Final Agenda
City Council Meeting
January 20, 2004

A meeting of the Fayetteville City Council will be held on January 20, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Election of Vice Mayor: City Council voted Bob Davis vice mayor.

A. **CONSENT:**

1. **Approval Of The Minutes:** Approval of the December 30, 2003 and the January 6, 2004 meeting minutes.

   Approved.

2. **Canon Copier Purchase:** A resolution approving the purchase of approximately 13 photocopiers from Canon USA at State contract prices in an amount not to exceed $127,000.00; and approving a budget adjustment in the amount of $127,000.00 for same.

   Passed and shall be recorded as Resolution No. 07-04.

3. **Community Access Television (CAT) Contract:** A resolution approving a renewal contract in the amount of $69,000.00 with Community Access Television, to provide Public Access Television services through December 31, 2004.

   Passed and shall be recorded as Resolution No. 08-04.

4. **Seven Hills Homeless Center, Inc. Fee Waiver:** A resolution to waive the building permit fee and other developmental fees including impact fees for construction and remodeling of a shelter by Seven Hills Homeless Center, Inc.

   Passed and shall be recorded as Resolution No. 09-04.

5. **Community Development Block Grant Fee Waiver:** A Resolution to permanently waive the building permit fee and other developmental fees for homes to be constructed by Community Development Block Grants.

   Passed and shall be recorded as Resolution No. 10-04.

B. OLD BUSINESS:

1. **R-PZD 03-6.00; Benton Ridge, Long, LLC:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This ordinance was left on the first reading at the January 6, 2004 City Council meeting.***

   This ordinance was felt on the second reading at the January 20, 2004.

2. **R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This ordinance was left on the first reading at the January 6, 2004 City Council meeting.***

   This ordinance was felt on the second reading at the January 20, 2004.

3. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park. ***This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.***

   Tabled until first meeting in March 2, 2004 meeting.

C. NEW BUSINESS:

1. **WIV-Fayetteville Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with WIV-Fayetteville, LLC in an amount of $25,512.00 plus a contingency of $3,826.00 for a total of $29,338.00 for the construction of 350 feet of 8-inch water main.

   This ordinance was felt on the second reading at the January 20, 2004.

2. **Mount Sequoyah Woods Conservation Easement:** A resolution to reaffirm its commitment to sell most of its development rights to the Fayetteville Natural Heritage Committee on the 67 acres of Mount Sequoyah Woods purchased by the City of Fayetteville pursuant to Resolution No. 46-03.

   Tabled.

3. **Creation of an Ex Officio, Nonvoting Council Member:** A resolution to amend the Rules of Order and Procedure of the Fayetteville Mayor/City Council by adding Section J., creating an Ex Officio, nonvoting Council member designated to be filled

by the President of the Associated Student Government of the University of Arkansas.

Resolution was amended and failed.

4. **Two Full Time Meter Operations Positions:** A resolution to approve two full time equivalent positions in Meter Operations Division and budget adjustment in amount of $36,090.00 to pay for those employees.

   Passed and shall be recorded as Res. 11-04.

D. INFORMATIONAL:

Council Tour: January 19, 2004

Fayetteville City Council Meeting January 20, 2004 Adjourn 8:30 PM

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

Subject:					
Motion To:		Elect Bob Davis	as Vice	Mayor	
Motion By: Seconded:		Marr Jordan			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	Abstain			
	Mayor Coody				

✓

Subject:	Add Employees to Agenda				
Motion To:			Water & Sewer to replace Called to Service employees for one year		
Motion By: Seconded:		Cook Jordan			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Mayor Coody	Absent			

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

Res. 07-04 to 10-04

Fayetteville City Council Meeting January 20, 2004

Subject:	R - PZD 03 - 6.00 Benton Ridge				
Motion To:		2nd read			
Motion By: Seconded:		Jordan / Cook			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Mayor Coody				

Old Business #1

Left on the Second reading

Subject:	R-PZD-03-7:00 Brophy Condo's				
Motion To:		2nd read			
Motion By: Seconded:		Thiel / Jordan			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	absent during the vote.			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Mayor Coody				

Old Business #2

Left on the Second reading

Fayetteville City Council Meeting January 20, 2004

Subject:	Council on Aging, Lease Senior Center, Walker Park.			
Motion To:		To Table to first meeting in March.		
Motion By: Seconded:		Jordan / Marr		
Lucas	✓			
Jordan	✓			
Reynolds ✓	✓			
Thiel	✓			
Cook	✓			
Marr	✓			
Rhoads	✓			
Davis	✓			
Mayor Coody	—			

Old Business #3

Tabled until first meeting in March

Subject:	WIV - Fayetteville Cost-Share			
Motion To:		2nd read		
Motion By: Seconded:		Marr / Jordan		
Lucas	✓			
Jordan	✓			
Reynolds	✓			
Thiel	✓			
Cook	✓			
Marr	✓			
Rhoads	✓			
Davis	✓			
Mayor Coody	—			

#1 New Business

Left on the second reading

Fayetteville City Council Meeting January 20, 2004

Subject:	Mount Sequoyah Woods Conservation Easement			
Motion To:	Table			
Motion By: Seconded:	———			
Lucas	✓			
Jordan	✓			
Reynolds	✓			
Thiel	✓			
Cook	✓			
Marr	✓			
Rhoads	✓			
Davis	✓			
Mayor Coody	Absent			

#2 New Business Tabled

Subject:	Creation of an Ex Officio, Nonvoting Council Member.			
Motion To:	Amend resolution			
Motion By: Seconded:	Rhoads / Marr	Rhoads / Marr		
Lucas	Y	N		
Jordan	Y	N		
Reynolds	N	N		
Thiel	N	N		
Cook	N	N		
Marr	Y	N		
Rhoads	Y	Y		
Davis	Y	N		
Mayor Coody	—	—		

#3 New Business

Amend 5/3 passed

Resolution failed 1/7

Amend to Closer relation - temporary ad-hoc position for a period of one year.

Fayetteville City Council Meeting January 20, 2004

Subject:	Meter Operations Division Additional Staffing				
Motion To:					
Motion By: Seconded:		Reynolds / Marr			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Mayor Coody	—			

Passed

Res. 11-04

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

The State of the City, a preview

Mr. Vice Mayor and the members of the Council
Submitted by
Hugh Earnest

I appreciate the honor of providing you a brief summary of the state of this wonderful city. As you know, the Mayor is attending the National Conference of Mayors in our nation's capital. He has asked me to convey his regrets that he could not be present tonight. He will deliver in early February the state of this city. In the interim, he has asked that I cover some of the highlights of what has occurred in 2003. I will briefly summarize for you a small sample of events and actions which made last year memorable in many respects.

- First and foremost, we have completed a record year with respect to the issuance of residential building permits. As of December 31st, we had issued 750 residential building permits for new construction of 1870 Residential dwelling units with a stated valuation of $149,000,000. The growth which we have experienced for a decade continued unabated.

- The property held by the city on I-540 has been sold and we expect that the developer of record will move forward very aggressively to develop the property

- The Mayor and City Council completed an excellent Strategic Plan process which has been used very effectively by your staff in meeting stated objectives of the city.

- Master plans for trails and greenways and Traffic and Transportation were completed

- The city was identified by the Milken institute as one of the premier locations with respect to available jobs and Quality of Life. This along, with continual recognition of this Metropolitan Statistical Area as one of the fastest growing regions in the country has kept us and this area in the forefront of desirable places in which to locate.

- The city council authorized in late 2003 a Downtown Master Plan. The subsequent process which we have just completed demonstrated a high level of interest and support from our residents. The challenge that we now all face is how to begin to translate this work into concrete results.

- The 2004 budget just adopted by the city council shows a growth in expenditure of less than 2.5%. This was achieved in the face of continual pressure on staff arising from the continued high rate of growth and revenues not keeping pace. As an aside, I have long held that problems associated with growth are good ones to have and are far preferable to the alternative of a community or region in decline.

- In 2004, from a staff perspective, we look forward to a reaffirmation of the Strategic plan from the council. We collectively continue to welcome working in a dynamic and ever changing environment that is certainly not lacking in challenges.

I would defer any additional remarks to Mayor Coody and again wish to convey his regrets that he could not be here tonight.

Hugh Earnest

BEST OF
arkansasweb
AWARDS 2004

Best Government/Politics Site

City of Fayetteville

www.accessfayettville.org

With an *"almost overwhelming amount of information,"* Fayetteville's official city site provides citizens and visitors with every last resource for northwest Arkansas. Judges found the site *"very resourceful."* Highlights include quick links to employment opportunities, e-services, a local calendar and a city directory.

designed by IFWORLD INC

JENNIFER SAVARIO Northwest Arkansas Times

Fayetteville's Web site design team, from left, Shara Fisher, Scott Caldwell, Scott Huddleston and Lesa Brosch.

City of Fayetteville commended for Web site

BY CHARLIE MORASCH
Northwest Arkansas Times

City information indicated that nearly 1,000 people logged onto www. accessfayetteville. org Monday to find what many Fayetteville residents already know — the city's Web site includes volumes of information updated daily, is fast and is easy to navigate.

In Monday's edition of the Arkansas Technology business magazine, Fayetteville's Web site was rated the best government/politics Web site in the magazine's "Best of Arkansas Web Awards 2004," finishing ahead of Web sites such as the Arkansas state Web site.

"With an almost overwhelming amount of information, Fayetteville's official city site provides citizens and visitors with every last resource for Northwest Arkansas," the magazine reads.

The magazine also praised the updated information it makes available.

"It's obviously very useful, the way they organized it," said Brent Birch, chief information officer for the Arkansas Business Publishing Group, which owns Arkansas Technology. "A lot of resource-heavy sites are poorly organized and poorly designed. They've kind of broken that trend and done a nice job."

In changing the city's Web site over the past 20 months, city officials said they have focused on adding large amounts of content, including listings of employment openings, and information about parks, recreation and trails and greenways.

Simple items such as City Council agendas, contract bids and other items now can easily be placed online and accessed by residents.

A lot of resource-heavy sites are poorly organized and poorly designed. They've kind of broken that trend and done a nice job.

— Brent Birch, chief information officer for the Arkansas Business Publishing Group

"The information is thousands of times, thousands of times greater than it used to be," said Scott Huddleston, a city employee.

Before 2002, a single Web administrator had to update all changes and additions to the site by programming the material.

Shara Fisher, sales manager with the Fayetteville Web design firm IFWORLD, said her company began overhauling the city's Web site in March 2002.

IFWORLD provided a content management system, allowing city department managers to add and remove content from their portion of the site without having to program the information in word by word.

"The site needed a new look," Fisher said. "It needed to be easy to update and very easy for either the experienced or non-experienced user to find info that the city puts out."

The content management system also is cheaper than hiring one or two Web masters to manage the content.

"They have people in their jobs responsible for taking care of their section," Fisher said. "Normally it would take two full-time people constantly updating the site."

Computer users are routinely logging online and connecting to the city's site and spending time there, city data suggests.

In November, nearly 29,000 visitors logged onto the Web site, with the average visit lasting more than 20 minutes.

"That's great," Fisher said. "To keep someone on a Web site that long is wonderful. It shows they actually have information out their that people understand, and can get to."

The first major changes in the site's appearance were unveiled in November 2002, with the incorporation of a new logo, and later in May 2003, when online water payments were introduced. Fisher said the company continues to work with the city to adjust the Web site as needs and technologies change.

Birch said that the Arkansas Business Publishing Group began asking for "best of" nominations from readers last year, and also included Web sites that staff members felt were overlooked in the nomination process.

A panel of judges from various business and information fields then judged the sites, Birch said.

Mayor Dan Coody said he appreciated the recognition the city's Web site has received.

"This award demonstrates the success of our effort to provide as much information as possible about the public's business and to make interaction with city government convenient and effective," Coody said.

Final Agenda
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January 20, 2004

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Election of Vice Mayor

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the December 30, 2003 and the January 6, 2004 meeting minutes.

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D. INFORMATIONAL:

Council Tour: January 19, 2004

Special City Council Meeting
Public Hearing
Meeting Minutes
December 30, 2003

A Special Meeting of the Fayetteville City Council and Public Hearing was held on December 30, 2003 at 4:30 p.m. in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

ABSENT: Alderman Davis

Mayor Coody called the Special Council Meeting to order and opened the Public Hearing.

CONSENT:

OLD BUSINESS:

A Public Hearing concerning the adjustment of Sewer Rates

Amend § 51.137 Monthly Sewer Rates: An ordinance amending § 51.137 of the Code of Fayetteville, to adjust sewer rates.
This Ordinance was left on the first reading at the December 16, 2003 City Council meeting.

Mayor Coody: All right, I would like to welcome everyone to a Public Hearing for the Soil and Water Commission. I want to open this meeting right now, and I want to, Kit, did you want to say something?

Kit Williams: Well, this is of course a City Council Meeting, too. We're having a Public Hearing on the Sewer Rate Ordinance, but I need to probably read it for the second time, let me go ahead and do that. You want to call roll? Go ahead. The Clerk wants to call roll.

Mayor Coody: So I guess this is a Special City Council Meeting?

Kit Williams: Yes it is.

Mayor Coody: OK, so we're going to convene the Special City Council Meeting. We don't do very many Public Hearings, convene this Special City Council Meeting and would you please call roll?

Sondra Smith: Roll Call

Mayor Coody: Kit, would you please read the ordinance?

Kit Williams: Yes, I'll put this on the second reading.

An Ordinance Amending Section 51.137 of the Code of Fayetteville to Adjust Sewer Rates. Be it ordained by the City Council of the City of Fayetteville, Arkansas, Section I, that Section 51.137 of the Code of Fayetteville is hereby repealed and Exhibit A, attached hereto and made a part hereof, is inserted in its stead.

I should note for the record, Mayor, the rates have been published on December 19th in the local paper and I think we have an affidavit to that effect, so we're now ready for the hearing. I think Steve Davis wanted to make a statement at the start. Oh, okay, I guess you're handling it, Mayor.

Mayor Coody: All right, what we're going to do in the style of a true Public Hearing is we're going to open it up to public comment and let everybody speak their peace and then we'll close it to public comment and have Council discussion at that point, so right now we'd like to open this to public comment. I would ask everybody to please be civil and to be as concise and short-winded as possible. We will be sending a transcript to Little Rock to the Soil and Water Commission, so I ask your indulgence.

Geary Lowery: Good afternoon, Mayor and City Council, my name is Geary Lowery, a citizen of the City of Fayetteville. I have a prepared statement that I'm going to read but before I read that, I would like to ask a few questions of this body and of certain City Council members. If I recollect, back in 2001, we had several meetings pertaining to the sewer rates as the citizens were going to be charged and if I recall we also had concerns about the impact on senior citizens, people with fixed income, and single-parent families. My first question that I'll direct to Alderman Reynolds....

Kit Williams: Aldermen, Mayor, I know our rules of procedure do not allow the Council Members to be questioned. He can impose a question or ask you....

Mayor Coody: Then I direct the question; they always are addressed to the Chair.

Kit Williams: Yeah, the questions all need to be directed to the chair and then you can hold them till the end or do whatever you want to at that point, but all the questions need to be directed to the Chair.

Geary Lowery: You're afraid of the answers?

Mayor Coody: According to Mr. Davis, we have, since this is a Public Hearing with actual rules and procedures that are different than regular City Council meetings, we will take public comment and we'll listen to questions and then we have a week to ten days to respond to the questions, is that right?

Steve Davis: The staff would appreciate a week to ten days to draft a response.

Kit Williams: If needed.

Mayor Coody: If needed.

Geary Lowery: Then who's....

Mayor Coody: Why don't you go ahead and ask your questions....

Geary Lowery: Here's the question then, at that point in 2001, Alderman Reynolds and Alderman Jordan were two members of the Water and Sewer Committee, along with the chairman, who at that time was Alderman Trent Trumbo, and Cyrus Young, at that time it was agreed upon that there would be a certain percentage rate that would be given to the citizens for the sewer rate charges, period. Now my question is this: Does these aldermen recall that amount, point one, point two was how was it going to be taken care of as far as the percentage were, because there were several discussions on the percentage rates and how they would be adjudicated and point three is, was it not determined then that that committee would go ahead and propose to the City Council entirely, and the Mayor, a certain rate? Now that's the questions I have for that. Secondly, I have a point of order whereby the City of Fayetteville is required under §51.137(4)(b): "the City shall notify each user at least annually in conjunction with a regular bill of the rates being charged for the operation, maintenance and replacement of the treatment works." I've asked a lot of my neighbors, I've asked a couple of Councilmen here, sitting here today, and I've asked some people from the media have they ever recalled receiving a notice with their sewer and water bill that notifies them of the current charges for operation, maintenance and what replacement of treatment works was going to be necessary and the fees thereof, all of them said no. My question is why haven't we received this? I know for at least three years I have not received anything like this. The only thing that I have received is a report on our water treatment facilities and the quality of our water, period. By law you're supposed to notify the people of this. I have not and most of the people that I have talked to have not also. When we were discussing this issue, it was stated that we were going to be increasing our sewer rates, period, period, not sewer fees, not sewer charges, nothing else, just sewer rates. Then comes along the Mayor and his staff and decides that it's going to be sewer charges, sewer rates, sewer fees, and anything else connected therein. I don't think that's fair, I don't think that's equitable, and I don't think that's honest, because the citizens were only told about sewer rate changes, not sewer fees and not sewer charges. Now, to finish up, my statement is thus: in the summer of 2001 this Mayor and several members of this City Council came before the citizens stating there was a need for us to upgrade our present sewer plant, replace sewer lines, and build a new sewer plant on the west side to accommodate our growing City. The cost of all of this would require an increase in sewer rates of 134%. That got our attention, we, the people of Fayetteville. "There is another way," the Mayor says, and the City Council chimed in, if you will vote for a ¾% sales tax increase which will be used toward the sewer upgrading, we promise that your sewer rates will only be increased 27% and there will be no other costs to you. That ¾ cent sales tax and the 27% increase in sewer rates will cover all the costs of improving the sewer system as we have outlined." Of course, the citizens felt this was a good bargain and overwhelmingly supported the Mayor and City Council by voting this item in. The contract was then made between the citizens and the City, and it was simple, clear in terms. The citizens voted for the ¾ cent sales tax increase and the Council would not vote in more than a total of 27% increase in sewer rates that would cover the total cost of implementing the sewer improvements. Part of the negotiations documented was hitting the citizenship with a whole 27% increase at one time. Alderman Trent Trumbo, who was Chair of the Water and Sewer Committee at the time, along with Aldermen Reynolds, Young, Davis, Jordan, and Zurcher were concerned about increasing the rates all at once, for fear the citizens on fixed income, seniors, and single-parent families would be hard-put to handle a big hit like this on their sewer bill all at once. The consensus of the Committee, however, in agreeing, excuse me, let me go back here. So it was agreed as part of the contract that the 27% increase would be strung out over three years. The consensus of the Committee, however, in agreeing to this was that no matter how it was divided between the three years, the total in the end would not be more than 27% increase. Also, nowhere in these negotiations with the citizens was there a mention of increasing the sewer service charge, and nowhere was it agreed by the parties that the cost of these improvements would include a 29.5% increase in the sewer service charge, the service charge along with the increase in sewer rates. In fact, the citizens were assured that the 27% increase in sewer rates and the ¾ cent sales tax increase would be more than sufficient to handle all the costs of the improvements, and no other cost burden would be required of the citizens of this project. The citizens have honored their part of the contract, but it seems the City is now trying to hedge on their part of the contract. The bill they introduced at the City Council Meeting last month passed called for a 29.5% total increase in the sewer rates and a 29.5% increase in the sewer service charges. The vote last month was only supposed to formalize the 27% agreed to increase and the form the increase was to take over the three-year period, but whatever form it took, the final increase at the end of the three years was to be more than 27%. This oral contract with the citizens is actually quite well documented, with minutes and tapings of the City Council meetings, interviews and newspaper articles, and if the City does not rectify the inconsistencies in this bill passed last month when they vote tonight, I believe they will be in breach of contract and the citizens of Fayetteville should come together and file a class action lawsuit to force the City to abide by the terms of the contract that they've made with the people and have the court enforce the terms as they were set out in 2001. So in closing, I ask you to weigh all the issues, all the promises, the terms of the contract, and the bond you made with the citizens before you vote on this matter. I, for one, would hate to see this body disgrace the name of our former and present aldermen, who believe so much in the people and are trying, were trying to do the right thing. Before you do this, as my grandpa used to say, a person is only as good as their word, if their word ain't no good, neither is the person. Thank you for your time.

Mayor Coody: Thank you for your comments. Who else would like to address us tonight?

Heather Woodruff Dumas: Good evening.

Mayor Coody: How are you?

Heather Woodruff Dumas: I'm just fine. I'm walking with both feet now.

Mayor Coody: Very good.

Heather Woodruff Dumas: Heather Woodruff Dumas. I'm here to speak on behalf of John Harris, our mayor; he's out of town today and was not able to be with us. We have three points that we'd like to make, and I understand that this record is going down to the Soil Service, so I would like you to be sure to get all of our points. There are three major points, number 1; we disagree with the methodology used by Black & Veatch. We don't believe that Black & Veatch understood our contractual agreement. We don't believe Black & Veatch understood how the

City of Farmington would be using your facility in the future; therefore, we don't believe they calculated our rates correctly. The second point we'd like to make: we disagree with the rate of return and how it was calculated. We don't even agree that a rate of return is even allowed by the contract that we currently have. The third point is that we do not believe the City of Fayetteville has currently lived up to their contractual agreements to date. Those are the three major points that we would like to make and have on record, and in conclusion we ask one thing from Fayetteville aldermen, that you honor your promises from the last City Council; that you would meet with us and discuss our current rates. We have sent letters, phone conversations, and meetings with staff and have received no response. We have been totally ignored by this administration. We would like to meet with the City of Fayetteville, discuss our current rates, and have the opportunity to do so. We would like to be placed on your agenda for the City Council to determine if and when the City of Farmington can enter into mediation with Fayetteville. That is all I have to say.

Mayor Coody: Thank you. Thank you for your comments. Who else would like to address us tonight? How are you?

Teresa Clark: Teresa Clark, City of Farmington. I just want to repeat a little bit of what Heather just said. I went back and reviewed December 2nd meeting, sat just today with my videotape and watched the promises that were made for the open-door policy that you commented on or the statements if we go ahead and pass this it will force Farmington to come to the table. We're beating on the door, we're standing out there trying to get in, trying to sit down, and trying to make some sense of this, and we're getting nothing back, and then I read in the paper where you're not really showing an interest in mediation and I want to know what your intention is, Mayor. I came to you once and said, will Farmington have a voice in this and you said, yes. Then you said, my door is always open and then we said, we'll pass it and we'll come to table and we'll talk about it and we'll try to find a better solution. Now we're beating on the door? What is your intention? What are you going to do, are you going to, are you going to honor that, are you going to meet with us?

Mayor Coody: This is a hearing, this is for us to listen and not respond right now. I think we've made that pretty clear.

Teresa Clark: I thought I could direct my questions to you.

Mayor Coody: You can direct your questions, but I'm not, we'll have time to formulate answers to send to you later on.

Teresa Clark: OK.

Mayor Coody: And as the meeting closes, we'll be able to discuss this a little bit.

Teresa Clark: All right. We have some pretty valid points. Black & Veatch pointed out very clearly, very clearly, cost of service is the same for everybody. What we are being charged and what her exact quote is on that tape is the difference we're talking about is the return on investment, words that do not exist in our contract that I'm told by your attorney are implied, assumed by people in the past. Maybe they were; maybe they weren't. I don't know, but I've never been held to a contract that was assumed before. I've never been held to wording in a contract where someone said, that's what I meant to say or what I mean to charge you. The wording isn't there and that's the difference we're talking about, and although she said to you that you deserve a return on your investment, I don't doubt that for a second. What you deserve and what's in that contract are two entirely different things and the amount you deserve and the way it's calculated, that should be negotiated by somebody, it shouldn't just be decided. We shouldn't be paying a return on your entire $120 million investment. Maybe we should pay your return on investment for the portion of it that we use. None of this has been talked about and so we have very, very valid reasons to be concerned and to be upset and want to sit down at the table and discuss it with you. If it makes you feel any better, I wasn't even one of the ones included in the mediation plans for the next time. You won't have to see me again, but someone does need to sit there. Somebody needs to say what does this mean, where did it come from, how was it calculated and how do we get to charge you return on investment that's not even mentioned in your contract and I think that's very valid. I ask you to consider that and please respond to us.

Mayor Coody: Thank you for your comments. Anyone else like to address us? How are you tonight, Ernie?

Ernie Penn: Just fine. I'm Ernie Penn. I'm a citizen of Farmington, former mayor, and I'm representing the Farmington Chamber of Commerce tonight as a board member. I just wanted to share with you a comment that I made at the last meeting was that I think it's very important for Farmington and Fayetteville to be good neighbors and to do what's right. Mayor Harris has asked me to serve or be, actually be the chairperson of a mediation team that at such time when the City of Fayetteville and the City of Farmington goes to mediation that we can discuss these issues and get some of these things resolved. I think one of the things we ought to consider or one of the things I'd definitely consider is the economic impact it's going to have on our citizens in Farmington. We have several elderly people who live in our town, we also have a lot of single family income people, and if our rates increase 131%, it's definitely going to impact everyone there. It's going to impact myself along with everyone in our town and I think it's very important that the representation that we as public servants give to our citizens, I mean, we could sit back and say, oh well, we don't have any choice. Yes, we do have a choice. We're going to go out there and we're going to do what's right for our city, and we're going to do what's right for our citizens. The only thing I ask of you is to do what's right for your citizens and to do what's right for us and we are partners in this entity. We share in the same common goals, and just like Alderman Teresa just said was that Fayetteville probably does deserve a rate of return. I disagree on the methodology of how that rate of return is being calculated. When you're a 4½% user of the whole system, but yet we're being charged a fee, a rate of return on a $125 million investment, and we're only using 4½% of that investment, it's a little bit hard for me to swallow that. That's just one of the issues that I think we can come together as common people, sit down at a table and discuss. We have our experts, but the definition of an expert is someone who lives 50 miles away from your home city. I'm just going to say I appreciate the opportunity to be here today. I hope you all make some good decisions. I hope that we can come together and either meet in a mediation format or in some other format and discuss this issue and make some good decisions for both of our citizens. Thank you.

Mayor Coody: Thank you, Ernie. Anyone else like to address us tonight? Going once, going twice, I'm going to close it to public comment. So I'm going to conclude the public part of this hearing. I do want to point out a couple of things to which there won't be any, this is now just a meeting among Council people. On a couple of points, this news article that was reprinted from the *Times*, Friday, September 7, 2001, the first two sentences say, "even if Fayetteville voters pass a ¾% sales tax to pay for wastewater treatment improvements including construction of a new sewage treatment plant, rates will still be increased by 29% and phased-in over time beginning in 2004, that news came Thursday at a meeting of the City's Water and Sewer Committee", this is September of '01. When it comes to the open door that we haven't come to, this letter from Farmington says, "I hope you will consider this proposal over the holidays", so we do plan on responding to Farmington, but we are using the timetable that you asked us to consider, so we, the holidays aren't over yet, so as soon as they are we'll get down to brass tacks, but we are thinking about this, so we haven't ignored you. For the 131% increase for Farmington, our wastewater paperwork that we have from '01 basically goes into the pros and cons, this was printed up even before we passed the tax; we were discussing how to pay for the system. The impact on typical bills of payment options, we go from current rates to the ¾, rates what they would be with the ¾ cent sales tax. Both, all these rates are 29.3% increase in rates plus the fact it lets folks know in Fayetteville that if we have to rely on rate increases, it would be 134.34% rate hike for Fayetteville citizens, yet Farmington's getting a 131% increase; that's less than what we would have expected to see ourselves or roughly the same, so basically we passed the tax to keep from having to pay this, so this 134 and a third percent increase has been a real number for a long, long time, and everybody in the system has had an opportunity to review all this information for years. We do want to be good neighbors with Farmington, there's no doubt about that. The rate of return was 8% up until this last go-round with Black & Veatch; it was reduced from 8% down to 6% rate of return. We talked, when I met with the Mayor of Farmington a while back, we talked about reducing that even further for a short term if Farmington would ante up with the same sales tax and impact fees that Fayetteville has produced for itself, if Farmington would do that, we could look at a shorter term rate of return which would allow us to have a lower rate of return than 6%. We discussed some particulars there, but it was not received very well, so we, this is where we are, and after the holidays are over we'll get, we'll be back in communication. We want to let you know that we do consider you good neighbors and I'm sorry that we're having these bad feelings, but when all the facts are weighed, if we didn't pass the ¾ cent sales tax, Fayetteville rate payers would be paying exactly the same increase that Farmington is paying and that was advertised very, very, very well, so this shouldn't be a surprise to anybody. All right, is there any other business that we have on the hearing on this?

Kit Williams: Well, we'll need to go to a third and final reading and pass the ordinance, once the City Council is ready for that.

Mayor Coody: So does somebody want to make a motion and suspend the rules and go to the third and final reading? I'm going to ask for no comments from the audience please.

Alderman Cook: Is there a rate of return in the contract?

Kit Williams: Rate of return language, saying rate of return is not found within the contract. However, the contract included a rate of return when it was passed and signed by Farmington, because their rates were higher than our rates at the time, and the only difference was basically the rate of return. The cost of service must include the cost of new capacity that's required. I mean, if you're, you can tell any businessman, I only want to pay this, I don't want to pay for your new plant that's going to have to be built. That's not your cost of service, if you're going to serve customers, whether they be in Fayetteville or anywhere else, new plants have to be paid for. Taxpayers in Fayetteville are paying for a lot of that through sales tax, some of it through sewer rate increase too. The citizens in other cities have to pay their share, and their share is figured in this rate of return for the cost that the Fayetteville taxpayers are doing in investing in new plant and equipment, so, this is a, it's not just presumed in the contract, but there are certain accepted legal doctrines, course of dealings, usage of trade. What do you do in the industry? What's understood when two entities contract with each other? Well, what's understood is the whole context of what they're contracting in. This is a sewer capacity, a sewer rate sort of ordinance. We had the experts who do this kind of rate studies from all over the country come in and tell you that that's a component of every sewer rate when you're dealing with two customers out there. I think I would go with the experts who say, yes, rate of return is included. I would also just look back at the original contract which impliedly had it because there were two different rates there. The contract possibly could have looked, stated it even more clearly, but I don't think the contract needed to do it because I think everybody understood at that time, back when it was done again in 1997 when rates were raised back then, their rates were higher than they are now. No one threw up big hands and said, oh, it's not in there, someone better sue Fayetteville, that wasn't the case; it was accepted because that is the standard way of doing business throughout the United States.

Mayor Coody: Any other questions?

Alderman Marr: I've got a couple of questions. Mr. Lowery who spoke about the oral contract or the commitment made to the citizens of Fayetteville at the time that the ballot initiative was written, could we get a legal opinion or an understanding of what, if any, requirements were there on what the number would be? Did we have the flexibility to do something that we're talking about doing, or was it limited to a lower number?

Kit Williams: Number one, of course as the news report back from 2001 stated, it was at 29-point-something percent then before the election, and that was some of the numbers given out before the election, but even if it wasn't, even if the number had been 27, obviously you're making your best estimates. Our experts are making their best estimates of what is it going to cost in the future to run the entire sewer disposal system, sometimes things change. We can no longer put our effluent on our hayfield any more, where we used to be able to dispose of it. We had to buy some drying apparatus in order to truck effluent and put it into a landfill now. Those are additional expenses that are not always anticipated on the front end, so the rate studies that are done, they try to figure out everything, but sometimes they can't be exactly correct. I would say between 27 and 29% is not a big variance, but I think even then, back then in 2001, it was stated it was going to be 29%. Another thing I might bring to your attention is back in '97 when I was sitting where you all did, we raised the sewer rates and we were told they would be good through 2000. Well, they haven't been raised now, until next year, 2004. We're not being sued because we didn't raise the rates in 2000 like we thought we were going to have to. You make your best estimates, and if you overshoot the mark and you have enough resources, well then you don't have to raise them, if you don't estimate everything in, then you sometimes have to raise them a little bit higher than what you originally anticipated. There's not this kind of firm, promise and contract, basically what the City Council has to do is raise enough money from some source or sources to run the sewer plant and pay the bonds, that is your responsibility, and how you exactly get there, part of it was the citizens who voted the sales tax. They helped you keep the rates down, but the rest of it is up to you and how you get there.

Alderman Marr: What about the charges for items other than just the sewer rate, the service fees, I mean, would the same argument apply?

Kit Williams: Well, I guess two arguments would apply on that. Number one, I think when most people say "sewer rates," they're thinking about their sewer bill, that's what I'm thinking of when I look at a sewer bill, but regardless, you have to find the money from somewhere. If you're saying, we're not going to increase the charges any, then all the money that would have been garnered from increasing the charges, must be gotten from somewhere else, which means the rates are going to have to go up higher. My understanding when I heard the election is that your sewer bills are going to go up 134% or 29%, if you add the tax, now maybe other people understood things differently, and that's your interpretation and what you think.

Alderman Marr: I'm asking that question based on the fact of what is our legal risk, as I say, if any, that we were taking, if we do 29 ½ and it's on all of it versus sewer rates?

Kit Williams: I think our legal risk is virtually nil, now it doesn't mean that we cannot be sued, because you can get sued for the cow jumping over the moon, but I think any court's going to understand that the discretion on this sort of decision must lie with the City Council and if the City Council hasn't acted arbitrarily and capriciously in making this legislative decision, then you're going to be sustained.

Mayor Coody: One thing I might add is that this chart down here which we all, we passed out a million of these things, and this headline says, "Impact on typical bills of payment options 29.3%"

Alderman Marr: Does that have service fees in it as well?

Mayor Coody: Typical bills. So when I say typical bill, I open it up in the envelope and look at it that to me is a typical bill, so this wasn't broken down into, well your bill equals all these different things. It just says typical bill. That's just from that perspective, I don't know. Yes, ma'am.

Alderman Marr: I just have, but I'm changing, the last question I had is several people commented about mediation, and yet I've not seen anything to that, and I'm just wondering if you can update us on what are they talking about and where did that come about?

Mayor Coody: Kit? Does the contract say that....

Kit Williams: Well, no, you could certainly, the contract only calls for arbitration in one circumstance not relevant to the particular rates we're talking about. Mediation is something that would be simply if this body and Farmington wanted to attempt to mediate, you certainly can do that; it's within your power. Nothing in the contract says you shall do it. It's just, nothing in the contract even mentions mediation in relation to sewer rates, so that's just totally whether this body wishes to enter into some sort of mediation with a body from Farmington.

Alderman Rhoads: Is it this body, or is it the administration that would make that decision?

Kit Williams: Well, the, well, this body would have to be the one that would pass on any results or any agreements or anything else, because for one thing, if you're going to reduce someone's rate, if you mediate, you get to a point where Farmington's rates are being reduced, then you're going to have to determine where you are going to increase the rates. Who are you going to increase them on in order to make up the deficit in order to run your system? So that would be this body having to make that final decision.

Alderman Marr: But at the last meeting, where we actually approved this the first time....

Kit Williams: Yes

Alderman Marr: We talked about having discussions with each other and we thought that passing the rates, I remember making the statement that I thought passing the rates might gain movement or at least further discussion. I don't remember actual discussions about mediation and things of that nature, so it wasn't a result of that meeting. That's something that you all are doing outside of our meeting, is that right?

Mayor Coody: Yeah, how I recall that, of course my memory is just like everybody else's, how I recall that statement is that if we passed the rates that night it would make Farmington more, increase the sense of urgency to see what they could do to do what it would take to match Fayetteville's rates. We were talking that evening, as one of the Aldermen said, ¾ cent sales tax, impact fees, if they'd pass those, would those make the fees more commensurate with Fayetteville's? We said yes, and the question was asked if Farmington did those things would we be open to renegotiate these numbers, and my response was absolutely, so we've, but I don't know there's been any movement in Farmington on those two subjects. There may have been; there may not have been. I don't know. Brenda, did you have something to ask?

Alderman Thiel: Yeah, I just wanted to go over, because of some of the questions that Geary had, Geary Lowery had, about the service charges. That they are also going up and you've pointed out that it was just basically the bill would go up 29%. What exactly are the service charges for?

Kit Williams: Well you probably need to ask our Water and Sewer Director.

Alderman Thiel: No one services, we don't have a, you don't go out and check a meter on sewer, so I'd just like to know why that, what that goes for, and why that was increased 29%?

Mayor Coody: Steve, do you have an answer for that?

Kit Williams: Why don't you come up here where you can....

Steve Davis: The sewer service charge is primarily to cover fixed costs of the system that's not volume-related, things like I & I, inflow and infiltration is an element that goes into the service charge. A portion of the meter and backflow operation is allocated to the service charge cost category. It's more cost associated with a customer. The maintenance folks are more, their costs are more allocated toward, based on the gallons of flow, but in the business office in the meter function, it doesn't matter how many gallons flow through, it takes the same amount of effort to provide service for that customer and while there is no meter to go out and monitor, there is all of the conversations and the data that has to be maintained on each customer. The calculation of the sewer averages is a good example.

