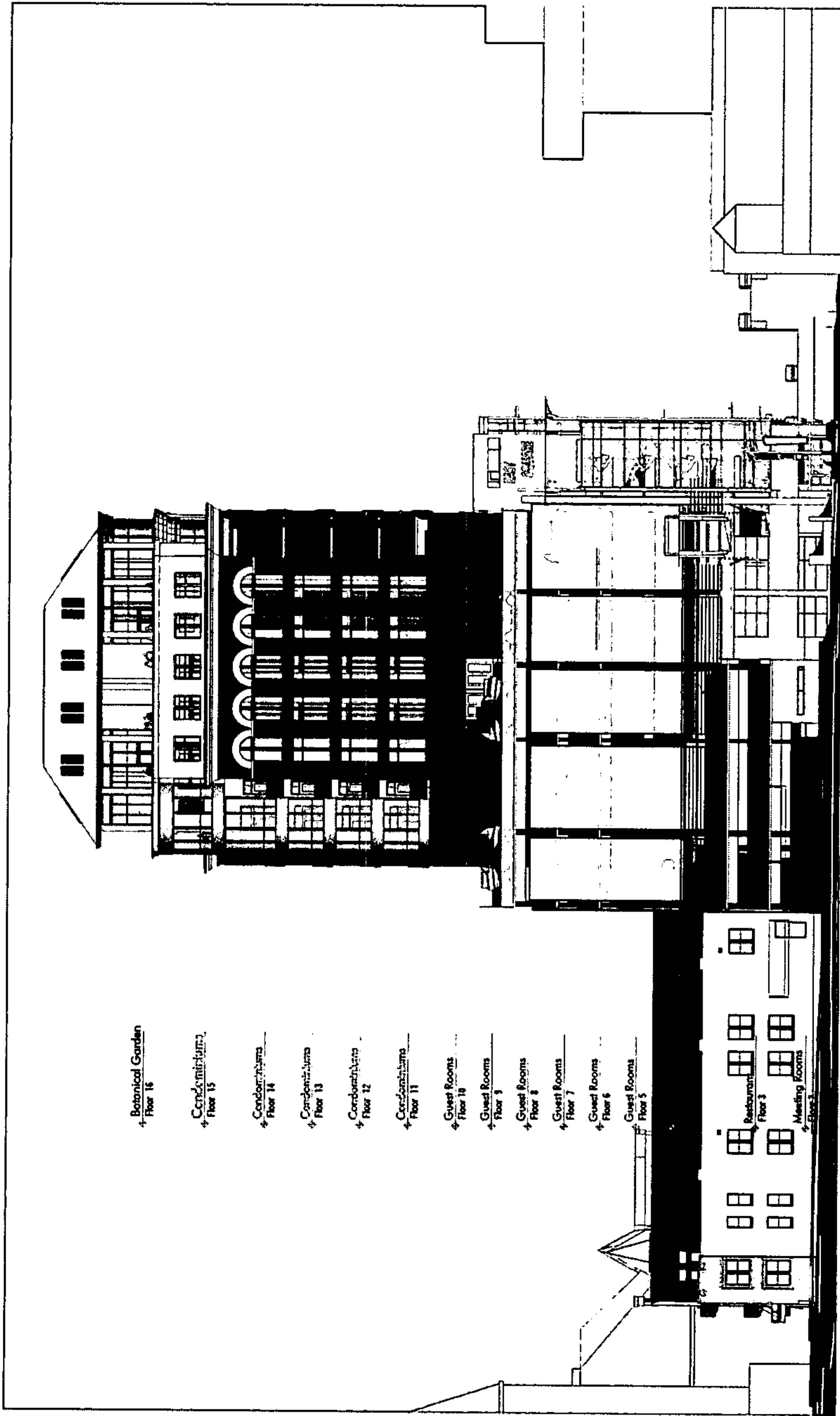


Figure 4: West Elevation

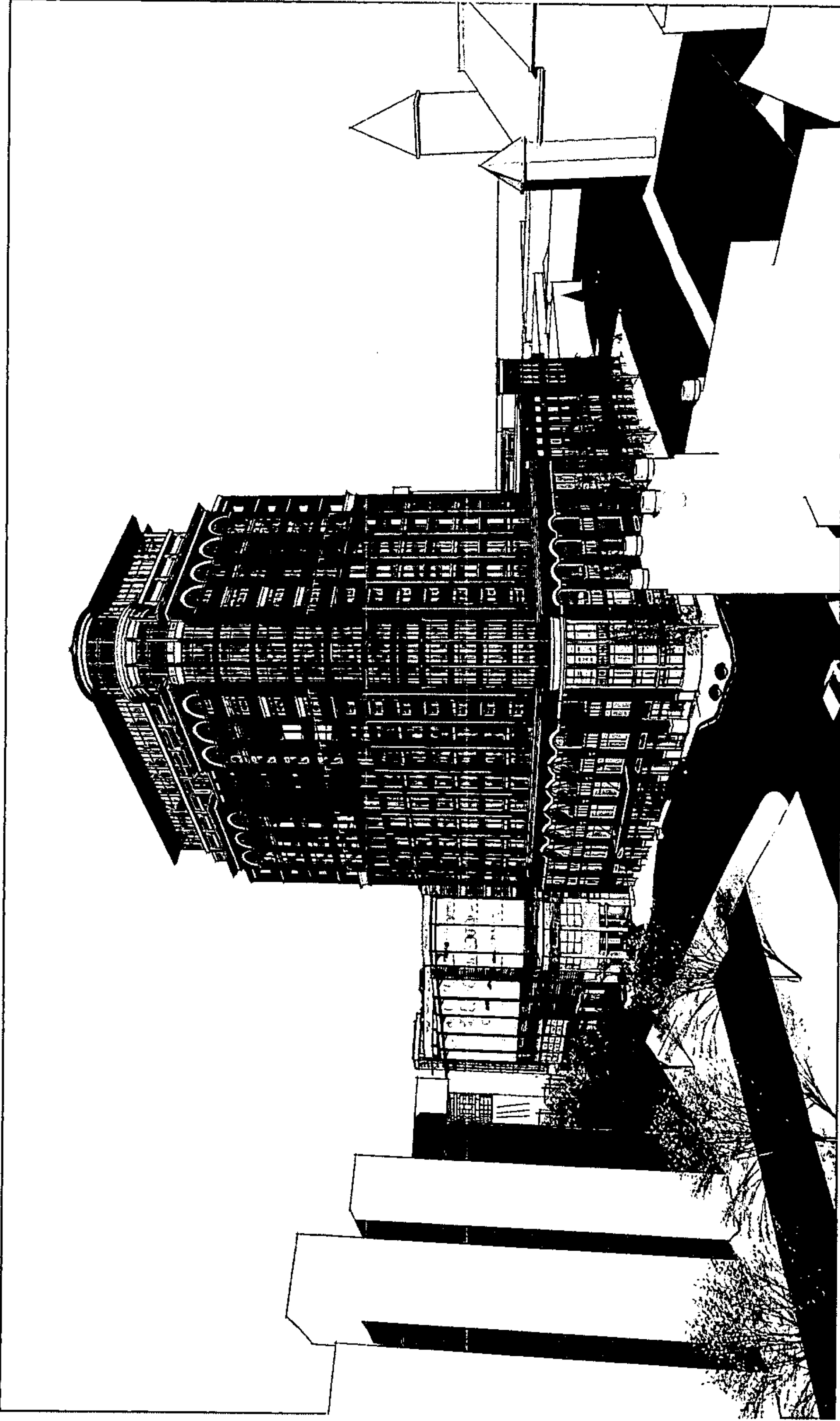


Figure 5: View from Southeast

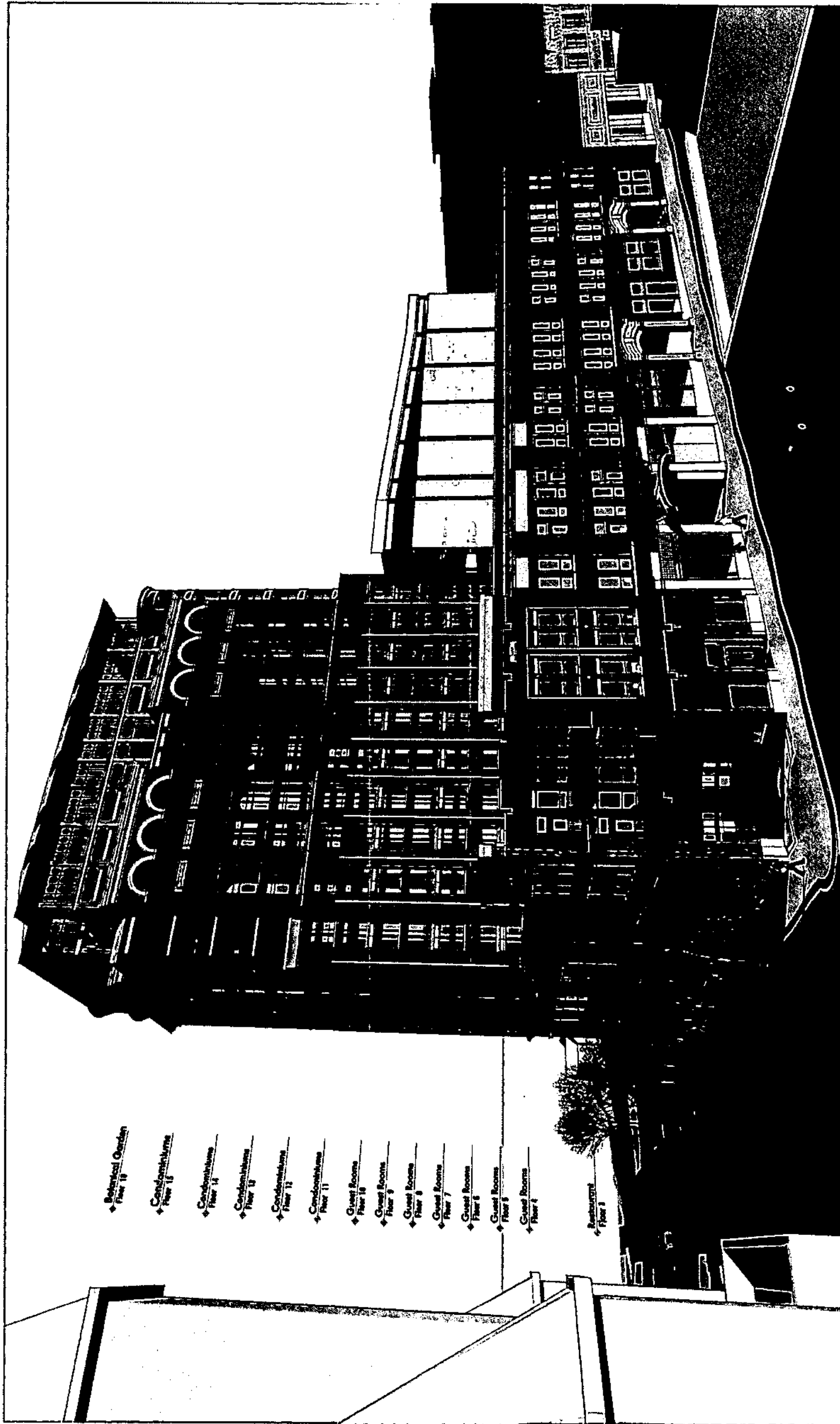


Figure 6: View from the Northeast

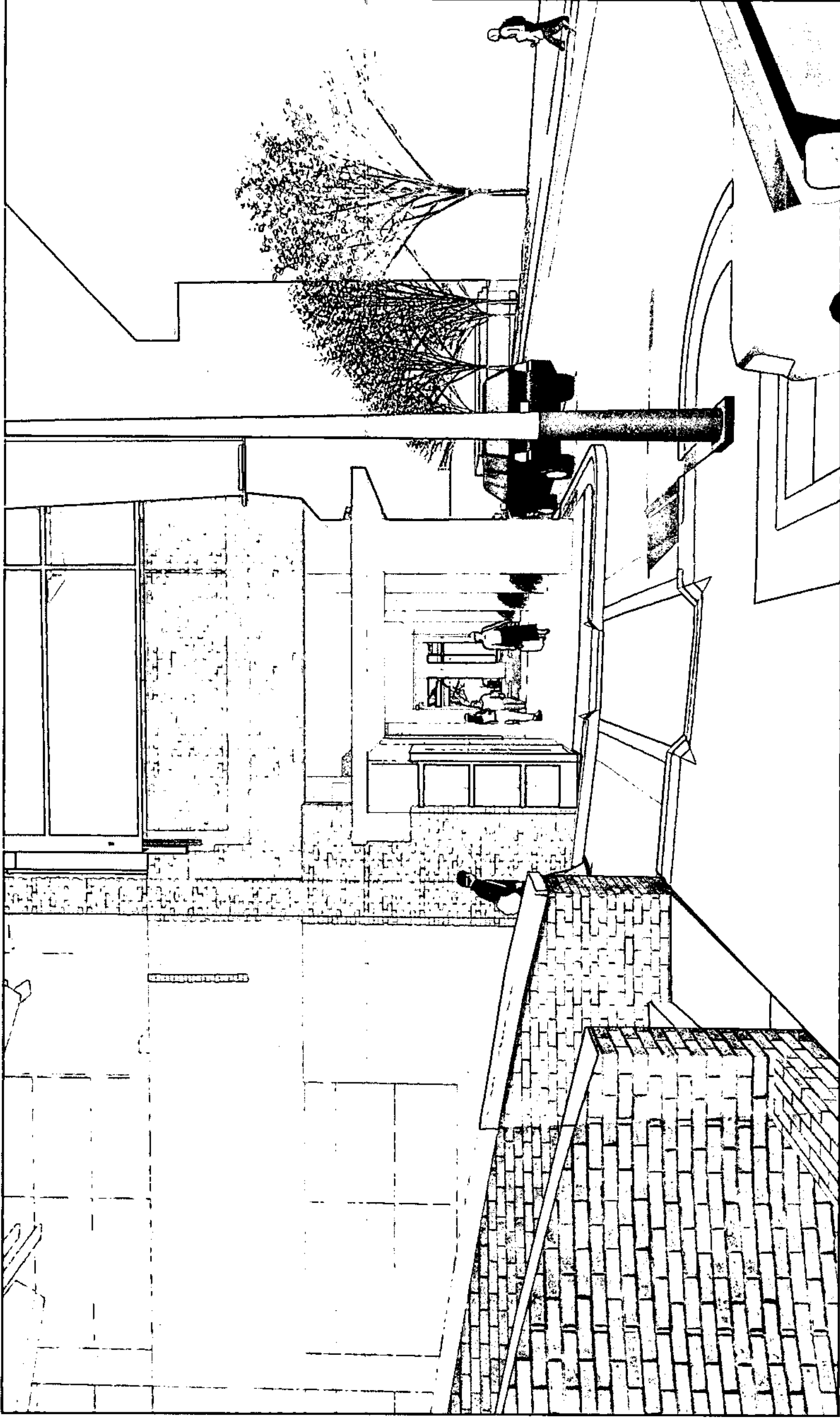


Figure 7: Looking East on Mountain Street

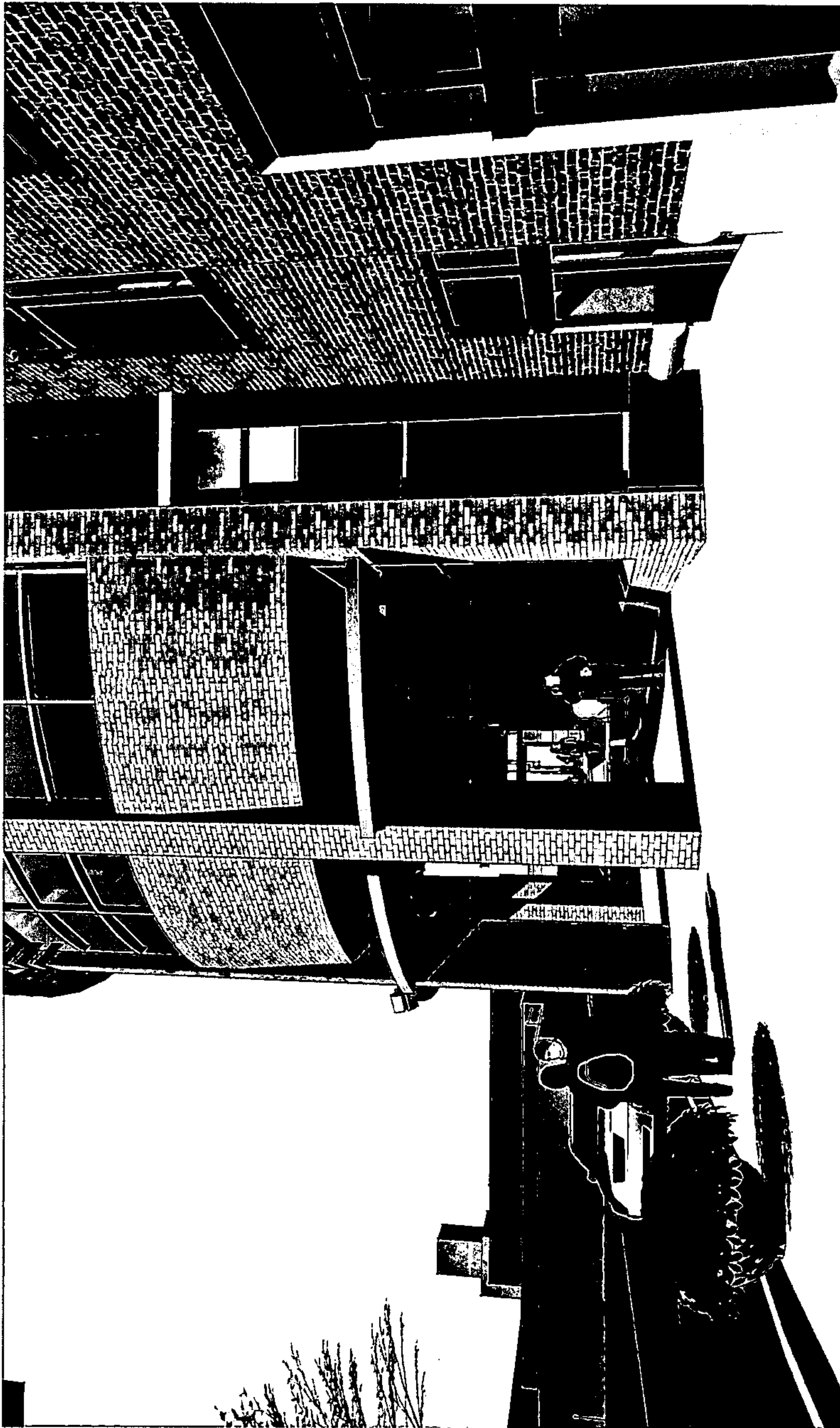


Figure 8: Looking West on Mountain Street

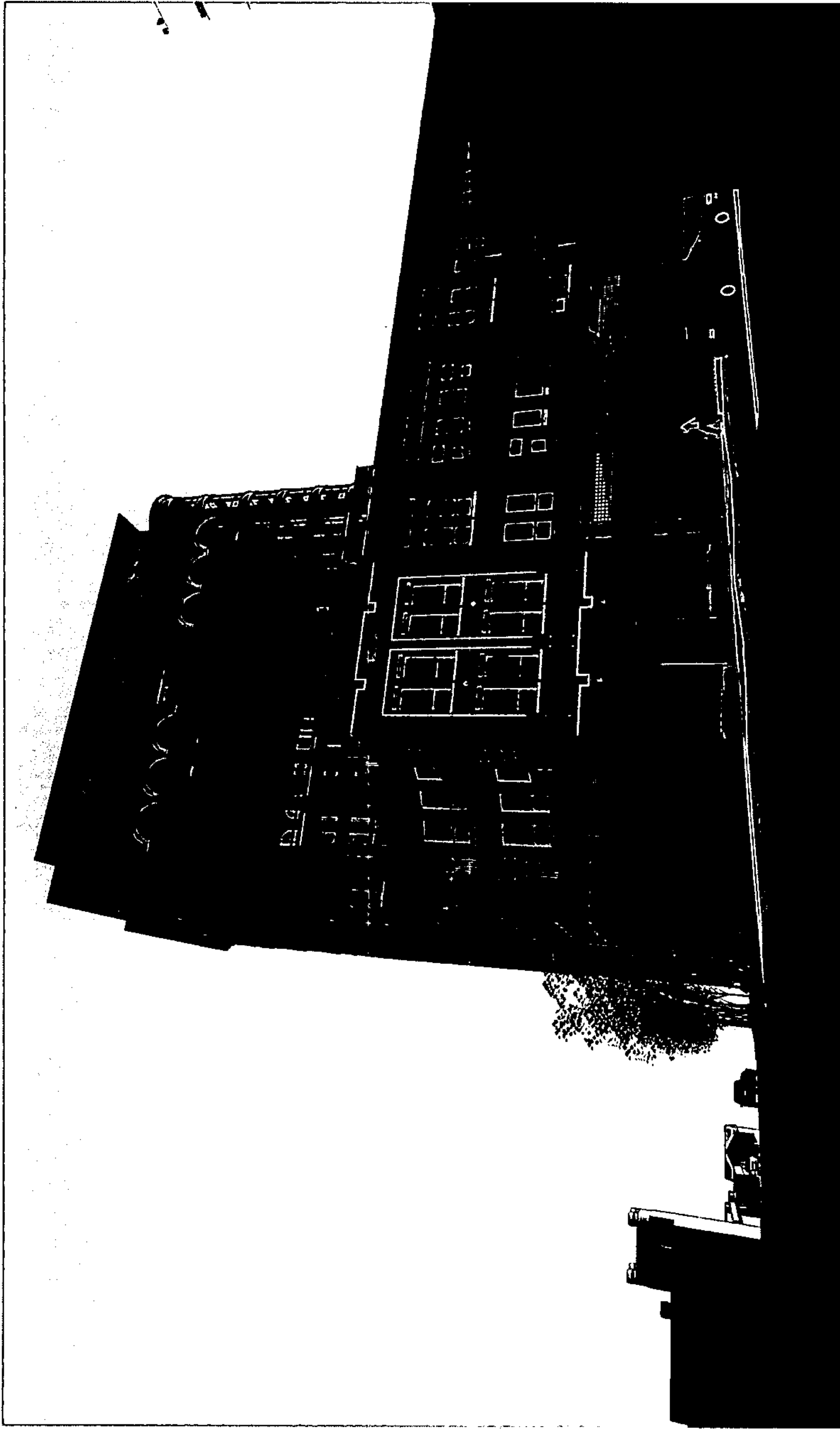


Figure 9: Looking South on College

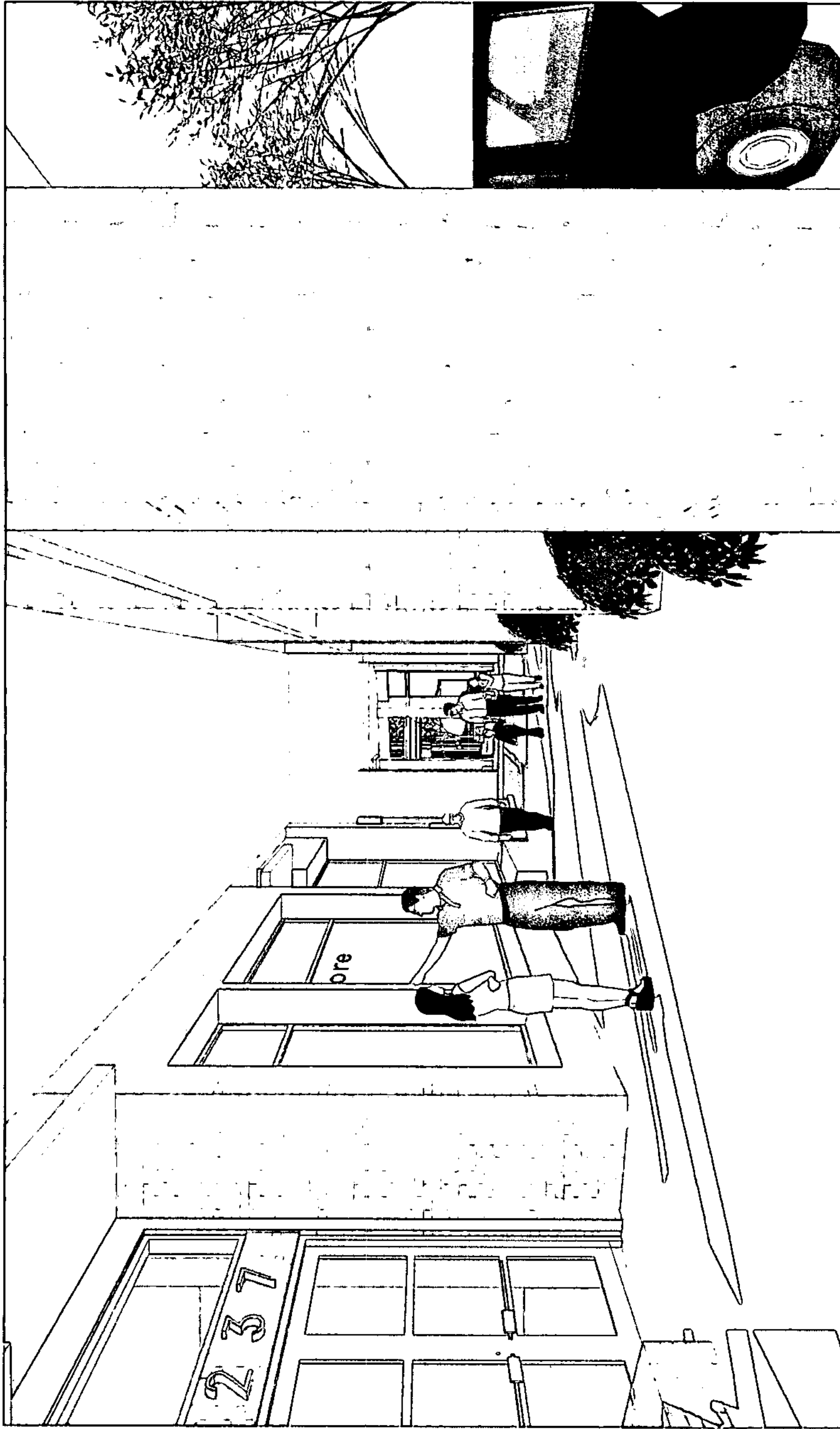


Figure 10: Looking East in the Colonnade

13 TYPICAL PARKING LEVEL

SCALE 1/8"=1'-0"

MOUNTAIN STREET

55' R/W

COLLEGE AVENUE

50' R/W

CENTER STREET

55' R/W

BANK OF AMERICA

3281 SQ. FT. ADDITIONAL -
SHOULD BE ADDED TO COLLEGE
AVE. AND MOUNTAIN ST.

1744 SQ. FT. TO BE USED AS
RETAIL COLONNAGE

RAVE UP

RAVE UP

CONTRACT
10-1-80

EAST SQUARE DEVELOPMENT

CORNER OF COLLEGE AND MOUNTAIN STREET

FAYETTEVILLE

72701

AR

EAST SQUARE DEVELOPMENT

11 N. WEST AVENUE
FAYETTEVILLE, AR 72701
PHONE: 478-621-9818

ROBERT SHARP ARCHITECT, INC

232 SOUTH SCHOOL STE 220
FAYETTEVILLE AR 72701

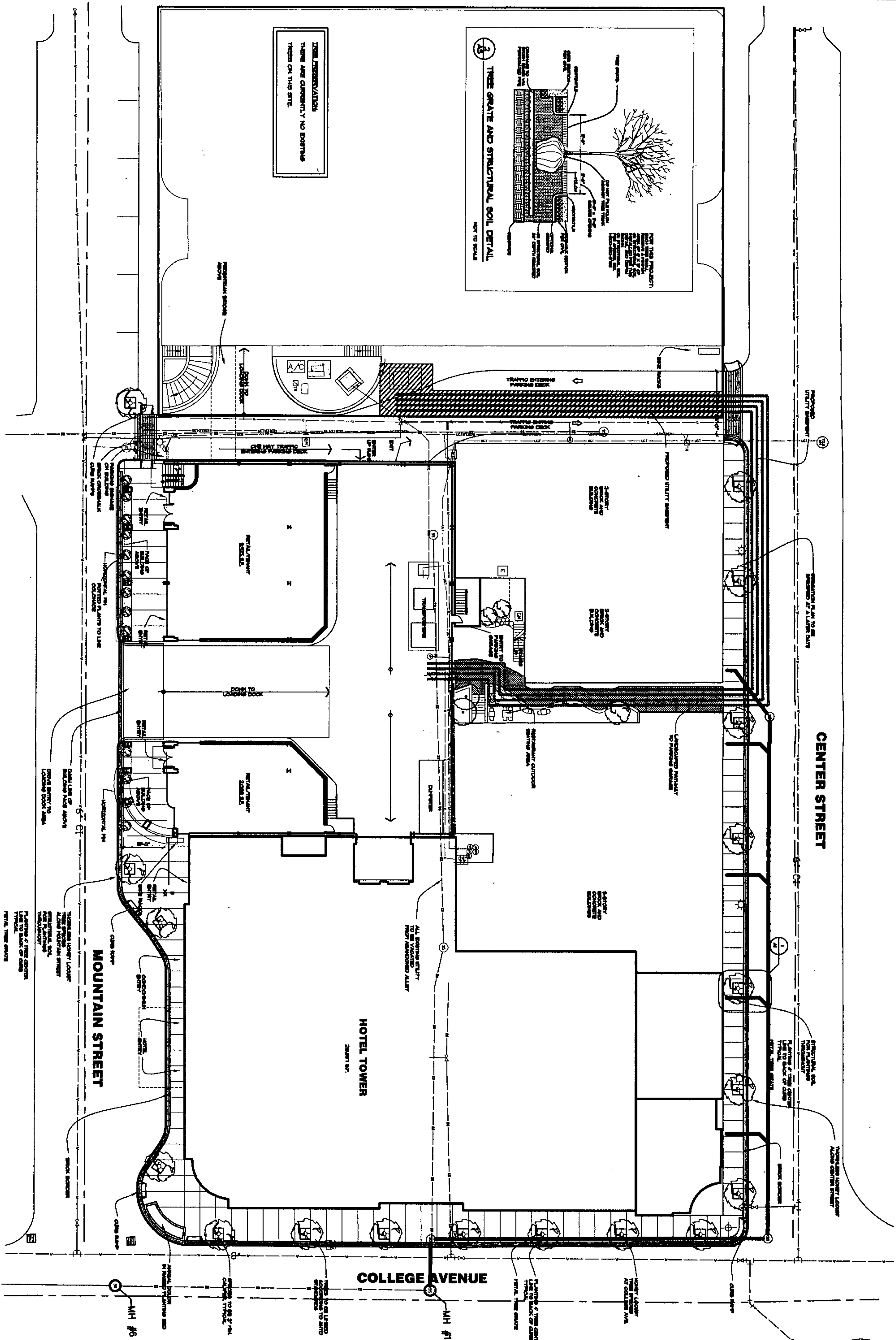
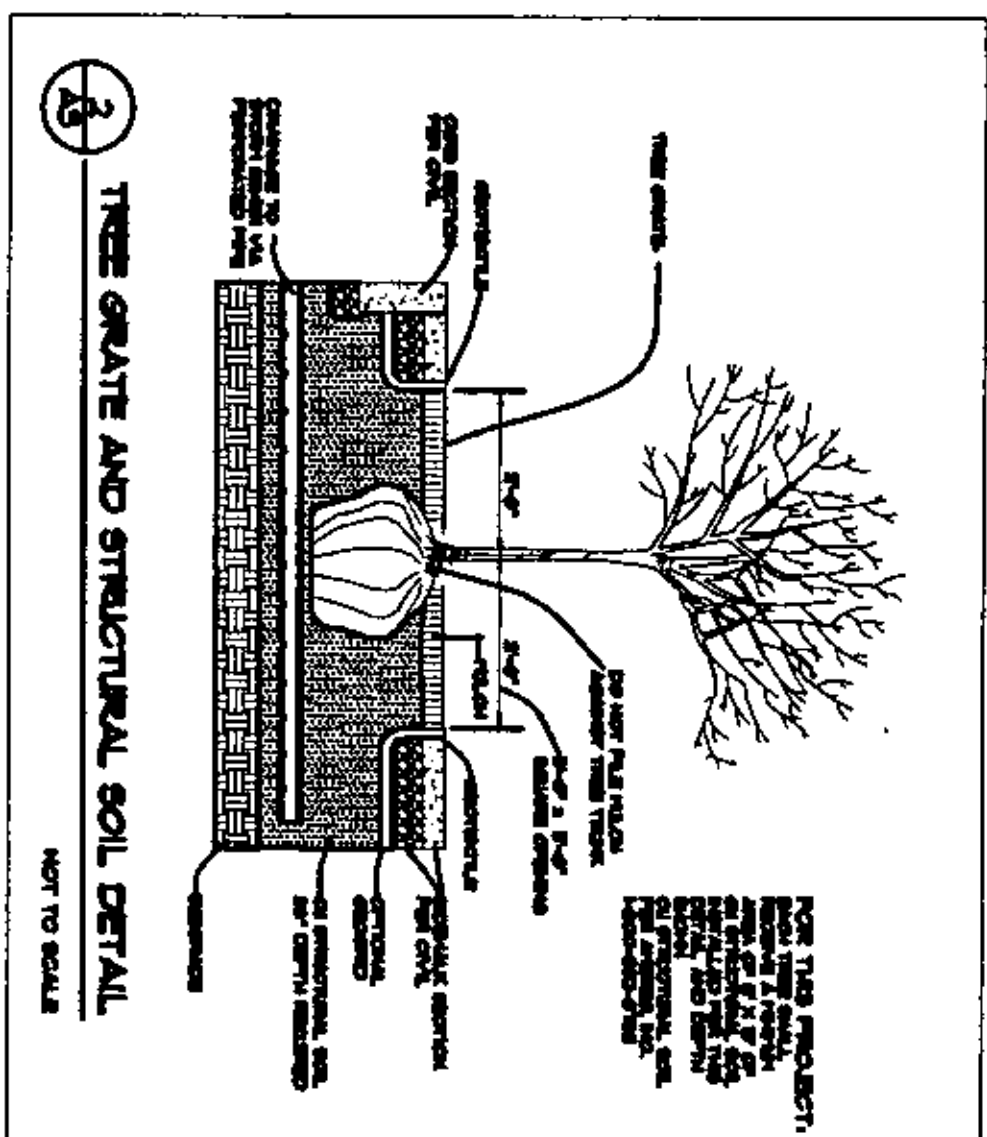
PHONE: 801.443.0228 FAX: 801.443.8721

A2

PARKING
GARAGE PLAN

11/17/05

PRELIMINARY
NOT FOR
CONSTRUCTION

**COLLEGE AVENUE**

EAST SQUARE DEVELOPMENT

FAYETTEVILLE

72701

EAST SQUARE DEVELOPMENT

11 N. WEST AVENUE
FAYETTEVILLE, AR 72701
PHONE: 479-521-9918

PHONE: 479-521-9918

ROBERT SHARP ARCHITECT, INC

252 SOUTH SCHOOL	STE 220
------------------	---------

STE 220

FAYETTEVILLE	AR	72701
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FAX: 501.442.8721

PHONE: 801.442.0229

FAX: 501.442.8721

LANDSCAPE
PLAN

11/17/05

A3

PRELIMINARY
NOT FOR
CONSTRUCTION

PRELIMINARY
NOT FOR
CONSTRUCTION

ROBERT SHARP ARCHITECT, INC.
252 SOUTH SCHOOL
FAYETTEVILLE AR 72701
PHONE: 501-442-0229
FAX: 501-442-8721

PROJECT REPRESENTATIVE:
BOB KOHLER
479-283-4832

EAST SQUARE DEVELOPMENT, L.L.C.
11 N. WEST AVENUE
FAYETTEVILLE, AR 72701
PHONE: 479-521-9918

OWNER/
DEVELOPER:

CORNER OF COLLEGE AND MOUNTAIN STREET
FAYETTEVILLE
72701

11/17/05

SITE PLAN

A1

CENTER STREET

55' R/W

COURTHOUSE
ADDRESS
NOT
AVAILABLE
C-3

22

23

12

2-STORY
BRICK AND
CONCRETE
BUILDING TO
REMAIN

5-STORY
BRICK AND
CONCRETE
BUILDING WITH
BASEMENT TO
REMAIN

5-STORY
BRICK AND
CONCRETE
BUILDING
WITH BASEMENT
TO REMAIN

FUTURE 5 STORY
BUILDING WITH
BASEMENT

RESTAURANT OUTDOOR
SEATING AREA

3 STORY PORTION
OF THE BUILDING
WHICH INCLUDES
THE BALLROOM

PROPOSED
20'-0" R.O.W.

MH #1

HOTEL TOWER

16 STORY BUILDING
RETAIL, RESTAURANT,
HOTEL ROOMS AND
CONDOMINIUMS ABOVE
25,851 SF.

COLLEGE AVENUE

50' R/W

13

COLLEGE AVENUE
20'-0" R.O.W.

MH #6

MOUNTAIN STREET

14

15

UNITED STATES OF AMERICA
ADDRESS NOT AVAILABLE
C-4



1 SITE PLAN
AI

SCALE: 1/8"=1'-0"

NOTES

CURRENTLY ZONED C-4. PROPOSED C-4ZD
PROPOSED HOTEL, RESTAURANTS, RETAIL, CONDOMINIUMS
(74% COMMERCIAL - 26% RESIDENTIAL)
SITE IS 94% COVERED WITH BUILDINGS AND SURFACED AREAS

SUMMARY:

CONDOMINIUMS/ HOTEL TOWER	22
CONDOMINIUMS, CENTER STREET	3
TOTAL CONDOMINIUMS	25
TOTAL ACRES	1.02
UNITS / ACRE	24.5

ALL SIGNAGE WILL CONFORM TO THE COMMERCIAL SIGN
STANDARDS OF THE C-4 ZONING DISTRICT. THE PARKING
GARAGE SHALL BE ALLOWED SIGNAGE IN ACCORDANCE
WITH THE C-4 ZONING DISTRICT REQUIREMENTS.

THIS PROPERTY DOES NOT LIE WITHIN SPECIAL FLOOD
HAZARD AREAS AS SHOWN IN FEMA MAP# 05430000 D.
REVISED DATE JULY 21, 1999.

TREE PRESERVATION

THERE ARE CURRENTLY NO EXISTING
TREES ON THIS SITE.

MOUNTAIN INN (DEMOLISHED) USE TYPE PARKING CALCULATIONS

USE TYPE	QUANTITY/SF	RATIO	FACTOR	CALCULATED TOTAL PARKING
HOTEL ROOMS	64 ROOMS	1.01	1	64
RETAIL, 1ST FL.	2,012	1,250	1/250	8.1
ARCADIA S.F.S.	18,978	1,300	1/300	61.25
MEETING, 2ND FL.	50,817 OCC.	1.04	1/4	12.81
BANQUET, 2ND FL.	2,205	1.50	1/50	44.1
RESTAURANT, 2ND FL.	1,261	1,100	1/100	12.61
RED BUD CAFE	1,096	1,100	1/100	11
REQUIRED PARKING TOTAL				23.74

AVAILABLE PARKING IN DEMOLISHED GARAGE

TOTAL SHORTAGE PER EXISTING REQUIREMENTS

NOTES:
MEETING SPACES OCCUPANCY FOR ASSEMBLY BASED ON
UNCONCENTRATED AT A 15 NET 2ND FLOOR 160 GROSS SF/S
+50.817 OCCUPANCY
BANQUET SPACE: BASED ON DANCEHALL, BART/TAVERN CLASSIFICATION
DEMOLISHED PARKING GARAGE, 3 FLOORS PLUS BASEMENT AND
ROOFTOP, 13 PARKING STALLS ESTIMATED

THIS PROJECT WILL ADHERE TO THE OUTDOOR LIGHTING
ORDINANCE OF THE CITY OF FAYETTEVILLE.

PROJECT PHASING:
THIS PROJECT WILL BE BUILT IN TWO PHASES. PHASE ONE
WILL BE THE DEMOLITION OF THE HOTEL TOWER, USING THE
PARKING GARAGE SITE FOR STAGING. ONCE THE TOWER IS
UP, CONSTRUCTION OF THE PARKING GARAGE WILL BEGIN.
THE BUILDINGS WILL BE COMPLETED AT THE SAME TIME
SINCE THE ISSUANCE OF THE CERTIFICATE OF
OCCUPANCY IS DEPENDANT ON PARKING AVAILABILITY.

EAST SQUARE DEVELOPMENT USE TYPE PARKING CALCULATIONS

USE TYPE	QUANTITY/SF	RATIO	FACTOR	CALCULATED TOTAL PARKING
CONDO, CENTER ST.	3	1.01	1	3
RETAIL, CENTER ST.	438	1,250	1/250	5.75
HOTEL ROOMS	147 ROOMS	1.01	1	147
CONDOMINIUMS	22 ROOMS	1.01	1	22
BAR, 1ST FL.	553	1.50	1/50	44.1
RETAIL, 1ST FL.	6,470	1,250	1/250	25.88
MEETING, 2ND FL.	286 OCCP.	1.04	1/4	71.5
MEETING, 3RD FL.	150 OCCP.	1.04	1/4	37.5
BALLROOM, 3RD FL.	6,140	1.50	1/50	122.8
RESTAURANT, 3RD FL.	625	1.100	1/100	62.5
SUBTOTAL				528.6

LESS PARKING SHORTAGE OF PRIOR STRUCTURE
REQUIRED PARKING SUBTOTAL

LESS 50% TOTAL

TOTAL

PARKING STALLS PROVIDED

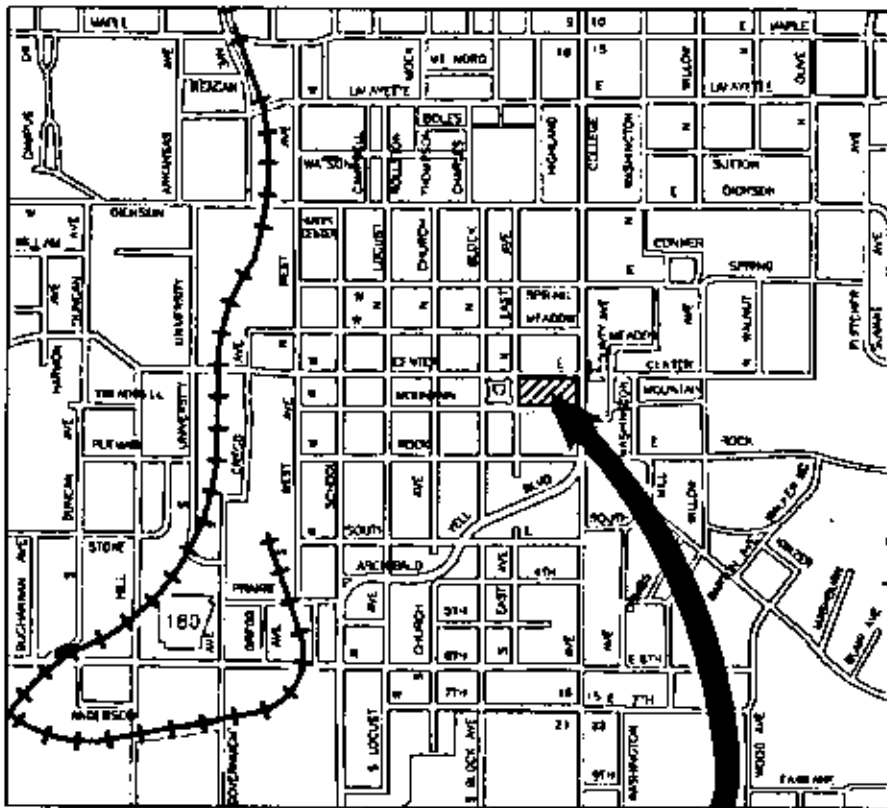
12 PARKING STALLS WILL BE DEDICATED TO SERVE THE CONDOMINIUMS
IN THE BANK OF AMERICA.

NOTES:

RESTAURANT GROSS SF:
DINING 5,108
PRIVATE DINING 888
KITCHEN 1,208
SERVING 441
6,235

MEETING SPACES: OCCUPANCY OR ASSEMBLY BASED UPON
UNCONCENTRATED AT A 15 NET
2ND FLOOR 4,283 GROSS SF/S+285.5 OCCUPANCY
3RD FLOOR 1,150 GROSS SF/S+150 OCCUPANCY
BALLROOM AND LOBBY BAR: BASED ON DANCEHALL, BART/TAVERN
CLASSIFICATION; BAR 352 SF IS COMPRISED OF OPEN SPACE
WITHIN THE HOTEL LOBBY

PROPOSED PARKING GARAGE: 1-1/2 FLOORS, 133,916 SF,
350 PARKING STALLS



VICINITY MAP
NOT TO SCALE PROJECT
LOCATION

① Vacate an existing alley that runs from east to west from College Avenue to an area to the east of the Bank of America building. This alley is being closed to allow construction of the hotel tower, the parking deck, and the meeting spaces. The utilities that are in this alley currently will be relocated. Over the years this alley has been built over in several places and access for utility repair would be extremely difficult. All the utility companies have participated in planning the relocation of existing utilities. We feel that vacating this alley is critical to the projects success and vastly improves utility access.

② Bridge over an existing alley that runs north to south along the east side of the Bank of America building. We are proposing to provide parking for the Bank of America building in the new parking deck. We will be providing a covered, enclosed pedestrian walk between the parking deck and the existing building. The walk will be less than 20' wide and its structure will not bear on the alley. Due to the existence of fiber optic cables in this alley, no construction will be performed in this alley. We feel that this bridge will in no way impair the functioning of this alley.

③ Amend Master Street Plan along College Avenue. One of the consistent themes of the Downtown Master Plan was the desire to civilize College Avenue. Dover Kohl and Partners discussed the idea of "putting College Avenue on a diet" and turning into a walkable street rather than a sprawling automotive strip. To this end, we are proposing installing 14' wide sidewalks and street trees along College Avenue. We are also proposing that the east facade of the hotel be set back 4' from the existing right of way. The current College Avenue right of way is 50' feet. Dover Kohl and Hall Planning and Engineering recommends that College Avenue right of way be 60'. The current Master Street Plan envisions College Avenue as a Principal Arterial being 110' wide. This is clearly unrealistic, as it would involve tearing down the historic Washington County Courthouse, the old jail, First Baptist Church and every other significant building between Sixth Street and Maple Avenue. We feel that the recommendations of the Downtown Master Plan should be honored. We ask that College Avenue Master Street Plan right of way be 60' (50' from centerline). We also request the right to extend balconies, awnings, canopies, and other building supported structures out into the College Avenue right of way above street level.

④ Waiver to allow construction over existing right of way Mountain Street. We are proposing a pedestrian colonnade along Mountain Street. This will be an open air covered sidewalk with retail show windows along the north side. A critical component of this pedestrian colonnade is that it provides a covered walk between the hotel and the Fayetteville Town Center, thus encouraging shared functions between the two facilities. The area above the colonnade will be a parking structure for 550 cars. The location of the parking structure was driven by the developer's desire to save historic buildings along Center Street. The geometry of the parking structure requires two 62' wide lanes for a minimum overall width of 124'. This puts a portion of the parking structure into the street right of way. We have provided a variety of design elements to screen the Mountain Street facade of the parking structure. We are proposing awnings, trellises, canopies, perforated metal screens, signage, railings, and cornices to give the parking structure an appropriate scale. According to the Downtown Master Plan, "The primary goal of the Architectural elements is authenticity. The elements encourage construction which is straight forward and functional and which draws its ornament and variety from the traditional assembly of genuine materials." Due to the functional nature of the parking structure, its design was inspired by the robust and vibrant qualities of industrial architecture. In addition, great care has been taken to provide a pleasant and vibrant pedestrian experience along Mountain Street. We request that the Master Street Plan along Mountain Street, along the north side of the street, to the south of the parking deck only, be narrowed to 14' from the centerline. We also request the right to extend balconies, awnings, canopies, and other building supported structures out into the Mountain Street right of way above street level.

Summary The four waivers or amendments described above would allow us to construct the East Square Redevelopment project in a way that is consistent with the goals of the Downtown Master Plan.

LEGAL DESCRIPTION

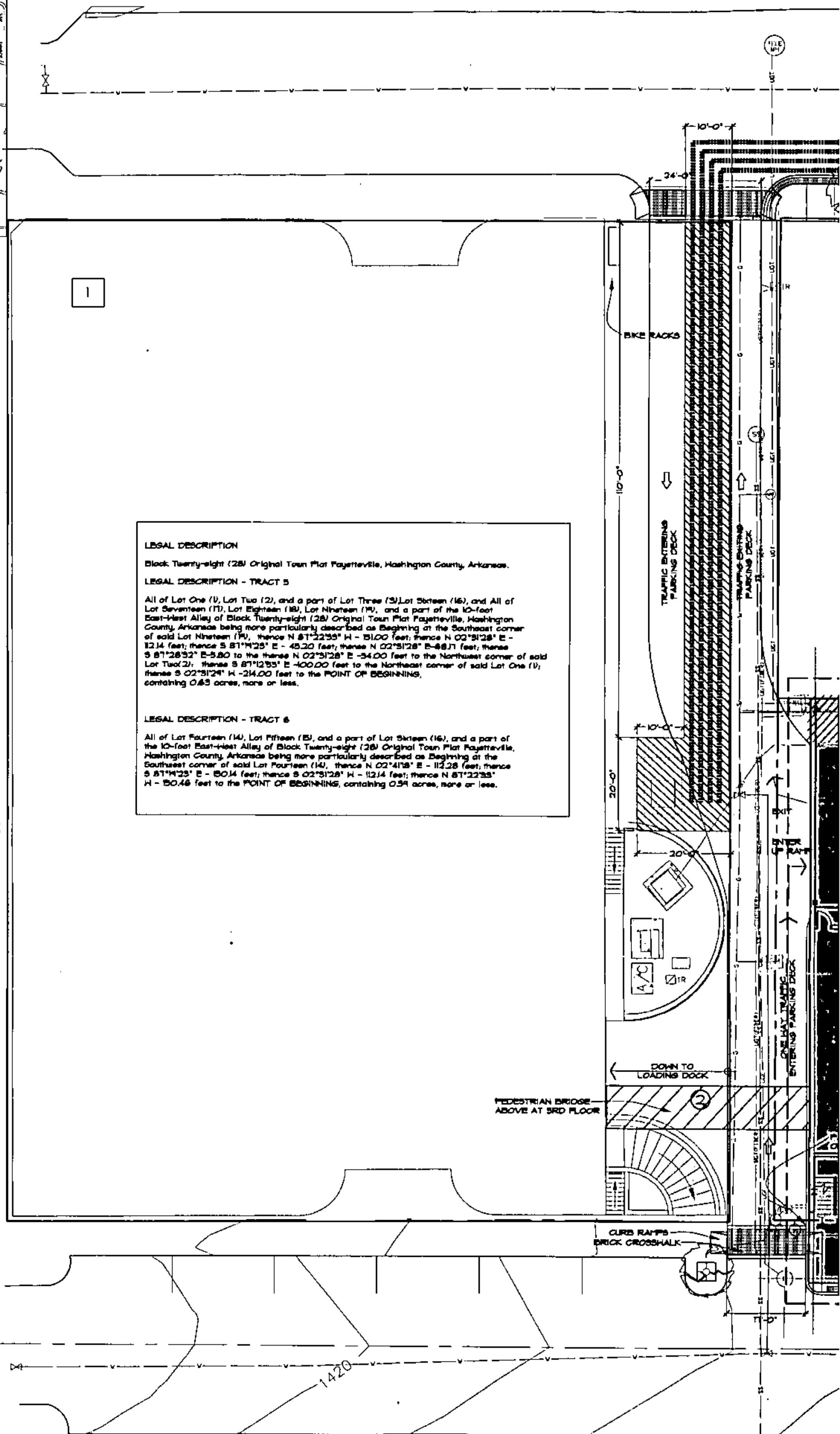
Block Twenty-eight (28) Original Town Plat Fayetteville, Washington County, Arkansas.

LEGAL DESCRIPTION - TRACT 5

All of Lot One (1), Lot Two (2), and a part of Lot Three (3), Lot Sixteen (16), and All of Lot Seventeen (17), Lot Eighteen (18), Lot Nineteen (19), and a part of the 10-foot East-West Alley of Block Twenty-eight (28) Original Town Plat Fayetteville, Washington County, Arkansas being more particularly described as Beginning at the Southeast corner of said Lot Nineteen (19), thence N 81°22'33" E - 51.00 feet; thence N 02°31'28" E - 12.14 feet; thence S 81°14'25" E - 45.20 feet; thence N 02°31'28" E - 68.17 feet; thence S 81°28'32" E - 5.80 feet to the thence N 02°31'28" E - 34.00 feet to the Northwest corner of said Lot Two (2); thence S 81°12'53" E - 400.00 feet to the Northeast corner of said Lot One (1); thence S 02°31'24" W - 24.00 feet to the POINT OF BEGINNING, containing 0.63 acres, more or less.

LEGAL DESCRIPTION - TRACT 6

All of Lot Fourteen (14), Lot Fifteen (15), and a part of Lot Sixteen (16), and a part of the 10-foot East-West Alley of Block Twenty-eight (28) Original Town Plat Fayetteville, Washington County, Arkansas being more particularly described as Beginning at the Southeast corner of said Lot Fourteen (14), thence N 02°41'58" E - 112.28 feet; thence S 81°14'25" E - 150.14 feet; thence S 02°31'28" W - 12.14 feet; thence N 81°22'33" E - 150.46 feet to the POINT OF BEGINNING, containing 0.59 acres, more or less.



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Susan Thomas, Public Information & Policy Advisor 

Date: November 28, 2005

Subject: Telecom Board Appeal

RECOMMENDATION

That City Council uphold the Telecommunication Board's decision to discontinue filming and cable-casting Fayetteville Public School Board meetings.

BACKGROUND

On June 8, 2005, Alan Wilbourn, Director of School and Community Relations for the Fayetteville Public Schools, sent an email to City of Fayetteville Cable Administrator Marvin Hilton stating that the School District no longer required the services of the government channel with regard to filming Fayetteville Public School Board Meetings (request from Wilbourn attached). The City adhered to this request and discontinued filming and cable-casting the meetings.

In response to the City's decision to stop filming the meetings, Mr. Jim Bemis initiated, according to current Government Channel Policy (attached), a citizen request to film and cablecast the School Board Meetings on June 22, 2005. The City again stated that the meetings would not be covered, and Mr. Bemis requested a formal response from the City outlining the City's official position on the matter. On July 6, 2005 a formal response was provided to Mr. Bemis (attached email from Susan Thomas). Upon receipt of that response, Mr. Bemis filed a formal complaint with Cable Administration on July 7, 2005. The matter was heard and considered at the July 21, 2005 meeting of the Telecommunications Board (minutes attached). There was some question as to the nature of Mr. Bemis's complaint, and the Telecom Board rescheduled hearing of this matter for August 2005.

At the August 18, 2005 Telecommunications Board meeting, the board unanimously accepted the City's interpretation of the Government Channel Policy supporting the decision to stop filming Fayetteville Public School Board meetings (minutes attached). At the same meeting Mr. Bemis indicated his desire to forward his complaint to the City Council. Because this was the first Telecommunications Board decision appeal, city staff agreed to assist Mr. Bemis in identifying the proper procedure and protocol for getting his complaint on the Council's agenda. After discussion among city staff, it was concluded that the appeal process should model the planning commission appeal process whereby the citizen appeals directly to the City via a written letter to the City Clerk. This suggestion was provided to Mr. Bemis via email on August

23, 2005 (attached), and Mr. Bemis submitted his letter of appeal to the City Clerk on November 17, 2005 (attached).

DISCUSSION

An important critical first step is for the Council to clarify whether they wish to be included in the appeal process for Telecommunication Board decisions. Council should also be aware that during this appeal process, the Telecommunications Board formed a Government Channel Policy Subcommittee, and that committee has drafted a new policy document for the government channel (attached). The new document, which has not yet been approved by the Telecommunication Board, does not allow for appeals to move beyond the Board. That is, the Telecommunications Board will have final say in all Cable Administration/PEG Facility related complaints.

It should also be noted that according to current Government Channel policy, while an appeal is in process, all meetings in question will be filmed but not aired. If the appeal is approved, backlogged meetings can be aired.

Ordinance #4504 which outlines the purpose and intent of the Telecommunications Board has also been attached for your information.

BUDGET IMPACT

N/A

From: "Alan T. Wilbourn" <awilbourn@fayar.net>
To: "Marvin Hilton" <mhilton@ci.fayetteville.ar.us>
Date: 6/8/05 3:08PM
Subject: school board meetings

Marvin,

Beginning with the July 28, 2005 school board meeting, we will move the broadcasts of all school board meetings to the Education Channel in cooperation with Cox Communications and UATV. This move will give FHS students the opportunity to operate the cameras as part of the multi-media program we're developing at FHS and give them live, hands-on experiences.

It's been a pleasure to work with you, Ric, and all of the folks at the Government Channel, and you've been a great service to us. Thanks for all your help over the years!!

Alan T. Wilbourn
Director of School & Community Relations
Fayetteville Public Schools
PO Box 849
Fayetteville, AR 72702
(479) 444-3000 ext. 654

CC: "Susan Cromwell" <scromwell@fayar.net>

POLICY ON THE USE AND PROGRAMMING OF
THE GOVERNMENT ACCESS CHANNEL
FAYETTEVILLE, ARKANSAS
(approved by Telecommunications Board July 29, 2004)

The City of Fayetteville Government Access Channel, in accordance with resolution 94-91, is intended to give Fayetteville citizens information about City government services, programs, and activities and their relationships within the community and help create an open and participatory local government. The channel is administered by the City's Cable Administrator under guidelines established by and interpreted by the Telecommunications Board and City Council. The Cable Administrator schedules and manages the facilities and staff of the Government Access Channel for videotaping or other cable-based coverage of appropriate programs, events, and spots under the provisions outlined in this policy.

I. TELECOMMUNICATIONS BOARD

The Fayetteville Telecommunications Board was created under Ordinance 4505, Chapter 33, to advise the Council on telecommunications issues and to coordinate and oversee telecommunications franchise systems and use of the public rights of way designated for public, educational and governmental use in the City of Fayetteville." The seven-member Telecommunications Board also serves directly in an appeal process that considers and interprets issues regarding exceptions, variations, or modifications to this Policy Statement. Appeals to decisions made under this policy will follow the process outlined in this policy.

II. ELIGIBILITY FOR USE

A-1. CITY MEETINGS WITH STANDING AGREEMENTS TO TELEWISE

First priority for use of the channel will be given to requests, made in accordance with this policy, by the mayor, the City Council, individual council members, City Departments, or City Divisions. The Cable Administration Division, through its operation of the Government Access Channel, has a standing agreement to cablecast certain official city government meetings. The Cable Administration Division shall maintain a record of such meetings. If the party originally making the request and establishing the standing agreement is no longer in a position to make requests, an appeal to remove a meeting from this standing agreement may be made to the Telecommunications Board.

A-2. ADDITIONAL CITY MEETINGS

Other meetings concerning city business will be cablecast if they meet Freedom of Information (FOI) criteria and are requested by any one of the following: the mayor, the City Council, one individual council member, a department or division head, any elected city official or any three Fayetteville citizens, who are registered

voters, living within the city limits of Fayetteville, may make such requests. In addition the chair of any city council appointed committee may request to have the committee, of which they are the chair, televised.

In addition, any three citizens, who are registered voters, living within the City limits of Fayetteville, may request any meeting, that meets FOIA requirements and dealing with government business that directly impacts the Citizens of Fayetteville. Such requests will be subject to the resources available at the time, including the ability and practicality of traveling outside of Washington County.

B. FAYETTEVILLE PUBLIC SCHOOLS

Second priority for use of the Government Access Channel will be given to meetings and official functions of the Fayetteville Public Schools Board of Education. Such programs and meetings shall be requested by the School Board or School Administration

C. CITY INFORMATIONAL PROGRAMS

Third priority for use of the Government Channel will be given to non partisan informational programs about City services or activities. Such informational programs shall be requested by any elected City Official, Department or Division Head on subjects within their purview.

D. OTHER GOVERNMENTAL ENTITIES

Fourth priority for use is given to other government entities, such as Washington County, State and Federal Agencies and Tri-county Solid Waste, presenting programs about government services or activities that are non-partisan in nature and that affect the City of Fayetteville. These governmental units must submit requests for producing and cablecasting programs or meetings directly to the Cable Administrator or through one of the other City officials or agencies noted above.

E. Fifth priority will be given to requests by citizens, outside agencies, or groups with whom the City of Fayetteville contracts or to whom it grants money to provide city services or activities. In such cases, the program should be non-partisan in nature or a limited public forum (see criteria for limited public forum below).

F. Sixth priority will be given to two types of limited public forums: candidate forums and issue forums. Declared candidates for any public office, and persons advocating any cause, viewpoint, or proposed policy of a particular nature, will be eligible to appear only in a limited public forum venue.

A limited public forum has the following criteria:

- It is devoted to public expression and the free exchange of ideas and is conducted in a public place.
- All candidates or sides of an issue are given an equal opportunity to appear.
- Reasonable time, place, manner, and format restrictions will be applied without reference to content.
- The Cable Administrator may contact a non-partisan organization to organize the forum.
- The forum will be moderated or sponsored by a non-partisan person or organization that will ensure equity. All candidates and organizations participating in the forum will have the right of approval of the moderator from a list prepared by the Cable Administration Division. During the forum, the debate will be timed and the moderator will solicit and select audience input, and decide points of order.
- If it becomes apparent that only one side of a forum is willing to participate, the Cable Administrator may make a decision to conduct the forum with only one side participating. In such a case, all of the rules as stated here for conducting a forum shall remain and be applied.

Candidate forums:

- For purposes of this policy, a person is considered to be a candidate from the time of announcing publicly for any public office until the election has been held.
- This restriction that candidates can appear only in a limited public forum does not apply to persons who receive incidental air time as part of public meetings being cablecast on the channel, nor to officials acting as part of their regular duties when such activities do not involve partisan politics.
- Ongoing series or programs featuring any elected City official may not be broadcast within 30 days of a contested primary or general election involving seats on the council or the mayor.
- The City, through the Cable Administration Division, may conduct one candidate forum for each contested office before each election. As resources permit, forums may be conducted for school board and any government office representing the Fayetteville area, including City, County, State and Federal offices. These are the only candidate forums that will appear on the Government Access Channel.
- Candidate forums for any contested office must be requested in writing by at least one of the declared candidates for that office.
- No candidate forums will be held before the last filing deadline.

Issue forums:

In addition to the limited public forum criteria:

- Issue forums must be requested by at least two elected city officials or any five Fayetteville citizens, who are registered voters, living within the city limits of Fayetteville.
- The issue must be related to government ordinances, policies, or activities, thereby serving a compelling government interest.
- Issue forums may be sponsored by non-partisan or partisan entities, but they must satisfy all criteria listed above for limited public forums, with particular attention to all sides of the issue being given equal opportunity to appear and to the moderator being mutually agreeable to all entities involved in the forum.
- Requests for issue forums must be made to the Cable Administration Division at least two weeks in advance. The Cable Administrator will verify that all criteria have been met and that resources are available to record the event (on a first come, first served and fifth-priority basis). If resources are not available, the forum will not be taped by the Government Channel staff for cable casting on the Government Access Channel.
- All decisions by the Cable Administrator will be communicated in writing to the requesting parties. Appeals to the Administrator's decisions will follow the appeal process outlined in this policy.

III. SCHEDULING

A. The Cable Administration Division will be responsible for scheduling appropriate programs and spots on the Government Access Channel and for publicizing the schedule.

Programs will be scheduled for cablecasting according to the following order of priority.

B. Announcements or programs concerning emergencies affecting residents' health or safety.

C. Regularly scheduled, recurring programs including informational series and cablecasts of regular public meetings.

D. One-time, special, or non-regular informational programs or cablecasts of meetings or other activities by government units.

E. Public service announcements.

F. Programs produced by persons, agencies, or groups outside of Fayetteville City government with whom the City contracts or to whom it grants money. These

programs must be submitted and approved for use on the Government Access Channel (See procedures for submission and approval of programming below).

G. Limited public forums for both candidates and issues.

H. Replays: Standard replays of meetings shall be one in the morning hours and one in the afternoon or evening hours, in addition to any live telecasting. Any City elected official, Department or Division head may request additional replays of City archived meetings and programs to be replayed. Programs and meetings originally requested by agencies, other than the City, may also be requested for such replays by the originating agency. Any three citizens may request any archived meeting or program to be replayed. Informational programs may be replayed from time to time, at the discretion of the Government Channel staff, to create continuous programming and more effectively disseminate information.

I. The "Government Channel Bulletin Board" service giving printed information about both City and community events and services when other programs are not being cablecast.

J. The "Government Channel Bulletin Board" is primarily intended to inform residents of government activities, meetings, and events. The Bulletin Board may also be used to inform residents of other "free" community events and activities sponsored by Fayetteville-based nonprofit, service, or charitable organizations. Bulletin Board announcements / messages will be aired at the discretion of the Cable Administration Division and will be subject to the following guidelines:

Announcements / messages must be submitted in writing to the Cable Administration Division at least two days prior to their first airing.

1. Due to the limited space on the Bulletin Board, announcement / messages should be limited to space available on the Message Board Request Form.
2. Community announcements / messages may not run more than 2 weeks. If they are to run more than 2 weeks, announcements / messages should be resubmitted or special arrangements made with the Cable Administration staff.
3. Cable Administration staff reserves the right to edit for reasons of style and length all announcements / messages submitted for airing on the Government Channel Bulletin Board.

IV. CONTENT AND PRODUCTION OF GOVERNMENT CHANNEL PROGRAMS

- A. Because the staff of the Fayetteville Cable Administration Division is small, City Departments and Divisions requesting the production of a program must be willing to assist in the production of the program if asked to do so. This may include furnishing necessary information, gathering together persons and props to be used in the program, making on-air presentations, videotaping or editing the program, or paying for services provided.
- B. Except when (1) the intent is to use brief excerpts as part of a larger program or (2) when technical difficulties interfere, the public portions of any City Council meeting or other public meetings receiving coverage on the channel, including limited public forums, will be cablecast in their entirety, without editing or subjective comment. All other programming is subject to editing by the Cable Administration as long as such editing does not alter the factual content or overall intent of the material being cablecast.
- C. No promotion, endorsement or advertising for any private business, commercial service or product, or any profit-making activity, will be allowed on the Government Access Channel. However, brief audio and video credit may be given at the end of a program where special materials or assistance has been donated by a commercial or charitable enterprise.
- D. When questions arise as to the admissibility of material or language in this regard, the Cable Administrator will make a decision on whether it is to be cablecast. Appeals of these decisions may be made to the Telecommunications Board and City Council through the process outlined in this policy.

V. USE OF EQUIPMENT, FACILITIES, AND STAFF

- A. City of Fayetteville employees wishing to use the video equipment and studio facilities shall make arrangements through the Cable Administrator. Loaning of equipment for personal or outside use shall not be authorized under these policies. Other citizens, groups, and organizations may apply to the Community Access Television provider for use of the equipment, facilities, and staff.

VI. SUBMISSION AND APPROVAL FOR CABLECAST OF PROGRAMMING PRODUCED BY OUTSIDE AGENCIES

- A. Before a program or other spot is scheduled for cablecasting, it must meet minimum technical and broadcast aesthetic standards. These standards will be determined by the Cable Administration Division. Where a tape, slide show or film has been furnished by an entity other than city government, it must be viewed by the Cable Administration Division before it is scheduled or cablecast to ensure that it meets those standards. Programming of forums produced by outside agencies of declared candidates for any public office and

persons advocating any cause, viewpoint or proposed policy of a particular nature will not be eligible for cable casting on the Government Access Channel.

- B. All outside agencies, groups, or citizens desiring to cablecast programming other than forums on the Government Access Channel shall complete and submit a Cablecast Request Form from the Cable Administration Division no later than one week prior to the requested air date.
- C. This information should include the name and contact information of the person or group responsible for the production under consideration.
- D. The producer(s) will ensure the Cable Administration Division of the program's eligibility under the criteria and requirements listed above.
- E. The producer(s) will ensure that the program has obtained all necessary copyright clearances and permissions where legally required.
- F. The Cable Administration Division shall review the program, decide whether to grant or deny the request, and notify the producer(s) in writing within five business days of receiving a request.

VII. APPEAL PROCESS FOR TAPING AND CABLECASTING

- A. The path for interpretation, decision making, and appeals under this policy includes first the Cable Administrator, followed by the Telecommunications Board, and finally the City Council.
- B. Any appeals to decisions by the Cable Administrator must be submitted in writing to the Fayetteville Telecommunications Board.
- C. The Telecommunications Board will consider appeals in a timely manner.
- D. If a programming request is not approved for cablecast on the Government Access Channel, the requesting party can request the program be videotaped pending the outcome of an appeal to the Telecommunications Board. All efforts will be made to videotape such programs based on available staff, equipment, or other production resources. The program will not be cablecast until the appeal process has been concluded with a reversal of the Cable Administrator's decision.
- E. Producer(s) or other entities wishing to appeal decisions of the Telecommunications Board should forward their appeal to the Fayetteville City Council. The City Council will make the final decision based on its interpretation of this policy.

VIII. CHANNEL OPERATING HOURS

- A. It is the goal of the City of Fayetteville to program the government access channel fully. Reaching this goal will be a multi-step process so that, over time, Fayetteville's government channel will be programmed 24 hours a day.

IX. PUBLIC MEETING RECORDING PROCEDURES

- A. Council desk audio coverage is gavel-to-gavel only. Ambient microphone will not be used to transmit general room noise before and after the actual meeting.
- B. Video of room as it fills up or empties is acceptable, but Council microphones are closed. Only wide shots of the room are acceptable before and after a meeting to minimize the possibility of visually editorializing.
- C. The person speaking will be on camera.
- D. Individual reaction shots (shots of those not actually speaking or being addressed) are not allowed.
- E. A brief wide shot of the room is acceptable to break up a long, spoken delivery or as a transition between agenda items and shots.
- F. If a person is being directly addressed, a brief shot can be taken of that person in anticipation of that person's response.

X. TAPE RETENTION

- A. Videotapes that have been made of public meetings, informational programs, limited public forums, and other spots will be kept intact for three weeks after their final cablecast and are then subject to erasure unless other arrangements have been made in advance. Any tapes of public meetings are unofficial and will not serve as an official record of the meetings.

XI. CITIZEN ACCESS

- A. Citizens may view any of the programs or meetings archived by the City at the PEG Television Facility.
- B. Citizens may purchase, at cost, any programs or meetings archived by the City.

XII. WEB CASTING'

A. When sufficient resources are available, the Telecommunications Board shall specify that certain meetings and programs are web cast.

XIII. PERFORMANCE REPORTING

A. The Cable Administration Division shall present quarterly reports to the Telecommunications Board demonstrating to what extent these goals and policies are being met.

Wed, 06 Jul
2005
08:39:11 -
0500

From: "Susan Thomas" <sthomas@ci.fayetteville.ar.us> [View Contact Details](#)
To: nputjim@sbcglobal.net
angie.graves@acxiom.com, GBoyle5573@AOL.COM, "Kit Williams"
CC: <kwilliams@ci.fayetteville.ar.us>, "Marvin Hilton" <mhilton@ci.fayetteville.ar.us>,
dyoung@fayar.net, scromwell@fayar.net, cbrown@uark.edu, dbruce@uark.edu,
drt@uark.edu
Subject: Gov't Channel Policy Interpretation

t
Mr Bemis -

Please consider this a response to your request for a statement of current interpretation of "Policy on the Use and Programming of the Government Access Channel - Fayetteville, Arkansas."

Section II - A1 and A2 applies only to City of Fayetteville meetings.

Section II - B clearly indicates that coverage of the Fayetteville School Board will be at the request of the school board or school administration.

The Fayetteville Public School has not requested coverage, and therefore the City will not cover the meetings.

As you know, the Government Channel Policy will soon be subject to recommendation for review, revision, and/or clarification by a subcommittee of the Telecom Board. I encourage you to participate in this process, and voice your concerns about this interpretation or any other matter related to Government Channel policy.

If you have any questions or need additional information, please let me know.

Susan

Susan B. Thomas
Public Information and Policy Advisor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
479-575-8330 voice

Telecommunications Board Meeting Minutes
July 21, 2005
Room 219, 113 West Mountain

Call To Order And Roll Call

Board members present were Bruce, Graves, Cromwell, Brown, and Boyle. CAT Manager Sky Blaylock, CAT Vice Chairperson Michelle Key and Cable Administrator Marvin Hilton were also present. City of Fayetteville Public Information & Policy Advisor Susan Thomas arrived later.

Approval of Minutes from June Meeting

Brown asked that the minutes reflect that board member Boyle volunteered to serve on the PEG Equipment committee. He also said that his intent at the June meeting was to ask that the Telecommunications Technology Infrastructure Planning Task Force (TTIP) be reorganized as a Telecommunications Board (TCB) subcommittee. Lastly, he asked if the statement "Only CAT staff will be able to check out CAT equipment" meant that the equipment can only be used by CAT staff or if only CAT staff can issue it to others.

Blaylock said it was the latter.

Finally Cromwell said the minutes incorrectly reported she had referred to an "FOIA meeting" when she said "public meeting."

With those corrections to the June minutes, Graves moved for acceptance, Brown seconded it and the minutes were approved.

Report From CAT Manager Sky Blaylock

Key proceeded Blaylock to inform the board of policy and by-law changes undertaken by the CAT Board. These included:

- A two week advance booking for live studio shoots
- New producers must serve on two production crews before making a studio production
- Short Takes now has a sign in sheet
- Some paper forms may be replaced by computer entries
- Changes in accrual of vacation and sick time
- Change in number of CAT board members

Blaylock addressed the board saying since she arrived at CAT in 2003 a lot of restructuring has occurred and she thought the CAT's act has been cleaned up.

Jon Carlson spoke on the issues of channels of communication and chain of command, referencing section 1.E and 1.A of the CAT contract. He said certain de facto policies put in place by the Cable Administrator may have been necessary in the past but 'that's the way it's always been around here' is no longer a valid argument for how things are done. Continuing, he referenced section 1.C, bullet point 2, outlining the Cable Administrator's

duties in regards to oversight and authority of CAT

Boyle said he thought it made sense if what Carlson was asking for was to separate the duties of Hilton and Blaylock.

Cromwell said she was aware of the contractually required reports but was unaware that there are "others." She directed board members to look at the request for proposals (RFP) for public access television (PAT), the existing contract and the CAT report and bring back comments that will clarify the requirements for reporting.

Blaylock said her staff spends 40% of their time doing reports not all of which are requested by the TCB. She added that all the data is available on Facil and can be accessed by cable administrator. Finally she thanked the board for its attention and guidance and said CAT will apply for the PAT contract.

Brown said he wants the board to hear from Hilton before making any decisions on the issues raised by CAT staff.

Cromwell asked Hilton to be prepared to address the shortcomings of the TCB language in the reporting requirements of the RFP.

Blaylock continued saying the reports requested by the TCB are not a problem. She thinks the problem lies with the "micromanagement from the cable administrator." She said there are a lot of extra, extra reports requested that are changed a little bit before they are put out.

Report From the Government Channel Subcommittee

Bruce reported the subcommittee met July 20 and discussed their purpose and scope, questioning whether they should work on the existing policy or start over.

Cromwell thought they should deal with the policy and not the implementation of that policy.

Bruce continued saying he thought the Bemis complaint should be addressed as Mr. Bemis' major concern is "making sure that any coverage of FOI meetings by other media or other channels, not the government channel, will meet the same standards that government channel policy meets."

Cromwell said there will be an educational channel advisory board that will address that issue.

Bruce also said the possibility of future web casting should be addressed in the policy.

Thomas asked the board to keep in mind that there is a larger policy issue above the government channel policy and a smaller policy issue below it consisting of the standard operating procedure (SOP) and day to day operations. She thought these will likely need

to be separated out and discussed.

On the topic of the SOP Thomas said the process got off to a good start with a lot of participation but has stalled and needs to be restarted as it is an important element of operations.

Report From The Equipment Committee

Thomas said the committee met and decided on a list of priorities with cost estimates of desired purchases. She promised to make a list of the purchases, the total of which comes to under \$30,000. She said that Fayetteville High School (FHS) editing equipment influenced their decision as the committee wants to make an easier transition to the PEG Center for students. She added they would reevaluate the editing systems in a year and that the playback system will likely be a separate capital expenditure as it quite expensive. She expressed appreciation for the conservative spending of the CIP in the past and thought it might be time to ask for increased spending.

Discussion of Public Access Television RFP

Cromwell said, "We've pretty much covered it and I'll just again ask that everybody read the RFP, think about the requirements, come back. We'll just mail it next time and we'll just give Susan (Thomas) the authority to move ahead with getting the thing out the door."

Update On UATV Contract

Thomas said she is working to get the signatures on it.

Discussion Of Franchise Review

Brown, who had previously asked for this information, reported that Thomas had provided him with a packet of the companies that use Fayetteville's right of way. He listed them as Arkansas Western Gas, Southwest Bell, Cox Communications, City of Fayetteville, SWEPCO, and Ozark Electric. Brown added he would put this information on the list serve.

Strategic Planning

Thomas said she would like to see an articulation of the vision of what the PEG Center should be in 20 years asking, "Do we have the same expectations for the PEG Center as we have for our other institutions in the City of Fayetteville?" Her desire is to see Fayetteville have the "best of the best." She added she would also like to see the mission of the TCB spelled out as well.

The board was in agreement and wants to know what PEG Center in the country is now considered the "best of the best." for modeling purposes. This will be an August agenda item.

Discussion Of Election Of The Chair

Cromwell said she will step down as chair in August.

Additional Issues

Cromwell said she thinks the TCB administrative rules need revision. She volunteered to review them and report back to the board.

Citizen Bemis addressed the board for the public record regarding his July 8 complaint on three citizens requesting a meeting be taped by the government channel. He said he got a response from the city he wishes to appeal and wants to know the next step in the process. His July 8 complaint was in response to Thomas' July 6 response to an earlier Bemis complaint/inquiry.

Brown expressed his desire to have unresolved complaints included in the TCB monthly packets.

Cromwell asked Bemis to summarize his complaint as it was confusing in its present form. She said both the complaint and the city's response will be in the August TCB packet.

When asked by Cromwell about the history of complaints, Hilton said the next step is the city council. In summary, the process for complaint resolution is as follows:

Cable Administrator Marvin Hilton/City of Fayetteville Public Information &
Policy Advisor Susan Thomas
TCB
Fayetteville City Council

Hilton said the government channel will tape the July 28 school board meeting in accordance with the appeals process.

Adjournment

The meeting was adjourned at approximately 6:40 pm.

Telecommunications Board Meeting Minutes
August 18, 2005
Room 219, 113 West Mountain
Revised 09.09.05

Call To Order And Roll Call

Board members present were Bruce, Graves, Cromwell, Brown, Young, Thompson, and Boyle. CAT Manager Sky Blaylock, City of Fayetteville Public Information & Policy Advisor Susan Thomas, and Cable Administrator Marvin Hilton were also present.

Approval of Minutes from July Meeting

Bruce asked that the minutes reflect that his statement regarding web casting should have been that the government channel policy should be more independent of the media.

With that correction, Brown moved for acceptance of the July minutes. Bruce made the second and the motion passed.

Introduction Of Cox Representative, Fred Guerra

Mr. Guerra addressed the board and spoke briefly saying he hopes the franchise agreement with the city will be accomplished soon.

Thomas said the city and Cox are on the same page, optimistic and looking forward to a positive outcome.

**Telecommunications Technology Infrastructure Planning Task Force (TTIP)
Subcommittee**

Cromwell said TTIP will focus on the possibility of a community broadband wireless initiative. She then introduced Larry Long, an author with extensive experience in computer systems.

Mr. Long made the following points in pursuing this goal;

This technology will play a major role in future economic competition with other cities.

It will be important to make the community aware of the advantages and applications of wireless technology.

It may encounter some resistance from business and will likely be a partnership between the city and a private-sector organization.

It is relatively inexpensive considering the benefits and it is not as complicated as the new sewer system

Cromwell expressed the need to reestablish the TTIP as a subcommittee to move forward on this issue.

Brown, Graves, Thompson, Citizen Larry Long and Citizen John Lewis volunteered to sit on TTIP.

Cromwell said she would call the first meeting before the next TCB meeting.

Guerra asked the board to keep in mind that private concerns, such as Cox Communications, would like to be part of the dialog.

Report From Government Channel Subcommittee

Bruce reported plans to set up a Yahoo or Google group to share documents and facilitate communications. He asked for an additional board member to serve on the committee.

Report From Equipment Committee

Thomas said items are being priced and the RFP for their purchase will then be issued. A list of desired equipment was distributed and Boyle made a motion to buy the listed items. With a second by Young the motion passed.

Thomas said she would provide a final report of the cost.

Capital Budget Report

According to Thomas the capital budget balance was \$95,600 on August 12, 2005. With the equipment purchase just approved the balance is estimated to be \$79,000. She added that she has made a target overrun request of \$45,000.

Discussion Of Public Access Television RFP

Cromwell said she thought the existing RFP can be reissued as it is based on a point system that selects the best candidates. She also thought that at this time contract talk is premature.

Hilton asked if the specific points on page two of the RFP should be removed and mentioned his year-long informal list serve poll regarding home productions.

Boyle said he thought "home productions are gravy."

Blaylock said CAT does solicit home produced productions, mentioning Marion Orton and son Bill as examples of home producers who submit tapes to CAT.

Young made the point that the purpose of public access television is not to teach people production but rather to allow people a channel to express their thoughts without going through any filters.

Cromwell agreed.

A motion to release the RFP in its present form was made by an unidentified individual and seconded by Brown. It passed unanimously.

Bemis's Real Complaint

Regarding the complaint on the government channel policy for citizens requesting government meetings, Cromwell asked for "...a resolution for a process the citizens

would make certain to do, in order to come out on the other side of the appeal.” She then read the government channel policy, section seven, on the appeals process and summarized that a complaint goes first to the cable administrator, second to the TCB and lastly to the city council. Continuing, Cromwell said the board could approve the city’s recommendation or make its own recommendation to the complainant.

Brown then moved to accept the city’s response to the Bemis complaint adding that he thought some of the points of the complaint took parts of the government policy out of context. Graves made the second and it passed unanimously.

Bemis said he will appeal the decision to the city council.

Thomas said she would research the appeal process to assist him in that direction, report her findings to the TCB and put it on the list serve.

Hilton added that a complaint to the TCB had never gone on to the city council.

Graves noted that other committees have had decisions appealed to the council.

Hilton mentioned the planning commission as one.

Bemis then expressed his confusion with the process and asked Cromwell if once the steps are known will it become part of the TCB policy and procedures.

Cromwell said,” Right, and it will be adopted in the administrative rules.”

Bemis said he should follow the TCB’s policies, not the city’s and asked that the TCB set up policies and procedures for conducting business in addition to its existing administrative rules.

Brown said the board doesn’t have policies so they follow city policies.

Young questioned if what Thomas discovers is something the board would want to do.

Graves asked if the board should care about the process if in the end the city council hears the appeal.

Cromwell asked Bemis “Did we satisfy the process tonight for what you expected the outcome to be?”

Bemis responded “You satisfied my complaint about being in the second step.”

Brown asked Bemis why he insisted on spending time to clarify an old policy when a subcommittee is working on creating a new policy.

Bemis said because the government channel has taped meetings that have not been aired.

Brown added that he was uncertain Bemis's request for the school board meetings to be taped was legitimate.

Hilton said he thought the confusion centered on the interpretation of the words "city meetings" in the policy.

Election of Chair

Brown nominated Boyle and he was elected unanimously.

Other Business

Brown asked that the TCB packets not be distributed so close to the actual meeting and that only agenda items are included in the packets.

Hilton said that would be possible but only if a meeting agenda was posted before the day of the meeting, asking that it be issued a week prior to the meeting.

Cromwell said suggestions for agenda items could be made by email but the chair is the person to set the agenda. She expressed her hope that Boyle would do a better job of getting the agenda posted in advance than she had.

Brown closed the issue asking that packet items be identified as such and any additional items have an explanation as to why they are in the packet.

Finally, Blaylock expressed her appreciation for Cromwell and the years she served as chair.

Adjournment

The meeting was adjourned at approximately 6:50 pm.

From: Susan Thomas
To: Bemis, Jim
Date: 8/23/05 11:57AM
Subject: your appeal

Jim -

I just spoke with Kit about your appeal. Your next step is to submit in writing a request to the City Clerk for your appeal to be included on a council agenda. Your written request should include the reason for your appeal and statement on your grounds to appeal. The next agenda request deadline is September 2 for the September 20 meeting. You should submit your request in advance of the Sept 2 deadline.

If you have any questions about how to proceed, let me know.

Susan

Susan B. Thomas
Public Information and Policy Advisor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
479-575-8330

CC: Hilton, Marvin; Smith, Sondra; Telecom Board; Williams, Kit

November 17, 2005
Ms Sondra Smith, City Clerk
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Re: Appeal of a Telecommunications Board decision to deny approval of a formal request made by three Fayetteville citizens, which asks for the Fayetteville Government Access Television channel to videotape and cablecast a local government meeting that meets FOIA criteria.

Dear Ms. Smith:

Please accept this letter as a request to be placed on the City Council agenda to appeal the Telecommunication Board's decision of August 18, 2005 that denied my request for Fayetteville Government Channel television coverage and cable casting of a local government meeting that meets Arkansas Freedom of Information Act criteria. To my knowledge, neither the Board nor the City of Fayetteville has a formal appeal procedure in place for me to follow in their appeal procedures. However, a Government Channel Policy Subcommittee was formed to revise the appeals process, and I am a member of that subcommittee. The Subcommittee is scheduled to present its report at the November 2005 Telecommunications Board meeting.

At its Aug 18 meeting, in what I consider to be the second step in their appeal process, the Telecommunications Board voted unanimously to accept the recommendations of the policy interpretation made by Ms. Susan Thomas in her July 6 response to my original request. However, the Board did not formally review my July 7 letter of appeal, which I consider to be my appropriate response as second stage of the appeals process.

I indicated that I disagreed with their decision, and my understanding from the ensuing Board discussion is that I can take my appeal to the City Council through City Staff and the City Clerk's office. However, the Board has made no specific recommendations regarding the appropriate steps to carry my appeal from the Board to the City Council.

Thus, my further request here is adapted from the appeal process followed by the City Planning Commission, which has been suggested as an interim approach by the City Staff. (See July 6, 2005 Planning Commission Appeal for Rapido Rabbit Carwash (ADM 05-1582.) However, the Board has made no formal recommendation regarding this approach. My understanding is that City staff would follow a process similar to the Planning Commission's in forwarding documentation for my appeal through your office to the City Council. I have no further information regarding the format or office that will carry my appeal forward, or regarding the formal findings of the Telecommunications Board. However, I did send a draft copy of this letter to Telecommunications Board and City staff on November 9, but have received no specific comments regard its contents.

Please advise as to any further requirements that should be met in this regard. I will contact our office to arrange a personal visit to discuss my appeal.

Respectfully submitted,

Jim Bemis
1325 Pine Creek
Fayetteville, AR 72704
Phone: 790 2518

CC: Susan Thomas, Marvin Hilton

**POLICY ON THE USE AND PROGRAMMING OF
THE GOVERNMENT ACCESS CHANNEL
FAYETTEVILLE, ARKANSAS**

INTRODUCTION

The City of Fayetteville Government Access Channel, in accordance with resolution 94-91, is intended to give Fayetteville citizens information about City government services, programs, and activities and their relationships within the community and help create an open and participatory local government. The channel is administered by the City's Cable Administrator under guidelines established by and interpreted by the Telecommunications Board.

I. TELECOMMUNICATIONS BOARD

The Fayetteville Telecommunications Board was created under Ordinance 4504, Chapter 33, which authorizes the board "to facilitate the creation of policies regarding cable cast material selection, time guidelines for cablecast material, viewer and facility user complaint/feedback practices, and other such policies regarding the use and administration," of the Government Channel. The purpose of this policy is to establish (a) the criteria for which Governmental entities and related organizations are eligible to have programming on the channel and (b) allow the Government Channel staff to operate without determining the programming content.

POLICIES

II. PRIORITY OF COVERAGE/CABLE CASTING AND ELIGIBILITY FOR USE

A. FIRST LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL MEETINGS

First level priority will be given to televising City of Fayetteville Governmental meetings. City of Fayetteville Governmental meetings are defined as meetings of the governing bodies created by the City of Fayetteville, which meet FOIA criteria, including all committees, subcommittees, boards, commissions, task forces, and other such bodies dealing with City of Fayetteville business.

B. SECOND LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL INFORMATIONAL PROGRAMS

Second level priority for use of the Government Channel will be given to nonpartisan informational programs about City services, activities and events.

C. THIRD LEVEL OF PRIORITY

1. MEETINGS OF OTHER GOVERNMENTAL ENTITIES THAT MEET FOIA CRITERIA

Third level priority for use of the Government Channel will be given for any meeting that meets FOIA criteria and deals with government business that directly impacts the Citizens of Fayetteville. Such meetings include, but are not limited to, those of Washington County, regional, state and federal agencies, Boston Mountain Solid Waste District, and Fayetteville Public Schools.

2. INFORMATIONAL PROGRAMS OF OTHER GOVERNMENT AGENCIES

Third level priority for use of the Government Channel will also be given for non-partisan informational programs about government services or activities that may be provided by other governmental entities, such as, but not limited to, Washington County, regional, state, federal agencies and Tri-county Solid Waste.

3. PROGRAMS OF CITY OF FAYETTEVILLE CONTRACTORS AND GRANTEEES

Third level priority will also be given to outside agencies or groups with whom the City of Fayetteville contracts, grants money or has an agreement to provide city services or activities. In such cases, the program shall be non-partisan in nature.

4. LIMITED PUBLIC FORUMS

Third level priority will also be given to two types of limited public forums: candidate forums and issue forums. Declared candidates for any public office, and persons advocating any cause, viewpoint, or proposed policy of a particular nature, will be eligible to appear only in a limited public forum venue.

All candidates or sides of an issue are given an equal opportunity to appear in public forums. If it becomes apparent that only one side of a forum is willing to participate, the Cable Administrator may make a decision to conduct the forum with only one side participating.

The City, through the Cable Administration Division, may conduct one candidate forum for each contested office before each election.

No candidate forums will be held before the last filing deadline

D. BULLETIN BOARD MESSAGES

Last priority will go to the "Government Channel Bulletin Board." The bulletin board will provide printed information about both City and community events and services when other programs are not being cablecast. It may also be used to inform residents of other "free" community events and activities.

III. COVERAGE REQUESTS

A. City of Fayetteville meetings will be covered at the request of a City of Fayetteville government elected official, a City of Fayetteville department head, a City of Fayetteville division head, or a committee chair. Other governmental agency meetings that meet FOAI criteria may be covered at the request of representatives of that agency.

B. Registered voters who live within the city limits of Fayetteville may request that the Government Channel cover any meeting held by the City of Fayetteville or other governmental agencies provided that the meeting affects the citizens of Fayetteville and meets FOIA criteria.

