

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL MAY 15, 2001

A meeting of the Fayetteville City Council will be held on May 15, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

NOMINATION COMMITTEE REPORT

A. CONSENT

1. **APPROVAL OF THE MINUTES**
2. **OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance for the transfer of vacant property located at 897 N. Crossover Road from the City of Fayetteville to the William E. House Trust.
3. **STREET TREE INVENTORY:** A resolution awarding a contract to Burditt Associates in an amount not-to-exceed \$25,000 to conduct a city-wide street tree inventory.
4. **LAKE SEQUOYAH BOAT DOCK OPERATOR:** A resolution awarding a contract to Linda Thorpe and/or Richard Utley for Lake Sequoyah boat dock operation in the amount of \$15,656.
5. **RAILROAD RIGHT-OF-WAY:** A resolution approving the purchase of railroad right-of-way from Arkansas and Missouri Railroad in the amount of \$70,000. The right-of-way is to be used for a multi-use trail.

B. OLD BUSINESS

1. **PHYSICAL ALTERATION OF LAND:** An ordinance amending Section 169.03 of the Code of Fayetteville, Physical Alteration of Land. The ordinance was left on the second reading at the May 1, 2001 meeting.
2. **STORMWATER AND DRAINAGE:** An ordinance amending Section 170.03 of the Code of Fayetteville, Stormwater Management, Drainage and Erosion Control. The ordinance was left on the second reading at the May 1, 2001 meeting.

3. **TREE PROTECTION AND PRESERVATION:** An ordinance amending the Tree Protection and Preservation Ordinance to allow for a waiver, reduction or alteration in the requirements of the Tree Preservation Ordinance. The ordinance was left on the first reading at the May 1, 2000 meeting.

C. NEW BUSINESS

1. **RZ 01-8.00:** An ordinance approving rezoning request RZ 01-8.00 as submitted by Deborah Sexton on behalf of WHM Land Investments, Inc. for lots 76-83 located in Meadowlands Subdivision Phase I and II. The property is zoned R-1.5 Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential.
2. **HMR TAX:** An ordinance amending § 35.20 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax.
3. **PARKS HMR TAX:** An ordinance amending § 35.31 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax.
4. **SPECIAL ELECTION:** An ordinance calling and setting a date for a special election for the adoption or rejection of ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel, and Restaurant Tax and the Parks Hotel, Motel, and Restaurant Tax.
5. **GARLAND AVENUE:** A resolution approving the reimbursement to the Arkansas Highway and Transportation Department for the additional cost of right-of-way acquisition in order to install a boulevard and a 10' multi-use trail with 6' of greenspace for Garland Avenue between Cleveland and North Street.

City Council May 15, 2001

	<u>Roll</u>		Consent	Nomination K.S. City	
Thiel	✓			✓	
Young	✓			✓	
Zurcher	✓			✓	
Trumbo	Absent			✓	
Davis	✓			✓	
Santos	✓			✓	
Jordan	✓			✓	
Reynolds	✓			✓	
Coody	✓				

	<u>Consent</u>	BD L.A.			
Thiel	✓				
Young	✓				
Zurcher	✓				
Trumbo					
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Coody					

City Council May 15, 2001

Physical ALT. of land
cy BD
amend BS-2000sg F7
cy KS. 320
PASS

Thiel	✓	✓	✓		
Young	✓	✓	✓		
Zurcher	✓	✓	✓		
Trumbo					
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
Reynolds	✓	✓	✓		
Coody					

Storm DRAINAGE
cy. amend. D1 D2 D3 D4 D5 D6 D7 D8 D9 D10 D11 D12 D13 D14 D15 D16 D17 D18 D19 D20 D21 D22 D23 D24 D25 D26 D27 D28 D29 D30 D31 D32 D33 D34 D35 D36 D37 D38 D39 D40 D41 D42 D43 D44 D45 D46 D47 D48 D49 D50 D51 D52 D53 D54 D55 D56 D57 D58 D59 D60 D61 D62 D63 D64 D65 D66 D67 D68 D69 D70 D71 D72 D73 D74 D75 D76 D77 D78 D79 D80 D81 D82 D83 D84 D85 D86 D87 D88 D89 D90 D91 D92 D93 D94 D95 D96 D97 D98 D99 D100
cy. KS. 320
PASS

Thiel	✓	✓	✓		
Young	✓	✓	✓		
Zurcher	✓	✓	✓		
Trumbo					
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
Reynolds	✓	✓	✓		
Coody					

City Council May 15, 2001

Tree Protection
BT RP. amend
cel amend
for back of 200

Thiel	✓				
Young	✓				
Zurcher	✓				
Trumbo					
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Coody					

PZ 01-300
BD RP 2ND
BD RP 3RD
PASS

Thiel	✓	✓	✓		
Young	✓	✓	✓		
Zurcher	✓	✓	✓		
Trumbo					
Davis	✓	✓	✓		
Santos	✓	✓	✓		
Jordan	✓	✓	✓		
Reynolds	✓	✓	✓		
Coody					

City Council May 15, 2001

moned coffee conclude
KS KS BD. moned deli 523 concern

HMR	BD KS	KS BD.			
Thiel	✓	✓			
Young	✓	✓			
Zurcher	✓	✓			
Trumbo		✓			
Davis	✓	✓			
Santos	✓	✓			
Jordan	✓	✓			
Reynolds	✓	✓			
Coody	5-2-0				

Sp. Elect *to table.*

	BD 22.				
Thiel	✓				
Young	✓				
Zurcher	✓				
Trumbo					
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Coody					

City Council May 15, 2001

<i>Farland Avenue.</i>	<i>BD KS.</i>				
Thiel	✓				
Young	✓				
Zurcher	✓				
Trumbo					
Davis	✓				
Santos	✓				
Jordan	✓				
Reynolds	✓				
Coody					

Thiel					
Young					
Zurcher					
Trumbo					
Davis					
Santos					
Jordan					
Reynolds					
Coody					

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

FINAL AGENDA CITY COUNCIL MAY 15, 2001

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NOMINATION COMMITTEE REPORT

A. CONSENT

- Approved*
1. APPROVAL OF THE MINUTES — *Removed*
 2. ✓ **OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance for the transfer of vacant property located at 897 N. Crossover Road from the City of Fayetteville to the William E. House Trust. *PASS*
 3. ✓ **STREET TREE INVENTORY:** A resolution awarding a contract to Burditt Associates in an amount not-to-exceed \$25,000 to conduct a city-wide street tree inventory. *PASS*
 4. ✓ **LAKE SEQUOYAH BOAT DOCK OPERATOR:** A resolution awarding a contract to Linda Thorpe and/or Richard Utley for Lake Sequoyah boat dock operation in the amount of \$15,656. *PASS*
 5. ✓ **RAILROAD RIGHT-OF-WAY:** A resolution approving the purchase of railroad right-of-way from Arkansas and Missouri Railroad in the amount of \$70,000. The right-of-way is to be used for a multi-use trail. *PASS*

B. OLD BUSINESS

- PASS*
1. ✓✓✓ **PHYSICAL ALTERATION OF LAND:** An ordinance amending Section 169.03 of the Code of Fayetteville, Physical Alteration of Land. The ordinance was left on the second reading at the May 1, 2001 meeting.
 2. ✓✓✓ **STORMWATER AND DRAINAGE:** An ordinance amending Section 170.03 of the Code of Fayetteville, Stormwater Management, Drainage and Erosion Control. The ordinance was left on the second reading at the May 1, 2001 meeting. *PASS*

3. ✓

TREE PROTECTION AND PRESERVATION: An ordinance amending the Tree Protection and Preservation Ordinance to allow for a waiver, reduction or alteration in the requirements of the Tree Preservation Ordinance. The ordinance was left on the first reading at the May 1, 2000 meeting.

(NEED AMEND ORD FROM KIT)

amended.

C. NEW BUSINESS

1. ✓

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2. ✓

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amended. (NEED NEW ORD FROM KIT.)

3. ✓

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(NEED NEW ORD FROM KIT.)

4. ✓

SPECIAL ELECTION: An ordinance calling and setting a date for a special election for the adoption or rejection of ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel, and Restaurant Tax and the Parks Hotel, Motel, and Restaurant Tax.

place on next agenda.

5. ✓

GARLAND AVENUE: A resolution approving the reimbursement to the Arkansas Highway and Transportation Department for the additional cost of right-of-way acquisition in order to install a boulevard and a 10' multi-use trail with 6' of greenspace for Garland Avenue between Cleveland and North Street.

Need new ord from kit. for next agenda.

adjourned. 9:30.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of May 15, 2001

FROM:

Connie Edmonston
 Name

Park & Recreation
 Division

Public Works
 Department

ACTION REQUIRED:

Resolution to adopt contract for Lake Sequoyah Boatdock Operator with Linda Thorpe and/or Richard Utley in the amount of \$15,656.

COST TO CITY:

\$15,656
 Cost of this Request

1010-5250-5315.00
 Account Number

Project Number

\$51,295
 Category/Project Budget

\$21,960
 Funds Used To Date

\$29,335
 Remaining Balance

Contract Services
 Category/Project Name

Lake Recreation
 Program Name

General Fund
 Fund

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached


 Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:


 Accounting Manager

5/9/01
 Date


 Internal Auditor

Date


 City Attorney

5-9-01
 Date

ADA Coordinator

Date


 Purchasing Officer

5-9-01
 Date

STAFF RECOMMENDATION:

Resolution to Adopt Contract for Lake Sequoyah Boatdock perator with Linda Thorpe and/or Richard Utley.


 Division Head

5-9-01
 Date


 Department Director

107 May '01
 Date


 Administrative Services Director

5/9/01
 Date


 for

5/9/01
 Date

Cross Reference

New Item: Yes

No

Prev Ord/Res #: 145-99

Orig Contract Date: Nov 16, 1999

Orig Contract Number:

STAFF REVIEW FORM

Description Lake Sequoyah Boatdock _____

Meeting Date May 15, 2001

Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

Reference Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Don Bunn, Assistant Public Works Director

FROM: Connie Edmonston, Parks & Recreation Superintendent *C.E.*

DATE: May 8, 2001

RE: Resolution to Adopt Contract for Lake Sequoyah Boatdock Operator

The Parks and Recreation Division is requesting a resolution to adopt the Lake Sequoyah Boatdock Operator's Contract with Linda Thorpe and/or Richard Utley in the amount of \$15,656. The current contract was with Frank Thorpe, who unexpectedly passed away on May 1, 2001. Park staff and the Parks and Recreation Advisory Board are extremely satisfied with the performance of Mrs. Thorpe and Mr. Utley who have assisted Frank Thorpe in the operations of Lake Sequoyah over the past six years. We recommend this contract in order not to interfere with the operations of the lake during its busiest time of the year. Citizens appear to be satisfied with the current operations.

All terms of the contract would remain the same, but reduced to an eight month contract terminating on December 31, 2001. At the end of this year, we will proceed through the formal bid process.

We will all miss Frank Thorpe. He truly loved his work at Lake Sequoyah. We are fortunate to have Frank's wife and former partner to continue the valuable services offered at Lake Sequoyah.

RESOLUTION NO. _____

A RESOLUTION TO ADOPT AND AGREE TO A
CONTRACT FOR THE LAKE SEQUOYAH BOAT
DOCK OPERATOR WITH LINDA THORPE AND
RICHARD UTLEY IN THE AMOUNT OF \$15,656.00
FOR THE PERIOD OF MAY 1 - DECEMBER 31, 2001

WHEREAS, the current contract for the operation of the Lake Sequoyah Boat Dock was held by Frank Thorpe who was assisted by his wife, Linda Thorpe, and unofficial partner, Richard Utley for the last several years; and

WHEREAS, Mr. Frank Thorpe sadly passed away on May 1, 2001; and

WHEREAS, it would be in the City's best interest to contract with Mrs. Linda Thorpe and Mr. Richard Utley to continue to operate the Lake Sequoyah Boat Dock through the end of this year when the operational contract will again be available for public bidding.

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, adopts and agrees to a contract for the operation of the Lake Sequoyah Boat Dock with Linda Thorpe and Richard Utley in the amount of \$15,656.00 for the period May 1, 2001 to December 31, 2001.

PASSED and APPROVED this the _____ day of May, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

CITY OF FAYETTEVILLE
Lake Sequoyah Boat Dock Operator Contract

OPERATING CONTRACT FOR LAKE SEQUOYAH BOAT DOCK

For the total amount of \$1,957 per month, Linda Thorpe and/ or Richard Utley (the "Contractor") agrees to provide the list of services and requirements to the City of Fayetteville beginning May 1, 2001 and ending December 31, 2001. Either party may cancel this contract by giving the other party thirty days written notice of cancellation. The Contractor further certifies possession of the initial capital monies to commence boat dock operations.

The City agrees to pay the Contractor in current funds for the performance of the listed services and requirements by making payments to the contractor no later than the 15th of each month.

CONTRACTED SERVICES AND REQUIREMENTS

1. Operate and manage the Lake Sequoyah Boat Dock. Shall be an independent contractor not an employee of the City . Must open and close the lake gates seven days a week at sunrise and sunset. The Lake Sequoyah Boat Dock is closed each year from December 24 through January 14. The operator is responsible for supervising the boat dock during this time.
2. Collect boat stall rentals, storage rentals, fishing permits, and boating permits. These fees are submitted to the Parks and Recreation Office on a weekly basis.
3. Prepare reports and keep records as required by the Parks and Recreation Superintendent.
4. Enforce lake rules and regulations as adopted by the Fayetteville Code of Ordinances Chapter 97, Section 97.070 and 97.999.
5. Provide proof of liability insurance with a minimum coverage of:
 \$300,000 for one person involved in death or injury.
 \$500,000 for two or more persons involved in death or injury.
6. Receive prior approval from the Parks and Recreation Superintendent, or his designee, for any special event conducted at Lake Sequoyah.
7. Mow the yard surrounding the boat dock office and dock area to maintain a manicured appearance.
8. Pick up trash and clean the office and bathroom on a daily basis.
9. Conduct the following business at the Lake Sequoyah Boat Dock:
 - a. Sell concessions in compliance with all applicable State & Federal Laws,

Municipal Ordinances, Health Department Regulations and the rules and regulations of all authorities having jurisdiction over the performance of this project.

- b. Sell fish bait.
 - c. Provide other services which the Parks and Recreation Superintendent determines will enhance the operation of Lake Sequoyah.
10. On call 24 hours a day.
11. The initial annual term of the Contract shall be May 1st through December 31st, 2001. Compensation for the first period will be \$1,957 per month.
12. Either party may terminate this contract at any time by giving the other party thirty (30) days written notice of termination.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in three (3) counterparts, each of which will be deemed and original, in the year and day first above mentioned.

ATTEST:

CITY OF FAYETTEVILLE, ARKANSAS
(City)

(City Clerk)

By: _____

(Title)

(Witness)

Linda Thorpe and/ or Richard Utley
(Contractor)

By: Linda Thorpe

By: Richard Utley

Lake Sequoyah Operator
(Title)

1385 Lake Sequoyah Dr.,

Fayetteville, AR 72701
(Address and Zip Code)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Dan Coody
City Council Members

From: John Maguire,  Administrative Services Director

Date: May 10, 2001

Subject: HMR Tax

The Administrative Services staff has reviewed the ordinance as proposed amending the levy and collection of the HMR tax.

We are not certain that definitions should include more than item D. "Caterers".

Should the new ordinance be considered as drafted, we suggest the following changes:

Section 2, Subpart A: Deli's

- A. Deli's - Deli's shall include establishments selling prepared food or beverage as defined, however this tax shall not apply to sliced meat and/or cheese sold by the pound.

Section 2, Subpart B: Concession Stands

- B. Concession Stands - Stands owned by non-profit groups are excluded from this taxation, as well as stands operated on a short term basis, such as First Night, Springfest, Autumnfest and County fairs. Other stands operated on a recurring basis, such as for athletic events, barbecue stands and other on-going stands, whether mobile or stationary, will collect the HMR tax.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of May 15, 2001.

FROM:

Tim Conklin

Planning

Public Works

Name _____

Division _____

Department _____

ACTION REQUIRED: To approve a resolution to reimburse the Arkansas Highway and Transportation Department for the additional cost of right-of-way acquisition in order to install a boulevard and a 10' multi-use trail with 6' of greenspace for Garland Avenue between Cleveland and North Street. The University of Arkansas will maintain the boulevard from Maple Street to North Street. The City of Fayetteville will maintain the green space between the multi-use trail and sidewalk from Cleveland to North Street.

COST TO CITY:

\$25,000.00

Cost of this Request

\$332,048

Category/Project Budget

Street
ROW/Intersection
/Cost Sharing

Category/Project Name

4470-9470-5809-00

Account Number

\$119,566

Funds Used To Date

Garland Avenue -
Reimbursement to
Highway Department for
Boulevard installation

Program Name

98033

Project Number

\$212,482

Remaining Balance

Sales Tax Capital
Improvements

Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY: _____

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommends approval of the cost share to enhance Garland Avenue from a four lane street to a boulevard design and install a 10' multi-use trail.

Division Head

Date

Cross Reference

New Item: **Yes**

Department Director

Date

Prev Ord/Res #: _____

Administrative Services Director

Date

Orig Contract Date: _____

Orig Contract Number: _____

Mayor

Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone:

PLANNING DIVISION CORRESPONDENCE

501-575-8264

TO: Fayetteville City Council
FROM: Tim Conklin, City Planner
DATE: May 10, 2001
SUBJECT: Garland Avenue Enhancements

Since presenting the Garland Avenue agenda request, the City has learned that the Arkansas Highway and Transportation Department is willing to pay, if necessary, for the additional cost of materials to expand the 5' sidewalk to a 10' multi-use trail with a 6' green space on the west side of Garland Ave. The City has also learned that the University of Arkansas will landscape the boulevard in addition to maintaining the entire boulevard. This will reduce the estimated cost of this request from \$86,000 to \$25,000 for only the purchase of additional right-of-way. Please call me at 575-8264 if you have any questions regarding this project.

Under New Business :

RZ01-8.00

(DEBORAH, SEXTON)

(WHM LAND INVESTMENTS)

4315

↓
this is the
new #

Kit said he would get us
the Ord.

jb

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of May 15, 2001.

FROM:

Tim Conklin

Planning

Public Works

Name

Division

Department

ACTION REQUESTED: To approve an ordinance for RZ 01-8.00 submitted by Deborah Sexton on behalf of WHM Land Investments, Inc., for lots 76-83 located in Meadowlands Subdivision Phases I and II. The property is zoned R-1.5, Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential.

COST TO CITY:

\$0

Cost of this request

Category/Project Budget

Category/Project Name

Account Number

Funds used to date

Program Name

Project Number

Remaining balance

Fund

BUDGET REVIEW:

Budgeted Item

Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and Planning Commission unanimously voted 8-0-0 to recommend and forward the rezoning to the City Council.


 Division Head

4-27-01
 Date

Cross Reference

Department Director

Date

New Item: Yes No

Administrative Services
 Director

Date

Prev Ord/Res#: _____

Mayor

Date

Orig Contract Date: _____

#54

x

Theresa Fette, Gabriel J. Warner and Chieu Lam
632 Putnam, Apartment 18
Fayetteville, Arkansas 72701

#56

x

Cortney D. Rakestraw
884 Meadowlands Drive
Fayetteville, Arkansas 72704

#84

x

John C. Nock, Jill L. Nock, Stanley C. Lankford,
and Nancy E. Lankford
1501 Forest Heights
c/o Empire Properties #2
Fayetteville, Arkansas 72703

#97

x

John C. Nock, Jill L. Nock, Charles T. Nock, Jr.,
and Josephine R. Nock
1501 Forest Heights
c/o Empire Properties #1
Fayetteville, Arkansas 72703

#96 + 95

x

Norman R. Moulden and Bernice Mathias
117 Skyline
Fayetteville, Arkansas 72701

#94

x

Eric Sonneborn and Karissa Sonneborn
1833 Grand Canyon Drive
Lewisville, Texas 75077

#93

x

Marie N. Kinion Living Trust
773 Daisy Lane
Fayetteville, Arkansas 72704





#71

Michael J. Fox and Linda A. Fox
1148 Stearns Road
Fayetteville, Arkansas 72704

#73

Gary L. Looney, Sr.
14136 Mineral Springs Road
West Fork, Arkansas 72774-9476

#75

Lee Anne Goines
702 Daisy Lane
Fayetteville, Arkansas 72701

#72

Ralph Freeman Inter-Vivos Trust and Arlie
Freeman Inter-Vivos Trust
4120 Rogers Avenue
Fort Smith, Arkansas 72903

#74

Damon R. Keith and Gretchen R. Keith
716-718 Daisy Lane
Fayetteville, Arkansas 72701

52, 53, 55, 76-83, 98-105 &
765-19763-000

WHM Land Investments, Inc.
1366 Oaks Manor Drive
Fayetteville, Arkansas 72703





STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of May 15, 2001.

FROM:

Tim Conklin

Planning

Public Works

Name

Division

Department

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COST TO CITY:

\$0

Cost of this request

Category/Project Budget

Category/Project Name

Account Number

Funds used to date

Program Name

Project Number

Remaining balance

Fund

BUDGET REVIEW:

Budgeted Item

Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommended approval and Planning Commission unanimously voted 8-0-0 to recommend and forward the rezoning to the City Council.

Division Head

4-27-01

Date

Department Director

5/4/01

Date

Administrative Services

5/4/01

Date

Director

5/10/01

Date

Mayor

Cross Reference

New Item: Yes No

Prev Ord/Res#: _____

Orig Contract Date: _____

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZ01-8.00 FOR A PARCEL
CONTAINING APPROXIMATELY 1.79 ACRES FOR LOTS
76-83, LOCATED IN MEADOWLANDS SUBDIVISION PHASES
I AND II, AS SUBMITTED BY DEBORAH SEXTON ON BEHALF OF
WHM LAND INVESTMENTS, INC.

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

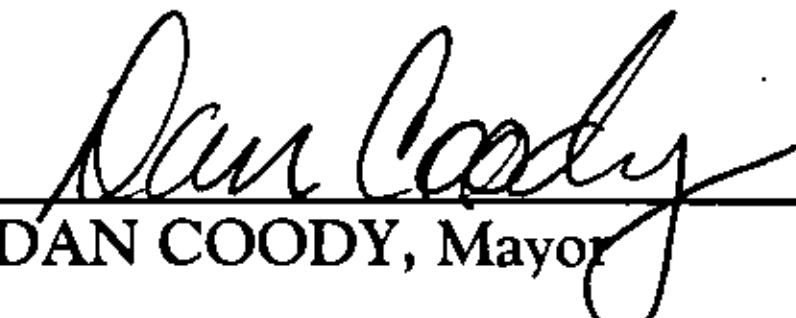
Section 1: That the zone classification of the following described
property is hereby changed as follows:

From R-1.5, Moderate Density Residential to R-1, Low Density Residential
described in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is
hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"
RZ01-8.00

A CERTAIN TRACT OF LAND LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, BEING SITUATED IN THE SOUTHEAST QUARTER (SE¹/₄) OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST OF THE 5TH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO-WIT:

BEGINNING AT A POINT N87°05'29"W 163.04 FEET FROM A 3/4" PIPE MARKING THE SOUTHEAST CORNER OF SAID SECTION 12, THENCE N86°58'43"W 1139.57 FEET TO A POINT; THENCE N87°11'21"W 1314.43 FEET TO A POINT; THENCE N02°35'39"E 1321.72 FEET TO A POINT; THENCE S88°31'48"E 304.89 FEET TO A POINT; THENCE 125.57 FEET ALONG A NON-TANGENTIAL CURVE TO THE LEFT, HAVING A RADIUS OF 925.00 FEET, AN INTERIOR ANGLE OF 7°46'40", AND A CHORD BEARING AND DISTANCE OF S52°48'35"E 125.47 FEET TO A POINT; THENCE TANGENT TO THE PREVIOUS CURVE, S56°41'55"E 358.73 FEET TO A POINT; THENCE S88°31'48"E 166.17 FEET TO A POINT; THENCE N01°28'12"E 702.82 FEET TO A POINT; THENCE S86°59'51"E 436.92 FEET TO A POINT; THENCE N02°15'40"E 416.75 FEET TO A POINT; THENCE N88°36'31"W 437.28 FEET TO A POINT; THENCE N02°38'16"E 362.23 FEET TO A POINT; THENCE N71°35'10"E 147.12 FEET TO A POINT; THENCE S84°40'18"E 275.84 FEET TO A POINT; THENCE S67°00'26"E 23.26 FEET TO A POINT; THENCE N77°46'18"E 61.78 FEET TO A POINT; THENCE S89°59'20"E 72.82 FEET TO A POINT; THENCE S87°29'03"E 272.58 FEET TO A POINT; THENCE S02°34'42"W 298.86 FEET TO A POINT; THENCE N87°23'19"W 343.61 FEET TO A POINT; THENCE S02°14'38"W 668.42 FEET TO A POINT; THENCE S87°14'03"E 339.49 FEET TO A POINT; THENCE S87°14'33"E 416.32 FEET TO A POINT; THENCE S87°40'33"E 330.10 FEET TO A POINT; THENCE S02°32'56"W 1642.50 FEET TO THE POINT-OF-BEGINNING, CONTAINING 92.92 ACRES (4,047,619 SQ. FT.), MORE OR LESS, SUBJECT TO ALL RIGHTS-OF-WAY, SERVITUDES AND/OR EASEMENTS OF RECORD OR FACT.

RZ 01-8.00: Rezoning (WHM Land Investments, pp 439) was submitted by Deborah Sexton on behalf of WHM Land Investments, Inc. for lots 76-83 located in Meadowlands Subdivision Phases I & II. The property is zoned R1.5 Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential.

Estes: The next item on the agenda is item number six, a Rezoning submitted by Deborah Sexton on behalf of WHM Land Investments, Inc. for lots 76-83 located in Meadowlands Subdivision Phases I & II. The property is zoned R1.5 Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential. Staff recommends approval of the requested rezoning based on the findings included in the staff report. Is the applicant present?

Conklin: I don't see the applicant.

Hoffman: Does she need to be present?

Conklin: This is a downzoning. I would encourage you to act on this item.

PUBLIC COMMENT:

Estes: Without the applicant present, I'll bring it back to the Commission for discussion, motions and comments. I didn't solicit public comment because Ms. Hesse, video staff and the press are the only persons I see in the audience. Do any of you wish to provide public comment on this rezoning request?

COMMISSION DISCUSSION:

Estes: Seeing none, I'll bring it back to the Commission for discussion and motions.

MOTION:

Shackelford: I would like to make a motion to approve RZ 01-8.00 based on staff findings.

Allen: I'll second.

Estes: We have a motion by Commissioner Shackelford and second by Commissioner Allen to approve RZ 01-8.00. Any discussion? Sheri, would you call the roll please?

Planning Commission
April 23, 2001
Page 48

ROLL CALL:

Upon roll call RZ 01-8.00 is approved by a unanimous vote of 8-0-0.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: April 23, 2001

RZ 01-8.00: Rezoning (WHM Land Investments, pp 439) was submitted by Deborah Sexton on behalf of WHM Land Investments, Inc. for lots 76-83 located in Meadowlands Subdivision Phases I & II. The property is zoned R1.5 Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: April 23, 2001

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied

Date: May 15, 2001 (1st reading)

Comments: _____

BACKGROUND:

These lots are located at the far south end of the developed phases of Meadowlands Subdivision. They are currently undeveloped and are adjacent to R-1, Low Density Residential property to the south. Surrounding land uses are all residential, single and two family dwellings. This rezoning would provide a continuous section of the subdivision along Meadowlands Drive with R-1 zoning on both sides.

This rezoning request is consistent with the General Plan 2020 and will further provide a mix of housing types within the development. Lot sizes and setbacks are already established in accordance with the requested R-1 zoning.

SURROUNDING LAND USE AND ZONING

North:	Two-family dwellings, R-1.5
South:	Vacant, R-1
East:	Two-family dwellings, R-1.5
West:	Single family dwellings, R-1

INFRASTRUCTURE:

This property is bound on all sides by local streets within the Meadowlands Subdivision (North - Larkspur, East - Daisy Lane, South - Meadowlands Drive, West - Flower Drive).

Water and sewer are both available to this property, these services were constructed as a condition of the subdivision approval for Meadowlands.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-1, Low Density Residential is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning is consistent with adopted land use planning objectives, principles, and policies. The General Plan 2020 designates this property as Residential and surrounding properties are all designated as residential.

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 at this time. Infrastructure is in place to accommodate these lots and development is occurring on adjacent parcels with is compatible with this request.**

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

Finding: **The proposed zoning will not appreciable increase traffic danger and congestion.**

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: **The proposed zoning will reduce population density from the potential maximum based on the existing R-1.5 zoning designation.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

§ 161.04 DISTRICT R-1: LOW DENSITY RESIDENTIAL.

A. Purpose. The Low Density Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 26	Single-Family Dwelling

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 8	Single-Family and Two-Family Dwellings

C. Density.

SINGLE-FAMILY DWELLINGS	TWO FAMILY DWELLINGS
4 or Less Families Per Acre	7 or Less Families Per Acre

D. Bulk and Area Regulations.

	Single-Family	Two-Family
Lot Minimum Width	70 ft.	80 ft.
Lot Area Minimum	8,000 sq. ft.	12,000 sq. ft.
Land Area Per Dwelling Unit	8,000 sq. ft.	6,000 sq. ft.

