Final Agenda
City Council Meeting
April 20, 2004

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

Municipal Clerks Week Proclamation

THIS ITEM WILL BE READ AT THE MAY 4, 2004 MEETING.

Nominating Committee Report: Dusti Miller – Fayetteville Housing Authority Appointment.

CITY COUNCIL APPROVED THE APPOINTMENT OF DUSTI MILLER.

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the February 20, 2001, May 15, 2001 and April 6, 2004 meeting minutes.

   APPROVED.

2. **Multi-Craft Contractors-Emergency Generator for City Administration Building:** A resolution approving amendment No. 3 to the contract with Multi-Craft Contractors for the purchase and installation of an emergency generator at the City Administration Building in the amount of $41,903.00; and approving a contingency in the amount of $2,095.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 55-04.

3. **2004/2005 Drug Enforcement Grant:** A resolution to accept the 2004/2005 Drug Enforcement Grant in the amount of $305,095.00 with a commitment to match it with $75,929.00 in city funds.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 56-04.

4. **Crossland Construction Company Library CO #14:** A resolution approving Change Order #14 to the contract with Crossland Construction Company, Inc. in the amount of $78,454.00 to install landscape irrigation, engineered soil and mulch and low voltage conduit at the New Fayetteville Public Library.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 57-04.

5. **Henard Utility Products-Compost Grinder:** A resolution approving the purchase of a Bandit 3680 "Beast" Compost Grinder by the Solid Waste & Recycling Division from Henard Utility Products in the amount of $239,068.75.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 58-04.

6. **Landers Ford -Fire Department Vehicle Purchase:** A resolution approving the purchase of a Ford Expedition from Landers Ford at the state contract price of $25,811.00 for use by the Fayetteville Fire Department; and approving an additional expenditure of $2,350.00 to equip the vehicle with lights, siren and console.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 59-04.

7. **Ron Blackwell -Water & Sewer Vehicle Purchase:** A resolution approving the purchase of two Ford F550 Trucks for the Water and Sewer Division from Ron Blackwell Ford for a total price of $79,133.76.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 60-04.

8. **Schwarze Industries Street Sweeper Purchase:** A resolution approving the purchase of a Street Sweeper for the Transportation Division from Schwarze Industries in the amount of $139,376.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 61-04.

9. **Basic Construction Top Soil Purchase:** A resolution to award a bid to the low bidder, Basic Construction, Inc. in the amount of $50,000.00 to purchase top soil for street and sidewalk projects.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 62-04.

10. **2004 FEMA Fire Act Grant:** A resolution to approve a grant request for a FEMA Fire Act Grant and Agreement to match any received grant funds in an amount equal to 30% of the total budget.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 63-04.

11. **Gregory Park Land-Convey to U.S. Army Reserve Center:** A resolution approving the acceptance of a Quitclaim Deed for approximately 19.38 acres of land from the United States Department of the Army in exchange for conveying a Warranty Deed for approximately 0.412 acres of land to clear title and resolve an encroachment; and authorizing the Mayor and City Clerk to execute any and all documents required therefore.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 64-04.

B. OLD BUSINESS:

1. **Central Emergency Medical Services, Inc.:** A resolution approving the renewal of the contract for services in the amount of $156,000.00 between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 65-04

2. **ANX 03-5.00 (Dunnerstock Development):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Dunnerstock Development, Inc. located on Rupple Road north of Wedington Drive containing approximately 17.19 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4555.

3. **RZN 03-33.00 (Dunnerstock):** An ordinance rezoning that property described in rezoning petition RZN 03-33.00 as submitted by James McCord on behalf of Dunnerstock Development, Inc. for property located on Rupple Road north of Wedington Drive from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4556.

4. **ANX 03-06.00 (Hoskins/Schlegel):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres.

TABLED UNTIL MAY 4, 2004 MEETING.

5. **RZN 03-34.00 (Hoskins/Schlegel):** An ordinance rezoning that property described in rezoning petition RZN 03-34.00 as submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

THIS ITEM WAS LEFT ON THE SECOND READING.

6. **RZN 04-2.00 (Chance & Tuggle):** An ordinance rezoning that property described in rezoning petition RZN 04-02.00 as submitted by Geoff Bates of Keystone Consultants on behalf of David Chance and John Tuggle for property located at West Tackett and Genevieve Avenue containing approximately 7.94 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4557.

C. NEW BUSINESS:

1. **Northwest Arkansas Regional Planning Commission Storm Water Education Contract:** An ordinance to waive competitive bidding and to approve a five year contract for $239,000.00 with the Northwest Arkansas Regional Planning Commission for services by the University of Arkansas Cooperative Extension Service to satisfy portions of the requirements of the NPDES Phase II Stormwater Permit.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4558.

2. **R-PZD 04-4.00: Residential Planned Zoning District (Stonewood Gardens):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of the Stonewood Subdivision containing 3.36 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 ITEM WAS LEFT ON THE SECOND READING.

3. **VAC 04-3.00: Vacation (Sohraby):** An ordinance approving VAC 04-3.00 to vacate and abandon a portion of an existing utility easement to allow for the eave of an existing home at 2474 Fennchurch Way in the Covington Park Phase I Subdivision as described on the attached map and legal description.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4559.

4. **VAC 04-8.00: Vacation (CMN II, Phase II):** An ordinance approving VAC 04-8.00 to vacate and abandon a 20' utility easement located along the boundary of lots 17E and 17F of the CMN Business Park II, Phase II as depicted on the attached legal description.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4560.

5. **Library Project Contingency Increase:** A resolution to increase the project contingency for the Fayetteville Public Library construction by $999,691.00 from settlement and budgeted items.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 66-04.

6. **Sewer Committee:** An ordinance to enact a new section of the Fayetteville Code, **§33.112 Sewer Committee.**

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4561.

D. INFORMATIONAL:

MEETING ADJOURNED AT 8:25 P.M.

Fayetteville City Council Meeting April 20, 2004

Meeting Adjourned 8:25 pm.

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

Subject:	Old Business	Nominating Committee Report			
Motion To:		approve			
Motion By: Seconded:	Jordan Reynolds	Dusti Miller	Fayetteville Housing Authority		
Rhoads	absent				
Davis	✓				
Lucas	✓				
Jordan ✓	✓				
Reynolds ✓	✓				
Thiel	✓				
Cook	✓				
Marr	✓				
Mayor Coody	absent				

Rhoads here at 6:05 pm.

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

Approve
Passed
Res. 55-04
to 64-04

Subject:	Central Emergency Medical Services.			
Motion To:	Approve			
Motion By: Seconded:	Thiel / Rhoads			
Rhoads	✓			
Davis	✓			
Lucas	✓			
Jordan	✓			
Reynolds	N			
Thiel ✓	✓			
Cook	✓			
Marr	N			
Mayor Coody	—			

B.I. #1
Old Business
Passed
6-2
6-2
65-04

Subject:	ANX 03-5.00 Dunnerstock Development			
Motion To:		2nd read	3rd read	Pass
Motion By: Seconded:		Marr / Cook	Lucas / Reynolds	
	Rhoads	✓	✓	✓
	Davis	✓	✓	✓
	Lucas	✓	✓	✓
	Jordan	✓	✓	✓
	Reynolds	✓	✓	✓
	Thiel	✓	✓	✓
	Cook	✓	✓	N
	Marr	✓	✓	✓
	Mayor Coody	—	—	—

B.2 Old Business

7-1 / passed / 4555

Subject:	RZN 03-33.00 Dunnerstock			
Motion To:		2nd read	3rd read	Pass
Motion By: Seconded:		— / Lucas	Marr / Lucas	
	Rhoads	✓	✓	✓
	Davis	✓	✓	✓
	Lucas	✓	✓	✓
	Jordan	✓	—	N
	Reynolds	✓	✓	✓
	Thiel	✓	✓	✓
	Cook	✓	✓	N
	Marr	✓	✓	✓
	Mayor Coody	—	—	—

B.3. Old Business

6/2 passed 4556

Fayetteville City Council Meeting — April 20, 2004

Subject:		ANX 03-6.00 (Hoskins / Schlegel)			
Motion To:		2nd read	3rd read	[illegible]	
Motion By: / Seconded:		Lucas / Marr	Jordan / Lucas	Table until next meeting.	
	Rhoads	✓	✓	NO	Tracy Hoskins
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody	—	—		

B.4. Old Business

Tabled until the next meeting

Subject:		RZN 03-34.00 (Hoskins / Schlegel)			
Motion To:		2nd read			
Motion By: / Seconded:		Marr / Jordan			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody	—			

B.5. Old Business

Left on the Second reading

Subject:	RZN-04-2.00 (Chance & Tuggle)				
Motion To:		2nd read	3rd read	Pass	
Motion By: / Seconded:		Jordan / Cook	Davis / Lucas		
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody	—	—	—	

B.b. Old Business

Passed 4557

Subject:	NW Ark. Regional Planning Commission				
Motion To:		2nd read	3rd read	Pass	
Motion By: / Seconded:		Marr / Jordan	Reynolds / Jordan		
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody	—	—	—	

C.I. New Business passed 4558

C. 2.
New
Business
Left on
the Second
Reading

Subject:		R-PZD 04-4.00 Residential Planned Zoning District (Stonewood Gardens)			
Motion To:		2nd read	~~[illegible]~~ ~~[illegible]~~		
Motion By: / Seconded:		Davis / Reynolds			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Mayor Coody	—			

C. 3.
New
Business
Passed
4559

Subject:		VAC 04-3.00 Vacation (Sohraby)			
Motion To:		2nd read	3rd read	Pass	
Motion By: / Seconded:		Reynolds / Jordan	Marr / Lucas		
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody	—	—	—	

Fayetteville City Council Meeting — April 20, 2004

Subject:		VAC. 04-8.00 (Vacation CNS II Phase II)			
Motion To:		2nd read	3rd read	Pass	
Motion By: / Seconded:		Jordan / Cook	Jordan / Cook		
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody	—	—	—	

C.A. New Business

passed unanimously

4560

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

C.S. New Business

Passed

66-04

Subject:	Sewer Committee				
Motion To:		2nd read	3rd read	Pass	
Motion By: Seconded:		Marr / Jordan	Jordan / Lucas		
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Mayor Coody	—	—	—	

C.6.
New Busines
4561

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

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Nominating Committee Report: Dusti Miller – Fayetteville Housing Authority Appointment.

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C. NEW BUSINESS:

1. **Northwest Arkansas Regional Planning Commission Storm Water Education Contract:** An ordinance to waive competitive bidding and to approve a five year contract for $239,000.00 with the Northwest Arkansas Regional Planning Commission for services by the University of Arkansas Cooperative Extension Service to satisfy portions of the requirements of the NPDES Phase II Stormwater Permit.

2. **R-PZD 04-4.00: Residential Planned Zoning District (Stonewood Gardens):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of the Stonewood Subdivision containing 3.36 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.

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2. **R-PZD 04-4.00: Residential Planned Zoning District (Stonewood Gardens):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of the Stonewood Subdivision containing 3.36 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.

3. **VAC 04-3.00: Vacation (Sohraby):** An ordinance approving VAC 04-3.00 to vacate and abandon a portion of an existing utility easement to allow for the eave of an existing home at 2474 Fennchurch Way in the Covington Park Phase I Subdivision as described on the attached map and legal description.

4. **VAC 04-8.00: Vacation (CMN II, Phase II):** An ordinance approving VAC 04-8.00 to vacate and abandon a 20' utility easement located along the boundary of lots 17E and 17F of the CMN Business Park II, Phase II as depicted on the attached legal description.

5. **Library Project Contingency Increase:** A resolution to increase the project contingency for the Fayetteville Public Library construction by $999,691.00 from settlement and budgeted items.

6. **Sewer Committee:** An ordinance to enact a new section of the Fayetteville Code, **§33.112 Sewer Committee.**

D. **INFORMATIONAL:**

State of the City Address
February 2001

It is with great pleasure I present to the citizens of Fayetteville our annual State of the City address. I am going to focus on the big picture of where we are and where we're headed. I will outline the changes the mayor's office has implemented to improve the daily lives of our citizens and increase effectiveness when we spend the taxpayer's money. I will also talk about the obstacles we must overcome if we are going to expand our local economy and enhance the quality of life we enjoy.

The changes we have made at City Hall range from simple to complex, some taking minutes, others taking months to complete. These are some of the improvements we have initiated.

The Mayor's Office

The administration office is now open during the lunch hour, making it more convenient for citizens to pick up and drop off information and material.

We have developed a citizen complaint system that tracks which departments receive the complaints and how well the City resolves them.

We've created a Public Affairs Office to handle those complaints, work with City committees and coordinate their efforts, disseminate information, spearhead special projects, and act as liaison with other private and public organizations.

We've formed an ad hoc committee to design a first-class City web site to help citizens do everything from join sports teams to pay water bills and to be more informed about City business.

We've created a second ad hoc committee that will research what other cities have done to promote communication between neighborhood organizations, citizen groups, and City Hall, gather public input, and develop a plan that will meet the needs of Fayetteville's citizens.

In the near future, I will ask the City Council to approve the development of two standing committees. A City Beautification Committee would focus on programs to clean up litter and develop enhancement projects and a Fayetteville Arts Council that would promote a stronger music, art, literary, and film presence.

We are expanding the physical space of the City Clerk's Office and the Business Office to accommodate those offices' needs and to better serve the public.

We are building working relationships with the University of Arkansas, the Arkansas Highway and Transportation Department, the Arkansas Parks and Tourism Department, Washington County, and the Fayetteville Public Schools.

By fall, we should see the completion of a turn lane added to Highway 45 to ease traffic congestion in front of McNair and Vandergriff schools.

We have increased the involvement of Division heads and staff members for the purpose of better communication and cooperation between departments.

By the first of April, we hope to extend our public transportation system into other areas of town and reduce per-passenger costs.

We are working with the Police Department and the neighbors of Fiesta Square Shopping Center to resolve the problems associated with that parking lot on Friday and Saturday nights.

Parks and Recreation Department

We are restructuring the Parks & Recreation, Public Lands Maintenance, and Sidewalk and Trails Maintenance division to promote coordination and cooperation and eliminate duplication of effort and expense and, at the same time, expand our landscaping and beautification efforts.

We are separating trails and sidewalks into two coordinated areas with emphasis on increased productivity. This will require the addition of a Trails Designer/Coordinator. The added cost for this position will be offset by expediting the use of time-sensitive grant money and doing more trail design work and construction oversight in-house.

Planning Department

We have started requiring tree easements as part of the Tree Preservation Plan for new subdivisions and large-scale developments.

We are providing zoning maps, the master street plan, and future land use planning information on the Fayetteville web page "faygis.org".

We have begun notifying neighborhood organizations and citizen groups of all Planning Commission agendas.

We have developed a bicycle parking rack ordinance to encourage alternative modes of transportation.

We have begun working with the Ozark Regional Land Trust to show conservation easements on the Future Land Use Plan and will be cooperating with them on future easements.

We will create a Tree and Trails Task Force to identify areas for natural resource preservation and trail opportunities.

We are relocating the Tree and Landscape Administrator to the Planning Division to provide better review during pre-application conferences, to inform potential developers of preservation requirements, and coordinate between other City divisions that review development.

Engineering Department

In order to resolve our biggest problem in the Engineering Department, we have assigned a second staff engineer and plan to hire one additional staff engineer to help reduce the enormous backlog in the permitting and plan review process. Costs will be offset by doing more engineering work in-house after that backlog has been reduced.

We have ended the practice of engineering projects that are not funded, or otherwise not supported, to expedite the completion of projects that are funded or time sensitive.

To keep up with E.P.A. regulations and to further speed the design review process we will begin advertising to fill the vacant storm water engineering position.

Research and Technology

We are reexamining our R and T Park status for the purpose of finding the best, most efficient way to put Fayetteville and the University of Arkansas on the technology map by capitalizing on our under-recognized potential.

We are beginning to assess the needs of local research and technology companies that would like to stay in Fayetteville but find our existing support infrastructure inadequate. You would be surprised at how many there are.

We are introducing the cutting-edge research capabilities of the University to technology companies, government agencies, and State and Federal officials. This will help us continue accelerating the momentum that has developed since the City and University teamed up for our common good.

This is, by no means, a complete list of the changes and improvements we have made in the first six weeks of this new administration and none of this could have been accomplished without the help and the insight of the excellent staff we have in City Hall. After most of these changes have settled in and we begin realizing the fruits of our efforts, we can set our sights on the next round of improvements that will help Fayetteville become the city we know it can be.

While there is much to be encouraged and excited about when contemplating our future, we have to be aware of one serious problem on the horizon: Funding.

All the changes we are implementing are done with the goal of increasing efficiency while decreasing costs. But there are some factors outside our control, such as skyrocketing fuel and materials costs, competition for higher salaries, and increased insurance premiums. Unfortunately, these increased costs are not accompanied by increased revenue. Our sales tax collection is projected to remain relatively flat.

Our General Fund Balance stands at about $8 million. A rule of thumb standard suggest we should keep a Reserve Balance of about $4 to $5 million, or about two months of operating costs. This year we will dip into our Reserve Balance by about $680,000. This is projected to increase to about $2.0 million by 2003. While we may be in good shape now, this trend cannot continue. This is compounded by the fact we have some enormously expensive projects in our near future, such as our waste water expansion expected to cost $90 to $105 million, and police and fire staffing needs projected at $1.8 million by 2003. This means we have to reach a consensus concerning the priority of needed projects and how we are going to raise the funds to pay for them. My office will continue to look for ways to cut costs without sacrificing service, but as a Council, we will have to look closely at all projects that come before us.

In closing, there is one more point I would like to add that's just as important as anything else we could talk about. If this government is going to be effective in helping Fayetteville unfold according to our potential, we are all going to have to work together for the good of our community and the only way to accomplish this task is to lead by example. While we do not have to agree with everyone all the time, we can discuss our differences in ways that do not create unnecessary divisiveness and controversy. Before we present a proposal that will require public support, such as a tax to pay for a new waste water treatment system, we have to show the community that we can transcend the politics of personality and work together for the good of our City. My office has extended the hand of partnership to the community and the positive response has been gratifying. We are already making progress toward healing old wounds and resolving old differences. It's up to those of us on this Council to extend the hand of partnership to each other and to the entire community and in doing so, we will be able to start working in earnest for the changes that the people of Fayetteville want and deserve.

City Council
Meeting Minutes
February 20, 2001

A meeting of the Fayetteville City Council was held on February 20, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Reynolds, Thiel, Young, Zurcher, Trumbo, Davis, Santos, and Jordan, City Attorney Jerry Rose, City Clerk Heather Woodruff, Staff, Press, and Audience.

Mayor Coody presented the State of the City Address a copy is attached.

CONSENT

APPROVAL OF THE MINUTES: Approval of the February 6, 2001 City Council minutes.

SW BELL: A resolution approving an easement consisting of 400 sq. ft. for Southwestern Bell to install additional fiber optic equipment. The easement will be adjacent to an existing SW Bell easement which was granted in 1995 for a sum of $500. This new easement will have a one time fee of $1,000.

RESOLUTION 16-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PARK RENOVATION: A resolution approving a contract with McClelland Consulting Engineers, Inc. for the design and construction supervision of the renovation of Wilson and Walker Park tennis and basketball courts.

RESOLUTION 17-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TCA CABLE: A resolution approving an extension with TCA Cable Partners to temporarily operate the cable communications system until April 30, 2001.

RESOLUTION 18-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD MISSOURI ROAD: A resolution approving an engineering services contract in the not-to-exceed amount of $256,420 with Garver Engineers for the design and construction administration for improvements to Old Missouri Road from intersection with Rolling Hills north to the Mud Creek Bridge.

RESOLUTION 19-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ADDITIONAL PERSONNEL: A resolution authorizing personnel for the Engineering Division and the City Clerk/Treasurer Division.

RESOLUTION 20-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BLOCK GRANT: A resolution approving a budget adjustment to accept the 2000 Local Law Enforcement Block Grant.

RESOLUTION 21-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AD 00-47: A resolution amending the City's Master Street Plan by removing the current line on the map that indicates the Eastern Bypass and to show a corridor that is the same as the Northwest Arkansas Regional Planning Commission's 2025 Transportation Plan and the Northwest Arkansas Regional Transportation's Major Investment Study.

RESOLUTION 22-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis moved to approve the Consent Agenda. Alderman Zurcher seconded. Upon roll call the motion to approve the Consent Agenda passed unanimously.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

PARKS AND RECREATION BOARD: An ordinance approving an amendment to the Code of Fayetteville Section 33.018 requiring the Parks and Recreation Advisory Board to be composed of eight members appointed by the City Council.

Mr. Rose read the ordinance.

Alderman Thiel: When I was on the Parks Board, this was one of the last things that we addressed. We always found that it was important that we had members that had different areas of interest and expertise and this current ordinance kind of defeats that idea by requiring that we have members from the Youth Center. It certainly doesn't say that they can't be members of the Youth Center, but by making it a requirement, it sometimes defeats the idea of us having a diverse group of Park Board members. Also, the Youth Center does not have the same requirement – there is not a requirement on the Youth Center Board to have a Parks member on that Board.

Alderman Zurcher: Is that basically the only change that is proposed with this?

Alderman Thiel: That is the only change. It's just that right now the ordinance requires two Youth Center members.

Alderman Trumbo: It is my understanding that the Youth Center has offered a position on their board to the Parks staff. I don't know if they have accepted it. Just to keep the communications open. I understand the Youth Center has reciprocated in offering board membership on the Youth Center Board.

Alderman Thiel: But it's not mandated, whereas this would remain a mandate. I think there's nothing wrong with a Youth Center Board member being on the Parks Board but I just think it is ill advised to make it mandatory.

Mr. Wade Coldwell, Chairman of the Parks Board: We have talked about this and under the current situation, since we do not have current representation on the Youth Center Board, and the funds are donated to the Youth Center from the City, we don't think there is reciprocity there. I think this change would be in the best interest of everybody involved. One thing we do want to do is keep the communication open and we have talked about that with annual meetings.

A discussion followed on the ordinance.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Zurcher seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

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

ORDINANCE 4290 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Santos moved to accept the Parks Board nomination of Craig T. Mauritson to the Parks and Recreation Board. Alderman Thiel seconded the motion. Upon roll call the motion carried unanimously.

TROLLEY BUS: An ordinance waiving the requirement of formal competitive bidding and approving the purchase of used diesel powered passenger vehicles to be utilized by the Fayetteville Trolley Program.

Mr. Rose read the ordinance.

Mayor Coody: We are going to try to expand the trolley route and try to cover more area, maybe go up to Evelyn Hills. We are still researching the project, rider ship and routes. We do want to expand our public transportation program as much as we can.

Alderman Zurcher: Has this been through the Equipment Committee?

Alderman Reynolds: The Equipment Committee has okayed this and given their approval to start seeking buses.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Santos seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

Alderman Young moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

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

ORDINANCE 4291 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 98-22: An ordinance approving an amendment to the Bill of Assurance to provide for the use of a metal fence on that property described in RZ 98-22, approved in Ordinance 4175 and amended in Ordinance 4184, submitted by Richard Osborne on behalf of Littlefield Investment Company.

Mr. Rose read the ordinance.

Alderman Thiel asked if Planning Director Tim Conklin had any comments.

Mr. Conklin told the Council that the applicant was present and that he had submitted a site plan showing the fence, and some photographs of a fence of the same type that is currently on Huntsville Road. This information is in the Council packet.

Alderman Reynolds: As Alderman in Ward 1 I have had no objections.

Alderman Thiel: The Planning Commission did recommend a wood fence and looking back at the City Council minutes of August 3, 1999, I notice it was not a unanimous decision. What is the staff recommendation?

Tim Conklin, Planning: The item passed at the City Council meeting with a 5-4-0 vote. There was some controversy with regard to this rezoning. They had requested C-2, staff recommended denial. From the Planning Commission, it was appealed to the City Council, at that time the applicant did offer a Bill of Assurance. The Bill of Assurance did state that he would keep the vehicles behind a six-foot high wood fence. There was some misunderstanding between the staff and applicant with the intent of that Bill of Assurance. We were trying to keep the cars he was working on screened from the residential neighborhood to the north. The applicant did not understand that the Bill of Assurance stated a six foot high wood privacy fence. Since the rezoning passed, a metal fence was installed. I contacted Mr. Johnson and explained to him that legally we have a Bill of Assurance that I can not ignore which requires a six-foot high wood fence. The applicant is going to ask the City Council to allow the metal fence to remain on Huntsville Road and that he be allowed to have a metal fence on Happy Hollow. My recommendation is to allow him to have the metal fence on

Huntsville Road, but I do believe that a wood board fence, six-foot high is more appropriate on Happy Hollow Road, since it does adjoin residential to the north.

It was clear to me that a wood fence was required in the Bill of Assurance, but since a metal fence has been installed it does not look that bad and it kind of fits in with the theme of the old time gas station. The only concern I have is the single family home that is adjacent to this property. It would be more in character with the residential neighborhood to have a wood board fence. The whole issue of the rezoning at the time was when we rezoned it to C-2 it allowed car sales which is what he intends to do. Used car lots are not something we encourage in Fayetteville next to single-family homes; therefore staff was trying to make sure it was compatible with the residential neighborhood to the north.

Alderman Trumbo: I don't have a problem with the ordinance; the owner has put a lot of sweat and equity into fixing up the property.

Alderman Thiel: I don't have a problem with leaving what he has already built. I would like to see the wooden fence on the Happy Hollow side. How would we change this to reflect that requirement?

Mr. Rose: We would have to have a new Bill of Assurance.

A discussion followed on a new Bill of Assurance.

Mr. Conklin: The City cannot ask the owner for a Bill of Assurance, he has to offer that. He did offer one and signed the Bill of Assurance that stated he was going to build a wood board fence on Happy Hollow and on Huntsville Road. Unfortunately, he did not build a wood fence along Huntsville Road. This causes me some concern knowing that the rezoning was subject to that Bill of Assurance and now we have a Bill of Assurance that is not being complied with. I thought it was my duty to bring that forward to the City Council because you do rely on Bill of Assurance's. When an applicant promises you something I think they should keep their promises. I am okay with the metal fence on Huntsville Road. I do believe that on the adjacent property to the north, which contains a single-family home, a wood board fence six feet high that would typically be found in a residential area would be more appropriate.

Mr. Clem Johnson, property owner: The main thing that bothers me is to have two types of fences on the same property. I think the metal fence is attractive and I have put a lot of effort into it and its well built. Wood fences are nice when they are first built, but they age and change and they require a lot more maintenance. The misunderstanding was I keyed on the word "privacy" and not on the word "wood". I built a privacy fence that is more in flavor with a nostalgic old gas station. I do not want a different type of fence on the other side. I have already talked to my neighbors and they have no problem with anything I am doing. I think I have really done a good job out there so far. I would like to change the Bill of Assurance and go with a complete metal fence.

Alderman Reynolds: I made a trip out to the property. He has done a great improvement to that property. What he has done I am sure is more expensive than a wooden fence. If the neighbors have no problem with it, I think it looks nice and I have no problem with it.

Alderman Thiel: I tend to agree with you. My concern is that we don't start making a habit of not enforcing these Bills of Assurance. But since there are no problems and the neighbors haven't complained, I don't have any problem with it.

Alderman Young: One of the aspects of enforcing these is exactly what Mr. Conklin did. I would like to thank him for bringing this to our attention. After it is brought to our attention then we have to decide what to do.

Alderman Reynolds: Tim did an excellent job.

Alderman Zurcher agreed that the Council does not want to see a Bill of Assurance ignored. He said a couple had been brought to his attention but the situations were different. This issue has to do with materials, not a situation where what was promised did not happen

Alderman Jordan also agreed that the Council cannot get into the habit of not enforcing Bills of Assurance. But in this case, he felt the fence looked very nice

A discussion followed regarding this issue.

Mr. Conklin: Keep in mind, the reason we were requiring the fence is to screen the vehicles that will be sitting behind it. Typically in a C-1 zone you wouldn't have a need for this type of fence. That is why we are requiring a fence.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Zurcher seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

Mr. Geary Lowery, a resident, questioned the legal ramifications of a Bill of Assurance without it being filed (dated and stamped) at the Circuit Clerk's office. He believes it is pretty useless and cannot be enforced. He spoke of instances of Bills of Assurance he felt had not been adhered to and which the City had not enforced.

Mr. Rose: They do have to be recorded. About the only way we have of enforcing a Bill of Assurance, if somebody won't do it voluntarily, is to take them to court. It is not a criminal or a summary proceeding; we would probably get a mandatory injunction. It is a lengthy and expensive process, but it can be done. To my knowledge that is the only way that you can enforce it.

Mr. Lowery: Why doesn't the City make an ordinance where it's mandatory that every Bill of Assurance is recorded at the County Clerk's office?

Mr. Rose: Yes, I think they probably should be recorded. I am not sure the one you have before you tonight would be any more enforceable if it were recorded. There is no reason why we could not pass

an ordinance requiring all Bills of Assurance to be recorded.

Alderman Trumbo moved to suspend the rules and move to the third and final reading. Alderman Zurcher seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

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

ORDINANCE 4292 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

VA 01-1: An ordinance approving a vacation request VA 01-1, submitted by Steve Winkler for property located east of 607 Peach. The property is zoned R-1, Low Density Residential and contains approximately 0.08 acres. The request is to vacate the street right-of-way.

Mr. Rose read the ordinance.

Mr. Bunn: We have scheduled the maintenance on the road ditch there. We looked at the situation along the unopened street and feel what the applicant was talking about in terms of making a ditch there would work. I do not know if it will solve the gentleman's problem one house down or not, but it would certainly help.

Alderman Reynolds: What bothers me on this project is when we met on site and we spoke to Mr. Winkler he had agreed it would take about two hours to cut a ditch and run the water off. This would solve the problems to the west. Before we left he had changed his mind and did not want to sign an agreement that he would cut the ditch and help his neighbors. He wanted the City to give him twenty-foot of property and the City cut the ditch too. I feel like if we are going to give up twenty foot of property then we need to get something from Mr. Winkler in the way of aid for his neighbors. I am in doubt of giving him twenty foot without him putting a little effort into it.

Alderman Thiel: What concerns me is us keeping the utility easement, because if there is further flooding we are going to be responsible for it. I am not sure if we really wanted or needed that utility easement.

Mr. Bunn: We want the utility easement; the question was whether to also designate that as a drainage easement. I think if we put a ditch there then we would probably want to go ahead and make it a drainage easement also.

Alderman Thiel: I agreed with Mr. Reynolds that if we are going to do that, why abandon the street. We are just basically cutting ourselves off from that street. If we are going to keep the utility and drainage easement and be responsible for maintaining that, then I don't see any reason to abandon the street.

Alderman Reynolds: If we are going to be responsible for that easement and that ditch, then I don't

think we have any reason to give up the street, or give up 20 foot of property.

Alderman Santos: We have a staff recommendation and a 9-0 Planning Commission decision to vacate this?

Mr. Conklin: Yes we do. The issue came up at Planning Commission from the resident to the west down the hill with regard to drainage. The big concern was if we do vacate this street right-of-way that the city would not have the ability to go in there and take care of the drainage. He is not opposed to vacating the right-of-way but he is concerned about the drainage issue.

Alderman Santos: What about the lots to the east? Are these R-1 lots that we are going to land lock?

Mr. Conklin: They do have frontage currently on Peach. They would have to comply with our zoning ordinance with regard to lot area and lot frontage when they come in for a building permit.

A discussion followed on the subdivision itself.

Marvin Freeman, 2856 South School: Mr. Freeman said his property joins Peach Street. He commended the Planning Commission and City Council for coming out and viewing the property and speaking to both him and Mr. Winkler. He discussed the problem he is having with the water running down the hill and washing sand and gravel onto his property in great amounts. He says he has had water in his house 3 or 4 inches deep. He said he has replaced all the carpet and walls in his house twice. He further stated that he does not have any problems with Mr. Winkler or any of his neighbors but feels if the City abandons the street and no drainage ditches are cut through, he will continue to have the same problem.

A discussion followed on the ordinance.

The ordinance was left on the first reading.

AD 00-45: An ordinance approving Administrative Request, AD 00-45, as submitted by Laura Kelly on behalf of the Fayetteville Sidewalk and Trail Committee for Bike Parking Ordinance.

Mr. Rose read the ordinance.

Alderman Young: This ordinance was presented to the Ordinance Review Committee and we made just a couple of minor changes to it and gave it to Jerry to put together. We have just received the ordinance tonight and I have skimmed through it. It appears the changes have been made.

Alderman Davis: I looked at it also and the changes are in the ordinance. This originally started a year ago in May through the Sidewalk and Trails Committee. Laura Kelly is the one who helped put all this together and I would like to compliment her on all the work that she has done through that committee to bring this forward. It has also been through the Planning Commission, as well as Ordinance Review.

Alderman Santos: One thing I would like to point out is that you are allowed to substitute 10% of your required automobile parking with bicycle parking, add one bike rack for one automobile space. So this is going to save thousands of dollars for developers as well as help encourage bicycling as an alternative transportation method.

Alderman Reynolds: Who makes this particular bicycle rack? Who are we going to buy these from?

Laura Kelly, Ward 1 Resident: I have done a lot of research on this bike rack and there is going to be a document available in the Planning Department to help developers who are working with this. I have a rough version of the bicycle parking guidelines, and there is a list of about 30 suppliers who have this kind of rack.

There was discussion about the ordinance.

After discussing the size of the mounting flange on section H, 4: B, a decision was made to change the 1/4 inch flange to a 3/8 inch mounting flange.

Alderman Santos moved that the ordinance be amended to read a 3/8 inch mounting flange. Alderman Jordan seconded the motion. Upon roll call the amendment to the ordinance passed unanimously.

A discussion followed on the project.

Laura Kelly: Section E, that talks about the position of the bicycle parking racks. We have changed all the "shall's", except for the ADA requirement, to "should's" to reduce the necessity for variances. When I checked with the Fire Marshall, he said bicycle parking racks should have a 15 foot clearance from edge of fire hydrants, the copy that was read tonight said 12. There may need to be another amendment changing the 12 to 15...

Alderman Santos moved to change section E-5 – twelve-foot clearance for hydrants to fifteen-foot clearance. Alderman Jordan seconded the motion. Upon roll call the motion to amend the ordinance passed unanimously.

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

Mr. Rose read the ordinance.

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

Mr. Rose read the ordinance.

Chuck Rutherford, Sidewalk Coordinator, stated that he felt that the "should" in Section 5 regarding the fire hydrant clearance should be changed to "shall".

Alderman Davis moved to amend the ordinance by changing the "should" in Section 5 to "shall". Alderman Jordan seconded the motion. Upon roll call the motion to amend the ordinance passed unanimously.

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

ORDINANCE 4293 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AD 00-49: A resolution approving an amendment to the City's Master Street Plan by eliminating the requirement for dedication of right-of-way for designated freeways/expressways.

Alderman Santos: I noticed this was a problem, with requiring land dedication for 300 feet of right-of-way on these expressways that may never be built. I didn't think it was a fair thing to ask landowners to give to the City. That's another problem we can fix when we get our impact fee system in place.

Alderman Santos moved that the resolution be approved. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

RESOLUTION 23-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SANITARY SEWER REHAB: A resolution approving a construction contract with T-G Excavating Contractors, Inc. for sanitary sewer rehabilitation, Illinois Basin 6, 9, 12, and 16, in the amount of $1,100,000 and approve a 5% contingency of $55,000.

Alderman Santos: This is something that's going to come along with the new sewage plant. We're not going to have that inefficiency of pumping our sewage from the west side over the mountain to the east side and then pumping the effluent back. But the existing lines aren't going to work. We're going to have to have a lot of rehabilitation and line work done in the Illinois basin so we can have the gravity flow to the new plant.

Alderman Santos moved that the resolution be approved. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

RESOLUTION 24-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SANITARY SEWER EVALUATION STUDY: A resolution approving an engineering contract with RJN Group, Inc. for a sanitary sewer evaluation study for Illinois River Basin 1-5, 18, 19 and White River mini system 27 (Industrial Park), in the amount of $471,231, and approval of a 5% contingency in the amount of $23,562.

Alderman Davis moved that the resolution be approved. Alderman Jordan seconded the motion. Upon roll call the resolution passed unanimously.

RESOLUTION 25-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MOSS AND BARNETT: A resolution authorizing the extension of the engagement agreement with Moss and Barnett to allow for further negotiation of a franchise agreement until said task is complete and approving an amount not to exceed $20,000 to cover expenses for legal services and travel expenses.

City Attorney Rose: This is an extension of a $30,000 engagement agreement approved back in March, 2000 with Moss and Barnett to act as our negotiators for our negotiations with Cox Cable on our franchise ordinance. It's also there to get Moss and Barnett's assistance on the telecommunications ordinance, which was before the City Council. I'm asking for an additional $20,000 over the $30,000 previously approved, which will bring the total cost of this contract to $50,000. The reason for the overrun is that the telecommunications ordinance in particular required two trips by Brian Grogan to speak before the Council. It also required some rather extensive negotiations with Southwestern Bell. In addition to that, the negotiations with Cox Cable have been more lengthy than we anticipated, due largely to some conversation about the institutional network and how it should be placed within our agreement. I would hope that this will be the last time this will be before you. I think that we are going to be very close to presenting a finished document to you.

Alderman Davis: How long do you think it will be before we see that document?

Mr. Rose: I don't have a date certain. My guess is that it will not be before you within 60 days. If we agree tomorrow on it, it would need to be typed up and it would need to be considered by the Telecommunications Board. They would have to make a recommendation before it could go on the Council agenda. My guess would be a minimum of somewhere between 60 and 90 days.

Alderman Thiel: One of the concerns I have is that Grogan hasn't reported to the Telecommunications Board. Maybe he isn't required to?

Mr. Rose: He certainly is not required; in fact, just the opposite. The Telecommunications Board is not involved in the negotiation of this franchise. The negotiation of the franchise was given to me as city attorney by the previous mayor. I assume this mayor also wants me to do that. Once the document is completed, it then goes to the Telecommunications Board and they advise as to whether or not they believe it is a good agreement or a bad agreement. But they are not involved in the negotiation of this franchise agreement.

Alderman Thiel: Even though they were the ones that suggested the original proposal that he is negotiating?

Mr. Rose: No, Ma'am. They did not suggest that, that is just not correct. We had a needs assessment that was completed by a member of the Telecommunications Board. That needs assessment was an invaluable document and it was from that needs assessment that our negotiations have proceeded. The Telecommunications Board has expressed a strong interest in an I-Net system,

and that I-Net system has become the single most important thing in our negotiations, but the Telecommunications Board did not initiate any of this.

Alderman Davis moved that the resolution be passed. Alderman Santos seconded the motion. Upon roll call the resolution passed unanimously.

RESOLUTION 26-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CIVIL SERVICE: An ordinance granting authority to the Fayetteville Civil Service Commission to appoint and remove the Police Chief and Fire Chief; and for other purposes.

Mr. Rose read the ordinance.

Alderman Trumbo: I brought this forward for the City Council to consider. Obviously, going back in history, Chief Watson and Chief Jackson were both appointed by the Civil Service and then the State statutes changed years ago. I think with the City's growth and the size of our fire and police, there are good arguments on both sides of this issue. I know Springdale implemented Civil Service for their fire and police chiefs. Some other municipalities comparable to our size do have Civil Service. As everyone does know, Civil Service has for many years conducted hiring, disciplinary action, appeal process of our fire and police rank and file. It did change with the state statues where that was given to the authority of the elected Mayor. Obviously at this point, you have mayoral discretion in termination of the fire and police chief positions and you do have city council oversight in the form of a two-thirds majority to veto a mayoral decision. I just want to throw this out and have a good, open discussion and take a look at implementing Civil Service oversight to the two chief positions.

Alderman Thiel: Well, initially I had thought that placing the fire and police chiefs back under the Civil Service Commission was a good idea. I agree with Alderman Trumbo that I certainly respect the Civil Service Commissioners that we have in place now. I agree that there needs to be a lot of discussion on this issue. I've had a lot of calls and talked to a lot of people about this. On one hand, many people feel strongly that consideration of the police and fire chief's employment should not be political because of the nature of public safety. They feel that these two jobs should be reviewed by a non-political board. However the Civil Service Commission is made up of five citizens of the community selected by the City Council, so it is not entirely a non-political group. On the other hand, people have told me they want their police and fire chiefs to be held more directly accountable and under the current law they are accountable to both the mayor and the city council. The Council can overrule the mayor's decision regarding employment with a two-thirds vote. I have spoken with Don Zimmerman *(Director of the Arkansas Municipal League)* and with several members of the University of Arkansas Political Science Department and they share the view that Civil Service Commissions have basically outlived their usefulness in cities that can afford highly skilled human resource directors. They also agree that most cities have found it better to have all department heads held accountable to the mayor or the city manager. I know there is need for more discussion about this tonight, but my recommendation would be that we refer this to the Ordinance Review Committee and that would give us an opportunity to visit with the Civil Service Commissioners and really discuss this issue.

With some discussion among Council members, it was decided to refer the issue to the Ordinance Review Committee, with the full Council meeting with the Civil Service Commission, possibly after

the next agenda setting session to discuss the issue.

There was some further discussion among alderman about the ordinance.

Samuel Campbell, 1881 North Pine Valley Drive: Mr. Campbell spoke of his concerns about doing anything that would allow the Fire Department to have the appearance of being operated by impulsive and irregular acts. He spoke about the connection between the insurance rates and the Fire Department and brought up events that had happened in the past regarding the Fire Department Union and fire chief. He felt checks and balances are needed without disturbing the ultimate authority of the mayor.

Jeff Erf, 2711 Woodcliff Rd.: Mr. Erf felt this ordinance is a solution looking for a problem. He had concerns about removing checks and balances that are already in place for the process of hiring and firing chiefs. This ordinance would require more time from the Civil Service Commission to oversee the day-to-day duties of the police and fire chiefs. His concern is that the members of the Commission don't have much hands on experience and would not be in the position to judge the performance of the chiefs. He expressed his concern about a conflict of interest that might occur if the Civil Service Commission had the authority to hire and fire the police and fire chiefs.

Terry Eastin, 2033 S. Ashwood: As Chairwoman of Friends for Fayetteville, she urged the City Council and the Mayor to examine this issue thoroughly and to study cities of similar size across the United States. The group is concerned that this move would prohibit citizen input in the decision making process surrounding the hiring of the chiefs. Without the hiring and firing authority over the police and fire chiefs, the mayor cannot be effective in his leadership role with regard to these two departments.

She continued to express her concerns about this ordinance. She said Friends for Fayetteville would like to hear more from the citizens.

Morton Newmark, a citizen: Mr. Newmark expressed his opinion that this ordinance would not take the politics out of the hiring and firing of the chiefs. The mayor is elected by the voters to be responsible for running the city, which also means being responsible for the safety of our city and property in the form of fire and police protection. If he cannot select or dismiss his department heads, then he can't have control over what happens and cannot be held responsible. Members of the Civil Service Commission are appointed, not elected by the people. He is concerned about appointed people hiring and dismissing other appointed people, thus effectively taking the citizens out of the decision making process.

Bill Moeller, 1511 Markham: From an organizational point of view he questioned fixing what is not broken. He has seen no evidence of a problem. He cautioned the Council not to hasten in to significant organizational change without considering the implications.

After further discussion, the Council agreed to set up a meeting with the Civil Service Commission and the Council after the next agenda setting session.

The Ordinance was Left on the First Reading.

CITY BOARDS AND COMMISSIONS: A resolution establishing criteria, rules and regulations for appointment to the city boards and commissions.

Alderman Young: I brought this forward. The main purpose was just to eliminate the requirement of being a registered voter, but also one of the purposes is to have a resolution for the items that have been practiced. The legal department could not find the actual passage of these things we have been doing.

Alderman Davis: Being a registered voter versus just being a resident is rehashing the discussion we had at agenda session.

Alderman Young: The question is whether or not you want to encourage people to participate in government. If you require them to be a registered voter before they participate on a board or commission, you are preventing them from participating.

Alderman Davis: But we also know a ton of people who are registered don't vote.

Alderman Young: They don't want to. There are reasons why they don't want to be registered voters, a lot of reasons. In fact, the statistics are that half or more of the population of the United States is not registered to vote. That means they are the majority.

Alderman Santos: So we want them running the government? The people who don't participate?

Alderman Young: They chose not to do that but they might choose to participate on a board or commission.

Alderman Santos: I don't see any reason why we shouldn't require people who want to serve on city committees, who want to be involved in government, to take the simple step of registering to vote.

Alderman Young: On the other hand they might serve on a board or commission and then register to vote.

Alderman Thiel: If we do continue to use registered voters, which obviously has been a long standing policy, we do more or less eliminate felons, because that is done in the process. I don't know if we have a requirement about 18 years of age, but that also is done in the voter registration process. I think the City would be doing a good service by advocating that we support people being registered to vote by continuing the process that we have always had.

Alderman Davis: Do we need to re-write this. Is it because there actually isn't an ordinance that you can find addressing this? We need to do something with this anyway. We can make an amendment to this by putting the words, "registered voter within the corporate limits of Fayetteville" on No. 4 and take out the word "residents" if we so desire. Is that correct?

Mr. Rose: Yes, I think that is accurate.

Alderman Davis moved that the resolution be amended to add the word registered voter. Alderman Santos seconded that motion.

Bobby Ferrall, 2413 Twin Oaks Court: Mr. Ferrall is with the Fayetteville Chamber of Commerce and commented that we teach our young people all the way through the educational process how important the right to vote is. It would seem to logically conclude that government at all levels would try to reinforce citizen action through the vote. He stated that people who serve on boards and commissions are an extension of the elected officials who appoint them. If a person has time to go through the application process for a board or commission, they would certainly have time to register to vote. He questioned why we wouldn't want everyone serving on boards and commission to be registered voters.

There was some additional discussion among the aldermen regarding this ordinance.

Mayor Coody: It seems to be a paradox. I appreciate everyone's interested in trying to get as much involvement as we can with our citizens. I think that is a very noble cause. But it seems paradoxical to me to want to open up the committees and commissions to people for their involvement who are making it a point to not be involved in government service. So I would like to see everybody get registered to vote and participate on the most elemental level and then, once you reach that point, then become more involved in the committees and commissions that we have to offer here in the city. We invite everyone that is interested to participate in the government on a local, state and national level.

At Mayor Coody's request, Mr. Rose read the amendment back to the Council.

Upon roll call the amendment to the resolution passed 6-2. Alderman Trumbo, Davis, Santos, Jordan, Reynolds and Thiel voting yes. Alderman Zurcher and Young voting no.

Geary Lowery, citizen, commented that some of the 19, 20 and 21 year old individuals that fought in Southeast Asia did not have a chance to register to vote. Some of them performed the most outstanding form of citizenship possible by giving their life for this country. He said he did not feel anyone on the Council had the right to deny anyone the chance to sit on any committee.

Alderman Santos moved that the resolution be passed. Alderman Reynolds seconded the motion. Upon roll call the resolution passed 7-1. Alderman Zurcher, Trumbo, Davis, Santos, Jordan, Reynolds and Thiel voting yes. Alderman Young voting no.

JERRY ROSE, Farewell Address: Mr. Rose spoke of his tenure as City Attorney. He estimated that he had attended roughly 275 meetings of the City Council since 1989. He has been through two city managers, four mayors and thirty-six different aldermen. He thanked everyone for all they had done over the years and spoke of how much he had enjoyed getting to know all those he worked with in the City and how much he would miss them. He thanked his wife for her support and his staff. He also thanked E.J. Ball, Mike Green, Maryann Westfall, and Molly and Jimmy Rapert.

Meeting Adjourned at 8:50 P.M.

City Council
Meeting Minutes
May 15, 2001

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

Mayor Coody called the meeting to order and asked the City Clerk to call the roll.

PRESENT: Mayor Coody, Aldermen Thiel, Young, Zurcher, Davis, Santos, Jordan, Reynolds, Mayor Coody, City Attorney Kit Williams, City Clerk Heather Woodruff, and members of staff, press and audience.

Alderman Trumbo was absent.

Mayor Coody: I would like to introduce a couple of folks to the viewing audience at home: Utilities Management Director Gary Dumas from Sioux City, Iowa. He has been here for about a week. He is a welcome addition to the staff. I would also like to introduce Hugh Earnest from Little Rock who is basically our Director of Urban Development.

NOMINATING COMMITTEE REPORT:

Alderman Santos moved to appoint Pat Gazola, the owner of Catfish Hole to the Advertising and Promotion Commission. Alderman Young seconded. Upon roll call the motion passed 7-0. Alderman Trumbo was absent.

CONSENT:

APPROVAL OF THE MINUTES:

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

Resolution 63-01 as Recorded in the Office of the City Clerk.

STREET TREE INVENTORY: A resolution awarding a contract to Burditt Associates in an amount not-to-exceed $25,000 to conduct a city-wide street tree inventory.

Resolution 64-01 as Recorded in the Office of the City Clerk.

LAKE SEQUOYAH BOAT DOCK OPERATOR: A resolution awarding a contract to Linda Thorpe and/or Richard Utley for Lake Sequoyah boat dock operation in the amount of $15,656.

Resolution 65-01 as Recorded in the Office of the City Clerk.

RAILROAD RIGHT-OF-WAY: A resolution approving the purchase of railroad right-of-way from Arkansas and Missouri Railroad in the amount of $70,000. The right-of-way is to be used for a multi-use trail.

Resolution 66-01 as Recorded in the Office of the City Clerk.

The City Clerk asked that they be removed. They've been drafted but we are looking at about 120 pages and I'm not finished editing yet.

Alderman Davis moved to approve the Consent Agenda with the minutes being removed. Alderman Jordan seconded. Upon roll call the motion passed 7-0. Alderman Trumbo was absent.

OLD BUSINESS:

PHYSICAL ALTERATION OF LAND: An ordinance amending Section 169.03 of the Code of Fayetteville, Physical Alteration of Land. ***This ordinance was left on the second reading at the May 1, 2001 meeting.***

Alderman Young: I suggest that we discuss some of the changes that Jim Beavers has been working on. Then you can read it all at once for the third time. We're on the second reading right?

Kit Williams: We've read it twice, that's correct.

Alderman Young: There was one item that should also be changed on 169.

Kit Williams: That is number 5, Building Additions of the Code, now states building additions of less than 1,000 and Mr. Beavers has recommended *2,000 square feet*. That was the only change that I think he recommended in this particular ordinance.

Alderman Young: That would be the only change to 169.

Alderman Young moved to amend the ordinance so that *B.5.* will read: *building additions of less than 2,000 square feet.* Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Trumbo was absent.

Kit Williams: Do you want me to read the whole ordinance since you only made one minor change.

Alderman Young moved to suspend the rules and go to the third and final reading. Alderman Santos seconded. Upon roll call the motion passed 7-0. Alderman Trumbo was absent.

Mr. Williams read the ordinance.

A discussion followed on the ordinance.

Alderman Jordan moved to approve the ordinance. Alderman Davis seconded the motion. Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Trumbo was absent.

Ordinance 4313 as Recorded in the Office of the City Clerk

STORM WATER AND DRAINAGE: An ordinance amending Section 170.03 of the Code of Fayetteville, Storm water Management, Drainage and Erosion Control. ***This ordinance was left on the second reading at the May 1, 2001 meeting.***

Kit Williams, City Attorney: The last time we had an amendment to this but I think it wasn't stated exactly as you meant it to be. The way that it was originally passed it would have read, maintenance, clearing or activities do not change the storm water. If you leave in the word activity, it could mean almost anything and it is my understanding that you wanted to tighten that exception up instead of broaden it out. I took your intent and redrafted it to read maintenance or clearing activity. I wanted to make sure that since it was actually read and passed in the other way that you are clear on how it reads at this point in time and that I have clearly expressed the intention of the City Council in that regard.

Alderman Young: I think this should be read completely because of that.

A discussion followed on the ordinance and the use of the word "shall" or "may" in a portion of the ordinance.

Jim Beavers: We're talking about an extremely small percent of the projects, it's not the majority. The reason why I favor the ***may*** is so I can seek the counsel of the Public Works Director if he wants to get involved with this. I can do that anyway, with the ***shall.*** We can live with it either way. The word ***may*** gives me an opportunity to visit with some other people of the city.

Alderman Santos: Do we need a motion to suspend the rules?

Kit Williams: I would like you to consider the other change that was suggested by the Engineering Department which is the change in the definition of single family duplex, which would read just one single family residence or duplex.

Jim Beavers: Alderman Davis requested that the definitions of the exception for single family in a grading and drainage match and I agree with that and support that, we've requested this change to be made. Basically, a single family house within a residential subdivision would be exempt from having to hire an engineer to produce a drainage plan.

Alderman Davis: I move to accept that.

Kit Williams: You need a motion to amend this.

Alderman Young: You want to change the definition of commercial industrial?

Jim Beavers: Yes sir. Because we're changing the paragraph above for single family, we'd like to take advantage of this opportunity to change D.2. Existing Commercial Industrial to reflect the procedures we're actually following. This would be for example a commercial subdivision where there is an over all drainage plan that has been approved for the commercial subdivision, when somebody buys a lot there they need to demonstrate that they are in compliance with that drainage plan for the subdivision.

Alderman Young: In other words they don't have to do a whole drainage permit, plans and all that. They do have to demonstrate to you that they are complying with the original drainage plan of the subdivision?

Jim Beavers: Yes sir.

Alderman Young moved to amend the ordinance on the second reading to read as follows: ***D.1. Single Family Duplex to say one single family residence or duplex, D.2. Commercial Industrial to say one commercial industrial project built on an individual lot that is part of a larger subdivision that has been issued and approved drainage control permit when the proposed project is demonstrated to be in compliance with the overall subdivision drainage permit, and D.3. Existing Commercial Industrial to change the requirements improvements for less than 2,000 square feet.*** **Alderman Davis seconded.**

The mayor asked shall the amendment to the ordinance pass. Upon roll call the amendment passed 7-0. Alderman Trumbo was absent.

Alderman Santos moved to suspend the rules to go to the third and final reading. Alderman Young seconded. Upon roll call the motion passed 7-0. Alderman Trumbo was absent.

Mr. Williams read the ordinance.

Colleen Gaston, 3270 Rom Orchard Road: I would just request that you read this ordinance in its entirety and then allow public comments. I received a copy of what I thought was the ordinance you were considering today and it does not reflect a lot of the things you've been talking about. I think it would be helpful for the public to read through the ordinance that you will be voting on today.

Mr. Williams read the entire ordinance.

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

Ordinance 4314 as Recorded in the Office of the City Clerk

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

Kit Williams: Mr. Mayor from the comments at our last meeting several aldermen requested a more restrictive sort of variance procedure. I handed out to you earlier in your agenda packages, another alternative sort of variance procedure which is limited almost only to the successor's in interest situation that we find ourselves in which I think is probably the most dangerous situation we find ourselves in from a litigation point of view. Secondly, even though in the packet I still had this as a waiver of variance section, I would suggest that any ordinance we have to strike waiver and just have it termed as a reduction variance or alteration. I never intended when I drafted this up that the City Council would totally waive the tree ordinance and I can see how that could be misinterpreted. I think that the tree ordinance should be brought into most other developmental ordinances which almost all have variance procedures. That's why my recommendation still would be from a legal point of view that you pass the broader variance procedure because we frankly can't see everything ahead and know exactly what is going to happen. But certainly it is your decision on what you want to do tonight.

Alderman Thiel: We're on just the first reading of this aren't we?

Kit Williams: That's correct.

Alderman Santos: What you are asking for right now is for us to amend to get this word waiver out of here.

Kit Williams: Either one that you would pass, yes.

Alderman Thiel: You've actually presented a really completely different worded ordinance here.

Alderman Davis: He is giving us a choice. One is very broad which he thinks that we need and the other one is narrower.

Alderman Jordan: I understand this correctly. The new would basically say anybody that has received an okay prior to 2001 is still under the old interpretation of the tree ordinance which would be the way Kohl's was set up. Is that correct?

Kit Williams: Almost, there's a second requirement in there, not only do they have to have their tree plan already approved but they would also have to expend funds in infrastructure in reliance upon that tree preservation plan, therefore they would have detrimental alliance. That's where the city would have significant problems if you then changed the interpretation and said you built these streets but that's too bad. There are two conditions in there, one is that they have a plan that was approved prior to January 1, 2001 and second that they have invested or expended substantial sums for the development infrastructure prior to January 1, 2001.

Alderman Jordan: Basically what you are saying anybody after January 1, 2001 could get a change if they've invested substantial sums of money.

Kit Williams: Both the investment and approval would have had to happen last year. The first meeting of this year, the City Council made it clear and the Landscape Administrator made it clear at that point in time what her interpretation was then. I think it would be difficult for anyone to stand up and say that they could detrimentally rely upon the previous interpretation after that time.

Alderman Jordan: So anything after January 1, 2001 they don't get the same interpretation basically as what we have written here.

Kit Williams: I think that's correct.

Alderman Davis: What you are doing is grandfathering in what's already been done without having any legal problems.

Alderman Santos: That's a long sentence but there is an "*and*" in the middle of it that means you have to meet both conditions. I kind of like this new one. I think it's what we need to keep us out of trouble because of these people who have expended these large sums for development going on what we told them we were going to let them do in the past.

Alderman Jordan: Basically we've already given these people our word.

Alderman Davis: From my understanding you're saying the first one is broader but essentially it's doing the same thing as the revised one that you also put here in the packet for us to choose from. Based on those two which one are you most likely to keep the city out of litigation and using large amount of tax dollars.

Kit Williams: I would hope that even the more narrowly drawn one, the one that is two pages or a page and a half and deals only with successors in interest. I hope that would keep us out of court and keep us from losing a lot of tax payer money. It addresses the specific litigation problem that I see right now but could appear where we wouldn't have a way out that we wouldn't get sued from one side or the other. I do recommend the more broadly worded variance because if you look at virtually all of our other development ordinances they always have a variance procedure. Usually not nearly as tough as this one that has to be before the City Council, usually it goes before the Planning Commission. I don't understand why the original tree ordinance did not have such a variance procedure. I think that developmental ordinances should have variance procedures because otherwise you cut the common sense out of a body like the Planning Commission or the City Council that look at a particular piece of land that is before them right then and see that in most cases the ordinance really works. In this particular case it doesn't and so they can grant a variance for some reason the tree ordinance does not have that.

Alderman Zurcher: Actually it does, it's not called a variance.

Kit Williams: It doesn't have that.

Alderman Zurcher: Sure it does, at the first part of the ordinance it says no rare landmark tree shall be cut down and then it goes on to say however if you can't build without losing rare landmark trees you can build and take out 85% of the canopy and only leave 15%. That's a pretty big variance. The variance is not called a variance.

Kit Williams: There is one variance in it, the variance is for cutting a landmark tree but that is the only variance within that ordinance.
Alderman Zurcher: It goes down from saving all landmark trees to only saving 15% of the canopy. To me even though that's not called a variance per say that's a pretty big variance.

Alderman Thiel: Since we are in the process of getting a new tree ordinance why don't we just wait about the broader variance that you are referring to until we actually look at the new ordinance?

Kit Williams: You will certainly ease my mind if you at least pass the more narrow ordinance because that is the reason I drafted one in the first place, because I was afraid that we were going to be painted into a corner. With some of the lots that might develop if we don't have a variance like this one in with the successors in interest clause could very well trap us and we'd be sued one way or the other successfully. This second ordinance which is longer does resolve that particular problem.

Alderman Thiel: I certainly support the idea that you've taken waiver out. I think that was a concern that I've heard about and that you have narrowed it down, I feel a lot more comfortable with it this way then I did the original one.

Alderman Santos: Before we get to the second reading we need to make an amendment to take the word waiver out?

Kit Williams: What I would recommend that you do is, if you want to have the more narrowly drawn variance that you make a motion to amend the previous ordinance by removing it and replacing it with this longer variance ordinance. I would then have to read it.

Alderman Thiel moved to amend the previous ordinance by removing it and replacing it with the new variance ordinance. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Trumbo was absent.

Alderman Santos: Well don't we still need to take the waiver out of this ordinance?

Kit Williams: I will read it without that.

Mr. Williams read the entire ordinance.

Alderman Zurcher: Fran Alexander could not be here tonight she just wanted the question to be asked who exactly would this ordinance be unfair to.

Alderman Santos: The people who meet these two conditions in Section A.

Alderman Zurcher: We're talking about developers?

Alderman Young: I'd like to see us change this to where successor's in interest goes in with tree preservation plan, so it narrows it just to that clause.

Kit Williams: I think it is narrowed to that clause because if they're not agrieved by that then they can't bring the appeal.

A discussion followed on the ordinance and how it should read.

Kit Williams: You have to be aggrieved by that clause or you can't appeal. This is a very narrowly drawn variance. My recommendation is that you still have a more general variance which I hope the new tree plan will have. *I will clearly state for the record my interpretation is that this is confined to the successor's in interest problem, period.*

Alderman Young: To avoid an unfair or impractical application, I'd like to amend the ordinance to read under B. ***the City Council may grant such a reduction, alteration or variance from the requirements of the tree preservation ordinance if it is in the public interest and it determines such variance is necessary to avoid an unfair or impractical application of the tree preservation and protection ordinance upon this particular parcel of land.***

Kit Williams: All the other variances within Chapter 156 of the Fayetteville Code do not speak like that. So when I patterned this variance I made it much more difficult than any other variance by making it an appeal that has to be done by an alderman, an appeal that has to be heard at the City Council level not by the Board of Adjustments, not by the Planning Commission but they the City Council. You can add other things to it but I think this is already a terrifically narrow variance and whatever you want to add is fine. I don't see how that's going to affect us one way or the other, but it does make it different from all the other variances that we have. None of the other variances that I'm aware of speak to that.

A discussion followed on the wording of the ordinance.

Mayor Coody: Is there a second to Cyrus' motion? So the motion dies for lack of a second.

George Weiss of 1614 Sawyer Lane: It seems to me you already have this in the current ordinance, 162.03(B). Appeals from decisions of the landscape administrator shall be in writing to the Planning Commission, and Planning Commission decisions can be appealed to the City Council. I don't understand why we need this. You already have a mechanism to handle appeals and to handle variances.

Kit Williams: That's exactly what happened in the Kohl's case. It was then taken to court even though the City Council did approve what the Planning Commission had interpreted the section to mean. Their primary argument in court to people who sued the city was that the City Council was attempting to vary the ordinance when there was no variance procedure in it and so they were not following the ordinance. It is for that very reason that I feel like there needs to be a variance procedure in there so that the City Council will not find itself in a position where a decision they make is going to be appealed to court.

Mr. Weiss: There's no time limit so ten years from now somebody could appeal?

Kit Williams: As long as their tree preservation plan was approved before January of this year and they made their substantial investments in infrastructure before January of this year, I doubt if you're going to find very many developers that are going to put their infrastructure in and then wait for ten years to try to go forward.

Mr. Weiss: It could be one year or two.

Kit Williams: If they relied on the previous interpretation and they invested substantially in their infrastructure and had a tree preservation plan approved prior to this year that is correct.

Al Vick: I want to say thank you for trying to tighten this up. I do appreciate Mr. Williams' efforts to tighten this up a bit, but already I'm hearing some things that I find are pretty frightening. We're already talking about when the new tree ordinance is passed leaving things open so that we can have the same conflicts and have to coddle to the development community again. When the Kohl's issue happened last year it wasn't the development community that brought the city to court, it was the environmental community, because the development community was violating the sensitivities of a majority of the people who lived in this town. I think it's really frightening to think that this whole issue could be opened up again. I understand not wanting to get sued but down the line these people already ought to know that the city is trying to tighten up on this. Why does the city always tremble in fear because of this development community?

Louise Weiss: We are speaking for many people on this issue.

Barbara Morman: If you adopt either one of these proposals tonight its going to be fair to say that the city has not in past and doesn't intend in the future to enforce any of the three principle protections of the tree preservation ordinance. You're not enforcing canopy preservation, 10.29 is not 15%, you're not enforcing the preservation of old large trees, and now you're not going to enforce the successors in interest clause. I'm think that the problem here is that no one who doesn't have considerable money or expertise can appeal any of these decisions because of the city's inadequate appeals policy. What you're proposing is to make it possible for only certain people, certain land owners who have arguably been a party to the disregard of the ordinance. You're proposing that only these people should be allowed an appeal of a Planning Commission decision. You do call it an appeal, the narrower of these two proposals is referred to as an appeal. So fundamentally I think is as much about the city's inadequate appeals process as it is about the tree ordinance itself. The city does not have a uniform appeal process, one single rule that applies in all cases. In the ordinances that pertain to development it is most often only the landowner who can appeal a decision. You don't allow any appeal of any final decisions except to the Circuit Court, in other words a Planning Commission approval of a final plat can't be appealed by anyone to you the City Council. A Planning Commission decision on a preliminary plat can be appealed to you but only by a landowner or a councilman. The tree ordinance already says any person aggrieved may appeal to the Planning Commission the decisions of the landscape administrator related to landscape and tree preservation and protection requirements. But supposedly this liberal policy any person aggrieved cannot apply to final decisions of the Planning Commission which have to be appealed to circuit court and I think that's the problem. I would propose that any person aggrieved including any citizen of Fayetteville or Fayetteville's growth area, may appeal any decision of a city board or commission to the next highest board or commission. For example, the Planning Commission final plat decisions and Planning Commission rulings on tree preservation plan appeals should be appealable to the City Council. I think that should solve your problem and I think that it should be uniform and I don't think it should be just applicable to landowners. I think it should be any citizen of Fayetteville. Thank you.

Kit Williams: It's more important when the Planning Commission decides the preliminary plat. That's where they have to go through and they look at the tree preservation plan and they look at other possible variances that they might be granting and that can be appealed to the City Council as

we've had a couple of appeals within the last month or so. It doesn't just have to be the developer, the developer or the owner of the land certainly has a big interest in it and they can appeal and secondarily, an alderman can appeal. I think that you have very responsive aldermen and if there is a true problem with the preliminary plat then it can certainly be brought before the City Council and heard as has been done twice since I've become City Attorney in March, so it's not like it's a rare situation. The final plat is not appealable to the City Council. The final plat approval is almost just a checklist. Have they done what they were told to do by the Planning Commission? That's what the Planning Commission checks on a final plat, at that point in time the only appeal then is to circuit court. I guess they set it up that way because the preliminary plat approval was really the important one. All the major decisions are made at the preliminary plat level and that's why that is appealable to the City Council.

Mayor Coody: I think all of us up here work for the public interest. There may be some debate as to what the definition of what's in the best public interest is sometimes but I don't think there's anyone that would go to this much trouble running for City Council and dedicate the kind of time that it takes to work against the public interest. I hope people don't think we're up here just trying to work against the public interest because that's exactly the opposite of what we are trying to do.

CJ Crosson: It's my understanding that this waiver or variance is a way of making legal what has been done illegally up until now. Money from being sued by developers aside there's just something that just feels a bit disquietingly unethical about it. It certainly violates the spirit of the intention of the tree ordinance. I also have a concern that passing something like this will set a precedent so that this variance or one very similar to it will be in operation in dominance over whatever tree ordinance we have.

Colleen Gaston: Am I correct in understanding that this ordinance will not be voted on tonight?

Mayor Coody: Yes, I believe so.

Ms. Gaston: We will be able to get a copy of this new version prior to next meeting?

Mayor Coody: Absolutely.

Ms. Gaston: I understand the objectives behind this proposed ordinance. I understand that it's primarily meant to address issues arising from the CMN Business Park. I think it might alay some concerns if we actually look at the facts there and look at the existing, the 1998 tree preservation plans that were approved and that would apply under the successors in interest provision. I have those plats; I gave copies to the Planning Commission April 9th. The black and white copies are difficult to tell exactly which trees were designated for preservation. CMN did produce a schematic that doesn't show exactly the trees designated for preservation but it gives you a general idea of the aggrieved trees. If you'll look at this you'll see that the bulk of the trees were in Lot 7 and 15 and if we can assume that those are out of consideration and may be that's one of Mr. Williams concerns but I don't think that's seriously an issue in terms of litigation the large scale development plan has been approved for Lot 7, Lot 15 is obviously over and done with. I think the odds that litigation regarding those lots is not exceedingly high. I would say that it appears as if the remaining lots are all buildable, I would suggest you ask Ms. Hesse about that and that you make that determination for yourself.

Alderman Thiel: Ms Hesse are there any lots that are really unbuildable?

Ms. Hesse: I do not believe that they're unbuildable. There are a couple of lots that could be challenging but possibly not unbuildable. There is only one lot that I think we could be concerned about that would be Lot 6. Lot No. 6 has trees very close to the expressway; however Lot No. 6 has other problems with some drainage. I don't see a big problem there. Lot No. 17 has some large trees in the center of the lot. I haven't really looked at the grades of that lot, it's possible if a large development went in there due to grade they would have a challenge it depends on how that lot is developed. Lot No. 5 has some very large trees but they have already speculatively graded this site for a pad and those trees are not within that area, so they are basically protected right now. I would assume anyone that bought Lot No. 5 would use the graded areas for the pad of the building. The only other particular lot, No. 8 had some trees in that, some of these trees died in the last year up towards the road. The trees that do exist are maybe three large trees disbursed throughout that lot. This particular lot does have quite a fall across it to Mudd Creek so it would be more challenging to develop this lot if we were to save the three individual trees on there. The rest of the lots are basically fairly open. Lot No. 9 you can see that there is an old fence row. They showed those also as being protected and they've been protected through construction and they are still healthy, again it would depend on how that lot is developed. I believe that Lot is more developable based on the grades that are existing. Lot No. 1, the large green area you see in the top basically is undevelopable, that is a very steep grade that goes down to Clear Creek.

A discussion followed on the variance.

Kit Williams: What this would do if we had this variance, certainly even if someone presented an attempted alteration of the tree plan the City Council would have every right to rely upon their landscape administrator's interpretation and their own interpretation about what whether it would be unfair or impractical to develop that. That would avoid any arbitrary or capricious argument that the City Council did not listen to problems within it and made it just a hard and fast rule with no common sense and hearing the facts as you would if we have this variance. It certainly does not mean that you would grant the variance at all, or if there was any variance granted it might be a single tree. It might be we lose a tree here and put more trees in over there and maybe you wouldn't do anything. What this variance would allow you to do and allow me to do as your attorney is to say to the judge we have a procedure where if it's unfair and impractical in its application they can come before the City Council. The City Council hears the facts and your judgment is afforded much credibility and much weigh by the judge, but if we have nothing and there is just a hard and fast rule where there is no variance allowed then we are getting closer to the arbitrary and capricious standard which is where there is liability against us.

A discussion followed on the map of and the lots in the CMN Development Ms. Hesse presented to the Council.

Ms. Hesse: The subdivision has been approved and I think that's the main issue. When I started two and half years ago, no one gave me an interpretation of this ordinance. No one gave me background on what the intent of this ordinance was, or any specific sections of this ordinance. It was clear to me that the intent was preservation. As I have testified and spoken to you in the past, I have worked with developers, engineers and contractors to get towards the heavier preservation and so much replacement. Successor's in interest was never mentioned, it wasn't mentioned by staff

members, by the administration, by the council, by the public, by no one. I've never heard of it being an issue, I read it as part of the ordinance. I thought it was just a blanket coverage. It wasn't until the lawsuit that I was handed a memo from Sierra Club which basically seemed to me to be the basis of that section, successors of interest. They were going through the review of the ordinance; successor's of interest was not in there until this memo was presented. By reading that memo it seemed blatantly clear to me what the intent was. It would not be right; it would not be ethical for me to ignore what I read. It would not be right to just turn my face and pretend that I didn't see the intent of successor's of interest. That is why I have stated after being asked pointedly by a Planning Commissioner what is my interpretation of successors of interest. I explained that to them and I stated to them that what I was asked is when I am going to interpret it that way. I stated I would interpret that on all new commercial subdivisions that came through that it would be unfair to change the rules on projects in the past. If you think about it, if you think about how a project is reviewed, it goes through extensive design, it goes through review by the staff, it goes back to design, back to review and it's a very long arduous process, there is a lot of construction involved. At the time that you are reviewing a project, you base everything off the review from the staff and the Planning Commission. If it comes to the point of the council you base your decision on how the staff is going to interpret your project. It was very clear at the time that commercial subdivision of CMN when it went through successors of interest was not an issue. It was not really a known section of that ordinance. It was not reviewed with the intent that future lots would be preserved under that original ordinance, it was never looked at that way, it was never stressed, and it was never reviewed that way. I think now if that had been an issue it would have been reviewed differently, roads would have gone in differently, and lots would have gone in differently. To take that project now after that much time and that much investment has been put in and change the rules, I think is unfair. I do still hold two interpretations of successors of interest and I would like to be able to do that. I think that that's the fair thing, but under our ordinance I can't do that. It's not legal and that's why we're standing here today. Unfortunately, it's because I am trying to be ethical and I am trying to do what's right that it leaves me and the City Council in fire of lawsuits. Which I think is extremely unfortunate, but that's where we're at. I think what Mr. Williams is trying to do is to find an easier way to deal with that problem. I can understand where he is coming from. I also see that if somebody wants to sue us they're going to sue us whether we have the ability to variance an ordinance or not. What Mr. Williams is saying is that it is not as easy and that he may be able to support and defend us best if we have this additional variance. I'm not going to really say that I agree with either one. I can see where he is coming from and I hope that you understand the situation that I'm in. I apologize for putting you in this situation but it's just the way things have happened. I think that every administrator of an ordinance tries to follow the intent of the ordinance and that's what I'm trying to do. Unfortunately, I didn't know the intent from the first day forward. As I learned things it would not be right for me to ignore what I learned.

Alderman Zurcher: Do you not feel like you could apply that successor in interest clause applying the tree preservation plan that was passed in 1998 on the remaining lots and that these people could reasonably develop all these lots.

Ms. Hesse: I think that my review would be the same. I think I would still review it as though they should save those existing trees on their lot. Those existing trees just happen to be the exact same trees that they show as preserved from the CMN subdivision. I mean I am going to continue to try to preserve and not replace as though lots come through. Regardless of how we interpret successors of interest I'm still going to look for ways for them to develop that and keep those trees.

Alderman Zurcher: Ms. Hesse's interpretation of the tree ordinance is not what got this city into a lawsuit. Her interpretation the whole way through the Kohl's ordeal was that it did not meet the ordinance; it did not meet the 15%. It was the former council and the mayor who voted to let that happen. I'm inclined to trust her judgment now and I don't really think we need a variance. If she says they can reasonably develop it, I'm going to believe her.

Alderman Thiel: I think you're also saying that you think that this variance is not a bad idea too.

Ms. Hesse: I think this applies to more than just the CMN Business Park. There are other commercial subdivisions out there that have been reviewed under the other interpretation. I couldn't name them right now but there are others out there. I think its kind of an envelope for all those projects. It was asked earlier if this could last out up to ten years. It just depends on the size of the development. I think ten years is stretching it but I have seen commercial lots set for five years. It's possible that a development approved five years ago could have a lot come through.

Alderman Thiel: Right, but there has to have been substantial development done prior to this time which you should have some kind of idea of how many developments are like that out there.

Ms. Hesse: Yes I do, maybe three.

Alderman Jordan: Other than these two? I want to know how may of these have got the final okay prior to 2001.

Kit Williams: I would like to remind the City Council that Kim Hesse might be our expert witness. I hate to see her tied down on imaginary projects and then be cross examined and say you told the City Council that this one was developable or this one might not be developable or something like that. She will have to look at the development itself; there are some dangers out there. I would hope that she would be very general in her comments and not be specific because that can be used against us. Her statements can be used against us, no matter what she says one way or the other. I would hate for the fact that I'm trying to protect us from the litigation by presenting a variance to you turn into a discussion where she is so tied down that we are going to face litigation. If we passed this specific variance not only do I think that I can better defend the city, I think we will be successful. If we don't then I think there are potential problems out there. There is even a potential problem in a couple of these lots that have just gone through. I think it only makes sense to give yourself the credit to have a very narrowly drawn variance that they'll have to prove it's unfair or impracticable. They have had a previous plan approved, that they have done the substantial amounts of infrastructure investment and that it is unfair or impractical. You all would have to decide that. Why don't you decide it when you have the actual facts in front of you instead of having a giant map with no project? I don't think it can be decided in the abstract. I think asking too much from our landscape administrator now and it makes me nervous to hear such specific questions asked of her that might be asked later on. She might say I don't know at this point in time exactly what I was talking about. That's not going to sound real good when somebody reads back her questions and her responses back. I think that we're almost beating a dead horse on this. I think there are some dangers out here and I think this variance will take care of them. Beyond that I think that we shouldn't go too much into the specifics because we can't, it's just hypothetical here. There are lots that might have some problems and I think we ought to leave it at that.

Alderman Davis: Kit, I appreciate you looking out for the citizens and the City of Fayetteville on this.

Mayor Coody: Kim, this ordinance we're looking at right now amending the tree protection preservation ordinance for this variance section, is this a good thing or is this a bad thing? I just want to get your opinion on that.

Ms. Hesse: I can't answer that.

Alderman Young: Mayor, do you think that this is a good ordinance or a bad ordinance.

Mayor Coody: I certainly, absolutely do.

Alderman Young: You think this is a good ordinance?

Mayor Coody: I absolutely do. If I were to get the rule book out and decide to do a project and I follow the rules, I pour a ton of money into it, I get my approvals done and then I go to the governing body and say it looks good to me. Then I go pour a ton of money into it and do a bunch more work and then later on they come back and say well we changed the rules after you were approved and now you have to go back and do something completely differently. I would feel like that I would have been wronged. I think that this is going to be so narrow and that so few people are going to be effected by this. I don't believe its some grand conspiracy to gut our tree ordinance; our tree ordinance is not strong enough right now. I've, don't think we're doing a good enough job right now saving our rare and landmark trees. If someone comes up and asks the City Council to override something with this variance they're not going to get very far with me. I don't think the City Council is just going to roll over to everybody that feels aggrieved for whatever reason. I think this is going to give us an opportunity to do what's right for the people that are in that rare situation and everybody else is going to have to play by a new set of rules. The world changed in this last election and people need to realize that, on both sides of this debate, both sides need to realize it's a different world. We're going to have to start working together to get past this doubt, bickering, argumentative phase of this transition that we're still in the middle of. Yes, I think this is good and I would just as soon go ahead and pass it and go on. But it's the Council's wish.

Alderman Zurcher: I would agree with about 95% of what you said there. That we need to be fair and if the rules are the way they are and the governing body says they are the way they are then they need to be that way. Developers should know what to expect from the city. This particular development was not just a run of the mill development that came before the City Council and got approval. Before they put in a lot of this infrastructure they had many, many people showing up at every single meeting protesting what they were doing. They had a tree and landscape administrator saying this tree plan is not legal and the council voted it through any way. They had hundreds of people show up at various different protests and vigils, over thirty people arrested in protest of this project. To me there is something to be said for corporations being accountable, not just to the governing body, but to the public at large and if the public speaks in a way that this public spoke, corporations need to learn to listen. I'm not necessarily arguing against this I am just saying that this wasn't a normal deal. We need to be fair to everybody and I do agree that things have changed and they needed to.

Mayor Coody: I guess everybody knows we went to Austin two weeks ago to talk to a corporation to try to get them to come to Fayetteville. One of the reasons that I really wanted this corporation to come to Fayetteville was because they did such an outstandingly beautiful job with their grounds. They made parks out of their wooded areas, they built around trees, and there was one tree that was leaning over. They actually picked up the limbs to do concrete work underneath and then put the limbs back down. Somebody went through a lot of trouble to make the place beautiful. These are the corporate neighbors that I think we should try to attract to Fayetteville. Not every one is going to be like that. We need to work with those people to try to do the best job that we can get them to do, but if there are corporations that do really good work I'm going to be the first one going to their door and trying to get them to come to town.

Alderman Young: For anyone out there that is worried about buildable lots, this development as it was going through a lot of people kept referring to the ponds and how beautiful they would be, those ponds are history.

Debra: I am concerned about the language in the proposed variance about substantial sums for development of infrastructure prior to January 1, 2001. That seems to be something that's wide open to interpretation, are we going to have any discussion about what is substantial or are you going to wait until each case comes before you. That seems to be very germane to whether or not the variance would be passed. I would hope that we could have some discussion about that at least next time before the third reading. Out lot 3 continues to worry me and I would imagine there might be several people that don't even know what Out lot 3 is unless you've examined the final plat that's approved for the Target development site. The reason it worries me is that it shows on that plat the possibility for splitting a large part of Lot 7 off and either leasing or selling it, I believe, in the future. It contains a substantial portion of the trees that are to be preserved right now on Lot 7 and I'm afraid that under the terms of the variance that you're likely to pass, the owners and developers having already expended a substantial investment prior to January 1st of this year could probably lease that lot and cut down those trees.