C. All requested meetings will be televised provided the resources are available and there exists no conflict with a request to cover a meeting with higher priority as outlined by this document. The Cable Administrator has discretion over issues of resources and priority.

IV. EDITING AND OTHER CONTENT POLICIES

A. Except when (1) the intent is to use brief excerpts as part of a larger program or (2) when technical difficulties interfere, the public portions of any City Council meeting or other public meetings receiving coverage on the channel, including limited public forums, will be cablecast in their entirety, without editing or subjective comment. All other programming is subject to editing by the Cable Administration as long as such editing does not alter the factual content or overall intent of the material being cablecast.

B. No promotion, endorsement or advertising for any private business, commercial service or product, or any profit-making activity, will be allowed on the Government Access Channel. However, brief audio and video credit may be given at the end of a program where special materials or assistance has been donated by a commercial or charitable enterprise.

C. Programming of forums produced by outside agencies of declared candidates for any public office and persons advocating any cause, viewpoint or proposed policy of a particular nature will not be eligible for cable casting on the Government Access Channel.

D. When questions arise as to the admissibility of material or language in this regard, the Cable Administrator will make a decision on whether it is to be cablecast.

V. APPEALS OF COVERAGE OR PROCEDURAL ISSUES

A. Any appeals to the decisions made by the cable administrator regarding coverage, priority, or procedure should be submitted to the Telecom Board.

ORDINANCE NO. 4504

AN ORDINANCE AMENDING CHAPTER 33, DEPARTMENTS, BOARDS, COMMISSIONS AND AUTHORITIES, OF THE CODE OF FAYETTEVILLE, BY REDEFINING THE COMPOSITION, OFFICERS, STAFFING, PROCEDURES, AND DUTIES OF THE TELECOMMUNICATIONS BOARD.

WHEREAS, under the terms and conditions of the cable television franchise agreement the city is given, among other responsibilities, the duty to regulate cable television channels for public access, educational and governmental (PEG) programming; and,

WHEREAS, the use of the public rights of way in the City of Fayetteville, Arkansas, includes other telecommunications services as well as cable television services; and,

WHEREAS, the City Council of the City of Fayetteville, Arkansas, desires to redefine the scope of the current Telecommunications Board to serve in an advisory capacity regarding telecommunications issues, to promote the use of public information media, and to serve as a coordinating body for issues relating to the provision of different telecommunications services.

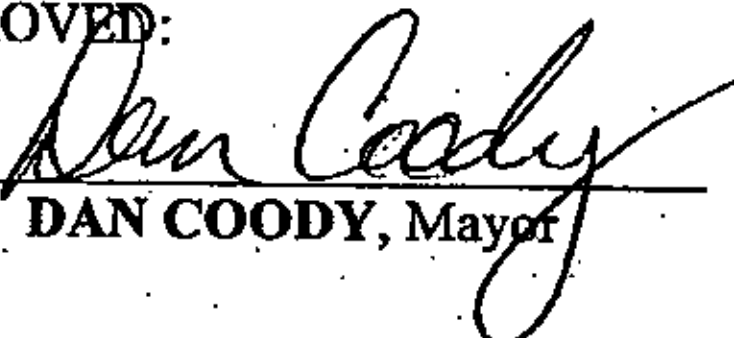
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That §33.205 through §33.211, "Telecommunications Board" is hereby repealed and Exhibit "A" attached hereto and made a part hereof, is inserted in its stead.

PASSED and APPROVED this 15th day of July, 2003.

APPROVED:

By:


DAN COODY, Mayor

By:

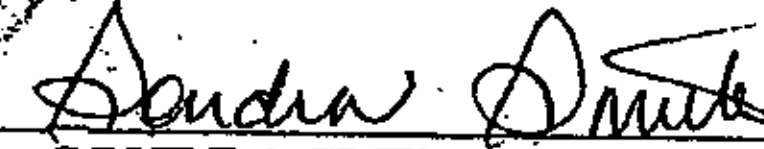

SONDRA SMITH, City Clerk



Exhibit "A"

§33.205. Purpose and Intent. It is the purpose and intent of the City Council of the City of Fayetteville to redefine the scope of the current Telecommunications Board to advise the City Council on telecommunications issues and to coordinate and oversee telecommunications franchise systems and use of the public rights of way designated for public access, educational, and governmental (PEG) use in the City of Fayetteville as part of the city's telecommunications infrastructure.

(a) **Definitions.** For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) *Education Channels.* Education channels shall provide programming that is educational and informational, with an emphasis on locally-produced programming. Programs may also be instructional, with learning potential for all audiences.

(2) *Government Channels.* Government channels provide citizens with convenient access to the city government. The station shall be operated in an unbiased manner. The goal is to create an informed and involved citizenry. Content will generally be created or acquired by local government employees, elected officials, and volunteers, and will typically provide information about services provided by local, State, and regional governments, issues faced by local governments, and public meeting coverage.

(3) *Public Access Channels.* Public access channels provide a forum for local residents to express themselves. Content may include video and other electronic information produced, directed and engineered by community members. These productions focus on many aspects of community life, ranging from the services and activities of community organizations to the opinions, beliefs and artistic expressions of individuals in the community, or outside productions requested and introduced by community members.

(4) *Telecommunications Infrastructure.* Telecommunications infrastructure means the shared portions of the telecommunications transmission facilities used by the city, including public rights of way, all transmission mechanisms, and associated equipment and software components necessary for the management and control of the city's information network. Telecommunications facilities include, but are not necessarily limited to: terrestrial radio, optical fiber cables, satellite communications, radio and television stations (traditional broadcast as well as cable and satellite broadcast), and public switched telephone network.

§33.206. Composition. The Fayetteville Telecommunications Board shall consist of seven members appointed by the City Council. Members shall have experience in any one of the following areas: telecommunications infrastructure management, public policy development regarding communication and telecommunications issues, television, or other appropriate expertise. Members shall be registered voters and residents of the City of Fayetteville, and shall have resided therein for at least six (6) months prior to their

appointment. Those members serving as of the effective date of this ordinance shall retain their seats until August 15, 2003, at which point all of the positions shall be open for appointment. At the first regular meeting after appointment, the members shall draw lots to determine the length of their initial term. One (1) member shall serve a term of one (1) year; two (2) members shall serve terms of two (2) years; two members shall serve terms of three (3) years; and two (2) members shall serve terms of four (4) years. Thereafter, members shall serve staggered four-year terms. Vacancies in an unexpired term shall be filled by the City Council for the remainder of the term. Any person who serves two consecutive terms on the Telecommunications Board shall not be eligible for reappointment until one term of office has expired, unless there are an insufficient number of qualified applicants to fill all vacancies.

§33.207. Officers. The Telecommunications Board shall elect from its members a chairperson, who shall serve a one-year term and shall be eligible for re-election to a subsequent term or terms. Further, the Telecommunications Board may elect such additional officers and establish any committees as it deems necessary for the proper performance of its duties.

§33.208. Staff Support. The Mayor shall designate city employees to assist the Telecommunications Board in performing its duties and carrying out its responsibilities under this ordinance.

§33.209. Procedures.

(a) the Telecommunications Board shall meet at least once each month and may meet more frequently if necessary to carry out its duties. Four members shall constitute a quorum.

(b) the Telecommunications Board shall establish rules and regulations governing its procedures.

(c) the Telecommunications Board's meetings and records shall be subject to the provisions of the Arkansas Freedom of Information Act, A. C.A. §§25-19-101 *et seq.*, as it may be from time to time amended.

(d) the Telecommunications Board shall provide the City Council an annual report briefly summarizing its previous year's activities, and outlining its goals for the next.

§33.210. Duties.

(a) The Telecommunications Board shall advise the City Council and make recommendations on telecommunications infrastructure issues, including but not limited to the following:

(1) Use and administration of cable TV channels designated for public access, educational, and governmental (PEG) use;

(2) Use and administration of telecommunications facilities and use of public rights of way for telecommunications infrastructure;

(3) Establishment and use of the City's PEG facility;

(4) Any reports submitted to the City by a cable TV operator, PEG channel user, telecommunications agency, or other entities regarding telecommunications matters;

(5) Funding for public access, educational, and governmental (PEG) operations;

(6) Funding for the development and maintenance of the city's telecommunications infrastructure;

(7) Performance of any cable or telecommunications operator serving the city, with regard to rates, customer service, technical standards, programming, and requirements of the applicable franchise agreement; and

(8) Renewal of any franchise agreement between a telecommunications agent and the City.

(b) Further, the Telecommunications Board shall have the following duties and responsibilities:

(1) Oversee the administration of the City's PEG facility;

(2) Oversee the administration of any cable television channels or other telecommunications facilities designated for public access, educational, or governmental (PEG) use, unless the City Council enters into a contract with another entity or institution for such administration. If the city enters into a contract with another entity for administration of a PEG channel, the Telecommunications Board shall ensure contract compliance. Whether administered by the city or contracted, the Telecommunications Board shall facilitate the creation of policies regarding cablecast material selection, time guidelines for cablecast material, viewer and facility user complaint/feedback practices, and other such policies regarding the use and administration of the channels.

(3) Perform periodic evaluations of contract compliance for all contracts relating to telecommunications. A summary of all evaluations shall be forwarded to the City Council quarterly for their review.

(4) Facilitate dispute resolution concerning PEG channels, including but not limited to operations, program content, etc.; track the complaints filed by citizens to

assure that telecommunications providers are responding to complaints in an effective and timely manner.

(5) Promote public awareness, use and viewership of PEG channels;

(6) Identify telecommunications needs and solutions in the City and define innovative approaches to the use of expanding digital capacity;

(7) Promote public awareness of telecommunications policy issues; and,

(8) Forward a report to the City Council recommending either renewal or replacement of any cable or telecommunications agent no less than 45 days before the contract's expiration.

(c) The Telecommunications Board shall have authority to establish and disseminate such guidelines and regulations as are necessary to carry out the duties and responsibilities set forth in this section.

*Handed out at Agenda
Session 11/29/05*

(Summary of relevant current (Telecom Board approved 7/29/04) Fayetteville Government channel policy regarding appeal submitted by Jim Bemis for November 29, 2005 agenda session (Final item, New Business). Prepared by Jim Bemis, November 29, 2004.)

I. TELECOMMUNICATIONS BOARD

...The seven-member Telecommunications Board also serves directly in an appeal process that considers and interprets issues regarding exceptions, variations, or modifications to this Policy Statement. Appeals to decisions made under this policy will follow the process outlined in this policy.

A-2. ADDITIONAL CITY MEETINGS

Other meetings concerning city business will be cablecast if they meet Freedom of Information (FOI) criteria and are requested by any one of the following: the mayor, the City Council, one individual council member, a department or division head, any elected city official or any three Fayetteville citizens, who are registered voters, living within the city limits of Fayetteville, may make such requests...

In addition, any three citizens, who are registered voters, living within the City limits of Fayetteville, may request any meeting, that meets FOIA requirements and dealing with government business that directly impacts the Citizens of Fayetteville. Such requests will be subject to the resources available at the time, including the ability and practicality of traveling outside of Washington County.

VII. APPEAL PROCESS FOR TAPING AND CABLECASTING

A. The path for interpretation, decision making, and appeals under this policy includes first the Cable Administrator, followed by the Telecommunications Board, and finally the City Council.

B. Any appeals to decisions by the Cable Administrator must be submitted in writing to the Fayetteville Telecommunications Board.

C. The Telecommunications Board will consider appeals in a timely manner.

D. If a programming request is not approved for cablecast on the Government Access Channel, the requesting party can request the program be videotaped pending the outcome of an appeal to the Telecommunications Board. All efforts will be made to videotape such programs based on available staff, equipment, or other production resources. The program will not be cablecast until the appeal process has been concluded with a reversal of the Cable Administrator's decision.

E. Producer(s) or other entities wishing to appeal decisions of the Telecommunications Board should forward their appeal to the Fayetteville City Council. The City Council will make the final decision based on its interpretation of this policy.

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 6, 2005**

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

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

**Report on the Close Out of the Water and Sewer Operations Center given by Coy Hurd,
Project Manger – Agenda Session Only**

Report on Ambulance Services given by Hugh Earnest – Agenda Session only

Firewise Awards Presentation

Snow Bird Lithograph Presentation

A. CONSENT:

1. Approval of the October 18, 2005 City Council meeting minutes.
2. **Purchase of Two 40 Yard Compactor Units – Solid Waste:** A resolution approving a budget adjustment in the amount of \$46,920.00 for the purchase of two (2) 40-Yard Compactor Units for use by the Solid Waste & Recycling Division.
3. **Nock Investments, LLC Change Order:** A resolution approving a change order to the cost-share agreement with Nock Investments, LLC in an amount not to exceed \$46,861.31 for improvements to the intersection of Persimmon Street and Ruppel Road.
4. **Lake Fayetteville Preservation Agreement:** A resolution to approve an agreement for preservation and use of the northeastern portion of Lake Fayetteville Park.

5. **Fayetteville Public Schools Lease Agreement:** A resolution to approve the joint lease agreement with the Fayetteville School District.
6. **Renaming of Ozark Avenue as McIlroy Avenue:** A resolution renaming Ozark Avenue as McIlroy Avenue from Dickson Street to Fairview Street.
7. **SBC Communication Easement:** A resolution granting an easement to SBC Communication to install new communication equipment and an associated underground line located on city owned property north of Township Street.
8. **Air Works Heating and Cooling Replacement Contract:** A resolution awarding BID # 05-66 to Air Works, a division of Multi-Craft Contractors, Inc. and approving a contract in the amount of \$126,208.00 for Phase II HVAC renovation at the Police, Courts Building; approving a project contingency in the amount of \$12, 620.00; and approving a budget adjustment in the amount of \$138,828.00.

B. UNFINISHED BUSINESS:

1. **2006-2010 Proposed CIP Adoption:** A resolution adopting the proposed 2006-2010 (CIP) Capital Improvements Program. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*
2. **2006 Proposed Annual Budget Adoption:** A resolution adopting the proposed 2006 Annual Budget and Work Program. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*
3. **Mission Boulevard and Lafayette Street Rezoning Study:** A resolution to refer a rezoning study and possible rezoning amendment of the Mission Boulevard and Lafayette Street area to the Planning Commission. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*
4. **RZN 05-1754 Park West Heights:** An ordinance rezoning that property described in rezoning petition RZN 05-1754 for approximately 26.28 acres located at the south east corner of Highway 112 and Deane Solomon Road from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre. *This item was left on the second reading at the November 15, 2005 City Council meeting.*

C. NEW BUSINESS:

1. **Jim Lindsey Property Contract:** A resolution to approve a contract with Jim Lindsey and Lindsey Management Company, Inc. to maintain the status quo on his approximately 6.9 acres located east of Mission Boulevard and south of Maple Street.

2. **Fayetteville Public Schools Water Main Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Fayetteville School District in the amount of \$43,395.00 for the upsizing of approximately 1235 feet of 8" water main to a 12" water main; and approving a contingency in the amount of \$6,800.00.
3. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville Arkansas and the Council on Aging in the amount of Fifty Thousand Dollars (\$50,000.00) to provide public recreation services for the senior citizens of Fayetteville for 2006.
4. **Youth Center, Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of two hundred fifty thousand dollars (\$250,000.00) to provide public recreation services for the youth and citizens of Fayetteville for 2006.
5. **ADM 05-1657 (Mt. Sequoyah South Rezoning):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1657 and shown in Exhibit "A" generally located north of Huntsville Rd., east of Willow Ave., south of Rock St., and west of Lyton Ave., from RMF-24 Residential Multi-Family 24 Units Per Acre to RSF-8 Residential Single Family 8 Units Per Acre.
6. **Dover, Kohl and Partners Contract:** A resolution awarding a contract in an amount not to exceed \$225,000.00 to Dover, Kohl and Partners to facilitate a public participation process for the City Plan 2025; approving a contingency in the amount of \$25,000.00; and approving a budget adjustment in the amount of \$250,000.00.
7. **ANX 05-1838 (South Ruppel Road Island):** An ordinance to annex into the City of Fayetteville, Arkansas several parcels completely surrounded by the incorporated limits of Fayetteville and the City of Farmington, Arkansas.
8. **VAC 05-1784 (Four Seasons Sunrooms):** An ordinance approving VAC 05-1784 submitted by Four Seasons Sunrooms for property located at 1586 East Amber Drive vacating a utility easement as indicated on the attached map and legal description.
9. **Amend § 51.137 Monthly Sewer Rates:** An ordinance to amend § 51.137 of the Code of Fayetteville by lowering the sewer rate charged for Elkins, Arkansas and postponing the scheduled system wide rate increase for four months.
10. **C-PZD 05-1610 (East Square Redevelopment):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1610, East Square Development, located at the north west corner of Mountain Street and College Avenue, containing approximately 1.01 acres; amending the Official Zoning Map of the City of Fayetteville; waiving any possibly conflicting development ordinances; and adopting the Associated Planned Zoning District .
11. **Bossler Construction Contract:** A resolution approving a contract with Bossler Contracting, Inc. in the amount of \$254,600.00 to remodel the terminal building at the Fayetteville Municipal Airport; approving a 10% project contingency in the amount of \$25,460.00; and approving a budget adjustment in the amount of \$40,000.00.

- 12. Telecommunications Board Appeal (Government Channel Taping):** A request to appeal a Telecommunications Board decision to deny approval of a formal request made to the Government Access Television channel to videotape and cablecast a local government meeting that meets FOIA criteria.

D. INFORMATIONAL:

Council Tour: December 5, 2005 – 4:30 PM

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

A. 2
Purchase of Two 40-Yard
Compactor Units - Solid Waste
Page 1 of 4

December 6th, 2005
City Council Meeting Date

Brian Pugh
Submitted By

Solid Waste and Recycling
Division

Operations
Department

Action Required:

Staff recommends the purchase of two 40 yard compactor units for solid waste service.

\$46,920.00
Cost of this request

5500.5030.5870.00
Account Number

Project Number

\$20,000
Category/Project Budget

\$18,814
Funds Used to Date

\$ 1,186.00
Remaining Balance

Capital
Program Category / Project Name

Drop Box
Program / Project Category Name

Solid Waste
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒


Department Director

11.4.05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

11/4/05
Date

Received in City Clerk's Office

ENTERED
11/4/05


Finance and Internal Service Director

11-7-05
Date

Received in Mayor's Office

ENTERED
11/7/05


Mayor

11/7/05
Date

Comments:

City Council Agenda Item

To: Mayor and City Council
From: Gary Dumas 
Date: November 18, 2005
Subject: A resolution approving the purchase of two 40 yard compactor units for the Solid Waste and Recycling Division

Recommendation: Staff recommends the purchase of two 40 yard compactor units for solid waste service.

Background: Recently the Solid Waste and Recycling Division received a commitment from Marshalltown Tools for leasing a 40 yd compactor unit for the collection of Solid Wastes from their facility.

In addition, another 40 yard compactor unit is needed for the public parking area on Dickson St. located adjacent to the future Legacy Building for the collection of Solid Waste from businesses in that locale. The current 20 yard compactor in this location will be converted to collect commercial cardboard. This will allow the removal of a mixture of 4 eight and six yard cardboard dumpsters from this area, increasing aesthetic value and increasing the ease of collection to the Division.

Discussion: The Solid Waste and Recycling Division have depleted the budgeted amount for compactor/drop boxes purchases for 2005. Recent requests for services have prompted staff to request additional funding from Solid Waste Reserves to service these new accounts.

The expense recovery for Marshalltown Tools is 60 months with a monthly recovery fee of \$489.53. This fee will include installation, overhead, maintenance, and upkeep of this compactor. Marshalltown Tools has also indicated they might desire to pay off the lease in less than 60 months which would raise the monthly charge accordingly. The cost of a 40 yd compactor including related expenses is approximately \$23,460.

The consolidation of cardboard in the 20 yd compactor on Dickson St. would result in the removal of 4 dumpsters and reduce the 5 trips per week to collect the cardboard from the area. The Division will be moving these compactors into a central location for ease of recovery. The recovery of funds for this compactor will be included in the Utility billing currently paid by the various businesses that use this compactor.

Budget Impact: The purchase of the compactors would be approximately \$46,920 including purchase of all equipment and installation of equipment including electrical hookups. The funds would be from Solid Waste Reserves and would be recouped through leasing and collection fees.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$46,920.00 FOR THE PURCHASE OF TWO (2) 40-YARD COMPACTOR UNITS FOR USE BY THE SOLID WASTE & RECYCLING DIVISION.

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 budget adjustment in the amount of \$46,920.00 for the purchase of Two (2) 40-Yard Compactor Units for use by the Solid Waste & Recycling Division.

PASSED and APPROVED this 6th day of December 2005.

APPROVED

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

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

A. 2
Purchase of Two 40-Yard
Compactor Units - Solid Waste
Page 4 of 4
Adjustment Number

Budget Year 2005	Department: Operations Division: Solid Waste & Recycling Program: Commercial Drop Box Collections	Date Requested 12/6/2005
----------------------------	---	------------------------------------

Project or Item Requested:

\$46,920 is requested in the Container costs account in the Commercial Drop Box Collections program.

Project or Item Deleted:

No project is deleted. Reserve funds will finance increased container costs.

Justification of this Increase:

This increase is needed for the purchase of two 40 yd commercial compactors for solid waste service. Funds will be recovered through leasing and collection fees to associated businesses.

Justification of this Decrease:

Use of reserve funds is required to address immediate needs of the Solid Waste & Recycling Division.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number
Container costs	5500	5030	5870	00	46,920	

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number
Use of fund balance	5500	0950	4999	99	46,920	

Approval Signatures

Requested By	11/4/2005 Date
Budget Manager	Date
	11-4-05 Date
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

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

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

6-Dec-05
City Council Meeting Date

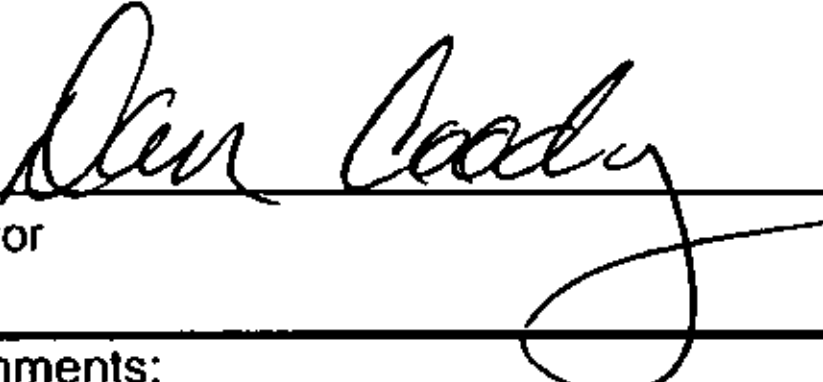
Matt Casey Engineering Operations
Submitted By Division Department

Action Required:

Approval of a change order in the amount of \$46,861.31 to an approved cost share agreement with Nock Investments, LLC for improvements to the intersection of Ruppel Road and Persimmon Street.

\$46,861.31	\$ 449,448.35	Street ROW / Intersection / Cost Sharing
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	\$ 227,937.41	Street Improvements
	Funds Used to Date	Program / Project Category Name
02116	\$ 221,510.94	Sales Tax
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

 Department Director	<u>11-18-05</u> Date	Previous Ordinance or Resolution # _____
 City Attorney	<u>11/18/05</u> Date	Original Contract Date: _____
 Finance and Internal Service Director	<u>11-18-05</u> Date	Original Contract Number: _____
 Mayor	<u>11/18/05</u> Date	Received in City Clerk's Office 
		Received in Mayor's Office 

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RP*

Date: November 15, 2005

Subject: Change Order in the amount of \$46,861.31 to a cost share agreement with Nock Investmenst, LLC for improvements to the intersection of Persimmon Street and Ruppel Road.

RECOMMENDATION

Staff recommends approval of a change order to the approved cost share with Nock Investments, LLC in the amount of \$46,861.31.

BACKGROUND

The originally approved plans for Ruppel Row subdivision allowed for a two-lane roadway section along Persimmon Street at the intersection with Ruppel Road. With subsequent development plans in the area by Terminella and Associates and by the Fayetteville Public School District, the City Council Street Committee on October 28, 2004, determined that Persimmon Street needs to be widened to three lanes and Ruppel Road widened to five lanes at this intersection, including transitional sections and pedestrian crosswalks in compliance with the Master Street Plan. On March 15, 2005 the City Council approved a resolution to cost-share with Nock Investments, LLC for the additional improvements.

Since that time, revisions have been made to the roadway section and alignment including the addition of a raised median that creates a boulevard section along Ruppel Road. The City Council Street Committee has been presented with these revisions and has determined that the changes be forwarded to the City Council for approval.

DISCUSSION

Construction estimates have been provided to the City for these improvements by Jorgensen and Associates, the engineer of record, as follows:

ORIGINAL COST SHARE

Developer's Share	\$130,575.50
City's Share	<u>\$119,998.86</u>
Total	\$250,574.36

REVISED COST SHARE

Developer's Share	\$130,575.50
City's Share	<u>\$166,860.17</u>
Total	\$297,435.67

These estimates show an increase in the City's share of the improvements in the amount of \$46,861.31.

BUDGET IMPACT

Project #02116 (Street ROW / Intersection / Cost Sharing) will be charged the \$46,861.31 necessary for this change order. As of this date, there is a balance of \$221,510.94 in this account.

The final costs to the City will be based upon actual costs as documented by the Nock Investments, LLC subject to review by the City and may, or may not exceed the submitted estimate. However, the City's share will not exceed the estimate without additional authorization.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CHANGE ORDER
TO THE COST-SHARE AGREEMENT WITH NOCK
INVESTMENTS, LLC IN AN AMOUNT NOT TO
EXCEED \$46,861.31 FOR IMPROVEMENTS TO THE
INTERSECTION OF PERSIMMON STREET AND
RUPPLE ROAD.

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 Change Order to the cost-share agreement with Nock
Investments, LLC in an amount not to exceed \$46,861.31 for improvements to the
intersection of Persimmon Street and Ruppel Road.

PASSED and APPROVED this 6th day of December, 2006.

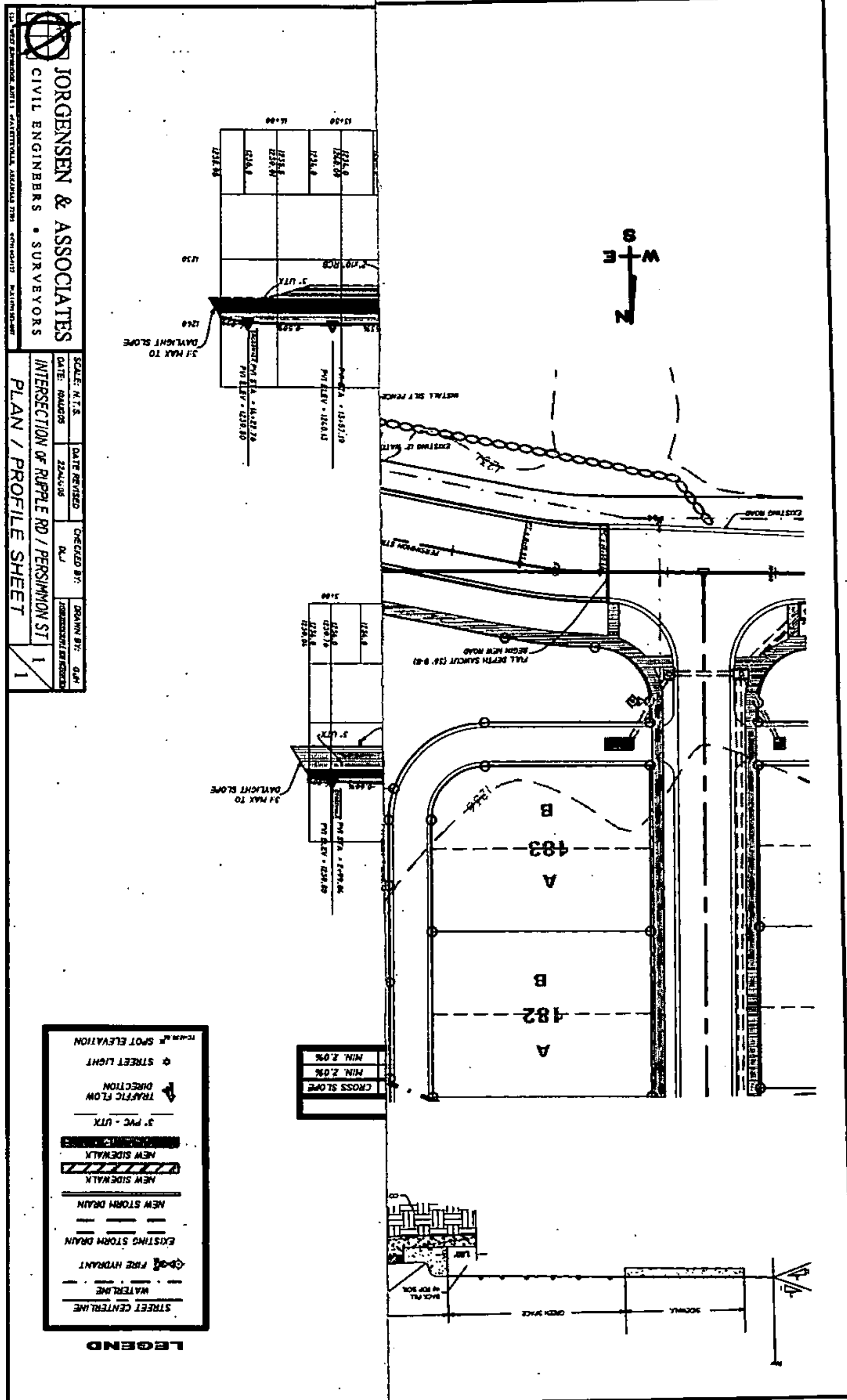
APPROVED

By:

DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk



ORDINANCE NO. 4685

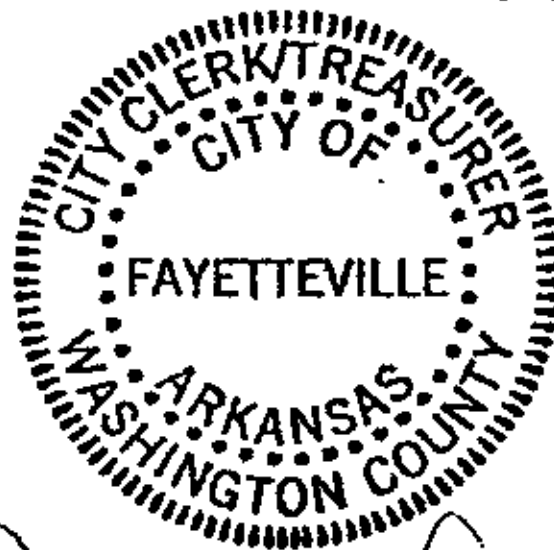
AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE AGREEMENT WITH NOCK INVESTMENTS, LLC IN AN AMOUNT NOT TO EXCEED \$119,998.86 FOR IMPROVEMENTS TO THE INTERSECTION OF PERSIMMON STREET AND RUPPLE ROAD

WHEREAS, entering into a cost-share agreement with Nock Investments, LLC and utilizing their engineer and contractor will avoid the added cost and unnecessary duplication of effort which would arise from the formal competitive bidding process.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding to approve a cost-share agreement with Nock Investments, LLC in an amount not to exceed \$119,998.86 for improvements to the intersection of Persimmon Street and Ruppel Road.

PASSED AND APPROVED this 15th day of March 2005.



ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

APPROVED:

By:

Dan Coody
DAN COODY, Mayor

City Council Meeting of March 15, 2005

ORD 3
Nock Investments, LLC
Change Order
Page 1 of 1
4685

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Operations Director 

From: Gary Coover, Staff Engineer 

Date: February 23, 2005

Subject: Resolution to approve a cost share and bid waiver in the amount of \$119,998.86 with Nock Investments, LLC, for improvements to the intersection of Persimmon Street and Ruppel Road.

RECOMMENDATION

The staff recommends approval of the cost share with Nock Investments, LLC, in the amount of \$119,998.86.

BACKGROUND

The originally approved plans for Ruppel Row subdivision allowed for a two-lane roadway section along Persimmon Street at the intersection with Ruppel Road. With subsequent development plans in the area by Terminella and Associates and by the Fayetteville Public School system, the City Council Street Committee on October 28, 2004, determined that Persimmon Street needs to be widened to three lanes and Ruppel Road widened to five lanes at this intersection, including transitional sections and pedestrian crosswalks in compliance with the Master Street Plan.

DISCUSSION

The developer's original cost to improve this intersection is \$130,575.50. The additional cost for the revised and expanded intersection is \$119,998.86 including engineering, surveying, construction and inspection.

BUDGET IMPACT

This \$119,998.86 expenditure will be included in the 2005 CIP budget as part of Project #02116 (Street ROW / Intersection / Cost Sharing). Once the 2004 fund balances are re-budgeted on March 1, the current fund balance in this project will be \$449,448.35.

#

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this March 15, 2005, by and between the City of Fayetteville, Arkansas and Nock Investments, LLC, Witnesseth:

WHEREAS, Nock Investments, LLC is in the process of constructing a portion of the Ruppel Road and Persimmon Street Intersection.

WHEREAS, The City is interested in widening the intersection to allow for a five lane street for the future of the Ruppel Road Corridor.

WHEREAS, entering into a cost-share agreement with Nock Investments, LLC and utilizing their engineer and contractor will avoid the added cost and unnecessary duplication of effort which would arise from the formal competitive bidding process.

NOW, THEREFORE, the City of Fayetteville and Nock Investments, LLC agree as follows:

1. Upon the City Council approving the Street Improvement Cost-Share & Bid Waiver, the City of Fayetteville agrees to:
 - A. Pay for 100% of the actual documented construction costs for the widening of the Persimmon/Ruppel intersection from two lanes to five lanes with divided boulevard.
 - B. Pay a maximum-not-to-exceed cost of \$119,998.86 for the afore mentioned street construction as was provided by Nock Investments, LLC and made a part of this agreement.
 - C. Reconsider the costs if the future and actual construction prices exceed the maximum-not-to-exceed amount that was furnished by Nock Investments, LLC. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.
 - D. Make all efforts to provide payment to Nock Investments, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. Nock Investments, LLC agrees to:
 - A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable street installation.

- B. Provide a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the water main installation.
 - C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and/or the Mayor.
3. It is further understood that the contract for construction is between Nock Investments, LLC and his Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$119,998.86 for the street construction.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

By: _____

DAN COODY, Mayor

Nock Investments, LLC

By: _____

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

6-Dec-05
City Council Meeting Date

Connie Edmonston
Submitted By

Parks & Recreation
Division

Operations
Department

Action Required:

A resolution approving a Separate Agreement with the Fayetteville School District for preservation and use of the northeastern portion of Lake Fayetteville Park known as the Environmental Study Center.

n/a		
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

Budgeted Item ☐

Budget Adjustment Attached ☐

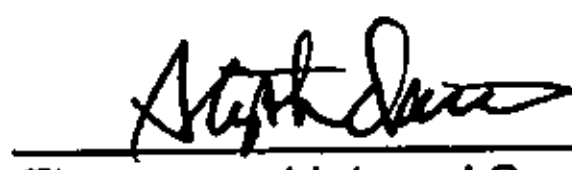

Department Director 11-15-05
Date

Previous Ordinance or Resolution # 3898

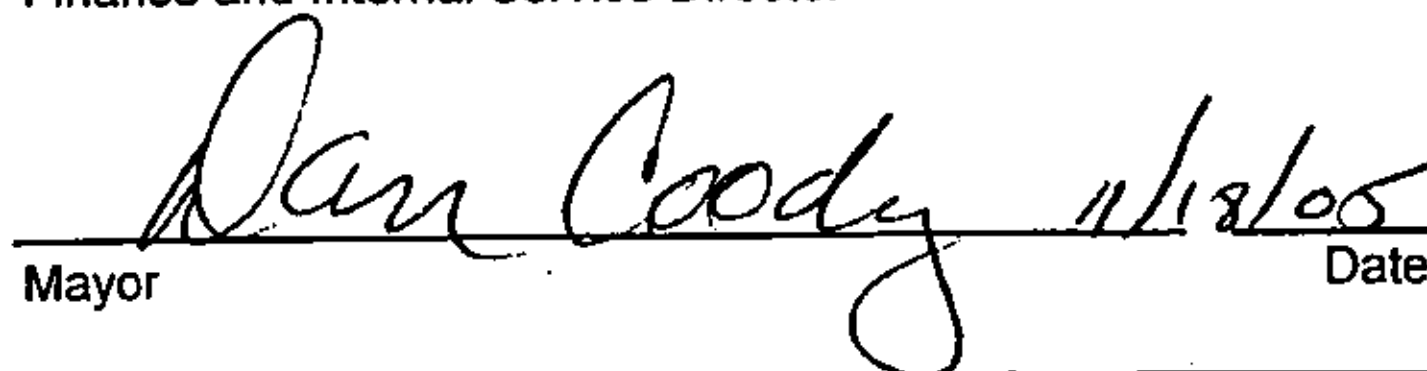
Original Contract Date: _____


City Attorney 11-17-05
Date

Original Contract Number: _____


Finance and Internal Service Director 11-17-05
Date

Received in City Clerk's Office



Mayor 11/18/05
Date

Received in Mayor's Office


Comments:

City Council Meeting of December 6, 2005

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
From: Connie Edmonston, Parks and Recreation Director *C. E.*
Date: November 14, 2005
Subject: **Separate Agreement with Fayetteville Public Schools for the preservation and use of 200 acres in the northeastern portion of Lake Fayetteville Park**

RECOMMENDATION

Parks and Recreation Staff recommends approval of a Separate Agreement with the Fayetteville School District for preservation and use of 200 acres in the northeastern portion of Lake Fayetteville Park as established by Ordinance 3898.

BACKGROUND

Resolution 34-73 was passed by City Council in 1973 allowing the Fayetteville and Springdale School Districts to reserve and maintain 200 acres on the northeastern side of Lake Fayetteville as a nature study area. This area has been known as the Lake Fayetteville Environmental Study Center. In the 1970's, a nature study complex was constructed, including trails and fishing piers, by the school districts to be utilized as an outdoor education center. Fayetteville and Springdale School Districts each employ science teachers to conduct a science curriculum for school age children at the Study Center. In 1995, City Council extended the agreement in Ordinance Number 3898 to constitute a period of 50 years (2045).

DISCUSSION

A Separate Agreement was drafted by our City Attorney to convey the following four areas of agreement with the Fayetteville School District on the use of the northeastern portion of Lake Fayetteville:

1. The northeastern portion will be maintained primarily in its natural state and used as a natural park area.
2. Access for other educational and scientific study shall not be unreasonably denied to the University of Arkansas and similar educational institutions.
3. Lake Fayetteville Trail will remain accessible and available to citizens.
4. School must have written consent from the City to construct or enlarge facilities, buildings, roads, parking lots, trails, or other development within the leased area.

Fayetteville School Board approved this agreement at their October 27, 2005 meeting. This document clarifies the original agreement adopted with Ordinance 3898.

BUDGET IMPACT

None.

Attachments:

Ordinance 34-73
Ordinance 3898
Separate Agreement
School Board Minutes October 27, 2005

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN AGREEMENT FOR
PRESERVATION AND USE OF THE NORTHEASTERN
PORTION OF LAKE FAYETTEVILLE PARK

WHEREAS, the City Council of the City of Fayetteville and the Fayetteville School District have long worked together to preserve the Northeastern portion of Lake Fayetteville Park mainly in its natural state for use of citizens and for school children using the Nature Study Center; and

WHEREAS, the City of Fayetteville and the Fayetteville School District wish to extend and formalize this preservation efforts through a written agreement.

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 approves the Separate Agreement For Preservation And Use Of Northeastern Portion Of Lake Fayetteville Park (attached as Exhibit A) and authorizes Mayor Coody to sign this agreement.

PASSED and APPROVED this the 6th day of December, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

**SEPARATE AGREEMENT
FOR PRESERVATION AND USE OF
NORTHEASTERN PORTION OF LAKE FAYETTEVILLE PARK**

Pursuant to the Resolution of April 17, 1973, by the Fayetteville City Board of Directors (attached as Exhibit A) and Ordinance No. 3898 passed by the Fayetteville City Council on June 20, 1995; the City of Fayetteville and Fayetteville School Board agree as follows:

1. The Northeastern portion of Lake Fayetteville property (west of Highway 265) as described in paragraph 2 of the Joint Lease Agreement between the parties shall remain preserved, maintained primarily in its natural state, and developed primarily as a Nature Study Center for the use of the Fayetteville and Springdale School Districts and as a natural park area for Fayetteville citizens.

2. Access for other educational and scientific study shall not be unreasonably denied to the University of Arkansas and similar educational institutions.

3. The Lake Fayetteville Trail shall remain accessible and available to Fayetteville citizens at all times while Lake Fayetteville Park is open. Interior trails near the School District's Nature Study Center shall similarly be accessible and available to all Fayetteville citizens except when exclusive use by Fayetteville or Springdale School students is needed for safety, educational or scientific reasons.

4. No construction or enlargement of any facilities, buildings, roads, parking lots, trails, or other development within the leased area shall be allowed without written consent of the City. The term of this agreement shall be the same as the Joint Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands this 27th day of October, 2005.

FAYETTEVILLE SCHOOL DISTRICT

CITY OF FAYETTEVILLE, ARKANSAS

By: Stephen M. Pennington

By: _____
Dan Coody, Mayor

ATTEST:

ATTEST:

By: Christina K. Bell

By: _____
Sondra Smith, City Clerk

R E S O L U T I O N

WHEREAS, It is the expressed intent of the Fayetteville City Board of Directors to develop Lake Fayetteville and the surrounding City property as a public use area, and

WHEREAS, it is intended that the eastern portion of the Lake property be reserved and developed as a nature study area, and

WHEREAS, the Fayetteville and Springdale school districts wish to construct a nature study center on the eastern portion of the Lake property;

NOW, THEREFORE, BE IT RESOLVED that the Fayetteville City Board of Directors hereby gives assurance to the school districts that the eastern portion of the Lake property as shown on Lake Fayetteville Development Map extending to Crossover Road will be reserved in its natural state as a nature study area for a period of at least fifty years, and any structures or other improvements installed by the school districts on this property will be preserved and allowed to remain on the property for nature study purposes for a period of at least fifty years from the date hereof.

RESOLVED THIS 17th DAY OF April, 1973.

APPROVED:

Russell J. Purdy
MAYOR

ATTEST:

Helen Young
CITY CLERK

AN ORDINANCE RESERVING AND MAINTAINING THE EASTERN PORTION OF LAKE FAYETTEVILLE IN ITS NATURAL STATE, AND PRESERVING AND ALLOWING CERTAIN CURRENTLY INSTALLED STRUCTURES TO REMAIN ON THE PROPERTY FOR NATURE STUDY PURPOSES.

WHEREAS, it is the expressed intent of the Fayetteville City Council to maintain Lake Fayetteville and the surrounding city property as a public use area; and,

WHEREAS, it is the desire of the people of Fayetteville to reserve and maintain the eastern portion of the lake property as a nature study area; and,

WHEREAS, the Arkansas Natural Heritage Commission has placed the study center on its Registry of Natural Areas; and,

WHEREAS, The Fayetteville and Springdale school districts have constructed a nature study center on the eastern portion of the lake property and have committed to a sustaining investment in facilities and faculty; and,

WHEREAS, the Nature Study Center provides an opportunity to increase the educational program for students for environmental concerns and increases the environmental awareness of the general public.

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

Section 1. That the eastern portion of the Lake Fayetteville property, shown in Exhibit "A" and made a part hereof, is reserved and is to be maintained in its natural state.

Section 2. Be it further ordained that any structures or other improvements currently installed by the school districts on this property will be preserved and allowed to remain on the property for nature study purposes for a period of at least fifty years from the date of enactment of this ordinance.

PASSED AND APPROVED this 20th day of June, 1995.

APPROVED

By:

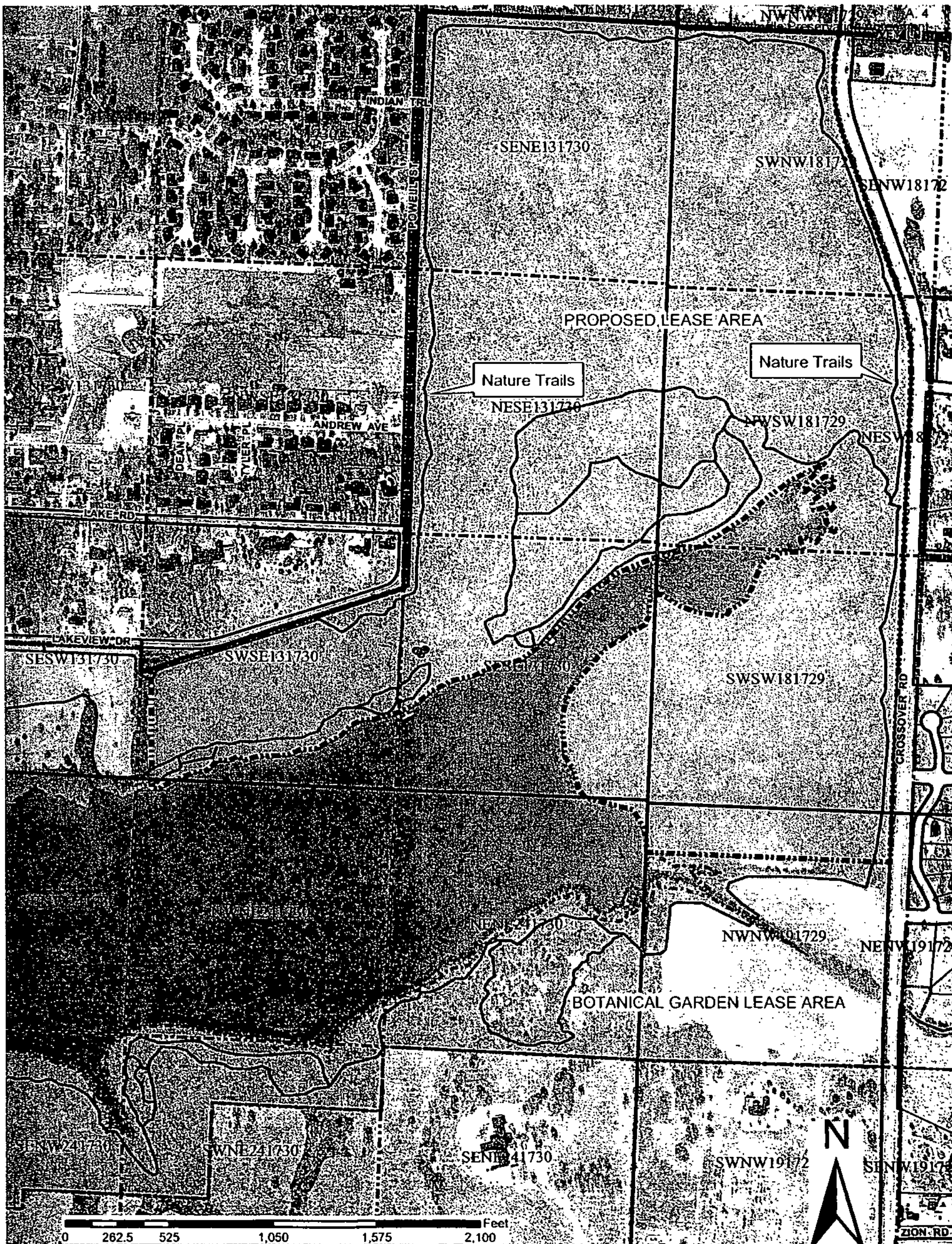
Fred Hanna
Fred Hanna, Mayor

ATTEST:

By:

Traci Paul
Traci Paul, City Clerk





FROM THE BOARD

Land Purchase

The Board voted unanimously to approve a real estate contract for the purchase of 75 acres of land and the donation of 3 acres of land in northwest Fayetteville for the future construction of a school. The land is located west of Deane Solomon Road, north of Mt. Comfort Road, and south of Howard Nickell Road. The price for the land is approximately \$4.1 million, and the cost would be paid from the district's capital fund collected over the years for land purchases and capital expenditures.

Lake Fayetteville Agreement

The Board voted to approve the continuation of an agreement between the district and the City of Fayetteville regarding the use of the Lake Fayetteville Nature Study Center.

Special Education Budget

The Board voted to approve the 2005-06 special education budget, which must be approved separately from the district budget according to state regulations.

Recognition

Congratulations to plumber David Whitaker and journeyman plumber Jason Fowler, who each received Above & Beyond Awards from the Education Committee of the Fayetteville Chamber of Commerce for their work in the schools!

Enrollment Distribution Project

Susan Anders, chair of the Enrollment Distribution Project committee, reported to the Board on the committee's project. The

committee is studying the existing boundary lines for elementary, middle school, and jr. high attendance zones. The committee will make a recommendation to the Board in November. More information on the Enrollment Distribution Project can be found here:

<http://schoolcenter.fayar.net/education/dept/dept.php?sectionid=1552>

Annual Report

The 2004-05 Annual Report was presented to the Board as part of the district's annual meeting. The annual report may be viewed at this address:

<http://www.fayar.net/admin/04-05annualreport.pdf>

One-to-One Update

Jefferson principal Tracy Mulvenon reported to the Board on the One-on-One technology project that began at Jefferson. The project provides each student with a computer at their desk, instead of utilizing computer labs in the school. Mulvenon noted the positive impact the technology has had on test scores at Jefferson.

Gray to Retire

The Board voted to accept the retirement of associate superintendent Michael Gray, effective June 30, 2006.

City of Fayetteville

City Council Agenda Items
or
Contracts

6-Dec-05

City Council Meeting Date

Connie Edmonston

Submitted By

Parks & Recreation

Division

Operations

Department

Action Required:

A Resolution approving a joint Lease Agreement between Parks and Recreation and the Fayetteville Public Schools.

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

Budgeted Item

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED
11/16/05
ED

Mayor

Date

Received in Mayor's Office

ENTERED
11/17/05
P.B.

Comments:

City of Fayetteville

City Council Agenda Items
or
Contracts

6-Sep-05
City Council Meeting Date

Connie Edmonston
Submitted By

Parks & Recreation
Division

Operations
Department

Action Required:

A Resolution approving a joint Lease Agreement between Parks and Recreation and the Fayetteville Public Schools.

Cost of this request

Account Number

Project Number

Category/Project Budget

Funds Used to Date

\$ -

Remaining Balance

Program Category / Project Name

Program / Project Category Name

Fund Name

Budgeted Item

--

Budget Adjustment Attached

--

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office

Received in Mayor's Office

Mayor

Date

Comments:

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
From: Connie Edmonston, Parks and Recreation Director
Date: November 17, 2005
Subject: Joint Lease Agreement between Parks and Fayetteville Public Schools

RECOMMENDATION

Parks and Recreation Advisory Board (PRAB) and Parks and Recreation Staff recommends approval of a Joint Lease Agreement between Parks and the Fayetteville Public Schools.

BACKGROUND

Throughout the years, Parks and Recreation has maintained a equitable relationship with the Fayetteville Public Schools in sharing facilities. In 1973, Resolution 34-73 was passed allowing the Fayetteville and Springdale School Districts to reserve and maintain 200 acres on the eastern side of Lake Fayetteville as a nature study area. The school districts constructed a nature study center, as well as trails and fishing piers to enhance the study area. City Council extended the agreement in Ordinance No. 3898 in 1995 to constitute a period of fifty years which would terminate in 2045.

Since 1973, City Parks and Recreation entered into eight different agreements with the Fayetteville School Districts concerning land usage. The agreements designated school playgrounds to be public parks after school hours, on weekends, and during summer months for a period of 25 years. Joint projects basically consisted of building playgrounds, picnic facilities, and softball and soccer fields. An agreement with the District allowed the City to build Asbell Gym on school property in 1970. Holcomb and Vandergriff Gyms were built in 1994 and 1995 with joint funding.

Only four of the eight agreements are current today including the Lake Fayetteville Nature Study Center and the gymnasiums at Vandergriff, Holcomb and Asbell Elementary Schools. The 10 Year Parks and Recreation Master Plan indicates that the existing agreement between the school system and Parks and Recreation Division requires reevaluation. The consultant's planning team recommended the establishment of site-specific agreements ensuring that each organization benefits equally. Sites not used for programming should continue to be maintained by the school system. It was also recommended that the terms of the agreements should include shorter time spans than the current 25 to 50 years.

DISCUSSION

With the current growth of neighborhood parks and trails obtained through the Park Land Dedication Ordinance, Parks and Recreation Advisory Board concluded it was in the best interest of the City to obtain agreements only on the school sites in which recreation programs were conducted. The Fayetteville elementary schools' playgrounds would remain open to the public whether or not an agreement is in place.

City Council Meeting of September 6, 2005

Agenda Item Number

At the August 2, 2004 PRAB meeting, a subcommittee was formed to investigate the need for a joint agreement. After several meetings with School Administration, the subcommittee presented a proposal on June 6, 2005 to PRAB. The recommendation was to lease portions of Asbell and Holcomb Elementary School grounds in exchange for the 200 acres leased to the School District at the Lake Fayetteville Nature Study Center. A 10 year lease with a one year cancellation notice was assigned to the agreement.

Asbell Elementary School grounds are needed to accommodate the 1,500 youth that play soccer each year. Asbell fields are an essential component of the soccer program offered at Lewis Soccer Complex. The proposed lease at Holcomb Elementary School includes part of the parking lot that the City built in 1994 and the newer parking lot to the east, as well as the outfields of softball fields #1 and #4 at the Gary Hampton Softball Complex. Parks and Recreation Staff would continue to maintain these leased lands. This joint agreement does not change the current usage agreements with the Lake Fayetteville Nature Study Center, nor Asbell, Holcomb and Vandergriff Elementary School Gyms. PRAB unanimously approved this proposal. See attached maps of the proposed properties.

This proposed lease was presented to the Fayetteville Board of Education on June 23 and July 28, 2005. The Board unanimously approved the Joint Lease Agreement. Approval of this agreement facilitates the collective utilization of the City and School District's resources.

BUDGET IMPACT

Budget impact would be the same.

Attachments:

PRAB Meeting Minutes August 2, 2004
PRAB Meeting Minutes June 6, 2005
Fayetteville Board of Education Meeting Minutes June 23, 2005
Fayetteville Board of Education Meeting Minutes July 28, 2005
Joint Lease Agreement
Holcomb Elementary School Park Land Proposal
Asbell Elementary School Park Land Proposal
Lake Fayetteville Agreement Ordinance 3898
Holcomb Gym Agreement Resolution 74-94
Vandergriff Gym Agreement Resolution 41-95

RESOLUTION NO. _____

A RESOLUTION TO APPROVE THE JOINT LEASE
AGREEMENT WITH THE FAYETTEVILLE SCHOOL DISTRICT

WHEREAS, the City Council of the City of Fayetteville and the Fayetteville School District have long worked together to provide recreational services to Fayetteville citizens and students; and

WHEREAS, the various joint or cooperative programs, locations, services and duties should be better delineated and described; and

WHEREAS, a Fayetteville School District has agreed to the attached Joint Lease Agreement.

**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 agrees to the Joint Lease Agreement attached as Exhibit 1 and authorizes Mayor Coody to sign this Joint Lease Agreement with the Fayetteville School District.

PASSED and APPROVED this the 6th day of December, 2005.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

JOINT LEASE AGREEMENT

This Agreement, made and entered by and between the City of Fayetteville, Arkansas, a municipal corporation, hereafter called "the City," and the Fayetteville School District, hereafter called "the District," Witnesseth:

1. For and in consideration of the covenants and agreements herein entered into and agreed upon by the City as obligations to the District, the District lets, leases and demises unto the City, subject to the terms and conditions contained herein, the following described properties situated in Washington, County, Arkansas:

ASBELL ELEMENTARY SCHOOL

A part of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 8, Township 16 North Range 30 West, being more particularly described as follows: Commencing at the Southeast corner of said NE-NW, thence with the South line of said NE-NW North 87° 06' 20" West 13.644 feet, thence North 87° 06' 04" West 5.002 feet, to the Point of Beginning; thence North 87° 06' 19" West 790 feet; thence leaving said South line North 02° 53' 41" East 654.399 feet; thence South 86° 54' 45" East 110 feet; thence South 02° 53' 41" West 320 feet; thence South 87° 06' 17" East 530 feet; thence North 02° 53' 43" East 318.219 feet; thence South 86° 54' 43" East 161.733 feet; thence South 03° 55' 34" West 651.803 feet, to the Point of Beginning and containing 350,620 square feet (8.049 acres), more or less

HOLCOMB ELEMENTARY SCHOOL

A part of the Southeast Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 32, Township 17 North, Range 30 West, being more particularly described as follows: Commencing at the Southwest corner of said SE-NW, thence with the South line of said SE-NW South 87° 26' 29" East 992.643 feet, thence with the East line of said SE-NW North 02° 33' 39" East 210.689 feet, to the Point of Beginning; thence continuing with said East line North 02° 33' 38" East 276.225 feet; thence leaving said East line North 87° 26' 19" West 967.758 feet; thence South 02° 33' 41" West 276.225 feet; thence South 87° 26' 19" East 967.763 feet, to the Point of Beginning and containing 267,320 square feet (6.137 acres), more or less.

2. For and in consideration of the covenants and agreements herein entered into and agreed upon by the District as obligations to the City, the City lets, leases and demises unto the District, subject to the terms and conditions set forth under a separate Agreement, (provided that nothing contained herein shall in any way affect the rights and obligations established by said separate Agreement), the following described property situated in Washington, County, Arkansas:

LAKE FAYETTEVILLE

A part of the East Half of Section 13 and part of the East Half of Section 24, Township 17 North, Range 30 West, and part of the West Half of Section 18 and part of the West Half of Section 19, Township 17 North, Range 29 West, being more

particularly described as follows: Beginning at the Northwest corner of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of said Section 13; thence with the North line of said SE-NE-13-17-30 South 87° 06' 01" East 1303.739 feet; thence South 02° 29' 13" West 17.192 feet thence South 87° 51' 20" East 818.386 feet; thence with the West right-of-way line of Highway 265 (Crossover Road) the following calls: South 06° 01' 18" West 2.822 feet; thence South 11° 44' 19" West 100.498 feet; thence South 06° 01' 42" West 47.6 feet; thence South 02° 51' 10" West 95.156 feet; thence South 03° 19' 21" East 89.915 feet thence South 08° 19' 18" East 59.959 feet; thence South 11° 49' 21" East 44.973 feet; thence South 14° 19' 18" East 29.984 feet; thence South 17° 19' 22" East 59.959 feet; thence South 19° 19' 20" East 832.701 feet; thence South 16° 46' 49" East 98.118 feet; thence South 09° 44' 20" East 173.596 feet; thence South 01° 14' 19" East 154.34 feet; thence South 02° 45' 41" West 926.592 feet; thence South 02° 44' 44" West 1322.566 feet; thence South 02° 35' 18" West 250.278 feet; thence leaving said West right-of-way line North 87° 36' 40" West 3750.975 feet; thence North 00° 10' 36" West 831.004 feet; thence North 72° 00' 17" East 1351.875 feet to a point on the West line of the SE-13-17-30; thence with said West line North 02° 09' 09" East 2935.509 feet, to the Point of Beginning and containing 266.760 acres, more or less.

LESS AND EXCEPT all that portion of said parcel lying within the waters of Lake Fayetteville, said waters being more particularly described as that portion of said parcel lying below an elevation on 1238 feet above mean sea level, said elevation being the top of the Lake Fayetteville spillway.

3. The term of this Joint Lease shall begin on _____, 2005 and end on _____, 2015, unless sooner terminated by twelve (12) months written notice by any of the parties hereto.
4. The City agrees to perform the following:
 - a. Asbell Elementary School
 - Mow the soccer fields;
 - Be responsible for the irrigation system, fertilizing, seeding, and horticulture practices necessary to ensure the best quality of turf possible on the soccer fields; and,
 - Maintain soccer goals, water fountains, east parking lots, pickup trash, line soccer fields, and schedule use of soccer fields.
 - b. Holcomb Elementary School
 - Pickup trash and mow area; and,
 - Schedule softball fields.
5. The District agrees to allow the City to use the softball field, restrooms and/or batting facility at Asbell Elementary School for tournaments, soccer, softball, or sport clinics at no charge depending upon availability of the facility through a separate

Single Event Facility Rental Agreement, a copy of which is attached hereto and made a part hereof. In such instances, the City's Staff will prep the fields.

6. The District shall allow the use of portable restrooms at Asbell Elementary School for fall and spring soccer and special events/tournaments as needed.
7. Facility expansions and all site alterations must have prior written approval by the District and meet all City standards/procedures for such. Any permanent structure shall become a permanent fixture to the land, and become the property of the District at the end of the lease term, unless otherwise agreed to in writing prior to construction of the structure.
8. Each party agrees to indemnify and hold the other and its officers, officials, employees, and agents harmless from any and all liability, including attorney's fees, for claims, expenses, loss or damage to persons or property resulting from their negligent acts, provided that nothing herein shall be construed to alter, limit or otherwise compromise that immunity afforded the City or the District under the Constitution and Statutes of the State of Arkansas.
9. The parties hereby agree that upon termination of this lease by expiration or by earlier termination for any reason whatsoever, they will peaceably deliver possession of the leased premises to the other, including all permanent fixtures, without demand.
10. The parties agree not to violate any law, ordinance, rule or regulation of any government authority having jurisdiction over the premises.
11. It is agreed that the failure of either party to invoke any of the available remedies under this agreement or under law in the event of one or more breaches or defaults by the other under the agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the party from invoking such remedies in the event of any future breach or default.
12. Each paragraph of this agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
13. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.
14. The parties agree and understand that this Joint Lease Agreement is complementary and supplemental to the School Gymnasium Agreement, the fifty (50) year term of the Environmental Study Center Ordinance, and other leases and agreements

already in force between the parties, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.

15. This agreement may be executed in all or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have set their hands this ____ day of August, 2005.

CITY OF FAYETTEVILLE, ARKANSAS

FAYETTEVILLE SCHOOL DISTRICT

By: _____
Dan Coody, Mayor

By: Sgm. Phil

ATTEST:

ATTEST:

By: _____
Sondra Smith, City Clerk

By: Paula Neal

ACKNOWLEDGMENT

State of Arkansas)
) SS.
County of Washington)

On this the ____ day of August 2005, before me, a Notary Public, duly commissioned and acting in and for the State and County aforesaid, personally appeared DAN COODY and SONDRAS SMITH, to me well known, who stated that they were the Mayor and Clerk, respectively of the City of Fayetteville, Arkansas, and have been authorized by lawful resolution of the Fayetteville City Council to execute contracts on behalf of the City of Fayetteville, Arkansas, and that they acknowledged that they had executed the foregoing instrument for the consideration, uses and purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

My commission expires: _____

Notary Public

JOINT LEASE AGREEMENT

This Agreement, made and entered by and between the City of Fayetteville, Arkansas, a municipal corporation, hereafter called "the City," and the Fayetteville School District, hereafter called "the District," Witnesseth:

1. For and in consideration of the covenants and agreements herein entered into and agreed upon by the City as obligations to the District, the District lets, leases and demises unto the City, subject to the terms and conditions contained herein, the following described properties situated in Washington, County, Arkansas:

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LESS AND EXCEPT all that portion of said parcel lying within the waters of Lake Fayetteville, said waters being more particularly described as that portion of said parcel lying below an elevation on 1238 feet above mean sea level, said elevation being the top of the Lake Fayetteville spillway.

3. The term of this Joint Lease shall begin on _____, 2005 and end on _____, 2015, unless sooner terminated by twelve (12) months written notice by any of the parties hereto.
4. The City agrees to perform the following:
 - a. Asbell Elementary School
 - Mow the soccer fields;
 - Be responsible for the irrigation system, fertilizing, seeding, and horticulture practices necessary to ensure the best quality of turf possible on the soccer fields; and,
 - Maintain soccer goals, water fountains, east parking lots, pickup trash, line soccer fields, and schedule use of soccer fields.
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9. The parties hereby agree that upon termination of this lease by expiration or by earlier termination for any reason whatsoever, they will peaceably deliver possession of the leased premises to the other, including all permanent fixtures, without demand.
10. The parties agree not to violate any law, ordinance, rule or regulation of any government authority having jurisdiction over the premises.
11. It is agreed that the failure of either party to invoke any of the available remedies under this agreement or under law in the event of one or more breaches or defaults by the other under the agreement shall not be construed as a waiver of such provisions and conditions and shall not prevent the party from invoking such remedies in the event of any future breach or default.
12. Each paragraph of this agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
13. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.
14. The parties agree and understand that this Joint Lease Agreement is complementary and supplemental to the School Gymnasium Agreement, the fifty (50) year term of the Environmental Study Center Ordinance, and other leases and agreements

already in force between the parties, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.

15. This agreement may be executed in all or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have set their hands this ____ day of August, 2005.

CITY OF FAYETTEVILLE, ARKANSAS

FAYETTEVILLE SCHOOL DISTRICT

By: _____
Dan Coody, Mayor

By: Sgt. Paul

ATTEST:

ATTEST:

By: _____
Sondra Smith, City Clerk

By: Paula Neal

ACKNOWLEDGMENT

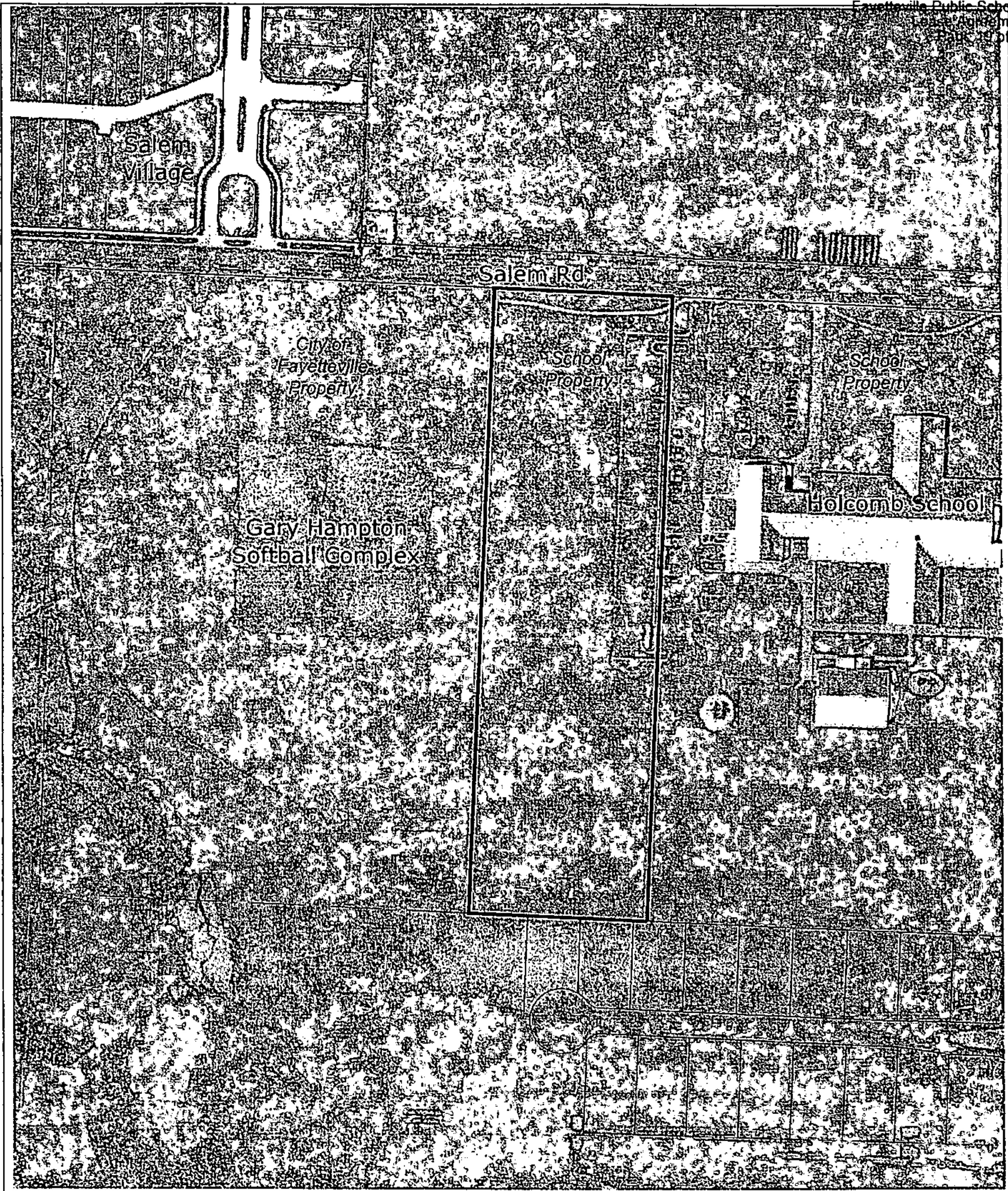
State of Arkansas)
) SS.
County of Washington)

On this the ____ day of August 2005, before me, a Notary Public, duly commissioned and acting in and for the State and County aforesaid, personally appeared DAN COODY and SONDRAS SMITH, to me well known, who stated that they were the Mayor and Clerk, respectively of the City of Fayetteville, Arkansas, and have been authorized by lawful resolution of the Fayetteville City Council to execute contracts on behalf of the City of Fayetteville, Arkansas, and that they acknowledged that they had executed the foregoing instrument for the consideration, uses and purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

My commission expires: _____

Notary Public

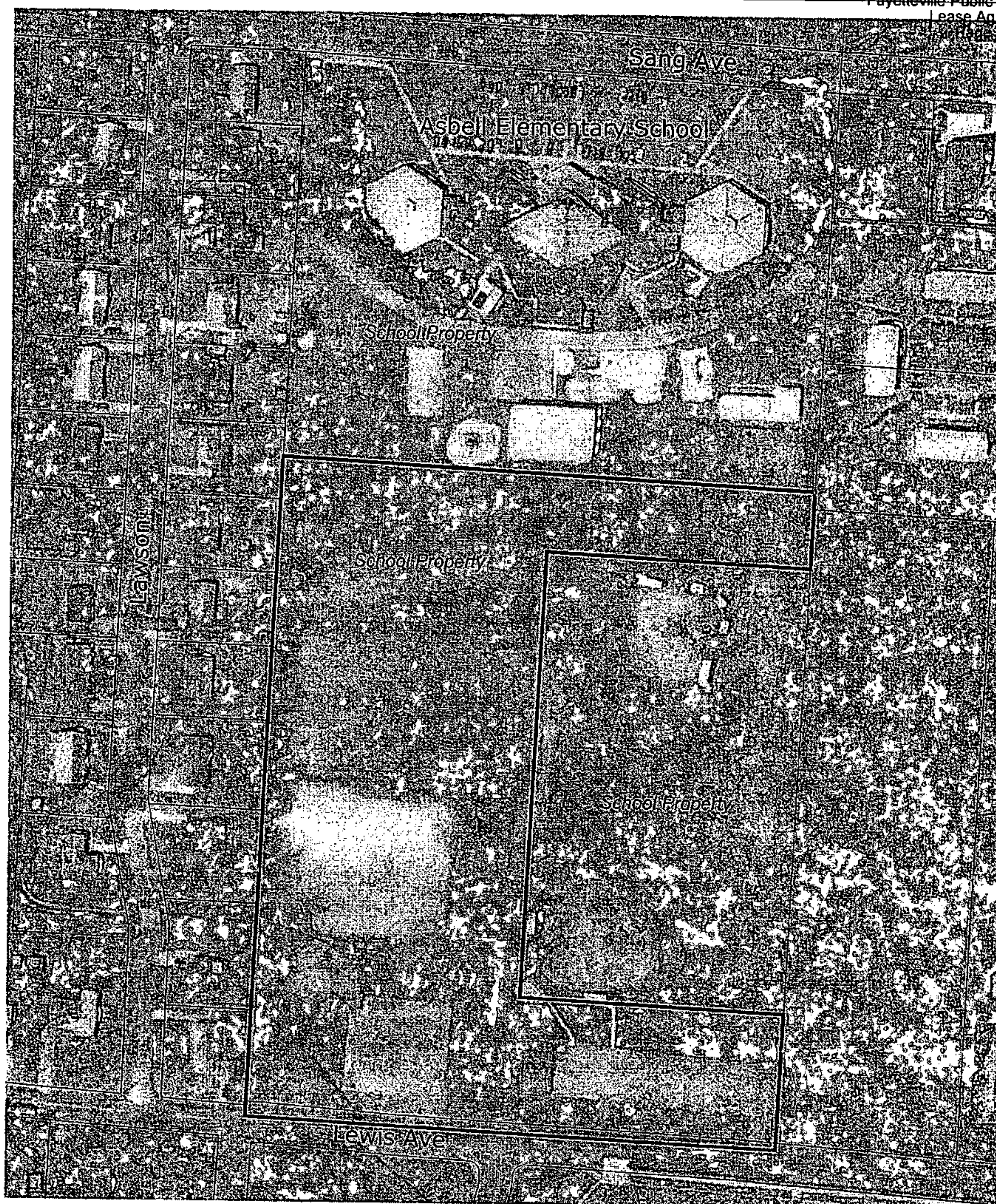


Holcomb Elementary School Park

June 22, 2005

Scale: 1" = 200'





Asbell Elementary School Park

June 22, 2005



Scale: NTS

AN ORDINANCE RESERVING AND MAINTAINING THE EASTERN PORTION OF LAKE FAYETTEVILLE IN ITS NATURAL STATE, AND PRESERVING AND ALLOWING CERTAIN CURRENTLY INSTALLED STRUCTURES TO REMAIN ON THE PROPERTY FOR NATURE STUDY PURPOSES.

WHEREAS, it is the expressed intent of the Fayetteville City Council to maintain Lake Fayetteville and the surrounding city property as a public use area; and,

WHEREAS, it is the desire of the people of Fayetteville to reserve and maintain the eastern portion of the lake property as a nature study area; and,

WHEREAS, the Arkansas Natural Heritage Commission has placed the study center on its Registry of Natural Areas; and,

WHEREAS, The Fayetteville and Springdale school districts have constructed a nature study center on the eastern portion of the lake property and have committed to a sustaining investment in facilities and faculty; and,

WHEREAS, the Nature Study Center provides an opportunity to increase the educational program for students for environmental concerns and increases the environmental awareness of the general public.

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

Section 1. That the eastern portion of the Lake Fayetteville property, shown in Exhibit "A" and made a part hereof, is reserved and is to be maintained in its natural state.

Section 2. Be it further ordained that any structures or other improvements currently installed by the school districts on this property will be preserved and allowed to remain on the property for nature study purposes for a period of at least fifty years from the date of enactment of this ordinance.

PASSED AND APPROVED this 20th day of June, 1995.

APPROVED

By:

Fred Hanna
Fred Hanna, Mayor

ATTEST:

By:

Traci Paul
Traci Paul, City Clerk



COPY

RESOLUTION NO. 41-95

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY AND THE FAYETTEVILLE SCHOOL DISTRICT NO. 1 TO JOINTLY CONSTRUCT A SCHOOL GYMNASIUM/NEIGHBORHOOD COMMUNITY CENTER AND APPROVAL OF A BUDGET ADJUSTMENT IN THE AMOUNT \$100,000.00.

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

Section 1. That the Mayor and City Clerk are hereby authorized to execute the Interlocal Cooperation Agreement between the City and the Fayetteville School District No. 1 to jointly construct a school gymnasium/neighborhood community center. A copy of the agreement is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. The City Council hereby approves a budget adjustment in the amount of \$100,000.00 increasing Building Costs, Acct. No. 1010 6600 5804 00 by decreasing Use of Fund Balance, Acct. No. 1010 0001 4999 99. A copy of the budget adjustment is attached hereto and made a part hereof.

PASSED AND APPROVED this 7th day of March 1995.

APPROVED:

By: Fred Hanna

Fred Hanna, Mayor

ATTEST:

By: Traci Paul

Traci Paul, City Clerk



EXHIBIT A

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN
THE CITY OF FAYETTEVILLE, ARKANSAS
AND
FAYETTEVILLE SCHOOL DISTRICT NO. 1**

This AGREEMENT is made between the City of Fayetteville, Arkansas (City), a political subdivision of the State of Arkansas, and Fayetteville School District No. 1 (School District), a public agency as defined in A.C.A. §25-20-103, under the authority of Act 430 of 1967, codified at A.C.A. §25-20-102 et seq. (Repl. 1992) and known as the "Interlocal Cooperation Act", on the 7th day of march, 1995.

WITNESSETH:

WHEREAS, representatives of the City and the School District have met together to explore the possibility of a joint venture for the construction of a school gymnasium/neighborhood community center; and,

WHEREAS, representatives of the City and the School District have recommended that a school gymnasium/neighborhood community center which will be constructed, owned and operated jointly by the City and the School District will best serve the needs of the youth of Fayetteville.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES of the parties contained herein and other good and valuable consideration the parties agree as follows:

ARTICLE I

CREATION OF JOINT BOARD TO CONSTRUCT AND MANAGE THE SCHOOL GYMNASIUM/NEIGHBORHOOD COMMUNITY CENTER.

There shall be created a Joint Board consisting of one member each of the governing body of the City and School District whose purpose shall be the responsibility for administering the joint undertaking of the construction, management, operation and maintenance of a school gymnasium/neighborhood community center. The Joint Board may appoint an administrator or administrators to act as their agent.

ARTICLE II

CONSTRUCTION OF SCHOOL GYMNASIUM/NEIGHBORHOOD COMMUNITY CENTER.

The school gymnasium/neighborhood community center constructed pursuant to this AGREEMENT shall be built on land owned by the School District. The location is as follows:

Property Description

The school gymnasium/neighborhood community center shall be constructed in accordance with the design, plans, and specifications approved by the Joint Board, with the Joint Board acting as general contractor and supervisor for the project.

The parties shall seek to explore any and all possible contributions of labor and materials to the project in an effort to minimize project costs and increase the quality of the project to the community. Any contract necessary to be entered into to carry out this project shall be approved by the City Council and School Board upon recommendation of the Joint Board.

ARTICLE III

FINANCING AGREEMENT

The City will contribute \$100,000.00 for the school gymnasium/neighborhood community center. The School District will contribute \$200,000 for the school gymnasium/neighborhood community center. Either party may contribute additional sums during the term of this agreement for any additions to the project approved by the Joint Board.

There shall be no obligation on the part of either the City Council or the School Board to provide additional funds in the event the sums contributed are inadequate to fund either construction or operation of the school gymnasium/neighborhood community center.

ARTICLE IV

USE AND MAINTENANCE OF FACILITY.

Normal maintenance of the facility will be the joint responsibility of the City and the School Board in a cooperative manner approved by the Joint Board.

The Joint Board shall provide for the orderly use of the facility with the School District having priority use of the facility during normal school hours and events, the City next having priority for scheduling of planned events, and with neighborhood organizations encouraged to participate in the scheduling and utilization of the facility.

ARTICLE V

DURATION.

The duration of this AGREEMENT shall be twenty-five (25) years. At that time, the School District may purchase the City's proportionate interest in the school gymnasium/neighborhood community center building less improvements made to said building from funding sources other than the City and less depreciation, if any. Should the School District elect not to purchase the aforementioned proportioned interest of the City the parties may extend the duration of this agreement.

ARTICLE VI

DISSOLUTION.

In the event of termination of this AGREEMENT for any reason, prior to the duration of this agreement the School District may purchase the City's interest in this agreement in the manner set forth in Article V. Duration above and the City shall thereupon convey all of its rights, title, and interest in the real estate, if any, and improvements which are the subject of this agreement.

Should the School District elect not to purchase such interest of the City, the net assets shall be sold and distributed proportionately to the City and School District or their respective assigns consistent with proportionate interests set forth in Article V. Duration above.

ARTICLE VII

AMENDMENT.

This AGREEMENT may be amended by the approving vote of the City Council and School Board.

ARTICLE VIII

BINDING AGREEMENT.

This AGREEMENT shall be binding upon the parties hereto, their successors, and assigns.

CITY OF FAYETTEVILLE, ARKANSAS

By: Fred Hanna
Fred Hanna, Mayor

ATTEST:

Traci Paul
Traci Paul, City Clerk

FAYETTEVILLE SCHOOL DISTRICT NO. 1

By: Jeff Koenig
Jeff Koenig, President

ATTEST:

David Wilson
David Wilson, Secretary

MICROFILMED

RESOLUTION NO. 74-94

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY AND THE FAYETTEVILLE SCHOOL DISTRICT NO. 1 TO JOINTLY CONSTRUCT A SCHOOL GYMNASIUM/NEIGHBORHOOD COMMUNITY CENTER.

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

Section 1. That the Mayor and City Clerk are hereby authorized to execute the Interlocal Cooperation Agreement between the City and the Fayetteville School District No. 1 to jointly construct a school gymnasium/neighborhood community center. A copy of the agreement is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 5th day of July, 1994.

APPROVED:

By: _____

Fred Hanna
Fred Hanna, Mayor

ATTEST:

By: _____

Sherry L. Thomas
Sherry L. Thomas, City Clerk



**RESOLUTION
AUTHORIZING THE EXECUTION OF
INTERLOCAL COOPERATION AGREEMENT
BETWEEN
THE CITY OF FAYETTEVILLE, ARKANSAS
AND
FAYETTEVILLE SCHOOL DISTRICT NO. 1**

WHEREAS, Fayetteville School District No. 1 and the City of Fayetteville have explored the possibility of entering into a cooperative agreement for the construction of a school gymnasium/neighborhood community center on property owned by Fayetteville School District No. 1; and,

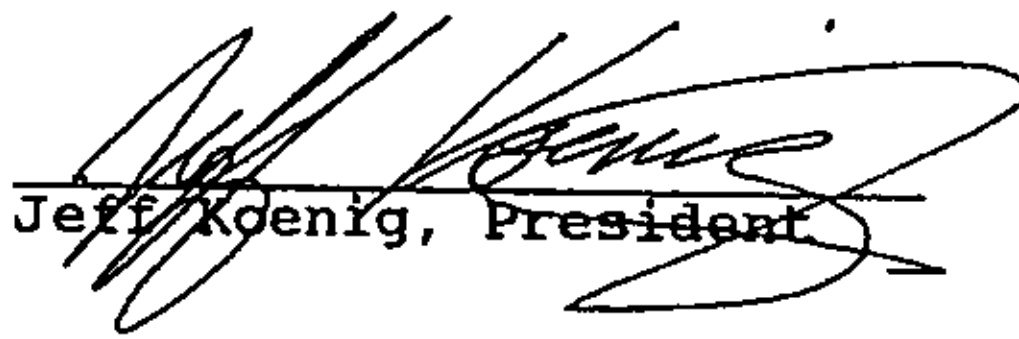
WHEREAS, Fayetteville School District No. 1 and the City of Fayetteville are of the belief that to cooperatively construct and operate a school gymnasium/neighborhood community center will best serve the needs of the youth of the District and the City and will be in the best interests of the patrons and taxpayers of the District and THE City; and,

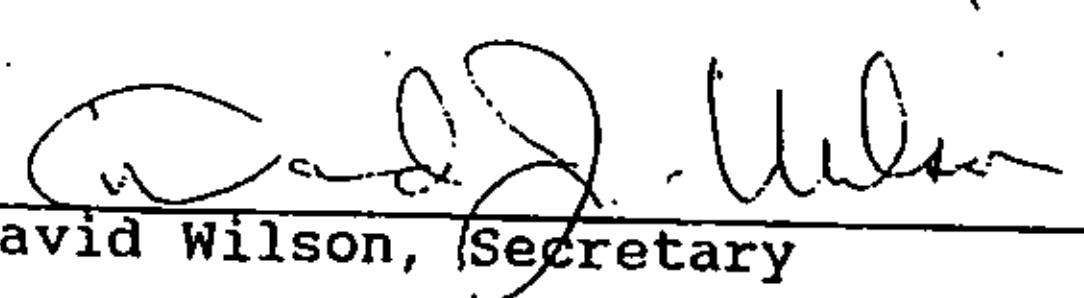
WHEREAS, Fayetteville School District No. 1 and the City of Fayetteville wish to enter into an Interlocal Cooperation Agreement in order to maximize and utilize available funds as well as OTHER resources to construct a school gymnasium/neighborhood community center.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF FAYETTEVILLE SCHOOL DISTRICT NO. 1:

The President and Secretary of the Fayetteville Board of Education are hereby authorized and directed to execute the Interlocal Cooperation Agreement between the City of Fayetteville, Arkansas and Fayetteville School District No. 1, a copy of which is attached hereto and made a part hereof.

ADOPTED this 14th day of June, 1994.


Jeff Koenig, President


David Wilson, Secretary

INTERLOCAL COOPERATION AGREEMENT
BETWEEN
THE CITY OF FAYETTEVILLE, ARKANSAS
AND
FAYETTEVILLE SCHOOL DISTRICT NO. 1

This AGREEMENT is made between the City of Fayetteville, Arkansas (City), a political subdivision of the State of Arkansas, and Fayetteville School District No. 1 (School District); a public agency as defined in A.C.A. §25-20-103, under the authority of Act 430 of 1967, codified at A.C.A. §25-20-102 et seq. (Repl. 1992) and known as the "Interlocal Cooperation Act", on the 5th day of July, 1994.

WITNESSETH:

WHEREAS, representatives of the City and the School District have met together to explore the possibility of a joint venture for the construction of a school gymnasium/neighborhood community center; and,

WHEREAS, representatives of the City and the School District have recommended that a school gymnasium/neighborhood community center which will be constructed, owned and operated jointly by the City and the School District will best serve the needs of the youth of Fayetteville.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES of the parties contained herein and other good and valuable consideration the parties agree as follows:

ARTICLE I

CREATION OF JOINT BOARD TO CONSTRUCT AND MANAGE THE SCHOOL GYMNASIUM/NEIGHBORHOOD COMMUNITY CENTER.

There shall be created a Joint Board consisting of one member each of the governing body of the City and School District whose purpose shall be the responsibility for administering the joint undertaking of the construction, management, operation and maintenance of a school gymnasium/neighborhood community center. The Joint Board may appoint an administrator or administrators to act as their agent.

ARTICLE II

CONSTRUCTION OF SCHOOL GYMNASIUM/NEIGHBORHOOD COMMUNITY CENTER.

The school gymnasium/neighborhood community center constructed pursuant to this AGREEMENT shall be built on land owned by the School District. The location is as follows:

Crystal Springs Subdivision.

The school gymnasium/neighborhood community center shall be constructed in accordance with the design, plans, and specifications approved by the Joint Board, with the Joint Board acting as general contractor and supervisor for the project.

The parties shall seek to explore any and all possible contributions of labor and materials to the project in an effort to minimize project costs and increase the quality of the project to the community. Any contract necessary to be entered into to carry out this project shall be approved by the City Council and School Board upon recommendation of the Joint Board.

ARTICLE III

FINANCING AGREEMENT

The City will contribute \$100,000.00 for the school gymnasium/neighborhood community center. The School District will contribute \$200,000 for the school gymnasium/neighborhood community center. Either party may contribute additional sums during the term of this agreement for any additions to the project approved by the Joint Board.

There shall be no obligation on the part of either the City Council or the School Board to provide additional funds in the event the sums contributed are inadequate to fund either construction or operation of the school gymnasium/neighborhood community center.

ARTICLE IV

USE AND MAINTENANCE OF FACILITY.

Normal maintenance of the facility will be the joint responsibility of the City and the School Board in a cooperative manner approved by the Joint Board.

The Joint Board shall provide for the orderly use of the facility with the School District having priority use of the facility during normal school hours and events, the City next having priority for scheduling of planned events, and with neighborhood organizations encouraged to participate in the scheduling and utilization of the facility.

ARTICLE V

DURATION.

The duration of this AGREEMENT shall be twenty-five (25) years. At that time, the School District may purchase the City's proportionate interest in the school gymnasium/neighborhood community center building less improvements made to said building from funding sources other than the City and less depreciation, if any. Should the School District elect not to purchase the aforementioned proportioned interest of the City the parties may extend the duration of this agreement.

ARTICLE VI

DISSOLUTION.

In the event of termination of this AGREEMENT for any reason, prior to the duration of this agreement the School District may purchase the City's interest in this agreement in the manner set forth in Article V. Duration above and the City shall thereupon convey all of its rights, title, and interest in the real estate, if any, and improvements which are the subject of this agreement. Should the School District elect not to purchase such interest of the City, the net assets shall be sold and distributed proportionately to the City and School District or their respective assigns consistent with proportionate interests set forth in Article V. Duration above.

ARTICLE VII

AMENDMENT.

This AGREEMENT may be amended by the approving vote of the City Council and School Board.

ARTICLE VIII

BINDING AGREEMENT.

This AGREEMENT shall be binding upon the parties hereto, their successors, and assigns.

CITY OF FAYETTEVILLE, ARKANSAS

By: Fred Hanna

Fred Hanna, Mayor

ATTEST:

Sherry L. Thomas
Sherry L. Thomas, City Clerk

FAYETTEVILLE SCHOOL DISTRICT NO. 1

By: Jeff Koenig

Jeff Koenig, President

ATTEST:

David Wilson
David Wilson, Secretary

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes
August 2, 2004

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:36 p.m. on August 2, 2004 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Chairman Colwell.

Present:

Parks and Recreation Advisory Board members Colwell, Eads, Hill, Marley, Mauritson, Shoulders, and Pawlik Holmes; City staff Coles, Wright, Malloy, Ohman, Jumper, Weber, Hatfield, Edmonston; and Audience.

12.School Park Lease Agreements:

At one time, the City Parks and Recreation Division had 8 different agreements with the Fayetteville Public Schools concerning joint usage of land. Only three of these agreements are current. Below is a list of the current and former agreements. Staff would like to begin discussions with PRAB on these lease agreements of how you would like this relationship to continue so that our City Attorney's office can draft the agreements. Staff recommends that the agreements be consolidated into one lease. The Parks and Recreation Master Plan recommendations are included in the PRAB attachments. Also, attached are the current agreements including Lake Fayetteville Nature Center, Holcomb and Vandergriff Gyms.

<u>Land</u>	<u>Agreement\Resolution</u>	<u>Term</u>	<u>Dates</u>
Lake Fayetteville Nature Study Center	Ordinance 3898	50 Years	June 20, 1995 - 2045
Vandergriff Gym	Resolution 41-95	25 Years	March 7, 1995 - 2020
Holcomb Gym	Resolution 74-94	25 Years	July 5, 1994 - 2019
Crossover Park	Lease Agreement	25 Years	June 1979-2004
Root Elementary Sites	Lease Agreement	25 Years	June 5, 1979 - 2004
Bates, Asbell, Jefferson, Happy Hollow, Butterfield Schools	Resolution 34-73	25 Years	April 10, 1973 - 1998
Washington	Resolution 115-97	12 months	December 16, 1997
Asbell Gym	Agreement	No expiration	June 15, 1970

Adjournment

Meeting was adjourned at 8:00 p.m.

Minutes submitted by: Rachel Weber

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes June 6, 2005

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:30 p.m. on June 6, 2005 in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Mike Hill.

Present:

Parks and Recreation Advisory Board members Hill, Bailey, Langsner, Davidson, Harrison, Pawlik-Holmes and Park Staff Hatfield, Edmonston, Wright, Jumper, Mihalevich, Dutton, Whillock and Audience.