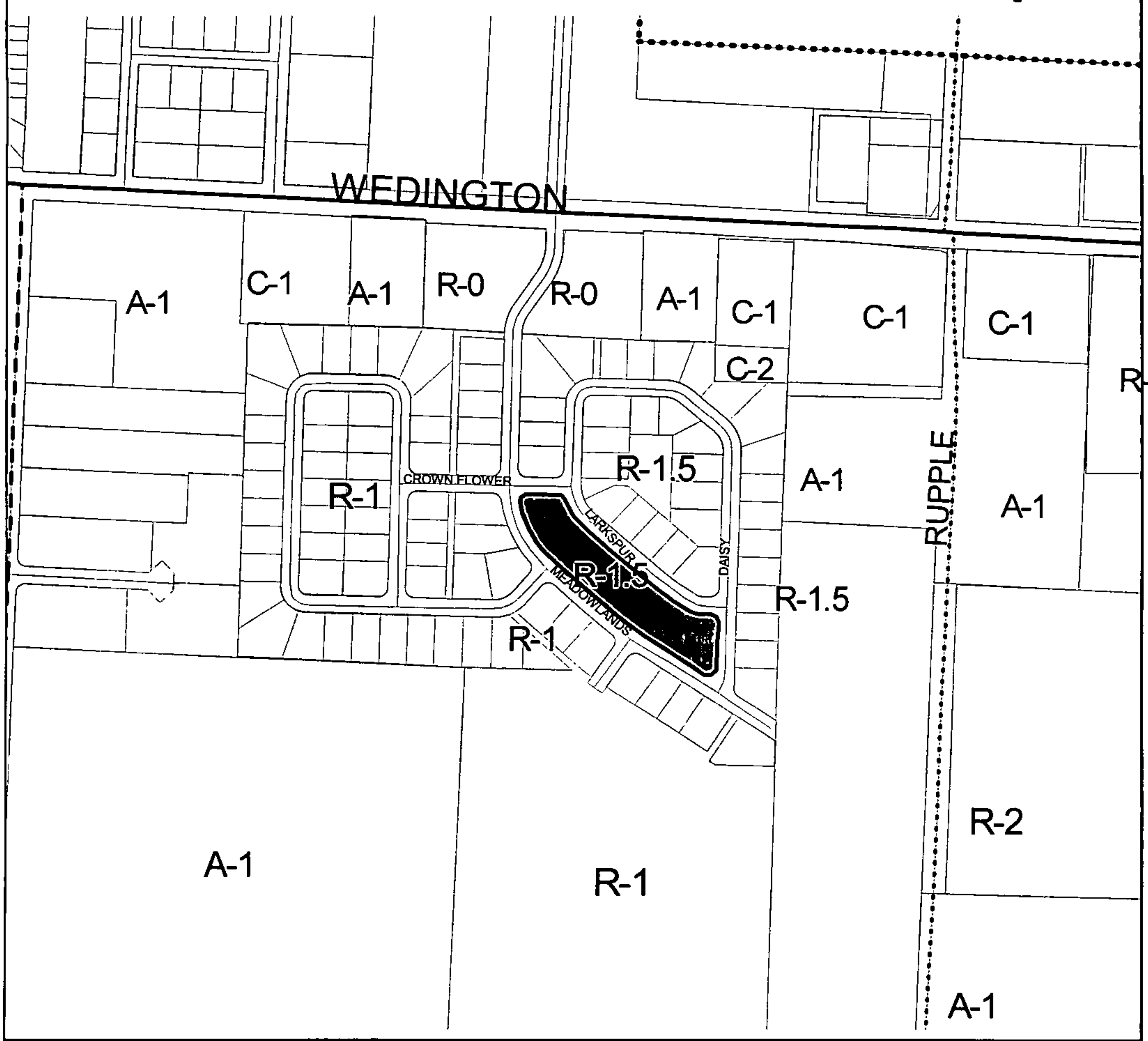
E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	20

F. Building Area. On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031)

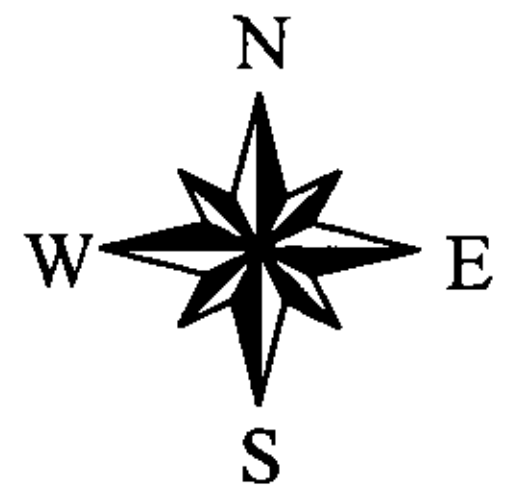
RZ 01-8 WHM Close Up



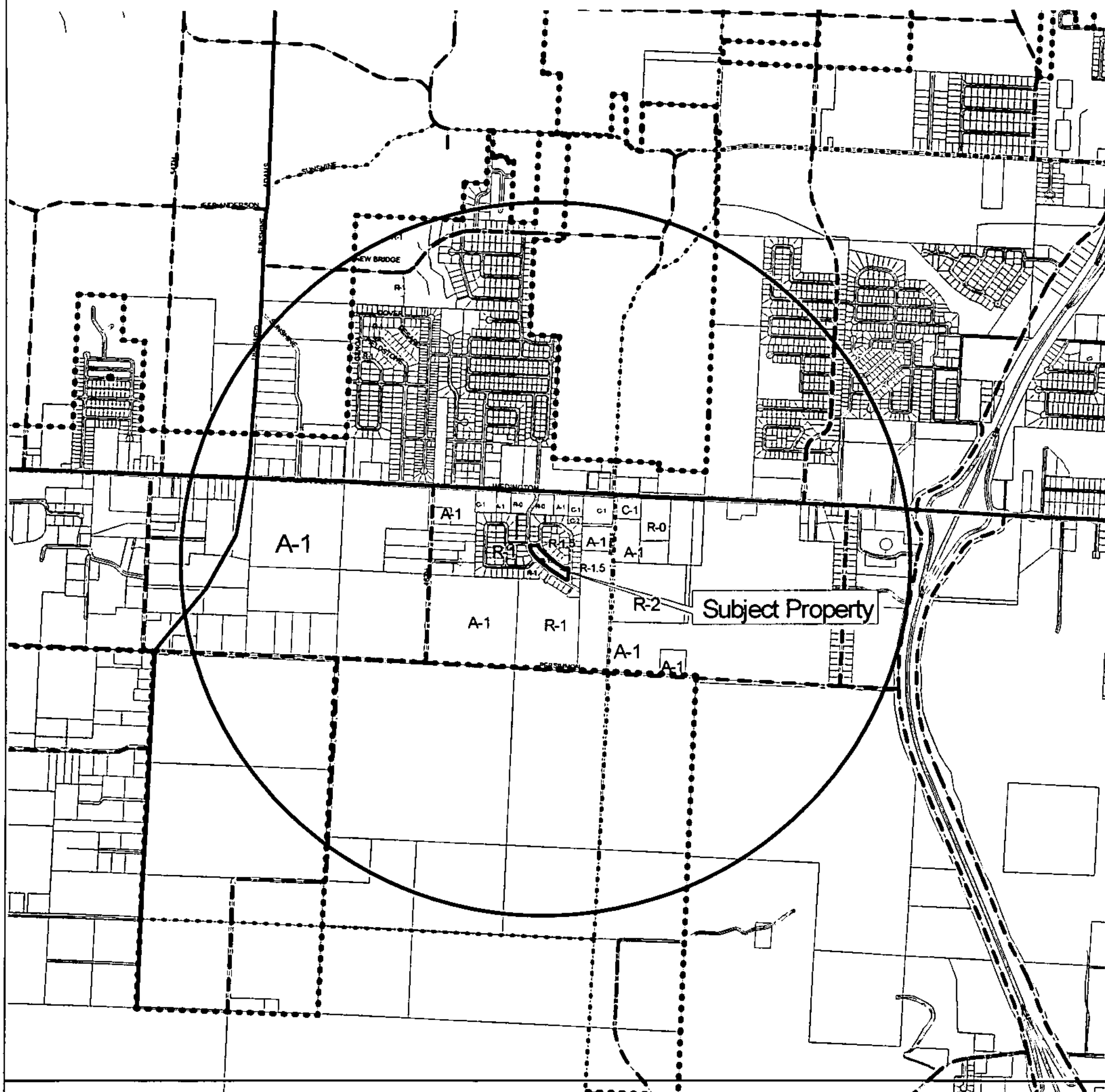
Master Street Plan

- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historical Collector
- Structures (1998)
- Fayetteville City Limits

200 0 200 400 600 800 Feet

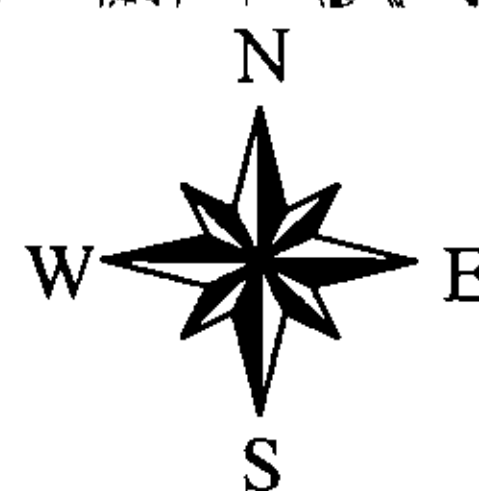


RZ 01-8 WHM One Mile



- Master Street Plan
- Freeway/Expressway
 - Principal Arterial
 - Minor Arterial
 - Collector
 - Historical Collector
 - STREETS
 - Zoning Districts
 - Parcel Polygons
 - Fayetteville City Limits

2000 0 2000 4000 Feet



May 8, 2001

**AGENDA SESSION
CITY COUNCIL
MAY 15, 2001**

NEW ITEMS:

1. **NOMINATING COMMITTEE REPORT:** Appointment of Pat Gazzola, owner of the Catfish Hole, to the A&P Commission to fill the unexpired term previously held by Alex Jerde.
2. **HMR TAX:** An ordinance amending Section 35.20 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax.
3. **PARKS HMR TAX:** An ordinance amending Section 35.31 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax.
4. **STREET TREE INVENTORY:** A resolution awarding a contract to Burditt Associates in an amount not-to-exceed \$25,000 to conduct a city-wide street tree inventory.
5. **LAKE SEQUOYAH BOAT DOCK:** A resolution adopting a contract with Linda Thorpe and/or Richard Utley for Lake Sequoyah boat dock operator in the amount of \$15,200.
6. **RAILROAD RIGHT-OF-WAY:** A resolution approving the purchase of railroad right-of-way from Arkansas and Missouri Railroad in the amount of \$70,000. The right-of-way is to be used for a multi-use trail.
7. **SPECIAL ELECTION:** An ordinance calling and setting a date for a special election for the adoption or rejection of ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel, and Restaurant Tax and the Parks Hotel, Motel, and Restaurant Tax.
8. **GARLAND AVENUE:** A resolution approving the reimbursement to the Arkansas Highway and Transportation Department for the additional cost of right-of-way acquisition in order to install a boulevard and additional materials to expand the west 5' sidewalk to a 10' multi-use trail on Garland Avenue.

ADDITIONAL INFORMATION:

1. **GRADING AND DRAINAGE ORDINANCE:** Proposed amendments to the Stormwater and Drainage ordinance. Item No. 2 under Old Business.
2. **TREE ORDINANCE:** Proposed amendments to the Tree Protection and Preservation ordinance. Item No. 3 under Old Business.

April 26, 2001

TO: Heather Woodruff
City Clerk

FROM: Marilyn Johnson
Director, Convention and Visitor Development

RE: Replacement for Alex Jerde on A & P Commission

The Advertising and Promotion Commission at their April 9, 2001, meeting voted to appoint Pat Gazzola, owner of the Catfish Hole to fill the unexpired term on the Commission previously held by Alex Jerde.

I respectfully request that you put this on the City Council agenda for their ratification.

Thank you.

A P P L I C A T I O N F O R M
For appointment to City Boards, Commissions, and Committees

Please Print or Type all Answers

NAME: Pat Gazzola / Janie Soc. Sec. # 430-92-7252
(If married, please give spouse's first name)

356 East Fairway Lane
Resident Street Address

Fayetteville 72701
City Zip Code

Same as above
Mailing Address Zip Code

TELEPHONE NUMBER: Home: 443-7577

Business: 521-7008

OCCUPATION/EMPLOYER NAME: own Catfish Hole

LENGTH OF RESIDENCY IN FAYETTEVILLE August, 1994
to present

CHOICE OF COMMITTEE: Advertising & Promotion

Circulation: (Do not write in this space.)

Terminate: _____
Appointed: _____
Term Expires: _____
Replaced: _____

REFERENCES:

Name JOE FENNEL

Address 1655 Woolsey, Fayetteville, 72703

Phone 521-8534

Name Jim Lindsey

Address _____

Phone 521-6686

1. What are your qualifications for serving on this committee, including education and expertise in the subject matter?

I have a law degree from the University of Arkansas and I own the
Catfish Hole restaurant which I also manage located on Wedington in
Fayetteville, AR.

2. Why would you like to be considered for appointment to this committee?

The City of Fayetteville has been good to me. I have a successful restaurant
and would like to share my knowledge and experience to help the City.

RETURN THIS APPLICATION TO: Traci Paul, City Clerk's Office, 113 W. Mountain St., Fayetteville. If you have any questions, call 575-8323.

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING §35.20 OF THE CODE OF FAYETTEVILLE (ORDINANCE NO. 2310, AS AMENDED), TRANSIENT OCCUPANCY TAX, LEVY OF TAX TO ADD DELIS, DRIVE-IN RESTAURANTS, CARRY-OUT RESTAURANTS, CONCESSION STANDS, CONVENIENCE STORES, GROCERY STORE RESTAURANTS, CATERERS AND SIMILAR BUSINESSES TO THE LIST OF BUSINESSES TO WHICH THE CITY'S GROSS RECEIPT TAX OF 1% (HOTEL, MOTEL AND RESTAURANT TAX) APPLIES (A.C.A. §26-75-601 ET SEQ.); ADDING OFF PREMISES CONSUMPTION BUSINESSES TO THE LIST OF BUSINESSES SO TAXED, EXCLUDING FROM TAXATION GROSS RECEIPTS OR GROSS PROCEEDS OF ORGANIZATIONS QUALIFIED UNDER 501(c) (3) OF THE FEDERAL INTERNAL REVENUE CODE

WHEREAS, the current gross receipts of tax of 1% on Hotel, Motel and Restaurants (A.C.A. §26-75-601 et seq.) established by Ordinance No. 2310, as amended (HMR tax) levies the tax only upon restaurants, cafes, cafeterias and all other establishments engaged in the business of selling prepared food for consumption on the premises of such establishment in the city, and;

WHEREAS, the City wishes to also apply the HMR tax to delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses selling prepared food or beverages for on or off premises consumption as allowed by A.C.A. §26-75-602 and;

WHEREAS, the City wishes to exclude from HMR taxation the gross receipts on gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

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

Section 1. That §35.20 of the Code of Fayetteville, Tax, Levy of Tax, is hereby repealed and the following inserted in its stead:

§35.20. Levy of Tax. There is hereby levied, a tax of 1% (the tax) upon the gross receipts or gross proceeds from the renting, leasing, or otherwise

furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501-(c)(3) of the Federal Internal Revenue Code.

Section 2. That §35.28 is hereby added as follows:

§35.28. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** – Delis shall include establishments selling sandwiches and salads, but this tax shall NOT apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** – Stands run by non-profit groups are excluded from this taxation.

C. **Convenience Stores** – All food and beverages prepared on site (except coffee) are taxable.

D. **Caterers** – Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** – These are included within the definitions of “similar businesses” of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** – Businesses that sell beverages prepared or dispensed at their business are included within the definition of “similar businesses” of this ordinance and are therefore subject to this tax.

G. **Prepared Food or Beverage** - Any food or beverage product prepared or altered in a food/beverage establishment for sale.

PASSED AND APPROVED this ____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

ORDINANCE NO. _____

DRAFT

AN ORDINANCE AMENDING §35.31 OF THE CODE OF FAYETTEVILLE (ORDINANCE NO. 3900, AS AMENDED), ADDITIONAL OCCUPANCY TAX, LEVY OF TAX TO ADD DELIS, DRIVE-IN RESTAURANTS, CARRY-OUT RESTAURANTS, CONCESSION STANDS, CONVENIENCE STORES, GROCERY STORE RESTAURANTS, CATERERS AND SIMILAR BUSINESSES TO THE LIST OF BUSINESSES TO WHICH THE CITY'S GROSS RECEIPT TAX OF 1% (HOTEL, MOTEL AND RESTAURANT TAX) APPLIES (A.C.A. §26-75-601 ET SEQ.); ADDING OFF PREMISES CONSUMPTION BUSINESSES TO THE LIST OF BUSINESSES SO TAXED, EXCLUDING FROM TAXATION GROSS RECEIPTS OR GROSS PROCEEDS OF ORGANIZATIONS QUALIFIED UNDER 501(c) (3) OF THE FEDERAL INTERNAL REVENUE CODE

WHEREAS, the current gross receipts of tax of 1% for Parks, Hotel, Motel and Restaurants (A.C.A. §26-75-601 et seq.) established by Ordinance No. 3900, as amended (Parks HMR tax) levies the tax only upon restaurants, cafes, cafeterias and all other establishments engaged in the business of selling prepared food for consumption on the premises of such establishment in the city, and;

WHEREAS, the City wishes to also apply the Parks HMR tax to delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses selling prepared food or beverages for on or off premises consumption as allowed by A.C.A. §26-75-602 and;

WHEREAS, the City wishes to exclude from Parks HMR taxation the gross receipts on gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

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

Section 1. That §35.31 of the Code of Fayetteville, Levied; collection, is hereby repealed and the following inserted in its stead:

§35.31 Levy of Parks HMR Tax. There is hereby levied, a tax of 1% (the tax) upon the gross receipts or gross proceeds from the renting, leasing, or

otherwise furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

Section 2. That §35-36 is hereby added as follows:

§35.36. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** - Delis shall include establishments selling sandwiches and salads, but this tax shall NOT apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** - Stands run by non-profit groups are excluded from this taxation.

C. **Convenience Stores** - All food and beverages prepared on site (except coffee) are taxable.

D. **Caterers** - Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** - These are included within the definitions of "similar businesses" of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** - Businesses that sell beverages prepared or dispensed at their business are included within the definition of "similar businesses" of this ordinance and are therefore subject to this tax.

G. Prepared Food or Beverage – Any food or beverage product prepared or altered in a food/beverage establishment for sale.

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

 AGENDA REQUEST
x CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council meeting of: N/A

FROM:

Kim J. Hesse
Name

Public Lands - Landscape
Division

Public Works
Department

ACTION REQUIRED:

Review of a contract by Burditt Associates for a city wide street tree inventory.

COST TO CITY:

Not to exceed
\$25,000.00
Cost of this request

\$140,863.00
Category/Project Budget

Forestry Program
Category/Project Name

4470-9470-5315-00
Account Number

\$47,104.00
Funds Used to Date

Other CIP
Program Name

96084
Project Number

\$93,759.00
Remaining Balance

Sales Tax Capital
Fund

BUDGET REVIEW:

 Budgeted Item

 Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

P. Hesse
Purchasing Officer

5-8-01
Date

Grants Coordinator

Date

STAFF RECOMMENDATION:

Kim J. Hesse
Division Head

5-4-01
Date

Cross Reference

New Item: YES NO

Department Director

Date

Prev Ord/Res #:

Administrative Services Director

Date

Orig. Contract Date:

Mayor

Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody

FROM: Kim J. Hesse, Landscape Administrator *Kjh*

DATE: May 4, 2001

SUBJECT: City Wide Street Tree Inventory - Contract Review

Please review the included contract by Burditt Associates for the city wide street tree inventory and management system. I have referenced the contract to our Request for Proposals and to the proposal Burditt Associates submitted in response. I feel that the contract covers and exceeds the scoop of work requested by the city.

Since the final cost of the project will vary due to the true number of street trees and planting spaces inventoried, I suggest we request a "not to exceed" amount of \$25,000.00. The RFP was based on an estimated 4200 street trees that was determined by a sample inventory performed last year by Natural Path Forestry. I also requested in the RFP that trees in Gully Park, Wilson Park, and Walker Park be inventoried along with possible planting spaces along our city streets. The amount on the review form allows for an additional 2000 items to be inventoried which I believe should cover our needs.

If you have any questions about the project, please feel free to call. I will include a copy of the RFP and the original proposal submitted by Burditt for your reference.

**BURDITT
ASSOCIATES**

Urban Forest Consultants

Planning • Design • Management

Mailing Address:

P.O. Box 1424
Conroe, Texas 77305
info@burdittassociates.com

Conroe Office:

2040 W. Loop 336
Conroe, Texas 77304
936.756.3041 Conroe
281.447.2111 Houston
936.539.3240 Fax

April 23, 2001

Ms. Kim J. Hesse, RLA
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Consultant Agreement for Professional Services;
City of Fayetteville Tree Inventory

Dear Ms. Hesse:

You have advised that our proposal for services in the above-noted project has been accepted. As discussed, we have prepared a Consultant Agreement for Professional Services. Attached please find duplicate copies of this Agreement. Upon review, if you have any questions or necessary revisions to be made, please advise. If the Agreement meets with your approval, please contact us and we will forward originals to be signed.

We appreciate the opportunity to assist in this important project and look forward to working with you and others in your organization. We are prepared to proceed upon receipt of an executed Agreement.

Sincerely,



Billy L. Drum
Project Manager

BLD/wc
Enclosure

CONSULTANT AGREEMENT

This Agreement is made and entered into the ____ day of _____ 2001, by and between Burditt Associates of Montgomery County, Texas (hereinafter called the "CONSULTANT"), and CITY OF FAYETTEVILLE (hereinafter called "CLIENT").

The initial addresses of the parties, which one party may change by giving written notice to the other party, are as follows:

CONSULTANT

Burditt Associates
P. O. Box 1424
Conroe, TX 77305

CLIENT

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

That whereas CLIENT has requested services of the CONSULTANT as an independent contractor and not as an employee in relation to:

**CITY OF FAYETTEVILLE
STREET TREE INVENTORY
(SEE ATTACHED EXHIBIT A - SCOPE OF WORK)
(herein called the "Project")**

NOW, THEREFORE, CLIENT and the CONSULTANT, in consideration of the mutual covenants set forth, agree as follows:

Upon receipt of the executed copy of this Agreement, the CONSULTANT will perform services to provide CLIENT with the data, information, services or opinion proposed by CONSULTANT in Proposal dated February 26, 2001. CONSULTANT will proceed with the work as expeditiously as practical, and provide CLIENT with Urban Forestry Consulting Services.

CONSULTANT shall collaborate with CLIENT's agents or representatives in connection with Scope of Work and CONSULTANT shall be bound by the provisions set forth herein.

CLIENT will place at CONSULTANT's disposal all available information generated by CLIENT, CLIENT's agents or representatives as may be pertinent to the Project including previous reports, documents, and any relevant data as will be necessary for CONSULTANT to provide the services covered by this Agreement.

Component One: Urban Forest Inventory

Street Tree Inventory -

- Inventory of individual trees \$ 1.95 per tree
- Inventory of individual planting spaces \$ 1.90 per space

Park Tree Inventory -

- Inventory of individual trees \$ 1.95 per tree
- Inventory of individual planting spaces \$ 1.90 per space

These per unit fees are inclusive of labor described herein.

Burditt Associates's unit price is guaranteed for the attached scope of services with a contract and scope of services providing for a minimum of 4,300 units (trees and/or planting spaces). The data collection area and units of data may, however, be increased in scope at the Client's discretion with no increase in per unit prices. The per unit price for the inventory contained herein is a fixed price and shall remain firm throughout the term of this Agreement.

Component Two: CityTree Inventory Software

CityTree Software	\$ 3,000.00
Training (16 hours)	\$ 1,975.00
Microsoft Access 2000	\$ <u> .00</u>
Total	\$ 4,975.00

Training costs include labor, materials, lodging, and travel expenses.

Component Three: Comprehensive Urban Forest Management Plan

Management Plan	\$ 7,900.00
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Terms Defined:

Planting Space(s) means (1) the area between the curb and the sidewalk, ditch or water meter at least 3' in width with trees spaced at least 30' apart; and (2) esplanades at least 10' in width with trees planted a minimum of 50' from the nose of the esplanade, 75' from a major intersection, 40' apart and 5' from the back of the curb. Planting space(s) shall be identified by latitude and longitude. Data for planting spaces in residential neighborhoods will be collected on spaces 30' from the intersection. Data will be collected on planting spaces under the canopy of trees.

A "Tree" means any tree with the potential to reach a height of 20' or more. If a tree such as Photinia, Ligustrum, etc., is trimmed as a hedge, it will not be collected as a tree. If it is pruned into a tree form or seems to be allowed to grow unattended, it will be collected as a tree.

Invoices will be submitted monthly and will reflect the actual number of data units collected during that period or the percentage of completion. Payment of CONSULTANT invoices by the CLIENT will be made within 30 days from date of invoice. CLIENT may review invoice expeditiously within 30 days, but may not withhold payment unreasonably. Fees will be due and payable in Conroe, Texas, upon receipt of invoice. Nonpayment to CLIENT by any funding entity or agency will not relieve CLIENT of its financial obligation to CONSULTANT under this Agreement. All moneys not paid CONSULTANT when due, hereunder shall bear interest at the rate of 1.5 % per month, calculated daily on the unpaid balance.

No additional services, other than those specified in Exhibit A - Scope of Work, have been requested by CLIENT and none shall be provided by CONSULTANT under this Agreement unless mutually agreed upon in writing by both parties.

CONSULTANT will have, in full force and effect, the following insurance coverage during the entire project:

Worker's Compensation	\$1,000,000.00 per occurrence
General Liability	\$1,000,000.00 per occurrence
Professional Errors and Omissions	\$ 100,000.00 per occurrence

CONSULTANT will provide certificates of insurance coverage to CLIENT prior to commencement of project.

CLIENT and CONSULTANT agree that the date of this Agreement will also be the agreed upon Start Date for CONSULTANT to begin performance.

CONSULTANT will collect data and deliver completed deliverables covered by this agreement on or before June 29, 2001. In the event that CLIENT does not provide CONSULTANT the information or materials necessary to initiate or complete the work by the stated deadline, CLIENT will be notified, in writing, detailing all information or materials required. In the event that a delay in completion of services results, due to no fault of CONSULTANT, CLIENT agrees to provide additional time to complete the services, commensurate with the type of delay.

If CONSULTANT is unable to complete the services by the completion date due to Acts of God, such as natural disaster, additional time commensurate with the extent of delay will be afforded CONSULTANT by CLIENT.

If CONSULTANT requests an extension of time for any other reason to complete its performance, the CLIENT may, in its sole discretion, extend the time.

Any extension must be in writing but does not require amendment of this Agreement. CONSULTANT is not entitled to damages for delay(s) regardless of the cause of the delay(s).

CONSULTANT agrees to indemnify and shall defend and hold harmless CLIENT, Client's agents or representatives from and against any and all liability, claims, damages, losses and expenses, including but not limited to all expenses of litigation, court costs, and attorney's fees, for injury or death of any person, or for damage to any property, or violation of any law, regulation or ordinance, arising out of or in connection with the work done under this Agreement.

In the event legal action is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to a reasonable sum for attorney's fees and court costs.

CONSULTANT shall not assign this Agreement at law or otherwise without prior written consent of CLIENT.

This Agreement represents the entire agreement between CONSULTANT and CLIENT and may be amended only by written instrument signed by both parties. This agreement shall be governed by the laws of the State of Arkansas.

CLIENT

CONSULTANT

CITY OF FAYETTEVILLE

BURDITT ASSOCIATES

By: Date

By: Charles B. Burditt Date
Owner

EXHIBIT 'A'

SCOPE OF WORK

DUTIES OF CONSULTANT:

Burditt Associates will provide all labor, tools, equipment, supplies, products, personnel, and necessary supervision to provide the following:

- **Component One: Computerized Street Tree Inventory**
- **Component Two: Computerized Tree Management System**
- **Component Three: Urban Forestry Management Plan**

The project will be conducted under the direction of the City of Fayetteville's Public Lands Maintenance Department. Reporting and coordination of the project will be conducted through this department unless otherwise directed.