Kit Williams: I can say that I was concerned about that too, as well as our planner, Tim Conklin. We worked together with the Planning Department as one of the conditions of approval of the large scale development, the final plat; we required a tree easement in place as term or condition on their final plat approval that was granted last night by the Planning Commission.

Debra: I also have a question about that easement and how enforceable it is under Arkansas law. My understanding is that easements have to be held by non-profit 501(3) (C) corporations in order to be enforceable.

Kit Williams: No, I don't think that's correct, the city has many easements. They are very enforceable.

Alderman Young: What he's talking about is a city easement, it's not a private corporation easement.

Kit Williams: That's correct. We have done everything that we could think of to protect the trees on Out lot 3.

Debra: The addition of the phrase "public interest" I would hope that you would reconsider adding those words to the variance. I think a lot of us in the public would really appreciate having the public interest considered formally.

Alderman Young: The first item about substantial sums for development, in section B it says the City Council votes to hear the appeal. I think that would be a consideration and whether or not to hear the appeal. If the council didn't think there were substantial sums spent then they wouldn't vote to hear the appeal.

Kit Williams: I also qualified substantial sums for development and I said of infrastructure, so it's just more than just planning and surveying it's actually of infrastructure.

Bobby Ferrell: I'm president of the Fayetteville Chamber of Commerce. Mayor I very much enjoyed your comments a few minutes ago concerning this issue. I think it displayed a sense of fairness in trying to move forward. I don't just speak for myself as some of the other speakers have indicated; I don't think that the people that derive their livelihood at CMN Business Park consider it a nightmare. I think leadership requires making hard decisions. I think that Mr. Williams is trying to protect the city and that is his expertise and his job. My hope would be that we have learned from the past and can move forward for the mutual benefit of Fayetteville and its residents. Thank you.

Alderman Santos: I just don't want to put us in the position where we're going to have to pay anybody else to break our ordinances and I think that this is probably, according to Mr. Williams, our best defense against that.

This Ordinance was left on the Second Reading.

NEW BUSINESS:

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

Mr. Williams read the ordinance.

Alderman Davis: The staff recommended this, the Planning Commission voted 8-0 on this, they're downgrading. I don't see any reason why we shouldn't go ahead and pass this.

Alderman Zurcher: Is a representative from the development here?

Alderman Santos: Without any body here I think we should leave it on the first reading. I don't think there's any controversy here.

Alderman Davis: When they had public comment; there was none at the Planning Commission.

Alderman Santos: Even the petitioners not here?

Alderman Reynolds: Does anybody have questions?

Alderman Santos: I've never seen a rezoning go through three readings in one night without even the applicant bothering to show up.

Alderman Thiel: Probably because it's just a down zoning.

Alderman Zurcher: I would like to know the story here.

Tim Conklin: There are eight lots in the Meadowland's Subdivision currently zoning R-1.5. They're having trouble selling the lots. They're directly across the street to the south lots are zoned R-1. They feel like if they have single family homes on both sides of the street that it will help their development and be able to sell lots on each side of the street. I would recommend to the Council to go ahead and approve this rezoning even though the applicant isn't here. We've taken it from our R-1.5 which allows single family duplex, triplex by right and bringing that down to R-1 which allows only single family homes by right.

Alderman Reynolds: It's a good downzone.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4315 as Recorded in the Office of the City Clerk

HMR TAX: An ordinance amending § 35.20 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax.

Mr. Williams read the ordinance.

Alderman Thiel: There was a memo from Mr. Maguire suggesting a couple of changes on this which I thought made sense.

Kit Williams: I have no problem with either one of the suggestions made by John Maguire under the staff that actually enforces our current HMR taxes. The one I read was actually the one that came from the Ordinance Review Committee so I felt compelled to go ahead and read the one the Ordinance Review Committee had sent to the full Council.

Alderman Zurcher: I have a couple of questions for Marilyn on this. This first ordinance just says HMR tax, but this goes to the Advertising and Promotion Commission. What will this money be spent on if we pass this?

Marilyn Johnson: It will become a part of the regular budget and that's approved every October by the A & P Commission.

Alderman Zurcher: Just some examples of what the A & P Commission does. What do they spend their money on?

Ms. Johnson: They spend their money on advertising. We have a contract for $250,000 on advertising. We have various groups come to the Advertising & Promotion Commission for assistance in bringing conventions or publicizing their groups for various sport, parks. We fund festivals and events, and brochures.

Alderman Zurcher: I just wanted the public to know what we're talking about.

Ms. Johnson: All the expenditures for the Advertising & Promotion Commissioners are spelled out in state law. There are specific things that that money can be spent for. There are also specific things that that money can't be spent for. Part of the money that we collect goes for retiring the Arts Center Bonds, part of that money goes for retiring the Continuing Education Center Bonds and part of that money goes for retiring the Town Center Bonds.

Alderman Zurcher: This seems to go to great length to describe the different kinds of businesses that would be included under this. Has anybody done a count of how many businesses city-wide, or some kind of estimate of how many businesses will be affected by this?

Ms. Johnson: There are probably 20 caterers that this would include, maybe five pizza places, two beverage shops; I have no count on convenient stores or delis, probably less than 50.

Alderman Davis: Kit I have a questions for you on definitions for C. We talk about convenient stores, all foods and beverages prepared on sight except for coffee are taxable. My concern is discrimination wise, how are you going to defend us in court when other places that are selling coffee come back and say you're not charging at convenient stores.

Kit Williams: It would probably be difficult to try to differentiate that. I of course drafted that in because there was some thought on the Ordinance Review Committee that coffee should be excluded out of convenient stores so I drafted it in. This is not my ordinance and I'm just trying to reflect what I've been told to do.

Alderman Davis moved to change the portion where we are excluding coffee to include coffee at convenient stores. Alderman Santos seconded the motion.

Alderman Santos: Just strike the except coffee.

Mayor Coody asked shall the amendment to the ordinance pass. Upon roll call the amendment to the ordinance passed 5-2. Alderman Thiel, Young, Davis, Santos and Reynolds voting yes. Alderman Zurcher and Jordan voting no. Alderman Trumbo was absent.

Alderman Young: They mention that we're not certain the definition should include more than item D. Caterers. I was wondering why? Why don't we need these other definitions?

Alderman Santos: We looked at this and suggested that caterers be left in as a definition to further explain it up in the ordinance.

Kit Williams: The reason I think we need to have caterers in there is that it's not specifically listed in the state statute that now authorizes us to collect taxes on the rest of these establishments. The state statute does say or other similar businesses and I think caterers certainly falls within a business that prepares food for off-premises consumption. Originally this was drafted by Mr. Rose and the A & P Commission without any definitions, only with the basic statute that just listed what was in the state statute and added caters and nothing else. That certainly I think would suffice in my opinion. The Ordinance Review Committee wanted to make it a little clearer, I don't have any problem with that either. I do support the staff's recommendations on the other definitions that they have suggested. I think those are good clarifying definitions. Most times we don't define every term when we do an ordinance. You are certainly at liberty to define them if you want to.

Alderman Santos: I like the definitions because under the Delis definitions it says this tax shall not apply to sliced meat and/or cheese sold by the pound. That was my major objection when this first came up, was that it would be a tax on groceries, but as it stands here it is nothing but prepared food that's being taxed. It's just broading the base of this tax to include these other buyers of prepared food and it's not a tax on food, it's a tax on the luxury of having somebody prepare your food for you.

Alderman Zurcher: I disagree.

Alderman Jordan: I disagree too.

Alderman Zurcher: The only reason I disagree is it is on certain kinds of food but you can't say it's not a tax on food. If you buy food you're going to have to pay. It's a tax on certain kinds of food.

Alderman Santos: It's a tax on the luxury of having somebody preparing your food for you.

Alderman Zurcher: If you call that a luxury, yes.

Alderman Santos: The thing that makes grocery taxes so horrible to me is that it's something everybody has to buy to live. Lower income people end up spending a greater percentage of their income, that's what we mean about regressive taxation. You don't have to buy prepared foods; you

can make your own food. If you don't want to pay this tax there is no reason in the world that you ever have to spend a penny on this tax.

Alderman Zurcher: I hate to bring up the poor single mom again but there are people who work full time and who raise kids and to me them rushing home and picking up a to go pizza is not a luxury. It's a way to feed your kids and maybe have an hour when you sit down at home with your kids and not have to be cooking. I guess there are different definitions of luxury and maybe we just disagree on that. To me it's a tax on food and I'm against it. I agree that there is an argument that we already have this HMR tax and it already applies to some foods and that it only fair to say that it should apply to all foods. I guess where I'm coming from is; it's not fair in the first place. I don't think its right to tax food even if I'm sitting down and eating something that someone else made I don't think it is something that should be taxed.

Alderman Thiel: I still think you're being misleading in what you are saying. This is not a tax on food per se. It's a tax on prepared foods which is a very big difference. You are actually paying for a service.

Alderman Zurcher: It's a tax on certain kinds of food.

Alderman Thiel: Prepared food, by somebody else. You are actually paying for a service here.

Alderman Zurcher: I don't think its right to tax that.

John Maguire: We do have to administer this law. I'd like for somebody to make a motion at least make these two amendments here.

Alderman Santos moved to amend the ordinance as follows: ***Section 2, subpart A. Delis change and in Section 2, subpart B, concession stands*** **change. Alderman Davis seconded the amendment to the motion.**

Kit Williams read the section that changed. ***Delis shall include establishments selling prepared food or beverages as defined. However this tax shall not apply to sliced meat and/or cheese sold by the pound. Concession stands owned by non-profit groups are excluded from this taxation as well as stands operated on a short-term basis such as First Night, Spring Fest, Autumn Fest, and County Fairs. Other stands operated on a reoccurring basis such as for athletic events, barbeque stands, and other ongoing stands whether mobile or stationery will collect HMR tax.***

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

Alderman Thiel read some examples of businesses that are charging the HMR tax and businesses that are not charging the HMR tax.
Alderman Thiel: What I was stressing here was that it's kind of an equality thing here. Some of these businesses are charging this and it's putting them at an uncompetitive edge with the businesses that are not. I think citizens did support these taxes, these taxes are good taxes, and they do a lot for our parks. I mean we could hardly do without this.

Alderman Thiel: The A & P Commission does good things, they do advertising to promote the city. I think some of the concerns here is the Town Center. The City Council has oversight over the A & P Commission and they have oversight over the lease the city has with the A & P Commission.

Alderman Zurcher: The reason these other businesses are not paying the tax is they don't have sitting for six or more people or they should be paying the tax. That's how the current law is. The reason the people who are paying the tax now are paying the tax because the voters voted for them to pay the tax.

Alderman Santos: No, the City Council voted this one in.

Alderman Zurcher: I believe it was the voters in the '70's.

Ms. Johnson: The City Council passed the tax originally and then it went to a vote of the people. .

Alderman Zurcher: The people voted on it and the people voted on the parks tax. At the time I was for it because we needed a penny for parks.

Ms. Johnson: I think one of the reasons that Fayetteville has not kept up is that the state law has changed and added these other entities in. In the rules and regulations is where the six seats have been established not by original ordinance. The original ordinance as you have it today is the way it was established in 1977, so this is kind of a housekeeping matter in getting the City of Fayetteville in line with state law. I surveyed 24 cities, 12 of them responded that they collect tax on food and they all collect from caterers and convenient stores, and from all the things that state law allows with exception of Fayetteville.

Alderman Zurcher: I've seen a survey of every city in Arkansas and maybe besides one we pay the highest sales tax. We have the highest sales collections. The voters at some point had a chance to vote on both the A & P tax and the parks tax that we haven't talked about yet. I don't think it's fair to vote in a new tax. I think it's very deceptive to say this isn't a new tax, because if it were already in existence, if we were already collecting this tax, we wouldn't have to vote on it so it is a tax that isn't being collected right now. State law does say that we can vote this tax in. We are not in violation of state law by not voting this tax in. We wanted to comply with state law. We want to be fair with the other businesses. The businesses aren't paying this tax until they collect it from the citizens, businesses collect this tax so the only way this would be unfair to some businesses is they do not have to collect the tax. I can see how somebody could see that as unfair to the people that come to their businesses and don't have to pay this tax. I'd really like to get away from saying these businesses are paying the tax because they're not. We're all paying the tax anybody who eats out at all which is just about everybody at some point is going to pay this tax.

Alderman Reynolds: I don't think that we should pick and choose. I think what's fair for one is fair for all. I asked the Mayor to write to the Department of Finance and Administration and get a list of people that's in our city that's paying state sales tax. I'd like to see that cross-referenced with people that's paying our HMR tax and how many people that are collecting this money and if we're not getting it then that's a violation. I think the last time we talked about this you have several that was not paying it. Has that list got any better?

Ms. Johnson: The majority.

Alderman Reynolds: I think that people who collect it need to give it to the city like they're suppose to and if they are in violation then we need to pursue it.

Alderman Zurcher: I wonder since we passed that ordinance especially for that. What do we need to do or what is the next step in enforcement of that? Does the A & P Commission get to go in to look at the books, is there staff that is going to do that or do you need help?

Ms. Johnson: The A & P Commission doesn't do that. The city as the tax collector has that responsibility.

Alderman Zurcher: So it's on our shoulders, we need to enforce it.

Ms. Johnson: The A & P Commission actually pays the city 2% of that tax for them to collect and administer that tax. The A & P Commission doesn't do that.

John Maguire: Mr. Zurcher, we intend to be more aggressive about policing this tax issue. We've been working this now for four, five or six months on some of these definitions and who's excluded and who isn't. We've been kind of waiting on this and so when this passes we'll become a little more pro-active.

Alderman Zurcher: I've had a couple of people call and ask when you are going to do it. I just wanted to find out what the process is.

Mayor Coody: Swifty, the letter requesting that information went out the following day.

Alderman Reynolds: I hope the newspapers pick up and publish the violators of this law.

Alderman Jordan: I work in a place where there are a lot of people that make $7.50 an hour and $8.00 an hour. There was a single mother that told me a week ago that she has three children all her money is gone pretty much, except she goes to a take out pizza place and she said I don't know about the HMR tax, she said I don't do it as a luxury, I do it as an escape. There are a lot of people that are moderate to low income out there. We're the second highest taxed city in this state besides Hot Springs. I think that's enough. I'm not going to support this.

Alderman Santos: This is not going to raise that 10.125. It's not going to raise the rate of the tax. It's going to broaden the base of the tax so we're not raising the tax.

Alderman Jordan: That's true it's going to get more in the pockets of the little guy.
Alderman Zurcher: It will be 10.125 at more places.

A discussion followed on the tax.

A representative from the Ozark Brewing Company: To throw out this whole thing that promotes everything maybe could raise that person's standard of living by raising better businesses throughout town because we're promoting Fayetteville. That's what this is all about. It's not raising

two cents on a dollar. It's to help promote Fayetteville as well as bringing in better businesses. Hopefully it will increase the wage scale.

Jeff Erf, 2711 Woodcliff Road: If this ordinance is approved it is going into affect contingent on a vote of the public?

Alderman Davis: That's another item on the agenda tonight.

Alderman Young: But it's not in this ordinance.

Mr. Erf: What happens if you approve this and don't approve a special election?

Alderman Davis: We have the ability to go ahead and put it on the books.

Mr. Erf: It's possible then to approve these ordinances the first two the HMR and the parks HMR but not have a special election.

Alderman Davis: Yes.

Mr. Erf: Do we know how much extra additional revenues will be generated from the tax.

Alderman Santos: I don't think its that much at the A & P Commission meeting the other day we wondered if it would be as much as the cost of a special election. I think the feeling of the A & P Commission is they would rather do without broadening this tax base then to have a special election and cause further division in the city.

Mr. Erf: Regarding this HMR tax, the gentlemen that spoke before me mentioned that this money would go to promote the city. Can it be used to pay off the debt for the Town Center so in effect it may not be for promoting the city but to deal with financing the Town Center?

Alderman Thiel: The Town Center is being built though to promote the city and to bring business here.

Mr. Erf: That has to be paid no matter what. I guess my question is can this additional tax be used for that. I recall when this originally was brought up by the chair of the A & P Commission, Joe Finnell had mentioned special projects and how they needed money for special projects. The implication was that if we get this additional money it will go for special projects and I think there's no guarantee that that will happen. It could end up going to pay for debts of the Town Center or brochures or whatever. I just want to be clear that it could be used for anything that the A & P sees fit.

Mayor Coody: I think it would go into a general fund of the A & P then they can choose to spend it however you decide. Is that accurate?

Alderman Thiel: I don't think it can go for the debt though.

Mr. Erf: The A & P Commission members are they elected or appointed?

Mayor Coody: They're appointed.

Kit Williams: One was appointed tonight at the beginning of this meeting.

Mr. Erf: I'm making this point because I am thinking about taxation without representation. If there is a possibility that this won't be voted on in a special election I guess I need to make the point now. The members of the A & P Commission, are they appointed through a nomination process through City Council or do they do it themselves. How is that done?

Alderman Zurcher: They nominate, we confirm.

Mr. Erf: Do you have to confirm all of them?

Alderman Thiel: We do have to confirm them and remember we have two councilmen that are required to serve on that A & P Commission.

Mr. Erf: Does the state law allow 3% HMR tax? Is there any discussion then about raising it another percent?

A resident of 68 S. Castrol in Fayetteville: I think this is logical, what's sauce for the goose is sauce for the gander. If you're going to say what's sauce for the goose is sauce for the gander, then that meat that is cooked and sliced, its ready to eat, its not groceries. It's kind of like Lioneld Jordan mentioned, why exempt coffee in a convenient store. Why exempt sliced meat and cheese in a deli because that's prepared food. You buy a slab of meat, take it home, cook it yourself and slice it, that's groceries but when you buy slice meat in a deli that's prepared food. I object strenuously to that exemption of those two items from this tax unless you're going to also exempt things like soups you buy in a deli, or salads that you buy in deli. It's a lot cheaper to eat in Springdale. I don't object because I want the services the tax buys but I do object to that exemption for the sliced meats and cheese. Thank you.

Lou Weiss, 1614 Sawyer Lane: Voiced her concern about the tax and the affect it would have on the lower income population.

A discussion followed on the tax.

Ms. Weiss: I don't think it's fair to be taxing groceries. People need to eat.

Alderman Davis: We're not taxing groceries.

Ms. Johnson: There are some economical places to eat for low income families. Just because they're sitting down doesn't mean that they are all expensive white tablecloth restaurants.

George Weiss of 1614 Sawyer Lane voiced his concern with the tax.

This Ordinance was left on the First Reading.

PARKS HMR TAX: An ordinance amending § 35.31 of the Code of Fayetteville to add delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store restaurants, caterers and similar businesses to the list of businesses collecting the city's HMR Tax.

Kit Williams: With the Council's approval I'm going to read this ordinance using the definitions that you have agreed to change so that you won't have to go through amendment procedures unless somebody objects.

Mr. Williams read the ordinance.

Alderman Davis: Kit what I'd like for you to do if at all possible is rewrite these ordinances with the changes that we have made.

This Ordinance was left on the First Reading.

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

Alderman Davis moved to table this ordinance until a decision is made on the tax issues. Alderman Zurcher seconded the motion. Upon roll call the motion to table passed 7-0. Alderman Trumbo was absent.

The Ordinance was tabled until the next City Council meeting.

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

Mayor Coody: I know that there have been some major changes in the proposals. I think at the agenda session there were some numbers they discussed which were quite astronomical, much higher than I was expecting. I talked to the highway department and basically all they want us to do is pay for the added right of way purchase of land to where we can get a multi-use trail, a wider trail and a little bit more greenspace along Garland Avenue. The boulevard if we so chose basically this resolution is to send to the state, they need to know if we want the boulevard and if we want the multi-use trail. The boulevard landscaping would be taken care of by the University. I talked to the state to see if they would pay for the added concrete or asphalt to go from six foot to a ten foot hard surface trail and they said they were willing to do that if we wouldn't. I think we're down to just the idea of purchasing the right-of-way. The only concerns are details of design right now.

A discussion followed on the project.

Mayor Coody: At the corner of Cleveland and Garland there is planned for a slightly raised crosswalk of a different material because that's one of their heaviest pedestrian utilized intersections in the state. So they want to do what they can to slow traffic there and make it very obvious that

there are a lot of pedestrians in that area. We want this to be a safe passage for college students and elementary schools students and anyone else that wants to use this. We'll be able to extend the multi-use trail as time and money allow later on.

Alderman Davis: Mayor, what's going to be the approximate land cost?

Mayor Coody: We don't know exactly but the estimate is about 1,100 square feet of land and they are figuring $2.20 a square foot is the high end. We figure $25,000 will be the ceiling. What we'll do is the state will buy the property and then we will just reimburse the state for it.

Alderman Zurcher: What we're saying here is a huge improvement over what was originally proposed for this area which was a five lane with the middle set aside turn lane. So $25,000 for right-of-way is to me a very small price to pay for this kind of improvement.

Alderman Thiel: I think so now too. The $25,000 for the right-of-way purchase is primarily to make it a multi-use trail as to opposed to a five foot sidewalk. Initially I kind of questioned that here's this ten foot going down a few blocks and just ending at this really major intersection and where is it going to go beyond that. I was looking at the 2025 regional plan and Garland is in that plan to be extended on out to 540.

Mayor Coody: We're thinking the $25,000 is going to be the ceiling and hopefully we'll come in much below that.

Alderman Santos: I just want to make it clear that this is still in the design phase and we don't know that it is going to look exactly like that. The whole project all together, this is just great.

Alderman Davis: It will be another main entrance into the university and it will beautify the city along with the university.

Kit Williams: I'll have to create a resolution tomorrow which I'll be happy to do. It's basically just a resolution to approve the reimbursement of the Arkansas Highway and Transportation Department for the additional cost of right-of-way that will be incurred in building this project.

Mayor Coody: We would like the use of a median boulevard. They want the Council to tell them what we want so that they'll be able to plan for that. They want clear direction before we go into the next design phase.

Alderman Davis moved to approve the resolution. Alderman Santos seconded the motion. Upon roll call the resolution passed 7-0. Alderman Trumbo was absent.

Resolution 67-01 as Recorded in the Office of the City Clerk.

Mayor Coody: I'm real pleased that the university is partnering with us on this. This has been a good cooperative effort between the university and the state and now the business owners down there are chiming in. We're going to make this an attractive entrance to the university and an attractive entrance to our city. Once again we are starting to build good partnerships with the key players and we're all coming out ahead in the deal.

Alderman Thiel: I'd like to compliment Mayor Coody on his efforts at getting this cost down. I think that was a good thing that you did working with the university and highway department.

Meeting adjourned at 9:30 PM.

NEW BUSINESS #1
Revised Ordinance

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE COMPETITIVE BIDDING AND TO APPROVE A FIVE YEAR CONTRACT FOR $186,173.00 , PLUS A CONTIGENCY OF $18,617.00 FOR A TOTAL OF $204,790.00 WITH THE NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION FOR SERVICES BY THE UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION SERVICE TO SATISFY PORTIONS OF THE REQUIREMENTS OF THE NPDES PHASE II STORMWATER PERMIT

WHEREAS, the City of Fayetteville, Arkansas along with other cities and counties within the "urbanized area" in Benton and Washington County are federally mandated to perform Six Minimum Control Measures by the Clean Water Act within the next five years; and

WHEREAS, the Northwest Arkansas Regional Planning Commission has offered to coordinate the development of a Stormwater Education Program to be provided by the University of Arkansas Cooperative Extension Service and to be jointly funded on a per capita basis by numerous Northwest Arkansas cities and Washington and Benton counties; and

WHEREAS, by working together and jointly hiring the Northwest Arkansas Planning Commission and U of A Cooperative Extension Service to perform portions of requirement #1 Public Education and Outreach; requirement #2 Public Involvement and Participation and requirement #6 Pollution Prevention and Good Housekeeping, the cities and counties can much more cost efficiently accomplish those requirements.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists such that competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves the attached contract with the Northwest Arkansas Planning Commission and University of Arkansas Cooperative Extension Service in the amount of $186,173.00, plus a contingency of $18,617.00, for a total of $204,790.00 over the five year life of this contract.

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

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

= Revisions to add contigency.

A.6. Lawders Ford - Fire Dept. Vehicle Purchase

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Fire Department Program: Operations Date of Request: 3/23/2004

Acct.# Currently Charged: 1010.3030 Acct # to be Charged: 1010.3020

Expansion ___ or Replacement X Date Required: -

Unit # for Vehicle being Replaced: 325 Unit # for Expansion/Replacement: N/A

Purchase Price of Exp./Replace Vehicle: 28161. CIP Budget / Project # 9700.1920.5802 02086.1

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 429.00 Maintenance: 140.00 Overhead: 105.00

# of Months Budgeted: 12.00 Total Budgeted: 8,088.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 456.00 Maintenance: 140.00 Overhead: 105.00

# of Months to be in Service for Current Year: 7.00 Current Year Expense: (NEW) 49.07.00
(5 MOS.) UNIT #25 2615.00
TOTAL 7522.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

2004 Ford Expedition

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

THIS VEHICLE IS BEING ~~FRMOST~~ PURCHASED TO REPLACE A HEAVY DUTY PICK-UP THAT NO LONGER MEETS THE NEEDS OF THE DEPARTMENT.

Approval Signatures:

	3/24/04 Date		4-1-04 Date
Fleet Operations Superintendent	3/29/04 Date	Chief Administrative Officer	4-1-04 Date
Budget Manager	3-31-04 Date	Mayor	4/5/04 Date
Department Director	3/24/04 Date		

Please return original form to Fleet when signed by all.

TO OK TO WCS TO SIGN | 3-31-04 Sent to Budget | 3-31-04 Ag. Rec'd to City Clerk |

A.T. Ron Blackwell Water And Sewer Vehicle Purchase

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Water & Sewer Program: Sewer mains maint Date of Request: 3/30/2004

Acct.# Currently Charged: 5400.4410. Acct. # to be Charged: 5400.4410.

Expansion ___ or Replacement X Date Required: _____

Unit # for Vehicle being Replaced: 220 Unit # for Expansion/Replacement: 343

Purchase Price of Exp./Replace Vehicle: 39,566.00 CIP Budget / Project # 9700.1920.5802 02078.1

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment: (FOR 3x4)

Replacement: 423.00 Maintenance: 150.00 Overhead: 143.00

# of Months Budgeted: 12.00 Total Budgeted: 8,592.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 515.00 Maintenance: 80.00 Overhead: 140.00

# of Months to be in Service for Current Year: 6.00 Current Year Expense, New: 4,410.00

R=0, M=260, O=88 = $348 x 6 mos. = $2,088 Current Year Expense, Old: 2,088.00

Total Current Year Expense: 6,498.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

2004 Ford F550 truck with Knapheid utility body

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

Unit #220 is in need of replacement. It is a 1994 unit with 116,000 miles on it, and is two years past its scheduled life.

Approval Signatures:

Division Head	31 MAR 04 Date	Finance & Internal Services Dir.	4-1-04 Date
Fleet Operations Superintendent	3/31/04 Date	Chief Administrative Officer	4-1-04 Date
Budget Manager	3-31-04 Date	Mayor	4/6/04 Date
Department Director	4-9-04 Date		

Please return original form to Fleet when signed by all.

B. 4. ANX 03-06.00
Hoskins | Schlegel

ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY LOCATED NORTH OF THE PROPOSED CRYSTAL SPRINGS PHASE III SUBDIVISION, WEST OF DEANE SOLOMON ROAD AND SOUTH OF SALEM ROAD CONTAINING APPROXIMATELY 72.50 ACRES.

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

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

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

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. Four.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 03-06.00

THE NE ¼ OF THE NE ¼ OF SECTION 32 AND PART OF THE E ½ OF THE SE ¼ OF SECTION 29, ALL IN T-17-N, R-30-W, THAT PART BEING IN SECTION 29 IS MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SE CORNER OF SAID SECTION 29, THENCE WEST 1320 FEET, MORE OR LESS, TO THE SW CORNER OF THE SE ¼ OF THE SE ¼ OF SAID SECTION 29; THENCE NORTH TO A POINT 384.25 FEET SOUTH OF THE NW CORNER OF THE SE ¼ OF THE SE ¼ OF THE SAID SECTION 29; THENCE N83°22'18"E 1067.69 FEET; THENCE N02°35'14"E 357.47 FEET TO A POINT 35 FEET, MORE OR LESS SOUTH OF THE CENTERLINE OF COUNTY ROAD NO. 894; THENCE NORTHEASTERLY PARALLELING SAID CENTERLINE A DISTANCE OF 268.54 FEET, MORE OR LESS, TO THE EAST LINE OF THE E ½ OF THE SE ¼ OF SAID SECTION 29; THENCE SOUTH 1574 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 72.5 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

C.1.
NW. Arkansas Regional Planning Comm. Storm Water Education Contract

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE COMPETITIVE BIDDING AND TO APPROVE A FIVE YEAR CONTRACT FOR $239,000.00 WITH THE NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION FOR SERVICES BY THE UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION SERVICE TO SATISFY PORTIONS OF THE REQUIREMENTS OF THE NPDES PHASE II STORMWATER PERMIT

WHEREAS, the City of Fayetteville, Arkansas along with other cities and counties within the "urbanized area" in Benton and Washington County are federally mandated to perform Six Minimum Control Measures by the Clean Water Act within the next five years; and

WHEREAS, the Northwest Arkansas Regional Planning Commission has offered to coordinate the development of a Stormwater Education Program to be provided by the University of Arkansas Cooperative Extension Service and to be jointly funded on a per capita basis by numerous Northwest Arkansas cities and Washington and Benton counties; and

WHEREAS, by working together and jointly hiring the Northwest Arkansas Planning Commission and U of A Cooperative Extension Service to perform portions of requirement #1 Public Education and Outreach; requirement #2 Public Involvement and Participation and requirement #6 Pollution Prevention and Good Housekeeping, the cities and counties can much more cost efficiently accomplish those requirements.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists such that competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves the attached contract with the Northwest Arkansas Planning Commission and University of Arkansas Cooperative Extension Service in the amount of $239,000.00 over the five year life of this contract.

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

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

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

FROM:

Gary R. Coover	Engineering	CP&ES
Name	Division	Department

ACTION REQUIRED: Request for City Council approval of a five-year contract with the Northwest Arkansas Regional Planning.Commission (NWARPC) to provide stormwater education services for compliance with two complete sections and portions of a third section of the five-year NPDES Phase II Stormwater Permit.

COST TO CITY:

$239,000.00	$ 682,684.00	Drainage Study/Phase II Stormwater
Cost of this request	Category/Project Budget	Program Category / Project Name
4470-9470-5314.00	$ 15,545.00	NWARPC Stormwater Education
Account Number	Funds Used to Date	Program / Project Category Name
02097-0040	$ 667,139.00	Sales Tax
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 4-6-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 4/5/04
Internal Auditor — Date: 4/5/04
City Attorney — Date: 4/6/04
Purchasing Manager — Date:

STAFF RECOMMENDATION:

Division Head — Date: 4-7-04

Department Director — Date:

Finance & Internal Services Dir. — Date: 4-6-04

Chief Administrative Officer — Date: 4-7-04

Mayor — Date: 4/7/04

Received in Mayor's Office — Date: 4/6/04 P.M.

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 11/5/04 TM

C.2. R-PZD 04-400 Stonewood Gardens

R-PZD 04-04.00: Residential Planned Zoning District (Stonewood Gardens, pp 60) was submitted by David Gilbert of Jorgensen & Associates on behalf of Mark Foster for property located on Crossover Road, immediately north of the Stonewood subdivision. The property is zoned R-O, Residential Office, and contains approximately 3.36 acres. The request is to rezone the property to an R-PZD to allow the development of 14 lots with 12 single-family dwelling units proposed.

Hoover: Item number four on the agenda is R-PZD 04-04.00 for Stonewood Gardens.

Warrick: This is a request for a Residential Planned Zoning District. The project is called Stonewood Gardens and is located on 3.36 acres north of the Stonewood subdivision, which is on the east side of Crossover Road. The proposal is for a single family dwelling with 12 lots with single family homes. Additionally, two lots would contain common space and detention for the project. The total density being proposed on this 3.36 acre site is 3.4 dwelling units per acre. The project site is currently zoned R-O, Residential Office. The development is proposed to have one access to Crossover Road and they are proposing to have a private street with controlled access gates. Surrounding development, the site is currently vacant. Surrounding development includes single family homes to the north and south and east and Lake Fayetteville across Crossover Road to the west. Water and sewer will be extended from the area along Crossover Road to provide for this development. Current tree canopy on the site is 9.1%. 6.6% will be preserved with the difference being made up with sixteen mitigation trees to be installed with the development. Staff is recommending in favor of this Planned Zoning District. We have fifteen recommended conditions. Some of those primary conditions include the fact that this does have to go forward to the City Council because it is a land use decision as well as development combined. We are asking the Planning Commission to determine the policy of community character as defined in our General Plan and to discuss that with relation to this particular project. That guiding policy is stated as 9.19D to discourage perimeter walls and guardhouses around the perimeter of new residential developments and promote connectivity to increase acceptability and provide more livable neighborhoods. Staff has made a couple of findings with regard to this particular policy. The first is that the proposed perimeter wall we do find to be compatible with the existing walls that are being developed with the Stonewood subdivision which is to the south, along with numerous subdivisions along Crossover Road because of the character of this street as a state highway. Staff also finds vehicular connectivity to be unnecessary and unavailable really because of existing development to the south and to the east. There is a sidewalk that will be built along Crossover Road to provide pedestrian connectivity. Staff is recommending a sidewalk connection along the private street to connect with the required sidewalk along Crossover Road so that the internal

pedestrian circulation does extend to connect to the sidewalk along crossover. We are asking Planning Commission to make a determination of appropriateness of sidewalks within the development along this private street. Staff recommends that they be considered. It is not a requirement f our Unified Development Code for private streets to have sidewalks. The allowed uses proposed for this R-PZD include single family residential only. There are findings within your packet with regard to the land use decision that you will be making along with this development proposal. Staff does find that a 14 lot, 12 single family home subdivision in this location is compatible. It is consistent with the city's General Plan which calls this area out to be residential and it is compatible, as I said, with the surrounding properties which consist of single family dwellings and to the south vacant R-O, Residential Office zoned property. With that I will be happy to answer any questions that you may have. I have spoken with the applicant's engineer. They are not opposed to the conditions of approval as they are stated. We do not, however, have signed conditions at this point in time.

Hoover: Thank you. Would the applicant come forward please?

Gilbert: Good evening, my name is David Gilbert. I'm with Jorgensen & Associates.

Hoover: Do you have anything to add?

Gilbert: I appreciate your time this evening and will try not to use up anymore of it than is necessary. Our client is hoping to gain your approval to do something rather unique on this piece of property to develop this gated community which lies at the north entry to Fayetteville on Hwy. 265. It is just a couple hundred yards from the city limits on the north end. His desire is to take what is actually a very nice piece of property. It is an open lawn with lots of very large trees and to maintain those trees but at the same time bring in some housing into this piece of property. His desire is to do something very nice. The intent here, the reason for the Planned Zoning development request as opposed to just straight forward subdivision, is so that he can build these homes in a clustered manner which will develop sort of a unique neighborhood feel to this and to build some homes that are rather closely spaced which preserves a lot of the property as common area, it is a common concept known as clustering of the homes. This is his intent here. You may see from looking at the layout of the property that we are proposing a private street along what would be the fronts of the lots. At the same time there is a private drive which circles 10 of the 12 buildable lots. The purpose of this drive is to take vehicular access off of the street and put it behind the home. Simply put, our client wishes to develop homes in this neighborhood that are close together but to have homes, the facades of which are not dominated by a

garage door. Those of you that have any planning experience or architectural background will understand that as a common element of architecture these days is that suburban architecture, all of the facades are dominated by garage doors. We are trying to get away from that here and get those doors on the back of homes so that the fronts present something more of a village character than of your typical suburban development. We have looked at the idea of placing sidewalks along Stonewood Court, the private street. We believe that the sidewalks, aside from being necessary, might be detrimental to the character that we are trying to develop here. Frankly, we've got 12 lots, if each home has two cars and everybody came home at the same time that's 24 cars on the street at once and then nobody is there for the rest of the day. We believe that the private street will serve adequately for pedestrian access. That is the people who live here it is going to be gated, not just anybody can come in here. Traffic will be extremely light and we believe that people will do, as they do in my neighborhood, we walk in the street anyway because the sidewalks are constructed in a rather unique fashion which makes them unusable. We don't want to put in sidewalks here that can't be used. We would rather not put in impervious hard surface that will not be used. That is one of the characteristics of development. The more that we develop the more that we pave. Here is an opportunity where we can pave a little bit less by not putting in the sidewalks and allow the grass to be in place there and to serve it's natural function. At the same time we don't believe that the pedestrian access will be compromised because there will be so little traffic on Stonewood. Basically, past lot 1 everybody is already off the street except for the visitors so we believe Stonewood will serve perfectly well for that and we appreciate your consideration there. We have made some interesting choices on the sidewalk along Crossover Road. That's just what the sidewalk needs to look like to miss all of the trees. We would prefer in this case there are several rather large, mature trees in the right of way. Standard sidewalk policy, which is a 6' sidewalk right at the property line at a given slope, would require removal of several of these trees. That is not something that we want to see, it is not something our client wants to see. We don't believe it is in the best interest of the City of Fayetteville to do that. The staff has been gracious to work with us on some alternate routing here and yes, it does look unusual but you'll notice it manages to miss just about every tree on the place. That is the reason for that configuration. We are still working through a couple of issues. One of the conditions has to do with the placement of the perimeter wall in the utility easement along the front. We are going to be making changes to, in all likelihood, the easement locations rather than the wall location. We feel that the aesthetic of the wall is very important and we would like to keep something very similar to what we have shown you here on the plan. To do that though and to be able to work with the needs of the utility departments we are going to have to make some modifications to the easements there on the front. We are

prepared to do that, we just have not had a chance at this point to get those completely ironed out. We believe that with the tree natured of this site that this is going to be a great access to the City of Fayetteville. Hopefully it will serve to enhance entry into the city and we appreciate your consideration on this project.

Hoover: Thank you. Is there any member of the audience that would like to address this R-PZD 04-04.00 for Stonewood Gardens? Seeing none, I will bring it back to the Commission.

Allen: At Subdivision Committee David we talked with you a little bit about our lack of knowledge about gated communities since that is new to us and we asked you a few things about safety and fire and ambulance. I wondered if you could tell us a bit about what you've learned since then?

Gilbert: Yes Ma'am. I appreciate that. Gated communities are relatively new in our area and particularly to the City of Fayetteville. They are not a new concept in larger markets in other places. In fact, in Rogers particularly around the Pinnacle Golf Course area they are quite common. One of the features that you will find in a gated community is a pedestal at the entry with certain control functions. The one we went to you basically drove up, you pushed the button, it told you what number you needed to dial, you entered that code and it actually rang the code in the home of the person you are going to see. They can then press one button on their phone and open the gate for you. For guests probably something very similar to that would be what would be in operation here. That will handle the routine as far as the guests go. In more routine matters there are matters of delivery and I believe that would be appropriate for deliveries as well for the delivery person to ring the home and then gain access to the subdivision. If they are not able to, I know for example at my home, not that I'm behind a gate, but if I'm not home and they need me to sign for a package they just take it back and leave me a note saying we couldn't get in. I don't think that would be any drastic interruption should the homeowner be away at that point. Mail service is one thing we were looking at. We really have not quite decided. We are thinking that in all likelihood the Postal Service is going to want to see a community mailbox outside the gate. That is something we have also seen up in the Rogers area and probably will be the best solution for this development. Beyond that we really haven't given too much consideration to mail service. The postal service, anytime you do any type of subdivision anymore they tend to like the community mailbox better anyway rather than the individual route type boxes at each home. That is the direction we are leaning at this point as far as postal service. Trash collection is an issue. I spoke with Mr. Foster about this issue and the plan at the present time would be that on trash days the gate would be left open during the daylight hours so that they trash collection vehicle can get into Stonewood Court, make the

pickup at the individual homes. We do not want to have a central rubbish station outside the gate that would be unsightly and very nearly impossible to keep clean. We are aiming for individual, typical, residential trash collection. I believe that Mr. Foster's proposal to leave that gate open during daylight hours on whatever day that the waste collection company sets as the day to collect those cans would function in that regard. We spoke about this and Mr. Foster's opinion was that if the gate for some reason is not left open that he would understand and the residents would have to understand that they don't get trash pick up that day. It kind of leaves an incentive there to keep that gate open on that trash collection day. The final issue, and probably the most important one that we discussed to my recollection at Subdivision Committee, has to do with emergency access. There are some particular features that we can incorporate there. Typically what you would do when you had a gate, not an operational gate, but a fire control gate. That would be a gate that is chained and padlocked. On the post of the gate would be a knox box. That is a box to which the Fire Department has a key. They are master keys so they are there. They have the key when they arrive at the scene. The Fire Department key opens the knox box. Inside that box is a key to that particular gate. That is a standardized solution that is used all over the area and in larger, metropolitan areas as well, to gain access. Seeing as how this gate would not have a lock per say, a key operated lock, what we are proposing is to inscribe a metal tag with the code. We want to use a metal tag for durability and we want to inscribe it so that the ink doesn't wear out. Basically, an engraved metal tag in the knox box, so that the Fire Department can arrive at the scene, open the knox box, take out the tag and use that code to open the gate and gain access. That's the best solution we've come up with to this point. There may be some control features, I know if you go into any elevator there is a Fire Department key slot and they walk into the elevator put in their key and turn it and that key gives them command functions completely unlike anything of normal elevator operation. They can make it do whatever they want to make it do. It may be that we will need to do something like that to have a Fire Department key on the control panel and that key would reside in the knox box. Those are just some of the ideas that we have come up with to this point. That would facilitate access to Fire, Police and to EMS as well. We believe that will serve that function very well. Was there any other access we were talking about that I've forgotten?

Allen: I don't think so. It does make one wonder why there would be a need for a gated community when one day a week the gates are open and the access is available.

Gilbert: Gates largely are a psychological function. To be quite honest, they serve their best psychological benefit during the evening hours. When it is dark you don't have to worry about anybody cruising up and down the street

that doesn't belong there. That is the main function of the gate in instances like this. There are some other issues in other areas of exclusivity. A lot of it has to do with image and the fact that people want to feel safer. This is not an unsafe area, it never has been and it still is not. We've got a lot of people moving into this area from other places. They don't know this town like we do and they don't understand that so they still may have some concerns. The fact that these units are selling with very high demand from all I can tell in the Rogers area, shows that there is a market for this. People do want this.

Allen: Thank you.

Hoover: Are there other questions or comments?

Bunch: Dave, on the subject of fence verses wall in your letter of March 15th you mentioned that it would be masonry panels rather than a wall with individual columns supporting it. Is that still the thinking? Then I want to ask Matt if that would be considered a wall or a fence. The rest of it I believe is brick pilasters with wrought iron in between. How would this fit with the determination or in the definition of whether or not it is a structure verses a fence as far as easement issues are concerned?

Casey: We determined that anything requiring a footing is considered a structure. The columns on the fence would be required to have a footing. It may be 2x2 or 18"x18" but it is still a footing and it is not something that could be removed without damaging by our water and sewer or any other utilities that are trying to do maintenance on their utilities in that area.

Bunch: Then the resolution would be that if it maintained the same fence line to have the fun task of trying to describe a proper easement to follow that fence line.

Gilbert: The easement that exists on Lot 14 is already going to be so much fun to describe that I don't know that it could be anymore fun by changing the easement along the front. The reason behind that irregular easement on Lot 14 is strictly for tree preservation. I know it is odd and it is hard to make out but it does manage to miss nearly all of the trees so that was one thing we were aiming for. To answer your question, the statements in the letter still hold and this is something that I was not entirely clear on at Subdivision Committee and I apologize for that. The wall would be the same type as was built around the Stonewood Subdivision to the south and east of this piece of property. The method of construction for that is that columns that do have footings are constructed. They are brick columns, brick pilasters if you will. The support is arranged for the masonry panel which is then laid one brick at a time to make a panel that basically fills the gap between the columns. When the mortar has set sufficiently that

support is removed and in some places these walls or fence panels do not even touch the ground. They do not bear on the ground through their length so there is not a continual footing but there is still a footing at each column and those columns are awfully hard to get any further apart than about 12' for reasons of strength in holding the wall up. It is not as bad as maybe it first seemed. I had envisioned earlier that this wall would have a continuous strip footing. That is not the case so it will not have the impact that I had first imagined but it still does fall within the definition of placing structures on an easement. We will revise accordingly.

Bunch: Thank you.

Hoover: One of the conditions of approval I guess that we should be discussing is staff is recommending a 4' sidewalk to be placed along the private street to connect to pedestrian access along Crossover Road. Can we discuss that on the need or not? Commissioner Allen, was there discussion at Subdivision about that?

Allen: Yes there was. Personally I feel like that he has made a good argument against the need for the sidewalk.

Bunch: I will concur. It is a 14' road through lot 14. Because of the minimal traffic and because it is a gated community, that in itself will probably wind up being a trail that is used for people to walk laps and that sort of thing. If you look at the distance from the lots down to the sidewalk on Hwy. 265 it is not that great of a distance. We are looking at minimal traffic except for maybe the days that the gates are open for the trash and recycling service to come in. We can all go look at it on those days. I think that there are enough paved structures in the subdivision to accommodate pedestrian traffic without having to add additional sidewalks because of the limitations that are placed on vehicular traffic.

Hoover: Are there any other comments on sidewalks?

Ostner: I would tend to agree with those rationales. My question with that is on page 4.8 of our packet. The paving width for the private streets for 1-20 dwelling units two ways lists as 22' wide streets. I am just wondering why you have a 24' street bed.

Gilbert: We are working with a couple of issues here. To be honest with you, to get an exact answer I would have to check back and see why we selected that width. 24' is a standard width for a public street. Our intention here was not to necessarily skimp on the materials. We do want this Stonewood Court to be readily accessible for anyone who might visit. There are also some issues here with fire access and we have had some discussions with the Fire Department. As to whether a 22' drive would

meet their requirements or not I would have to go back to the file and look. I would say in all likelihood it was primarily the intention that we don't want it to look cheap. We don't want it to look like it was skimped on and have what people perceive as a very narrow street running down through here. We would like to have people feel comfortable when they drive through in that regard. I would say that was probably the overriding factor. Again, to be sure about fire access and such I know there are fire lane widths that are required and Captain Farrar has been kind enough to send those to my office but I don't have them right in front of me at the moment. I don't remember the width, I'm sorry.

Ostner: It just sort of runs counter to the goal of less paving because we don't want a sidewalk yet the city is only requiring us to do a 22' road bed.

Gilbert: That is understandable. We had originally a smaller cul-de-sac on the end of Stonewood Court. During the process we did have enlarge that in order to meet the Fire Department regulations. Those are some issues that we are dealing with. You now have some very large trucks in Fayetteville that they like to drive out once and a while and need to use on occasion. We are hoping they won't bring the 90' ladder truck down the street but you never know. We still have to be able to get it out if they do get it in there.

Shackelford: I would probably be in support of a 24' street instead of a 22' street. My logic for that is as I look at this development it is a unique design with the rear entry of this there is not going to be a standardized driveway for these houses. I envision that the guests to these will be parking in the street right of way so I think that additional width might be helpful as people park in the street. I would be in support of the 24' private road.

Hoover: I happen to agree. I have tried working in situations like this where we want the narrow street but there is nowhere for guests to park. Since there are no driveways coming off the street guests are going to have to park here.

Shackelford: I also think the developer has done a very good job in saving greenspace by clustering this development. I think that it is going to be aesthetically pleasing. I don't think you're going to notice that the street is wider than necessary.

Gilbert: I would like to point out, since you made mention of that, there are conditions in the covenants which are in your packets. I know they are long and I would understand if everyone has not had a chance to read all of them because they are somewhat tedious by the time you get through them. One of the provisions we have placed in the covenants is that all of these trees which remain are protected by the covenants. That is

something that you don't always get in a residential subdivision in the City of Fayetteville. These trees are magnificent and we want these trees to be protected so we have gone to the length of stating that before any tree can be removed before, during or after home construction whether it is in the pouring of the driveway or the pouring of the floor slab or five years from now when somebody decides they'd like to have that space for something else. That approval to remove that tree has to be granted by the P.O.A. and the city's Landscape Administrator must be consulted as a part of that process. Obviously, we have had to make exception for trees that are dead or dying. Those pose safety risks and we want to be able to get those out of there. If everything is done right these trees should be available for everybody for a long time.

Bunch: I would like to speak with the applicant about one of the conditions in the covenants. It is number 24, where it says that brick mailboxes shall be required with each house. Since this becomes part of the ordinance I think that we need a little relief there in case a community mail facility is placed on the outside of the fence. Also, incase that doesn't work out we could leave the language in there and you would need to present it in such a way that you could maintain that flexibility. Should the mail be delivered to each house number 24 would stay in. Otherwise, it would be nullified by the community mailbox.

Gilbert: Yes Sir, that is a good point. I would be happy to reword that. As you mentioned, I think that it is important that we keep it in incase the community mailbox is not constructed. We do need to maintain some architectural control over those features. I would be happy to reword that so that if the community mailbox does in fact, become a reality that that requirement goes away and there will not be individual mailboxes at the homes.

Ostner: I have a similar question about your covenants. Since this subdivision is different these yards are going to be smaller. There could be zero lot lines. There probably will be it sounds like. The numbers 13 and 14 is basically regulating and creating a yard and grass situation. I think that it is very possible seeing as how small these are going to be without sidewalks that some of your homeowners might not want a yard. There could easily be a well developed landscaped area. Here again, we are creating a legislative act. I just wanted to ask you about that. If you wanted to, if that was a conscious act because this is not your standard subdivision.

Gilbert: Our intention was that should there be a yard we want to see that front yard what area is not landscaped in any other method we want to see that covered in sod. That is a long standing discussion that no one will ever get to the bottom of. Just as a matter of personal preference I think we've all been through areas where they decided to seed the yards and wait for

the grass to grow as opposed to a yard that basically arrives on a truck and you install it. We would prefer in this development to see the latter so that we don't have to wait for grass to grow and fill in bald spots and those sorts of things. We would prefer a very manicured look to any turf in the front yard. It certainly was not my intention to impose turf upon anyone. I will look at that and make whatever changes to the wording that that would require to take that out. It is a very good point and you are correct, it does impose turf and that certainly was not the intent. There are provisions in the covenants that the landscaping plan must be reviewed by the developer to make sure that everything is coherent, that everything is appropriate and that everything works. We will be taking a look at those as they come through on the individual homes. Thank you. You have a good point and we will modify that to correct that mistake.

Anthes: There are a lot of conflicting messages in this particular project. The applicant has stated New Urbanist and New Urbanism principals as the guiding force for how they laid out this subdivision. Yet if you refer to the Congress of New Urbanism and look at their principals the tenants include narrower streets, on street parking, sidewalks, connectivity, abilities to share with your neighbors. The fact that the sidewalk is being eliminated and the gate is in place kind of flies in the face of some of those principals as they are applied regularly throughout the country. The other thing is we have a conflicting message in our ordinance in that we have a policy of connectivity in the city and we have a policy to discourage perimeter walls and gates in our city and yet we do not have any specific ruling that says that gated communities are not part of our development palate. I find it hard to follow our general intent of our principals and yet there is nothing to disallow this particular type of development. I appreciate also what the applicant has done in trying to save the trees around the property line by causing the sidewalk to meander through them and yet as a matter of urban design and development on a major roadway a meandering sidewalk really doesn't make any sense from a development standpoint looking at how it would connect to other parcels as you would continue along the street. I just wanted to go on the record as saying those things because all of those little things are adding up to a lot of big questions.

Gilbert: I appreciate your points. The phrase "New Urbanism" is probably one of those catch phrases that to different people has different meanings. I understand that there are standards in place for that. I'm happy to hear about the congress that is covering those issues. In common usage the phrase has been applied to the City of Fayetteville that we need to make the City of Fayetteville a New Urbanist community. One of the principals of New Urbanism is that no metropolitan jurisdiction should have a population of more than 30,000 so it is going to be kind of hard to take a city of 60,000 people and make it into one New Urbanist city. By strict definition we would have to divide the city into at least two. Given the

physical layout with the principals and the tenants of ½ mile spheres of influence would have to be divided a great deal. A look at the current land use map will show that it is just not a practical issue for Fayetteville to become a New Urbanist community in the next fifty years. The logistics of it don't work. Having said that, it certainly is a valid and I think noble effort, to apply some of the principals of New Urbanism to the city and that is what we have attempted to do here is to apply some of the principals. I know it does not meet in some regards the strict definitions but we have attempted to cluster the homes closer together and provide common space, which is one of the principals. We have tried to take the garage doors off of the fronts and put them on the back so that the front facades are not dominated by a large, blank feature which I think is one of the principals. Those are some of the things that we have tried to incorporate here in that. I'm sorry if I misused the reference but that was what we were trying to convey there. To the issue of connectivity, the area in which this project sits I think needs to be a part of discussion. This is an area which over the last 40 or 50 years has gone from strictly rural back when the first homes were built back there on 3 to 10 acre lots and it is now developing. Certainly when Crossover Road was constructed, that added to the way in which this area will build. It is becoming urban but it is not urban yet. In this particular case to the south we are constrained by the fact that Stonewood Subdivision does not provide a through street onto this property and in fact, there are lots that back up to this property so we don't have a connection point there. To the east is a single family residence. This basically was the home that was on this rather large parcel that has previously been subdivided to provide this property. We can't go east without going through the house. To the north, it is just a matter of a short distance, a couple of hundred feet until you get to Albright Road which is on the boundary between Fayetteville and Springdale. Albright Road does connect through. It goes to the east for a couple of miles and connects with a couple of other streets out in the Zion Church area way. We don't feel like we are compromising connectivity with this project. We are taking up a very small portion of the space that couldn't go through in any direction anyway. I hope that will speak to your concerns about connectivity. As far as the sidewalk goes, on the southern end of the project we have configured the sidewalk to where it is on the right of way in a standard placement. In other words, if we were to be able to build a straight sidewalk that would conform to the letter of all of the city's ordinances and standards that's where that sidewalk would be along that right of way line. As they build sidewalks to the south they connect very easily because the sidewalk in that location is exactly where it should be. On the north end we couldn't do that without taking out trees and we chose not to do that because we prefer to save the trees. We believe that the sidewalk can continue along it's path that we have shown and come back to the right of way near Albright Road so that as the sidewalk goes into the City of Springdale it is in a standard location

as well. Strictly speaking the frontage there just north of our project belongs to the single family home. I'm not aware of any plans to do anything with the single family home other than to use it as it exists. The likelihood that the sidewalk will be built there seems rather small. Crossover Road at some point is going to be widened, will the Highway Department save the trees? I don't know but we wanted to do what we could to leave them in place.

Shackelford: As I look at this property I view it as an infill development. I think that the applicant has made a point. As I've grown up in this city I've seen this. This property is quickly evolving from a rural area to a not so rural area anymore. I appreciate the fact that this was an older estate type home with a very large tract of land that came with it. Those tracts of land are going to develop as we go forward. I think that the developer has done a great job in basically trying to keep the beauty and integrity of the property in place. Connectivity is very limited based on the development that has already occurred around this property and I think that basically what is proposed is about a best case scenario as this property develops. With that being said, I am going to recommend that we forward to the City Council with a recommendation for approval R-PZD 04-04.00 with all conditions of approval except number three regarding the sidewalk be stricken so that there will be 15 conditions of approval.

Bunch: Second.

Hoover: Is there more discussion? Renee?

Roll Call: Upon the completion of roll call the motion to forward R-PZD 04-04.00 to the City Council was approved by a vote of 8-0-0.

Thomas: The motion carries eight to zero.

C.5.
Library Project
Contingency Increase.

RESOLUTION NO. _____

A RESOLUTION TO INCREASE THE PROJECT CONTINGENCY FOR THE FAYETTEVILLE PUBLIC LIBRARY CONSTRUCTION BY $999,691.00 FROM SETTLEMENT AND BUDGETED ITEMS

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

Section 1: The City Council of the City of Fayetteville, Arkansas hereby increases the project contingency amount for the Fayetteville Public Library construction by $999,691.00. These additional funds come from a settlement and from the budget.

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

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk

C. 6.
Sewer Committee

ORDINANCE NO. _____

AN ORDINANCE TO ENACT A NEW SECTION OF THE FAYETTEVILLE CODE, **§33.112 SEWER COMMITTEE**

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 enacts a new section of the Fayetteville Code, **§33.112 Sewer Committee** as shown below:

"SEWER COMMITTEE

"§33.112 Sewer Committee.

"(A) There is hereby established a Sewer Committee pursuant to state law. The Sewer Committee shall be composed of four aldermen who serve at the pleasure of the entire City Council. The mayor may appoint, subject to City Council approval, all members, (including replacement members) of the Sewer Committee.

(B) The Sewer Committee shall have all powers, duties and responsibilities provided to such committee in A.C.A. §14-235-207, et. seq. All actions and recommendations of the Sewer Committee must be ratified and approved by the City Council to become effective. The City Council expresses its intent to exercise its control of the Sewer Committee to the maximum extent possible pursuant to state law.

(C) The Sewer Committee is also designated advisory authority over the clean water system of the city."

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

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Tentative Agenda
City Council Meeting
April 20, 2004

A meeting of the Fayetteville City Council will be held on April 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: Fire Department's Wellness & Fitness Program Presentation.

Municipal Clerks Week Proclamation

Nominating Committee Report: Dusti Miller – Fayetteville Housing Authority Appointment.

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the April 6, 2004, February 20, 2001 and May 15, 2001 minutes.

2. **Multi-Craft Contractors-Emergency Generator for City Administration Building:** A resolution approving amendment No. 3 to the contract with Multi-Craft Contractors for the purchase and installation of an emergency generator at the City Administration Building in the amount of $41,903.00; and approving a contingency in the amount of $2,095.00.

3. **2004/2005 Drug Enforcement Grant:** A resolution to accept the 2004/2005 Drug Enforcement Grant in the amount of $305,095.00 with a commitment to match it with $75,929.00 in city funds.

4. **Crossland Construction Company Library CO #14:** A resolution approving Change Order #14 to the contract with Crossland Construction Company, Inc. in the amount of $78,454.00 to install landscape irrigation, engineered soil and mulch and low voltage conduit at the New Fayetteville Public Library.

5. **Henard Utility Products-Compost Grinder:** A resolution approving the purchase of a Bandit 3680 "Beast" Compost Grinder by the Solid Waste & Recycling Division from Henard Utility Products in the amount of $239,068.75.

6. **Landers Ford-Fire Department Vehicle Purchase:** A resolution approving the purchase of a Ford Expedition from Landers Ford at the state contract price of $25,811.00 for use by the Fayetteville Fire Department; and approving an additional expenditure of $2,350.00 to equip the vehicle with lights, siren and console.

7. **Ron Blackwell-Water & Sewer Vehicle Purchase:** A resolution approving the purchase of two Ford F550 Trucks for the Water and Sewer Division from Ron Blackwell Ford for a total price of $79,133.76.

8. **Schwarze Industries Street Sweeper Purchase:** A resolution approving the purchase of a Street Sweeper for the Transportation Division from Schwarze Industries in the amount of $139,376.00.

9. **Basic Construction Top Soil Purchase:** A resolution to award a bid to the low bidder, Basic Construction, Inc. in the amount of $50,000.00 to purchase top soil for street and sidewalk projects.

10. **2004 FEMA Fire Act Grant:** A resolution to approve a grant request for a FEMA Fire Act Grant and Agreement to match any received grant funds in an amount equal to 30% of the total budget.

11. **Gregory Park Land-Convey to U.S. Army Reserve Center:** A resolution approving the acceptance of a Quitclaim Deed for approximately 19.38 acres of land from the United States Department of the Army in exchange for conveying a Warranty Deed for approximately 0.412 acres of land to clear title and resolve an encroachment; and authorizing the Mayor and City Clerk to execute any and all documents required therefore.

B. OLD BUSINESS:

1. **Central Emergency Medical Services, Inc.:** A resolution approving the renewal of the contract for services in the amount of $156,000.00 between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville.

2. **ANX 03-5.00 (Dunnerstock Development):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Dunnerstock Development, Inc. located on Rupple Road north of Wedington Drive containing approximately 17.19 acres.

3. **RZN 03-33.00 (Dunnerstock):** An ordinance rezoning that property described in rezoning petition RZN 03-33.00 as submitted by James McCord on behalf of Dunnerstock Development, Inc. for property located on Rupple Road north of Wedington Drive from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

4. **ANX 03-06.00 (Hoskins/Schlegel):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres.

5. **RZN 03-34.00 (Hoskins/Schlegel):** An ordinance rezoning that property described in rezoning petition RZN 03-34.00 as submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

6. **RZN 04-2.00 (Chance & Tuggle):** An ordinance rezoning that property described in rezoning petition RZN 04-02.00 as submitted by Geoff Bates of Keystone Consultants on behalf of David Chance and John Tuggle for property located at West Tackett and Genevieve Avenue containing approximately 7.94 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

C. NEW BUSINESS:

1. **Northwest Arkansas Regional Planning Commission Storm Water Education Contract:** An ordinance to waive competitive bidding and to approve a five year contract for $667,139.00 with the Northwest Arkansas Regional Planning Commission for services by the University of Arkansas Cooperative Extension Service to satisfy portions of the requirements of the NPDES Phase II Stormwater Permit.

2. **R-PZD 04-4.00: Residential Planned Zoning District (Stonewood Gardens):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of the Stonewood Subdivision containing 3.36 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.

3. **VAC 04-3.00: Vacation (Sohraby):** An ordinance approving VAC 04-3.00 to vacate and abandon a portion of an existing utility easement to allow for the eave of an existing home at 2474 Fennchurch Way in the Covington Park Phase I Subdivision as described on the attached map and legal description.

4. **VAC 04-8.00: Vacation (CMN II, Phase II):** An ordinance approving VAC 04-8.00 to vacate and abandon a 20' utility easement located along the boundary of lots 17E and 17F of the CMN Business Park II, Phase II as depicted on the attached legal description.

5. **Library Project Contingency Increase:** A resolution to increase the project contingency in the Library construction contract by $999,691.00 from settlement and budgeted items not fully needed for their designated purpose.

6. **Sewer Committee:** An ordinance to repeal §33.226 and §33.227 Historic District Commission and enact a replacement §33.226 Sewer Committee.

D. INFORMATIONAL:

Council Tour: April 19, 2004

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

April 20, 2004 City Council Meeting

TO: Mayor Dan Coody and the Fayetteville City Council

THROUGH: Stephen Davis, Director of Internal and Financial Services

FROM: Coy Hurd, Project Manager

DATE: March 22, 2004

SUBJECT: Proposal for the purchase and installation of an emergency generator for the City Administration Building

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Recommendation: Staff recommends that City Council pass a resolution authorizing an expenditure of $41,903 with a five percent contingency of $2,095, for a total of $43,998, for the purchase and installation of an emergency generator for the City Administration Building.

Background: On August 20, 2003, the City of Fayetteville entered into a contract with Multi-Craft Company to install three emergency generators for Fire Stations One, Four and Six. This work has since been successfully completed. During that time period, the need for a generator for the City Administration Building was identified by City Staff. An opportunity was recognized for the purchase of this additional generator at a relatively low price through a Change Order to this contract. This additional generator installation was designed and specified by Green Anderson Engineers. Multi-Craft was asked to price the additional work. They propose to purchase, install, and warranty the specified unit for $41,903.

Discussion: The need remains for an emergency generator at the City Administration Building. The proposed price for the unit is reasonable. Multi-Craft has shown that the work will be done in an excellent manner. City Staff now recommends this price be accepted and the work expedited.

Budget Impact: The impact to the budget will be the proposed price of $41,903 and a contingency fund of $2,095, for a total of $43,998. These funds will be drawn from the Building Improvements Account.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE CONTRACT WITH MULTI-CRAFT CONTRACTORS FOR THE PURCHASE AND INSTALLATION OF AN EMERGENCY GENERATOR AT THE CITY ADMINISTRATION BUILDING IN THE AMOUNT OF $41,903.00; AND APPROVING A CONTINGENCY IN THE AMOUNT OF $2,095.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 3 to the contract with Multi-Craft Contractors for the purchase and installation of an emergency generator at the City Administration Building in the amount of $41,903.00. A copy of the Amendment, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a contingency in the amount of $2,095.00.

PASSED and **APPROVED** this 20th day of April 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

CONTRACT AMENDMENT
CITY OF FAYETTEVILLE

MCC JOB # 35241
& 36051

PROJECT:	Fayetteville Fire Station Generators City of Fayetteville
CONTRACTOR:	Multi-Craft Contractors 2300 Lowell Road Springdale, Arkansas 72764
CONTRACT AMENDMENT NUMBER:	3
DATE:	March 23, 2004
CONTRACT AMOUNT:	$103,885.00 (prior to Change Orders)
The Contract is changed as follows:	Install an emergency generator (as specified) at the City Administration Building
The Original Contract Sum:	$103,885.00
Net change by previously authorized by Amendments :	$(36,145)
The Contract Sum prior to this Amendment was:	$67,740.00
The Contract Sum will be increased by this Amendment in the amount of:	$41,903.00

Change Order, page two

The new contract Sum (including this Amendment) will be: $109,643.00

The Contract Time will be unchanged.

Signatures:

Project Manager
City of Fayetteville
Date: 3.29.04

Contractor: Multi-Craft Contractors
2300 Lowell Road
Springdale, Arkansas 72764
Date: 3-29-04

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701
Date

STAFF REVIEW FORM - FINANCIAL OBLIGATION

__XX__ AGENDA REQUEST
__XX__ CONTRACT REVIEW
_____ GRANT REVIEW

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

FROM:

Coy Hurd	Building Services	Financial and Internal Services
Name	Division	Department

ACTION REQUIRED: Required is a resolution authorizing an expenditure of $41,903 and a five percent contingency of $2,095 for the purchase and installation of an emergency generator for the City Administratrion Building.

COST TO CITY:

$43,998.00	$ 510,415.00	Building Improvements
Cost of this request	Category/Project Budget	Program Category / Project Name
4470-9470.5400.00	$ 3,321.79	Other Capital Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02046	$ 507,093.21	Sales Tax Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: Y Budgeted Item ____ Budget Adjustment Attached

Budget Manager — 3-20-04 Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fawkins — Accounting Manager — 3/22/04 Date
Nancy Smith — Internal Auditor — 3/22/04 Date
D.F. Wlutt — City Attorney — ____ Date
Ellice — Purchasing Manager — 3/29/04 Date

STAFF RECOMMENDATION:

[signature] — Division Head — March 22 04 Date

Received in Mayor's Office 3/29/04 Date PH

____ Department Director ____ Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

[signature] — Finance & Internal Services Dir. — 3-29-04 Date

[signature] — Chief Administrative Officer — 4-1-04 Date

New Item: **Yes** **No**

[signature] — Mayor — 4/5/04 Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Rick Hoyt, Chief of Police RHoyt

DATE: April 1, 2004

RE: Request to Apply for 2004/05 Drug Enforcement Grant

Recommendation: Council approves application for the continuation of the Edward Byrne Memorial State and Local Assistance Formula Grant Program to fund the Fourth Judicial District Drug Task Force.

Background: The Edward Byrne Memorial Grant has supported the Fourth Judicial District Drug Task Force since 1991. The City of Fayetteville Police Department has served as the lead agency and is responsible for grant submission and monitoring. This Task Force is comprised of Fayetteville, Springdale, Johnson, Prairie Grove, Lincoln, Farmington, West Fork, Greenland, Elm Springs and Elkins Police Departments and the Washington County Sheriff's Department. The Fourth Judicial Prosecutor and the University of Arkansas Police Department actively supports the Task Force without being represented on the Control Group.

Discussion: This grant award will support seventy-five percent of one sergeant, five officers, and one secretary, as well as, the necessary operating expenses. The remaining twenty-five percent and the non- allowable costs are supplied by participating agencies.

The Task Force is responsible for investigating drug related activities within Washington and Madison Counties with the above listed personnel. During the first nine months of the current grant period, investigators opened 499 separate drug cases and made 438 arrests. Included in these cases is the investigation and dismantling of seventy-four methamphetamine labs, seized 8 pounds of methamphetamine, 7 ounces of cocaine, 6.5 ounces crack cocaine, 30 pounds of marijuana and 18,084 marijuana plants. These illegal activities continue to increase each year but the funding has remained the same for the past two years even though expenses continue to increase.

Budget Impact: The funding provided by this grant along with matching funds and funding for ineligible costs, which is provided by participating agencies support the Drug Task Force. The General Fund's portion of this expense is $75,929.00 and is included in the 2004 budget.

RESOLUTION NO. _____

A RESOLUTION TO ACCEPT THE 2004/2005 DRUG ENFORCEMENT GRANT IN THE AMOUNT OF $305,095.00 WITH A COMMITMENT TO MATCH IT WITH $75,929.00 IN CITY FUNDS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts the 2004/2005 Drug Enforcement Grant in the amount of $305,095.00 and commits to the city's matching share of $75,929.00.

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

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☒ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED: April 25, 2004	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name: City of Fayetteville, Arkansas	Organizational Unit:
Address (give city, county, state, and zip code): 113 W. Mountain Street Fayetteville, Washington, AR 72701	Name and telephone number of the person to be contacted on matters involving this application (give area code)
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 71-6018462	7. TYPE OF APPLICANT: (enter appropriate letter in box) C

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☒ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY:
U. S. Department of Justice
Bureau of Justice Assistance

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 16.579
TITLE: Edward Byrne State and Local Law Enforcement Assistance

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
Multijurisdictional Drug Task Force

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):
Washington and Madison Counties

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project
07/01/04	06/30/05	Third Congressional District	Third Congressional District

15. ESTIMATED FUNDING:	
a. Federal	$ 305,095.00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ 108,936.00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ 414,031.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE 4/25/2004
b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☒ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF INTERGOVERNMENTAL SERVICES

GENERAL PROJECT INFORMATION
(Form IGS 1)

1. Applicant Agency: City of Fayetteville

   Address: 113 W. Mountain, Fayetteville, AR 72701

2. Project Director: Tracey Risley Tele # (479) 587-3510 Fax # (479) 587-3522

   Address: P.O. Box 1988, Fayetteville, AR 72702

   E-Mail Address: trisley@ci.fayetteville.ar.us

3. Fiscal Officer: Judy Cohea Tele # (479) 587-3581 Fax # (479) 587-3522

   Address: P.O. Box 1988, Fayetteville, AR 72702

   E-Mail Address: jcohea@ci.fayetteville.ar.us

4. Project Period: From July 1, 2004 To June 30, 2005

5. Federal Purpose Number: #2 Approved Program Abstract Title
   Multijurisdictional Task Force

6. Identify Counties and/or Cities in Which Program Will Operate:
   Washington and Madison

7. If the Project is Multi-County/City indicate the Contracting Applicant Agency
   City of Fayetteville.

   Other Involved Agencies Washington County Sheriff, Cities of Springdale, Prairie Grove, Lincoln, Farmington, West Fork, Greenland, Elm Springs, Elkins Johnson, 4th Judicial Prosecutor and U of A Police Department

8. Population or Clients to be Served 171,958

9. This Program will be a ____ New Activity, ____ Enhancement of Existing Activities,

   or X Continuation of Project # 03-014 Ending Date June 30, 2004

10. Federal Funds Requested $ 305,095.00 State Match $ 0.00

    Local Match $ 108,936.00 Total $

11. Prior 12-Month Budget for the Service or Activity 414,031

12. Source of Matching Funds Program Income, Washington County Prosecutor, Washington County Sheriff, and Cities of Fayetteville, Springdale, Lincoln, Prairie Grove, Farmington, West Fork, Greenland, Johnson, Elm Springs and Elkins

13. Project Summary Continue the multi-jurisdictional task force with a four member Control Group representing all law enforcement agencies in Washington County. Target major narcotics distributors with an emphasis on methamphetamine dealers and manufacturers. Also, continue to maintain a database of drug related information received from all law enforcment agencies in Washington and Madison Counties. The data base will help prevent law enforcement agencies from spending resources working the same cases.

PROGRAM JUSTIFICATION/EVALUATION

FOURTH JUDICIAL DISTRICT DRUG TASK FORCE

1991

In February 1991, the Fourth Judicial District Drug Task Force (4th JDTF) was formed. The membership included the Washington County Sheriff, Fourth Judicial Prosecutor, University of Arkansas Police, and the municipal police departments of Fayetteville, Springdale, Johnson, Farmington, Lincoln, Prairie Grove, West Fork, and Greenland. The unit consisted of seven sworn officers, a secretary, and a fiscal officer.

During 1991, the combined unit of the Fourth JDTF opened 206 cases. These cases resulted in the arrest of 130 individuals with 129 convictions and a combined total of 279 years of prison time.

1992

In February of 1992 the 4th JDTF continued operations but with a reduced investigative staff. The budget cuts for the grant period forced the reduction of one officer. The City of Johnson dropped out of the control group, which left it a ten-member organization.

The 4th JDTF opened 177 cases and made 155 arrests. These cases resulted in 66 convictions with a combined total of 103.5 years of prison time, 121.5 years in suspended sentences and 91 years deferred prison time. Overall in 1992, the 4th JDTF seized directly or assisted in seizing approximately 123 pounds of marijuana, 12 ounces of cocaine, 8.5 ounces of methamphetamine and 14.6 grams of crack cocaine. Also during 1992, 654 marijuana plants were destroyed.

1993

During this grant period the Task Force worked several major cases which resulted in the disruption of inter-state narcotics trafficking organizations. Three separate investigations were conducted which involved several suspects who were trafficking in large quantities of methamphetamine. One of the cases involved a clandestine methamphetamine lab.

The Task Force investigated a major crack/cocaine distribution organization. Approximately 23 suspects were arrested on various crack/cocaine charges. The quantity and availability of crack/cocaine in the Fayetteville area had been on the rise in our jurisdiction for the past several months.

PROGRAM JUSTIFICATION/EVALUATION

1994

In 1994 the Task Force executed a search warrant in the southeast part of Washington County that netted three arrests, the seizure of $15,000 in currency, nine guns and other assets valuing $36,250. The DEA and the IRS in Sioux City, Iowa City were also investigating these suspects. A second major investigation was a methamphetamine dealer located in Fayetteville. This investigation resulted in the execution of search warrant that netted one arrest, seizures of $5,700 in U.S. Currency, 4 guns and other assets totaling $3,500.

During 1994, the Task Force opened 292 cases with several being tied to inter-state organizations. Approximately 2.5 ounces of crack/cocaine was seized.

1995

During 1995 the Task Force worked several investigations which involved interstate narcotic rings. The first major case involved marijuana, and this investigation netted in excess of 120 pounds of bricked marijuana and the arrests of six suspects. Another case resulted in the execution of a search warrant that lead to the arrests of three suspects and the seizure of approximately five ounces of methamphetamine and over $16,000 in U.S. currency.

In 1995 the Fourth JDTF opened 388 cases and arrested 312 suspects. Two hundred forty seven (247) suspects were convicted on drug charges. These convictions resulted in approximately 417 years of prison time and 303 years of probation.

1996

The 4th JDTF added the Elm Springs Police Department to the Task Force in 1996. This makes a total of eleven law enforcement agencies providing information to the task force.

The most prevalent drug being transported into Northwest Arkansas has changed from marijuana to methamphetamine. The drug quantities the 4th JDTF are able to purchase have risen from grams and 1/8 ounce to ounces and pounds. This trend clearly indicates more drugs are available in the area.
Heroin is being reintroduced into the area. There were three

PROGRAM JUSTIFICATION/EVALUATION

deaths attributed to heroin overdoses.

Methamphetamine is definitely being transported into the area; locals manufacture the substance as well. Three methamphetamine labs have been seized this past year.

1997

During 1997 the task force was able to increase staffing by the addition of an officer assigned from the University of Arkansas. While working methamphetamine cases in the Hispanic community, the Fourth Judicial District, the Nineteenth Judicial District, State Police Narcotics and the DEA have pooled resources and shared officers working in an undercover capacity to make cases in Northwest Arkansas. These efforts resulted in the purchase or seizure of over eight pounds and arrested sixteen individuals capable of selling pounds of methamphetamine.

1998

In the 1998 fiscal year, the Task Force saw a tremendous increase in methamphetamine trafficking, manufacture and abuse. During this fiscal year the Task Force purchased and seized approximately 19.41 pounds of methamphetamine. The Task force purchased and seized approximately 1.2 pounds of cocaine, approximately 66.3 pounds of marijuana and 3000 hits of LSD in this fiscal year. The 4th JDTF ended the 1998 fiscal year opening 405 new cases and seizing $91,481.33 in U.S, currency. Of these cases, 365 were turned over for prosecution giving the Task Force a 90% clearance rate for the year.

1999

The sale of methamphetamine and prevalence of methamphetamine laboratories continue to increase in our area. A joint investigation between the 4th DTF, 19th DTF and the DEA resulted in the seizure of approximately 5 pounds of methamphetamine and 6 pounds of cocaine. During 1999, the 4th DTF made the largest single seizure of LSD in the state of Arkansas by seizing 123,000 micrograms of LSD from a suspect in Fayetteville, Arkansas.

The 4th JDTF has purchased and seized approximately 20.09 pounds of methamphetamine, approximately 7.4 pounds of cocaine, 62.53 pounds of marijuana and seized $314,467 U.S. currency year to date in this fiscal year. We have opened 263 cases in this grant year. This

PROGRAM JUSTIFICATION/EVALUATION

number is down 31 cases from this point in our 1998 grant year.

2000

During the fiscal year 2000, the 4th Judicial Drug Task Force has continued to see an increase of methamphetamine labs and the designer drug, ecstasy. In response to our increasing methamphetamine lab investigations, four investigators attended Clandestine Lab On Site Safety School in Quantico, VA. This training enables these officers to manage a crime scene at a lab site, and to train and recertify additional officers from our jurisdiction. We have requested one additional investigator from the Washington County Sheriff's Department. This investigator will help combat the growing narcotics problem in rural Washington County.

During the sixteen-month fiscal year 2000, the 4th JDTF has seized approximately 12 pounds of methamphetamine, approximately 4.80 pounds of cocaine, approximately 7 ounces of crack cocaine, 136 pounds of marijuana, 97 marijuana plants, 720 ecstasy pills and 66 methamphetamine labs. We have seized $115603.90 in U.S. currency and seven vehicles. We have opened 522 cases in this grant year and made 530 arrests.

2001

Through the grant the Washington County Sheriff's Department was able to add an investigator to the 4th JDTF. This addition staffed the Task Force with five full time investigators and a sergeant. Twelve law enforcement agencies within Washington County actively participate with and provide information to the 4th JDTF. The 4th JDTF and the Drug Enforcement Administration (DEA) continue to cooperate with one another and share information on drug traffickers in the Northwest Arkansas area.

During the first six months (August 2001 thru January 2002) of this shortened fiscal year 2001 the 4th JDTF has seized approximately 3 pounds of methamphetamine, approximately 1½ ounces of cocaine, approximately 19 ounces of crack cocaine, approximately 30 pounds of marijuana and 114 marijuana plants. Thus far, the 4th JDTF has opened 233 cases, made 249 arrests, and seized $32483.00 in U.S. currency and 1 vehicle

PROGRAM JUSTIFICATION/EVALUATION

2002

The Task force has continued to see a large amount of methamphetamine labs in our area. The 4th JDTF has continued to educate the public through methamphetamine awareness classes and share information with the Drug Enforcement Agency (DEA) and other local law enforcement agencies to combat the methamphetamine problem.

During the first nine months of the Task Force's grant year (July 2002 thru March 2003), the 4th JDTF seized approximately 6.32 lbs of methamphetamine, 38 methamphetamine labs, approximately 7.78 ounces of cocaine, approximately 13.20 ounces of crack cocaine, approximately 176.50 pounds of marijuana, and 61 marijuana plants. The 4th JDTF opened 394 cases, made 444 arrests and seized $64,179.00 in U.S currency and five vehicles.

