

**Final Agenda
City Council Meeting
June 15, 2004**

A meeting of the Fayetteville City Council will be held on June 15, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Nominating Committee Report: APPROVED

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the May 18, 2004 meeting minutes and the June 1, 2004 meeting minutes.

APPROVED MAY 18, 2004 AND JUNE 1, 2004 MINUTES.

2. **RJN Group Sewer Rehabilitation:** A resolution to approve an engineering contract with RJN Group, Inc. in the amount of \$226,978.00 for the design and bidding phase services for the sewer rehabilitation project.

PASSED AND SHALL BE RECORDED AS RESOLUTION 91-04.

3. **Tomlinson Asphalt Shiloh Drive Widening:** A resolution awarding a construction contract to Tomlinson Asphalt Company, Inc. in the amount of \$186,218.75 for the widening of Shiloh Drive from Gregg Avenue to Steele Boulevard; and approving a project contingency in the amount of \$58,622.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION 92-04.

4. **OMI Rebate Transfer of Funds:** A resolution approving as budget adjustment transferring \$128,902.00 of Operations Management International (OMI) rebates from Water & Sewer Fund Balance to the Lift Station Improvements account.

PASSED AND SHALL BE RECORDED AS RESOLUTION 93-04.

B. OLD BUSINESS:

1. **R-PZD 04-06.00 (John Nock):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-06.00 located on Rupple Road south of Wedington Drive containing approximately 41.70 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. *The ordinance was left on the second reading at the June 1, 2004 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE 4580.

2. **Ripple Row Money in Lieu of Land:** A resolution to accept the recommendation of the Parks and Recreation Advisory Board to accept \$7,482.75 in lieu of a portion of the parkland dedication requirements of Ripple Row Subdivision. *The resolution was tabled at the June 1, 2004 City Council meeting until the June 15, 2004 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION 94-04.

C. NEW BUSINESS:

1. **Washington County Inter-Local Agreement:** An ordinance approving an inter-local agreement between Washington County, Arkansas, and the City of Fayetteville, Arkansas, concerning the expenditure of funds received from the Arkansas Department of Emergency Management and the disposition of various items of emergency equipment purchased with such funds.

PASSED AND SHALL BE RECORDED AS ORDINANCE 4581.

2. **Shake's Building Sale:** A resolution of intent to sell municipally owned property at the corner of Sang Avenue and Sixth Street (a portion of the former Shake's Frozen Custard Lot and building).

PASSED AND SHALL BE RECORDED AS RESOLUTION 95-04.

3. **VAC 04-1070 (Gerald Tomlinson):** An ordinance approving VAC 04-1070 to vacate and abandon a 45' existing right of way that extends north of the intersection of West Salem Road and Ripple Road through The Estates at Salem Hills property and a 50' right of way that extends west of the intersection of Howard Nickel Road and Salem Road through The Estates at Salem Hills as depicted on the attached map and legal description.

PASSED AND SHALL BE RECORDED AS ORDINANCE 4582.

4. **VAC 04-1105 (Thomas Lutz):** An ordinance approving VAC 04-1105 to vacate and abandon a portion of a 10' utility easement designated for gas and water located at 1645 W. Sunrise Mountain Road as depicted on the attached map and legal description.

PASSED AND SHALL BE RECORDED AS ORDINANCE 4583.

5. **VAC 04-11.00 (Houses Development Company):** An ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8, and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on the attached map and legal description.

THIS ITEM WAS LEFT ON THE FIRST READING.

D. INFORMATIONAL:

No Council Tour

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

Subject:	Nominating Committee Report				
Motion To:		Approve report			
Motion By: Seconded:		<u>Marr</u> Thiel Lucas			
	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

Fayetteville City Council Meeting of June 15, 2004

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

Res
91-04
to
93-04

Subject:	R-PZD -04-6.00 (John Nock)				
Motion To:		3rd read	Pass		Chief Bosch
Motion By:		Davis	Pass		John Nock
Seconded:		Marr			
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Marr	✓	✓		
	Rhoads	✓	✓		
	Davis	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Mayor Coody				

old
Business
#1

passed
Ordinance
4580

Fayetteville City Council Meeting of June 15, 2004

Subject:	Ripple Row Money in Lieu of Land				
Motion To:		Approve	Resolution		
Motion By:		Thiel			Henry Lawley
Seconded:		Marr			Sharon Davidson
	Reynolds	✓			John Nock
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

Old
Business
#2

Passed
Resolution
#94-04

Subject:	Washington County Inter-Local Agreement				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Marr	Jordan		
Seconded:		Jordan	Reynolds		
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

New
Business
#1

Passed
Ordinance
#4581

Fayetteville City Council Meeting of June 15, 2004

Subject:	Shake's Building Sale				
Motion To:		approve resolution			
Motion By: Seconded:		<u>Rhoads</u> Thiel			
#2 New Business <u>Passed</u> Resolution #95-04	Reynolds	✓			
	Thiel	✓			
	Cook	✓			
	Marr	✓			
	Rhoads	✓			
	Davis	✓			
	Lucas	✓			
	Jordan	✓			
	Mayor Coody				

Subject:	VAC 04-1070 (Gerald Joulinson)				
Motion To:		2nd read	3rd read	Pass	
Motion By: Seconded:		<u>Jordan</u> Davis	<u>Jordan</u> Davis		Joulinson Asphalt
#3 New Business <u>Passed</u> Ordinance #4582	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

Fayetteville City Council Meeting of June 15, 2004

Subject:	VAC 04-1105 (Thomas Lutz)				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Davis	Davis		
Seconded:		Marr	Marr		
#4 New Business <u>Passed</u> Ordinance #4583	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Marr	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Davis	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Mayor Coody				

Subject:	VAC 04-11.00 (Houses Development Company)				
Motion To:					
Motion By:					
Seconded:					
#5 New Business <u>Left on the First Reading</u>	Reynolds				
	Thiel				
	Cook				
	Marr				
	Rhoads				
	Davis				
	Lucas				
	Jordan				
	Mayor Coody				

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D. INFORMATIONAL:

No Council Tour

**Nominating Committee Report
Meeting: Monday, June 7, 2004
Room 111, City Hall 4:00 p.m.**

Members Present – Kyle Cook, Shirley Lucas, Don Marr, Robert Rhoads

The Nominating Committee meeting was called to order at 4:00 p.m. CDT

The following is being submitted to the entire City Council for consideration.

Botanical Garden Society of the Ozarks, Inc.

No applicants applied that met the qualification of being a registered voter and resident of the City of Fayetteville. The position that remains to be filled is as follows:

- One Citizen-At-Large term ending 6/30/2007

Construction Board of Adjustments

The Nominating Committee unanimously recommends the following candidate for appointment:

- *O.E. Luttrell, (previously served on the Construction Board of Adjustments)* One Alternate term ending 3/31/2005

Telecommunications Board

The Nominating Committee unanimously recommends the following candidate for appointment:

- **Gregory Boyle** One unexpired term ending TBD

Tree & Landscape Advisory Board

The Nominating Committee is not making any recommendations for appointment to this committee because the applicants that applied failed to show up for their committee interviews (without any notification to the City Clerk's office) and the committee felt it was important to evaluate further – based on the importance of attendance at the committee meetings. The positions that remain to be filled are as follows:

- One unexpired Forestry term ending 12/31/2004
- One unexpired Environmental term ending 12/31/2004
- One University Representative term ending 12/31/2005

Walton Arts Center Council, Inc

The Nominating Committee had numerous applicants for this council, and reviewed the recommendations of the President/CEO of the Walton Arts Center, and recommends unanimously the following candidates for appointment:

- *Curt Rom –Appointment*, One term ending 06/30/2007
- *Jeff Schomburger – Appointment*, One term ending 6/30/2007

Walton Arts Center Foundation

The Nominating Committee had one applicant for the foundation position, and received a recommendation from President/CEO of the Walton Arts Center for this individual, so the nominating committee recommends unanimously the appointment of:

- *Jeff Dunn – Appointment*, One term ending 6/30/2007

Youth Activities Committee

The Nominating Committee did not have any applicants for the Committee. Positions that remain to be filled are as follows:

- One Parent term ending 6/30/2006
- One Ramay Student term ending 6/30/2005

RESOLUTION NO. _____

A RESOLUTION AWARDDING A CONSTRUCTION CONTRACT TO TOMLINSON ASPHALT COMPANY, INC. IN THE AMOUNT OF \$186,218.75 FOR THE WIDENING OF SHILOH DRIVE FROM GREGG AVENUE TO STEELE BOULEVARD; APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$18,622.00; APPROVING STREET LIGHT INSTALLATION BY AEP-SWEPCO IN THE AMOUNT OF \$25,000.00, AND MATERIALS TESTING AND IN-HOUSE MANAGEMENT AND INSPECTION IN THE AMOUNT OF \$15,000.00 FOR A TOTAL OF \$244,840.75 FOR THIS 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 awards a construction contract to Tomlinson Asphalt Company, Inc. in the amount of \$186,218.75 for the widening of Shiloh Drive from Gregg Avenue to Steele Boulevard, plus a project contingency of \$18,622.00; and

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves street light installation for this project by AEP-SWEPCO in the amount of \$25,000.00 and Materials Testing and In-House Management and Inspection in the amount of \$15,000.00 for a total project cost not to exceed \$244,840.75.

PASSED and APPROVED this 15th day of June, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

C.2.
Shake's
Building
Sale

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
NOVEMBER 19, 2002**

A meeting of the Fayetteville City Council will be held on November 19, 2002, at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Alderman Reynolds, Thiel, Young, Marr, Davis, Santos, Jordan, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press and Audience.

CONSENT

APPROVAL OF THE MINUTES

ELEVATOR: Resolution awarding Bid 02-66 in the amount of \$26,246 to ThyssenKrupp Elevator for the repair of an elevator in the Fayetteville Police Building.

RESOLUTION 175-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OFFER AND ACCEPTANCE: A resolution approving the offer and acceptance contract for the acquisition of all property located at 2050 W. 6th Street for the relocation of the Sang Avenue intersection with 6th Street; and approval of a budget adjustment.

RESOLUTION 176-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CROSSLAND CONSTRUCTION: A resolution approving Change Order #5 to the contract with Crossland Construction Company, Inc. in the amount of \$402,895.84 to purchase and install exterior cladding for the New Fayetteville Public Library.

RESOLUTION 177-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis moved to approve the Consent agenda. Alderman Marr seconded. The motion carried unanimously.

OLD BUSINESS

MARTIN LUTHER KING, JR. STREET: A resolution to designate 6th Street as honorary Martin Luther King, Jr. Boulevard. The resolution was tabled at the November 5, 2002 meeting.

C.2
Shake's
Building
Sale

RESOLUTION NO. 176-02

MICROFILMED

A RESOLUTION APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND DONALD AND DEBRA OSBORNE FOR THE PURCHASE OF LAND LOCATED AT 2050 WEST SIXTH STREET IN THE AMOUNT OF TWO HUNDRED FORTY THOUSAND DOLLARS (\$240,000.00); AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF FIVE HUNDRED TWENTY-EIGHT THOUSAND DOLLARS (\$528,000.00) FOR THE HOLLYWOOD AVENUE AND SIXTH STREET INTERSECTION IMPROVEMENT 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 an Offer and Acceptance contract between the City of Fayetteville and Donald and Debra Osborne for the purchase of land located at 2050 West Sixth Street in the amount of Two Hundred Forty Thousand Dollars (\$240,000.00). A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of Five Hundred Twenty-Eight Thousand Dollars (\$528,000.00) for the Hollywood Avenue and Sixth Street Intersection Improvement Project.

PASSED AND APPROVED this 19th day of November, 2002.



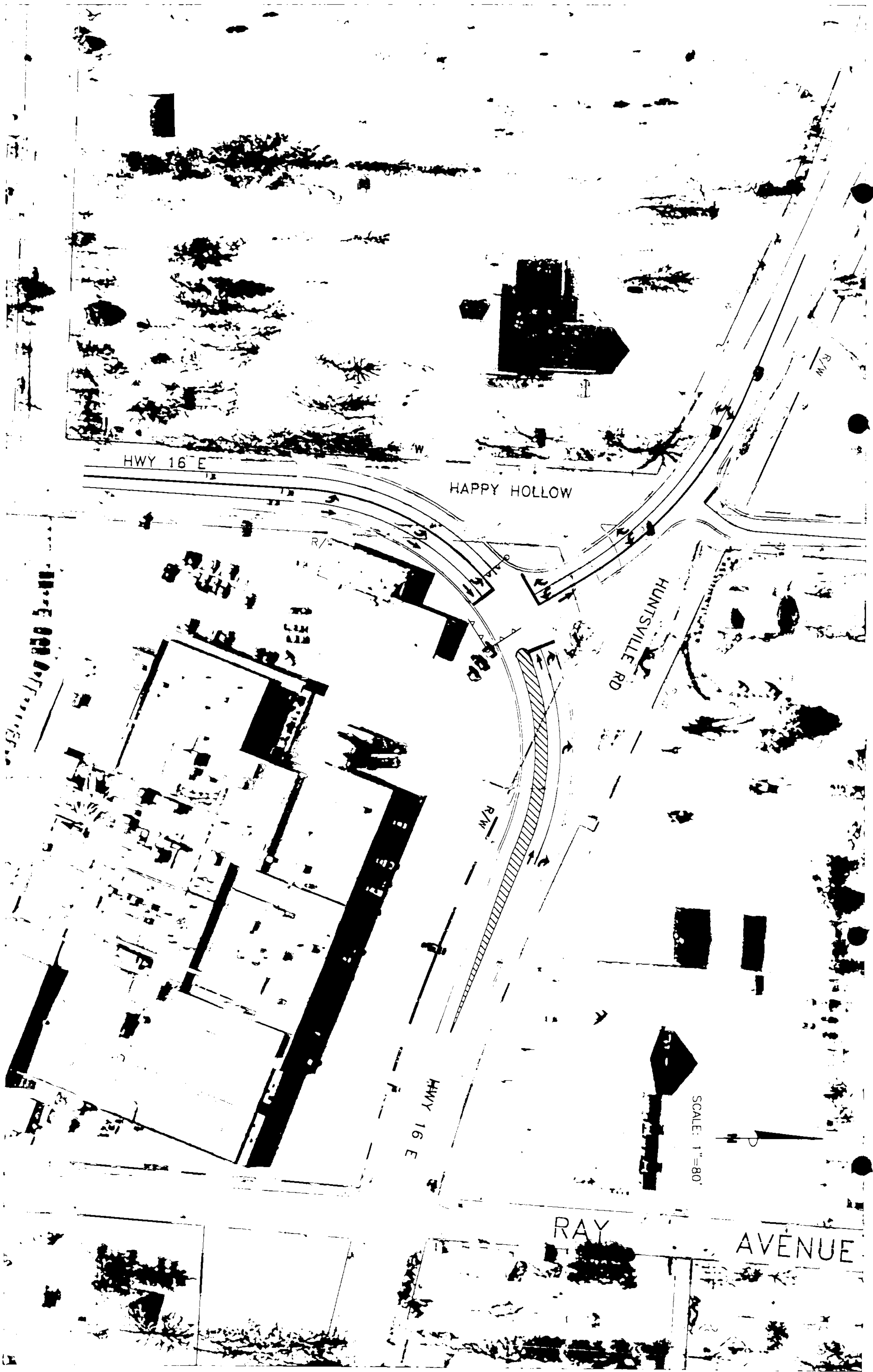
APPROVED: -

By: *Dan Coody*
DAN COODY, Mayor

By:

Heather Woodruff
HEATHER WOODRUFF, City Clerk





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No Council Tour

A.3

Tomlinson Asphalt

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PASSED and APPROVED this 15th day of June, 2004.

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By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

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Alderman Davis moved to approve the Consent agenda. Alderman Marr seconded. The motion carried unanimously.

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APPROVED:

By: *Dan Coody*
DAN COODY, Mayor

By: *Heather Woodruff*
HEATHER WOODRUFF, City Clerk



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

Mayor Coody called the meeting to order.

Alderman Rhoads was absent during the roll call only.

CONSENT:

Approval Of The Minutes: Approval of the May 18, 2004 meeting minutes.

The minutes were not complete and therefore they were pulled from consent by the City Clerk.

Landscape Forms Contract: A resolution to approve a purchase order with Landscape Forms, Inc. for 15 benches and 50 litter receptacles for the amount of \$46,256.95 and to approve a budget adjustment of \$35,000.00.

Resolution 81-04 as Recorded in the Office of the City Clerk.

Crossland Construction Library CO #15: A resolution to approve Change Order #15 in the amount of \$100,000.00 to fund signage (interior and exterior) in the Crossland Construction Company, Inc. contract to build the Fayetteville Public Library.

Resolution 82-04 as Recorded in the Office of the City Clerk.

2004 Community Development Block Grant: A resolution to accept the 2004 Community Development Block Grant in the amount of \$761,000.00, to approve the 2004 Funding Agreement and to approve the 2004 Consolidated Action Plan.

Resolution 83-04 as Recorded in the Office of the City Clerk.

Scott Construction Excavator Purchase: A resolution to approve the purchase of a Gradall Excavator from Scott Construction Company for the low bid of \$260,470.00.

Resolution 84-04 as Recorded in the Office of the City Clerk.

Teeco Safety, Inc. Taser Purchase: A resolution to award a bid in the amount of \$34,830.06 to purchase twenty tasers from Teeco Safety, Inc.

Resolution 85-04 as Recorded in the Office of the City Clerk.

The City Clerk asked that the minutes be pulled from the consent agenda.

Alderman Jordan moved to approve the Consent Agenda as read with the minutes pulled. Alderman Davis seconded the motion. Upon roll call the motion passed unanimously.

OLD BUSINESS:

Water Service Agreement with Springdale: A resolution to approve an amendment to the water service agreement with Springdale to move the water service boundary so that 180 acres now with the Fayetteville Water Service Area can be moved into the Springdale Water Service Area. *This resolution was tabled at the May 18, 2004 City Council meeting until the June 1, 2004 City Council meeting.*

Alderman Cook moved to amend the resolution. Alderman Reynolds seconded the motion. Upon roll call the motion to amend the resolution passed unanimously.

City Attorney Williams briefly explained that the amendment to the resolution stated that the resolution to approve this agreement was contingent upon Springdale's Water and Sewer Commission accepting the 180 acres in order for this development to go forward.

Alderman Jordan moved to approve the amended resolution. Alderman Davis seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 86-04 as Recorded in the Office of the City Clerk.

ANX 04-06.00 (Leigh Taylor Properties): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Hwy.112 containing approximately 29.86 acres. *The ordinance was left on the first reading at the May 18, 2004 City Council meeting.*

Dawn Warrick, Planning: The applicant has submitted a request that this item be withdrawn from consideration by the Council.

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

The ordinance was tabled indefinitely.

VAC 04-10.00 Right of Way (Paul Dunn): An ordinance approving VAC 04-10.00 to vacate and abandon a 25' portion of the platted right of way for Rebecca Street east of Vinson Avenue along the north boundary of Lot 8 of the Vinson Subdivision, retaining a utility easement within

subject property as depicted on the attached map and legal description. *The ordinance was left on the second reading at the May 18, 2004 City Council meeting.*

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

Mr. Williams read the ordinance.

Dawn Warrick: This is a portion of a platted right-of-way. It is east of Vinson Ave., and part of Rebecca Street. The applicant proposes to vacate a 25' strip of this right-of-way adjacent to their single-family lot in order to provide additional lot width which is necessary for the construction of a single family home. A portion of this connecting right of way would be very steep if the street were to be built.

Alderman Thiel stated that she had wanted to leave this on the second reading until this meeting to make sure the public had an opportunity to respond. She had not heard from anyone at this time.

Mayor Coody opened the floor for public discussion. There was no public comment.

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

Ordinance 4578 as Recorded in the Office of the City Clerk

NEW BUSINESS:

R-PZD 04-06.00 (John Nock): An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-06.00 located on Ruppel Road south of Wedington Drive containing approximately 41.70 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Dawn Warrick: This request is for approval of a Residential Planned Zoning District, so we are looking at a development proposal which is combined with a land-use request. The current zoning on this property is split – RSF4 (Single Family, 4 units per acre) and RT 12 (2 and 3 family, 12 units per acre). The current density allowed on this property, with those two zoning districts, is 301 units. This proposal is for a mixture of single-family and duplex units consisting of a density of 6.24 dwelling units per acre. The actual yield on this project is 41 units fewer than what would be permitted on the current zoning of this existing tract of land. The property is located immediately west of the Boys & Girls Club and south of the new fire station site on Ruppel Road.

Alderman Reynolds asked if the planning division was satisfied with the street connectivity in this project.

Dawn Warrick: Ms. Warrick stated that there was very adequate connectivity being provided by this project. Staff is recommending in favor of this project with several conditions of approval.

Alderman Davis expressed his concern with the width of the streets in this development. He wanted to make sure the streets are wide enough, with parking on both sides, for an emergency vehicle to pass.

Dawn Warrick: I believe they would be able to pass. The width of a parking stall on either side of the street is somewhere around 8'. These streets are proposed to be approximately 26' feet in width, so there should be adequate width. It would be relatively tight but with two cars on either side, you would still have a ten-foot lane for passing.

Alderman Davis said he thought he recalled that the Planning Commission added an additional foot onto the sidewalk for safety purposes, and he felt the residents would want to be sure that in the case of an emergency, an ambulance or fire truck would have clearance.

Dawn Warrick stated that part of the nature of this type of development is that access to the homes is through alleyways. This is considered a neo-traditional development and there will be alley access to the garage units. Therefore, the residents are encouraged to park in back, off the alleys, allowing the street to serve for visitor parking. Even with the reduction in street width from 28' to 26' for increased sidewalk width, there should be adequate width for safety purposes.

Alderman Davis questioned whether the fireplugs for the fire department to hook up would be in the alleyway instead of being on the main street.

Dawn Warrick said she would have to look at the plans and she would have an answer by the time the applicants completed their presentation.

Alderman Jordan requested the response time for the ambulance service to this area.

Dawn Warrick: The Planning Division has not in the past requested a clocking of ambulance response time. Typically, the fire department is the first responder and many times will get to the site before the ambulance service.

Chris Bosch, Fire Chief, stated that the ambulance service has committed to an average response time of 8 minutes in their contract. That is an overall average. At this time, he was unable to give an actual response time for this particular area. He stated that, once Fire Station 7 is open, the Fire Department response time will be less than one minute. He said the Fire Department is usually the first on site of an emergency and begins patient care when they arrive. He stated that he would get a ballpark estimate of ambulance response time for Alderman Jordan. In response to a question from Alderman Reynolds, Fire Engine #1 is 9 1/2 to 10 feet wide.

John Nock, Developer: All these streets are 28'. There was a discussion in planning that we would narrow them. They are a standard 28', no different from any other street out there. If that solves that question about parking on the street. Plus, we have all the parking in the back, so we actually have twice as much capacity for parking than normal development. So, that should

resolve that question. We are not 26', we are 28' feet streets, plus we have the greenspace and a wider sidewalk. So all those things didn't shrink the street, we kept the street at the normal width.

Alderman Thiel wanted to confirm that the width has stayed at 28'. She stated that she understood Dawn to say 26'.

John Nock said he understood the way the Planning Commission had left the discussion was that the developer would have the option of working with Planning and Engineering staff to determine how street and sidewalk width could be best determined. It was determined that the 28' would be best, with regard to drainage and safety issues. In addition, alleyways are being used as a secondary access point for the fire department in some parts of the development. Those service areas have been designed not only for width, but also for strength.

Mayor Coody asked Chief Bosch to check on the actual width of the Fire Engine #1, stating that he thought 10' was pretty wide.

Alderman Cook expressed that he would rather have the foot of sidewalk on either side of the street and ensure the safety of the pedestrian. He felt there is more than enough parking in this development.

Alderman Thiel: According to the Planning Commission, there is not one full parking space per lot.

Chris Brackett, Jorgenson & Associates (Representing the owners) stated that there is not one parking space for a lot along Ruppel Road, but inside the development, there is adequate parking. He said they had agreed to widen the sidewalk and also do the wider road. The street will be 28' and the sidewalk will be 5'. They felt this was a safer design. He also stated that the fire hydrants will be located in the front of the homes where the water line is due to the fact that cars will be parked along the alley. That leaves the 28' road for the fire department to use. In response to a question from Alderman Jordan, Mr. Bracken said that in order to fit the sidewalks into the right-of-way, the greenspace will be narrowed. The sidewalks and road will not change.

John Nock: Along Ruppel, there are actually three visitor parking spaces for unit. There is rear parking, two cars in every garage, and enough space for two more cars to park, a full 20' width behind the unit, plus you have the secondary parking along Ruppel.

Mr. Nock explained that it is desirable to have parking along the streets to slow down traffic. Also, with the Boys and Girls Club and other public spaces, you want to see interaction between the public and private space if there is a big event going on. This creates more of a community feel.

Alderman Cook stated he was curious about how the green space would be affected.

Chris Brackett: There will be a 5' green space and a 5' sidewalk, instead of the 6' and 4'. The sidewalk is kept within the right-of-way due to liability concerns.

Alderman Cook: This is a traditional neighborhood development and pedestrian circulation is as important as vehicular circulation in that design. We want to be sure we accommodate both. I am always in favor of providing more space for pedestrians.

Mayor Coody expressed his appreciation that so much thought went into the design and execution of this development. The staff is looking forward to seeing this project go because it will set a new standard for developments.

John Nock said they had a very good team and the staff had been very helpful. He wanted to make a brief presentation about the project. He stated that a neo-traditional development is basically smart planning for the human experience. It is the ability to not only allow cars to come to and leave a home, but also encourages human interaction. It promotes front porches, rear entry alleyways and access points for services. The front of the homes face the neighbors with walkways and tree-lined streets. Harbor Meadows in Springdale is a local example of this. The handout distributed to the Council includes about 150 different developments across the country that have received some recognition with this type of development.

One of the vision statements of the City of Fayetteville is affordable home-ownership. In order to provide an affordable, good-quality living experience in an urban setting, you have to narrow the footprint of the buildable lot and then include community spaces around it. This development utilizes what is already there – the Boys and Girls Club, the new fire station, etc. It is much more expensive to build this way. Designing it can be a nightmare. But this will be a historic district someday and was designed with that in mind.

Alderman Thiel asked if the petitioners would be doing the building as well as the developing of the project.

John Nock stated that there are select builders that are approved to do this type of product. Those builders have all already been secured.

In response to a question from Alderman Thiel, all the houses will have two car garages, by both design and covenant.

Alderman Thiel: As far as the attainability, that's not something you're going to require; the affordability?

John Nock said that affordability is determined by the market. In his dealings with realtors in the last year and in considering the median income in Fayetteville and the surrounding area, he believes this product will help fill in a gap that currently exists.

Alderman Thiel: Noticed on the original plat that this property is affected by the hundred year flood plain. She asked the staff if the adjacent developments that have been approved are all in the flood plain.

Dawn Warrick: There are several projects in that area that are affected to some extent by the flood plain and quite a bit of vacant property south of the Persimmon corridor that is affected by the flood plain. That is basically the area where Owl Creek is located.

Alderman Thiel: Is Engineering at all concerned about this much pavement?

Dawn Warrick: The Engineering Division reviewed this for compliance with the City's design regulations for drainage, storm water and flood plain and they did find it in compliance.

John Nock: Mr. Nock said that he understood that a very small sliver of the property (about 25 to 30 feet) in the southeast corner of the development was in the flood plain. He indicated on the plan distributed to the Council that that area of the development was identified as Lot 184. There will be no house built on that lot, it is greenspace and will be used for landscaping.

Alderman Davis said that he felt John Nock had done a great job of putting this plan together. He liked the covenants requesting a minimum of 1400 sq. feet of heated and cooled living areas, enclosed garages, all driveways concrete and more. He felt everything would look great.

Alderman Marr asked if the photos of the actual housing designs included in the presentation are indicative of what it is expected that builders will build in this area.

John Nock: With some minor adjustments, these pictures will be very close to actual built homes. They will try to pick materials that would reflect Fayetteville. The lot size does require a certain type of traditional design and planning.

Rick Alexander spoke in favor of the project. He said he is looking at doing similar projects in the area. He feels that both he and John Nock are trying to give a better product on a smaller lot size. They are attempting to incorporate all the items mentioned in the Dover Kohl Plan: higher density, traffic calming, smaller streets, and pedestrian-friendliness. He felt the Council should commend Mr. Nock for this plan. He spoke about annexation and urban sprawl. To avoid urban sprawl, you focus on developing those areas currently within your city limits. In order to do that, you encourage higher density and better product. Developing around the Boys and Girls Club will take advantage of that facility, as well as the new elementary and middle school already there. This is a higher density project meant to address the lack of housing in that price range and the issue of urban sprawl. He feels this project is what Fayetteville needs if it is going to be competitive.

Alderman Thiel: How does the density of this project compare to adjacent developments, such as Cross Keys and Meadowlands?

Dawn Warrick said she did not have a number with her on Meadowlands. There are several fourplexes and duplexes in that project, so the density there will be higher. It is zoned for 12 units per acre. Cross Keys, which was recently approved as a PZD, had around 3.2 units per acre.

Alderman Thiel indicated that she agreed with Mr. Alexander and Mr. Nock about the concept of this development. Her concern is with the location. She felt it would be ideal if it were a little closer in. She wanted to confirm whether the City would be responsible for maintaining not only the streets, but also the alleys after this is built out.

Dawn Warrick I believe the alleys would be set out for maintenance by the property owners association and set in as easements.

Chris Brackett According to initial conversations with the Engineering Division, the alleys will be shown in right-of-ways, so that they will be maintained by the City.

Dawn Warrick: Ms. Warrick said that the alleys would have to meet the design standards of the City transportation department in order to be maintained by the City.

Chris Brackett: In response to a question from Alderman Thiel, the Solid Waste trucks will be using the alleys. The alleys will be designed to accommodate this traffic.

John Nock: We had discussed whether the alleys would be private or public. Part of the discussion was the secondary access point to the fire station, to the north of the project. The petitioners have agreed with the City that those access points will probably not only get the wear and tear from the service trucks, which is the whole idea of having a service alley, but also will serve as a secondary point of entry in the case of an emergency for fire trucks. If the alleys were all maintained privately, the owners could potentially deny access to the fire trucks, which is not the intent of this development.

Alderman Rhoads asked what the homes would price out, lot included, on average.

John Nock: Lot included, anywhere between \$115,000 and \$149,000. The majority would be in the \$135,000 category. It is his understanding that this price point is hardly available in this area.

Alderman Lucas questioned where access to the fire station will be located.

John Nock: Just to the south of Lot 165 in the northeast section, there is an alley that connects off the cul-de-sac that then would go around to the fire station. There is also a connection in the northwest corner, not shown on drawing that will be a direct drive-in to the rear part of the fire station.

Alderman Jordan said he would like to hold this item on the second reading.

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

Mr. Williams read the ordinance.

The ordinance was left on the second reading.

Rubble Row Money in Lieu of Land: A resolution to accept the recommendation of the Parks and Recreation Advisory Board to accept \$7,482.75 in lieu of a portion of the parkland dedication requirements of Rubble Row Subdivision.

Connie Edmonston, Parks & Recreation: In 2001, in the Meadowlands Subdivision, the WHM investors gave about 8.5 acres as their requirement. In that, they were only required to give 3.08 acres and they banked the remaining 5.37 acres on future development. Nock Investments purchased lot number 7 and in that, they also purchased the bank of 5.37 acres.

Because this is over 40 acres and over a hundred units, it is required to come before the Council if we don't just take only land. Because we have the park adjacent to the Boys and Girls center, about 8.5 acre park, we request that we accept their banked land of 5.37 acres, in addition to \$7,482 in money "in lieu of" as their requirement.

Mayor Coody: Since this item is tied to the previous item, which has not been approved, Mayor Coody stated that this would not be approved at this meeting but asked for any questions or comments from both the Council and the public.

There was no comment.

Alderman Marr moved to table the resolution until the June 15, 2004 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion to table the resolution passed unanimously.

The resolution was tabled until the June 15, 2004 City Council meeting.

Annex Islands Containing 180.979 Acres: A resolution to propose an ordinance calling for the annexation of a large parcel of land completely surrounded by the incorporated limits of Fayetteville.

Tim Conklin, Planning Division: On the agenda are resolutions for three groups of annexations. The resolution is a resolution of intent to annex what are called "islands" or areas that are completely surrounded by the corporate limits of the City of Fayetteville. Mr. Conklin explained that this was something identified in 2001 as part of the General Plan annexation policy. This is just the first step in this process. If the City Council does go forward with the annexation of these islands, there will be a public hearing with the property owners within the islands toward the end of June. The item will then be placed on the Council agenda for July 6th.

Mr. Conklin explained that annexing these islands will allow us to have compatible land use and development standards within these area, the ability to plan future capital improvements within those areas, the ability to require the same level of infrastructure improvements as new development occurs within these areas and will avoid confusion with emergency services since these areas are completely surrounded by the City. Residents within the areas will be able to obtain trash services, police protection, fire protection, sewer service if available (they would be responsible to extend any public or private lines) and also solid waste and recycling services.

There are 13 islands that exist within the City of Fayetteville, the largest being the University of Arkansas farm, which is over half of the 1,335 acres at 700 acres. The smallest is a cemetery within an existing development. Along with the annexation, RSF1 (Residential Single Family) zoning is being proposed. An informational meeting was held on May 20. Letters were sent out to property owners. There were some concerns with regard to zoning with some of the non-residential land uses within the area. There were also some concerns expressed about being brought into the City.

Alderman Jordan asked for clarification as to whether those residents who are currently using their property for farming or business would be allowed to continue to do that.

Tim Conklin: Anything that is brought into the City of Fayetteville that is existing would be allowed to remain as a legal non-conforming use. They would have restrictions on expanding those types of uses. But they would be allowed to keep horses or keep their small-engine auto repair business or that type of business.

Alderman Jordan: And we can either bring them in as a RSF1, or if we determine it necessary, we can bring them in as an RA?

Tim Conklin: Yes. You could bring them in as some other type of zoning, other than the RSF1 that is being proposed.

Alderman Thiel asked for clarification about doing all these annexations in one ordinance.

Mr. Williams explained that he had proposed that these annexations be done in three ordinances. There is a rule that if one of the parcels in an annexation ordinance is found not to be proper to be brought in, then the entire ordinance with all the parcels within that ordinance will not be brought in. There could be some question about the University property and one large landowner with property below Highway 16 East who has indicated he might contest the annexation. He felt it would be best to keep those two parcels separate.

There was some discussion about which parcels are included in each ordinance and how the ordinance will read.

Alderman Marr said that the letter in the packet from the attorney representing the owner of the large parcel of land south of Highway 16 East asserts that this property is not an island. He asked Tim Conklin to explain why the City feels it is an island.

Tim Conklin using a zoning map pointed out the location of the property. There are some smaller, remnant parcels off Huntsville Road that back up to this property. The parcel by itself is not completely surrounded by the city limits, but it is within an area that is completely surrounded by city limits. This could be the reason for the confusion over what the state law allows the city to annex within the City. The City has the ability to annex areas that are completely surrounded by the corporate limits of the city.

Alderman Marr asked the City Attorney if he believes this parcel of land meets the legal requirements to allow the Council to annex islands without election.

Mr. Williams: Yes. The statute says, "Whenever the incorporated limits of a municipality have completely surrounded an unincorporated area, the governing body of the municipality may propose an ordinance calling for the annexation of the land surrounded by the municipality." So even though there is more than one parcel in there, it is still completely surrounded by the incorporated limits of the city and therefore, this statute gives you the right to annex that if the other tests in the statute are met.

There was discussion of a bridge in the area being in need of repair and the need for building up a road to access the bridge from both directions. The flood damage was extensive and this could be a multi-million dollar project.

Alderman Marr: Thinking back to times when the Council has talked about the cost of annexations, infrastructure needs, etc. that go with that annexation, I want to be cautious to ensure that there is some benefit not only to the City, but to the landowners that are being annexed.

Karen Stewart: We have the land off Ruppel Road that is going to be annexed. I have heard all the comments about it but according to my mother, who is officially the owner, while I am the lessee, we have received no notice whatsoever about any annexation. We have not had the choice to write a letter or anything. The fact is I just heard about it a few days ago.

Mayor Coody asked Tim Conklin if letters had been sent out.

Tim Conklin: The planning division used County records on property ownership and sent out letters to the property owners. They were not certified letters. For the next meeting, the letters will be certified.

Mr. Williams explained that this is a cumbersome process. Before we can actually go forward at all with the annexation, we have to have a resolution and tell the public that we are considering looking at an ordinance. There then has to be a public hearing after publication and the certified letters. Only after that public hearing can it come back to the Council for them to consider the ordinance.

Karen Stewart asked if they now have an additional time period to ask for a certain classification.

Mr. Williams said the public hearing would be a good time to do that, or she could contact the Planning Division at any time and let them know her thoughts and concerns. The Planning Division can then present those concerns to the City Council.

In response to a further comment from Ms. Stewart, Mr. Williams said the state used to not allow agricultural land to be annexed. When the law was changed to allow annexation of agricultural property, a provision of the statute provided that property owners could continue their agricultural pursuits.

Alderman Jordan: I wanted the homeowners to know that I want to be fair in this process. I don't want to shut anyone's farm or business down. Whatever is currently being done on the property, the property owners should continue to be able to do.

Stan Thomas of Mt. Comfort Road expressed a concern about the cost of connecting with the sewer system. He asked if there would be a possibility that the City would bring the lines at least to the property lines to help with the cost of connecting.

Mayor Coody suggested Mr. Thomas speak with the Engineering staff to see what the possibilities might be.

Alderman Jordan moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 87-04 as Recorded in the Office of the City Clerk.

Annex Islands Containing 449.509 Acres: A resolution to propose an ordinance calling for the annexation of several parcels of land completely surrounded by the incorporated limits of Fayetteville.

Alderman Jordan moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 88-04 as Recorded in the Office of the City Clerk.

Annex Islands Containing 704.84 Acres: A resolution to propose an ordinance calling for the annexation of University of Arkansas land completely surrounded by the incorporated limits of Fayetteville.

Alderman Jordan moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 89-04 as Recorded in the Office of the City Clerk.

Raze and Removal 800 S. College: A resolution to approve an order to raze and remove a dilapidated and unsafe structure located at 800 S College Avenue, Fayetteville.

Hugh Earnest, Chief Administrative Officer: Yolanda Fields, Community Resources and Code Compliance has informed me that the individual who owns this property is demolishing it at this time. There are pictures that are evidence of this. I suggest that the Council table the item indefinitely to ensure that the demolition continues.

Alderman Marr: Considering a situation in the past when work would start then stop, I am a little uncomfortable with tabling the item indefinitely. I would prefer some time frame to look at to make sure the work is completed.

Alderman Davis agreed and asked if it would be possible to table the item for 60 days.

Alderman Thiel moved to table the resolution until the August 3, 2004 City Council meeting. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

The resolution was tabled until the August 3, 2004 City Council meeting.

Amend §171.01 of the Unified Development Code Residential Gates for Subdivisions: An ordinance to amend §171.01 of the Unified Development Code to add new subsection (D) restricting the installation of gates for residential subdivisions.

Mr. Williams read the ordinance.

Alderman Reynolds: Mr. Reynolds expressed his support of this ordinance. He said that a young girl in Rogers lost her life in a fire because of a gated community and he feels good about enforcing this.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4579 as Recorded in the Office of the City Clerk.

Repeal Resolution # 156-01 Staffing Freeze: A resolution to repeal Resolution 156-01 which established a staffing freeze for the City of Fayetteville on November 20, 2001.

Alderman Cook stated that he is bringing this forward because he sees staff in the City, especially staff in planning, struggling to accomplish what has to be done. He feels it may be necessary to add more staff if the Council expects projects and assignments to be done in a timely manner. He is not necessarily advocating adding new staff but feels the Council should be open to listening if the staff feels the need is there.

Alderman Davis said he had asked for information from staff regarding the number of paychecks issued in the first payroll of January 2000 and in the first payroll of January 2004. In 2000 there were 601 checks issued. In 2004 there were 674 checks issued. He said this would imply that there was an increase in the payroll of 73 people in that four-year period. He feels that in the budgeting process, the staff should look at their needs and bring that before the Council. He used as an example the need for additional staff to man the new fire station last year. The Council granted that request. He feels that this process is working and doesn't feel there is a need for change.

Alderman Cook stated that it was not his intent to change that process. He just wants to send a signal to the staff that it is okay to bring their needs before the Council. With this hiring freeze in place, he feels the staff may be discouraged from doing that. He does want the Council to have the final approval of any addition of staff.

Mr. Cook asked for clarification regarding the actual number of employees in the City, or FTE's, in relation to the numbers Mr. Davis quoted.

Steve Davis, Financial & Internal Services Director said that counting paychecks is not an accurate method of counting employees. He said that the count was reasonably accurate, but the City generates separate checks for retroactive merit increases, and employee terminations when

sick and vacation are paid out. There are also position vacancies that would not get a paycheck although the position is an approved position. So there would have to be some adjustment in the paycheck numbers to come up with an actual count of FTE's. The FTE translates the labor force to the equivalent of a 40-hour work week.

Alderman Rhoads asked for the full time equivalent numbers for 2000 and 2004 and for the payroll for those two dates.

Steve Davis offered to get that information and put it in the City Council boxes as soon as possible.

Alderman Rhoads: Because I was not here when the hiring freeze was enacted, may I have some history on why the City Administration does not have the authority to create new positions without the City Council approval?

Steve Davis said that to his knowledge, the city administration has never had the authority to create new positions. The head count has historically been approved in the budget process. He explained the history behind using FTE's in the budget process.

Alderman Rhoads asked if all cities across the state of Arkansas approve every position that is created instead of just a budget of dollars.

Steve Davis said his guess is that a number of cities just approve dollars.

Alderman Cook: In response to a question from Alderman Rhoads, my intention with this resolution is simply to send a message to staff that if they feel they need more employees, to make a presentation to the Council during the budget cycle.

Alderman Davis explained that, before the staffing freeze, the Council didn't necessarily know the number of staff the City had until they looked at the budget. Alderman Trumbo and himself were concerned that the City could begin to outspend the revenue coming in and in November 2001 they brought forward the proposal for this hiring freeze so the Council would be in full knowledge of who was being hired and for what purpose. He said that every time a legitimate request has come before the Council, it has been granted. He questioned why the system should be changed.

Alderman Reynolds asked Mayor Coody if there is a division within the City that is trouble and if so, why the need hasn't been brought to the Council.

Mayor Coody: While staff has made great strides in efficiency and productivity in the past several years through reorganization and change in management policies, the city is growing at such a pace that the staff will not be able to continue to keep up. He used as an example the record number of building permits coming through the Building Safety division. He stated that staff has only lately reached a sort of bottleneck situation where the amount of backlog overwhelms the amount of people that we have.

Alderman Reynolds asked the city attorney if repealing this resolution will make a change in the way the city does business.

Mr. Williams said that the staffing freeze would be over, but obviously the City Council would still have to approve any new staff, either at budget time or in between budget cycles.

Alderman Marr said that when a Council passes a resolution that says they are establishing a hiring freeze, it should be a very strong message that you don't expect to see new head count. So he feels that staff in city divisions do feel they shouldn't ask for new staff based on the resolution of the City Council. He feels that the resolution being brought forward says the Council wants to make a philosophical change in the perception that was presented by the hiring freeze. It is a message to employees about how they might plan for their capital resources. With 80 percent of our expenses being head count related, the Council has an obligation to look at number of staff in the budget process. But with revenue going up and duties increasing, the staff should feel comfortable coming before the Council with legitimate needs. The Council still has the ability to lock in the head count with the budget. He also stated that he feels there needs to be more trust in the department heads and directors and at least be open to hearing their plans. He feels the staff is doing a good job of keeping the head count under control and feels this would be a philosophical change indicating to the staff that the Council wants to hear if there is a need to add staff. We are in a more vibrant economy and are a growing city and there are things that we need to evaluate. It does not change the Council's ability to ask questions.

Mayor Coody said that the staff has created a track record that warrants trust. Looking at the work being done with the amount of people doing it, it is clear that they have earned trust. This resolution is symbolic, it doesn't really change the way the city does business, but it will send a message that the Council is willing to look at staff additions as the situation warrants.

Alderman Marr: Mr. Marr stated that he feels the resolution that was passed in 2001 was fiscally responsible. The situation and economy were very different then. It made the City Council and Administration make some hard choices that allowed for more efficiency. He now feels that it may no longer be appropriate.

There was some further discussion about the merits of repealing this resolution as well as the merits of continuing with the hiring freeze.

Alderman Lucas stated her agreement with Alderman Marr's statements. She thinks it is a good message to send to staff that if they need help, let the Council know.

Alderman Marr wanted to be clear that removing the staffing freeze does not change the Council's desire to be fiscally responsible. That is of utmost importance any time they look at a new service. But for the services we currently have, we want to make sure that we have the proper resources to deliver them.

Alderman Lucas wanted everyone to remember that the division heads who are looking to add more people have to justify their requests all the way up the chain of command. Any request will be scrutinized all the way up to the mayor before it is brought to the Council, which should eliminate a lot of unnecessary requests before the Council.

Alderman Cook moved to that the resolution be approved. Alderman Marr seconded. Upon roll call the motion passed. Aldermen Jordan, Thiel, Cook, Marr, Rhoads and Lucas voted for the resolution. Aldermen Reynolds and Davis voted against the resolution.

Resolution 90-04 as Recorded in the Office of the City Clerk.

Meeting adjourned at 7:55 pm

Sondra Smith
City Clerk

**Meeting Minutes
City Council Meeting
May 18, 2004**

A meeting of the Fayetteville City Council was held on May 18, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Alderman Rhoads was absent until New Business Item # 1.

Mayor Coody called the meeting to order.

CONSENT:

Approval Of The Minutes: Approval of the May 4, 2004 meeting minutes.

David and Wayne Turnbull Offer and Acceptance Contract: A resolution to approve the sale of a lot encompassing 3.26 acres in the south Industrial Park to David and Wayne Turnbull in the amount of \$68,630.00 and a budget adjustment as attached.

Resolution 71-04 as Recorded in the Office of the City Clerk.

Water Service Agreement with Springdale: A resolution to approve an amendment to the water service agreement with Springdale to move the water service boundary so that 180 acres now with the Fayetteville Water Service Area can be moved into the Springdale Water Service Area.

Pulled from Consent

Sale of Ford Club Wagon Contract: A resolution to waive the requirements for public auction or formal competitive bids for the sale of a 1997 Ford Club Wagon (Unit #2002) to the Fayetteville Youth Center, Inc.

Resolution 72-04 as Recorded in the Office of the City Clerk.

ADEQ Post Closure Trust Fund Authorization: A resolution authorizing the Fayetteville Parks & Recreation Division to request funding from the Post Closure Trust Fund from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation.

Resolution 73-04 as Recorded in the Office of the City Clerk.

Walker Park Senior Complex Budget Approval: A resolution to approve a budget adjustment transferring \$24,649.87 into the Walker Park Senior Complex budget for the receipt of late property tax payments.

Resolution 74-04 as Recorded in the Office of the City Clerk.

Spout Spring Branch: A resolution to name the creek that runs just to the west of Willow Avenue and south of Spring Street "Spout Spring Branch."

Resolution 75-04 as Recorded in the Office of the City Clerk.

Sale of City Property to the Battered Women's Shelter: A resolution to encourage the City to consider the sale of about four acres of City property to the Battered Women's Shelter for the construction of a new shelter.

Resolution 76-04 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. (Highway 62 Water Main): A resolution to approve an agreement for engineering services with McClelland Consulting Engineers, Inc. in the amount of \$60,000.00 for planning, field surveys and right-of-way services related to the Highway 62 water main relocation in Farmington and to approve a budget adjustment of \$60,000.00.

Resolution 77-04 as Recorded in the Office of the City Clerk.

Alderman Cook asked that Consent Item # 3 Water Service Agreement with Springdale be pulled from the Consent Agenda.

Alderman Jordan moved to approve the Consent Agenda as read with Item #3 pulled. Alderman Davis seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Pulled from Consent

Water Service Agreement with Springdale: A resolution to approve an amendment to the water service agreement with Springdale to move the water service boundary so that 180 acres now with the Fayetteville Water Service Area can be moved into the Springdale Water Service Area.

Alderman Cook moved to table the resolution until the June 1, 2004 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion to table the resolution passed 7-0. Alderman Rhoads was absent.

OLD BUSINESS:

RZN 04-06.00 (The Crowne): An ordinance rezoning that property described in rezoning petition RZN 04-6.00 as submitted by Jerry Kelso of Crafton, Tull & Associates on Behalf of the Crowne Limited Partnership for property located north of 18th Street and west of Beechwood Avenue containing approximately 10.93 Acres from I-1, Heavy Commercial, Light Industrial to RMF-12, Residential Multi Family, Twelve Units per acre. **This Ordinance was left on the First Reading at the May 4, 2004 City Council meeting.**

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

Mr. Williams read the ordinance.

Alderman Jordan: Did Mr. Broyles present a Bill of Assurance?

Dawn Warrick, Planning: The applicant and their development team have presented three documents that they wish to provide assurances with this request. This is a down zoning from an industrial district to RMF-12, multi-family designation. The three items that have been submitted include a Statement of Intent, an Amended Bill of Assurance and a Bill of Assurance that pertains specifically to the 10.93 acres. The amended Bill of Assurance is for the multi-family property that has been approved as a large scale development for apartments with a maximum number of units at 444. The original Bill of Assurance that went along with that rezoning item capped the number of units at 480; this amendment is to reduce that number to a maximum of 450. The large scale has already been approved, any change to that large scale will have to come back through the development review process and be heard by the Planning Commission if they are increasing that number from the approved 444. The Bill of Assurance on the 10.93 acres assures the city of the following three things. The density shall be limited to a density of no more than 100 residential dwelling units, the project shall consist of townhomes or condominiums with residential units intended for sale and construction shall not commence before the fourth quarter of 2004.

Alderman Davis: Alderman Jordan, are you okay with the Bill of Assurance.

Alderman Jordan: I am okay with it.

Alderman Marr: I would like to have a copy of the signed Bill of Assurance.

Dawn Warrick: I will provide that and I will be providing the originals to the City Clerk so they may be filed with the ordinance.

Alderman Thiel: I have a constituent that is very concerned about the type of land in this project. If this was developed as industrial as it is currently zoned, would it have less density?

Dawn Warrick: It depends on what you consider density.

Alderman Thiel: Impervious surfacing.

Dawn Warrick: That is subject to a development plan and is hard to speculate specifically as far as the set backs and how much impervious surface there would be.

Alderman Thiel: Do they have to comply with the parkland ordinance?

Dawn Warrick: Parkland only applies to residential development.

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

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads recused.

Ordinance 4573 as Recorded in the Office of the City Clerk

VAC 04-07.00 (Woodall): An ordinance approving VAC 04-07.00 to vacate a 15' alley between Taylor and Douglas Streets, west of Gregg Avenue as depicted on the attached legal description, but retaining this area as a utility easement. **This Ordinance was left on the Second Reading at the May 4, 2004 City Council meeting.**

Kit Williams: This was left on the second reading because I asked that we have a chance to slightly amend this. If the copy you have in front of you which includes the amended language is satisfactory, someone would need to move to amend the ordinance to reflect the additional word in section one, *subject to retaining the entire area as a city utility easement pursuant to the condition of approval by the Planning Commission.*

Alderman Marr moved to amend the ordinance as read by the City Attorney. Alderman Davis seconded the motion. Upon roll call the motion passed unanimously.

Dawn Warrick: While we amended the ordinance language to reflect the requirement that this 15 foot be retained as a utility easement we also worked with our land agent and the applicant to insure compliance with the rest of the conditions placed on this item by the Planning Commission, which was the dedication of some additional area to cover an existing water line that is in this location. That is the document that you have in front of you, it is not signed yet.

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

Mr. Williams read the ordinance.

Jim Taylor representing Phil Phillips: Mr. Phillips has agreed to this document and agreed to participate in sharing the cost of some of the easements.

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

Ordinance 4574 as Recorded in the Office of the City Clerk

NEW BUSINESS:

Forsgren, Inc. Construction Contract: A resolution to award a construction contract to Forsgren, Inc. in the amount of \$652,762.00, plus a contingency of \$97,000 for construction of drainage improvements for the Holly/Vista and Cleveland/Sang areas, and to approve a budget adjustment of \$414,541.00 for this project.

Tim Conklin, Planning: This project has been in the process for a number of years. Mr. Conklin gave a brief history on the project and where the funding will come from for this project.

Alderman Jordan moved to approve the resolution. **Alderman Lucas** seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 78-04 as Recorded in the Office of the City Clerk.

Mobley Contractors, Inc. Construction Contract: A resolution to approve a construction contract with Mobley Contractors, Inc. in the amount of \$753,553.04 with a project contingency of \$133,032.96 for a total of \$886,586.00 for the reconstruction of Old Missouri Road from Joyce Boulevard to the Mud Creek Bridge and from Rolling Hills to Old Wire Road.

Tim Conklin: This is an existing capital improvements project. The Street Committee has given us direction with regard to the proposed plans for the north and south portions of this road. This will complete the Old Missouri Road improvements from Old Wire Road to Joyce Boulevard.

Alderman Marr: The contingency on the project that was just completed, what percent was that?

Tim Conklin: We do not have an exact number.

Alderman Marr: Did we use it?