Alderman Thiel: And that's gone up?

Steve Davis: Yes.

Alderman Thiel: Why?

Steve Davis: It's part of, if your volume, I can't really explain why it's all gone up, but it is all part of the system, because the 29.3 or 29.5% number that was originally discussed in 2001 was a revenue need for the sewer system, and it was not intended to be, as I recall it, it was not intended to be class-specific, that for instance the industrial group or the residential group should have expected a 29% increase or 29½. It was that based on the cost, the new system, operating costs for the wastewater plant coming online, another $4.2 million, when you factor in the additional operating costs of that new plant of $4.2 million and the debt service coverage requirement of, I think it's 1.15 or 1.25 of debt service, you add those two numbers together. It said that we needed to increase our sewer fees from roughly $10 million a year to $14 million a year, which is how rates are derived, and then they further break them out into fixed costs and volume-related costs, and the service charge is related to the fixed cost.

Alderman Reynolds: Mayor, I just, I want to stand up a little bit, I guess, for Geary Lowery. He quoted it just like we did it, because when we first talked about it in the Water and Sewer Committee, they wanted to go up like 13% the first year, and we sat and discussed it and we talked about laying it over three years, and we said we'd do it 9% a year for 27%, and where this other 2½% come from, I don't remember it ever coming through the Water and Sewer Committee for the sewer fee, so it was 27. It was the agreement between the Water and Sewer Committee members, and Lioneld was at that meeting, we made it three nights, but the 2½, I don't remember that ever coming through the Water and Sewer Committee. I don't know if it was done at staff level or where that comes into play, but it wasn't approved through that committee, our committee.

Mayor Coody: Now if you increase something 9% and then you increase it the next year at 9%, and the next year at 9%, those increases accumulated don't add up to 27%; you realize that, don't you?

Alderman Reynolds: You're talking about a 2½% service fee increase that we never talked about at the Water and Sewer meetings.

Mayor Coody: Well, I wasn't at those meetings so I don't know.

Alderman Jordan: Well, I was, the only thing I can remember is that we got into a long, lengthy discussion about low-income and fixed-income people. Wait a minute, Steve. I think Steve presented it that night, you presented what we needed to do and we talked to you and you said, no, we think it would be better to string it out over three years.

Steve Davis: The original proposal as I remember it was a flat was a 29½% increase one time, and then the discussion on the committee level was that's too much of a burden to place on anybody.

Alderman Jordan: That's what I recall, now the exact figure, whether it was 27 or 29, I cannot remember, honestly, I'll just be honest with you, I can't, I just don't remember that, but I remember that we was talking about three nines, or we might have talked about nine-point-something to bring it to 29. I don't know.

Mayor Coody: A 9% increase and then the next year you have a 9% increase that increases that first 9%.

Alderman Jordan: Because it comps. it.

Mayor Coody: And then the third 9% compounds the first two 9%'s, so 27, if you just add 9, 9, 9 you get 27, but if they compound, it turns it to 29.4869 pi somewhere out there.

Alderman Jordan: That may be what we're dealing with, I don't know.

Steve Davis: That's what we're dealing with.

Alderman Jordan: I'm being honest with you, I just don't know, I just remember that we talked about the three nines.

Alderman Reynolds: So is that compounded fee, is that what you're calling a service fee?

Steve Davis: Well it's a part of the total system revenue requirement, is 29½% and we get there by, some of it is allocated to volume, some of it is allocated to the customer service charge and it's, the system has to have 29½% more revenue to operate and meet the bond indenture requirements, and it really doesn't make any difference from the utility standpoint whether it comes out of the volume charge or the customer service charge. It's either a variable charge based on the number of gallons that flow through, or it's a part of the fixed charge.

Alderman Reynolds: So is it going to be 29½ plus 2½% service fee?

Steve Davis: No, sir.

Alderman Thiel: Now the service charge has gone up 9%.

Steve Davis: The service charge has gone up the same.

Alderman Thiel: It's gone up 9% and the usage rate's gone up 9%, they've both gone up 9%.

Steve Davis: That's correct, they're done in tandem.

Mayor Coody: Your bill is going to go up 9% per year for three years. Your bill will be increased 29½% over three years.

Alderman Jordan: That's the way I kind of remember this all coming down, but again I'm not going ....

Mayor Coody: When was the last time we had a sewer rate increase?

Kit Williams: It was '87 I think,'97, Ninety-seven, sorry.

Steve Davis: '97

Mayor Coody: So '97, '98, '99, 2000,

Steve Davis: It's been six years.

Mayor Coody: 2001, two, three, four, basically six, seven years, what's inflation, if you accumulate inflation over the last seven years, what does that number look like?

Steve Davis: It's going to be, I don't know.

Mayor Coody: Yeah, all right, even if we, we've aren't even keeping, if we're losing with inflation every year, this 29½%, a lot of that's going to be just keeping up with inflation, as we all know, inflation does happen. People with a fixed income, if they make a hundred bucks a month for the next hundred years, that hundred bucks isn't going to look very good ten or fifteen years out down the road, so inflation eats at a fixed number, so we can't keep fixing a system, fixing a 2004 system on 1997 dollars.

Steve Davis: I can go back and look at my records on the, from the Water and Sewer Committee meetings that have happened from 2001 forward and give the City Council a report on what my records indicate.

Alderman Jordan: I would appreciate that.

Kit Williams: Of course, we have a report from the newspaper at that time reporting on that meeting.

Steve Davis: That is correct.

Mayor Coody: Does everybody want copies of this stuff that I have? I'd be glad to make copies, no, OK.

Alderman Thiel: Apparently there were different newspaper reports. Some say....

Mayor Coody: This is, Adam brought this to my attention, I didn't even, wouldn't even have thought to go back to the newspaper reports, but he said that he remembered seeing that, and I asked him to send me a copy of it, so I just got this when, this morning, I guess. It says, "Water and Sewer Committee talked about the 29% increase phased in over time beginning in 2004," which is exactly where we are.

Alderman Marr: And what day was that?

Mayor Coody: September the 7^{th}, 2001 and this was before, when was the election? Do you remember?

Steve Davis: It was in November.

Geary Lowery: November 6, 2001.

Mayor Coody: So the election was after this was talked about.

Kit Williams: But right after, within a couple months you have the election.

Mayor Coody: So everybody knew before the election what the numbers were and how it was going to play out and it's playing, I'm going to remove the person speaking if they violate that one more time, but two months before the election everything was spelled out and it's unfolding just exactly like it was described in September of 2001. All right, any other questions or comments?

Kit Williams: I have one other comment, not about this, but I did talk with Greg Betcher who contacted the Soil and Water people, they did give us an extension, so there's no concern or danger to the City, however I would request that you go ahead and pass this ordinance tonight so that time can start running for the ordinance to be effected.

Mayor Coody: All right, so we would entertain a motion to suspend the rules to go to the third and final reading. Is there a motion? So we're going to leave this on the second reading? How will this affect the Soil and Water Commission and our $120 million ....

Kit Williams: Well, it'll just kick it back a week, because we have another meeting of course in a week from now, I'd like to get it passed tonight, but if the City Council doesn't want to pass it tonight, they certainly don't have to. They don't ever have to pass it.

Alderman Thiel: Mayor, I guess my only reason to hold off a little bit is because the staff has said that they would respond to questions proposed by people, there has been a public comment period and public question period and I guess we'd all kind of like to wait and see what those responses are to make sure....

Mayor Coody: You realize, this is the same thing we passed once.

Alderman Thiel: Yes, Mayor, I realize that.

Mayor Coody: OK, just checking.

Kit Williams: What questions do you want response for, because I think that we....

Alderman Thiel: Well, I mean, it seems kind of, I mean, I guess I don't understand the statement to the public, then, that was made. That we'd respond, that the staff would be given up to a week to respond.

Kit Williams: That was said if necessary and I think staff has pretty much responded to it, but if you have some question, if one of those questions you feel like was not properly responded to.

Alderman Marr: I feel like that, I mean at least the questions that; I don't think that the questions from Farmington were questions as much as they were statements. That they disagreed with the methodology, didn't understand how, doesn't believe our consultant understands how they use the system; they disagreed with the rate of return and whether the contract even allowed for it. They disagreed with the City of Fayetteville living up to its terms of the agreement of the contract and I guess the only request I heard is they'd like to be placed on the City Council agenda regarding mediation. So I don't know, I mean, I'm sitting here going, we did do this and when Mr. Lowery called me, as I'm sure he called the rest of you, the things that I was concerned about is was there promise in the voting of 27 versus 29. I think we've, I'm relying on you and the information you provided in that it's accurate so that that answers that question and I think our other question is do we have legal risk? I heard that basically we can't, we can't keep from being sued, but our risk is very low in terms of the risk to the citizenry.

Alderman Marr: I'm actually going to move that we suspend the rules and go to the third reading. Alderman Cook seconded the motion.

Mayor Coody: We have a motion to suspend the rules and a second to go to the third and final reading.

Alderman Marr: Can I make a statement though?

Mayor Coody: Yes.

Alderman Marr: I really do think that at the last meeting that there was strong consensus on the Council to have discussion with Farmington, since we had passed it and to see if there were alternatives that should be put in place and I sure would like to see that happen. The only thing that concerns me, a piece of new information that we heard today is that if we mediate something different, then it requires a change and a charge to something else of which is why I was hesitant to move this forward. Because if we do something there that has an impact on another rate customer, then I don't think we ought to be passing something and then a month later coming back changing it, if we think that's going to happen, if our adjustments are going to be related to, we're going offset their charges by money that they choose to implement an impact fee or they choose to do a sales tax and so we use that revenue in replacement so we don't have to affect another rate customer, then I'm OK moving forward.

Kit Williams: The only way it'd affect a rate customer is if there was a change in the rate of return figure, now if they're making up the money lost by reducing their sewer rates by another source like a sales tax or impact fee, then that would have no effect on any other. It wouldn't have effect on the system because the system would still be getting the money and the system has to have a set amount of money.

Alderman Marr: But that's my question, I guess, to the administration is, is that the route we're going when we talk about discussions with Farmington, because if you're talking about further changes to rate customers, then I don't think we should move it tonight.

Kit Williams: Well, I am concerned about the Soil and Water Commission and our $100 million loan that we're going to get from them. We have to have some rates, even if we eventually adjust them. We have to have rates showing that we can operate this plant that they're going to finance for us, so we do need to move forward fairly quickly. That's the only thing I'll say.

Alderman Marr: I heard that.

Steve Davis: If I might, in 20 months, there will be another rate study, there will be another operations report, and there will be another rate study in front of the City Council to consider. Twenty months, October or August 2005, so yes, we're passing rates that have a nine, that ultimately don't go into effect until January, sometime in 2006, is it 6 now?

Kit Williams: Some of them.

Steve Davis: Some of them.

Kit Williams: Four, five and six.

Steve Davis: But in the interim, in 20 months, we will have another rate study that will be before the City Council that will supplant, or could supplant some of those rates that we're enacting today, if we enact them.

Alderman Marr: I completely understand that. The point I'm trying to make is there's a hell of a difference between 20 months and two more meetings, or one more meeting, or a month of negotiation, so I don't want to risk $100 million. I understand that, that's why I'm sitting here making a motion about it, but at the same time, I don't want to have a different citizen sitting at that microphone going, "two weeks ago you passed and this is what the rate was." We need to get our act together. We either need to know that this is what it's going to be....

Mayor Coody: Excuse me. Excuse me. Excuse me. Will you please remove Mr. Lowery from the room? Thank you very much.

Alderman Marr: We need to get our act together and we need to know that the rates are going to stay constant for some time period. That's what I'm frustrated about. I voted for it last time; I'll vote for it again this time, but I'd like to know that we don't have legal risk and we don't, we're not going to come back a month later because we talked to another city changing the rate now on our industrial customer. That's all I'm asking, but I think we have a motion and a second to go to the third reading.

Mayor Coody: Before we go, let's just, let's see, we have everybody except Bob Davis here, right?

Kit Williams: It requires six affirmative votes.

Mayor Coody: All right, so we have motion and a second to go to the third and final reading shall the motion pass.

Sondra Smith: Rhoads?

Alderman Rhoads: Yes.

Sondra Smith: Davis?

Sondra Smith: Lucas?

Alderman Lucas: Yes.

Sondra Smith: Jordan?

Alderman Jordan: Yes.

Sondra Smith: Reynolds?

Alderman Reynolds: No.

Sondra Smith: Thiel?

Alderman Thiel: Yes.

Sondra Smith: Cook?

Alderman Cook: Yes.

Sondra Smith: Marr?

Alderman Marr: Yes.

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

Kit Williams: An Ordinance Amending § 51.137 of the Code of Fayetteville to Adjust Sewer Rates.

Mayor Coody: All right, so we're going to have the ordinance right now in its third and final reading, if we, here's the drawback if we string this out. We've already voted on this once and approved it once, if it weren't for the legal glitch that was overlooked, we wouldn't be having this meeting again. The thing that I fear is that if we do change our rates with Farmington, we'd have to raise them someplace else and we have basically opened up the entire discussion again for I don't know how long, anybody want to venture to guess, and who would be the rate class that would have to make up the difference? Would we have to bring in Black & Veatch to restructure the rate study again, is Sewer and Water going to wait for six more months while we determine all that, would the numbers be any differently if Black & Veatch came in to do another study, would we be making arbitrary decisions, fifteen percent here, ten percent there, without any expertise to verify that we're doing something that's fair and equitable? I'm having to rely on Black & Veatch's study as the foundation for all these figures and percentages and everything else. I don't know any better. I don't make the big bucks from Black & Veatch to determine what individual in one location should pay compared to another individual in another location. We're having, I'm having to rely on that expertise. I would not feel comfortable going to Farmington saying, we'll cut you 20% off and we'll just make it up, mm, over here somewhere. Sorry, I can't, I don't want to be in a position to do that, that's not right, so what are you, if this Council votes down this third reading, then I'm going to need a clear direction on where to go, because all the directions from here don't look good if we do something differently than just approve this. When we negotiate with Farmington, they've got some things they could put on the table that would help them and would get them where they need to be, we know what those are, we've talked about that. They brought that to the table themselves. Those are the things we do have some negotiating points, but as far as arbitrating just to lower the rate? I don't see a future in it without some real good *quid pro quo* from Farmington to justify it. All right, yes, sir.

Alderman Reynolds: If Farmington comes to you in negotiations and they're willing to go to their people and put that ¾ cent sales tax and impact fee forward and it passes in Farmington, and they get it done in 90 days, how are we going to be able to give them relief at that time?

Mayor Coody: What would that take City Council action?

Kit Williams: Yes. It would not be too difficult. We would have to consult again with our rate people in order to determine how much they would be able to generate for our system through their sales tax and their impact fee. That would offset the amount of money we would have to get from rates, so their rates could go down, but as was pointed out by the expert at the meetings you all had, they won't go down probably as low as what Fayetteville rates are, because we're generating a lot more sales tax than they are, but their rates could be impacted without making any other increases for anybody else. It would just reduce their rates because they would be generating income for the system, revenue for the system, from another source besides rates.

Mayor Coody: And as we stated at the last meeting, it wouldn't come down to the same rate Fayetteville rate payers are paying, but it would come down to something considerably closer. That was discussed at the meeting, that if impact fees and the ¾ cent sales tax were approved in Farmington, that would put all of us on a lot more equitable footing.

Alderman Reynolds: I don't think they expect to get it for the same price. I think they want a chance to lower it from 131%. I think we ought to give them that chance.

Mayor Coody: Sure. They can, they could have done it two years ago, they can do it next week, they could do it right now, they could do it any time. They would like....

Kit Williams: Their citizens have to do the sales tax.

Mayor Coody: That's what I mean. We took ours to the citizens in '01 and all cities have that option to take that to the citizens. We did this work two years ago, two and a half years ago.

Alderman Reynolds: I just hope that they do that and get it done, they come back to us, and this Council's open to give them some relief.

Mayor Coody: Oh, you bet, I would assume that we would.

Alderman Marr: And my comments, or at least that night, were not to affect other rate class customers but we're to give them the option if they so choose to pass to do what the citizens in Fayetteville did, which is, if they, if the Council implements an impact fee, then that goes toward reducing it, whatever that amount may be and if their citizens decide to initiate a sales tax, then that be applied and we'd come back and reduce the rate because we're getting the money out of a different bucket at that point. We still have the cost of the system and I think the one thing the lady described that night is that doesn't change.

Alderman Reynolds: I'll vote for this if you guys will all agree we'll give them a fair shake if they go through the process and they come up with the same funds that we came up with.

Alderman Rhoads: It's sort of stating the obvious.

Mayor Coody: I think that's all understood. Alright we have a motion and a second to approve....

Alderman Jordan: Let me say just one thing. On the 27 or 29% increase, I'm sorry, I do not remember and I will say that publicly. I don't remember, but I know that the figures that have been kicked around for the last year have been 29%, that much I can tell you, so if we had discussed something else that night, I do not recall that. What I remember at the City Council meeting is that the door would always be open to Farmington to negotiate even if we passed it that night, and right now I don't see that anything has changed that much, so I will probably support this, with the same as, you said we were stating the obvious, that the door's always going to be open and we will look into it later on, I think.

Mayor Coody: All right, anything else? We have an ordinance and motion to support the ordinance shall the ordinance pass?

Sondra Smith: Rhoads?

Alderman Rhoads: Yes.

Sondra Smith: Lucas?

Alderman Lucas: Yes.

Sondra Smith: Jordan?

Alderman Jordan: Yes.

Sondra Smith: Reynolds?

Alderman Reynolds: Yes.

Sondra Smith: Thiel?

Alderman Thiel: Yes.

Sondra Smith: Cook?

Alderman Cook: Yes.

Sondra Smith: Marr?

Alderman Marr: Yes.

Mayor Coody: Is that it?

Kit Williams: We get to adjourn.

Upon roll call the ordinance passed 7-0. Alderman Davis was absent.

Ordinance 4536 as Recorded in the Office of the City Clerk.

Mayor Coody: All right. Thank you all very much. This public hearing is adjourned.

Meeting Adjourned at 5:30 P.M.

Sondra Smith
City Clerk

MINUTES OF A MEETING
OF THE CITY COUNCIL
JANUARY 6, 2004

A meeting of the Fayetteville City Council was held on January 6, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Mayor Coody called the meeting to order.

Geary Lowery: Mayor I rise on a Point of Order and request that I may be heard.

Mayor Coody: I am afraid that we are right in the middle of a City Council meeting, and that we are beginning the consent agenda right now.

Geary Lowery: Yes sir and under Roberts Rules of Order I request this before the continuance of the original agenda meeting.

Mayor Coody: I think the agenda meeting has just started.

Kit Williams: This is not an agenda meeting, the agenda meeting is not an official meeting, and it is just when the agenda is set, this is not a continuation, and this is a new meeting.

Geary Lowery: Excuse me, I'm addressing the Chair, I'm addressing the Chair.

Mayor Coody: Excuse me just a minute, Kit what do we do in a situation like this, this is a first.

Kit Williams: I haven't heard any Point of Order, it does take precedence. Usually a Point of Order is only brought up by a City Council Aldermen and not by the public. If a Councilman has a Point of Order then of course it is relevant. But since this is a City Council meeting and not a public hearing or public meeting, a Point of Order is not appropriate to be brought up by a non-City Council member.

Geary Lowery: This is not a public meeting?

Mayor Coody: Alright, so what I would have to do is respectively request that you visit us and have something on the agenda, we generally have people put things on the agenda that want to speak to us.

Geary Lowery: If I may Mr. Chairman, then I call for the question.

Kit Williams: That is improper, in fact he is not on the agenda, and we should not be having this discussion.

Mayor Coody: That is kind of how we have to look at it.

Geary Lowery: Excuse me that is why I rose prior to the agenda, whether it be the consent agenda or the rest of the agenda, sir.

Mayor Coody: If you don't mind we might have to take this up another time because we need to go ahead and commence, keep with the City Council meeting.

Geary Lowery: I call for the question.

Mayor Coody: Alright, thank you very much.

Geary Lowery: I call for the question and I will not be seated until this body has taken a vote on the question.

Alderman Reynolds: Mayor, under Roberts Rules of Order doesn't he have a right to speak?

Kit Williams: No, he would not. We are bound by what the City Council has adopted in their Rules of Order and Procedure. If it is not covered in our Order of Procedure then it says we defer to Roberts Rules of Order. In our Rules of Procedure what is discussed at a City Council meeting is the agenda, which this City Council has agreed upon at the agenda session. In order to discuss an item that is not on a particular agenda, just as we have done many times before, there has to be a motion to suspend the rules so that you can place another item on the agenda to discuss. Right now I have not heard that motion. A motion must be made by the City Council, just like a Point of Order must be made by one of the elected officials and not by just anyone that steps into the room that wishes to make some sort of statement.

Alderman Davis: So if one of us says a Point of Order then is he allowed to speak for a period of time if we so desire?

Kit Williams: You would have to suspend the rules if you want to place him on the agenda or place some subject on the agenda. I don't know what that subject might be.

Alderman Lucas: But this is before the agenda.

Alderman Davis: Right.

Mayor Coody: It is before we have started the consent agenda.

Kit Williams: Well the meeting has already begun.

Mayor Coody: We have convened the meeting. Is what you want to discuss on tonight's agenda?

Geary Lowery: Mr. Mayor.

Mayor Coody: Is it on tonight's agenda?

Geary Lowery: Mr. Chairman, it is not on the agenda and I would not be allowed to do that at this point.

Mayor Coody: Okay

Geary Lowery: Please hear me out sir.

Mayor Coody: Before you keep going here, does someone want to move that we add whatever subject he wants to discuss to the agenda?

Alderman Reynolds: Out of respect I would, yes.

Mayor Coody: We have a motion to suspend the rules and add whatever this subject is, what is the subject that you want to address in a couple of words.

Geary Lowery: The subject I want to address is the Rules, Procedures and Code of Conduct that is compliant with this meeting.

Mayor Coody: Okay, so we have a request to suspend the rules to add Code of Conduct.

Alderman Davis: I will second that and I would like to make an amendment to Alderman Reynolds first, to limit it to five minutes max.

Geary Lowery: Yes sir.

Mayor Coody: Is that acceptable?

Alderman Reynolds: It is acceptable.

Mayor Coody: We have a motion and a second to suspend the rules to have discussion for no more than five minutes on this topic. Shall the motion pass?

Alderman Rhoads: I would like to get some clarification; Mr. Lowery said he wanted to talk about, would you say it again?

Geary Lowery: Codes conduct and rules governing this meeting.

Mayor Coody: Any other question? Shall the motion pass?

Alderman Reynolds moved to add Codes, Conduct and Rules of Procedure to the Agenda as requested by Geary Lowery. Alderman Davis seconded. Upon roll call the motion passed 7-1. Alderman Reynolds, Thiel, Cook, Marr, Davis, Lucas and Jordan voting yes. Alderman Rhoads voting no.

Mayor Coody: Thank you, you have five minutes, go ahead.

Geary Lowery: Thank you Mr. Mayor, thank you Chairman. On the question of appeal which I performed earlier, a majority of those present is required to overturn a ruling of the Chair, in this instance, Mr. Mayor that would be you. When I asked for a call of the question that means I'm asking this body whether or not to either vote me up or vote me down to be heard. You have that right as City Councilmen to vote me up or vote me down when I ask prior to a properly noticed agenda and I say properly noticed agenda because that's what we're talking about this evening. It has been brought to my attention by some of the new comers to the City of Fayetteville (new residents) as well as some of the older residents that this body does not produce a set of Code, Conduct or Rules on it's agenda for the public at large to know how we are to play by the rules and what is expected of us as our conduct and a procedure that we may be guided by. Now if it is my understanding and I have the information before me that this meeting is officially dedicated and known through the Handbook for Arkansas Municipal Officials. Where that handbook does not cover the questions of procedure or questions of comment, then you defer to the Parliamentary Procedure in Roberts Rules of Order. If you are aware of that and I would like to make you so, may I suggest instead of ejecting people from meetings that you follow the proper procedures and the proper rules and guidelines set forth not only in your handbook but Roberts Rules of Order and the Parliamentary Procedure because my civil rights and my right to be heard was subject to other than legal means.

One of the things that I want to bring forward to this body is that I see a continuance of violation of the Roberts Rules of Order and your procedure for your municipal government, that is anytime someone wants to speak or is spoken to they have to address the chair, which Mr. Mayor that is you and if they open their mouth and speak out of turn you are required to call them out of order, regardless of who they may be. If someone else is speaking on this floor or up on that dais and someone else opens their mouth and interjects, which they have time and time again and I will not point the finger at anyone but it is pretty prevalent as to who that individual is, may I suggest that if we are to be governed under the laws of the State of Arkansas, the Roberts Rules of Order and Procedure that you aluminate that on your agenda and let the public know what Code of Conduct and Rules that are established in this meeting. I thank you for your time and your indulgence.

Mayor Coody: Thank you sir.

Alderman Reynolds: Thank you Geary.

Mayor Coody: Any questions or comments. Alright, thank you very much. We have the first thing on the agenda is.... Is there anything else we need to do on this?

Kit Williams: What ever you want to do on this.

Mayor Coody: Have we done anything out of line, as far as he mentioned the ejection.

Kit Williams: As a presiding officer of this body, it is part of your responsibility to maintain order in the house, and in fact if someone is disrupting a public meeting, that could be criminal disorderly conduct. I think that in your attempt to maintain order, you have every right as Mayor Hanna did before you, at one time he had to call the police when we had a man that was standing at the podium and refused to leave the podium when he was ruled out of order by the Mayor and was told to sit down. At that point Mayor Hanna left this room and called the police. Fortunately no arrest had to be made because that man decided to leave. I think it is incumbent of the residing officer to maintain order within this body and within this room as part of your job. There are parts of our procedure that says that all remarks shall be addressed to the City Council as a whole and not to any particular member of the City Council. When the rules were adopted by the City Council, as you remember we have made some changes to the rules. That was subject to a resolution it was presented publicly, voted on publicly and that is a matter of public record. I do think it is probably advisable to make sure these Rules of Procedure are available to the public. They always are through the clerk's office or my office, but maybe there could be other evening. It has been brought to my attention by some of the new comers to the City of Fayetteville (new residents) as well as some of the older residents that this body does not produce a set of Code, Conduct or Rules on it's agenda for the public at large to know how we are to play by the rules and what is expected of us as our conduct and a procedure that we may be guided by. Now if it is my understanding and I have the information before me that this meeting is officially dedicated and known through the Handbook for Arkansas Municipal Officials. Where that handbook does not cover the questions of procedure or questions of comment, then you defer to the Parliamentary Procedure in Roberts Rules of Order. If you are aware of that and I would like to make you so, may I suggest instead of ejecting people from meetings that you follow the proper procedures and the proper rules and guidelines set forth not only in your handbook but Roberts Rules of Order and the Parliamentary Procedure because my civil rights and my right to be heard was subject to other than legal means.

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Mayor Coody: Thank you sir.

Alderman Reynolds: Thank you Geary.

Mayor Coody: Any questions or comments. Alright, thank you very much. We have the first thing on the agenda is.... Is there anything else we need to do on this?

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Mayor Coody: Alright, thank you. Any questions from the Council on this?

CONSENT:

Approval Of The Minutes: Approval of the December 16, 2003 meeting minutes.

Minimum Standards; Fayetteville Municipal Airport: A resolution approving the revised minimum standards for the Fayetteville Municipal Airport as approved and recommended by the Airport Advisory Board.

Resolution 01-04 as Recorded in the Office of the City Clerk.

Council on Aging, Inc.; Lease Senior Center, Walker Park: A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

This item was moved to New Business # 6.

Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal: A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in an amount not to exceed $59, 325.00 to provide independent audit services to the City of Fayetteville.

Resolution 02-04 as Recorded in the Office of the City Clerk.

Purchase of 3 Komatsu Backhoes from H & E Equipment: A resolution approving the purchase of Three (3) Komatsu Backhoes from Head & Engquist Equipment in the amount of $159,525.00; and approving a budget adjustment in the amount of $1,970.00 for the same. This request was approved by the Equipment Committee on December 9, 2003.

Resolution 03-04 as Recorded in the Office of the City Clerk.

ADEQ and Tri-County Solid Waste District Recycling Grant; Roll-off Recycling Boxes: A resolution authorizing the Fayetteville Solid Waste and Recycling Division to accept a grant in the amount of $18,000.00 from the Arkansas Department of Environmental Quality (ADEQ) and the Tri-County Solid Waste District for the purchase of roll-off recycling boxes for use at the 24-hour community recycling drop-off; and approving a budget adjustment to recognize the grant revenue.

Resolution 04-04 as Recorded in the Office of the City Clerk.

Homeland Security Fire Grant; Wellness & Fitness/EMS Training Program: A resolution authorizing the Fayetteville Fire Department to accept a Department of Homeland Security Fire grant in the amount of $92,820.00 to establish a wellness and fitness/EMS training program; approving a new temporary staff position to establish and coordinate the program; and approving a budget adjustment to recognize the grant revenue.

Resolution 05-04 as Recorded in the Office of the City Clerk.

Alderman Lucas: I have a question about # 4 Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal.

Kit Williams: Do you want to remove that from the consent agenda?

Alderman Lucas: No, do I have to remove it to ask a question?

Mayor Coody: If you just have a quick question let's go ahead and do that.

Alderman Lucas: If it is a five year contract why do we have to renew?

Mayor Coody: Usually when we have contracts they are renewable every year as long as there is not a problem. Is that right Kit?

Kit Williams: Sometimes, they are set up for the project. If they are renewable, they would not have to be brought back to the City Council, but the Mayor has seen fit to do that.

Alderman Marr asked that Item # 3 the Council on Aging, Inc., Lease of the Senior Center at Walker Park be removed from the Consent Agenda and be moved to New Business # 6.

Alderman Jordan moved to approve the consent as read with Item # 3 Council on Aging, Inc., lease of the Senior Center at Walker Park moved to New Business # 6. Alderman Davis seconded. Upon roll call the amended consent agenda passed unanimously.

OLD BUSINESS:

There was no Old Business.

NEW BUSINESS:

Impact Fees for Road, Police and Fire Improvements: An ordinance waiving the requirements of competitive bidding and approving a contract with Duncan and Associates to calculate Impact Fees for Road, Police and Fire Improvements in the amount of $25,890.00 with a contingency amount of $1,500.00 and approving a Budget Adjustment of $27,390.00.

Mr. Williams read the ordinance.

Alderman Davis: Kit in your memo that you sent us on January 2 and January 5, you appeared to have some real hesitancy about the way we are going about this. Could you explain this to us?

Kit Williams: I just felt as your legal council that I wanted to explain some possible legal concerns that I had about various types of impact fees. My first memo basically dealt with the fact that I feel like it would be safer if you do enact these impact fees to refer them to the voters. There is a reasonably good chance that the court might interpret these fees to be taxes, and if they have been voted on by the citizens, that would be alright. But if they have not been voted on by the citizens, that it would termed an invalid tax. And therefore they would be repealed, and we might have to pay attorneys fees.

The other memo was simply more along the statutory terms and what do the statutory terms mean especially in relation to Police and Fire. Would we be able to effectively adopt impact fees in those two areas in compliance with the new State Statute? One problem we have is this is a brand new State Statue so there has not been any interpretation of it by the Supreme Court. They haven't had a chance to yet, so it makes it more difficult to analyze exactly what we have to do and what we can do under that Statue. I am not trying to throw cold water on impact fees and say the City can not do that. I think Conway has already passed some impact fees based on this new State Statue. But I did want to call to your attention some concerns I have as we go down this road toward looking at whether or not we want to enact impact fees in these other areas.

Alderman Davis: What is the difference, Kit, between what we have already enacted with water and sewer impact fees versus looking at these three new ones.

Kit Williams: One of them is acceptance by the Supreme Court. There was a case about ten years ago where the Supreme Court specified water and sewer impact fees, if they were devoted totally to new construction and new capacity in order to serve the people that would be taxed in the new development, that these were constitutional and legal. Therefore, just as our consultants told us when they made their initial report, they said water and sewer was much safer. They were more concerned about the other types of impact fees, and I agreed with their analysis. I felt that the history even as far back as 100 years ago in the sewer area, the courts have been fairly favorable towards sewer fees, but there was nothing in relation to roads and fire and police at this point in time. A new Statue has been enacted by the legislative to give us broad powers to enact impact fees in various areas. I just want to bring this to your attention so as we go forward you can look at this, and I can discuss this with the experts that you would hire if you do pass this resolution.

Hugh Earnest: We also have some questions about how we could implement this. We would like to ask the Council to defer this to the first meeting in February.

Alderman Davis moved to table this item until the first meeting in February. Alderman Jordan seconded. Upon roll call the motion to table passed unanimously.

VAC 03-13.00; Northwest Arkansas Mall Lot A Utility Easement: An ordinance approving VAC 03-13.00 to vacate a portion of a 25 foot utility easement lying in Lot A in the Northeast corner of the Northwest Arkansas Mall as depicted on the attached map and legal description.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Thiel: I support this because the building has set vacant for some time and it looks like they are moving forward with a nice office building there and I think it will be something I can support.

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

Ordinance 4537 as Recorded in the Office of the City Clerk.

R-PZD 03-6.00; Benton Ridge, Long, LLC: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Geary Lowery, a resident voiced his concern about the traffic in this area. He asked that a traffic study be conducted.

Alderman Thiel: I am very concerned about the density of this project. How many single family residents can be built on this property now? Will the set backs be greater than shown on this proposal?

Dawn Warrick: The current zoning allows for 4 units per acre which would equal approximately 32 units; the proposal is for 5.2 units per acre, a total of 43 units. The set backs were revised, the rear set back is a 20 foot building set back which is the same as a rear set back requirement in the current zoning district.

Alderman Thiel: Not a 35.

Dawn Warrick: In single family the rear set back is 20.

Julia Zimmerman with Crafton, Tull & Associates: I am the project engineer representing Long, LLC.

Alderman Thiel: The owner of the property is not the developer?

Julia Zimmerman: The owner of the property is Long, LLC as a corporation and the only contact I know is Brandon Barber.

Alderman Thiel: All these plans are so varied, I just wondered if it was the same builder on each lot.

Julia Zimmerman: Yes, just different foot prints and elevations for variety.

Alderman Lucas: On Chelsea Boulevard by your description of the different buildings that is going to be a two story, but on your building elevations it doesn't indicate two stories.

Julia Zimmerman: I believe Chelsea Boulevard is shown with an eve height of ten feet which would be one story, you are correct, that is an oversight on my part, if we need to we can swap foot prints, we have been trying to work with the adjacent property owners, so if some of them are opposed to a two story building we have been swapping out foot prints. I can ask the developer if he would be willing to do that.

Alderman Lucas: There is going to be a property owners association?

Julia Zimmerman: Yes.

Alderman Lucas: These are all going to be sold, so when they are sold who will be responsible for the up keep of the green space?

Julia Zimmerman: All of the lawns, green spaces and conservation easements will be maintained by the property owners association.

Alderman Lucas: I think of a property owners association as homes that are owned by people that live there and if the property is owned by people that don't live there how does that work?

Julia Zimmerman: I can check with the developer on that.

Alderman Jordan: What is the overall feel in the neighborhood about this development?

Julia Zimmerman: At first I feel they were opposed, but we worked with them changing the set backs and some foot prints, I think they are pretty much agreeable now.

Alderman Jordan: There is a neighborhood association correct, what is their feel on this?

Julia Zimmerman: There is someone here from the association they may want to speak; I think they are happy with it. We have tried to be good neighbors.

Alderman Davis: My only concern is the density, is there anything you can do to decrease the density?

Julia Zimmerman: In my opinion we are only slightly increasing the density that is there now. We have dedicated a portion of the property as a conservation easement to preserve the trees. There is also a 40 foot strip between lot 16 and 17 to maintain an existing drainage way through property, which also gave up a bit of land. We are hoping we can maximize the rest of the property as much as we can.

Alderman Davis: I do like the proposed covenant portion where you have 70% that's brick and you are using architectural shingles which tells me you're trying to put something in that's going to be a little more upscale which is a plus, could you look at the density issue before the next meeting?

Alderman Reynolds: The Stonebridge Association that is an older group of homes, this is not compatible with that neighborhood. The traffic and what this will bring is not going to be good for the health safety and welfare of the people of that neighborhood and I will not support this in my ward.

Alderman Marr: We have heard a concern about traffic and in the staff report it appears that it is the staff's position that it will not create an appreciable increase in traffic. Where did this data come from, has there been an actual traffic study done on what this development would be?

Tim Conklin, Planning: The numbers in the staff reports are from trip generation software that the city has, it estimates how many trips would be generated by this type of development.

Ilsa Isaacs, a resident of the area: Only property owners contiguous to this development seemed to have shown interest and not even all of them. I withdrew my objection after modifications were submitted to the Planning Commission because some accommodations have been made. The increase in density is 30%.

Alderman Rhoads: Are you representing the property owners association?