The following services are to be supplied by *Burditt Associates* per the Proposal for Services dated February 2001 in response to "City of Fayetteville, Arkansas - Request for Proposals - City Wide Tree Inventory"

COMPONENT ONE: COMPUTERIZED STREET TREE INVENTORY

Field Data Collection - All street trees growing on specified City of Fayetteville street ROW and within the following three (3) Parks:

- ♦ Walker Park (Portion) - 30 Acres
 - ♦ Gulley Park - 27 Acres
 - ♦ Wilson Park - 21 Acres
- *Data to be Collected* - Following is the data and a description of each item:
 1. **Street Address** - Address of tree location including street name and number
 2. **Tree Identification** - Species of each individual tree by genus, species and common name
 3. **Size** - Size of tree by diameter measured
 4. **Condition of Tree** - Rating according to the five condition factors developed by the International Society of Arboriculture including:
 - ♦ Trunk
 - ♦ Scaffold Branches
 - ♦ Smaller Branches and Twigs
 - ♦ Foliage
 - ♦ Roots

EXHIBIT 'A'

SCOPE OF WORK

5. **Defects** - Identify the defects of each tree including:

- ♦ Physical Defects
- ♦ Insect Related Defects
- ♦ Disease Related Defects

6. **Maintenance Requirements** - A priority list of work assignments using the following criteria:

- ♦ Priority One Tree Removal: Trees designated for removal have defects that cannot be cost effectively or practically treated. The majority of trees in this category have a large percentage of dead crown and re potential safety hazards. Large dead and dying trees that are high liability risks are included in this Category. These trees are the first ones that should be removed.
- ♦ Priority Two Tree Removal: Trees that should be removed but do not pose a liability as great as the first priority.
- ♦ Priority Three Tree Removal: Trees that should be removed, but that pose minimal liability to persons or property, e.g. transplant failure or amenity removal
- ♦ Priority One Prune: Trees recommended for pruning to remove hazardous deadwood and dead or diseased limbs greater than 4 inches in diameter.
- ♦ Priority Two Prune: There trees have dead, dying, diseased or weakened branches between two (2) and four (4) inches in diameter and are potential safety hazards.
- ♦ Large Tree Routine Prune: These trees require horticultural pruning to correct structural problems or growth patterns which would eventually obstruct traffic or interfere with utility wires or buildings. Trees in this category are large enough to require bucket tree access or manual climbing.
- ♦ Small Tree Routine Prune: These trees require routing horticultural pruning to correct structural problems or growth patterns which would eventually obstruct traffic or interfere with utility wires or buildings. There trees are small species, mature threes that can be evaluated and pruned from the ground.
- ♦ Train Prune: Young large trees that are still small must be pruned to correct or eliminate weak, interfering, or objectionable branches in order to minimize future maintenance requirements. These trees, up to 20 feet in height, can be worked with a pole runner by a person standing on the ground.
- ♦ Stump Removal: Stump that should be removed.

EXHIBIT 'A'

SCOPE OF WORK

- ♦ Planting Space: Indicates a vacant planting site.

7. **Site Description** - Three site description criteria will include:

- ♦ Land Use: The dominant use of the property adjacent to the right-of-way:

Apartment	Municipal
Boulevard	Park
Business	Residence
Church	School
Hospital	Vacant Lot
Island	Industrial

- ♦ Growing Space: The area between the curb and the edge of the right-of-way.

- Growing Space is 1' to 4' wide
- Growing Space is 5' to 9' wide
- Growing Space is >9' wide
- Sidewalk is integral with curb
- No sidewalk
- Growing Space is paved
- Plant is behind a sidewalk yet within right of way.

- ♦ Overhead Utilities: Describing the absence of presence of utility lines:

- Electric
- Communication
- No Utilities

8. **** GIS Latitude and Longitude** - Latitude and longitude from provided City of Fayetteville GIS base maps and/or GPS unit as necessary. Areas where comprehensive and adequate GIS base maps are available, the maps will be used to collect the GIS points. In parks and areas where the GIS bas maps are nonexistent or inadequate to accurately locate the tree, a GPS backpack unit to collect the tree data to submeter accuracy.

EXHIBIT 'A'

SCOPE OF WORK

Additional criteria or items to be provided but not specifically requested:

1. **Tree Number** - Tree numbering at each address i.e. T1, T2, etc.
2. **Technical Memorandums** - Provide technical memorandums to Fayetteville, Public Lands Department Director or Designee.
3. **Hazard Tree Notification** - Timely written notification of obvious eminent hazard trees to City Forestry Department during the inventory process.
4. **Detailed and Sequential Files** - Provide Detailed and Sequential Files of the Project.

COMPONENT TWO: COMPUTERIZED TREE MANAGEMENT SYSTEM

The City of Fayetteville will be provided with *Burditt Associates'* proprietary Tree Database Management Software 'CityTree'. This software was developed to be used in the efficient management of City and Municipal trees. 'CityTree' allows the user to seamlessly go between ArcView and Access to view and maintain tree inventory data. 'CityTree' will perform the following:

Enable users to view and search the tree information.

- Browse data using Access database functionality
- Browse the data in a GIS environment using ArcView functionality

Generate and manage Work Orders.

- CityTree easily produces work orders that can be printed or saved to file and can be sorted by;
 - Management Zone
 - Council District
 - Dates
- Automatically update the maintenance history data upon completion of the work order
- Work orders can be developed from either the database or by the selection of trees on a map and then submitted to the database for Work Order generation.

Create reports to improve management decisions, crew assignments, or budgeting:

- Monthly – Report to monitor tree maintenance work done monthly and to date.
- Report monthly Removals, Trims, Plantings, etc.
- Display information analytically and graphically regarding the urban forest cover

EXHIBIT 'A'

SCOPE OF WORK

- Create and print maps of the City streets that display tree locations

Generate a map for the maintenance crew to locate the tree.

- CityTree automatically produces a map upon generation of a work order.

Tree data can be edited and maintained on a desktop system.

- Maintain any tree record in the database based on updated information
- Generate (print) a work order and corresponding map based upon a user request
- Automatically update a work order record following completion of field work
- Track minimal employee information regarding who the maintenance was performed by
- Insert new records for public and/or private trees into the system

Sort and report tree data by:

- Address
- Council District
- Management Section
- Date
- Tree diameter class
- Tree species - both common and botanical names
- Other user defined criteria

CityTree Software can also assist in:

- Tracking inventory data.
- Fieldwork scheduling
- Providing a valuation of the City's street trees
- Linking data attributes to the geographical information
- Providing for easy modification and expansion of the database capabilities as needed (Access and ArcView functionality)

Operating System(s):

- Windows 98
- Windows 2000
- Windows NT

EXHIBIT 'A'

SCOPE OF WORK

Technical Support

CityTree will be warranted for any maintenance concerns for a period of one (1) year from date of installation. *Burditt Associates* will provide prompt technical support to all parties, ensuring minimal downtime for any unforeseen problems. Support will include one year of telephone assistance, revisions and updates to the documentation as they pertain to system operations or debugging as requested. Client requested program revisions or updates not integral to functionality or requested under the RFP could incur additional expense. 'CityTree' also includes a users manual and on line contextual help.

Upgradability

Burditt Associates and our business partners can assist with any necessity to upgrade the system for portability, expansion, and general enhancements.

COMPONENT THREE: URBAN FORESTRY MANAGEMENT PLAN

Following inventory of city wide tree resources, *Burditt Associates* will then develop a comprehensive Urban Forest Management Plan. The plan will target and address the needs as determined in the inventory phase as well as based upon interviews with City personnel responsible for tree management and maintenance. It shall also offer recommendations for future tree operations over the next 5 to 10 years. The plan will provide for:

- **Hazard Management** - Risk management is necessary to ensure the safety of the residents of Fayetteville and also to reduce liability of the City and associated organizations. Treatment to mitigate and/or reduce hazard conditions should be a major part of the management criteria for urban forest management. Reducing the risk associated with hazardous trees will include the development of a policy that will protect the City and it's residents, employees, contractors and visitors from potential tragedy or damages. Tree removal operations to reduce hazard conditions will concentrate on trees the are Priority One and Two and then move on to hazard prune operations.
- **Pruning Scheduling** - Pruning operations in the Fayetteville must be cost effective and practical. While pruning every tree in the city would not be a practical approach at this time, a more realistic goal would implement a pruning cycle for all large trees that are growing in close proximity to areas frequented by people with an emphasis placed on those trees designated as Priority One and Two pruning. A schedule could be developed that would adequately address the health of the Urban Forest and the safety of the city residents and visitors. As extensive tree planting occurs, a regulated cycle should be implemented to provide for pruning at regular intervals.
- **Insect, Disease Treatment and Fertilization** - Tree maintenance issues will be necessary when dealing with insects, diseases, pests and nutrient deficiencies. General urban forest protection issues must be anticipated and addressed within the document.

EXHIBIT 'A'

SCOPE OF WORK

- **Resource Allocation and Budgetary Requirements** - With the limited resources of money, manpower and equipment that the City of Fayetteville and many other cities are facing, creative approaches are necessary to implement and utilize a comprehensive Urban Forest Management Plan. The approach necessary must be practical and implementable according to the commitment of the residents of Fayetteville.
- **Park and Cemetery Management** - All parks and cemeteries will be inspected and assessed for overall health, canopy cover, species diversity, and management needs. A section of the management plan will address any needs and recommendations for increased tree canopy cover and health.
- **Canopy Revitalization** - Older, more established areas may require revitalization of the canopy cover and/or assessment of the same according to usage and purpose of the tree cover.
- **Preservation Planning** - To preserve the existing trees within the city and enhance value, a preservation plan for site development (both new and redevelopment) and protection of the urban forest environment is essential. Preservation planning will be addressed within the Urban Forest Management Plan.
- **Community Awareness and Education Program/Plan** - The key to any successful resource management program will be a well prepared community awareness plan. Municipal forestry departments, public works departments, parks and recreation departments and community associations all have a public image. This image may be real or imagined, but it exists in the eyes of the general public. Only through an effort to educate the public can many of the necessary management practices be implemented and adequate budgets be set aside with community support.
- **Tree Planting / Aforestation / Reforestation Initiatives** - An assessment should be made of the needs for establishing or reestablishing tree cover throughout Fayetteville. Areas that have no tree cover should be assessed for aforestation (areas previously unforested) efforts. Many of the new areas in the city currently do not have adequate tree cover and will require reforestation efforts utilizing proper species diversity and maintenance procedures favorable to survival. The existing tree cover should be assessed for overall health and longevity or need for reforestation. Goals of canopy cover and ability to maintain these areas must be taken into account during the process.
- **Urban/Rural or Wildland Interface** - The sprawling nature of today's urban areas creates many challenges such as fire suppression, emergency services, and fragmentation of wildlife habitat, just to name a few. Methods to address these considerations should be included in any Urban Forest Management Plan.

EXHIBIT 'A'

SCOPE OF WORK

- **Additional Recommendations for Improved Management** - Other recommendations for improvements to the Urban Forest of Fayetteville could include an Urban Ecosystem Analysis to determine the value and benefits of the existing tree cover. Specific assistance in planning future expansion of City services and infrastructure should be included.

To be a working document, the plan should encompass the Parks Department's goals, objectives, strategies, administration, budget and overall work program. The plan should describe the day-to-day, short range, and long-range direction of the department

METHODOLOGY

Burditt Associates will collect the requested data, utilizing the following hardware, software, and methods:

- Rugged, field-tested pen-based computers operating in a **Windows** environment.
- Data collection software utilized for field data collection.
- Where the City's GIS base maps are comprehensive and adequate to accurately locate the ROW trees, the GIS based street level maps, supplied by the City will be layered on the pen based computer. The collector will tap on the screen to accurately locate the tree using the City's own GIS data.
- Where GIS based street maps are not available, adequate or comprehensive or within parks, GIS data will be collected with GPS backpack equipment with sub-meter accuracy.
- Data will be collected on a tree by tree basis in the field by trained urban forestry, horticultural, or arboricultural professionals.
- Following data collection, the information will then be downloaded into a City of Fayetteville desktop computer running *Burditt Associates'* proprietary database management software and **ArcView** GIS software.
- The data will then be verified for utilization.

Trees will be assessed for hazards by ocular methods. While this is quite effective at identifying obvious needs for hazard removals, many fractures, hollows, etc., may not be identifiable due to the time and budgetary restraints and the methods described above. *Burditt Associates* makes no warranty for hazard accuracy as applied to Acts of God, the negligence of others, or hazards not obvious from a visual inspection at the time of data collection.

DUTIES OF CLIENT:

CLIENT will pay CONSULTANT on the basis of monthly invoices showing the services performed during the preceeding month. CLIENT will pay CONSULTANT within 30 days of receipt of an approved invoice and in accordance with the terms of the Consultant Agreement.

CLIENT, client's agents or representatives will supply GIS based street level maps.

**CITY OF FAYETTEVILLE, ARKANSAS
REQUEST FOR PROPOSALS
CITY WIDE TREE INVENTORY**

Location

The City of Fayetteville, Arkansas is located in the northwest corner of the state. Situated among the hills of the Ozark mountain range, Fayetteville is blessed with a plentiful urban forest with several individual plant communities such as Upland, Mesic and Dry Oak-Hickory-Pine Forests

Demographics

Fayetteville is the home to a population of approximately 53,000 citizens with a regional population of over 250,000. The University of Arkansas is based here with a student population of approximately 15,000. Much of the community are behind the welfare of the forest with many new residents claiming the trees as their draw to the area.

Public Lands Maintenance

The Public Lands Maintenance Department was formed to house the Tree and Landscape Department, the Square Gardens program, and the Sidewalk and Trails Department. The Tree and Landscape department is managed by the Landscape Administrator, whom administers tree preservation ordinance and all landscape ordinances. The department includes three full time crew members to maintain public parking lots, trees within some 340 miles of public streets and various beautification projects.

Urban Forestry Program

The city of Fayetteville has been a Tree City USA for five consecutive years. Currently our program administers ordinances for the protection and replacement of trees and manages funding for tree planting and maintenance on public lands. Although ordinances and funding have been in place for several years, the development of a plan for the overall needs of the urban forest has yet to be pursued. **An inventory of the trees within our public rights-of-way, our public landscape areas, and within our more populated parks is necessary for the city to assess it's maintenance and planting needs. This inventory will be the base information needed to develop a comprehensive urban forestry plan for the city.**

Issuing Office:

City of Fayetteville
Peggy Vice, Purchasing Manager
113 W. Mountain
Fayetteville, AR 72701
501-575-8256

Contact for Information on Scope of Services:

Kim J. Hesse, RLA
113 W. Mountain
Fayetteville, AR 72701
501-575-8308

GIS Option
John Goddard
113 W. Mountain
Fayetteville, AR 72701
501-575-8219

Deadline:

Receipt of Proposals: **February 28th, 2001**

Proposal Submission:

All proposals must be submitted in an appropriately marked and sealed envelope to the Purchasing Agent at the above mentioned address.

Ten (10) copies of each proposal must be supplied. All submissions should include the following:

- a. name, address and telephone number of the firm;
- b. give references of past work. Include client's name, address, and telephone number;
- c. state the name(s) and qualifications of the person(s) who will be specifically working on this project and any related experience applicable to this type of project.
- d. Include a statement of qualifications

Reservations

- 1) The City reserves the right to reject any or all responses to this RFP in whole or in part;
- 2) The City reserves the right to request interviews with any consultant submitting a proposal to assist the professional selection committee in making a determination of qualifications and capability.

Length of Contract

All work completed under this contract must be completed no later than June 15, 2001.

Scope of Services

The following describes the services the City feels are required to complete the project. Your proposal need not be bound by the limits of this list. In fact, we intend that this list is only preliminary and your proposal will fully describe services that you propose to provide so that the project can be completed in a competent and professional manner.

The project shall consist of, but not be limited to, the following three components:

Component One : Computerized Street Tree Inventory

Objective - To acquire an inventory of all trees, stumps, shrubs, and potential planting sites in the public right-of-way and within specifically mentioned park land. There are approximately 340 miles of public streets in the city with an estimated 4,200 street trees along with approximately 80 acres of high use park land consisting of scattered trees.

Park Land selected for inventory: A portion of Walker Park - 30 acres

Gulley Park - 27 acres

Wilson Park - 21 acres

The bidders will be required to collect, at a minimum, the information below for each tree, shrub or planting space.

Inventory Criteria

1. **Street Address** - Address of tree with a system to differentiate between multiple trees at one address.
2. **Tree identification** - by genus, species and common name.
3. **Size** - Size of trees by diameter measured
4. **Condition of Tree** - Each tree shall be rated according to the five conditions factors developed by the International Society of Arboriculture (ISA). The factors are trunk, scaffold branches, smaller branches and twigs, foliage and roots. Based on the sum of all the conditions ratings, each tree inventoried shall receive an overall condition classification.
5. **Defects** - Log the defects of each tree from a comprehensive list of physical, insect related, and disease related problems.
6. **Maintenance Requirements** - include a priority list of work assignments using the following criteria:
 1. **Priority One Tree Removal:** Trees designated for removal have defects that cannot be cost effectively or practically treated. The majority of trees in this category have a large percentage of dead crown and are potential safety hazards. Large Dead and dying trees that are high liability risks are included in this Category. These trees are the first ones that should be removed.
 2. **Priority Two Tree Removal:** Trees that should be removed but do not pose a liability as great as the first priority.
 3. **Priority Three Tree Removal:** Trees that should be removed, but that pose minimal liability to persons or property (example: transplant failure, amenity removal).
 4. **Priority One Prune:** Trees recommended for pruning to remove hazardous deadwood, hangers or broken branches. These trees have broken or hanging limbs, hazardous deadwood and dead or diseased limbs greater than four (4) inches in diameter.
 5. **Priority Two Prune:** These trees have dead, dying, diseased or weakened branches between two (2) and four (4) inches in diameter and are potential safety hazards.
 6. **Large Tree Routine Prune:** These trees require horticulture pruning to correct structural problems or growth patterns which would eventually obstruct traffic or interfere with utility

wires or buildings. Trees in this category are large enough to require bucket tree access or manual climbing.

7. Small Tree Routine Prune: These trees require routine horticultural pruning to correct structural problems or growth patterns which would eventually obstruct traffic or interfere with utility wires or buildings. These trees are small species, mature trees that can be evaluated and pruned from the ground.
8. Train: Young large species trees that are still small must be pruned to correct or eliminate weak, interfering or objectionable branches in order to minimize future maintenance requirements. These trees, up to 20 feet in height, can be worked with a pole runner by a person standing on the ground.
9. Stump: Stump that should be removed.
10. Plant: Indicates a vacant planting site.

7. **Site Description** - There should be three site descriptions assigned to each tree or planting space: land use, parkway configuration and utility configuration.

a.) Land use describes the dominant use of the property adjacent to the right-of-way.

Apartment	Municipal
Boulevard	Park
Business	Residence
Church	School
Hospital	Vacant Lot
Island	Industrial

b.) The parkway refers to the area between the curb and the edge of the right-of-way. This information assists the City in choosing appropriate species for size-limited growth areas.

1. Parkway is 1' to 4' wide
2. Parkway is 5' to 9' wide
3. Parkway is > 9' wide
4. Sidewalk integral with curb
5. No sidewalk
6. Parkway is paved
7. Plant is behind a sidewalk yet within right of way.

c.) The utility configuration describes the presence or absence of overhead utility lines.

1. Electric
2. Communication

This detail also helps the Arborist in selecting appropriate species for planting or replacements.

Component Two - Computerized Tree Management System

Objective To develop a computerized record-keeping system that will allow the City to electronically maintain a complete and up-to-date record of its urban forest resources. It should include a perpetual tree inventory as well as a record of the work performed on each tree, service requests received, inspection forms completed, etc.

Scope: The successful firm will be required to provide and install a computerized tree management system in the City of Fayetteville. All data generated from the tree inventory shall be entered into the system by the successful firm and shall provide all necessary reference manuals and documentation, a minimum of 16 hours of on-site training for designated City staff and at least twelve months of ongoing technical support.

Specifications: The software proposed for this project must meet the following specifications:

1. Supply a software package specifically designed for urban tree management
2. All modules must be integrated, provide on-line contextual help, be menu driven with Windows NT and Windows 2000 compatibility, and also be compatible with ArcView .
3. Documentation must include user manuals, which explain the step by step use of the system
4. Firm must provide a demonstration disk with the proposal
5. Firm must provide an example of each report that is generated by the software.
6. All software must be warranted by the firm for any maintenance concerns for one year from the date of installation. The warranty shall include telephone support, revisions, and updates to documentation.

**** Option GPS** - Proposals must be submitted with a cost estimate to provide Global Positioning System locations for each tree inventoried in order to provide exact point information for ArcView compatibility and use. The inventory shall be performed using GPS technology capable of achieving sub-meter accuracy. The Location all trees shall be delivered in ESRI's Shape file format which shall include all associated attributes. This Shape file shall be delivered in State Planes Coordinates, Arkansas, North Zone; North American Datum of 1983 (NAD 83). Each tree shall be located to within 2 to 3 meters of its actual location. Firms not capable of providing this option shall specifically state so in their proposal. Firms with the capability of supplying GPS data shall be rated appropriately higher based on the proposed cost increase to the overall proposal.

Contact person concerning GPS option, please call John Goddard, GIS Technician 501-575-8219.

Component Three : Urban Forestry Management Plan

Objective - Provide a long term management strategy encompassing trend identification, environmental concerns, potential problems, special care needs, and recommendations to reduce future maintenance costs.

Selection:

The City will utilize a professional selection committee to select a consultant from among the proposals submitted with which to negotiate a contract. The selected professional will be expected to have a demonstrated ability to provide the scope of services defined above. The selection committee, utilizing the City's professional selection policy (PUR-13), will select the most qualified professional for this contract based on the following:

- 30pts (1) Qualifications in Relation to Specific Project to be Performed: Information reflecting qualifications of the firm. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, must be listed with information on their organization.
- 15pts (2) Experience, Competence, and Capacity for Performance: Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project. Provide detailed breakdown of subcontractor's staff to be used and how they are to be used and how they are to be used to supplement your staff.
- 25pts (3) Proposed Method of Doing Work: A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope you wish to present) indicating methods and schedules for accomplishing each phase of the work. Include with this the amount of work presently underway.
- 20pts (4) Past Performance: Previous evaluations (as set forth in PUR-13.08) shall be considered a significant factor. If previous evaluations with this City are not available, the professional firm's past performance records with City and others will be used, including quality of work, timely performance, diligence, ability to meet past budgets, and any other pertinent information. Firm will provide a list of similar jobs performed and person whom we can contact for information.
- 10pts (5) Price

The City intends to award the Contract as soon as practical after receipt and review of all proposals.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

Date: May 8, 2001
To: Kit Williams, City Attorney
From: Chuck Rutherford, Sidewalk & Trails Coordinator
Subject: Purchase of Railroad Right-of-Way

In October of 2000 the City Council approved resolution no. 136-00 to purchase from Burlington Northern and Santa Fe Railway Company a section of abandoned Railroad right-of-way in the amount of \$70,000. The City was recently informed that the current owner of this property is the Arkansas & Missouri Railroad Company. However, the A & M Railroad is offering to sell this same right-of-way to the City at the original offer of 70,000. I am recommending this purchase as it is a section of the right-of-way needed for the Center - Prairie Trail.

3
1
RESOLUTION NO. _____

A RESOLUTION AGREEING TO PURCHASE
AN ABANDONED RAILROAD RIGHT-OF-WAY
FROM THE ARKANSAS & MISSOURI RAILROAD
FOR \$70,000.00 FOR USE AS A TRAIL

WHEREAS, the City desires to build a trail upon the abandoned right-of-way of the Arkansas & Missouri Railroad; and

WHEREAS, the Arkansas & Missouri Railroad has offered to sell the City of Fayetteville this abandoned right-of-way for \$70,000.00.

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 offers to purchase the railroad right-of-way described in Exhibit A for the sum of \$70,000.00 from the Arkansas & Missouri Railroad.

PASSED and APPROVED this the _____ day of May, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

Heather Woodruff, City Clerk

CYPERT, CROUCH, CLARK & HARWELL

ATTORNEYS AT LAW

111 HOLCOMB STREET

P.O. BOX 1400

SPRINGDALE, ARKANSAS 72765-1400

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ccch@cox-internet.com

SENIOR COUNSEL
JAMES D. CYPERTOF COUNSEL
STANLEY W. LUDWIGJAMES E. CROUCH
WILLIAM M. CLARK, JR.
CHARLES L. HARWELL
R. JEFFREY REYNERSON
MARCUS W. VAN PELT *
CHRIS R. REED †* ALSO LICENSED IN VIRGINIA
* LL.M. IN AGRICULTURAL LAW
† LL.M. IN TAXATION

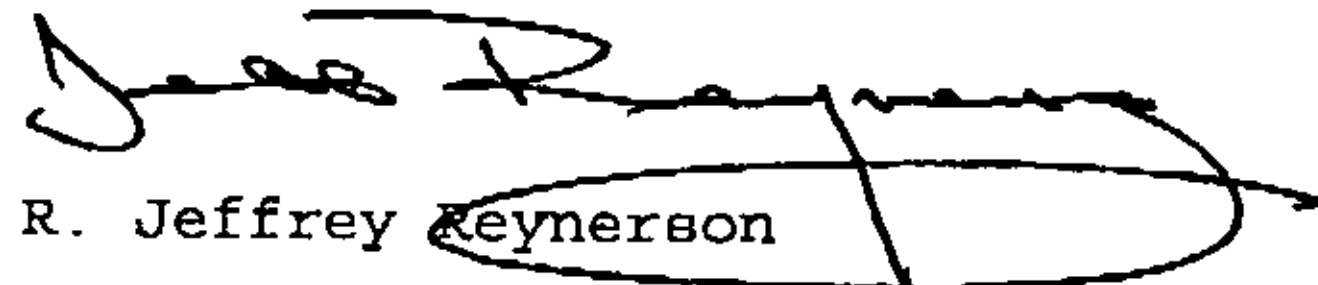
May 8, 2001

Kit Williams
Fayetteville City Attorney
Administration Bldg.
113 W. Mountain St.
Fayetteville, AR 72701Re: Arkansas & Missouri Railroad sale
of right-of-way

SENT VIA FAX ON 5-8-01 TO 575-8315

Dear Kit:

After consultation with my client, the Arkansas & Missouri Railroad Company (A&M), please let this letter confirm that pursuant to earlier conversations and discussions, the A&M has agreed to offer for sale certain real property to the City of Fayetteville, Arkansas at a purchase price of Seventy Thousand Dollars (\$70,000.00). The property conveyed will represent certain railroad right-of-ways currently owned by the A&M. If I can be of further assistance or provide additional information, please let me know immediately. Thank you.

Sincerely,
CYPERT, CROUCH, CLARK & HARWELL
R. Jeffrey Reynerson

RJR/tv

ORDINANCE NO. _____

AN ORDINANCE CALLING AND SETTING A DATE FOR A SPECIAL ELECTION FOR THE ADOPTION OR REJECTION OF ORDINANCES ENLARGING THE DEFINITION OF WHAT TYPE OF BUSINESS AND WHAT TYPE OF GROSS RECEIPTS OR PROCEEDS WOULD BE SUBJECT TO THE HOTEL, MOTEL AND RESTAURANT TAX AND THE PARKS HOTEL, MOTEL AND RESTAURANT TAX

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

Section 1. That a special election be, and the same is hereby, called to be held in the City on the _____ day of July, 2001 at which election there will be submitted to the electors of the City an initiative consisting of the following ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel and Restaurant Tax and the Parks Hotel, Motel and Restaurant Tax.

BE IT ENACTED by the People of the City of Fayetteville that §35.20 and § 35.31 of the Code of Fayetteville Tax, Levy of Tax; Levied; collection, are hereby repealed and the following inserted in their stead and §35.28 Definitions and §35.36 Definitions are added as follows:

§35.20. Levy of Tax. There is hereby levied, a tax of 1% (the tax) upon the gross receipts or gross proceeds from the renting, leasing, or otherwise furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501-(c)(3) of the Federal Internal Revenue Code.

§35.28. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** – Delis shall include establishments selling sandwiches and salads, but this tax shall NOT apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** – Stands run by non-profit groups are excluded from this taxation.

C. **Convenience Stores** – All food and beverages prepared on site (except coffee) are taxable.

D. **Caterers** – Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** – These are included within the definitions of “similar businesses” of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** – Businesses that sell beverages prepared or dispensed at their business are included within the definition of “similar businesses” of this ordinance and are therefore subject to this tax.

G. **Prepared Food or Beverage** – Any food or beverage product prepared or altered in a food/beverage establishment for sale.

§35.31. Levy of Parks HMR Tax. There is hereby levied, a tax of 1% (the Parks HMR tax) upon the gross receipts or gross proceeds from the renting, leasing, or otherwise furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501-(c)(3) of the Federal Internal Revenue Code.

§35.36. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** – Delis shall include establishments selling sandwiches and salads, but this tax shall NOT apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** – Stands run by non-profit groups are excluded from this taxation.

C. **Convenience Stores** - All food and beverages prepared on site (except coffee) are taxable.

D. **Caterers** - Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** - These are included within the definitions of "similar businesses" of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** - Businesses that sell beverages prepared or dispensed at their business are included within the definition of "similar businesses" of this ordinance and are therefore subject to this tax.

G. **Prepared Food or Beverage** - Any food or beverage product prepared or altered in a food/beverage establishment for sale.

_____ **FOR** the adoption of the above ordinances.
(Your vote will enlarge the definition of the businesses and proceeds subject to the Hotel, Motel and Restaurant tax as stated above.)

_____ **AGAINST** the adoption of the above ordinances.
(Your vote rejecting these ordinances will leave the current wording of the Hotel, Motel and Restaurant taxes as currently enacted.)