Alderman Davis: Not all of it, I think we had \$40,000 to \$50,000 left from that project.

Gary Coover: I think that is correct, I do not have the numbers in front of me. I think the contingency was 10 or 15 percent on that job. We generally use 10 percent if it is a straight forward job and 15 percent if there is some uncertainty or difficulties that we might run into.

Alderman Marr: What is the uncertainty in this case?

Gary Coover: Typically we use 15 but 10 if it looks like it is a very simple project. Utility relocations and things underground we add more to the contingency. Historically we have used very little of the contingency's that we have in our projects.

Alderman Davis: They originally estimated the cost of this project to be \$1,330,000. It came in under that.

A discussion followed on the project.

Alderman Davis: The contingency fund that was left from the last project where do those dollars go?

Gary Coover: The funds go back into the fund.

Alderman Davis moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 79-04 as Recorded in the Office of the City Clerk.

Planning Commission Appeal; Hwy. 62 & Hanshew Dr.: Appeal of the Planning Commissions April 26, 2004 decision to deny a rezoning request for property located at Hwy 62 and Hanshew Rd.

Kit Williams: Let me explain how I think the procedure should go. The Unified Development Code, Section 155.05 talks about appeals from Planning Commission decisions to the City Council. This section of the code gives the applicant who has been denied a rezoning in front of the Planning Commission the right to come before the City Council and request the City council to do the rezoning anyway. They will present their case and if anyone on the City Council believes that the rezoning should go forward, then we would need to have a motion to read the rezoning ordinance which is also in your packet. The first thing you will be deciding is if you want to go forward or not.

Mayor Coody: Before we do anything we have decide if we are going to hear the appeal?

Kit Williams: You are hearing the appeal, they are going to come up and present their case, whether you want to grant it and read the ordinance is the issue.

Dawn Warrick: Since this item was brought forward by the applicant I would like him to make the first presentation. I do have some information that I will be glad to supplement with if the Council wishes.

Eric Johnson, representing Triangle Builders: Triangle Builders Supply has a contract to purchase this piece of ground. I am here to appeal the April 26th Planning Commission decision to deny our rezoning to RSF-4. We have been trying to get this property rezoned since last

October and have been working diligently with the staff to find a zoning that they would support. The staff and we believe that RSF-4 is a good fit for this site, so we proceeded with that request. The RSF-4 density is consistent with the surrounding property to the east and west and it would provide a good buffer between the future commercial frontage and the large tracts to the south. It is along Hanshew Drive and Highway 62, Highway 62 is 400 feet to the north of this property so it is right in that corridor. It's also very close to the new Lowe's and the Wal-Mart Supercenter just down the street. We were at a distinct disadvantage at the last Planning Commission meeting for several reasons. We had a conservation easement alleged to apply to this property, I am here tonight to make sure it is clear that it does not apply to this property; it applies to a neighboring property not this property. It was the first time that I had become aware that a conservation easement even existed and I have done my research and it does not apply to this property. Additionally the City Attorney was not present at the last Commission meeting to advise the Council about the application of a conservation easement onto adjoining property. There were only five Commissioners present to vote that night and because of time issues we had to proceed to a vote. With five Commissioners present it requires five affirmative votes to pass, we did not receive those so we are here tonight before you. I want to make very clear that there is no conservation easement upon this property, it was farmed extensively in the last 15 years and was almost entirely clear cut ten years ago. We have had a tree study performed and it showed very few trees of significance for the definition of the city landscape. We intend to create a desirable and attractive community and will conform it to all city drainage and infrastructure requirements. We do not believe RSF-4 to be an unreasonable request; this property is well located in a high growth area. I have a copy of our site analysis and tree study.

Mayor Coody: Is there anything else you would like to add Mr. Johnson.

Eric Johnson: Not at this time.

Mayor Coody: Ms. Warrick would you mind giving a staff recommendation and maybe a brief history of this project.

Dawn Warrick: Mr. Johnson briefly stated that this is an item that has been in the works for quite a long time. An original application for rezoning of this project was submitted to the Planning office on September 22, 2003, at that time the applicant was requesting a multi-family density on the property with a desire to build townhomes in a more unconventional type of development lay out. Staff was not comfortable with the density that was being proposed at 12 units per acre in that application. We on the initial application did not recommend in favor of the zoning.

That item was heard by the Planning Commission on October 13, 2003, at that time it was tabled to give the staff and the applicant more time to discuss what the appropriate zoning would be for the project and what options they might have on process. It was brought back to the Planning Commission on November 24, 2003 and at that time the applicant withdrew his request for RMF-12 zoning. That request was withdrawn and again the applicant was encouraged to work with the staff and we sit down and had a couple of meetings to determine what type of zoning staff would be able to recommend.

During those previous two Planning Commission meetings and during discussions with staff a Planned Zoning District was a process that was mentioned several times as an option for the developer. They did look into that and contacted engineers to determine what their requirements would be and what would need to happen on their end in order to process a Planned Zoning District and through that research they determined that was not the kind of project process that they wanted to go through. They chose to stick with the conventional rezoning and then follow that up with a development request. Therefore they submitted a second request for a RMF-12 designation. We were looking at the same density that was originally proposed; at this time they did submit a Bill of Assurance that would limit the density to 9 units per acre. That did not to staff feel like it was enough of a density reduction. We were still looking for something different, we did not feel that was consistent with the surrounding properties and so we again recommended denial on that request. That item was taken to the Planning Commission on January 26, 2004 and it was denied 8-0.

Following that denial staff met again a few times with the applicant and their team and recommended that they look at an RSF-4 zoning district. Together staff and the applicant looked at surrounding properties and available zoning designations and we encouraged them if they chose to continue looking at this property to look at an RSF-4 designation, which they did. March 18, 2004 they submitted a request for rezoning from residential agricultural to RSF-4. That is the item that was taken to the Planning Commission on April 26, 2004 and it was denied on a vote of 2 in favor 3 opposed and 1 abstention. As Mr. Johnson mentioned that was a meeting where we had 6 Planning Commissioners present and one due to financial reasons was abstaining on the vote on this particular item. That is why there were only five voting members of the commission on this issue.

There was mention at that meeting of the conservation easement on property that is located south of the subject tract; the map that I passed out this evening I think demonstrates where that property is located and where the conservation easement is covering properties to the south. The subject property is bounded on the east side fully by a property that is designated RSF-4 which is the requested zoning, it does adjoin a small portion of the property to the south which I believe totals around 90 acres that is covered by a conservation easement. The southern property line of the subject property is 1330 feet in length, only 600 feet of that adjoins that conservation easement area. The rest of the northern boundary of that conservation easement adjoins property that is already zoned RSF-4 that has development rights to build single family developments at 4 units per acre which is the request of this applicant.

The General Plan designates this property residential and the property immediately north of this between the subject property and Highway 62 is designated on the General Plan as mixed use. As Mr. Johnson mentioned there are several larger commercial developments in this area. Immediately adjoining the tract north of this you will see on your map there is some property that is designated C-1 and then beyond that to the north is the Magnolia Crossing Subdivision.

Magnolia Crossing is a subdivision that was plated with a multifamily zoning designation, it is primarily single family homes and it is on smaller lots which is why that designation was applied at the time, we did not have a Planned Zoning District for them to process under.

Hopefully that gives you an understanding of what the surrounding property and circumstances look like and what our policy documents stated. Just for reference I know that it is generally a concern as to the fire response time to access a new development. The fire response time from Station # 2 which is on Hollywood Avenue to this site is 3 minutes and 54 seconds.

Alderman Thiel: When was the property east of the subject property zoned RSF-4?

Dawn Warrick: I don't have that information in front of me. It has been just a long time, I would say at least 10 years.

Alderman Thiel: Was the conservation easement enforced at the time that was rezoned?

Dawn Warrick: I believe the property owner is here and can talk to you about the time frame of the conservation easement.

Alderman Marr: The Planning Commission denied a rezoning on this property in January, if you have a request that is denied is there a 12 month period before it can come forward again?

Dawn Warrick: The same request can not come forward, the request in January was for RSF-12 zoning, and this request is for RSF-4.

Alderman Marr: I thought I remembered a finding of fact that addressed compatibility to adjoining lands, is the only item of compatibility that we look at zoning, or how would we address compatibility assessment to a conservation easement?

Dawn Warrick: Zoning is an appropriate starting point, because that insures what could be developed there even if it does not exist there currently. We look at the future land use map and the designations that are on there because those are the expected future land uses in that area, that is also a criteria that we use to determine compatibility. Existing land use; we look at that and the conditions of the existing and surrounding properties, those are all different factors that go into that. I think it is appropriate to look more towards the future land use policy that has been adopted as well as the zoning that is in place because those are items that we can expect to see. Existing properties maybe not developed today under those designations, but should they come before us those policies would be enforced and the resulting development would then be what is compatible based on those planning policy documents.

Alderman Marr: Are there special considerations given to compatibility assessment for a conservation easement?

Dawn Warrick: That specific finding is not required or part of the standard staff report. It is an analysis of what the surrounding properties contain and what those conditions are. One thing that is important to point out with regard to this is the city did not require nor do we enforce this particular easement, it was optional. The owner chose to have an easement placed on their property and it is managed through a different agency. That is something that we know is there, we have that on our future land use plan as a private open space. We don't know for sure that we

have everyone's private agreement that affects their property reflected on those plans because they are not typically agreements that the city is a party to.

Alderman Davis: It appears that some of the people in the area are concerned about drainage, what can we do to assure those individuals should this go forward that there will be no drainage concerns for people across the highway?

Dawn Warrick: There have been drainage problems in that area, at a couple of the different Planning Commission meetings where this item was discussed; our staff engineers did address that. They will be required, if this property is zoned for a development, to comply with the city's grading and drainage ordinances, which will ensure that post development conditions are no worse than existing development conditions. We try to improve those conditions whenever we have an opportunity.

Alderman Davis: So in most cases you have a detention pond to get some of the runoff?

Dawn Warrick: That is correct; on site detention is a standard requirement for developments.

Alderman Davis: What percentage of the land would need to be given to Parks?

Dawn Warrick: For a single family residence it depends on the number of lots that would be generated by the development. If the Parks Board and the applicant chose a dedication as opposed to money in lieu of that dedication, a ratio of .024 acres per single family unit would have to be dedicated for park land. This is a relatively small tract of land when you look at compiling a large chunk of property to serve as a park. We do not even allow the project to go to the Parks Board for consideration until there is zoning applied to it because they don't really have the development rights to look at that type of project until the zoning is approved. Once that part is taken care of the applicant can then go to the Parks and Recreation Advisory Board and they make a recommendation as to if they would choose to dedicate land, or pay a fee in lieu of that land dedication. The Parks Board develops a recommendation to the Planning Commission and the Planning Commission is required to confirm that.

Alderman Davis: Is there any way that whatever that amount is of total park land that the buffer or that park area could be up against the conservation easement?

Dawn Warrick: I won't say that it is not a possibility but the requirement for the maintenance of that falls to the city, because it is then city park land and they tend to have specific desires with regard to what their park land purposes will be. I can't say for sure that would be advisable to the Parks and Recreation Advisory Board as an option for where they would collect their park land.

Alderman Jordan: The area in question seems to be somewhat steep, what is the slope on that?

Dawn Warrick: In looking at the site and in speaking with the applicant about it, it was a field for quite a long time. The southern portion of the site has more of a slope to it than the northern portion of the site.

Alderman Jordan: In the notes from the Planning Commission it said between 10 and 15 percent, is that steep?

Dawn Warrick: I would say if that were an average over the entire property it would probably be a relatively steep property, if it's isolated in one particular area then that may be an area that we need to look at and develop around. We need to get a better idea of where that 10% to 15% is, if it is isolated or an average over the entire site. In just looking at it, I tend to believe that's probably the southern end of the property that has the super slope to it.

Mayor Coody: Mr. Johnson, how does the land lay?

Eric Johnson: It is not so steep, I am not any engineer our slope study is being passed around, EDI is the one that did the slope and tree analysis, I believe they ranged from 3% to 15%, I would say the average is less than 10%. The majority of it was farmed and is fairly flat and not at all steep.

Alderman Jordan: When we talk about compatibility, if I understand what you are saying, does it fit?

Dawn Warrick: That is correct. We determine whether or not the property fits as far as the proposal and whether or not it is consistent with the adopted policies and plans of the city.

Alderman Jordan: And in your estimation, it does?

Dawn Warrick: Yes sir.

Alderman Thiel: The property description states the 17 acre site is heavily wooded has significant areas of steep slopes and is somewhat remote. Is that referring to this property?

Dawn Warrick: Yes, that is the description of this property. This property does have wooded areas, it does have some areas that have slope to it as the analysis provides.

Alderman Thiel: Who writes this?

Dawn Warrick: Planning staff.

Alderman Thiel: So at one time you did say that it was heavily wooded and has significant areas of steep slope?

Dawn Warrick: That is correct.

Alderman Cook: One of my problems with it is the drainage of it. It looks like 90% of that piece of property drains towards one culvert that goes under the highway there and the other roughly 10% drains into another culvert that goes under the highway. The Planning Commission has heard from residents that live on the north side of the highway and down stream that they get

flooded in regular rainfalls. One of my concerns is that if we build out this piece of property and reduce the amount of herbiest soil that it will create more run off and it will exasperate that situation more.

Alderman Lucas: It says you have surrounding properties or primarily large tracts which are vacant or sparsely developed with single family homes. I too am concerned about the run off. Would the property owner consider reducing the number to RSF-1 or 2?

Dawn Warrick: Those developments that you are talking were installed prior to the existence of our current grading and drainage ordinances and I think that is important. You can certainly discuss with the developer what their wishes are with regard to density. Whether this property is developed at its current R-A designation with one single family home per two acres or the RSF-4, if that request were to be approved, our grading and drainage ordinances do apply. Should the applicant or the property owner build one single family home on the property they are exempt from that requirement unless that site is 15% or greater in average slope.

Alderman Lucas: Any time you put things on the ground it is going to create run off. As hard as we try we don't completely control it and that worries me and the compatibility with the surrounding neighborhoods, I am concerned about it. It seems awfully dense for this terrain.

Mayor Coody: There are several different slopes on this property ranging from 2% to 15% would the 15% slopes be developed at the same density as the 2% slopes?

Dawn Warrick: We would have to look at that in the development review process. Typically you are not going to see a yield as high on a property that slopes greater. It is more cost effective for the developer to develop the flatter portions and to leave those other areas for open space and tree preservation. Hopefully those areas that are more heavily treed on the southern end of the site on the more sloped property, those are the areas we would look at in the development review process to determine if those are appropriate for preservation. The tree preservation ordinance does apply and would be required to be complied with.

Alderman Davis: Do you know what the size of the homes that they are looking to put out there?

Eric Johnson: We have not announced that yet, these lots are going to be fairly expensive lots so they may be fairly large homes.

Alderman Davis: What is the definition of an expensive lot?

Eric Johnson: I would say \$30,000 to \$40,000.

Alderman Jordan: What is the traffic count in this area now?

Tim Conklin: Around 18,000 west of Lowe's.

Alderman Jordan: That is designed to handle 27,000.

Tim Conklin: 27,000 to 28,000.

Alderman Jordan: How much would this development increase the traffic count?

Dawn Warrick: At four units per acre maximized it would produce a maximum of somewhere around 680 trips per day.

Kit Williams: An appropriate motion would be to read the rezoning ordinance. I would like to make a comment about compatibility. I gave you a memo about what you should consider for a zoning request when you are faced with these difficult decisions. In the memo I mentioned compatibility with adjacent zones, I also had in there spot zoning, spot zoning means zoning one lot entirely differently than the surrounding area. Apart from comments the courts have made about spot zoning, they have not talked about compatibility as one of the things to consider. So, unless you would determine that this would be spot zoning and since it is sitting adjoining another RSF-4 that would be a stretch, you should probably look at some of the other factors that the Supreme Court has authorized including the 2020 Plan, public opposition that is logical and reasonable, traffic issue, safety and fire protection, good civic design and efficiency, decrease in value of adjoining land and appropriate and best use of land.

Alderman Jordan: I found that the slope is too steep, that is too dense for that area, I think when we take the trees from the area it is going to create a lot of drainage problems which we already have in that area. I think it will increase an already over maxed out traffic problem in that area.

Mayor Coody: The thing that concerns me about this is they came first with multi family 12 units, the staff recommended against that they came back and reduced that to 9 units per acre and the staff recommended against that and then they came back with four units per acre and the staff worked with them and recommended that. They have been through the process; the staff has recommended this, for us to now turn them down.

Barbara Moorman: I never alleged that there was a conservation easement on the property that is being developed. She described her conservation easement. She spoke of the drainage on the adjoining property and this property and the tree canopy on the property.

Alderman Thiel: Mayor, the staff also asked them to do a PZD, I think if we where looking at a PZD and could get some idea of the density, that might factor in. I don't think the applicant responded to some of the requests that were made to them.

Mayor Coody: What was the rational for turning down the PZD process?

Dawn Warrick: They were not enthusiastic about going through the double process; they also got quotes from various engineering firms that where higher than they expected in order to process the development proposal.

Alderman Lucas: I don't believe this is the appropriate use due to the density and the terrain. If they had reduced it down I might have been more considerate of it. I have heard from people from the area that are concerned about the density and the drainage.

Alderman Marr: As I read through the minutes of the Planning Commission there were some comments that stuck with me. One was that RSF-4 is something that we use a lot and it is great in the flat land, but it is too dense on this hill. This Council has concerns on density related to slopes, we have asked for a hillside ordinance. I think RSF-4 is an appropriate use on some portions of this land, but I don't think it is appropriate and best use of land as we use slopes and I don't buy the argument that the slopes are the minimum part of the land. I also think we have constituents that come to us during the large scale development process unhappy that something got approved and at that time we state the time to fight this is at zoning. I wish you had done a PZD.

Mayor Coody: If we turn this down tonight if they come back with a PZD can they come back through the process again before a year is up?

Dawn Warrick: I think it would, it is a different zoning designation.

Alderman Jordan moved to deny the appeal. Alderman Lucas seconded the motion. Upon roll call the motion to deny the appeal passed unanimously.

The Appeal Was Denied.

David Howard Damage Claim Appeal: Appeal of the City Administrations decision to deny a claim for damages by Mr. David Howard against the Fayetteville Water and Wastewater Department.

Greg Boettcher: This is an insurance claim against the City of Fayetteville by Mr. Howard in the amount of \$1041.56 for water damages that occurred at 152 Ruth Street in Farmington. Mr. Howard submitted a claim for damages to us on February 22; I denied that on April 22, Mr. Howard has requested an appeal to the Council. The circumstances under this event as I understand them are Mr. Howard was doing plumbing repairs in his home, did not have the proper parts to finish it and left some plumbing open in his house. He left the house shortly thereafter and this account became delinquent. Our meter department went there and shut off the service. I understand Mr. Howard used our meter valve to shut off the water while he was doing the plumbing repairs. When Mr. Howard returned a couple of days later to finish the repairs, when he entered the house he noticed there was water in the home and there was water coming out of the open plumbing that he had left unattended and it created the damages. Upon reviewing this I do not see that the City of Fayetteville is responsible for open plumbing in a house or leakage around our meter valve. We are not saying the claim by Mr. Howard is unreasonable or that we believe that it is a fraudulent claim; we do not believe that we are responsible. Fayetteville city code prohibits tampering with our meters, the meter valve that he used to shut off his service is our valve, he should have used a building plumbing valve. The state plumbing code requires main shutoff valves and fixture valves that are there for plumbers to

do work on their home. We have denied the claim, I regret that he has damages to his home, but the reason these damages occurred were due to his acts not acts on behalf of the city.

Alderman Rhoads: Was water running through his meter and if so, who turned it on and who turned it off?

Greg Boettcher: What I understand was when Mr. Howard left his home he did not see water coming out of the open plumbing. When our meter people go there and they see a water meter, we may have turned the valve slightly to make sure it was in an off position. When we were called by Mr. Howard and we went there we did see that there was leakage around the valve out in the yard and the meter pit, so there was water that was flowing in. Ultimately he should have contacted us to have his service shut off, there is a nominal charge, we will come out during normal hours and we will shut the meter off and make sure there is no water, we will even break the nuts on the meter to open the gaps so no water can go in the home, if they want us to use our device to shut off the water.

Alderman Rhoads: Do our people claim that they absolutely shut the water off?

Greg Boettcher: The valve was closed at the time we received the call from Mr. Howard there was some leakage through the valve at that time. I don't know who particularly may have changed the valve.

Alderman Rhoads: If there was leakage in the valve and the leakage is what caused the water to go into his house and damage his house is that not the City's responsibility?

Greg Boettcher: I do not believe it is, he should have never closed the valve and he should by code and other standards have an isolation valve inside his house to do his plumbing work. Our valve is for our meter, it is not for the customers use in shutting on and off their water, to some extent he should have never touched it. The fact that it leaked and he operated it adds to it. We may have opened and closed it but ultimately leaving a house unattended with the plumbing open and using our valve to protect, and then we ultimately end up liable for something we had no active role in.

Alderman Thiel: Our building codes require that a newly constructed house has shut offs inside for everything?

Greg Boettcher: State plumbing code does require that.

Alderman Reynolds moved to deny the damage claim. Alderman Davis seconded the motion. Upon roll call the motion to deny the claim passed unanimously.

The Claim Was Denied

Roll Off Style Container Bid Waiver: An ordinance to waive formal competitive bidding requirements during 2004 for the purchase of roll off style steel containers by the Solid Waste Division and to approve a purchase of roll off containers in an amount not to exceed \$85,859.00.

Mr. Williams read the ordinance.

Alderman Reynolds: I would like to see us rewrite that to go back to a one year bidding contract.

Kit Williams: I think that we would be able to do that if that is what the Council wants. The potential downside on that is in a situation like this with volatile prices, the bid that you would receive from various companies would have to take into account that they might have to be supplying something later at a much higher cost to them and therefore we might not be able to get very low bids initially. There is an up side and a down side; if you want to make them good for a year, I am afraid the bids might come in higher.

Alderman Davis: With the increase in steel prices today that would be difficult to do. My only concern is when we have people give us a price we should try to get it guaranteed for a longer period than 60 days. A year guarantee may be tough but we should at least try to get a six month guarantee, something along that line if we could in the future.

Gary Dumas: We can include that in the bid document, but any time we go for a longer term for that guaranteed price, it will increase the cost of the product that we are buying.

Alderman Reynolds: I would have been glad to have given them \$35,000 more in the last contract to have a six month contract that would have saved us \$50,000.

Gary Dumas: We will only buy these containers as we need them. We try to get an annual award that is available that we can use throughout the year for the containers that we need.

A discussion followed on the length of the contract and the spike in steel prices.

Alderman Lucas: This will be good for a year or is it another 60 days?

Gary Dumas: No one has given us any guarantee on pricing much beyond two weeks at this point. We will have to fax out quote requests and when we get the quotes award the contract immediately at that price. This will allow us to do that process without coming back to the Council. Our maximum expenditure will be \$85,000.

Kit Williams: This is not a contract itself, this is waving the formal competitive bidding and going into the quote procedure and having a cap on the amount of money that Solid Waste can spend.

Alderman Thiel: This cost increase will be passed on to the consumer of the roll off containers?

Gary Dumas: Yes.

Alderman Reynolds: Do you think this price is still good?

Gary Dumas: We will have to see if that business line grows substantially throughout the year we may have to come back and ask for some additional funds later.

Alderman Reynolds: Is this price good right now, can we buy the containers for the price that is on here or has the price gone up again?

Gary Dumas: It has probably already gone up because that quote was three weeks ago.

Alderman Marr: What is the lead time of delivery when we order?

Gary Dumas: In the past we have been able to get them within 10 days. We will quote this tomorrow and order them immediately.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4575 as Recorded in the Office of the City Clerk

ANX 04-3.00 (Nooncaster): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Nooncaster Vineyards, Inc. located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres.

Mr. Williams read the ordinance.

Dawn Warrick gave a brief description and history of the project.

Alderman Jordan: What is the fire response time?

Dawn Warrick: 6 minutes 3 seconds.

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

Mr. Williams read the ordinance.

Ray Smith representing Nooncaster Vineyards gave a brief description of the property. **John Nooncaster** shareholder of the corporation that owns the property stated that Stonewood that borders the western boundary of the property is nearly built out completely with homes, on the south side is Copper Creek I which is half way built out with homes and on the eastern boundary is Copper Creek II which is plated and currently under construction.

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

Mr. Williams read the ordinance.

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

Ordinance 4576 as Recorded in the Office of the City Clerk

RZN 04-08.00 (Nooncaster): An ordinance rezoning that property described in Rezoning petition RZN 04-8.00 as submitted by Ray Smith on behalf of Nooncaster Vineyards, Inc. for property located east of Crossover and north of Hearthstone Drive containing approximately 20.01 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units Per Acre.

Mr. Williams read the ordinance.

Dawn Warrick gave a brief description of the property and the surrounding Property.

Alderman Davis: The terrain is a gentle slope if any at all, it is basically flat, connectivity on three areas of the adjacent subdivisions, so it is pretty easy to go ahead and develop. I would say that the four units per acre are sufficient.

Ray Smith: It looks like there will be 43 to 45 lots on the 20 acres, so the density will be less than the four units per acre. The housing that is planned will be very compatible and harmonize with the residential areas that adjoin the property.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4577 as Recorded in the Office of the City Clerk

ANX 04-06.00 (Leigh Taylor Properties): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Hwy. 112 containing approximately 29.86 acres.

Mr. Williams read the ordinance.

Dawn Warrick: It is my understanding that the applicant contacted the City Clerk's office today and was not able to attend this evening and has asked this ordinance be tabled.

Kit Williams: Do you want to leave it on the first reading rather than table it?

Dawn Warrick: That's up to the Council.

Mayor Coody: Are they planning on being at the next meeting?

Dawn Warrick: I believe so.

The Ordinance was Left on the First Reading.

VAC 04-10.00 Right of Way (Paul Dunn): An ordinance approving VAC 04-10.00 to vacate and abandon a 25' portion of the platted right of way for Rebecca Street east of Vinson Avenue along the north boundary of Lot 8 of the Vinson Subdivision, retaining a utility easement within subject property as depicted on the attached map and legal description.

Mr. Williams read the ordinance.

Dawn Warrick: Gave a brief history of the property.

A discussion followed on the lot in the subdivision.

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

Mr. Williams read the ordinance.

A discussion followed on the ordinance.

The Ordinance was Left on the Second Reading.

Terracon, Inc. Contract regarding Flood Damage: A resolution to approve a contract for engineering services with Terracon, Inc. in the amount of \$50,000.00 for assessment, design, bidding, inspection and contract management services for repairs related to the recent flood damage and to approve a budget adjustment of \$100,000.00.

Gary Dumas: We had a meeting with FEMA and we have 60 days to give them our list of repairs that need to be made.

Alderman Davis: Gary do you know how many residents in the community received water damage due to the rains we have had?

Gary Dumas: I do not know.

Alderman Davis: We do need to take care of some of our drainage concerns throughout the community. Until we get those taken care of we are going to have some of the residents from time to time in a heavy rain situation get water in their homes because our drainage is not taking enough of the water off the streets.

Gary Dumas: That is correct. We are working on that with our street maintenance program and ditch cleaning.

Alderman Cook: FEMA is going to reimburse some of this money.

Gary Dumas: Some, I don't know how much yet.

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

Resolution 80-04 as Recorded in the Office of the City Clerk

INFORMATIONAL:

Kit Williams - Report on the Housing Authority Board

Kit Williams: I received communication from Mr. Crouch who is the attorney for the Fayetteville Housing Authority informing me that he had not researched this and had not been asked to research this by the Housing Authority. He stated the Housing Authority was relying upon the attorney for HUD out of Little Rock and he came to the conclusion that they could use federal funds for this. At this point to my knowledge no funds have actually been used.

Meeting Adjourned at 7:55 pm

Sondra Smith
City Clerk

**Tentative Agenda
City Council Meeting
June 15, 2004**

A meeting of the Fayetteville City Council will be held on June 15, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the May 18, 2004 meeting minutes and the June 1, 2004 meeting minutes.
2. **RJN Group Sewer Rehabilitation:** A resolution to approve an engineering contract with RJN Group, Inc. in the amount of \$226,978.00 for the design and bidding phase services for the sewer rehabilitation project.

B. OLD BUSINESS:

1. **R-PZD 04-06.00 (John Nock):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-06.00 located on Ruppel Road south of Wedington Drive containing approximately 41.70 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. *The ordinance was left on the second reading at the June 1, 2004 City Council meeting.*
2. **Ruppel Row Money in Lieu of Land:** A resolution to accept the recommendation of the Parks and Recreation Advisory Board to accept \$7,482.75 in lieu of a portion of the parkland dedication requirements of Ruppel Row Subdivision. *The resolution was tabled at the June 1, 2004 City Council meeting until the June 15, 2004 City Council meeting.*

C. NEW BUSINESS:

1. **Tomlinson Asphalt Shiloh Drive Widening:** A resolution awarding a construction contract to Tomlinson Asphalt Company, Inc. in the amount of \$186,218.75 for the widening of Shiloh Drive from Gregg Avenue to Steele Boulevard; and approving a project contingency in the amount of \$58,622.00.
2. **OMI Rebate Transfer of Funds:** A resolution approving as budget adjustment transferring \$128,902.00 of Operations Management International (OMI) rebates from Water & Sewer Fund Balance to the Lift Station Improvements account.

3. **Washington County Inter-Local Agreement:** An ordinance approving an inter-local agreement between Washington County, Arkansas, and the City of Fayetteville, Arkansas, concerning the expenditure of funds received from the Arkansas Department of Emergency Management and the disposition of various items of emergency equipment purchased with such funds.
4. **Shake's Building Sale:** A resolution of intent to sell municipally owned property at the corner of Sang Avenue and Sixth Street (a portion of the former Shake's Frozen Custard Lot and building).
5. **VAC 04-1070 (Gerald Tomlinson):** An ordinance approving VAC 04-1070 to vacate and abandon a 45' existing right of way that extends north of the intersection of West Salem Road and Ruppel Road through The Estates at Salem Hills property and a 50' right of way that extends west of the intersection of Howard Nickel Road and Salem Road through The Estates at Salem Hills as depicted on the attached map and legal description.
6. **VAC 04-1105 (Thomas Lutz):** An ordinance approving VAC 04-1105 to vacate and abandon a portion of a 10' utility easement designated for gas and water located at 1645 W. Sunrise Mountain Road as depicted on the attached map and legal description.
7. **VAC 04-11.00 (Houses Development Company):** An ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8, and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on the attached map and legal description.

D. INFORMATIONAL:

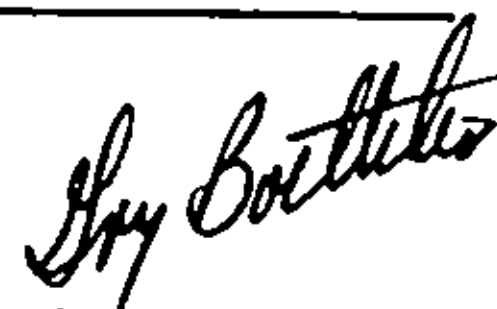
Council Tour: June 14, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest
Chief Administrative Officer

From: Greg Boettcher
Water/Wastewater Director



Date: May 28, 2004

Subject: Resolution approving contract with RJN Group for design/bidding phase services for Sanitary Sewer Rehabilitation Project (EPA Grant).

RECOMMENDATION

Fayetteville City Administration recommends approval of an authorization totalling \$226,978.00, said amount being the face value of a proposed contract with RJN Group, Inc., of Dallas, Texas.

BACKGROUND

Fayetteville has been the recipient of \$1,100,000.00 in EPA Grant Assistance from the State and Tribal Assistance Program, notification of the awards being made on June 10, 2003 and May 17, 2004 (copies of EPA correspondence attached). The combined EPA grant funding is proposed to be leveraged with the city's ongoing sewer rehabilitation funding to accelerate the local program. Grant award conditions necessitate a local funding match of at least 45% of the project costs, the EPA funding to then provide not more than 55% of the eligible project costs. Projects receiving grant funding must be completed within five years of the award. A small percentage of the grant funding is allocated to the grant oversight agency to recover the costs of grant program administration. The delay of the city's rehabilitation work to capitalize on multi-year funding provides more efficient use of the funds, as the two grants can be combined keeping administrative expenses to a minimum. Grant consolidation also provides economies of scale with respect to engineering, administrative and construction costs.

An engineering selection committee meeting was convened on April 12, 2004 to select an engineering consultant for this project. The committee selected RJN Group, Inc. of Dallas, Texas. RJN Group, Inc., has been involved in the Fayetteville sewer rehabilitation program since its conception, has performed much of the cost-effective analysis for the proposed rehabilitation work and was deemed the best qualified provider of the needed services. A contract for design/bidding phase services has been negotiated for \$226,978.00 addressing an anticipated \$3,150,195.00 capital improvement project (estimate and location map attached). As the project advances to construction, an amendment to the agreement will be negotiated to cover construction phase and resident inspection services.



DISCUSSION

The specialized nature of sanitary sewer rehabilitation, the complexities of the EPA STAG Grant Program and the workload of current technical staff warrant the outsourcing of engineering services for this project. The engineering costs will be paid directly by the City of Fayetteville using funds already budgeted for sanitary sewer rehabilitation activities. The EPA Grant Funds will be dedicated solely to construction contract costs, minimizing the administrative and accounting efforts for both the city and the granting agency. In addition, such structure enables the consultant to provide needed assistance in the grant application development including engineering feasibility studies, cost predictions and technical justifications for proposed rehabilitation activities. While EPA Grant funds have been allocated for this project, the City must now complete EPA grant applications, must secure various environmental clearances under the National Environmental Policy Act and must comply with numerous granting agency requirements before any construction funds can be released. Meetings with the EPA Project Officer have confirmed this proposed project strategy to be the most efficient, effective and timely approach for the planned activities.

BUDGET IMPACT

The \$226,978.00 expenditure for design/bidding phase services agreement with RJN Group, Inc. is available from the Fiscal Year 2004 Budget. The Fayetteville budget contains \$2,753,627.87 in unencumbered funds for sanitary sewer rehabilitation, which will be combined with the net EPA Grant proceeds of \$1,060,500.00 to create available funding of \$3,814,127.87. These funding resources are adequate to cover the predicted project cost of \$3,150,195.00 and to fulfill the grant funding ratio requirement of 45% local funds and 55% EPA grant funds.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN ENGINEERING CONTRACT
WITH RJN GROUP, INC. IN THE AMOUNT OF \$226,978.00 FOR
THE DESIGN AND BIDDING PHASE SERVICES FOR THE SEWER
REHABILITATION 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 the Agreement for Professional Engineering Services with RJN Group, Inc.
(attached as Exhibit A) for the design and bidding phase services for the sewer
rehabilitation project in the amount of \$226,978.00.

PASSED and APPROVED this the 15th day of June, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

May 17, 2004

The Honorable Dan Coody, Mayor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Dear Mayor Coody:

This letter is regarding a grant authorization for City of Fayetteville, which was included in the Fiscal Year (FY) 2004 appropriations act for the Environmental Protection Agency (EPA). The act authorized a \$650,000 grant for water supply and wastewater handling system upgrades. Please note that the appropriation act from a previous year included a continuing provision that established a 3% set-aside from each authorized grant to be used by EPA to fund the cost of managing the grant and this year's appropriation also included a 0.59% rescission requirement. Taking these reductions into account, the actual amount of your grant will be \$626,800.

One possible use of the 3% management set-aside mentioned in the previous paragraph is for EPA to provide a grant to the Arkansas Soil & Water Conservation Commission (SWCC) to manage your grant for us. SWCC has expressed their desire to manage the FY 2004 grants. Therefore, I will be working with you in consultation with the SWCC until the grant is awarded. After that, the SWCC will be performing all of the review and grant management functions for EPA.

Each year, our national headquarters office issues guidance for the special infrastructure grants. The guidance for this year was finalized on April 13, 2004. I have enclosed a copy of the guidance to give you an idea of what is required. Please note that your grant will be subject to EPA grant regulations found in the Code of Federal Regulations (CFR) at Part 31 of Title 40. These regulations include the procurement regulations to which you should pay special attention. I am also enclosing a copy of that regulation for your use. I would like to draw special attention to the following grant requirements:

Local Share Requirements:

Grant funding is limited to \$626,800, with no possibility of a grant increase for cost overruns. We will expect any construction partially funded by the EPA grant to be completed and to provide operable works. The appropriation incorporates, by reference, statements in the Conference Report which require the grant recipients to provide a 45% match of the total project cost. To fully utilize the grant, the total project costs should be at least \$1,139,637 (\$626,800 grant + \$512,837 local match of 45%). The EPA funded project can exceed the amount if you have additional funds available for 100% of the extra costs. Project costs incurred prior to the date of the grant award are usually not eligible for grant funding, however, there are exceptions to this requirement. Please see the enclosed guidance.

In limited cases, funds from other Federal programs may be used as all or part of the local match, provided that enabling legislation allows such use of those funds. In addition, the EPA has taken action that will allow second round funds (loan repayments) from both Clean Water and Drinking Water State Revolving Fund (SRF) programs to be used as a source of local match. As you are probably aware these funds are available in the form of low interest loans.

Compliance with the National Environmental Policy Act (NEPA):

Prior to release of Federal assistance for design or construction, EPA must comply with NEPA as well as a number of crosscutting Federal environmental laws (e.g. Endangered Species Act, National Historic Preservation Act, etc.). To accomplish this, recipients must submit project-specific environmental information via an environmental information document (EID), to EPA to determine whether there will be an adverse effect on the environment. The applicable NEPA regulations are contained in 40 CFR Part 6 and in 40 CFR Part 1500. Region 6 has developed a guidance document for compliance with NEPA and related environmental laws and is enclosed in an electronic file (CD enclosed)

Grant Application Form (Standard Form 424) and Supporting Documents:

I have enclosed a grant application kit for your use. The Narrative Description of the project, which you submit with your application, should fully describe the project to be constructed, the environmental benefits, and the types of costs to be included (i.e., planning, design, construction, land, etc.). It should also include a project schedule with applicable milestones such as completion of planning, design, and construction for each contract, and closeout of the project. We will conduct a pre-application conference with you at a later date to discuss all aspects of the grant process. Please be advised that you may submit your application at any time. The application kit includes the address to use for submitting your grant application.

I will be the Project Officer for your grant and will be responsible for ensuring that the project is successfully completed in compliance with Federal requirements. I look forward to working with the City on this grant. Please do not hesitate to contact me at (214) 665-2788 or Patel.Rajen@epa.gov if you have any questions or need additional information.

Sincerely,



Rajen Patel, CHMM
Project Engineer/Project Officer
SRF & Project Section (6WQ-AP)

Enclosures (CD)

cc: Dave Fenter, Program Manager
Arkansas SWCC



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

June 10, 2003

The Honorable Dan Coody, Mayor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Dear Mayor Coody:

This letter is regarding a grant authorization for City of Fayetteville, which was included in the Fiscal Year (FY) 2003 appropriations act for the Environmental Protection Agency (EPA). The act authorized a \$450,000 grant for regional wastewater system improvements. Please note that the appropriation act from a previous year included a continuing provision that established a 3% set-aside from each authorized grant to be used by EPA to fund the cost of managing the grant and this year's appropriation act also included a 0.65% rescission requirement. Taking these reductions into account, the actual amount of your grant will be \$433,700.

Each year, our national headquarters office issues guidance for the special infrastructure grants. The guidance for this year is not expected to be final until at least July 15. I have enclosed a copy of the guidance issued last year to give you an idea of what is required. Please note that your grant will be subject to EPA grant regulations found in the Code of Federal Regulations (CFR) at Part 31 of Title 40. These regulations include the procurement regulations to which you should pay special attention. I am also enclosing a copy of that regulation for your use. I would like to draw special attention to the following grant requirements:

Local Share Requirements:

Grant funding is limited to \$433,700, with no possibility of a grant increase for cost overruns. We will expect any construction partially funded by the EPA grant to be completed and to provide operable works. The appropriation incorporates, by reference, statements in the Conference Report which require the grant recipients to provide a 45% match of the total project cost. To fully utilize the grant, the total project costs should be at least \$788,545 (\$433,700 grant + \$354,845 local match of 45%). The EPA funded project can exceed the amount if you have additional funds available for 100% of the extra costs. Project costs incurred prior to the date of the grant award are usually not eligible for grant funding, however, there are exceptions to this requirement. Please see the enclosed guidance.

In limited cases, funds from other Federal programs may be used as all or part of the local match, if enabling legislation allows such use of those funds. In addition, the EPA has taken action that will allow second round funds (loan repayments) from both Clean Water and Drinking Water State Revolving Fund (SRF) programs to be used as a source of local match. As you are probably aware these funds are available in the form of low interest loans.

Compliance with the National Environmental Policy Act (NEPA):

Prior to release of Federal assistance for design or construction, EPA must comply with NEPA as well as a number of crosscutting Federal environmental laws (e.g. Endangered Species Act, National Historic Preservation Act, etc.). To accomplish this, recipients must submit project-specific environmental information via an environmental information document (EID), to EPA to determine whether there will be an adverse effect on the environment. The applicable NEPA regulations are contained in 40 CFR Part 6 and in 40 CFR Part 1500. A Region 6 guidance document for compliance with NEPA and related environmental laws is under development and will be provided at a later date.

Grant Application Form (Standard Form 424) and Supporting Documents:

I have enclosed a grant application kit for your use. The Narrative Description of the project, which you submit with your application, should fully describe the project to be constructed, and the types of costs to be included (i.e., planning, design, construction, land, etc.). It should also include a project schedule with applicable milestones such as completion of planning, design, and construction for each contract, and closeout of the project. We will conduct a pre-application conference with you at a later date to discuss all aspects of the grant process. Please be advised that you may submit your application at any time, however we cannot process the application until the final Agency guidance is issued. The application kit includes the address to use for submitting your grant application.

I will be the Project Officer for your grant and will be responsible for ensuring that the project is successfully completed in compliance with Federal requirements. I look forward to working with the City on this grant. Please do not hesitate to contact me at (214) 665-2788 Patel.Rajen@epa.gov if you have any questions or need additional information.

Sincerely,

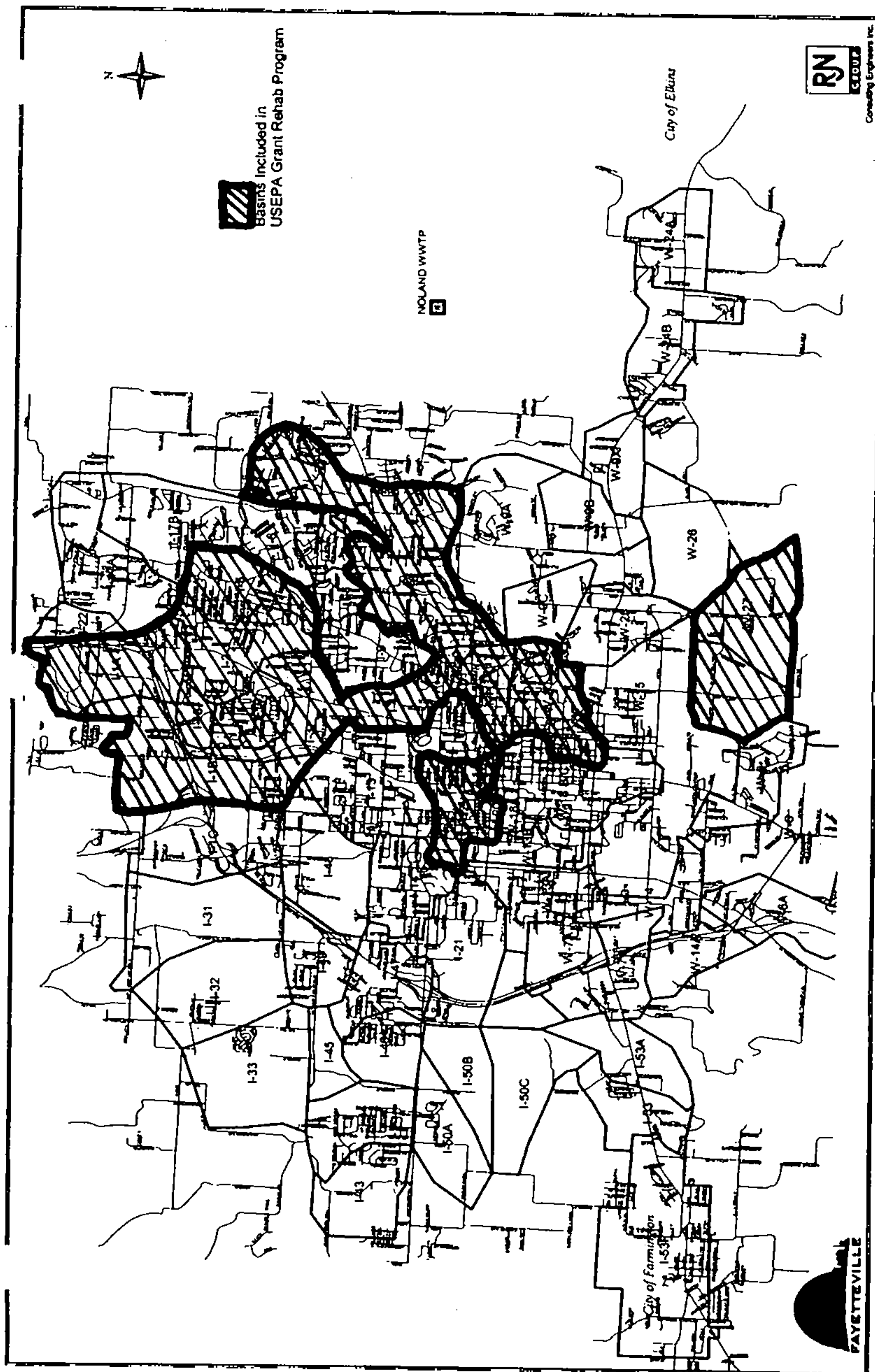

for Rajen Patel
Project Officer
SRF & Project Section

Enclosures

Table A-1

**SUMMARY OF RECOMMENDED IMPROVEMENTS
 ESTIMATED CONSTRUCTION COST**

Item	Quantity	Estimated Construction Cost (\$)
Basins I1-I5, I-11, and Mini System W-27 Sewer Improvements	7,464 LF	1,430,767
Basin I-5 Capacity Improvements	3,085 LF	649,118
Mini System W-2 and Various Sewer Improvements	<u>5,500 LF</u>	<u>749,845</u>
Subtotal	16,049 LF	2,829,730
Contingency		<u>320,465</u>
Total		3,150,195



AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
RJN GROUP, INC.

THIS AGREEMENT is made as of _____, 2004, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and RJN GROUP, INC. with offices located in Fayetteville, Arkansas (hereinafter called RJN GROUP, INC.).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the planning, design, permitting, construction, operation, maintenance, management, and financing of the Fayetteville Wastewater System Improvement Project and in particular Collection System Improvements related to the United States Environmental Protection Agency (USEPA) State and Tribal Assistance Grant Program (The "Project"). Therefore, CITY OF FAYETTEVILLE and RJN GROUP, INC. in consideration of their mutual covenants agree as follows:

RJN GROUP, INC. shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of RJN GROUP, INC.'s services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field. If Construction Phase Services are to be provided by RJN GROUP, INC. under this Agreement, the construction shall be executed under the observation of a professional engineer registered in the State of Arkansas in accordance with Arkansas Code Amended §22-9-101.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of RJN GROUP, INC.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of RJN GROUP, INC.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall not be allowed without a formal contract amendment approved by the

Mayor and the City Council in advance of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF RJN GROUP, INC.

2.1 General

2.1.1 Perform professional design services in connection with the Project as hereinafter stated.

2.1.1.1 The Scope of Services to be furnished by RJN GROUP, INC. during the Preliminary Engineering Design Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.2 The Scope of Services to be furnished by RJN GROUP, INC. during the Final Design Phase is included in Section 2.3 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.3 The Scope of Services to be furnished by RJN GROUP, INC. during the Bidding Phase is included in Section 2.4 hereafter and in Appendix B attached hereto and made part of this Agreement.

2.1.1.4 The Scope of Services to be furnished by RJN GROUP, INC. during the Construction Phase, if any, will be finalized and contained in an amendment to this Agreement after Final Design is completed.

2.1.1.5 The Scope of Services to be furnished by RJN GROUP, INC. during the Post-Construction Phase, if any, will be finalized and contained in an amendment to this Agreement after Final Design is completed.

2.1.1.6 The preliminary Scope of Services to be furnished by RJN GROUP, INC. for Resident Services During Construction, if any, will be finalized and contained in an amendment to this Agreement after Final Design is completed.

2.1.2 RJN GROUP, INC. shall coordinate their activities and services with the CITY OF FAYETTEVILLE. RJN GROUP, INC. and CITY OF FAYETTEVILLE agree that RJN GROUP, INC. has full responsibility for the engineering design.

2.2 Preliminary Engineering Report

2.2.1 Prepare and submit a Preliminary Engineering Report that describes the project's need, scope, and outcomes. The report will include a description of sewer deficiencies, problem statements, evaluation of possible alternatives, economic justification of recommended improvements, project cost estimates, and summaries of expected benefits and outcomes. The report shall define the project in sound economic and engineering terms and will describe the specific benefits expected.

2.2.2 Meet with CITY OF FAYETTEVILLE, USEPA, and ASWCC to discuss the Report. Revise the report based on comments from the reviewing parties.

2.3 Final Design Phase (Construction Drawings, Contract Documents and Specifications)

2.3.1 Prepare for incorporation in the Contract Documents detailed drawings to show the character and scope of the Work to be performed by contractors on the Project (hereinafter called the "Contract Drawings"), and Invitation to Bid, Instructions to Bidders, Bid Form, Agreement and Bond forms, General Conditions, and Specifications (all of which, together with the Contract Drawings, are hereinafter called the "Bid Documents") for review and approval by CITY OF FAYETTEVILLE, its legal counsel, and other advisors as appropriate, and assist CITY OF FAYETTEVILLE in the preparation of other related documents.

2.3.1.1 Bid documents shall be based on the appropriate Construction Specifications required by the State and Tribal Assistance Grant Program and shall be supplemented with the CITY OF FAYETTEVILLE's standard general conditions and forms and RJN GROUP, INC.'s Technical Specifications as appropriate. Bid documents shall include required forms for the Grant Program. Text documents shall be provided to CITY OF FAYETTEVILLE in Microsoft® Word version 2000 software. Contract drawings shall be prepared using standard borders, sheet sizes, title blocks and CADD standards provided by CITY OF FAYETTEVILLE. RJN GROUP, INC. may use their normal software for the preparation of drawings but the final product shall be provided to CITY OF FAYETTEVILLE in Autodesk AutoCAD version 2000.

2.3.1.2 Develop and include in Appendix A of this Agreement for approval by CITY OF FAYETTEVILLE, a project design schedule in which RJN GROUP, INC. shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by

RJN GROUP, INC. in the completion of this final design. This Schedule shall include reasonable allowances for review and approval times required by CITY OF FAYETTEVILLE, and review and approval times required by public authorities having jurisdiction over the Project. This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by CITY OF FAYETTEVILLE, or for delays or other causes beyond RJN GROUP, INC.'s reasonable control.

- 2.3.1.2.1 The progress design schedule shall consist of a bar chart schedule depicting the duration of the project and the discrete milestone activities which make up the project, but at a minimum shall include contract drawings, contract specifications, and design reviews as indicated in Section 2.3.9.
- 2.3.1.3 When requested by the CITY OF FAYETTEVILLE's Water and Wastewater Director, prepare for and attend up to two City Council meetings to provide periodic updates on the progress of the final design.
- 2.3.1.4 If the plans and specifications for the project require bids on alternates in addition to a base bid, there shall be no more than three (3) alternates, and the alternates shall be developed and described in accordance with Title 22, Article 9-203 of the Arkansas Code.
- 2.3.2 Prepare technical criteria, written descriptions, design data, and applications necessary for filing applications for permits from or approvals of the following applicable governmental authorities having jurisdiction to review or approve the final design of the Project and assist in securing approvals. Actual Filing and Permit Fees will be paid by the CITY OF FAYETTEVILLE. Assist CITY OF FAYETTEVILLE in consultations with appropriate authorities.
 - 2.3.2.1 Arkansas Soil and Water Conservation Commission (ASWCC)
 - 2.3.2.2 Arkansas Department of Health (AHD)
 - 2.3.2.3 Arkansas Department of Environmental Quality (ADEQ)
 - 2.3.2.4 U.S. Army Corps of Engineers (COE)

- 2.3.2.5 Arkansas State Highway and Transportation Department
- 2.3.2.6 Railroad Authorities
- 2.3.2.7 US Environmental Protection Agency
- 2.3.3 Advise CITY OF FAYETTEVILLE of adjustments in excess of five percent of the cost opinion for the Project caused by changes in scope, design requirements, or construction costs and furnish a revised cost opinion for the Project based on the final Bid Documents.
- 2.3.4 Advise CITY OF FAYETTEVILLE of final Opinion of Probable Project Costs
- 2.3.5 Furnish CITY OF FAYETTEVILLE with 10 copies of the final Bid Documents.
- 2.3.6 Determine land and easement requirements and provide consultation and assistance on property procurement as related to professional engineering services being performed.
- 2.3.7 Provide appropriate professional interpretations of data obtained through subcontract services for authorized Project services including property, boundary, easement, right-of-way, topographic, and utility surveys; noting zoning and deed restrictions.
- 2.3.8 Submit monthly Work progress reports to CITY OF FAYETTEVILLE.
- 2.3.9 Design shall be reviewed by CITY OF FAYETTEVILLE, or such parties as CITY OF FAYETTEVILLE shall designate, at the 90 percent completion level.
- 2.3.10 See Appendix A for additional services or clarification of services to be provided by RJN GROUP, INC.
- 2.4 Bidding Phase
 - 2.4.1 RJN GROUP, INC. will follow the USEPA and Arkansas Soil and Water Conservation Commission statutory bidding protocol for the State and Tribal Assistance Grant Program.
 - 2.4.2 Arrange for bidding notices to be sent to contractors publishing services and direct mailing to contractors of record. Notices shall comply with requirements of CITY OF FAYETTEVILLE and State and Tribal Assistance Grant Program administered by the Arkansas Soil and Water Conservation Commission, and the USEPA. The legal notice to be placed in legal notices section of a local newspaper(s) of countywide and statewide

circulation and shall be coordinated with CITY OF FAYETTEVILLE purchasing agent and an affidavit of publication secured.