2003

In the 2003 grant year, the 4th JDTF experienced an increase the number of seized methamphetamine labs. The 4th JDTF will continue to educate the public and the area businesses on the hazards of methamphetamine manufacturing. The 4th JDTF cooperated with the DEA on several successful investigations. Two of the investigations resulted in the seizure of three pounds of methamphetamine and 47 pounds of pseudoephedrine.

During the first nine months of the task force's grant year (July 03 thru March 04), the 4th JDTF seized approximately 8 lbs of methamphetamine, 74 methamphetamine labs, 7 ounces of cocaine, 6.5 ounces of crack cocaine, 30 lbs of marijuana and 18,084 marijuana plants. The 4th JDTF opened 499 cases, made 438 arrests, and seized $94,160.57 in U.S currency and four vehicles.

Problem Statement

Clandestine methamphetamine laboratories continue to be a problem in our area. Over the past five years we have found, methamphetamine lab precursors and reagents are easily obtained by the public, the methamphetamine cook times are decreasing, and more suspects are involved the in the chemical buying process. The task force has also seen an increase of smaller labs that are easily concealed and are often found in vehicles that make the detection of the labs difficult. In 2002, the 4thJJTF responded to 52 methamphetamine labs. In 2003, the drug task force had a 35 percent increase in lab seizures, eradicating 79 methamphetamine labs.

The 4th JDTF has developed a good working relationship with businesses in our area that sell items required to process methamphetamine. The area businesses cooperate by contacting the 4th JDTF when these items have been purchased and provide information on the suspects making the purchase. The 4th JDTF will continue to educate the public about methamphetamine manufacturing and its associated hazards.

The 4th JDTF continues to make arrests and obtain intelligence on large quantities of methamphetamine being transported to Northwest Arkansas. The large quantities of methamphetamine seized by the task force have come from the southern Border States and the West Coast.

The 4th JDTF has also experienced an increase in the amount of crack and powder cocaine in this area. Most of the powder cocaine and crack cocaine are coming from the eastern Arkansas.

FORM IGS-3

PROJECT NARRATIVE

DRUG LAW ENFORCEMENT PROGRAM

GOALS AND OBJECTIVES

Goal

Continue operations of a multi-jurisdictional drug law enforcement task force to remove specifically targeted major organized crime narcotics trafficking conspiracies, offenders and clandestine methamphetamine lab operators through investigations, arrests, prosecutions, and convictions.

Objectives

1. Continue to incorporate major drug investigations in the Washington and Madison County area into a single and collective investigative effort executed by a "Control Group" of local law enforcement agencies supported with federal funding.

2. Assist area law enforcement agencies establish a collective interdiction unit that combats drug couriers that travel on Interstate I-540 and highways within the jurisdiction of the 4th JDTF.

3. Increase the number of arrests and prosecution of drug offenders who operate in the Northwest Arkansas area by 8 percent.

4. Maintain the probability of criminal and civil forfeitures in drug convictions. This is based on the efforts in objective number three.

5. Continue investigations with the assistance of the Drug Enforcement Administration of Mexican methamphetamine trafficking organizations throughout Northwest Arkansas.

6. Continue to maintain a system to collect photographs and personal information of all Methamphetamine suspects identified tied to the Mexican drug trafficking organizations.

7. Continue to educate and inform law enforcement, firefighters, Arkansas State Probation and Parole, Department of Human Service and the general public on methamphetamine lab activities through organized classes lead by certified instructors and through the

FORM IGS-3

PROJECT NARRATIVE

DRUG LAW ENFORCEMENT PROGRAM

media by listing common traits of clandestine methamphetamine lab operators. Encouraging citizens and local retailers, where precursor supplies can be purchased, to contact the local crime stoppers hotline with tips.

Critical Elements

Target Selection

The Control Group will give guidance and make recommendations to the DTF as to individual targets for investigative projects. Special consideration will be given to the probability of a successful arrest, prosecution, and criminal and civil forfeitures.

Drug offenses will be targeted by the Control Group as the group determines the most prevalent and readily available drugs in their area. The Task Force will also take into consideration the types of drugs, which contribute, to other criminal behavior. In this area those drugs are methamphetamine, crack, cocaine, marijuana, ecstasy and methamphetamine laboratories.

Case and Resource Assignment

The Control Group will name an Operations Coordinator to assign cases. The coordinator will report on a monthly basis to the control group so this activity can be closely monitored. Also on a monthly basis the Control Group receives a financial report from the Fiscal Officer.

Case Monitoring

The Operations Coordinator reviews all intelligence information received in the office. This information is gathered from all other law enforcement agencies in our area, as well as citizens calling in information. He assigns follow-up on intelligence based on the location of the criminal activity and the experience of the officer to handle the case. He also monitors the case throughout the process. All open cases are updated with a status form every sixty days until case is closed by arrest. This procedure prevents cases from being lost in the shuffle and not

FORM IGS-3

PROJECT NARRATIVE

DRUG LAW ENFORCEMENT PROGRAM

prosecuted on a timely basis.

CER-1 Assurances

STATE OF ARKANSAS
DRUG LAW ENFORCEMENT SUBGRANTS
CERTIFIED ASSURANCES
Page 1 of 3

1. The applicant assures that federal drug law enforcement funds made available under the Anti-Drug Abuse Act will not be used to supplant state and local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for drug law enforcement activities;

2. The applicant assures that fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Bureau of Justice Assistance and the Department of Finance and Administration shall prescribe shall be provided to assure fiscal control, proper management, and effective disbursement of funds received under the Act;

3. The applicant assures that it shall maintain such data and information and submit the prescribed reports in the prescribed formats at the prescribed times as the Bureau of Justice Assistance and the Department of Finance and Administration may require;

4. The applicant assures that at the end of each federal fiscal year that the project is in force, and at the end of the project period, it will submit a performance report to the Department of Finance and Administration in a manner to be prescribed;

5. The applicant certifies that the program contained in this application meets all the requirements, and that all the information is correct, and that the applicant will comply with all provisions of the Anti-Drug Abuse Act of 1986 and all other applicable state and federal laws;

6. The applicant assures that before any budgetary or programmatic amendment is made to an approved program, it will submit such an amendment to the Department of Finance and Administration for review;

7. The applicant assures that it will comply, and all its subgrantees and contractors will comply, with the non-discrimination requirements of the Omnibus Crime Control and Safe Street Act of 1968, as amended, 42 USC 3789(d), or Victims of Crime Act (as) appropriate); Title VI of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; Subtitle A, Title II of the American with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39.

8. The applicant assures that in the event a federal or state court or federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (OCRC) of the Office of Justice Programs;

9. The applicant assures that if it is required to formulate an Equal Employment Opportunity Program (EEOP) in accordance with 28 CFR 42.301, et. seq., it should submit a certification to the state that it has a current EEOP on file which meets the requirements therein;

10. The applicant assures that it will comply with the provisions of the Department of Finance and Administration's "Drug Law Enforcement Subgrant Procedures and Financial Management Guidelines";

As required by
Department of Justice

CER-1 Assurances

STATE OF ARKANSAS
DRUG LAW ENFORCEMENT SUBGRANTS
CERTIFIED ASSURANCES
Page 2 of 3

11. The applicant assures that it will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part II, Applicability of Office of Management and Budget Circulars; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; and Part 63, Floodplain Management and Wetland Protection Procedures;

12. The applicant assures that in addition to all other audit requirements, it will allow the Division of Legislative Audit or any other independent or internal auditors of the Department of Finance and Administration to have access to the applicant's records and financial statements;

    (A) as may be necessary for the Department of Finance and Administration to comply with the 1996 Single Audit Act Amendments and Circular A-133, and other rules and/or regulations governing financial accounting and auditing guidelines, principles, and procedures; and

    (B) as may be requested by the Department of Finance and Administration to comply with any State or local government rules and/or regulations;

13. The applicant assures that it will fully participate in the compilation of statistical information as required by state agencies, i.e., providing complete finger print arrest information;

14. The applicant assures that both federal and matching funds used for this project will be used exclusively to support defined drug law enforcement activities, and will not be used to support any general purpose law enforcement or other activity maintained by the applicant;

15. The applicant assures that if the grant funds are used to support a Task Force, the Task Force Board of Directors or 'Control Group' will hold regularly scheduled meetings at least monthly, and will provide the State Drug Director with copies of the agenda and minutes of each meeting;

16. The applicant assures that if grant funds are used to support a Task Force, the Task Force Administrator and the Board of Directors will develop and/or maintain a detailed policy and procedures manual for the guidance of task force operations.

17. The applicant assures that all proposals for out of state travel for conference and training will be submitted to the Arkansas Law Enforcement Committee for approval prior to any expense being incurred.

18. The applicant agrees to comply with the provisions of the federal Fair Labor Standards Act regarding the preparation and retention of time and attendance records affecting persons employed through financial assistance provided by the grant. The applicant also agrees to accept full responsibility for any compensatory time allowance or overtime pay obligations for persons employed within the project <u>not</u> funded by the grant.

As required by
Department of Justice

CER-1 Assurances

STATE OF ARKANSAS
DRUG LAW ENFORCEMENT SUBGRANTS
CERTIFIED ASSURANCES
Page 3 of 3

19. The applicant agrees that no officer or employee of its agency shall be involved in a decision that affects the applicant during the time of employment with the knowledge that there is an opportunity to further their interest as set forth in the Department of Justice, Office of Justice Programs Financial Guide.

CERTIFICATION

I certify that the program proposed in this application meets applicable requirements of the Anti-Drug Abuse Act, that all the information presented is correct, and that the applicant will comply with the provisions of the Act and all other applicable federal laws and applicable state laws and regulations.

(Signature of Contracting Official)	April 20,2004 (Date)
Dan Coody (Typed Name)	Mayor (Title)

113 W. Mountain Street Fayetteville, AR. 72701
(Address)

(479) 575-8330 (Area Code/Telephone Number)	(479) 575-8256 (Area Code/Fax Number)

As required by
Department of Justice

CER-3 Audit Cost

CERTIFICATION OF AUDIT COST

As the Contracting Official for a Drug Law Enforcement Program subgrant to the organization listed below, I certify that the OMB Circular A-133 audit status is an accurate projection of federal fund expenditures for the fiscal year impacted by this grant, based on information presently available to me. Based on these projections, the audit status of the referenced organization will be as indicated below.

_____ AUDIT STATUS ONE: PROJECT AUDIT COST

The applicant agency will expend less than $500,000 from all federal sources during its fiscal year. The Department of Finance and Administration will contract for audit services applicable to the Drug Law Enforcement Program subgrant. The applicant will not budget audit funds.

_____ AUDIT STATUS TWO: OVERALL SINGLE AUDIT COST

A single audit must be procured by the applicant agency when the applicant agency expends $500,000 or more in federal funds from all sources during its fiscal year. Under these circumstances, the applicant agency may take one of two courses in paying for single audit costs. Check either (A) or (B) below to show your intent.

(A) _X_ The applicant agency will pay for the cost of the single audit from its own resources.

(B) ____ The applicant agency will develop an equitable formula for assigning single audit cost to each federal program from which grants are received.

If you checked item (B), complete the grants listing below for your most recent fiscal year, even if you must use estimated data. This information will serve to verify the need for a single audit of your finances during the fiscal year this grant will be active.

FEDERAL FUNDS EXPENDITURES

Name of Federal Agency	Most Recent Fiscal Year	Federal Dollars Expended

(Use supplementary listing if needed)

CER-3, Page 2

ESTIMATED TOTAL COST OF SINGLE AUDIT $_____

ESTIMATED SHARE OF SINGLE AUDIT COST
TO BE PAID WITH DLEP GRANT FUNDS $_____

Dan Coody	Mayor
Printed Name of Contracting Official	Title and Organization
	April 20, 2004
Signature	Date

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonpro-curement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over $100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

OJP FORM 4061/6 (3-91) REPLACES OJP FORMS 4061/2, 4061/3 AND 4061/4 WHICH ARE OBSOLETE.

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such convic-tion. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not indentified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

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

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

71-6018462

4. Typed Name and Title of Authorized Representative

5. Signature

6. Date

April 20, 2004

*U.S. Government Printing Office: 1996 - 405-037/40014

Disclosure of Lobbying Activities

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse side for instructions.)

Public Reporting Burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

1. Type of Federal Action:
☐ a. contract
☐ b. grant
☐ c. cooperative agreement
☐ d. loan
☐ e. loan guarantee
☐ f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
☐ b. initial award
☐ c. post-award

3. Report Type:
☐ a. initial filing
☐ b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee Tier _____, if known:

Congressional District, if known:

5. If Reporting Entity in No. 4 is Subawardee, enter Name and Address of Prime:

Congressional District, if known:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, if applicable: _____

8. Federal Action Number, if known:

9. Award Amount, if known:
$

10a. Name and Address of Lobbying Registrant
(if individual, last name, first name, MI):

b. Individuals Performing Services (including address if different from No. 10a.)
(last name, first name, MI):

11. Information requested through this form is authorized by Sec.319, Pub. L. 101-121, 103 Stat. 750, as amended by sec. 10; Pub. L. 104-65, Stat. 700 (31 U.S.C. 1352). This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: Dan Coody

Title: Mayor

Telephone No.: (479)575-8330 Date: 4/20/2004

Federal Use Only

Authorized for Local Reproduction
Standard Form-LLL (1/96)

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

CER-7 Employment of Qualified Personnel

CERTIFICATION OF EMPLOYMENT OF QUALIFIED PERSONNEL

By acceptance of this grant provided through the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program (Drug Law Enforcement Program) I certify the following:

1) All personnel employed on a salaried or contractual basis, and who function as law enforcement personnel under my authority for the purposes identified in this grant will be currently certified by the Arkansas Law Enforcement Training Academy, are in training at the Arkansas Law Enforcement Training Academy, or have applied and are awaiting admission to the Academy.

   For those personnel who are not certified and who are awaiting admission to the Academy, I agree to their participation in training activities designated as mandatory pre-Academy training by the Law Enforcement Committee of the Arkansas Alcohol and Drug Abuse Coordinating Council.

2) All personnel other than attorneys and law enforcement officers who are employed for purposes identified in this grant and who are paid from grant or grant matching funds have been determined to be qualified for the position they hold, based on my review of their education, training and experience.

Dan Coody
Printed Name

Mayor
Title

Signature of Contracting Official

April 20, 2004
Date

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
___ CONTRACT REVIEW
X GRANT REVIEW

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

FROM:

Rick Hoyt	Police	Police
Name	Division	Department

ACTION REQUIRED: Approval to accept the 2004 2005 Drug Enforcement Grant in the amount of $305,095.00. The 2004 budget includes the City of Fayetteville's matching funds and funds to cover ineligible expenses. The portion for the 2005 expenses will be included in the 2005 budget.

COST TO CITY:

75,929.00	85,000.00	Transfer to Drug Enforcement
$343,462.00	$ 343,462.00	Drug Enforcement
Cost of this request	Category/Project Budget	Program Category / Project Name
1010-2900-7602.93	0	Transfer to Drug Enforcement
Multiple	$ 90,504.00	Drug Enforcement
Account Number	Funds Used to Date	Program / Project Category Name
		General
	$ 252,958.00	Drug Enforcement Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ___ Budget Adjustment Attached

Budget Manager — 4/3/04 Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — 4/2/04 Date
Internal Auditor — 4/2/04 Date
City Attorney — 4/2/04 Date
Purchasing Manager — Date

STAFF RECOMMENDATION: Approval to apply for the 2004 2005 Drug Law Enforcement Grant.

Division Head — Date
Department Director — 4-1-04 Date
Finance & Internal Services Dir. — 4-2-04 Date
Chief Administrative Officer — 4-5-04 Date
Mayor — 4/5/04 Date

Received in Mayor's Office 4/2/04 Date 4/1

Cross Reference:

Previous Ord/Res#: ___

Orig. Contract Date: ___

Orig. Contract Number: ___

New Item: Yes No

ENTERED 4/2/04 TCM

City Council Meeting of April 20, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Louise Schaper, Executive Director, Library

Date: March 28, 2004

Subject: Change Order #15 to contract with Crossland Construction

RECOMMENDATION

Approve a contract adjustment in the amount of $78,454.000 with Crossland Construction Company Inc. for Change Order #14 which covers (1) landscape irrigation; (2) rooftop garden engineered soils; (3) low voltage conduit work per Exhibit C of the original contract dated May 21, 2002 with Crossland Construction Company.

BACKGROUND

This contract adjustment is for items included in the project budget, but were deferred from the Crossland Contract.

1. $30,417.00 to provide landscape irrigation.
2. $23,960.00 to provide and install engineered soils and provide 49 cubic yards of mulch material delivered to roof top garden.
3. $9,657.00 for low voltage conduit work.
4. $20,781 for low voltage conduit work.

DISCUSSION

This change order is for items that were deferred from the original contract and are budgeted. The low voltage conduit work was initiated with a constructive change directive (CCD); we are asking that the remaining $20,781 funds be added to the Crossland contract.

BUDGET IMPACT

These items are in the new main library building project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER #14 TO THE CONTRACT WITH CROSSLAND CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF SEVENTY-EIGHT THOUSAND FOUR HUNDRED FIFTY-FOUR DOLLARS ($78,454.00) TO INSTALL LANDSCAPE IRRIGATION, ENGINEERED SOIL AND MULCH, AND LOW VOLTAGE CONDUIT AT THE NEW FAYETTEVILLE PUBLIC LIBRARY.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves Change Order #14 to the contract with Crossland Construction Company, Inc. in the amount of Seventy-Eight Thousand Four Hundred Fifty-Four Dollars ($78,454.00) to install landscape irrigation, engineered soil and mulch, and low voltage conduit at the new Fayetteville Public Library. A copy of Change Order #14, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 20th day of April 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

Date: December 11, 2002, rev. 1/16/03, 1/23/03, 5/5/03, 9/29/03; 11/12/03; 3/25/04; 4/5/04

To: Fayetteville City Council Aldermen
From: Louise Schaper, Executive Director, Fayetteville Public Library
Subject: Blair Library Project Budget and Contract Approvals

This table identifies those requests related to the construction of the Blair Library that Council has approved, as well as forthcoming requests. Our intent is to ensure that Council is aware of all requests that are within our $23,341,655 budget for the project as approved by the FPL Board on May 2, 2002, as well as those items that are outside of this budget. Some items will be funded and/or procured by the FPL Foundation including most furnishings, some plant materials, and some technology items.

Blair Library Construction, Furnishing and Equipping

Item	Within budget?	Source(s)	Budget	Est. date approval	Date Item Approved	Amount	Notes
Crossland contract for construction	Yes	sales tax + private			5/21/02	$17,633,931	Includes $221,995 for off-site improvements from CIP funds
Contingency	Yes	sales tax + private	$830,000	4/20/04 (remainder)	5/21/02	$700,000	$167,676 remaining of approved contingency
Exterior cladding: APC replacement	Yes	sales tax + private	$949,658	11/02	11/19/02	$402,896	APC at entrance and brick will clad lintels + stairwell towers. Added to Crossland contract.
Low voltage equipment	Yes	sales tax + private			10/21/03	$206,701	*Added to Crossland contract.*
Low voltage conduit	Yes	sales tax + private		4/20/04		$24,077 *(pending)*	Deferred from contract
Landscape	Yes	sales tax + private		4/20/04		$54,377 *(pending)*	*Deferred from contract*
Interior signage	Yes	sales tax + private		4/20/04			*Deferred from contract*
AV Equipment	Yes	sales tax + private		4/20/04			*Deferred from contract*
Meeting room enhancements	Yes	sales tax + private		4/20/04			*Deferred from contract*
Technology related items	Yes	sales tax + private	$470,000	4/20/04			
Furnishings	Yes	private	$980,000		3/16/04	$51,085	Shelving; remainder by private funds
Smart library, e.g. conveyor, self-check, RFID	Yes	sales tax + private	$659,751	5/03	5/03	$395,632	Conveyor
							RFID
							Self-check
Moving costs	Yes	sales tax + private	$30,000	4/20/04			

This page identifies those items related to off-site improvements (utility burial, drainage, sidewalks etc.) approved in CIP ($671,995). Because additional off-site improvements have been requested by City departments and will be funded by these departments we list them here as well. We will, as those items come up, list any additional CIP items approved in 2003 for use in 2004, i.e. signage and landscape.

CIP Approved Off-Site Improvements Related to Blair Library

Item	Within budget?	Source(s)	Budget	Est. date approval	Date Approved	Amount	Notes
Off-site improvements (see first item above)	Yes	Off-site CIP	$221,995		5/21/02	$221,995	In Crossland Contract, but funded from CIP site improvements project. Includes sidewalks etc.
West Avenue underground utilities	Yes	Off-site CIP	$101,806		10/21/03	$101,806	West Ave underground utility permanent power. Vendor is AEP/SWEPCO.
West Avenue underground utilities to residences	Yes	Off-site CIP	$110,117		11/18/03	$110,117	Addition to Crossland contract for installation of underground utilities to seven housing structures adjacent to Blair Library on west side of West Avenue.
School Street utility burial	Yes	Off-Site CIP	$186,395.		3/16/04	$186,395	Utility burial AEP/SWEPCO; there is a "rock clause" in the contract.

Additional Improvements to Blair Library

Item	Within budget?	Source(s)	Budget	Est. date approval	Date Approved	Amount	Notes
CIP Approved Improvements Related to Blair Library	Not in library budget. In Water & Sewer Funds	Water and Sewer Funds	$41,342	11/18/03	11/18/03	$41,342	Improvements to water and sewer that were identified after the contract was signed with Crossland. Includes new 6" waterlines in Mountain; 8" waterline in School; 8" sanitary sewer in Rock and 12" waterline in Rock. These improvements are requested to correct leaking, deteriorated and undersized old water and sewer lines in the streets adjacent to Blair Library.

AmirmoezFosterHaileyJohnson

AFHJ

Architects & Planners

MEMORANDUM

March 29, 2004

To: Mayor Dan Coody

Copy: Bob Kohler
Sean Wagner
Bill Browner

From: Jim Foster

Reference: Fayetteville Public Library, Change Order 14

This Change Order covers landscape irrigation, engineered soils and mulch for the rooftop garden and low voltage conduit rough-in authorized under two Construction Change Directives for a total increase in the Contract Sum of $78,454. These are further explained in the Change Order attachment.

Please advise Bob Kohler or me if any items require information. After approval by the City, retain the original for City record and return all copies to me for distribution.

Post Office Box 790 • 100 West Center, Suite 302 • Fayetteville, AR 72702 • 479-442-5565 • FAX 479-442-8849

2000 EDITION

AIA DOCUMENT G701-2000

Change Order

(Instructions on reverse side)

PROJECT:
(Name and address)

FAYETTEVILLE PUBLIC LIBRARY
401 WEST MOUNTAIN STREET
FAYETTEVILLE ARKANSAS 72701

TO CONTRACTOR:
(Name and address)

CROSSLAND CONSTRUCTION COMPANY INC
ATTENTION: JOHN PRIEST – PROJECT MANAGER
2510 WEST HUDSON ROAD
ROGERS ARKANSAS 72756

CHANGE ORDER NUMBER:	14	OWNER ☐
DATE:	24 March, 2004	ARCHITECT ☐
ARCHITECT'S PROJECT NUMBER:	2000073-00	CONTRACTOR ☐
CONTRACT DATE:	21 MAY 2002	FIELD ☐
CONTRACT FOR:	GENERAL CONSTRUCTION	OTHER ☐

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives.)

Provide for changes to the Contract Documents as listed on "Attachment to Fayetteville Public Library Change Order #14"

The original (Contract Sum) ~~(Guaranteed Maximum Price)~~ was $ **17,633,931.00**

The net change by previously authorized Change Orders $ **1,347,907.70**

The (Contract Sum) ~~(Guaranteed Maximum Price)~~ prior to this Change Order was $ **18,981,838.70**

The (Contract Sum) ~~(Guaranteed Maximum Price)~~ will be (increased) ~~(decreased)~~

~~(unchanged)~~ by this Change Order in the amount of $ **78,454.00**

The new (Contract Sum) ~~(Guaranteed Maximum Price)~~ including this Change Order will be $ **19,060,292.70**

The Contract Time will be ~~(increased) (decreased)~~ (unchanged) by **----** (**0**) days.

The date of Substantial Completion as of the date of this Change Order therefore is **31 JULY 2004**

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive for which the cost or time are in dispute as described in Subparagraph 7.3.8 of AIA Document A201.

Not valid until signed by the Architect, Contractor and Owner.

AFHJ ARCHITECTS **PO BOX 790** **FAYETTEVILLE, AR 72702**	**CROSSLAND CONST. CO. INC.** **PO BOX 907** **ROGERS, AR 72756**	**CITY OF FAYETTEVILLE** **113 WEST MOUNTAIN ST** **FAYETTEVILLE, AR 72701**
~~ARCHITECT~~ *(Typed name)* Associate Architect	CONTRACTOR *(Typed name)*	OWNER *(Typed name)*
(Signature)	*(Signature)*	*(Signature)*
JAMES FOSTER	**JOHN PRIEST**	**MAYOR DAN COODY**
BY	BY	BY
24 MAR 04	3/24/04	
DATE	DATE	DATE

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AIA DOCUMENT G701-2000
CHANGE ORDER

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The American Institute
of Architects
1735 New York Avenue, N.W.
Washington, D.C. 20006-5292

ATTACHMENT TO FAYETTEVILLE PUBLIC LIBRARY CHANGE ORDER #14

1. Provide landscape irrigation in accord with Proposal Request 29 for an increase in Contract Sum of	$30,417.00
2. Provide and install engineered soils and provide 49 cubic yards mulch material delivered to roof top garden per Proposal Request 31, as revised for an increase in Contract Sum of	$23,960.00
3. Incorporate into the Contract Sum the value of low voltage conduit work completed between December 17, 2003 and January 20, 2004 under Construction Change Directive 6. Apply the balance in CCD #6 of $9,657.00 for continuing this work. CCD #6 is now void. Increase the Contract Sum	$9,657.00
4. Under Construction Change Directive #7 incorporate into the Contract Sum the value of low voltage conduit work completed between December 17, 2003 and March 2, 2004 beyond the maximum of CCD #6. CCD #7 with an initial value of $25,000 shall have a balance of $11,124.00 available for continuing this work. Increase the Contract Sum	$14,420.00
SUMMARY OF CHANGE TO CONTRACT SUM, INCREASE	**$78,454.00**

STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

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

FROM:

Louise Schaper	Fayetteville Public Library	General Government
Name	Division	Department

ACTION REQUIRED: Approve a contract adjustment in the amount of $78,454.00 with Crossland Construction Company Inc. for Change Order #14 including (1) landscape irrigation; (2) structural soils; and (3) low voltage conduit work per Exhibit C of the original contract dated May 21, 2002 with Crossland Construction Company.

COST TO CITY:

$ 78,454.00	$ 8,950,917	New Library
Cost of this request	Category/Project Budget	Program Category / Project Name
4150-9150-580400	$ 6,412,911	New Library
Account Number	Funds Used to Date	Program / Project Category Name
99073-1	$ 2,538,006	Library Construction Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 3-31-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 3/31/04
Internal Auditor — Date: 3/31/04
City Attorney — Date: 4/2/04
Purchasing Manager — Date: 4/1/04

STAFF RECOMMENDATION:

Division Head — Date: 3/30/04
Department Director — Date:
Finance & Internal Services Dir. — Date: 4-3-04
Chief Administrative Officer — Date: 4-4-04
Mayor — Date: 4/5/04

4/2/04 PH.

Cross Reference

New Item: **Yes** **No**

Previous Ord/Res#: ____

Orig. Contract Date ____

Orig. Contract Number ____

ENTERED 3/31/04

CITY OF FAYETTEVILLE
FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: March 31, 2004

Subject: Purchase of Replacement Compost Grinder

RECOMMENDATION: That City Council approve the purchase of a Bandit 3680 "Beast" Compost Grinder from Henard Utility Products for the bid price of $239,068.75.

BACKGROUND: The new grinder will replace unit #941, a 1992 Morbark Tub Grinder that is no longer dependable or economical for regular daily use. The lowest bid from Henard Utility Products meets all specifications. This machine was demonstrated to City staff and members of the Equipment Committee. Staff consensus was that production and performance of the Bandit machine was slightly superior to the Vermeer in demonstration.

Funds for this purchase are available in 9700.1920.5802.00, Project #02080.1.

The purchase of this unit was approved by the Equipment Committee at the meeting of March 30, 2004.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF A BANDIT 3680 "BEAST" COMPOST GRINDER BY THE SOLID WASTE & RECYCLING DIVISION FROM HENARD UTILITY PRODUCTS IN THE AMOUNT OF $239,068.75.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of a Bandit 3680 "Beast" Compost Grinder by the Solid Waste & Recycling Division from Henard Utility Products in the amount of $239,068.75.

PASSED and **APPROVED** this 20th day of April 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Solid Waste Program: Compost Date of Request: 3/24/2004

Acct.# Currently Charged: 5500.5070. Acct. # to be Charged: 5500.5070

Expansion ___ or Replacement X Date Required: ___

Unit # for Vehicle being Replaced: 941 Unit # for Expansion/Replacement: 9059

Purchase Price of Exp./Replace Vehicle: 239,068.75 CIP Budget / Project # 9700.1920.5802 02080.1

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 3,174.50 Maintenance: 704.50 Overhead: 798.50

# of Months Budgeted: 12.00 Total Budgeted: 56,130.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 3,159.00 Maintenance: 500.00 Overhead: 1,054.00

# of Months to be in Service for Current Year: 6.00

Current Year Expense, New: 28,278.00

Current Year Expense, Old: ~~21,036.00~~ 28,065.00

Total Current Year Expense: ~~49,314.00~~ 56,343

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Bandit Compost Grinder, 3680 Beast

Justification for expansion/replacement: (Attach Additional Sheets If Necessary)

Unit #941 has exceeded its life expectancy and is no longer reliable. We experience too much down time and maintenance costs are very high.

Approval Signatures:

Division Head — 3/25/04 Date

Finance & Internal Services Dir. — 3-29-04 Date

Fleet Operations Superintendent — 3/25/04 Date

Chief Administrative Officer — 3-29-04 Date

Budget Manager — 3-26-04 Date

Mayor — 3/30/04 Date

Department Director — 3.26.04 Date

Please return original form to Fleet when signed by all.

CITY OF FAYETTEVILLE

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman
Kyle Cook
Lioneld Jordan
Don Marr
Billy Sweetser

From: David Bragg, Fleet Operations Supt.

Date: March 25, 2004

Subject: Purchase of Replacement Compost Grinder

Bids were opened on March 10, 2004 for a horizontal wood waste grinder for use by Solid Waste Division. Three bids were received:

Henard Utility Products	Searcy, AR	Bandit 3680 "Beast"	$239,068.75
Vermeer MidSouth, Inc.	Springdale, AR	Vermeer HG 6000	$242,543.00
Morbark, Inc.	Winn, MI	Morbark 4600 Wood Hog	$268,847.00

The lowest bid from Henard Utility Products of Searcy meets all specifications. This machine was demonstrated to City staff and members of the Equipment Committee. Staff consensus was that production and performance of the Bandit machine was slightly superior to the Vermeer in demonstration. Both Bandit and Vermeer indicated ability and willingness to provide substitute or additional machines during and after the warranty period. Current rental rates quotes by Bandit were substantially lower.

I recommend acceptance of the lowest bid from Henard Utility Products in the amount of $239,068.75.

This is a replacement for unit #941, a 1992 Morbark tub grinder that is no longer dependable or economical for regular daily use. Funds for this purchase are available in 2004 Fleet Replacement Project Account 02080 – Other vehicles and equipment.

APPROVED
3-30-4

City Of Fayetteville

(Not a Purchase Order)

Vendor # 395		Vendor Name: HENARD UTILITY PRODUCTS				Requisition No.	Date: 3/29/2004		
Address:				Fob Point:		P.O Number	Expected Delivery Date:		
City:		State:		Zip Code	Ship to code: 050	Mail Yes:__ No:_XX_ / Taxable Yes:_XX_ No:___			
Requester BARBARA OLSEN				Requester's Employee # 1940		Divison Head Approval	Quotes Attached Yes:___ No:___		
						Extension: 495			
Item:	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Bandit Compost Grinder, 3680	1	EA	$239,068.75	$239,068.75	9700.1920.5802.00	02080.1		
2	"Beast", per bid specs, to be unit		EA		$0.00				
3	#9059, Fixed Asset #709059		EA		$0.00				
4			EA		$0.00				
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

_____

Subtotal: _____ 239,068.75

Tax: _____ TAX EXEMPT

Total: _____

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

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

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of purchase of Bandit Compost Grinder 3680 Beast from Henard Utility Products for the bid price of $239,068.75.

COST TO CITY:

$239,069.00	$ 583,325.00	Fleet - Other Vehicles & Equipmt
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 26,921.00	Vehicles and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02080.1	$ 556,404.00	Shop
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 4/1/04

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fairchild — Accounting Manager — Date: 4/1/04
Nancy Smith — Internal Auditor — Date: 4/1/04
D. P. White — City Attorney — Date: 4/1/04
P Vice — Purchasing Manager — Date: 4/1/04

STAFF RECOMMENDATION:

[illegible] — Division Head — Date: 3/31/04
[illegible] — Department Director — Date: 4/2/04
[illegible] — Finance & Internal Services Dir. — Date: 4-2-04
Hugh Earnest — Chief Administrative Officer — Date: 4-5-04
Dan Coody — Mayor — Date: 4/5/04

Received in Mayor's Office 4/2/04
Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: **Yes** **No**

ENTERED
3-31-04
AW

CITY OF FAYETTEVILLE
FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: March 31, 2004

Subject: Purchase of 2004 Ford Expedition for the Fire Department

RECOMMENDATION: That City Council approve the purchase of a Ford Expedition for the Fire Department from the State Contract prices from Landers Ford of Little Rock.

BACKGROUND: The Fire Department has budgeted for replacement of two light duty vehicles in 2004. Changing needs of the Department indicate a need for change in some vehicle types. Battalion Fire Chiefs are currently using #1090, a 2002 4 x 4 Ford Explorer, but they have a need for increased interior space and load capacity. The Fire Department has requested a Ford Expedition or equal vehicle for this purpose. Unit #1090 will be assigned to Greg Riley who is presently driving unit #1050 (a 1999 Explorer.) Unit #1050 will go to Rick McCurdy who is presently driving #325 (an F350 pickup.) Unit #325 will be returned to Fleet.

The second light duty vehicle to be replaced is #2010 (a 1997 Ford Ranger.) Chief Bosch (who is presently driving unit #1049) will be getting a new Ford Taurus. Unit #1049 will be assigned to Terry Lawson who is presently driving #2010. Unit #2010 will be returned to Fleet. The purchase of the Ford Taurus was approved by the Equipment Committee in their meeting of March 30th, 2004. As the purchase price is under $20,000 ($12,770.00), the Purchase Requisition has been sent to Purchasing in accordance with City policy that does not require it to go before Council as an Agenda item.

Funds for this purchase are available in 9700.1920.5802.00, Project #02086.1.

The purchase of this unit was approved by the Equipment Committee at the meeting of March 30, 2004.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF A FORD EXPEDITION FROM LANDERS FORD AT STATE CONTRACT PRICE OF TWENTY-FIVE THOUSAND EIGHT HUNDRED ELEVEN DOLLARS ($25,811.00) FOR USE BY THE FAYETTEVILLE FIRE DEPARTMENT; AND APPROVING AN ADDITIONAL EXPENDITURE OF TWO THOUSAND THREE HUNDRED FIFTY DOLLARS ($2,350.00) TO EQUIP THE VEHICLE WITH LIGHTS, SIREN, AND CONSOLE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of a Ford Expedition from Landers Ford at state contract price of Twenty-Five Thousand Eight Hundred Eleven Dollars ($25,811.00) for use by the Fayetteville Fire Department.

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an additional expenditure of Two Thousand Three Hundred Fifty Dollars ($2,350.00) to equip the vehicle with lights, siren, and console.

PASSED and **APPROVED** this 20th day of April 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

Sent to Budget

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Fire Department Program: Operations Date of Request: 3/23/2004

Acct.# Currently Charged: 1010.3020 Acct. # to be Charged: 1010.3020

Expansion ___ or Replacement X Date Required: ___

Unit # for Vehicle being Replaced: 325 Unit # for Expansion/Replacement: N/A

Purchase Price of Exp./Replace Vehicle: $28,161. CIP Budget / Project # 9700.1920.5802 02086.1

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 429.00 Maintenance: 140.00 Overhead: 105.00

# of Months Budgeted: 12.00 Total Budgeted: 8,088.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: $456.00 Maintenance: 140.00 Overhead: 105.00

# of Months to be in Service for Current Year: 7.00 Current Year Expense: (NEW) 4907.00
(SMOS) UNIT 325 2615.00
TOTAL $ 7522.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

2004 Ford Expedition

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

THIS VEHICLE IS BEING ~~TRANSF~~ PURCHASED TO REPLACE A HEAVY DUTY PICK-UP THAT NO LONGER MEETS THE NEEDS OF THE DEPARTMENT.

Approval Signatures:

	3/24/04 Date	Finance & Internal Services Dir.	Date
Fleet Operations Superintendent	3/29/04 Date	Chief Administrative Officer	Date
Budget Manager	Date	Mayor	Date
Department Director	3/24/04 Date	Please return original form to Fleet when signed by all.	

CITY OF FAYETTEVILLE

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman
Kyle Cook
Lioneld Jordan
Don Marr
Billy Sweetser

From: David Bragg, Fleet Operations Supt.

Date: March 25, 2004

Subject: Purchase of Replacement Vehicles for Fire Department

Fire Department has budgeted for replacement of two light duty vehicles in 2004. Changing needs of the department indicate a need for change in some vehicle types. Through realignment and reassignment of vehicles within the department, these needs can be accomplished with resulting overall fleet economies.

Unit #325 is a 2000 Ford F-350 4X4 with 18,500 miles. This unit was originally purchased for use as a brush fire truck, but is currently being used as an administrative vehicle. This unit can be reassigned to OMI to be mounted with a quick response emergency generator, eliminating the need to purchase a like truck for that purpose.

Battalion Fire Chiefs are currently using 4X4 Ford Explorers, but have a need for increased interior space and load capacity. The Fire Department has requested a Ford Expedition or equal for this purpose. I recommend the purchase one Ford Expedition from Landers Ford of Little Rock through the state vehicle purchase contract in the amount of $25,811.00. This purchase will replace unit #325.

Unit #2010 is a 1997 Ford Ranger 4X4 with 58,000 miles. There are several needs for reassignment of this type unit within the fleet.

Chief Bosch has requested a mid size sedan for his use in order to reassign his Ford Explorer within the department. I recommend the purchase of one Ford Taurus from North Point Ford of North Little Rock through the state vehicle purchase contract in the amount of $12,770.00. This purchase will replace unit #2010.

Funds for this purchase are available in the 2004 Fleet Replacement Project #2086 – Fire Vehicles.

APPROVED
3/30/4

A. 6
Landers Ford-Fire Department Vehicle Purchase
Page 5 of 6

City Of Fayetteville

(Not a Purchase Order)

Vendor # 7582	Vendor Name: LANDERS FORD OF LITTLE ROCK			Requisition No.	Date: 3/29/2004
Address:		Fob Point:		P.O Number	Expected Delivery Date:
City:	State:	Zip Code	Ship to code: 050	Mail Yes:__ No:_XX_	
Requester BARBARA OLSEN		Requester's Employee # 1940		Taxable Yes:_XX_ No:____	
				Divison Head Approval	Quotes Attached Yes:____ No:____
				Extension: 495	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2004 FORD EXPEDITION, 4 X 4	1	EA	$25,811.00	$25,811.00	9700.1920.5802.00	02086.1		
2	TO BE UNIT #1116		EA		$0.00				
3	FIXED ASSET #701116		EA		$0.00				
4			EA		$0.00				
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

STATE CONTRACT PRICE.

Subtotal: _____ 25,811.00

Tax: _____

Total: _____ 25,811.00

Approvals:

Mayor: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Department Director: _____

Budget Manager: _____

Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

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

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of purchase of an Expedition for the Fire Department, from Landers Ford on the State Contract price list. State contract price is $25,811. Lights, siren and console will be an extra price of approx. $2350.

COST TO CITY:

$28,161.00	$ 60,000.00	Fire Vehicles/Equipment-Replcmt
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ -	Vehicles and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02086.1	$ 60,000.00	Shop
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 4/1/04

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fawley — Accounting Manager — 4/1/04 Date
Nancy Smith — Internal Auditor — 4/1/04 Date
City Attorney — 4/1/4 Date
P Vice — Purchasing Manager — 4/1/04 Date

STAFF RECOMMENDATION:

Division Head — 3/31/04 Date
Department Director — 4/2/04 Date
Finance & Internal Services Dir. — 4-5-04 Date
Chief Administrative Officer — 4-6-04 Date
Mayor — 4/6/04 Date

Received in Mayor's Office 4/2/04 Date P.H.

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: **Yes** **No**

ENTERED 3-31-04 aw

FAYETTEVILLE

CITY OF FAYETTEVILLE

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: **Mayor/City Council**

Thru: **Gary Dumas, Director of Operations**

From: **David Bragg, Fleet Operations Superintendent** DB

Date: **March 31, 2004**

Subject: **Purchase of two Trucks with Utility Bodies for Water & Sewer**

RECOMMENDATION: That City Council approve the purchase of 2 F550 trucks with Utility bodies from Ron Blackwell Ford for the bid price of $38,641.88 each.

BACKGROUND: One of these units is to replace #220, a 1994 F350 with utility body. This truck is two years past its scheduled life, has 116,000 miles and is in need of replacement. The second unit is an expansion unit that was approved for purchase along with the expansion backhoe in the 2003 budget process.

Funds for this purchase are available in 9700.1920.5802.00, project #02078, Light/Medium duty vehicles.

The purchase of these two units was approved by the Equipment Committee at the meeting of March 30, 2004.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF TWO (2) FORD F550 TRUCKS FOR THE WATER AND SEWER DIVISION FROM RON BLACKWELL FORD FOR A TOTAL PRICE OF $79,133.76.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of two (2) Ford F550 trucks for the Water and Sewer Division from Ron Blackwell Ford for a total price of $79,133.76.

PASSED and **APPROVED** this 20th day of April 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Department: WATER / SEWER

Division: WATER / SEWER

Program: SEWER MAINS MAINT ACCT # 5400 - 4410

Date of Request: 7 MAR 03

Circle One:
Expansion or Replacement If replacement, unit # to be replaced Date required: ASAP

Current Veh. Monthly chgs. **Overhead:** **Maintenance:**

Replacement: Amount Budgeted $

Replcmt.Veh. Monthly chgs **Overhead** $140.00 **Maintenance:** ~~$80.00~~ $80.00

Replacement: ~~515.00~~ $515.00 CURRENT YR. EXPENSE ON EXPANSION: $ 4410.00

Description of the equipment to be purchased/transferred:

CREW TRUCK, SAME STYLE AS UNIT 330.

$ 39,566.00

Justification for this equipment:

NEEDED FOR EXPANSION SEWER PIPE-LAYING / REPAIR CREW.

Approval Signatures:

Division Head — 7 MAR 03 Date

Fleet Operations Superintendent — 3-28-03 Date

Budget Manager — 3-29-03 Date

Approval Signatures:

Department Director — 5-8-03 Date

Admin. Services Director — 5-8-03 Date

Mayor — 5/8/03 Date

TO OK TO WES TO SIGN

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Water & Sewer Program: Sewer Mains Maint Date of Request: 3/30/2004

Acct.# Currently Charged: 5400.4410. Acct. # to be Charged: 5400.4410.

Expansion ___ or Replacement X Date Required: ___

Unit # for Vehicle being Replaced: 220 Unit # for Expansion/Replacement: 343

Purchase Price of Exp./Replace Vehicle: 39,566.00 CIP Budget / Project # 9700.1920.5802 02078.1

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment: (For 3x4)

Replacement: 423.00 Maintenance: 150.00 Overhead: 143.00

# of Months Budgeted: 12.00 Total Budgeted: 8,592.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 515.00 Maintenance: 80.00 Overhead: 140.00

# of Months to be in Service for Current Year: 6.00 Current Year Expense, New: 4,410.00

R=0, M=260, O=88 = $348 x 6 mos. = $2,088 Current Year Expense, Old: 2,088.00

Total Current Year Expense: 6,498.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

2004 Ford F550 truck with Knapheid utility body

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

Unit #220 is in need of replacement. It is a 1994 unit with 116,000 miles on it, and is two years past its scheduled life.

Approval Signatures:

Division Head	31 MAR 04 Date	Finance & Internal Services Dir.	Date
Fleet Operations Superintendent	3/31/04 Date	Chief Administrative Officer	Date
Budget Manager	Date	Mayor	Date
Department Director	Date		

Please return original form to Fleet when signed by all.

CITY OF FAYETTEVILLE

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman
Kyle Cook
Lioneld Jordan
Don Marr
Billy Sweetser

From: David Bragg, Fleet Operations Supt.

Date: March 30, 2004

Subject: Purchase of Trucks with Utility Bodies

Bids were opened on March 26, 2004 for two trucks with utility bodies for use by Water and Sewer Division. Three bids were received:

Ron Blackwell Ford	Bentonville, AR	Ford F550 w/Knapheid Body	$38,641.88
Landers Ford	Little Rock, AR	Ford F550 w/Knapheid Body	$39,599.00
Springdale Ford	Springdale, AR	Ford F550 w/Knapheid Body	$46,901.00

The low bid from Ron Blackwell Ford meets all specifications.

I recommend acceptance of the lowest bid from Blackwell Ford in the amount of $38,641.88 each – total $77,283.76 for two units.

One is a replacement for unit # 220, a 1994 Ford F-350 with utility body. This unit is two years past its scheduled life, has 116,000 miles, and is in need of replacement. The second is an expansion unit approved for purchase in the FY2003 budget.

Funds for this purchase are available in 2003 Fleet Replacement Project Account 02078 – Light/Medium duty vehicles.

APPROVED
3/30/04

City Of Fayetteville

(Not a Purchase Order)

		Requisition No.	Date: 3/30/2004
		P.O Number	Expected Delivery Date:
Vendor # 88230	Vendor Name: RON BLACKWELL FORD	Mail Yes:__ No:_XX_	
Address:	Fob Point:	Taxable Yes: XX No:___	
City:	State: / Zip Code / Ship to code: 050	Divison Head Approval	Quotes Attached Yes:____ No:____
Requester BARBARA OLSEN BO	Requester's Employee # 1940	Extension: 495	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	FORD F550 TRUCKS WITH	2	EA	$38,641.88	$77,283.76	9700.1920.5802.00	02078.1		
2	KNAPHEID UTILITY BODIES		EA		$0.00				
3	TO BE UNITS #342 AND #343		EA		$0.00				
4	Fixed Asset #700342 & #700343		EA		$0.00				
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

STATE CONTRACT PRICE.

Subtotal: _____ 77,283.76

Tax: _____ TAX EXEMPT

Total: _____

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

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

Dispatch Manager: _____ Utilities Manager: _____

City Of Fayetteville

(Not a Purchase Order)

Requisition No.		Date: 3/31/2004			
P.O Number		Expected Delivery Date:			
Vendor # 12931	Vendor Name: FLEET SAFETY	Mail Yes:__ No:_XX_			
Address:	Fob Point:	Taxable Yes:_XX_ No:____			
City:	State:	Zip Code	Ship to code: 050	Divison Head Approval	Quotes Attached Yes:____ No:____
Requester BARBARA OLSEN BO.	Requester's Employee # 1940	Extension: 495			

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	55" 9M Light Bar, 90 watt 8 strobe	2	EA	$899.95	$1,799.90	9700.1920.5802.00	02078.1		
2	Takedowns and alleys, rear		EA		$0.00				
3	flashers, all amber lenses with		EA		$0.00				
4	PCC-6 switch box		EA		$0.00				
5	mounting brackets for F550	2	EA	$25.00	$50.00	9700.1920.5802.00	2078.1		
6	Capitalize to units #342 and #343		EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal:	1,849.90
Tax:	154.93
Total:	2,004.83

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

CITY OF FAYETTEVILLE
QUOTATION

DATE: 3-3-4 TAKEN BY: BARBARA OLSEN

DATE NEEDED: A.S.A.P. DEPARTMENT: SHOP

ACCT. #:

DESCRIPTION OF ITEM: 9" Light Bar, 90 Watt, 8 strobe, Takedowns + alleys, Rear flasher, w/ bracket. 55" long, all amber w/ PCC-6 switch box

QUANTITY: 4 P.O. #:

VENDOR / ADDRESS	QUANTITY	UNIT PRICE	TOTAL PRICE	REMARKS
Fleet Safety Lightbar 1) 2)	4	924.95	3699.80	frt included
Galls Lightbar 1) 2)	4	1271.24	5084.96	+ frt
1) 2)				GRAND TOTAL:$

ALL SUCH PURCHASES IN EXCESS OF FIVE HUNDRED ($500.00), BUT NOT IN EXCESS OF TEN THOUSAND DOLLARS ($10,000.00) SHALL BE MADE AFTER THE SECURING AND RECORDING OF QUOTATION BIDS. SPECIFICATIONS MUST ACCOMPANY THIS FORM AND AT LEAST TWO VENDORS BID ON ITEM. ON PURCHASES OF TEN THOUSAND DOLLARS ($10,000.00) OR MORE, FORMAL SPECIFICATIONS AND BIDS MUST BE RECEIVED.

PROVIDE EXPLANATION ON REVERSE SIDE OF AWARDS NOT GIVEN TO LOWEST BIDDER

LS was bringing the expenses over or was the expenses approved prior to the change in policy? XD

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

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

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of the purchase of 2 Ford F550 trucks with Knapheid utility bodies for Water and Sewer Division, from Ron Blackwell Ford for the bid price of $38,641.88 each. Light bars will be an additional $925.00 for each truck.

COST TO CITY:

$79,133.76	$ 656,158.00	Light/Medium Utility Vehicles
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 167,239.00	Vehicle & Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02078.1	$ 488,919.00	Shop
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 4-1-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 4/1/04
Internal Auditor — Date: 4/1/04
City Attorney — Date: 4/1/4
Purchasing Manager — Date: 4/1/04

STAFF RECOMMENDATION:

Division Head — Date: 3/31/03
Department Director — Date: 4/2/04
Finance & Internal Services Dir. — Date: 4-5-04
Chief Administrative Officer — Date: 4-6-04
Mayor — Date: 4/6/04

Received in Mayor's Office — Date: 4/2/04 7.H.

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: **Yes** **No**

ENTERED 3-31-04 aw

CITY OF FAYETTEVILLE

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: March 31, 2004

Subject: Purchase of Replacement Street Sweeper

RECOMMENDATION: That City Council approve the purchase of a Schwarze A8000 Street Sweeper from Schwarze Industries for the bid price of $139,376.00.

BACKGROUND: One bid was received from Schwarze Industries. The bid meets all specifications. This bid is comparable to similar recent bids to other public agencies. This Sweeper will replace #60, a 1989 Elgin Sweeper that is no longer dependable or economical for daily use.

Funds for this project are available in 9700.1920.5802.00, Project #02080.1.

The purchase of this unit was approved by the Equipment Committee at the meeting of March 30, 2004.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF A STREET-SWEEPER FOR THE TRANSPORTATION DIVISION FROM SCHWARZE INDUSTRIES IN THE AMOUNT OF $139,376.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of a street-sweeper for the Transportation Division from Schwarze Industries in the amount of $139,376.00.

PASSED and **APPROVED** this 20th day of April 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

City of Fayetteville, Arkansas
Request for Expansion/Replacement Equipment

Division: Transportation Program: Street Maintenance Date of Request: 3/25/2004

Acct.# Currently Charged: 2100.4110. Acct. # to be Charged: 2100.4110.

Expansion ___ or Replacement X Date Required: ___

Unit # for Vehicle being Replaced: 60 Unit # for Expansion/Replacement: 94

Purchase Price of Exp./Replace Vehicle: 139,376.00 CIP Budget / Project # 9700.1920.5802 02080.1

Monthly Motor Pool Charges for Current and/or Replacement Vehicle/Equipment:

Replacement: 2,255.00 Maintenance: 1,569.00 Overhead: 487.00

# of Months Budgeted: 12.00 Total Budgeted: 51,732.00

Expansion/Replacement Monthly Motor Pool Charges for New Vehicle/Equipment:

Replacement: 2,255.00 Maintenance: 1,569.00 Overhead: 487.00

# of Months to be in Service for Current Year: 6.00 Current Year Expense, New: 25,866.00

Current Year Expense, Old: 25,866.00

Total Current Year Expense: 51,732.00

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

Schwarze Street Sweeper, A8000

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

Unit #60 has exceeded its life expectancy by 3 years. It is no longer reliable and needs to be replaced.

Approval Signatures:

Division Head	3-26-4 Date	Finance & Internal Services Dir.	3-28-04 Date
Fleet Operations Superintendent	3/26/04 Date	Chief Administrative Officer	3-28-04 Date
Budget Manager	3/26/04 Date	Mayor	3/29/04 Date
Department Director	3.29.04 Date		

Please return original form to Fleet when signed by all.

CITY OF FAYETTEVILLE

FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville AR 72701

Interdepartmental Correspondence

To: City of Fayetteville, Equipment Committee
Robert Reynolds, Chairman
Kyle Cook
Lioneld Jordan
Don Marr
Billy Sweetser

From: David Bragg, Fleet Operations Supt.

Date: March 25, 2004

Subject: Purchase of Replacement Street Sweeper

Bids were opened on March 18, 2004 for a regenerative air street sweeper for use by Transportation Division. One bid was received:

Schwarze Industries	Huntsville, AL	Schwarze A8000	$139,376.00

This bid is from the manufacturer and meets all specifications. This bid is comparable to similar recent bids to other public agencies. I recommend acceptance of the lowest bid from Schwarze Industries in the amount of $139,376.00.

This is a replacement for unit #60, a 1989 Elgin sweeper that is no longer dependable or economical for regular daily use. Funds for this purchase are available in 2003 Fleet Replacement Project Account 02080 – Other vehicles and equipment.

APPROVED
3/30/4

A. 8
Schwarze Industries Street Sweeper Purchase
Page 5 of 6

City Of Fayetteville

(Not a Purchase Order)

Requisition No.				Date: 3/29/2004	
P.O Number				Expected Delivery Date:	
Vendor # 56220	Vendor Name: SCHWARZE INDUSTRIES			Mail Yes:__ No:_XX_	
Address:		Fob Point:		Taxable Yes:_XX_ No:___	
City:	State:	Zip Code	Ship to code: 050	Divison Head Approval	Quotes Attached Yes:___ No:___
Requester BARBARA OLSEN		Requester's Employee # 1940		Extension: 495	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	SCHWARZE A8000 STREET	1	EA	$139,376.00	$139,376.00	9700.1920.5802.00	02080.1		
2	SWEEPER, TO BE UNIT #94		EA						
3	Fixed Asset #700094		EA		$0.00				
4			EA		$0.00				
5			EA		$0.00				
6			EA		$0.00				
7			EA		$0.00				
8			EA		$0.00				
9			EA		$0.00				
10			EA		$0.00				
	Shipping/Handling		Lot		$0.00				

Special Instructions:

Subtotal: 139,376.00

Tax:

Total:

TAX EXEMPT

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

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

FROM:

David Bragg	Fleet Operations	Operations
Name	Division	Department

ACTION REQUIRED: Approval of purchase of Schwarze Street Sweeper Model A8000 for the bid price of $139,376.00 from Schwarze Industries.

COST TO CITY:

$139,376.00	$ 583,325.00	Fleet - Other Vehicles/Equipment
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1920.5802.00	$ 26,921.00	Vehicles & Equipment
Account Number	Funds Used to Date	Program / Project Category Name
02080.1	$ 556,404.00	Shop
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 4/1/04

CONTRACT/GRANT/LEASE REVIEW:

Marsha Farthing	4/1/04	Nancy Smith	4/1/04
Accounting Manager	Date	Internal Auditor	Date
[illegible]	4/1/04	PWico	4/1/04
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION:

[signature]	3/31/04	**Received in Mayor's Office**	4/2/04 P.M.
Division Head	Date		Date
[signature]	4/2/04	Cross Reference:	
Department Director	Date		
[signature]	4-2-04	Previous Ord/Res#:	
Finance & Internal Services Dir.	Date		
[signature]	4-6-04	Orig. Contract Date:	
Chief Administrative Officer	Date		
[signature]	4/5/04	Orig. Contract Number:	
Mayor	Date		

New Item: **Yes** **No**

ENTERED
3-31-04

City Council Agenda Item

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Terry Gulley, Transportation Manager

Date: March 23, 2004

Subject: Approval of a resolution awarding a bid to Basic Construction in an amount not to exceed $50,000 for topsoil.

Recommendation: The Transportation Division recommends the approval of a bid from Basic Construction for topsoil to be used in various pavement and sidewalk improvements projects scheduled for 2004.

Background: The Transportation Division currently uses screened topsoil after street and sidewalk projects to repair the right of way areas damaged during construction. Prior to 2003 unscreened topsoil was used; this resulted in a procedure that required additional workload for the associated crews in order to obtain the same results.

Discussion: In 2003 the Transportation Division began using screened topsoil for all construction projects. Through this method the division has obtained greater efficiency, while reducing the overall costs of the projects. Due to the greater output of both the overlay and sidewalk projects, it has placed an increased demand for this product.

Budget Impact: Funding for material for the In-House Pavement and Sidewalk Improvements programs comes from the Capital Sales Tax Program.

RESOLUTION NO. _____

A RESOLUTION TO AWARD A BID TO THE LOW BIDDER, BASIC CONSTRUCTION, INC., IN THE AMOUNT OF $50,000.00 TO PURCHASE TOP SOIL FOR STREET AND SIDEWALK PROJECTS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby awards the bid for the purchase of top soil for street and sidewalk projects to the low bidder, Basic Construction, Inc., in an amount of up to $50,000.00 depending upon how much top soil is needed and purchased by the City.

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

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk

INVITATION TO BID
Topsoil

BID #	DATE ISSUED:	DATE AND TIME OF OPENING:
04-09	2/24/04	March 9, 2004 at 2:00 PM

BUYER:	DATE REQUIRED:
City of Fayetteville, AR	Orders to be scheduled as needed per job.

F. O. B.	BUYER'S PHONE #	GUARANTEED DELIVERY DATE:
Fayetteville, AR	(479) 575-8289	

ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
1	Top Soil- Per Cubic yard for top dressing and landscaping projects. Topsoil to be screened to remove large rocks, roots, and other debris. Price Per Cubic Yard (Price Should include all Delievery charges to City Yard at 1525 S. Happy Hollow Road, Fayetteville, Arkansas) RESTRICTIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:	Estimated Quanity for 2004. 2,500 Cubic Yards	9.00 per cubic yd. 7.00 per cubic yd. unscreened Topsoil	

EXECUTION OF BID

Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agrees to furnish these articles at the prices stated.

	NAME OF FIRM:	PHONE:	FED ID#:	
UNSIGNED BIDS WILL BE REJECTED	Basic Construction	751-8868 601-1235		
	BUSINESS ADDRESS:	CITY AND STATE:		ZIP:
	1695 Electric Ave.	Springdale, AR.		727
	AUTHORIZED SIGNATURE:	TITLE:		DATE:
		Treasurer		3-16-04

INVITATION TO BID
Topsoil

BID #	DATE ISSUED:	DATE AND TIME OF OPENING:
04-09	2/24/04	March 9, 2004 at 2:00 PM

BUYER:	DATE REQUIRED:
City of Fayetteville, AR	Orders to be scheduled as needed per job.

F. O. B.	BUYER'S PHONE #	GUARANTEED DELIVERY DATE:
Fayetteville, AR	(479) 575-8289	

ITEM #	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
1	Top Soil- Per Cubic yard for top dressing and landscaping projects. Topsoil to be screened to remove large rocks, roots, and other debris. Price Per Cubic Yard (Price Should include all Delievery charges to City Yard at 1525 S. Happy Hollow Road, Fayetteville, Arkansas) RESTRICTIONS OR EXCEPTIONS TO THE BID MUST BE NOTED:	Estimated Quanity for 2004. 2,500 Cubic Yards	$10/Cubic Yd.	$25,000.00

EXECUTION OF BID

Upon signing this Bid, the bidder certifies that they have read and agree to the requirements set forth in this bid proposal, including specifications, terms and standard conditions, and pertinent information regarding the articles being bid on, and agrees to furnish these articles at the prices stated.

	NAME OF FIRM:	PHONE:	FED ID#:	
UNSIGNED BIDS WILL BE REJECTED	Central Redi-Mix, LLC	750-7334	030397020	
	BUSINESS ADDRESS:	CITY AND STATE:		ZIP:
	4530 N Oak	Springdale AR		72766
	AUTHORIZED SIGNATURE:	TITLE:		DATE:
	David Murphy	Product Support Mgr		3/8/04

CENTRAL REDI-M IX

P O BOX 7779 SPRINGDALE AR 72766
Phone: 479-750-7334 Fax: 479-756-4001

City of Fayetteville
Purchasing Office, Room 306
113 W Mountain St.
Fayetteville, AR 72701

Date 03/08/2004

To: Purchasing Agent

Thanks for the opportunity to the Top Soil need for the City of Fayetteville. Central Redi-Mix has access to a number of sites for the screening of Top Soil and we are confident that we can meet the needs of the city for 2004. Central Redi-Mix has just completed the job of supplying top soil to the CEI project, Bristol Park at Steele Crossing. In completing that job we delivered over 5,000 yards of quality screened top soil from October 1, 20003 to February 28, 2004.

Central Redi-Mix would like to submit a bid of $10/yd for quality screened top soil delivered to 1525 S Happy Hollow Rd, Fayetteville AR. Central Redi-Mix would request orders be submitted 7 calendar days, 1 week, prior to requested delivery. Delivery will be made in 16 to 24 cubic yard dump trucks.

Central Redi-Mix warrants the top soil to be screened and of sufficient quality to be used as top soil in any normal landscaping environment.

The above quoted prices are exclusive of any applicable sales tax. Quoted prices are subject to acceptance within 30 days of quoted date. The purchaser will be responsible for appropriate ingress and egress to the jobsites. Central Redi-Mix will not assume responsibility for property damages that are considered ingress or egress to jobsite locations.

All invoices are due payable within 10 days of the date of each invoice. If such invoice is not paid within 30 days, Central Redi-Mix, LLC will assess a late charge of 1.5% to such invoice.

Sincerely,

David Murphy
Product Support Manager

BID: FORMAL ☒ INFORMAL ☐ VERBAL QUOTATION ☐ BID BOND REQUIRED YES ☐ NO ☐ PERFORMANCE BOND REQUIRED YES ☐ NO ☐

CITY OF FAYETTEVILLE, AR
113 W. MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS 72701

PROJECT Bid 04-09

TABULATION OF BIDS

DESCRIPTION Topsoil F.O.B. DATE OPENED 3/22/04

BID NO. 04-09 PROJECT NO.

		ITEM	ITEM	ITEM	ITEM	ITEM.	EXTENSION
BIDDER: BasicConcrete	UNIT/QUANT COST	9.00 cu yd. screened					
ADDRESS:	EXT. COST	7.00 cu yd. unscreened					
BIDDER: Central	UNIT/QUANT COST	10.00 cu yd. screened					
ADDRESS: Redi-Mix	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
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BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						
BIDDER:	UNIT/QUANT COST						
ADDRESS:	EXT. COST						

BID AWARD SUMMARY:

ITEM _____ TO _____ P.O. # _____

ITEM _____ TO _____ P.O. # _____

ITEM _____ TO _____ P.O. # _____

ITEM _____ TO _____ P.O. # _____

DATE _____ CERTIFIED BY

REMARKS:

_____
PURCHASING OFFICER

_____
WITNESS

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:		Date: 3/31/2004	
P.O Number:		Expected Delivery Date:	
Vendor #: 4026	Vendor Name: BASIC CONSTRUCTION	Mail Yes:__ No:✓	
Address:	Fob Point: FAYETTEVILLE, AR	Taxable Yes:✓ No:___	Quotes Attached Yes:✓ No:___
City:	State: / Zip Code: / Ship to code: 104	Divison Head Approval: Tony 2. Gulley	
Requester: JOHN NELSON	Requester's Employee #: 1003	Extension: 492	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	TOPSOIL, FOR STREET IMPROVEMENTS	1	LT	10,000.00	$10,000.00	4470.9470.5809.00	02052-1		
2	TOPSOIL, FOR SIDEWALK IMPROVEMENTS	1	LT	10,000.00	$10,000.00	4470.9470.5814.00	02053-1		
3					$0.00				
4	Bid 04-09				$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:	$20,000.00
Tax:	
Total:	$20,000.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

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

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/17/03

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW

For the Fayetteville City Council Meeting of: **April 20, 2004**

FROM:

Terry Gulley	**Transportation**	**Operations**
Name	Division	Department

ACTION REQUIRED: A resolution awarding a bid to Basic Construction in an amount not to exceed $50,000 for topsoil.

COST TO CITY:		
$25,000.00	$ 1,491,202.00	In-House Pavement Improvements
$25,000.00	$ 805,189.00	Sidewalk Improvements
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	$ 128,903.00	Street improvements
4470.9470.5814.00	$ 156,325.00	Trailways and sidewalks
Account Number	Funds Used to Date	Program / Project Category Name
02052	$ 1,362,299.00	Sales Tax Capital
02053	$ 648,864.00	Sales Tax Capital
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item _____ Budget Adjustment Attached

Budget Manager — 3-31-04 Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — 3/31/04 Date

Internal Auditor — 3/31/04 Date

City Attorney — 4/1/04 Date

Purchasing Manager — Date

STAFF RECOMMENDATION:

Division Head — 3-31-04 Date

Department Director — 3-31-04 Date

Finance & Internal Services Dir. — 4-1-04 Date

Chief Administrative Officer — 4-5-04 Date

Mayor — 4/5/04 Date

Received in Mayor's Office 3/31/04 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

RECEIVED 3/31/04

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Chris Bosch, Fire Chief

Date: April 1, 2004

Subject: A Resolution providing the Fire Department with Council approval to submit a grant request for a FEMA FIRE Act Grant during the 2004 funding cycle.

RECOMMENDATION

The Fire Department recommends approval of a Resolution allowing us to apply for the 2004 round of the FIRE Act Grant program currently administered through the Federal Emergency Management Agency and the Department of Homeland Security.

BACKGROUND

As you know, for the past two years the Fire Department has received project and program funding through the annual FEMA FIRE Act Grant program. In 2003, the Fire Department submitted a funding request to FEMA for the development of a Fire Fighter Wellness/Fitness and EMS Training Program. We received notice of our 2003 award and are currently working with the U of A to develop and implement the program.

DISCUSSION

The Assistance to Fire Fighters (FIRE Act) Grant program, administered by the Federal Emergency Management Agency, was established during the Fall of 2000 in an effort to provide local fire fighters with necessary funding to secure and maintain many of the basic tools, equipment and training required to ensure the safety and security of our nations citizens.

The anticipated Congressional funding level for 2004 is $745 million dollars. These funds are identified and made available in four separate categories; Fire Operations and Fire Fighter Safety Program, Fire Prevention Program, Emergency Medical Services Program and Firefighting Vehicle Acquisitions. The Fire Department will be requesting equipment through the Fire Operations and Fire Fighter Safety program, which will assist us in enhancing our minimum standards training program and compliment our 2004 theme of "Back to Basics" training.

BUDGET IMPACT

Under the current guidelines grants are awarded with varying matching funds requirements with paid professional departments having a 70/30 matching funds requirement. The 2004 grant requires the Department to provide 30% in matching funds; however, Insurance Turnback (Act 833) monies can be used to meet this requirement for the 2004 funding cycle. The Fire Department is planning to utilize annual Act 833 funds to meet the matching funds guidelines as required by FEMA.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A GRANT REQUEST FOR A FEMA FIRE ACT GRANT AND AGREEMENT TO MATCH ANY RECEIVED GRANT FUNDS IN AN AMOUNT EQUAL TO 30% OF THE TOTAL PROJECT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves and authorizes a grant request from the City of Fayetteville to be submitted to FEMA for a Fire Act Grant and agrees that the City shall match any grant received in an amount equal to 30% of the total project cost.

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

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

2004 Program Guidance for the Assistance to Firefighters Grant Program

February 2004

This document provides a summary of the 2004 Assistance to Firefighters Grant Program's priorities. It explains how to apply, what items can be requested, and how applications will be evaluated. Please read this program guidance carefully. The Final Rule and answers to frequently asked questions (FAQs) should also be reviewed when made available on the Web site of the Office for Domestic Preparedness (ODP), U.S. Department of Homeland Security. Together, these four documents will provide you with the information you need to complete the online application. The online application will be available at www.ojp.usdoj.gov/odp on or about March 1, 2004.

Prepared by the Office for Domestic Preparedness and the U.S. Fire Administration

PROGRAM GUIDANCE FOR THE 2004 ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM

The purpose of the Assistance to Firefighters Grant (AFG) Program is to award one-year grants directly to fire departments of a State to enhance their abilities with respect to fire and fire-related hazards. Our primary goal is to provide assistance to meet fire departments' firefighting and emergency response needs. This program seeks to support departments that lack the tools and resources necessary to protect the health and safety of the public and their firefighting personnel with respect to fire and all other hazards they may face. As in prior years' programs, equipment and training for preparing for and responding to events that involve chemical, biological, radiological, nuclear, or explosive devises (CBRNE) are eligible this year, but we are highlighting those items this year and requesting applicants to respond to questions concerning their relation to critical targets.

The authority of this program is derived from the Federal Fire Protection and Control Act of 1974 (15 U.S.C. §§ 2201 et seq.), as amended. In fiscal year 2003, Congress appropriated a total of $745,125,000 to the U.S. Fire Administration (USFA) to carry out the activities of this Assistance to Firefighters Grant Program. On March 1, 2003, FEMA and the USFA came under the auspices of the U.S. Department of Homeland Security (DHS). For the 2004 program year, Congress appropriated $750,000,000 and transferred the program's authority from FEMA/USFA to the Office for Domestic Preparedness (ODP) within DHS. Congress also authorized the use of up to five percent for administering the grant program. The appropriated funds are available until September 30, 2005.

Eligible applicants for the Assistance to Firefighters Grant Program are limited to fire departments of a State. A "fire department of a State" is defined as an agency or organization that has a formally recognized arrangement with a State, territory, local, or tribal authority (city, county, parish, fire district, township, town, or other governing body) to provide fire suppression to a population within a fixed geographical area. A municipality or fire district may submit an application on behalf of a fire department when the fire department lacks the legal status to do so, e.g., when the fire department falls within the auspices of the municipality or district. When a municipality or fire district submits an application on behalf of a fire department, the fire department is precluded from submitting an additional application on its own. The Alaska Village Initiative, a nonprofit organization incorporated in the State of Alaska, shall also be considered eligible for purposes of receiving assistance under this program on behalf of Alaska Native villages. Each eligible applicant is limited to one application per program year.

A fire department can apply for assistance for its emergency medical services (EMS) unit provided the unit falls organizationally under the auspices of the fire department. Non-fire based EMS and Rescue companies are not eligible for awards. Non-Federal airport and/or port authority fire departments are only eligible if they have a formally recognized arrangement with the local jurisdiction to provide fire suppression, on a first-due basis, outside the confines of the airport or port facilities. Airport or port authority fire departments whose sole responsibility is suppression of fires on the airport grounds or port facilities are not eligible for this grant program.

Fire departments that are Federal or contracted by the Federal government and are solely responsible under their formally recognized arrangement for suppression of fires on Federal installations or land are not eligible for this grant program. Fire stations that are not independent but are part of, controlled by, or are under the day-to-day operational direction of a larger fire department or agency, are typically not eligible. Fire departments that are for-profit departments (i.e., do not have specific nonprofit status or are not municipally based) are not eligible to apply for assistance under this program. Also not eligible for this program are ambulance services, rescue squads, auxiliaries, dive teams, urban search and rescue teams, fire service organizations or associations, and State/local agencies such as a forest service, fire marshals, hospitals, and training offices.

The Assistance to Firefighters Grant Program for fiscal year 2004 mirrors previous years' programs with minor changes and enhancements. All the program areas and activities available last year are eligible for funding again this year. Emergency medical services activities, however, are not an independent program area for the 2004 program year. Rather, EMS activities have been incorporated into the appropriate activities under the Operations and Firefighter Safety Program.

Automated Application and Tutorial for 2004

Again, this year's application is automated and available online. The application will be accessible from the ODP Web site (www.ojp.usdoj.gov/odp) and USFA Web site (www.usfa.fema.gov). We have designed the automated application with many built-in "help screens" and "drop-down menus" to assist you throughout the application process. The application can be saved and retrieved as many times as you need while you're filling it out, right up to the deadline or submittal. ***Once you've submitted your application, however, you cannot change it.*** Another positive feature of the automated system is that it will not allow you to submit an incomplete application, i.e., the system will alert you if you have not provided required information. Also, by submitting your application online, you will be automatically notified that we have received your application via e-mail.

A tutorial will be available on the Internet to help applicants use the online grant application and become familiar with the AFG program. This tutorial explains the AFG program and many of the application screens; it provides tips for navigating the

application screens and summarizes the changes in the grant program that are new in fiscal year 2004. The tutorial also provides a review of the lessons learned from the 2003 grant program.

You may decide to hire or otherwise use a grant writer to assist you in the application process. This is allowable. However, you, as the applicant, are responsible for the information contained in your application. By submitting the application, you are certifying that all of the information contained therein is true and an accurate reflection of your department. Therefore, please review all work produced by grant writers or other third parties on your behalf prior to submission.

Paper applications will be accepted but are discouraged. We are discouraging paper applications because of the inherent delays associated with processing a paper application. Also, if awarded, applicants who submit paper applications must continue to manage their grants via paper, including payment requests, requests for modifications, reporting, etc., whereas electronic applicants can do all of these functions online. Additionally, paper applications don't have the built-in help that is available to the online applicants. Finally, there is no built-in assurance that your paper application is complete when submitted. If you do not have access to the Internet, contact us directly (1-866-274-0960) to request a paper copy of the application via mail. ***We will not send the paper applications to you via overnight delivery, nor by fax or e-mail.***

The only legitimate paper application is the application that we send you – do not use any paper application that you did not receive directly from us. Do not print the screens from this year's online application and submit it. Do not use a previous year's application. Any paper application that is not in the correct format will be deemed ineligible.

We will begin accepting completed applications for the 2004 program on or about March 1, 2004 (monitor the ODP and USFA Web sites for up-to-date information on the application period). Completed applications must be submitted electronically or otherwise received by us on or before the close of business (5:00 p.m. EDT) on the last day of the application period, currently projected for April 2, 2004. Applications submitted by mail must be postmarked no later than four calendar days prior to the end of the application period. Assuming an April 2, 2004, end-date, we will not accept applications postmarked after March 30, 2004, unless we receive them prior to the end of the application period. Applications not submitted electronically must be mailed to the USFA Grant Program Technical Assistance Center, 16825 South Seton Avenue, Emmitsburg, Maryland, 21727-8998. No late, incomplete, or faxed applications will be accepted. No electronically submitted applications other than those submitted online via the automated grant application system will be accepted. We will not be responsible for applications mailed to any address other than the address listed above.

Project Development

In 2004, we have continued our practice of allowing you to formulate a very comprehensive grant proposal. Depending on the program for which you apply, we are allowing your grant proposal to include a number of related "activities" to address all of your needs within a programmatic or functional area. This approach provides you with the opportunity to develop a more comprehensive grant project that addresses a broader range of your fire department's needs. You may submit only ***one application per program year,*** and your application is further limited to only ***one*** of the program areas listed below. Be advised that your application should include only activities that can be completed within the one-year grant period.

You can submit an application for any one of this year's three program areas, and, as stated above, you may include as many activities within that one program as necessary to meet your needs. The programs, and associated activities eligible in this year's grant program are as follows:

1. ***Operations and Firefighter Safety Program***. Eligible activities under this function are limited to training, equipment, personal protective equipment, wellness and fitness, and modifications to fire stations and facilities*. Please note that requests for emergency medical services training and equipment are available under the appropriate activities in this program area. Also, note that requests for equipment, personal protective equipment, and training to prepare for response to incidents involving CBRNE are available under the appropriate activities in this program area.

2. ***Fire Prevention Program***. Eligible activities under this function include, but are not limited to, public education and awareness activities, fire code enforcement activities, fire inspector certifications, purchase and installation of smoke alarms and fire suppression systems*, wildland mitigation, and arson prevention and detection activities. Renovations that are necessary to accomplish the education and awareness function may be eligible, however, grantees may not change the footprint or the profile of the building, i.e., the building may not be enlarged nor can the height increase.

3. ***Firefighting Vehicle Acquisition Program***. Eligible apparatus under this program include, but are not limited to, pumpers, brush trucks, tankers/tenders, rescue vehicles, ambulances, quints, aerials, foam units, and fireboats. You may apply for only one vehicle per year.

As stated above, this year you may submit one application for assistance in only one of these three program areas. Within your selected program area, you may develop a

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* Activities that involve modifications to facilities are subject to all applicable environmental and historic preservation requirements.

comprehensive program to address all of your needs by applying for as many of the eligible activities you determine are necessary. For example, if you determine that your needs are in the area of Operations and Firefighter Safety, you could apply for any one of the activities under that program, or any combination of activities, or all of the activities listed within that program. If you need a vehicle, you must apply under the Firefighting Vehicle Acquisition Program. You may not apply for a vehicle in any program area other than the Firefighting Vehicle Acquisition Program.

Application Procedure

Eligible applicants can apply for the Assistance to Firefighters Grant program online via ODP's "*e*-grants" application process. The system will allow one authorized representative of a department to log in and create a username and password for the department. If you submitted an application in previous years, it is advised that you use the same username and password that you used for your previous applications. The selection of the authorized representative is at the discretion of each department. The information requested online is an electronic version of many Federal grant forms. The application includes general questions about your department and your community, as well as questions regarding your proposed project.

DUNS Number

Effective October 1, 2003, all Federal grantees must obtain a DUNS number, (a unique nine-character identification number provided by the commercial company Dun & Bradstreet). The Federal government will use the DUNS number to better identify related organizations that are receiving funding under grants and cooperative agreements and to provide consistent name and address data for electronic grant applications. Additional information about DUNS numbers can be found on the Dun & Bradstreet Web site (www.dnb.com/US/duns_update/index.html).

There is no charge to obtain a DUNS number, and it is the applicant's responsibility to obtain one. Applicants are encouraged to apply for a DUNS number well in advance of the application period because it may take 2 to 3 weeks or more to obtain the number online. It is recommended that applicants request a DUNS number as soon as possible by calling 1-800-333-0505. When completing the online application, there is a special data field for entering the DUNS number. If applying on paper, use the box entitled "Federal Identifier" on the SF 424, Application for Federal Assistance, to enter the DUNS number. Be advised that this number is required for all Federal grant applications, and there may not be any extensions granted for applicants who were unable to obtain their number prior to the end of the application period.

Application

As in previous years, you will be required to answer a series of questions designed to provide the FIRE Grants Program Office with general information about your department and community. The answers you provide to these questions may be used in the evaluation of your application. We will also use some of the information to determine whether your department serves an urban, suburban, or rural community. We believe that characteristics such as population, water supply, land use, number of fire stations, number of inhabitable structures over four stories tall in your jurisdiction, and call volume are indicators of the type of community you serve. We will use these characteristics in determining what type of community you serve. The designation will be displayed on the application once you have completed the Department Characteristics sections of the application.

We have established different funding priorities in some of the program or activity areas depending on the type of community you serve. These funding priorities are delineated in each program area below, if applicable. This community designation (i.e., urban, suburban, or rural) may affect the ranking of your application depending on the program area for which you are applying. If you disagree with your designation, you may address your concerns in the narrative section of the application, but you may not change the designation.

After you have completed the general questions, you will be asked a series of activity-specific questions relative to the program you selected and the activities for which you plan to apply. You will answer the questions for each of the activities that support your project.

Lastly, you will be required to provide a written narrative describing your planned project. The narrative portion of your application should provide the details of activities you propose to be funded, including budget details for each of your activities. It should describe the financial need of your fire department and elaborate on the benefits your community and/or fire department will gain from the expenditure of the grant funds.