Ilsa Isaacs: No I am not.

Alderman Rhoads: When you said you withdrew your objections that was just your own personal objections?

Ilsa Isaacs: Yes.

Alderman Lucas: Did you say the lots were going to be sold and then the people that buy them will be building?

Ilsa Isaacs: That is what I understand; I hope I am correct on that.

Hugh Earnest: One of the advantages that we have in a PZD is a clear understanding as to what can be built.

Geary Lowery, spoke on the traffic issue again. He also spoke about his concern on the formation of the POA.

Alderman Jordan: How many people are being affected by this?

Alderman Thiel: Just the ones adjacent to this.

Alderman Jordan: Would you say it is a significant amount?

Alderman Thiel: No. I think there have been a lot of concessions made.

Alderman Marr: I would like to encourage the developer to see if they could revisit the density issue.

Alderman Davis: The proposed covenants are not signed; it would nice if they were signed.

Alderman Thiel: What is the general slope of this property?

Dawn Warrick: I will have to let the project engineer answer that I don't have that number.

This ordinance was left on the first reading.

R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Alderman Thiel: If this PZD was turned down by this Council could the developer build the same amount of multi-family units on the western portion of the property and would the set backs be as close to the commercial property on North College?

Hugh Earnest: You are looking at about six acres that currently has three zones on it; the potential development on those three zones could be as many as 129 units. The reason this developer is putting this together is it is not economically feasible to do any type of development on the separate site, so he is trying to pull the development together so it is economically feasible and he proposes less units than would technically be possible if he followed the existing zoning.

Alderman Thiel: I am concerned about the area that is closest to the highway that is the area that has the densest zoning, how much can he build on that area?

Dawn Warrick: If the applicant maximized his density on the area that is currently zoned for multi-family he could provide a total of 120 units by ordinance at a maximum development.

Alderman Thiel: Could he physically do that on that property?

Dawn Warrick: I am not an engineer; they would have to propose a plan for us to review it.

Alderman Thiel: How many units are on that area right now?

Dawn Warrick: 28.

Bill Rudasill with WBR Engineering: We have looked at it, the intent was also to try and maintain the hillside as best we could, the trees, grade and all that. They could develop pretty close to 120 units on that R-3 property.

Alderman Thiel: Physically that could be achieved?

Bill Rudasill: Yes, but it would require more development cost.

Alderman Davis: My concern is the egress and ingress to the private drive and exiting 71.

Bill Rudasill: We have the connection to Brophy Circle which goes back out to Township; there is the alternate connection that goes down to 71. The primary reason that we provided that is for fire protection and circulation. It will most likely be right hand turning people that go down to 71 during heavy business hours, otherwise they would go to Township where they have a light. It is a private road because there is not enough room to build to a public street or make corrections to it.

Alderman Reynolds: How many high pressured gas lines are running through this project, it looks like two side by side.

Bill Rudasill: Yes there are two.

Alderman Reynolds: What size are they?

Bill Rudasill: They are six inch mains, major pipe lines.

Alderman Reynolds: How many fire hydrants do you have on that street?

Bill Rudasill: There are currently five new fire hydrants.

Alderman Reynolds: How many street lights?

Bill Rudasill: There will be one at every intersection.

Alderman Reynolds: Is that enough for that project?

Dawn Warrick: That meets our street standards.

Alderman Reynolds: How much distance is there between the driveways? It looks like there is not going to be enough parking on the street.

Bill Rudasill: All these units have garages and there is the driveway and parking on one side of the street for visitors.

Mayor Coody: We are looking to enhance and make College Avenue more attractive, I think the affect of this development without any screening from the street will be just the opposite of that, so if there is any way to develop a screening. That is a concern that I have.

Alderman Jordan: I have the same concern.

Alderman Thiel: Not only for screening but for holding back that hillside.

Alderman Davis: Mr. Rudasill, are you receptive to that?

Bill Rudasill: As far as a tree screen that was discussed at Planning Commission and we were willing to do that, as far as a fence goes there are other units there that go to the south that are already existing and there is no fence existing, one is as close to that area as these units would be. We could put one in, I think if we do a year round green cover it would solve the same propose as a wood fence and probably look better. We would do it at a density that would close that off so you wouldn't see it.

Alderman Davis: I would tend to agree because a fence the height that you would have to build it to be able to not see the back would definitely attract your eye, whereas the greenery would just look natural.

Bill Rudasill: There is a pretty dense thicket of trees and brush there now.

Alderman Lucas: What is a double hatched area?

Bill Rudasill: There are existing easements lying within this property so when you look at the tree canopy that was proposed and that is existing, the tree canopy that exists in those easements cannot be counted as part of our tree preservation canopy that is what that double hatched area is.

Alderman Lucas: The sidewalk and the green space from the street to the sidewalk was changed. How much distance is there from the sidewalk to the building?

Bill Rudasill: 25 to 30 feet or more.

This ordinance was left on the first reading.

Black & Veatch Contract Amendment #4: A resolution approving contract Amendment #4 in the amount of $30,000.00 with Black & Veatch Corporation to perform continuing water and sewer operations and rate study services; and approving a Budget Adjustment in the amount of $25,000.00 for same.

Hugh Earnest: Gave the Council a memo that clarified information that was provided at the last meeting.

Alderman Lucas: How much have we actually spent on this contract?

Steve Davis: City Council last April approved $42,000 to be spent through this consulting period; through the bills that were paid we have written checks for about $34,000 of that $42,000. The only bill that we have not paid was for the December 2 meeting which was 30 hours which we expect to be $5,000 to $6,000. We did not receive the bill for the December consulting fees in 2003; we need to add the December bill to the $25,000 for 2004 consulting fees for a total of $30,000 to be paid in 2004.

The original contract was $20,000, a change order was approved by City Council for $133,000, a second change order of $37,000, so that is $190,000 so far and we are asking for an additional $25,000.

Alderman Reynolds: We've had water and sewer operations study with Black & Veatch since 1998 is that right.

Steve Davis: Actually the original contract with Black & Veatch was somewhere in 1971 or 1972. The last time the City did a professional selection process for a consultant to perform an operation and rate study was in 1998.

Alderman Reynolds: How long was that RFP good for?

Steve Davis: Until we go out for another RFP for a consultant, the City routinely does this every five to seven years. The 2005 operation staff has already committed to go through another request for proposal process.

Alderman Cook: The Water and Sewer Committee did recommend that we do another RFP before the next rate study which is in 2005.

Geary Lowery voiced his concern about the way the dollar amounts were presented and that the way it was presented could be confusing to the public.

Alderman Marr moved to approve the Resolution. Alderman Jordan seconded. Upon roll call the motion passed unanimously.

Resolution 06-04 as Recorded in the Office of the City Clerk.

Council on Aging, Inc.; Lease Senior Center, Walker Park: A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

Alderman Marr: I apologize for not letting the group know that I was pulling this from consent. Do we have the ability to request that the building be open a sixth day, on a Saturday like our library, even if it is not staffed for programming.

Hugh Earnest: That issue has been raised the problem is budget. It is a concern that we have that this building sits idle two days a week.

Alderman Marr: I would like to move that we table this item until they can present to us why they can't do that and if there is any room for negotiation.

Alderman Marr moved to table the resolution until the next meeting. Alderman Rhoads seconded. Upon roll call the motion passed unanimously.

Meeting Adjourned at 7:25 P.M.

____

Sondra Smith
City Clerk

A.4.
Seven Hills Homeless Center, Inc. Fee Waiver

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF JANUARY 20, 2004

FROM:

ALDERMAN DON MARR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Waive The Building Permit Fee And Other Developmental Fees Including Impact Fees For Construction And Remodeling Of A Shelter By Seven Hills Homeless Center, Inc.

APPROVED FOR AGENDA:

DON MARR, Alderman — Date: 1/13/04

City Attorney (as to form) — Date: 1/8/04

RESOLUTION NO. ______

A RESOLUTION TO WAIVE THE BUILDING PERMIT FEE AND OTHER DEVELOPMENTAL FEES INCLUDING IMPACT FEES FOR CONSTRUCTION AND REMODELING OF A SHELTER BY SEVEN HILLS HOMELESS CENTER, INC.

WHEREAS, Seven Hills Homeless Center, Inc. is a non-profit organization dedicated to providing needed shelter to homeless people in Fayetteville; and

WHEREAS, it serves the public interest and is beneficial to the City as a whole that Seven Hills Homeless Center, Inc. helps to provide such vital shelter to homeless people in Fayetteville.

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 finds that waiving the building permit fee and all other developmental fees including impact fees normally required by the Unified Development Code for the Seven Hills Homeless Center, Inc's. shelter construction and remodeling project serves the public interest and is beneficial to the City as a whole.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby waives the normal building permit fee and all other developmental fees including impact fees normally required by the Unified Development Code for the Seven Hills Homeless Center, Inc's. shelter construction and remodeling project located in Fayetteville, Arkansas.

PASSED and **APPROVED** this the 20th day of January, 2004.

APPROVED:

By: DRAFT

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

A.S.
Community Development Block Grant Fee Waiver

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF JANUARY 20, 2004

FROM:

ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Permanently Waive The Building Permit Fee And Other Developmental Fees For Homes To Be Constructed By Community Development Block Grants

APPROVED FOR AGENDA:

Brenda Thiel 1/13/04
BRENDA THIEL, Alderman Date

1/12/04
City Attorney (as to form) Date

RESOLUTION NO. ______

A RESOLUTION TO PERMANENTLY WAIVE THE BUILDING PERMIT FEE AND OTHER DEVELOPMENTAL FEES FOR HOME S TO BE CONSTRUCTED BY COMMUNITY DEVELOPMENT BLOCK GRANTS

WHEREAS, the Community Development Block Grant program is a federal program dedicated to assisting lower income people to own their own affordable homes; and

WHEREAS, it serves the public interest and is beneficial to the City as a whole that the Community Development Block Grant program helps to provide such affordable housing in Fayetteville.

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 finds that waiving the building permit fee and all other developmental fees normally required by the Unified Development Ordinance for the Community Development Block Grants used for home construction projects serves the public interest and is beneficial to the City as a whole.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby permanently waives the normal building permit fee and all other developmental fees normally required by the Unified Development Ordinance for the Community Development Block Grant home construction projects located in Fayetteville, Arkansas.

PASSED and **APPROVED** this the 20th day of January, 2004.

APPROVED:

DRAFT

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

B.2.
R-PZD 03-7.00 Brophy Condominiums

WBR ENGINEERING ASSOCIATES, P.A.,

4241 Gabel Dr., Suite 1B
Fayetteville, Arkansas 72703

William B. Rudasill, Jr., P.E.

Phone: (479) 582-2820
Facsimile: (479) 582-1788

January 13, 2003

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Evergreen Tree Screening
Brophy Condominiums

Mr. Ralph Brophy agrees to the planting of evergreen trees along the west side of the Brophy Condominium project subject to the following conditions:

1. Mr. Brophy agrees to plant an adequate evergreen screen along the west side of the subject property between the proposed residential condominiums and US 71B.

2. The money for the aforementioned evergreen screen shall be reduced from Mr. Brophy's agreed upon amount of payment to the City of Fayetteville's Tree Escrow Account as decided at the previous Fayetteville City of Council meeting.

William B. Rudasill, Jr., P.E.

WBRJR/
Enclosures

C. 2.
Mount Sequoyah Woods
Conservation Easement

RESOLUTION NO. ______

A RESOLUTION TO REAFFIRM ITS COMMITMENT TO SELL MOST OF ITS DEVELOPMENT RIGHTS TO THE FAYETTEVILLE NATURAL HERITAGE COMMITTEE ON THE 67 ACRES OF MOUNT SEQUOYAH WOODS PURCHASED BY THE CITY OF FAYETTEVILLE PURSUANT TO RESOLUTION NO. 46-03

WHEREAS, the City Council of the City of Fayetteville, Arkansas had invited the Fayetteville Natural Heritage Committee to purchase its development rights to Mount Sequoyah Woods in Resolution No. 46-03 passed unanimously by the Fayetteville City Council on April 1, 2003; and

WHEREAS, the Fayetteville Natural Heritage Committee has worked diligently and continues to strive to raise contributions to purchase this conservation easement to protect Mount Sequoyah Woods for all residents of Fayetteville; and

WHEREAS, the Fayetteville Natural Heritage Committee has already paid to the City tens of thousands of dollars toward the purchase of this conservation easement.

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 reaffirms its commitment to sell most of its development rights of Mount Sequoyah Woods (except as necessary to build amenities for Mount Sequoyah Woods such as perimeter parking, walking trails, benches, pavilions, etc. for the use of the public when enjoying this wooded hillside) to the Fayetteville Natural Heritage Committee for a conservation easement to protect Mount Sequoyah Woods.

PASSED and **APPROVED** this the 20th day of January, 2004.

APPROVED:

DRAFT

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

C. 3.
Creation of an
Ex Officio, Nonvoting
Council Member.

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF JANUARY 20, 2004

FROM:

ALDERMAN ROBERT RHOADS

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Amend The Rules Of Order And Procedure Of The Fayetteville Mayor/City Council By Adding **Section** J. Creating An Ex Officio, Nonvoting Council Member Designated To Be Filled By The President Of The Associated Student Government Of The University Of Arkansas

APPROVED FOR AGENDA:

Alderman 1/13/04
Date

City Attorney (as to form) 1/13/04
Date

RESOLUTION NO. ______

A RESOLUTION TO AMEND THE RULES OF ORDER AND PROCEDURE OF THE FAYETTEVILLE MAYOR/CITY COUNCIL BY ADDING **SECTION J.** CREATING AN EX OFFICIO, NONVOTING COUNCIL MEMBER DESIGNATED TO BE FILLED BY THE PRESIDENT OF THE ASSOCIATED STUDENT GOVERNMENT OF THE UNIVERSITY OF ARKANSAS

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends the Rules of Order and Procedure of the Fayetteville Mayor/City Council by adding a new **Section J.** as stated below:

"J. Ex officio, nonvoting city council member appointed by the President of the ASG.

"1. During his or her tenure, the President of the Associated Student Government of the University of Arkansas is empowered to appoint himself or herself or a representative to become an ex officio, nonvoting member of the Fayetteville City Council.

"2. This ex officio, nonvoting member may sit with the City Council and participate in discussions during all City Council meetings, but shall not be construed to increase the number of City Council members for any purpose including voting majorities, quorum requirements, etc. This ex officio member may not make or second a motion, nor make any points of order or privilege, nor take other parliamentary actions. This ex officio member may not participate in any executive sessions of the City Council.

"3. This ex officio member must comply with all the Rules of Order and Procedure and must complete all financial disclosure and ethics forms required of Aldermen."

PASSED and **APPROVED** this the 20th day of January, 2004.

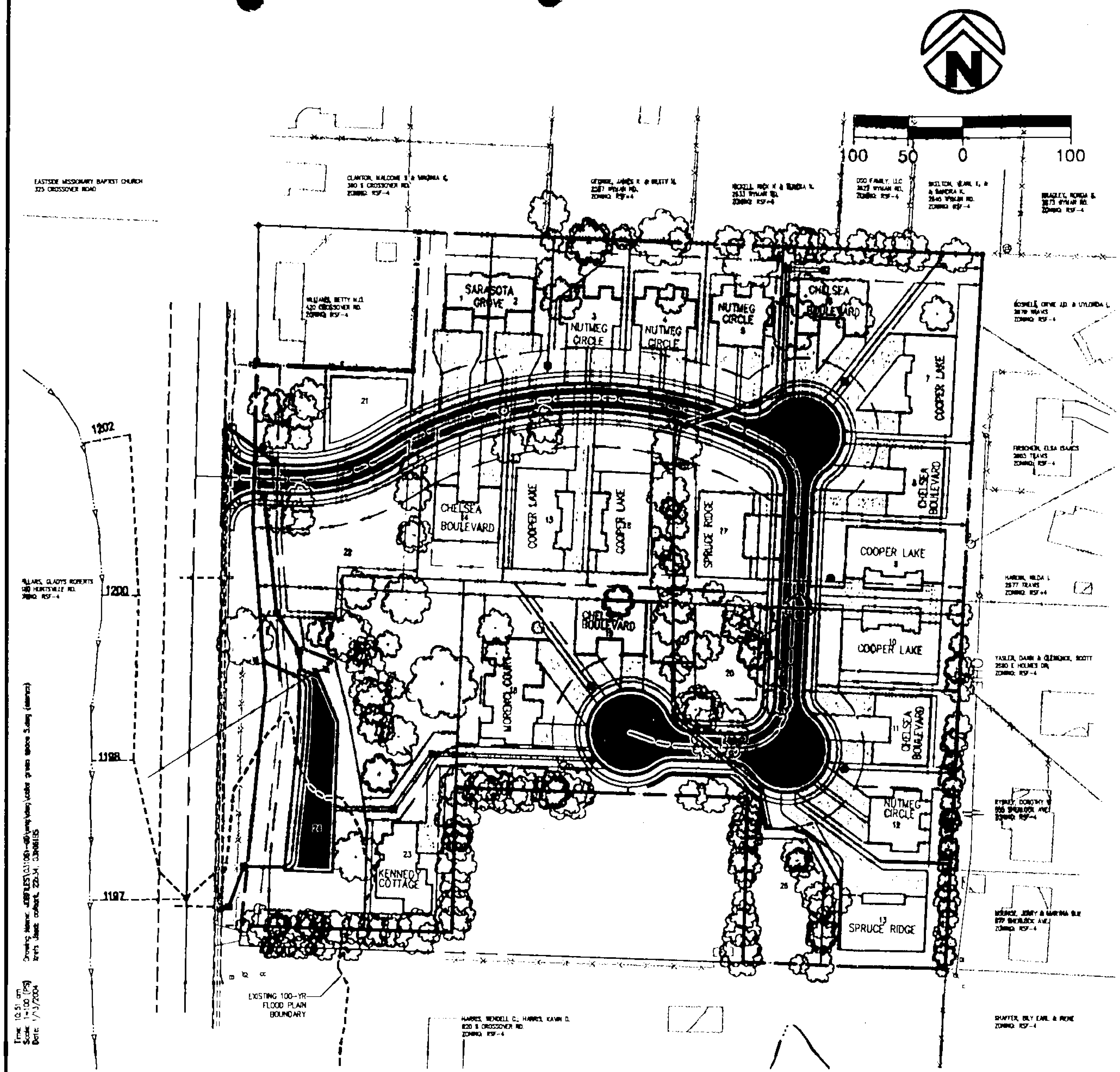
APPROVED:

DRAFT

By: ________________________
DAN COODY, Mayor

ATTEST:

By: ________________________
SONDRA SMITH, City Clerk



NAME	BUILDING ELEVATION	EAVE HEIGHT	NUMBER OF BEDROOMS
1	SARASOTA GROVE	2-STORY *	12
2			
3	NUTMEG CIRCLE	2-STORY *	6
4	NUTMEG CIRCLE	2-STORY *	6
5	NUTMEG CIRCLE	2-STORY *	6
6	CHELSEA BLVD	1.5-STORY *	6
7	COOPER LAKE	10'	6
8	CHELSEA BLVD	1.5-STORY *	6
9	COOPER LAKE	10'	6
10	COOPER LAKE	10'	6
11	CHELSEA BLVD	1.5-STORY *	6
12	NUTMEG CIRCLE	2-STORY *	6
13	SPRUCE RIDGE	1.5-STORY *	
14	CHELSEA BLVD	1.5-STORY *	6
15	COOPER LAKE	10'	6
16	COOPER LAKE	10'	6
17	SPRUCE RIDGE	1.5-STORY *	
18	MORENCI COURT	10'	6
19	CHELSEA BLVD	1.5-STORY *	6
20			
21			
22			
23	KENNEDY COTTAGE	10'	
24	DETENTION POND		
25	CONSERVATION EASEMENT		
26	CONSERVATION EASEMENT		
27	CONSERVATION EASEMENT		
28	CONSERVATION EASEMENT		

* SPECIFIC EAVE HEIGHTS CANNOT BE DETERMINED UNTIL BUILDING PLANS ARE PURCHASED

DATE	BY	DESCRIPTION

REVISIONS

GREEN SPACE

Prepared For
BENTON RIDGE

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756
479.636.4838 FAX: 479.631.6224 www.craftull.com
Architects, Engineers & Surveyors

DRAWN: ET	DATE: 8/03	PROJECT NO. 031061-00
CHECKED:	SHEET NO.:	

FAYETTEVILLE

CC Meeting of February 3, 2004

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
City Attorney's Office

FROM: Craig Carnagey, Landscape Administrator

THRU: Dawn Warrick, AICP, Zoning & Development Administrator
Tim Conklin, AICP, Community, Planning & Engineering Services Director

DATE: January 14, 2004

RE: Evergreen Screen Request for Brophy Condominiums

On January, 6, 2003, City Council asked the developer of Brophy Condominiums to plant an evergreen screen along the western edge of this property. This request stated that the developer would be allowed to forego a percentage of this project's required payment into the City's Tree Escrow Account in order for the developer to use this money to plant trees for this screen.

At the request of the City Attorney, the following information from Chapter 167 Tree Preservation and Protection of the Unified Development Code is provided for your review: Chapter 167.04(J)(4)(a) requires all residential subdivisions that remove trees below the designated percent minimum canopy to pay into the City's Tree Escrow Account. There is no legal provision that allows a subdivision development to plant trees in lieu of paying into the tree fund. There is an amendment to this section of the ordinance pending Council approval that would allow a developer the option to submit a mitigation plan to plant trees on-site, rather than pay into the Tree Escrow Account. This amendment requires a specified plan with guarantees to be submitted for approval by the Landscape Administrator.

The Planning Division recently received a letter from the engineer for Brophy Condominiums stating they would plant the requested evergreen screen. However, no mitigation plan with guarantees has been submitted. Staff is recommending that any City Council request for this project to forego payment into the Tree Escrow Account in order to to plant an evergreen screen, be required to submit a full mitigation plan with guarantees to the Landscape Administrator for approval. This action, under the existing provisions of Chapter 167, constitutes a waiver from the requirements of the Tree Preservation and Protection Ordinance which must be specifically approved by City Council.

C. 3.
Creation of an
Ex Officio, Nonvoting
Council Member.

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF JANUARY 20, 2004

FROM:

ALDERMAN ROBERT RHOADS

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Amend The Rules Of Order And Procedure Of The Fayetteville Mayor/City Council By Adding **Section J**. Creating An Ex Officio, Nonvoting Council Member Designated To Be Filled By The President Of The Associated Student Government Of The University Of Arkansas

APPROVED FOR AGENDA:

1/14/04

Alderman Date

1/13/04

City Attorney (as to form) Date

RESOLUTION NO. ______

A RESOLUTION TO AMEND THE RULES OF ORDER AND PROCEDURE OF THE FAYETTEVILLE MAYOR/CITY COUNCIL BY ADDING **SECTION J.** CREATING AN EX OFFICIO, NONVOTING COUNCIL MEMBER DESIGNATED TO BE FILLED BY THE PRESIDENT OF THE ASSOCIATED STUDENT GOVERNMENT OF THE UNIVERSITY OF ARKANSAS

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends the Rules of Order and Procedure of the Fayetteville Mayor/City Council by adding a new **Section J.** as stated below:

"**J. Ex officio, nonvoting city council member appointed by the President of the ASG.**

"1. During his or her tenure, the President of the Associated Student Government of the University of Arkansas is empowered to appoint himself or herself or a representative to become an ex officio, nonvoting member of the Fayetteville City Council.

"2. This ex officio, nonvoting member may sit with the City Council and participate in discussions during all City Council meetings, but shall not be construed to increase the number of City Council members for any purpose including voting majorities, quorum requirements, etc. This ex officio member may not make or second a motion, nor make any points of order or privilege, nor take other parliamentary actions. This ex officio member may not participate in any executive sessions of the City Council.

"3. This ex officio member must comply with all the Rules of Order and Procedure and must complete all financial disclosure and ethics forms required of Aldermen."

PASSED and **APPROVED** this the 20th day of January, 2004.

APPROVED:

DRAFT

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

STAFF REVIEW FORM - FINANCIAL OBLIGATION

Added at the City Council meeting 1/20/04 C.4. New Business

X AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: January 20, 2004

FROM:

Greg Boettcher	Meter Operations Division	Water/Wastewater Department
Name	Division	Department

ACTION REQUIRED: Approval of a budget adjustment of $36,090.00 to fund 2 FTE's in the Meter Operations Division, additional staffing in response to two existing employees being called to active military duty. To balance the 2004 operations budget for this department, funds must be allocated from the enterprise fund balance to cover predicted additional labor costs.

COST TO CITY: Fiscal Year 2004 cost of $.

$36,090.00	$198,162.00/$329,168.00	Meter Operations
Cost of this request	Category/Project Budget	Program Category / Project Name
)0.1830.5100/5400.1820.5	$ -	Meter Maintenance/Reading
Account Number	Funds Used to Date	Program / Project Category Name
N/A		Water/Wastewater Program
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ____ Budgeted Item X Budget Adjustment Attached

Budget Manager — Date 1-16-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date 1/16/04
Internal Auditor — Date 1/16/04
City Attorney — Date 1/16/04
Purchasing Manager — Date

STAFF RECOMMENDATION:

Division Head — Date 01-16-04
Department Director — Date 01-16-04
Finance & Internal Services Dir. — Date 1-16-04
Chief Administrative Officer — Date 1-16-04
Mayor — Date 1/16/04

Received in Mayor's Office ____ Date

Cross Reference:

Previous Ord/Res#: ____
Orig. Contract Date: ____
Orig. Contract Number: ____
New Item: Yes No

ENTERED 1-16-04

Staff Review Form - Page 2

Description ________________ Meeting Date January 20, 2004

Comments:

Reference Comments:

Budget Manager

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Vice Mayor Bob Davis and
Members of Fayetteville City Council

THRU: Hugh Earnest, Chief Administrative Officer

COPY: Kit Williams, Steve Davis,
Sondra Smith, Don Osburn

FROM: Greg Boettcher, P.E.
Public Works Director

DATE: January 16, 2004

SUBJECT: **Request for Agenda Addition-January 20, 2004**
Meter Operations Staffing

Due to the sudden and unpredictable call to active duty of two members of our Meter Operations Division on January 13, 2004; this program has a critical need for approval of 2 additional positions to sustain business operations and meet customer needs. The rapid deployment of these reservists for a 365-day duty period warrants the immediate recruitment of replacement employees, and necessitates the use of a budget adjustment to fund the direct salary cost of two entry level employees for the balance of 2004 ($36,090.00).

The staffing level of the Meter Operations Division will be returned to normal levels as the reservists are released from active duty. It is expected that normal attrition in the organization and use of employee transfers will allow the scale-down of Meter Operation without the involuntary separation of employees. The 2003 attrition role in our workforce of 290 employees averaged 8.2 %; therefore, the city will typically have need for 24 new employees in a given year. With approximately 24 job openings per year, the absorption of these 2 employees into the workforce should be easily and promptly accomplished as their positions are resumed by the returning reservists.

City Council Meeting of October 7, 2003
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Greg Boettcher, Water/Wastewater Director Greg Boettcher

Date: January 16, 2004

Subject: Resolution authorizing 2 additional FTE's for Meter Operations Division and a supporting Budget Adjustment transferring $36,090.00 from enterprise fund balance to the 2004 operations budget.

RECOMMENDATION

Fayetteville City Administration recommends approval of 2 FTE's for the Meter Operations Department to sustain customer service operations in 2004; compensating for staffing called to active military duty. The replacement employees require a budget adjustment of $36,090.00 to transfer needed resources from the enterprise fund balance to the 2004 operations budget.

BACKGROUND

Two employees in the Meter Operations Division enlisted in the U. S. Army Reserves, have been called to active duty for a 365 day tour of duty. One individual is a meter reader and the other is in meter maintenance; this loss of staffing reducing these programs from 10 to 8 front-line employees (18 FTE's total in the Meter Operations Department). Under state law, the City of Fayetteville is required to reinstate the employees in an equivalent position upon their release from active duty. The City of Fayetteville must also provide transition pay, continue benefits and makeup any gross pay deficiency for the U. S. Army Reservists while they are on active duty.

DISCUSSION

This reduction in Meter Operations staffing for such an extended period cannot be covered using the remaining workforce; in order to sustain acceptable customer service replacement personnel must be hired, and trained in the vacant positions. As the end of this fiscal year approached, the City Administration will use attrition and transfers to allow reentry of the U. S. Army Reservists back into the Meter Operations Division; returning the staffing to former levels. Any staffing overlap will be used productively for accelerated water meter testing, replacement and radio read conversion activities.

BUDGET IMPACT

The activation of the military reserve could not be forseen at the time the 2004 budget was developed, hence this is special budget impact requiring supplemental funding for the two new interim positions in the Meter Operations Division. A Budget Adjustment transferring $36,090.00 from the enterprise Fund Balance to cover increased labor cost is needed to cover changed labor expenses for 2004.

RESOLUTION NO. ______

A RESOLUTION TO APPROVE TWO FULL TIME EQUIVALENT POSITIONS IN THE METER OPERATIONS DIVISION AND A BUDGET ADJUSTMENT IN THE AMOUNT OF $36,090.00 TO PAY FOR THOSE EMPLOYEES

WHEREAS, two experienced employees in the Meter Operations Division were called into active duty on January 13, 2004; and

WHEREAS, federal law and city policy guarantees that these reserve soldiers are entitled to their original or comparable job when they return from active duty; and

WHEREAS, the Meter Operations Divisions needs to replace these employees immediately in order to read water meters, but must keep their jobs open and available for these citizen soldiers.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an increase of two full time equivalent positions in the Meter Operations Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $36,090.00 attached as Exhibit "A".

PASSED and **APPROVED** this the 20th day of January, 2004.

APPROVED:

DRAFT

By: ______________________

DAN COODY, Mayor

ATTEST:

By: ______________________

SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Water & Wastewater Division: Meter Operations Program: Meter Reading	Date Requested	Adjustment Number
2004		1/20/2004	

Project or Item Requested:
$36,090 is being requested in the Meter Operations & Meter Maintenance programs.

Project or Item Deleted:
None. $36,090 from the Use of Fund Balance in the Water & Sewer Fund.

Justification of this Increase:
The funding is needed for the addition of two employees to cover position vacancies due to active military duty.

Justification of this Decrease:
There is sufficient funding remaining in the Fund to comply with City Policy and 2004 objectives.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number
Salaries and wages	5400	1820	5100	00	16,598	
FICA taxes	5400	1820	5105	00	1,447	
Salaries and wages	5400	1830	5100	00	16,598	
FICA taxes	5400	1830	5105	00	1,447	

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number
Use of fund balance	5400	0940	4999	99	36,090	

Approval Signatures

	Date
Requested By	
Budget Manager	1-15-04
Department Director	1-15-04
Finance & Internal Services Director	1-16-2004
Mayor	

Budget Office Use Only

Type: A B C D E

	Initial	Date
Date of Approval		
Posted to General Ledger		
Posted to Project Accounting		
Entered in Category Log		

City of Fayetteville, Arkansas
113 W. Mountain
Fayetteville, AR 72701

NEWS RELEASE

Contact Person: Greg Boettcher
Water & Wastewater Director

FAYETTEVILLE EMPLOYEES CALLED TO DUTY

Two members of the Fayetteville Meter Operations Division have been activated by their U.S. Army Reserve units. John Call and Derek Macleod were both ordered to report for duty on January 13, 2004 to serve in the "Enduring Freedom" campaign. Their orders indicate a duty period of 365 days. Mr. Call has been with the City of Fayetteville for more than five years and Mr. Macleod has more than two years service with the City. Both Reservists have achieved the rank of Staff Sergeant and have a military occupation of drill instructor. Along with their families, their associates with the City of Fayetteville all look forward to their safe return.

New Personnel Request - (2003 Budget)

Program Number.......:	1830	
Department...........:	Administrative Services	
Department/Division..:	Water & Sewer Services / Meter Maintenance & Backflow Preve	
New Personnel Title..:	Meter Maintenance Worker	
Pay Plan Grade.......:	NC6	
Priority.............:		

Personnel Information

Annual Salary...................:	20,550	
Employee Status.................:	FT	*(FT or PT)*
FTE Amount......................:	80.77%	*(100=100% & 75=75%)*

Personnel Services Cost

Salaries & Wages.....:	$ 16,598		
Overtime Amount......:	0		*(# of Hours)*
FICA.................:	1,278		
Life Insurance.......:	78		
Health Insurance.....:	0		*(F or I)*
LTD Insurance........:	76		
AD&D Insurance.......:	15		
Retirement...........:	0	N	*(Y, N, LP, LF)*
Worker's Comp........:	0		*(Workers Comp Code)*
Total..........:	$ 18,045		

Capital Outlay

Account Number	Description	Amount Requested

Operation and Maintenance Expense

Account Number	Description	Amount Requested

New Personnel Request - (2003 Budget)

Program Number.......:	1820
Department...........:	Administrative Services
Department/Division..:	Water & Sewer Services / Meter Operations
New Personnel Title..:	Meter Reader
Pay Plan Grade.......:	NC6
Priority.............:	

Personnel Information

Annual Salary..................:	20,550	
Employee Status................:	FT	*(FT or PT)*
FTE Amount.....................:	80.77%	*(100=100% & 75=75%)*

Personnel Services Cost

Salaries & Wages.....:	$ 16,598		
Overtime Amount......:	0		*(# of Hours)*
FICA.................:	1,278		
Life Insurance.......:	78		
Health Insurance.....:	0		*(F or I)*
LTD Insurance........:	76		
AD&D Insurance.......:	15		
Retirement...........:	0	N	*(Y, N, LP, LF)*
Worker's Comp........:	0		*(Workers Comp Code)*
Total..........:	$ 18,045		

Capital Outlay

Account Number	Description	Amount Requested

Operation and Maintenance Expense

Account Number	Description	Amount Requested

From: Greg Boettcher
To: Bechhold, Michele
Date: 1/14/04 7:44AM
Subject: Staffing for Meter Operations

Don Osbourne has advised me that two of his personnel are being called to active duty. This staffing reduction is predicted to be for 365 days and cannot not be covered using existing personnel for such a long duration. For each employee called to active duty, Don indicated that we would be obligated to cover their wages for a specific period of time plus provide an allowance for normal reserve duty, these allowances amounting to something on the order of 300 hours per employee. Do we need to maintain the employees medical/dental coverage during duty, are we obligated to make up pay difference between military and normal wages, and are we required to make any other provisions that are substantial costs?

We are needing to predict the costs of the recent development upon the current budget and are planning to prepare a city council request that addresses the following:

1. Adding 1 FTE to Meter Operations to offset the 2 FTE's called to military duty
2. Analyzing the basic payroll cost impact of having two existing employees on military duty while adding a new employee to offset the staffing loss.
3. Predicting the effect the lessened staffing will have on overtime for 2004 and including an allowance in the budget for increased use of overtime to fill any gaps.
4. Preparing a City Council Agenda Request detailing the staffing and budgeting changes needed to sustain Meter Operations during the staffing shortfall in 2004; including any necessary Budget Adjustment.

Don will be visiting with you today on this matter, however, I wanted to give you a heads up on our needs. I wish to add this to the upcoming city council agenda as a special item, if possible, as both employees are being deployed almost immediately.

Thank You,

Greg Boettcher

CC: Davis, Steve; Earnest, Hugh; Osburn, Don; Smith, Sondra; Springer, Kevin

Tentative Agenda
City Council Meeting
January 20, 2004

A meeting of the Fayetteville City Council will be held on January 20, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Agenda Session: Mac Norton, with Wright, Lindsey & Jennings: Discussion of franchising for cable under federal law.

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the January 6, 2004 meeting minutes.

2. **Canon Copier Purchase:** A resolution approving the purchase of approximately 13 photocopiers from Canon USA at State contract prices in an amount not to exceed $127,000.00; and approving a budget adjustment in the amount of $127,000.00 for same.

3. **Community Access Television (CAT) Contract:** A resolution approving a renewal contract in the amount of $69,000.00 with Community Access Television, to provide Public Access Television services through December 31, 2004.

B. OLD BUSINESS:

1. **R-PZD 03-6.00; Benton Ridge, Long, LLC:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This ordinance was left on the first reading at the January 6, 2004 City Council meeting.***

2. **R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This ordinance was left on the first reading at the January 6, 2004 City Council meeting.***

3. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park. ***This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.***

C. NEW BUSINESS:

1. **WIV-Fayetteville Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with WIV-Fayetteville, LLC in an amount of $25,512.00 plus a contingency of $3,826.00 for a total of $29,338.00 for the construction of 350 feet of 8-inch water main.

2. **Mount Sequoyah Woods Conservation Easement:** A resolution to approve the sale of a Conservation Easement to the Fayetteville Natural Heritage Committee on the 67 acres of Mount Sequoyah Woods purchased by the City of Fayetteville pursuant to Resolution No. 46-03 (Hereinafter Mount Sequoyah Woods).