- 2.4.3 Prepare addenda for drawings and Bid Documents as required and submit to CITY OF FAYETTEVILLE in timely manner such that addenda can be issued by RJN GROUP, INC. in accordance with Construction Contract General Conditions. All bidding protocols shall conform to USEPA and ASWCC statutory requirements.
- 2.4.4 Secure updated state and federal wage rate decisions and incorporate into the Bid Documents. Update wage rate decision by addendum if necessary.
- 2.4.5 Assist CITY OF FAYETTEVILLE by issuing and tracking Bid Documents, addenda and communications during bidding and maintain list of plan holders. Print and distribute copies of plans and specifications for all prospective bidders and plan rooms. Collect from prospective bidders an appropriate non-refundable fee to offset cost of reproducing and distributing Bidding Documents.
 - 2.4.5.1 RJN GROUP, INC. shall attend a Pre-Bid Conference to explain the project requirements and receive questions from prospective bidders. RJN GROUP, INC. shall consider the questions received and issue necessary clarifications and changes to the Bid Documents through the use of addenda.
- 2.4.6 Assist CITY OF FAYETTEVILLE in obtaining and evaluating bids and preparing construction contracts. RJN GROUP, INC. shall prepare and submit bid certification documents to ASWCC and USEPA as necessary for review.
- 2.4.7 Consult with and advise CITY OF FAYETTEVILLE as to the acceptability of subcontractors and other persons and organizations proposed by the prime construction contractor(s), hereinafter called "Contractor(s)," for those portions of the work as to which such acceptability is required by the Bid Documents.
- 2.4.8 Make recommendations regarding award of construction contracts.
- 2.4.9 Attend Water and Sewer Committee meeting and the ensuing City Council meeting to recommend action by the respective bodies. Prepare and present a recommendation complete with such supporting information as necessary for the bodies to make an informed decision on the action recommended.

- 2.4.10 Develop and include in Appendix B of this Agreement, a bidding services schedule in which RJN GROUP, INC. shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by RJN GROUP, INC. in the completion of the bidding services.
- 2.4.11 See Appendix B for additional services or clarification of services to be provided by RJN GROUP, INC.
- 2.5 Construction Phase
 - 2.5.1 The scope of Construction Phase Services, if any, will be negotiated following completion of Design Phase Services.
- 2.6 Post-Construction Phase
 - 2.6.1 The scope of Post-Construction Phase Services, if any, will be negotiated following completion of Design Phase Services.
- 2.7 Resident Services During Construction
 - 2.7.1 The scope of Resident Services During Construction, if any, will be negotiated following completion of Design Phase Services.

SECTION 3 - ADDITIONAL SERVICES OF RJN GROUP, INC.

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by RJN GROUP, INC., RJN GROUP, INC. shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Grant and Loan Assistance

Prepare applications and supporting documents for governmental grants, loans, or advances that are not included in services described in Appendix A.

3.1.2 Financial Consultation

Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.

3.1.3 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.1.4 Furnishing renderings or models of the Project for CITY OF FAYETTEVILLE's use.

3.1.5 Miscellaneous Studies

Investigations involving detailed consideration of operations, maintenance, and overhead expenses, and the preparation of rate schedules, earnings, and expense statements; feasibility studies; appraisals and valuations; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by CITY OF FAYETTEVILLE.

3.1.6 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.7 Extra Services

3.1.7.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond RJN GROUP, INC.'s control, RJN GROUP, INC. shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described in 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to RJN GROUP, INC. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, RJN GROUP, INC. shall have no obligation to provide those services.

- 3.2.2 Making revisions in Drawings, Specifications, or other documents when such revisions are:
- 3.2.2.1 Required because of inconsistent approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's program or Project Budget.
- 3.2.2.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

SECTION 4 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of RJN GROUP, INC.

- 4.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
- 4.2 Assist RJN GROUP, INC. by placing at RJN GROUP, INC.'s disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- 4.3 Guarantee access to and make all provisions for RJN GROUP, INC. to enter upon public and private property as required for RJN GROUP, INC. to perform his services under this Agreement.
- 4.4 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by RJN GROUP, INC. and render in writing decisions pertaining thereto.
- 4.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.
- 4.6 Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

- 4.7 Give prompt written notice to RJN GROUP, INC. whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.
- 4.8 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees.
- 4.9 Pay for placement of legal notices and advertisements in newspapers or other publications required by the Project.
- 4.10 Furnish, or direct RJN GROUP, INC. to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.11 If CITY OF FAYETTEVILLE's standard bidding requirements, Agreement forms and General Conditions are to be used, CITY OF FAYETTEVILLE shall provide copies of such documents for RJN GROUP, INC.'s use in coordinating the Contract Drawings and Specifications.
- 4.12 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to RJN GROUP, INC. in a timely manner.

SECTION 5 - PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 5.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. RJN GROUP, INC. will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

SECTION 6 - PAYMENTS TO

6.1 Compensation

6.1.1 Final Design/Bidding Phase Services

For the Scope of Services described herein, CITY OF FAYETTEVILLE shall compensate RJN GROUP, INC. based on a cost plus fixed fee basis with a not-to-exceed cost ceiling. The maximum not-to-exceed amount is \$226,978.00. For the work included in this Agreement, the fixed fee shall not exceed \$18,508.00 and the total maximum billing shall not exceed \$226,978.00.

6.1.1.1 Subject to the City Council approval, adjustment of the not-to-exceed amount may be made should RJN GROUP, INC. establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

6.1.1.2 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for Design services consistent with RJN GROUP, INC.'s normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by RJN GROUP, INC. and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project design schedule as the basis for determining the value earned as the work is accomplished. Final payment for Design services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Design phase for the Project.

6.1.2 Construction Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Design Phase Services.

6.1.3 Post-Construction Phase Services

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Design Phase Services.

6.1.4 Resident Services During Construction

This section is reserved for future details concerning this phase, if any. This Agreement shall be amended to include payment conditions following the completion of Design Phase Services.

6.1.5 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to RJN GROUP, INC. shall be negotiated at the time Additional services are authorized.

6.2 Statements

Statements and progress report for each calendar month will be submitted to CITY OF FAYETTEVILLE. Statements will be based on RJN GROUP, INC.'s actual cost plus fixed fee amount and justified by the updated progress schedule.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of RJN GROUP, INC.'s statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise RJN GROUP, INC. in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

6.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, RJN GROUP, INC. shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by RJN GROUP, INC. to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this

Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against RJN GROUP, INC. or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 During the course of performance of these services, RJN GROUP, INC. will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

RJN GROUP, INC. will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

7.1.2 Construction Contractors shall be required to provide (or CITY OF FAYETTEVILLE may provide) Owner's Protective Liability Insurance naming CITY OF FAYETTEVILLE as a Named Insured and RJN GROUP, INC. as additional insureds, or, to endorse CITY OF FAYETTEVILLE and RJN GROUP, INC. as additional insured on construction Contractor's liability insurance policies covering claims for personal injuries and property damage. Construction Contractors shall be required to provide certificates evidencing such insurance to CITY OF FAYETTEVILLE and RJN GROUP, INC.

7.1.3 CITY OF FAYETTEVILLE and RJN GROUP, INC. waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of RJN GROUP, INC.'s services. If the services result in a Construction Phase, a provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall

be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and RJN GROUP, INC. for damage or liability covered by any construction Contractor's policy of insurance.

7.2 Professional Responsibility

7.2.1 RJN GROUP, INC. will exercise reasonable skill, care, and diligence in the performance of RJN GROUP, INC.'s services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to RJN GROUP, INC. any defects or suspected defects in RJN GROUP, INC.'s services of which CITY OF FAYETTEVILLE becomes aware, so that RJN GROUP, INC. can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE and RJN GROUP, INC. further agree to impose a similar notification requirement on all construction contractors in the Bid Documents and shall require all subcontracts at any level to contain a like requirement. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of RJN GROUP, INC.

7.2.2 In addition, RJN GROUP, INC. will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by RJN GROUP, INC.'s Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

7.3 Cost Opinions and Projections

Cost opinions and projections prepared by RJN GROUP, INC. relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on RJN GROUP, INC.'s experience, qualifications, and judgment as a design professional. Since RJN GROUP, INC. has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, RJN GROUP, INC. does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by RJN GROUP, INC.

7.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of RJN GROUP, INC.'s services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President or any Vice President of RJN GROUP, INC.

7.5 Termination

7.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

7.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.1.2 An opportunity for consultation with the terminating party prior to termination.

7.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that RJN GROUP, INC. is given:

7.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.2.2 An opportunity for consultation with the terminating party prior to termination.

7.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

7.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

7.5.3.2 Any payment due to RJN GROUP, INC. at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of RJN GROUP, INC.'s default.

7.5.4 If termination for default is effected by RJN GROUP, INC., or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to RJN GROUP, INC. for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by RJN GROUP, INC. relating to commitments which had become firm prior to the termination.

7.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, RJN GROUP, INC. shall:

7.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),

7.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by RJN GROUP, INC. in performing this Agreement, whether completed or in process.

7.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

7.5.7 If, after termination for failure of RJN GROUP, INC. to fulfill contractual obligations, it is determined that RJN GROUP, INC. had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.

7.6 Delays

In the event the services of RJN GROUP, INC. are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond RJN GROUP, INC.'s reasonable control, RJN GROUP, INC. shall be entitled to additional compensation and time for reasonable costs incurred by RJN GROUP, INC. in temporarily closing down or delaying the Project.

7.7 Rights and Benefits

RJN GROUP, INC.'s services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

7.8 Dispute Resolution

7.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and RJN GROUP, INC. which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or RJN GROUP, INC. in the performance of this Agreement, and disputes concerning payment.

7.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.

7.8.3 Notice of Dispute

7.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

7.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give RJN GROUP, INC. written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

7.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and RJN GROUP, INC. shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of RJN GROUP, INC. and the Mayor of CITY OF

FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

- 7.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to RJN GROUP, INC. for services rendered by RJN GROUP, INC.

7.10 Publications

Recognizing the importance of professional development on the part of RJN GROUP, INC.'s employees and the importance of RJN GROUP, INC.'s public relations, RJN GROUP, INC. may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to RJN GROUP, INC.'s services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to RJN GROUP, INC. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of RJN GROUP, INC.'s activities pertaining to any such publication shall be for RJN GROUP, INC.'s account.

7.11 Indemnification

- 7.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and RJN GROUP, INC. from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

7.12 Computer Models (Not Applicable)

7.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. RJN GROUP, INC. may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by RJN GROUP, INC. as part of the Services shall become the property of CITY OF FAYETTEVILLE when RJN GROUP, INC. has been compensated for all Services rendered, provided, however, that RJN GROUP, INC. shall have the unrestricted right to their use. RJN GROUP, INC. shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of RJN GROUP, INC.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. RJN GROUP, INC. makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

7.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

113 West Mountain Street
Fayetteville, Arkansas 72701

RJN GROUP, INC.'s address:

12160 Abrams Road, Suite 400
Dallas, Texas 75243

7.15 Successor and Assigns

CITY OF FAYETTEVILLE and RJN GROUP, INC. each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor RJN GROUP, INC. shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

7.17 Entire Agreement

This Agreement represents the entire Agreement between RJN GROUP, INC. and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to RJN GROUP, INC. a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by RJN GROUP, INC., shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of RJN GROUP, INC.

8.1.1 CITY OF FAYETTEVILLE's, USEPA's, or Arkansas Soil and Water Conservation Commission's (ASWCC's) review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve RJN GROUP, INC. of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's, USEPA's, nor ASWCC's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

8.1.2 RJN GROUP, INC. shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by RJN GROUP, INC.'s negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

8.1.3 RJN GROUP, INC.'s obligations under this clause are in addition to RJN GROUP, INC.'s other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against RJN GROUP, INC. for faulty materials, equipment, or work.

8.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and RJN GROUP, INC. arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

8.3.1 RJN GROUP, INC. shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. RJN GROUP, INC. shall also maintain the financial information and data used by RJN GROUP, INC. in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. RJN GROUP, INC. will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

8.3.3 This right of access clause (with respect to financial records) applies to:

8.3.3.1 Negotiated prime agreements:

8.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

8.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

8.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of RJN GROUP, INC.;

8.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

RJN GROUP, INC. warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by RJN GROUP, INC. for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.5 Gratuities

8.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that RJN GROUP, INC. or any of RJN GROUP, INC.'s agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, the State or FPA in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to RJN GROUP, INC. terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against RJN GROUP, INC. as it could

pursue in the event of a breach of the Agreement by RJN GROUP, INC. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs RJN GROUP, INC. incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, RJN GROUP, INC. will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and
_____, by its authorized officer have made and executed this Agreement as of the day
and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

RJN GROUP, INC.

By: Hugh M. Helms

Title: Regional Vice President

) Changes, modifications or amendments in scope, price or fees to this Contract shall not
be allowed without formal contract amendment approved by the Mayor and the City
Council **in advance** of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

APPENDIX A – SCOPE OF SERVICES FOR FINAL DESIGN PHASE

This is Appendix A, consisting of 4 pages, referred to in and part of the Agreement For Professional Engineering Services between CITY OF FAYETTEVILLE, ARKANSAS and RJN GROUP, INC. dated _____.

Initial:

CITY OF FAYETTEVILLE _____
RJN GROUP, INC. _____

The following contains additional Scope of Services tasks for the Final Design Phase.

The CITY OF FAYETTEVILLE has been awarded grant funding to assist with sanitary sewer system rehabilitation improvements. The grant funding is from the United States Environmental Protection Agency (USEPA) State and Tribal Assistance Grants Program and will be matched with 45 percent of local funding. It is anticipated that the grant will be administered by the Arkansas Soil and Water Conservation Commission (ASWCC). It is anticipated that the project will include the construction of rehabilitation improvements in Basins I-1 through I-5, I-11, Mini System W-2 and W-27, and various other locations in the City as indicated on the attached project map.

The services under this Agreement will include assisting the City with EPA and ASWCC grant administration activities, preparing a preliminary engineering report, and final design and bidding services for the Project. The construction documents for the Project will include the improvements in Basins I-1 - I-5, I-11, and Mini System W-27 which was designed under a separate contract with RJN Group, Inc. Rehabilitation improvements will also be included for selected sewers in Mini System W-2 and various locations in the City will be designed under this Agreement. The previously designed improvements and improvements designed under this Agreement will be packaged as one construction project. The construction documents will conform with all requirements of the USEPA Grant. A summary of the improvements are included in Table A-1.

The services to be provided under this Agreement are described in the following sections.

PART A - PROJECT ADMINISTRATION AND MANAGEMENT

1. **Project Administration**
 - a) Perform Project Initiation activities
 - b) Perform general administration and project management activities.
 - c) Finalize agreements with subconsultants.
 - d) Prepare and submit monthly work progress reports to the CITY.
 - e) Develop and maintain project Completion schedule throughout project.
2. **Meetings**
 - a) Attend project kickoff meeting with City staff.
 - b) Meet with ASWCC and AHTD as necessary to obtain permits for construction of project. A total of two meetings are anticipated.
 - c) Prepare for and attend up to two City Council meetings to provide periodic updates on the progress of the final design as requested by the CITY OF FAYETTEVILLE.

3. **EPA Grant Assistance Activities**

The Engineer will assist the City with EPA grant administration activities. This assistance may include, but not be limited to, the following:

- a) Technical support.
- b) Provide engineering narratives and Project data.
- c) Completion and filing of all permits/approval from regulatory agencies.

- d) Representation at various meetings with the USEPA and/or ASWCC and City to coordinate the Project.
- e) Assist with developing preliminary and final Work Plans including Environmental Benefit Statement.
- f) Preparation of project closeout and certificate of completion.
- g) Assistance with Performance and Financial Reporting at end of Project.
- h) Assistance with preparing Categorical Exclusion Request.
- i) Prepare Quality Assurance Document if required by EPA.
- j) Assistance with complying with all NEPA requirements of the Project.

PART B – PRELIMINARY ENGINEERING REPORT

1. Based on the Engineer's previously completed Sanitary Sewer Evaluation Report for Basins I-1 - I-15, I-11, and Mini System W27 and other investigations, the ENGINEER shall prepare and submit a Preliminary Engineering Report for the Project. The report will include, but not be limited to, the following:
 - a) Descriptions of sewer deficiencies.
 - b) Evaluation of feasible rehabilitation alternatives.
 - c) Economic justification of recommended improvements.
 - d) Opinion of Probable Construction Cost.
 - e) A summary of expected environmental benefits.

The report shall define the Project in sound economic and engineering terms and will cite the specific benefits that are expected. The report will be presented to the City and representatives of the USEPA and ASWCC.

PART C – DESIGN SURVEY

1. **Surveys for Design**
 - a) The ENGINEER will perform field surveys to collect horizontal and vertical elevations and other information which will be needed for use by the ENGINEER in design and preparation of plans for the project. Information gathered during the survey shall include topographic data, elevations of all sanitary and adjacent storm sewers, rim/invert elevations of existing sewers, location of buried utilities where possible, structures, and other features relevant to the final plan sheets. The location of buried utilities will be based on information provided by utility companies and/or utility locates by Arkansas Call-One. ENGINEER will not be responsible for actual location of buried utilities and contract documents will require the Contractor to locate utilities prior to construction. The location of trees will be in accordance with the City's current specifications.
 - b) Engineer Will Provide the Following Information:
All plans, field notes, plats, maps, legal descriptions, or other specified documents prepared in conjunction with the requested services shall be provided in a digital format. All text data such as plan and profile, coordinate files, cut sheets, etc., shall be provided in the American Standard Code for Information Interchange (ASCII) format, all drawing files shall be provided in AutoCad (DWG or DXF) format (currently Release 2000).

The minimum information to be provided in the plans shall include the following:

- 1) A Project Control Sheet showing ALL Control Points used or set while gathering data. Generally on a scale of not less than 1"=40':
- 2) Coordinates on all P.C.'s P.T.'s, P.I.'s, Manholes, Valves, etc., in the same coordinate system as the Control.

2. **Public Notification**

Prior to conducting design survey, ENGINEER or its SUBCONSULTANT will notify affected residents of the project in writing. The notification letter shall be on company letterhead and shall

include the following: project name, limits, Consultant's project manager and phone no., scope of survey work, and design survey schedule.

PART D -- UTILITY COORDINATION/PERMITS AND EASEMENTS

1. Utility Coordination/Permits

During the design phase, the ENGINEER shall coordinate with all utilities, AHTD, railroads, and other agencies affected by the Project. These entities shall also be contacted, if applicable, to determine plans for any proposed facilities or adjustment to existing facilities within the project limits. The information obtained shall be shown on the plan sheets. The ENGINEER shall show the location of the proposed utility lines, and existing utility lines within the project limits. ENGINEER shall complete all forms necessary for CITY to obtain permits from AHTD, railroads, and other agencies and submit such forms to the CITY. CITY shall be responsible for forwarding the forms to the affected agencies for execution. A total of one (1) Highway Permits is anticipated.

2. Right-of-Way/Easement Preparation and Submittal

- a) The ENGINEER will conduct research for availability of existing easements where construction is probable. Temporary and permanent easements will be prepared based on available information. The CITY will negotiate and obtain the necessary easements. A total of 10 easements are anticipated.
- b) Revise easements as required to obtain approval from property owners. A total of 2 revisions are anticipated.

3. 404/Phase II Stormwater Permitting

It is anticipated that the construction work for this Project will be under the requirements of the Nationwide Permit and no separate 404 permit will be required. The ENGINEER shall prepare the necessary paperwork to comply with the Nationwide Permit Requirements. The ENGINEER shall also prepare a SWP³ plan for the Project.

PART E -- CONSTRUCTION DRAWINGS, CONTRACT DOCUMENTS, AND SPECIFICATIONS

It is anticipated that the project will be bid as one (1) construction package.

1. Final Engineering Design

ENGINEER will conduct final engineering as follows:

- a) Prepare overall sanitary sewer layout sheets and an overall easement layout sheet(s).
- b) Prepare preliminary project plans and profile sheets which show the following: Proposed sanitary sewer plan/profile and recommended pipe size, and all pertinent information needed to construct the project. The plan and profile sheets will be prepared on a 1"=40' scale horizontally and 1"=4' vertically. All drawings shall utilize CITY OF FAYETTEVILLE standards.
- c) Existing utilities and utility easements will be shown on the plan and profile sheets based on information obtained during the design survey or from information provided by Utility companies. ENGINEER will coordinate with utility companies and the CITY to determine if any future improvements are planned that may impact the project.
- d) The ENGINEER will prepare standard and special detail sheets for sewer line construction. These may include connection details between various parts of the project, tunneling details, boring and jacking details, waterline relocations, and details unique to the construction of the project.
- e) The ENGINEER shall complete quantity takeoffs and prepare estimated Opinion of Probable Construction Cost for the Project.
- f) The ENGINEER shall repackage and conform the previously completed design in Basins I-I-5, I-11, and Mini System W-27 into one construction package to comply with the State and Tribal Assistance Grant Program.
- g) The ENGINEER shall include all EPA M/WBE Requirements in the Contract Documents.

2. **Specifications**
Using ENGINEER's basic technical and CITY's General Conditions Project Manual specifications, prepare project specifications which shall include, but not be limited to: 1) bidding documents, 2) contractual documents, 3) conditions of the contract, 4) standard project forms, and 5) technical specifications. Project Manual shall incorporate CITY OF FAYETTEVILLE's standard general conditions and forms and shall include required forms and specifications for the State and Tribal Assistance Grant Program.
3. **Preliminary Construction Document Submittal**
 - a) The ENGINEER shall deliver five (5) sets of the Preliminary Engineering Report.
 - b) The ENGINEER shall deliver three (3) sets of preliminary construction plans (90 percent complete) and two (2) sets of specifications and contract documents to CITY for review. Generally, plan sheets shall be organized as follows:
 - Cover Sheet
 - Plan & Profile Sheets
 - Standard Construction Details
 - Special Details (As applicable)
 - c) The ENGINEER shall submit a preliminary estimate of probable construction cost with the preliminary plans submitted. It is anticipated that the overall project will include one (1) construction project.
 - d) The ENGINEER shall meet with CITY to discuss review comments for preliminary submittal. Two review meetings of each plan set submittal is anticipated.
4. **Final Construction Document Submittal**
 - a) Following CITY approval of the preliminary documents, the ENGINEER shall prepare final plans and specifications and contract documents (each sheet shall be stamped, dated, and signed by the ENGINEER) and submit five (5) sets of plans and construction contract documents for CITY's final approval.

**CITY OF FAYETTEVILLE
AGREEMENT FOR ENGINEERING SERVICES**

APPENDIX B – SCOPE OF SERVICES FOR BIDDING PHASE

This is Appendix B, consisting of 1 page, referred to in and part of the Agreement For Professional Engineering Services between CITY OF FAYETTEVILLE, ARKANSAS hereinafter referred to as CITY, and RJN GROUP, INC. hereinafter referred to as RJN GROUP, INC. dated _____.

Initial:
CITY OF FAYETTEVILLE _____
RJN GROUP, INC. _____

The following is the Scope of Services for the Bidding Phase.

1. Arrange for bidding notices to be sent to contractors publishing services and direct mailing to contractors of record. Notices shall comply with requirements of CITY, USEPA, and State and Tribal Assistance Grant Program administered by the Arkansas Soil and Water Conservation Commission. The legal notice to be placed in legal notices section of a local newspaper shall be coordinated with CITY purchasing agent and an affidavit of publication secured.
2. Prepare addenda for drawings and Bid Documents as required and submit to CITY in timely manner such that addenda can be issued in accordance with Construction Contract General Conditions.
3. Secure updated state and federal wage rate decisions and incorporate by addenda into the Bid Documents.
4. Assist CITY in issuing and tracking Bid Documents, addenda and communications during bidding and maintain list of plan holders. Provide additional copies of plans and specifications for prospective bidders. RJN GROUP, INC. shall be responsible for costs of additional copies.
5. RJN GROUP, INC. shall attend Pre-Bid Conference to explain the project requirements and receive questions from prospective bidders. RJN GROUP, INC. shall consider the questions received and issue necessary clarifications and changes to the Bid Documents through the use of addenda.
6. Assist CITY in obtaining and evaluating bids and preparing construction contracts. Provide four (4) copies of the bid tabulation.
7. Consult with and advise CITY as to the acceptability of subcontractors and other persons and organizations proposed by the prime construction contractor(s), hereinafter called "Contractor(s)," for those portions of the work as to which such acceptability is required by the Bid Documents.
8. Make recommendations regarding award of construction contracts.
9. Attend Water and Sewer Committee meeting and the ensuing City Council meeting to recommend action by the respective bodies. Prepare and present a recommendation complete with such supporting information as necessary for the bodies to make an informed decision on the action recommended.
10. Coordinate Contract Execution between the Contractor and City.
11. Coordinate and conduct a Pre-Construction Conference with Contractor, City, and other interested agencies.

PROFESSIONAL SERVICES COST

MT. SEQUOYAH AND VARIOUS LOCATIONS COLLECTION SYSTEM IMPROVEMENTS CITY OF FAYETTEVILLE, ARKANSAS EXHIBIT B-1

WORK TASK DESCRIPTION	HOURLY RATE WORK										Total Cost Estimate (\$)
	Estimated Manhours										
	PO hr	PM hr	PE hr	CE hr	CADD hr	CUOT hr	TOTAL LABOR	Direct Cost (\$)			
PART A - PROJECT ADMINISTRATION AND MANAGEMENT											
1. Project Administration											
a. Perform Project Initiation Activities	2	4	0	0	4	4	\$ 1,282.00	\$	-	\$	1,282.00
b. Perform General Administration & Project Mgmt. Activities	8	16	24	4	0	4	\$ 6,400.00	\$	-	\$	8,400.00
c. Finalize Agreements with Subconsultants	0	0	2	0	0	2	\$ 320.00	\$	-	\$	320.00
d. Monthly Progress Reports (10)	2	4	10	0	0	4	\$ 2,110.00	\$	-	\$	2,110.00
e. Develop/Maintain Schedule	2	2	10	0	0	2	\$ 1,750.00	\$	-	\$	1,750.00
Subtotal	14	26	46	4	4	16	\$ 11,862.00	\$	-	\$	11,862.00
2. Meetings											
a. Attend Project Kickoff Meeting	8	8	8	0	0	0	\$ 3,080.00	\$	685.00	\$	3,765.00
b. Meet with Arkansas ASWCC and AHTD (2 Meetings)	8	12	12	0	0	2	\$ 4,140.00	\$	885.00	\$	5,025.00
c. Attend Two Council Meetings	16	0	16	0	8	2	\$ 4,724.00	\$	485.00	\$	5,209.00
Subtotal	32	20	36	0	8	4	\$ 11,944.00	\$	2,055.00	\$	13,999.00
3. EPA Grant Assistance Activities											
Subtotal	76	52	68	56	6	50	\$ 32,648.00	\$	1,500.00	\$	34,148.00
76	52	68	56	6	50		\$ 32,648.00	\$	1,500.00	\$	34,148.00
PART B - PRELIMINARY ENGINEERING REPORT											
1. Prepare and Submit Report											
Subtotal	14	32	80	12	24	40	\$ 19,582.00	\$	985.00	\$	20,567.00
14	32	80	12	24	40		\$ 19,582.00	\$	985.00	\$	20,567.00
PART C - DESIGN SURVEY											
1. Surveys for Design											
a. Field Survey	0	2	4	0	6	0	\$ 1,108.00	\$	20,031.00	\$	21,139.00
b. Property Mapping	0	2	6	0	0	0	\$ 920.00	\$	6,600.00	\$	7,520.00
Subtotal	0	4	10	0	6	0	\$ 2,028.00	\$	26,631.00	\$	28,659.00
PART D - UTILITY COORDINATION/PERMITS AND EASEMENTS											
1. Utility Coordination/Permits											
Subtotal	2	4	10	0	12	4	\$ 2,926.00	\$	-	\$	2,926.00
2	4	10	0	12	4		\$ 2,926.00	\$	-	\$	2,926.00
2. Right-of-Way/Easement Preparation											
a. Right-of-Way/Easement Preparation (10 easements)	0	2	6	0	0	0	\$ 920.00	\$	3,300.00	\$	4,220.00
b. Easement Revisions (2)	0	2	0	0	0	0	\$ 260.00	\$	400.00	\$	660.00
Subtotal	0	4	6	0	0	0	\$ 1,180.00	\$	3,700.00	\$	4,880.00
3. 404/Phase II Stormwater Permitting											
Subtotal	2	12	0	16	2	2	\$ 3,366.00	\$	125.00	\$	3,491.00
2	12	0	16	2	2		\$ 3,366.00	\$	125.00	\$	3,491.00
Subtotal											
											0

PROFESSIONAL SERVICES COST

MT. SEQUOYAH AND VARIOUS LOCATIONS COLLECTION SYSTEM IMPROVEMENTS CITY OF FAYETTEVILLE, ARKANSAS EXHIBIT B-1

WORK TASK DESCRIPTION	HOURLY RATE WORK										Total Cost Estimate (\$)
	Estimated Manhours										
	Estimated Manhours										
	PD hr	PM hr	PE hr	CE hr	CADD hr	CU/OT hr	TOTAL LABOR	Direct Cost (\$)			
PART E - CONSTRUCTION PLANS AND SPECIFICATIONS											
1. Final Engineering Design											
a. Prepare Layout Sheets	0	2	6	8	20	2	\$ 3,020.00	\$	\$ 3,020.00		
b. Prepare Preliminary Project Plan and Profile Sheets(90percent)	2	16	40	80	272	12	\$ 32,268.00	\$ 1,480.00	\$ 33,746.00		
c. Existing Utilities and Easement	0	2	8	12	8	4	\$ 2,844.00	\$	\$ 2,844.00		
d. Prepare Standard and Special Detail Sheets	0	4	12	16	16	0	\$ 4,208.00	\$	\$ 4,208.00		
e. Takeoffs and Estimate of Probable Cost	2	4	12	4	0	2	\$ 2,550.00	\$	\$ 2,550.00		
f. Repackage/Conform Previous Design(Basins 11-15,111,W27)	4	12	40	24	80	12	\$ 14,500.00	\$	\$ 14,500.00		
g. MWBE Requirements	0	0	0	2	0	0	\$ 160.00	\$	\$ 160.00		
Subtotal	8	40	118	148	396	32	\$ 59,548.00	\$ 1,480.00	\$ 61,028.00		
2. Technical Specifications/Project Manual											
Subtotal	2	24	24	48	0	24	\$ 11,090.00	\$ 200.00	\$ 11,290.00		
3. Document Submittal											
a. Preliminary Engineering Report	8	0	0	0	0	12	\$ 1,760.00	\$ 485.00	\$ 2,245.00		
b. 90% Complete (1)	2	8	0	0	16	2	\$ 2,518.00	\$ 750.00	\$ 3,268.00		
c. Review Comments with City (1)	8	8	0	0	0	0	\$ 2,200.00	\$ 585.00	\$ 2,785.00		
Subtotal	18	16	0	0	16	14	\$ 6,478.00	\$ 1,820.00	\$ 8,298.00		
4. Final Construction Documents (1 set)											
Subtotal	4	8	24	12	76	4	\$ 10,588.00	\$ 1,250.00	\$ 11,838.00		
PART F - BIDDING ASSISTANCE											
1. Bidding Notices	0	2	0	4	0	2	\$ 680.00	\$	\$ 680.00		
2. Prepare Addenda	0	2	4	0	4	2	\$ 1,072.00	\$	\$ 1,072.00		
3. Secure Wage Rate Information	0	0	0	2	0	0	\$ 160.00	\$	\$ 160.00		
4. Track Bid Documents	0	2	0	4	0	2	\$ 680.00	\$	\$ 680.00		
5. Attend Pre-Bid Conference	4	8	4	0	0	0	\$ 2,060.00	\$ 650.00	\$ 2,710.00		
6. Review Bids	0	4	8	0	0	2	\$ 1,500.00	\$	\$ 1,500.00		
7. Review/Check Contractor References	0	4	0	10	0	2	\$ 1,420.00	\$	\$ 1,420.00		
8. Bid Recommendations to City	0	2	0	0	0	2	\$ 360.00	\$	\$ 360.00		
9. Attend Water and Sewer Committee/City Council	2	10	4	0	0	2	\$ 2,130.00	\$ 750.00	\$ 2,880.00		
10. Coordinate Contract Execution	0	2	0	0	0	4	\$ 460.00	\$	\$ 460.00		
11. Conduct Pre-Construction Meeting	4	0	0	8	0	2	\$ 1,320.00	\$ 750.00	\$ 2,070.00		
Subtotal	10	36	20	28	4	20	\$ 11,842.00	\$ 1,400.00	\$ 13,992.00		
TOTAL	182	278	442	322	554	210	\$ 185,082.00	\$ 41,146.00	\$ 226,978.00		

A.2.
Group Sewer Rehab
40 of 46

Labor Cost is calculated based on actual salary cost plus overhead factor of 1.74 plus 10 percent profit.

Table A-1

SUMMARY OF RECOMMENDED IMPROVEMENTS
 ESTIMATED CONSTRUCTION COST

Item	Quantity	Estimated Construction Cost (\$)
Basins I1-I5, I-11, and Mini System W-27 Sewer Improvements	7,464 LF	1,430,767
Basin I-5 Capacity Improvements	3,085 LF	649,118
Mini System W-2 and Various Sewer Improvements	<u>5,500 LF</u>	<u>749,845</u>
Subtotal	16,049 LF	2,829,730
Contingency		<u>320,465</u>
Total		3,150,195

Fayetteville EPA Grant Sewer Rehab

Preliminary Schedule

Activity Name	Start Date	Finish Date	2004							2005				
			Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
Fayetteville Rehab	6/9/04	10/26/05												
Project Administration	6/10/04	1/28/05												
Meetings	6/21/04	12/1/04												
EPA Grant Assistance	7/1/04	12/30/04												
Prepare Preliminary Eng. Report	6/9/04	7/16/04												
Design Survey	6/10/04	8/13/04												
Utility Coordination / Permits /	6/14/04	9/24/04												
Final Engineering Design	6/21/04	10/15/04												
Technical Specifications	9/6/04	10/15/04												
Document Submittal	7/16/04	11/16/04												
Final Construction Documents	10/17/04	11/30/04												
Bidding Assistance...	12/1/04	1/19/05												
Construction Phase	1/29/05	9/28/05												
Construction Closeout	8/28/05	10/26/05												

RJN Group, Inc.

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May 31, 2004

May 31, 2004

Preliminary S 1e

Activity Name	Start Date	Finish Date	2004							2005				
			Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
Fayetteville Rehab	6/10/04	6/25/04												
Project Administration	6/10/04	6/25/04												
Meetings	6/21/04	6/21/04												
EPA Grant Assistance	7/1/04	7/30/04												
Prepare Preliminary Eng. Report	6/9/04	7/16/04												
Design Survey	6/10/04	6/13/04												
Utility Coordination/Permits	6/14/04	9/24/04												
Final Engineering Design	6/21/04	10/15/04												
Technical Specifications	6/6/04	10/16/04												
Document Submittal	7/16/04	10/16/04												
Final Construction Documents	7/16/04	10/16/04												
Bidding Assistance	12/1/04	1/19/05												
Construction Phase	1/20/05	9/28/05												
Construction Closeout	9/29/05	10/26/05												

STAFF REVIEW FORM

A.2.
RJN Group Sewer Rehab
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☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council Meeting of: June 15, 2004

FROM:

Greg BoettcherWater and WastewaterWater and Wastewater

Name

Division

Department

ACTION REQUIRED: Resolution approving contract with RJN Group for design/bidding phase services for Sanitary Sewer Rehabilitation Project (EPA Grant).

COST TO CITY:

<u>\$226,978.00</u>	<u>\$ 3,231,890.00</u>	<u>Water/Wastewater</u>
Cost of this request		Program Category / Project Name
<u>5400.5815.00</u>	<u>\$ 478,262.13</u>	<u>Sewer Mains Construction</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>02017.0401</u>	<u>\$ 2,753,627.87</u>	<u>Capital-Sewer Improvements</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

Brian Lee 5/27/04
 Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

<u>Debbie Hinge for</u>	<u>5/28/04</u>	<u>Nancy Smith</u>	<u>5/28/04</u>
Accounting Manager	Date	Internal Auditor	Date
<u>K. M. Lathin</u>	<u>5/28/04</u>		
City Attorney	Date	Purchasing Manager	Date

STAFF RECOMMENDATION:

<u>Greg Boettcher</u>	<u>5-28-04</u>
Division Head	Date
<u>Steve Davis</u>	<u>6-1-04</u>
Department Director	Date
<u>Mike Ewert</u>	<u>6-2-04</u>
Finance & Internal Services Dir.	Date
<u>Don Carley</u>	<u>6/2/04</u>
Chief Administrative Officer	Date
<u>Don Carley</u>	<u>6/2/04</u>
Mayor	Date

Cross Reference

Rec'd in Mayor's
Office 6/1/04
 No PH

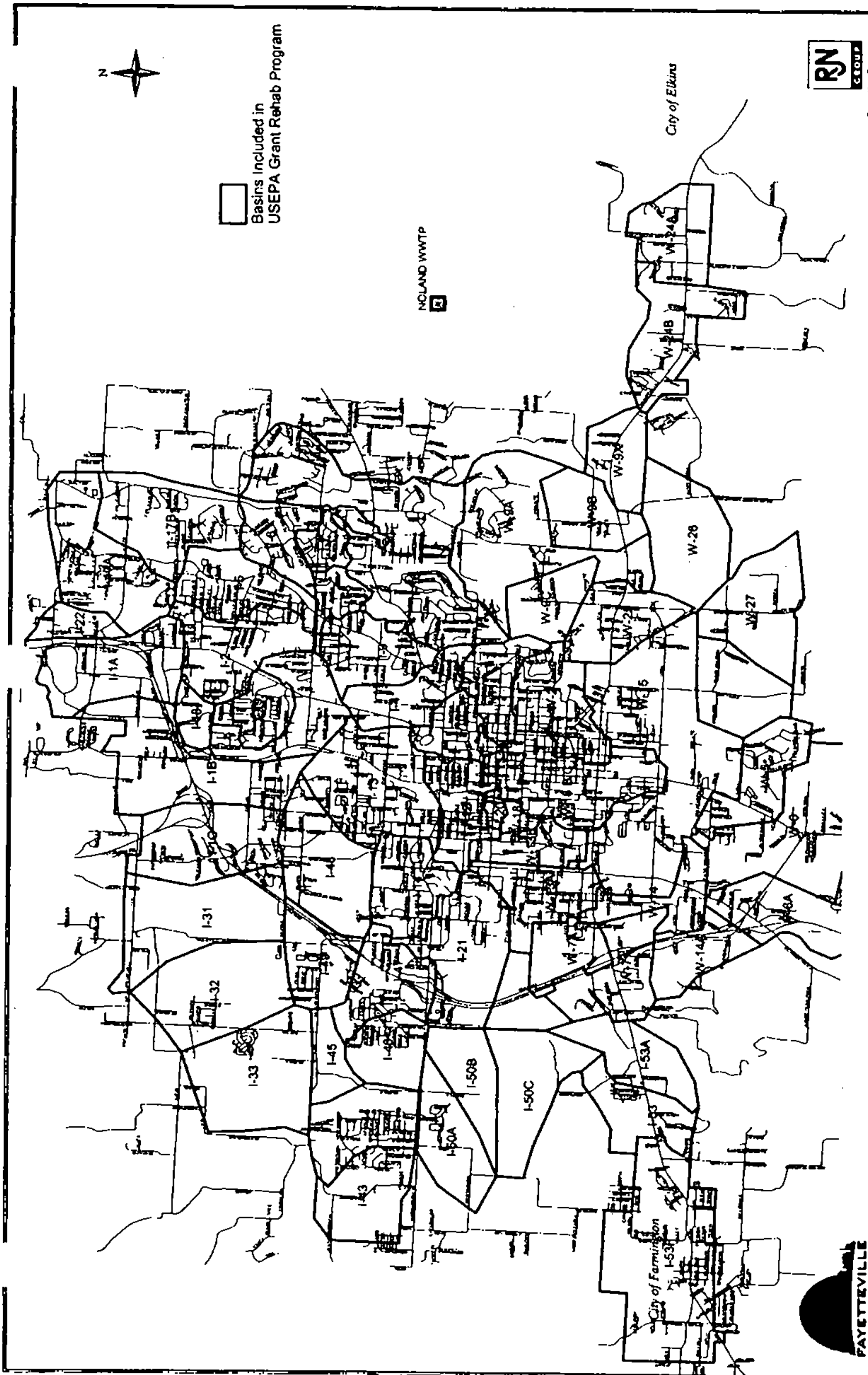
New Item: ☒ Yes

Previous Ord/Res#:

Orig. Contract Date

Orig. Contract Number





Consulting Engineers Inc.



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: May 14, 2004

Subject: Residential Planned Zoning District for Ruppel Row (R-PZD 04-06.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Ruppel Row. This action will establish a unique zoning district and approve a Preliminary Plat for a residential subdivision with 182 single family and 39 two-family lots (260 dwelling units) proposed.

BACKGROUND

The property is currently zoned RT-12, Residential Two and Three-family, and RSF-4, Residential Single-family, 4 units per acre, and contains approximately 41.70 acres on Ruppel Road, west of the Boys and Girls Club. Current zoning would allow for a maximum of 301 dwelling units. The applicant proposes to develop a single family and two-family subdivision in a "neo-traditional" style, utilizing rear alley access and dwellings constructed at a build-to line, near the street. Lots are proposed to be smaller in size than a typical residential subdivision, and a range of minimum to maximum square footage for the proposed homes is to be determined prior to final plat. Total density proposed is 6.24 dwelling units per acre.

DISCUSSION

The Planning Commission voted 9-0-0 in favor of this request on Monday, May 10, 2004. Approval of a planned zoning district requires City Council approval as it includes zoning (land use) as well as development approval (preliminary plat). Recommended conditions included in the attached staff report were approved by the Planning Commission. Additional conditions were added to the staff report from the Planning Commission approval, including reducing the interior street widths, limiting three-family dwelling units to three (3) specific lots, and a to-be-determined maximum square feet of a dwelling unit for the development.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING AN RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 04-06.00 LOCATED ON RUPPLE ROAD, SOUTH OF WEDINGTON DRIVE. CONTAINING APPROXIMATELY 41.70 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 RT-12, Residential Two and Three Family and RSH-4, Residential Single Family, four units per acre to R-PZD 04-06.00 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 development plan and development standards as shown on the plat and approved by the Planning Commission on May 10, 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

EXHIBIT "A"
RPZD 04-06.00

PART OF THE SW ¼ OF THE SE ¼ AND PART OF THE NW ¼ OF THE SE ¼ ALL IN SECTION 12, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER OF SAID SW ¼, SE ¼ THENCE S01°07'42"W 1321.68 FEET, THENCE S88°39'22"E 1299.70 FEET TO THE WEST RIGHT OF WAY OF RUPPLE ROAD THENCE ALONG SAID RIGHT OF WAY N00°50'19"E 1781.17 FEET, THENCE LEAVING SAID RIGHT OF WAY N88°27'41"W 421.78 FEET TO THE EAST LINE OF MEADOWLANDS SUBDIVISION PHASE I AND II, THENCE S00°03'34"W 702.70 FEET, THENCE S89°57'57"W 165.18 FEET, THENCE S88°12'08"W 359.00 FEET, THENCE ALONG A CURVE TO THE RIGHT 125.61 FEET SAID CURVE HAVING A RADIUS OF 925.00 FEET AND A CHORD BEARING N54°16'02"W 125.51 FEET, THENCE S89°59'20"W 304.85 FEET TO THE P.O.B.; CONTAINING 41.70 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 10, 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: May 05, 2004 Revised May 11, 2004

R-PZD 04-06.00: Residential Planned Zoning District (Rupple Row, pp 439) was submitted by Chris Brackett of Jorgensen & Associates on behalf of John Nock of Nock Investments, LLC for property located on Rupple Road, south of Wedington Drive. The property is currently zoned RT-12, Residential Two and Three-family, and RSF-4, Residential Single-family, 4 units per acre, and contains approximately 41.70 acres. The request is to rezone the subject property to a Residential Planned Zoning District to allow the development of a residential subdivision with 182 single family and 39 two-family lots (260 dwelling units) proposed. Planner: Jeremy Pate

Findings:

Existing Development: The vacant site is located in west Fayetteville across from the Boys and Girls Club on Rupple Road. With the exception of the Boys and Girls Club and Meadowlands S/D, the surrounding property is currently undeveloped, though various development plans have been approved. A recently approved Fire Station is to be constructed on the lot immediately north of the subject property. Meadowlands Subdivision Phases I & II lie to the northwest, and Cross Keys Planned Zoning District is immediately to the west.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Meadowlands S/D (duplex, SF) , Fire Station #7 site	RSF-4, Single Family Res. 4 DU/Acre RT-12, Res. 2 & 3 Family, 12 DU/Acre R-A, Residential Agricultural
South	Vacant	Washington County – no zoning
East	Boys & Girls Club, vacant property	RMF-24, Res. Multi-family, 24 DU/Acre, R-A, Residential Agricultural
West	Cross Keys Subdivision PZD	R-PZD

Water & Sewer: A 12" water line is being extended along Rupple Road with ongoing development. Staff is recommending a cost share to upsize the proposed development's water line from 8 inches to 12 inches to complete a public water line loop. Sewer is to be extended to serve the development.

Proposal: The applicant requests a rezoning and preliminary plat approval for a residential subdivision within a unique R-PZD zoning district. The proposed use of the site is for a "neo-traditional" development consisting of 182 single-family residential dwelling units and 78 two-family residential units, for a total of 260 dwelling units. The proposed density for the R-PZD is **6.24 DU/acre.**

Proposed Uses: R-PZD, Residential Planned Zoning District

	Proposed Land Use
Lots 1-144	Single Family Residential Use Unit 8
Lots 145-183	Two-family Residential Use Unit 9
Lots 164, 165, 171	Two-family, Three-family Use Unit 9, 10
Lots 184-221	Single Family Residential Use Unit 8
Lots 222-226	Common Areas Maintained by POA

The project site is currently zoned RSF-4 and RT-12, allowing for single, two and three family dwelling units, in their respective districts. The developer proposes an unconventional residential subdivision, with all access and services to be from rear alleys, and dwelling units to be sited close to the street (a 5-foot front building setback is proposed). Lot sizes and setbacks are proposed to be much smaller than those allowed in typical zoning districts, thus the need for processing a Planned Zoning District. The typical lot size for single family use ranges from approximately 40-45 feet wide x 115-120 feet deep. The designated two/three family lots are proposed to be approximately 75 feet wide by 101 feet deep.

Access: Access is proposed in all four cardinal directions:

North: Two (2) connections to existing stub-outs from Meadowlands S/D

South: Two (2) new access points from Persimmon Street, to be constructed

East: One (1) connection onto Ruppel Road

West: One (1) connection into the approved Cross Keys PZD subdivision

Ruppel Road is a newly constructed street south of Wedington Drive. A new traffic signal was recently installed at the intersection of Ruppel Road and Wedington, the primary means of access to the subject property. The developer of the Ruppel Row PZD is also required to construct Persimmon Street east of the Cross Keys development, coordinating with the adjacent developer of Cross Keys to eventually complete an improved, through connection from 46th Avenue east to Ruppel Road.

Adjacent Master Street Plan Streets: Ruppel Road, Minor Arterial; Persimmon Street, Collector

Street Improvements Proposed: Six-foot sidewalks are required to be constructed along Ruppel Road and Persimmon Street, at the right-of-way line. Persimmon Street is to be constructed to city standards, with a 28-foot width including curb/gutter and storm drains. The developer is proposing to construct parallel parking spaces along Ruppel Road, interspersed with tree

plantings. Interior streets are proposed to be 28 feet wide, with sidewalks located at the right-of-way on both sides of the street. Additionally, alleys provide the only vehicular access to each lot, as well as service access, within a 20-foot wide right-of-way. A street tree planting plan is to be submitted as part of the tree mitigation and landscaping requirements, prior to final plat.

The tract of land proposed for development is Lot 7 of the WHM Investments Final Plat (FPL 01-07.00), approved and recorded in 2001. Impact Fees for the construction of Ruppel Road are due based on contractual agreements (see attached), applicable to development of the subject lot. These fees are based on the actual number of dwelling units proposed by the Ruppel Row PZD development, as compared to the projected number of dwelling units for the subject property at the time of Final Plat.

Ruppel Row PZD: Ruppel Road Impact Fees

	Proposed	*Contracted	Difference	Cost	Letter of Credit	Cash Due	LOC Due
	No. of Units	Total Units		Per Unit	Per Unit		
Single Family	182	81	101	\$231.30	\$154.20	\$23,361.30	\$15,574.20
Duplex / Townhouse	78	28	50	\$141.64	\$94.43	\$7,082.00	\$4,721.50
						\$30,443.30	\$20,295.70

* See attached Contractual Agreement, in conjunction with the Final Plat 01-07.00, in which the current proposal is Lot 7

** The Cash and Letter of Credit amounts are due prior to Final Plat approval.

Tree Preservation: Existing canopy: 0.61 %
Preserved canopy: 0.13 %
Required canopy: 25 %
Mitigation: 33 on-site mitigation trees (see condition of approval)

Parks: The subject proposal appeared before the Parks and Recreation Board on Monday, May 03, 2004. With the WHM Investments Final Plat 01-07.00, 5.37 acres of park land was banked in 2001 to meet future park land dedication requirements by the developer in the Southwest quadrant. The parkland dedication required for the proposed number of dwelling units for Ruppel Row PZD exceeds the amount of dedication land banked, therefore park land dedication or money-in-lieu is due, prior to final plat. The Parks and Recreation Board recommends money-in-lieu be paid in the amount of \$7,482.75 to satisfy park dedication requirements prior to final plat.

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.

Recommendation:

Staff recommends R-PZD 04-06.00 be forwarded to the City Council with a recommendation for approval of the requested rezoning.

Planning Commission approval of the proposed preliminary plat in association with R-PZD 04-056.00 subject to the following conditions:

Conditions of Approval:

1. Planning Commission determination of the appropriateness of the proposed parallel parking spaces along Ruppel Road, a Minor Arterial street. *Staff finds the parking spaces to be adequately located, however their position should be carefully evaluated to ensure the continued safety of traveling and parking motorists. Ruppel Road is a north-south Minor Arterial street, planned to continue south to Hwy 62 on the Master Street Plan.*
2. Allowed uses in this R-PZD shall be restricted to the following Use Units:
 - Use Unit 1, City-wide uses by right
 - Use Unit 2, City-wide uses by conditional use permit
 - Use Unit 8, Single family dwellings
 - Use Unit 9, Two-family dwellings
 - Use Unit 10, Three-family dwellings
 - Use Unit 24, Home occupations
3. The applicant shall submit a letter from WHM Investments or the current owners of record of the subdivision acknowledging that all parkland banked with FPI. 01-07.00 (WHM Investments) for future parkland dedication use in the Southwest quadrant is being utilized with the current proposal. All future residential development within said subdivision will require park land dedication and/or money-in-lieu, based on park land dedication ordinances in place at the time of development.
4. Payment for Ruppel Road impact fees in the amount of **\$30,443.30** and a letter of credit in the amount of **\$20,295.70**, based on the number of dwelling units proposed, shall be submitted to the City of Fayetteville prior to Final Plat approval.
5. Parks fees in the amount of **\$7,482.75** are due prior to Final Plat approval. Fees in lieu of park land dedication shall be reviewed and approved by City Council, to comply with City ordinances.
6. Individual lot access shall be prohibited from Persimmon Street and Ruppel Road.
7. A note shall be included on the plat stating that the Common Area lots, maintained by the POA, are non-buildable lots.
8. A street tree planting plan shall be submitted before final plat as part of the requirements to meet tree mitigation and landscaping goals for the PZD.
9. No less than 33 trees shall be planted on-site to meet tree mitigation requirements.

Standard Conditions of Approval:

10. Plat Review and Subdivision comments (to include written staff comments provided to
- K:\Reports\2004\PC Reports\05-10-04\R-PZD 04-06.00 (Ruppel Row) REVISED.doc*

the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

11. 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.
12. Sidewalk construction shall be in accordance with current standards to include six foot sidewalks along Ruppel Road and Persimmon Street, at the right-of-way line. Sidewalks shall be constructed along the interior streets pursuant to Planning Commission approval.
13. Street lights shall be provided along all adjacent and proposed streets at a spacing of no more than 300 feet where not currently present, pursuant to city ordinances.
14. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
15. Preliminary Plat shall be valid for one calendar year.