We recommend that you type your narrative offline in any word processing software, such as Word, Word Perfect, Notepad, etc. Once your narrative is complete, you can copy it or "copy-and-paste" it from your word-processing document into the narrative block in the application. Space for the narrative is limited, so your narrative should not exceed five pages. Do not type your narrative entirely in capital letters.

Evaluation Process

We will rank all complete and eligible applications based on the substance of your application relative to the established program priorities for the type of community served. We determine this relationship from your answers to the activity-specific

questions. If you apply for more than one activity in your selected program, each activity will be scored separately. Then your scores will be prorated based on the individual activities' funding level compared to the total requested funding in your application. For example, if you are applying under the Operations and Firefighter Safety Program, and you are applying for $9,000 in training and $1,000 in equipment, the training portion of your proposal will represent 90 percent of your score and the equipment will represent 10 percent of your score. The number of activities included in your application will not provide any advantage or disadvantage with respect to its evaluation.

Applications that best address the grant program's priorities (as outlined below) will score higher than those applications that are not directed toward the priorities. The applications that score the highest will be determined to be in the "competitive range." A panel of at least three technical evaluation specialists will further evaluate the applications that are in the competitive range, i.e., the highest-ranked applications. These panelists will evaluate the application using your project narrative along with the answers to the general questions and the activity-specific questions.

When reviewing your application, the panelists will use your narrative and all the information in your application to determine the worthiness of your request for an award. During the panel review process, the panelists will provide a subjective but qualitative judgment on the merits of CBRNE equipment and training requests relative to the critical infrastructure that the applicant protects. Critical infrastructure includes any system or asset that if attacked would result in catastrophic loss of life or catastrophic economic loss. Critical infrastructure also includes the following:

- Public water systems serving large population centers.
- Primary data storage and processing facilities, stock exhanges, or major banking centers.
- Chemical facilities located in close proximity to large population centers.
- Major power generation facilities that exceed 2,000 MW and support the regional electric grid.
- Hydroelectric facilities and dams that produce power in excess of 2,000 MW or could cause catastrophic loss of life if breached.
- Nuclear power plants.
- Electric substations 500 KV or larger, and substations 345 KV or larger that are part of a critical system supporting populations in excess of one million.
- Rail and highway bridges over major waterways that, if destroyed, would cause catastrophic loss of life or catastrophic economic impact.
- Major natural gas transmission pipelines in excess of 3,000 bcf.
- Natural gas and liquid natural gas storage facilities.
- Major petroleum handling facilities such as pipelines, ports, refineries, and terminals.
- Telecommunications, Internet and cyber facilities.
- Facilities that support large public gatherings such as sporting events or concerts.

The panelists will evaluate and score the clarity of your proposed project including your project's budget detail, the financial need of your department, and the benefits that would result should you be awarded the grant. These three elements carry equal weight when factored into the panelists' scores (i.e., one-third). Each application will be judged on its own merits – not against other applications. The panelists will consider all expenses budgeted, including administrative and/or indirect costs, as part of their cost-benefit review. In addition, an applicant can demonstrate cost-benefit by describing, as applicable, how the grant award will do the following: 1) fit in with a regional approach, i.e., is consistent with current capabilities and requests of neighboring fire departments or otherwise benefits other fire departments in the region; 2) promote interoperability of equipment/technology with other fire departments and local, State, and Federal first-responders; and/or 3) allow the fire department to respond to all hazards (all hazards include incidents involving seismic (earthquake), atmospheric (tornadoes, hurricanes), or technological (hazardous materials, nuclear, etc.) events, or incidents involving CBRNE, as well as fire prevention/suppression). The panelists will review each application in its entirety and compare the application against established evaluation criteria, not against other applications.

Keep in mind that we will use your answers to the activity-specific questions for our initial assessment. Your answers to these questions are the primary bases upon which we will determine whether your application warrants further evaluation. Applicants whose answers indicate that their project is consistent with our established priorities (as outlined below) will have a better chance of reaching the competitive range and the second level of review than those applicants whose projects do not reflect the established priorities. Applicants that falsify their applications or misrepresent their departments in any material manner will have their applications deemed ineligible by the AFG program office and referred for further action as appropriate.

State Technical Review of CBRNE Applications

Following our preliminary determination of award (i.e., after the panel process is complete) but prior to award, we will involve the State's homeland security office in a technical review of any application that is seeking equipment and/or training for preparation for incidents involving CBRNE. Each State will be asked to provide the AFG program office with a representative to carry out this technical review of applications from the State that include CBRNE-related requests and that have been rated as fundable by the peer review panelists. In the technical review, the State representative will attest to and certify that any CBRNE-related requests are consistent with the State's homeland security plan and that the requests do not duplicate assistance already provided or about to be provided.

Programs and Program Priorities

Specific rating criteria and priorities for each of the grant categories are provided below following the descriptions of this year's eligible programs. The rating criteria, in conjunction with the program description, will provide you with an understanding of what information we are seeking about your proposed projects.

1) Operations and Firefighter Safety Program

There are five different activities available for funding under this program area: training, equipment, personal protective equipment, wellness and fitness, and modifications to facilities. Please note that emergency medical services (EMS) training and equipment are available under the appropriate activity in this program area. Also note that requests for equipment and training to prepare for response to incidents involving CBRNE are available under the applicable equipment and training activities.

You may apply for, as many of the activities within this program as you think are necessary in one application. There are no bonuses or penalties for applying for only one activity or for multiple activities. Wherever possible, equipment requests in this program should have the intent and/or goal of solving applicable interoperability or compatibility problems. The applicant should describe in the narrative section how the purchase of equipment would facilitate solving interoperability or compatibility problems.

a) Training activities:

DHS may make grants for the purpose of training firefighting personnel. Examples of training activities include, but are not limited to, firefighter I and II certifications; first-responder EMS; driver/operator; fire officer; hazardous materials response; incident command; supervision and safety; CBRNE awareness, performance, planning and management; or train-the-trainer courses in any of these areas.

We believe that the most benefit is derived from training that is instructor-led, hands-on, and leads to a nationally sanctioned or State certification. Training requests that include Web-based home study or distance learning and the purchase of training materials, equipment, or props are a lower priority. Therefore, applications focused on national or State certification training, including train-the-trainer initiatives, will receive a higher competitive rating. Training that involves instructors where the students must demonstrate their grasp of knowledge of the training material via testing and is integral to a certification will receive a high competitive rating, but not to the extent of the trainings that would lead to

national certification. Training that is instructor-led but does not lead to a certification, or any self-taught courses, are of low benefit, and therefore they will not be afforded a high priority.

We will rate more highly those proposed programs that benefit the highest percentage of applicable personnel within a fire department or those proposed programs that will be open to other departments in the region. Training that brings the department into statutory (or Occupational Safety and Health Administration (OSHA)) compliance would provide the highest benefit relative to training that is not required, therefore receive the highest consideration. Training that brings a department into voluntary compliance with national standards will also receive a high competitive rating, but not as high as the training that brings a department into statutory compliance. Training that does not have statutory compliance or voluntary compliance with a national standard will receive a low competitive rating.

Due to the inherent differences between urban, suburban, and rural firefighting characteristics, we have developed different priorities in the training activity for departments that service these different types of communities. However, CBRNE awareness training has a high benefit and will receive the highest consideration regardless of the type of community served.

For departments serving rural communities, we believe that funding basic, operational-level firefighting, operational-level rescue, driver training, or first-responder EMS, EMT-B, and EMT-I, (i.e., training in basic firefighting duties) has greater benefit than funding officer training, safety officer training, or incident-command training. In rural communities, after basic training, there is a greater cost-benefit to officer training than for other specialized types of training such as mass casualty, HazMat, advance rescue and EMT, or inspector training for rural departments.

Conversely, for departments that are serving urban or suburban communities, we believe there is a higher benefit to be gained by funding specialized training, such as mass casualty, HazMat, advance rescue and EMS, or inspector training than the funding of officer training, safety officer training, or operations training, which in turn has a higher benefit than basic-, operational-, or awareness-level activities. Training designated to enhance multi-jurisdictional capabilities will be afforded a slightly higher rating.

Eligible uses of training funds include but are not limited to tuition, exam and course fees, certification and/or re-certification expenses, purchase of training curricula, training equipment (including trailers and simulators), training props, training services (such as instructors), attendance at formal training forums, etc. Tow vehicles or other means of transport may be eligible as a transportation expense under this activity if adequately justified in your grant proposal, but we

will limit transportation expenses to $6,000 per year per application. Compensation to volunteer firefighters for wages lost because of attending training under this program is an eligible expense if justified in your grant proposal. Overtime expenses paid to career firefighters to attend training, or overtime expenses paid to firefighters to cover for colleagues while the colleagues are in training, are eligible expenses if justified in your grant proposal. Even though compensation is an eligible expense, proposals that contain such compensation expenses may be less favorably scored than similar proposals without compensation expenses due to the cost-benefit element in the evaluation process.

Activities that are not eligible in this area include construction of facilities, such as classrooms, buildings, towers, etc. Modular training units that are not trailer-mounted are not eligible. Grant funds cannot be used for modular training units if the units are to be permanently fastened to the ground. No grant funding can go toward site preparation to accommodate any training activity, facility, or prop. The purchase of real estate is also not eligible. Renovations to an existing facility that are necessary to accomplish training activities are allowable if the renovations are minor and comply with the definition in the Final Rule and published in the *Federal Register* (i.e., limited to minor interior alterations costing less than $10,000). Renovation expenses should be included in the budget as an "Other" line-item expense and clearly explained in the narrative.

ODP offers a variety of CBRNE training courses free of charge; visit the ODP Web site for details (www.ojp.usdoj.gov/odp/docs/coursecatalog.pdf) or call the ODP Helpline at 1-800-368-6498.

b) Equipment Acquisition:

DHS may make grants for acquiring additional equipment, including equipment for fire suppression, to enhance the safety or effectiveness of firefighting, rescue, and EMS functions. They may also make grants for equipment necessary for preparedness for response to CBRNE incidents.

The stated purpose of this grant program is to protect the health and safety of firefighters from fire and fire-related hazards. As such, we believe that this grant program will achieve the greatest benefits by providing funds to fire departments purchasing basic firefighting equipment before any other non-firefighting equipment. Equipment that has a direct effect on firefighters' health and safety will receive a high competitive rating over equipment that has no such effect. Equipment that promotes interoperability with neighboring jurisdictions may receive additional consideration in the cost-benefit assessment if the application makes it into the competitive range.

We believe this grant program will achieve the greatest benefits if we provide funds to fire departments purchasing basic firefighting, rescue, EMS, and CBRNE preparedness equipment that they have never owned prior to the grant or to replace used or obsolete firefighting equipment. Our second priority will be to fund departments that are seeking to expand into new mission areas, and therefore those departments will receive a lower competitive rating than departments seeking reserve equipment. Additionally, among departments that serve similar types of communities, those that have high call volumes will be afforded a higher competitive rating than those that have low call volumes.

The purchase of equipment that brings the department into statutory (or OSHA) compliance will provide the highest benefit and therefore will receive the highest consideration. The purchase of equipment that brings a department into voluntary compliance with national standards will also receive a high competitive rating, but it will not be as high as for the training that brings a department into statutory compliance. Equipment that does not have an effect on statutory compliance or voluntary compliance with a national standard will receive a lower competitive rating.

Small boats (13 feet or less, without fixed fire pumps), jet-skis, all-terrain vehicles (ATVs), and appropriate trailers may be considered under this activity if properly justified in the narrative section of the application. Other vehicles, as defined in the Final Rule and published in the *Federal Register*, are not eligible under this activity but would be eligible under the Firefighting Vehicle Program.

Eligible expenses include those expenses necessary to acquire equipment, including communications and monitoring equipment. Compressor systems, cascade systems, or similar self-contained breathing apparatus (SCBA) refill systems are eligible expenditures in this area. Renovations to an existing facility to accommodate such equipment are allowable if justified in the narrative and if the renovation is minor as defined in the interim Final Rule and published in the *Federal Register* (i.e., limited to minor interior renovations costing less than $10,000). Traffic signal preemption systems are eligible. Individual communications equipment (portable radios) and/or mobile communications equipment (including mobile repeaters) are eligible. Mobile data systems are eligible. Integrated communications systems such as base stations, computer-aided dispatch, fixed-site repeaters, wireless and broadband mobile data systems, etc., are eligible under this activity. The cost of shipping equipment purchased under this program is also an eligible expense. We will limit funding for portable radios to the number of seated positions based on the applicant's firefighting vehicle fleet unless otherwise justified in the narrative.

The purchase of any communications systems and/or equipment under this activity should have the intent and/or goal of solving your interoperability problems, as applicable. Any applicant seeking funding for equipment herein

should provide details in the narrative section of the application regarding their local plan to enable interoperability for the jurisdiction.

Equipment used in response to CBRNE incidents is also eligible. Equipment exclusively designed for use in CBRNE incidents that is eligible this year includes special monitoring equipment (biological, radioactive, etc.) and CBRNE-related pharmaceuticals for first-responders, such as auto injectors. AFG program funds cannot be used to supplant other funds for CBRNE preparedness that are available through other Federal programs.

This year, requests for Emergency Medical Services (EMS) equipment are eligible in this activity. Eligible expenses for EMS equipment in this activity can include, but are not limited to, defibrillators, basic and advanced life support equipment, universal precaution supplies (i.e., one-way masks, latex gloves), computers, expendable supplies (but not medications), and infectious disease control and decontamination systems.

Thermal imaging cameras are eligible, but the number of cameras that can be purchased with grant funds will be based on the size of the population served by the department applying for assistance. Departments that serve communities of less than 20,000 people can purchase one thermal imaging camera with grant funds if awarded a grant; departments serving communities between 20,000 and 50,000 can purchase two cameras with grant funds if awarded a grant; and departments serving communities of more than 50,000 people can purchase three cameras with grant funds if awarded a grant.

No grant funds can be used to construct facilities such as buildings, sheds, or towers to house communications equipment. Telephones and cell phones are not eligible. Bomb disposal equipment and robots are not eligible. Personal protective equipment, including clothing for structural and wildland fire suppression, such as "turnout gear" or "bunker gear" (including boots, pants, coats, gloves, hoods, goggles, vests, helmets, coveralls, and fire shelters), SCBAs, spare cylinders, and personal alert safety systems, ***are not eligible under this activity,*** however, they are eligible under the Personal Protective Equipment activity detailed below.

c) Personal Protective Equipment (PPE) Acquisition:

DHS may make grants for acquiring PPE required for active firefighting personnel by OSHA and other PPE for firefighting personnel.

One of the stated purposes of this grant program is to protect the health and safety of firefighters. To achieve this goal and maximize the benefit to the firefighting community, we believe that we must fund those applicants needing to provide PPE to a high percentage of their personnel. Accordingly, we will give

the highest competitive rating in this category to fire departments where a large percentage of their active firefighting staff does not have any PPE. We will also give a high competitive rating to departments that wish to purchase enough PPE to equip 100 percent of their active firefighting staff, or 100 percent of their on-duty staff, as appropriate. We will also give a high competitive rating to departments that are purchasing the equipment for the first time as opposed to departments replacing obsolete or substandard equipment (e.g., equipment that does not meet current NFPA and OSHA standards), or purchasing equipment for a new mission. For those departments that are replacing obsolete or substandard equipment, the condition of the equipment to be replaced will be factored into the score with a higher priority given to replacing equipment that is damaged, torn, and/or contaminated.

Due to safety benefits afforded firefighters, for applications that include a request for personal alert safety system (PASS) devices, we will only consider funding applications that are requesting equipment that meets current national standards, i.e., integrated and/or automatic, or automatic-on PASS. Finally, the number of fire response calls that your department makes in a year will be considered with the higher priority going to departments with higher call volumes, while applications from departments with low call volumes will be afforded lower competitive ratings. The call volume of rural departments will be compared only to other rural departments, suburban departments will be compared only to other suburban departments, and urban departments will be compared only to other urban departments.

Eligible PPE includes clothing for structural and/or wildland fire suppression, such as "turnout gear" or "bunker gear" (including boots, pants, coats, gloves, hoods, goggles, vests, helmets, coveralls, and fire shelters), SCBAs, spare cylinders, and PASS. We will limit funding for SCBAs to the number of seated positions based on the applicant's firefighting vehicle fleet unless otherwise justified in the narrative. Each SCBA request will be limited to one spare cylinder unless adequately justified. Protective clothing for response to hazardous materials incidents and other specialized incidents is also eligible under this activity. Protective clothing that is designed for EMS activities or for response to CBRNE incidents are also eligible in this activity. Eligible PPE for CBRNE incidents includes SCBAs that have been certified for use in CBRN atmospheres and PPE that is nationally certified for use in CBRNE incidents. It is not necessary for every SCBA request to be CBRN-certified. We will not fund CBRN-certified SCBA unless such a request is adequately justified in the narrative and directly related to the State's homeland security plan. Eligible PPE for EMS activities includes PPE ensembles (coats and trousers) that afford universal precautions against exposure to infectious diseases, etc.

The purchase of three-quarter length rubber boots is an ineligible expenditure under this activity since it precludes the effective use of the eligible

PPE cited above. Uniforms (formal/parade or station/duty) or uniform items (hats, badges, etc.) are also ineligible expenditures under this activity. Personal communications equipment such as radios and pagers are not eligible under this activity but are eligible under the Equipment activity.

d) Wellness and Fitness Activities:

DHS may make grants for the purpose of establishing or expanding wellness and fitness initiatives for firefighting personnel.

We believe that to have an effective wellness/fitness program, fire departments must offer periodic health screenings, entry physical examinations, and an immunization program. Accordingly, applicants for grants in this category must currently offer or plan to offer with grant funds ***all three benefits*** to receive consideration and funding for any other initiatives in this activity. After entry-level physicals, annual physicals, and immunizations, high priority is given to formal fitness and injury prevention programs. Lower priority is given to stress management, injury/illness rehabilitation, and employee assistance.

We believe the greatest benefit will be realized by supporting new wellness and fitness programs, and therefore, we will accord higher competitive ratings to those applicants lacking wellness/fitness programs over those applicants that already employ a wellness/fitness program. Finally, since participation is critical to achieving any benefits from a wellness or fitness program, we will give higher competitive ratings to departments whose wellness and fitness programs mandate or provide incentives for participation.

Eligible expenditures in a wellness and fitness activity for firefighting personnel may include the procurement of medical services to ensure that the firefighting personnel are physically able to carry out their duties (but the purchase of medical equipment is not eligible under this category). Eligible expenditures to carry out wellness and fitness activities may include costs for personnel, physicals, physical fitness equipment (including shipping), supplies, or other related contract services (e.g., health-care consultants, trainers, and nutritionists) directly associated with the implementation of the proposed activity.

Transportation expenses and fitness club memberships for the firefighters or their families are not eligible under the wellness and fitness activity. Other expenses that are not eligible in this area include construction of facilities to house a fitness program, such as exercise or fitness rooms, showers, etc. The purchase of real estate is also not eligible. Renovations to an existing facility are allowable if justified in the narrative and if they involve only minor renovations as defined in the Final Rule and published in the *Federal Register* (i.e., limited to minor interior alterations costing less than $10,000). Renovation expenses should

be included in the budget as an "Other" line-item expense and explained in the narrative.

e) Modifications to Fire Stations and Facilities:

DHS may make grants to modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel. Please note that activities that involve modifications to facilities are subject to all applicable environmental and historic preservation requirements.

The stated purpose of this grant program is to protect the health and safety of firefighters. As such, eligible projects under this activity are those in which the activities specifically have a direct effect on the health and safety of firefighters. Therefore, eligible measures under this activity are limited but focused on promoting fire safety and life safety in fire stations and facilities. We believe that each of the eligible measures, if incorporated, would make any facility safer for firefighters.

Measures that are eligible for funding are the installation of sprinkler systems, installation of vehicle exhaust extraction systems, the installation of smoke and/or fire alarm notification systems, and the installation of emergency facility generators. We will not fund any other requests for modifications than the initiatives listed herein. Any vehicle exhaust extraction system obtained should be extensive enough to extract all toxic vapors and particulates emitted from internal combustion engines and meet all applicable Federal, State, and local standards. Some exhaust extraction systems may meet standards for removal of certain carcinogens, but not others; therefore, it may be necessary to utilize more than one system to fully protect your firefighters.

The grant funds are to be used to retrofit existing structures that do not have the eligible safety features or to upgrade facilities whose features are dated. The funds may not to be used to supplement new construction. Many of these modifications may require environmental review, which may delay an award.

We believe that more benefit would be derived from modifying fire stations than would be realized by modifying fire-training facilities or other fire department facilities. Requests involving facilities that would be open for broad usage and have a high occupancy capacity would receive a higher competitive rating than those involving facilities that have limited use and/or low occupancy capacity. The frequency of use would also have a bearing on the benefits to be derived from grant funds. The frequency and duration of a facility's occupancy have a direct relationship to the benefits to be realized from funding in this activity. As such, facilities that are occupied or otherwise in use 24-hours-per-day, 7-days-per-week will receive a higher competitive rating than facilities used on an irregular or part-time basis.

We will not fund any other requests for modifications than the initiatives listed herein (specifically, vehicle exhaust extraction systems, smoke/fire alarm systems, sprinkler systems, or emergency generators). There are no monetary limits on the individual initiatives under this activity whether it is a vehicle exhaust system, a sprinkler system, or a smoke/fire alarm system, but no applicant can request more than $100,000 in the modifications per fire station under their authority. Multiple stations are eligible in this activity up to the $750,000 Federal share limit.

(2) Fire Prevention Program

DHS may make grants for the purpose of establishing or enhancing a fire prevention program. Appropriate activities in this program include, but are not limited to the following: public education, public awareness, enforcing fire codes, inspector certification, purchase and installation of smoke alarms and fire suppression systems, and arson prevention and detection activities. Applicants can apply for funding for as many fire prevention initiatives under this function as necessary.

We believe that programs that are based on a formal analysis of a community's risk should be afforded the highest competitive rating over fire prevention programs that have no such basis. We also believe that the public as a whole will receive the greatest benefit from fire prevention funds directed to fire departments that currently do not have a prevention program. Also, we believe the public will benefit more from long-term fire prevention programs than from limited efforts. Therefore, we will give a higher competitive rating to programs that will be self-sustaining after the grant period. Because of the benefits to be attained, we will give a higher competitive rating to programs that target one or more identified high-risk populations (e.g., children under 14 years of age, seniors over 65, firefighters, and/or other high-risk populations) and programs whose impact is/will be periodically evaluated.

We believe projects that provide long-term benefits to the entire community, such as public education programs and programs that develop and enforce codes and standards, and/or arson prevention and detection programs provide the greatest benefits. Therefore, such community-wide activities will be afforded the highest competitive rating. Programs where the focus is on the purchase and installation of residential and public detection and suppression systems achieve positive benefits but not the highest competitive rating. The purchase of public information materials and presentation aids and equipment achieves the least benefit; therefore, these types of activities will be afforded the lowest competitive rating.

Eligible expenses to carry out these activities would include costs such as a fire education safety trailer, personnel, transportation, equipment (including appropriate PPE), supplies, and contracted services that are directly associated with

the implementation of the proposed activity. Tow vehicles or other means of transport may be eligible as a transportation expense if adequately justified in the proposal, but transportation expenses will be limited to $6,000 per application.

Physical mitigation or hazard abatement activities, such as prescribed burns are not eligible activities under this program, but mitigation planning, awareness and education are eligible. Construction as defined in the Final Rule is not eligible under this program. Real estate is not eligible under this program. Renovations to an existing facility are allowable if justified in the narrative and if the renovations are minor as defined in the Final Rule and published in the *Federal Register* (i.e., limited to minor interior renovations costing less than $10,000). Renovation expenses should be included in the budget as an "Other" line-item expense and explained in the narrative. A safety village that is not transportable may be considered construction, and therefore, not eligible. Sprinkler systems for residential or commercial uses are not eligible unless the installation is specifically implemented as a critical element in a demonstration or awareness project.

(3) Firefighting Vehicle Acquisition Program

DHS may make grants for acquiring new firefighting vehicles, used fire apparatus, or refurbished apparatus. The funds may also be used to refurbish a vehicle the department currently owns. New vehicles purchased with AFG program funds must be compliant with current NFPA 1901 or 1906 standards. Used apparatus must be compliant with NFPA 1901 or 1906 standards for the year the vehicle was manufactured. Refurbished apparatus must meet NFPA 1912 standards. Applicants may apply for only one vehicle per year under this program. Applicants that have been awarded vehicle grants from the AFG program in previous years are not eligible for a vehicle award in this program year.

Due to the inherent differences between urban, suburban, and rural firefighting conventions, we have developed different priorities in the vehicle program for departments that service different types of communities. The following chart delineates our priorities in this program area for each type of community. Due to the competitive nature of this program and the imposed limits of funding available for this program, it is unlikely that we would fund many vehicles that are not listed as a Priority One or a Priority Two this year.

Vehicle Program Priorities			
Priority	**Urban Communities**	**Suburban Communities**	**Rural Communities**
Priority One	Pumper Aerial Quint (Aerial < 76') Quint (Aerial 76' or >) Fire Boat Rescue	Pumper Aerial Quint (Aerial < 76') Quint (Aerial 76' or >) Fire Boat Brush/Attack	Pumper Brush/Attack Tanker/Tender Quint (Aerial < 76')
Priority Two	Command HazMat Light/Air Rehab	Command HazMat Rescue Tanker/Tender	HazMat Rescue Light/Air Aerial Fire Boat Quint (Aerial 76' or >)
Priority Three	Foam Truck ARFFV Brush/Attack Tanker/Tender Ambulance	Foam Truck ARFFV Rehab Light/Air Ambulance	Foam Truck ARFFV Rehab Command Ambulance

Regardless of the type of community served, we believe that there is more benefit to be realized by funding fire departments that own few or no vehicles of the type they are seeking than there would be by providing vehicle funding to a department with numerous vehicles of that same type. When we assess the number of vehicles a department has within a particular class, we will include all vehicles with similar functions. For example, we consider the following to be classified in the "pumper" category: pumpers, engines, pumper/tankers, (with less than 1,250 gallon capacity), rescue-pumpers, quints (with aerials less than 76 feet in length), and urban interface vehicles such as Type I, II or III. Pumpers with water capacity in excess of 1,250 gallons would be considered a tanker/tender.

We will give a higher competitive rating in the apparatus category to fire departments that own few or no firefighting vehicles relative to other departments serving similar types of communities. We will also give higher competitive ratings to departments that have an aged fleet of firefighting vehicles, and to those with old, high-mileage vehicles. We will also provide a higher competitive rating to departments that respond to a significant number of incidents relative to other departments servicing similar communities.

No competitive advantage has been assigned to the purchase of standard model commercial vehicles versus custom vehicles, or the purchase of used vehicles versus new vehicles in the preliminary evaluation of applications. It has been our experience that depending on the type and size of department, the technical evaluation panelists often prefer low-cost vehicles when evaluating the cost-benefit section of the project narratives. Panelists may be provided with guidance for use in their evaluation of the reasonableness of vehicle costs. We also reserve the right to instill funding limits on requests for vehicles whose costs we deem excessive or otherwise not in the best interest of the program.

Eligible expenses under this program would include the cost of the vehicle and associated equipment necessary to conform to applicable national standards (NFPA 1901 or 1906). New, used, or refurbished vehicles are eligible; however, any used or refurbished vehicles must conform to the national standards that were in effect the year the vehicle was manufactured. An allowance for transportation to inspect a vehicle under consideration or during a vehicle's production would be eligible if reasonable and justified in the grant proposal. Also eligible would be the additional costs associated with the purchase and installation of a vehicle-mounted exhaust filtration system for any vehicle purchased with grant funds. Additionally, operator training may be eligible for any vehicle award if justified in the narrative.

As stated above, previous vehicle recipients are ineligible for a vehicle award in this program year (FY 2004). Applicants will not be allowed to modify the scope of work of a vehicle award, i.e., change the type of vehicle requested after award. Vehicles contracted for or otherwise purchased prior to the end of the established application period are not eligible for funding. Aircraft, bulldozers, and construction-related equipment are also not eligible.

Other Eligible Costs

(1) Administrative Costs: Administrative costs are allowable under any of the program areas listed above in accordance with OMB Circular A-87 or OMB Circular A-122, as applicable. (For more information about Circulars, go to www.whitehouse.gov/omb/circulars.) Applicants may apply for administrative costs if the costs are directly related to the implementation of the program for which they are applying. Administrative costs are identifiable costs directly associated with the implementation and management of the grant. If you are requesting administrative expenses, you must list the costs under the "Other" category in the budget and explain what the costs are for in your project narrative. The administrative costs should be based on actual expenses, not a percentage of the overall grant. We will reimburse actual expenses only. Examples of eligible administrative costs would be shipping, office supplies, computers associated with the NFIRS reporting requirements, etc. The cost of a grant writer (if specifically listed on your application), is eligible and can be charged to the grant as administrative costs in accordance with the provisions outlined below [see

(7) below]. We will assess the reasonableness of the administrative costs requested in each application and determine if it is reasonable and in the best interest of the program.

(2) Indirect Costs: If you have an approved indirect cost rate, you may charge indirect costs to the grant. If you are charging indirect costs to the grant, you must submit the documentation that supports the indirect cost rate to us for review and approval prior to submitting any claims for indirect costs.. The appropriate documentation for an approved indirect rate is an indirect cost rate agreement. We will allow the rate to be applied as long as it is consistent with its established terms. For example, some indirect cost rates may not apply to capital procurements; in these cases, indirect cost rates would not apply for a grant for equipment or a vehicle.

(3) Audit Costs: Some grantees with large awards may be required to undergo an audit in accordance with OMB Circular A-133. Specifically, recipients of Federal funding that spend in excess of $500,000 of Federal funds in a year must undergo an audit. (For more information about the Circulars, go to www.whitehouse.gov/omb/circulars.) The costs incurred for such an audit would be an eligible expenditure if included in the proposal's budget. You may wish to consider including anticipated costs of such an audit if you are applying for a significant level of funding. We will allow you to charge a prorated share of the costs of the single audit to the grant. For example, if you received $100,000 from the AFG program and $400,000 from the Forestry Service, we will allow you to charge one-fifth of the audit costs to the AFG program grant. We do not require any other audits; therefore, you cannot charge any other audit expenses to the grant.

(4) Renovation Costs: Renovations to an existing facility are allowable only if the costs comply with the Final Rule as published in the *Federal Register* (i.e., limited to minor interior alterations costing less than $10,000). To be eligible, renovations must be essential to the successful completion of the grant's scope of work. Construction costs are not eligible under the Assistance to Firefighters Grant Program nor are costs for the purchase of real estate. Construction includes major alterations to a building and/or changes to the profile or footprint of the structure. Enhancements to existing structures such as the installation of apparatus-bay ventilation systems and retrofitting fire stations with sprinkler systems are eligible for application under the Modifications to Fire Stations and Facilities Activity.

(5) Pre-award Costs: Generally, grantees cannot use grant funds to pay for products and services contracted for, or purchased prior to, the effective date of the grant. However, expenses incurred after the application deadline but prior to award may be eligible for reimbursement if the expenses were justified, unavoidable, consistent with the grant's scope of work, and specifically approved by us. We will consider requests for reimbursement for pre-award costs on a case-by-case basis.

(6) ***Pre-application Costs:*** Expenses, obligations, commitments, or contracts incurred or entered into prior to the application deadline are ***not*** eligible to be included as a grant expense with the exception of grant preparation costs [see (7) below].

(7) ***Grant Writer Fees:*** Fees for grant writers may be included as a pre-award or pre-application expenditure (as provided in section 152.7(b) of the Final Rule). But fees payable on a contingency basis are not an eligible expense that can be charged to the grant. For grant writers' fees to be eligible as a pre-award expenditure, the fees must be specifically identified and listed in the application and the fees must have been paid prior to any contact with grants management staff or award, i.e., paid within 30 days of the end of the application period. Applicants may be required to provide documentation to support these pre-award expenditures. The hiring of a grant writer or use of any other third parties in the preparation of the application does not eliminate the applicant's responsibilities for assuring that the information contained in the application is true and correct.

Reasonableness of a Request

The panelists will review all of the applications in the competitive range and judge each application on its own merits. The panelists will consider all expenses budgeted, including administrative and indirect, as part of the cost-benefit determination and may recommend appropriate adjustments. Regardless of the eligibility of any costs requested, we reserve the right to reduce any requests for assistance, in whole or in part, that we deem to be excessive or otherwise contrary to the best interests of this program.

During the panel review process, the panelists will provide a subjective but qualitative judgment on the merits of CBRNE equipment and training requests relative to the critical infrastructure that the applicant protects. Critical infrastructure includes any system or asset that if attacked would result in catastrophic loss of life or catastrophic economic loss. Critical infrastructure also includes the following:

- Public water systems serving large population centers.
- Primary data storage and processing facilities, stock exhanges, or major banking centers.
- Chemical facilities located in close proximity to large population centers.
- Major power generation facilities that exceed 2,000 MW and support the regional electric grid.
- Hydroelectric facilities and dams that produce power in excess of 2,000 MW or could cause catastrophic loss of life if breached.
- Nuclear power plants.
- Electric substations 500 KV or larger, and substations 345 KV or larger that are part of a critical system supporting populations in excess of one million.

- Rail and highway bridges over major waterways that, if destroyed, would cause catastrophic loss of life or catastrophic economic impact.
- Major natural gas transmission pipelines in excess of 3,000 bcf.
- Natural gas and liquid natural gas storage facilities.
- Major petroleum handling facilities such as pipelines, ports, refineries, and terminals.
- Telecommunications, Internet and cyber facilities.
- Facilities that support large public gatherings such as sporting events or concerts.

Award Procedure

Awards will be made on a competitive basis using rank order as the primary basis of our decision, regardless of program. But, there are some exceptions to this process. The law requires that we use no less than 5 percent of the available funding on fire prevention grants. Therefore, it may be necessary to go out of rank order to select a sufficient number of awards to comply with this requirement. We are also limited in the amount of funds that can be awarded for vehicles, i.e., we cannot award grants for vehicles in excess of 25 percent of the total available funding. Once we reach that limit, it would then be necessary for us to deviate from rank order with respect to the remaining vehicle requests.

Throughout the process, career departments will be competing against other career departments for up to 45 percent of the available funding. Volunteer and combination departments will compete among each other for at least 55 percent of the available funding. Historically, less than 10 percent of the applications we receive for AFG program funding are from career departments. Therefore, the funding levels may not reach the 45 percent ceiling for career departments.

To fulfill our obligations under the law, we may also make funding decisions using the size and character of the community a department serves (urban, suburban, or rural), the type of department (career, combination, or volunteer), and the geographic location of the fire department. In these instances where we are making decisions based on geographic location, we will use States as the basic geographic unit. Geographic location of an applicant will be used primarily as a final discriminator, e.g., in cases where applicants have similar qualifications, we may use the geographic location of the applicants to maximize the diversity of the awardees.

Fire departments that have received funding under the AFG program in previous years are eligible to apply for funding in the current year. However, due to our responsibilities under this program to assure adequate distribution of awards among certain types of departments (career, combination and volunteer) and certain types of communities (urban, suburban or rural) as well as a equitable geographic distribution, we reserve the right to fund or not to fund previous recipients of grants under this program in

order for us to fulfill these responsibilities. We may also take into account an applicant's performance on prior grants when making funding decisions on current applications.

As stated earlier, each application will be evaluated based on the answers to the activity-specific questions. The applications that best address the program's established priorities would be deemed to be in the "competitive range" and subject to a second level of review. This second level of review is conducted via a panel of technical reviewers who will assess the applications' merits with respect to the detail provided in the narrative on the activity, the applicant's financial need, and the purported benefit to be derived from the cost. The panel evaluators will independently score each application, discuss the merits and shortcomings of the application, and reconcile any major discrepancies, if necessary. A consensus is not required.

Once every application in the competitive range has been paneled, the applications are ranked according to the average score awarded by the panel. The ranking will be summarized in a Technical Report prepared by the AFG program office. The AFG program office will then make award recommendations to the ***Grants Management Branch of the Financial and Acquisition Management Division at FEMA.*** The Grants Management Branch will then contact the applicant to discuss and/or negotiate the content of the application before making the final award decision.

We will select a sufficient number of awardees from this one application period to obligate all of the funding available this year. Awards will be announced over several months as the decisions are made. Awards will not be made in any specified order, i.e., not by State, or by program, or any other characteristic.

Grantees' Responsibilities

Recipients (Grantees) must agree to:

(1) Perform the tasks (scope of work) outlined in the grantee's application and approved by the AFG program office in accordance with the articles of agreement.

(2) Share in the costs of the projects funded under this grant program. Fire departments in areas serving populations over 50,000 must agree to match the Federal grant funds with an amount of non-Federal funds equal to 30 percent of the total project cost. Fire departments serving areas with a population of 50,000 or less will have to match the Federal grant funds with an amount of non-Federal funds equal to 10 percent of the total project cost. All cost-share contributions must be cash. There are no requirements on the timing of the cost-share, i.e.; the cash doesn't have to be on-hand at the time of application nor at the time of award. Grantees have the whole grant performance period to accumulate their match. No "in-kind" contributions will be considered for the statutorily required cost-share. No waivers of this requirement will be granted except for fire departments of Insular Areas as provided for in 48 U.S.C. 1469a.

(3) Maintain operating expenditures for the one-year grant period in the areas funded by this grant activity at a level equal to or greater than the average of their operating expenditures in the two years proceeding the year in which this assistance is received. This program is meant to supplement rather than replace a fire department's funding.

(4) Retain grant files and supporting documentation for three years after the conclusion and closeout of the grant.

(5) Ensure that all procurement actions are conducted in a manner that provides, to the maximum extent possible, open and free competition. In doing so, you must follow your established procurement processes when purchasing vehicles, equipment, and/or services with the grant funds. If the fire department has no established procedures, you should obtain at least two quotes/bids for the items you are procuring and document in your grant files the process used.

(6) Report to us the progress made on the performance you have made on your grant after six months. At grant closeout, you need to report how the grant funding was used and the benefits realized from the award in a final report. An accounting of the funds must also be included.

(7) Make grant files, books, and records available if requested for inspection to ensure compliance with any requirement of the grant program.

(8) Agree to provide information, through established reporting channels, to the U.S. Fire Administration's national fire incident reporting system (NFIRS) for the period covered by the assistance. If a grantee does not currently participate in the incident reporting system and does not have the capacity to report at the time of the award, that grantee must agree to provide information to the system for a twelve-month period commencing as soon as they develop the capacity to report. AFG program grantees from previous years will not be allowed to closeout their grants until they demonstrate that they are complying with this requirement. Failure to closeout your previous years' grants may affect the consideration of future awards.

(9) Follow the audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-profit Organizations, which calls for grantees who expend $500,000 or more in Federal funds in a year (from all Federal sources), must have a single audit performed in accordance with the Circular. (For more information about the Circulars, go to www.whitehouse.gov/omb/circulars.)

Excess Funds

Occasionally, due to successful competitive bid processes, some grantees have funds remaining after the completion of their obligations outlined above. Grantees that complete the approved scope of work prior to the end of the performance period and still have grant funds available have three options for the use of the excess funds:

(1) Grantees may unilaterally use as much as $5,000 to continue or expand the activities for which they received the award. For example, if a grantee received an award for personal protective equipment, the grantee may use up to $5,000 of the excess funds to purchase more personal protective equipment without seeking our approval.

(2) Grantees may use excess funds to create or expand a fire prevention program in accordance with the guidance provided herein. Grantees will need to obtain approval from the AFG program office to use excess funds for this purpose. Excess funds in excess of $5,000 must be used for fire prevention or option number three (3) below.

(3) Grantees may return excess funds to the AFG program office. To exercise this option, a grantee must closeout their award and state in the final performance report that the remaining funds are not necessary for the fulfillment of the grant obligations. The grantee must also indicate that they understand the funds would be deobligated and unavailable for future expenses. The deobligation of the excess funds may affect the Federal portion of the grant and the amount of the grantee's match.

Any uses of excess funds would have to be disclosed as part of your reports, i.e., mid-term performance report and/or final closeout.

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

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

FROM:

Chris Bosch	Fire Administration	Fire Department
Name	Division	Department

ACTION REQUIRED: Approval of a Resolution providing the Fire Department with approval to submit a grant request for a FEMA Fire Act Grant during the 2004 funding cycle.

COST TO CITY:

Will know at time of grant approval.	$ -	
Cost of this request	Category/Project Budget	Program Category / Project Name
1010.0001.4308.00	$ -	Fire Administration
Account Number	Funds Used to Date	Program / Project Category Name
N/A	$ -	General
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: N/A Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 4-6-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 4/6/04
Internal Auditor — Date: 4/6/04
City Attorney — Date: 4/6/04
Purchasing Manager — Date:

STAFF RECOMMENDATION:

Division Head — Date:
Department Director — Date: 4/6/04
Finance & Internal Services Dir. — Date: 4-6-04
Chief Administrative Officer — Date: 4-7-04
Mayor — Date: 4/7/04

Received in Mayor's Office — Date:

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: **Yes** **No**

City Council Meeting of March 16, 2004

CITY COUNCIL AGENDA MEMO

TO: Mayor and Fayetteville City Council

THRU: Hugh Earnest, Chief Administrative Officer
Tim Conklin, Community Planning and Engineering Services Director

FROM: Ed Connell, Land Agent

DATE: March 4, 2004

Subject: Approval of a resolution authorizing Mayor and City Clerk to convey 0.412 acres of Gregory Park land to the US Army Reserve Center so as to resolve a matter of title clarity and encroachment. There shall be no cost to the City.

RECOMMENDATION

Staff recommends approval of authorization so as to obtain clear title on Gregory Park property and resolve an encroachment by the USARC onto park property.

BACKGROUND

In 1956, the Veterans Affairs Office, through the General Services Administration, conveyed two parcels of land to the U.S. Army; namely a small parcel of 3.5 acres which was used for the U.S. Army Reserve Center, located on Woolsey Ave. west of the VA in Fayetteville. A second parcel of 19.38 acres was also included in that conveyance and accepted by the Corps of engineers as noted in the attached November 15, 1956 letter.

Sometime thereafter, the Corps of Engineers reportedly returned the 19.38 acres to the VA, however, there is no documentation trail to confirm this transaction. When the VA gave this 19.38 tract to the City of Fayetteville in 1964, the property was conveyed by Quitclaim Deed without reconciliation of the former conveyance to the Army Corps of Engineers. In accepting the land from the VA, the city should have requested and received a QCD from the U.S. Dept of Army as well as the VA. Probably did not realize that a cloud on title existed at that time.

As stated in the Department of Army letter of January 29, 2004, it was determined that during a recent(2± yrs.) Construction project at the Reserve Center, the Army had inadvertently encroached upon park property by extending a paved area on the East side of the reserve property. In addition, an additional parking lot area was added to the north side of the Reserve property and some of the overburden was deposited on park property.

The 90th Reserve support command has requested that an effort be made to resolve the matter of "cloud on title" for the city property and the encroachment issue for the Army.

CURRENT STATUS AND DISCUSSION

The city does recognize that without a QCD from the Army, it could be considered as a "cloud on title". The limitations placed of the VA's conveyance to the city have long expired and it is in the best interest of the city to obtain clear title. The Army Reserve needs to clear up the encroachment problem and to do that requires a conveyance from the city. Their encroachment involves approximately 0.412 acres of land, being 20 feet on the north side of the reserve property and 25 feet on the east side of that property. The Army wishes to resolve the title problem and the encroachment problem without monetary exchange and the administration agrees that clearing the title to the remainder is prudent. As noted above, all external costs will be covered by the U.S. Army Corps of Engineers.

Recommendation and Resolution

It is therefore recommended by staff that the City Council approve a resolution which authorizes the Mayor and City Clerk to enter into documentation which will convey 0.412 acres to the US Army by Warranty Deed while the Army will issue a QCD to the city on the entire 19.38 acre tract. The actual procedure is a little more complicated in that the US Government will only convey land in QCD and will only accept land in Warranty Deed. Once the city receives the QCD, we can get title insurance on the entire property (paid for by the Army) and can issue a WD on the 0.412 Ac property. Attached herewith are legal descriptions for both tracts of land, before and after the transfer of titles.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE ACCEPTANCE OF A QUITCLAIM DEED FOR APPROXIMATELY 19.38 ACRES OF LAND FROM THE UNITED STATES DEPARTMENT OF THE ARMY IN EXCHANGE FOR CONVEYING A WARRANTY DEED FOR APPROXIMATELY 0.412 ACRES OF LAND TO CLEAR TITLE AND RESOLVE AN ENCROACHMENT; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ANY AND ALL DOCUMENTS REQUIRED THEREFOR.

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 acceptance of a Quitclaim Deed for approximately 19.38 acres of land from the United States Department of the Army in exchange for conveying a Warranty Deed for approximately 0.412 acres of land to clear title and resolve an encroachment.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and the City Clerk to execute any and all documents required therefor.

PASSED and **APPROVED** this 20th day of April 2004.

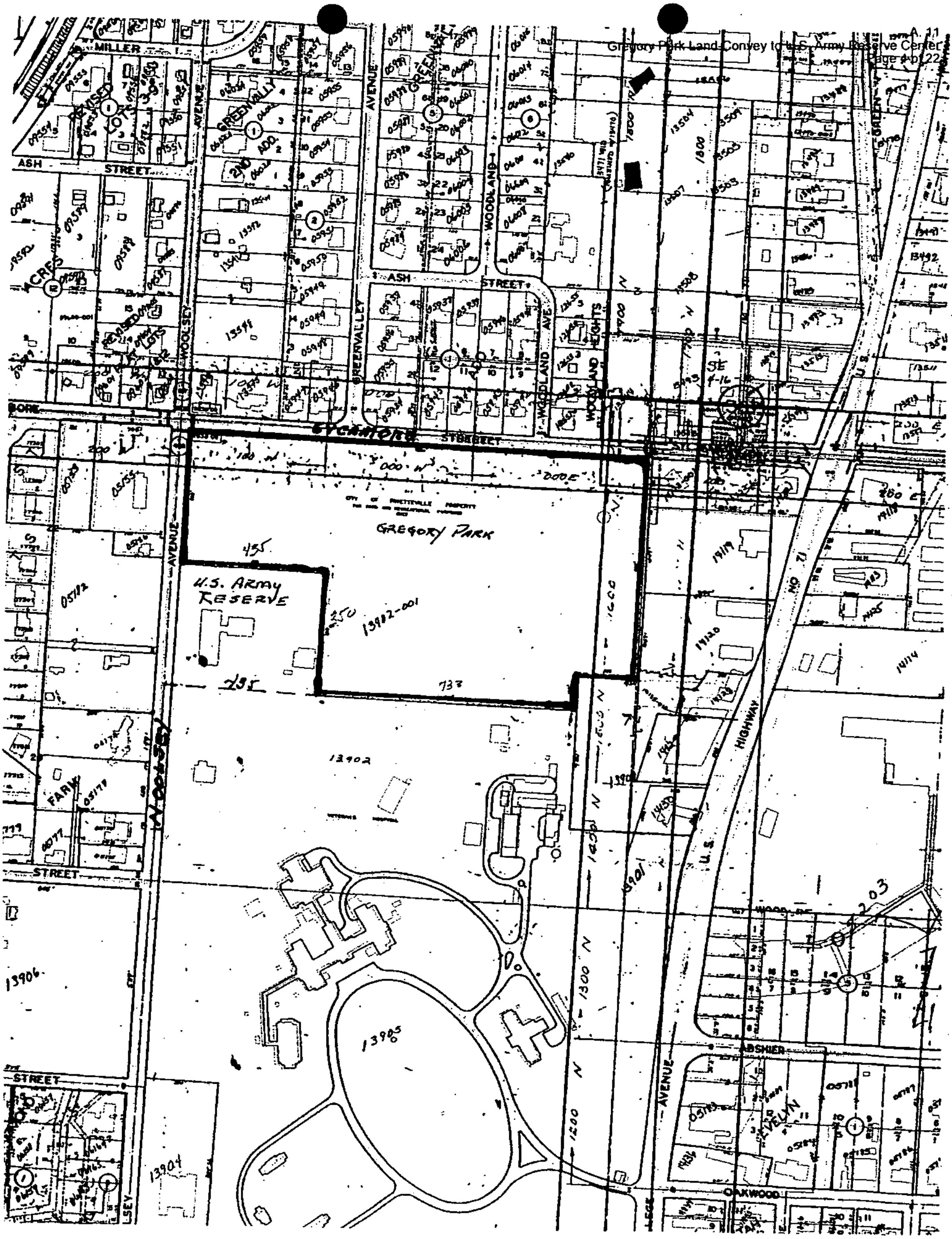
APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT


MILLER
AVENUE
ASH
STREET
GREENVALLY
2ND
ADD
WOODLAND
WOODLAND HEIGHTS
ACRES
WOOLSEY
BREEVALLY
ASH
STREET
BORE
STREET
GREGORY PARK
435
U.S. ARMY RESERVE
250
13912-001
235
733
1600
1600 N
1300 N
1200 N
13902
13906
13905
13904
FARM
STREET
AVENUE
HIGHWAY
ABSHER
OAKWOOD
EVELYN
SE
4-16
203

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

February 24, 2004

Mr. Mark W. Moore
Chief, Real Estate Division
U. S. Department of The Army
Little Rock District, Corps of Engineers
P. O. Box 867
Little Rock, Arkansas 72203-0867

RE: Tract No. 100
United States Army Reserve Center
Fayetteville, Arkansas

Dear Mr. Moore:

The City of Fayetteville received your letter of January 29, 2004 with regard to a possible cloud on title as well as encroachment by the U.S. Army Reserve Center on property owned by the City adjacent to said Army Reserve Center. After review by our staff, we believe it to be in the best interest of all parties to resolve the issues in the manner proposed in your letter, provided all aspects can be resolved without cost to the City of Fayetteville.

Even though we do not see a problem at this time, any conveyance of city property is subject to and must be approved by the Fayetteville City Council. Once the proposed documentation has been worked out and in our hands, this proposal will be submitted for council approval. In the interest of clarity and simplicity, we would like to see the area of conveyance to the U.S. Army Reserve Center expanded to 20.00 feet on the North side and 25.00 feet on the East side of the Reserve. Accordingly, we have modified the attached property description to reflect this change. This is also reflected in the attached diagram and will constitute 0.412 acre to be conveyed.

We would be pleased if Mr. Hudson will continue to communicate with our Land Agent, Ed Connell, at 479-444-3415.

We are pleased to be able to resolve this matter with the U.S. Army Reserve and the Army Corps of Engineers.

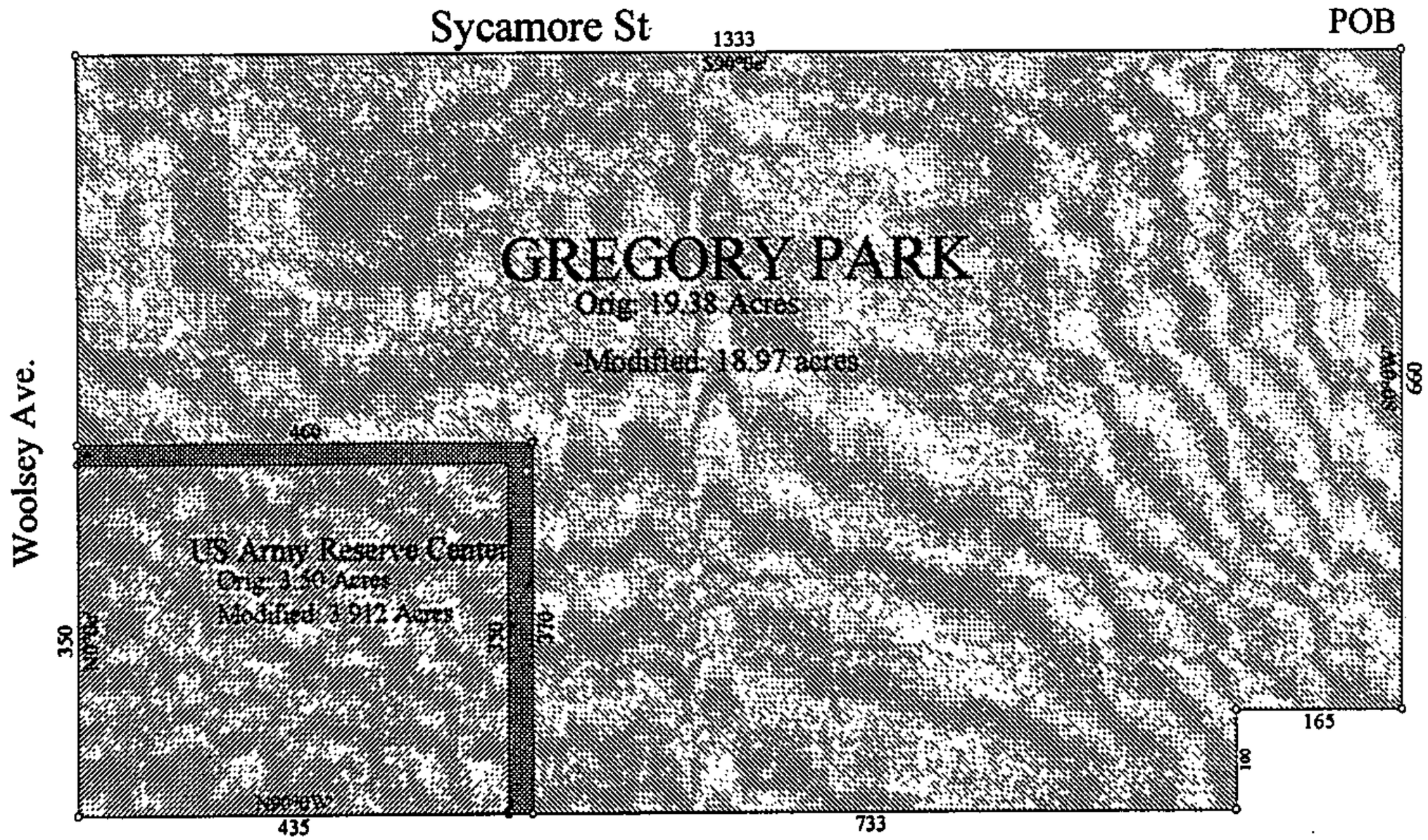
Sincerely yours,

Dan Coody

Dan Coody, Mayor

enclosure

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257



Title: Gregory Park -- U.S. Army Reserve Center, Property Exchange		Date: 03-04-2004
Scale: 1 inch = 200 feet	File: GregoryPk-USARC.des	

Fayetteville, Arkansas(USARC)
United States Army Reserve Center

Washington County, Arkansas
Owner: City of Fayetteville
Acres: Fee - 0.412

TRACT No. 100
(United States Army Reserve Center)

A tract of land, situate in the County of Washington, State of Arkansas, being part of the Northeast Quarter (NE¼) of the northeast quarter (NE¼) of Section 9, Township 16 North, Range 30 West, of the Fifth Principal Meridian and being more particularly described as follows:

Commencing at an existing cotton spindle marking the Northwest corner of the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of said Section 9; thence along the west line of said 40 acre tract South 00° 20' 31" East 390.00 feet to the Point of Beginning; thence leaving said west line and running East 460.00 feet to a point; thence South 00° 20' 31" East 370.00 feet to a point; thence West 25.00 feet, more or less, to the southeast property corner of the U.S. Army Reserve Center; thence along the east property line of said Reserve Center property North 00° 20' 31" West 350.00 feet to the Northeast corner of said Reserve property; thence West 435.00 feet to the west line of said 40 acre tract, thence along said west line North 00° 20' 31" West 20.0 feet to the Point of Beginning, containing 0.412 acre, more or less, subject to rights of way and easements of record.

February 23, 2004

EXHIBIT "A"

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

DATE: February 9, 2004

TO: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer
Gary Dumas, Director of Operations
Tim Conklin, Director of Community Planning and Engineering Services
Kit Williams, City Attorney
Gary Coover, City Engineer
Connie Edmonston, Parks and Recreation Superintendent

FROM: Ed Connell, Land Agent

RE: U.S. Army Reserve Center and Gregory Park

In mid-November, 2003, the US Army Corps of Engineers came to us with a problem relative to the US Army Reserve Center on Woolsey Ave. here in Fayetteville. My attached memo of November 18, 2003 explains the overall situation as it now stands. The attached letter from the Corps of Engineers to the Mayor, dated January 29, 2004, is their formal request to implement the necessary transactions for the conveyance of 0.4 acre of land from the Gregory Park site in exchange for clearing the title of such 19.38 acres . At this time, the Corps is not willing to pay for the 0.412 acre and is not interested in acquiring the entire property.

There are no records, recorded in county, which show property exchange within the U.S. Government, and the attached Nov. 15, 1956 letter form the GSA to the Corps of Engineers has been furnished by the Corps. A local title company only has deed conveyance from Mr. And Mrs. Adams to the US Government in 1936 and the QCD from the VA to the City in 1964, thus making it difficult to follow any chain of title within the Government. The writer has verbally challenged the Corps to prove there is a cloud on the City title. Mr. Ron Hudson of the Corps has said they have been unable to locate any agreement for the return of the 19.38 acre tract back to the VA or any retraction of the attached Nov. 15, 1956 document. When verbally asked if they would pay for the 0.412 acre, there was a flat rejection and threat of condemnation for the entire property, if it went that far. (In that case, the City would be paid a market value price)

The decision that has to be made is:

(1) Does the City want to officially challenge the Corps as to the validity of the QCD currently held by the City, or

(2) Does the City want to go through the various steps required to give the Corps the 0.412 acre they have requested and clear the title on the remaining 19.25 ± acres of park land?

Please review the information contained herein and note your response on a copy of this cover memo. Your response would be appreciated within a week such that we might prepare a letter for Mr. Coody's signature.

DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 867
LITTLE ROCK, ARKANSAS 72203-0867

REPLY TO
ATTENTION OF

Real Estate Division

January 29, 2004

RECEIVED
FEB 02 2004
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Honorable Dan Coody
Mayor
City of Fayetteville
1113 Mountain St.
Fayetteville, Arkansas 72701

Dear Mayor Coody:

The 90th Reserve Support Command, US Army Reserve, has enlisted the support of the US Army Corps of Engineers, Little Rock District, Real Estate Division to assist in the resolution of a boundary dispute on property owned by the city and adjoining the Fayetteville US Army Reserve Center. While researching the issue, Mr. Ron Hudson of this office has coordinated with Mr. Ed Connell, Land Agent for the city, by phone as well as a visit to the site. After a thorough review of our records and a recent survey of the property, we have determined the situation as it currently exists.

In November of 1956 the Veterans Administration transferred two tracts of property to the Army. Tract #1 consisted of 3.5 acres to be used to construct a US Army Reserve Center and Tract #2 consisted of 19.38 acres to be used by the Army National Guard. Tract #1 was accepted by the Army and the Army Reserve Center was subsequently constructed. The National Guard chose another property and Tract #2 was not accepted by the Army. In 1964 that same 19.38 acre tract was transferred to the City of Fayetteville with the stipulation it be used for a park for a period of not less than 20 years. The earlier transfer to the Army is reflected in the courthouse records and creates a "cloud on title" on that tract.

During our research we also discovered that during recent construction at the Reserve Center, the Army has inadvertently encroached upon the park property. This occurred because the lot measurements were taken from the Woolsey Avenue right-of-way instead of the centerline of the street. In addition to that, some soil was deposited on city property along the north boundary of the Reserve Center property. See enclosed map and legal description.

The 90th Reserve Support Command has requested that we attempt to resolve both the "cloud on title" on city property and potential encroachment issues concurrently. In

an effort to satisfy the interests of both parties, we propose that the United States of America (USA) provide a Quitclaim Deed to the City of Fayetteville on the 19.38 acre tract and that the City of Fayetteville provide a Warranty Deed to the USA for the .40 acre tract depicted on the map as the potential area of encroachment. The USA can accept property only by Warranty Deed and will be responsible for title insurance as well as all costs associated with deed preparation, legal descriptions and mapping.

We would greatly appreciate your favorable response to this proposal. Mr. Connell is quite familiar with this issue and if you have further questions please feel free to contact Mr. Ron Hudson at (501) 324-5719.

Sincerely,

Mark W. Moore
Chief, Real Estate Division

Enclosures

Fayetteville, Arkansas (USARC)
United States Army Reserve Center

Washington County, Arkansas
Owner: City of Fayetteville
Acres: Fee – 0.40

TRACT NO. 100
(United States Army Reserve Center)

A tract of land, situate in the County of Washington, State of Arkansas, being part of the Northeast Quarter of the Northeast Quarter of Section 9, Township 16 North, Range 30 West, of the Fifth Principal Meridian and being more particularly described as follows:

Commencing at an existing cotton spindle marking the Northwest Corner of the Northeast Quarter of the Northeast Quarter; thence along the west line of said forty, S00°20'31"E 410.00 feet to the point of beginning; thence along said west line N00°20'31"W ~~approximately~~ 20 feet ~~to~~ a point; thence leaving said west line East ~~approximately~~ 457.45 feet to a point; thence S00°20'31"E 369.13 feet to a point; thence west approximately 22.60 feet to the existing southeast property corner of said Reserve Center Property; thence along the east property line of said Reserve Center Property N00°20'31"W 350.00 feet to a point, said point being the northeast corner of said Reserve Center Property; thence west along the north property line 435.00 feet to the point of beginning and containing ~~0.40~~ acre, more or less.

January 27, 2003

EXHIBIT "A"

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

DATE: November 18, 2003

TO: Dan Coody, Mayor
Hugh Earnest. Chief Administrative Officer
Gary Dumas, Director of Operations
Tim Conklin, Director of Community Planning and Engineering Services
Connie Edmonston, Parks and Recreation Director

FROM: Ed Connell, Land Agent

RE: U.S. Army Corps of Engineers
Gregory Park at North St. and Woolsey Ave.
Title Reconciliation and Lot Lline Adjustment

BACKGROUND

In 1956, the Veteran's Administration conveyed two adjacent parcels of land (NW of the VA) to the U, S. Army Corps of Engineers, one being a 3.5 acre tract to be used for the U.S. Army Reserves and the second tract consisting of 19.38 acres which was originally intended for the Arkansas National Guard. The Army accepted the parcels as indicated in the attached letter, however, that acceptance was evidently later modified to limit such acceptance to the 3.5 acre site.

Documentation was never implemented by the Corps which should have returned the 19.38 acre site to the VA, however, in 1964, the VA issued a Quitclaim Deed (copy attached) to the City of Fayetteville, at no cost to the City, for the same land with conditions on the use thereof. As with any QCD, the VA conveyed any and all interest they had, which under the circumstances, was none. Over the past 40 years, this land has been used by the City as Gregory Park.

In the last 3 or 4 years, the Corps had the Reserve 3.50 acre property surveyed. For some unknown reason, that survey started from the East ROW line of Woolsey Ave instead of the center of the road. As a result of that survey, the Reserve extended their driveway, parking area, and fence line about 22.0+ feet to the East, thus encroaching into the park property. .

CURRENT DILEMMA & CONSIDERATION

On November 6, 2003, Ron Hudson of the U.S. Army Corps of Engineers out of Little Rock, visited with us and explained what they wish to do to clear title to the land claimed by the City while rectifying the problem created by the poor survey on the Army Reserve property. The following steps have been recommended by the Corps:

(1) The Corps will issue to the City a Quitclaim Deed on the 19.38 acre property claimed in the City title (invalid), thus clearing the cloud on such title.
(2) The City will acquire Title Insurance on the 19.38 acre tract. The Corps will pay for such title insurance.
(3) The City will grant and convey, by Warranty Deed, to the U. S. Corps of Engineers, a 25 foot wide strip along the East and North sides of the Reserve property (0.465 Ac). The U. S. Government will only accept deeds under warranty for property transactions. There will be no exchange of monies for these transactions.

The City has also been given fair warning that the U.S. Government may, in the future, be coming to the City with a request to purchase a sizeable portion or all of the Gregory park area for security or buffer area purposes around the Reserve Center. If such does come about, the corps will pay market value for the land that they require. The City will have no option except in negotiations of the price. This latter action has yet to be directed by government officials, thus is not eminent at this time.

If you have any questions or comments, do not hesitate to contact myself at 415. This material is provided for your information and advisement.

Fayetteville A126

COPY-BRM

VETERANS ADMINISTRATION

WASHINGTON 25, D. C.

November 15, 1956

In Reply Refer To: 11CB

Transfer Agreement

Corps of Engineers
U. S. Army
Office of the District Engineer
Little Rock District
P. O. Box 867
Little Rock, Arkansas

Dear Sir:

Pursuant to regulations of the General Services Administration, Title 2, Real Property Management, December 1953, Chapter IV, Part 2, Section 202, promulgated pursuant to the provisions of Section 202a of the Federal Property and Administrative Services Act of 1949, as amended, by the Act of July 12, 1952 (46 Stat. 593) and in compliance with letter of the Regional Office, General Services Administration, Dallas, Texas, dated November 1, 1956, there is hereby transferred to the Department of the Army two parcels of land, 3.5 acres subject to reimbursement to the Veterans Administration in the amount of $3,000 and 19.382 acres without reimbursement, said property being located at the Veterans Administration Hospital reservation, Fayetteville, Arkansas, and more particularly described as follows:

USARC Site

PARCEL 1. A tract of land situated in the County of Washington, State of Arkansas, being part of the NW 1/4 Section 9, Township 16 North, Range 30 West of the 5th Principal Meridian, and being more particularly described as follows:

Being at a point which is 1,333 feet west and 410 feet south of the northeast corner of Section 9; thence east 435 feet to a point; thence south 350 feet to a point; thence west 435 feet to a point; thence north 350 feet to the point of beginning and containing 3.5 acres, more or less.

PARCEL 2. A tract of land situated in the County of Washington, State of Arkansas, being part of the NE 1/4 Section 9, Township 16 North, Range 30 West of the 5th Principal Meridian, and being more particularly described as follows:

Rd 3

COPY-BRM

Corps of Engineers
Little Rock, Ark.

Beginning at the northeast corner of Section 9; thence south along the east line of said Section 9, 660 feet to a point; thence west 165 feet to a point; thence south 100 feet to a point; thence west 735 feet to a point; thence north 350 feet to a point; thence west 455 feet to a point; thence north 410 feet to a point on the north line of Section 9; thence east along the north line of said Section 9, 1,335 feet to the point of beginning and containing 19.382 acres, more or less.

Transferee hereby agrees that the property herein transferred will not be used for any purpose, which in the judgment of the Administrator of Veterans Affairs or his designate, interfere with the care and treatment of patients in the adjacent VA Hospital, Fayetteville, Arkansas.

An executed Standard Form No. 1080, Revised, Voucher for Transfer Between Appropriations and/or Funds, is enclosed, and check in the amount of $5,000 payable to the Treasurer of the United States should be forwarded to this office.

Four copies of this letter are forwarded and it will be appreciated if you will cause an acceptance of the property transferred and the date thereof endorsed by an authorized representative of the Department of the Army on one copy in the space so provided and return it to this office for completion of the disposal records.

Very truly yours,

/s/ Wm. Z. Bowie

Chief, Real Estate Division
Office of Assistant Administrator
for Construction

Encls:
SF 1080

Transfer of land herein identified accepted for and on behalf of the Department of the Army

By /s/ H. C. McKinney
H. C. McKINNEY
Chief, Real Estate Division
Little Rock District, Corps of Engineers
20 November 1956
(Date)

FILED FOR RECORD
1964 JAN 22 AM 9:04
CIRCUIT CLERK

QUITCLAIM DEED

This Quitclaim Deed made and entered into this 22nd day of January, 1964, by and between the Administrator of Veterans Affairs, in behalf of the United States of America, Grantor, and the City of Fayetteville, Arkansas, Grantee.

WITNESSETH

WHEREAS, Public Law 88-148, Approved October 17, 1963, directs the Administrator of Veterans Affairs, to convey by quitclaim deed, without consideration, to the City of Fayetteville, Arkansas, for park and recreational purposes, all right, title, and interest of the United States in and to a tract of land described therein, which constitutes a portion of certain lands heretofore conveyed by such city to the United States without consideration, and which has been declared surplus to the needs of the United States, subject to the conditions set forth therein.

NOW THEREFORE, the Grantor in consideration of the premises and acting under the authority of the aforesaid Public Law 88-148, Approved October 17, 1963, does hereby remise, remit, release, and quitclaim without covenant or warranty of any kind, unto the Grantee, its successors and assigns, that portion of lands described in said Public Law as follows:

> A tract of land situated in the county of Washington, State of Arkansas, being part of the northeast quarter of section 9, township 16 north, range 30 west, of the fifth principal meridian, and being more particularly described as follows:
>
> Beginning at the northeast corner of section 9; thence south along the east line of said section 9, 660 feet to a point; thence west 165 feet to a point; thence south 100 feet to a point; thence west 733 feet to a point; thence north 350 feet to a point; thence west 435 feet to a point; thence north 410 feet to a point on the north line of section 9; thence east along the north line of said section 9, 1,333 feet to the point of beginning; and containing 19.382 acres, more or less.

TO HAVE AND TO HOLD the said premises granted unto the Grantee, its successors and assigns, forever, subject, however, to the following:

1. Subject to the condition that such land shall be used for park and recreational purposes in a manner which, in the judgment of the Administrator of Veterans Affairs, will not interfere with the care and treatment of patients in the Veterans Administration Hospital situated on lands adjacent to the land conveyed herein.

2. Subject to the condition that in the event that the Administrator of Veterans Affairs determines, within twenty years after the date of execution of this quitclaim deed, that the land so conveyed has been devoted to any use other than for park and recreational purposes, all right, title, and interest therein shall revert to and revest in the United States in its then existing condition.

3. Subject to the gas easement which was granted to the Arkansas Western Gas Company (for a period of fifty years) by the Department of the Army.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Veterans Administration the day and year first above written.

J. S. GLEASON, Jr.
Administrator of Veterans Affairs

CITY OF WASHINGTON)
)
DISTRICT OF COLUMBIA)

On this 2nd day of January, 1946 before me a Notary Public in and for said District of Columbia, personally appeared J. S. Cleason, Jr., to me well known, and known by me to be Administrator of Veterans Affairs, whose name is subscribed to the within instrument and acknowledged that he executed the same as a voluntary act and deed of the United States of America, within the scope of his lawful authority.

Notary Public
District of Columbia

My Commission Expires:

City of Fayetteville Gregory Park
U.S. Army Reserve Center

City of Fayetteville: Gregory Park Original Description:
Book 610, page 527

A tract of land situated in the County of Washington, State of Arkansas, being a part of the Northeast Quarter (NE¼) of Section 9, Township 16 North, Range 30 West, of the Fifth Principal Meridian, and being more particularly described as follows:

Beginning at the Northeast corner of Section 9; thence South along the East line of said Section 9, 660 feet to a point; thence West 165 feet to a point; thence South 100 feet to a point; thence West 733 feet to a point; thence North 350 feet to a point; thence West 435 feet to a point; thence North 410 feet to a point on the north line of Section 9, thence East along the north line of said Section 9 1,333 feet to the Point of Beginning and containing 19.382 acres, more or less.

U.S. Army Reserve Center Original Description:
November 15, 1956 Acceptance Letter

A tract of land situated in the County of Washington, State of Arkansas, being a part of the Northeast Quarter (NE¼) of Section 9, Township 16 North, Range 30 West, of the Fifth Principal Meridian, and being more particularly described as follows:

Beginning at a point which is 1,333 feet West and 410 feet South of the Northeast corner of Section 9; thence East 435 feet to a point; thence South 350 feet to a point; thence West 435 feet to a point; thence North 350 feet to the Point of Beginning and containing 3.5 acres, more or less.

City of Fayetteville: Gregory Park Modified Description:

A tract of land situated in the County of Washington, State of Arkansas, being a part of the Northeast Quarter (NE¼) of Section 9, Township 16 North, Range 30 West, of the Fifth Principal Meridian, and being more particularly described as follows:

Beginning at the Northeast corner of Section 9; thence South along the East line of said Section 9, 660 feet to a point; thence West 165 feet to a point; thence South 100 feet to a point; thence West 708 feet to a point; thence North 370 feet to a point; thence West 460 feet to a point; thence North 390 feet to a point on the north line of Section 9, thence East along the north line of said Section 9 1,333 feet to the Point of Beginning and containing 18.97 acres, more or less.

U.S. Army Reserve Center Modified Description:
November 15, 1956 Acceptance Letter

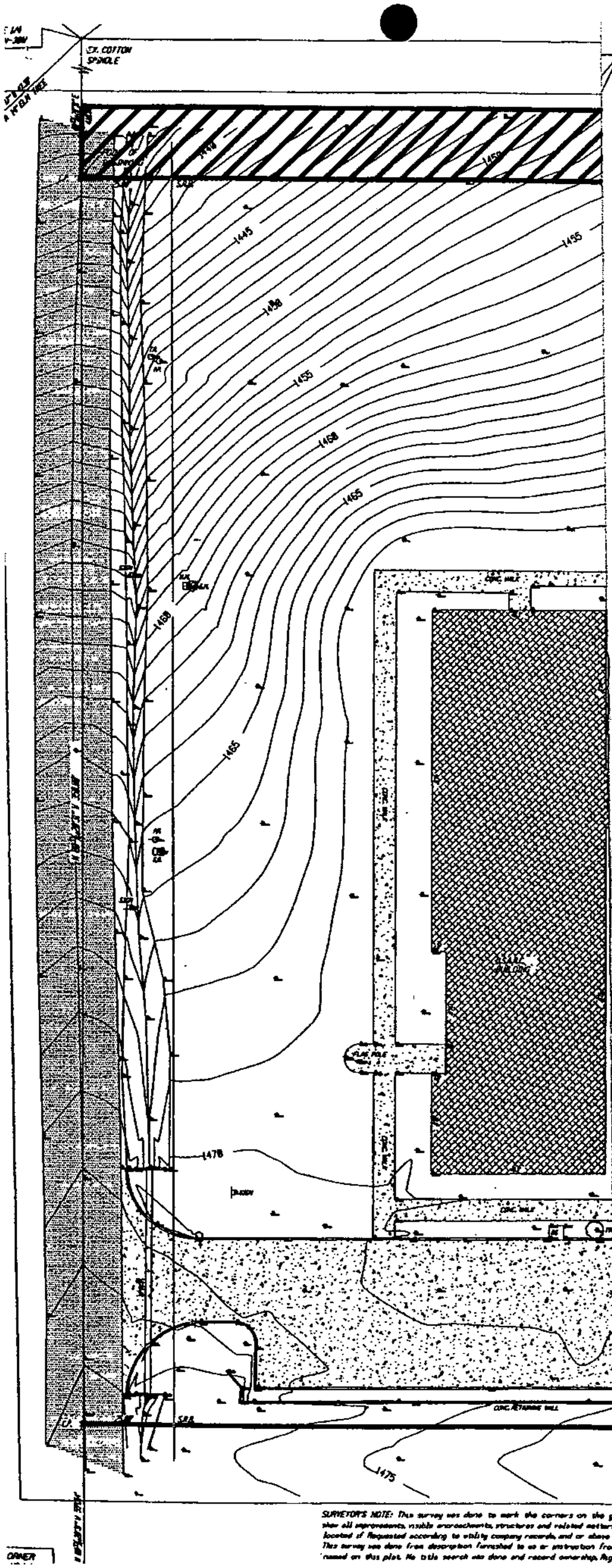
A tract of land situated in the County of Washington, State of Arkansas, being a part of the Northeast Quarter (NE¼) of Section 9, Township 16 North, Range 30 West, of the Fifth Principal Meridian, and being more particularly described as follows:

Beginning at a point which is 1,333 feet West and 390 feet South of the Northeast corner of Section 9; thence East 460 feet to a point; thence South 370 feet to a point; thence West 460 feet to a point; thence North 370 feet to the Point of Beginning and containing 3.912 acres, more or less

Property Conveyed from City to US Army Reserve

A tract of land situated in the County of Washington, State of Arkansas, being a part of the Northeast Quarter (NE¼) of Section 9, Township 16 North, Range 30 West, of the Fifth Principal Meridian, and being more particularly described as follows:

Beginning at a Point which is 1,333 feet West and 390 feet South of the Northeast corner of Section 9; thence East 460 feet to a point; thence South 370 feet to a point; thence West 25 feet to a point; thence North 350 feet to a point; thence West 435 feet to a point; thence North 20 feet to the Point of Beginning and containing 0.412 acres, more or less.



PROPERTY DESCRIPTION

Part of the Northeast Quarter of the Northeast Quarter of Section 9, Township 16 North, Range 30 West, Washington County, Arkansas being more particularly described as follows:

Commencing at an existing cotton spindle marking the Northwest Corner of the Northeast Quarter of the Northeast Quarter. Thence along the West line of said Forty, South 00 degrees 20 minutes 31 seconds East, 410.00 feet to the Point of Beginning. Thence leaving said West line, East 435.00 feet to a set rebar. Thence South 00 degrees 20 minutes 31 seconds East, 350.00 feet to a set rebar. Thence West 435.00 feet to the West line of the Northeast Quarter of the Northeast Quarter. Thence along said West line, North 00 degrees 20 minutes 31 seconds West, 350.00 feet to the Point of Beginning, containing 3.50 acres and subject to Street Rights of Way and any Easements of Record.

AREA TO BE ACQUIRED (APPROXIMATELY 0.40 ACRES)

LEGEND

- DI = DROP INLET
- SMH = SANITARY SEWER MANHOLE
- C.O. = SANITARY SEWER CLEAN OUT
- LIGHT POLE
- PP = POWER POLE
- ELECTRIC BOX
- TR = TELEPHONE RISER
- GM = GAS METER
- WM = WATER METER
- CONCRETE
- ASPHALT
- GRAVEL
- GRASS
- WATER
- FL = FENCE LINES
- RCP = RADIUS CONCRETE PIPE (CULVERT)
- SIGN
- FLAG POLE
- TREES

SURVEYOR'S NOTE: This survey was done to mark the corners on the g... show all improvements, visible encroachments, structures and related matters... located if Requested according to utility company records, and or above g... This survey was done from description furnished to us or instruction from... named on this plat. No title search was done and record ownership, Righ...

SURVEYORS DISCLAIMER AND STATEMENT OF USE

This survey was conducted by the written or verbal authorization of the person named as the buyer and/or Use by as shown on this plat. No one has the authority to add to these restrictions. Only the person(s) named in the legal description from the date shown on this plat. Surveyor's liability to any person other than those named is limited to the fee paid for the survey only certified to the date shown on this plat. Surveyor's liability to any person(s) not specifically named hereon is limited to the fee paid for the survey only certified to the date shown on this plat. Surveyor's liability to any person(s) not specifically named hereon is limited to the fee paid for the survey only certified to the date shown on this plat.

Land Surveyors P.A. Copyright 2003

NE 1/4 NE 1/4, SECTION 9, T-16-N, R-30-W

FOR USE BY: ASTRID CONTRACT TECH SVCS

Satterfield Land Surveyors P.A.

DRAWN BY: BER
SCALE: 1"=30'
DATE: 4-8-03

1" = 40'

SECTION LINE
FENCE LINE
ROAD
1/4 LINE
1/4 LINE OF NORTH LINE OF SECTION

STAFF REVIEW FORM - NON- FINANCIAL OBLIGATION

X AGENDA REQUEST

For the Fayetteville City Council meeting of April 20 ~~April 6~~, 2004

FROM:

Ed Connell — Name | Engineering — Division | Comm. Planning & Engineering Services — Department

ACTION REQUIRED: Approval of a resolution authorizing the Mayor and City Clerk to convey 0.412 acres of Gregory Park land to the U.S. Army for the U.S. Army Reserve Center in Fayetteville to resolve an encroachment problem. A Quitclaim Deed from the U.S. Army Corps of Engineers will clear a "cloud on title" for the Gregory Park land (19.38 acres).

SUMMARY EXPLANATION: The U.S. Department of the Army wants to clean-up an encroachment problem at the Fayetteville U.S. Army Reserve Center wherein the Reserve has encroached on city Gregory Park land. Gregory Park (19.38 acres) was inadvertenately conveyed to the city by Quitclaim Deed in 1964 after the Veterans Administration had given this parcel and the 3.5 acre Reserve site to the Army in 1956. Although the Army later rejected the 19.38 acre tract, documentation has not been found and therefore a "cloud on title" exists on the Gregory Property. The Army will give the city a QCD for the entire 19.38 acre property (which did not cost the city) and the city will convey 0.412 acres to the Army to resolve their encroachment. These transactions will not cost the city.