D. INFORMATIONAL:

Council Tour: January 19, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer
Steve Davis, Finance & Internal Services Director

From: Peggy Vice, Purchasing Manger PVice

Date: December 29th, 2003

Subj: Resolution approving purchase of copiers from Canon USA and approval of a maintenance agreement with Preferred Office Products at .0093/copy.

Recommendation

Staff recommends approval of a budget adjustment and approval to purchase approximately thirteen copiers for the year 2004. There are seven identified for the New Library and six for City division copiers that were not ready to be replaced in 2003.

Background

Library

The Library Staff has identified approximately seven copiers to purchase in 2004 for the New Library at an estimated cost of $79,000. One of the copiers would be purchased immediately as their current copier contract has expired. They currently have a Canon demo unit in place and are very satisfied with the new technology, functionality and ease of use. It would save the Library an estimated 3 to 4 percent financing charge to direct purchase with the City financing the cost over lease/purchasing through a copier dealer.

City Divisions

The initial purchase of copiers for the City has been so successful that staff would like to replace copiers in 2004 as their existing contracts expire. We have identified six copiers to be replaced this year at a cost of approximately $48,000. This will allow each division the same technology and cost efficiency. Copiers that have been identified to be replaced are Prosecutor's Office, Engineering, Police-Mall Substation, Dispatch, Fire and Water/Sewer Maintenance.

Discussion

All the previously approved machines have been ordered and installed and staff is in the process of learning the software and new features. The scan to email has been a big benefit to the City. Numerous items that were sent via fax or copied and mailed are now being scanned to desktop and emailed. Some divisions are even scanning documents to desktop and saving them to their servers instead of keeping hardcopy files.

The new approved copy machines will be ordered as needed off of the State of Arkansas DIS Contract with Canon USA. Having all copiers from one vendor will allow better tracking of cost and a lower maintenance fee.

The useful life of these copiers before having to be replaced is predicted to be a minimum of five years.

Guiding Principle #4

This purchase is an effort by Staff to accomplish "Guiding Principle #4":

- By selecting the most advantageous leasing cost and equipment available to the City.
- By selecting equipment that provides a means of savings on supplies and staff time.
- By combining all copiers together in a package deal to obtain the best available pricing in the market.
- By providing top-quality, responsive service through new technology to the Public.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF APPROXIMATELY THIRTEEN (13) PHOTOCOPIERS FROM CANON USA AT STATE CONTRACT PRICES IN AN AMOUNT NOT TO EXCEED $127,000.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $127,000.00 FOR SAME.

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

<u>Section 1</u>. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of thirteen (13) photocopiers from Canon USA at state contract prices in the amount of $127,000.00.

<u>Section 2</u>. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $127,000.00 for same.

PASSED and **APPROVED** this 20th day of January, 2004.

APPROVED:

By: ________________________
DAN COODY, Mayor

ATTEST:

By: ________________________
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department / Division / Program	Date Requested	Adjustment Number
2004	Department: Finance & Internal Services Division: Purchasing Program: Sales Tax Capital Improvements	1/20/2004	

Project or Item Requested:
$127,000 in the Copier Purchase Replacements Capital Project.

Project or Item Deleted:
None. $127,000 in the Use of Fund Balance.

Justification of this Increase:
The funding is needed to purchase replacement copiers for the City of Fayetteville and the Fayetteville Public Library.

Justification of this Decrease:
There is sufficient fund balance remaining to comply with 2004 objectives and City policy.

Increase Budget (Decrease Revenue)

Account Name	Account Number				Amount	Project Number	
Fixed assets	4470	9470	5801	00	127,000	03036	1

Decrease Budget (Increase Revenue)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	4470	0947	4999	99	127,000		

Approval Signatures

Requested By — Date

Budget Manager — Date 1-2-04

Department Director — Date

Finance & Internal Services Director — Date 1-5-04

Mayor — Date

Budget Office Use Only

Type: A B C D E

Date of Approval — Initial — Date

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: January 20, 2004

FROM:

Peggy Vice	Purchasing Division	Internal Services
Name	Division	Department

ACTION REQUIRED: Approval to purchase additional copiers from the State of Arkansas Contract with Canon USA and approval of a budget adjustment.

COST TO CITY:

$127,000.00	$ -	Capital
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5801.00		Capital/ Copier Replacements
Account Number	Funds Used to Date	Program / Project Category Name
03036	$ -	General
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ___ Budgeted Item X Budget Adjustment Attached

Budget Manager — Date 1-2-04

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing — Accounting Manager — Date 1/2/04
Nancy Smith — Internal Auditor — Date 1/5/04
City Attorney — Date 1/5/04
P. Vice — Purchasing Manager — Date 1-2-04

STAFF RECOMMENDATION: Approval

P. Vice — Division Head — Date 1-2-04

Received in Mayor's Office 1/5/04 Date PH

Department Director — Date

Cross Reference:

Finance & Internal Services Dir. — Date 1-5-04

Previous Ord/Res#:

Orig. Contract Date:

Chief Administrative Officer — Date 1-7-04

Orig. Contract Number:

New Item: Yes No

Mayor — Date

1-4-04

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

Date: January 2, 2004

To: The Mayor and Council

From: Hugh Earnest

Subject: Community Access Television (CAT) contract extension

Recommendation
The contract for services provided by CAT is extended for a one year period.

Background
Several terms and conditions in the contract for services between the city of Fayetteville and service providers for community television were amended in late 2002 and used in the award for services to Community Access Television. The contract calls for the performance under the contract to be reviewed on a yearly basis by the city Telecommunication Board. It also calls for the contract to be renewed on a yearly basis on the recommendation of said board.

Current Situation
The Telecommunications board voted 5-0 at their December 17th meeting to recommend to the City Council that the contract as attached be accepted by the city. The board was satisfied that the CAT board met the terms and conditions as contained in the scope of Services in Section 1 of the contract. The current contract contains language relative to furnishing computers to CAT for their use. In addition, there is language setting a monthly charge for phone lines. We are reserving the ability to evaluate these items during this year as part of a management overview of our operation in this general area.

Financial impact
The monies for the payment for services provided are contained in the 2004 budget as adopted by council.

RESOLUTION NO. ______

A RESOLUTION APPROVING A RENEWAL CONTRACT IN THE AMOUNT OF $69,000.00 WITH COMMUNITY ACCESS TELEVISION, TO PROVIDE PUBLIC ACCESS TELEVISION SERVICES THROUGH DECEMBER 31, 2004.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a renewal contract in the amount of $69,000.00 with Community Access Television, to provide public access television services through December 31, 2004. A copy of the renewal contract, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 20th day of January, 2004.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

City Of Fayetteville
(Not a Purchase Order)

Requisition No.:		Date: 12/31/2003	
P.O Number:		Expected Delivery Date: 1/15/2004	
Vendor #: 8430	Vendor Name: Community Access Television	Mail Yes:__ No:_XX_	
Address: 101 West Rock Street	Fob Point: Fayetteville, AR	Taxable Yes:__ No:__	Quotes Attached Yes:__ No:__
City: Fayetteville	State: AR	Zip Code: 72701	Ship to code:	Division Head Approval: Marvin Hilton
Requester: Marvin Hilton	Requester's Employee #: 773	Extension: 438	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Public Access Television Services	12	Mo	5,750.00	$69,000.00	1010-8800-5713-00			
2					$0.00				
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal: $69,000.00
Tax:
Total: $69,000.00

Approvals:

Mayor: ____________ Department Director: ____________ Purchasing Manager: ____________

Finance & Internal Services Director: ____________ Budget Manager: ____________ IT Manager: ____________

Dispatch Manager: ____________ Utilities Manager: ____________ Other: ____________

Revised 6/17/03

cat
community access television

Community Access Television

101 W. Rock st.
Fayetteville, AR 72701
(479) 444-3433

INVOICE

Invoice # 1313
Date: Dec. 30, 2003

Bill To:
City of Fayetteville

Qty	Description	Each	Total
1	**January 2004 Contract**	**$5,750.00**	**$5,750.00**
		Bal Due	**$5,750.00**

CONTRACT BETWEEN CITY OF FAYETTEVILLE, ARKANSAS AND COMMUNITY ACCESS TELEVISION (CAT)

A 501-C-3 NONPROFIT ORGANIZATION

AGREEMENT

This Agreement is made this ______day of _________, 2003, by and between the City of Fayetteville, a municipal corporation ("City"), and Community Access Television, a nonprofit corporation ("CAT"), who agrees as follows:

PURPOSE AND INTENT

1. The City desires to provide support for the use of cable television public, educational, and government ("PEG") access channels provided pursuant to federal law.
2. The purpose of the public access television is to provide training for the public for public access television productions and to ensure "first-come, first-served, non-discriminatory" programming, in accordance with the First Amendment, as a limited public forum for citizens.
3. The City is currently in negotiation with Cox Cable Company for renewal of a franchise to operate cable facilities within the City. This contract for the public access television station is contingent upon the City retaining a franchise contract with a cable operator, such as it is at present.
4. The franchise agreement with Cox Cable Company provides that certain channel capacity be provided for PEG access for non-commercial programming.
5. The City's Telecommunications Board Ordinance #4504 provides for a standing body to advise the City Council on telecommunications issues and to coordinate and oversee use of the public rights of way designated for public, educational, and governmental use on any telecommunication system serving the City of Fayetteville.
6. The City has determined that it will provide support for PEG access and that it will provide physical space and equipment located at the PEG Center, 101 W. Rock Street, Fayetteville.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES. In exchange for the funding provided by the City to CAT, pursuant to this Agreement, CAT shall provide the following services and report progress in each area to the Telecommunications Board on a quarterly basis:

A. OPERATE PUBLIC ACCESS CABLE CHANNEL. Operate the public access cable channel for non-commercial, public/community access programming purposes in a manner that is consistent with the principals set forth in this contract and the Telecommunications Board Ordinance. CAT will:

- Devise and monitor equipment check-in, check-out procedures and provide reports quantifying the amount of usage
- Schedule and monitor editing facilities and studio, maintaining scheduling records, and coverage documents, should any request for review be required
- Operate the public access channel for a minimum of 40 hours per week, Monday through Friday
- Have at least one staff member present during the required customer service hours to assist citizens with their productions.

B. PROVIDE EQUAL ACCESS. CAT will honor the First Amendment rights of members of the community who wish to use the public access station. CAT will provide access to the use of the equipment, facilities, channel, and services provided hereunder to all members of the community for non-commercial programming purposes, whether individuals, groups, or organizations, on a first-come, first-served non-discriminatory basis, pursuant to operating rules promulgated by CAT which are in compliance with the City's operating rules for the PEG Center (Addendum A).

C. OPERATING POLICIES AND PROCEDURES. CAT policies for the use and operation of the public access channel shall be in compliance with the City's operating rules of the PEG Center. CAT will file such policies with the Telecommunications Board and the City, and any changes in CAT policies will be posted on the web site and presented to the Telecommunications Board and the City as an informational item 15 days prior to implementation. CAT will:

- Devise and maintain administrative policies

- All communication between the City and the CAT with regard to contractual matters will be directed through the Cable Administrator, or any other such representative as may be appointed by the City, and the CAT's duly appointed representative. In the event of a disagreement over the administration of this agreement, either party may appeal to the Telecommunications Board who shall make recommendations to the Mayor or City Council, as may be required.

D. DEVELOP FUNDING – CAT will develop a plan for generating revenue at a minimum of 25% of the amount provided by the City, in order to subsidize additional growth.
   - o CAT will develop a general underwriting policy
   - o CAT will hold a minimum of two fundraising events per year
   - o CAT may form fundraising partnerships with other 501C3 non-profit organizations that provide services in its cablecast area. CAT and its fundraising partners combined shall not cablecast more than 4 fundraising events per year
   - o CAT will seek and devise a timely procedure for solicitation and collection of donations and other contributions to be recorded on a monthly budget process. These procedures could include, but not be limited to, telethons, web-based donation collections, etc.

E. COMPLIANCE WITH LAWS RULES, AND REGULATIONS. CAT will administer the public access channel and facilities in compliance with the Telecommunications Board Ordinance, with applicable laws, rules, regulations, and with the franchise agreement between the City and Cox Cable Company. All business and information maintained by CAT or the CAT Board of Directors is subject to the terms of the Arkansas Freedom of Information Act (FOIA).

F. TRAINING AND PROMOTION. CAT will train city and area residents in the techniques of video production, and provide technical advice in the execution of productions. CAT will:

   - o Create and provide training curriculum to emphasize video proficiency and production quality in public access programming
   - o Certify a minimum of 20 new producers per year
   - o Include public service requirement as part of the certification process that results in at least one cablecast quality program per trainee
   - o Promote the use of the Public Access channel to the extent that 300 new locally produced programs are cable casted per year. Only the following categories of program sources will be included:

      - Programs made by Independent CAT Producers whether or not they use CAT facilities
      - Programs made by local citizens who are not Independent CAT Producers
      - Programs produced by CAT for the purpose of allowing local citizens to express themselves. Such programs shall be open to participation by all citizens on an equal basis
      - Programs produced by independent producers using CAT contract production services

- Encourage the use of the digital video editing capabilities and stay abreast of emerging technologies
- Create a monthly schedule of relevant workshops to publish on the public access television channel's bulletin board and its web site.

G. PLAYBACK/ CABLECASTING. CAT will provide for playback/cablecasting of programs on the public access channel. CAT shall cablecast a minimum of 40 hours of local original, replayed and imported programming per week. This excludes the community message board. CAT will:

- Develop a policy and method for the scheduling of public access programs and cablecast programs on the public access channel
- Maintain accurate cablecast logs and report number of programs per month in each of the categories specified by the operating and programming policy
- Maintain a library of all produced shows to be available for review and use at the PEG Center
- A copy of all live and/or recorded programs are required to be held for 4 days past the original date of play if said programs are not submitted to the videotape library
- CAT shall require access producers to sign an agreement warranting that the program they are submitting does not contain:
  - i. any violation of any state or federal law relating to obscenity
  - ii. any material that is libelous, slanderous, or other defamation of character, or an unlawful invasion of privacy
  - iii. any advertising or material which promotes any commercial product or service
  - iv. any use of material which violates copyright law; or any material contrary to local, state or federal laws, regulations, procedures and policy

H. INFORMATION. CAT shall submit quarterly and annual reports, as defined by the Telecommunications Board, on the operations of the public access channel and other such special reports as listed below to the Telecommunications Board and the City.

- Reports of stolen or damaged equipment within one working day of learning of each occurrence
- Requests for changes in any procedures or rules pertaining to protection or preservation of City owned equipment and facilities
- All corporate documents, including but not limited to the CAT's by-laws, articles of incorporation, certification of compliance with affirmative action plan and EEO standards, and a list of Board members
- At any reasonable time and as often as the Telecommunications Board or the City may deem necessary, the CAT shall make available to them, or any of its authorized representatives, all of CAT's records related to all matters covered by this Agreement and shall permit the

Telecommunications Board or the City to audit, examine, make excerpts and copies of such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Contract

- During the term of this Contract, the CAT shall cause to be delivered to the Telecommunications Board and the City copies of all notices of meetings of its Board of Directors, setting forth the time and place thereof. Such notice shall be delivered in a timely manner to give adequate notice and shall also include an agenda
- Minutes of all meetings, if taken, and materials distributed in meetings of the CAT's Board of Directors, or committees thereof, shall be submitted to the Telecommunications Board and the City
- At such times and in such form as the Telecommunications Board or the City may require, the CAT shall furnish such statements, records, reports, data and information deemed pertinent to matters covered by this Agreement.

I. PROMOTION. CAT will actively promote the use and benefit of the public access television station and facilities to cable subscribers, the public, and Cox Cable Company.

- Maintain web site for publication of all reports and scheduled events
- Create a quarterly newsletter distributed via mail and direct delivery to members, producers and associates.
- Provide promotional spots/bulletin boards on the station that promote the use and benefits of the public access television station and facilities to cable subscribers and the general public.

SECTION 2. PERFORMANCE. CAT will be evaluated through quarterly evaluations, and an annual performance review.

-
- Quarterly evaluations will be performed in accordance with the criteria set by the Telecommunications Board, consistent with the process for oversight as specified in the Telecommuncations Ordinance
- A Performance Review shall be conducted by CAT and presented to the October meeting of the Telecommunications Board in order to ensure timely delivery of information to the City Council during annual budget review

    i. This review shall include an opportunity for CAT public access users and cable subscribers to provide input. In turn, the Telecommunications Board will evaluate the CAT Performance Review, basing the evaluation on the terms of this contract and citizen input. The Telecommunications Board will present its performance assessment and recommendations to the City Council in November and begin the process of negotiation for the following contractual year that begins January 1.

ii. All Telecommunication Board findings and recommendations regarding the Performance Review will be provided as feedback to CAT. In the event that the Board recommendation is for non-renewal of the CAT contract, an exit interview will be conducted to discuss all relevant facts.

SECTION 3. USE OF CITY PROPERTY/ OWNERSHIP. CAT recognizes that it is performing services for the City on City-owned property and that while on such property, CAT shall not engage in any activity that is not directly related to the services provided pursuant to this Agreement. Ownership title to all capital acquisition, supplies, material or any other property purchased with funds received under this Contract, is vested with the City, and possession of such property shall, upon termination of the Contract, revert to the City unless otherwise provided for by the City, in writing. Any equipment secured through fund-raising efforts to benefit the public access television station shall remain the property of the city's PEG Access Center. Ownership of the library of programs collected during the performance of this contract shall, upon termination of this contract, revert to the city.

- All changes to the facility and equipment array shall be approved by the City before being undertaken
- The City shall make at least two telephone lines available for CAT's business use CAT shall be responsible for reimbursing the City, on a quarterly basis, for this expense at a rate of $20 per line per month
- CAT shall be responsible for its own long distance telephone calls
- CAT shall be responsible for paying the costs of their listing in the telephone directory
- The City shall furnish and maintain up to three computers for the office use of the CAT. This is in addition to those computers that are part of the video systems And the public internet work station.
- The City shall provide access to the world wide web for the CAT
- There shall be no charge to citizens of Fayetteville for the use of cable casting time on the public access channel, nor for the use of the facilities or equipment. However, CAT's fees and charges may apply for such services as, but not limited to, instructions on video production and internet use, video tapes, video tape duplication, annual producer's fee and contracts for video productions.

MAINTENANCE

- The City shall be responsible for the payment of the Access Center utilities, routine building and grounds maintenance and maintenance of the structure
- The CAT may use the City's current copier at the Access Center for a charge of $.039 per copy. Additionally, the CAT may use the copier located at the City Administration Building for the standard charge as is

allocated per copy to the City Departments and Divisions. If the City upgrades the copier located in the Access Center, CAT shall pay an adjusted charge per copy, up to, but not to exceed the standard City rate charged to City Departments and Divisions as determined annually.

- Copy machine maintenance costs will be paid by the City.

VIDEO EQUIPMENT:

- The City shall repair and maintain the video equipment except as otherwise noted. Cat shall make minor, routine repairs to equipment used for public access productions which shall be mutually agreed upon by the City and CAT.
- CAT shall make minor repairs to equipment used for public access productions such as repairing microphones, cables, cleaning recording heads, and camera lenses
- Certain equipment, to be designated by the City, shall not be available for public access checkout. The reserved equipment shall be used only for government productions, CAT's contract productions, and CAT's promotional programs. Use of the reserved equipment will be only by CAT Staff and City Staff certified by a procedure established by the City.
- Use of the PEG Center video equipment and facilities will be coordinated by the City using a reservation system readily available at all times. This in no way relieves the CAT of the responsibility of making sure that all of the City's equipment used for public access purposes is checked out and returned in good working order.
- CAT will notify the City immediately of any problems with the equipment
- All video production equipment owned by the City and used for public, educational and/or government access productions shall be covered under the City's insurance policy.

SECTION 4. CONTRACT PERIOD. Initial contract period will be from January 1, 2004 until December 31, 2004. However, this agreement may be renewed for an additional one year term. Each such annual renewal term shall be subject to a favorable recommendation from the Telecommunications Board to the City Council, approval of renewal by the City Council, and budget approval by the City Council. In addition, either party may cancel this contract at any time with a thirty (30) day written notice.

SECTION 5. FUNDING. The City hereby agrees to pay CAT the monthly sum of \$5,750 for services performed under the terms of this contract. Each monthly payment will be remitted on or before the 15th day of each month, beginning January 15, 2004. The Contractor agrees to provide the City with a monthly financial report, based on a modified accrual or cash basis method, summarizing activity during the preceding 30 day period. Said report shall include income and balance sheet statements. Contractor shall have an independent certified public accountant complete an official review of its financial records annually. This report shall be submitted to the City by the last day of the third month after the end of Contractor's fiscal year.

SECTION 6. LEGAL AUTHORITY. CAT assures and guarantees that it possesses the legal authority to enter into this Agreement. Further, that the person or persons signing and executing this Agreement on behalf of CAT have been fully authorized by CAT to execute this Agreement. That such authority is evidenced pursuant to a proper, appropriate and official motion and resolution, which was passed and approved specifically to enter into this Agreement and shall legally bind CAT to all the terms, performances, and provisions here set forth. A copy of such resolution shall be provided upon execution of this Agreement. The City may exercise its right to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of CAT or the person signing the Agreement. The City shall not be obligated to pay CAT for any performance of the provisions of this Agreement after the City has suspended or terminated this Agreement as provided in this Section.

SECTION 7. PERSONNEL. CAT shall adequately staff the public access operation to meet the services and duties outlined in this agreement. Staff for public, educational, and government channels will be expected to work together in a cooperative manner with all groups using the facility. Personnel policies shall be established by CAT and shall be available for examination by the City.

Upon termination of an employee by the City Cable Administrator, and in the event that the CAT's manager wishes to hire the employee over the objections of the Cable Administrator, an appeal of the action may be brought by the Cable Administrator to the CAT's Board of Directors. Similarly, upon termination of an employee by the CAT, and in the event that the Cable Administrator wishes to hire the employee over the objections of the CAT's manager, an appeal of the action may be brought by the CAT's manager to the Telecommunications Board.

SECTION 8. EQUAL OPPORTUNITY. CAT shall comply with all applicable equal opportunity, affirmative action, and ADA laws or regulations, including those of the City of Fayetteville.

SECTION 9. INSURANCE. CAT shall obtain and keep in force during the term of this agreement a policy of public liability and property damage insurance. The coverage, at a minimum, shall be in the following amounts:

General Liability	
a. General Aggregate	$1,000,000
b. Products/Completed Oper. Aggr.	$1,000,000
c. Each Occurrence	$100,000
d. Fire Damage (any one fire)	$50,000
e. Medical Expense (any one person)	$5,000

Worker's Compensation for all employees as required by Arkansas Statute.

Bonding: CAT shall obtain a fidelity bond covering all persons handling funds received or disbursed and/or signing or co-signing checks to disburse funds under this agreement, within 10 days of the contract execution. The fidelity bond shall be in an amount equal to 10% of the city grant award or $5,000, whichever is less. CAT shall furnish the city proof of an adequate fidelity bond prior to the first payment of funds under this agreement.

SECTION 10. POLITICAL/SECTARIAN ACTIVITY. CAT management shall not initiate or sponsor political or religious programming. The staff shall work on a content neutral basis and shall not determine programming content except for programs produced for the purpose of promoting the use of the channel. Staff produced programs, such as short-takes and contract productions shall be open to participation by all citizens on a first-come, first-served, non-discriminatory basis. Though, the facility can be used for legitimate first amendment purposes, no portion of the funds received by CAT shall be used to directly produce any programs nor participate in any CAT-sponsored activities that establish any religion or prohibit the free exercise thereof.

SECTION 11. PUBLICITY. In any news release, sign, brochure, or other medium disseminating information prepared or distributed by or for CAT, mention shall be made of the City of Fayetteville having made the project possible, i.e. "'Community Access Television' is a project partially funded by the City of Fayetteville."

SECTION 12. HOLD HARMLESS. It is expressed understood and agreed by both parties that the City is contracting with CAT as an independent contractor and that as such, CAT shall save and hold the City, its officers, agents and employees harmless from all liability of any nature of any kind, including costs and expenses for, or on account of, any claims, audit exceptions, demands, suits or damages of any character whatsoever resulting from injuries or damages sustained by persons or property, resulting in whole or in part from the performance or omission of any employee, agent or representative of CAT. This Agreement shall not be construed in any manner or form as a waiver of that Tort Immunity as set out under Arkansas Law.

SECTION 13. CONFLICT OF INTEREST. The CAT covenants that neither it nor any member of its Board of Directors currently has any interest or shall acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The CAT further covenants that in the performance of this Agreement no person having such interest shall be employed or appointed as a member of its Board of Directors.

The CAT further covenants that no member of its Board of Directors or its staff or employees shall possess any interest in or use their position for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves, or others particularly, those with which they have family, business, or other ties.

No officer, member, or employee of the City and no member of its governing body who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Agreement, shall participate in any decision relating to the Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he has a personal financial direct or indirect interest; or have any personal financial interest, direct or indirect, in this Agreement or the proceeds thereof.

CONTRACT ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties hereto, and any prior agreement, whether written or oral, shall have no force or effect. Any subsequent agreements will have no effect unless properly executed in writing and recorded as an addendum to this Agreement.

SEVERABILITY. If any section, subsection, sentence, clause, phrase or word of this agreement is held to be invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or word will be deemed as a separate, distinct and independent provision, and such holding will not effect the validity of the remaining provisions of this agreement.

COMMUNITY ACCESS TELEVISION

By:________________________

Title:________________________

ATTEST:

By:________________________

Title:________________________

CITY OF FAYETTEVILLE, ARKANSAS

By:____________________
Dan Coody, Mayor

ATTEST:

By:________________________
Sondra Smith, City Clerk

ADDENDUM A
CAT CONTRACT
CITY'S PEG CENTER RULES

1. The use of alcohol, tobacco products and illegal drugs is strictly prohibited in the PEG Center.

2. Contractor's and City's employees shall not park in the spaces in front of the Access Center.

3. Food and drink shall not be taken into the production areas which includes all editing bays, the studio control and cable casting areas and the Multi-Media Editing and Internet Access room.

4. PEG Center users shall not leave items to be stored in the PEG Center without permission from the Public Access Manager or the Cable Administrator. In the event that there is a disagreement about what can be stored in the PEG Center, the city shall make the final decision.

5. PEG Center users shall not leave unattended items such as coats, hats, cups, props, dishes, papers, books, magazines, food, drinks and other items in inappropriate places. Each user shall leave the break room and other rooms in the PEG Center in a reasonable state of order and neatness.

6. All equipment use shall be entered into the appropriate reservation book before being used.

7. If a producer is 20 minutes late or more, without notification, for an equipment reservation, the equipment may be reserved by another producer.

8. Public Access Contractor and City shall each bear one-half of the costs of supplies used by everyone in the facility's break room.

9. The staffs for the public access and government channels will be working closely together at the PEC Center. Members of both staffs will be expected to work in a cooperative manner.

10. All persons shall behave in a respectful, courteous and orderly manner while in the PEG Center.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

x AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: January 20, 2004

FROM:

Hugh earnest		Chief Adminsitrative Officer
Name	Division	Department

ACTION REQUIRED: A resolution approving the contract for services between the city of Fayetteville and Community Access Television (CAT) for a period of one year.

COST TO CITY:

$69,000.00	$ 69,000	Services & Charges
Cost of this request	Category/Project Budget	Program Category / Project Name
1010.6600.5713.00	$ -	Miscellaneous
Account Number	Funds Used to Date	Program / Project Category Name
	$ 69,000 -	General
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager ____ Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing	1/5/04	Nancy Smith	1/5/04
Accounting Manager	Date	Internal Auditor	Date
D. J. White	1/5/04	P Rice	1/5/04
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION:

Division Head ____ Date

Received in Mayor's Office ____ Date

Department Director ____ Date

Cross Reference:

Previous Ord/Res#: ____

Finance & Internal Services Dir. ____ Date

Orig. Contract Date: ____

Hugh Earnest 1-02-04
Chief Administrative Officer Date

Orig. Contract Number: ____

New Item: Yes No

Mayor ____ Date

ENTERED 1-5-04

Staff Review Form - Page 2

Description ______________________ Meeting Date January 20, 2004

Comments: Reference Comments:

Budget Manager

PO needs to be changed to 12 months
Should we remove the maintenece section on
pg 6 reffering to computers.

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

Grants Coordinator

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator DW

Date: December 17, 2003

Subject: Residential Planned Zoning District for Benton Ridge (R-PZD 03-06.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating the Residential Planned Zoning District (R-PZD) for Benton Ridge. This action will establish a unique zoning district for development of an 8.34 acre tract located on the east side of Crossover Road, north of Huntsville Road and south of Wyman Road. The proposal is for the construction of 43 dwelling units on 23 residential lots (20- two family units, 3- single family units).

BACKGROUND

Staff has met with the applicant numerous times to discuss both the PZD process and the content of the proposal as submitted. Originally, the applicant proposed 21 Two-family lots and three commercial lots connected by a loop drive. Staff concerns with the proposal included the loss of significant tree canopy and natural drainage-ways, in a PZD process which specifically requires consideration of existing natural amenities in an effort to preserve them. A number of submittals and meetings occurred thereafter, all in which Staff reiterated concerns with these issues (see attached comments letter dated 31 July). The proposal was modified with the use of a cul-de-sac and single family homes in October, however Staff and the Subdivision Committee expressed concern with the use of proposed 4-plexes in a single-family residential dominated area. A neighborhood meeting was held by the applicant and several concerns addressed from the Subdivision Committee meeting, all of which are documented in the Staff report. Covenants for the development as well as detailed information regarding the location of proposed driveways and building footprints for each lot were considered as a part of this review process.

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on Monday, December 8, 2003. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval (preliminary plat). Recommended conditions included in the attached staff report were approved by the Planning Commission.

Left on 1st Reading 1/6/04

BUDGET IMPACT
None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED (R-PZD 03-06.00) LOCATED ON THE EAST SIDE OF CROSSOVER ROAD NORTH OF HUNTSVILLE ROAD AND SOUTH OF WYMAN ROAD CONTAINING 8.34 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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

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

From RSF-4, Residential Single Family, four units per acre to R-PZD 03-06.00 as shown in Exhibit "A" attached hereto and made a part hereof.

<u>Section 2.</u> That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on December 8, 2003.

<u>Section 3.</u> That this ordinance shall take affect and be in full force at such time as all of the requirements of the development plan have been met.

<u>Section 4.</u> That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this ______ day of __________, 2004.

APPROVED:

By:____________________
DAN COODY, Mayor

By: ______________________
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 03-06.00

PART OF LOTS 40 AND 41 OF W.E. ANDERSON FARM OR SUBDIVISION AS PER PLAT OF SAID SUBDIVISION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, BEING PART OF THE SE1/4 OF THE SE1/4 OF SECTION 14 IN TOWNSHIP 16 NORTH, RANGE 30 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT AN EXISTING IRON PIN ON THE NORTH LINE OF LOT 41 OF W.E. ANDERSON FARM THAT IS S87°44'19"E 147.06 FEET FROM THE N.W. CORNER OF SAID LOT 41; THENCE S87°44'19"E 515.99 FEET TO AN EXISTING IRON PIN AT THE NE CORNER OF SAID LOT 41; THENCE ALONG THE EAST LINE OF SAID LOT 41 S02°58'03"W 330.68 FEET TO AN EXISTING IRON PIN AT THE NE CORNER OF LOT 40 OF SAID W.E. ANDERSON FARM; THENCE ALONG THE EAST LINE OF SAID LOT 40 S02°46'06"W 323.67 FEET TO AN EXISTING IRON PIN AT THE SE CORNER OF SAID LOT 40; THENCE ALONG THE SOUTH LINE OF SAID LOT 40 N88°00'06"W 185.72 FEET TO THE SE CORNER OF A CEMETERY; THENCE ALONG THE BOUNDARY LINE OF SAID CEMETERY THE FOLLOWING FOUR (4) COURSES: N01°34'51"E 150.00 FEET, N88°00'06"W 267.00 FEET, S01°34'47"W 132.00 FEET, THENCE N88°00'06"W 192.64 FEET TO THE EAST RIGHT-OF-WAY LINE FOR ARKANSAS STATE HIGHWAY 265; THENCE ALONG SAID HIGHWAY 265 EAST RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES: N05°57'13"E 217.36 FEET, N04°37'51"W 150.74 FEET, THENCE N01°17'45"E 145.72 FEET; THENCE LEAVING SAID HIGHWAY 265 EAST RIGHT-OF-WAY LINE S87°44'19"E 142.52 FEET TO AN EXISTING IRON PIN; THENCE N02°30'01"E 127.01 FEET TO THE POINT OF BEGINNING, CONTAINING 8.34 ACRES, MORE OR LESS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of December 08, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
Matt Casey, Staff Engineer
THRU: December 02, 2003

R-PZD 03-06.00: Planned Zoning District (Benton Ridge, pp 527) was submitted by Crafton, Tull and Associates, Inc. on behalf of Long LLC for property located on the east side of Crossover Road, north of Huntsville Road and south of Wyman Road. The property is zoned RSF-4, Residential Single-family, 4 units per acre and contains approximately 8.34 acres. The request is to rezone the subject property to a Residential Planned Zoning District, with a total of 43 dwelling units on 23 lots (20 Two-family, 3 Single-family). Planner: Jeremy Pate

Findings:

Proposal: The request is for a Residential Planned Zoning District on 8.34 acres currently zoned RSF-4, which allows a maximum density of 4 units per acre of single family dwellings. The applicant requests a rezoning and preliminary plat approval for a residential subdivision with 23 lots. Eighteen (18) lots are proposed to be constructed with two-family dwelling units for a total of 36 dwelling units. Two lots are proposed to be developed with one (1) four-unit multi-plex spanning the lot line, resulting in a total of 4 dwelling units. The three remaining lots near Crossover Road are proposed to be single family lots, for a total of 3 dwelling units. Total proposed dwelling units on the 8.34 acres numbers 43, therefore the proposed density for the R-PZD is <u>**5.2 DU/acre.**</u>

Proposed Lots:
R-PZD, Residential Planned Zoning District

Lot No.	Land Use	Structure	# of Units	# of Bedrooms
1 2	Multi-Family (One 4-plex)	Sarasota Grove Multi-plex	4	12
3	Two-Family	Nutmeg Circle	2	6
4	Two-Family	Nutmeg Circle	2	6
5	Two-Family	Nutmeg Circle	2	6
6	Two-Family	Chelsea Blvd.	2	6
7	Two-Family	Cooper Lake	2	6
8	Two-Family	Chelsea Blvd.	2	6

9	Two-Family	COOPER LAKE ~~Creekside Way~~	2	6
10	Two-Family	COOPER LAKE ~~Creekside Way~~	2	6
11	Two-Family	Chelsea Blvd.	2	6
12	Two-Family	Nutmeg Circle	2	6
13	Two-Family	Spruce Ridge	2	?
14	Two-Family	Chelsea Blvd.	2	6
15	Two-Family	Cooper Lake	2	6
16	Two-Family	Cooper Lake	2	6
17	Two-Family	Spruce Ridge	2	TBD
18	Two-Family	Morenci Court	2	6
19	Two-Family	Chelsea Blvd.	2	6
20	Two-Family	TBD	2	TBD
21	Single Family	Single Family Home	1	N/A
22	Single Family	Single Family Home	1	N/A
23	Single Family	Kennedy Cottage	1	N/A
24	Detention Pond	Detention Pond	0	0
25	Conservation Easement	No development	0	0
26	Conservation Easement	No development	0	0
27	Conservation Easement	No development	0	0
28	Conservation Easement	No development	0	0

The site contains significant groupings of trees, some of which are located along a natural drainage way, which is required to be considered as part of a Planned Zoning District:

> *Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. (§166.06)*

> *Natural Features. Maximum enhancement and minimal disruption of existing natural features and amenities. (§161.25)*

With this in mind, staff has worked with the applicant to preserve several groupings of trees and a portion of the natural drainage way that meanders through the center of the site, thereby protecting the trees that depend upon this water source.

A waiver for the maximum 500-foot length of a cul-de-sac has been formally submitted. The applicant requests a 965-foot length. In previous submittals, a loop drive was utilized, which both removed a significant grouping of trees near the front of the property and minimized the area available for a detention pond, thereby creating a 9-10' wall surrounding the pond. Staff recommended realignment of the drive for these reasons, and supports the proposal and waiver request the applicant is presenting.

Three lots at the entrance of the development are indicated for single family homes, with the remainder proposed to be two-family dwelling units. A draft of restrictive covenants addressing building materials, size, fencing, landscaping, etc. has been submitted. A final draft is required to be filed with the Final Plat.

Existing Development: Currently two single family homes are on the site, to be removed.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Single family homes	RSF-4, Residential Single Family, 4 units per acre
South	Buckner Cemetery, Single family homes	RSF-4, Residential Single Family, 4 units per acre
East	Single family	RSF-4, Residential Single Family, 4 units per acre
West	Crossover Road, Vacant	RSF-4, Residential Single Family, 4 units per acre

Water: Existing 8" line along Crossover Road, 8" lines extended to serve development

Sewer: Existing 6" sanitary sewer

Street Improvements Proposed: None

Adjacent Master Street Plan Streets: Crossover Road (State Hwy 265) is classified as a principal arterial on the Master Street Plan, requiring a minimum 55 feet of right-of-way dedication, by warranty deed.