Additional Conditions:

16. Streets within the proposed development shall allow for two-way traffic and on-street parking on one (1) side at the minimum width allowable, to be coordinated with City staff. Interior sidewalks shall be five (5) feet in width.
17. The option to utilize Use Unit 10, Three-family residential units, shall be limited to lots 164, 165 and 171 only.
18. Prior to Final Plat, a maximum square footage of the proposed homes shall be determined and reflected in the covenants to be filed of record.

PLANNING COMMISSION ACTION: yes Required

✓ Approved Denied

Date: May 10, 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 _____

Findings associated with R-PZD 04-06.00

From §166 Development:

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 RT-12, R-A, RSF-4 and R-PZD, with varying densities of residential development. A Fire Station has been approved for construction directly north of this site, and the existing Boys and Girls Club is across Ruppel Road to the east. The subject property is currently zoned RSF-4, Residential single family, 4 units per acre and RT-12, Res. Two & Three family, 12 units per acre. The total number of units allowed by the current zoning on this property is 301; the proposed number of units is 260, a net of 41 less units than that allowed currently. The proposed density of 6.24 units per acre for residential land use is compatible with surrounding developed areas, thereby preserving and enhancing the neighborhood.

There are few trees that exist on the site, and for those being removed, on-site mitigation will be required. There are no known watercourses on the subject property; the 100-year floodplain affects lot 226, in the southeast corner, a lot which has been designated for common open space for the neighborhood. Open space areas have been located all along Persimmon Street, providing a natural buffer. The developer proposes to require rear vehicular access for all of the dwelling units, eliminating curb cuts along the interior streets and facing the front of the homes onto the public street. Connectivity is being provided in all cardinal directions, allowing for pedestrian, bicycle and vehicular movement between neighborhoods. Staff finds the rezoning request with the associated development proposal furthers the health, safety and welfare of the community.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and

landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: A street tree planting plan for the proposed neighborhood is required to be submitted for city approval, prior to final plat of the proposed development. The site has 0.61% canopy coverage with 0.13% preserved canopy proposed. No fewer than 33 mitigation trees shall be planted on-site, to meet the tree preservation requirements. Landscaping shall be approved pursuant to all ordinance requirements.

(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: Ruppel Road, a Minor Arterial, is a newly constructed 28-foot wide street adjacent to the property on the east. Currently the only property served by this street is the Boys and Girls Club. Persimmon Street, a Collector, is to be constructed along the property's south boundary, to provide access to the west. The surrounding Minor Arterial and Collector streets can accommodate the projected traffic volumes of 2,266 average weekday 2-way vehicle trips for the proposed development. Internal streets are proposed to be 28 feet in width, with 4-foot sidewalks on both sides of the street. Connectivity is achieved in all four cardinal directions with a layout that allows for internal access to but discourages through traffic within the adjacent neighborhoods. Vehicular access to dwelling units is prohibited from the external streets, as well as the internal streets. All

vehicular access to individual lots is to be rear-loaded, from alleys located within 20-feet of right-of-way. Streets are to be constructed to meet all city codes.

- (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: On-street parking is allowed within the 28-foot street cross-section of local, interior streets. Due to future potential of high traffic volumes on Ruppel Road, a Minor Arterial, parallel parking is not allowed on the street; however, the developer proposes to construct pull-outs to allow for guest/visitor parking along Ruppel Road in appropriate locations. Staff recommends that the organization of these spaces, with regard to potential conflicts with existing intersections and the number of 2-space pull-outs be evaluated carefully to prevent the creation of a dangerous traffic situation.

- (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 residential land use proposed does not require specific buffers from adjacent development. The applicant proposes common greenspace along Persimmon Street as a natural buffer to this future Collector Street. A street tree planting plan is to be submitted for approval by the Landscape Administrator prior to final plat of the subdivision.

- (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 right-of-way along Ruppel Road and Persimmon Street. Four-foot sidewalks are to be constructed on both sides of all proposed interior streets.

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

FINDING: Street lights shall be provided along all streets adjacent to and within the proposed 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. Staff will be recommending a cost share to increase the water line size from 8" to 12", in order to complete a 12" water line loop in this area.

- (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 all public streets to serve the development, in accordance with city codes.

- (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 0.61% canopy with 0.13% preservation proposed. Mitigation is required in the amount of 33 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 significant views have 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 decided 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 Ruppel Row Planned Zoning District (see attached), establishing development guidelines and the existence of a Property Owner's Association. 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. Maintenance of common space and the detention pond shall be addressed in covenants and on the final plat.

From §161 Zoning Regulations:

Sec. 161.25 Planned Zoning Districts

(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 221 lots is located on property identified for residential use on the Future Land Use Plan. The proposed density and land use is compatible with adjacent development and will not negatively impact surrounding properties. The variety of residential uses, from single family to two and three family units, provides flexibility in the land use pattern, while maintaining a sense of compatibility with surrounding land uses. No negative impact is anticipated on future development; rather, the proposed development is anticipated to benefit the area as a whole, in providing a much-needed smaller lot and footprint, thereby reducing price, while retaining a heightened sense of neighborhood character through the use of neo-traditional design principles. The timing of the development helps to achieve connectivity along Persimmon Street from Ruppel Road to 46th Street, with the recent development approval of the property to the west. Common open space is being provided within the development, and the neighborhood will benefit from the nearby Boys and Girls Club facilities.

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 and development ordinances. 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 and two/three family residential uses which are 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 zoning districts, therefore a Planned Zoning District is more 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. A harmonious relationship with surrounding developments is achieved, while allowing for a very different style and type of development. Public improvements are required to adjacent streets and utilities, providing better street connectivity in the area, as well as a looped water system.

(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, two-family and potential for three-family dwelling units are permitted uses within a Residential Planned Zoning District. The applicant has identified other Use Units, as noted above and on the plat, to be permitted by right or by conditional use in this district.

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

FINDING: The proposed PZD proposed is entirely residential in use.

REZONING RECOMMENDATION: Staff recommends approval of R-PZD 04-06.00 with conditions as noted in the staff report.

LAND USE PLAN: General Plan 2020 designates this site Residential. Rezoning this property to R-PZD 04-06.00 is consistent with the land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning of the existing Residential Two and Three Family (RT-12) and Residential Single Family (RSF-4) property to the proposed PZD development with residential single, two and three family use at a density of 6.24 units per acre is consistent with the General Plan 2020 that identifies this area for residential use. The proposed land use is similar to that of the Meadowlands Subdivision, which combines single family homes two/three family homes in a standard layout. However, the proposed Ruppel Row development is much different with regard to site layout and organization, meeting many of the objectives and principles of the land use plan that promote traditional urban forms of 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 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 Ruppel Road, a minor arterial street, or Persimmon Street, a Collector street. Approximately 2,266 average two-way vehicle trips per day from this development would be created; a Collector street can accommodate 4,000-6,000 vehicles per day, and a Minor Arterial 12,200-14,800 vehicles per day at full build-out. Additionally, a traffic signal was recently installed at the intersection of Wedington and Ruppel Road. Currently traffic to the Boys and Girls Club is the primary source of traffic on Ruppel Road south of Wedington.

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 development proposed would create, on average, 572 future residents in this area, thereby altering the population density in the immediate vicinity. Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created.

Fire - Water supply with fire hydrants is needed to serve development on this site. Fire station #7 (Ripple Road), sited on the property adjacent to the north, will serve this site once it is constructed. Fire response time to the site is approximately 0 minutes, 30 seconds, which is 0.1 miles from the property.

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 surrounding development. 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 an 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

May 05 04 05:28p

Danny Farrar

(501) 444-3447

R-PZD 04-06.00 P. 2 B.1.
(John Nock)
22 of 66



FAYETTEVILLE

FIRE MARSHAL'S OFFICE

THE CITY OF FAYETTEVILLE, ARKANSAS

From: Fire Prevention Bureau

To: Planning Division

Date 5/5/04

REZONING XX ANNEXATION _____

REZONING # 04-06.00 OWNER John Nock/Nock Investments

ANNEXATION# _____ OWNER Rupple Row

LOCATION OF

PROPERTY Rupple Rd. south of Wedington Dr.

NEAREST FIRE STATION AND

LOCATION Station #7, Rupple Rd. (future)

RESPONSE TIME FROM FIRE STATION # 7 TO

LOCATION OF

PROPERTY _____ MINUTES 30 SECONDS.

TRAVEL MILES FROM FIRE STATION # 7 TO LOCATION OF

PROPERTY .1

COMMENTS ON FIRE DEPT.

ACCESS/ROADWAYS _____

EXISTING FIRE HYDRANTS? IF SO

LOCATION _____

WATER SUPPLY WITH HYDRANTS

NEEDED? Yes

ADDITIONAL

COMMENTS. _____

MAIN OFFICE

115 SOUTH CHURCH ST.

(501) 444-3448 / (501) 444-3449

FAX (501) 575-8272

~~SUBSTATION~~

~~N.W. MALL~~

~~(501) 575-8271~~

~~FAX (501) 575-8272~~



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

RECEIVED

R-PZD 04-06.00 (John Nock)
B.1.
23 of 66

MAY 05 2004

PLANNING DIV.

POLICE DEPARTMENT

May 4, 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 04-06.00: Planned Zoning District (Ripple Row, pp 439)** submitted by Jorgensen & Associates, Inc. on behalf of John Nock of Nock Investments, LLC for property located on Ripple Road, south of Wedington Drive would substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Lieutenant William Brown
Fayetteville Police Department

Summary of Multi-Use Trip Generation
Average Weekday Driveway Volumes
May 06, 2004

Land Use	Size	24 Hour Two-Way Volume	AM Pk Hour Enter	Hour Exit	PM Pk Hour Enter	Hour Exit
Single Family Detached Housing						
	182 Dwelling Units	1742	35	102	116	67
Apartments	78 Dwelling Units	524	8	32	31	17
Total		2266	43	134	147	84

Note: A zero indicates no data available.

TRIP GENERATION BY MICROTRANS

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-444-3469

TO: Jeremy Pate, Associate Planner
FROM: Rebecca Ohman, Park Planner
DATE: April 30, 2004
SUBJECT: Subdivision Meeting Comments

Meeting Date: April 30, 2004
Item: RPZD 04-6.00 Ruppel Row, pp 439
Park District: SW
Zoned: R-PZD
Billing Name & Address: Nock Investments, LLC One East Center Street #301 Fay, AR 72701

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$393 per unit = \$ _____
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- In October 2001, as part of the development of the Meadowlands Subdivision and Fayetteville Boys' and Girls' Club, WHM, Inc banked Tract 5 consisting of 5.37 acres toward future development in the SE^W quadrant. Please see attached meeting minutes and letters.
- The Ruppel Row Project requires a total of \$131,664 or 5.70 acres be dedicated for 182 Single Family and 78 Multi-Family units to satisfy the Park Land Dedication Ordinance. This amount exceeds the 5.37 acres banked in October, 2001. Thus, parks fees in the amount of \$7,482.75 or a land dedication of 0.33 acres are due prior to issuance of the final plat.
- This project must be reviewed at the May 3, 2004 PRAB meeting to determine the recommended requirement.

DEBORAH SEXTON LAW OFFICE, P.A.

Attorney at Law

201 North East Avenue

P. O. Box 953

Fayetteville, Arkansas 72702

(501)443-0062

Fax (501)443-2001

October 2, 2000

Parks and Recreation Department
Parks and Recreation Advisory Board
Planning Division
Planning Commission

Ladies and Gentlemen:

I represent WHM Investments, Inc. (the "McIlroy Company"). As part of our ongoing conversations with the City of Fayetteville (the "City") and the Fayetteville Youth Center (the "FYC"), I have been asked to prepare a letter requesting that the McIlroy Company or its assigns be allowed to bank the 6 acres described as Tract B on the attached copy of a survey prepared by Jorgensen & Associates, Inc. on September 12, 2000. The 6 acres will be banked according to the Park Land Ordinance on future development in the southwest park quadrant.

As you are well aware, the FYC is purchasing 9.69 acres adjacent to the 6 acres in the Meadowlands development from the McIlroy Company on which a new FYC building will be built. The McIlroy Company has already deeded to the City 3 acres of land adjacent to the above-referenced 6 acres, causing a total of 18.69 contiguous acres to be available for a joint project for the FYC and the City.

Sincerely yours,



Deborah Sexton

DS:dml

PRAB Regular Meeting

contribution to the park. Mr. Ackerman said similar requests had been honored in the past.

MOTION:

Ms. Eads moved to honor the request of Linda Doyle to donate up to \$1,000 for a sign to be located in Red Oak Park in memory of Richard Doyle with Parks and Recreation Division staff having final approval of sign type, content and location.

Ms. Nickell seconded the motion.

Upon roll call, the motion was approved 5-0-0.

V. Meadowland Park Land Meeting:

A September 20, 2000 meeting was scheduled to review the Meadowland subdivision park land in which the new Fayetteville Boys and Girls Club is to be built. Parks currently has 3.08 acres of land. The owner is donating 2 acres to the Boys and Girls Club and has offered to sell them an additional 7.69 acres at \$10,000 per acre. ~~Mr. Ackerman said that the Board has authorized to deed an additional six acres of land to Parks to be parked on future developments in the southwest park district. The meeting will be conducted at 12:00 noon at the Parks and Recreation Division, 1455 S. Happy Hollow Rd., Fayetteville, Arkansas.~~

VI. Wade Colwell's Report on Central Park Observations

Mr. Colwell shared observations from a recent visit to New York City's Central Park and distributed an article featured in the Smithsonian publication about the park. Mr. Colwell said there were no outside ballfield fences resulting in large open space between the fields. Other observations included minimal picnic tables, many park benches, large grassy areas, numerous vendors, a soft surface trail, and tiled bathrooms.

VII. Park Master Plan: Eric Schuldt

Mr. Schuldt distributed Master Plan public workshop meetings dates.

Thursday, September 14 meetings will be conducted at Holcomb Elementary Cafeteria and Happy Hollow Elementary Cafeteria from 7:00 until 9:00 p.m.

Friday, September 15 the Steering Committee workshop will be conducted at Drake Field conference room from 9:00 a.m. until 4:00 p.m.

Monday, September 25 meetings will be conducted at Ramay Junior High Cafeteria, Vandergriff Elementary Cafeteria, and Jefferson Elementary Cafeteria from 7:00 until 9:00 p.m.

Tuesday, September 26 a meeting will be conducted at the Walton Arts Center from 12:00 noon until 2:00 p.m. Evening meetings will be conducted at Asbell Elementary Cafeteria and Butterfield Elementary Cafeteria from 7:00 until 9:00 p.m.

Meadowlands
August 21, 2001

Final Plat approved per Sara Edwards with a re-zoning last week from R-2 to R-1

71 Single Units = 1.775 acres for park land ordinance

34 Multi Units = 0.68 acres for park land ordinance

= 2.455 acres due to satisfy the park land ordinance

3.2 was deeded to the city several years ago

3.08 acres actually - I asked Ed Connell to check the legal description and it is not 3.2 acres

With the lot splits taken place by Planning the new deeded amount
is 2.79 acres

The banked acreage was to be 6 acres and is now to be
5.37 acres due to the lot splits taken place by Planning

Future

5.37
- 335

5.045 bank?

• 335 credit banking
from 2.79 or not properly banked?

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

TO: Sara Edwards, Development Coordinator
FROM: Kim J. Rogers, Parks Operations Coordinator
DATE: February 22, 2001

SUBJECT: Parks & Recreation Plat Review Comments for February 27 & 28, 2001 Mtg.

I have reviewed the following:

☐ LOT SPLIT
☒ LARGE SCALE DEVELOPMENT
☐ SUBDIVISION

proposal submitted under the name of: LSD 01-4.00 Fayetteville Youth Center, pp 439
in the _____ park quadrant, zoned _____ land billing address:

Listed below is the decision of the Parks Staff and the recommendation of the Parks & Recreation Advisory Board to accept the following;

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .025 acre per unit = _____ acres	_____ @ \$470 per unit = \$ _____
Multi Family	_____ @ .02 acre per unit = _____ acres	_____ @ \$375 per unit = \$ _____
Mobile Home	_____ @ .015 acre per unit = _____ acres	_____ @ \$280 per unit = \$ _____

COMMENTS:

The Parks and Recreation Division has been required to lease the existing Meadowland Subdivision park land dedication acreage (Ozark View Park) to the Fayetteville Youth Center DBA the Fayetteville Boys and Girls Club Incorporated. This park property was received on March 30, 1995 in the amount of 3.08 acres through the Park Land Ordinance for the Meadowlands Subdivision development.

The Parks and Recreation Division, at this point, has not received the deed for the additional 6 acres to be banked for future development in the southwest quadrant of Fayetteville by WHM Land Investments, Inc. This issue has been discussed with Deborah Sexton, Attorney at Law, representing the said developer (see attached letter and documentation from the Law Office of Deborah Sexton).

The Parks and Recreation Division will also require a copy of the wetland determination report along with the location and acreage of the wetlands.

Mike Anderson of Engineering Design Associates has been contracted by the Fayetteville Youth Center DBA the Boys and Girls Club of Fayetteville Incorporated to apply for the C.L.O.M.R. (Conditional Letter of Map Revision), 404, and the grading permits. The Parks and Recreation Division is requiring copies of the permits, applications, and reports thereof. Also, a copy of the L.O.M.R. (Letter of Map Revision) is required.



JOHN C. NOCK

One East Center Street, Suite #302, Fayetteville, Arkansas 72701
Office: 479.444.9750 Cell: 479.530.6799 johnnock@yahoo.com

April 1, 2004

City of Fayetteville Planning Division
125 West Mountain Street
Fayetteville, Arkansas, 72701

Re: R-PZD Residential Planning Zoning District Request
Ripple Row Subdivision

Project Summary: Ripple Row is planned as a 40.65 acre neo-traditional development located in west Fayetteville, Arkansas. The project is strategically located directly across the street from the recently opened Donald W. Reynolds Boys and Girls Club on Ripple Road. The Ripple Row neighborhood is designed to enhance the quality of life of those who will call it home. A neo-traditional neighborhood such as Ripple Row is a unique design approach that takes its inspiration from the "township" planning model that prevailed in the United States early in the Twentieth Century. Key components of neo-traditional neighborhoods include land development in a more compact and human scale, with homes within walking distance of parks, recreation facilities, schools and a central meeting place. Specifically, Ripple Row is designed to maximize the available land into functional yet friendly home sites. This utilization and resulting lot prices are aimed at promoting tighter building footprints and affordable lot prices. This corresponds to a chief aim of Ripple Row in providing an atmosphere for quality affordable home ownership.

The Ripple Row neighborhood concept intends to promote an aesthetically pleasing development which fosters opportunities for friendly human interaction. The development will include tree-lined corridor streets, pedestrian-friendly site design, and appropriate project density. Proposed home designs include traditional facades with relaxing porches and verandas. Rear entry garages are neatly tucked behind homes and accessed through service alleys.

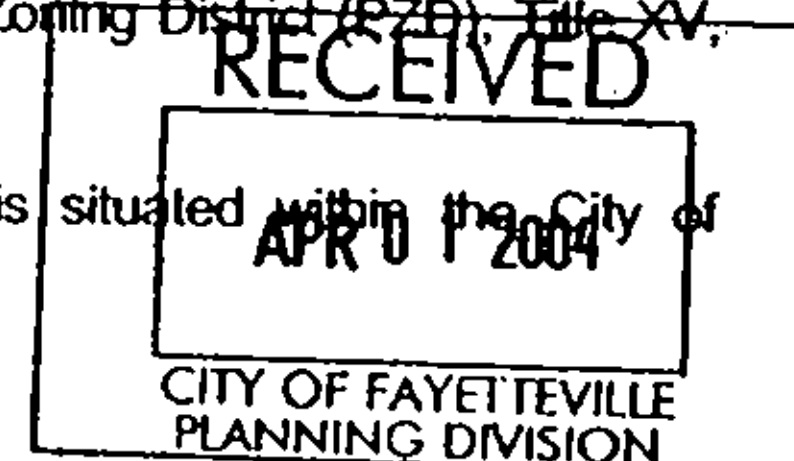
Project Site: The project site consists of approximately 40 acres owned by Nock Investments, LLC. The land is currently zoned R-1.5 and R-1. Ripple Row is located directly west of the Donald W. Reynolds Boys and Girls Club across the newly constructed southern portion of Ripple Road. Ripple Road is approximately one mile west of I-540 on AR Hwy 16 West. The development site is bordered to the south by Persimmon Drive (on Fayetteville master street plan), and to the north the newest planned Fayetteville Fire Station.

Legal Description: (see submitted Preliminary Plat)

Development Team: The Owner/Principal Developer is John Nock. The co-developers on the project are Richard Alexander and Rob Merry-Ship. The project architect is Tim Cooper of Cooper Architects and the project engineer is Chris Brackett of Jorgenson and Associates.

The proposed PZD meets the criteria as set out in Sec.166.06A, Planned Zoning District (PZD), Title XV, Unified Development Code:

- (1) Location. The above described property is eligible as it is situated within the City of Fayetteville limits.



• Page 2

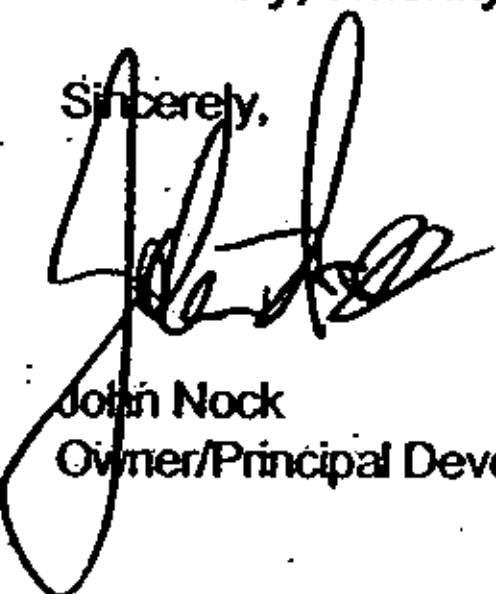
April 1, 2004

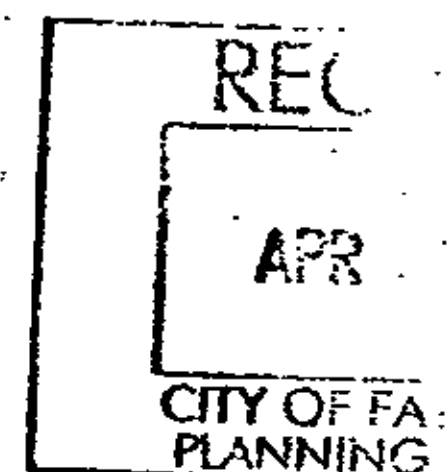
- (2) Ownership. Landowner is eligible applicant and the development plan will be binding upon all subsequent owners of the land.
- (3) Size. Although the site location contains approximately 40.65 acres. There is no minimum tract size requirement.

The proposed PZD can accomplish one or more of the following goals specified in Sec. 161.25(A) Planned Zoning District, Title XV, Unified Development Code:

- (1) Flexibility. Rurple Row will include approximately 220 homes, each not having less than 1,200 sq. ft. of heated space. The development style will be in accordance with Neo-traditional neighborhoods, including tree lined streets, front porches, zero-lot line courtyard units, rear entry garages, service alleys for trash pick-ups, utilities and resident parking.
- (2) Compatibility. Rurple Row is compatible with existing and planned surrounding land use. The vision of and design of the development directly incorporates surrounding development including the recently opened Donald W. Reynolds Boys and Girls Club. The proposed PZD will achieve compatibility between the proposed development and surrounding areas so as to preserve and enhance the overall neighborhood appearance.
- (3) Harmony. The area in the western part of Fayetteville is currently being developed as residential neighborhoods and this proposal will meet the purpose and intent of R-PZD and permitted uses.
- (4) Variety. The planned lots are currently all reserved under letters of intent by multiple builders. The resulting effect will be a variety of home facades and an increase in employment opportunities and services.
- (5) No Negative Impact. On the contrary, Rurple Row will be a positive addition to the City of Fayetteville and specifically the surrounding area.
- (6) Coordination. Proposed PZD and the development of land surrounding the PZD is being coordinated between various developers and city officials. To the north coordination is ongoing with the City of Fayetteville on the construction of a new fire station and to the west direct coordination is ongoing with Charlie Sloan and the development of his project, Cross Keys. A connector street is planned between all adjoining properties.
- (7) Open Space. The developer is involved in the development and financial plans of a golf course to be built on adjacent land that will complement the activities already in existence and planned near the Donald W. Reynolds Boys and Girls Club. Park requirements have been fully met.
- (8) Natural Features. Rurple Row is planned to obtain maximum enhancement and minimal disruption of natural existing land features and surrounding areas.
- (9) General Plan. Proposed PZD will take into consideration tree preservation, landscaping, water conservation, preservation of natural site and the protection of the natural land to further the health, safety, amenity and welfare of the City of Fayetteville.

Sincerely,


John Nock
Owner/Principal Developer



PROTECTIVE COVENANTS
RUPPLE ROW PLANNED ZONING DISTRICT
FAYETTEVILLE, ARKANSAS

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, John Nock dba, Nock Investments, LLC is the record Owner of the following property.

LEGAL DESCRIPTION:

Part of the SW1/4 of the SE1/4 and part of the NW1/4 of the SE1/4 all in Section 12, T16N, R31W in Washington County, Arkansas and being more particularly described as follows: Beginning at the NW Corner of said SW1/4, SE1/4 thence S01°07'42"W 1321.68 feet, thence S88°39'22"E 1299.70 feet to the West Right of Way of Ruppel Road thence along said Right of Way N00°50'19"E 1781.17 feet, thence leaving said Right of Way N88°27'41"W 421.78 feet to the East Line of Meadowlands Subdivision Phase I & II thence S00°03'34"W 702.70 feet, thence S89°57'57"W 165.18 feet, thence N58°12'08"W 359.00 feet, thence along a curve to the Right 125.61 feet said curve having a radius of 925.00 feet and a chord bearing N54°16'02"W 125.51 feet, thence S89°59'20"W 304.85 feet to the P.O.B.; Containing 41.70 acres more or less subject to easements and Right of Way of record.

WHEREAS, the developer has divided said property into 223 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 Ruppel Row 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 Ruppel Row, a Planned Zoning District (PZD) in Fayetteville, Washington County, Arkansas.

RECEIVED
APR 21 2004
PLANNING DIV.

1. 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.
2. All houses on all lots shall have a minimum of 1,400 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.
3. Each lot shall be used for residential purposes only.
4. 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.
5. No structure of a temporary character, house trailer, basement, shack, additional garage, barn or other outbuilding shall be used on any lot at any time either temporarily or permanently. Storage buildings are allowed as per #4. above.
6. 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.
7. Sidewalks are required to be built as specified.
8. 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 of house.
9. 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 six 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.

10. 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.
11. No fences shall be allowed in front yards except masonry or wrought iron of a maximum height of six feet. No form of wire fence shall be allowed.
12. The grass on each lot shall be maintained by mowing.
13. 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.
14. 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.
15. Landscape plans must be submitted for approval along with house plans, prior to commencement of construction. Turf areas within the front and side yards of each house shall be sodded.
16. Each builder shall be responsible for adequate drainage swales around the house to properly drain runoff.
17. Exterior of the houses shall be 50% 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.
18. Minimum roof pitch shall be 6:12. Roofing material shall consist of tile, wood shake, or 40-year composition architectural shingles made by GAF, style "Grand Sequoyah" or equal.
19. Uniform pedestal mailboxes shall be required at each house, and the all shall be white in color.

20. **Ripple Row 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, park areas; 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.**
21. **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 public spaces are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said spaces 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.**
22. **All lots shall be required to have two trees planted upon construction. One of these trees will be required to be 2.5" caliper and planted in designated areas along the street frontage of each property.**
23. **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.**
24. **These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2015, 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.
25. 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.
26. 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 21st day of April, 2004.

A handwritten signature in black ink, appearing to be "John Nock", written over a horizontal line.

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss
COUNTY OF WASHINGTON)

On this 21st day of April, 2004, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting within and for said County and State, appeared in person, John Nock located in Fayetteville, Arkansas and personally well know who stated that he is the owner of Ruppel Row 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.

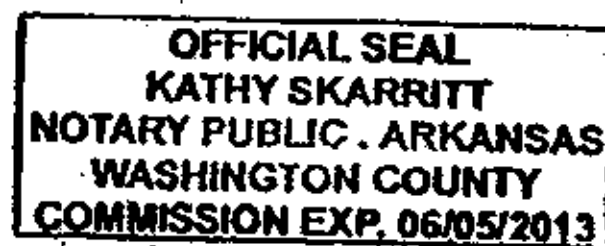
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this

21st day of April, 2004.

Kathy Skarritt
Notary Public

My Commission Expires:

6-5-2013



F	WHM LANE FASTER	EDA -06.00	Engineering Design And 64 West Broad Avenue Richmond, Virginia 23260	DESCRIPTION: JOHN N. ...
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CONTRACTUAL AGREEMENT

This Agreement, made and entered into this 10th day of October, 2001, by and between the City of Fayetteville, Arkansas, (hereinafter called "City") and WHM Land Investments, Inc. (hereinafter called "WHM"),

WITNESSETH:

WHEREAS, on September 10, 2001 the City Planning Commission approved the final plat of WHM, located at City Atlas Page 439, but referred the establishment of an impact fee to the City Council for its approval.

WHEREAS, WHM desires to have an executed agreement formalizing the current understanding before transferring Tract 5 to the City.

NOW, THEREFORE, the City and WHM agree as follows:

1. The City has agreed to build Ruppel Road, classified as a minor arterial, in order to provide access to the proposed Fayetteville Boys and Girls Club. WHM shall pay, based on the rational nexus formula, an impact fee for a proportionate share of the cost of Ruppel Road as a Minor Arterial. Based on the formula, the applicant shall be assessed \$176,724.25 for a road impact fee. The impact fee was based on the projected future residential development of Tracts 3 & 7 that shall be using Ruppel Road.

At the time the Boys and Girls Club meet all requirements to obtain the Reynolds grant, WHM shall pay the entire \$176,724.25 if the City Council approves and completes construction of Ruppel Road as a four (4) lane street with curbs, gutters, and storm sewer.

If the City Council approves construction of a two (2) lane street with plans for future widening, then at the time the Boys and Girls Club meet all requirements to obtain the Reynolds grant, WHM shall:

- a) Pay to the City \$100,000.00 (non-refundable, not dependant on any development of vacant lots),
- b) Provide the City an irrevocable letter of credit in the amount of \$76,724.25 with additional principal to be added each year based on the increase in the Consumer Price Index during the previous calendar year, as quoted in the Wall Street Journal on January 2 of the previous year and the year of the increase. Such letter of credit shall run for a term of six (6) years from date of when all conditions are met for the Fayetteville Boys and Girls Club to obtain the Reynolds grant and shall be due upon the City completing the widening of Ruppel Road to four (4) lanes with curbs, gutters, and storm

**CONTRACTUAL AGREEMENT
PAGE 2 OF 3 PAGES**

sewer. In the event, Ruppel Road is not improved to such standards within six (6) years, the letter of credit shall expire.

c) The irrevocable letter of credit shall be issued for a one year period at the beginning of each twelve (12) month fiscal period during the six (6) year term.

2. The projected future development of Tracts 3 & 7 are 81 single family units, 28 duplex units, and 260 apartment units. If during the six year period indicated above a development is approved by the Planning Commission in excess of any of the above indicated units WHM shall pay an additional impact fee for each unit in excess of the above as follows:

a) For each excess single family unit \$231.30 in cash and a letter of credit for \$154.20, total being \$385.50. The total amount will be paid in cash if Ruppel Road has been completed as a four (4) lane road with curbs, gutters, and storm sewers.

b) For each excess duplex unit \$141.64 in cash and a letter of credit for \$94.43, total being \$236.07. The total amount will be paid in cash if Ruppel Road has been completed as a four (4) lane road with curbs, gutters, and storm sewers.

c) For each excess apartment unit \$320.51 in cash and a letter of credit for \$213.67, total being \$534.18. The total amount will be paid in cash if Ruppel Road has been completed as a four (4) lane road with curbs, gutters, and storm sewers.

The cash impact fee and letter of credit shall be delivered upon the Planning Commission approving the final plat or large scale development. Any letters of credit received during the six (6) year period from the date the Boys and Girls Club meet all requirements, shall be returned back to WHM if the road is not widened to four (4) lanes with curbs, gutters, and storm sewers during the six (6) year period.

If after the six (6) year period WHM presents a preliminary plat to the Planning Commission in excess of the projected units, WHM shall pay an additional impact fee for each unit in excess of the projections based on whether or not Ruppel Road is completed at that time as a four (4) lane road, with curbs, gutters and storm sewer. If completed, the total amount indicated above shall be paid for each excess unit. If not complete, the cash amount indicated above shall be paid for each excess unit.

**CONTRACTUAL AGREEMENT
PAGE 3 OF 3 PAGES**

If during the six (6) year period indicated above WHM has a final plat approved for less than the projected units indicated above the \$76,724.25 letter of credit shall be reduced for each unit less than the projected units indicated above. WHM shall receive a reduction for each unit less as follows:

- a) For each less unit of single family in tract 7, a reduction in the letter of credit of \$154.20.
- b) For each less unit of duplex in tract 7, a reduction in the letter of credit of \$94.43.
- c) For each less unit of apartments in tract 3, a reduction in the letter of credit of \$213.67.

3. Upon the Boys and Girls Club meeting all requirements to obtain the Reynolds grant, all on-site and off-site improvements and fees, for any development by WHM, or its assigns, within the approved final plat area shall be based upon the above provisions and terms. The above provisions and terms will apply to WHM and any subsequent assigns. In consideration for this Agreement by the City, WHM shall deed Tract 5 to the City.

4. In the event the Boys and Girls Club fails to meet all requirements to obtain the Reynolds grant and is not constructed within the approved final plat area, all on-site and off-site improvements and fees for any development on tracts within the approved final plat area shall be based on current ordinance requirements at the time of development approval. Also, the City shall deed Tract 5 back to WHM.

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

CITY OF FAYETTEVILLE

WHM LAND INVESTMENTS, INC.

By: *Dan Coody*
Dan Coody, Mayor

By: *Hayden McIlroy*
Hayden McIlroy
by *Deborah Sexton*
POA 10-3-01

By: *Heather Woodruff*
Heather Woodruff, City Clerk

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**CERTIFICATE OF AUTHORITY
AND
SPECIAL POWER OF ATTORNEY**

FILED FOR RECORD
J1 OCT 9 PM 1 56
WASHINGTON CO AR
B. STAMPS

B.1.
R-PZD-04-06-00 (John Nock)
43 of 66

TO WHOM IT MAY CONCERN:

Comes now the undersigned, Hayden McIlroy as President of WHM Land Investments, Inc., and does hereby appoint and designate Deborah K. Sexton, as the true and lawful attorney in fact and agent (subsequently called agent), to serve and to sign documents, for and in the name, place, and stead, and for the use and benefit of the corporation, to endorse checks, drafts, execute agreements, contracts, warranty deeds, promissory notes, mortgages, security agreements, assignments of rents and leases, indemnity agreements, borrower's certificates, financing statements, deeding of title, or other written documents binding the corporation in the negotiations and transactions with the City of Fayetteville and the Fayetteville Boys & Girls Club.

The rights, powers, and authority of the agent, Deborah K. Sexton, to exercise any and all of the rights and powers herein granted shall remain in full force until October 25, 2001. After such date this power of attorney shall terminate, and thereafter be null, void, and of no effect whatsoever.

This power of attorney may be executed in counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one instrument.

IN WITNESS WHEREOF, I have hereunto subscribed my name on the 3rd day of October, 2001.

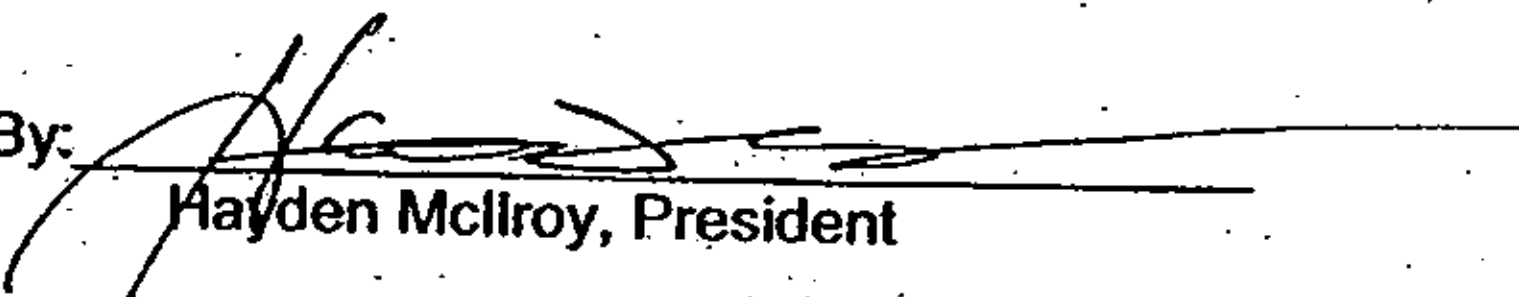
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CERTIFICATE OF AUTHORITY AND
SPECIAL POWER OF ATTORNEY
OF WHM LAND INVESTMENTS, INC.
PAGE 2 OF 2 PAGES

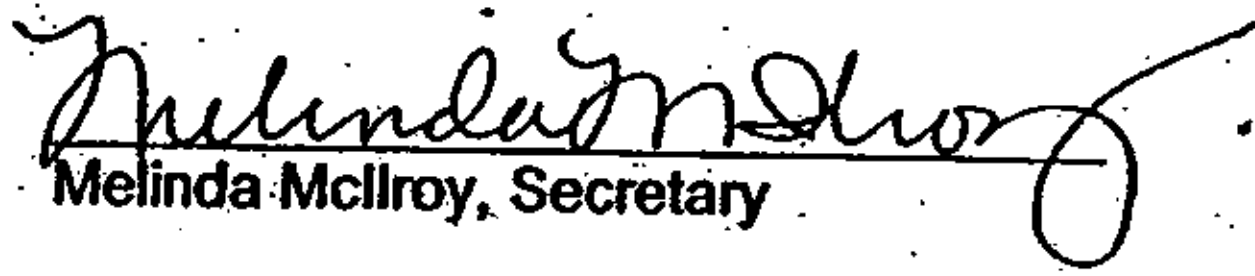
B.1.
R-PZD-04-06-00 (John Nock)
44 of 66

WHM LAND INVESTMENTS, INC.

By:


Hayden McIlroy, President

ATTEST:


Melinda McIlroy, Secretary

STATE OF ARKANSAS

COUNTY OF WASHINGTON

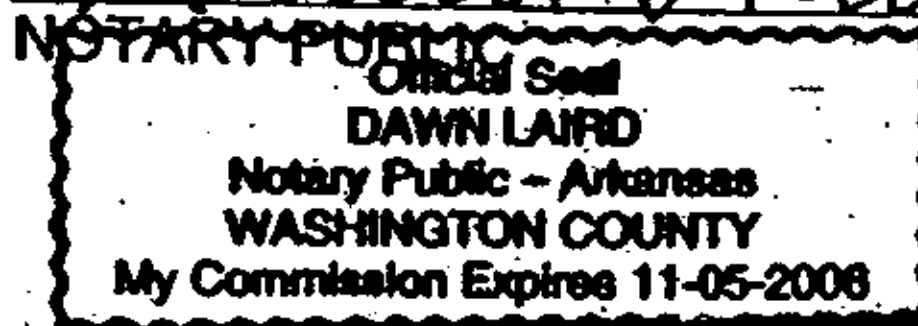
} ss.
}

BE IT REMEMBERED, on this day came before the undersigned Notary Public within and for the County aforesaid, duly commissioned and acting, Hayden McIlroy and Melinda McIlroy, in their capacity as President and Secretary of WHM Land Investments, Inc., appearing in person to me, who stated that they had executed and delivered the above and foregoing document for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 3rd day of October, 2001.

MY COMMISSION EXPIRES:

11-05-2006



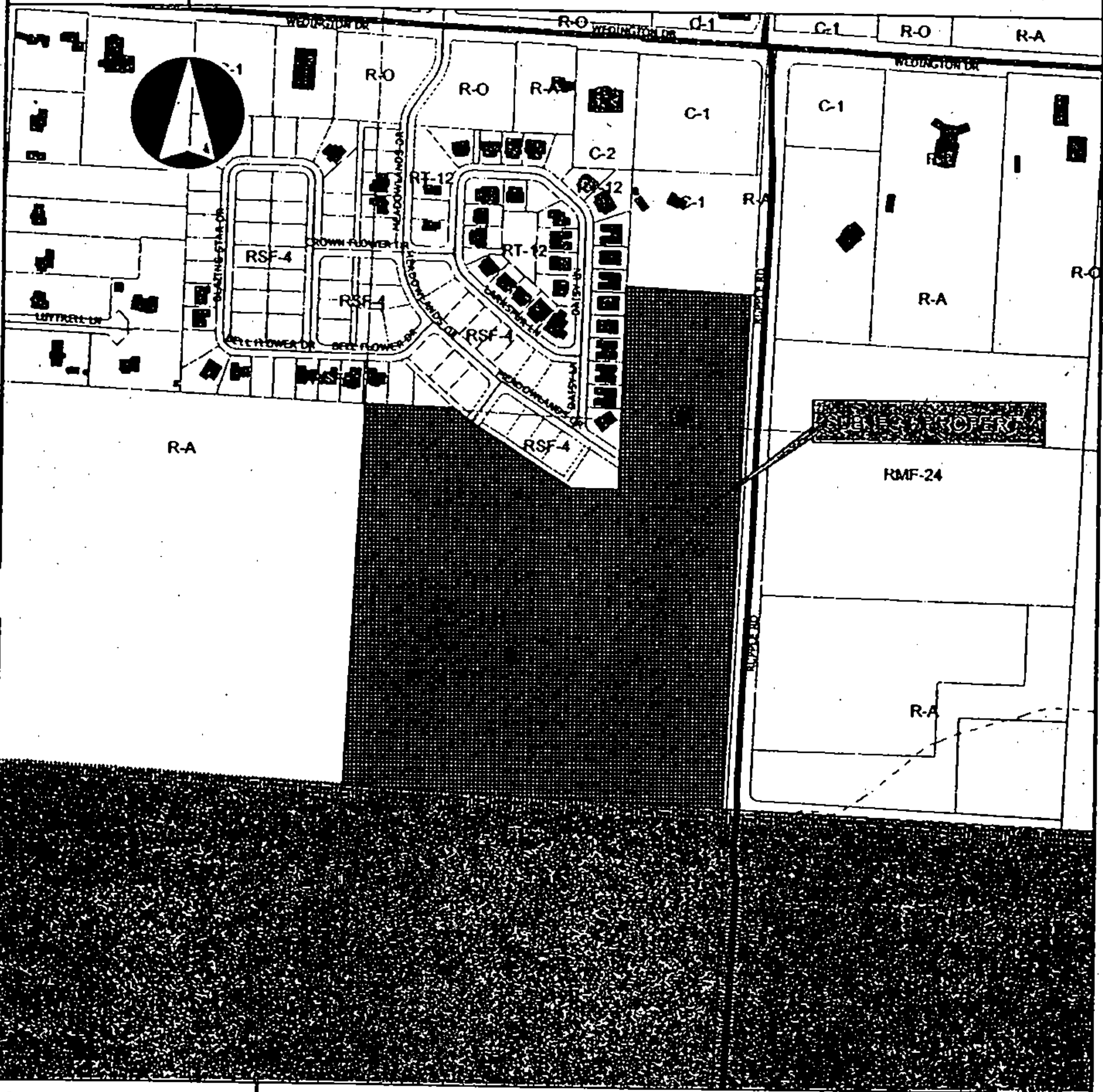
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RUPPLE ROW

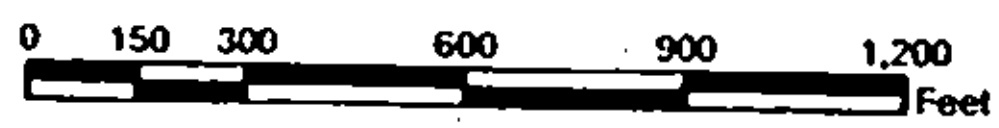
Close Up View



Overview

Legend

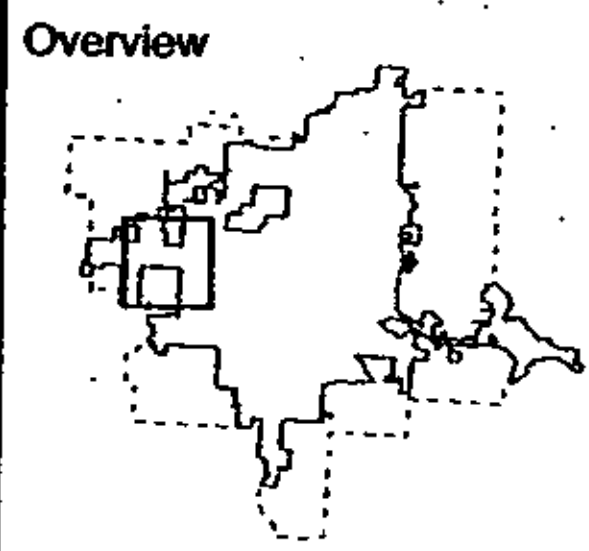
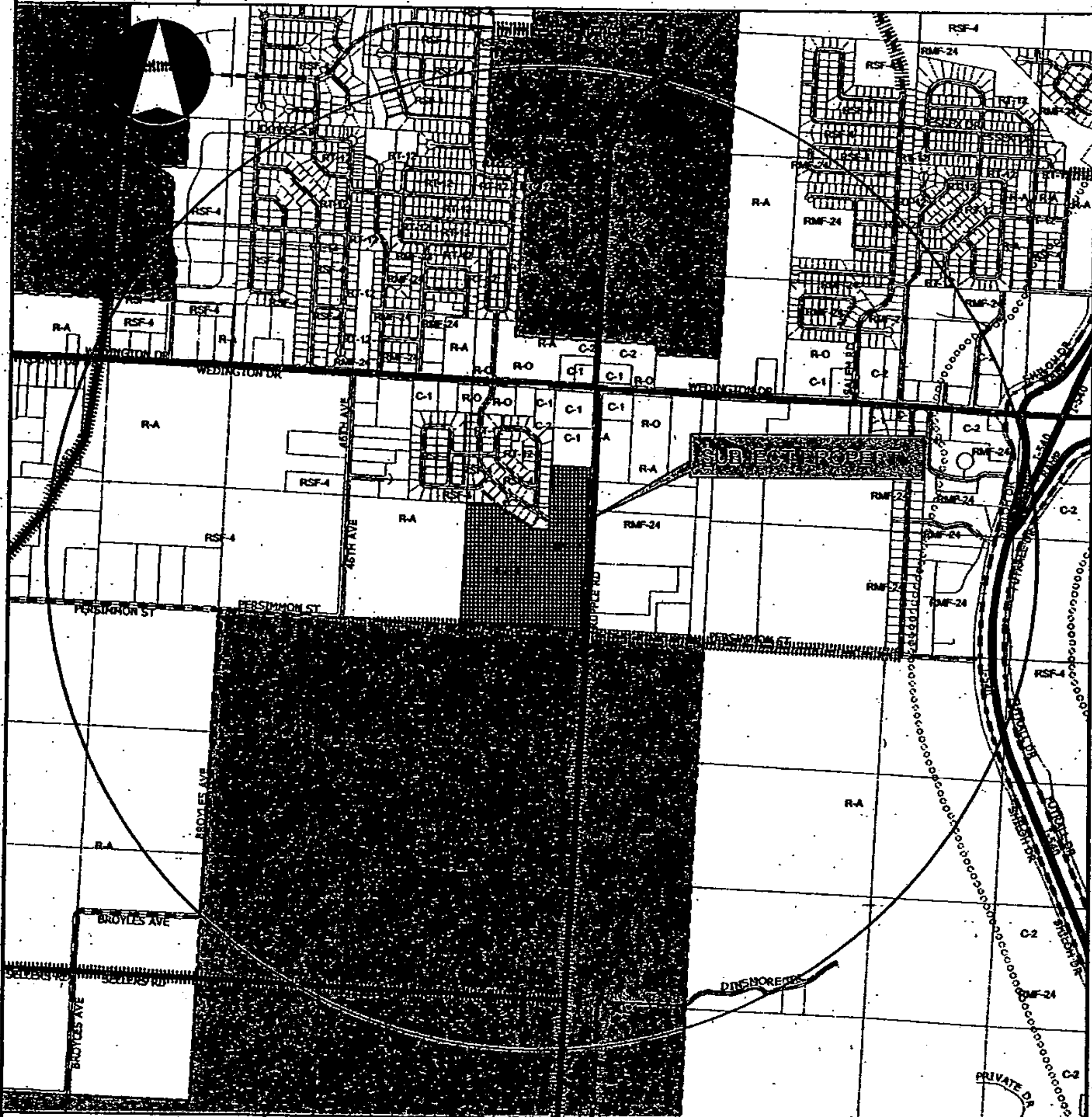
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|--|--|--|
| <ul style="list-style-type: none"> ○○○○○ Overlay District Master Street Plan Master Street Plan Freeway/Expressway | <ul style="list-style-type: none"> Principal Arterial Minor Arterial Collector Historic Collector City Limits Outside City | <ul style="list-style-type: none"> FLOODWAY 100 YEAR 500 YEAR LIMIT OF STUDY Base Line Profile R-PZD04-06.00 |
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R-PZD04-06.00

One Mile View

RUPPLE ROW



Legend

Subject Property
R-PZD04-06.00

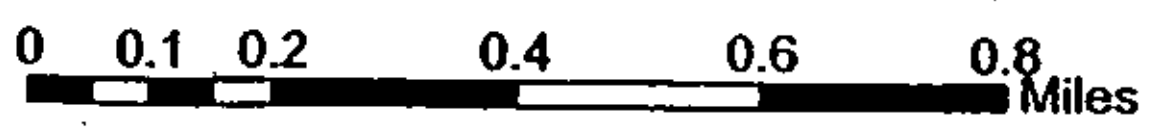
Streets
Existing
Planned

Boundary

Planning Area
Overlay District
City Limits
Outside City

Master Street Plan

Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector



R-PZD 04-06.00: Residential Planned Zoning District (Ripple Row, pp 439) was submitted by Chris Brackett of Jorgensen & Associates on behalf of John Nock of Nock Investments, LLC for property located on Ripple Road, south of Wedington Drive. The property is currently zoned RT-12, Residential Two and Three-family, and RSF-4, Residential Single-family, 4 units per acre, and contains approximately 41.70 acres. The request is to rezone the subject property to a Residential Planned Zoning District to allow the development of a residential subdivision with 182 single family and 39 two-family lots (260 dwelling units) proposed.

Ostner: The next item on our agenda is R-PZD 04-06.00, a Residential Planned Zoning District for Ripple Row. If we could have a staff report please.

Pate: The vacant site is located in west Fayetteville across from the Boys and Girls Club on Ripple Road. With the exception of the Boys and Girls Club and Meadowlands S/D, the surrounding property is currently undeveloped, though the Planning Commission has seen and approved various development plans recently. Fire Station #7, which is to be constructed on the lot immediately north of the subject property. Meadowlands Subdivisions Phases I & II lie to the northwest, which are developed and Cross Keys Planned Zoning District is immediately to the west and proposed to be connected to this development. The property is currently zoned RT-12, Residential Two and Three Family, and RSF-4, Residential Single Family, four units per acre and contains approximately 41.7 acres. The request is to rezone the subject property to a Residential Planned Zoning District to allow the development of a residential subdivision with 182 single family lots and 39 two-family lots for a total of 260 dwelling units proposed. That proposed density is approximately 6.24 dwelling units per acre, which is actually less dense than allowed on the property currently. The project is an unconventional subdivision with all access and services to be from rear alleys. Dwelling units are to be sited much closer to the street than you see in typical subdivisions. There is a 5' building setback on the front. The lot sizes and setbacks are proposed to be much smaller than those allowed in typical zoning districts, thus the need for processing a Planned Zoning District as opposed to just a standard subdivision or rezoning. The typical lot size for single family uses range from approximately 40 to 45' wide by 115' to 120' deep. The two and three family lots are proposed to be approximately 75' wide by 100' deep. Ripple Road is a newly constructed street south of Wedington Drive that accesses the Boys and Girls Club at this time. The developer of the Ripple Row PZD is also required to construct Persimmon Street east of the Cross Keys development, coordinating with the adjacent developer of Cross Keys to eventually complete an improved, through connection from 46th Avenue east to Ripple Road. The developer is proposing to construct parallel parking spaces along Ripple Road. One of staff's conditions tonight is Planning Commission determination of the appropriateness of those proposed parallel parking spaces along Ripple

Road. It is a minor arterial street. We find that the parking spaces are adequately located and do serve a good purpose in that area. However, we do need to ensure that their position is carefully evaluated to ensure that the continued safety of traveling and parking motorists on this future busy street. With regard to findings, staff finds that the property is identified for residential use on the Future Land Use Plan. Thus, is compatible with that General Plan 2020. The proposed density and land use is also compatible with adjacent development. The residential subdivision to the northwest, Meadowlands Phases I and II is a similar type of use. However, it is a very different type of configuration and site design layout. They also have I believe single family homes and duplex and potentially even triplexes in that area as well. There is connectivity to the north, south, east and west in this proposed development. It does allow for a density and land use that is compatible with adjacent properties. Thereby creating a harmonious relationship with surrounding developments. There are comments in your packets from the Fire Department. Obviously, the newly built Fire Station #7 will not have a problem responding to this. The Police Department and Engineering have also reviewed these plans and are in support of them. Staff is recommending approval of the R-PZD to be forwarded also to City Council with a recommendation for approval of the rezoning with 15 conditions. 1) Planning Commission determination of the appropriateness of the proposed parallel parking spaces along Ruppel Road, a Minor Arterial street. Item number four is payment for Ruppel Road impact fees in the amount of \$30,443.30 and a letter of credit in the amount of \$20,295.70, based on the number of dwelling units proposed, shall be submitted to the City of Fayetteville prior to Final Plat approval. Item five, the City Council heard this with regard to parks fees and parks fees in the amount of \$7,482.75 are due prior to Final Plat approval. With that, I will be happy to answer any questions.