Section 3. That the election shall be held and conducted and the vote cast and the results declared under the law and in the manner provided for municipal elections. Only qualified electors of the City of Fayetteville shall have the right to vote at the election.

Section 4. That the results of the election shall be proclaimed by the Mayor. the Mayor's proclamation shall be published one (1) time in a newspaper having general circulation in the City.

Section 5. That a copy of this ordinance shall be furnished to the

Washington County Board of Election Commissioners so that the necessary election officials and supplies may be provided.

PASSED and **APPROVED** this ____ day of May, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of **May 15, 2001.**

FROM:

Tim Conklin

Planning

Public Works

Name

Division

Department

ACTION REQUIRED: To approve a resolution to reimburse the Arkansas Highway and Transportation Department for the additional cost of right-of-way acquisition in order to install a boulevard and additional materials to expand the west 5' sidewalk to a 10' multi-use trail on Garland Avenue. The University of Arkansas will maintain the boulevard from Maple Street to North Street. The City of Fayetteville will maintain the green space between the multi-use trail and sidewalk from Cleveland to North Street.

COST TO CITY:

\$36,000.00
 \$50,000.00

\$140,863
 \$332,048

Forestry Program /
 Street
 ROW/Intersection
 /Cost Sharing

Cost of this Request

Category/Project Budget

Category/Project Name

4470-9470-5220-00
 4470-9470-5809-00

\$47,103
 \$119,566

Garland Avenue -
 Reimbursement to
 Highway Department for
 Boulevard installation

Account Number

Funds Used To Date

Program Name

96084
 98033

\$93,755
 \$212,482

Sales Tax Capital
 Improvements

Project Number

Remaining Balance

Fund

BUDGET REVIEW:

Budgeted Item

Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommends approval of the cost share to enhance Garland Avenue from a four lane street to a boulevard design and install a 10' multi-use trail.

Division Head

Date

Cross Reference

Department Director

Date

New Item: **Yes**

Administrative Services Director

Date

Prev Ord/Res #: _____

Mayor

Date

Orig Contract Date: _____

Orig Contract Number: _____

PRELIMINARY
SUBJECT TO
NOTES

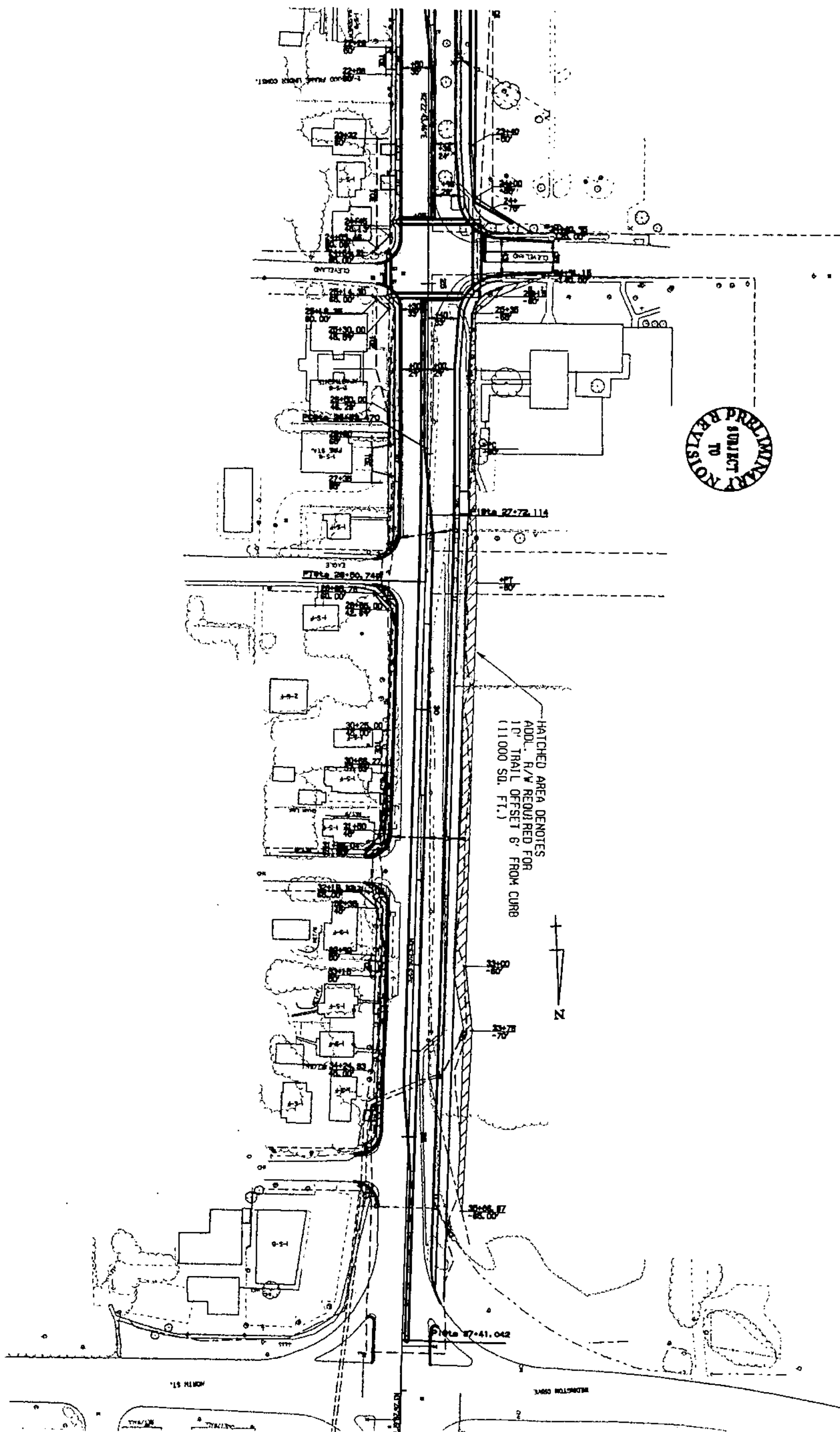
HATCHED AREA DENOTES
ADD. R/W REQUIRED FOR
10' TRAIL OFFSET 6' FROM CURB
(11000 SQ. FT.)

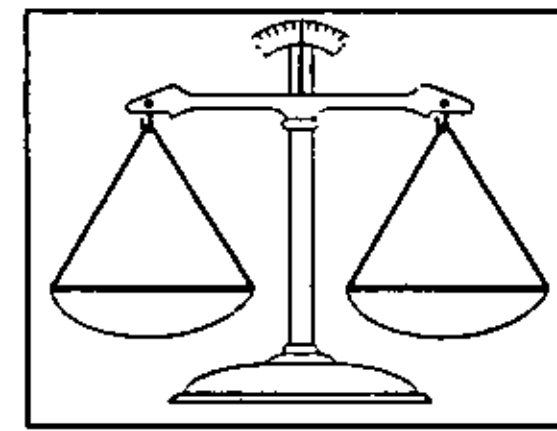
N

Point 27+41.042

WILKINSON DRIVE

NORTH ST.





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

LEGAL DEPARTMENT

TO: Dan Coody, Mayor
City Council Members

FROM: Kit Williams 

DATE: May 8, 2001

RE: Grading and Drainage Ordinance

City Engineer Jim Beavers has recommended three changes to 170.03. First he recommended we use a very simple definition of "Single Family/Duplex" "One single family residence or duplex" for 170.03 D (1). Mr. Beavers also recommended we use 2,000 square feet for a commercial/ industrial addition as the point when a permit would be required. This should be changed in 169.03 B (5) also.

The third change recommended by the Engineering Department would be a rewrite of the definition of Commercial/Industrial in 170.03 (D)(3). That definition would now read:

"One commercial or industrial project built on an individual lot that is part of a larger subdivision that has been issued an approved drainage control permit when the proposed project is demonstrated to be in compliance with the overall subdivision drainage permit."

In reality, this change is more stylistic than substantive as the exemption is for "one" project, so it would not exempt "more than one" project or complex on a single lot.

Finally, I have incorporated the amendment passed by the City Council to remove "grading" and "filling" in §170.03 D (4). Please note that I did **NOT** actually use the precise words of the amendment as proposed and stated at the meeting. If I had, the section would read: "4. Maintenance. Maintenance, clearing or activity that does not change ... " I believe the Council wished to make this Exception less broad in scope. However, leaving "or activity" at the end of the list would create a GIANT exception. Therefore, I drafted it to be: "Maintenance or clearing activity" which I believe is what was actually intended. If this is not correct, please let me know.

If you wish to incorporate the other changes (definition of Single Family Resident/Duplex and Commercial/Industrial, and the 2,000 square footage), you will need to pass amendments to §170.03 and §169.03 at the Council meeting.

Attached is §170.03 as recommended by Jim Beavers, City Engineer.

ORDINANCE NO. _____

AN ORDINANCE REPEALING §170.03 OF THE CODE OF FAYETTEVILLE, STORMWATER MANAGEMENT, DRAINAGE AND EROSION CONTROL AND INSERTING § 170.03 IN ITS STEAD TO CLARIFY THE LAW CONCERNING PERMITS

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

Section 1. That §170.03 of the Code of Fayetteville, Stormwater Management, Drainage and Erosion Control, Permits Required, is hereby repealed and the following is inserted in its stead:

CHAPTER 170: STORMWATER MANAGEMENT, DRAINAGE AND EROSION CONTROL

§170.03 PERMITS REQUIRED.

A. Applicability. This chapter shall apply to all land within the corporate limits of the City of Fayetteville. No person may subdivide and develop, change to a more intensive land use, construct or reconstruct a structure, or change the size of a structure, or conduct grading, clearing, or filling activities without first obtaining a stormwater management, drainage and erosion control permit (hereinafter referred to as a "drainage permit") from the City, except as specified in §§170.03C and 170.03D below.

B. Permit Application. Any application for a drainage permit shall be submitted according to §170.05 below and shall be submitted concurrently with the application for a grading permit, if such grading permit is required by §169.03. The drainage permit application shall include at the time of submission the calculations required by §170.05 B. 7. The application also shall state whether or not detention is required and shall provide the basis for that conclusion, utilizing the performance criteria set forth in §170.07 below. The City Engineer shall make the final determination regarding detention.

C. Project Not Requiring Detention. Any project that requires a drainage permit that does not require detention may receive, with the approval of the City Engineer, a grading permit prior to issuance of the drainage permit. Any grading permit issued prior to the issuance of a required drainage permit shall be subject to the following:

1. Insufficient or Incomplete Drainage Permit Application. If the drainage permit application, including the required calculations, is determined by the City Engineer to be insufficient or incomplete, it shall be revised and resubmitted by the applicant within four (4) weeks of receipt of written notice of insufficiency or incompleteness.

2. Deadline for the Revised Application. A stop work order for all grading on the project shall be issued by the City Engineer if a revised application is not submitted within four (4) weeks of receipt by applicant of the written notice of insufficiency or incompleteness. However, the City Engineer may delay issuance of the stop work order if the City Engineer determines that the Applicant has demonstrated prior to the deadline that circumstances not reasonably foreseeable and beyond the Applicant's reasonable control prevented his timely resubmission of a sufficient and complete revised drainage permit application.

3. Insufficient or Incomplete Revised Application. A stop work order for all grading on the project shall be issued by the City Engineer if the revised application is determined by the City Engineer to be still insufficient or incomplete.

4. Stabilization and Revegetation After Stop Work Order. If a stop work order is issued pursuant to §§170.03 C. 3., the applicant shall stabilize and revegetate all graded and otherwise disturbed areas as set forth in §§169.04 B. and 169.06 F. 4.

5. Termination of Stop Work Order. Any stop work order issued pursuant to §§170.03 C. 2 or 170.03 C. 3. shall expire upon the issuance of a drainage permit and compliance with any conditions contained in the drainage permit.

D. Exceptions Where No Drainage Permit Is Required. Drainage permits are not required for the following:

1. Single-Family/Duplex. One single family residence or duplex .

2. Commercial/Industrial. One commercial or industrial project built on an individual lot that is part of a larger subdivision that has been issued an approved drainage control permit when the proposed project is demonstrated to be in compliance with the overall subdivision drainage permit.

3. Existing Commercial/Industrial. Existing commercial or industrial structure where additional structural improvements are less than 2000 square feet.

4. Maintenance. Maintenance or clearing activity that does not change or affect the quality, rate, volume, or location of stormwater flows on the site, or runoff from the site.

5. Agriculture. Bona fide agricultural pursuits for which a soil conservation plan has been approved by the local soil and water conservation district.

6. Emergency. Action taken under emergency conditions either to prevent imminent harm or danger to persons or to protect property from imminent danger of fire, violent storms, or other hazards.

C. Status of Previous Approvals. Projects with unexpired permits approved and all preliminary plats approved by the City Engineer prior to June 20, 1995, shall meet only the requirements in effect when the permit was approved.

PASSED AND APPROVED this ____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

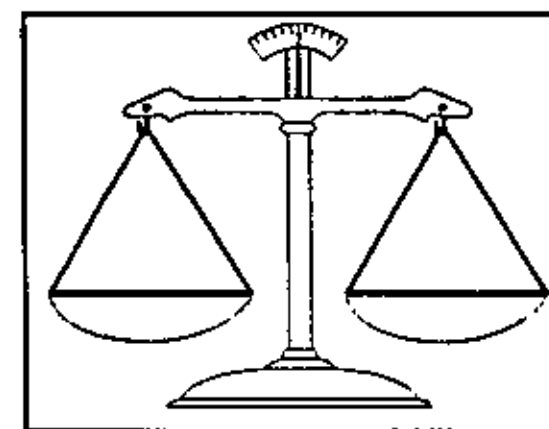
By: _____
Heather Woodruff, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

LEGAL DEPARTMENT

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



DEPARTMENTAL CORRESPONDENCE

TO: Dan Coody, Mayor
City Council Members

FROM: Kit Williams

A handwritten signature in dark ink, appearing to read 'Kit Williams', with a long horizontal flourish extending to the right.

DATE: May 7, 2001

RE: Tree Ordinance - Waiver/Variance

Several Aldermen indicated at your meeting that you wanted to consider a more restrictive waiver/variance ordinance limited basically to our most dangerous situation, the change in interpretation or application of the Successors In Interest section. I have therefore drafted such a proposed, more limited waiver/variance ordinance (attached hereto).

I have also drafted a slightly amended version of my first proposed Waiver/Alteration ordinance for your consideration. I have added the word "variance" to the title and within the ordinance. This is only stylistic (as "alteration" was already included). I also struck "unforeseen" as one of the reasons the City Council might use to grant a waiver, reduction, alteration or variance. The unforeseen nature of the problem is certainly relevant to a fairness issue, but probably should not be enough **by itself** to justify a variance. Fairness and practicality should be the prime concerns.

To be more precise that the Tree Preservation Plan determined by the City Council (whether original or modified) is the one that will be

administered after an appeal, I changed the last few words of the proposed Waiver/Variance ordinance.

I have also attached the modified version of what I would recommend for the Waiver/Variance to the Tree Protection and Preservation Ordinance. My original (and this slightly modified version) places more power and discretion in your hands. It would allow variances not only for problems caused by the change in interpretation of the Successors In Interest section, but also if the City Council decided the application of any portion of the Tree Protection and Preservation Ordinance created an unfair or impractical result on a particular parcel of land.

This would bring the Tree Ordinance much closer in line with most other zoning and development ordinances which allow variances pursuant to Chapter 156 of the Unified Development Ordinance. I do not know why the Tree Ordinance was not included within this general variance chapter when general zoning, design overlay district, parking, buffer strips and screening, general land development, commercial design standards, off site improvements, planned unit developments, green space, stormwater, drainage and erosion control, signs, and airport zoning are all subject to variance requests.

The reason for a general waiver/variance possibility is that parcels of land are so different and possible development so complex that no perfect ordinance can be created by us non-perfect humans to handle every situation fairly. Variances allow for the combined common sense of the Planning Commission, City Council or other board to adjust the requirements of our development ordinances in unusual situations when "literal interpretations of the provisions of the zoning (or other) regulations would deprive the applicant of rights commonly enjoyed by other properties " Fayetteville Code §156.02 (A) (2).

We allow a variance when "a literal enforcement of the design overlay district regulations would result in unnecessary hardship." Fayetteville Code §156.02 (B) (1) (a).

"If the provision of these standards are shown by the developer to cause undue hardship as they apply to this proposed developer, the City Planning Commission may grant a variance " Fayetteville Code §156.03 (C) (1) (a).

It is **your** decision whether you believe it is best to provide a more general waiver/variance provision to our Tree Protection and Preservation Ordinance, a very limited (but still very important) variance concerning only the Successors In Interest provision, or leave the Tree Ordinance as is.

You have more discretion (and thus may find yourselves on the hot seat) and the City would be more protected by the general waiver/variance I first presented. However, the most dangerous and expensive litigation problems that led me to recommend a waiver/variance ordinance can be addressed by the variance limited to the Successors in Interest problem. Of course, you can follow the citizen's recommendation to allow the city to "fall on its sword" by doing nothing. As City Attorney, my advice remains to trust yourselves and protect the taxpayers' money as much as possible by adopting the broader waiver/variance provision.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE TREE PROTECTION AND PRESERVATION ORDINANCE (§167.01 OF THE FAYETTEVILLE CITY CODE) TO ADD A WAIVER/VARIANCE SECTION

WHEREAS, because the interpretation and application of §Section 167.07 Successors In Interest of The Tree Protection And Preservation Ordinance may not have been clear prior to January, 2001 and;

WHEREAS, an owner or developer may have invested substantial sums to develop his/her property by building infrastructure upon a reasonable assumption that the Successors In Interest Section would be applied differently than its current interpretation and application by the City Landscape Administrator, and

WHEREAS, the City Council may need to decide whether it would be fair and reasonable to allow a waiver, reduction, alteration, or variance of §167.07 Successors In Interest to an owner/developer identified above;

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

Section 1: That the City Council hereby amends Ordinance No. 167.01 of the Fayetteville City Code by adding § 167.09 as follows:

"§ 167.09 – Waiver/Variance

A. Appeal Rights

If an owner or developer of a large development or subdivision, or an owner or developer of a lot within said large development or subdivision for which a Tree Preservation Plan had been approved pursuant to §167.05 prior to January 1, 2001, is aggrieved by the City's change in interpretation or application of §167.07, Successors In Interest, and the owner/developer of a large development or the lot within such development has invested or expended substantial sums for development of infrastructure prior to January 1, 2001, then that developer, with the sponsorship of an Alderman, may appeal the decision of the Landscape Administrator or Planning Commission concerning the Tree Preservation Plan to the City Council.

B. Decision By City Council On Appeal

If the City Council votes to hear this appeal, a public hearing will be held at the City Council Meeting. The City Council may grant such a waiver, reduction, alteration or variance from the requirements of the Tree Protection and Preservation Ordinance if it determines such waiver or variance is necessary to avoid an unfair or impractical application of the Tree Protection and Preservation Ordinance upon this particular parcel of land. The City Landscape Administrator shall then administer the Tree Preservation Plan as determined by the City Council.

PASSED and APPROVED this _____ day of May, 2001.

APPROVED:

DAN COODY, Mayor

APPROVED:

Heather Woodruff, City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE TREE PROTECTION AND PRESERVATION ORDINANCE (§167.01 OF THE FAYETTEVILLE CITY CODE) TO ADD A WAIVER/VARIANCE SECTION

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

Section 1: That the City Council hereby amends Ordinance No. 167.01 of the Fayetteville City Code by adding § 167.09 as follows:

"§ 167.09 - Waiver/Variance

An alderman, on behalf of and with the consent of an owner or developer of a parcel, subdivision or development, can present a proposed waiver, reduction, variance or alteration in the requirements of the Tree Protection and Preservation Ordinance to the City Council. If the City Council votes to consider such a proposed waiver, reduction, variance or alteration, a public hearing before the City Council will be held and such a waiver, reduction, variance or alteration may be granted by the City Council if it determines such waiver, reduction, variance or alteration is necessary to avoid unfair or impractical application of the Tree Protection and Preservation Ordinance upon this particular parcel of land. The City Landscape Administrator shall then administer the Tree Preservation Plan as determined by the City Council."

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

A P P L I C A T I O N F O R M
For appointment to City Boards, Commissions, and Committees

Please Print or Type all Answers

NAME: Pat Gazzola / Janie Soc. Sec. # 430-92-7252
(If married, please give spouse's first name)

356 East Fairway Lane
Resident Street Address

Fayetteville 72701
City Zip Code

same as above
Mailing Address Zip Code

TELEPHONE NUMBER: Home: 443-7577

Business: 521-7008

OCCUPATION/EMPLOYER NAME: own Catfish Hole

LENGTH OF RESIDENCY IN FAYETTEVILLE August, 1994
to present

CHOICE OF COMMITTEE: Advertising & Promotion

Circulation: (Do not write in this space.)

Terminate: _____
Appointed: _____
Term Expires: _____
Replaced: _____

REFERENCES:

Name JOE FENNEL

Address 1655 Woolsey, Fayetteville, 72703

Phone 521-8534

Name Jim Lindsey

Address _____

Phone 521-6686

1. What are your qualifications for serving on this committee, including education and expertise in the subject matter?

I have a law degree from the University of Arkansas and I own the
Catfish Hole restaurant which I also manage located on Wedington in
Fayetteville, AR.

2. Why would you like to be considered for appointment to this committee?

The City of Fayetteville has been good to me. I have a successful restaurant
and would like to share my knowledge and experience to help the City.

RETURN THIS APPLICATION TO: Traci Paul, City Clerk's Office, 113 W. Mountain St., Fayetteville. If you have any questions, call 575-8323.

April 26, 2001

TO: Heather Woodruff
City Clerk

FROM: Marilyn Johnson
Director, Convention and Visitor Development

RE: Replacement for Alex Jerde on A & P Commission

The Advertising and Promotion Commission at their April 9, 2001, meeting voted to appoint Pat Gazzola, owner of the Catfish Hole to fill the unexpired term on the Commission previously held by Alex Jerde.

I respectfully request that you put this on the City Council agenda for their ratification.

Thank you.

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING §35.20 OF THE CODE OF FAYETTEVILLE (ORDINANCE NO. 2310, AS AMENDED), TRANSIENT OCCUPANCY TAX, LEVY OF TAX TO ADD DELIS, DRIVE-IN RESTAURANTS, CARRY-OUT RESTAURANTS, CONCESSION STANDS, CONVENIENCE STORES, GROCERY STORE RESTAURANTS, CATERERS AND SIMILAR BUSINESSES TO THE LIST OF BUSINESSES TO WHICH THE CITY'S GROSS RECEIPT TAX OF 1% (HOTEL, MOTEL AND RESTAURANT TAX) APPLIES (A.C.A. §26-75-601 ET SEQ.); ADDING OFF PREMISES CONSUMPTION BUSINESSES TO THE LIST OF BUSINESSES SO TAXED, EXCLUDING FROM TAXATION GROSS RECEIPTS OR GROSS PROCEEDS OF ORGANIZATIONS QUALIFIED UNDER 501(c) (3) OF THE FEDERAL INTERNAL REVENUE CODE

WHEREAS, the current gross receipts of tax of 1% on Hotel, Motel and Restaurants (A.C.A. §26-75-601 et seq.) established by Ordinance No. 2310, as amended (HMR tax) levies the tax only upon restaurants, cafes, cafeterias and all other establishments engaged in the business of selling prepared food for consumption on the premises of such establishment in the city, and;

WHEREAS, the City wishes to also apply the HMR tax to delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses selling prepared food or beverages for on or off premises consumption as allowed by A.C.A. §26-75-602 and;

WHEREAS, the City wishes to exclude from HMR taxation the gross receipts on gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

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

Section 1. That §35.20 of the Code of Fayetteville, Tax, Levy of Tax, is hereby repealed and the following inserted in its stead:

§35.20. Levy of Tax. There is hereby levied, a tax of 1% (the tax) upon the gross receipts or gross proceeds from the renting, leasing, or otherwise

furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501-(c)(3) of the Federal Internal Revenue Code.

Section 2. That §35.28 is hereby added as follows:

§35.28. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** – Delis shall include establishments selling sandwiches and salads, but this tax shall NOT apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** – Stands run by non-profit groups are excluded from this taxation.

C. **Convenience Stores** – All food and beverages prepared on site (except coffee) are taxable.

D. **Caterers** – Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** – These are included within the definitions of “similar businesses” of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** – Businesses that sell beverages prepared or dispensed at their business are included within the definition of “similar businesses” of this ordinance and are therefore subject to this tax.

G. **Prepared Food or Beverage** – Any food or beverage product prepared or altered in a food/beverage establishment for sale.

PASSED AND APPROVED this ____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

ORDINANCE NO. _____

DRAFT

AN ORDINANCE AMENDING §35.31 OF THE CODE OF FAYETTEVILLE (ORDINANCE NO. 3900, AS AMENDED), ADDITIONAL OCCUPANCY TAX, LEVY OF TAX TO ADD DELIS, DRIVE-IN RESTAURANTS, CARRY-OUT RESTAURANTS, CONCESSION STANDS, CONVENIENCE STORES, GROCERY STORE RESTAURANTS, CATERERS AND SIMILAR BUSINESSES TO THE LIST OF BUSINESSES TO WHICH THE CITY'S GROSS RECEIPT TAX OF 1% (HOTEL, MOTEL AND RESTAURANT TAX) APPLIES (A.C.A. §26-75-601 ET SEQ.); ADDING OFF PREMISES CONSUMPTION BUSINESSES TO THE LIST OF BUSINESSES SO TAXED, EXCLUDING FROM TAXATION GROSS RECEIPTS OR GROSS PROCEEDS OF ORGANIZATIONS QUALIFIED UNDER 501(c) (3) OF THE FEDERAL INTERNAL REVENUE CODE

WHEREAS, the current gross receipts of tax of 1% for Parks, Hotel, Motel and Restaurants (A.C.A. §26-75-601 et seq.) established by Ordinance No. 3900, as amended (Parks HMR tax) levies the tax only upon restaurants, cafes, cafeterias and all other establishments engaged in the business of selling prepared food for consumption on the premises of such establishment in the city, and;

WHEREAS, the City wishes to also apply the Parks HMR tax to delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses selling prepared food or beverages for on or off premises consumption as allowed by A.C.A. §26-75-602 and;

WHEREAS, the City wishes to exclude from Parks HMR taxation the gross receipts on gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

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

Section 1. That §35.31 of the Code of Fayetteville, Levied; collection, is hereby repealed and the following inserted in its stead:

§35.31 Levy of Parks HMR Tax. There is hereby levied, a tax of 1% (the tax) upon the gross receipts or gross proceeds from the renting, leasing, or

otherwise furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501(c)(3) of the Federal Internal Revenue Code.

Section 2. That §35-36 is hereby added as follows:

§35.36. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** – Delis shall include establishments selling sandwiches and salads, but this tax shall NOT apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** – Stands run by non-profit groups are excluded from this taxation.

C. **Convenience Stores** – All food and beverages prepared on site (except coffee) are taxable.

D. **Caterers** – Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** – These are included within the definitions of “similar businesses” of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** – Businesses that sell beverages prepared or dispensed at their business are included within the definition of “similar businesses” of this ordinance and are therefore subject to this tax.

G. Prepared Food or Beverage - Any food or beverage product prepared or altered in a food/beverage establishment for sale.

PASSED AND APPROVED this ____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

 AGENDA REQUEST
 x CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council meeting of: N/A

FROM:

 Kim J. Hesse
Name

 Public Lands - Landscape
Division

 Public Works
Department

ACTION REQUIRED:

 Review of a contract by Burditt Associates for a city wide street tree inventory.

COST TO CITY:

 Not to exceed
 \$25,000.00
Cost of this request

 \$140,863.00
Category/Project Budget

 Forestry Program
Category/Project Name

 4470-9470-5315-00
Account Number

 \$47,104.00
Funds Used to Date

 Other CIP
Program Name

 96084
Project Number

 \$93,759.00
Remaining Balance

 Sales Tax Capital
Fund

BUDGET REVIEW:

 Budgeted Item

 Budget Adjustment Attached

Budget Coordinator

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

ADA Coordinator

Date

City Attorney

Date

Internal Auditor

Date

 Julie
Purchasing Officer

 5-8-01
Date

Grants Coordinator

Date

STAFF RECOMMENDATION:

 Kim J. Hesse
Division Head

 5-4-01
Date

Cross Reference

New Item: YES NO

Department Director

Date

Prev Ord/Res #:

Administrative Services Director

Date

Orig. Contract Date:

Mayor

Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody

FROM: Kim J. Hesse, Landscape Administrator *Kjh*

DATE: May 4, 2001

SUBJECT: City Wide Street Tree Inventory - Contract Review

Please review the included contract by Burditt Associates for the city wide street tree inventory and management system. I have referenced the contract to our Request for Proposals and to the proposal Burditt Associates submitted in response. I feel that the contract covers and exceeds the scoop of work requested by the city.

Since the final cost of the project will vary due to the true number of street trees and planting spaces inventoried, I suggest we request a "not to exceed" amount of \$25,000.00. The RFP was based on an estimated 4200 street trees that was determined by a sample inventory performed last year by Natural Path Forestry. I also requested in the RFP that trees in Gully Park, Wilson Park, and Walker Park be inventoried along with possible planting spaces along our city streets. The amount on the review form allows for an additional 2000 items to be inventoried which I believe should cover our needs.