Tree Preservation:

Existing canopy:	29.72%
Preserved canopy:	16.21%
Required:	20.00%
Mitigation:	$10,800.00

Tree preservation areas indicated on the plat are to be placed in a protective easement with ownership noted on the plat.

Background: Staff has met with the applicant numerous times to discuss both the PZD process and the content of the proposal as submitted. Originally, the applicant proposed 21 Two-family lots and three commercial lots connected by a loop drive. Staff concerns with the proposal included the loss of significant tree canopy and natural drainageways, in a PZD process which specifically requires consideration of existing natural amenities in an effort to preserve them. A number of submittals and meetings occurred thereafter, all in which Staff reiterated concerns with these issues (see attached comments letter dated 31 July). The proposal was modified with the use of a cul-de-sac and single family homes in October, however Staff and the Subdivision Committee expressed concern with the use of proposed 4-plexes in a single-family residential dominated area. A neighborhood meeting was held by the applicant and several concerns addressed from the Subdivision Committee meeting, all of which are documented in the Staff report. A timeline summary of the Benton Ridge R-PZD process is below:

Project History:

Date	Action	Comments
25 June	Initial meeting with applicant	Three commercial lots, 21 Two-family lots proposed
07 July	Initial R-PZD submittal by applicant	
14 July	In-house Review Meeting with applicants to discuss inadequate submittal of materials	Tabled at In-House for lack of materials
16 July	Technical Plat Review	Tabled prior to meeting
30 July	Technical Plat Review	Tabled; no changes were presented in the new submittal by the applicant with the exception of a greenspace drawing
31 July	Letter to Applicants, Representatives detailing Staff concerns	Comments addressed density, natural drainageways, tree preservation, discrepancies in submittal information, submittal requirements for elevations, etc.
06 August	Meeting with applicant to discuss staff concerns	Commercial Design Standards, density, PZD process discussion
12 August	Meeting with applicant	Agreed with applicant to table prior to meeting to address outstanding issues, changes in proposal (cul-de-sac, no commercial proposed, introduction of 4-plexes)
14 August	Subdivision Committee	Tabled prior to meeting
14 October	Meeting with Applicant to discuss new proposal for submittal	
15 October	Technical Plat Review	Staff recommendation to forward to Subdivision Committee w/revisions

30 October	Subdivision Committee	Project Tabled by S.C. pending N'hood mtg, footprints added to site plan, bldg elevations, other revisions
11 November	Neighborhood Meeting	
26 November	Subdivision Committee	Project forwarded to Planning Commission w/revisions for setbacks, driveways, parking, eave heights, screening
02 December	Zoning Review Team	Toured the Property
08 December	Planning Commission hearing	Staff recommendation of approval and forward to City Council

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

Planning Commission approval of the proposed preliminary plat subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district for R-PZD 03-06.00 with all conditions of approval as determined by the Planning Commission.
2. An ordinance creating this R-PZD shall be approved by City Council.
3. A Final Plat is required to legalize the lot configuration, filed pursuant to Fayetteville city requirements.
4.
5. Lot 20, which is not currently identified with a corresponding building footprint/ elevation, shall be identified prior to Final Plat approval.
6. Interior street names shall be approved by the City 9-1-1 Coordinator.
7. All setbacks, protective easements, designated lot uses, building footprints and elevations are binding with the approval of the R-PZD.
8. Submitted covenants are binding to the project and a final draft shall be filed with the Final Plat. The covenants shall be enhanced and revised to more adequately and correctly reflect the conditions of the proposal herein.
9. Planning Commission determination of a waiver for cul-de-sac length (500 feet

maximum, proposed is 965feet). *Staff is in support of the waiver, in order to preserve an existing significant stand of trees.*

10. Payment of Tree Preservation mitigation fees in the amount of **<u>$10,800</u>** into the City's Tree Escrow Account, as approved by the Landscape Administrator, shall be made prior to Final Plat.

Standard Conditions of Approval:

11. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

12. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

13. Payment of parks fees in the amount of **<u>$16,275</u>** shall be required prior to Final Plat.

14. Sidewalks shall be constructed in accordance with current City regulations along both sides of the interior street, four feet in width, a minimum of six feet from the curb. Sidewalks shall tie in to existing sidewalks along Crossover Road, and be constructed through the driveway.

15. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

PLANNING COMMISSION ACTION: **<u>yes</u> Required**
_____ Approved **_____ Denied**

Date: <u>December 08, 2003</u>

Comments:

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

____
By

____
Title

____
Date

indings associated with R-PZD 03-06.00

Sec. 166.06. Planned Zoning Districts (PZD).

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

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

FINDING: The proposed Two-family and Single Family residential subdivision includes provisions that preserves and enhances the surrounding neighborhood. Setbacks from adjoining properties to the north and west have been revised in order to provide a buffer that is more indicative of the existing RSF-4 zoning. Site layout, circulation patterns and land uses have all been altered from initial inception to best preserve existing stands of trees and a natural drainage way through the property. The proposed density (5.2 DU/Acre) is only slightly above that allowed by right in the existing zoning district, and buildings, open space, screening and landscaping have been placed and/or ensured by covenants to further the amenity of the development to the community. Accommodations have been made to place 4 lots in Conservation Easements, in addition to Tree Canopy preservation areas, common green spaces and a lot serving as a detention pond. The applicant is required to file a Final Plat and Covenants pursuant to City regulations to create legal lots of record in the subdivision, prior to the issuance of building permits.

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

FINDING: The cemetery is required to be screened with native, drought tolerant vegetation, as indicated on the Tree Preservation plan. In addition, the draft Covenants submitted by the

applicant requires each lot to plant a 2" caliper tree for each residential unit. Where possible, existing vegetation and tree canopy has been placed in a Tree Preservation Easement or Conservation Easement to ensure adequate screening from adjacent properties.

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

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

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

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

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

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

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

FINDING: The proposed cul-de-sac is 965 feet in length, which requires a waiver by Planning Commission. Staff has worked with the applicant to provide adequate vehicular access while still preserving a significant stand of trees near Crossover Road. The street has been designed with a 28-foot width, which allows on-street parking.

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

FINDING: N/A

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

FINDING: The applicant has made revisions to setbacks and saved existing tree canopy along the perimeter of the property when possible to meet this requirement.

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

FINDING: Four-foot sidewalks are proposed along both sides of the proposed street, and shall connect to existing sidewalks along Crossover Road.

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

FINDING: Adequate street lights have been provided to meet Ordinance requirements.

(8) *Water.* As required by §166.03.

FINDING: 8" water lines are being extended to serve the development.

(9) *Sewer.* As required by §166.03.

FINDING: Sewer lines are being extended to serve the development. A 6" sewer line is existing on the site.

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

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

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

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

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

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

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

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

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

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

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

Paving Width
(No On-Street Parking)

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

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

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

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

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

FINDING: The applicant is proposing a public street that meets all requirements set forth by the adopted standards of the City.

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

FINDING: N/A

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The Landscape Administrator has approved the applicant's Tree Preservation Plan preserving 16.81% of the 29.72% existing canopy and the proposed mitigation fees in the amount of $10,800, due prior to Final Plat approval.

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

FINDING: N/A

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

FINDING: N/A

(E) *Revocation.*

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

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

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

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

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

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

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

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

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

final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

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

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

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

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

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

FINDING: The applicant has submitted a draft of covenants for the proposed PZD describing the responsibilities and maintenance of future open space, landscaping, building types, heights, etc. A final draft shall be submitted and filed with the Final Plat.

Sec. 161.25 Planned Zoning District

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

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

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

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

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

of economic and redevelopment opportunities.

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

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

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

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

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

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

FINDING: The proposal exhibits flexibility in the density of development and types of residential units, mixing single family and two-family units in a variety of building types and elevations to provide a cohesive new neighborhood. The site plan has been reflective of the adjoining neighborhood's wishes, enlarging setbacks when adjoining single family homes, utilizing single family homes in those areas that are most visible from Crossover Road, and preserving open space and tree preservation areas in places that offer the most benefit to the surrounding community. The proposed development will provide for a variety of housing types, from owner-occupied duplexes to rental properties to single family homeowners. Suitable enhancement and minimized disruption of existing natural features has been a goal from the initial submittal of the proposed PZD.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Residential Areas which are:

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Environmental Resources which is:

9.16.b Define and protect areas of significant...hillsides, trees and other environmental resources through...density controls, protective easements ,and other new and existing development standards and regulations.

9.16.e Develop methods to identify tree preservation ares in perpetuity through tree easements and/or private conservation easements.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Community Character which is:

> ***9.19.g Encourage new residential development to incorporate varying lot sizes, home prices, and types of dwelling units.***

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

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

(C) R - PZD, Residential Planned Zoning District.

(1) Purpose and intent. The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The R-PZD proposed is consistent with the City's General Plan for residential development, and allows a more flexible means of development to better accommodate the siteing of structures and drives so as to preserve the existing natural amenities of the site, including significant stands of trees and a natural drainage channel.

(2) Permitted uses.

Unit 1 City-wide uses by right
Unit 2 City-wide uses by conditional use permit
Unit 3 Public protection and utility facilities
Unit 4 Cultural and recreational facilities
Unit 5 Government facilities
Unit 8 Single-family dwellings
Unit 9 Two-family dwellings
Unit 10 Three-family dwellings
Unit 12 Offices, studios and related services
Unit 13 Eating places
Unit 15 Neighborhood shopping
Unit 19 Commercial recreation, small sites
Unit 24 Home occupations
Unit 25 Professional offices
Unit 26 Multi-family dwellings

FINDING: The proposal calls for Use Unit 8, Single Family Dwellings, and Use Unit 26, Multifamily dwellings.

(3) Condition. In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The PZD proposed is entirely residential in use.

***Required Findings for Rezoning Request.**

RECOMMENDATION:

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD03-06.00 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use

planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning from the existing RSF-4 to R-PZD, with the development as presented, is consistent with the General Plan's designation of the site as Residential. The density proposed is 5.2 Dwelling Units per acre, only slightly above the allowed 4 units per acre. The single family and two-family dwelling units proposed are compatible with the surrounding single family residential land use and zoning.**

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

Finding: **The proposed rezoning is needed in order to facilitate development of the proposed mixed-density, mixed-use unit (single family and two-family) subdivision. The flexibility of the PZD zoning allows for better insurance of compatibility with adjoining properties by permitting reduced interior setbacks not available with standard zoning districts.**

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

Finding: The proposed zoning will not create or appreciable increase traffic danger and congestion in this area. Crossover Road is an improved state highway in this location, and street improvements are not recommended in this location. An increase in traffic will occur with development, approximately 323 average vehicle trips per day generated by the proposed development. It is the opinion of the Fayetteville Police Department that this Planned Zoning District <u>will</u> <u>not</u> substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

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

Finding: The proposed zoning would not substantially alter the population density.

Engineering - **The property currently has access to an 8" water line along Crossover Road, which is proposed to be extended to serve development onsite. An extension of the water main will be required to provide water supply within any development on this property.**

The site currently has access to an 6" sewer main on the site and an 8" sewer line to the east. Sewer is to be extended within the development. The existing sewer mains should have sufficient capacity to serve the development.

Fire - **Water supply with fire hydrants is needed to serve development on this site. Response time from the Fire Station #5 is will be 1 minutes 43 seconds (1.2 miles).**

Police - **Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing citizenry. No additional equipment or personnel is needed to provide service to this area. No undesirable increase in load on police services is perceived by the proposed rezoning.**

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**

Benton Ridge
Summary of Trip Generation Calculation
For 43 Dwelling Units of Residential PUD
December 04, 2003

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	7.50	3.32	1.00	323
7-9 AM Peak Hour Enter	0.11	0.00	1.00	5
7-9 AM Peak Hour Exit	0.40	0.00	1.00	17
7-9 AM Peak Hour Total	0.51	0.72	1.00	22
4-6 PM Peak Hour Enter	0.40	0.00	1.00	17
4-6 PM Peak Hour Exit	0.22	0.00	1.00	9
4-6 PM Peak Hour Total	0.62	0.80	1.00	27
Saturday 2-Way Volume	6.82	2.66	1.00	293
Saturday Peak Hour Enter	0.27	0.00	1.00	12
Saturday Peak Hour Exit	0.29	0.00	1.00	12
Saturday Peak Hour Total	0.56	0.75	1.00	24

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

Crafton, Tull & Associates, Inc.

901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

December 2, 2003

Mr. Jeremy Pate
City of Fayetteville – Planning Department
113 West Mountain
Fayetteville, AR 72703

RE: Benton Ridge PZD – Subdivision Committee Comments
CTA Job No. 031061-00

Dear Mr. Pate:

The attached set of plans and drainage report were revised per the subdivision committee review comments from the November 26th meeting. Below is a breakdown of how the comments were addressed:

1. The varied rear building setbacks along the north property line and the east property line were revised to be a minimum of 20'.

2. The driveways for the proposed building on Lots 1 and 2 were revised to provide additional room for parking.

3. A note was added to the site plan to provide screening between the cul-de-sac and the cemetery.

4. A note addressing conservation easements and tree preservation were added to the preliminary plat.

5. The draft covenants were revised to address how buildings would be sold, tree preservation, etc.

6. The proposed sanitary sewer was extended to Lot 23.

7. The developer will not able to determine the accurate eave heights for Sarasota Grove or Nutmeg Circle until the building plans are ordered. The developer is not comfortable with ordering the detailed building plans until the project is approved, but will furnish this information for review and approval prior to the issuance of a building permit.

8. The developer is still looking for a building footprint for Lot 20 that will maintain the integrity of the proposed subdivision. Once a footprint is selected, the developer will furnish the information to the planning department for review prior to the issuance of a building permit.

Respectfully,
Crafton, Tull & Associates, Inc.

Juli Zimmerman

Juli Zimmerman, E.I.
Project Engineer

RECEIVED
DEC 0 2 2003
PLANNING DIV.

From: "Juli Zimmerman" <jzimm@craftull.com>
To: <jpate@ci.fayetteville.ar.us>
Date: 11/24/03 1:03PM
Subject: Benton Ridge - summary of changes

Jeremy -

Several items have been addressed since the previous Subdivision Committee, and I would like to summarize them in preparation for this week's committee meeting.

1. A note was added to the preliminary plat explaining the Tree Preservation/Green Space areas that are to be located within protective easements. Conservation easements are areas of common property and will be maintained by the POA. Areas designated as green space area to be owned by lot owner and to be maintained by covenants by the lot owner.

2. The cul-de-sac was moved north, so that there would be no grading within 5' of the south property line. A formal letter was submitted requesting a waiver for the length of the cul-de-sac.

3. Lot 23 was changed from a two-family dwelling to a single-family dwelling. There are now 20 two-family dwellings and 3 single-family dwellings. The total number of units for the project is 43 units, and the proposed density is 5.2 units per acre.

4. A drawing was submitted showing the building footprints and driveways for the proposed lots. An identification key was made to show which building elevations went with which lot. The building heights and number of bedrooms were also included. A packet showing the floor plans and elevations of each building was also included.

5. The 5' setback in front of Lots 1 through 5 was revised to a 20' utility easement.

6. The 8' setback on the back of Lots 7 through 9 was revised to a 15' setback.

7. The 5' setback on the east side of Lot 17 was revised to a 10' setback.

8. A meeting was held on Tuesday, November 18th, at 6:30 with the neighboring property owners. The neighbors that signed-in were:

Orvie Gosnell (2678 Travis)
Dorothy Ryskey (555 Sherlock)
Jerry and Sue Mounce (577 Sherlock)
Rick Nickell (2633 Wyman)
Clanton (390 Crossover)
Elsa Isaacs (2665 Travis)
James Wright (3758 Huntsville)
Wilda Hardin (2677 Travis)

Per property owner's comments at this meeting, the proposed duplexes on Lots 9 and 10 were revised from the Creekstone Way floor plan to the Cooper Lake floor plan. I will bring a revised drawing showing these new footprints to the subdivision committee.

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

November 19, 2003

Mr. Jeremy Pate
City of Fayetteville – Planning Department
113 West Mountain
Fayetteville, AR 72703

RE: Benton Ridge PZD – Subdivision Committee Comments
CTA Job No. 031061-00

Dear Mr. Pate:

The attached set of plans and drainage report were revised per technical plat review comments on October 30, 2003. Below is a breakdown of how the comments were addressed:

<u>Planning Comments:</u>

1. A note was added to the preliminary plat explaining the Tree Preservation/Green Space areas that are to be located within protective easements. (See Sheet 2)

2. The detention pond was assigned a lot number. (See Sheet 2).

3. A meeting was held on Tuesday, November 18th, at 6:30 with the neighboring property owners. A copy of the invitation is attached.

4. The building footprints and driveways were added to the lots. An identification key was made to show which building elevations went with which lot. The building heights and number of bedrooms were also included.

5. A formal letter is included requesting a waiver for the length of the cul-de-sac.

6. The cul-de-sac was moved north, so that there would be no grading within 5' of the south property line.

7. Lot 23 was reverted back to a single-family dwelling.

Please do not hesitate to call if you have any questions or comments about the revised plans. My direct dial number is (479) 878-2455.

Respectfully,
Crafton, Tull & Associates, Inc.

Juli Zimmerman

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

November 19, 2003

City of Fayetteville
113 West Mountain
Fayetteville, AR 72703

RE: Benton Ridge PZD – Formal Request for Waiver
CTA Job No. 031061-00

Dear Planning Commissioners:

The developer would like to formally request a waiver for the length of the proposed cul-de-sac street for the Benton Ridge Planned Zoning District project.

The proposed cul-de-sac length is 965' in length. Rather than extending the proposed street to Crossover for a second entrance, the proposed cul-de-sac allows for a large group of existing pine trees to be preserved.

Respectfully,
Crafton, Tull & Associates, Inc.

Juli Zimmerman

Juli Zimmerman, E.I.
Project Engineer

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

November 11, 2003

Dear Neighbors:

You are invited to an informational meeting which will be held on November 18, 2003 at 6:30 p.m. at the Ramada Inn located at 3901 N. College, Fayetteville, Arkansas concerning the proposed Benton Ridge PZD Subdivision.

The proposed project is located on the east side of Crossover Road, north of Huntsville Road and south of Wyman Road. The developer will be present to answer any questions you may have.

Thank you,

Juli Zimmerman

Juli Zimmerman, EI
Project Engineer

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax 479.631.6224 www.craftull.com

October 6, 2003

City of Fayetteville
Planning Commissioners
Fayetteville, AR

RE: Benton Ridge PZD Rezoning Request
CTA Job No. 031061-00

Dear Commissioners:

We are respectfully requesting this rezoning on behalf of Raymon and Melba Rogers, the current property owner of Lot 40 of the W.E. Anderson Farms, and on behalf of Carl and Ora Murrell, Trustees, the current property owner of Lot 41 of the W.E. Anderson Farms, and on behalf of Long, L.L.C., who has the properties under contract for purchase.

We are requesting that the property be rezoned as a Residential PZD for the following reasons:

1. **Flexibility.** The developer is proposing a mixed use within the twenty-three-lot subdivision. Lots 1 through 20 will be designated as two-family residential lots (Unit 9). Lots 21 through 23 will be designated as single-family residential dwellings (Unit 8).

2. **Compatibility and Harmony.** This area of Fayetteville is currently being developed as single-family residential (RSF-4), and the developer feels that a Residential PZD is compatible with the surrounding usage and will be beneficial to the community. The developer is proposing 43 units (20 duplex units, and 3 single family units), which will give the proposed site a density of 5.2 units per acre. This is just slightly about the density allowed by the RSF-4 zoning.

3. **Natural Features.** The building setbacks were adjusted throughout the proposed subdivision to best protect the natural features on the site, which will be designated as tree preservation areas in the covenants. The natural drainage way that runs through the center of the property is being preserved.

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Full public utilities are available. An existing 8-inch waterline is located along the west property line along Crossover Road. An existing 6-inch sanitary sewer line runs through the center of the property and along the north property line. An existing 8-inch waterline runs along the east property line.

Should you have any questions, or require any additional information, please contact us at your convenience.

Respectfully,

Crafton, Tull & Associates, Inc.

Jerry Kelso, P.E.
Project Manager

Benton Ridge PZD
Proposed Covenants

- All Residential units must be 1400 sq.ft heated and cooled. E.g. a duplex would be 2800 sq.ft overall
- All building must be a minimum of 70% brick or masonry finish material.
- Any siding must be of natural materials – no vinyl or masonite.
- Soffit & Fascia may be either wooden or aluminum.
- All roofing must be of an architectural shingle or wood shingle.
- All units must have a landscape plan approved by the POA.
- All yards will be fully sodded.
- All units will have a sprinkler system installed in the front and side yards.
- A POA will be created to maintain(mowing,weedeating) all of the yards.
- Any structural changes, exterior color/façade treatment alterations, or additions must be approved by the POA
- No vehicles can be parked anywhere but the designated areas. No inoperative vehicles can be left in sight.
- Fencing must be wood or wrought iron and must be approved by the POA. The poa will be responsible for letting an individual homeowner know when the appearance of his fence is unacceptable and will work with that homeowner to remedy the situation (i.e. stain the fence, new fence required)
- No businesses or live stock will be kept or operated on the residential lots.

- No trees existing in the building setbacks may be cut down unless the have been determined to be dead.
-
- Each lot will plant atleast a 2" caliper tree for each residential unit located on that lot. E.g. duplex = 2 trees planted and maintained
-
- Each unit will have a 6' yard light and matching mailbox. They will be of black painted metal (same as in Brookbury woods)
-
- All Structures(units) within the bounds of a legal lot are to be sold in their entirety.(no sale of one side of a duplex unit is permitted)
- Conservation areas are within common property and are to be owned and maintained by the property Owner's Association.
- Areas designated as green space are to be owned by the lot owner, but maintained by the POA.
- Since the PZD has included a larger road than required, Parking will be allowed on the street.
- The minimum square footage for lots 1 & 2 (zero lot lines) will be 1200 square feet per unit.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

[redacted]

Jerry Kelso
901 N. 47th Street Ste 200
Rogers, AR 72756

Re: Benton Ridge PZD proposal

Dear Mr. Kelso,

The following is a review of project requirements concerning the project mentioned above:

Staff remains concerned with the development as proposed and at this time is not comfortable recommending approval for the overall project. The following comments are items of concern that have been discussed with the applicant and applicant representative on several occasions (June 25, July 07, July 14, 2003). The site plans from the initial meeting have not appreciably changed in any manner as an outcome of these discussions. Staff remains unconvinced with how the proposed development achieves the intent and spirit of the Planned Zoning District as set forth in the Unified Development Code.

166.06 Planned Zoning Districts (PZD) D.

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

- The natural drainage features of the site are not being preserved in any manner. The natural drainage pattern is being reconfigured and stormwater is being channeled to a detention pond with approximately 9-foot high detention walls, creating an undesirable condition that could be avoided with more site-sensitive design and clustering of structures. Staff has expressed specific concern regarding these retaining walls, and comments are included in the Technical Plat review packet.
- In numerous places, the proposed tree preservation areas in which trees are intended to remain also

contain building envelopes. The tree preservation areas effectively become negated once the lot is sold and built upon. In particular, lots 2, 5, 18, and 24 indicate preserved tree areas within the building envelopes. Again, more site-sensitive design and potentially the clustering of dwelling units could alleviate both the potential loss of units and loss of trees for the overall development.

- The tree preservation area on lot 24, proposed to be utilized as commercial/office use, effectively creates an unbuildable lot. If the tree preservation area is truly to be in effect in this location, Staff needs to see a building footprint that works with that lot in the proposed manner.

- The natural drainage area has associated trees, including a 30" Ash, a 24" Elm, a 20" Elm, and several 10-12" Cherry, Sycamore, Pin oak and Ash trees, all of which are being removed. Staff is optimistic that some of these trees could be saved, along with the natural drainage area, with an alternate site layout.

Staff has consistently asked for design alternatives for the layout of the overall development, and as of yet has not received anything more than the current plan to review. The conceptual idea for the project reaches the benchmark set by the Planned Zoning District ordinance, however, the development needs to follow through. It is Staff's opinion that the site is overly developed to accomplish the goals and criteria set forth by the Planned Zoning District. The density allowed with the current zoning (RSF-4) is more compatible with that of the surrounding single family residential land use. The site plan could perhaps provide better compatibility with fewer lots and a reconfiguration of site layout and circulation to permanently preserve natural features and site amenities.

Please feel free to contact City Staff to review these and other comments and concerns regarding your proposed development project. We look forward to reviewing a revised site plan, and hope these comments will aid in that process.

Sincerely,

Jeremy C. Pate
Associate Planner
City of Fayetteville

cc: Juli Zimmerman, Crafton, Tull & Associates
Mr. Jon Brittenum
Dawn Warrick, Zoning & Development Administrator
Craig Carnagey, Landscape Administrator

From: <rustytwr@cox-internet.com>
To: <planning@ci.fayetteville.ar.us>
Date: Mon, Oct 27, 2003 12:16 AM
Subject: benton ridge subdivison

Garey Sorensen
425 S Stone Bridge Rd
Fayetteville AR
72701
479 521 8718
479 871 9012
rustytwr@cox-internet.com

October 27, 2003
Subdivison Committee
Planning Commission
113 West Mountain St
Fayetteville AR
72701

Members of the Subdivision Committee and Planning Commission,

My name is Garey Sorensen and I am a resident at 425 S Stone Bridge Rd. I am also President of the Wyman/Stone Bridge Neighborhood Association. This letter is in regard to the development known as Benton Ridge. My personal concerns are as follows,

1. the density of the development
2. the encroachment next to the cemetery

As a concern of the neighborhood associations, besides my own concerns, are

1. effects of changing the natural drainage
2. effects on our property values
3. that these are not planned as single family homes
4. will structures fit in with already established homes
5. Set back from property lines.

I have looked at a blueprint of the development and one of my major concerns is the cul-d-sac next to the cemetery. I believe there should be some kind of buffer and a removal of the street to protect the cemetery. My wife has family in the cemetery, I have church family that has family members there, and I have planned to be buried there myself.

Simply put, we do not wish to stop development. We would like to see the development be for single family homes on about half of the lots now called for. As it looks now, there would be 22 duplexes, which would be 44 families. That could roughly amount to 150 people on approx 8 acres. As one resident put it, in 10 years time that would be a blight (slum) on our neighborhood. We wish the Committee and Commission to turn down the plans as they are now. We would like to see the developers work with the Neighborhood Association and the over seers of the Buckner Cemetery to build something that is pleasing to the majority.

Sincerely,
Garey Sorensen

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October 27, 2003

City of Fayetteville
Subdivision Committee

My name is Malcolm Scott Clanton I live at 390 S. Crossover Rd. This letter is in regards to the Benton Ridge proposed subdivision. I am an adjoining landowner and I acquired a set of plans from the city. I and am very opposed because of the extreme population density of the plan. I am also concerned about the closeness to the Buckner Cemetery. Following the plans I took my tape measure to the Cemetery and noticed that the sidewalk that goes around the cul-de-sac would be approximately fifteen feet from a grave. As you know with dead end cul-de-sacs especially during construction you would have far increased litter into the cemetery proper i.e. trash, beer bottles. I feel this plan is irreverent to the historical cemetery.

Most people don't remember that Buckner Community had it's own autonomy at one time. The only remaining pieces of the Community are Buckner Church, and Buckner Cemetery. I am not naïve enough to think that 81/2 acres of land in the middle of Fayetteville would stay undeveloped, however, I feel that this is not a good plan and should be rethought. I ask only one thing of the developer, which is any street that comes off of Crossover rd. in Buckner Community, should be Buckner Street. I know these developers have a lot of money tied up in what they do. However, all of my money is tied up in where I live in this community. I love where I live and the people this is a great neighborhood and much thought should be placed into what is built here.

Thank You,

Malcolm S. Clanton
Vice President of the Wyman /Stonebridge neighborhood watch association
390 S. Crossover Rd.
Fayetteville, AR 72701

October 20, 2003

Planning Commission:

We are writing concerning a project called Benton Ridge Planned Zoning District. This project, located on the east side of Crossover Road, north of Huntsville Road and south of Wyman, abuts to the subdivision and community area that we live in.

We are strongly against having a rental project adjoining our quiet area of living. Not only do we feel that this will increase the noise and traffic in our area, but also decrease our property values. The proposed residential project will be placing 63 family dwellings on the property that at present has two families. We as a small quiet single- family residential area, are asking you to please consider the neighborhoods that are already in this area and ask you to deny this request.

Respectfully,

Leon Bozarth
Elaine Bozarth

Leon and Elaine Bozarth
2761 Travis Street
Fayetteville, AR 72701

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Subdivision Committee,

This letter is in Regards To The Benton Ridge develoment Proposal on The east side of Crossover RD North of huntsville Rd and South of Wyman RD in fayetteville. AT 830 Am on Thursday OCT 30 Room 111 you will reveE a Subdivision with 20 TWO family Residential a 3 Single family lots on 8.34 Acers. Would eQual Aproux. 63 FAmilys.

I highly OPPoses of This Project reasons being

A) Our Neighborhood is made up of singal family homes (NOT condoes)

B) The Value of our grandfathered in homes would be at risk. MY ~~Neighborhood~~ Neighbors on TRAvis & holmes St. would be in greator Jeopardy of NoisE and devaluing lAnd.

PleasE do NoT even consider This Cluster of Condoes To be built.

Yours Truly
Hollie Gunther
10/20/03

JANE PARKS
3365 WYMAN RD.
FAYETTEVILLE, AR. 72701
October 19, 2003

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SUBDIVISION COMMITTEE
ROOM 219
113 W. MOUNTAIN
FAYETTEVILLE, AR. 72701

PLEASE NOTE MY CONCERNS REGARDING THE BENTON RIDGE DEVELOPMENT. THE PROPOSALS BY BRYAN DANDY AND ROBERT SCHMIDT WILL COME BEFORE YOUR COMMITTEE ON OR ABOUT OCTOBER 30, 2003.

1. SHODDY WORKMANSHIP ON SIMILAR DWELLINGS BUILT ON MISSION BLVD.
2. WYMAN/STONEBRIDGE NEIGHBOR HOOD IS NOTA MIXED USE NEIGHBOR HOOD.
3. TREES WILL BE CUT. TOP SOIL REMOVED AND CLAY AND ROCKS BROUGHT IN AS FILL
4. THIS AREA WAS ORIGINALLY A 2 FAMILY LOT
5. A RESIDENTIAL/OFFICE COMPLEX WILL NOT FIT IN WITH THIS AREA
6. PROPERTY VALUES WILL DECLINE.
7. INCONSISTENCIES IN CITY COMMUNICAES ARE TROUBLING. HOW MANY OF WHAT TYPE BUILDINGS WILL BE BUILT VARIES WITH EACH MEMORANDUM.
8. WILL THERE BE DAMAGE TO BUCKNER CEMETERY?
9. WILL THE NATURAL CREEK BE OBLITERATED?
10. THE DENSITY OF POPULATION THIS WILL ADD TO OUR AREA IS NOT ACCEPTABLE TO THE WYMAN/STONEBRIDGE ASSOCIATION OR TO ME PERSONALLY.

PLEASE CONSIDER THESE CONCERNS.

RESPECTFULLY,
Jane Parks
JANE PARKS

Jerry and Sue Mounce
577 Sherlock Avenue
Fayetteville, AR 72701

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October 20, 2003

Subdivision Committee
City of Fayetteville
City Administration Building
113 West Mountain
Fayetteville, AR 72701

Dear Sirs or Madams:

I am writing you regarding the Benton Ridge Planned Zoning District.

I am an adjoining landowner to the East of the proposed project and want you to know that I am greatly disturbed at the prospects of such a development being in my back yard. I built this house about eight years ago in a single residential neighborhood and would not have done so if such a project as this could be seen (and heard) from my back porch. This type of project is not in keeping with the neighborhood I chose to build in and live in. I want you to not allow it.

I have been a resident of this area all of my life and my parents lived here all of their lives. As I now approach retirement in this neighborhood, I am appalled that the city would even consider changing my neighborhood in this way. I did not move here to live next to renters. I moved here to live with landowners who have a vested interest in their own property and live as owners of it. I do not wish to look out my back window to see a neighborhood that is not in keeping with the one I have chosen to live in as I retire with my wife.

This letter is to let you know of my displeasure in the possibilities of the impact that such a development would have on my hard earned and long sought investment here on Sherlock Avenue. If I had wanted to live in a duplex neighborhood I would have moved near to one. I did not then want to live near one and I do not appreciate that the powers that be in Fayetteville would make me live near one now.

Please do not allow this project to proceed.

Sincerely,

Jerry Mounce
Martha Sue Mounce

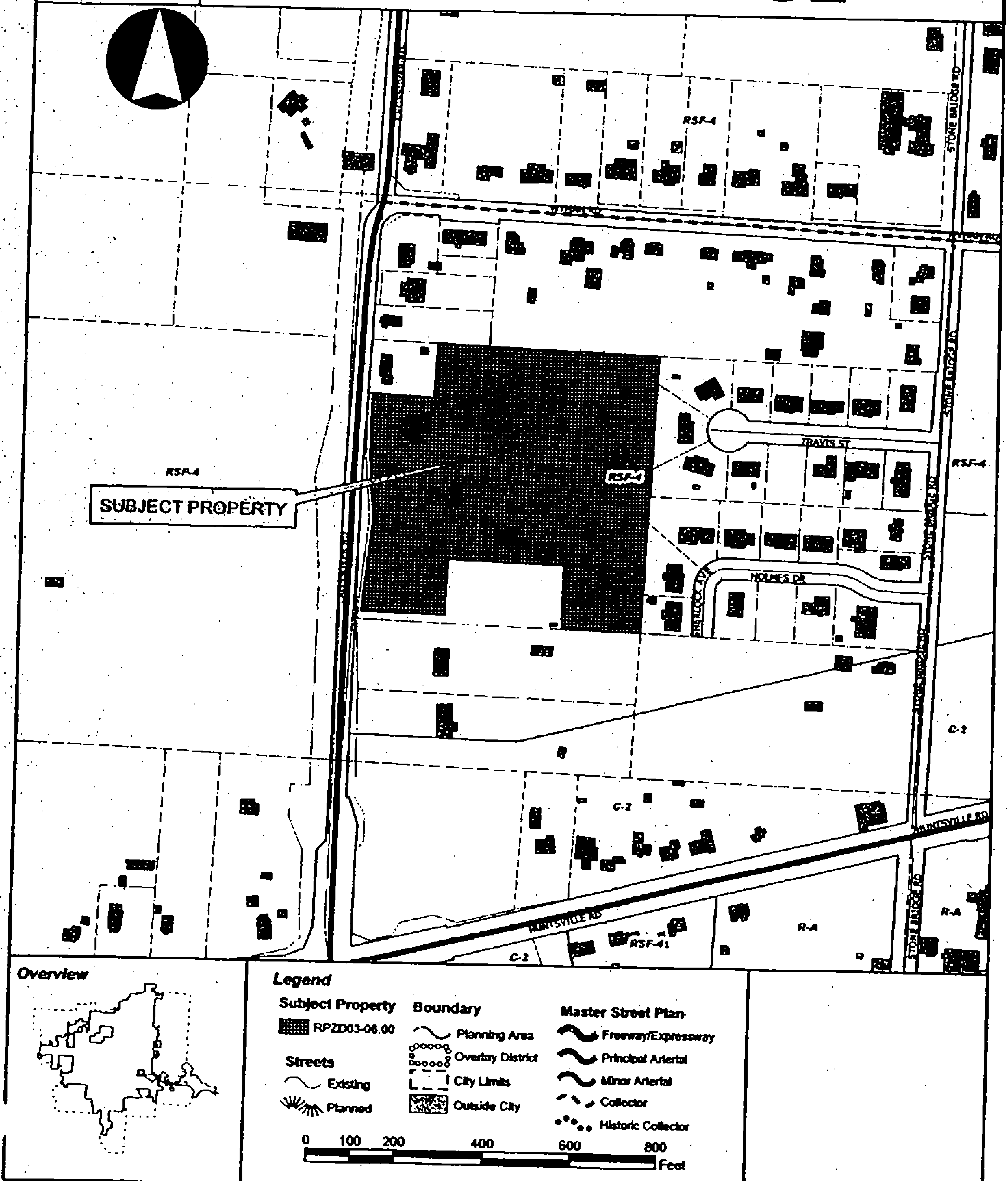
Jerry Mounce

File

RPZD03-06.00

Close Up View

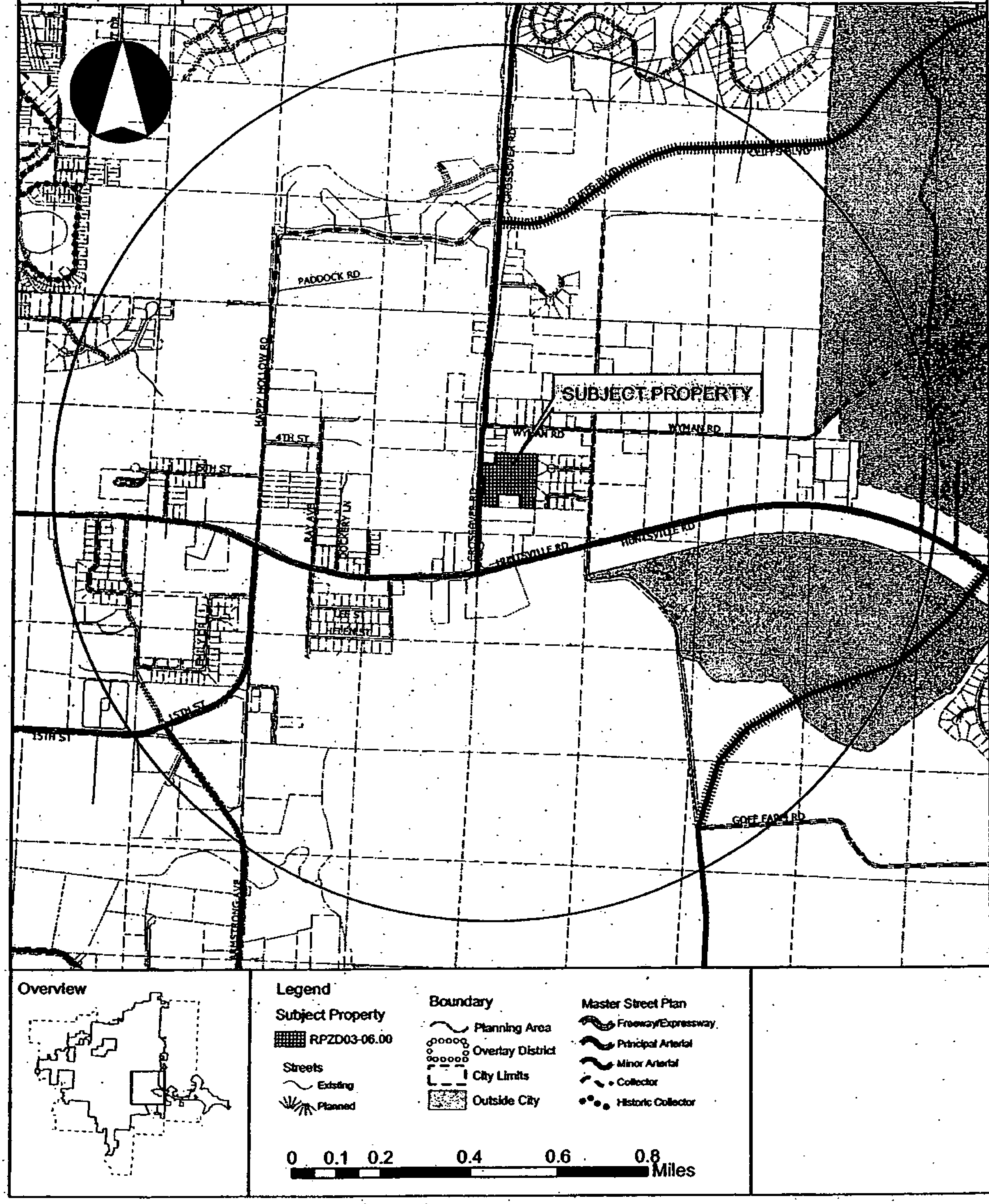
BENTON RIDGE



RPZD03-06.00

One Mile View

BENTON RIDGE



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

__x__ AGENDA REQUEST

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

R-PZD 03-06.00: Residential Planned Zoning District (Benton Ridge, pp 527) submitted by Crafton, Tull and Associates, Inc. on behalf of Long, LLC for property located on the east side of Crossover Road, north of Huntsville Road and south of Wyman Road. The property is zoned RSF-4, Residential Single-family, 4 units per acre, and contains approximately 8.34 acres. The request is to rezone the subject property to a R-PZD 03-06.00, with a total of 43 dwelling units on 23 lots (20 Two-family and 3 Single-family).