4. School Park Lease Agreement: Mike Hill and Connie Edmonston, Parks & Recreation Director

Mike Hill and Connie Edmonston met with School Administration to discuss joint usage of land. Attached is the proposed agreement. The proposal includes to lease Asbell Elementary School and Holcomb Elementary School grounds as indicated on the attached maps, in exchange of the 200 acres leased to the School System at the Environmental Study Center. The proposal is for a 10 year lease with a one year cancellation notice.

PRAB Motion:

Harrison moved to approve the lease proposal and forward on to the School Board and subsequently to the City Council. Bailey seconded the motion.

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

Adjournment

Meeting was adjourned at 7:25 p.m.

Minutes submitted by: Cheryl Whillock

Fayetteville Board of Education

Minutes of the June 23, 2005 Regular Meeting

The meeting convened at 5:00 PM in the Adams Leadership Center with President Steve Percival presiding. The Pledge of Allegiance was led by Holt Middle School principal Mike Mason.

Roll Call

The roll was called and board members Tim Kring, Howard Hamilton, Steve Percival, Susan Heil, Christine Bell and Laura Underwood were present.

Recognition

Michelle Owens, the new McNair Middle School principal and Ted Whitehead, the new McNair Middle School assistant principal were introduced.

Consent Agenda

Laura Underwood made a motion to approve the consent agenda. Tim Kring seconded the motion, which was approved by a 6-0 vote.

Migrant Education Contract

The Board voted 6-0 to approve the migrant education contract with the Boston Mountain Cooperative for the 2005-06 school year. Christine Bell made the motion, which was seconded by Laura Underwood.

Teacher Evaluation Instrument

The Board voted 6-0 to approve the revisions to Policies 4117 and 4117.2, Evaluation of Certified Employees, Teacher Evaluation Observation Checklist, and Summative Report for Supervisory Evaluation Plan. Ginny Wiseman, associate superintendent, noted that the policy changes have been approved by PPC and the principals. Tim Kring made the motion, which was seconded by Howard Hamilton.

Student Health Policy

The Board voted 6-0 to approve Policy 5.6 (Student Health) as presented at the May 2005 board meeting. Ginny Wiseman noted that this policy will serve as the district wellness policy that is required by the federal Child Nutrition Act of 2004. Tim Kring made the motion, which was seconded by Howard Hamilton.

Computer Network Use Policy

The Board voted 6-0 to approve the changes to Policy 4202 (Computer Network Use Policy). Susan Cromwell, technology director, noted that the first change is the addition of Section VII-Web Publishing on District Web Server(s). This section outlines the responsibility of web page development. The second change is a revision to Section IC which refers to FERPA guidelines regarding student information. Laura Underwood made the motion, which was seconded by Susan Heil.

2005-06 District Budget

The Board voted 6-0 to approve the 2005-06 budget. Dr. Lisa Morstad, chief financial officer, noted that departmental budgets have been cut by 20%. In addition, Dr. Morstad also reported that she will be working with principals and department directors on their budgets. Howard Hamilton made the motion, which was seconded by Christine Bell.

Joint Lease Agreement

Mike Gray, associate superintendent, reported that he and Connie Edmonston, Director of City Parks & Recreation, along with Fred Turrentine and Rudy Moore, have been working to update the lease agreements between the city and the school district. Mr. Gray introduced Ms. Edmonston who noted that the lease agreements are for 200 acres at Lake Fayetteville Park for the Environmental Study Center and the school playgrounds at Asbell and Holcomb Elementary Schools. The request is for a 10-year lease with a one-year termination by either party. The agreement has been approved by the Fayetteville Parks & Recreation Advisory Board. If it is approved by the Fayetteville School District, it will then go to the City Council for approval. Mr. Gray added that the legal description will be provided at the July board meeting when the board will be asked to approve the lease agreement.

Status of MAPS Project

Susan Cromwell, district technology programs director, presented information on the MAPS (Models to Accelerate Performance of Students) project. Information on all aspects of the project can be found at students.fayar.net. The project was funded by a grant from the Walton Family Foundation.

Food Service Update

Lisa Jenkins, director of food service, presented information regarding the food service program in the district. During the 2004-05 school year the amount of fresh fruits and vegetables offered was increased and the amount of desserts and fried items was decreased. In addition, the food service program finished the year with a positive end of the year balance due in part to increased reimbursement and student participation in the school lunch program. New projects for the 2005-06 year include meal deals and a high school breakfast cart. The Farm to School pilot project will begin in the fall of 2005. As part of this program, the district will purchase locally grown produce to promote healthy eating habits, increase fruit and vegetable consumption and provide educational opportunities for students. The pilot program will begin in the fall of 2006 at Washington Elementary. Ms. Jenkins also noted that parents can access student accounts and make payments online at www.schoolpassport.com.

Elementary Enrollment Distribution

Mike Gray, associate superintendent, reported on the purpose and process for elementary enrollment distribution for the district. The purposes are to populate the new K-7 school, adjust enrollment where student population is changing and to match the enrollment at all schools to their functional capacity. The process for the distribution project will be divided into three phases: Phase I – collect data and identify scope, Phase II – develop a plan, and Phase III – transition. Public meetings will be held during the process.

Professional Development Policy

Judy Rana, assistant superintendent for curriculum, presented the revised Policy #4131 (Professional Development). The revised policy contains the new mandates from the Arkansas Department of Education. The Personnel Policy Committee has approved the revised policy. The Board will be asked to vote on the revised policy at the July board meeting.

Adjournment

Howard Hamilton made a motion to adjourn. Susan Heil seconded the motion, which passed by a 5-0 vote. The meeting was adjourned at 6:50 PM.

FROM THE BOARD

Notes from the July 28, 2005 Regular Meeting of the Fayetteville Board of Education

Professional Development Policy

The Board approved changes to the Professional Development Policy (#4131) that were also approved by the Personnel Policies Committee.

Joint Lease Agreement

The Board approved a joint lease agreement between the school district and the City of Fayetteville for the playgrounds at Asbell and Holcomb Elementary Schools and 200 acres at the Lake Fayetteville Environmental Study Center. The lease agreement is for ten years.

Enrollment Distribution Update

Associate superintendent Mike Gray outlined the process the district will use to evaluate current and future enrollment to accommodate projected growth. He noted that a public forum will be held on **Thursday, August 4 at 5:30 pm in the Judy Mackey Conference Center in the Bates Annex of Fayetteville High School** to receive public comment on elementary attendance zones.

Robert Guadagnini, district GIS coordinator, made a presentation to the Board on the projected growth

over the next five years. Based on plats filed with the Fayetteville City Planning Office, the projections show an increase of approximately 1,700 students over the next five years, which represents a 20% increase in current enrollment.

Construction Update

Gordon Knetzer of Nabholz reported that work at all three construction sites is progressing extremely well and is on schedule. He added that the warm, dry weather has allowed the crews to regain any time lost in the spring due to wet weather or procedural delays.

Annual Meeting

Alan Wilbourn, director of school & community relations, reported that the district's annual meeting will be held in conjunction with the **August 25** school board meeting in the Adams Center. Wilbourn said the 2004-05 Annual Report will be presented, and district patrons will have the opportunity to make comments and ask questions.

If you would like to receive this report via email, please send your email address to: Alan Wilbourn

Return to District Home Page

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

6-Dec-05
City Council Meeting Date

Tim Conklin
Submitted By

Planning & Development Mgmt.
Division

Operations
Department

Action Required:

Approval of a Resolution renaming Ozark Avenue as McIlroy Avenue from Dickson Street to Fairview Street.

\$0.00

Cost of this request

n/a

Category/Project Budget

n/a

Program Category / Project Name

n/a

Account Number

n/a

Funds Used to Date

n/a

Program / Project Category Name

n/a

Project Number

n/a

Remaining Balance

n/a

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a



Received in City Clerk's Office



Received in Mayor's Office

Department Director

11-08-05
Date

City Attorney

11/18/05
Date

FINANCE & INT'L SYS.

11-18-05

Mayor

11/21/05
Date

Comments:

RESOLUTION NO. _____

**A RESOLUTION RENAMING OZARK AVENUE AS
MCILROY AVENUE FROM DICKSON STREET TO
FAIRVIEW STREET.**

WHEREAS, The University of Arkansas will be able to honor the McIlroy family, who originally donated the land to establish the University.

WHEREAS, The Fayetteville 911 has reviewed the request and has no objections to this name change.

WHEREAS, All addresses that are impacted by the name change are University of Arkansas facilities.

**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 renaming of Ozark Avenue to McIlroy Avenue.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

**By: _____
DAN COODY, Mayor**

**By: _____
SONDRA SMITH, City Clerk**



THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody
Fayetteville City Council

THROUGH: Gary Dumas, Operations Director

FROM: Tim Conklin, Planning and Development Management Director 1.6-

DATE: November 17, 2005

SUBJECT: Approval of a Resolution renaming Ozark Avenue as McIlroy Avenue
from Dickson Street at Fairview Street.

RECOMMENDATION

Staff recommends renaming Ozark Avenue to McIlroy Avenue.

BACKGROUND

The University of Arkansas has requested the City of Fayetteville rename Ozark Avenue to McIlroy Avenue. The University stated reason for this request is "...to honor the McIlroy family, who originally donated the land to establish the University in 1871 and continues to contribute to the development of the University today." Fayetteville 911 has reviewed the request and has no objections to this name change.

All addresses that are impacted by the name change are University of Arkansas facilities and the University will work with Fayetteville 911 to make the necessary changes if approved.

BUDGET IMPACT

There is no budget impact by approving this street name change.



A. 6
Renaming of Ozark Avenue
as McIlroy Avenue
Page 4 of 6
RECEIVED

SEP 26 2005

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Vice Chancellor for Finance and Administration

406 Administration Building
Fayetteville, Arkansas 72701
(479) 575-5828
(479) 575-5400 (FAX)

September 23, 2005

The Honorable Dan Coody
Mayor of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Dear Mayor Coody:

I am writing to ask you to sponsor an ordinance to change the name of Ozark Avenue to McIlroy Avenue. Ozark Avenue runs from the corner of Ozark and Fairview Street, in front of the old McIlroy House, north across Dickson Street around the back of the Chi Omega Greek Theater, and ends at a parking lot behind the Chemistry Building. The reason for this request is to honor the McIlroy family, who originally donated the land to establish the University in 1871 and continues to contribute to the development of the University today.

This two block long street lies entirely within the campus. No 911 address changes except to campus buildings would be caused by this change, and Facilities Management staff will work with the City's 911 Coordinator to make the address changes to University buildings affected by the change. There is not currently a McIlroy Street or Avenue in Fayetteville, or even a street name that sounds similar which could lead to confusion.

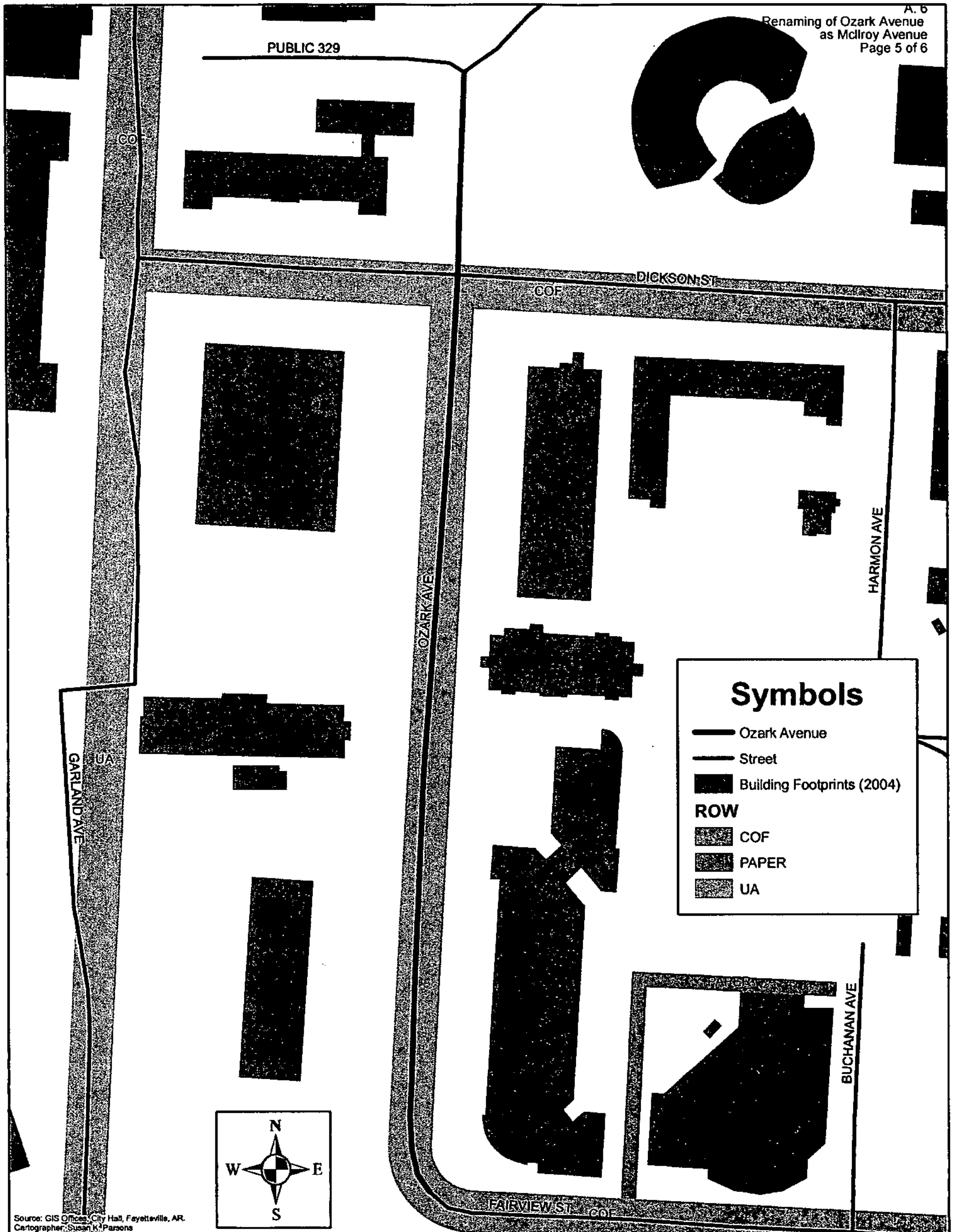
Thank you for your consideration of our proposal, and I ask that you place this ordinance on the City Council agenda at your earliest convenience.

Sincerely,

Don Pederson
Vice Chancellor for Finance & Administration

lac

copy: Mike Johnson, Associate Vice Chancellor/Facilities Management





Symbols

- Ozark Avenue
- Street
- ROW
 - COF
 - PAPER
 - UA

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 7
SBC Communication Easement
Page 1 of 10

6-Dec-05
City Council Meeting Date

Tim Conklin
Submitted By

Planning & Development Mgmt.
Division

Operations
Department

Action Required:

Approval of a Resolution granting ~~two~~ ^{an} easement~~s~~ to SBC Communication to install new communication equipment and an associated underground line located on City owned property north of Township Street (Water Tank Site).

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

Budgeted Item ☐ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

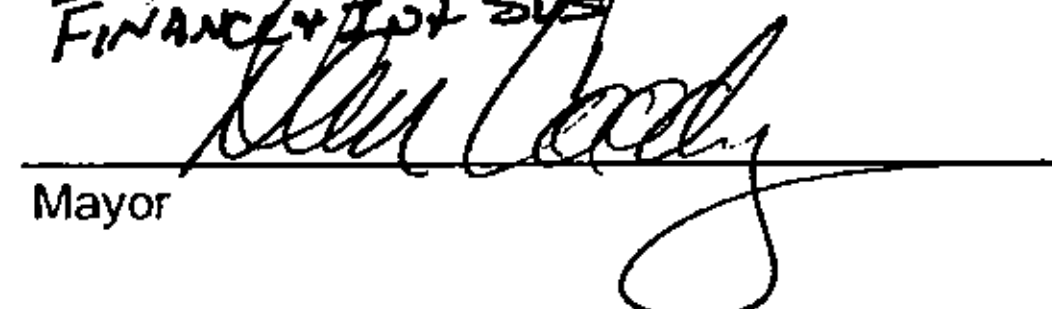

Department Director

11-18-05
Date


City Attorney

11-18-05
Date


FINANCE DEPT. SUPERVISOR


Mayor

11-21-05
Date

Received in City Clerk's Office



Received in Mayor's Office

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

**TO: Mayor Dan Coody
Fayetteville City Council**

THROUGH: Gary Dumas, Operations Director

FROM: Tim Conklin, Planning and Development Management Director

DATE: November 17, 2005

**SUBJECT: Approval of a Resolution granting two easements to SBC
Communications to install new communication equipment and an
associated underground line located on City owned property north of
Township Street (Water Tank Site).**

RECOMMENDATION

Staff recommends granting the 20 foot by 20 foot equipment easement and 10 foot by 60 foot underground utility easement to SBC Communication to locate a new equipment station and associated line on City owned property. Staff also recommends the equipment station be screened with a wood board fence that is a minimum 6 feet in height or as high as the equipment station.

BACKGROUND

SBC Communications Arkansas has requested a 20 x 20 easement for an equipment station and a 10 foot wide by 60 foot long underground utility easement located on the City of Fayetteville Township Street water tank property. The proposed station will provide the necessary communication connection between the cell phone providers located on the monopole tower and City water tank to the land line operated by SBC. There are existing SBC facilities located on the property; however, there are currently no recorded easements.

BUDGET IMPACT

There is no budget impact by granting these easements.

RESOLUTION NO. _____

A RESOLUTION GRANTING AN EASEMENT TO SBC COMMUNICATION TO INSTALL NEW COMMUNICATION EQUIPMENT AND AN ASSOCIATED UNDERGROUND LINE LOCATED ON CITY OWNED PROPERTY NORTH OF TOWNSHIP STREET.

WHEREAS, SBC would be able to provide the necessary communication connection between the cell phone providers.

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 granting of two easements to SBC Communications.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

**By: _____
DAN COODY, Mayor**

**By: _____
SONDRA SMITH, City Clerk**

GENERAL UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT, the **City of Fayetteville, Arkansas**, a municipal corporation, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto **Southwestern Bell Telephone, A Texas Limited Partnership, d.b.a. SBC**, hereinafter called GRANTEE, and unto Grantee, its associated and allied companies, its and their successors, assigns and licensees, a permanent easement to construct, operate, maintain, replace, repair, enlarge, inspect, fence and/or remove general utilities including water and/or sanitary sewer pipe line or lines, manholes, natural gas, electrical power, telephone, fiber optic cable(s) and television communication line or lines, and appurtenances thereto, on over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Book 873 at Page 337)

A part of the Southeast Quarter of the Southeast Quarter of Section 35, Township 17 North, Range 30 West, described as follows: Beginning at point which is 594 feet East and 300 feet North of the Southwest corner of said 40-1cre tract, and running, thence East 101 [feet]; thence North 525 [feet]; thence West 1010 [feet]; thence South 525 [feet] to the point of beginning; containing 1.22 acres, more or less.

PERMANENT EASEMENT DESCRIPTION:**Easement for Underground Facilities (Telecommunication Systems and Lines):**

A communications easement across the property first hereinabove described, being more particularly described as follows: A ten (10) foot easement being 5 feet either side of the cable, as placed for a distance of 60 feet, more or less. This easement is shown in more detail on the attached survey.

Easement for Communications Equipment Station:

A communications easement across the property first hereinabove described, being more particularly described as being located on a 20 foot by 20 foot wide easement in part of the SE $\frac{1}{4}$, SE $\frac{1}{4}$, in Section 35, T-17-N, R-30-W. The northeast line of said easement will be located parallel with and adjacent to the southwestern fence line of the cell tower/water tower enclosure. This easement is shown in more detail on the attached survey.

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

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, until the use of said permanent easement is relinquished, abandoned or vacated and so long as such pipe line or lines, electrical power, telephone and/or television lines or cables, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes herein above set forth.

The Grantee shall have the right to construct additional pipe lines, electric power lines, telephone and/or television lines or cables upon the above described easement at any time in the future.

All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

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

WITNESS the execution hereof on this the _____ day of _____, 2005.

CITY OF FAYETTEVILLE, ARKANSAS
A Municipal Corporation

By:

Dan Coody, Mayor

ATTEST:

Sondra Smith, City Clerk

[SEAL]

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

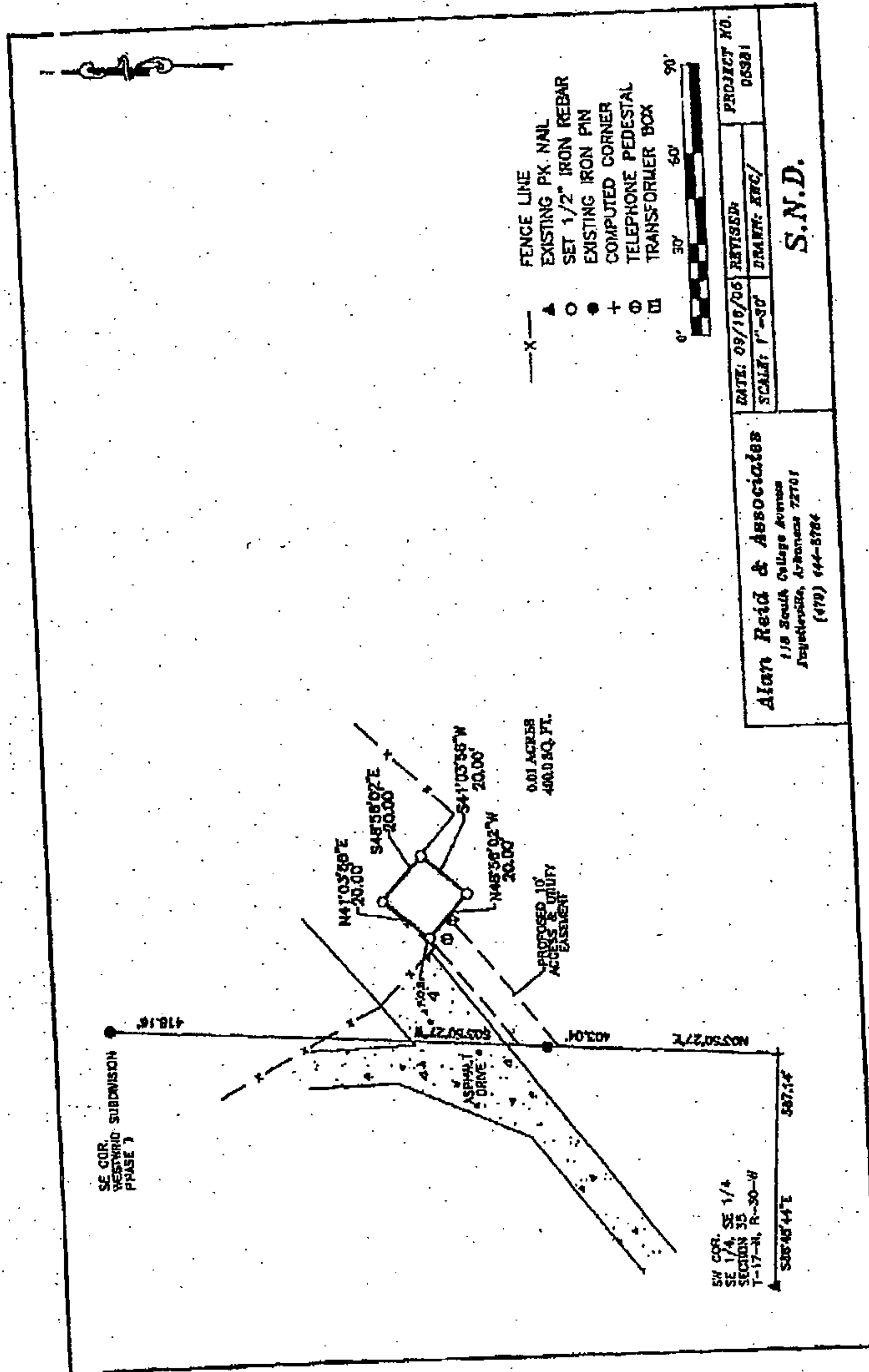
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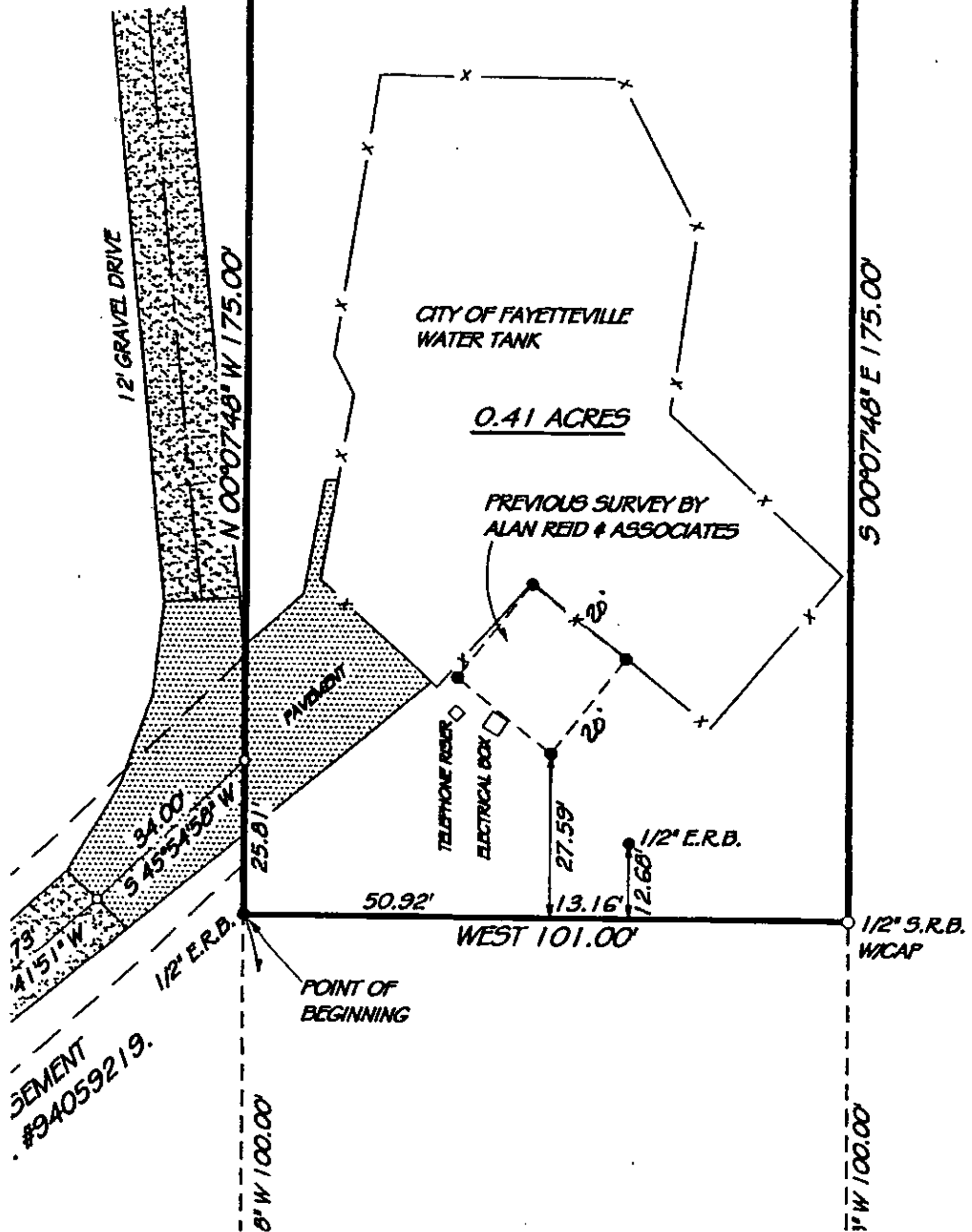
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged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

WITNESS my hand and seal on this _____ day of _____, 2005.

MY COMMISSION EXPIRES:

Notary Public





500-17N-30W-Q-35-220-72-0147-1443

WASHINGTON COUNTY, ARKANSAS
SURVEY OF PART OF THE

SE 1/4 SE 1/4, SECTION 35, T-17-N, R-30-W

FOR USE BY: C.T.#1

DRAWN BY: D.E.R.

SCALE: 1" = 30'

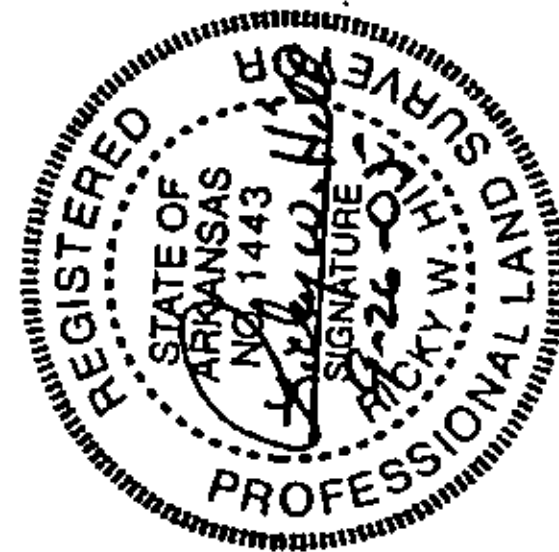
DATE: 9-23-05

JOB NO. 32,670

Latterfield Land Surveyors P.A.

REG. ARK. & OKLA.

1928 HWY. 71 NORTH, ALMA, ARK. - PHONE No. (479) 632-3565
FAX (479) 632-5002 - WEBSITE: <http://www.slsurveying.com>



STATEMENT OF USE

The written or verbal authority of the buyer and/or any other person or entity having authority to convey, P.A. will not be held out without written authorization.

North

PROPERTY DESCRIPTION

Part of the Southeast Quarter of the Southeast Quarter of Section 35, Township 17 North, Range 30 West, Washington County, Arkansas being more particularly described as follows:

Commencing at an existing p/k nail marking the Southwest Corner of the Southeast Quarter of the Southeast Quarter. Thence along the South line of said Forty, East 594.31 feet. Thence leaving said South line, North 00 degrees 07 minutes 48 seconds West, 400.00 feet to an existing rebar and the Point of Beginning. Thence North 00 degrees 07 minutes 48 seconds West, 175.00 feet to a set rebar w/cap. Thence East 101.00 feet to a set rebar. Thence South 00 degrees 07 minutes 48 seconds East, 175.00 feet to a set rebar w/cap. Thence West 101.00 feet to the Point of Beginning, containing 0.41 of an acre and subject to any Easements of Record. Also an existing 25.00 foot access easement filed for record at Document No. 94059219. Also an existing 25.00 foot access easement filed for record February 24, 1999, Document No. 99017173.

1/2 GRAVEL DRIVE
30.33'
S 49° 02'



2744
SHERWOOD LN

2579
COMMON DR

2620
SHERWOOD LN

2414
SHERWOOD LN

968
TOWNSHIP ST

942
TOWNSHIP ST

1060
TOWNSHIP ST

1044
TOWNSHIP ST

1070
TOWNSHIP ST

2465
COMMON D

2445
COMMON D

2425
COMMON D

1078
TOWNSHIP ST

1000
TOWNSHIP ST

1036
TOWNSHIP ST

1100
TOWNSHIP ST

1114
TOWNSHIP ST

1140
TOWNSHIP ST

1208
TOWNSHIP ST

1236
TOWNSHIP S

933
TOWNSHIP ST

957
TOWNSHIP ST

1025
TOWNSHIP ST

1109
TOWNSHIP ST

1137
TOWNSHIP ST

1149
TOWNSHIP ST

1177
TOWNSHIP ST

2327
BRIARWOOD LN

2328
BRIARWOOD LN

1117
TOWNSHIP ST

2369
HUMMINGBIRD LN

2370
HUMMINGBIRD LN

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

Dec. 6, 2005
City Council Meeting Date

Larry Rennie Building Services FISD
Submitted By Division Department

Action Required:

Approve a contract with Air Works for \$126,208.00 for replacement of a 20 ton HVAC unit which provides heating and cooling for District Court areas, add a 5 ton unit to heat and cool the Evidence Area at the Police Department for the cost of \$92,460.00. Install 2 Envisor screening units for roof top units 1 & 2. A 10% contingency of \$12,620.00 is requested for a total approval request of \$138,828.00.

<u>\$138,828.00</u> Cost of this request	<u>\$ 183,006.00</u> Category / Project Budget	<u>Building Improvements</u> Program Category / Project Name
<u>4470.9470.5801.00</u> Account Number	<u>\$ 180,056.00</u> Funds Used to Date	<u>Other Improvements</u> Program / Project Category Name
<u>02046-1</u> Project Number	<u>\$ 2,950.00</u> Remaining Balance	<u>Sales Tax Capital</u> Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☒

[Signature] 11-15-05
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

[Signature] 11/18/05
City Attorney Date

Received in City Clerk's Office
ENTERED
11/17/05
20

[Signature] 11-15-05
Finance and Internal Service Director Date

Received in Mayor's Office
ENTERED
11/18/05
JEA

[Signature] 11/18/05
Mayor Date

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

FROM: Steve Davis, Finance/Internal Services Director
Larry Rennie, Building Services Supervisor

THRU: Dan Coody, Mayor

DATE: 11/16/05

SUBJECT: Police HVAC Phase II

Recommendation: Staff recommends City Council accept the bid from and award a contract to Air Works (a Division of Multi Craft Inc.) for the amount of \$126,208.00 and approve a project contingency of \$12,620.00 for a total project cost of \$138,828.00.

Background/Discussion: The Police, Courts Building (formerly J.C. Penny) was built in the 1960's and renovated for City use in 1992. On January 4, 2005, the City Council approved phase I with resolution 04-05. Phase I was completed in April 2005. Phase II HVAC renovation consists of replacing the existing 25 ton unit presently servicing the District Court areas with a new 20 ton unit. Add a 5 ton split system to address climate control issues in the Evidence storage areas. Evidence presently operates off the courts system and lacks any thermostat control of the system. It should be noted, Phase I and Phase II each replace a unit that is original to the building, approximately 40 years old and have reached the end of their useful life. Two Envisor screening systems will conceal and provide sound insulation for roof top units 1 & 2. The contract cost is broken into: HVAC \$92,460.00; acoustic and visual screening \$33,748.00, for a total of \$126,208.00.

Benefits: The City will receive benefits of this project well into the future regardless of the specific City departments or City services that use the building.

Budget Impact: Funding for this project is from the Sales Tax Capital Improvement Fund.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #05-66 TO AIR WORKS, A DIVISION OF MULTI-CRAFT CONTRACTORS, INC. AND APPROVING A CONTRACT IN THE AMOUNT OF \$126,208.00 FOR PHASE II HVAC RENOVATION AT THE POLICE, COURTS BUILDING; APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$12,620.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$138,828.00.

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 #05-66 to Air Works, a division of Multi-Craft Contractors, Inc. and approves a contract in the amount of \$126,208.00 for Phase II HVAC renovation at the Police, Courts Building. A copy of the contract, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Project Contingency in the amount of \$12,620.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$138,828.00.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

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

A. 8
Air Works Heating and
Cooling Replacement Project
Page 4 of 8

Budget Year	Department: Sales Tax Capital Improvements	Date Requested	Adjustment Number
2005	Division: Program:	11/8/2005	

Project or Item Added/Increased: \$138,828 is requested in the Building Improvements project.	Project or Item Deleted/Reduced: None. \$138,828 from the Sales Tax Revenue account.
---	--

Justification of this Increase: To replace 20 ton HVAC unit that handles the District Court area, to add five ton split systems that handle the evidence area, and two envisor screens for RTU1 and RTU2.	Justification of this Decrease: In 2005, \$148,000 in additional sales tax revenue has been received over the budgeted amount.
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Fixed assets	4470 9470 5801 00	138,828	02046 1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Sales tax revenue	4470 0947 4104 00	138,828	

Approval Signatures

Requested By	Date
	11/8/05
Budget Manager	Date
Department Director	Date
	11-15-05
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type:	A		C		E
Date of Approval	Initial	Date			
Posted to General Ledger	Initial	Date			
Posted to Project Accounting	Initial	Date			
Entered in Category Log	Initial	Date			

BID 05-66, HVAC RENOVATION – PHASE 2
CONTRACT

This contract executed this 30 day of September 2005, between the City of Fayetteville, Arkansas, and

Air Works, div of Multi-Craft Contractors

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Air Works, div of Multi-Craft Contractors at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per bid 05-66 as stated in Project # 5016 bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #05-66, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay Air Works, div of Multi-Craft Cont. based on their bid proposal in an amount not to exceed 126,208.00. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and Air Works, div MCC consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 05-66 with the specifications and conditions typed thereon.
 - B. attached bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and Air Works, div MCC and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Air Works, div MCC.
5. Air Works, div MCC shall not assign its duties under the terms of this agreement.

6. Air Works, div MCC agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Air Works, div MCC performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.

7. Air Works, div MCC shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Air Works, div MCC shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workmen's Compensation

Statutory Amount

Comprehensive General &
Automobile Insurance

Bodily Injury Liability
Property Damage Liability

\$500,000 for each accident.
\$500,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by Contractor.

8. Air Works, div MCC to furnish proof of licensure as required by all local and state agencies.

9. This contract may be terminated by the City of Fayetteville or Air Works, div MCC with 10 days written notice.

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

11. Jurisdiction: Legal jurisdiction to resolve any disputes must be Arkansas with Arkansas law applying to the case.

12. Changes in scope or price: 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.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2005

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

BY: _____
MAYOR

ATTEST: _____
CITY CLERK

SIGNATURE: Air Works div. Multi-Craft Contractors
AUTHORIZED CONTRACTOR

BY: 4/20 [Signature], CFO
NAME AND TITLE

ATTEST: [Signature]
COMPANY SECRETARY

2300 Lowell Rd

Springdale AR 72764
BUSINESS ADDRESS

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

B. 1
2006-2010 Proposed CIP Adoption
Page 1 of 6

November 15, 2005
City Council Meeting Date

Kevin Springer *KS*
Submitted By

Budget & Research
Division

Finance & Internal Services
Department

Action Required:

Approve a resolution adopting the Proposed 2006 Annual Budget & Work Program and Proposed 2006-2010 Capital Improvements Program.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

10/18/05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]
City Attorney

10/28/05
Date

Received in City Clerk's Office

[Signature]
Finance and Internal Service Director

10-28-05
Date

Received in Mayor's Office

[Signature]
Mayor

10/28/05
Date

Comments:

Tabled to 12/6/05 mtg



DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Stephen Davis, Finance & Internal Services Director

FROM: Kevin Springer, Budget Manager *KS*

DATE: October 28, 2005

SUBJECT: **Proposed 2006 Annual Budget & Work Program**
Proposed 2006-2010 Capital Improvements Program

Recommendation:

Consider the Proposed 2006 Annual Budget & Work Program and 2006-2010 Capital Improvements Program for adoption by the December 20, 2005 City Council meeting.

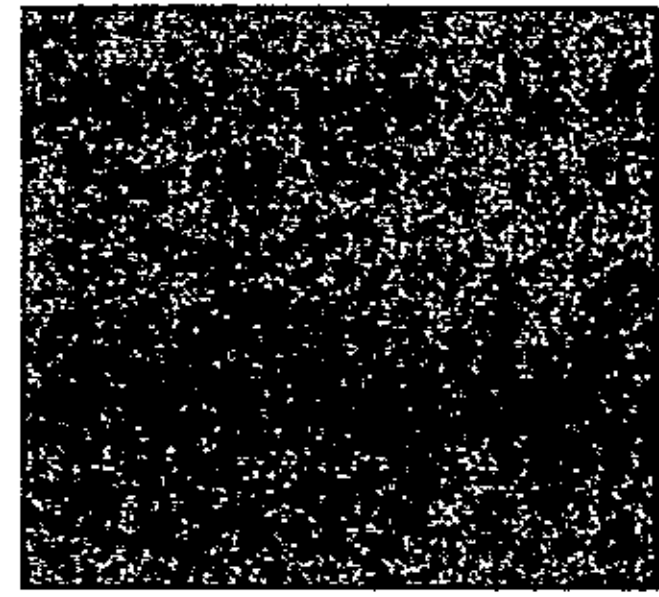
Discussion:

The Proposed 2006 Annual Budget & Work Program and 2006-2010 Capital Improvements Program documents were distributed to City Council on Friday, November 4 for consideration.

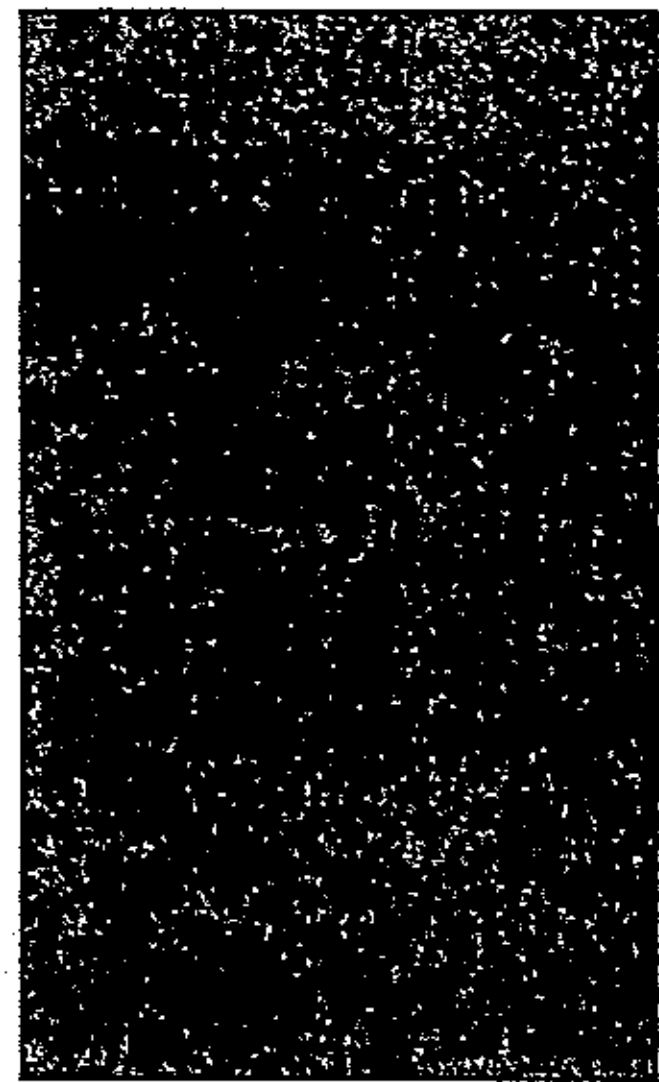
A brief overview of the Proposed 2006 Annual Budget & Work Program document is scheduled for **Tuesday, November 8** following the City Council agenda session that starts at 4:30 PM in room 326. Staff is proposing the dates below as the minimum amount of hearings for the Proposed 2006 Budget.

Date	Budget Meeting
Tuesday, November 8 2005	2006 Proposed Budget/CIP Presentation
Tuesday, November 15 2005	City Council Meeting
Tuesday, November 29 2005	Budget/CIP Working Session (agenda session)
Tuesday, December 6 2005	City Council Meeting
Tuesday, December 13 2005	Budget/CIP Working Session (agenda session)
Tuesday, December 20 2005	City Council Meeting

If you have any questions concerning the Proposed 2006 Annual Budget & Work Program or the 2006-2010 Capital Improvements Program, please feel free to contact either Stephen Davis at 575-8330 or myself at 575-8226. Thank you for your attention to this matter.

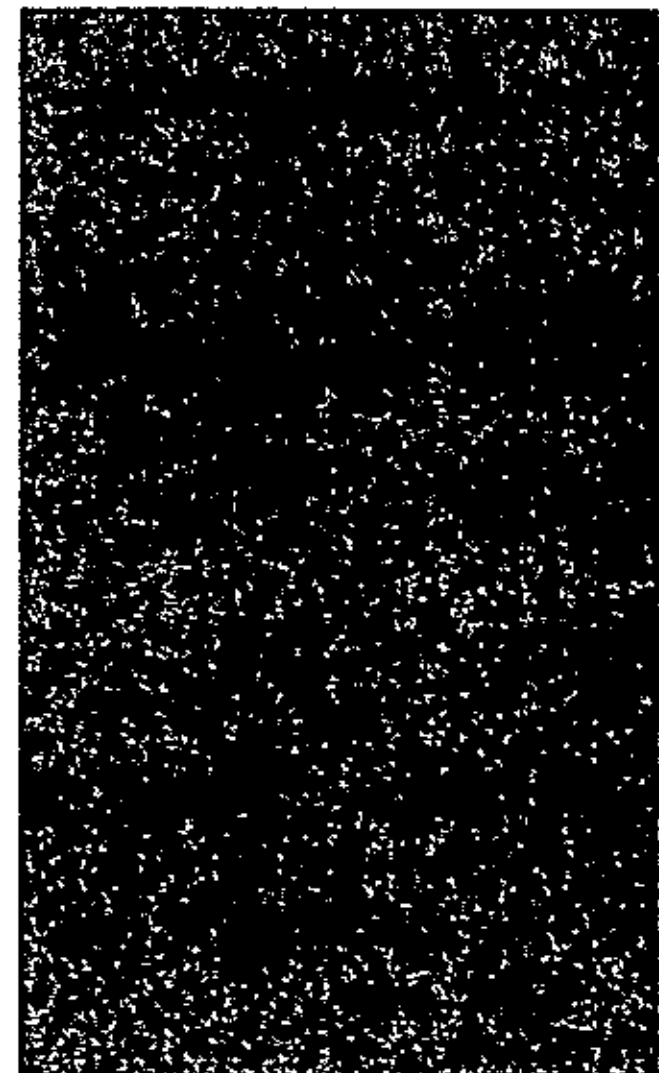


2006



City of Fayetteville, Arkansas

***Proposed Annual Budget
& Work Program
and
2006-2010 Capital
Improvements Program***



City of Fayetteville, Arkansas
2006-2010 Capital Improvements Program: Schedule of Funding Sources

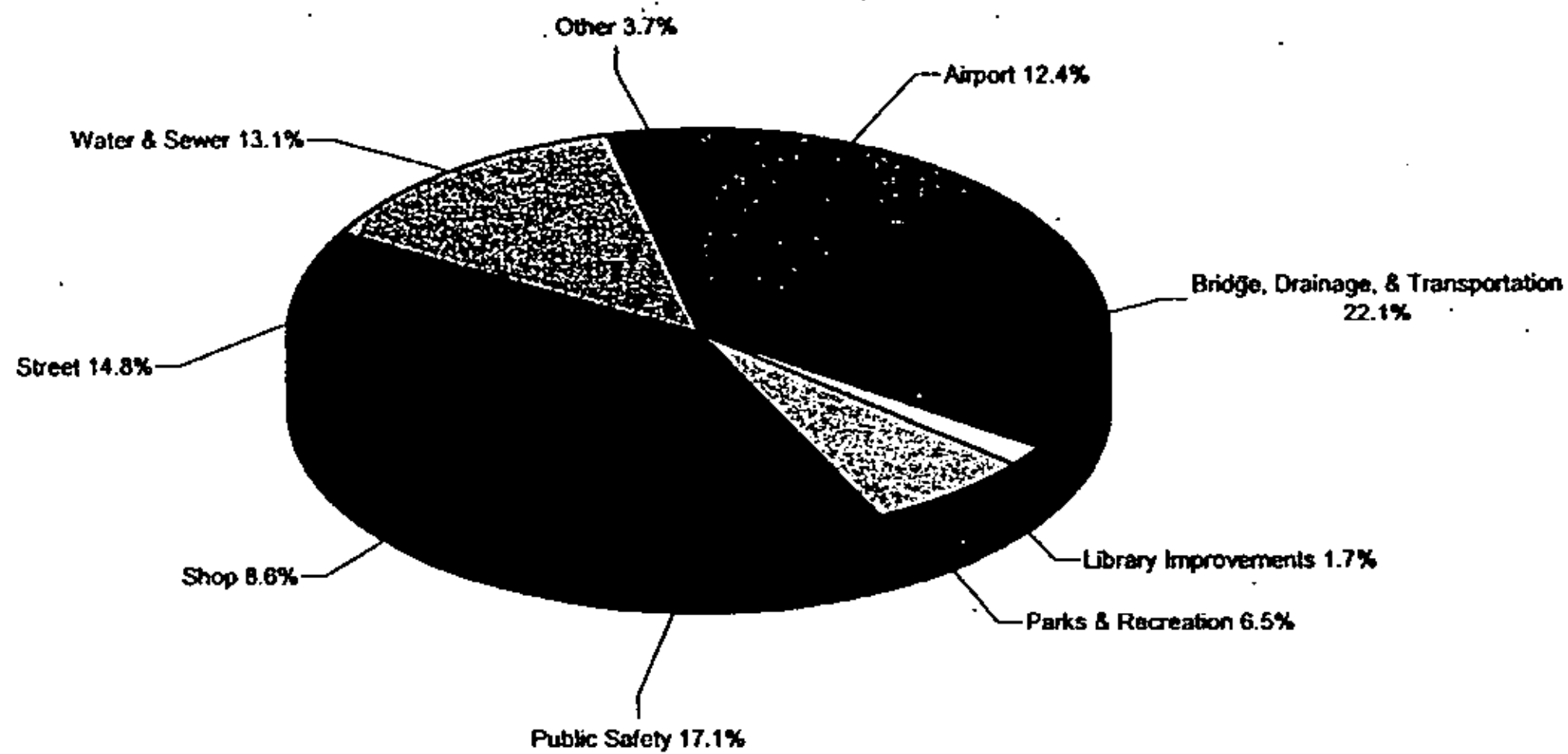
Release Date: 11/15/2005
Version: A

Project	Fund	Source	Amount	Fund	Source	Amount	Fund	Source	Amount	Fund	Source	Amount
Airport Improvements	11,818,000											
Bridge & Drainage Improvements												
Fire Safety Improvements												
Information Technology Improvements												
Library Improvements												
Off-Street Parking Improvements												
Other Capital Improvements												
Parks & Recreation Improvements												
Police Safety Improvements												
Solid Waste Improvements												
Street Improvements												
Transportation Improvements												
Vehicles & Equipment												
Wastewater Treatment Improvements												
Water & Sewer Improvements												
Water & Sewer Services Improvements												

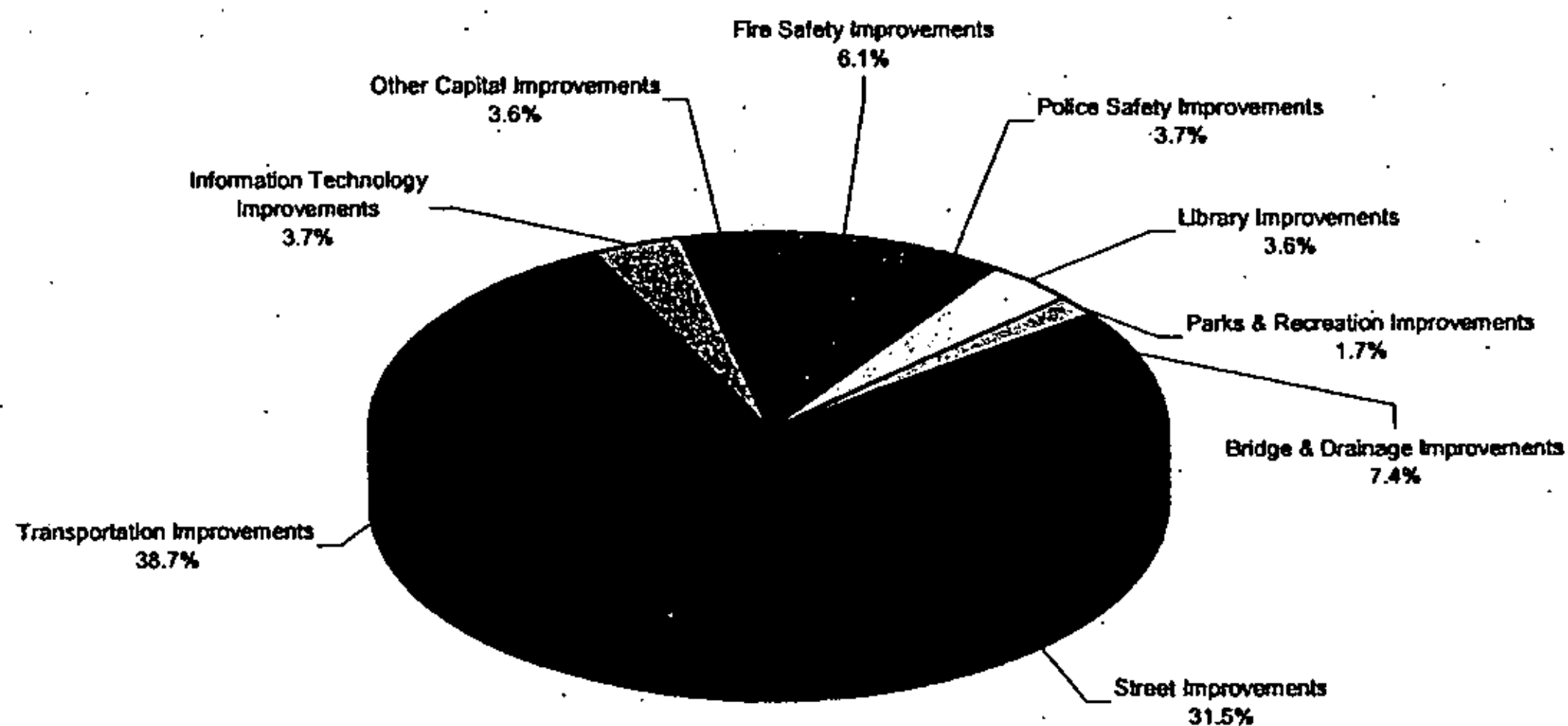
City of Fayetteville, Arkansas
2006 Capital Budget

Fund / Program / Category	Project Title	2006 Budget	Fund / Program / Category	Project Title	2006 Budget
Airport Fund (8589)			Transportation Improvements		
Airport Capital Expenditures (3860)	Airfield Marking	120,000	In-House Pavement Improvements	1,050,000	
	Runway 34 - PAPI	60,000	Sidewalk Improvements	650,000	
	Roof Maintenance Program	60,000	Trails Construction	1,294,000	
	Hanger Rehabilitation (AMP and AATC)	300,000	Traffic Signal Improvements	144,000	
	Runway Overrun - South End	1,000,000	Trimmer/Slopform Paver & Curb Machine	190,000	
	Terminal Building Rehabilitation Project Phase II	200,000			3,213,000
		1,760,000			
Parks Development Fund (2259)			Shops Fund (8709)		
Parks Development Capital (8255)	Community Park	776,000	Fleet Operations Capital (1920)	Fire Department Vehicles - Replacement	25,000
	Neighborhood Park Development	400,000		Police/Passenger Vehicles - Replacement	330,000
	Playground & Picnic Improvements	188,000		Solid Waste Equipment - Replacement	795,000
	Lake Improvements	12,000		Construction Equipment - Replacement	15,000
	Other Park and Safety Improvements	70,000		Backhoe/Loader - Replacement	164,000
		1,446,000		Medium/Heavy Duty Trucks - Replacement	206,000
				Tractors/Mowers - Replacement	188,000
				Light/Medium Trucks - Replacement	658,000
				Other Vehicles/Equipment - Replacement	101,000
				Automatic Vehicle Wash System	170,000
				Sanitation Equipment - Expansion	450,000
				Backhoe/Loader - Expansion	135,000
				Light/Medium Trucks - Expansion	16,000
				Police/Passenger Vehicles - Expansion	55,000
					3,206,000
Sales Tax Capital Improvements Fund (4470, 9470)			Water & Sewer Fund (5406)		
Bridge & Drainage Improvements	Drainage Study/Phase II Stormwater Management	200,000	Meter Operations Capital (1840)	Utility Rate Review and Analysis	75,000
	Other Drainage Improvements	200,000		Backflow Prevention Assemblies	12,000
		400,000		Water Meters	243,000
				Meter and Equipment Parts Cleaning Machine	24,000
					354,000
Fire Safety Improvements	Fire Apparatus Purchase Program	495,000			
		495,000			
Information Technology Improvements	Document Management	60,000			
	Geographic Information System (GIS)	60,000			
	Local Area Network (LAN) Upgrade	100,000			
	Printer Replacements	13,000			
	AS/400 Minicomputer System Upgrade	125,000			
	Microcomputer Replacements	40,000			
	Access/Fayetteville Technical Improvements	20,000			
		438,000			
Library Material Purchases & Improvements	Library Materials Purchases	298,000			
		298,000			
Other Capital Improvements	Joint Public Safety Command Center	400,000			
	Building Improvements	244,000			
	Telecommunications Systems Upgrades	27,000			
		671,000			
Parks & Recreation Improvements	Mount Sequoyah Land Purchase	163,000			
	Forestry, Safety & ADA Compliance	30,000			
	Lights of the Ozarks	36,000			
		219,000			
Police Safety Improvements	Police Technology Improvements	54,000			
	Police Vehicles	13,000			
	Police Building Improvements	26,000			
	Specialized Police Equipment	20,000			
		113,000			
Street Improvements	Kings Drive - Lakeside to Columbus	500,000			
	Township Widening - Gregg to North College	1,050,000			
	Van Asche - Gregg to Garland	320,000			
	Ripple Road - Wedington to ML Comfort	500,000			
	Street ROW/Intersection/Coast Shores	2,000,000			
	Duncan/California/Harmon Intersections	80,000			
	Garland - I-540 to Howard Nickel	188,000			
	Huntsville - Happy Hollow to Stonebridge	200,000			
		4,818,000			

Capital Improvements Projects By Project Area - All Sources 2006 - 2010 (\$95,651,000)



Capital Improvements Projects Sales Tax Capital Improvements Funding 2006 - 2010 (\$44,997,000)



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

November 15, 2005
City Council Meeting Date

Kevin Springer
Submitted By

Budget & Research
Division

Finance & Internal Services
Department

Action Required:

Approve a resolution adopting the Proposed 2006 Annual Budget & Work Program; and Proposed 2006-2010 Capital Improvements Program.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

10/18/05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]
City Attorney

10/28/05
Date

Received in City Clerk's Office

[Signature]
Finance and Internal Service Director

10-28-05
Date

Received in Mayor's Office

[Signature]
Mayor

10/28/05
Date

Comments:

Tabled to 12/6/05 mtg



DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Stephen Davis, Finance & Internal Services Director

FROM: Kevin Springer, Budget Manager *KS*

DATE: October 28, 2005

SUBJECT: **Proposed 2006 Annual Budget & Work Program**
Proposed 2006-2010 Capital Improvements Program

Recommendation:

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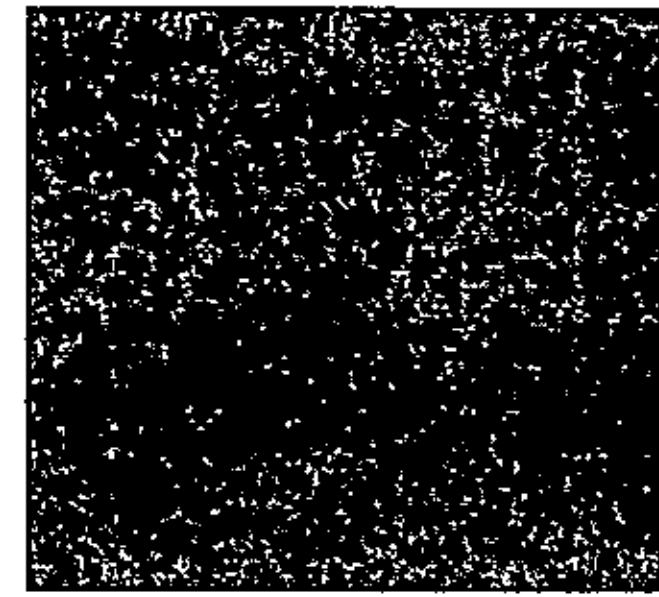
Discussion:

The Proposed 2006 Annual Budget & Work Program and 2006-2010 Capital Improvements Program documents were distributed to City Council on Friday, November 4 for consideration.

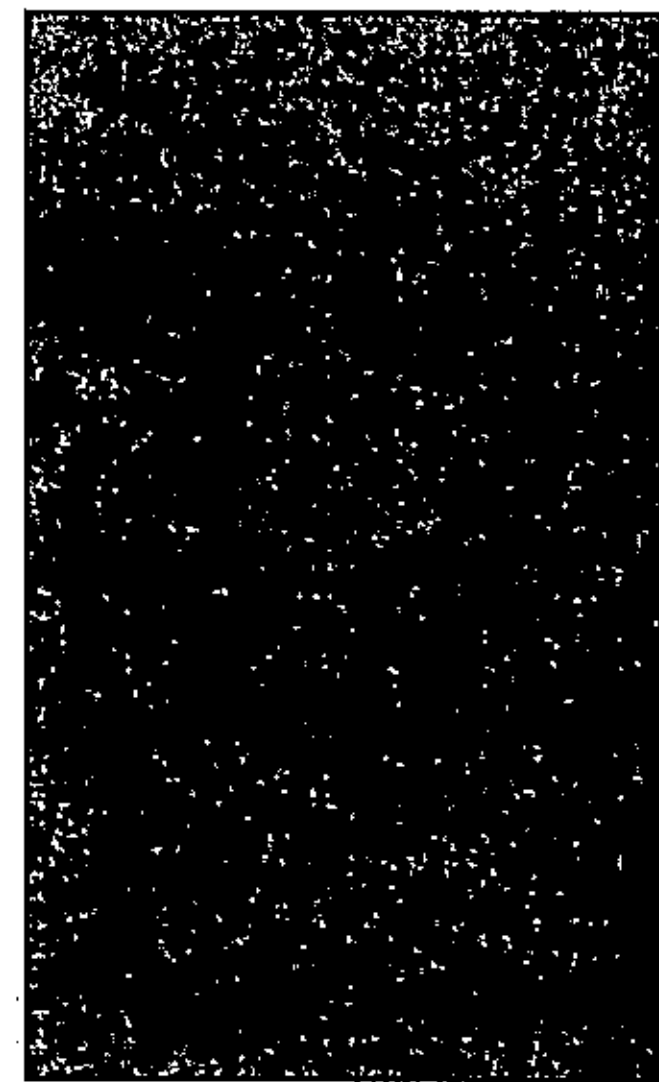
A brief overview of the Proposed 2006 Annual Budget & Work Program document is scheduled for **Tuesday, November 8** following the City Council agenda session that starts at 4:30 PM in room 326. Staff is proposing the dates below as the minimum amount of hearings for the Proposed 2006 Budget.

Date	Budget Meeting
Tuesday, November 8 2005	2006 Proposed Budget/CIP Presentation
Tuesday, November 15 2005	City Council Meeting
Tuesday, November 29 2005	Budget/CIP Working Session (agenda session)
Tuesday, December 6 2005	City Council Meeting
Tuesday, December 13 2005	Budget/CIP Working Session (agenda session)
Tuesday, December 20 2005	City Council Meeting

If you have any questions concerning the Proposed 2006 Annual Budget & Work Program or the 2006-2010 Capital Improvements Program, please feel free to contact either Stephen Davis at 575-8330 or myself at 575-8226. Thank you for your attention to this matter.

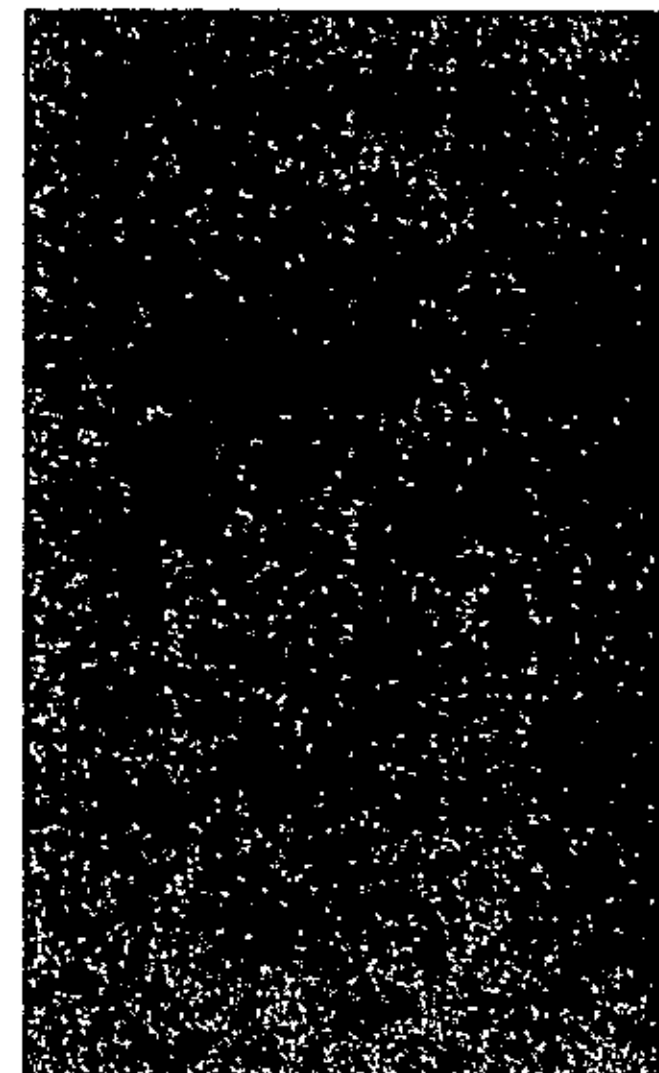


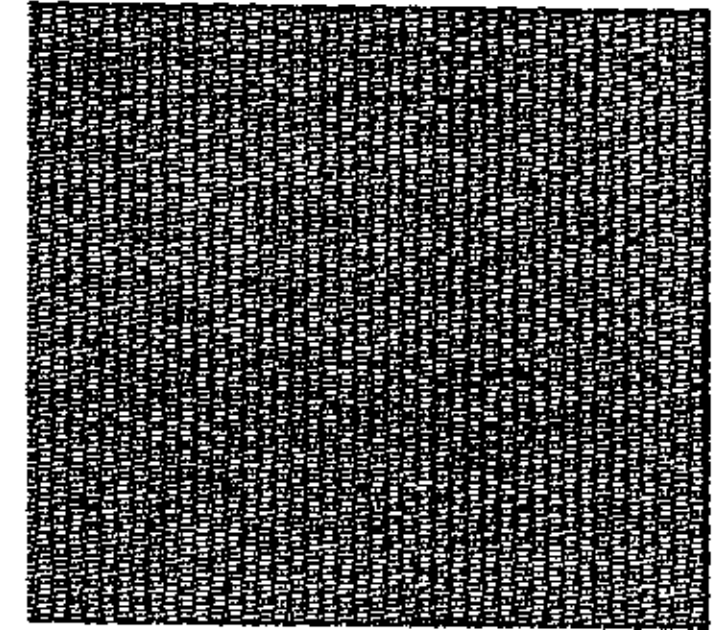
2006



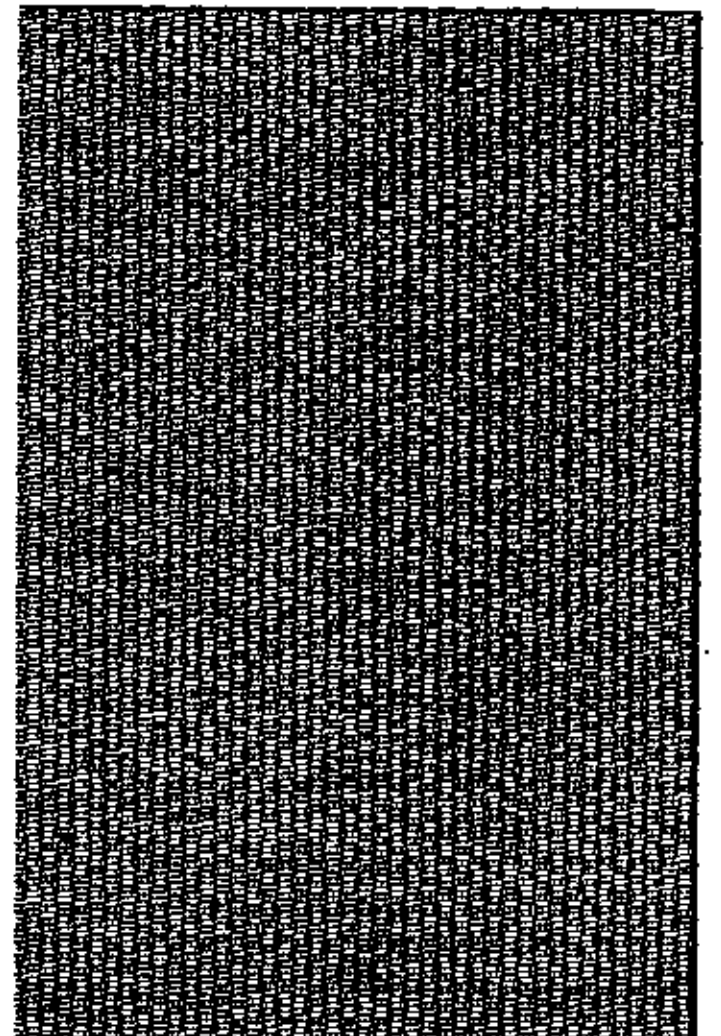
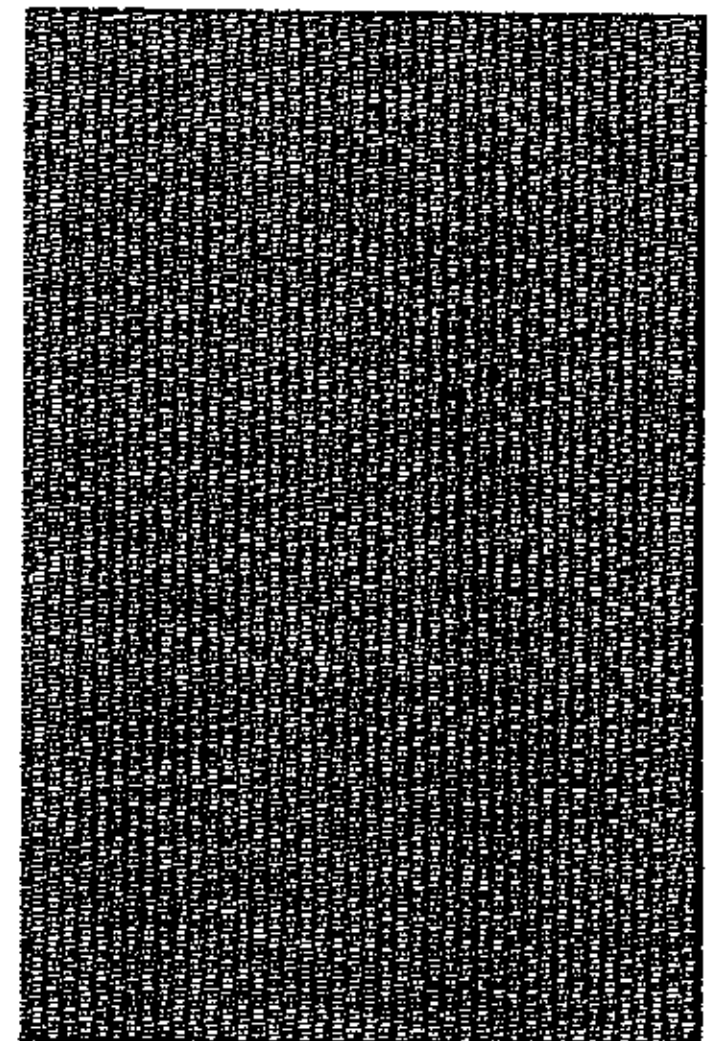
City of Fayetteville, Arkansas

*Proposed Annual Budget
& Work Program
and
2006-2010 Capital
Improvements Program*





2006



City of Fayetteville, Arkansas

**Proposed Budget
Budget-in-Brief**

B
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of

Version .

2

do
5

[illegible]

City Prosecutor

FOR THE INFORMATION OF THE

General Audit

Identity

Cost Allocation

CONTRIBUTORS:
Dr. William H. Dierker

Planning & Develop

Building safety

Telecommunication

**SOME RESULTS & NEXT
Steps**

FISD Director
Harold Dammann

Budget & Research

Plugging the Leaky Bucket

Cost Allocation

Police:
Oxford Police

Animal Services

•

•

•

Cost Allocation:

Wieder & Wiedertier

We're the Best-Kept Secret

Wastewater Treat

THE J. P. COHEN CO.

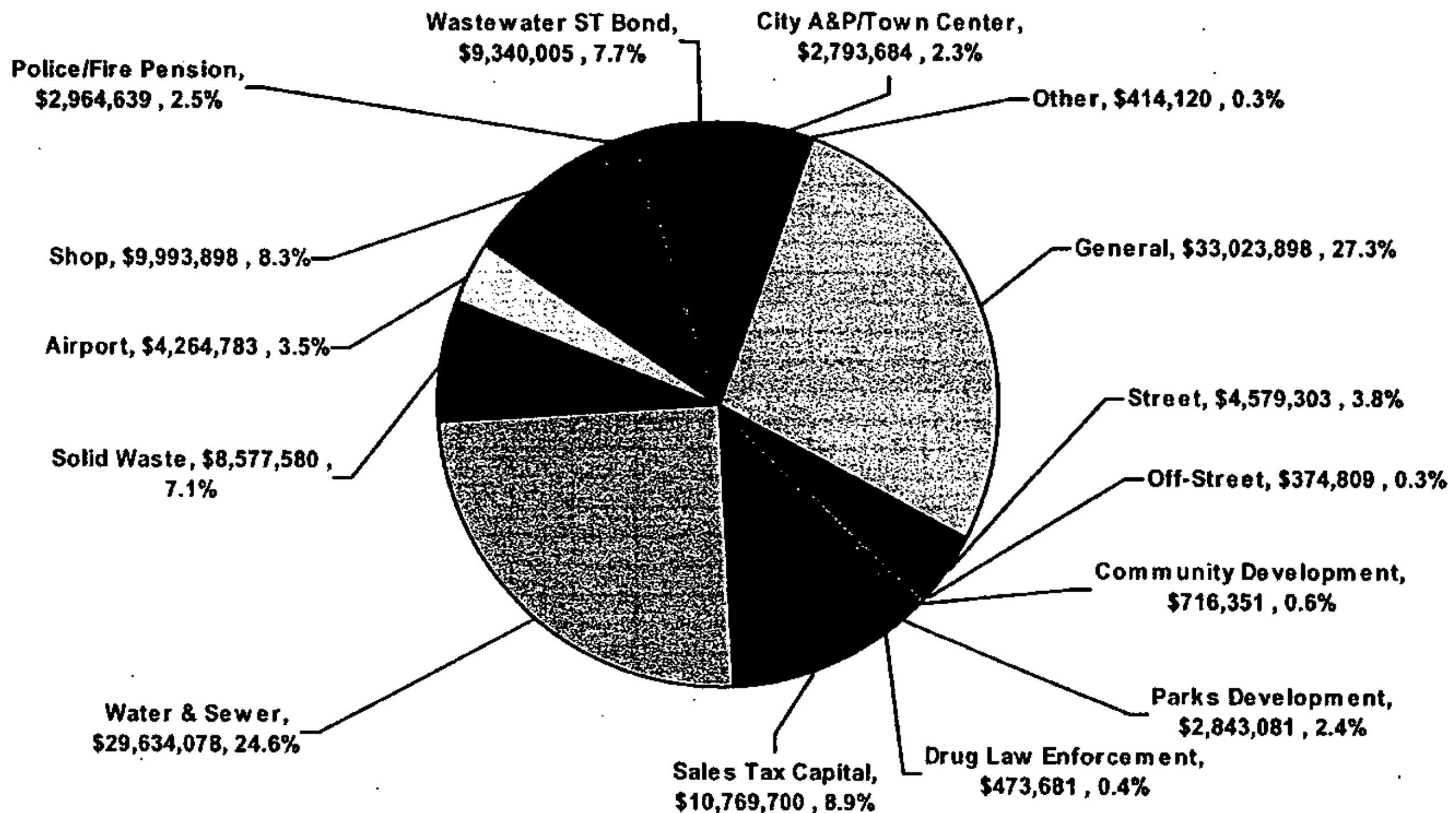
Other Funding Areas

Other Funding Areas (Non-Operational)

[illegible]

City of Fayetteville, Arkansas

2006 Proposed Budget: Schedule of Funding Sources (\$120,763,610)



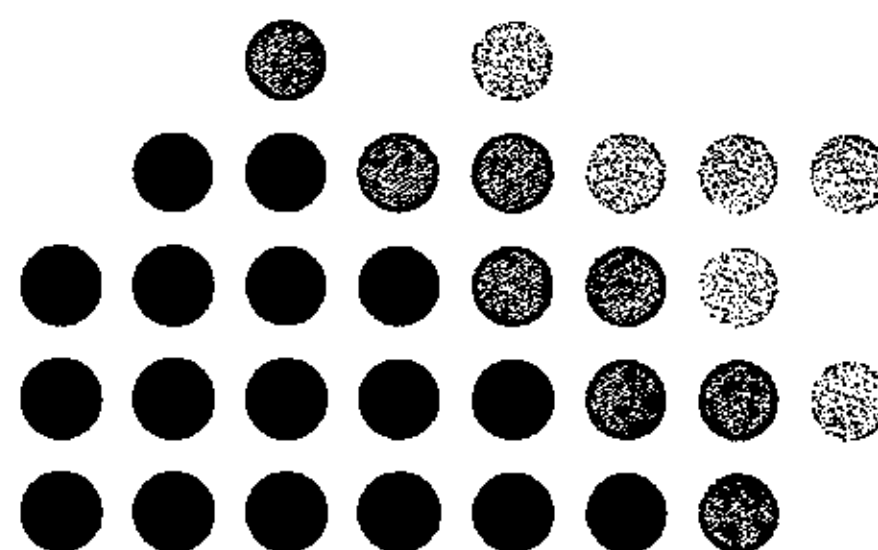
PERSONNEL VARIATION SUMMARY

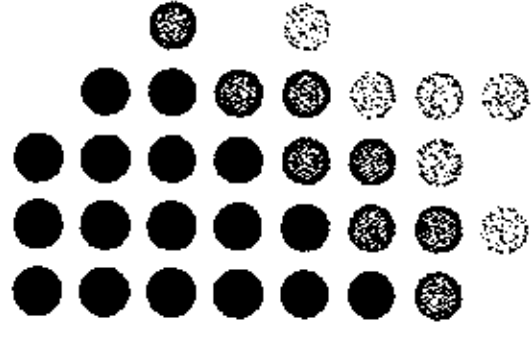
Fund / Division	Additions	Deletions
General Fund		
Animal Services	1.00 Animal Services Officer ¹	
Central Dispatch	1.00 Dispatcher ²	
Police	0.50 Evidence Technician ³	
	1.00 Support Specialist ⁴	
	4.00 Police Officers-Patrol ⁵	3.50 Civilian Jailers ⁵
Fire	1.00 Fire Investigator ⁶	
	4.00 Firefighters ⁷	
Parks & Recreation	1.00 Maintenance Worker IV ⁸	
Solid Waste Fund		
Solid Waste & Recycling	1.00 Truck Driver ⁹	
Airport Fund		
Aviation & Economic Development		1.00 Flight Line Operations Supervisor ¹⁰
		2.00 FBO Line Service Technician ¹⁰
	<u>14.50</u> Total Additions	<u>6.50</u> Total Deletions
	<u>8.00</u> Net Additions	

2006 Proposed Annual Budget & Work Program

November 8, 2005

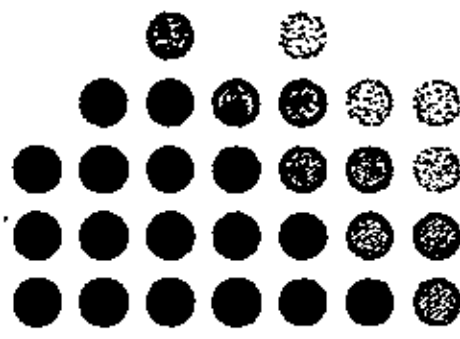
Fayetteville
ARKANSAS





2006 Budget Process

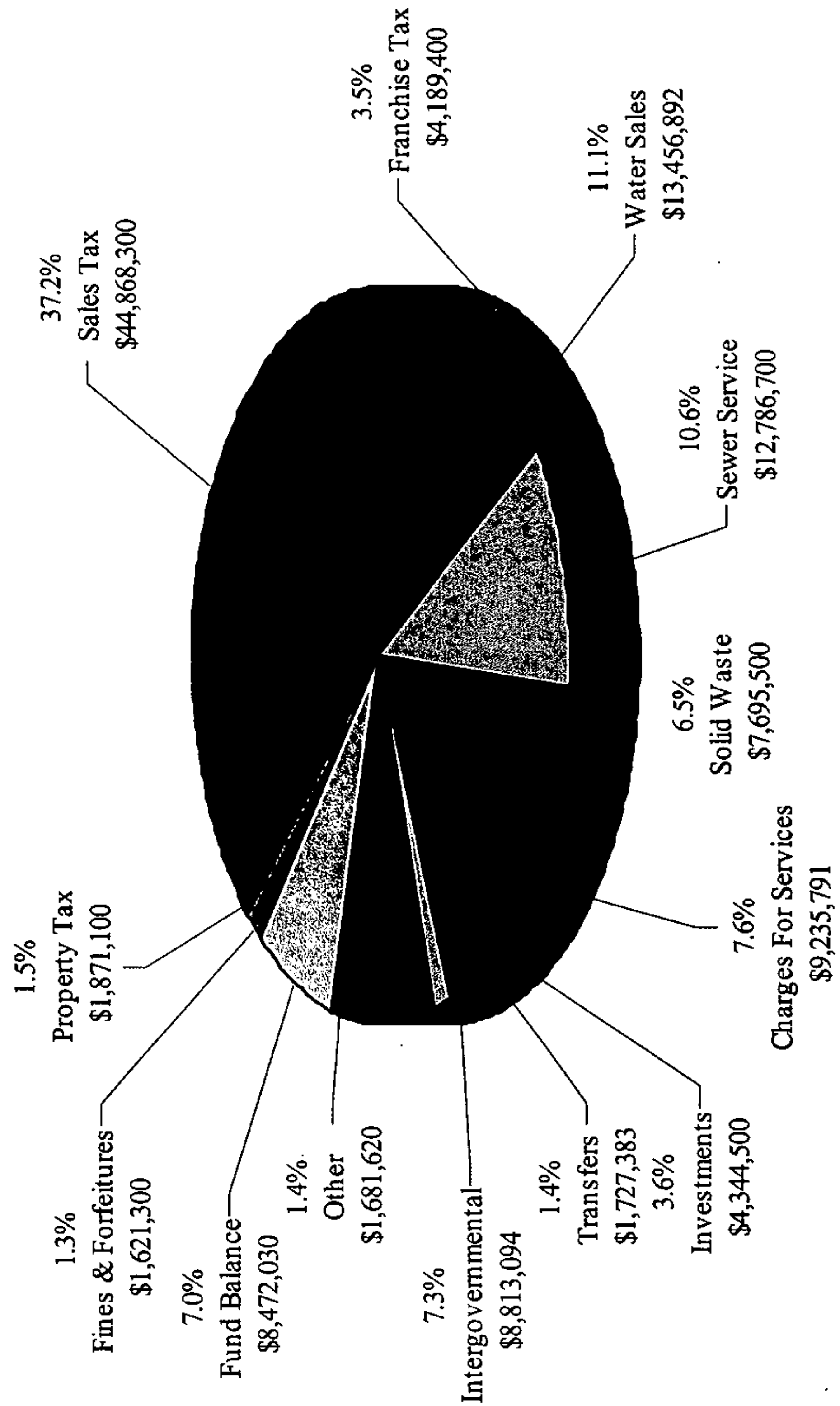
- April-June: Preparation Information
- July: Preparation Training
- July-August: Divisions Working on Budgets
- September 22, 2005: City Council Briefing
- September-October: Budget Analysis
- November: Budget Distribution
- December: Budget Adoption
- January 2006: Budget Implementation

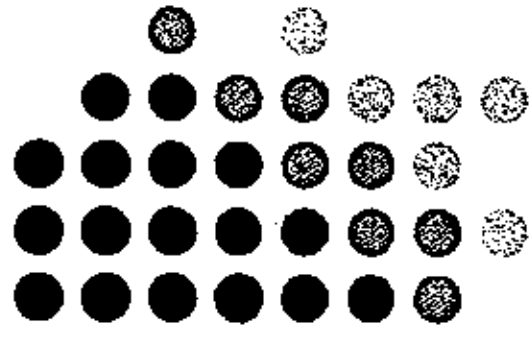


Sources of Funds for 2006

\$120,763,610

Sources of Funds for 2006

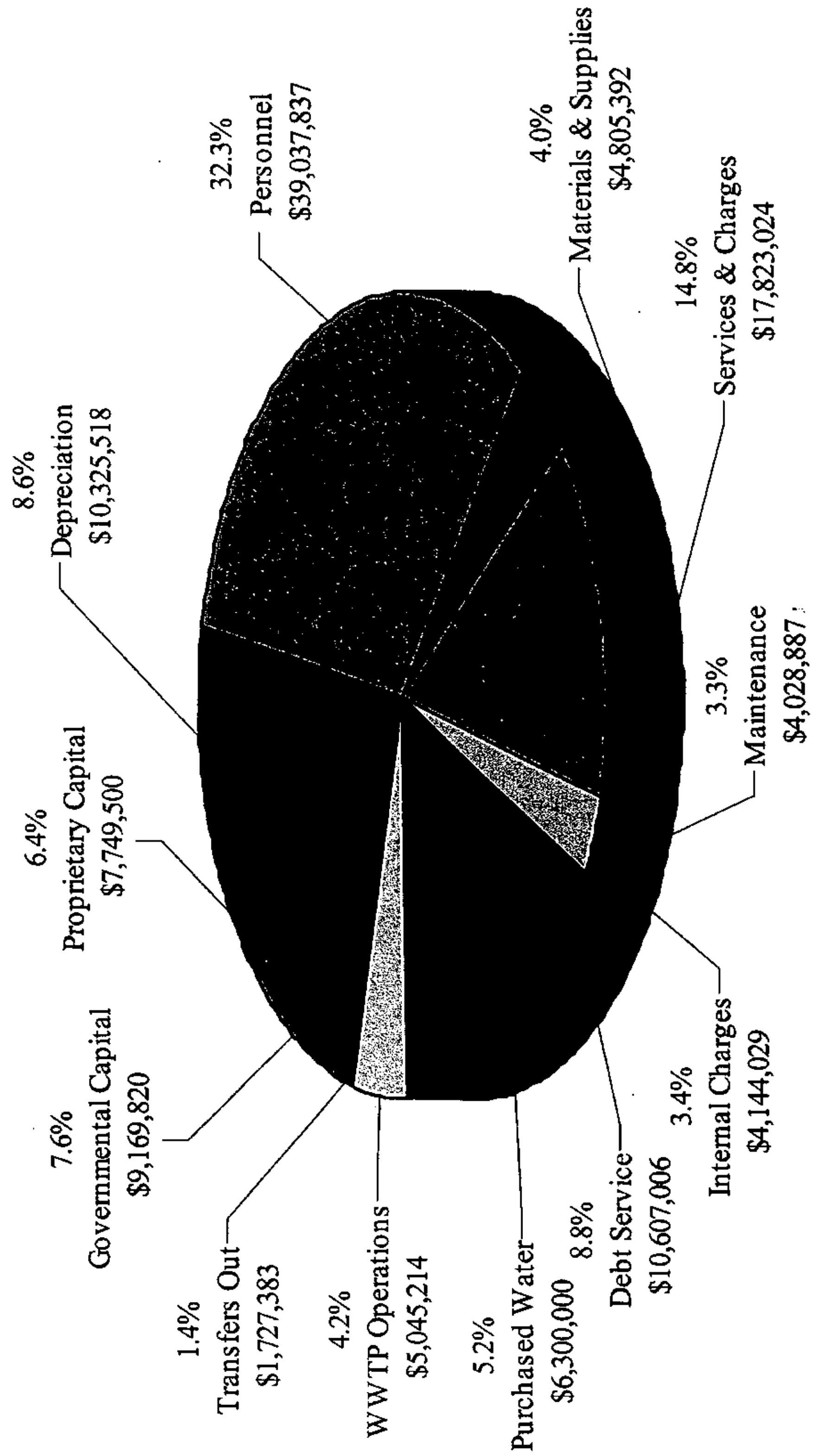


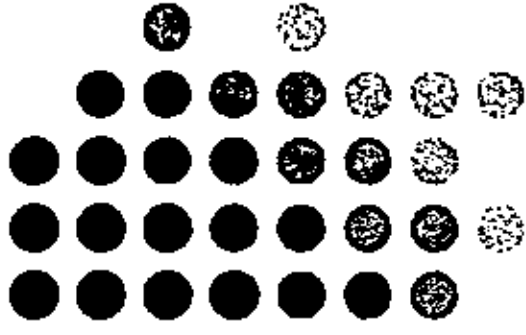


Uses of Funds for 2006

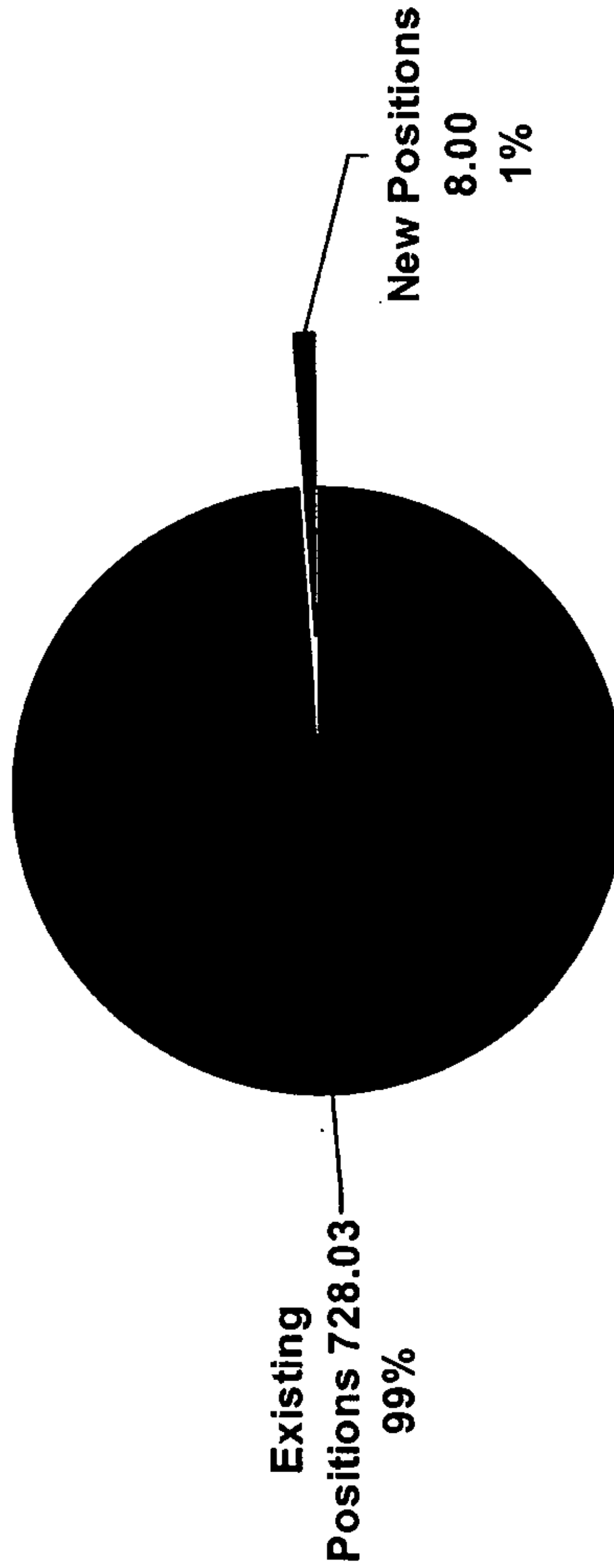
\$120,763,610

Uses of Funds for 2006



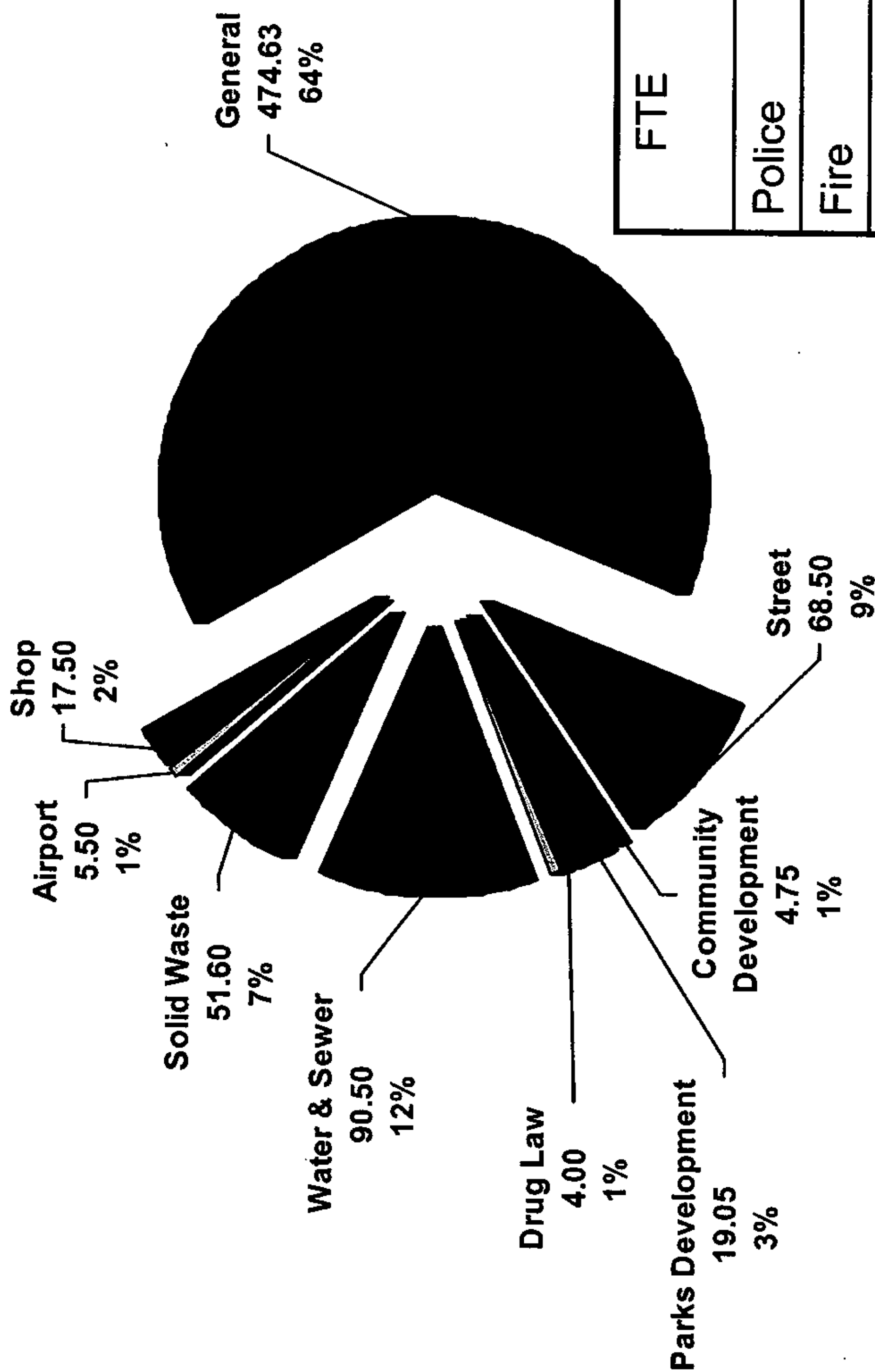
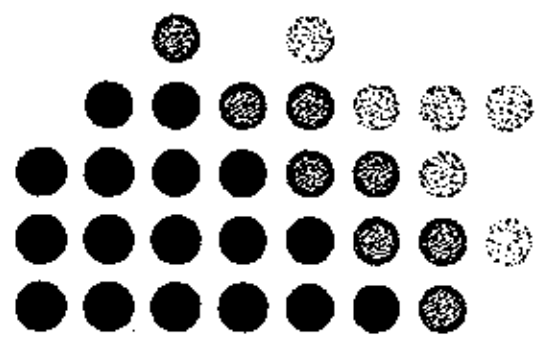