If you have any questions about the project, please feel free to call. I will include a copy of the RFP and the original proposal submitted by Burditt for your reference.

**BURDITT
ASSOCIATES**

Urban Forest Consultants

Planning • Design • Management

Mailing Address:
P.O. Box 1424
Conroe, Texas 77305
info@burdittassociates.com

Conroe Office:
2040 W. Loop 336
Conroe, Texas 77304
936.756.3041 Conroe
281.447.2111 Houston
936.539.3240 Fax

April 23, 2001

Ms. Kim J. Hesse, RLA
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Consultant Agreement for Professional Services;
City of Fayetteville Tree Inventory

Dear Ms. Hesse:

You have advised that our proposal for services in the above-noted project has been accepted. As discussed, we have prepared a Consultant Agreement for Professional Services. Attached please find duplicate copies of this Agreement. Upon review, if you have any questions or necessary revisions to be made, please advise. If the Agreement meets with your approval, please contact us and we will forward originals to be signed.

We appreciate the opportunity to assist in this important project and look forward to working with you and others in your organization. We are prepared to proceed upon receipt of an executed Agreement.

Sincerely,



Billy L. Drum
Project Manager

BLD/wc
Enclosure

CONSULTANT AGREEMENT

This Agreement is made and entered into the ____ day of _____ 2001, by and between Burditt Associates of Montgomery County, Texas (hereinafter called the "CONSULTANT"), and CITY OF FAYETTEVILLE (hereinafter called "CLIENT").

The initial addresses of the parties, which one party may change by giving written notice to the other party, are as follows:

CONSULTANT

Burditt Associates
P. O. Box 1424
Conroe, TX 77305

CLIENT

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

That whereas CLIENT has requested services of the CONSULTANT as an independent contractor and not as an employee in relation to:

**CITY OF FAYETTEVILLE
STREET TREE INVENTORY
(SEE ATTACHED EXHIBIT A - SCOPE OF WORK)
(herein called the "Project")**

NOW, THEREFORE, CLIENT and the CONSULTANT, in consideration of the mutual covenants set forth, agree as follows:

Upon receipt of the executed copy of this Agreement, the CONSULTANT will perform services to provide CLIENT with the data, information, services or opinion proposed by CONSULTANT in Proposal dated February 26, 2001. CONSULTANT will proceed with the work as expeditiously as practical, and provide CLIENT with Urban Forestry Consulting Services.

CONSULTANT shall collaborate with CLIENT's agents or representatives in connection with Scope of Work and CONSULTANT shall be bound by the provisions set forth herein.

CLIENT will place at CONSULTANT's disposal all available information generated by CLIENT, CLIENT's agents or representatives as may be pertinent to the Project including previous reports, documents, and any relevant data as will be necessary for CONSULTANT to provide the services covered by this Agreement.

Component One: Urban Forest Inventory

Street Tree Inventory -

- | | | |
|---|---------|-----------|
| • Inventory of individual trees | \$ 1.95 | per tree |
| • Inventory of individual planting spaces | \$ 1.90 | per space |

Park Tree Inventory -

- | | | |
|---|---------|-----------|
| • Inventory of individual trees | \$ 1.95 | per tree |
| • Inventory of individual planting spaces | \$ 1.90 | per space |

These per unit fees are inclusive of labor described herein.

Burditt Associates's unit price is guaranteed for the attached scope of services with a contract and scope of services providing for a minimum of 4,300 units (trees and/or planting spaces). The data collection area and units of data may; however, be increased in scope at the Client's discretion with no increase in per unit prices. The per unit price for the inventory contained herein is a fixed price and shall remain firm throughout the term of this Agreement.

Component Two: CityTree Inventory Software

CityTree Software	\$ 3,000.00
Training (16 hours)	\$ 1,975.00
Microsoft Access 2000	\$ <u>.00</u>
Total	\$ 4,975.00

Training costs include labor, materials, lodging, and travel expenses.

Component Three: Comprehensive Urban Forest Management Plan

Management Plan	\$ 7,900.00
------------------------	--------------------

Terms Defined:

Planting Space(s) means (1) the area between the curb and the sidewalk, ditch or water meter at least 3' in width with trees spaced at least 30' apart; and (2) esplanades at least 10' in width with trees planted a minimum of 50' from the nose of the esplanade, 75' from a major intersection, 40' apart and 5' from the back of the curb. Planting space(s) shall be identified by latitude and longitude. Data for planting spaces in residential neighborhoods will be collected on spaces 30' from the intersection. Data will be collected on planting spaces under the canopy of trees.

A "Tree" means any tree with the potential to reach a height of 20' or more. If a tree such as Photinia, Ligustrum, etc., is trimmed as a hedge, it will not be collected as a tree. If it is pruned into a tree form or seems to be allowed to grow unattended, it will be collected as a tree.

Invoices will be submitted monthly and will reflect the actual number of data units collected during that period or the percentage of completion. Payment of CONSULTANT invoices by the CLIENT will be made within 30 days from date of invoice. CLIENT may review invoice expeditiously within 30 days, but may not withhold payment unreasonably. Fees will be due and payable in Conroe, Texas, upon receipt of invoice. Nonpayment to CLIENT by any funding entity or agency will not relieve CLIENT of its financial obligation to CONSULTANT under this Agreement. All moneys not paid CONSULTANT when due, hereunder shall bear interest at the rate of 1.5 % per month, calculated daily on the unpaid balance.

No additional services, other than those specified in Exhibit A - Scope of Work, have been requested by CLIENT and none shall be provided by CONSULTANT under this Agreement unless mutually agreed upon in writing by both parties.

CONSULTANT will have, in full force and effect, the following insurance coverage during the entire project:

Worker's Compensation	\$1,000,000.00 per occurrence
General Liability	\$1,000,000.00 per occurrence
Professional Errors and Omissions	\$ 100,000.00 per occurrence

CONSULTANT will provide certificates of insurance coverage to CLIENT prior to commencement of project.

CLIENT and CONSULTANT agree that the date of this Agreement will also be the agreed upon Start Date for CONSULTANT to begin performance.

CONSULTANT will collect data and deliver completed deliverables covered by this agreement on or before June 29, 2001. In the event that CLIENT does not provide CONSULTANT the information or materials necessary to initiate or complete the work by the stated deadline, CLIENT will be notified, in writing, detailing all information or materials required. In the event that a delay in completion of services results, due to no fault of CONSULTANT, CLIENT agrees to provide additional time to complete the services, commensurate with the type of delay.

If CONSULTANT is unable to complete the services by the completion date due to Acts of God, such as natural disaster, additional time commensurate with the extent of delay will be afforded CONSULTANT by CLIENT.

If CONSULTANT requests an extension of time for any other reason to complete its performance, the CLIENT may, in its sole discretion, extend the time.

Any extension must be in writing but does not require amendment of this Agreement. CONSULTANT is not entitled to damages for delay(s) regardless of the cause of the delay(s).

CONSULTANT agrees to indemnify and shall defend and hold harmless CLIENT, Client's agents or representatives from and against any and all liability, claims, damages, losses and expenses, including but not limited to all expenses of litigation, court costs, and attorney's fees, for injury or death of any person, or for damage to any property, or violation of any law, regulation or ordinance, arising out of or in connection with the work done under this Agreement.

In the event legal action is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to a reasonable sum for attorney's fees and court costs.

CONSULTANT shall not assign this Agreement at law or otherwise without prior written consent of CLIENT.

This Agreement represents the entire agreement between CONSULTANT and CLIENT and may be amended only by written instrument signed by both parties. This agreement shall be governed by the laws of the State of Arkansas.

CLIENT

CONSULTANT

CITY OF FAYETTEVILLE

BURDITT ASSOCIATES

By: Date

By: Charles B. Burditt Date
Owner

EXHIBIT 'A'

SCOPE OF WORK

DUTIES OF CONSULTANT:

Burditt Associates will provide all labor, tools, equipment, supplies, products, personnel, and necessary supervision to provide the following:

- **Component One: Computerized Street Tree Inventory**
- **Component Two: Computerized Tree Management System**
- **Component Three: Urban Forestry Management Plan**

The project will be conducted under the direction of the City of Fayetteville's Public Lands Maintenance Department. Reporting and coordination of the project will be conducted through this department unless otherwise directed.

The following services are to be supplied by *Burditt Associates* per the Proposal for Services dated February 2001 in response to "City of Fayetteville, Arkansas - Request for Proposals - City Wide Tree Inventory"

COMPONENT ONE: COMPUTERIZED STREET TREE INVENTORY

Field Data Collection - All street trees growing on specified City of Fayetteville street ROW and within the following three (3) Parks:

- ♦ Walker Park (Portion) - 30 Acres
 - ♦ Gulley Park - 27 Acres
 - ♦ Wilson Park - 21 Acres
- *Data to be Collected* - Following is the data and a description of each item:
 1. **Street Address** - Address of tree location including street name and number
 2. **Tree Identification** - Species of each individual tree by genus, species and common name
 3. **Size** - Size of tree by diameter measured
 4. **Condition of Tree** - Rating according to the five condition factors developed by the International Society of Arboriculture including:
 - ♦ Trunk
 - ♦ Scaffold Branches
 - ♦ Smaller Branches and Twigs
 - ♦ Foliage
 - ♦ Roots

EXHIBIT 'A'

SCOPE OF WORK

5. **Defects** - Identify the defects of each tree including:

- ♦ Physical Defects
- ♦ Insect Related Defects
- ♦ Disease Related Defects

6. **Maintenance Requirements** - A priority list of work assignments using the following criteria:

- ♦ Priority One Tree Removal: Trees designated for removal have defects that cannot be cost effectively or practically treated. The majority of trees in this category have a large percentage of dead crown and re potential safety hazards. Large dead and dying trees that are high liability risks are included in this Category. These trees are the first ones that should be removed.
- ♦ Priority Two Tree Removal: Trees that should be removed but do not pose a liability as great as the first priority.
- ♦ Priority Three Tree Removal: Trees that should be removed, but that pose minimal liability to persons or property, e.g. transplant failure or amenity removal
- ♦ Priority One Prune: Trees recommended for pruning to remove hazardous deadwood and dead or diseased limbs greater than 4 inches in diameter.
- ♦ Priority Two Prune: There trees have dead, dying, diseased or weakened branches between two (2) and four (4) inches in diameter and are potential safety hazards.
- ♦ Large Tree Routine Prune: These trees require horticultural pruning to correct structural problems or growth patterns which would eventually obstruct traffic or interfere with utility wires or buildings. Trees in this category are large enough to require bucket tree access or manual climbing.
- ♦ Small Tree Routine Prune: These trees require routing horticultural pruning to correct structural problems or growth patterns which would eventually obstruct traffic or interfere with utility wires or buildings. There trees are small species, mature threes that can be evaluated and pruned from the ground.
- ♦ Train Prune: Young large trees that are still small must be pruned to correct or eliminate weak, interfering, or objectionable branches in order to minimize future maintenance requirements. These trees, up to 20 feet in height, can be worked with a pole runner by a person standing on the ground.
- ♦ Stump Removal: Stump that should be removed.

EXHIBIT 'A'

SCOPE OF WORK

- ♦ Planting Space: Indicates a vacant planting site.

7. **Site Description** - Three site description criteria will include:

- ♦ Land Use: The dominant use of the property adjacent to the right-of-way:

Apartment	Municipal
Boulevard	Park
Business	Residence
Church	School
Hospital	Vacant Lot
Island	Industrial

- ♦ Growing Space: The area between the curb and the edge of the right-of-way.

- Growing Space is 1' to 4' wide
- Growing Space is 5' to 9' wide
- Growing Space is >9' wide
- Sidewalk is integral with curb
- No sidewalk
- Growing Space is paved
- Plant is behind a sidewalk yet within right of way.

- ♦ Overhead Utilities: Describing the absence of presence of utility lines:

- Electric
- Communication
- No Utilities

8. **** GIS Latitude and Longitude** - Latitude and longitude from provided City of Fayetteville GIS base maps and/or GPS unit as necessary. Areas where comprehensive and adequate GIS base maps are available, the maps will be used to collect the GIS points. In parks and areas where the GIS bas maps are nonexistent or inadequate to accurately locate the tree, a GPS backpack unit to collect the tree data to submeter accuracy.

EXHIBIT 'A'

SCOPE OF WORK

Additional criteria or items to be provided but not specifically requested:

1. **Tree Number** - Tree numbering at each address i.e. T1, T2, etc.
2. **Technical Memorandums** - Provide technical memorandums to Fayetteville, Public Lands Department Director or Designee.
3. **Hazard Tree Notification** - Timely written notification of obvious eminent hazard trees to City Forestry Department during the inventory process.
4. **Detailed and Sequential Files** - Provide Detailed and Sequential Files of the Project.

COMPONENT TWO: COMPUTERIZED TREE MANAGEMENT SYSTEM

The City of Fayetteville will be provided with *Burditt Associates'* proprietary Tree Database Management Software 'CityTree'. This software was developed to be used in the efficient management of City and Municipal trees. 'CityTree' allows the user to seamlessly go between ArcView and Access to view and maintain tree inventory data. 'CityTree' will perform the following:

Enable users to view and search the tree information.

- Browse data using Access database functionality
- Browse the data in a GIS environment using ArcView functionality

Generate and manage Work Orders.

- CityTree easily produces work orders that can be printed or saved to file and can be sorted by;
 - Management Zone
 - Council District
 - Dates
- Automatically update the maintenance history data upon completion of the work order
- Work orders can be developed from either the database or by the selection of trees on a map and then submitted to the database for Work Order generation.

Create reports to improve management decisions, crew assignments, or budgeting:

- Monthly – Report to monitor tree maintenance work done monthly and to date.
- Report monthly Removals, Trims, Plantings, etc.
- Display information analytically and graphically regarding the urban forest cover

EXHIBIT 'A'

SCOPE OF WORK

- Create and print maps of the City streets that display tree locations

Generate a map for the maintenance crew to locate the tree.

- CityTree automatically produces a map upon generation of a work order.

Tree data can be edited and maintained on a desktop system.

- Maintain any tree record in the database based on updated information
- Generate (print) a work order and corresponding map based upon a user request
- Automatically update a work order record following completion of field work
- Track minimal employee information regarding who the maintenance was performed by
- Insert new records for public and/or private trees into the system

Sort and report tree data by:

- Address
- Council District
- Management Section
- Date
- Tree diameter class
- Tree species - both common and botanical names
- Other user defined criteria

CityTree Software can also assist in:

- Tracking inventory data.
- Fieldwork scheduling
- Providing a valuation of the City's street trees
- Linking data attributes to the geographical information
- Providing for easy modification and expansion of the database capabilities as needed (Access and ArcView functionality)

Operating System(s):

- Windows 98
- Windows 2000
- Windows NT

EXHIBIT 'A'

SCOPE OF WORK

Technical Support

CityTree will be warranted for any maintenance concerns for a period of one (1) year from date of installation. *Burditt Associates* will provide prompt technical support to all parties, ensuring minimal downtime for any unforeseen problems. Support will include one year of telephone assistance, revisions and updates to the documentation as they pertain to system operations or debugging as requested. Client requested program revisions or updates not integral to functionality or requested under the RFP could incur additional expense. 'CityTree' also includes a users manual and on line contextual help.

Upgradability

Burditt Associates and our business partners can assist with any necessity to upgrade the system for portability, expansion, and general enhancements.

COMPONENT THREE: URBAN FORESTRY MANAGEMENT PLAN

Following inventory of city wide tree resources, *Burditt Associates* will then develop a comprehensive Urban Forest Management Plan. The plan will target and address the needs as determined in the inventory phase as well as based upon interviews with City personnel responsible for tree management and maintenance. It shall also offer recommendations for future tree operations over the next 5 to 10 years. The plan will provide for:

- **Hazard Management** - Risk management is necessary to ensure the safety of the residents of Fayetteville and also to reduce liability of the City and associated organizations. Treatment to mitigate and/or reduce hazard conditions should be a major part of the management criteria for urban forest management. Reducing the risk associated with hazardous trees will include the development of a policy that will protect the City and it's residents, employees, contractors and visitors from potential tragedy or damages. Tree removal operations to reduce hazard conditions will concentrate on trees the are Priority One and Two and then move on to hazard prune operations.
- **Pruning Scheduling** - Pruning operations in the Fayetteville must be cost effective and practical. While pruning every tree in the city would not be a practical approach at this time, a more realistic goal would implement a pruning cycle for all large trees that are growing in close proximity to areas frequented by people with an emphasis placed on those trees designated as Priority One and Two pruning. A schedule could be developed that would adequately address the health of the Urban Forest and the safety of the city residents and visitors. As extensive tree planting occurs, a regulated cycle should be implemented to provide for pruning at regular intervals.
- **Insect, Disease Treatment and Fertilization** - Tree maintenance issues will be necessary when dealing with insects, diseases, pests and nutrient deficiencies. General urban forest protection issues must be anticipated and addressed within the document.

EXHIBIT 'A'

SCOPE OF WORK

- **Resource Allocation and Budgetary Requirements** - With the limited resources of money, manpower and equipment that the City of Fayetteville and many other cities are facing, creative approaches are necessary to implement and utilize a comprehensive Urban Forest Management Plan. The approach necessary must be practical and implementable according to the commitment of the residents of Fayetteville.
- **Park and Cemetery Management** - All parks and cemeteries will be inspected and assessed for overall health, canopy cover, species diversity, and management needs. A section of the management plan will address any needs and recommendations for increased tree canopy cover and health.
- **Canopy Revitalization** - Older, more established areas may require revitalization of the canopy cover and/or assessment of the same according to usage and purpose of the tree cover.
- **Preservation Planning** - To preserve the existing trees within the city and enhance value, a preservation plan for site development (both new and redevelopment) and protection of the urban forest environment is essential. Preservation planning will be addressed within the Urban Forest Management Plan.
- **Community Awareness and Education Program/Plan** - The key to any successful resource management program will be a well prepared community awareness plan. Municipal forestry departments, public works departments, parks and recreation departments and community associations all have a public image. This image may be real or imagined, but it exists in the eyes of the general public. Only through an effort to educate the public can many of the necessary management practices be implemented and adequate budgets be set aside with community support.
- **Tree Planting / Aforestation / Reforestation Initiatives** - An assessment should be made of the needs for establishing or reestablishing tree cover throughout Fayetteville. Areas that have no tree cover should be assessed for aforestation (areas previously unforested) efforts. Many of the new areas in the city currently do not have adequate tree cover and will require reforestation efforts utilizing proper species diversity and maintenance procedures favorable to survival. The existing tree cover should be assessed for overall health and longevity or need for reforestation. Goals of canopy cover and ability to maintain these areas must be taken into account during the process.
- **Urban/Rural or Wildland Interface** - The sprawling nature of today's urban areas creates many challenges such as fire suppression, emergency services, and fragmentation of wildlife habitat, just to name a few. Methods to address these considerations should be included in any Urban Forest Management Plan.

EXHIBIT 'A'

SCOPE OF WORK

- **Additional Recommendations for Improved Management** - Other recommendations for improvements to the Urban Forest of Fayetteville could include an Urban Ecosystem Analysis to determine the value and benefits of the existing tree cover. Specific assistance in planning future expansion of City services and infrastructure should be included.

To be a working document, the plan should encompass the Parks Department's goals, objectives, strategies, administration, budget and overall work program. The plan should describe the day-to-day, short range, and long-range direction of the department

METHODOLOGY

Burditt Associates will collect the requested data, utilizing the following hardware, software, and methods:

- Rugged, field-tested pen-based computers operating in a **Windows** environment.
- Data collection software utilized for field data collection.
- Where the City's GIS base maps are comprehensive and adequate to accurately locate the ROW trees, the GIS based street level maps, supplied by the City will be layered on the pen based computer. The collector will tap on the screen to accurately locate the tree using the City's own GIS data.
- Where GIS based street maps are not available, adequate or comprehensive or within parks, GIS data will be collected with GPS backpack equipment with sub-meter accuracy.
- Data will be collected on a tree by tree basis in the field by trained urban forestry, horticultural, or arboricultural professionals.
- Following data collection, the information will then be downloaded into a City of Fayetteville desktop computer running *Burditt Associates'* proprietary database management software and **ArcView** GIS software.
- The data will then be verified for utilization.

Trees will be assessed for hazards by ocular methods. While this is quite effective at identifying obvious needs for hazard removals, many fractures, hollows, etc., may not be identifiable due to the time and budgetary restraints and the methods described above. *Burditt Associates* makes no warranty for hazard accuracy as applied to Acts of God, the negligence of others, or hazards not obvious from a visual inspection at the time of data collection.

DUTIES OF CLIENT:

CLIENT will pay CONSULTANT on the basis of monthly invoices showing the services performed during the preceeding month. CLIENT will pay CONSULTANT within 30 days of receipt of an approved invoice and in accordance with the terms of the Consultant Agreement.

CLIENT, client's agents or representatives will supply GIS based street level maps.

**CITY OF FAYETTEVILLE, ARKANSAS
REQUEST FOR PROPOSALS
CITY WIDE TREE INVENTORY**

Location

The City of Fayetteville, Arkansas is located in the northwest corner of the state. Situated among the hills of the Ozark mountain range, Fayetteville is blessed with a plentiful urban forest with several individual plant communities such as Upland, Mesic and Dry Oak-Hickory-Pine Forests

Demographics

Fayetteville is the home to a population of approximately 53,000 citizens with a regional population of over 250,000. The University of Arkansas is based here with a student population of approximately 15,000. Much of the community are behind the welfare of the forest with many new residents claiming the trees as their draw to the area.

Public Lands Maintenance

The Public Lands Maintenance Department was formed to house the Tree and Landscape Department, the Square Gardens program, and the Sidewalk and Trails Department. The Tree and Landscape department is managed by the Landscape Administrator, whom administers tree preservation ordinance and all landscape ordinances. The department includes three full time crew members to maintain public parking lots, trees within some 340 miles of public streets and various beautification projects.

Urban Forestry Program

The city of Fayetteville has been a Tree City USA for five consecutive years. Currently our program administers ordinances for the protection and replacement of trees and manages funding for tree planting and maintenance on public lands. Although ordinances and funding have been in place for several years, the development of a plan for the overall needs of the urban forest has yet to be pursued. **An inventory of the trees within our public rights-of-way, our public landscape areas, and within our more populated parks is necessary for the city to assess it's maintenance and planting needs. This inventory will be the base information needed to develop a comprehensive urban forestry plan for the city.**

Issuing Office:

City of Fayetteville
Peggy Vice, Purchasing Manager
113 W. Mountain
Fayetteville, AR 72701
501-575-8256

Contact for Information on Scope of Services:

Kim J. Hesse, RLA
113 W. Mountain
Fayetteville, AR 72701
501-575-8308

GIS Option
John Goddard
113 W. Mountain
Fayetteville, AR 72701
501-575-8219

Deadline:

Receipt of Proposals: **February 28th, 2001**

Proposal Submission:

All proposals must be submitted in an appropriately marked and sealed envelope to the Purchasing Agent at the above mentioned address.

Ten (10) copies of each proposal must be supplied. All submissions should include the following:

- a. name, address and telephone number of the firm;
- b. give references of past work. Include client's name, address, and telephone number;
- c. state the name(s) and qualifications of the person(s) who will be specifically working on this project and any related experience applicable to this type of project.
- d. Include a statement of qualifications

Reservations

- 1) The City reserves the right to reject any or all responses to this RFP in whole or in part;
- 2) The City reserves the right to request interviews with any consultant submitting a proposal to assist the professional selection committee in making a determination of qualifications and capability.

Length of Contract

All work completed under this contract must be completed no later than June 15, 2001.

Scope of Services

The following describes the services the City feels are required to complete the project. Your proposal need not be bound by the limits of this list. In fact, we intend that this list is only preliminary and your proposal will fully describe services that you propose to provide so that the project can be completed in a competent and professional manner.

The project shall consist of, but not be limited to, the following three components:

Component One : Computerized Street Tree Inventory

Objective - To acquire an inventory of all trees, stumps, shrubs, and potential planting sites in the public right-of-way and within specifically mentioned park land. There are approximately 340 miles of public streets in the city with an estimated 4,200 street trees along with approximately 80 acres of high use park land consisting of scattered trees.

Park Land selected for inventory: A portion of Walker Park - 30 acres

Gulley Park - 27 acres

Wilson Park - 21 acres

The bidders will be required to collect, at a minimum, the information below for each tree, shrub or planting space.

Inventory Criteria

1. **Street Address** - Address of tree with a system to differentiate between multiple trees at one address.
2. **Tree identification** - by genus, species and common name.
3. **Size** - Size of trees by diameter measured
4. **Condition of Tree** - Each tree shall be rated according to the five conditions factors developed by the International Society of Arboriculture (ISA). The factors are trunk, scaffold branches, smaller branches and twigs, foliage and roots. Based on the sum of all the conditions ratings, each tree inventoried shall receive an overall condition classification.
5. **Defects** - Log the defects of each tree from a comprehensive list of physical, insect related, and disease related problems.
6. **Maintenance Requirements** - include a priority list of work assignments using the following criteria:
 1. **Priority One Tree Removal:** Trees designated for removal have defects that cannot be cost effectively or practically treated. The majority of trees in this category have a large percentage of dead crown and are potential safety hazards. Large Dead and dying trees that are high liability risks are included in this Category. These trees are the first ones that should be removed.
 2. **Priority Two Tree Removal:** Trees that should be removed but do not pose a liability as great as the first priority.
 3. **Priority Three Tree Removal:** Trees that should be removed, but that pose minimal liability to persons or property (example: transplant failure, amenity removal).
 4. **Priority One Prune:** Trees recommended for pruning to remove hazardous deadwood, hangers or broken branches. These trees have broken or hanging limbs, hazardous deadwood and dead or diseased limbs greater than four (4) inches in diameter.
 5. **Priority Two Prune:** These trees have dead, dying, diseased or weakened branches between two (2) and four (4) inches in diameter and are potential safety hazards.
 6. **Large Tree Routine Prune:** These trees require horticulture pruning to correct structural problems or growth patterns which would eventually obstruct traffic or interfere with utility

wires or buildings. Trees in this category are large enough to require bucket tree access or manual climbing.

7. Small Tree Routine Prune: These trees require routine horticultural pruning to correct structural problems or growth patterns which would eventually obstruct traffic or interfere with utility wires or buildings. These trees are small species, mature trees that can be evaluated and pruned from the ground.
8. Train: Young large species trees that are still small must be pruned to correct or eliminate weak, interfering or objectionable branches in order to minimize future maintenance requirements. These trees, up to 20 feet in height, can be worked with a pole runner by a person standing on the ground.
9. Stump: Stump that should be removed.
10. Plant: Indicates a vacant planting site.

7. **Site Description** - There should be three site descriptions assigned to each tree or planting space: land use, parkway configuration and utility configuration.

a.) Land use describes the dominant use of the property adjacent to the right-of-way.

Apartment	Municipal
Boulevard	Park
Business	Residence
Church	School
Hospital	Vacant Lot
Island	Industrial

b.) The parkway refers to the area between the curb and the edge of the right-of-way. This information assists the City in choosing appropriate species for size-limited growth areas.

1. Parkway is 1' to 4' wide
2. Parkway is 5' to 9' wide
3. Parkway is > 9' wide
4. Sidewalk integral with curb
5. No sidewalk
6. Parkway is paved
7. Plant is behind a sidewalk yet within right of way.

c.) The utility configuration describes the presence or absence of overhead utility lines.

1. Electric
2. Communication

This detail also helps the Arborist in selecting appropriate species for planting or replacements.

Component Two - Computerized Tree Management System

Objective To develop a computerized record-keeping system that will allow the City to electronically maintain a complete and up-to-date record of its urban forest resources. It should include a perpetual tree inventory as well as a record of the work performed on each tree, service requests received, inspection forms completed, etc.

Scope: The successful firm will be required to provide and install a computerized tree management system in the City of Fayetteville. All data generated from the tree inventory shall be entered into the system by the successful firm and shall provide all necessary reference manuals and documentation, a minimum of 16 hours of on-site training for designated City staff and at least twelve months of ongoing technical support.

Specifications: The software proposed for this project must meet the following specifications:

1. Supply a software package specifically designed for urban tree management
2. All modules must be integrated, provide on-line contextual help, be menu driven with Windows NT and Windows 2000 compatibility, and also be compatible with ArcView .
3. Documentation must include user manuals, which explain the step by step use of the system
4. Firm must provide a demonstration disk with the proposal
5. Firm must provide an example of each report that is generated by the software.
6. All software must be warranted by the firm for any maintenance concerns for one year from the date of installation. The warranty shall include telephone support, revisions, and updates to documentation.

**** Option GPS** - Proposals must be submitted with a cost estimate to provide Global Positioning System locations for each tree inventoried in order to provide exact point information for ArcView compatibility and use. The inventory shall be performed using GPS technology capable of achieving sub-meter accuracy. The Location all trees shall be delivered in ESRI's Shape file format which shall include all associated attributes. This Shape file shall be delivered in State Planes Coordinates, Arkansas, North Zone; North American Datum of 1983 (NAD 83). Each tree shall be located to within 2 to 3 meters of its actual location. Firms not capable of providing this option shall specifically state so in their proposal. Firms with the capability of supplying GPS data shall be rated appropriately higher based on the proposed cost increase to the overall proposal.