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — 12/19/03
Division Head — Date

Received in Mayor's Office — 12/19/03
Date

12-19-03
City Attorney — Date

12-19-03
Department Director — Date

Cross Reference:

12-19-03
Finance & Internal Services Dir. — Date

Previous Ord/Res#: ______

Orig. Contract Date: ______

Chief Administrative Officer — Date

Orig. Contract Number: ______

Dan Coody — 12/19/03
Mayor — Date

New Item: Yes No

ENTERED 12/19/03 TLM

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

From: Dawn T. Warrick, AICP, Zoning and Development Administrator DW

Date: December 17, 2003

Subject: Residential Planned Zoning District for Brophy Condos (R-PZD 03-07.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating the Residential Planned Zoning District (R-PZD) for Brophy Condos. This action will establish a unique zoning district for development of a 6.01 acre tract located east of College Ave, north of Township on Brophy Circle. The request is to rezone the subject property to a Residential Planned Zoning District with a total of 50 Residential dwelling units (25 Two-family units).

BACKGROUND

The applicant requests a rezoning and preliminary plat approval for a residential development within an R-PZD zoning district. The proposed use is two-family residential to be built in three phases. Density for the entire site is 8.32 units per acre. The development encompasses an area with three zoning designations of RSF-4, RMF-24, and RMF-40. The site is located east of College Avenue and north of Brophy Circle and has extensive canopy-coverage on steep terrain.

The applicant proposes to construct 25 duplexes with 50 total units to be sold using a horizontal property regime. Therefore, an individual may buy one unit located on a lot, which is defined as the building area for each duplex. There are two lot sizes. Twenty-one of the buildings are to be built at 35' by 40' and four at 40' by 50'. Seven styles of building elevations have been proposed. Styles 1, 2, and 3 are proposed for the larger building units and 4 through 7 for the smaller units. Below are the dimensions of each building style. The driveways for each of the buildings are unique. Minor changes are required to the plat to assure that the correct driveway configuration is represented for each unit. There is also a proposed five foot area around each unit designated as a construction perimeter and deck/porch easement.

DISCUSSION

The Planning Commission voted 5-3-0 in favor of this request on Monday, December 8, 2003. Approval of a planned zoning district requires City Council approval as it includes

Left on 1st Reading 1/6/04

zoning (land use) as well as development approval (preliminary plat). Recommended conditions included in the attached staff report were approved by the Planning Commission. Planning Commission did amend the conditions of this project to state that the structures to be located along the western edge of the development shall be limited in height to a maximum of two storys.

BUDGET IMPACT
None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED (R-PZD 03-07.00) LOCATED EAST OF COLLEGE AVENUE, NORTH OF TOWNSHIP ON BROPHY CIRCLE CONTAINING 6.01 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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

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

From RSF-4, Residential Single Family four units per acre, RMF-24, Residential Multi-family 24 units per acre and RMF-40, Residential Multi-family 40 units per acre to R-PZD 03-07.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. **That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on December 8, 2003.**

Section 3. **That this ordinance shall take affect and be in full force at such time as all of the requirements of the development plan have been met.**

Section 4. **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 __________, 2004.

APPROVED:

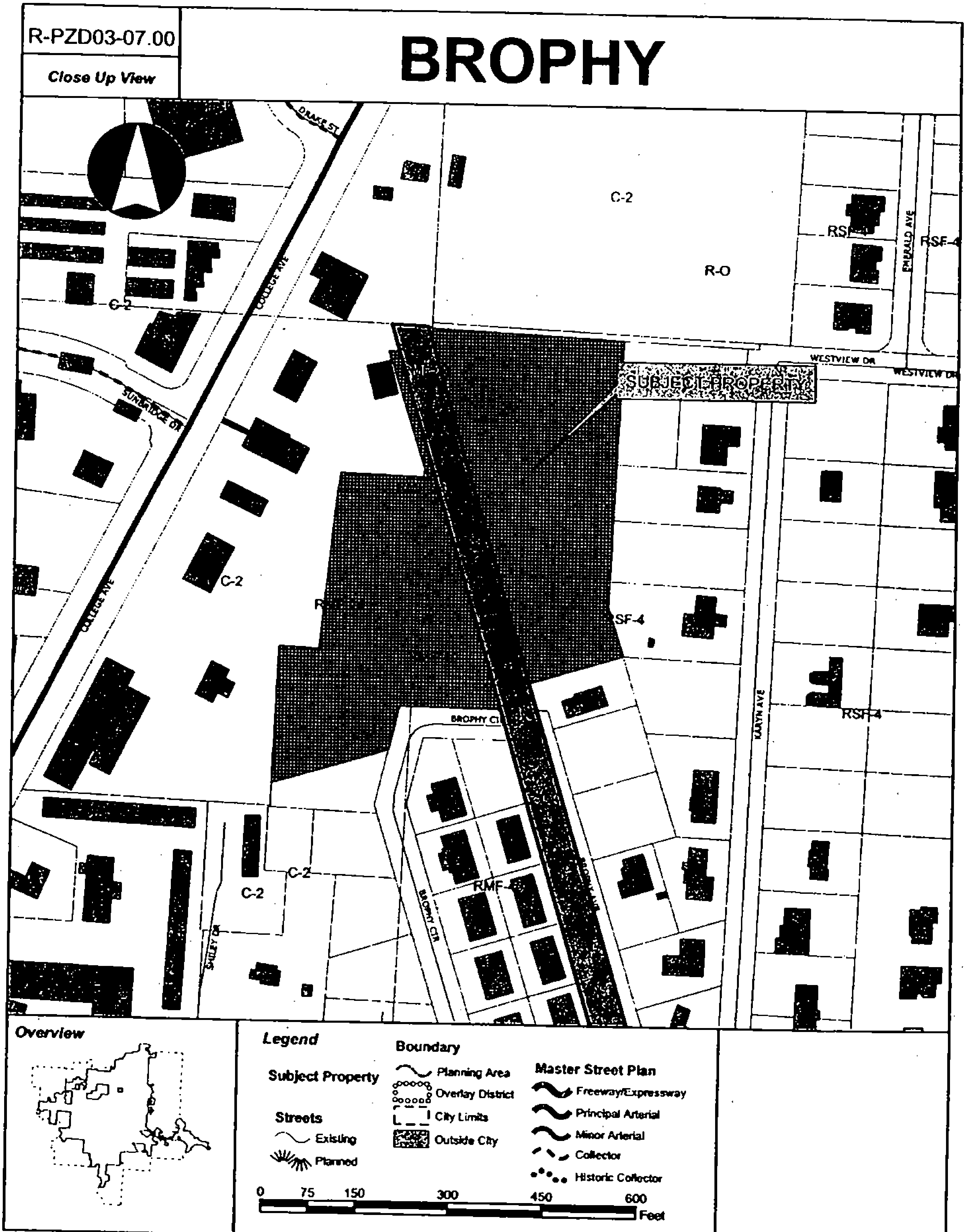
By:____________________
DAN COODY, Mayor

By: ________________________
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 03-07.00

A PART OF THE SE ¼ OF THE SW ¼ AND A PART OF THE SW ¼ OF THE SE ¼ OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER OF SAID SE ¼, SW ¼, RUN THENCE S02°19'51"W 10.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE S87°36'31"E 78.62 FEET; THENCE S87°41'04"E 226.63 FEET; THENCE S02°26'59"W 430.36 FEET; THENCE S17°19'50"E 84.79 FEET; THENCE S72°52'23"W 139.18 FEET; THENCE S75°58'14"W 50.08 FEET; THENCE 17°19'50"E [illegible] FEET; THENCE N89°13'34"W 185.06 FEET; THENCE S14°01'58"W 44.10 FEET; THENCE S67°01'51"W 211.76 FEET; THENCE N02°32'57"E 219.99 FEET; THENCE S87°42'47"E 63.58 FEET; THENCE N05°44'36"E 86.47 FEET; THENCE N06°05'49"E 149.85 FEET; THENCE N07°51'09"E 50.71 FEET; THENCE S87°41'04"E 139.79 FEET; THENCE N17°44'06"W 212.91 FEET; THENCE S87°41'04"E 56.84 FEET; THENCE N01°26'29"E 40.10 FEET; THENCE S87°36'31"W 11.05 FEET TO THE P.O.B., CONTAINING 6.01 ACRES, MORE OR LESS, AND SUBJECT TO ALL RIGHTS OF WAY AND UTILITY EASEMENTS OF RECORD.

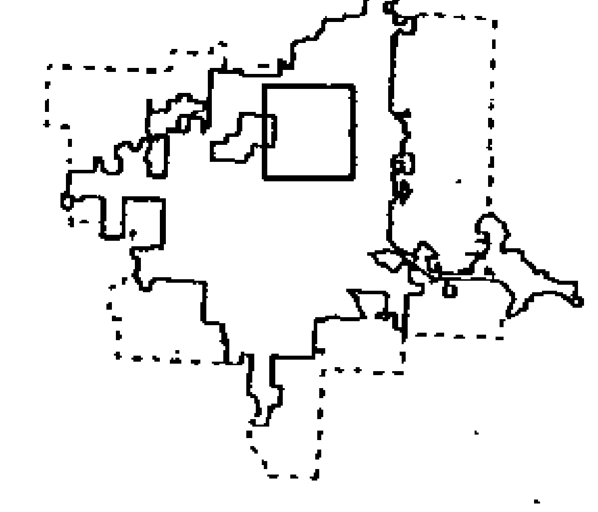

R-PZD03-07.00
Close Up View
BROPHY
DRAKE ST
COLLEGE AVE
C-2
R-O
RSF-4
EMERALD AVE
WESTVIEW DR
SUBJECT PROPERTY
SUNBRIDGE DR
KARYN AVE
BROPHY CIR
Overview
Legend
Boundary
Subject Property
Planning Area
Overlay District
City Limits
Outside City
Streets
Existing
Planned
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
0 75 150 300 450 600
Feet

R-PD03-07.00

One Mile View

BROPHY

Overview



Legend

Subject Property
R-PZD03-07.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of December 08, 2003

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, Zoning & Development Administrator, A.I.C.P.
DATE: December 02, 2003

R-PZD 03-07.00: Planned Zoning District (Brophy Condominiums, pp 290, 291) was submitted by William Rudasill of WBR Engineering Assoc. on behalf of Ralph Brophy for property located east of College Ave, north of Township on Brophy Circle. The property is zoned RMF-40, RMF-24 and RSF-4 and contains approximately 6.01 acres. The request is to rezone the subject property to a Residential Planned Zoning District with a total of 50 Residential dwelling units (25 Two-family units). Planner: Suzanne Morgan

Findings: The applicant requests a rezoning and preliminary plat approval for a residential development within an R-PZD zoning district. The proposed use is two-family residential, with 50 units (25 duplexes) proposed to be built in three phases. Density for the entire site is 8.32 units per acre. The development encompasses an area with three zoning designations of RSF-4, RMF-24, and RMF-40. The site is located east of College Avenue and north of Brophy Circle and has extensive canopy-coverage on steep terrain. This item must be heard at City Council pursuant to the requirements for a PZD.

The applicant proposes to construct 25 duplexes with 50 total units to be sold using a horizontal property regime. Therefore, an individual may buy one unit located on a lot, which is defined as the building area for each duplex. There are two lot sizes. Twenty-one of the buildings are to be built at 35' by 40' and four at 40' by 50'. Seven styles of building elevations have been proposed. Styles 1, 2, and 3 are proposed for the larger building units and 4 through 7 for the smaller units. Below are the dimensions of each building style. The driveways for each of the buildings are unique. Minor changes are required to the plat to assure that the correct driveway configuration is represented for each unit. There is also a proposed five foot area around each unit designated as a construction perimeter and deck/porch easement.

Building Styles:

Style	1	2	3	4	5	6	7
Dimension	42' x 39'	48' x 40'	46' x 39'	40' x 32.5'	36' x 33'	36' x 34'	38' x 32'

Surrounding Land Use / Zoning:

Direction	Land Use	Zoning
North	Commercial along College Avenue & vacant property	C-2, Thoroughfare Commercial R-O, Residential Office
South	Duplex and Four-plex units	RMF-40, Residential Multi-family – 40 units per acre
East	Single-family residential	RSF-4, Residential Single-family – 4 units per acre
West	Commercial	C-2 Thoroughfare Commercial

Easements: There is an existing 20' sewer easement located on the west of the proposed private drive named Brophy Place. A private 55' gas easement also exists on this property. Exact location of this easement is to be determined. No structures shall encroach on any public or private easements.

Right-of-way being dedicated: The applicant proposes to construct 24' wide private streets with four foot sidewalks and a six foot greenspace along both sides of the street. These private streets will connect an existing private drive extending east from College Avenue and Brophy Circle, a dedicated right-of-way.

Street Improvements: The 24' private drive shall be built to City standards to include curb, gutter, and storm sewer.

Adjacent Master Street Plan Streets: College Avenue (principle arterial) and Brophy Circle (local street).

Tree Preservation:	Existing canopy:	58.4 %
	Preserved canopy:	23.9 %
	Required:	25 %
	Mitigation:	$2,972 payment into the City's Tree Escrow Account prior to final plat.

Project History:

Date	Action	Comments
22 August 2003	Tabled	Meeting scheduled with engineer for week of August 25, 2003
23 September 2003	Resubmitted	Tabled at In-House
6 October 2003	Resubmitted legal, plats, site plans, elevations, soils, waiver request, and covenants	Tabled at In-House
13 October 2003	In-House Review	Forwarded to Technical Plat
15 October 2003	Technical Plat Review	Forwarded to Subdivision Committee

04 November 2003	Meeting with Mr. Rudasill; Project tabled.	Comments addressed tree preservation data, driveways, building styles, and sidewalks.
12 November 2003	Project Tabled. Meeting with Mr. Rudasill, Suzanne Morgan, and Matt Casey	Retaining walls were shown in an easement. No structures are allowed to be built in an easement. Questions regarding location of gas easement.
13 November 2003	Zoning Review Team Toured the Property	Visited the property.
17 November 2003	Faxed letter to Mr. Rudasill.	Letter listed items to be addressed for the submittal for Subdivision Committee on November 26th.
25 November 2003	Meeting with Mr. Brandt from Arkansas Western Gas and Mr. Rudasill.	Gas easement is private. Gas lines will be located in the field and easement will be measured off of survey.
26 November 2003	Subdivision Committee	Discussion to lessen sidewalk requirement to 4' with a 4' green space; overhead electric lines; cross sections of specific units requested; impermeable/ permeable surface comparison requested.

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

Planning Commission approval of the proposed preliminary plat subject to the following conditions:

Conditions of Approval:

1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district for R-PZD 03-07.00 with all conditions of approval as determined by the Planning Commission.

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

3. A Final Plat is required to legalize the lot configuration, filed pursuant to City of Fayetteville requirements.

4. All easements, both private and public, shall clearly be identified on the plat.

5. Driveways shown on the plat shall reflect the driveway required for each proposed building elevation.

6. The 24' private drive shall be built to City street standards with curb, gutter, and storm drain.

7. Planning Commission determination of request for four foot sidewalks with a six foot of green space. *Staff is recommending five foot sidewalks with a two foot greenspace in order to provide pedestrian access, area for greenspace and adequate depth for vehicle stacking in driveways.*

8. Street lights shall be installed with this development in accordance with §166.03.

9. Interior street names shall be approved by the City 9-1-1 Coordinator.

10. A sign shall be erected at each entrance of the private street to indicate the road as private.

11. All designated crosswalks shall have sidewalks connecting to the street.

12. Payment of parks fees in the amount of **$19,650** shall be required prior to building permit.

13. Covenants for this planned zoning district shall be updated to include requirements for maintenance for private streets per Chapter 166.06 and address any needed corrections or clarification.

14. Covenants shall include a statement prohibiting vehicles from overhanging or parking on sidewalks.

Standard Conditions of Approval:

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

16. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

17. Sidewalk construction in accordance with current standards to include a sidewalk and greenspace with width to be determined by Planning Commission along all proposed streets.

18. Preliminary Plat shall be valid for one calendar year.

19. Prior to the issuance of a building permit the following is required:
   a. Grading and drainage permits
   b. Separate easement plat for this project that shall include the tree preservation area.
   c. Project Disk with all final revisions
   d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy
   e. Parks fees paid and/or deed recorded and copy received.

Findings associated with R-PZD 03-07.00

Sec. 166.06. Planned Zoning Districts (PZD).

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

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

FINDING: The subject property is adjacent to property zoned C-2 to the west, C-2 and R-O to the north, RSF-4 to the east and RMF-40 to the south. The surrounding land uses are commercial, single family residential and multi-family residential. The subject property is 6.01 acres and zoned RSF-4, RMF-24, and RMF-40. Rezoning the property to have 25 duplexes for a total of 50 units and an overall density of 8.32 units per acre is compatible with surrounding uses and zoning. The site is located on hilly terrain and entirely covered with tree canopy.

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

FINDING: A total of 23.9% of the tree canopy is proposed to remain and designated as common area for the entire project. No buffers or other screening has been proposed other than the natural features of the land. The largest sections of preservation are located along the east and west boundary lines to create a buffer between this proposed development and the existing single family dwellings and commercial buildings.

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

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

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

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

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

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

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

FINDING: The proposed 24' private streets will connect an existing private drive intersecting College Avenue and Brophy Circle, which connects to Township St. The private drive, West View Place, has joint ownership. The applicant is one of these owners. Traffic generated by this development will not negatively impact the area due to several connections to nearby collector and arterial streets.

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

FINDING: Each proposed unit shall have a one-car garage and driveway to provide for a total of two off-street parking spaces for each unit.

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

FINDING: There is a total open space/pervious surface of 3.64 acres (60.6%) and 2.37 acres (39.4%) is impervious. Buffer between this development and the surrounding

property is proposed to be the tree preservation area. The eastern edge has a buffer area ranging from 240'at the north to 30.25' at the south end of the property. The buffer along the western property line ranges from 35' to 75' north to south.

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

FINDING: The applicant is proposing four foot sidewalks with a six foot green space on both sides of the road. Staff is recommending a five foot sidewalk with a two foot green space in order to allow for enough stacking room in the driveways for all units.

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

FINDING: Street lights shall be installed in accordance with §166.03.

(8) *Water.* As required by §166.03.

FINDING: Water shall be extended to serve development.

(9) *Sewer.* As required by §166.03.

FINDING: Sewer shall be extended to serve development.

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

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

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

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

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

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

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

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

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

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

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

Paving Width
(No On-Street Parking)

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

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

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

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

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

FINDING: The proposed private streets are ending in a cul-de-sac and connecting a private and public street. The street shall be built in accordance with City standards. The cul-de-sac will serve 14 units. At 50 units, the street is required to be built at a minimum 24' width. Covenants shall reflect the appropriate maintenance of the private drives as stated above (see vi and vii). The developer shall erect a sign at each entrance to the proposed street indicating it is a private street.

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

FINDING: N/A

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: There is an existing 58.4% of canopy on this site. The applicant is proposing to preserve 23.9% canopy in a designated tree preservation area and mitigate by payment of $2,972 into the City's Tree Fund. The applicant has also proposed to retain approximately 36.4% of additional the canopy; however, this canopy is located within easements and other areas which will not ensure the preservation of these trees.

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

FINDING: N/A

(14) *View protection.* The Planning Commission shall have the right to establish

special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: The applicant has indicated in the submitted Covenants, Conditions and Restrictions that the height of each building shall not exceed two and one-half stories in or 35' in height.

(E) *Revocation.*

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

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

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

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

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that_the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

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

(3) *Effect.* In the event of revocation, any completed portions of the development or those

portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

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

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

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

(a) The homeowner's association must be legally established before building permits are granted.

(b) Membership and fees must be mandatory for each home buyer and successive buyer.

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

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

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

FINDING: The applicant has submitted a draft of covenants for the proposed PZD describing the responsibilities and maintenance of future open space, landscaping, building

heights, etc. A final draft shall be submitted and filed with the Final Plat.

Sec. 161.25 Planned Zoning District

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

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

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

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

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

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

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

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

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

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

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

FINDING: The proposed R-PZD is located on property with three zoning designations. It is located between RSF-4 and C-2 zones and has steep terrain. A 55' privately owned gas easement and a 20' sewer easement bisect the property. Tree canopy exists on 58.4% of the property and 23.9% is proposed to be preserved in open/common space. The General Plan designates this area to be used for residential purposes, as the applicant is proposing. Staff finds that the proposed development is compatible with surrounding neighborhoods and provides an appropriate transition from the commercial developments along College Avenue and the single family homes to the east.

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

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

(C) R - PZD, Residential Planned Zoning District.

(1) Purpose and intent. The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The applicant proposes to build an R-PZD with 25 duplexes. This is an infill development that will provide a harmonious relationship with the surrounding developments and minimize traffic and congestion. The site is constrained by easements and natural features and this project will allow for development and use of the land while also preserving approximately half of the existing canopy.

(2) Permitted uses.

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

FINDING: The proposed two-family dwellings are a permitted use under use unit #9.

(3) Condition. In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The PZD proposed is entirely residential in use.

RECOMMENDATION: Approval of R-PZD with conditions.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 03-07.00 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: **The proposed rezoning from the existing RSF-4, RMF-24, and RMF-40 to R-PZD, with the development as presented, is consistent with the General Plan's designation of the site as Residential. The density proposed is 8.32 Dwelling Units per acre. The two-family dwelling units proposed are compatible with the surrounding single-family and multi-family residential land use and zoning.**

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Residential Areas which are:

9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

9.8.b Adopt regulations which establish a development scale to maintain compatibility and proportionality between nonresidential development and adjacent residential areas.

9.8.i Establish performance zoning design standards to mitigate adverse impacts of contrasting land uses with residential land uses.

9.8.k Adopt a City policy of "connectivity", meaning that commercial areas and residential areas are easily accessible by vehicles, pedestrians and bicyclists.

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 8.32 units per acre. Currently the 6.01 acre tract is sectioned into three zones of 4, 24, and 40 units per acre. With maximum build out of each of these sections, a total of 129 units could be developed. Staff finds that due to the physical and zoning constraints on this property the rezoning proposed is justified. Comments from engineering, police, and fire have been included with this report.**

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

Finding: **The proposed zoning will not create or appreciable increase traffic danger and congestion. There are two access points from the development and Brophy Circle, the southern access, is an improved roadway.**

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: **Water and sewer lines will need to be extended into the development and any upgrades needed due to the addition of the project will be determined prior to development. The addition of 50 units will not significantly alter the population density.**

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

    a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

FAYETTEVILLE

PC Meeting of December 8, 2003

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8202

ENGINEERING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Matt Casey, Staff Engineer
DATE:	November 18, 2003

R-PZD 03-07.00: Planned Zoning District (Brophy Condominiums, pp 290, 291) was submitted by William Rudasill of WBR Engineering Assoc. on behalf of Ralph Brophy for property located east of College Ave, north of Township on Brophy Circle. The property is zoned RMF-40, RMF-24 and RSF-4 and contains approximately 6.01 acres. The request is to rezone the subject property to a Residential Planned Zoning District with a total of 50 Residential dwelling units (25 Two-family units). Planner: Suzanne Morgan

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

The property currently has access to a 6" water line along Brophy Circle. An extension of the water main will be required to provide water supply within any development on this property. The main will also have to be looped to the northeast to connect with the 6" line along West View Drive to provide dual feed for the development.

The site currently has access to a 6" sewer main on the site. This sewer main flows into the 10" that runs along College Avenue. Sewer will need to be extended within the development. Calculations will be requested at the time of development to determine if the existing 6" line can handle the additional flows from the project. If not, the main will need to be upgraded from the development to the main along College Avenue.

Brophy Circle, which is where the development will be accessed from, is an improved roadway. Access is also proposed through a private drive on the north side of the site. Street improvements will only be recommended within the proposed development.

Name Matt Casey Department Engineering

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

November 18, 2003

Dawn Warrick
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Warrick,

This document is in response to the request for a determination of whether the proposed **R-PZD 03-07.00 Planned Zoning District (Brophy Condominiums, pp 290,291)** submitted by William Rudasill of WBR Engineering Assoc. on behalf of Ralph Brophy for property located east of College Ave, north of Township on Brophy Circle would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Rezoning District **will not** substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 11-12-03

REZONING ✓ ANNEXATION _____

REZONING # R-PZD 03-07.00 OWNER Ralph Brophy
ANNEXATON# _____ OWNER _____
LOCATION OF
PROPERTY Brophy Circle

NEAREST FIRE STATION AND
LOCATION Fire Station #4 Plainview St.

RESPONSE TIME FROM FIRE STATION # 4 TO
LOCATION OF
PROPERTY 4 MINUTES Ø SECONDS.
TRAVEL MILES FROM FIRE STATION # 4 TO LOCATION OF
PROPERTY 1.9 miles.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS Township can be Dangerous in the Winter - 2 Access Roads From Complex will be req. D104.3 2000 ED of INT. Fire Code
EXISTING FIRE HYDRANTS? IF SO
LOCATION Ø

WATER SUPPLY WITH HYDRANTS
NEEDED? yes.

ADDITIONAL
COMMENTS _____

D Farrar

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION

TO: WBR Engineering
COPY: Suzanne Morgan, Associate Planner
FROM: Craig Carnagey, Sr. Planner
DATE: Nov. 14, 2003
SUBJECT: Brophy PZD

TREE PRESERVATION

1. The Tree Canopy Table needs to be simplified in order to clearly reflect only the preserved canopy that meets the criteria laid out in the ordinance.

2. Indicate ownership of the Tree Preservation Area on the Final Plat.

3. A payment into the City's Tree Escrow Account in the amount of $2,972.00 is required before Final Plat.

City of Fayetteville
Tree Preservation Plan Review Form

Project: Brophy Condominiums **Developer:** Ralph Brophy

Location: N. Brophy Circle **Engineer:** WBR Engineering

This form shall stand as a: ✓Initial Review/Letter of Confirmation

✓Recommendation to Planning Commission or City Council

☐ Final Administrative Determination*

Requirements Submitted:

✓Initial Review ✓Site Analysis ✓Analysis Report ✓Tree Preservation Plan

Canopy Measurements:

% Tree Canopy Required to be Preserved
Land Use R-PZD
%To be Preserved 25

Total Area of Site
Acres 6.01
Square Feet 261,802

Total Area of Existing Tree Canopy
Acres
Square Feet 152,881
% of Total Site Area 58.4

Existing Tree Canopy Preserved
Acres
Square Feet 62,570
% of Total Site Area 23.9

Mitigation/Off Site Alternatives Requested: ✓Yes ☐No

☐On-Site Mitigation ☐Off-Site Preservation ☐Off-Site Reforestation ✓Tree Fund

Tree Preservation Criteria Met: ✓Yes ☐No (See back for criteria list and comments)

Applicant's Plan: ☐Approved ☐ Denied ✓Conditionally Approved
Conditions for Approval: Tree preservation table needs to be simplified to clearly indicate required canopy calculations.

Signed:______________________ The Landscape Administrator
Date:______________

Criteria used by the Landscape Administrator to evaluate Tree Preservation Plans

1. The desirability of preserving a tree or group of trees by reason of age, location, size or species.
Comments: Large groups of trees along the eastern perimeter of the site have been preserved.
2. Whether the design incorporates the required Tree Preservation Priorities.
Comments: Yes, priority groupings have been preserved.
3. The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.
Comments: The area is heavily treed on the eastern edge with few trees to the property adjacent to the west. Preservation of trees within the wooded eastern edge will help reduce environmental degradation.
4. The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.
Comments: The preserved eastern perimeter trees will provide a buffer between properties.
5. Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.
Comments: Building footprints and lot sizes have been reduced to allow retention of tree canopy.
6. Whether the size or shape of the lot reduces the flexibility of the design.
Comments: No.
7. The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.
Comments: Trees on the site are in moderate to good condition.
8. The placement of the tree or group of trees in relation to utilities, structures, and use of the property.
Comments: Utilities have been sited for least impacts to trees.
9. The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.
Comments: There are several existing utility easements on this property, and any upgrade to these lines would impact trees.
10. Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.
Comments: Yes, an existing street r.o.w. that was previously cleared is being utilized to avoid unnecessary tree removal.
11. Construction requirements for On-Site and Off-Site Alternatives.
Comments: None
12. The effects of proposed On-Site Mitigation or Off-Site Alternatives.
Comments: Payment into the Tree Fund is required.
13. The effect other chapters of the UDO, and departmental regulations have on the development design.
Comments: None
14. The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations.
Comments: N/A
15. The impact a substantial modification or rejection of the application would have on the Applicant.
Comments: Tree preservation criteria has been met by the applicant.

*An appeal may be filed against a Final Administrative Determination in accordance with Chapter 155 of the Unified Development Ordinance. City Landscape Administrator determinations/decisions may be appealed by any person aggrieved to the Planning Commission within 10 business days. Recommendations go straight to Planning Commission, thus no formal appeal is necessary for recommendations.

City of Fayetteville
Tree Mitigation Form

Project: Brophy Condominiums **Developer:** Ralph Brophy

Location: N. Brophy Circle **Engineer:** WBR Engineering

Canopy Measurements:

%Tree Canopy
Land Use R-PZD
Required to be Preserved 25

Total Area of Site
Acres 6.01
Square Feet 261,802

Amount of Preservation Requirement Requested for Mitigation:
Acres
Square Feet 2,880
% of Total Site .01

Total Area of Existing Tree Canopy
Acres
Square Feet 152,881
% of Total Site Area 58.4

Existing Tree Canopy Preserved
Acres
Square Feet 62,570
% of Total Site Area 23.9

Type of Mitigation Pursued:

☐On Site Mitigation ☐Off Site Preservation ☐Off Site Reforestation ✓Tree Fund

List Mitigation Species, Caliper, and Quantity of trees to be planted in the space below. Refer to table and on back for figuring quantity and caliper sizes.

Species	Caliper	Qty.
mitigation trees / 218 base density		13

Amount proposed to be deposited in the City of Fayetteville Tree Fund:
$ 2972.00

Mitigation Proposal: ✓Approved ☐Disapproved

Signed:____________________, Landscape Administrator, ________ date

From: Rebecca Ohman
To: Morgan, Suzanne; Pate, Jeremy
Date: 10/29/03 11:47AM
Subject: Subdivision Comments

LSP 03-56.00

Parks and Recreation fees are assessed in the amount of $555 for one additional single family lot.

Fees are due prior to issuance of a building permit.

PPL 03-18.00

On December 9, 2002, PRAB voted to accept a combination of money and land to meet the Park Land Dedication requirements. City Council approved a combination of money and land at the January 7, 2003 meeting in Resolution 01-03, waiving Ordinance 166.03K.

The developer has agreed to provide 1.84 acres of land and $14,568.75 for 103 Single family lots.

A deed representing the park land and the remaining parks fees are due prior to issuance of the final plat.

Parks and Recreation requests the developer erect park boundary signs. Signs are available at the Parks and Recreation offices located on Happy Hollow Road.

POA should exclude the park land dedication from the covenants.

Construction debris or dumping shall not be permitted on park property.

PPL 02-13.10

The Parks and Recreation Advisory Board accepted a land dedication on January 15, 2002. PRAB accepted a banking credit of excess park land dedicated.

The park land dedication for 112 single family lots is 2.68 acres. The owners have dedicated 8.19 acres, leaving a banking credit of 5.51 acres for the southeast park district.

Please label the park land with a lot number.

Parks Staff requests a review of the proposed concrete weir on Lot 114 for potential flow on Park Property prior to construction.

A deed for the park land dedication must be received by the Parks and Recreation Division prior to issuance of the final plat.

Parks and Recreation requests the developer erect park boundary signs. Signs are available at the Parks and Recreation offices located on Happy Hollow Road.

POA should exclude the park land dedication from the covenants.

Construction debris or dumping shall not be permitted on park property.

* ***RPZD 03-7.00***

The Parks and Recreation Advisory Board reviewed this project on July 7, 2003 and recommended money in lieu of land for 50 Multi-Family units. Parks fees are due in the amount of $19,650 before issuance of a final plat.

LEGAL DESCRIPTION:

A PART OF THE SE1/4 OF THE SW1/4 AND A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER OF SAID SE1/4, SW1/4, RUN THENCE S02°19'51"W 10.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE S87°36'31"E 78.62 FEET; THENCE S87°41'04"E 226.63 FEET; THENCE S02°26'59"W 430.36 FEET; THENCE S17°19'50"E 84.79 FEET; THENCE S72°52'23"W 139.18 FEET; THENCE S75°58'14"W 50.08 FEET; THENCE S17°19'50"E 39.39 FEET; THENCE N89°13'34"W 185.06 FEET; THENCE S14°01'58"W 44.10 FEET; THENCE S67°01'51"W 211.76 FEET; THENCE N02°32'57"E 219.99 FEET; THENCE S87°42'47"E 63.58 FEET; THENCE N05°44'36"E 86.47 FEET; THENCE N06°05'49"E 149.85 FEET; THENCE N07°51'09"E 50.71 FEET; THENCE S87°41'04"E 139.79 FEET; THENCE N17°44'06"W 212.91 FEET; THENCE S87°41'04"E 56.84 FEET; THENCE N01°26'29"E 40.10 FEET; THENCE S87°36'31"W 11.05 FEET TO THE P.O.B., CONTAINING 6.01ACRES, MORE OR LESS, AND SUBJECT TO ALL RIGHTS-OF-WAY AND UTILITY EASEMENTS OF RECORD.