Ostner: Thank you Mr. Pate. Is the applicant present?

Brackett: Good evening, my name is Chris Brackett, I'm with Jorgensen & Associates. I'm here representing the owner, John Nock who is also in attendance and his architect, Tim Cooper. We prepared a foam board to maybe help you understand the overall concept of this that includes a schematic of the layout of what will be the future homes. We know that this development concept has not been done much in this area but we feel that it is something that is in demand in this area. Mr. Nock is very familiar with it and if you have any questions concerning the concept I would refer those to him and would be happy to answer any other questions you might have.

Nock: Hi, my name is John Nock. I wanted to give you just a brief outline of what you are looking at there on the concept. What you are looking at is

somewhat different from most developments that you would see in this area. Although, if you have traveled to Springdale to Harbor Meadows parts of it would be familiar, as well as Charleston Place, which is on the east side of town. This is what some people refer to as neo-traditional or new urban design planned developments. Some of the central parts of new urbanism or neo-traditional developments include really tighter land organization into categories. As you will notice all of the dwellings here have rear access alleys and all of the homes will have rear access garages. Having been familiar with some of the developments surrounding this area what we have had is a series of problems with congestion, with cars parked along streets, people that live there, not just visitors and of course, that eliminates this under that concept. Also, it calls for tree lined streets, tighter streets, although we have actually stayed with the current city ordinance as far as the streetscape goes, but we have put tighter parameters on setbacks. Also, you can see that not only is it tree lined streets but also sidewalks on both sides of the streets as well as sidewalks and walking areas along all of the alley ways. Along those alley ways you would see all of the services that would be required including trash removal. All utilities would be there and all hookups would be there. The idea is that you would keep your main street truly for vehicular traffic for pedestrian traffic and bicycles. Also, as you can see, we have been pretty particular about making sure that there is the installation of single family verses multi-family so that those components are earmarked and specifically put in positions where they compliment rather than contradict each other's use. One of the things that is a really strong idea in my opinion if you look at the long term goal for Fayetteville is that we say housing choices for all income levels. I wanted to point out that obviously, your development design and concept has to go with the long term plan. There are a lot of developments that are done out there with acre lot or 1/4 acre lots or two acre lots even. This is not that concept. This is a concept that creates a very attractive, very quality footprint for both building of a home but it also utilizes the land use in such a way that you can afford to do so so that the end user is getting a very quality instrument and a great place to live. The home price is where right now the market is being underserved. That would be in the 125,000 to 145,000 category. I bring that up because it is important to know what the end result is going to be and what they are going to look like. On this board you can see somewhat of a look, not every home will look this way, but it is destined to look like a neighborhood rather than just a development. That's about all of the comments that I have but I will be available for comments.

Ostner: At this point I would like to open it up to the public.

Davison: Just please, the density is the issue. When we speak of density a lot of people only think of houses and people but density in these situations relates to traffic. Even in this situation I don't believe the traffic can be

accommodated for this dense of project at this time. If we also look at the parallel parking along Ruppel Road. I believe that is right where the Boys and girls Club is, I believe that will be creating an even more dangerous situation for those children. I would just ask you to be careful. We have started to decide, staff and the city, that these PZDs are great but they also need to be really, really carefully monitored. Once we give those then it is pretty much up to us to make sure that the little things that we can do make a difference. I'm not sure I'm sold on them being appropriate on how much you are going to see them being used so I appreciate it if you would check on that. As well as with the TIFFS coming up I know you will be doing a lot of reading. If you would just please consider that it is too much of a traffic problem, it is a safety problem for the children. I love the smart design. Those aspects are long over due. It is nice to have a development with those elements such as long standing city neighborhoods that have garages in the back and all that, it is still too dense. It is too dense because it will create unsafe traffic situations for our children. Thank you.

Bowman:

I'm Dr. Kathy McGuire Bowman. I want to applaud all of you. I'm very much a newcomer to any idea of city planning. Whatever paths in your lives have led you here have given you a lot more experience of this than I have, which is almost zero. As I said last time I was here, what brought me more into this was more of the collaboration between the school district and the city around planning. I am reminded that this project, as I understand it, will be I would like to see a map if it is possible, whether it will be right on top of the new school. I would like to see a map that includes this project along with the other two that were up last time that have now been tabled. My problem with planning is that it seems like we are having a blind man and an elephant problem here. Everybody knows just a little piece of it. Nobody knows we are really dealing with an elephant because everyone is only touching the leg or the tail or the trunk. Also, nobody is really responsible for the elephant because everyone can say I didn't really know it was an elephant, I only voted for the little tail part. I will say again, I do not see how the Planning Commission and the City Council can make decisions about all these development decisions without knowing the overall plan. I believe Hugh Earnest of the city is in an excellent position to layout that overall plan and I would like him called upon to do that. I know he has sat on the city school committee that has made many of these plans and I think this should be information that everyone is drawing on. In terms of this particular development, as far as I see it trying to look at a larger part of the elephant, you are adding right here at this corner of the Boys and Girls Club, the Fire Station and the new Jefferson relocated school, you are adding 260 units to the 320 units of the McBryde/Sloan and the 640 units of the Sloan/Greenwood. Right there you have 1,220 new units. In this case, we all thought that was bad the last time we talked about it and the west side neighbors were here saying

that we do not want this kind of density in our area. Now this new development is even more dense. Instead of 320, four units per acre on 80 acres you are going to have 260 units on 42 acres. If you add them all together it looks pretty big, and it's only part of the elephant! I am in favor of the more neighborhood oriented kind of development. I like anything that encourages community and encourages people to gather together in their housing development. I like the idea that there is some slightly less expensive housing. Although, I'm not sure housing of \$125,000 really addresses housing choices for all income levels. That's my concern. In terms of the elephant there's really nowhere to talk about the elephant so I'm just talking about it wherever I can. My overall concern is that I believe that this west side development is happening at the expense of not south side development but south side people, the people who live in the south side now. Those would be the people who went to the Jefferson neighborhood school and the people who live behind the Mountain Inn and behind the courthouse. Again, I don't know Mr. Nock and I'm a novice at this but sources tell me that Mr. Nock may also be involved in the Mountain Inn renovation or whatever is going to happen there and may be involved in some development in south Fayetteville and might have sold the city the land for the fire station. I don't know if these are all facts but I want to look at elephants. I would want some mechanism in this city planning that can look at elephants. If, and again I don't know Mr. Nock and I'm a novice, but I would like if Mr. Nock if benefiting from the location of the fire station, the Boys and Girls Club and the Jefferson relocated school all on the west side and if he perhaps also stands to benefit from maybe a gentrification of the area behind the town hall, the old courthouse, I don't know if he does, or whoever does, that's the elephant. I want to know who is providing the housing for the people who live there now. I'm concerned that that is part of the elephant and I would not go ahead and approve any development on the west side until I know where the people on the south side are going to live. That's all I have to say. I would like Mr. Earnest to be brought forward to explain the overall plan so that we could all look at the elephant and know what we are doing. I don't know how to get that to happen but that's what I would like to see.

Ostner: Thank you Ms. Bowman. Are there any other comments?

Moorman: Hi my name is Barbara Moorman, I live on the west side of Fayetteville, partly in the city and partly out of the city. My property goes down to a point where I expect eventually Ruppel Road, when it gets to the day that it crosses Hwy. 62 will come in my direction. My questions and concerns are not simply general, although they are that too, but they core but it is putting housing and amenities in an area where they are more accessible to the density. is not the city core affect me directly. I wanted to raise a question about Fayetteville's goals. Is Fayetteville encouraging density

and is it trying to discourage sprawl? That's been my impression that density is good and sprawl is bad from Fayetteville's point of view. If that is the case then I wonder what a definition of sprawl would be and where sprawl is. If you have dense developments that are outside of the main downtown is that sprawl or is that density? These terms are thrown about and people talk about neo-traditionalism and new urbanism and smart growth and those terms are absolutely meaningless if you don't define them. They have been defined by other people but I don't believe they've been defined in Fayetteville's particular context. I would like to understand what the future plans are for Ruppel Road. Everything that is planned to be built on it and where it is going to go after it crosses Hwy. 62. It has been projected to come down to Hwy. 62 for a long, long time but development is preceding a pace and I'm sure there are plans beyond that. I would also hope you know how many people are projected to live west of I-540 and between Wedington and 6th Street within the next five years or ten years. What is considered the carrying capacity in terms of population for that area? What we seem to be doing is saying, as Mr. Pate said recently, there isn't development around there right now. Well, no but it is about to happen. It is projected. When I asked the Planning Commission last year what was projected for all the way out to Farmington, Mr. Estes, who was here at the time and I believe has since moved out of Fayetteville said commercial all the way to Farmington, mixed commercial all the way to Farmington all along both sides of Hwy. 62. I don't know if that really is the projection and I don't know what the population projection is. I think that it would be really smart of Fayetteville to have all of its annexations and big rezonings done at one huge meeting once a year so that you can really see the elephant that Dr. Bowman was talking about. Since you don't do that then I think you at least have to look at it in terms of a discreet region. I think as far as being against sprawl, as I think Fayetteville has said it is, being for new urbanism which is against sprawl. The woman who wrote the first book against sprawl, Jane Jacobs, *The Life and Death of Great American Cities*, pointed out in a recent interview when she was asked about what she thinks about the new urbanism today she said, and I certainly agree "It's still sprawl." Thank you.

Ostner:

Thank you. Are there any other people who would like to comment on this issue from the audience? Seeing none, I will close it to the public and bring it back to the Commission. There are a few things that I would like to touch on before we go further. The zoning for this property was approved by law long before us. This property could be developed without a rezoning. The owner has a right to build as each of us has a right to own a home and the current density that this developer is proposing is actually less than what he could build by right. Density is at issue here in a way but it is hard for me to understand how we are increasing density beyond what is already available by right.

Brackett: I would just like to address some of those issues. The density that we are proposing, one of the reasons is that it is next to the amenities that are there. Ruppel Road is a minor arterial with a light on Wedington. There is a new fire station, there is a new Boys and Girls Club and there is a possibility for a school in this area. We feel that putting homes next to these amenities is what Fayetteville should be looking at doing. Putting the density by the amenities they have. There was a comment made concerning the overall plan for this area. We have been in discussion with the adjoining owners and it just so happens we are also the engineers for the property to the east and the property further to the east and Mr. Sloan's property to the south and Mr. McBryde's property. We've been discussing with all the developers in this area to discuss the overall plan and to discuss the school and the Boys and Girls Club and those matters. There has been a lot of time devoted to looking at the overall plan for this valley and it is not something that was thought up over night. Thank you.

Ostner: Thank you. Do we have any discussion?

Vaught: Kind of addressing some of the comments. There are planning documents that we do use that try to dictate the plan for the future and there has been considerable work put into these by the Planning Commission, the City Council and Planning Staff. There is the Master Street Plan, the 2020 Plan, the Long Range Planning Map. All of these are available and you can see where Ruppel Road is planned to go. It is not an exact because nothing has been built there. Also, I know some things were cluded to as far as new urbanism. I, by no means, am an expert on this. The part that I understand of the goal of Fayetteville of New Urbanism is creating smaller, walkable communities. I do tend to think that this creates that smaller, livable community. It is not the city core but it is putting housing and amenities in an area where they are more accessible to the density. I like the idea of having this by the school, if there is a school there. I don't even know if there is going to be. It is a rumor from what I understand. There is no contract. There is nothing in writing. There are other areas I know the school board was looking at. I don't know if it would be a bad location or not next to the Boys and Girls Club and a lot of residential development. On the long range planning map this area is designated as residential, of which this type of development fits and the other developments proposed around it fit. Like Commissioner Ostner said, by right they could come in, I believe some of this is RT-12. This is a compromise where they are cutting it back and trying to make the community more compatible with the areas around it. I like a lot of things on this. One question I did have for the developer was at Subdivision on Ruppel Road on street parking was extended further down to Persimmon and on this little drawing we have in front of us it is not there. I was just kind of curious why that was changed.

Brackett: It should be on that drawing. It is on all of your drawings that were in the packet. We have eliminated two spaces that were adjacent to Meadowlands Drive because of concerns from staff but we are intending for the rest of the ones, including the ones south of Meadowlands. That should be on that drawing.

Vaught: That is all I have for now.

Ostner: Thank you. I would like to mention something Mr. Vaught mentioned was the plan. The difficult part about being part of this city municipality is that our plans are just very malleable. Those guys are building our city, not us. Ruppel will never be extended until someone steps forward and says I want to spend 10 million dollars to build a subdivision and I'm going to extend Ruppel. We don't build the city, they do. It is a difficult process. They have to do it within our parameters, we have to grant them some things and we get to ask other things of them. Your metaphor of the elephant, we are often the tail end of the dog so to speak. There are property owners that want to develop in this town and we, with our ordinances, get to keep up as best we can with how they choose to develop their property. I think we do a really good job in a lot of ways. It is very difficult especially when you look around us at many other municipalities that are struggling to do a lot of things that we do well. There have been mentions of Mr. Earnest sharing the plan. There is no plan. There are maps that give areas of if you are going to develop here it probably should be residential. If you are going to build a street here we are going to ask you to do a collector street. Other than that, it has to do with the property owners and when they would like to build our town. We don't have a plan, you all do and your City Council updates all of those maps and those approvals periodically. They are the ones who really have the power to maintain those issues.

Vaught: I have one other question for the developer. I know there was considerable talk about utilities and working with the companies, has all of that been resolved?

Brackett: We had an initial meeting with the utilities and they've asked for some additional details for as far as the buildable area for each lot. We provided that to them and they are now reviewing it and we plan to have a second meeting to finalize what will be required. They are informed of everything that we are doing and we are working it out with them.

Allen: I would just like to pitch out a question here about whether or not we have kind of an oxymoron. Is this density in a sprawl area?

Clark: Who do you want to answer that question?

- Allen: I was interested in the opinion of my fellow Commissioners.
- Vaught: Do we allow density to create another city center to make it not sprawl somewhere else?
- Shackelford: I don't know how you can declare that this is a sprawl area with the emphasis that has been put into the Boys and Girls Club and the other amenities that have been put in this area. I think with the amenities and the infrastructure that is in this location this is designated as a future growth area for the City of Fayetteville. I don't think you can say anything outside the downtown Dickson Street location is automatically sprawl because it is not in the heart of the city. As our city continues to grow there are going to be hotbeds or growth outside of existing areas that we might default to right now thinking that this is the center and anything outside of that is sprawl.
- Ostner: I wondered that too. I was looking more at their buildings and their narrow lots because 6.2 units per acre is not dense. We have downtown areas that could go as high as 40 units per acre. If someone were to choose to build a 20 story apartment building in those areas they could do that. That is dense. It is a little bit odd with the fact that they could already develop this and just build another subdivision and get the same amount of density to me says that if the zoning is an issue, the zoning issue that passed previously was to blame.
- Allen: I guess I wonder too whether or not developers should always be the ones who decide the direction of our community and whether or not that is a part of our responsibility as planners.
- Warrick: The City has adopted a General Plan. It is a future land use policy and guide. It is periodically updated through a community planning process. Through citizen input, public hearings and the Planning Commission level as well as ordinances and resolutions adopted by our City Council to reflect the desires of those persons who are participating in that process. Our current General Plan was originally adopted in 1995 and has had updates as recent as 2001. At that time we updated within the document and reviewed the map which identifies current and future land use as well as the Master Street Plan. We have recently completed a traffic and transportation study and as a component of that we will be bringing forward to the City Council later this year a proposed amendment and updates to the city's Master Street Plan. These are dynamic activities that continue as development occurs throughout the city. We have to adopt these or amend these products periodically because things change. Our boundaries change with regard to what we have jurisdiction over and development occurs that needs to be reflected on those documents and

policies. Ultimately land use is recommended by the Planning Commission and adopted as a policy action by the City Council. That does enable someone the ability to develop based on the uses permitted in whatever zoning district is applied to the property. This is the process that we go through on a bi-weekly basis as projects come through, whether they are actions to request annexation or rezonings, or whether they are follow up actions to ensure that the projects proposed for those properties is in compliance with the city's adopted regulations. We do proactive planning. It is not as site specific as the downtown master plan, which is the product that has recently been finalized. That actually looked at a demonstration of what could be done on a lot by lot basis. We don't have the ability to plan in that detail for the entire city. That was a special project that was appropriate for that discreet area described as our downtown. For the rest of the community we do have this Future Land Use map, the General Plan 2020, which is the text document that goes along with it setting out guiding policies and implementation strategies. From that, we implement new ordinances so that we can ensure that the desire of that document is being manifested through our ordinances and then we have to apply it to development in order to achieve that goal.

Allen: I understand that Dawn. Thank you for the clarification, that was just simply a comment.

Warrick: Sure. I just wanted to make sure that everyone understands that we do have some guiding policies and we're not just out there flying without any guidance whatsoever. We do believe that our planning documents are appropriate and we do update them because, like I said, things change over time. It is important that we utilize those for making recommendations and understanding where things can be improved upon and where things are going right.

Shackelford: I would also like to make a comment because I'm in disagreement with a couple of statements that have been made. I don't necessarily view it as developers dictating growth. I think the citizens of Fayetteville dictate the growth through supply and demand. If there wasn't a market for this product developers wouldn't be bringing it to us. There is a need or desire for homes in this price range in this location and the developer is seeing this need and feeling that void. I take issue with the statements that we are allowing developers to tell us how the city is going to develop. I don't view it that way at all. I think it is driven more by economics and the desire for houses in this price range in this area because of the amenities. The close proximity to the interstate, the University of Arkansas and for a number of reasons is what is dictating this much growth in this area. I will tell you, I grew up in Fayetteville and I went to school on the west side of Fayetteville 25 years ago. It is completely different than what it was then. I think 25 years from now it is going to be completely different than what

it is now. We have all seen the census reports and I don't remember exactly, but they call for growth in Northwest Arkansas for 400,000 people in the next 15 or 20 years. That growth is going to require housing and different areas are going to be attractive to people based on amenities, price range and that sort of thing. I think that's what has been driving the growth in West Fayetteville, not the developers desire to be there, but the citizen's desire to live there. Thank you.

Ostner: I certainly hope my comments weren't misunderstood. Of course the land owners simply start the process, of course they don't get to do everything they want to do. They are often turned down and they often stop the process when they come to city hall and realize the zoning map or other requirements that would be on them. I appreciate that comment from Mr. Shackelford. I would tend to agree that the market is driving development.

Clark: What is the rationale for the parallel parking on Ruppel Road as opposed to someplace else? All throughout this report the staff raises great concerns about that and I've got to say I can understand why.

Brackett: The idea there is these homes are rear access through alleys so each home will have a drive in the back to park their vehicles but there won't be any parking allowable on the alley because it will also be serving the trash trucks and all the other public services. To allow for visitors to the homes along Ruppel, instead of having them park on Ruppel, which is a minor arterial, which would be a horrible thing. We are allowing some place for these people to park as they visit these homes. If not, if that is not allowed there is a possibility that they will go down the alley and will park in the alley and that will prevent access for other homes and also provide trash service and things like that. It is allowing for an area for people to park who visit these homes.

Clark: How many potential visitors are we anticipating? How many cars will these facilitate?

Brackett: We initially had one space per every home. They are shown as a double space on the property line so it serves both lots. Because of the existing drainage that is along Ruppel and the problem with it being too close to the intersection of Ruppel and Meadowlands we have scaled that back quite a bit so there is not a space per lot, it is .85 per lot. This parking also, with being close to the Boys and Girls Club, I know that parking is sufficient for now but it could provide off street parking for a special event that happens to be going on there also. This is going to be right off the road so it is not going to be a private deal. It is a possibility of that happening also.

Ostner: The Subdivision Committee discussed that parallel parking issue.

Nock: Going back to the whole idea. I know that there was a question about how to define neo-traditional or new urbanism. This development is a definition if you want to include that. One of those things is that I think it is problematic when you go into communities and you only see the backside of homes. That is one of the primary aspects of neo-traditional new urbanism is where you see not their backyards, not just a big privacy fence, but you actually see porches and people sitting on those porches interacting. Yes, it may seem too idealistic but that is the concept and that is the idea. If we had put the rear end of those homes facing Ruppel Road you know what that would look like, we have that all over town already. The idea is to open up the streetscape, put those homes along there, you are starting first with the fire station. You have a sidewalk with a tree lined street as protection down that way and then you have the Boys and Girls Club on the left hand side and then you have this row of homes with trees out in front with a very narrow setback and then you have the extended setback of the porches along the front. You have an additional buffer with the parallel parking. Our first concept to the city was literally pulling in for visitor parking. That becomes a problematic safety concern for backing out on Ruppel. If you look at some successful city plans, not just Fayetteville, but others where there is more of an urban feel, where you want to see more interaction between people you allow for that parallel parking along the front. Yes, that is expensive just like putting in rear alley access ways is expensive for a developer to put that in but I think the end result is it's an appropriate response to that specific community. Specifically to the Boys and Girls Club. Not every time are you going to have one visitor for every home. That is going to be a very rare occasion so we even think it can be overflow for the Boys and Girls Club if they are having an activity, a community event. Right now, in fact, twice in the last three months the Boys and Girls Club have used our land for overflow parking. When they have a big Easter egg hunt you are going to see parking along there. That promotes that community interaction. Yes, even though it is parking for the housing I see it as parking for the community. Not every space is going to be used all the time for visitors but it is to promote instead, that interaction.

Vaught: In addition, one thing I thought about was just a concern about traffic on Ruppel Road and the speed of it. One thing that we talked about at length during the downtown master plan project was the use of on street parking as a traffic calming measure. Cars tend to slow down with on street parking there and I think that that can possibly help in this area, especially with the pedestrian traffic of the Boys and Girls Club. To me, that's one thing I considered. That was something that if you guys were able to be a part of that plan they talked about at considerable length and we talked

about the use of downtown streets now and creating on street parking on some of them that don't have it.

Ostner: I would agree. The facing outwards that the developer has referred to in my mind is very important. When developments turn inward and wall off themselves I don't think they work well. A development to the west is the unfortunate "concrete canyon" that has a street that nobody faces and then there is a fence on one side and a fence on the other. It is not the developer's fault. In a way he was following our ordinances. This developer has chosen to face outward and I believe it is a great thing. It does interact and the parallel parking will help to slow down traffic.

Anthes: I have a list of questions. Some for Mrs. Warrick, some for Mr. Nock. Dawn, can you remind us what is the number of units allowed by the current zoning?

Warrick: The current zoning allows a density of 7.2 units per acre, which would be a total of 301 units. The proposal is for 260 units, 41 units less than what is permitted by right.

Anthes: Thank you. John, on the street widths, I saw something in a letter that indicated that you were proposing the 28' standard street width because it was easier or something like that. Can you elaborate?

Nock: I wanted 24' wide streets for much narrower streets. Unfortunately, there are certain constraints with the City of Fayetteville. You have to pick your battles. As those who have participated in other forums recently about some of our planning practices one of the concerns is wide streets tend to allow freeways. Originally our concept was to do 24' wide streets with one side parallel parking and after much debate we thought at least we can step forward with the setbacks and bring the setbacks closer. One of the driving points of this was in working with the treescape along the streets. We could still allow for the parking on the side of the streets, I'm talking about the interior streets now, still allow for two cars to pass one another in opposite directions, have parallel parking on one side of the street, as in most urban situations, and at the same time still have your greenspace and still have enough setback for the housing. You're right, I still would rather have 24' streets. But I think under our current planning in the City of Fayetteville I think that's difficult to do. Dover Kohl, as we have eluded to the master plan that has been talked about for the downtown address narrower streets as being a way to promote better traffic calming. There are other ways to do that as well. What we try to do instead was to make, as you will notice the radius of the turns of the streets, they are much tighter. That was with much negotiation and very much good help from the city engineering to do that. What would be done in most developments is just a very wide arc. As you can see this is very

tight, which again, slows down that traffic. In response, yes, we were looking at a much tighter but we ended up doing this because it was probably, we thought, the only battle that we could know would get done that way.

Anthes: Ok, a question for Mr. Coover. As this is a PZD but these will be city streets, do we have any leeway to talk about a narrower street in this situation?

Coover: I see no problem from an engineering standpoint if that's what you are asking.

Anthes: Dawn, can you tell us something about that?

Warrick: The only thing I can lend to that is I think that it can possibly be done. Obviously, we have 24' streets in other areas of town that have residential developments. There are a few areas in here that it would be a little challenging to provide a transition that would certainly have to be engineered because there are connections from adjoining developments into this project that those adjoining developments already have either 31' or 28' wide streets. That would take a little bit of work. That doesn't mean it couldn't happen. Our street standards that are a part of our adopted Master Street Plan call for a 24' street to satisfy no more than 300 to 500 vehicle trips per day. That's probably the biggest challenge in ensuring that those streets are going to function with the amount of vehicle trips that would be generated by this particular development. Like I said, there are other areas of town that are relatively densely developed with residential projects and they function.

Anthes: Personally I would like to see narrower streets in this subdivision and also I understand that there is 4' sidewalks and if we can take 2' to 4' out of the width of either street and add a foot on either side and get that sidewalk to 5' to encourage kids on bicycles and pedestrian movement and that sort of thing that would be something that I would really like to see. Would you be amenable to that?

Nock: I would consider that done.

Anthes: Alleys, how wide are they?

Nock: We have 20' right of way with actual paved, 16'. That is to accommodate two vehicles could potentially pass each other if need be. We have talked about the idea of just doing one way on the alleys but you get into some problematic issues because you still have to have all your service vehicles go back there. Mainly the largest one is the city sanitation trucks and they also have the armature that has to get the cans. Even if we narrowed those

alleys we still have to accommodate the trucks. We talked about making those narrower too but I think just out of service perspective that it probably has to be wider.

Anthes: Who is going to maintain those alleys?

Nock: It will be the city.

Anthes: So those will be to a spec?

Nock: It will be to city standards.

Anthes: I don't have a copy of your subdivision covenants but I had a few questions. We're talking about a building setback but I don't see that called out anywhere and I was wondering whether you are having a mandatory setback or whether you are calling it a build to line and how far back that is.

Nock: It will be a build to line.

Anthes: Do you know what that is?

Brackett: On the front of all the lots other than those along Ruppel it will be 5'. Because of an existing 20' utility easement along Ruppel it will be 20' on Ruppel.

Anthes: The other thing is you've talked about minimum square footages and have you considered putting a maximum square footage in your covenants?

Nock: I think that is going to be required just simply from the economics of it. We certainly could do that because some of them are two family. There are a small amount of them that are duplex lots. There's only so much you can put on these lots to make them work. Because they are zero lot lines you are also dealing with a property line on at least one side. There is a point where it would not make sense to go any larger.

Anthes: The reason I ask is because we have had a lot of developments that have come through the city that there was an intended size of house for the lots and there was a minimum put in the subdivision covenants and then what happens is it is such a desirable area that the lots have been really overbuilt with houses that were really much larger than what was intended by the developer originally. You have such tight constraints here I wondered whether that would be something that you would consider.

Nock: It might not be required but we would not be opposed to doing that. It seems like it is doing that automatically. That's fairly easy to accommodate.

Anthes: I'm glad that you left the designation for a home occupation to be permitted.

Nock: We think that's important.

Anthes: The on street parking at Ruppel Road, I think that that is, as other people have stated, positive measure that those residences face the street. It is a much more urban pattern. It is a much more dense area. To address what Commissioner Allen and other people have talked about is we do have a situation where we have when we cross I-540 that's basically a "sprawl area". Once we put the Boys and Girls Club out there we kind of, as a city, made a mandate for that to happen. If there is the Boys and Girls Club and there is the fire station and there is the possibility that there might be the school then those things should be easily accessed by foot by children and by residents which seems to make a case for me to see density at those locations. With that, I would like to move for approval of PZD 04-06.00 subject to the conditions of approval and with the addition of a condition that the street widths be reduced working with city engineering and staff to something between 24' and 26', whichever works out the best. That the sidewalks be 5' instead of 4'.

Nock: There is just one thing. In that analysis of the width of the street we want to make sure that we can still allow onsite parking so if we were very rigid with on street parking. If we were real rigid with the rules you would not be able to have a two way street and parking on one side. In most urban scenarios you do allow because you don't always have one side of the street completely lined with cars. We want to make sure that that flexibility is there because we would be defeating one of the primary purposes for visitor parking.

Anthes: I absolutely agree with you and I need to put that into the statement that is that that would be two drive aisles and one side of on street parking. I see that as a 9, 9, 8 situation.

Brackett: If we could just make that motion something that we could work out with staff because it is our intent for a smaller street. If we could work this out with staff to make sure that that is enough room. The reason we don't have it is because it wasn't allowed through staff.

Nock: If I could add one more thing. This main street, Keats Drive would be a wider street, because that is one of your primary access points as well as connection to the other developments, which would be Putting Green

Drive and Daffodil Lane as well as Meadowland Drive. Those would all have to match the current widths of roads that are already there. The other ones it would be perfect for that.

Anthes: Alright, with the condition of approval number 16 to read with secondary streets *TAPE ENDED, MOTIONER CONTINUED??* made feasible by the developer and city staff.

Warrick: We can make that work.

Anthes: With the endorsement of condition one which is the parking on Ruppel Road.

Shackelford: I will second, and would also like to take this moment to ask the applicant since we haven't formally done so, do we have signed conditions of approval or are you guys in agreement with all of the stated conditions?

Nock: Yes.

Shackelford: Ok, I will second.

Ostner: I have a question. On page 2.32 talking about your covenants, I know this seems like a silly detail. How are the mailboxes going to be along Ruppel?

Nock: That is not a silly detail because in the development directly to the west, northwest, which is Meadowlands. Some of this has to be worked out not with our authority but with the authority of the almighty post office service. It was originally designed, in that development, I was not involved with that development process but it was designed for every home to have a matching masonry mailbox in front of that property to match the masonry. We are not going to that detail but we are looking for uniformity. That is another one of these nostalgic interesting details in this type of neighborhood. It is going to be our wish, so long as we comply with the almighty post office, that each home will have it's own mailbox along the perimeter of the street. Again, it promotes going out to the mailbox at the same time and talking to your neighbor.

Ostner: My question was more rudimentary. In my neighborhood we get in trouble. We get fines if we park in front of our mailbox because he can't pull up and put the mail in. Along Ruppel that seems problematic. It could be problematic anywhere in town but it is usually problematic.

Nock: Ideally along Ruppel, again, if we could get that approved, it would either be one box for that whole group or it would be a very old style porch drop. We would not want to put mailboxes along Ruppel Road, that would be

the one exception to what I said. On the other hand, let's keep in mind although we have been talking about parking along these other streets part of the covenants is very much spelling out that the owners or residents of these homes will be required to park in the alleys and preferably in the garages. The occasional car that will be parked along in front of the houses on the street should be occasional, not all the time. That would be the hope anyway. That would be mandated by the covenants as well.

Ostner: My other question is on down your covenants, number 22, all lots shall be required to have two trees planted. You don't really talk about where. If you are building streetscapes it seems to me that it should be uniform. They could put it in the greenspace or in their yard. There are some modifications on the covenants and one of those things that we will actually be defining is a direct placement of trees. That may sound very rigid but in this particular case we want a specific spot where that tree will go because we are looking for uniformity. In a lot of developments you don't want uniformity but in this one we do for that very reason.

Brackett: The difference between the greenspace and the front yard is really nothing in this development because the home is 5' off the right of way. In looking at it there is not a big distinction between, it's all one area.

Ostner: I was just talking from the streetscape standpoint. Along Ruppel there is not quite 30' between the curb and the building and that gives a lot of places.

Nock: We have had direct conversations with the city, especially on the tree side about where those need to be placed so I think we have fairly narrowed that down.

Warrick: Condition eight is the submittal of a street tree planting plan at the time of Final Plat. We do expect this development to have that street presence that is being described in the covenants and the comments of the developer and with that part of the mitigation will be street tree plantings and we will look for that plan to be submitted at the time of Final Plat.

Clark: I don't think Jill followed up on this one but I think it is a great idea. Will you consider putting maximum square footage allowed in the covenants as well?

Nock: Sure, as long as it is reasonable.

Brackett: The lot area itself will dictate the size of the home also. It is such a different design concept that you really can't put a 3,000 sq.ft. home on these lots.

- Nock: A stroke of a pen will take out all uncertainty.
- Ostner: I'm sorry to have waited this long to have brought this up. Use Unit 10 I believe is for triplexes and you call out Use Unit 9 or 10 on 39 lots. That increases density mathematically at least and I just wanted to talk about that.
- Nock: There is only one case where that could probably be done and that is on lot 164 and possibly lot 165. The reason why that uncertainty was there is we were still working at the time with the city. They are going to be using that rear access alley for a secondary entrance to the fire station. In some ways we were unsure exactly where those property lines were going to be and would still like to reserve that right to be able to do that if it makes sense to do that in that particular case although there is no current plan to do so right now.
- Ostner: On the issue of triplexes you are only talking two lots?
- Nock: I don't think it is physically possible anywhere else. Potentially 171 but again, by the time you get vantage points and cars it is probably not doable there.
- Ostner: The only reason I bring this up is that since this is going forward to Council it will become a legislative act. The math is different. The way it is worded now all 39 lots could be triplexes which brings the density up to 7.14 units per acre.
- Nock: That would not be the intent. Why don't we reserve it to those three lots and that makes it pretty clear.
- Ostner: I would like to add a condition of approval number 17 that the potential triplexes only be lots 164, 165, and 171.
- Antbes: I'm agreeable.
- Shackelford: I'm agreeable.
- Ostner: Is that acceptable?
- Nock: If we heard you correctly those three would be the allowance.
- Ostner: Yes. That's the end of my comments. Is there further discussion? Renee?
- Roll Call:** Upon the completion of roll call the motion to recommend approval of R-PZD 04-06.00 to the City Council was approved by a vote of 9-0-0.

CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Parks and Recreation Director

From: Rebecca Ohman, Park Planner *RO*.

Date: May 10, 2004

Subject: Resolution to accept the Parks and Recreation Advisory Board recommendation to accept a combination of money and land for Ripple Row PZD

RECOMMENDATION

Parks and Recreation Staff recommends accepting the Parks and Recreation Advisory Board recommendation to accept a combination of money and land for Ripple Row PZD.

BACKGROUND

In October 2001, WHM Investments, Inc. developed the Meadowlands Subdivision. To satisfy their park land dedication requirements, they dedicated 3.08 acres to the City. In addition, WHM Investments, Inc banked 5.37 acres to meet future park land dedication requirements by the developer in the southwest park quadrant. These dedications were used to create the playing fields and trail at the Boys and Girls Club.

Nock Investments, LLC purchased Tract 7 of the WHM Investments, Inc land or 41.70 acres and the development rights of the banked 5.37 acres.

DISCUSSION

Nock Investments proposes Ripple Row Subdivision, a residential subdivision with 182 single family and 39 two-family (78 units). The park land dedication for the development exceeds the amount of dedication land banked (5.37 acres), therefore a park land dedication or money-in-lieu is required, prior to issuance of the final plat. In addition, the Park Land Dedication Ordinance states if a subdivision is over 40 acres or 100 units, the requirement is land.

"...How ever, if the Parks and Recreation Advisory Board determines that a neighborhood park is not feasible or advisable, it may recommend to the City Council that a cash contribution pursuant to our ordinance be accepted in lieu of land dedication. The City Council will either accept the recommendation for a cash contribution or return the subdivision plat to the Parks and Recreation Advisory Board with instructions or further study." (Unified Development Ordinance No. 166.03K)

Added to 6/15/04 meeting

The Parks and Recreation Advisory Board reviewed this project on May 3, 2004. PRAB recommends a money-in-lieu dedication in the amount of \$7,482.75 to satisfy the remaining requirements.

BUDGET IMPACT

A park land dedication of \$7,482.75 will be paid to the southwest park quadrant for park development and acquisition.

Attachments:

PRAB Meeting Minutes
Ripple Row Proximity Map
Ripple Row Plans
Ripple Row Letter

RESOLUTION NO. _____

A RESOLUTION TO ACCEPT THE RECOMMENDATION OF
THE PARKS AND RECREATION ADVISORY BOARD TO
ACCEPT \$7,482.75 IN LIEU OF A PORTION OF THE
PARKLAND DEDICATION REQUIREMENTS OF RUPPLE
ROW SUBDIVISION

WHEREAS, after using 5.37 acres of banked park land for a portion of its park
land dedication requirements, Nock Investments, LLC desires to pay \$7,482.75 in lieu of
the remainder of its park land dedication requirements for Ripple Row Subdivision; and

WHEREAS, the Fayetteville Parks and Recreation Advisory Board determined
that a neighborhood park is not feasible or advisable and recommended accepting this
\$7,482.75 in lieu of additional park land dedication.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby
accepts the recommendation of the Parks and Recreation Advisory Board to accept
\$7,482.75 in lieu of the remainder of park land dedication not fulfilled by banked park
land.

PASSED and APPROVED this 1st day of June, 2004.

APPROVED:

By: _____

DAN COODY, Mayor

DRAFT

ATTEST:

By: _____

SONDRA SMITH, City Clerk

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes
May 3, 2004

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order at 5:36 p.m. on May 3, 2004 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas by Chairman Colwell.

Present:

Parks and Recreation Advisory Board members Colwell, Bailey, Eads, Hill, Marley, and Mauritson, Pawlik Holmes; City staff Coles, Ohman, Wright, Weber, Hatfield, Edmonston; and Audience.

1. Approval of April 5, 2004 Minutes

Bailey clarified his statement in the last PRAB meeting to read:

Bailey stated this is a great way for the public to have better access to connect by a private property.

MOTION:

Hill moved to approve the Parks and Recreation Advisory Board May 5, 2004 meeting minutes as corrected.

Mauritson seconded the motion.

The motion was approved 7-0-0 with Colwell, Bailey, Eads, Hill, Marley, Pawlik Holmes, and Mauritson voting 'yes' with Shoulders absent for the vote.

2. Park Land Dedication

Development Name:
Engineer:
Owner:
Location:

Ripple Row
Chris Brackett, Jorgensen
John Nock
West of the Boys and Girls Club
along Ripple Road and South of
the Meadowlands Subdivision.

Park District:	South West
Units:	182 Single Family, 78 Multi Family
Total Acres:	41.70
Land Dedication Requirement:	5.7 acres
Money in Lieu Requirement:	\$131,664
Existing Parks:	Fayetteville Boys and Girls Club within ½ mile and Red Oak and Davis Park within a mile.
Staff Recommendation:	Money in Lieu
Justification:	

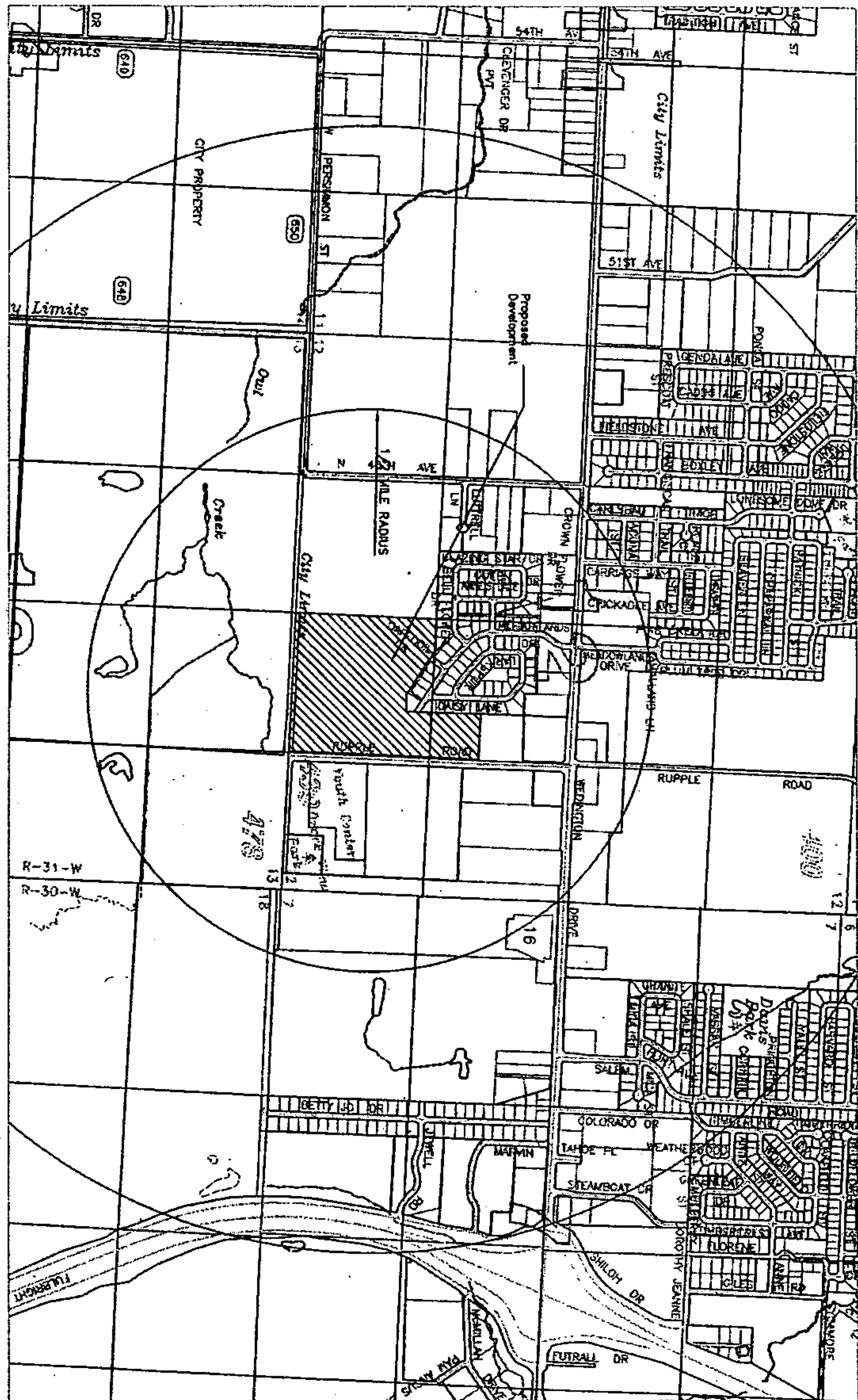
In October 2001, as part of the development of the Meadowlands Subdivision and Fayetteville Boys' and Girls' Club, WHM, Inc banked Tract 5, consisting of 5.37 acres, toward future development in the SW quadrant. Developer wishes to apply the 5.37 acres to the Park Land Dedication Requirement, leaving parks fees of **\$7,482.75** or a land dedication of **0.33 acres**. Due to the development's location adjacent to the Boys and Girls Club and future trail connections, Parks and Recreation Staff recommends accepting money in lieu.

MOTION:

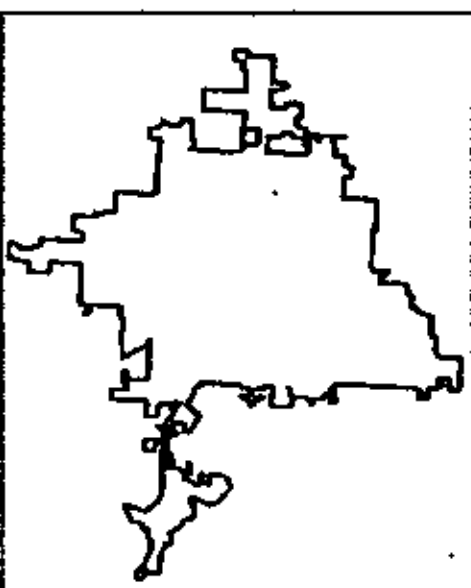
Hill moved to accept Money in Lieu of a land dedication to satisfy the Park Land Dedication Ordinance for the proposed development.

Mauritson seconded the motion.

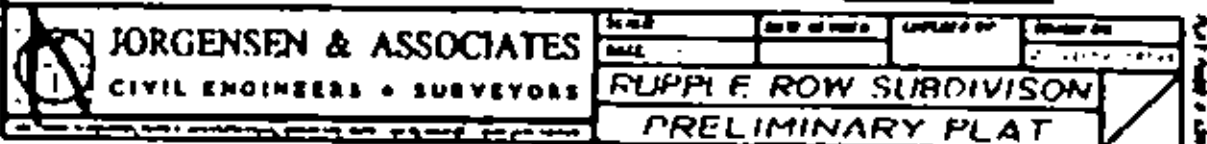
Upon roll call, the motion was approved 7-0-0 with Colwell, Bailey, Eads, Hill, Marley, Pawlik Holmes, and Mauritson voting 'yes' and Shoulders absent for the vote.



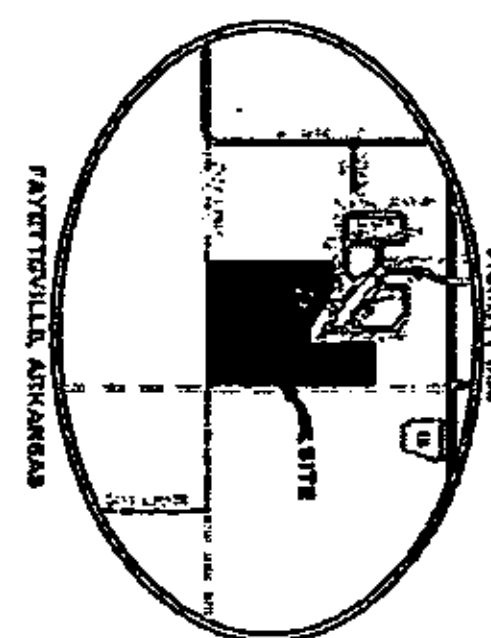
PROJECT PROXIMITY MAP – RUDDLE ROW



PROXIMITY MAP			
Purple Row			
John Nock			
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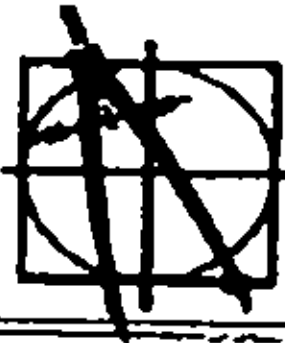
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1. What is the purpose of the study?
 2. What are the research objectives?
 3. What are the research questions?
 4. What are the hypotheses?
 5. What are the variables?
 6. What are the methods?
 7. What are the results?
 8. What are the conclusions?
 9. What are the implications?
 10. What are the limitations?
 11. What are the future research directions?
 12. What are the ethical considerations?
 13. What are the funding sources?
 14. What are the acknowledgments?
 15. What are the references?
 16. What are the appendices?
 17. What are the glossary?
 18. What are the footnotes?
 19. What are the endnotes?
 20. What are the index?

GRAPHIC SCALE
(in feet)
1 inch = 100 ft.

[illegible]

JORGENSEN & ASSOCIATES
CIVIL ENGINEERS & SURVEYORS
101 West Broadway, Suite 100, Portland, Oregon 97201
503.228.1111



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.

April 26, 2004

City of Fayetteville
Parks & Recreation Division
113 W. Mountain Street
Fayetteville, AR 72701

Attn: Rebecca Ohman
Re: Ripple Row Subdivision

Dear Rebecca:

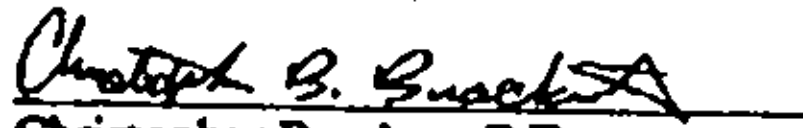
Please place the above mentioned project on the agenda for the Parks Meeting on May 3rd. The owner is requesting the money in lieu of option for the parks' requirement for this development. The following is the developer's name, billing address and phone number.

Nock Investments, LLC
John Nock
One East Center Street, #301
Fayetteville, AR 72701
(479) 444-9700

Please call concerning any questions you may have.

Thank you.

Sincerely,


Christopher Brackett, P.E.

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

B.2.
Rupple Row Money in Lieu of Land
10 of 10X AGENDA REQUESTFor the Fayetteville City Council Meeting of: June 1, 2004.

FROM:

Rebecca OhmanParks and RecreationOperations

Name

Division

Department

ACTION REQUIRED: Resolution accepting the Parks and Recreation Advisory Board recommendation to accept a combination of money and land for Rupple Row PZD.

SUMMARY EXPLANATION: See attached

STAFF RECOMMENDATION:

Connie Edmonstone
Division Head5-13-04
Date

Received in Mayor's Office

5/12/04
Date P.H.Kurt
City Attorney5-14-04
Date

Cross Reference:

Gay Dumas
Department Director5-14-04
Date

Previous Ord/Res#:

Stephan
Finance & Internal Services Dir.5-14-04
Date

Orig. Contract Date:

Russ Earnest
Chief Administrative Officer5-10-04
DateOrig. Contract Number: 166.03 KAlan Corby
Mayor5/12/04
Date

New Item:

Yes

No



CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Hugh Earnest, Chief Administrative Officer

From: Tim Conklin, Community Planning and Engineering Services Director *TC*

Date: May 25, 2004

Subject: 1. Approval of a resolution awarding the construction contract in the amount of \$186,218.75 with Tomlinson Asphalt Company, Inc. for the widening of Shiloh Drive from Gregg Avenue to Steele Boulevard 2. Approval of a project contingency in the amount of \$58,622.00 which includes \$18,622.00 (10%) for unforeseen project expenditures and variations in final quantities; and \$40,000.00 for material testing, street light installation by AEP-SWEPCO, in-house management and inspection.

RECOMMENDATION

Staff recommends approval of the resolution awarding the contract to Tomlinson Asphalt Company, Inc. in the amount of \$186,218.75 and the project contingency.

BACKGROUND

The City Council allocated \$400,000.00 in the 2004 Capital Improvement Program for the widening of Shiloh Drive and improvements to the Gregg Avenue and Shiloh Drive intersection.

This project was designed in-house which includes the widening of Shiloh Drive from Gregg Avenue to Steele Boulevard and providing designated left turning lanes at Gregg Avenue, the Fulbright Expressway on-ramp, and at Northwood Avenue.

DISCUSSION

The contract bids were opened on May 24, 2004. The project engineer has reviewed the bids and recommends awarding the contract to the low bidder, Tomlinson Asphalt Company, Inc., in the amount of \$186,218.75 (see the attached bid tabulation sheet). The estimated total project costs including the project contingency for unforeseen project expenditures are as follows:

Contractor Bid Amount	\$ 186,218.75
Street Light Installation by AEP-SWEPCO	\$ 25,000.00
Materials Testing	\$ 5,000.00
In-house Management & Inspection	\$ 10,000.00
10% Contingency	<u>\$ 18,622.00</u>
TOTAL	\$ 244,840.75

BUDGET IMPACT

The contractor bid plus contingency in the total amount of \$244,840.75 is within the \$400,000.00 that was allocated by the City Council in the 2004 Capital Improvement Program.

RESOLUTION NO. _____

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT TO TOMLINSON ASPHALT COMPANY, INC. IN THE AMOUNT OF \$186,218.75 FOR THE WIDENING OF SHILOH DRIVE FROM GREGG AVENUE TO STEELE BOULEVARD; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$58,622.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards a construction contract to Tomlinson Asphalt Company, Inc. in the amount of \$186,218.75 for the widening of Shiloh Drive from Gregg Avenue to Steele Boulevard.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a project contingency of \$58,622.00.

PASSED and APPROVED this 15th day of June, 2004.