City Positions – (Net) New % Of Total 736.03 FTEs



City Positions by Funding Source

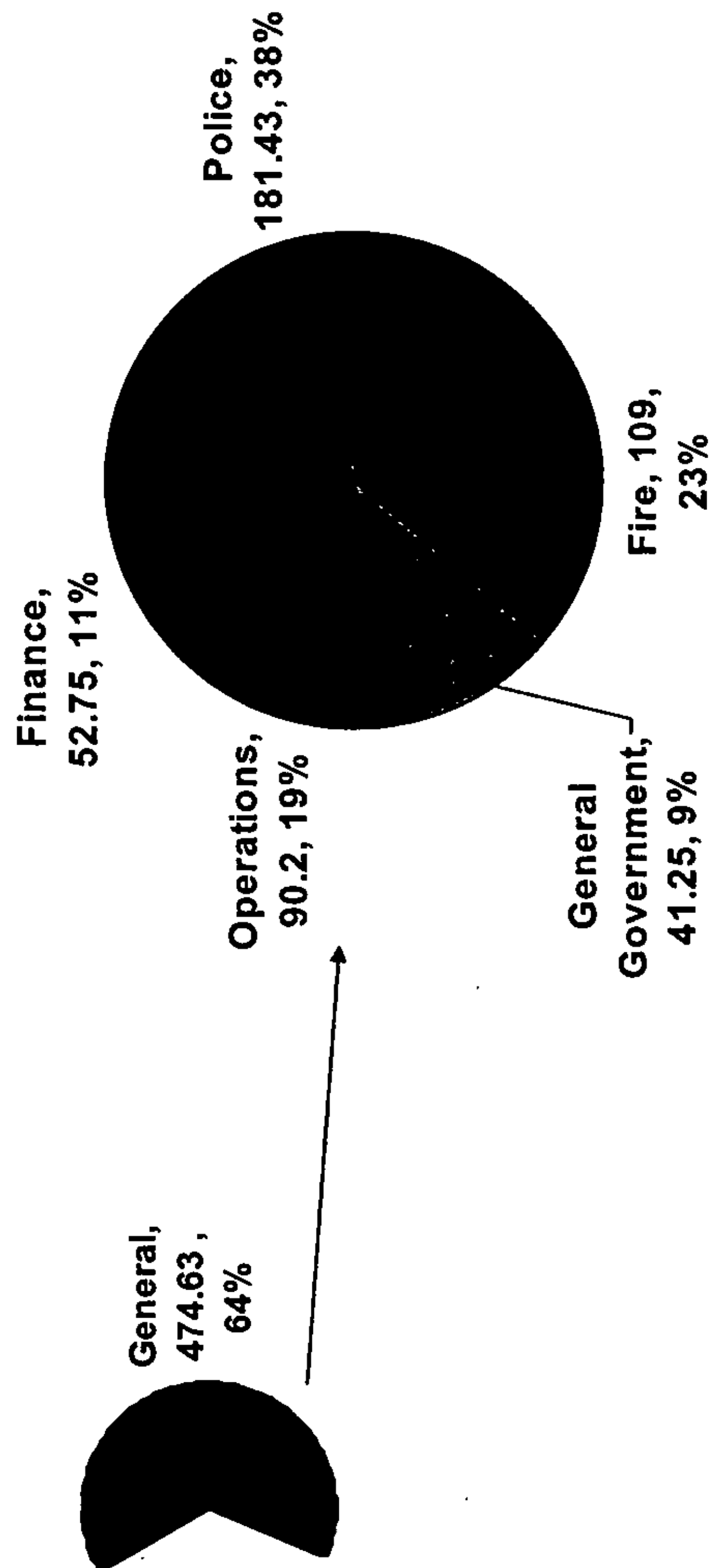
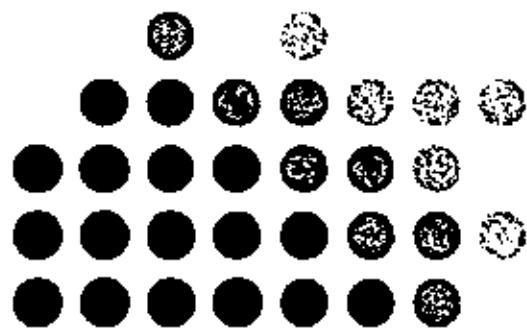
736.03 FTEs



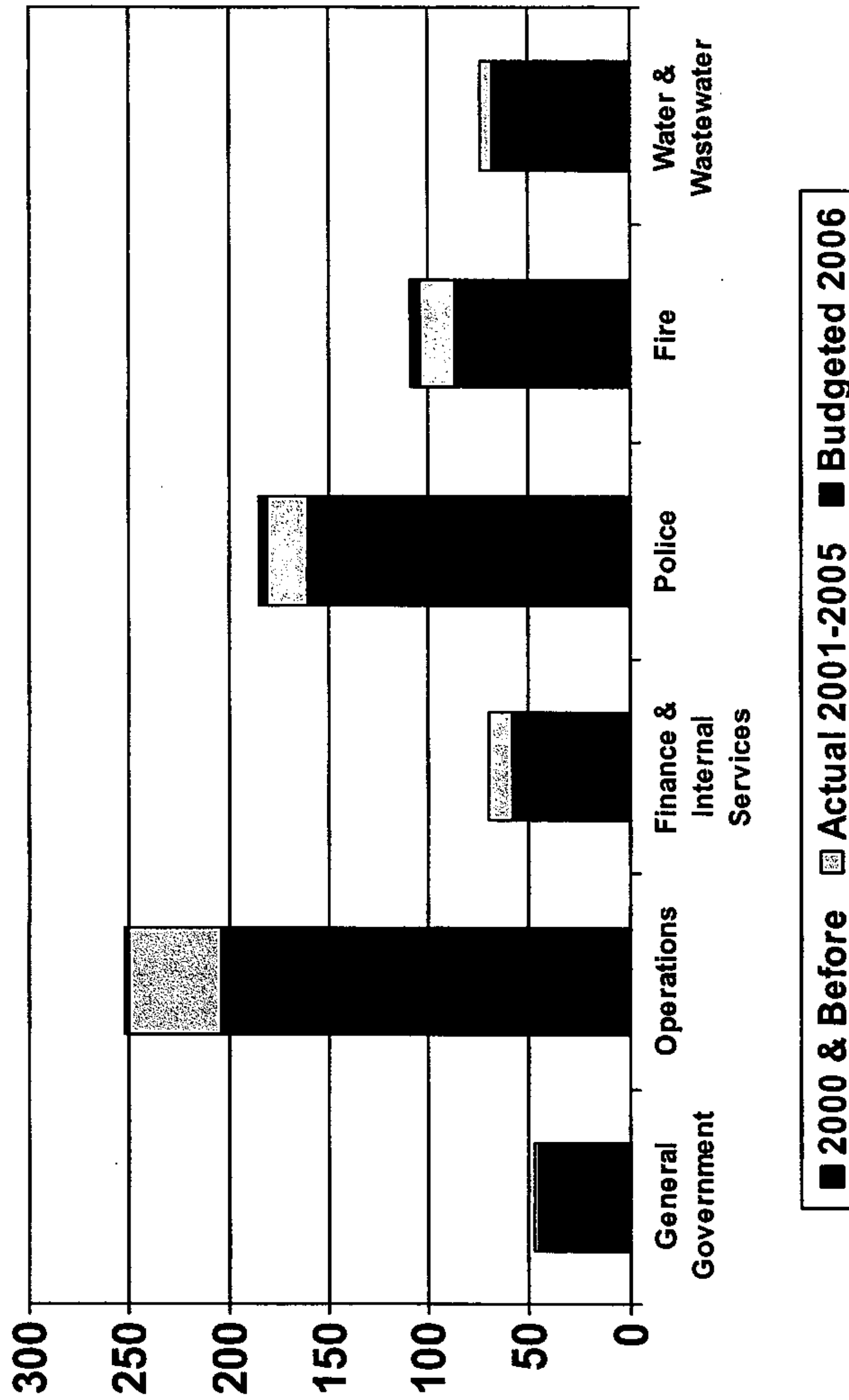
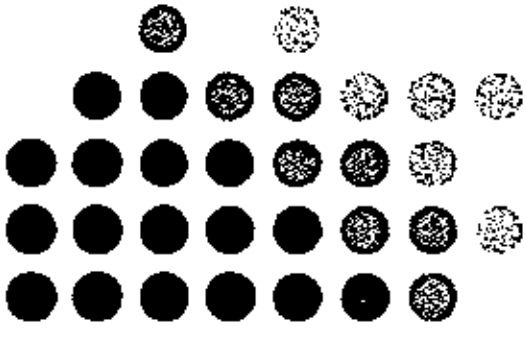
FTE	General Fund Area
Police	181.43
Fire	109.00
Others	184.20
	474.63

City Positions by General Fund

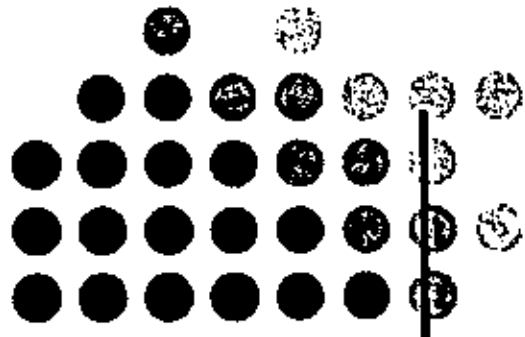
474.63 FTEs



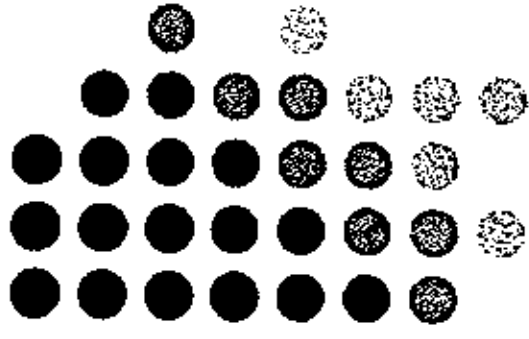
City Positions by Department 2000 - 2006



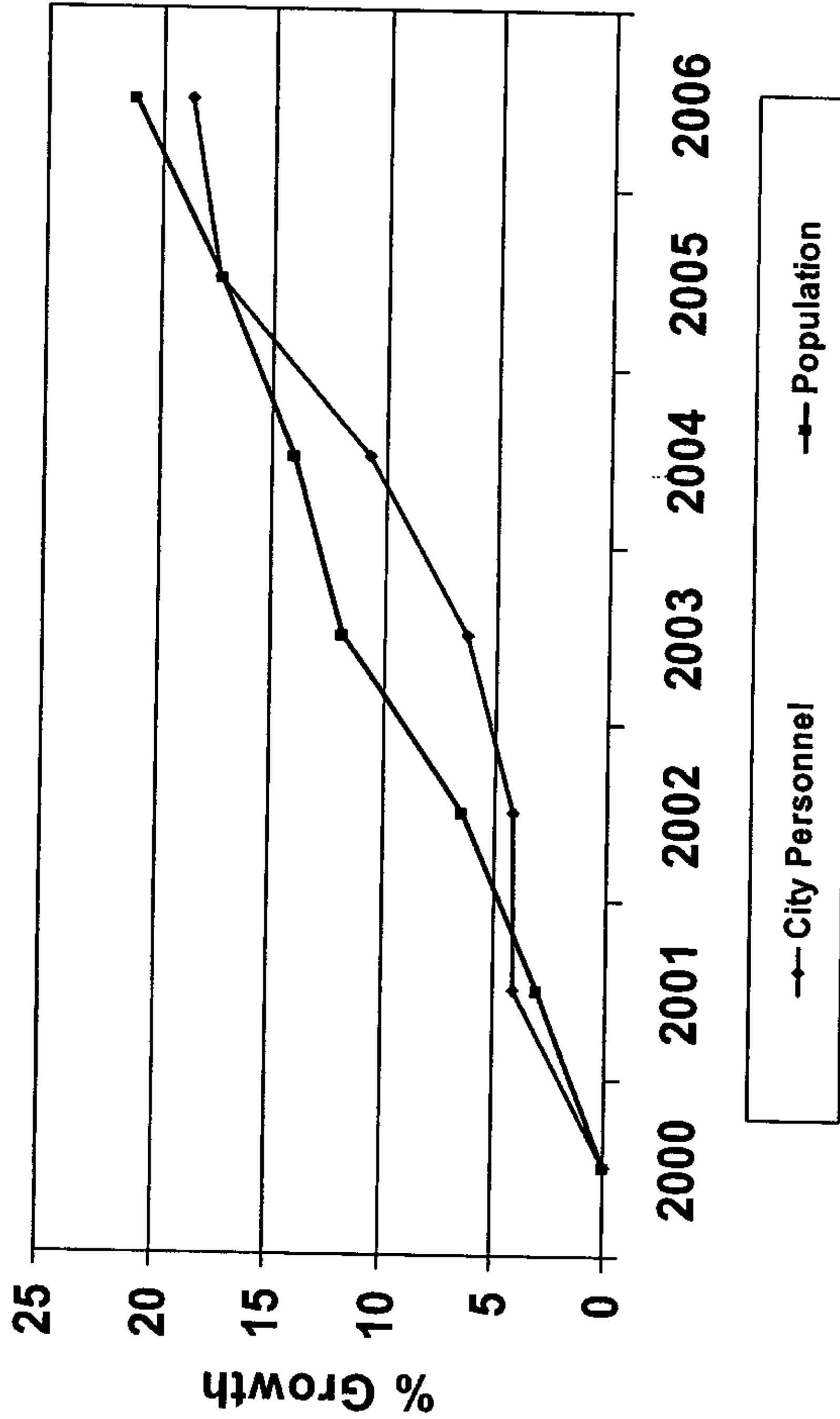
Personnel Variation Summary

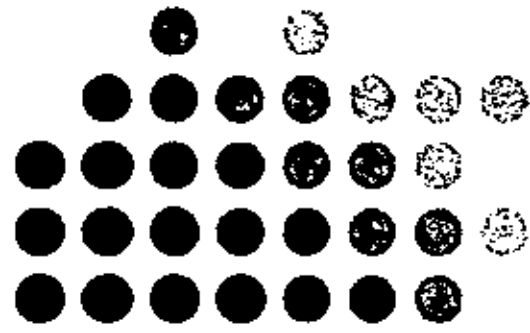


Fund / Division	Additions	Deletions
<u>General Fund</u>		
Animal Services	1.00 Animal Services Officer ¹	
Central Dispatch	1.00 Dispatcher ²	
Police	0.50 Evidence Technician ³	
	1.00 Support Specialist ⁴	
	4.00 Police Officers-Patrol ⁵	3.50 Civilian Jailers ⁵
Fire	1.00 Fire Investigator ⁶	
	4.00 Firefighters ⁷	
Parks & Recreation	1.00 Maintenance Worker IV ⁸	
<u>Solid Waste Fund</u>		
Solid Waste & Recycling	1.00 Truck Driver ⁹	
<u>Airport Fund</u>		
Aviation & Economic Development		
		1.00 Flight Line Operations Supervisor ¹⁰
		2.00 FBO Line Service Technician ¹⁰
	<u>14.50</u> Total Additions	<u>6.50</u> Total Deletions
	<u>8.00</u> Net Additions	



FTE vs. Population Comparison 2000 – 2006 Percent Growth

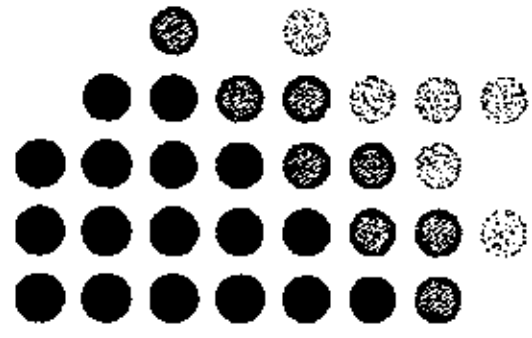




Proposed Meeting Dates

• Scheduled Meeting Dates

Date	Budget Meeting
Tuesday, November 8, 2005	2005 Proposed Budget Presentation
Tuesday, November 15, 2005	City Council Meeting
Tuesday, November 29, 2005	Budget Working Session (agenda session)
Tuesday, December 6, 2005	City Council Meeting
Tuesday, December 13, 2005	Budget Working Session (agenda session)
Tuesday, December 20, 2005	City Council Meeting



Proposed Meeting Dates

- Tentative Scheduled Dates

Date	Budget Meeting
Thursday, November 17, 2005	Budget Working Session (Tentative: 5:30pm-7:30pm)
Tuesday, November 22, 2005	Budget Working Session (Tentative: 5:30pm-7:30pm)
Thursday, December 8, 2005	Budget Working Session (Tentative: 5:30pm-7:30pm)

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF NOVEMBER 15, 2005

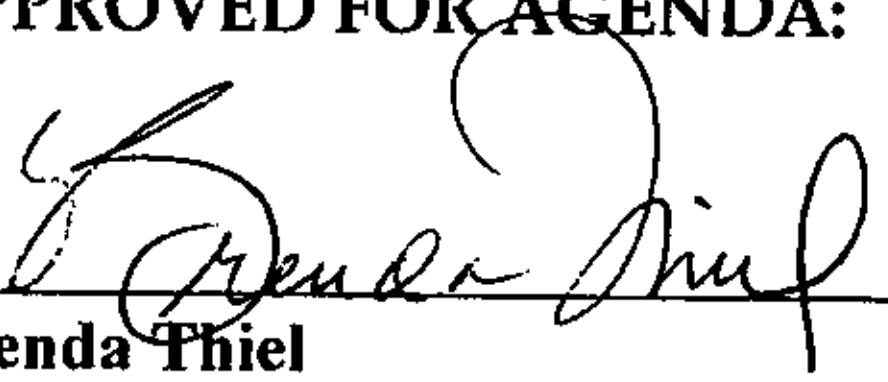
FROM:

BRENDA THIEL, ALDERMAN

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Refer A Rezoning Study And Possible Rezoning Amendment Of The Mission Boulevard And Lafayette Street Area To The Planning Commission

APPROVED FOR AGENDA:


Brenda Thiel
Alderman

Date


Kit Williams
City Attorney (as to form)

Date

11-8-05

Tabled to 12/6/05 mtg

RESOLUTION NO. _____

**A RESOLUTION TO REFER A REZONING STUDY AND
POSSIBLE REZONING AMENDMENT OF THE MISSION
BOULEVARD AND LAFAYETTE STREET AREA TO THE
PLANNING COMMISSION**

WHEREAS, an area of RMF-24 and I-1 is inappropriately zoned within a large, established single family neighborhood in the Lafayette Street and Mission Boulevard area; and

WHEREAS, the previous owner of the I-1 zoned parcel agreed to rezone the parcel residential if it were ever sold, but failed to do so; and

WHEREAS, neighbors surrounding this I-1 spot zoning have petitioned to down zone their RMF-24 zoned property to RMF-6 and request the I-1 zoning also to be changed to RMF-6; and

WHEREAS, these zoning issues need to be studied by the Planning Commission with assistance from the City's Planning Department for a prompt recommendation for or against a rezoning amendment to the City Council.

**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 refers to the Planning Commission an official request for a rezoning study and the question of a zoning amendment for the area designated in the map attached as Exhibit A in the Lafayette Street and Mission Boulevard area.

PASSED and APPROVED this 15th day of November, 2005.

APPROVED: **DRAFT**

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk



THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Planning and Development Management
DATE: November 08, 2005
SUBJECT: Approval of a resolution for an official request for a rezoning study to be filed with the zoning and development administrator pursuant to 166.17 of the Unified Development Code.

RECOMMENDATION

Staff recommends approving a resolution with an official request for a rezoning study to be filed with the Zoning and Development Administrator pursuant to §166.17 of the Unified Development Code for property located east of Mission, north of Lafayette, south of Maple, and west and east of Tanglewood currently zoned I-1 Heavy Commercial /Light Industrial and RMF-24 (24 units per acre).

BACKGROUND

The 1960 and 1970 zoning map zoned this area as I-1 which contains approximately 6.9 acres. In 1973, The City of Fayetteville Board of Directors approved amending the zoning map to change the existing residential uses in the 6.9 acres to RMF-24 (R-2).

The neighborhood has requested through petition that the existing RMF-24 and I-1 zoning districts be changed to RMF-6, Residential Multi-family, 6 units per acre.

In 1973, the City of Fayetteville Board of Directors did not rezone the existing Arkansas Western Gas facility (the subject property) due to concerns expressed by the gas company's ability to expand. Arkansas Western Gas Company did publicly state that they would give the City notice when the property was sold "so that the present I-1 zoning classification might be changed to R-2" (see attached 1973 minutes).

The property was sold in 1994 to James E. Lindsey Family Trust and has been converted into a warehousing operation. Over the last several years there have been complaints from the surrounding neighborhood regarding the adjacent warehouse operation zoned I-1.

Staff has met with Mr. Lindsey on several occasions to help resolve the neighbors concerns (see attached letter April, 2005)

Rezoning this property will prevent any further expansion of the current I-1 operations; however, this rezoning will "grandfather" the current ongoing operations and still allow Mr. Lindsey to operate the warehouse operation on the site, as long as it remains in continuous operation.

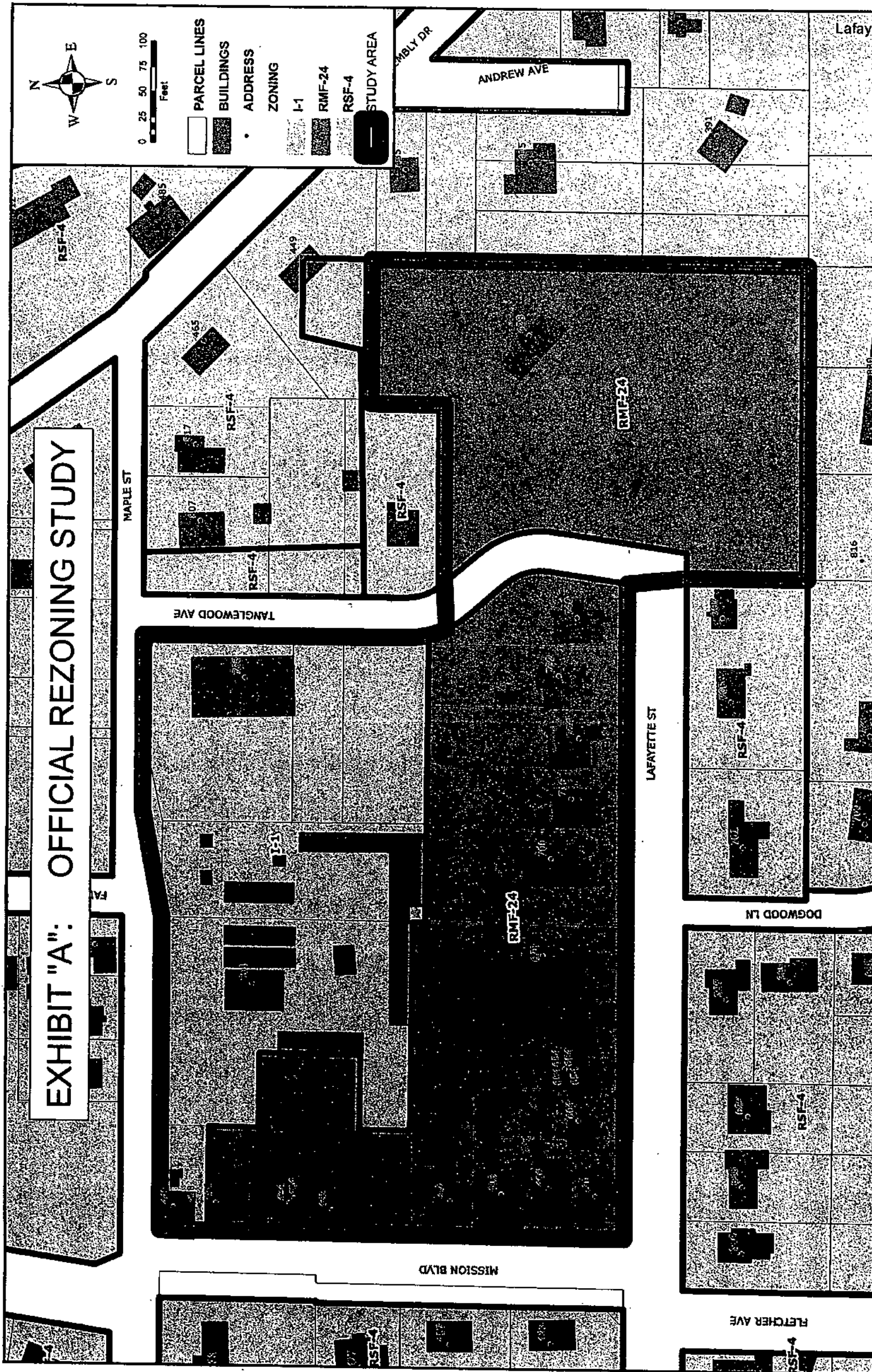
**166.17 Suspending Issuance Of Permits
Pending Zoning Amendments**

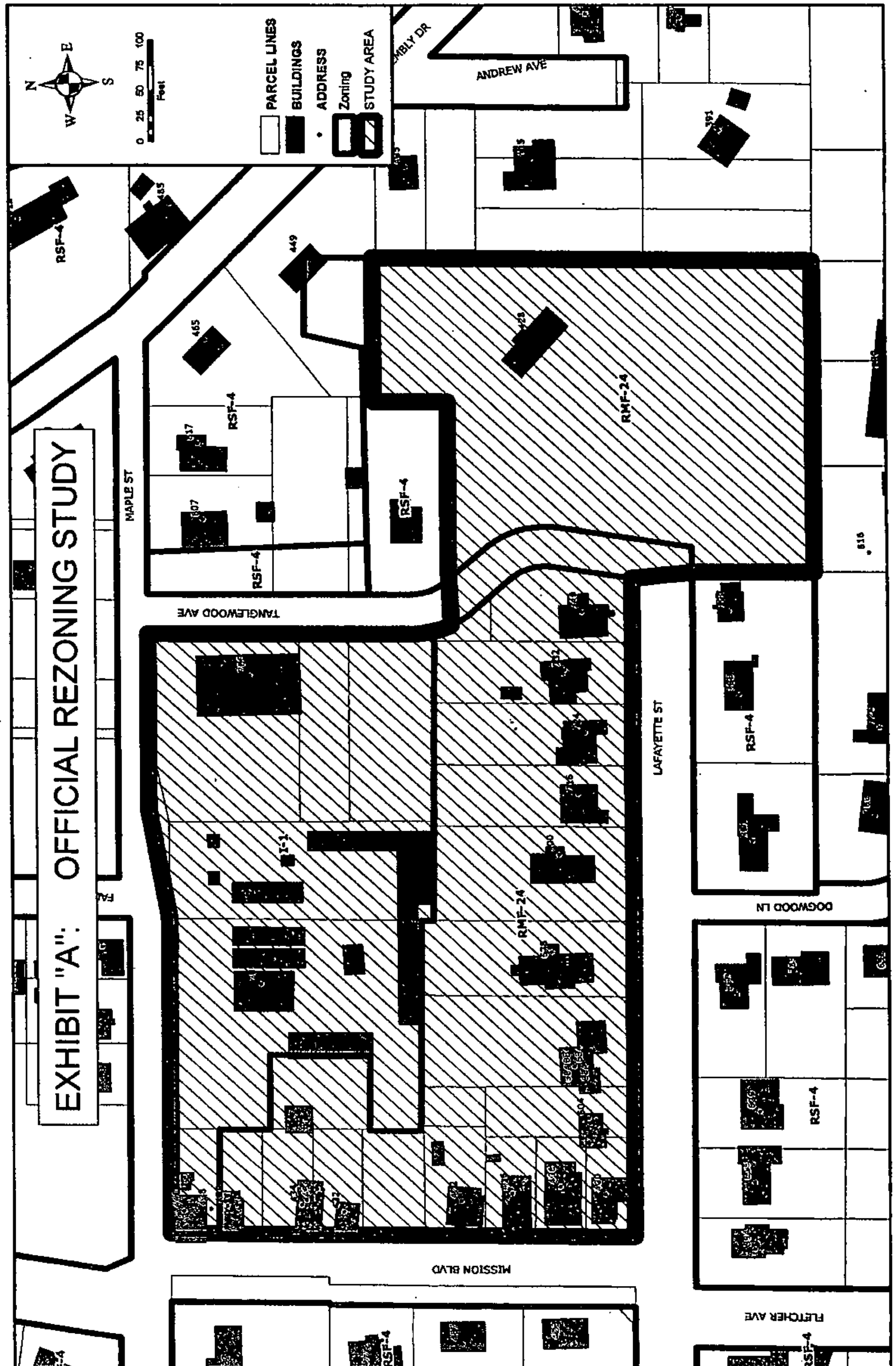
(A) No permit for the erection of any building or structure, or permit for the conduct of any use, shall be issued for a period of not more than 90 days after the question of a zoning amendment, so as to prohibit the use or building contemplated in the area concerned, has been referred to the Planning Commission.

(B) For the purpose of this section an amendment has been referred to the Planning Commission when a rezoning petition or official request for rezoning study is filed with the Zoning and Development Administrator. Provided that if final action by the City Council is not taken on the question within three months of the time the matter is so referred, the permit shall be issued if all other requirements are met. If within such three-month period the governing body of the municipality shall pass an ordinance amending zoning, Chapters 160 through 165, so as to prohibit such building, structure, or use, no such permit shall be issued.

(C) However, nothing contained in this section shall prohibit the issuance of a building permit, or permit for the conduct of any use, if an application for said permit together with all fees required and complete set of plans demonstrating complete or substantially complete compliance with all building and zoning requirements is filed with the Zoning and Development Administrator prior to the reference to the Planning Commission.

(Code 1965, App. A., Art. 9(7); Ord. No. 1747, 6-29-70; Ord. No. 1918, 5-15-73; Code 1991, §160.196; Ord. No. 4100, §2 (Ex. A), 6-16-98)





We, the undersigned, do hereby request the City to rezone the following parcels of land located within the City of Fayetteville from RMF-24, Residential Multi Family 24 units / acre, to RMF-6, Residential Multi Family 6 units / acre

B. 3
Mission Boulevard and
Lafayette Street Rezoning Study
Page 8 of 46

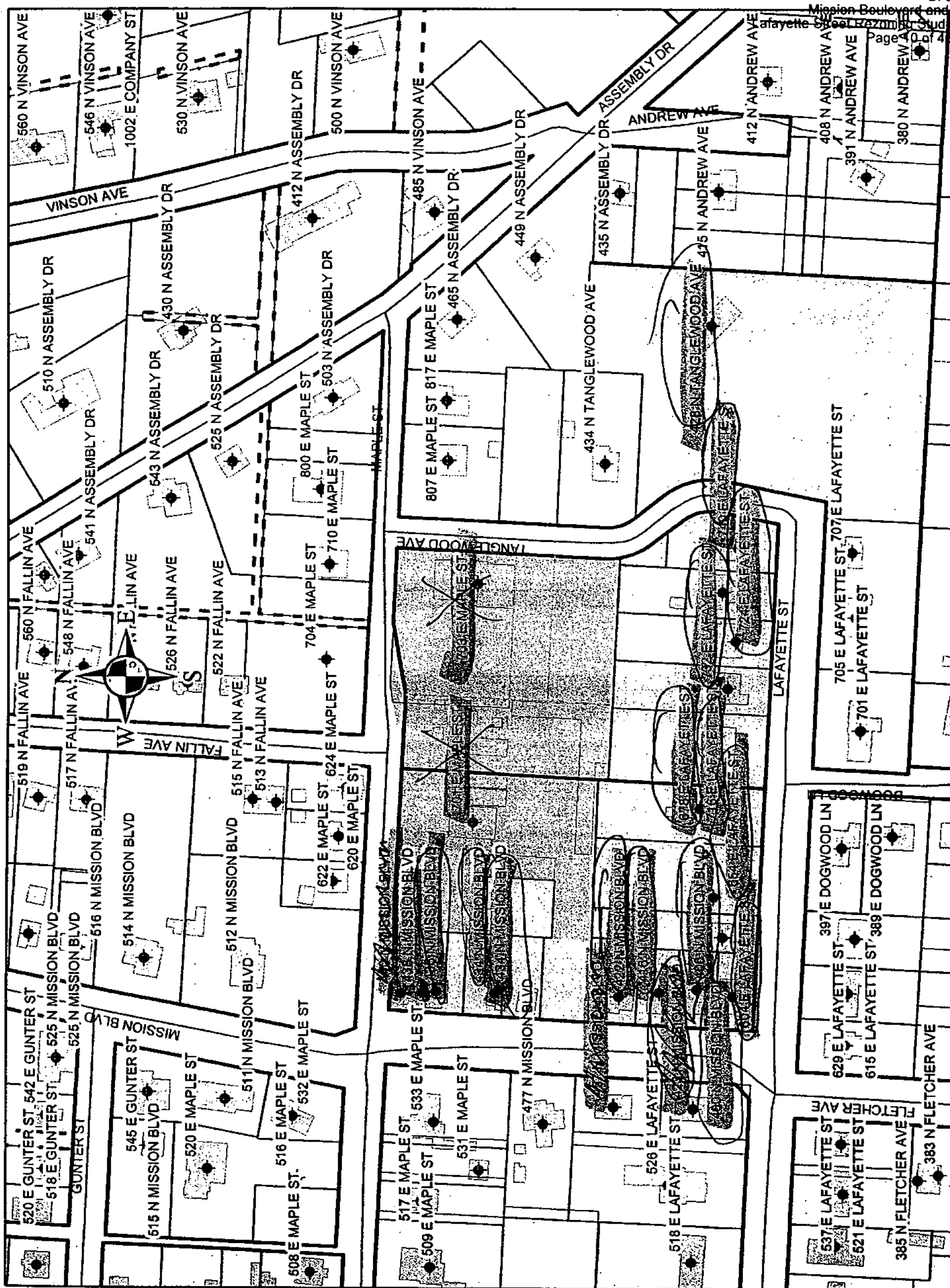
Parcel Number	Location	Owner Name	Signature	Mailing Address
765-08034-000	604 LAFAYETTE ST	DAGGETT, WILLIAM ANDREW		604 E LAFAYETTE
765-08038-000	654 E LAFAYETTE ST	WINKLER, STEVE E. & M. ALLEN	<i>Steve Winkler</i>	520 EAST MAPLE
765-08031-000	678 E LAFAYETTE ST	HAGSTROM, FRAN; PALERMO, WILLIAM		WASHINGTON MUTUAL BANK F.A. P.O. BOX 45110 JACKSONVILLE FL 32232-5110
765-14381-000	700 Lafayette St	Luecking, Daniel and Janet	<i>Jan Luecking Daniel Luecking</i>	
765-14380-000	716 E LAFAYETTE ST	WILLIAMS, NANCY ANN; TRUSTEE JOHN & NANCY ANN WILLIAMS REV TR	<i>Nancy Ann Williams</i>	716 E LAFAYETTE FAYETTEVILLE AR 72701
765-14377-000	732 LAFAYETTE ST	HUFF, JOHN HADAPENPORT, MICHAEL C	<i>John A. Huff</i>	732 E LAFAYETTE FAYETTEVILLE AR 72701
765-14380-001	724 E LAFAYETTE ST	PETTIT, JOSH H. & ELOISE A, TTEES OF THE JOSH H. & ELOISE	<i>Josh Pettit</i>	19021 SHORELINE WAY FAYETTEVILLE AR 72703
765-14374-001	401 434 TANGLEWOOD	ESTHER REITER	<i>Esther Reiter</i>	807 E. MAPLE ST., FAYETTEVILLE, AR. 72701
765-14375-000	740 E LAFAYETTE ST	RODDEY, PHILLIP W. & CLEMDA C. RODDEY, TYLER C	<i>Phillip W. Roddey</i>	740 E LAFAYETTE FAYETTEVILLE AR 72701
765-14385-000	428 TANGLEWOOD RD	GILBREATH, JAMES A. & PAMELA T.	<i>James A. Gilbreath</i>	1830 N CROSSOVER FAYETTEVILLE AR 72701
765-08037-000	416 MISSION BLVD	GUN, MAY CHO & SU LUAN	<i>MAY-CHO SU-LUAN</i>	416 MISSION FAYETTEVILLE AR 72701
765-08032-000	422 MISSION BLVD	MAHLER, ALEX & LORI		P.O. BOX 3582 FAYETTEVILLE AR 72702
765-08033-000	406 MISSION BLVD	CLARK, CARL G.; CLARK, JO DEAN; COLEY CHERI LYNN	<i>Jo Dean Clark</i>	406 MISSION BLVD FAYETTEVILLE AR 72703
765-08035-000	400 MISSION BLVD	BARTLETT, AMANDA RHEA	<i>Amanda Rhea Bartlett</i>	400 MISSION BLVD FAYETTEVILLE AR 72703
765-08042-000	434 1/2 MISSION BLVD	KILGORE, E. MARIE TTEE E. MARIEKILBORE REV TRUST		P.O. BOX 3809 FAYETTEVILLE AR 72702
765-08043-000	434 MISSION BLVD	KILGORE, E. MARIE TTEE E. MARIEKILBORE REV TRUST		P.O. BOX 3809 FAYETTEVILLE AR 72702
765-08040-000	436 MISSION BLVD	KILGORE, E. MARIE TTEE E. MARIEKILBORE REV TRUST		P.O. BOX 3809 FAYETTEVILLE AR 72702
765-08041-000	438 MISSION BLVD	KILGORE, E. MARIE TTEE E. MARIEKILBORE REV TRUST		P.O. BOX 3809 FAYETTEVILLE AR 72702

432 Mission Blvd

We, the undersigned, do hereby request the City to rezone the following parcels of land located within the City of Fayetteville from I-2, Heavy Commercial and Light Industrial, to RMF-6, Residential Multi Family 6 units per acre

B.3

[illegible]



§161.17 DISTRICT I-1 HEAVY COMMERCIAL AND LIGHT INDUSTRIAL.

A. Purpose. The Heavy Commercial District is designed primarily to accommodate certain commercial and light industrial uses which are compatible with one another but are inappropriate in other commercial or industrial districts. The light industrial district is designed to group together a wide range of industrial uses, which do not produce objectionable environmental influences in their operation and appearance. The regulations of this district are intended to provide a degree of compatibility between uses permitted in this district and those in nearby residential districts.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 3	Public Protection and Utility Facilities.
Unit 4	Cultural and Recreational Facilities
Unit 6	Agriculture
Unit 12	Offices, Studios and Related Services
Unit 13	Eating Places
Unit 17	Trades and Services
Unit 18	Gas Service Stations and Drive-In Restaurants
Unit 21	Warehousing and Wholesale
Unit 22	Manufacturing
Unit 25	Professional Offices
Unit 27	Wholesale Bulk Petroleum Storage Facilities with Underground Storage Tanks

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 19	Commercial Recreation
Unit 20	Commercial Recreation-Large Sites
Unit 28	Center for Collecting Recyclable Materials

C. Bulk and Area Regulations/Setbacks.
Setback lines shall meet the following minimum requirements:

From Street R-O-W (when adjoining A or R districts)	50 ft.
From Street R-O-W (when adjoining C, I or P districts)	25 ft.
Side (when adjoining A or R districts)	50 ft.
Side (when adjoining C, I or P districts)	10 ft.
Rear (when adjoining C, I or P districts)	10 ft.

D. Height Regulations. There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

(Code 1991, §160.039; Code 1965, App. A, Art. 5(VIII); Ord. No. 1747, 6-29-89; Ord. No. 2351, 6-2-77; Ord. No. 2430, 3-21-78; Ord. No. 2516, 4-3-79)

Lindsey Management Co., Inc.

1165 Joyce Boulevard ■ P.O. Box 13000 ■ Fayetteville, AR 72703 ■ (479) 521-6686 ■ Fax (479) 527-8840

April 12, 2005

Mr. Tim Conklin
City of Fayetteville

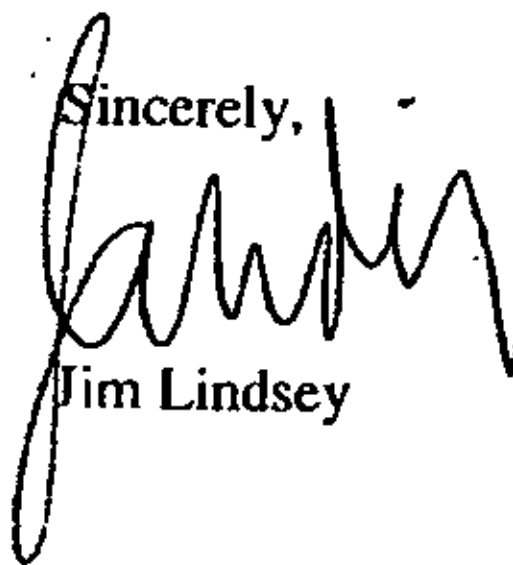
Dear Tim,

Please be advised by this letter that I am willing to do the following at my Maple Street location:

- 1) landscape by planting pine trees as a screen on each neighbors adjoining property line 10 feet apart
- 2) I will not sell this property to anyone who would have a more intense usage than we are using now. This usage would always be inside the I-1 industrial and be agreeable with the City Planner and the neighborhood association.
- 3) I do reserve the right to build on this property myself under the industrial zoning or to re-zone the property and build on it.

I hope this will be received as an act of goodwill.

Sincerely,



Jim Lindsey

Southwest Sequoyah Neighbors say:

When your neighbor's trash piles up --



I-1 Zoning District at 701-703 East Maple

-----your property values go down

\$

What's this doing here?

ASK CITY HALL
ASK ARKANSAS WESTERN GAS ASK "Great Neighbor" LINDSEY

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

September 9, 2002

Mr. Jim Lindsey
P.O. Box 1174
Fayetteville, AR 72702

Re: Certificate of Zoning for 701-703 Maple

Mr. Lindsey,

I am writing you today with concerns about the above mentioned property. It is required for all businesses in Fayetteville to get a Certificate of Zoning Compliance. Please find attached application and mail it back to the address above with at \$25.00 check made out to The City of Fayetteville. If you have any questions fill free to contact me at 575-8267.

Sincerely,



La Dawnya Cossey
Permit Clerk
113 W. Mountain
Fayetteville, AR 72701
479-575-8267

COPY

OCT 11 2000

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT DIV3
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT: It's way past time for this
noise pollution + mess to be out of residential
area -

How do you legislate common sense & good manners??
I guess we need to pass a law about planting
Bradford Pears - also when you see a big pile
of Rip Rap (White Rock) - you know Jim Lindsey was
there!

NAME OF PROPERTY OWNER: James E. Lindsey

LOCATION AND/OR ADDRESS: 701 E Maple

YOUR NAME: Mrs. Ron Anderson

ADDRESS: 1423 E. Bridgeway Dr Fayette

PHONE NUMBER: 521-2825 DATE: 10-2-2000

M E Anderson
SIGNATURE

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE: _____ USE UNIT: _____

ACTION TAKEN: _____

BY: _____ DATE: _____

OCT 11 2000

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT, DAA3
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT: The dump we pass on the
way home makes us feel we live in a
slum. We get over it when we get home,
but then there it is again when we leave
again. Isn't it in the wrong place? Frankly,
it would look disgusting no matter where
it is, but please, ... in our neighborhood!?!??

NAME OF PROPERTY OWNER: James E. Lindsey

LOCATION AND/OR ADDRESS: 701 E. Maple

YOUR NAME: Anonymous

ADDRESS: _____

PHONE NUMBER: _____ DATE: _____

SIGNATURE _____

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE: _____ USE UNIT: _____

ACTION TAKEN: _____

BY: _____ DATE: _____

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DIV.
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT: I am embarrassed about this
property when friends come to visit from Texas. Of
course I want to show them the beautiful mural Joe
Alexander painted on the side of the restaurant, then
drive them up to Skyline Drive for the beauty and atmosphere.
I would hate to live in closer proximity to 701 E. Maple, but
we do have to pass it often to leave and come home. Help! It is
a nuisance!

NAME OF PROPERTY OWNER: James E. Lindsey

LOCATION AND/OR ADDRESS: 701 E Maple

YOUR NAME: Patti Culberson

ADDRESS: 524 N. Sequoyah Dr.

PHONE NUMBER: 251-1673

DATE: 9/26/00

Patti S Culberson
SIGNATURE

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE: _____ USE UNIT: _____

ACTION TAKEN: _____

BY: _____ DATE: _____

BRUCE ROBERTSON

521-4868

Lindsey 1-7 Maple and Mission

14349

New complaint
file

Set up w/

Williams as complainant

Each of the other comp
need to be entered
as references to the
original complaint

Only set one point
for the original - note
for the references

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

October 11, 2000

Mr. Steve Winkler
678 East Lafayette
Fayetteville, AR 72701

Re: 701 E. Maple Street

Dear Mr. Winkler:

As we discussed last week, I did research the information that you provided in your letter dated October 2, 2000 regarding the above mentioned property. I understand that at the neighborhood's request, in 1975, a rezoning for property in this area was approved by the City Board of Directors, however, that rezoning did not affect the specific tract in question at 701 E. Maple Street. While there was discussion at that time about future zoning changes, they were never brought forward by a property owner, past or present, or by a City Board or Commission.

I know that the neighborhood is very interested at this time in seeing this tract rezoned to a different designation. In light of this, I would suggest that you and your neighbors submit a written request and petition to the Planning Commission for consideration. It will be necessary, if this item is to be heard by the Planning Commission, that you provide our office with names and addresses of all adjoining property owners (information located at the County Assessor's Office) as well as that of the current property owner, so that adequate notification may be given as required by State Law. Should the Planning Commission recommend in favor of your request, the item will be forwarded to the City Council for consideration and action. Only after the City Council passes an ordinance is the zoning designation of a parcel changed.

Please keep in mind that once a zoning designation is changed, the uses which are established on the property may become existing non-conforming uses. This means that the section of the City's Unified Development Ordinance which regulated non-conforming uses will apply. I have attached a copy of this section for your records. Simply stated, the non-conforming use may exist until such a time as it is removed. It may not however be enlarged, expanded or extended according to these regulations. Therefore, changing the zoning designation of 701 E. Maple St. would possibly change the long term impact, use or appearance of the property but it will not immediately cause the cessation of current activity on the site.

I hope this information is of assistance to you and your neighbors. Please contact the Planning Division should you have questions regarding the process that I have suggested.

Sincerely,

Dawn T. Warrick
Associate Planner

cc: Tim Conklin, City Planner
Charles Venable, Public Works Director
Fred Hanna, Mayor
Jim Lindsey, Property Owner

Steve E. Winkler
678 East Lafayette
Fayetteville, AR72701

October 2, 2000

Dawn T. Warrick, Associate Planner, City of Fayetteville

Re: Rezoning

Subject property: 701 East Maple Street

Dear Ms. Warrick:

Thank you for your timely response to my complaint. Our neighborhood association is working toward eliminating the current industrial zoning for this property which was never intended for industrial use, but acquired the current I-1 zoning through historical circumstance. About 1926 Arkansas Western Gas Company brought its first service to Fayetteville down Maple street and built a control station on the property. When Fayetteville adopted city wide zoning map in 1970, the area bounded by Maple, Lafayette, Mission and Tanglewood was designated as an I-1 zone because it was occupied by a public utility that could not be relocated. There is no other rational for this I-1 designation.

Not only did residential neighborhoods grow around the gas company facility but other businesses, compatible to the I-1 zone, also began to appear. In 1975, in response to citizens efforts to curtail further location of commercial businesses, the Fayetteville Planning Commission petitioned the Board of Directors to rezone the entire Maple/Lafayette/Mission/Tanglewood area from I-1 to R-2. Three property owners in the subject area objected to being rezoned: The Gas Company, who at that time had purchased land and planned to move its facility to the industrial park; Mr. Glen Lehman who owned and rented commercial property at Maple and Mission; and Mr. Steve Winkler who operated a building salvage facility on Lafayette Street. At the June 3, 1975 regular meeting of the Board of Directors, the Gas Company argued that "if rezoning were approved, the company would not be able to make necessary expansion and would be placed in a position of having to move their facilities at a time when it was not financially feasible". However, Mr. F.H. Martin, representing Arkansas Western Gas Company, stated that the "gas company would give the City notice when they planned to sell the property so that the present I-1 zoning classification might be changed to R-2". With the understanding that the gas company property would become R-2 when they vacated the facility, Mr. Winkler withdrew his opposition to the proposed rezoning. Mr. Lehman's property was designated neighborhood commercial. Based on this understanding the Board passed Ordinance No. 2108 changing the zoning of the area from I-1 to R-2 with the exception of the gas company property.

This property came to the attention of the City again in 1993. The gas company moved circa 1991. While the property sat vacant they installed what adjoining property owners considered excessive outdoor lighting. Fourteen neighbors signed a petition asking the City to address this problem and other apparent violations of the zoning code pertaining to setbacks, parking, material storage, and screening. Alderman Kit Williams responded to neighbors concerns: "I would like to see the Gas Company move from this largely residential area and will bring up your complaints with our city's planning and zoning staff. I will also ask them to check the history for any agreements to leave or vacate that we could enforce now." The excessive lighting was replaced with conventional mercury vapor lights.

The gas company property was sold in 1994 to James E Lindsey and it initially sat empty. In recent years, however, use of the property has become increasingly commercial. It is used for building salvage storage, as a trash relay station, and operating chipper machines. It is an eyesore and creates tractor-trailer truck traffic. The vegetative visual shield was removed with possibly dangerous herbicides and there is trash and broken glass in ditches surrounding the property. In July, 2000, neighbors wrote to Mr. Lindsay detailing their complaints. They feel his response was insufficient.

Members of our organization are of differing opinions as to the most desirable use on the property; some suggest green space, others suggest residential. The unanimous consensus is, however, that an industrial/commercial facility on that property is inappropriate and undesirable. We feel that there is no logical argument to be made that would support locating a three acre industrial zone between two of Fayetteville's premiere neighborhoods; Mt. Sequoyah and The Washington-Willow Historic District.

In the coming months we will work to persuade the City Planning Commission and our elected officials to continue to pursue a residential zoning for the entire area bounded by Maple, Lafayette, Mission and Tanglewood which was begun in 1975.

Sincerely,



Steve E. Winkler, member, Southwestern Sequoyah Neighborhood Association

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

September 26, 2000

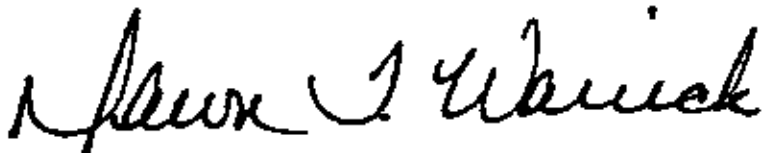
Mr. James Lindsey
c/o Lindsey Management
3900 N. Front Street
Fayetteville, AR 72703

Re: Complaints regarding property at 701 E. Maple

Dear Mr. Lindsey:

This letter is just to make you aware of several complaints which have been received by the Planning Division regarding the above mentioned property. Enclosed you will find a copy of these complaints as well as staff's response. While there is no zoning violation, I would encourage you to try to work with the neighborhood to alleviate some of these concerns if possible. Should you have any questions concerning this information, please do not hesitate to contact the Planning Division at 575-8264.

Sincerely,



Dawn T. Warrick
Associate Planner

cc: Tim Conklin, City Planner
File

COPY

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

September 25, 2000

Ms. Nancy Williams
716 E. Lafayette Street
Fayetteville, AR 72701

Re: Complaint regarding zoning of 701 E. Maple St.

Dear Ms. Williams:

Planning staff has received your complaint regarding the industrial zoning at 701 E. Maple St. I have researched this location and found that the entire block was designated as industrial at the time of the 1970 adoption of a city-wide zoning map. Later, in 1975, the southeastern portion of the block was rezoned from I-1 to R-2 when the Board of Directors approved Ordinance #2108. I have included copies of the 1970 zoning map as well as the ordinance and an outline of the legal description included in that ordinance for your records. In that the property in question is currently zoned I-1, Heavy Commercial/ Light Industrial, there are a variety of uses permitted by right in this location. I have included with this letter a section of the Unified Development Ordinance which describes this zoning district and lists permitted uses.

A change in zoning designation must be requested by a property owner for a specific tract of land. The request is heard by the Planning Commission and must be approved by the City Council for a change to be official. Once that change has occurred, the applied zoning designation entitles property owners to utilize their land in accordance with those rights conveyed with each specific zoning district.

The General Plan 2020 Future Land Use Map is a planning policy tool that the City Council has adopted which is used as a guide for zoning changes when they are requested. The area at the southeast corner of the intersection of Mission and Maple is called out to be neighborhood commercial, the rest of this general area is designated as residential. If a property owner in this area were to request a rezoning, this plan would be used as one tool in evaluating the request and making a recommendation to the Planning Commission and to the City Council.

With regard to noise in the area, there is a noise ordinance in effect in the City of Fayetteville. This ordinance regulates noise within different zoning districts at different times. It is enforced by the Fayetteville Police Department and if you feel that there is a violation occurring, I encourage you to contact them to investigate.

While I am not able to pursue a violation of zoning regulations at this time, I hope this information is of assistance to you.

Sincerely,



Dawn T. Warrick
Associate Planner

cc:

Tim Conklin, City Planner
Charles Venable, Public Works Director

Copies also provided to additional complainants:

Richard Berquist
565 Fallin
Fayetteville, AR 72701

Pamela Curry
121A N. Skyline Drive
Fayetteville, AR 72701

JoDean & Carl Clark
406 Mission Blvd.
Fayetteville, AR 72701

Gayle O'Donnell
740 E. Lafayette St.
Fayetteville, AR 72701

Donald Choffel
515 W. Holly
Fayetteville, AR 72701

Steve Winkler
678 E. Lafayette
Fayetteville, AR 72701

Marvin Hall
89 Texas Way
Fayetteville, AR 72701

William Shuman
217 Oklahoma Way
Fayetteville, AR 72701

RECEIVED

B.3
Environmental and
Planning Study
Page 27 of 46

SEP 18 2000

PLANNING DIV.

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT, 113
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT: The Lindsey Storage yard on
east Maple is an eye-sore in a nice
residential neighborhood, zoned R-2 I am
told. I would like to see their operation moved
to a commercial area, along with all the
buildings on the property.

NAME OF PROPERTY OWNER: Lindsey & Associates

LOCATION AND/OR ADDRESS: 3900 Front
Fayetteville

YOUR NAME: William L Shuman

ADDRESS: 217 Oklahoma Way, Fayetteville 72701

PHONE NUMBER: 442-7137 DATE: 9-14-00

William L Shuman
SIGNATURE

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE: _____ USE UNIT: _____

ACTION TAKEN: _____

BY: _____ DATE: _____

0000 2 0 000

RECEIVED

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT, 113
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT: I am writing to object to the industrial zoning
at 701 E. Maple St. The noise of heavy machinery, and the diesel
trucks make the largest part of my yard unusable. The site is an
eyesore, and adversely affects residential property values all around it.
Eighteen wheelers rumble through the historic district to service the site.
There is often too much noise for quiet residential activities. There is no good
argument for an industrial site between the historic district and Mt. Seagraves.

NAME OF PROPERTY OWNER: James E. Lindsey, Trustee, Lindsey Family Trust

LOCATION AND/OR ADDRESS: 701 E. Maple St.
Fayetteville

YOUR NAME: Nancy Williams

ADDRESS: 716 E. Lafayette St. Fayetteville 72701

PHONE NUMBER: 443-2371

DATE: Sept. 21, 2000

Nancy Williams
SIGNATURE

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE: _____

USE UNIT: _____

ACTION TAKEN: _____

BY: _____

DATE: _____

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT, 113
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT: Property is a public

Misuse

Needs to be rezoned from S-1 to R-2 or R-1

NAME OF PROPERTY OWNER: ~~William W. Hall~~ JAMES E. LINDSEY

LOCATION AND/OR ADDRESS: 89 Texas Way 701 E. Maple
Fayetteville, Arkansas

YOUR NAME: William W. Hall

ADDRESS: 89 Texas Way

PHONE NUMBER: 521-0466 DATE: Sept. 13-00

William W. Hall
SIGNATURE

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE: _____ USE UNIT: _____

ACTION TAKEN: _____

BY: _____ DATE: _____

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT, 113
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT: I-1 zone in residential area

NAME OF PROPERTY OWNER: _____

LOCATION AND/OR ADDRESS: 701 E. Maple

YOUR NAME: Steve E. Winkler

ADDRESS: 678 E. Lafayette

PHONE NUMBER: 443-4234 DATE: 9/12/00

Steve E. Winkler
SIGNATURE

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE: _____ USE UNIT: _____

ACTION TAKEN: _____

BY: _____ DATE: _____

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT, 113
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT:

This place has been
an eyesore for some time.
Every time I climb the mountain
I'm offended. Remove it to
the industrial area.

NAME OF PROPERTY OWNER:

LOCATION AND/OR ADDRESS:

YOUR NAME:

ADDRESS:

PHONE NUMBER:

DATE:

SIGNATURE

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE:

USE UNIT:

ACTION TAKEN:

BY:

DATE:

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT, 113
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT: The property is inappropriately
zoned Industrial in a Residential area. It
is a public nuisance and an affront to the
citizens in the Mt. Sequoyah and Washington Willow
Historic District. It is wrongly allowed to
even still be industrial! It is not properly
screened (or properly zoned!)

NAME OF PROPERTY OWNER: James E Lindsey

LOCATION AND/OR ADDRESS: 701 E. Maple
Fayetteville, AR.

YOUR NAME: Gayle O'Donnell

ADDRESS: 740 E. Lafayette St.

PHONE NUMBER: 521-3945 DATE: 9-23-00

Gayle O'Donnell
SIGNATURE

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE: _____ USE UNIT: _____

ACTION TAKEN: _____

BY: _____ DATE: _____

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT, 113
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT: _____

It's low rate on property
in the neighborhood alarmed

NAME OF PROPERTY OWNER: _____

LOCATION AND/OR ADDRESS: _____

YOUR NAME: _____

ADDRESS: _____

PHONE NUMBER: _____

DATE: _____

Jo Dean Clark
SIGNATURE

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE: _____

USE UNIT: _____

ACTION TAKEN: _____

BY: _____

DATE: _____

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT, 113
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT:

Property is a public
nuisance - lots of junk spread
around - wood chippers in use
frequently - very loud - extremely
unpleasant

NAME OF PROPERTY OWNER:

James E. Lindsey

LOCATION AND/OR ADDRESS:

701 East Maple

YOUR NAME:

Pamela Curry

ADDRESS:

121A N. Skyline Dr.

PHONE NUMBER:

973-0766

DATE:

9/13/00

SIGNATURE

Pamela Curry

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE:

USE UNIT:

ACTION TAKEN:

BY:

DATE:

PLEASE COMPLETE THIS FORM AND RETURN TO PLANNING DEPARTMENT, 113
WEST MOUNTAIN, FAYETTEVILLE, ARKANSAS 72701

COMPLAINTS

NATURE OF COMPLAINT: the visual appearance
OF the Lindsey property + ALSO
INDUSTRIAL NOISE ARE BOTH A
SERIOUS NUISANCE TO RESIDENCES
IN THIS AREA

NAME OF PROPERTY OWNER: JAMES LINDSEY FAMILY

LOCATION AND/OR ADDRESS: 701 E. maple

YOUR NAME: RICHARD BERQUIST

ADDRESS: 565 FALLIN

PHONE NUMBER: 521-2684 DATE: 9/13/00

Richard Berquist
SIGNATURE

DO NOT WRITE BELOW LINE

PLANNING STAFF

ZONE: _____ USE UNIT: _____

ACTION TAKEN: _____

BY: _____ DATE: _____

ORDINANCE NO. 2108

AN ORDINANCE REZONING THAT PROPERTY IN THE CITY OF FAYETTEVILLE, ARKANSAS, DESCRIBED IN REZONING PETITION R-75-9; AMENDING THE ZONING DISTRICT MAP OF FAYETTEVILLE, ARKANSAS; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the zone classification of the following described property be, and the same is hereby changed as follows:

R-75-9 described as follows:

Part of the NE-1/4, NW-1/4, and part of the NW-1/4, NE-1/4, all in Section 15, Township 16 North, Range 30 West, of the 5th P. M. more particularly described as follows: Beginning at a point in said NE-1/4, NW-1/4, 15-16-30 which is 70 feet South and 210 feet West of the Northeast corner of said 40 acre tract; and running thence South 50 feet; thence East 75 feet; thence South 100 feet; thence West 75 feet, thence South 51 feet; thence East 209.6 feet; thence South 12 feet; thence East 297 feet to a point on the West right-of-way line of Tanglewood Avenue, which point is 297 feet East and 283 feet South of the Northwest corner of the NW-1/4 NE-1/4 of said Section 15, thence South along the West right-of-way line of Tanglewood Avenue 198 feet more or less to the North right-of-way of Lafayette Street, thence West along the North right-of-way line of Lafayette Street 625 feet more or less to the East right-of-way line of Mission Boulevard, thence North along the East right-of-way line of Mission Boulevard 411 feet more or less to a point which is 50 feet South of the South right-of-way line of Maple Street, thence East 110 feet more or less to the point of beginning.

From I-1, Heavy Commercial and Light Industrial District to R-2, Medium Density Residential District.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, be and is hereby, amended to the extent and in the respects necessary to effect and designate the necessary changes provided in Section 1 hereof.

Section 3. That all ordinances or parts thereof in conflict herewith are hereby repealed.

Section 4. That this ordinance shall be in full force and effect from and after the time provided by law.

PASSED AND APPROVED THIS 3rd DAY OF June, 1975.

APPROVED:

Marion R. Caton
MAYOR

ATTEST:

Earline Westhant
CITY CLERK

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS

June 3, 1975

The Board of Directors of the City of Fayetteville, Arkansas, met in a regular session on June 3, 1975, at 7:30 p.m. in the Director's Room of the City Administration Building.

PRESENT: City Manager Donald L. Grimes; Administrative Assistant David McWethy; City Attorney Jim McCord; City Clerk Darlene Westbrook; and Directors Marion R. Orton, Ernest Lancaster, John Todd, Paul Noland, Al Hughes, Russell Purdy, and Morris Collier.

ABSENT: None

OTHERS PRESENT: Members of the audience and representatives of the news media

CALL TO ORDER AND APPROVAL OF MINUTES

The meeting was called to order by Mayor Orton. Following a brief moment of respectful silence the minutes of the May 20, 1975 meeting were considered for approval. 303.1

Director Purdy requested that the words "grocery store" appearing in paragraph 299.7 be changed to "boat store". Mayor Orton requested that paragraph 298.1 have the words "commercial horse stables" inserted in paragraph 298.1. City Attorney McCord requested an amendment to paragraph 302.6 to cause it to read: "...a Federal statute banning fireworks may exist...". There being no further amendments, the Mayor declared the minutes approved as amended. 303.2

ORDINANCE REZONING PROPERTY - Mission Street

The proposed ordinance would rezone a 6.9 acre tract of land located east of Mission Boulevard, south of East Maple Street, west of Tanglewood Avenue, and north of East Lafayette Street from I-1 Heavy Commercial and Light Industrial, to R-2 Medium Density Residential as requested by the Planning Commission. 303.3

The ordinance, left on second reading at the May 20, 1975 meeting, was read the third and final time by the City Attorney. During discussion, Mayor Orton reported that one of the property owners previously opposing the rezoning, Mr. Steve Winkler, had written a letter withdrawing his opposition to the proposed rezoning. A motion was made by Director Noland to amend the ordinance to zone tract two and the portion of tract one having a television shop located on it I-1, with the remainder being rezoned R-2 as requested by the Planning Commission; and that the R-2 zone be extended to the east boundary of lot one. The motion was seconded by Director Purdy and passed in unanimous vote of the Board. 303.4

Mr. F. H. Martin, representing the Arkansas Western Gas Company, stated that the gas company would give the City notice when they planned to sell the property so that the present I-1 zoning classification might be changed to R-2. There being no further discussion from the Board or audience, the Mayor asked if the ordinance should pass as amended. In roll call vote of the Board, seven "Ayes" and no "Nays" were recorded whereupon the Mayor declared the ordinance passed. 303.5

ORDINANCE NO. 2108 APPEARS ON PAGE 295 OF ORDINANCE & RESOLUTION BOOK IV

company's operations and that the City could not expect the company to share the cost of the study. He assured the Board that the company would be willing to cooperate with consultants. Mr. Wade told the Board that the company had not contemplated terminating cable service in Fayetteville but that the company had considered decreasing services. He reminded the Board that the company's franchise with the City specifically stated that the cable company was entitled to a reasonable rate of return.

City Manager Grimes recommended appropriating funds from the 1975 Revenue Sharing Contingency Account to meet the expense of the study. Following further discussion, Director Hughes, seconded by Director Noland, motioned to accept the recommendation of the City Manager to acquire the services of Hardin and Associates and to make the recommended appropriation of funds. In roll call vote of the Board the motion received four "Ayes" and three "Nays" which were cast by Directors Collier, Lancaster, and Purdy. 299.1

ORDINANCE REZONING PROPERTY - Fayetteville Planning Commission, petitioner

The proposed ordinance would rezone a 6.9 acre tract of land located east of Mission Boulevard, south of East Maple Street, west of Tanglewood Avenue, and north of East Lafayette Street from I-1 Heavy Commercial and Light Industrial to R-2 Medium Density Residential. 299.2

The City Attorney read the ordinance for the first time after which Director Noland, seconded by Director Todd, moved that rules be suspended and the ordinance placed on second reading. In roll call vote of the Board six "Ayes" and no "Nays" were recorded. Director Hughes did not vote. The City Attorney read the ordinance for the second time. 299.3

Mr. Mort Gitelman, Chairman of the Planning Commission, was present to speak in behalf of the request and stated that the request stemmed from increased requests for zoning changes and the expected move of Arkansas Western Gas facilities currently located on the tract. He stated that the gas company opposed the rezoning because they did not plan to move as soon as previously planned and because an R-2 zoning classification would make their facilities a non-conforming use thereby prohibiting further expansion. He stated that the Planning Commission recommended zoning the property R-2 and that property in the I-1 zone be treated the same. 299.4

Mr. and Mrs. Ed Huenefield were present in the audience and stated their favor of the rezoning as a means to curtail further location of commercial businesses which they felt depreciated property values. Also speaking in favor of the rezoning were Ginger Parker and Betty Easterling. 299.5

Representing Arkansas Western Gas and speaking in opposition to the rezoning was Mr. F. H. Martin who stated that if the rezoning were approved, the company would not be able to make necessary expansion and would be placed in a position of having to move their facilities at a time when it was not financially feasible. Also in opposition to the rezoning were Mr. Steve Winkler and Mr. Glen Lehman. Mr. Lehman stated that the rezoning would deprive owners of property of revenue should they decide to dispose of their property. 299.6

Director Purdy enumerated small businesses that would be seriously harmed if the rezoning were approved and stated that he could not vote favorably on the ordinance in its present form. He stated that he would either favor an ordinance that would rezone all the property R-2 except Mr. Winkler's business, the gas company facilities, and the grocery store; or favor tabling the ordinance until the gas company had moved its facilities or there was a change in the small businesses. 299.7

Mrs. Taylor asked if this would allow concession stands and Chairman Gitelman explained that uses permissible on appeal to the Planning Commission gives the Planning Commission some discretion.

Chairman Gitelman closed the public hearing on Rezoning Petition R75-8.

Donald Nickell wanted to see whether or not Mr. Rushing wished to dispose of this item at this time. If so, the way it was petitioned he felt he could not vote in favor of it because it would be jeopardizing other property there. However, if he wished to table the request and come back later under appeal, he would like to see him get his barn built.

Helen Edmiston inquired of Planning Consultant Larry Wood why he had recommended this A-1 District when the Land Use Study recommended it R-1.

Mr. Wood said the A-1 District should be used as a holding zone while property is awaiting developing in the City. He said there was something wrong if the A-1 Zoning is feared by the surrounding (R-1) properties and the Commission.

John Maguire moved that riding stables be included as an item in Use Unit 4 on appeal to the Planning Commission.

Ernest Jacks seconded the motion.

The motion was voted upon and approved by a vote of 7-1-1. Rita Davis was opposed and Chairman Gitelman abstained.

Parker Rushing then told the Planning Commission that he would like to have action taken on his rezoning request at this time.

Ernest Jacks moved to deny Rezoning Petition R75-8.

Donald Nickell seconded the motion which was approved by a vote of 6-3 with Davis, Ray, and Gitelman opposing.

REZONING PETITION R75-9

The next item on the agenda was the public hearing on Rezoning Petition R75-9,

Mission Blvd. & Tanglewood Ave.
Maple Street & Lafayette Street

Fayetteville Planning Commission (Petitioner), to rezone property bounded on the West by Mission Boulevard, on the East by Tanglewood Avenue, on the North by Maple Street and on the South by Lafayette Street, from I-1, Heavy Commercial & Light Industrial District, to R-2, Medium Density Residential District.

Chairman Gitelman explained the factors that led up to this request. (1) what the Planning Commission perceived as a possible or probable abandonment of the works of the gas company in that industrial area. (2) Some of the members of the Planning Commission felt there was an alarming increase in the nature of commercial uses on Mission Boulevard between the gas company property and Mission. A number of non-conforming uses and commercial uses that had been approved on a case by case basis until it was suddenly found there was a block of property which was essentially devoted to commercial uses. Therefore, the Planning Commission filed this so that a study by the Planning Consultant could be made on it and a public hearing held on whether or not to leave the area as it already is or to dezone it to a residential use. Larry Wood gave the Planning Report and recommended R-2 as the appropriate zoning for this property.

Chairman Gitelman said he had a letter from the gas company protesting the rezoning of the property. He also acknowledged a letter from S. E. Winkler (small business owner on Lafayette Street) who protested the rezoning. Also, Mr. Lynn Wade had handed Chairman Gitelman a letter protesting the rezoning because he was a part owner in a small business and felt it was not fair on his part because he had not received notice of the public hearing.

Joel Freund (who operates the canoe store on the corner of Mission and Maple) was present and asked Planning Consultant Larry Wood why, since the majority of the general area is R-1, he had not recommended that tract of 7 acres be R-1. Mr. Freund said he felt it should be rezoned but to R-1 rather than R-2, and added that this is a terrible corner and that R-2 would only make it worse.

In answer to this, Planning Consultant Larry Wood said he felt the City should start

taking advantage of these passed-over parcels. He said we could not continue to sprawl out across the countryside and expect the municipal government to operate utility services. He said they had to begin to get more dense in developments wherever possible.

Mr. Freund said he hated to see Fayetteville become more infested with R-2 and R-3 units since it was generally a pretty town.

Chairman Gitelman explained that it was a case of balance between the problems of "urban sprawl" against the so-called American ideals of the single-family dwelling on a large lot. He said that around the country more and more cities are being required (sometimes against their own will) to provide for more and more kinds of housing.

Ginger Parker, 700 Dogwood Lane, was present and stated that regardless of what the Planning Commission did with the gas company property, she would like to request they rezone to some residential zone the land that is now being used for residential purposes in the I-1 Zone. She said there were a lot of older homes and the uses permissible under an I-1 Zoning would allow them to be torn down and just about anything could go in, and this would affect the property values of all the property at the foot of the mountain (hers included). She said most of the homes were single-family (there are two or three that are rental houses), and while she preferred to see single family go in there she could see how it would be much easier to sell these lots for multiple-family dwellings because it backs onto the gas company property. She emphasized again that no matter what they did on Mission at least rezone the strip on Lafayette where it would be and stay residential.

Betty Jo Easterling (who has a rental house on East Lafayette) and also Mrs. Louise Brooks (Dogwood Lane) both stated the same opinion as Mrs. Parker.

Mrs. H. D. Bird said she would like to see it changed to residential also.

Mr. Lee Cate (who has rental property on 620 East Maple) said he was pleased with the proposal to change the zoning to R-2.

Mr. Joe Bordens, Dogwood Lane, agreed with Mrs. Parker and Mrs. Easterling and said that the strip on Lafayette just about ruins the neighborhood.

Mr. Steve Winkler (who had submitted a letter protesting this) was present and told the Planning Commission that he was a small businessman involved in a landscaping business and a wrecking contractor. He said he located and bought this property on Lafayette Street because it was zoned I-1. He said he also lived at this location and thought that it was good when a person could have agricultural ventures near his home. He felt this island of activity was beneficial to everyone around and would not disturb the quietness of the neighborhood and would not disturb the beauty of it (for example cutting down trees) because he did live here. He felt the small businesses would not bring property values down and stated that he liked the zoning the way it was. Mr. Hugh Scarbrough was present and stated that his father lived right across the street from Mr. Winkler and that he himself lived around the corner from this on Fletcher. He said he would like for the Planning Commissioners to see Mr. Winkler's property, especially since he (Mr. Winkler) lived there.

Mr. Winkler said the property was deteriorated before he purchased it and that he was in the process of landscaping and had stones and building material around but that he was in the process of developing something pleasant.

Mr. Steve Moore was present and stated that he was with Mr. Winkler when bought the place and first started as a wrecking contractor. He said Mr. Winkler had since developed a business whereby he is in demand as a contractor. Mr. Moore said if the property were rezoned and this business became non-conforming, Mr. Winkler would have to stop part of his business and lose part of his livelihood because he builds racks. Mr. Moore said Mr. Winkler was one of the hardest working men he had ever known. He said he had been busy making racks in addition to working on his place and though the place may not have all the clean lines that would make it attractive to most people, Mr. Moore said he could certainly state that Mr. Winkler was working on it. He also stated that Mr. Winkler planned to construct a fence to enclose his operation.

Mr. Ed Huenefeld, 724 Dogwood Lane, agreed with Mrs. Parker and said he would also like to see this area rezoned.

Mr. Rex Benham, 526 E. Lafayette, couldn't understand how this area could be a very good potential for businesses because of the location.

Mr. Dale Evans, Mission Boulevard, said he owned a small business and was concerned about the rezoning because he had been thinking about the possibility of extending his present business (house plants and various crafts) into a greenhouse type operation. He said he was hoping to go back to law school in the fall and needed this to support him; this would be close to his home and he would have time left for school studies while working at this. (If this strip is rezoned the existing businesses would become non-conforming and while they could go ahead and operate, they could not expand the business. He said he did not understand all the alternatives and that apartments would have the same detrimental effect on the R-1 as Commercial uses.

Mr. Bob McKinney said he lived on Dogwood Lane for 9 years and his mother owns rental property on the South side of Lafayette. He said it had always been a very lovely place to bring up children and he thought people would have misgivings if this were commercial. He thought that when the barber shop went in on Mission Boulevard that it was a well-founded thing; that he knew the man personally and knew his state of health and the business had supported the man. However, as a former resident of the area he preferred that it be R-1 and not go any further industrially.

Chairman Gitelman declared the public hearing closed.

Rita Davis asked about the possibility of rezoning the strip on Lafayette R-1 and the rest R-2.

The Commission went into a discussion about the gas company property. If the area were rezoned, then the gas company would also become a non-conforming use and could not expand their facilities.

Chairman Gitelman said he was in favor of rezoning this residential but did not know whether or not he would be in favor of excluding the gas company so that it would remain I-1. He felt that this would show a sort of favoritism because it was a bigger operation than the existing smaller businesses involved.

Ernest Jacks said this whole piece of property was zoned when this utility went in (the gas company); therefore, he felt that there would not be any favoritism shown. Ernest Jacks moved to recommend to the Board of Directors to rezone the property (the strip of lots facing Lafayette) to R-1 and the rest of the area under consideration (excluding the gas company leaving it I-1) to R-2.

Rita Davis seconded the motion.

Chairman Gitelman was still concerned about excluding the gas company. He felt that the area should be left as is or wait until the gas company moves out of the area to do anything about it.

Donald Nickell and Jack Ray indicated they shared Chairman Gitelman's opinion.

Donald Nickell said he felt bad about giving preferential treatment for a big outfit and then turning around and denying the smaller businesses. He felt it should all be kept in the same classification.

Steve Winkler objected to splitting the zoning.

John Maguire and Helen Edmiston concurred with this.

Mr. Gitelman said there was not anything to keep the Commission from zoning this to R-1 and R-2 and include the gas company making their operations a non-conforming use also.

Mr. Nickell said he had no objection to the R-1 or the R-2. However, he thought when the Commission first came up with this idea that they thought they would give the people in this area a better chance to utilize their property (as it was felt this property was quite valuable property); since the people had rather have it R-1, he felt it should be zoned that way.

After considerable discussion the motion and second that was on the floor was defeated by a vote of 2-6-1. Jacks, Davis voted "Aye", John Maguire abstained, and Edmiston, Nickell, Kisor, Power, Gitelman, and Ray voted "Nay".

John Power moved to recommend to the Board of Directors the rezoning of the whole area (including the gas company) to R-2.

Bill Kisor seconded the motion which was approved by a vote of 8-1 with Ernest Jacks opposing.

Planning Administrator Bobbie Jones told the Planning Commission members the Zoning Ordinance required 3/4 of the vote of the Board of Directors to rezone the property if there was written protest from the owners of 20% of the property under consideration, and that in the event of a close vote that it may be necessary to have the legal descriptions of the properties involved.

Rita Davis left the meeting at 5:51 P.M.

The next item was a Conditional Use Request submitted by B & B Discount Sales, Inc., dba Lumberjack Builders Supply to operate as a building materials supply in a C-2, Thoroughfare Commercial District, at 2217 North College Avenue. Ernest Jacks moved that the Conditional Use Request of B & B Discount Sales, Inc. be approved; the motion was seconded by Donald Nickell. It was voted upon and approved unanimously. (6-0).

CONDITIONAL USE REQUEST

B & B Discount Sales, Inc.
(Lumberjack Lumber Sales)
2217 North College Ave.
2217 North College Avenue.

The next item was a request to change a non-conforming use of property at 905 North College Avenue from a paint store to a resale shop for antiques, used furniture, dishes and appliances, clothing, etc. submitted by Loy Peters (zoned R-0, Residential Office District.)

Request to Change
NON-CONFORMING USE
Loy Peters
905 North College Avenue

Ernest Jacks felt that this usage would not be any more intense than the former usage.

Ernest Jacks moved to approve the request for the change of the non-conforming use. Helen Edmiston seconded the motion which was approved unanimously.

Rita Davis re-entered the meeting at 6:55 P.M.

The next item was a request for approval of a tandem lot submitted by James T. Waddell. Mr. Waddell seeks approval of a "lot split" wherein he purchased the property at 2617 City Lake Road from his father-in-law who retained the dwelling at 2635 City Lake Road. had two dwellings on it prior to the sale).

TANDEM LOT

James T. Waddell
2617 City Lake Road
(The property

Mr. Waddell was present to represent.

John Power asked Planning Administrator Bobbie Jones if they were not actually looking at two things --- a tandem lot development as well as a lot split.

Mrs. Jones explained that she could approve the lot split if the tandem lot is approved by the Planning Commission, but explained that Mr. Waddell could not further divide the property or build on it because the 25 foot would not be adequate for street right-of-way. She said Mr. Waddell had come into the Planning Office for a building permit to remodel the existing house.

The Commissioners asked Mr. Waddell if he was aware that he could not divide this up any more and build on it; Mr. Waddell said that he was.

Mr. Waddell said that there was no intention of building another structure on the property.

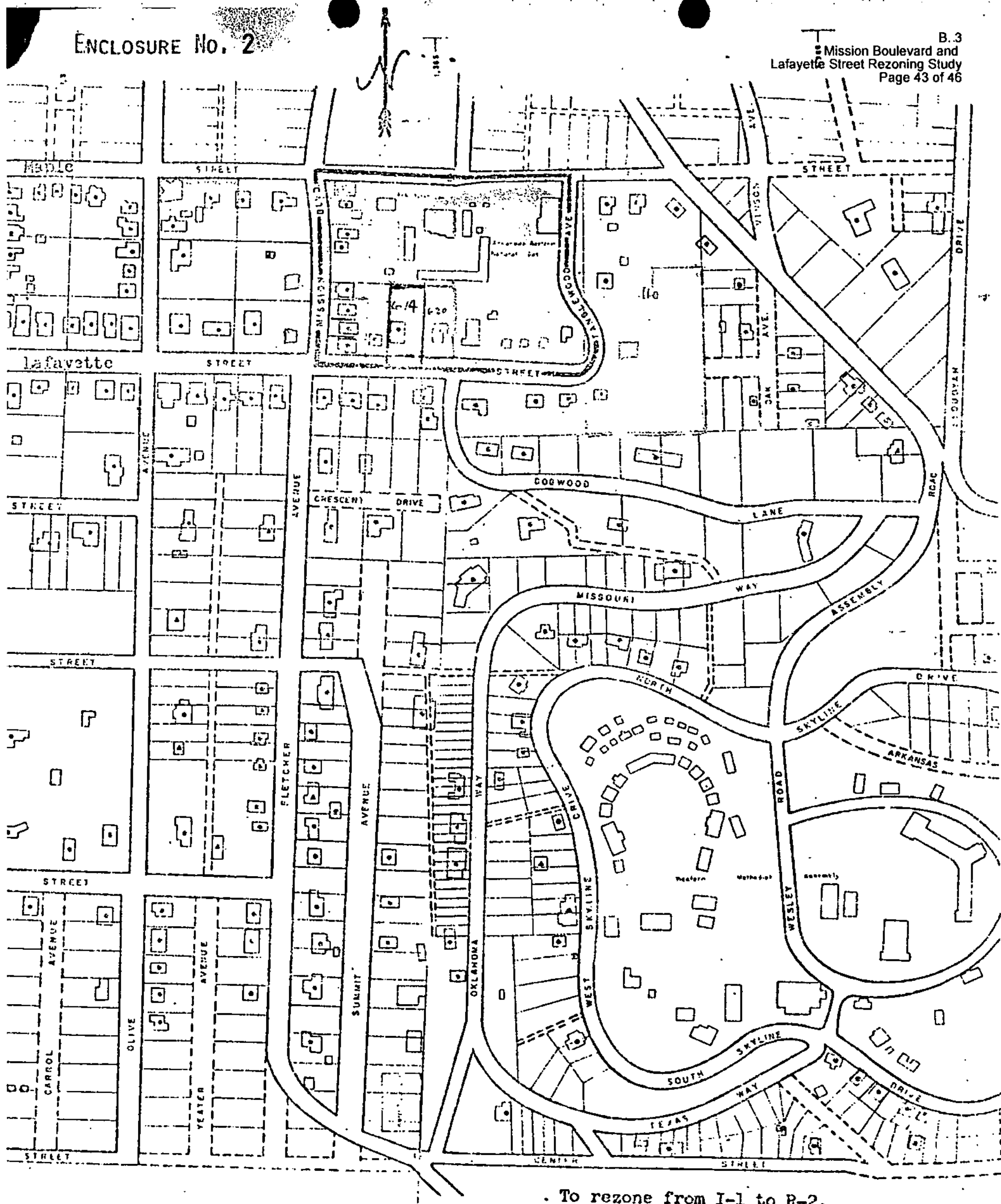
Ernest Jacks moved that the request for the tandem lot be approved.

Helen Edmiston seconded the motion which was approved unanimously.

Mr. Jacks moved to table the Referral from the City Board of Directors to the City Planning Commission for review

REFERRAL FROM CITY BOARD
Proposed Amendment of
Master Street Plan

and recommendations on proposed ordinance to amend the Master Street Plan recommendations



. To rezone from I-1 to R-2.

R75-9

Fayetteville Planning Commission
Planning Commission
May 13, 1975

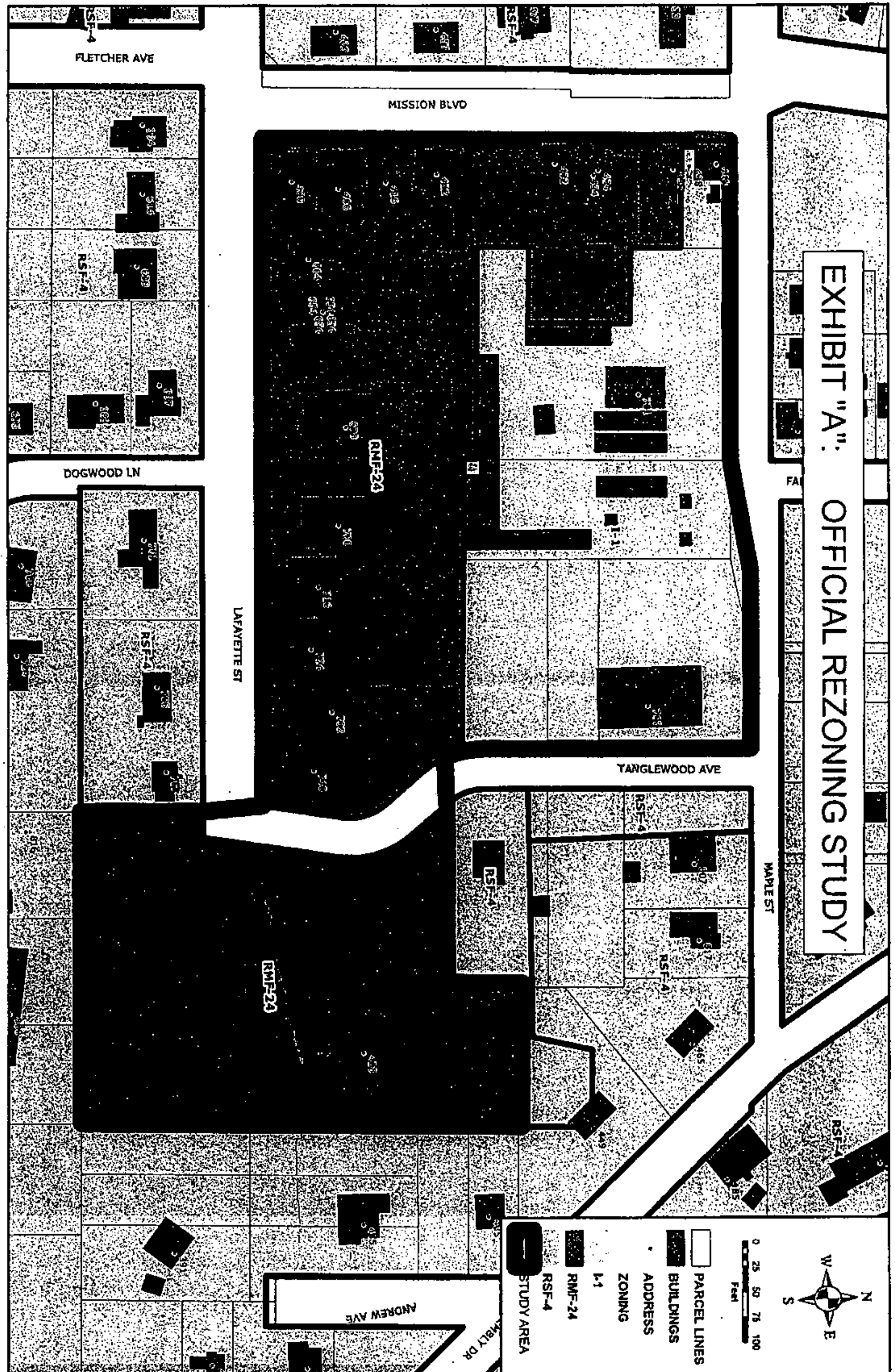


CITY OF FAYETTEVILLE
1970 OFFICIAL ZONING MAP



CITY OF FAYETTEVILLE

1970 OFFICIAL ZONING MAP



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

B. 4
RZN 05-1754 Park West Heights
Page 1 of 22

15-Nov-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 05-1754 (PARK WEST HEIGHTS, 208): Submitted by Mel Milholland for property located at the southeast corner of Highway 112 and Deane Solomon Road. The property is zoned R-A, Residential-Agricultural, and contains approximately 26.28 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

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

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

n/a

Original Contract Date:

n/a

Original Contract Number:

n/a

City Attorney

Date

Received in City Clerk's Office

ENTERED
10/27/05
PA

Finance and Internal Service Director

Date

Received in Mayor's Office

ENTERED
10/28/05
PA

Mayor

Date

Comments:

Left on Second Reading 11/15/05

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: October 27, 2005

Subject: Rezoning for Park West Heights (RZN 05-1754)

RECOMMENDATION

Planning staff recommends approval of the subject rezoning request to rezone approximately 26.28 acres of property from Residential-Agricultural (R-A) to Residential Single-Family Four Units Per Acre (RSF-4).