Submitted For ~~R~~ PZD 03-07
OK

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PLANNING DIV.

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

Applicant's Signature

REVISED PER ENGR 10/6/03

Brophy Condos
Summary of Trip Generation Calculation
For 50 Dwelling Units of Residential Condominium / Townhouse
December 04, 2003

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	5.86	3.09	1.00	293
7-9 AM Peak Hour Enter	0.07	0.00	1.00	4
7-9 AM Peak Hour Exit	0.37	0.00	1.00	19
7-9 AM Peak Hour Total	0.44	0.69	1.00	22
4-6 PM Peak Hour Enter	0.36	0.00	1.00	18
4-6 PM Peak Hour Exit	0.18	0.00	1.00	9
4-6 PM Peak Hour Total	0.54	0.76	1.00	27
Saturday 2-Way Volume	5.67	3.10	1.00	284
Saturday Peak Hour Enter	0.25	0.00	1.00	13
Saturday Peak Hour Exit	0.22	0.00	1.00	11
Saturday Peak Hour Total	0.47	0.71	1.00	24

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

WBR Engineering Associates, P.A.

4241 Gabel Drive, Ste 1B
Fayetteville, AR 72703

Voice: (479) 582-2820
Fax: (479) 582-1788
E-Mail: wbrjr@aol.com

November 18, 2003

BROPHY CONDOMINIUM DEVELOPMENT PLANNING NARRATIVE

THIS PROJECT IS INTENDED TO FINALIZE THE PROPOSED DEVELOPMENT MR BROPHY PLANNED FOR THIS AREA OVER 20 YEARS AGO TO SUPPLEMENT HIS RETIREMENT. THE PROPOSED SITE IS LOCATED SUCH THAT IS SUITED AS A TRANSITIONAL DEVELOPMENT FROM COMMERCIAL ZONE ALONG COLLEGE AVE TO THE R-1 RESIDENTIAL AREA DEVELOPED TO THE EAST. THE REQUEST FOR THE PLANNED ZONE DISTRICT IS TO CONSOLIDATE THREE ZONES INTO ONE DEVELOPMENT AND PROVIDE A BEST USE DEVELOPMENT FOR THIS PROPERTY. THE TERRAIN, AVAILABLE ACCESS AND NEED TO PRESERVE THE HILLSIDE AND TREES LEND ITSELF TO THE NEED FOR A PLANNED ZONE AND PLANNED CONSTRUCTED DEVELOPMENT TO ACCOMPLISH THE ABOVE.

THE PROPOSED DEVELOPMENT WILL CONSIST OF 25 FREE STANDING BUILDINGS OR 50 LIVING UNITS WITH ACCOMPANYING DRIVE, WALKWAY AND INFRASTRUCTURE. THE INTENT OF THE PROJECT IS TO PROVIDE DUPLEX/CONDOMINIUM BUILDING SITES WHICH CAN BE SOLD TO PROSPECTIVE DEVELOPERS FOR SPECULATIVE UNIT SALES OR RENTALS. THE INTENT IS TO PROVIDE FOR A FIXED CONSTRUCTION PACKAGE OF A BUILDING FOOTPRINT AND A FIXED BUILDING PAD WITH DRIVEWAY ACCESS TO FIT THAT PLAN. IT IS NOT THE INTENT OF MR. BROPHY TO BUILD THE UNITS HIMSELF. THERE ARE TWO PAD SIZES. THE FIRST IS A 40' WIDE BY 35' DEEP AREA WITH A 5' ACCESSORIES EASEMENT AROUND THE ENTIRE PERIMETER WHICH WILL ACCOMMODATE DECKS, PATIOS, STAIRWELLS, SIDEWALKS AND WILL ALSO ACT AS A CONSTRUCTION ACCESS EASEMENT. THE SECOND PAD WILL CONSIST OF A 50' WIDE BY 40' DEEP PAD ALSO WITH A 5' ACCESSORIES EASEMENT AROUND THE PERIMETER. THE REMAINDER OF THE PROPERTY WILL CONSIST OF COMMON PROPERTY AND OPEN SPACE TO BE INCLUDED IN A PROPERTY OWNERS ASSOCIATION OR HORIZONTAL PROPERTY REGEIM.

ACCESS TO THE DEVELOPMENT CONSIST OF PRIVATE COMMERCIAL DRIVE ON THE NORTH AND PUBLIC MULTI-FAMILY ACCESS TO THE SOUTH. THE IMPACT OF THIS DEVELOPMENT IS IN-LINE WITH THE SURROUNDING DEVELOPMENT AND IN OUR OPINION IS THE BEST DEVELOPMENT SOLUTION FOR THE GIVEN PROPERTY. WATER AND SEWER ARE READILY AVAILABLE TO THE SITE AN HAVE SUFFICIENT CAPACITY TO ACCEPT THE ADDITIONAL LOADS FROM THE PROPOSED DEVELOPMENT.

RESPECTFULLY SUBMITTED

WBR ENGINEERING
ON BEHALF OF RALPH BROPHY

WBR Engineering Associates, P.A.

4241 Gabel Drive, Ste 1B
Fayetteville, AR 72703

Voice: (479) 582-2820
Fax: (479) 582-1788
E-Mail: wbrjr@aol.com

December 2, 2003

BROPHY GREEN SPACE COMPUTAION
(AS REQUESTED BY SUBDIVISION COMMITTEE)

GREEN SPACE PROVIDED: (TREES, LANDSCAPE ISLANDS, AND LAWN OR OPEN SPACE. 3.64 ACRES OR 60.6%

IMPERVIOUS SURFACE: DRIVES, WALKS, STREET AND ROOF
2.37 ACRES OR 39.4%

RESPECTFULLY SUBMITTED

WBR ENGINEERING
ON BEHALF OF RALPH BROPHY

WBR Engineering Associates, P.A.

4241 Gabel Drive, Ste 1B
Fayetteville, AR 72703

Voice: (479) 582-2820
Fax: (479) 582-1788
E-Mail: wbrjr@aol.com

November 19, 2003

BROPHY WAIVER REQUEST

1. 4' SIDEWALK INSTEAD OF REQUESTED 6' SIDEWALK ALONG PRIVATE STREETS.

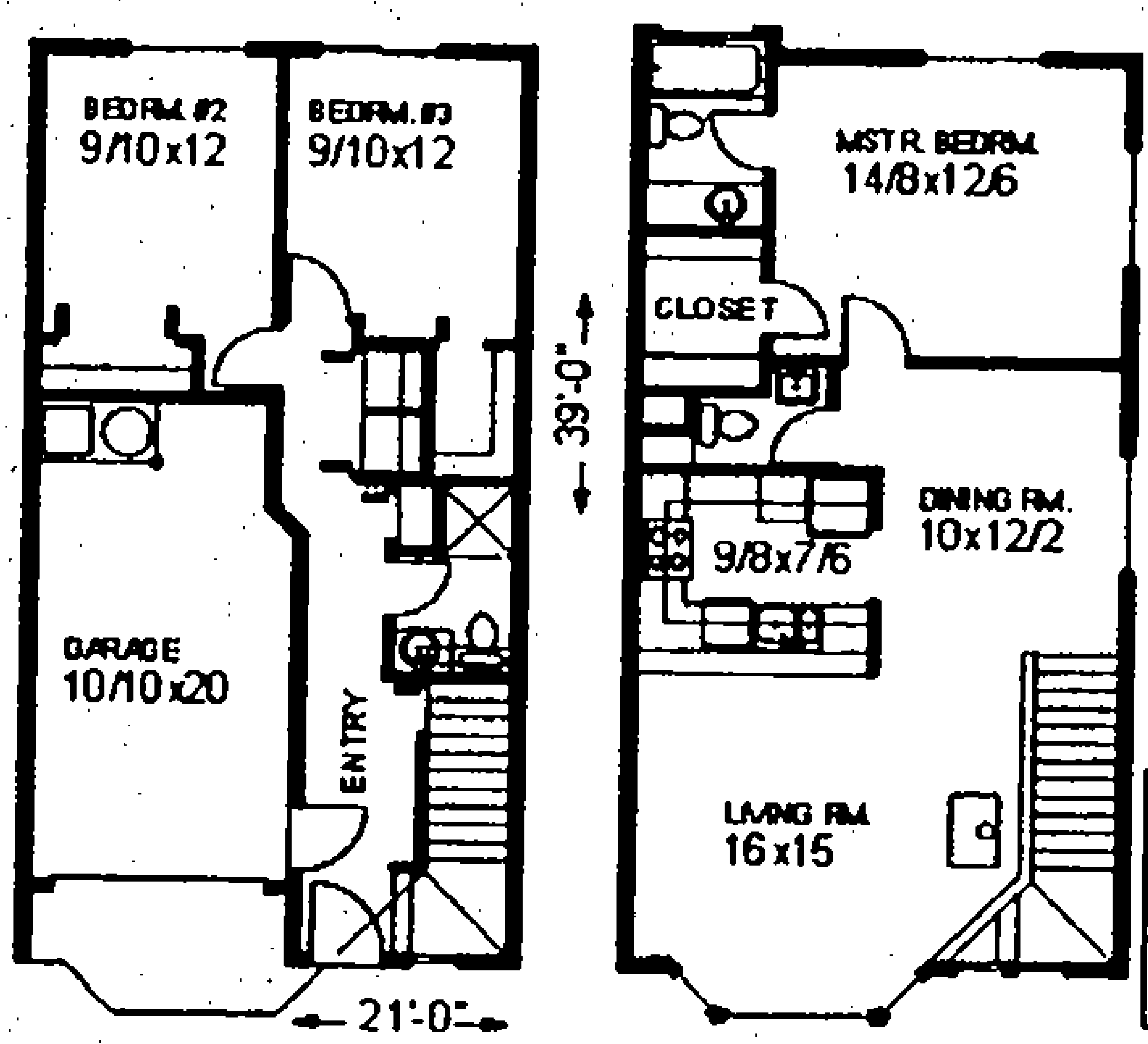
2. RETAINING WALLS GREATER THAN 10' TALL DUE TO CONSTRUCTION ON SLOPED AREAS AND TO AVOID GREAT CUTS AND FILLS.

3. KEEP EXISTING ABOVE GROUND ELECTRIC LINES BEHIND UNITS 43 & 44 AND ALONG THE OFF-SITE LINES TO THE NORTH TO PRESERVE EXISTING TREE CANOPY. ALL LINES WITHIN THE PRIMARY DEVELOPMENT AREA WILL BE PLACE UNDERGROUND PER ORD.

RESPECTFULLY SUBMITTED

WBR ENGINEERING
ON BEHALF OF RALPH BROPHY

PLAN 1



MAIN FLOOR PLAN

UPPER FLOOR PLAN

PLAN NO. D-384	
EACH UNIT	
HOME SIZE	1338 SQ. FT.
MAIN FLR	557 SQ. FT.
UPPER FLR	781 SQ. FT.

Bruinier & associates, inc. designers A.I.B.D.
PHONE: (503) 246-3022 1304 SW BERTHA BLVD. PORTLAND OREGON 97219

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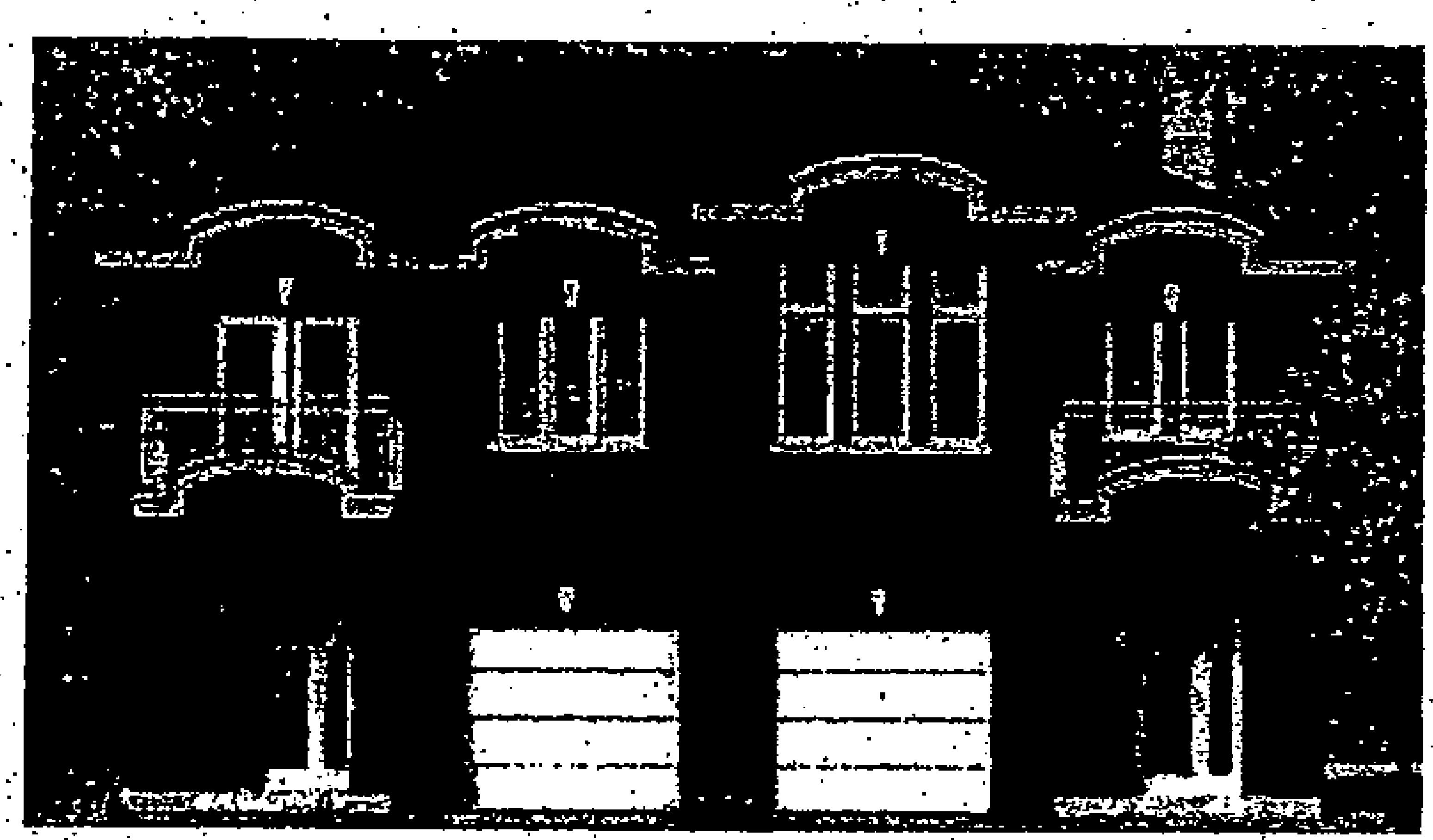
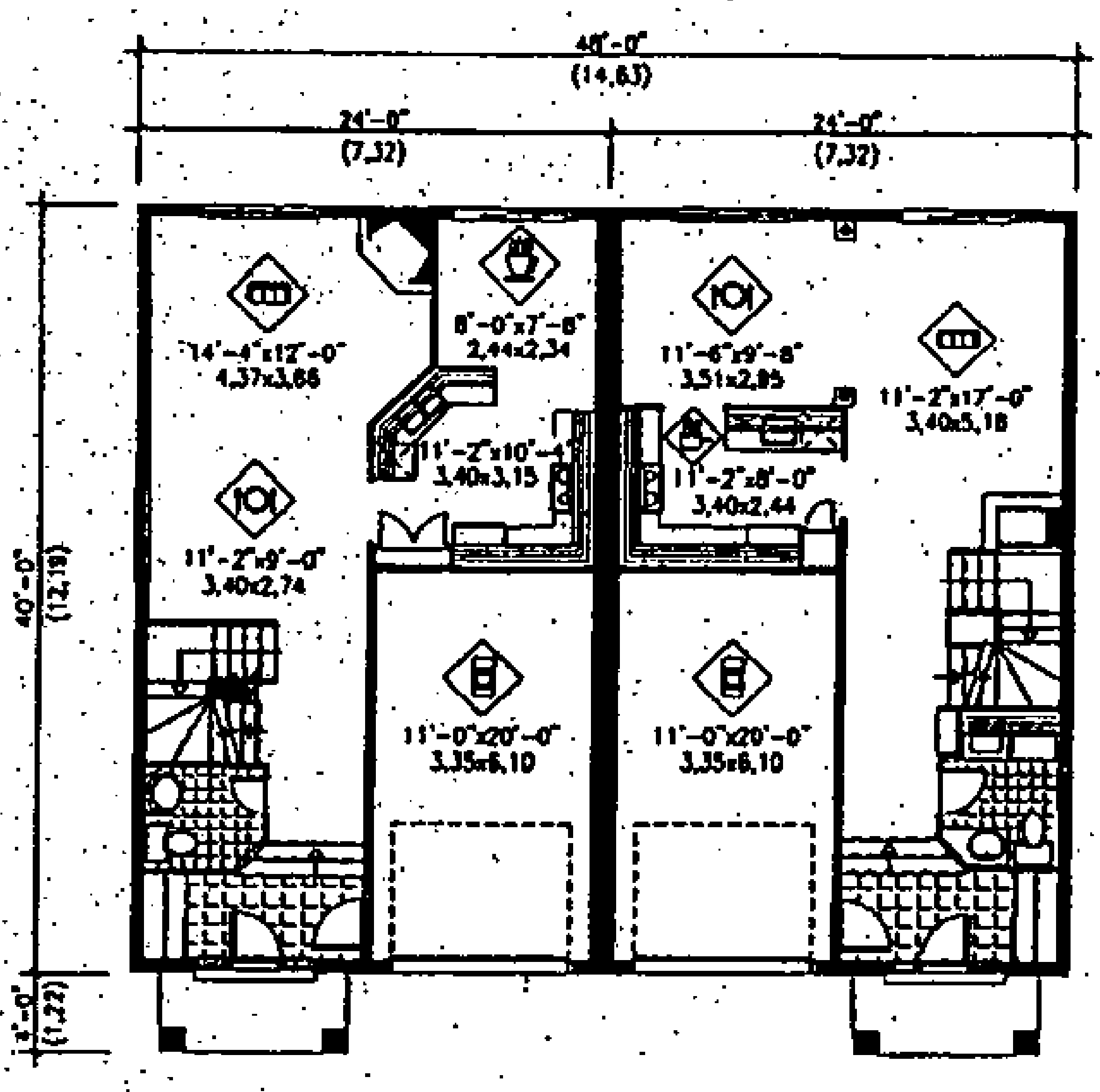
PLAN 2

HouseplanGuys Plan Image

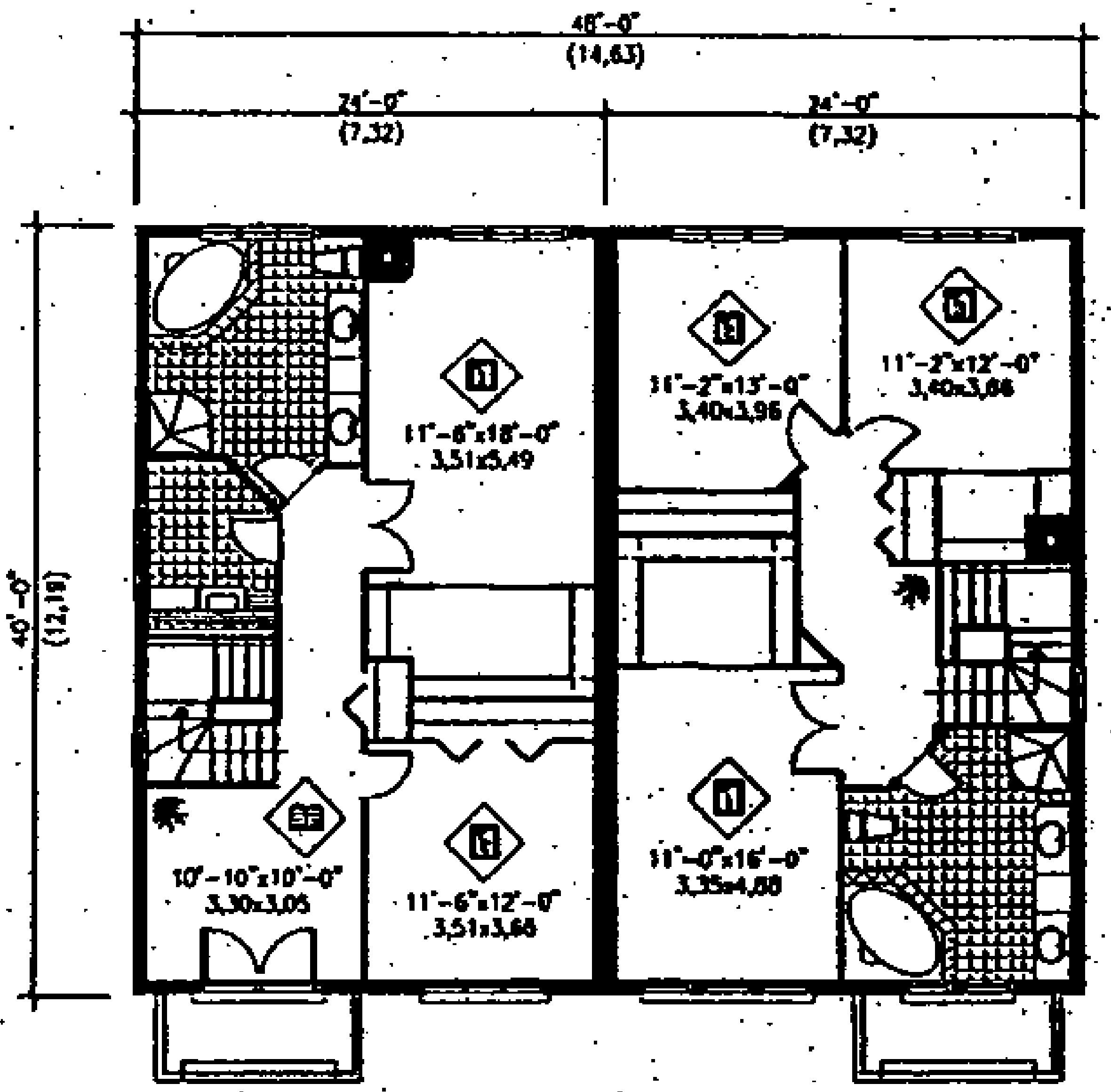


For questions, call us toll-free at 1-866-977-5267
or email us at info@houseplanguys.com

HouseplanGuys Plan Image



HouseplanGuys Plan Image



3rd Version

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Declarant is the Declarant of certain property in Fayetteville, Washington County, Arkansas, and has caused certain lands owned by him to be platted into an addition known as Ralph Brophy's Condominiums Association Addition to the City of Fayetteville, Washington County, Arkansas, and the plat thereof appears of record in the office of the Recorder of Washington County, Arkansas, in Plat Book ________ at Page ________; and,

WHEREAS, Declarant desire to provide for the use of property for the highest of residential uses and to restrict its uses as such;

NOW THEREFORE, Declarant hereby adopts the covenants stated herein and agrees that the stated covenants shall apply to all of the property now platted as Ralph Brophy's Condominiums Association Addition to the City of Fayetteville, Washington County, Arkansas, as covenants running with the land. These covenants shall apply in their entirety to the area now known and described as Ralph Brophy's Condominiums Association Addition to the City of Fayetteville, Washington County, Arkansas, as shown on the recorded plat thereof.

1. DEFINITIONS.

A. Association shall mean and refer to Ralph Brophy's Condominiums Association, its successors and assigns.

B. Declarant shall mean and refer to Ralph Brophy until a successor or assign should acquire more than eighty percent (80%) of the undeveloped lots from the Declarant for the purpose of development. In that event, Declarant shall perform all actions necessary to facilitate the transfer to the newly appointed Declarant.

C. Property shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

D. Common Area shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Declarants. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows: see attached Exhibit A.

2. LAND USE AND BUILDING TYPES.

No lot in the addition shall be used for any other purpose than Two-Family Townhouses/Condominiums as that term is defined in the City of Fayetteville Municipal Zoning Ordinance. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached duplex not to exceed two and one-half stories, thirty-five (35) feet in height, and each such dwelling shall have a private garage or carport for the storage of not less than one automobile.

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OCT 06 2003

No business or commercial use shall be carried on or permitted in any structure or in any portion of this addition in keeping with the general plan to develop this property for the highest class of residential occupancy.

3. DWELLING SIZE AND QUALITY.

Size, design, location and site development of dwellings in this planned development shall be subject to the construction under current city codes and must be sided with either vinyl and/or brick, and shall be approved by the community association. All dwellings shall be constructed within the bounds set forth on the plat of the development and shall utilize hill-side construction methods such as Pier & Beam, etc. to preserve tree cover where practicable. Slab on grade pads shall not exceed the perimeter of the allowable building areas as platted. All dwellings placed upon the premises shall be of new construction and shall be of the highest class workmanship and best quality materials. Approval of plans for construction of principal residences and permitted accessory buildings shall not be unreasonably withheld by the Declarant based upon the style of design of the exterior of such proposed principal residences as long as the same are designed, in whatever style, in accordance with the highest standards of architectural design. All construction shall be completed within one (1) year from the beginning of such construction.

4. ARCHITECTURAL CONTROL.

No residence, permitted accessory building, fence, wall or other structure shall be constructed, created or maintained upon any lot in the addition, nor shall any modification, alteration or change be made in the exterior of any existing residence or permitted accessory building until the construction, grading and drainage and landscape plans and specifications showing the nature, size, shape, dimensions, materials and location of the same shall have been submitted to and approved, in writing by the Declarant, or an authorized agent of Declarant, or the Declarant has waived his right in the manner hereinafter provided.

5. THE ARCHITECTURAL CONTROL COMMITTEE.

The Architectural Control Committee shall consist of Ralph Brophy. Mr. Brophy shall assign a successor in the event of his death or resignation. Any property owner in the addition seeking to obtain the required approval or any plans for construction, modification or alteration or improvements on his, her or its property shall submit the same in two (2) copies to the Declarant or any person designated by him A written receipt from the Declarant shall be prima facie evidence of the delivery of such plans and the date thereof. If, with thirty (30) days from the date of delivery of such plans to a member of it, the Declarant has not stated to the owner deficiencies in the proposal for such construction or alteration or improvements, the owner may proceed with such construction or alterations as though affirmative approval had been received from the Declarant. Notice shall be given to the owner at the address for the property owner indicated in the city telephone directory or as otherwise indicated by the owner, in writing, to the owner by certified mail with return receipt requested. If deficiencies are noted and called to the owner's attention in the proposed plans within the thirty (30) day period following delivery thereof to the owner, the owner shall not proceed with any such construction or alteration until such deficiencies have been corrected to the satisfaction of the Declarant. The Declarant shall have full power to enforce the provisions and restrictions herein by an action for an injunction as fully as though he were the Declarant of property in the subdivision and whether or not he is actually the Declarant of property in the subdivision.

6. GENERAL RESTRICTIONS.

a. No noxious or offensive activity and no commercial activities of any kind shall be carried on upon any lot in this addition, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

b. No manufactured housing, trailer, recreational vehicle, mobile home, tent, shack, or barn shall be erected on any lot in this subdivision, temporary or permanently, except for temporary use by construction contractors only. Tents used for recreational purposes of a short duration shall not be considered as excluded by this provision.

c. No signs, billboards, posters or advertising devices shall be permitted upon any of the lots in this addition except that the Declarant of each lot may place house numbers and the Declarant's name upon his or her mail box or dwelling; however, each letter thereof shall be no more than 6 inches in height and 6 inches in width; and Declarant may place a sign not more than 4 square feet in size advertising the property for sale should it be offered for sale by the Declarant.

d. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for commercial purposes.

e. No trash, ashes or other refuse may be thrown or dumped on any of the lots in the addition.

f. No building material of any kind or character shall be placed or stored upon any lot in the addition until the Declarant is ready to commence construction of the improvements requiring such materials. Building materials shall only be placed or stored between the curb and the property line of the site to be developed and shall be stacked in a decent and proper manner unless contained in a lumber storage container.

g. No privy, cesspool, septic tank field or disposal plant shall be installed or maintained on any lot in the addition, and all residences and permitted accessory buildings shall have the plumbing connected to the city sanitary sewer system.

h. All garages shall be finished inside and shall be fully enclosed with garage doors. Carports are not allowed.

i. All driveways in the addition shall consist of a hard surface acceptable to the Declarant and driveways are to be no less than 18 feet and no more than 24 feet in width.

j. No trucks, mail carts, dune buggies, golf carts, mobile homes, commercial vehicles, travel trailers, campers, boats, motors or trailers shall be kept on the lot or in the street adjacent to any lot except that such items may be stored or parked inside an enclosed garage or similar enclosure.

so screened with fencing or plant material as not to be visible from the street.

k. Grass, weeds and vegetation shall be kept mowed and cleared at regular intervals on each lot by the Declarant thereof so as to maintain the same in a neat and attractive manner. No debris shall be allowed to accumulate upon any lot. Dead trees, shrubs, vines and plants shall be promptly removed from each lot. The Declarant or HomeDeclarants Association shall have the right, privilege and option to cause any unkept lots to be mowed and to remove dead trees, plants or other vegetation and debris from such lot if, after ten days' notice in writing, from the HomeDeclarants Association to the Declarant, the Declarant has failed or neglected to do so, and the HomeDeclarants Association shall be entitled to a lien on such lot for the cost of such work.

l. Each lot Declarant shall provide and maintain a light located in the vicinity of the intersection of the driveway and street, which light shall be in all respects in accordance with the requirements of the Architectural Control Committee.

m. Exterior surfaces of each dwelling place shall be composed of either brick or vinyl siding.

n. All dwelling places will be guttered and all guttering must have leaf guards to prohibit buildup of leaves and other foreign objects from obstructing the gutters.

o. All Declarants of dwelling places in this development are required to furnish termite insurance and treatment at their own expense and Declarant reserves the right to demand presentation of termite inspection and protection at reasonable times and places.

p. Any swimming pool plans shall have to be approved by the HomeOwner's Association and meet city code requirements.

7. BUILDING LOCATION.

Buildings shall be located on lots as shown on the final plat of the planned zoning district.

8. DIVISION OF LOTS.

A "lot" as that word is used herein shall consist of a numbered lot as shown on the plat of the addition.

9. FENCING AND ORNAMENTAL STRUCTURES.

No fences shall be erected on any portion of a lot between the line drawn across the front foundation or building line of the principal dwelling and intersecting the side lot lines and the front lot line. Dog pens properly screened by walls, fences, or plantings may be constructed and maintained in the rear yard portion of any lot. Retaining walls, ornamental fences of less than 3 feet in height, and composed brick, wood or natural stone construction may be permitted on a lot in the front portion as herein described and the front lot line. However, no other structure exceeding 3 feet in height shall be placed or permitted on the portion of any lot lying nearest to the abutting street and in front of a line extended across the front foundation line of the principal dwelling.

10. DEFINITION OF "PRINCIPAL DWELLING".

The term "principal dwelling," "resident" or "principal residence" as used in these restrictive covenants shall refer to a residence meeting the requirements hereof and approved by the Committee for construction in the Addition.

11. HOMEOWNER'S ASSOCIATION.

For the purpose of maintaining areas to be used in common with some or all of the residents and owner of property in the addition, the streets, the street lights, drainage and such other activities and undertakings as may be for the general use and benefit of owner and residents of the property, each and every lot owner, in accepting a conveyance of any lot in this Addition, agrees to and shall become a member of and be subject to the obligations and duly enacted by-laws and rules of the Ralph Brophy Condominiums Association.

12. LIEN FOR MEMBERSHIP DUES.

Assessment fees for the development are $45.00 per month, or $540.00 per year, payable monthly/yearly as it comes due/in advance, but no assessment fee shall become due and payable on real property until one month after dwelling place has been constructed and occupied.

All owners of property in the Addition shall pay the required dues to the HomeOwners Association promptly when the same become due, and in the event of failure to pay the same promptly when the same become due, such dues shall constitute a lien upon the property owned by such owner in the Addition and the same may be enforced in equity as in the case of any lien foreclosure authorized in the State of Arkansas.

All delinquent assessments shall bear interest at the rate of ten percent (10%) per annum from the date the same become due until they are paid, and the association shall be entitled to a reasonable fee for its attorneys when their services become necessary to collect any delinquent assessments, all of which shall be a part of the lien for dues.

13. SUBORDINATION OF LIEN FOR MEMBERSHIP DUES.

The liens herein retained for membership dues to the HomeOwners Association are hereby made expressly inferior and subordinate to valid and bona fide mortgages and deeds of trust or retained vendor's liens securing obligations of owner of any of the lots in the addition up to the time of sale at foreclosure of any such mortgage, deed of trust or vendor's lien and for a period of six (6) months thereafter or until the residence upon such property is occupied, whichever date shall first occur, after which time monthly membership dues shall thereafter accrue as a lien upon such lot in the identical form and manner as prior to the foreclosure sale of the property involved. This subordination shall be construed to apply not only to the original, but to all successive, mortgages, deeds of trust, and vendor's liens given by property owners to secure obligations, together with all

RECEIVED

OCT 06 2003

PLANNING DIV.

extensions and renewals thereof.

14. EASEMENTS.

No recorded easement shall be used by any company or person, other than the owner of the affected lot or lots, for any purpose other than those designated on the plat of the addition.

15. PERSONS BOUND BY THESE COVENANTS.

All persons or corporations who now own or shall hereafter acquire any of the lots in this addition shall be deemed to have agreed and covenanted with the Declarant of all other lots in this addition and with its or their heirs, successors and assigns to conform to and observe the restrictions, covenants and stipulations contained herein for a period of 25 years from the date these covenants are recorded, and these covenants shall thereafter automatically extend in effect for successive periods of 10 years unless prior to the end of the original term or any successive term of the application hereof [a majority] of the then owners of lots in the addition agree to the amendment or removal of these covenants in whole or in part. These covenants may be amended at any time by the owners of [80%] of the lots in the addition. No changes in these covenants in the manner herein set forth shall be valid unless the same shall be placed of record in the office of the Recorder of Washington County, Arkansas, duly executed and acknowledged by the requisite number of owners.

17. RIGHT TO ENFORCE.

The covenants, agreements and restrictions herein set forth shall run with the title to the lots in this addition and bind the present Declarant, its heirs, successors and assigns, future owners and their heirs, successors and assigns; and all parties claiming by, through or under them shall be taken to hold, agree and covenant with the owners of other lots in the addition, their heirs, successors and assigns, and with Declarant, as to the covenants and agreements herein set forth and contained. None shall be personally binding on any person, persons, or corporations except with respect to breaches committed during its, his or their holding of title to lots in the addition. Any owner or owners of lots in this Addition, or Declarant, shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of any of the covenants, agreements or restrictions contained herein together with any other rights to which they might otherwise be entitled under the laws of the State of Arkansas. The invalidation of any one of these covenants, restrictions or agreements herein contained by the order of a court of competent jurisdiction shall in no way affect any of the other provisions hereof which will remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has hereunto set his hand and seal this ________ day of ________, 2003.

[ACKNOWLEDGMENT]

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: January 6, 2004

FROM:

Name	Division	Department
Dawn Warrick	Planning	CP&E

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

R-PZD 03-07.00: Residential Planned Zoning District (Brophy Condominiums, pp 527) was submitted by William Rudasill of WBR Engineering Assoc. on behalf of Ralph Brophy for property located east of College Ave, north of Township on Brophy Circle. The property is zoned RMF-40, RMF-24 and RSF-4 and contains approximately 6.01 acres. The request is to rezone the subject property to a R-PZD 03-07.00 with a total of 50 Residential dwelling units (25 Two-family units).

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — 12/19/03
Division Head — Date

Received in Mayor's Office 12/19/03
Date

12-19-03
City Attorney — Date

12-18-03
Department Director — Date

12-19-03
Finance & Internal Services Dir. — Date

Chief Administrative Officer — Date

Dan Coody — 12/19/03
Mayor — Date

Cross Reference:

Previous Ord/Res#: ______

Orig. Contract Date: ______

Orig. Contract Number: ______

New Item: Yes No

ENTERED 12/19/03

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: **Mayor Dan Coody and City Council Members**

From: **Hugh Earnest, Chief Administrative Officer**

Date: **December 17, 2003**

Subject: **Lease with the Council on Aging**

Recommendation
The lease as attached is recommended for approval by the Council.