APPROVED:

DAN COODY, Mayor

ATTEST:

By

SONDRA SMITH, City Clerk

SHILOH DRIVE WIDENING STREET & DRAINAGE IMPROVEMENTS

BID #04-38, BID TABULATION FORM
BID OPENING - MAY 24, 2004 @ 2:30PM
City of Fayetteville, Arkansas

Item No.		Description	Unit	Estimated Quantity	Tomlinson Asphalt Co., Inc.		Cherokee Builders, Inc.		APAC-Arkansas, Inc.		Township Builders, Inc.		Gilbert Central Corp.		City of Fayetteville	
					Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1		Mobilization	LS	1	\$2,240.00	\$2,240.00	\$10,000.00	\$9,250.00	\$9,250.00	\$16,747.00	\$14,000.00	\$14,000.00	\$14,000.00	\$14,000.00	\$15,000.00	\$15,000.00
2		Construction Staking	LS	1	\$3,470.00	\$3,470.00	\$3,500.00	\$7,000.00	\$7,000.00	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	\$10,000.00	\$10,000.00
3		Excavation Safety	LS	1	\$500.00	\$500.00	\$1,800.00	\$700.00	\$700.00	\$400.00	\$400.00	\$400.00	\$400.00	\$400.00	\$2,000.00	\$2,000.00
4		Clearing & Grubbing	LS	1	\$3,120.00	\$3,120.00	\$1,500.00	\$1,900.00	\$1,900.00	\$25,000.00	\$12,300.00	\$12,300.00	\$12,300.00	\$12,300.00	\$5,000.00	\$5,000.00
5		Maintenance of Traffic	LS	1	\$11,995.00	\$11,995.00	\$3,500.00	\$36,060.00	\$36,060.00	\$36,060.00	\$38,000.00	\$38,000.00	\$38,000.00	\$38,000.00	\$20,000.00	\$20,000.00
6		Sawcut (Asphalt)	LF	100	\$1.88	\$188.00	\$3.00	\$1.65	\$165.00	\$7.00	\$7.00	\$10.00	\$10.00	\$5.00	\$5.00	\$500.00
7		Remove & Dispose Curb & Gutter	LF	1,790	\$2.88	\$5,155.20	\$1.50	\$5,370.00	\$5,370.00	\$6.00	\$6.00	\$5.00	\$8,950.00	\$5.00	\$8,950.00	\$8,950.00
8		Remove & Dispose Drop Inlet	EA	3	\$635.00	\$1,905.00	\$350.00	\$460.00	\$1,380.00	\$1,500.00	\$770.00	\$2,310.00	\$1,000.00	\$3,000.00	\$1,000.00	\$3,000.00
9		Unclassified Excavation	CY	1,960	\$12.00	\$23,520.00	\$20.00	\$39,200.00	\$44,492.00	\$11.00	\$21,560.00	\$15.00	\$29,400.00	\$15.00	\$29,400.00	\$29,400.00
10		Compacted Embankment - Select Hillside Material (Borrow)	CY	1,265	\$16.84	\$21,302.60	\$18.00	\$22,770.00	\$30,043.75	\$16.00	\$20,240.00	\$20.00	\$25,300.00	\$20.00	\$25,300.00	\$25,300.00
11		Undercut & Backfill	CY	500	\$24.34	\$12,170.00	\$25.00	\$12,500.00	\$10,000.00	\$22.00	\$11,000.00	\$36.00	\$18,000.00	\$36.00	\$12,500.00	\$12,500.00
12		Six-inch Aggregate Street Base Course (Class 7)	SY	1,892	\$6.87	\$12,998.04	\$7.50	\$14,190.00	\$17,311.80	\$7.00	\$13,244.00	\$8.00	\$15,136.00	\$8.00	\$37,840.00	\$37,840.00
13		Concrete Curb & Gutter	LF	1,727	\$8.50	\$14,679.50	\$10.50	\$18,133.50	\$19,860.50	\$13.00	\$22,451.00	\$19.00	\$32,813.00	\$19.00	\$20,724.00	\$20,724.00
14		Two-inch ACHM Surface Course (Class 2)	SY	1,318	\$10.24	\$13,496.32	\$11.00	\$14,498.00	\$9,423.70	\$12.00	\$15,816.00	\$9.00	\$11,862.00	\$9.00	\$10,344.00	\$10,344.00
15		Four-inch ACHM Surface Course (Class 2)	SY	1,318	\$15.18	\$20,007.24	\$18.00	\$23,724.00	\$16,145.50	\$20.00	\$26,360.00	\$17.00	\$22,406.00	\$17.00	\$19,770.00	\$19,770.00
16		Aggregate Base (Class 7)	Tons	50	\$18.00	\$900.00	\$17.00	\$850.00	\$1,182.50	\$22.00	\$1,100.00	\$12.00	\$600.00	\$12.00	\$1,000.00	\$1,000.00
17		18-Inch Reinforced Concrete Pipe (RCP)	LF	29	\$108.60	\$3,149.40	\$55.00	\$1,595.00	\$2,320.00	\$48.00	\$1,392.00	\$89.00	\$2,581.00	\$89.00	\$1,450.00	\$1,450.00
18		4 Ft x 4 Ft Type "C" Drop Inlet	EA	4	\$2,472.00	\$9,888.00	\$3,800.00	\$15,200.00	\$12,800.00	\$2,000.00	\$3,800.00	\$3,800.00	\$15,200.00	\$3,800.00	\$12,000.00	\$12,000.00
19		Drop Inlet Extension (4 L.F.)	EA	4	\$500.00	\$2,000.00	\$400.00	\$1,600.00	\$2,400.00	\$600.00	\$2,400.00	\$1,600.00	\$6,400.00	\$1,600.00	\$3,000.00	\$3,000.00
20		18" Concrete Flared End Section	EA	1	\$600.00	\$600.00	\$675.00	\$675.00	\$540.00	\$1,000.00	\$700.00	\$700.00	\$700.00	\$1,000.00	\$1,000.00	\$1,000.00
21		Adjust Drop Inlet to Grade	LS	1	\$1,665.00	\$1,665.00	\$500.00	\$500.00	\$4,200.00	\$1,300.00	\$2,800.00	\$2,800.00	\$2,800.00	\$2,800.00	\$3,000.00	\$3,000.00
22		Seeding and Mulching	AC	0.40	\$4,375.00	\$1,750.00	\$1,400.00	\$560.00	\$1,056.00	\$3,400.00	\$4,500.00	\$1,800.00	\$1,800.00	\$4,500.00	\$2,000.00	\$2,000.00
23		Imported Top Soil	CY	220	\$24.00	\$5,280.00	\$20.00	\$4,400.00	\$10,670.00	\$19.00	\$4,180.00	\$22.00	\$4,840.00	\$22.00	\$3,500.00	\$3,500.00
24		Solid Sodding	SF	100	\$2.00	\$200.00	\$1.00	\$100.00	\$300.00	\$2.00	\$200.00	\$5.00	\$500.00	\$5.00	\$500.00	\$500.00
25		Double 6" Yellow Line Pavement Markings (Thermoplastic)	LF	1,750	\$1.25	\$2,187.50	\$1.50	\$2,625.00	\$2,012.50	\$1.40	\$2,450.00	\$2.00	\$3,500.00	\$2.00	\$3,500.00	\$3,500.00
26		6" White Line Pavement Markings (Thermoplastic)	LF	880	\$0.64	\$563.20	\$0.80	\$704.00	\$484.00	\$1.40	\$1,232.00	\$1.00	\$880.00	\$1.00	\$880.00	\$880.00
27		12" Yellow Diagonal Pavement Markings (Thermoplastic)	LF	315	\$5.75	\$1,811.25	\$7.00	\$2,205.00	\$1,606.50	\$6.00	\$1,890.00	\$6.00	\$1,890.00	\$6.00	\$3,150.00	\$3,150.00
28		24" White Pavement Markings (Thermoplastic)	LF	85	\$12.50	\$1,062.50	\$15.00	\$1,275.00	\$952.00	\$13.00	\$1,105.00	\$15.00	\$1,275.00	\$15.00	\$1,020.00	\$1,020.00
29		White Pavement Markings (Thermoplastic)	EA	16	\$345.00	\$5,520.00	\$410.00	\$6,560.00	\$4,880.00	\$300.00	\$4,800.00	\$400.00	\$6,400.00	\$400.00	\$3,000.00	\$3,000.00
30		Drop Inlet Silk Fence (E-6)	EA	2	\$100.00	\$200.00	\$425.00	\$850.00	\$210.00	\$100.00	\$300.00	\$300.00	\$600.00	\$300.00	\$1,000.00	\$1,000.00
31		Baled Straw Check (E-1)	EA	5	\$75.00	\$375.00	\$10.00	\$50.00	\$500.00	\$60.00	\$300.00	\$30.00	\$150.00	\$30.00	\$100.00	\$100.00
32		Tree Protection Fencing	LF	305	\$2.00	\$610.00	\$5.00	\$1,525.00	\$1,738.50	\$4.00	\$1,220.00	\$10.00	\$3,050.00	\$10.00	\$1,525.00	\$1,525.00
33		Relocate Traffic Mirror & Post	LS	1	\$250.00	\$250.00	\$300.00	\$300.00	\$155.00	\$200.00	\$200.00	\$200.00	\$200.00	\$200.00	\$1,000.00	\$1,000.00
34		Existing Pavement Marking Removal	LS	1	\$1,460.00	\$1,460.00	\$2,100.00	\$2,100.00	\$1,065.00	\$3,000.00	\$3,000.00	\$2,500.00	\$2,500.00	\$2,500.00	\$5,000.00	\$5,000.00
Subtotal Construction Costs						\$186,218.75		\$213,024.50		\$258,174.25		\$263,087.00		\$314,043.80		\$275,153.00
Contingency 10%																\$27,515.30
TOTAL CONSTRUCTION COSTS																\$302,668.80

Section 00500

AGREEMENT

BETWEEN CITY OF FAYETTEVILLE AND TOMLINSON ASPHALT COMPANY, INC.

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2004 by and between the City of Fayetteville, Arkansas and Tomlinson Asphalt Company, Incorporated.

The CITY OF FAYETTEVILLE and TOMLINSON ASPHALT COMPANY, INC., in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

TOMLINSON ASPHALT COMPANY shall complete all Work as specified or indicated in the Contract Documents.

The work generally consists of the widening of approximately 1,850 L.F. of street from 31 feet to 39 feet in width with curb & gutter and associated earthwork, below ground storm sewer, drainage structures, and all items indicated in the Drawings and Specifications.

Article 2. ENGINEER.

The Project has been designed by

City of Fayetteville Engineering Design Services Division
113 W. Mountain Street
Fayetteville, Arkansas 72701

who is hereinafter called ENGINEERING DIVISION and who is to act as the CITY OF FAYETTEVILLE'S representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1. The Work shall be substantially completed within 80 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 100 consecutive calendar days after the date when the Contract Time commences to run. The calendar days as specified include 20 non-workable days due to inclement weather.

3.2. *Liquidated Damages.* The CITY OF FAYETTEVILLE and TOMLINSON ASPHALT COMPANY recognize that time is of the essence of the Agreement and that the CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by the CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, the CITY OF FAYETTEVILLE and TOMLINSON ASPHALT COMPANY agree that as liquidated

damages for delay (but not as a penalty) TOMLINSON ASPHALT COMPANY shall pay the CITY OF FAYETTEVILLE Five hundred dollars **(\$500.00)** for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by the CITY OF FAYETTEVILLE, TOMLINSON ASPHALT COMPANY shall pay the CITY OF FAYETTEVILLE Five hundred dollars **(\$500.00)** for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

The CITY OF FAYETTEVILLE shall pay TOMLINSON ASPHALT COMPANY for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1. for all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2. for all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

SHILOH DRIVE WIDENING PAY ITEMS

Item No.	Item Description	Unit	Estimated Quantity		
				Unit Price	Extended Price
1	Mobilization	LS	1	\$2,240.00	\$2,240.00
2	Construction Staking	LS	1	\$3,470.00	\$3,470.00
3	Excavation Safety	LS	1	\$500.00	\$500.00
4	Clearing & Grubbing	LS	1	\$3,120.00	\$3,120.00
5	Maintenance of Traffic	LS	1	\$11,995.00	\$11,995.00
6	Sawcut (Asphalt)	LF	100	\$1.88	\$188.00
7	Remove & Dispose Curb & Gutter	LF	1,790	\$2.88	\$5,155.20
8	Remove & Dispose Drop Inlet	EA	3	\$635.00	\$1,905.00
9	Unclassified Excavation	CY	1,960	\$12.00	\$23,520.00
10	Compacted Embankment - Select Hillside Material (Borrow)	CY	1,265	\$16.84	\$21,302.60
11	Undercut & Backfill	CY	500	\$24.34	\$12,170.00
12	Six-inch Aggregate Street Base Course (Class 7)	SY	1,892	\$6.87	\$12,998.04
13	Concrete Curb and Gutter	LF	1,727	\$8.50	\$14,679.50
14	Two-inch ACHM Surface Course (PG 70-22)	SY	1,318	\$10.24	\$13,496.32
15	Four-inch ACHM Surface Course (PG 70-22)	SY	1,318	\$15.18	\$20,007.24
16	Aggregate Base (Class 7)	Tons	50	\$18.00	\$900.00

17	18-inch Reinforced Concrete Pipe (RCP)	LF	29	\$108.60	\$3,149.40
18	4 Ft x 4 Ft Type 'C' Drop Inlet	EA	4	\$2,472.00	\$9,888.00
19	Drop Inlet Extension (4 Ft)	EA	4	\$500.00	\$2,000.00
20	18" Concrete Flared End Section	EA	1	\$600.00	\$600.00
21	Adjust Drop Inlet to Grade	LS	1	\$1,665.00	\$1,665.00
22	Seeding & Mulching	AC	0.40	\$4,375.00	\$1,750.00
23	Imported Top Soil	CY	220	\$24.00	\$5,280.00
24	Solid Sodding	SF	100	\$2.00	\$200.00
25	Double 6" Yellow Line Pavement Markings (Thermoplastic)	LF	1,750	\$1.25	\$2,187.50
26	6" White Line Pavement Markings (Thermoplastic)	LF	880	\$0.64	\$563.20
27	12" Yellow Diagonal Pavement Markings (Thermoplastic)	LF	315	\$5.75	\$1,811.25
28	24" White Pavement Markings (Thermoplastic)	LF	85	\$12.50	\$1,062.50
29	White Pavement Marking Arrows (Thermoplastic)	EA	16	\$345.00	\$5,520.00
30	Drop Inlet Silt Fence (E-6)	EA	2	\$100.00	\$200.00
31	Baled Straw Check (E-1)	EA	5	\$75.00	\$375.00
32	Tree Protection Fencing	LF	305	\$2.00	\$610.00
33	Relocate Traffic Mirror & Post	LS	1	\$250.00	\$250.00
34	Existing Pavement Marking Removal	LS	1	\$1,460.00	\$1,460.00
TOTAL CONSTRUCTION COST					\$186,218.75

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by the ENGINEERING DIVISION as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES

TOMLINSON ASPHALT COMPANY shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by the ENGINEERING DIVISION as provided in the General Conditions.

5.1. *Progress Payments.* The CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of TOMLINSON ASPHALT COMPANY'S Applications for Payment as recommended by the ENGINEERING DIVISION, on or about the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02. All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions and based on the number of units completed in the case of Unit Price Work or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as the ENGINEERING DIVISION shall determine, or the CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as determined by the ENGINEERING DIVISION, and if the character and progress of the Work have been satisfactory to the CITY OF FAYETTEVILLE and the ENGINEERING DIVISION, the CITY OF FAYETTEVILLE, on recommendation of the ENGINEERING DIVISION, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to the CITY OF FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to TOMLINSON ASPHALT COMPANY to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as the ENGINEERING DIVISION shall determine, or the CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.3 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, the CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by the ENGINEERING DIVISION as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce the CITY OF FAYETTEVILLE to enter into this Agreement TOMLINSON ASPHALT COMPANY makes the following representations:

6.1. TOMLINSON ASPHALT COMPANY has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. TOMLINSON ASPHALT COMPANY has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work.

6.3. TOMLINSON ASPHALT COMPANY is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4. TOMLINSON ASPHALT COMPANY has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. TOMLINSON ASPHALT COMPANY accepts the determination set forth in paragraph SC-4.02 of the Supplementary

Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02 of the General Conditions.

TOMLINSON ASPHALT COMPANY acknowledges that such reports and drawings are not Contract Documents and may not be complete for TOMLINSON ASPHALT COMPANY purposes. TOMLINSON ASPHALT COMPANY acknowledges that the CITY OF FAYETTEVILLE and the ENGINEERING DIVISION do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. TOMLINSON ASPHALT COMPANY has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by TOMLINSON ASPHALT COMPANY and safety precautions and programs incident thereto. TOMLINSON ASPHALT COMPANY does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. TOMLINSON ASPHALT COMPANY is aware of the general nature of work to be performed by the CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. TOMLINSON ASPHALT COMPANY has correlated the information known to TOMLINSON ASPHALT COMPANY, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

6.7. TOMLINSON ASPHALT COMPANY has given the ENGINEERING DIVISION written notice of all conflicts, errors, ambiguities, or discrepancies that TOMLINSON ASPHALT COMPANY has discovered in the Contract Documents and the written resolution thereof by the ENGINEERING DIVISION is acceptable to TOMLINSON ASPHALT COMPANY and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between the CITY OF FAYETTEVILLE and TOMLINSON ASPHALT COMPANY concerning the Work consist of the following:

- 7.1. This Agreement (pages 1 to 8, inclusive).
- 7.2. Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3. Certificates of Insurance, (Exhibit C).
- 7.4. Documentation submitted by TOMLINSON ASPHALT COMPANY prior to signing Agreement.
- 7.5. General Conditions (pages 1 to 42, inclusive).

- 7.6. Supplementary Conditions (pages 1 to 13 inclusive).
- 7.9. Specifications consisting of Divisions 1 through 3 as listed in table of contents thereof.
- 7.10. Addenda numbers 0 to 1, inclusive.
- 7.11. One sets of drawings (not attached hereto) consisting of a cover sheet and additional sheets numbered 1 through 15 with each sheet bearing the following general title:

Shiloh Drive Widening

- 7.12. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

7.12.1. Notice to Proceed

7.12.2. All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 8. MISCELLANEOUS.

8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3. The CITY OF FAYETTEVILLE and TOMLINSON ASPHALT COMPANY each binds itself, it partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5. Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

8.6. Freedom of Information Act. CITY OF FAYETTEVILLE contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, the (contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. Seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7. This contract must be interpreted under Arkansas Law.

IN WITNESS WHEREOF, the CITY OF FAYETTEVILLE and TOMLINSON ASPHALT COMPANY have signed this Agreement in quadruplicate. One counterpart each has been delivered to the CITY OF FAYETTEVILLE and the ENGINEERING DIVISION, and two counterparts have been delivered to TOMLINSON ASPHALT COMPANY. All portions of the Contract Documents have been signed, initialed, or identified by the CITY OF FAYETTEVILLE and TOMLINSON ASPHALT COMPANY or identified by the ENGINEERING DIVISION on their behalf.

This Agreement will be effective on _____, 2004 (which is the Effective Date of the Agreement).

OWNER: City of Fayetteville

CONTRACTOR: Tomlinson Asphalt
Company, Incorporated

By: _____
Mayor Dan Coody

By: _____

Title

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

* Attest _____

* If a Corporation, attest by the Secretary.

Address for giving notices

Address for giving notices

(If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

License No. _____

Agent for service of process:

(If CONTRACTOR is a corporation, attach evidence of authority to sign)

City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date:				
Vendor: # 3										P.O. Number:	Expected Delivery Date:				
Address:										Mail Yes: ☐	No: ☒				
City: Fayetteville										Taxable Yes: ☐	No: ☒				
Requester: Ron Petrie										Division Head Approval: <i>[Signature]</i>	Quotes Attached Yes: ☐				
Item Description										Project/Subproject #	Inventory #				
Quantity										Unit of Issue	Unit Cost				
Extended Cost										Account Numbers	Fixed Asset #				
1	Construction Contract for the Shiloh Drive Widening from Gregg Avenue to Steele Blvd.									LS	LS	\$186,218.75	4470.9470.5809.00	04016.2	
2												\$0.00			
3												\$0.00			
4												\$0.00			
5												\$0.00			
6												\$0.00			
7												\$0.00			
8												\$0.00			
9												\$0.00			
10												\$0.00			
Shipping/Handling										Lot		\$0.00			
Special Instructions:															
Please Send P.O. to the Engineering Division															
Subtotal:										\$186,218.75					
Tax:										\$0.00					
Total:										\$186,218.75					
Approvals:															
Mayor:										Purchasing Manager:					
Finance & Internal Services Director:										IT Manager:					
Dispatch Manager:										Other:					
Department Director:										Budget Manager:					
Utilities Manager:															

STAFF REVIEW FORM - FINANCIAL OBLIGATION

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council Meeting of: June 15, 2004

FROM:

<u>Ron Petrie</u>	<u>Engineering</u>	<u>Community Planning & Engineering</u>
Name	Division	Department

ACTION REQUIRED: 1. Approval of a resolution awarding the construction contract in the amount of \$186,218.75 with Tomlinson Asphalt Company, Inc. for the widening of Shiloh Drive from Gregg Avenue to Steele Boulevard. 2. Approval of a project contingency in the amount of \$58,622.00 which includes \$18,622.00 (10%) for unforeseen project expenditures and variations in final quantities; and \$40,000.00 for street light installation, materials testing, in-house management and inspection.

COST TO CITY:

<u>\$244,840.75</u>	<u>\$ 400,000.00</u>	<u>Shiloh Drive Widening</u>
Cost of this request	Category/Project Budget	Program Category / Project Name
<u>4470.9470.5809.00</u>	<u>\$ 759.84</u>	<u>Street Improvements</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>04016.20</u>	<u>\$ 399,240.16</u>	<u>Sales Tax</u>
Project Number	Remaining Balance	Fund Name

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

Barbara Lee 5/26/04
Budget Manager Date

CONTRACT/GRANT/LEASE REVIEW:

<u>Marsla Fawcett</u> <u>5/26/04</u>	<u>Nancy Smith</u> <u>5/26/04</u>
Accounting Manager Date	Internal Auditor Date
<u>D.J. White</u> <u>5/27/04</u>	<u>P. Uice</u> <u>5/27/04</u>
City Attorney Date	Purchasing Manager Date

STAFF RECOMMENDATION: Staff recommends approval of resolution and project contingency.

David S. Roberts 5/26/04 Received in Mayor's Office
Division Head Date

5/28/04
Date P.H.

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

[Signature] 5-26-04
Department Director Date

[Signature] 6-1-04
Finance & Internal Services Dir. Date

[Signature] 6-1-04
Chief Administrative Officer Date

[Signature] 6/1/04
Mayor Date

STAFF REVIEW FORM - FINANCIAL OBLIGATION

C 1.
Tomlinson Asphalt Shiloh Drive Widening
15 of 16

☒ AGENDA REQUEST
☒ CONTRACT REVIEW
☐ GRANT REVIEW

For the Fayetteville City Council Meeting of: June 15, 2004

FROM:

Ron Petrie

Engineering

Community Planning & Engineering

Name

Division

Department

ACTION REQUIRED: 1. Approval of a resolution awarding the construction contract in the amount of \$186,218.75 with Tomlinson Asphalt Company, Inc. for the widening of Shiloh Drive from Gregg Avenue to Steele Boulevard. 2. Approval of a project contingency in the amount of \$18,622.00 which includes \$18,622.00 (10%) for unforeseen project expenditures and variations in final quantities; and \$40,000.00 for street light installation, materials testing, in-house management and inspection.

COST TO CITY:

\$244,840.75	\$	400,000.00	Shiloh Drive Widening
Cost of this request		Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	\$	759.84	Street Improvements
Account Number		Funds Used to Date	Program / Project Category Name
04016.20	\$	399,240.16	Sales Tax
Project Number		Remaining Balance	Fund Name

BUDGET REVIEW: ☒ Budgeted Item ☐ Budget Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

Purchasing Manager

Date

STAFF RECOMMENDATION:

Staff recommends approval of resolution and project contingency.

Division Head

Date

Received in Mayor's Office

Date

Department Director

Date

Cross Reference:

Previous Ord/Res#:

Finance & Internal Services Dir.

Date

Orig. Contract Date:

Chief Administrative Officer

Date

Orig. Contract Number:

New Item:

Yes

No

Mayor

Date

ENTERED
5-25-04
aw

Description Shiloh Drive Widening Meeting Date June 15, 2004

Comments:

Budget Manager

Reference Comments:

Accounting Manager

City Attorney

Purchasing Manager

ADA Coordinator

Internal Auditor

*Contract has not been signed
by contractor*

Grants Coordinator

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Greg Boettcher *Greg Boettcher*
Water/Wastewater Director

Thru: Hugh Earnest *HE*
Chief Administrative Officer

Date: May 28, 2004

Subject: Resolution Approving a Budget Adjustment to Transfer OMI's Reconciliation Funds to Lift Station Improvements Account

RECOMMENDATION

Fayetteville City Administration recommends approval of resolution transferring \$128,902.00 (2003 OMI Rebate Amounts) to Lift Station Improvements Account (Plant Equipment Maintenance-5400.5800.5414.00, Project 02068)

BACKGROUND

The contract between Fayetteville and Operations Management International (OMI) provides for annual contract reconciliations, with OMI to refund actual cost savings to the City. In 2003, the reconciliation totalled \$58,216.56. Also in 2003, an out-of-scope task to upgrade the Hamestring Lift Station was negotiated with OMI for \$250,000.00. Reconciliation of the Hamestring project has resulted in a refund of \$70,685.41. Accordingly, in 2004 the City of Fayetteville's water and sewer fund has received an unforeseen income of \$128,901.97 due to economies of OMI.

DISCUSSION

In early 2004, wastewater system operations, particularly the needs of the City's 35 wastewater pumping stations have experienced significant and unusual financial impacts. Heavy rains in late April flushed large amount of debris through the piping, damaging a large pump in the Old Wire Lift Station. Record flooding of White River inundated the Mally Wagnon Road Lift Station, necessitating extensive repairs. Age and wear have necessitated the replacement of both pumps in the Double Springs Lift Station. These specific events alone represent cost nearing \$110,000.00, the essential work exceeding the 2004 Amended Budget for Upgrade/Replace Lift Stations of \$76,472.00.

This account is critical to the City's need to maintain adequate system reliability and capacity. The 2004 operating strategy was changed to allow accelerated pumping station improvements, targeting a goal of maintaining facilities at or near their design capacities. This objective requires greater investment in parts, supplies and equipment to improve the operating condition of the lift stations. The transfer of the OMI rebate funds to the lift station improvement account will allow OMI to sustain its efforts to improve lift station reliability and capacities, and provide needed monies to maintain these critical assets.

BUDGET IMPACT

The proposed transfer of the OMI reconciliation amounts from fund balance to Lift Station Improvements has no adverse impact on the water and sewer enterprise finances, as the rebate/refunds were not included in the 2004 financial planning. If portions of the flood expenses are recovered from emergency management assistance agencies, the reimbursement amounts may then flow to the water and sewer fund balance.



RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT TRANSFERRING \$128,902.00 OF OPERATIONS MANAGEMENT INTERNATIONAL (OMI) REBATES FROM WATER & SEWER FUND BALANCE TO THE LIFT STATION IMPROVEMENTS ACCOUNT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment transferring \$128,902.00 of Operations Management International (OMI) rebates from Water & Sewer Fund Balance to the Lift Station Improvements Account.

PASSED and APPROVED this 15th day of June 2004.

APPROVED:

By: _____

DAN GOODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

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

C.2.
OMI Rebate Transfer of Funds
3 of 4

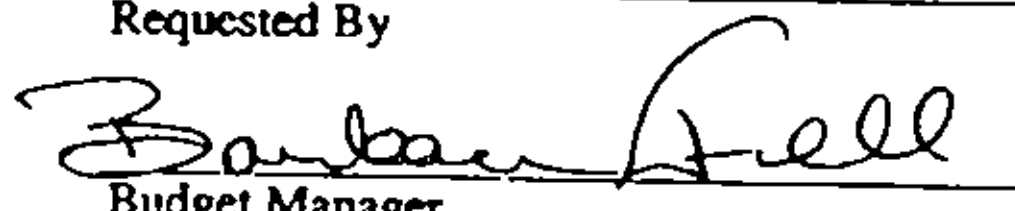
Budget Year 2004	Department: Water & Wastewater Division: Wastewater Treatment Program: Wastewater Treatment Plant Capital	Date Requested 6/15/2004	Adjustment Number
--------------------------------	--	--	--------------------------

Project or Item Requested: \$128,902 is requested in Plant Equipment Maintenance.	Project or Item Deleted: None. Rebates in the amount of \$128,902 were received from the 2003 OMI contract management.
---	--

Justification of this Increase: Mally Wagnon, Old Wire Road, and Double Springs pump stations were severely damaged due to the recent flood.	Justification of this Decrease: The project amount for 2004 was not sufficient to handle these unexpected occurrences.
--	--

Increase Budget (Decrease Revenue)							
Account Name		Account Number				Amount	Project Number
Plant equipment maint		5400	5800	5414	00	128,902	02068 1

Decrease Budget (Increase Revenue)							
Account Name		Account Number				Amount	Project Number
Use of fund balance		5400	0940	4999	99	128,902	

Approval Signatures		Budget Office Use Only					
Requested By	Date	Type:	A	B	C	D	E
	5/28/04	Date of Approval					
Budget Manager	Date					Initial	Date
Department Director	Date	Posted to General Ledger				Initial	Date
Finance & Internal Services Director	Date	Posted to Project Accounting				Initial	Date
Mayor	Date	Entered in Category Log				Initial	Date

STAFF REVIEW FORM

C.2.
OMI Rebate Transfer of Funds
4 of 4

X AGENDA REQUEST
 _____ CONTRACT REVIEW
 _____ GRANT REVIEW

For the Fayetteville City Council Meeting of: June 15, 2004

FROM:

Greg Boettcher

Name

Water & Wastewater

Division

Wastewater Treatment Plant

Department

ACTION REQUIRED: Resolution approving a Budget Adjustment to transfer (\$128,902.00) OMI's reconciliation funds from Water and Sewer Fund Balance to Lift Station Improvements Account.

COST TO CITY:

<u>\$128,902.00</u>	<u>\$</u>	<u>76,472.00</u>	<u>Upgrade/Replace Lift Stations</u>
Cost of this request			Program Category / Project Name
<u>5400-5800-5414-00</u>	<u>\$</u>	<u>52,951.98</u>	<u>Wastewater Treatment Improvements</u>
Account Number			Program / Project Category Name
<u>02068</u>	<u>\$</u>	<u>23,520.02</u>	<u>Water & Sewer</u>
Project Number			Fund Name

BUDGET REVIEW: _____ Budgeted Item X Budget Adjustment Attached

Babara Leal
 Budget Manager

5/28/04
 Date

CONTRACT/GRANT/LEASE REVIEW:

Maria Fathur
 Accounting Manager

6/1/04
 Date

Nancy Smith
 Internal Auditor

5/28/04
 Date

D. Whitaker
 City Attorney

6/1/04
 Date

P. Ulice
 Purchasing Manager

6/3/04
 Date

STAFF RECOMMENDATION:

Division Head

Date

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Mayor

Date

Cross Reference

Rec'd in Mayor's
Office _____

New Item: Yes No

Previous Ord/Res#: _____

Orig. Contract Date _____

Orig. Contract Number _____

City Council Meeting of June 15, 2004

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Chris Bosch, Fire Chief 

Date: May 21, 2004

Subject: Approval of an Ordinance establishing an inter-local agreement between the City of Fayetteville and Washington County, for the purchase of equipment under the guidelines of a State Dept. of Emergency Management Grant awarded to Washington County.

RECOMMENDATION

The Fire Department recommends approval of the requested ordinance.

BACKGROUND

Recently, Washington County Department of Emergency Management applied for a \$150,000 grant through the Arkansas Department of Emergency Management. The U. S. Department of Homeland Security's Federal Emergency Management Agency earmarked these funds for the purchase of equipment for local fire departments to enhance disaster planning, response, mitigation and recovery efforts.

The State Department of Emergency Management disburses these funds to the County Emergency Managers for the purchase of equipment. The County Emergency Manager meet with the local fire departments, collects information regarding equipment needs, then purchased the equipment from vendors on the approved vendor's list. Once the County received the equipment, they distributed it to municipal and rural fire departments to ensure consistency in response capabilities.

DISCUSSION

This procurement process requires the establishment of an Inter-local agreement between Washington County and the City of Fayetteville. This agreement identifies the guidelines of the grant and requires the County to maintain all inventory records and other documentation related to the grant process, for a five-year period. Once this five-year period expires, the City of Fayetteville then takes ownership of this equipment and agrees to place it on the Fire Department's inventory log. Either party can terminate this agreement at any time, with six-month written notice.

BUDGET IMPACT

This ordinance requires no budget transaction and therefore has not immediate budget impact.



ORDINANCE NO. _____

AN ORDINANCE APPROVING AN INTERLOCAL AGREEMENT BETWEEN WASHINGTON COUNTY, ARKANSAS, AND THE CITY OF FAYETTEVILLE, ARKANSAS, CONCERNING THE EXPENDITURE OF FUNDS RECEIVED FROM THE ARKANSAS DEPARTMENT OF EMERGENCY MANAGEMENT AND THE DISPOSITION OF VARIOUS ITEMS OF EMERGENCY EQUIPMENT PURCHASED WITH SUCH FUNDS

WHEREAS, a grant has been awarded by the Arkansas Department of Emergency Management which has been or will be used to purchase various items of emergency equipment for the sum of \$150,000.00 (FY 03, Parts 1 & 2); and

WHEREAS, the parties have agreed to the expenditure of funds and custody of property purchased with such; and

WHEREAS, the City of Fayetteville and the County of Washington are empowered to enter into an interlocal agreement by A.C.A. §25-20-101 et. seq. after its approval by the Attorney General.

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 approves the Interlocal Agreement Between Washington County, Arkansas and the City of Fayetteville, Arkansas Concerning the Expenditure of Funds from the Arkansas Department of Emergency Management, attached as Exhibit A and authorizes the Mayor to execute this contract.

PASSED and APPROVED this 15th day of June, 2004.

APPROVED:

DRAFT

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk



JERRY HUNTON
County Judge

280 North College, Suite 500
Fayetteville, AR 72701

WASHINGTON COUNTY, ARKANSAS
County Courthouse

May 17, 2004

RECEIVED

MAY 20 2004

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Mayor Dan Coody
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Interlocal Agreement between Washington County and the City of Fayetteville Concerning the Expenditure of Funds Received from the Arkansas Department of Emergency Management

Dear Mayor:

Please find enclosed County Ordinance No. 2004-29 adopted by the Washington County Quorum Court this past week on May 13 approving an interlocal agreement between Washington County and the City of Fayetteville concerning the expenditure of funds received from the Arkansas Department of Emergency Management. The City of Fayetteville will need to also adopt an ordinance approving the agreement.

I am enclosing two copies of the interlocal agreement, both signed by Judge Hunton. Please return one of the agreements to me once you have signed it along with a copy of the Council's ordinance when adopted.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading "Karen Beeks".

Karen M. Beeks
Quorum Court Coordinator/Recorder
County Judge's Office

/kb

Encls (3)

ORDINANCE NO. 2004-29

BE IT ORDAINED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, AN ORDINANCE
TO BE ENTITLED:

FILED
04 MAY 14 PM 8 08
KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

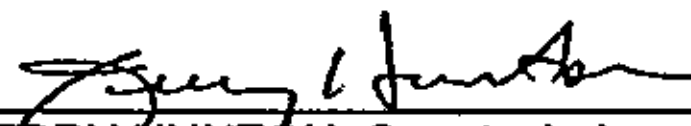
AN ORDINANCE APPROVING AN INTERLOCAL
AGREEMENT BETWEEN WASHINGTON COUNTY,
ARKANSAS, AND THE CITY OF FAYETTEVILLE,
ARKANSAS, CONCERNING THE EXPENDITURE OF FUNDS
RECEIVED FROM THE ARKANSAS DEPARTMENT OF
EMERGENCY MANAGEMENT AND THE DISPOSITION OF
VARIOUS ITEMS OF EMERGENCY EQUIPMENT
PURCHASED WITH SUCH.

WHEREAS, a grant has been awarded by the Arkansas Department
of Emergency Management which has been or will be used to purchase various items of
emergency equipment for the sum of \$150,000 (FY 03, Parts 1 & 2); and,

WHEREAS, the parties have agreed as to the expenditure of funds
and custody of property purchased with such.

NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON, STATE OF ARKANSAS:

ARTICLE 1. Said Interlocal Agreement should be and hereby is
approved and adopted, and the County Judge is authorized to sign said agreement.


JERRY HUNTON, County Judge

5-14-04
DATE


KAREN COMBS PRITCHARD, County Clerk

Sponsor: Kurt Anderson
Date of Passage: May 13, 2004
Votes For: 12 Votes Against: 0
Abstentions: 0 Absent: 1

**INTERLOCAL AGREEMENT BETWEEN
WASHINGTON COUNTY, ARKANSAS, AND
THE CITY OF FAYETTEVILLE, ARKANSAS,
CONCERNING THE EXPENDITURE OF
FUNDS FROM THE ARKANSAS DEPARTMENT
OF EMERGENCY MANAGEMENT AND THE
DISPOSITION OF VARIOUS ITEMS OF EMERGENCY
EQUIPMENT PURCHASED WITH SUCH**

WHEREAS, a grant has been awarded by the Arkansas Department of Emergency Management which has been or will be used to purchase various items of emergency equipment for the sum of \$150,000 (FY 03, Parts 1 & 2); and,

WHEREAS, the parties desire to enter into an agreement as to the expenditure of these funds and the custody of the property purchased.

NOW, THEREFORE, IT IS AGREED:

1. Upon approval of the Arkansas Department of Emergency Management, various items of emergency equipment shall be made available to the Fayetteville Fire Department through the Washington County Department of Emergency Management in accordance with the specifications of the Arkansas Department of Emergency Management.

2. All reports, requests for expenditures, and other documentation shall be made by the Fayetteville Fire Department through the Washington County Department of Emergency Management. All equipment purchased will be placed on the County inventory and noted where such has been placed.

3. It is the understanding of the parties that the duration of this agreement shall be for a period of 5 years from the date of expenditure of any funds, at which time any property so obtained will become the property of the City of Fayetteville to be used and disposed of in accordance with law.

4. In accordance with Ark. Code Ann. 14-14-901, this agreement shall be approved by the governing bodies of the respective parties; furthermore, in the event either party desires to withdraw from this agreement, six (6) months written notice shall be required. If any vehicle, trailer, or other item required to be titled under Arkansas law is included in said emergency equipment then the County shall insure such and bill the City for such. All other equipment will be insured by the City.

WASHINGTON COUNTY ARKANSAS

CITY OF FAYETTEVILLE, ARKANSAS

BY: 
JERRY HUNTON, County Judge

BY: _____
DAN COODY, Mayor

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

Washington County Inter-Local Agreement
C.3.
7 of 8X AGENDA REQUESTFor the Fayetteville City Council Meeting of: June 15, 2004

FROM:

Chris BoschFire AdministrationFire

Name

Division

Department

ACTION REQUIRED: Approval of an Ordinance allowing the City of Fayetteville to enter into an inter-local agreement between the City of Fayetteville and Washington County. This ordinance, in conjunction with the attached County Ordinance, will allow for the expenditure of funds received by the County, from the State Dept. of Emergency Management.

SUMMARY EXPLANATION: This ordinance will allow the City of Fayetteville to enter into an inter-local agreement with Washington County. The agreement gives the County the ability to expend grant funds received from the State Department of Emergency Management, for radio equipment to be used during County-wide disaster operations. This five-year agreement provides for the disbursement of equipment only, with no funds transfers between the City and County. When the agreement expires the City of Fayetteville will retain ownership of all equipment provided under the guidelines of this grant.

STAFF RECOMMENDATION: Staff recommends approval of the Ordinance.

Division Head

Date

City Attorney

Date

Department Director

Date

Finance & Internal Services Dir.

Date

Chief Administrative Officer

Date

Mayor

Date

Received in Mayor's Office

Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

☒ Yes☐ No

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director
Gary Coover, City Engineer

From: Jill Goddard, Land Agent 

Date: March 31, 2004

Subject: Approval of offering for sale the remainder of Parcel No. 765-12164-000 (formerly known as Shake's Frozen Custard, 2050 W. 6th Street). Remainder being that portion not a part of the Sang Avenue relocation, actual acreage to be determined by independent survey. This approval also allows independent survey and two independent appraisals to be obtained.

RECOMMENDATION

Staff recommends approval of offering for sale the remainder of Parcel No. 765-12164-000.

BACKGROUND

Parcel No. 765-12164-000 was acquired in its entirety as part of the relocation of Sang Avenue. Through purchase of the whole, the City avoided a settlement by court action with potentially high severance damages. The contractor also did not have to take special precautions during construction to keep access to the business available at all times.

DISCUSSION

Now that new Sang Avenue/Sixth Street/ Hollywood Street intersection is nearing completion, the City can consider the sale of the remainder of Parcel No. 765-12164-000, including the building, as it serves no municipal purpose. Approval of offering this property for sale would also allow for an independent survey of the property to be obtained as well as two independent appraisals to determine fair market value.

RESOLUTION NO. _____

A RESOLUTION OF INTENT TO SELL MUNICIPALLY OWNED PROPERTY AT THE CORNER OF SANG AVENUE AND SIXTH STREET (A PORTION OF THE FORMER SHAKE'S FROZEN CUSTARD LOT AND BUILDING)

WHEREAS, Ordinance No. 4358 requires municipally owned real estate to be offered for sale only after an express authorization, by resolution, of the City Council, and numerous other requirements.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that the remainder of Parcel No. 765-12164-000 (Shake's Frozen Custard former lot and building at the corner of Sang Avenue and Sixth Street) no longer serves a municipal service, should not be rezoned and should be sold pursuant to Ordinance No. 4358.

PASSED and APPROVED this the 1st day of June, 2004.

APPROVED:

DRAFT

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Dan Coody, Mayor
Hugh Earnest, Chief Administrative Officer
Tim Conklin, Community Planning & Engineering Svs. Director
Jill Goddard, Land Agent

CC: City Council

FROM: Kit Williams, City Attorney

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

DATE: April 13, 2004

**RE: Request to sell remainder of Shake's Frozen Custard
lot and building**

I realize the City only purchased the Shake's Frozen Custard lot because our construction of the Sang Avenue/Hollywood Avenue and Sixth Street Intersection necessitated occupying too much of the parcel for Shake's to continue business there during construction. My understanding is that the City always intended to sell the usable remainder of this parcel including the building once construction of the newly aligned intersection was finished.

Regardless of the City's intent to only own this parcel during construction, we must follow the dictates of Ordinance No. 4358 (attached) concerning the sale of municipally owned real estate. Therefore, this proposed Resolution must be published four times at least thirty days before the City Council can consider the Resolution to express its intent to sell, and not rezone this property prior to sale. Also certified letters need to be sent to "all adjacent property owners" (which I guess means the State Highway Department too). Signs must be prominently displayed at all approaches to the property announcing the consideration of the City Council to sell this property.

Although I have overly optimistically dated the Resolution for June 1, 2004, I believe it will more likely be June 15, 2004, before this Resolution can come before City Council after the 30 day waiting period after all public notices required by the Ordinance have been accomplished.

If the City Council then passes the Resolution that the property should be offered for sale, the City shall obtain "Two (2) simultaneous and independent appraisals of the real property" Later, the City Council can adopt a Resolution to set a minimum price for the bidders.

The City shall then solicit sealed bids and present the highest qualified bid to the City Council at a third City Council meeting for acceptance or rejection. "Upon receipt of an acceptable bid, and authorization by a separate resolution of the City Council, the conveyance of the real property shall be performed by the Mayor and City Clerk." {Subsection (G) of Ordinance No. 4358 codified as §34.27 **Sale of municipally-owned real property**}

Project No. 00019
Hollywood Street - 6th & Sang Ave. Intersection
Parcel No. 738-12194-000
Tract No. 2

WARRANTY DEED

HUSBAND AND WIFE
(With Release/Quitclaim of Curtesy and Dower)

FILED FOR RECORD
2002 DEC 18 AM 9:36
WASHINGTON CO., AR
B. STAMPS

BE IT KNOWN BY THESE PRESENTS:

THAT Donald E. Osborne and Debra L. Osborne, husband and wife, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the City of Fayetteville, Arkansas, a municipal corporation, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land situated in the County of Washington, State of Arkansas, to-wit:

All that certain tract or parcel of land being a part of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of Section 20, Township 18 North, Range 30 West, Washington County, Arkansas, said tract being the tract as described in Document No. 2000-029178 of the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described by metes and bounds as follows: Beginning at the Northwest corner of the NE1/4 of the NW1/4 of Section 20, Township 18 North, Range 30 West, Washington County, Arkansas, said point being the Northwest corner of Block 2 of Westwood Addition to the City of Fayetteville, Arkansas; thence South 87° 12' 42" East for a distance of 215.70 feet along the south right of way line of Old Farmington Road to a point on the north right of way line of 8th Street (State Highway No. 180); thence South 03° 48' 55" East 10.80 feet with said north right of way line; thence along a curve to the left with an arc length of 68.74 feet, a radius of 147.39 feet, and a delta of 02° 12' 28", along said right of way; thence South 80° 30' 11" West for a distance of 178.50 feet with said right of way; thence North 87° 43' 27" West for a distance of 18.89 feet with said right of way to a point on the east right of way line of Sang Avenue; thence North 02° 42' 11" East for a distance of 134.88 feet with said east right of way line to the Point of Beginning, and containing 0.39 acre, more or less.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's successors and assigns, forever. And the said Grantors hereby covenant that they are lawfully seized of said lands and premises; that the same is unencumbered, and that the Grantors will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS the execution hereof on this 17th day of December, 2002.

Donald E. Osborne
Donald E. Osborne

Debra L. Osborne
Debra L. Osborne

ACKNOWLEDGMENT

STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Donald E. Osborne and Debra L. Osborne, husband and wife, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, use and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 17th day of December, 2002.

MY COMMISSION EXPIRES:

Leila R. Davis
Notary Public, State of Arkansas
Washington County
My Commission Expires 03/23/05

Leila R. Davis
Notary Public

2002194769

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

X AGENDA REQUEST

June 1st or 15th
April 20, 2004

OK

For the Fayetteville City Council Meeting of:

FROM:

<u>Jill Goddard</u>	<u>Engineering</u>	<u>Community Planning & Eng. Services</u>
Name	Division	Department

ACTION REQUIRED:

Resolution granting approval of offering for sale the remainder of Parcel No. 765-12164-000 (formerly known as Shake's Frozen Custard, 2050 W. 6th Street).

SUMMARY EXPLANATION:

Property was acquired in its entirety as part of the relocation of Sang Avenue. Now that the new Sang Avenue/Sixth Street/Hollywood Avenue intersection is nearing completion, the remainder of Parcel No. 765-12164-000 (including the building) can be sold as it serves no municipal purpose.

Approval of offering for sale also allows for an independent survey and two (2) independent appraisals to be obtained to determine acreage and fair market value.

(Originally purchased thru Acct. No. 4470-9470-5809-00, Project No. 00019-0030, Hollywood Street--6th & Sang Avenue, Street Improvements, Sales Tax Capital Improvements.)

STAFF RECOMMENDATION:

[Signature] 3-31-04
Division Head Date

[Signature] 4-14-04
City Attorney Date

[Signature] 4-1-04
Department Director Date

[Signature] 4-13-04
Finance & Internal Services Dir. Date

[Signature] 4-19-04
Chief Administrative Officer Date

Mayor Date

Received in Mayor's Office

4/13/04
Date *PH*

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item: Yes No

ENTERED
04-01-04
aw

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Community Planning and Engineering Services Director

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

Date: May 27, 2004

Subject: Right-of-Way Vacation for Estates at Salem Hills (VAC 04-1070)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating right-of-way north and west of the Estates at Salem Hills subdivision, as described and depicted herein.

BACKGROUND

The subject property is located north of West Salem Road and south of the west end of the Howard Nickell Road extension as shown on the attached graphic. The property is in the county and contains approximately 40.14 acres. A Resolution (125-03) was approved by the City Council on August 05, 2003 to amend the Master Street Plan in this location and dedicate 90 feet of right of way along Howard Nickell Road through the entire proposed development in a different alignment to complete a connection with the future extension of Ruppel Road north.

The current request is to vacate the remaining portion of platted right-of-way that bisects lots in the subdivision, exclusive of that right-of-way which was dedicated with the Final Plat of the Estates at Salem Hills subdivision, in December of 2003. Vacation of the subject right-of-way was a condition of approval by the Planning Commission for the Preliminary Plat of this subdivision.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. No objections were submitted.

At the regular meeting of May 24, 2004, the Planning Commission voted 8-0-0 on its consent agenda to forward this item to the City Council with a recommendation for approval of the vacation request.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-1070 TO VACATE AND ABANDON A 45' EXISTING RIGHT OF WAY THAT EXTENDS NORTH OF THE INTERSECTION OF WEST SALEM ROAD AND RUPPLE ROAD THROUGH THE ESTATES AT SALEM HILLS PROPERTY AND A 50' RIGHT OF WAY THAT EXTENDS WEST OF THE INTERSECTION OF HOWARD NICKEL ROAD AND SALEM ROAD THROUGH THE ESTATES AT SALEM HILLS AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described platted right of way 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 right of way, 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 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 04-1070

PART OF THE SW ¼ OF THE NW ¼ AND PART OF THE NW ¼ OF THE SW ¼ OF SECTION 29, TOWNSHIP 17 NORTH, RANGE 30 WEST, IN WASHINGTON COUNTY ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NW ¼ OF THE SW ¼, SAID POINT BEING A FOUND ½" REBAR, AND THE POINT OF BEGINNING, THENCE N02°26'05"E 1338.00 FEET TO A FOUND ½" REBAR, THENCE S87°57'18"E 705.22 FEET, THENCE S02°02'42"W 50.00 FEET, THENCE N88°08'42"W 660.56 FEET, THENCE S02°26'05"W 1228.24 FEET, THENCE N87°50'08"W 45.00 FEET TO THE P.O.B. LESS AND EXCEPT THE RIGHT OF WAY SHOWN ON THE FINAL PLAT OF THE ESTATES AT SALEM HILLS AS PER FINAL PLAT ON FILE AT THE OFFICE OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, CONTAINING 1.25 ACRES MORE OR LESS.

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 24, 2004

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

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: May 17, 2004

VAC 04-06.00: Vacation (Estates at Salem Hills, pp 206) was submitted by Tom Hennelly of Tomlinson Engineering on behalf of Gerald Tomlinson for property located at The Estates at Salem Hills subdivision. The property is located in Washington County in the City of Fayetteville Planning Area. The request is to vacate a portion of the existing right of way located along the west and north sides of the subject property. Planner: Jeremy Pate

Findings: See the attached maps and legal descriptions for the exact locations of the requested utility easement vacation.

Background: A 45' right of way exists that extends north of the intersection of West Salem Road and Ruppel Road through this property. A 50' right of way exists that extends west of the intersection of Howard Nickel Road and Salem Road through this property. The Planning Commission approved The Estates at Salem Hills preliminary plat on July 14, 2003 with a condition that the right of way be vacated and that the master street plan alignment be amended. On August 5, 2003 the City Council considered the amendment to the master street plan alignment. The City Council passed a resolution for this amendment at this meeting. The right of way will now need to be vacated in order to comply with the conditions of approval for the preliminary plat.

Request: The applicant requests to vacate a portion of the existing right of way as described and depicted in the attached documents.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES

Ozarks Electric

AEP/SWEPCO

Arkansas Western Gas

SW Bell

RESPONSE

No Objections

No Objections

No Objections

No Objections

CITY OF FAYETTEVILLE:

Water/Sewer

RESPONSE

No Objections

Transportation

No Objections

Solid Waste

No Objections

Engineering

No Objections

Recommendation: Staff recommends approval of the proposed right of way vacation 04-06.00.

PLANNING COMMISSION ACTION: yes Required

✓ Approved Denied
Consent

Date: May 24, 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 _____

CITY COUNCIL ACTION: yes Required
 Approved Denied

Date: _____

Survey Description
Of
Right of way Vacation

Part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ and part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 29, Township 17 North, Range 30 West, in Washington County Arkansas, and being more particularly described as follows; Commencing at the Southwest corner or said NW $\frac{1}{4}$ Of the SW $\frac{1}{4}$, said point being a found $\frac{1}{2}$ " rebar, and the POINT OF BEGINNING, thence N02°26'05"E 1338.00 feet to a found $\frac{1}{2}$ " rebar, thence S87°57'18"E 705.22 feet, thence S02°02'42"W 50.00 feet, thence N88°08'42"W 660.56 feet, thence S02°26'05"W 1228.24 feet, thence N87°50'08"W 45.00 feet to the P.O.B., less and accept the Right of Way shown on the final plat of the Estates at Salem Hills as per final plat on file at the office of the Circuit Clerk of Washington County, Arkansas, containing 1.25 acres more or less.

RESOLUTION NO. 125-03

**A RESOLUTION AMENDING THE MASTER STREET PLAN,
DEDICATING 90 FEET OF RIGHT OF WAY ALONG HOWARD
NICKELL ROAD THROUGH THE ENTIRE PROPOSED
DEVELOPMENT IN A DIFFERENT ALIGNMENT TO
COMPLETE A CONNECTION WITH THE FUTURE EXTENSION
OF RUPPLE ROAD NORTH**

**WHEREAS, the new alignment of Howard Nickell Road and Ruppel
Road fulfill the intent of the Master Street Plan; and**

**WHEREAS, the new alignment of Howard Nickell Road and Ruppel
Road will be beneficial to the City of Fayetteville's policy of connectivity; and**

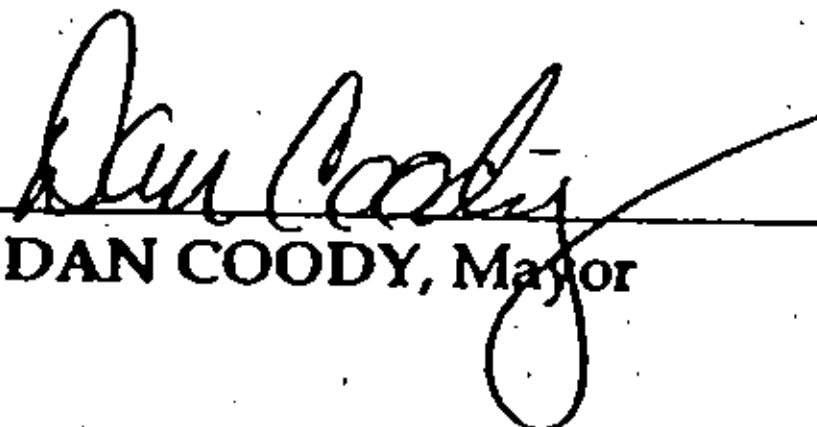
**WHEREAS, this amendment to the Master Street Plan provides
connectivity with less topography constraints.**

**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 change in the Master Street Plan as noted above and more
particularly shown on Exhibit A (attached).**

PASSED and APPROVED this the 19th day of August, 2003.