Contact person concerning GPS option, please call John Goddard, GIS Technician 501-575-8219.

Component Three : Urban Forestry Management Plan

Objective - Provide a long term management strategy encompassing trend identification, environmental concerns, potential problems, special care needs, and recommendations to reduce future maintenance costs.

Selection:

The City will utilize a professional selection committee to select a consultant from among the proposals submitted with which to negotiate a contract. The selected professional will be expected to have a demonstrated ability to provide the scope of services defined above. The selection committee, utilizing the City's professional selection policy (PUR-13), will select the most qualified professional for this contract based on the following:

- 30pts (1) Qualifications in Relation to Specific Project to be Performed: Information reflecting qualifications of the firm. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, must be listed with information on their organization.
- 15pts (2) Experience, Competence, and Capacity for Performance: Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project. Provide detailed breakdown of subcontractor's staff to be used and how they are to be used and how they are to be used to supplement your staff.
- 25pts (3) Proposed Method of Doing Work: A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope you wish to present) indicating methods and schedules for accomplishing each phase of the work. Include with this the amount of work presently underway.
- 20pts (4) Past Performance: Previous evaluations (as set forth in PUR-13.08) shall be considered a significant factor. If previous evaluations with this City are not available, the professional firm's past performance records with City and others will be used, including quality of work, timely performance, diligence, ability to meet past budgets, and any other pertinent information. Firm will provide a list of similar jobs performed and person whom we can contact for information.
- 10pts (5) Price

The City intends to award the Contract as soon as practical after receipt and review of all proposals.

DEPARTMENTAL CORRESPONDENCE

Date: May 8, 2001
To: Kit Williams, City Attorney
From: Chuck Rutherford, Sidewalk & Trails Coordinator
Subject: Purchase of Railroad Right-of-Way

In October of 2000 the City Council approved resolution no. 136-00 to purchase from Burlington Northern and Santa Fe Railway Company a section of abandoned Railroad right-of-way in the amount of \$70,000. The City was recently informed that the current owner of this property is the Arkansas & Missouri Railroad Company. However, the A & M Railroad is offering to sell this same right-of-way to the City at the original offer of 70,000. I am recommending this purchase as it is a section of the right-of-way needed for the Center - Prairie Trail.

RESOLUTION NO. _____

**A RESOLUTION AGREEING TO PURCHASE
AN ABANDONED RAILROAD RIGHT-OF-WAY
FROM THE ARKANSAS & MISSOURI RAILROAD
FOR \$70,000.00 FOR USE AS A TRAIL**

WHEREAS, the City desires to build a trail upon the abandoned right-of-way of the Arkansas & Missouri Railroad; and

WHEREAS, the Arkansas & Missouri Railroad has offered to sell the City of Fayetteville this abandoned right-of-way for \$70,000.00.

**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 offers to purchase the railroad right-of-way described in Exhibit A for the sum of \$70,000.00 from the Arkansas & Missouri Railroad.

PASSED and APPROVED this the _____ day of May, 2001.

APPROVED:

**BY: _____
DAN COODY, Mayor**

ATTEST:

Heather Woodruff, City Clerk

CYPERT, CROUCH, CLARK & HARWELL

ATTORNEYS AT LAW

111 HOLCOMB STREET

P.O. BOX 1400

SPRINGDALE, ARKANSAS 72765-1400

TELEPHONE (501) 751-5222

TELECOPIER (501) 751-5777

ccch@cox-internet.com

JAMES E. CROUCH
WILLIAM M. CLARK, JR.
CHARLES L. HARWELL
R. JEFFREY REYNERSON
MARCUS W. VAN PELT *
CHRIS R. REED †

SENIOR COUNSEL
JAMES D. CYPERT

OF COUNSEL
STANLEY W. LUDWIG

* ALSO LICENSED IN VIRGINIA
* LL.M. IN AGRICULTURAL LAW
† LL.M. IN TAXATION

May 8, 2001

Kit Williams
Fayetteville City Attorney
Administration Bldg.
113 W. Mountain St.
Fayetteville, AR 72701

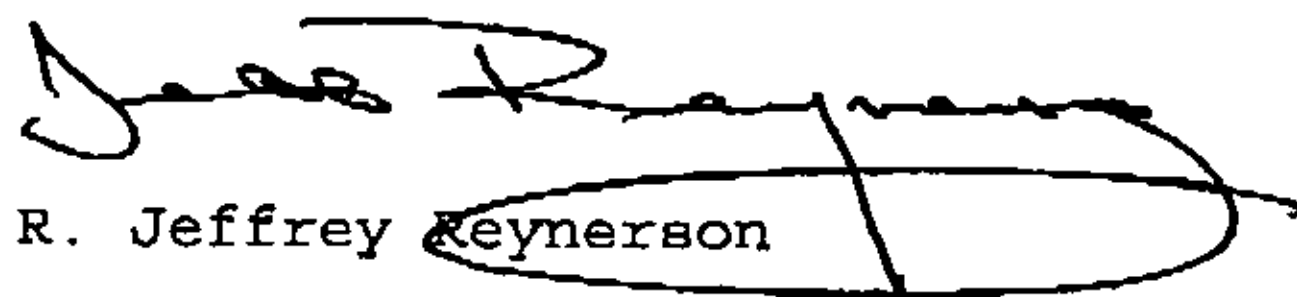
Re: Arkansas & Missouri Railroad sale
of right-of-way

SENT VIA FAX ON 5-8-01 TO 575-8315

Dear Kit:

After consultation with my client, the Arkansas & Missouri Railroad Company (A&M), please let this letter confirm that pursuant to earlier conversations and discussions, the A&M has agreed to offer for sale certain real property to the City of Fayetteville, Arkansas at a purchase price of Seventy Thousand Dollars (\$70,000.00). The property conveyed will represent certain railroad right-of-ways currently owned by the A&M. If I can be of further assistance or provide additional information, please let me know immediately. Thank you.

Sincerely,
CYPERT, CROUCH, CLARK & HARWELL


R. Jeffrey Reynerson

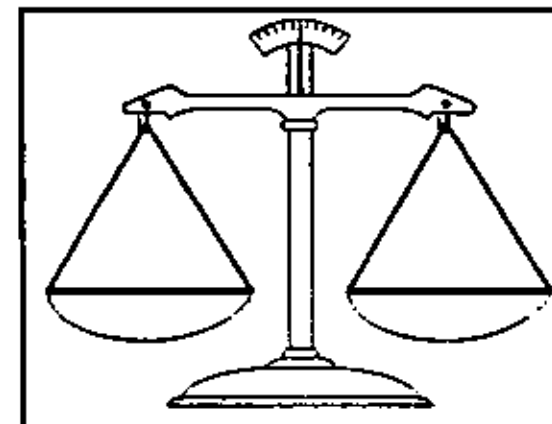
RJR/tv

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

LEGAL DEPARTMENT

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



DEPARTMENTAL CORRESPONDENCE

TO: Dan Coody, Mayor
City Council Members

FROM: Kit Williams

A handwritten signature in dark ink, appearing to read 'Kit Williams', with a long horizontal flourish extending to the right.

DATE: May 7, 2001

RE: Tree Ordinance - Waiver/Variance

Several Aldermen indicated at your meeting that you wanted to consider a more restrictive waiver/variance ordinance limited basically to our most dangerous situation, the change in interpretation or application of the Successors In Interest section. I have therefore drafted such a proposed, more limited waiver/variance ordinance (attached hereto).

I have also drafted a slightly amended version of my first proposed Waiver/Alteration ordinance for your consideration. I have added the word "variance" to the title and within the ordinance. This is only stylistic (as "alteration" was already included). I also struck "unforeseen" as one of the reasons the City Council might use to grant a waiver, reduction, alteration or variance. The unforeseen nature of the problem is certainly relevant to a fairness issue, but probably should not be enough by itself to justify a variance. Fairness and practicality should be the prime concerns.

To be more precise that the Tree Preservation Plan determined by the City Council (whether original or modified) is the one that will be

administered after an appeal, I changed the last few words of the proposed Waiver/Variance ordinance.

I have also attached the modified version of what I would recommend for the Waiver/Variance to the Tree Protection and Preservation Ordinance. My original (and this slightly modified version) places more power and discretion in your hands. It would allow variances not only for problems caused by the change in interpretation of the Successors In Interest section, but also if the City Council decided the application of any portion of the Tree Protection and Preservation Ordinance created an unfair or impractical result on a particular parcel of land.

This would bring the Tree Ordinance much closer in line with most other zoning and development ordinances which allow variances pursuant to Chapter 156 of the Unified Development Ordinance. I do not know why the Tree Ordinance was not included within this general variance chapter when general zoning, design overlay district, parking, buffer strips and screening, general land development, commercial design standards, off site improvements, planned unit developments, green space, stormwater, drainage and erosion control, signs, and airport zoning are all subject to variance requests.

The reason for a general waiver/variance possibility is that parcels of land are so different and possible development so complex that no perfect ordinance can be created by us non-perfect humans to handle every situation fairly. Variances allow for the combined common sense of the Planning Commission, City Council or other board to adjust the requirements of our development ordinances in unusual situations when "literal interpretations of the provisions of the zoning (or other) regulations would deprive the applicant of rights commonly enjoyed by other properties" Fayetteville Code §156.02 (A) (2).

We allow a variance when "a literal enforcement of the design overlay district regulations would result in unnecessary hardship." Fayetteville Code §156.02 (B) (1) (a).

"If the provision of these standards are shown by the developer to cause undue hardship as they apply to this proposed developer, the City Planning Commission may grant a variance" Fayetteville Code §156.03 (C) (1) (a).

It is **your** decision whether you believe it is best to provide a more general waiver/variance provision to our Tree Protection and Preservation Ordinance, a very limited (but still very important) variance concerning only the Successors In Interest provision, or leave the Tree Ordinance as is.

You have more discretion (and thus may find yourselves on the hot seat) and the City would be more protected by the general waiver/variance I first presented. However, the most dangerous and expensive litigation problems that led me to recommend a waiver/variance ordinance can be addressed by the variance limited to the Successors in Interest problem. Of course, you can follow the citizen's recommendation to allow the city to "fall on its sword" by doing nothing. As City Attorney, my advice remains to trust yourselves and protect the taxpayers' money as much as possible by adopting the broader waiver/variance provision.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE TREE PROTECTION AND PRESERVATION ORDINANCE (§167.01 OF THE FAYETTEVILLE CITY CODE) TO ADD A WAIVER/VARIANCE SECTION

WHEREAS, because the interpretation and application of §Section 167.07 Successors In Interest of The Tree Protection And Preservation Ordinance may not have been clear prior to January, 2001 and;

WHEREAS, an owner or developer may have invested substantial sums to develop his/her property by building infrastructure upon a reasonable assumption that the Successors In Interest Section would be applied differently than its current interpretation and application by the City Landscape Administrator, and

WHEREAS, the City Council may need to decide whether it would be fair and reasonable to allow a waiver, reduction, alteration, or variance of §167.07 Successors In Interest to an owner/developer identified above;

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

Section 1: That the City Council hereby amends Ordinance No. 167.01 of the Fayetteville City Code by adding § 167.09 as follows:

"§ 167.09 - Waiver/Variance

A. Appeal Rights

If an owner or developer of a large development or subdivision, or an owner or developer of a lot within said large development or subdivision for which a Tree Preservation Plan had been approved pursuant to §167.05 prior to January 1, 2001, is aggrieved by the City's change in interpretation or application of §167.07, Successors In Interest, and the owner/developer of a large development or the lot within such development has invested or expended substantial sums for development of infrastructure prior to January 1, 2001, then that developer, with the sponsorship of an Alderman, may appeal the decision of the Landscape Administrator or Planning Commission concerning the Tree Preservation Plan to the City Council.

B. Decision By City Council On Appeal

If the City Council votes to hear this appeal, a public hearing will be held at the City Council Meeting. The City Council may grant such a waiver, reduction, alteration or variance from the requirements of the Tree Protection and Preservation Ordinance if it determines such waiver or variance is necessary to avoid an unfair or impractical application of the Tree Protection and Preservation Ordinance upon this particular parcel of land. The City Landscape Administrator shall then administer the Tree Preservation Plan as determined by the City Council.

PASSED and APPROVED this ____ day of May, 2001.

APPROVED:

DAN COODY, Mayor

APPROVED:

Heather Woodruff, City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE TREE PROTECTION AND PRESERVATION ORDINANCE (§167.01 OF THE FAYETTEVILLE CITY CODE) TO ADD A WAIVER/VARIANCE SECTION

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

Section 1: That the City Council hereby amends Ordinance No. 167.01 of the Fayetteville City Code by adding § 167.09 as follows:

"§ 167.09 – Waiver/Variance

An alderman, on behalf of and with the consent of an owner or developer of a parcel, subdivision or development, can present a proposed waiver, reduction, variance or alteration in the requirements of the Tree Protection and Preservation Ordinance to the City Council. If the City Council votes to consider such a proposed waiver, reduction, variance or alteration, a public hearing before the City Council will be held and such a waiver, reduction, variance or alteration may be granted by the City Council if it determines such waiver, reduction, variance or alteration is necessary to avoid unfair or impractical application of the Tree Protection and Preservation Ordinance upon this particular parcel of land. The City Landscape Administrator shall then administer the Tree Preservation Plan as determined by the City Council."

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

BY: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

STAFF REVIEW FORM

X AGENDA REQUEST
 CONTRACT REVIEW
 GRANT REVIEW

For the Fayetteville City Council meeting of May 15, 2001.

FROM:

Tim Conklin

Planning

Public Works

Name

Division

Department

ACTION REQUIRED: To approve a resolution to reimburse the Arkansas Highway and Transportation Department for the additional cost of right-of-way acquisition in order to install a boulevard and additional materials to expand the west 5' sidewalk to a 10' multi-use trail on Garland Avenue. The University of Arkansas will maintain the boulevard from Maple Street to North Street. The City of Fayetteville will maintain the green space between the multi-use trail and sidewalk from Cleveland to North Street.

COST TO CITY:

\$36,000.00

\$140,863

Forestry Program /
Street

\$50,000.00

\$332,048

ROW/Intersection
/Cost Sharing

Cost of this Request

Category/Project Budget

Category/Project Name

4470-9470-5220-00

\$47,103

Garland Avenue -
Reimbursement to

4470-9470-5809-00

\$119,566

Highway Department for
Boulevard installation

Account Number

Funds Used To Date

Program Name

96084

\$93,755

Sales Tax Capital
Improvements

98033

\$212,482

Project Number

Remaining Balance

Fund

BUDGET REVIEW:

Budgeted Item

Budget Adjustment Attached

Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

ADA Coordinator

Date

Purchasing Officer

Date

STAFF RECOMMENDATION: Staff recommends approval of the cost share to enhance Garland Avenue from a four lane street to a boulevard design and install a 10' multi-use trail.

Division Head

Date

Cross Reference

Department Director

Date

New Item: **Yes**

Administrative Services Director

Date

Prev Ord/Res #: _____

Mayor

Date

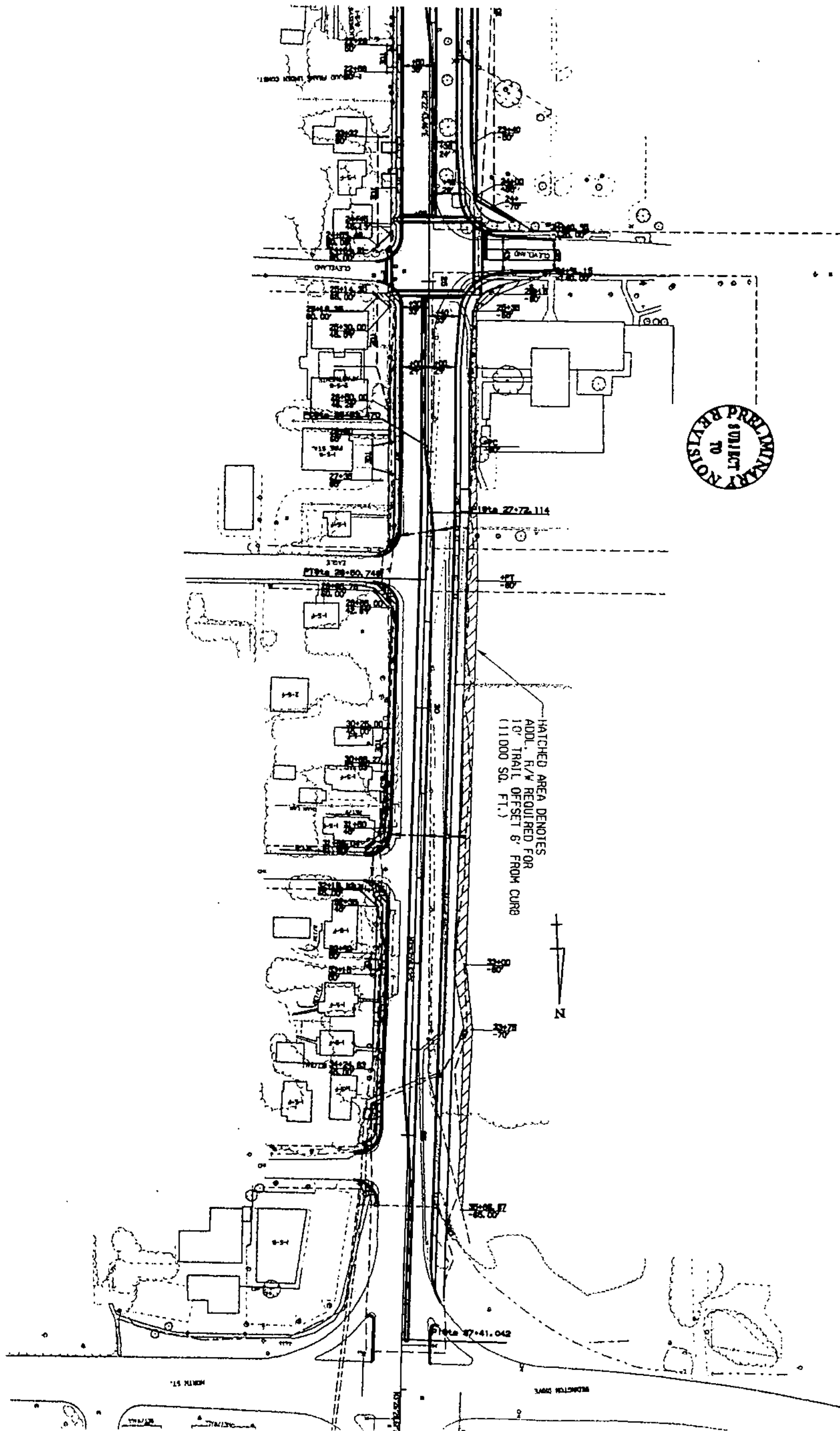
Orig Contract Date: _____

Orig Contract Number: _____

PRELIMINARY
SUBJECT TO
NOTES

HATCHED AREA DENOTES
ADDL. R/W REQUIRED FOR
10' TRAIL OFFSET 6' FROM CURB
(11,000 SQ. FT.)

N



ORDINANCE NO. _____

AN ORDINANCE CALLING AND SETTING A DATE FOR A SPECIAL ELECTION FOR THE ADOPTION OR REJECTION OF ORDINANCES ENLARGING THE DEFINITION OF WHAT TYPE OF BUSINESS AND WHAT TYPE OF GROSS RECEIPTS OR PROCEEDS WOULD BE SUBJECT TO THE HOTEL, MOTEL AND RESTAURANT TAX AND THE PARKS HOTEL, MOTEL AND RESTAURANT TAX

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

Section 1. That a special election be, and the same is hereby, called to be held in the City on the _____ day of July, 2001 at which election there will be submitted to the electors of the City an initiative consisting of the following ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel and Restaurant Tax and the Parks Hotel, Motel and Restaurant Tax.

BE IT ENACTED by the People of the City of Fayetteville that §35.20 and § 35.31 of the Code of Fayetteville Tax, Levy of Tax; Levied; collection, are hereby repealed and the following inserted in their stead and §35.28 Definitions and §35.36 Definitions are added as follows:

§35.20. Levy of Tax. There is hereby levied, a tax of 1% (the tax) upon the gross receipts or gross proceeds from the renting, leasing, or otherwise furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501-(c)(3) of the Federal Internal Revenue Code.

§35.28. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** - Delis shall include establishments selling sandwiches and salads, but this tax shall NOT apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** – Stands run by non-profit groups are excluded from this taxation.

C. **Convenience Stores** – All food and beverages prepared on site (except coffee) are taxable.

D. **Caterers** – Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** – These are included within the definitions of “similar businesses” of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** – Businesses that sell beverages prepared or dispensed at their business are included within the definition of “similar businesses” of this ordinance and are therefore subject to this tax.

G. **Prepared Food or Beverage** – Any food or beverage product prepared or altered in a food/beverage establishment for sale.

§35.31. Levy of Parks HMR Tax. There is hereby levied, a tax of 1% (the Parks HMR tax) upon the gross receipts or gross proceeds from the renting, leasing, or otherwise furnishing of hotel or motel accommodations for profit in the City and upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, caterers and similar businesses as may be defined from time to time by ordinance from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under §501-(c)(3) of the Federal Internal Revenue Code.

§35.36. Definitions {pursuant to A.C.A. §26-75-602 (c)(2)}

A. **Delis** – Delis shall include establishments selling sandwiches and salads, but this tax shall NOT apply to sliced meat and/or cheese sold by the pound.

B. **Concession Stands** – Stands run by non-profit groups are excluded from this taxation.

C. **Convenience Stores** – All food and beverages prepared on site (except coffee) are taxable.

D. **Caterers** – Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Fayetteville.

E. **Bakeries, Donut Shops & Ice Cream Shops** – These are included within the definitions of “similar businesses” of this ordinance and are, therefore, subject to this tax.

F. **Beverage Shops** – Businesses that sell beverages prepared or dispensed at their business are included within the definition of “similar businesses” of this ordinance and are therefore subject to this tax.

G. **Prepared Food or Beverage** – Any food or beverage product prepared or altered in a food/beverage establishment for sale.

_____ **FOR** the adoption of the above ordinances.
(Your vote will enlarge the definition of the businesses and proceeds subject to the Hotel, Motel and Restaurant tax as stated above.)

_____ **AGAINST** the adoption of the above ordinances.
(Your vote rejecting these ordinances will leave the current wording of the Hotel, Motel and Restaurant taxes as currently enacted.)

Section 3. That the election shall be held and conducted and the vote cast and the results declared under the law and in the manner provided for municipal elections. Only qualified electors of the City of Fayetteville shall have the right to vote at the election.

Section 4. That the results of the election shall be proclaimed by the Mayor. the Mayor's proclamation shall be published one (1) time in a newspaper having general circulation in the City.

Section 5. That a copy of this ordinance shall be furnished to the

Washington County Board of Election Commissioners so that the necessary election officials and supplies may be provided.

PASSED and **APPROVED** this ____ day of May, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Dan Coody
City Council Members

From: John Maguire,  Administrative Services Director

Date: May 10, 2001

Subject: HMR Tax

The Administrative Services staff has reviewed the ordinance as proposed amending the levy and collection of the HMR tax.

We are not certain that definitions should include more than item D. "Caterers".

Should the new ordinance be considered as drafted, we suggest the following changes:

Section 2, Subpart A: Deli's

- A. Deli's - Deli's shall include establishments selling prepared food or beverage as defined, however this tax shall not apply to sliced meat and/or cheese sold by the pound.

Section 2, Subpart B: Concession Stands

- B. Concession Stands - Stands owned by non-profit groups are excluded from this taxation, as well as stands operated on a short term basis, such as First Night, Springfest, Autumnfest and County fairs. Other stands operated on a recurring basis, such as for athletic events, barbecue stands and other on-going stands, whether mobile or stationary, will collect the HMR tax.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

TENTATIVE AGENDA CITY COUNCIL MAY 15, 2001

A meeting of the Fayetteville City Council will be held on May 15, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. **APPROVAL OF THE MINUTES**
2. **OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance for the transfer of vacant property located at 897 N. Crossover Road from the City of Fayetteville to the William E. House Trust.
3. **SENIOR CENTER:** A resolution approving Change Order No. 1 in the amount of \$34,977.00 to the contract with Harrison Davis Construction Company for additional construction services to the Walker Park Senior Center and approval of a budget adjustment.

B. OLD BUSINESS

1. **PHYSICAL ALTERATION OF LAND:** An ordinance amending Section 169.03 of the Code of Fayetteville, Physical Alteration of Land. The ordinance as left on the second reading at the May 1, 2001 meeting.
2. **STORMWATER AND DRAINAGE:** An ordinance amending Section 170.03 of the Code of Fayetteville, Stormwater Management, Drainage and Erosion Control. The ordinance was left on the second reading at the May 1, 2001 meeting.
3. **TREE PROTECTION AND PRESERVATION:** An ordinance amending the Tree Protection and Preservation Ordinance to allow for a waiver, reduction or alteration in the requirements of the Tree Preservation Ordinance. The ordinance was left on the first reading at the May 1, 2000 meeting.

C. NEW BUSINESS

1. **RZ 01-8.00:** An ordinance approving rezoning request RZ 01-8.00 as submitted by Deborah Sexton on behalf of WHM Land Investments, Inc. for lots 76-83 located in Meadowlands Subdivision Phase I and II. The property is zoned R-1.5 Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential.

STAFF REVIEW FORM

☒ AGENDA REQUEST
☐ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council meeting of May 15, 2001

FROM:

Jill Goddard
Name

Engineering
Division

Public Works
Department

ACTION REQUIRED: A resolution approving the Offer and Acceptance Contract for the transfer of vacant property located at 897 N. Crossover Road (formerly known as), also being Lot 5, Block 3, Eastwood Subdivision, from the City of Fayetteville to the William E. House Trust.

COST TO CITY:

(\$18,000)
Cost of this Request

\$ 130,836
Category/Project Budget

Bridge & Drainage Improvements
Category/Project Name

4470-9470-5817-00
Account Number

(\$18,000)
Funds Used To Date

Londonderry Drainage Impr.
Program Name

98038-0030
Project Number

\$ 148,836
Remaining Balance

CIP
Fund

BUDGET REVIEW:

☒ Budgeted Item

☐ Budget Adjustment Attached

[Signature]
Budget Coordinator

[Signature]
Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

[Signature]
Accounting Manager

4/25/01
Date

[Signature]
City Attorney

4/26/01
Date

[Signature]
Purchasing Officer

4/26/01
Date

GRANTING AGENCY:

[Signature]
Internal Auditor

4/25/01
Date

[Signature]
ADA Coordinator

[Signature]
Date

STAFF RECOMMENDATION: Staff recommends approval of this transfer of property as it is no longer necessary for City use.

[Signature]
Division Head

04/25/01
Date

Cross Reference

[Signature]
Department Director

[Signature]
Date

New Item: Yes ☒ No ☐

[Signature]
Administrative Services Director

4/26/01
Date

Prev Ord/Res #: [Signature]

[Signature]
Mayor

4/27/01
Date

Orig Contract Date: [Signature]

STAFF REVIEW FORM

Description Transfer of property at 897 N. Crossover Rd. Meeting Date May 15, 2001

Comments:

Budget Coordinator

Accounting Manager

City Attorney

Purchasing Officer

ADA Coordinator

Internal Auditor

Reference Comments:

OFFER AND ACCEPTANCE CONTRACT

1. **Olga House, Trustee of the William E. House Trust**, hereinafter referred to as the Buyer, offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, the Buyer shall pay for the property at closing, the total and cash payment of **\$18,000.00**.
3. **Contingent Earnest Money Deposit:** The Buyer herewith tenders a check for \$1,000.⁰⁰ to the **City of Fayetteville, Arkansas**, hereinafter referred to as the Seller, as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to the Buyer by the Seller. If title requirements are not fulfilled or the Seller fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to the Buyer. If the Buyer fails to fulfill his obligations under this contract or after all conditions have been met, the Buyer fails to close this transaction, the earnest money may, at the option of the Seller, become liquidated damages to the Seller. Alternatively, the Seller may assert legal or equitable rights which it may have because of breach of this contract.
4. Conveyance will be made to the Buyer by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the Seller.
5. The Seller shall furnish, at the Buyer's cost, a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the Buyer.
6. Seller agrees to allow Buyer, if Buyer so desires, at Buyer's expense, to survey the property. Seller agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the Buyer.
7. Taxes and special assessments due on or before closing shall be paid by the Seller. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date is designated to be within thirty (30) days after acceptance of this offer by the Seller, being that this offer of sale is contingent upon the approval by the City Council of Fayetteville, Arkansas. If such date of closing falls on a weekend or holiday, it will be held the following working day.

OFFER AND ACCEPTANCE CONTRACT

Page 2 of 5

9. Possession of the property shall be delivered to the Buyer on the date of closing.
10. Seller hereby grants permission for the Buyer or its employees or designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the Seller.
13. Seller shall disclose to Buyer any and all environmental hazards of which Seller has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, Buyer and Seller shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, Seller shall cure such, at Seller's expense, or in the alternative, at Buyer's discretion, Buyer may cure such environmental hazard, and Seller shall indemnify Buyer for all costs associated with said cure.
14. This agreement shall be governed by the laws of the State of Arkansas.
15. This agreement, when executed by both the Buyer and the Seller shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
16. This contract expires, if not accepted on or before the 18TH day of May, 2001.
17. **NOTICE:** BUYER ASSERTS AND SELLER HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF SALE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, AND WILL RESULT IN THE RETURN TO BUYER OF THE \$ 1,000⁰⁰ EARNEST MONEY DEPOSIT.