Background
The new Senior Citizen Center that was opened for service in July of 2003 is operated by the Council on Aging. This particular non-profit agency was very active in fund raising for and the design of the current structure. The Council is a service provider at this location as well as being responsible for the operation of nine centers in Washington County. The Council on Aging (COA) has a contract with Area Agency on Aging in Harrison for providing services at the Senor Center. Area Agency on Aging, also a non-profit, contracts with a number of third-party providers for a wide range of services for seniors and also directly operates senior centers in some locations. It should be noted that some 25 years ago, the state set up eight separate Area Agencies on Aging blanketing the state. These non-profits all operate through a number of Federal and State programs set up to deliver services to seniors.

Current situation
The opening of the new Senior Center has given us an opportunity to develop a lease for the use of the building by the Council on Aging. The lease with the Council on Aging essentially defines responsibility for maintenance of the building, lays out terms and conditions in the unlikely case that the city should choose to discontinue use of the facility for services to seniors, and stipulates a lease period and hours of operation.

Budget Impact
There is no direct budget impact, other than a formalization of the obligation of the owners of the building to be responsible for certain maintenance items as detailed in the lease.

Tabled to 1/20/04 Mtg

RESOLUTION NO. _________

A RESOLUTION TO APPROVE A LEASE AND AGREEMENT TO PROVIDE SERVICES WITH THE COUNCIL ON AGING, INC. FOR THE FAYETTEVILLE SENIOR ACTIVITY CENTER IN WALKER PARK

WHEREAS, the taxpayers of the City of Fayetteville with assistance of private and public donors paid for the construction of the Fayetteville Senior Activity Center at Walker Park; and

WHEREAS, the Council On Aging, Inc. is an Arkansas Not For Profit Corporation which assisted with the design and construction of the Senior Center and had efficiently and successfully operated the Fayetteville Senior Center on Sang Avenue for many years to the great benefit of Fayetteville citizens; and

WHEREAS, it is to the overall benefit of the City of Fayetteville, the Council On Aging, and Fayetteville citizens for the City to lease to the Council On Aging the premises of the new Fayetteville Senior Activity Center in consideration of the Council On Aging's operation of the Senior Center to provide recreational, cultural and nutritional services to Fayetteville citizens.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the lease and agreement to provide services with the Council On Aging, Inc., attached as Exhibit "A" so that the Council On Aging, Inc. can continue to operate the Fayetteville Senior Activity Center to provide recreational, cultural and nutritional services to Fayetteville citizens.

PASSED and **APPROVED** this the 20th day of January, 2004.

APPROVED:

By: DRAFT ____________________
DAN COODY, Mayor

ATTEST:

By: ____________________
SONDRA SMITH, City Clerk

LEASE AGREEMENT TO PROVIDE SERVICES

WHEREAS, the taxpayers of the City of Fayetteville with assistance of private and public donors paid for the construction of the Fayetteville Senior Activity Center at Walker Park (hereinafter "Senior Center"); and

WHEREAS, the Council on Aging, Inc. (hereinafter "Council On Aging:) is an Arkansas Not For Profit Corporation which assisted with the design and construction of the Senior Center and had efficiently and successfully operated the Fayetteville Senior Center on Sang Avenue for many years to the great benefit of Fayetteville citizens; and

WHEREAS, IT IS TO THE OVERALL BENEFIT OF THE City of Fayetteville, the Council On Aging, and Fayetteville citizens for the City to lease to the Council On Aging the premises of the new Fayetteville Senior Activity Center in consideration of the Council On Aging's operation of the Senior Center to provide recreational, cultural and nutritional services to Fayetteville citizens; and

WHEREAS, the City of Fayetteville, as the owner of the structure, recognizes that the Council on Aging is the current contractor of record occupying the structure, and is operating programs for Senior Citizens under the terms and conditions as established by the Area Agency on Aging and agreed to by the City. The City further recognizes that the contractor for provision of said services is subject to change as part of a selection process which will occur at periodic intervals.

NOW THEREFORE, The City of Fayetteville for the consideration stated above and listed below agrees to lease the Fayetteville Senior Activity Center in Walker Park to the Council On Aging, Inc. and the Council On Aging, Inc. agrees to operate and maintain the Senior Center for the benefit of senior citizens of Fayetteville and elsewhere as more particularly described below.

1. The Council On Aging, Inc. can and shall utilize the kitchen in the Fayetteville Senior Activity Center both to provide nutritious meals to those at the Center and to Seniors in the community through the Meals On Wheels or other similar programs.

2. The Council On Aging, Inc. shall operate the Senior Center with sufficient staff to maintain the premises and assist attendees at least five days a week year round during the term of this lease.

3. The City (as the owner of the structure) and the Council on Aging, mutually agree that the maintenance responsibility of the structure shall be as follows:

* All routine maintenance such as cleaning, painting, landscaping, service calls and filter replacement for heating and cooling units, refrigeration and cooking units are the responsibility of the Council on Aging (or whatever successor agency is employed to deliver services in the structure). The Council on Aging (or successor agency) will be responsible for payment of all utility bills and service contracts, as well as maintenance and replacement of the facility's minor systems and components (some examples are light switch replacement, thermostat repair or replacement, light bulb and ballast replacement).

* The City (as owner of the structure) recognizes its responsibility for repair and replacement of issues arising from failure in the structural component of the building. The City further agrees to perform periodic inspections of the structure in order to insure that the facility retains its structural integrity. It further agrees to meet on a periodic basis with representatives of the agency providing service in the facility to ensure that significant operations and repair issues are not overlooked. The City assumes responsibility for needed repair of major building systems (examples are HVAC system and mechanical systems).

4. The term of this *Lease and Agreement to Provide Services* shall be Twenty (20) years beginning on ___________, 2003, and ending on __________, 2023. Either party to this *Lease and Agreement to Provide Services* may terminate this *Lease and Agreement* upon giving on year's written notice to the other party. The notice to voluntarily terminate this *Lease and Agreement* shall be effective to begin the one year period prior to termination upon receipt of the notice by the Executive Director of the Council On Aging, Inc. or COA staff member in charge at the Fayetteville Senior Activity Center, or upon receipt by the Mayor of the City of Fayetteville or senior City staff member in the Mayor's Office.

5. The City of Fayetteville agrees to use the Fayetteville Senior Activity Center for the operation of a senior activity center as defined by the applicable state and federal regulations as long as required by such regulations. If the City chooses to discontinue using the Senior Center as a senior activity center such that the Council On Aging, Inc. would be required to reimburse funds received from a federal or state agency, the City will reimburse the required funds either to the Council On aging, Inc. or directly to the governmental agency.

6. The City of Fayetteville will be responsible for any insurance necessary for the structure housing the Fayetteville Senior Activity Center and the Council On Aging, Inc. shall insure all of the contents of this building as well as purchasing and maintaining in

force a liability insurance policy from a company acceptable to the City for any injury or damages resulting from its or visitors' use (including foodservice) of the premises in an amount of at least $1,000,000.00 with a no-fault medical expenses rider of at least $5,000.00 per person. A copy of the Council On Aging, Inc.'s current insurance policy shall be provided to the Fayetteville City Clerk and a copy of any change, modification, renewal or termination of said insurance shall be provided the City Clerk within five (5) days of receipt.

7. The Council On aging, Inc. shall be responsible to fully pay and keep current all utilities (gas, electric, telephone, cable, water, sewer, solid waste, etc.) necessary to properly operate the Senior Center.

8. This Lease and Agreement constitutes the entire agreement between the City of Fayetteville and the Council On Aging, Inc. Any changes or modifications must be in writing and agreed to by the City Council of Fayetteville and the Board of Directors of the Council On Aging, Inc. to be effective.

In Agreement With All of the Terms, Promises, and Conditions stated above and after formal approval by the Board of Directors of the Council On Aging, Inc. and the Fayetteville City Council we execute this Lease and Agreement to Provide Services by signing below on this the ____day of October, 2003.

COUNCIL ON AGING

By:____________________

JANET LINEBAUGH
Executive Director

Witness:________________

____
Name & Title

CITY OF FAYETTEVILLE

By:____________________

DAN COODY
Mayor

ATTEST:

____

Sondra Smith
City Clerk

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council Meeting of: January 6th, 2004

FROM:

Hugh Earnest		Chief Adminstrative Officer
Name	Division	Department

ACTION REQUIRED: Passage of a Resolution authorizing a lease with the Council On Aging

SUMMARY EXPLANATION: See attached memo

STAFF RECOMMENDATION:

Division Head	Date	Received in Mayor's Office 12/19/03 Date
City Attorney	Date	
Department Director	Date	
Finance & Internal Services Dir.	12-19-03 Date	
Chief Administrative Officer	12-18-03 Date	
Mayor	12/19/03 Date	

The proposed lease 1) deleted required operation of the Center 6 days a week 2) Deleted responsibility to repair HVAC, plumbing, electrical

Cross Reference:

Previous Ord/Res#: ______

Orig. Contract Date: ______

Orig. Contract Number: ______

New Item: **Yes** **No**

ENTERED 12/19/03

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Tim Conklin, Community Planning and Engineering Services Director T.C.

Date: December 22, 2003

Subject: Proposed Walgreen's Cost Share in the amount of $25,512.00 with a contingency of $3,826.00 with WIV-Fayetteville, LLC for the installation of approximately 350 feet of 8" water main.

RECOMMENDATION

Staff recommends that the City cost-share with WIV-Fayetteville, LLC the developer, to construct approximately 350 feet of 8" water main. By participating in the construction of these improvements, the City will be creating a loop in the water main system in this area and eliminating the gap in the system.

BACKGROUND

On November 7, 2002, the Planning Commission approved the Large Scale Development for Walgreen's. The proposed development is located at the northwest corner of Joyce Blvd. and Shiloh Dr. As a part of this development, the developer will be constructing a water main extension to provide service and fire protection to the site. The site grading and water and sewer extensions have been approved for the site and construction is underway.

DISCUSSION

There is existing water main along Joyce Blvd. There is also a system of mains that serves the Northwest Arkansas Mall and several other businesses in this area. This network of mains is fed from one point of connection at the intersection of Highway 71B and Zion Road. In the event of a water main break on this connecting line, the Mall and many of the surrounding businesses would be without water. It would benefit the City of Fayetteville to have this gap in the water main system eliminated and to further loop the system in this area.

Construction bids have been provided to the City for these improvements by WIV-Fayetteville, LLC.as follows:

Developer's Share	**$ 37,920.00**
City's Share	**$ 25,512.00**
15% Contingency(City's Share)	**$ 3,826.00**
Total	**$ 67,258.00**

BUDGET IMPACT

Based upon the information provided by the Budget & Research Division, there is a proposed budget of $150,000.00 in the Water and Sewer Cost Sharing Account for 2004. The final costs to the City will be based upon actual costs as documented by WIV-Fayetteville, LLC. subject to review by the City and may, or may not exceed the submitted estimate. However, the City's share will not exceed the estimate without additional authorization.

ORDINANCE NO. ______

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE AGREEMENT WITH WIV-FAYETTEVILLE, LLC IN AN AMOUNT OF $25,512.00 PLUS A CONTINGENCY OF $3,826.00 FOR A TOTAL OF $29,338.00 FOR THE CONSTRUCTION OF 350 FEET OF 8-INCH WATER MAIN

WHEREAS, the Fayetteville Planning Commission has approved a Large Scale Development for Walgreen's on Joyce Boulevard which calls for the construction of a water main extension; and

WHEREAS, it will be of great benefit to the City and businesses in the Mall area to construct a water main loop extension in this area; and

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

WHEREAS, the City Council finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby waives the requirements of formal competitive bidding and approves a cost-share agreement with WIV-Fayetteville LLC in an amount of $25,512.00 plus a contingency of $3,826.00 for a total of $29,338.00 for the construction of about 350 feet of 8-inch water main to further the water main loop system near the Northwest Arkansas Mall.

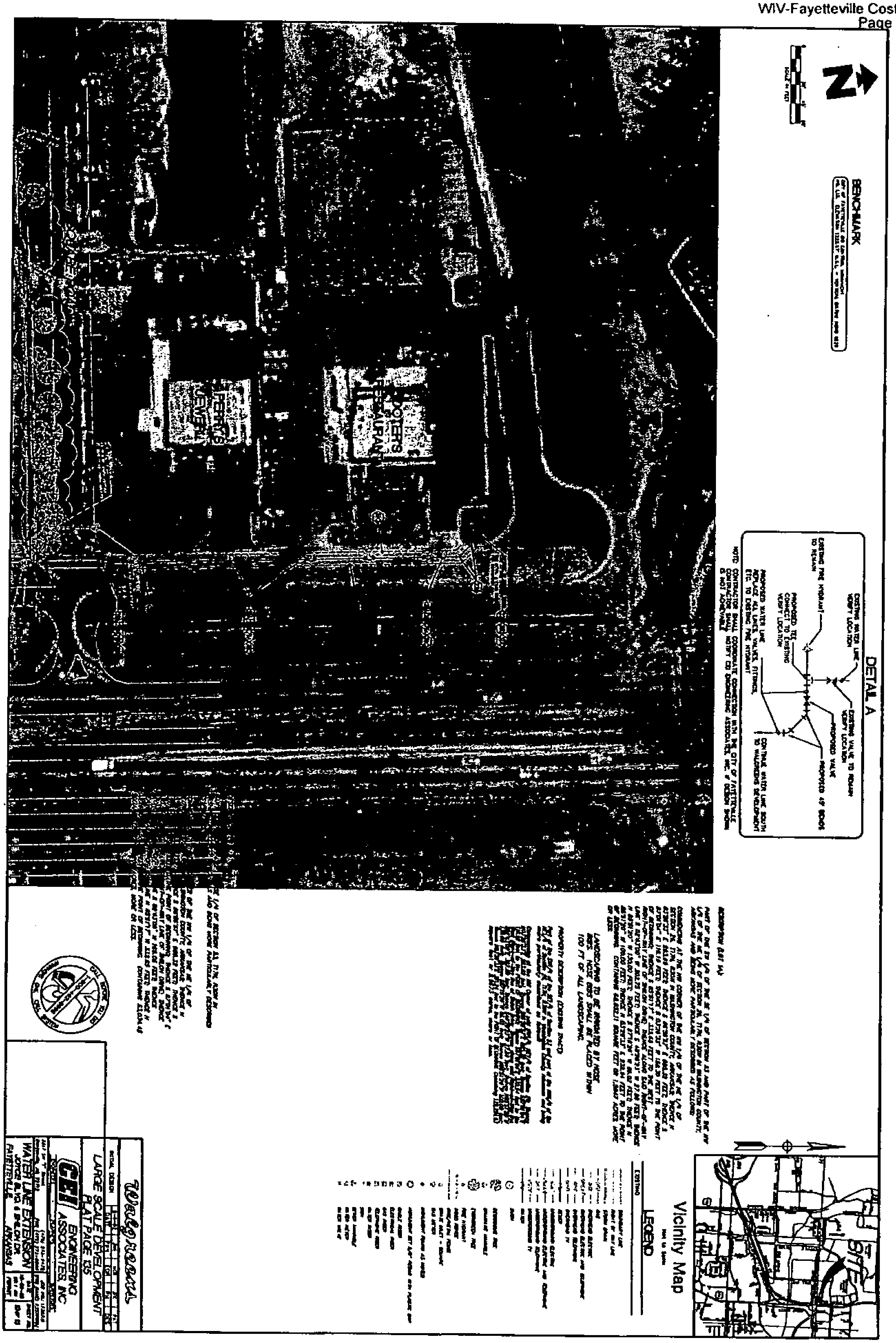
PASSED and **APPROVED** this the 20th day of January, 2004.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk


BENCHMARK
DETAIL A
Vicinity Map
LEGEND
LARGE SCALE DEVELOPMENT
PLAT PAGE 135
CEI ENGINEERING ASSOCIATES, INC
WATER LINE EXTENSION

Harman & Son Construction, Inc.

1633 Rogers Rd. Fort Worth, TX 76107
817-336-5780 Fax 817-336-5797
www.harmanandson.com

11/8/03 (Revised)

Mr. James Koch
CEI Engineering Associates, Inc.
3317 SW I Street
Bentonville, AR 72712

RE: Water Line Extension Shiloh & Joyce

Dear, Mr. Koch:

See below cost for the offsite water line extension for the referenced project. If you should have any questions please don't hesitate to call.

Description	Qty	Cost	Total
1. 8" C-900	365 LF	$24	$8,760
2. 8" x 8" MJ Tee	1	$800	$800
3. 8" MJ Gate Valve	1	$800	$800
4. 8" MJ 45 degree bend	2	$500	$1,000
5. Connect to fire hydrant	1	$1100	$1,100
6. Asphalt repair/patch	1	$7500	$7,500
7. Gravel bedding	100 tons	$13	$1,300
OH &P			$4,252
Total			$25,512

Sincerely,

Gabe Harman
Project Manager
Harman & Son Construction, Inc.

Harman & Son Construction, Inc.

1633 Rogers Rd. Fort Worth, TX 76107
817-336-5780 Fax 817-336-5797
www.harmanandson.com

11/14/03 (Revised)

Mr. James Koch
CEI Engineering Associates, Inc.
3317 SW I Street
Bentonville, AR 72712

RE: Water Line Extension Shiloh & Joyce

Dear, Mr. Koch:

See below cost for the total water line extension for the referenced project. If you should have any questions please don't hesitate to call.

Description	Qty	Cost	Total	
(OFFSITE)				
8" C-900	365LF	$24	$8,760	
8"x 8" MJ Tee	1	$800	$800	
8" MJ Gate Valve	1	$800	$800	
8" MJ 45 Degree Bend	2	$500	$1,000	
Connect to Fire Hydrant	1	$1,100	$1,100	
Asphalt Repair/Patch	1	$7,500	$7,500	
Gravel Bedding	100 Tons	$13	$1,300	
Sub-Total				$21,260 + OH & P $4,252
(ONSITE)				
8" C-900	535LF	$24	$12,840	
6" C-900	80LF	$22	$1,760	
8"x 8" MJ Tee	1	$800	$800	
8"MJ Gate Valve	9	$800	$7,200	
8"MJ 45 Degree Bend	2	$500	$1,000	
Gravel Bedding	60 Tons	$13	$780	
8"x 8" Tapping Sleeve & Valve	1	$2,600	$2,600	
8 x 6" Tee	1	$600	$600	
6" MJ Gate Valve	3	$630	$1,890	
8" x 8" MJ Cross	1	$800	$800	
8" MJ Ring	1	$400	$400	
Fire Hydrant Assembly	2	$2090	$4,180	
6" MJ Cap	1	$400	$400	
8" x 6" Reducer	1	$450	$450	
Gravel Class 7 Base	140	$13	$1,820	
Concrete Blocking	4	$100	$400	
Sub-Total				**$37,920**
Total				**$59,180**

Sincerely,

Gaby Harman,
Project Manager
Harman & Son Construction, Inc.

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this ____________________, by and between the City of Fayetteville, Arkansas and WIV-Fayetteville, LLC, Witnesseth:

WHEREAS, WIV-Fayetteville, LLC, will be hiring a contractor for the construction of a Walgreen's at the northwest corner of Joyce Blvd. and Shiloh Dr.; and

WHEREAS, there is an existing 8" water line on the west side of this site that connects to the 8" main along Joyce Blvd. The developer will be extending this 8" main through the project site to provide service and fire protection to the Walgreen's development; and

WHEREAS, there is an existing system of water mains that serves the entire Northwest Arkansas Mall complex and several businesses in this area. The mains end approximately 350 feet north of the Walgreen's development. This entire network of mains has only one point of connection that crosses Highway 71B at Zion Road; and

WHEREAS, it will benefit the City of Fayetteville to extend this 8" water main to connect to the existing main north of the development at the same time by the same contractor. This extension will create a loop in this area and prevent numerous businesses, including the Mall, from having the water shut off in case of a water main break.

NOW, THEREFORE, the City of Fayetteville and WIV-Fayetteville, LLC agree as follows:

1. Upon the City Council and/or the Mayor approving the Water Main Cost-Share, the City of Fayetteville agrees to:

    A. Pay for 100% of the actual documented construction costs & inspection costs for the 8" water main along Shiloh Drive from Georgetown Square Road to connect with the existing water main approximately 350 feet to the north.

    B. Pay a maximum-not-to-exceed cost of $29,338.00 for the afore mentioned water main construction as was provided by WIV-Fayetteville, LLC contractor and made a part of this agreement.

    C. Reconsider the costs if the future and actual construction & inspection prices exceed the maximum-not-to-exceed amount that was furnished by WIV-Fayetteville, LLC. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.

    D. Make all efforts to provide payment to WIV-Fayetteville, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.

2. WIV-Fayetteville, LLC agrees to:

   A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable water main installation.

   B. Provide a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the water main installation.

   C. Not proceed with the proposed construction unless/until the proposed contractual agreement is approved by the City Council and/or the Mayor.

3. It is further understood that the contract for construction is between WIV-Fayetteville, LLC and his Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of $29,338.00 for the water main installation.

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

CITY OF FAYETTEVILLE	WIV-Fayetteville, LLC
By:______________________	By:______________________
DAN COODY, Mayor	

City Of Fayetteville
(Not a Purchase Order)

Requisition No.:		Date: 12/23/2003	
P.O Number:		Expected Delivery Date:	
Vendor #: New	Vendor Name: WIV-Fayetteville, LLC	Mail Yes:__ No:__	
Address: 541 North Fairbanks Court, Suite 1890	Fob Point:	Taxable Yes:__ No:__	Quotes Attached Yes:__ No:__
City: Chicago	State: IL	Zip Code: 60611	Ship to code: [illegible]090[illegible]
Divison Head Approval: [signature]			
Requester: Matt Casey - Engineering	Requester's Employee #: [illegible]2119	Extension: [illegible]429[illegible]	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Cost Share for Walgreens on Joyce Blvd. - 350 Feet of Waterline Extension	[illegible]	[illegible]	[illegible]	$29,338.00	[illegible]5400.5600.5808	[illegible]02067.20[illegible]		
2					$0.00				
3					$0.00				
4					$0.00				
5					$0.00				
6					$0.00				
7					$0.00				
8					$0.00				
9					$0.00				
10					$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Return to Matt Casey

Subtotal: $29,338.00
Tax:
Total: $29,338.00

Approvals:

Mayor: ____________ Department Director: ____________ Purchasing Manager: ____________

Finance & Internal Services Director: ____________ Budget Manager: ____________ IT Manager: ____________

Dispatch Manager: ____________ Utilities Manager: ____________ Other: ____________

REQUEST FOR VENDOR FILE MAINTENANCE

(CHECK ALL AVAILABLE RESOURCES, VENDOR LIST, ACCESS SYSTEM PRIOR TO SUBMISSION OF THIS REQUEST)

DATE OF REQUEST: 12/29/03 REQUESTED BY: Matt Casey

DEPT./DIVISION: Engineering EFFECTIVE DATE: ASAP

TELEPHONE EXTENSION: 429

NEW VENDOR: ✔ VENDOR CHANGE: ☐ VENDOR RE-ENTRY: ☐

VENDOR #: ______ VENDOR #: ______

VENDOR NAME: WIV-Fayetteville, LLC

STREET OR P.O. BOX: 541 North Fairbanks Court, Suite 1890

CITY: Chicago STATE: IL ZIP CODE: 60611

ATT: PHONE: 312-645-0722

E-Mail ______ Fax # ______

REMITTANCE ADDRESS IF DIFFERENT FROM ABOVE:

NAME: ______

ADDRESS: ______

CITY, ST, ZIP: ______

TYPE OF ORGANIZATION

FEDERAL ID 82-0565492
OR
SOCIAL ______

CORPORATION	(100):	✔
PARTNERSHIP	(200):	
INDIVIDUAL	(300):	
EMPLOYEE	(400):	
PENSION	(500):	
NON-PROFIT	(600):	

PURCHASING OFFICE USE ONLY

NEW VENDOR: ______ ENTERED BY: ______

VENDOR CHANGES: ______ DATE: ______

VENDOR RE-ENTRY: ______ G. L. FILE: ______

W-9 FORM MAILED: ______ INVENTORY FILE: ______

STAFF REVIEW FORM - FINANCIAL OBLIGATION

x AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: January 20, 2004

FROM:

Matt Casey	Engineering	Community Planning & Engineering
Name	Division	Department

ACTION REQUIRED: Approval of a cost-share and bid waiver in the amount of $25,512.00 with a contingency of $3,826.00 with WIV-Fayetteville, LLC. for the construction of approximately 350' of 8" water main.

COST TO CITY:

$29,338.00	$ 150,000.00	Water & Sewer Cost Sharing
Cost of this request	Category/Project Budget	Program Category / Project Name
5400.5600.5808.00	$ -	Water & Sewer Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02067	$ 150,000.00	Water & Sewer Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager 12-29-03 Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager 12/29/03 Date
Internal Auditor 12/29/03 Date
City Attorney 12/30/03 Date
Purchasing Manager 12/31/03 Date

STAFF RECOMMENDATION: Staff recommends approval of the cost share and bid waiver.

Division Head Date

Received in Mayor's Office Date

Department Director 12-29-03 Date

Cross Reference:

Finance & Internal Services Dir. 12-31-03 Date

Previous Ord/Res#:

Orig. Contract Date:

Chief Administrative Officer 01-01-04 Date

Orig. Contract Number:

New Item: Yes No

Mayor 1/2/04 Date

ENTERED 12-29-03

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor and City Council

From: Hugh Earnest, Chief Administrative Officer HE

Date: January 8, 2004

Subject: Sale of Conservation Easement on Mt. Sequoyah

Recommendation
The resolution as attached to this memo be approved by the City Council

Background
Resolution No. 46-03 approved on April 1, 2003 by the Fayetteville City Council contained language inviting the purchase of the city development rights to this property by the Natural Heritage Committee for subsequent conveyance to the Ozark Land Trust.

Current Situation
Since the passage of Resolution 46-03, it has become apparent that a further reaffirmation of the City's intent to sell its development rights in the form of a single conservation easement to the Fayetteville Natural Heritage Committee is necessary. Such an action will be of benefit to the Committee in their continuing effort to raise the monies for their portion of the sale price. It is the Committee's belief that the sale of a single conservation easement protecting the integrity of the property from inappropriate development will be of benefit to their efforts. The purchase of these development rights effectively limits the City to certain specific activities related to perimeter parking, walking trails, benches and pavilions for use of the public when enjoying this wooded hillside.

In addition, the Council has made it very clear both in their actions and numerous comments that the preservation of this parcel in its current state is a high priority. The Council's commitment of monies for this purchase, coupled with the continuing efforts of the Fayetteville Natural Heritage Committee in raising monies toward their pledge is an excellent example of public private cooperation. To date, the Committee has raised $35,000 toward their pledge.

RESOLUTION NO. ______

A RESOLUTION TO APPROVE THE SALE OF A CONSERVATION EASEMENT TO THE FAYETTEVILLE NATURAL HERITAGE COMMITTEE ON THE 67 ACRES OF MOUNT SEQUOYAH WOODS PURCHASED BY THE CITY OF FAYETTEVILLE PURSUANT TO RESOLUTION NO. 46-03 (HEREINAFTER MOUNT SEQUOYAH WOODS)

WHEREAS, the City Council of the City of Fayetteville, Arkansas had invited the Fayetteville Natural Heritage Committee to purchase its development rights to Mount Sequoyah Woods in Resolution No. 46-03 passed unanimously by the Fayetteville City Council on April 1, 2003; and

WHEREAS, the Fayetteville Natural Heritage Committee has worked diligently and continues to strive to raise contributions to purchase this conservation easement to protect Mount Sequoyah Woods for all residents of Fayetteville; and

WHEREAS, the Fayetteville Natural Heritage Committee has already paid to the City tens of thousands of dollars toward the purchase of this conservation easement.

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 reaffirms its commitment to sell its development rights (except as necessary to build amenities for Mount Sequoyah Woods such as perimeter parking, walking trails, benches, pavilions, etc. for the use of the public when enjoying this wooded hillside) to the Fayetteville Natural Heritage Committee for a conservation easement to protect Mount Sequoyah Woods.

PASSED and **APPROVED** this the 16th day of December, 2003.

APPROVED:

DRAFT

By: ______________________
DAN COODY, Mayor

ATTEST:

By: ______________________
SONDRA SMITH, City Clerk

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **January 21, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of January 20, 2004**

The following Resolutions and Ordinances were passed at last night's regular City Council meeting and are ready for the mayor's signature.

Enclosed are:

1. **Canon Copier Purchase:** Resolution approving purchase of approximately thirteen photocopiers from Canon USA at state contract prices in an amount not to exceed $137,000.00; and approving budget adjustment in amount of $127,000.00;

2. **CAT Contract:** Resolution approving renewal contract in amount of $69,000.00 with community access television, to provide public access television services through December 31, 2004;

3. **Seven Hills Homeless Center, Inc. Fee Waiver:** Resolution to waive building permit fee and other developmental fees including impact fees for construction and remodeling of a shelter by Seven Hills Homeless Center, Inc.;

4. **Community Development Block Grant Fee Waiver:** Resolution to permanently waive building permit fee and other developmental fees for homes to be constructed by Community Development Block Grants;

5. **Two Full Time Meter Operations Positions:** Resolution to approve two full time equivalent positions in Meter Operations Division and budget adjustment in amount of $36,090.00 to pay for those employees.

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, Jill D. Scott, do solemnly swear that I am Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas Times newspaper, printed and published in Lowell, Arkansas, and that from my own personal knowledge and reference to the files of said publication, that advertisement of:

Final Agenda was inserted in the regular editions on Mon. Jan. 16th, 2004

PO# 04-386

** Publication Charge: $ 186.16

Subscribed and sworn to before me this

19 day of January, 2004.

Sean-Michael Argo
Notary Public

My Commission Expires: 07/25/2013

** Please do not pay from Affidavit.
An invoice will be sent.

Official Seal
SEAN-MICHAEL ARGO
Notary Public-Arkansas
WASHINGTON COUNTY
My Commission Expires 07-25-2013

RECEIVED
JAN 21 2004
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

212 NORTH EAST AVENUE • P.O. BOX 1607 • FAYETTEVILLE, ARKANSAS 72702 • (501) 442-1700

Final Agenda
City Council Meeting
January 20, 2004
A meeting of the Fayetteville City Council will be held on January 20, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Election of Vice Mayor

A. CONSENT:

1. Approval Of The Minutes: Approval of the December 30, 2003 and the January 6, 2004 meeting minutes.

2. Canon Copier Purchase: A resolution approving the purchase of approximately 13 photocopiers from Canon USA at State contract prices in an amount not to exceed $127,000.00, and approving a budget adjustment in the amount of $127,000.00 for same.

3. Community Access Television (CAT) Contract: A resolution approving a renewal contract in the amount of $69,000.00 with Community Access Television, to provide Public Access Television services through December 31, 2004.

4. Seven Hills Homeless Center, Inc. Fee Waiver: A resolution to waive the building permit fee and other developmental fees including impact fees for construction and remodeling of a shelter by Seven Hills Homeless Center, Inc.

5. Community Development Block Grant Fee Waiver: A Resolution to permanently waive the building permit fee and other developmental fees for homes to be constructed by Community Development Block Grants.

B. OLD BUSINESS:

1. R-PZD 03-6.00; Benton Ridge, Long, LLC: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. This ordinance was left on the first reading at the January 6, 2004 City Council meeting.

2. R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 acres, more or less, amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. This ordinance was left on the first reading at the January 6, 2004 City Council meeting.

3. Council on Aging, Inc.; Lease Senior Center, Walker Park: A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park. This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.

C. NEW BUSINESS:

1. WIV-Fayetteville Cost-Share: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with WIV-Fayetteville, LLC in an amount of $25,512.00 plus a contingency of $3,826.00 for a total of $29,338.00 for the construction of 350 feet of 8-inch water main.

2. Mount Sequoyah Woods Conservation Easement: A resolution to reaffirm its commitment to sell most of its development rights to the Fayetteville Natural Heritage Committee on the 67 acres of Mount Sequoyah Woods purchased by the City of Fayetteville pursuant to Resolution No. 46-03.

3. Creation of an Ex Officio, Nonvoting Council Member: A resolution to amend the Rules of Order and Procedure of the Fayetteville Mayor/City Council by adding Section J., creating an Ex Officio, nonvoting Council member designated to be filled by the President of the Associated Student Government of the University of Arkansas.

D. INFORMATIONAL:

Council Tour: January 19, 2004

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **City Council**

FROM: **Kit Williams**, City Attorney

DATE: **January 9, 2004**

RE: **Annual organization of the City Council**

A.C.A. §14-43-501 states that the "aldermen elected for each city shall annually, at the first council meeting in January, assemble and organize the city council."

You did properly assemble at your first meeting. I understand that Mayor Coody may be out of town for your second meeting in January. A.C.A. §14-43-501 continues: "(b)(2) In the absence of the major, the council shall elect a president pro tempore."

Your Rules of Order and Procedure C.2. state: "The City Council shall at the time of organizing, in public session, elect one of its members as Vice Mayor." Since state law requires the City Council to organize itself annually, I believe this election of Vice Mayor by the Aldermen should be done annually also. I suggest you do this election at the beginning of your meeting on the 20th since you will need a presiding officer in Mayor Coody's absence.

Since Alderman Davis was elected last year as Vice Mayor, he should serve until and unless replaced by a new Vice Mayor in 2004. Thus, in Mayor Coody's absence, Alderman Davis shall be the presiding officer at the start of the Council meeting through the election of this year's Vice Mayor. Please read Rule C.2. and 3. of your Rules of Order and Procedure for voting procedures and responsibilities of the Vice Mayor.

I should note as your parliamentarian that only members of the City Council (Alderman and Mayor) can make any motions. Please review Procedural Rules For Municipal Officials by the Arkansas Municipal League. This is also true for "Incidental Motions" such as Point of Order, Parliamentary Inquiry, Suspension of the Rules, etc. Members of the public have never had a legal right to make or second motions, move for an immediate vote, ask for a point of order in this or any other legislative body.

Tentative Agenda
City Council Meeting
January 20, 2004

A meeting of the Fayetteville City Council will be held on January 20, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Agenda Session) Discussion of Franchising for Cable under Federal law - Mac Norton Wright Lindsey & Jennings

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the January 6, 2004 meeting minutes.

B. OLD BUSINESS:

1. **R-PZD 03-6.00; Benton Ridge, Long, LLC:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This ordinance was left on the first reading at the January 6, 2004 City Council meeting.***

2. **R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy:** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This ordinance was left on the first reading at the January 6, 2004 City Council meeting.***

3. **Council on Aging, Inc.; Lease Senior Center, Walker Park:** A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park. ***This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.***

C. NEW BUSINESS:

1. **WIV-Fayetteville Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with WIV-Fayetteville, LLC in an amount of $25,512.00 plus a contingency of $3,826.00 for a total of $29,338.00 for the construction of 350 feet of 8-inch water main.

Consent

2. **Cannon Copier Purchase:** A resolution approving the purchase of additional copiers from the State of Arkansas contract with Canon USA in the amount of $127,000.00 and approval of a budget adjustment for same.

Consent

3. **Budget Adjustment Rebudget of 2003 Projects:** A resolution to allow a budget adjustment which will allow for the rebudget of all projects appropriated in the 2003 budget. The items which are approved will become part of the 2004 budget.

4. **Community Access Television (CAT) Contract:** A resolution approving a contract between the City of Fayetteville and Community Access Television (CAT) for a period of one year.

5. ~~**Non-Exclusive Franchise Contract:** A resolution approving a non-exclusive franchise contract(s) for the collection and transporting of specific types of trash and waste.~~

6. **Mount Sequoyah Woods Conservation Easement:** A resolution to approving the sale of a Conservation Easement to the Fayetteville Natural Heritage Committee on the 67 acres of Mount Sequoyah Woods purchased by the City of Fayetteville pursuant to Resolution No. 46-03 (Hereinafter Mount Sequoyah Woods).

D. INFORMATIONAL:

Council Tour: January 19, 2004

Agenda Session

Tentative Agenda
City Council Meeting
January 20, 2004

A meeting of the Fayetteville City Council will be held on January 20, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

~~Agenda Session:~~ Mac Norton, with Wright, Lindsey & Jennings: Discussion of franchising for cable under federal law.

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the January 6, 2004 meeting minutes.

2. **Canon Copier Purchase:** A resolution approving the purchase of approximately 13 photocopiers from Canon USA at State contract prices in an amount not to exceed $127,000.00; and approving a budget adjustment in the amount of $127,000.00 for same.

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C. NEW BUSINESS:

1. **WIV-Fayetteville Cost-Share:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with WIV-Fayetteville, LLC in an amount of $25,512.00 plus a contingency of $3,826.00 for a total of $29,338.00 for the construction of 350 feet of 8-inch water main.

Need new resolution
Change description

2. **Mount Sequoyah Woods Conservation Easement:** A resolution to approve the sale of a Conservation Easement to the Fayetteville Natural Heritage Committee on the 67 acres of Mount Sequoyah Woods purchased by the City of Fayetteville pursuant to Resolution No. 46-03 (Hereinafter Mount Sequoyah Woods).

Change the title of the resolution. Get new resolution from Kit.

D. INFORMATIONAL:

Council Tour: January 19, 2004

Add Resolutions

(3)

University

Consent – Seven Hills

Consent – Community Dev. Block Grant