APPROVED:

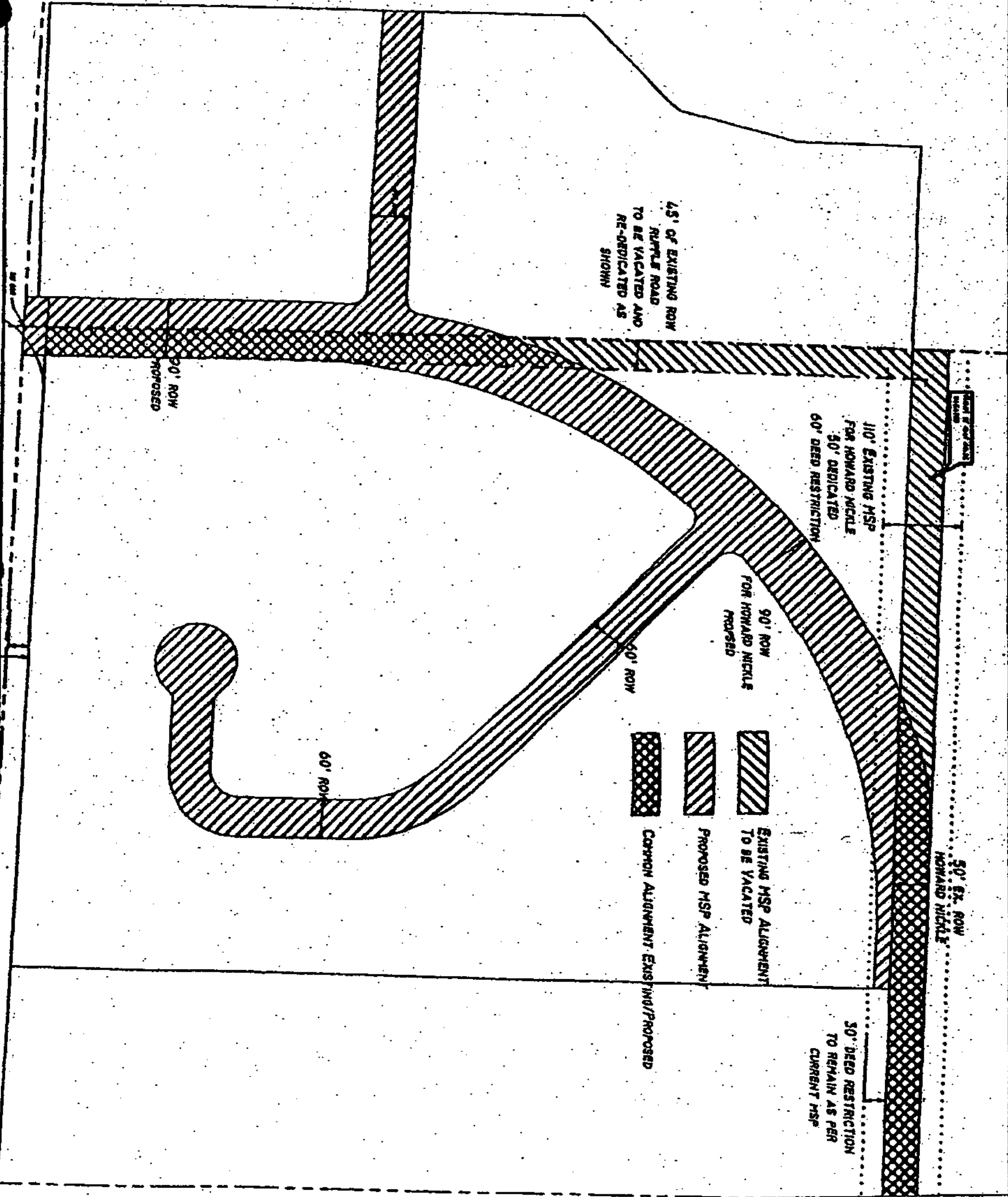
By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



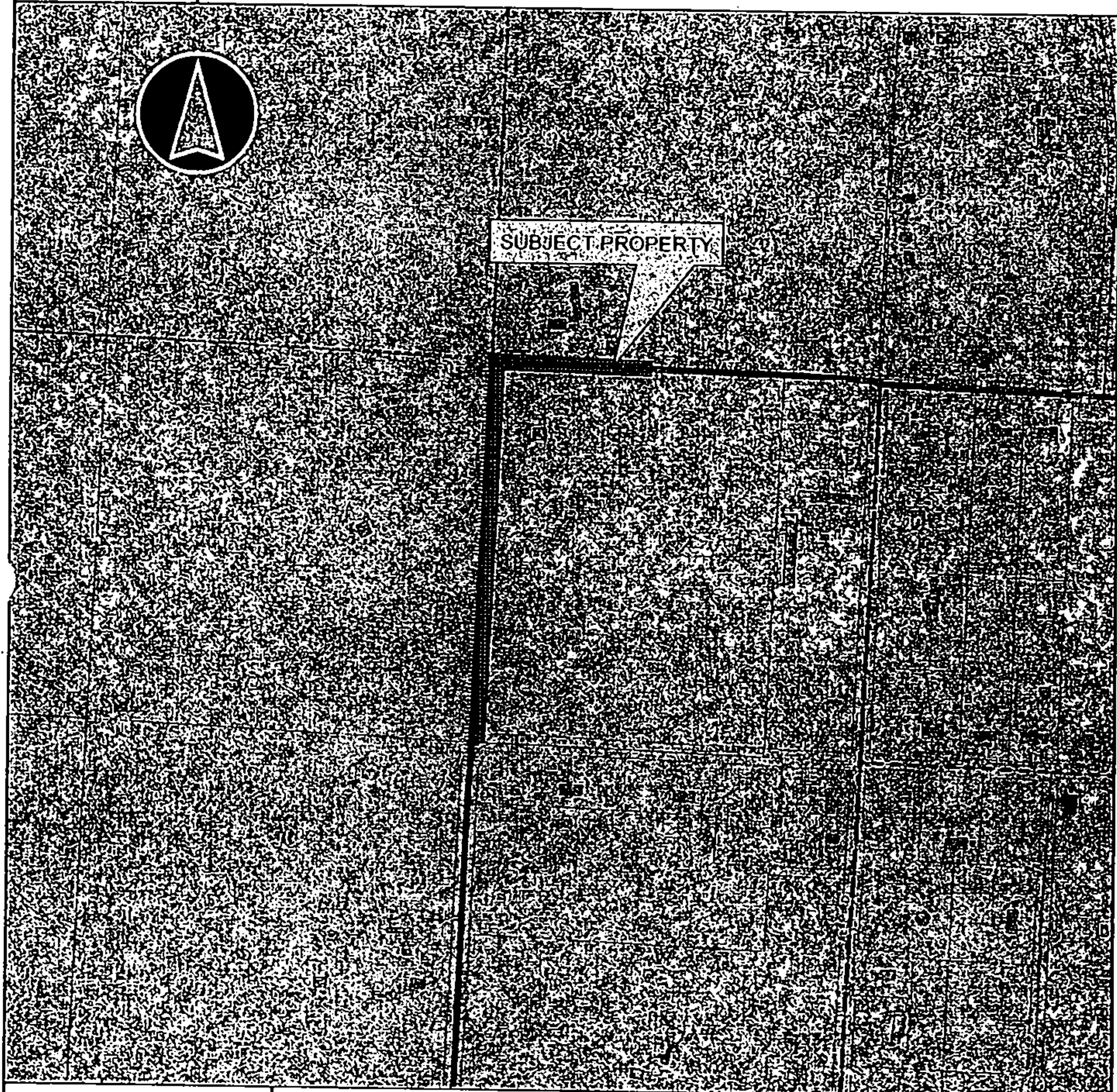
EXHIBIT A



VAC04-06.00

Close Up View

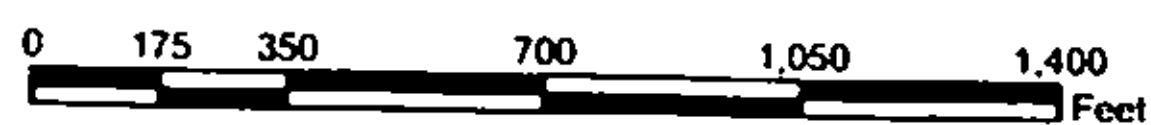
ESTATES AT SALEM HILLS



Overview

Legend

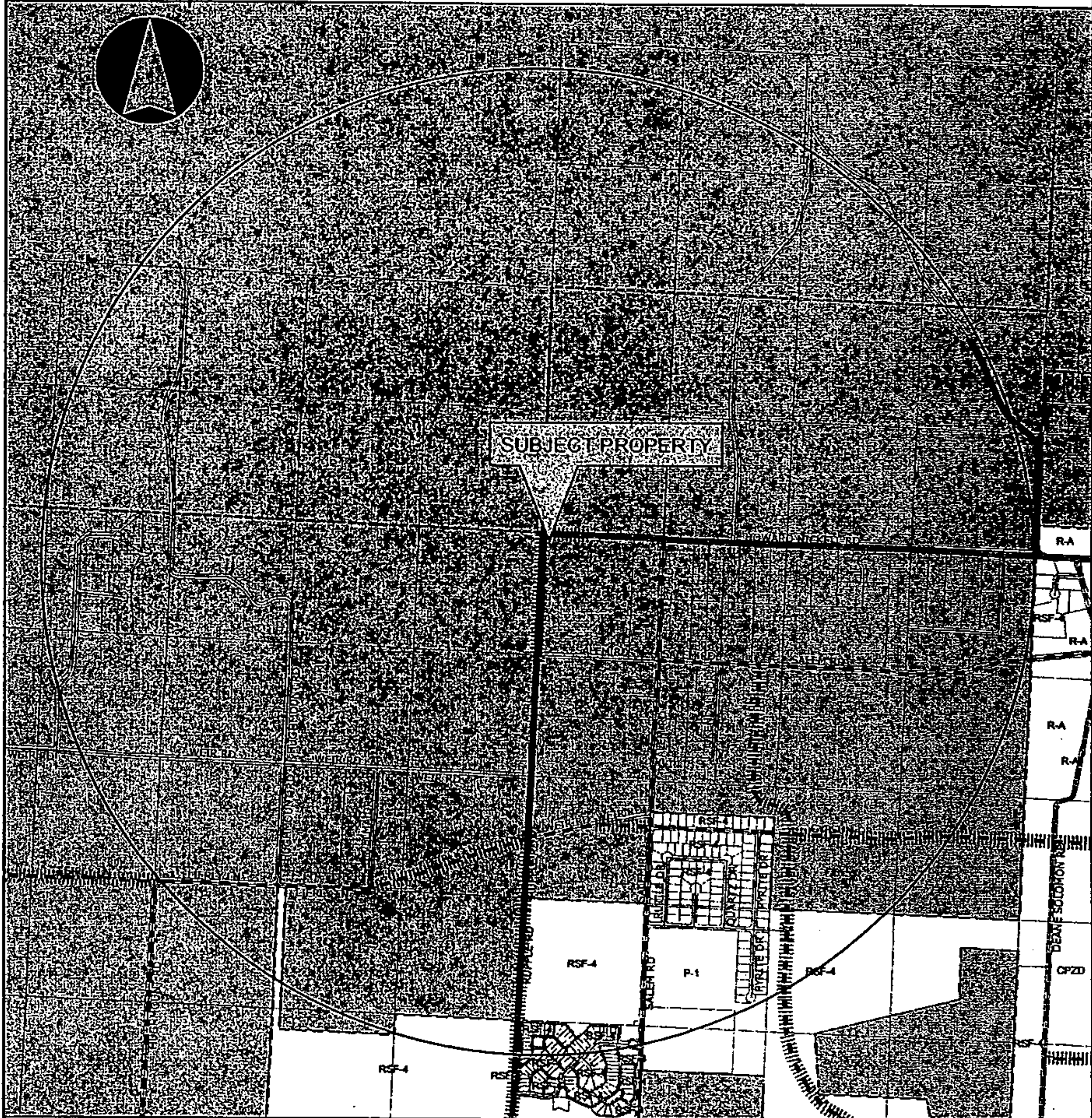
Overlay District	Principal Arterial	FLOODWAY
Master Street Plan	Minor Arterial	100 YEAR
Master Street Plan	Collector	500 YEAR
Freeway/Expressway	Historic Collector	LIMIT OF STUDY
	City Limits	BaseLine Profile
	Outside City	VAC04-06.00



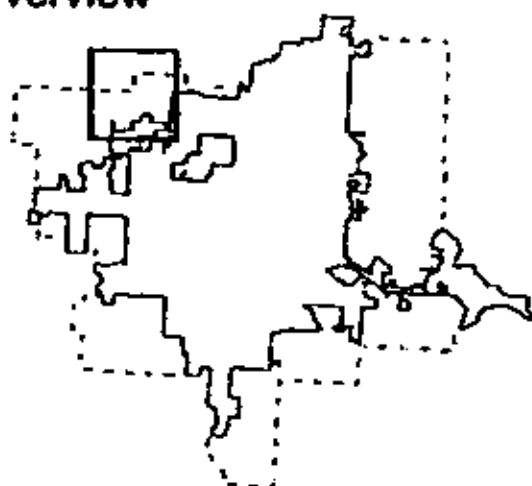
VAC04-06.00

One Mile View

ESTATES AT SALEM HILLS



Overview



Legend

Subject Property

VAC04-06.00

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

C.5.
VAC 04-1070 (Gerald Tomlinson)
11 of 12 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

June 15, 2004

FROM:

Dawn Warrick, AICPPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-1070: Vacation (Estates At Salem Hills, pp 206): Submitted by Tom Hennelly of Tomlinson Engineering on behalf of Gerald Tomlinson for property located at West Salem Road. The property is in the Planning Area and contains approximately 1.25 acres. The request is to vacate a portion of Right-of-Way that is no longer necessary due to a Master Street Plan Amendment previously approved by the Planning Commission and City Council.

STAFF RECOMMENDATION: Approval

Dawn J. Warrick 5/28/04
Division Head Date

Received in Mayor's Office

6/1/04
Date *JS**[Signature]* 5/28/04
City Attorney Date

Department Director Date

[Signature] 6-1-04
Finance & Internal Services Dir. Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

No

[Signature] 6-2-04
Chief Administrative Officer Date*[Signature]* 6/2/04
Mayor Date

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: May 28, 2004

Subject: Easement Vacation for Lutz (VAC 04-1105)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of an easement located within the south of part of lot 8 of Sunrise Mountain Addition located at 1645 W. Sunrise Mountain Road, as described and depicted herein.

BACKGROUND

The subject property is located west of South School Avenue on Sunrise Mountain Rd. as shown on the attached graphic. The property is within the R-A, Residential Agricultural, zoning district and contains approximately 1.31 acres. The lot contains two parcels including part of lot 8 of Sunrise Mountain Addition, a subdivision platted in 1959. A 10 foot gas and water easement located on the southern border of lot 8 was dedicated with the platted subdivision. Presently, a gas line is located within the easement. The property owner has removed the structure to the south of the easement and requests that a portion of the 10 easement be vacated to accommodate the construction of a new single family home.

DISCUSSION

A variance request to allow the construction of a single family home on property approximately 1.31 acres (less than the 2 acre lot area minimum for this zoning district) will be heard by the Board of Adjustment on June 7, 2004. The location of a new easement for relocation of the existing gas line and future installation of a water line is being evaluated at this time. The applicant has been working with representatives of Arkansas Western Gas Co. to arrange for the relocation of the existing gas line into the proposed easement to be dedicated. That is the only utility currently located in the subject easement.

Notification was provided to Arkansas Western Gas and the City Water and Sewer Superintendent, as well as adjoining property owners.

The Planning Commission will consider this request the regular meeting of June 14, 2004 at which a recommendation for this request shall be made to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-1105 TO VACATE AND ABANDON A PORTION OF A 10' UTILITY EASEMENT DESIGNATED FOR GAS AND WATER LOCATED AT 1645 W. SUNRISE MOUNTAIN ROAD AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described platted utility easement is not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement, 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 map labeled Exhibit "B" attached hereto and made a part hereof, 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 04-1105

AN EXISTING TEN (10) FOOT WIDE EASEMENT FOR THE PURPOSE OF UTILITY LOCATION, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: A PART OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION THIRTY TWO (32), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, AND A PART OF LOT EIGHT (8) IN BLOCK "B" OF SUNRISE MOUNTAIN SUBDIVISION, ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 8; THENCE S03°54'52"E ALONG THE EAST RIGHT OF WAY LINE OF SUNRISE MOUNTAIN ROAD 5.01 FEET TO THE SOUTH LINE OF SAID EXISTING EASEMENT; THENCE EAST ALONG THE SOUTH LINE OF SAID EXISTING EASEMENT 143.99 FEET TO THE WEST LINE OF A PROPOSED FIFTEEN (15) FOOT WIDE UTILITY EASEMENT; THENCE N19°20'25"W ALONG THE WEST LINE OF SAID PROPOSED EASEMENT 10.57 FEET TO A POINT ON THE NORTH LINE OF SAID EXISTING EASEMENT; THENCE LEAVING SAID PROPOSED EASEMENT WEST ALONG THE NORTH LINE OF SAID EXISTING EASEMENT 141.17 FEET TO THE EAST RIGHT OF WAY LINE OF SUNRISE MOUNTAIN ROAD; THENCE LEAVING THE NORTH LINE OF SAID EXISTING EASEMENT S03°54'52"E 5.01 FEET TO THE POINT OF BEGINNING, WASHINGTON COUNTY, ARKANSAS.

DRAFT

DESCRIPTION OF REQUEST

I, Thomas C. Lutz, am the owner of the property at 1645 W. Sunrise Mountain Road. The location is NE ¼ of Lot 8, Block , Sunrise Mountain, Fayetteville, AR 72701. This property is located in the Southern part of Fayetteville, West of the old airport, atop Sunrise Mountain.

When purchased, the lot had a small older early sixties home that was in a state of disrepair. It was agreed by both parties -- the sellers, John and Debbie Walker, and myself -- that construction of a new modern home on this property would be an asset to all. The old demolished home occupied only half of the lot. There is a gas and water easement that divides the lot in half. The gas company can re-route the gas line from the easement and fulfill their requirements. If the water easement could be abandoned, then a new home could be constructed using the full potential of this lot.

I therefore would like to appeal to the Board to abandon this easement.

VACATION PETITION

PETITION TO VACATE AN EASEMENT LOCATED IN PART OF LOT 8 OF SUNRISE MOUNTAIN ADDITION, CITY OF FAYETTEVILLE, ARKANSAS

**TO: The Fayetteville City Planning Commission and
The Fayetteville City Council**

We, the undersigned, being all the owners of the real estate abutting the 10' water and gas easement hereinafter sought to be abandoned and vacated, lying on part of lot 8 of Sunrise Mountain Addition, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

Legal description of property to be vacated:

AN EXISTING TEN (10) FOOT WIDE EASEMENT FOR THE PURPOSE OF UTILITY LOCATION, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: A PART OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION THIRTY TWO (32), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, AND A PART OF LOT EIGHT (8) IN BLOCK "B" OF SUNRISE MOUNTAIN SUBDIVISION, ALTOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 8; THENCE S03°54'52"E ALONG THE EAST RIGHT OF WAY LINE OF SUNRISE MOUNTAIN ROAD 5.01 FEET TO THE SOUTH LINE OF SAID EXISTING EASEMENT; THENCE EAST ALONG THE SOUTH LINE OF SAID EXISTING EASEMENT 143.99 FEET TO THE WEST LINE OF A PROPOSED FIFTEEN (15) FOOT WIDE UTILITY EASEMENT; THENCE N19°20'25"W ALONG THE WEST LINE OF SAID PROPOSED EASEMENT 10.57 FEET TO A POINT ON THE NORTH LINE OF SAID EXISTING EASEMENT; THENCE LEAVING SAID PROPOSED EASEMENT WEST ALONG THE NORTH LINE OF SAID EXISTING EASEMENT 141.17 FEET TO THE EAST RIGHT OF WAY LINE OF SUNRISE MOUNTAIN ROAD; THENCE LEAVING THE NORTH LINE OF SAID EXISTING EASEMENT S03°54'52"E 5.01 FEET TO THE POINT OF BEGINNING, WASHINGTON COUNTY, ARKANSAS.

That the abutting real estate affected by said abandonment of the alley is lot 5 of Sunshine Mountain Addition City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, 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, subject to said utility and sewer easements, 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 said alley.

Dated this 24 day of MAY, 2004.

THOMAS C. LUTZ
Name

[Signature]
Signature

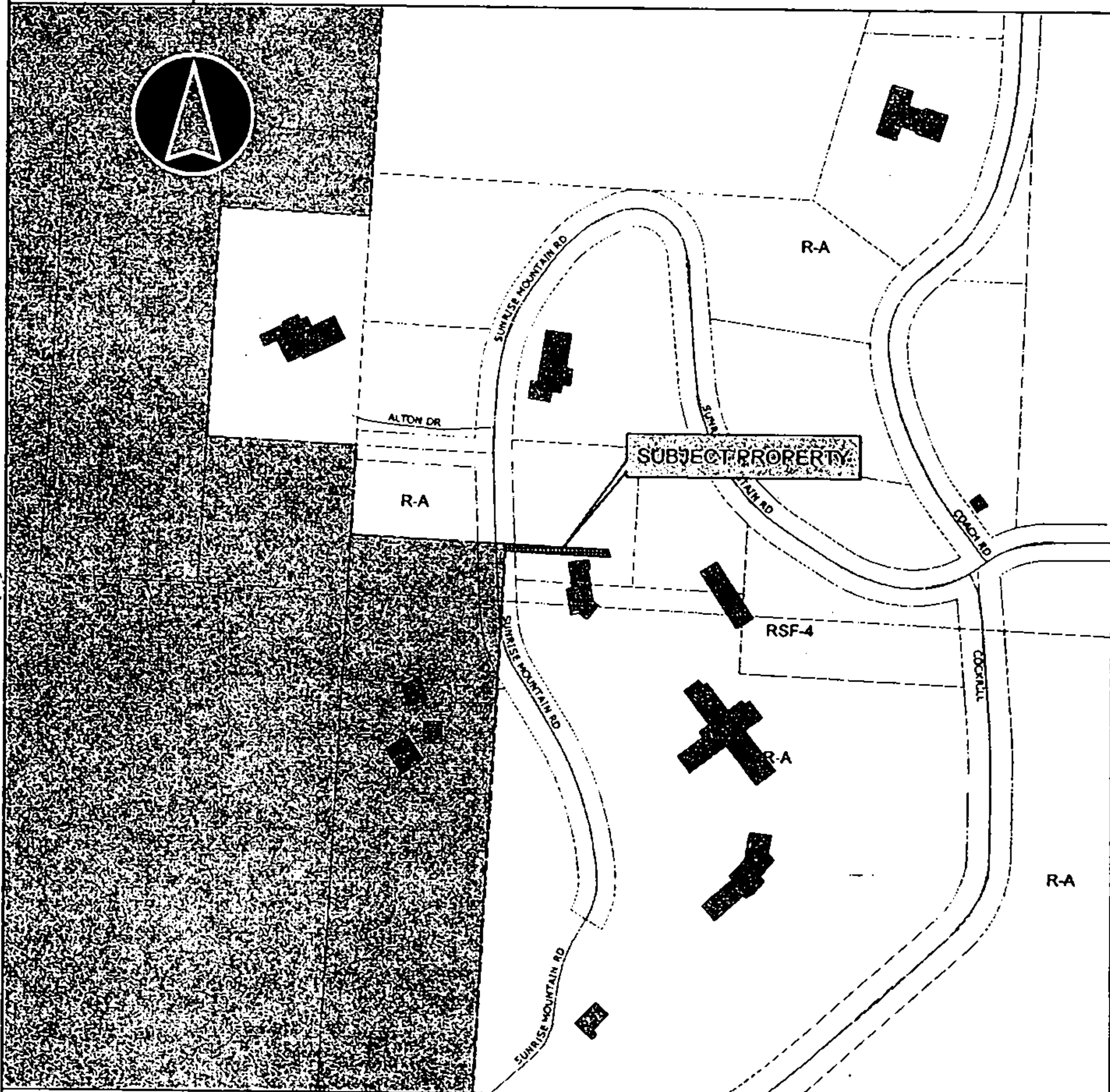
Name

Signature

VAC04-1105

Close Up View

LUTZ



Overview

Legend

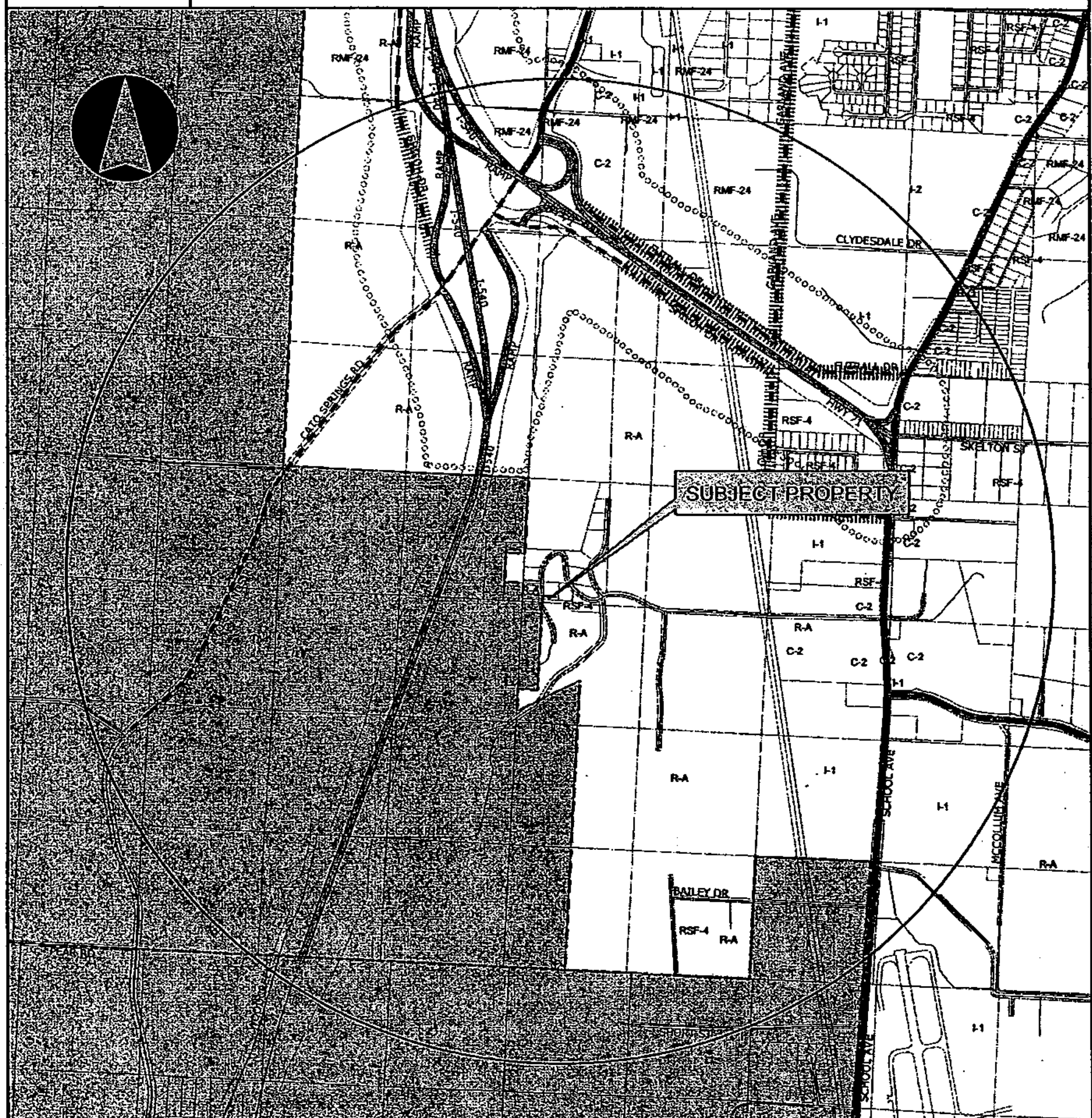
○ ○ ○ ○ ○ Overlay District	▬ Principal Arterial	— FLOODWAY
▬ Master Street Plan	▬ Minor Arterial	--- 100 YEAR
▬ Master Street Plan	▬ Collector	--- 500 YEAR
▬ Freeway/Expressway	● ● ● Historic Collector	▬ LIMIT OF STUDY
	▬ City Limits	▬ BaseLine Profile
	▬ Outside City	▬ VAC04-1105



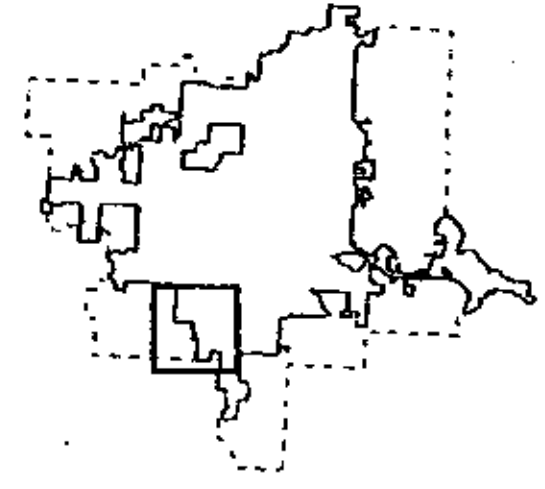
VAC04-1105

One Mile View

LUTZ



Overview



Legend

Subject Property

VAC04-1105

Streets

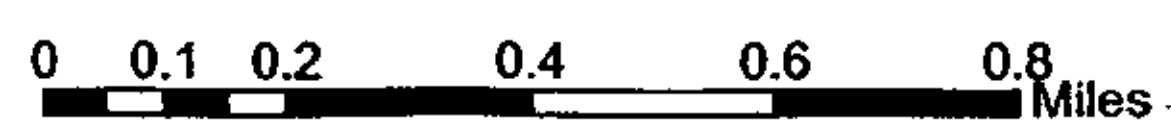
Existing
 Planned

Boundary

Planning Area
 Overlay District
 City Limits
 Outside City

Master Street Plan

Freeway/Expressway
 Principal Arterial
 Minor Arterial
 Collector
 Historic Collector



STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

C.6.
VAC 04-1105 (Thomas Lutz)
11 of 12 x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

June 15, 2004

FROM:

Dawn Warrick, AICPPlanningCP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-1105: Vacation (Lutz, pp 717): Submitted by Thomas Lutz for property located at 1645 W. Sunrise Mountain Road. The request is to vacate a portion of a 10' utility easement designated for gas and water.

STAFF RECOMMENDATION: Approval

Dawn J. Warrick 5/28/04
Division Head Date*[Signature]* 5/28/04
City Attorney Date

Received in Mayor's Office

6/1/04
Date *[Signature]*

Department Director _____ Date _____

[Signature] 6-1-04
Finance & Internal Services Dir. Date*[Signature]* 6-2-04
Chief Administrative Officer Date*[Signature]* 6/2/04
Mayor Date

Cross Reference:

Previous Ord/Res#: _____

Orig. Contract Date: _____

Orig. Contract Number: _____

New Item:

Yes

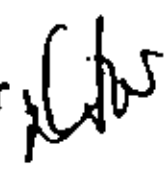
No



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: May 12, 2004

Subject: Utility Easement Vacation for Sequoyah Commons (VAC 04-11.00)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of two adjoining 15' platted utility easements bisecting the subject property.

BACKGROUND

The subject property is located between Olive Avenue and Fletcher Avenue, south of Spring Street. A 30' utility easement bisecting the property was dedicated with the platting of Harrison's Addition. The applicant currently has approval for a large scale development on this property for the construction of apartments with the existing utility easement impeding the proposed development. The Planning Commission approved the Sequoyah Commons large scale development on May 27, 2003 with a condition that the utility easement be vacated.

On October 21, 2003, the City Council considered an appeal from the developer of the Planning Commission's decision to require that Center Street be extended. The City Council passed a resolution to modify the conditions of the large scale development at this meeting. None of the modifications affected the condition to vacate the existing utility easement. The easement will need to be vacated in order to comply with the conditions of approval for the large scale development.

DISCUSSION

Notification was provided to all utility representatives and adjoining property owners. The Water and Sewer Superintendent required an easement on either side of the existing 36" water line which lies parallel to Center Street, perpendicular to the subject easement. The condition of approval for the vacation states that an easement shall be dedicated a minimum of 10' on each side of the existing water line prior to City Council consideration.

Written and oral objections were received and made at the public hearing from neighboring property owners regarding the approved development and this vacation request.

The Planning Commission voted 5-3-1 to forward this item to the City Council with a recommendation for denial of this vacation request at the regular meeting of May 10, 2004. Commissioners Graves, Clark, Allen, Myres, and Anthes voted "no" with Commissioners Ostner, Vaught, and Trumbo voting "yes" and Commissioner Shackelford abstained.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 04-11.00 TO VACATE AND ABANDON A 30' UTILITY EASEMENT LOCATED IN LOTS 6, 7, 8, AND 9 IN BLOCK THREE AND LOTS 7, 8, AND 9 OF BLOCK FOUR OF HARRISON'S ADDITION AS DEPICTED ON THE ATTACHED MAP AND LEGAL DESCRIPTION

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described platted utility easements are not required for corporate purposes; and

WHEREAS, an easement shall be dedicated a minimum of 10' on each side of the existing 36" water line that parallels Center Street.

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

Section 1: That the City of Fayetteville, Arkansas in consideration for petitioner dedicating a utility easement of 10 feet on each side of an existing 36" water main parallel to Center Street, hereby vacates and abandons the following described utility easements, 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 map labeled Exhibit "B" attached hereto and made a part hereof, 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 15th day of June, 2004.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

EXHIBIT "A"
VAC 04-11.00

A FIFTEEN (15) FOOT WIDE PERMANENT UTILITY EASEMENT DESCRIBED AS RUNNING ALONG THE EASTERN PROPERTY LINE OF LOTS 6, 7, 8 AND 9 OF BLOCK 3 OF HARRISON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

A FIFTEEN (15) FOOT WIDE PERMANENT UTILITY EASEMENT DESCRIBED AS RUNNING ALONG THE WESTERN PROPERTY LINE OF LOTS 7, 8 AND 9 OF BLOCK 4 OF HARRISON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS

DRAFT

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 10, 2004

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

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: May 05, 2004

VAC 04-11.00: Vacation (Sequoyah Commons, pp 485) was submitted by Mandy Bunch of EB Landworks on behalf of Houses Development Company, LLC for property located at Olive Avenue, south of Spring Street. The property is zoned RMF-24, Residential Multi-family, 24 units per acre. The request is to vacate existing utility easements located within the property to satisfy conditions of approval for LSD 02-29.10 (Sequoyah Commons Large Scale Development.) Planner: Suzanne Morgan

Findings: See the attached maps and legal descriptions for the exact locations of the requested utility easement vacation.

Background: A 30' utility easement was dedicated with the platting of Harrison's Addition. The applicant currently has approval for a large scale development on this property for the construction of apartments. The existing utility easement bisects the proposed development. The Planning Commission approved the Sequoyah Commons large scale development on May 27, 2003 with a condition that the utility easement be vacated. On October 21, 2003, the City Council considered an appeal from the developer of the Planning Commission's decision to require that Center Street be extended. The City Council passed a resolution to modify the conditions of the large scale development at this meeting, thereby making three modifications to the approved large scale development (see attached resolution). The easement will need to be vacated in order to comply with the conditions of approval for the large scale development. Should the vacation of the utility easements not be approved, the large scale development could not be permitted as approved by City Council.

Request: The applicant requests to vacate a portion of the existing utility easement as described and depicted in the attached documents. The vacation request covers approximately 15 feet on the east side of Lots 6-9 of Block 3 and 15' on the west side of Lots 7-9 of Block 4 of the Harrison's Addition.

Of the notified adjacent property owners, one voiced concern regarding the request. Staff has contacted the owner to gain more thorough understanding of these concerns.

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES

Ozarks Electric

RESPONSE

No Objections

AEP/SWEPCO

No Objections

Arkansas Western Gas

No Objections

SW Bell

No Objections

Cox Communications

No Objections

CITY OF FAYETTEVILLE:

Water/Sewer

RESPONSE

See Conditions of Approval

Transportation

No Objections

Solid Waste

No Objections

Engineering

No Objections

Recommendation: Staff recommends approval of the proposed easement vacation 04-11.00
subject to the following condition:

Condition of Approval:

1. An easement shall be dedicated a minimum of 15' on each side of the existing 36" water line that parallels Center Street prior to City Council consideration of this request.

PLANNING COMMISSION ACTION: yes Required

 Approved Denied

Date: May 10, 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 _____

CITY COUNCIL ACTION: yes Required
 Approved Denied

Date: _____

VAC 04-11.00: Vacation (Sequoyah Commons, pp 485) was submitted by Mandy Bunch of EB Landworks on behalf of Houses Development Company, LLC for property located at Olive Avenue, south of Spring Street. The property is zoned RMF-24, Residential Multi-family, 24 units per acre. The request is to vacate existing utility easements located within the property to satisfy conditions of approval for LSD 02-29.10 (Sequoyah Commons Large Scale Development.)

Ostner: The first item on the agenda is VAC 04-11.00 for Sequoyah Commons, if we can have the staff report please.

Shackelford: I am going to recuse myself from this vote. I have a business relationship with the owner.

Morgan: This property is located east of Olive Avenue and south of Spring Street. It is zoned RMF-24. A Large Scale Development was brought forward to the Planning Commission in May of last year and was proposed with buildings which were shown to be constructed within two 15' utility easements which is shown on page 1.17 of your report. The Planning Commission approved Sequoyah Commons Large Scale Development on May 27, 2003 with a condition that the utility easements be vacated. The City Council approved this item with modifications on October 21, 2003. These modifications, however, did not alleviate the requirement to vacate the utility easement. The easement will need to be vacated in order to comply with the conditions of approval for the Large Scale Development. Should the vacation of the utility easements not be approved the Large Scale Development could not be permitted as approved by both the City Council and the Planning Commission. The vacation request covers approximately 15' on the east side of lots 6 through 9 of block 3 and 15' on the west side of lots 7 through 9 of block 4 of the Harrison's Addition. Staff has received comments from two neighboring property owners and these comments have been included in your report. Also, notification was submitted by the applicant to the utility companies as well as to the city. There were no objections. However, comments were received from the water and sewer department and they are reflected in the condition of approval. Staff is recommending approval of the proposed easement vacation subject to the following conditions: 1) An easement shall be dedicated a minimum of 10' on each side of the existing 36" water line that parallels Center Street prior to City Council consideration of this request. Originally this condition stated 15' but it has been modified to 10' to be consistent with the fourth condition of approval for the Large Scale Development, which can be seen on page 1.8 of the staff report.

Ostner: Thank you Ms. Morgan. Is the applicant present?

Bunch: Good evening, my name is Mandy Bunch and I'm here representing House's Development Company tonight in the vacation request

represented by the staff report, which is pretty lengthy. Since the Planning Commission has last seen this there was a discussion with the City Council regarding street improvements. Basically, that came out in a wash because there wasn't appropriate right of way existing to expand Center Street as was originally approved by the Planning Commission. That's how things have come out in a wash and the units have been significantly reduced. I believe we had 51 in the original and he has gone down to 42. There were originally two buildings over here. Here is the nearest adjacent property owner. There were originally two buildings stacked in this area and what we've done is moved this building further and taken one building totally away so that there is a better buffer in that area and we can maintain more trees adjacent to them. Basically, the easement that we are looking to vacate runs through the center. There was an old road that was abandoned years ago in this location and there was a utility easement dedicated at that time. This easement needs to go away so that the property can develop in accordance with the Large Scale. The orange area is where we dedicated easements for the utilities. None of the utility companies or city department representatives have any objections to this. I'm here to answer any questions I guess. We are just here to try to comply with the requirements of our Large Scale.

Ostner: Thank you. At this point I will open it up to the public. Is there anyone who would like to comment on this Vacation request?

Thomas: Good evening, I'm Mike Thomas. I live at 106 N. Olive. That is one house away from where the apartments are going to be put. I didn't know about the last meeting that they had. I know that it is in the paper and everything but the last I heard was Mr. House would have to continue through Center Street and make it a complete full through street instead of a dead end there. That's where I thought we were. If you put 42 units or 51 units or wherever we are now, that's a lot of traffic on a short span of street that we are really worried about with a lot of children growing up in that area and that's kept us concerned through the last meetings I've been at for about a year on this issue. We've put in a lot of hours as neighbors on this exact issue. It really scares us how badly it is going to ruin that area up there. I hate to use the word rape but it seems like it is really going to rape that area up there and be totally different where we have a lot of greenspace. I notice the goals for 2008 is a beautiful city clean and green. This goes against that totally, I guarantee you. I have lived there for twelve years and we are going to have to move if it happens. If they expand our street that wide to accommodate the apartments we are going to lose two huge maple trees in our front yard. It will just be too close. They are right there. It is going to go over into our front yard so far that we will lose both maple trees that are on about a 3' diameter right now that cools our house in the summer and really protects us a lot and create a lot of beautiful color in our front yard. One is red and one is yellow in the

fall. Also, this politically correct word, multi living housing, is about 100' or so from the confederate cemetery. It is such a historic district there that I don't quite understand that they could put something like that in that area. Right now it just seems bazaar and surreal to me that something that large scale could be put in that area. They are just single dwelling homes there. I know this is not the City Council but I just wanted to let my thoughts be known and be part of your decision making. It feels to me that the meetings that we have and many times the neighbors have met and we've just been kind of placated by the Commission and the City Council and then the big developer comes in and does whatever he wants. None of our demands or anything that we've seen so far on that sheet that we had when Mr. House met with us, which I respect him a great deal for. He has met with the neighborhood three or four times now. Each time we give him a compromise and demands and now it seems like that's all been thrown away and we are just back at where he originally wanted to be, except not the 51 units, I will give him that. I just don't see how that neighborhood can withstand that kind of impact, especially on a dead end. One of our main requests is that if he is going to do it, it's his property, but it is still our neighborhood though that is being changed forever, is that that street continue through there to relieve some of the pressure. I ask you to look at how many bedrooms are in there, not just the units but bedrooms will decide how many cars are going to be in that area. It is going to just totally change that neighborhood and the people who are living in that neighborhood. I appreciate you taking that into consideration.

Ostner: Thank you Mr. Thomas. Is there anyone else who would like to speak on this issue?

Bryan: Hello, Holly Bryan, 107 N. Olive. Excuse the way I'm dressed. I have just returned from South Carolina. I found out about this meeting Friday evening when I called home and my mother said that there had been a sign placed at the end of Olive Street. I immediately sitting in the North Carolina airport this morning, called City Planning to enquire on what was coming before the Planning Commission this evening. She helped me walk through some things. I apologize if I'm not up to date entirely on what is actually in front of you. I believe it is the utility easement which was vacated probably about 20 years ago I believe. I've been opposed to this development. I would implore you this evening to think about how this vacation would affect other people in the neighborhood. Other single family homes developing later on, those on Center. I'm not familiar, like I said, I didn't have the map and I don't know where everything falls on the map. Just keep in mind all of the other additional property around Mr. House's property, what that is going to do if that is going to have an affect on someone else being able to develop. Thank you.

Chaddick: I'm Susan Chaddick and I live at 423 E. Olive. I'm on the corner of Olive and Spring Street. Pardon me, I live on Spring Street, not Olive. I am looking at having huge traffic at that particular corner. I'm here simply to state my opposition to the development. I see this as an opportunity to close the door on such a large scale development and I just simply want to voice my opposition to the development and my opposition to vacating those easements.

Gable: I'm Julie Gable, I live at 106 N. Olive. I just want to echo my neighbor's sentiments. As a native of Fayetteville I just really hate to see this happen. Please take that into consideration and thank you.

Ostner: Would anyone else like to comment on this Vacation request? Seeing none, I will close it to the public and bring it back to the Commission. I would just like to again, by making sure we all understand that the development has been approved, and we do not have the authority or the right to go back on our approval. This is about a vacation which is part of a development that has already been approved.

Warrick: Just to further clarify what you just stated, as far as the chain of events on this particular project, as Suzanne stated in her report, it was approved by the Planning Commission with certain conditions. One of those conditions specifically was appealed by the developer and that was the connection to Center Street. The project was then forwarded to the City Council for further consideration on that appeal. At that time, this was October, 2003, at that time the Council heard the request on the Large Scale Development with the changes as proposed by the developer. I would just like to read a statement from the minutes that kind of clears it up and synthesizes what the changes were at that point. "The motion was to reduce the density to 26 units, 42 bedrooms, eliminate the requirement for Center Street to be built and to have Olive Street evaluated by our City Engineering and Planning staff for the appropriate designs that addresses traffic flow and drainage for this development." That motion was seconded and approved on a 7 to 1 vote at the Council level. One of the conditions of this Large Scale at the Planning Commission level, as well as the City Council approval level, was to vacate this existing utility easement. There are no utilities in this easement and in order for the development to be built as shown on the plans the easement needs to be vacated. Staff is recommending that with the condition that an existing 36" water line have easements dedicated to satisfy the city's needs to maintain that particular water line. That water line runs along side the Center Street, which if there were right of way, would extend further to the east. That's why the condition is stated the way that it is. It does reflect what has been consistent through this Large Scale staff report from the time that it was at Planning Commission, through the time that it was heard at City Council. At this point that is the request that is before you is

a vacation of that utility easement. Vacations are unique in that they are items that are required to be heard by the Planning Commission. Regardless of your recommendation, however, they will go forward to the City Council for final action. The Vacation of an alley easement or right of way requires an ordinance at the Council level to be approved.

Ostner: Thank you. Commission?

Clark: If I'm understanding, I'm new here. Whether or not we approve this proposal, this development has been approved so that is moot at this point. We inherited it, I inherited it. All we are talking about is just the utility vacation, that's it, end of story?

Ostner: Yes.

Clark: Ok, I just wanted to be clear. Will we see any plans for the development of Olive to the street standards?

Warrick: No Ma'am, that was left in the hands of the City Planning and Engineering staff to review. The Engineering Division will have to release that project once construction documents have been reviewed and approved.

Clark: Will the neighbors have any input into this process?

Warrick: That is not part of the standard process.

Clark: Ok, but will the neighbors have any input into this process?

Warrick: Probably not.

Clark: What happens if in widening this street, this is probably way off the point since it's moot, what happens if widening the street causes destruction like Mr. Thomas was talking about with trees in the front yards and property?

Warrick: Let me ask the City Engineer address that and talk a little bit about their process when they are reviewing construction plans.

Coover: I'm Gary Coover, City Engineer. When we review the plans for this development we will be looking at all applicable city ordinances and design requirements. I know we have actually walked the street with Ms. Bunch and looked at some of the locations for some of the curbing and how the drainage will be handled through there. We have also looked at some of the tree preservation along that. We will be looking very carefully when the plans are finalized on that to make sure that it meets all city requirements.

Williams: At the City Council level this was handled by a resolution. Let me read you the resolution. It says that the developer shall be required to improve Olive from Center to Spring up to residential street standards which can be modified or altered at the discretion of the Director of Planning, Engineering and Code Compliance (Tim Conklin) to avoid drainage problems and adverse impact to the established homes along Olive Street. I do think that probably there will be some input from the neighbors to Mr. Conklin in order to avoid this adverse impact. That's unusual. Usually we just require building up to street standards. In this case it was obvious that if we built to minimum street standards and put sidewalks on both sides that we were going to interfere with people's front yards and ruin their trees. I would expect the city staff, especially Mr. Conklin, to actually consult with the neighbors in order to try to ensure that there is not this adverse impact. That is very unusual but this is an unusual situation.

Clark: It seems that we are going to face it more and more if we are talking about infill. This to me seems to speak to that issue. I would hope that Mr. Conklin would talk to the residents throughout this widening process because there are some beautiful trees along that street.

Coover: There is some beautiful landscaping that people have put out in the right of way too and we would like to retain that as much as possible.

Clark: They have been there forever so that is definitely a concern. That's Tim Conklin.

Bunch: Just to address that situation, the reasons that the changes to the Olive Street improvements were even started was Greg bringing it up because we had been out there several times. There had been a lot of concerns from the neighbors on the west side, which is where Ms. Bryan's property is. There is a very steep slope going to her house. That's one of the reasons that we were hoping for a little levity with the Engineering and Planning Department to work with this. There is a 60' right of way on Olive. You would never know it because it is about 20' wide now but that is why we will be working with them. We actually had been working on trying to get it surveyed to get started on that since early December. That's where we are now and that's why this is coming back to you. We were delayed a little bit with our schedule and some of the other issues that were at hand. We are waiting on one utility company to come back and one other that I realized today. That's why we are a little delayed in this process too. This would've been a lot easier if we would've kept going down the chain at that point. I just wanted to bring that up with the street improvements because that was our side that brought that up. We plan on working with them.

- Allen: I understand what staff has told us tonight. However, I was the lone descending vote with this project before because I feel that it is inconsistent with the neighborhood. I had some safety and traffic concerns. I know that this is just kind of a holding my own ground sort of thing to do, but consequently I will be opposed to the Vacation.
- Clark: I like your ground and am going to join you there.
- Vaught: As this is a continuation of a previously approved LSD at this level and at the City Council level that has undergone lots of scrutiny, I will move for approval of VAC 04-11.00.
- Ostner: I have a motion by Commissioner Vaught, is there a second?
- Trumbo: Second.
- Ostner: I have a second by Commissioner Trumbo. Is there further discussion?
- Anthes: I was present the evening you voted on this originally. I guess I'm perplexed because a lot of the decision to go ahead and approve the density was predicated on the second outlet to Center Street. I'm rather disappointed that we dropped back in the number of units but we didn't drop back in the number of units that would be equivalent to half of the traffic outlet of the project. I just want that recorded in the minutes. I want to thank the neighbors for showing up again. Thank you.
- Vaught: That was something that at our level we did go with the second outlet and that was a City Council decision. In my opinion since they made that policy decision at their level it is not something today that is a factor on my decision on this. They are a higher level than us and have that say and they did.
- Ostner: If I could ask staff, could you all fill us in more on the reasoning of Council to eliminate the Center Street extension?
- Warrick: You have the minutes in your packet. The amount of right of way that the City believed to be existing in that location through research, turned out not to be existing. There was not right of way sufficient to install even a modified street to make that connection.
- Ostner: As I recall, I believe the discussion at the Council level required condemnation and the creation of right of way for that extension and they did not see that as appropriate. I would tend to agree. The information that we were given at this level was the right of way is there, it is very old, do we want connectivity or not. That was a simple question to me at this level. If I had known there was not right of way I am not sure I would've

voted to extend Center and condemn possibly a resident's home to make that connection. That's just my opinion. I just wanted to share that with the Commission that it's not cut and dry.

Clark: Would that knowledge have affected the debate and discussion about whether or not to even approve the Large Scale Development if there wasn't the possibility of an outlet. Olive Street is one of the trickiest streets in Fayetteville to maneuver. It has got a lot of kids on it and it is a beautiful street. If you put that density, density being defined to me as more people on that street, seems disaster. At that point if you knew you couldn't get to Center Street, period end of quote, Olive was your only outlet, would that have changed the whole course of debate at that point? Hind sight is 20/20 and it seems like the City Council is going to have the final word anyway. Just because this body has made a decision doesn't mean we have to confirm it just because we did it once. That is as my mother taught me when I jumped off the roof for the second time and broke my ankle. You don't do an unwise thing twice. I'm thinking put this much density in an area on a street that is almost shorter than this room is according disaster. If the Vacation is key I'm going to oppose the Vacation.

Ostner: On that point, I don't believe turning down this Vacation will stop this development.

Myres: I need some clarification. There is a sentence in this report that says should the vacation of the utility easement not be approved the Large Scale Development could not be permitted as approved by City Council. It seems to me that yes, if we do choose to deny this vacation that that would require something.

Vaught: The City Council hears vacations. They will hear this after us and they can override us.

Myres: Right, they can but that would basically throw it in their lap.

Ostner: Can I ask Mr. Williams for a clarification of if we turned this down?

Williams: One of the conditions of approval of the Large Scale Development was the vacation. Therefore, if it is not vacated then one of the terms and conditions have not been met. I think in fact, that both this body and the City Council, by voting in favor of the Large Scale Development, agreed to the vacation. Although, not formally and so that is why it is now back formally in front of you and will have to go back formally in front of the City Council. It basically was approved by both bodies on the front end and I would recommend to this body not to re-litigate something that has happened already in the past. The decision has been made. This is not the

decision about the Large Scale Development. This is a decision about vacating a utility easement. For that consideration you need to know whether or not this utility easement is needed. If it is needed then don't vacate it. If it is not needed, as all the utility companies have said, then it is appropriate to vacate it. That will be the same issue that the City Council will be looking at and those are sorts of issues that you need to be considering rather than trying to re-litigate something that has already happened before.