STAFF RECOMMENDATION: Staff recommends approval of this arrangement and authorization of the Mayor and City Clerk to implement the conveyance by deed.

Division Head — Date 3-31-04

City Attorney — Date 4/1/4

Department Director — Date 4-1-04

Finance & Internal Services Dir. — Date 4-7-04

Chief Administrative Officer — Date 4-7-04

Mayor — Date 4/7/04

Received in Mayor's Office: _____ Date

Cross Reference:

Previous Ord./Res #: _____

Orig. Contract Date: _____

Orig. contract Number: _____

NEW Item: Yes No

RECEIVED 4-1-04 TLH

CITY COUNCIL AGENDA MEMO

City Council Meeting of April 6, 2004

To: Mayor and City Council

From: Chris Bosch, Fire Chief

Date: March 4, 2004

Subject: Resolution approving a contract for ALS/Transport Ambulance Service with Central Emergency Medical Service, Inc. for $156,000.

RECOMMENDATION

The Fire Department recommends approval of a Resolution awarding the annual contract for Advanced Life Support Ambulance Transport service to Central Emergency Medical Service, Inc. (CEMS) for $156,000.

BACKGROUND

This agreement involves an annual contract for Advanced Life Support Ambulance Transport service between the City of Fayetteville and CEMS. This contract is awarded on an annual basis.

DISCUSSION

As you know, for the past several years the City of Fayetteville has contracted with CEMS to provide advanced life support transport ambulance service for the citizens of Fayetteville. Currently the Fire Department maintains a strong and effective working relationship with CEMS with both agencies working to provide the most efficient and effective emergency medical service in the region. Both agencies work collaboratively in a tiered emergency response system with the Fire Department providing Basic Life Support in conjunction with CEMS' providing Advanced Life Support and transport ambulance service. This tiered system of service ensures that the Citizens of Fayetteville receive care as quickly as possible.

Currently both agencies participate in ensuring efficient and effective care through an EMS oversight committee, which convenes on a monthly basis, to address any issues that may arise. This group has effectively worked together to improve the quality of service currently being offered to the community. Both agencies will continue to work together collaboratively to ensure the needs of the Citizens of Fayetteville are continually met.

BUDGET IMPACT

This is a budgeted item with an overall annual cost of $156,000. This cost is paid out in twelve (12) equal installments with CEMS submitting monthly bills for service.

RESOLUTION NO. _____

A RESOLUTION APPROVING RENEWAL OF THE CONTRACT FOR SERVICES IN THE AMOUNT OF ONE HUNDRED FIFTY-SIX THOUSAND DOLLARS ($156,000.00) BETWEEN THE CITY OF FAYETTEVILLE AND CENTRAL EMERGENCY MEDICAL SERVICES, INC. TO OPERATE AND MAINTAIN AN EMERGENCY AMBULANCE SERVICE TO SERVE THE RESIDENTS OF FAYETTEVILLE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves renewal of the contract for services in the amount of One Hundred Fifty-Six Thousand Dollars ($156,000.00) between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville. A copy of the agreement is attached hereto marked Exhibit "A" and made a part hereof.

PASSED and **APPROVED** this 6th day of April 2004.

APPROVED

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

CITY OF FAYETTEVILLE
CONTRACT FOR EMERGENCY MEDICAL TRANSPORT SERVICES

This Agreement is entered into on this **1st** day of, **January 2004** between the City of Fayetteville, hereinafter known as the "City" and Central Emergency Medical Service, hereinafter known as "CEMS, "an Arkansas not-for-profit corporation.

WHEREAS the City has determined that a public need exists for an emergency ambulance service that operates within the city limits of Fayetteville to serve Fayetteville residents,

WHEREAS CEMS has developed an emergency ambulance service that operates within the City limits and serves Fayetteville residents.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and CEMS agree as follows:

1. This Agreement will begin on the date first written above.

2. CEMS agrees to develop, operate, and maintain an Advanced Life Support (ALS) Emergency Ambulance Service that serves Fayetteville residents and responds to all emergency medical calls for service within the city limits of Fayetteville, Arkansas. This ALS service will be provided in conjunction with the Fayetteville Fire Department's emergency response units with the Fayetteville Fire Department agreeing to provide Basic Life Support (BLS) Non-Transport Emergency Response Service. The Fire Department shall maintain control over the use of Fire Apparatus as First Response Units and CEMS shall maintain control over the use of Ambulances.

3. The Fayetteville Fire Department agrees to operate according to the established patient treatment protocols, as identified by the CEMS' Medical Director, from the time patient contact is made until the time the patient is removed from the incident scene and transported, via ALS Ambulance, to a recognized medical treatment facility or hospital, or until CEMS personnel determine the call is a no-transport.

4. CEMS agrees to provide written quarterly and annual reports to the City's Project Coordinator, describing the activities undertaken during the preceding period and also to report on the following performance measures: Number of calls responded to, average response time for these calls, type of patient service provided for each response. (Whether the patient accepted or declined care). The parameters for calculating the average response time will be from the time the call is verified at the CEMS medical communications center until arrival at the incident location by the first arriving transporting Ambulance. "Time call is verified," shall be the moment the communications center personnel receive both sufficient location information to know where a response is required and sufficient information to determine the presumptive run priority designation. "Arrival at incident location," means the moment an ambulance crew notifies the medical communication center that it is fully stopped at the location where the ambulance shall be parked while the crew exits to approach

the patient. In situations where the ambulance has responded to a location other than the scene (e.g. staging areas for hazardous material/violent crime incidents or non-secured scenes), arrival at the scene shall be the time the ambulance arrives at the designated staging location. The quarterly reports are to be submitted to the Project Coordinator by April 10, July 10, October 10, and January 10 for the preceding calendar quarter. The data used to compile these reports will include only those calls for service within the corporate city limits of the City of Fayetteville, Arkansas and will be reported for the current quarter, current year-to-date, and prior year-to-date.

5. CEMS agrees to make both financial and response data records available for review by the Project Coordinator and the City's Internal Auditors as requested, and to provide the City with an annual audit performed by a certified public accountant licensed by the State of Arkansas. CEMS agrees to comply with the Arkansas Freedom of Information Act as applicable. Requests for records shall follow compliance requirements of the Health Insurance Portability and Accountability Act (HIPAA).

6. For the purposes of this Agreement, the Project Coordinator for the City will be the City Fire Chief or his/her designee. The Project Coordinator for CEMS will be CEMS Director Tony Hickerson or his successor or designee. Communications pertaining to this agreement will be through the respective Project Coordinators for the City and CEMS.

7. Terms of Performance. The term of performance for this agreement will expire December 31, 2004 and may be extended for an additional three years subject to approval of a budget containing funding for the service.

8. CEMS will hold harmless, defend, and indemnify the City, from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the performance or nonperformance of the services or subject matter in this Agreement.

9. Budget. The City agrees to pay and CEMS agrees to accept, as payment in full for its services, in **2004, $156,000.00**. The amounts to be paid for services in future budget years are dependent on the amounts appropriated by City Council for each budget year.

10. CEMS must provide and maintain in force, at all times during the term of the contract, insurance for worker's compensation as provided by state statute, commercial general liability, and vehicle liability. Such policies will be issued by companies authorized to do business in the State of Arkansas. Minimum amounts required for commercial general liability and vehicle liability are $1,000,000.

For any work sublet, CEMS will require the subcontractor to provide similar worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under workers' compensation insurance, CEMS will provide and will cause each subcontractor to provide adequate employers' liability insurance for the protection of such of his employees as are not otherwise protected. A certificate of insurance

addressed to the City listing the above coverage's is to be submitted with contract approval. The premiums for all insurance required herein will be paid by CEMS.

11. Emergency Medical Services Workgroup. CEMS and the City agree to establish a standing Emergency Medical Service (EMS) Workgroup. This EMS Committee shall consist of three (3) representative from CEMS, three (3) representatives from the Fire Department and two (2) representatives from the Police Department's Central Dispatching Office. This group will meet to discuss the coordination of services, facilitate the exchange ideas to enhance the quality of service being provided and develop a problem solving mechanism for issues that may arise. This Committee will meet as requested by a member of the workgroup, least once every quarter during the calendar year.

12. The City agrees to compensate CEMS in the form of equal monthly installments with any remaining balances, for the calendar year, to be paid in December of the respective year.

13. Notices. All notices required or permitted under this agreement will be submitted in writing to the other party in this agreement by certified mail, return receipt requested, with the notice becoming effective no less than three (3) days after deposit therein addressed to the following:

City of Fayetteville Dan Coody Mayor 113 West Mountain St. Fayetteville, AR 72701	Fayetteville Fire Dept. Chris Bosch Fire Chief, 303 W. Center St. Fayetteville, AR 72701	CEMS Tony Hickerson Director 645 S School Ave Fayetteville, AR 72701

14. Neither party may assign any of its rights or obligations under this agreement, without the express written consent of the other party. Nor shall this agreement be construed to bestow any rights or benefits upon anyone other than CEMS and the City.

15. A waiver by either party of any terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of any other breaches by either party.

16. Agreement constitutes the entire understanding of the parties, and no modification or variation of the terms of this agreement shall be valid unless made in writing and signed by the duly authorized agents of the City and CEMS.

17. Severability. Each paragraph of this agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

18. Interpretation. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

19. Tax Exempt Status: Attached hereto and made part hereof is a copy of the correspondence from the Internal Revenue Service dated _____ confirming the 501(c)(3) tax exempt status of the Central Emergency Medical Service.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

Central Emergency Medical Services, Inc.

Tony Hickerson, Director

City of Fayetteville

Dan Coody, Mayor

Attested By:

Attested By:

STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
X CONTRACT REVIEW
____ GRANT REVIEW

For the Fayetteville City Council Meeting of: April 6, 2004

FROM:

Chris Bosch	Fire Administration	Fire
Name	Division	Department

ACTION REQUIRED: A resolution approving the renewal of the annual contract with Central Emergency Medical Servcies, Inc. for 2004 in the amount of $156,000 for emergency ambulance transport service in the City of Fayetteville.

COST TO CITY:

$156,000.00	$ 156,800.00	Transfer to CEMS
Cost of this request	Category/Project Budget	Program Category / Project Name
1010-6600-5705.00	$ -	Emergency Medical Contract
Account Number	Funds Used to Date	Program / Project Category Name
	$ 156,800.00	Sales Tax General
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Barbara Steel — Budget Manager — 3/12/04 Date

CONTRACT/GRANT/LEASE REVIEW:

Marsha Fawkins — Accounting Manager — 3/11/04 Date

Penny Smith — Internal Auditor — 3/12/04 Date

D. D. Whit — City Attorney — 3/12/04 Date

P Clico — Purchasing Manager — 3/12/04 Date

STAFF RECOMMENDATION: Staff recommends approval of this resolution.

_____ — Division Head — ____ Date

C Bosch — Department Director — 3/11/04 Date

Steve Dawson — Finance & Internal Services Dir. — 3-15-04 Date

Hugh Garwood — Chief Administrative Officer — 3-16-04 Date

Dan Coody — Mayor — 3/16/04 Date

Received in Mayor's Office 3/15/04 Date P.H.

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 3-11-04 JH

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: March 18, 2004

Subject: Annexation for Dunnerstock Development (ANX 03-05.00)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Dunnerstock Development. This action will incorporate a 17.19 acre tract of land contiguous with the city limits into the City of Fayetteville. The request is to annex the subject property into the City of Fayetteville.

BACKGROUND

The subject property is 17.19 acres and located west of Rupple Road and north of Wedington Drive. It is adjacent to the city limits along its western boundary where it abuts the Willow Springs subdivision. The north, east, and south boundaries are not contiguous to the City limits. Although the tract of land will result in the creation of a peninsula, it is currently located within an island of County property and identified by the General Plan 2020 to be desirable for annexation into the City. Connectivity and off-site improvements will be evaluated at the time of development.

Proposal: The applicant requests annexation into the City of Fayetteville, along with a companion rezoning request.

DISCUSSION

The proposal to annex was tabled by the Planning Commission on November 24, 2003, pending results from the wastewater capacity analysis. A report from a system-wide wastewater study has been submitted and adequate capacity has been identified to serve this area for existing and proposed development. On March 8, 2004, the Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval with an accompanying rezoning request.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY OWNED BY DUNNERSTOCK DEVELOPMENT, INC, LOCATED ON RUPPLE ROAD NORTH OF WEDINGTON DRIVE CONTAINING APPROXIMATELY 17.19 ACRES.

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

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

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

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. Four.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 03-05.00

A PART OF THE NORTHWEST QUARTER (NW ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION TWELVE (12), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID 40 ACRE TRACT; THENCE S00°25'14"E ALONG THE EAST LINE OF SAID 40 ACRE TRACT 331.48 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING IN RUPPLE ROAD AND FROM WHICH A ½" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT OF WAY LINE OF SAID ROAD BEARS S89°11'31"W 25.77 FEET; THENCE LEAVING THE EAST LINE OF SAID 40 ACRE TRACT AND RUNNING ALONG AN EXISTING FENCE S89°11'31"W 350.00 FEET TO A SET ½" IRON REBAR; THENCE S00°25'14"E 257.72 FEET TO A SET ½" IRON REBAR; THENCE N89°59'00"W 39.39 FEET TO A SET ½" IRON REBAR; THENCE S00°50'38"W 123.76 FEET ALONG AN EXISTING FENCE TO A SET ½" IRON REBAR ON THE SOUTH LINE OF SAID 40 ACRE TRACT; THENCE N89°59'00"W 503.85 FEET ALONG THE SOUTH LINE OF SAID 40 ACRE TRACT 503.85 FEET TO AN EXISTING IRON AT THE SOUTHEAST CORNER OF WILLOW SPRINGS SUBDIVISION; THENCE N00°06'36"W 994.45 FEET ALONG THE EAST LINE OF SAID SUBDIVISION TO A SET ½" IRON REBAR; THENCE LEAVING THE EAST LINE OF SAID SUBDIVISION S89°58'50"E 890.58 FEET TO THE POINT OF BEGINNING, CONTAINING 17.19 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 17.19 ACRE TRACT BEING SUBJECT TO THE RIGHT OF WAY OF RUPPLE ROAD ALONG THE ENTIRE EAST BOUNDARY.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 08, 2004

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: March 1, 2004

ANX 03-05.00: Annexation (Rankin/Rankin/Bowen, pp 400) was submitted by James McCord on behalf of Wilbur Maurice Rankin, Mary Ellen Rankin, Raymond Rankin and Susan Bowen for property located on Rupple Road, 0.5 miles north of Wedington Drive. The property is in the Planning Area and contains approximately 17.19 acres. The request is to annex the property into the City of Fayetteville. Planner: Suzanne Morgan

RECOMMENDATION:
Staff recommends approval of the requested annexation based on the findings included as part of this report with the following condition(s):

PLANNING COMMISSION ACTION:	**Required**	**YES**	
	⊙ **Approved**	⊙ **Denied**	
Date: March 08, 2004			
CITY COUNCIL ACTION:	**Required**	**YES**	
	⊙ **Approved**	⊙ **Denied**	
Date: April 06, 2004 (first reading)			

BACKGROUND:

Property description: The subject property is 17.19 acres of vacant property located west of Rupple Road (a Minor Arterial) and north of Wedington Drive (a Principal Arterial). Rupple Road does not meet City street standards at this location. Single family residences are located to all cardinal directions from this property. The property is adjacent to the city limits along its western boundary where it abuts the Willow Springs subdivision from which connectivity will be provided to the west with the extension of Patrick Street, a local street on the Master Street Plan.

A report from a system-wide wastewater study has been submitted and adequate capacity has been identified to serve this area for existing and proposed development (see attached). The proposal to annex was tabled on November 24, 2003, pending results from the wastewater capacity analysis.

Proposal: The applicant proposes the annexation of property into the City of Fayetteville. A rezoning request has been submitted for this property.

Request: The request is to annex the subject property into the City of Fayetteville.

Recommendation: Staff recommends approval of the proposed annexation. The subject property is located within an island of County property within Fayetteville City limits. According to General Plan 2020, it is desirable for all property located within islands to be annexed into the City.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single-family	Planning Area
South	Single-family	Planning Area
East	Single-family	Planning Area
West	Single-family (Willow Springs Subdivision)	RT-12, Residential Two and Three-family

INFRASTRUCTURE:

Streets: Rupple Road, which is where the development will be accessed from the east, is a paved roadway with no curb and gutter or storm drainage. Street improvements will be recommended to widen Rupple Rd. to current City standards along the project frontage. A traffic signal is currently proposed by the City for the intersection of Rupple Road and Wedington Dr. AHTD has approved the installation of the signal, and plans are currently underway to install the signal.

Surrounding Master Street Plan Streets:
North: Mount Comfort Rd. (Minor Arterial); approximately 0.6 miles
South: Wedington Dr. (Principal Arterial); approximately 0.3 miles
East: Patrick St. (Local)
West: Rupple Rd. (Minor Arterial)

Water: The property currently has access to a 6" water line along Rupple Road and an 8" water line at Patrick Street. An extension of the water main will be required to provide water supply within any development on this property and creating a loop between Patrick and Rupple.

Sewer: The site currently has access to 8" sewer mains in the adjacent subdivisions. Sewer will need to be extended within the development.

Fire: The subject property is located 0.7 miles from the future Fire Station #7. Normal driving time is 1 min. 2 seconds.

Police: It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 designates this site as **Residential**.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES
BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: **The requested annexation will create a peninsula. However, the property is located within an island of County property. The City's adopted policy for annexations identifies areas within current islands as those desirable for annexation.**

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: **The proposed annexation area is adjacent to the City Limits to the west.**

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: **This area does not consist of defined subdivisions or neighborhoods; however, future development plans may include the extension of single family neighborhoods.**

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: **Proposed boundaries follow property lines.**

11.6.e Timing of services within annexation areas should be considered.

Finding: **Current conditions result in a response time of just over 1 minute for fire protection from the future Fire Station #7. The planned installation of a new fire station on Rupple Road in the future will reduce response time. Any development in this area would necessitate installation of hydrants to provide for fire protection. Sewer service is currently available in this location. The wastewater study provided by RJN shows adequate services can be provided to a development on this property at this time. Future capacity will be determined as development plans for this property are submitted.**

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: **N/A**

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: **The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Fire station #7 will serve this area once it is completed. This improvement will result in a response time of 1 minute 2 seconds. Sewer shall be extended from the existing 8" sewer main accessible from adjacent subdivisions during the development of new subdivisions.**

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: **With the pending installation of a new fire station in the general area, service will be able to be provided at a more appropriate level of service with a shorter response time than what can be provided to the site currently. Sewer improvements to the area are needed for future developments.**

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: **These factors were taken into consideration in the responses and recommendations included in this report.**

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: **Water, fire and police protection are currently provided in this area.**

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: **Improvements to sewer and street systems and installation of fire hydrants would be made necessary by the annexation should additional development occur on the subject property.**

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: **The proposed annexation is not part of a phased annexation initiated by the City.**

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: **N/A**

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: **N/A**

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone to RSF-4, Residential single family, 4 units/acre. This zoning designation is compatible with the Residential classification of the area on the City's adopted Future Land Use Plan.**

11.6.p An annexation study should be completed on all annexation proposals.

Finding: **Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this request.**

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: **Development of this property has not been proposed. At the time the applicant desires to development the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.**

11.6.r Residents should be fully informed of annexation activities.

Finding: **Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.**

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: **This annexation includes three tracts of land of 17.19 acres owned by the applicants. The combined requests create a reasonable boundary avoiding the creation of unusual boundary lines.**

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: **N/A**

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
11.6.d Boundaries for annexed areas should follow natural corridors.
11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

11.6.g Public services must be able to be provided efficiently in newly annexed areas.
11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

11.6.j Areas currently served by utilities and other public services should be annexed.
11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

11.6.m Promote long-range planning with adjacent jurisdictions.
11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

11.6.o Designate zoning districts for the property during the annexation process.
11.6.p An annexation study should be completed on all annexation proposals.
11.6.q Development proposals require a separate review from the annexation proposals.
11.6.r Residents should be fully informed of annexation activities.
11.6.w Encourage larger annexations to create acceptable boundaries.
11.6.t Conduct a fiscal impact assessments on large annexations.

Table 6

SUMMARY OF PRELIMINARY CAPACITY ASSESSMENT
WESTERN PORTION OF THE CITY

Lift Station	Capacity 1/ (gpm)	Capacity 1/ (gpd)	Number of Units: Existing	Inactive	Built Not Occupied	Approved Not Built	Projected Peak Hourly Wastewater Flow 2/ (gpd)	Percent Capacity Utilized	Remaining Capacity 3/ (gpd)	Remaining Capacity 3/ (units)
Crystal Springs	260	374,400	141	0	233	508	223,560	59.7	150,840	670
Hamestring	1,600	2,304,000	2,510	125	898	680	1,650,000 4/	71.6	654,000 5/	2,906 5/
Owl Creek	437	629,280	336	25	317	286	280,000	44.5	349,280	1,552
Total			2,987	150	1,448	1,474				

1/ Firm capacity requires verification by OMI, Inc.
2/ Wastewater flow projected utilizing 161 gpd/unit plus existing dry-weather infiltration x dry-weather peaking factor.
3/ Based on dry-weather flow only. Does not include allowance for wet-weather inflow or infiltration.
4/ Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations.
5/ Total remaining flow and units include all areas tributary to Hamestring Lift Station.

FAYETTEVILLE

PC Meeting of November 24, 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

RZN 03-33.00: Rezoning (Rankin/Rankin/Bowen, pp 400) was submitted by James McCord on behalf of Wilbur Maurice Rankin, Mary Ellen Rankin, Raymond Rankin and Susan Bowen for property located on Rupple Road, 0.5 miles north of Wedington Drive. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

ANX 03-05.00: Annexation (Rankin/Rankin/Bowen, pp 400) was submitted by James McCord on behalf of Wilbur Maurice Rankin, Mary Ellen Rankin, Raymond Rankin and Susan Bowen for property located on Rupple Road, 0.5 miles north of Wedington Drive. The property is in the Planning Area and contains approximately 17.19 acres. The request is to annex the property into the City of Fayetteville. 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 Rupple Road and an 8" water line at Patrick Street. An extension of the water main will be required to provide water supply within any development on this property and creating a loop between Patrick and Rupple.

The site currently has access to 8" sewer mains in the adjacent subdivisions. Sewer will need to be extended within the development.

Rupple Road, which is where the development will be accessed from, is a paved roadway with no curb and gutter or storm drainage. Street improvements will be recommended to widen Rupple to current City standards along the project frontage. A traffic signal is currently proposed by the City for the intersection of Rupple Road and Wedington. AHTD has approved the installation of the signal, and the plans are currently underway to install the signal.

Name Matt Casey Department Engineering

K:\Reports\2003\PC REPORTS\11-24\RZN 03-33 & ANX 03-05 Rankin_Rankin_Bowen-Eng. Comments.doc

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 Annexation **ANX 03-05.00 (Rankin/Rankin/Bowen, pp 400)** and Rezoning **RZN 03-33.00 (Rankin/Rankin/Bowen, pp 400)** submitted by James McCord for property located on Ruple Road, 0.5 miles north of Wedington Drive 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 annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

.VILLE POLICE DEPARTMENT
L BOX 1968
/ETTEVILLE, ARKANSAS 72702-1968

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

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 11-12-03

REZONING X ANNEXATION X

REZONING # RZN 03-33.00 OWNER Rankin/Rankin/Bowen
ANNEXATON# ANX 03-05.00 OWNER " " "
LOCATION OF
PROPERTY on Rupple Road 0.5 miles north of Wedington

NEAREST FIRE STATION AND
LOCATION Future Fire STATION #7 on Rupple

RESPONSE TIME FROM FIRE STATION # 7 TO
LOCATION OF
PROPERTY 1 MINUTES 02 SECONDS.
TRAVEL MILES FROM FIRE STATION # #7 TO LOCATION OF
PROPERTY .7.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS 2access roads from Complex will be required

EXISTING FIRE HYDRANTS? IF SO
LOCATION Ø

WATER SUPPLY WITH HYDRANTS
NEEDED? YES - 750' MAX

ADDITIONAL
COMMENTS

D. James

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

PC Meeting of November 24, 2003

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Suzanne Morgan, Associate Planner
	Matt Casey, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	November 20, 2003

ANX 03-05.00: Annexation (Rankin/Rankin/Bowen, pp 400) was submitted by James McCord on behalf of Wilbur Maurice Rankin, Mary Ellen Rankin, Raymond Rankin and Susan Bowen for property located on Rupple Road, 0.5 miles north of Wedington Drive. The property is in the Planning Area and contains approximately 17.19 acres. The request is to annex the property into the City of Fayetteville. Planner: Suzanne Morgan

RZN 03-33.00: Rezoning (Rankin/Rankin/Bowen, pp 400) was submitted by James McCord on behalf of Wilbur Maurice Rankin, Mary Ellen Rankin, Raymond Rankin and Susan Bowen for property located on Rupple Road, 0.5 miles north of Wedington Drive. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

RECOMMENDATION: Staff recommends the Annexation and Rezoning requests for Rankin/Rankin/Bowen be tabled pending the completion of a system-wide wastewater capacity study for the City of Fayetteville. The applicant has been notified and agrees to the recommendation (see attached letter). The request will be placed on the Planning Commission agenda once the study has been completed.

JAMES N. McCORD
Attorney at Law
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMLE (479) 695-1135
jimmccordlaw@alltel.net

November 19, 2003

To: Fayetteville Planning Commission
Re: Annexation and Rezoning Applications of Rankins
For Property on Rupple Road
From: James N. McCord
Attorney for Applicants

In view of the pending system-wide wastewater capacity study being prepared for the City of Fayetteville by RJN Group, Inc., Applicants request that their annexation and rezoning applications which were scheduled to be on the agenda for the November 24, 2003, Planning Commission meeting be tabled until completion of that study. Applicants understand from City staff that the study is expected to be completed in January, 2004. Please place the annexation and rezoning applications for the Rankin property on the agenda for the first Planning Commission meeting after the study is completed and submitted to the City.

ANX 03-05.00: Annexation (Rankin/Rankin/Bowen, pp 400) was submitted by James McCord on behalf of Wilbur Maurice Rankin, Mary Ellen Rankin, Raymond Rankin and Susan Bowen for property located on Rupple Road, 0.5 miles north of Wedington Drive. The property is in the Planning Area and contains approximately 17.19 acres. The request is to annex the property into the City of Fayetteville.

Hoover: Item number four on the agenda is ANX 03-05.00 for property north of Wedington Drive. Suzanne, are we going to look at items four and five at the same time?

Morgan: Yes Ma'am.

Hoover: It will also be item five, RZN 03-33.00 for the same piece of property.

Morgan: The applicant has requested that 17.19 acres be annexed into the city and rezoned RSF-4. Staff recommends that the Annexation and Rezoning requests for Rankin, Rankin Bowen be tabled pending the completion of a system wide waste water capacity study for the City of Fayetteville. The applicant has been notified and agrees to this recommendation. The request will be placed on the Planning Commission agenda once the study has been completed.

Hoover: I guess if the applicant is in agreement do we need to go ahead and make a motion to table this?

Warrick: That's staff's recommendation.

Hoover: So we need a motion to table this.

Anthes: So moved.

Bunch: I would like to add one statement to the recommendation that once the study has been completed and reviewed by staff so that it does give time to look at the results of the study. If that is acceptable to the motioner I will second.

Anthes: Yes.

Hoover: There is a second by Commissioner Bunch, is there anymore discussion about this tabled item? Seeing none, Renee?

Roll Call: Upon the completion of roll call the motion to table ANX 03-05.00 was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

ANX 03-05.00: Annexation (Rankin/Rankin/Bowen, pp 400) was submitted by James McCord on behalf of Wilbur Maurice Rankin, Mary Ellen Rankin, Raymond Rankin and Susan Bowen for property located on Rupple Road north of Wedington Drive. The property is in the Planning Area and contains approximately 17.19 acres. The request is to annex the property into the City of Fayetteville.

RZN 03-33.00: Rezoning (Rankin/Rankin/Bowen, pp 400) was submitted by James McCord on behalf of Wilbur Maurice Rankin, Mary Ellen Rankin, Raymond Rankin and Susan Bowen for property located on Rupple Road north of Wedington Drive. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre

Hoover: Item number one on the agenda is ANX 03-05.00 for property located on Rupple Road half a mile north of Wedington Drive. Suzanne?

Morgan: The subject property is 17.19 acres. It is a vacant piece of land located west of Rupple Road, a minor arterial, and north of Wedington Drive which is a principal arterial. Single family residences are located at all cardinal directions from this property with the city limits along the western boundary of this tract of land where it abuts Willow Springs subdivision. This subdivision is zoned RT-12 in the city. This Annexation request was heard by the Planning Commission on November 24, 2003 at which time it was tabled pending results from a Waste Water Capacity Analysis. This report has been submitted and shows that there is adequate capacity in the basins which will serve this area for existing and proposed future development. That result has been attached with the staff report. There is currently access to water lines on Rupple as well as Patrick Street as well as two water mains. Staff finds that the Annexation will create a peninsula, however, the property is located within an island of the county property and the city has adopted policy for annexation which identifies areas within current islands to be desirable for annexation. Additionally, this annexation and all annexations, are automatically rezoned R-A, Residential Agricultural and the applicant is requesting a rezone to RSF-4, Residential Single Family, Four units per acre. This zoning designation is compatible with the residential classification within the area on the city's adopted Future Land Use Plan. Police reports that rezoning this property to RSF-4 will not adversely affect the population density in a negative manner. As such, staff is in support and recommends approval of the requested Annexation and RZN 03-33.00 for Rankin, Rankin Bowen.

Hoover: We are going to look at the Annexation and Rezoning together?

Morgan: If that's ok with you.

Hoover: I just wanted to make sure. Would the applicant come forward?

McCord: Yes, Madam Chair and members of the Commission, I'm Jim McCord representing the applicants. The applicants respectfully appreciate the staff's recommendation and request the Planning Commission to follow it. I concur that it is an appropriate Annexation because it is within an island and the annexation policies of the city do provide for annexation within an island surrounded by corporate limits. The waste water capacity study did indicate that there is sufficient capacity for future growth in this area and as indicated in the staff report there is a traffic signal proposed for the intersection of Rupple Road and Wedington Drive that has been proposed by the city and approved by the Arkansas Hwy. Department, which is presently in the process of being installed.

Hoover: Thank you. Is there any member of the audience that would like to address this ANX 03-05.00 or RZN 03-33.00 for this property? Yes Sir, come to the podium please and give us your name.

Atwood: I'm Dr. Dan Atwood, I just want to make a comment for the Commission, thank you for the opportunity to speak. I'm a land owner that lives across the road from this property and I have 20 acres with a home on that 20 acres and of course, Rupple Road, as you know, is a very narrow road at the moment. My concern is that the density of housing that is requested is going to put a big strain on that road as it is. With the other houses that are along that road most are located on several acres and I think that density, again, is a little high for fitting in with what we already have existing along that road. My concern is with what it would do for the property values for the others of us that live in that area. Those are my comments. Does anyone have any questions for me regarding that situation?

Hoover: No, we will go ahead and take more public comment. Is there any other member of the public that would like to address this Annexation and Rezoning? Staff, could you answer those questions about the road? I see we have down here road improvements and density, both of those issues.

Warrick: Improvements to infrastructure are not addressed or placed on Annexation and Rezoning requests. We do look at that at the time of development proposals and we expect that in the future, probably the near future, we will be looking at a request for a Preliminary Plat approval on this property should it be annexed and zoned according to the applicant's requests. We do have concerns with regard to Rupple Road. This section of Rupple Road is in the county, it is not a city street and therefore, we have little control over what happens to Rupple Road. Each piece of property that we are able to annex into the city limits adjoining Rupple Road will improve the prospect and our ability to make improvements to that infrastructure. That's what we can do. If you will remember, we had a similar situation on Starr Drive on the northeast side of town a couple of

years ago and it was difficult to determine what types of improvements in what areas to apply when we were looking at a development proposal along that street because it was not in the control of the city. In this particular case this is a donut hold surrounded by corporate city limits. It is targeted in the city's adopted annexation policy as an area that is appropriate and prime for annexation because of these jurisdictional issues. We have police cars, fire and ambulance emergency response vehicles that travel this road everyday. We serve this area but we don't have the ability to make a whole lot of change with regard to the infrastructure unless it's within the city limits. This gets us one step closer to being able to make significant improvements. Those improvements are typically a requirement of development when it is proposed adjoining those streets.

Hoover: Would you address the traffic signal?

Warrick: My understanding is that there is a traffic signal that is being installed at the intersection of Rupple and Wedington.

Hoover: Also, the density and why staff thinks this is the right density for this area.

Warrick: Staff believes this is an appropriate density, four units per acre is the standard zoning district for single family subdivisions. It is consistent with the majority of developed property within the city limits in this area. The property immediately adjoining it to the west is actually zoned for a higher density so the resulting development, should this be rezoned to RSF-4, would likely garner a lesser density than what is existing on the ground to the west of the subject property.

Hoover: Thank you. Commissioners, are there any comments?

Anthes: Consistent with city policy to annex islands I would move to recommend approval of ANX 03-05.00 and forward to the City Council.

Shackelford: I will second.

Hoover: We have a motion by Commissioner Anthes for the Annexation and a second by Commissioner Shackelford, is there more discussion? Seeing none, Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of ANX 03-05.00 to the City Council was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

Hoover: Onto the Rezoning.

Bunch: On the Rezoning and the traffic, it looks like Patrick Street is stubbed out to be able to serve this area which would give an alternate traffic pattern to Wedington Drive in addition to Rupple Road and also, I think there have been or have been approved, may not be completed yet, some alterations to Rupple Road at it's intersection with Mt. Comfort Road. I know it is not infrastructure that we need at this point in time but they are steps in the right direction. That being said, I will move for approval of RZN 03-33.00 recommending to the City Council our positive response to it.

Shackelford: I will second.

Hoover: We have a motion by Commissioner Bunch and a second by Commissioner Shackelford, is there more discussion on RZN 03-33.00? Renee?

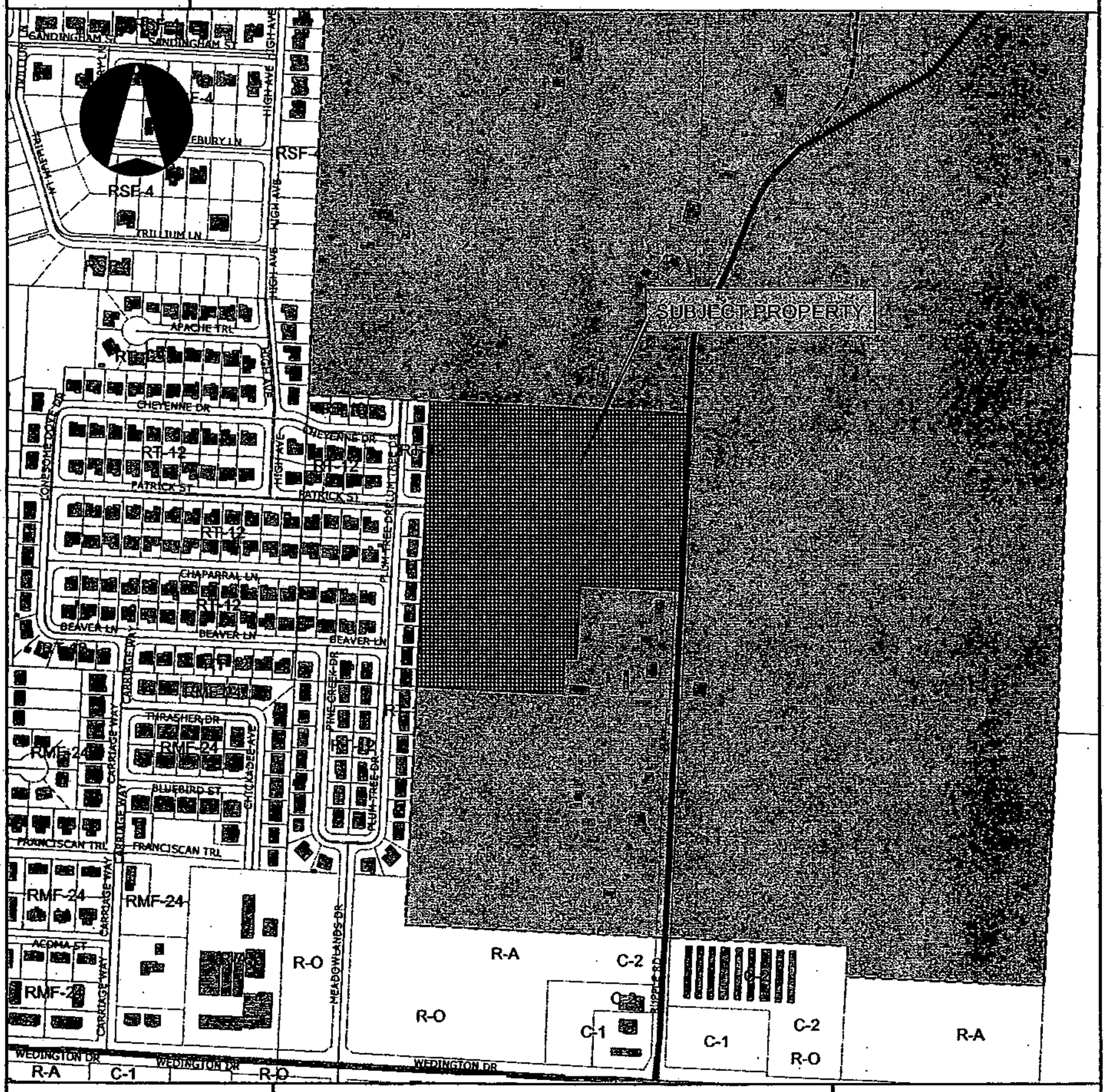
Roll Call: Upon the completion of roll call the motion to recommend for approval to the City Council RZN 03-33.00 was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

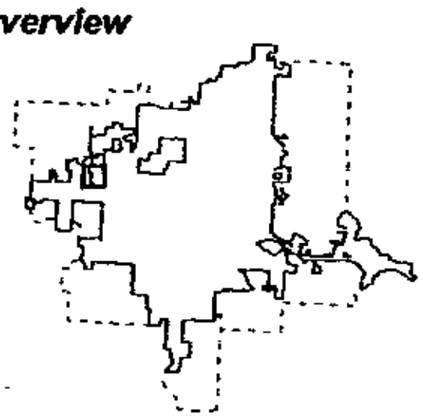
ANX03-05.00

Close Up View

RANKIN/ RANKIN/ BOWEN



Overview



Legend

Subject Property

ANX03-05.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

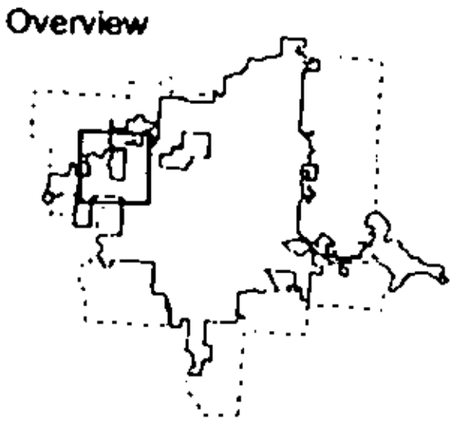
0 200 400 800 1,200 1,600 Feet

ANX03-05.00

One Mile View

RANKIN/ RANKIN/ BOWEN

Overview



Legend

Subject Property
- ANX03-05.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: April 6, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 03-05.00: Annexation (Dunnerstock Development, pp 400) was submitted by James McCord on behalf of Dunnerstock Development for property located on Rupple Road north of Wedington Drive containing approximately 17.19 acres. The request is to approve an ordinance annexing the subject property into the city limits of the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Dawn I Warrick — Division Head — 3/19/04 Date

Received in Mayor's Office — 3/22/04 Date

— City Attorney — 3/22/04 Date

— Department Director — Date

Cross Reference:

Previous Ord/Res#: _____

— Finance & Internal Services Dir. — Date

Orig. Contract Date: _____

Hugh Guenard — Chief Administrative Officer — 3-23-04 Date

Orig. Contract Number: _____

New Item: Yes No

Dan Coody — Mayor — 3/24/04 Date

ENTERED 3/22/04 TCM

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: March 18, 2004

Subject: Rezoning request for Dunnerstock (RZN 03-33.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately17.19 acres of property from R-A, Residential Agricultural to RSF-4, Residential Single-family, 4 units per acre.

BACKGROUND

The subject property is 17.19 acres and located west of Rupple Road and north of Wedington Drive. It is adjacent to the city limits along its western boundary where it abuts the Willow Springs subdivision. The north, east, and south boundaries are not contiguous to the City limits. Although the tract of land will result in the creation of a peninsula, it is currently located within an island of County property and identified by the General Plan 2020 to be desirable for annexation into the City. Connectivity and off-site improvements will be evaluated at the time of development.

Proposal: The applicant proposes to rezone the 17.19 acre tract in anticipation of the development of a single family residential subdivision. The requested zoning will provide for additional residential development at a maximum density of 4 units per acre.

DISCUSSION

The proposal to annex was tabled by the Planning Commission on November 24, 2003, pending results from the wastewater capacity analysis. A report from a system-wide wastewater study has been submitted and adequate capacity has been identified to serve this area for existing and proposed development. On March 8, 2004, the Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval with an accompanying annexation request.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 03-33.00 AS SUBMITTED BY JAMES MCCORD ON BEHALF OF DUNNERSTOCK DEVELOPMENT, INC FOR PROPERTY LOCATED ON RUPPLE ROAD NORTH OF WEDINGTON DRIVE FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

From R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

DRAFT

EXHIBIT "A"
RZN 03-33.00

A PART OF THE NORTHWEST QUARTER (NW ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION TWELVE (12), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY-ONE (31) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID 40 ACRE TRACT; THENCE S00°25'14"E ALONG THE EAST LINE OF SAID 40 ACRE TRACT 331.48 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING IN RUPPLE ROAD AND FROM WHICH A ½" IRON REBAR REFERENCE IRON SET ON THE WEST RIGHT OF WAY LINE OF SAID ROAD BEARS S89°11'31"W 25.77 FEET; THENCE LEAVING THE EAST LINE OF SAID 40 ACRE TRACT AND RUNNING ALONG AN EXISTING FENCE S89°11'31"W 350.00 FEET TO A SET ½" IRON REBAR; THENCE S00°25'14"E 257.72 FEET TO A SET ½" IRON REBAR; THENCE N89°59'00"W 39.39 FEET TO A SET ½" IRON REBAR; THENCE S00°50'38"W 123.76 FEET ALONG AN EXISTING FENCE TO A SET ½" IRON REBAR ON THE SOUTH LINE OF SAID 40 ACRE TRACT; THENCE N89°59'00"W 503.85 FEET ALONG THE SOUTH LINE OF SAID 40 ACRE TRACT 503.85 FEET TO AN EXISTING IRON AT THE SOUTHEAST CORNER OF WILLOW SPRINGS SUBDIVISION; THENCE N00°06'36"W 994.45 FEET ALONG THE EAST LINE OF SAID SUBDIVISION TO A SET ½" IRON REBAR; THENCE LEAVING THE EAST LINE OF SAID SUBDIVISION S89°58'50"E 890.58 FEET TO THE POINT OF BEGINNING, CONTAINING 17.19 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 17.19 ACRE TRACT BEING SUBJECT TO THE RIGHT OF WAY OF RUPPLE ROAD ALONG THE ENTIRE EAST BOUNDARY.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 08, 2004

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: March 1, 2004

RZN 03-33.00: Rezoning (Rankin/Rankin/Bowen, pp 400) was submitted by James McCord on behalf of Wilbur Maurice Rankin, Mary Ellen Rankin, Raymond Rankin and Susan Bowen for property located on Rupple Road, 0.5 miles north of Wedington Drive. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre. Planner: Suzanne Morgan

RECOMMENDATION:
Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
	○ Approved		**○ Denied**
Date: March 04, 2004			
CITY COUNCIL ACTION:	**Required**	**YES**	
	◉ Approved		**○ Denied**
Date: April 06, 2004			

BACKGROUND: Please reference the associated ANX 03-06.00 staff report for additional background information.

Property description: The subject property is 17.19 acres of vacant property located west of Rupple Road (a Minor Arterial) and north of Wedington Drive (a Principal Arterial). Rupple Road does not meet City street standards at this location. Single family residences are located to all cardinal directions from this property. The property is adjacent to the city limits along its western boundary where it abuts the Willow Springs subdivision from which connectivity will be provided to the west with the extension of Patrick Street, a local street on the Master Street Plan.

A request for annexation and rezoning of this property was heard by the Planning Commission on November 24, 2003. At this time the Planning Commission tabled the request pending the completion and staff review of a system-wide wastewater capacity study for Fayetteville. A report from a system-wide wastewater study has been submitted and adequate capacity has been identified to serve this area for existing and proposed development (see attached).

Proposal: The applicant would like to develop a single family residential subdivision.

Request: The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 dwelling units per acre, should the preceding Annexation request be approved.

When property is annexed into the City, it is annexed as R-A, Residential Agricultural. If annexation request ANX 03-05.00 is recommended for approval to City Council, the applicant would like to rezone the 17.19 acres to RSF-4, Residential Single-Family, 4 units per acre.

Recommendation: Staff recommends approval of the rezoning request based on the information provided from the wastewater capacity study and the findings included in the staff report. Future development on this site will be regulated by the City to ensure adequate services, infrastructure, connectivity and consistent development within the surrounding area.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single-family	Planning Area
South	Single-family	Planning Area
East	Single-family	Planning Area
West	Single-family (Willow Springs Subdivision)	RT-12, Residential Two and Three-family

INFRASTRUCTURE:

Streets: Rupple Road, which is where the development will be accessed from the east, is a paved roadway with no curb and gutter or storm drainage. Street improvements will be recommended to widen Rupple Rd. to current City standards along the project frontage. A traffic signal is currently proposed by the City for the intersection of Rupple Road and Wedington Dr. AHTD has approved the installation of the signal, and plans are currently underway to install the signal.

Surrounding Master Street Plan Streets:
North: Mount Comfort Rd. (Minor Arterial); approximately 0.6 miles
South: Wedington Dr. (Principal Arterial); approximately 0.3 miles
East: Patrick St. (Local)
West: Rupple Rd. (Minor Arterial)

Water: The property currently has access to a 6" water line along Rupple Road and an 8" water line at Patrick Street. An extension of the water main will be required to provide water supply within any development on this property and creating a loop between Patrick and Rupple.

Sewer: The site currently has access to 8" sewer mains in the adjacent subdivisions. Sewer will need to be extended within the development.

Fire: The subject property is located 0.7 miles from the future Fire Station #7. Normal driving time is 1 min. 2 seconds.

Police: It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: **The proposed zoning for a Single Family residential subdivision is compatible with the adjacent land use to the west. The proposed density of four units per acre is less than the property to the west zoned RT-12, Two and Three-family, at 12 units per acre. Adjacent property to the north, south, and east are within the Planning Area utilized for single family residential and agricultural uses. The general plan designates this area for residential uses, which is compatible with the proposed RSF-4 zoning. Access and provision of adequate services must be considered as this site is at the outskirts of the city and located on streets which need improvement.**

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

Finding: **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A higher density than the R-A zoning district allows for development of a subdivision with density appropriate in this area, and would provide compatibility with the adjoining development. In order to develop a residential subdivision on this property in a manner that is consistent with the future land use plan, a residential zoning district is needed.**

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

Finding: **The proposed zoning will provide additional traffic on Rupple Road, Wedington Drive, extension of Patrick Street and other streets in the area Off-site improvements would likely be necessary in order to provide safe access to this site.**

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

Finding: **The proposed zoning would increase population density. The 17.19 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 8 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 68 dwelling units would be permitted. This increases the possible number of residential units substantially, but is consistent with land use and zoning in the immediate vicinity.**

Engineering - Rupple Road, which is where the development will be accessed from to the east, is a paved roadway with no curb and gutter or storm drainage. Street improvements will be recommended to widen Rupple to current City standards along the project frontage. A traffic signal is currently proposed by the City for the intersection of Rupple Road and Wedington. AHTD has approved the installation of the signal, and the plans are currently underway to install the signal.

The property currently has access to a 6" water line along Rupple Road and an 8" water line at Patrick Street. An extension of the water main will be required to provide water supply within any development on this property and creating a loop between Patrick and Rupple.

The site currently has access to 8" sewer mains in the adjacent subdivisions. Sewer will need to be extended within the development.

Fire - The subject property is located 0.7 miles from the future Fire Station #7. Normal driving time is 1 min. 2 seconds.

Police - It is the opinion of the Fayetteville Police Department that this annexation and rezoning **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed

zoning is justified and/or necessitated by peculiar circumstances such as:

a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

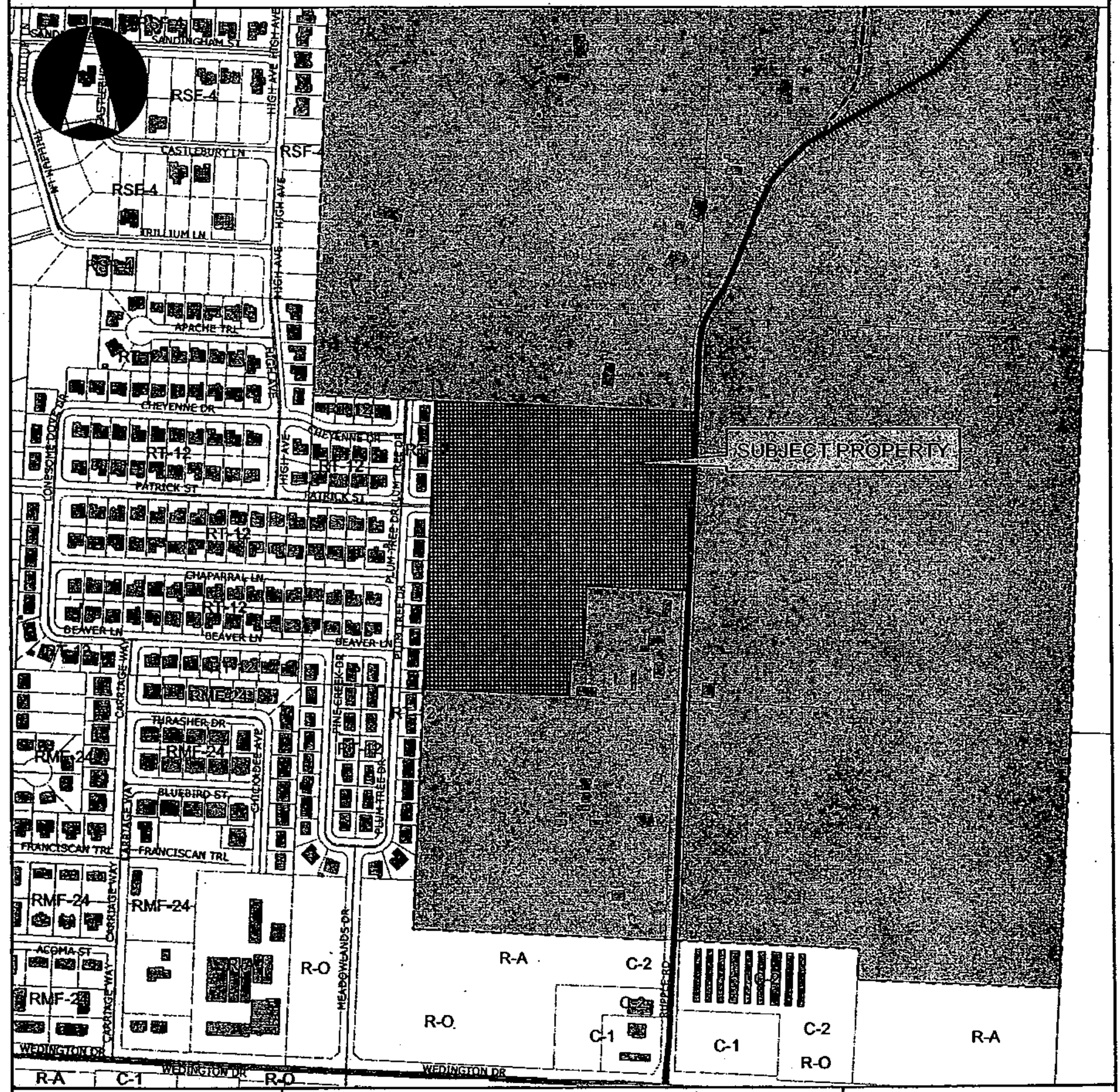
(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

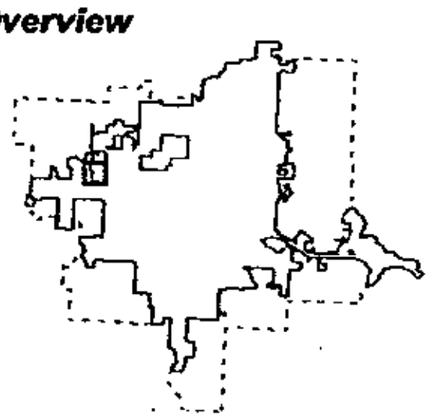
RZN03-33.00

RANKIN/ RANKIN/ BOWEN

Close Up View



Overview



Legend

Subject Property
RZN03-33.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

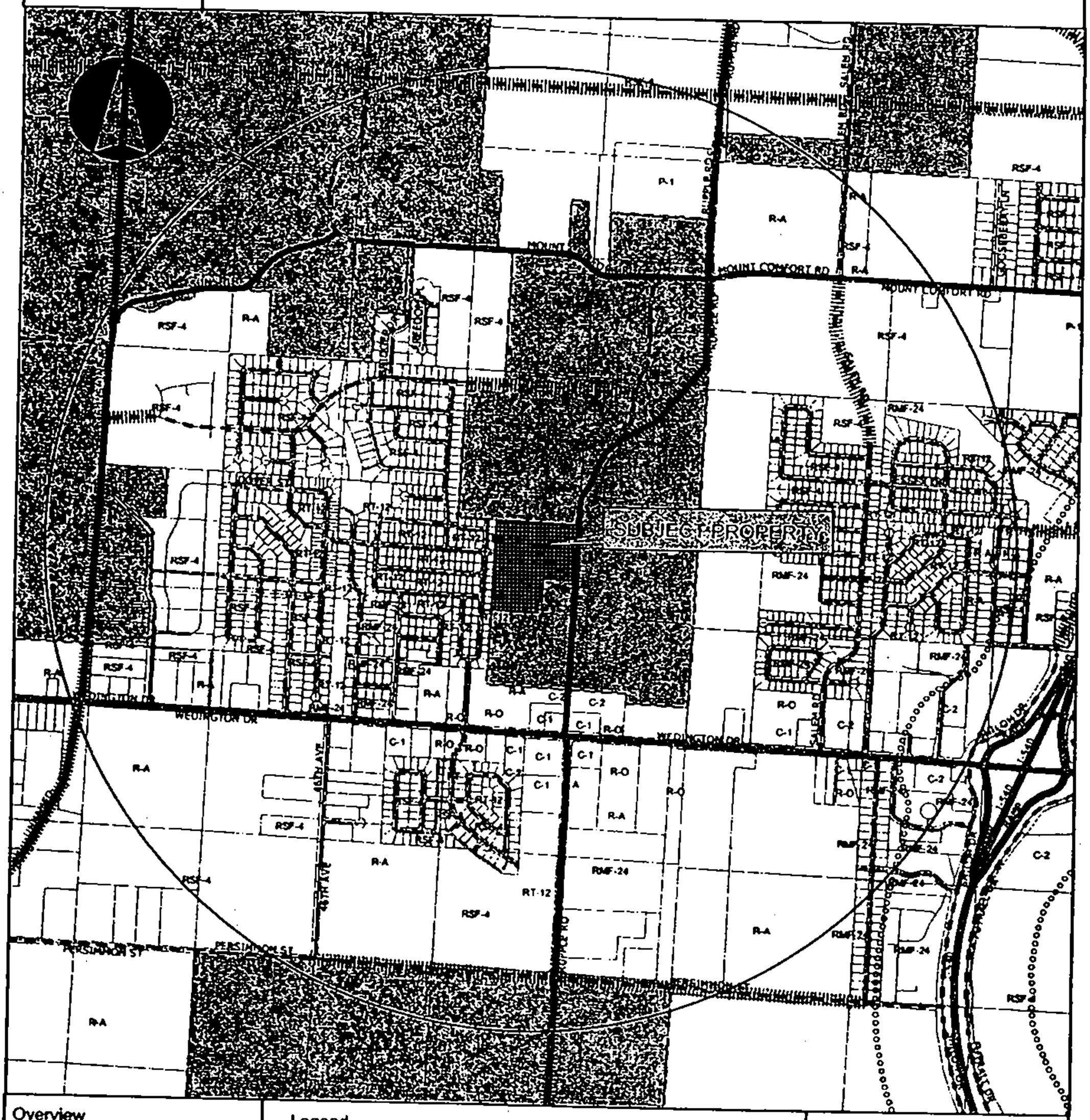
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 200 400 800 1,200 1,600
Feet

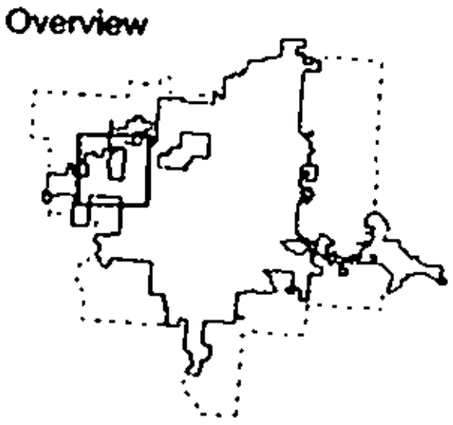
RZN03-33.00

One Mile View

RANKIN/ RANKIN/ BOWEN



Overview



Legend

Subject Property
RZN03-33.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

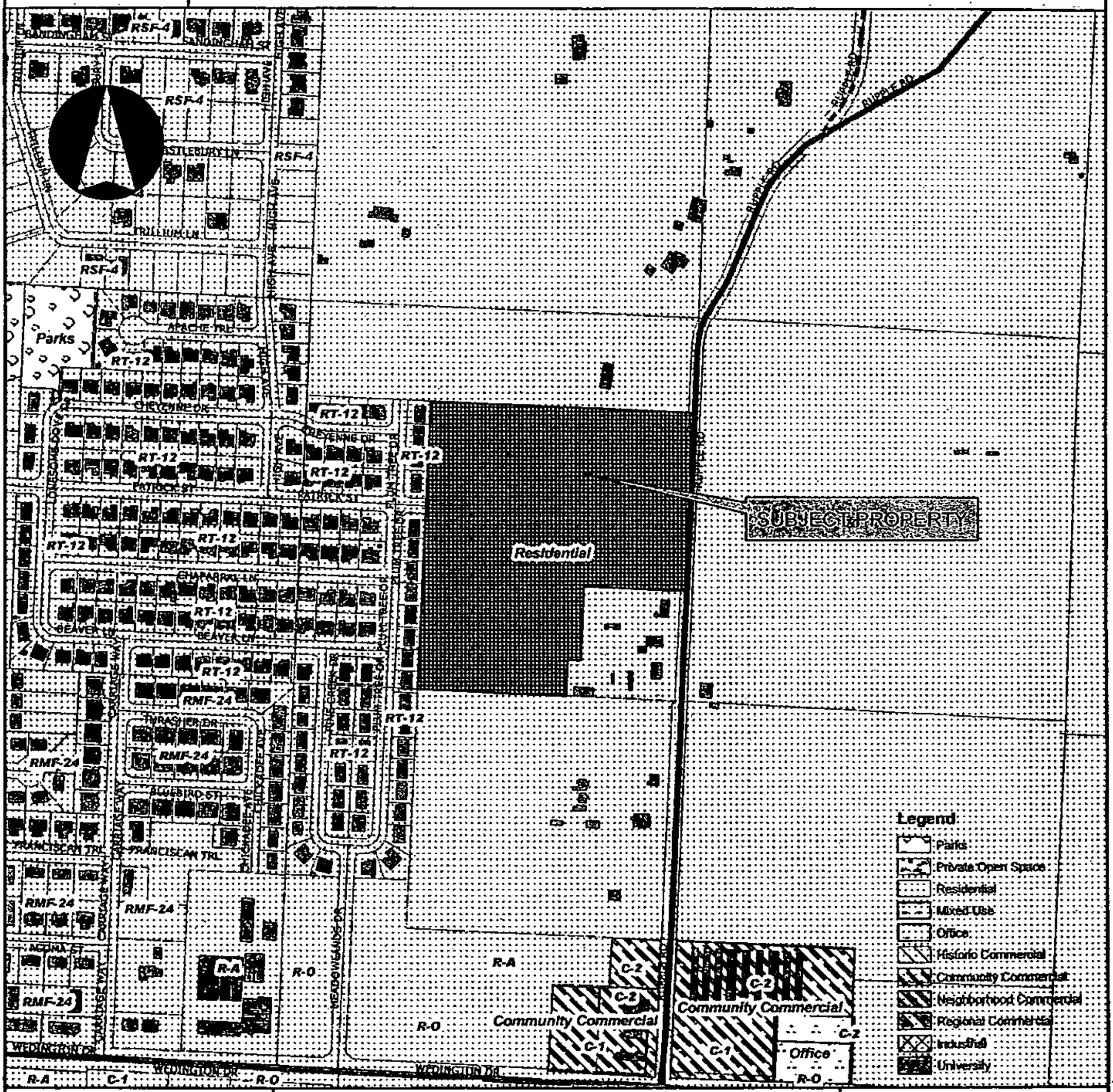
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

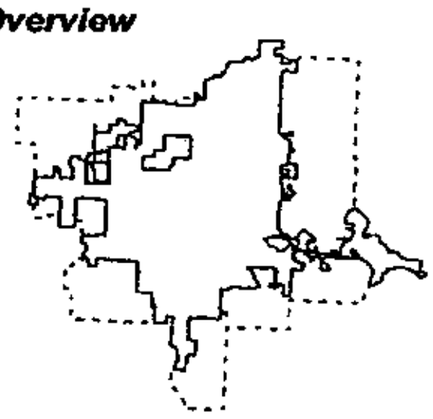
RZN03-33.00

Future Land Use

RANKIN/ RANKIN/ BOWEN



Overview



Legend

Subject Property

RZN03-33.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 200 400 800 1,200 1,600 Feet

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: April 6, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 03-33.00: Rezoning (Dunnerstock Development, pp 400) was submitted by James McCord on behalf of Dunnerstock Development for property located on Rupple Road north of Wedington Drive containing approximately 17.19 acres. The request is to approve an ordinance rezoning the newly annexed property from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

STAFF RECOMMENDATION: Approval.

Division Head — 3/19/04 Date

City Attorney — 3/22/04 Date

Department Director — Date

Finance & Internal Services Dir. — Date

Chief Administrative Officer — 3-23-04 Date

Mayor — 3/24/04 Date

Received in Mayor's Office — 3/22/04 Date PM

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 3/22/04 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

Date: March 18, 2004

Subject: Annexation for Hoskins/Schlegel (ANX 03-06.00)

RECOMMENDATION

Planning Staff recommends approval of the requested annexation for Hoskins/Schlegel. This action will incorporate a 72.5-acre tract of land contiguous with the city limits into the City of Fayetteville. The request is to annex the subject property into the City of Fayetteville.

BACKGROUND

The subject 72.5 acre vacant tract of land is located west of Deane Solomon Road and south of Salem Road. Phase III of Crystal Springs Subdivision is directly south of the property. Annexation and rezoning requests for this tract of land have been requested since 2002. The initial request in 2002 was for annexation and rezoning of the property from R-A to RSF-7, Residential Single Family, seven units per acre. Staff recommended denial of this request, citing concerns with the density proposed and the inability of the city to provide adequate public services to this particular area. Specific concerns included both the fire response time and the capacity of the wastewater system. Fire Station #7 has recently been approved for development on Rupple Road, and a system-wide wastewater capacity study identifies this area as having the capacity to serve existing and proposed development, both of which alleviates the concerns of staff and the Planning Commission. Additionally, the original application was withdrawn and submitted in its current format, an annexation and rezoning request from R-A to RSF-4. Development on this site will be regulated by the city allowing for a more uniform and consistent development pattern making better use of city infrastructure.

Proposal: The applicant requests annexation into the City of Fayetteville, along with the companion rezoning request.

DISCUSSION

On November 24, 2003, the Planning Commission tabled this item at the request of the staff. Staff was not recommending in favor of the annexation at that time. Staff's recommendation was later amended to reflect changed conditions (progress on the development of a new fire station to serve the west side of Fayetteville, review of the system-wide wastewater capacity study). On March 08, 2004, the Planning Commission

voted 9-0-0 to forward this item to the City Council with a recommendation for approval of the annexation with a companion rezoning request.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE CONFIRMING THE ANNEXATION TO THE CITY OF FAYETTEVILLE, ARKANSAS, OF CERTAIN PROPERTY LOCATED NORTH OF THE PROPOSED CRYSTAL SPRINGS PHASE III SUBDIVISION, WEST OF DEANE SOLOMON ROAD AND SOUTH OF SALEM ROAD CONTAINING APPROXIMATELY 72.50 ACRES.

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

Section 1. That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, of that property described in Exhibit "A" attached hereto and made a part hereof.

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

Section 3. That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4. That the above-described property is hereby assigned to Ward No. Two.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
Dan Coody, Mayor

ATTEST:

By:_____
Sondra Smith, City Clerk

EXHIBIT "A"
ANX 03-06.00

THE NE ¼ OF THE NE ¼ OF SECTION 32 AND PART OF THE E ½ OF THE SE ¼ OF SECTION 29, ALL IN T-17-N, R-30-W, THAT PART BEING IN SECTION 29 IS MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SE CORNER OF SAID SECTION 29, THENCE WEST 1320 FEET, MORE OR LESS, TO THE SW CORNER OF THE SE ¼ OF THE SE ¼ OF SAID SECTION 29; THENCE NORTH TO A POINT 384.25 FEET SOUTH OF THE NW CORNER OF THE SE ¼ OF THE SE ¼ OF THE SAID SECTION 29; THENCE N83°22'18"E 1067.69 FEET; THENCE N02°35'14"E 357.47 FEET TO A POINT 35 FEET, MORE OR LESS SOUTH OF THE CENTERLINE OF COUNTY ROAD NO. 894; THENCE NORTHEASTERLY PARALLELING SAID CENTERLINE A DISTANCE OF 268.54 FEET, MORE OR LESS, TO THE EAST LINE OF THE E ½ OF THE SE ¼ OF SAID SECTION 29; THENCE SOUTH 1574 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 72.5 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 08, 2004

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: March 03, 2004

ANX 03-06.00: Annexation (Schlegel, pp 207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III subdivision, west of Deane Solomon Road. The property is in the Planning Area and contains approximately 72.5 acres. The request is to annex the property into the City of Fayetteville. Planner: Jeremy Pate

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

PLANNING COMMISSION ACTION:	**Required** **YES**	
	☑ Approved	**○ Denied**
Date: March 08, 2004		
CITY COUNCIL ACTION:	**Required** **YES**	
	○ Approved	○ Denied
Date: April 06, 2004		

BACKGROUND:

Property Characteristics: The subject property is 72.5 acres of vacant property located west of Deane Solomon Road and south of Salem Road. Salem Road at this location is a gravel road and does not meet city street standards. Deane Solomon Road also does not meet city street standards. Single family residences are located north of the subject property along Salem Road. Areas to the west and south are vacant. Crystal Springs Subdivision, Phase III is proposed south of the subject property. Gypsum Dr., a Collector Street, is shown on the Master Street Plan as an east and west connection through the subject property. A portion of Gypsum Dr. was constructed when the Crystal Springs, Phase I subdivision was developed.

An annexation and rezoning request was previously petitioned for the subject property in December of 2002. At the time, staff recommended denial for both the annexation and rezoning requests, citing

concerns for Fire response times and increased loading onto existing infrastructure, particularly the wastewater system. The recommendation for denial was based on the inability of the city to provide adequate services to this particular area. Actions are being taken to remedy both situations: The Large Scale Development for Fire Station #7, to be located on Rupple Road, has been approved by Planning Commission and awaits final construction documents and permitting; a report from a system-wide wastewater study has been submitted and adequate capacity has been identified to serve this area for existing and proposed development (see attached). The proposal to annex was tabled in November, 2003, pending results from the wastewater capacity analysis.

Proposal: The applicant would like to develop a single family residential subdivision.

Request: The applicant is requesting to be annexed into the City.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 72.5 acres to RSF-4, Residential Single Family, 4 Units per Acre. The rezoning request, RZN 03-34.00, is an accompanying item to this annexation request.

Recommendation: Based on the information provided from the wastewater capacity study and the findings included in the staff report, staff recommends approval of the annexation request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family residential	In county, no zoning.
South	Planned residential subdivision (Crystal Springs, Phase III)	RSF-4, Res. Single Family, 4 DU/Acre
East	Undeveloped - Springwoods C-PZD	C-PZD
West	Undeveloped	In county, no zoning

INFRASTRUCTURE:

Streets:
North: East Salem Road (Collector) – Does not meet City street standards
South: Proposed connections through Crystal Springs II subdivision
East: Deane Solomon Road (Collector) – Does not meet City street standards
West: Master Street Plan shows Raven extended north (Collector)
Further west is Salem Road (Collector)

Gypsum Dr., a Collector, is shown on the Master Street Plan as an east and west connection through the subject property. A portion of Gypsum Dr. was constructed when the Crystal Springs, Phase I subdivision was developed.

At the time of development, Staff will recommend improvements to the roadway from the subject property to Deane Solomon Road, to City standards.

Water: The property currently has access to an 8" water line that will be stubbed out from the proposed Crystal Springs 3 subdivision. 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 north to connect with the 2" line along East Salem Road to provide dual feed for the development.

Sewer: The site currently has access to an 8" sewer main that will be stubbed out from the proposed Crystal Springs III subdivision. Sewer will need to be extended within the development.

Fire: The subject property is located 3.5 miles from the proposed Fire Station #7 on Rupple Road. Normal driving time is 5 min. 42 seconds. Water supply will be necessary for this property to develop. Access roads and street improvements to allow for necessary fire apparatus ingress/egress will also be required.

LAND USE PLAN: General Plan 2020 designates this site as Residential.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES

BOUNDARIES

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: The requested annexation will not create an island or peninsula.

11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent and contiguous to the western City Limits.

11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: The proposed annexation is for an area proposed for residential development. Development plans will include the extension of single family neighborhoods into this area.

11.6.d Boundaries for annexed areas should follow natural corridors.

Finding: **Proposed boundaries follow property lines or desired property lines.**

11.6.e Timing of services within annexation areas should be considered.

Finding: **The timing of the requested annexation is sufficient. Reports from a system-wide wastewater capacity analysis have been submitted, indicating that adequate capacity for development of the property is available. Additionally, the Fire response time provided by the Fire Marshal's Office (5 min. 42 sec.) is from the proposed Fire Station #7 on Rupple Road, which has been approved for development.**

ENVIRONMENTALLY SENSITIVE AREAS

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: **N/A**

EMERGENCY AND PUBLIC SERVICES

11.6.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: ***Fire Department*: Response time to this location could be as long as seven minutes from the current closest station. The Fire Department has provided response times of 5 min 42 sec from the proposed Fire Station #7 on Rupple Road. Fire Station #7 has been approved for development by the Planning Commission and awaits submittal and approval of construction and permit documents. Water supply and fire hydrants will be required with development. Vehicle access will also be required with a twenty foot minimum wide access.**

***Police:* Will not have a significant impact on police services, however the Police Dept. has expressed concerns regarding the West Salem Road access in its current, unimproved condition. Without improvements or the addition of alternate access, 290 potential units would create an appreciable increase in traffic danger and congestion in this location.**

11.6.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: **With the pending installation of a new fire station in the general area, service will be able to be provided at a more appropriate level of service with a shorter response time than what can be provided to the site currently. Sewer improvements to the area are needed for existing and already approved developments.**

11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: **These factors were taken into consideration in the responses and recommendations included in this report.**

INFRASTRUCTURE AND UTILITIES

11.6.j Areas currently served by utilities and other public services should be annexed.

Finding: **Fire and police protection are currently provided in this area. Water and sewer lines are in the nearby vicinity, and are being extended with adjacent subdivision developments.**

11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: ***Public Works:*** **The proposed annexation and ultimate development will increase the loading on the existing infrastructure systems. The City has had some recent capacity concerns with the sanitary sewer lift stations in this area, and recently completed a comprehensive wastewater capacity analysis. The completion of this study was required to prove the adequacy of the sewer downstream of this development. If the existing lift stations are not capable of handling the increase in flow, then improvements must be made to accommodate the additional loads.**

Planning: **The proposed annexation and potential rezoning could result in 290 units. Using 2.21 persons per occupied unit (2000 Census for Fayetteville), the total population of this rezoning could be 641 persons.**

11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: **The proposed annexation is not part of a phased annexation initiated by the City.**

INTERGOVERNMENTAL RELATIONS

11.6.m Promote long-range planning with adjacent jurisdictions.

Finding: **N/A**

11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: **N/A**

ADMINISTRATION OF ANNEXATIONS

11.6.o Designate zoning districts for the property during the annexation process.

Finding: **Annexations are automatically zoned R-A, Residential Agricultural. The applicant is requesting to rezone the 72.5 acres to RSF-4, Residential Single Family, 4 units per acre.**

11.6.p An annexation study should be completed on all annexation proposals.

Finding: **Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this request. Responses are included in the staff report.**

11.6.q Development proposals require a separate review from the annexation proposals.

Finding: **The development of the subject property will be required to go through the development review process.**

11.6.r Residents should be fully informed of annexation activities.

Finding: **Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.**

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: **Staff finds that this request is of acceptable size. The request creates a reasonable boundary avoiding the creation of islands or peninsulas.**

11.6.t Conduct a fiscal impact assessments on large annexations.

Finding: **N/A**

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
11.6.d Boundaries for annexed areas should follow natural corridors.
11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

11.6. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

11.6.g Public services must be able to be provided efficiently in newly annexed areas.
11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

11.6.j Areas currently served by utilities and other public services should be annexed.
11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

11.6.m Promote long-range planning with adjacent jurisdictions.
11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

11.6.o Designate zoning districts for the property during the annexation process.
11.6.p An annexation study should be completed on all annexation proposals.
11.6.q Development proposals require a separate review from the annexation proposals.
11.6.r Residents should be fully informed of annexation activities.
11.6.w Encourage larger annexations to create acceptable boundaries.
11.6.t Conduct a fiscal impact assessments on large annexations.

Table 6

SUMMARY OF PRELIMINARY CAPACITY ASSESSMENT
WESTERN PORTION OF THE CITY

Lift Station	Capacity 1/ (gpm)	Capacity 1/ (gpd)	Number of Units: Existing	Inactive	Built Not Occupied	Approved Not Built	Projected Peak Hourly Wastewater Flow 2/ (gpd)	Percent Capacity Utilized	Remaining Capacity 3/ (gpd)	Remaining Capacity 3/ (units)
Crystal Springs	260	374,400	141	0	233	508	223,560	59.7	150,840	670
Hamestring	1,600	2,304,000	2,510	125	898	680	1,650,000 4/	71.6	654,000 5/	2,906 5/
Owl Creek	437	629,280	336	25	317	286	280,000	44.5	349,280	1,552
Total			2,987	150	1,448	1,474				

1/ Firm capacity requires verification by OMI, Inc.
2/ Wastewater flow projected utilizing 161 gpd/unit plus existing dry-weather infiltration x dry-weather peaking factor.
3/ Based on dry-weather flow only. Does not include allowance for wet-weather inflow or infiltration.
4/ Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations.
5/ Total remaining flow and units include all areas tributary to Hamestring Lift Station.

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS

REGISTRATIONS:
PE: AR, MO
PLS: AR

November 3, 2003

Project No. E-689

FAYETTEVILLE
125 West Mountain Street
Fayetteville, Arkansas 72701

ATTN: Dawn Warrick, Planning Division
RE: Schlegel Property - Annexation and Zoning continuation

Dear Dawn:

Milholland Company (MCO), on behalf of our Client, Tracy Hoskins, and that of Schlegel, request the continuance of the referenced property for annexation into the City of Fayetteville.

Mel and Tracy, I believe, both have spoken with you on this matter.

Attached is correspondence received, dated October 31, 2003, and signed by both Sylvia and Ben, requesting that the previous submitted petition for annexation be continued. Please note the exception of need for a Lot Split assuming annexed zoning of RSF-4 (explanation herein). MCO has updated the attached plat to indicate current parcel numbers and changes in ownership.

In all cases, please change any reference or indication of Mark Marquess to:

Tracy Hoskins
3588 Buckingham Drive
Fayetteville, Arkansas 72703

Also attached with this request for continuance, are two (2) sets of mailing labels and other required items for placing the Schlegel property back into the processing schedule. The Decree, Order for Annexation, signed by The Honorable Jerry Hunton, Washington County Judge, is still valid at this time, is my understanding. I realize that public advertisement of the Annexation and Re-zoning will have to occur again, but am enclosing copy of the previously submitted data only for referencing and review.

I am assuming that all previously submitted applications (no Lot Split of the requested parcel for annexation will be required assuming that a zoning designation of RSF-4 is given), remains applicable and that no additional fees are required.

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS

REGISTRATIONS:
PE: AR, MO
PLS: AR

I was made aware of the Schlegel desire to continue the annexation and re-zoning process later Friday afternoon and have not fully reviewed current changes to the processing procedure, therefore, there may be the need for additional items than are attached. MCO will promptly provided any missing data.

It is my understanding that property annexed into the City now becomes zoned RSF-4, Single Family Residential at a density of 4 units per acre. If that is correct, it is our Client's intention and that of Schlegel for the property to be zoned RSF-4. I would like to follow-up this correspondence and submitted data by meeting with you to go over the processing schedule, present any missing data, and to review with you our Client's development intentions. Please advise of a convent time.

Should there be any question as to the purpose of this submitted request for continuance of the Annexation process or others, please call me.

As always your assistance and cooperation are appreciated, and in this matter are especially welcomed.

Sincerely,
Milholland Company

Thomas M. Jefcoat, ASLA
Projects Manager

cc: Tracy Hoskins
Sylvia Schlegel

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net

Ben F. Schlegel, Jr.
Sylvia Fellows Schlegel

722 Franklin
Fayetteville, AR 72701

October 31, 2003

City of Fayetteville
Planning and Development

Dear Dawn Warrick:

Please be advised that we would like to continue our petition for annexation, lot split and rezoning; as described in "EXHIBIT A" attached. Please note; the Developer has been changed from Mark Marquess to Tracy K. Hoskins as our designated representative and proposed developer. Please be informed and make any necessary changes in the previous applications to reflect my representative from Mark Marquess to Tracy K Hoskins. All items will remain the same with the exception of the rezoning application amending proposed rezoning from "R1.5" to "RSF4".

Sincerely,

Ben F. Schlegel

Sylvia Fellows Schlegel

EXHIBIT A

TRACT B OF SCHLEGEL PROPERTY TO BE ANNEXED AND REZONED
BOUNDARY DESCRIPTION

THE NE 1/4 OF THE NE 1/4 OF SECTION 32 AND PART OF THE E 1/2 OF THE SE 1/4 OF SECTION 29, ALL IN T-17-N, R-30-W, THAT PART BEING IN SECTION 29 IS MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SE CORNER OF SAID SECTION 29, THENCE WEST 1320 FEET, MORE OR LESS, TO THE SW CORNER OF THE SE 1/4 OF THE SE 1/4 OF SAID SECTION 29; THENCE NORTH TO A POINT 384.25 FEET SOUTH OF THE NW CORNER OF THE SE 1/4 OF THE SE 1/4 OF THE SAID SECTION 29; THENCE N83°22'18"E 1067.69 FEET; THENCE N02°35'14"E 357.47 FEET TO A POINT 35 FEET, MORE OR LESS SOUTH OF THE CENTERLINE OF COUNTY ROAD No. 894; THENCE NORTHEASTERLY PARALLELING SAID CENTERLINE A DISTANCE OF 268.54 FEET, MORE OR LESS, TO THE EAST LINE OF THE E 1/2 OF THE SE 1/4 OF SAID SECTION 29; THENCE SOUTH 1574 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 72.5 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

Submitted For
ANX 03-06 &
RZN 03-34
Closure
error
11/7/2003
[redacted]

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

See attached
Applicant's Signature

Mitholland Company
Engineering & Surveying
Melvin L. Mitholland, PE, PLS

REGISTRATIC
PE: AR, MO
PLS: AR

MEMO TO FAYETTEVILLE PLANNING

November 21, 2003

"SCHLEGEL ANNEXATION & REZONING"

"PROPERTY DESCRIPTION"

REQUEST: ANNEXATION: "ANX 03-06.00"

REQUEST: REZONING: "RZN 03-34.00"

To: Dawn Warwick:

The "Metes & Bounds" description of the 72.50 acres, more or less, submitted for annexation and rezoning is reported by your staff as the reason to recommend "Tabling" this request. The staff's statement of reason is "Closure Errors", defined as "Discrepancies" in the description, which have to be resolved before further action

A large percentage of the previous annexations and rezonings of many cities are done so without the benefit of a boundary survey with computed bearings and distances to more particularly define the direction and distances along a property boundary line or lines called for in the deed or description. ***Bearing and distances*** are not the assurance needed to properly identify the boundaries of a deed, or a land description. Monuments identify the proper boundaries of a tract of land when described with "Metes & Bounds" calls . These monuments can be surveyed by an experienced Professional Surveyor. These monuments include descriptive items, as well as, physical items.