BACKGROUND

The subject property contains approximately 26.28 acres owned by Tracy Hoskins. The property is currently undeveloped farmland with a few single family homes and accessory structures. The property is zoned R-A, Residential Agricultural, and identified on the General Plan 2020 as Residential. The applicant requests the property be rezoned from R-A to RSF-4 with the intention to develop the subject property for residential use. Surrounding properties to the north and west are zoned RSF-4. Development of 40 acres (zoned RSF-4) northwest of the subject property at a density of 2.4 units per acre has been approved.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services, though any entrances to future development should be carefully evaluated and placed so as not to create a hazard on the hillcrests on Hwy 112 and Deane Solomon Road. The Fire Department estimates a 7.5 minute response time to this site which meets the Department's goal to have all response vehicles at the site within 10 minutes, 90% of the time. A study of water and sewer capacity shall be conducted by the developer at the time of development application.

Staff recommends approval of this rezoning request based on findings stated within the attached staff report, finding that the uses allowed will be compatible and similar to surrounding uses allowed within existing zoning districts.

DISCUSSION

This item was heard at the regular Planning Commission on October 24, 2005. The Planning Commission voted 5-2-0 to recommend approval of this rezoning request to the City Council, with Commissioners Allen and Ostner voting no.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZN 05-1754 FOR APPROXIMATELY
26.28 ACRES LOCATED AT THE SOUTH EAST CORNER OF
HIGHWAY 112 AND DEANE SOLOMON ROAD FROM R-A,
RESIDENTIAL -AGRICULTURAL TO RSF-4, RESIDENTIAL
SINGLE FAMILY, 4 UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is
hereby changed as follows:

From R-A, Residential-Agricultural to RSF-4, Residential Single Family,
4 units per acre, as shown on Exhibit "A" Attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is
hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this _____ day of _____, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 05-1754

TRACK A

PART OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SW1/4 OF SAID SECTION 28-17-30, THENCE S87°14'29"E 1320.14 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST QUARTER (NW1/4), SOUTHWEST QUARTER (SW1/4) SAID SECTION, THENCE S02°31'02"W 34.79 FEET ALONG SAID EAST LINE TO THE SOUTHERN RIGHT-OF-WAY ARKANSAS HIGHWAY No. 112 AND THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID EAST LINE S02°31'02"W 841.64 FEET;

THENCE LEAVING SAID EAST LINE N86°59'06"W 338.87 FEET;
THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 175.00 FEET AND AN ARC LENGTH OF 55.75 FEET SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF N77°51'32"W 55.51 FEET;

THENCE N68°43'58"W 153.21 FEET;

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1000.00 FEET AND AN ARC LENGTH OF 133.58 FEET, SAID CURVE HAVING A CHORD BEARING AND DISTANCE OF S14°39'04"W 133.48 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF WASHINGTON COUNTY ROAD NO. 890;

THENCE ALONG SAID EAST RIGHT-OF-WAY

N07°55'08"W 215.06 FEET;

THENCE WITH SAID RIGHT-OF-WAY N25°41'08"W 166.10 FEET;

THENCE WITH SAID RIGHT-OF-WAY N14°35'08"W 576.59 FEET

TO THE SOUTHERN RIGHT-OF-WAY OF ARKANSAS HIGHWAY

NO. 112, THENCE ALONG SAID SOUTHERN RIGHT-OF-WAY S87°35'48"E 853.75 FEET TO THE POINT OF BEGINNING, ALL LOCATED IN FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS AND CONTAINING 13.716 ACRES, MORE OR LESS.

TRACK B

PART OF THE WEST HALF (W1/2) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SW1/4 OF SAID SECTION 28-17-30, THENCE S87°14'29"E 1320.14 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID QUARTER (1/4) SECTION LINE

S87°14'29"E 634.01 FEET;

THENCE S00°11'32"W 628.47 FEET;

THENCE S03°03'56"W 178.40 FEET;

THENCE S03°03'56"W 161.92 FEET;

THENCE N86°57'53"W 163.83 FEET;

THENCE N03°03'56"E 88.74 FEET;

THENCE N86°59'06"W 493.28 FEET;
THENCE N02°31'02"E 841.64 FEET;
THENCE N02°31'02"E 34.79 FEET TO THE POINT OF BEGINNING, CONTAINING
12.572 ACRES, MORE OR LESS ALL LOCATED IN FAYETTEVILLE, WASHINGTON
COUNTY, ARKANSAS.

DRAFT



PC Meeting of October 24, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: October 20, 2005

RZN 05-1754: Rezoning (PARK WEST HEIGHTS, 208): Submitted by MEL MILHOLLAND for property located at SE CORNER HWY 112 AND DEANE SOLOMON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 26.28 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Property Owner: TRACY HOSKINS

Property Owner: MIKE & BRENDA PRICE

Planner: SUZANNE MORGAN

RECOMMENDATION:

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

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date: <u>October 24, 2005</u>	Motion: Vaught		
	Second: Myres		
	Vote: 5-2-0 with Allen and Ostner voting no.		
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>November 15, 2005 (1st reading if recommended)</u>			

BACKGROUND:

Property description: The subject property contains approximately 26.28 acres owned by Tracy Hoskins. The property is currently undeveloped farmland with a few single family homes and accessory structures. The property is zoned R-A, Residential Agricultural, and identified on the General Plan 2020 as Residential.

Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Vacant/Pasture (Belclair Subdivision under construction)	RSF-4 & R-A
South	Vacant/Pasture	R-A
East	Vacant/Pasture	R-A
West	Residential Single Family (Lynn Leigh Hill Estates)	RSF-4

Proposal: The applicant intends to develop the property for residential use. Therefore, the applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 Units per Acre.

Recommendation: Staff recommends approval of the rezoning request to rezone the subject property RSF-4 based on findings herein.

INFRASTRUCTURE:

Streets: The site has access to Highway 112 on the north and Dean Solomon Road on the west. Improvements to Dean Solomon Road will be required along the property frontage. Off-site improvements to adjacent streets will need to be evaluated by staff at the time of preliminary plat. Rights-of-way for Highway 112 and Dean Solomon Road will also be required at the time of preliminary plat.

Water: Public water is adjacent to the site. There is a 6" waterline to the north along Highway 112. Improvements to the water system will be required which may also require off-site improvements. An evaluation will need to be made by the developer at the time of preliminary plat on how the water system is to be connected with the existing system.

Sewer: Sanitary sewer is not adjacent to the site. Developments to the south are in the process of constructing sanitary sewer mains which may connect to this development. A study of the downstream system shall be conducted by the developer. This development is within the sewer assessment area. The amount of the assessment will be determined by the development and will be determined at a later date. The large diameter sanitary sewer collection main is also planned to pass near this site.

Drainage: Runoff from most of the site flows overland to the south to a creek. Standard improvements and requirements for drainage will be required for the development.

Fire: The subject property is served by Fire Station #2, located on North Garland. The property is 3.4 miles from this station with a projected response time of 7.5 minutes. The anticipated response time to the property at the maximum build-out is 8 minutes with 24 service calls per year. The 7.5 minute response time for the first response to

arrive at the scene is 1.5 minutes longer than the Fire Department's goal. However, the Fire Department's goal to assemble all responding units to the scene within 10 minutes will be met. The service impact of this development will typically take eighteen months after the development of the property commences.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services. The Engineering Department may provide more specific information about the potential traffic increase for the rezoning. Any entrances to this development should be carefully placed so as not to create a hazard. The hillcrests on Deane Solomon and Hwy 112 should be avoided.

LAND USE PLAN: General Plan 2020 designates this site **Residential**. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed RSF-4 zoning for a single family residential use is compatible with adjacent and nearby single family residential land use. There is an existing subdivision to the west zoned RSF-4. Property to the north was recently rezoned RSF-4 and is currently being developed for a residential single family subdivision. The General Plan designates this area for residential use, which is compatible with the proposed RSF-4 zoning.

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

Finding: As population continues to increase in Northwest Arkansas and in the City of Fayetteville, the demand for residential housing increases. In response to this market, greater number of properties historically used as pasture and farmland are requested to be developed. The subject property is identified on the General Plan 2020 as residential property and is located adjacent to Hwy 112 and Deane Solomon Road, two principal roads. As such, the property owner requests that the property be rezoned to RSF-4 so that the property can be developed for single family residential use. Staff finds that to develop the property in a consistent manner to the surrounding properties and in urban densities, the rezoning is both justified and needed. As a policy, the City Council has identified this area as more suitable for residential growth than agricultural.

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

Finding: The proposed zoning will provide additional traffic on adjacent streets over the current zoning. The surrounding streets are designated a Principal Arterial and a Collector on the Master Street Plan. In addition, there is a planned Collector street to be constructed south of the property. The existing and future streets surrounding this property are designated to absorb the traffic generated by future development on the subject property. Street improvements shall be required at the time of development. Depending on the number of units proposed at the time of development and the location of access proposed onto the adjacent streets, Staff may request a traffic study to be provided by the developer at the time of development. Access onto the surrounding streets shall be evaluated to ensure safety and adequate site distance, especially at the crests of the hills on the adjacent streets.

Police - It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services. The Engineering Department may provide more specific information about the potential traffic increase for the rezoning. Any entrances to this development should be carefully placed so as not to create a hazard. The hillcrests on Deane Solomon and Hwy 112 should be avoided.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would increase population density. Under an R-A, Residential Agricultural designation, the 26.28-acre tract would allow for a maximum of 13 dwelling units (1 unit / 2 acres). With the proposed RSF-4 designation 105 dwelling units would be permitted. Rezoning the property increases the possible number of residential units and population over that which is allowed in the R-A zoning district, but the proposed rezoning is consistent with land use, zoning, and development patterns in the immediate vicinity.

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

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

Fayetteville Unified Development Code
Section 161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

Fayetteville Unified Development Code
Section 161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

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

(C) *Density.*

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

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

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

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: October 13, 2005

To: Suzanne Morgan, Jeremy Pate, Andrew Garner, and Jesse Fulcher

From: Dale Riggins

Subject: October 27th Re-zoning review from the Fayetteville Fire Department.

RZN05-1754 (PARK WEST HEIGHTS, 208)

These 26.28 acres are covered by Engine 2 on North Garland.

The property is 3.4 miles from the station with a projected response time of 7.5 minutes to this development and 8 minutes when the maximum build-out is completed.

The Fire Department anticipates 24 calls for service (15 EMS & 9 Fire/Other) once the development is completed and maximum build-out has occurred.

The 7.5 minute response time is above our response time goal of having the first unit on the scene within 6 minutes, 90% of the time. Our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time, will be met.

The service impact of this development will typically take eighteen months, after the development is started, to occur.

If you have any questions please feel free to call or email me

Dale Riggins
Fayetteville Fire Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

October 17, 2005

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

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Rezoning RZN 05-1754 (Park Heights, 208) submitted Mel Mulholland for property located at SE Corner of Hwy 112 and Deane Solomon Rd. would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services. The Engineering Department may provide more specific information about any potential traffic increase for this RZN. Any entrances to this development should be carefully placed so as to not create a hazard. The hillcrests on Deane Solomon and Hwy 112 should be avoided.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown", is written over the typed name.

Captain William Brown
Fayetteville Police Department

Milholland Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

September 15, 2005

Project No. E-770

FAYETTEVILLE

125 West Mountain

Fayetteville, Arkansas 72701

ATTN: Planning Division

RE: Lot Split request, Park West Heights

Dear Planning Staff:

The following description and statements are provided as part of the application packet for approval processing.

5.a. Current ownership information and any proposed or pending property sales.

The current owners of the properties are shown on the application. They are Tracy Hoskins for one tract and Make Price for the other. Tracy Hoskins has power to sign for Mr. Price. Mr. Hoskins is in the process of purchasing the Price property.

5.b. Reason (need) for requesting the zoning change.

This request is made for proper zoning in development of a residential subdivision.

5.c. Statement of how the property will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

The property will be in keeping with existing surround developed and proposed property development and future land use.

The development will cause increased traffic flow but street design within and surrounding the proposed development are to correct several traffic pattern problems, street improvements, and coordination with the City Master Street Plan and proposed bond street improvements.

The development's appearance will certainly alter the landscape but is intended to be an attractive residential addition.

The development's signage will be limited to identification and in accordance with the City's signage regulations.

5.d. Availability of water and sewer (state size of line).

There is existing water mains available surrounding the property for looped connection, 8", 6", and 10" mains exist and will be expanded for this development are other planned future developments.

Miltholland Company

Engineering & Surveying

Melvin L. Miltholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC

REGISTRATIONS:

PE: AR, MO

PLS: AR

RLA: AR

Sanitary Sewer service is being extended from the south through Springwood, Lot 5, and property belonging to Mr. Hoskins for connection to this development, other approved development, and future proposed developments. A 12" line connection is being designed for immediate construction.

6.a. The degree to which the proposed zoning is consistent with the land use planning objectives, principals, and policies and with land use and zoning plans.

We feel the requested zoning is totally consistent.

6.b. Whether the proposed zoning is justified and/or needed at the time of the request.

Totally.

6.c. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

The proposed development will alter the existing traffic pattern to improve existing dangers. Because of the project location, adjoining Hwy. 112, roadway improvements should defuse and disperse possible congestion.

6.d. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water and sewer facilities.

Improvements in all these area are current being addressed. Schools expansions are being proposed and land purchased. Water and sewer facilities are being expanded and under construction for this and other similar planned developments in the area.

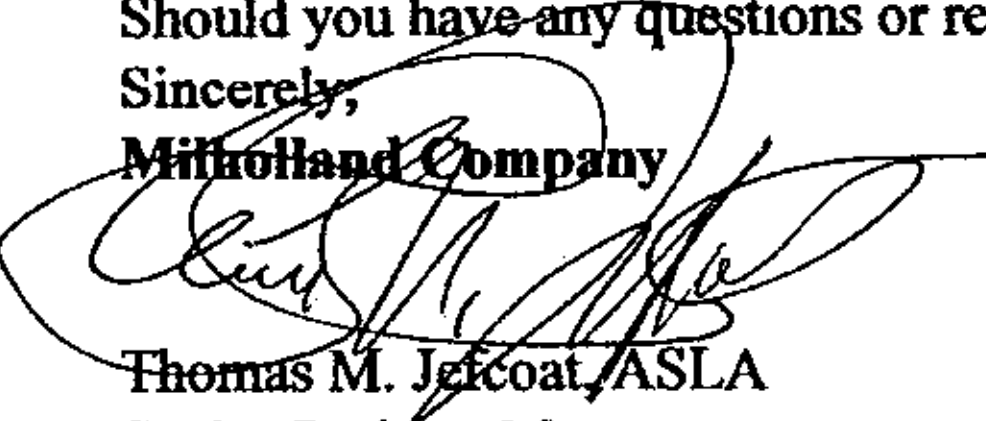
6.e. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

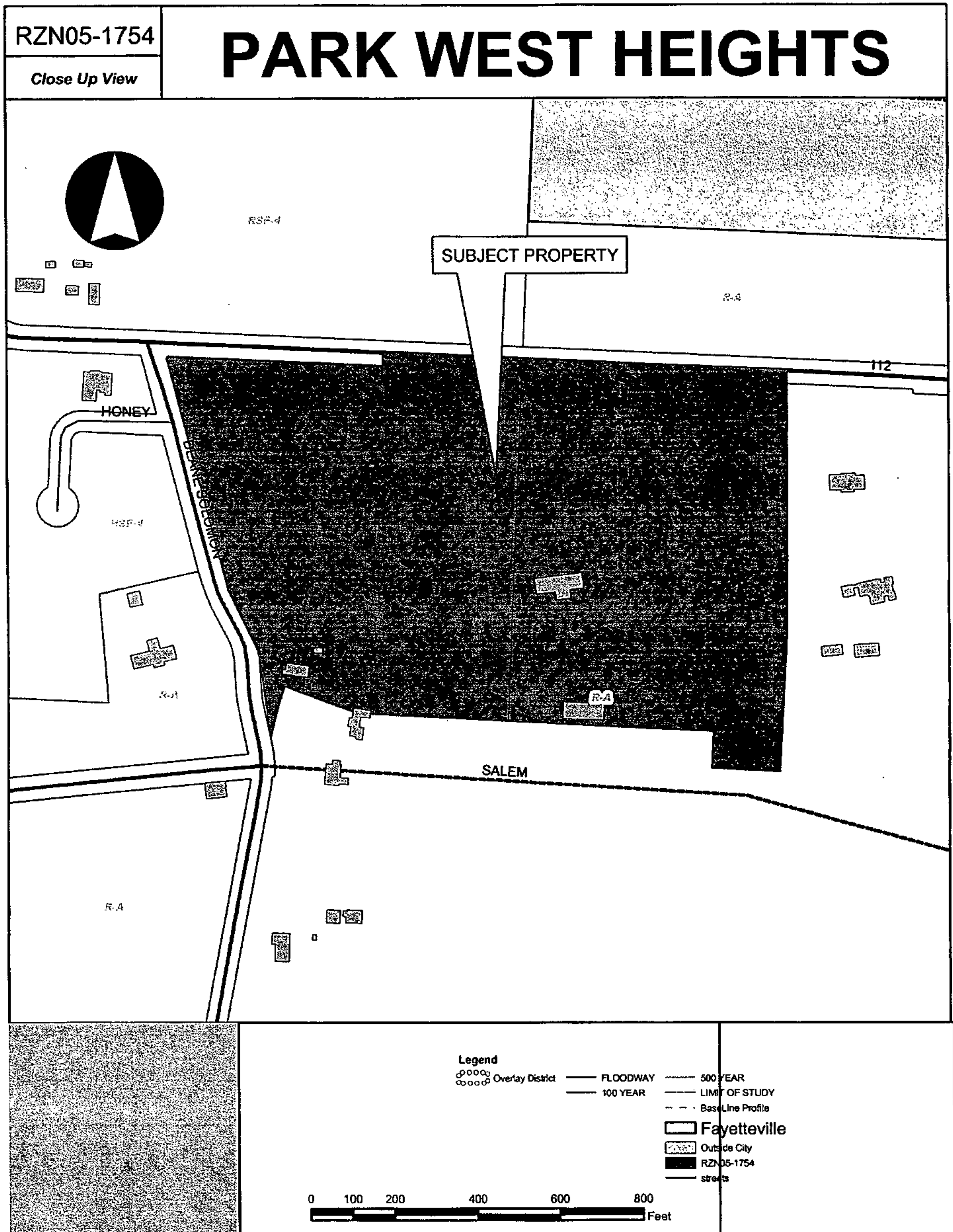
The property is currently zoned AR. This zoning density classification does not lend itself to feasible development of the property.

Should you have any questions or require additional information, please advise.

Sincerely,

Miltholland Company

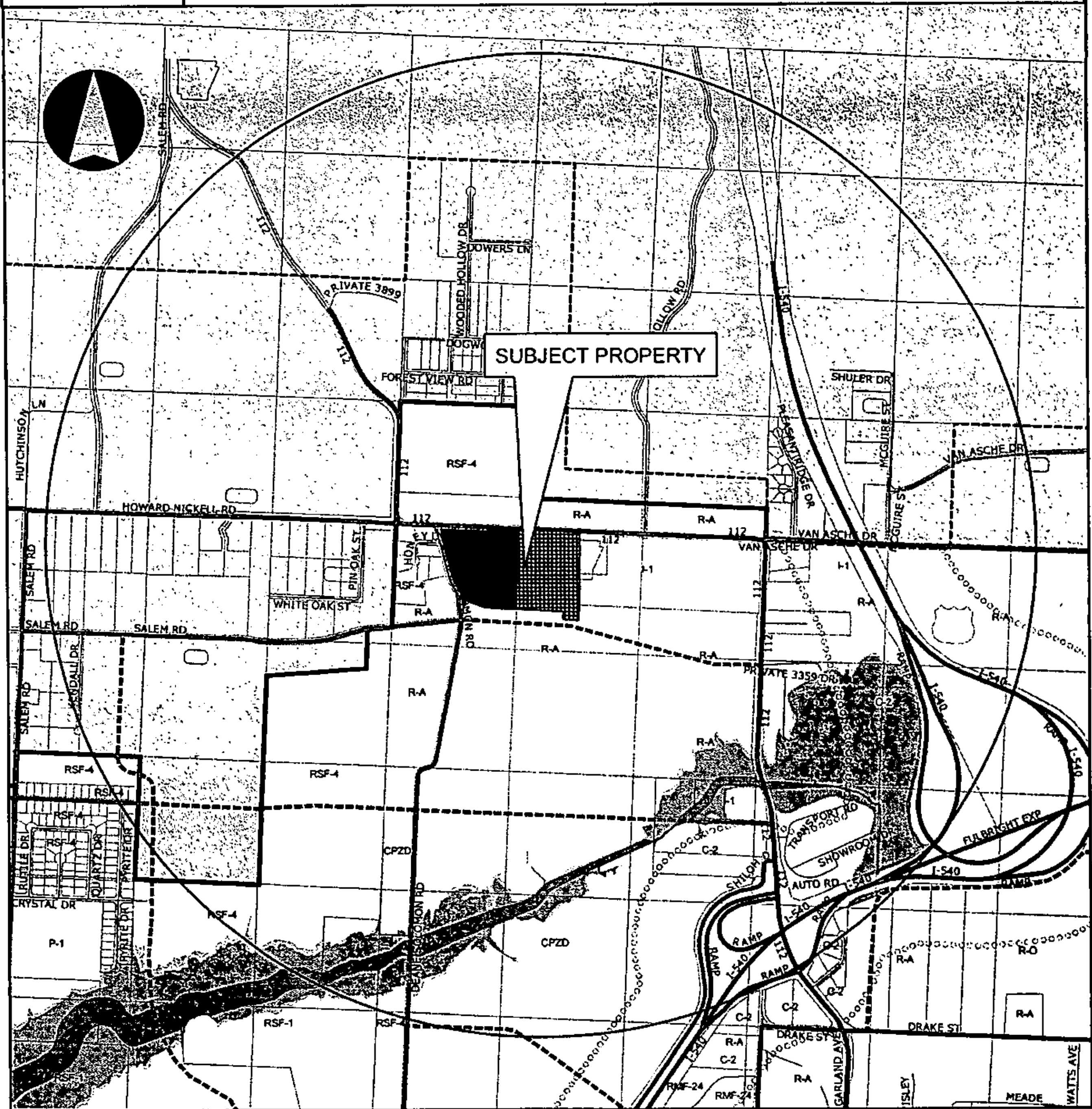

Thomas M. Jefcoat, ASLA
Senior Projects Manager



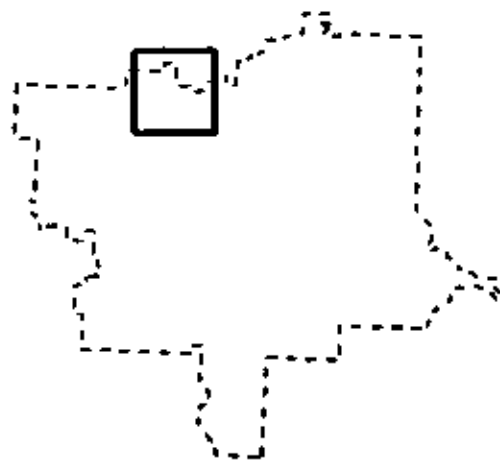
RZN05-1754

One Mile View

PARK WEST HEIGHTS



Overview



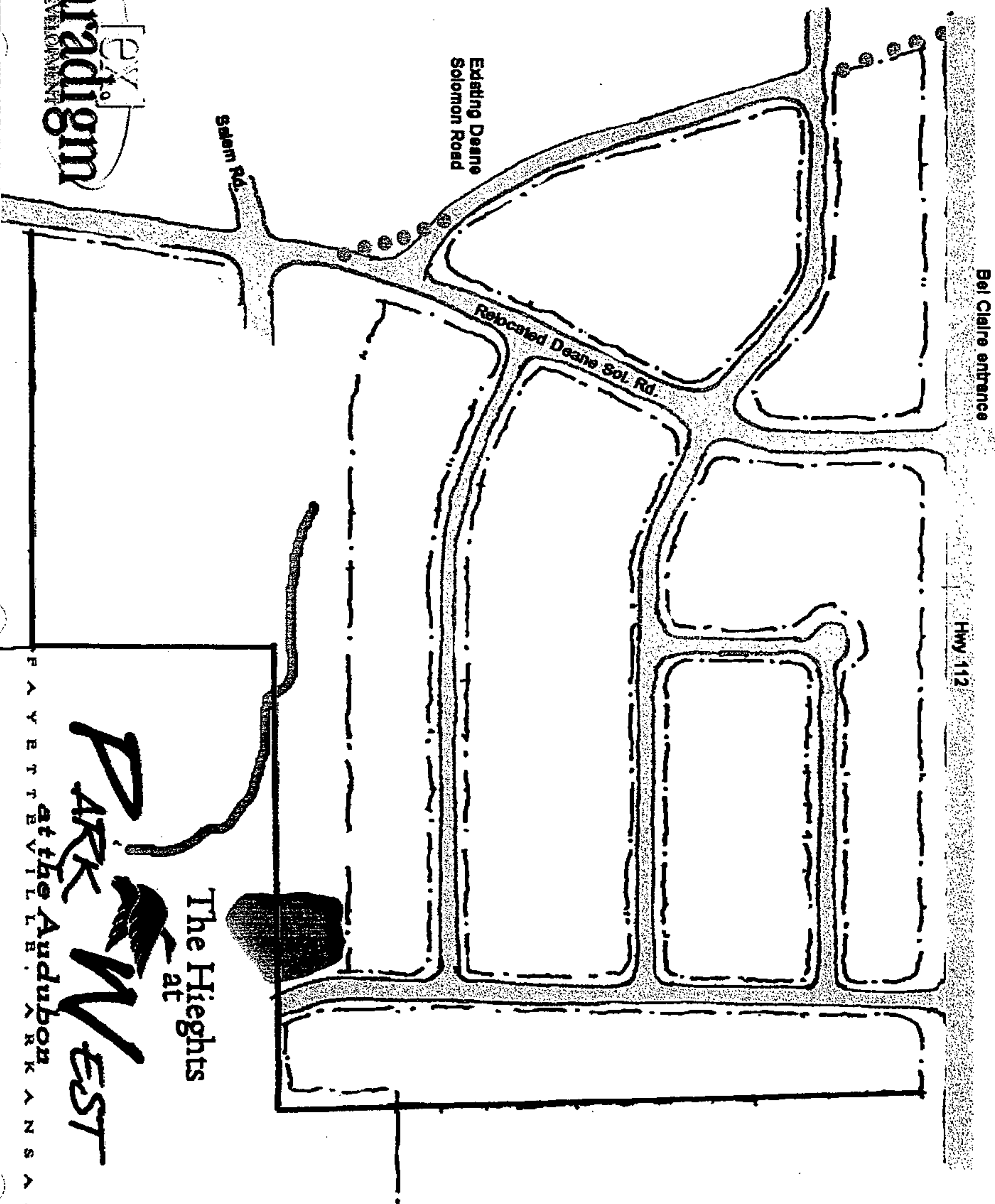
Legend

Subject Property
RZN05-1754

Boundary

Planning Area
Overlay District
Outside City

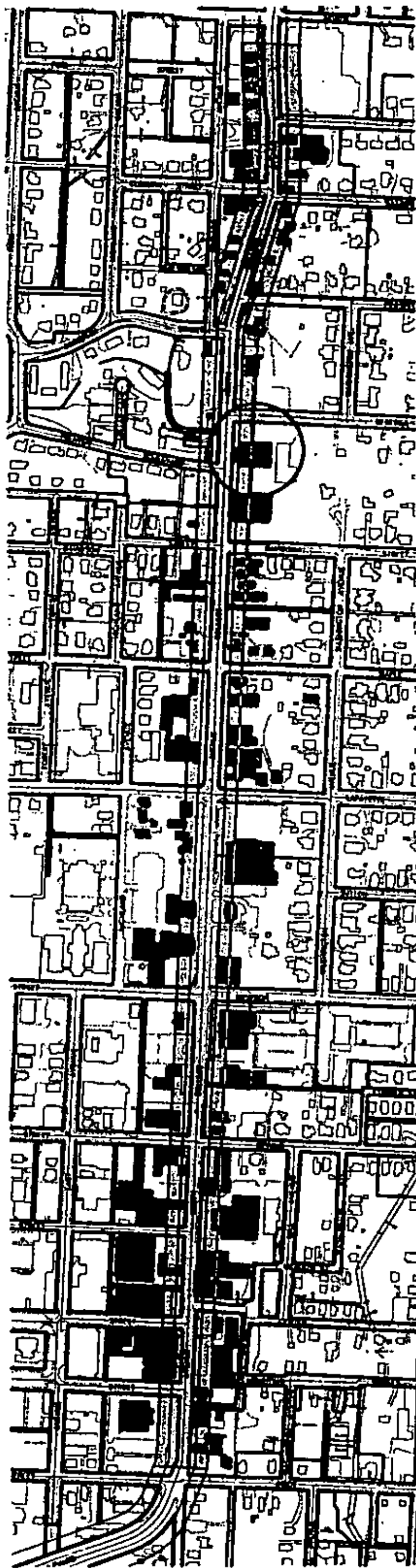
0 0.125 0.25 0.5 0.75 1 Miles



Paradigm
DEVELOPMENT

The Heights
at
ARK WEST
at the Audubon
PARK ANSAS

left on second reading 11/15/05



620 College Avenue
College Avenue with 110' right-of-way and 50' setback



620 College Avenue
College Avenue with 60' right-of-way and no setback

CITY ATTORNEY AGENDA REQUEST

C. 1
Jim Lindsey Property Contract
Page 1 of 4

FOR: COUNCIL MEETING OF DECEMBER 6, 2005

FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Resolution To Approve A Contract With Jim Lindsey and Lindsey Management Company, Inc. to preserve the status quo on his property located East of Mission Boulevard and South of Maple Street so further negotiations on a long term solution can be accomplished.

APPROVED FOR AGENDA:



City Attorney

11-22-05

Date

Mayor

Date

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH
JIM LINDSEY AND LINDSEY MANAGEMENT COMPANY, INC.
TO MAINTAIN THE STATUS QUO ON HIS APPROXIMATELY
6.9 ACRES LOCATED EAST OF MISSION BOULEVARD AND
SOUTH OF MAPLE STREET

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
approves the attached Contract with Jim Lindsey and Lindsey Management Company,
Inc. and authorizes the Mayor to sign said agreement.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

By: _____

DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CONTRACT

The City of Fayetteville and Mr. Jim Lindsey, personally and as CEO/representative of Lindsey Management Company, Inc. (and any affiliated company with an interest in the subject property) agree to the following mutual covenants and promises:

1. The City of Fayetteville agrees to refrain from rezoning or referring an official request for a rezoning study or a question of a rezoning amendment concerning the approximately 6.9 acres owned by Mr. Jim Lindsey and/or Lindsey Management Company, Inc. (or other Lindsey entity) located east of Mission Boulevard and south of Maple Street (hereinafter the "subject property").
2. Mr. Jim Lindsey and Lindsey Management Company, Inc. (and any other affiliated company with an interest in the subject property) agree not to request a building permit, increase the size or alter the type of operations currently occurring on the subject property, nor increase the hours of operation at this site.
3. Both the City of Fayetteville and Jim Lindsey and/or Lindsey Management Company, Inc. have the right to terminate their obligations under this contract with ninety (90) days written notice sent to the other party addressed and faxed to:

Roy Stanley
President of Lindsey Management Co.
P.O.Box 13000
Fayetteville, AR 72703
FAX: 527-8842

Kit Williams
Fayetteville City Attorney
113 West Mountain
Fayetteville, AR 72701
FAX: 575-8315

4. If the City of Fayetteville notifies Mr. Lindsey or his company of its intent to terminate this contract, Mr. Lindsey and/or Lindsey Management Company, Inc. shall immediately enjoy the right to apply for a building permit for the subject property.
5. If Mr. Lindsey or Lindsey Management Company, Inc. notifies the City of Fayetteville of his or his company's intent to terminate this contract, the City of Fayetteville shall immediately enjoy the right to rezone the subject

property or to officially request a rezoning study or refer the question of zoning amendment to the Planning Commission concerning the subject property.

IN AGREEMENT WITH ALL OF THE FOREGOING PROMISES, TERMS AND COVENANTS, the parties sign below:

EXECUTED on this, the _____ day of November, 2005.

JIM LINDSEY & LINDSEY MANAGEMENT CO., INC

By: _____
JIM LINDSEY

EXECUTED on this, the _____ day of December, 2005, by the City of Fayetteville.

CITY OF FAYETTEVILLE, A Municipal Corporation

By: _____
Dan Coody, Mayor

Witness: _____
Sondra Smith
Fayetteville City Clerk

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

6-Dec-05
City Council Meeting Date

Matt Casey Engineering Operations
Submitted By Division Department

Action Required:

Approval of a cost-share and bid waiver in the amount of \$45,395.00 with a contingency of \$6,800.00 with Fayetteville Public School District for the upsizing of approximately 1235' of 8" water main to 12".

\$52,195.00	\$ 215,047.00	Water Impact Fee Cost Sharing
Cost of this request	Category/Project Budget	Project
2300.9300.5808.00	\$ 155,876.63	Program Category / Project Name
Account Number	Funds Used to Date	Water and Sewer Improvements
04039	\$ 59,170.37	Program / Project Category Name
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒

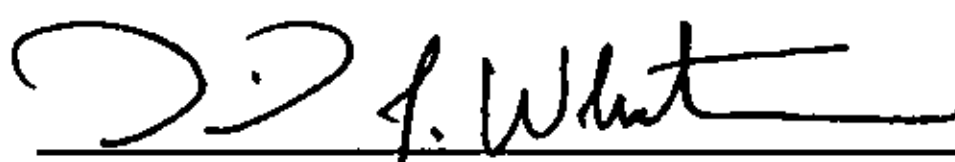
Budget Adjustment Attached ☐


Department Director 11.18.05
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____


City Attorney 11/18/05

Received in City Clerk's Office



Finance and Internal Service Director 11-18-05
Date

Received in Mayor's Office



Mayor 11/18/05
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RP*

Date: November 14, 2005

Subject: Proposed Ruppel Road Cost Share in the amount of \$45,395.00 with a contingency of \$6,800.00 with the Fayetteville Public School District for the upsizing of approximately 1235 feet of 8" water main to a 12" water main.

RECOMMENDATION

Staff recommends that the City cost-share with the Fayetteville Public School District, the developer, to upsize approximately 1235 feet of 8" water main to a 12" main. By participating in the construction of these improvements, the City will be continuing a 12" grid in the water line distribution system in this area.

BACKGROUND

The school district is currently constructing a new school at the southwest corner of the intersection of Ruppel Road and Persimmon Street. As a part of this future development, the developer is required to construct a water main extension to provide water service and fire protection to the site.

DISCUSSION

There is existing 12" water main along Ruppel Road that was extended to the Boys and Girls Club site. As a part of recent developments, this 12" main has been extended west along Persimmon to Broyles Road. The school development is required to connect to this main and extend an 8" main through the site and terminate the water main at the south end of this site. This area is identified on the Water Master plan as a corridor for a portion of a 12" grid between Highway 16 and Highway 62. It would benefit the City to cost-share with the developer for the construction of this portion of the planned grid. On November 7, 2005 the City of Fayetteville Water & Sewer Committee discussed this proposal and agreed to forward this item on to the full City Council with a recommendation for approval.

Construction estimates have been provided to the City for these improvements by the Fayetteville Public School District. as follows:

Developer's Share	\$ 90,560.00
City's Share	\$ 45,395.00
15% Contingency(City's Share)	<u>\$ 6,800.00</u>
Total	\$142,755.00

BUDGET IMPACT

The funds for this water line distribution project will come from the Impact Fee Fund's use of fund balance. The water impact fee methodology "Buy-In Approach" is based partially on the cost of a water line distribution and transmission system of 12" lines and larger.

The final costs to the City will be based upon actual costs as documented by the Fayetteville Public School District subject to review by the City and may, or may not exceed the submitted estimate. However, the City's share will not exceed the estimate without additional authorization.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE WITH THE FAYETTEVILLE SCHOOL DISTRICT IN THE AMOUNT OF \$45,395.00 FOR THE UPSIZING OF APPROXIMATELY 1235 FEET OF 8" WATER MAIN TO A 12" WATER MAIN; AND APPROVING A CONTINGENCY IN THE AMOUNT OF \$6,800.00.

WHEREAS, sharing the cost of upsizing a water main with the Fayetteville School District and utilizing its engineer and contractor will avoid the added cost and unnecessary duplication of effort which would arise from the formal competitive bidding process, and;

WHEREAS, the City Council finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby waives the requirements of formal competitive bidding and approves a cost-share with the Fayetteville School District in the amount of \$45,395.00 for the upsizing of approximately 1235 feet of 8" water main to a 12" water main.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a contingency in the amount of \$6,800.00.

PASSED AND APPROVED this 6th day of December, 2005.

APPROVED:

By: DAN COODY, Mayor

ATTEST

By: SONDRA SMITH, City Clerk

City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date:
Vendor #: 9125 Fayetteville Public Schools										P.O. Number:	Expected Delivery Date:
Address:										Mail Yes: No:	Quotes Attached Yes: No:
City: Fayetteville State: AR										Division Head Approval:	
Requester: Matt Casey										Extension: 429	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Requester's Employee #	Ship to code	Project/Subproject #	Inventory #	Fixed Asset #
1	Ripple Road Water Line				45,395.00		2119		04039		
2	Cost Share upsizing approx. 1235 ft of 8" water main to 12" water main				\$0.00						
3					\$0.00						
4					\$0.00						
5					\$0.00						
6					\$0.00						
7					\$0.00						
8					\$0.00						
9					\$0.00						
10					\$0.00						
	Shipping/Handling		Lot		\$0.00						
Special Instructions:											
Subtotal: <u>45,395.00</u> Tax: <u>567.106.00</u> Total: <u>92,195.00</u>											
Approvals:											
Mayor: _____ Department Director: _____ Finance & Internal Services Director: _____ Budget Manager: _____ Dispatch Manager: _____ Utilities Manager: _____ Purchasing Manager: _____ IT Manager: _____ Other: _____											

FORM OF PROPOSAL

Fayetteville School District
Fayetteville Elementary/Middle School

PROPOSAL OF C-2 Projects LLC (hereinafter referred to as the bidder), a corporation, organized and existing under the laws of the state of Missouri, a partnership, or an individual doing business as _____

Arkansas License No. 015581

To: Fayetteville School District
1000 W. Stone
Fayetteville, Arkansas, 72701

The undersigned, hereinafter referred to as "Bidder", in compliance with your Notice to Bidders, Instructions to bidders, Additional Instructions and Invitation to bid, declares that he has visited the site of the proposed work, familiarized himself with all the conditions surrounding the construction of the proposed project, and carefully examined the Plans, Specifications, Addenda and related documents for the construction of the Ripple Road Waterline Mountain Ranch - Phase I as it relates to the Ripple Road Elementary/Middle School.

Bidder hereby proposes and agrees to furnish all necessary, labor, materials, tools, equipment and supplies together with all other items of cost including housekeeping, haul off of bidders debris to an on-site dumpster provided by others (unless specified otherwise in the individual bid packages), layout, insurance, supervision and special conditions as listed in the bid packages and as referenced in this document, required for the work called for on the drawings and in the project manual within the time frame set herein and at the prices stated in words and numerical format (in case of discrepancy, the amount indicated in words shall govern) on the individual bid package form(s) listed below. Bidder acknowledges each package listed below is required to be bid individually and separately from all other bid packages listed on the bid form.

Contractors will note that bids must be on made on this form; other bids will not be accepted. Complete all blanks and Proposal shall be enclosed in a sealed envelope, labeled as follows:

Bidder is submitting a bid on the following package. List bid package number and description and attach to this form on an individual basis.

10/25/2005 TUE 21:29 FAX 479 636 3650 NABHOLZ PRE-CON

BID PACKAGE NUMBER: MM Water lineBID PACKAGE DESCRIPTION:Base Bid- 8" PVC Waterline (Items 1-7, 8A, 8A, 10A, 11A)Ninety thousand five hundred & six dollars
(Total Contract Price In Words)90,560.00
(Total Contract Price In Numbers)Alternate #1- 12" PVC Waterline (Items 1-7, 8B, 8B, 10B, 11B)One hundred & thirty-five thousand nine hundred & fifty-five dollars
(Total Contract Price In Words)135,955.00
(Total Contract Price In Numbers)Alternate #2- 8" Ductile Waterline (Items 1-7, 8A, 8A, 10C, 11C)Ninety-one thousand eight hundred & seventy-seven dollars and fifty cents
(Total Contract Price In Words)91,877.50
(Total Contract Price In Numbers)Alternate #3- 12" Ductile Waterline (Items 1-7, 8B, 8B, 10D, 11D)One hundred & thirty-one thousand dollars
(Total Contract Price In Words)131,000.00
(Total Contract Price In Numbers)UNIT PRICES

Unit prices quoted and accepted shall apply throughout the life of the contract, except as otherwise specifically noted. Unit prices shall be applied, as appropriate, to compute the total value of changes in the scope of the work all in accordance with the contract documents.

Item	Item Description	Estimated Quantity	Unit	Unit Bid Price	Total Bid Amount
No. 1	Mobilization	1	LS	500.00	500.00
	<u>Five hundred dollars</u>				
	Unit Bid Price Written In Words				
	<u>Five hundred dollars</u>				
	Total Bid Price Written In Words				

10/25/2005 TUE 21:29 FAX 478 636 3550 NABHOLZ PRS-CAN

Item	Item Description	Estimated Quantity	Unit	Unit Bid Price	Total Bid Amount
No. 2	Erosion Control	1	LS	1200.00	1200.00
	<u>ONE THOUSAND TWO HUNDRED DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>ONE THOUSAND TWO HUNDRED DOLLARS</u>				
	Total Bid Price Written in Words				
No. 3	Trench Rock Excavation	1	CY	225.00	225.00
	<u>TWO HUNDRED TWENTY FIVE DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>TWO HUNDRED TWENTY FIVE DOLLARS</u>				
	Total Bid Price Written in Words				
No. 4	Fire Hydrant Assembly Installed Complete (including gate valve)	2	EA	3950.00	7900.00
	<u>THREE THOUSAND NINE HUNDRED FIFTY DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>SEVEN THOUSAND NINE HUNDRED DOLLARS</u>				
	Total Bid Price Written in Words				
No. 5	8" Gate Valve Installed Complete	2	EA	1375.00	2750.00
	<u>ONE THOUSAND THREE HUNDRED SEVENTY FIVE DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>TWO THOUSAND SEVEN HUNDRED FIFTY DOLLARS</u>				
	Total Bid Price Written in Words				
No. 6	Trench Safety	1	LS	2500.00	2500.00
	<u>TWO THOUSAND FIVE HUNDRED DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>TWO THOUSAND FIVE HUNDRED DOLLARS</u>				
	Total Bid Price Written in Words				
No. 7	Contractor's Bonds and Insurance	1	LS	3500.00	3500.00
	<u>THREE THOUSAND FIVE HUNDRED DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>THREE THOUSAND FIVE HUNDRED DOLLARS</u>				
	Total Bid Price Written in Words				
No. 8A	Steel Casing for 8" Water Line Installed Complete	80	LF	150.00	12000.00
	<u>ONE HUNDRED FIFTY DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>TWELVE THOUSAND DOLLARS</u>				
	Total Bid Price Written in Words				

10/26/2005 TUE 21:29 FAX 479 636 3660 NABHOLZ PRE-CON

Item	Item Description	Estimated Quantity	Unit	Unit Bid Price	Total Bid Amount
No. 8B	Steel Casing for 12" Water Line Installed Complete	80	LF	200.00	16000.00
	<u>TWO HUNDRED DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>SIXTEEN THOUSAND DOLLARS</u>				
	Total Bid Price Written in Words				
No. 9A	8" Gate Valve Installed Complete	5	EA	1375.00	6875.00
	<u>ONE THOUSAND THREE HUNDRED SEVENTY FIVE DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>SIX THOUSAND EIGHT HUNDRED SEVENTY FIVE DOLLARS</u>				
	Total Bid Price Written in Words				
No. 9B	12" Butterfly Valve Installed Complete	5	EA	3905.00	19025.00
	<u>THREE THOUSAND EIGHT HUNDRED FIVE DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>NINETEEN THOUSAND TWENTY FIVE DOLLARS</u>				
	Total Bid Price Written in Words				
No. 10A	8" PVC Pipe Incl. Granular Backfill Complete	1235	LF	40.00	49,400.00
	<u>FORTY DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>FORTY NINE THOUSAND FOUR HUNDRED DOLLARS</u>				
	Total Bid Price Written in Words				
No. 10B	12" PVC Pipe Incl. Granular Backfill Complete	1235	LF	63.00	77805.00
	<u>SIXTY THREE DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>SEVENTY SEVEN THOUSAND EIGHT HUNDRED FIVE DOLLARS</u>				
	Total Bid Price Written in Words				
No. 10C	8" Ductile Iron Pipe Incl. Granular Backfill Complete	1235	LF	41.50	51,252.50
	<u>FORTY ONE DOLLARS AND FIFTY CENTS</u>				
	Unit Bid Price Written in Words				
	<u>FIFTY ONE THOUSAND TWO HUNDRED FIFTY TWO DOLLARS AND FIFTY CENTS</u>				
	Total Bid Price Written in Words				
No. 10D	12" Ductile Iron Pipe Incl. Granular Backfill Complete	1235	LF	60.00	74100.00
	<u>SIXTY DOLLARS</u>				
	Unit Bid Price Written in Words				
	<u>SEVENTY FOUR THOUSAND ONE HUNDRED DOLLARS</u>				
	Total Bid Price Written in Words				

10/25/2005 TUE 21:29 FAX 479 636 3850 NABHOLZ PRE-CON

Item	Item Description	Estimated Quantity	Unit	Unit Bid Price	Total Bid Amount
No. 11A	8" PVC Water Line Fittings Installed Complete Incl. Thrust Blocking	1	LS	3710.00	3710.00
	<i>THREE THOUSAND SEVEN HUNDRED TEN DOLLARS</i>				
	Unit Bid Price Written in Words				
	<i>THREE THOUSAND SEVEN HUNDRED TEN DOLLARS</i>				
	Total Bid Price Written in Words				
No. 11B	12" PVC Water Line Fittings Installed Complete Incl. Thrust Blocking	1	LS	4550.00	4550.00
	<i>FOUR THOUSAND FIVE HUNDRED FIFTY DOLLARS</i>				
	Unit Bid Price Written in Words				
	<i>FOUR THOUSAND FIVE HUNDRED FIFTY DOLLARS</i>				
	Total Bid Price Written in Words				
No. 11C	8" Ductile Iron Water Line Fittings Installed Complete Incl. Thrust Blocking	1	LS	3175.00	3175.00
	<i>THREE THOUSAND ONE HUNDRED SEVENTY FIVE DOLLARS</i>				
	Unit Bid Price Written in Words				
	<i>THREE THOUSAND ONE HUNDRED SEVENTY FIVE DOLLARS</i>				
	Total Bid Price Written in Words				
No. 11D	12" Ductile Iron Water Line Fittings Installed Complete Incl. Thrust Blocking	1	LS	3400.00	3400.00
	<i>THREE THOUSAND FOUR HUNDRED DOLLARS</i>				
	Unit Bid Price Written in Words				
	<i>THREE THOUSAND FOUR HUNDRED DOLLARS</i>				
	Total Bid Price Written in Words				

SPECIAL CONDITIONS

- All bidders are responsible for their own housekeeping and removal of trash from the project and placements into dumpsters provided by the Construction Manager.
- All bidders are to allow for a minimum of three (3) meetings per week: Weekly progress meeting, weekly coordination meeting between Construction Manager superintendent and trade foreman, dedicated safety meeting.
- All bidders required to provide temporary protection of their work and materials.
- All bidders to provide layout of their work as required.
- All bidders are required to coordinate their work with the Construction Manager and other trades affecting their work.
- All bidders to provide all necessary temporary shoring, bracing, scaffolding, safety barriers associated with the completion of their work.
- All bidders shall comply with Nabholz Construction Safety policies as well as OSHA safety regulations. Nabholz Safety policy can be reviewed at the Nabholz Construction offices. Hard Hats and Safety Glasses are mandatory during all phases of the project and must be worn at all times. NO EXCEPTIONS.

Other Conditions

Bidder agrees that his bid shall be good and may not be withdrawn for a period of (30) Thirty calendar days after the actual date of the bid opening.

10/25/2005 TUE 21:30 FAX 479 636 3650 NABHOLZ PRE-CON

Bidder agrees, if awarded the contract, to execute an agreement to perform the proposed work for the bid package(s) stated compensation within five (5) days after the award and to deliver to the owner, within said five (5) days, the specified bonds and insurance policies in forms to be approved by the owner, along with all other specified contract related documents. No modifications to contracts or bid packages are allowed. Any modifications made to the bid packages including attachments of scope

Bidder further agrees that the certified check, cashiers check or bid bond payable to the owner accompanying this proposal, is to be left in escrow with the owner; that it's amount of 5% of the bid figure is the measure or portion of the measure, of liquidated damages which the owner will sustain by failure of the bidder to execute and deliver the above named agreement, bonds, insurance and related documents; and that if the bidder defaults in executing such an agreement within five (5) days of written notification of the award of the contract to him, or defaults in furnishing the bonds, insurance and related documents within said 5 (5) days, the check or bidders bond, or portion thereof, as set forth on Arkansas State Statutes, shall be due and payable to the owner. If the proposal is not accepted within thirty (30) days of the time set for submission of bids, or if the bidder executes and delivers said agreement, bonds, insurance and related documents, the check or bid bond shall be returned to him.

EXTRAS

The bidder agrees to furnish all labor, materials, tools, equipment, supplies, insurance, bonds, etc. required for additional work, for which no pre agreed price has been fixed, for net costs of all labor, materials, etc. furnished plus ten percent (10%) total mark-up for overhead and profit of subcontractors and ten percent (10%) total markup for overhead and profit for the bidder.

TIME OF COMPLETION

Bidder agrees to complete the work as required by the project schedule issued by the construction schedule. Time of performance is the essence of this contract and the contractor shall perform all of the requirements with all possible dispatch and shall execute all work in such a manner as not to delay the Owner from occupying the building no later than July 1, 2006.

The ability of bidders to comply with the project schedule will be considered in award of contracts.

The following information is provided to define and describe the Scopes of Work which will be required of the successful Bidder for each of the Bid Packages. The scope of work listed for each bid package shall include but not necessarily be limited to the items of work listed for each bid package. It is intended for the following information to be complementary with the requirements of all other Contract Documents. If Bidder has any question regarding whether an item is to be included or not included in one of the bid packages, Bidder shall contact the Construction Manager prior to bid.

It is expressly understood and agreed that the unit prices in this bid have no application in connection with performing work required under the contract documents, but that the same are applicable only in the event of additional work, or in the event of deleted work.

UPON RECEIPT OF NOTICE of acceptance of this bid, I (WE) shall execute formal contract within five (5) days and will deliver required bonds guaranteeing the faithful performance of this contract. The bid security attached hereto, without endorsement, in the sum of 5% of amount of contract price will become the property of the Owner in the event that contract bonds are not executed within the time set forth above as liquidated damages for delay and additional expense caused thereby.

It is agreed that the Owner reserves the right to waive informalities and to reject any or all bids.

11/07/2005 14:55 4796310286

NABHOLZ CONSTRUCTION

PAGE 08/082

Fayetteville Public School Water Main Cost Share
Page 12 of 12

10/25/2005 TUE 21:30 FAX 479 636 3850 NABHOLZ PRE-CON

ADDENDA

Addenda: Receipt of the following addenda is hereby acknowledged:

Addendum No. _____, Dated No addendums
Addendum No. _____, Dated _____
Addendum No. _____, Dated _____

Respectfully submitted,

C-2 Projects LLC
Company

(Seal - If bid by a Corporation)
No Corporate Seal

By 

Attest:

By: David King

Title: Project Manager

Owner / member
Title

4903 S. Stanton Springfield MO 65810
Business Address

10-31-05
Date

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

12/6/2005

City Council Meeting Date

Connie Edmonston *[Signature]*
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging, Inc. in the amount of \$50,000 to provide public recreation services for the senior citizens of Fayetteville for 2006.

\$50,000.00	\$12,500	Transfer to Council on Aging
Cost of this request	Category/Project Budget	Program Category / Project Name
1010.6660.5718.00	25%	
2250.9250.5718.00	75%	2006 Budget
Account Number	Funds Used to Date	Parks Development Program
		Program / Project Category Name
		Parks Development
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

Previous Ordinance or Resolution # 4650

Original Contract Date: _____

Original Contract Number: _____

[Signature] 11-15-05
Department Director Date

[Signature] 11-17-05
City Attorney Date

[Signature] 11-17-05
[Signature] 11/18/05
Mayor Date

Received in City Clerk's Office
[Stamp: ENTERED 11/16/05]

Received in Mayor's Office
[Stamp: ENTERED 11/17/05]

Comments:

Council on Aging
p. 1 of 2

City Council Meeting of December 6, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Director of Parks and Recreation *CE*

From: David Wright, Recreation Superintendent

Date: November 10, 2005

Subject: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville and the Council on Aging in the amount of \$50,000 to provide public recreation services for senior citizens of Fayetteville for 2006.

RECOMMENDATION

Fayetteville Parks and Recreation Staff recommends to approve the contract with Council on Aging, Inc., to provide public recreation services for the citizens of Fayetteville and waive competitive bid for services.

BACKGROUND

The City of Fayetteville has provided financial support for the Council on Aging, Inc., since the Hillcrest Towers were built in 1972. This cooperative agreement between the City of Fayetteville and the Council on Aging has been very successful. The Council on Aging provides recreational programs, meeting the needs of our senior citizen residents at the Hillcrest Towers and the Fayetteville Senior Center. It is the intent of both parties to work in cooperation to enhance the recreation facilities and programs in our City, while not duplicating services in efforts to spend tax payers' money as effectively as possible. If the Council on Aging were not serving our senior citizen population, the City would need to assume responsibility.

DISCUSSION

The 2006 budget includes a total of \$50,000 to be transferred to the Council on Aging, Inc. Of this transfer, \$37,500 comes from the Parks and Recreation Division, Parks Development Program and \$12,500 comes from the General Government Department, Miscellaneous Division. A resolution of contractual services, as well as an ordinance to waive competitive bidding is required. The contract outlines the services the Council on Aging is providing to the City and the citizens of Fayetteville. We are requesting a waiver of competitive bids to secure the continuity of services provided and because the Council on Aging, Inc., has adequately served our citizens since it was created.

BUDGET IMPACT

The 2006 budget includes a total of \$50,000 for the transfer to the Council on Aging. This is same amount provided in 2005. This agreement is contingent upon City Council approving the 2006 Operational Budget.

If you have any questions regarding the Agenda Request or the Working Agreement, please call me at 444-3481, or email dwright@ci.fayetteville.ar.us.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE COUNCIL ON AGING IN THE AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00) TO PROVIDE PUBLIC RECREATION SERVICES FOR THE SENIOR CITIZENS OF FAYETTEVILLE FOR 2006

WHEREAS, providing quality recreational opportunities to the senior citizens of our community is of mutual interest to the City of Fayetteville and the Council on Aging, and;

WHEREAS, the Council on Aging and the City of Fayetteville have had a close working relationship for more than thirty years, and;

WHEREAS, this relationship allows for a continuity of services vital to the efficient provision of recreational opportunities, and;

WHEREAS, were it not for the services offered by the Council on Aging, the City of Fayetteville would be required to assume the duty of providing staff, programming, promotion, and development for senior citizen recreational services.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of Fifty Thousand Dollars (\$50,000.00) to provide public recreation services for the senior citizens of Fayetteville for 2006. A copy of said contract marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CONTRACT
Between The City of Fayetteville
and
Council on Aging, Inc.

WHEREAS, the City of Fayetteville has long been associate with and worked with the Council on Aging, Inc. to provide public recreation to the citizens of Fayetteville; and

WHEREAS, the Council on Aging, Inc. has long provided public recreation to the senior citizens of Fayetteville; and

WHEREAS, it remains in the best interest of the City of Fayetteville and its Citizens to provide operating, promotion and development revenues to the Council on Aging, Inc. in consideration for the substantial recreational programs provided by the Council on Aging, Inc. to the senior citizens of Fayetteville.

NOW, THEREFORE, IT IS AGREED:

The City of Fayetteville shall provide the sum of **\$4,166.66** monthly to the Council on Aging, Inc. throughout the year of 2006 in consideration of the following duties and obligations to be preformed by the Council on Aging, Inc.:

- A. The Council on Aging, Inc., shall be responsible for providing staff, programming, promotion, and development for the Hillcrest Towers and Walker Park Community Centers. The Council on Aging, Inc. agrees to use funding from the City to pay for the promotion and development of recreational programs designed specifically for senior citizens.
- B. The Council on Aging, Inc. shall make substantial portions of its programs or facilities available to Fayetteville citizens (the public) at little or no cost for the needy senior citizens. The Council on Aging, Inc. shall report on a quarterly basis the approximate number of Fayetteville citizens served by its programs.
- C. The Council on Aging, Inc. shall follow the general Working Procedures and Responsibilities for the City of Fayetteville Parks and Recreation Division and the Council on Aging, Inc. which is attached as Exhibit A, and made a part hereof.

City of Fayetteville

By: _____
DAN COODY, Mayor

Council On Aging, Inc.

By: Janet Lindberg
Exec. Director
Title

ATTEST:

By: _____
Sondra Smith, City Clerk

EXHIBIT A

RECREATION IN FAYETTEVILLE

WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE COUNCIL ON AGING, INC.

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Division (Parks and Recreation) and the Council On Aging (hereinafter COA).

WHEREAS, the parties are two of the providers of recreational programs for the citizens of Fayetteville and wish to define a working agreement which may be revised and modified each year upon mutual agreement between the Superintendent of the Parks and Recreation and the Executive Director of the COA; and,

WHEREAS, it is the goal of both parties to work in cooperation to enhance the recreation facilities and programs offered by the parties and to act together in meeting the needs of the citizens of Fayetteville; and,

WHEREAS, increased communications and a new set of operating procedures will assist with the working relationship and will benefit both agencies and their operations; and,

WHEREAS, Parks and Recreation believes the goals of Parks and Recreation and COA would best be accomplished by defining and streamlining responsibilities and procedures; and, is therefore recommending the merging of facility and program management for all recreation offerings, thereby providing administrative accountability for all services provided to the citizens.

NOW, THEREFORE, in order to define and improve the current working relationship between Parks and Recreation and COA, the following set of detailed operating procedures and responsibilities are hereby established.

1. COA shall be responsible for providing staffing, programming, promotion and development of recreational programs for senior citizens which includes, but not limited to, recreational trips, arts and crafts, music and games.

2. Parks and Recreation shall be responsible for providing or approving the staffing, programming, maintenance, promotion and development of the parks system within the city and the recreational events occurring within the city for all ages.

3. The COA Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.

4. It is understood and agreed that the City's annual purchase of services will be negotiated on a yearly basis.

5. The COA Board of Directors is responsible for the management and operation of annual funding allocation to COA from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 75 percent of the funding shall be expended for promotion and development of recreation.

6. COA shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director no more than thirty (30) days after the end of the COA fiscal year, which ends on June 30, 2006. Such report shall detail COA's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated in number eight (8).

7. COA shall comply with the schedules and procedures established by the Budget & Research Division of the City of Fayetteville for annual funding requests.

8. Quarterly reports shall be submitted to the Parks and Recreation Director on, or before, the following dates: April 10, July 10, October 10, and January 10 (2007). These reports shall detail the following performance measures:

- A. Increase the amount of adult citizens served yearly by five percent.
- B. Provide 10 educational/recreational programs at the Community Adult Center and Fayetteville Senior Center.
- C. Serve more than 1,000 citizens/participants at the Fayetteville Senior Center and the Community Adult Center at Hillcrest Towers.
- D. Provide community education through public relations and marketing by producing a marketing flyer for senior citizens and the general public.

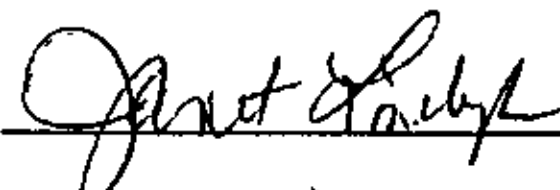
9. The working procedures and responsibilities contained herein shall become effective January 1, 2006.

10. COA shall acknowledge the City of Fayetteville's contribution on general marketing flyers, brochures and other general marketing materials.

City of Fayetteville

By: _____
DAN COODY, Mayor

Council On Aging, Inc.

By: 
Geraldine Dineen
Title

ATTEST:

By: _____
Sondra Smith, City Clerk

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

12/6/2005

City Council Meeting Date

Connie Edmonston

Submitted By

Parks and Recreation

Division

Operations

Department

Action Required:

An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of \$250,000 to provide public recreation services and facilities for the youth and citizens of Fayetteville for 2006.

\$250,000.00		\$62,500		Transfer to Boys and Girls Club
Cost of this request		\$187,500		Program Category / Project Name
1010.6660.5718.00	25%			
2250.9250.5718.00	75%	2006 Budget		Parks Development Program
Account Number		Funds Used to Date		Program / Project Category Name
				Parks Development Program
Project Number		Remaining Balance		Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐


Department Director

11-15-05
Date

Previous Ordinance or Resolution # 4649

Original Contract Date:

Original Contract Number:


City Attorney

11-17-05
Date

Received in City Clerk's Office

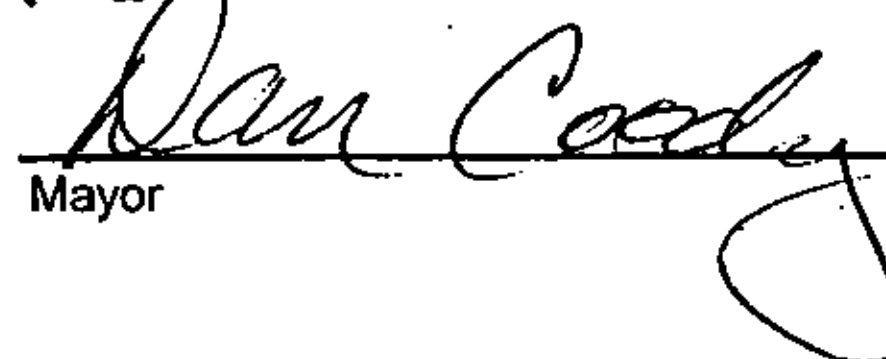
ENTERED
11/16/05
90


Finance and Internal Service Director

11-17-05
Date

Received in Mayor's Office

ENTERED
11/17/05
11


Mayor

11/18/05
Date

Comments:

Boys and Girls Club
p. 1 of 2

City Council Meeting of December 6, 2005

CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Director of Parks and Recreation 

From: David Wright, Recreation Superintendent

Date: November 10, 2005

Subject: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville and the Fayetteville Youth Center, Inc., in the amount of \$250,000 to provide public recreation services for the youth and citizens of Fayetteville for 2006.

RECOMMENDATION

Fayetteville Parks and Recreation Staff recommends to approve the contract with Fayetteville Youth Center to provide public recreation services for the citizens of Fayetteville and waive competitive bid for services.

BACKGROUND

The City of Fayetteville has provided financial support for the Fayetteville Youth Center since 1967. In 1999, the Parks and Recreation Staff and the Youth Center Staff re-evaluated their operations to determine if each was meeting the needs of the Citizens of Fayetteville in the most efficient possible manner. The results of the meetings were the attached "Working Agreement" between Parks and Recreation and the Fayetteville Youth Center. It is the intent of both agencies to work together for the common good of the citizens by not providing public funding for multiple competing program offerings. If the Youth Center was not providing recreational services for our youth as well as citizens, the City of Fayetteville would need to assume the responsibility.

DISCUSSION

The 2006 budget includes a total of \$250,000 to be transferred to the Fayetteville Youth Center. Of this transfer, \$187,500 is allocated from the Parks and Recreation Division, Parks Development Program and \$62,500 comes from the General Government Department, Miscellaneous Division. A resolution of contractual services, as well as an ordinance to waive competitive bidding is required. The contract outlines the services the Fayetteville Youth Center is providing to the City and the citizens of Fayetteville. We are requesting a waiver of competitive bids to secure the continuity of services provided and because the Fayetteville Youth Center has adequately served our citizens since it was created.

The agreement for 2006 is similar to the 2005 agreement. The only difference is how specific each organization is when naming our summer camps. As stated before, each organization wants to offer two distinctly different programs to our citizens. Although each organization offers a variety of summer camps for our youth, staff from each organization works together to provide a variety of topics and elements that best suit our citizens' needs.

BUDGET IMPACT

The 2006 budget includes a total of \$250,000 for the transfer to the Fayetteville Youth Center. This is same amount provided in 2005. This agreement is contingent upon City Council approving the 2006 Operational Budget.

If you have any questions regarding the Agenda Request or the Working Agreement, please call me at 444-3481, or email dwright@ci.fayetteville.ar.us.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE FAYETTEVILLE YOUTH CENTER INC. IN THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) TO PROVIDE PUBLIC RECREATION SERVICES FOR THE YOUTH AND CITIZENS OF FAYETTEVILLE FOR 2006

WHEREAS, providing quality recreational opportunities to the youth and other citizens of our community is of mutual interest to the City of Fayetteville and the Fayetteville Youth Center, and;

WHEREAS, the Fayetteville Youth Center and the City of Fayetteville have had a close working relationship for many years, and;

WHEREAS, this relationship allows for a continuity of services vital to the efficient provision of recreational opportunities, and;

WHEREAS, were it not for the services offered by the Fayetteville Youth Center, the City of Fayetteville would be required to assume the duty of providing staff, programming, promotion, and development for youth recreational services.

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

Section 1. That the City Council for the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) to provide public recreation services for the youth of Fayetteville for 2006. A copy of said contract marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CONTRACT

*Between The City of Fayetteville
And
Fayetteville Youth Center, Inc.*

WHEREAS, the City of Fayetteville has long been associated with and worked with the Fayetteville Youth Center, Inc. to provide public recreation to the citizens of Fayetteville; and

WHEREAS, the Fayetteville Youth Center, Inc. has long provided public recreation to the youth and citizens of Fayetteville; and

WHEREAS, it remains in the best interest of the City of Fayetteville and its citizens to provide operating, promotion and development revenues to the Fayetteville Youth Center, Inc. in consideration for the substantial recreational programs provided by the Fayetteville Youth Center, Inc. to the youth and citizens of Fayetteville.

NOW, THEREFORE, IT IS AGREED:

The City of Fayetteville shall provide the sum of \$20,833.33 monthly to the Fayetteville Youth Center, Inc. throughout the year of 2006 in consideration of the following duties and obligations to be performed by the Fayetteville Youth Center, Inc.:

- A. The Fayetteville Youth Center, Inc. shall be jointly responsible with the Fayetteville School System to provide staffing, programming, maintenance, promotion and development for the following facilities: Asbell Gymnasium, Holcomb Gymnasium, Vandergriff Gymnasium and the main facility of the Boys and Girls Club on Ruppel Road. The Fayetteville Youth Center, Inc. agrees to use funding from the City to pay for gymnasium supervisors and custodians at these sites.
- B. The Fayetteville Youth Center, Inc. shall make a substantial portion of its programs or facilities available to Fayetteville citizens (the public) at little or no cost for needy youth. Although basic membership fees may be required for many Fayetteville residents, no needy youth wishing to participate at the Fayetteville Youth Center, Inc. facility shall be denied access solely because he or she does not have sufficient funds to pay for a regular membership. The Fayetteville Youth Center, Inc. shall report on a quarterly basis the approximate number of Fayetteville Citizens served by its programs and shall include the number of "scholarships" or free memberships provided to Fayetteville citizens.

- C. The Fayetteville Youth Center, Inc. shall continue to follow the general Working Procedures and Responsibilities for the City of Fayetteville Parks and Recreation Division and The Fayetteville Youth Center, Inc. which is attached as Exhibit A, and made a part hereof.

CITY OF FAYETTEVILLE

BY: _____
DAN COODY, Mayor

FAYETTEVILLE YOUTH CENTER, INC.

BY: _____
President Board
Title
of Directors

ATTEST:

BY: _____
Sondra Smith, City Clerk

EXHIBIT A

RECREATION IN FAYETTEVILLE

WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE FAYETTEVILLE YOUTH CENTER, INC.

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Division (Parks and Recreation) and the Fayetteville Youth Center, Inc., d/b/a Fayetteville Boys and Girls Club (hereinafter FYC).

WHEREAS, the parties are two of the providers of recreational programs for the citizens of Fayetteville and wish to define a working agreement which may be revised and modified each year upon mutual agreement between the Director of Parks and Recreation and the Executive Director of the Fayetteville Boys and Girls Club; and,

WHEREAS, it is the goal of both parties to work in cooperation to enhance the recreation facilities and programs offered by the parties and to act together in meeting the needs of the citizens of Fayetteville; and,

WHEREAS, increase communications and a new set of operating procedures will assist with the working relationship and will benefit both agencies and their operations; and,

WHEREAS, Parks and Recreation believes the goals of Parks and Recreation and FYC would best be accomplished by defining and streamlining responsibilities and procedures; and, is therefore recommending the merging of facility and program management for all recreation offerings, thereby providing administrative accountability for all services provided to the citizens.

NOW, THEREFORE, in order to define and improve the current working relationship between Parks and Recreation and FYC, the following set of detailed operating procedures and responsibilities are hereby established.

1. FYC shall be responsible for working with the Fayetteville School System to provide staffing, programming, maintenance, promotion and development for the following facilities: Asbell Gymnasium, Holcomb Gymnasium, Vandergriff Gymnasium and the Boys and Girls Club. FYC will be responsible for the hiring, evaluating, and supervising of gymnasium supervisors and custodians at Holcomb, Asbell, and Vandergriff Gymnasiums.

2. Parks and Recreation shall be responsible for providing or approving the staffing, programming, maintenance, promotion and development for the city and school parks, including the following facilities which are utilized for sport programming; Asbell Soccer/Softball Complex, Lake Fayetteville Softball Complex, Gary Hampton Softball Complex, Lewis Street Soccer Complex, Walker Baseball/Soccer Complex, White River Baseball Complex, and the Wilson Park Softball Field. Parks and Recreation shall be responsible for outdoor facilities owned or leased by the City of Fayetteville, excluding the property leased to FYC pursuant to written agreements.
3. FYC shall be responsible for providing or approving the management, staffing and promotions and development of the following programs and activities. FYC shall coordinate with the Fayetteville School System for use of their facilities. FYC shall be responsible for the majority of sports and activities held at indoor recreation facilities, including but not limited to the following:
 - Basketball
 - Boys & Girls Club Educational Programs
 - Golf
 - Indoor Instructional Programs
 - SKC Afterschool and Camps
 - Special Events (Easter at the Club, National Kids Day, Multi-Cultural Event)
 - Swim Lessons
 - Volleyball
 - Youth Football
 - Zing Summer Sport, Educational and Instructional Camps
 - FYC shall not compete/duplicate with those services listed in paragraph 4.
4. Parks and Recreation shall be responsible for providing or approving the management, staffing and promotion and development of the following programs and activities. Parks and Recreation shall be responsible for the majority of sports and activities held at outdoor recreation facilities, including but not limited to the following:
 - Baseball
 - Softball
 - Flag Football (Adult)
 - Hobby Use Groups
 - Sand Volleyball
 - Soccer
 - Special Events (Gully Park Concert Series, Outdoor Movies, July 4th Fireworks)
 - Swim Lessons
 - Tennis Lessons
 - Summer Sport / Outdoor Adventure Camps

5. FYC agrees not to establish a program that competes/duplicates with an established program provided by Parks and Recreation. Moreover, FYC agrees to provide Parks and Recreation with information relating to any of its program including roster of players, coaches, rules of the league and similar relevant data upon request by Parks and Recreation. It is the intent of both parties to work together for the common good of the citizens of Fayetteville by not providing public funding for duplicate program offerings. It is understood that FYC and Parks and Recreation both currently provide swim lessons and aquatic programs and that both parties agree to work together for the common good for both parties.
6. In the event the FYC wishes to allow program which fall in the general description of paragraph 5 above, which does not believe competes with current Parks and Recreation program, FYC shall provide advance notice of intent to start the program to Parks and Recreation with time to determine whether it is a competing program or not. In the event that FYC offers a program that the Parks and Recreation believes is a duplicate program within the meaning of this document, Parks and Recreation Staff shall give FYC written notices of its assessment. FYC shall either cease operating such program within 30 days of such notice or shall provide a written response to Parks and Recreation that disputes whether such program is in fact a competing program. If FYC fails to cease such program or respond to the assessment from Parks and Recreation, the City may discontinue funding for FYC on the 31st day after such notice. If FYC files a dispute, the issue shall be resolved by City Council and finding of City Council shall be final and not subject to appeal. If FYC fails to cease operation of such a program within 30 days of a decision requiring such cessation by City Council, then the City may stop annual funding to FYC.
7. The FYC Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.
8. It is understood and agreed that the City's annual purchase of services shall be negotiated on a yearly basis.
9. The FYC Board of Directors is responsible for the management and operation of the annual funding allocation to FYC from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 75 percent of the funding shall be expended for promotion and development of recreation.

10. As part of the annual funding, FYC agrees to make its facilities available to residents of the City of Fayetteville for a nominal daily fee without the need to purchase a membership to the club.
11. FYC shall schedule a meeting and submit an annual financial report to the City Budget Director on or before July 31 of each year. Such report shall detail FYC's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated below in number 13.
12. FYC shall comply with schedules and procedures established by the Budget and Research Division of the City of Fayetteville for annual funding requests.
13. Quarterly reports shall be submitted to the Parks and Recreation Director on the following dates: April 10, July 10, October 10, and January 10 (2007). These reports will detail the following performance measures:
 - A. Provide a minimum of 30 open recreation hours per week at the Donald W. Reynolds Boys and Girls club facilities.
 - B. Provide a minimum of 10 youth instructional/educational programs.
 - C. Provide a minimum of three youth sports programs.
 - D. Provide a minimum of two free community-wide events at the Donald W. Reynolds Boys and Girls club facilities.
 - E. Provide marketing materials to Fayetteville school children for major sport programs.
 - F. Implement three customer service surveys for Boys and Girls Club programs.
 - G. Apply for 10 grants/major corporate sponsorships to provide additional funding to operate the Fayetteville Boys and Girls Club facilities and programs.
 - H. Include Parks and Recreation logo to organizational web site and acknowledge the City of Fayetteville on sponsor wall located in the Donald W. Reynolds Boys and Girls Club.

14. The working procedures and responsibilities contained herein shall become effective
January 1, 2006.

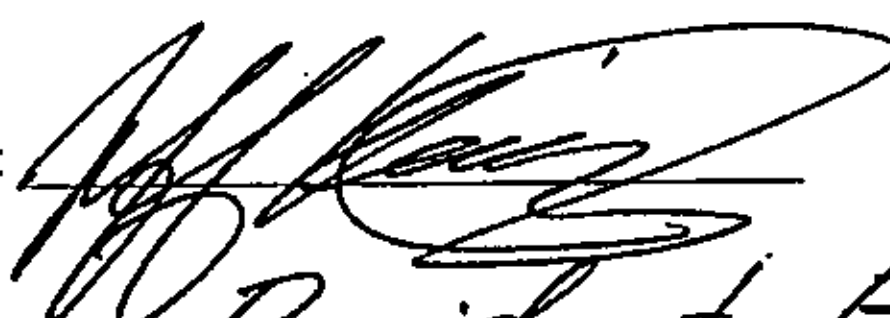
CITY OF FAYETTEVILLE

BY: _____
Dan Coody, Mayor

Attest:

BY: _____
Sondra Smith, City Clerk

FAYETTEVILLE YOUTH CENTER, INC.

BY: 
President, Board
of Directors

Attest:

BY: _____

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

12/06/2005

City Council Meeting Date

Leif Olson
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 05-1657: Administrative Item (Mt. Sequoyah South Rezoning): Approval of an ordinance to rezone the property as shown on Exhibit A from RMF-24 to RSF-8, as petitioned by the property owners shown on Exhibit A. The applicant requests to rezone the property from RMF-24, Residential Multi Family 24 units per acre, to RSF-8, Residential Single Family 8 units per acre.

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

Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director 11-18-05
Date

Previous Ordinance or Resolution # n/a

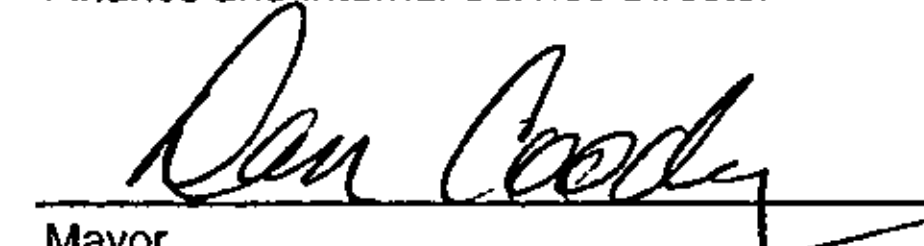
Original Contract Date: n/a


City Attorney 11-18-05
Date

Original Contract Number: n/a


Finance and Internal Service Director 11-18-05
Date

Received in City Clerk's Office



Mayor 11/18/05
Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director

From: Leif Olson, Associate Planner

Date: November 15, 2005

Subject: Approval of an ordinance to rezone the property shown as Exhibit A on the attached map from RMF-24, Residential Multi-Family 24 units per acre, to RSF-8, Residential Single Family 8 units per acre.

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning the property shown as Exhibit A on the attached map from RMF-24, Residential Multi-Family 24 units per acre, to RSF-8, Residential Single Family 8 units per acre.

BACKGROUND

In April of 2005, Planning Staff met with the applicant to discuss the existing land use zoning of a neighborhood located on the south side of Mt Sequoyah. This area is roughly bounded by Huntsville Rd. to the south, Willow St. to the west, Rock St. to the north, and Lyton Ave. on the east. This neighborhood is comprised of primarily single family homes located on small lots platted prior to current zoning ordinances, many of which contain slopes greater than 15%. In 1970, this area of Fayetteville was zoned R-2, also known as RMF-24, multi-family residential. The applicant was concerned with the possibility of high density residential being developed in the existing neighborhood.

Planning Staff recommended that a new zoning designation be developed in order to reflect the existing conditions such as lot bulk and area, building height, and building setbacks. The RSF-8 zoning district was designed for the purpose of rezoning this neighborhood and bringing these lots into conformity.

The applicant, working with City Planning Staff, developed a map and petition for property owners interested in rezoning their property to RSF-8. The applicant spent a considerable amount of time canvassing the neighborhood and collecting signatures for the rezoning petition.

The Planning Commission approved both the RSF-8 zoning ordinance amendment and the Mt. Sequoyah South rezoning on July 25, 2005 and forwarded these items to the City Council.

The Ordinance Review Committee reviewed the RSF-8 zoning district on September 15, 2005 and voted unanimously to forward it to the City Council with an amendment to the maximum buildable area of the lot.

City Council adopted Ordinance No. 4783 on October 18, 2005 amending the Unified Development Code to create the RSF-8 zoning district.

DISCUSSION

The Planning Commission considered this rezoning petition request on July 25, 2005, on which they voted 9-0-0 in favor of the recommended rezoning. Planning Staff has waited the required 30 days for the RSF-8 zoning district to become law before bringing this rezoning item forward for City Council consideration.

BUDGET IMPACT

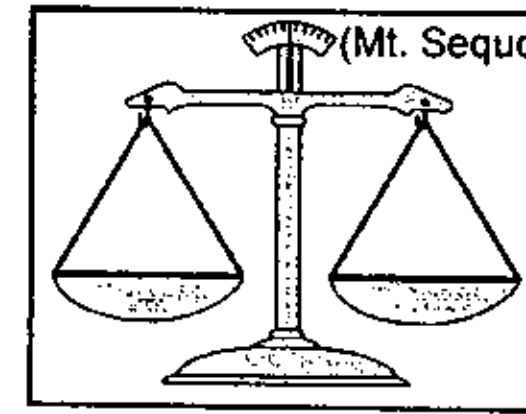
None.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

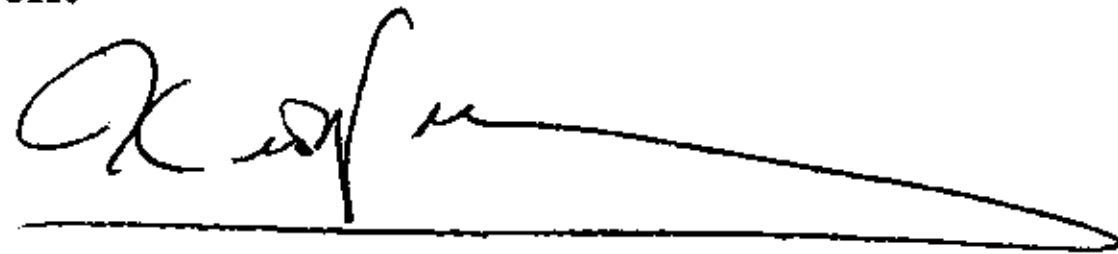


LEGAL DEPARTMENT

C. 5
ADM 05-1657
(Mt. Sequoyah South Rezoning)
Page 4 of 28

TO: Dan Coody, Mayor
City Council

CC: Lief Olson, Planning Department

FROM: Kit Williams, City Attorney 

DATE: November 18, 2005

RE: ADM05-1657, Consent Withdrawn

The Planning Department and Planning Commission were informed that numerous property owners had revoked their initial consent to being down-zoned when a new zoning district, RSF-8 was created that was incompatible with existing large acreage lots. Specifically, all owners of land north of the unbuilt Lucien Street object to such rezoning. These would include all addresses on Rock Street.

The City Council can rezone property without the consent of the owners if it has legitimate reasons for such rezoning. However, the City Council should know that these property owners have withdrawn their approval and object to this rezoning. I believe all these property owners would consent to an even lesser density rezoning to RSF-4.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZOING PETITION RZN 05-1657 AND SHOWN IN EXHIBIT
"A", GENERALLY LOCATED NORTH OF HUNTSVILLE RD., EAST
OF WILLOW AVE., SOUTH OF ROCK ST., AND WEST OF LYTON
AVE., FROM RMF-24 RESIDENTIAL MULTI-FAMILY 24 UNITS
PER ACRE TO RSF-8 RESIDENTIAL SINGLE FAMILY 8 UNITS
PER ACRE

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

Section 1: That the zone classification of the following described property is
hereby changed as follows:

From RMF-24, Residential Multi Family, 24 units per acre to RSF-8,
Residential Single Family, 8 units per acre, as shown on Exhibit "A"
Attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is
hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this _____ day of _____, 2005.

APPROVED:

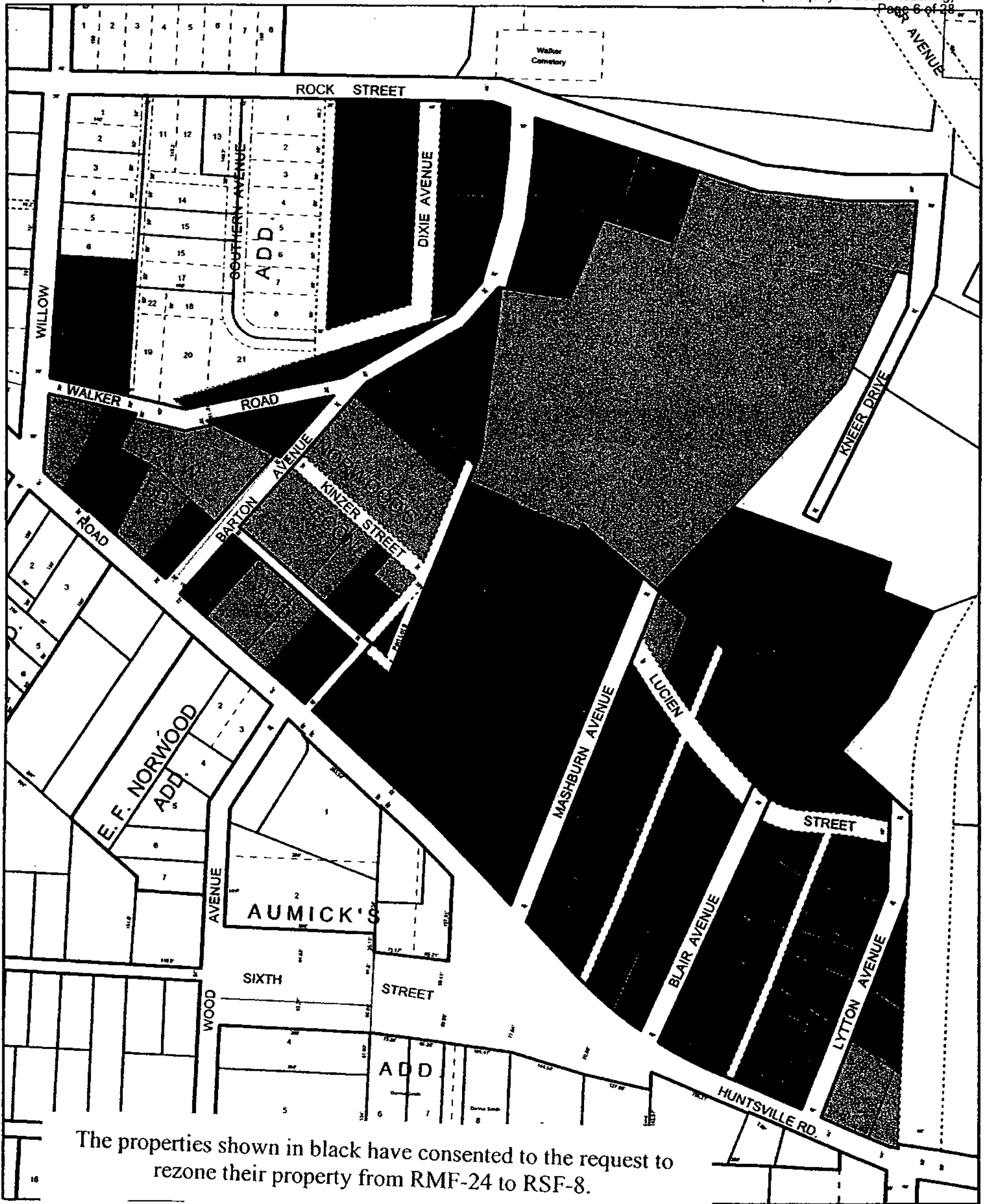
By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

C. 5
ADM 05-1657
(Mt. Sequoyah South Rezoning)
Page 6 of 28



The properties shown in black have consented to the request to rezone their property from RMF-24 to RSF-8.

CONSENT OBJECT

ORDINANCE NO. 4783

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE, OF THE CODE OF FAYETTEVILLE, TO PROVIDE A NEW RESIDENTIAL ZONING DISTRICT.

WHEREAS, many of the historical residential neighborhoods in Fayetteville were platted prior to current zoning ordinances; and,

WHEREAS, these residential neighborhoods are therefore considered non-conforming in regards to bulk, area, and setback requirements; and,

WHEREAS, the City of Fayetteville desires to preserve these neighborhoods in their present residential conditions; and,

WHEREAS, the City of Fayetteville recognizes that future residential developments are likely to be built in a historical or New Urbanist pattern,

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

Section 1. That Chapter 161: Zoning Regulations, Unified Development Ordinance, Code of Fayetteville is hereby amended by inserting Exhibit "A" attached hereto and made a part hereof.

PASSED and APPROVED this 18th day of October, 2005.



ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

APPROVED:

By: Dan Coody
DAN COODY, Mayor



Exhibit "A"

161.26 District RSF-8, Residential Single-Family - 8 units/acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

(2) *Conditional uses.*

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

(C) *Density.*

	By Right	Conditional Use
Single-family dwelling units per acre	8 or less	--
Two-family dwelling units per acre	--	8

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building height maximum	45 ft.
-------------------------	--------

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.



PC Meeting of August 8, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Leif Olson, Long Range Planner
THRU: Jeremy Pate, Director of Current Planning
Tim Conklin, Planning and Development Management Director
DATE: Aug 1, 2005

RZN 05-1576: (MT. SEQUOYAH SOUTH, 524): Submitted by FRAN FREE for property owners in the designated area for various properties located BETWEEN HUNTSVILLE RD, E TO LYTTON AVE., N TO ROCK ST AND W TO WILLOW ST. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE. The request is to rezone the property to RSFH-8, RESIDENTIAL SINGLE FAMILY HISTORIC - 8 UNITS / ACRE.
Submitted on behalf of: FRAN FREE Planner: LEIF OLSON

RECOMMENDATION:

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

PLANNING COMMISSION ACTION	Required	<u>YES</u>	☒ Approved
			☐ Denied
Date: <u>August 8, 2005</u>			
CITY COUNCIL ACTION	Required	<u>YES</u>	☒ Approved
			☐ Denied
Date: <u>September 6, 2005</u>			

Comments: _____

BACKGROUND:

Property description: The subject properties are located north of Huntsville Road, south of Rock St. and east of Willow Ave. This neighborhood was platted prior to the adoption of zoning codes for the City of Fayetteville. Typically, the lots are small, approximately 50' x 110', and are

K:\Reports\2005\PC Reports\08-08-05\RZN 05 - 1576 Mt. Sequoyah South.doc

developed with single family homes. This area of Mt. Sequoyah is very steep with slopes ranging from 10 to 25 percent. Additionally, the undeveloped and under-developed parcels are primarily covered in tree canopy. The applicant coordinated efforts to contact all property owners north of Huntsville Rd., south of Rock St., and east of Willow Ave. A large number of property owners agreed to the rezoning and signed the petition, however, some property owners objected or were unable to be contacted, so the proposed parcels to be rezoned are not all contiguous. Staff has not recommended rezoning any of the parcels that objected to this request.