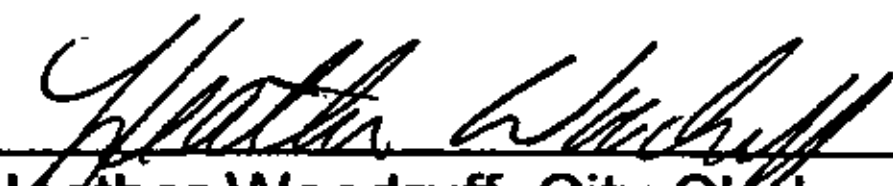
OFFER AND ACCEPTANCE CONTRACT
Page 3 of 5

SELLER:

City of Fayetteville, Arkansas,
a municipal corporation


Dan Coody, Mayor

Date: 4/17/01


Heather Woodruff, City Clerk

Date: 4/17/01

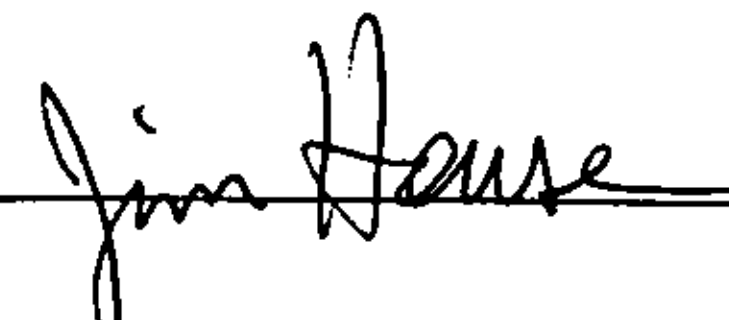
(SEAL)

BUYER:


Olga House, Trustee of the
William E. House Trust

Date: 4/24/01

AGENT OR WITNESS:



Date: 4/24/01

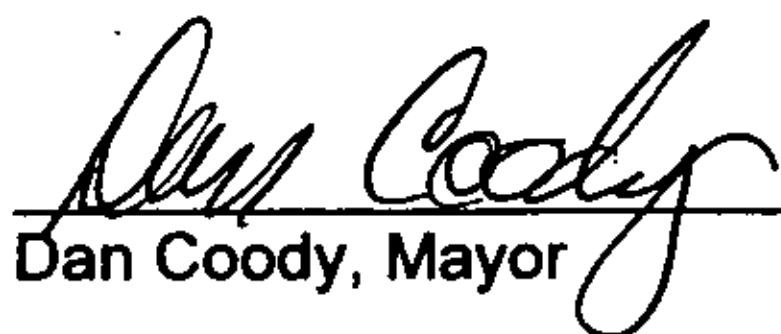
OFFER AND ACCEPTANCE CONTRACT
Page 4 of 5

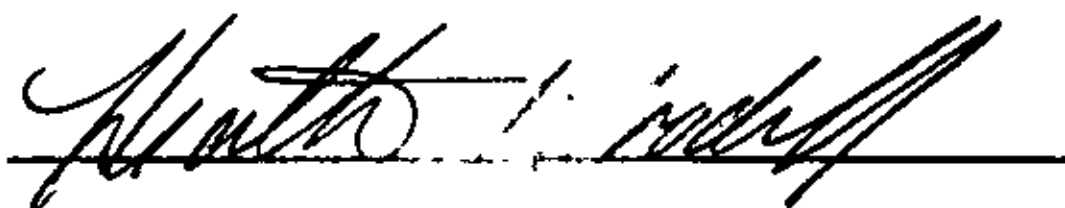
EXHIBIT "A"
PROPERTY DESCRIPTION

Lot Five (5) of Block Three (3) of Eastwood Subdivision to the City of Fayetteville, Washington County, Arkansas, LESS AND EXCEPT that portion of said Lot 5 conveyed to the Arkansas State Highway Commission and filed of record in Book 98-100830 with the Circuit Clerk and Ex-Officio Recorder of Washington County, being more particularly described as follows: Commencing at the Southwest corner of Lot 4, Block 3 of Eastwood Subdivision; thence North 85° 11' 39" East along the South line of Lot 4 a distance of 117.32 feet to a point on the Westerly proposed right of way line of Arkansas State Highway 265 for the Point of Beginning; thence continue North 85° 11' 39" East along the South line of Lot 4, Block 3 of Eastwood Subdivision a distance of 49.49 feet to a point on the Westerly existing right of way line of Arkansas State Highway 265; thence South 16° 17' 10" West along said existing right of way line a distance of 214.20 feet to a point on the South line of Lot 5, Block 3 of Eastwood Subdivision; thence South 85° 11' 39" West along said South lot line a distance of 52.45 feet to a point on the Westerly proposed right of way line of Arkansas State Highway 265; thence North 17° 01'-12' East along said-proposed West right of way line a distance of 215.28 feet to the Point of Beginning, said Less and Except containing 10,186 square feet, more or less, and being subject to rights of way and easements of record.

SIGNED FOR IDENTIFICATION:

SELLER:


Dan Coody, Mayor



BUYER:

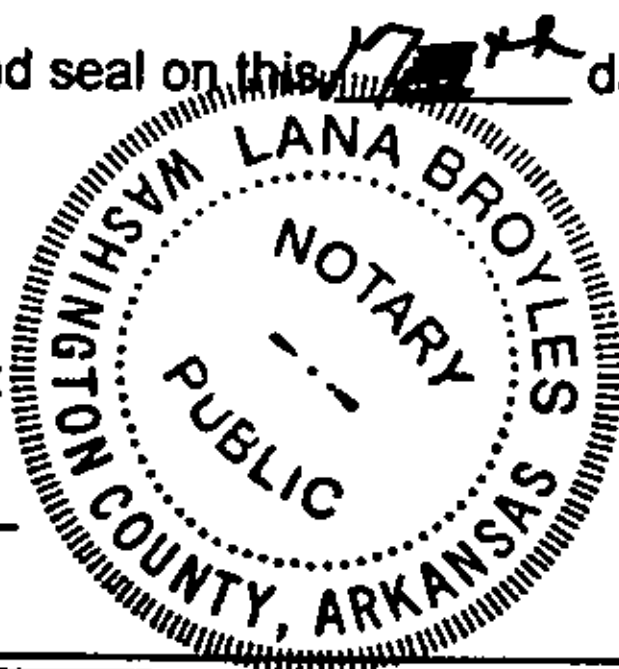

Olga House, Trustee of the
William E. House Trust



COUNTY OF WASHINGTON

MY COMMISSION EXPIRES:

4-1-08



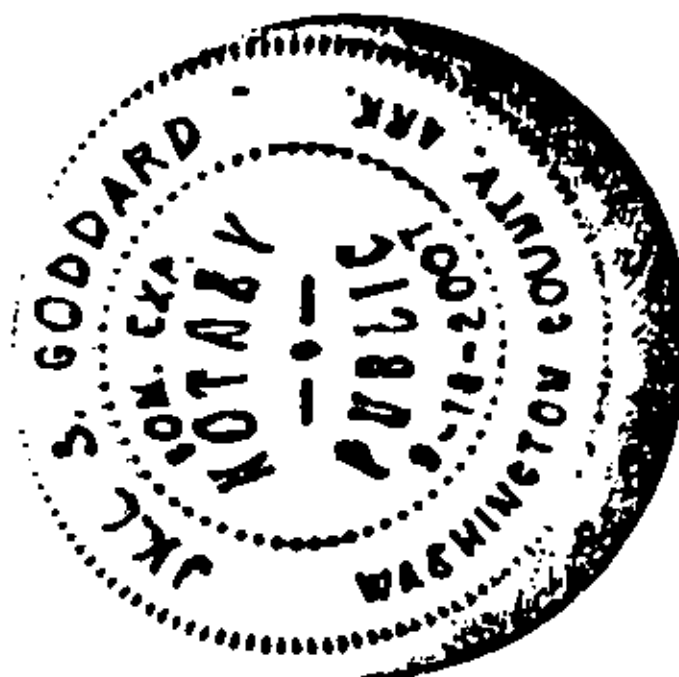
Lana Broyles
Notary Public

COUNTY OF WASHINGTON

WITNESS my hand and seal on this 24th day of April, 2001.

MY COMMISSION EXPIRES:

09-18-2007



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THRU: Dan Coody, Mayor
Jim Beavers, City Engineer *for B.*

FROM: Jill Goddard, Land Agent *JG*

DATE: April 16, 2001

SUBJECT: Sale of Property
Lot 5, Block 3, Westwood Addition
Highway 265

As part of the Highway 265 widening, the Arkansas Highway and Transportation Department (AHTD) acquired 50 feet of right of way from Lot 5, Block 3, Westwood Addition in November 1998. This right of way acquisition also meant the purchase of the residence at 897 N. Crossover Road and the relocation of the owner. The remainder (after the taking of right of way and residence) was appraised by the AHTD to be \$33,400.

As part of the Highway 265 widening, the City and the AHTD entered into an agreement (Res. No. 98-98, approved July 21, 1998) for the cost share of additional drainage improvements on this project to alleviate drainage problems along Ridgely Drive, which was outside the project limits. Thus, the City opted to purchase the remainder of Lot 5, Block 3, Westwood Addition (Res. No. 161-98, approved December 15, 1998) for the AHTD appraised value of \$33,400 for the purpose of constructing drainage structures. Since purchase of this property, the planned drainage improvements have been altered. Thus, the City was now planning on doing just some culvert work.

The City of Fayetteville is in receipt of an offer of \$18,000 for this property from Jim House, representative for the William E. House Trust, owner of the 12.15 acre tract just west of and adjacent to the subject property.

In August, 2000, an offer amount was presented to Mr. House of \$25,395.00 (see enclosed letter).

Settlement amount	\$33,400.00
Less payment for first Gas. Co. easement	- 1,865.00
Less payment for second Gas. Co. easement	-2,690.00
Deduct estimate for culvert work City would have done had ownership been retained	<u>-3,450.00</u>
Initial offer	\$25,395.00

MEMORANDUM
April 16, 2001
Page 2 of 2

However, the appraised amount included \$7,500 for improvements. The previous owner was allowed to remove these improvements (shop building and fence) within the six month period following closing (see letter dated November 13, 1998). Subsequently, the City did not have to arrange for demolition of these improvements. Thus, since the improvements no longer exist, their value should have been deducted from our initial offer to Mr. House.

Initial offer	\$25,395.00
Less improvements value	<u>-7,500.00</u>
Remaining value	\$17,895.00

The City Council is hereby requested to approve a resolution which authorizes the City to sell the subject parcel for a price of \$18,000 plus applicable closing costs. Staff believes it is appropriate to sell this property at this time as it is no longer crucial for drainage improvements.



Number of Feet	Number of Minutes
0	0
100	50
200	100

UTILITY EASEMENT MAP

Offer & Acceptance
A. 2. Page 11

SIZE OF EASEMENT

PERMANENT UTILITY EASEMENT
2,638 SQ.FT. (0.06 ACRES)

TEMPORARY CONSTRUCTION EASEMENT
2,170 SQ.FT. (0.05 ACRES)

EXHIBIT "B"

EASEMENT TRACT NO. 3X
CITY OF FAYETTEVILLE

KATHERINE C. WHITE

47

LOT 4

SW CORNER
LOT 4, BLOCK 3
EASTWOOD SUBDIVISION

Scale: 1"=40'

CITY OF FAYETTEVILLE

3X

LOT 5

HOUSE
TO BE REMOVED

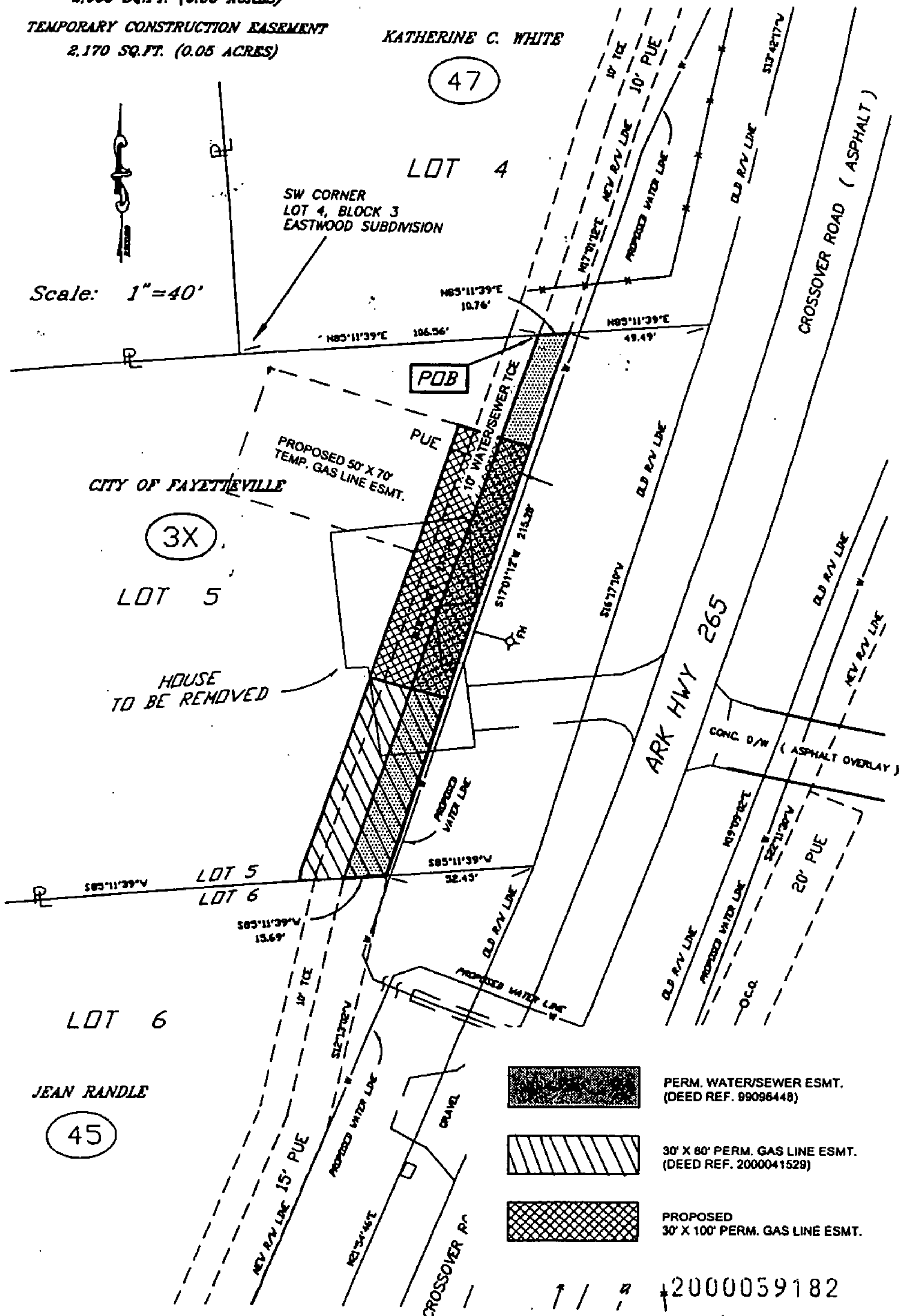
LOT 5

LOT 6

LOT 6

JEAN RANDLE

45



PERM. WATER/SEWER ESMT.
(DEED REF. 99096448)

30' X 80' PERM. GAS LINE ESMT.
(DEED REF. 2000041529)

PROPOSED
30' X 100' PERM. GAS LINE ESMT.

2000059182

November 9, 2000

Jill S. Goddard
Land Agent
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Dear Ms Goddard,

I appreciated the opportunity to meet with you and Sid Norbash last week. After meeting with you I contacted a local real estate agent to assist me in determining an appropriate counter-offer to the possible purchase the property at 897 N. Crossover Road. He also felt that I should consider some of the limitations of the property, those included: heavy traffic and difficult entry onto Highway 265, close proximity to SWEPCO's substation, difficult sewer access, and certainly large amounts of water expected to flow across the lot. After meeting with him, my family is prepared to make an offer of \$18,000.00 to purchase this lot.

My first correspondence to you discussed this family's concern of trying to gain alternate buildable acreage to replace that lost on our existing property due to proximity of construction of SWEPCO's substation and expected heavier drainage across the property from diversion of water on Highway 265.

Please consider our offer of \$18,000.00 and get back with me if further negotiations are in order.

Sincerely,



Jim House
6215 E. Huntsville Road
Fayetteville, AR 72701
444-5883

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

August 8, 2000

Jim House
6215 E. Huntsville Road
Fayetteville, AR 72701

RE: 897 N. Crossover Road
Part of Lot 5, Blk 3, Eastwood Subdivision
Former Locke property

Dear Mr. House:

This letter is in regard to the former Locke property at 897 N. Crossover Road. Enclosed you will find copies of the following easements crossing this property in connection with utility relocations prior to the highway widening project:

- 1) Water/Sewer Easement (Deed Ref. 99-096448).
- 2) Natural Gas Line Easement (Deed Ref. 2000-041529)
- 3) Natural Gas Line Easement (Deed Ref. 2000-059179) – additional permanent easement area and temporary easement.

Please see the attached drawings showing the locations of these easements.

Also enclosed are copies of the Warranty Deed to this property (to the City of Fayetteville), copy of the settlement statement, and a copy of an interdepartmental memo regarding estimated culvert cost.

The City paid \$33,400.00 for this property. The two easement compensations from Arkansas Western Gas Company can then be deducted:

settlement amount	\$33,400.00
30x80 AWG easement	- 1,865.00
30x100 AWG easement	- 2,690.00
	<u>\$28,845.00</u>

If you would choose to contract out the culvert work yourself instead of the City doing the work, then that estimated amount could also be deducted:

	\$28,845.00
culvert work estimate	- 3,450.00
	<u>\$25,395.00</u>

I hope this information is helpful to you in preparing your proposed offer of purchase for this property. If you have any questions or need additional information, please feel free to call me at 444-3407, Ed Connell at 444-3415, or Sid Norbash at 575-8205.

Sincerely,



Jill S. Goddard
Land Agent

/jsg
Enclosures

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Ed Connell, Land Agent

Thru: Jim Beavers, City Engineer *JB*

From: Sid Norbash, Staff Engineer *SN*

Date: July 24, 2000

Re: City Lot - Crossover Rd.
Jim House's letter

In reference to the above City Lot, the City of Fayetteville intends to do certain drainage improvements to accommodate the future drainage flows that will result from the improvements and widening of Highway 265.

The City will install a drainage pipe across the existing drive located between Mr. House's mother's property and the City's lot. This is the drive that runs north and south, and is located on the west side of the City Lot. The City, however, plans no improvements to the existing ditch running diagonally through the lot.

The estimated cost of installing the culvert across the drive is as follows:

(1) Install 20 feet of 48" R.C.P.@ \$65 per foot	\$1,300
(2) Install rip-rap lump sum	\$ 800
(3) Install one flared-end section @ 850 each	\$ 850
(4) Mobilization	\$ 500

Total	\$3,450

If you have any questions please advise.

RECEIVED

APR 20 2000

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

April 18, 2000

Mayor Fred Hanna
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Mayor Hanna:

I am writing to you on behalf of my mother Olga House and my aunt, Marie Wilson. They jointly own a parcel of property south of their homes on Manor Drive. Several weeks ago they received a letter from Jim Beavers, City Engineer, discussing the city's plans to divert storm water runoff and install a culvert on the east end of their property.

We are concerned that the additional runoff will further reduce the value of their property. Our families feel that we have already allowed significant reduction of the property value due to the construction of the SWEPCO substation at the SE corner of the property. We did not fight or complain about the construction of that facility because we felt that it was in the public's best interest to construct the substation. We feel we have done our public duty.

We feel that if in the future we go ahead and subdivide this land we will not have a very saleable tract adjacent to the substation. Now we understand that the additional stormwater runoff will prevent the utilization of another possible lot. We understand that the city has purchased a lot formerly owned by the Gardner family. In discussions with your engineering department we understand that the city plans to relocate a road culvert on highway 265 and route additional stormwater runoff across that property and terminate through a new culvert at our property. We understand that the city has no planned use for the former Gardner property and might be willing to negotiate a sale. We would be in hopes that you would be interested in opening a discussion with us as to the feasibility of us purchasing that property allowing the possible gain to us of a buildable site to replace the site to be lost to us. The purchase could possibly negate the need for the city to construct the culvert and water diversion system.

Would the city be willing to negotiate a fair and reasonable purchase of this property by our families? If so would you please contact me?

Thank you


Jim House

6215 E. Huntsville Rd.
Fayetteville, 72701
443-5883

RESOLUTION NO. 161-98

A RESOLUTION AUTHORIZING THE PURCHASE OF 1.73 ACRES LOCATED ALONG CROSSOVER ROAD FROM HARRY F. LOCKE, JR. IN THE AMOUNT OF \$33,400 PLUS CLOSING EXPENSES, FOR STORM WATER DRAINAGE IN CONNECTION WITH IMPROVEMENTS AND THE WIDENING OF HIGHWAY 265.

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

Section 1. That the City Council hereby authorizes the purchase of the 1.73 acres located from Harry F. Locke, Jr. as more fully set forth in Exhibit A; for storm water drainage in connection with improvements and the widening of Highway 265.

PASSED AND APPROVED this 15th day of December, 1998.

APPROVED

By: Fred Hanna
Fred Hanna, Mayor



By: Heather Woodruff
Heather Woodruff, City Clerk



EXHIBIT "A"

Lot Five (5) of Block Three (3) of Eastwood Subdivision to the City of Fayetteville, Washington County, Arkansas, LESS AND EXCEPT that portion of said Lot 5 conveyed to the Arkansas State Highway Commission and more particularly described as follows: commencing at the Southwest corner of Lot 4, Block 3 of Eastwood Subdivision; thence north $85^{\circ}11'39''$ East along the South line of Lot 4 a distance of 117.32 feet to a point on the Westerly proposed right of way line of Arkansas State Highway 265 for the Point of Beginning; thence continue North $85^{\circ}11'39''$ East along the South line of Lot 4, Block 3 of Eastwood Subdivision a distance of 49.49 feet to a point on the Westerly existing right of way line of Arkansas State Highway 265; thence South $16^{\circ}17'10''$ West along said existing right of way line a distance of 214.20 feet to a point on the South line of Lot 5, Block 3 of Eastwood Subdivision; thence South $85^{\circ}11'39''$ West along said South lot line a distance of 52.45 feet to a point on the Westerly proposed right of way line of Arkansas State Highway 265; thence North $17^{\circ}01'12''$ East along said proposed West right of way line a distance of 215.28 feet to the Point of Beginning, said Less and Except containing 10,186 square feet, more or less.

TEVILLE

ETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Fayetteville City Council

THRU: Fred Hanna, Mayor
Charles E. Venable, Public Works Director

FROM: Jim Beavers, City Engineer

RE: Highway 265 Road Improvement and Drainage
Property Acquisition
Lot #5, Block #3, Westwood Addition
Harry F. Locke, Jr., Owner

As a part of Highway 265 widening, the City and the Arkansas State Highway Department (AHTD) have entered into an agreement, approved by the Council on July 21, 1998 as Resolution No. 98-98, for the cost share of additional drainage improvements on this project so as to alleviate current drainage problems along Ridgely Drive, which is outside the project limits. The fore mentioned project, to be a part of the highway construction project, directed one large drainage pipe along the west side of the new highway from Ridgely Drive south about 800 feet in the highway right of way to a point on the subject lot. The contour of that lot is such that the water would then be directed to the southwest (diagonally across the lot) to the natural watershed. This latter drainage, from the highway southwest to the natural drainage, will be open ditch. The fact that this open ditch goes diagonally virtually eliminates the property for any future development purposes by the owner, thus requiring the City to purchase the property (1.73 acres).

The AHTD has already purchased a 50 ft. right of way requirement from this property. Such right of way requirement also meant the purchase of the residence and relocation of the owner. The AHTD has verbally indicated that the remainder (after their taking of ROW land and the residence) value appraised for \$33,400, the amount of payment for the settlement as indicated in the attached *Offer and Acceptance* contract. The remainder property has a small shop on it, a building that the City would have to demolish and remove. In negotiating for this land, additional consideration was given to the seller's request be able to salvage the building materials from this shop. Since it was going to cost the city for demolition and removal of the building, his removal of the building was considered equivalent to the value of the materials salvaged. This then became an additional consideration on the settlement of this contract to purchase.

The purchase of this land for drainage purposes is not part of the cost share arrangement made with the Highway Department under Resolution No. 98-98. That arrangement effectively provided for a large drainage line about 800 feet along the highway to get to this property. Since a drainage easement across this property is not feasible for the owner, it has been the intention of the City to purchase the remainder of this property.

The City Council is hereby requested to approve a resolution which authorizes the City to purchase the subject parcel for a purchase price of \$33,400 plus applicable closing costs. Staff believes it is prudent to acquire this land at this time to accommodate the planned drainage system.

THE CITY OF FAYETTEVILLE, ARKANSAS

November 13, 1998.

Mr. Harry F. Locke, Jr.
% Mr. Gary Head
McIlroy Bank & Trust, Inc.
McIlroy Court
Mission Blvd. & Crossover Road
Fayetteville, AR 72701

RE: City Acquisition
Lot #5, Block #3, Eastwood Subdivision (Remainder)

Dear Mr. Locke and Mr. Head:

In accordance with our discussions relating to the possible City acquisition of the subject property, we are pleased to include herewith a proposed *Offer and Acceptance* contract which provides the terms and conditions under which this acquisition should take place. This contract relates to the remaining property of Lot #5, Block #3 after that portion of said property which was conveyed to the Arkansas State Highway Commission for the widening of Highway 265. Of the original 2.0 acre lot, 0.234 acre and the residence were conveyed to the Highway Commission, leaving 1.73 acres and a shop building as remainder. The purpose for the City acquisition of this remainder is to provide an open storm water drainage area diagonally across this property (see attached diagram).

As indicated by the proposed contract, the price for the acquisition of the remainder is \$33,400 which corresponds to the Arkansas Highway and Transportation Department appraisal value of the remainder. As additional consideration for this acquisition, the City is willing to allow you to dismantle and remove the shop building within a period of six months after we close on this transaction. As you indicated that this be part of the consideration for the sale of this property, the City also views your removal of this building as a savings to us since the City would otherwise have to demolish and remove such building from the premises.

It is virtually impossible to close this transaction by the end of November. A purchase of this magnitude is required by ordinance to be approved by the Fayetteville City Council. AS of this date and following required procedures, We are already late trying to get it in on the meeting of December 15, 1998. To get this in as an agenda item, we need to have a signed contract. As of this week, the engineering staff will prepare and circulate this agenda request based upon receiving a signed *Offer and Acceptance* contract by November 30, 1998 at the latest.

Offer & Acceptance

A. 2. Page 20

WALLY F. LOCKE

Offer and Acceptance

Offer Letter

Page 2

Also included herewith is a Vendor Form which needs to be completed and returned to the City with the signed contract. IRS requires this document to be in City files before we can issue an earnest money check.

Please return one fully executed original of the *Offer and Acceptance* document; the other original is for your retention. If you have any questions or comments, please contact Ed Connell at 444-3415 or myself at 575-8206.

Sincerely,



Jim Beavers
City Engineer

Enclosures

JB/edc

APPRAISAL REPORT

For

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Offer & Acceptance
A. 2. Page 21

004999 PROJECT: State County: Washington TRACT: 3X

LOCATION: Hwy. 16 - Hwy. 45

OWNER(S): Harry F. Locke, Jr.
ADDRESS: 897 North Crossover Road, Fayetteville, Arkansas 72701
PHONE: (501) 587-1727

TENANT(S): (None)
ADDRESS:
PHONE:

AREA OF WHOLE: 85,689±SF(1.96±Ac) PERMANENT EASEMENT(S):
AREA OF REMAINDER: 75,503±SF(1.73±Ac) TEMPORARY EASEMENT(S):
AREA OF ACQUISITION: 10,186±SF(.23±Ac)
(Title Certificate and Legal Description Attached)

ESTIMATED FAIR MARKET VALUE OF THE PROPERTY

Before

Land:	\$	29,400.00	
Improvements:	\$	151,500.00	
Total:	\$		180,900.00

After

Land:	\$	25,900.00	
Improvements:	\$	7,500.00	
Total:	\$		33,400.00*
FAIR MARKET VALUE OF ACQUISITION:	\$		147,500.00
Temporary Easements:	\$		-0-
TOTAL COMPENSATION AS OF June 24, 1998	\$		147,500.00

ALLOCATION OF COMPENSATION

Land: 10,186±SF @(.23±Ac) @ \$15,000/Acre =	\$	3,500.00
Permanent Easements:	\$	-0-
Temporary Easements:	\$	
Improvements: 1-Brick Veneer (Split to rear) good quality dwelling	\$	121,500.00
Damages: (To workshop & fencing)	\$	22,500.00
Cost to Cure Items:	\$	-0-
Total Compensation:	\$	147,500.00

Date: July 16, 1998

Tompe S. Gray
Tomp S. Gray, Appraiser

RELOCATION

APPRAISAL SECTION

Job: 004999

Tract: 3X

STAFF REVIEW FORM

XX AGENDA REQUEST
XX CONTRACT REVIEW
XX GRANT REVIEW

the Fayetteville City Council meeting of MAY 15, 2001

FROM:

Yolanda Fields Community Development Admin. Services
Name Division Department

ACTION REQUIRED:

Approval of change order #1 to the contract for additional construction services to the Walker Park Senior Center (WPSC). This change order in the amount of \$34,977.00 shall be funded by the Council on Aging. Approval of a budget adjustment is also requested.