Descriptive items, which may be called out in the land description, are not always visible in the field by initial observation, but can be located by a experienced Professional Surveyor by proper surveying technics & procedures.

> ***Descriptive items*** are usually the strongest terms that define the boundaries of land, such as, "....the SE 1/4 of the SE 1/4, of Section 10, T-16-N, R-30-W of the fifth Principal Meridian....."....."....or,..." ...the south east corner of the NW 1/4 of the NE 1/4..."....or,... " the centerline (or south right-of-way) of County Road No.43,,,or,,,College Avenue"...., or..."....beginning at a point on the 40 acre line 257.50 feet south of the North west corner of said 40 acre tract..", .. and, each of these type items can be located by a surveyor..

Physical items described in a "Metes & Bounds" land description may or may not be field located by the surveyor.

> Some *physical items* defined in the land description may also be a descriptive item, and is a ***principal monument***, such as,....."... the centerline of a creek, or street or road, or the right-of-way of a road...", which are monuments and can be located by the surveyor.

Other items called for in a "Metes and Bounds" description, such as, iron pins, stones & fence corners, are not always monuments, but only physical evidence of a possible previous survey. The latter of the above are ***secondary monuments*** and must be proven if used by the surveyor to represent & identify the chain-of-title corners through a proper "Sectional-Breakdown".

The metes and bounds description of lands submitted for said annexation and rezoning is described by very strong "Descriptive calls", and can be surveyed by a Professional Surveyor, and the boundary of the tract of land in question will not be different than that submitted.

The error-of-closure in your staff report is a "MATHEMATICAL" problem, not a land line "BOUNDARY DESCRIPTION" closure problem. There are no "discrepancies" in the land description, it can be surveyed as described.

I, on behalf of my client, respectfully request the land description as submitted be used as land requested for said annexation and rezoning.

With over 31 years of Professional Surveying experience in Northwest Arkansas, it is my recommendation to continue to use descriptions defined in Sectional Breakdowns and/or Metes & Bounds in the future, and not give ALL the credibility to "Mathematical Closures" by computers, except when the land description is presented in a survey form by a Registered Professional Surveyor..

Respectfully submitted,

Melvin L. Mitholland, Arkansas P.L.S No. 648.

RECEIVED
NOV 2 : 2003
PLANNING DIV.

Cc: file, Tracy Hoskins

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MLOengr@swbell.net

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS

REGISTRATIONS:
PE: AR, OK, MO
PLS: AR, OK

October 4, 2002

City of Fayetteville
Mr. Tim Conklin, Planner
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: SCHLEGEL REZONING
Project No. E-614

Dear Tim:

In response to the City of Fayetteville Application for Rezoning, the following is submitted:

5.a. *Current ownership and proposed/pending property sales:*
Ben F. Schlegel, Jr. & Sylvia Fellows Schlegel
722 Franklin Drive
Fayetteville, AR 72701

Proposed sale to Sierra R.E., LLC for Proposed "Schlegel Subdivision"

5.b. *Reason for requesting zoning change:*
Owner has offer to sell property for subdivision, based on approved Rezoning

5.c. *Surrounding properties: land use, traffic, appearance and signage:*
Undeveloped to the West, North and East; a Resident Subdivision planned for the South.
Traffic is presently low to moderate, except school traffic.
Appearance and signage is will be discussed during LSD Review.

5.d. *Water and sewer availability, line size:*
8" Water and 8" Sewer

6.a. *The degree to which the proposed zoning is consistent with the land use planning objectives, principles, and policies and with land use and zoning plans:*
Consistent with City Land Use and Zoning Plans

6.b. *Whether the proposed zoning is justified and/or needed at the time of the request:*
Yes, for Residential Use.

Milholland Company
Engineering & Surveying
Melvin L. Milholland, PE, PLS

REGISTRATIONS:
PE: AR, OK, MO
PLS: AR, OK

6.c. ***Whether the proposed zoning will create or appreciably increase traffic danger and congestion:***
Rezoning falls within the long range plans depicted on the Land Use Map and Master Street Plan.

6.d. ***Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities:***
The zoning is in general compliance with the Land Use Map, and will not impact the City's long range plans for growth.

6.e. ***Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification:***
A-1 does NOT permit practical, nor feasible options within City Limts.

Your favorable review is appreciated!

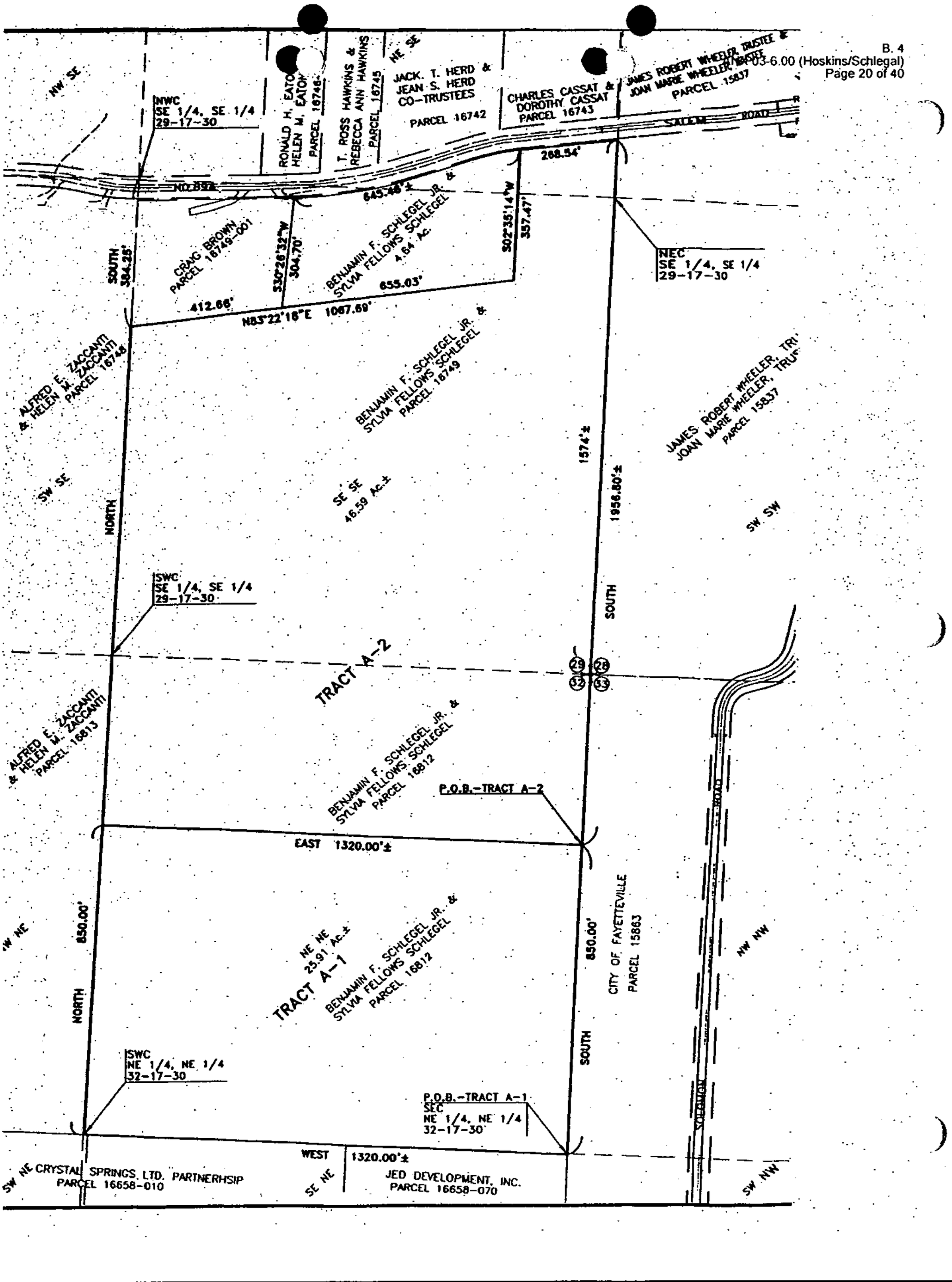
Respectfully,

for Melvin L. Milholland, PE, PLS

cc: Schlegel
Sierra R.E., LLC
file

C:\MyFiles\FORMS\Fayetteville\Rezone E-614 Schlegel Ltr-Planning.wpd

205 West Center Street; Fayetteville, Arkansas 72701; Phone: (479) 443-4724; Fax: (479) 443-4707; E-mail: MCOengr@swbell.net


NW SE
NWC
SE 1/4, SE 1/4
29-17-30
RONALD H. EATON
HELEN M. EATON
PARCEL 16746
T. ROSS HAWKINS &
REBECCA ANN HAWKINS
PARCEL 16745
NE SE
JACK. T. HERD &
JEAN S. HERD
CO-TRUSTEES
PARCEL 16742
CHARLES CASSAT &
DOROTHY CASSAT
PARCEL 16743
JAMES ROBERT WHEELER TRUSTEE &
JOAN MARIE WHEELER TRUSTEE
PARCEL 15837
SALEM ROAD
268.54'
N0.89°
645.66'±
BENJAMIN F. SCHLEGEL JR. &
SYLVIA FELLOWS SCHLEGEL
4.64 Ac.
S02°35'14"W
357.47'
CRAIG BROWN
PARCEL 16749-001
S30°26'32"W
304.70'
SOUTH
384.25'
655.03'
412.66'
N83°22'16"E 1067.69'
NEC
SE 1/4, SE 1/4
29-17-30
ALFRED E. ZACCANTI
& HELEN M. ZACCANTI
PARCEL 16748
BENJAMIN F. SCHLEGEL JR. &
SYLVIA FELLOWS SCHLEGEL
PARCEL 16749
JAMES ROBERT WHEELER, TRI
JOAN MARIE WHEELER, TRU
PARCEL 15837
1574'±
SW SE
NORTH
SE SE
46.59 Ac.±
1956.80'±
SW SW
SWC
SE 1/4, SE 1/4
29-17-30
TRACT A-2
29
28
32
33
SOUTH
ALFRED E. ZACCANTI
& HELEN M. ZACCANTI
PARCEL 16813
BENJAMIN F. SCHLEGEL JR. &
SYLVIA FELLOWS SCHLEGEL
PARCEL 16812
P.O.B.-TRACT A-2
EAST 1320.00'±
NW NE
NORTH
850.00'
NE NE
25.91 Ac.±
TRACT A-1
BENJAMIN F. SCHLEGEL JR. &
SYLVIA FELLOWS SCHLEGEL
PARCEL 16812
CITY OF FAYETTEVILLE
PARCEL 15863
SOUTH
850.00'
NW NW
SWC
NE 1/4, NE 1/4
32-17-30
P.O.B.-TRACT A-1
SEC
NE 1/4, NE 1/4
32-17-30
SW NE
CRYSTAL SPRINGS, LTD. PARTNERHSIP
PARCEL 16658-010
WEST
1320.00'±
SE NE
JED DEVELOPMENT, INC.
PARCEL 16658-070
SW NW

RECEIVED
NOV 24 2003
PLANNING DIV.

November 23, 2003

To: Fayetteville Planning Commission

RE: Annexation 03-06.00 (Schlegel, pp 207/246)
and
RZN 03-34.00 (Schlegel, pp 207/246)

Dear Planning commission,

In adding comments to this proposed annexation and rezoning, I am assuming that the issues of building on a wetland, reduced quality of life for the surrounding property owners, and potential adverse affects on our livestock have already been studied or addressed by others. The concerns I wish to address in this letter have to do with access to the proposed residential area and traffic hazards that are already present and will increase with increased traffic. I have enclosed a map to help you understand where the areas are that I am concerned about.

1. **Dean Solomon Road is very narrow, has no curbs, no shoulders, crumbling edges and steeply angled ditches.** This is currently not much of a problem because there are rarely more than one or two cars on the road at one time. With more traffic there will be increased risk of meeting another car that is traveling over the centerline because of the narrowness of road.

2. **On large sections of Dean Solomon the paving is cracked and sinking.** This sinking is not a few "potholes" but large sections that suddenly shift your vehicle's weight toward the edges of the road. I have indicated the worst area on the enclosed map. This cracking and sinking will, of course, increase with increased traffic.

3. **The "Z" curve is so narrow relative to the sharpness of the curve, that it is almost impossible to drive through it without crossing the centerline.** If you don't cross the centerline, most full sized cars' inside rear wheel will go off the pavement on the inside of the curve. It is best that only one car at a time go through this "Z" curve.

As an example, on the morning of Nov. 20 (last week) I was traveling north and was between the first curve and the second curve of the "Z". An approaching large truck, traveling south, was clearly not going to wait for me and was already coming at me <u>in my lane</u>. I stopped, but even with that, it appeared that he was going to hit my car <u>head on!</u> He moved back into his lane and missed hitting my bumper by about 6 inches or less! The most important point of this incident is that he could not negotiate that curve without coming into my lane!

Currently, most of the accidents on this curve (and they occur on a fairly regular basis) involve only one car that drives off the end of the road (they are going too fast and don't make the turn). During the time that I-540 was being resurfaced, many people were using Dean Solomon to avoid the traffic problems on I-540. I helped with one young man who was run off the road in an incident just like I was facing. The result for him was that he rolled his car and hit a tree. The person who ran him off the road never stopped. With the increased traffic from a residential neighborhood the accidents on this curve will increase.

4. If this residential area will be using West Salem Road, there will have to be major changes since West Salem is not a two-lane road.

5. **The left turn from Highway 112 onto Dean Solomon Road is a blind left turn.** If you are in an average sized car traveling north on Highway 112 you cannot see over the crest of the hill before turning left onto Dean Solomon. This crest of the hill is about two "car lengths" away from you. With a speed limit of 45 M.P.H. (or even a slower one) this is not enough distance for you to safely turn left without knowing if any cars are coming south. I do not turn left at this intersection. I see people risking it and turning there, but again, this has not been much of a problem because of the low volume of traffic. If you add a residential area that has Dean Solomon as its main access road, more and more people will start turning left, even though they can't see far enough to do it safely, and there will be increased accidents.

In summary, I feel there are some major safety issues that must be resolved before approving a residential area on Dean Solomon Road, because of the increased traffic that will be caused by that residential area.

If the annexation and rezoning is approved, I assume one of two conditions is in effect:

A. You have studied Dean Solomon road and concluded that there really aren't any safety problems from increased traffic on Dean Solomon Road.

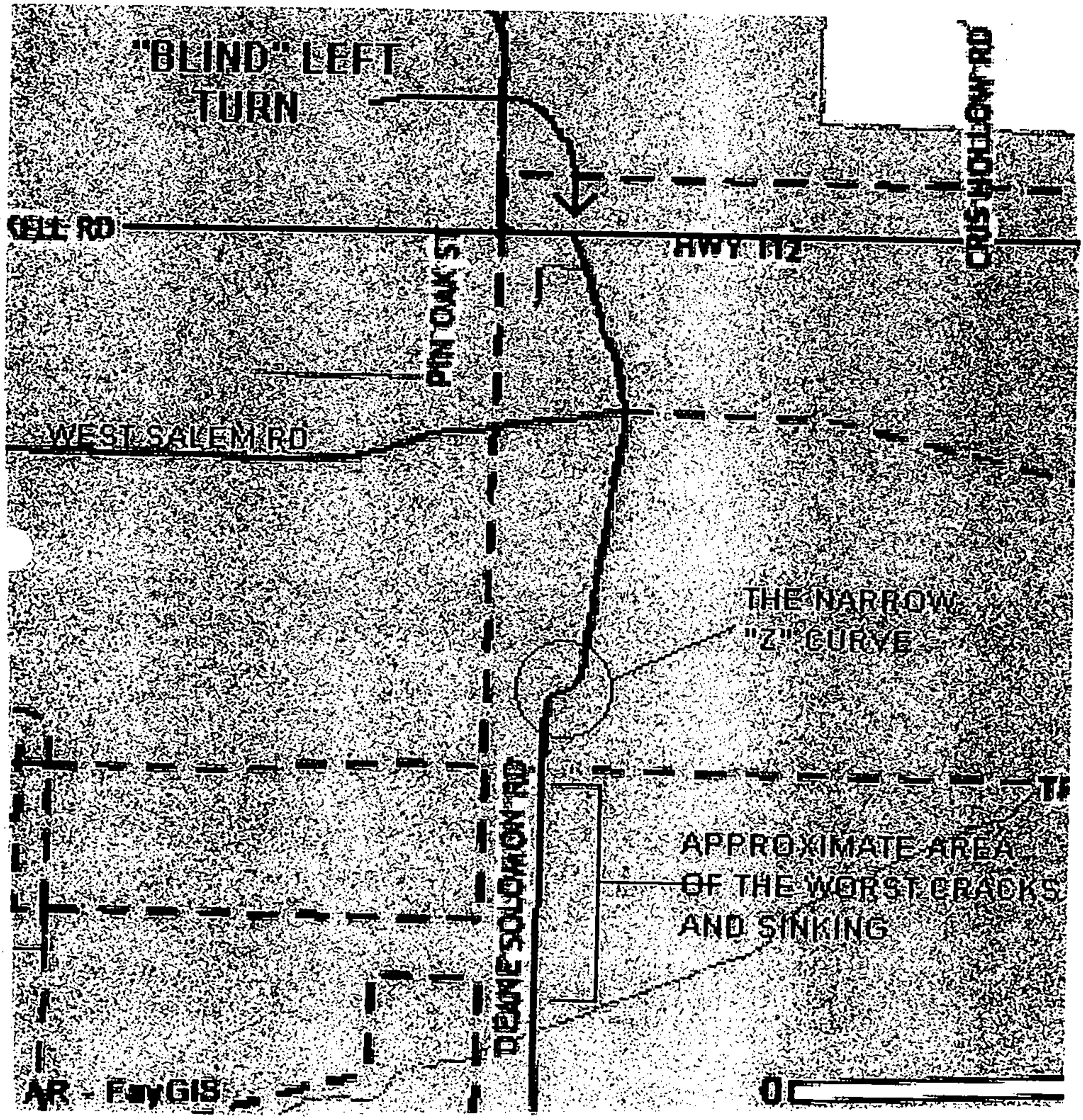
or

B. You already have a budget and timetable for fixing the problems on Dean Solomon Road before the residential neighborhood is built.

Should you approve the annexation and rezoning, I will be contacting you for a written copy of either (A) The study that shows no safety problems or (B) The budget and timetable for repairs on Dean Solomon Road

Thank you,

Patricia Brown
2733 West Salem Road
Fayetteville, AR
Phone: 443-4664
email: horseweaver@cox-internet.com


"BLIND" LEFT TURN
HELL RD
HWY 62
DRIFTWOOD RD
WEST SALEM RD
THE NARROW "Z" CURVE
APPROXIMATE AREA OF THE WORST CRACKS AND SINKING
0
AR - FayGIS

RECEIVED
DEC 03 2002
BY:

Perry L. Butcher
3481 Deane Solomon RD.
Fayetteville, AR 72704
479-636-3545

December 2, 2002

City of Fayetteville
Planning Division
113 W. Mountain
Fayetteville, AR 72701

Attention: Mrs. Janet Strain, Senior Planning Clerk

Re: Annex 022; Rezone 02-42
Marquess & Schlegal Property

Please allow this letter to express my concern and formally protest the annexation & rezoning of this property. Note the following reasons for my protest.

1. All of this general area has potential for wetlands. Reference being the Arkansas Business & Technology Park, as well as the surrounding area. The soil is probably hydric on this proposed site as is with the surrounding properties.
2. Potential density of this property will generate 6-8 vehicle trips/day. This could immediately generate from this area alone 400-500 ADT. Consequently demanding infrastructure improvements to Deane Solomon (Mt. Comfort to Highway 112) and to W. Salem Road. The Developer will probably not desire to carry the burden of this construction. Therefore, who will fund these improvements? Deane Solomon is an open ditch narrow road. This street will definitely require complete reconstruction.
3. Deane Solomon Rd. (Mt. Comfort to Highway 112), the street serving this proposed development, has hazardous/difficult intersections at both ends, also there is a large offset in the road alignment at about mid length.

In conclusion, these reasons propose problems that the City and area residents will have to consider and solve. Therefore, the best and really only solution is neither annexation nor rezoning.

Sincerely

Perry L. Butcher

RECEIVED
DEC 03 2002
PLANNING DIV.

Re: ANX+RZ-01

To: Jack Strain

My late husband, Jim Bob Wheeler bought 40 acres on Deer Coleman Road approximately 40 years ago. He built a beautiful home that overlooks the valley you are talking about rezoning. When he became handicaped and could no longer get around in that house we sold the house and developed the top part of the land. We made ½ to 1 acre plots and share times from 3500 sq ft to 3500 sq ft. I live in that development.

I still have 25 acres that adjoins the Schlegel property that they have requested the RS zoning for. I'm not against progress, although I wish we could keep the valley just the way it is.

I am totally against the RS zoning because of what it will do to the value of our property, the congestion problems it would cause. My children would someday

like to build nice homes on
that land.
Please don't ruin our valley
by rezoning that land RS. If
the Schlegel's stay lived on that
property, I know they wouldn't want
this next to them.

Thank You,

Joan Wheeler

RECEIVED
DEC 0 3 2002
PLANNING DIV.

Dec. 02, 2002

Dear Ms. Stricklin

I am writing in regard to the proposed development rezoning of the Schlegel property on Salem Road or Deane Soloman Road. My family's property (the Sheller property) is adjacent to this piece of land. It is also where I plan to someday build a very nice home. My husband + I have planned this since we were married, and we intend to build a larger 3-4,000 square foot house there. I, do not disagree about the development of this land, but we do have serious concerns about it being zoned RS. There are many nice pieces of property in that area + it is a truly beautiful valley. Much of the landscape out there has already been taken up by the Crystal Springs subdivision. Adding an area of RS zoned land would impact our property value negatively as well as the property of our neighbors. We support development, just not this kind. Please consider our concerns about the negative effects of smaller homes being placed there. Larger lots with larger homes would be much more suitable for this area.

Sincerely, Kris Honey + Cameron Honey
2033 Arthur Hart Street
Fayetteville, AR 72703 443-4547

BASSETT MIX
AND ASSOCIATES, INC.

Tuesday, December 3, 2002

To: Members of the City of Fayetteville Planning Commission

From: The Al Zaccanti Family

Re: Re-Zoning of the Schlegel Property

We firmly oppose the Re-Zoning of the adjoining property to RS.

We support Re-Zoning of the adjoining property to R-1, single family residential, as long as the lot sizes are 1/4 Acre or larger.

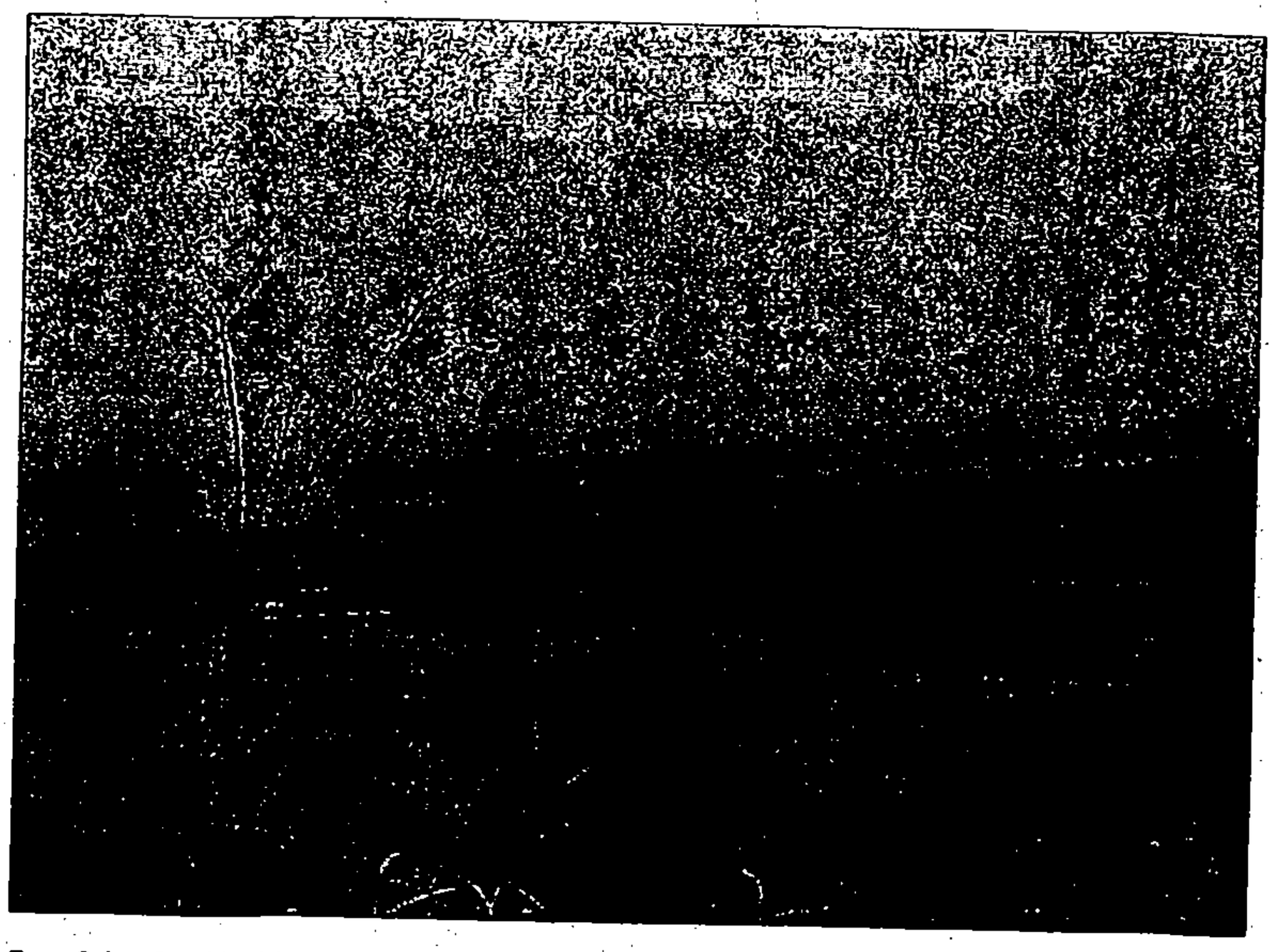
We have lived and farmed on the 80 Acres which adjoins this subject property. Our home contains over 3500 square feet. Homes immediately to the North, East and West of our home and the subject property are all similar in size. We are not opposed to growth or to the development of this property. However RS, high density zoning, is in direct conflict with the land use (20-20 plan) and the sizes of homes surrounding this property.

We plan to attend the meeting on December 9th to express our opposition and concerns regarding the re-zoning.

Highest Personal Regards,

Al and Helen Zaccanti
3019 W. Salem Rd. WC 894
Fayetteville, AR 72704

Family Members: Mary Bassett, Al Zaccanti Jr., Jacueline Calcagni and Ed Zaccanti



From Salem Road looking south at subject property.

ANX 03-06.00: Annexation (Schlegel, pp 207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III subdivision, west of Deane Solomon Road. The property is in the Planning Area and contains approximately 72.5 acres. The request is to annex the property into the City of Fayetteville.

RZN 03-34.00: Rezoning (Schlegel, pp 207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III subdivision, west of Deane Solomon Road. The property is in the Planning Area and contains approximately 72.5 acres. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre.

Hoover: Item number three on the agenda is ANX 03-06.00 and RZN 03-34.00 for Crystal Springs Phase III subdivision west of Deane Solomon Road. Jeremy?

Pate: Thank-you Madam Chair. The subject property is 73.50 acres of vacant property located west of Deane Solomon Road south of Salem Road. Salem Road to the north of this location is a gravel road and does not meet city standards, nor does Deane Solomon. Single family residences are located north of the subject property along Salem Road and areas to the west and south are vacant, although, Crystal Springs Subdivision Phase III, as you mentioned, is proposed south of the subject property. Gypsum Drive, a collector street, is also shown on the Master Street Plan as an east/west connection to the subject property. Any development to be consistent with the Master Street Plan would most likely look at developing that street as part of it's circulation patterns. A portion of Gypsum Drive also was constructed with the Crystal Springs Phase I. As with the last two items, an Annexation and Rezoning request was previously petitioned and tabled in December, 2002. The two primary concerns for this site included fire response times and the waste water capacity study as mentioned. Again, the waste water capacity study has identified this area as an area that does have sufficient capacity for development. Additionally, fire station number seven which is a closer fire station than the ones that currently exist to serve this site has been approved and awaits construction plans. Staff's findings with regard to water and sewer, extension of water and sewer mains will be required although, they are available in the nearby vicinity. The proposed annexation and potential rezoning could result in 290 single family units as a maximum. Again, that has been identified as being within the capacity of the lift stations based on the waste water capacity study. With regard to the rezoning, this proposed rezoning is justified in order to ensure orderly and consistent development patterns making use of existing infrastructure. The rezoning is needed for the development of a single family residential subdivision as proposed by the applicant. Projects existing in this area already of course, do receive police services and the

rezoning will not substantially alter the population density. Again, I mentioned the fire department findings as well. Surrounding properties are similarly developed and zoned appropriately for this request and staff is recommending approval of both requested ANX 03-06.00 and RZN 03-34.00.

Hoover: Thank you. Would the applicant come forward?

Jefcoat: I'm Tom Jefcoat with Milholland Company.

Hoover: Do you have anything to add?

Jefcoat: We appreciate your consideration of this Annexation and Rezoning. We are aware of the street conditions, the infrastructure, water and sewer and those issues will be addressed during the planning and design development stage. Thank you.

Hoover: At this time we will open up this Annexation and Rezoning to public comment. This is for the Crystal Springs Phase III subdivision. ANX 03-06.00 and RZN 03-34.00. Is there any member of the public that would like to address these? Seeing none, I will bring it back to the Commission.

Bunch: I have a question for the applicant. I know this is a little premature because the Preliminary Plat is not before us but one of the concerns in this area has been traffic and access. What provisions do you think will be made on securing the right of way to extend Gypsum to Deane Solomon Road? Have you looked at that yet?

Jefcoat: Yes we have. We are aware that that road will be improved to the city limits. Excuse me, I was thinking about Salem Road. Gypsum Road we did not know what would occur to the west of us, nor to the east of us but during the design development we will provide connectivity to the east and west.

Bunch: Then also go ahead and tell us about Salem Road.

Jefcoat: We understand that staff is recommending that that be improved to the city limits from wherever we have access on Salem Road to the city limits.

Bunch: Where is the city limits, is that at Deane Solomon?

Jefcoat: Yes it is.

Bunch: You are aware that that would be part of the development process would be to extend Salem Road to city standards to Deane Solomon?

Jefcoat: Yes, that's what is in the recommendation, yes.

Bunch: A question for staff I guess. On Gypsum Road our packet does not show ownership of Gypsum. What process would there be as this comes forward for development to provide a second access on Gypsum that would be south of the "S" curve on Deane Solomon that would help avoid, from a traffic standpoint, avoid that bad spot on Deane Solomon.

Warrick: That is part of the springwoods project. That is one of the lots within the springwoods PZD east of this tract between this tract and Deane Solomon Road. We expect that property to come through the development process relatively soon as we have had the Final Plat for that subdivision submitted to our office this last week. With regard to when this comes through the development process, the subject property, we will be of course, looking for connectivity which is a policy of the city to require developments to have stub outs and/or to connect to existing stub outs. We will have to wait until we see what is on the ground existing compared to what the proposal is and how we can ensure that those existing stub outs match up to any new infrastructure and that if they don't if there is nothing to match up that new stub outs are in the proper location so that streets can be connected affectively.

Allen: I noticed that there were a number of letters in our packet from neighbors that are concerned, I wondered whether or not you have met with those neighbors and felt that problems had been resolved in some manner.

Jefcoat: Resolved in some manner, yes. I would say in some manner. We have talked with the adjoining neighbors over the past two and a half years in the process of developing this and we have some rapore with those people. When we do a development plan and begin to have a conceptual plan then the more detailed meeting process will occur with those residences.

Allen: Have you met with them since the last time this came before us?

Jefcoat: We have talked to some of them by phone, yes.

Allen: But not like a neighborhood association type meeting?

Jefcoat: No, we don't have a plan concept with which to talk to them about yet as far as layout. That's what they are most concerned about is how the layout adjoins their property. When we get to that point we will have a neighborhood association meeting.

Warrick: If I could just add, there are a few letters in this packet and we included everything that we had with regard to this property. The original request for this project came in November or December of 2002. At that time the

request for rezoning was to a more dense zoning district with smaller lots. The RSF-7 district now. Some of these comments are reflective of that as the proposal. The proposal now is for an RSF-4, Single Family four units per acre zoning district. While the substance hasn't really changed, it is a request to annex and zone. The density has changed that this applicant is requesting.

Allen: Thank you.

Shackelford: We looked at this previously if my memory is correct. The main two concerns we had at that point was based on fire coverage and sewer capacity, it seems like at this point those issues have been addressed. I think staff has done a good job on recommending approval of this project so based on this I am going to recommend we approve ANX 03-6.00 as presented.

Vaught: I will second.

Hoover: We have a motion by Commissioner Shackelford and a second by Commissioner Vaught, is there any other discussion?

Ostner: This is just a question for staff. I understand that the improvements to Deane Solomon aren't really relative at this point because it is just an annexation and rezoning. When it does come time to develop I'm noticing that this property does not adjoin Deane Solomon. Are we still talking about requesting the developer help improve Deane Solomon?

Warrick: Offsite improvements are at the discretion of the Planning Commission. We do not have a development plan to assess in order to determine whether or not there is a demand placed by that development that would cause a need for improvements on Deane Solomon. We are working with a different developer right now on the "S" curve in Deane Solomon and trying to establish a reasonable way of straightening that out some. We are progressing in making improvements on Deane Solomon and additional development is most likely going to be occurring in that general area in the near future so we will have to take it as it comes and determine those types of assessments or improvements based on the development plans when they are submitted.

Ostner: Thank you.

Hoover: Is there any other discussion? Renee, would you call the roll on the annexation?

Roll Call: Upon the completion of roll call the motion to approve ANX 03-06.00 was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

Hoover: The rezoning of this?

Shackelford: Based on the comments that I made earlier and the findings and the fact that I think this is consistent with surrounding use I will go ahead and make a motion that we recommend approval to the City Council of RZN 03-34.00.

Vaught: I will second.

Hoover: We have a motion by Commissioner Shackelford and a second by Commissioner Vaught for the rezoning, is there any discussion?

Anthes: I'm a little torn on this one. From what I'm reading here there seems to be quite an amount of wetlands in this area, is that true staff?

Warrick: We've not seen a development proposal, I believe that there is potential for some but we've not gotten to that point yet for analysis of that.

Anthes: Looking here where it adjoins the more dense zoning districts along the eastern boundary but as it goes north and west, I'm kind of surprised we haven't heard from more residents based on the numbers of letters that were in our packet. That is a beautiful open valley with a certain character to it. I'm just questioning if the density of RSF-4 might be a little high in that area based on what I think might be wetlands and geology and the view shed and then the surrounding property owner's letters.

Hoover: Staff, you might repeat why you thought the RSF-4 was appropriate perhaps.

Warrick: Based on the General Plan which calls this area out to be residential we felt that the RSF-4 district was appropriate with regard to the existing surrounding developments and the proposed developments to the south and to the east.

Anthes: It just seems like RSF-4 seems to be our default position on single family but we do have other district designations, an RSF .5, an RSF-1, an RSF-2 zonings available to us. The site, because it's got this differentiation where it adjoins a more dense zoning and then drops way in that valley, to me it is difficult to look at it as one piece because it might develop in such a way that development might be clustered more towards the front than another piece of property but without seeing that, it is hard for me to get behind a basic overall density of RSF-4 on that site.

Shackelford: This is presented as Phase III of an existing subdivision, Phase I and Phase II, are they RSF-4 as well?

Warrick: This is not Phase III of Crystal Springs. This is north of the proposed Crystal Springs Phase III. Phase III is zoned RSF-4, it is located immediately south of this and it has already been through the Preliminary Plat process. The Planning Commission has already approved the layout.

Shackelford: The property just south of this proposal will be RSF-4 as well?

Warrick: That's correct.

Thomas: If I could just add, I spoke with Mary Bassett earlier and she asked me to write you a letter but I didn't get to that. She is asking for larger lots as it goes up the hill and she will be here at the time of Preliminary Plat to talk to you about that.

Hoover: Thank you.

Vaught: I think she's the one in her letter that said they were against seven but they would be in support of four. I saw that in at least one or maybe two of the letters. I do think RSF-4 is a good fit for this area. It is still very close to I-540, it is an area that is rapidly developing and changing with a lot of RSF-4 around it. We have a lot of things coming before us in this area and a lot of them are RSF-4. Between that and it is a buffer I think between those larger homes to the west and things like Wilson springs where you even have a strip of RMF-24 abutting the property. I do think it is a good density. Just because it is zoned that doesn't necessarily mean they are going to do that. Like was said, Mary Bassett wished they would get larger as they would go up the hill. I believe she was here at the last meeting and said that exact same thing. I know the developer will have lots of comments with the neighbors through the development process.

Bunch: A question for staff and possibly the applicant, the property immediately to the south zoned RSF-4 is part of Crystal Springs Phase III?

Warrick: Yes.

Bunch: That is a piece of property that I know we have had a Preliminary Plat come through on that and there will be access to Deane Solomon on that but I cannot remember if there was access to the north. I think the same applicant had the same project, Tom, can you shed a little light on that?

Jefcoat: Yes we do have the same project and we do have a stub from Crystal Springs north into this property. I also may mention that yes, to our east there is RSF-4 zoning where we are talking about connectivity also, which

is Gypsum. It is our proposal and we have had communication with Mary Bassett and we talked earlier today also.

Bunch: We are looking at two potential connections to the east, one on Gypsum Drive and the other one on the extension of Crystal Springs?

Jefcoat: At least one through to the south on Crystal Springs. One to the north on Salem and at least one both directions east and west.

Bunch: With the Master Street Plan there is Gypsum Drive so that would give a minimum of three accesses east?

Jefcoat: A minimum of four, minimum.

Vaught: Gypsum Drive to the east of Deane Solomon has been vacated with the Wilson Springs PZD correct?

Warrick: Yes. It has been removed from the Master Street Plan as a collector. It doesn't mean that there couldn't still be some connectivity there. It is no longer classified as a collector street.

Hoover: Is there any other discussion? I believe we had a motion and a second. Renee, would you call the roll?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 03-34.00 to the City Council was approved by a vote of 8-1-0 with Commissioner Anthes voting no.

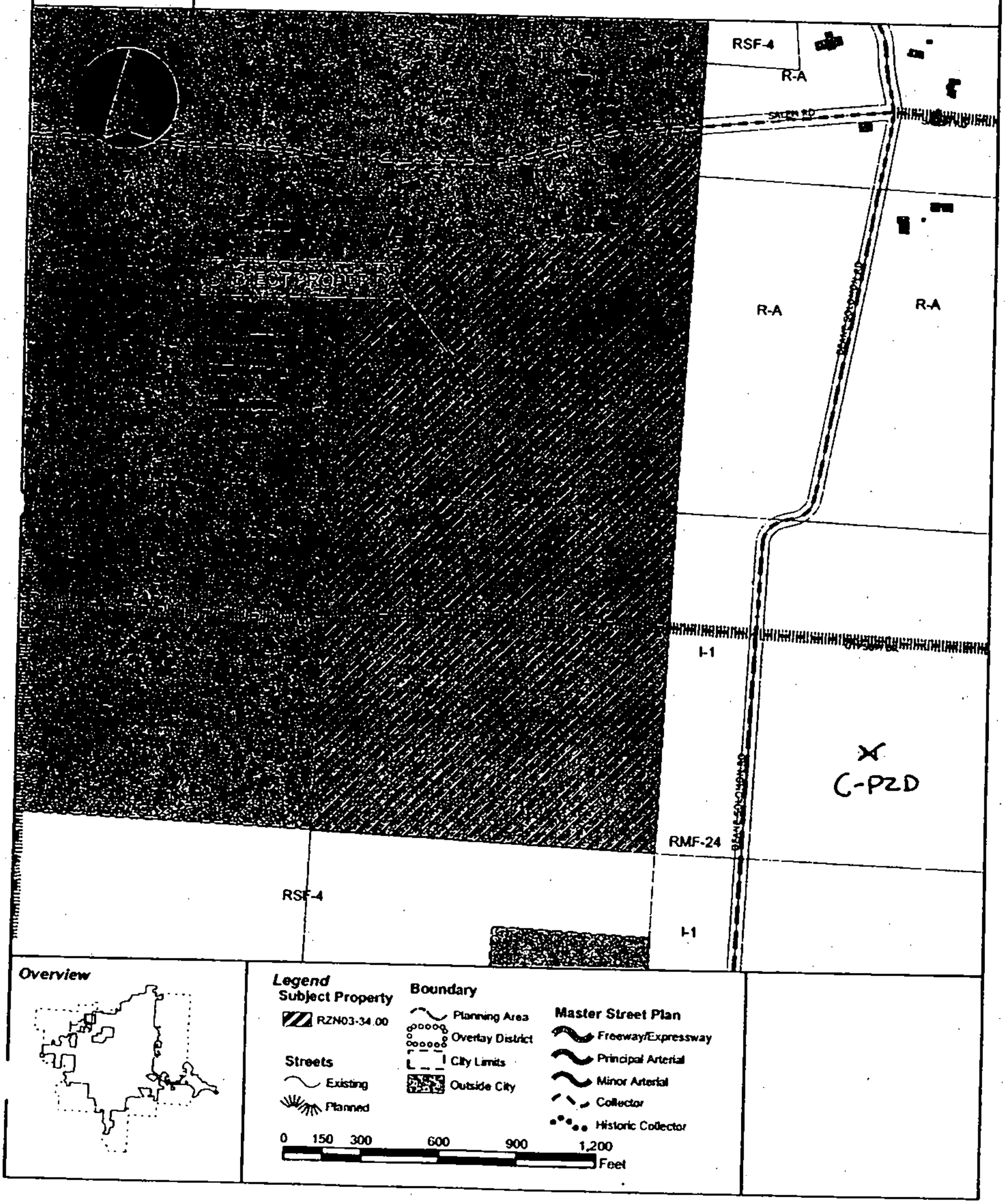
Thomas: The motion carries eight to one.

Hoover: Thank you.

ANX 03-06.00

Close Up View

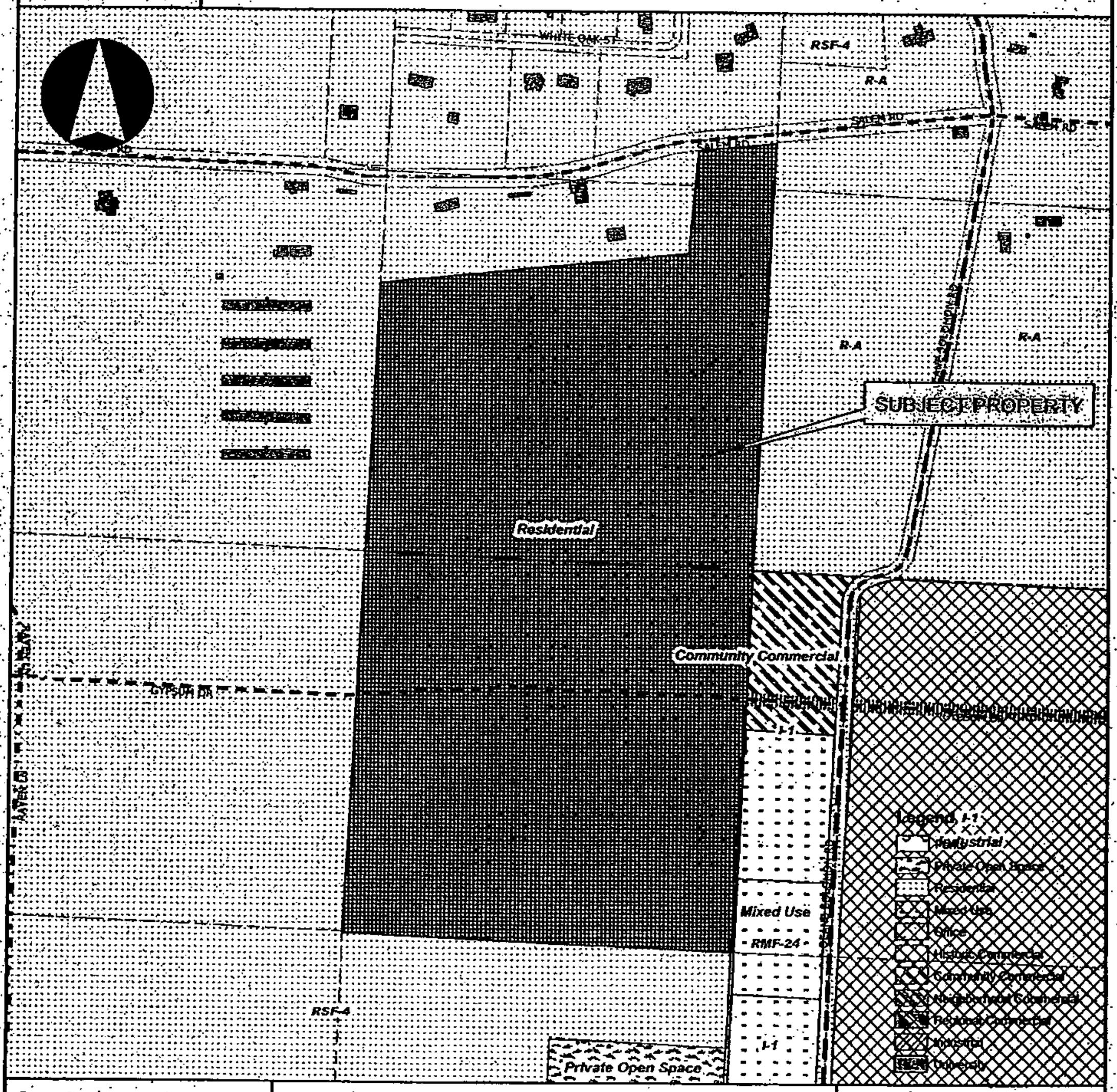
SCHLEGEL



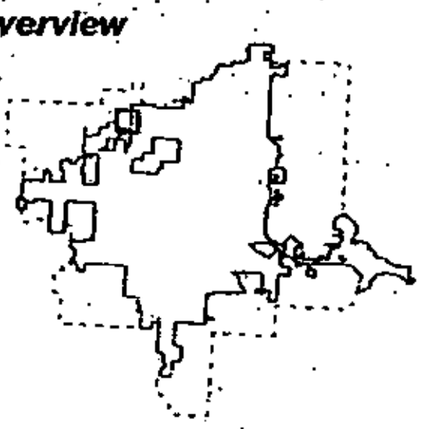
ANX 03-006.00

SCHLEGEL

Future Land Use



Overview



Legend

Subject Property
RZN03-34.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

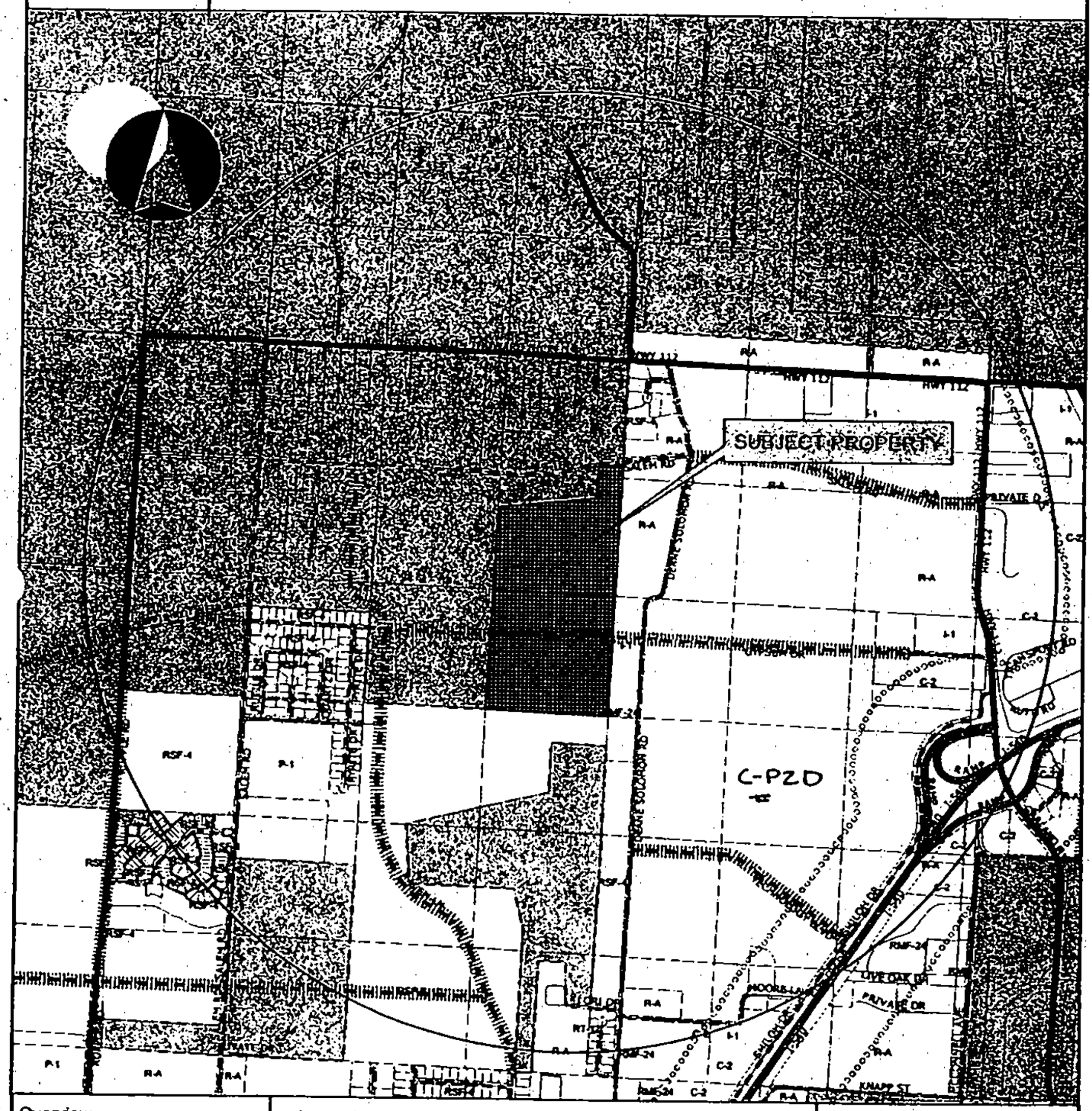
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 200 400 800 1,200 1,600
Feet

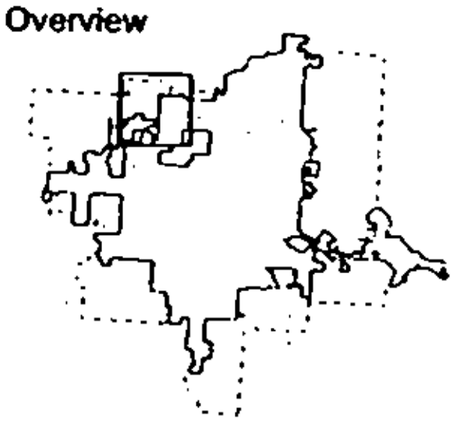
ANX 03-06.00

SCHLEGEL

One Mile View



Overview



Legend

Subject Property
RZN03-34.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: April 6, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

ANX 03-06.00: Annexation (Schlegel, pp 207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres. The request is to approve an ordinance annexing the subject property into the city limits of the City of Fayetteville.

STAFF RECOMMENDATION: Approval.

Division Head — 3/19/04 Date

City Attorney — 3/22/04 Date

Received in Mayor's Office — 3/22/04 Date

Department Director — Date

Finance & Internal Services Dir. — Date

Chief Administrative Officer — 3-23-04 Date

Mayor — 3/24/04 Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 3/22/04 TLM

CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: March 18, 2004

Subject: Rezoning request for Hoskins/Schlegel (RZN 03-34.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 72.5 acres of property from R-A, Residential Agricultural to RSF-4, Residential single family 4 units/acre.

BACKGROUND

The subject 72.5 acre vacant tract of land is located west of Deane Solomon Road and south of Salem Road. Phase III of Crystal Springs Subdivision is directly south of the property, within the city limits. The developer proposes a residential subdivision on the property, not to exceed 4 units per acre. Annexation and rezoning requests for this tract of land have been requested since 2002. The initial request in 2002 was for annexation and rezoning of the property from R-A to RSF-7, Residential Single Family, seven units per acre. Staff recommended denial of this request, citing concerns with the density proposed and the inability of the city to provide adequate public services to this particular area. Specific concerns included both the fire response time and the capacity of the wastewater system. Fire Station #7 has recently been approved for development on Rupple Road, and a system-wide wastewater capacity study identifies this area as having the capacity to serve existing and proposed development, both of which alleviate the concerns of staff and the Planning Commission. Additionally, the original application was withdrawn and submitted in its current format, an annexation and rezoning request from R-A to RSF-4. If the associated annexation request is approved, development on this site will be regulated by the city allowing for a more uniform and consistent development pattern making better use of city infrastructure.

Proposal: The applicant proposes to rezone the 72.5 acre tract in anticipation of the development of a single family residential subdivision. The requested zoning will provide for additional residential development at a maximum density of 4 units per acre.

DISCUSSION

On November 24, 2003, the Planning Commission tabled this item at the request of staff. Staff was not recommending in favor of the annexation/rezoning at that time. Staff's recommendation was later amended to reflect changed conditions (request for less dense zoning district, progress on the development of a new fire station to serve the west side of

Fayetteville, review of the system-wide wastewater capacity study). On March 08, 2004, the Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval of the annexation with a companion rezoning request.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 03-34.00 AS SUBMITTED BY MILHOLLAND COMPANY ON BEHALF OF TRACY HOSKINS FOR PROPERTY LOCATED NORTH OF THE PROPOSED CRYSTAL SPRINGS PHASE III SUBDIVISION, WEST OF DEANE SOLOMON ROAD AND SOUTH OF SALEM ROAD CONTAINING APPROXIMATELY 72.50 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE FAMILY, FOUR UNITS PER ACRE.

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

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

From R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

DRAFT

EXHIBIT "A"
RZN 03-34.00

THE NE ¼ OF THE NE ¼ OF SECTION 32 AND PART OF THE E ½ OF THE SE ¼ OF SECTION 29, ALL IN T-17-N, R-30-W, THAT PART BEING IN SECTION 29 IS MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SE CORNER OF SAID SECTION 29, THENCE WEST 1320 FEET, MORE OR LESS, TO THE SW CORNER OF THE SE ¼ OF THE SE ¼ OF SAID SECTION 29; THENCE NORTH TO A POINT 384.25 FEET SOUTH OF THE NW CORNER OF THE SE ¼ OF THE SE ¼ OF THE SAID SECTION 29; THENCE N83°22'18"E 1067.69 FEET; THENCE N02°35'14"E 357.47 FEET TO A POINT 35 FEET, MORE OR LESS SOUTH OF THE CENTERLINE OF COUNTY ROAD NO. 894; THENCE NORTHEASTERLY PARALLELING SAID CENTERLINE A DISTANCE OF 268.54 FEET, MORE OR LESS, TO THE EAST LINE OF THE E ½ OF THE SE ¼ OF SAID SECTION 29; THENCE SOUTH 1574 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 72.5 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 08, 2004

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: February24, 2004

RZN 03-34.00: Rezoning (Schlegel, pp207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III subdivision, west of Deane Solomon Road. The property is in the Planning Area and contains approximately 72.5 acres. The request is to rezone the property RSF-4, Residential Single-family, 4 units per acre. Planner: Jeremy Pate

RECOMMENDATION:
Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:	**Required**	**YES**	
	☑ Approved		**○ Denied**
Date: March 04, 2004			
CITY COUNCIL ACTION:	**Required**	**YES**	
	○ Approved		**○ Denied**
Date: April 06, 2004			

BACKGROUND: Please reference the associated ANX 03-06.00 staff report for additional background information.

Property Characteristics: The subject property is 72.5 acres of vacant property located west of Deane Solomon Road and south of Salem Road. Salem Road at this location is a dirt road and does not meet city street standards. Deane Solomon Road also does not meet city street standards. Single family residences are located north of the subject property along Salem Road. Areas to the west and south are vacant. Crystal Springs Subdivision, Phase III is proposed south of the subject property. Gypsum Dr., a Collector Street, is shown on the Master Street Plan as an east and west connection through the subject property. A portion of Gypsum Dr. was constructed when the Crystal Springs, Phase I subdivision was developed.

An annexation and rezoning request was previously petitioned for the subject property in December of 2002. At the time, staff recommended denial for both the annexation and rezoning requests, citing

concerns for Fire response times and increased loading onto existing infrastructure, particularly the wastewater system. The recommendation for denial was based on the inability of the city to provide adequate services to this particular area. Actions are being taken to remedy both situations: The Large Scale Development for Fire Station #7, to be located on Rupple Road, has been approved by Planning Commission and awaits final construction documents and permitting; a report from a system-wide wastewater study has been submitted and adequate capacity has been identified to serve this area for existing and proposed development (see attached). The proposal to rezone was tabled in November, 2003, pending results from the wastewater capacity analysis

Proposal: The applicant would like to develop a single family residential subdivision.

Request: The applicant is requesting the property be rezoned from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Dwelling Units per Acre, should the preceding Annexation request be approved.

Related Issues: When property is annexed into the City, it is annexed as R-A Residential Agricultural. If the annexation is recommended for approval to City Council, the applicant would like to rezone the 72.5 acres to RSF-4, Residential Single Family, 4 Units per Acre. The annexation request, ANX 03-06.00, is an accompanying item to this rezoning request.

Recommendation: Based on the information provided from the wastewater capacity study and the findings included in the staff report, staff recommends approval of the rezoning request. Future changes or additional development on this site will be regulated by the city allowing for a more uniform and consistent development pattern.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Single family residential	In county, no zoning.
South	Planned residential subdivision (Crystal Springs, Phase III)	RSF-4, Res. Single Family, 4 DU/Acre
East	Undeveloped - Springwoods C-PZD	C-PZD
West	Undeveloped	In county, no zoning

INFRASTRUCTURE:

Streets:
North: East Salem Road (Collector) – Does not meet City street standards
South: Proposed connections through Crystal Springs II subdivision
East: Deane Solomon Road (Collector) – Does not meet City street standards
West: Master Street Plan shows Raven extended north (Collector)
Further west is Salem Road (Collector)

Gypsum Dr., a Collector, is shown on the Master Street Plan as an east and west

connection through the subject property. A portion of Gypsum Dr. was constructed when the Crystal Springs, Phase I subdivision was developed.

At the time of development, Staff will recommend improvements to the roadway from the subject property to Deane Solomon Road, to City standards, as well as other street improvements to serve the development.

Water: The property currently has access to an 8" water line that will be stubbed out from the proposed Crystal Springs 3 subdivision. 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 north to connect with the 2" line along East Salem Road to provide dual feed for the development.

Sewer: The site currently has access to an 8" sewer main that will be stubbed out from the proposed Crystal Springs III subdivision. Sewer will need to be extended within the development.

Fire: The subject property is located 3.5 miles from the proposed Fire Station #7 on Rupple Road. Normal driving time is 5 min. 42 seconds. Water supply will be necessary for this property to develop. Access roads and street improvements to allow for necessary fire apparatus ingress/egress will also be required.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to RSF-4 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: **The proposed zoning for a Single Family residential subdivision is compatible with adjacent and nearby single family residential and agricultural uses. The general plan designates this area for residential uses, which is compatible with the proposed RSF-4 zoning. Access and provision of adequate services must be considered as this site is at the outskirts of the city and located on streets which need improvement.**

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

Finding: **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. The rezoning is needed for the development of a single family subdivision as proposed by the applicant. A subdivision with this density in the R-A district could not be**

developed as it is currently zoned. A higher density than the R-A zoning district allows is appropriate in this area, and would provide compatibility with adjoining developments that are zoned and developed similarly. In order to develop a residential subdivision on this property in a manner that is consistent with the future land use plan, a residential zoning district is needed.

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

Finding: **The proposed zoning will provide additional traffic on Salem Road, Dean Solomon Road and other streets in the area. Several of the streets in the area are unimproved and inadequate for emergency vehicle access, therefore off-site improvements would likely be necessary in order to provide safe access to this site.**

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

Finding: **The proposed zoning would increase population density. The 72.5 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 36 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 290 dwelling units would be permitted. This increases the possible number of residential units substantially, but is consistent with land use and zoning in the immediate vicinity.**

Engineering **- The property currently has access to an 8" water line that will be stubbed out from the proposed Crystal Springs 3 subdivision. 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 north to connect with the 2" line along East Salem Road to provide dual feed for the development.**

The site currently has access to an 8" sewer main that will be stubbed out from the proposed Crystal Springs III subdivision. Sewer will need to be extended within the development.

Access will be provided through street connections to the south through the proposed Crystal Springs 2 subdivision. Access will also be provided at East Salem Road. East Salem Road at this location is an unimproved gravel road. At the time of development, it will be recommended that the roadway from the development to Deane Solomon Road be improved to current City standards.

Fire **- Water supply with fire hydrants is needed to serve development on this site, as will**

access roads. The new fire station on Rupple Rd. will serve this site once it is constructed. Response time from the new station (#7) will be 5 minutes 42 seconds (3.5 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 city subdivisions to in the vicinity. It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and thereby undesirably increase the load on police services.**

The proposed access, however, is a concern. West Salem Road is unimproved at this location. This road is rough gravel and narrow. Without improvements or the addition of alternate access, 290 potential units would create an appreciable increase in traffic danger and congestion at this location.

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

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

Table 6

SUMMARY OF PRELIMINARY CAPACITY ASSESSMENT
WESTERN PORTION OF THE CITY

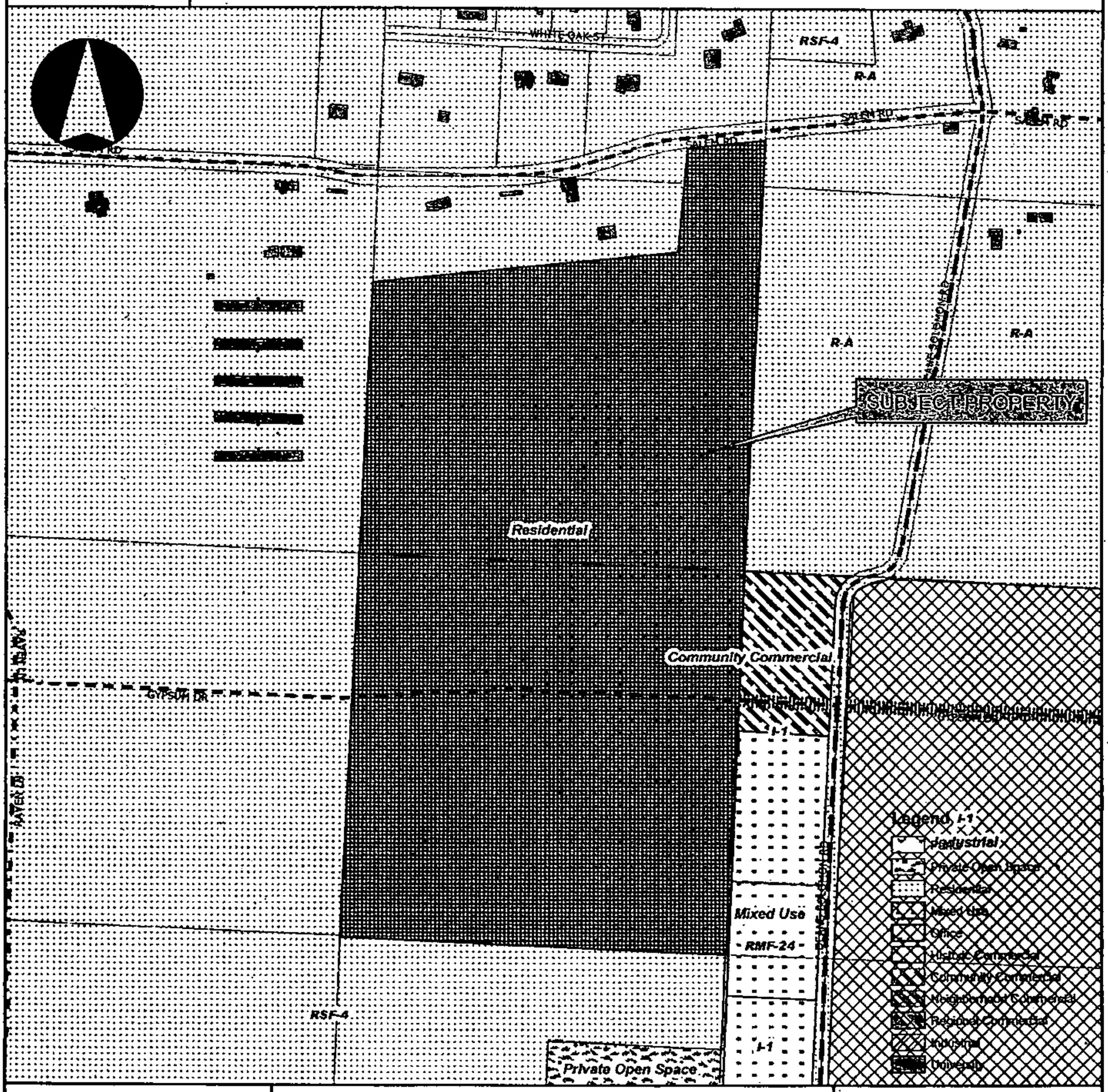
Lift Station	Capacity 1/ (gpm)	Capacity 1/ (gpd)	Number of Units: Existing	Inactive	Built Not Occupied	Approved Not Built	Projected Peak Hourly Wastewater Flow 2/ (gpd)	Percent Capacity Utilized	Remaining Capacity 3/ (gpd)	Remaining Capacity 3/ (units)
Crystal Springs	260	374,400	141	0	233	508	223,560	59.7	150,840	670
Hamestring	1,600	2,304,000	2,510	125	898	680	1,650,000 4/	71.6	654,000 5/	2,906 5/
Owl Creek	437	629,280	336	25	317	286	280,000	44.5	349,280	1,552
Total			2,987	150	1,448	1,474				

1/ Firm capacity requires verification by OMI, Inc.
2/ Wastewater flow projected utilizing 161 gpd/unit plus existing dry-weather infiltration x dry-weather peaking factor.
3/ Based on dry-weather flow only. Does not include allowance for wet-weather inflow or infiltration.
4/ Flow for Hamestring Lift Station includes flow from Crystal Springs, Hamestring, and Owl Creek Lift Stations.
5/ Total remaining flow and units include all areas tributary to Hamestring Lift Station.

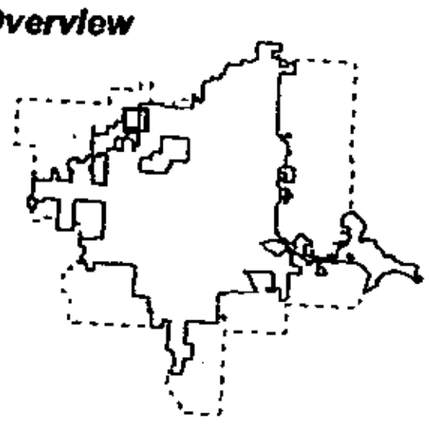
RZN03-34.00

Future Land Use

SCHLEGEL



Overview



Legend

Subject Property

RZN03-34.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

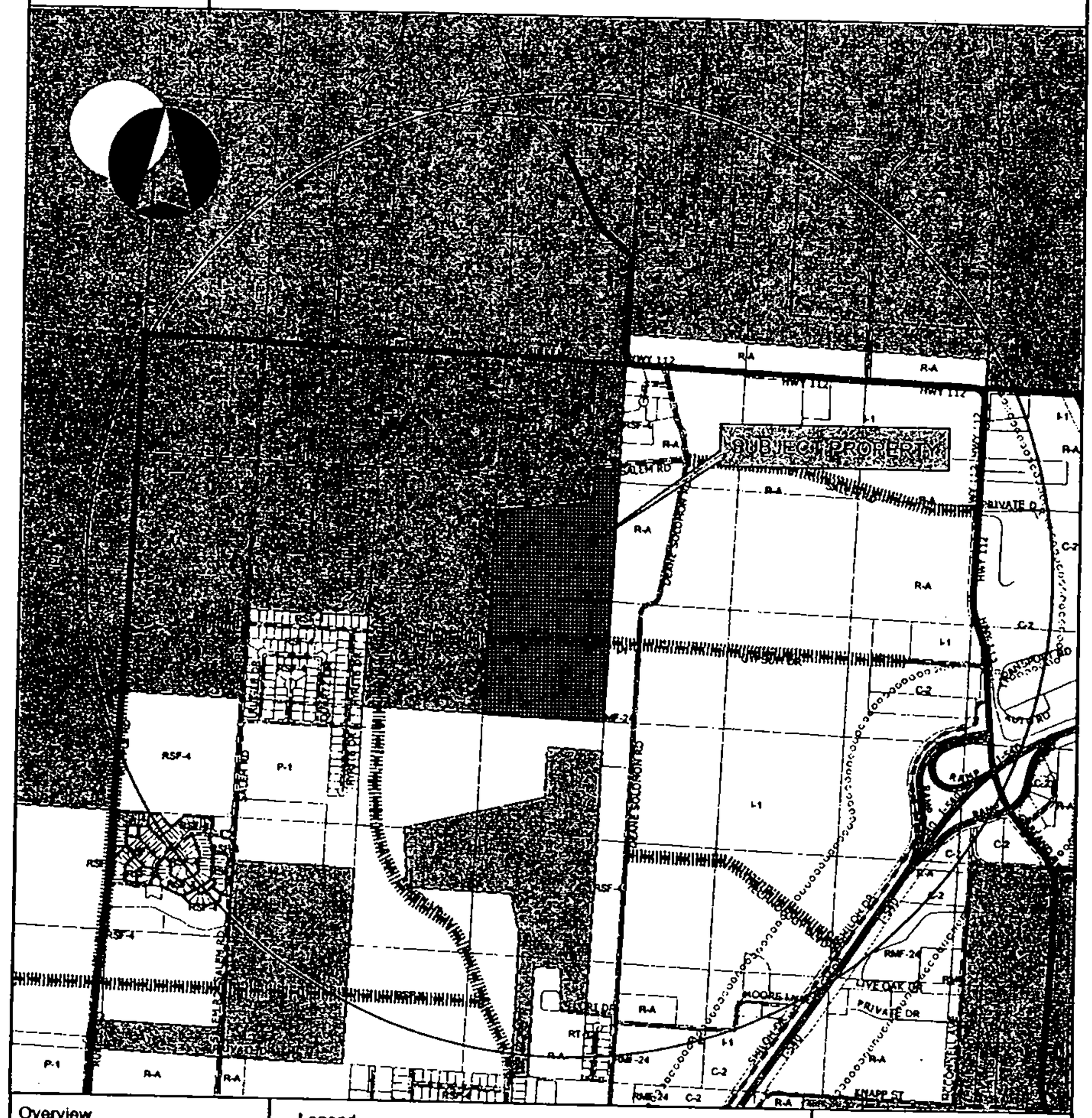
0 200 400 800 1,200 1,600

Feet

RZN03-34.00

One Mile View

SCHLEGEL

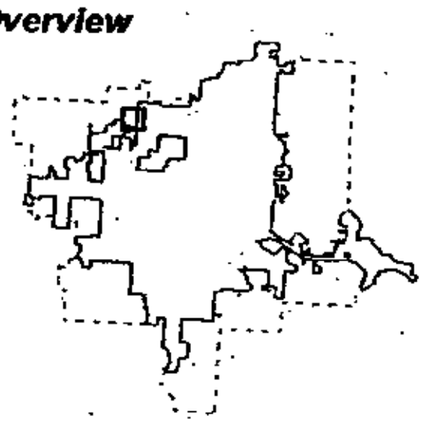


RZN03-34.00

Close Up View

SCHLEGEL

Overview



Legend

Subject Property
RZN03-34.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 150 300 600 900 1,200
Feet

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: April 6, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 03-34.00: Rezoning (Schlegel, pp 207/246) was submitted by Milholland Company on behalf of Tracy Hoskins for property located west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres. The request is to approve an ordinance rezoning the newly annexed property from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

STAFF RECOMMENDATION: Approval.

Division Head — 3/19/04 Date

City Attorney — 3/22/04 Date

Department Director — Date

Finance & Internal Services Dir. — Date

Chief Administrative Officer — 3-23-04 Date

Mayor — 3/24/04 Date

Received in Mayor's Office — 3/22/04 Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED 3/22/04 TLM

CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: March 18, 2004

Subject: Rezoning request for Chance & Tuggle (RZN 04-02.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance rezoning approximately 7.94 acres of property from R-A, Residential Agricultural to RSF-4, Residential single family 4 units/acre.

BACKGROUND

Property description: The subject 7.94 acre vacant tract of land is located in west Fayetteville, at W. Tackett and Genevieve Avenue, west of 54th Street. The developer proposes a residential subdivision on the property, not to exceed 4 units per acre. The subject property has twice been before the Planning Commission for rezoning requests. Staff's recommendation on both requests, the first from R-A to RT-12 and the second from R-A to R-PZD 04-03.00 with 50 units on 25 lots, were for denial, based on incompatibility with surrounding land use and density. In both cases, the applicant withdrew the request. At this time, the developer is requesting a rezoning from R-A to RSF-4, a density that is far more suitable and compatible with surrounding neighborhoods than previous requests.

Proposal: The applicant proposes to rezone the 7.94 acre tract in anticipation of the development of a single family residential subdivision. The requested zoning will provide for additional residential development at a maximum density of 4 units per acre.

DISCUSSION

On November 24, 2003, the applicant withdrew a rezoning request from R-A to RT-12 based on a recommendation for denial by staff and Planning Commission concerns. The second application for rezoning was also withdrawn by the applicant, based on similar recommendations and comments made by the Subdivision Committee, on January 15, 2004. On March 08, 2004, the Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval of the rezoning.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 04-02.00 AS SUBMITTED BY GEOFF BATES OF KEYSTONE CONSULTANTS ON BEHALF OF DAVID CHANCE AND JOHN TUGGLE FOR PROPERTY LOCATED AT WEST TACKETT AND GENEVIEVE AVENUE CONTAINING APPROXIMATELY 7.94 ACRES FROM R-A, RESIDENTIAL AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.

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

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

From R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 Units Per Acre as shown in Exhibit "A" attached hereto and made a part hereof.

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

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By:_____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

DRAFT

EXHIBIT "A"
RZN 04-02.00

A PART OF THE E1/2 OF THE SW1/4 OF SECTION 11, TOWNSHIP 16 NORTH, RANGE 31 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A RAILROAD SPIKE FOUND AT THE SOUTHEAST CORNER OF THE SE1/4 OF THE SW1/4 OF SAID SECTION 11, TOWNSHIP 16 NORTH, RANGE 31 WEST; THENCE ALONG THE SOUTH LINE OF SAID SE1/4 OF THE SW1/4 N87°39'25"W 160.50 FEET; THENCE N02°20'35"E 642.21 FEET; THENCE N87°49'02"W 282.63 FEET TO THE POINT OF BEGINNING; THENCE N87°49'02"W 132.22 FEET TO A FOUND IRON PIN; THENCE S02°16'33"W 104.68 FEET TO A FOUND IRON PIN; THENCE N87°41'06"W 410.65 FEET TO A FOUND IRON PIN; THENCE N02°20'10"E 502.74 FEET; THENCE ALONG AN EXISTING FENCE S86°49'44"E 142.49 FEET; THENCE ALONG AN EXISTING FENCE N02°31'47"E 295.19 FEET TO THE CENTERLINE OF TACKETT ROAD; THENCE ALONG SAID CENTERLINE THE FOLLOWING FOUR (4) COURSES: S74°18'47"E 141.67 FEET; S62°35'47"E 116.78 FEET; S48°39'47"E 129.79 FEET; S61°06'47"E 62.08 FEET; THENCE DEPARTING SAID CENTERLINE S02°25'12"W 499.04 FEET TO THE POINT OF BEGINNING, CONTAINING 7.94 ACRES, MORE OR LESS. SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 08, 2004

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
THRU: Dawn Warrick, AICP, Zoning & Development Administrator
DATE: February 24, 2004

RZN 04-02.00: Rezoning (Chance & Tuggle, pp 436) was submitted by Geoffrey Bates of Keystone Consultants, Inc. on behalf of David Chance and John Tuggle for property located at W. Tackett and Genevieve Avenue. The property is zoned R- A, Residential Agricultural, and contains approximately 7.94 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre. Planner: Jeremy Pate

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

PLANNING COMMISSION ACTION:	**Required YES**	
	Approved	**Denied**
Date: March 08, 2004	9-0-0	
CITY COUNCIL ACTION:	**Required YES**	
	Approved	**Denied**
Date: April 06, 2004		

BACKGROUND:
Property description: The subject property, located in west Fayetteville, is currently vacant. Immediate surrounding properties are all single family and agricultural in nature. Lot size/density for surrounding neighborhoods varies from 1 and 2 acre lots to larger, with the exception of the RMF-6 zoning .5 miles to the west and RT-12 zoning consisting of single family homes on small lots north of Wedington Drive.

Proposal: The applicant has indicated the intent to develop a single-family residential subdivision on the subject property consisting of approximately 25 residences (a density of 3.15 DU/Acre)

Request: The request is to rezone the property RSF-4, Residential Single family, 4 Units per

Acre.

History: The subject property has been before the Planning Commission twice before with rezoning requests. The first request, in November of 2003, was to rezone the property RT-12, for development of a two-family subdivision. This request was withdrawn at the Planning Commission meeting of November 24, with a motion to deny on the table. The applicant then submitted plans and applications to rezone the property to R-PZD 04-03.00, allowing for 50 units on 25 lots. Based on comments received at Subdivision Committee in January of 2004, and staff's recommendation of denial for the request, the applicant again withdrew the rezoning request, to meet with staff to determine a compatible land use for this area.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Single Family homes	RSF-4, Res. Single Family, 4 DU/Acre
South	Vacant / Agricultural	R-A, Residential Agricultural
East	Single Family homes	RSF-4, Res. Single Family, 4 DU/Acre R-A, Residential Agricultural
West	Single Family homes / Agricultural	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: Access and street frontage is along Tackett Drive to the north and Genevieve Avenue along a portion of the western boundary of the site. Both are classified as Local Streets on the Master Street Plan, but are not built to that standard.

At the time of development on this site, both Tackett Drive and Genevieve Avenue would need to be improved to City Standards including pavement, curb and gutter, storm drains and sidewalks.

Water: The property currently has access to a 2" waterline along Genevieve Avenue. An 8" water line exists along 54th Avenue, but is not contiguous to the subject site property boundaries.

An extension of the water main will be required to provide water supply with any development on this property. The development will have to loop between these two existing mains to provide dual feed for the development.

Sewer: A 6" sewer main is accessible along Genevieve Avenue.