Proposal: The neighborhood proposes this rezoning in order to support the existing single family homes in the area, and to ensure that any future development will occur in a similar pattern and land use. The applicants request a rezoning of the subject property from RMF-24, Residential Multi Family Residential 24 Units / Acre, to RSFH-8, Residential Single-Family Historic -- 8 units per acre.

Recommendation: Staff recommends approval of the rezoning request based on findings stated herein. Any potential future development of these properties will be compatible with the residential developments surrounding the property.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Open Space / Cemetery / Single Family Residential	R-A, Residential Agricultural
South	Commercial uses along Huntsville Rd.	C-2, Thoroughfare Commercial
East	Open Space / Single Family Residential	R-A, Residential Agricultural RSF-4, Res. Single-family, 4 units/ acre
West	Single Family Residential	RMF-24, Res. Multi-family, 24 units/acre

INFRASTRUCTURE:

Streets: Currently the properties are accessed by a number of City Streets including; Huntsville Rd., Lyton Ave., Blair Ave., Mashburn Ave., Barton Ave., Walker Rd., Willow Ave., and Rock St.. No street improvements are required for this rezoning request.

Water: Public water is available to the properties located in this rezoning application.

Sewer: Sanitary sewer is available to these properties. Any future development would require that sewer infrastructure be installed to service such development.

Fire: These properties lie in both Fire Station 1 and 3 first due area. The response time for this area is 2 minutes with a distance from the nearest fire station at one mile. Due to the unknown number of acres we are unable to calculate the projected fire and ems calls/year for this rezoning.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: The Future Land Use Plan designates this area residential. Rezoning this property to RSFH-8 is consistent with the land use plan such that it will allow residential uses compatible with the surrounding properties.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is consistent with land use planning objectives and policies and is compatible with zoning and use of adjacent properties. Surrounding properties are residential in nature.

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

Finding: The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. It will provide the potential for the development of comparable uses in close proximity to the existing single family residences.

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

Finding: Access to these properties is provided by numerous City streets and any future development will not appreciably increase the traffic danger and congestion on these streets.

Police – It is the opinion of the Fayetteville Police department that an appreciable increase and traffic danger and congestion will not be created by this rezoning request.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would decrease the potential for significant population density increases allowed in the RMF-24 zoning district.

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

TITLE XV UNIFIED DEVELOPMENT CODE

(2) Conditional uses.

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

(C) Density.

Units per acre	4 to 18
----------------	---------

(D) Bulk and area regulations.

(1) Lot width minimum.

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

(2) Lot area minimum.

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse:	
•Development	10,000 sq. ft.
•Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) Land area per dwelling unit.

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

(E) Setback requirements.

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

Cross reference(s)—Variances, Ch. 156.

(F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01)

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

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

(B) Uses.

(1) Permitted uses.

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

(2) Conditional uses.

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

(C) Density.

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

(D) Bulk and area regulations.

(1) Lot width minimum.

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

(2) Lot area minimum.

Manufactured home park	3 acres
Lot within a mobile home park	4,200 sq. ft.
Townhouses:	
•Development	10,000 sq. ft.
•Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

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

Cross reference(s)--Variance, Ch. 156.

- (F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.14 District Rmf-40, Residential Multi-Family – Forty Units Per Acre

- (A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	16 to 40
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(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(E) *Setback requirements.*

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

Cross reference(s)--Variance, Ch. 156.

- (F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.15 District R-O, Residential Office

- (A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

- (a) The densities of surrounding development;
- (b) the densities allowed under the current zoning;
- (c) the urban development goals and other policies of the city's General Plan;
- (d) the topography and character of the natural environment; and
- (e) the impact of a given density on the specific site and adjacent properties.

(2) *Lot area and yard requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

(3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

(4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

(Ord. No. 4434, §1 (Ex. A), 11-19-02; Ord. 4717, 7-5-05; Ord. 4764, 09-20-05)

161.26 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

(2) *Conditional uses.*

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

(C) *Density.*

	By Right	Conditional Use
Single-family dwelling units per acre	8 or less	--
Two-family dwelling units per acre	--	8

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

TITLE XV UNIFIED DEVELOPMENT CODE

Building height maximum	45 ft.
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- (G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

(Ord. 4783, 10-18-05)

161.27-161.99 Reserved

June 2, 2005

City of Fayetteville,
Planning Department
Attention: Leif Olson
West Mountain Street
Fayetteville, AR 72701

Subject: Rezoning

Dear Leif,

I want to thank you again for facilitating this rezoning process. You've been at the helm to answer any questions and make it smooth sailing up to this point.

Enclosed, you'll find the petition signed by property owners within the rezoning area. The highlighted signatures indicate the originals; blank copies had to be mailed to those property owners residing out of town or state.

The petition was based on information from Washington County property records as of March, 2005. I've included copies of those records, organized in the order of the petition and a City plat map with shaded parcels of those that have been signed.

There were three of us that collected these signatures: Andy Lewis, Jonna Hussey, and myself. We divided the rezoning area into three groups (A, B, and C) according to parcel number and recurring owners, followed by our own familiarity of each property owner. I am the main contact, but please feel free to call any of us with specific questions.

I must say that we have thoroughly enjoyed meeting our neighbors through this process. My visits were anywhere from 30 minutes to 2½ hours per neighbor! This hillside has plenty of history and sizable tales. We feel rezoning will help ensure the sustainability of our current neighborhood and the perpetuity of local natural resources.

Please keep me informed of each step of the process and let me know when our rezoning request will be up for public comment. Several neighbors expressed interest in attending.

Thanks again



Fran B. Free

484 S. Mashburn Ave.
Fayetteville, AR 72701
479/443-6732 home
870/818-1987 cell
franbfree@usa.net

Fayetteville Fire Department Service Delivery Impact: Zoning Review

July 12, 2005

Item	Subdivision	Annexation	Acres	Closest Fire Station	Distance from Fire Station	Response Time to Proposal area	Projected Response Time to Maximum Build Out	Projected Calls for Service at Maximum Build Out per year	Projected Fire/Other Calls for Service at Maximum Build Out per year	Projected EMS Calls for Service at Maximum Build Out per year
PZD 00-1599	Zion Gardens		13.55	4	2.4 miles	7 minutes	7.5 minutes	22	8	13
ANX 00-1603	Lane 5A	YES	5.28	5	4.3 miles	8 minutes	8.25 minutes	N/A	N/A	N/A
ANX 00-1603	Lane 5A	YES	5.28	3	3.3 miles	6 minutes	6.25 minutes	N/A	N/A	N/A
RZN 00-1604	Lane 5A		1.628	5	4.3 miles	8 minutes	8.25 minutes	1	0	1
RZN 00-1604	Lane 5A		1.628	3	3.3 miles	6 minutes	6.25 minutes	1	0	1
RZN 00-1576	Mt Sequoyah		u/k	1	1.0 miles	2 Minutes	4.0 minutes	0	0	*1
RZN 00-1576	Mt Sequoyah		u/k	3	1.0 miles	2 Minutes	3.25 Minutes	0	0	*1

*1 This property has sections in both Station 1 and Station 3's first due area. Due to the unknown number of acres we are unable to calculate the projected fire and ems calls/year for this rezoning.

3 This is the projected new station #3



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 5
ADM 05-1657
(Mt. Sequoyah South Rezoning)
Page 20 of 28

POLICE DEPARTMENT

July 18, 2005

Jeremy Pate
Director of Current Planning
City of Fayetteville
125 W. Mountain St.
Fayetteville, AR 72702

Dear Mr Pate:

This document is in response to the request for a determination of whether the proposed **RZN 05-1576 (Mt. Sequoyah South, 524)** submitted by Fran Free for property owners in the designated area for various properties located between Huntsville Road, east to Lytton Avenue, north to Rock Street and west to Willow Street would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department the proposed rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger in the area.

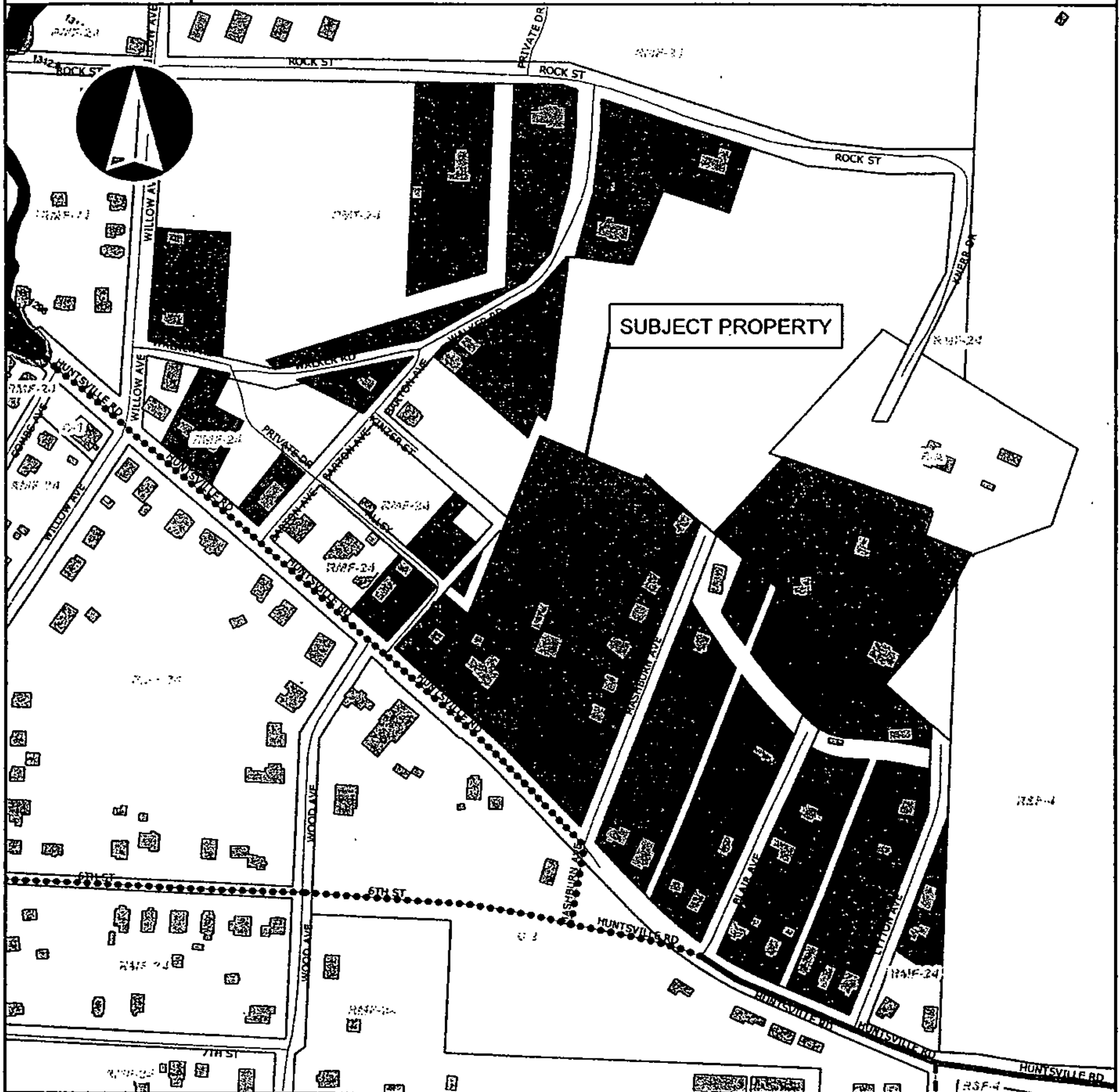
Sincerely,

Lieutenant Rob Turberville
Fayetteville Police Department

RZN05-1576

Close Up View

MT. SEQUOYAH SOUTH



Legend

- Overlay District
- Master Street Plan
- Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile

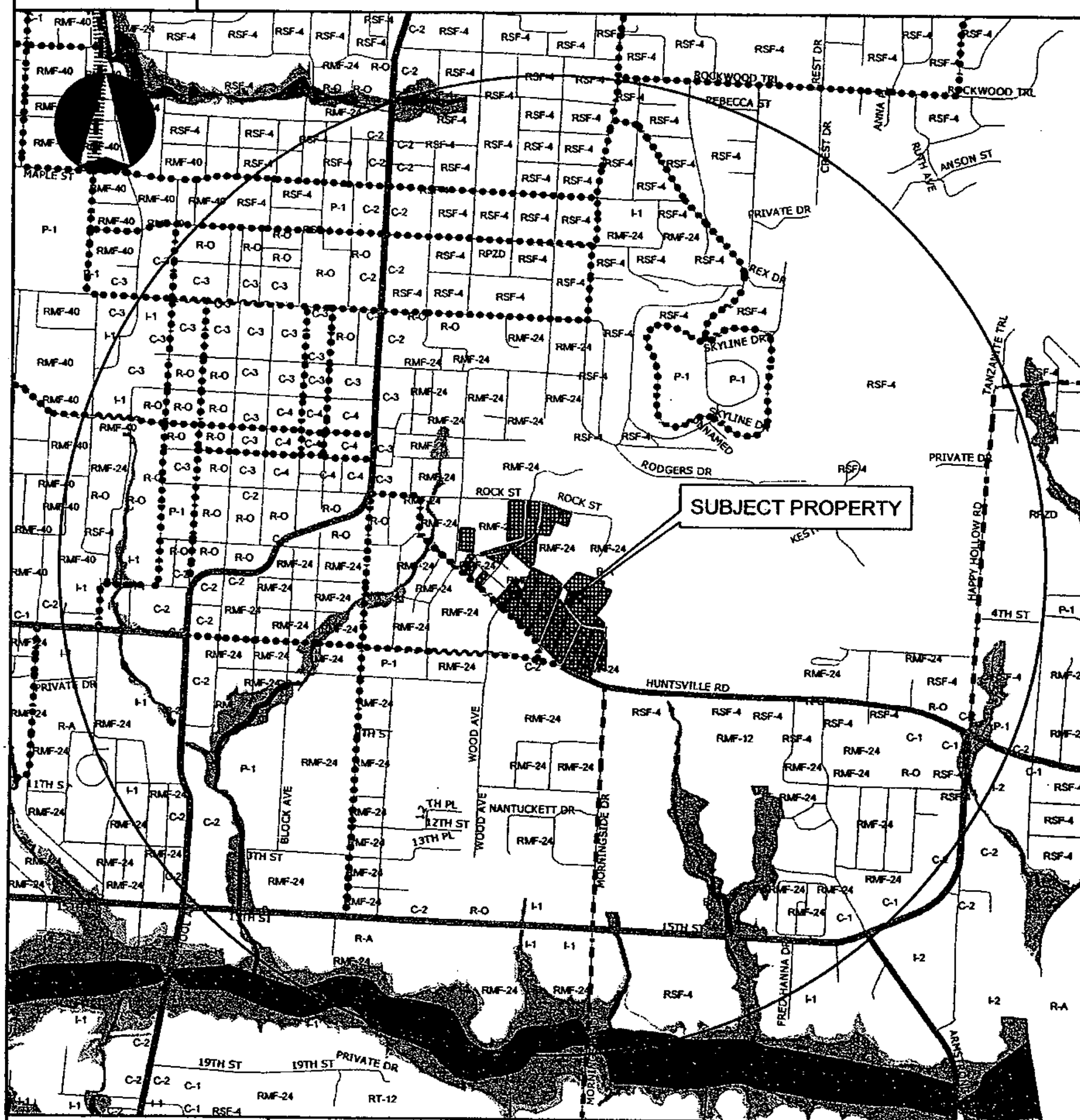
- Fayetteville
- Outside City
- RZN05-1576

0 75 150 300 450 600 Feet

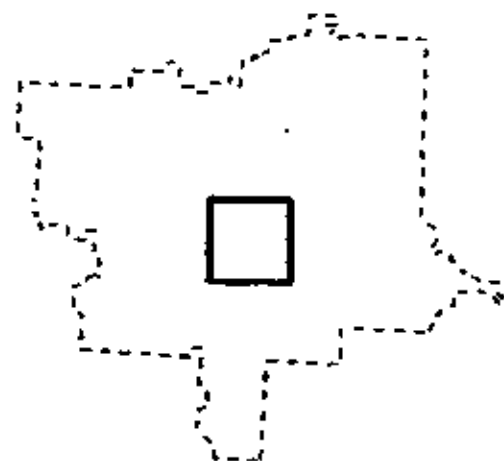
RZN05-1576

MT. SEQUOYAH SOUTH

One Mile View



Overview



Legend

Subject Property

RZN05-1576

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.125 0.25

0.5

0.75

1

Miles

Why Downzone This Neighborhood?

1. We are currently zoned 24 *Multi-Family Units* per acre. That means that apartment complexes or high-density developments could be built here among our *Single Family Units*. We do not believe this is feasible because of the steep hillside.
 - a. We all see how the trees and utility poles lean downhill
 - b. We all have or know neighbors with sliding foundation problems

Imagine trying to build a large-scale development on this hillside. Although we are not proponents of urban sprawl, there are certain areas that should not be developed to this magnitude. This is one of those areas.

2. The city is currently working on a Hillside Development Ordinance to restrict building on steep hillsides, such as ours. If this ordinance passed, our hillside would be included in this. This ordinance has been in the works for over 3 years and this latest attempt to pass it through the City Council is the 3rd try! We hope that it does pass, but feel we cannot take the chance to wait and see.
 - a. The reason it has not passed yet is because there is too much opposition from developers who want to build large-scale *Multi-Family Units* on marginal lands, such as steep hillsides
 - b. The ordinance would restrict these developments on slopes steeper than 15%. Our hillside has been found to contain slopes of steeper than 25%.
 - c. This ordinance would be mandatory. Although we have gotten assistance from City Planning staff, our petition is voluntary and is an effort of only our neighbors.
3. The City Planning staff is dutifully working with us. They have looked at our lot sizes and established a new zoning district that specifically conforms to our existing lots and structures in this neighborhood. This is not a common service that the City provides. Besides this, they are not charging us anything to go through the rezoning process. This normally costs \$1500.00 per lot

What is the Process?

Once these signatures are collected, they will be turned in to the City Planning staff.

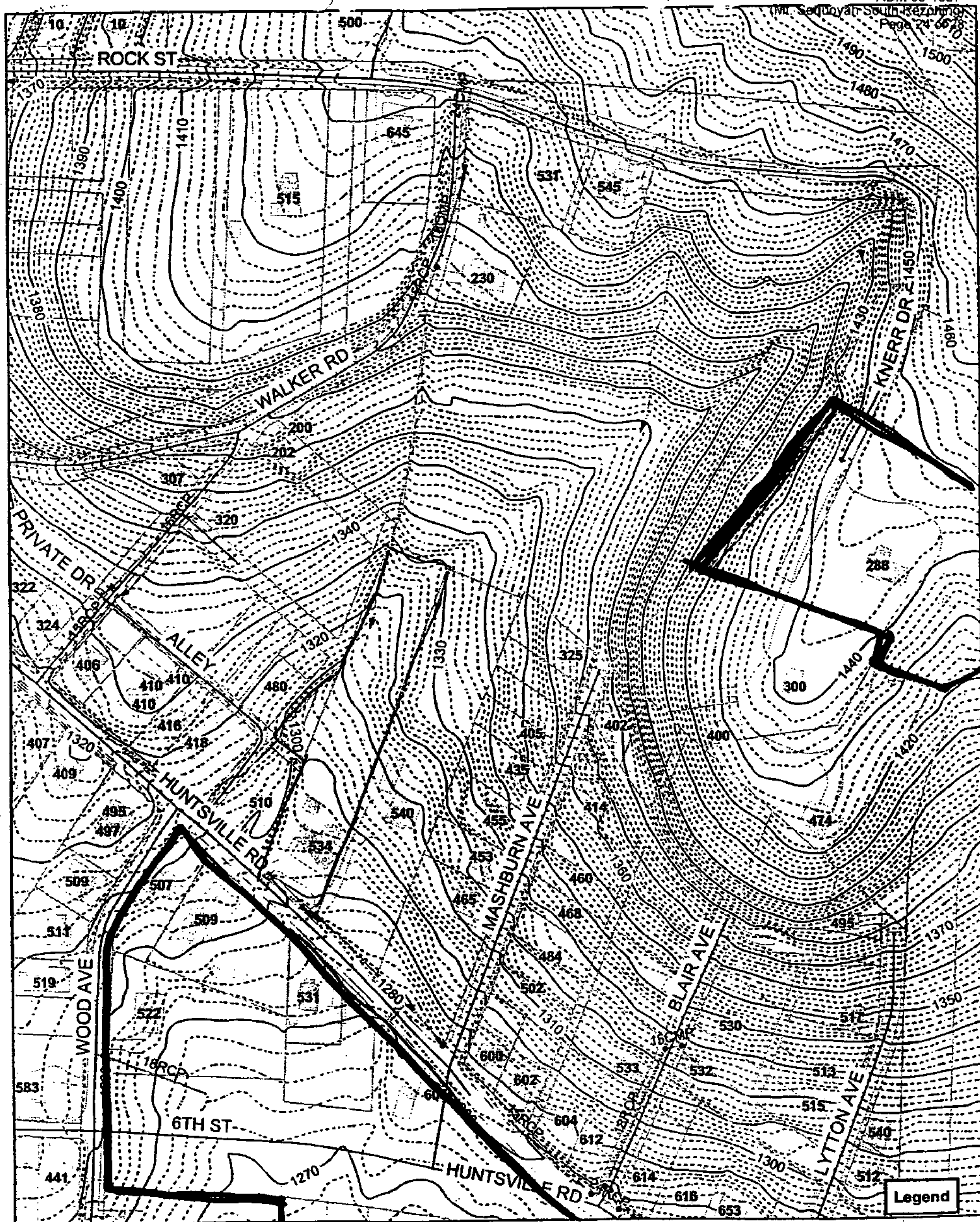
They will then present our proposal to the Planning Commission.

The Planning Commission will then vote on it and pass it to the City Council.

The City Council approves it.

And we celebrate.

We may need to attend a Planning Commission and City Council to present our side. Please provide your phone number if you wish to be contacted.



1 inch equals 200 feet

Fayetteville

NOT OFFICIAL FLOOD MAP FOR FLOOD INSURANCE PURPOSES.

THE TIMES

FRIDAY — May 6, 2005



Diamond Hogs needing wins this
weekend against Gators - Page A10

Dedicating dollars

Fayetteville spends more per student than nearby districts

Editor's note: This is the first in a three-part series of articles dealing with issues relating to Tuesday's millage election for the Fayetteville School District. The remaining stories will run Saturday and Monday.

BY BRETT BENNETT
Northwest Arkansas Times

Fayetteville had the highest per pupil spending aver-

age among Northwest Arkansas "Big 4" districts at \$7,983 per pupil during the 2003-2004 school year, according to the latest figures available from the Arkansas Department of Education. Springdale, by comparison, spent \$5,927 per pupil, Rogers spent \$6,105 and Bentonville spent \$5,982. According to Superintendent Bobby New, having a

high spending-per-pupil average is in some ways a good thing. It shows serious money is being spent to provide a quality education. "It's a function of the community supporting a quality education program," he said. "I really believe it is truly a function of Fayetteville being separate in philosophy from most of the other schools in the state."

The expenses add up, but

the community so far has been willing to pay a higher

than average property tax rate because of its expectation of a quality education, hospitals, schools and parks and recreation, he said. The recognition the district has received and the academic performance of its students speaks for itself, New added.

That proof includes that about 70 percent of its graduates attend college, the dis-

trict's National Merit Scholarship winners and the large percent of high school students recognized as "advanced placement scholars" for taking honors classes.

The district has also been regularly recognized by Expansion Management magazine as one of the nation's top school districts.

See PER STUDENT, page A

Man found not guilty for shooting intruder

BY TRISH HOLLENBECK
Northwest Arkansas Times

A man who shot and killed an intruder outside his home was found not guilty Thursday.

After a full day of testimony, jurors deliberated for 45 minutes in the Washington County Courthouse and found Randy Grizzle not guilty of second-degree murder as well as lesser and included charges of manslaughter and negligent



Neighbors band together to 'downzone' neighborhood

BY MARSHA L. MELICHAM
Northwest Arkansas Times

As the city struggles with the issues created by rapid growth, one Fayetteville neighborhood is looking to take a step back in time. Some residents in the Norwood and Fairland additions are moving toward rezoning or "downzoning" their neighborhood from multi-family zoning (24

units per acre) to single-family zoning (six units per acre). It's just too much," she said.

According to Free, some slopes in the area are a 25 percent grade. As a point of comparison, she notes that the Hillside Preservation ordinance, if approved, would protect slopes of 15 percent.

"We hope it goes through, but we don't feel we can take that chance,"

See DOWNTOWN, page A5

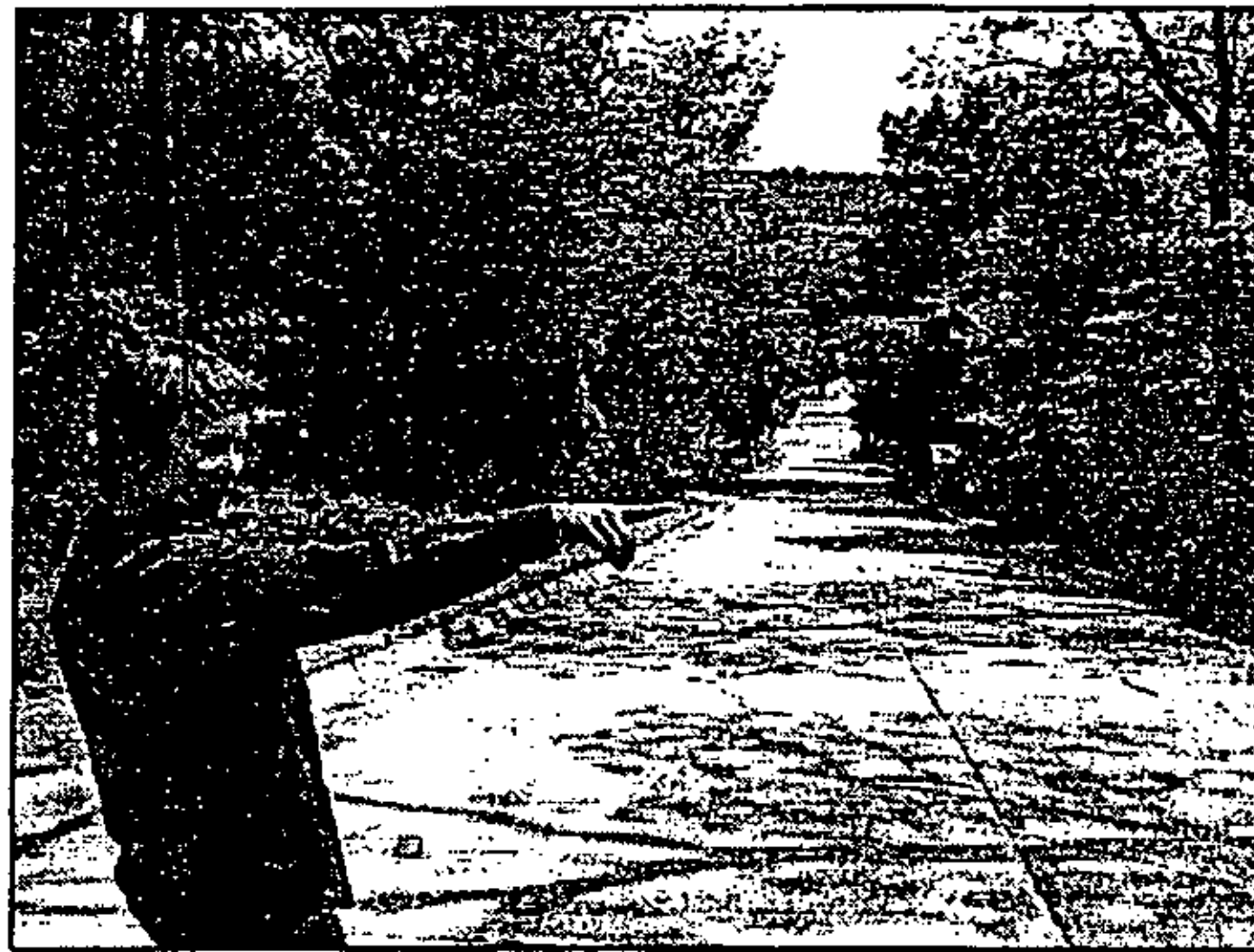
Downzone

Continued from A1

said Free, noting that the second hillside preservation task force is in its second year. "We want to go ahead and protect this area for single-family homes

"One difference between this and the Hillside ordinance is this is voluntary. Anybody that does not want to sign onto this doesn't have to. We're hoping it's not going to be a check-board. So far it's looking good."

Homes in the area already have drainage problems, Free explained, and any more impervious surfaces would only add to the



BROOKE McNEELY Northwest Arkansas Times

Local resident Fran Free points Thursday to an area on a steep hill on Blair Road that is zoned to hold a large apartment complex. Free is working with her neighbors in the Norwood and Fairland additions to rezone or "downzone" their neighborhood from multi-family zoning to single-family zoning because they don't believe their hillsides can handle 24 units an acre.

existing problems.

The current zoning, which allows for apartment complexes or high density development, was approved in the 1970s, apparently without a topological map, Free said.

The petition drive has been under way about three weeks for the approximately 100 parcels of land in the designated area. Many of the landowners being approached to sign did not realize the area was zoned for multi-family building, Free said.

About 75 percent of the landowners have signed and none of those approached so far has opposed the idea, according to Free.

"When I've been talking

to them about the possibility of apartments going in sometime in the future, their first concerns are traffic and parking, water issues, drainage issues, which is understandable. These are narrow streets, dead-end streets," Free said.

Streets in the area include Mashburn Avenue, Blair Avenue, Litton Avenue, Walker Road and Knerr Drive.

Once petitions are complete, they will be presented to city planners, who will use them as part of a staff report to the Fayetteville Planning Commission. From there the issue goes to the City Council.

The city has RSF-1 and RSF-4 classifications now, which are residential single

family, one and four units per acre respectively.

For this project, a new classification would have to be created.

"Our lots would not conform to that (RSF-1 and RSF-4) for certain setbacks, so the city is making a whole new zoning district for us," Free said. "It's going to be somewhere around RSF-6."

The lot size of about 50 feet wide or 5,000 square feet conforms to the homes and lot sizes already in the neighborhood.

Free concluded, "I'm not a proponent of urban sprawl, for sure; there are just some areas that should not have high density development. This is one of them."

Times Editorial

The downzone push

Petition a symbol
of democracy in action

As we speak, the Fayetteville community is receiving a fitting lesson regarding democracy in action. Just consider, for instance, a recent statement put forth by Fayetteville resident Fran Free:

"I'm not a proponent of urban sprawl, for sure; there are just some areas that should not have high density development. This is one of them."

Of course, we might amend that statement a bit, enough anyway to point out that we don't have a problem with the idea of development. In fact, we're patriotic to the extent that we're extremely proud of a local economy that makes the nation's capitalist structure proud on a daily basis. Growth is great, after all.

Only sometimes it isn't. Free, and other residents of Fayetteville's Norwood and Fairland additions, aren't thrilled with a type of expansion they feel is endangering the dignity, even the safety, of their neighborhood. In essence, residents are worried the wrong type of structures on the hillsides close to their homes will create a drainage problem throughout the area that might make life there unnecessarily difficult.

The idea of hillside preservation isn't new. There's been talk over the years of creating an official hillside ordinance to direct construction on similar sites to limit drainage complications, among other things. In fact, one Fayetteville task force hopes to have an ordinance regarding hillside preservation/construction ready for consideration by the town's planning commission and City Council sometime this summer.

This popular movement even received a shout-out of support last Thursday from Robert Redford during a speaking engagement at the University of Arkansas. Although his remarks were relatively brief, one important point the famous actor and noted conservationist wished to express to the Fayetteville community is the ongoing importance of community activism, of the power of neighbors to join together in the hopes of affecting real change to an ongoing problem.

And that's what we're seeing take shape in the wood and Fairland additions. Residents then worried on behalf of their community — but, instead of talking about it, or waiting for the city to act, actively discussing "downzoning" the neighborhood. In this case, it means changing the immediate area from multi-family zoning (24 units per acre) to single-family zoning (six units per acre).

This current action against expansive growth goes beyond the simple hope that one day things change. In this case, a petition drive circulating for much of the past month appears to be building steam. Regarding the roughly 100 parcels of land the petition seeks to protect, Free recently told the *Times* that 75 percent of neighbors have already signed it, an impressive representation of the support for "downzoning."

A petition that receives such strong support is an important victory in any democracy — and one hopefully the rest of the community will remember whenever important issues arise regarding their own lives and neighborhoods. After all, if opinion remains close to unanimous, it will be difficult to believe the City Council could credibly ignore the area's will for too long. As Redford reminded the crowd last week, popular support has a funny way of snowballing into policy in a representative democracy.

At the same time, it's important to understand the balance that must be met anytime a restriction on construction is being discussed. For instance, most people are fans of the environment, and no one is a fan of urban sprawl, but few of us wish to put the breaks on a local economy that's evolved into one of the most promising anywhere in the United States. And, despite all the talk that Northwest Arkansas is disappearing, drive 10 minutes off the beaten path in any direction, and guess what? You're right back in the middle of wilderness.

This conversation is taking us in the direction of moderation. Let's not mislead ourselves into believing the construction rate in Northwest Arkansas is on the verge of destroying the scenic life we all enjoy ... because it isn't. But let's also hope Fayetteville government is responsive to the wishes of any local neighborhood when an overwhelming majority of residents so clearly prefer to restrict growth — or boost it — especially if the conversation involves the environment *and* their own homes.

Either way, balance is key.

Who writes the editorials?

The editorial board determines the viewpoints expressed in our editorials. Its members are Publisher Jeff Jeffus, Executive Editor Greg Harton, Managing Editor Christie Swanson and Editorial Page Editor Scott Shackelford.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

C. 6
Dover, Kohl and Partners Contract
Page 1 of 26

6-Dec-05
City Council Meeting Date

Karen Minkel
Submitted By

Planning
Division

Operations
Department

Action Required:

Approval of a contract with Dover, Kohl and Partners in the amount of \$225,000 to facilitate the public participation process for the City Plan 2025 as well as a contingency of \$25,000 for organizing a speakers panel in conjunction with the City Plan 2025 and paying for facilities costs during the public participation process.

\$250,000.00 Cost of this request	n/a Category/Project Budget	n/a Program Category / Project Name
1010 6600 5314 00 Account Number	n/a Funds Used to Date	n/a Program / Project Category Name
03024 Project Number	n/a Remaining Balance	n/a Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☒

Previous Ordinance or Resolution # n/a

Original Contract Date: 11-18-05
Date

Original Contract Number: 11-16-05
n/a

Received in City Clerk's Office

Received in Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Planning and Development Management Director

From: Karen Minkel, Long Range Planner

Date: November 18, 2005

Subject: Approval of a Resolution and Budget Adjustment in the amount of \$250,00 from the Designated Fund Balance from the Sale of Wilson Springs to Contract with Dover, Kohl, and Partners for the City Plan 2025

RECOMMENDATION

Planning Staff recommends approval of a \$225,000 contract with Dover Kohl and Partners to facilitate the public participation process of the City Plan 2025

(Comprehensive Plan) and to provide a transportation and economic analysis. In addition, Planning Staff recommends approval of \$25,000 to serve as a contingency for organizing a speakers panel in conjunction with the Community Kick-Off for the City Plan and for paying facilities costs during the public participation process.

Item	Allotment
Dover, Kohl, and Partners	\$225,000
City Plan 2025 Contingency	
Facilities	\$4,000
Audio/Visual Equipment	\$3,000
Expenses for Hands on Design Workshops and Work-in-Progress Session	\$3,500
Publicity	\$2,000
Community Kick-Off	\$12,500

BACKGROUND

On December 19, 1995, the City Council passed resolution 147-95, which determined that major revisions of the General Plan should be scheduled every five years. The last major revision to the General Plan was in 2000.

The goals of the City Plan 2025 encompass goals expressed by the City Council and the public. In the Strategic Plan developed by City Council, one of the goals is to ensure that the City have planned and managed growth, which is the purpose of the City Plan 2025. According to a draft copy of the 2005 Citizen Survey Report, residents on average felt that Fayetteville's population had grown somewhat too fast and expressed a preference for the City purchasing and preserving open space. These opinions suggest that a widespread public participation process focusing on long-term planning would offer citizens the opportunity to address these issues.

In May of 2005, Planning Staff invited all City Council members to individual meetings to discuss the overall approach to and cost of the City Plan 2025. After these meetings, a selection committee was formed to select a consultant to facilitate the public participation

process. The members of the selection committee were: Gary Dumas, Director of Operations, Tim Conklin, Planning and Development Management Director, Jeremy Pate, Director of Current Planning, Susan Thomas, Public Information Officer, Leif Olson, Long Range Planner, Karen Minkel, Long Range Planner, Frank Johnson, Police Chief, Tony Johnson, Fire Chief, Connie Edmonston, Parks and Recreation Director, Phillip Stafford, President of the University of Arkansas Technology Development Foundation, Jill Anthes, Planning Commissioner, and Lioneld Jordan, Ward 4 Alderman.

The City received six proposals in response to the Request for Proposals. Two firms were interviewed, and Dover, Kohl and Partners was selected by the committee. The public participation process is tentatively scheduled for February of 2006, pending Council approval of Dover Kohl's contract.

BUDGET IMPACT

There is no net budget impact to General Fund reserves because the \$250,000 in funding will come from Designated Fund Balance from the Sale of Wilson Springs.

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

C. 6
Dover, Kohl and Partners Contract
Page 4 of 26

Budget Year 2005	Department: General Government Division: Miscellaneous Program: Miscellaneous	Date Requested 11/15/2005	Adjustment Number
--------------------------------	---	---	-------------------

Project or Item Requested:
\$250,000 is requested in the Downtown Master Plan Study project.

Project or Item Deleted:
\$250,000 from the Wilson Springs Proceeds designated in General Fund balance is proposed.

Justification of this Increase:
Funds are needed to enter into a \$225,000 contract with Dover, Kohl, and Partners to facilitate the Public Participation Process of the City Plan 2025. In addition, \$25,000 is needed for project contingency.

Justification of this Decrease:
A portion of the proceeds from the sale of the Wilson Springs property which is held in General Fund Designated Fund Balance.

Sufficient funding remains to comply with City policy.

Increase Budget (Decrease Revenue)

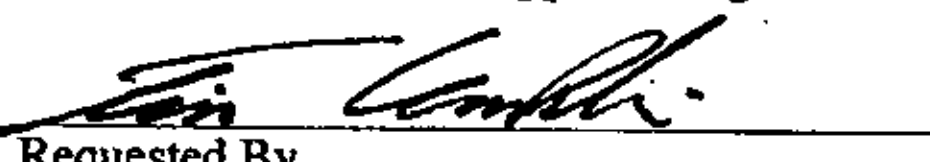
Account Name	Account Number				Amount	Project Number	
Professional services	1010	6600	5314	00	250,000	03024	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	1010	0001	4999	99	250,000		

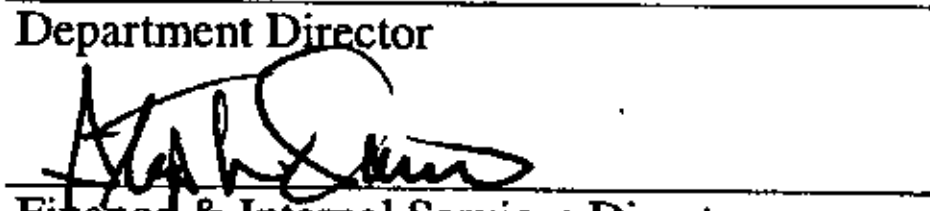
Approval Signatures

Budget Office Use Only

 **Requested By** 11-18-05 **Date**

 **Budget Manager** 11-18-05 **Date**

Department Director _____ **Date** _____

 **Finance & Internal Services Director** 11-18-05 **Date**

Mayor _____ **Date** _____

Type: A B C D E

Date of Approval _____

Posted to General Ledger _____

Posted to Project Accounting _____

Entered in Category Log _____

Initial	Date
Initial	Date
Initial	Date
Initial	Date

RESOLUTION NO. _____

A RESOLUTION AWARDDING A CONTRACT IN AN AMOUNT NOT TO EXCEED \$225,000.00 TO DOVER, KOHL AND PARTNERS TO FACILITATE A PUBLIC PARTICIPATION PROCESS FOR THE CITY PLAN 2025; APPROVING A CONTINGENCY IN THE AMOUNT OF \$25,000.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$250,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards a contract in an amount not to exceed \$225,000.00 to Dover, Kohl and Partners to facilitate a public participation process for the City Plan 2025. A copy of the contract, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a contingency in the amount of \$25,000.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$250,000.00.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

SERVICES AGREEMENT
OR
PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into this ____ day of _____, 2005 by and between the City of Fayetteville, a municipal corporation of the State of Arkansas ("City") and The Image Network, Inc d/b/a Dover, Kohl, & Partners, a Delaware Corporation whose offices are located at 1571 Sunset Drive, Coral Gables, Florida hereafter called "Dover Kohl".

In consideration of the mutual covenants and promises herein contained, Dover Kohl and the City agree as follows:

TERMS:

1. **TERM:** The term of this Agreement shall be eight months, commencing on the effective date hereof. Dover Kohl agrees that it will be able to complete performance of the Contract Services within the Initial Term, subject, however, to delays beyond Dover Kohl's reasonable control.

2. **SCOPE OF SERVICE:**

A. Dover Kohl agrees to provide the Services as specifically described, and subject to the special terms and conditions set forth in Attachment "A" hereto, which by this reference is incorporated into and made a part of this Agreement.

B. Dover Kohl represents and warrants to the City that: (i) it possesses all qualifications, licenses and expertise required for the performance of the Services; (ii) it is not delinquent in the payment of any sums due the City, including payment of permits fees, occupational licenses, etc., nor in the performance of any obligations to the City, (iii) all personnel assigned to perform the Services are and shall be, at all times during the term hereof, fully qualified and trained to perform the tasks assigned to each; and (iv) the Services will be performed in the manner described in Attachment "A".

3. **COMPENSATION:**

A. The amount of compensation payable by the City to Dover Kohl shall be based on the rates and schedules described in Attachment "B" hereto, which by this reference is incorporated into this Agreement; provided, however, that in no event shall the amount of compensation exceed Two Hundred Twenty Five Thousand Dollars (\$225,000.00), including all labor compensation and direct and normal expenses incurred in completing its professional research and advisory services to the City's Planning Division.

B. Dover Kohl shall send invoices to the City no more frequently than once per month, reflecting compensation due for services rendered by Dover Kohl and reimbursement due for expenses incurred by Dover Kohl. All invoices are payable upon receipt by the City. If payment for an invoice is not received within sixty (60) days of the invoice date, Dover Kohl reserves the right to suspend performance of Contract Services until Dover Kohl receives all payments due.

All submitted invoices from Dover Kohl shall be accompanied by sufficient supporting documentation and contain sufficient detail, to allow a proper audit of expenditures, should City require one to be performed.

4. **OWNERSHIP OF DOCUMENTS:** To assist Dover Kohl in performing the Contract Services, the City shall furnish to Dover Kohl, without charge, copies of all available background reports, memoranda, correspondence, ordinances, legislation, rules and regulations, technical data and other information reasonably requested by Dover Kohl that is relevant to the Contract Services to be provided by Dover Kohl, including, but not limited to, documentation on community demographics, infrastructure, housing, environmental conditions, traffic patterns, finances, public resources, utilities, land ownership and availability, topography and physical conditions, land and improvement values and land-use and development plans. In addition, the City shall be responsible for taking, in cooperation with Dover Kohl, such actions as may be necessary to obtain required reviews and approvals from appropriate public agencies. Dover Kohl understands and agrees that any information, document, report or any other material whatsoever which is given by the City to Dover Kohl is and shall at all times remain the property of the City. Dover Kohl agrees not to use any such information, document, report or material for any other purpose, other than general corporate promotion/qualification purposes, without the written consent of the City, which may be withheld or conditioned by the City in its sole discretion.

Notwithstanding the completion, suspension, termination, or expiration of this Agreement, the following provisions in this section shall apply with respect to ownership of documents produced by Dover Kohl:

A. **Final Work Products.** Final work products shall be delivered to and become property of the City in the format specified in Attachment A. City shall have a right to retain, use, and reproduce final work products.

5. **AUDIT AND INSPECTION RIGHTS:**

A. The City may, at reasonable times, and for a period of up to three (3) years following the date of final payment by the City to Dover Kohl under this Agreement, audit, or cause to be audited, those books and records of Dover Kohl which are related to Dover Kohl's performance under this Agreement. Dover Kohl agrees to maintain all such books and records at its principal place of business for a period of three (3) years after final payment is made under this Agreement.

B. The City may, at reasonable times during the term hereof, inspect Dover Kohl's facilities and perform such tests, as the City deems reasonably necessary, to determine whether the goods or services required to be provided by Dover Kohl under this Agreement conform to the terms hereof, if applicable. Dover Kohl shall make available to the City all reasonable facilities and assistance to facilitate the performance of tests or inspections by City representatives.

6. **AWARD OF AGREEMENT:** Dover Kohl represents and warrants to the City that it has not employed or retained any person or company employed by the City to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with, the award of this Agreement.

7. **ARKANSAS FREEDOM OF INFORMATION ACT:** City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, Dover Kohl will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8. **COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS:** Dover Kohl understands that agreements between private entities and local governments are subject to certain laws and regulations, including laws pertaining to public records, conflict of interest, record keeping, etc. Dover Kohl agrees to comply with and observe all applicable federal, state and local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

9. **INDEMNIFICATION:** Dover Kohl shall indemnify, defend and hold harmless the City and its officials, employees and agents (collectively referred to as "Indemnitees") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by this Agreement which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of Dover Kohl or its

employees, agents or subcontractors (collectively referred to as "Dover Kohl"), or the failure of Dover Kohl to comply with any of the paragraphs herein or the failure of Dover Kohl to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance of this Agreement. Dover Kohl expressly agrees to indemnify and hold harmless the Indemnitees, or any of them, from and against all liabilities which may be asserted by an employee or former employee of Dover Kohl, or any of its subcontractors, as provided above, for which Dover Kohl's liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws.

10. CITY'S TERMINATION RIGHTS:

A. The City shall have the right to terminate this Agreement, in its sole discretion, at any time, by giving written notice to Dover Kohl at least ten (10) business days prior to the effective date of such termination. In such event, the City shall pay to Dover Kohl compensation for services rendered and expenses incurred prior to the effective date of termination. In no event shall the City be liable to Dover Kohl for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

B. The City shall have the right to terminate this Agreement, without notice or liability to Dover Kohl, upon the occurrence of an event of default thereunder. In such event, the City shall not be obligated to pay any amounts to Dover Kohl while Dover Kohl was in default under this Agreement.

11. **INSURANCE:** Dover Kohl shall, at all times during the term hereof, maintain such insurance coverage as may be reasonably required by the City. All such insurance, including renewals, shall be subject to the approval of the City for adequacy of protection and evidence of such coverage shall be furnished to the City on Certificates of Insurance indicating such insurance to be in force and effect and providing that it will not be canceled during the performance of the services under this contract without thirty (30) calendar days prior written notice to the City. Completed Certificates of Insurance shall be filed with the City prior to the performance of services thereunder, provided, however, that Dover Kohl shall at any time upon request file duplicate copies of the policies of such insurance with the City.

If, in the judgment of the City, prevailing conditions warrant the provision by Dover Kohl of additional liability insurance coverage or coverage which is different in kind, the City reserves the right to require the provision by Dover Kohl of an amount of coverage different from the amounts or kind previously required, then Dover Kohl shall obtain such specific coverage requested as an additional cost to the City for such, and shall afford written notice of such change in requirements thirty (30) days prior to the date on which the requirements shall take effect.

12. **NONDISCRIMINATION:** Dover Kohl represents and warrants to the City that Dover Kohl does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with Dover Kohl's performance under this Agreement on account of race, color, sex, religion, age, handicap, marital status or national origin. Dover Kohl further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement.

13. **ASSIGNMENT:** This Agreement shall not be assigned by Dover Kohl, in whole or in part, without the prior written consent of the City's, which may be withheld or conditioned, in the City's sole discretion.

14. **NOTICES:** All notices or other communications required under this Agreement shall be in writing and shall be given by hand-delivery or by registered or certified U.S. Mail, return receipt requested, addressed to the other party at the address indicated herein or to such other address as a party may designate by notice given as herein provided. Notice shall be deemed given on the day on which personally delivered; or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

TO DOVER KOHL:
Mr. Joseph A. Kohl
Dover, Kohl, & Partners
1571 Sunset Drive
Coral Gables, Florida 33143

TO THE CITY:
Mayor Dan Coody
City of Fayetteville, Arkansas
113 W. Mountain
Fayetteville, Arkansas 72701

15. **MISCELLANEOUS PROVISIONS:**

A. This Agreement shall be construed and enforced within the legal jurisdiction of Washington County, Arkansas according to the laws of the State of Arkansas.

B. Title and paragraph headings are for convenient reference and are not a part of this Agreement.

C. No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

D. Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Arkansas or the City of Fayetteville, Arkansas, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

E. This Agreement constitutes the sole and entire agreement between the parties hereto. No modification or amendment hereto shall be valid unless in writing and executed by properly authorized representatives of the parties hereto.

16. **SUCCESSORS:** This Agreement shall be binding upon the parties hereto, their heirs, executors, legal representatives, and successors. This agreement may not be assigned.

17. **ENTIRE AGREEMENT:** This instrument and its attachments constitute the sole and only agreement of the parties relating to the subject matter hereof and correctly set forth the rights, duties, and obligations of each to the other as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect.

18. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized, this the day and year above written.

"City"

CITY OF FAYETTEVILLE, a municipal corporation

ATTEST:

Sondra Smith
City Clerk

By: _____
Dan Coody
Mayor

"Dover Kohl"

**Image Network, Inc. d/b/a Dover, Kohl, & Partners,
a Delaware corporation**

ATTEST:

Name:
Title:

By: _____
Joseph A. Kohl
Vice President / Secretary

ATTACHMENT "A"

City Plan 2025 Scope of Services

Attachment A supplements the Agreement dated _____, 2005, by and between the City of Fayetteville, (the City) and The Image Network, Inc. d/b/a Dover, Kohl & Partners (Dover Kohl), and is by such Agreement incorporated therein by reference.

I. Scope of Services.

Task One – Pre-Charrette Analysis: City Plan 2025

The pre-charrette analysis will include the review of all relevant information as well as on-site analysis, initial meetings with the City staff, City committees, and any Consultants to the City.

1.01 Project Kick-off Meeting (Trip #1)

At the start of the project, the Project Director from Dover-Kohl will schedule a meeting with City staff to review base information needs, strategize on the public participation process, identify stakeholders, and develop a detailed schedule for the Comprehensive Plan Update. The purpose of the meeting is to determine "who's doing what" and to further the professional relationship of the consultant team being an extension of City staff.

1.02 Create Public Awareness

The team will assist City staff with public outreach for the charrette by writing press releases to be distributed to the media, neighborhood associations, business associations, and community organizations among others. At the City's request, we will be available to discuss the project with reporters or any other interested individuals. The City will be responsible for all publicity.

1.03 City of Fayetteville Communications

Dover Kohl will provide information for the City's TV-station and website. Information will include project updates and progress reports, photographs, maps, renderings, and images.

1.04 Review of Relevant Information

Members of the Dover-Kohl team will review relevant information (as provided by the City) in order to familiarize themselves with the diverse characteristics of Fayetteville. An in-depth review of the General Plan 2010, Strategic Plan 2004-2009, City ordinances, previous studies and plans, current and historical maps, and demographic information will prepare the team for the project ahead.

1.05 Site Visit (Trip #2)

A Principal and Project Director from Dover-Kohl, as well as other leading members of the team, will travel to Fayetteville for a 2-day analysis trip. The site visit will include the following:

1.05.01 Interviews and Meetings

At this time initial interviews, presentations, and meetings with City of Fayetteville staff, City Council, elected officials, The University of Arkansas, neighborhood organizations, and local stakeholders will be scheduled to discuss overall project goals and objectives.

1.05.02 Urban Design and Land Use Analysis

The team will analyze Fayetteville by studying the existing town and country framework. We will examine the existing urban form, analyzing the network of streets, blocks and lots, building types, and building form. We will examine designated open spaces, parks, trails, and agricultural lands as well. The analysis will include an examination of the existing land use, density, and urban design elements throughout the City. The analysis will be performed with the livability needs of the community and region in mind. Careful attention will be given to the four distinct and unique strategy areas in the city.

1.05.03 Kick-Off Press Conference

In addition to interviews and site analysis, the team is available to participate in a press conference with City officials to inform the community of the public planning process for the Comprehensive Plan.

1.06 Economic Analysis

The Economic Analysis will identify a range of infill and redevelopment opportunities in the City. The team will review demographic and economic / market data to forecast growth and development throughout the city. The analysis will feature an examination of land use regulations and economic development strategies. The analysis will examine the local Fayetteville market with respects to the continued growth of Northwest Arkansas. The analysis will prepare the team with a thorough understanding of growth pressures in the region and will include strategies to further economic development in the city.

1.07 Transportation Analysis

The Transportation Analysis will examine city-wide mobility from the perspective of all modes of travel: walking, biking, using transit, and driving. Speeds and volumes on existing thoroughfares will be studied to better understand the community character related to transportation. Research and information will be gathered from team experience in peer communities in order to present already proven solutions. The street network, as well as existing infrastructure capabilities, will be examined.

Task Two – The Charrette: City Plan 2025

The Charrette phase involves preparing and hosting a two-week public involvement design session for the City of Fayetteville. The Dover-Kohl team will utilize an open planning process of workshops to quickly engage the community in expressing their current ideas and desired outcomes for the evolution of their city. The use of the community design charrette provides a collaborative forum to bring all parties together and focus on a common goal. The hands-on nature of the design workshops and the opportunity to interact with differing perspectives allows issues to be identified and resolved. In addition, the workshops provide an educational opportunity for all participants. The format of the charrette will be tailored to obtain the best possible community input and resulting work products. Dover-Kohl will work with the City to structure the format of the charrette.

2.01 The Charrette (Trip #3)

On an agreeable date selected by the City, Dover Kohl will travel to Fayetteville for a thirteen day charrette. Dover Kohl will provide a staff of seven Planners, which will include as Principal, Victor Dover, and Project Director to facilitate the public workshop. The charrette will feature the following events:

Community Kick-off Presentation. An evening Community Kick-off Presentation will introduce the Dover-Kohl team and mark the official start of the charrette. The event will feature a "food for thought" presentation to educate participants on best practices in community planning, Smart Growth, and urban design.

Hands-on Design Sessions (4). As a centerpiece of the charrette, Dover, Kohl & Partners will facilitate four Hands-on Design Sessions, one for each geographic area of the city. Dover-Kohl will work with City staff to determine an appropriate schedule for the various sessions, as well as appropriate locations for each. Dover, Kohl & Partners is flexible in the exact format of the Hands-on Design Session(s), with the primary purpose of the event(s) being to get the maximum number of people involved and participating in the creation of a city-wide plan.

Each Hands-on Design Session will begin with a short introduction and review of the various issues and concerns affecting the City as a whole. A briefing will then explain the challenge for participants, orient participants to base maps, and set ground rules and goals for the session. Participants will then gather around tables to draw their important ideas. Each table will have a facilitator from the Dover-Kohl team or City staff to assist participants in the design exercises. During the first part of the table sessions, the community will identify the important issues associated with the future growth and development of the City and discuss them in small groups. Each table will be provided with a large base map of the entire City. After examining City-wide needs and issues, each table will focus on their particular area of the city. Participants will work and draw on base maps to illustrate how they might like to see their area of the City (South Fayetteville, West Fayetteville, East Fayetteville, or Center City) evolve in the future by describing the uses, open spaces, building design, landscaping, transportation, and services for the area. At the end of the workshop, a spokesperson from each table will report the findings and major points to the entire assembly. The goal of the hands-on design session is to forge a community consensus and develop a long-range vision for the future of the City of Fayetteville.

On-site Design Studio. Following the hands-on design sessions the team will set-up an open design studio, preferably in a central location within the City, for the charrette in order to refine the plan and continue to gather community input. At this time, the team members will analyze the information gathered at the hands-on sessions and pre-charrette analysis in order to formulate the initial concepts for the Comprehensive Plan. In addition, the team will assess more specific issues that pertain to each of the study areas. Members of the City staff, elected officials, local stakeholders, and the community will be encouraged to stop in throughout the week as new issues come to mind and to check on the project's status.

Technical Meetings. While working on-site, the team will schedule various technical meetings with City staff, local merchants, key property owners, real estate brokers, Fayetteville Chamber of Commerce, University of Arkansas officials, neighborhood associations, historic preservation organizations, environmental groups, and other key City stakeholders. These meetings will assist in the team's continued understanding of the physical, economic, environmental, and organizational forces that are shaping the City.

"Work in Progress" Presentation. At the end of the charrette week, the team will present the work generated to date at a "Work in Progress" Presentation. Sketches and visualizations will be presented illustrating the hypothetical build-out for the City based on citizen input. These initial plans will serve as examples of how the various areas of the city can change and grow.

Accompanying renderings will include "before and after" illustrations that show possible scenarios for future development. Also, a summary of development strategies will be presented, highlighting the various opportunities for quality development and infill development.

Task Three – City Plan 2025 and Implementation

The draft concepts begun during the charrette will be refined to best illustrate the community's long-term vision for the City. Graphics and text will demonstrate what is possible by regulating the mix of uses, building types, densities, and street details. Illustrative plans of prototype scenarios will demonstrate the possibilities for future development. A policy document will be produced that accompanies the plan to guide future development.

3.01 Refine the Plan

The draft concepts begun during the charrette will be refined to best illustrate long-term development prospects. Illustrations of the study areas will demonstrate the possibilities for future development, highlighting specific strategies for development, redevelopment, or open space preservation. The plan will designate a hypothetical development intensity and an appropriate mix of uses. Building types, including civic buildings and public squares and parks, will be included. The final product will be an illustrated physical master plan that will guide the preservation of Fayetteville's community character as it continues to grow and develop.

3.02 Create a Vision and Goals Report

The Vision and Goals Report will consist of a concise plan document summarizing the community process, traditional urban design features, planning analysis, hypothetical build-out plan, and the implementation policies. The report will include both descriptive text as well as definitive illustrations, including diagrams, pictures, quotes, maps, and documentation to describe the overall community vision and goals for the City and the four strategy areas. The report will be organized as two complete chapters to be inserted in the Comprehensive Plan.

Task Four – Review and Presentation

4.01 Review the Draft Vision and Goals Report

Dover-Kohl will submit an "administrative draft" for City staff and elected/appointed officials review. The City will provide a consolidated set of comments and revisions to Dover-Kohl. After completing revisions, Dover-Kohl will submit a "second administrative draft" for staff review. Once the draft is acceptable to the City, Dover-Kohl will submit a "public draft" for community review and comment.

4.02 Final Presentation

Once reviewed and revised, Dover-Kohl will submit the Vision and Goals Report for final review. Dover-Kohl will return to Fayetteville to present the final documents and illustrations of the planning process to the City staff, City Council, and the community.

II. Responsibilities of City. Dover Kohl's completion of tasks herein within a timely basis is

contingent on City's cooperation in providing available information and its participation with respect to certain project activities. City shall be responsible to Dover Kohl for the timely performance of the following tasks:

- A. Provide, on a timely basis, the Base Information requested in "Exhibit C".
- B. Provide supplementary information that may be requested from time to time during the course of the Project.
- C. Provide, supplies, equipment and facilities necessary to create an effective public workshop as requested below:
 - 1. For the public workshop, an appropriately sized room to accommodate the public with the required audio/visual equipment. The auditorium must be a large, high-ceilinged room that will accommodate along the walls horizontal displays of several long maps. Dover Kohl must have access to lighting controls and be able to darken the room. The room should be equipped with a projection screen no smaller than nine feet by twelve feet (9x12 ft.) and a working public address or sound system with microphone hook-ups. City shall also provide one (1) wireless "lavaliere" clip-on microphone and one (1) wireless hand-held microphone. The auditorium and equipment should be made available to Dover Kohl, as needed.
 - 2. For Recording of all public meetings and workshops.
- D. Provide additional table facilitators as needed for the workshop. Dover Kohl will provide seven (7) facilitators. There should be one (1) facilitator per every ten (10) attendees to the workshop. Dover Kohl can accommodate seventy (70) attendees.
- E. Provide a reasonable estimate for the attendance of the workshops. Create an RSVP list, if possible.
- F. Provide a project coordinator as a single point of contact for the City.
- G. City Staff will attend and participate in project meetings upon the request of Dover Kohl.
- H. Provide public outreach throughout the project and soliciting the attendance of third parties whose participation the City considers important.
- I. Make every effort to insure the attendance of a majority of elected City officials, stakeholders, and investors at the charrette presentations.
- J. Provide appropriate meeting room(s) for the Charrette meetings, workshops, presentations, and studio workspace, including securing the space.
- K. Provide necessary refreshments for public involvement events.
- L. Promptly tender payment of all valid invoices.

III. List of Final Work Products. Dover Kohl shall produce specific graphic and written deliverables in conjunction with the professional services described in this Attachment.

- A. Graphic Documents.** Graphic Documents will include the following or a reasonable equivalent:
 - 1.) *Illustrative Master Plan* (1), conceptual plan of the City rendered in color and showing streets, green space, and where infill development and new development should occur, and various other features of development; at a scale to be determined.
 - 2.) *Perspective Drawings* (5), rendered in color and showing examples of typical streets, squares, parks, specific locations of importance or other significant design concepts, as Dover Kohl may deem appropriate.
 - 3.) *Diagrams*, as needed, rendered in black and white, illustrating ideas or concepts such

as street types (drawn in plan & section), building types, architectural elements, and neighborhood design.

B. Written Documents. Written Documents will include the following or a reasonable equivalent:

1.) *Vision and Goals Report*, a concise plan document summarizing the community process, traditional urban design features, parking management and transportation strategy, planning analysis, hypothetical build-out plan, advertising and marketing theme and strategy, recruitment strategy, and the implementation strategy. The report will be organized as two complete chapters to be formatted and inserted in the Comprehensive Plan.

C. Format of Deliverables. Dover Kohl shall provide final work products to City in the following format:

Graphic documents. One (1) full size plot or print of each drawing, at a scale and size to be determined. Graphic documents will also be included in the Master Plan Report and Design Standards. Digital scans of the drawings will be provided on a CD-ROM (1 copy). Upon request and at additional cost, Dover Kohl will also provide additional sets of high quality reproductions of the graphic documents in an appropriate printed format.

Written documents. One reproducible and unbound copy of all written documents shall be printed on paper in an appropriate format. One bound copy of the Master Plan Report and Design Standards shall be provided to the City. The documents shall also be digitally stored in an appropriate computer format, and will be provided to City on a CD-ROM (1 copy). The report can also be converted into a read-only format (*.pdf), using the freeware program Adobe Acrobat Reader for reproduction by the City. The Adobe Acrobat format is usually "downloadable" from the Internet if posted to a web site.

Additional Copies. City may request additional copies of the above deliverables upon payment to Dover Kohl of the actual reproduction cost, plus a fee for additional services in accordance with Attachment B of this Agreement.

ATTACHMENT "B"
Professional Fees and Reimbursable Expenses

Attachment B supplements the Agreement dated _____, 2005, by and between the City of Fayetteville, (the City) and The Image Network, Inc. d/b/a Dover, Kohl & Partners (Dover Kohl), and is by such Agreement incorporated therein by reference.

- I. Professional Fees.** The Client shall compensate Dover Kohl for professional services rendered in the performance of this Agreement or in the service of the Client.
- 1.1 Flat Fee.** The City shall make payment to Dover Kohl of professional fees in the amount of **\$205,000** for the completion of the work in the Agreement. The flat fee does not include reimbursable expenses advanced either in the performance of the Agreement or in the service of City. Such expenses will be billed in accordance with Section II and III of this Exhibit. The payment of this sum to Dover Kohl shall be apportioned as follows: Thirty (30%) shall be paid upon the conclusion of Phase 1. Fifty (50%) percent shall be paid upon the conclusion of the Charrette; and the remaining balance shall be apportioned into monthly payments corresponding to the percentage of work completed.
- II. Maximum Reimbursable expenses.** In addition to the payment of professional fees, the City shall reimburse Dover Kohl for reasonable expenses arising in the performance of this Agreement or in the service of the City. A budget not to exceed \$20,000 will be set aside as an approximation of reimbursable expenses for this project. Dover Kohl shall invoice such expenses either monthly or from time to time as they may be incurred. The Client shall be advised in advance of any extraordinary reimbursable expenses. Appropriate documentation or receipts shall corroborate all reimbursable expenses. Project expenses deemed within the reasonable discretion of Dover Kohl include the purchase of the following goods and services:
- (a) Reproduction graphics and reproduction expenses, such as printing, photocopying, photographing, photo-processing, filing, and computer storage supplies and materials;
 - (b) Mailing, packaging, and shipping by couriers, overnight, express, priority, or other type of delivery service or the U.S. Postal Service;
 - (c) Long-distance telephone, fax, and modem charges;
 - (d) Travel expenses, such as transportation, food, and lodging. Food expenses will be reimbursed at an amount close to the 2006 Domestic Per Diem Rate as established by the federal government or \$49 per day per person.
 - (e) Commercial rentals, as required, for supplies, equipment, work rooms, meeting rooms, and presentation rooms;
 - (f) Supplemental insurance coverage or insurance policy endorsements required by the Agreement, if Dover Kohl's existing insurance coverage is unacceptable to the City; and
 - (g) Any other miscellaneous or out-of-pocket expenses reasonably contemplated by the scope of services for this Project.
- III. Payments.** Dover Kohl shall submit monthly invoices to the City for professional services rendered and reimbursable expenses incurred to date. Such invoices shall be paid in full promptly upon receipt.

ATTACHMENT "C"
Base Information

In accordance with Task 1.04 and 2.02, of the Scope of Services, Dover-Kohl requests the City to provide the following Base Information:

- *SCALE BASE MAPS*, in digital and hard copy formats, indicating existing conditions of the project area and context, including significant features above and below the ground, environmental constraints, archaeological sites, utility locations, etc. Maps should specifically include an AutoCAD plan of the project area indicating any property lines, easements, and any existing building footprints and heights, roadways, sidewalks, driveways, curbs and curb cuts, alleys, and traffic control devices, street signage, and current parking. Dover Kohl will work with the City's GIS Department to obtain necessary base map information.
- *AERIAL PHOTOGRAPHS*, preferably in color, in plan view and at the largest possible scale.
- *RELEVANT EXISTING REGULATIONS*, which may constrain zoning, land use, or previous development proposals envisioned or supported by this Project, and relevant published comments of local government officials and administrators regarding such constraints.
- *ANY OTHER RELEVANT DATA*, including pertinent portions of previous local zoning approvals, covenants, and previous site studies, traffic studies, infrastructure studies, market feasibility studies, historical background, etc.

Upon commencement of the Project, the City shall provide Dover Kohl with the above information. The City represents to Dover Kohl that it may depend upon the accuracy and completeness of the information so provided. If City is unable to provide any of the requested information, it shall immediately contact Dover Kohl to determine whether such information is reasonably necessary and how such information might otherwise be obtained. If Dover Kohl considers the requested information reasonably necessary for the project and the City remains unable to provide such information, then Dover Kohl may prepare or obtain such information as an additional service compensable in accordance with the Agreement.

FAYETTEVILLE

Wilson Springs
Proceeds

C. 6
Dover, Kehl and Partners Contract
Page 24 of 26

THE CITY OF FAYETTEVILLE, ARKANSAS

Memo to Council

June 30, 2004

From: Mayor Dan Coody

I apologize to each of you for not having the list of potential projects for funding to you in the manner you were expecting. This had been worked out with the staff to give to you before the meeting but, obviously, the paperwork was not given to you as it was supposed to be.

After visiting with the Council to get an idea of your wishes concerning how this money could be best utilize, this proposal tries to reflect the visions of both the Council and this administration. This proposal will not satisfy everyone 100%. The wishes for this money ranged from leaving all of it in the bank to spending all of it on one program. This plan represents a middle ground that would give benefit to several projects that are important to this community. While \$5.3 million (purchase price after closing costs plus accrued interest) may sound like a lot of money, it is surprising how quickly it can be absorbed in needed municipal projects.

What I have tried to do was focus on projects that are needed in Fayetteville but lack adequate funding. For example, Alderman Jordan wished that some money would go to a new fire station but we are budgeting to fund a fire station in our C.I.P. and we are in the planning stages now for two new stations on the east side as we construct a new station on the west side. Since we have a funding stream in place for this program, I thought it prudent to fund programs where funding was inadequate or non-existent. The only program for potential funding where revenue is regularly programmed is for street improvements (\$21 million for streets and overlay program in our 5 year C.I.P) because this issue received the highest priority in our citizen's survey. Additional revenue would accelerate our work plan for street improvements.

The other earmarks would be for quality-of-life efforts that will also return revenue to the taxpayers over time based on increased regional and State tourism, provide amenities that would help local companies recruit their best and brightest employees to Fayetteville, and enhance our position in the New Economy as the undisputed cultural center for Northwest Arkansas.

Alderwoman Thiel's suggestion for an amount for the Audubon Society is problematic in that the Society has advanced no proposal and does not own any land yet. The memo from our City Attorney's office also raises a concern. However it is ultimately up to the Council as to how these issues are addressed.

My recommendations are:

\$1.8 Million returned to the General Fund for Economic Development to replenish the fund that originally purchased the land.

\$2 Million for street improvements.

\$750,000 for the Botanical Garden of the Ozarks that is housed on City property at Lake Fayetteville.

\$500,000 for acquisition and clean up of creek corridor and construction for Scull Creek Multi-Use Trail in the heart of Fayetteville to connect our northern and southern trails.

\$250,000 for the City-wide, 2025 Master Plan due for updating next year with the caveat that we incorporate a more comprehensive, detailed land-use plan for the larger community than we have to date.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

*Wilson Springs
Proceeds*
MICROFILMED

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council
FROM: Dan Coody, Mayor
DATE: June 29, 2004
Subject: Use of Wilson Springs Proceeds

Recommendation

It is my recommendation to City Council that we rank the following list of potential uses of the Wilson Springs proceeds in priority order and begin the process to further refine these uses during the next few months.

Discussion

The City received approximately \$5.2 million for the property the uses listed below is not in any priority order. They do reflect the items reviewed in our conversations over the past few weeks.

Potential Uses

Savings/Economic Development
Street Improvements
Matching Funds to the Botanical Garden
Matching Funds to the Audubon Society
Scull Creek Trail Corridor
General Plan/ City-Wide Master Plan Update

Next Steps

Determine amounts to designate for each use
Determine amounts and streets
Receive proposal for consideration
Receive proposal for consideration
Determine amounts for the initial phase of project
Determine amounts for the initial phase of project



City of Fayetteville, Arkansas

Allocation of Wilson Springs Land Sale Proceeds

Wilson Springs Proceeds

\$ 5,187,115

2004 Activity:

Botanical Gardens

(750,000)

Fay Jones Trust - Land Purchase

(50,000)

2005 Activity:

Fayetteville Downtown Partners (Year 1 of 3)

(150,000)

Van Asche Cost Share

(1,032,788)

Scull Creek Trail

(500,000)

2006 Activity:

Fayetteville Downtown Partners (Year 2 of 3)

(90,000)

\$ 2,614,327

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

4 Dec-05
City Council Meeting Date

Karen Minkel
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 05-1838: (City of Fayetteville, 516-17, 555-56): The request is for approval of an ordinance to annex 488.98 acres into the City of Fayetteville. The property is completely surrounded by the City of Fayetteville and the City of Farmington, with Fayetteville bordering 82 percent of the island.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 11-18-05
Department Director Date

Previous Ordinance or Resolution # n/a

[Signature] 11-18-05
City Attorney

Original Contract Date: n/a

Original Contract Number: n/a

[Signature] 11-18-05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 11/18/05

[Signature] 11/18/05
Mayor Date

Received in Mayor's Office
ENTERED 11/18/05

Comments:

City Council Meeting of December 6, 2005
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director

From: Karen Minkel, Long Range Planner

Date: November 29, 2005

Subject: South Ruppel Road Island (ANX 05-1838)

RECOMMENDATION

Planning Staff recommends approval of an ordinance annexing the unincorporated area bounded by the City of Fayetteville and the City of Farmington as authorized by A.C.A. § 14-40-501, which contains 488.98 acres.

BACKGROUND

Currently, the City of Fayetteville borders 82 percent of the South Ruppel Road Island while the City of Farmington borders 18 percent.

Annexing this unincorporated area will allow for the following:

- Compatibility in land use and development standards
- Ability to plan and construct future City capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City

The following City services (including but not limited to) will be available after annexation.

- Trash service
- Police protection
- Fire protection
- Sewer service if available—any extensions of public or private lines to serve these areas will be the responsibility of the property owner/developer
- Curbside recycling and yard waste pick-up.

Land	Area	Current Land Use	Future Land Use	Recommended Land Use
South Ruppel Road Island	488.98 acres	R-A	Residential	RSF-1

The following services are currently provided:

Service	Number of Accounts
Water Only	4

City Council Meeting of December 6, 2005
Agenda Item Number

Water and Solid Waste	2
Water and Sewer	0
Water, Sewer and Solid Waste	0

Certified letters informing property owners of the City's intent to annex were mailed November 18, 2005.

DISCUSSION

This property could be annexed into the City of Farmington through a referendum process in the future. Staff recommends annexation to ensure planned and managed future growth and potential sales tax revenue; this property is in close proximity to current capital improvement projects and contains future capital improvement projects (i.e. Ruppel Road, Fire Station #7, Boys and Girls Club, a new school, etc.).

BUDGET IMPACT

See attached documents for police and fire department comments.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

South Ruppel Road Island Annexation Comments/ Sgt. Harter/ 11-17-05

Benefits

Western access to a future road (Ruppel Rd.) running north and south connecting Wedington Rd. and W. 6th.

Will relieve traffic on roads and at traffic lights at I540 and access roads Futrall and Shiloh:

Emergency services working west of I540 will have quicker and easier access from Wedington to 6th and from 6th to Wedington, due to the construction of Ruppel Road.

Fire Station 7- Access to W. 6th St.

Persons living, or shopping in an area southwest of I540 and 6th Street will have access to Fayetteville Boys Club, the proposed sites for the new elementary and middle schools, and Holcomb Elementary and Holt Middle School.

Will create a more natural western border of jurisdiction according to the map.

Proposed annexation study area Currently undeveloped

Zoning- RSF-1, one unit per acre

Potential Requirements and Costs to Accommodate Annexation

Traffic light will be required for Ruppel and 6th.

Traffic control on Ruppel road and intersections of Ruppel/Wedington and future intersection Ruppel/6th.

An increase in traffic on Ruppel Road.

Relief to W. 6th and I540 intersections may come at a cost of increase in traffic congestion at Ruppel/Wedington and at future Ruppel/W. 6th

As with any other increases in population and area, this will increase the demands for services of Fayetteville Police Department.



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Date: November 18, 2005

To: Karen Minkel

From: Captain Dale Riggins

Thru: Chief Tony Johnson

Subject: Annexation proposal for South Ruppel Road

This property currently borders Station 7 and Station 6's coverage area. Station 7 on Ruppel Road will cover the North section of this property with an anticipated response time of 2.25 minutes to the beginning of the development. Station 6 on S Hollywood will cover the South section of this property with an anticipated response time of 2.75 minutes to the beginning of the development. Since there is no joining roads through this property it is not possible to anticipate the response time to the entire property, but it will fall well within the 6 minute goal the fire department has for both stations.

Our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time, will also be met. Both Station 2 and Station 1 have an anticipated response time of 8 minutes.

If the entire 480 acres was annexed and re-zoned at R-4 (4 units/acre), we would anticipate this area to produce 440 runs (173 fire/other and 267 EMS). The service impact of this development will typically take eighteen months, after the development is started, to occur.

If you have any questions please feel free to contact us.

Chief Tony Johnson
Fayetteville Fire Department

Captain Dale Riggins
Fayetteville Fire Department

ORDINANCE NO. _____

AN ORDINANCE TO ANNEX INTO THE CITY OF FAYETTEVILLE, ARKANSAS SEVERAL PARCELS COMPLETELY SURROUNDED BY THE INCORPORATED LIMITS OF FAYETTEVILLE AND THE CITY OF FARMINGTON, ARKANSAS.

WHEREAS, the annexation policy of the City of Fayetteville adopted by the City Council is to annex those parcels of land which have become completely surrounded by incorporated city limits; and

WHEREAS, pursuant to A.C.A. § 14-40-501 (a)(2), because the incorporated limits of Farmington and Fayetteville have completely surrounded the land described in Exhibits A & B and because Fayetteville has the greater distance of city limits adjoining the unincorporated area's perimeter, the City of Fayetteville has the statutory right to annex this land if it complies with one of the five requirements of A.C.A. § 14-40-302; and

WHEREAS, after annexation into the City of Fayetteville, the inhabitants of those lands will be afforded the same services of police and fire protection and solid waste collection as current citizens of Fayetteville enjoy; and

WHEREAS, all the lands identified in Exhibit A (map) and Exhibit B (legal description) comply with at least one of the five requirements for annexation stated in A.C.A. § 14-40-302; and

WHEREAS, at the time of the adoption of this ordinance, the highest and best use of these lands is NOT for agricultural or horticultural purposes.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby annexes into the City of Fayetteville, Arkansas the lands identified in Exhibit A (map) and Exhibit B (legal description).

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends the official map of the City of Fayetteville to reflect the change provided in Section 1 above.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby assigns the zoning of these lands to be RSF-1, Residential Single Family, one unit per acre.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby assigns these lands to Ward 4.

PASSED and APPROVED this the 6th day of December, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

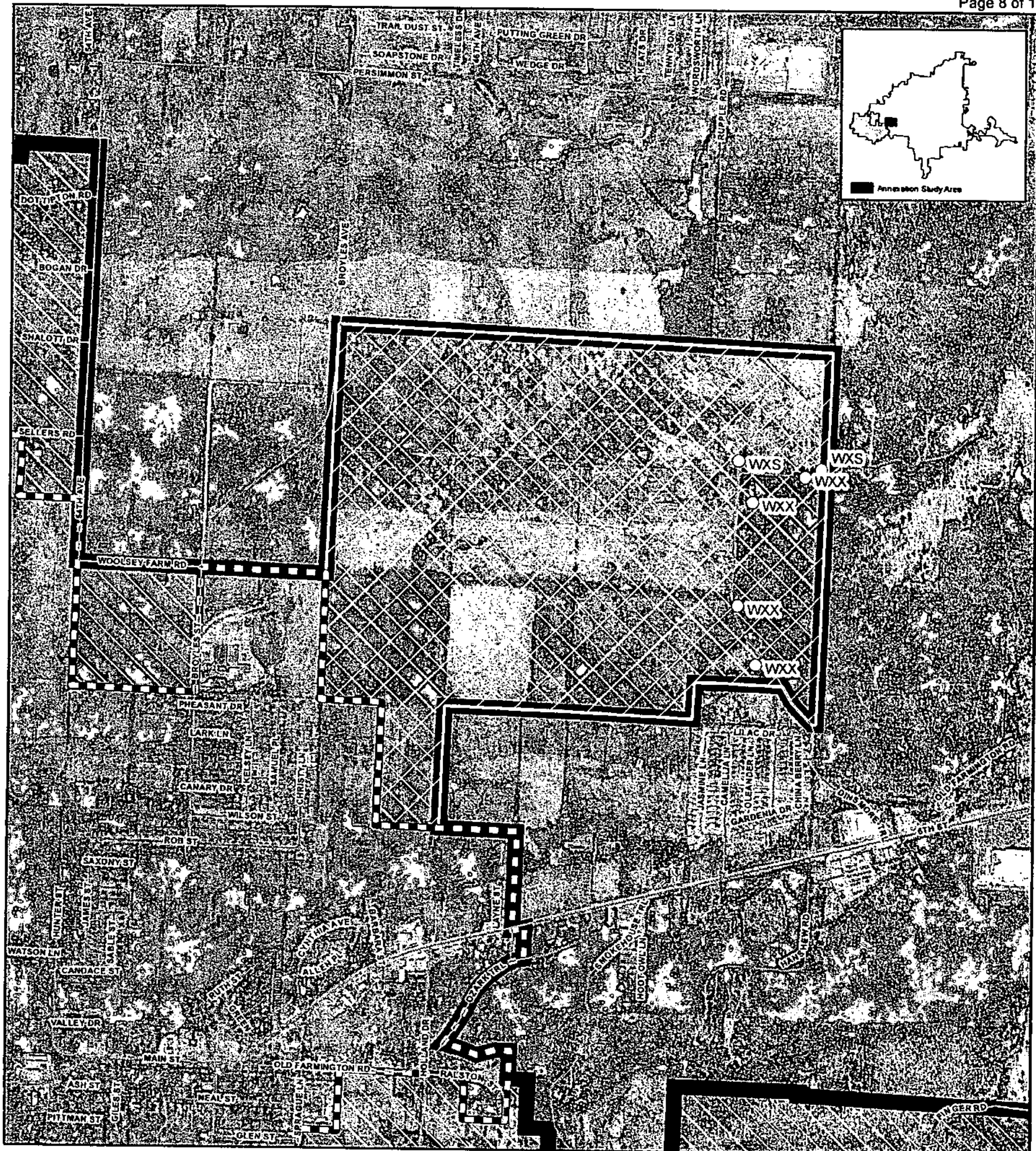


EXHIBIT "A" **ANNEXATION STUDY AREA**



0 500 1,000 1,500 2,000 2,500
Feet

Imagery from 2005

Annexation Study Area

Area Not Incorporated



Farmington City Limits

Fayetteville City Limits



City Service

WSS = Water, Sewer, Solid Waste (respectively)

X = No Service

EXHIBIT "B"

Proposed Annexation Area

The South Half ($S\frac{1}{2}$) of Section 13, Township 16 North, Range 31 West; AND the East Half ($E\frac{1}{2}$) of the Southwest Quarter ($SW\frac{1}{4}$) of the Northwest Quarter ($NW\frac{1}{4}$) of Section 24, Township 16 North, Range 31 West; AND the North Half ($N\frac{1}{2}$) of the North Half ($N\frac{1}{2}$) of Section 24, Township 16 North, Range 31 West; LESS AND EXCEPT the following: Part of the Northeast Quarter ($NE\frac{1}{4}$) of the Northeast Quarter ($NE\frac{1}{4}$) of Section 24, Township 16 North, Range 31 West, being more particularly described as Beginning at a point in the center of the public road which is 0.72 chains West of the Southeast corner of said forty acre tract, and running thence West 19.125 chains to the Southwest corner of said forty acre tract, thence North 6 chains, thence East 14.28 chains to the center line of the aforementioned road, thence South 30 degrees East 2.74 chains, thence South 40 degrees 15 minutes East 1.05 chains, thence South 45 degrees 20 minutes East 4 chains to the point of beginning, containing ten (10) acres, more or less. Containing in all 490 acres, more or less, located within Washington County, Arkansas.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

COMMUNITY PLANNING AND ENGINEERING SERVICES DEPARTMENT

November 18, 2005

NOTICE OF PUBLIC HEARING

To Whom It May Concern:

In 2005, the Arkansas State Legislature approved legislation that enables municipalities to annex land that is completely surrounded by two or more municipalities. The municipality with the greater distance of city limits adjoining the unincorporated area's perimeter may propose an ordinance calling for annexation. Your property has been identified as being located within an unincorporated area completely surrounded by the City of Fayetteville and the City of Farmington and is being proposed for annexation by the City of Fayetteville.

The City of Fayetteville adopted an annexation policy in 2001 that recommends annexation of completely surrounded unincorporated areas or "islands" as part of the City's long range plan – General Plan 2020. Annexing these unincorporated areas will allow for the following:

- Compatibility in land use and development standards
- Ability to plan and construct future City capital improvements
- Ability to require the same level of infrastructure improvements required for new development within these areas as required within the City
- Less confusion for public safety – City police and fire

The following City services (including but not limited to) will be available after annexation:

- Trash Service
- Police Protection
- Fire Protection
- Sewer service if available- Any extensions of public or private lines to serve these areas will be the responsibility of the property owner/developer
- Curbside recycling and yard waste pick up

The current property tax millage impact of this annexation is an additional 2.1 mills.

- *For Example: Value – Your value is based on 20% of the market value of real estate (subject to limits of Amendment 79). If the fair market value of real estate is \$100,000, it will have a value of $20\% \times \$100,000 = \$20,000$. Multiply \$20,000 by the additional millage and this will equal your additional tax.*
 - 1 mill is 1/10 of one cent (\$.001)
 - Additional 2.1 mills on \$100,000 home ($\$20,000 \times 0.0021$ mills) = \$42

Water and sewer rates inside the City are lower than outside the City. Additional information on the water, sewer, and trash rates are available at the Business Office located at 113 W. Mountain Street (521-1258).

NOTICE OF PUBLIC HEARING IMPORTANT MEETING DATES

The City is notifying all property owners of their right to appear and present their views on the proposed annexations. The City of Fayetteville encourages you to attend the City Council meeting regarding these annexation proposals.

City Council Meeting Tuesday, December 6, 2005 6:00 p.m. Room 219

All meetings will be held in the City Administration Building located at 113 W. Mountain Street, Fayetteville AR.

Please contact Karen Minkel, Long Range Planner, if you have any questions or need further information at 479-575-8269.

Sincerely,

Tim Conklin
Planning and Development Director

*FARMINGTON SD
ON BOYLES*

ORDINANCE NO. 12(u)

AN ORDINANCE ACCEPTING THE ANNEXATION OF CERTAIN TERRITORY WITHIN THE FARMINGTON SCHOOL DISTRICT TO THE CITY OF FARMINGTON, AND ASSIGNING THE TERRITORY TO A WARD.

WHEREAS, a Petition was filed with the County Court of Washington County by the majority of real estate owners of the hereinafter described territory praying that said territory be annexed to and made a part of the City of Farmington, Arkansas; and

WHEREAS, on April 21, 2004, the County Court of Washington County, Arkansas, found that the Petition was signed by a majority of the real estate owners in said territory; that said territory was contiguous and adjoining the present corporate limits of the City of Farmington; that an accurate plat or map of said territory had been filed with and made a part of said Petition; that proper notice had been given in the time and manner prescribed by law; and that all things pertaining thereto had been done in the manner prescribed by law; and

WHEREAS, the time fixed by law for appealing from said Order of annexation made by the County Court has expired and no appeal has been taken from said Order.

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

SECTION 1. That the following described lands and territory contiguous and adjoining the City of Farmington, Arkansas, be and the same is hereby accepted as part of, and annexed to and made a part of the City of Farmington, to wit: The Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Twenty-Three (23), Township Sixteen (16) North, Range Thirty-One (31) West, containing forty (40) acres, more or less.

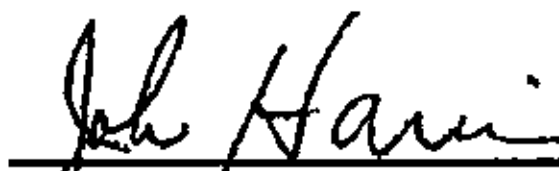
SECTION 2. That the above-described territory shall be annexed to and made a part of Ward 1 of the City of Farmington, and the same shall henceforth be a part of said ward as fully as existing parts of said ward.

FROM : NWARPC

FAX NO. : 4797517150

Nov. 14 2005 03:05 PM (C. 7
Nov. 14 2005 03:05 PM (C. 7
Page 13 of 14

PASSED AND APPROVED THIS 23rd. DAY OF August
2004.


John Harris, Mayor

ATTEST:


Jean Swift, City Clerk

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

6-Dec-05
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 05-1784: (Four Seasons Sunrooms, 370): Submitted by Four Seasons Sunrooms, for property located 1586 East Amber Drive. The property is zoned RSF-4, Residential Single Family, 4 units per acre. The request is to vacate a portion of a utility easement on the subject property.

\$363.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 11-17-05
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 11-18-05
City Attorney

Original Contract Number: n/a

[Signature] 11-18-05
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
11/18/05

[Signature] 11/18/05
Mayor Date

Received in Mayor's Office
ENTERED
11/18/05

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: November 15, 2005

Subject: Easement Vacation for Four Seasons Sunrooms (VAC 05-1784)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of a 20-foot utility easement as depicted herein.

BACKGROUND

The subject property is 1586 East Amber Drive, Lot 25 of Charleston Place Subdivision Planned Unit Development. The lot was platted with a 20-foot utility easement between lots 24 and 25. There were no objections from the utility representatives to the requested easement vacation.

A survey of the property conducted prior to obtaining a building permit for an addition to the home revealed that a porch on the west side of the home protruded into the 20-foot utility easement. Photos and a survey of the site are attached to this report. The applicant desires to construct an enclosed sunroom over the porch, and a building permit may not be issued unless the utility easement is vacated.

The applicant requests to vacate 90.4 square feet of the existing easement under the existing porch.

DISCUSSION

Notification was provided to all appropriate utility representatives and adjoining property owners. No objections were submitted. This item was heard at the regular Planning Commission on November 14, 2005. The Planning Commission voted 8-0-0 on its consent agenda to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 05-1784 SUBMITTED BY FOUR SEASONS SUNROOMS FOR PROPERTY LOCATED AT 1586 EAST AMBER DRIVE VACATING A UTILITY EASEMENT AS INDICATED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

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

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

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

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

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

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

Section 3. That this Vacation approval is subject to the conditions of approval listed in the staff report and Planning Commission recommendations for the City of Fayetteville.

Section 4. That further development of this property shall not encroach within any existing easements or setbacks.

PASSED AND APPROVED this _____ day of _____, 2005.