COST TO CITY:

<u>\$34,977.00</u>	<u>\$1,982,600.00</u>	<u>WPSC</u>
Cost of this Request	Category/Project Budget	Category/Project Name
<u>2180/2250/4470</u>	<u>\$1,982,600.00</u>	<u>Public Facilities</u>
Account Number	Funds Used To Date	Program Name
<u>96092</u>	<u>\$0</u>	<u>2180/2250/4470</u>
Project Number	Remaining Balance	Fund

BUDGET REVIEW: Budgeted Item X Budget Adjustment Attached

[Signature]
Budget Manager

Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

<u>[Signature]</u> Accounting Manager	<u>5/3/01</u> Date	<u>[Signature]</u> Internal Auditor	<u>5/3/01</u> Date
<u>[Signature]</u> City Attorney	<u>5/3/01</u> Date	<u> </u> ADA Coordinator	<u> </u> Date
<u>[Signature]</u> Purchasing Officer	<u>5/3/01</u> Date	<u> </u> Grants Coordinator	<u> </u> Date

STAFF RECOMMENDATION: Approval to increase the contract amount.

[Signature]
Division Head

[Signature]
Department Director

[Signature]
Administrative Services Director

Mayor

Cross Reference

New Item: **No**

Prev Ord/Res #: 4-01

Orig Contract Date: 01-04-01

STAFF REVIEW FORM

Description WPSC contract change order #1. for additional services Meeting Date _____

Comments: Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

Internal Auditor

ADA Coordinator

Grants Coordinator

DEPARTMENTAL CORRESPONDENCE

TO: Dan Coody, Mayor

FROM: Yolanda Fields, Community Development Coordinator *Done for Y. Fields*

DATE: May 03, 2001

SUBJECT: Amendment to contract

The Council on Aging would like to extend the service lines from the present building being constructed to where the Adult Day Care will be constructed. The roads and parking area would have to be cut and sections dug up to add the lines later. It is cheaper in the long run to have the lines installed now. This addition to the contract will be funded by the Council and deposited into a City escrow account.

AMENDMENT TO THE AGREEMENT WITH
Harrison Davis Construction Company

AMENDMENT # ONE (1)

This is an amendment to the Agreement for **additional construction services** executed on this _____ day of _____, 2001 between the City of Fayetteville, Arkansas and **Harrison Davis Construction Company**. Additional services are required due to **cost associated with installing additional service lines for the future Adult Day Care Center**. The charge for the additional services shall not exceed **Thirty-four thousand, Nine hundred seventy-seven dollars (\$34,977.00)**.

Contract # **789**, P.O. # **01-0000597-001**, Project # **96092**

City of Fayetteville

_____ Date _____
Dan Coody, Mayor

Harrison Davis Construction Company

_____ Date _____
Harrison Davis, Owner

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

**Senior Center
A. 3. Page 5**

Budget Year 2001	Department: Sales Capital Improvement Division: Walker Park Senior Center Program:	Date Requested 5/15/2001	Adjustment #
----------------------------	---	------------------------------------	---------------------

Project or Item Requested: Additional funding is requested for the construction contract for the Walker Park Senior Center. The additional funding requested is \$34,977.	Project or Item Deleted: None. The Council on Aging is providing the funds for the budget adjustment.
---	---

Justification of this Increase: The funding is requested to fully fund the construction contract.	Justification of this Decrease: The Council on Aging has been fund raising for construction cost of this project and is utilizing a portion of the funds raised with this adjustment.
---	---

Increase Expense (Decrease Revenue)							
Account Name	Amount	Account Number				Project Number	
Building Cost	34,977	4470	9470	5804	00	96092	1

Decrease Expense (Increase Revenue)							
Account Name	Amount	Account Number				Project Number	
Payments by Property Owners	34,977	4470	0947	4420	00		

Approval Signatures		Budget Office Use Only					
Requested By _____	Date _____	Type:	A	B	C	D	E
Budget Manager _____	Date _____	Date of Approval	_____	_____	_____	_____	_____
Department Director _____	Date _____	Posted to General Ledger	_____	_____	_____	_____	_____
Admin. Services Director _____	Date _____	Posted to Project Accounting	_____	_____	_____	_____	_____
Mayor _____	Date _____	Entered in Category Log	_____	_____	_____	_____	_____

STAFF REVIEW FORM

☒ Agenda Request
☐ Contract Review
☐ Grant Review

For the Fayetteville City Council meeting of May 15, 2001.

FROM:

Tim Conklin

Planning

Public Works

Name

Division

Department

ACTION REQUESTED: To approve an ordinance for RZ 01-8.00 submitted by Deborah Sexton on behalf of WHM Land Investments, Inc., for lots 76-83 located in Meadowlands Subdivision Phases I and II. The property is zoned R-1.5, Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential.

COST TO CITY:

\$0

Cost of this request	Category/Project Budget	Category/Project Name
Account Number	Funds used to date	Program Name
Project Number	Remaining balance	Fund

BUDGET REVIEW: Budgeted Item Budget Adjustment Attached

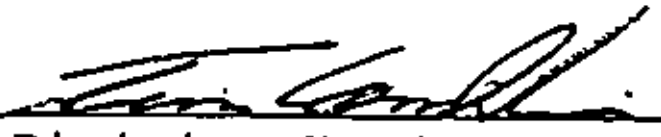
Budget Coordinator Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW:

GRANTING AGENCY:

Accounting Manager	Date	ADA Coordinator	Date
City Attorney	Date	Internal Auditor	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION: Staff recommended approval and Planning Commission unanimously voted 8-0-0 to recommend and forward the rezoning to the City Council.


Division Head

4-27-01
Date

Cross Reference

Department Director

Date

New Item: Yes No

Administrative Services
Director

Date

Prev Ord/Res#: _____

Mayor

Date

Orig Contract Date: _____

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED
IN REZONING PETITION RZ01-8.00 FOR A PARCEL
CONTAINING APPROXIMATELY 1.79 ACRES FOR LOTS
76-83, LOCATED IN MEADOWLANDS SUBDIVISION PHASES
I AND II, AS SUBMITTED BY DEBORAH SEXTON ON BEHALF OF
WHM LAND INVESTMENTS, INC.

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

Section 1: That the zone classification of the following described
property is hereby changed as follows:

From R-1.5, Moderate Density Residential to R-1, Low Density Residential
described in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the official zoning map of the City of Fayetteville, Arkansas, is
hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2001.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

EXHIBIT "A"
RZ01-8.00

A CERTAIN TRACT OF LAND LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF FAYETTEVILLE, BEING SITUATED IN THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST OF THE 5TH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO-WIT:

BEGINNING AT A POINT N87°05'29"W 163.04 FEET FROM A 3/4" PIPE MARKING THE SOUTHEAST CORNER OF SAID SECTION 12, THENCE N86°58'43"W 1139.57 FEET TO A POINT; THENCE N87°11'21"W 1314.43 FEET TO A POINT; THENCE N02°35'39"E 1321.72 FEET TO A POINT; THENCE S88°31'48"E 304.89 FEET TO A POINT; THENCE 125.57 FEET ALONG A NON-TANGENTIAL CURVE TO THE LEFT, HAVING A RADIUS OF 925.00 FEET, AN INTERIOR ANGLE OF 7°46'40", AND A CHORD BEARING AND DISTANCE OF S52°48'35"E 125.47 FEET TO A POINT; THENCE TANGENT TO THE PREVIOUS CURVE, S56°41'55"E 358.73 FEET TO A POINT; THENCE S88°31'48"E 166.17 FEET TO A POINT; THENCE N01°28'12"E 702.82 FEET TO A POINT; THENCE S86°59'51"E 436.92 FEET TO A POINT; THENCE N02°15'40"E 416.75 FEET TO A POINT; THENCE N88°36'31"W 437.28 FEET TO A POINT; THENCE N02°38'16"E 362.23 FEET TO A POINT; THENCE N71°35'10"E 147.12 FEET TO A POINT; THENCE S84°40'18"E 275.84 FEET TO A POINT; THENCE S67°00'26"E 23.26 FEET TO A POINT; THENCE N77°46'18"E 61.78 FEET TO A POINT; THENCE S89°59'20"E 72.82 FEET TO A POINT; THENCE S87°29'03"E 272.58 FEET TO A POINT; THENCE S02°34'42"W 298.86 FEET TO A POINT; THENCE N87°23'19"W 343.61 FEET TO A POINT; THENCE S02°14'38"W 668.42 FEET TO A POINT; THENCE S87°14'03"E 339.49 FEET TO A POINT; THENCE S87°14'33"E 416.32 FEET TO A POINT; THENCE S87°40'33"E 330.10 FEET TO A POINT; THENCE S02°32'56"W 1642.50 FEET TO THE POINT-OF-BEGINNING, CONTAINING 92.92 ACRES (4,047,619 SQ. FT.), MORE OR LESS, SUBJECT TO ALL RIGHTS-OF-WAY, SERVITUDES AND/OR EASEMENTS OF RECORD OR FACT.

Planning Commission
April 23, 2001
Page 47

RZ 01-8.00: Rezoning (WHM Land Investments, pp 439) was submitted by Deborah Sexton on behalf of WHM Land Investments, Inc. for lots 76-83 located in Meadowlands Subdivision Phases I & II. The property is zoned R1.5 Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential.

Estes: The next item on the agenda is item number six, a Rezoning submitted by Deborah Sexton on behalf of WHM Land Investments, Inc. for lots 76-83 located in Meadowlands Subdivision Phases I & II. The property is zoned R1.5 Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential. Staff recommends approval of the requested rezoning based on the findings included in the staff report. Is the applicant present?

Conklin: I don't see the applicant.

Hoffman: Does she need to be present?

Conklin: This is a downzoning. I would encourage you to act on this item.

PUBLIC COMMENT:

Estes: Without the applicant present, I'll bring it back to the Commission for discussion, motions and comments. I didn't solicit public comment because Ms. Hesse, video staff and the press are the only persons I see in the audience. Do any of you wish to provide public comment on this rezoning request?

COMMISSION DISCUSSION:

Estes: Seeing none, I'll bring it back to the Commission for discussion and motions.

MOTION:

Shackelford: I would like to make a motion to approve RZ 01-8.00 based on staff findings.

Allen: I'll second.

Estes: We have a motion by Commissioner Shackelford and second by Commissioner Allen to approve RZ 01-8.00. Any discussion? Sheri, would you call the roll please?

Planning Commission
April 23, 2001
Page 48

ROLL CALL:

Upon roll call RZ 01-8.00 is approved by a unanimous vote of 8-0-0.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dawn T. Warrick, Planner
THRU: Tim Conklin, A.I.C.P., City Planner
DATE: April 23, 2001

RZ 01-8.00: Rezoning (WHM Land Investments, pp 439) was submitted by Deborah Sexton on behalf of WHM Land Investments, Inc. for lots 76-83 located in Meadowlands Subdivision Phases I & II. The property is zoned R1.5 Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential.

RECOMMENDATION:

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

PLANNING COMMISSION ACTION: Required YES
☐ Approved ☐ Denied

Date: April 23, 2001

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied

Date: May 15, 2001 (1st reading)

Comments: _____

BACKGROUND:

These lots are located at the far south end of the developed phases of Meadowlands Subdivision. They are currently undeveloped and are adjacent to R-1, Low Density Residential property to the south. Surrounding land uses are all residential, single and two family dwellings. This rezoning would provide a continuous section of the subdivision along Meadowlands Drive with R-1 zoning on both sides.

This rezoning request is consistent with the General Plan 2020 and will further provide a mix of housing types within the development. Lot sizes and setbacks are already established in accordance with the requested R-1 zoning.

SURROUNDING LAND USE AND ZONING

North:	Two-family dwellings, R-1.5
South:	Vacant, R-1
East:	Two-family dwellings, R-1.5
West:	Single family dwellings, R-1

INFRASTRUCTURE:

This property is bound on all sides by local streets within the Meadowlands Subdivision (North - Larkspur, East - Daisy Lane, South - Meadowlands Drive, West - Flower Drive).

Water and sewer are both available to this property, these services were constructed as a condition of the subdivision approval for Meadowlands.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-1, Low Density Residential is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed zoning is consistent with adopted land use planning objectives, principles, and policies. The General Plan 2020 designates this property as Residential and surrounding properties are all designated as residential.

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 at this time. Infrastructure is in place to accommodate these lots and development is occurring on adjacent parcels with is compatible with this request.

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

Finding: The proposed zoning will not appreciable increase traffic danger and congestion.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning will reduce population density from the potential maximum based on the existing R-1.5 zoning designation.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

§ 161.04 DISTRICT R-1: LOW DENSITY RESIDENTIAL.

A. Purpose. The Low Density Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

B. Uses.

1. Permitted Uses.

Unit 1	City-Wide Uses by Right
Unit 26	Single-Family Dwelling

2. Uses Permissible on Appeal to the Planning Commission.

Unit 2	City-Wide Uses by Conditional Use Permit
Unit 3	Public Protection and Utility Facilities
Unit 4	Cultural and Recreational Facilities
Unit 8	Single-Family and Two-Family Dwellings

C. Density.

SINGLE-FAMILY DWELLINGS	TWO FAMILY DWELLINGS
4 or Less Families Per Acre	7 or Less Families Per Acre

D. Bulk and Area Regulations.

	Single-Family	Two-Family
Lot Minimum Width	70 ft.	80 ft.
Lot Area Minimum	8,000 sq. ft.	12,000 sq.ft.
Land Area Per Dwelling Unit	8,000 sq. ft.	6,000 sq. ft.

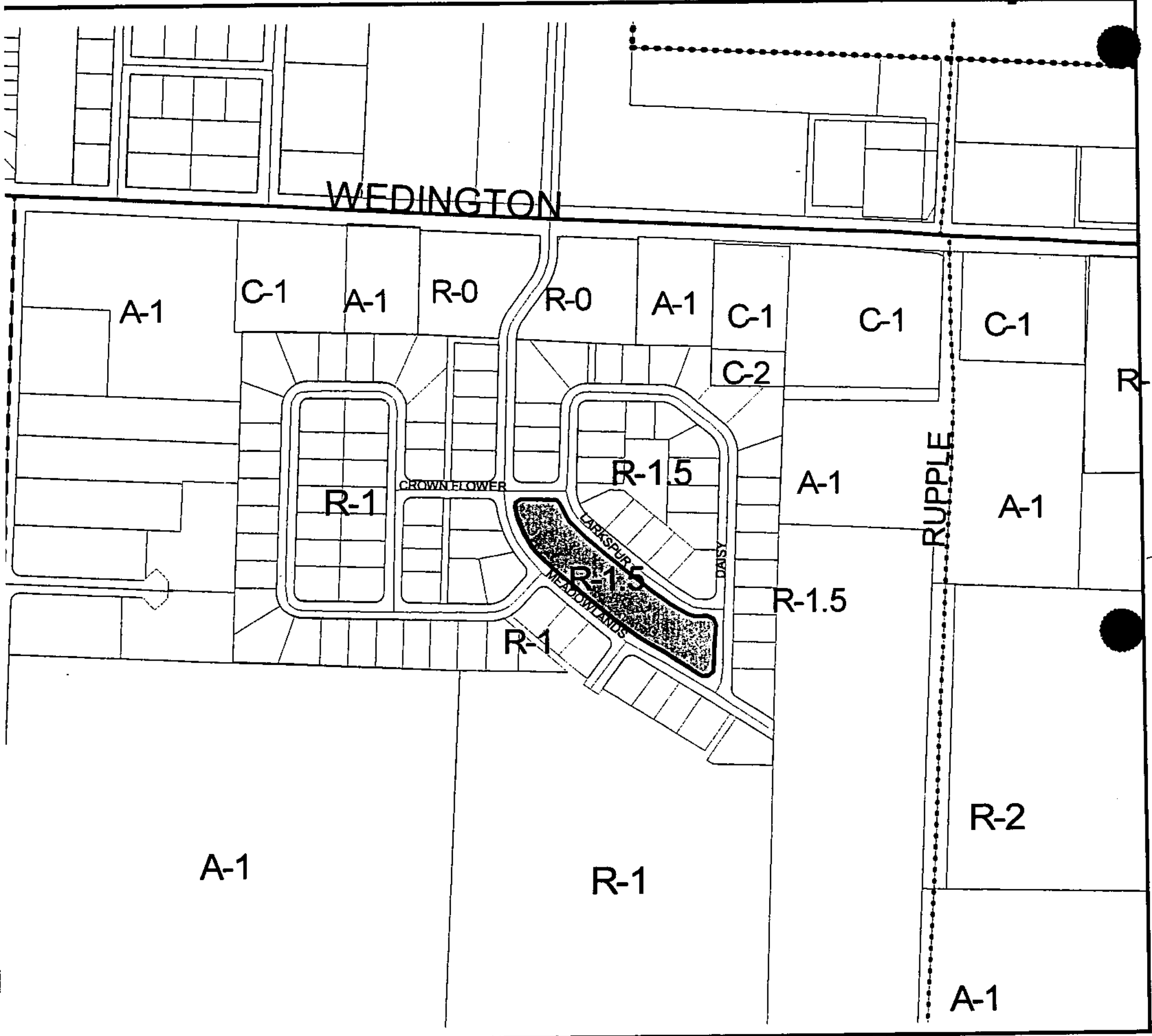
E. Yard Requirements (feet).

FRONT YARD	SIDE YARD	REAR YARD
25	8	20

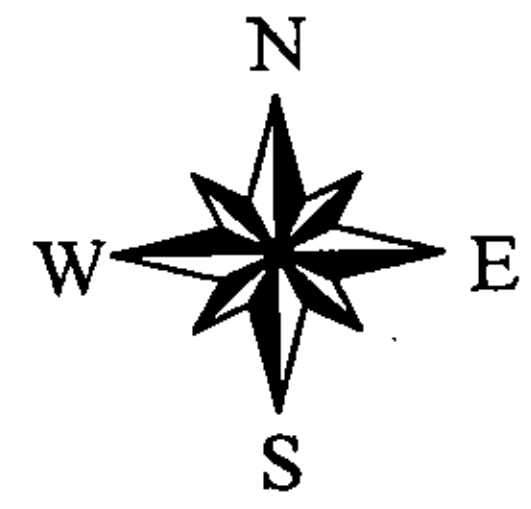
F. Building Area. On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

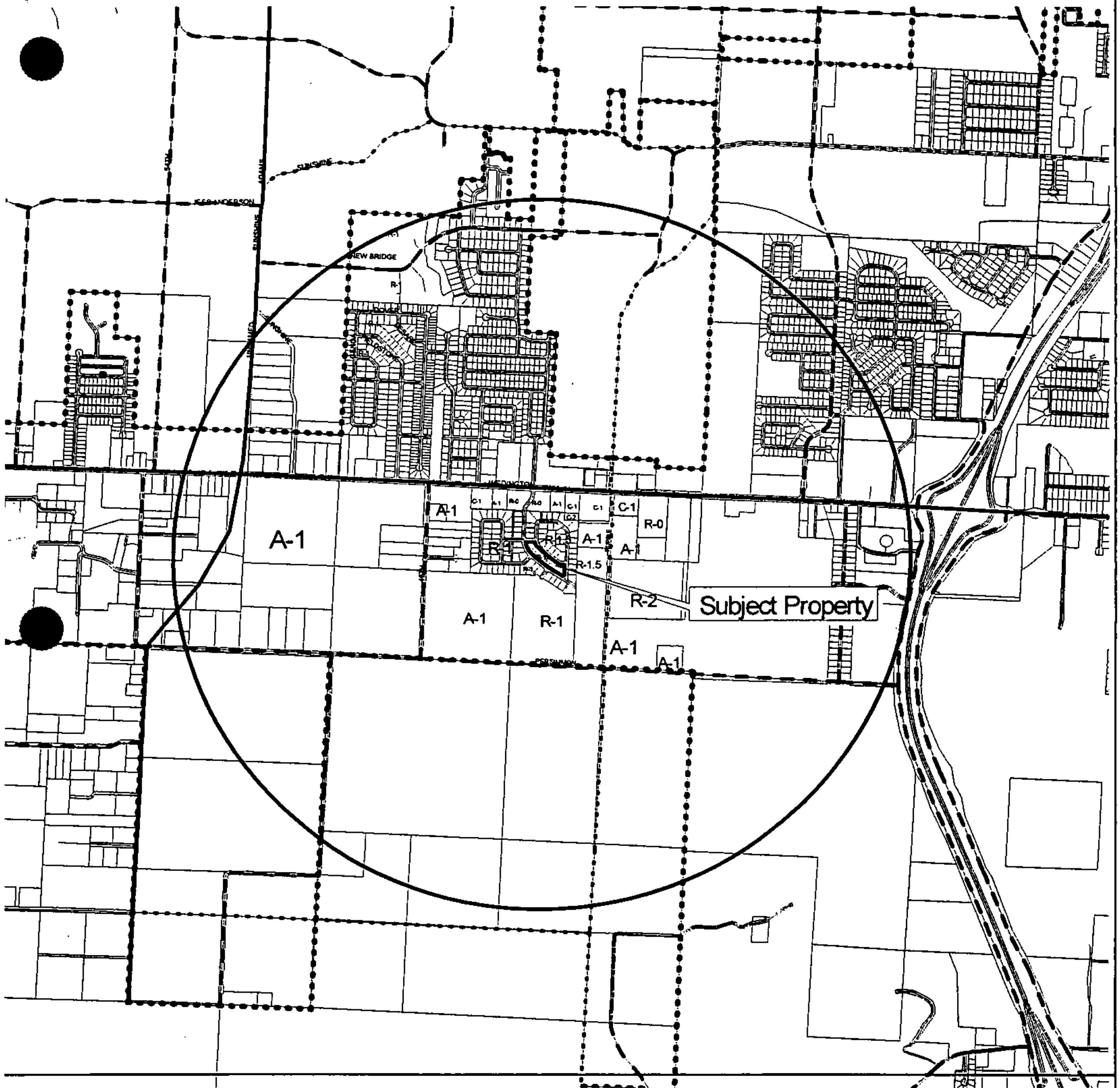
(Code 1991, §160.031)

J1-8 WHM Close Up



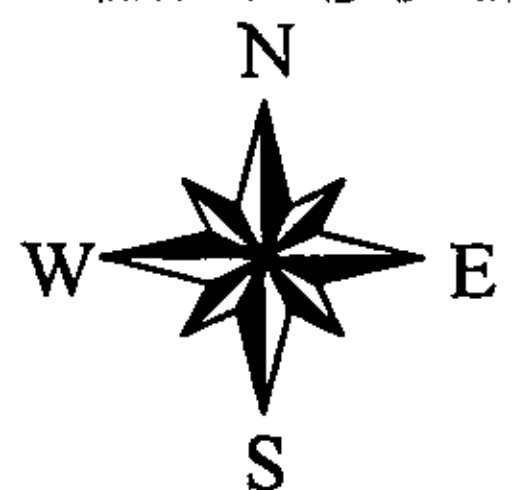
- Master Street Plan
- Freeway/Expressway
 - Principal Arterial
 - Minor Arterial
 - Collector
 - Historical Collector
 - Structures (1998)
 - Fayetteville City Limits





- Master Street Plan
- Freeway/Expressway
 - Principal Arterial
 - Minor Arterial
 - Collector
 - Historical Collector
 - STREETS
 - Zoning Districts
 - Parcel Polygons
 - Fayetteville City Limits

2000 0 2000 4000 Feet



**DRAFT TENTATIVE AGENDA
CITY COUNCIL
MAY 15, 2001**

A meeting of the Fayetteville City Council will be held on May 15, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT

1. APPROVAL OF THE MINUTES

- 2. OFFER AND ACCEPTANCE:** A resolution approving the offer and acceptance for the transfer of vacant property located at 897 N. Crossover Road from the City of Fayetteville to the William E. House Trust.

B. OLD BUSINESS

C. NEW BUSINESS

- 1. RZ 01-8.00:** An ordinance approving rezoning request RZ 01-8.00 as submitted by Deborah Sexton on behalf of WHM Land Investments, Inc. for lots 76-83 located in Meadowlands Subdivision Phase I and II. The property is zoned R-1.5 Moderate Density Residential and contains approximately 1.79 acres. The request is to rezone to R-1, Low Density Residential.

Walton Arts Center Bravo Awards

Help Walton Arts Center celebrate our 10th season! As part of our annual gala, we will honor individuals or organizations that have made extraordinary contributions to Walton Arts Center throughout the past ten years.

Nominations will be accepted and reviewed by a confidential committee who will evaluate nominees based on the following criteria:

- Nominees will be a member of the Northwest Arkansas community.
- Nominees may be any individual or organization that has demonstrated exemplary leadership, achievements and dedication to or have had an outstanding positive impact on the arts through their involvement with Walton Arts Center. Examples include volunteers, patrons, businesses, organizations, visual artists, performing artists, educators, and government officials.
- Preference will be given to individuals still living at the time of nomination; however, under special circumstances, consideration will be made to present award posthumously.
- Nominations may be made by any Northwest Arkansas resident, business or organization familiar with and able to substantiate nominee's qualifications.

Nomination forms should be completed and returned to:

Walton Arts Center
Bravo Awards
P.O. Box 3547
Fayetteville, AR 72702

Please note that incomplete applications will be excluded from consideration. For further information, please call (501) 443-9216. Thank you.

Walton Arts Center Nomination for BRAVO Award

The nominee should be a person or organization that has made extraordinary contributions to Walton Arts Center (WAC) through their time, gifts and service. Nominees may be volunteers, patrons, businesses, visual artists, performing artists, educators, government officials or other individuals/organizations. Please read the attached criteria carefully and thoroughly. Note that incomplete applications will not be considered by the committee.

NOMINATIONS MUST BE RECEIVED BY AUGUST 3, 2001.

Type or print clearly

Name of Nominee _____

Address _____

Business Phone _____ Home Phone _____

Occupation _____

Position _____

Involvement with WAC

Please give a brief description stating why this individual or organization should receive the Bravo award. Please be as specific as possible when discussing their involvement with WAC.

Walton Arts Center BRAVO Award Nomination

References

Please list a minimum of two references. At least one reference should then submit a letter of support of the nomination. Additional letters are welcome. Letters may be mailed directly to the address listed below.

Reference #1 Name _____

Address _____

Business Phone _____

Occupation _____

Relationship to nominee _____

Reference #2 Name _____

Address _____

Business Phone _____

Occupation _____

Relationship to nominee _____

Reference #3 (optional) Name _____

Address _____

Business Phone _____

Occupation _____

Relationship to nominee _____

NOMINATIONS AND LETTERS MUST BE RECEIVED BY AUGUST 3, 2001

Send to: Walton Arts Center
 Bravo Awards
 P.O. Box 3547
 Fayetteville, AR 72701

For further information, please contact Missy Kincaid at (501) 443-9216.

May 8, 2001

**AGENDA SESSION
CITY COUNCIL
MAY 15, 2001**

NEW ITEMS:

- ①
1. **NOMINATING COMMITTEE REPORT:** Appointment of Pat Gazzola, owner of the Catfish Hole, to the A&P Commission to fill the unexpired term previously held by Alex Jerde.
 2. **HMR TAX:** An ordinance amending Section 35.20 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax.
 3. **PARKS HMR TAX:** An ordinance amending Section 35.31 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax.
 4. **STREET TREE INVENTORY:** A resolution awarding a contract to Burditt Associates in an amount not-to-exceed \$25,000 to conduct a city-wide street tree inventory.
 5. **LAKE SEQUOYAH BOAT DOCK:** A resolution adopting a contract with Linda Thorpe and/or Richard Utley for Lake Sequoyah boat dock operator in the amount of ~~\$15,200.~~ 15,656.
 6. **RAILROAD RIGHT-OF-WAY:** A resolution approving the purchase of railroad right-of-way from Arkansas and Missouri Railroad in the amount of \$70,000. The right-of-way is to be used for a multi-use trail.
 7. **SPECIAL ELECTION:** An ordinance calling and setting a date for a special election for the adoption or rejection of ordinances enlarging the definition of what type of business and what type of gross receipts or proceeds would be subject to the Hotel, Motel, and Restaurant Tax and the Parks Hotel, Motel, and Restaurant Tax.
 8. **GARLAND AVENUE:** A resolution approving the reimbursement to the Arkansas Highway and Transportation Department for the additional cost of right-of-way acquisition in order to install a boulevard and additional materials to expand the west 5' sidewalk to a 10' multi-use trail on Garland Avenue.

ADDITIONAL INFORMATION:

1. **GRADING AND DRAINAGE ORDINANCE:** Proposed amendments to the Stormwater and Drainage ordinance. Item No. 2 under Old Business.
2. **TREE ORDINANCE:** Proposed amendments to the Tree Protection and Preservation ordinance. Item No. 3 under Old Business.