Sewer will need to be extended to serve development on this site. Calculations may be required to show that there is adequate capacity in these 6" lines to handle the additional loading. If capacity is not available, offsite improvement will be required to provide capacity.

Fire: The subject property is located 1.7 miles from the proposed Fire Station #7 on Rupple Road. Normal driving time is 3 min. 5 seconds. Water supply will be necessary for this property to develop. Street improvements to allow for necessary fire apparatus ingress/egress will also be required.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to RSF-4 is consistent with the land use plan and is compatible with surrounding single family land uses in the area.

FINDINGS OF THE STAFF

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

Finding: **The proposed zoning for a single family residential land use is compatible with adjacent and nearby single family residential and agricultural uses. The General Plan designates this area for residential uses, which is compatible with the proposed RSF-4 zoning. Access and provision of adequate services must be considered as this site is at the outskirts of the city and located on a street which needs improvement.**

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

Finding: **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. The rezoning is needed for the development of a single family residential subdivision as proposed by the applicant. A subdivision with this density in the R-A district could not be developed as it is currently zoned. A higher density than the R-A zoning district allows is appropriate in this area, and the 4 units per acre allowed by the requested density would provide compatibility with adjoining developments.**

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

Finding: **The proposed zoning will potentially create additional traffic on Tackett Drive, Genevieve Avenue and other streets in the area. Several of the streets in the area are too narrow for emergency vehicle access, therefore off-site improvements would likely be necessary in order to provide safe access to this site.**

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

Finding: **The proposed zoning would increase population density. The 7.94 acre tract under an R-A, Residential Agricultural designation would allow for a maximum of 3 dwelling units (1 per 2 acres). With the proposed RSF-4 designation, 31 dwelling units would be permitted. This increases the possible number of residential units, however is in keeping with existing land uses and density in the surrounding area.**

Engineering **- The property currently has access to a 2" water line along Genevieve Avenue. An existing 8" water line is located along 54th Avenue to the east. An extension of the water mains will be required to provide water supply within any development on this property. The development will have to loop between these two existing mains to provide dual feed for the development.**

The site currently has access to a 6" sewer main along 54th Avenue and a 6" sewer main along Genevieve Avenue. Sewer will need to be extended within the development. Calculations may be required to show that there is adequate capacity in these 6" lines to handle the additional loading. If there is not capacity, offsite improvement will be required to provide capacity.

Access will be provided along Genevieve, and Tackett. At the time of development, it will be recommended that these roadways be improved to current City of Fayetteville standards along the project frontage.

Fire **- Water supply with fire hydrants is needed to serve development on this site. The new fire station on Rupple Rd. will serve this site once it is constructed. Response time from the new station (#7) will be 3 minutes 05 seconds (1.7 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 city subdivisions to the north and the west. No additional equipment or personnel is needed to provide service to this area.**

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

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning

even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

KEYSTONE
Consultants, Inc.
Civil Engineering, Planning & Design

January 28, 2004

Ms. Dawn Warrick, AICP
Zoning & Development Administrator
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Sundance Subdivision (Formerly Chance & Tuggle)

Dear Ms. Warrick,

This letter is to request that the property owned by Susan Todd be rezoned from R-A to RSF-4. Ms. Todd is planning on selling the property to David Chance and John Tuggle to develop the property into a single-family residential subdivision consisting of 25 homes. The rezoning will be similar to the RSF-4 zoning in the surrounding area. Also, both water and sewer are available to the site. However, an 8" water main will have to be extended along West Tacket to connect to the main along 54th Street.

If you have any questions or require additional information, please feel free to call.

Sincerely

Keystone Consultants, Inc

Geoffrey H. Bates, P.E.
President / Partner

RECEIVED
JAN 29 2004
PLANNING DIV.

Office: 479-750-2920 Fax: 479-750-0953
5571 Bleaux Ave. Ste. A, Springdale, AR 72762 • P.O. Box 6485 Springdale, AR 72766

KEYSTONE
Consultants, Inc.
Civil Engineering, Planning & Design

January 28, 2004

Ms. Dawn Warrick, AICP
Zoning & Development Administrator
113 West Mountain
Fayetteville, AR 72701

RE: Sundance Subdivision (Formerly Chance and Tuggle)

Dear Ms. Warrick,

This letter is in response to item 6 on the rezoning application.

1. The proposed RSF-4 zoning is consistent with the proposed land use plan which displays residential zoning in the area and existing zoning in the area.
2. The zoning is needed in order to develop a single-family residential subdivision.
3. The current concept plan shows approximately 25 lots, therefore there will be a minor increase in traffic.
4. The proposed subdivision should not overload the existing schools in the area or place an undesirable increase on the water and sewer facilities due to the small size.
5. The property is currently zoned R-A. Therefore, the uses are very limited and it would be impractical for the developer to leave the property zoned R-A.

If you have any questions or require additional information, please feel free to call.

Sincerely

Keystone Consultants, Inc

Geoffrey H. Bates, P.E.
President / Partner

RE
JAN 2 9
PLAN

Office: 479-750-2920 Fax: 479-750-0953
5571 Bleaux Ave. Ste. A, Springdale, AR 72762 • P.O. Box 6485 Springdale, AR 72766

Planning Commission
March 8, 2004
Page 65

RZN 04-02.00: Rezoning (Chance & Tuggle, pp 436) was submitted by Geoffrey Bates of Keystone Consultants, Inc. on behalf of David Chance and John Tuggle for property located at W. Tackett and Genevieve Avenue. The property is zoned R-A, Residential Agricultural, and contains approximately 7.94 acres. The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

Hoover: Item number eleven is RZN 04-02.00 for property located at West Tackett and Genevieve Avenue.

Pate: The Commissioners may recognize this property has been before us several times in a couple of different requests. The current request is to rezone the subject 7.94 acres from R-A to RSF-4, Single Family Residential, four units per acre. Just as a reminder, the property is located in west Fayetteville. It is currently vacant. Surrounding neighborhood varies from one to two acre lots to larger with the exception of a couple of different zonings within the vicinity that is a little more dense, RMF-6 and RMF-12 north of Wedington Drive. The applicant has indicated the intent to develop a single family residential subdivision on the subject property. Again, the request is to rezone the property to RSF-4. The first request in November, 2003 was to rezone the property to RT-12. The second request was an R-PZD allowing for 50 units. Based on comments at Subdivision Committee at that time the applicant withdrew that request and has now submitted the current request. Access to the site is provided by 54th Avenue and Tackett Drive and Genevieve Avenue are surrounding streets. Both of which are substandard and will likely be recommended for improvements at the time of development of the subject parcel. Staff is recommending approval of this rezoning request. It is consistent with the land use plan in this area as a residential use and it is also more consistent with the existing surrounding land uses.

Hoover: Thank you Jeremy. Would the applicant come forward?

Bates: Good evening Commissioners, I'm Geoff Bates, an engineer with Keystone Consultants. As Jeremy pointed out, we have been before you about three times now. The first time was RT-12 and we still wanted 50 units, it would've been 25 duplex lots but RT-12 allowed for 90 and that made everybody uncomfortable. We went back with a PZD for 25 duplex lots which would've been 50 units and staff thought that was too much and none of the adjoining property owners wanted duplexes anywhere near them so we scrapped the duplex idea, we cut the project in half to 25 single family lots and hopefully we can move forward this time. We have met with staff, showed them our concept plan, we've met with adjoining property owners, showed them our concept plan and talked with them and here we are. If you have any questions I would be more than happy to answer them.

Hoover: Thank you. At this time we will open up this rezoning to public comment. Is there anyone who would like to address this one?

Wonnacott: Hi, my name is Melissa Wonnacott, I live at 655 Genevieve. Jeremy had said that 54th Street, Genevieve and Tackett would be improved. Do you know the time schedule on that? Right now one of my fellow neighbors went and measured the road and 54th Street is only 16', the narrowest spot is 16' so I was just curious as to when that might be upgraded. That is my biggest concern because right now people's kids come around on 54th Street to Tackett, they are only required to do their frontage which would no address the stop sign. There have been times when I've almost hit little children coming around the stop sign because it is kind of blind and it is all covered with canopy. I have no problems with single family homes, it is much better than their initial idea but until the city has a grand scheme of widening 54th Street I don't understand how anyone could see that it would be safe to do this. I don't have a problem with the subdivision as a whole but you're not looking at the whole scheme. You can't require them to fix 54th Street.

Hoover: Jeremy, can you respond to that?

Pate: At the time of development Engineering staff and Planning staff make a recommendation to the Planning Commission. Most likely we'll see a Preliminary Plat for a subdivision in this area. At that time offsite improvements are recommended to the Planning Commission who will ultimately make that determination. The person who just spoke is right. Typically those offsite improvements are adjacent to the property to allow for access. I believe the Engineering staff, with this rezoning we don't make recommendations for street improvements. However, there are basic requirements that we look at to ensure that there is access to the site. I believe there has been a recommendation that for instance we would look at an asphalt overlay or some type of improvement to get to 54th. Beyond that, I don't believe we've looked at anything else.

Hoover: Is there any other member of the public?

Hisell: I'm Don Hisell, I own two parcels of land that adjoins all of this development. If any of you all would like to see these pictures. That is the picture of the 54th that we see from Tackett Road right there looking north and we're trying to get out on the road. It is 16' at the narrowest part. If you get down to the bridge it is 30' wide and then it goes back to 18' all the way up to Hwy. 16. I've been there somewhere close to 15 years or better and my wife has been involved in two accidents on 54th. Both times she was hit. Cars cannot pull out on 54th from a side street and get on their side of the road but drivers seem to think they can. I don't

have too much problem at all with expanding. I, myself see that that is the coming future. I would also like to go to New York in a big limo rather than ride on a motorcycle. We've got acre to two acre lots. All the people that are living there have wide open spaces and it seems like we are kind of jammed up if we have this expansion done. The main thing I have in my mind is what's going to come in the future if we do this. I've got one picture that I'd like for you to look at and I don't think you really want to see it from too close up. It brings tears to my eyes. This is my son who was killed in 1992 hit by a car. This is the main thing we need to keep in mind. I've got an 11 year old boy. He rides his bicycle down that street. I have rode my bicycle down that street. You do not want to be caught in the middle between that bridge and Tackett Road. It puts you in harm's way.

Hoover: Thank you. Is there any other member of the public that would like to address this rezoning? Seeing none, I will bring it back to the Commission.

Ostner: Staff, I understand we're not requiring certain improvements at this time but on page 11.2 the staff report says "At the time of development on this site both Tackett and Genevieve would need to be improved to city standards." Is that the entire length of Genevieve or just the adjoining?

Warrick: That's not been determined. Again, we talk a lot about what will happen when a property develops when we are talking about zoning because we know that typically that is going to be the follow up request. That is what we are going to consider if the Council decides to change the land use available on a piece of property. What we also have to consider is that there are certain deficiencies existing in our community right now that we can't rely on one or two particular developments to cure. The Planning Commission is charged with placing the requirement for improvements on and off site for development projects but those improvements have to bear some sort of nexus or rough proportionality with the amount of impact that is being caused by that development. That is the balance that we always have to try and strike when we are dealing with new development verses existing conditions. Improvements upon existing conditions very well may be necessary and required because of additional development and additional impact but it has to bear a rational nexus to the amount of impact that's being caused by a particular development. We will review that. We do look at that very seriously when projects come into the development review cycle and we bring forward to you, the Planning Commission, our best recommendations for what we feel is appropriate for infrastructure improvements.

Ostner: Thank you.

Hoover: Are there other comments?

Bunch: This reminds me of a development that we saw not too long ago on Mt. Comfort Road where one of the conditions of approval for the development was the widening of several streets off site to bring them up to a minimum width. I think it had to do with Rupple, Mt. Comfort intersection and considerable length of Mt. Comfort that I believe at that time it was bringing it up to a minimum 18' width. I know on this particular project we saw it before as a PZD so we had a greater amount of plans in front of us. This is just a rezoning. I will just remind the Commissioners that as this does come back we have in the recent past seen plans for considerable off site work that may have been quite a few linear feet but may not have been that much asphalt because we are looking at changing something from 16' to guaranteeing a minimum of 18'. That is the observation I wanted to bring forward at this time.

Hoover: Are there other comments?

Ostner: Madam Chair, the first time I saw this project the baby wasn't even here yet. I am ready to approve it. I would like to make a motion that we forward RZN 04-02.00 with a recommendation of approval to the City Council.

Bunch: Second.

Hoover: There is a motion by Commissioner Ostner and a second by Commissioner Bunch, is there more discussion? I guess I just want to make one comment just so the neighbors understand that when the Preliminary Plat comes through that's when they are going to discuss these improvements and we hope that you are involved then because you've made some good points. Right now we are just looking at density in general. Are there any other comments? Renee?

Roll Call: Upon the completion of roll call the motion to recommend approval of RZN 04-02.00 to the City Council was approved by a vote of 9-0-0.

Thomas: The motion carries nine to zero.

Hoover: Thank you. We have an announcement.

Church: As of Friday I will be moving out of the city limits of Fayetteville so I will have to resign my position a couple of weeks early because of that.

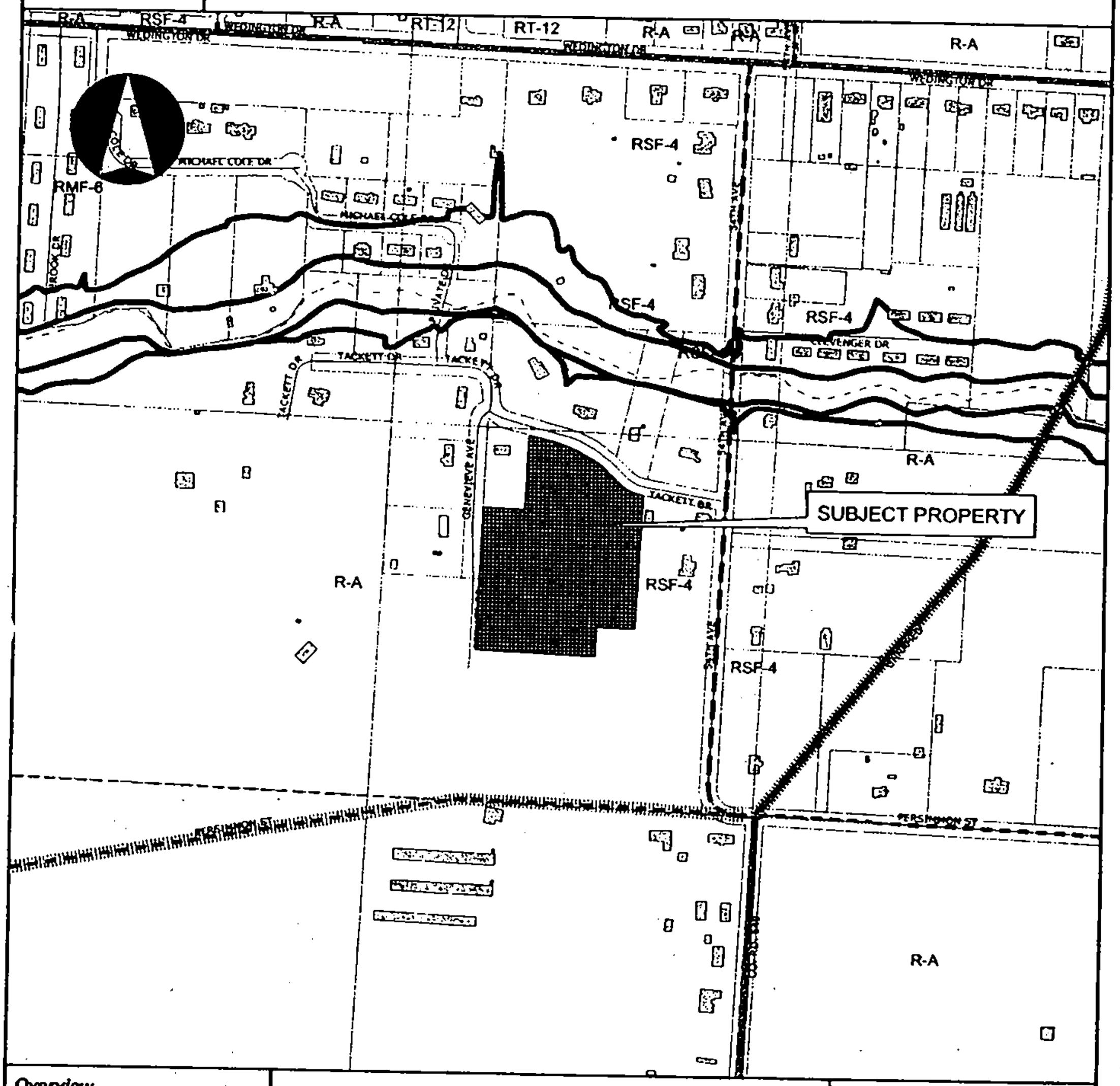
Hoover: Thank you for your service.

Announcements

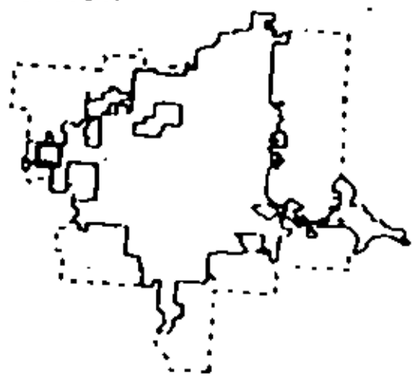
RZN04-02.00

Close Up View

CHANCE & TUGGLE



Overview



Legend

RZN04-02.00

Overlay District

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

City Limits

Outside City

FLOODWAY

100 YEAR

500 YEAR

LIMIT OF STUDY

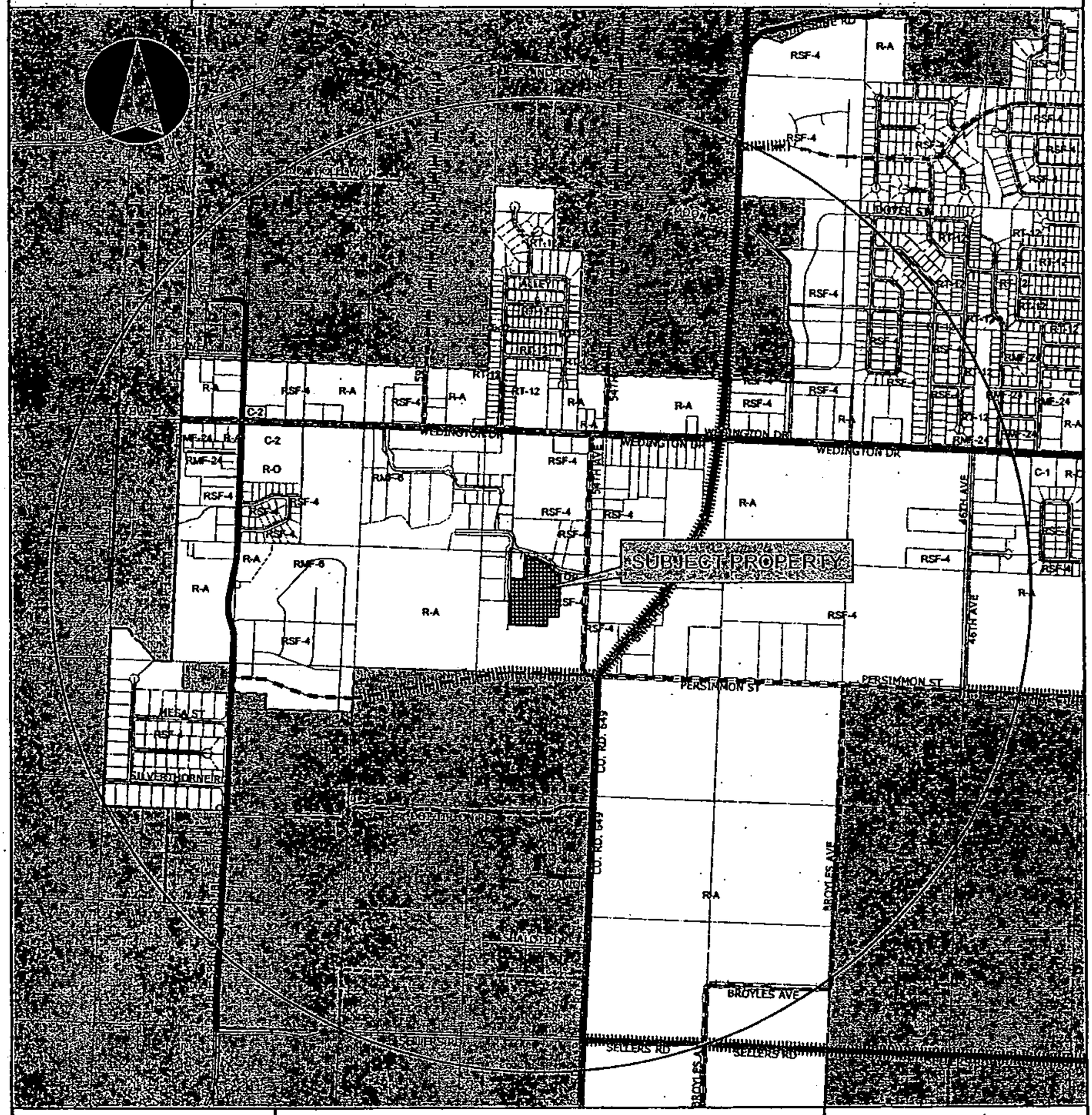
Base Line Profile

0 200 400 800 1,200 1,600 Feet

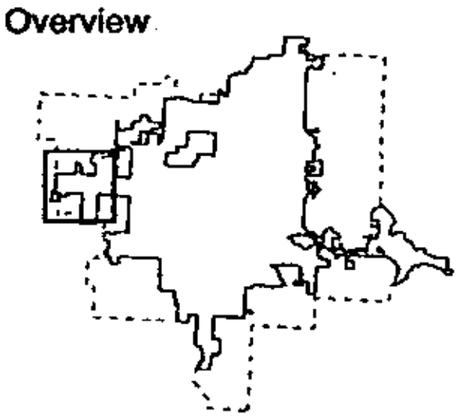
RZN04-02.00

One Mile View

CHANCE & TUGGLE



Overview



Legend

Subject Property
RZN04-02.00

Streets
Existing
Planned

Boundary
Planning Area
Overlay District
City Limits
Outside City

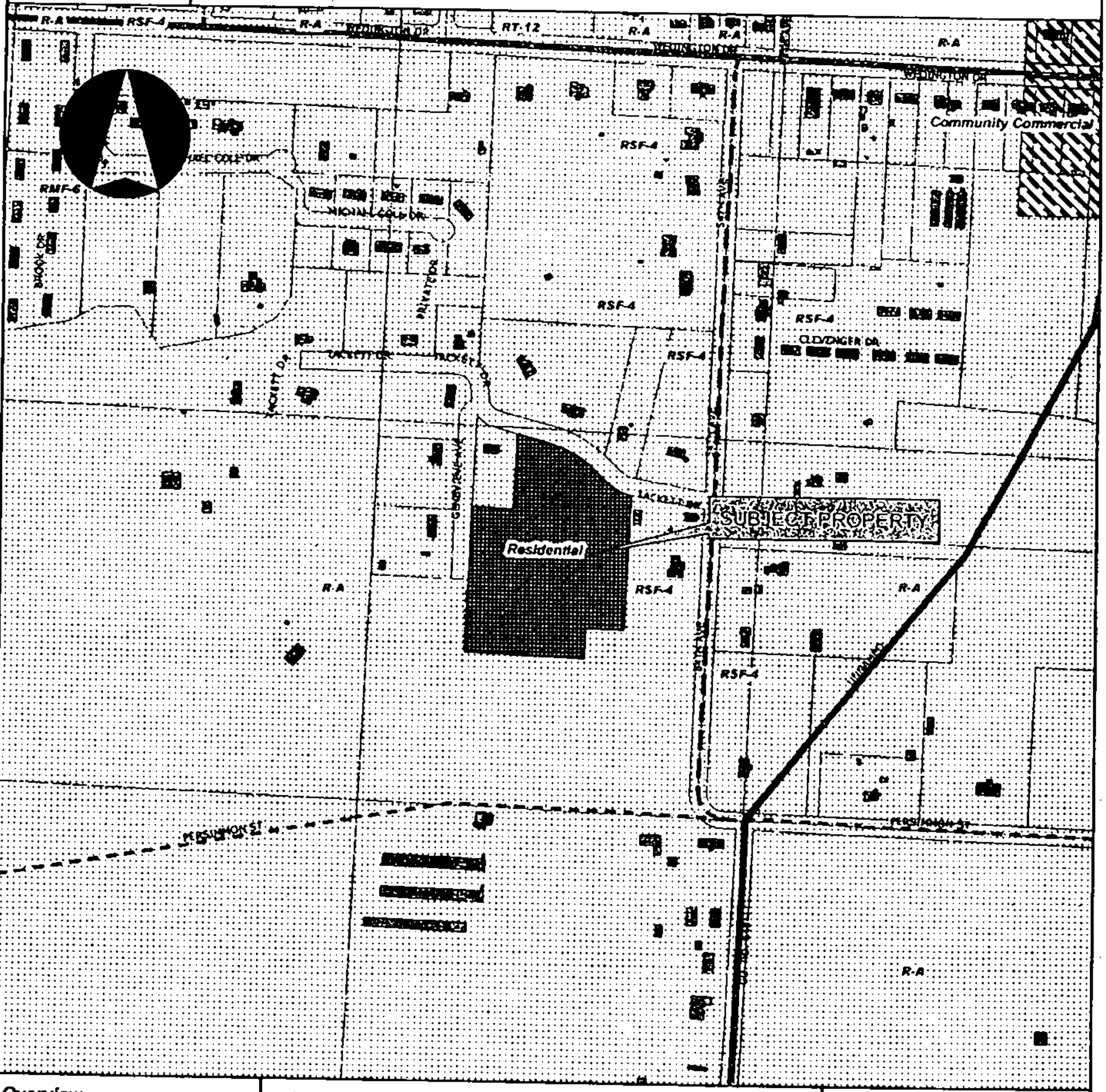
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

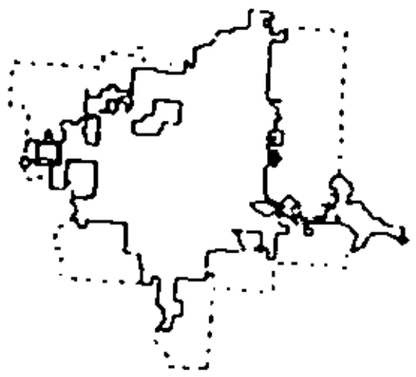
RZN04-02.00

Future Land Use

CHANCE & TUGGLE



Overview



Legend

Subject Property

RZN04-02.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 200 400 800 1,200 1,600

Feet

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

For the Fayetteville City Council Meeting of: April 6, 2004

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

RZN 04-02.00: Rezoning (Chance & Tuggle, pp 436) was submitted by Geoff Bates of Keystone Consultants, Inc. for property located at W. Tackett and Genevieve Avenue containing approximately 7.94 acres. The request is to approve an ordinance rezoning the subject property from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

STAFF RECOMMENDATION: Approval.

Dawn L. Warrick — Division Head — 3/19/04 Date

Received in Mayor's Office — 3/22/04 Date

[signature] — City Attorney — 3/22/04 Date

_____ — Department Director — _____ Date

Cross Reference:

Previous Ord/Res#: _____

_____ — Finance & Internal Services Dir. — _____ Date

Orig. Contract Date: _____

Hugh Earnhardt — Chief Administrative Officer — 3-23-04 Date

Orig. Contract Number: _____

Ken Cooley — Mayor — 3/24/04 Date

New Item: Yes No

ENTERED 3/22/04 TLM

City Council Meeting of April 20, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Tim Conklin, Community Planning and Engineering Services Director

Date: March 31, 2004

Subject: Approval of a five-year contract and bid waiver in the amount of $239,000 with the Northwest Arkansas Regional Planning Commission for a Stormwater Education Program to be provided by the University of Arkansas Cooperative Extension service to satisfy portions of the NPDES Phase II Stormwater Permit requirements.

RECOMMENDATION

Staff recommends approval of the contract and bid waiver.

BACKGROUND

Mandated by Congress under the Clean Water Act, the NPDES Phase II Stormwater Program is a comprehensive national program for addressing the non-agricultural sources of stormwater discharges which adversely affect the quality of our nation's waters. The Program uses the National Pollutant Discharge Elimination System (NPDES) permitting mechanism to require the implementation of controls designed to prevent harmful pollutants from being washed by stormwater runoff into local water bodies.

The EPA Storm Water Phase II Final Rule (December 8, 1999) requires operators of regulated small municipal separate storm sewer systems (MS4s) to obtain a NPDES permit and develop a storm water management program.

As the statewide permitting authority, ADEQ has issued a general permit to cover storm water discharges from Regulated Small MS4s in the state. The permit effective date is February 1, 2004. All regulated small MS4s in the state are required to apply for permit coverage using the Notice of Intent (NOI) on or before April 30, 2004.

All regulated Small MS4s permitted under the general permit are required to develop and implement a Storm Water Management Program (SWMP) to address each of the Six Minimum Control Measures that are contained the federal regulation and Part V.B of the ADEQ general permit. These SWMPs must be developed and fully implemented no more than five (5) years from the effective date of the permit. The SWMP must include

Best Management Practices (BMPs) for each of the six Minimum Control Measures along with Measurable Goals and interim milestones:

1. Public Education and Outreach
2. Public Participation/Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Runoff Control
5. Post-Construction Runoff Control
6. Pollution Prevention/Good Housekeeping

DISCUSSION

In order to meet the State requirements under the General Permit for Stormwater Discharge, it is proposed that the City enter into a contract with the Northwest Arkansas Regional Planning Commission (NWARPC) regarding the Public Education and Outreach and Public Participation/Involvement components required by the ADEQ General Permit.

Through a request for qualification process, the Northwest Arkansas Regional Planning Commission (NWARPC) has accepted a proposal (attached) from the University of Arkansas Cooperative Extension Service (UA-CES) to provide all of the components necessary to meet the requirements of the General Permit.

Realizing the benefits and cost-effectiveness of taking a regional approach to public education, outreach and participation/involvement, the City of Fayetteville along with most of the other cities in the Fayetteville-Springdale Urbanized Area will fund the education program through the NWARPC who will contract directly with the UA-CES. The total cost of the proposed UA-CES program is estimated to be $634,750 over the next five years. The City of Fayetteville's portion of the total program cost is based on percent population within the urbanized areas. The term of the agreement will be for the remainder of the 2004 fiscal year and continue over the entire five year life of the permit.

This stormwater education program will satisfy two and one-half of the six required "Minimum Control Measures". The City will still be responsible to make sure all of the other NPDES Phase II requirements are met.

BUDGET IMPACT

This $239,000 expenditure is included in the Fiscal Year 2004 Budget in the *Drainage Study/Phase II Stormwater Management Account* (Project #02097) in which various drainage studies and Phase II stormwater projects are typically authorized when they are identified by Staff. Approval of this Stormwater Education Program request will result in a remaining balance of $428,139 in this account.

# # #

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE COMPETITIVE BIDDING AND TO APPROVE A FIVE YEAR CONTRACT FOR $667,139.00 WITH THE NORTHWEST ARKANSAS REGIONAL PLANNING COMMISSION FOR SERVICES BY THE UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION SERVICE TO SATISFY PORTIONS OF THE REQUIREMENTS OF THE NPDES PHASE II STORMWATER PERMIT

WHEREAS, the City of Fayetteville, Arkansas along with other cities and counties within the "urbanized area" in Benton and Washington County are federally mandated to perform Six Minimum Control Measures by the Clean Water Act within the next five years; and

WHEREAS, the Northwest Arkansas Regional Planning Commission has offered to coordinate the development of a Stormwater Education Program to be provided by the University of Arkansas Cooperative Extension Service and to be jointly funded on a per capita basis by numerous Northwest Arkansas cities and Washington and Benton counties; and

WHEREAS, by working together and jointly hiring the Northwest Arkansas Planning Commission and U of A Cooperative Extension Service to perform portions of requirement #1 Public Education and Outreach; requirement #2 Public Involvement and Participation and requirement #6 Pollution Prevention and Good Housekeeping, the cities and counties can much more cost efficiently accomplish those requirements.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists such that competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and approves the attached contract with the Northwest Arkansas Planning Commission and University of Arkansas Cooperative Extension Service in the amount of $239,000.00 this year and a total of $667,139.00 over the five year life of this contract.

PASSED and **APPROVED** this the 6th day of April, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

DRAFT

ATTEST:

By: _____
SONDRA SMITH, City Clerk

PROPOSAL

5-Year Regional Storm Water Education Program
University of Arkansas Cooperative Extension Service

Introduction

As the public education branch of the University of Arkansas, the mission of the Cooperative Extension Service is to provide research-based information through non-formal education to help Arkansans improve their economic well-being and the quality of their lives. Over the past fourteen years, CES has established a reputation for effective agricultural and urban nonpoint pollution prevention programs through 8 USDA- and EPA-funded water quality education grants totaling $1,879,000.

The Mud Creek Urban Water Quality Project initiated in 1998 in Fayetteville served as the first water quality education project to specifically target urban residents in the state of Arkansas. Successful outreach and education programs have increased public awareness of watershed dynamics, equipped urban residents with nonpoint pollution prevention knowledge and offered opportunities for individual decisions and actions to protect water quality on a community scale. To address the importance of homeowner decisions and actions, public education programs have emphasized proper use, handling, and disposal of household hazardous wastes and "blue thumb" lawn and garden care techniques. Hands-on activities taught youth about the water cycle, stream and lake ecology, ground and surface water quality, pollution prevention and water conservation. Throughout all programs, the message promoted was simple: "Pay close attention to what you do in and around your home, because storm water runoff can carry pollutants to regional water resources."

In Northwest Arkansas, the cities of Bentonville, Bethel Heights, Elkins, Elm Springs, Farmington, Fayetteville, Greenland, Johnson, Little Flock, Lowell, Springdale and Rogers along with Benton and Washington Counties and the University of Arkansas have been identified as "small" municipal separate storm sewer systems (MS4s) that meet "urbanized area" criteria based on 2000 U.S Census population data. In response to new EPA Phase II storm water regulations, these MS4s are required to obtain an NPDES permit that includes a plan to implement a storm water management program over the next five years. While each MS4s' storm water management plan must address six minimum control measures, the expertise and capacity of the University of Arkansas Cooperative Extension Service is well-suited to assist in the implementation of three of these measures:

#1) Public Education and Outreach
#2) Public Involvement and Participation
#6) Pollution Prevention and Good Housekeeping (training for municipal employees)

Although each MS4 in Northwest Arkansas may choose to be individually permitted, a joint-funded regional approach to these components is logical and very cost-effective.

The CES has a history of grassroots planning by utilizing key community leaders to 1) identify emerging issues and community needs, 2) plan educational program content and methods and 3) evaluate the impact of conducted programs. This same process will be utilized in the development of storm water education committees to plan and assess regional outreach and education efforts. A County Extension Agent will serve as the regional storm water education coordinator, collaborating with CES Environmental and Natural Resource,

Horticulture, and Pest Management State Specialists on educational materials development and municipal employee training. The CES Communications Section includes a team of writers and graphic designers along with a full capacity print shop to produce professional press releases, radio PSAs, displays, brochures and fact sheets. The coordinator will also supervise para-professionals who will be trained to conduct school programs. Finally, the coordinator will be responsible for tracking measurable program accomplishments, submitting annual reports to each participating MS4 prior to the ADEQ annual reporting deadline.

It is understood that the MS4s may be restricted to one-year contracts that could be renewed upon annual budget approval from city councils and Quorum Courts. However, since the permit application requires a five-year plan for storm water management implementation, the following plan of work and budget is based on a 5-year schedule.

Tasks and Objectives

Task 1: Input and Planning

Objective: Develop education committees to identify informational needs and plan storm water outreach, education and public participation programs in urbanized areas of participating MS4s

Subtask 1.1 Two geographically-based education committees will be developed consisting of 10-13 members. Each committee will include two of the large MS4s and their contiguous surrounding UAs. Membership will be weighted according to % urbanized area population as follows:

Southern Storm Water Education Committee

MS4	Representatives	% UA
Fayetteville	4	30.4
Springdale	3	25.7
U of A	1	2.1
Farmington	1	1.9
Johnson	1	1.3
Washington County	1	0.8
Elkins	1	0.4
Greenland	1	0.3

Northern Storm Water Education Committee

MS4	Representatives	% UA
Rogers	3	21.0
Bentonville	2	10.8
Lowell	1	2.8
Benton County	1	1.1
Little Flock	1	0.9
Bethel Heights	1	0.4
Elm Springs	1	0.1

Committee members will represent diverse backgrounds/interests and will include, but not be limited to those affiliated with schools and/or youth programs, regional businesses, civic organizations, Property Owner Associations (POAs) public officials (City Council, Planning Commission and Quorum Court members), etc.. Member representatives will be determined by MS4s.

Subtask 1.2 During initial meetings, committees will be presented with history and background on components of EPA Phase II Storm Water regulations and storm water dynamics. The importance and role of the committee members will be emphasized in the context of the regional education storm water education program. Committee input will then be used to

identify and plan 1) critical storm water issues, 2) target audiences, 3) program methods and 4) public relations strategies, focusing on elements outlined in the schedule of tasks (such as educational materials development in Year 1).

Subtask 1.3 The committees will be reconvened at least twice a year to review and evaluate program accomplishments and plan next steps.

Projected Accomplishments and Measurable Goals:
- Two storm water education committees will be established with 23 total members that include representatives from all participating MS4s
- Each committee will meet at least twice each year
- # of potential audiences and storm water education programs identified by committees
- # of public outreach, education and participation programs implemented based on education committee input

Task 2: Educational Materials Development
Objective: Gather, adapt and/or develop storm water fact sheets, brochures, posters and displays for distribution with public outreach campaigns and education programs

Subtask 2.1 Education committee input will determine the topics of emphasis for printed educational materials. Once topics have been identified, fact sheets will be developed, adapted, and/or gathered for distribution at public meetings, presentations, and with displays. In addition to committee priorities, a fact sheet outlining the impact of nutrients in storm water runoff will be developed for inclusion with CES lawn and garden soil test result mailings to city residents of participating MS4s.

Subtask 2.2 In much the same way, education committee input will be used to identify storm water topics to be developed into press releases, radio PSAs and utility billing inserts to city residents. The committees will also determine a "schedule" for promoting the topics during this initial 5-year regional storm water education campaign (For example: Year 1- Emphasize storm water dynamics and regional water resources, Year 2 – Emphasize lawn and garden management to protect water quality, Year 3 – Emphasize proper use and disposal of household hazardous products, etc.)

Subtask 2.3 Displays highlighting these topics of emphasis will be created for use at libraries, banks, schools, local festivals and County Fairs.

Subtask 2.4 A regional storm water webpage will be developed to promote regional waterways and their relationship to the Illinois River, Elk River and Beaver Lake watersheds, explain urban storm water runoff dynamics, describe pollution prevention techniques, and list storm water resource and contact information. The website will be hosted by CES but linked to participating MS4 sites.

Subtask 2.5 Once education committees have outlined a "Green Business" program Framework (Subtask 3.6), a series of industry-specific fact sheets and posters will be developed for distribution to regional businesses.

Subtask 2.6 The Urban Home*A*Syst environmental risk homesite self-assessment guide will be modified to reflect Northwest Arkansas regional examples and resource contact information.

Projected Accomplishments and Measurable Goals:
- A minimum of 6 fact sheets, brochures and posters will be created
- A minimum of 10 utility billing inserts will be developed
- A minimum of 10 press releases and PSAs created and submitted to media outlets
- A minimum of 5 storm water displays will be created
- A minimum of 3 industry-specific fact sheets will be developed
- A storm water website will be developed
- A NWA *Urban Home*A*Syst* will be available on CD and the website

Task 3: Public Outreach
Objective: Increase public awareness of storm water dynamics, potential pollutant sources, pathways to regional water resources and pollution prevention techniques

Subtask 3.1 Upcoming events, program successes and contact information will be promoted through mass media sources.

Subtask 3.2 Storm water displays will be set up at regional libraries, schools, banks and public events as planned by education committees at least 4 times each year.

Subtask 3.3 At least twice a year, storm water management and pollution prevention messages will be provided to participating MS4s for inclusion in municipal utility bill mailings to their residents.

Subtask 3.4 CES will include fertilization and nutrient management fact sheets in with lawn and garden soil test result mailings for residents of participating MS4s.

Subtask 3.5 Education committees will help determine potential locations (at parks and along roads that cross urban streams) to identify waterways and their drainage pathways to regional water resources. Where available, CES will work through city and county sign shops to create and install these outdoor, heavy-gauge aluminum signs. If a participating MS4 does not have internal sign-making capabilities, CES will work with local businesses to generate the creek signs, but the MS4 will be financially responsible for them.

Subtask 3.6 A recognition program will be developed through the education committees to acknowledge and promote regional "Green Businesses" with solid environmental

records and a commitment to storm water management. Member benefits may include an awards program, training opportunities and increased visibility through media promotion and listings on the regional storm water web site.

Projected Accomplishments and Measurable Goals:
- Partnerships will be pursued with *The Morning News*, the *Northwest Arkansas Times* and the *Arkansas Democrat-Gazette*, KFSM-5 News, KHOG Channel 29, KPOM/KFAA-TV, KUAF 91.3 FM and Cumulus Broadcasting and Clear Channel radio stations
- At least 20 storm water-related articles will be published
- At least 10 different public service announcements will be repeated on radio and TV
- Displays will be used at a minimum of 20 locations and/or events
- # of people at an event who saw the display (guest book) or took a pamphlet/booklet
- # of educational materials distributed
- # of storm water inserts distributed with utility bills
- # of landscaping and lawn care educational materials distributed with soil test results
- # of creek signs installed
- # of educational materials distributed to business owners and operators
- # of facilities recognized under a "Green Business" awards program

Task 4: Public Education
Objective: Increase urban resident's knowledge and understanding of storm water dynamics and incite individual BMP implementation to reduce storm water pollution

Subtask 4.1 Educational programs for school youth will focus on the water cycle, watersheds, storm water dynamics, water quality and pollution prevention using the EnviroScape surface runoff model, groundwater simulator, hands-on exercises from Project WET, Project WILD, and Project Learning Tree and creekside classrooms. Programs conducted in schools will support the Arkansas State Framework required science curriculum for grades 3-5. Para-professionals will be hired and trained to conduct storm water education programs for 4th or 5th grade classes in the 33 elementary schools in Bentonville, Elkins, Farmington, Fayetteville, Greenland, Springdale and Rogers.

Subtask 4.2 Educational presentations will be given at civic meetings, POAs, annual Master Gardener Training sessions and public libraries to illustrate storm water dynamics, identify potential pollutants and pathways, describe techniques to reduce storm water pollution and encourage voluntary BMP implementation (including reduced homesite storm water runoff, improved lawn and garden management and automotive maintenance, and the proper use, handling and disposal of household hazardous products).

Subtask 4.3 A Northwest Arkansas regional version of the Urban Home*A*Syst environmental risk self-assessment tool will be promoted in conjunction with civic presentations, Master Gardener training, fact sheets, displays, and the storm water website.

Projected Accomplishments and Measurable Goals:
- At least 2,500 students will be reached through storm water education programs
- A minimum of 10 educational presentations will be given each year to adult audiences
- # of classes and schools that participate in storm water programs
- # of educational materials distributed to schools
- # of certificates given out for participation in storm water education
- # of participants who indicate a change in attitude/behavior following presentations
- # of Urban Home*A*Syst environmental risk self-assessments conducted

Task 5: Public Participation

Objective: Multiply efforts to educate the public about the link between storm drain systems and regional water quality, instill a sense of public ownership of watershed resources and provide permanence for storm water education programs

Subtask 5.1 Using a "Train-the-Trainer" process, storm water and pollution prevention will be included in the 40 hours of training for 45-50 new Benton and Washington County Master Gardeners during Year 2 through Year 5. In turn, these Master Gardener volunteers will help educate area residents about soil testing, matching fertilizer applications to plant needs, integrated pest management and composting.

Subtask 5.2 Education committee members, Master Gardeners and other potential volunteers will be utilized to staff storm water displays at festivals, fairs and other events.

Subtask 5.3 Organizations including POAs, civic clubs, local Stream Teams, Extension Homemakers, Master Gardeners and youth groups will be approached to stencil storm drains with messages like "Do Not Dump, Drains Directly to River/Lake" as community service projects.

Subtask 5.4 Similar citizen and youth groups will be encouraged to clean up/adopt local creeks in conjunction with the Arkansas Game and Fish Commission's Stream Team program.

Projected Accomplishments and Measurable Goals:
- A minimum of 100 Master Gardener volunteer hours will be spent on educating area residents about proper fertilization, integrated pest management and backyard composting
- # of volunteer hours staffing displays at local fairs and festivals
- # of storm drain stenciling volunteers
- # of storm drains stenciled
- # of participants in Stream Team programs

Task 6: Training
Objective: Equip municipal employees with a knowledge and understanding of how to reduce the potential impact of their activities on storm water quality

Subtask 6.2 Conduct training sessions for municipal employees on soil fertility and integrated pest management practices.

Subtask 6.3 Conduct training sessions for municipal employees on hazardous product use, handling and storage, and spill response.

Subtask 6.1 Conduct training sessions for municipal employees on vehicle maintenance, fueling and washing.

Projected Accomplishments and Measurable Goals:
- At least 40 municipal employees trained in soil fertility and integrated pest management
- At least 40 municipal employees trained in vehicle maintenance
- At least 40 municipal employees trained in hazardous product management
- # of turf and garden care educational materials distributed to municipal employees
- # of spill response and prevention educational materials distributed to municipal employees
- # of used oil recycling educational materials distributed to municipal employees
- # of vehicle washing educational materials distributed to municipal employees

Task 7: Evaluation and Reporting
Objective: Evaluate program efforts, track measurable results and annually report the progress of each subtask.

Subtask 7.1 Evaluation tools will be used to assess the impact of storm water outreach and education efforts including youth educational programs, public presentations, Master Gardener trainings and the Urban Home*A*Syst self-assessment guide.

Subtask 7.2 Results of measurable goals will be tracked quarterly and submitted to NWARPC.

Subtask 7.3 Annual reports will be compiled and submitted to each participating MS4 one month prior to the ADEQ Phase II annual reporting deadline.

Schedule of Tasks

Task	Description	Start	Completion
1	**Input and Planning**		
1.1	Assemble education committees	Year 1	Year 1
1.2	Develop public awareness/educational program plans	Year 1	Year 5
1.3	Evaluate progress annually	Year 2	Year 5
2	**Educational Material Development**		
2.1	Develop storm water fact sheets, brochures and posters	Year 1	Year 5
2.2	Write storm water briefs	Year 1	Year 5
2.3	Develop storm water displays	Year 1	Year 5
2.4	Create storm water website	Year 1	Year 5
2.5	Develop industry-specific fact sheets	Year 2	Year 5
2.6	Adapt Urban Home*A*Syst for regional use	Year 2	Year 5
3	**Public Outreach**		
3.1	Mass media promotion	Year 1	Year 5
3.2	Displays at libraries, banks, schools, etc.	Year 2	Year 5
3.3	Storm water information included in utility bills	Year 2	Year 5
3.4	Nutrient fact sheet mailed with soil test results	Year 2	Year 5
3.5	Install signs labeling waterways and runoff pathways	Year 3	Year 5
3.6	"Green Business" program	Year 3	Year 5
4	**Public Education**		
4.1	Hands-on youth water quality programs	Year 1	Year 5
4.2	Presentations to civic organizations	Year 2	Year 5
4.3	Promote Urban Home*A*Syst	Year 2	Year 5
5	**Public Participation**		
5.1	Master Gardeners	Year 1	Year 5
5.2	Staff displays at local fairs and festivals	Year 2	Year 5
5.3	Storm drain stenciling	Year 2	Year 5
5.4	Stream Teams	Year 3	Year 5
6	**Municipal Employee Training**		
6.1	Soil fertility and integrated pest management	Year 2	Year 4
6.2	Hazardous product management	Year 2	Year 4
6.3	Vehicle maintenance	Year 3	Year 5
7	**Evaluation and Reporting**		
7.1	Evaluate public education programs	Year 1	Year 5
7.2	Track results of measurable goals	Year 1	Year 5
7.3	Compile and submit annual reports (one month prior to ADEQ annual reporting deadline)	Year 1	Year 5

Budget

Category	Year 1	Year 2	Year 3	Year 4	Year 5
	(6 months)	(12 months)	(12 months)	(12 months)	(12 months)
Personnel Salaries/Wages					
	FTE Salary Hours				
County Agent/Coordinator	*0.7 $45,000 1,260*	$29,142	*$60,031	*$61,832	*$63,687	*$65,598
Part-time Para-Professionals	*1.5 16,000 2,700*				
State Specialists	*0.05 55,500 90*				
Part-time Secretary	*0.5 17,300 900*	4,330	*8,921	*9,189	*9,464	*9,747
Fringe Benefits Note: CSREES formula funds rate is 27.09%, Temp rate is 8.35%		9,068	18,679	19,240	19,817	20,411
Travel					
In-State		1,100	2,200	2,200	2,200	2,200
Out-of State		750	1,500	1,500	1,500	1,500
Materials and Supplies					
Display board		1,000				
Educational materials			200	200	500	500
Water testing kits			300	100	100	100
Creek sampling supplies			200			
EnviroScape (runoff model)				1,000		
Laptop Computer		2,000				
LCD projector			2,400			
Scanner			300			
Color printer			300			
Digital camera		500				
Training			250	250	250	250
Printing		1,000	1,000	1,000	1,000	1,000
Other Costs					
Postage		100	500	500	500	500
Cell phone / phone card		600	1,200	1,200	1,200	1,200
Total Direct Charges		49,590	97,981	98,211	99,368	102,156
Indirect Charges (0.28)		13,885	27,435	27,499	27,823	28,604
Total Annual Costs		**$63,475**	**$125,416**	**$125,710**	**$127,191**	**$130,760**

*Allows for 1.03% annual increase

Katie Teague
Cooperative Extension Service
(479) 444-1755
For Immediate Release
(252 words)

ADEQ Supports Regional Storm Water Education Program

In Northwest Arkansas, 12 cities in Benton and Washington Counties, the counties themselves and the University of Arkansas meet the U.S. Environmental Protection Agency's "small" urbanized area municipal separate storm sewer (MS4) criteria and must comply with new national Phase II Storm Water regulations.

Although the affected MS4s will develop their own storm water management plan and be permitted individually through the Arkansas Department of Environmental Quality (ADEQ), the Northwest Arkansas Regional Planning Commission is helping the MS4s collaborate regionally on the educational components of the regulations.

"The Department is very much in favor of this sort of combined effort," said Martin Maner, ADEQ Water Division Chief.

A regional storm water education program proposed by the University of Arkansas Cooperative Extension Service addresses the Public Education/Outreach, Public Involvement/Participation and Pollution Prevention/Good Housekeeping minimum control measures outlined in the federal regulations. The Cooperative Extension Service's five-year storm water education plan of work includes local input and planning, educational material development, mass media promotion, creek signage, storm drain stenciling, hands-on youth programs, civic presentations, "green business" programs, and training for municipal employees.

MS4 representatives are in the midst of garnering support from their respective City Council and Quorum Court members for participation in the regional education effort. Once approved, the Northwest Arkansas Regional Planning Commission will serve as the link between participating MS4s and the University of Arkansas Cooperative Extension Service.

"With the growing water quality concerns in the Northwest Arkansas area, the coalition of the municipalities in that area is vital to protecting our most precious resource," said Maner.

Storm water management plans outlining five-year implementation schedules for the six required minimum control measures are due to ADEQ by May 1, 2004.

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STAFF REVIEW FORM - FINANCIAL OBLIGATION

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

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

FROM:

Gary R. Coover	Engineering	CP&ES
Name	Division	Department

ACTION REQUIRED: Request for City Council approval of a five-year contract with the Northwest Arkansas Regional Planning Commission (NWARPC) to provide stormwater education services for compliance with two complete sections and portions of a third section of the five-year NPDES Phase II Stormwater Permit.

COST TO CITY:

$239,000.00	$ 682,684.00	Drainage Study/Phase II Stormwater
Cost of this request	Category/Project Budget	Program Category / Project Name
4470-9470-5314.00	$ 15,545.00	NWARPC Stormwater Education
Account Number	Funds Used to Date	Program / Project Category Name
02097-0040	$ 667,139.00	Sales Tax
Project Number	Remaining Balance	Fund Name

UDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 4-5-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 4/5/04

Internal Auditor — Date: 4/5/04

City Attorney — Date: 4/6/04

Purchasing Manager — Date:

STAFF RECOMMENDATION:

Division Head — Date: 4-2-04

Department Director — Date:

Finance & Internal Services Dir. — Date: 4-6-04

Chief Administrative Officer — Date: 4-7-04

Mayor — Date: 4/7/04

Received in Mayor's Office 4/6/04 P.M.

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item: Yes No

ENTERED 4/5/04 TM

City Council Meeting of April 20, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: April 01, 2004

Subject: Residential Planned Zoning District for Stonewood Gardens (R-PZD 04-04.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Stonewood Gardens. This action will establish a unique zoning district and approve a preliminary plat for development of a 3.36 acre tract consisting of 12 single-family dwellings located on Crossover Road, immediately north of Stonewood Subdivision.

BACKGROUND

The proposal is for a single-family residential subdivision, accessed by way of a private street from Crossover Road. Twelve dwelling units are proposed to be constructed, utilizing small lots and zero lot lines in many cases. All residents are required to utilize vehicular access by way of a rear alley, thereby promoting a more appealing front entry to the neighborhood. The applicant is proposing a perimeter fence of wrought iron and brick in the rear and a 6-foot brick wall, similar to that of the adjoining Stonewood Subdivision, along the front. A controlled access gate is also proposed, with appropriate measures required to ensure 24-hour access by emergency and essential vehicles to serve the residents. The total density proposes is 3.4 dwelling units per acre, which is compatible with nearby development.

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on Monday, March 22, 2004. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval (preliminary plat). A final plat is required to be processed to legally record the lots and covenants for the subdivision. Recommended conditions included in the attached staff report were approved by the Planning Commission.

BUDGET IMPACT

None.

ENTERED 4/2/04

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 04-04.00 LOCATED SOUTH OF ALBRIGHT ROAD AND NORTH OF THE STONEWOOD SUBDIVISION CONTAINING 3.36 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 R-O, Residential Office to R-PZD 04-04.00 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 March 22, 2004.**

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

DRAFT

EXHIBIT "A"
RPZD 04-04.00

PART OF THE SE ¼ OF THE SW ¼ OF SECTION 18, T17N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID SE 1/4 , SW ¼ THENCE S00°26'02"E 110.00 FEET TO THE P.O.B., THENCE N89°33'58"E 122.33 FEET, THENCE S32°50'29"E 378.17 FEET, THENCE S00°26'02"E 231.35 FEET, THENCE S89°40'40"W 325.00 FEET, THENCE N00°26'02"W 549.99 FEET TO THE P.O.B.; CONTAINING 3.36 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 22, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jeremy Pate, Associate Planner
	Matt Casey, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	~~March 17, 2004~~ *Revised 03-24-04*

R-PZD 04-04.00: Residential Planned Zoning District (Stonewood Gardens, pp 60) was submitted by David Gilbert of Jorgensen & Associates on behalf of Mark Foster for property located on Crossover Road, immediately north of the Stonewood subdivision. The property is zoned R-O, Residential Office and contains approximately 3.36 acres. The request is to rezone the property to an R-PZD to allow the development of 14 lots with 12 single-family dwelling units proposed. Planner: Jeremy Pate

Findings:
Proposal: The applicant requests a rezoning and preliminary plat approval for a residential development within an R-PZD zoning district. The proposed use of the site is for 12 single-family residential dwelling units, accessed from Crossover Road by way of a private drive.

Twelve dwelling units on the 3.36-acre site are proposed, therefore the proposed density for the R-PZD is **3.4 DU/acre.** The project site is currently zoned R-O, Residential-Office. The vacant site is located in north Fayetteville, east of Lake Fayetteville, near the intersection of Crossover Road and Albright Road. Immediate surrounding properties are primarily single family residential (including Stonewood Subdivision) and agricultural in nature, including the nearby future Botanic Gardens.

Proposed Development: R-PZD, Residential Planned Zoning District

	Land Use
Lots 1-12	Single Family Residential
Lot 13	Detention Pond
Lot 14	Common Area, Private Street, drive, utilities

Access: The development is proposed to have one point of vehicular access, from Crossover Road. The applicant proposes a private street (Stonewood Court) that utilizes a controlled access point (privacy gate for the subdivision). The remainder of the subdivision is proposed to be within the perimeter of a wrought iron and brick fence in the rear and a 6-foot brick wall along the front, similar to that of Stonewood Subdivision to the south. A six-foot public sidewalk is to be constructed along Crossover for the length of the property. The applicant is requesting to not

construct sidewalks within the development.

A draft of protective covenants, as well as the applicant's response to the Planned Zoning District requirements and description of the project, have been submitted and are included in the staff report.

Existing Development: The site is currently vacant.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Single family homes	RSF-4, Single Family Res. 4 DU/Acre
South	Single family homes	R-O, Residential Office
East	Single family homes	RSF-4, Single Family Res. 4 DU/Acre
West	Lake Fayetteville, Crossover Road	R-A, Residential Agricultural

Water & Sewer: Water and sewer lines will be extended from Crossover Road.

Street Improvements Proposed: Six-foot sidewalks are required to be constructed along Crossover Road. The interior street is proposed to be a private street, 24-feet in width. Vehicular access to the each lot is restricted to access from the rear, by way of a 14-foot wide one-way drive/alley.

Adjacent Master Street Plan Streets: Crossover Road (Hwy 265), Principal Arterial

Tree Preservation:

Existing canopy:	9.1 %
Preserved canopy:	6.6 %
Required canopy:	9.1 %
Mitigation:	16 mitigation trees (see condition of approval)

Background: This proposal was heard at the Technical Plat Review meeting of January 14, 2004 and at the Subdivision Committee on March 11, 2004. Points of discussion include sidewalks along the interior street, the "gated community" and emergency/delivery access, utilization of the rear drive for access, the proposed wall within utility easements, and a turn-around at the entry gate.

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 04-04.00 with all conditions of approval

as determined by the Planning Commission.

2. Planning Commission determination of the General Plan 2020 policy of "community character," as outlined below:

Community Character Guiding Policy in the General Plan 2020:
9.19.d Discourage perimeter walls and guard houses around the perimeter of new residential developments and promote "connectivity" to increase accessibility and provide more livable neighborhoods.

* *Staff finds the perimeter walls are compatible to the existing walls along Stonewood Subdivision to the south, along with numerous other subdivisions developed along Crossover Road, a principal arterial on the Master Street Plan. These walls tend to provide a buffer for residents from the traffic along Hwy 265.*
* *Staff finds vehicular connectivity to be unnecessary with the proposed development, as surrounding land use is already established and nearby existing streets (Hwy 265, Albright Rd.) provide adequate access. Staff is recommending a sidewalk connection be made along the private street, to connect to the required sidewalk along Crossover Road for pedestrian connectivity.*

~~3. Planning Commission determination of the appropriateness for sidewalks along the interior, private street serving the proposed 12 single family homes. *Staff recommends a 4-foot sidewalk be placed along the private street to connect to pedestrian access along Crossover Road.* Removed by Planning Commission.~~

4. A Final Plat is required to legalize the lot configuration, filed pursuant to City of Fayetteville requirements.

5. Allowed uses in this R-PZD shall be restricted to Use Unit 8, single family residential and Use Unit 1, City-wide uses by right.

6. Due to significant changes from Technical Plat Review in the location of utility easements, all utility easement locations shall be verified by utility representatives prior to submittal of approval of construction plans.

7. Vacation of the existing 30-foot utility easement shall be processed and approved by City Council prior to Final Plat approval.

8. No structures shall be allowed within utility easements. *The proposed perimeter wall is within proposed utility easements, a situation that is not allowed by ordinance. Either the wall or easements shall be modified to comply.*

9. The proposed gates into the subdivision shall be fitted with appropriate measures that allow for 24-hour emergency vehicle, solid waste and delivery access (Knox Box or equal).

10. A mitigation planting plan shall be submitted before Final Plat including a binding three-year maintenance and monitoring plan. This plan shall include an irrevocable letter of credit in the amount of $4,125 for the planting of 15 mitigation trees.

Standard Conditions of Approval:

11. Payment of parks fees in the amount of **$6,660** for 12 single-family dwelling units shall be submitted prior to Final Plat.

12. 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)

13. 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.

14. Sidewalk construction in accordance with current standards to include a six foot sidewalk Crossover Road (Hwy 265). Exact location shall be coordinated with the Sidewalk Administrator and Landscape Administrator at the time of construction.

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

16. Preliminary Plat shall be valid for one calendar year.

Additional conditions:

a. _____

b. _____

c. _____

PLANNING COMMISSION ACTION: __yes__ Required

_____Approved _____Denied

Date: March 22, 2004

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

K:\Reports\2004\PC Reports\03-22-04\R-PZD 04-04.00 (Stonewood Gardens).doc

Findings associated with R-PZD 04-04.00

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 R-O to the south, R-A to the west and RSF-4 to the north and east. Surrounding land use consists of single family dwellings (Stonebridge Subdivision to the south) and the planned Botanic Gardens along Lake Fayetteville across Crossover Road to the west. The subject property is currently zoned R-O, Residential Office consisting of 3.36 acres with 12 single-family lots proposed for an overall density of 3.4 units per acre. This density and land use is compatible with surrounding areas, thereby preserving and enhancing the neighborhood. The development proposes to utilize rear access for all of the dwelling units, reducing curb cuts along the primary street. Open space and tree preservation areas have been located at the perimeter of the development, providing a natural screen. Additionally, a perimeter wall is proposed surrounding the subdivision, with a controlled-access gate.

(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 site has 9.1% canopy coverage with 6.6% preserved canopy proposed. A mitigation plan has been approved by the Landscape Administrator, for 15 trees to be planted on-site. The applicant has proposed erecting a brick masonry wall along Crossover Road to be used as a screen between the street and the proposed development. The wall is proposed to extend along the sides of the property, where it will change to a wrought-iron

and brick column fence. Walls along Crossover Road are consistent with the other residential subdivisions in the area.

(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 applicant proposed to utilize a controlled access gate from Crossover Road, allowing access to Stonewood Court, a private drive. However, all garages are limited to access from the rear alley/drive, allowing parking along the street for visitors. Connectivity to other properties is not proposed, for adequate streets are existing in the area or surrounding property has already developed, not allowing for connectivity.

Pedestrian access is provided with a six foot sidewalk along Crossover Road for the length of the property. The developer proposes not to construct sidewalks within the development along the private street, citing use of the street and the low density of the proposed development, along with lack of through traffic, as reasons for not constructing a sidewalk. Staff is recommending a four-foot sidewalk be placed along the private drive, to provide pedestrian circulation and a functional landing should the homes be built close to the street with stoops (reference the developer's intent to provide a "New Urbanism" development, with zero-lot line development) or otherwise.

The turn-around at the end of Stonewood Court is sufficient for fire access. Details of the access into the development for emergency vehicles, solid waste, delivery, etc. shall be reviewed and approved by the appropriate City divisions prior to issuance of building

permits.

(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 lot shall be for single family use and provide the required two off-street parking spaces per 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: The land use meets all the requirements for open space, buffer or green strip provisions of the chapter in the code.

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

FINDING: Sidewalk construction shall be in accordance with current standards to include a six foot sidewalk located at the edge of the right-of-way along Crossover Road. Staff recommends a four foot sidewalk along the proposed private drive within the development.

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

FINDING: Street lights shall be provided along Crossover Road and within the development with spacing not to exceed 300 feet.

(8) *Water.* As required by §166.03.

FINDING: Water shall be extended to serve the subject property.

(9) *Sewer.* As required by §166.03.

FINDING: Sewer shall be extended to serve the subject property.

(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 private street to serve the development, in accordance with the standards noted herein.

The applicant has submitted covenants that allocate the responsibility of maintaining the private drives to the POA. To reduce the number of curb cuts and effect of numerous garage doors facing onto the street, the development requires all homes to utilize rear vehicular access/garages.

(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 site has 9.1% canopy with 6.6% preservation proposed. Mitigation is required in the amount of 15 trees, planted on-site. Please reference the attached report from the Landscape Administrator.

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

FINDING: 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: No view shed has been identified in this area.

(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 Protective Covenants and Restrictions for Stonewood Gardens PZD (see attached), identifying the responsibility of the POA for common areas, detention pond, fences and walls. At the time of Final Plat, the covenants will be reviewed again for PZD compliance, and shall be filed at the County, pursuant to ordinance requirements.

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 of 14 lots is located on property identified for residential use on the Future Land Use Plan. The proposed density and land use is similar to adjacent property and will not negatively impact surrounding properties. The proposal is unique in that the homes will be built close to one another, on lots that are smaller than those allowed within a typical zoning district. Additionally, the developer proposes a "New Urbanist"

theme, with rear loaded garages and homes to be built close to one another (minimum of 10 feet apart). The subdivision will utilize a controlled access gate, limiting through traffic. Most common space is located along the perimeter of the site, creating a buffer, along with the proposed wall/fence.

The proposal meets the following Residential Guiding Policies in the General Plan 2020:

9.8.a Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.

9.8.c Minimize through traffic on minor residential streets.

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

(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. An ordinance is required to 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 R-PZD ordinance, and will be filed of record with the Final Plat. The proposed PZD will be forwarded to the City Council, should the Planning Commission vote in favor of 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 proposed residential planned zoning district allows single-family use which is compatible with surrounding property. A general rezoning would not allow the type of development the applicant is pursuing, based on the bulk and area requirements of typical single-family zoning districts, therefore a Planned Zoning District is appropriate for the proposed development. The proposed subdivision allows for a density and land use that is compatible with adjacent properties, yet also allows for a flexible site plan and layout.

(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 single-family dwellings are a permitted use under use unit 8. Staff recommends Use Unit 1 be added to the permitted uses on the plat, in order to facilitate essential services located in public right-of-way (utilities, fire hydrants, street signs, etc.)

(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.

REZONING RECOMMENDATION: Staff recommends approval of R-PZD 04-04.00 with conditions.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 04-04.00 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 of the existing Residential-Office (R-O) property to the proposed development with residential single-family use with a density of 3.4 units per acre is consistent with the General Plan 2020 that identifies this area for residential use. Single-family use with this density is compatible with existing and planned surrounding single-family residential development.**

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 needed in order to develop a single-family subdivision in the manner proposed with the R-PZD site plan.**

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

Finding: **The proposed zoning will not create or appreciably increase traffic danger or congestion for Crossover Road, a principal arterial street.**

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:
A population increase of 12 units on 3.36 acres, a total density of 3.4 dwelling units per acre, is proposed. This increase is not an appreciable increase in population.

Fire **- Water supply with fire hydrants is needed to serve development on this site. Fire station #4 (Plainview) will serve this site once it is constructed. Response time will be approximate 5 minutes 18 seconds (3.7 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 city subdivisions to the north and the west. No additional equipment or personnel is needed to provide service**

to this area. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Engineering **– The proposed subdivision has been reviewed for access to public utilities, including water and sewer, and will not undesirably increase the load on public services.**

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

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: **N/A**

)

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 22, 2004

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

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Craig Carnagey, Landscape Administrator

Copy: Jeremy Pate, Associate Planner

Date: March 17, 2004

ITEM #: R-PZD 04-04

BACKGROUND:

Requirements Submitted:

	Initial Review with the Landscape Administrator
✓	Site Analysis Map Submitted
✓	Site Analysis Written Report Submitted
✓	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	3.36
square feet	146,362
Existing Tree Canopy	
acres	
square feet	13,252
percent of site area	9.1
Existing Tree Canopy Preserved	
acres	
square feet	9,709
percent of total site area	6.6
Percent Minimum Canopy Required	25%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species. Several significant trees exist on this site and should be preserved. Groupings of oak, elm and pine are among the significant species desirable for preservation, while several medium age cedars and walnut trees are also candidates for preservation.

Whether the design incorporates the required Tree Preservation Priorities.
Yes, all significant trees with one exception have been preserved. Groupings of trees within this site have also been placed in protection.

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.
Minimal environmental degradation would occur within this area due to the proposed removal of trees associated with this project.

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.
The site is thinly canopied overall. Less than one-third of existing tree canopy will be removed. With the preservation of both significant trees and groupings of trees, the impact to the surrounding neighborhood will be minimal.

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.
No, alternative construction methods are unnecessary on this particular subdivision.

Whether the size or shape of the lot reduces the flexibility of the design.
This lot tapers along a slight northern slope from a broad to narrow width. This shape does reduce flexibility toward protecting large groupings of trees within the site.

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.
All trees designated for preservation are in good condition with low indications of defects or disease.

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.
Utilities have been routed in a manner to avoid any unnecessary removal of trees. A perimeter wall around the site will need to be repositioned along the northwest corner in order to avoid encroachment into the root zones of two significant trees.

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.
Minimal removal of trees should occur due to any installation of essential utilities

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.
Neither roads nor utilities have been routed in relation to existing topography; however they have been routed where possible to avoid damage to existing canopy.

Construction requirements for On-Site and Off-Site Alternatives.
None

The effects of proposed On-Site Mitigation or Off-Site Alternatives.
On-site mitigation will have a positive effect to increase canopy and buffer adjacent properties from any concerns construction on this site may have.

The effect other chapters of the UDO, and departmental regulations have on the development design.
N/A

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:
N/A

The impact a substantial modification or rejection of the application would have on the Applicant

Recommendation: Staff recommends approval of this projects Tree Preservation Plan

Mitigation Method Approved: On-site mitigation for this site is recommended

Conditions of Approval:

1. A mitigation planting plan shall be submitted before final plat that includes a binding three year maintenance and monitoring plan. This plan shall include an irrevocable letter of credit in the amount of $4,125.00 for the planting of 15 mitigation trees.

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THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

February 3, 2004

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 04-04.00: Residential Planned Zoning District (Stonewood Gardens)** submitted by David Gilbert of Jorgensen & Associates on behalf of Mark Foster for property located on Crossover Road, immediately north of Stonewood subdivision 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 Zoning District **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

Lieutenant William Brown
Fayetteville Police Department

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

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

FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 3-2-04

REZONING ___ ANNEXATION ___

REZONING # R-PZD-04-04 OWNER FOSTER
ANNEXATON# ___ OWNER ___
LOCATION OF
PROPERTY ___

NEAREST FIRE STATION AND
LOCATION STA 4 PLAINVIEW

RESPONSE TIME FROM FIRE STATION # 4 TO
LOCATION OF
PROPERTY 5 MINUTES 18 SECONDS.
TRAVEL MILES FROM FIRE STATION # 4 TO LOCATION OF
PROPERTY 3.7.
COMMENTS ON FIRE DEPT.
ACCESS/ROADWAYS ___

EXISTING FIRE HYDRANTS? IF SO
LOCATION ___

WATER SUPPLY WITH HYDRANTS
NEEDED? yes - extended

ADDITIONAL
COMMENTS ___

MAIN OFFICE
115 SOUTH CHURCH ST.
(501) 444-3448 / (501) 444-3449
FAX (501) 575-8272

SUBSTATION
N.W.A. MALL
(501) 575-8271
FAX (501) 575-8272

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807
DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

City of Fayetteville
113 West Mountain Dr.
Attn: Jeremy Pate
Fayetteville, AR 72701

March 15, 2004

RE: R-PZD 04-04.00 Stonewood Gardens

Dear Mr. Pate,

We have revised the Planned Zoning Development plans and protective covenants per the Conditions of Approval dated March 11, 2004. Revised plans are attached, for consideration at the March 22, 2004 Planning Commission meeting. The following is offered in response to your comments:

- We will be working with the utility companies to gain their approval of the new easement configuration. As stated at the Subdivision Committee meeting, the easement on Lot 14 was revised to enhance tree preservation.
- We are still working out the details of access for emergency, mail service, and trash collection vehicles. A Knox box will be provided at the gate, and will contain either a key or the access code engraved on a metal tag. The use of a community mailbox just outside the gate is being discussed, as is the idea of leaving the gate open on trash days to provide access for the truck. Visitors will be able to utilize a call box at the gate to contact residents and request entry.
- We have verified our calculations with Mr. Carnegey, calling for provision of 15 mitigation trees.
- The covenants provide for formation of a Property Owners' Association, and language has been added regarding their responsibility for the mitigation trees.
- The covenants have been modified to more clearly spell out the POA's responsibilities with regard to maintenance of detention, common open space, fences, entry features, private drives and landscape islands.

In addition, we have modified the documents to reflect these items which were discussed at the Subdivision Committee meeting:

- We have added five-foot side setbacks to the common lot lines of lots 2 through 14. These setbacks will provide for a minimum of ten feet of building separation, while maintaining flexibility in placing homes on these lots.

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- The language from the private street maintenance section of the code has been added to the covenants. Section 1 of the covenants already spells out maintenance responsibilities per City regulations.
- A turnaround has been added at the gate. Should a community mailbox be utilized in lieu of individual home mailboxes, this area will serve as a parking space for the mail truck.
- We continue to work with the City staff on the configuration of the utility easement and front wall of the development. The wall was conceived in this configuration so that it would present a curved architectural element to the street. Straightening the wall, and moving it out of the utility easement, will cause the wall to have a more massive, box-like appearance, which we are trying to avoid. In addition, placement of the wall on the property line, outside the front utility easement, would require relocation of the sidewalk along Crossover Road, which would in turn require the removal of several large trees in the right-of-way. Reconfiguration of the easement to follow the curves of the wall is undesirable, as it would place portions of the easement beneath the private drive, and would require that the water and sewer lines within the easement be installed with a number of bends to keep the lines near the center of the easement. The "wall" in this case could possibly be more accurately described as a masonry-panel fence. The columns, spaced at approximate 12-foot intervals, will have foundations. The panels between the columns are formed by brickwork, and do not bear on the ground. The covenants call for the POA to maintain and repair the fence and wall. Given these conditions, I believe it would be acceptable to place the wall in the position shown. This would present the best appearance to the outside; and, should the wall be damaged by utility repairs and/or installation, the POA would be responsible to restore it. We request further discussion on this item as needed to reach a resolution.

Eleven copies of the revised plan, and one copy of the revised covenants, are attached for your use. If you have any questions, comments, or suggestions please feel free to call me at 442-9127, or fax at 582-4807.

Thank you for your assistance.

Sincerely,

David A. Gilbert, P.E.

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS • SURVEYORS

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DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

December 19, 2003

Fayetteville Planning Department
125 W. Mountain Street
Fayetteville, AR 72701

RE: Stonewood Gardens Planned Zoning District
For Mark Foster

The developer requests rezoning of this tract of land from R-O to R-PZD. The developer's intent, as shown from the attached documents, is to create a unique residential enclave on the eastern side of Fayetteville. By clustering of residential units, the developer intends to create a private, gated, community, emphasizing the New Urbanist style of close neighbors and shared common spaces.

The community will consist of 2,500 square foot homes, closely grouped near the center of the property. The outlying areas will be preserved as open common area, minimizing lawn maintenance for the homeowners, while providing large open spaces for the use of the community. This, in turn, will encourage interaction between the neighbors as the common spaces are used in daily recreation and relaxation. Furthermore, the configuration of the buildings and facilities will provide for preservation of most of the magnificent trees which currently exist on the site.

The resulting neighborhood will be a cohesive unit, tied together not only by the common area, but also by distinctive site features and amenities. Special street lighting and mailboxes, along with wrought-iron fencing and special pavement treatments, will provide a unified, upscale sense of place for this development. A fountain floating in the pond at the northern end of the neighborhood will provide additional atmosphere. Protective covenants will be put in place to protect the quality of life in the district.

In granting approval of this Residential Planned Zoning District, you will enable the developer to create a neighborhood with a unique sense of closeness and unity, which would be difficult to obtain under conventional zoning procedures.

Planned Zoning District approval for the property will permit the following:

- **Flexibility:** in allowing for reduced setbacks, permitting closer grouping of the homes and therefore increasing the available common area.
- **Compatibility:** as the surrounding area is developing from farmland and large, estate-style home tracts to more conventional single-family dwellings. This district, with its grouping of homes and large common area, would reflect a middle ground between the estate and conventional single family lot structure.

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- **Harmony, Variety, Coordination, and "No negative impact":** by introducing New Urbanist-style elements into the structure of Fayetteville, as the City looks toward broader implementation of this style of planning, in a setting where surrounding land uses are highly compatible. Not only will this development fit in well with its surroundings, but it will also serve as an example for future, more modern developments.
- **Open Space:** will be larger and more effectively used by the residents of the community due to closer grouping of the dwellings.
- **Natural Features:** will be better preserved; specifically the large trees which are scattered throughout the site; as the development has been planned around these trees and the covenants will include provisions for their preservation and protection.

We believe this development is consistent with the city's general plan, and beneficial to orderly development of the City, while at the same time containing elements which will serve to bolster the neighborhood feel of the development and serve as an example of successful implementation of new techniques which will enhance the City as we move into the 21st Century.

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DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

City of Fayetteville
113 West Mountain Dr.
Attn: Jeremy Pate
Fayetteville, AR 72701

March 2, 2004

RE: R-PZD 04-04.00 Stonewood Gardens

Dear Mr. Pate,

We have revised the large-scale development plans per your review comments dated January 9, 2004. Revised plans are attached, for consideration at the March 11, 2004 Subdivision Committee meeting. The following is offered in response to your comments:

Item 1. Submittal Requirements

- The purpose of the PZD is to establish a development of single-family homes. As the home plans have not yet been developed, unfortunately no building elevations are available.
- Overall development standards have been addressed in the covenants previously submitted. Condition 3 of the covenant establishes floor area, requires garages in the rear of the homes, prohibits carports, and sets requirements for driveway materials. Condition 5 addresses additions to the homes. Condition 6 addresses storage buildings. Condition 8 addresses sidewalks. Condition 9 addresses satellite dishes. Condition 12 addresses fencing. Condition 14 addresses signage. Condition 16 addresses landscaping, deferring development of landscaping plans until home plans are developed, so that the landscaping will fit both the development and the individual home. Condition 18 addresses facing of the homes. Condition 23 addresses roof slope and material. Condition 24 addresses the individual mailboxes. Should you wish to add specific additional requirements to the ones already listed above, please let me know what those requirements should address, and I will discuss them with the owner.

Item 2. Zoning Requirements

- Condition 25 of the Covenants establishes a Property Owners' Association for the development.

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Item 3. Plat Requirements

- Adjacent zoning has been updated to reflect the current map.
- Easements have been identified on the plat. Due to the current conflict between tree preservation and utility easements within the City, we have eliminated the blanket easement on Lot 14 and substituted specific easements designed to avoid the existing trees. These easements are somewhat convoluted, and may be hard to distinguish on the drawings. At the appropriate time, an easement plat will be prepared which will give a clearer view of the utility easements.
- The notes have been revised to reflect the specific use units allowed as part of this district.
- Lot 13 has been labeled as "detention".
- Condition 25 of the Covenants is worded to protect the trees on individual lots from removal before, during, or after home construction. The lots have been configured to yield a buildable homesite while protecting the existing trees. The private driveway around the rear of the lots will be constructed very close to the existing grade throughout its length, and was configured to minimize removal of existing trees. The owner's intent and desire is to develop a small neighborhood where the front elevations of the homes are not dominated by a garage door or a driveway. We believe the rear drive is the best way to accomplish these objectives.

Item 4. Street Requirements

- A six-foot sidewalk has been added along Crossover Road. The sidewalk's path has been deviated to better accommodate preservation of trees on the right-of-way.
- Street lights have been added along Crossover Road, as requested.
- While we understand that the City discourages gated, perimeter-walled communities in general, we do know that they are approved from time to time. We believe that this development is appropriate in this location, due to its distance from the city center, the rural nature of the surrounding land, and its specific location relative to the existing home to the east. Connectivity is neither practical nor necessary, given the configuration of surrounding properties, the proximity of Albright Road immediately to the north, and the small size of this development. Stonewood subdivision, immediately southeast of this project, has a perimeter wall of the same type to be used on this project. The perimeter wall, along with the gate at the entrance, will serve as isolation mechanisms to protect this residential subdivision from the traffic on Crossover Road, and will deter travelers on Crossover from mistaking Stonewood Court for a through street.