Trumbo: Being a member of the Commission and an ex-neighborhood of Olive Avenue I appreciate the neighbors coming. I think the reason I am going to vote for this is what Mr. Williams just said. We are here to decide whether this property should be vacated, not to stop the development. At this point in time I don't know what you can do but there are a lot of pieces of land on that hillside that are zoned with higher density and to the neighbors that are here and listening on T.V. I would suggest a planning map to see what your neighbors are zoned and possibly start at that point before this happens to someone else. I will be voting for this.

Graves: I appreciate what our esteemed city attorney stated as far as having implied the extended agreement of sorts potentially that this vacation might be approved if you are making it a condition you are in some way maybe saying that you are going to approve that condition whenever it comes back before the body. I also think that at the time this was originally approved there were a number of other conditions that were impliedly believed to have been a part of that project that are no longer there. They are no longer present. I, for one, do not necessarily feel, while I normally try to appreciate what I think would be a precedential effort by former members of the Planning Commission and City Council, or current members, this wasn't before me. I doubt that would've voted for it to begin with. I understand that the Large Scale Development is not what is before us, the vacation is what is before us. It is a condition on a Large Scale Development that was approved based on a number of conditions that turned out not to be true. I don't necessarily feel that my hands are tied and I am going to oppose this for those reasons.

Ostner: Thank you Commissioner Graves. Is there further discussion on this issue?

Myres: I call the question.

Ostner: Rence?

Roll Call: Upon the completion of roll call the motion to recommend approval of VAC 04-11.00 to the City Council failed by a vote of 3-5-1 with Commissioners Myres, Clark, Anthes, Allen and Graves voting no and Commissioner Shackelford abstaining.

Thomas: The motion fails.

Warrick: Before everybody leaves if I might just remind everyone that a vacation is an item that does go forward to the City Council regardless of the Planning Commission's recommendation so this will be heard at the Council level.

PETITION TO VACATE UTILITY EASEMENTS LOCATED IN LOTS SIX (6), SEVEN(7), EIGHT (8) AND NINE (9) IN BLOCK NUMBERED THREE (3) AND LOTS SEVEN (7), EIGHT (8) AND NINE (9) OF BLOCK FOUR(4) ALL IN HARRISON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all owners of the real estate abutting the utility easements hereinafter sought to be abandoned and vacated, lying in Lots Six (6), Seven(7), Eight (8) and Nine (9) in Block Numbered Three (3) and Lots Seven(7), Eight (8) and Nine (9) of Block Four (4) all in Harrison's Addition to the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate utility easements which are described as follows:

Easement Description #1:

A Fifteen (15) foot wide permanent utility easement described as running along the eastern property line of Lots 6, 7, 8, and 9 of Block 3 of Harrison's Addition to the City of Fayetteville, Arkansas.

Easement Description #2:

A Fifteen (15) foot wide permanent utility easement described as running along the western property line of Lots 7, 8, and 9 of Block 4 of Harrison's Addition to the City of Fayetteville, Arkansas.

That the abutting real estate affected by said abandonment of the Utility Easements are Lots 5, 6, 7, 8, and 9 of Block 3 and Lots 5, 6, 7, 8, and 9 of Block 4 all in Harrison's Addition to the City of Fayetteville, Arkansas used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the above described easements.

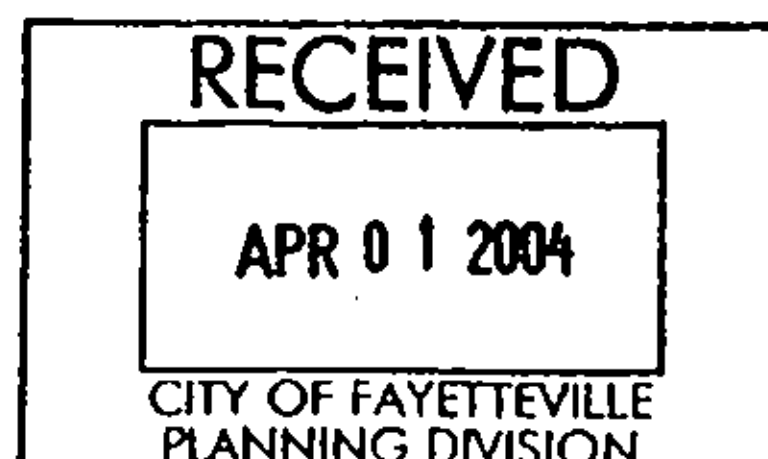
The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to the dedication of appropriate easements as required and that the above described real estate be used for their respective benefit and purpose as now approved by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to the dedication of appropriate easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law, and as to that particular land the owner be free from the easements of the public for the use of said drainage easements.

Dated this First (1st) day of April, 2004.

Gregory T House
Printed Name

[Signature]
Signature



ADJACENT PROPERTY OWNER NOTIFICATION FORM FOR
RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

Date: 4/1/04 Address of vacation Eastern 15' of Lots 6, 7, 8, & 9 of Block 3 and Western 15' of Block 4 of Harrison's Addition to the City of Fayetteville

Adjacent Property Address: End of Olive Street South of Spring Street
Lots: 6, 7, 8 & 9 Block: 3 Subdivision: Harrison's Addition
Lots: 7, 8 & 9 Block: 4 Subdivision: Harrison's Addition

REQUESTED VACATION:

I have been notified of the petition to vacate the following: Utility Easements
described as follows:

Property Description:

NUMBERED SIX (6), SEVEN (7), EIGHT (8), AND NINE (9) OF BLOCK NUMBERED THREE (3) AND LOTS NUMBERED SEVEN (7), EIGHT (8), AND NINE (9) OF BLOCK NUMBERED FOUR (4), ALL IN HARRISON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS. SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

Easement Descriptions:

Easement Description #1:

A Fifteen (15) foot wide permanent utility easement described as running along the eastern property line of Lots 6, 7, 8, and 9 of Block 3 of Harrison's Addition to the City of Fayetteville, Arkansas.

Easement Description #2:

A Fifteen (15) foot wide permanent utility easement described as running along the western property line of Lots 7, 8, and 9 of Block 4 of Harrison's Addition to the City of Fayetteville, Arkansas.

ADJACENT PROPERTY OWNERS COMMENTS:

☐ I do not object to the vacation described above.

☒ I do object to the requested vacation because:

I have numerous concerns and would be willing to discuss them at length.

479 422-1515

Leslie Baker Cingmarz
Signature of Property Owner(s)

RECEIVED

APR 1 2004

PLANNING DIV.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Matt Casey, Engineering

From: David Jurgens, Water/Sewer



Date: May 31, 2003

Subject: Easement Vacation Request, Sequoyah Commons

I have no objection to vacating the north-south easement/right of way north of Center Street between Fletcher and Olive, on the following conditions:

1. The easements for the existing water lines be expanded to meet all current easement objectives (a copy of the current easement policy is attached).
2. Water for the proposed subdivision be installed so that all customers have adequate water pressure, that is not to be less than 45 psi at the meter for any address. This will require the development get its water from the Mt. Sequoyah pressure plane.
3. Adequate space is required for a sewer main to run downhill on the Center Street right of way. This sewer line is in the future plans as a significantly better routing from up hill in the vicinity of Fletcher, Summit, Texas Way and Lighton Trail. It may be we need to require this line be constructed as part of this subdivision, if the sewer mains downstream are too small or inappropriately located to receive more flow. If the mains downstream run under or very near to houses, it would be inappropriate to add more flow to them.

These issues must be met via the large scale/development process for the easement vacation to be valid.

Attachments: Easement Vacation Request

D:\WATER\Easement Vacation Request\Sequoyah Commons.doc

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of May 27, 2003

113 W. Mountain St.
 Fayetteville, AR 72701
 Telephone: 501-575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission Members
 FROM: Jeremy Pate, Associate Planner
 Matt Casey, Staff Engineer
 THRU: Dawn Warrick, AICP, Zoning & Development Administrator
 DATE: May 27, 2003

LSD 02-29.10: Large Scale Development (Sequoyah Commons) was submitted by Mandy Bunch of EB Landworks on behalf of Greg House of Houses Development for property located between Olive Avenue & Fletcher Avenue, south of Spring Street. The property is zoned R-2, Medium Density Residential and contains approximately 2.06 acres with 39 dwelling units proposed (48 bedrooms).

Findings:

Proposal: The applicant proposes to construct seven (7) buildings containing thirty-nine (39) units consisting of one-bedroom apartments and two-bedroom townhouses for a total of forty-eight (48) bedrooms. Included in the development are the proposed improvements to Olive Avenue, construction of a connection to Walnut via Center Street, and the construction of fifty-six (56) parking spaces.

Parking:

	Total Spaces	Standard Spaces	ADA Spaces	Bike Racks
Required	48	48	3	2
Proposed	56 (on-site)	52	4	4
Proposed	9 (on-street)	9	-	-

* 1.35 parking stalls per bedroom

Existing Development: Vacant

Surrounding Land Use and Zoning:

Direction	Land Use	Zoning
North	Single family homes	R-2, Medium Density Residential
South	Vacant	R-2, Medium Density Residential
East	Duplex, Single family homes	R-1, Low Density Residential
West	Vacant	I-2, General Industrial

Water & Sewer: Available along Olive Avenue

Right-of-way being dedicated: No additional right-of-way dedication is required. There is currently 60 feet of right-of-way for Olive, 30 feet of right-of-way for Center, and 60 feet of right-of-way for Fletcher existing.

Street Improvements Proposed: Olive Avenue will be extended to Center Street. Center Street will be extended within existing right of way west to Walnut. (See attached letter from applicant, May 6, 2003.) The applicant will also widen portions of Olive Street which are currently narrower than 20'.

Access: Access is proposed by means of Olive Avenue which is currently substandard both in width (18'-20') and in surfacing (gravel adjacent to development). With the extension of Center Street, a second means of access is being provided.

Adjacent Master Street Plan Streets: None

Tree Preservation: Existing: 100.00%
Preserved: 21.25%
Required: 20%
Mitigation: None Required

Solid Waste & Recycling Division: Support the applicant's request, with one recommendation: Place one dumpster container at proposed site and the other in a more convenient location between buildings 1,2 and 6,7.

Background:

The original proposal by the applicant in the LSD review process requested that street improvements would be made only to that area located directly adjacent to the subject property. Staff is recommending in the Conditions of Approval that the applicant include in the proposed development the extension of Olive Avenue and connection to Center Street west to Walnut to fulfill the goal of the City's adopted policy of Connectivity in the General Plan 2020.

At the April 28, 2003 Planning Commission meeting, the Commission reviewed a concept plat for this project in order to give the applicant some direction regarding required street connections and improvements (Minutes are attached). The Planning Commission voted to require the extension of Center Street west to Olive and the construction of Olive Avenue along the entire western boundary of this project.

The applicant is requesting that the City participate in the construction of the Center Street extension.

City Council Resolution 94-96, Minimum Street Standards, August 06, 1996
Section 1-2 City Participation in Street Extension Costs:

The City may participate in the construction of streets either adjacent to a Development or on a street leading to a development if the need for such improvement is not totally caused by the Development in question. The appropriateness of any such cost sharing between the Owner/Developer and the City shall be determined by the Planning Commission based on City Ordinances governing the cost sharing of streets.

In no case shall the City participate in Local or Residential streets within Developments.

Where streets classified as Collector or higher are required to be constructed as part of a Development, the Owner/Developer shall be financially responsible for their share of the cost of the higher classified street. The developer's share shall be that cost which bears a rational nexus to the needs created by the development. In no case shall the developer be responsible for less than the cost of a standard 31 foot local street. In all cases, regardless of the developer's cost share, the Owner/Developer shall be responsible for the granting of all street right of way required by the higher street classification.

City participation in any cost sharing project shall be dependent upon the availability of funds.

The attached letter from the applicant and a memo from Staff dated April 18, 2003 address these cost-sharing alternatives.

On May 15, 2003, the Subdivision Committee forwarded the Large Scale Development to the full Planning Commission subject to all staff comments. Public comment and Subdivision Committee discussion included density, traffic, parking, shared costs for street improvements, and sidewalks.

RECOMMENDATION:

Staff recommends approval of the large scale development with the following conditions:

Conditions to Address / Discuss:

1. Applicant shall improve Olive Street its full width adjacent to the proposed project with curb and gutter on each side. Sidewalks are to be constructed on the east side only in accordance with City standards.
2. Applicant shall provide a connection within existing street ROW for Center Street between Olive and Walnut Streets to include a 20' paved section.
3. Approval shall be subject to the vacation of a 15 foot existing utility easement, which runs north/ south through the property.
4. A utility easement shall be granted a minimum of 10 feet on each side of all water and sewer lines to provide for maintenance of the line.

5. All buildings will be required to meet setbacks based on height.
6. Lighting shall be shielded and directed downward, away from adjacent residential properties.

Standard Conditions of Approval:

7. 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)
8. 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.
9. Payment of parks fees in the amount of \$15,327 (39 units @ \$393).
10. Large scale development shall be valid for one calendar year.
11. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy
 - e. Parks fees paid and/or deed recorded and copy received.

PLANNING COMMISSION ACTION: yes Required
 Approved Denied

Date: May 27, 2003

Comments:

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

By

Title

Date

RESOLUTION NO. 160-03

A RESOLUTION TO GRANT THE APPEAL OF GREG
HOUSE FOR HIS LSD 02-29 SEQUOYAH COMMONS
AS MODIFIED BY THE CITY COUNCIL

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 grants the appeal of Greg House in LSD 02-29 (Sequoyah Commons)
under all the conditions set forth by the Planning Commission with the following
exceptions or changes:

A. The developer will not be required to build or participate in the
cost of building Center Street from Olive to Walnut.

B. The developer shall be required to improve Olive from Center to
Spring up to the residential street standards which can be modified or altered by
the discretion of the Director of Planning, Engineering and Code Compliance to
avoid drainage problems and adverse impact to established homes along Olive
Street.

C. The Preliminary Plat is modified pursuant to the offer by Greg
House (developer) to reduce the density from 39 dwelling units with 48
bedrooms to 26 units with 42 bedrooms (including the elimination of one
building and the possible slight movement of another to provide more buffer to a
neighbor's single family home).

PASSED and APPROVED this the 21st day of October, 2003.



APPROVED:

By: *Dan Coody*
DAN COODY, Mayor

By: *Sandra Smith*
SONDRA SMITH, City Clerk

RECEIVED
OCT 28 2003
PLANNING DIV.



NEW BUSINESS:

Houses Development Company, LLC: An appeal of Large Scale Development proposal LSD02.29.10.

Tim Conklin, Planning: Mr. House is appealing the Planning Commission's decision to require that Center Street be extended. His appeal is about whether or not he has to construct Center Street from Olive to Walnut. We originally thought there was 30 feet of right of way but it is our opinion that only 15 feet of right of way exists between Olive and Walnut Street. This is a change that the city staff and the developer were unaware of. Mr. House would have to acquire additional right of way to allow the street connection to occur. If the City Council does not approve a cost share for this street improvement the developer would be required to construct the street. The property owners would have to sell right of way to allow the street connection to occur if that doesn't happen then the City Council would have to go forward and make a decision whether or not to condemn property to provide additional access in this area and make the street connection. The city could also participate in a cost share to help build that street. The preliminary estimates were around \$100,000 for the project cost.

Tim Conklin explained the easements, right of ways, and the current ownership of property in the area of the proposed project. There was also discussion on how this would affect current property owners. Mr. Conklin said allowing this development without requiring additional street construction and connections would limit future development within this area.

Alderman Thiel: Was there a reduction on the improvements that were originally required on Olive?

Tim Conklin: Yes, staff did recommend a trade off with Mr. House, instead of developing Olive Street to a residential street standard; we recommended that it be improved to at least 20 feet and in exchange to building the street connecting Olive to Walnut, building a 20 foot street in that section and not a standard city street. The standard city street would only occur in front of his development which would allow some on street parking.

Alderman Thiel: If we approve this appeal is there any way to go back and acquire the things that were required before this trade off was made?

Tim Conklin: Yes.

Alderman Marr: We are asking a property owner to acquire right of way for off site improvements that do not adjoin his property, can we legally do that?

Kit Williams: There is some question about whether we legally can require that, constitutionality we can if we can prove the rational nexus in rough portionally of our demands. There is some question as to whether we can require him to go beyond his property limits to build infrastructure for the city.

Alderman Rhoads: The \$100,000, did that include the purchase of right of way?

Tim Conklin: That did not include the purchase of right of way. A ball park figure for right of way would be around \$2.30 per foot. The \$100,000 is what the developer came up with; I have not had a chance to verify that.

Greg House: Mr. Conklin told us that improving Center Street to Walnut would be necessary for his support of our large scale development. We informed him that the project would not be economically feasible if we were required to do that so we would consider a smaller project that was less than an acre so that we would not have to go through large scale development. Mr. Conklin after some thought said if we would bring our project to large scale development he would back off of his request to improve Center Street and we would work to find an alternative means of ingress and regress by improving Olive. We went to large scale and then Mr. Conklin changed his mind; we objected but agreed we would go along provided that our company would not be forced to carry the whole burden of paying for these off site improvements. We would be improving traffic flow for developable property that is unimproved in the surrounding area that had nothing to do with our project. Mr. Conklin proposed that the city might be responsible for a certain portion of these improvements because they didn't completely benefit our property. We submitted our rational nexus cost sharing proposal as a means of trying to move this project forward. Our concern was provided the Planning Commission agreed and we were approved and we came before the City Council, we might not be approved for the cost share or if we were approved the city might not have funds immediately and then our project would be stalled until the city had funds. We felt the Planning Commission should look at this either or, if we get the cost share approved we go down Center Street, if not let us go out Olive and improve Olive to residential street standards. We submitted an alternative as to connecting with Center Street and that is by going out Olive, by improving Olive as a residential street. This is supported by an independent traffic engineer study that shows there is more than enough capacity on Olive to meet the demand that our development and existing homes will place on Olive. Should there be future development there may be a problem, but that is the time that we need to deal with someone buying right of way or putting in an extra street. Our development does not over burden the traffic on Olive, if it is improved to residential street standards. Now that it has been determined that there is not enough right of way to improve what use to be Center Street, Planning staff has suggested that we buy the right of way. That is economically unfeasible and from timing prospective, it is not feasible.

A discussion continued on the project.

Mayor Coody: What is the difference between the existing streets that is there now on Olive versus a residential street what is the difference between the two?

Greg House: Most of the street is already 20 feet wide in pavement; there are a few areas that are 18 feet wide which we could bring up to the 20 foot wide pavement portion. A residential street takes 24 feet back to back of curb. By us adding curb and gutter system it will bring it up to residential street standard as far as the street is concerned. We presented an independent study from a traffic engineer supporting the traffic loads. The city has yet to come up with why the engineer is wrong or some alternative study to show that our traffic is too much.

Tim Conklin: When we started this process there was a lot of unknowns as we progressed through the process and understood the issues that faced these neighborhoods, staff thought it was more important to try to provide additional access into these areas.

A discussion followed on this project.

Alderman Marr: I think the Planning Commission was very reasonable when looking at this request. The road should handle the number of units proposed.

Alderman Marr moved to approve the request for appeal. **Alderman Rhoads** seconded.

Mayor Coody: How do we deal with the storm water run off onto other property?

Tim Conklin: They would be required to meet our storm water ordinance and our city street standard ordinance.

Alderman Davis: I hate to see Olive Street extended to where it would connect with Center at a future date in this point in time. The land to the south of the area we do not know what is going to happen there, I would hate for someone else to latch onto your extension. I think we have to be careful of the length of the extension.

There was a discussion on future development in the area and the length of the extension of Olive Street. There was also a discussion on the drainage issue.

Kit Williams: Was your motion simply to eliminate the need for the Center Street right of way construction, but all other conditions as required by the Planning Commission would stand as approved?

Alderman Marr: It was that but also to get Olive Street built to the original residential street standard requirements.

Kit Williams: I thought there was some discussion at Planning Commission that with the driveways coming down into Olive that if they built a sidewalk, that might affect some of the property owners?

Tim Conklin: That is correct; there would be some transitional issues with driveways in order to get that sidewalk in, with regard to the sidewalk you would have to redo driveways also in most likely in those areas. I think the motion needs to state what the recommendation was by Planning Commission for Olive Street if Center Street wasn't constructed.

Alderman Thiel: If Center Street moves within a few feet of Mr. Bryant's home, are we obligated then to buy the entire property, we can't just destroy the property for the street and not go ahead and buy the whole property.

Kit Williams: If we acquire right of way on the Bryant side, certainly the impact on their property would be part of what we would have to pay. If we are acquiring right of way on the other side so that we are using existing right of way and then buying right of way farther away from their house I am not sure since we don't adjoin their property they would be entitled to the diminution in value to their home because of having a street right next to it.

Alderman Marr: Is the primary concern the property owners on Center, or is it the drainage to the west side of Olive.

Alderman Thiel: I am not concerned about the drainage so much. My concern is for the Bryant's and the Center Street condemnation possibly and the people that live on Olive.

Kit Williams: If this appeal is turned down we can not put on a developer an impossible condition, only the City Council has the power to condemn property. We can only require a developer to pay that amount off site work, his cost share, we can't require anything more.

Alderman Marr: My motion was to grant the appeal not requiring Center Street and requiring Olive built to residential street standard and all other conditions of the Planning Commission.

Alderman Rhoads: Is this the type of infill that we would be looking for?

Tim Conklin: You could develop multi-family within these areas, it would probably be built a little differently, maybe a little less dense in order to meet some of the standards they are looking at right now. This type of parking design does meet our current regulations.

Alderman Jordan: Mr. House would you consider less density on your property?

Greg House: I would consider that if we could make an agreement this evening and not have to start the process over. I have offered to reduce the bedrooms to 42 and change the configurations from mostly one bedrooms to two bedrooms and have 26 units instead of 39 and keep the parking the same as we have it now. I think we are going to aggravate the problem on Olive if we have to curb and gutter it on the down hill side.

Tim Conklin: I do not approve development the Planning Commission does. What he is suggesting does not change what the Planning Commission looked at to the point that it would have to go back to the Planning Commission.

Kit Williams: Do you have enough from what Mr. House has described, that would be the final approval in this process.

Tim Conklin: Yes.

Alderman Marr: Do you still support curb and gutter on Olive?

Tim Conklin: Residential street standard does require curb and gutter. It would require additional work with regards to the driveways.

Alderman Lucas: Would it also include storm water control and drainage?

Tim Conklin: We would have to address that. It would have to meet our residential street standards because anything less without looking at it in detail, I am not prepared to make that recommendation.

Alderman Marr: I would like to change my motion to reduce the density to 26 units, 42 bedrooms, eliminate the requirement for Center Street to be built and to have Olive Street evaluated by our City Engineering and Planning staff for the appropriate design that addresses traffic flow and drainage for this development. Alderman Davis seconded. Upon roll call the motion passed 7-1. Alderman Lucas, Jordan, Thiel, Cook, Marr, Rhoads and Davis voting yes. Alderman Reynolds voting no.

Resolution 160-03 As Recorded In The Office Of The City Clerk.

Use Of Skateboards And Skates Upon Sidewalks: An ordinance to repeal § 74.08 of the Fayetteville Code and enact a replacement § 74.08 to clarify and expand the prohibition of using skateboards and skates upon sidewalks next to commercial, religious, governmental and industrial buildings and most City streets.

Mr. Williams read the ordinance.

Larry Olsen, a Fayetteville resident asked the council to reconsider the part of the ordinance that would not allow the skater to skate on the sidewalk or along the side of the road. He also asked the council to consider installing lights at the skate park to allow skating at night.

Rob Sharp a Fayetteville resident: It is already illegal for people to vandalize other people's property with a skate board or anything else. We just need more common courtesy between the skater, property owners and city officials. Skate boarding and roller skating should not be discouraged. I am concerned that if we pass this law people are not going to stop skating, they are going to go somewhere where they are not supervised. Streets belong to everyone. I really appreciate the new skate park. The skate park is great but it is not a substitute for skating on the streets it is just an extension of that.

Brian Casino a resident: Spoke against the ordinance.

Alderman Reynolds: We are not trying to discourage skateboarding. I am willing to drop section A from the ordinance and leave B, C and D.

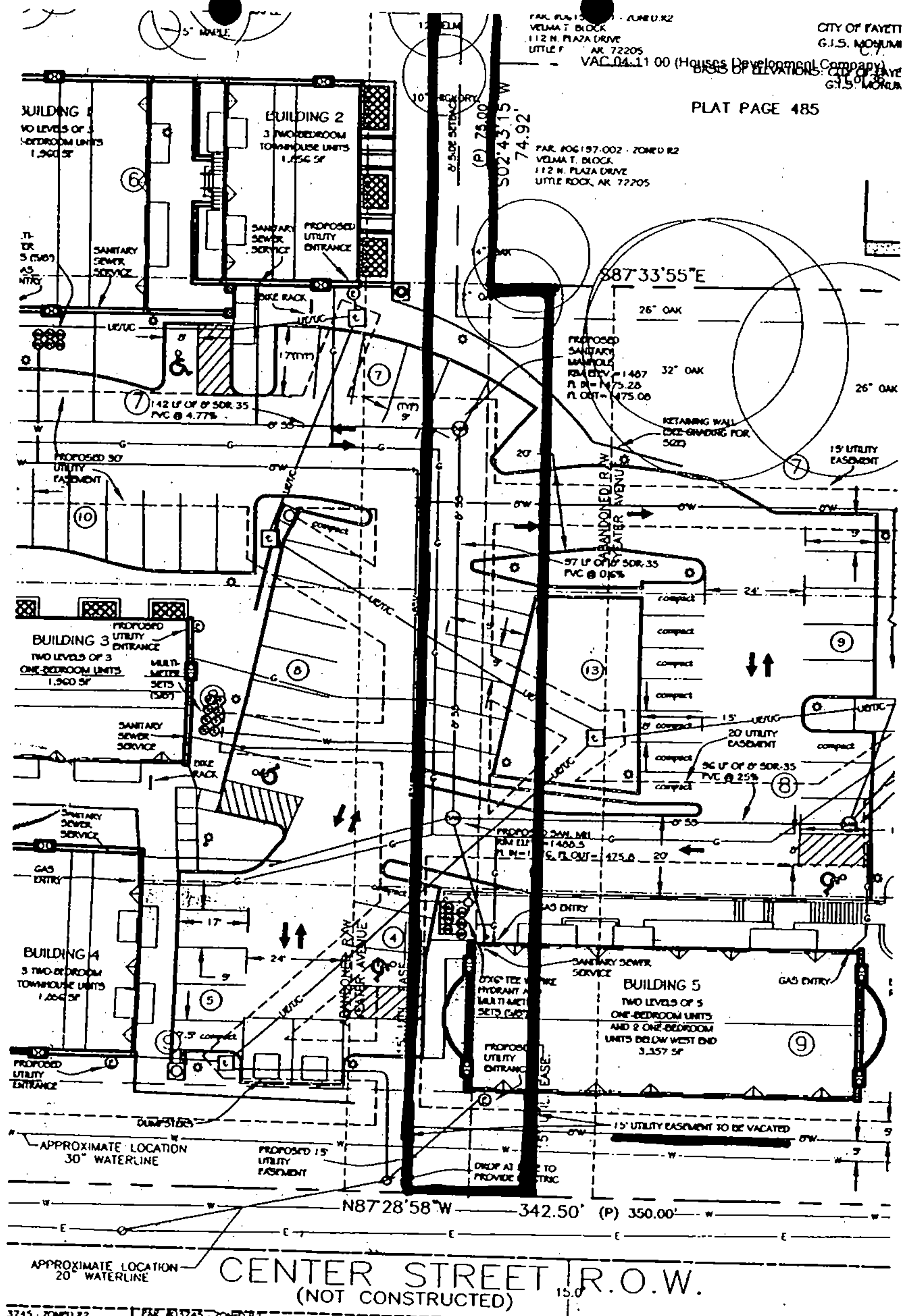
Kit Williams: The current ordinance says no person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device shall do upon any roadway. That was passed in 1965. If you repeal this section and repeal Section A of the proposed ordinance you will be making a significant change in the law.

There was a discussion on Play Streets.

Tim Conklin: Our traffic superintendent said his authority to designate play streets was removed from his duties several years ago, because there are no play streets in Fayetteville.

Kit Williams: I would recommend that play street be deleted then.

Alderman Marr: I understood that it would be a significant policy change if we struck section A. I would support eliminating Section A from this.



PAR. 103743-001 - ZONED R2
VELMA T. BLOCK
112 N. PLAZA DRIVE
LITTLE ROCK, AR 72205
VAC. 04.11.00 (Houses Development Company)
Basis of Elevation: City of Fayetteville
G.I.S. MONUM.

PAR. 103743-002 - ZONED R2
VELMA T. BLOCK
112 N. PLAZA DRIVE
LITTLE ROCK, AR 72205

CITY OF FAYETTE
G.I.S. MONUM.

PLAT PAGE 485

3745 - ZONED R2
EARD
MY. 329
N. AR 71632

PAR. 103743-001 - ZONED R2
DRIAN LEARD
1056 HWY. 329
DEQUEN, AR 71632

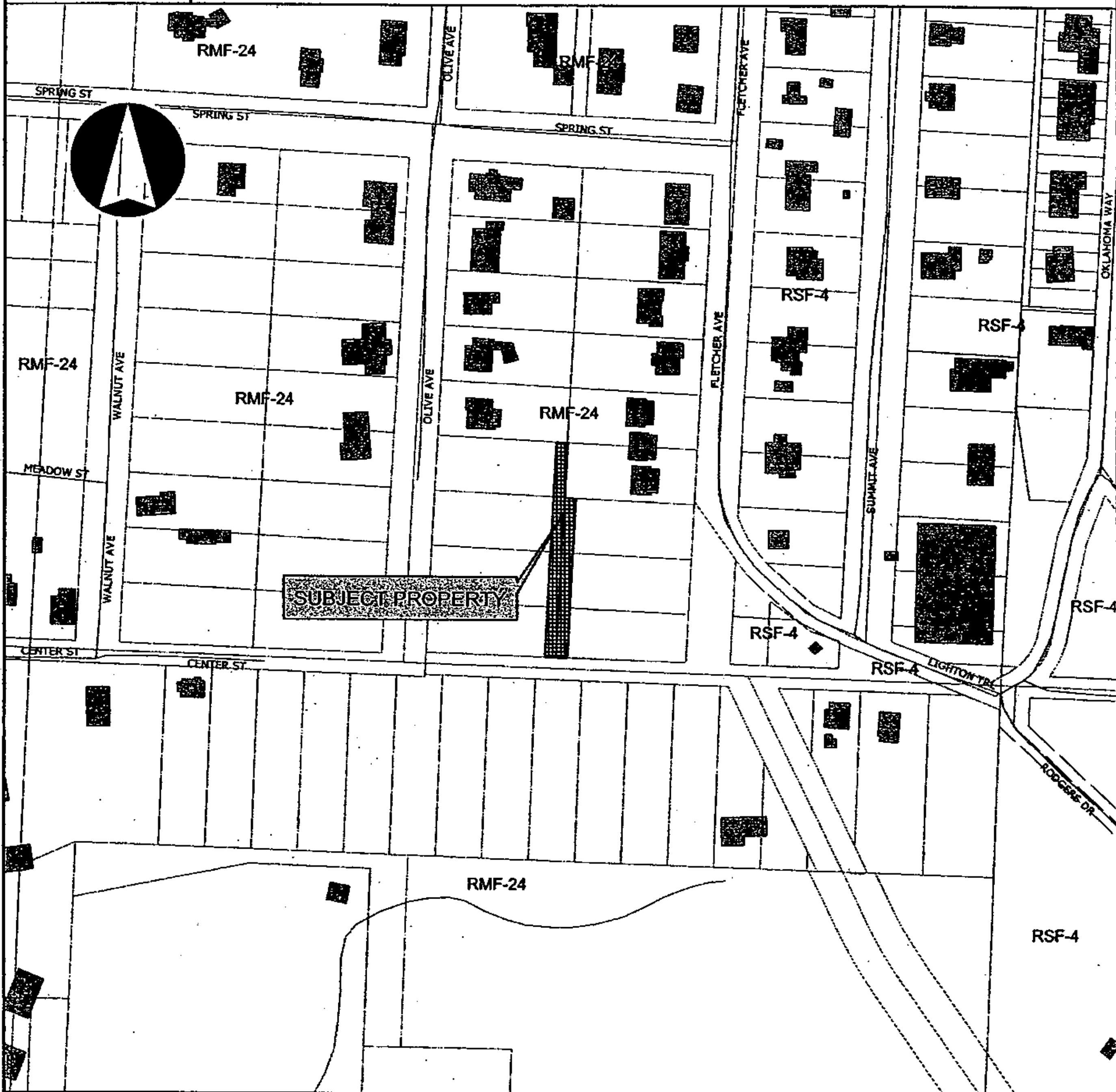
PAR. 103743-001 - ZONED R2
JESSE BRYANT
417 E. CENTER

PAR. 103744 - ZONED R2
VERDA WATSON, ARCHIE I. MANUEL DUCHANAY
1750 N. LEVERETT

VAC04-11.00

Close Up View

SEQUOYAH COMMONS



Overview

Legend

ooooo Overlay District	Principal Arterial	FLOODWAY
Master Street Plan	Minor Arterial	100 YEAR
Master Street Plan	Collector	500 YEAR
Freeway/Expressway	Historic Collector	LIMIT OF STUDY
	City Limits	BaseLine Profile
	Outside City	VAC04-11.00

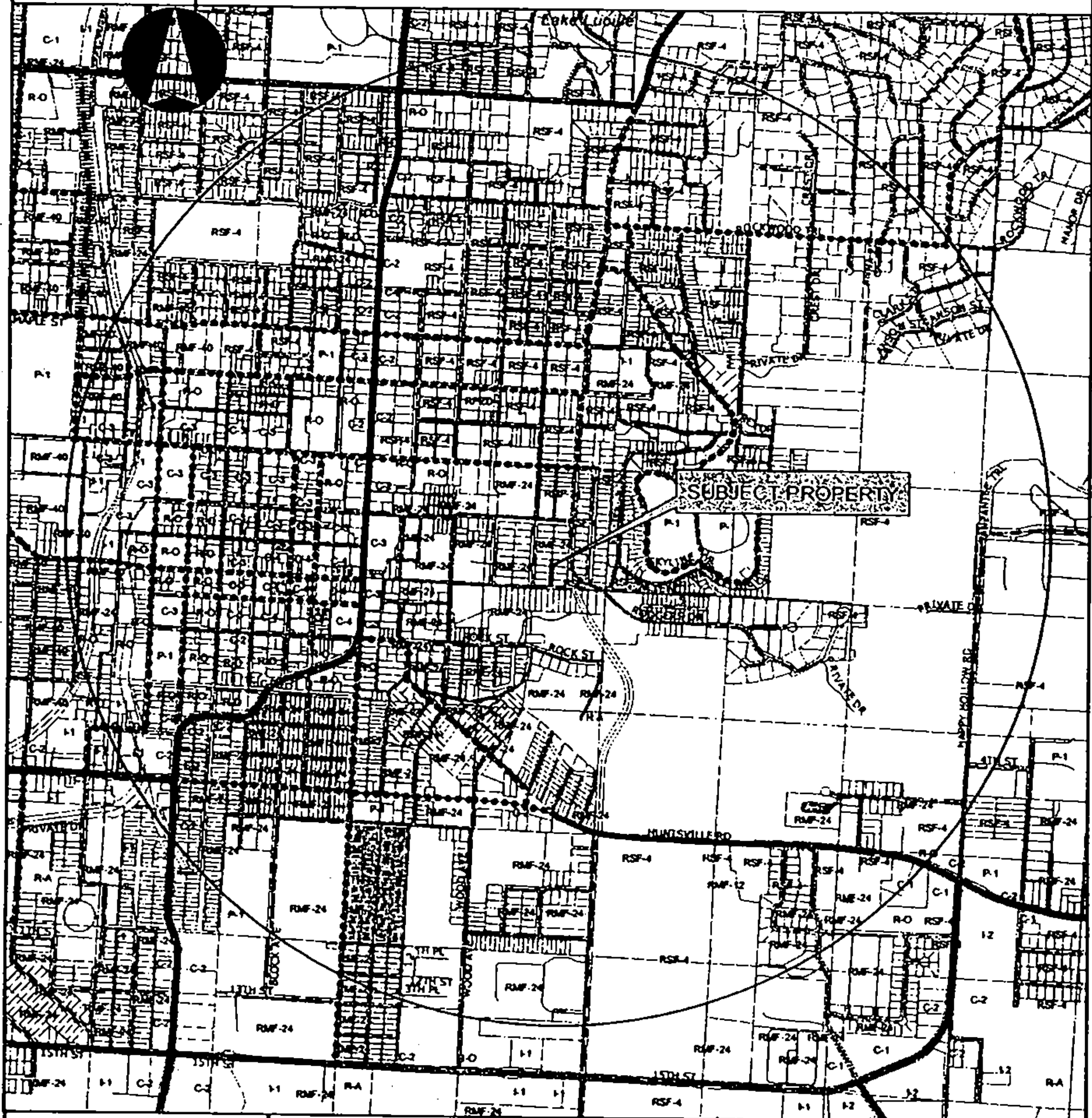


Exhibit "B"

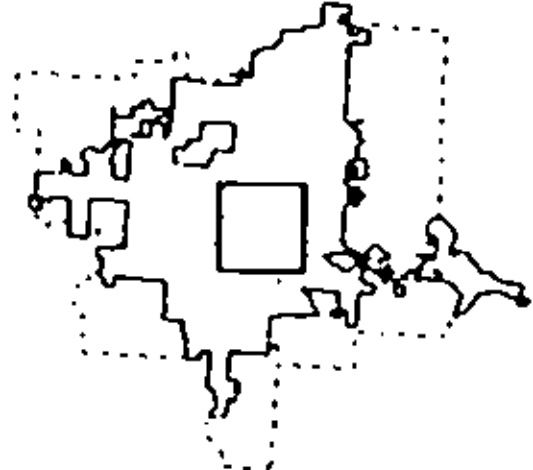
VAC04-11.00

One Mile View

SEQUOYAH COMMONS



Overview



Legend

Subject Property

VAC04-11.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

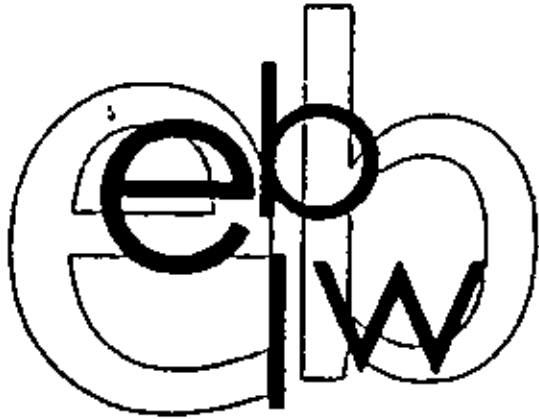
Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles



EB LandWorks, Inc.

VAC 04-11.00 (Houses Development Company)
C.7.
34 of 36

PO Box 3432, Fayetteville, Arkansas 72702-3432
phone 479.444.7769 fax 479.444.7793

May 18, 2004

Mrs. Sondra Smith, City Clerk
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701
Via email: ssmith@ci.fayetteville.ar.us
(Followed w/ Hard Copy via U.S. Mail)

RE: Utility Easement Vacation Request
Sequoyah Commons
Fayetteville, Arkansas

Dear Mrs. Smith:

On its May 10, 2004, the Fayetteville Planning Commission heard the request to vacate a utility easement within the subject property referenced above. The City Council approved this Large Scale Development with conditions, at their October 21, 2003 meeting with Resolution No. 160-03. Part of this approval included the requirement to vacate the easement.

The Planning Department will be forwarding this item (VAC 04-11.00) to the City Council to be placed on their agenda. Please accept this correspondence as the official request for this item to be placed on the June 15, 2004 Council Agenda.

Please call me if you need additional information, or have any questions.

Best Regards:

Mandy R. Bunch

c: Mr. Greg House, Houses Development Company, LLC
Mr. Rob Sharp, Architect

RECEIVED

MAY 19 2004

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

STAFF REVIEW FORM - NON-FINANCIAL OBLIGATION

VAC 04-11.00 (Houses Development Company)
C.7.
35 of 36x AGENDA REQUEST

For the Fayetteville City Council Meeting of:

June 1, 2004

6/15/04 Per

FROM:

Mandy Bunch

Dawn Warrick

Planning

CP&E

Name

Division

Department

ACTION REQUIRED: Ordinance approval.

SUMMARY EXPLANATION:

VAC 04-11.00: Vacation (Sequoyah Commons, pp 485) was submitted by Mandy Bunch of EB Landworks on behalf of Houses Development Company, LLC for property located at Olive Avenue, south of Spring Street. The property is zoned RMF-24, Residential Multi-family, 24 units per acre. The request is to vacate existing utility easements located within the property to satisfy conditions of approval for LSD 02-29.10 (Sequoyah Commons Large Scale Development.)

STAFF RECOMMENDATION: Approval.

Dawn Warrick 5/12/04
Division Head Date[Signature] (See Amended Ordinance)
City Attorney 5-14-04
Date[Signature] 5-12-04
Department Director Date[Signature] 5-17-04
Finance & Internal Services Dir. Date[Signature] 5-18-04
Chief Administrative Officer Date[Signature] 5/19/04
Mayor Date

Received in Mayor's Office

5/17/04
Date

Cross Reference:

Previous Ord/Res#:

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

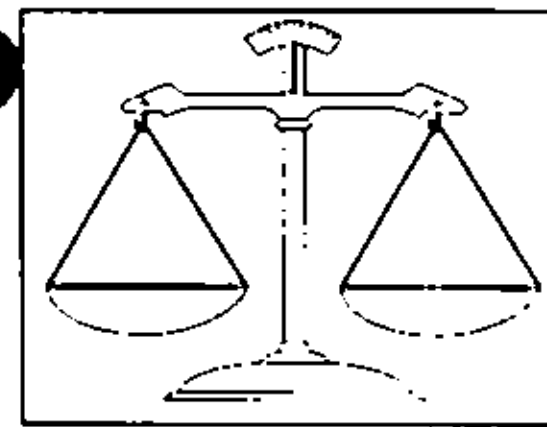


FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

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

DATE: **June 16, 2004**

RE: **Passed Resolutions and Ordinances from City Council meeting of June 15, 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. **RJN Group Sewer Rehabilitation:** Resolution approving engineering contract w/RJN Group, Inc. in amount of \$226,978.00 for design and bidding phase services for sewer rehabilitation project;
2. **Tomlinson Asphalt Shiloh Drive Widening:** Resolution awarding construction contract to Tomlinson Asphalt Company, Inc. in amount of \$186,218.75 for widening of Shiloh Drive from Gregg Avenue to Steele Boulevard; approving project contingency in amount of \$18,622.00; approving street light installation by AEP-SWEPCO in amount of \$25,000.00, and materials testing and in-house management and inspection in amount of \$15,000.00 for total of \$244,840.75 for this project;
3. **OMI Rebate Transfer of Funds:** Resolution approving budget adjustment transferring \$128,902.00 of Operations Management International (OMI) rebates from Water & Sewer Fund balance to the lift station improvements account;

4. **R-PZD 04-06.00:** Ordinance establishing Residential Planned Zoning District titled R-PZD 04-6.00 located on Ruppel Road, south of Wedington Drive containing approximately 41.70 acres, more or less; amending official zoning map of City of Fayetteville; and adopting Associated Residential Development Plan as approved by the Planning Commission;
5. **Ruppel Row Money in Lieu of Land:** Resolution accepting recommendation of Parks and Recreation Advisory Board accepting \$7,482.75 in lieu of portion of parkland dedication requirements of Ruppel Row Subdivision;
6. **Washington County Inter-Local Agreement:** Ordinance approving Interlocal Agreement Between Washington County, Arkansas and City of Fayetteville, Arkansas, concerning expenditure of funds received from Arkansas Department of Emergency Management and disposition of various items of emergency equipment purchased with such funds;
7. **Shake's Building Sale:** Resolution of intent to sell municipally owned property at corner of Sang Avenue and Sixth Street (a portion of former Shake's Frozen Custard lot and building);
8. **VAC 04-1070:** Ordinance approving VAC 04-1070 to vacate and abandon a 45' existing right of way that extends north of intersection of West Salem Road and Ruppel Road through the Estates at Salem Hills property and a 50' right of way that extends west of intersection of Howard Nickel Road and Salem Road through the Estates at Salem Hills as depicted on attached map and legal description;
9. **VAC 04-1105:** Ordinance approving VAC 04-11.05 to vacate and abandon a portion of a 10' utility easement designated for gas and water located at 1645 W. Sunrise Mountain Road as depicted on attached map and legal description.

**Tentative Agenda
City Council Meeting
June 15, 2004**

A meeting of the Fayetteville City Council will be held on June 15, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

add - Nominating Committee Report

A. CONSENT:

1. **Approval Of The Minutes:** Approval of the May 18, 2004 meeting minutes and the June 1, 2004 meeting minutes.
2. **RJN Group Sewer Rehabilitation:** A resolution to approve an engineering contract with RJN Group, Inc. in the amount of \$226,978.00 for the design and bidding phase services for the sewer rehabilitation project.

B. OLD BUSINESS:

1. **R-PZD 04-06.00 (John Nock):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-06.00 located on Ruppel Road south of Wedington Drive containing approximately 41.70 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. *The ordinance was left on the second reading at the June 1, 2004 City Council meeting.*
2. **Ruppel Row Money in Lieu of Land:** A resolution to accept the recommendation of the Parks and Recreation Advisory Board to accept \$7,482.75 in lieu of a portion of the parkland dedication requirements of Ruppel Row Subdivision. *The resolution was tabled at the June 1, 2004 City Council meeting until the June 15, 2004 City Council meeting.*

C. NEW BUSINESS:

- move to
Consent
- Resolution
from kit
- Move to
Consent
1. **Tomlinson Asphalt Shiloh Drive Widening:** A resolution awarding a construction contract to Tomlinson Asphalt Company, Inc. in the amount of \$186,218.75 for the widening of Shiloh Drive from Gregg Avenue to Steele Boulevard; and approving a project contingency in the amount of \$58,622.00.
 2. **OMI Rebate Transfer of Funds:** A resolution approving as budget adjustment transferring \$128,902.00 of Operations Management International (OMI) rebates from Water & Sewer Fund Balance to the Lift Station Improvements account.

3. **Washington County Inter-Local Agreement:** An ordinance approving an inter-local agreement between Washington County, Arkansas, and the City of Fayetteville, Arkansas, concerning the expenditure of funds received from the Arkansas Department of Emergency Management and the disposition of various items of emergency equipment purchased with such funds.

Copy of — 4. **Shake's Building Sale:** A resolution of intent to sell municipally owned property at the corner of Sang Avenue and Sixth Street (a portion of the former Shake's Frozen Custard Lot and building).

Council min.
When purchase
was approved

5. **VAC 04-1070 (Gerald Tomlinson):** An ordinance approving VAC 04-1070 to vacate and abandon a 45' existing right of way that extends north of the intersection of West Salem Road and Ruppel Road through The Estates at Salem Hills property and a 50' right of way that extends west of the intersection of Howard Nickel Road and Salem Road through The Estates at Salem Hills as depicted on the attached map and legal description.
6. **VAC 04-1105 (Thomas Lutz):** An ordinance approving VAC 04-1105 to vacate and abandon a portion of a 10' utility easement designated for gas and water located at 1645 W. Sunrise Mountain Road as depicted on the attached map and legal description.
7. **VAC 04-11.00 (Houses Development Company):** An ordinance approving VAC 04-11.00 to vacate and abandon a 30' utility easement located on Lots 6, 7, 8, and 9 in block three and Lots 7, 8, and 9 of block four of Harrison's Addition as depicted on the attached map and legal description.

D. INFORMATIONAL:

Council Tour: June 14, 2004

NO Council Tour

**Tentative Agenda
City Council Meeting
June 15, 2004**

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1. CONSENT:

1. **Approval Of The Minutes:** Approval of the May 18, 2004 meeting minutes and the June 1, 2004 meeting minutes.
2. .

B. OLD BUSINESS:

1. **R-PZD 04-06.00 (John Nock):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-06.00 located on Rupple Road south of Wedington Drive containing approximately 41.70 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. *The ordinance was left on the second reading at the June 1, 2004 City Council meeting.*
2. **Rupple Row Money in Lieu of Land:** A resolution to accept the recommendation of the Parks and Recreation Advisory Board to accept \$7,482.75 in lieu of a portion of the parkland dedication requirements of Rupple Row Subdivision. *The resolution was tabled at the June 1, 2004 City Council meeting until the June 15, 2004 City Council meeting.*

C. NEW BUSINESS:

Consent

1. **RJN Group Sewer Rehabilitation:** A resolution to approve an engineering contract with RJN Group, Inc. in the amount of \$226,978.00 for the design and bidding phase services for the sewer rehabilitation project.

(2)

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Debbies

(1)

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→ Last
D. INFORMATIONAL:

Council Tour: June 14, 2004

NORTHWEST ARKANSAS EDITION
Arkansas Democrat Gazette

AFFIDAVIT OF PUBLICATION

I, A Diane Williams, do solemnly swear that I am
Legal Clerk of the Arkansas Democrat-Gazette/Northwest Arkansas
Times newspaper, printed and published in Lowell, Arkansas, and that
from my own personal knowledge and reference to the files of said
publication, that advertisement of:

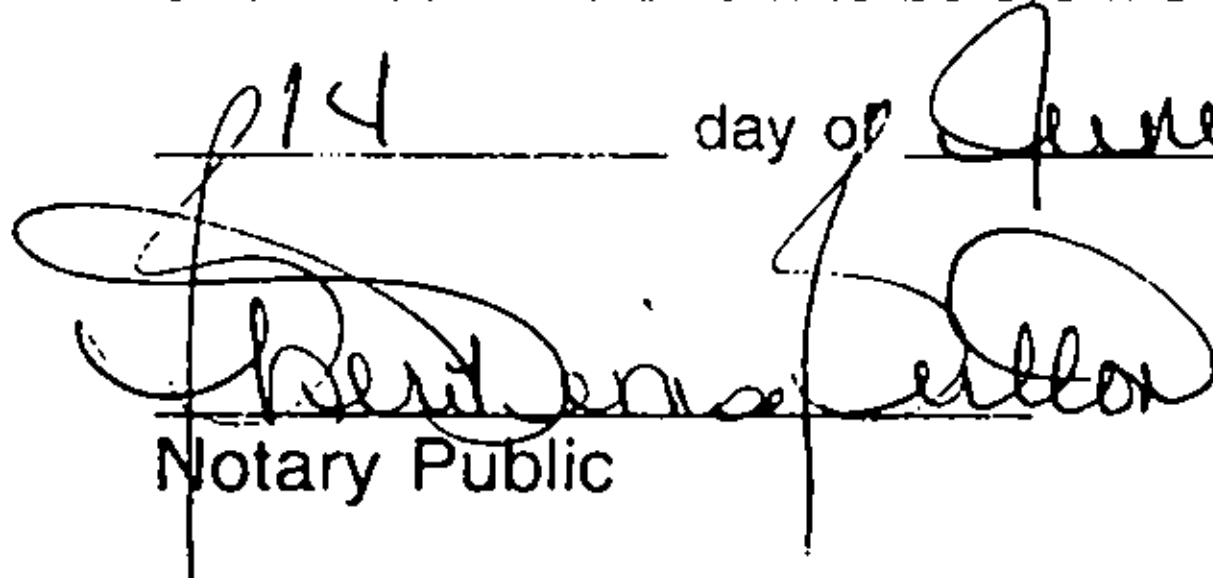
Final Agenda was inserted in the regular editions on
June 14, 2004.

PO# 04-386

** Publication Charge: \$ 157.41

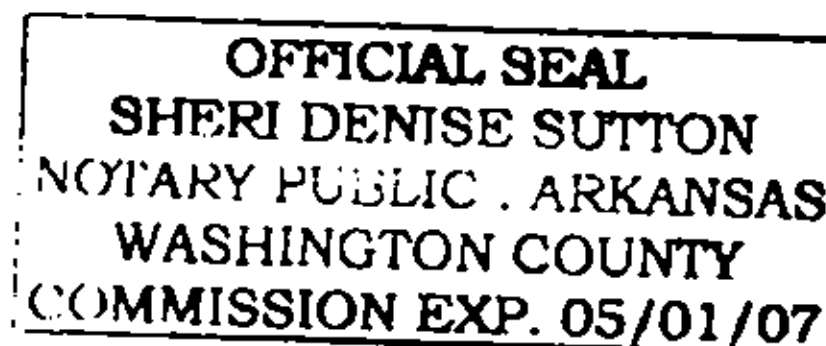
Subscribed and sworn to before me this

14 day of June, 2004.


Notary Public

My Commission Expires: 5-1-07

** Please do not pay from Affidavit.
An invoice will be sent.



RECEIVED

JUN 15 2004

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**Final Agenda
City Council Meeting
June 15, 2004**



A meeting of the Fayetteville City Council will be held on June 15, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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- 4. VAC 04-1106 (Thomas Lutz):** An ordinance approving VAC 04-1106 to vacate and abandon a portion of a 10' utility easement designated for gas and water located at 1645 W. Sunrise Mountain Road as depicted on the attached map and legal description.
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