APPROVED:

By _____
Dan Coody, Mayor

ATTEST:

By _____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 05-1784

SURVEY DESCRIPTION

LOT NUMBERED TWENTY-FIVE (25), CHARLESTON PLACE, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID SUBDIVISION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

AREA OF EASEMENT TO BE VACATED

A PART OF LOT NUMBERED TWENTY-FIVE (25), CHARLESTON PLACE, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID SUBDIVISION 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 SOUTHWEST CORNER OF SAID LOT TWENTY-FIVE (25), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N39°41'32"W 24.76 FEET ALONG THE WEST LINE OF SAID LOT TWENTY-FIVE (25); THENCE LEAVING THE WEST LINE OF SAID LOT TWENTY-FIVE (25), N50°18'28"E 5.74 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING THE SOUTHWEST CORNER OF AN EXISTING WOOD DECK; THENCE N36°10'43"W 26.10 FEET TO THE NORTHWEST CORNER OF SAID DECK; THENCE N53°49'16"E 2.66 FEET ALONG THE NORTH SIDE OF SAID DECK TO A POINT ON THE EAST LINE OF AN EXISTING TEN (10) FOOT WIDE UTILITY EASEMENT; THENCE S39°41'32"E 26.15 FEET ALONG THE EAST LINE OF SAID EASEMENT TO A POINT ON THE SOUTH SIDE OF SAID DECK; THENCE LEAVING THE EAST LINE OF SAID EASEMENT, S53°49'17"W 4.26 FEET ALONG THE SOUTH SIDE OF SAID DECK TO THE POINT OF BEGINNING, CONTAINING 90.4 SQUARE FEET, MORE OR LESS.



PC Meeting of November 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 7, 2005

VAC 05-1784: Vacation (FOUR SEASONS SUNROOMS, 370): Submitted by FOUR SEASONS SUNROOMS for property located at 1586 E AMBER DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.09 acres. The request is to vacate a portion of a utility easement on the subject property.

Property Owner: WAYNE & CARMEN LEE Planner: ANDREW GARNER

Findings: Staff finds that vacating the portions of easement would not adversely affect access to the utilities serving the property or any other adjacent property.

Background: The subject property is located at 1586 East Amber Drive, Lot 25 of Charleston Place Subdivision Planned Unit Development. The lot was platted with a 10' utility easement along the western side of the lot. The overall 20' easement is for general utility use between lots 24 and 25. Utility representatives have no objections to the requested vacation. A survey of the property conducted prior to obtaining a building permit for an addition to the home revealed that a porch on the west side of the home protruded into the 10' utility easement. Photos and a survey of the site are attached to this report. The applicant desires to construct an enclosed sunroom over the porch, and a building permit may not be issued unless the utility easement is vacated.

Request: The request is to vacate 90.4 square feet the existing easement under the existing porch.

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

UTILITIES

RESPONSE

Ozarks Electric

No Objections.

Cox Communications

No Objections.

AEP/SWEPCO

No Objections.

SBC Southwestern Bell

No Objections.

Arkansas Western Gas

No Objections.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections.

Transportation

No Objections.

Solid Waste

No Objections.

Engineering

No Objections.

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

Recommendation: Staff recommends approval of the proposed utility easement vacation 05-1784 with the following condition:

1. Further development of this property shall not encroach within any existing easements or setbacks.

PLANNING COMMISSION ACTION: yes Required
 Approved Denied

Date:
November 14, 2005

Comments: _____

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

By

Title

Date

CITY COUNCIL ACTION: yes Required
 Approved Denied

Date: _____



Sunrooms of the Ozarks, Incorporated

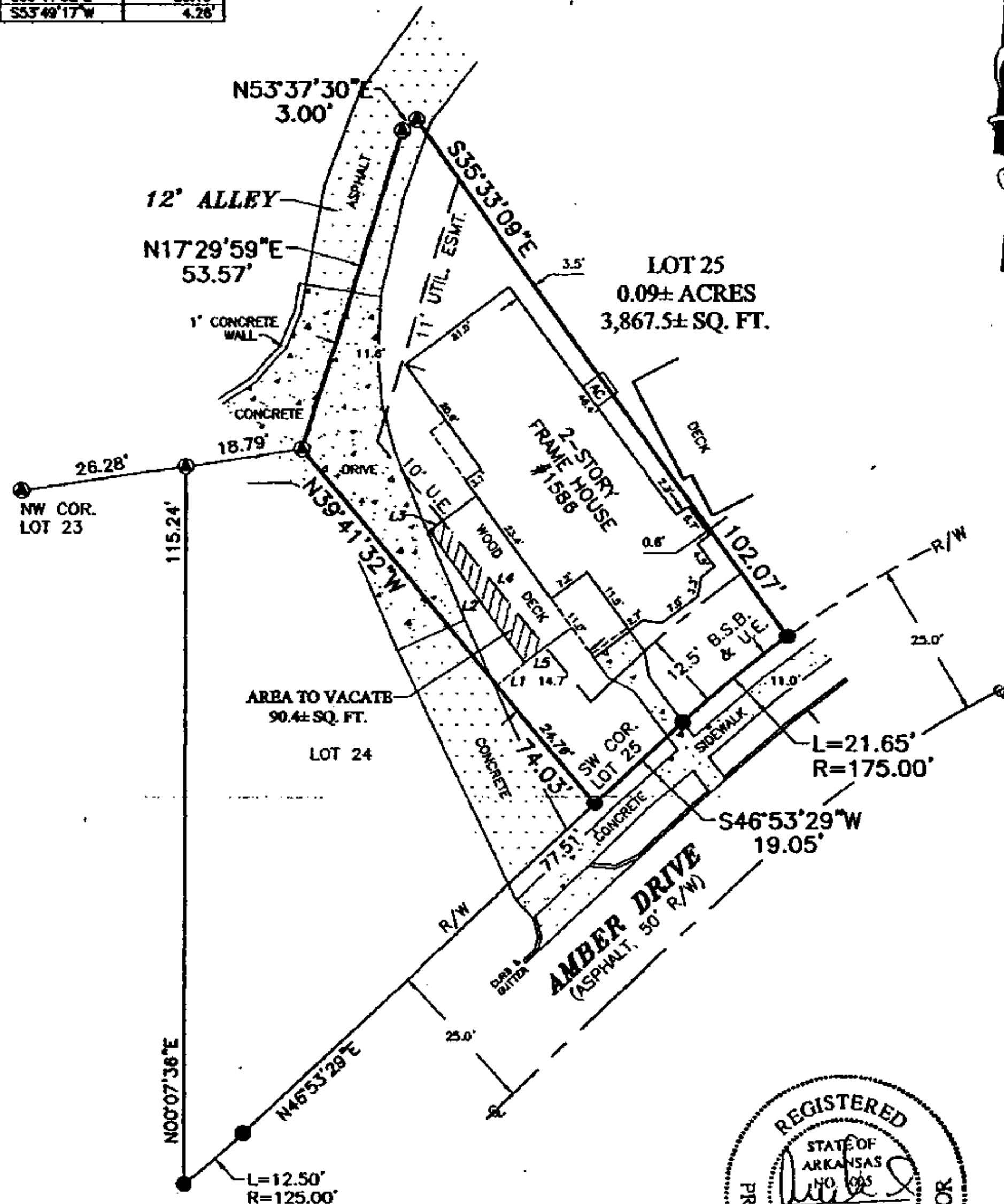
850 East Henri de Tonti Boulevard
Post Office Box 760
Tontitown, Arkansas 72770
(888) 467-9900 ** (479) 306-9900
Fax * (479) 361-9494

<http://www.ozarksunrooms.com> email info@ozarksunrooms.com

The Lee's at 1586 East Amber Drive have contracted with Sunrooms of the Ozarks to build a Four Seasons Sunroom on their existing porch. During the permit process it was discover that part of the porch was built in a utility easement. The Lee's are asking the City of Fayetteville to vacate the part of the easement, which encroaches on their porch.

The Lee's have taken all the required steps to have this partial easement approved. They have notified all adjacent property owners and all the required utilities and city departments. There has been no objections to their request.

LINE	BEARING	DISTANCE
L1	N50°18'28"E	5.74'
L2	N36°10'43"W	28.10'
L3	N53°49'16"E	2.68'
L4	S39°41'32"E	26.13'
L5	S53°49'17"W	4.26'



SURVEY DESCRIPTION

SURVEY DESCRIPTION
LOT NUMBERED TWENTY-FIVE (25), CHARLESTON PLACE, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID SUBDIVISION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

AREA OF EASEMENT TO BE VACATED

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- ⊗ EXIST. NAIL IN HOLE
 ○ SET 1/2" IRON REBAR
 ● EXISTING IRON PIN
 + COMPUTED CORNER
 —X— FENCE LINE



Alan Reid & Associates
118 South College Avenue
Payetteville, Arkansas 72701
(479) 444-8784

DATE: 08/01/05

REVISED:

SCALE: 1"=20'

DRAWN BY: JCC

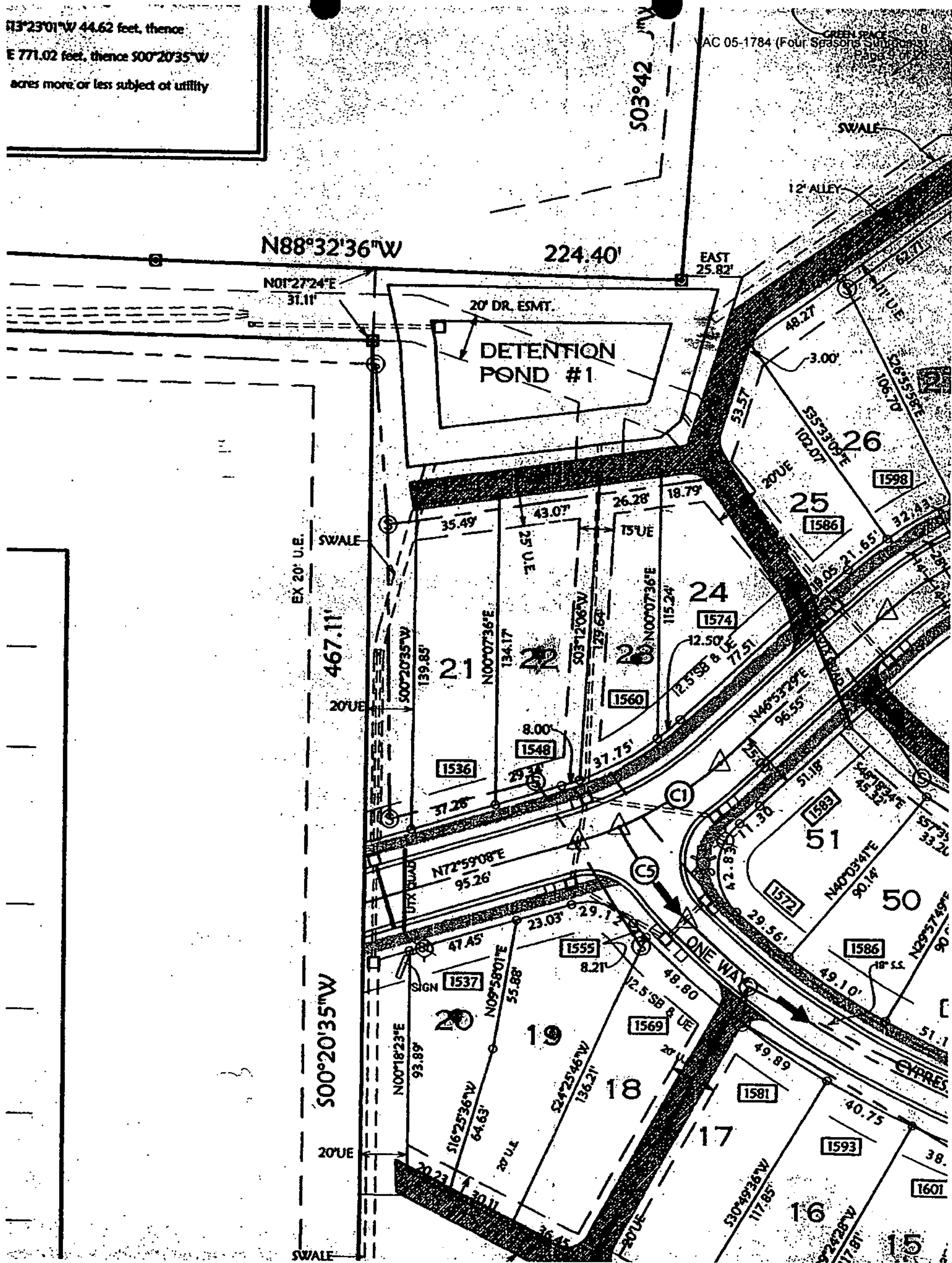
PROJECT NO.

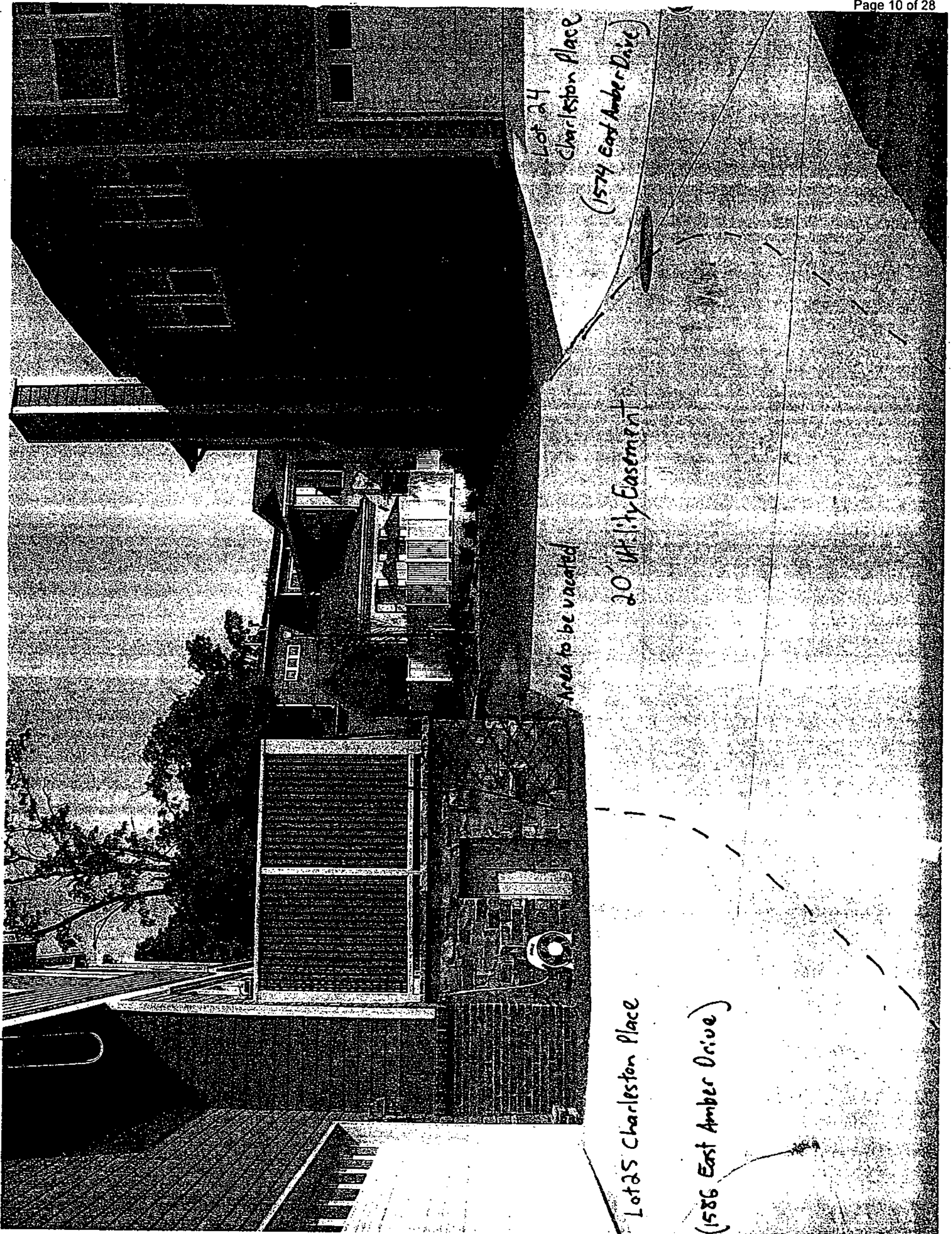
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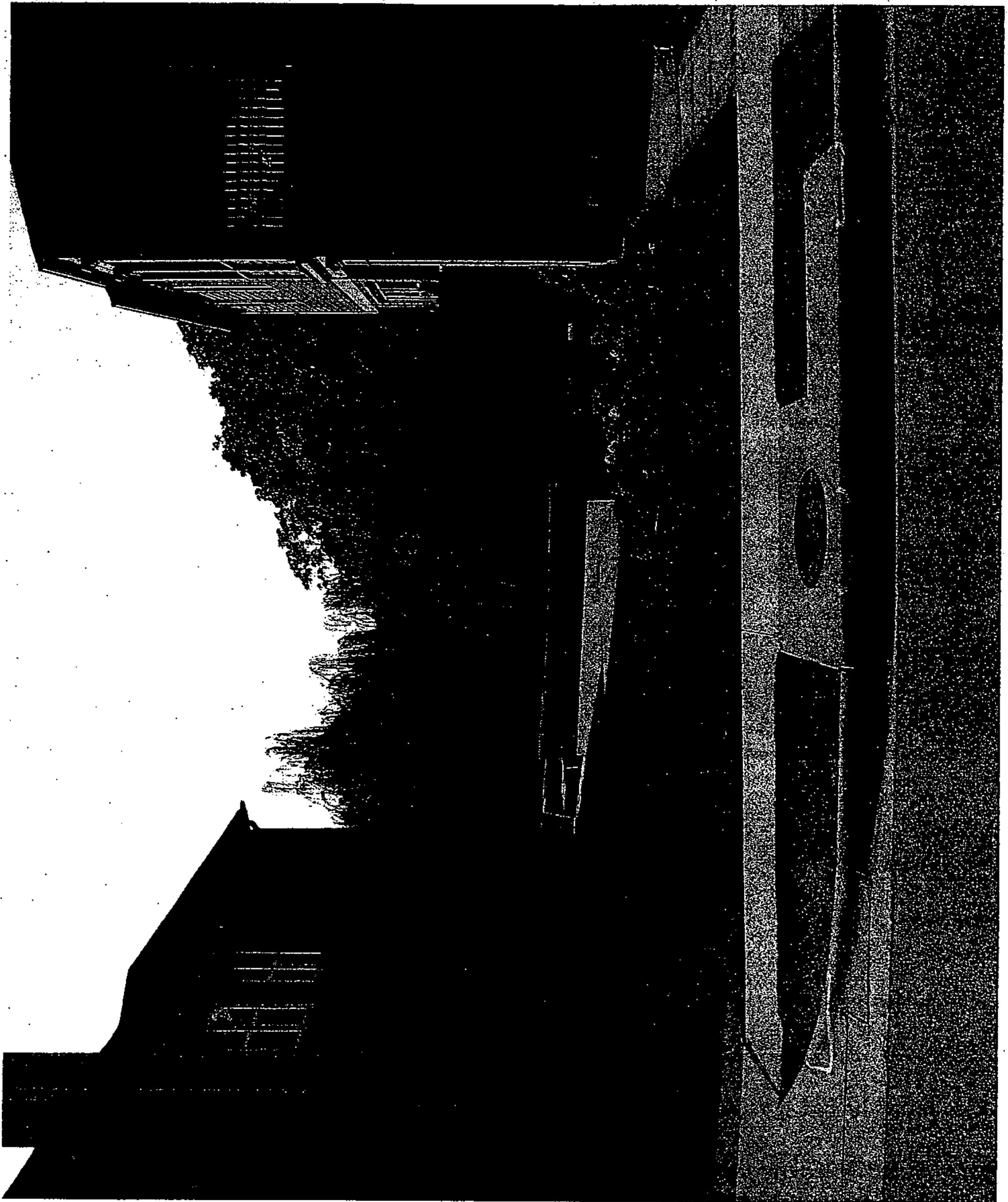
BILL BOSS

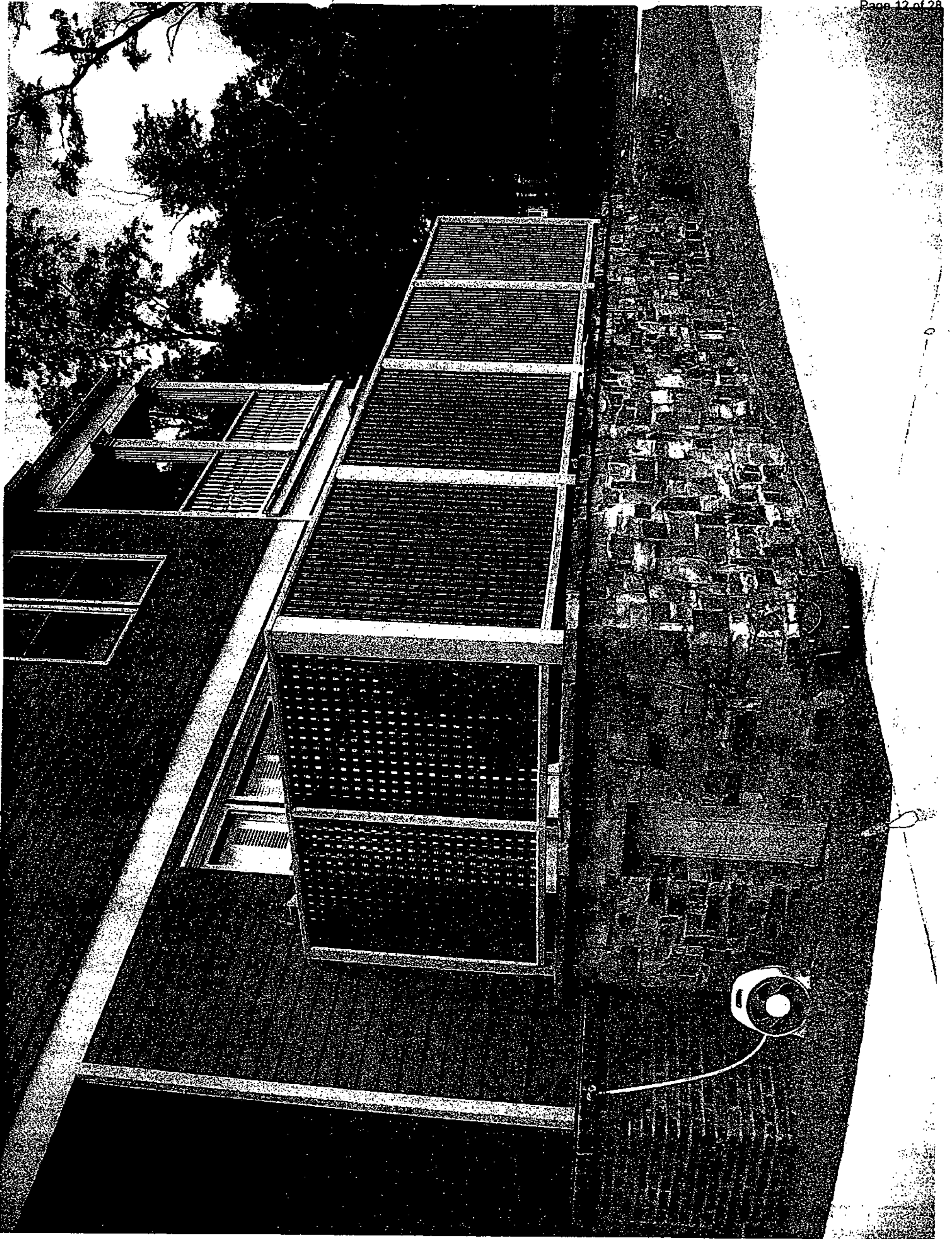
N13°23'01"W 44.62 feet, thence
E 771.02 feet, thence S00°20'35"W
acres more or less subject of utility

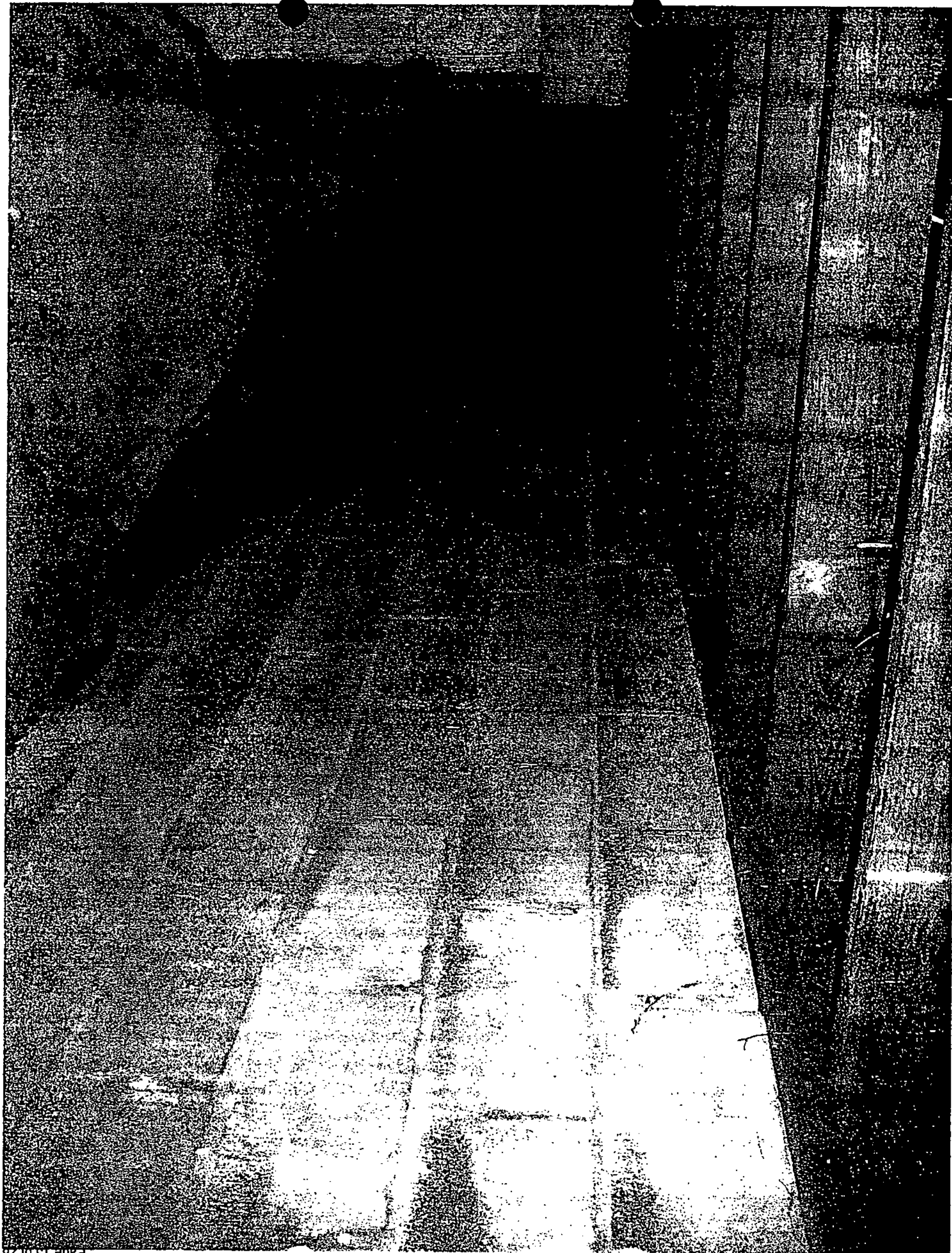
AC 05-1784 (Four Seasons Subdiv.)
Page 9 of 22

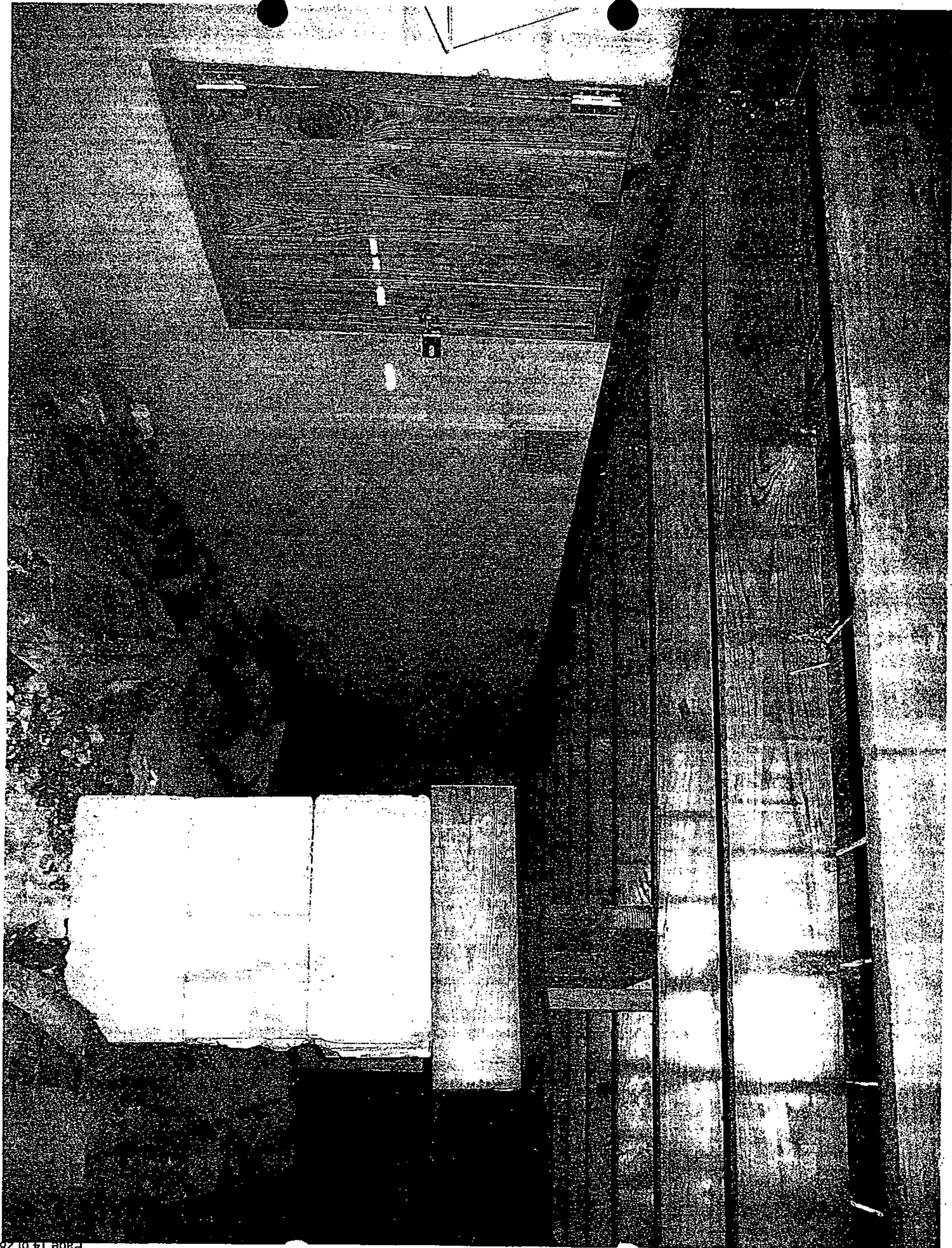












PETITION TO PARTIALLY VACATE AN EASEMENT

PETITION TO PARTIALLY VACATE AN EASEMENT LOCATED IN LOT 25, CHARLESTON PLACE SUBDIVISION, CITY OF FAYETTEVILLE, ARKANSAS

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

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought a partial abandoned and vacated, lying in Lot 25, Charleston Place Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to partially vacate an easement which is described as follows:

A part of lot numbered twenty-five (25), Charleston Place, a subdivision to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio recorder of Washington County, Arkansas, more particularly described as follows: commencing at the Southwest corner of said Lot Twenty-five (25), said point being an existing iron rebar, Thence N39°41'32"W 24.76 feet along the West Line of said Lot Twenty-five (25); Thence leaving the West line of said Lot Twenty-five (25), N50°18'28" E 5.74 feet to the true point of beginning, said point being the Southwest corner of an existing wood deck; Thence N36°10'43" W 26.10 feet to the Northwest corner of said deck; Thence N53°49'16" E 2.66 feet along the North side of said deck to a point on the East line of an existing ten (10) foot wide utility easement; Thence S39°41'32" E 26.15 feet along the East line of said easement to a point on the South side of said deck; Thence leaving the East line of said easement, S53°49'17" W 4.26 feet along the South Side of said deck to the point beginning, containing 90.4 square feet, more or less.

That the abutting real estate affected by said abandonment of the easement are Lot 25, Charleston Place Subdivision, City of Fayetteville used by the public for a period of years, and that the public interest and welfare would not be adversely affected by the abandonment of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above-described real estate, and that the above-described real estate be used for their respective benefit and purpose as now approved by law.

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

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

Dated this 9 day of August, 2005

Wayne Y. Lee

Carmen H. Lee

Wayne Y. Lee
Carmen H. Lee

UTILITY APPROVAL FORM

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

DATE:

UTILITY COMPANY: OZARK ELECTRIC

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered twenty-five (25), Charleston Place, a subdivision to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio recorder of Washington County, Arkansas, more particularly described as follows: commencing at the Southwest corner of said Lot Twenty-five (25), said point being an existing iron rebar, Thence N39°41'32"W 24.76 feet along the West line of said Lot Twenty-five (25); Thence leaving the West line of said Lot Twenty-five (25), N50°18'28"E 5.74 feet to the true point of beginning, said point being the Southwest corner of an existing wood deck; Thence N36°10'43"W 26.10 feet to the Northwest corner of said deck; Thence N53°49'18"E 2.66 feet along the North side of said deck to a point on the East line of an existing ten (10) foot wide utility easement; Thence S39°41'32"E 26.15 feet along the East line of said easement to a point on the South side of said deck; Thence leaving the East line of said easement, S53°49'17"W 4.26 feet along the South Side of said deck to the point beginning, containing 80.4 square feet, more or less.

UTILITY COMPANY COMMENTS:

☒ No objections to the vacation described above.

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

4.15 is not in Ozark's service
tenn. only

Signature of Utility Company Representative

Shelving Superstore
Title

attachments

Lynda Palmer
Sincerely,

If you have any questions or comments, please call me at 501-373-5255.
a copy of the document to me at the above address for my files.
This concurrence must be recorded at the Washington County Courthouse in the
Circuit Clerk's office to be complete and legal. I would appreciate you returning
request to relinquish our interest in the above referenced area.

RE: Easement reduction - Charleston Place S/D - Fayetteville

Dear Mr. Boss:

Four Seasons Sunrooms
Attn: Bill Boss
850 E. Henri de Tonil Blvd.
Tonitown, AR 72730

August 23, 2005

COPY

Lynda Palmer
Manager-Engineering (ROW)
Right-of-Way
(501) 373-5255 Phone
(501) 373-4634 Fax
lynda.palmer@sbc.com
SBC Southwestern Bell
Telephone Company
1111 West Capitol, 941
Little Rock, AR 72201



copy

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

DATE:

UTILITY COMPANY:

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered twenty-five (25), Charleston Place, a subdivision to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Clerk and Ex-Officio recorder of Washington County, Arkansas, more particularly described as follows: commencing at the Southwest corner of said Lot Twenty-five (25), line of said Lot Twenty-five (25): Thence leaving the West line of said Lot Twenty-five (25) Southwest corner of an existing road deck; Thence N36°10'43" W 26.10 feet to the Southwest corner of an existing road deck; Thence N53°49'16" E 2.66 feet along the North side of said deck to a point on the East line of an existing ten (10) foot wide utility easement; Thence S39°41'32" E 26.15 feet along the East line of said easement to a point on the South side of said deck; Thence leaving the East line of said easement, S53°49'17" W 4.26 feet along the South side of said deck to the point beginning, containing 90.4 square feet, more or less.

UTILITY COMPANY COMMENTS:

o No objections to the vacation described above.

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

The attached concurrence must be recorded in order for this release to be complete.

[Signature]
Signature of Utility Company Representative
Lynda E. Sommerfeldt Palmer
Mgr. - Eng. (ROW)
8/23/05

My commission expires 8/11/2011
 Notary Public in and for Faulkner Co.
 Lynda E. Sommerfeldt Palmer

Lynda E. Sommerfeldt Palmer

Little Rock, AR 72201 (501-373-5255)
 1121 W. Capitol, Room 941
 This instrument prepared by SBC



Witness whereof I hereunto set my hand and official seal.

On this the 22nd day of August, 2005, before me, the undersigned authority, duly commissioned and qualified in and for the state and county set forth above, personally came and appeared F. Jean Davis, Telephone LP, a Texas limited partnership, d.b.a. SBC Arkansas, and that he executed the foregoing instrument as the act and deed of said company of his own free will and for the purposes and considerations therein expressed and with due authority.

STATE OF ARKANSAS
 COUNTY OF PULASKI

CORPORATE ACKNOWLEDGMENT

By: *F. Jean Davis*
 Director-Engineering/Construction

Signed and executed this 22nd day of August, 2005.

A part of Lot 25 of the Charleston Place Subdivision to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio recorder of Washington County, Arkansas, more particularly described as follows: commencing at the southwest corner of said lot 25, said point being an existing iron rebar, thence N39°41'32" W 24.76 feet along the west line of said lot 25, thence leaving the southwest corner of said lot 25, N50°18'28" E 5.74 feet to the true point of beginning, said point being the southwest corner of an existing wood deck; thence N36°10'43" W 26.10 feet to the northwest corner of said deck; thence N53°49'16" E 2.66 feet along the north side of said deck to a point on the east line of an existing ten foot (10') wide utility easement; thence S39°41'32" E 26.15 feet along the east line of said easement to a point on the south side of said deck; thence leaving the east line of said easement, S53°49'17" W 4.26 feet along the south side of said deck to the point of beginning, containing 90.4 square feet, more or less.

BE IT KNOWN BY THESE PRESENTS that Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. SBC Arkansas, hereby concurs in the reduction of a dedicated utility easement, to-wit:

CONCURRENCE TO RELEASE
 A PORTION OF A DEDICATED UTILITY EASEMENT

COPY



UTILITY APPROVAL FORM

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

DATE:

UTILITY COMPANY: AEP - Southwestern Electric Power

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered twenty-five (25), Charleston Place, a subdivision to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio recorder of Washington County, Arkansas, more particularly described as follows: commencing at the Southwest corner of said Lot Twenty-five (25), said point being an existing iron rebar, Thence N39°41'32"W 24.76 feet along the West line of said Lot Twenty-five (25); Thence leaving the West line of said Lot Twenty-five (25), N50°18'28"E 5.74 feet to the true point of beginning, said point being the Southwest corner of an existing wood deck; Thence N36°10'43"W 26.10 feet to the Northwest corner of said deck; Thence N53°49'16"E 2.66 feet along the North side of said deck to a point on the East line of an existing ten (10) foot wide utility easement Thence S39°41'32"E 26.15 feet along the East line of said easement to a point on the South side of said deck; Thence leaving the East line of said easement, S53°49'17"W 4.26 feet along the South Side of said deck to the point beginning, containing 90.4 square feet, more or less.

UTILITY COMPANY COMMENTS:

No objections to the vacation described above.

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

Signature of Utility Company Representative
Title
Right of Way / AEP - SWEPD
973-2303

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATION IS

DATE: 8-16-05

UTILITY COMPANY: COX CABLE

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered twenty-five (25), Charleston Place, a subdivision in the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio recorder of Washington County, Arkansas, more particularly described as follows: commencing at the Southwest corner of said Lot Twenty-five (25), said point being an existing iron rebar. Thence N39°41'32"W 24.76 feet along the West line of said Lot Twenty-five (25); Thence leaving the West line of said Lot Twenty-five (25); N50°18'28"E 5.74 feet to the true point of beginning, said point being the Southwest corner of an existing wood deck; Thence N36°10'43"W 28.10 feet to the Northwest corner of said deck; Thence N53°49'16"E 2.66 feet along the North side of said deck to a point on the East line of an existing ten (10) foot wide utility easement Thence S39°41'32"E 26.15 feet along the East line of said easement to a point on the South side of said deck; Thence leaving the East line of said easement, S5°49'17"W 4.26 feet along the South Side of said deck to the point beginning, containing 90.4 square feet, more or less.

UTILITY COMPANY COMMENTS:

o No objections to the vacation described above.

X No objections to the vacation described above, provided following describe easements are retained. (State the location, dimensions, and purpose below.)

10' U.E. on lot 24 running from NE corner to SE corner of lot 24

Signature of Utility Company Representative

Planner

Title

UTILITY APPROVAL FORM

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

DATE: 8/25/05

UTILITY COMPANY: City Water & Sewer Superintendent

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered twenty-five (25), Charleston Place, a subdivision to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio recorder of Washington County, Arkansas, more particularly described as follows: commencing at the Southwest corner of said Lot Twenty-five (25), said point being an existing iron rebar, Thence N39°41'32"W 24.76 feet along the West line of said Lot Twenty-five (25); Thence leaving the West line of said Lot Twenty-five (25), N50°18'28" E 5.74 feet to the true point of beginning, said point being the Southwest corner of an existing wood deck; Thence N36°10'43" W 26.10 feet to the Northwest corner of said deck; Thence N53°49'16" E 2.66 feet along the North side of said deck to a point on the East line of an existing ten (10) foot wide utility easement; Thence S39°41'32"E 26.15 feet along the East line of said easement to a point on the South side of said deck; Thence leaving the East line of said easement, S53°49'17"W 4.26 feet along the South Side of said deck to the point beginning, containing 90.45 square feet, more or less.

UTILITY COMPANY COMMENTS:

☒ No objections to the vacation described above.

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

Signature of Utility Company Representative

Matthew A. Stewart, Director

Title

1586
WAGNER & COMPANY, LLC
Dr.

UTILITY APPROVAL FORM

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

DATE: 8/16/05

UTILITY COMPANY: CITY STASIS SUPERINTENDENT

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered twenty-five (25), Charleston Place, a subdivision to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio recorder of Washington County, Arkansas, more particularly described as follows: commencing at the Southwest corner of said Lot Twenty-five (25), said point being an existing iron rebar, Thence N39°41'32"W 24.76 feet along the West line of said Lot Twenty-five (25); Thence leaving the West line of said Lot Twenty-five (25), N50°18'28" E 5.74 feet to the true point of beginning, said point being the Southwest corner of an existing wood deck; Thence N36°10'43" W 26.10 feet to the Northwest corner of said deck; Thence N53°49'16" E 2.66 feet along the North side of said deck to a point on the East line of an existing ten (10) foot wide utility easement; Thence S39°41'32"E 26.15 feet along the East line of said easement to a point on the South side of said deck; Thence leaving the East line of said easement, S53°49'17"W 4.26 feet along the South Side of said deck to the point beginning, containing 90.4 square feet, more or less.

UTILITY COMPANY COMMENTS:

☒ No objections to the vacation described above.

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

8/16/05
Signature of Utility Company Representative

TRANSPOSITION SUPPLY
Title
Operations Dept

CITY OF Fayetteville
TRANSPORTATION DIVISION

575-8227

UTILITY APPROVAL FORM

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

DATE: 8-16-05

UTILITY COMPANY: CITY SANITATION SUPERINTENDENT

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered twenty-five (25), Charleston Place, a subdivision to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio recorder of Washington County, Arkansas, more particularly described as follows: commencing at the Southwest corner of said Lot Twenty-five (25), said point being an existing iron rebar, Thence N39°41'32"W 24.76 feet along the West Line of said Lot Twenty-five (25); Thence leaving the West line of said Lot Twenty-five (25), N50°18'28" E 5.74 feet to the true point of beginning, said point being the Southwest corner of an existing wood deck; Thence N36°10'43" W 26.10 feet to the Northwest corner of said deck; Thence N53°49'16" E 2.66 feet along the North side of said deck to a point on the East line of an existing ten (10) foot wide utility easement; Thence S39°41'32"E 26.15 feet along the East line of said easement to a point on the South side of said deck; Thence leaving the East line of said easement, S53°49'17"W 4.26 feet along the South Side of said deck to the point beginning, containing 90.4 square feet, more or less.

UTILITY COMPANY COMMENTS:

☒ No objections to the vacation described above.

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

Signature of Utility Company Representative

Solid Waste Rep.

Title

UTILITY APPROVAL FORM

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

DATE:

8/18/05

UTILITY COMPANY: Arkansas Western Gas Company

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

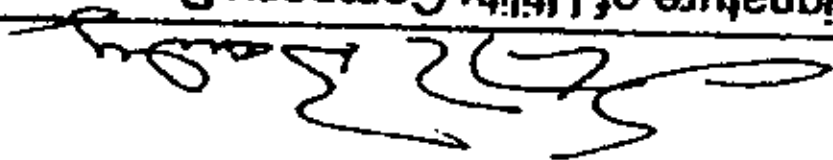
A part of lot numbered twenty-five (25), Charleston Place, a subdivision to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio recorder of Washington County, Arkansas, more particularly described as follows: commencing at the Southwest corner of said Lot Twenty-five (25), said point being an existing iron rebar, Thence N39°41'32"W 24.76 feet along the West line of said Lot Twenty-five (25); Thence leaving the West line of said Lot Twenty-five (25), N50°18'28" E 5.74 feet to the true point of beginning, said point being the Southwest corner of an existing wood deck; Thence N36°10'43" W 26.10 feet to the Northwest corner of said deck; Thence N53°49'16" E 2.66 feet along the North side of said deck to a point on the East line of an existing ten (10) foot wide utility easement; Thence S39°41'32"E 26.15 feet along the East line of said easement to a point on the South side of said deck; Thence leaving the East line of said easement, S53°49'17"W 4.26 feet along the South Side of said deck to the point beginning, containing 90.45 square feet, more or less.

UTILITY COMPANY COMMENTS:

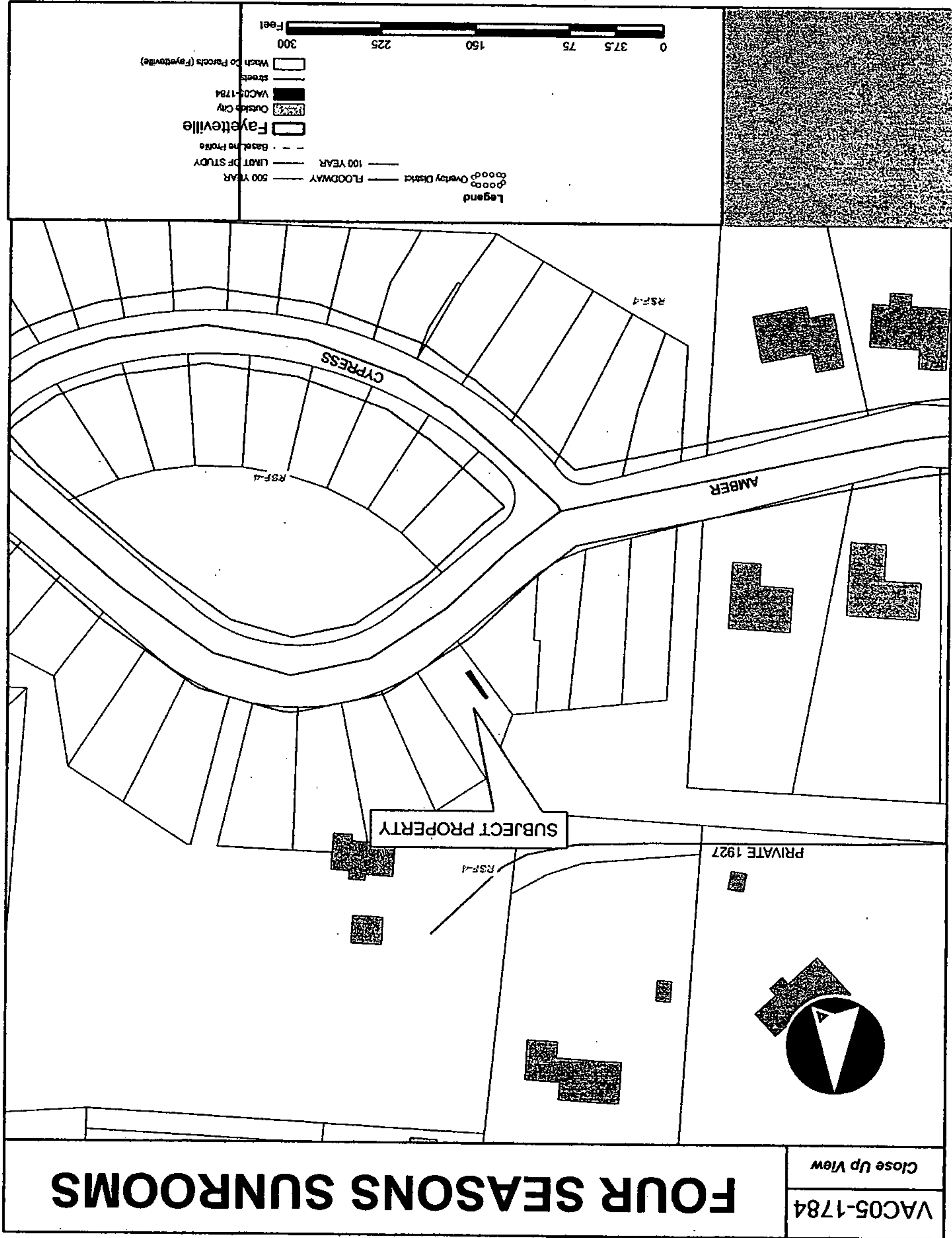
☒ No objections to the vacation described above.

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

Signature of Utility Company Representative



Fayetteville Assistant District Manager
Title



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

6-Dec-05

City Council Meeting Date

Finance & Internal Services
Department

FIS Director

Division

Submitted By

Stephen Davis

Action Required:

Ordinance revisions to amend monthly sewer rates to comply with the Fayetteville-Elkins Sewer services contract and to postpone the scheduled rate increase from January 1, 2006 to May 1, 2006.

Budgeted Item		Budget Adjustment Attached
Project Number	Account Number	Fund Name
Cost of this request	Funds Used to Date	Program / Project Category Name
\$309 CD estimated	Category/Project Budget	Program Category / Project Name
	Remaining Balance	
	\$ -	

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Date 11-7-05

Department Director

~~City Attorney~~

Finance and Internal Service Director

Date 11-16-05

Date _____

Date 11/18/05

Mayor

Received in Mayor's Office

Received in City Clerk's Office

APR 17 1965
ENTERED

Comments: The budget impact is to forego revenue to assist Citizens during the 2005/2006 heating season.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO:

Fayetteville City Council

THROUGH:

Dan Cody, Mayor

FROM:

Stephen Davis, Finance & Internal Services Director

DATE:

November 16, 2005

SUBJECT:

Sewer Rate Ordinance Revision

Recommendation

Staff recommends amending Fayetteville Code of Ordinance §51.137 Monthly Sewer Rates to implement the volume charges contained in the Sewer Services contract between Fayetteville and Elkins and to postpone the pre-approved January 1, 2006 rate adjustment until after April 30, 2006 as more particularly set forth in the attachment.

Background/Discussion

Fayetteville City Council approved Ordinance 4536 on December 30, 2003 implementing rate adjustments beginning February 9, 2004, after December 31, 2004 and after December 31, 2005 for all retail and wholesale customers of the Fayetteville sewer system. This request consists of two parts:

Part 1: Adjust the rate per 1,000 gallons for Elkins in compliance with the 2005 Sewer Services contract between Fayetteville and Elkins; and,

Part 2: Postpone the scheduled rate increase from December 31, 2005 to begin after April 30, 2006.

The purpose for Part 1 is compliance with a negotiated contract.

The purpose of Part 2 is to enable the City to reduce monthly cost to Citizens during this heating season. The recently completed hurricane season has negatively impacted heating fuel, electric and natural gas prices nationwide.

Required Procedural Actions

Arkansas Code in 14-235-223 requires municipalities to:

1. Introduce the ordinance that fixes the rates or charges;
2. Publish a notice for a public hearing one time in a newspaper published in the City;

3. Notice is to be published at least 10 days before the public hearing; and,
4. Pass and implement the ordinance.

This section of the Arkansas Code provides that if the rate adjustment is substantially pro-rata notice is not required nor is a public hearing is required.

Budget Impact

The impact to the sewer revenue budget for this adjustment is approximately \$209,000 with the volume charges and estimated sewer service charge reduction (fixed fees) of approximately \$100,000 exclusive of the impact of the Elkins contract for a total of \$309,000.

City of Fayetteville, Arkansas

Postponement of Implementation of 2006 Wastewater Rate Adjustment
Wastewater Volume Revenue Impact

Based on 2005 Volumes - January to April

11/16/2005

	Volume in Gallons					Total
	Total Volume	Elkins	Fayetteville Residential	Outside City Residential	Fayetteville - All Other	Outside City - All Other
January	225,533,800	5,683,700	61,358,300	6,609,900	148,143,700	3,738,200
February	231,032,800	3,889,400	60,791,700	6,069,600	156,465,500	3,816,600
March	214,416,000	3,905,600	52,348,900	5,885,400	149,134,200	3,141,900
April	244,791,000	5,437,600	61,498,800	6,369,400	167,701,200	3,784,000
Total Volume	915,773,600	18,916,300	235,997,700	24,934,300	621,444,600	14,480,700
Rate Postponement/1000 gallons			0.26	0.59	0.20	0.59
Revenue Impact - Volume Charge Only			\$ 61,400	\$ 14,700	\$ 124,300	\$ 8,500
						\$ 208,900

Sewer averaging may cause the total reduction to residential customers to be less because these volumes are based on actual water meter read volumes. Residential customers eligible for sewer averaging pay the lower of the actual volume or the sewer average volume. Sewer averages are calculated on water purchases for the winter months (December through March).

City of Fayetteville, Arkansas

Postponement of Implementation of 2006 Wastewater Rate Adjustment Wastewater Service Charge Revenue Impact

	Fayetteville		Outside City		Fayetteville		Outside City		Total
	Residential		Residential		All Other		All Other		Monthly Revenue
Monthly Sewer Service Charges - Oct	\$ 91,700.00		\$ 19,500.00		\$ 164,000.00		\$ 1,800.00		\$ 277,000.00
9% Rate Increase	\$ 8,253.00		\$ 1,755.00		\$ 14,760.00		\$ 162.00		\$ 24,930.00
Revenue Impact - Service Charge Only									\$ 99,720.00

The monthly sewer service charge is the fee used by the Sewer Utility to fund portions of fixed expenses. This calculation is based on monthly service charges as of October 2005.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND § 51.137 OF THE CODE OF FAYETTEVILLE BY LOWERING THE SEWER RATE CHARGED FOR ELKINS, ARKANSAS AND POSTPONING THE SCHEDULED SYSTEM WIDE RATE INCREASE FOR FOUR MONTHS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends § 51.137 Monthly Sewer Rates (A) (1) by repealing Table E-2 and E-3 in their entirety and enacting a replacement Table E-2 and E-3 as shown below:

Table E-2
Monthly Sewer Quantity Charge Usage Rates Per 1,000 Gallons
After December 31, 2004

Residential*	\$ 2.84
Commercial/Industrial	2.22
Outside city limits**	6.57
Elkins** Jan 1 – Feb 28, 2005	5.71
Elkins** After Feb. 28, 2005	2.81
Elkins Volume Capacity Charge After Jan. 1, 2006	0.25

Table E-3
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
For Billings After April 30, 2006

Residential*	\$ 3.10
Commercial/Industrial*	2.42
Outside city limits**	7.16
Elkins**	2.81
Elkins Volume Capacity Charge	0.25

Section 2. That the City Council for the City of Fayetteville, Arkansas hereby further amends § 51.137 Monthly Sewer Rates by amending Table F-3 Monthly Sewer Service Charge so that its rate increase for monthly sewer charge will not take effect until April 30, 2006.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

By: DAN COODY Mayor

By: SONDRA SMITH, City Clerk

ATTEST:

DRAFT

The existing and proposed rates are shown below:

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:

Table E-2
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
After December 31, 2004

Residential*	\$ 2.84
Commercial/Industrial*	2.22
Outside city limits**	6.57
Elkins** Jan 1 - Feb 1, 2005	5.71

Table E-2 (A)
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
Beginning March 1 to December 31, 2005

Residential*	\$ 2.84
Commercial/Industrial*	2.22
Outside city limits**	6.57
Elkins** March 1 to Dec. 31, 2005	2.81

Existing
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
Beginning December 31, 2005

Residential*	\$ 3.10
Commercial/Industrial*	2.42
Outside city limits**	7.16
Elkins**	6.22

Proposed
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
After December 31, 2005

Residential*	\$ 2.84
Commercial/Industrial*	2.22
Outside city limits**	6.57
Elkins**	2.81
Elkins Volume Capacity Charge	0.25

Proposed
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons
After April 30, 2006

Residential*	\$ 3.10
Commercial/Industrial*	2.42
Outside city limits**	7.16
Elkins**	2.81
Elkins Volume Capacity Charge	0.25

(1) Monthly service charge:

Existing
Table F-3 Monthly Sewer Service Charge
After December 31, 2005

Meter Size	Inside City	Outside City†
5/8 inch	\$ 10.36	\$ 10.35
3/4 inch	11.98	14.10
1 inch	13.47	19.35
1½ inch	21.99	34.33
2 inch	31.44	49.32
3 inch	73.01	115.27
4 inch	120.26	190.21
6 inch	238.37	377.56
8 inch	356.48	564.90

Meter Size	Inside City	Outside City†
8 inch	356.48	564.90
6 inch	238.37	377.56
4 inch	120.26	190.21
3 inch	73.01	115.27
2 inch	31.44	49.32
1½ inch	21.99	34.33
1 inch	13.47	19.35
¾ inch	11.98	14.10
5/8 inch	\$ 10.36	\$ 10.35

Proposed
Table F-3 Monthly Sewer Service Charge
After April 30, 2006

Meter Size	Inside City	Outside City†
8 inch	253.16	518.26
6 inch	163.64	346.38
4 inch	84.49	174.50
3 inch	50.77	105.75
2 inch	23.00	45.25
1½ inch	17.27	31.50
1 inch	12.36	17.75
¾ inch	10.99	12.94
5/8 inch	\$ 9.50	\$ 9.50

Proposed
Table F-3 Monthly Sewer Service Charge
After December 31, 2005

14-235-223. Rates and charges for services - Lien.

(a)(1) The council of the municipality shall have power, and it shall be its duty, by ordinance to establish and maintain just and equitable rates or charges for the use of and the service rendered by the works, to be paid by each user of the sewerage system of the municipality.

(2) The council may change and readjust the rates or charges from time to time to such extent as will not render insecure the rights of the holders of revenue bonds or violate any sinking fund agreement, or other lawful agreement, with such bondholders.

(b) The rates or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements, and maintenance of the works and for the payment of the sums required in this subchapter to be paid into the sinking fund.

(c) Revenues collected pursuant to this section shall be deemed the revenues of the works.

(d)(1)(A) No rates or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served by them and others interested shall have opportunity to be heard concerning the proposed rates or charges.

(B) After introduction of the ordinance fixing the rates or charges, and before the ordinance is finally enacted, notice of the hearing, setting forth the proposed schedule of the rates or charges, shall be given by one (1) publication in a newspaper published in the municipality if there is such a newspaper, but otherwise in a newspaper having general circulation in the municipality, at least ten (10) days before the date fixed in the notice for the hearing, which may be adjourned from time to time.

(2) After the hearing the ordinance establishing rates or charges, either as originally introduced or as modified and amended, shall be passed and put into effect.

(e) A copy of the schedule of the rates and charges established shall be kept on file in the office of the sewer committee having charge of the operation of the works, and also in the office of the municipal clerk or recorder, and shall be open to inspection by all parties interested.

(f)(1) The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

(2)(A) Any change or readjustment of the rates or charges may be made in the same manner as the rates or charges were originally established as provided in this section.

(B) If the change or readjustment is made substantially pro rata as to all classes of service, no hearing or notice shall be required.

(g) The aggregate of the rates or charges shall always be sufficient for the expense of operation, repair, and maintenance and for the sinking fund payments.

(h) If any service rate or charge established shall not be paid within thirty (30) days after it is due, the amount of it, together with a penalty of ten percent (10%) and a reasonable attorney's fee, may be

recovered by the sewer committee in a chancery suit, filed in the chancery court of the county where the works, or the greater part of them, shall be located, in the name of the municipality or in the name of the trustee under the indenture securing the revenue bonds, or in the name of the bondholders, to such extent as their right to sue in their own name may be permitted under the trust indenture.

History. Acts 1933, No. 132, § 13; Pope's Dig., § 9989; Acts 1985, No. 290, § 1; A.S.A. 1947, § 19-4113.

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

**6-Dec-05
City Council Meeting Date**

Submitted By
Jeremy Pate

Division
Planning

Department
Operations

Action Required:

C-PZD 05-1610: (East Square Development, 523): Submitted by Bob Kohler for property located at the northwest corner of Mountain Street and College Avenue. The property is zoned C-4, Downtown Commercial, and contains approximately 1.01 acres. The request is to approve a Commercial Planned Zoning District with a 16 story hotel, residential condominiums, meeting space, commercial space, and a parking garage.

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

Department Director _____ **City Attorney** _____

Finance and Internal Service Director _____

Mayor _____

Comments: _____

Received in Mayor's Office **Entered** 11/18/05

Received in City Clerk's Office **Entered** 11/18/05

Original Contract Number: n/a

Original Contract Date: n/a

Previous Ordinance or Resolution # n/a

Date 11-18-05

Date 11-18-05

Date 11/21/05

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: November 17, 2005

Subject: Rezoning and Ordinance Variance for East Square Development (C-PZD 05-1610)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Commercial Planned Zoning District (C-PZD) for East Square Development, submitted by Bob Kohler on behalf of One East Center, LLC. This action will establish a unique zoning district for a commercial development including a hotel, commercial and residential uses and a parking deck on a 1.01-acre tract located on College Avenue. Planning Staff also recommends approval by the City Council to vary the right-of-way dedication on North College Avenue from 55' to 30' and allow for construction of a parking garage, balconies and awnings, and a pedestrian walkway over Mountain Street right-of-way and a public alley, respectively.

BACKGROUND

The property consists of approximately 1.01 acres located within the Original Town Plat on the block between Center Street and Mountain Street, with additional frontage onto Hwy 71B (College Avenue). The Mountain Inn, parking deck, and other deteriorated structures on this property have been demolished and the property sits primarily vacant. The property is currently zoned C-4, Downtown.

The applicant requests approval of a C-PZD to establish specific zoning criteria and large scale development approval. Development will consist of a 16-story structure that will incorporate a hotel with 147 rooms, condominiums, retail/tenant space, conference rooms, a ballroom, and a restaurant and bar and a 7 1/2 story parking garage with 350 parking stalls. There are several waivers from the Unified Development Code requirements requested for this project to be approved.

The applicant for this development also requests a lesser dedication of right-of-way for N. College Avenue, a Principal Arterial, from 55 feet to 30 feet. This will allow the construction of the hotel closer to the existing street to match the location of existing historic structures adjacent to N. College Avenue, and prevent undue hardship upon the developer with the redevelopment of this property. The applicant also requests the City Council to allow construction of a 7-story parking garage and balconies/awnings on the hotel over Mountain Street right-of-way and a pedestrian walkway over a public alley,

both of which are in direct conflict with §166.18 of the Unified Development Code, which prohibits establishment of any new structure within the Master Street Plan right-of-way. The parking garage is proposed to form a colonnade over the public sidewalk, with retail at the first floor level and parking above. The bridge is proposed to be constructed from the third story of the parking deck to the Bank of America Condominiums.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of these requests on November 14, 2005. A Planned Zoning District requires City Council approval as it includes zoning (land use) and large scale development approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

Due to the limited area of development and the size and scope of this in-fill project, the applicant requests City Council consideration of granting several variances. These include a variance to allow construction of a parking deck over Mountain Street and a pedestrian bridge over an alley. Additionally, the applicant requests approval of lesser dedication of right-of-way for College Avenue, a Principal Arterial. The applicant has agreed to all street improvements recommended by the Planning Commission and within the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A COMMERCIAL
PLANNED ZONING DISTRICT TITLED C-PZD 05-1610,
EAST SQUARE DEVELOPMENT, LOCATED AT THE NORTH
WEST CORNER OF MOUNTAIN STREET AND COLLEGE AVENUE,
CONTAINING APPROXIMATELY 1.01 ACRES, AMENDING THE
OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE;
WAIVING ANY POSSIBLY CONFLICTING DEVELOPMENT
ORDINANCES, AND ADOPTING THE ASSOCIATED PLANNED ZONING
DISTRICT.

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

Section 1: That the zone classification of the following described property is hereby changed
as follows:

From C-4, Downtown Commercial, to C-PZD 05-1610
as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved development
standards as shown on the large scale development plans, all conditions of approval determined
appropriate and approved by the Planning Commission on November 14, 2005, and the City
Council.

Section 3: That the City Council hereby expressly waives any development ordinances that
might be in conflict with C-PZD 05-1610 including but not limited to §166.12 Structures not allowed
over public utility easements and §166.18 Master Street Plan Setbacks, and approves the
development proposal as presented herein.

Section 4: That this ordinance shall take effect and be in full force at such time as all of the
requirements of the development plan have been met.

Section 5: That the official zoning map of the City of Fayetteville, Arkansas, is hereby
amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this _____ day of _____, 2005.

APPROVED:

By: DAN COODY, Mayor

By: SONDRA SMITH, City Clerk

EXHIBIT "A"
C-PZD 05-1610

LEGAL DESCRIPTION - TRACT 5

ALL OF LOT ONE (1), LOT TWO (2), AND A PART OF LOT THREE (3), LOT SIXTEEN (16), AND 11 OF LOT SEVENTEEN (17), LOT EIGHTEEN (18), LOT NINETEEN (19), AND A PART OF THE 10-FOOT EAST-WEST ALLEY OF BLOCK TWENTY-EIGHT (28) ORIGINAL TOWN PLAT FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT DESCRIBED AS NINETEEN (19), THENCE N 87°22'33" W - 151.00 FEET, THENCE N 02°31'28" E - 112.14 FEET, THENCE S 87°19'23" E - 45.20 FEET, THENCE N 02°31'28" E - 68.17 FEET, THENCE S 87°28'32" E - 5.80 FEET, THENCE N 02°31'28" E - 34.00 FEET TO THE NORTHWEST CORNER OF SAID LOT TWO (2), THENCE S 87°12'53" E - 100.00 FEET TO THE NORTHEAST CORNER OF SAID LOT ONE (1), THENCE S 02°31'29" W - 214.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.63 ACRES, MORE OR LESS.

LEGAL DESCRIPTION - TRACT 6

ALL OF LOT FOURTEEN (14), LOT FIFTEEN (15), AND A PART OF LOT SIXTEEN (16), AND A PART OF THE 10-FOOT EAST-WEST ALLEY OF BLOCK TWENTY-EIGHT (28) ORIGINAL TOWN PLAT FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT FOURTEEN (14), THENCE N 02°41'18" E - 112.28 FEET, THENCE S 87°19'23" E - 150.14 FEET, THENCE S 02°31'28" W - 112.14 FEET, THENCE N 87°22'33" W - 150.46 FEET TO THE POINT OF BEGINNING, CONTAINING 0.39 ACRES, MORE OR LESS.

PC Meeting of November 14, 2005



THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 9, 2005 *Updated November 17, 2005*

C-PZD 05-1610: Planned Zoning District (EAST SQUARE DEVELOPMENT, 523):

Submitted by BOB KOHLER for property located at NW CORNER MOUNTAIN ST. AND COLLEGE AVE. The property is zoned C-4, DOWNTOWN COMMERCIAL and contains approximately 1.01 acres. The request is to approve a 16 story Commercial Planned Zoning District with a hotel, residential condominiums, meeting space, commercial space and a parking garage.

Property Owners: ONE EAST CENTER LLC
Planner: SUZANNE MORGAN

Findings:

Property Description: The property consists of a total of approximately 1.01 acres located within the Original Town Plat on the block between Center Street and Mountain Street, with additional frontage onto Hwy 71B (College Avenue). The Mountain Inn, parking deck, and other deteriorated structures on this property have been demolished and the property sits primarily vacant. The property is currently zoned C-4, Downtown.

Proposal: The applicant requests approval of a C-PZD to establish specific zoning criteria and large scale development approval. Development of a 16-story structure that will incorporate a hotel with 147 rooms, condominiums, retail/tenant space, conference rooms, a ballroom, and a restaurant and bar. A 7-1/2 story parking garage with 350 parking stalls is proposed. There are several waivers from the Unified Development Code requirements requested for this project to be approved.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Restaurants, Retail, Office	C-4, Downtown
South	Government/Federal Buildings	C-4, Downtown
East	Court House, Government Buildings	C-3, Central Commercial
West	Offices, Bank, Bank of Am. Condos (proposed)	C-4, Downtown

Process: The property on which this large scale development has been submitted consists of all and parts of several tracts of property. Several of the existing structures along Center Street will not be disturbed with the proposed development. The applicant requests approval for the establishment of zoning regulations on the entire tract of property and the development, proposed to be done in phases. They are as follows:

Phase I – 16-story Hotel Tower, 3-story building containing the ballroom, two structures on Center Street

Phase II – Retail/Tenant space and parking garage on Mountain Street

Permits for both Phases to be issued within one year of R-PZD approval.

The following bulk and area regulations are proposed by the applicant:

C-PZD 05-1610 East Square Development

(A) Proposed Uses.

Use Unit #	Type of Use
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 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 29	Dance halls

(B) *Density.* Density = None (25 units are proposed in the development; however, the applicant requests to reserve the right to increase the number of residential units.)

(C) *Bulk and area regulations.* None.

(E) *Setback requirements.* Front: 0'; Side: 0'; Rear: 0'

(F) *Height.* Hotel Tower: 16 stories maximum
(stories 11 to 16 are proposed for condominium units)
Hotel w/ Ballroom: 3 stories
Parking Garage: 7-1/2 stories
Retail/Tenant: 1 story
2 Bldgs on Center St: 3 stories and a basement

(G) *Building area.* 100%; The entire site is covered with buildings and impervious surface.

Parking Chart:

Parking required	214	369	Development
Parking Provided	113	350	East Square

Water & Sewer: Water and sewer lines are being relocated and extended to serve the development.

Utilities: Several alleys are requested to be abandoned, in which many of the existing utility lines are located. The applicant is coordinating with the utility companies which will serve this development.

Access: The parking deck will be accessed from Mountain Street and Center Street via an *existing alley*. The Downtown Master Plan recommends a modification of Mountain Street to allow for two-way traffic. At this time, no such proposal has been brought before the Street Committee or City Council for consideration, though it is anticipated in the future, likely before the subject project is constructed. Access from this parking deck is proposed to each of the retail spaces on the ground floor of the parking deck on either side of the entrance. Also, access from the parking deck will be available from the *third floor of the parking deck* to the Hotel Tower and a pedestrian bridge is proposed to the Bank of America Condominiums to the west. The applicant also proposes a drive-in on Mountain Street for drop-off access to the Hotel Tower.

Adjacent Master Street Plan Streets:

College Avenue (Principal Arterial, currently a 50' ROW, requires 110' ROW)
Mountain Street (MS-55, Main Street, currently a 55' ROW, requires 55' ROW)
Center Street (MS-55, Main Street, currently a 55' ROW, requires 55' ROW)

Commercial Design Standards: The applicant has submitted elevations of the proposed hotel, parking garage, ballroom and structures on Center Street. They incorporate a variety of exterior materials of brick, stucco, pre-cast concrete, steel, tile, slate, glass, ornamental iron, aluminum, pre-finished metal panels and fiber cement. All proposed structures are very visible to the public due to the height of the building or prominence on the surrounding streets. The parking garage, for example, will protrude further into the street than adjacent buildings. Design and architectural style of this structure is therefore as important in its affect of the downtown area as the hotel tower.

Tree Preservation: A Tree Protection Waiver has been submitted and signed by Landscape Administrator after an on-site visit to verify that no trees currently exist.

Parks: Park fees shall be charged for each multi-family unit proposed. The developer shall pay \$9,825 for 25 multi-family units prior to issuance of a building permit for the phase in which the units shall be constructed.

Public Comment: Staff has not received any objections to the requested C-PZD at this time.

Background: The Subdivision Committee forwarded this item to the Planning Commission on September 01, 2005. *The Planning Commission forwarded this item to the City Council at the regular meeting on November 14, 2005.*

Recommendation: Staff recommends forwarding C-PZD 05-1610 to the City Council with a recommendation for approval with the following conditions:

Conditions of Approval:

1. Planning Commission determination of improvements. *Staff recommends the following:*
 - ♦ *Construction of sidewalks as indicated on the plat along College Avenue and from College Avenue to the alley on Mountain Street and Center Street.*
 - ♦ *The applicant shall comply with the plantings shown on the proposed Landscape Plan, including planters and street tree plantings in structural soil along College Avenue, Mountain Street and Center Street west to the alley. Tree species shall be approved by the Landscape Administrator.*
 - ♦ *New curb and gutter on Mountain Street and Center Street from the alley to College Avenue and along College Avenue;*
 - ♦ *Storm drainage improvements on all street frontage as shown on the site plan and as determined necessary by the City Engineer with further investigation to be conducted at the time of construction;*
 - ♦ *Pavement overlay and restriping along Mountain Street and Center Street from the alley to College Avenue and along College Avenue, as well as the alley where determined to be needed by the City Engineer as part of the construction process; an overlay of the entire width of Center Street, Mountain Street, and the alley is recommended as opposed to improvement of only one-half the street width.*

The Planning Commission recommended in favor of the above improvements.

2. Planning Commission recommendation of a lesser dedication of right-of-way for College Avenue (Hwy 71B) from the required 55' from centerline to 30' from centerline. *Staff recommends approval of the requested lesser dedication. A Master Street Plan Amendment to modify the designation of College Avenue for a total 60' right-of-way (30' from centerline) from Rock St. to North St. has been forwarded by the Planning Commission to the City Council with a recommendation for approval and is currently being reviewed by the Street Committee. This project is in compliance with this original recommendation by the Planning Commission.*

The Planning Commission recommended in favor of lesser dedication of right-of-way for College Avenue.

3. Planning Commission recommendation of **granting** a ~~waiver~~ **variance** request to allow the construction of a pedestrian bridge over an existing alley (City right-of-way) that will connect the parking garage to Bank of America Condominiums **subject to City Council approval to allow construction over a City right-of-way.** *Staff recommends*

approval of the requested waiver to construct a structure over public right-of-way. The parking required for the condominium units will be provided in the parking deck as was approved by the Planning Commission and listed as a condition of approval for the Conditional Use Permit for Bank of America Condominiums.

The Planning Commission recommended in favor of the requested variance to allow construction over a City right-of-way.

4. Planning Commission determination of ***granting*** a waiver ***variance*** request to allow the construction of a parking deck and hotel entrance canopy over the existing right-of-way for Mountain Street as indicated on the proposed C-PZD site plan ***and subject to City Council approval allowing the narrowing of Mountain Street to allow this construction over a City right-of-way.*** The construction of this structure over the right-of-way will result in the removal of approximately 11 on-street parking spaces, and a maximum encroachment of 17' 3" into the right-of-way. The public sidewalk will be constructed under the proposed deck, which will essentially function as a covered, open walkway.

The Planning Commission recommended in favor of the requested variance to allow the construction over a City right-of-way.

5. Planning Commission determination of Commercial Design Standards and compatibility of materials and architectural features with the surrounding structures and historic downtown. *Staff finds that the proposed structures incorporate many elements within the architecture of the downtown and are compatible with the desirable features of adjacent structures. Staff and the Subdivision Committee expressed concerns with the design of the parking deck, especially because of its high visibility as it encroaches into the right-of-way and recommends particular elements on the southwest end cap be incorporated to create a better transition and view from the downtown square.*

The Planning Commission recommended in favor of compliance with Commercial Design Standards.

- ~~6. The two retail structures proposed on Center Street shall be reviewed for compliance with the Design Standards set forth by the applicant and approved by the City Council. The Planning Commission shall review the proposed elevations at the time of building permit for compliance and compatibility with surrounding developments and shall approve or deny them accordingly.~~
7. The applicant shall dedicate the required amount of right-of-way for College Avenue (Hwy 71B) as determined by the City Council by warranty deed prior to issuance of a building permit.
8. All exterior lighting shall meet the requirements of the Outdoor Lighting Ordinance. A cut sheet showing the lighting plan and details shall be submitted to the Planning Division for review and approval prior to issuance of a building permit.
9. The applicant shall install six bike racks per ordinance requirements.

10. A Certificate of Occupancy for any phase of the project may not be issued prior to completion and issuance of a Certificate of Occupancy for the Parking Deck and all required improvements for that phase.
11. All development shall meet applicable building codes for separation and other ordinances of the City of Fayetteville.
12. Allowed uses in this C-PZD shall be restricted to Use Units 1, 2, 3, 4, 5, 12, 13, 14, 15, 16, 17, 19, 24, 25, 26, and 29.
13. ~~The maximum number of dwelling units that may be permitted is 25. The applicant does not propose a maximum density to reserve the right to subdivide the condominium units in the future.~~
14. Payment of Park fees in the amount of \$9,825 for 25 multi-family units shall be paid prior to issuance of a building permit for the phase in which the units will be located.
15. Signage shall be permitted in accordance with city ordinances for a property located in a C-4 zoning district. The parking structure shall be allowed signage in accordance with the C-4 zoning district requirements.
16. Planned Zoning District approval shall be valid for one calendar year, per city ordinance. The applicant has stated that it is the intent to obtain all permits for Phase I and Phase II within one year of City Council approval of the C-PZD.
- ~~17. Prior to City Council consideration, the applicant shall modify the zoning information on the site plan to indicate the maximum number of condominium units proposed in the hotel tower, density and setback regulations. The applicant has complied with this condition.~~

Standard Conditions of Approval:

18. 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)
19. 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.
20. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
21. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits

- b. Separate easement plat for this project.
- c. Project Disk with all final revisions
- d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: Required YES

☒ Approved ☐ Denied ☐ Tabled

Motion to approve: Clark

Meeting Date: November 14, 2005

Second: Vaught

Vote: 8-0-0

Comments: _____

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with C-PZD 04-1610

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 proposed development of the subject downtown site into a mixed-use, commercial/retail/hotel/condominium space achieves many of the goals identified in the City's adopted Downtown Master Plan, as well as many goals in the General Plan 2020. The surrounding commercial developments and residential neighborhoods will be greatly enhanced by the unique development, which provides revitalization of a prominent block on the corner of Center St., College Ave., and Mountain Street. Specific development features of the project, including the structure's height and prominence, walkable sidewalks with planters consistent with the downtown area, a parking deck and residential dwellings on the top floors of the structure, contribute to the health, safety, amenity and welfare of the community. The proposal creates residential units in the downtown area, a primary goal of the Downtown Master Plan.

- (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: Screening is not required as a part of this development, with the exception of trash enclosures and utilities (wall and ground-mounted). All such utilities are proposed to be located within the interior of the parking deck. Landscaping is required, and has been presented with the Landscape Plan and includes the installation of planters and trees within the new sidewalk to provide shade for pedestrians and a streetscape. The addition of vegetation on this bare ground will be a benefit to the public and downtown.

(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: No new public or private streets are proposed with this project. A single vehicular entry point is proposed from Mountain Street to the proposed parking deck. There is an existing alley west of the proposed structures over which a pedestrian crossing is proposed. The applicant also requests the vacation of an alley which bisects the property and from which existing utilities are to be relocated. The hotel will have a drive-through drop-off area on Mountain Street. The Subdivision Committee raised concerns about the ability for cars going south from this drop-off and potential traffic conflicts should Mountain Street become two-way. As traffic on Mountain Street is slowed somewhat by the presence of a traffic light, slower speed of vehicles may allow for cars to merge onto Mountain Street. At this time, the Downtown Plan calls for Mountain Street to become two-way; however, this has not been considered by the Street Committee or City Council, which must approve any such street modification.

The applicant does request dedication of lesser right-of-way than required by the Master Street Plan on College Avenue. The Master Street Plan requires dedication of 55' right-of-way from centerline; the applicant requests dedication of 30' right-of-way from centerline. In addition, the applicant requests a waiver from the City Council to allow the construction of a parking deck over existing right-of-way for Mountain Street, which is a structure within the city right-of-way.

(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 ordinance allows any redevelopment within the C-4 zoning district to "credit," so to speak, the parking spaces and area of existing uses within the former structure towards the development. Therefore, the number of hotel rooms and area of retail space within the Mountain Inn may be deducted from the proposed bedrooms and retail area. Parking spaces are only required for the rooms, retail area, and other uses above and beyond what had existed. The parking deck provides 350 parking spaces, which is more than required for this additional development. It replaces the 101 spaces within the former parking deck, provides 12 spaces for the Bank of the America Condos and replaces the 11 on-street parking spaces removed with development, with an additional 214 spaces in excess of the previously existing parking deck.

Bike racks will be installed per ordinance requirements.

- (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: The greenspace required for a Planned Zoning District is 15% of the site. Consistent with the former development of the property and the downtown, this proposal has no greenspace proposed with the exception of street tree plantings and some planters along the sidewalks, which will increase the existing greenspace of the site.

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

FINDING: A new public sidewalk 7 to 14 feet in width is proposed along Center Street, Mountain Street and College Avenue.

- (7) *Street Lights.* As required by §166.03 & §176.

FINDING: Street lights are installed on those streets adjacent to the subject property. All new building lights shall be permitted in accordance with Chapter 176, the Outdoor Lighting Ordinance.

- (8) *Water.* As required by §166.03.

FINDING: Public water is being provided to the project site, pursuant to city code.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer is being provided to the project site, pursuant to city code.

- (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: No additional private or public streets are proposed with the subject project. All grading and drainage criteria, as well as erosion control measures, shall be complied with as part of the construction review process.

- (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: The residential portion of this project is located within the same structure as the commercial areas and will be constructed within the same phase. No Certificate of Occupancy may be issued and business conducted from any structure proposed until such time as the required parking for that use has been constructed.

- (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: There is no tree canopy on the subject property.

- (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: Staff finds the architectural elevations for the Hotel Tower exceed the city's commercial design standards. The elevations submitted for the Parking Deck are primarily pre-finished metal panels, though the first two stories will be brick. This structure will be prominent on Mountain Street, as the applicant has requested a waiver to construct this building within the right-of-way. Staff finds that the proposed structures incorporate many elements within the architecture of the downtown and are compatible with the desirable features of adjacent structures. Staff and the Subdivision Committee expressed concerns with the design of the parking deck, especially because of its high visibility as it encroaches into the right-of-way and recommends particular elements on the southwest end cap be incorporated to create a better transition and view from the downtown square. The two retail structures proposed on Center Street shall be reviewed for compliance with the Design Standards set forth by the applicant and approved by the City Council. Staff shall review the elevations at the time of building permit for compliance and compatibility with surrounding developments.

- (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: Staff finds no scenic views to be protected on the subject property. This property is located atop one of the many hills within Fayetteville, this being the most prominent as it defines the downtown area. The addition of a 16-story structure at this location will alter the line-of-site for this property and the view of the city from afar. The construction of such a tall structure is unique within the City of Fayetteville but not unprecedented, with the Hillcrest Tower and Radisson Hotel (15 floors) located within close proximity to the subject property.

(E) Revocation.

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

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

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

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

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

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

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

- (a) The homeowner's association must be legally established before building permits are granted.
- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

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 subject C-PZD utilizes a mixed-use concept, promoting the idea of shared retail, commercial (hotel) and residential (condominium) uses. The mixed-use component of the project, along with overall architectural and development principles utilized in the site planning that promote pedestrian access to the site and the downtown area, and revitalization of the downtown, create a unique and flexible project that embodies the spirit of the Downtown Master Plan. The uses proposed, both residential and commercial/retail, allow for a flexible use of the site, and achieve compatibility and harmony with surrounding land uses, which varies greatly, from government agencies, corporate businesses, offices, retail and restaurants, all integral to a thriving and balanced downtown. A positive impact on adjoining properties should be achieved, enhancing the health, safety and welfare of the surrounding community. The project provides a variety of uses, employment opportunities, downtown living space, and an innovative approach to mixed use yet harmonious development consistent with many of the guiding policies of the General Plan 2020, as well as the Downtown Master Plan for the City of Fayetteville.

The proposal is consistent with many of the guiding policies of the General Plan 2020 including:

Residential Areas:

9.8.e Utilize more intense development patterns downtown, where appropriate, and encourage mixed uses in new developments to promote better community design, maintain human scale, and enhance pedestrian activity.

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

Historic Downtown Commercial Areas:

9.11.c Encourage retail use of ground floor space and restrict office and residential uses to higher floors.

Neighborhood Commercial Areas:

9.12.d Provide commercial areas that are accessible for the convenience of individuals living in residential districts.

9.12.e Reduce the length and number of trips generated by residential development by enhancing the accessibility to these areas.

Mixed Use Areas:

9.14.a Allow mixing of uses and integration of design through the planning process.

Community Character:

9.19.i Promote higher density development and mixed use development within the City limits to provide for more efficient development, create traditional neighborhoods, and preserve open space.

Circulation:

9.20.j Establish facilities which accommodate safe and convenient travel for pedestrians and bicyclists.

(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: The subject described real property is proposed to be rezoned to C-PZD 05-1610. The development standards and plan approved shall be adopted with the rezoning.

(D) C-PZD, Commercial Planned Zoning District

(1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

(a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the

proliferation of commercial uses along major thoroughfares and noncommercial areas.

- (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.
- (c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.
- (d) To encourage commercial development which is consistent with the city's General Plan.
- (e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: The project, as defined with proposed uses, meets many of the goals above, including concentrating a mixed-use development within an orderly and rational manner, providing for maximum pedestrian benefit, encouraging development which is consistent with the City's General Plan and recently adopted Downtown Master Plan.

(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 6	Agricultural
Unit 7	Animal Husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 11	Manufactured home park
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement park
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing

Unit 23 — ~~Heavy Industrial~~
Unit 24 Home occupations
Unit 25 Professional offices
Unit 26 Multi-family dwellings
Unit 27 — ~~Wholesale bulk petroleum storage facilities with underground storage tanks~~
Unit 28 — ~~Center for collecting recyclable materials~~
Unit 29 Dance Halls
Unit 30 — ~~Extractive Uses~~
Unit 31 — ~~Facilities emitting odors & facilities handling explosives~~
Unit 32 — ~~Sexually oriented business~~
Unit 33 — ~~Adult live entertainment club or bar~~
Unit 34 — ~~Liquor stores~~
Unit 35 — ~~Outdoor music establishments~~
Unit 36 — ~~Wireless communications facilities~~
Unit 37 — ~~Manufactured homes~~

FINDING: The applicant has described uses in all of the above-referenced (those without the strike-through) Use Unit categories.

(3) Conditions.

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

FINDING: The applicant indicates compliance with this requirement, and with approval of the rezoning, this condition shall be placed upon the property in perpetuity, unless and until the property is rezoned.

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

FINDING: The residential uses proposed have been designed with the commercial uses in mind, utilizing organizing principles to achieve maximum compatibility between the two uses.

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

FINDING: These uses are not permitted within the proposed development.

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the rezoning request from C-4, Downtown Commercial, to C-PZD 05-1610, with the adoption of the associated large scale development plan.

LAND USE PLAN: The General Plan 2020 Future Land Use Plan designates this site as Historic Commercial. Rezoning this property to C-PZD 05-1610, with associated mixed use plan, is consistent with the land use plan and compatible with surrounding land uses.

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 previous use of this property and the surrounding uses within the properties zoned for Downtown Commercial, which this property is currently zoned. The mixed-use commercial and multi-family residential development exhibits many of the characteristics deemed desirable as guiding policies in the General Plan 2020, as well as the adopted Downtown Master Plan.

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

Finding: The proposed rezoning is justified, as a means of redeveloping a parcel of property in the downtown area in a manner that is more consistent with surrounding land use patterns. A mixed-use land use is desirable for the subject property, to achieve compatibility with both commercial and residential zoning and land use in the surrounding area.

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

Finding: Based on staff findings and the attached Fayetteville Police Department report and Fire Department projections, the proposed rezoning would not create or appreciably increase traffic danger and congestion in the area. This property was formerly developed for a similar type use at a smaller scale. At one time this property generated considerable traffic. The redevelopment of the property will increase the amount of traffic on surrounding streets, but most traffic will be generated from College Avenue, a Principal Arterial Street which has been designated to serve up to 20,600 vehicle trips per day.

Fire: The request for C-PZD 05-1610, East Square Development, is within the acceptable limits of service delivery impact for the Fire Department.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would create a total of 25 new residential units. This increase in units would not undesirably increase the load on public services.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3472

TO: Suzanne Morgan, Associate Planner
FROM: Matt Mihalevich, Park Planner
DATE: September 7, 2005
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: September 12, 2005
Item: C-PZD 05-1610 East Square Development, 523
Park District: SW
Zoned: C-PZD (proposed)
Billing Name & Address: East Square Development
1 East Center, Suite 301

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	<u>252</u> @ \$393 per unit = <u>\$8,646</u> \$8,646 \$9,825.00
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- The Parks and Recreation Advisory Board recommended accepting money in lieu of land for 22 Multi Family Units on July 11, 2005.
- Fees are due prior to signing of the final plat.

***The applicant has modified the number of multi-family units from 22 to 25 since the Parks and Recreation Advisory Board considered this development proposal.



PC Meeting of November 14, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3471

To: Garver Engineers

From: Sarah K. Patterson (Landscape Administrator)

Date: September 7, 2005

Subject: Planning Commission Meeting

ITEM #: R-PZD 05-1610 East Square Development

TREE PRESERVATION PLAN

1. A Tree Protection Waiver has been submitted and signed by Landscape Administrator after an on-site visit to verify that no trees currently exist.

Conditions:

A note located on the Final Plans must indicate that no trees exist on site.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 10
C-PZD 05-1610
(East Square Redevelopment)
Page 29 of 35

POLICE DEPARTMENT

Monday, August 15, 2005

Jeremy Pate
Director of Current Planning
125 W. Mountain Street
Fayetteville, AR 72702

Dear Mr. Pate,

This document is in response to the request for a determination of whether the proposed **R-PZD 05-1610: Planned Zoning District (East Square Development, 523)** submitted by Bob Kohler would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and congestion.

It is the opinion of the Fayetteville Police Department this PZD will have a negligible impact on both the population density and traffic congestion for that area.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Turberville".

Lieutenant Rob Turberville
Fayetteville Police Department

PLANNED ZONING DISTRICT REQUEST:

June 30, 2005

On behalf of:
EAST SQUARE DEVELOPMENT, LLC.
[Project formerly known as the Mountain Inn]

City of Fayetteville Planning Staff:

Attached herewith is the Application for a Planned Zoning District for the property that formerly contained the Mountain Inn, Redbird building, Niblock building, and the Juvenile Courts Building. Also included in the request are buildings that remain including 31 E. Center, and the buildings that house the former Café Santa Fe and McRoy McNair. The Bank of America building is included in order to create a utility easement on its east side for the required re-routing of existing utilities. These buildings comprise the block bounded by E. Mountain St., College Ave., E. Center St., and East Ave.