Item 5. Parking and Driveway Requirements

- A note has been added to the plan specifying a maximum driveway width of 24 feet, measured at the property line. All driveways shall access the rear private drive. Driveway cuts onto Stonewood Court or Crossover Road shall not be permitted.

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- While we understand the City's desire to place sidewalks along every public and private street within the City limits, we believe that sidewalks along Stonewood Court, in this setting, are neither necessary nor desirable. Stonewood Court will be a small, private cul-de-sac, serving only twelve lots. Regular driveway access to these lots will be by means of the rear private drive. Residents will rarely use Stonewood Court beyond its intersection with the private drive. Visitors can be expected to be limited in number, especially given the gated nature of the neighborhood. Thus, traffic volumes on Stonewood Court will be extremely low, and pedestrians will be safe to walk on the private street. The construction of additional impervious area in the development, and the restriction construction of sidewalks would place on home construction, lead us to believe that the sidewalks would be a detriment rather than an enhancement to this community, and we ask for approval of the project without them.

Item 6. Other Requirements

- Fencing, wall, and signage materials have been listed on the plan, as requested.
- A note has been added to the plan reflecting the requirement that all proposed utilities be placed underground.
- A note has been added to the plan reflecting the requirement that all overhead electric lines on the property which carry less than 12 Kv shall be relocated underground.
- Trash service shall consist of standard residential containers, which shall be stored at the homes when not waiting for pickup, as in other residential neighborhoods. Further screening should not be needed.
- A note has been added to the plan reflecting the requirement that all utilities be screened.

Engineering Comments

- A six foot sidewalk has been added along Crossover Road.
- Please see justification for not showing the sidewalks under item 5 above.
- The proposed sewer line has been rerouted as requested.
- A note has been added to the plan indicating sod requirements for the detention pond.
- The detention pond has been designed to retain a normal pool of water. As such, no trickle channel has been shown.

Tree Preservation

- Based upon our reading of the ordinance, we believe that a preservation requirement of 20 percent is the appropriate amount by code. The PZD ordinance states that the "most restrictive" tree preservation standard shall apply. This has been interpreted by Staff as the most restrictive tree preservation standard in the entire landscape ordinance. By this reasoning, PZDs will soon require nearly 50% canopy preservation, due to the pending adoption of the Hillside Development ordinance. We believe that a more correct interpretation of the PZD ordinance would be to require the most restrictive tree preservation standard for all uses present within the PZD, and would appreciate the input of the City attourney in this matter. In either case, based upon a full tree survey of the

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property, present tree coverage amounts to just over nine percent of the total site area, and this amount by ordinance governs the preservation and/or mitigation required. The tree preservation plan has been modified to reflect the findings of the tree survey.

- The blanket easement on lot 14 has been removed from the plan, and a specific easement has been added which works around the existing trees. Tree preservation measures are shown on the plan. The calculations on the tree preservation plan have been revised to reflect these changes.
- Each tree on the site has been individually surveyed, and is now shown on the tree preservation plan.
- With the new tree survey data shown, the extent of tree removal for the new site features is more readily seen. The plan shows removal of nine of the site's 33 existing trees. One of the trees scheduled for removal is a large mimosa, which appears to be in poor health. Several of the other trees are in the mid-priority preservation range. The best trees on the site are being saved, and in large number. In addition, the required sidewalk along Crossover Road has been designed to minimize its impact on the existing trees located on the right-of-way. Removal of two trees along the frontage will be required to facilitate placement of water and sewer lines to serve the project, and a utility easement across the front of the property places these trees out of the protected category. As stated above, the utility easements have been reconfigured to maximize tree protection. It is my personal belief that it would be grossly impractical to develop this site with absolutely no tree removal, and that the mitigation trees now shown on the plan will provide a high-quality end product consistent with the intent of the landscape ordinance.

Fire Marshall

- The cul-de-sac has been enlarged to facilitate better access for fire department vehicles. We believe, based on the current configuration, that the island in the center will not interfere with the passage of equipment, and that the island is necessary to break up the expanse of pavement which would otherwise be present.

If you have any questions, comments, or suggestions please feel free to call me at 442-9127, or fax at 582-4807.

Thank you for your assistance.

Sincerely,

David A. Gilbert, P.E.

RECI
MAR 0
PLANNI

PROTECTIVE COVENANTS

STONEWOOD GARDENS PLANNED ZONING DISTRICT

FAYETTEVILLE, ARKANSAS

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, Mark Foster dba, Dunnerstock Development, Inc. is the record Owner of the following property.

LEGAL DESCRIPTION:

Part of the SE ¼ of the SW ¼ of Section 18, Township 17 North, Range 29 West, in Washington County, Arkansas and being more particularly described as follows:

Commencing at the NW corner of said SE ¼, SW ¼, thence S00°26'02"E 110.00 feet to the POINT OF BEGINNING;

Thence N89°33'58"E 122.33 feet, thence S32°50'29"E 378.17 feet, thence S00°26'02"E 231.35 feet, thence S89°40'40"W 325.00 feet, thence N00°26'02"W 549.99 feet to the POINT OF BEGINNING; containing 3.36 acres more or less subject to easements and Right of Way of record.

WHEREAS, the developer has divided said property into 14 lots and said tract was surveyed and platted into lots and, proposed use is single family only.

WHEREAS, it is in the interest of the developers of the property described above, as well as prospective purchasers of the lots that said tract be known as Stonewood Gardens Planned Zoning District, Fayetteville, AR. And the use of Lots is restricted as hereinafter provided.

NOW, THEREFORE, in consideration of the premises, and for the purpose above mentioned said owner has caused said tract to be platted into lots with the size, location, and boundaries of each lot shown on said plat, which has been filed for record, and every deed or conveyance of any lot in said tract described as shown on said plat shall be held and deemed a sufficient description for the conveyance thereof, subject to the restriction hereinafter stated, which shall be for the use and benefit of, and binding upon, the present owners, their grantees, and all future owners of lots within the tract which shall be known as Stonewood Gardens, a Planned Zoning District (PZD) in Fayetteville, Washington County, Arkansas.

RECEIVED
MAR 25 2004
PLANNING DIV.

1. All streets and drives shown on the plat of Stonewood Gardens Homes Planned Zoning District are hereby reserved for the private use of residents of Stonewood Gardens PZD and their invited guests. Said streets and drives shall be privately maintained by the residents of Stonewood Gardens PZD in accordance with the regulations for private streets set forth by the City of Fayetteville, Arkansas.
2. Easements as shown on the plat of said property are reserved for construction, operation and maintenance of public utilities, and are provided for the purpose of enabling such utilities, their agents and employees, to enjoy free, open and unobstructed access through, over and along such easements to the end that their personnel, trucks and work equipment may at all times install, service, operate and maintain all utility facilities within the boundaries of said easements.
3. All houses on all lots shall have a minimum of 2,500 sq.ft. (excluding garage) of heated living area with an enclosed two car garage and no carports. Entry to garages shall be from the rear access drive provided. All driveways shall be concrete or brick pavers.
4. Each lot shall be used for residential (single family) purposes only and no lot shall be further subdivided.
5. No additional structure such as porches, garages, storage buildings, etc. shall be erected or placed on any lot in this addition until the plans and specifications showing the type and location have been approved in writing as to conformity and harmony of external design with existing improvements in the addition by the developers.
6. No structure of a temporary character, house trailer, basement, shack, garage, barn or other outbuilding shall be used on any lot at any time either temporarily or permanently. Storage buildings are allowed as per #5 above.
7. No animals, poultry, or livestock of any kind shall be raised, bred or kept on any lot. No kennels allowed. Household pets must comply with city rules about fencing or confinement by leash.

8. Sidewalks are not required.

9. A satellite dish may be installed on each lot provided that the dish is no closer than 10' to the property line and located behind the front edge (Stonewood Court façade) of house.

10. The parking or storage of unused or unlicensed motor vehicles is prohibited in front of any residence. No vehicles in inoperative condition shall be left on lots more than 30 days. The owner of each lot shall remove these vehicles. In addition parking on the street shall be limited to guests only, and no vehicle shall remain on the street for more than four hours of any twenty-four hour period. Permanent or semi-permanent storage of such vehicles or items must be completely screened from view, whether within the garage or behind a solid fence.

11. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste shall not be kept except in sanitary containers.

12. No fences shall be allowed in front yards except masonry or wrought iron of a maximum height of four feet. No form of wire fence shall be allowed.

13. The grass on each lot shall be maintained by mowing.

14. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

15. No noxious or offensive activity shall be carried out upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance.

16. Landscape plans must be submitted for approval along with house plans, prior to commencement of construction. Turf areas within the front yard of each house shall be sodded.

17. Each builder shall be responsible for adequate drainage swales around the house to properly drain runoff.

18. Exterior of the houses shall be 80% brick or stone. Other material may be approved, but must be reviewed by the developer. All perimeter block shall have brick or equivalent to cover foundation.

19. Minimum roof pitch shall be 10:12. Roofing material shall consist of tile, wood shake, or 40-year composition architectural shingles made by GAF, style "Grand Seqoyah" or equal.

20. Brick mailboxes shall be required at each house, and the color of the brick used in construction of the mailbox shall match the brick used on the corresponding house. Should the developer provide a "community" mailbox for the entire PZD, this item shall be null and void.

21. Stonewood Gardens Planned Zoning District Property Owners' Association (POA) shall be established at the time of execution of these covenants. Said POA is formed to assess yearly dues to pay for maintenance and upkeep of the entryway, all common areas including landscape islands, all fences, the masonry wall surrounding the PZD, the detention pond, private street, and private drive; to ensure continued health and vitality of all mitigation trees; and for payment of streetlight bills within the PZD. Each lot shall have a vote and the majority of those attending a meeting for that purpose shall be authorized to levy an assessment to all owners to defray the costs of maintenance and pay the electric bill for the streetlights. Each owner shall pay within 30 days. If an owner does not pay their share, the POA shall be entitled to place a lien on the owner's lot and shall take the form of an affidavit executed by the POA and recorded in the office of the Circuit Clerk of Washington County.

22. The City of Fayetteville, Arkansas, 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. In the event 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 of such

maintenance 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 City is hereby granted the right to use all private streets within this PZD for purposes of providing fire and police protection, sanitation service, and any other of the municipal functions. This section shall neither be amended nor terminated without approval of the City Council of Fayetteville, Arkansas.

23. No tree with a diameter at breast height of four inches or greater shall be removed from the common areas or individual lots without written approval of the POA. No mitigation trees, as shown on the tree preservation plan, shall be removed from the common areas without written approval of the POA and the City of Fayetteville Landscape Architect. In consideration of approval, the POA shall consult with an arborist, who shall determine the health of the tree. The arborist's fee shall be paid by the lot owner. Trees deemed by the arborist to be dead or dying shall be authorized for removal. Homes and related amenities on individual lots shall be designed and constructed to minimize damage to the existing trees, in accordance with the procedures outlined in the City of Fayetteville Landscape Manual. All construction plans shall be approved by the developer before commencement of construction in order to insure compliance. Failure to abide by the conditions of this provision shall subject the offending party and/or homeowner to responsibility for tree mitigation as outlined in the Landscape Manual, and to possible fines.

24. The owner of each residential lot agrees to be bound by the foregoing covenants. Any party violating these covenants will be responsible for any attorney fees incurred because of their violation.

25. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2014, at which time said covenants shall be automatically extended for successive periods of ten (10) years. Notwithstanding the above, at any time, these covenants

may be waived, terminated and/or modified as to the whole of said property or any portion thereof, with the written consent of a majority of the then owners of said lots in said property; and if only a portion of said property is intended to be affected by said waiver, termination and/or modification, then the written consent of a majority of the then owners of said lots in the portion to be affected shall also be secured. No such waiver, termination and/or modification shall be effective until the proper instrument in writing shall be executed and recorded in the office of the Recorder for the County of Washington. Each lot represents 1 vote.

26. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of these covenants, violators being subject either to restraint or to an action for damages.

27. Invalidation of any one of these covenants by judgment of court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the Grantors have hereunto affixed their hands and Seals this_____day of_____,2004.

_____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss
COUNTY OF WASHINGTON)

On this_____day of _____, 2004, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting within and for said County and State, appeared in person, Mark Foster located in Fayetteville, Arkansas and personally well know who stated that he is the owner of Stonewood Gardens Planned Zoning District and is duly authorized in his respective capacity to execute the foregoing instrument, and further stated he had executed the foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____day of_____, 2004.

_____
Notary Public

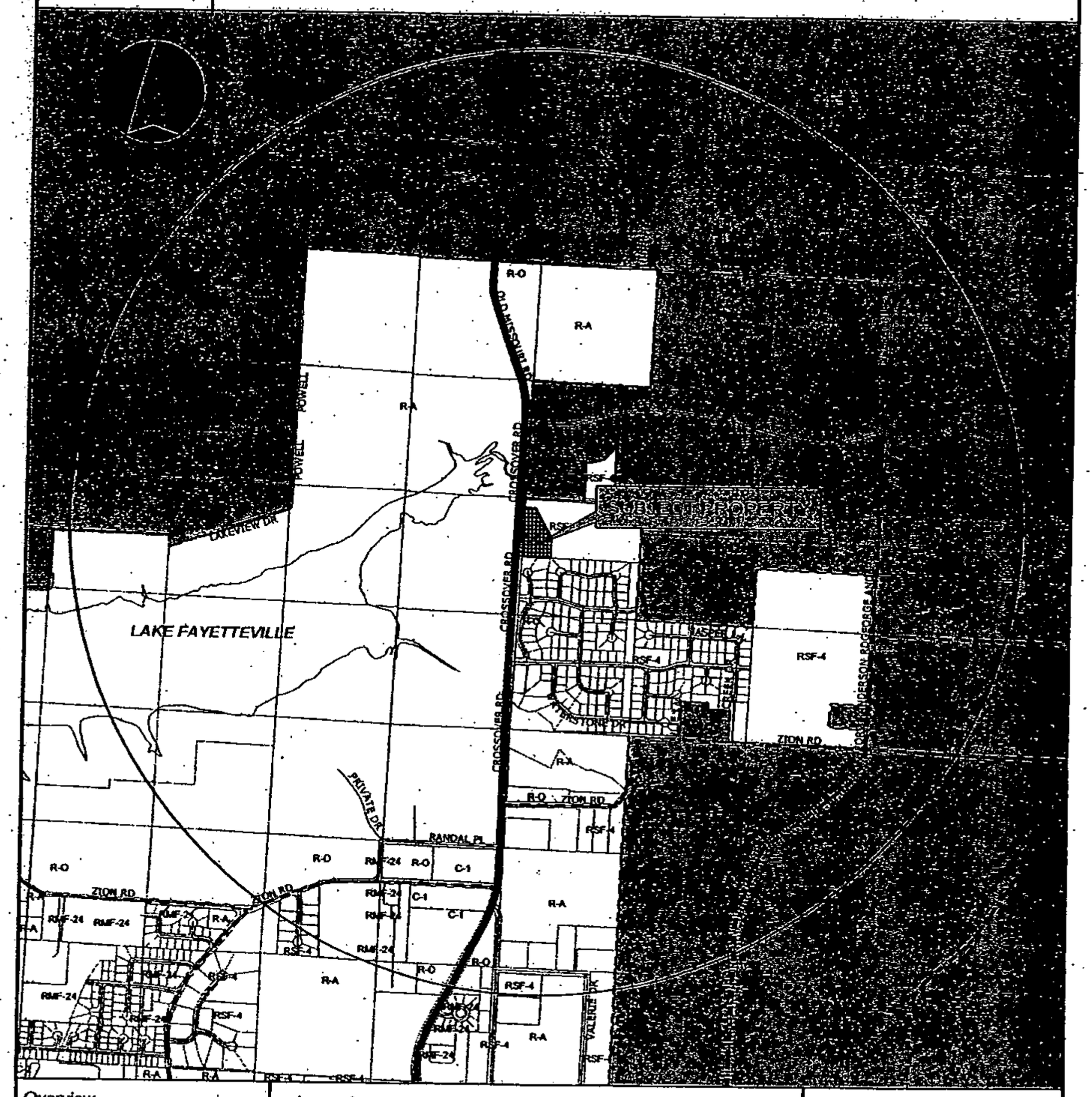
My Commission Expires:

_____

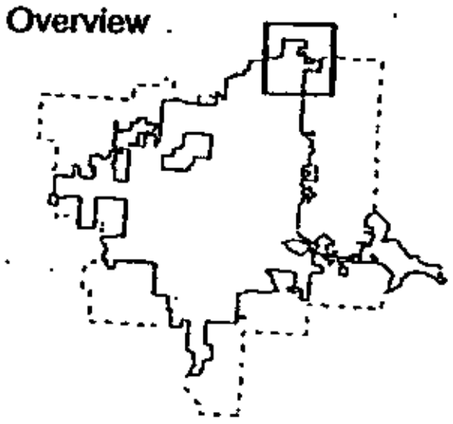
RPZD04-04.00

One Mile View

STONEWOOD GARDENS



Overview



Legend

Subject Property
- RPZD04-04.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

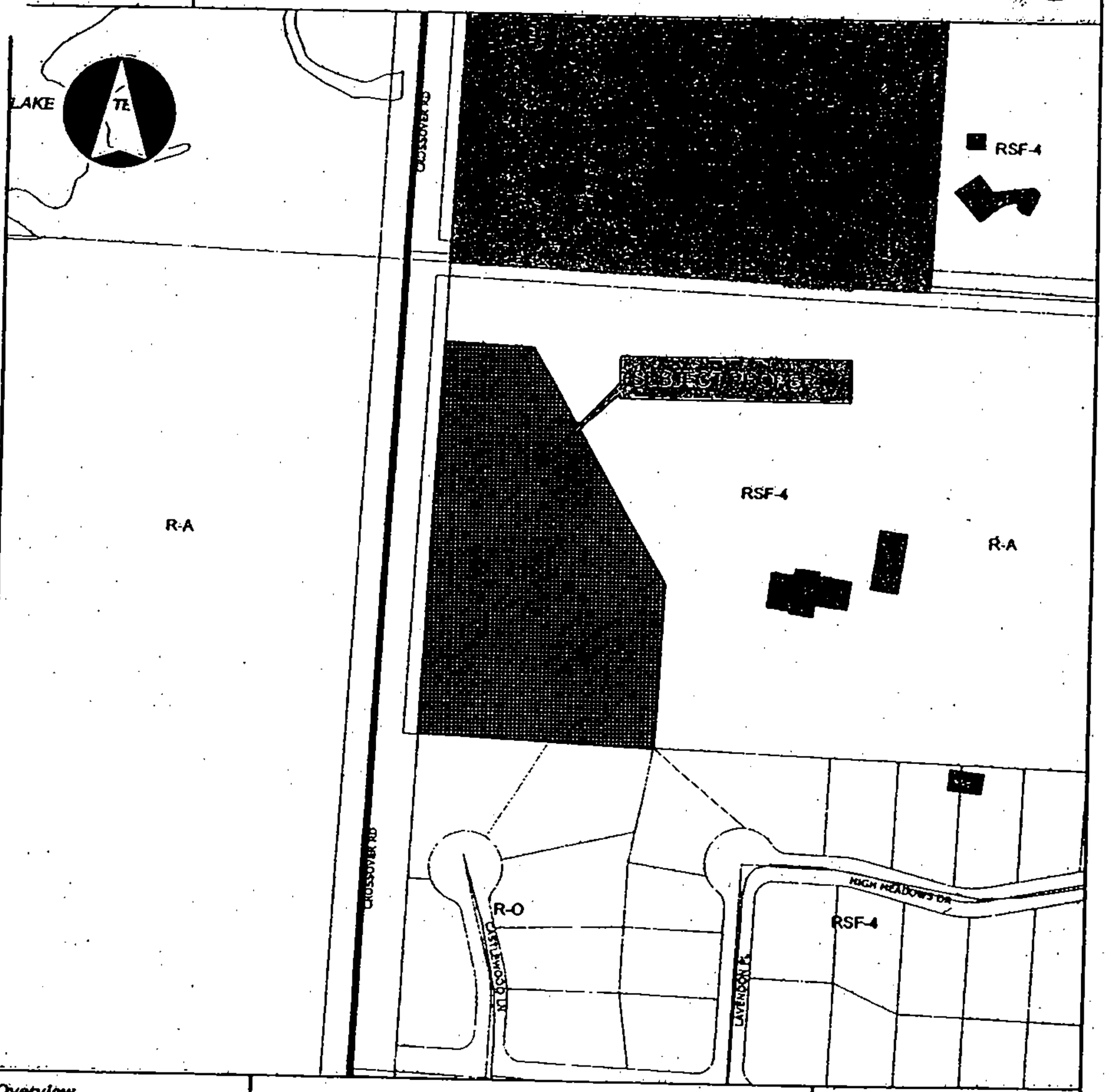
0 0.1 0.2 0.4 0.6 0.8 Miles

RPZD04-04.00

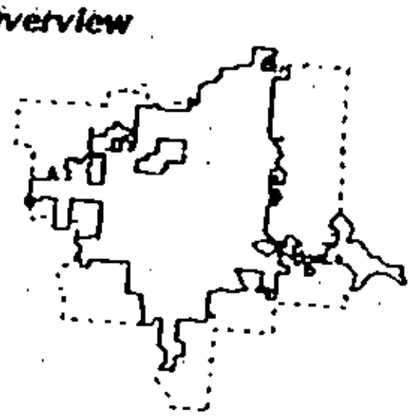
Close Up View

STONEWOOD GARDENS

R-PZD 04-4.00: Residential Planned Zoning Dist. (Stonewood Gardens)



Overview



Legend

RPZD04-04.00 — Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
City Limits
Outside City
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile

0 75 150 300 450 600 Feet

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

R-PZD 04-04.00: Residential Planned Zoning District (Stonewood Gardens, pp 60) was submitted by David Gilbert of Jorgensen & Associates on behalf of Mark Foster for property located north of the Stonewood subdivision and south of Albright Road. The property is currently zoned R-O, Residential Office and contains approximately 3.36 acres. The request is to rezone the subject property to a Residential Planned Zoning District allowing for 14 lots with 12 single family dwelling units.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — 4/2/04
Division Head — Date

Received in Mayor's Office — 4/2/04 Date

[signature] — 4/2/04
City Attorney — Date

_____ — _____
Department Director — Date

Cross Reference:

[signature] — 4-2-04
Finance & Internal Services Dir. — Date

Previous Ord/Res#: _____

Orig. Contract Date: _____

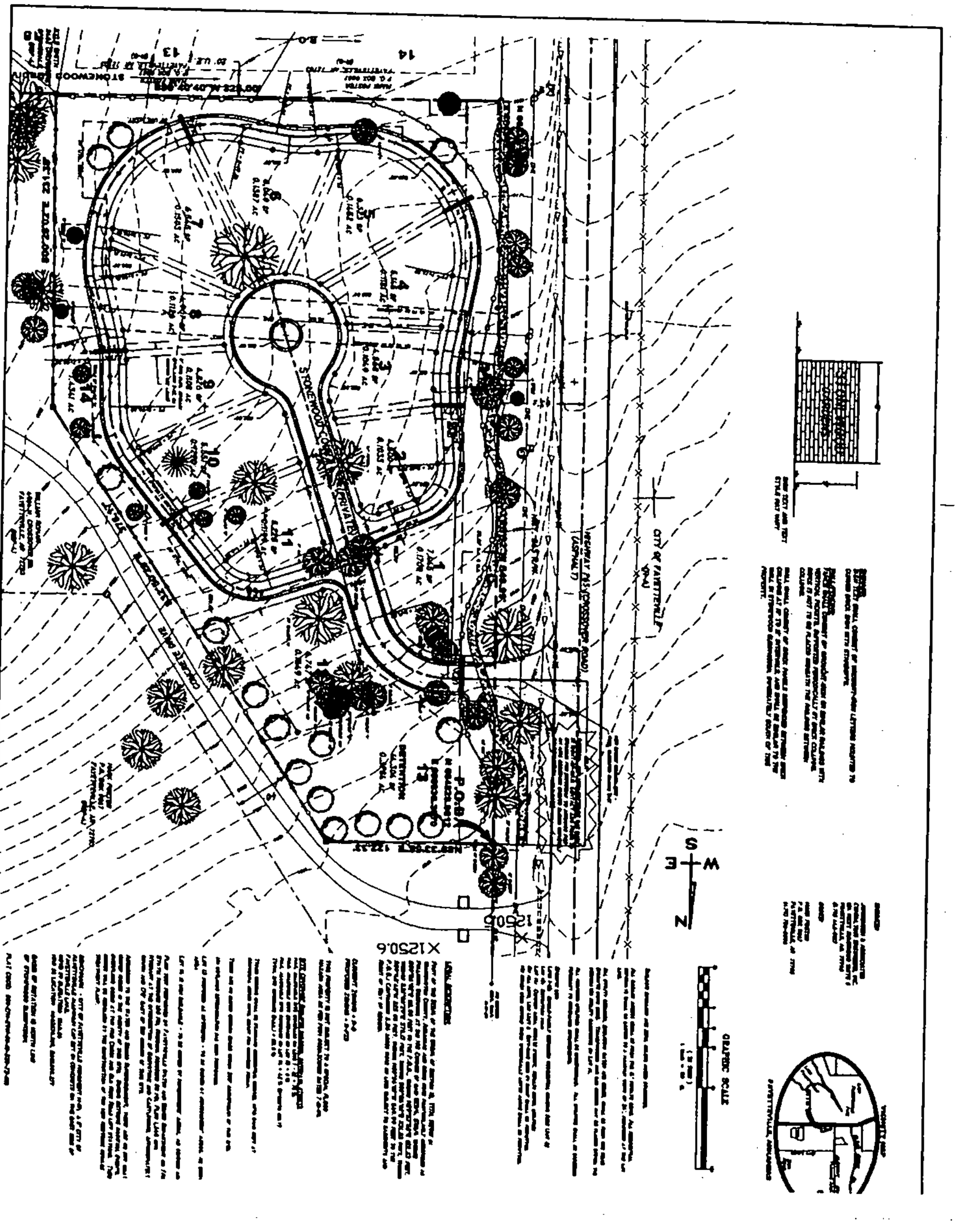
Hugh Earnest — 4-5-04
Chief Administrative Officer — Date

Orig. Contract Number: _____

Dan Coody — 4/5/04
Mayor — Date

New Item: Yes No

ENTERED 4/21/04 TCM


STONEWOOD COURT
PRIVATE
STYLE PLACE
HIGHWAY 87 S (CROSSOVER ROAD)
(ASPHALT)
CITY OF FAYETTEVILLE
N 25°40'40" W 328.00'
S 64°19'20" W 231.37'
X1250.6
1250.6
P.O.B.
P.O.C.
RETENTION
GRAPHIC SCALE
S
E
W
N

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: March 24, 2004

Subject: Easement Vacation for Sohraby (VAC 04-03.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of an existing utility easement crossing the subject property. A 20' general utility easement with a 10' portion along the southern property line of the subject property (10' on adjacent lot), was dedicated when the Covington Park subdivision was approved.

BACKGROUND

The subject property is located at 2474 Fennchurch Way. The utility easement vacation request results from a single family home that was built with an 8.0 square feet portion of the southwest corner encroaching into a 10' utility easement along the south property line. Once the encroachment into the utility easement was discovered, the proper application and notification forms to utility companies and the City were submitted to request vacation of said easement.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were reported regarding this requested easement vacation.

The Planning Commission voted 8-0-0 in favor of this request on Monday, March 22, 2004. The item was included on the Commission's consent agenda.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-03.00 TO VACATE AND ABANDON A PORTION OF AN EXISTING UTILITY EASEMENT TO ALLOW FOR THE EAVE OF AN EXISTING HOME AT 2474 FENNCHURCH WAY IN THE COVINGTON PARK PHASE I SUBDIVISION AS DESCRIBED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described utility easement is not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described utility easement:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

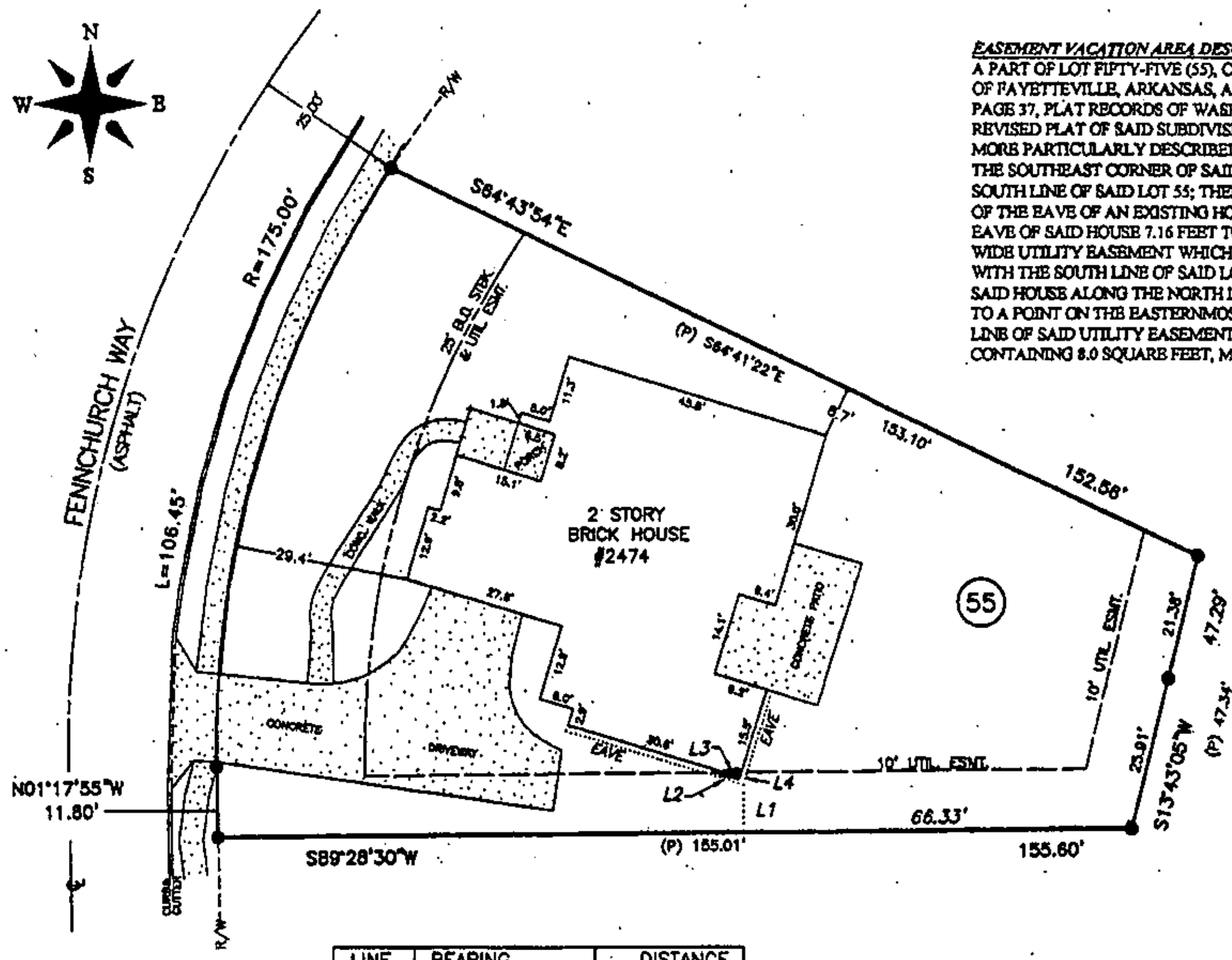
By_____
Dan Coody, Mayor

ATTEST:

By_____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 04-03.00

A PART OF LOT FIFTY-FIVE (55), COVINGTON PARK, PHASE I, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 16, AT PAGE 37, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS, AND AS SHOWN ON THE REVISED PLAT OF SAID SUBDIVISION RECORDED IN PLAT BOOK 16, AT PAGE 49, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT AN EXISTING IRON AT THE SOUTHEAST CORNER OF SAID LOT 55; THENCE S89°28'30"W 66.33 FEET ALONG THE SOUTH LINE OF SAID LOT 55; THENCE N00°31'30"W 7.89 FEET TO THE SOUTHEAST CORNER OF THE EAVE OF AN EXISTING HOUSE; THENCE N73°11'57"W ALONG THE SOUTHERNMOST EAVE OF SAID HOUSE 7.16 FEET TO A POINT ON THE NORTH LINE OF A TEN (10) FOOT WIDE UTILITY EASEMENT WHICH LIES NORTH OF AND IS ADJACENT TO AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 55; THENCE LEAVING THE SOUTHERNMOST EAVE OF SAID HOUSE ALONG THE NORTH LINE OF SAID UTILITY EASEMENT N89°28'46"E 7.50 FEET TO A POINT ON THE EASTERNMOST EAVE OF SAID HOUSE; THENCE LEAVING THE NORTH LINE OF SAID UTILITY EASEMENT S16°57'59"W 2.23 FEET TO THE POINT OF BEGINNING, CONTAINING 8.0 SQUARE FEET, MORE OR LESS.



EASEMENT VACATION AREA DESCRIPTION

A PART OF LOT FIFTY-FIVE (55), COVINGTON PARK, PHASE I, A SUBDIVISION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 16, AT PAGE 37, PLAT RECORDS OF WASHINGTON COUNTY, ARKANSAS, AND AS SHOWN ON THE REVISED PLAT OF SAID SUBDIVISION RECORDED IN PLAT BOOK 16, AT PAGE 49, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT AN EXISTING IRON AT THE SOUTHEAST CORNER OF SAID LOT 55; THENCE S89°28'30"W 66.33 FEET ALONG THE SOUTH LINE OF SAID LOT 55; THENCE N00°31'30"W 7.89 FEET TO THE SOUTHEAST CORNER OF THE EAVE OF AN EXISTING HOUSE; THENCE N73°11'57"W ALONG THE SOUTHERNMOST EAVE OF SAID HOUSE 7.16 FEET TO A POINT ON THE NORTH LINE OF A TEN (10) FOOT WIDE UTILITY EASEMENT WHICH LIES NORTH OF AND IS ADJACENT TO AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 55; THENCE LEAVING THE SOUTHERNMOST EAVE OF SAID HOUSE ALONG THE NORTH LINE OF SAID UTILITY EASEMENT N89°28'46"E 7.50 FEET TO A POINT ON THE EASTERNMOST EAVE OF SAID HOUSE; THENCE LEAVING THE NORTH LINE OF SAID UTILITY EASEMENT S16°57'59"W 2.23 FEET TO THE POINT OF BEGINNING, CONTAINING 8.0 SQUARE FEET, MORE OR LESS.

REGISTERED
STATE OF ARKANSAS
NO. 1008
SIGNATURE
G. ALAN REID
PROFESSIONAL LAND SURVEYOR

LINE	BEARING	DISTANCE
L1	N00°31'30"W	7.89'
L2	N73°11'57"W	7.16'
L3	N89°28'46"E	7.50'
L4	S16°57'59"W	2.23'

BASSETT-MIX		
DRAWN CTP	DATE 08/01/03	ALAN REID & ASSOC. 118 S. COLLEGE AVE. FAYETTEVILLE, AR 479.444.8784
APPROVED	DATE	
SCALE 1" = 20'	SHEET 1of1	PROJECT NO. 00474B

Exhibit "B"

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of March 22, 2004

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission Members
THRU: Dawn Warrick, AICP. Zoning & Development Administrator
FROM: Suzanne Morgan, Associate Planner
Matt Casey P.E. Staff Engineer
DATE: March 11, 2004

VAC 04-03.00: Vacation (Sohraby, pp 295) was submitted by Kazem Sohraby for property located at 2474 Fennchurch Way. The property is zoned RSF-4, Residential Single-family, 4 units per acre. The request is to vacate a portion of the utility easement to allow for an existing eave. Planner: Suzanne Morgan

Findings: See the attached maps and legal descriptions for the exact locations of the requested utility easement vacation.

Background: The utility easement vacation request results from a single family home that was built with an 8.0 square feet portion of the southwest corner encroaching into a 10' utility easement along the south property line. Once the encroachment into the utility easement was discovered, the proper application and notification forms to utility companies and the City were submitted to request vacation of said easement.

No objections from the adjacent property owners have been submitted to the City.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES	RESPONSE
Ozarks Electric	No Objections
AEP/SWEPCO	No Objections
Arkansas Western Gas	No Objections
SW Bell	No Objections
Cox Communications	No Objections – See conditions of approval.

CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections
Engineering	No Objections

Recommendation: Approval of the proposed utility easement vacation 04-03.00 subject to the following condition:

Conditions of Approval:

1. The remaining 9' shall remain as a general utility easement.

2. Relocation or damage to existing facilities within the easement shall be at the owner's expense.

PLANNING COMMISSION ACTION: yes Required
_____Approved _____Denied

Date: March 22, 2004

CITY COUNCIL ACTION: yes Required
_____Approved _____Denied

Date: _____

BASSETT MIX
AND ASSOCIATES, INC.

To whom it may concern:

This is a request from Mr. and Mrs. Kazem Sohraby to vacate the back cave of their home that is encroaching by 1' foot into the utility easement. Allen Reid has drawn the survey to show the encroachment and the legal description.

Mr. and Mrs. Kazem Sohraby request that this matter be resolved to provide clear title to their property.

Thank you for your consideration.

Sincerely,

David Mix
Agent/Representative

RESIDENTIAL, FARMS AND COMMERCIAL REAL ESTATE
3263 North College ✦ Fayetteville, Arkansas 72703 ✦ (479) 521-5600 ✦ (479) 751-5900 ✦ Fax (479) 521-5698
website: www.bassettmix.com

THE STANDARD OF EXCELLENCE
Working For You

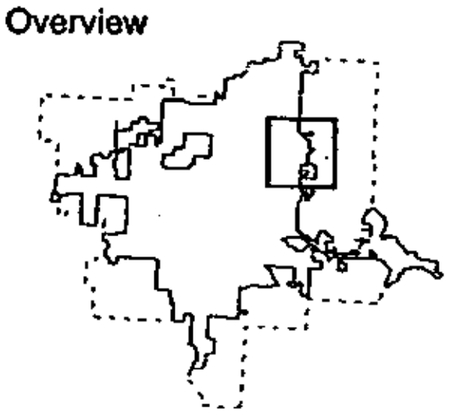
VAC04-03.00

One Mile View

SOHRABY

SUBJECT PROPERTY

Overview



Legend

Subject Property
- VAC04-03.00

Streets
- Existing
- Planned

Boundary
- Planning Area
- Overlay District
- City Limits
- Outside City

Master Street Plan
- Freeway/Expressway
- Principal Arterial
- Minor Arterial
- Collector
- Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-03.00: Vacation (Sohraby, pp 295) was submitted by Kazem Sohraby for property located at 2474 Fennchurch Way. The property is zoned RSF-4, Residential Single-Family, four units per acre. The request is to vacate 8 square feet of an existing utility easement to allow for the cave of an existing home.

STAFF RECOMMENDATION: Approval.

Dawn T. Warrick — Division Head — 4/2/04 Date

Received in Mayor's Office — 4/2/04 Date PM

[signature] — City Attorney — 4/2/04 Date

_____ — Department Director — _____ Date

Cross Reference:

Previous Ord/Res#: _____

[signature] — Finance & Internal Services Dir. — 4-2-04 Date

Orig. Contract Date: _____

Hugh Garrett — Chief Administrative Officer — 4-5-04 Date

Orig. Contract Number: _____

Dan Coody — Mayor — 4/5/04 Date

New Item: Yes No

ENTERED 4-2-04

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: April 02, 2004

Subject: Easement Vacation for Lot 17, CMN Business Park II Phase II (VAC 04-08.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of an existing utility easement on the subject property. A 20-foot general utility easement was dedicated along a proposed lot line between Lots 17E and 17F in Lot 17 of CMN Business Park. The applicant recorded this easement with an easement plat, then requested an adjustment, to better facilitate development on the subject lots.

BACKGROUND

The subject property is located at Lot 17 of CMN Business Park II, Phase II. The utility easement vacation request results from the applicant's desire to "adjust" a utility easement to follow the proposed lot line. A 20' general utility easement was dedicated along the future lot line of lots 17E and 17F with an easement plat for Lot 17, filed on February 23, 2004 (see attached exhibits). Subsequent to the filng of this easement plat, a Final Plat was submitted to the City of Fayetteville for approval of the creation of said lots, in a different configuration. Though lot lines may be adjusted, utility easements may not. Thus the applicant requests the vacation of a portion of the utility easement, and intends to file the Final Plat for Lot 17, once approved by the Planning Commission, to follow the new alignment of the proposed lot line between lots 17E and 17F.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were reported regarding this requested easement vacation.

The Planning Commission is scheduled to vote on this item on April 12, 2004, at it's next regular meeting.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-08.00 TO VACATE AND ABANDON A 20' UTILITY EASEMENT LOCATED ALONG THE BOUNDARY OF LOTS 17E AND 17F OF THE CMN BUSINESS PARK II, PHASE II AS DEPICTED ON THE ATTACHED LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described utility easement is not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement, abandoning all of its rights together with the rights of the public in general:

See Exhibit "A" attached hereto and made a part hereof.

Section 2. That a copy of this Ordinance duly certified by the City Clerk along with the legal description attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this _____ day of _____, 2004.

APPROVED:

By_____
Dan Coody, Mayor

ATTEST:

By_____
Sondra Smith, City Clerk

EXHIBIT "A"
VAC 04-08.00

A PART OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 26, TOWNSHIP 17 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING ALSO A PART OF LOT 17 OF THE CMN BUSINESS PARK II, PHASE II AS RECORDED AT DOCUMENT NUMBER 2002064980 OF WASHINGTON COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER FOR LOT 17 OF SAID CMN BUSINESS PARK II, PHASE II; THENCE COINCIDENT WITH THE EASTERN LINE OF SAID LOT 17, SOUTH 15°17'54" WEST FOR A DISTANCE OF 313.03 FEET TO A POINT; THENCE CONTINUING ALONG SAID EASTERN LINE, SOUTH 24°27'54" WEST FOR A DISTANCE OF 102.43 FEET TO A POINT; THENCE CONTINUING ALONG SAID EASTERN LINE, SOUTH 40°18'52" WEST FOR A DISTANCE OF 97.88 FEET TO A POINT; THENCE LEAVING SAID EASTERN LINE, NORTH 88°30'27" WEST FOR A DISTANCE OF 25.67 FEET TO A POINT ON AN EXISTING 20' UTILITY EASEMENT PER THE PLAT FOR CMN BUSINESS PARK II, PHASE II, AS RECORDED IN PLAT BOOK 17, PAGE 30 OF WASHINGTON COUNTY RECORDS, SAID POINT BEING ALSO THE TRUE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED TRACT; THENCE ALONG THE SOUTHERN LINE OF AN EXISTING 20' UTILITY EASEMENT AS SET FORTH IN DOCUMENT NUMBER 0023-00000090 OF WASHINGTON COUNTY RECORDS, NORTH 88°27'37" WEST FOR A DISTANCE OF 184.97 FEET TO A POINT; THENCE LEAVING SAID SOUTHERN LINE, NORTH 53°57'10" WEST FOR A DISTANCE OF 35.26 FEET TO A POINT ON THE NORTHERN LINE OF SAID EXISTING 20' UTILITY EASEMENT; THENCE ALONG SAID NORTHERN LINE SOUTH 88°30'27" EAST FOR A DISTANCE OF 230.10 FEET TO A POINT ON THE AFOREMENTIONED EXISTING 20' UTILITY EASEMENT AS PER PLAT BOOK 17, PAGE 30; THENCE LEAVING SAID NORTHERN LINE, COINCIDENT WITH THE WESTERN LINE OF SAID EXISTING 20' UTILITY EASEMENT, SOUTH 40°18'52" WEST FOR A DISTANCE OF 25.67 FEET TO THE POINT OF BEGINNING AND CONTAINING 4,151 SQUARE FEET OR 0.10 ACRES, MORE OR LESS.

Petition to relocate easements previously conveyed by easement plat along the common boundary for Lot 17E and Lot 17F in the Steele Crossing Subdivision at the cul-de-sac of Van Asche Drive East, Washington County, City of Fayetteville, Arkansas

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all the owners of the real estate for said easement, situated on the common boundary for Lot 17E and Lot 17F, Washington County, City of Fayetteville, Arkansas, a municipal corporation, petition to relocate the previously dedicated easements as depicted in the attached exhibits. Exhibit "A" depicts the current easements and Exhibit "B" depicts the proposed adjustment:

(Please see last sheet of this petition for graphical representation of proposed adjustments)

That the abutting real estate affected by said abandonment of the easements are Lot 17E, Lot 17F in the Steele Crossing Subdivision, Washington County, City of Fayetteville, Arkansas, and that the public interest and welfare would not be adversely affected by the adjustment of the easements depicted.

The petitioners pray that the City of Fayetteville, Arkansas, allow the requested adjustments to said easements location for the above described real estate and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above-described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of the said existing easements on the existing common boundary between Lot 17E and Lot 17F and allow the proposed common boundary for Lot 17E and Lot 17F to convey the same easements hereto.

Dated this 10th day of March 2004.

Nanchiar, Inc. - By: Charlottee Steele, Secretary

Printed name

Charlotte Steele

Signature

MSB Properties, LLC - By: Marjorie S. Brooks, Manager

Printed name

Marjorie S Brooks, Manager

Signature

RECEIVED
MAR 1 0 2004
PLANNING DIV.

Exhibit "A"

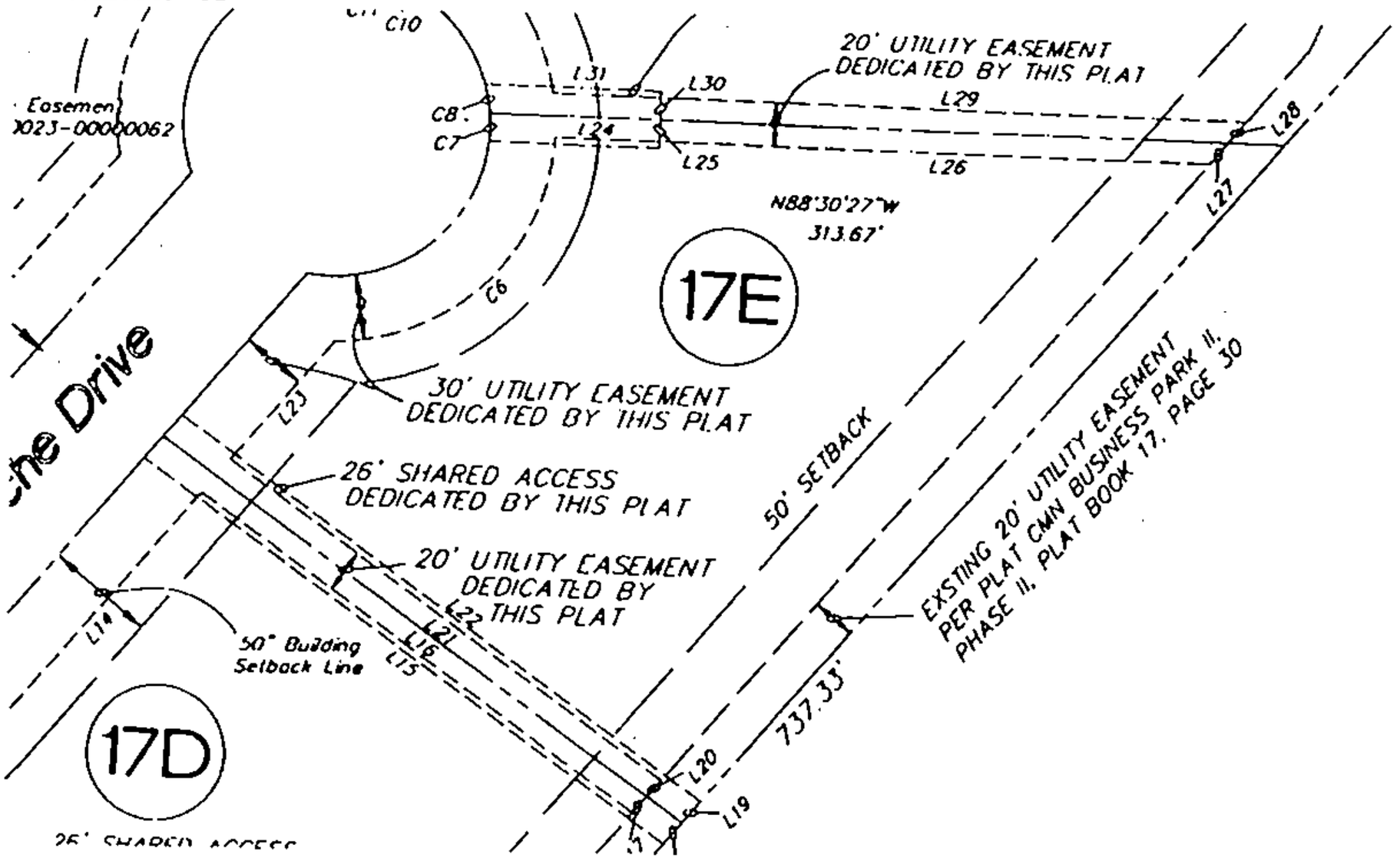
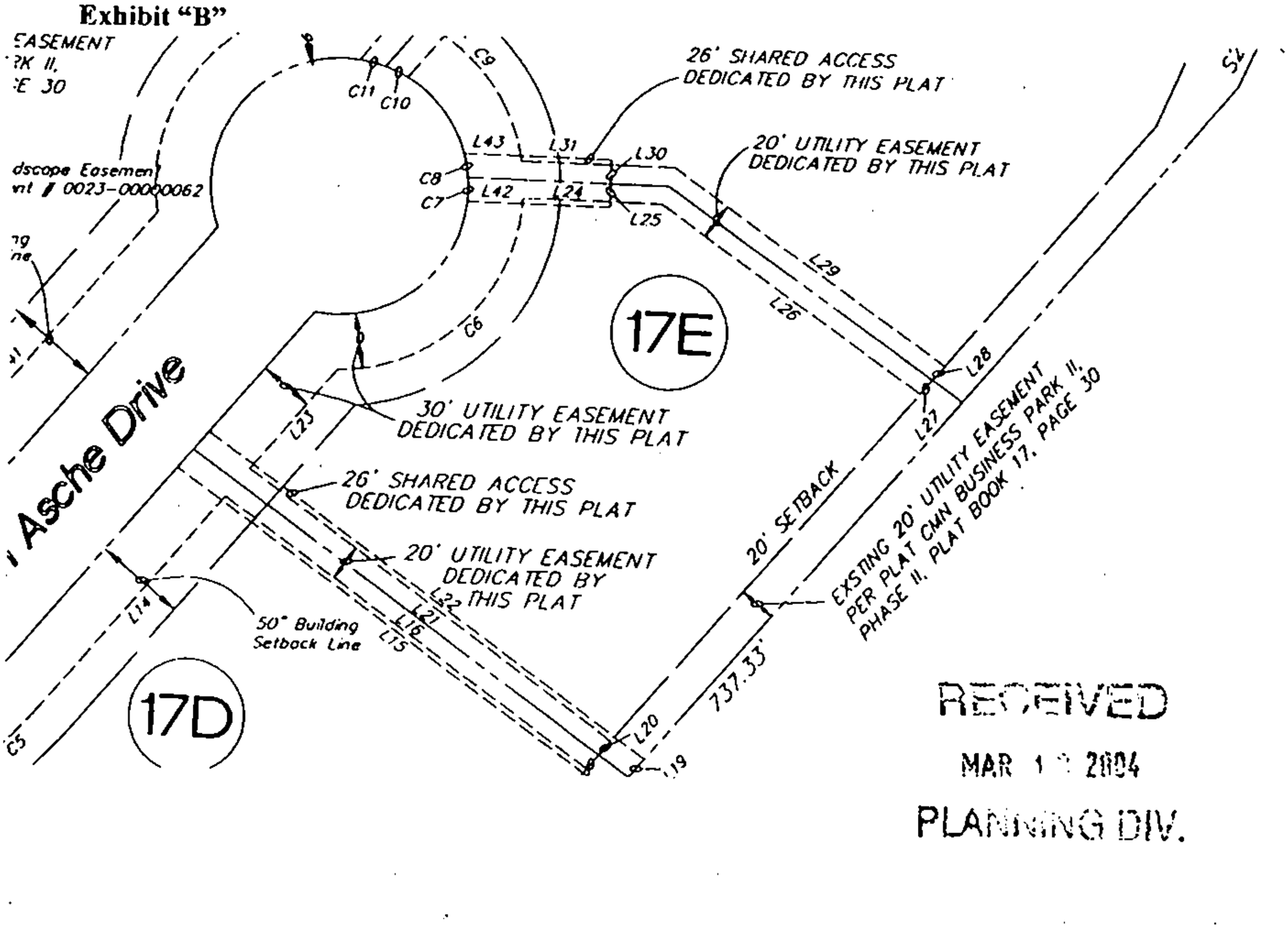


Exhibit "B"



RECEIVED
MAR 1 2004
PLANNING DIV.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

x AGENDA REQUEST

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

FROM:

Dawn Warrick	Planning	CP&E
Name	Division	Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-08.00: Vacation (CMN II, Phase II, pp 173/174) was submitted by James Koch of CEI Engineering for property located on Lot 17 of the CMN Business Park Phase II. The property is zoned C-2, Thoroughfare Commercial. The request is to vacate a 20' utility easement to allow for the easement to be centered upon a new lot line.

STAFF RECOMMENDATION: Approval.

Dawn L Warrick — Division Head — 4/5/04 Date

City Attorney — 4/7/04 Date

Department Director — 4-6-04 Date

Finance & Internal Services Dir. — 4-7-04 Date

Chief Administrative Officer — 4-7-04 Date

Mayor — 4/7/04 Date

Received in Mayor's Office _____ Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

City Council Meeting of April 20, 2004
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Louise Schaper, Executive Director -Library

Date: April 5, 2004

Subject: Increase in project contingency

RECOMMENDATION

Approve a resolution adding the funds received from Grubbs, Hoskins and monies programmed for technology improvements, final off-site improvements, moving expenses associated with moving into the new facility and the remaining deferred items into the project contingency.

BACKGROUND

This project is on budget and on schedule. Approval of this request is necessary to maintain the project's momentum to ensure that the new library will be completed on time and within budget. The project is in the final phases of completion, so it is necessary to be able to respond rapidly to changes needed in order to meet the public expectations of project completion. The technology purchases will be made from state/GSA contracts. The deferred items are being completed within budget.

Funds received to be added to general contingency:

- $105,000 from Grubbs, Hoskins settlement

Budgeted amounts to be transferred from other line items to project contingency for expenditure:

- $375,344 for deferred items and moving of the library. This includes moving the library, finishing the low voltage and security systems, and landscape work.
- $470,000 for technology items including computers, servers, printers, software and phone system.
- $49,347 for the final offsite improvements including burying telephone and cable lines and a contingency in case rock is hit.

DISCUSSION

This change is to allow deferred items to be paid for as they are incurred, many of which are in increments smaller than $20,000. It will also replace $105,000 of contingency funds paid for rock removal at the start of the project. In addition, this will allow the technology items on GSA/State contract to be purchased more timely.

BUDGET IMPACT

No impact on the project budget. All of these items are in the new main library building project budget.

RESOLUTION NO. _____

A RESOLUTION TO INCREASE THE PROJECT CONTINGENCY IN THE LIBRARY CONSTRUCTION CONTRACT BY $999,691.00 FROM SETTLEMENT AND BUDGETED ITEMS NOT FULLY NEEDED FOR THEIR DESIGNATED PURPOSE

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

Section 1: The City Council of the City of Fayetteville, Arkansas hereby increases the project contingency amount in the library construction contract authorization by $999,691.00. These additional funds come from a settlement and from budgeted items that were accomplished without fully depleting the allotted funds.

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

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Date: December 11, 2002, rev. 1/16/03, 1/23/03, 5/5/03, 9/29/03; 11/12/03; 3/25/04; 4/5/04

To: Fayetteville City Council Aldermen
From: Louise Schaper, Executive Director, Fayetteville Public Library
Subject: Blair Library Project Budget and Contract Approvals

This table identifies those requests related to the construction of the Blair Library that Council has approved, as well as forthcoming requests. Our intent is to ensure that Council is aware of all requests that are within our $23,341,655 budget for the project as approved by the FPL Board on May 2, 2002, as well as those items that are outside of this budget. Some items will be funded and/or procured by the FPL Foundation including most furnishings, some plant materials, and some technology items.

Blair Library Construction, Furnishing and Equipping

Item	Within budget?	Source(s)	Budget	Est. date approval	Date Approved	Amount	Notes
Crossland contract for construction	Yes	sales tax + private			5/21/02	$17,633,931	Includes $221,995 for off-site improvements from CIP funds
Contingency	Yes	sales tax + private	$830,000	4/20/04 (remainder)	5/21/02	$700,000	$167,676 remaining of approved contingency
Exterior cladding: APC replacement	Yes	sales tax + private	$949,658	11/02	11/19/02	$402,896	APC at entrance and brick will clad lintels + stairwell towers. Added to Crossland contract.
Low voltage equipment	Yes	sales tax + private			10/21/03	$206,701	*Added to Crossland contract.*
Low voltage conduit	Yes	sales tax + private		4/20/04		$24,077 *(pending)*	Deferred from contract
Landscape	Yes	sales tax + private		4/20/04		$54,377 *(pending)*	*Deferred from contract*
Interior signage	Yes	sales tax + private		4/20/04			*Deferred from contract*
AV Equipment	Yes	sales tax + private		4/20/04			*Deferred from contract*
Meeting room enhancements	Yes	sales tax + private		4/20/04			*Deferred from contract*
Technology related items	Yes	sales tax + private	$470,000	4/20/04			
Furnishings	Yes	private	$980,000		3/16/04	$151,185	Shelving; remainder by private funds
Smart library, e.g. conveyor, self-check, RFID	Yes	sales tax + private	$659,751	5/03	5/03	$395,632	Conveyor
							RFID
							Self-check
Moving costs	Yes	sales tax + private	$30,000	4/20/04			

This page identifies those items related to off-site improvements (utility burial, drainage, sidewalks etc.) approved in CIP ($671,995). Because additional off-site improvements have been requested by City departments and will be funded by these departments we list them here as well. We will, as those items come up, list any additional CIP items approved in 2003 for use in 2004, i.e. signage and landscape.

CIP Approved Off-Site Improvements Related to Blair Library

Item	Within budget?	Source(s)	Budget	Est. date approval	Date Approved	Amount	Notes
Off-site improvements (see first item above)	Yes	Off-site CIP	$221,995		5/21/02	$221,995	In Crossland Contract, but funded from CIP site improvements project. Includes sidewalks etc.
West Avenue underground utilities	Yes	Off-site CIP	$101,806		10/21/03	$101,806	West Ave underground utility permanent power. Vendor is AEP/SWEPCO.
West Avenue underground utilities to residences	Yes	Off-site CIP	$110,117		11/18/03	$110,117	Addition to Crossland contract for installation of underground utilities to seven housing structures adjacent to Blair Library on west side of West Avenue.
School Street utility burial	Yes	Off-Site CIP	$186,395.		3/16/04	$186,395	Utility burial AEP/SWEPCO; there is a "rock clause" in the contract.

Additional Improvements to Blair Library

Item	Within budget?	Source(s)	Budget	Est. date approval	Date Approved	Amount	Notes
CIP Approved Improvements Related to Blair Library	Not in library budget. In Water & Sewer Funds	Water and Sewer Funds	$41,342	11/18/03	11/18/03	$41,342	Improvements to water and sewer that were identified after the contract was signed with Crossland. Includes new 6" waterlines in Mountain; 8" waterline in School; 8" sanitary sewer in Rock and 12" waterline in Rock. These improvements are requested to correct leaking, deteriorated and undersized old water and sewer lines in the streets adjacent to Blair Library.

STAFF REVIEW FORM

X AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

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

FROM:

Louise Schaper	Fayetteville Public Library	General Government
Name	Division	Department

ACTION REQUIRED: Approve an increase in project contingency for the new main library of $999,691. This covers the final deferred items, technology items, final offsite improvement items, technology purchases, restoring the recovered funds from Grubbs, Hoskins and moving of the new library.

COST TO CITY:

$ 999,691.00	$ 8,950,917	New Library
Cost of this request	Category/Project Budget	Program Category / Project Name
4150-9150-580400	$ 6,491,365	New Library
Account Number	Funds Used to Date	Program / Project Category Name
99073-1	$ 2,459,552	Library Construction Fund
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: X Budgeted Item ____ Budget Adjustment Attached

Budget Manager — Date: 4-5-04

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager — Date: 4/5/04

Internal Auditor — Date: 4/5/04

City Attorney — Date

Purchasing Manager — Date

STAFF RECOMMENDATION:

Division Head — Date: 4/5/04

Department Director — Date

Finance & Internal Services Dir. — Date: 4-6-04

Chief Administrative Officer — Date: 4-7-04

Date: 4/6/04

Cross Reference

New Item: Yes No

Previous Ord/Res#: _____

Orig. Contract Date _____

Orig. Contract Number _____

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

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

FROM: **Kit Williams**, City Attorney

DATE: **April 5, 2004**

RE: **Ordinance for Sewer Committee**

State statutes require a city to have either a "sewer committee", "sanitary board", or water and sewer commission (like Springdale has). Although we have had a water and sewer committee for at least a dozen years, it should be named officially "sewer committee" according to A.C.A. §14-235-206 (a)(3). (copy attached) The sewer committee can be granted great authority by the City Council pursuant to A.C.A. §14-235-207. (copy attached) However, **the City Council can retain control** of this committee as it does with all other aldermen committees (street, equipment, nominating, ordinance review) **if it passes the proper ordinance.**

> "The committee will function **under the control of the council to such extent as may be provided in the ordinance** or resolution appointing the committee." A.C.A. §14-235-206(a)(1)(B). (emphasis added)

Since I could not find an existing ordinance establishing the City Council's ultimate authority over the Sewer Committee, I believed it would be prudent to draft one for your consideration. This new section of the Fayetteville Code only clarifies and does not change the procedures and function exerted by the Water and Sewer Committee since 1992.

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL §33.226 AND §33.227 **HISTORIC DISTRICT COMMISSION** AND ENACT A REPLACEMENT §33.226 **SEWER COMMITTEE**

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §33.226 and §33.227 dealing with the Historic District Commission which has long been inactive and enacts a replacement **§33.226 Sewer Committee** as shown below:

"SEWER COMMITTEE

"§33.226 Sewer Committee.

"(A) There is hereby established a Sewer Committee pursuant to state law. The Sewer Committee shall be composed of four aldermen who serve at the pleasure of the entire City Council. The mayor may appoint, subject to City Council approval, all members, (including replacement members) of the Sewer Committee.

(B) The Sewer Committee shall have all powers, duties and responsibilities provided to such committee in A.C.A. §14-235-207, et. seq. All actions and recommendations of the Sewer Committee must be ratified and approved by the City Council to become effective. The City Council expresses its intent to exercise its control of the Sewer Committee to the maximum extent possible pursuant to state law.

(C) The Sewer Committee is also designated advisory authority over the clean water system of the city."

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

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

14-235-205. Authority to own, etc., systems.

(a) A municipality shall have authority to:

(1) Acquire, by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way, and property within or without the corporate limits of the city or town; and

(2) Issue revenue bonds to pay the cost of these works and property.

(b) No obligation shall be incurred by the municipality in the construction or acquisition except such as is payable solely from the funds provided under the authority of this subchapter.

History. Acts 1933, No. 132, § 1; Pope's Dig., § 9977; A.S.A. 1947, § 19-4101.

CASE NOTES

Analysis

General revenues.
Outside corporate limits.

General Revenues.

A city should not use its general revenues for the repair of sewers, when to do so would defeat its ability to pay the administrative expenses of the city government. Manhattan Rubber Mfg. Div. of Raybestos, Inc. v. Bird, 208 Ark. 167, 185 S.W.2d 268 (1945).

Outside Corporate Limits.

A sewer improvement district may acquire an outlet for the sewage, and it may do so although the outlet extends beyond the corporate limits of the municipality within which the sewer district was organized, but compensation for the outlet and the damages incident thereto should be assessed on the theory of a permanent taking under the right of eminent domain. Sewer Imp. Dist. No. 1 v. Jones, 199 Ark. 534, 134 S.W.2d 551 (1939).

Cited: Cowling v. City of Foreman, 238 Ark. 677, 384 S.W.2d 251 (1964).

14-235-206. Appointment of sewer committee.

(a)(1)(A) The construction, acquisition, improvement, equipment, custody, operation, and maintenance of any works for the collection, treatment, or disposal of sewage and the collection of revenue from it for the service rendered by it, shall be effected and supervised by a committee to be designated for that purpose by the municipal council.

(B) The committee will function under the control of the council to such extent as may be provided in the ordinance or resolution appointing the committee.

(2) The council may remove any member of the committee, with or without cause, and may appoint any substitute members in case of death, removal, or resignation.

(3)(A) The committee will be called the "sewer committee."

(B) Provided, however, any city may by ordinance change the name of its sewer committee to "wastewater treatment committee", and, in such instance, the wastewater treatment committee shall have all powers, duties, and functions prescribed by this chapter for wastewater treatment committees.

(b) The council may appoint one (1) sewer committee to handle all municipal sewer projects, or it may entrust each project to a separate committee.

History. Acts 1933, No. 132, § 2; Pope's Dig., § 9978; Acts 1961, No. 156, § 1; A.S.A. 1947, § 19-4102; Acts 1995, No. 555, § 1; 1995, No. 849, § 1.

Amendments. The 1995 amendment by No. 555 repealed former subsection (c).

The 1995 amendment by No. 849 added (a)(3)(B); and added the quotation marks in (a)(3)(A).

CASE NOTES

Cited: United States v. Little Rock Sewer Comm., 460 F. Supp. 6 (E.D. Ark. 1978); City of Little Rock v. Chartwell Valley Ltd. Partnership, 299 Ark. 542, 772 S.W.2d 616 (1989).

14-235-207. Powers and duties of sewer committee.

(a)(1)(A) The sewer committee shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this subchapter.

(B) Any contract relating to the financing of the acquisition or construction of any works or any trust indenture as provided for in § 14-235-219 shall be approved by the municipal council before it shall be effective.

(2) The committee may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as, in its judgment, may be necessary in the execution of its powers and duties and may fix their compensation, all of whom shall do such work as the committee shall direct.

(3) All compensation and all expenses and liabilities incurred in carrying out the provisions of this subchapter shall be paid solely from funds provided under the authority of this subchapter, and the committee shall not exercise or carry out any authority or power given it in this subchapter so as to bind the committee or the municipality beyond the extent to which money shall have been or may be provided under the authority of this subchapter.

(4)(A) No contract or agreement with any contractor for labor or material exceeding the sum of ten thousand dollars ($10,000) shall be made without advertising for bids.

(B) The bids shall be publicly opened and award made to the best bidder, with power in the committee to reject any or all bids.

(b) After the construction, installation, and completion of the works or the acquisition of them, the committee shall:

(1) Operate, manage, and control them and may order and complete any extensions, betterments, and improvements of and to the works that it may deem expedient if funds for them are available, or are made available, as provided in this subchapter;

(2) Establish rules and regulations for the use and operation of the works and of other sewers and drains connected with them so far as they may affect the operation of the works; and

(3) Do all things necessary or expedient for the successful operation of the works.

(c) All public ways or public works damaged or destroyed by the committee in carrying out its authority under this subchapter shall be restored or repaired by the committee and placed in their original condition, as nearly as practicable, if requested to do so by proper authority, out of funds provided by this subchapter.

History. Acts. 1933, No. 132, § 3; Pope's Dig., § 9979; Acts 1979, No. 575, § 1; A.S.A. 1947, § 19-4103.

CASE NOTES

Employees.

In the critical area of hiring supervisory personnel, the sewer committee is charged with duties and powers analogous to the powers exercised by a corporate board of directors in hiring key executive employees. United States v. Little Rock Sewer Comm., 460 F. Supp. 6 (E.D. Ark. 1978).

14-235-208. Appointment, members, etc., of sanitary board.

(a)(1) The municipal council may, in its discretion, provide by ordinance that the custody, administration, operation, and maintenance of sewage system works shall be under the supervision and control of a sanitary board created as provided in this section.

(2)(A)(i) A sanitary board shall be composed of the mayor of the municipality and two (2) persons appointed by the council.

(ii) No officer or employee other than the mayor of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on the board until at least one (1) year after the expiration of the term of his public office.

(B)(i) The appointees shall originally be appointed for terms of two (2) and three (3) years, respectively, and, upon the expiration of each term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three (3) years.

(ii) Vacancies shall be filled for an unexpired term in the same manner as the original appointment.

(3) Each member shall give such bond, if any, as may be required by ordinance.

(b)(1)(A) The mayor shall act as chairman of the board, which shall select a vice chairman from its members and shall designate a secretary and treasurer, who need not be members of the sanitary board.

(B) The secretary and the treasurer may be one (1) and the same.

(2) The vice chairman, secretary, and treasurer shall hold office as such at the will of the board.

(c)(1)(A) The members of the board shall receive such compensation for their services, either as a salary or as payments for meetings

attended, as the council may determine, not in excess of twenty-five dollars ($25.00) per month for each member, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties.

(B) The council shall, in its discretion, fix the reasonable compensation of the secretary and treasurer and shall fix the amount of bond to be given by the treasurer.

(2) All compensation, together with the expenses referred to in this section, shall be paid solely from funds provided under the authority of this subchapter.

History. Acts 1933, No. 132, § 15; Pope's Dig., § 9991; A.S.A. 1947, § 19-4115.

14-235-209. Powers and duties of sanitary board.

(a) The board shall have power to establish bylaws, rules, and regulations for its own government.

(b) The board, in respect to all matters of custody, operation, administration, and maintenance of the works, shall have all the powers and perform all the duties provided in § 14-235-207 for the sewer committee in respect of these matters.

History. Acts 1933, No. 132, § 15; Pope's Dig., § 9991; A.S.A. 1947, § 19-4115.

14-235-210. Power of eminent domain.

(a)(1) Under this subchapter, every municipality shall have power to condemn any works to be acquired and any land, rights, easements, franchises, and other property, real or personal, deemed necessary or convenient for the construction of any works, or for extensions, improvements, or additions to them. In this connection, they may have and exercise all the rights, powers, and privileges of eminent domain granted to municipalities under the laws relating to them.

(2) Title to property condemned shall be taken in the name of the municipality.

(3) Proceedings for such appropriation of property shall be under and pursuant to the provisions of §§ 18-15-301 — 18-15-303 and any acts supplemental to it. However, a municipality shall be under no obligation to accept and pay for any property condemned or purchased except from the funds provided pursuant to this subchapter.

(4)(A) In any proceedings to condemn, such orders may be made as may be just to the municipality and to the owners of the property to be condemned.

(B) An undertaking or other security may be required securing the owners against any loss or damage to be sustained by reason of the failure of the municipality to accept and pay for the property. However, the undertaking or security shall impose no liability upon

C. 6
Sewer Committee
Page 4 of 6

CITY ATTORNEY AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF APRIL 20, 2004

FROM:

CITY ATTORNEY KIT WILLIAMS

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Repeal §33.226 And §33.227 Historic District Commission And Enact A Replacement §33.226 Sewer Committee

APPROVED FOR AGENDA:

City Attorney — 4-5-04 Date

Mayor — 4/5/04 Date

Chief Admin. Officer — 4-5-04 Date

Water & Wastewater Dir. — 4-5-04 Date

Finance & Internal Serv. Dir. — 4-5-04 Date

ENTERED

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: **April 21, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of April 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. **Multi-Craft Contractors-Emergency Generator:** Resolution approving Amendment #3 w/Multi-Craft Contractors for purchase and installation of emergency generator at City Admin. Building in amount of $41,903.00 & approving contingency in amount of $2,095.00;

2. **2004/2005 Drug Enforcement Grant:** Resolution accepting 2004/2005 Drug Enforcement grant in amount of $305,095.00 with commitment to match it with $75,929.00 in city funds;

3. **Crossland Construction Company Library CO#14:** Resolution approving Change Order #14 w/Crossland Construction Company, Inc. in amount of $78,454.00 to install landscape irrigation, engineered soil & mulch, and low voltage conduit at new Fayetteville Public Library;

4. **Henard Utility Products-Compost Grinder:** Resolution approving purchase of Bandit 3680 "Beast" Compost Grinder by Solid Waste & Recycling division from Henard Utility Products in amount of $239,068.75;

5. **Landers Ford-Fire Department Vehicle Purchase:** Resolution approving purchase of Ford Expedition from Landers Ford at state contract price of $25,811.00 for use by Fayetteville Fire Department; approving additional expenditure of $2,350.00 to equip vehicle w/lights, siren and console;

6. **Ron Blackwell-Water & Sewer Vehicle Purchase:** Resolution approving purchase of two Ford F550 Trucks for Water & Sewer Division from Ron Blackwell Ford for total price of $79,133.76;

7. **Schwarze Industries Street Sweeper Purchase:** Resolution approving purchase of street sweeper for Transportation Division from Schwarze Industries in amount of $139,376.00;

8. **Basic Construction Top Soil Purchase:** Resolution awarding bid to low bidder, Basic Construction, Inc. in amount of $50,000.00 to purchase top soil for street and sidewalk projects;

9. **2004 FEMA Fire Act Grant:** Resolution approving grant request for FEMA Fire Act grant and agreement to match any received grant funds in an amount equal to 30% of the total project;

10. **Gregory Park Land-Convey to U.A. Army Reserve Center:** Resolution approving acceptance of quitclaim deed for approximately 19.38 acres of land from U.S. Department of Army in Exchange for conveying a warranty deed for approximately 0.412 acres of land to clear title and resolve an encroachment; and authorizing mayor and city clerk to execute4 any and all documents required;

11. **CEMS:** Resolution approving renewal of contract for service in amount of $156,000.00 between City of Fayetteville and CEMS, Inc. to operate and maintain emergency ambulance service to serve the residents of Fayetteville;

12. **ANX 03-5.00:** Ordinance confirming annexation to City of Fayetteville, certain property owned by Dunnerstock Development, Inc. located on Rupple Road north of Wedington Drive containing approximately 17.19 acres;

13. **RZN 03-33.00:** Ordinance rezoning that property described in rezoning petition RZN 03-33.00 submitted by James McCord on behalf of Dunnerstock Development, Inc. for property located on Rupple Road north of Wedington Drive, from R-A, Residential Agricultural to RSF-4 Residential Single Family, four units per acre;

14. **RZN 04-02.00:** Ordinance rezoning property described in rezoning petition RZN 04-02.00 submitted by Geoff Bates of Keystone Consultants on behalf of David Chance and John Tuggle for property located at West Tackett and Genevieve Avenue containing approximately 7.94 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre;

15. **NWARPC Storm Water Education Contract:** Ordinance to waive competitive bidding & approving a five year contract for $204,790.00 with NWARPC for services by U of A Cooperative Extension Service to satisfy portions of requirements of the NPDES Phase II Stormwater Permit;

16. **VAC 04-3.00:** Ordinance approving VAC 04-3.00 to vacate and abandon a portion of existing utility easement to allow for the eave of existing home at 2474 Fennchurch Way in Covington Park Phase I Subdivision as described on attached map and legal description;

17. **VAC 04-8.00:** Ordinance approving VAC 04-8.00 to vacate and abandon a 20' utility easement located along the boundary of Lots 17E and 17F of the CMN Business Park II, phase II as depicted on attached legal description;

18. **Library Project Contingency Increase:** Resolution increasing project contingency for new Fayetteville Public Construction by $999,691.00 from settlement and budgeted items;

19. **Sewer Committee:** Ordinance enacting new section of Fayetteville Code, **§33.112 Sewer Committee**.

Tentative Agenda
City Council Meeting
April 20, 2004

A meeting of the Fayetteville City Council will be held on April 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: Fire Department's Wellness & Fitness Program Presentation.

Municipal Clerks Week Proclamation

Nominating Committee Report: Dusti Miller – Fayetteville Housing Authority Appointment.

A. CONSENT:

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

2.

B. OLD BUSINESS:

1. **Central Emergency Medical Services, Inc.:** A resolution approving the renewal of the contract for services in the amount of $156,000.00 between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville.

2. **ANX 03-5.00 (Dunnerstock Development):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Dunnerstock Development, Inc. located on Rupple Road north of Wedington Drive containing approximately 17.19 acres.

3. **RZN 03-33.00 (Dunnerstock):** An ordinance rezoning that property described in rezoning petition RZN 03-33.00 as submitted by James McCord on behalf of Dunnerstock Development, Inc. for property located on Rupple Road north of Wedington Drive from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

4. **ANX 03-06.00 (Hoskins/Schlegel):** An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres.

5. **RZN 03-34.00 (Hoskins/Schlegel):** An ordinance rezoning that property described in rezoning petition RZN 03-34.00 as submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

6. **RZN 04-2.00 (Chance & Tuggle):** An ordinance rezoning that property described in rezoning petition RZN 04-02.00 as submitted by Geoff Bates of Keystone Consultants on behalf of David Chance and John Tuggle for property located at West Tackett and Genevieve Avenue containing approximately 7.94 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

C. NEW BUSINESS:

1. **R-PZD 04-4.00: Residential Planned Zoning District (Stonewood Gardens):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of the Stonewood Subdivision containing 3.36 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.

2. **VAC 04-3.00: Vacation (Sohraby):** An ordinance approving VAC 04-3.00 to vacate and abandon a portion of an existing home at 2474 Fennchurch Way in the Covington Park Phase I subdivision as described on the attached map and legal description.

Consent 3. **Multi-Craft Contractors-Emergency Generator for City Administration Building:** A resolution approving amendment No. 3 to the contract with Multi-Craft Contractors for the purchase and installation of an emergency generator at the City Administration Building in the amount of $41,903.00; and approving a contingency in the amount of $2,095.00.

Consent 4. **2004/2005 Drug Enforcement Grant:** A resolution to accept the 2004/2005 Drug Enforcement Grant in the amount of $305,095.00 with a commitment to match it with $75,929.00 in city funds.

Consent 5. **Crossland Construction Company Library CO #14:** A resolution approving Change Order #14 to the contract with Crossland Construction Company, Inc. in the amount of $78,454.00 to install landscape irrigation, engineered soil and mulch and low voltage conduit at the New Fayetteville Public Library.

Consent 6. **Henard Utility Products-Compost Grinder:** A resolution approving the purchase of a Bandit 3680 "Beast" Compost Grinder by the Solid Waste & Recycling Division from Henard Utility Products in the amount of $239,068.75.

Consent 7. **Landers Ford-Fire Department Vehicle Purchase:** A resolution approving the purchase of a Ford Expedition from Landers Ford at the state contract price of $25,811.00 for use by the Fayetteville Fire Department; and approving an additional expenditure of $2,350.00 to equip the vehicle with lights, siren and console.

Consent

8. **Ron Blackwell-Water & Sewer Vehicle Purchase:** A resolution approving the purchase of two Ford F550 Trucks for the Water and Sewer Division from Ron Blackwell Ford for a total price of $79,133.76.

Consent

9. **Schwarze Industries Street Sweeper Purchase:** A resolution approving the purchase of a Street Sweeper for the Transportation Division from Schwarze Industries in the amount of $139,376.00.

Consent

10. **Basic Construction Top Soil Purchase:** A resolution to award a bid to the low bidder, Basic Construction, Inc. in the amount of $50,000.00 to purchase top soil for street and sidewalk projects.

11. **Sewer Committee:** An ordinance to repeal §33.226 and §33.227 Historic District Commission and enact a replacement §33.226 Sewer Committee.

12. **Library Project Contingency Increase:**

~~13. Library Annex Sale:~~

Consent

14. **2004 FEMA Fire Act Grant:**

15. **VAC 04-8.00: Vacation (CMN II, Phase II):**

~~16. Amend Title XV of the Unified Development Code Outdoor Use in C-3 and C-4:~~

17. **Northwest Arkansas Regional Planning Commission Storm Water Education Contract:**

Consent Leave on per kit move to Consent

~~18. Gregory Park Land Convey to U.S. Army Reserve Center~~:

~~19. 2050 W. 6th Street Property Sale (Formerly Shake's Frozen Custard~~):

D. INFORMATIONAL:

Council Tour: April 19, 2004