SCOPE/INTENT:

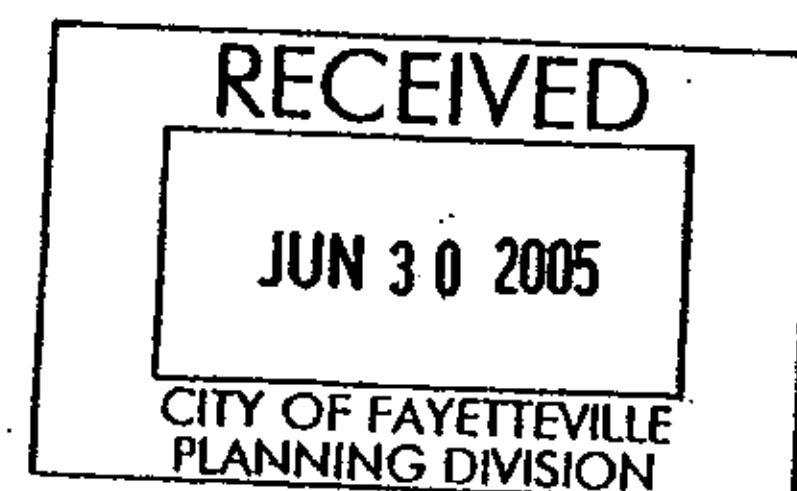
The scope of the planned development for the block is to construct a 16 story mixed use tower containing a hotel, residential condominiums, meeting space, and commercial space. In addition, a parking garage will be constructed as well as the refurbishment of buildings fronting E. Center St. Also included is the planned connector bridge from the proposed parking garage to the Bank of America building over the existing private alley that contains an existing utility easement. The intent of the proposal is to address several issues that require approvals that are typical with a high density urban development in the downtown commercial core. Among the approvals required are lot line adjustments, new utility easements, Master Street Plan amendment for right-of-way (College Ave.), grading and drainage, right-of-way encroachment of structure (Mountain St.), re-routing of existing utilities, installation of new utility lines, as well as architectural, landscape, and other physical features of the site.

OWNERSHIP:

The City of Fayetteville has current possession of the site and is in the process of demolishing the old Mountain Inn, Redbird building, Niblock building, and the Juvenile Courts Building. Upon completion of the demolition work (currently estimated date July 15, 2005) the properties revert to East Square Development, LLC as per the contract between the City of Fayetteville and East Square Development, LLC dated March 15, 2005.

Ownership of the parcels as referenced in the attached plat plan is as follows:

- LOT 1: 1 East Center, LLC (Bank of America)
- LOT 2: M&M Building, LLC (McRoy McNair)
- LOT 3: Café Santa Fe Building, LLC (Café Santa Fe)
- LOT 4: East Square Development, LLC (31 E. Center)
- LOT 5: East Square Development, LLC (Courts, Mountain Inn)
- LOT 6: East Square Development, LLC (Parking Deck)



REZONING:

No rezoning of parcels requested. Current zoning is C-4.

PROPERTY IMPACT:

The redevelopment of the site removes the blighted conditions that for years have degraded the area. Surrounding property values will be enhanced by the new \$23 million residential and commercial development that will attract more interest, activity, and business to the area. The new development will be consistent with the Downtown Master Plan initiatives outlined for properties in the downtown core. The buildings along E. Center St. will remain and will be updated to provide commercial retail on the street level and 2nd and 3rd story residential space as per the DMP. The new tower and parking garage will be constructed utilizing materials consistent with other buildings in the downtown core including masonry, glass, decorative metals, and concrete. The project will add a new icon to the downtown landscape that will exude quality and reactivate a depressed area.

AVAILABILITY OF WATER & SEWER:

The Engineering Division is working closely with the development team to serve the site. Six inch water lines are currently in E. Center St., and E. Mountain St. and an eight inch main is in N. College Ave. A new 8" sanitary sewer line is being proposed as a part of this application along E. Center St. turning south onto College Ave. and connecting to an existing manhole extending the existing 8" sewer line in N. College Ave. which will also serve the site.

REGARDING INTENT/PURPOSE OF PZD ORDINANCE:

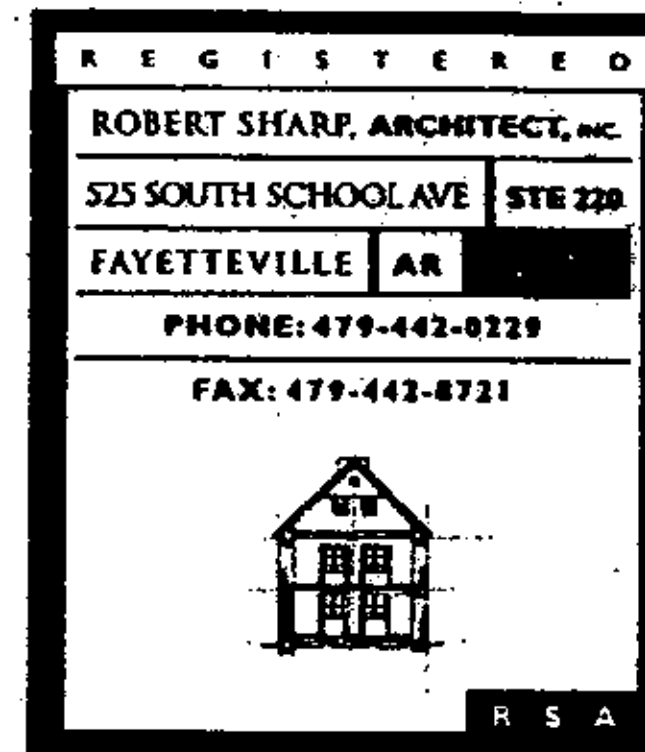
This development allows for all permitted uses in the PZD in a mixed use configuration. The ordinance encourages mixed use developments "containing any combination, including multiple combinations of commercial, office, and residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use". Because of the several approvals required for the project – although not rezoning any of the parcels – the PZD ordinance is a useful tool due to the extreme time constraints on the project and the requirement to begin construction as early in the year as possible.

A handwritten signature in black ink, appearing to be "B. J. Kelly", with a long horizontal line extending to the right.

July 14, 2005

Ms. Suzanne Morgan
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

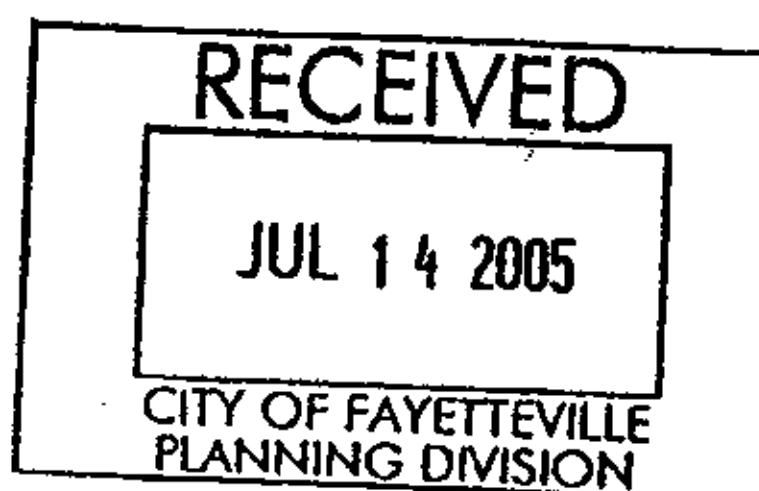
**RE: REQUEST WAIVERS AND APPROVALS
EAST SQUARE REDEVELOPMENT**



Dear Suzanne,

The purpose of this letter is to summarize the waivers and amendments necessary for construction of the East Square Redevelopment project. As you know, many of the design decisions were driven by the developer's desire that this project fulfill the goals of the recently completed Downtown Master Plan. We are asking for the following 4 waivers:

1. **Vacate an existing alley** that runs from east to west from College Avenue to an area to the east of the Bank of America building. This alley is being closed to allow construction of the hotel tower, the parking deck, and the meeting spaces. The utilities that are in this alley currently will be relocated. Over the years this alley has been built over in several places and access for utility repair would be extremely difficult. All the utility companies have participated in planning the relocation of existing utilities. We feel that vacating this alley is critical to the projects success and vastly improves utility access.
2. **Bridge over an existing alley** that runs north to south along the east side of the Bank of America building. We are proposing to provide parking for the Bank of America building in the new parking deck. We will be providing a covered, enclosed pedestrian walk between the parking deck and the existing building. The walk will be less than 20' wide and its structure will not bear on the alley. Due to the existence of fiber optic cables in this alley, no construction will be performed in this alley. We feel that this bridge will in no way impair the functioning of this alley.
3. **Amend Master Street Plan along College Avenue.** One of the consistent themes of the Downtown Master Plan was the desire to civilize College Avenue. Dover Kohl and Partners discussed the idea of "putting College Avenue on a diet" and turning into a walkable street rather than a sprawling automotive strip. To this end, we are proposing installing 14' wide sidewalks and street trees along College Avenue. We are also proposing that the east façade of the hotel be set back 9' from the *existing* right of way. The current College Avenue right of way is 50' feet, Dover Kohl and Hall Planning and Engineering recommends that College Avenue right of way



be 60'. The current Master Street Plan envisions College Avenue as a Principal Arterial being 110' wide. This is clearly unrealistic, as it would involve tearing down the historic Washington County Courthouse, the old jail, First Baptist Church and every other significant building between Sixth Street and Maple Avenue. We feel that the recommendations of the Downtown Master Plan should be honored. We ask that College Avenue Master Street Plan right of way be 60' (30' from centerline). We also request the right to extend balconies, awnings, canopies, and other building supported structures out into the College Avenue right of way above street level.

4. **Amend Master Street Plan along Mountain Street.** We are proposing a pedestrian colonnade along Mountain Street. This will be an open air covered sidewalk with retail show windows along the north side. A critical component of this pedestrian colonnade is that it provides a covered walk between the hotel and the Fayetteville Town Center, thus encouraging shared functions between the two facilities. The area above the colonnade will be a parking structure for 350 cars. The location of the parking structure was driven by the developer's desire to save historic buildings along Center Street. The geometry of the parking structure requires two 62' wide tiers for a minimum overall width of 124'. This puts a portion of the parking structure into the street right of way. We have provided a variety of design elements to screen the Mountain Street façade of the parking structure. We are proposing awnings, trellises, canopies, perforated metal screens, signage, railings, and cornices to give the parking structure an appropriate scale. According to the Downtown Master Plan, *"The primary goal of the Architectural Elements is authenticity. The elements encourage construction which is straightforward and functional, and which draws its ornament and variety from the traditional assembly of genuine materials."* Due to the functional nature of the parking structure, its design was inspired by the robust and vibrant qualities of industrial architecture. In addition, great care has been taken to provide a pleasant and vibrant pedestrian experience along Mountain Street. We request that the Master Street Plan along Mountain Street, along the north side of the street, to the south of the parking deck only, be narrowed to 14' from the centerline. We also request the right to extend balconies, awnings, canopies, and other building supported structures out into the Mountain Street right of way above street level.

Summary The four waivers or amendments described above would allow us to construct the East Square Redevelopment project in a way that is consistent with the goals of the Downtown Master Plan. Please contact me if you have any questions or comments on this matter.

Sincerely,

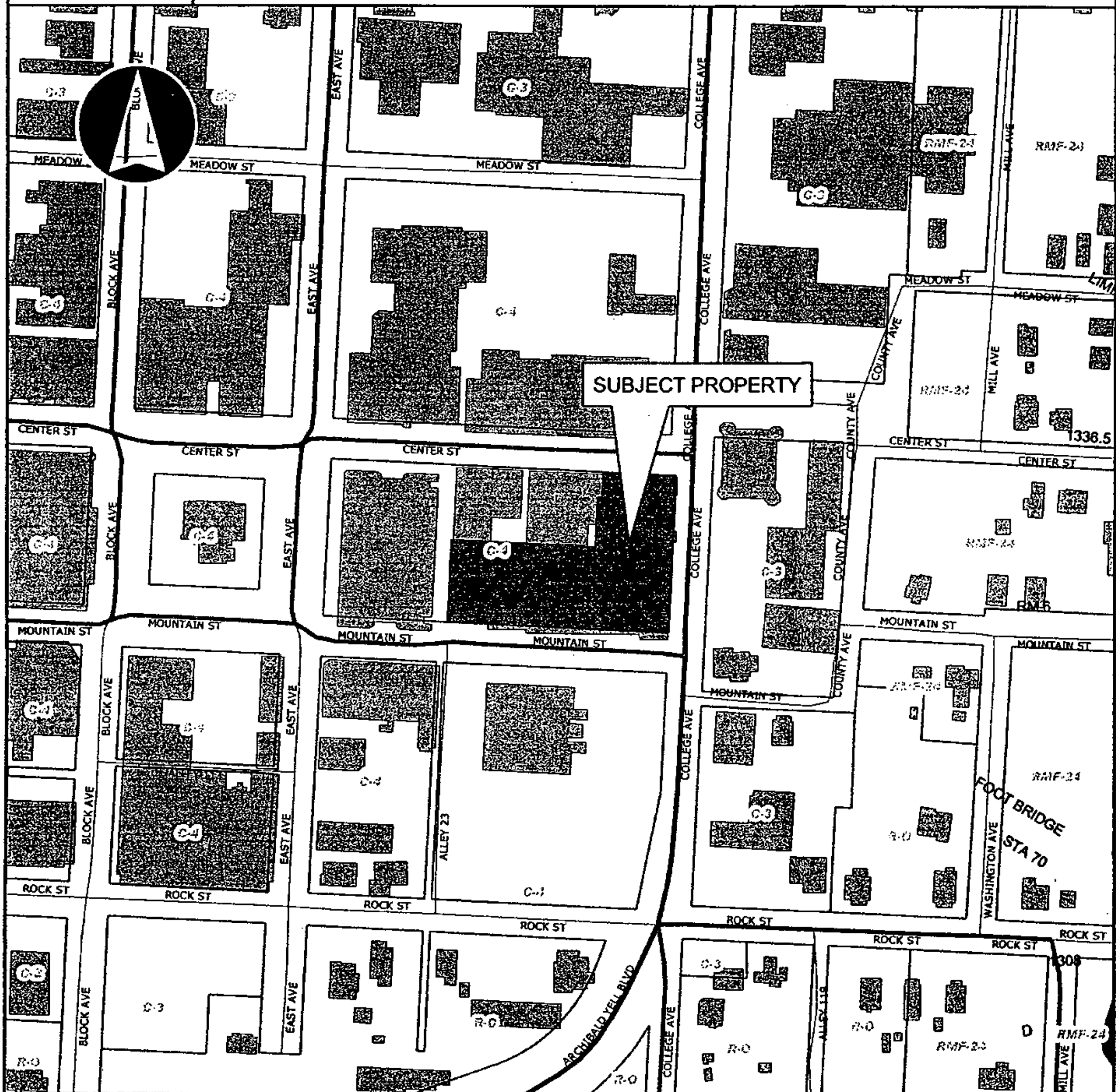


Robert Sharp, Architect

CPZD05-1610

EAST SQUARE DEVELOPMENT

Close Up View



Legend

- ooooo Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- CPZD05-1610
- vector.GDB.Footprint_2004

0 75 150 300 450 600 Feet

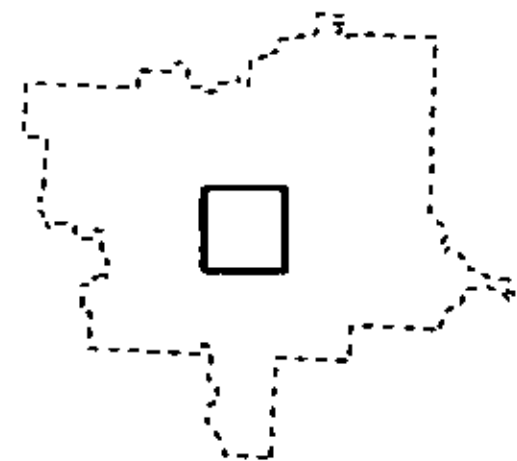
CPZD05-1610

EAST SQUARE DEVELOPMENT

One Mile View



Overview



Legend

Subject Property

CPZD05-1610

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

1

Miles

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

C. 11
Bossler Construction Contract
Page 1 of 10

12/6/2005

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

Airport

Department

Action Required:

Approve a construction contract with Bosler Construction to rehabilitate the Airport terminal building. Approve a 10% project contingency, in the amount of \$25,460.00.

Approve a Budget Adjustment.

\$ 280,060.00

Cost of this request

\$ 300,000.00

Category / Project Budget

Terminal Building Rehabilitation

Program Category / Project Name

5550.3960.5804.00

Account Number

\$ 39,350.00

Funds Used to Date

Aviation & Eco Dev Improvements

Program / Project Category Name

05021.1

Project Number

\$ 260,650.00

Remaining Balance

Airport

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒

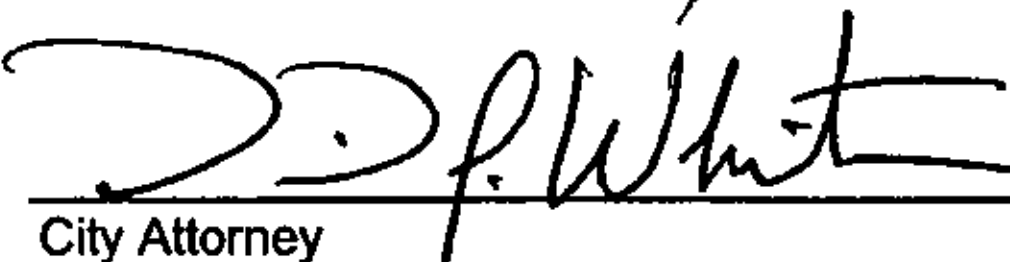

Department Director

11/18/05
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

11/21/05
Date


Finance and Internal Service Director

11/22/05
Date

Received in City Clerk's Office



Received in Mayor's Office

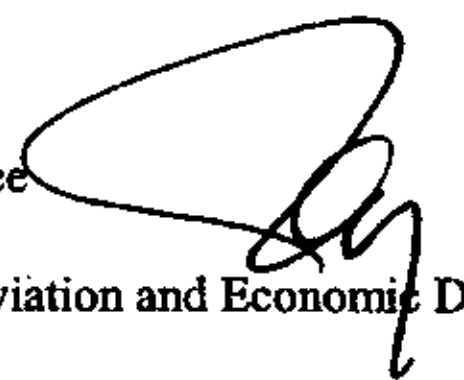
Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO:

TO: Mayor and City Council

THRU: Staff/Contract Review Committee 

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: November 17, 2005

SUBJECT: Approve contract with Bosler Construction Company for the Fayetteville Municipal Airport Terminal Remodeling Project for \$254,600.00 and contingency of \$25,460.00. Approve application to the State of Arkansas Department of Aeronautics and acceptance of a State Airport Aid Grant for \$100,000.00 for the project. Approve a budget adjustment.

RECOMMENDATION: Approve contract with Bosler Construction Company of Siloam Springs, Arkansas and process for signature of the Mayor for the Fayetteville Municipal Airport, Drake Field Terminal remodeling project and approve application and acceptance of a State of Arkansas Department of Aeronautics SAAG Grant for \$100,000.00 for the project.

BACKGROUND: Task Order # 11 with McClelland Consulting Engineers and Whittenberg, Delony and Davidson Architects designed the project to remodel the terminal building to improve the public area to accommodate the general aviation customer. The terminal building has not been modified since the airlines left except to move furniture around and to build partition walls to make administrative offices. This project has been in the five year plan for three years. Million Air Fayetteville was recently selected to be the fuel and line service fixed base operator. They lease a portion of the terminal and take care of the customers and passengers that use the airport. While the traffic has steadily increased to the airport, the function is different. Instead of 100 passengers, there are 5 to 10 passengers. Instead of regional commercial jets there are corporate jets. The passengers that wait to be picked up and those that come to Fayetteville through the airport entry point are often first time visitors to Fayetteville. This project will remodel the space in the terminal to more appropriately take care of the needs of those passengers. The aircrews that fly the aircraft spend a lot of time in the terminal building. Often, they fly into the City in the morning and must wait for their important passengers all day. This project will create a pleasant waiting area for the crews.

DISCUSSION: Task Order #11 with McClelland Consulting Engineers was approved September 6, 2005. Following many meetings with the Airport Board and the users of the Terminal Building, the final plan was developed and designed. We have good bids. The Airport Board reviewed the project and the Bids and approved the project to be forwarded to the City Council for action.

BUDGET IMPACT: The bid is within the budget amount for the project. The project is additionally funded with \$40,000.00 from Million Air of Fayetteville, \$100,000.00 from the State of Arkansas and the remainder from the Airport fund. We have asked for a contingency amount of \$25,460.00, 10% of the bid amount.

Attachments: Staff Review Form
Certified Bid tab
Contract

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH BOSSLER CONTRACTING, INC. IN THE AMOUNT OF \$254,600.00 TO REMODEL THE TERMINAL BUILDING AT THE FAYETTEVILLE MUNICIPAL AIRPORT; APPROVING A 10% PROJECT CONTINGENCY IN THE AMOUNT OF \$25,460.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$40,000.00.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby approves a contract with Bossler Contracting, Inc. in the amount of \$254,600.00 to remodel the Terminal Building at the Fayetteville Municipal Airport. A copy of the contract marked Exhibit "A" is attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas, hereby approves a 10% project contingency in the amount of \$25,460.00.

Section 3: That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment recognizing Woolsey Aviation's contribution to the project in the amount of \$40,000.00.

PASSED and APPROVED this 6th day of December, 2005.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

CONTRACT

THIS AGREEMENT, made and entered into on the ____ day of _____ 2005, by and between **Bossler Contracting Inc.** and the **City of Fayetteville**:

WITNESSETH:

That Bossler Contracting Inc., of Siloam Springs, Arkansas, for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville as follows:

1. That Bossler Contracting Inc. shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled:

Drake Field Terminal Building Renovation Project

Advertisement for Bids
Instructions to Bidders
Bid and acceptance thereof
Performance Bond

Payment Bond
General Conditions
Supplemental Conditions
Specifications
Drawings - 14 Sheets

2. That the City of Fayetteville hereby agrees to pay to Bossler Contracting 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 254,600 and 00/100 dollars (\$254,600.00).
3. The Work will be completed and ready for final payment in accordance with the General Conditions within 150 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 and Bossler Contracting Inc., recognize that time is of the essence of this Agreement and the City of Fayetteville will suffer financial loss if the Work is not completed within the times specified 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 City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, City of Fayetteville and Bossler Contracting Inc., agree that as liquidated damages for delay (but not as a penalty) Bossler Contracting Inc. shall pay City of Fayetteville, 150 Dollars (\$150.00) for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.

5. That within 30 days of receipt of an approved payment request, the City of Fayetteville shall make partial payments to Bossler Contracting, Inc., on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by Bossler Contracting, Inc., LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville 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.
6. That upon submission by Bossler Contracting, Inc. of evidence satisfactory to the City of Fayetteville that all payrolls, material bills, and other costs incurred by Bossler Contracting, 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 Bossler Contracting, Inc., of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville.
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 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, Bossler Contracting, Inc. shall, at its expense, within 5 days after the receipt of notice from the City of Fayetteville, 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. In such event, no further payment to Bossler Contracting, 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.
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. **Freedom of Information Act.** City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Arkansas Freedom of Information Act request is presented to the City of Fayetteville, Bossler Contracting, 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.A. §25-19-101 et. Seq.). Only Legally authorized photocopying cost 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 counterparts be deemed an original Contract.

BOSSLER CONTRACTING INC.

WITNESS:

By _____

Title

ATTEST:

CITY OF FAYETTEVILLE

SONDRA SMITH, City Clerk

By _____
DAN COODY, Mayor

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

C. 11
Bossler Construction Contract
Page 7 of 10

Budget Year 2005	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 11/18/2005	Adjustment Number
-------------------------	--	----------------------------------	-------------------

Project or Item Added/Increased:
\$19,410 is requested in the Building Costs account.

\$20,590 is requested in the Use of Fund Balance account.

Project or Item Deleted/Reduced:
None. To recognize \$40,000.00 in revenue from Woolsey Aviation, DBE Million Air Fayetteville

Justification of this Increase:
Will provide for reducing the cost to the City of the Terminal Improvements.

Justification of this Decrease:
Airport tenant, Million Air Fayetteville, is contributing \$40,000 to the cost of construction of the Terminal Building improvements

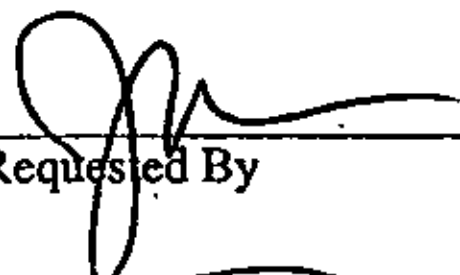
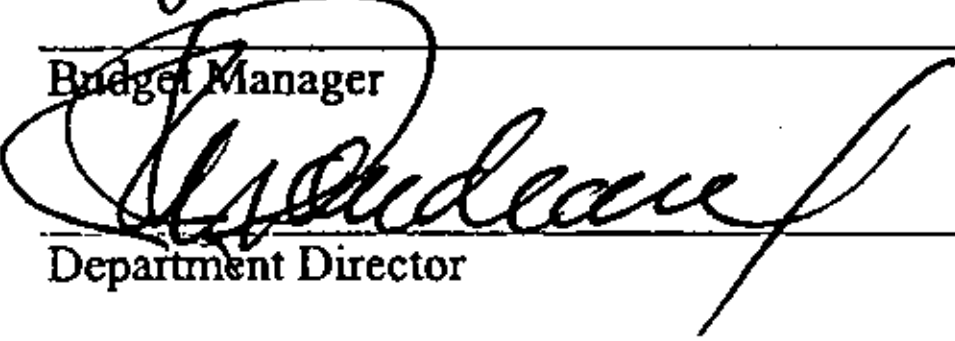
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Building costs	5550	3960	5804	00	19,410	05021	1
Use of fund balance	5550	0955	4999	99	20,590		

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Pymts by property owners	5550	0955	4420	00	40,000	05021	1

Approval Signatures

	11-18-05
Requested By	Date
	11/18/05
Budget Manager	Date
	
Department Director	Date
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type: A B C D E

Date of Approval

Initial Date

Posted to General Ledger

Initial Date

Posted to Project Accounting

Initial Date

Entered in Category Log

Initial Date

F A C S I M I L E

WITTENBERG, DELONY & DAVIDSON ARCHITECTS2434 E Joyce Street, Suite 10
FAYETTEVILLE, AR 72703479/442-6681
479/231-0231 FAX**TO: ALL PLAN HOLDERS****FROM: Richard Alderman**

COMPANY/DEPARTMENT:

FAX:

PAGES (including cover): 3

PHONE:

DATE: 11.18.05

RE: Drake Field Renovation

PROJECT NUMBER: 05-054

FC:

☐ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ VERIFY RECEIPT
☐ FOLLOW-UP HARD COPY BEING SENT BY REGULAR MAIL ☐ _____

Attached please find the official Bid Tabulation for the Drake Field Renovation project. The Apparent Low Bidder is Bossler Contracting. If you have any questions please do not hesitate to call. The City and WD&D appreciate the time and effort taken in bidding this Work.

NAME	COMPANY	PHONE	FAX
General Contractors			
Kim Hoadley	Hoadley Construction	236-2300	631-1617
Katy Waffsonge	Bossler Contracting	524-6602	549-3972
Mike Jones	GAG Building	501-676-6996	501-676-2497
Donald Fitzgerald	Keating Enterprises, Inc.	466-2645	442-4792
Barry Puckett	Southern Building Services	494-7776	494-7779
Sam Hollis	Milestone Construction	751-3560	751-4841
Sandy Dixon	Dixon Contracting	883-4878	452-0568
Plan Rooms			
	ABC Plan Room/ SRI		582-4021
	NWA Plan Room		750-7709
	Reed Plan Room		18003402713

FACS FILE

WITTENBERG, DELONY & DAVIDSON ARCHITECTS2424 E Joyce Street, Suite 10
FAYETTEVILLE, AR 72703479/442-6681
479/251-0231 FAX**Consultants/ Clients**

Peggy Vice	City of Fayetteville	575-8220
Ray Boudreaux	Fayetteville Municipal Airport	718-7642
Burt Jones	Green Anderson	442-4682
Wayne Jones	McClelland Engineers	443-2377

575-8257
718-7646
442-0413
443-9241

I've emailed
this to you
both as well as
Andrea, but it
seems to be
hung up. I'm
faxing a copy
also for your
use.

-CK-

WITTENBERG, DELONY & DAVIDSON, INC.

2434 E. Joyce Blvd. Suite 10, Fayetteville, Arkansas 72703 Telephone: 479-442-6681 FAX: 479-251-0231

BID TABULATION FOR: Drake Field Renovation WDED PROJECT NO.: 09054 BIDS RECEIVED: Thursday, November 17, 2005 at 3 p.m. in Room 326, City Hall

BIDDER'S FIRM NAME AND ADDRESS	BID	AMOUNT OF BID	PLUMBING	ELECTRICAL	MECHANICAL	PAINTING	ROOFING	IRONWORK	GLASS	OTHER	COMMENTS
Bossler Contracting, Inc. Lic. # 0065610406 Siloam Springs, AR	X	\$ 254,600	\$17,700	\$36,600	Advanced Air	Morrow Plumbing	Broadway Electric Contracting, Inc.				
Dixon Contracting, Inc. Lic. # 0009900406 Fort Smith, AR	X	\$ 293,898	\$25,121	\$39,576	Advanced Mechanical	Advanced Plumbing	Campbell Electric				
G.A.G. Builders, Inc. Lic. # 0124490406 Cabot, AR	X	\$ 296,000	\$19,000	\$30,000	Advanced Mechanical	Dove Creek	Wachter Electric				
Kim Headley Construction Co. Inc. Lic. # 68010406 Rogers, AR	X	\$ 275,900	\$33,070	\$23,431	Advanced Mechanical	Rocky the Plumber	Wachter Electric				
Keating Enterprises, Inc/ Bridge Builders, Inc. Lic. # 0059910406 Fayetteville, AR		N O N - C O M P L I A N T B I D									
Milestone Construction Co. LLC Lic. # 0156050406 Springdale, AR	X	\$ 313,000	\$14,000	\$17,000	American Air	S & G Plumbing	Broadway Electric				
Southern Building Services, Inc. Lic. # 0093000406 Fort Smith, AR	X	\$ 377,000	\$25,000	\$35,000	Advanced Mechanical	Kramer Plumber	L & E Electric				

BID CERTIFICATION: I hereby certify that the bids as tabulated above are correct as received and read aloud.

Signature: R. Alderman
Richard Alderman, A.I.A., Principal / Project ManagerDate: 11.18.05

November 17, 2005
Ms Sondra Smith, City Clerk
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Re: Appeal of a Telecommunications Board decision to deny approval of a formal request made by three Fayetteville citizens, which asks for the Fayetteville Government Access Television channel to videotape and cablecast a local government meeting that meets FOIA criteria.

Dear Ms. Smith:

Please accept this letter as a request to be placed on the City Council agenda to appeal the Telecommunication Board's decision of August 18, 2005 that denied my request for Fayetteville Government Channel television coverage and cable casting of a local government meeting that meets Arkansas Freedom of Information Act criteria. To my knowledge, neither the Board nor the City of Fayetteville has a formal appeal procedure in place for me to follow in their appeal procedures. However, a Government Channel Policy Subcommittee was formed to revise the appeals process, and I am a member of that subcommittee. The Subcommittee is scheduled to present its report at the November 2005 Telecommunications Board meeting.

At its Aug 18 meeting, in what I consider to be the second step in their appeal process, the Telecommunications Board voted unanimously to accept the recommendations of the policy interpretation made by Ms. Susan Thomas in her July 6 response to my original request. However, the Board did not formally review my July 7 letter of appeal, which I consider to be my appropriate response as second stage of the appeals process.

I indicated that I disagreed with their decision, and my understanding from the ensuing Board discussion is that I can take my appeal to the City Council through City Staff and the City Clerk's office. However, the Board has made no specific recommendations regarding the appropriate steps to carry my appeal from the Board to the City Council.

Thus, my further request here is adapted from the appeal process followed by the City Planning Commission, which has been suggested as an interim approach by the City Staff. (See July 6, 2005 Planning Commission Appeal for Rapido Rabbit Carwash (ADM 05-1582.) However, the Board has made no formal recommendation regarding this approach. My understanding is that City staff would follow a process similar to the Planning Commission's in forwarding documentation for my appeal through your office to the City Council. I have no further information regarding the format or office that will carry my appeal forward, or regarding the formal findings of the Telecommunications Board. However, I did send a draft copy of this letter to Telecommunications Board and City staff on November 9, but have received no specific comments regard its contents.

Please advise as to any further requirements that should be met in this regard. I will contact our office to arrange a personal visit to discuss my appeal.

Respectfully submitted,

Jim Bemis
1325 Pine Creek
Fayetteville, AR 72704
Phone: 790 2518

CC: Susan Thomas, Marvin Hilton

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Susan Thomas, Public Information & Policy Advisor 

Date: November 28, 2005

Subject: Telecom Board Appeal

RECOMMENDATION

That City Council uphold the Telecommunication Board's decision to discontinue filming and cable-casting Fayetteville Public School Board meetings.

BACKGROUND

On June 8, 2005, Alan Wilbourn, Director of School and Community Relations for the Fayetteville Public Schools, sent an email to City of Fayetteville Cable Administrator Marvin Hilton stating that the School District no longer required the services of the government channel with regard to filming Fayetteville Public School Board Meetings (request from Wilbourn attached). The City adhered to this request and discontinued filming and cable-casting the meetings.

In response to the City's decision to stop filming the meetings, Mr. Jim Bemis initiated, according to current Government Channel Policy (attached), a citizen request to film and cablecast the School Board Meetings on June 22, 2005. The City again stated that the meetings would not be covered, and Mr. Bemis requested a formal response from the City outlining the City's official position on the matter. On July 6, 2005 a formal response was provided to Mr. Bemis (attached email from Susan Thomas). Upon receipt of that response, Mr. Bemis filed a formal complaint with Cable Administration on July 7, 2005. The matter was heard and considered at the July 21, 2005 meeting of the Telecommunications Board (minutes attached). There was some question as to the nature of Mr. Bemis's complaint, and the Telecom Board rescheduled hearing of this matter for August 2005.

At the August 18, 2005 Telecommunications Board meeting, the board unanimously accepted the City's interpretation of the Government Channel Policy supporting the decision to stop filming Fayetteville Public School Board meetings (minutes attached). At the same meeting Mr. Bemis indicated his desire to forward his complaint to the City Council. Because this was the first Telecommunications Board decision appeal, city staff agreed to assist Mr. Bemis in identifying the proper procedure and protocol for getting his complaint on the Council's agenda. After discussion among city staff, it was concluded that the appeal process should model the planning commission appeal process whereby the citizen appeals directly to the City via a written letter to the City Clerk. This suggestion was provided to Mr. Bemis via email on August

23, 2005 (attached), and Mr. Bemis submitted his letter of appeal to the City Clerk on November 17, 2005 (attached).

DISCUSSION

An important critical first step is for the Council to clarify whether they wish to be included in the appeal process for Telecommunication Board decisions. Council should also be aware that during this appeal process, the Telecommunications Board formed a Government Channel Policy Subcommittee, and that committee has drafted a new policy document for the government channel (attached). The new document, which has not yet been approved by the Telecommunication Board, does not allow for appeals to move beyond the Board. That is, the Telecommunications Board will have final say in all Cable Administration/PEG Facility related complaints.

It should also be noted that according to current Government Channel policy, while an appeal is in process, all meetings in question will be filmed but not aired. If the appeal is approved, backlogged meetings can be aired.

Ordinance #4504 which outlines the purpose and intent of the Telecommunications Board has also been attached for your information.

BUDGET IMPACT

N/A

From: "Alan T. Wilbourn" <awilbourn@fayar.net>
To: "Marvin Hilton" <mhilton@ci.fayetteville.ar.us>
Date: 6/8/05 3:08PM
Subject: school board meetings

Marvin,

Beginning with the July 28, 2005 school board meeting, we will move the broadcasts of all school board meetings to the Education Channel in cooperation with Cox Communications and UATV. This move will give FHS students the opportunity to operate the cameras as part of the multi-media program we're developing at FHS and give them live, hands-on experiences.

It's been a pleasure to work with you, Ric, and all of the folks at the Government Channel, and you've been a great service to us. Thanks for all your help over the years!!

Alan T. Wilbourn
Director of School & Community Relations
Fayetteville Public Schools
PO Box 849
Fayetteville, AR 72702
(479) 444-3000 ext. 654

CC: "Susan Cromwell" <scromwell@fayar.net>

POLICY ON THE USE AND PROGRAMMING OF
THE GOVERNMENT ACCESS CHANNEL
FAYETTEVILLE, ARKANSAS
(approved by Telecommunications Board July 29, 2004)

The City of Fayetteville Government Access Channel, in accordance with resolution 94-91, is intended to give Fayetteville citizens information about City government services, programs, and activities and their relationships within the community and help create an open and participatory local government. The channel is administered by the City's Cable Administrator under guidelines established by and interpreted by the Telecommunications Board and City Council. The Cable Administrator schedules and manages the facilities and staff of the Government Access Channel for videotaping or other cable-based coverage of appropriate programs, events, and spots under the provisions outlined in this policy.

I. TELECOMMUNICATIONS BOARD

The Fayetteville Telecommunications Board was created under Ordinance 4505, Chapter 33, to advise the Council on telecommunications issues and to coordinate and oversee telecommunications franchise systems and use of the public rights of way designated for public, educational and governmental use in the City of Fayetteville." The seven-member Telecommunications Board also serves directly in an appeal process that considers and interprets issues regarding exceptions, variations, or modifications to this Policy Statement. Appeals to decisions made under this policy will follow the process outlined in this policy.

II. ELIGIBILITY FOR USE

A-1. CITY MEETINGS WITH STANDING AGREEMENTS TO TELEVISION

First priority for use of the channel will be given to requests, made in accordance with this policy, by the mayor, the City Council, individual council members, City Departments, or City Divisions. The Cable Administration Division, through its operation of the Government Access Channel, has a standing agreement to cablecast certain official city government meetings. The Cable Administration Division shall maintain a record of such meetings. If the party originally making the request and establishing the standing agreement is no longer in a position to make requests, an appeal to remove a meeting from this standing agreement may be made to the Telecommunications Board.

A-2. ADDITIONAL CITY MEETINGS

Other meetings concerning city business will be cablecast if they meet Freedom of Information (FOI) criteria and are requested by any one of the following: the mayor, the City Council, one individual council member, a department or division head, any elected city official or any three Fayetteville citizens, who are registered

voters, living within the city limits of Fayetteville, may make such requests. In addition the chair of any city council appointed committee may request to have the committee, of which they are the chair, televised.

In addition, any three citizens, who are registered voters, living within the City limits of Fayetteville, may request any meeting, that meets FOIA requirements and dealing with government business that directly impacts the Citizens of Fayetteville. Such requests will be subject to the resources available at the time, including the ability and practicality of traveling outside of Washington County.

B. FAYETTEVILLE PUBLIC SCHOOLS

Second priority for use of the Government Access Channel will be given to meetings and official functions of the Fayetteville Public Schools Board of Education. Such programs and meetings shall be requested by the School Board or School Administration

C. CITY INFORMATIONAL PROGRAMS

Third priority for use of the Government Channel will be given to non partisan informational programs about City services or activities. Such informational programs shall be requested by any elected City Official, Department or Division Head on subjects within their purview.

D. OTHER GOVERNMENTAL ENTITIES

Fourth priority for use is given to other government entities, such as Washington County, State and Federal Agencies and Tri-county Solid Waste, presenting programs about government services or activities that are non-partisan in nature and that affect the City of Fayetteville. These governmental units must submit requests for producing and cablecasting programs or meetings directly to the Cable Administrator or through one of the other City officials or agencies noted above.

E. Fifth priority will be given to requests by citizens, outside agencies, or groups with whom the City of Fayetteville contracts or to whom it grants money to provide city services or activities. In such cases, the program should be non-partisan in nature or a limited public forum (see criteria for limited public forum below).

F. Sixth priority will be given to two types of limited public forums: candidate forums and issue forums. Declared candidates for any public office, and persons advocating any cause, viewpoint, or proposed policy of a particular nature, will be eligible to appear only in a limited public forum venue.

A limited public forum has the following criteria:

- It is devoted to public expression and the free exchange of ideas and is conducted in a public place.
- All candidates or sides of an issue are given an equal opportunity to appear.
- Reasonable time, place, manner, and format restrictions will be applied without reference to content.
- The Cable Administrator may contact a non-partisan organization to organize the forum.
- The forum will be moderated or sponsored by a non-partisan person or organization that will ensure equity. All candidates and organizations participating in the forum will have the right of approval of the moderator from a list prepared by the Cable Administration Division. During the forum, the debate will be timed and the moderator will solicit and select audience input, and decide points of order.
- If it becomes apparent that only one side of a forum is willing to participate, the Cable Administrator may make a decision to conduct the forum with only one side participating. In such a case, all of the rules as stated here for conducting a forum shall remain and be applied.

Candidate forums:

- For purposes of this policy, a person is considered to be a candidate from the time of announcing publicly for any public office until the election has been held.
- This restriction that candidates can appear only in a limited public forum does not apply to persons who receive incidental air time as part of public meetings being cablecast on the channel, nor to officials acting as part of their regular duties when such activities do not involve partisan politics.
- Ongoing series or programs featuring any elected City official may not be broadcast within 30 days of a contested primary or general election involving seats on the council or the mayor.
- The City, through the Cable Administration Division, may conduct one candidate forum for each contested office before each election. As resources permit, forums may be conducted for school board and any government office representing the Fayetteville area, including City, County, State and Federal offices. These are the only candidate forums that will appear on the Government Access Channel.
- Candidate forums for any contested office must be requested in writing by at least one of the declared candidates for that office.
- No candidate forums will be held before the last filing deadline.

Issue forums:

In addition to the limited public forum criteria:

- Issue forums must be requested by at least two elected city officials or any five Fayetteville citizens, who are registered voters, living within the city limits of Fayetteville.
- The issue must be related to government ordinances, policies, or activities, thereby serving a compelling government interest.
- Issue forums may be sponsored by non-partisan or partisan entities, but they must satisfy all criteria listed above for limited public forums, with particular attention to all sides of the issue being given equal opportunity to appear and to the moderator being mutually agreeable to all entities involved in the forum.
- Requests for issue forums must be made to the Cable Administration Division at least two weeks in advance. The Cable Administrator will verify that all criteria have been met and that resources are available to record the event (on a first come, first served and fifth-priority basis). If resources are not available, the forum will not be taped by the Government Channel staff for cable casting on the Government Access Channel.
- All decisions by the Cable Administrator will be communicated in writing to the requesting parties. Appeals to the Administrator's decisions will follow the appeal process outlined in this policy.

III. SCHEDULING

A. The Cable Administration Division will be responsible for scheduling appropriate programs and spots on the Government Access Channel and for publicizing the schedule.

Programs will be scheduled for cablecasting according to the following order of priority.

B. Announcements or programs concerning emergencies affecting residents' health or safety.

C. Regularly scheduled, recurring programs including informational series and cablecasts of regular public meetings.

D. One-time, special, or non-regular informational programs or cablecasts of meetings or other activities by government units.

E. Public service announcements.

F. Programs produced by persons, agencies, or groups outside of Fayetteville City government with whom the City contracts or to whom it grants money. These

programs must be submitted and approved for use on the Government Access Channel (See procedures for submission and approval of programming below).

G. Limited public forums for both candidates and issues.

H. Replays: Standard replays of meetings shall be one in the morning hours and one in the afternoon or evening hours, in addition to any live telecasting. Any City elected official, Department or Division head may request additional replays of City archived meetings and programs to be replayed. Programs and meetings originally requested by agencies, other than the City, may also be requested for such replays by the originating agency. Any three citizens may request any archived meeting or program to be replayed. Informational programs may be replayed from time to time, at the discretion of the Government Channel staff, to create continuous programming and more effectively disseminate information.

I. The "Government Channel Bulletin Board" service giving printed information about both City and community events and services when other programs are not being cablecast.

J. The "Government Channel Bulletin Board" is primarily intended to inform residents of government activities, meetings, and events. The Bulletin Board may also be used to inform residents of other "free" community events and activities sponsored by Fayetteville-based nonprofit, service, or charitable organizations. Bulletin Board announcements / messages will be aired at the discretion of the Cable Administration Division and will be subject to the following guidelines:

Announcements / messages must be submitted in writing to the Cable Administration Division at least two days prior to their first airing.

1. Due to the limited space on the Bulletin Board, announcement / messages should be limited to space available on the Message Board Request Form.
2. Community announcements / messages may not run more than 2 weeks. If they are to run more than 2 weeks, announcements / messages should be resubmitted or special arrangements made with the Cable Administration staff.
3. Cable Administration staff reserves the right to edit for reasons of style and length all announcements / messages submitted for airing on the Government Channel Bulletin Board.

IV. CONTENT AND PRODUCTION OF GOVERNMENT CHANNEL PROGRAMS

- A. Because the staff of the Fayetteville Cable Administration Division is small, City Departments and Divisions requesting the production of a program must be willing to assist in the production of the program if asked to do so. This may include furnishing necessary information, gathering together persons and props to be used in the program, making on-air presentations, videotaping or editing the program, or paying for services provided.
- B. Except when (1) the intent is to use brief excerpts as part of a larger program or (2) when technical difficulties interfere, the public portions of any City Council meeting or other public meetings receiving coverage on the channel, including limited public forums, will be cablecast in their entirety, without editing or subjective comment. All other programming is subject to editing by the Cable Administration as long as such editing does not alter the factual content or overall intent of the material being cablecast.
- C. No promotion, endorsement or advertising for any private business, commercial service or product, or any profit-making activity, will be allowed on the Government Access Channel. However, brief audio and video credit may be given at the end of a program where special materials or assistance has been donated by a commercial or charitable enterprise.
- D. When questions arise as to the admissibility of material or language in this regard, the Cable Administrator will make a decision on whether it is to be cablecast. Appeals of these decisions may be made to the Telecommunications Board and City Council through the process outlined in this policy.

V. USE OF EQUIPMENT, FACILITIES, AND STAFF

- A. City of Fayetteville employees wishing to use the video equipment and studio facilities shall make arrangements through the Cable Administrator. Loaning of equipment for personal or outside use shall not be authorized under these policies. Other citizens, groups, and organizations may apply to the Community Access Television provider for use of the equipment, facilities, and staff.

VI. SUBMISSION AND APPROVAL FOR CABLECAST OF PROGRAMMING PRODUCED BY OUTSIDE AGENCIES

- A. Before a program or other spot is scheduled for cablecasting, it must meet minimum technical and broadcast aesthetic standards. These standards will be determined by the Cable Administration Division. Where a tape, slide show or film has been furnished by an entity other than city government, it must be viewed by the Cable Administration Division before it is scheduled or cablecast to ensure that it meets those standards. Programming of forums produced by outside agencies of declared candidates for any public office and

persons advocating any cause, viewpoint or proposed policy of a particular nature will not be eligible for cable casting on the Government Access Channel.

- B. All outside agencies, groups, or citizens desiring to cablecast programming other than forums on the Government Access Channel shall complete and submit a Cablecast Request Form from the Cable Administration Division no later than one week prior to the requested air date.
- C. This information should include the name and contact information of the person or group responsible for the production under consideration.
- D. The producer(s) will ensure the Cable Administration Division of the program's eligibility under the criteria and requirements listed above.
- E. The producer(s) will ensure that the program has obtained all necessary copyright clearances and permissions where legally required.
- F. The Cable Administration Division shall review the program, decide whether to grant or deny the request, and notify the producer(s) in writing within five business days of receiving a request.

VII. APPEAL PROCESS FOR TAPING AND CABLECASTING

- A. The path for interpretation, decision making, and appeals under this policy includes first the Cable Administrator, followed by the Telecommunications Board, and finally the City Council.
- B. Any appeals to decisions by the Cable Administrator must be submitted in writing to the Fayetteville Telecommunications Board.
- C. The Telecommunications Board will consider appeals in a timely manner.
- D. If a programming request is not approved for cablecast on the Government Access Channel, the requesting party can request the program be videotaped pending the outcome of an appeal to the Telecommunications Board. All efforts will be made to videotape such programs based on available staff, equipment, or other production resources. The program will not be cablecast until the appeal process has been concluded with a reversal of the Cable Administrator's decision.
- E. Producer(s) or other entities wishing to appeal decisions of the Telecommunications Board should forward their appeal to the Fayetteville City Council. The City Council will make the final decision based on its interpretation of this policy.

VIII. CHANNEL OPERATING HOURS

- A. It is the goal of the City of Fayetteville to program the government access channel fully. Reaching this goal will be a multi-step process so that, over time, Fayetteville's government channel will be programmed 24 hours a day.

IX. PUBLIC MEETING RECORDING PROCEDURES

- A. Council desk audio coverage is gavel-to-gavel only. Ambient microphone will not be used to transmit general room noise before and after the actual meeting.
- B. Video of room as it fills up or empties is acceptable, but Council microphones are closed. Only wide shots of the room are acceptable before and after a meeting to minimize the possibility of visually editorializing.
- C. The person speaking will be on camera.
- D. Individual reaction shots (shots of those not actually speaking or being addressed) are not allowed.
- E. A brief wide shot of the room is acceptable to break up a long, spoken delivery or as a transition between agenda items and shots.
- F. If a person is being directly addressed, a brief shot can be taken of that person in anticipation of that person's response.

X. TAPE RETENTION

- A. Videotapes that have been made of public meetings, informational programs, limited public forums, and other spots will be kept intact for three weeks after their final cablecast and are then subject to erasure unless other arrangements have been made in advance. Any tapes of public meetings are unofficial and will not serve as an official record of the meetings.

XI. CITIZEN ACCESS

- A. Citizens may view any of the programs or meetings archived by the City at the PEG Television Facility.
- B. Citizens may purchase, at cost, any programs or meetings archived by the City.

XII. WEB CASTING

A. When sufficient resources are available, the Telecommunications Board shall specify that certain meetings and programs are web cast.

XIII. PERFORMANCE REPORTING

A. The Cable Administration Division shall present quarterly reports to the Telecommunications Board demonstrating to what extent these goals and policies are being met.

Wed, 06 Jul
2005
08:39:11 -
0500

From: "Susan Thomas" <sthomas@ci.fayetteville.ar.us>  View Contact Details
To: nputjim@sbcglobal.net
angie.graves@acxiom.com, GBoyle5573@AOL.COM, "Kit Williams"
CC: <kwilliams@ci.fayetteville.ar.us>, "Marvin Hilton" <mhilton@ci.fayetteville.ar.us>,
dyoung@fayar.net, scromwell@fayar.net, cbrown@uark.edu, dbruce@uark.edu,
drt@uark.edu
Subject: Gov't Channel Policy Interpretation
t
Mr Bemis -

Please consider this a response to your request for a statement of current interpretation of "Policy on the Use and Programming of the Government Access Channel - Fayetteville, Arkansas."

Section II - A1 and A2 applies only to City of Fayetteville meetings.

Section II - B clearly indicates that coverage of the Fayetteville School Board will be at the request of the school board or school administration.

The Fayetteville Public School has not requested coverage, and therefore the City will not cover the meetings.

As you know, the Government Channel Policy will soon be subject to recommendation for review, revision, and/or clarification by a subcommittee of the Telecom Board. I encourage you to participate in this process, and voice your concerns about this interpretation or any other matter related to Government Channel policy.

If you have any questions or need additional information, please let me know.

Susan

Susan B. Thomas
Public Information and Policy Advisor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
479-575-8330 voice

Telecommunications Board Meeting Minutes
July 21, 2005
Room 219, 113 West Mountain

Call To Order And Roll Call

Board members present were Bruce, Graves, Cromwell, Brown, and Boyle. CAT Manager Sky Blaylock, CAT Vice Chairperson Michelle Key and Cable Administrator Marvin Hilton were also present. City of Fayetteville Public Information & Policy Advisor Susan Thomas arrived later.

Approval of Minutes from June Meeting

Brown asked that the minutes reflect that board member Boyle volunteered to serve on the PEG Equipment committee. He also said that his intent at the June meeting was to ask that the Telecommunications Technology Infrastructure Planning Task Force (TTIP) be reorganized as a Telecommunications Board (TCB) subcommittee. Lastly, he asked if the statement "Only CAT staff will be able to check out CAT equipment" meant that the equipment can only be used by CAT staff or if only CAT staff can issue it to others.

Blaylock said it was the latter.

Finally Cromwell said the minutes incorrectly reported she had referred to an "FOIA meeting" when she said "public meeting."

With those corrections to the June minutes, Graves moved for acceptance, Brown seconded it and the minutes were approved.

Report From CAT Manager Sky Blaylock

Key proceeded Blaylock to inform the board of policy and by-law changes undertaken by the CAT Board. These included:

- A two week advance booking for live studio shoots
- New producers must serve on two production crews before making a studio production
- Short Takes now has a sign in sheet
- Some paper forms may be replaced by computer entries
- Changes in accrual of vacation and sick time
- Change in number of CAT board members

Blaylock addressed the board saying since she arrived at CAT in 2003 a lot of restructuring has occurred and she thought the CAT's act has been cleaned up.

Jon Carlson spoke on the issues of channels of communication and chain of command, referencing section 1.E and 1.A of the CAT contract. He said certain de facto policies put in place by the Cable Administrator may have been necessary in the past but 'that's the way it's always been around here' is no longer a valid argument for how things are done. Continuing, he referenced section 1.C, bullet point 2, outlining the Cable Administrator's

duties in regards to oversight and authority of CAT

Boyle said he thought it made sense if what Carlson was asking for was to separate the duties of Hilton and Blaylock.

Cromwell said she was aware of the contractually required reports but was unaware that there are "others." She directed board members to look at the request for proposals (RFP) for public access television (PAT), the existing contract and the CAT report and bring back comments that will clarify the requirements for reporting.

Blaylock said her staff spends 40% of their time doing reports not all of which are requested by the TCB. She added that all the data is available on Facil and can be accessed by cable administrator. Finally she thanked the board for its attention and guidance and said CAT will apply for the PAT contract.

Brown said he wants the board to hear from Hilton before making any decisions on the issues raised by CAT staff.

Cromwell asked Hilton to be prepared to address the shortcomings of the TCB language in the reporting requirements of the RFP.

Blaylock continued saying the reports requested by the TCB are not a problem. She thinks the problem lies with the "micromanagement from the cable administrator." She said there are a lot of extra, extra reports requested that are changed a little bit before they are put out.

Report From the Government Channel Subcommittee

Bruce reported the subcommittee met July 20 and discussed their purpose and scope, questioning whether they should work on the existing policy or start over.

Cromwell thought they should deal with the policy and not the implementation of that policy.

Bruce continued saying he thought the Bemis complaint should be addressed as Mr. Bemis' major concern is "making sure that any coverage of FOI meetings by other media or other channels, not the government channel, will meet the same standards that government channel policy meets."

Cromwell said there will be an educational channel advisory board that will address that issue.

Bruce also said the possibility of future web casting should be addressed in the policy.

Thomas asked the board to keep in mind that there is a larger policy issue above the government channel policy and a smaller policy issue below it consisting of the standard operating procedure (SOP) and day to day operations. She thought these will likely need

to be separated out and discussed.

On the topic of the SOP Thomas said the process got off to a good start with a lot of participation but has stalled and needs to be restarted as it is an important element of operations.

Report From The Equipment Committee

Thomas said the committee met and decided on a list of priorities with cost estimates of desired purchases. She promised to make a list of the purchases, the total of which comes to under \$30,000. She said that Fayetteville High School (FHS) editing equipment influenced their decision as the committee wants to make an easier transition to the PEG Center for students. She added they would reevaluate the editing systems in a year and that the playback system will likely be a separate capital expenditure as it quite expensive. She expressed appreciation for the conservative spending of the CIP in the past and thought it might be time to ask for increased spending.

Discussion of Public Access Television RFP

Cromwell said, "We've pretty much covered it and I'll just again ask that everybody read the RFP, think about the requirements, come back. We'll just mail it next time and we'll just give Susan (Thomas) the authority to move ahead with getting the thing out the door."

Update On UATV Contract

Thomas said she is working to get the signatures on it.

Discussion Of Franchise Review

Brown, who had previously asked for this information, reported that Thomas had provided him with a packet of the companies that use Fayetteville's right of way. He listed them as Arkansas Western Gas, Southwest Bell, Cox Communications, City of Fayetteville, SWEPCO, and Ozark Electric. Brown added he would put this information on the list serve.

Strategic Planning

Thomas said she would like to see an articulation of the vision of what the PEG Center should be in 20 years asking, "Do we have the same expectations for the PEG Center as we have for our other institutions in the City of Fayetteville?" Her desire is to see Fayetteville have the "best of the best." She added she would also like to see the mission of the TCB spelled out as well.

The board was in agreement and wants to know what PEG Center in the country is now considered the "best of the best." for modeling purposes. This will be an August agenda item.

Discussion Of Election Of The Chair

Cromwell said she will step down as chair in August.

Additional Issues

Cromwell said she thinks the TCB administrative rules need revision. She volunteered to review them and report back to the board.

Citizen Bemis addressed the board for the public record regarding his July 8 complaint on three citizens requesting a meeting be taped by the government channel. He said he got a response from the city he wishes to appeal and wants to know the next step in the process. His July 8 complaint was in response to Thomas' July 6 response to an earlier Bemis complaint/inquiry.

Brown expressed his desire to have unresolved complaints included in the TCB monthly packets.

Cromwell asked Bemis to summarize his complaint as it was confusing in its present form. She said both the complaint and the city's response will be in the August TCB packet.

When asked by Cromwell about the history of complaints, Hilton said the next step is the city council. In summary, the process for complaint resolution is as follows:

Cable Administrator Marvin Hilton/City of Fayetteville Public Information &
Policy Advisor Susan Thomas
TCB
Fayetteville City Council

Hilton said the government channel will tape the July 28 school board meeting in accordance with the appeals process.

Adjournment

The meeting was adjourned at approximately 6:40 pm.

Telecommunications Board Meeting Minutes
August 18, 2005
Room 219, 113 West Mountain
Revised 09.09.05

Call To Order And Roll Call

Board members present were Bruce, Graves, Cromwell, Brown, Young, Thompson, and Boyle. CAT Manager Sky Blaylock, City of Fayetteville Public Information & Policy Advisor Susan Thomas, and Cable Administrator Marvin Hilton were also present.

Approval of Minutes from July Meeting

Bruce asked that the minutes reflect that his statement regarding web casting should have been that the government channel policy should be more independent of the media.

With that correction, Brown moved for acceptance of the July minutes. Bruce made the second and the motion passed.

Introduction Of Cox Representative, Fred Guerra

Mr. Guerra addressed the board and spoke briefly saying he hopes the franchise agreement with the city will be accomplished soon.

Thomas said the city and Cox are on the same page, optimistic and looking forward to a positive outcome.

**Telecommunications Technology Infrastructure Planning Task Force (TTIP)
Subcommittee**

Cromwell said TTIP will focus on the possibility of a community broadband wireless initiative. She then introduced Larry Long, an author with extensive experience in computer systems.

Mr. Long made the following points in pursuing this goal;

This technology will play a major role in future economic competition with other cities.

It will be important to make the community aware of the advantages and applications of wireless technology.

It may encounter some resistance from business and will likely be a partnership between the city and a private-sector organization.

It is relatively inexpensive considering the benefits and it is not as complicated as the new sewer system

Cromwell expressed the need to reestablish the TTIP as a subcommittee to move forward on this issue.

Brown, Graves, Thompson, Citizen Larry Long and Citizen John Lewis volunteered to sit on TTIP.

Cromwell said she would call the first meeting before the next TCB meeting.

Guerra asked the board to keep in mind that private concerns, such as Cox Communications, would like to be part of the dialog.

Report From Government Channel Subcommittee

Bruce reported plans to set up a Yahoo or Google group to share documents and facilitate communications. He asked for an additional board member to serve on the committee.

Report From Equipment Committee

Thomas said items are being priced and the RFP for their purchase will then be issued. A list of desired equipment was distributed and Boyle made a motion to buy the listed items. With a second by Young the motion passed.

Thomas said she would provide a final report of the cost.

Capital Budget Report

According to Thomas the capital budget balance was \$95,600 on August 12, 2005. With the equipment purchase just approved the balance is estimated to be \$79,000. She added that she has made a target overrun request of \$45,000.

Discussion Of Public Access Television RFP

Cromwell said she thought the existing RFP can be reissued as it is based on a point system that selects the best candidates. She also thought that at this time contract talk is premature.

Hilton asked if the specific points on page two of the RFP should be removed and mentioned his year-long informal list serve poll regarding home productions.

Boyle said he thought "home productions are gravy."

Blaylock said CAT does solicit home produced productions, mentioning Marion Orton and son Bill as examples of home producers who submit tapes to CAT.

Young made the point that the purpose of public access television is not to teach people production but rather to allow people a channel to express their thoughts without going through any filters.

Cromwell agreed.

A motion to release the RFP in its present form was made by an unidentified individual and seconded by Brown. It passed unanimously.

Bemis's Real Complaint

Regarding the complaint on the government channel policy for citizens requesting government meetings, Cromwell asked for "...a resolution for a process the citizens

would make certain to do, in order to come out on the other side of the appeal.” She then read the government channel policy, section seven, on the appeals process and summarized that a complaint goes first to the cable administrator, second to the TCB and lastly to the city council. Continuing, Cromwell said the board could approve the city’s recommendation or make its own recommendation to the complainant.

Brown then moved to accept the city’s response to the Bemis complaint adding that he thought some of the points of the complaint took parts of the government policy out of context. Graves made the second and it passed unanimously.

Bemis said he will appeal the decision to the city council.

Thomas said she would research the appeal process to assist him in that direction, report her findings to the TCB and put it on the list serve.

Hilton added that a complaint to the TCB had never gone on to the city council.

Graves noted that other committees have had decisions appealed to the council.

Hilton mentioned the planning commission as one.

Bemis then expressed his confusion with the process and asked Cromwell if once the steps are known will it become part of the TCB policy and procedures.

Cromwell said,” Right, and it will be adopted in the administrative rules.”

Bemis said he should follow the TCB’s policies, not the city’s and asked that the TCB set up policies and procedures for conducting business in addition to its existing administrative rules.

Brown said the board doesn’t have policies so they follow city policies.

Young questioned if what Thomas discovers is something the board would want to do.

Graves asked if the board should care about the process if in the end the city council hears the appeal.

Cromwell asked Bemis “Did we satisfy the process tonight for what you expected the outcome to be?”

Bemis responded “You satisfied my complaint about being in the second step.”

Brown asked Bemis why he insisted on spending time to clarify an old policy when a subcommittee is working on creating a new policy.

Bemis said because the government channel has taped meetings that have not been aired.

Brown added that he was uncertain Bemis's request for the school board meetings to be taped was legitimate.

Hilton said he thought the confusion centered on the interpretation of the words "city meetings" in the policy.

Election of Chair

Brown nominated Boyle and he was elected unanimously.

Other Business

Brown asked that the TCB packets not be distributed so close to the actual meeting and that only agenda items are included in the packets.

Hilton said that would be possible but only if a meeting agenda was posted before the day of the meeting, asking that it be issued a week prior to the meeting.

Cromwell said suggestions for agenda items could be made by email but the chair is the person to set the agenda. She expressed her hope that Boyle would do a better job of getting the agenda posted in advance than she had.

Brown closed the issue asking that packet items be identified as such and any additional items have an explanation as to why they are in the packet.

Finally, Blaylock expressed her appreciation for Cromwell and the years she served as chair.

Adjournment

The meeting was adjourned at approximately 6:50 pm.

From: Susan Thomas
To: Bemis, Jim
Date: 8/23/05 11:57AM
Subject: your appeal

Jim -

I just spoke with Kit about your appeal. Your next step is to submit in writing a request to the City Clerk for your appeal to be included on a council agenda. Your written request should include the reason for your appeal and statement on your grounds to appeal. The next agenda request deadline is September 2 for the September 20 meeting. You should submit your request in advance of the Sept 2 deadline.

If you have any questions about how to proceed, let me know.

Susan

Susan B. Thomas
Public Information and Policy Advisor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
479-575-8330

CC: Hilton, Marvin; Smith, Sondra; Telecom Board; Williams, Kit

November 17, 2005
Ms Sondra Smith, City Clerk
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Re: Appeal of a Telecommunications Board decision to deny approval of a formal request made by three Fayetteville citizens, which asks for the Fayetteville Government Access Television channel to videotape and cablecast a local government meeting that meets FOIA criteria.

Dear Ms. Smith:

Please accept this letter as a request to be placed on the City Council agenda to appeal the Telecommunication Board's decision of August 18, 2005 that denied my request for Fayetteville Government Channel television coverage and cable casting of a local government meeting that meets Arkansas Freedom of Information Act criteria. To my knowledge, neither the Board nor the City of Fayetteville has a formal appeal procedure in place for me to follow in their appeal procedures. However, a Government Channel Policy Subcommittee was formed to revise the appeals process, and I am a member of that subcommittee. The Subcommittee is scheduled to present its report at the November 2005 Telecommunications Board meeting.

At its Aug 18 meeting, in what I consider to be the second step in their appeal process, the Telecommunications Board voted unanimously to accept the recommendations of the policy interpretation made by Ms. Susan Thomas in her July 6 response to my original request. However, the Board did not formally review my July 7 letter of appeal, which I consider to be my appropriate response as second stage of the appeals process.

I indicated that I disagreed with their decision, and my understanding from the ensuing Board discussion is that I can take my appeal to the City Council through City Staff and the City Clerk's office. However, the Board has made no specific recommendations regarding the appropriate steps to carry my appeal from the Board to the City Council.

Thus, my further request here is adapted from the appeal process followed by the City Planning Commission, which has been suggested as an interim approach by the City Staff. (See July 6, 2005 Planning Commission Appeal for Rapido Rabbit Carwash (ADM 05-1582.) However, the Board has made no formal recommendation regarding this approach. My understanding is that City staff would follow a process similar to the Planning Commission's in forwarding documentation for my appeal through your office to the City Council. I have no further information regarding the format or office that will carry my appeal forward, or regarding the formal findings of the Telecommunications Board. However, I did send a draft copy of this letter to Telecommunications Board and City staff on November 9, but have received no specific comments regard its contents.

Please advise as to any further requirements that should be met in this regard. I will contact our office to arrange a personal visit to discuss my appeal.

Respectfully submitted,

Jim Bemis
1325 Pine Creek
Fayetteville, AR 72704
Phone: 790 2518

CC: Susan Thomas, Marvin Hilton

**POLICY ON THE USE AND PROGRAMMING OF
THE GOVERNMENT ACCESS CHANNEL
FAYETTEVILLE, ARKANSAS**

INTRODUCTION

The City of Fayetteville Government Access Channel, in accordance with resolution 94-91, is intended to give Fayetteville citizens information about City government services, programs, and activities and their relationships within the community and help create an open and participatory local government. The channel is administered by the City's Cable Administrator under guidelines established by and interpreted by the Telecommunications Board.

I. TELECOMMUNICATIONS BOARD

The Fayetteville Telecommunications Board was created under Ordinance 4504, Chapter 33, which authorizes the board "to facilitate the creation of policies regarding cable cast material selection, time guidelines for cablecast material, viewer and facility user complaint/feedback practices, and other such policies regarding the use and administration," of the Government Channel. The purpose of this policy is to establish (a) the criteria for which Governmental entities and related organizations are eligible to have programming on the channel and (b) allow the Government Channel staff to operate without determining the programming content.

POLICIES

II. PRIORITY OF COVERAGE/CABLE CASTING AND ELIGIBILITY FOR USE

A. FIRST LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL MEETINGS

First level priority will be given to televising City of Fayetteville Governmental meetings. City of Fayetteville Governmental meetings are defined as meetings of the governing bodies created by the City of Fayetteville, which meet FOIA criteria, including all committees, subcommittees, boards, commissions, task forces, and other such bodies dealing with City of Fayetteville business.

B. SECOND LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL INFORMATIONAL PROGRAMS

Second level priority for use of the Government Channel will be given to nonpartisan informational programs about City services, activities and events.

C. THIRD LEVEL OF PRIORITY

1. MEETINGS OF OTHER GOVERNMENTAL ENTITIES THAT MEET FOIA CRITERIA

Third level priority for use of the Government Channel will be given for any meeting that meets FOIA criteria and deals with government business that directly impacts the Citizens of Fayetteville. Such meetings include, but are not limited to, those of Washington County, regional, state and federal agencies, Boston Mountain Solid Waste District, and Fayetteville Public Schools.

2. INFORMATIONAL PROGRAMS OF OTHER GOVERNMENT AGENCIES

Third level priority for use of the Government Channel will also be given for non-partisan informational programs about government services or activities that may be provided by other governmental entities, such as, but not limited to, Washington County, regional, state, federal agencies and Tri-county Solid Waste.

3. PROGRAMS OF CITY OF FAYETTEVILLE CONTRACTORS AND GRANTEES

Third level priority will also be given to outside agencies or groups with whom the City of Fayetteville contracts, grants money or has an agreement to provide city services or activities. In such cases, the program shall be non-partisan in nature.

4. LIMITED PUBLIC FORUMS

Third level priority will also be given to two types of limited public forums: candidate forums and issue forums. Declared candidates for any public office, and persons advocating any cause, viewpoint, or proposed policy of a particular nature, will be eligible to appear only in a limited public forum venue.

All candidates or sides of an issue are given an equal opportunity to appear in public forums. If it becomes apparent that only one side of a forum is willing to participate, the Cable Administrator may make a decision to conduct the forum with only one side participating.

The City, through the Cable Administration Division, may conduct one candidate forum for each contested office before each election.

No candidate forums will be held before the last filing deadline

D. BULLETIN BOARD MESSAGES

Last priority will go to the "Government Channel Bulletin Board." The bulletin board will provide printed information about both City and community events and services when other programs are not being cablecast. It may also be used to inform residents of other "free" community events and activities.

III. COVERAGE REQUESTS

A. City of Fayetteville meetings will be covered at the request of a City of Fayetteville government elected official, a City of Fayetteville department head, a City of Fayetteville division head, or a committee chair. Other governmental agency meetings that meet FOIA criteria may be covered at the request of representatives of that agency.

B. Registered voters who live within the city limits of Fayetteville may request that the Government Channel cover any meeting held by the City of Fayetteville or other governmental agencies provided that the meeting affects the citizens of Fayetteville and meets FOIA criteria.

C. All requested meetings will be televised provided the resources are available and there exists no conflict with a request to cover a meeting with higher priority as outlined by this document. The Cable Administrator has discretion over issues of resources and priority.

IV. EDITING AND OTHER CONTENT POLICIES

A. Except when (1) the intent is to use brief excerpts as part of a larger program or (2) when technical difficulties interfere, the public portions of any City Council meeting or other public meetings receiving coverage on the channel, including limited public forums, will be cablecast in their entirety, without editing or subjective comment. All other programming is subject to editing by the Cable Administration as long as such editing does not alter the factual content or overall intent of the material being cablecast.

B. No promotion, endorsement or advertising for any private business, commercial service or product, or any profit-making activity, will be allowed on the Government Access Channel. However, brief audio and video credit may be given at the end of a program where special materials or assistance has been donated by a commercial or charitable enterprise.

C. Programming of forums produced by outside agencies of declared candidates for any public office and persons advocating any cause, viewpoint or proposed policy of a particular nature will not be eligible for cable casting on the Government Access Channel.

D. When questions arise as to the admissibility of material or language in this regard, the Cable Administrator will make a decision on whether it is to be cablecast.

V. APPEALS OF COVERAGE OR PROCEDURAL ISSUES

A. Any appeals to the decisions made by the cable administrator regarding coverage, priority, or procedure should be submitted to the Telecom Board.

ORDINANCE NO. 4504

AN ORDINANCE AMENDING CHAPTER 33, DEPARTMENTS, BOARDS, COMMISSIONS AND AUTHORITIES, OF THE CODE OF FAYETTEVILLE, BY REDEFINING THE COMPOSITION, OFFICERS, STAFFING, PROCEDURES, AND DUTIES OF THE TELECOMMUNICATIONS BOARD.

WHEREAS, under the terms and conditions of the cable television franchise agreement the city is given, among other responsibilities, the duty to regulate cable television channels for public access, educational and governmental (PEG) programming; and,

WHEREAS, the use of the public rights of way in the City of Fayetteville, Arkansas, includes other telecommunications services as well as cable television services; and,

WHEREAS, the City Council of the City of Fayetteville, Arkansas, desires to redefine the scope of the current Telecommunications Board to serve in an advisory capacity regarding telecommunications issues, to promote the use of public information media, and to serve as a coordinating body for issues relating to the provision of different telecommunications services.

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

Section 1. That §33.205 through §33.211, "Telecommunications Board" is hereby repealed and Exhibit "A" attached hereto and made a part hereof, is inserted in its stead.

PASSED and APPROVED this 15th day of July, 2003.



ATTEST:

By:

Sondra Smith
SONDRA SMITH, City Clerk

APPROVED:

By:

Dan Coody
DAN COODY, Mayor



Exhibit "A"

§33.205. Purpose and Intent. It is the purpose and intent of the City Council of the City of Fayetteville to redefine the scope of the current Telecommunications Board to advise the City Council on telecommunications issues and to coordinate and oversee telecommunications franchise systems and use of the public rights of way designated for public access, educational, and governmental (PEG) use in the City of Fayetteville as part of the city's telecommunications infrastructure.

(a) **Definitions.** For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) *Education Channels.* Education channels shall provide programming that is educational and informational, with an emphasis on locally-produced programming. Programs may also be instructional, with learning potential for all audiences.

(2) *Government Channels.* Government channels provide citizens with convenient access to the city government. The station shall be operated in an unbiased manner. The goal is to create an informed and involved citizenry. Content will generally be created or acquired by local government employees, elected officials, and volunteers, and will typically provide information about services provided by local, State, and regional governments, issues faced by local governments, and public meeting coverage.

(3) *Public Access Channels.* Public access channels provide a forum for local residents to express themselves. Content may include video and other electronic information produced, directed and engineered by community members. These productions focus on many aspects of community life, ranging from the services and activities of community organizations to the opinions, beliefs and artistic expressions of individuals in the community, or outside productions requested and introduced by community members.

(4) *Telecommunications Infrastructure.* Telecommunications infrastructure means the shared portions of the telecommunications transmission facilities used by the city, including public rights of way, all transmission mechanisms, and associated equipment and software components necessary for the management and control of the city's information network. Telecommunications facilities include, but are not necessarily limited to: terrestrial radio, optical fiber cables, satellite communications, radio and television stations (traditional broadcast as well as cable and satellite broadcast), and public switched telephone network.

§33.206. Composition. The Fayetteville Telecommunications Board shall consist of seven members appointed by the City Council. Members shall have experience in any one of the following areas: telecommunications infrastructure management, public policy development regarding communication and telecommunications issues, television, or other appropriate expertise. Members shall be registered voters and residents of the City of Fayetteville, and shall have resided therein for at least six (6) months prior to their

appointment. Those members serving as of the effective date of this ordinance shall retain their seats until August 15, 2003, at which point all of the positions shall be open for appointment. At the first regular meeting after appointment, the members shall draw lots to determine the length of their initial term. One (1) member shall serve a term of one (1) year; two (2) members shall serve terms of two (2) years; two members shall serve terms of three (3) years; and two (2) members shall serve terms of four (4) years. Thereafter, members shall serve staggered four-year terms. Vacancies in an unexpired term shall be filled by the City Council for the remainder of the term. Any person who serves two consecutive terms on the Telecommunications Board shall not be eligible for reappointment until one term of office has expired, unless there are an insufficient number of qualified applicants to fill all vacancies.

§33.207. Officers. The Telecommunications Board shall elect from its members a chairperson, who shall serve a one-year term and shall be eligible for re-election to a subsequent term or terms. Further, the Telecommunications Board may elect such additional officers and establish any committees as it deems necessary for the proper performance of its duties.

§33.208. Staff Support. The Mayor shall designate city employees to assist the Telecommunications Board in performing its duties and carrying out its responsibilities under this ordinance.

§33.209. Procedures.

(a) the Telecommunications Board shall meet at least once each month and may meet more frequently if necessary to carry out its duties. Four members shall constitute a quorum.

(b) the Telecommunications Board shall establish rules and regulations governing its procedures.

(c) the Telecommunications Board's meetings and records shall be subject to the provisions of the Arkansas Freedom of Information Act, A. C.A. §§25-19-101 *et seq.*, as it may be from time to time amended.

(d) the Telecommunications Board shall provide the City Council an annual report briefly summarizing its previous year's activities, and outlining its goals for the next.

§33.210. Duties.

(a) The Telecommunications Board shall advise the City Council and make recommendations on telecommunications infrastructure issues, including but not limited to the following:

(1) Use and administration of cable TV channels designated for public access, educational, and governmental (PEG) use;

(2) Use and administration of telecommunications facilities and use of public rights of way for telecommunications infrastructure;

(3) Establishment and use of the City's PEG facility;

(4) Any reports submitted to the City by a cable TV operator, PEG channel user, telecommunications agency, or other entities regarding telecommunications matters;

(5) Funding for public access, educational, and governmental (PEG) operations;

(6) Funding for the development and maintenance of the city's telecommunications infrastructure;

(7) Performance of any cable or telecommunications operator serving the city, with regard to rates, customer service, technical standards, programming, and requirements of the applicable franchise agreement; and

(8) Renewal of any franchise agreement between a telecommunications agent and the City.

(b) Further, the Telecommunications Board shall have the following duties and responsibilities:

(1) Oversee the administration of the City's PEG facility;

(2) Oversee the administration of any cable television channels or other telecommunications facilities designated for public access, educational, or governmental (PEG) use, unless the City Council enters into a contract with another entity or institution for such administration. If the city enters into a contract with another entity for administration of a PEG channel, the Telecommunications Board shall ensure contract compliance. Whether administered by the city or contracted, the Telecommunications Board shall facilitate the creation of policies regarding cablecast material selection, time guidelines for cablecast material, viewer and facility user complaint/feedback practices, and other such policies regarding the use and administration of the channels.

(3) Perform periodic evaluations of contract compliance for all contracts relating to telecommunications. A summary of all evaluations shall be forwarded to the City Council quarterly for their review.

(4) Facilitate dispute resolution concerning PEG channels, including but not limited to operations, program content, etc.; track the complaints filed by citizens to

assure that telecommunications providers are responding to complaints in an effective and timely manner.

(5) Promote public awareness, use and viewership of PEG channels;

(6) Identify telecommunications needs and solutions in the City and define innovative approaches to the use of expanding digital capacity;

(7) Promote public awareness of telecommunications policy issues; and,

(8) Forward a report to the City Council recommending either renewal or replacement of any cable or telecommunications agent no less than 45 days before the contract's expiration.

(c) The Telecommunications Board shall have authority to establish and disseminate such guidelines and regulations as are necessary to carry out the duties and responsibilities set forth in this section.

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
December 6, 2005**

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

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

**Report on the Close Out of the Water and Sewer Operations Center given by Coy Hurd,
Project Manger – Agenda Session Only**

Firewise Awards Presentation

Snow Bird Lithograph Presentation

*Ambulance Service Report by
Hugh Earnest - Agenda
Session Only*

*841-8549
Hugh
10 minutes*

A. CONSENT:

1. Approval of the October 18, 2005 City Council meeting minutes.
2. **Purchase of Two 40 Yard Compactor Units – Solid Waste:** A resolution approving a budget adjustment in the amount of \$46,920.00 for the purchase of two (2) 40-Yard Compactor Units for use by the Solid Waste & Recycling Division.
3. **Nock Investments, LLC Change Order:** A resolution approving a change order to the cost-share agreement with Nock Investments, LLC in an amount not to exceed \$46,861.31 for improvements to the intersection of Persimmon Street and Ruppel Road.

5. ~~4.~~ **Fayetteville Public Schools Lease Agreement:** A resolution to approve the joint lease agreement with the Fayetteville School District.

4. ~~5.~~ **Lake Fayetteville Preservation Agreement:** A resolution to approve an agreement for preservation and use of the northeastern portion of Lake Fayetteville Park.
6. **Renaming of Ozark Avenue as McIlroy Avenue:** A resolution renaming Ozark Avenue as McIlroy Avenue from Dickson Street to Fairview Street.
7. **SBC Communication Easement:** A resolution granting an easement to SBC Communication to install new communication equipment and an associated underground line located on city owned property north of Township Street.

B. UNFINISHED BUSINESS:

1. **2006-2010 Proposed CIP Adoption:** A resolution adopting the proposed 2006-2010 (CIP) Capital Improvements Program. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*
2. **2006 Proposed Annual Budget Adoption:** A resolution adopting the proposed 2006 Annual Budget and Work Program. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*
3. **Mission Boulevard and Lafayette Street Rezoning Study:** A resolution to refer a rezoning study and possible rezoning amendment of the Mission Boulevard and Lafayette Street area to the Planning Commission. *This item was tabled at the November 15, 2005 City Council meeting to the December 6, 2005 City Council meeting.*
4. **RZN 05-1754 Park West Heights:** An ordinance rezoning that property described in rezoning petition RZN 05-1754 for approximately 26.28 acres located at the south east corner of Highway 112 and Deane Solomon Road from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre. *This item was left on the second reading at the November 15, 2005 City Council meeting.*

C. NEW BUSINESS:

- Consent ① **Air Works Heating and Cooling Replacement Contract:** A resolution awarding BID # 05-66 to Air Works, a division of Multi-Craft Contractors, Inc. and approving a contract in the amount of \$126,208.00 for Phase II HVAC renovation at the Police, Courts Building; approving a project contingency in the amount of \$12,620.00; and approving a budget adjustment in the amount of \$138,828.00.
- Last NP ② **Telecommunications Board Appeal (Government Channel Taping):** A request to appeal a Telecommunications Board decision to deny approval of a formal request made to the Government Access Television channel to videotape and cablecast a local government meeting that meets FOIA criteria.
3. **Fayetteville Public Schools Water Main Cost Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Fayetteville School District in the amount of \$43,395.00 for the upsizing of approximately 1235 feet of 8" water main to a 12" water main; and approving a contingency in the amount of \$6,800.00.

4. **Council on Aging Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville Arkansas and the Council on Aging in the amount of Fifty Thousand Dollars (\$50,000.00) to provide public recreation services for the senior citizens of Fayetteville for 2006.
5. **Youth Center, Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of two hundred fifty thousand dollars (\$250,000.00) to provide public recreation services for the youth and citizens of Fayetteville for 2006.
6. **Amend § 51.137 Monthly Sewer Rates:** An ordinance to amend § 51.137 of the Code of Fayetteville by lowering the sewer rate charged for Elkins, Arkansas and postponing the scheduled system wide rate increase for four months.
7. **ADM 05-1657 (Mt. Sequoyah South Rezoning):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1657 and shown in Exhibit "A" generally located north of Huntsville Rd., east of Willow Ave., south of Rock St., and west of Lyton Ave., from RMF-24 Residential Multi-Family 24 Units Per Acre to RSF-8 Residential Single Family 8 Units Per Acre.
8. **Dover, Kohl and Partners Contract:** A resolution awarding a contract in an amount not to exceed \$225,000.00 to Dover, Kohl and Partners to facilitate a public participation process for the City Plan 2025; approving a contingency in the amount of \$25,000.00; and approving a budget adjustment in the amount of \$250,000.00.
9. **ANX 05-1838 (South Ruppel Road Island):** An ordinance to annex into the City of Fayetteville, Arkansas several parcels completely surrounded by the incorporated limits of Fayetteville and the City of Farmington, Arkansas.
10. **VAC 05-1784 (Four Seasons Sunrooms):** An ordinance approving VAC 05-1784 submitted by Four Seasons Sunrooms for property located at 1586 East Amber Drive vacating a utility easement as indicated on the attached map and legal description.
11. **(C-PZD 05-1610 (East Square Redevelopment):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1610, East Square Development, located at the north west corner of Mountain Street and College Avenue, containing approximately 1.01 acres; amending the Official Zoning Map of the City of Fayetteville; waiving any possibly conflicting development ordinances; and adopting the Associated Planned Zoning District .
12. **Bossler Construction Contract:** A resolution approving a contract with Bossler Contracting, Inc. in the amount of \$254,600.00 to remodel the terminal building at the Fayetteville Municipal Airport; approving a 10% project contingency in the amount of \$25,460.00; and approving a budget adjustment in the amount of \$40,000.00.
13. **Jim Lindsey Property Contract:** A resolution to approve a contract with Jim Lindsey and Lindsey Management Company, Inc. to maintain the status quo on his approximately 6.9 acres located east of Mission Boulevard and south of Maple Street.

D. INFORMATIONAL:

Council Tour: December 5, 2005 – 4:30 PM

(Summary of relevant current (Telecom Board approved 7/29/04) Fayetteville Government channel policy regarding appeal submitted by Jim Bemis for November 29, 2005 agenda session (Final item, New Business). Prepared by Jim Bemis, November 29, 2004.)

I. TELECOMMUNICATIONS BOARD

...The seven-member Telecommunications Board also serves directly in an appeal process that considers and interprets issues regarding exceptions, variations, or modifications to this Policy Statement. Appeals to decisions made under this policy will follow the process outlined in this policy.

A-2. ADDITIONAL CITY MEETINGS

Other meetings concerning city business will be cablecast if they meet Freedom of Information (FOI) criteria and are requested by any one of the following: the mayor, the City Council, one individual council member, a department or division head, any elected city official or any three Fayetteville citizens, who are registered voters, living within the city limits of Fayetteville, may make such requests...

In addition, any three citizens, who are registered voters, living within the City limits of Fayetteville, may request any meeting, that meets FOIA requirements and dealing with government business that directly impacts the Citizens of Fayetteville. Such requests will be subject to the resources available at the time, including the ability and practicality of traveling outside of Washington County.

VII. APPEAL PROCESS FOR TAPING AND CABLECASTING

A. The path for interpretation, decision making, and appeals under this policy includes first the Cable Administrator, followed by the Telecommunications Board, and finally the City Council.

B. Any appeals to decisions by the Cable Administrator must be submitted in writing to the Fayetteville Telecommunications Board.

C. The Telecommunications Board will consider appeals in a timely manner.

D. If a programming request is not approved for cablecast on the Government Access Channel, the requesting party can request the program be videotaped pending the outcome of an appeal to the Telecommunications Board. All efforts will be made to videotape such programs based on available staff, equipment, or other production resources. The program will not be cablecast until the appeal process has been concluded with a reversal of the Cable Administrator's decision.

E. Producer(s) or other entities wishing to appeal decisions of the Telecommunications Board should forward their appeal to the Fayetteville City Council. The City Council will make the final decision based on its interpretation of this policy.

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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Project Manger – Agenda Session only**

Report on Ambulance Services given by Hugh Earnest – Agenda Session only

Firewise Awards Presentation

Snow Bird Lithograph Presentation

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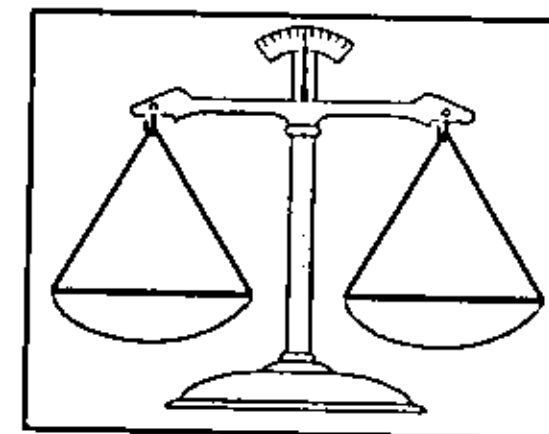
D. INFORMATIONAL:

Council Tour: December 5, 2005 – 4:30 PM

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **Kit Williams, City Attorney**

A handwritten signature in dark ink, appearing to read 'Kit Williams', written over a horizontal line.

DATE: **December 7, 2005**

RE: **Passed Ordinances and Resolutions from City Council meeting
of December 6, 2005**

1. **Purchase of 40 Yard Compactor Units:** Resolution approving budget adjustment in amount of \$46,920.00 for purchase of two 40-yard compactor units for use by Solid Waste & Recycling Division;
2. **Nock Investment, LLC Change Order:** Resolution approving change order to cost-share agreement w/Nock Investments, LLC in amount not to exceed \$46,861.31 for improvements to intersection of Persimmon St. and Ruppel Road;
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4. **Fayetteville Public Schools Lease Agreement:** Resolution approving joint lease agreement w/Fayetteville School District;
5. **Renaming Ozark Ave. as McIlroy Ave.:** Resolution renaming Ozark Avenue as McIlroy Avenue from Dickson Street to Fairview Street;
6. **SBC Communication Easement:** Resolution granting easement to SBC Communication to install new communication equipment and an associated underground line located on city owned property north of Township Street;

7. **Air Works Heating & Cooling Replacement Contract:** Resolution awarding Bid #05-66 to Air Works, a division of Multi-Craft Contractors, Inc. and approving contract in amount of \$126,208.00 for Phase II HVAC Renovation at Police, Courts Building; approving project contingency in amount of \$12,620.00 and approving budget adjustment in amount of \$138,828.00;
8. **2006-2010 Proposed CIP Adoption:** Resolution adopting 2006-2010 Capital Improvements Projects;
9. **2006 Proposed Annual Budget Adoption:** Resolution adopting 2006 Annual Budget and work program as approved and amended;
10. **RZN 05-1754:** Ordinance rezoning property described in rezoning petition RZN 05-1754 for approximately 26.28 acres located at southeast corner of Highway 112 and Deane Solomon Road from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units Per Acre;
11. **Jim Lindsey Property Contract:** Resolution approving contract w/Jim Lindsey and Lindsey Management Company, Inc. to maintain the status quo on his approximately 6.9 acres located east of Mission Boulevard and south of Maple Street;
12. **Fayetteville Public Schools Water Main Cost Share:** Ordinance waiving requirements of formal competitive bidding and approving cost-share w/Fayetteville School District in amount of \$45,395.00 for the upsizing of approximately 1235 feet of 8" water main to a 12" water main; and approving contingency in amount of \$6,800.00;
13. **Council on Aging Contract:** Ordinance waiving requirements of formal competitive bidding and approving contract between City of Fayetteville and Council on Aging in amount of \$62,500.00 to provide public recreation services for senior citizens of Fayetteville for 2006;
14. **Youth Center, Inc. Contract:** Ordinance waiving requirements of formal competitive bidding and approving contract between City of Fayetteville and Fayetteville Youth Center, Inc. in amount of \$250,000.00 to provide public recreation services for youth and citizens of Fayetteville for 2006.
15. **Dover, Kohl & Partners contract:** Resolution awarding contract in amount not to exceed \$225,000.00 to Dover, Kohl & Partners to facilitate a public participation process for the City Plan 2025; approving contingency in amount of \$25,000.00 and approving budget adjustment in amount of \$250,000.00;

16. ANX 05-1838: Ordinance to annex into City of Fayetteville several parcels completely surrounded by incorporated limits of Fayetteville and City of Farmington, AR;

17. VAC 05-1874: Ordinance approving vacation submitted by Four Seasons Sunrooms for property located at 1586 East Amber Drive vacating utility easement as indicated on attached map and legal description;

18. Bossler Construction Contract: Resolution approving contract w/Bossler Contracting, Inc. in amount of \$254,600.00 to remodel terminal building at Fayetteville Municipal Airport; approving 10% project contingency in amount of \$25,460.00 and approving budget adjustment in amount of \$40,000.00;

19. Seven Hills Agreement: Resolution approving a year long agreement w/Seven Hills Homeless Board and the Yvonne Richardson Center Board to allow use of the Richardson Center by Seven Hills as an emergency shelter during cold weather.